

EXHIBIT 1

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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SUMMARY EXHIBITS

PLAINTIFFS' COUNSEL'S HOURS, LODESTAR, AND EXPENSES

EXHIBIT	FIRM	HOURS	LODESTAR	EXPENSES
2	Scott+Scott, Attorneys at Law, LLP	74,615.20	\$ 41,549,862.00	\$ 6,415,207.30
3	Hausfeld LLP	34,949.50	\$ 19,019,143.00	\$ 5,332,804.73
4	Korein Tillery LLC	41,348.68	\$ 30,900,604.00	\$ 5,866,472.97
5	Kirby McInerney LLP	14,760.75	\$ 7,456,023.75	\$ 579,501.05
6	Labaton Sucharow LLP	9,436.90	\$ 4,191,575.00	\$ 296,177.41
7	Lowey Dannenberg Cohen & Hart, P.C.	4,309.70	\$ 2,068,552.50	\$ 418,255.10
8	Robbins Geller Rudman & Dowd LLP	9,360.45	\$ 4,006,431.75	\$ 314,583.38
9	MoginRubin LLP	6,862.00	\$ 3,071,388.75	\$ 229,174.86
10	Boni & Zack LLC	5,909.50	\$ 3,200,912.50	\$ 219,228.71
11	Obermayer Rebmann Maxwell & Hippel LLP	5,393.80	\$ 2,485,574.50	\$ 213,825.58
12	Steyer Lowenthal Boodrookas Alvarez & Smith LLP	12,423.00	\$ 6,087,046.25	\$ 161,251.21
13	Cafferty Clobes Meriwether & Sprengel LLP	11,088.50	\$ 4,982,056.00	\$ 318,192.44
14	Nussbaum Law Group, P.C.	15,242.70	\$ 7,665,757.50	\$ 130,611.47
15	Wolf Popper LLP	613.40	\$ 407,504.50	\$ 107,591.08
16	Entwistle & Cappucci LLP	2,375.65	\$ 1,380,578.25	\$ 143,619.35
17	Grant & Eisenhofer, P.A.	11,328.50	\$ 4,403,525.50	\$ 111,998.78
18	Motley Rice LLC	12,503.65	\$ 5,345,501.25	\$ 106,299.77

EXHIBIT	FIRM	HOURS	LODESTAR	EXPENSES
19	Glancy Prongay & Murray LLP	11,530.50	\$ 4,621,494.50	\$ 99,400.14
20	Berman Tabacco	4,743.65	\$ 2,374,482.00	\$ 78,624.57
21	Cohen Milstein Sellers & Toll PLLC	1,613.25	\$ 633,332.50	\$ 71,827.51
22	Louis F. Burke P.C.	5,251.70	\$ 2,313,628.00	\$ 73,429.00
23	Criden & Love, P.A.	8,132.90	\$ 3,359,195.00	\$ 63,843.35
24	Cera LLP	231.00	\$ 150,481.25	\$ 60,144.13
25	Morris and Morris LLC Counselors at Law	1,333.75	\$ 1,121,325.00	\$ 243,842.70
26	Cowper Law LLP	36.60	\$ 25,437.00	\$ -
27	Cuneo Gilbert & LaDuca, LLP	424.00	\$ 191,945.00	\$ 198.17
28	Freed Kanner London & Millen LLC	5,653.10	\$ 2,435,953.50	\$ 772.04
29	Heins Mills & Olson, P.L.C.	781.75	\$ 332,243.75	\$ 284.35
30	Young Law Group, P.C.	1,453.80	\$ 527,865.00	\$ -
31	Radice Law Firm, PC	15,591.70	\$ 6,993,746.00	\$ 17,605.29
32	Greenwich Legal Associates, LLC	254.70	\$ 101,337.50	\$ 853.04
33	Keller Rohrback L.L.P.	1,046.70	\$ 637,257.50	\$ 48,463.95
	Litigation Fund Accounts Payable			\$ 771,586.30
	TOTAL	330,600.98	\$ 174,041,760.50	\$ 22,495,669.73

EXPENSES BY CATEGORY

EXPENSE CATEGORY	AMOUNT
Experts & Consultants	\$ 17,222,662.19
Document Management, Litigation Support, & Data Platform	\$ 3,597,209.57
Travel & Meals	\$ 1,051,484.30
Online Legal & Factual Research	\$ 332,947.63
Copying	\$ 111,942.34
Telephone	\$ 73,345.70
Postage & Delivery	\$ 29,498.21
Court Fees & Service of Process	\$ 24,074.00
Court Reporters & Transcripts	\$ 21,339.22
Staff Overtime	\$ 18,170.58
Miscellaneous	\$ 12,219.18
Bank Fees & Wire Fees	\$ 776.81
TOTAL	\$ 22,495,669.73

EXHIBIT 2

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

arguing motions to dismiss; mediating, negotiating, and drafting settlement agreements and obtaining preliminary approval therefor; obtaining discovery from Defendants (including document productions, transaction data, and depositions); coordinating the approximately 90-attorney document review team through a rigorous document review process; responding to discovery on behalf of Class Plaintiffs (including document productions, transaction data, and depositions); developing the plan of distribution in consultation with a number of specialists and experts in class action notice and allocation plans, and obtaining preliminary approval therefor; appearing at all court hearings and arguing on behalf of Class Plaintiffs; assisting members of the Settlement Classes in navigating the settlement process and submitting claims; managing Plaintiffs' Counsel in carrying out the efficient prosecution of the Action; and, engaging and working with experts and consultants on numerous aspects of the case (including those identified in this paragraph and in preparation for class certification and trial). The specifics of the work performed by my firm are set forth in the concurrently-filed Joint Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of (A) Class Plaintiffs' Motion for Final Approval of Settlement Agreements and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses.

3. The schedule attached as **Exhibit 1** is a detailed summary showing the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, along with the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The hourly rates for the attorneys and professional support staff of my firm included in **Exhibit 1** are the same as the regular rates charged for their services in non-

contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.

4. Time expended on the Action after December 31, 2017 has been excluded from this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses also has been excluded.

5. The total number of hours reflected in **Exhibit 1** is **74,615.20**. The total lodestar reflected in **Exhibit 1** is **\$41,549,862.00**, consisting of **\$39,997,389.00** for attorneys' time and **\$1,552,473.00** for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in **Exhibit 2**, my firm is seeking reimbursement for a total of **\$6,415,207.30** in litigation expenses paid or incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in **Exhibit 2** are the actual paid or incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

(d) Internal copying is charged at \$0.10 per page.

(e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. To facilitate the sharing of expenses, Lead Counsel and Plaintiffs' Counsel contributed to a Litigation Fund, which Lead Counsel established and my firm managed. Each Plaintiffs' Counsel firm's contributions to the fund are set out in **Exhibit 3**. The total Litigation Fund Contributions, as reflected in Exhibit 3, are **\$18,739,681.53**. As reflected in **Exhibit 3**, to date, the Litigation Fund has paid or incurred expenses totaling **\$19,511,267.83** in this Action. There are therefore accounts payable from the Litigation fund in the amount of **\$771,586.30**, as reflected in **Exhibit 3**.

10. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

11. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

12. Attached hereto as **Exhibit 4** is my firm's resume and brief biographies of all attorneys currently employed by my firm for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 12, 2018.

A handwritten signature in black ink, appearing to read 'D. F. Scott', is written over a horizontal line.

Daryl F. Scott

EXHIBIT 1

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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Scott+Scott, Attorneys at Law, LLP
TIME REPORT
Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Christopher Burke	5,267.6	\$995	\$ 5,241,262.00
David Scott	958.2	\$995	\$ 953,409.00
Daryl Scott	849.6	\$900	\$ 764,640.00
Geoff Johnson	12.1	\$900	\$ 10,890.00
Joseph Guglielmo	1,482.1	\$900	\$ 1,333,890.00
William Fredericks	923.8	\$900	\$ 831,420.00
Donald Broggi	554.4	\$825	\$ 457,380.00
Kristen Anderson	6,411.3	\$825	\$ 5,289,322.50
Sylvia Sokol	1,139.0	\$825	\$ 939,675.00
Walter Noss	3,695.5	\$825	\$ 3,048,787.50
Erin Green Comite	12.4	\$775	\$ 9,610.00
Michael Burnett	256.8	\$775	\$ 199,020.00
Peter Barile	172.4	\$775	\$ 133,610.00
Of Counsel			
Joseph Cohen	426.3	\$710	\$ 302,673.00
Associates			
Hal Cunningham	766.8	\$625	\$ 479,250.00
J. Alex Vargas	17.9	\$625	\$ 11,187.50
Julie Kearns	200.8	\$625	\$ 125,500.00
David Goldberger	556.3	\$600	\$ 333,780.00
John Jasnoch	311.5	\$600	\$ 186,900.00

NAME	HOURS	HOURLY RATE	LODESTAR
Stephanie Hackett	2,098.3	\$600	\$ 1,258,980.00
Tom Boardman	1,831.5	\$600	\$ 1,098,900.00
Michelle Conston	365.5	\$575	\$ 210,162.50
Ryan Wagenleitner	49.7	\$575	\$ 28,577.50
Kate Lv	3,518.1	\$450	\$ 1,583,145.00
Jennifer Scott	3,305.6	\$425	\$ 1,404,880.00
Joseph Halloran	1,007.6	\$425	\$ 428,230.00
Kassandra Nelson	61.5	\$400	\$ 24,600.00
Staff Attorneys			
Troy Terpening	11.0	\$500	\$ 5,500.00
Alicia Zimmerman	21.1	\$400	\$ 8,440.00
Carlo Labrado	2,852.0	\$400	\$ 1,140,800.00
Carly Henek	2,061.3	\$400	\$ 824,520.00
Christina Mancuso	41.0	\$400	\$ 16,400.00
Christopher Wilson	2,608.5	\$400	\$ 1,043,400.00
Deniece Kuwahara	2,575.0	\$400	\$ 1,030,000.00
Edward Signaigo	1,469.1	\$400	\$ 587,640.00
Elizabeth Campos	295.0	\$400	\$ 118,000.00
Helen Glynn	56.0	\$400	\$ 22,400.00
Jing Levesque	217.1	\$400	\$ 86,840.00
Justus Benjamin	1,982.5	\$400	\$ 793,000.00
Kenneth Lau	115.4	\$400	\$ 46,160.00
Nga Cunningham	2,119.3	\$400	\$ 847,720.00
Nnenna Sankey	54.5	\$400	\$ 21,800.00
Peter Gravin	19.3	\$400	\$ 7,720.00
Randall Petrie	3,218.3	\$400	\$ 1,287,320.00
Robert Villanueva	422.4	\$400	\$ 168,960.00
Sean Russell	570.6	\$400	\$ 228,240.00
Shafeeq Abdul-Wadud	2,204.9	\$400	\$ 881,960.00
Todd Hipper	2,230.5	\$400	\$ 892,200.00
Wendy Ryu	230.9	\$400	\$ 92,360.00
Yvonne Funk	2,755.0	\$400	\$ 1,102,000.00
Contract Attorneys			
Joseph Pettigrew	35.5	\$425	\$ 15,087.50
Gary Dustin Foster	5,048.1	\$400	\$ 2,019,240.00
Paralegals			
Amy Weas	122.9	\$325	\$ 39,942.50
Ann Slaughter	26.5	\$325	\$ 8,612.50
Ellen DeWan	1,198.9	\$325	\$ 389,642.50
Kaitlin Steinberger	33.1	\$325	\$ 10,757.50
Kimberly Jager	38.6	\$325	\$ 12,545.00

NAME	HOURS	HOURLY RATE	LODESTAR
Irina Chilaia	189.8	\$305	\$ 57,889.00
Sam Fein	12.1	\$300	\$ 3,630.00
Gail Sanchez	39.3	\$285	\$ 11,200.50
Renata McGraw	251.1	\$275	\$ 69,052.50
Tamar Pacht	31.3	\$275	\$ 8,607.50
Litigation Support			
Dylan Gatzke	13.2	\$325	\$ 4,290.00
Veronica Flannery	39.5	\$305	\$ 12,047.50
Charlie Torres	130.7	\$300	\$ 39,210.00
Joey Argenal	1,856.4	\$300	\$ 556,920.00
Mario Tlatenchi	927.3	\$300	\$ 278,190.00
Oleg Opsha	170.4	\$300	\$ 51,120.00
Victor Napenas	67.2	\$280	\$ 18,816.00
TOTAL	74,615.2		\$41,549,862.00

EXHIBIT 2

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

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Scott+Scott, Attorneys at Law, LLP
EXPENSE REPORT
Through December 31, 2017

EXPENSE CATEGORY	AMOUNT
Court Fees	\$ 2,715.00
Court Reporters & Transcripts	\$ 1,743.13
Document Management & Litigation Support	\$ 31,659.17
Experts & Consultants	\$ 10,995.00
Internal Copying	\$ 68,805.27
Litigation Fund Contributions	\$ 5,395,670.38
Online Research	\$ 196,048.59
Outside Copying	\$ 13,982.00
Postage & Overnight Delivery	\$ 22,219.39
Staff Overtime	\$ 18,170.58
Telephone & Faxes	\$ 55,310.59
Travel & Meals	\$ 597,888.20
TOTAL	\$ 6,415,207.30

EXHIBIT 3

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

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LITIGATION FUND CONTRIBUTIONS & EXPENSES
Through December 31, 2017

PLAINTIFFS' COUNSEL CONTRIBUTIONS TO LITIGATION FUND

Lead Counsel Decl. Ex.	FIRM	CONTRIBUTION
2	Scott+Scott, Attorneys at Law, LLP	\$ 5,395,670.38
3	Hausfeld LLP	\$ 4,983,340.77
4	Korein Tillery LLP	\$ 5,395,670.38
5	Kirby McInerney LLP	\$ 285,000.00
6	Labaton Sucharow LLP	\$ 265,000.00
7	Lowey Dannenberg, P.C.	\$ 265,000.00
8	Robbins Geller Rudman & Dowd LLP	\$ 265,000.00
9	MoginRubin LLP	\$ 220,000.00
10	Boni & Zach LLC	\$ 210,000.00
11	Obermayer Rebmann Maxwell & Hippel LLP	\$ 210,000.00
12	Steyer Lowenthal Boodrookas Alvarez & Smith LLP	\$ 130,000.00
13	Cafferty Clobes Meriwether & Sprengel LLP	\$ 125,000.00
14	Nussbaum Law Group, P.C.	\$ 125,000.00
15	Wolf Popper LLP	\$ 105,000.00
16	Entwistle & Capucci LLP	\$ 100,000.00
17	Grant & Eisenhofer, P.A.	\$ 100,000.00
18	Motley Rice LLC	\$ 100,000.00
19	Glancy Prongay & Murray LLP	\$ 95,000.00
20	Berman Tabacco	\$ 70,000.00
21	Cohen Milstein Sellers & Toll PLLC	\$ 70,000.00
22	Louis F. Burke P.C.	\$ 70,000.00

Lead Counsel Decl. Ex.	FIRM	CONTRIBUTION
23	Criden & Love, P.A.	\$ 55,000.00
24	Cera LLP	\$ 50,000.00
25	Morris and Morris LLC Counselors at Law	\$ 50,000.00
	TOTAL	\$ 18,739,681.53

LITIGATION FUND EXPENSES

EXPENSE CATEGORY	AMOUNT
Bank and Wire Fees	\$ 776.81
Travel	\$ 1,614.05
Court Reporters & Transcripts	\$ 19,300.85
Document Management & Litigation Support	\$ 1,862,787.87
Transaction Data Platform (Sandbox)	\$ 1,656,880.66
Experts & Consultants	\$ 15,969,907.59
TOTAL	\$ 19,511,267.83

LITIGATION FUND ACCOUNTS PAYABLE: **\$771,586.30**

EXHIBIT 4

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

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Scott+Scott, Attorneys at Law, LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

SCOTT+SCOTT, ATTORNEYS AT LAW, LLP



MISSION STATEMENT

Scott+Scott, Attorneys at Law, LLP (“Scott+Scott”) is a nationally recognized law firm headquartered in Connecticut with offices in California, New York City, and Ohio. Scott+Scott represents individuals, businesses, public and private pension funds, and others who have suffered from corporate fraud and wrongdoing. Scott+Scott is directly responsible for recovering hundreds of millions of dollars and achieving substantial corporate governance reforms on behalf of its clients. Scott+Scott has significant expertise in complex antitrust, consumer, securities, ERISA, and civil rights litigation in both federal and state courts. Through its efforts, Scott+Scott promotes corporate social responsibility.

ANTITRUST

Scott+Scott litigates complex antitrust cases throughout the United States. Scott+Scott represents investors, business, and consumers in price-fixing, bid-rigging, monopolization, and other restraints of trade cases on both a class-wide and individual basis, helping to ensure that markets remain free, open, and competitive. With the opening of a London Office, Scott+Scott’s commitment to competition now includes pursuing its clients’ claims on a global basis.

Scott+Scott’s class action antitrust practice includes serving as court-appointed lead counsel with the responsibility for the prosecution of class claims. Scott+Scott serves as court-appointed lead counsel in high-value antitrust class action cases, including *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (challenging bid rigging and market allocation of leveraged buyouts by private equity firms resulting in \$590.5 million in settlements)); *In Re: Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) (challenging price-fixing of foreign exchange rates (over \$2 billion in partial settlements negotiated)); and *Alaska Electrical Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y.) (challenging price-fixing of the ISDAfix benchmark interest rate). Scott+Scott has served as court-appointed lead counsel in other cases, including *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891, No. CV 07-06542 (C.D. Cal.) (challenging price-fixing/illegal surcharge (\$86 million in cash and travel voucher settlements) and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company*, No. 12-cv-03824 (E.D. Pa.) (challenging monopolization in the sale of name-brand pharmaceutical (\$8 million settlement)).

When not serving as lead counsel, Scott+Scott has served on the executive leadership committees in numerous class action cases. Representative actions include *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 1:05-md-1720 (E.D.N.Y.) (challenging price-fixing in the payment cards industry (\$7.25 billion settlement)); *Kleen*

Products LLC v. Packaging Corporation of America, No. 1:10-cv-05711 (N.D. Ill.) (challenging price-fixing of containerboard products); and *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-2420-YGR (DMR) (N.D. Cal.) (challenging price-fixing of lithium-ion batteries).

Scott+Scott's class action antitrust experience includes serving as co-trial counsel in *In re Scrap Metal Antitrust Litigation*, 02-cv-0844-KMO (N.D. Ohio), where it helped obtain a \$34.5 million jury verdict, which was subsequently affirmed by the United States Court of Appeals for the Sixth Circuit (see *In re Scrap Metal Antitrust Litigation*, 527 F.3d 517, 524 (6th Cir. 2008)), and in the consolidated bench trial in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.), and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.).

Scott+Scott also represents large clients in opt-out antitrust litigation. Scott+Scott currently represents Eastman Kodak Company, Agfa Corporation, Agfa Graphics, N.V., and Mag Instrument, Inc. in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.). Scott+Scott previously represented publicly traded corporations, such as Parker Hannifin Corporation and PolyOne Corporation, in matters such as *In re Rubber Chemicals Antitrust Litigation*, MDL No. 1648 (N.D. Cal.); *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastic Additives Antitrust Litigation (No. II)*, MDL No. 1684 (E.D. Pa.).

CONSUMER RIGHTS

Scott+Scott and its attorneys have a proven track record of obtaining significant recoveries for consumers in class action cases. Scott+Scott is one of the premier advocates in the area of consumer protection law and has been appointed to a number of prominent leadership positions.

Cases where Scott+Scott has played a leading role in the area of consumer protection litigation include:

- *In re Providian Financial Corp. Credit Card Terms Litigation*, MDL No. 1301 (E.D. Pa.) (\$105 million settlement was achieved on behalf of a class of credit card holders who were charged excessive interest and late charges on their credit cards);
- *The Vulcan Society, Inc. v. City of New York*, No. 07-cv-02067 (E.D.N.Y.) (\$100 million settlement and significant injunctive relief was obtained for a class of black and Hispanic applicants who sought to be New York City firefighters but were denied or delayed employment due to racial discrimination);
- *In re Prudential Ins. Co. SGLI/VGLI Contract Litigation*, MDL No. 2208 (D. Mass.) (\$40 million settlement was achieved on behalf of a class of military service members and their families who had purchased insurance contracts);
- *In re Target Corp. Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.) (\$59 million settlement achieved on behalf of financial institutions involving data breach of personal and financial information of approximately 40 million credit and debit card holders);

- *Greater Chautauqua Federal Credit Union v. Kmart Corporation*, No. 15-cv-02228 (N.D. Ill.) (\$18 million monetary and injunctive settlement on behalf of financial institutions involving data breach of credit and debit card information);
- *Winsouth Credit Union v. Mapco Express Inc.*, Case No.: 3:14-cv-1573 (M.D. Tenn.) (largest dollar-per-card settlement obtained on behalf of financial institutions involving data breach of credit and debit card information);
- *Gunther v. Capital One, N.A.*, No. 09-2966 (E.D.N.Y.) (a net settlement resulting in class members receiving 100% of their damages was obtained);
- *In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation*, MDL No. 2086 (W.D. Mo.) (\$37 million settlement obtained on behalf of class of propane purchasers who alleged defendants overcharged the class for under-filled propane tanks);
- *Murr v. Capital One Bank (USA), N.A.*, No. 1:13-cv-1091 (E.D. Va.) (\$7.3 million settlement pending on behalf of class of consumers who were misled into accepting purportedly 0% interest offers); and
- *Howerton v. Cargill, Inc.*, No. 13-cv-00336 (D. Haw.) (\$6.1 settlement obtained on behalf of a class of consumers who purchased Truvia, purported to be deceptively marketed as “all-natural”).

Moreover, Scott+Scott is currently serving in a leadership capacity in a number of class action consumer protection cases, including:

- *In re The Home Depot, Inc., Customer Data Security Breach Litigation*, MDL No. 2583 (N.D. Ga.) (co-lead counsel, preliminary approval of \$27.25 million settlement on behalf of financial institutions involving data breach and the theft of the personal and financial information of over 40 million credit and debit card holders);
- *First Choice Federal Credit Union v. The Wendy’s Co.*, 2:16-cv-00506 (W.D. Pa.) (co-lead counsel, claims on behalf of financial institutions involving data breach of personal and financial information of millions of credit and debit card holders);
- *In re UnitedHealth Group PBM Litigation*, Case No. 0:16-cv-3352 (D. Minn.) (co-lead counsel, claims on behalf of plan participants involving overcharge of copayments for prescription drugs);
- *In re Cigna Corporation PBM Litigation*, Case No. 3:16-cv-1702 (D. Conn.) (Chair of Executive Committee, claims on behalf of plan participants involving overcharge of copayments for prescription drugs);
- *Midwest America Federal Credit Union v. Arby’s Restaurant Group, Inc.*, 1:17-cv-00514 (N.D. Ga.) (member of Executive Committee, claims on behalf of financial institutions involving data breach of credit and debit card information); and

- *In re Herbal Supplements Marketing and Sales Practices Litigation*, MDL No. 2519 (N.D. Ill.) (claims on behalf of a class of consumers alleging major retail-chain defendants misrepresent the ingredients in store-branded herbal supplements).

SECURITIES AND CORPORATE GOVERNANCE

Scott+Scott represents individuals and institutional investors that have suffered from stock fraud and corporate malfeasance. Scott+Scott's philosophy is simple – directors and officers should be truthful in their dealings with the public markets and honor their duties to their shareholders. Since its inception, Scott+Scott's securities and corporate governance litigation department has developed and maintained a reputation of excellence and integrity recognized by state and federal and state courts across the country. "It is this Court's position that Scott+Scott did a superlative job in its representation, which substantially benefited Ariel For the record, it should be noted that Scott+Scott has demonstrated a remarkable grasp and handling of the extraordinarily complex matters in this case They have possessed a knowledge of the issues presented and this knowledge has always been used to the benefit of all investors." *N.Y. Univ. v. Ariel Fund Ltd.*, No. 603803/08, slip. op. at 9-10 (N.Y. Sup. Ct. Feb. 22, 2010). "The quality of representation here is demonstrated, in part, by the result achieved for the class. Further, it has been this court's experience, throughout the ongoing litigation of this matter, that counsel have conducted themselves with the utmost professionalism and respect for the court and the judicial process." *In re Priceline.com, Inc. Sec. Litig.*, No. 00-cv-01884, 2007 WL 2115592, at *5 (D. Conn. July 20, 2007).

Scott+Scott has successfully prosecuted numerous class actions under the federal securities laws, resulting in the recovery of hundreds of millions of dollars for shareholders. Representative cases prosecuted by Scott+Scott under the Securities Exchange Act of 1934 include: *In re Priceline.com, Inc. Sec. Litig.*, No. 00-cv-01884 (D. Conn. July 19, 2007) (\$80 million settlement); *Irvine v. ImClone Sys., Inc.*, No. 02-cv-00109 (S.D.N.Y. July 29, 2005) (\$75 million settlement); *Cornwell v. Credit Suisse Group*, No. 08-cv-03758 (S.D.N.Y. July 20, 2011) (\$70 million settlement); *Schnall v. Annuity and Life Re (Holdings) Ltd.*, No. 02-cv-2133 (D. Conn. June 13, 2008) (\$26.5 million settlement); and *St. Lucie County Fire District Firefighter's Pension Trust Fund v. Oilsands Quest Inc.*, No. 11-cv-1288-JSR (S.D.N.Y. Dec. 6, 2013) (\$10.23 million settlement) (\$7.85 million settlement preliminarily approved). Representative cases prosecuted by Scott+Scott under the Securities Act of 1933 include: *In re Washington Mutual Mortgage-Backed Securities Litigation*, No. 09-cv-0037 (W.D. Wash. Jan. 7, 2014) (\$26 million settlement); *In re Pacific Biosciences Securities Litigation*, No. CIV509210 (Cal. Super. Ct., San Mateo County, Oct. 31, 2013) (\$7.68 million settlement); *West Palm Beach Police Pension Fund v. CardioNet, Inc.*, No. 37-2010-00086836-CU-SL-CTL (Cal. Super. Ct., San Diego County, 2010) (\$7.25 million settlement); *Parker v. National City Corp.*, No. CV-08-657360 (Ohio Ct. Com. Pl., Cuyahoga County, June 23, 2010) (\$5.25 million settlement); and *Hamel v. GT Solar International, Inc.*, No. 217-2010-CV-05004 (N.H. Super. Ct., Merrimack County, May 10, 2011) (\$10.25 million settlement).

Scott+Scott currently serves as court-appointed lead counsel in various federal securities class actions, including *Birmingham Retirement and Relief System, v. S.A.C. Capital Advisors*, No. 1:12-cv-09350 (S.D.N.Y. June 17, 2013); *In re NQ Mobile Securities Litigation*, No. 13-cv-

07608 (S.D.N.Y. April 9, 2014); *In re Conn's Inc. Securities Litigation*, No. 14-cv-00548 (S.D. Tex. June 3, 2014) and *Weston v. RCS Capital Corp.*, No. 14-10136 (S.D.N.Y., Dec. 29, 2014).

In addition to prosecuting federal securities class actions, Scott+Scott has a proven track record of handling corporate governance matters through its extensive experience litigating shareholder derivative actions. In addition, Scott+Scott has been singularly successful in its shareholder derivative appellate practice, and as a result, has been instrumental in fashioning the standards in this area of law. In *Westmoreland County Employee Retirement System v. Parkinson*, No. 12-3342 (7th Cir. Aug. 16, 2013), the Seventh Circuit clarified the parameters of demand futility in those instances where a majority of directors of a corporation are alleged to have breached the fiduciary duty of loyalty by consciously disregarding positive law. In *Cottrell v. Duke*, No. 12-3871 (8th Cir. Dec. 28, 2013), the Eighth Circuit, in a case of first impression, clarified that the *Colorado River* stay is virtually never appropriate where there are exclusive federal claims. And in *King v. Verifone Holdings, Inc.*, No. 330, 2010 (Del. Jan. 28, 2011), the Supreme Court of Delaware has clarified the availability of the Delaware Corporate Code Section 220 “books and records” demands to a shareholder whose original plenary action was dismissed without prejudice in a federal district court. Representative actions prosecuted by Scott+Scott include: *In re DaVita Healthcare Partners Derivative Litigation*, No. 13-cv-1308 (D. Colo.) (corporate governance reform valued at \$100 million); *North Miami Beach General Employees Retirement Fund v. Parkinson*, No. 10C6514 (N.D. Ill.) (corporate governance valued between \$50 million and \$60 million); *In re Marvell Tech. Group Ltd. Derivative Litigation*, No. C-06-03894-RMW (RS) (N.D. Cal. Aug. 11, 2009) (\$54.9 million and corporate governance reforms); *In re Qwest Communications International, Inc.*, No. Civ. 01-RB-1451 (D. Colo. June 15, 2004) (\$25 million and corporate governance reform); *Plymouth County Contributory Retirement Fund v. Hassan*, No. 08-cv-1022 (D.N.J.) (settlement of derivative claims against Merck Schering Plough and its officers and directors providing for corporate governance reforms valued between \$50 million and \$75 million); *Carfagno v. Schnitzer*, No. 08-cv-912-SAS (S.D.N.Y. May 18, 2009) (modification of terms of preferred securities issued to insiders valued at \$8 million); and *Garcia v. Carrion*, No. 3:09-cv-01507 (D.P.R. Sept. 12, 2011) (settlement of derivative claims against the company and its officers and directors providing for corporate governance reforms valued between \$10.05 million and \$15.49 million).

Currently, Scott+Scott is actively prosecuting shareholder derivative actions, including *In re Bio-Rad Laboratories, Inc. Stockholder Litigation*, C.A. No. 11387 (Del. Ch. Aug. 13, 2015); *In re Tile Shop Holdings, Inc. Stockholder Derivative Litigation*, C. A. No. 108884 (Del. Ch. July 31, 2015); *West Palm Beach Fire Pension Fund v. Page*, No. 15-1334 (N.D. Cal. March 23, 2015); *In re Duke Energy Corp. Coal Ash Derivative Litigation*, C.A. No. 9682 (Del. Ch. May 21, 2014); and *In re OSI Systems, Inc. Derivative Litigation*, No. 14-2910 (C. D. Cal. April 15, 2014).

EMPLOYEE BENEFITS (ERISA)

Scott+Scott litigates complex class actions across the United States on behalf of corporate employees alleging violations of the federal Employee Retirement Income Security Act. ERISA was enacted by Congress to prevent employers from exercising improper control over retirement plan assets and requires that pension and 401(k) plan trustees, including employer corporations,

owe the highest fiduciary duties to retirement plans and their participants as to their retirement funds. Scott+Scott is committed to continuing its leadership in ERISA and related employee-retirement litigation, as well as to those employees who entrust their employers with hard-earned retirement savings. Representative recoveries by Scott+Scott include: *In re Royal Dutch/Shell Transport ERISA Litigation*, No. 2:04-cv-01398-JWB-SDW (D.N.J. Aug. 30, 2005) (\$90 million settlement); *In re General Motors ERISA Litigation*, No. 2:05-cv-71085-NGE-RSW (E.D. Mich. June 5, 2008) (\$37.5 million settlement); and *Rantala v. ConAgra Foods*, No. 8:05-cv-00349-LES-TDT (D. Neb.) (\$4 million settlement).

CIVIL RIGHTS LITIGATION

Scott+Scott has also successfully litigated cases to enforce its clients' civil rights. In *The Vulcan Society, Inc. v. The City of New York*, No. 1:07-cv-02067-NGG-RLM (E.D.N.Y.), Scott+Scott was part of a team of lawyers representing a class of black applicants who were denied or delayed employment as New York City firefighters due to decades of racial discriminatory conduct. The district court certified the class in a post-*Walmart v. Dukes* decision, granted summary judgment against the City on both intentional discrimination and disparate impact claims, and after trial ordered broad injunctive relief, including a new examination, revision of the application procedure, and continued monitoring by a court-appointed monitor for at least 10 years. The back pay and compensatory damage award will be determined in a subsequent ruling. In *Hohider v. United Parcel Services, Inc.*, No. 2:04-cv-00363-JFC (W.D. Penn.), Scott+Scott obtained significant structural changes to UPS's Americans with Disabilities Act compliance policies and monetary awards for some individual employees in settlement of a ground-breaking case seeking nationwide class certification of UPS employees who were barred from reemployment after suffering injuries on the job.

ATTORNEY BACKGROUND AND EXPERIENCE

DAVID R. SCOTT is the managing partner of Scott+Scott. He represents multinational corporations, hedge funds, and institutional investors in high-stakes complex litigation, including antitrust, commercial, and securities actions.

Mr. Scott has received widespread recognition for his antitrust work. He has been elected to Who's Who Legal: Competition 2015, 2016, and 2017 which lists the world's top antitrust lawyers who are selected based on comprehensive, independent survey work with both general counsel and lawyers in private practice around the world. He has also received a highly recommended ranking by Benchmark Litigation for each of the years 2013-2015.

Mr. Scott's antitrust experience includes matters dealing with unlawful price-fixing cartels, illegal tying, and anticompetitive monopolization. Currently, Mr. Scott is lead counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, a cartel action alleging a longstanding and widespread conspiracy to manipulate the foreign exchange market, in which billions in settlements have been announced to date. He is co-lead counsel in a class action case alleging that the world's largest banks and their broker, ICAP, entered a conspiracy to manipulate ISDAfix, a financial benchmark that is tied to over \$379 trillion of outstanding interest-rate swaps around the world.

Mr. Scott's previous antitrust cases have resulted in significant recoveries for victims of price-fixing cartels. Among other cases, Mr. Scott served as co-lead counsel in *Dahl v Bain Capital Partners*, No. 1:07-cv-12388 (D. Mass.), an action alleging that the largest private equity firms in the United States colluded to suppress prices that shareholders received in leveraged buyouts and that the defendants recently agreed to settle for \$600 million. He also played a leadership role in a lawsuit accusing Visa and MasterCard of engaging in anticompetitive conduct in setting credit card and debit card acceptance fees that recently settled for a record \$7.25 billion. And he was lead counsel in *Red Lion Medical Safety v. Ohmeda*, No. 06-cv-1010 (E.D. Cal.), a lawsuit alleging that Ohmeda, one of the leading manufacturers of medical anesthesia equipment in the United States, excluded independent service organizations from the market for servicing its equipment. The case was successfully resolved in settlement negotiations before trial.

Mr. Scott has also taken the lead in bringing claims on behalf of institutional investors, such as sovereign wealth funds, corporate pension schemes, and public employee retirement funds, against mortgaged-backed securities trustees for failing to protect investors. Such cases include *Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago v. The Bank of New York Mellon* (MBS sponsored by Countrywide Financial Corp.), No. 1:11-cv-05459 (S.D.N.Y.); *Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago v. Bank of America* (MBS sponsored by Washington Mutual Bank), No. 1:12-cv-02865 (S.D.N.Y.); and *Oklahoma Police Pension and Retirement System v. U.S. Bank National Association* (MBS sponsored by Bear Stearns), No. 1:11-cv-08066 (S.D.N.Y.). He also represented a consortium of regional banks in litigation relating to toxic auction rate securities ("ARS") and obtained a sizable recovery for the banks in a confidential settlement. This case represents one of the few ARS cases in the country to be successfully resolved in favor of the plaintiffs.

In addition, Mr. Scott has extensive experience litigating shareholder derivative cases, achieving substantial corporate governance reforms on behalf of his clients. Representative actions include: *In re Marvell Tech. Group Ltd. Derivative Litigation*, No. C-06-03894 (N.D. Cal.) (settlement obtaining \$54.9 million in financial benefits for the company, including \$14.6 million in cash, and corporate governance reforms to improve stock option granting procedures and internal controls, valued at more than \$150 million); *In re Qwest Communications International, Inc.*, No. 01-RB-1451 (D. Colo.) (settlement obtaining \$25 million for the company and achieving corporate governance reforms aimed at ensuring board independence); *Plymouth County Contributory Retirement System v. Hasan*, No. 08-1022 (D.N.J.) (settlement requiring annual reporting to the company's board where any clinical drug trial is delayed, valued at between \$50 million - \$75 million); *Carfagno v. Schnitzer*, No. 08-cv-0912 (S.D.N.Y.) (settlement resulting in modification of terms of preferred securities issued to insiders, valued at \$8 million); and *Garcia v. Carrion*, No. 09-cv-1507 (D.P.R.) (settlement achieving reforms aimed at rectifying internal control weaknesses and improving director education in accounting and ethics, valued at between \$10 million - \$15 million).

Mr. Scott is frequently quoted in the press, including in publications such as *The Financial Times*, *The Guardian*, *The Daily Telegraph*, *The Wall Street Journal*, and *Law360*. He is regularly invited to speak at conferences around the world and before Boards of Directors and trustees responsible for managing institutional investments.

Mr. Scott is admitted to practice in Connecticut, New York, the United States Tax Court, and numerous United States District Courts.

Mr. Scott is a graduate of St. Lawrence University (B.A., *cum laude*, 1986), Temple University School of Law (J.D., Moot Court Board, 1989), and New York University School of Law (LLM in taxation).

CHRISTOPHER M. BURKE chairs Scott+Scott's competition practice and sets the Firm's litigation standards. Mr. Burke's principal practice is in complex antitrust litigation, particularly in the financial services industry and he has served as lead counsel in some of the world's largest financial services antitrust matters. He currently sits as a partner in the firm's San Diego and New York offices.

Currently, Mr. Burke is co-lead counsel in *In Re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-7789 (S.D.N.Y.) (\$2 billion settlement); *Alaska Electrical Pension Fund v. Bank of America Corporation*, 14-cv-7126 (S.D.N.Y.) (ISDAfix litigation) (\$325 million settlement); and *Axiom Investment Advisors, LLC, by and through its Trustee, Gildor Management LLC v. Barclays Bank PLC*, 15-cv-09323 (S.D.N.Y.) (\$50 million settlement).

Mr. Burke served as co-lead counsel in *Dahl v. Bain Capital Partners*, 07-cv-12388 (D. Mass.) (\$590.5 million settlement); *In re Currency Conversion Antitrust Litigation*, MDL No. 1409 (S.D.N.Y.) (\$336 million settlement); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.); *LiPuma v. American Express Co.*, Case No. 1:04-cv-20314 (S.D. Fla.) (\$90 million settlement); and was one of the trial counsel in *Schwartz v. Visa*, Case No. 822505-4 (Alameda Cty. Super. Ct.) (\$780 million plaintiff's

judgment after six months of trial); and *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.). Mr. Burke was one of the original lawyers in the *Wholesale Elec. Antitrust* cases in California, which settled for over \$1 billion.

Further, Mr. Burke was trial counsel in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.). He was also co-lead counsel for indirect purchasers in *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891 (C.D. Cal.) (\$86 million settlement), and *In re Prudential Ins. Co. of America SGLI/VGLI Contract Litigation*, No. 11-md-2208 (D. Mass.) (\$40 million settlement). Mr. Burke also organized and filed the first of the *In re Credit Default Swap Antitrust Litigation*, 13-md-2476 (S.D.N.Y.), matters.

Mr. Burke frequently lectures at professional conferences and CLEs on competition matters, including litigation surrounding financial benchmarks, class-barring arbitration clauses, the effects of *Twombly* in 12(b)(6) motions, and the increasing use of experts at class certification and trial. In 2014, he was recognized for his exemplary work in the *Dahl v. Bain Capital Partners* matter by the American Antitrust Institute and has regularly been designated as a Super Lawyer by Thomson Reuters.

Mr. Burke is a graduate of The Ohio State University (B.A. 1984), William & Mary (M.A. 1988), and the University of Wisconsin (M.A. 1989; J.D. 1993; Ph.D. 1996). He has also served as an Assistant Attorney General at the Wisconsin Department of Justice and has lectured on law-related topics, including constitutional law, law and politics, and civil rights at the State University of New York at Buffalo and at the University of Wisconsin. Mr. Burke's book, *The Appearance of Equality: Racial Gerrymandering, Redistricting, and the Supreme Court* (Greenwood, 1999), examines conflicts over voting rights and political representation within the competing rhetoric of communitarian and liberal strategies of justification.

Mr. Burke is admitted to practice by the Supreme Courts of the States of California, New York, and Wisconsin, and numerous United States District Courts and Courts of Appeal.

WALTER W. NOSS serves as the managing partner for Scott+Scott's San Diego office. He practices complex federal litigation with an emphasis on prosecuting antitrust actions on both a class-wide and individual, opt-out basis.

Currently, Mr. Noss represents class plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.), an action challenging collusion regarding foreign exchange rates, and *Alaska Electrical Pension Fund v. Bank of America Corporation*, No. 1:14-cv-07126 (S.D.N.Y.), an action challenging collusion regarding the setting of the ISDAfix benchmark interest rate.

Mr. Noss represented class plaintiffs in *Dahl v. Bain Capital Partners LLC*, No. 1:07-cv-12388 (D. Mass.), a case challenging collusion among private equity firms. In *Dahl*, Mr. Noss served as one of the primary litigation counsel prosecuting the case, including deposing key managing directors, drafting dispositive motions, and arguing in court in opposition to defendants' summary judgment motions. The defendants in *Dahl* settled for \$590.5 million.

Mr. Noss represented the indirect purchaser class plaintiffs in *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company*, No. 2:12-cv-03824 (E.D. Pa.), a case challenging monopolistic conduct known as “product hopping” by the defendants. In *Mylan*, he was appointed sole lead counsel for the indirect class, and directed their prosecution and eventual settlement of the case for \$8 million.

Mr. Noss also represents corporate opt-out clients in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.), a case challenging collusion regarding the spot metal price of physically-delivered aluminum. He has previously represented out-out clients in *In re Rubber Chemicals Antitrust Litigation*, MDL No. 1648 (N.D. Cal.); *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastics Additives (No. II) Antitrust Litigation*, MDL No. 1684 (E.D. Pa.), which were cases involving price-fixing by horizontal competitors in the synthetic rubber industry.

Mr. Noss has experience successfully litigating in federal civil jury trials. In April 2011, Mr. Noss served as lead trial counsel in *Novak v. Gray*, No. 8:09-cv-00880 (M.D. Fla.), winning a \$4.1 million jury verdict for breach of oral contract and fraudulent inducement. In December 2009, Mr. Noss served as plaintiffs’ local counsel at trial in *Lederman v. Popovich*, No. 1:07-cv-00845 (N.D. Ohio), resulting in a \$1.8 million jury verdict for plaintiffs on claims of breach of fiduciary duties, conversion, and unjust enrichment. In January and February 2006, Mr. Noss assisted the trial team for *In re Scrap Metal Antitrust Litigation*, No. 1:02-cv-0844 (N.D. Ohio 2006), resulting in a \$34.5 million class action plaintiffs’ verdict.

Mr. Noss graduated *magna cum laude* from the University of Toledo with a Bachelor of Arts in Economics in 1997 and *with honors* from The Ohio State University College of Law in 2000. He is a member of the California, New York, and Ohio Bars. Mr. Noss is also a member of the bars of the United States District Courts for the Northern, Central, and Southern Districts of California, the Southern District of New York, and the Northern and Southern Districts of Ohio, as well as the United States Court of Appeals for the Sixth, Ninth, and Eleventh Circuits. Prior to joining Scott+Scott in April 2004, he was an associate in the Cleveland, Ohio office of Jones Day.

KRISTEN M. ANDERSON is a partner in the firm’s New York office. Ms. Anderson’s practice focuses on complex and class action litigation with an emphasis on antitrust matters. Ms. Anderson is recognized as a Rising Star in the 2014-15, 2015-16, and 2016-17 editions of Super Lawyers.

A substantial portion of Ms. Anderson’s practice is devoted to antitrust cases within the financial services industry. Currently, Ms. Anderson represents plaintiff-investors in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *Axiom Investment Advisors, LLC, by and through its Trustee Gildor Management, LLC v. Deutsche Bank AG*, No. 15-cv-9945 (S.D.N.Y.), and *Axiom Investment Advisors, LLC, by and through its Trustee Gildor Management LLC v. Barclays Bank PLC*, No. 15-cv-9323 (S.D.N.Y.), cases alleging misconduct in the foreign exchange market by many global financial institutions. Ms. Anderson represented pension funds and individual investors in *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (\$590.5 million settlement), an antitrust action alleging collusion in the buyouts of

large publicly traded companies by private equity firms. Ms. Anderson also served on the trial team representing certified classes of cardholders in antitrust cases challenging class action-banning arbitration clauses in credit card agreements as restraints of trade in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.).

Ms. Anderson is an active member of the American Bar Association's Antitrust Section. She currently serves as Vice Chair of the Antitrust Section's Trial Practice Committee and is co-editor of the Committee's newsletter, *Trying Antitrust*. She has been a Vice Chair of the Antitrust Section's Books & Treatises Committee. She has also been a contributing author to the Antitrust Section's *Antitrust Discovery Handbook* (2d ed.), *Joint Venture Handbook* (2d ed.), and the *2010 Annual Review of Antitrust Law Developments*. In addition, Ms. Anderson served as an editor for *Model Jury Instructions in Civil Antitrust Cases* (2016 ed.). Ms. Anderson was a co-author of an article appearing in the Fall 2014 edition of *Competition: Journal of the Antitrust and Unfair Competition Section of the State Bar of California*, entitled *The Misapplication of Associated General Contractors to Cartwright Act Claims*, 23 COMPETITION: J. ANTI. & UNFAIR COMP. L. SEC. ST. B. CAL. 120 (2014).

Ms. Anderson is a graduate of St. Louis University (B.A. Philosophy, *summa cum laude*, 2003) and the University of California, Hastings College of the Law (J.D. 2006). During law school, Ms. Anderson served as an extern at the U.S. Department of Justice, Antitrust Division, in San Francisco. While at Hastings, Ms. Anderson also served as an extern to Justice Kathryn Mickle Werdegard of the Supreme Court of California and was the research assistant to Professor James R. McCall in the areas of antitrust and comparative antitrust law.

Ms. Anderson is admitted to practice in California, New York, and the District of Columbia.

JOSEPH P. GUGLIELMO is a partner in the firm's New York office and represents institutional and individual clients in securities, antitrust, and consumer litigation in federal and state courts throughout the United States and has achieved numerous successful outcomes.

Recently, Mr. Guglielmo, along with other attorneys at Scott+Scott, was recognized for his efforts representing New York University in obtaining a monumental temporary restraining order of over \$200 million from a Bernard Madoff feeder fund. Specifically, New York State Supreme Court Justice Richard B. Lowe III stated, "Scott+Scott has demonstrated a remarkable grasp and handling of the extraordinarily complex matters in this case. The extremely professional and thorough means by which NYU's counsel has litigated this matter has not been overlooked by this Court."

Mr. Guglielmo serves in a leadership capacity in a number of complex antitrust, securities, and consumer actions, including: *In Re: Disposable Contact Lens Antitrust Litigation*, Case No. 3:15-md-2626 (M.D. Fla.), claims on behalf of a class of contact lens purchasers alleging violations of the antitrust laws, *In re The Home Depot, Inc., Customer Data Security Breach Litigation*, MDL No. 2583 (N.D. Ga.), claims involving data breach and the theft of the personal and financial information of 56 million credit and debit card holders, *In re Target Corporation Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.), claims involving data

breach and the theft of the personal and financial information of customers holding approximately 110 million credit and debit cards. *In re Herbal Supplements Marketing and Sales Practices Litigation*, MDL No. 2619 (N.D. Ill.), claims on behalf of a class of consumers alleging major retail-chain defendants misrepresented the ingredients in store-branded herbal supplements. Mr. Guglielmo is also actively involved in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789-LGS (S.D.N.Y), which involves claims on behalf of purchasers of foreign exchange instruments alleging violations of federal antitrust laws.

Mr. Guglielmo has achieved significant victories and obtained numerous settlements for his clients. He was one of the principals involved in the litigation and settlement of *In re Managed Care Litigation*, MDL No. 1334 (S.D. Fla.), which included settlements with Aetna, CIGNA, Prudential, Health Net, Humana, and WellPoint, providing monetary and injunctive benefits exceeding \$1 billion. Additional cases Mr. Guglielmo played a leading role and obtained substantial recoveries for his clients include: *Love v. Blue Cross and Blue Shield Ass'n*, No. 03-cv-21296 (S.D. Fla.), which resulted in settlements of approximately \$130 million and injunctive benefits valued in excess of \$2 billion; *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1897 (D.N.J.), settlements in excess of \$180 million; *In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation*, MDL No. 2086 (W.D. Mo.), consumer settlements in excess of \$40 million; *Bassman v. Union Pacific Corp.*, No. 97-cv-02819 (N.D. Tex.), \$35.5 million securities class action settlement; *Garcia v. Carrion*, Case No. CV. 11-1801 (D. P.R.), substantial corporate governance reforms; *Boilermakers National Annuity Trust Fund v. WaMu Mortgage Pass-Through Certificates*, No. 09-cv-00037 (W.D. Wash.), \$26 million securities class action settlement, *Murr v. Capital One Bank (USA), N.A.*, No. 13-cv-1091 (E.D. Va.) \$7.3 million settlement pending on behalf of class of consumers who were misled into accepting purportedly 0% interest offers, and *Howerton v. Cargill, Inc.*, No. 13-cv-00336 (D. Haw.) \$6.1 settlement obtained on behalf of class of consumers who purchased Truvia, purported to be deceptively marketed as “all-natural.”

Mr. Guglielmo was the principle litigator and obtained a significant opinion from the Hawaii Supreme Court in *Hawaii Medical Association v. Hawaii Medical Service Association*, 113 Hawaii 77 (Haw. 2006), reversing the trial court’s dismissal and clarifying rights for consumers under the state’s unfair competition law.

Mr. Guglielmo lectures on electronic discovery and is a member of the Steering Committee of the Sedona Conference®, an organization devoted to providing guidance and information concerning issues such as discovery and production issues, as well as areas focusing on antitrust law, complex litigation, and intellectual property. Recently, Mr. Guglielmo was selected as a speaker for electronic discovery issues at the Sedona Conference as well as the Advanced eDiscovery Institute at Georgetown University Law Center. Mr. Guglielmo was also recognized for his achievements in litigation by his selection to *The National Law Journal*’s “Plaintiffs’ Hot List.” In 2016, Mr. Guglielmo was named by Super Lawyers as a top Antitrust lawyer in New York, New York.

Mr. Guglielmo graduated from the Catholic University of America (B.A., *cum laude*, 1992; J.D., 1995) and also received a Certificate of Public Policy.

Mr. Guglielmo is admitted to practice before numerous federal and state courts: the United States Supreme Court, the United States Court of Appeals for the First Circuit, Second Circuit, Third Circuit, Eighth Circuit and Ninth Circuit, the United States District Courts for the Southern and Eastern Districts of New York, District of Massachusetts, District of Connecticut, District of Colorado, Eastern District of Wisconsin, New York State, the District of Columbia, and the Commonwealth of Massachusetts. He is also a member of the following associations: District of Columbia Bar Association, New York State Bar Association, American Bar Association, and The Sedona Conference®.

WILLIAM C. FREDERICKS holds a B.A. (with high honors) from Swarthmore College (Pa.), an M. Litt. in International Relations from Oxford University (England), and a J.D. from Columbia University Law School (N.Y.). At Columbia, Mr. Fredericks was also a three-time Harlan Fiske Stone Scholar, a Columbia University International Fellow, and the winner of the law school's Beck Prize (property law), Toppan Prize (advanced constitutional law) and Greenbaum Prize (written advocacy). A three-judge panel chaired by the late Justice Antonin Scalia also awarded Mr. Fredericks the Thomas E. Dewey Prize for the best oral argument in the final round of Columbia's Stone Moot Court Honor Competition.

After clerking for the Hon. Robert S. Gawthrop III (E.D. Pa.) in Philadelphia, Mr. Fredericks spent seven years practicing securities and complex commercial litigation at Simpson Thacher & Bartlett LLP and Willkie Farr & Gallagher LLP in New York before moving to the plaintiffs' side of the bar in 1996. Since 1996, Mr. Fredericks has represented investors as a lead or co-lead plaintiff in dozens of securities class actions, including *In re Wachovia Preferred Securities and Bond/Notes Litig.* (S.D.N.Y.) (total settlements of \$627 million, reflecting the largest recovery ever in a pure Securities Act case not involving any parallel government fraud claims); *In re Rite Aid Securities Litig.* (E.D. Pa.) (total settlements of \$323 million, including the then-second largest securities fraud settlement ever against a Big Four accounting firm); *In re Sears Roebuck & Co. Sec. Litig.* (N.D. Ill.) (\$215 million settlement, representing the then-largest \$10(b) class action recovery in an action that did not involve either a financial restatement or parallel government fraud claims); *In re State Street ERISA Litig.* (S.D.N.Y.) (one of the largest ERISA class settlements to date); *In re King Digital Sec. Enter. PLC S'holder Litig.* (Super. Ct. San Fran. Cty.) (\$18.5 million settlement pending, representing one of the largest state court \$11 class action recoveries to date); and *Irvine v. ImClone Systems, Inc.* (S.D.N.Y.) (\$75 million settlement). Mr. Fredericks also played a leading role on the team that obtained a rare 9-0 decision for securities fraud plaintiffs in the U.S. Supreme Court in *Merck & Co., Inc. v. Reynolds* (which later settled for \$1.052 billion), and has also coauthored amicus briefs in various other Supreme Court cases (including *Halliburton* and *Amgen*) involving securities issues.

At Scott+Scott, Mr. Fredericks' current cases include representing investors in several pending securities fraud actions, and in antitrust litigation against over a dozen leading banks based on their involvement in manipulating foreign exchange ("FX") rates and spreads.

Mr. Fredericks has been recognized in the 2012-17 editions of "America's Best Lawyers" in the field of commercial litigation, in "Who's Who in American Law" (Marquis), and in the New York City "SuperLawyers" listings for securities litigation. He has been a frequent panelist on various securities litigation programs sponsored by the Practising Law Institute (PLI), and has

lectured overseas on American class action litigation on behalf of the American Law Institute/American Bar Association (ALI/ABA). He is also a member of the New York City Bar Association (former chair, Committee on Military Affairs and Justice), the Federal Bar Council and the American Bar Association.

SYLVIA M. SOKOL is a New York- and London-based partner in the firm's Antitrust and Competition Law Practice. She focuses on representing national and international clients in litigation involving domestic and international cartels. Ms. Sokol has substantial experience in all aspects of complex litigation, including the day-to-day management of cases. She also has substantial experience in counseling corporate clients, evaluating potential claims, and developing strategies to recoup losses stemming from anticompetitive conduct.

Ms. Sokol currently represents a nationwide class in price-fixing litigation regarding the \$5.3 trillion-a-day foreign exchange market. She also represents a proposed nationwide class in an action involving ISDAfix, a financial benchmark that is tied to over \$379 trillion of interest-rate swaps around the world. In addition, Ms. Sokol represents several large multinational corporations alleging that Goldman Sachs, JPMorgan, Glencore, and their warehouse affiliates conspired to restrict the supply of aluminum in London Metal Exchange-approved warehouses. And she represents several government entities in a national lawsuit alleging bid-rigging in the municipal derivatives market.

In addition, Ms. Sokol's civil litigation experience has involved defending corporate clients charged with unlawful business practices and monopolizations. She has also represented clients in criminal and extradition matters.

Ms. Sokol was selected for the International Who's Who of Competition Lawyers & Economists and for Competition - U.S. in 2016 and 2017. Honorees are selected based on comprehensive and independent survey responses received from general counsel and private practitioners around the world. She has been selected to be a Fellow in The Trial Lawyer Honorary Society of the Litigation Counsel of America, which is a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. Lawyer Monthly magazine awarded her the Women in Law Award 2017. She was also named a "Super Lawyer" in 2014, 2015, 2016, and 2017, Super Lawyers New York Metro Edition, and was named a "Super Lawyer" in 2011-2012, Super Lawyers Northern California Edition.

She is a 1998 graduate of the New York University School of Law (*cum laude*), and completed her undergraduate studies at the University of British Columbia. After law school, Ms. Sokol was awarded the Soros Justice Fellowship to serve a year in the Capital Habeas Unit of the Federal Public Defender's Office, where she represented clients condemned to death and developed training materials for members of the capital defense bar. She then served as a judicial law clerk to the Honorable Warren J. Ferguson, United States Court of Appeals for the Ninth Circuit, before spending several years working at Morrison & Foerster LLP.

Ms. Sokol is a member of the American Bar Association and is admitted to practice in New York, California, and the District of Columbia. She is also admitted to the Southern District of

New York, the Northern, Southern, and Eastern Districts of California, as well as the United States Supreme Court.

She is bilingual in English and French, and holds French and United States citizenships.

PETER A. BARILE III is a partner in Scott+Scott's competition practice. His focus is on complex antitrust and commodity litigation.

Mr. Barile has extensive experience representing clients on both sides of the docket in a variety of industries and contexts, from consumers and investors to institutions and corporations, whether as individual plaintiffs, class plaintiffs, opt-outs, or defendants in complex matters. Prior to joining the firm, he practiced both in New York and in Washington D.C., with major law firms renowned for their historically leading antitrust practices.

Mr. Barile devotes a substantial amount of his practice to federal antitrust and commodity class action litigation involving the financial services industry in the Southern District of New York. Mr. Barile is or has been involved in representing investor rights in major cases involving commodities and financial benchmarks, including: *Aluminum*, *Cotton*, *Crude Oil*, *FX*, *Gold*, *ISDAfix*, *LIBOR*, *Silver*, and *Zinc*.

He also has significant experience litigating high-tech antitrust cases in the Northern District of California, including *In re Online DVD Antitrust Litigation*; *In re Lithium Ion Batteries Antitrust Litigation*; and *In re High Tech Employees Antitrust Litigation*.

In addition to his work in federal district trial courts, Mr. Barile has considerable experience in other arenas, including the Judicial Panel on Multidistrict Litigation, federal Circuit Courts of Appeal, and the United States Supreme Court.

Mr. Barile is active in the antitrust bar, having held a number of leadership posts in the ABA and other organizations. He serves on the Advisory Board of the Loyola Institute for Consumer Antitrust Studies. Mr. Barile has published numerous articles and served as a panelist or speaker on antitrust issues. His work has been cited by the Federal Trade Commission and the Antitrust Modernization Commission, as well as leading academics and practitioners.

Mr. Barile also has helped nonprofit advocacy groups be heard in matters of national importance as Friends of the Court in major cases before the United States Supreme Court. His work has included *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007), in which he served as lead counsel for *amicus curiae* Consumer Federation of America in a landmark antitrust case on resale price fixing, and *Giles v. State of California*, 554 U.S. 353 (2008), in which he served as lead counsel for *amicus curiae* Battered Women's Justice Project, in a case concerning the scope of the Confrontation Clause of the United States Constitution.

Mr. Barile earned his law degree in 1999 from the University of Connecticut School of Law, *magna cum laude*, where he was an Editor of the Connecticut Law Review and Moot Court Champion. His bachelor's degree is from the University of Connecticut.

Mr. Barile is a member of the bars of New York, Connecticut, and the District of Columbia. He is admitted to practice in the United States District Courts for the Southern District of New York, Eastern District of New York, District of Columbia, Northern District of Illinois, District of Connecticut; United States Courts of Appeal for the Second, Fourth, Sixth, Seventh, Ninth, Federal, and District of Columbia Circuits, and the Supreme Court of the United States.

DONALD A. BROGGI is a partner in the firm's New York office. Mr. Broggi is a graduate of the University of Pittsburgh (B.A., 1990) and Duquesne University School of Law (J.D., 2000). He is engaged in the firm's complex securities, antitrust, and consumer litigation, including: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *In re: Priceline.com Inc. Securities Litigation*, No. 00-cv-1884 (D. Conn.), *Irvine v. ImClone Systems, Inc.*, No. 02-cv-0109 (S.D.N.Y.), *In re: Rubber Chemicals Antitrust Litigation*, No. C04-01648 (N.D. Cal.), *In re: Plastics Additives Antitrust Litigation*, No. 03-cv-2038 (E.D. Pa.), and *In re Washington Mutual Mortgage-Backed Securities Litigation*, No. 09-cv-0037 (W.D. Wash.), among others.

Mr. Broggi also works with the firm's institutional investor clients, including numerous public pension systems and Taft-Hartley funds throughout the United States to ensure their funds have proper safeguards in place to ensure against corporate malfeasance. Similarly, Mr. Broggi consults with institutional investors in the United States and Europe on issues relating to corporate fraud in the U.S. securities markets, as well as corporate governance issues and shareholder litigation. Mr. Broggi has lectured at institutional investor conferences throughout the United States on the value of shareholder activism as a necessary component of preventing corporate fraud abuses, including the Texas Association of Public Employee Retirement Systems, Georgia Association of Public Pension Trustees, Michigan Association of Public Retirement Systems, Illinois Public Pension Fund Association, and the Pennsylvania Association of County Controllers, among others.

Mr. Broggi is admitted to practice in New York and Pennsylvania.

DARYL F. SCOTT graduated in 1981 from Vanderbilt University with a Bachelor of Arts in Economics. He received his Juris Doctorate from Creighton University School of Law in 1984, and a Masters of Taxation from Georgetown University Law Center in 1986. Mr. Scott is a partner involved in complex securities litigation at Scott+Scott. In addition to his work with the firm, Mr. Scott has specialized in private foundation and ERISA law. He was also formerly an executive officer of a private equity firm that held a majority interest in a number of significant corporations. Mr. Scott is admitted to the Supreme Court of Virginia and a member of the Virginia Bar Association and the Connecticut Bar Association.

GEOFFREY M. JOHNSON is a partner in the firm's Ohio office. Mr. Johnson's practice focuses on commercial and class action trial work and appeals. His areas of concentration include complex securities litigation, ERISA class actions, and commercial and class action antitrust litigation.

Notably, Mr. Johnson serves as lead counsel in *Pfeil v. State Street Bank and Trust Company*, 2:09-cv-12229 (E.D. Mich.), a case of national significance in the area of employee retirement plans. In the case, Mr. Johnson represents a class of over 200,000 current and former General

Motors employees who owned General Motors stock in GM's two main retirement plans. Mr. Johnson successfully argued the case to the United States Court of Appeals for the Sixth Circuit, which issued an opinion that is now looked to nationally as one of the seminal cases in the area of ERISA fiduciary duties and employee rights. *See Pfeil v. State Street Bank and Trust Company*, 671 F.3d 585 (6th Cir. 2012).

Mr. Johnson has also served as lead or co-lead counsel in other major securities and ERISA cases, including: *In re Royal Dutch/Shell ERISA Litigation*, No. 04-1398 (D.N.J.), which settled for \$90 million and is one of the three largest recoveries ever obtained in an ERISA class action case; *In re Priceline Securities Litigation*, 00-cv-1884 (D. Conn.), which settled for \$80 million and is the largest class action securities settlement ever obtain in the State of Connecticut; and *In re General Motors ERISA Litigation*, 05-cv-71085 (E.D. Mich.), a case that settled for \$37.5 million and ranks among the largest ERISA class settlements ever obtained.

Mr. Johnson has been active in the firm's mortgage-backed securities litigation practice, serving as lead or co-lead counsel in mortgage-backed securities class action cases involving Washington Mutual (*In re Washington Mutual Mortgage Backed Securities Litigation*, 2:09-cv-00037 (W. D. Wash.)) and Countrywide Financial (*Putnam Bank v. Countrywide Financial, Inc.*, No. 10-cv-302 (C.D. Cal.)). Mr. Johnson also helped develop the theories that the firm's pension fund clients have used to pursue class action cases against mortgage-backed security trustees. *See Retirement Board of the Policemen's Annuity & Benefit Fund of the City of Chicago v. Bank of New York Mellon* (Case No. 11-cv-05459 (S.D.N.Y.)); *Oklahoma Police Pension & Retirement System v. U.S. Bank NA* (Case No. 11-cv-8066 (S.D.N.Y.)).

In addition, Mr. Johnson is active in the firm's appellate practice group, where he has handled numerous class action appeals, including appeals in the United States Court of Appeals for the Second Circuit, Third Circuit, Fifth Circuit, Sixth Circuit, Seventh Circuit, and Eleventh Circuit.

Mr. Johnson is a graduate of Grinnell College (B.A., Political Science with Honors, 1996) and the University of Chicago Law School (J.D., with Honors, 1999), where he served on the law review. Prior to joining Scott+Scott, Mr. Johnson clerked for the Honorable Karen Nelson Moore, United States Court of Appeals for the Sixth Circuit.

ERIN GREEN COMITE is a partner in the firm's Connecticut office. Ms. Comite is a graduate of Dartmouth College (B.A., *magna cum laude*, 1994) and the University of Washington School of Law (J.D., 2002). Ms. Comite litigates complex class actions throughout the United States, representing the rights of shareholders, employees, consumers, and other individuals harmed by corporate misrepresentation and malfeasance. Since joining Scott+Scott in 2002, she has litigated such cases as *In re Priceline.com Securities Litigation* (\$80 million settlement); *Schnall v. Annuity and Life Re (Holdings) Ltd.* (\$27 million settlement); and *In re Qwest Communications International, Inc.* (settlement obtaining \$25 million for the company and achieving corporate governance reforms aimed at ensuring board independence). Currently, she is one of the court-appointed lead counsel in *In re Monsanto Company Genetically-Engineered Wheat Litigation*, MDL No. 2473 (D. Kan.), and is prosecuting or has recently prosecuted actions against defendants such as Banco Popular, N.A.; Cargill, Inc.; The Estée

Lauder Companies, Inc.; Ferrero USA, Inc.; L'Oreal USA, Inc.; Merisant Company; Merrill, Lynch, Pierce, Fenner & Smith, Inc.; NCO Financial Systems, Inc.; and Nestlé USA, Inc.

While Ms. Comite is experienced in all aspects of complex pre-trial litigation, she is particularly accomplished in achieving favorable results in discovery disputes. In *Hohider v. United Parcel Service, Inc.*, Ms. Comite spearheaded a nearly year-long investigation into every facet of UPS's preservation methods, requiring intensive, full-time efforts by a team of attorneys and paralegals well beyond that required in the normal course of pre-trial litigation. Ms. Comite assisted in devising the plan of investigation in weekly conference calls with the Special Master, coordinated the review of over 30,000 documents that uncovered a blatant trail of deception and prepared dozens of briefs to describe the spoliation and its ramifications on the case to the Special Master. In reaction to UPS's flagrant discovery abuses brought to light through the investigation, the Court conditioned the parties' settlement of the three individual ADA case on UPS adopting and implementing preservation practices that passed the approval of the Special Master.

Ms. Comite also is active in the firm's appellate practice. Recent successes include achieving a Ninth Circuit reversal of a district court's dismissal of consumers' claims concerning Nestlé's Juicy Juice Brain Development Beverage, which the plaintiffs alleged was deceptively marketed as having the ability to improve young children's cognitive development with minute quantities of the Omega-3 fatty acid, DHA. *Chavez v. Nestle USA, Inc.*, 511 F. App'x 606 (9th Cir. 2013).

Prior to entering law school, Ms. Comite served in the White House as Assistant to the Special Counsel to President Clinton. In that capacity, she handled matters related to the White House's response to investigations, including four independent counsel investigations, a Justice Department task force investigation, two major oversight investigations by the House of Representatives and the Senate, and several other congressional oversight investigations.

Ms. Comite's volunteer activities have included assisting immigrant women, as survivors of domestic violence, with temporary residency applications as well as counseling sexual assault survivors. Currently, Ms. Comite supports Connecticut Children's Medical Center and March of Dimes/March for Babies.

Ms. Comite is licensed to practice in the State of Connecticut and is admitted to practice in the U.S. District Court for the District of Connecticut and the Southern District of New York and the U.S. Court of Appeals for the Second, Third, Ninth and Eleventh Circuits.

DAVID H. GOLDBERGER is an associate in Scott+Scott's San Diego office. Currently, Mr. Goldberger's practice is focused on antitrust litigation, initial case investigations, and other special projects.

Representative actions include *Kleen Products LLC v. Packaging Corporation of America*, No. 10-cv-5711 (N.D. Ill.), an action challenging price-fixing in the containerboard industry, and *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-2420 (N.D. Cal.), an action challenging price-fixing of Li-Ion batteries. Mr. Goldberger has also worked on antitrust cases involving delayed generic drug entry, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Ltd.*

Co., No. 12-cv-3824 (E.D. Pa.) (\$8 million settlement) and *In re Prograf Antitrust Litig.*, No. 1:11-md-02242 (D. Mass.).

Previously, Mr. Goldberger was active in Scott+Scott's securities fraud and ERISA practice, including *In re: Priceline.com Securities Litigation*, 03-cv-1884 (D. Conn.) (\$80 million settlement), *Alaska Electrical Pension Fund v. Pharmacia Corporation*, No. 03-1519 (D.N.J.) (\$164 million settlement), and *In re: General Motors ERISA Litigation*, No. 05-71085 (E.D. Mich.) (resulting in significant enhancements to retirement plan administration in addition to \$37.5 million settlement for plan participants).

Mr. Goldberger was also a member of Scott+Scott's institutional investor relations staff, providing the Firm's many institutional clients with assistance in various matters pertaining to their involvement in complex civil litigations.

Mr. Goldberger is also a frequent contributing author to Market+Litigation, Scott+Scott's monthly client newsletter.

Mr. Goldberger graduated from the University of Colorado (B.A., 1999) and California Western School of Law (J.D., 2002). Mr. Goldberger is admitted to practice by the Supreme Court of the State of California and in all California United States District Courts.

A San Diego native, Mr. Goldberger was a founding member of the Torrey Pines High School "Friends of the Library" and coaches youth sports in his spare time.

JULIE A. KEARNS has been litigating complex class action cases, focusing primarily on violations of federal antitrust and securities laws, since 2006. She also has experience handling civil matters in California state court, and is located in Scott+Scott's San Diego office. Ms. Kearns has been recognized as a Rising Star in the 2015, 2016, and 2017 editions of Super Lawyers. She was also honored by the San Diego Business Journal as Best of the Bar in 2015.

At Scott+Scott, Ms. Kearns presently devotes much of her time representing investors in cases involving the manipulation of financial benchmarks by numerous major banks, including *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y) and *Alaska Elec. Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y).

A native Southern Californian, Ms. Kearns earned her Bachelor of Arts degree from the University of California, Santa Barbara, in 2003, with a double major in Political Science and Law & Society. She graduated *cum laude* from Thomas Jefferson School of Law in 2006. During law school, Ms. Kearns served as Executive Board Co-Chair of the Moot Court Society, and participated in multiple competitions across the country. She also served as judicial intern to the Honorable Judge William S. Cannon, who oversaw civil matters in the Superior Court of California, County of San Diego. She completed internships at various public defender entities at both the state and federal levels, and drafted sponsorship agreements and similar documents as legal intern for the local minor league ice hockey team, the San Diego Gulls.

As an avid animal lover and supporter of animal rights, Ms. Kearns has served as *pro bono* volunteer attorney in association with the non-profit association Expand Animal Rights Now

(“EARN”) since 2016. She is a long-time supporter of the San Diego Humane Society, the San Diego Zoological Society, the ASPCA, and other similar organizations. Ms. Kearns has also made presentations to middle and high school students around San Diego County as part of the annual, non-partisan Constitution Day event organized by the San Diego ACLU.

Ms. Kearns is licensed to practice law in the state of California, and is admitted to the U.S. District Court for the Southern, Central, and Northern Districts of California, the District of Colorado, and the U.S. Court of Appeals for the Fifth Circuit.

THOMAS K. BOARDMAN is an associate in the Scott+Scott’s New York office, focusing on antitrust litigation. At his prior firm, Mr. Boardman was a member of the trial team in *In re TFT-LCD (Flat Panel) Antitrust Litigation*. For his work on that case, Mr. Boardman was nominated by Consumer Attorneys of California as a finalist for Consumer Attorney of the Year. Mr. Boardman was also an instrumental part of the lead counsel team in *In re Potash Antitrust Litigation (II)*, a case that featured a unanimous victory before an *en banc* panel of the Seventh Circuit, resulting in one of the most influential antitrust appellate opinions in recent memory. The case ended in \$90 million in settlements.

At Scott+Scott, Mr. Boardman represents plaintiff-investors in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* and represents opt-out plaintiffs in *Mag Instrument Inc v. The Goldman Sachs Group Inc.* Mr. Boardman also represents indirect purchaser plaintiffs in *In re Lithium Ion Batteries Antitrust Litigation*.

Mr. Boardman received his Bachelor of Arts degree from Vassar College in 2004, majoring in Political Science and Film Studies. He received his Juris Doctorate from the University of California, Hastings College of the Law in 2009. While at Hastings, Mr. Boardman was a member of the Hastings Science and Technology Law Journal and worked as a research assistant to professors Geoffrey C. Hazard, Jr. and Rory K. Little. Mr. Boardman is a member of the following Bars: California, New York, Ninth Circuit Court of Appeals, Central District of California, Northern District of California, and Southern District of California. He is also a member of the following professional associations: ABA Antitrust Section – Model Jury Instruction Revision Task Force, ABA Antitrust Section – Young Lawyers Division – Litigation Committee, ABA Antitrust Section – Young Lawyers Division – Civil Practice and Procedure Committee, New York State Bar Association – Antitrust Section, Bar Association of San Francisco, and Public Justice Foundation.

Mr. Boardman has co-authored the following articles: “Reverse Engineering Your Antitrust Case: Plan for Trial Even Before You File Your Case,” *Antitrust Magazine*, Spring 2014, Vol. 28, No. 2, with Bruce L. Simon; and “Class Action for Health Professionals,” chapter from *Advocacy Strategies for Health and Mental Health Professionals*, Springer Publishing Co., 2011, with Bruce L. Simon, Stuart L. Lustig, Editor.

Prior to joining Scott+Scott, Mr. Boardman worked at Pearson, Simon & Warshaw, LLP in San Francisco and served as a judicial law clerk to the Hon. Christina Reiss in United States District Court, District of Vermont.

Mr. Boardman enjoys running and regularly does so for charity. He has run several races to fundraise for various causes, including the New York City Marathon (National Multiple Sclerosis Foundation) and the Boston Marathon (Cystic Fibrosis Foundation).

JOHN JASNOCH's practice areas include securities and antitrust class actions, shareholder derivative actions, and other complex litigation. Mr. Jasnoch represented plaintiffs in *In re Washington Mutual Mortgage-Backed Securities Litigation*, Case No. 2:09-cv-00037 (W.D. Washington), a case that was litigated through summary judgment and settled on the eve of trial for \$26 million. Mr. Jasnoch was also one of the lead attorneys that secured a \$7.68 million settlement in *In re Pacific Biosciences Securities Litigation*, Case No. CIV509210 (San Mateo County, California). Other cases Mr. Jasnoch has worked on that have achieved notable results include: *West Palm Beach Police Pension Fund v. Cardionet, Inc.*, Case No. 37-2010-00086836-CU-SL-CTL (San Diego County, California) (\$7.25 million settlement), *Hodges v. Akeena Solar*, 09-cv-2147 (N.D. Cal.) (\$4.77 million settlement), *Plymouth County Contributory Ret. Sys. v. Hassan*, No. 08-1022 (D.N.J.) (corporate governance reform), and *In re HQ Sustainable Maritime Industries, Inc., Derivative Litigation*, Case No. 11-2-16742-9 (King County, Washington) (\$2.75 million settlement).

Mr. Jasnoch is also involved in the firm's healthcare practice group, currently representing institutional investors in *In re DaVita Healthcare Partners, Inc. Derivative Litigation*, Case No. 12-cv-2074 (D. Co.) and *City of Omaha Police and Fire Pension Fund v. LHC Group*, Case No. 12-cv-1609 (W.D. La.).

As an active member of the Consumer Attorneys of California, Mr. Jasnoch has prepared and submitted successful *amicus curie* briefs to the Ninth Circuit Court of Appeals, including on California's Anti-SLAPP law and consumer protection issues.

Mr. Jasnoch graduated *cum laude* from Creighton University with a Bachelor of Arts in Political Science in 2007. He received his Juris Doctorate from The University of Nebraska College of Law in 2011 and is a member of the California Bar.

MICHAEL G. BURNETT is a graduate of Creighton University (B.A., 1981) and Creighton University School of Law (J.D., 1984). Mr. Burnett practices complex securities litigation at the firm where he consults with the firm's institutional clients on corporate fraud in the securities markets as well as corporate governance issues. In addition to his work with the firm, Mr. Burnett has specialized in intellectual property and related law. Mr. Burnett is admitted to the Nebraska Supreme Court and United States District Court, District of Nebraska. He is a member of the Nebraska Bar Association.

J. ALEX VARGAS serves as Scott+Scott's Director of Investigations. He has devoted over a decade of his career investigating claims on behalf of institutional investors and other stakeholders. At Scott+Scott, Mr. Vargas conducts and oversees investigations across all practice groups. Prior to joining the firm, Mr. Vargas was involved in several high-profile securities fraud cases, including one where he served as the principal investigator in connection with a 14-year litigation, resulting in the largest securities fraud settlement following a trial; a record \$1.575 billion recovery in *Jaffe v. Household Int'l, Inc.*, No. 02-C-05893 (N.D. Ill.).

Representative securities fraud matters include: *Ret. Bd. of the Policemen's Annuity and Benefit Fund of Chicago v. FXCM Inc.*, 1:15-cv-03599-KMW (S.D.N.Y.); *Union Asset Management Holding AG v. SanDisk LLC*, 3:15-cv-01455-VC (N.D. Cal.); *In re LendingClub Corp. Shareholder Litig.*, Case No. CIV537300 (Cal. Super. Ct., San Mateo County); *In re MobileIron, Inc. S'holder Litig.*, 1-15-cv-284001 (Cal. Super. Ct., Santa Clara County); *In re Endochoice Holdings, Inc. Sec. Litig.*, C.A. No. 2016 cv 277772 (Ga. Super. Ct. Fulton County); and *Rubenstein v. Oilsands Quest Inc.*, No. 11-cv-288 (S.D.N.Y.) (settlement of \$10.235 million).

Representative consumer class actions include *In re Pacific Coast Oil Trust Sec. Lit.*, BC550418 (Cal. Sup. Ct., Los Angeles County); *Greater Chautauqua Federal Credit Union v. Kmart Corp.*, No. 15-cv-2228 (N.D. Ill.); *WinSouth Credit Union v. MAPCO Express, Inc.*, No. 14-cv-1573 (M.D. Tenn.); *Selco Community Credit Union v. Noodles & Co.*, C.A. No. 1:16-cv-2247 (D. Colo.); *Le v. Kohl's Corp.*, C.A. No. 15-1171 (E.D. Wisc.); and *First Choice Fed. Credit Union v. The Wendy's Co.*, 2:16-cv-00506 (W.D. Pa.).

Mr. Vargas graduated from the University of San Diego (B.A., 1997) and the University of San Diego School of Law (J.D., 2004). He is admitted to practice in New York, California, and the District of Columbia.

STEPHANIE HACKETT is an associate in Scott+Scott's San Diego office. She primarily practices in the area of antitrust litigation on behalf of classes and individual plaintiffs.

Ms. Hackett has represented class plaintiffs in *Dahl v. Bain Capital Partners, LLC*, No. 1:07-cv-12388 (D. Mass.) (\$590.5 million settlement) and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.*, No. 12-3824 (E.D. Pa.) (\$8 million settlement). She represented corporate opt-out clients in *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastics Additives (No. II) Antitrust Litigation*, MDL No. 1684 (E.D. Pa.).

Ms. Hackett's current cases include representing class plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.), an action challenging collusion regarding foreign exchange rates, and *Alaska Electrical Pension Fund v. Bank of America Corporation*, No. 1:14-cv-07126 (S.D.N.Y.), an action challenging collusion regarding the setting of the ISDAfix benchmark interest rate. Ms. Hackett also represents corporate opt-out clients in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.), a case challenging collusion regarding the spot metal price of physically-delivered aluminum.

As a part of her *pro bono* work, Ms. Hackett has worked with the San Diego Volunteer Lawyer Program, providing assistance to immigrant victims of domestic violence, and the ABA Immigration Justice Project, where she obtained a grant of asylum on behalf of her client.

Ms. Hackett is an active member of the American Bar Association's Antitrust Section and the San Diego La Raza Lawyers Association. She is also a contributing author to Market+Litigation, Scott+Scott's monthly newsletter.

Ms. Hackett is a graduate of the University of Iowa (B.S. Political Science, International Business Certificate, 2001) and of the University of Iowa College of Law (J.D., with distinction, 2005), where she was a recipient of the Willard L. Boyd Public Service Distinction award. While obtaining her law degree, Ms. Hackett worked as a judicial extern for the Honorable Celeste F. Bremer, United States District Court for the Southern District of Iowa. Ms. Hackett is admitted to practice in California.

In addition to her legal education, Ms. Hackett has engaged in accounting study and passed all four parts of the CPA exam. This background has proved particularly useful in cases involving the financial services industry.

HAL CUNNINGHAM is a graduate of Murray State (B.S. Biological Chemistry) and the University of San Diego School of Law. Prior to joining Scott+Scott, Mr. Cunningham was engaged in research and development in the chemical and pharmaceutical industries.

Mr. Cunningham's practice focuses on securities class action, shareholder derivative, and consumer litigation. While at Scott+Scott, Mr. Cunningham has worked on several cases that have achieved notable results, including *In re Washington Mutual Mortgage Backed Securities Litigation*, No. C09-0037 (W.D. Wash.) (securities settlement of \$26 million). Mr. Cunningham is also involved in the Firm's securities lead plaintiff motion practice, having briefed several successful lead plaintiff applications for the firm's institutional and individual clients.

Mr. Cunningham is a regular contributor to and editor of Scott+Scott's monthly newsletter, MARKET+LITIGATION.

Mr. Cunningham is admitted to practice in California.

YIFAN ("KATE") LV is an associate in Scott+Scott's San Diego office. Her practice focuses on prosecuting antitrust actions with an emphasis on intercultural cartels.

Ms. Lv represents plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y), challenging foreign-exchange market manipulation by many global financial institutions. Ms. Lv also represents and advises the Firm's Asian clients.

Ms. Lv graduated from Tianjin University of Commerce, Tianjin, China, with a Dual Bachelors in Law and Economics in 2008, from Peoples University of China, Beijing, China with a Master in Law in June 2010, and from William & Mary School of Law in 2014.

Ms. Lv is bilingual, speaking fluent Chinese and English.

Ms. Lv is a member of the California, New York, and China Bars.

MICHELLE CONSTON is an associate at Scott+Scott's New York office, focusing on antitrust litigation.

Prior to joining Scott+Scott, Ms. Conston represented institutional investors, hedge funds, and individual investors in complex class action litigation arising under the Commodity Exchange

Act, Sherman Act, RICO Act, and common law. She was heavily involved in litigating actions alleging the manipulation of the London Interbank Offered Rate (“LIBOR”) for several currencies by large financial institutions (*e.g.*, *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (S.D.N.Y.) and *Sullivan v. Barclays plc*, No. 13-cv-00281 (S.D.N.Y.)), as well as an action alleging manipulation of the daily London Silver Fixing by the Fixing Banks and several other financial institutions (*In re London Silver Fixing, Ltd., Antitrust Litigation*, No. 14-md-02573 (S.D.N.Y.)).

At Scott+Scott, Ms. Conston presently devotes much of her time representing investors in cases involving the manipulation of financial benchmarks by numerous major banks, including *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) and *Alaska Elec. Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y.).

Ms. Conston is a graduate of Marist College (B.A., *magna cum laude*, 2010) and the University of Miami School of Law (J.D., *magna cum laude*, 2013). During law school, Ms. Conston served as a judicial intern for the Honorable Stephen T. Brown, the Chief Magistrate Judge of the United States District Court for the Southern District of Florida. Ms. Conston also served as a certified legal intern for the United States Attorney’s Office for the Southern District of Florida.

Ms. Conston is licensed to practice law in New York, New Jersey, and Florida (inactive), and is admitted to the U.S. District Court for the Southern District of New York.

KASSANDRA NELSON is an associate in the firm’s New York office where she focuses on securities and antitrust litigation.

Ms. Nelson is a graduate of the University of Alabama (B.A., *cum laude* 2012) and Southern Methodist University (J.D., 2016). During law school, Ms. Nelson volunteered over 450+ hours in Legal Public Service and received the distinction of Pro Bono Honor Roll upon graduation. She worked as an intern for the Domestic Violence Division at the Dallas County District Attorney’s Office as well as an extern for the Honorable Judge Martin Hoffman. Ms. Nelson served as a student attorney for SMU’s Innocence Clinic, working with the Dallas County Public Defender’s Office and New York Innocence Project, and successfully advocated for the release and exoneration of Steven Chaney, freed after wrongfully serving more than 25 years.

Ms. Nelson is admitted to practice in the State of Texas.

G. DUSTIN FOSTER’s main practice areas include antitrust, securities, and complex litigation, which includes such cases as *In Re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *Dahl v. Bain Capital Partners, LLC*, No. 1:07-cv-12388 (D. Mass.), and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.*, No. 2:12-cv-03824 (E.D. Pa.). Mr. Foster is a member of the West Virginia State Bar.

Mr. Foster is a graduate of West Virginia Wesleyan College (B.S., Biology, *cum laude*, 1999) and of the West Virginia University College of Law (J.D., 2002), where he earned a position on the Moot Court Board and Lugar Trial Association. During law school, Mr. Foster served as a law clerk for the West Virginia Supreme Court of Appeals, after which he assumed a full-time

term position as a law clerk for the Hon. Thomas C. Evans, III, of the Fifth Circuit Court of West Virginia.

JOSEPH A. PETTIGREW's practice areas include securities, antitrust, shareholder derivative litigation, and other complex litigation, including work on the following cases: *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (E.D.N.Y); and *Marvin H. Maurras Revocable Trust v. Bronfman*, 12-cv-3395 (N.D. Ill.).

Mr. Pettigrew graduated from Carleton College (B.A., Art History, *cum laude*, 1998) and from the University of San Diego School of Law (J.D., 2004). Mr. Pettigrew has served on the board and as legal counsel to several nonprofit arts organizations.

Mr. Pettigrew is admitted to practice in California.

SHAFEEQ ABDUL-WADUD is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Shafeeq received his B.A. in English from the University of Illinois at Urbana-Champaign and graduated from DePaul University College of Law.

Shafeeq is admitted to practice in the State of California and the District of Columbia and in several federal courts, including the United States Tax Court and the U.S. District Court for the Southern District of California.

JUSTUS BENJAMIN is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Justus received his B.A. from Washington University in St. Louis, and graduated from Hofstra School of Law in Hempstead, NY.

Justus Benjamin is admitted to practice in the State of California, including the United States District Court for the Southern District of California.

ELIZABETH A. CAMPOS is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Ms. Campos received her B.A. from the University of Southern California in 1997, and graduated from Thomas Jefferson School of Law in 2001.

Ms. Campos is admitted to practice in the State of California and is registered to practice in front of the U.S. Patent and Trademark Office.

NGA CUNNINGHAM is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Nga received her B.A. from the University of California, San Diego in Political Science with an emphasis on Public Policy, and graduated, *cum laude*, from Thomas Jefferson School of Law in 2005.

Nga is admitted to practice in the State of California and in the U.S. District Court for the Central District of California.

YVONNE FUNK is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Yvonne received her B.A. from UCLA in 2001, and graduated from UC Hastings law school in 2007. She is admitted to practice in the State of California.

HELEN GLYNN is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Helen Glynn received her B.A., *cum laude*, from Florida Atlantic University in 1996, and graduated from St. Thomas University School of Law, Miami in 1999.

Helen Glynn is admitted to practice in the State of California and several federal courts, including the U.S. District Court for the Southern District of California.

PETER GRAVIN is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions. Peter received a B.A. degree in Psychology from Wesleyan University in Middletown, Connecticut in 1990, and graduated from American University Washington College of Law, *cum laude*, in Washington, DC in 1996.

Prior to joining Scott+Scott, Peter practiced insurance defense with two small San Diego firms, focusing on defending contractors and design professionals in professional liability and breach of contract matters. Peter has also worked as a financial advisor and as an insurance fraud investigator.

Peter is admitted to practice in the State of California, as well as the U.S. District Courts for Southern and Central California.

CARLY HENEK is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Carly received her B.S. from State University of New York at Albany in Human Biology, and graduated from St. John's School of Law in 2001.

Carly has extensive state and federal court experience litigating against and representing major U.S. and international corporations and individual clients in all phases of the litigation process. Her practice focuses on complex commercial litigation and securities fraud litigation.

Carly is admitted to practice in the State of California and New York, including all federal courts in California and New York.

TODD S. HIPPER is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Todd received his B.A. in Political Science from University of California, Berkeley in 1996, and graduated from Georgetown University Law Center in 2001.

Todd is admitted to practice in the States of California and New York, and in several federal courts, including all federal courts in California, and the U.S. District Court for the Eastern District of New York.

DENIECE KUWAHARA is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Ms. Kuwahara received her B.A. from California State University, Fullerton in 2003, and graduated from the University of Colorado School of Law in 2009.

Ms. Kuwahara is admitted to practice in the State of Colorado.

CARLO LABRADO is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Mr. Labrado received his B.A. from the University of California, Irvine, in Political Science and graduated from the University of San Diego School of Law in 2007.

Mr. Labrado is admitted to practice in the State of Illinois.

JING LEVESQUE is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Ms. Levesque received her B.S. from Columbia University in New York, and graduated from Brooklyn Law School in New York.

Ms. Levesque is admitted to practice in the State of California and in several federal courts, including the United States Patent and Trademark Office.

RANDALL AUBREY PETRIE is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Randall received his B.A. from Hamilton College in 1988, and graduated from George Washington University School of Law in 1992, Dean's Fellow.

Randall is admitted to practice in the States of New York and New Jersey and in U.S. District Court for the Southern District of New York.

SEAN RUSSELL is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Mr. Russell graduated in 2008 from the University of California, Davis with a Bachelor of Arts in Economics. He received his Juris Doctorate from Thomas Jefferson School of Law in 2015, *cum laude*, where he was Chief Articles Editor of the Thomas Jefferson Law Review and a Moot Court Competitor. While at Thomas Jefferson, Mr. Russell also served as an extern to the Honorable William V. Gallo of the U.S. District Court for the Southern District of California. Mr. Russell received a Masters of Taxation from the University of San Diego School of Law in 2016.

Mr. Russell is admitted to practice in the State of California and the U.S. District Court for the Southern District of California.

WENDY RYU is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Wendy received her B.A. from the University of Southern California in 1997, and graduated from George Washington University Law School in 2003.

Wendy is admitted to practice in the District of Columbia and in the United States District Court for the District of Puerto Rico.

NNENNA SANKEY is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

Ms. Sankey received her B.A. from the University of California, Santa Barbara, in Sociology and Black Studies, and graduated from the University of San Francisco, School of Law in 2012.

She holds a Public Interest Law Certificate with Honors and is also the first recipient of the Molla/Ndubaku Humanitarian Award from UCSB.

Ms. Sankey is admitted to practice in the State of California and in several federal courts.

CHRIS WILSON is an attorney in Scott+Scott's California office where he focuses on complex antitrust litigation and class actions.

Chris received his B.A. from Kalamazoo College in 2002, and graduated from the George Washington University School of Law in 2009.

Chris is admitted to practice in the State of California and in several federal courts, including the Ninth Circuit Court of Appeals, the U.S. District Court for the Northern District of California and the Southern District of California. He is also licensed to appear before the U.S. Patent and Trademark Office.

EXHIBIT 3

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

[illegible]

**DECLARATION OF MICHAEL D. HAUSFELD IN SUPPORT OF LEAD COUNSEL'S
MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF
LITIGATION EXPENSES FILED ON BEHALF OF HAUSFELD LLP**

I, Michael D. Hausfeld, declare as follows:

1. I am Chairman of the law firm of Hausfeld LLP, Plaintiffs' interim co-lead counsel ("Lead Counsel") in the above-captioned action (the "Action") and settlement class counsel for the Settlement Classes. I submit this declaration in support of Lead Counsel's Notice of Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses ("Motion for Fees and Expenses"). I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. As detailed more fully in the Lead Counsel Declaration accompanying the Motion for Fees and Expenses, my firm, as Lead Counsel, undertook numerous activities with respect to all phases and aspects of the Action. My firm was involved in investigating claims brought in the action and, throughout the action, played an active role in strategic planning and discussions. We were involved in the drafting of the Consolidated Class Action Complaints, and played a key role in opposing the Defendants' three motions to dismiss, which were largely defeated. Hausfeld LLP played a lead role in the mediations with the Defendants and in negotiating and drafting the terms

of the fifteen Settlement Agreements. We played a key role in developing and coordinating Class notice, overseeing the notice process, and in discussions and development of the Plan of Distribution. My firm is currently assisting class members in navigating the settlement process and in submitting claims.

3. Hausfeld LLP also conducted extensive efforts in coordinating and carrying out discovery. We have coordinated and negotiated for access to settlement cooperation, negotiated key discovery documents and stipulations, prepared discovery requests, and negotiated with Defendants over the scope of the requested productions. We further coordinated and participated in meet-and-confers with Defendants to obtain the agreed-upon discovery and to resolve related disputes, and, when necessary, drafted and filed motions to compel in order to resolve those disputes. Hausfeld LLP was involved in coordinating and supervising the review of the vast amount of documents and transaction data obtained, as well as in preparing for deposition discovery. My firm further helped to coordinate and oversee the production of documents by Plaintiffs and the discovery requests made of third parties. We also helped to coordinate and defend Plaintiffs' depositions.

4. Finally, although not an exhaustive list, Hausfeld LLP was also actively involved in the consultations with experts and the review of their reports on various topics, including the FX market, chatroom communications, transaction data, class certification, and the Plan of Distribution.

5. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm,

the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm, or current billing rates, whichever is lower. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

7. The total number of hours reflected in Exhibit 1 is 34,949.5. The total lodestar reflected in Exhibit 1 is \$19,019,143.00, consisting of \$18,423,436.50 for attorneys' time and \$595,706.50 for professional support staff time.

8. My firm's lodestar figures are based on the firm's billing rates, which do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

9. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$5,332,804.73 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

10. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.

- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

11. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

12. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

13. Attached hereto as Exhibit 3 are brief biographies of my firm and the primary partners, associates, and staff attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 12, 2018.



Michael D. Hausfeld

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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HAUSFELD LLP
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Hausfeld, Michael D.	1,135.2	\$1,375	\$1,560,900.00
Lehmann, Michael P.	37.5	\$1,100	\$41,250.00
Sweeney, Bonny	216.3	\$1,100	\$237,930.00
Butterfield, William P.	1,057.6	\$920	\$972,992.00
Lebsock, Christopher L.	152.5	\$850	\$129,625.00
Ratner, Brian A.	55.6	\$830	\$46,148.00
Scherrer, Hilary K.	45.6	\$780	\$35,568.00
Gambhir, Reena A.	4,878.2	\$710	\$3,463,522.00
Kearns, Timothy	4,644.5	\$670	\$3,111,815.00
Kenney, Jeannine	235.7	\$630	\$148,491.00
Associates			
Giddings, Nathaniel	1,525.6	\$500	\$762,800.00
Beran, Katie	449.8	\$475	\$213,655.00
LaFreniere, Sarah	1,813.2	\$430	\$779,676.00
Ward, Kristen	13.0	\$410	\$5,330.00
Derksen, Samantha	205.0	\$400	\$82,000.00
Berger, Stephanie	11.0	\$350	\$3,850.00

NAME	HOURS	HOURLY RATE	LODESTAR
Staff Attorneys			
Nathan, Steven	569.7	\$600	\$341,820.00
Fraser, Jamillah	715.0	\$495	\$353,925.00
Pizza, Mary Jean	568.0	\$495	\$281,160.00
Weiner, Shana	1,389.1	\$400	\$555,640.00
Etheridge, Icee	1,417.3	\$400	\$566,920.00
Halpern, Orly	1,275.4	\$400	\$510,160.00
Macdonald, Caleigh	12.4	\$400	\$4,960.00
Martin, Damali	1,537.6	\$400	\$615,040.00
Zehmer, Sean	921.7	\$400	\$368,680.00
Hubner, Nicholas	1,298.7	\$350	\$454,545.00
Jones, April	261.0	\$350	\$91,350.00
Contract Attorneys			
Fitzgerald, Edward	38.8	\$425	\$16,490.00
Baxter, Kelli	2,079.7	\$425	\$883,872.50
Choe, Hana	1,982.8	\$425	\$842,690.00
Young, Chris	2,197.1	\$420	\$922,782.00
Dugalic, Vanya	51.0	\$350	\$17,850.00
Paralegals			
Huling, Marilani	18.1	\$280	\$5,068.00
Elder, Candice	17.1	\$280	\$4,788.00
McCune, Kenya	20.0	\$280	\$5,600.00
Patel, Krishna	1,845.5	\$280	\$516,740.00
Robinson, Elliot	26.5	\$270	\$7,155.00
Pegram, Christopher	71.3	\$280	\$19,964.00
Steely, Sonia	29.3	\$75	\$2,197.50
Summer Associates / Law Clerks			
Liu, Crystal	18.4	\$280	\$5,152.00
McGee, India	32.0	\$260	\$8,320.00
Spero, Michaela	55.7	\$260	\$14,482.00
Zhan, Jan	24.0	\$260	\$6,240.00
TOTALS	34,949.5		\$19,019,143.00

EXHIBIT 2

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

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LITIGATION	:	
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HAUSFELD LLP
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	5,522.00
Service of Process	
Online Legal Research	38,928.81
Online Factual Research	
Document Management/Litigation Support	1,928.27
Telephones/Faxes	7,945.07
Postage & Express Mail	760.48
Hand Delivery Charges	1,347.25
Local Transportation	997.41
Internal Copying	5,083.62
Outside Copying	100.10
Out of Town Travel*	130,454.49
Meals*	12,146.46
Court Reporters and Transcripts	
Deposition/Meeting Hosting Costs	
Experts	144,250.00
Mediation Fees	
Contributions to Litigation Fund	4,983,340.77
TOTAL EXPENSES:	5,332,804.73

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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HAUSFELD LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

HAUSFELD



BERLIN BOSTON BRUSSELS DÜSSELDORF LONDON NEW YORK PHILADELPHIA SAN FRANCISCO WASHINGTON, DC www.hausfeld.com

Hausfeld: Global Litigation Solutions Firm Resume

HAUSFELD

Hausfeld is “the world’s leading antitrust litigation firm.”

– Politico

Hausfeld Firm Summary

In the last decade, Hausfeld attorneys have won landmark trials, negotiated complex settlements among dozens of defendants, and recovered billions of dollars in recoveries for clients both in and out of court. Renowned for skillful prosecution and resolution of complex and class-action litigation, Hausfeld is the only claimants’ firm to be ranked in the top tier in private enforcement of antitrust/competition law in both the United States and the United Kingdom by the Legal 500 and Chambers & Partners. Our German office was also ranked by Legal 500 for general competition law.

From our locations in Washington, D.C., Boston, New York, Philadelphia, San Francisco, Berlin, Brussels, Düsseldorf, and London, Hausfeld contributes to the development of law in the United States and abroad in the areas of antitrust/competition, consumer protection, environmental threats, human and civil rights, mass torts, and securities fraud. Hausfeld attorneys have studied the global integration of markets—and responded with innovative legal theories and a creative approach to claims in developed and emerging markets.

Hausfeld was founded by Michael D. Hausfeld, who is widely recognized as one of the country’s top civil litigators and a leading expert in the fields of private antitrust/competition enforcement and international human rights. The New York Times has described Mr. Hausfeld as one of the nation’s “most prominent antitrust lawyers,” while Washingtonian Magazine characterizes him as a lawyer who is “determined to change the world—and succeeding,” noting that he “consistently brings in the biggest judgments in the history of law.”

Antitrust and Competition Litigation

Hausfeld’s reputation for leading groundbreaking antitrust class actions in the United States is well-earned. Having helmed more than thirty antitrust class actions, Hausfeld attorneys are prepared to **litigate and manage cases with dozens of defendants** (*In re Blue Cross Blue Shield Antitrust Litigation*, with more than thirty defendants), **negotiate favorable settlements for class members and clients** (*In re Air Cargo Shipping Services Antitrust Litigation*, settlements of more than \$1.2 billion), take on the financial services industry (*In re Foreign Exchange Antitrust Litigation*, with settlements of more than \$2.3 billion), **take cartelists to trial** (*In re Vitamin C Antitrust Litigation*, trial victory of \$162 million against Chinese manufacturers of vitamin C), and **push legal boundaries where others have not** (*In re NCAA Antitrust Litigation*, another trial victory in which the court found the NCAA rules prohibiting payment of players to be unlawful).

Consumer Protection Litigation

Hausfeld also pursues consumer protection, defective product, and Lanham Act cases on behalf of a variety of litigants including consumers, entertainers, financial institutions, and other businesses. For example, we obtained class-wide settlements for purchasers of **defective Acer laptops** (*Wolph v. Acer America Corp.*) and **victims of unfair and deceptive practices** (*Radosti v. Envision EMI, LLC* and *In re Tyson Foods, Inc., Chicken Raised Without Antibiotics Consumer Litigation*); and sought compensation for domestic beekeepers and honey packers for **fraudulent mislabeling** of imported honey (*In re Honey Transshipping Litigation*).

HAUSFELD



Hausfeld Firm Summary

continued

Financial Services

Hausfeld has been at the forefront of numerous class actions against the financial services industry since 2009, pursuing wrongful conduct that spans the globe. Hausfeld leads two of the largest class actions against the world's biggest banks for manipulation of prices paid in the **Libor** and foreign exchange (**Forex**) markets, in which they obtained **more than \$2.5 billion in settlements for the class**.

Mass Tort and Environmental Litigation

Hausfeld attorneys have pursued wide-ranging mass tort cases over the last decade. We have represented **homeowners with defective drywall** (*In re Chinese-Manufactured Drywall Products Liability Litig.*), former **football players who suffered from the long-lasting effects of concussions** (*In re National Football League Players' Concussion Injury Litigation*), **mine workers in southern Africa who contracted silicosis¹** from their workplace environment – the first case of its kind brought in South Africa, and **victims of dangerous prescription drugs and medical devices**, including women whose hormone replacement therapy caused them to suffer from breast cancer (*In re Prempro Products Liability Litigation*), and patients with defective hip replacements (*In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation*).

Intellectual Property & Technology

Hausfeld lawyers have achieved notable successes in representing clients in **enforcing their intellectual property rights**, including litigating numerous **patent cases** in the computer software and hardware fields. For example, in *Burst v. Microsoft*, Hausfeld attorney Bruce Wecker and co-counsel represented a small technology firm against behemoth Microsoft in a complex intellectual property and antitrust action involving streaming media software. After over two years of litigation, they successfully negotiated a settlement in which Microsoft licensed the plaintiff's patent portfolio and paid out **\$60 million**. Hausfeld has also represented clients in major class actions **intersecting antitrust and technology issues**, including *In re: Cathode Ray Tube (CRT) Antitrust Litigation*, *In re: TFT-LCD Antitrust Litigation*, *In re Optical Disk Drive Antitrust Litigation*, and *In re DRAM Antitrust Litigation*.

¹ According to the recent publication *Class Action Litigation in South Africa*, "The High Court's decision is currently the subject of an appeal alongside parallel settlement discussions that are underway."

HAUSFELD

“Hausfeld, which ‘commits extensive resources to the most difficult cases,’ widely hails as one of the few market-leading plaintiff firms.”

– The Legal 500 2017

Hausfeld: A Global Reach

Hausfeld’s international reach enables it to advise across multiple jurisdictions and pursue claims on behalf of clients worldwide. Hausfeld works closely with clients to deliver outstanding results, while always addressing their business concerns. Hausfeld does so by anticipating issues, considering innovative strategies, and maximizing the outcome of legal disputes in a way that creates shareholder value. Its inventive cross border solutions work to the benefit of the multinational companies it often represents.

Creative Solutions to Complex Legal Challenges

Hausfeld lawyers consistently apply forward-thinking ideas and creative solutions to the most vexing global legal challenges faced by clients. As a result, the firm’s litigators have developed numerous innovative legal theories that have expanded the quality and availability of legal recourse for claimants around the globe that have a right to seek recovery. Hausfeld’s impact was recognized by the *Financial Times*, which awarded Hausfeld the “Most Innovative Law Firm in Dispute Resolution of 2013,” as well as by *The Legal 500* who has ranked Hausfeld as the only top tier claimants firm in private enforcement of antitrust/competition law in both the United States and the United Kingdom. For example, the landmark settlement that Hausfeld negotiated to resolve claims against Parker ITR for antitrust overcharges on marine hoses represented the first private resolution of a company’s global cartel liability without any arbitration, mediation, or litigation – creating opportunities never before possible for dispute resolution and providing a new model for global cartel settlements going forward.

Unmatched Global Resources

The firm combines its U.S. offices on both coasts and vibrant European presence with a broad and deep network around the globe to offer clients the ability to seek redress or confront disputes in every corner of the world and across every industry. With over 80 lawyers in offices in Washington, D.C., Boston, New York, Philadelphia, San Francisco, Berlin, Düsseldorf, Brussels, and London, Hausfeld is a “market leader for claimant-side competition litigation.”

“Hausfeld LLP is ‘one of the most capable plaintiffs’ firms involved in the area of civil cartel enforcement’, is ‘[w]idely recognised as a market leader for claimant-side competition litigation... [It is the] market leader in terms of quantity of cases, and also the most advanced in terms of tactical thinking.’”

– The Legal 500 2014 and 2015

Antitrust Litigation

Hausfeld’s antitrust litigation experience is unparalleled

Few, if any, U.S. law firms have litigated more class actions on behalf of companies and individuals injured by anticompetitive conduct than Hausfeld. The firm has litigated cases involving price-fixing, price manipulation, monopolization, tying, and bundling, through individual and class representation and has experience across a wide variety of industries, including automotive, banking, chemicals, construction, manufacturing, energy, financial services, food and beverage, health care, mining and metals, pharmaceuticals and life sciences, retail, sports and entertainment, technology, transportation. Clients rely on us for our antitrust expertise and our history of success in the courtroom and at the negotiation table, and the firm does not shy away from challenges, taking on some of the most storied institutions. Hausfeld is not only trusted by its clients, it is trusted by judges to pursue these claims, as evidenced by the fact that the firm has been appointed as lead or co-lead counsel in over 30 antitrust cases in the last decade. In one recent example, Judge Morrison C. England of the Eastern District of California praised Hausfeld for having “the breadth of experience, resources and talent necessary to navigate” cases of import.

Recognizing the firm’s antitrust prowess, *Global Competition Review* has opined that Hausfeld is “one of – if not the – top Plaintiffs’ antitrust firm in the U.S.” *The Legal 500* likewise consistently ranks Hausfeld among the top five firms in the United States for antitrust litigation on behalf of plaintiffs. And in naming Hausfeld to its Plaintiffs’ Hot List for the third year in a row in 2014, *The National Law Journal* opined that Hausfeld “punches above its weight” and “isn’t afraid to take on firms far larger than its size and deliver results, especially in antitrust litigation.”

Hausfeld has achieved outstanding results in antitrust cases

Hausfeld lawyers have achieved precedent-setting legal decisions and historic trial victories, negotiated some of the world’s most complex settlement agreements, and have collectively recovered billions of dollars in settlement and judgments in antitrust cases. Key highlights include:

- ***O’Bannon v. NCAA*, No. 09-cv-03329 (N.D. Cal.)**
Hausfeld serves as lead counsel in this case, which has received considerable press attention and has been hailed as a game-changer for college sports. Following a three-week trial, Hausfeld attained a historic trial victory when the court ruled that the NCAA’s rules prohibiting payments to student-athletes for their names, images, and likenesses violate the antitrust laws. This ruling was upheld by the Ninth Circuit Court of Appeals.
- ***In re Foreign Exchange Benchmark Rates Antitrust Litig.*, 13-cv-7789 (S.D.N.Y.)**
Hausfeld serves as co-lead counsel in this case alleging financial institutions participated in a conspiracy to manipulate a key benchmark in the foreign exchange market. To date, the firm has obtained over **\$2.3 billion** in settlements from **fifteen defendants**. The case is ongoing against the remaining defendant.

HAUSFELD



Antitrust Litigation

continued

- *In re Air Cargo Shipping Services Antitrust Litig., No. 06-md-1775 (E.D.N.Y.)*
Hausfeld served as co-lead counsel in this case alleging over thirty international airlines engaged in conspiracy to fix the price of air cargo shipping services. The firm negotiated more than **\$1.2 billion** in settlements from over 30 defendants for the class, won certification of the class and defeated the defendants' motions for summary judgment.
- *In re Vitamin C Antitrust Litig., No. 06-md-01738 (E.D.N.Y.)*
Hausfeld serves as co-lead counsel in the first class antitrust case in the United States against Chinese manufacturers. Hausfeld obtained settlements for the class of **\$22.5 million from two of the defendants** – the first after summary judgment, and the second, just before closing arguments at trial. Days later, the jury reached a verdict against the remaining defendants, and the court entered a judgment for **\$162 million** after trebling the damages awarded. Appeals are pending.
- *In re International Air Passenger Surcharge Antitrust Litig., No. 06-md-01793 (N.D. Cal.)*
Hausfeld served as co-lead counsel in this case against two international airlines alleged to have fixed fuel surcharges on flights between the United States and United Kingdom. Lawyers at the firm negotiated a ground-breaking **\$200 million** international settlement that provides recovery for both U.S. purchasers under U.S. antitrust laws and U.K. purchasers under U.K. competition laws.
- *In re LIBOR-Based Financial Instruments Antitrust Litig., No. 11-md-2262 (S.D.N.Y.)*
Hausfeld serves as co-lead counsel in this case against sixteen of the world's largest financial institutions for conspiring to fix LIBOR, the primary benchmark for short-term interest rates. To date, the firm has obtained **\$250 million** in settlements with two defendants. The case is ongoing against the remaining defendants.
- *In re Municipal Derivatives Antitrust Litig., No. 08-cv-2516 (S.D.N.Y.)*
Hausfeld serves as co-lead counsel in this case against banks, insurance companies, and brokers accused of rigging bids on derivative instruments purchased by municipalities. The firm has obtained over **\$223 million** in settlements with **11 defendants**.
- *In re Automotive Aftermarket Lighting Products Antitrust Litig., No. 09-ML-2007 (C.D. Cal.)*
Hausfeld served as co-lead counsel in this case against three manufacturers for participating in an international conspiracy to fix the prices of aftermarket automotive lighting products. The firm obtained over **\$50 million** in settlements.

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Antitrust Litigation

continued

- ***In re Processed Egg Products Antitrust Litig.*, No. 08-cv-04653 (E.D. Pa.)**
 Hausfeld serves as co-lead counsel in this case alleging that egg producers, through their trade associations, engaged in a scheme to artificially inflate egg prices by agreeing to restrict the supply of both laying hens and eggs. To date, the firm has obtained **over \$135 million** in settlements and won certification of a class of shell egg purchasers. The case is ongoing against the remaining defendants.
- ***In re Fresh and Process Potatoes Antitrust Litig.*, No. 10-MD-2186 (D. Idaho)**
 Hausfeld serves as chair of the executive committee in this case alleging that potato growers, their cooperatives, processors, and packers conspired to manipulate the price and supply of potatoes. In defeating defendants' motion to dismiss, the firm secured a judicial determination that supply restrictions are not protected conduct under a limited federal antitrust exemption available to certain grower associations—a novel question that had never before been decided by any court. The firm obtained **\$19.5 million** in settlements and valuable injunctive relief prohibiting future production limitation agreements, achieving global resolution of the case.
- ***In re American Express Anti-Steering Rules Antitrust Litig.*, No. 11-md-2221 (E.D.N.Y)**
 As lead counsel, Hausfeld represents a class of merchants and retailers against American Express. The merchants allege that American Express violated antitrust laws by requiring them to accept all American Express cards, and by preventing them from steering their customers to other payment methods.
- ***In re Blue Cross Blue Shield Antitrust Litig.*, No. 13-mdl-2496 (N.D. Ala.)**
 Hausfeld attorneys serve as co-lead counsel and hold court-appointed committee positions in this case against Blue Cross Blue Shield entities, alleging that they illegally agreed not to compete with each other for health insurance subscribers across the United States. Having defeated motions to dismiss, Hausfeld is now marshalling evidence against more than thirty defendants in preparation for summary judgment and trial.
- ***In re Rail Freight Fuel Surcharge Antitrust Litig.*, No. 07-mc-00489 (D.D.C.)**
 Hausfeld is co-lead counsel in this case alleging fuel-surcharge collusion among the nation's largest rail-freight carriers. Leading dozens of firms, Hausfeld mastered the discovery record and obtained class certification in the district court, after which the D.C. Circuit remanded for further consideration of discrete expert issues. This antitrust case is one of the most high-profile class actions in the United States and concerns the claims of some 30,000 shippers, from small businesses to Fortune 500 companies.
- ***In Re Korean Ramen Antitrust Litig.*, No. 3:13-cv-04115-WHO (N.D. Cal.)**
 Hausfeld represents direct purchasers of Korean ramen noodles alleging a price-fixing conspiracy among noodle manufacturers and their U.S. affiliates. Judge William H. Orrick appointed Hausfeld attorneys as co-lead class counsel for the direct purchasers, and after achieving an early settlement for the class against Samyang Korea, the firm recently won class certification against Korean ramen noodle manufacturers Nongshim Co. Ltd. and Ottogi Co. Ltd.

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Antitrust Litigation

continued

- ***In re Disposable Contact Lens Antitrust Litig., No. 3:15-md-2626-J-20JRK (M.D. Fla.)***

As one of the three co-lead counsel for the direct purchaser plaintiffs, Hausfeld successfully defeated virtually all of the defendants' motions to dismiss in this case, which alleges complex horizontal and vertical conspiracies by the four leading contact lens manufacturers and a company that acts as the middleman for over 19,000 eyecare professionals throughout the United States.

- ***In re Packaged Seafood Products Antitrust Litigation, No. 3:15-md-02670-JLS-MDD (S.D. Cal.)***

The Court appointed Hausfeld attorneys as sole interim lead counsel for the putative class of direct purchasers of packaged seafood products, alleging a price-fixing conspiracy among the leading U.S. manufacturers—Chicken of the Sea, StarKist and Bumble Bee. Hausfeld successfully defeated most of the defendants' motions to dismiss, and is now engaged in extensive discovery.

Litigation Achievements

Significant Trial Victories

While many law firms like to talk about litigation experience, Hausfeld lawyers regularly bring cases to trial—and win. Among our trial victories are some of the largest antitrust cases in the modern era. For example, in *O'Bannon v. NCAA* (N.D. Cal.), we conducted a three-week bench trial before the Chief Judge of the Northern District of California, resulting in a complete victory for college athletes who alleged an illegal agreement among the National Collegiate Athletic Association and its member schools to deny payment to athletes for the commercial licensing of their names, images, and likenesses. Our victory in the O'Bannon litigation followed the successful trial efforts in *Law v. NCAA* (D. Kan.), a case challenging earning restrictions imposed on assistant college coaches in which the jury awarded **\$67 million** to the class plaintiffs that one of our lawyers represented.

In *In re Vitamin C Antitrust Litigation* (E.D.N.Y.), we obtained, on behalf of our direct purchaser clients, a **\$162 million** jury verdict and judgment against Chinese pharmaceutical companies who fixed prices and controlled export output of Vitamin C—on the heels of \$22.5 million in settlements with other defendants, which represented the first civil settlements with Chinese companies in a U.S. antitrust cartel case. Years earlier, we took on a global vitamin price-fixing cartel in *In re Vitamins* (D.D.C.), in which we secured a **\$1.1 billion settlement** for a class of vitamin purchasers and then took the remaining defendants to trial, culminating in a **\$148 million jury verdict**.

Our trial experience extends to intellectual property matters and general commercial litigation as well. Recently, we represented entertainment companies that sought to hold internet service provider Cox Communications accountable for willful contributory copyright infringement by ignoring the illegal downloading activity of its users. Following a trial in *BMG Rights Management (US) LLC, v. Cox Enterprises, Inc.* (E.D. Va.), the jury returned a **\$25 million verdict** for our client.

Exceptional Settlement Results

In less than a decade, Hausfeld has recouped over \$20 billion for clients and the classes they represented. We are proud of our record of successful dispute resolution. Among our settlement achievements, three cases merit special mention. In a case involving allegations of price-fixing among the world's largest airfreight carriers, *In re Air Cargo Shipping Services Antitrust Litigation* (E.D.N.Y.), we negotiated settlements with more than 30 defendants totaling over \$1.2 billion—all in advance of trial. During the same time period, in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* (S.D.N.Y.), we negotiated settlements totaling more than \$2.3 billion with fifteen banks accused of conspiring to manipulate prices paid in the foreign-exchange market. And in the global *Marine Hose* matter, we broke new ground with the first private resolution of a company's global cartel liability without any arbitration, mediation, or litigation. That settlement enabled every one of Parker ITR's non-US marine-hose purchasers to recover up to 16% of their total purchases. These cases are just three among dozens of recent landmark settlements across our practice areas.

Reputation and Leadership in the Antitrust Bar

Court Commendations

Judges across the country have taken note of Hausfeld's experience and results achieved in antitrust litigation.

"All class actions generally are more complex than routine actions... But this one is a doozy. This case is now I guess nearly more than ten years old. The discovery as I've noted has been extensive. The motion practice has been extraordinary... The recovery by the class is itself extraordinary. The case, the international aspect of the case is extraordinary. Chasing around the world after all these airlines is an undertaking that took enormous courage."

– Judge Brian M. Cogan

In re Air Cargo Shipping Services Antitrust Litigation, No. 06-md-1775 (E.D.N.Y.)

Comparing Hausfeld's work through trial to *Game of Thrones*:

"where individuals with seemingly long odds overcome unthinkable challenges... For plaintiffs, their trial victory in this adventurous, risky suit, while more than a mere game, is nothing less than a win..."

– Magistrate Judge Nathanael M. Cousins

O'Bannon v. Nat'l College Athletic Ass'n, 09-cv-3329 (N.D. Cal.)

Hausfeld lawyers had achieved "really, an outstanding settlement in which a group of lawyers from two firms coordinated the work... and brought an enormous expertise and then experience in dealing with the case." "[Hausfeld lawyers are] more than competent. They are outstanding."

– Judge Charles R. Breyer

In re International Air Passenger Surcharge Antitrust Litig., No. 06-md-01793 (N.D. Cal.)

(approving a ground-breaking \$200 million international settlement that provided recovery for both U.S. purchasers under U.S. antitrust laws and U.K. purchasers under U.K. competition laws.)

Hausfeld has "the breadth of experience, resources and talent necessary to navigate a case of this import." Hausfeld "stands out from the rest."

– District Judge Morrison C. England Jr.

Four In One v. SK Foods, No. 08-cv-3017 (E.D. Cal.)

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Reputation and Leadership in the Antitrust Bar

continued



Awards and Recognitions

Global Competition Review:

In 2016, Hausfeld was awarded Global Competition Review's "Litigation of the Year – Cartel Prosecution" for its work on *In re Foreign Exchange Antitrust Benchmark Litigation*. The award recognized Hausfeld's success in the Foreign Exchange litigation to date, which has included securing settlements for more than \$2.3 billion in on behalf of a class of injured foreign exchange investors and overcoming three motions to dismiss in the action.

In 2015, Hausfeld attorneys were awarded *Global Competition Review's* "Litigation of the Year – Non-Cartel Prosecution," which recognized their trial victory in *O'Bannon v. National Collegiate Athletics Association*, a landmark case brought on behalf of college athletes challenging the NCAA's restrictions on payment for commercial licensing of those athletes' names, images, and likenesses in various media.

National Law Journal:

In 2015, Hausfeld was named to the *National Law Journal's* "Plaintiffs Hot List" for the Fourth Year in a Row.

"Hausfeld's creative approaches underpinned key antitrust wins last year, including a trailblazing victory for former college athletes over the use of their likenesses in television broadcasts and video games..." also noting that Hausfeld along with its co-counsel, "nailed down a \$99.5 million settlement with JPMorgan Chase & Co. in January in New York federal court for alleged manipulation of market benchmarks. And it helped land nearly \$440 million in settlements last year, and more than \$900 million thus far, in multidistrict antitrust litigation against air cargo companies."

In 2014, *The National Law Journal* named Hausfeld as one of a select group of America's Elite Trial Lawyers, as determined by "big victories in complex cases that have a wide impact on the law and legal business." The award notes that Hausfeld is among those "doing the most creative and substantial work on the plaintiffs side."

Financial Times:

In 2016, *Financial Times Innovative Lawyers Report* named Hausfeld as a top innovative law firm. Writing about Hausfeld's innovation in the legal market, the *Financial Times* noted: "The firm has taken the litigation finance model to Germany, to turn company in-house legal departments into profit centres."

In 2015, Michael Hausfeld was recognized by the *Financial Times* as one of the Top 10 Innovative Lawyers in North America.

In 2013, Hausfeld won the *Financial Times* Innovative Lawyer Dispute Resolution Award. The FT states that Hausfeld has "[p]ioneered a unique and market-changing litigation funding structure that improved accessibility and enabled victims to pursue actions with little or no risk."

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Reputation and Leadership in the Antitrust Bar

continued



Chambers & Partners:

In 2017 and 2016, *Chambers & Partners UK* ranked Hausfeld in the top tier among London firms representing private claimants in competition matters, and recognized the firm's accomplishments in Banking Litigation. Chambers observed that the firm was:

Hausfeld's team "is known for market-leading practice. Paved the way for follow-on damages litigation in the UK. Represents claimants in the most significant follow-on and standalone damages actions. "The firm is incredibly impressive and innovative. The lawyers are highly skilled negotiators and litigators; real fighters with an outstanding strategic sense and dedication towards their clients."

Chambers and Partners has also ranked Hausfeld's U.S. operations in the top tier nationally for antitrust. The publication noted the firm's attributes as including:

- A reputation as a "[m]arket-leading plaintiffs' firm with considerable experience in antitrust class action suits and criminal cartel investigations."
- "[N]umerous successes in the area resulting in major recovery or settlements for its clients."
- Firm Chair Michael Hausfeld's record as "a very successful and able antitrust litigator" and "one of the titans of the Plaintiffs Bar."



U.S. News & World Report:

In 2017 and 2016, *U.S. News & World Report* – Best Law Firms named Hausfeld to its top tier in both Antitrust Law and Litigation, and among its top tiers in Commercial Litigation. Hausfeld was also recognized in New York, San Francisco, and Washington, DC in Antitrust Law, Litigation, Mass Torts and Commercial Litigation.



Legal 500:

In 2017, Hausfeld was ranked for the ninth year in a row to the top tier nationally for firms in civil litigation and class actions and was also ranked nationally for antitrust – cartel work by *The Legal 500*. The Legal 500 has declared:

"Representing large companies, small and medium-sized businesses, as well as individuals, Washington DC firm Hausfeld LLP remains 'top-notch' in antitrust litigation... Hausfeld LLP is 'one of the most capable plaintiffs' firms involved in the area of civil cartel enforcement', and is handling some of the major cartel-related cases..."

The Legal 500 has also recognized that Hausfeld is a "market transformer," the "most innovative firm with respect to antitrust damages," is "[d]riven by excellence," "anticipates the evolving needs of clients," and delivers "outstanding advice not only in legal terms but also with a true entrepreneurial touch'..."

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Reputation and Leadership in the Antitrust Bar

continued



Concurrences

In 2017, Hausfeld's Competition Bulletin was selected to be ranked among the top antitrust firms distributing newsletters and bulletins. Hausfeld is the only Plaintiffs firm to be ranked, and we secured the number one spot for Private Enforcement Newsletters.

In 2015, Hausfeld Partners Michael Hausfeld, Michael Lehmann and Sathya Gosselin, joined by co-authors Gordon Rausser and Gareth Macartney, were elected the winners of the Concurrences' 2015 Antitrust Writing Awards in the Private Enforcement (Academic) category for their article, *Antitrust Class Proceedings - Then and Now*, Research in Law and Economics, Vol. 26, 2014.

American Antitrust Institute:

In 2016, Hausfeld the American Antitrust Institute honored two Hausfeld case teams – *In re Air Cargo Shipping Services Antitrust Litig.* (E.D.N.Y.) and *In re Municipal Derivatives Antitrust Litig.* (S.D.N.Y.)—with its top award, for Outstanding Antitrust Litigation Achievement in Private Law Practice. Taken together, these two cases have yielded settlements of over \$1.4 billion to class members after nearly a decade of litigation. The award celebrates private civil actions that provide significant benefits to clients, consumers, or a class and contribute to the positive development of antitrust policy.

In 2015, Hausfeld and fellow trial counsel won the American Antitrust Institute's award for Outstanding Antitrust Litigation Achievement in Private Law Practice for their trial and appellate victories in *O'Bannon v. NCAA*.

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Reputation and Leadership in the Antitrust Bar

continued

Thought Leadership

Hausfeld lawyers do more than litigation. They exercise thought leadership in many fields. Hausfeld lawyers host, lecture at, and participate in leading legal conferences worldwide addressing ground-breaking topics, including: the pursuit of damages actions in the United States and the European Union on behalf of EU and other non-U.S. plaintiffs; nascent private civil enforcement of EU competition laws; application of the FTAIA; the impact of *Wal-mart Stores, Inc. v. Dukes* and *Comcast Corp. v. Behrend* on class certification; reforms to the Federal Civil Rules of Procedure, emerging issues in complex litigation; legal technology and electronic discovery.

Hausfeld attorneys have presented before Congressional subcommittees, regulators, judges, business leaders, in-house counsel, private lawyers, public-interest advocates, elected officials and institutional investors, and hold leadership positions in organizations such as the American Bar Association, the American Antitrust Institute, the Women Antitrust Plaintiffs' Attorney network group, the Sedona Conference and IAALS.

Hausfeld attorneys also regularly organize and facilitate panels and conferences discussing the latest developments and trends in their respective practices and are frequently published in scholarly articles, journals, bulletins and legal treatises. Highlights from these publications and conferences include:

Recent Articles

- Michael Hausfeld, Irving Scher, and Laurence Sorkin, "**Litigating Indirect Purchasers Claims: Lessons for the EU from the U.S. Experience**," *Antitrust Magazine* (Fall 2017)
- Scott Martin, Michaela Spero, and Brian Henry, "**Cartel Damage Recovery: A Roadmap for In-House Counsel**," *Antitrust Magazine* (Fall 2017)
- Michael D. Hausfeld and Irving Scher, "**Damage Class Actions After Comcast: A View from the Plaintiffs' Side**," *Antitrust Magazine* (Spring 2016).
- James J. Pizzirusso, "**Proving Damages in Consumer Class Actions**," Consumer Protection Committee, Vol. 22/ No. 1, ABA Section of Antitrust Law (Mar. 2016).
- Bonny E. Sweeney, "**Earning ACPERA's Civil Benefits**," 29 *Antitrust Magazine* 37 (Summer 2015).
- Brent Landau and Gary Smith, "**Bundling Claims Under Section 1 of the Sherman Act: Focusing on Firms' Abilities to Create Anticompetitive Effects in a Market, Rather Than Their Share of It**," *Antitrust Health Care Chronicle*, Vol. 28/ No. 1, ABA Section of Antitrust Law (Jan. 2015).
- Michael D. Hausfeld, Gordon C. Rausser, Gareth J. Macartney, Michael P. Lehmann, Sathya S. Gosselin, "**Antitrust Class Proceedings – Then and Now**," *Research in Law and Economics* (Vol. 26, 2014) (Recipient of *Concurrences'* 2015 Antitrust Writing Award for Private Enforcement (Academic) Category).

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Reputation and Leadership in the Antitrust Bar

continued

- Brent Landau and Brian Ratner, “**Chapter 39: USA,**” *The International Comparative Legal Guide to Cartels & Leniency* (Ch. 39, 2014).
- Michael Hausfeld and Brian Ratner, “**Prosecuting Class Actions and Group Litigation – Understanding the Rise of International Class and Collective Action Litigation and How this Leads to Classes that Span International Borders,**” *World Class Actions* (Ch. 26, 2012)
- Michael Hausfeld and Kristen Ward Broz, “**The Business of American Courts in *Kiobel*,**” *JURIST* – Sidebar (Oct. 2012).
- Bonny E. Sweeney, “**Overview of Section 2 Enforcements and Developments,**” 2008 Wis. L. Rev. 231 (2008).



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Michael D. Hausfeld, one of the country's top civil litigators, is the Chairman of Hausfeld.

His career has included some of the largest and most successful class actions in the fields of human rights, discrimination and antitrust law. He has an abiding interest in social reform cases and was among the first lawyers in the U.S. to assert that sexual harassment was a form of discrimination prohibited by Title VII; he successfully tried the first case establishing that principle. He represented Native Alaskans whose lives were affected by the 1989 Exxon Valdez oil spill. Later, he negotiated a then-historic \$176 million settlement from Texaco, Inc. in a racial-bias discrimination case. Most recently, in the landmark *O'Bannon v. NCAA* litigation, Michael represented a class of current and former Division I men's basketball and FBS football players against the NCAA and its member institutions, based on rules foreclosing athletes from receiving compensation for the use of their names, images, and likenesses. At the conclusion of a three-week bench trial, the Court determined that the NCAA had violated the antitrust laws and issued a permanent injunction as requested by the plaintiffs. Immediately following the decision, Michael was named *AmLaw Litigation Daily's* "Litigator of the Week," citing the "consensus among courtroom observers [was] that Michael Hausfeld...got the best of a parade of NCAA witnesses at trial." *Law360* dubbed the trial team led by Michael as "Legal Lions," citing Hausfeld's historic victory over the NCAA.

In *Friedman v. Union Bank of Switzerland*, Michael represented a class of Holocaust victims whose assets were wrongfully retained by private Swiss banks during and after World War II. The case raised novel issues of international banking law and international human rights law. In a separate case, he also successfully represented the Republic of Poland, the Czech Republic, the Republic of Belarus, the Republic of Ukraine and the Russian Federation on issues of slave and forced labor for both Jewish and non-Jewish victims of Nazi persecution. He currently represents Khulumani and other NGOs in a litigation involving the abuses under apartheid law in South Africa.

Michael has a long record of successful litigation in the antitrust field, on behalf of individuals and classes, in cases involving monopolization,

MICHAEL D. HAUSFELD

tie-ins, exclusive dealings and price fixing. He was a member of the ABA Antitrust Section's Transition Taskforce, which advised the incoming Obama Administration. Michael is or has been co-lead counsel in antitrust cases against manufacturers of genetically engineered foods, managed healthcare companies, bulk vitamin manufacturers, technology companies and international industrial cartels. He is involved in ongoing investigations of antitrust cases abroad and pioneering efforts to enforce competition laws globally. He was the only private lawyer permitted to attend and represent the interests of consumers worldwide in the 2003 closed hearings by the EU Commission in the Microsoft case.

Michael has been featured in many articles and surveys. The *National Law Journal* has recognized him as one of the "Top 100 Influential Lawyers in America" and the *Legal Times* named Michael among the top 30 "Visionaries" in the Washington legal community in 2008. The *New York Times* referred to Michael as one of the nation's "most prominent antitrust lawyers," and in 2009 the *Washingtonian* named him one of thirty "Stars of the Bar." Most recently, the *Global Competition Review* stated that Hausfeld "is clearly recognized as one of the best plaintiffs firms in the country." In the past, the magazine has reported that Michael "consistently brings in the biggest judgments in the history of law" and that he is "a Washington lawyer determined to change the world — and succeeding." Michael is one of thirty negotiators profiled in *Done Deal: Insights from Interviews with the World's Best Negotiators*, by Michael Benoliel, Ed.D. He has also been described by one of the country's leading civil rights columnists as an "extremely penetrating lawyer" and by a colleague (in a *Washington Post* article) as a lawyer who "has a very inventive mind when it comes to litigation. He thinks of things most lawyers don't because they have originality pounded out of them in law school." For the past five years, *The Legal 500*, which provides comprehensive worldwide coverage on legal services and rankings, selected "mastermind of strategy" and "smart strategic thinker" Michael, as one of the top 10 Leading Lawyers in the U.S. representing plaintiffs in antitrust and cartel matters, stating that the "incredibly impressive... Michael Hausfeld and Brian Ratner are highly skilled negotiators and litigators, and real fighters with an outstanding strategic sense," and "the outstanding Mike Hausfeld is a titan of the antitrust bar."

EDUCATION

National Law Center George Washington University, J.D., with honors, 1969; Member, Order of the Coif

Brooklyn College, B.A., *cum laude*, 1966

BAR ADMISSIONS

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Reena has broad and substantial experience representing U.S. and global businesses and individuals in complex litigation in U.S., European and other courts. As a partner in Hausfeld's Washington, D.C. office, Reena litigates and resolves antitrust claims for corporate clients who have suffered financial harm as a result of antitrust violations. Reena's wide-ranging experience allows her to uniquely advise and act for clients in all stages of litigation in matters around the world, and achieve wide-ranging innovative strategies and solutions.

Global Competition Review recently named Reena among the top 40-under-40 antitrust lawyers in the world. The National Law Journal also recently named Reena as a D.C. Rising Star - recognizing the top 40-under-40 Washington D.C. lawyers across all disciplines whose legal accomplishments belie their age. The Legal 500 has honored Reena Gambhir as one of just ten "Next Generation Lawyers" in Antitrust Nationwide. In 2015, Law 360 named Reena a Rising Star. The Washington Business Journal recently named Ms. Gambhir a Top Minority Business Leader, an honor held for the top 25 Greater Washington leaders who embody entrepreneurial drive, creativity and success in business. Reena was also elected in 2014 as a Fellow of the American Bar Foundation, an honor afforded to less than one-third of one percent of lawyers, judges and legal scholars whose careers have demonstrated outstanding dedication to the highest principles of the legal profession. And twice now for 2013 and 2015, the Profiles in Diversity Journal named Reena a Woman Worth Watching, an award held for selected women who have distinguished themselves in their career.

Reena is currently one of the principle attorneys representing clients in high stakes litigation against some of the largest banks in the world in the *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-07789 (S.D.N.Y.) which recently announced over \$2.3 billion in settlements. Reena's recent achievements include, among other matters, representing U.S. and foreign businesses in *In Re Refrigerant Compressors Antitrust Litigation*, 2:09-md-02042 (E.D. Mich.) alleging price-fixing and reaching settlements of approximately \$50 million dollars. She also was one of the principle lawyers to secure settlements totaling almost \$100 million in an antitrust case involving the chemical industry (*In Re Hydrogen Peroxide Antitrust Litigation*, MDL No. 1682 (E.D. Pa.)).

REENA A. GAMBHIR

Reena also dedicates herself to the private civil enforcement of competition law around the world. In connection with her UK partners, Reena represents clients, many of which are listed in Fortune Global 500 and Forbes Global 2000, in their individual damage claims seeking to recover losses as a result of price fixing cartels and other antitrust violations. These include purchasers of elevators, air freight services, Visa and MasterCard interchange fee services, and marine hose. Additionally, in the marine hose matter, Reena recently concluded the negotiations for the final claims resulting from the first of its kind private global settlement with cartel list Parker ITR.

Reena is currently at the forefront of competition claims in South Africa, working with South African counsel in groundbreaking litigation on behalf of low-income bread consumers. This case resulted in a recent landmark ruling by the Supreme Court of Appeal (SCA) which determined for the first time the specific requirements for filing a collective action in South African courts.

Reena also dedicates herself to international human rights work. She currently represents residents of Bhopal, India who were exposed to toxic wastes, which have contaminated the soil and drinking water surrounding the infamous Union Carbide Plant, which was the site of the 1984 gas leak that killed and injured thousands of residents. Reena is also involved in litigation in both the UK and South Africa on behalf of South African gold miners who have suffered silicosis. Reena also assisted in the representation of the former “comfort women”, women and girls who were forced into sexual slavery during World War II. In her pro bono work, among other cases, Reena has successfully represented individuals in United States Immigration Court in political asylum proceedings.

Reena has been asked to speak on matters related to antitrust, private enforcement, and human rights across the world. She also has previously been an appointed member to the ABA International Task Force’s leadership and the ABA’s International Cartel Task Force.

EDUCATION

The George Washington University, National Law Center, J.D., *cum laude*, 2004,
Thurgood Marshall Scholar

University of Chicago, M.A., 2000

Boston College, B.A., *cum laude*, 1999

BAR ADMISSIONS

District of Columbia

Massachusetts



Bonny E. Sweeney

Partner

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Bonny E. Sweeney, a leading antitrust litigator, is a Partner in the San Francisco office of Hausfeld.

Bonny has represented clients in some of the most significant antitrust cases in the United States in the last 20 years. She previously served as co-lead counsel on behalf of a class of merchants in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.* (E.D.N.Y.), a sprawling litigation against the world's largest credit card companies. Bonny, together with Hausfeld, also served as co-lead counsel in *In re Aftermarket Auto Lights Antitrust Litig.* (C.D. Cal.), which settled for more than \$50 million, and in which counsel obtained a landmark decision denying a leniency applicant's bid for reduced civil damages under the Antitrust Criminal Penalty Enhancement and Reform Act (ACPERA), because the defendant had not provided satisfactory or timely cooperation under the statute. Bonny is one of the attorneys representing clients in high stakes litigation against some of the largest banks in the world in the *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-07789 (S.D.N.Y.) which recently announced over \$2.3 billion in settlements.

The Daily Journal recognized these legal achievements in May 2014, naming Bonny as one of the Top Women Lawyers in its Annual List of 100 Leading Women Lawyers in California. Bonny was also named as a Local Litigation Star in Antitrust in 2016 by *Benchmark Litigation Rankings*, and as Litigator of the Week by *Global Competition Review* in 2014. Bonny served as lead trial counsel for the plaintiff class in *In re iPod iTunes Antitrust Litig.*, which was tried to a jury in 2014, and was also one of the trial lawyers in *Law v. NCAA/Hall v. NCAA/Schreiber v. NCAA* (D. Kan.), in which the jury awarded \$67 million to three classes of college coaches. She has participated in the successful prosecution and settlement of numerous other antitrust and unfair competition cases, including *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.), which settled for \$336 million.

Bonny currently serves as lead or co-lead counsel in several pending antitrust class actions, including *In re Contact Lens Antitrust Litig.* (M.D. Fla.), *In re Packaged Seafood Products Antitrust Litig.* (S.D. Cal.), and *In re Parking Heaters Antitrust Litig.* (E.D.N.Y.).



BONNY E. SWEENEY

EDUCATION

Case Western Reserve University School of Law, J.D., *summa cum laude*, 1988, Editor, *Law Review*, Member, Order of the Coif

Cornell University, M.A., 1985

Beijing Language Institute, Chinese Language Certificate, 1982

Whittier College, B.A., 1981

BAR ADMISSIONS

California

Massachusetts

Ninth Circuit Court of Appeals

Tenth Circuit Court of Appeals

United States Supreme Court



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Hausfeld lost a dear friend and trusted colleague when partner William P. Butterfield passed away on Tuesday, December 13, 2016.

Bill Butterfield's initial career as a prosecutor led to his interest in finding information that would help his clients prove their cases. His passion for problem-solving in large cases (finding the important information within millions of electronic records) and creating out-of-the-box solutions, led to his pioneering work in the field of electronic discovery. These skills made Bill uniquely suited to provide unparalleled services to clients, always with the goal of providing sensible solutions to his clients' needs.

As partner at Hausfeld, Bill chaired the firm's Financial Services Practice Group, and concentrated on financial services and antitrust litigation. He was also an internationally recognized authority on electronic discovery. In over 30 years of legal practice, Bill represented governmental agencies, brokerage firms, corporations, directors and officers, attorneys and investors in private litigation over securities, commodities, antitrust and consumer claims, and in investigations commenced by the Securities and Exchange Commission. He also defended clients in bankruptcy adversary proceedings and commercial litigation. Additionally, Bill served as a leader in several legal think tanks, taught law, and wrote and spoke frequently on legal topics. Bill had a rating of AV®, the highest rating available in Martindale-Hubbell's peer review rating system. In 2016, he was named by *Super Lawyers* as a top Antitrust lawyer in Washington, D.C. He was also recognized for his e-discovery expertise by *Chambers USA: America's Leading Lawyers for Business*, *Chambers Global*, and *Global Competition Review's - Who's Who Legal*.

Bill was counsel for the plaintiffs in *In re Air Cargo Shipping Services Antitrust Litigation*, MDL No. 1775 (E.D.N.Y.), which has resulted in over \$1.2 billion in settlements. He was appointed by the Court to serve as lead counsel for the class in *MTB Investment Partners, LP v. Siemens*, No. 2:12-cv-00340 (D.NJ). He served as discovery co-chair for the class in *In re Blue Cross Blue Shield Antitrust Litigation*, MDL No. 2406, (S.D. AL). Bill was also one of the principal attorneys for plaintiffs in two of the largest cases being litigated in U.S. courts: *In re LIBOR-Based Financial Instruments Antitrust Litigation*, No. 11-md-2262, (S.D.N.Y.), and *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.).

WILLIAM P. BUTTERFIELD

Bill's achievements included:

- Achieving settlements of over \$120 million in a lawsuit alleging output restrictions in the wood products industry (*In Re OSB Antitrust Litigation*, (E.D. Pa.));
- Achieving settlements of almost \$100 million in an antitrust price-fixing case involving the chemical industry (*In Re Hydrogen Peroxide Antitrust Litigation*, (E.D. Pa.));
- Acting as one of the principal attorneys involved in nationwide litigation challenging lending practices conducted by one of the nation's largest sub-prime lenders. In that case, Bill worked extensively with the FTC, and was responsible for bringing nationwide media and Congressional attention to lending practices conducted by Associates Finance. The plaintiffs and FTC eventually settled with Citigroup (which had acquired Associates Finance) for \$240 million (*In Re Citigroup Loan Cases*, J.C.C.P. 4197);

Acting as one of the principal Plaintiffs' attorneys in *In re Prudential Securities Limited Partnerships Litigation*, MDL No. 1005 (S.D.N.Y.), which settled for \$137 million;

Acting as one of the principal Plaintiffs' attorneys in *In re PaineWebber Securities Litigation*, 94 Civ. 8547 (S.D.N.Y.), which settled for \$200 million;

- Serving as outside counsel in the RTC's successful defense of a \$300 million arbitration dispute regarding the valuation of an acquired financial institutions investment and mortgage portfolio;
- Serving as outside counsel for the FDIC and RTC in numerous lawsuits and investigations to recover losses suffered by financial institutions due to securities, commodities and real estate fraud, director and officer misconduct and accounting malpractice;
- As outside counsel, representing political subdivisions in Texas, Ohio and California regarding securities matters.

Bill developed his interest in electronic discovery in the early 1990's when he helped design and implement an electronic document repository to manage more than 15 million pages of documents in a complex securities case. He testified as an expert witness on e-discovery issues, and spoke frequently on that topic domestically and abroad. Bill was the chair of The Sedona Conference® Working Group on Electronic Document Retention and Production, where he served as editor-in-chief of the Case for Cooperation (2009), and was a co-editor of *The Sedona Conference® Commentary On Preservation, Identification and Management of Sources of Information that are Not Reasonably Accessible* (2008). He was also a member of Sedona Conference® Working Group on International Electronic Information Management, Discovery and Disclosure. Bill was an adjunct professor at American University, Washington College of Law, where he taught a course in e-discovery. He also served on advisory boards for Georgetown University Law Center's Advanced E-Discovery Institute, and Bloomberg BNA Litigation.

Bill devoted significant time to his community. He was a longtime contributor to his alma mater, Bowling Green State University. He also served as Treasurer to the BGSU Foundation, Inc., as well as on the BGSU Alumni Board, and as president of local alumni chapters in Dayton, Ohio and Washington, DC. As recognition for his philanthropy and service to the university, Bill received the



WILLIAM P. BUTTERFIELD

BGSU Alumni Service Award in 2001. Additionally, Bill — a former Eagle Scout — served as a leader for scouting organizations. Bill also served for several years as the vice chair of the Fairfax Private Industry Council.

EDUCATION

University of Toledo, College of Law, J.D., 1978

Bowling Green State University, B.S.Ed., 1975

BAR ADMISSIONS

District of Columbia

United States Court of Appeals for the Second Circuit

United States Court of Appeals for the Third Circuit

United States Court of Appeals for the Sixth Circuit

United States District Court of Maryland

United States District Court for the District of Columbia

United States District Court, Eastern District of Michigan

United States District Court, Southern District of Ohio



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Partner

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Timothy Kearns recognizes that most cases are won or lost before they are even filed. His commitment to honesty helps clients accurately assess their options before initiating a lawsuit and his tenacity and dedication to securing a result, through appeal if necessary, help to ensure exceptional outcomes for his clients.

As a partner in Hausfeld's, Washington, DC office, Timothy engages in a varied practice of antitrust litigation, securities litigation, commodities litigation, and other complex commercial litigation. Timothy is the primary attorney in charge of identifying and investigating potential securities and financial matters. His matters include:

- *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, in which Timothy has overcome three motions to dismiss and has secured more than \$2.3 billion in settlements in a case alleging collusion among international banks to artificially fix the prices of foreign exchange instruments;
- *MTB Investment Partners, LP v. Siemens Hearing Instruments, Inc.*, in which Timothy secured a settlement that returned more than 115% of recognized losses to former HearUSA, Inc. shareholders;
- *Precision Associates, Inc. v. Panalpina World Transport (Holding) Ltd.*, in which Timothy represents two defendants against allegations of antitrust violations within the global freight forwarding industry.

Timothy, who was named a Rising Star in Securities Litigation in 2014 and 2015 and a Rising Star in Antitrust Litigation in 2016 by SuperLawyers magazine, graduated *cum laude* from Cornell Law School in 2006. He is the author of *The Chair, the Needle, and the Damage Done: What the Electric Chair and the Rebirth of the Method-of-Execution Challenge Could Mean for the Future of the Eighth Amendment*, which was published by the Cornell Journal of Law and Public Policy in 2006.



TIMOTHY S. KEARNS

EDUCATION

Cornell Law School, J.D., *cum laude*, 2006

Iowa State University, B.A., 2003

BAR ADMISSIONS

Delaware

District of Columbia

U.S. District Court for the District of Delaware

U.S. District Court for the Eastern District of Wisconsin



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Jeannine M. Kenney is a partner in Hausfeld's Washington D.C. office, licensed in both Pennsylvania and the District of Columbia.

Jeannine's practice focuses primarily on private enforcement of federal and state antitrust laws. She was named a Rising Star in antitrust litigation in 2015 and 2016, an honor awarded to fewer than five percent of practitioners in the state.

Representative antitrust matters include:

- *In re Foreign Exchange Benchmark Rates Antitrust Litig.*, 13-cv-7789 (S.D.N.Y.), alleging a conspiracy among leading financial institutions to manipulate the foreign exchange market, in which Hausfeld serves as co-lead interim counsel and has obtained more than \$2.1 billion in settlements to date.
- *In re Generic Digoxin and Doxycycline Antitrust Litigation*, No. 16-md-2724 (E.D. Pa.) representing a class of end-payers alleging generic drug manufacturers and marketers conspired to unlawfully inflate the price of critical medications.
- *In re Domestic Airline Travel Antitrust Litig.*, No. 15-mc-1404 (D.D.C.) alleging major airlines conspired to reduce capacity to artificially inflate the price of domestic air travel, in which Hausfeld serves as interim co-lead counsel.
- *In re Blue Cross Blue Shield Antitrust Litig.*, No. 13-mdl-2496 (N.D. Ala.), representing subscribers alleging dozens of Blue Cross Blue Shield entities entered into an unlawful agreement not to compete, in which Hausfeld serves as co-lead counsel and discovery chair; Jeannine works primarily on e-discovery in the matter.
- *In re Processed Egg Products Antitrust Litig.*, No. 08-md-2002 (E.D. Pa.), representing egg purchasers alleging egg producers and distributors entered into an unlawful agreement to restrict egg supplies, in which Hausfeld serves as co-lead counsel and has obtained nearly \$60 million in settlements to date, secured class certification of a shell egg class, and obtained summary judgment that eliminated a primary affirmative defense.

JEANNINE M. KENNEY

- *In re Fresh and Process Potatoes Antitrust Litig.*, No. 10-MD-2186 (D. Idaho), which alleged more than 24 potato growers, distributors, and processor defendants entered into an unlawful agreement to restrict potato supplies to inflate the price. Hausfeld chaired the 10-member Plaintiffs' Executive Committee and secured a ground-breaking ruling on a novel question of law undermining a key defense in the case, ultimately obtaining a global settlement of nearly \$20 million and significant injunctive relief. Jeannine managed the 20-plus defendant case from discovery through resolution, including all e-discovery matters.

Jeannine's practice also includes mass torts and other non-antitrust matters. She served as court-appointed Plaintiffs' Liaison Counsel in *In re National Football League Players' Concussion Injury Litigation*, MDL 2323 (E.D. Pa.) and represented hundreds of former NFL players suffering from long-term or permanent neurological or cognitive impairments as a result of head injuries during NFL play and who alleged the League hid from them the serious risks of head trauma. She also represents a putative class of former college athletes in *McCants v. National Collegiate Athletic Association, et al.*, No. 15-cv-176 (M.D.N.C.) who allege the University of North Carolina offered them fraudulent classes and, for decades, concealed that fraud.

Jeannine is adept and experienced in managing all aspects and phases of e-discovery, the complex process of discovering and producing electronically stored information (ESI). She routinely navigates detailed, complex and contentious ESI issues from dispute to resolution, including briefing and arguing e-discovery motions when necessary. A member of the Sedona Conference's Working Group on Electronic Document Retention and Production, Jeannine counsels Hausfeld's litigation teams in negotiations relating to preservation, search, and production of ESI in cases often involving dozens of defendants, negotiates ESI search terms, technology assisted review (predictive coding) methodologies, and database disclosures and productions, and manages complex document reviews using advanced review analytics to speed discovery. She educates other practitioners on e-discovery realities, serving as a faculty coach to participants in Georgetown University's intensive eDiscovery Training Academy, and speaking at conferences regarding the complexities and ethical quandaries involved in the search for and production of ESI and the importance of cooperation among the parties. She co-authored a chapter on technology assisted review—advanced methodologies used to more effectively and efficiently locate responsive ESI—to appear in the American Bar Association's upcoming publication, *Perspectives on Predictive Coding*.

Jeannine joined the firm in 2009. From 2010 to 2011, she clerked for the Honorable Cynthia M. Rufe, United States District Court Judge, Eastern District of Pennsylvania. While attending the Georgetown University Law Center, from which she graduated *magna cum laude*, Jeannine was a member of the *Georgetown Law Journal* and a member of Georgetown's highly regarded Appellate Litigation Clinic, in which she received the International Academy of Trial Lawyers' Student Advocacy Award for her work on *Lytes v. DC Water and Sewer Authority*, No. 08-7002 (D.C. Cir. 2009), which she argued as amicus curiae before the United States Court of Appeals for the District of Columbia.

Jeannine brings to her legal work nearly two decades of experience in public policy spanning a wide range of legislative and regulatory fields, including agriculture, food safety, telecommunications, and financial

**JEANNINE M. KENNEY**

services, among others, advocating for the public interest and consumers. For nearly five years, she worked as a legislative assistant for two United States Senators. As a Senior Policy Analyst for Consumers Union, publisher of *Consumer Reports*, she advocated for consumer interests before Congress and federal agencies, testifying before congressional committees, appearing as a speaker at Federal Trade Commission events, and presenting oral and written testimony to federal regulatory agencies. She has been widely quoted in print media, including the *Washington Post*, the *New York Times*, and *USA Today*, and has appeared on national cable and broadcast programs on consumer issues ranging from anticompetitive mergers, unfair consumer services contracts, consumer access to competitive and affordable telecommunications services, and financial privacy. Jeannine also served as an appointed member of two federal advisory committees related to pesticide safety. Between stints at Consumers Union, she served as the Vice President of Domestic Affairs for the National Cooperative Business Association, representing member-owned consumer, producer, and purchasing cooperatives.

EDUCATION

Georgetown University Law Center J.D., *magna cum laude*, Order of the Coif

University of Wisconsin-Madison, B.A., Political Science and Economics, with distinction

BAR ADMISSIONS

The Commonwealth of Pennsylvania

The District of Columbia

The District Court for the Eastern District of Pennsylvania

The District Court for the District of Columbia



Nathaniel C. Giddings

Associate

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Although our legal system generally affords a remedy to those that have been injured by illegal acts or practices, actually righting these wrongs can often be a contentious process that requires a versatile and knowledgeable advocate. Through Nathaniel's representation of clients in myriad types of litigation — from copyright to antitrust and financial fraud cases — he has developed the wide-ranging expertise and the flexibility necessary to achieve favorable results for his clients.

Nathaniel focuses on antitrust, consumer, and financial services law. Since joining the firm in 2011, Nathaniel has litigated numerous aspects of complex class actions on behalf of small businesses, consumers, recording artists, and local governments, including briefing class certification and oppositions to motions to dismiss, assisting in the taking and defending of depositions, successfully presenting a motion to compel in a federal district court, and arguing a constitutional law issue in the Sixth Circuit Court of Appeals. Nathaniel is currently involved in the *In re Foreign Exchange Benchmarks Rates Antitrust Litigation* a case alleging collusion among international banks to artificially fix the prices of foreign exchange instruments. As co-lead counsel in that case, Hausfeld has overcome three motions to dismiss, and has secured more than \$2.3 billion in settlements. In 2014, 2015, and 2016, Super Lawyers recognized Mr. Giddings as a rising star in the Washington, D.C. bar.

EDUCATION

Michigan State University, James Madison College of Public Affairs, B.A., Political Theory and Constitutional Democracy, 2008

BAR ADMISSIONS

Illinois

U.S.D.C., Northern District of Illinois

District of Columbia

U.S.D.C., District of Columbia

Second Circuit Court of Appeals

Sixth Circuit Court of Appeals

Ninth Circuit Court of Appeals



Katie R. Beran

Associate

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kberan@hausfeld.com

Katie is an associate in the firm's Philadelphia office focusing on antitrust, consumer protection, and environmental litigation. In 2017, Katie was named one of just thirty-two Pennsylvania "Lawyers on the Fast Track" by *The Legal Intelligencer*.

Katie's active antitrust and consumer protection matters include *In re Thalomid and Revlimid Antitrust Litigation*, No. 14-6997 (D.N.J.), a class action alleging that the defendant's extensive anticompetitive conduct excluded generic alternatives for Thalomid and Revlimid, two drugs used to treat rare but deadly conditions, from entering the market, causing end payors to incur millions of dollars in overcharges. Katie is also a member of the *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-7789 (S.D.N.Y.) team, a case alleging a conspiracy to fix the prices of foreign exchange instruments among some of the largest banks in the world, in which the firm has already secured more than \$2.3 billion in settlements. In addition, Katie currently represents dentists seeking compensation from 3M related to defective crowns in *Bhatia v. 3M Company*, No. 16-1304 (D. Minn.).

Katie's environmental law matters include *Clean Air Council v. USA et al.*, No. 17-4977 (E.D. Pa.), pro bono litigation on behalf of Philadelphia's oldest environmental non-profit, Clean Air Council, and two Pennsylvania children, against the federal government to prevent it from rolling back critical climate change protections based on junk science. The case focuses on the federal government's knowledge (dating back over fifty years) that climate change presents a clear and present danger to life, and represents an urgent and potentially irreversible threat to human societies and the planet. Katie also represents the Suffolk County Water Authority in two water contamination cases, *Suffolk County Water Authority v. The Dow Chemical Company et al.*, 17-6980 (E.D.N.Y.) and *Suffolk County Water Authority v. The 3M Company et al.*, 17-6982 (E.D.N.Y.). Filed against the manufacturers of toxic chemicals that have polluted the Authority's public supply wells, both complaints allege that the defendants, who knew or should have known of the environmental risks of their defectively-designed products, must bear responsibility for the costs of treating the contaminated water and protecting the public from harm.

KATIE R. BERAN

Before joining the firm, Katie served as a federal Law Clerk to the Honorable Gerald A. McHugh in the Eastern District of Pennsylvania during the first two years of Judge McHugh's tenure on the Bench. Katie handled dispositive motions and trial preparation in a wide range of civil and criminal matters, including the first federal cyberstalking resulting in death case to go to trial in the United States. Katie was also heavily involved in the Supervision to Aid Reentry ("STAR") Program, where she served as an Adjunct Professor for the inaugural year of the Federal Reentry Court Clinic and received the 2016 Penn Law Toll Public Interest Center Pro Bono Supervisor Award for her work with 3L students. Katie previously worked as a litigation associate at a large firm, where she practiced commercial litigation, health law, and family law.

Katie earned her bachelor's degree, *magna cum laude*, in sociology and multi-ethnic studies from American University, where she was a member of Phi Beta Kappa and the University Honors Program. Katie graduated, *cum laude*, from the University of Pennsylvania Law School. While at Penn, she was a Legal Writing Instructor and an Associate Editor of the *Journal of Law and Social Change*. She was also the director of the Feminist Working Group, and co-founded and served as the managing director of the Civil Rights Law Project.

Katie currently serves as a Vice President on the Executive Board of the Jewish Social Policy Action Network ("JSPAN"), a progressive non-profit organization. She also continues to be involved in the STAR program as a pro bono supervising attorney.

EDUCATION

University of Pennsylvania Law School, *cum laude*, 2012

American University, *magna cum laude*, 2009

BAR ADMISSIONS

Pennsylvania

New Jersey

U.S. District Court – Eastern District of Pennsylvania

U.S. District Court – New Jersey

U.S. Court of Appeals for the Third Circuit



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Guided by the desire to represent clients asserting their rights in civil disputes, Sarah, an associate at Hausfeld, was drawn to practice at Hausfeld because of its creativity, commitment, and integrity. In an increasingly complex legal system, injured parties require much more than an attorney that simply knows the law to represent their interests, they need a dedicated team of exceptional advocates that can effectively navigate the ever increasing hurdles in complex litigation.

Sarah works on a variety of cases, including the *In Re Volkswagen "Clean" Diesel Litigation*, where Hausfeld represents individual plaintiffs and consumer groups in their claims against Volkswagen's "clean diesel" fraud. Sarah is also engaged in the *In re Foreign Exchange Benchmarks Rates Antitrust Litigation* in a case alleging collusion among international banks to artificially fix the prices of foreign exchange instruments. As co-lead counsel in that case, Hausfeld has overcome three motions to dismiss, and has secured more than \$2.3 billion in settlements. Finally, as a law clerk at Hausfeld, Sarah assisted in the matter of *In re South African Apartheid Litigation*, alleging that defendant multi-national corporations aided and abetted the commission of crimes against humanity by the security forces of the apartheid regime.

After law school, Sarah worked as a judicial law clerk to the Honorable Victor J. Wolski on the United States Court of Federal Claims, where she gained exposure to various types of civil litigation against the United States government. She handled civil matters in the areas of government contracts, copyrights and patents, taxation, and petitions for review under the *National Childhood Vaccine Injury Act*.

Sarah graduated from American University Washington College of Law in 2014. While in law school Sarah served as a Law Clerk at the Institute for Justice, representing aggrieved individuals in their challenges to unconstitutional government actions. In addition to her studies at the Washington College of Law, Sarah was enrolled in a dual program with the University of Ottawa, from which she obtained a JD in 2014. Prior to law school, Sarah worked for Canadian Member of Parliament Scott Reid, and in that role served as the Associate Director of the Canadian Parliamentary Coalition for Combating Antisemitism.



SARAH R. LAFRENIERE

EDUCATION

American University Washington College of Law, J.D., *summa cum laude*, Order of the Coif, 2014

University of Ottawa, J.D., *cum laude*, 2014

McMaster University, BA, Hons., *summa cum laude*, 2008

BAR ADMISSIONS

New York

District of Columbia

United States Court of Federal Claims



Samantha Derksen

Associate

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sderksen@hausfeld.com

Samantha is an associate at Hausfeld's Washington, DC office. Her decision to join Hausfeld was based on her desire to join a firm that both provides excellent representation to its clients, and strives to make positive changes in society. At Hausfeld, Samantha works on a variety of cases, including *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-7789 (S.D.N.Y.), a class action alleging a conspiracy to fix the prices of foreign exchange instruments among some of the largest banks in the world. As co-lead counsel in that case, Hausfeld has overcome three motions to dismiss, and has secured more than \$2.3 billion in settlements. Samantha is also involved in *Haff Poultry, Inc. et al. v. Tyson Foods, Inc. et al.*, Case No. 6:17-cv-00033-RJS (E.D. Okla.), an antitrust case on behalf of a proposed class of broiler chicken growers alleging a nationwide conspiracy among vertically-integrated poultry companies to suppress and maintain compensation for growing services below competitive levels. Finally, Samantha is engaged in *In re Volkswagen "Clean" Diesel Litigation*, where Hausfeld represents individual plaintiffs and consumer groups in their claims against Volkswagen's "clean diesel" fraud.

Samantha graduated from The George Washington University Law School with highest honors. While in law school, she represented clients facing cyber violence as a member of the International Human Rights Clinic. She also participated in various pro bono projects and externships in the fields of animal welfare, endangered species, and wrongful convictions. Finally, Samantha was a member of The George Washington International Law Review.

Prior to law school, Samantha worked in the field of international economic law. She was an International Trade Analyst at Sidley Austin in Geneva, Switzerland, where she was part of a team litigating World Trade Origination cases. Prior to that experience, she researched issues relating to international trade and climate change at the International Centre for Trade and Sustainable Development in Geneva, Switzerland.



SAMANTHA DERKSEN

EDUCATION

The George Washington University Law School, J.D., with highest honors, Order of the Coif, 2017

World Trade Institute, Master of International Law and Economics, *summa cum laude*, 2009

University College Utrecht, B.A., *magna cum laude*, 2007

BAR ADMISSIONS

District of Columbia



Steven Nathan

Staff Attorney

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Steve Nathan spent his early legal career representing businesses in commercial, securities, and regulatory matters. Through his work, Steve developed a comprehensive knowledge of sophisticated areas of law, including antitrust and securities fraud. Steve developed relationships with exceptional law firms and attorneys who mentored him and helped him develop a broad-ranged and deep analytical approach to such matters. Steve also obtained precedent-setting results for the Burbank Airport concerning the liability standards for an airport operator under Federal Aviation Regulations.

Steve has spent much of his career immersing himself in complex litigation, where he is known for his organization, analysis, and oversight, in document reviews, taking and defending depositions, and dealing with important motions and settlements. Steve is relied on for his ability to locate and assess key evidence involving the strengths and weaknesses of his and his opponents' cases.

During the past decade, Steve has represented plaintiffs in many national multi-district cases, including two recently resolved cases — *In re: Air Cargo Antitrust Litigation* and *In re: Target Corporation Customer Data Security Breach Litigation*. Steve has been involved in other high-profile cases that have been successfully resolved or are currently pending.

Steve prides himself on having a deep-rooted sense of ethics, and does not believe in shortcuts that could compromise the integrity of clients or colleagues. Steve thrives under pressure and is frequently asked to take the lead in establishing discovery teams and protocols to assure that, whether during document review, motions, settlements, or trials, the firm's clients and colleagues are given every opportunity to achieve outstanding results.



STEVEN NATHAN

EDUCATION

Queens College, MEd, May, 2006

Hofstra University School of Law, JD, with distinction, 1987

Queens College, BA, 1984

BAR ADMISSIONS

California

New York



Mary Jean Pizza

Staff Attorney

Mary Jean Pizza focuses her practice on complex litigation matters, particularly antitrust and securities and consumer fraud class actions, with a recent emphasis on electronic discovery and deposition preparation. Earlier in her career, Ms. Pizza focused on appellate practice. Ms. Pizza earned a BA in Philosophy and Communication from Rutgers College, Rutgers University *cum laude* (1987), and a JD from Rutgers School of Law, Rutgers University, *cum laude* (1992). She is a member of the Order of the Coif and admitted to practice in New Jersey and the District Court of New Jersey.

Jamillah Fraser

Staff Attorney

Jamillah Fraser is a Long Island University *Summa Cum Laude* graduate with various honors and distinctions earned scholastically and through her participation on the Speech and Debate Team. In 2004, Ms. Fraser graduated from Fordham Law School and earned the Archibald Murray Public Service award through her time in the criminal defense clinic and the selected litigation clinic. Since graduating from Fordham law school, Ms. Fraser has worked in several fast-paced environments, most notably the Administration for Children's Services. At ACS, she appeared in court daily, litigating simple conferences to highly contentious fact-finding trials. Out of 121 cases, she won all 33 of her trials. Ms. Fraser has volunteered with several non-profit legal services organizations. Currently, as a staff attorney at Hausfeld, Ms. Fraser assists investors in the discovery phase of lawsuits against some of the world's major banks. She also volunteers with the Brooklyn Bar Association helping working class people resolve consumer debt issues.

Shana Weiner

Staff Attorney

Shana Weiner graduated from the Thomas R. Kline School of Law at Drexel University in May 2013 where she was recipient of the Philadelphia Bar Association's Outstanding Public Interest Student Award. In 2015 Shana founded Dinah, a comprehensive legal services center for survivors of domestic abuse in the greater Philadelphia Jewish community, which matches clients to volunteer attorneys. Prior to Dinah, Shana served as a principal providing legal services to individuals and small law firms in the Philadelphia area. While at Hausfeld, Shana's practice focused on complex antitrust and financial services litigation.

Icee Etheridge

Staff Attorney

Icee Etheridge graduated in May of 2016 from Temple University's Beasley School of Law. While at Temple, Icee served on the Executive Board of the Black Law Students Association. She also studied abroad in Milan, Italy as a Temple Law Global Scholar and concentrated her studies on international economics. After graduating from Temple, Icee was barred in Pennsylvania and New Jersey. At Hausfeld, Icee focuses on complex antitrust and financial services litigation. Currently, she volunteers with Philly VIP and the IRS' Volunteer Income Tax Assistance program as a tax preparer.

Damali Martin

Staff Attorney

Damali Martin is a staff attorney in Hausfeld's Philadelphia office. She is a 2016 graduate of Temple University Beasley School of Law. While at Temple she participated in Temple Law Summer Abroad in Rome, Temple Law Japan, the University Disciplinary Review Committee and was a 2015 Law and Public Policy Scholar. Before attending law school, Damali graduated from Drexel University where she earned her B.S. in Computer Science. While there she was inducted in Phi Sigma Pi, a National Honors Society. Damali is barred in Pennsylvania. At Hausfeld, Damali focuses on complex antitrust and financial services litigation.

Sean Zehmer

Staff Attorney

Sean Zehmer joined Hausfeld as a staff attorney working in the antitrust practice group. Currently, he works on the case *In re Foreign Exchange Benchmarks Rates Antitrust Litigation*, a class action suit alleging collusion among international banks to artificially fix the prices of foreign exchange instruments. Mr. Zehmer's role includes electronic discovery, deposition preparation and outlines, and memoranda on antitrust issues. His prior work experience involves various commercial and civil matters, including loan agreements and contracts, fraudulent conveyances, fiduciary duties, and environmental insurance recovery. Mr. Zehmer graduated from the George Washington University Law School in 2016. While in law school, Mr. Zehmer was a judicial intern to the Honorable Larnzell Martin, Jr. on the Seventh Judicial Circuit of Maryland, where he worked on a variety of civil and criminal cases.

April Jones

Staff Attorney

April Jones graduated from the George Washington University Law School in 2016. While in Law School, April served as a Student Attorney in the DC Law Students Court Clinic, where she provided legal representation, assistance, and counseling to low-income residents facing eviction in Landlord and Tenant Court. While at Hausfeld, April focused on complex antitrust litigation.

Nicholas Hubner

Staff Attorney

Nicholas Hubner graduated from the Thomas R. Kline School of Law at Drexel University in May 2016 where he volunteered for the Federal Reentry Court Clinic and Criminal Litigation Clinic. Before joining Hausfeld, Nick worked in private practice assisting all areas of civil litigation, including research, medical record review, discovery, and drafting pleadings. At Hausfeld, Nick worked primarily on complex antitrust and financial services litigation, specifically electronic discovery, deposition preparation, and memoranda on antitrust legal issues.

Orly Halpern

Staff Attorney

Orly Halpern graduated from George Mason University School of Law in 2016 and became a member of the Virginia State Bar in November 2016. At Hausfeld, Ms. Halpern works on complex antitrust and financial services litigation focusing on electronic discovery. She also assists in drafting deposition outlines and memos. Prior to attending law school, Ms. Halpern Worked for non-profit organizations for five years. She received her B.A. from the Pennsylvania State University in 2007.

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTTTRUST
LITIGATION

No. 1:13-cv-07789-LGS

**DECLARATION OF GEORGE A. ZELCS
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF KOREIN TILLERY, LLC**

I, George A. Zelcs, declare as follows:

1. I am a partner at the law firm of Korein Tillery, LLC, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto. I certify that the statements set forth in this declaration are true and correct.

2. In this litigation, my firm, as Plaintiffs' Counsel, have to date spent approximately 38,613 hours, and its legal assistants have spent approximately 2,736 hours, investigating Defendants' anticompetitive and illegal conduct in the FX market, its impact on class members, and preparing various court filings as described more fully in the Declaration of Christopher Burke and Michael Hausfeld. Korein Tillery's involvement in this case began on June 13, 2013, when it started investigating Defendants' manipulation of the foreign exchange ("FX") market. Along with partners from Scott+Scott and Mogin Law Firm, Korein Tillery partner Steven Berezney, Korein Tillery legal assistant Lauren Tarpey, and I consulted with leading FX experts and traders in New York City on

the intricacies of the FX market during October 2013. Before this lawsuit was filed, Korein Tillery also obtained and reviewed industry FX transaction cost analyses, industry literature about the FX markets and the WM/Reuters fix rate, and published materials regarding the FX market. Korein Tillery also met with and consulted with potential experts relating to foreign currency trading.

3. After this lawsuit was filed, Korein Tillery has devoted significant resources and attorney time to litigating virtually all aspects of this case. Korein Tillery's most important contribution has been regarding expert witnesses. Korein Tillery has taken a lead role in identifying potential experts, selecting experts, assessing potential expert theories, and working with multiple experts on multiple issues on a daily basis. The attorney primarily responsible for this work has been Robert Litan, another partner with Korein Tillery.

4. Dr. Litan is uniquely qualified among the many Plaintiffs' attorneys to coordinate the expert work in this litigation due to his legal and economic experience. In addition to being a licensed attorney, Dr. Litan has a Ph.D. in economics. He has several decades of experience in researching and writing about complex financial issues (including authorship or co-authorship of 11 books and over 60 journal articles on financial topics), and has overseen economic research teams at three different organizations (the Brookings Institution, the Kauffman Foundation, and Bloomberg Government, now part of Bloomberg BNA). He was formerly the Principal Deputy Assistant Attorney General in the Antitrust Division of the U.S. Department of Justice, where he oversaw civil, non-merger antitrust litigation, including the initial period of the antitrust investigation against NASDAQ for fixing bid-ask spreads on many highly traded stocks, which resulted in a settlement with a consent decree by the Department and with the Securities and Exchange Commission in the mid-1990s.

5. Over several years, Dr. Litan continually worked with (and continues to work with) Plaintiffs' experts on a number of challenging issues facing the class including, among other things:

- (a) Creation of a custom-built cleansed, formatted, and unified transaction database across all Defendants containing trade information and various data fields to permit Plaintiffs' liability and damages experts to conduct their respective statistical analyses. This database was populated by the separate productions of all 16 Defendants, totaling almost 10 billion uncleansed transactions (over 3 billion cleansed transactions) and over 4 Terabytes of data from over 30 different bank trading systems spanning approximately 1,530 trading days throughout the class period;
- (b) Assessing the evidence of an ongoing and pervasive conspiracy to fix prices in the FX market involving all Defendants, and the conspiracy's scope;
- (c) Assessing whether Defendants' collusive conduct caused class-wide impact;
- (d) Quantification of damages by a method common to the class that can formulaically account for individual class member differences;
- (e) Overseeing experts' preliminary aggregate damage estimates to assist in our settlement negotiations with all of the Defendants; and
- (f) Design of the class notice and distribution plans.

6. Due to the complication and amount of the expert work, Dr. Litan was assisted in his efforts by many Korein Tillery partners including myself, Stephen Tillery, Robert King, Aaron Zigler, Steven Berezney, Michael Klenov, and Randall Ewing. Dr. Litan also has worked closely on all of the matters outlined in the foregoing paragraph with attorneys at Scott+Scott, principally Christopher Burke and Kristen Anderson.

7. In addition to its work with experts, Korein Tillery has substantially contributed to other aspects of this litigation. Korein Tillery secured several additional named plaintiffs in the Second Amended Complaint and worked to collect these plaintiffs' documents. Korein Tillery

devoted thousands of hours to analyzing Defendants' document production, consisting mainly of slang-ridden chat room discussions. From the important documents identified during document review, Korein Tillery attorneys then prepared for various depositions and interviews. This also required meet-and-confer sessions with the deponents' counsel and submitting paperwork to obtain attendance of foreign witnesses' depositions through the Hague Convention. Korein Tillery also assisted with the preparation of various pleadings, motions, and corresponding briefing memoranda filed with the Court, and it participated in mediations and settlement discussions with various Defendants. Korein Tillery has also been continuously involved in devising litigation strategy. Korein Tillery has participated in weekly calls with Lead Counsel in which case status, action items, and strategy were discussed.

8. This work was completed by many Korein Tillery attorneys. I secured the additional named plaintiffs. Mr. Tillery and I participated in settlement efforts. Mr. Zigler, Carol O'Keefe, Aidan McNamara, and Jamie Steinmetz were heavily involved in the document discovery portion of this case. Mr. Berezney performed much of the deposition work for the Defendants assigned to our firm. Mr. Klenov contributed substantial time to several aspects of the case, including legal research and briefing, review of potentially important documents, and preparing to depose key witnesses who worked for several of the Settling Defendants. Mr. Ewing contributed to the efforts to defeat Defendants' motion to dismiss, participated in various meet-and-confers on the Case Management Order and the electronically-stored information ("ESI") protocol, responded to and propounded discovery requests, and researched various issues.

9. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the

lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017, has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

10. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

11. The total number of hours reflected in Exhibit 1 is 41,348.68. The total lodestar reflected in Exhibit 1 is \$30,900,604.00, consisting of \$30,380,154.75 for attorneys' time and \$520,449.25 for professional support staff time.

12. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

13. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$5,866,472.97 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

14. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

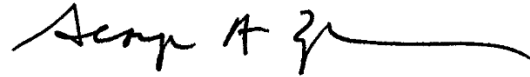
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

15. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

16. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

17. Korein Tillery has considerable experience litigating complex litigations and class action lawsuits. Korein Tillery has been appointed as class counsel in more than fifty class actions. Attached hereto as Exhibit 3 is a true and accurate copy of Korein Tillery's résumé, which more significantly highlights the firm's achievements, experience as class counsel, and biographies of many of the firm's attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on
January 11, 2018.

A handwritten signature in black ink, appearing to read "George A. Zelcs", followed by a long horizontal flourish.

George A. Zelcs

EXHIBIT 1

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

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTI-TRUST
LITIGATION

No. 1:13-cv-07789-LGS

KOREIN TILLERY
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Stephen Tillery	3,879.80	\$1,200	\$4,655,760.00
Robert Litan	5,984.90	\$1,150	\$6,882,635.00
George Zelcs	4,668.70	\$1,100	\$5,135,570.00
Robert King	1,967.50	\$900	\$1,770,750.00
Aaron Zigler	2,487.77	\$850	\$2,114,604.50
Michael Klenov	2,164.30	\$850	\$1,839,655.00
Steven Berezney	515.10	\$850	\$437,835.00
Randall Ewing	613.89	\$800	\$491,112.00
Rich Elias	346.43	\$750	\$259,822.50
Tami Spicer	17.09	\$750	\$12,817.50
Associates			
Diane Moore	102.00	\$700	\$71,400.00
Carol O'Keefe	1,109.17	\$575	\$637,772.75
Chad Bell	182.30	\$575	\$104,822.50
Aidan McNamara	2,379.80	\$425	\$1,011,415.00
Devin Dippold	247.50	\$425	\$105,187.50
Garrett Broshuis	18.80	\$425	\$7,990.00
Jamie Steinmetz	2,383.33	\$425	\$1,012,915.25
Michael Forrest	23.75	\$425	\$10,093.75
Noah Smith-Drelich	142.02	\$425	\$60,358.50
Peter Rocque	227.62	\$425	\$96,738.50
Zach Miller	23.66	\$425	\$10,055.50
Staff Attorneys			
Alana Freund	602.10	\$400	\$240,840.00
Angela Roberts	21.00	\$400	\$8,400.00

NAME	HOURS	HOURLY RATE	LODESTAR
Daniel Krause	661.40	\$400	\$264,560.00
Denise Hall	923.40	\$400	\$369,360.00
Ian Moody	304.35	\$400	\$121,740.00
Jace Carter	499.20	\$400	\$199,680.00
James Gunter	316.80	\$400	\$126,720.00
Jennie Simons	51.51	\$400	\$20,604.00
Joss Capkovic	731.75	\$400	\$292,700.00
Kyle Bass	1,867.50	\$400	\$747,000.00
Lynn Preece	332.05	\$400	\$132,820.00
Marlene Elliott	998.90	\$400	\$399,560.00
Richard Smreker	775.25	\$400	\$310,100.00
Zachary Mueller	1,041.90	\$400	\$416,760.00
Paralegals			
Leann Eckhardt	437.20	\$200	\$87,440.00
Sheila Shortor	29.30	\$200	\$5,860.00
Litigation Support			
Stephanie Clerkin	12.20	\$200	\$2,440.00
Alero Egbe	148.50	\$200	\$29,700.00
Alicia Avero Koski	121.11	\$200	\$24,222.00
Amelia Earnest	70.50	\$200	\$14,100.00
Darcy Tuttle	85.15	\$200	\$17,030.00
Elvira Sihvola	468.91	\$200	\$93,782.00
Eva Stojchevska	46.25	\$200	\$9,250.00
Frankie Collantes	49.00	\$200	\$9,800.00
James McGanney	19.60	\$200	\$3,920.00
Lauren Tarpey	152.27	\$200	\$30,454.00
Mark Natividad	25.00	\$200	\$5,000.00
Mergen Battur	566.50	\$175	\$99,137.50
Michael Bannester	504.65	\$175	\$88,313.75
TOTALS	41,348.68		\$30,900,604.00

EXHIBIT 2

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

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTI-TRUST
LITIGATION

No. 1:13-cv-07789-LGS

KOREIN TILLERY
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$2,229.00
Online Legal Research	\$40,397.99
Telephones/Faxes	\$3,094.80
Postage & Express Mail	\$1,041.14
Internal Copying	\$4,951.00
Out of Town Travel*	\$156,539.10
Meals*	\$11,166.91
Court Reporters and Transcripts	\$145.20
Experts	\$239,018.27
Contributions to Litigation Fund	\$5,395,670.38
Miscellaneous	\$12,219.18
TOTAL EXPENSES:	\$5,866,472.97

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

No. 1:13-cv-07789-LGS

KOREIN TILLERY
FIRM RÉSUMÉ AND BIOGRAPHIES

KOREIN TILLERY

Attorneys at Law

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Korein Tillery — based in Chicago and St. Louis — is one of the country’s leading plaintiffs’ complex-litigation firms, representing a broad array of clients in high-stakes lawsuits. We bridge the historical divide between the resources, quality-of-representation, and national coverage offered by large, full-service law firms and the creativity, agility, and financial flexibility offered by boutique litigation practices. By providing world-class legal representation within a business environment more reminiscent of a Silicon Valley startup than a traditional law firm, Korein Tillery offers clients a superior, cost-effective way to manage substantial litigation risk.

Although Korein Tillery is a boutique firm, our 30 attorneys offer clients an unmatched breadth of experience. Most of our attorneys have represented both plaintiffs and defendants at some point in their careers, and, combined, we’ve handled cases covering virtually every conceivable substantive area of the law. We’ve litigated cases for clients ranging from individuals and certified classes, to governmental entities and billion-dollar, multi-national corporations. Collectively, we’ve tried hundreds of cases to verdict, with several verdicts exceeding 10 figures. Our attorneys have been nominated for numerous regional and national trial lawyer awards, and we’ve won many landmark decisions in state and federal appellate courts, including in the Supreme Court of the United States. Korein Tillery strives to be the nation’s leading complex litigation boutique law firm by offering our clients world-class representation while drastically reducing their litigation-related risk.

For decades, Korein Tillery has successfully guided its clients through protracted, multi-faceted litigation against some of the most powerful and well-funded adversaries in the world. Our firm consistently prevails in legal wars of attrition, not only because we have the resources to prosecute claims as vigorously as they are defended, but also because we have the experience, mettle, and motivation to go the distance. We’re no strangers to decade-long cases, multi-million-document productions, endless discovery battles, and repeated trips to the appellate courts. And our results speak for themselves: we’ve obtained billions of dollars in settlements and verdicts for our clients over the past decade, all without submitting an “hourly” bill.

Though Korein Tillery’s national litigation practice has continued to evolve and adapt over the past decade, one thing has remained constant — we have achieved extraordinary results for our clients. The cases we handle

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Chicago, Illinois 60601-4269
Tel: 312.641.9750 Fax: 312.641.9751*

Korein Tillery
January 11, 2018

are some of the most complex and challenging in the country. Yet despite often-daunting odds, Korein Tillery has amassed one landmark victory after another, generating over \$13 billion in verdicts and settlements in litigation spanning practice areas such as Securities, ERISA, Antitrust, Tax, Environmental Law, and Unfair Competition. Some of Korein Tillery's recent accomplishments are noted below.

The National Law Journal has consistently deemed Korein Tillery to be one of the country's top plaintiffs' firms by naming it to its "Plaintiffs' Hot List" seven times in the past eleven years: in 2003, 2004, 2007, 2008, 2011, 2012, and 2013. In 2014 and 2015, Korein Tillery was named by the NLJ as a member of its top 50 Elite Trial Lawyers. The American Bar Association's Securities Litigation Journal deemed two of Korein Tillery's cases, *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006) and *Merrill Lynch Pierce Fenner & Smith, Inc. v. Dabit*, 547 U.S. 71 (2006), the two most important securities law decisions in 2006. Securities Litigation Journal, *Top 10 Securities Law Decisions of 2006* (Winter 2006). In *Kircher*, Korein Tillery served as lead counsel for the plaintiffs' class from the initial trial court filing to the Supreme Court of the United States, where the Court reversed the Seventh Circuit in a 9-0 decision.

Korein Tillery has been appointed as class counsel in more than fifty class actions¹ and has successfully negotiated some of the country's largest class action settlements. *See, e.g., Parker*

¹ *See, e.g., Asbury v. May Dep't Store Co. Ret. Plan*, No. 97-667-GPM (S.D. Ill. May 3, 1999); *Barbara's Sales Inc. v. Intel Corp.*, 2004 WL 5723558 (Ill. Cir. July 12, 2004); *Berger v. Xerox Corp. Ret. Income Guar. Plan*, No. 00-584-DRH (S.D. Ill. Dec. 5, 2003); *Berkowitz v. Nat'l Westminster Bancorp Ret. Plan*, 2000 WL 852451 (D. Conn. Mar. 30, 2000); *Brentwood Travel Serv., Inc. v. DCT Enter.*, No. 03CC-2857 (Mo. Cir. Ct. June 13, 2007); *Call v. Ameritech Mgmt. Pension Plan*, No. 01-717-GPM (S.D. Ill. Aug. 26, 2003); *Chultem v. Tigor Title Ins. Co.*, 927 N.E.2d 289 (Ill. App. Ct. 2010); *City of Univ. City, Mo. v. AT&T Wireless Servs., Inc.*, No. 01-CC-004454 (Mo. Cir. Ct. Aug. 30, 2007); *Clevenger v. Dillard's, Inc.*, No. 02-558 (S.D. Ohio Nov. 31, 2006); *Clutts v. Allstate Ins. Co.*, No. 02-L-226 (Ill. Cir. Dec. 6, 2005); *Collora v. R.J. Reynolds Tobacco Co.*, 2003 WL 23139377 (Mo. Cir. Ct. Dec. 31, 2003); *Cooper v. The IBM Pers. Pension Plan*, No. 99-829 GPM (S.D. Ill. May 19 2005); *Craft v. Philip Morris, Inc.*, 2003 WL 23355745 (Mo. Cir. Ct. Dec. 31, 2003); *Crockett v. U.S. Sales Corp.*, No. 98-L-1057 (Ill. Cir. Apr. 5, 2000); *Dunn v. BOC Group Pension Plan*, No. 01-CV-382-DRH (S.D. Ill. Dec. 11, 2003); *Esden v. Bk. of Boston*, 182 F.R.D. 432 (D. Vt. Sept. 28, 1998); *Folkerts v. Ill. Bell Tel. Co.*, No. 95-L-912 (Ill. Cir. Jan. 7, 1998); *Fun Serv. of Kan. City, Inc. v. AMF Bowling, Inc.*, No. 03-DV-203690 (Mo. Cir. Ct. Apr. 22, 2005); *Gans v. Leiserv, Inc.*, No. 02CC-002115 (Mo. Cir. Ct. Oct. 6, 2004); *Gans v. Seventeen Motors, Inc.*, No. 01-L-478 (Ill. Cir. July 1, 2002); *Graf v. Automatic Data Processing*, No. 00-694-GPM (S.D. Ill. June 18, 2001); *Harris v. Roto-Rooter Servs. Co.*, No. 00-L-525 (Ill. Cir. Nov. 17, 2005); *Howard v. Brown & Williamson Tobacco Co.*, 2001 WL 1910779 (Ill. Cir. Dec. 18, 2001); *Hoormann v. SmithKline Beecham Corp.*, 2006 WL 3869484 (Ill. Cir. Oct. 6, 2006); *Hoyleton Youth & Family Servs. v. Surrey Vacation Resorts, Inc.*, No. 03-L-0507 (Ill. Cir. Mar. 18, 2011); *In Re: MCI Non-Subscriber Tel. Rates Litig.*, No. MDL 1275 (S.D. Ill. Jan. 12 2001); *JC Hauling v. Capital Assoc.*, No. 02-L0425 (Ill. Cir. Feb. 9, 2005); *Joiner v. Ameritech Mobile Commc'ns*, No. 96-L-121 (Ill. Cir. Aug. 8, 2000); *Kaiser v. Cigna Corp.*, 2001 WL 36180948 (Ill. Cir. Apr. 20, 2001); *Kohl v. Am. Trial Lawyers Ass'n*, No. AW-97-3264 (D. Md. Nov. 2, 1999); *Laurenzano v. Blue Cross/Blue Shield of Mass. Ret. Income Trust*, No. 99CV11751 (D. Mass. Apr. 30, 2002); *Lawrence v. Philip Morris USA, Inc.*, No. 09-CV-519 (N.H. Nov. 22, 2010); *Little L.L.C. v. Brinker Mo., Inc.*, 2005 WL 6191055 (Mo. Cir. Ct. Sept. 23, 2005); *Malloy v. Ameritech*, No. 98-488-GPM (S.D. Ill. May 3, 2000); *Mangone v. First USA Bk., N.A.*, 2000 WL 33529651 (S.D. Ill. Nov. 21, 2000); *Mansfield v. Air Line Pilots Ass'n*, No. 06-cv-06869 (N.D. Ill. July 9, 2007); *May v. SmithKline Beecham Corp.*, No. 98-108-WDS (S.D. Ill. May 31, 2001); *Meyer v. HomeEq Servicing Corp.*, No. 05-L-208 (Ill. Cir. Nov. 16, 2011); *Medeika v. S. New Eng. Tel.*, No. 97CV01123 (D. Conn. Aug. 9, 1999); *Nichols v. B.P. Am. Pension Plan*, No. 01-C-6238 (N.D. Ill. July 15, 2002); *Nichols-Siedhoff v. Ameritech Corp.*, No. 01-L-456 (Ill. Cir. Feb. 6, 2004); *Null v. D.B. Inv., Inc.*, No. 05-L-209 (Ill. Cir. July 22, 2005); *Parker v. Sears, Roebuck & Co.*, No. 04-L-716 (Ill. Cir.

Korein Tillery
January 11, 2018

v. Sears Roebuck & Co., Case No. 04-L-716 (Ill. Cir. Ct., Jan. 16, 2008) (settlement valued at \$544.5 million); *Cooper v. The IBM Pers. Pension Plan*, 2005 WL 1981501, 35 Employee Benefits Cas. 2488 (S.D. Ill. Aug. 8, 2005) (\$325 million settlement); *Sparks v. AT&T Corp.*, 96-LM-983 (Ill. Cir. Ct. Nov. 4, 2002) (\$350 million settlement); *Sullivan v. DB Investments, Inc.*, 04-2819 (D.N.J. May 22, 2008) (\$323 million settlement); *Folkerts v. Illinois Bell Tel. Co.*, 95-L-912 (Ill. Cir. Ct. July 7, 1998) (\$252 million settlement); *Berger v. Xerox Corp. Ret. Income Guar. Plan*, 2004 WL 287902, 32 Employee Benefits Cas. 1362 (S.D. Ill. Jan. 22, 2004) (\$240 million settlement); *Malloy v. Ameritech*, 98-488-GPM (S.D. Ill. July 21, 2000) (\$180 million settlement); *City of Greenville v. Syngenta Crop Prot., Inc.*, 3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012) (\$105 million settlement); *In Re: MCI Non-Subscriber Tel. Rates Litig.*, MDL 1275 (S.D. Ill. Apr. 19, 2001) (\$99 million settlement); and *Dunn v. BOC Group Pension Plan*, 01-CV-382-DRH (S.D. Ill. Mar. 12, 2004) (\$70 million settlement).

The Firm's Attorneys Contributing Significant Hours to This Case

Stephen M. Tillery

Stephen Tillery is the senior and founding member of the firm. With more than 35 years of trial experience, Mr. Tillery has acted as lead counsel in hundreds of complex cases at both the trial and appellate levels that have resulted in some of the largest trial verdicts and settlements in the United States.

Mr. Tillery completed his undergraduate studies at Illinois College (B.A. *magna cum laude*, Phi Beta Kappa) in 1972. Thereafter he attended Saint Louis University School of Law (J.D. *cum laude*, Order of the Woolsack, 1976). While obtaining his law degree, Mr. Tillery was a law clerk for the Honorable James L. Foreman, United States District Court for the Southern District of Illinois. Following graduation from law school, he was a law clerk to the Honorable George J. Moran, Fifth District Court of Appeals of Illinois.

Sept. 18, 2007); *Patterson v. Nations Bk.*, No. 99-481-PER (S.D. Ill. July 29, 1999); *Peterson v. State Farm Mut. Auto. Ins. Co.*, 2000 WL 35641572 (Ill. Cir. Dec. 21, 2000); *Pierce v. Gold Kist*, No. CV-97-L-0748-5 (N.D. Ala. Aug. 11, 1997); *Prather v. Pfizer Inc.*, No. 02-L-480 (Ill. Cir. Mar. 2, 2004); *Price v. Philip Morris Inc.*, 2001 WL 34366710 (Ill. Cir. Feb. 1, 2001); *Rice v. Nat'l Steel*, No. 98-L-98 (Ill. Cir. June 30, 1999); *Richardson v. Fairchild Space & Def.*, No. 99-1867 (M.D. Pa. Oct. 9, 2001); *Rogers v. Tyson Foods, Inc.*, 2007 WL 6712021 (Ill. Cir. Aug. 17, 2007); *Seifert v. May Co. Ret. Plan*, No. 96-1028-GPM (S.D. Ill. May 3, 1999); *Shuppert v. Blair Down*, No. 00-L-223 (Ill. Cir. Feb. 18, 2004); *Sims v. Allstate Ins. Co.*, 2000 WL 35751322 (Ill. Cir. Dec. 21, 2000); *Sparks v. Lucent Tech.*, 2001 WL 36208888 (Ill. Cir. July 27, 2001); *State of Mo. v. SBC Commc'ns, Inc.*, No. 22044-02645 (Mo. Cir. Ct. Nov. 9, 2009); *Sullivan v. DeBeers, A.G.*, No. 04-2819 (D.N.J. Nov. 30, 2005); *Synfuel Tech. v. Airborne Inc.*, No. 02-CV-324-DRH (S.D. Ill. Oct. 31, 2003); *Todt v. Ameritech Corp.*, No. 97-L-1020 (Ill. Cir. Nov. 12, 1997); *Tullock v. K-Mart Corp. Employee Pension Plan*, No. 99-289-DRH (S.D. Ill. Feb. 22, 2002); *Turner v. R.J. Reynolds Tobacco Co.*, No. 00-L-113 (Ill. Cir. Nov. 14, 2001); *Vollmer v. PCH*, No. 99-434-GPM (S.D. Ill. June 30, 1999); *Wagner v. Lowe's Home Ctrs., Inc.*, No. 02-L-690 (Ill. Cir. Jan. 14, 2008); *Wheeler v. Sears, Roebuck & Co.*, No. 99-L-529 (Ill. Cir. Apr. 17, 2003); *Wilgus v. Cybersource*, No. 02-L-995 (Ill. Cir. Aug. 30, 2004); *Williams v. Am. Equity Mortgage, Inc.*, No. 05-L-207 (Ill. Cir. July 21, 2011); *Williams v. Con Agra*, No. 97-L-373 (Ill. Cir. Oct. 31, 1997); *Williams v. Rohm & Haas Pension Plan*, No. 04-78 (S.D. Ind. Nov. 21, 2004).

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Mr. Tillery is a member of the Illinois Trial Lawyers Association, where he has been one of the elected Board of Managers since 1987, and for which he has chaired and served on numerous committees. Mr. Tillery is also a member of the Illinois Bar Association, the Missouri Association of Trial Attorneys, the St. Louis Metropolitan Bar Association, the St. Clair County Bar Association, and the American Association for Justice. He serves as a board member of Public Justice. He was named *Litigation Daily's* Litigator of the Week on May 1, 2014, for successfully reinstating the trial court's \$10.1 billion verdict in *Price v. Philip Morris, Inc.*, 2014 IL App (5th) 130017, 2014 WL 1696280 (Ill. App. Ct. Apr. 29, 2014).

Mr. Tillery has written numerous legal articles and has served as lecturer, moderator, and panel member at dozens of legal seminars relating to litigation and trial practice. He was an adjunct professor at Saint Louis University School of Law for eleven years, and was Co-Director of the Advanced Trial Advocacy Program there from 1983 to 1988.

George A. Zelcs

George Zelcs focuses his practice in the areas of complex commercial litigation including securities, antitrust, consumer fraud, qui tam/whistleblower, and pharmaceutical litigation in state and federal courts. Mr. Zelcs completed his undergraduate degree at Indiana University (B.A. Political Science, Urban Planning, and Sociology) in 1976. He received his law degree at Chicago-Kent College of Law in 1979, and was admitted to practice law in Illinois in 1979. He is admitted to practice before the U.S. Court of Appeals for the Second Circuit (2013), Fifth Circuit (1999), Seventh Circuit (1980), Eighth Circuit (1996), Tenth Circuit (1982), and Eleventh Circuit (1993), the U.S. Tax Court (1984), the U.S. Court of Federal Claims (2013), the Supreme Court of the United States (2005), and the U.S. District Courts for the Northern and Southern District of Illinois.

Mr. Zelcs has conducted bench and jury trials in state and federal courts throughout the United States and has participated in arbitration proceedings in foreign venues. He has obtained settlements and judgments ranging from fifteen million to in excess of ten billion dollars for his clients in various state and federal jurisdictions throughout the United States.

Mr. Zelcs was first selected as a Leading Illinois Attorney in 1993 and as an Illinois Super Lawyer. He was selected as a Finalist in 2003 for the Trial Lawyers For Public Justice Trial Lawyer of the Year Award for his work on the *Price, et al. vs. Philip Morris USA* verdict. He serves on the Chicago-Kent Board of Overseers and as a Trustee for the Chicago-Kent Institute on the Supreme Court of the United States. He has testified, at the invitation of the New York State Assembly, regarding financial guaranty insurance and representations and warranties made by mortgage originators in mortgage-backed securities.

Robert E. Litan

Robert Litan is a partner at Korein Tillery. Dr. Litan is a nationally-renowned attorney and economist with nearly four decades of experience litigating cases, conducting economic

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research, crafting economic policy, and heading up both public and private organizations. He is a prolific writer and speaker on the subjects of economics, antitrust law, and financial regulation, as well as having testified as an expert witness in a number of high-profile lawsuits. Dr. Litan serves as Korein Tillery's senior adviser in economic and antitrust matters.

After graduating from Yale Law School, Dr. Litan litigated antitrust, administrative, and international-trade cases in Washington D.C., first with Arnold & Porter and then with Powell, Goldstein, Frazer & Murphy. In 1993, he was appointed Principal Deputy Assistant Attorney General in the Antitrust Division of the Justice Department, where he oversaw civil, non-merger antitrust litigation. In that role, Dr. Litan settled the Department's lawsuit against the Ivy League and MIT for conspiring to fix financial aid awards; oversaw the Department's first investigation into Microsoft's anti-competitive practices; oversaw the early stages of the Department's investigation of NASDAQ for fixing dealer spreads; and was the Department's liaison to the Clinton administration's working group on telecommunications policy, which was directed by the Vice President.

In 1995, Dr. Litan was appointed Associate Director of the Office of Management and Budget, where he oversaw the budgets of five cabinet-level agencies. He was later a consultant to the Department of Treasury on financial modernization and the effectiveness of the Community Reinvestment Act, co-authoring several reports on those subjects. In the early 1990s, Dr. Litan served as a Member of the Presidential-Congressional Commission on the Causes of the Savings and Loan Crisis. He has chaired two panels of two studies for the National Academy of Sciences, and has served on one other NAS Committee.

Dr. Litan has testified as an expert witness in numerous complex cases, not only in antitrust matters, but also in matters involving the regulation of financial institutions. He has held major executive positions at three organizations overseeing economic and public-policy research: Vice President and Director of Research in the Economic Studies Program at the Brookings Institution; the same position at the Kauffman Foundation; and Director of Research at Bloomberg Government, the subsidiary of Bloomberg LLP that provides analysis and data on the impact of government policies on business. He is currently on the research advisory boards of the Smith Richardson Foundation and the Committee for Economic Development, as well as the advisory board of the American Antitrust Institute. He previously served on the international advisory board of the Principal Financial Group.

Dr. Litan is the author or co-author of 27 books and the editor of 14 others. He also has written over 200 articles in journals and national newspapers. His latest books include *Better Capitalism*, co-authored with Carl Schramm (2012); and *Good Capitalism, Bad Capitalism*, co-authored with William Baumol and Carl Schramm (2007), which is used widely in college courses and has been translated into 10 languages. His latest book, published by Wiley Press in the fall of 2014, is *The Trillion Dollar Economists*.

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Robert L. King

Robert King is a 1989 graduate of the Washington University School of Law. Upon graduation from law school, he clerked for a federal judge in Kansas City, Missouri for two years before entering private practice in 1991. In addition to the state bars of Missouri and Illinois, Mr. King is a member of the bars of the U.S. Court of Appeals for the Fifth, Seventh, Eighth, and Federal Circuits; the U.S. District Courts for the Eastern and Western District of Missouri and the Central and Southern District of Illinois; the U.S. Court of International Trade; and the Supreme Court of the United States. Mr. King has devoted his career exclusively to litigation over the past fifteen years, practicing in a variety of substantive areas of law while at Korein Tillery, including class actions, products liability, contracts and general business litigation. Mr. King has litigated on behalf of clients in state and federal courts at both the trial and appellate levels, including the Supreme Courts of the United States, Illinois, and Florida. Mr. King played a significant role in the *Garbe* litigation described below. Mr. King also participated in of the presidential election cases in Florida, *Taylor v. Martin County*, in December 2000.

Aaron M. Zigler

Aaron Zigler is a partner at Korein Tillery where he frequently represents consumers, whistle-blowers, and investors as plaintiffs in high-stakes litigation and appeals. Mr. Zigler is an accomplished writer and an active member of the American Society of Legal Writers. Prior to his legal career, Mr. Zigler worked in computer security for a Fortune 500 company and continued his interest in computer technology in law school by concentrating his studies in that area.

Mr. Zigler routinely bears the principal responsibility for the briefing and argument of dispositive and jurisdictional motions in a wide variety of complex cases. He also has extensive appellate experience, having been responsible for briefing and arguing such appeals as: *United States ex rel. Garbe v. Kmart Corp.*, No. 15-1502 (7th Cir. 2016); *C.M.D. ex rel. De Young v. Facebook, Inc.*, 621 F. App'x 488 (9th Cir. 2015) (argued); *Price v. Philip Morris, Inc.*, 2015 IL 117687 (Ill. 2015); *Holiday Shores Sanitary Dist. v. Syngenta Crop Prot., Inc.*, No. 111881 (Ill. Sept. 28, 2011); *Carr v. Gateway, Inc.*, 944 N.E.2d 327 (Ill. Feb. 3, 2011) (argued); *Holiday Shores Sanitary Dist. v. Syngenta Crop Prot., Inc.*, No. 05-10-0549 (Ill. App. Jan 13, 2011); *Carr v. Gateway Inc.*, 918 N.E.2d 598 (Ill. App. Ct. 2009) (argued); *Lott v. Pfizer Inc.*, No. 5-08-235 (Ill. App. Oct. 21, 2008); *Travis v. Allstate Ins. Co.*, No. 5-08-110 (Ill. App. Apr. 10, 2008); *Baldwin v. Mendelsohn*, No. 104487 (Ill. 2007); *Hoormann v. Smithkline Beecham Corp.*, No. 5-07-0033 (Ill. App. 2007); *Lott v. Pfizer Inc.*, 492 F.3d 789 (7th Cir. 2007) (argued); *Hoormann v. Smithkline Beecham Corp.*, No. 5-06-0624 (Ill. App. 2006); *Barbara's Sales, Inc. v. Intel Corp.*, 857 N.E.2d 717 (Ill. App. 2006); *Hubbert v. Dell Corp.*, 835 N.E.2d 113 (Ill. App. 2005); and *Pfizer Inc. v. Lott*, 417 F.3d 725 (7th Cir. 2005). Mr. Zigler played a significant role in the *Axiom*, *Senne*, *Garbe*, *City of Greenfield*, *Parker*, and *Hoormann* litigation described below.

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Mr. Zigler successes in the courtroom have been featured by the St. Louis Post-Dispatch (“Lawyer a Victor in Class Actions, Says He Fights For Little Guy,” St. Louis Post-Dispatch, June 29, 2008), by The American Lawyer (King & Spalding Lawyer Stirs State Judge’s Ire, 1 Am. Law., Jan. 2007, at 50) and the National Law Journal (e.g., The Plaintiffs’ Hot List, 30 Nat’l L.J., Nov. 22, 2007, at S7).

Steven M. Berezney

Steven Berezney is a partner at Korein Tillery’s St. Louis office. Mr. Berezney received his J.D. from the University of Illinois Urbana-Champaign College of Law in 2003 (*magna cum laude*), where he served as Editor-in-Chief of the Law Review. He is licensed in Missouri, Illinois, and New York, as well as the Supreme Court of the United States, the U.S. Court of Appeals for the Sixth, Seventh, and Eighth Circuits, and six federal district courts.

After law school, Mr. Berezney served as a judicial law clerk for Judge Laura Denvir Stith of the Supreme Court of Missouri. Upon completing his clerkship, Mr. Berezney joined Husch Blackwell in 2004 and became a Partner in 2012. While at Husch Blackwell, Mr. Berezney represented clients in the agriculture, retail, tax, financial, and consumer goods industries, including Fortune 500 companies, in complex litigation in both trial and appellate courts involving contract disputes and business torts. Mr. Berezney was part of the team that won a \$1 billion judgment that, at the time, was the fourth largest patent infringement jury verdict in U.S. history, according to Bloomberg. *Monsanto Co. v. E.I. DuPont de Nemours & Co.*, 4:09-cv-00686-ERW (E.D. Mo. Aug. 1, 2012). He also served as either lead or co-lead on bench and jury trials on behalf of both plaintiffs and defendants. *E.g.*, *TVI, Inc. v. InfoSoft Technologies, Inc.*, 4:06-cv-697-JCH, 2008 WL 239784 (E.D. Mo. 2008) (obtained a plaintiff’s verdict in a bench-tried breach of contract case involving undelivered hardware equipment and a terminated software license); *Intertel, Inc. v. Sedgwick Claims Mgmt. Servs., Inc.*, 02CC-000772 (Mo. Cir. Ct., Apr. 29, 2008) (obtained a favorable defense jury verdict on behalf of a claims management company in which plaintiff sought more than \$50 million in damages based on an alleged failure under a contract to refer claims for investigation).

Since joining Korein Tillery in September 2012, Mr. Berezney has been managing and litigating all aspects of multi-billion dollar cases in federal trial and appellate courts against Wall Street investment banks arising from misrepresentations made about residential mortgage-backed securities (“RMBS”) in violation of the federal 1933 Securities Act and state law. Mr. Berezney has played a significant role in obtaining over \$5 billion in recoveries for NCUA and CUNA Mutual as described below, including running or co-running several of the cases.

Michael E. Klenov

Michael Klenov is a partner at Korein Tillery’s St. Louis office. Mr. Klenov received his B.A. in Economics, International Studies, and Business Institutions from Northwestern University. While completing his undergraduate degree, Mr. Klenov spent a year studying

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economics and philosophy at the London School of Economics and Political Science. Mr. Klenov later graduated from the Washington University School of Law (*magna cum laude*, Order of the Coif) where he received a number of academic awards. While in law school, he served as a Senior Editor of the Washington University Law Review, where he also published his Note. *See Preemption and Removal: Watson Shuts the Federal Officer Backdoor to the Federal Courthouse, Conceals Familiar Motive*, 86 Wash. U. L. Rev. 1455 (2009) (cited by Wright & Miller, 14C Fed. Prac. & Proc. § 3726 (4th ed.)). During law school, Mr. Klenov interned for Chief Judge David R. Herndon of the U.S. District Court for the Southern District of Illinois.

Mr. Klenov is licensed to practice law in Illinois, Missouri, New York, California, and the District of Columbia, as well as numerous federal district and appellate courts. Mr. Klenov concentrates his practice on complex civil litigation in the areas of Securities, Antitrust, Qui Tam/Whistleblower claims, and Commercial Disputes. He represents individuals, governmental entities, and major companies in high-stakes lawsuits.

Since joining Korein Tillery, Mr. Klenov has achieved impressive results for both his individual and his business clients. He has been appointed as lead counsel in several nationwide class actions and has negotiated a number of multi-million dollar class settlements. In 2012, Mr. Klenov was part of the legal team that attained a \$105 million dollar settlement in historic environmental litigation on behalf of a large number of municipalities and the country's largest private water provider. Following the settlement, Public Justice named Mr. Klenov and the rest of the trial team as finalists for their national Trial Lawyer of the Year Award. For the past several years, Mr. Klenov has played a significant role in obtaining over \$5 billion in RMBS recoveries for NCUA and CUNA Mutual as described below. Mr. Klenov was also the lead attorney in a major ERISA/deferred-compensation lawsuit within the Fourth Circuit.

Randall P. Ewing, Jr.

Randall Ewing is a partner at Korein Tillery's Chicago office. Mr. Ewing attended the University of Louisville Law School where he earned the highest grade in nearly half of the classes that he took. Upon graduating *summa cum laude* in 2007, he clerked for Judge Gordon J. Quist of the U.S. District Court for the Western District of Michigan and then for Judge Kermit E. Bye of the U.S. Court of Appeals for the Eighth Circuit. Mr. Ewing is licensed to practice law in Illinois, Florida, the United States Court of Appeals for the Sixth and Eighth Circuits, and four federal district courts. Mr. Ewing concentrates his practice on complex civil litigation in the areas of Securities, Antitrust, Qui-Tam, and Commercial disputes.

Before joining Korein Tillery, Mr. Ewing was an associate at Boies Schiller Flexner. While there, Mr. Ewing was part of the team that brought a first-of-its-kind federal challenge to a state constitutional amendment banning same-sex marriage (California's Proposition 8), which was tried and found to be unconstitutional, and he was responsible for briefing

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dispositive issues in a False Claims Act trial that resulted in the largest relator-only jury verdict in history.

Since joining Korein Tillery, Mr. Ewing has been responsible for case investigation, preparing pleadings, taking and defending fact and expert depositions, working alongside experts, managing discovery, briefing dispositive and other legal issues, preparing witnesses for trial, conducting cross-examinations in a federal jury trial, and appeals. Mr. Ewing played a significant role in establishing materiality and rebutting defendant's loss causation defense in *NCUA v. RBS Sec., Inc. et al.*, 11-cv-2340- JWL-JPO (D. Kan.) & 2:11-cv-05887 GW-JEM (C.D. Cal.), described below. He is currently representing a class of investors in different cases pending in this Court against several Wall Street investment banks for improperly delaying or rejecting electronic foreign currency exchange trades through a practice known as "last look."

Carol O'Keefe

Carol O'Keefe is an attorney at Korein Tillery's St. Louis office. Mrs. O'Keefe received her B.A. from Yale College (*summa cum laude*) in 1983 after only three years of study, and she received her J.D. from Harvard Law School (*cum laude*) in 1986. She is licensed in New York, and focuses her practice on Antitrust and Commercial litigation.

After law school, Mrs. O'Keefe served as a judicial law clerk for Judge Michael A. Telesca of the U.S. District Court for the Western District of New York. Thereafter, and until 2008, Mrs. O'Keefe was an associate at Harter Secrest & Emery LLP, where she focused on complex litigation, including Antitrust, Securities, Employment Discrimination, Civil Rights, and Commercial Litigation. Mrs. O'Keefe also worked as an Adjunct Lecturer at the State University of New York at Brockport from 2012-2015, where she designed and taught courses in Modern Constitutional Law and Education Law.

Mrs. O'Keefe joined Korein Tillery in 2017, and she is currently representing a class of investors in different cases pending in this Court against several Wall Street investment banks for improperly delaying or rejecting electronic foreign currency exchange trades through a practice known as "last look."

Aidan McNamara

Aidan McNamara is an attorney at Korein Tillery's St. Louis office. Mr. McNamara received his law degree from the University of the West of England, UK, in 2002. He is licensed in Missouri, and focuses his practice on Securities and Commercial litigation.

Before joining Korein Tillery, Mr. McNamara worked for a St. Louis not-for profit whose mission was to promote development and investment in the local art district. He then joined Carey & Danis, where he worked mainly in pharmaceutical product liability. After joining

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Korein Tillery, Mr. McNamara was part of the *NCUA* litigation team that helped secure over \$5 billion in recoveries as described below.

Jamie Steinmetz

Jamie Steinmetz is an attorney at Korein Tillery's St. Louis office. Mrs. Steinmetz received her J.D. from St. Louis University Law School in 2005. She is licensed in Missouri, and focuses her practice on Securities and Commercial litigation. Mrs. Steinmetz was part of the *NCUA* litigation team that helped secure over \$5 billion in recoveries as described below.

In 2008, Mrs. Steinmetz was inducted into Missouri State's Athletic Hall of Fame for her achievements on the soccer field, and currently remains Missouri State's career leader in goals, assists, and points.

Peter Rocque

Peter Rocque is an attorney at Korein Tillery's St. Louis office. Mr. Rocque received his J.D. from Washington University in 2005. He is licensed in Missouri and Illinois, and focuses his practice on Antitrust, Consumer Protection, Qui Tam, and Commercial litigation. Mr. Rocque played a significant role in the *Garbe* litigation described on page 15 below.

The Firm's Recent Work:

SECURITIES

National Credit Union Administration Mortgage-Backed Securities Litigation.

The National Credit Union Administration ("NCUA") is the independent federal agency created by the U.S. Congress to regulate, charter, and supervise federal credit unions. On behalf of the NCUA, Korein Tillery and co-counsel Kellogg, Hansen, Todd, Figel & Frederick filed approximately 20 federal lawsuits throughout 2011-2013 alleging that Wall Street investment banks misled credit unions about the quality of certain residential mortgage-backed securities ("RMBS"), causing billions of dollars of losses that were insured by the NCUA. More specifically, NCUA alleged that these banks violated the federal Securities Act by representing in federally-regulated offering documents that all loans backing the RMBS complied with originator underwriting guidelines or were exceptions based on sufficient compensating factors when in fact the majority of the loans did not.

Throughout several years of contentious litigation, involving several successful appeals, Korein Tillery and Kellogg Hansen obtained more than \$5.1 billion in legal settlements on NCUA's behalf, including but not limited to:

- *NCUA v. JP Morgan Chase Bank*, 2:13-cv-02012-JWL (D. Kan.) (obtained \$1.4 billion settlement in Dec. 2013);

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- *NCUA v. RBS Sec., Inc.*, 1:13-cv-06726-DLC (S.D.N.Y.) (accepted offer of judgment for \$129.6 million plus fees in Sept. 2015);
- *NCUA v. Barclays Capital, Inc.*, 1:13-cv-06727-DLC (S.D.N.Y.) & 2:12-cv-02631-JWL (D. Kan.) (obtained \$325 million combined settlement in Oct. 2015);
- *NCUA v. Wachovia Capital Markets LLC*, 1:13-cv-06719-DLC (S.D.N.Y.) & 2:11-cv-02649-JWL (D. Kan.) (obtained \$53 million combined settlement in Oct. 2015);
- *NCUA v. Morgan Stanley & Co., Inc.*, 1:13-cv-06705-DLC (S.D.N.Y.) & 2:13-cv-02418-JWL (D. Kan.) (obtained \$225 million combined settlement in Dec. 2015);
- *NCUA v. Goldman Sachs and Co.*, 1:13-cv-06721-DLC (S.D.N.Y.) & 2:11-cv-06521-GW-JEM (C.D. Cal.) (obtained \$575 million combined settlement in Apr. 2016);
- *NCUA v. RBS Sec., Inc. et al.*, 11-cv-2340- JWL-JPO (D. Kan.) & 2:11-cv-05887 GW-JEM (C.D. Cal.) (obtained \$1.1 billion combined settlement in Sept. 2016);
- *NCUA v. UBS Securities, LLC*, 2:12-cv-02591-JWL (D. Kan.) (obtained \$445 million settlement in Mar. 2017); and
- *NCUA v. Credit Suisse Sec. (USA) LLC*, 2:12-cv-02648-JWL (D. Kan.) (obtained \$400 million settlement in Mar. 2017).

NCUA was the first federal regulatory agency for depository institutions to recover losses from investments in these securities on behalf of failed financial institutions. NCUA uses the net proceeds to reduce Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) assessments charged to federally insured credit unions to pay for the losses caused by the failure of five corporate credit unions.

Korein Tillery and Kellogg Hansen continue to prosecute several lawsuits on behalf of the NCUA against certain RMBS trustees regarding their alleged failure to perform their duties.

CUNA Mutual Mortgage-Backed Securities Litigation.

CMFG Life Insurance Company, CUMIS Insurance Society, Inc., and MEMBERS Life Insurance Company (collectively referred to as “CUNA Mutual”) are financial services and insurance firms that offer insurance, investment, and retirement products and services to credit unions and their members. Korein Tillery and Kellogg Hansen filed a series of individual lawsuits in 2011 and 2013 on behalf of CUNA Mutual against eight Wall Street investment banks seeking to recover losses on \$300 million of RMBS purchases using the novel common-law theory of contract rescission.

As in NCUA, CUNA Mutual alleged that the banks misrepresented in offering documents that all loans backing the RMBS complied with originator underwriting guidelines or were exceptions based on sufficient compensating factors. CUNA Mutual also alleged that the banks misrepresented that it conducted due diligence to verify the accuracy of its offering document representations. In mid-2015, an appellate court issued a favorable opinion in CUNA Mutual’s bellwether case approving of CUNA Mutual’s primary litigation arguments.

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CMFG Life Ins. Co. v. RBS Sec., Inc., 799 F.3d 729 (7th Cir. 2015). On remand, the case settled in December 2015 for a confidential amount. CUNA Mutual eventually settled its remaining RMBS cases over the next two years for confidential amounts. *See, e.g., CMFG Life Ins. Co. v. Credit Suisse Sec. (USA) LLC*, 3:14-cv-00249-wmc (W.D. Wis.) (settled in Oct. 2017); *CMFG Life Ins. Co. v. Morgan Stanley & Co., LLC*, 3:13-cv-00577-jdp (W.D. Wis.) (settled in Sept. 2017); *CMFG Life Ins. Co. v. J.P. Morgan Sec, LLC*, 3:13-cv-00580-wmc (W.D. Wis.) (settled in Mar. 2016).

FOREIGN EXCHANGE

***Axiom Investment Advisors, LLC v. Barclays Bank PLC*, No. 15-cv-9323-LGS (S.D.N.Y.) (Schofield, J.).**

From 2008-2015, Barclays Bank PLC acted as both a buyer and seller of various foreign and domestic currencies through various trading platforms. Instead of executing foreign exchange orders placed by Barclays' customers on these platforms, Barclays in secret instituted a "last look" policy that delayed execution of matched trades for several hundred milliseconds or even several seconds which allowed Barclays to determine through its algorithms whether the trade would be unfavorable to its position. If the matched trade would be unfavorable, Barclays reneged on the agreed price and rejected the trade or would place the order at a worse price. Barclays used last look to reject millions of trades that would otherwise have been executed.

Korein Tillery, along with its co-counsel Scott+Scott, Attorneys at Law, LLP and Hausfeld LLP, filed a class action against Barclays Bank PLC regarding its use of "last look," raising breach of contract and other claims. Both firms were appointed as class counsel by the court. Counsel was successful in securing a \$50 million settlement from Barclays on behalf of the class, which was ultimately approved by the court.

***Axiom Investment Advisors, LLC v. Deutsche Bank AG*, No. 15-cv-9945-LGS (S.D.N.Y.) (Schofield, J.).**

Similar to *Axiom v. Barclays*, Korein Tillery, Scott+Scott, and Hausfeld LLP filed a class action against Deutsche Bank AG regarding its use of "last look" from 2005 to the present. These firms were appointed as interim class counsel. They have been vigorously litigating the case and are finishing discovery. Plaintiffs will file their motion for class certification on January 15, 2018.

***Alpari (US) LLC v. BNP Paribas, S.A.*, 17-cv-05278 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. Credit Suisse Group AG*, 17-cv-05282 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. The Goldman Sachs Group, Inc.*, 17-cv-05275 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. Royal Bank of Scotland Group PLC*, 17-cv-05284 (S.D.N.Y.) (Schofield, J.).**

Similar to the two *Axiom* last look cases, Korein Tillery, Scott+Scott, and Hausfeld LLP filed a series of class action lawsuits in 2017 against several additional foreign exchange

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participants regarding their respective uses of “last look.” Defendants’ motions to dismiss are pending.

EMPLOYMENT

***Williams v. Rohm & Haas Pension Plan*, 4:04-cv-0078-SEB-WGH (S.D. Ind.).**

Korein Tillery filed this matter in 2002 alleging that the Rohm & Haas Pension Plan violated ERISA by failing to include the value of future cost-of-living adjustments in calculating lump-sum distributions from the Plan. After eight years of litigation, Korein Tillery obtained one of the largest settlements in the history of ERISA—\$180 million. In 2006, the case was certified and Plaintiffs won summary judgment convincing the district court that the terms of the Plan violated ERISA because a cost-of-living adjustment (COLA) is an “accrued benefit” requiring that it be included in lump-sum distributions. The district court’s decision was affirmed on interlocutory appeal. *Williams v. Rohm & Haas Pension Plan*, 497 F.3d 710, 714 (7th Cir. 2007) (“If a defined benefit pension plan entitles an annuitant to a COLA, it must also provide the COLA’s actuarial equivalent to a participant who chooses instead to receive his pension in the form of a one-time lump sum distribution.”), *cert. denied*, 128 S. Ct. 1657 (2008). Settlement approval and the fee award were later affirmed. 658 F.3d 629 (7th Cir. 2011).

***Senne v. The Office of the Comm’r of Baseball*, No. 14-CV-00608-JCS (N.D. Cal.).**

Plaintiffs in this action are former Minor League baseball players who allege that MLB and MLB’s member franchises failed to pay the players minimum wage or required overtime pay and sometimes failed to pay wages at all. Plaintiffs assert two claims under the federal Fair Labor Standards Act (“FLSA”) and an additional thirty-one under the wage-and-hour laws of eight states: California, Florida, Arizona, North Carolina, New York, Pennsylvania, Maryland and Oregon.

Defendants filed motions to dismiss for lack of personal jurisdiction and to transfer the action to Florida. On May 20, 2015, the Court denied Defendants’ request to transfer the action to Florida and granted in part and denied in part the motions to dismiss for lack of personal jurisdiction, dismissing eight of the thirty franchises from the action without prejudice. *Senne v. The Office of the Comm’r of Baseball*, No. 14-CV-00608-JCS, 2015 WL 2412245 (N.D. Cal. May 20, 2015).

On May 18, 2015, just before the Court issued its order addressing personal jurisdiction and venue, the franchises filed a motion to dismiss challenging Plaintiffs’ standing to assert claims under certain state laws. The Court denied the motion in its entirety. *Senne*, 2015 WL 4240716 (N.D. Cal. July 13, 2015).

On October 20, 2015, the Court granted Plaintiffs conditional certification pursuant to the Fair Labor Standards Act. *Senne*, 2015 WL 6152476 (N.D. Cal. Oct. 20, 2015). In July 2016, the Court decertified the FLSA collective, but it reconsidered that decision in March 2017: it

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re-certified an FLSA collective and certified a Rule 23 class of minor leaguers who played in California. *Senne v. Kansas City Royals Baseball Corp.*, No. 14-CV-00608-JCS, 2017 WL 897338 (N.D. Cal. Mar. 7, 2017). That decision is currently on appeal in the Ninth Circuit.

***Lightfoot v. Arkema, Inc. Ret. Benefits Plan*, CIV. 12-773 JBS/JS (D.N.J.).**

After the court certified a class of present and former plan participants, plaintiffs filed a motion for partial summary judgment on the issue whether the COLAs the Plan promised to participants who elected annuities were part of participants' "accrued benefit" under ERISA. The Plan countered with a motion for summary judgment arguing the statute of limitations had run on all class members' claims owing to statements in a 1994 Summary Plan Description (SPD) and other plan documents. Although the same judge had previously ruled that the statements in the SPD and Plan were "clear repudiations" in a companion case, Plaintiffs convinced the court to deny the Plan's motion for summary judgment and to grant plaintiffs' motion for partial summary judgment, finding that the COLAs promised annuitants are accrued benefits. 2013 WL 3283951 (D.N.J. June 27, 2013).

The case settled in 2014 with the average class member receiving \$11,000 in cash that could be rolled into a retirement account.

***Mansfield v. ALPA*, 06-c-6869 (N.D. Ill.).**

Beginning in 2001, United Airlines encountered financial difficulties that ultimately culminated in its filing for bankruptcy protection. During the course of United's reorganization in bankruptcy, United sought to terminate its pilots' defined benefit pension plan. In exchange for ALPA's agreement not to oppose the termination of the pension plan, United agreed to provide ALPA with \$550 million in convertible notes. ALPA, through its United Airlines Master Executive Council ("MEC"), was tasked with allocating the proceeds from the sale of the convertible notes among the pilots. The MEC selected an allocation method that divided the note proceeds based upon each pilot's lost accrued benefits and lost projected benefits.

Plaintiffs filed this case in 2006 contending that ALPA breached its duty of fair representation in discriminating between its members in allocating the proceeds from the sale of \$550 million in convertible notes. Plaintiffs prevailed on a number of complex and novel issues in the trial court. For example, ALPA moved to exclude retirees from the class, arguing that a union owes no duties to retired pilots under the Railway Labor Act. The court denied ALPA's motion, agreeing with Plaintiffs that because ALPA represented the retirees when it negotiated the convertible notes, it owed them a duty even though the retirees were no longer a part of the bargaining unit. *Mansfield v. ALPA*, 2007 WL 2903074 (N.D. Ill. Oct. 1, 2007). After Plaintiffs also successfully opposed motions for summary judgment, 2009 WL 2386281 (N.D. Ill. Jul. 29, 2009), and to decertify the class, 2009 WL 2601296 (N.D. Ill. Aug. 20, 2009), the parties reached a settlement two-weeks before trial. Per the settlement, ALPA funded an aggregate settlement fund of \$44 million to be directly paid to class members. *Mansfield v. ALPA*, No. 06C6869 (N.D. Ill. Dec. 14, 2009). The settlement is

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believed to be one of the largest ever in a duty of fair representation case, in which unions are sued over their responsibility to fairly represent their members.

OTHER PRACTICE AREAS

***United States ex rel. Garbe v. Kmart Corp.*, 3:12-cv-00881-NJR-PMF (S.D. Ill.).**

Since 2004, Kmart pharmacies have charged low, flat-rate prices for certain generic drug prescriptions when those drugs are purchased by customers who paid entirely out of their own pockets with no insurance coverage. Since the beginning of the Medicare Part D drug program on January 1, 2006, however, Kmart has charged higher prices—often significantly higher prices—to customers with Medicare Part D coverage for the purchase than it charges self-paying customers for the same prescription. For example, Kmart charged cash customers \$10 for a 60-day supply of 500 mg Naproxen (available in non-prescription strength as Aleve®), but charged the Government \$58.79 for the same prescription.

Korein Tillery and co-counsel Phillips & Cohen filed a False Claims Act case against Kmart after the government declined to intervene. In the litigation, Kmart never disputed that it charges cash-paying customers lower prices than it charges to the Government. Instead, Kmart contended that it was never required to charge the Government the lower prices because those are not the prices Kmart charges to “the general public.” Rather, Kmart claimed its cash-customers are not the “general public” but rather members of an exclusive “club” through which they are offered the discount prices, even though as a practical matter the discount prices are the prices Kmart charges to all its cash customers. Kmart also has no record of denying any cash-paying customer “membership” in Kmart’s “club.” The U.S. District Court for the Southern District of Illinois rejected Kmart’s arguments and denied its motions for summary judgment. Kmart appealed, but the Seventh Circuit affirmed the district court in large part. *United States ex rel. Garbe v. Kmart Corp.*, 824 F.3d 632 (7th Cir. 2016). After remand, the case settled in late-2017 with Kmart agreeing to pay approximately \$59 million.

***City of Greenville v. Syngenta Crop Prot., Inc.*, 3:10-CV-188-JPG-PMF (S.D. Ill.).**

On October 23, 2012, the U.S. District Court for the Southern District of Illinois entered an order approving a \$105 million class-action settlement designed to compensate Community Water Systems throughout the United States for the cost of removing the pesticide atrazine from public drinking water. The litigation between Class Members and Syngenta dated back to July 2, 2004, when Holiday Shores Sanitary District filed six separate lawsuits against manufacturers and distributors of atrazine and atrazine-containing products in the Illinois Circuit Court in Madison County.

Atrazine is used to control broadleaf and grassy weeds in a variety of crops, but is applied primarily to corn fields. Atrazine has been one of the most heavily used pesticides in the U.S. Two of atrazine’s key chemical characteristics—that it does not readily bind to soil, and that

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it persists in the environment—dramatically increase atrazine’s effectiveness as an herbicide. However, because atrazine does not bind to soil, it easily runs off of fields with rainfall and contaminates surface waters such as the rivers, lakes, and reservoirs that act as drinking-water supplies for public water providers.

Plaintiffs alleged that atrazine had continuously entered their water supplies and as a result of this contamination, they had to filter atrazine from their water sources. After eight years of litigation, Plaintiffs secured a \$105 million settlement fund to be distributed to several hundred community water systems for costs of filtration of atrazine from their drinking-water supplies. *City of Greenville v. Syngenta Crop Prot., Inc.*, No. 3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012); *see also* 904 F. Supp. 2d 902 (S.D. Ill. 2012) (granting final approval of settlement and attorneys’ fees). The settlement amounted to approximately 76% of the \$139 million estimated to be the Class’s maximum potential recovery.

To facilitate the settlement claims process, Korein Tillery lawyers collected 20 years of atrazine testing data into a database that was made available to each Class Member through a settlement website. From there, Claimants were able to view the test data already collected for their system and provide additional evidence of atrazine contamination to claim their share of the settlement fund. Although many class actions experience claims rates of less than 15%, in this case virtually all settlement funds were distributed to class members.

Public Justice honored the Korein Tillery lawyers representing the plaintiffs in this case as finalists for its Trial Lawyer of the Year award.

Missouri Utility Tax Litigation

Since 2007, Korein Tillery has represented Missouri municipalities in class action litigation that sought to recover unpaid license taxes. In suits against wireless and wireline carriers, Korein Tillery attorneys recovered hundreds of millions of dollars of license tax revenues—both retrospectively and prospectively—for more than 350 cities throughout Missouri. Considering the full amount of future tax payments, Korein Tillery will have recovered more than \$1 billion for Missouri municipalities by 2017. As a result of their work in these cases, the Missouri Lawyers Weekly recognized Korein Tillery partners John W. Hoffman and Douglas R. Sprong with awards in the “largest plaintiff wins” category in 2007, 2009, 2010, 2015, and 2017.

In 2012, Korein Tillery was successful in persuading the Supreme Court of Missouri to issue an extraordinary writ (mandamus) declaring unconstitutional a state statute that sought to sweep away this litigation by barring cities and towns from serving as class representatives. *State ex rel. Collector of Winchester v. Jamison*, 357 S.W.3d 589 (Mo. 2012).

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Parker v. Sears, Roebuck & Co., Case No.: 04-L-716 (Ill. Cir. Ct. Sept. 18, 2007).

Korein Tillery brought this action against Sears in 2004 to remedy Sears's failure to install anti-tip safety devices, which prevent ranges from tipping over and severely burning or injuring unsuspecting consumers, on ranges that it sold, delivered, and set-up in customers' homes. In the 1960s and 1970s, kitchen range manufacturers started reducing the weight of metal in an effort to competitively lower the price of kitchen ranges. Over the course of several years, advances in materials allowed manufacturers to produce ranges which were durable and which were extremely light weight. However, because the oven doors on the front of the ranges serve as a lever and fulcrum, the light weight of the new ranges created an extremely dangerous tipping hazard. For example, if a person were to place a turkey roaster on an open and horizontal oven door, the added weight would cause these newly designed ranges to tip forward spilling the hot contents onto anyone standing in the vicinity. Children who opened and used the range door as a step could unwillingly tip boiling liquids onto themselves. Over the last several years dozens of people have been killed and hundreds have been maimed as a result of this problem.

Recognizing the need for a solution to this dangerous hazard, manufacturers and regulators began requiring installation of an anti-tip bracket that could be attached to the wall or floor at the back end of the range, preventing any forward tipping and maintaining complete stability. The installation is simple and the lightweight bracket costs pennies. The rule making bodies of most codes (BOCA Code, National Electrical Code; numerous other industry codes) thereafter required the installation of anti-tip brackets in all range installations in the United States. Even Sears acknowledged that a properly installed anti-tip bracket completely eliminates the hazards of tipping stoves.

Sears, Roebuck & Company at the time was the largest retail seller of kitchen ranges in the United States—averaging more than 800,000 ranges sold every year. When selling a gas or electric range Sears generally includes delivery, installation, and hookup in customers' homes; thus, Sears became the largest installer of kitchen ranges in the United States. To increase its profits, Sears adopted a policy of refusing to install anti-tip brackets during normal installation unless the customer agreed to incur a substantial cost. At the same time, Sears failed to disclose the hazards associated with forgoing anti-tip bracket installation.

In January 2008, the Court granted final approval of a settlement which provided complete relief to the class by requiring Sears to install anti-tip brackets for the affected members of the class as well as requiring the installation of such brackets in the future. The settlement is valued at more than \$544.5 million.

This settlement was touted by the public interest organization Public Citizen as an example as to how consumer class actions benefit society. Public Citizen nominated Stephen Tillery as Trial Lawyers for Public Justice's Trial Lawyer of the Year based upon his role in this case.

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***Hoormann v. SmithKline Beecham Corp.*, 04-L-715 (Ill. Cir. Ct. May 17, 2007).**

In July 2004, Korein Tillery filed suit on behalf of a nationwide class of purchasers alleging that SmithKline Beecham promoted Paxil® and Paxil CR™ for prescription to children and adolescents despite having actual knowledge that these drugs exposed children and adolescents to dangerous side effects while failing to treat their symptoms. Following three years of litigation, Korein Tillery obtained a settlement that established a \$63.8 million dollar fund to reimburse class members 100% of their out-of-pocket expenses. This case was featured in *The American Lawyer*, Aruna Viswanatha, *King & Spalding Lanyer Stirs State Judge's Ire*, [29] 1 Am.Law., Jan. 2007, at 50, and mentioned in the *National Law Journal*. *The Plaintiffs' Hot List*, 30 Nat'l L.J. S8 (Nov. 22, 2007).

EXHIBIT 5

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

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

$$\begin{matrix} \mathbf{x} \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ \mathbf{x} \end{matrix}$$

No. 1:13-cv-07789-LGS

**DECLARATION OF DAVID KOVEL
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF KIRBY McINERNEY LLP**

I, David Kovel, declare as follows:

1. I am a partner at the law firm of Kirby McInerney LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm (working closely with the law firm Morris & Morris and later Cafferty Clobes, Merriwether & Sprengel), as Plaintiffs' Counsel, researched and initiated the original on-exchange (e.g., futures) litigation on behalf of future traders. This initial work included intensive research of the commodities markets and their relationship to the broader foreign exchange market. This work was expert-intensive and also involved legal research into new claims under the Commodity Exchange Act ("CEA"). The expert related work involved econometric analysis

to connect the futures market to the alleged foreign exchange manipulations and studies to measure the overall size of the relevant foreign exchange markets, including the futures markets. Some of the legal issues we evaluated under the Commodity Exchange Act included standards of intent, pricing of FX instruments in the futures and the spot (underlying commodity) markets, and jurisdictional implications of suing foreign banks under the CEA. In addition, my firm spent time evaluating the nature of the extant foreign exchange litigation to understand the pleadings and the breadth of the asserted claims and later the dimensions of the first and subsequent settlement as it pertained to futures transactions. Upon inclusion in the broader plaintiffs' litigation structure, my firm oversaw and worked with other firms to act as a fiduciary and advocate on behalf of futures traders. Among other work, my firm participated in settlement negotiations and the allocation of settlement proceeds between our clients and traders of over-the-counter foreign exchange products; researched and drafted the briefing on the various issues in the second motion to dismiss, in particular the issues pertaining to the futures traders, such as those under the Commodity Exchange Act; and reviewed documents produced in discovery. Additionally, my firm has been involved in preparing for class certification as well as undertaking targeted analysis of the cooperation materials to prepare for witness depositions as to several of the settling defendants.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records

regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 14,760.75. The total lodestar reflected in Exhibit 1 is \$7,456,023.75, consisting of \$7,400,537.50 for attorneys' time and \$55,486.25 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$579,501.05 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.



David Kovel

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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KIRBY McINERNEY LLP
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Karen Lerner	1,338.25	\$850.00	\$1,137,512.50
David Kovel	737.25	\$985.00	\$726,191.25
Daniel Hume	109.75	\$985.00	\$108,103.75
Robert Gralewski	120.50	\$810.00	\$97,605.00
Andrew McNeela	15.50	\$850.00	\$13,175.00
Of Counsel			
Sawa Nagano	2,373.50	\$425.00	\$1,008,737.50
Lauren Wagner Pederson	601.00	\$750.00	\$450,750.00
Ed Varga	60.00	\$650.00	\$39,000.00
Associates			
Fatima Brizuela	1,383.75	\$375.00	\$518,906.25
Karina Kosharskyy	1,053.00	\$425.00	\$447,525.00
Meghan Summers	142.00	\$700.00	\$99,400.00
Elizabeth Brehm	169.00	\$575.00*	\$89,675.00
Thomas Elrod	106.75	\$700.00	\$74,725.00
Anthony Maneiro	123.50	\$350.00	\$43,225.00
Melissa Fortunato	59.75	\$475.00	\$28,381.25

* Approximately 50.00 hours of Elizabeth Brehm's hours were billed at an hourly rate of \$425.00.

NAME	HOURS	HOURLY RATE	LODESTAR
Staff Attorneys			
Marko Radisavljevic	3,055.75	\$400.00	\$1,222,300.00
Amelia McDermott	1,427.00	\$425.00	\$606,475.00
Peter Brueggen	994.00	\$425.00	\$422,450.00
Clarence Pollard	309.50	\$425.00	\$131,537.50
C. Joy Amuzie	298.50	\$425.00	\$126,862.50
Parul Sharma	20.00	\$400.00	\$8,000.00
Paralegals			
Valeriya Tatisheva	113.00	\$210.00	\$23,730.00
Miriam Bial	39.00	\$250.00	\$9,750.00
Rona Li	42.25	\$225.00	\$9,506.25
Wilona Karnadi	20.00	\$250.00	\$5,000.00
Malavika Krishnan	11.75	\$250.00	\$2,937.50
Litigation Support			
Ricardo Wright	36.50	\$125.00	\$4,562.50
TOTALS	14,760.75		\$7,456,023.75

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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KIRBY McINERNEY LLP
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$400.00
Online Legal Research	\$10,671.22
Document Management/Litigation Support	\$3,274.11
Telephones/Faxes	\$1,453.15
Postage & Express Mail	\$94.75
Local Transportation	\$739.21
Out of Town Travel*	\$3,795.63
Meals*	\$6,129.76
Court Reporters and Transcripts	\$69.64
Experts	\$267,873.58
Contributions to Litigation Fund	\$285,000.00
TOTAL EXPENSES:	\$579,501.05

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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KIRBY McINERNEY LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

About our Firm

Kirby McInerney LLP ("KM") is a specialist litigation firm with expertise in commodities, antitrust, securities, and other consumer matters. KM has been a pioneer in finance and class action law, and is one of the oldest firms in the field, with over 70 years of experience. With its long track record, KM's experience in sophisticated financial cases is remarkable.

In commodities litigation, KM has been involved in some of the most cutting-edge areas of futures manipulation cases, currently as co-lead counsel of the commodity (Eurodollars futures contract) portion of *In Re: Libor-Based Financial Instruments Antitrust Litigation*, No. 11-md-02262 (NRB) (S.D.N.Y.). KM is sole lead counsel in *In re North Sea Brent Crude Oil Futures Litigation*, No. 13-md-02475 (ALC) (S.D.N.Y.) and co-lead counsel in other commodities cases such as *Anastasio v. Total Gas & Power North America, Inc. et al.*, No. 15-cv-09689 (S.D.N.Y.). KM also recently won a victory at the Second Circuit in a landmark silver manipulation case establishing pleading standards for monopolization claims in futures markets (*Wacker v. JP Morgan Chase, et al.*, Nos. 16-2482-cv (L), 16-2484-cv (CON), 16-2530-cv (CON) (2d Cir. 2017)). In addition, KM participated in a seminal case involving Sumitomo Corporation's manipulation of the copper market. KM has represented market makers and hedge funds in commodities manipulation cases involving silver, propane and fixed income products. KM's experience in commodities manipulation, in cases brought under the Commodities Exchange Act or under the Sherman Act and state law analogs, spans the markets for gasoline, propane, cement, concrete, steel, potash, silver and even fixed income products.

Notable examples of KM's securities cases include representation of an investment fund that acted as lead counsel for a certified class of purchasers of Preferred Redeemable Increased Dividend Equity Securities in connection with Cendant Corporation's accounting fraud. KM secured a \$350 million settlement – an unprecedented 100 percent recovery for the investors. Also, representing a bank as lead plaintiff, KM acted as co-lead counsel in a securities action brought against Adelphia Communications Corporation, obtaining a \$455 million settlement for the class. KM also represented the New York State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses, which settled for \$168 million.

Our lawyers are exceptionally well versed in commodities markets and litigation. David Kovel, the partner most involved in commodities litigation, was a commodities trader prior to receiving his JD/MBA and worked in the commodities export markets. As a commodities trader, Mr. Kovel took financial risk in futures and options markets and traded physical markets in US, Europe, Asia and Latin America. He became a specialist at trading in futures delivery markets and understanding the relationship between futures prices and the physical spot market. In addition, Mr. Kovel developed experience in commodities markets through his work in Nicaragua on agricultural export financing projects funded by the U.S. Government. Mr. Kovel is a member of the New York City Bar Association Futures and Derivatives Committee.

Some of our recent commodities and securities work includes:

- *In Re: Libor-Based Financial Instruments Antitrust Litigation*, No. 11-md-02262 (NRB) (S.D.N.Y.); *FTC Capital GMBH et al. v. Credit Suisse Group AG et al.*, No. 11-cv-02613 (NRB) (S.D.N.Y.) (\$150 million in settlement, action continuing);
- *Wacker v. JP Morgan Chase, et al.*, Nos. 16-2482-cv (L), 16-2484-cv (CON), 16-2530-cv (CON) (2d Cir. 2017) (reversal of lower court dismissal);
- *In re North Sea Brent Crude Oil Futures Litigation*, No. 13-md-02475 (ALC) (S.D.N.Y.);
- *Anastasio v. Total Gas & Power North America, Inc. et al.*, No. 15-cv-09689 (S.D.N.Y.);
- *In re Citigroup Inc Securities Litigation*, No. 07-cv-990 (S.D.N.Y.);
- *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions*, No. 05-cv-01671 (C.D. Cal. 2005);
- *In re BP Propane Indirect Purchaser Antitrust Litigation*, No. 06-cv-3541 (N.D. Ill. 2010);
- *In re Florida Cement and Concrete Antitrust Litigation (Indirect Purchaser Action)*, No. 09-cv-23493 (S.D. Fla. 2010);
- *In re Potash Antitrust Litigation*, No. 08-cv-06910 (N.D. Ill. 2008);
- *In re Commodity Exchange, Inc., Silver Futures and Options Trading Litigation*, No. 11-md-02213 (RPP) (S.D.N.Y. 2011);
- *Supreme Auto Transport LLC v. Arcelor Mittal, et al.*, No. 08-cv-05468 (N.D. Ill. 2008); and
- *Zuccarelli, et al. v. Sumitomo Corp. Amer., et al.*, No. 96-cv-04584 (S.D.N.Y. 2005).

Partners



Thomas W. Elrod is a partner based in our New York office focusing on securities, commodities, antitrust and whistleblower litigation. Mr. Elrod joined the firm in 2011.

Recent cases on which Mr. Elrod has worked include:

- *In re Citigroup Inc. Securities Litigation*, a class action, in which Kirby McInerney served as lead counsel, arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million;
- Representation of exchange-based investors in futures, swaps, and other Libor-based derivative products, alleging that defendant banks colluded to misreport and manipulate Libor Rates. This litigation is ongoing;
- Representation, as lead counsel on behalf of a proposed class of futures traders in *In re North Sea Brent Crude Oil Futures Litig.*, alleging benchmark manipulation. This litigation is ongoing;
- Representation, as co-lead counsel, of a proposed class of natural gas traders in a class action lawsuit against Total Gas & Power North America, Inc. (TGPNA) alleging price manipulation of physical natural gas as well as price manipulation of natural gas futures and other derivative natural gas contracts. This litigation is ongoing;
- Representation of municipal issuers of Auction Rate Securities in FINRA arbitrations alleging misrepresentations by underwriters;
- Representation, as lead counsel, in *In re Hi-Crush Partners L.P. Securities Litigation*, alleging that fracking sand producer Hi-Crush Partners misled shareholders prior to its initial public offering. This case resulted in a \$3.8 million settlement while class certification was pending;
- Representation of a nationwide class of residential mortgage loan borrowers in *Rothstein v. GMAC Mortgage LLC*, a class action alleging violations of the Racketeer Influence and Corrupt Organizations Act. This litigation resulted in a \$13 million settlement against GMAC Mortgage; and
- Representation of whistleblowers who claim that their companies have violated federal law or defrauded the United States Government.

Mr. Elrod is admitted to the New York State Bar, the New Jersey State Bar, the United States District Courts for the Southern and Eastern Districts of New York, the United States District Court for the District of New Jersey, and the United States Courts of Appeals for the 2nd and 9th Circuits. He graduated from the University of Chicago (B.A., 2005) and from the Boston University School of Law (J.D., 2009).



Robert J. Gralewski, Jr. is a partner based in our California office. Mr. Gralewski focuses on antitrust and consumer litigation and has been involved in the fields of complex litigation and class actions for over 15 years. Throughout the course of his career, Mr. Gralewski has prosecuted a wide variety of federal and state court price-fixing, monopoly and unfair business practice actions against multinational companies, major corporations, large banks, and credit card companies.

Some of Mr. Gralewski's relevant work includes:

- Representation of businesses and consumers in indirect purchaser class actions throughout the country against Microsoft for overcharging for its products as a result of its unlawful monopoly. Mr. Gralewski was a member of the trial teams in the Minnesota and Iowa actions (the only two Microsoft class actions to go to trial) which both settled in plaintiffs' favor after months of hard-fought jury trials. The Microsoft cases in which Mr. Gralewski was involved in ultimately settled for more than \$2 billion in the aggregate;
- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion;
- Representation of businesses and consumers of thin-film transistor liquid crystal display (TFT-LCD) products who were harmed by an alleged price-fixing conspiracy among TFT-LCD manufacturers; and
- Representation of businesses and consumers in an indirect purchaser class action against various manufacturers of SRAM, alleging that defendants engaged in a conspiracy to fix prices in the SRAM market.

Mr. Gralewski is a member of the California State Bar and is admitted to practice in state and all federal courts in California as well as several federal courts throughout the country. He graduated from Princeton University (B.A., 1991) and *cum laude* from California Western School of Law (J.D., 1997).



Daniel Hume is a partner in our New York office and is a member of the firm's management committee. Mr. Hume's practice focuses on securities, structured finance, and antitrust litigation. He joined the firm in 1995 and has helped to recover billions of dollars for corporate consumers, individual consumers, and institutional investors throughout the course of his career.

Some of Mr. Hume's relevant work includes:

- Representation, as lead counsel, of a group of Singapore-based investors in a securities class action against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley routed Pinnacle investors' principal into synthetic collateralized debt obligations (CDOs) that it built to fail and then bet against. As the CDOs failed by design, plaintiffs' principal was swapped to Morgan Stanley, enriching Morgan Stanley while rendering the Pinnacle Notes an all-but-total loss. This case settled for \$20 million;
- Representation, as lead counsel, of the investor class in *In re AT&T Wireless Tracking Stock Securities Litigation*, a securities class action which resulted in recovery of \$150 million for the class; and
- Representation, as lead counsel, of consumer classes in connection with antitrust proceedings against Microsoft in the United States and Canada. So far, these litigations have resulted in settlements totaling nearly a billion dollars for consumers in Florida, New York, Tennessee, West Virginia and Minnesota, where the litigation proceeded to trial.

Mr. Hume is admitted to the New York State Bar and federal courts around the country, including the United States District Courts for the Southern and Eastern Districts of New York, the United States Court of Appeals for the Second, Third, Fourth, Fifth, Eighth and Ninth Circuits, the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, and the United States Supreme Court. He graduated from the State University of New York at Albany *magna cum laude* (B.A. Philosophy, 1988) and from Columbia Law School, where he served as Notes Editor for the Columbia Journal of Environmental Law (J.D., 1991).



David E. Kovel is a partner based in our New York office and is a member of the firm's management committee. Mr. Kovel's practice focuses on whistleblower, antitrust, commodities, securities and corporate governance matters. Mr. Kovel joined the firm in 2004.

Recent cases in which Mr. Kovel has been involved include:

- *In re Libor-Based Financial Instruments Antitrust Litigation*. Court appointed co-liaison counsel for all class actions in the multi-district litigation and co-lead counsel for exchange-based class alleging the fixing of prices of a benchmark interest rate. Obtained a \$20 million settlement with one of 16 defendants (the first settlement in the ongoing complex litigation). Remaining claims are pending;
- Representation, as counsel for lead plaintiff and other share holders in a derivative action brought against members of the Board of Directors and senior executives of Pfizer, Inc. for breach of fiduciary duty. Pfizer agreed to pay a proposed settlement of \$75 million and to make groundbreaking changes to the Board's oversight of regulatory matters;
- Representation of purchasers of pharmaceutical drugs claiming to have been harmed by Branded manufacturers who fraudulently extended patent or other regulation monopolies;
- Representation, as lead counsel, of a class of New York State consumers in connection with antitrust proceedings against Microsoft;
- Representation, as lead counsel, of a class of gasoline purchasers in California in connection with Unocal, Inc.'s manipulation of the standard-setting process for gasoline. The litigation resulted in a \$48 million recovery for the class;
- Representation, as lead counsel in *In re North Sea Brent Crude Oil Futures Litig* on behalf of a proposed class of traders alleging benchmark manipulation. This litigation is ongoing;
- Representation of propane purchasers who were harmed by BP America's manipulation of the physical propane market; and
- Representation of various whistleblowers who claim that their companies have defrauded the United States Government or other state and city governments.

Mr. Kovel also has an active pro bono practice, having represented, among others, clients in need of housing referred through the office of *pro se* litigation in the Southern District of New York, clients in foreclosure matters, and a Latino soccer association in its efforts organize and obtain a fair proportion of field time from a municipality.

Mr. Kovel is admitted to the New York State Bar, the United States District Courts for the Southern, Eastern, and Western Districts of New York, the United States Court of Appeals for the First Circuit, and the Connecticut State Bar. He is a member of the New York City Bar Association Committee on Futures and Derivatives Regulation, and is a former member of the New York City Bar Association Antitrust Committee. He graduated from Yale University (B.A.), Columbia University School of Law (J.D.) and Columbia University Graduate School of Business (M.B.A.). Mr. Kovel traded commodities for several years before attending law school. Prior to joining KM, Mr. Kovel practiced at Simpson Thacher & Bartlett LLP. He is fluent in Spanish.



Karen M. Lerner is a partner and practices out of the New York office. She focuses on antitrust, commodities and healthcare fraud. Ms. Lerner joined the firm in 2015, and has been a practicing attorney since 1991, handling numerous state and federal actions, including disciplinary, trial and appellate matters.

Some of Ms. Lerner's relevant work includes:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market.

The case has already resulted in a partial settlement of more than \$2 billion;

- Representation, as co-lead counsel, of exchange-based investors in futures, swaps, and other Libor-based derivative products, alleging that defendant banks colluded to misreport and manipulate Libor rates; and
- Representation as a counsel in the benchmark rate antitrust litigation on behalf of a putative class of investors who traded futures and options contracts on the NYSE LIFFE exchange against global financial institutions responsible for the setting the Euro Interbank Offered Rate ("Euribor"). The case has already resulted in a partial settlement of more than \$90 million.

Ms. Lerner is admitted to the New York State Bar, New Jersey State Bar, United States Supreme Court, U.S. District Court for the Eastern District of New York, U.S. District Court for the District of New Jersey, U.S. Court of Appeals for the 3rd Circuit, and the United States District Court for the Southern District of New York. Ms. Lerner graduated from the University of Albany – SUNY (B.A. 1988, *summa cum laude*), and the University of Pennsylvania School of Law (J.D. 1991).

Prior to joining KM, Ms. Lerner was Of Counsel at McDonough, Korn & Eichhorn, where she worked cases involving professional liability defense, negligence, insurance coverage, and products liability.



Andrew M. McNeela is a partner in our New York office focusing on securities and structured finance litigation. Mr. McNeela joined the firm in 2008.

Some of Mr. McNeela's relevant work includes:

- Representation of the New York City Pension Funds as lead plaintiff in a class action against Wachovia Corporation arising from Wachovia's alleged misrepresentations of their exposure to the subprime market. This case resulted in a settlement of \$75 million;
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. This case resulted in a settlement of \$168 million;
- Representation, as lead counsel, a group of Singapore-based investors in a securities class action against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley routed Pinnacle investors' principal into synthetic collateralized debt obligations (CDOs) that it built to fail and then bet against. As the CDOs failed by design, plaintiffs' principal was swapped to Morgan Stanley, enriching Morgan Stanley while rendering the Pinnacle Notes an all-but-total loss. This case settled for \$20 million;
- Representation, as lead counsel, in the securities class action *In Re Herley Industries Inc. Securities Litigation* on behalf of investors. This litigation resulted in a recovery of \$10 million for the class; and
- Representation, as lead counsel, of investors in Goldman Sachs common stock in a securities class action case pertaining to Goldman's alleged instruction to their research analysts to favor procurement of investment banking deals over accuracy in their research. Disclosure caused Goldman Sachs' stock to decline materially. This litigation resulted in a recovery of \$29 million for the class.

Immediately prior to joining KM, Mr. McNeela served as an Assistant United States Attorney in the Civil Division of the United States Attorney's Office for the Southern District of New York. In this capacity, he represented the United States in a wide array of civil litigation. Mr. McNeela has argued over twenty cases before the United States Court of Appeals for the Second Circuit. In 2013, he was named one of the top attorneys under 40 by Law360's Rising Stars.

Mr. McNeela is admitted to the New York State Bar, the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Southern and Eastern Districts of New York. He is a member of the New York American Inn of Court. He graduated from Washington University (B.A., 1995) and from Hofstra University School of Law (J.D., 1998, *cum laude*), where he was a member of the Law Review.



Meghan Summers is a partner based in our New York office focusing on securities, structured finance, and antitrust litigation. Ms. Summers previously worked at the firm as a paralegal and law clerk before joining the firm in September 2012 as an associate.

Ms. Summers has recently worked on the following cases:

- Representation of a group of Singapore-based investors in a securities class action against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley routed Pinnacle investors' principal into synthetic collateralized debt obligations (CDOs) that it built to fail and then bet against. As the CDOs failed by design, plaintiffs' principal was swapped to Morgan Stanley, enriching Morgan Stanley while rendering the Pinnacle Notes an all-but-total loss. This case settled for \$20 million;
- An individual lawsuit against Morgan Stanley pertaining to four fraudulent collateralized debt obligations. Plaintiff alleges that Morgan Stanley represented that independent collateral managers would select safe, high-quality reference entities to be included in the collateralized debt obligations' underlying portfolios, but that in reality, Morgan Stanley controlled portfolio selection and chose high-risk collateral, while actively shorting that same collateral in order to enrich itself at its client's expense;
- Individual lawsuits against Morgan Stanley, Credit Agricole Corporate and Investment Bank, UBS, Deutsche Bank, Credit Suisse, Goldman Sachs, JP Morgan, and Barclays pertaining to a number of fraudulent structured investment vehicles and asset-backed collateralized debt obligations;
- An individual securities fraud action against BP plc related to the Deepwater Horizon explosion on April 20, 2010, and the subsequent drop in BP's share price; and
- Individual securities fraud actions against Merck and Schering-Plough related to the commercial viability of the companies' anti-cholesterol medication Vytarin, and the subsequent drop in Merck's and Schering-Plough's share price.
- *In re MOL Global Inc. Securities Litigation*, a class action lawsuit alleging that e-payment enabler MOL Global misled shareholders prior to its initial public offering.

As a law clerk, Ms. Summers worked on a variety of matters including *In re Citigroup Inc. Securities Litigation*, *In re Wachovia Corporation*, *In re Libor-Based Financial Instruments Antitrust Litigation*, *Dandong v. Pinnacle Performance Limited*, and private antitrust proceedings against Microsoft in the United States and Canada.

Ms. Summers is admitted to the New York State Bar, the United States District Courts for the Southern and Eastern Districts of New York, the United States District Court for the District of Colorado, and the United States Court of Appeals for the 3rd Circuit. She graduated from Cornell University *summa cum laude* where she was ranked first in her major (B.S., 2008) and from Pace University School of Law *summa cum laude* where she was Salutatorian of her class (J.D., 2012).

Of Counsel



Sawa Nagano is of counsel to the firm. She focuses on the representation of clients in relation to price-fixing litigation under the Sherman Antitrust Act and other federal and state laws to recover overcharges caused by international price-fixing cartels. Ms. Nagano joined the firm in 2013.

Recent cases on which Ms. Nagano has worked include:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market.

The case has already resulted in a partial settlement of more than \$2 billion; and

- Representation of an end-user class of businesses and consumers in connection with *In Re: Cathode Ray Tube (CRT) Antitrust Litigation*. In this case, the manufacturers of cathode ray tubes conspired to fix, raise, maintain and/or stabilize prices. Because of Defendants' alleged unlawful conduct, Plaintiffs and other Class Members paid artificially inflated prices for CRT Products and have suffered financial harm.

Prior to joining KM, Ms. Nagano worked with the law firms of both Orrick, Herrington, and Sutcliffe LLP and Crowell and Morning LLP, where she assisted in the investigation of conspiracies to engage in price-fixing and anticompetitive practices by manufacturers and multinational conglomerates, and she represented cable operators on matters arising before the Federal Communications Commission as well as in their relations with local and state franchising authorities. She also worked for the New York bureau of a major Japanese television network. Additionally, she interned with the Office of Commissioner Furchtgott-Roth at the Federal Communications Commission and worked as a student counsel at the Art, Sports and Entertainment Law Clinic of the Dickinson School of Law of the Pennsylvania State University.

Ms. Nagano is admitted to the New York State Bar, the New Jersey State Bar, the Bar of the District of Columbia, and the United States District Courts for the Southern District of New York and the District of New Jersey. She graduated from Sophia University in Tokyo, Japan (B.A., 1989), New York University (M.A., 1992), and The Dickinson School of Law of the Pennsylvania State University (J.D., 2000). She is fluent in Japanese.



Lauren Wagner Pederson was of counsel to the firm and worked on commodities, antitrust and securities litigation matters. Ms. Pederson has over 20 years of legal experience and has represented individuals and institutional investors in many high profile securities and commodities class actions, and has served as counsel to public pension funds, shareholders, traders, hedge funds and companies in a broad range of complex litigation matters. In addition, Ms. Pederson has litigated accounting and legal malpractice actions and tried cases in federal and state courts, including a bench trial in Delaware federal court on behalf of Trust Company of the West in a legal malpractice action arising out of an international private equity transaction. She also has successfully argued and defended appeals before the Court of Appeals for the Eleventh Circuit and has represented individuals and companies in securities arbitrations before FINRA and the New York Stock Exchange. Ms. Pederson has extensive experience in discovery in complex litigation, including managing electronic discovery, overseeing large multi-firm document reviews and conducting international depositions and document production. She also took a number of key depositions in the firm's securities litigation action against Citigroup, Inc., which settled for \$590 million. Ms. Pederson left the firm in 2016.

Ms. Pederson worked on the following cases for the firm:

- Representation, as co-lead counsel, in *In re LIBOR-Based Financial Instruments Antitrust Litig.* of exchange-based investors in Eurodollar futures contracts that were harmed by the LIBOR Panel Banks' alleged collusion to misreport and manipulate Libor Rates;
- Representation, as lead counsel, in *In re North Sea Brent Crude Oil Futures Litig.* on behalf of a proposed class of traders alleging global crude oil benchmark manipulation; and
- Representation as Plaintiffs' counsel in *Taylor, et al., v. Bank of America Corp., et al.*, of claims on behalf of futures traders that were harmed by alleged manipulation of foreign exchange rates.

Ms. Pederson is a member of the New York City Bar Association Futures and Derivative Committee. She also has been certified as a mediator and is a member of the State Bars of New York, Delaware, Georgia, Alabama and the Commonwealth of Pennsylvania. She is admitted to practice in numerous federal courts, including the Second, Tenth and Eleventh Circuit Courts of Appeals and the Southern District of New York. Ms. Pederson has been an Adjunct Professor of Law at the Widener University School of Law in Wilmington, Delaware, teaching a securities litigation seminar. Ms. Pederson received her B.S. degree in Business Administration from Auburn University, and earned her J.D., *summa cum laude*, from the Cumberland School of Law where she was Associate Editor of the Cumberland Law Review, and recently earned her LL.M degree in Securities and Financial Regulation from Georgetown University Law Center. Ms. Pederson also served as Law Clerk to the Honorable Joel F. Dubina for the United States Court of Appeals for the Eleventh Circuit.



Edward M. Varga, III is of counsel to the firm and practices out of our New York office. He focuses on securities and antitrust litigation. Mr. Varga joined the firm in 2006.

Recent cases on which Mr. Varga has worked include:

- Representation of the lead plaintiff in *In re Citigroup Inc Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million;
- Representation, as counsel for lead plaintiff and other shareholders, in a derivative action brought against members of the Board of Directors and senior executives of Pfizer, Inc. Plaintiffs made a breach of fiduciary duty claim because defendants allegedly allowed unlawful promotion of drugs to continue even after receiving numerous "red flags" that the improper drug marketing was systemic. Pfizer agreed to pay a proposed settlement of \$75 million and to make groundbreaking changes to the Board's oversight of regulatory matters;
- Representation of a group of Singapore-based investors in a securities class action against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley routed Pinnacle investors' principal into synthetic collateralized debt obligations (CDOs) that it built to fail and then bet against. As the CDOs failed by design, plaintiffs' principal was swapped to Morgan Stanley, enriching Morgan Stanley while rendering the Pinnacle Notes an all-but-total loss. This case settled for \$20 million;
- Representation of companies that offered IPO securities in antitrust litigation against the 27 largest investment banks in the United States. Plaintiffs allege that the banks conspired to price fix underwriting fees in the mid-sized IPO market; and
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. This case settled for \$168 million.

Mr. Varga is admitted to the New York State Bar, the United States District Court for the Southern District of New York, and the United States Court of Appeals for the Second Circuit. He graduated from Cornell University (B.S., 2000) and New York University Law School (J.D., 2006).

Associates



Elizabeth A. Brehm is an associate who concentrates on antitrust and securities litigation. Ms. Brehm joined the firm in 2011. Prior to her time at KM, Ms. Brehm practiced as an attorney in the New York office of Winston & Strawn LLP.

Recent cases on which Ms. Brehm has worked include:

- Representation of indirect purchasers in *In re Cathode Ray Tube (CRT) Antitrust Litigation*, a price fixing anti-trust case wherein it is alleged that defendant entities conspired to control prices of television and monitor components;
- Representation, as lead counsel, of consumer classes in connection with antitrust proceedings against Microsoft in the United States and Canada. So far, these litigations have resulted in settlements totaling nearly a billion dollars for consumers in Florida, New York, Tennessee, West Virginia and Minnesota, where the litigation proceeded to trial;
- *In re Ductile Iron Pipe Fittings Antitrust Litigation*, MDL No. 2347 (D. NJ. 2012). Co-lead counsel on behalf of a proposed class of purchasers of iron pipe fittings for water projects. Class representatives include Wayne County, Michigan; and
- Representation, in an individual lawsuit against Morgan Stanley pertaining to four fraudulent collateralized debt obligations. Plaintiff alleges that Morgan Stanley represented that independent collateral managers would select safe, high-quality reference entities to be included in the collateralized debt obligations' underlying portfolios, but that in reality, Morgan Stanley controlled portfolio selection and chose high-risk collateral, while actively shorting that same collateral in order to enrich itself at its client's expense.

During her time at Winston & Strawn, Ms. Brehm focused on products liability litigation, including *Estate of Bobby Hill v. U.S. Smokeless Tobacco Co.*, a wrongful death products liability lawsuit brought by the family of Bobby Hill against Altria Group, which had recently acquired U.S. Smokeless Tobacco Co. The lawsuit asserted that U.S. Smokeless Tobacco manufactured and sold smokeless tobacco that Bobby Hill began using when he was 13-years-old and that this led to the death of Mr. Hill at age 42 from tongue cancer. The case settled prior to trial.

Ms. Brehm is admitted to the New York State Bar. She graduated from Boston University (B.A., 2001), Long Island University (M.S. Edu., 2004), and from Hofstra School of Law *magna cum laude* (J.D., 2008).



Fatima Brizuela is an associate based in our California office who concentrates on antitrust matters. Ms. Brizuela joined the firm in 2015.

Currently, Ms. Brizuela works on the following cases:

- Representation of businesses and consumers in indirect purchase class actions throughout the country against Microsoft for overcharging for its products as a result of its unlawful monopoly;
- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion; and
- Representation of an end-user class of businesses and consumers in connection with *In Re: Cathode Ray Tube (CRT) Antitrust Litigation*. In this case, the manufacturers of cathode ray tubes conspired to fix, raise, maintain and/or stabilize prices. Because of Defendants' alleged unlawful conduct, Plaintiffs and other Class Members paid artificially inflated prices for CRT Products and have suffered financial harm.

Ms. Brizuela graduated from Rutgers University (B.A. *summa cum laude* 2009) and California Western School of Law (J.D. 2015). She is admitted to the New York State Bar and is a member of the San Diego County Bar Association.



Melissa Fortunato was an associate based in our New York office who focused on securities, antitrust, and merger and acquisition litigation. Ms. Fortunato left the firm in 2017.

Ms. Fortunato's work included:

- Representation of a class of Zale Corporation investors challenging the proposed acquisition of Zale by Signet Jewelers;
- Representation of several European investment managers in individual securities fraud actions against BP plc related to the *Deepwater Horizon* explosion on April 20, 2010 and the subsequent drop in BP's share price;
- Representation of a class of NTS, Inc. investors challenging the proposed acquisition of NTS by affiliates of the private equity firm Tower Three Partners LLC; and
- Representation of a class of Cornerstone Therapeutics, Inc. investors challenging the proposed acquisition of Cornerstone by Chiesi Farmaceutici S.p.A.

Ms. Fortunato is a member of the New York, New Jersey and Connecticut state bars, the United States District Court for the District of New Jersey, and the United States District Courts for the Eastern and Southern Districts of New York. She graduated from Georgetown University (B.S. 2004) and Pace University School of Law, *magna cum laude* (J.D., 2013). Prior to attending law school, Ms. Fortunato worked in the marketing and media business sectors.



Karina Kosharskyy is an associate based in our New York office focusing on antitrust and securities litigation. Ms. Kosharskyy joined the firm in 2005.

Recent cases on which Ms. Kosharskyy has worked include:

- Representation of an end-user class of businesses and consumers in connection with *In Re: Cathode Ray Tube (CRT) Antitrust Litigation*. In this case, the manufacturers of cathode ray tubes conspired to fix, raise, maintain and/or stabilize prices. Because of Defendants' alleged unlawful conduct, Plaintiffs and other Class Members paid artificially inflated prices for CRT Products and have suffered financial harm;
- Representation of exchange-based investors in futures, swaps, and other Libor-based derivative products, alleging that defendant banks colluded to misreport and manipulate Libor rates;
- Representation of a class of consumers in connection with *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions*. This case involves Unocal's manipulation of the standard-setting process for low-emissions reformulated gasoline in California, which increased retail prices of reformulated gasoline. The court recently approved a preliminary settlement of \$48 million in this litigation; and
- Representation of consumer classes in connection with antitrust proceedings against Microsoft. These litigations resulted in settlements totaling nearly a billion dollars for consumers in Florida, New York, Tennessee, West Virginia and Minnesota, where the litigation proceeded to trial.

Ms. Kosharskyy is admitted to the New York State Bar, the United States District Courts for the Southern and Eastern Districts of New York, the United States District Court for the District of New Jersey, and the New Jersey State Bar. She graduated from Boston University (B.A., 2000) and from New York Law School (J.D., 2007). She is fluent in Russian.



Anthony E. Maneiro is an associate based in our New York office who concentrates on securities, commodities and antitrust matters. Mr. Maneiro joined the firm in 2016.

Currently, Mr. Maneiro works on the following cases:

- Representation of exchange-based investors in futures, swaps, and other Libor-based derivative products, alleging that defendant banks colluded to misreport and manipulate Libor rates;
- Representation of exchange-based investors in U.S. treasury futures and options, alleging that defendants colluded to manipulate the price of Treasury Securities prior to Treasury Auctions; and
- Representation of exchange-based investors, alleging price manipulation of physical natural gas as well as price manipulation of natural gas futures and other derivative natural gas contracts.

In addition, Mr. Maneiro assists senior attorneys with drafting briefs and motions, legal memoranda and research.

Mr. Maneiro has passed the Massachusetts State Bar (admission pending). He graduated from Grove City College (B.A. 2010, *magna cum laude*), London School of Economics and Political Science (MSc 2011) and Boston University School of Law (J.D., LL.M. 2016).



Staff Attorneys

C. Joy Amuzie is a staff attorney based in our New York office who focuses on securities and antitrust litigation. Recent cases on which Ms. Amuzie has worked include:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion.

Ms. Amuzie is admitted to the Minnesota State bar. She graduated from the University of Nigeria (LL.B. 1984), Nigerian Law School (B.L. 1985), and the William Mitchell College of Law (J.D. 1990).

Peter Brueggen is a staff attorney based in our New York office focusing on antitrust and securities litigation. Recent cases on which Mr. Brueggen has worked include:

- *In re Citigroup Inc. Securities Litigation*, a class action, in which Kirby McInerney served as lead counsel, arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million; and
- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion.

Mr. Brueggen is a member of the New York and New Jersey state bars, and the United States District Courts for the Eastern and Southern Districts of New York. He graduated from New York University (B.A. 1987) and Albany Law School (J.D. 1996).

Amelia McDermott is a staff attorney based in our California office focusing on antitrust and securities litigation. Recent cases on which Ms. McDermott has worked include:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion;

Ms. McDermott is admitted to the California State Bar, the U.S. District Court for the Southern, Central and Eastern Districts of California, and the U.S. Court of Appeals for the Ninth Circuit. In addition, Ms. McDermott is a Certified Appellate Specialist for the State Bar of California Board of Legal Specialization. She graduated from the University of San Diego (B.S. 1995) and the University of San Diego School of Law (JD 1999).



Clarence T. Pollard is a staff attorney based in our New York office. Mr. Pollard focuses on securities and antitrust litigation. Recent cases on which Mr. Pollard has worked include:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion;

Mr. Pollard is admitted to the New York and California State bars. He graduated from Yale University (B.A. 1980) and Indiana University School of Law (JD 1990). From October 1989 to September 1990, Mr. Pollard was a judicial law clerk for the Honorable U.W. Clemon (ret.), U.S. District Court for the Northern District of Alabama.

Marko Radisavljevic is a staff attorney based in our California office focusing on antitrust litigation. Mr. Radisavljevic currently works on the following case:

- Representation as fiduciary for the interim exchange class counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in a partial settlement of more than \$2 billion;

Mr. Radisavljevic is a member of the California state bar. He graduated from the University of San Diego (B.S. 2005) and California Western School of Law (J.D. 2015). Prior to attending law school, Mr. Radisavljevic worked in the professional services and IT sectors.

Parul Sharma is a staff attorney based in our New York office who concentrates on antitrust matters. Currently, Ms. Sharma works on the following cases:

- Representation of businesses and consumers in indirect purchase class actions throughout the country against Microsoft for overcharging for its products as a result of its unlawful monopoly; and
- Representation of exchange-based investors in futures, swaps, and other Libor-based derivative products, alleging that defendant banks colluded to misreport and manipulate Libor rates.

In addition, Ms. Sharma assists senior attorneys with drafting pleadings and motions, legal memoranda and research.

Ms. Sharma graduated from the University of Ottawa Telfer School of Management (Honors Bachelor of Commerce 2008) and Seton Hall University School of Law (J.D. 2014). She is admitted to the New York State Bar. Prior to joining KM, Ms. Sharma was an associate at Jaffe & Asher in their Creditors Rights practice.

EXHIBIT 6

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

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IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

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**DECLARATION OF GREGORY S. ASCIOLLA
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF LABATON SUCHAROW LLP**

I, GREGORY S. ASCIOLLA, declare as follows:

1. I am a partner at the law firm of Labaton Sucharow LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, performed the following tasks during the course of the litigation at the request and direction of Lead Counsel: edited the consolidated amended complaints; conducted legal research and drafted related memoranda; conducted extensive discovery on behalf of our client/class representative Boston Retirement System, including collecting, reviewing, and producing responsive documents, responding to interrogatories, and preparing the client for deposition; conducted substantial discovery relating to defendants,

including reviewing and analyzing defendants' document production, translating foreign documents, drafting and negotiating discovery requests and responses with several defendants, drafting and editing voluminous search terms related to discovery requests, participating in meet and confers regarding discovery requests, drafting correspondence relating to discovery requests, and working closely with data experts regarding discovery requests; and provided input on various class certification and settlement issues.

We were also asked by Lead Counsel to serve as Allocation Counsel for the Direct Settlement Class, which the Court approved. As Allocation Counsel, we were responsible for advocating for the interests of the Direct Settlement Class to achieve an equitable allocation of the net settlement fund, which would be adopted for the plan of distribution. This included participating in a tutorial by Lead Counsel and experts on the FX market; conducting extensive legal research and analysis; participating in numerous in-person and telephonic meetings with allocation counsel for the Exchange-Only Settlement Class and/or Lead Counsel; working with an economist and expert regarding allocation issues; participating in arms-length negotiations allocation counsel for the Exchange-Only Settlement Class; analyzing distribution issues; conferring with allocation counsel for the Exchange-Only Settlement Class regarding distribution issues; and providing input to the proposed plan of distribution.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records

regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 9,436.9. The total lodestar reflected in Exhibit 1 is \$4,191,575.00 consisting of \$4,157,042.50 for attorneys' time and \$34,532.50 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$296,177.41 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

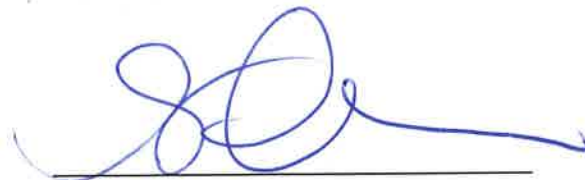
There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.



GREGORY S. ASCIOLLA

NAME	HOURS	HOURLY RATE	LODESTAR
Paralegals			
Redman, S.	48.5	\$325	\$15,762.50
Investigator			
Clark, J.	25.2	\$400	\$10,080.00
Law Clerk			
Crevier, J.	31.6	\$275	\$8,690.00
TOTALS	9,436.9		\$4,191,575.00

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**LABATON SUCHAROW LLP
EXPENSE REPORT**

Through December 31, 2017

CATEGORY	AMOUNT
Online Legal Research	\$3,516.23
Online Factual Research	\$377.66
Telephones/Faxes	\$795.31
Postage & Express Mail	\$184.06
Hand Delivery Charges	\$10.00
Local Transportation	\$1,858.28
Internal Copying	\$4,484.90
Out of Town Travel*	\$7,190.25
Meals*	\$1,280.32
Court Reporters and Transcripts	\$80.40
Experts	\$11,400.00
Contributions to Litigation Fund	\$265,000.00
TOTAL EXPENSES:	\$296,177.41

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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LABATON SUCHAROW LLP
FIRM RÉSUMÉ AND BIOGRAPHIES



Firm Resume

Antitrust and Competition Litigation

New York, NY

Washington, D.C.

Wilmington, DE

Chicago, IL

www.labaton.com

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Firm Overview

In our 50 years+ of practice, Labaton Sucharow has recovered billions of dollars for investors and consumers.

Labaton Sucharow has become a highly revered litigation powerhouse, recovering more than \$12 billion for investors and consumers. The Firm litigates in the areas of securities, corporate governance and shareholder rights, and antitrust law, as well as whistleblower representation. Our team's victories over the last decade are drawn straight from the headlines, including historic settlements in litigation against AIG, Bear Stearns, Countrywide, Schering-Plough, and Fannie Mae, among others.

Antitrust and Competition Litigation

Labaton Sucharow has a well-earned reputation for successfully investigating and litigating complex antitrust class actions. We have led the charge in some of the most significant private antitrust litigation in recent years, including *In re Air Cargo Shipping Services Antitrust Litigation* (more than \$1.2 billion in settlements). We have also been at the forefront in antitrust cases involving complex financial instruments and commodities manipulation, as well as cases of anticompetitive conduct in the healthcare industry, including pay-for-delay cases.

Securities Litigation

As a leader in the securities litigation field, the Firm is a trusted advisor to more than 300 institutional investors with collective assets under management in excess of \$2 trillion. The practice focuses on portfolio monitoring and domestic and international securities litigation for sophisticated institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995, we have recovered more than \$9 billion in the aggregate. Our success is driven by the Firm's robust infrastructure, which includes one of the largest in-house investigative teams in the plaintiffs' bar.

Corporate Governance and Shareholder Rights Litigation

Our breadth of experience in shareholder advocacy has also taken us to Delaware, where we press for corporate reform through our Wilmington office. These efforts have already earned us a string of enviable successes, including one of the largest derivative settlements ever achieved in the Court of Chancery, a \$153.75 million settlement on behalf of shareholders in *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*.

Whistleblower Representation

Our Whistleblower Representation Practice leverages the Firm's securities litigation expertise to protect and advocate for individuals who report violations of the federal securities laws. Jordan A. Thomas, former Assistant Director and Assistant Chief Litigation Counsel in the Division of Enforcement at the SEC, leads the practice.

"Labaton Sucharow is 'superb' and 'at the top of its game.' The Firm's team of 'hard-working lawyers... push themselves to thoroughly investigate the facts' and conduct 'very diligent research'."

-The Legal 500

Antitrust and Competition Litigation

Due to our record of success, the Firm is regularly appointed lead or co-lead counsel.

Labaton Sucharow's Antitrust and Competition Litigation Practice challenges global anticompetitive conduct and has recovered nearly \$3 billion on behalf of consumers injured by antitrust and commodities law violations, including price-fixing, price manipulation, and monopolization. The practice is led by Co-Chairs Gregory Asciolla and Jay L. Himes, longtime leaders in the antitrust bar with significant government, defense, and trial experience. These diverse and specialized backgrounds speak to the invaluable prosecutorial insight and noteworthy settlements achieved by the Antitrust and Competition Litigation Practice.

The practice secured its leadership in the plaintiffs' antitrust bar through pioneering work against monopolists in the pharmaceutical industry in the 1990s. More than two decades later, we continue to break new ground by filing novel cases under federal and state antitrust laws involving pharmaceutical products, as well as antitrust and commodities cases involving complex financial products. Our ability to investigate markets and unearth anticompetitive conduct is unmatched. Regulators have even followed our lead by conducting subsequent government investigations stemming from our cases.

The practice's client base includes pension funds, health and welfare funds, managed care organizations/insurers, municipalities and related quasi-government agencies, small businesses, large corporations, and individual consumers.

Experience

Labaton Sucharow has a distinguished record of success in prosecuting international price-fixing cartels. As co-lead counsel in *In re Air Cargo Shipping Services Antitrust Litigation*, we secured more than \$1.2 billion in recoveries from nearly 40 global airlines for price-fixing air cargo shipping services worldwide. In *In re Automotive Lighting Products Antitrust Litigation*, our antitrust attorneys demonstrated their willingness to litigate a global price-fixing conspiracy involving automotive lighting products all the way to trial. Our unwavering advocacy secured a settlement of more than \$50 million on the eve of trial. The practice also has extensive experience in prosecuting monopoly claims, including conduct involving exclusive dealing, coercive tying, and conditional pricing programs.

Labaton Sucharow is also leading the charge in investigating and filing high-profile price-fixing and manipulation cases involving complex financial derivative products, including U.S. treasury securities, foreign currency exchanges, interest rate swaps, and precious metals such as gold, platinum, and palladium. In the healthcare industry, we are challenging the world's largest pharmaceutical companies for anticompetitive conduct, including entering into agreements to delay the entry of lower cost generic drugs onto the market and engaging in sham litigation and fraud on the U.S. Patent & Trademark Office.

Notable Successes

Labaton Sucharow has achieved many outstanding results on behalf of its clients. Key highlights include:

Antitrust and Commodities Class Actions

- ***In re Air Cargo Shipping Services Antitrust Litigation*, MDL No. 1775 (E.D.N.Y.)**
Served as co-lead counsel and obtained more than \$1.2 billion in settlements to resolve claims that major airlines participated in a global conspiracy to fix surcharges for air cargo shipping services

- ***In re Credit Default Swaps Antitrust Litigation, No. 13-md-2476 (S.D.N.Y.)***
 Served as class counsel and represented class representative Essex Regional Retirement System and a class of direct purchasers of credit default swaps (CDS). Plaintiffs alleged that major CDS dealers conspired to, among other things, prevent the development of an exchange-based CDS trading platform so that they could maintain artificially high bid-ask spreads on their CDS trades with plaintiffs and the class. Plaintiffs secured nearly \$1.9 billion in settlements.
- ***In re Municipal Derivatives Antitrust Litigation, MDL No. 1950, 08-cv-2516 (S.D.N.Y.)***
 Served as class counsel and obtained more than \$275 million in settlements from major financial institutions and brokers to resolve claims that they conspired to rig bids for investment contracts solicited by municipalities across the United States.
- ***In re Lorazepam and Clorazepate Antitrust Litigation, No. 99-cv-01082 (D.D.C.)***
 Served as co-lead counsel and obtained \$135.4 million in settlements to resolve claims that Mylan Laboratories monopolized the supply of active ingredient for the anti-anxiety drugs Lorazepam and Clorazepate and implemented anticompetitive price increases for those drugs.
- ***In re Natural Gas Commodity Litigation, No. 03-cv-06186 (S.D.N.Y.)***
 Served as co-lead counsel and obtained more than \$100 million in settlements to resolve claims that defendants manipulated the price of natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX). The total settlement obtained in this complex litigation was the second largest class action recovery in the 85-year history of the Commodity Exchange Act.
- ***National Metals, Inc. v. Sumitomo Corporation et al., No. GIC 734001 (Cal. Super. Ct., San Diego County)***
 Served as class counsel and obtained more than \$90 million in settlements to resolve claims that Sumitomo Corporation participated in a conspiracy to manipulate copper prices on the London Metals Exchange and worldwide in violation of California antitrust law.
- ***In re Buspirone Antitrust Litigation, No. 01-md-01413 (S.D.N.Y.)***
 Served as class counsel and obtained a \$90 million settlement to resolve claims that Bristol-Myers Squibb engaged in monopolistic and other anticompetitive conduct in marketing BuSpar, an anti-anxiety drug.
- ***In re Amaranth Natural Gas Commodities Litigation, No. 07-cv-6377 (S.D.N.Y.)***
 Served as class counsel and obtained a \$77.1 million settlement to resolve allegations that several energy trading firms and their employees manipulated the prices of NYMEX natural gas futures contracts.
- ***In re TriCor Indirect Purchaser Antitrust Litigation, No. 05-cv-00360 (D. Del.)***
 Served as co-lead counsel and obtained a \$65.7 million settlement to resolve claims that Abbott Laboratories and Fournier Industrie et Sante engaged in anticompetitive sham litigation to avoid competition on its cholesterol lowering drug, TriCor.
- ***In re Puerto Rican Cabotage Antitrust Litigation, No. 08-md-01960 (D.P.R.)***
 Served as co-lead counsel and obtained \$52 million in settlements to resolve claims that defendants participated in a conspiracy to fix the prices of ocean freight services between the continental United States and Puerto Rico.
- ***In re Aftermarket Automotive Lighting Products Antitrust Litigation, No. 09-ml-02007 (C.D. Cal.)***
 Served as co-lead counsel and obtained more than \$50 million in settlements to resolve claims that several manufacturers participated in an international conspiracy to fix the prices of aftermarket automotive lighting products.

- ***In re Stock Exchanges Options Trading Antitrust Litigation*, No. 99-cv-00962 (S.D.N.Y.)**
Served as class counsel and obtained \$47 million in settlements to resolve claims that defendants participated in a conspiracy to restrict listing of equity options on national exchanges.
- ***In re Warfarin Sodium Antitrust Litigation*, Nos. 02-3603, 02-3755, 02-3757, 02-3758 (D. Del.)**
Served as co-lead counsel and obtained a \$44.5 million settlement to resolve claims that DuPont engaged in campaign of falsely disparaging its competitors' cheaper generic products for purposes of restraining competition in the warfarin sodium market. Labaton Sucharow successfully defended the settlement on appeal to the Third Circuit.
- ***In re Marine Hose Antitrust Litigation*, No. 08-md-1888 (S.D. Fla.)**
Served as co-lead counsel and obtained \$31.7 million in settlements to resolve claims that defendants participated in a conspiracy to fix the prices of and allocate markets for marine hose products.
- ***In re Flat Glass Antitrust Litigation (II)*, No. 08-mc-00180 (W.D. Pa.)**
Served as co-lead counsel and obtained more than \$22 million in settlements to resolve claims that defendants participated in conspiracy to fix the prices of construction flat glass.
- ***In re Aftermarket Filters Antitrust Litigation*, No. 08-cv-4883. (N.D. Ill.)**
Served as co-lead counsel and obtained nearly \$18 million in settlements to resolve claims that defendants participated in a conspiracy to fix the prices of aftermarket automotive filters (oil, air, and fuel).
- ***In re Optiver Commodities Litigation*, No. 08-cv-06842 (S.D.N.Y.)**
Served as class counsel and obtained a \$16.7 million settlement to resolve claims that Optiver Holding BV manipulated oil and gasoline futures contracts over a 24-day period in 2007.
- ***In re Abbott Labs Norvir Antitrust Litigation*, No. 04-cv-01511 (N.D. Cal.)**
Served as co-lead counsel and obtained a \$10 million settlement to resolve claims that Abbott Laboratories unlawfully raised the price of Norvir, a critical HIV medication that is used in conjunction with other medications, in an attempt to limit competitors in the HIV drug market.
- ***Sandhaus v. Bayer AG*, No. 00-cv-6193 (Dist. Ct. of Kansas, Johnson County)**
Served as co-lead counsel and obtained a \$9 million settlement, pending final approval, on behalf of a class of Kansas end-payors. Plaintiff alleged that Bayer agreed to pay generic manufacturers nearly \$400 million to abandon their patent challenge and refrain from launching a cheaper generic version of Cipro until 2003 so that Bayer could maintain supracompetitive prices for Cipro. The settlement is the largest ever for Kansas end-payors in pay-for-delay litigation.
- ***Ace Marine Rigging & Supply, Inc. v. Virginia Harbor Services, et al.*, No. 11-cv-00436 (C.D. Cal.) and *Board of Trustees of Commissioners of the Port of New Orleans v. Virginia Harbor Services, et al.*, No. 11-cv-00437 (C.D. Cal.)**
Served as sole lead counsel and obtained more than \$5 million in settlements in two related class actions to resolve claims that defendants participated in a conspiracy to fix the prices of various marine products (foam-filled fenders and buoys and plastic marine pilings).
- ***In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation*, No. 11-md-02284 (E.D. Pa.)**
Served as co-lead counsel and obtained a settlement calling for significant additional relief in the form of improved appeals process, increased warranty, and improved notice to resolve claims that DuPont misled consumers about the safety and effectiveness of Imprelis, an herbicide.

Ongoing Litigation

Antitrust and Commodities Class Actions

- ***In re Aggrenox Antitrust Litigation, No. 14-md-02516 (D. Conn.)***
Serves as class counsel and represents class representative Pipefitters Union Local No. 537 Health & Welfare Fund and a class of end-payors. Plaintiffs allege that Boehringer Ingelheim paid generic competitors \$120 million in non-cash consideration to abandon its patent challenge and delay the launch of a cheaper generic Aggrenox product.
- ***In re Generic Pharmaceuticals Pricing Antitrust Litigation, No. 16-md-02724 (E.D. Pa.)***
Leads the prosecution of this multidistrict litigation as members of the Plaintiffs' Steering Committee on behalf of end-payors. Plaintiffs allege a per se unlawful scheme among generic drug companies to fix prices and allocate customers and markets for the drugs doxycycline and digoxin.
- ***In re Platinum and Palladium Antitrust Litigation, No. 14-cv-9391 (S.D.N.Y.)***
Serves as co-lead counsel and represents Modern Settings LLC (a New York LLC) and Modern Settings LLC (a Florida LLC) and a class of individuals and entities who transacted in platinum and palladium and platinum- and palladium-based financial derivative products, whose values were derived by reference to the London Platinum and Palladium Fixings. Plaintiffs allege that the major platinum and palladium dealers conspired to manipulate the prices of platinum and palladium during the London Platinum and Palladium Fixings. Labaton Sucharow conducted its own independent investigation based on non-public information and filed the first case in the nation.
- ***In re Opana ER Antitrust Litigation, No. 14-cv-10150 (N.D. Ill.)***
Serves as co-lead counsel and represent Mary Davenport and a class of end-payors against Endo, Penwest, and Impax. Plaintiffs allege that defendants entered into an unlawful and anticompetitive pay-for-delay agreement for the pain reliever drug, Opana ER.
- ***In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 13-cv-07789 (S.D.N.Y.)***
Serves as class counsel and represents class representative Boston Retirement System and a class of individuals and entities that purchased foreign exchange products whose value was derived by reference to the WM/Reuters rates, a key benchmark in the foreign exchange (FX) market. Plaintiffs allege that major FX dealer banks conspired with each other to manipulate the WM/Reuters rates to enrich themselves at the expense of plaintiffs and the class. To date, the combined settlements amount to more than \$2.3 billion. All of those settlements have included cooperation agreements. The court described this case as "extremely complex," involving complicated issues of antitrust law and complex subject matter of FX trading. The case continues against the remaining defendants.
- ***In re Treasury Securities Auction Antitrust Litigation, No. 15-md-2673 (S.D.N.Y.)***
Serves as co-lead counsel and represents Boston Retirement System and Arkansas Teacher Retirement System in this massive price-fixing conspiracy involving U.S. Treasury securities. Plaintiffs allege that primary dealers of U.S. Treasury securities manipulated the markets for U.S. Treasuries and Treasuries-linked derivatives. Labaton Sucharow conducted an independent investigation and filed the first case in the nation.
- ***In re Lidoderm Antitrust Litigation, No. 14-md-02521 (N.D. Cal.)***
Serves as class counsel and represents class representatives Iron Workers District Council of New England Welfare Fund and Letizia Gallotto and a class of end-payors. Plaintiffs allege that Endo Pharmaceuticals and Teikoku Seiyaku agreed to pay generic competitors over \$100 million in non-cash consideration to not launch a cheaper generic version of Lidoderm.

- ***In re Celebrex (Celecoxib) Antitrust Litigation, No. 14-cv-00395 (E.D. Va.)***
Serves as class counsel and represents class representatives International Association of Heat and Frost Insulators and Asbestos Workers Local #6 Health and Welfare Fund and a class of end-payors. Plaintiffs allege that Pfizer fraudulently obtained a reissue patent from the U.S. Patent and Trademark Office and filed sham patent litigation to avoid competition to Pfizer's blockbuster anti-inflammatory drug, Celebrex, from incoming cheaper generics.
- ***Alaska Electrical Pension Fund, et al. v. Bank of America, Corp., No. 14-cv-7126 (S.D.N.Y.)***
Serves as class counsel and represents class representative Genesee County Employees' Retirement System and a class of individuals and entities that transacted in any financial instrument whose value was affected by defendants' conspiracy to manipulate ISDAFIX. Plaintiffs allege that major banks conspired to manipulate ISDAFIX, a key benchmark for valuing various interest rate derivatives (including swaps and swaptions), for purposes of enriching themselves at the expense of plaintiffs and the class. Plaintiffs have secured \$324 million in partial settlements to date. The case continues against the remaining defendants.
- ***In re Commodity Exchange, Inc. Gold Futures and Options Trading Litigation, No. 14-md-2548 (S.D.N.Y.)***
Serves as class counsel and represents class representative David Markun and a class of individuals and entities who transacted in gold and gold-based derivatives products, whose value was derived by reference to the London Gold Fixings. Plaintiffs allege that major gold dealers conspired to manipulate the prices of gold during the London Gold Fixings for purposes of enriching themselves at the expense of plaintiffs and the class.
- ***In re Capacitors Antitrust Litigation, No. 14-cv-03264 (N.D. Cal.)***
Serves as class counsel for a class of direct purchasers of aluminum, tantalum, and film capacitors. Plaintiffs allege that major capacitor manufacturers participated in an international conspiracy to fix the prices of aluminum, tantalum, and film capacitors.

Reputation and Leadership in the Antitrust Bar

Court Commendations

Many judges have remarked favorably on the Firm's experience and results achieved in class action litigation.

- "I want to thank you all for your professionalism in this . . . very lengthy and complicated matter . . . I appreciate your cooperation and the manner in which all of the attorneys conducted themselves in this litigation . . . It makes our job much easier when we have fine lawyers representing their clients in a professional manner."
 - Judge Donald L. Graham (granting final approval of partial settlement)
In re Marine Hose Antitrust Litigation, No. 08-md-01888 (S.D. Fla.)
- "I do want to just make the point that the advocacy has really been remarkable both on the papers and in the arguments today – I really appreciate it. It's been a pleasure to hear so many good litigators advocate their positions. So thank you."
 - Judge Viktor V. Pohorelsky (remarking on advocacy at hearing on the defendants' motions to dismiss)
In re Air Cargo Shipping Services Antitrust Litigation, MDL 1775 (E.D.N.Y.)
- "The Labaton firm is very well known to the courts for the excellence of its representation."
 - Judge Jed S. Rakoff (appointing Labaton Sucharow as Lead Counsel)
Middlesex County Retirement System v. Monster Worldwide, Inc., No. 07-cv-2237 (S.D.N.Y.)
- "Let me say that the lawyers in this case have done a stupendous job. They really have."
 - Chief Judge John Koeltl (approving \$90 million settlement with Bristol-Myers Squibb)
In Re Buspirone Antitrust Litigation, MDL No. 1413 (S.D.N.Y.)
- "The class counsel are well-qualified to litigate this type of complex class action, and they showed their effectiveness in the case at bar through the favorable cash settlement they were able to obtain."
 - Chief Judge Sue L. Robinson (approving \$44.5 million cash settlement)
In re Warfarin Sodium Antitrust Litigation, MDL No. 1232 (D. Del.)

Awards and Accolades

Industry publications and peer rankings consistently recognize the Firm as a respected leader in antitrust and securities litigation.

Benchmark Litigation

Top 10 Plaintiff Firms in United States (2017)

Recognized in Antitrust Litigation (2012-2016)

"Clearly living up to its stated mission 'reputation matters'...consistently earning mention as a respected litigation-focused firm fighting for the rights of institutional investors"

Chambers & Partners USA

Top rankings in Antitrust: Plaintiff (2014-2017)

Jay L. Himes noted as *"an aggressive litigator with a broad knowledge of the law"*

Gregory Asciolla defined as an attorney who *"knows how to cut the defense"*

The Legal 500

Recognized in Antitrust (2010-2017)

Gregory Asciolla named a Next Generation Lawyer and recommended in the field of antitrust class action litigation.

Jay L. Himes recommended in the field of antitrust litigation class action.

"Zealous advocate for clients" and "they set the tone of strong advocacy that is balanced with true assessments of the risks that clients face in litigation"

The National Law Journal

Hall of Fame Honoree and Top Plaintiffs' Firm (2006-2016)

Elite Trial Lawyers (2014-2015)

"Definitely at the top of their field on the plaintiffs' side"

Law360

"Most Feared Plaintiffs" Firm for the third year in a row (2013-2015), Class Action Practice Group of the Year (2012, 2014-2016), and Gregory Asciolla named "Titan" and one of the most admired attorneys of the plaintiffs bar (2014)

"Known for thoroughly investigating claims and conducting due diligence before filing suit, and for fighting defendants tooth and nail in court"

Global Competition Review

Gregory Asciolla, Jay L. Himes, and Lawrence A. Sucharow recognized as leading competition (U.S. plaintiff) lawyers (2014-2017)

2014 William T. Lifland Award

Jay L. Himes (presented to antitrust practitioners in recognition of their contributions and accomplishments in the field of antitrust)

Thomson Reuters' Super Lawyers

Gregory Asciolla (2013-2016)

Jay L. Himes (2010-2016)

Bar Activities and Appointments

Along with their active caseload, Co-Chairs Gregory Asciolla and Jay L. Himes make substantial contributions to the antitrust bar.

Gregory Asciolla

- Chairman of the Horizontal Restraints Committee of the New York State Bar Association Antitrust Committee
- Co-Chairman of the Antitrust and Trade Regulation Committee of the New York County Lawyers' Association
- Member of the *Law360* Competition Editorial Advisory Board since 2013

Jay L. Himes

- Antitrust Law Section's delegate to the House of Delegates of the New York State Bar Association
- Co-Chair of the Antitrust Committee of the State Bar's Commercial and Federal Litigation Section
- Appointed and currently serving as the monitoring trustee in Bazaarvoice, Inc.'s compliance with its obligations under the proposed final judgment in the Department of Justice's most recent merger victory after trial—*United States of America v. Bazaarvoice, Inc.*, No. 13-cv-00133.

Thought Leadership

Asciolla and Himes are recognized for their experience and involvement in high-profile cases and frequently sought after by the media, including *The Wall Street Journal*, *Financial Times*, and *Law360* for commentary on global antitrust developments.

They also regularly organize and facilitate panels and lectures discussing the latest developments and trends in antitrust law and frequently publish work in national publications. Recent publications include:

- "Arbitration Rule Repeal Will Adversely Affect Consumers," *Law360*, November 2, 2017
- "A Turning of the Tide: Victim Redress Through Private Antitrust Litigation," *CPI Antitrust Chronicle*, July 18, 2016
- "Creating a Partial Solution to Delayed Generic Competition," *Law360*, June 24, 2016
- "Cash or No Cash — That is No Longer the Question!" *ABA Antitrust Health Care Chronicle*, April 22, 2016
- "Shall We Dance?" — Biologic-Biosimilar Competition Under the Biologics Price Competition and Innovation Act," *CPI Antitrust Chronicle*, December 14, 2015
- "Oil in the Joints or Monkey Wrench in the Gears: Deferred and Non-Prosecution Agreements in Antitrust Cases," *NYLitigator*, November 3, 2014
- "What's Located in Washington, Part of the Government and Rolling in Dough?" *Bloomberg BNA Daily Report for Executives*, March 12, 2014
- "Angels Rush in Where Fools Fear to Tread: State Enforcement Against Patent Trolls," *CPI Antitrust Chronicle*, January 1, 2014)
- "When Blue Turns to Grey: Grand Jury Subpoenas for Foreign Documents Produced in Civil Litigation," *NYLitigator*, January 1, 2014

Community Involvement

As a result of our deep commitment to the community, Labaton Sucharow stands out in areas such as pro bono legal work and public and community service.

Firm Commitments

Brooklyn Law School Securities Arbitration Clinic

Labaton Sucharow partnered with Brooklyn Law School to establish a securities arbitration clinic. The program serves a dual purpose: to assist defrauded individual investors who cannot otherwise afford to pay for legal counsel; and to provide students with real-world experience in securities arbitration and litigation. Partners Mark S. Arisohn and Joel H. Bernstein lead the program as adjunct professors.

Change for Kids

Labaton Sucharow supports Change for Kids (CFK) as a Strategic Partner of P.S. 182 in East Harlem. One school at a time, CFK rallies communities to provide a broad range of essential educational opportunities at under-resourced public elementary schools. By creating inspiring learning environments at our partner schools, CFK enables students to discover their unique strengths and develop the confidence to achieve.

The Lawyers' Committee for Civil Rights Under Law

Edward Labaton, Member, Board of Directors

The Firm is a long-time supporter of The Lawyers' Committee for Civil rights Under Law, a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy. The Lawyer's Committee involves the private bar in providing legal services to address racial discrimination.

Labaton Sucharow attorneys have contributed on the federal level to United States Supreme Court nominee analyses (analyzing nominees for their views on such topics as ethnic equality, corporate diversity, and gender discrimination) and national voters' rights initiatives.

Sidney Hillman Foundation

Labaton Sucharow supports the Sidney Hillman Foundation. Created in honor of the first President of the Amalgamated Clothing Workers of America, Sidney Hillman, the foundation supports investigative and progressive journalism by its awarding monthly and yearly prizes. Partner Thomas A. Dubbs is frequently invited to present these awards.

Volunteer Lawyers for the Arts (VLA)

Labaton Sucharow supports Volunteer Lawyers for the Arts, working as part of VLA's pro bono team representing low-income artists and nonprofit arts organizations. VLA is the leading provider of educational and legal services, advocacy, and mediation to the arts community.

Individual Attorney Commitments

Labaton Sucharow attorneys give of themselves in many ways, both by volunteering and in leadership positions in charitable organizations. A few of the awards our attorneys have received or organizations they are involved in are:

- Awarded “Champion of Justice” by the Alliance for Justice, a national nonprofit association of over 100 organizations which represent a broad array of groups “committed to progressive values and the creation of an equitable, just, and free society.”
- Pro bono representation of mentally ill tenants facing eviction, appointed as guardian ad litem in several housing court actions.
- Recipient of a Volunteer and Leadership Award from a tenants' advocacy organization for work defending the rights of city residents and preserving their fundamental sense of public safety and home.
- Board Member of the Ovarian Cancer Research Fund—the largest private funding agency of its kind supporting research into a method of early detection and, ultimately, a cure for ovarian cancer.

Our attorneys have also contributed to or continue to volunteer with the following charitable organizations, among others:

- | | |
|---|------------------------------------|
| ▪ American Heart Association | ▪ Legal Aid Society |
| ▪ Big Brothers/Big Sisters of New York City | ▪ Mentoring USA |
| ▪ Boys and Girls Club of America | ▪ National Lung Cancer Partnership |
| ▪ Carter Burden Center for the Aging | ▪ National MS Society |
| ▪ City Harvest | ▪ National Parkinson Foundation |
| ▪ City Meals-on-Wheels | ▪ New York Cares |
| ▪ Coalition for the Homeless | ▪ New York Common Pantry |
| ▪ Cycle for Survival | ▪ Peggy Browning Fund |
| ▪ Cystic Fibrosis Foundation | ▪ Sanctuary for Families |
| ▪ Dana Farber Cancer Institute | ▪ Sandy Hook School Support Fund |
| ▪ Food Bank for New York City | ▪ Save the Children |
| ▪ Fresh Air Fund | ▪ Special Olympics |
| ▪ Habitat for Humanity | ▪ Toys for Tots |
| ▪ Lawyers Committee for Civil Rights | ▪ Williams Syndrome Association |



Commitment to Diversity

Recognizing that business does not always offer equal opportunities for advancement and collaboration to women, Labaton Sucharow launched its Women's Networking and Mentoring Initiative in 2007.

Led by Firm partners and co-chairs Serena Hallowell and Carol C. Villegas, the Women's Initiative reflects our commitment to the advancement of women professionals. The goal of the Initiative is to bring professional women together to collectively advance women's influence in business. Each event showcases a successful woman role model as a guest speaker. We actively discuss our respective business initiatives and hear the guest speaker's strategies for success. Labaton Sucharow mentors young women inside and outside of the firm and promotes their professional achievements. The Firm also is a member of the National Association of Women Lawyers (NAWL). For more information regarding Labaton Sucharow's Women's Initiative, please visit www.labaton.com/en/about/women/Womens-Initiative.cfm.

Further demonstrating our commitment to diversity in the legal profession and within our Firm, in 2006, we established the Labaton Sucharow Minority Scholarship and Internship. The annual award—a grant and a summer associate position—is presented to a first-year minority student who is enrolled at a metropolitan New York law school and who has demonstrated academic excellence, community commitment, and personal integrity.

Labaton Sucharow has also instituted a diversity internship which brings two Hunter College students to work at the Firm each summer. These interns rotate through various departments, shadowing Firm partners and getting a feel for the inner workings of the Firm.

Antitrust Team

The attorneys who are involved in the prosecution of antitrust and commodities litigation include former state and federal government enforcers, former in-house counsels, and former members of the defense bar.

The practice is led by Co-Chairs Gregory Asciolla and Jay L. Himes. Other attorneys that are part of this practice are partners Lawrence A. Sucharow (Chairman of the Firm), Thomas A. Dubbs, Eric J. Belfi, Christopher J. McDonald, and Michael W. Stocker; Of Counsel Karin E. Garvey and Robin A. van der Meulen; and associates Brian Morrison and Matthew J. Perez.

Detailed biographies of the team's qualifications and accomplishments follow.

Labaton Sucharow



Jay L. Himes

Partner

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New York, NY 10005

t: 212-907-0834

f: 212-883-7501

Practice Areas

Antitrust and Competition Litigation

Consumer Protection Litigation

Education

University of Wisconsin Law School
J.D., *magna cum laude*, 1972

University of Wisconsin
B.A., 1970

Admissions

1974, New York

1982, U.S. Supreme Court

U.S. Court of Appeals

1975, Second Circuit
2010, Fifth Circuit
2001, Sixth Circuit
1982, Ninth Circuit
2001, D.C. Circuit

U.S. District Court

1972, Eastern District of Wisconsin
1972, Western District of Wisconsin
1975, Southern District of New York
1978, Eastern District of New York

Co-Chair of the Firm's Antitrust and Competition Litigation Practice, Jay Himes is experienced in all facets of antitrust and complex litigation generally. With more than 40 years, Jay focuses on representing plaintiffs in price-fixing class action cases and protects businesses from anticompetitive activities.

Jay also serves as the court-appointed trustee in the Department of Justice's 2014 merger victory after trial—*United States of America v. Bazaarvoice, Inc.*—with the responsibility to monitor Bazaarvoice's compliance with its obligations under the final judgment.

Jay is the 2014 recipient of the William T. Liffand Service Award, presented by the Antitrust Section of the New York State Bar Association for distinguished service. *Chambers USA* reports that sources described him as an "aggressive litigator with a broad knowledge of the law," and *The Legal 500's* sources called him "a very solid and highly experienced antitrust lawyer."

A regular speaker at conferences focusing on such subjects as antitrust, class actions, international arbitration, and data protection, Jay has authored many conference papers and published articles. He has lectured annually on U.S. cartel and private action enforcement at the Zurich University of Applied Science's international competition and compliance programs offered to foreign competition law officials and practitioners in Geneva and Winterthur, Switzerland. He also has presented at panels in Amsterdam, Dublin, Hanoi, Krakow, Lisbon, Paris, Sao Paolo, Vienna, Winterthur, and Zurich, as well as in the United States.

Prior to joining Labaton Sucharow, Jay served for nearly eight years as the Antitrust Bureau Chief in the New York Attorney General's office. In that role, he served as the States' principal representative in the marathon 2001 negotiations that led to settlement of the governments' landmark monopolization case against Microsoft. Thereafter, Jay partnered with US DOJ officials to lead the Microsoft judgment monitoring and enforcement effort, activity that continued throughout his time at the Attorney General's office.

During his tenure as New York's chief antitrust official, Jay also led significant, high-profile antitrust investigations and enforcement actions. These cases included: *In re Buspirone Antitrust Litigation* (\$100 million settlement); *In re Cardizem CD Antitrust Litigation* (\$80 million settlement); and *In re Compact Disc Antitrust Litigation* (\$67 million settlement). Under Jay's leadership, the New York Bureau secured the two

Labaton Sucharow

Jay L. Himes
Partner

largest antitrust civil penalties recoveries ever achieved under the State's antitrust statute.

Prior to serving in the Attorney General's office, Jay practiced complex litigation for 25 years at Paul, Weiss, Rifkind, Wharton & Garrison LLP. There, he represented the 12 Federal Reserve Banks as plaintiffs in a price-fixing case against the nation's leading armored car companies, and defended a Revlon healthcare company in a series of price-fixing cases that spanned nearly a decade. Additionally, Jay handled a wide range of litigation, including securities class actions as well as contract, construction, constitutional, entertainment, environmental, real property, and tax litigation. Active in pro bono matters, Jay worked with the New York Civil Liberties Union, NAACP, and National Coalition for the Homeless, while also representing inmate and immigration asylum clients.

Jay is a member of the U.S. Advisory Board of the Loyola University Chicago School of Law's Institute of Consumer Antitrust Studies, the MLex advisory board, and the editorial advisory group of the *Antitrust Chronicle*.

Jay serves as the Antitrust Section's delegate to the House of Delegates of the New York State Bar Association (NYSBA). He is also the past chair of the Antitrust Section of the NYSBA and currently co-chairs the antitrust committees of both the State Bar's Commercial and Federal Litigation Section and its International Section. Jay also serves as the senior vice-president chapter chair of the NYSBA's International Section. Jay is also a member of antitrust, litigation, and intellectual property groups in the American Bar Association.

Jay graduated from the University of Wisconsin Law School, where he served as the Articles Editor of the *Wisconsin Law Review*. Following law school, he pursued independent study at the University of Oxford in England.

Labaton Sucharow



Gregory Asciolla

Partner

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Practice Areas

Antitrust and Competition Litigation

Consumer Protection Litigation

Education

Catholic University of America
J.D., 1993

Boston College
A.B., English and Economics, *cum laude*, 1987

Admissions

1994, New York
1996, District of Columbia

U.S. Court of Appeals

2013, Second Circuit
2013, Third Circuit

U.S. District Court

2007, Southern District of New York
2007, Eastern District of New York

Gregory Asciolla, Co-Chair of the Firm's Antitrust and Competition Litigation Practice, focuses on representing businesses and public pension funds in complex antitrust and commodities class actions. Currently, Greg represents clients in global antitrust matters involving alleged price-fixing, benchmark and commodities manipulation, pay-for-delay, and other anticompetitive practices. Named a Titan of the Plaintiffs Bar by *Law360*, as well as a leading plaintiffs competition lawyer by *Global Competition Review* and *Chambers & Partners USA*, Greg is often recognized for his experience and involvement in high-profile cases. He also was named a Next Generation Lawyer by *The Legal 500* with sources describing him as "very effective plaintiffs' counsel" and "always act[ing] with a good degree of professionalism."

Prior to joining Labaton Sucharow, Greg practiced antitrust litigation and counseling on behalf of clients worldwide at Morgan Lewis & Bockius LLP and Schulte Roth & Zabel LLP. He began his career as an attorney at the U.S. Department of Justice's Antitrust Division, where he focused on anticompetitive conduct in the healthcare industry.

Greg is frequently sought after by the media, including *The Wall Street Journal*, *The New York Times*, *Financial Times*, and *Global Competition Review*, for commentary on global antitrust developments. Greg also makes substantial contributions to the antitrust bar. In 2016 he was elected to the Executive Committee of the New York State Bar Association (NYSBA) Antitrust Law Section. He currently serves as the Chairman of the Horizontal Restraints Committee of the NYSBA's Antitrust Committee as well as the Co-Chairman of the Antitrust and Trade Regulation Committee of the New York County Lawyers' Association. Greg regularly organizes and sits on panels and lectures discussing the latest developments and trends in antitrust law and frequently publishes work in national publications such as *The National Law Journal*, *New York Law Journal*, and *Law360*. Additionally, he serves on the *Law360* Competition Editorial Advisory Board.

As a law student at Catholic University, he served as a member of the Catholic University Law Review and was the Co-Founder and Executive Editor of the *CommLaw Spectus: Journal of Communications Law & Policy*. He also earned a certificate after successfully completing the law school's Comparative and International Law Program.

Greg also represents clients in the arts in several pro bono matters involving art law and intellectual property.

Labaton Sucharow



Karin E. Garvey

Of Counsel

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Practice Areas

Antitrust and Competition Litigation

Education

Northwestern University School of Law
J.D., *cum laude*, 1997

Harvard University
A.B., *cum laude*, Sociology, 1994

Admissions

1999, New York

U.S. Court of Appeals
2006, Ninth Circuit

U.S. District Courts
2000, Southern District of New York
2001, Eastern District of New York

With nearly two decades of litigation experience, Karin E. Garvey focuses on representing businesses and public pension funds in complex antitrust class actions.

Prior to joining Labaton Sucharow, Karin practiced antitrust and general litigation at Kaye Scholer LLP, representing and counseling clients from a wide spectrum of industries including pharmaceuticals, cosmetics, building materials, film, finance, and private equity.

Karin brings significant experience in managing complex, multijurisdictional cases from initial case development through resolution and appeal. She has prepared and defended company executives for deposition, hearing, and trial and has conducted similar examinations of her opponents. Karin also has significant experience working with experts—including economists, toxicologists, materials scientists, valuation experts, foreign law experts and appraisers, among others—developing reports and testimony, preparing for and defending depositions, as well as taking depositions of opponents' experts. In addition, Karin has engaged in all phases of trial preparation and trial and has briefed and argued appeals.

Karin obtained her J.D., *cum laude*, from Northwestern University School of Law, where she was a Note and Comment Editor for the *Journal of Criminal Law and Criminology*. She earned her A.B., *cum laude*, in Sociology from Harvard University.

Karin is an Antitrust Section Member of the American Bar Association.

Labaton Sucharow



Robin A. van der Meulen

Of Counsel

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f: 212-883-7004

Practice Areas

Antitrust and Competition Litigation

Consumer Protection Litigation

Education

Brooklyn Law School
J.D., 2009

Columbia University
B.A., 2002

Admissions

2010, New York

U.S. Court of Appeals

2011, Second Circuit

U.S. District Court

2010, Southern District of New York

2010, Eastern District of New York

Robin A. van der Meulen focuses on representing businesses and public pension funds in complex antitrust class actions.

Prior to joining Labaton Sucharow, Robin was a litigation associate at Willkie Farr & Gallagher LLP, where she practiced antitrust and commercial litigation. During law school, Robin served as a judicial intern in United States Bankruptcy Court for the Eastern District of New York for the Honorable Elizabeth S. Stong.

Robin obtained her J.D. from Brooklyn Law School where she was an Associate Managing Editor of the *Journal of Law and Policy* and a member of the Moot Court Honor Society. During her time there, she also earned the CALI Award for Excellence in Legal Writing I & II. Robin earned her B.A. from Columbia University.

Robin is a member of the Executive Committee of the Antitrust Law Section of the New York State Bar Association and the Advisory Board of the Antitrust Section's Health Care & Pharmaceutical Committee of the American Bar Association. Since 2012, Robin has been an editor of the *Health Care Antitrust Week-In-Review*, a weekly publication that summarizes antitrust news in the health care industry.

Labaton Sucharow



Matthew Perez

Associate

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[New York, NY 10005](#)

t: [212-907-0776](tel:212-907-0776)

f: [212-883-7558](tel:212-883-7558)

Practice Areas

Antitrust and Competition Litigation

Education

Benjamin N. Cardozo School of Law School
J.D., 2010

Swarthmore College
B.A., Political Science and History, 2006

Admissions

2010, New Jersey
2011, New York

U.S. District

2010, District of New Jersey
2012, Southern District of New York

Matthew Perez focuses on representing businesses and public pension funds in complex antitrust class actions.

Matthew joined Labaton Sucharow from the New York State Attorney General's office, where he served as a Volunteer Assistant Attorney General in the Antitrust Bureau. While there, he received the Louis J. Lefkowitz Memorial Award for his work investigating bid rigging and other illegal conduct in the municipal bond derivatives market, resulting in more than \$260 million in restitution to municipalities and nonprofit entities. He also investigated pay-for-delay matters involving multinational pharmaceutical companies. Prior to that, he served as an intern for the Honorable Richard B. Lowe III at the New York Supreme Court, Commercial Division.

Matthew obtained his B.A. in Political Science and History from Swarthmore College and his J.D. from Benjamin N. Cardozo School of Law School, where he was Executive Editor of the Cardozo Journal of Conflict Resolution and received the Jacob Burns Medal for Outstanding Contribution to the Law School.

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE	:
BENCHMARK RATES ANTITRUST	: No. 1:13-cv-07789-LGS
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**DECLARATION OF VINCENT BRIGANTI
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF LOWEY DANNENBERG, P.C.**

I, Vincent Briganti, declare as follows:

1. I am a partner at the law firm of Lowey Dannenberg, P.C., one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, has been involved in many aspects of this litigation at the direction of Lead Counsel, including assisting Lead Counsel with the drafting of the Amended Complaint and the Opposition to the Motions to Dismiss, attending meet and confers with defendants’ counsel, working with experts on various issues, handling or assisting in discovery issues relating to both plaintiffs and defendants, and assisting Lead Counsel with the review of documents and recordings produced by defendants.

3. During late summer of 2015, my firm was asked by Lead Counsel to act as Allocation Counsel, along with Labaton Sucharow LLP, to represent the interests of Direct Settlement Class members, which includes those who entered into an FX Instrument directly with a Defendant in the over-the-counter (“OTC”) market. Our work as Allocation Counsel, which was described at length in the Joint Declaration of Vincent Briganti & Gregory S. Asciolla, dated August 31, 2016 (ECF No. 656), included negotiations with Kirby McInerney LLP and Nussbaum Law Group, P.C. who were designated as Allocation Counsel to represent the interests of Exchange-Only Settlement Class members, *i.e.*, those who only transacted in FX Instruments on a U.S. exchange (collectively “Exchange Counsel”), discussions with experts, and analyzing and commenting on the Plan of Distribution.

4. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours to, this Action, (either in the main case, in the role of Allocation Counsel or collectively) and the lodestar calculation for those individuals based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. At the direction of Lead Counsel, time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys’ fees and reimbursement of litigation expenses has also been excluded.

5. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-

contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

6. The total number of hours reflected in Exhibit 1, reflecting time spent by professionals at my firm assisting Lead Counsel in the prosecution of this action (including time spent as Allocation Counsel) through and including December 31, 2017, is 4,309.70. The total lodestar reflected in Exhibit 1 is \$2,068,552.50, consisting entirely of attorneys' time.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$418,255.10 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017 (including expenses incurred in our role as Allocation Counsel).

8. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. The litigation expenses reflected in Exhibit 2 is the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

(c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

(d) Internal copying is charged at \$0.10 per page.

11. Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

12. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

13. Attached hereto as Exhibit 3 are brief biographies of all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.



Vincent Briganti

EXHIBIT 1

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

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LOWEY DANNENBERG, P.C.
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Vincent Briganti	351.00	875	\$307,125.00
Geoffrey Horn	92.20	875	\$80,675.00
Peter D. St. Phillip, Jr	34.90	875	\$30,537.50
Thomas Skelton	297.30	875	\$260,137.50
Gerald Lawrence	28.50	875	\$24,937.50
Barbara Hart	164.20	900	\$147,780.00
David Harrison	12.40	800	\$9,920.00
SUB-TOTALS	640.80		\$861,112.50
Associates			
Raymond Girnys	91.90	500	\$45,950.00
Christian Levis	156.20	500	\$78,100.00
Christina McPhaul	2,166.80	350	\$758,380.00
Sylvie Bourassa	269.40	350	\$94,290.00
Frank Strangeman	25.40	550	\$13,970.00
Yong Kim	27.60	325	\$8,970.00
Michelle Conston	55.30	400	\$22,120.00
Melissa Cabrera	150.20	400	\$60,080.00
Nathan Carr-Whealy	386.40	325	\$125,580.00
SUB-TOTALS	3,329.20		\$1,207,440.00
TOTALS	4,309.70		\$2,068,552.50

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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LOWEY DANNENBERG, P.C. AS PLAINTIFFS' COUNSEL
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Online Legal Research	\$1,011.49
Online Factual Research	\$143.13
Telephones/Faxes	\$198.72
Postage & Express Mail	\$11.62
Internal Copying	\$3,728.60
Out of Town Travel*	\$6,483.68
Meals*	\$16.78
Experts	\$141,661.08
Contributions to Litigation Fund	\$265,000.00
TOTAL EXPENSES:	\$418,255.10

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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LOWEY DANNENBERG, P.C. AS PLAINTIFFS' COUNSEL
BIOGRAPHIES

Vincent Briganti

Vincent Briganti, a partner of the firm, is an internationally recognized lawyer and a leader of the class action bar. Under his guidance, the firm has earned its position as one of the top plaintiffs derivative manipulation and antitrust class action firms in the world.

As head of the firm's Commodities, Futures and Derivatives Litigation practice group, Mr. Briganti is currently prosecuting as Lead Counsel numerous class actions against global banking institutions involving antitrust, commodities fraud, and RICO claims relating to alleged manipulation of financial benchmarks, including the London Interbank Offered Rate ("LIBOR") for the Japanese Yen, Swiss Franc and Pound Sterling, the Euroyen Tokyo Interbank Offered Rate ("TIBOR"), the Euro Interbank Offered Rate ("Euribor"), the Singapore Interbank Offered Rate ("SIBOR") and the Singapore Swap Offer Rate ("SOR"), the Australian Bank Bill Reference Rate ("BBSW"), and the London Silver Fixing ("Silver Fix").

Mr. Briganti's unique expertise in commodity and derivative matters was recently recognized when he was appointed as allocation counsel for the over-the-counter investor class in the multi-billion dollar *In re Foreign Exchange Benchmark Rates Antitrust Litigation* pending before Judge Schofield in the Southern District of New York. Mr. Briganti also currently serves as lead trial counsel for the TeraExchange Group in an action charging global financial institutions with antitrust violations in the multi-trillion dollar credit default swap market. *Tera Group Inc et al v. Citigroup Inc et al*, Case No. 17-04302 (S.D.N.Y.) (Sullivan, J.).

Over the course of his career, Mr. Briganti has litigated the most important and complex commodity manipulation actions since the enactment of the Commodity Exchange Act ("CEA"), including *In re Sumitomo Copper Litigation*, Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.), *In re*

Natural Gas Commodity Litigation, Case No. 03 Civ. 6186 (S.D.N.Y.)(Marrero, J.), *Hershey v. Pacific Inn. Management Co. LLC*, Case No. 1:05-cv-04681 (N.D. Ill.)(Guzman, J.), *In re Amaranth Natural Gas Commodity Litigation*, Case No. 07 Civ. 6377 (S.D.N.Y.)(Scheindlin, J.), *In re Optiver Commodities Litigation*, Case No. 08-cv-6842 (S.D.N.Y.)(Preska, J.).

Mr. Briganti continues to actively represent investors in commodity futures manipulation cases, including as Lead Counsel in a class action against Kraft Foods Group and Mondelez Global for manipulation of the wheat futures market. *Ploss v. Kraft Foods Group, Inc. et al.*, Case No. 15-cv-2937 (N.D. Ill.) (Chang, J.).

Other notable achievements of Mr. Briganti include when on behalf of Federated Investors, one of the nation's largest investment managers with over \$363 billion in assets under management, he obtained emergency injunctive relief to prevent the Government of Argentina from canceling outstanding bonds with a face value of more than \$500 million, which had been erroneously tendered by holders of those bonds. *Federated Investment Management Company, et al., v. Republic of Argentina, et al.*, 10 Civ. 4324 (S.D.N.Y.) (Griesa, J.).

Mr. Briganti is admitted to both the New York and Connecticut State bars and is a member of the bars of the U.S. Court of Appeals for the 2nd and 8th Circuits, and U.S. District Courts for the Southern and Eastern Districts of New York. Mr. Briganti received his J.D. from New York Law School in 1996, where he graduated with honors and served as a senior editor of the New York Law School Journal of International and Comparative Law, and he received a B.A. in Political Science from Iona College with honors in 1993.

Barbara J. Hart

Ms. Hart is the President and Chief Executive Officer of Lowey and Chair of the securities litigation practice. She has over 20 years of experience representing a broad range of clients in complex class action litigation, with a particular emphasis on securities and antitrust litigation. Ms. Hart is AV preeminent rated by Martindale-Hubbell; a multi-year Super Lawyer, and Top Female Lawyers; and was the 2014 Chair of the New York State Bar Association's Antitrust Committee and is a member of the National Association of Public Pension Attorneys.

In 2015, Ms. Hart concluded a Whistleblower representation for a Relator alleging Medicaid fraud recovering \$22.4 million in one of New York State's largest single state recoveries. In addition, Ms. Hart successfully represented a limited partner in Real Estate investment for a full recovery of damages at trial in 2014. *Lassiter v. 1400 5th Commercial, LLC, et al.*, Index No. 652867/2013.

In 2013, the Honorable Colleen McMahon granted final approval to the \$219.9 million Madoff Feeder Fund Settlement in *In re Beacon Associates Litigation*, 09 Civ. 0777 (LBS) (AJP) (S.D.N.Y.), *In re Jeanneret Associates Litigation*, 09-cv-3907 (CM). Judge McMahon commended Ms. Hart (Lead and Liaison Counsel) on the "unprecedented global settlement" and recognized that Ms. Hart "carried the laboring oar" in the extraordinary recovery of 70% of class members' net losses from Madoff's Ponzi scheme.

Ms. Hart also led the prosecution in *In re Juniper Networks, Inc. Securities Litigation*, recovering \$169.5 million. *In re Juniper Networks, Inc.*, C06-04327, Order dated August 31, 2010 (N.D. Cal.). On August 30, 2010, in approving a \$169.5 million settlement. Hon. James Ware acknowledged the “excellent result”. The recovery is the third largest of any of the dozens of litigations involving options backdating and as a percentage of damages is a robust recovery. Ms. Hart has led complex trials; argued motions; opened; closed; examined witnesses and cross-examined and presented expert witnesses at trial evidentiary hearings and depositions.

Ms. Hart served as Counsel to the Office of the Treasurer of the State of Connecticut in the *In re Waste Management Securities Litigation*, which settled for \$457 million and was then the third-largest securities class action settlement in history. Barbara Hart also achieved a \$285 million class action settlement in *In re El Paso Corp. Securities Litig.*, Civ. No. H-02-2717 (S.D. Tex.) where she was retained to prosecute as Co-Lead Counsel allegations that Defendants inflated the prices of El Paso securities by making materially false and misleading SEC filings and public statements which overstated El Paso’s proved oil and natural gas reserves by 40%, causing a material overstatement of its income, and falsely attributed its success to legitimate business practices when El Paso manipulated the California Energy market. This conduct allegedly inflated El Paso’s earnings by hundreds of millions of dollars during the class period. The Court commended the efficiency with which the case had been prosecuted, particularly in light of the complexity of the allegations and the legal issues.

Ms. Hart is Lead Counsel for the NYC Pension Funds prosecuting a securities class action against Community Health Systems, Inc. (*Norfolk Retirement Sys. v. Community Health Sys.*), pending in Nashville, Tennessee.

In *In re American Realty Capital Properties*, 1:15-mc-00040-AKH (SDNY), Ms. Hart represents the Corsair family of funds as one of the representative class members, working with Lead Counsel on this prosecution arising out of American Realty’s announcement that its financial statements for 2013 and the first two quarters of 2014 were grossly inaccurate. Central to that case is ARCP’s Audit Committee conclusion that the overstatements were intentionally made by the Company’s top accounting officers.

Ms. Hart was Co-Lead Counsel in the *In re Air Cargo Antitrust Litigation* (E.D.N.Y) when the first settlement with Lufthansa was approved by the Court, and recoveries have totaled over a billion dollars. That litigation involves most of the world’s major airlines. Some of Ms. Hart’s other notable antitrust settlements include: *In re Stock Exchange Options Trading Antitrust Litigation* (\$47 million settlement); *In re Brand Name Drug Litigation* (\$65 million settlement); *In re Augmentin Antitrust Litigation* (\$29 million settlement); *In re Paxil Antitrust Litigation* (\$65 million settlement); *In re Sodium Erythorbate and Maltol Antitrust Litigation* (\$18.45 million settlement); *In re Synthroid Marketing and Antitrust Litigation* (\$87.4 million settlement); and *In re Warfarin Sodium Antitrust Litigation* (\$44.5 million settlement).

Ms. Hart has authored and co-authored numerous articles, including “Depositions as a Means of Building Your Trial Narrative,” *Fundamentals of Taking and Defending Depositions 2015 Course Handbook*, 2015. Also, Ms. Hart co-authored “Conduct Within the Scope Cannot Be Beyond the Reach,” *New York Law Journal NYSBA Annual Meeting Special Report*, January, 26, 2015; “Another Alarm Blasts as the Second Circuit Rejects Class Action Tolling of the Statutes of Repose” *NAPPA article*, August 2013 Volume 27, Number 3. Ms. Hart co-authored “Don’t Bend

‘American Pipe,’” New York Law Journal, November 7, 2012, and “NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.: The Implications on Class Standing and Why We Should Think About Amici Support Now,” The NAPP Report, Vol. 26, Number 4, November 2012. Ms. Hart also authored *Morrison v. National Australia Bank*: “The Potential Impact on Public Pension Fund Fiduciaries,” The NAPP Report, Vol. 24, Number 3, August 2010. She has also recently written on the impact of other Supreme Court decisions including: “Donnelly Act Class Claimants Given New Lease on Life,” New York Law Journal, May 17, 2010. Her other writings include “New York’s Martin Act: Investor Sword or Fraudster Shield?” New York Law Journal, December 11, 2009; “Can Public Pension Funds Make SOX Meaningful?” The NAPP Report, Vol. 22, Number 4, Nov. 2008; “Loss Causation in the Ninth Circuit,” New York Law Journal, September 2, 2008; and “Antitrust Protections Expanded in New York,” New York Law Journal, June 22, 1999. Ms. Hart also served as an editor for the Third Edition of *New York Antitrust and Consumer Protection Law* (2011), published by the New York State Bar Association.

She is regularly called on to discuss cutting-edge legal issues. In March 2015, she spoke on the PLI Panel “Fundamentals of Taking and Defending Depositions.” In September 2014, she spoke the International Municipal Lawyers Association 79th Annual Conference in Baltimore speech entitled “LIBOR and Municipal Finance Class Action Litigation”. In October 2013, Ms. Hart spoke on private claims under international antitrust laws at the Research in Law and Economics Conference. In 2011 Ms. Hart moderated a special section of the Fiduciary Responsibility Summit called “The Impact of Stepped-Up Government Regulation on Fiduciary Responsibilities.” That same year, Ms. Hart spoke on the Supreme Court’s *Twombly* and *Iqbal* decisions and on antitrust developments. She has appeared before the Council of Institutional Investors, The Federalist Society, the New York Bar Association, The Institute for Law and Economic Policy, the Public Funds Forum and the Practicing Law Institute. She has also appeared on news programs: “Ruling Calls Into Question Investors’ Reliance on U.S. Securities Law in Foreign Transactions,” Council of Institutional Investors, Volume 15, No. 25; FOX News program on Madoff on the day he pleaded guilty.

Ms. Hart is a graduate of Vanderbilt University (B.A. 1982), the University of North Carolina (M.A. 1987), and the Fordham University School of Law (J.D. 1992), where she was a member of the Law Review and on the Dean’s List. Ms. Hart is admitted to practice in New York and Connecticut, and is a member of the bars of the U.S. Supreme Court; the U.S. Courts of Appeals for the 2nd, 3rd, and 7th Circuits; and the U.S. District Courts for the Southern and Eastern Districts of New York.

Geoffrey M. Horn

Mr. Horn is a partner of the firm and co-head of the firm’s commodity litigation practice group, one of the premier commodity litigation practice groups in the country. Mr. Horn also represents third-party payers including major health insurers and HMOs, employers, and health and pharmacy benefits plans, and recovers on their behalf from manufacturers and providers who overcharge for prescription drugs, medical devices or services. In addition, he represents institutions and individuals in a range of securities and antitrust litigation.

Mr. Horn filed the first proposed class action *Sonterra Capital Master Fund Ltd. v. Credit Suisse Group AG et al.*, Case No. 15-cv-0871 (S.D.N.Y.) against numerous global financial institutions responsible for the setting of the London Interbank Offered Rate for the Swiss Franc (“Swiss Franc

LIBOR”). Defendants named in the lawsuit have already settled with global regulators, paid billions in fines, and have sought and been granted leniency by the European Commission for alleged anticompetitive conduct in the Swiss Franc LIBOR and Swiss Franc LIBOR derivatives market. On May 13, 2015, Lowey Dannenberg was appointed sole interim class counsel. The case is pending before the Honorable Sidney H. Stein in the Southern District of New York.

On May 6, 2015, Mr. Horn filed the first proposed class action *Sonterra Capital Master Fund Ltd. v. Barclays Bank PLC et al.*, Case No. 15-cv-3538 (S.D.N.Y.) against numerous global financial institutions responsible for the setting of the London Interbank Offered Rate for the Pound Sterling (“Sterling LIBOR”). The case is pending before the Honorable Vernon S. Broderick in the Southern District of New York.

Mr. Horn is also court-appointed Lead Class Counsel in *Laydon v. Mizuho Bank, Ltd. et al.*, Case No. 12-cv-3419 (S.D.N.Y.), a proposed class action against the numerous financial institutions responsible for the setting of the London Interbank Offered Rate (“LIBOR”) for the Japanese Yen and the Euroyen Tokyo Interbank Offered Rate (“TIBOR”). The lawsuit alleges that the Defendants manipulated these global benchmark rates in an artificial direction that financially benefitted their Yen-LIBOR and Euroyen-based derivatives positions. Defendants named in the lawsuit have already pled guilty to criminal charges of price fixing and paid billions in fines to regulators. Further, Defendant UBS AG has been granted conditional leniency from the U.S. Department of Justice (“DOJ”) pursuant to the Antitrust Criminal Penalty Enhancement and Reform Act (“ACPERA”) for alleged anticompetitive conduct relating to the Euroyen market. To date, \$206 million in settlements have been reached.

On February 12, 2013, Mr. Horn filed a proposed class action *Sullivan v. Barclays PLC et al.*, Case No. 13-cv-2811 (S.D.N.Y.) against numerous global financial institutions responsible for the setting of the Euro Interbank Offered Rate (“Euribor”), a global reference rate used to benchmark and price settle over \$200 trillion of financial products, including Euribor futures contracts traded on the NYSE LIFFE exchange. Defendants named in the lawsuit have already settled with global regulators, paid billions in fines, and have sought and been granted ACPERA conditional leniency from the DOJ for alleged anticompetitive conduct in the Euribor market. To date, \$309 million in settlements have been reached.

Mr. Horn was also counsel for plaintiffs in the proposed class action against Moore Capital relating to manipulation of NYMEX palladium and platinum futures prices in 2007 and 2008. *White v. Moore Capital Management, L.P.*, Case No. 10 CV 3634 (WHP)(S.D.N.Y.). While at his prior firm, Mr. Horn also helped achieve landmark results in the *Sumitomo Copper Litigation*, 182 F.R.D. 85 (S.D.N.Y. 1998) (a case involving manipulation of NYMEX copper futures, which settled for more than \$149 million) and *In re Soybean Futures Litigation*, 892 F. Supp. 1025 (N.D. Ill. 1995) (a case involving manipulation of Chicago Board of Trade soybean futures contracts which settled for more than \$21 million).

Mr. Horn has also represented several institutional clients as plaintiffs in matters related to auction rate securities. These actions include *Amegy Bank, N.A. v. BlackRock Munienhanced Fund, Inc., et al.* 09 Civ. 0753 (S.D.N.Y.); *Amegy Bank, N.A. v. Van Kampen Trust for Insured Municipals*, 09 Civ. 0754 (S.D.N.Y.) (Plaintiff alleges closed-end funds breached fiduciary duty to holders of auction rate preferred securities by failing to redeem following collapse of auction liquidity); *Zebra Technologies*

Corporation et al v. Sovereign Holdings, LLC, et al., No. 11 L 854 (Lake County Circuit Court, Illinois) (Plaintiff alleges securities fraud in connection with the purchase of a hybrid auction rate product); and *Monster Worldwide, Inc. v. RBC Capital Markets Corporation*, 1:09-cv-04542 (S.D.N.Y) (Plaintiff alleged securities fraud in connection with the purchase of Student Loan Auction Rate Securities (“SLARS”)).

Peter St. Phillip

Peter St. Phillip is a partner in the firm and co-head of the firm's antitrust department. He regularly represents institutional clients in large-scale cost recovery litigation. His primary clients include large health insurers, such as CIGNA and Horizon Blue Cross Blue Shield of New Jersey, and hedge funds and other investment companies.

Mr. St. Phillip has extensive appellate experience, stemming from his clerkship with the United States Court of Appeals for the Third Circuit. He has lectured on appellate advocacy and routinely briefs and argues appeals in the federal circuit courts.

Mr. St. Phillip successfully argued Aetna's appeal before the United States Court of Appeals for the First Circuit in *In re Neurontin Mktg. & Sales Practices Litigation*, 712 F.3d 51 (1st Cir. 2013), a landmark civil RICO decision holding drug manufacturers accountable to health insurers for damages attributable to marketing fraud. He appeared prominently in the April 4, 2013 National Law Journal with his quote concerning the decision, “Pfizer Suffers Big Setback in Trio of Appellate Rulings,” NATIONAL LAW JOURNAL (Apr. 4, 2013).

Through his appellate practice, Mr. St. Phillip has also helped to secure decisions invalidating agency regulations, *Roussos v. Menifee*, 122 F.3d 159 (3d Cir. 1997), upholding summary judgment, *In re Cardizem CD Antitrust Litig.*, 332 F.3d 896 (6th Cir. 2003), affirming settlements, *In re Cardizem CD Antitrust Litig.*, 391 F.3d 812 (6th Cir. 2004) and reversing dismissals, *In re: Avandia Mktg., Sales Prac. & Prods. Liab. Litig.*, 685 F.3d 353 (3d Cir. 2012), *cert. denied*, 12-690, 2013 WL 1500235 (U.S. Apr. 15, 2013); *Desiano v. Warner-Lambert Co.*, 326 F.3d 339 (2d Cir. 2003).

Mr. St. Phillip has prosecuted many antitrust and cost recovery matters during his career, including trying cases to verdict. He has developed and defended expert economic testimony for successful prosecutions of commodity manipulation and securities claims, prescription drug cases and antitrust matters. He handles day-to-day litigation efforts in several antitrust and pharmaceutical and healthcare engagements. Mr. St. Phillip has extensive expertise in complex litigation concerning medical and pharmaceutical cost recovery claims and pharmacy benefits management. Mr. St. Phillip is a contributing editor to the American Bar Association's Antitrust Class Actions Handbook, and often publishes and speaks on antitrust issues.

Mr. St. Phillip has taken an active role in litigating antitrust issues relative to collusive interbank rate-setting conduct in the financial industry. He served as a panelist discussing these issues during the 2014 New York City Bar Association Financial Services forum and has been published on the topic: Competition Policy Cartel International's Cartel Column “No Antitrust Injury in Rate-Setting—What Happened to Effects?” (May 30, 2013).

Mr. St. Phillip has represented hedge funds in insurance coverage and securities litigation. He also regularly represents a publicly-traded bank in defense of claims involving state and federal

lending disclosure and trade practices laws. Mr. St. Phillip graduated with honors from Seton Hall University School of Law (J.D., *cum laude*, 1993) and received a Bachelor of Arts from Trinity College (1990). He is admitted to practice in New York, New Jersey and Pennsylvania, and is a member of the bars of the U.S. Courts of Appeals for the 1st, 2nd, 3rd, 5th, 6th, 8th and 9th Circuits; and the U.S. District Courts for the Southern and Eastern Districts of New York, the District of New Jersey, the Eastern District of Pennsylvania and the District of Connecticut.

Gerald Lawrence

Mr. Lawrence is a partner and head of the firm's Pennsylvania Office. He represents institutions and individuals, ranging from Fortune 100 companies to small businesses to individuals, in a range of complex litigation matters, focusing on healthcare recovery, investor representation and consumer protection litigation.

In 2014, Mr. Lawrence was again recognized, for a seventh time, as one of the "Top 100 Lawyers in Pennsylvania" and as one of the "Top 100 Lawyers in Philadelphia" in a survey of lawyers and judges published in *Philadelphia Magazine*, and previously published in the *Philadelphia Inquirer*. In 2013, Mr. Lawrence appeared in the National Law Journal supplement "Legal Leaders: Top Rated Lawyers in Pennsylvania." In addition, he has been recognized as a "Pennsylvania Super Lawyer" every year since 2005, and was selected in September 2006 by *American Lawyer Media*, *The Pennsylvania Lawyer*, and the *Legal Intelligencer* as one of their 45 Lawyers on the Fast Track.

Also in 2013, he was selected by *American Lawyer Media* as "one of New York's Top Rated Lawyers" as published in the *New York Law Journal* and *New York Magazine*.

In April of 2014, the Supreme Court of Pennsylvania appointed Mr. Lawrence to the Board of Law Examiners. The seven member Board of lawyers and judges regularly meets to review bar admission rules and recommend specific rule changes, review proposed bar examination questions and analyses, approve examination results, set policy and handle all other bar admission obligations as charged by the Court. The Board holds formal hearings for applicants appealing the initial denial of their application to determine whether or not they meet the requirements for admission to the bar.

In addition, he served two terms, including as the Vice-Chairman, on the Disciplinary Board of the Supreme Court of Pennsylvania which regulates the conduct of Pennsylvania's 75,000 licensed attorneys. Mr. Lawrence serves as Commissioner of Elections and Commissioner of Voter Registration of Delaware County, Pennsylvania, and previously served as an appointed Member of the Pennsylvania Securities Commission's Attorney Advisory Committee, and on the Investment Advisory Board of the Pennsylvania Supreme Court.

Mr. Lawrence's work in the securities field includes representing the UFCW Pension Fund of Local 1776 and a shareholder class which sued to enjoin a proposal to take Aramark private at an inadequate price, and negotiating an increase in per share price and changes in the way votes were counted to ensure fairness which resulted in an additional \$185 million to investors. *UFCW Tristate Pension Fund v. Joseph Neubauer and Aramark Corp.*, C.C.P. Philadelphia (May Term 2006, No. 2940).

He has enjoyed success in a wide variety of cases. Mr. Lawrence has represented health benefits plan providers and recovered hundreds of millions of dollars on their behalf, including in *In*

re: Skelaxin (Metaxalone) Antitrust Litigation, Case No. 12-md-02343, MDL No. 2343 (D. Tenn.) (TPP allocation counsel), *Blue Cross and Blue Shield Association, et al. v. SmithKlineBeecham Corp.*, Phila. C.C.P., August Term 2012, No. 997 (Flonase opt-out settlement), *New England Carpenters Health Benefit Fund, et al. v. First DataBank, Inc. and McKesson Corp.*, No. 05-cv-11148 (D. Mass.) (TPP allocation counsel for \$285 million TPP share of \$350 million settlement), *Medical Mutual of Ohio v. Merck & Co., Inc.*, N.J. Superior Ct. (Atlantic County), Docket No. ATL-L-07319-06-MT, Case No. 619 (\$65 million Vioxx settlement), *In re Actiq Sales and Marketing Practices Litig.*, 790 F. Supp. 2d 313 (E.D. Pa. 2011), *In re Pharmaceutical Industry Average Wholesale Price Litig.*, Case No. 01-CV-12257, MDL No. 1456 (D. Mass.) (ISHP counsel for opt-out TPPs), *Humana, Inc., et al. v. GlaxoSmithKline*, Phila. C.C.P., December Term 2004, No. 3140 (Augmentin opt-out settlement), *In re: Cardizem CD Antitrust Litig.*, 218 F.R.D. 508 (E.D. Mich. 2003) (\$80 million settlement).

Besides his recovery work, Mr. Lawrence managed many substantial litigation matters including the successful defense and trial of a commercial dispute with a customer seeking more than \$1.2 billion in damages; defense of 17 related employment termination based cases in a variety of state and federal courts featuring unfair trade practices claims under California law; recovery of \$5.4 million from a bankrupt medical provider in a shifted risk arrangement; dismissal of an \$18.7 million co-ordination of benefits dispute; successful resolution of an \$8.9 million software licensing dispute; defense and recovery of legal fees from a medical provider suing for dismissal from a network; and defense of numerous cases relating to self-funded plan audits. Mr. Lawrence has participated in the trial of over forty cases.

Mr. Lawrence is President of the James A. Finnegan Fellowship Foundation, which provides scholarships, stipends, and internships to Pennsylvania students who express an interest in state government. Mr. Lawrence is a member of the Finance Committee of the Board of Trustees of the Agnes Irwin School in Rosemont, Pennsylvania. In addition, he serves as an Alumni Interviewer for Georgetown University.

Mr. Lawrence received an AV rating by Martindale-Hubbell, the highest rating a lawyer can obtain, indicating a very high to preeminent legal ability and exceptional ethical standards as established by confidential opinions from members of the Bar. Mr. Lawrence is a graduate of Georgetown University (B.S. & B.A. 1990) and the Villanova University School of Law (J.D. 1993). He is admitted and in good standing to practice in Pennsylvania and New York; and in the U.S. Courts of Appeals for the 1st, 2nd and 3rd Circuits and the U.S. District Courts for the Eastern and Middle Districts of Pennsylvania and the Eastern and Southern Districts of New York.

Thomas Skelton

Mr. Skelton is a Shareholder of the Firm and has over 20 years of experience. He specializes in complex litigation, with a primary emphasis on securities fraud, commodities fraud and antitrust cases.

Mr. Skelton has tried over two dozen matters to verdict or award, including jury and bench trials in various federal and state courts, and arbitrations before various arbitral bodies, in addition to cases that settled during trial. This includes a three-week jury trial in the Southern District of New York, a bench trial in the *Doft v. Travelocity* matter (a statutory appraisal case in Delaware Chancery Court that resulted in an award of \$30.43 per share plus compounded prejudgment interest, for a transaction in which the public shareholders who did not seek appraisal were cashed out at \$28 per share). *Doft & Co. v. Travelocity.com Inc.*, 2004 WL 1152338 (Del. Ch., May 20, 2004, modified June, 2004). In the *New York Stock Exchange/ Archipelago Merger Litigation* (N.Y. Sup. Ct.), Mr. Skelton was lead trial counsel for the firm in a case that settled two days into a week-long preliminary injunction trial, and immediately after Mr. Skelton completed his examination of a member of the board of directors of the New York Stock Exchange. Mr. Skelton has also tried numerous arbitrations before various tribunals, including the New York Stock Exchange and the National Association of Securities Dealers, and other arbitral bodies.

Mr. Skelton's recent work includes *In re: London Silver Fixing Ltd. Antitrust Litigation*, Case No. 1:14-md-02573 (S.D.N.Y.), which involves allegations that some of the world's largest financial institutions engaged in illegal price fixing of silver futures as part of The London Silver Market Fixing Ltd. Plaintiffs allege violations of the Sherman Antitrust Act and the Commodities Exchange Act. Lowey Dannenberg was appointed as Co-Lead Counsel in this matter in November 2014.

Mr. Skelton along with senior partner Barbara Hart served as Court-appointed Lead Class Counsel for the Beacon Classes in *In re Beacon Associates Litig.*, 09 Civ. 0777 (LBS) (AJP) (S.D.N.Y.), and Lead Securities and Derivative Counsel in *In re J.P. Jeanneret Associates Litig.*, 09 Civ. 3907 (CM) (AJP) (S.D.N.Y.). The team also served as Court-appointed Liaison Counsel with the United States Department of Labor in the actions, coordinating the private and regulatory actions, and leading the Settlement negotiations with the settling Defendants. Following the multi-party, multi-day mediation process (involving two mediators) at which the parties agreed in principal to settle, Mr. Skelton led the negotiation of the complex settlement papers to memorialize the settlement (a process which took seven months) involving: (a) multiple groups of private plaintiffs (class, derivative and individual); (b) the U.S. Department of Labor ("DOL"); (c) the Office of the New York Attorney General ("NYAG"); (d) multiple groups of Defendants; and (e) the Bankruptcy Trustee.

Lowey was retained by Federated Investors to challenge the merger between Xerox Corporation and Affiliated Computer Services, Inc. in an action in Delaware Chancery Court. Mr. Skelton acted as Co-Lead Counsel in achieving a \$69,000,000 settlement on the eve of trial. Besides the substantial monetary recovery, we achieved structural protections for the class, including implementation of a majority of the minority vote.

Mr. Skelton represented Federated Investors in opt-out securities litigation against Tyco International, Ltd., asserting claims unavailable to the class, including claims for Section 18 of the Securities Exchange Act of 1934 and New Jersey RICO claims, and achieving a recovery

substantially greater than that received by the class. *Federated American Leaders Fund, Inc. v. Tyco International, Ltd.*, 05 Civ. 4566 (S.D.N.Y.).

Similarly, he led the prosecution of an opt-out action in *MMI Investments, L.P. v. NDC Health Corp.*, 05 Civ. 4566 (S.D.N.Y.). Hedge fund MMI Investments asserted claims for violations of the federal securities laws and the common law, including claims not available to the class, most notably a claim for violation of Section 18 of the Exchange Act, and a claim for common law fraud. After aggressively litigating the client's claims, Mr. Skelton obtained a substantial settlement, although the class claims were dismissed.

Mr. Skelton has worked on several other high-profile cases, including *In re WorldCom Securities Litigation*, *In re HealthSouth Securities Litigation*, and *In re DaimlerChrysler AG Securities Litigation*. For *In re DaimlerChrysler AG Securities Litigation*, Mr. Skelton's work helped to secure a highly favorable settlement on behalf of Glickenhau & Co., a registered investment advisor and the second largest stockholder of Chrysler, in a non-class securities lawsuit against DaimlerChrysler AG. Successful implementation of the firm's opt-out strategy led to a recovery far exceeding that received by class members.

Mr. Skelton is a 1991 graduate of the Fordham University School of Law, where he was a member of the Fordham Law Review, and a 1987 graduate of Providence College, where he received a Bachelor of Arts in Mathematics (*magna cum laude*).

Mr. Skelton was an Adjunct Professor of Law at Pace University School of Law for four years, where he taught Advanced Appellate Advocacy from 2007 through 2009, and Securities Litigation and Enforcement in 2011. Mr. Skelton has also lectured at various conferences on topics involving securities litigation.

Mr. Skelton is admitted to practice in New York, and in the U.S. District Courts for the Southern and Eastern Districts of New York.

David Harrison

David Harrison has over twenty years of experience prosecuting complex class and individual actions on behalf of some of the world's largest investors. Mr. Harrison prosecuted the class action *In re Juniper Networks Securities Litigation*, which involved a \$900 million financial restatement resulting from the concealed backdating of millions of director and officer stock options. After four years of litigation, the Court approved a \$169.5 million settlement with Juniper and Ernst & Young LLP, the company's auditors.

Mr. Harrison litigated the *WorldCom Securities Litigation*, where the firm's pension fund clients recovered 100 percent of their Securities Act damages sustained from their investment in WorldCom's defaulted bonds. Mr. Harrison also has extensive expertise pursuing claims against third parties involved in the insolvency and bankruptcy of large financial institutions such as Frist executive Life Insurance Company; Mutual Benefit Life Insurance Company; Reliance Insurance Company; and First Central Insurance Company.

Mr. Harrison successfully prosecuted claims on behalf of a large financial institution in the *Countrywide Financial Corp. MBS Litigation*, achieving a recovery substantially higher than the percentage of losses recovered by investors in the class case.

Mr. Harrison prosecuted the class action *In re Luminent Mortgage Capital, Inc. Securities Litigation*, which resulted from the collapse and bankruptcy of Luminent Mortgage Capital, a company that invested in leveraged mortgage backed securities and mortgage loans. The Court praised the settlement as particularly excellent due to the bankruptcy proceedings' complexity and recovery.

Mr. Harrison is currently litigating on appeal novel applications of the securities laws in both federal and state courts.

With Barbara Hart, Mr. Harrison published the article "Another Alarm Blasts as the Second Circuit Rejects Class Action Tolling of the Statutes of Repose" in the third quarter of 2013 edition of *The NAPP Report*, the journal of the National Association of Public Pension Attorneys. Mr. Harrison also co-authored "Don't Bend 'American Pipe'" *New York Law Journal*, November 7, 2012 and "NEC IBEW Health & Welfare Fund v. Goldman Sachs & Co.: The Implication on Class Standing and Why We Should Think About Amici Support Now," *The NAPP Report*, Vol. 26, Number 4, November 2012.

Mr. Harrison holds both J.D. and L.L.M. from the New York University School of Law and is a graduate of Villanova University. Mr. Harrison is admitted to practice in New York, and is a member of the bar of the U.S. Courts of Appeals for the 2nd, 7th, 8th, and 9th Circuits; and the U.S. District Courts for the Southern and Eastern District of New York.

Christian Levis

Mr. Levis focuses on prosecuting commodities manipulation and antitrust violations. Mr. Levis' recent work has included the following matters:

- *Laydon v. Mizuho Bank, Ltd. et al.*, Case No. 12-cv-03419 (S.D.N.Y.) This lawsuit alleges that the numerous financial institutions responsible for setting the London Interbank Offered Rate ("LIBOR") for the Japanese Yen and the Euroyen Tokyo Interbank Offered Rate ("TIBOR") manipulated these global benchmark rates in an artificial direction that financially benefitted their Yen-LIBOR and Euroyen-based derivatives positions. Defendants have already pled guilty to criminal charges of price fixing and paid billions in fines to regulators. Further, Defendant UBS AG has been granted conditional leniency from the U.S. Department of Justice ("DOJ") under the Antitrust Criminal Penalty Enhancement and Reform Act ("ACPERA") for alleged anticompetitive conduct relating to the Euroyen market.
- *In re: London Silver Fixing Ltd. Antitrust Litigation*, Case No. 1:14-md-02573 (S.D.N.Y.) A lawsuit alleging that some of the world's largest financial institutions engaged in illegal price fixing of silver futures as part of The London Silver Market Fixing Ltd. Involving violations of the Sherman Antitrust Act and the Commodities Exchange Act, defendants allegedly colluded to publish false prices relative to silver traded on the Comex market since 2007. Lowey Dannenberg was appointed as Co-Lead Counsel in this matter in November 2014.

An avid computer programmer, Mr. Levis uses techniques borrowed from the world of Big Data to assist clients in detecting when they were damaged by market manipulation through the development of custom software solutions.

Mr. Levis received his J.D. from the Fordham University School of Law where he was an associate editor of the Fordham Intellectual Property, Media and Entertainment Law Journal. Mr. Levis also served as the interschool competitions director for the Brendan Moore Trial Advocacy Center, winning 2 national trial competitions in addition to an individual best advocate award. In recognition of these accomplishments, Mr. Levis received the Abraham Abramovsky Award for outstanding achievement in trial advocacy.

Mr. Levis received his B.A. (*cum laude*) from New York University in biology and English where his statistical analysis of Tuberculosis infection rates among members of New York City's homeless population earned him a research grant and the designation of University Honors Scholar.

Prior to joining the firm Mr. Levis clerked for the Honorable Jessica R. Mayer in the Superior Court of New Jersey, working on mass tort cases involving the drugs and medical devices Zometa/Aredia, HRT, Alloderm, Propecia, Risperdal/Seroquel/Zyprexa, and Gadolinium.

Mr. Levis is admitted to practice in New York, New Jersey and in the U.S. District Court for the Southern District of New York.

Raymond Girnys

Raymond P. Girnys focuses on prosecuting commodities manipulation and antitrust violations. Some of Mr. Girnys' current commodity manipulation and antitrust cases include:

- Yen-LIBOR/Euroyen TIBOR. Lowey Dannenberg is court-appointed Lead Class Counsel in a proposed class action against the numerous financial institutions responsible for the setting of the London Interbank Offered Rate ("LIBOR") for the Japanese Yen and the Euroyen Tokyo Interbank Offered Rate ("TIBOR"). The lawsuit alleges that the Defendants manipulated these global benchmark rates in an artificial direction that financially benefitted their Yen-LIBOR and Euroyen-based derivatives positions. Defendants named in the lawsuit have already pled guilty to criminal charges of price fixing and paid billions in fines to regulators. Further, Defendant UBS AG has been granted conditional leniency from the U.S. Department of Justice ("DOJ") pursuant to the Antitrust Criminal Penalty Enhancement and Reform Act ("ACPERA") for alleged anticompetitive conduct relating to the Euroyen market. *Laydon v. Mizuho Bank, Ltd. et al.*, Case No. 12-cv-3419 (S.D.N.Y.).
- Euribor. On February 12, 2013, Lowey Dannenberg filed a proposed class action against numerous global financial institutions responsible for the setting of the Euro Interbank Offered Rate ("Euribor"), a global reference rate used to benchmark and price settle over \$200 trillion of financial products, including Euribor futures contracts traded on the NYSE LIFFE exchange. Defendants named in the lawsuit have already settled with global regulators, paid billions in fines, and have sought and been granted ACPERA conditional leniency from the DOJ for alleged anticompetitive conduct in the Euribor market. *Sullivan v. Barclays PLC et al.*, Case No. 13-cv-2811 (S.D.N.Y.).

Mr. Girnys also worked on the *amicus curiae* brief filed by Lowey Dannenberg on behalf of the New York State Common Retirement Fund, the New York City Pension Funds, and the New York State Teachers' Retirement System in the New York Court of Appeals in *Assured Guar. (UK) Ltd. v. J.P. Morgan Inv. Management Inc.* (Dec. 20, 2011). In that successful outcome, the Court of Appeals held that New York's Blue Sky law, the Martin Act, does not pre-empt investors from asserting common law causes of action. *Assured Guar. (UK) Ltd. v. J.P. Morgan Inv. Mgmt. Inc.*, 18 N.Y.3d 341 (2011).

Mr. Girnys contributed to "Don't Bend 'American Pipe'" *New York Law Journal*, November 7, 2012 and co-authored "NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.: The Implications on Class Standing and Why We Should Think About Amici Support Now," *The NAPPA Report*, Vol. 26, Number 4, November 2012. Mr. Girnys also co-authored "No Antitrust Injury in Libor Rate-Setting?—What Happened to Effects," *Competition Policy International*, May 30, 2013.

Mr. Girnys received his B.A. (*magna cum laude*) in history and political science from The University of Scranton in 2008. Mr. Girnys received his J.D. (*summa cum laude*) from New York Law School in 2011. While at New York Law School, Mr. Girnys was a John Marshall Harlan Scholar affiliated with the Center on Business Law & Policy and served as an Associate in the Center on Financial Services Law. Mr. Girnys also served as an Articles Editor of the New York Law School Law Review.

Prior to joining Lowey Dannenberg, Mr. Girnys served as an Intern in the U.S. Attorney's Office, Eastern District of New York. Mr. Girnys is admitted to practice in both New York and New Jersey and the U.S. District Court for the Southern District of New York.

Christina McPhaul

Ms. McPhaul specializes in securities and commodities litigation with 5 years of experience. Ms. McPhaul's current cases include *In re American Realty Capital Properties, Inc. Litigation*, No. 1:15-mc-00040 (S.D.N.Y.); *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.); *Sullivan, et al. v. Barclays, et al.*, No. 13-cv-02811 (S.D.N.Y.) (Euribor); *Laydon v. Mizuho Bank, Ltd., et al.*, No. 1:12-cv-03419 (S.D.N.Y.) (yen LIBOR). Ms. McPhaul recently co-authored *Money Talks*, in EMORY CORPORATE GOVERNANCE AND ACCOUNTABILITY REVIEW, January 2017 and contributed to the NAPPA white paper "Post-Morrison: The Global Journey Towards Asset Recovery," June 2016.

Ms. McPhaul received her J.D. from Pace Law School in 2012 (*cum laude*) where she was a senior member of Pace Law Review. She wrote her student comment on the Dodd-Frank Wall Street Reform and Consumer Protection Act, focusing on the Volcker Rule.

During law school, Ms. McPhaul had internships at the U.S. Attorney's Office for the Southern District of New York and the Office of the New York State Attorney General. After graduating law school, Ms. McPhaul worked on white collar criminal cases as an intern at the Connecticut Chief State's Attorney's Office and served as an assistant clerk on the Complex Litigation Docket at Hartford Superior Court. Ms. McPhaul worked at Deloitte Consulting for six years after receiving her bachelor's degree in mathematics-actuarial science from the University of

Connecticut in 2001. Ms. McPhaul is admitted to practice in New York and Connecticut.

Sylvie Bourassa

Ms. Bourassa received her LL.B. in civil law from Université du Québec à Montréal. She received her LL.M. in Health Care Law from Université de Sherbrooke and her Bachelors of Laws from Dalhousie Law School. Ms. Bourassa is a Registered Nurse. Ms. Bourassa is admitted to practice in New York. She is also a member of the California bar (voluntary inactive status). She is fluent in French.

Ms. Bourassa is a member of the Quebec Bar and of the Law Society of Saskatchewan (voluntary inactive status). She practiced law in Canada for several years, mostly in Quebec. In Canada, she worked on civil mass actions representing plaintiffs in the Canadian Indian Residential Schools' cases involving aboriginal students alleging physical and sexual abuse.

Frank Strangeman

Mr. Strangeman received his B.S. (*cum laude*) from St. Peter's College where he majored in Economics and was the recipient of the Economics Medal. Mr. Strangeman received his J.D. from the Fordham University School of Law, where he was an associate editor of the Journal of Corporate and Financial Law. Mr. Strangeman was also active on the Moot Court Board, serving as an associate editor and as a competition team member.

Prior to joining the firm, Mr. Strangeman worked at Cadwalader, Wickersham & Taft LLP on high-profile antitrust litigation matters. More recently, Mr. Strangeman has worked in Securities Litigation at NewOak Capital, with a focus on Residential Mortgage Backed Securities.

Mr. Strangeman is admitted to practice in New York and New Jersey.

Yong Kim

Mr. Kim received his B.A. in Political Science from the State University of New York at Stony Brook. Mr. Kim received his J.D. from the Benjamin N. Cardozo School of Law, where he was an active member of the Cardozo Journal of Law and Gender.

While at Cardozo, Mr. Kim participated in the NYS Attorney General Social Justice Field Clinic at the Tobacco Compliance Bureau. Mr. Kim also served as an intern at the Bronx County District Attorney's Office in the Rackets Bureau, and the NYS Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts.

Mr. Kim is admitted in New York.

Michelle E. Conston

Michelle Conston received a B.A. degree from Marist College in 2010 (*magna cum laude*) and a J.D. from the University of Miami in 2013 (*magna cum laude*). While at Lowey, Ms. Conston

represented plaintiffs in the *In re London Silver Fixing, Ltd., Antitrust Litigation*, No. 14-md-02573 (S.D.N.Y.), and represented various institutional investors in actions alleging manipulation of the London Interbank Offered Rate (“LIBOR”) for several currencies by large financial institutions.

Ms. Conston served as a judicial intern to the Honorable Stephen T. Brown, Chief Magistrate Judge in the U.S. District Court for the Southern District of Florida; and as a certified legal intern in the narcotics unit of the U.S. Attorney’s Office for the Southern District of Florida. She is admitted to practice in New York, New Jersey, and Florida (inactive) and is admitted to the U.S. District Court for the Southern District of New York.

Melissa Cabrera

While at Lowey, Melissa Cabrera’s practice focused on prosecuting securities litigation and commodities manipulation and antitrust violations.

Ms. Cabrera received her J.D. degree from Cornell Law School (2013), where she was a member of the Human Rights Clinic and Secretary of the Cornell Law Students Association. She received her B.A. in Political Science from the University of Wisconsin - Madison (2008). Ms. Cabrera is an active member of the Cornell Law School Alumni Association and served as a member of the Executive Board of Directors from 2012 through 2013. She is also an active member of Cornell Law School’s Curia Society Committee, the Federal Bar Council, and the Westchester Bar Committee.

Ms. Cabrera’s is admitted to practice in New York, and is a member of the bar of the U.S. District Court for the Southern District of New York.

Nathan Carr-Whealy

Mr. Carr-Whealy worked out of the firm’s Philadelphia office. He received a B.B.A from Temple University, an M.S. from Thomas Jefferson University and a J.D. from Widener University School of Law.

EXHIBIT 8

parties' discovery requests and responses and reviewing voluminous documents produced, including over 15,000 of Defendant-produced documents; (f) negotiating various search terms and discovery protocols for GERS' collection, review and production of documents; (g) assistance in the preparation of 16 merits depositions; (h) preparing to defending GERS' deposition, and assisting in GERS' deposition preparation, which has been noticed numerous times and scheduled to occur; (i) communications and meetings among the parties and counsel; and (j) utilization of our deep bench of experienced settlement department attorneys to assist in the negotiation of settlement terms to best serve class members.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my Firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on the Firm's current billing rates. For personnel who are no longer employed by the Firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by the Firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by the Firm. Certain time expended on the Action through and including December 31, 2017, has not been included in this request. Time expended on Lead Counsel's application for attorneys' fees and expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of the Firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, through and including December 31, 2017, is 9,360.45. The total lodestar reflected in Exhibit 1 for that period is \$4,006,431.75, consisting of \$3,997,581.75 for attorneys' time and \$8,850.00 for professional support staff time.

6. The Firm's lodestar figures are based on the Firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in the Firm's billing rates.

7. As detailed in Exhibit 2, my Firm is seeking a total of \$314,583.38 in litigation expenses in connection with the prosecution of this Action through and including December 31, 2017.

8. The expenses reflected in Exhibit 2 are the actual expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
 - (b) Hotel charges per night are capped at \$350 for large cities (Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
 - (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
 - (d) Internal copying is charged at \$0.10 per page.
 - (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.
- There are no administrative charges included in these figures.

9. The expenses in this Action are reflected on the books and records of the Firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses.

10. My Firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, the Firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. The identification and background of the Firm's Partners, Of-Counsel, and Associates whose time is included herein is attached hereto as Exhibit 3. A more detailed description of the Firm and its members and accomplishments can be found at www.rgrdlaw.com.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 4, 2018.



DAVID W. MITCHELL

EXHIBIT 1

EXHIBIT 1**IN RE: FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION****Robbins Geller Rudman & Dowd LLP**

Time Report through and including December 31, 2017

<i>NAME</i>	<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Partners			
Daniels, Patrick	12.75	825	10,518.75
Gusikoff Stewart, Ellen	25.00	870	21,750.00
Jodlowski, Steven	22.15	685	15,172.75
Mitchell, David	284.40	760	216,144.00
O'Mara, Brian	105.55	715	75,468.25
Of Counsel			
Bandman, Randi D.	490.80	790	387,732.00
Coughlin, Patrick J.	273.45	950	259,777.50
Hutton, Andrew	83.50	740	61,790.00
Park, Keith F.	11.00	885	9,735.00
Associates			
Browne, Lonnie	261.80	460	120,428.00
George, John	23.25	460	10,695.00
Serra, Vincent	132.00	560	73,920.00
Staff Attorneys			
Black, Kelli	133.10	360	47,916.00
Hines, Nicole	160.50	360	57,780.00
Lin, David	2,191.80	360	789,048.00
Mehta, Dharmi	56.00	360	20,160.00
Moyer, Joshua	335.00	360	120,600.00
Simonson, Todd	115.00	350	40,250.00
Stickney, Alexis	182.00	360	65,520.00
Project Attorneys			
Capobianco, Joseph	2,196.00	360	790,560.00
Losasso, Ian	2,107.00	360	758,520.00
Saba, Amy	76.90	360	27,684.00
Youngkin, Joshua	40.00	360	14,400.00
Summer Associates			
Schlesier, Heather	11.50	175	2,012.50
Paralegals			
Bacci, Melissa	16.50	295	4,867.50
Mix, Lisa	13.50	295	3,982.50
TOTAL	9,360.45		\$ 4,006,431.75

EXHIBIT 2

IN RE: FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

Robbins Geller Rudman & Dowd LLP

Expense Report through and including December 31, 2017

<i>CATEGORY</i>	<i>AMOUNT</i>
Court Fees	\$ 833.00
Service of Process	1,724.20
Online Legal Research	2,558.98
Document Management/Litigation Support	168.84
Telephone	149.04
Postage & Express Mail	1,539.45
Local Transportation	10.00
Internal Copying	0.70
Out of Town Travel	11,686.53
Meals	412.64
Experts	30,500.00
Contributions to Litigation Fund	265,000.00
<i>TOTAL</i>	<i>\$ 314,583.38</i>

EXHIBIT 3

A vertical black line is positioned to the left of the firm's name.

Robbins Geller Rudman & Dowd LLP

THE RIGHT CHOICE

Firm Resume

Introduction

Robbins Geller Rudman & Dowd LLP ("Robbins Geller" or the "Firm") is a 200-lawyer firm with offices in Atlanta, Boca Raton, Chicago, Manhattan, Melville, Nashville, San Diego, San Francisco, Philadelphia and Washington, D.C. (www.rgrdlaw.com). The Firm is actively engaged in complex litigation, emphasizing securities, consumer, antitrust, insurance, healthcare, human rights and employment discrimination class actions, as well as intellectual property disputes. The Firm's unparalleled experience and capabilities in these fields are based upon the talents of its attorneys, who have successfully prosecuted thousands of class action lawsuits and numerous individual cases, recovering billions of dollars.

This successful track record stems from our experienced attorneys, including many who came to the Firm from federal or state law enforcement agencies. The Firm also includes several dozen former federal and state judicial clerks.

The Firm currently represents more institutional investors, including public and multi-employer pension funds and domestic and international financial institutions, in securities and corporate litigation than any other plaintiffs' securities law firm in the United States.

The Firm is committed to practicing law with the highest level of integrity in an ethical and professional manner. We are a diverse firm with lawyers and staff from all walks of life. Our lawyers and other employees are hired and promoted based on the quality of their work and their ability to treat others with respect and dignity.

We strive to be good corporate citizens and work with a sense of global responsibility. Contributing to our communities and environment is important to us. We often take cases on a pro bono basis and are committed to the rights of workers, and to the extent possible, we contract with union vendors. We care about civil rights, workers' rights and treatment, workplace safety and environmental protection. Indeed, while we have built a reputation as the finest securities and consumer class action law firm in the nation, our lawyers have also worked tirelessly in less high-profile, but no less important, cases involving human rights and other social issues.

Attorney Biographies

Patrick W. Daniels | Partner

Patrick Daniels is a founding and managing partner in the Firm's San Diego office. He is widely recognized as a leading corporate governance and investor advocate. The *Daily Journal*, the leading legal publisher in California, named him one of the 20 most influential lawyers in California under 40 years of age. Additionally, the Yale School of Management's Millstein Center for Corporate Governance and Performance awarded Daniels its "Rising Star of Corporate Governance" honor for his outstanding leadership in shareholder advocacy and activism. Daniels counsels private and state government pension funds, central banks and fund managers in the United States, Australia, United Arab Emirates, United Kingdom, the Netherlands, and other countries within the European Union on issues related to corporate fraud in the United States securities markets and on "best practices" in the corporate governance of publicly traded companies. Daniels has represented dozens of institutional investors in some of the largest and most significant shareholder actions, including *Enron*, *WorldCom*, *AOL Time Warner*, *BP*, *Pfizer*, *Countrywide*, *Petrobras* and *Volkswagen*, to name just a few. In the wake of the financial crisis, he represented dozens of investors in structured investment products in groundbreaking actions against the ratings agencies and Wall Street banks that packaged and sold supposedly highly rated shoddy securities to institutional investors all around the world.

Education

B.A., University of California, Berkeley, 1993; J.D., University of San Diego School of Law, 1997

Honors / Awards

One of the Most 20 Most Influential Lawyers in the State of California Under 40 Years of Age, *Daily Journal*; Rising Star of Corporate Governance, Yale School of Management's Milstein Center for Corporate Governance & Performance; B.A., *Cum Laude*, University of California, Berkeley, 1993

Ellen Gusikoff Stewart | Partner

Ellen Gusikoff Stewart is a partner in the Firm's San Diego office. She currently practices in the Firm's settlement department, negotiating and documenting complex securities, merger, ERISA and derivative action settlements. Notable settlements include: *Landmen Partners Inc. v. The Blackstone Grp. L.P.* (S.D.N.Y. 2013) (\$85 million); *Garden City Emps.' Ret. Sys. v. Psychiatric Sols., Inc.* (M.D. Tenn. 2015) (\$65 million); *City of Sterling Heights Gen. Emps.' Ret. Sys v. Hospira, Inc.* (N.D. Ill. 2014) (\$60 million); and *The Bd. of Trs. of the Operating Eng'rs Pension Tr. v. JPMorgan Chase Bank, N.A.* (S.D.N.Y. 2013) (\$23 million).

Education

B.A., Muhlenberg College, 1986; J.D., Case Western Reserve University, 1989

Honors / Awards

Peer-Rated by Martindale-Hubbell

Steven M. Jodlowski | Partner

Steven Jodlowski is a partner in the Firm's San Diego office. His practice focuses on high-stakes complex litigation, often involving antitrust, securities and consumer claims. In recent years, he has specialized in representing investors in a series of antitrust actions involving the manipulation of benchmark rates, including the ISDAFix Benchmark litigation, which to date has resulted in the recovery of nearly \$400 million on behalf of investors, *In re Treasuries Sec. Auction Antitrust Litig.*, and *In re SSA Bonds Antitrust Litig.* Jodlowski was also part of the trial team in an antitrust monopolization case against a multinational computer and software company.

Jodlowski has successfully prosecuted numerous antitrust and RICO cases. These cases resulted in the recovery of more than \$1 billion for investors and policyholders. Jodlowski has also represented institutional and individual shareholders in corporate takeover actions in state and federal court. He has handled pre- and post-merger litigation stemming from the acquisition of publicly listed companies in the biotechnology, oil and gas, information technology, specialty retail, electrical, banking, finance and real estate industries, among others.

Education

B.B.A., University of Central Oklahoma, 2002; J.D., California Western School of Law, 2005

Honors / Awards

Super Lawyer "Rising Star," 2015-2017; CAOC Consumer Attorney of the Year Award Finalist, 2015; J.D., *Cum Laude*, California Western School of Law, 2005

David W. Mitchell | Partner

David Mitchell is a partner in the Firm's San Diego office and focuses his practice on securities fraud, antitrust and derivative litigation. He leads the Firm's antitrust benchmark litigations as well as the Firm's pay-for-delay actions. He has served as lead or co-lead counsel in numerous cases and has helped achieve substantial settlements for shareholders. His recent cases include *Dahl v. Bain Capital Partners, LLC*, obtaining more than \$590 million for shareholders, and *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.* Currently, Mitchell serves as court-appointed counsel in the ISDAfix Benchmark action and *In re Aluminum Warehousing Antitrust Litig.*

Prior to joining the Firm, he served as an Assistant United States Attorney in the Southern District of California and prosecuted cases involving narcotics trafficking, bank robbery, murder-for-hire, alien smuggling, and terrorism. Mitchell has tried nearly 20 cases to verdict before federal criminal juries and made numerous appellate arguments before the Ninth Circuit Court of Appeals.

Education

B.A., University of Richmond, 1995; J.D., University of San Diego School of Law, 1998

Honors / Awards

Member, Enright Inn of Court; Best Lawyer in America, *Best Lawyers®*, 2018; Super Lawyer, 2016-2017; Antitrust Trailblazer, *The National Law Journal*, 2015; "Best of the Bar," *San Diego Business Journal*, 2014

Brian O. O'Mara | Partner

Brian O'Mara is a partner in the Firm's San Diego office. His practice focuses on complex securities and antitrust litigation. Since 2003, O'Mara has served as lead or co-lead counsel in numerous shareholder and antitrust actions, including: *Bennett v. Sprint Nextel Corp.* (D. Kan.) (\$131 million recovery); *In re CIT Grp. Inc. Sec. Litig.* (S.D.N.Y.) (\$75 million recovery); *In re MGM Mirage Sec. Litig.* (D. Nev.) (\$75 million recovery); *C.D.T.S. No. 1 v. UBS AG* (S.D.N.Y.); *In re Aluminum Warehousing Antitrust Litig.* (S.D.N.Y.); and *Alaska Elec. Pension Fund v. Bank of Am. Corp.* (S.D.N.Y.). O'Mara has been responsible for a number of significant rulings, including: *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, 175 F. Supp. 3d 44 (S.D.N.Y. 2016); *Bennett v. Sprint Nextel Corp.*, 298 F.R.D. 498 (D. Kan. 2014); *In re MGM Mirage Sec. Litig.*, 2013 U.S. Dist. LEXIS 139356 (D. Nev. 2013); *In re Constar Int'l, Inc. Sec. Litig.*, 2008 U.S. Dist. LEXIS 16966 (E.D. Pa. 2008), *aff'd*, 585 F.3d 774 (3d Cir. 2009); *In re Direct Gen. Corp. Sec. Litig.*, 2006 U.S. Dist. LEXIS 56128 (M.D. Tenn. 2006); and *In re Dura Pharm., Inc. Sec. Litig.*, 452 F. Supp. 2d 1005 (S.D. Cal. 2006). Prior to joining the Firm, he served as law clerk to the Honorable Jerome M. Polaha of the Second Judicial District Court of the State of Nevada.

Education

B.A., University of Kansas, 1997; J.D., DePaul University, College of Law, 2002

Honors / Awards

Super Lawyer, 2016-2017; CALI Excellence Award in Securities Regulation, DePaul University, College of Law

Susan G. Taylor | Partner

Susan Goss Taylor is a partner in the Firm's San Diego office. Her practice focuses on securities fraud and antitrust litigation. Taylor served as a Special Assistant United States Attorney for the Southern District of California, where she obtained considerable trial experience prosecuting drug smuggling and alien smuggling cases. As a partner with Robbins Geller, Taylor has been responsible for prosecuting securities fraud class actions and has obtained substantial recoveries for investors in litigation involving WorldCom, Qwest, AOL Time Warner and Motorola.

Taylor also served as counsel on the Microsoft, DRAM and Private Equity antitrust litigation teams, as well as on a number of consumer actions alleging false and misleading advertising and unfair business practices against major corporations such as General Motors, Saturn, Mercedes-Benz USA, LLC, BMG Direct Marketing, Inc. and Ameriquest Mortgage Company.

Education

B.A., Pennsylvania State University, 1994; J.D., The Catholic University of America, Columbus School of Law, 1997

Honors / Awards

Super Lawyer, 2015-2016; Member, Moot Court Team, The Catholic University of America, Columbus School of Law

Randi D. Bandman | Of Counsel

Randi Bandman is Of Counsel in the Firm's Boca Raton office, where her practice focuses on complex litigation of cases involving violations of both federal and state antitrust, securities and consumer laws. She lectures and advises public and multi-employer pension funds, fund managers, banks, hedge funds and insurance companies, both domestically and internationally, on their rights. Bandman has represented hundreds of clients in some of the largest and most successful actions ever prosecuted, resulting in billions of dollars of recoveries, both as private opt-out and class actions. Notable cases include: *In re Enron Corp. Sec. Litig.* (\$7.2 billion), *In re WorldCom Sec. Litig.* (\$657 million), AOL Time Warner, Inc. opt-out litigations (\$629 million) and Private Equity litigation (*Dahl v. Bain Capital Partners, LLC*) (\$590.5 million).

Bandman is currently representing plaintiffs in the Foreign Exchange Litigation pending in the Southern District of New York which alleges collusive conduct by the world's largest banks to fix prices in the \$5.3 trillion a day foreign exchange market and in which billions of dollars have been recovered to date for injured plaintiffs. She was also instrumental in the landmark 1998 state settlement with the tobacco companies for \$12.5 billion.

Education

B.A., University of California, Los Angeles; J.D., University of Southern California

Patrick J. Coughlin | Of Counsel

Patrick Coughlin is Of Counsel to the Firm and has served as lead counsel in several major securities matters, including one of the earliest and largest class action securities cases to go to trial, *In re Apple Comput. Sec. Litig.* Coughlin was recently one of the lead attorneys who secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump. The settlement provides \$25 million to approximately 7,000 consumers. This result means individual class members will be eligible for upwards of \$35,000 in restitution. He represented the class on a *pro bono* basis. Additional prominent securities class actions prosecuted by Coughlin include the *Enron* litigation (\$7.2 billion recovery); the *Qwest* litigation (\$445 million recovery); and the *HealthSouth* litigation (\$671 million recovery). In addition to the numerous securities cases, Coughlin has handled a number of large antitrust cases including the Visa/Master Card *Interchange Fee* case, the *Currency Conversion* cases in which \$360 million was recovered for consumers and the Private Equity litigation (*Dahl v. Bain Capital Partners, LLC*) in which \$590.5 million was recovered for investors. Coughlin was formerly an Assistant United States Attorney in the District of Columbia and the Southern District of California, handling complex white-collar fraud matters.

Education

B.S., Santa Clara University, 1977; J.D., Golden Gate University, 1983

Honors / Awards

Best Lawyer in America, *Best Lawyers®*, 2006-2018; Senior Statesman, *Chambers USA*, 2014-2017; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2017; Super Lawyer, 2004-2017; Antitrust Trailblazer, *The National Law Journal*, 2015; Top 100 Lawyers, *Daily Journal*, 2008; Leading Lawyers in America, *Lawdragon*, 2006, 2008-2009

Andrew W. Hutton | Of Counsel

Drew Hutton is Of Counsel in the Firm's San Diego and New York offices, responsible for simplifying cases of complex financial fraud. Hutton has prosecuted a variety of securities actions, achieving high-profile recoveries and results. Representative cases against corporations and their auditors include *In re AOL Time Warner Sec. Litig.* (\$2.5 billion) and *In re Williams Cos. Sec. Litig.* (\$311 million). Representative cases against corporations and their executives include *In re Broadcom Sec. Litig.* (\$150 million) and *In re Clarent Corp. Sec. Litig.* (class plaintiff's 10b-5 jury verdict against former CEO). Hutton is also active in shareholder derivative litigation, achieving monetary recoveries and governance changes, including *In re Affiliated Computer Servs. Derivative Litig.* (\$30 million), *In re KB Home S'holder Derivative Litig.* (\$30 million) and *In re KeyCorp Derivative Litig.* (modified CEO stock options and governance). Hutton has also litigated securities cases in bankruptcy court (*In re WorldCom, Inc.* – \$15 million for individual claimant) and a complex options case before FINRA (eight-figure settlement for individual investor). Hutton is also experienced in complex, multi-district consumer litigation. Representative nationwide insurance cases include *In re Prudential Sales Practices Litig.* (\$4 billion), *In re Metro. Life Ins. Co. Sales Practices Litig.* (\$2 billion) and *In re Conseco Life Ins. Co. Cost of Ins. Litig.* (\$200 million). Representative nationwide consumer lending cases include a \$30 million class settlement of Truth-in-Lending claims against American Express and a \$24 million class settlement of RICO and RESPA claims against Community Bank of Northern Virginia (now PNC Bank).

Hutton is the founder of Hutton Law Group, a plaintiffs' litigation practice currently representing retirees, individual investors and businesses, and is also the founder of Hutton Investigative Accounting, a financial forensics and investigation firm. Prior founding Hutton Law and joining Robbins Geller, Hutton was a public company accountant, Certified Public Accountant, and broker of stocks, options and insurance products. Hutton has also served as an expert litigation consultant in both financial and corporate governance capacities. Hutton is often responsible for working with experts retained by the Firm in litigation and has conducted dozens of depositions of financial professionals, including audit partners, CFOs, directors, bankers, actuaries and opposing experts.

Education

B.A., University of California, Santa Barbara, 1983; J.D., Loyola Law School, 1994

Debashish Bakshi | Associate

Debashish Bakshi is an associate in the Firm's San Diego office, where his practice focuses on complex securities litigation. Originally from London, England, Bakshi graduated from Stanford University with a Bachelor of Arts degree in Political Science. After working as a paralegal at a corporate immigration firm in Silicon Valley, Bakshi attended the University of California, Hastings College of the Law, earning his Juris Doctor degree. While in law school, Bakshi was a Staff Editor for *Hastings Business Law Journal* and Senior Notes Editor for *Constitutional Law Quarterly*. He is the author of *The Restatement (Fourth) of Foreign Relations Law: Discouraging State Courts from Recognizing Foreign-Country Money Judgments in Absence of Debtor's Assets*, 12 *Hastings Bus. L.J.* 281 (2016). Bakshi also served as a judicial extern to the Honorable Laurel Beeler of the United States District Court for the Northern District of California. In addition, he was a Teaching Assistant in Legal Writing & Research and Moot Court classes.

Education

B.A., Stanford University, 2010; J.D., University of California, Hastings College of the Law, 2016

Honors / Awards

Senior Notes Editor, *Constitutional Law Quarterly*, University of California, Hastings College of the Law; Staff Editor, *Hastings Business Law Journal*, University of California, Hastings College of the Law; *Pro Bono Society*, University of California, Hastings College of the Law; First Place, UC Hastings First Annual Chancellor & Dean's Essay Contest, University of California, Hastings College of the Law

Lonnie A. Browne | Associate

Lonnie Browne is an associate in the Firm's San Diego office, where his practice focuses on complex antitrust and securities litigation. He earned his Bachelor of Arts degree in History from Stanford University. After teaching and coaching at Damien High School in La Verne, California, Browne attended the University of San Diego School of Law, receiving his Juris Doctor degree. During law school, Browne served as comments editor on the *San Diego International Law Journal* and as a teaching assistant for Professor Alastair J. Agcaoili. He also earned a Community Service Grant from the School of Law to work with San Diego's Employee Rights Center and advocate for members of the United Domestic Workers of America. In addition, Browne worked at the Law Offices of Robert Vaage and served as a judicial extern for the Honorable William McCurine, Jr. of the United States District Court for the Southern District of California.

Education

B.A., Stanford University, 2008; J.D., University of San Diego School of Law, 2013

John H. George | Associate

John George is an associate in the Firm's San Francisco office, where his practice focuses on complex securities class actions. Prior to joining the Firm, George served as a law clerk to the Honorable Marilyn L. Huff of the United States District Court for the Southern District of California. He earned his Bachelor of Arts degree in psychology from the University of San Francisco. George earned his Juris Doctor degree, *summa cum laude*, from the University of San Diego School of Law. He was Valedictorian of his law school class and received 12 awards for having the highest grade in individual classes. During law school, George served as a judicial extern to Judge Huff and the Honorable M. Margaret McKeown of the Ninth Circuit Court of Appeals.

Education

B.A., University of San Francisco, 2008; J.D., University of San Diego School of Law, 2013

Honors / Awards

Valedictorian, University of San Diego School of Law, 2013

Vincent M. Serra | Associate

Vincent Serra is an associate at the Firm's Melville office and focuses his practice on complex antitrust, consumer, employment and securities litigation. His efforts have contributed to the recovery of billions of dollars on behalf of aggrieved plaintiffs and class members. Serra has contributed to several significant antitrust recoveries, including *In re Currency Conversion Fee Antitrust Litig.* (\$336 million recovery) and *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.* Serra was also a member of the team of attorneys who recently secured a \$590.5 million settlement on behalf of investors in *Dahl v. Bain Capital Partners, LLC*, an antitrust action against some of the world's largest and most powerful private equity firms alleging collusive practices in multi-billion dollar leveraged buyouts.

Education

B.A., University of Delaware, 2001; J.D., California Western School of Law, 2005

Honors / Awards

Wiley W. Manuel Award for Pro Bono Legal Services, State Bar of California

EXHIBIT 9

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

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

$$\begin{array}{c} \mathbf{X} \\ \vdots \\ \mathbf{X} \end{array}$$

No. 1:13-cv-07789-LGS

**DECLARATION OF DANIEL J. MOGIN
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF MOGINRUBIN LLP**

I, Daniel J. Mogin, declare as follows:

1. I am Managing Partner of MoginRubin LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, originated this case, performed the initial investigation and otherwise engaged in the preliminary development of the complaint and initial pleadings, shared the matter with eventual co-lead Scott + Scott, and participated in overall strategy and prosecution of the matter. In developing the case, this firm conducted detailed and comprehensive research and investigation into the Foreign Exchange Market, worked with economic experts and drafted an initial complaint. Post-filing, we continued to work with experts, helped form litigation strategy at various procedural stages, assisted in drafting pleadings and

worked on settlement related matters. My firm participated extensively in discovery, working on key issues and analyses relating to plaintiffs' discovery objectives as well as assisting in setting up review processes (including the development of tags for use in the coding platform and a process for distributing batches of documents) and analyzing sample audio files to determine whether transcription of those files was accurate enough for reviewers to rely on. The firm also evaluated several thousand chat transcripts, listened to hundreds of recorded telephone conversations among traders and led a group of reviewers in assessing thousands of documents in connection with expert analyses and reports.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 6862.00. The total lodestar reflected in Exhibit 1 is \$3,071,388.75, consisting of \$3,043,480.00 for attorneys' time and \$27,908.75 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$229,174.86 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:


- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.



Daniel J. Mogin

EXHIBIT 1

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

	x	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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	x	

MOGINRUBIN LLP
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Daniel J. Mogin	596.25	895.00	533,643.75
Jonathan Rubin	156.75	800.00	125,400.00
Senior Counsel			
Jodie Williams	326.00	590.0	192,340.00
Joy Sidhwa	124.75	515.00	64,246.25
Associates			
Peter Choi	3904.75	350.00	1,366,662.50
Phillip Stephan	143.25	475.00	68,043.75
Staff Attorneys			
Gina Kim	1459.25	475.00	693,143.75
Paralegals			
Jennie Chatfield	53.0	215.00	11,395.00
Steven Ejercito	24.25	240.00	5,820.00
Norma Geraci	73.75	145.00	10,693.75
TOTALS:	6862.00		\$3,071,388.75

EXHIBIT 2

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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MOGINRUBIN LLP
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Online Legal Research	311.20
Online Factual Research	64.61
Telephones/Faxes	36.96
Postage & Express Mail	85.87
Internal Copying	590.50
Out of Town Travel*	8052.31
Meals*	33.41
Contributions to Litigation Fund	220,000.00
TOTAL EXPENSES:	\$229,174.86

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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MOGINRUBIN LLP
FIRM RÉSUMÉ AND BIOGRAPHIES



MoginRubin LLP is a competition law boutique specializing in national, state, and international antitrust and competition litigation, with a significant portion of the practice devoted to antitrust class actions. We represent businesses, entrepreneurs, consumers and investors in antitrust, unfair competition, complex business and investment cases. With offices in Washington D.C. and San Diego, the firm builds upon the named partners' deep experience in antitrust cases, uniting the competition law practices of The Mogin Law Firm, P.C. and Rubin PLLC. Our Partners have represented plaintiffs in several hundred antitrust and class action cases in federal and state courts throughout the United States. Our core team of experienced antitrust attorneys and professional staff have worked together for many years and their backgrounds include AMLAW 200 law firms, prestigious litigation boutiques, the Federal Trade Commission, the Antitrust Division of the U.S. Department of Justice and the California Attorney General's Antitrust Section.

MoginRubin LLP attorneys have participated in some of the largest antitrust class actions in the United States. We are frequently invited to participate in these cases by other law firms and often consult with firms engaged in antitrust cases.

Over his 37-year career, **Dan Mogin** has been appointed as lead or liaison counsel many times and has also frequently served on Steering and Executive committees charged with overall responsibility for direction of complex Multi-District Litigation and Judicial Council Coordination Proceedings. Mr. Mogin served as a Lawyer Representative to the Ninth Circuit Conference for the United States District Court for the Southern District of California. He chaired the Antitrust & Unfair Competition Law Section of the California State Bar, taught antitrust law at the University of San Diego as an Adjunct Professor for ten years, served as Editor-in-Chief of the treatise, *California Antitrust & Unfair Competition Law (Third)* and is an emeritus member of the Advisory Board of the American Antitrust Institute. Dan Mogin has been named as a "Best Lawyer in America" and a "Super Lawyer" for Antitrust Litigation as well as one of San Diego's "Top Attorneys" for Corporate and Business Litigation.

Jonathan Rubin is an experienced trial attorney who also has a Ph.D. in economics. Mr. Rubin was formerly an antitrust partner at Patton Boggs LLP in Washington, D.C and a Senior Fellow of the American Antitrust Institute. As a litigator, Mr. Rubin has led trial teams in major antitrust cases in courts throughout the country. He has served as appellate counsel in major cases and as counsel for *amici* in several significant Supreme Court antitrust cases.

As a policy advocate in competition law, Mr. Rubin has published work in influential academic journals and has spoken to numerous professional groups, including the Directorate General for Competition of the European Commission, the Antitrust Section of the American Bar Association, the University of Wisconsin, and the American Antitrust Institute. Mr. Rubin has also made several appearances before Congressional committees on topics related to antitrust and competition law.

Some examples of our cases are listed below.



ANTITRUST

1. *Containerboard Products Antitrust Litigation*

Co-lead counsel (Rule 23(g)) in Sherman Act case representing a certified nationwide class of direct purchasers alleging price-fixing and supply restriction claims against the largest integrated manufacturers of containerboard and corrugated packaging. Partial settlements: \$378 million. Reported: 775 F. Supp. 2d 1071 (N.D. Ill. 2011); 306 F.R.D. 585 (N.D. Ill. 2015) __ F3d. __; 2016 U.S. App. LEXIS 14282; 2016 WL 4137371 (7th Cir. 2016). Pending ND-IL (10-cv-05711).

2. *Dynamic Random Access Memory (DRAM) Antitrust Litigation*

Co-lead counsel (Rule 23(g)) for indirect purchaser class alleging Sherman Act and multi-state price-fixing claims against an international cartel of major manufacturers of computer memory. MDL 1486 (ND-CA). Reported: 516 F. Supp. 2d 1072 (N.D. Cal. 2007); 536 F. Supp. 2d 1129 (N.D. Cal. 2008). Settled: \$315 million.

3. *Automated Teller Machine (ATM) Surcharge Antitrust Litigation*

Lead counsel (Rule 23(g)) in Sherman Act case representing the National ATM Council and independent ATM operators alleging price-fixing of surcharge fees by Visa and MasterCard. Reported: 797 F.3d 1057 (D.C. Cir., 2015); 137 S.Ct. 289 (Mem) (2016). Pending D-DC (11-cv-01803)

4. *California CARB Gasoline Antitrust Litigation*

Co-lead counsel for a certified statewide class of over 24 million end-payers, in this Cartwright Act and Unfair Competition Law case alleging price-fixing and supply restriction claims against nine major refiners, distributors and retailers of California's "CARB" gasoline. CA-SD. Reported: 1998-1 Trade Cas. (CCH) ¶72,080; 25 Cal 4th 826 (2001).

5. *Smokeless Tobacco Antitrust Cases*

Co-liaison counsel (CRC 3.506) representing certified statewide class of indirect purchaser end-payers alleging monopolization. JCCP 4250, 4258, 4259 & 4260 (CA-SF). Settled: \$96 million.

6. *Circular Thermostat Antitrust Litigation*

Co-lead counsel in MDL 1673 (ND-CA) (remanded) and multi-state actions on behalf of indirect purchaser end-payers alleging monopolization by abuse of intellectual property claims. 25 year indirect purchaser class certified. Reported: 241 Cal. App. 4th 1472 & 989 A.2d 539. Settled: \$8.75 Million (78% of damages).

7. *Foreign Exchange Benchmark Rates Antitrust Litigation*

Represent proposed direct purchaser class in Sherman Act case alleging conspiracy to fix spreads and benchmark prices in the foreign exchange market. Expert witness, class certification and econometrics issues. Reported: 74 F. Supp. 3d 581. Partial settlements: \$2.1 billion pending final approval. Pending in SD-NY (13-cv-07789).



8. ***National Credit Reporting Association v. Equifax***

Represented trade association and individual association members in antitrust action challenging the acquisition of FIS by Equifax. Settled with conduct restrictions. D-MD (08-cv-2322).

9. ***Standfacts Credit v. Experian (monopolization)***

Represented mortgage credit reporting agencies in monopolization and price fixing action against consumer credit reporting agencies.

10. ***FreeConference.com v. AT&T (monopolization)***

Represented telephone conferencing company in antitrust action against AT&T for denial of service. Settled with conduct restrictions.

11. ***TFT-LCD (Flat Panel) Antitrust Litigation***

Represented certified indirect purchaser end-payers classes alleging Sherman Act and multi-state price-fixing of flat screen video panels and computer screens by international cartel. MDL No. 1827 (ND-CA). Settled: \$1.2 billion.

12. ***Vitamin Cases Antitrust Litigation***

Court-appointed Executive Committee in price-fixing action on behalf of a statewide indirect purchaser end-payer class against an international cartel. JCCP 4076 (CA-SF). Reported: 107 Cal. App. 4th 820. Settled: \$96 million.

13. ***Microsoft Antitrust Litigation***

Court-appointed Executive Committee representing certified class of indirect purchaser end-payers of Windows and other Office applications alleging monopolization. JCCP 4106, 4107, 4109, 4110 & 4112 (CA-SF). Reported: 135 Cal. App. 4th 706. Settled: \$1.1 billion.

14. ***Brand Name Prescription Drug Antitrust Litigation***

Represented certified national class of retail pharmacies under the Sherman Act challenging pricing policies and practices of over 30 of the largest manufacturers and distributors of brand name prescription drugs. MDL 997 (ND-IL). Reported: 123 F. 3d 599 (7th Cir. 1997); 186 F.3d 781 (7th Cir 1999). Settled: \$715 million and injunction.

15. ***San Diego MLS Antitrust Litigation***

Lead counsel (Rule 23(g)) in this Sherman Act case alleging price-fixing by the San Diego real estate multiple listing service. SD-CA (04-cv-1495). Reported: 225 F.R.D. 616. Settled: \$7.5 million.



16. ***Department Store Cosmetics Cases Antitrust Litigation***

Court-appointed Executive Committee representing nationwide class of end-payers alleging Sherman Act and multi-state price-fixing claims against the nation's largest department store chains and the major manufacturers of prestige beauty products. ND-CA (03-cv-3359). Reported: 243 Fed. Appx. 311; 499 F.3d 950. Settled: \$200 million in precedent-setting nationwide distribution of free prestige cosmetic products.

17. ***Compact Disc Antitrust Cases***

Lead counsel for statewide class of indirect purchaser end-payers alleging minimum advertised price-fixing conspiracy. JCCP 4123 (CA-LA). Reported: 216 FRD 197. Jointly settled with MDL 1361 for \$67 million, \$5.6 million product distributions and injunctive relief.

18. ***Hart Intercivic Inc. v. Diebold Inc. and ESS***

Represented voting machine manufacturer challenging merger of two rival manufacturers. Settled favorably with negotiated divestitures.

19. ***In Re Drill Bits Antitrust Litigation***

Court-appointed Steering Committee and plaintiffs' pretrial group in Sherman Act price fixing action on behalf of a certified nationwide class of direct purchasers of tri-cone "rock bits" used in oil and gas drilling. SD-TX (H 91-627). Settled: \$53 million.

20. ***Los Angeles Retail Milk Price-Fixing Litigation***

Steering Committee and one of four court-appointed Plaintiffs' Settlement Counsel representing a certified class of consumers in this price-fixing case against the 7 largest supermarket chains in the Los Angeles area. CA-LA (BC 70061). Settled: \$19 million.

21. ***In Re Citric Acid Antitrust Litigation***

Represented American Antitrust Institute as *amicus curiae* before the United States Court of Appeals for the Ninth Circuit. MDL 1092 (ND-CA).

22. ***Children's Ibuprofen Oral Suspension Antitrust Litigation***

Lead counsel for statewide class of indirect purchaser end-payers alleging market allocation conspiracy in over-the-counter generic store-brand versions of children's liquid ibuprofen. JCCP 4395 and 4398 (CA-SD). Jointly settled with parallel federal actions with California class receiving highest *per capita* relief.

23. ***California Indirect Purchaser Infant Formula Antitrust Litigation***

Court-appointed Executive Committee in price-fixing action brought on behalf of a statewide class of infant formula end-payers. JCCP 2557 (CA-LA). Settled: \$19.8 million including \$13.9 million in nutritional products to be distributed free of charge to needy families throughout California.



24. ***Automotive Refinishing Paint Cases***

Court-appointed Executive Committee in price-fixing action brought on behalf of a statewide class of indirect purchaser end-payers. JCCP 4199 (CA-SF). Settled: \$9.4 million.

25. ***Polyester Staple Cases***

Court-appointed Executive Committee in this statewide price-fixing class action by indirect purchasers of polyester staple and polyester staple products. JCCP 4278 (CA-SF). Settled: \$5.25 Million.

26. ***7 West 57th Street Realty Company, LLC v. Citigroup, Inc., et al.***

Lead counsel in direct action representing individual borrower alleging LIBOR manipulation seeking over \$450 million. Pending SD-NY (13-cv-0981).

27. ***Automotive Parts Antitrust Litigation***

Represent multiple proposed direct purchaser classes in a series of Sherman Act cases alleging conspiracy to fix prices numerous of automotive parts. MDL 2311 Pending ED-MI.

- *Wire Harnesses*: 12-cv-00101
- *Instrument Panel Clusters*: 12-cv-00201
- *Heater Control Panels*: 12-cv-00401
- *Ball Bearings*: 12-cv-00501
- *Windshield Washer Systems*: 12-cv-02801

28. ***In re Lithium Ion Batteries Antitrust Litigation***

Represent proposed direct purchaser class in Sherman Act price-fixing conspiracy matter. MDL No. 2420. Partial settlements \$64 Million. Pending ND-CA.

29. ***Domestic Airlines Travel Antitrust Litigation***

Represent proposed direct purchaser class in Sherman Act case alleging conspiracy to restrict capacity and fix prices of air travel. MDL 2656. Pending D-DC.

30. ***Disposable Contact Lens Antitrust Litigation***

Represent proposed nationwide Sherman Act end-payer class alleging minimum advertised price-fixing conspiracy. MDL No. 2626 Pending MD-FL.31. ***Rechister v. Oticon, Inc.***

Counsel for public company in private antitrust action by distributor alleging violations of California Cartwright Act. CA-R. Settled: Confidential.

32. ***Flagship Theatres***

Represented independent movie theater in direct action against large exhibitor alleging boycott and circuit-dealing. CA-LA. Reported: 198 Cal.App.4th 1366. Settled: Confidential



33. ***PVC Antitrust Litigation***

Represented independent manufacturer of PVC plumbing fixtures against Fortune 1000 supplier/franchisor in arbitration. Settled: confidential.

34. ***Natural Gas Antitrust Cases II***

Represented certified statewide class of indirect purchaser end-payers alleging price-fixing during the California energy crisis of 2000-2001, including manipulation of price indices and engaging in phony trading. JCCP 4226 (CA-SD). Settled: \$159 million.

35. ***Static Random Access Memory (SRAM) Antitrust Litigation***

Represented certified indirect purchaser class alleging Sherman Act and multi-state price-fixing claims against an international cartel among major manufacturers of computer memory. MDL 1819 (ND-CA). Settled: \$40 million.

36. ***California Copper Tubing Antitrust Litigation***

Represented statewide class of indirect purchaser end-payers. CA-SF. Settled: \$6.5 million.

37. ***California X-Ray Antitrust Litigation***

Represented statewide class of indirect purchasers alleging price-fixing of X-Ray film. CA-SF. Settled: \$7.5 million.

38. ***In Re Ticket Service Charge Antitrust Litigation***

Plaintiffs' class counsel in this action brought on behalf of a statewide class of purchasers of tickets to various events, such as concerts, sporting events, theaters, etc. CA-SF Settled: \$4.5 million, including \$3 million in event tickets for charitable purposes, and significant injunctive relief.



UNFAIR COMPETITION AND DECEPTIVE TRADE PRACTICES

1. *Intel Benchmark Litigation*

Co-lead counsel in national class action alleging false advertising, unfair competition and consumer protection statute violations against the world's largest manufacturer of computer chips in connection with benchmark test results. CA-SC (755101). Settlement valued more than \$25 million.

2. *Bayer Corp. Combination Aspirin Products Marketing and Sales Practices Litigation*

Plaintiffs' counsel in national class action against major international drug manufacturer alleging deceptive sales and marketing practices in connection with women's and heart health combination aspirin products. MDL No. 2023 (ED-NY). Settled: \$15 million.

3. *Old Republic Title Escrow Practices Litigation*

Executive Committee in this class action alleging false advertising, unfair competition and consumer protection statute violations against the one of the nation's largest title and escrow companies in connection with its policy of retaining interest earned on customer escrow accounts and other escrow practices. CA-SF (9930507). Reported: 125 Cal. App. 4th 1219. Verdict of \$14 million sustained on appeal.

4. *Business Voicemail Marketing and Sales Practices Litigation*

Co-lead counsel representing a certified class of business subscribers to Pacific Bell voicemail services in this class action alleging false advertising and unfair competition in connection with the alleged imposition of hidden charges. CA-SF (997136). Settled: \$42 million value

5. *Sears-Consolidated Defective Furnaces Litigation*

Lead counsel on behalf of a certified statewide class of consumers alleging numerous false advertising, unfair competition and consumer protection statute violations in connection with the sale of defective furnaces. CA-SD (735554). Settled: \$14 million valuation.

SECURITIES/INVESTMENT

1. *Private Equity Litigation*

Lead counsel investment banking and warrant-holder clients in securities and fiduciary duty action against Wall Street private equity firm. CA-LA. Settled: confidential.

2. *Medical Device Shareholder Litigation*

Lead Counsel in minority shareholder fiduciary duty action against medical device company. Pending CD-CA (16-cv-01532).



3. ***MetLife PERCS Litigation***

Engaged by law firm with national reputation in securities and insurance investment matters in this mass action case alleging a Ponzi scheme in the sale of non-qualified deferred compensation plans. CA-SD Settled: confidential.

4. ***Drexel/Milken Daisy Chain Securities Litigation***

Mr. Mogin initiated, litigated and coordinated prosecution of 11 separate class and derivative actions involving the investment banking firm of Drexel Burnham Lambert and the head of its junk bond operations, Michael Milken, including MDL 834, MDL 871, MDL 880 and MDL 901. These actions were filed in state and federal courts throughout California and some were later joined by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation. The cases were ultimately resolved in the SD-NY. Mr. Mogin served as one of a core group of "Pooled Claims Counsel." The Pooled Claims resulted in settlements valued at over \$2.5 billion. Approximately \$100 million was also recovered from other defendants, including the alleged "auditor of choice" of the Drexel Daisy Chain as well as directors and officers of the many companies involved. (Prior firm).

5. ***In Re Alco International Group, Inc. Securities Litigation***

Co-lead counsel in this class action involving claims under the Securities Exchange Act of 1934 against directors and officers of a medical technology company involving allegations of stock manipulation and financial reporting fraud. SD-CA. Judgment of over \$27 million.

6. ***In Re Cousins Securities Litigation***

Class action involving claims under the Securities Exchange Act of 1934 and the Securities Act of 1933 against directors and officers arising from initial public offering. Over \$13.5 million recovered on behalf of purchasers of the company's common stock. SD-CA. This case was the underlying action in the Supreme Court's decision in *Music, Peeler & Garrett v. Employers Insurance of Wausau*, 113 S. Ct. 2085. (Prior firm).

7. ***Newhall Land and Farming Co. Class and Derivative Litigation***

State and federal actions related to proxy fight, "poison pill" and lock-up option. The lawsuits forced a corporate restructuring valued to the plaintiff class at over \$100 million. CD-CA and CA-LA. (Prior firm).

8. ***PLM Roll-up Litigation***

Co-trial counsel in these state and federal actions alleging breach of fiduciary duty arising from "roll-up" or consolidation of limited partnerships in exchange for stock. This action also involved bankruptcy proceedings and insurance coverage actions. ND-CA and CA-SF. Over \$15 million recovered for the plaintiff class on the eve of trial. (Prior firm)



HUMAN RIGHTS

1. *Japanese POWS Slave Labor Litigation*

Engaged in these multi-venue combined class and mass action cases by several prestigious national law firms to assist them with class certification and appeals on behalf of former U.S. military survivors of the Bataan Death March who were captured in the Philippines during WWII, shipped to Japan and forced into slave labor in mines for private companies.

2. *Hopi Village of Shungopavi*

Mr. Mogin has represented members of the Hopi Native American tribe (the Hopi Village of Shungopavi) in litigation related to tribal sovereignty and the tribal constitution. He has appeared in Hopi Tribal Court as well as in federal District Court and the Ninth Circuit on their behalf.

INTERNATIONAL BUSINESS AND ENERGY

Mr. Mogin's clients have included a former President of Mexico and his associates in connection with international antitrust litigation and their energy business activities in the United States including electricity swaps and brokerage.



PROFESSIONALS

DANIEL J. MOGIN (Managing Partner) received his B.A. (Economics) from Indiana University and his J.D. from the University of San Diego. Mr. Mogin was admitted to the State Bar of California in 1980. He is also admitted in The Supreme Court of the United States, the United States Court of Appeals for the Ninth, Seventh and Second Circuits and the United States District Courts for the Southern, Central and Northern Districts of California.

Mr. Mogin's practice concentrates on antitrust, unfair competition and complex and investment business litigation. He has been selected as lead or liaison counsel in numerous cases and has also frequently served on Steering and Executive committees charged with overall responsibility for direction of complex Multi-District Litigation and Judicial Council Coordination Proceedings. He has participated in some of the largest antitrust class actions in the United States. Mr. Mogin is frequently invited to participate in these cases by other law firms and often consults with law firms engaged in antitrust cases. He has also provided expert testimony in cases and before the California State Senate Judiciary Committee.

Dan Mogin served as a Lawyer Representative for the United States District Court for the Southern District of California to the Ninth Circuit Conference. Mogin is a past Chair of the Antitrust and Unfair Competition Law Section of the California State Bar (2002-2003). He taught antitrust law for ten years as an Adjunct Professor at the University of San Diego. Dan is an emeritus member of the Advisory Board and contributed to its *Report to the Antitrust Modernization Committee* (2007) and its *Antitrust Presidential Transition Report* (2008).

Mr. Mogin was Editor-in-Chief and an author of *California Antitrust & Unfair Competition Law (Third)*, published by the Antitrust and Unfair Competition Law Section of the California State Bar. He has contributed to a number of other legal treatises, and is the author of many articles on litigation and antitrust issues. He has been a panelist and lecturer for numerous organizations on complex litigation, antitrust, unfair competition, mergers and acquisitions and civil procedure.

Mr. Mogin has been selected as a "Best Lawyer in America" and a "Super Lawyer" for Antitrust Litigation and has been repeatedly chosen as one of San Diego's "Top Attorneys". He has been referred to in the national media and legal journals including American Lawyer, SF Recorder, LA Daily Journal, SD Daily Transcript, Wall Street Journal, NY Times, LA Times, Washington Post, CNN, CBS, NBC, Forbes, Barron's, FTC Watch, The O'Reilly Factor and Stein, *A License to Steal: The Untold Story of Michael Milken and the Conspiracy to Bilk the Nation* (Simon & Schuster 1992).



JONATHAN L. RUBIN (Partner) Mr. Rubin was formerly an antitrust partner at Patton Boggs LLP in Washington, D.C. For the past 15 years, he focused his legal practice exclusively on antitrust and competition law and policy. As a litigator, Mr. Rubin has led trial teams in major antitrust cases in courts throughout the country. As a thought-leader in competition law, he has published in influential academic journals and has spoken to numerous professional groups, including the Directorate General for Competition of the European Commission, the Antitrust Section of the American Bar Association, the University of Wisconsin, and the American Antitrust Institute. Mr. Rubin has also made several appearances before Congressional committees.

Mr. Rubin is a graduate of the University of Wisconsin-Madison, the University of Florida College of Law, and hold a Ph.D. from the University of Copenhagen in Denmark.

JODIE M. WILLIAMS (Counsel) Ms. Williams' practice focuses on antitrust, unfair competition, and complex business litigation. She manages significant portions of MoginRubin's complex cases, including discovery, experts, and motion practice through to resolution. She is part of the trial teams for some of the firm's largest cases, and has facilitated negotiations resulting in multi-million dollar settlements on behalf of her clients. She tries cases in federal and state courts around the country.

Ms. Williams was a Staff Attorney with the Federal Trade Commission, Bureau of Competition, from 2006 to 2011 where she investigated and litigated mergers, acquisitions and anticompetitive practices in a wide array of industries, with an emphasis in the oil and gas industry. Some of her investigations included acquisitions involving petroleum products pipelines, bulk petroleum products storage terminals, transportation and storage of natural gas, national travel centers, and the sale of home improvement products. Ms. Williams also investigated oil and gas industry pricing practices at the request of Congress. Representative matters include *In the Matter of Pilot Corporation, et al.* (FTC 2010); *In the Matter of CRH plc et al.* (FTC 2009); and *FTC v. Paul L. Foster, et al.* (D.N.M. 2007; FTC 2007).

Prior to joining the firm, Ms. Williams was an associate with a prominent Southern California law firm focusing on complex business litigation. She represented clients before the Orange County, Los Angeles, and San Diego Superior Courts as well as in the Southern District of California.

Jodie Williams has been a speaker and author on antitrust issues. She guest-hosted a podcast for the Legal Talk Network, interviewing several distinguished women in the antitrust bar on what it is like to be a Women in Antitrust. She also co-authored the article entitled "*LIBOR (Gelboim) and the Implications of its Unwritten Rule*" with Daniel J. Mogin of MoginRubin LLP, published in The Antitrust Lawyer presented by the Federal Bar Association, was a panelist for the webinar entitled "Identifying and Analyzing Antitrust Red Flags in Business Transactions" and co-authored the article entitled "Should Federal Antitrust Standing Rules Apply to State Antitrust Indirect Claims? Plaintiff Perspective: The Misapplication of Associated General Contractors to



Cartwright Act Claims” with Kristen Anderson, Partner at Scott & Scott, LLP, which was published in Competition, The Journal of the Antitrust & Unfair Competition Law Section of the State Bar of California.

Jodie also specializes in issues pertaining to E-Discovery. She is a member of Women in eDiscovery and was appointed to the 2017 Steering Committee for the Complex Litigation E-Discovery Forum (“CLEF”), where she will also serve as a panelist.

Ms. Williams is an active member of the California Bar Association and the American Bar Association, and regularly contributes to the ABA Section of Antitrust Law Annual Review of Antitrust Law Developments. She was the Young Lawyer Representative to the Antitrust Section’s Mergers & Acquisitions Committee in 2016.

Jodie earned her B.S in Finance and Entrepreneurship from the University of Arizona in 2003, with honors and her J.D. from California Western School of Law in 2006. She is admitted to practice in California and Arizona.

JENNIFER M. OLIVER (Counsel) Jennifer joined MoginRubin LLP in 2017 after nearly ten years practicing in New York at the international firm of Weil, Gotshal & Manges. Her previous clients include General Electric, Lehman Brothers, Bridgestone, Washington Mutual, The Walt Disney Company, ESPN, Dow Chemical Company, General Motors, The Port Authority of New York and New Jersey, Forbes, and American Airlines.

Ms. Oliver’s practice is focused on antitrust work as well as complex commercial litigation, and has included taking active roles in high-profile jury trials, serving as lead counsel in complex mediations, and arguing before courts at both the trial and appellate levels. She is experienced in merger and cartel work, as well as litigating claims related to breaches of contract, trade secrets, RICO conspiracies, securities fraud, unfair trade practices, and privacy issues.

Jennifer also believes strongly in the importance of pro bono work. She was a member of the pro bono team that represented Javaid Iqbal in the seminal Supreme Court case *Ashcroft v. Iqbal* and was the recipient of the Sanctuary for Families Above and Beyond Achievement Award for her pro bono work on behalf of victims of domestic violence.

An alumna of The University at Buffalo, Jennifer earned her JD/MBA in 2007 and her undergraduate degree in Business in 2003, where she graduated with honors and was an editor of the Buffalo Law Review. Jennifer has also lived and worked in Tokyo, where she studied international law and worked as a clerk at one of Japan’s largest law firms. She is admitted to practice law in New York, New Jersey, and California, and is an IAPP Certified Information Privacy Professional.



JOY M. SIDHWA (Senior Attorney) Ms. Sidhwa concentrates on antitrust and other complex litigation for MoginRubin LLP, and leads our document discovery team. She received her B.S. from the University of Michigan in 1996, and her J.D. from California Western School of Law in 2006.

Ms. Sidhwa's prior experience includes working for national law firms in electronic document discovery and trial preparation in patent infringement, trademark, contract and intellectual property cases and SEC investigations. Ms. Sidhwa received the Pan Asian Lawyers of San Diego's President's Award for Outstanding Service in 2009 and 2010 for serving on the Board of Directors and participating in various community services. She currently serves on the Board of Director of the Filipino-American Lawyers of San Diego, and was recently named to the "Best of the Bar 2017" list by the San Diego Business Journal.

KRISTY F. GREENBERG (Senior Attorney) Ms. Greenberg concentrates on antitrust, investment and intellectual property matters for MoginRubin LLP, and also has an extensive background in securities and general business litigation. Ms. Greenberg received her J.D. from the University of San Diego in 2004, where she was comment editor for the San Diego International Law Journal and a member of the Pro Bono Law Society. Kristy received her B.A. in English (cum laude) from the University of San Diego in 2000.

Before joining the firm she first worked for one of the premier securities defense firms on the West Coast, and later one of California's top commercial litigation firms where she defended commercial and environmental claims. Ms. Greenberg is also experienced in managing large electronic document review projects where she has supervised numerous attorneys.

GINA KIM (Attorney) Ms. Kim focuses on antitrust, securities, and intellectual property litigation. She has litigated multi-district class actions in the technology, internet commerce, and pharmaceutical sectors as well as regulatory investigations by the Department of Justice.

Prior to joining MoginRubin LLP, Ms. Kim was a staff attorney with a leading New York-based plaintiff securities litigation firm where she concentrated her practice on written and oral discovery. Ms. Kim is an active member of the California State Bar, the San Diego County Bar Association, and the Lawyers Club of San Diego. She is the current Vice President of the Korean American Bar Association of San Diego, serves on the board of the Princeton Club of San Diego, and is a lifelong member of Mensa. She earned her J.D. from the University of San Diego School of Law in 2007 and her B.A from Princeton University.



PETER CHOI (Associate) Mr. Choi concentrates on antitrust and unfair competition litigation. Prior to joining Mogin Rubin LLP, Mr. Choi interned at the California Attorney General's Office, Public Rights Division, Antitrust Section; where he assisted in investigations of mergers, acquisitions, and anticompetitive practices in several industries, including the pharmaceutical industry. He also worked for a prominent California boutique antitrust firm and, prior to law school, worked as a legal assistant for one of California's largest plaintiff construction defect litigation firms.

Mr. Choi is admitted to practice in California state court and U.S. District Courts for the Northern, Central, and Southern District of California. He serves as a board member for the Korean-American Bar Association of San Diego, and was recently appointed as the Young Lawyer Representative for the Competition Torts committee of the Antitrust Section of the American Bar Association.

Mr. Choi earned his B.A. from the University of California, Los Angeles and his J.D. from the University of California, Hastings College of the Law, where he served as the Executive Internal Editor for the Hastings Constitutional Law Quarterly and the President of the Korean-American Law Student Association.

PHILLIP STEPHAN focuses on antitrust actions, complex business litigation, corporate transactions, and venture capital. Before joining the Mogin Law Firm, Mr. Stephan worked with Perkins Coie LLP in Strategic Management, creating comprehensive strategic management plans to generate growth and business development. He also served as the Extern for Legal Affairs and Risk Management for Angels Baseball LP, working on litigation, contracts, intellectual property, and risk management, as well as business matters related to financial data and decision making.

Mr. Stephan earned his J.D./M.B.A. from the University of San Diego in 2011, and his B.A. in Global Business, with a minor in Advertising, from the University of Southern California in 2007. He is admitted to practice in California.

EXHIBIT 10

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**DECLARATION OF JOSHUA D. SNYDER
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF BONI & ZACK LLC**

I, Joshua D. Snyder, declare as follows:

1. I am a partner in the law firm of Boni & Zack LLC, one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, has served as counsel to the City of Philadelphia, Board of Pensions and Retirement (“City”), and throughout the litigation has advised the City concerning its claims on behalf the class and developments in the class action litigation and regarding settlement; reviewed and analyzed the City’s foreign currency transaction data and documents, including assisting with document preservation, collection, and review for production; analyzed the City’s foreign currency transaction data maintained by numerous

investment managers and other third parties; assisted with the preparation of the City's responses to document requests and its privilege log, as well as working with Lead Counsel concerning classwide discovery issues and strategy; and defended the City's Rule 30(b)(6) deposition. In addition, at the direction of Lead Counsel, my firm has performed research and drafting in connection with oppositions to both motions to dismiss; conducted extensive review and analysis of various defendants' document productions, including in connection with mediation and settlement; assisted with the preparation of various motion papers and pleadings, and extensively conferred with Lead Counsel and the City concerning litigation issues and strategy.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 5909.50. The total lodestar reflected in Exhibit 1 is \$3,200,912.50, consisting of \$3,184,550.00 for attorneys' time and \$16,362.50 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$219,228.71 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.

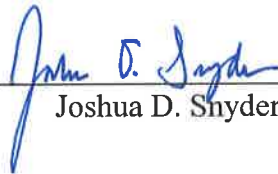

Joshua D. Snyder

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**BONI & ZACK LLC
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Michael J. Boni	57.50	\$825	\$47,437.50
Joshua D. Snyder	1198.50	\$675	\$808,987.50
John E. Sindoni	1180.00	\$625	\$737,500.00
Counsel			
Julie Fuchs	2224.00	\$425	\$945,200.00
Joanne Noble	1173.50	\$550	\$645,425.00
Paralegals			
Lauren Kiesel	60.50	\$200	\$12,100.00
Denise Petracci	15.50	\$275	\$4,262.50
TOTALS	5909.50		\$3,200,912.50

EXHIBIT 2

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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BONI & ZACK LLC
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$600.00
Online Legal Research	\$3,946.91
Telephones/Faxes	\$125.44
Postage & Express Mail	\$52.05
Local Transportation	\$192.08
Internal Copying	\$1,159.00
Out of Town Travel*	\$2,978.48
Meals*	\$174.75
Contributions to Litigation Fund	\$210,000.00
TOTAL EXPENSES:	\$219,228.71

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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BONI & ZACK LLC
FIRM RÉSUMÉ AND BIOGRAPHIES

BONI & ZACK LLC
ATTORNEYS AT LAW

Firm Resume

Boni & Zack LLC is a law firm in Bala Cynwyd, Pennsylvania. Boni & Zack focuses on class action and complex litigation under antitrust, consumer protection, intellectual property, and securities laws. Our attorneys have experience in litigating, among other things, antitrust cases alleging price fixing, monopolization, and other restraints of trade; copyright and other intellectual property claims (representing both plaintiffs and defendants) involving publisher agreements, publishing and infringement in the digital age, and fair use; consumer protection claims (representing both plaintiffs and a defendant) involving defective products and website violations; and securities cases involving corporate abuse of shareholders. We are committed to obtaining the best litigation outcome for each client, whether by motion, trial, or settlement.

Boni & Zack has served as lead counsel or on plaintiffs' Executive Committee in the following cases: *Authors Guild, et al. v. Google Inc.*, No. 05-CV-8136 (S.D.N.Y.), *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, MDL No. 1720, *In re Freelance Works in Literary Databases Copyright Litig.*, MDL No. 1379 (S.D.N.Y.), *In re Apple In-App Purchase Litig.*, No. 11-CV-1758-EJD (N.D. Cal.), *In re Yahoo! Litig.*, CV06-2737-CAS (C.D. Cal.), No. 11-CV-1758-EJD (N.D. Cal.).

In addition, Boni & Zack represents or has recently represented plaintiffs in the following actions, among others: *In re: Domestic Drywall Antitrust Litig.*, MDL No. 2437, 13-MD-2437 (E.D. Pa.); *In re: Foreign Exchange Benchmark Rates Antitrust Litig.*, No. 1:13-cv-07789-LGS (S.D.N.Y.); *In re: Lithium Ion Batteries Antitrust Litig.*, MDL No. 2420, Case No.: 13-MD-02420 (YGR) (N.D. Cal.); *Garber, et al. v. Office of the Commissioner of Baseball, et al.*, No. 12-cv-3704 (SAS) (S.D.N.Y.); *In re: Generic Pharmaceuticals Pricing Antitrust Litig.*, 16-md-02724 (E.D. Pa.); *In re LIBOR Based Financial Instruments Antitrust Litig.*, No. 11-MD-2262 (NRB) (S.D.N.Y.).

Some of the firm's notable clients include the City of Philadelphia, the counties of Chester, Berks and Bucks, Pennsylvania, Sealy Mattress Co. (now Tempur-Sealy), Parkway Corporation, RosettaBooks, Open Road Integrated Media, noted authors Jim Bouton and Joseph Goulden, and the Authors Guild.

Michael J. Boni founded Boni & Zack LLC in March 2007 after practicing complex commercial litigation for nearly 19 years. He specializes in antitrust, copyright, consumer, shareholder, and class action litigation.

Mr. Boni graduated from the University of Pennsylvania Law School, received an M.A. degree in psychology from the University of Connecticut, and received an A.B. degree from Albright College.

Mr. Boni has served as lead counsel in a number of complex matters, including *Authors Guild, et al. v. Google Inc.*, No. 05-CV-8136 (S.D.N.Y.) (copyright class action challenging Google's digitization of books); *Keiler, et al. v. Harlequin Enterprises Ltd., et al.*, No. 12 Civ. 5558(WHP) (S.D.N.Y.) (class action settlement involving underpaid e-book royalties); *In re Literary Works in Electronic Databases Copyright Litig.*, MDL No. 1379 (S.D.N.Y.) (copyright class action settlement); *Random House, Inc. v. Rosetta Books, LLC, et al.*, No. 01-Civ-1728 (S.D.N.Y.) (successful defense against copyright infringement claims brought by Random House

against e-book publisher Rosetta Books); *RF Tags Antitrust Litig.*, No. 02-CV-3730 (D.N.J.) (Irenas, J.) (antitrust class action settlement); *In re Pillar Point Partners Antitrust & Patent Litig.*, MDL No. 1202 (D. Ariz.) (antitrust class action settlement); *In re Western States Wholesale Natural Gas Antitrust Litig.*, MDL No. 1566 (D. Nev.) (antitrust class action settlement). Mr. Boni served on the Executive Committee in *In re OSB Antitrust Litig.*, Master File No. 06-CV-00826 (E.D. Pa.) (antitrust class action settlement), and has played an integral role in the presentation of other complex matters, including: *In re Relafen Antitrust Litig.*, Master File No. 01-12239 (D. Mass.) (antitrust class action settlement); *In re Disposable Contact Lens Antitrust Litig.*, MDL No. 1030 (M.D. Fla.) (antitrust class action settlement); *Schwab v. America Online, Inc.*, No. 96 CH 13732 (Cook County, Ill.) (consumer class action settlement); *In re Intelligent Electronics, Inc. Securities Litig.*, Master File No. 92-CV-1905 (E.D. Pa.) (securities class action settlement); *In re Lockheed Securities Litig.*, Master File No. CV89-6745-TJH (Bx) (C.D. Ca.) (securities class action settlement); *In re Orion Securities Litig.*, Civil Action No. 91-3304 DT (JRx) (E.D.N.Y.); *In re Budd Pension Plan Litig.*, Master File No. 91-4082 (E.D. Pa.) (ERISA class action settled); and *In re Toys "R" Us Antitrust Litig.*, MDL No. 1211 (E.D.N.Y.) (antitrust class action settlement).

Joshua D. Snyder has been with Boni & Zack LLC since it opened in March 2007 and became a partner in 2008. His practice focuses on complex litigation, including antitrust, consumer protection, copyright, ERISA, and securities class actions.

Mr. Snyder is participating or has participated in the following cases, among others: *In re Apple In-App Purchase Litig.*, No. 11-CV-1758-EJD (N.D. Cal.) (co-lead counsel); *Authors Guild, et al. v. Google Inc.*, No. 05-CV-8136 (S.D.N.Y.); *In re: Foreign Exchange Benchmark Rates Antitrust Litig.* No. 1:13-cv-07789-LGS (S.D.N.Y.); *Garber, et al. v. Office of the Commissioner of Baseball, et al.*, No. 12-cv-3704 (SAS) (S.D.N.Y.); *In re: Generic Pharmaceuticals Pricing Antitrust Litig.*, 16-md-02724 (E.D. Pa.); *Laumann, et al. v. National Hockey League, et al.*, No. 12-cv-1817 (SAS) (S.D.N.Y.); *In re LIBOR Based Financial Instruments Antitrust Litig.*, No. 11-MD-2262 (NRB)(S.D.N.Y.); *In re OSB Antitrust Litig.*, Civ. A. No. 06-0826 (E.D. Pa.); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, No. 05-md-17204 (E.D.N.Y.); *In re Rail Freight Fuel Surcharge Antitrust Litig.*, MDL No. 1869 (D.D.C.); and *MERSCORP, Inc., et al. v. Delaware County, Pennsylvania, Recorder Of Deeds, et al.*, No. 67 MAP 2017 (Pa.).

Following law school, Mr. Snyder served as a law clerk to the Honorable Berle M. Schiller of the United States District Court for the Eastern District of Pennsylvania and to the Honorable Thomas L. Ambro of the United States Court of Appeals for the Third Circuit. Mr. Snyder is a graduate of the Pennsylvania State University (B.A., History, B.A. Philosophy 1998) and the Harvard Law School (J.D. 2001).

John E. Sindoni, a partner, joined the firm in 2012. He has extensive experience in commercial litigation, including cases involving the antitrust laws, breach of contract, business torts, and intellectual property. He has also advised clients on compliance with antitrust and trade regulation laws. Mr. Sindoni is a graduate of the University of Pennsylvania Law School (J.D., *cum laude* 2003, Order of the Coif), where he served as Executive Editor of the Law Review and a member of the Moot Court Board, and a graduate of the University of Pennsylvania School of Arts and Sciences (B.A., *cum laude* 2000).

Mr. Sindoni is participating or has participated in the following cases, among others: *American Express Travel Related Services, Inc. v. Visa U.S.A., Inc.*, No. 04-CV-08967-BSJ-DFE (S.D.N.Y.); *Authors Guild, et al. v. Google Inc.*, No. 05-CV-8136 (S.D.N.Y.); *In re: Domestic Drywall Antitrust Litig.*, MDL No. 2437, 13-MD-2437 (E.D. Pa.); *In re: Generic Pharmaceuticals Pricing Antitrust Litig.*, 16-md-02724 (E.D. Pa.); *In re: Foreign Exchange Benchmark Rates Antitrust Litig.* No. 1:13-cv-07789-LGS (S.D.N.Y.); *Keiler, et al. v. Harlequin Enterprises Ltd., et al.*, No. 12 Civ. 5558(WHP) (S.D.N.Y.); *In re LIBOR Based Financial Instruments Antitrust Litig.*, No. 11-MD-2262 (NRB)(S.D.N.Y.); and *In re Literary Works in Electronic Databases Copyright Litig.*, MDL No. 1379 (S.D.N.Y.).

Prior to joining Boni & Zack, Mr. Sindoni was an associate at Duane Morris LLP and served as a Staff Attorney for the United States Court of Appeals for the Third Circuit.

Joanne G. Noble is counsel to the firm. Prior to joining Boni & Zack, Ms. Noble was an associate at Schnader Harrison Segal & Lewis, LLP, as well as its Director of Pro Bono Services. She has extensive experience in complex litigation at both the trial and appellate levels.

At Boni & Zack, Ms. Noble has participated in the following cases: *In re: Foreign Exchange Benchmark Rates Antitrust Litig.* No. 1:13-cv-07789-LGS (S.D.N.Y.); *In re Rail Freight Fuel Surcharge Antitrust Litig.*, MDL No. 1869 (D.D.C.); *In re Urethane Antitrust Litig. (Polyether Polyols)*, MDL No. 1616 (D. Kan.); *The Authors Guild, et al. v. Google Inc.*, No. 05-CV-8136 (S.D.N.Y.); and *In re Yahoo Litig.*, No. 06-2737-CAS (C.D. Cal.).

Ms. Noble is a graduate of Cornell University (with distinction in all areas) and Georgetown University Law Center (cum laude), where she was a member of The Tax Lawyer. She is admitted to practice in the courts of Pennsylvania, the Eastern and Western District of Pennsylvania, and the Third Circuit Court of Appeals.

Julie Fuchs is counsel to the firm and is a graduate of George Washington University and Widener University School of Law.

Ms. Fuchs has participated in the following cases: *In re: Domestic Drywall Antitrust Litig.*, MDL No. 2437, 13-MD-2437 (E.D. Pa.); *In re: Foreign Exchange Benchmark Rates Antitrust Litig.* No. 1:13-cv-07789-LGS (S.D.N.Y.); *Harris, et al v. Experian Information Solutions Inc., Equifax Information Services LLC, TransUnion LLC*, Nos.: 6:06-CV-01808, 01810 and 01811 (D.S.C.); *Clark, et al v. Experian Information Solutions, Inc., Equifax Inc. and Equifax Information Services, Inc., Trans Union Corp. and Trans Union L.L.C.*, No. 8:00-1217-24; No. 8:00-1218-24 and No. 8:00-1219-24 (D.S.C.); *In re Blood Reagents Antitrust Litigation*, MDL No. 2081 (E.D. Pa.); *In re Packaged Ice Antitrust Litigation*, MDL No. 1952 (E.D. Mich.); *In re Payment Card Interchange Fee And Merchant Discount Antitrust Litigation*, MDL No. 1720(JG)(JO) (E.D.N.Y.).

Prior to joining Boni & Zack, Ms. Fuchs worked independently on antitrust and consumer class actions. She was also an associate at Klehr Harrison Harvey Branzburg LLP, where her practice focused on commercial litigation.

EXHIBIT 11

**A UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

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No. 1:13-cv-07789-LGS

**DECLARATION OF WILLIAM J. LEONARD
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF OBERMAYER REBMANN MAXWELL & HIPPEL LLP**

I, William J. Leonard, declare as follows:

1. I am a partner at the law firm of Obermayer Rebmann Maxwell & Hippel LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, has served as counsel to the City of Philadelphia Board of Pensions and Retirement ("City"). My firm worked actively throughout the litigation on behalf of the City and has engaged in the following activities: advising the City concerning its claims on behalf of the class, conferring with Lead Counsel and the City about litigation strategy, advising the City concerning litigation development and settlements, assisting with document preservation, collecting and reviewing transaction data and documents maintained by the City's

investment managers and other third parties, collecting and producing discovery on behalf of the City, reviewing and analyzing defendants' discovery, preparing materials for mediation and settlement negotiations, and defending the City's Rule 30(b)(6) deposition. My firm had substantial involvement with the review and analysis of defendants' document and data productions. At the request of Lead Counsel, my firm attended several court hearings, participated in telephone conferences, and attended meetings.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 5,393.80. The total lodestar reflected in Exhibit 1 is \$2,485,574.50, consisting of \$2,475,814.50 for attorneys' time and \$9,760.00 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$213,825.58 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.


WILLIAM J. LEONARD

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OBERMAYER REBMANN MAXWELL & HIPPEL LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

EXHIBIT 12

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

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

[illegible]

No. 1:13-cv-07789-LGS

**DECLARATION OF ALLAN STEYER
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF
STEYER LOWENTHAL BOODROOKAS ALVAREZ & SMITH LLP**

I, Allan Steyer, declare as follows:

1. I am a partner at the law firm of Steyer Lowenthal Boodrookas Alvarez & Smith LLP (“Steyer Lowenthal”), one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. Eight attorneys, including myself, from Steyer Lowenthal, as Plaintiffs' Counsel, completed work in this Action assigned by lead counsel.

i. The following is a non-exhaustive list of my work on this Action to date as the partner in charge of this Action at my firm:

a. Managed, supervised, and assigned work in furtherance of the prosecution of the Action to attorneys and staff at Steyer Lowenthal.

b. Consulted with lead counsel as requested regarding expert analysis, discovery, pleadings, and case strategy;

c. Assisted lead counsel in preparing for several hearings, and attended court hearings; and

d. Reviewed, edited, and worked with senior attorneys on a number of the projects described below.

ii. The following is a non-exhaustive list of the work completed to date by one or more of the Steyer Lowenthal senior attorneys (Alexander D. Kullar, Jayne A. Peeters, Sumee Oh, and D. Scott Macrae) who worked on this Action:

a. Researched, drafted, edited, and revised jury instructions;

b. Conducted legal and factual research, and analyzed thousands of documents to assist lead counsel in determining whether to add new defendants;

c. Drafted portions of briefs in opposition to Defendants' motions to dismiss and researched cases cited by Defendants in their motions to dismiss;

d. Researched and prepared legal memoranda for lead counsel regarding: statute of limitations on claims against potential defendants; jurisdictional and other issues germane to adding a bank as a defendant; cellular document and data retention requirements for domestic and foreign wireless carriers and financial institutions; and rules governing communications with potential class members;

e. Assisted lead counsel with preparations for mediations with Defendants by creating spreadsheets and charts detailing overlap in places of employment of

employees of certain defendants and certain punished and/or indicted traders, and by performing targeted document analysis;

f. Analyzed and compared potentially relevant policies and manuals used by Defendants during the class period;

g. Researched, analyzed, made an in-person presentation, and supervised associate attorneys making presentations to lead and co-counsel on specific chatrooms in which Defendants engaged in conspiratorial conduct;

h. Collaborated with co-lead counsel in meeting and conferring with opposing counsel regarding a non-settling Defendant's responses and objections to requests for documents and production of documents, audio files, and structured data, including by corresponding with opposing counsel, developing, and helping to negotiate list of custodians and list of search terms, and closely analyzing a non-settling Defendant's privilege log;

i. Prior to a Defendant's settlement with Plaintiffs, collaborated with co-lead counsel in meeting and conferring with opposing counsel regarding that Defendant's responses and objections to requests for documents, including by corresponding with opposing counsel, and developing and refining lists of custodians and search terms;

j. Drafted a general deposition outline for use by co-counsel;

k. Took primary responsibility for interviews and depositions of current and former employees of a particular Defendant assigned to Steyer Lowenthal by lead counsel by, among other things: identifying, researching, analyzing, and ranking interview and deposition witnesses; analyzing and preparing thousands of documents pertaining to seventeen witness interviews and/or depositions; supervising associate attorneys who reviewed, classified, and coded thousands of documents pertaining to those witnesses; drafting and revising

interview/deposition outlines with document-specific questions for a number of these potential witnesses; and communicating with counsel for the Defendant and counsel for current employees regarding obtaining information and arranging interviews under the terms of the settlement agreement with the bank;

i. Reviewed and analyzed documents produced by Defendants, including those identified as especially germane by computer algorithms, according to review protocol developed by lead counsel and prepared spreadsheets and memoranda accordingly.

iii. The following is a non-exhaustive list of the work completed to date by one or more of the Steyer Lowenthal associate attorneys (Thomas J. Lloyd, Cameron Weiss, and Kristopher DiGiovanni) who worked on this Action:

a. Prepared updates of the glossary of terms utilized by first level document reviewers;

b. Researched, analyzed, and presented to lead and co-counsel analyses of chatrooms in which Defendants engaged in conspiratorial conduct;

c. Worked with Alexander Kullar to investigate activities by employees of non-defendant market participants and prepare memoranda detailing banks' employees' involvement in conspiratorial activity;

d. Researched domestic and foreign text and instant message retention requirements (statutory and regulatory) for foreign exchange traders and examined available Defendants' internal policies regarding same;

e. Prepared memoranda concerning examples of foreign exchange traders referencing text and instant message communications amongst themselves;

f. Reviewed and prepared descriptions of documents in targeted batches of documents in preparation for mediations with Defendants;

g. Identified and reviewed germane documents from prior to start of current class period and prepared a report on those documents;

h. Worked with lead counsel and senior Steyer Lowenthal attorneys to identify potential deponents and interviewees;

i. Reviewed, classified, and coded thousands of documents pertaining to potential witnesses who are or were employed by the Defendant assigned to Steyer Lowenthal for purposes of interviews and depositions and drafted memoranda describing each witness's involvement in incriminating activity; and

j. Reviewed and coded documents produced by Defendants according to review protocol developed by lead counsel and prepared spreadsheets and memoranda regarding those documents.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of Steyer Lowenthal who were involved in, and billed ten or more hours to this Action, and the lodestar calculation for those individuals based on Steyer Lowenthal's current billing rates. For personnel who are no longer employed by Steyer Lowenthal, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Steyer Lowenthal. Time expended on the Action before February 14, 2014 and after December 31, 2017, has not been included in this request. Time expended on Lead Counsel's application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, from February 14, 2014 through and including December 31, 2017, is 12,423.00. The total lodestar reflected in Exhibit 1 for that period is \$6,087,046.25, consisting of \$6,060,597.50 for attorneys' time and \$26,448.75 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$161,251.21 in litigation expenses incurred in connection with the prosecution of this Action from February 14, 2014 through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.

- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.


ALLAN STEYER

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEYER LOWENTHAL BOODROOKAS ALVAREZ & SMITH LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

Allan Steyer is an experienced trial attorney, having tried plaintiff and defense cases in federal and state courts. He has tried cases for the National Football League, Equity Office Properties, USS-POSCO Industries (a US Steel/Pohang Steel Joint Venture), the founders/creators of Ms. Pac Man, ACC Lincoln bondholders (the infamous case against Charles Keating and others), and Technical Equities, a famous Bay Area fraud case involving more than 1,000 investors, including professional athletes and prominent professionals.

In addition, he has represented prominent entrepreneurs including Eduardo Saverin, the cofounder of Facebook, and Kirk Perron, the founder of Jamba Juice.

Mr. Steyer has been co-lead counsel or played a prominent role in various class and representative cases including *Lipuma v. American Express* (SD Fla) – settled for \$75 million – arising from foreign currency conversion charges to cardholders) *Schwartz v. Visa International Corp, et al.* (achieved with several co-counsel firms a \$780 million judgment after a six month trial in California state court, which later settled for \$336 million as part of a nationwide settlement of a companion antitrust case, *in re Visa/MasterCard Currency Conversion Litigation* (SD NY 2006); and *in re TFT-LCD (Flat Panel/Antitrust Litigation)* (N.D. Cal) which settled for \$1.08 billion in 2012 on the eve of the trial, the largest ever indirect purchaser case settlement.

He recently successfully defended USS-POSCO Industries in an alleged market allocation antitrust case. The district court granted summary judgment to the defendants and the Ninth Circuit Court of Appeal affirmed. He has litigated more than 50 complex litigation matters including state and federal class actions.

Mr. Steyer has been chosen by his peers as a Super Lawyer in Northern California annually since 2004.

PARTNERS

Jeffrey H. Lowenthal, (Member) born Los Angeles, California, January 10, 1958; admitted to bar, 1983, California. **Education:** University of California at Los Angeles (B.A., 1980); Boalt Hall School of Law, University of California at Berkeley (J.D., 1983). **Activities:** Chairman, Boalt Hall Moot Court Board, 1982-1983. Northern California Super Lawyer, 2005-2017; Super Lawyer, Corporate Counsel, 2008-2013; Super Lawyer, Business Edition, 2010-2012. Instructor, Boalt Hall School of Law, University of California, 1985-1986. Author, "Evidence," California Litigation Review, April 1997. Board of Directors, Huckleberry Youth Programs, Inc., 2005-2009 Member, Kentfield Schools Foundation, 1999-2001. Panelist, Early Settlement Program, Bar Association of San Francisco, 2002—. **Member:** Bar Association of San Francisco; State Bar of California; Marin Trial Lawyers Association (Member, Board of Trustees, 2002); Association of Business Trial Lawyers; California Land Title Association. **Practice Areas:** Real Property; Title Insurance Law; Commercial Litigation. **E-mail:** jlowenthal@steyerlaw.com

Allan Steyer, (Member) born Brooklyn, New York, July 25, 1952; admitted to bar, 1981, California. **Education:** State University of New York at Buffalo (B.A., magna cum laude, 1973); University of San Francisco School of Law (J.D., 1981). **Activities:** Legal Externship, California Supreme Court, Justice Mathew O. Tobriner, 1980. Selected by peers, Northern California Super Lawyer, 2004-2017. Author: "Era of Accounting Irregularities," May, 2002; "Comprehensive General Liability Policies, 1993: Obligation of the Parties," Practicing Law Institute; "Insurance Claims and Coverage Litigation;" "The Unfair Settlement Practices Regulations: Issues Relating to Discovery, Admissibility of Evidence In Civil Actions, and Exhaustion of Administrative Remedies," June, 1993; "Cross-Examination: Seven Steps To Success," California Litigation, Spring Issue, 1991. Speaker: Hot Topics in Financial Institution Litigation, State Bar of California Convention, September 2005 and October 2004; Innovative Strategies for Pursuing Unfair Competition Claims, State Bar of California Antitrust and Unfair Competition Law Section, May 2004; 2003 Advanced Business Litigation Institute, California CPA Education Foundation - Admissibility of Expert Witness Testimony; Advanced Business Litigation Institute Conference, California CPA Education Foundation, Era of Accounting Irregularities, May 2002; Punitive Damages in California Courts: Post BMW v. Gore, CAOC Seminar, December, 1998; Punitive Damages: Post BMW v. Gore - An Update, CAOC Seminar, December 1997; Punitive Damages: BMW Case, CAOC Seminar, December, 1996; Mediating Wrongful Termination, Harassment and Discrimination Cases, CAOC Seminar, November 1995; The After-Acquired Evidence Defense - Alive and Well?, CAOC Seminar, November 1995; Punitive Damages: Current Status and Trends, CTLA Seminar, December 1993; California Unfair Claims Settlement Practices Regulations: Compliance, Enforcement and Beyond, San Francisco Bar Association Program, June 1993; PLI Program, Comprehensive General Liability Policies; Insurance Claims and Coverage Litigation, New York, May 1993; "The 'Lincoln Savings' Trial," CTLA Seminar, December 1992; "Handling Claims Against Savings and Loan Officers and Directors," ATLA Advanced Seminars, August 1991; "Securities Fraud: The Big Cases and the Small Cases," Kansas Trial Lawyers Association Annual Meeting, 1988. Instructor, National Institute for Trial Advocacy, Berkeley, California, 1999, San Francisco, California, 2001. Judge Pro Tem, San Mateo Superior Court, 1994-1998. **Member:** San Francisco, San Mateo County (Member: Bench and Bar Committee, 1990, 1994, 1996-2004; ADR Committee, 1994-1996) and American Bar Associations; State Bar of California; Consumer Attorneys of California; San Mateo County Trial Lawyers Association (Member, Board of Directors, 1987-

1996; President, 1995); San Francisco Trial Lawyers Association (Member, Board of Directors, 1996-2008); The American Association for Justice; Association of Business Trial Lawyers. **Practice Areas:** Antitrust; Commercial Litigation; Consumer Class Actions; Investment Fraud; Labor and Employment; Securities; Real Property. **E-mail:** asteyer@steyerlaw.com

Nick A. Boodrookas, (Member) born Modesto, California, June 3, 1958; admitted to bar, 1983, California. **Education:** University of California at Davis (A.B., with highest honors, 1980); Boalt Hall School of Law, University of California at Berkeley (J.D., 1983). **Activities:** Phi Beta Kappa. Lecturer, Continuing Education of the Bar of California. Northern California Super Lawyer, 2005 and 2006, Labor & Employment Law. Member, 1998-2004, and President, 1999-2001, Board of Trustees, Saint Mark's School. Member, 2002-2008 and Chairman, 2004-2006 Board of Trustees, Marin Academy. **Member:** Bar Association of San Francisco; State Bar of California (Member, Labor and Employment Law Section). **Reported Cases:** *Laborers Health & Welfare v. Westlake Development*, 53 F.3d 979 (9th Cir. 1995). **Practice Areas:** Labor and Employment; Litigation; Nonprofit Organizations; Independent Schools. **E-mail:** nboodrookas@steyerlaw.com

Carlos A. Alvarez, (Member) born Los Angeles, California, April 1, 1964; admitted to bar, 1989, California. **Education:** University of San Francisco (B.A., 1986); Boalt Hall School of Law, University of California at Berkeley (J.D., 1989). Northern California Super Lawyer, 2014-2015 and 2017. **Member:** The Bar Association of San Francisco; State Bar of California (Member, Sections on: Litigation and Real Property); San Francisco La Raza Lawyers Association; California Land Title Association. **Practice Areas:** Commercial Litigation; Real Property; Consumer Class Actions. **E-mail:** calvarez@steyerlaw.com

Edward Egan Smith, (Member) born Williamsburg, Virginia, February 4, 1965; admitted to bar, 1994, California. **Education:** University of Virginia (B.A., 1987); University of California, Hastings College of the Law (J.D., 1991). **Activities:** Senior Research Editor, Editorial Board, Hastings Law Journal, 1990-1991. Law Clerk to The Honorable Ed Carnes, U.S. Circuit Judge, Eleventh Circuit Court of Appeals, 1992-1993, and The Honorable Robert E. Varner, Senior U.S. District Judge, U.S. District Court, Middle District of Alabama, 1991-1992. Author, "The Criminalization of Belief: When Free Exercise Isn't," 42 Hastings L.J. 1491 (1991). **Member:** State Bar of California; Bar Association of San Francisco. **Practice Areas:** Commercial Litigation; Appeals; Labor and Employment; Real Property. **E-mail:** esmith@steyerlaw.com

Jill M. Manning, (Member) born Carmel, California, July 19, 1969; admitted to bar, 1995, California. **Education:** University of California at Davis (B.A., 1991); Cambridge University, Pembroke College (summer, 1990); University of San Francisco School of Law (J.D., 1995). Member (1993-1994) and Editor (1994-1995), USF Law Review. **Speaking Events:** "The UCL, FAL and CLRA 'Go Viral': Facebook, Google, Apple, Yahoo! Zynga and Other High Tech Cases," 21st Annual Golden State Antitrust and Unfair Competition Law Institute (October, 2011); "Hot Topics in Competition Law," 86th Annual Meeting of the State Bar of California (October, 2013); Moderator, "Privacy and Cybersecurity: An Insider's View of Government Enforcement and Private Litigation," State Bar of California, Antitrust and Unfair Competition Law Section (Feb. 25, 2015). **Publications:** The Sedona Conference, "Defense of Process: General Principles" (August, 2013); *Competition*, The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California, "Plaintiff Perspective: Food Fights -

Recent Developments in Consumer Class Actions Challenging Food Labels,” Vol. 23, No. 2 (Fall 2014). **Legal Affiliations:** Deputy Vice Chair (Treatise), State Bar of California Antitrust and Unfair Competition Executive Committee; Member, Bar Association of San Francisco, Antitrust Section; Member, American Bar Association, Antitrust Section, Agriculture and Food Committee; Women Antitrust Plaintiffs Attorneys (WAPA). **Professional Activities:** Board of Trustees, Shoreline Unified School District; Member, Marin Agricultural Land Trust; Member, Marin Organic. **Practice Areas:** Antitrust and Unfair Competition; Consumer Fraud; Business Disputes. **Email:** jmanning@steyerlaw.com

Dana M. Andreoli, (Member) born San Francisco, California, August 16, 1982; admitted to bar, 2008, California. **Education:** University of California, San Diego, CA (B.A., 2004); Dickinson School of Law at Pennsylvania State University (J.D., 2008). **Activities:** Senior Editor for the PSU Environmental Law Review; interned for the civil division of The United States Attorney’s Office in Washington, D.C. **Member:** State Bar of California; Bar Association of San Francisco; Marin Trial Lawyers Association; Association of Business Trial Lawyers. **Practice Areas:** Commercial Litigation; Real Property; Title Insurance; Construction Defect; Appeals; Commercial Transactions. **Email:** dandreoli@steyerlaw.com

SENIOR COUNSEL

Donald Scott Macrae, born Summit, New Jersey, November 26, 1956; admitted to bar, 1982, California. **Education:** Bowdoin College at Brunswick, Maine (B.A., 1978); Boalt Hall School of Law, University of California at Berkeley (J.D., 1982). **Activities:** Recipient: James Bowdoin Scholar; American Jurisprudence Award. **Practice Areas:** Antitrust; Commercial; Consumer Class Actions; Securities. **Email:** smacrae@steyerlaw.com

Jayne A. Peeters, born Neenah, Wisconsin, April 21, 1954; admitted to bar, 1983, California. **Education:** University of Wisconsin, Madison, Wisconsin (B.S. 1976); Hastings College of the Law, University of California (J.D. 1982). **Activities:** Legal Externship, Marin Superior Court, 1982; Settlement Panelist, Marin Superior Court, 2002-2003. **Member:** Bar Association of San Francisco; State Bar of California. **Practice areas:** Class Actions; Commercial Litigation; Real Property. **Email:** jpeeters@steyerlaw.com

Alexander D. Kullar, born San Francisco, California, July 16, 1983; admitted to bar, 2008, California; admitted to bar, 2009, District of Columbia. **Education:** University of California, Los Angeles, CA (B.A., 2005); Georgetown University Law Center, Washington, D.C. (J.D., 2008). **Member:** State Bar of California. **Practice area:** Litigation. **Email:** akullar@steyerlaw.com

Sumee Oh, born Seoul, Republic of Korea, January 31, 1964; admitted to bar, 2001, New York and New Jersey. **Education:** Brooklyn College, Brooklyn, NY (B.S., 1989); School of Hotel Administration, Cornell University; (M.P.S., 1993); Rutgers Law School, Rutgers University-Newark (J.D., 2001). **Activities:** Judicial Intern for Judge Philip J. Cummis, NJ State Superior Court; Board Agent/Field Attorney-Intern, National Labor Relation Board, Region 22. **Member:** New York City Bar Association. **Practice Areas:** Antitrust, Class Action, Labor, Employment, Finance, Intellectual Property, Communications, Manufacturing, Product Liability, Technology. **Email:** soh@steyerlaw.com

ASSOCIATES

Jill K. Cohoe, born New Westminster, B.C., Canada, February 10, 1987; admitted to bar, 2013, California. **Education:** University of California, **Berkeley**, CA (B.A., 2008); University of California, Hastings College of the Law (J.D., 2013). **Activities:** Senior Symposium Editor for the Hastings Law Journal, organized the Spring 2013 symposium, "From Bench to Society: Law and Ethics at the Frontier of Genomic Technology; Legal extern for the Hon. Marla J. Miller at the San Francisco Superior Court. **Member:** State Bar of California; Bar Association of San Francisco; Association of Business Trial Lawyers. **Practice Areas:** Business Litigation, Real Property, Construction, Title Insurance, Escrow, Civil Appeals. **Email:** jcohoe@steyerlaw.com

Cameron L. Weiss, born San Diego, CA, September 29, 1985; admitted to bar, 2013, California. **Education:** University of Southern California, Los Angeles, CA (B.S., 2008); University of San Diego School of Law (J.D., 2012). **Practice Areas:** Antitrust, Corporate, Contract. **Email:** cweiss@steyerlaw.com

Kristopher M. Di Giovanni, born Attleboro, Massachusetts, June 3, 1986; admitted to bar, 2012, California. **Education:** University of Miami, Coral Gables, FL (B.B.A., 2007); University of San Diego School of Law (J.D., 2012). **Activities:** Vice President of Phi Alpha Delta Legal Fraternity; certified legal intern for the civil division of University of San Diego School of Law's Pro Bono Legal Clinic. **Member:** State Bar of California; Los Angeles County Bar Association. **Practice Areas:** Class Action Litigation. **Email:** kdigiovanni@steyerlaw.com

Thomas J. Lloyd, born Long Beach, CA, November 1, 1985; admitted to bar, 2015, California. **Education:** University of California, Santa Cruz, CA (B.A., 2007); University of California Hastings College of the Law (J.D., magna cum laude, 2015). **Practice Areas:** Commercial Litigation; Real Property; Antitrust Class Actions. **Email:** tjlloyd@steyerlaw.com

Laura L. Gildengorin, born Sacramento, CA, August 6, 1987; admitted to bar, 2016, California. **Education:** University of California, Berkeley, CA (B.A., 2009); University of California Hastings College of the Law (J.D., magna cum laude, 2016). **Practice Areas:** Commercial Litigation; Real Property; Antitrust Class Actions. **Email:** lgildengorin@steyerlaw.com

Suneel Jain, born Santa Clara, CA, October 8, 1988; admitted to bar 2017, California. **Education:** University of California, Berkeley (B.A., 2010); Georgetown University Law Center (J.D., 2015). **Practice Areas:** Antitrust Class Actions, Commercial Litigation. **Email:** sjain@steyerlaw.com

**STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP
CLASS ACTION AND OTHER COMPLEX LITIGATION MATTERS**

A. Antitrust

Ace Delivery & Moving, Inc. v. Horizon Lines, LLC, et al. - served as plaintiff's co-lead counsel for direct purchasers in a horizontal price fixing conspiracy putative class action (D. AK).

In Re: Aluminum Warehousing Antitrust Litigation - one of four firms representing opt outs (S.D. NY). (Case is on appeal to Second Circuit.)

In Re: Visa/Mastercard Currency Conversion Litigation - one of core firms that represented certified class of plaintiffs in massive MDL antitrust/Truth In Lending Act action arising from imposition of foreign currency conversion fees by Visa, MasterCard, and banks (S.D. NY). (\$336 million settlement approved.)

Mayor and City Counsel of Baltimore, Maryland v. Citigroup, Inc., et al. - one of three firms which represented purchasers of auction rate securities in a putative class action antitrust case (S.D. NY). Argued appeal in Second Circuit Court of Appeal.

Sidibe, et al. vs. Sutter Health, et al. - one of four firms representing putative class of consumers of hospital/medical services in tying case (N.D. CA). (Appeal pending in Ninth Circuit.)

In Re: German Automotive Manufacturers Antitrust Litigation - member of plaintiffs' steering committee. Putative class action by purchasers of German cars in horizontal price fixing case. (N.D. CA).

In Re: DRAM Antitrust Litigation - member of executive committee - represented indirect purchasers of DRAM in putative class action involving price fixing conspiracy (N.D. CA).

In Re: Flash Memory Antitrust Litigation - member of executive committee - represented putative class of indirect purchasers of flash memory against major electronic companies in a price fixing conspiracy (N.D. CA).

In Re Broiler Chicken Antitrust Litigation - representing putative class of direct purchasers in a horizontal price fixing conspiracy (N.D. IL).

In Re: Fresh and Processed Potatoes Antitrust Litigation - member of executive committee - representing plaintiff direct purchasers in a putative class action price fixing conspiracy (settlement preliminarily approved) (E.D. ID).

In Re: International Air Transportation Surcharge Antitrust Litigation - member of executive committee - representing putative class of ticket purchasers against major airline carriers (N.D. CA). (Partial settlements approved.)

In Re: Lithium Ion Batteries Antitrust Litigation - representing putative class of direct purchaser

plaintiffs (N.D. CA). (Partial settlements obtained.)

In Re: Municipal Derivatives Antitrust Litigation - member of executive committee - represented class of purchasers of municipal securities in a price fixing conspiracy (S.D. NY).

In Re: NASDAQ Market-Makers Antitrust Litigation - represented plaintiffs in a national class action price fixing case against 33 broker-dealer defendants (S.D. NY).

In Re: NCAA Student-Athlete Name & Likeness Licensing Litigation - member of executive committee - representing class of plaintiffs in a price fixing conspiracy regarding current and former student athletes (N.D. CA). (Settlement approved.) (Defendant NCAA's Ninth Circuit appeal regarding fee award pending.)

In Re: Packaged Seafood Products Antitrust Litigation - representing putative plaintiff class of purchasers of packaged seafood in a horizontal price fixing case (S.D. CA).

In Re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation - representing putative plaintiff class in a price fixing case against Visa, Mastercard and major banks regarding interchange fees (E.D. NY).

In Re: Processed Egg Products Antitrust Litigation - representing putative plaintiff class in a price fixing conspiracy (E.D. PA). (Partial settlements approved/trial scheduled - 2018)

In Re: TFT-LCD (Flat Panel) Antitrust Litigation - represented class of indirect purchasers in a price fixing conspiracy against manufacturers of flat panels for televisions, computer monitors, and laptop computers (N.D. CA). (\$1,080 billion settlement approved.)

In Re: CD Antitrust Litigation - represented plaintiffs in a consolidated nationwide federal class action and antitrust/price fixing case involving the music industry (D. ME).

In Re: Graphics Processing Units Antitrust Litigation - represented putative class of indirect purchasers of graphic cards against major electronic companies in a price fixing conspiracy (N.D. CA).

In Re: Korean Air Lines Co., Ltd. Antitrust Litigation - represented plaintiff class in a price fixing conspiracy (C.D. CA). (Settlement approved.)

In Re: Optical Disk Drive Products Antitrust Litigation - represented putative plaintiff class of purchasers in a price fixing conspiracy (N.D. CA). (Settlement approved.)

In Re: Static Random Access Memory (SRAM) Antitrust Litigation - represented class of indirect purchasers in a price fixing conspiracy case against multiple SRAM manufacturers (N.D. CA).

In Re: Air Cargo Shipping Services Antitrust Litigation - represented putative classes of direct purchasers of air cargo services against numerous airline defendants in a price fixing conspiracy (E.D. NY).

In Re: Aftermarket Automotive Lighting Products Antitrust Litigation - represented plaintiff class of direct purchasers in a horizontal price fixing conspiracy (C.D. CA).

In Re: Cathode Ray Tube (CRT) Antitrust Litigation - represented class of direct purchaser plaintiffs (N.D. CA).

B. Consumer

Christina Grace v. Apple, Inc. - one of four firms representing putative class of consumers in case regarding FaceTime feature on iPhones (N.D. CA).

In Re ConAgra Foods, Inc. – representing a certified class of plaintiffs in a false advertising case (C.D. CA).

Schwartz v. Visa International Corp., et al. - represented plaintiffs in nationwide consumer representative action regarding imposition on credit card users of hidden, foreign currency conversion fees (one of three firms that successfully tried six month trial and obtained \$780 million judgment) (Alameda County Superior Court). (Settlement approved.)

Shrieve v. Visa U.S.A. Inc., et al. - co-lead counsel - represented plaintiffs in putative nationwide consumer class action regarding imposition on debit card users of hidden, foreign currency conversion fees (Alameda County Superior Court). (Settlement approved.)

Mattingly v. Visa U.S.A. Inc., et al. - co-lead counsel - represented plaintiffs in putative nationwide consumer class action regarding imposition on credit card users of hidden, foreign currency conversion fees (Alameda County Superior Court). (Settlement approved.)

Lipuma v. American Express - co-lead counsel - represented plaintiffs in nationwide consumer class action regarding deceptive business practices involving foreign currency conversion fees imposed on cardholders (S.D. FL). (Settlement approved.)

Green v. Chase Manhattan Bank USA, N.A., et al. - co-lead counsel - represented plaintiffs in putative consumer class action against home equity line lenders regarding failure to comply with statutory requirements for reconveyance of deeds of trust (San Francisco County Superior Court). (Settlement approved.)

Silva, et al. v. Provident Funding Associates, L.P., et al. - co-lead counsel - represented plaintiffs in consumer class action regarding late fees charged by a mortgage service company (San Mateo County Superior Court). (Settlement approved.)

Marshall, et al. v. H&R Block, Inc., et al. - one of four firms that represented putative nationwide class of tax preparation clients in deceptive business practices case (S.D. IL).

Mulligan v. Pacific Bell - co-lead counsel - represented plaintiffs in California consumer class action alleging violations of Bus. & Prof. Code § 17200 and California Consumer Legal

Remedies Act (Alameda County Superior Court). (Settlement approved.)

Citigroup Loan Cases - represented plaintiffs in nationwide consumer class alleging Bus. & Prof. Code § 17200 claims against lenders regarding deceptive and illegal lending practices to consumers (San Francisco County Superior Court). (Settlement approved.)

Gordon v. Apple Computer - represented plaintiffs in consumer nationwide class action arising from sale of alleged defective computers (Bus. & Prof. Code § 17200) (Santa Clara County Superior Court). (Settlement approved.)

Castro v. Providian - co-lead counsel - represented class of borrowers alleging Bus. & Prof. Code § 17200 claims arising from lender's imposition of unconscionable terms and interest charges on credit card lines (San Mateo County Superior Court). (Settlement approved.)

Lavie v. Procter & Gamble - co-lead counsel - represented plaintiffs in consumer representative action - false advertising, Bus. & Prof. Code § 17200 claims regarding OTC drug, including three week trial and appeal. (San Francisco County Superior Court).

Littau v. Circuit City - co-lead counsel - represented plaintiffs in consumer class action - false advertising, Bus. & Prof. Code § 17200 claims against major electronics retailers (San Francisco County Superior Court). (Settlement approved.)

C. Investment Fraud/Securities

In Re: American Continental Corporation/Lincoln Savings & Loan Securities Litigation - co-lead counsel - represented class of bond purchasers against three Big 5 accounting firms, Charles Keating and many other defendants - including a four month jury trial (D. AZ).

In Re: Technical Equities Coordinated Litigation - represented hundreds of plaintiffs in fraud case against Bear Stearns, Big 5 accounting firms, Security Pacific National Bank and other defendants - including a three month jury trial - obtained \$153 million judgement (Santa Clara County Superior Court).

Represented two hedge funds in securities litigation against public company (ND CA).

Represented four hedge funds in securities litigation against public company (public/private offering) (S.D. NY).

In Re: Asia Pulp & Paper Securities Litigation - represented class of investors in a securities fraud action (S.D. NY). (Settlement approved.)

William A. Brandt, Jr. v. Gordon A. Campbell, et al. - represented former CFO of bankrupt technology company in action brought by bankruptcy trustee against company's directors and officers (San Mateo County Superior Court).

In Re: General Instrument Securities Litigation - MDL proceeding - represented group of

investors including money managers who suffered multi-million dollar losses arising out of 1995 merger of private company with publicly traded company; action was coordinated with national securities class actions (N.D. IL). (Settlement approved.)

In Re: TMI Limited Partnership Litigation - one of two firms that represented approximately 20,000 school teachers who invested in 35 real estate limited partnerships in class action for fraud, breach of fiduciary duty, against general partners and Big 5 accounting firm (Orange County Superior Court). (Settlement approved.)

Smith v. Merrill Lynch - represented plaintiffs in Orange County bond holder class action litigation (Orange County Superior Court and federal district court).

Klein v. Sacks - co-lead counsel - represented investors in real estate limited partnerships fraud scheme in class action against general partners and attorneys (Los Angeles County Superior Court).

In Re: Executive Life Litigation - represented plaintiffs in consolidated policy holder class actions against directors and officers and Big 5 accounting firm in fraud action (Los Angeles County Superior Court). (Settlement approved.)

ZZZZBest Litigation - represented Union Bank against Big 5 accounting firm that audited ZZZZBest (Los Angeles County Superior Court and C.D. CA).

D. Other Complex Litigation

Represented cofounder of Facebook in breach of fiduciary duty/fraud case (Santa Clara County Superior Court). (Case settled in 2008. Featured in movie "The Social Network.")

Crown Paper Liquidating Trust v. PriceWaterhouseCoopers LLP - represented bankruptcy trustee in fraudulent conveyance and business tort action against multiple defendants (N.D. CA). (Settlement approved after trial commenced.)

Peinado v. Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun - co-lead counsel - represented plaintiffs in national origins class action discrimination lawsuit (San Francisco County Superior Court).

Meris Labs v. Long Beach Memorial Hospital - represented subsidiary of nonprofit hospital in breach of contract/fraud case, including twelve week jury trial (Santa Clara County Superior Court).

dZine v. Hyundai - represented Belgian company in breach of contract/fraud case arising from failure of computer chip, a component processing part of digital satellite transmission system, including six week trial (Santa Clara County Superior Court).

Bank of America v. Lloyds of London - represented bank in multimillion dollar insurance coverage case (San Francisco County Superior Court).

Ferguson v. National Football League - represented NFL in three week jury trial of wrongful

termination suit filed by referee (Santa Clara County Superior Court).

EXHIBIT 13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE :
BENCHMARK RATES ANTITRUST : No. 1:13-cv-07789-LGS
LITIGATION :
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**DECLARATION OF JENNIFER W. SPRENGEL
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP**

I, Jennifer W. Sprengel, declare as follows:

1. I am the Managing Partner of the law firm of Cafferty Clobes Meriwether & Sprengel LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm worked closely with Kirby McInerney LLP and Morris & Morris LLC to develop claims on behalf of exchange-traded futures and options investors, including claims under the Commodities Exchange Act. This work included extensive analysis of the impact of defendants' conduct on the futures and options market, analysis of claims under the Commodities Exchange Act, and working with one of the experts, Dr. Nejat Seyhun, to study the size of the various markets (including the futures market). As part of this work, my firm

analyzed the existing foreign exchange litigation to develop claims on behalf of exchange-traded futures and options investors. After my firm was included in the broader plaintiffs' litigation structure, we were directed by Lead Counsel to perform a number of tasks. These tasks included representing class members who transacted in exchange-traded futures and options during settlement allocation mediations with other investors who transacted in over-the-counter instruments. In addition, at the direction of Lead Counsel, my firm dedicated significant resources to the examination and analysis of discovery materials (documents produced by defendants) and performed extensive legal work on discrete issues identified by Lead Counsel, such as motions to dismiss, class certification, and monitoring parallel litigation.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 11,088.5. The total lodestar reflected in Exhibit 1 is \$4,982,056.00, consisting of all attorney time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$318,192.44 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner, or \$95 for the day.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 4, 2018.


Jennifer W. Sprengel

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Ellen Meriwether	70.0	775.00	54,250.00
Bryan L. Clobes	34.3	775.00	26,582.50
Jennifer W. Sprengel	75.1	775.00	58,202.50
Anthony F. Fata	621.7	700.00	435,190.00
Daniel O. Herrera	162.8	625.00	101,750.00
Daniel O. Herrera (document review)	585.2	425.00	248,710.00
Associates			
John Scheflow	1,976.7	425.00	840,097.50
Brian O'Connell	52.1	485.00	25,268.50
Brian O'Connell (document review)	2,067.8	425.00	878,815.00
Staff Attorneys			
Brian Ulwick	1,805.4	425.00	767,295.00
William O'Brien	2,466.6	425.00	1,048,305.00
Christopher B. Sanchez	478.7	425.00	203,447.50
Christopher Dolotosky	692.1	425.00	294,142.50
TOTALS	11,088.5		4,982,056.00

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP
EXPENSE REPORT**

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	200.00
Service of Process	35.00
Online Legal Research	2,120.54
Hand Delivery Charges	97.75
Local Transportation	1,843.76
Internal Copying	388.80
Out of Town Travel*	6,017.17
Meals*	761.09
Experts	181,728.33
Contributions to Litigation Fund	125,000.00
TOTAL EXPENSES:	318,192.44

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner, or \$95 for the day.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP
FIRM RÉSUMÉ AND BIOGRAPHIES



Cafferty Clobes
Meriwether & Sprengel LLP

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I. Overview

Cafferty Clobes Meriwether & Sprengel LLP, which has offices in Chicago, Philadelphia, and Ann Arbor, combines the talents of attorneys with a wide range of experience in complex civil litigation. The skill and experience of CCMS attorneys has been recognized on repeated occasions by courts that have appointed these attorneys to major positions in complex multidistrict or consolidated litigation. As the cases listed below demonstrate, these attorneys have taken a leading role in numerous important actions on behalf of investors, employees, consumers, businesses, and others. In addition, CCMS attorneys are currently involved in a number of pending class actions, as described on the Firm's web page.

II. Commodities Class Actions

Hershey/Kohen v. Pacific Investment Management Co. LLC, No. 05 C 4681 (N.D. Ill.). As liaison and class counsel in action arising from PIMCO's manipulation of 10-year treasury notes futures traded on the Chicago Board of Trade, CCMS helped secure a **\$118 million settlement** for the class. Reported opinions: 571 F.3d 672 (7th Cir. 2009); 697 F. Supp. 2d 945 (N.D. Ill. 2010); 244 F.R.D. 469 (N.D. Ill. 2007).

In re Crude Oil Commodity Futures Litig., No. 11-cv-03600 (S.D.N.Y.). As class counsel in action arising from manipulation of NYMEX West Texas Intermediate grade crude oil futures contracts, CCMS expended significant resources assisting the class with investigation and discovery. The collective efforts resulted in a \$16.5 million settlement for the class. Reported opinion: 913 F. Supp. 2d 41 (S.D.N.Y. 2012).

In re North Sea Brent Crude Oil Futures Litig., No. 13-md-02475 (S.D.N.Y.). As class counsel in action arising from Brent crude benchmark manipulation by North Sea oil, CCMS has devoted significant time and expense toward investigation, expert analysis and pleading motion practice.

In re Foreign Exchange Benchmark Rates Antitrust Litigation, 13-cv-7789 (S.D.N.Y.). As class counsel in action arising from manipulation of foreign exchange rates by international banks and others, CCMS has devoted significant resources toward investigation, discovery, and allocation of more than \$2 billion in settlements for the class.

In re Sumitomo Copper Litig., 96 Civ. 4584(MP) (S.D.N.Y.). As class counsel in action arising out of manipulation of the world copper market, CCMS helped achieve settlements aggregating \$134.6 million. *See* 189 F.R.D. 274 (S.D.N.Y. 1999). In awarding attorneys' fees, Judge Milton Pollack noted that it was "the largest class action recovery in the 75 plus year history of the Commodity Exchange Act." 74 F. Supp. 2d 393 (S.D.N.Y. Nov. 15, 1999). Additional reported opinions: 995 F. Supp. 451 (S.D.N.Y. 1998); 182 F.R.D. 85 (S.D.N.Y. 1998).



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In re Soybean Futures Litig., No. 89 C 7009 (N.D. Ill.). As class counsel in action against Ferruzzi Finanziaria SpA and related companies for unlawfully manipulating the soybean futures market, CCMS helped recover a \$21.5 million settlement. *See* 892 F. Supp. 1025 (N.D. Ill. 1995).

III. Antitrust Class Actions and Litigation

Kamakahi v. American Society for Reproductive Medicine, No. 3:11-cv-01781 (N.D. Cal.). CCMS served as Co-Lead Counsel in a cutting edge antitrust case challenging the legality of ethical guidelines promulgated by two professional associations that limited the compensation members were permitted to pay to women providing donor services for in-vitro fertilization procedures. Without the benefit of a parallel government case or investigation, CCMS achieved a groundbreaking settlement (approved on August 26, 2016) that requires the defendants to eliminate the compensation caps, and to refrain from imposing similar caps in the future. *See Kamakahi v. Amer. Soc. for Reproductive Medicine*, No. 11-1781, 2013 WL 1768706 (N.D. Cal. Mar. 29, 2013) (denying motion to dismiss); *Kamakahi v. Amer. Soc. for Reproductive Medicine*, 305 F.R.D. 164 (N.D. Cal. 2015) (granting class certification).

In re Prandin Direct Purchaser Antitrust Litig., Civ. No. 10-12141 (E.D. Mich.). CCMS served as Co-Lead counsel for a plaintiff class of direct purchasers of the prescription drug repaglinide, which is manufactured and marketed by Novo Nordisk under the brand-name Prandin. Plaintiffs alleged that Novo Nordisk blocked FDA approval of generic versions of the drug by wrongfully manipulating the language of the “use code” filed with the FDA in connection with a method of use patent. On January 20, 2015, the court granted final approval to a \$19 million settlement. *See In re Prandin Direct Purchaser Antitrust Litig.*, No. 10-12151, 2015 WL 8335997 (E.D. Mich. Jan. 20, 2015).

In re Insurance Brokerage Antitrust Litig., MDL No. 1663 (D.N.J.). CCMS was appointed Co-Lead Counsel for plaintiffs who alleged that insurance brokers and insurers conspired to allocate customers in a complicated scheme to maximize their own revenues at the expense of class members. The litigation concluded in August 2013 with final approval of last of five separate settlements that, in aggregate, exceeded \$270 million. *See*: (1) *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 2007 WL 542227, (D.N.J. Feb. 16, 2007) (approving \$121.8 million settlement with the Zurich Defendants), *aff’d*, 579 F.3d 241(3d Cir. 2009); (2) *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 2007 WL 2589950 (D.N.J. Sept. 4, 2007) (approving \$28 million settlement with the Gallagher Defendants), *aff’d*, 579 F.3d 241(3d Cir. 2009); (3) *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 2009 WL 411877 (D.N.J. Feb. 17, 2009) (approving \$69 million settlement with Marsh & McLennan Cos. Inc.); (4) *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 2012 WL 1071240 (D.N.J. Mar. 30, 2012) (approving \$41 million settlement with several defendants, including AIG, Hartford, Fireman’s Fund and Travelers); and (5) *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 297 F.R.D. 136 (D.N.J. 2013) (approving \$10.5 million settlement with ACE defendants, Chubb defendants and Munich Re defendants). Judge Claire C. Cecchi observed that “Class counsel include notably skilled attorneys with experience in antitrust, class actions and RICO litigation.” *Id.* at *17; *see also In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663, 2007 WL 1652303, at *6 (D.N.J. June 5, 2007).



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In re New Motor Vehicles Canadian Export Antitrust Litig., MDL No. 1532 (D. Me.). CCMS was appointed Class Counsel, together with other firms, in multidistrict litigation alleging that automobile manufacturers and other parties conspired to prevent lower priced new motor vehicles from entering the American market during certain periods, thereby artificially inflating prices. *See, e.g., In re New Motor Vehicles Canadian Export Antitrust Litig.*, 270 F.R.D. 30, 35 (D. Me. 2010). On February 3, 2012, the court approved a \$37 million settlement with Toyota and the Canadian Automobile Dealers' Association. *In re New Motor Vehicles Canadian Export Antitrust Litig.*, MDL 1532, 2012 WL 379947 (D. Me. Feb. 3, 2012).

In re TriCor Indirect Purchaser Antitrust Litig., No. 05-360 (D. Del.). CCMS was appointed Co-Lead Counsel for consumer and third-party payor plaintiffs who alleged that defendants engaged in unlawful monopolization in the market for fenofibrate products, which are used to treat high cholesterol and high triglyceride levels. *See Abbott Laboratories v. Teva Pharmaceuticals, Inc.*, 432 F. Supp. 2d 408 (D. Del. 2006) (denying defendants' motions to dismiss). On October 28, 2009, the court granted final approval to a \$65.7 million settlement (an amount that excludes an initial payment to opt-out insurance companies).

Nichols v. SmithKline Beecham Corp., No. Civ.A.00-6222 (E.D. Pa.). CCMS served as Co-Lead Counsel for consumers and third-party payors who alleged that the manufacturer of the brand-name antidepressant Paxil misled the U.S. Patent Office into issuing patents that protected Paxil from competition from generic substitutes. On April 22, 2005, Judge John R. Padova granted final approval to a \$65 million class action settlement for the benefit of consumers and third-party payors who paid for Paxil. *Nichols v. SmithKline Beecham Corp.*, No. Civ.A.00-6222, 2005 WL 950616, 2005-1 Trade Cas. (CCH) ¶74,762 (E.D. Pa. April 22, 2005). *See also Nichols v. SmithKline Beecham Corp.*, No. Civ.A.00-6222, 2003 WL 302352, 2003-1 Trade Cas. (CCH) ¶ 73,974 (E.D. Pa. Jan. 29, 2003) (denying defendant's motion to strike expert testimony).

In re Relafen Antitrust Litig. No. 01-12239 (D. Mass.). On September 28, 2005, Judge William G. Young of the United States District Court for the District of Massachusetts granted final approval to a \$75 million class action settlement for the benefit of consumers and third-party payors who paid for branded and generic versions of the arthritis medication Relafen. In certifying an exemplar class of end-payors, the court singled out our Firm as experienced and vigorous advocates. *See In re Relafen Antitrust Litig.*, 221 F.R.D. 260, 273 (D. Mass. 2004). In the opinion granting final approval to the settlement, the court commented that "Class counsel here exceeded my expectations in these respects [i.e., experience, competence, and vigor] in every way." *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 85 (D. Mass. 2005); *see also id.* at 80 ("The Court has consistently noted the exceptional efforts of class counsel."). The litigation resulted in many significant decisions including: 286 F. Supp. 2d 56 (D. Mass. 2003) (denying motion to dismiss); 346 F. Supp. 2d 349 (D. Mass. 2004) (denying defendant's motion for summary judgment).

VisaCheck/MasterMoney Antitrust Litig., Master File No. 96-5238 (E.D.N.Y.). CCMS's client, Burlington Coat Factory Warehouse, and the other plaintiffs alleged that Visa and MasterCard violated the antitrust laws by forcing retailers to accept all of their branded cards as a condition of acceptance



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of their credit cards. On June 4, 2003, the parties entered into settlement agreements that collectively provided for the payment of over \$3.3 billion, plus widespread reforms and injunctive relief. On December 19, 2003, the Settlement was finally approved by Judge John Gleeson. On January 4, 2005, the Second Circuit Court of Appeals affirmed Judge Gleeson's decision.

In re Warfarin Sodium Antitrust Litig., MDL 98-1232 (D. Del.). Multidistrict class action on behalf of purchasers of Coumadin, the brand-name warfarin sodium manufactured and marketed by DuPont Pharmaceutical Company. Plaintiffs alleged that the defendant engaged in anticompetitive conduct that wrongfully suppressed competition from generic warfarin sodium. On August 30, 2002, the Court granted final approval to a \$44.5 million settlement. *See In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231 (D. Del. 2002). On December 8, 2004, the Third Circuit upheld approval of the settlement. 391 F.3d 516 (3d Cir. 2004).

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich.). Multidistrict class action on behalf of purchasers of Cardizem CD, a brand-name heart medication. Plaintiffs alleged that an agreement between the brand manufacturer and a generic manufacturer unlawfully stalled generic competition. On October 1, 2003, Judge Nancy Edmunds granted final approval to an \$80 million settlement for the benefit of consumers, third-party payors and state attorneys general. *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508 (E.D. Mich. 2003), *app. dismissed*, 391 F.3d 812 (6th Cir. 2004). The litigation resulted in several significant decisions, including: 105 F. Supp. 618 (E.D. Mich. 2000) (denying motions to dismiss); 105 F. Supp. 2d 682 (E.D. Mich. 2000) (granting plaintiffs' motions for partial summary judgment and holding agreement *per se* illegal under federal and state antitrust law); 200 F.R.D. 326 (E.D. Mich. 2001) (certifying exemplar end-payor class); 332 F.3d 896 (6th Cir. 2003) (upholding denial of motion to dismiss and grant of partial summary judgment).

Blevins v. Wyeth-Ayerst Labs., No. 324380 (Sup. Ct. San Francisco Cty. CA). Plaintiff alleged that Wyeth-Ayerst unlawfully monopolized the market for conjugated estrogen drug products through exclusive contracts with health benefit providers and pharmacy benefit managers. On October 30, 2007, the court approved a \$5.2 million settlement for a class of California purchasers of Wyeth-Ayerst's conjugated estrogen drug product.

In re DDAVP Indirect Purchaser Antitrust Litig., No. 05-2237 (S.D.N.Y.). CCMS was appointed Co-Lead Counsel for consumer and third-party payor plaintiffs who alleged that defendants the defendant pharmaceutical manufacturers relied upon sham patents and sham patent litigation to preclude generic competition. On December 18, 2013, the court entered an order approving a \$4.75 million settlement.

In re Synthroid Marketing Litig., MDL No. 1182 (N.D. Ill.). This multidistrict action arises out of alleged unlawful activities with respect to the marketing of Synthroid, a levothyroxine product used to treat thyroid disorders. On August 4, 2000, the court granted final approval of a consumer settlement in the amount of \$87.4 million. *See* 188 F.R.D. 295 (N.D. Ill. 1999). On August 31, 2001, approval of the settlement was upheld on appeal. *See* 264 F.3d 712 (7th Cir. 2001).



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In re Kaiser Group International, Case No. 00-2263 (Bankr. D. Del.). On December 7, 2005, Chief Judge Mary F. Walrath of the United States Bankruptcy Court for the District of Delaware granted final approval to a settlement that produced 175,000 shares of common stock for a class of former shareholders of ICT Spectrum Constructors, Inc. (a company that merged with ICF Kaiser Group International and ICF Kaiser Advanced Technology in 1998). The settlement followed Judge Joseph J. Farnan's ruling which upheld the Bankruptcy Court's decision to award common stock of the new Kaiser entity (Kaiser Group Holdings, Inc.) to the Class of former Spectrum shareholders based on contractual provisions within the merger agreement. *See Kaiser Group International, Inc. v. James D. Pippin (In re Kaiser Group International)*, 326 B.R. 265 (D. Del. 2005).

IV. Securities Class Actions and Derivative Litigation

In re Kaiser Group International, Case No. 00-2263 (Bankr. D. Del.). On December 7, 2005, Chief Judge Mary F. Walrath of the United States Bankruptcy Court for the District of Delaware granted final approval to a settlement that produced 175,000 shares of common stock for a class of former shareholders of ICT Spectrum Constructors, Inc. (a company that merged with ICF Kaiser Group International and ICF Kaiser Advanced Technology in 1998). The settlement followed Judge Joseph J. Farnan's ruling which upheld the Bankruptcy Court's decision to award common stock of the new Kaiser entity (Kaiser Group Holdings, Inc.) to the Class of former Spectrum shareholders based on contractual provisions within the merger agreement. *See Kaiser Group International, Inc. v. James D. Pippin (In re Kaiser Group International)*, 326 B.R. 265 (D. Del. 2005).

Danis v. USN Communications, Inc., No. 98 C 7482 (N.D. Ill.). Securities fraud class action arising out of the collapse and eventual bankruptcy of USN Communications, Inc. On May 7, 2001, the court approved a \$44.7 million settlement with certain control persons and underwriters. Reported decisions: 73 F. Supp. 2d 923 (N.D. Ill. 1999); 189 F.R.D. 391 (N.D. Ill. 1999); 121 F. Supp. 2d 1183 (N.D. Ill. 2000).

In re Exide Corp. Sec. Litig., No. 98-CV-60061 (E.D. Mich.). Securities fraud class action arising out of sales and financial practices of leading battery manufacturer. On September 2, 1999, Judge George Caram Steeh approved a settlement in the amount of \$10.25 million.

In re Caremark International Inc. Sec. Litig., No. 94 C 4751 (N.D. Ill.). Securities fraud class action arising out of Caremark's allegedly improper financial arrangements with physicians. On December 15, 1997, the court approved a \$25 million settlement.

V. Employee Benefits Class Actions

Polk v. Hecht, No. 92-1340 (D.N.J.). Class action brought under the Employee Retirement Income Act of 1974 on behalf of all participants or beneficiaries under the Mutual Benefit Life Savings and Investment Plan for Employees on July 16, 1991, when Mutual Benefit Life Insurance Corporation was placed in rehabilitation. On April 12, 1995, Judge Harold A. Ackerman approved a \$4.55 million



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settlement, noting that “[c]ounsel did a darn good job, and the record should be clear on that point, that that is the opinion, for what it’s worth, of this Court.”

In re Unisys Retiree Medical Benefits ERISA Litig., MDL No. 969 (E.D. Pa). Class action on behalf of over 25,000 retirees of Unisys Corporation concerning entitlement to retiree medical benefits. After trial, in November 1994, Chief Judge Cahn approved a partial settlement in the amount of \$72.9 million. *See* 57 F.3d 1255 (3d Cir. 1995).

VI. Consumer Class Actions

Apple iPhone Warranty Litigation (N.D. Cal.) On January 29, 2010, CCMS first of its kind class action against Apple in the Superior Court of Santa Clara County, with the goal of achieving a nationwide recovery for all similarly situated Apple consumers. The suit challenged Apple’s policy of denying warranty claims based on liquid contact indicators located in headphone jacks and dock connector ports of iPhones and iPod touches. Similar class actions were subsequently filed in federal courts on behalf of Apple consumers. Our firm, together with other counsel representing the state and federal plaintiffs, achieved a \$53 million global settlement of the state and federal cases. On May 8, 2014, the Honorable Judge Richard Seeborg granted final approval to the settlement.

Beattie v. CenturyTel, Inc., Civ. No. 02-10277 (E.D. Mich.). A class action on behalf of telephone customers in numerous states who were billed for an inside wire maintenance program improperly described in bills as “Non-Regulated Services.” Plaintiffs alleged violation of the truth-in-billing requirements of the Federal Telecommunications Act. A litigation class was certified and upheld on appeal. *See Beattie v. CenturyTel, Inc.*, 511 F.3d 554 (6th Cir. 2007). On July 9, 2010, the court granted final approval to a \$13 million cash settlement.

In re Midway Moving & Storage, Inc.’s Charges to Residential Customers, No. 03 CH 16091 (Cir. Ct. Cook Cty., Ill.). A class action on behalf of customers of Illinois’ largest moving company whose final moving charges exceeded their pre-move written estimates. Plaintiffs alleged violation of the Illinois Consumer Fraud Act, breach of contract and breach of the covenant of good faith and fair dealing. A litigation class was certified and upheld on appeal. *See Ramirez v. Midway Moving and Storage, Inc.*, 880 N.E.2d 653 (Ill. App. 2007). On the eve of trial, the case settled on a class-wide basis. On October 12, 2012, the Court (Judge Richard J. Elrod) granted final approval and stated that CCMS is “highly experienced in complex and class action litigation, vigorously prosecuted the Class’ claims, and achieved an excellent Settlement for the Class under which Class members will receive 100% of their alleged damages.”

PrimeCo Personal Communications, L.P. v. Illinois Commerce Commission, No. 98 CH 5500 (Circuit Court of Cook County, Ill.). This class action sought recovery of an unconstitutional infrastructure maintenance fee imposed by municipalities on telephone and other telecommunications customers in the State of Illinois. On August 1, 2002, the court granted final approval to a settlement of wireless telephone and pager customers’ claims against the City of Chicago worth over \$31 million.



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VII. Individual Biographies

PARTNERS

PATRICK E. CAFFERTY graduated from the University of Michigan, with distinction, in 1980 and obtained his J.D., *cum laude*, from Michigan State University College of Law in 1983. From 1983 to 1985, he served as a prehearing attorney at the Michigan Court of Appeals and as a Clerk to Judge Glenn S. Allen, Jr. of that Court. Mr. Cafferty is an experienced litigator in matters involving antitrust, securities, commodities, and the pharmaceutical industry. In 2002, Mr. Cafferty was a speaker at a forum in Washington D.C. sponsored by Families USA and Blue Cross/Blue Shield styled “Making the Drug Industry Play Fair.” At the Health Action 2003 Conference in Washington D.C., Mr. Cafferty was a presenter at a workshop titled “Consumers’ Access to Generic Drugs: How Brand Manufacturers Can Derail Generic Drugs and How to Make Them Stay on Track.” In 2010, Mr. Cafferty made a presentation on indirect purchaser class actions at the American Antitrust Institute’s annual antitrust enforcement conference. *See Indirect Class Action Settlements* (Am. Antitrust Inst., Working Paper No. 10-03, 2010). Mr. Cafferty is admitted to the state bars of Michigan and Illinois, and holds several federal district and appellate court admissions. Mr. Cafferty has attained the highest rating, AV®, from Martindale-Hubbell and is a top rated SuperLawyer®.

BRYAN L. CLOBES is a 1988 graduate of the Villanova University School of Law and received his undergraduate degree from the University of Maryland. While in law school, Mr. Clobes clerked for Judge Arlin M. Adams of the United States Court of Appeals for the Third Circuit and Judge Mitchell H. Cohen of the United States District Court for the District of New Jersey. In 1988, after graduating from law school, Mr. Clobes served as a law clerk to Judge Joseph Kaplan of the Maryland Circuit Court in Baltimore. From 1989 through June, 1992, Mr. Clobes served as Trial Counsel to the Commodity Futures Trading Commission in Washington, D.C. Mr. Clobes authored *In the Wake of Varity Corp. v. Howe: An Affirmative Duty to Disclose Under ERISA*, 9 DePaul Bus. L.J. 221 (1997). Mr. Clobes is also a member of the Amicus Committee of the National Association of Securities and Commercial Law Attorneys and he has authored briefs filed with the Supreme Court in a number of ERISA cases, including *Varity Corp. v. Howe* and *Schoonejongen v. Curtiss-Wright Corp.* Mr. Clobes has attained the highest rating, AV®, from Martindale-Hubbell and has been named a “Pennsylvania Super Lawyer” in each of the past three years. Mr. Clobes has been admitted to the bar in New Jersey and Pennsylvania, the Supreme Court of the United States, the United States Court of Appeals for the Third Circuit and the United States District Court for the Eastern District of Pennsylvania.

ANTHONY F. FATA graduated *with honors* from The Ohio State University College of Law (J.D. 1999), where he: was elected to the Order of the Coif; served as Managing Editor of The Ohio State Journal on Dispute Resolution; earned, among other honors, the Albert A. Levin Award for Professional Responsibility, CALI award for Consumer Law, and CALI Excellence for the Future Award; and was selected based on outstanding academic achievement to serve as a research assistant to faculty in the areas of professional responsibility, civil procedure, and contracts. Mr. Fata received his undergraduate degree from Miami University in 1995, where he was selected to serve on the Miami University Student Foundation. Mr. Fata began his legal career in the trial and white collar practice



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groups at McDermott Will & Emery where he defended SEC enforcement actions as well as securities, consumer and product defect class actions. Since joining CCMS, Mr. Fata has successfully prosecuted a wide range of commodities, securities, antitrust and consumer class actions, including multiple cases resulting in 100% recoveries for class members. In addition to his class action practice, Mr. Fata has successfully represented clients in securities arbitrations, corporate investigations, securities/commodities regulatory proceedings, commercial litigation and transactional matters. Among other publications, Mr. Fata has authored: *The Investigation is Internal, but Is this Document Privileged?* (PLI 2016); *The SEC's Whistleblower Bounty Program, Emerging Trends and their Impact on Internal Investigations* (PLI 2015); *The CFTC's Whistleblower Program* (PLI 2014); *Untangling the Seamless Web: Seven Critical Assumptions when Planning Internal Investigations* (PLI 2013); *Doomsday Delayed: How the Court's Party-Neutral Clarification of Class Certification Standards in Wal-Mart v. Dukes Actually Helps Plaintiffs*, 62 DePaul Law Review 401 (Spring 2013); *Class Actions: Attaining Settlement Class Certification Under Amchem and Ortiz*, 19 *Product Liability Law & Strategy* 1 (2001); and *IIICLE Securities Law*, Chapter 15 – Civil Remedies (2003) (contributing author). Mr. Fata's speaking engagements include the 22nd Annual DePaul Law Review Symposium, *Class Action Rollback? Wal-Mart v. Dukes and the Future of Class Action Litigation* (2012), the Practising Law Institute's *Internal Investigations Seminar* (2013-2016), as well as other lectures on federal class action practice and other topics. Mr. Fata serves as an investigator on the Chicago Bar Association's Judicial Evaluation Committee and serves on the Editorial Board of the *CBA Record*. Mr. Fata is an adjunct professor for the Seton Hall University School of Law's Masters of Science in Jurisprudence Program, where he teaches courses in corporate governance, securities law and corporate law. He is admitted to the bar in Illinois, as well as the Sixth, Seventh and Ninth Circuit Courts of Appeals, the Northern District of Illinois (including its Trial Bar), the District of Colorado and the Eastern District of Michigan.

DANIEL O. HERRERA received his law degree, *magna cum laude*, and his MBA, with a concentration in finance, from the University of Illinois at Urbana-Champaign in 2008. Mr. Herrera received his bachelor's degree in economics from Northwestern University in 2004. Mr. Herrera joined CCMS as an associate in 2011 and is resident in its Chicago, Illinois Office. Prior to joining CCMS, Mr. Herrera was an associate in the trial practice of a Chicago-based national law firm, where he defended corporations in securities and antitrust class actions, as well as SEC and DOJ investigations and enforcement actions. Mr. Herrera also routinely handled commercial matters on behalf of corporate clients. Mr. Herrera is licensed to practice in Illinois and before the U.S. District Court for the Northern District of Illinois.

ELLEN MERIWETHER received her law degree from George Washington University, *magna cum laude*, in 1985. She was a member of the *George Washington Law Review* and was elected to the Order of the Coif. Ms. Meriwether received a B.A. degree, *with highest honors*, from LaSalle University in 1981. She was an adjunct professor at LaSalle University teaching a course in the University's honors program from 1988-1993. Ms. Meriwether is a member of the Bar of the Commonwealth of Pennsylvania and is admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the First, Second, Third, Seventh, Tenth and Eleventh Circuits, and the United States District Court for the Eastern District of Pennsylvania. In 2012 Ms. Meriwether was Chair of the Federal Courts Committee of the Philadelphia Bar Association, and has chaired several of its



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subcommittees. Ms. Meriwether is a member of the Board of the Public Interest Law Center, the Advisory Board of the American Antitrust Institute and is Articles Editor of *ANTITRUST*, a publication by the section of Antitrust Law of the American Bar Association. She is a frequent presenter on topics relating to complex, class action and antitrust litigation and has been a faculty member at The George Mason Institute of Law and Economics for Judges, lecturing on the topic of How Lawyers use Economic Evidence in Antitrust Litigation. Ms. Meriwether has published a number of articles on subjects relating to class actions and antitrust litigation, including: "The Fiftieth Anniversary of Rule 23: Are Class Actions on the Precipice?" *Antitrust*, (Vol. 30, No. 2, Spring 2016); "Motorola Mobility and the FTAIA: If Not Here, Then Where?" *Antitrust*, Vol. 29, No. 2 Spring 2015); "*Comcast Corp. v. Behrend*: Game Changing or Business as Usual?" *Antitrust*, (Vol. 27, No. 3, Summer 2013); "Class Action Waiver And the Effective Vindication Doctrine At the Antitrust/Arbitration Crossroads," *Antitrust*, (Vol. 3, Summer 2012); "The Hazards of *Dukes*: Antitrust Plaintiffs Need Not Fear the Supreme Court's Decision," *Antitrust*, (Vol. 26, No. 1, Fall 2011); "Economic Experts: The Challenges of Gatekeepers and Complexity," *Antitrust*, (Vol. 25, No. 3 Summer 2011); "Putting the 'Squeeze' on Refusal to Deal Cases: Lessons from *Trinko* and *linkLine*," (Vol. 24, No. 2, Spring 2010) and "Rigorous Analysis in Certification of Antitrust Class Actions: A Plaintiff's Perspective." (Vol. 21, No. 3, Summer 2007). Since 2010, Ms. Meriwether has been included in the US News and World Report Publication of "Best Lawyers in America" in the field of Antitrust Law. She has been named a "Pennsylvania Super Lawyer" for the past ten years and has attained the highest rating, "AV", from Martindale-Hubbell.

NYRAN ROSE RASCHE received her undergraduate degree *cum laude* from Illinois Wesleyan University in 1995, and earned her law degree from the University of Oregon School of Law in 1999. Following law school, Ms. Rasche served as a clerk to the Honorable George A. Van Hoomissen of the Oregon Supreme Court. She is the author of *Protecting Agricultural Lands: An Assessment of the Exclusive Farm Use Zone System*, 77 Oregon Law Review 993 (1998). Ms. Rasche is admitted to practice in the state courts of Oregon and Illinois, as well as the United States District Courts for the Northern District of Illinois and the Southern District of Illinois. She is also a member of the American and Chicago Bar Associations.

JENNIFER WINTER SPRENGEL received her law degree from DePaul University College of Law, where she was a member of the DePaul University Law Review. Her undergraduate degree was conferred by Purdue University. Ms. Sprengel is an experienced litigator in matters involving commodities, antitrust, insurance and the financial industries. In addition, Ms. Sprengel is a committee member of the Seventh Circuit Electronic eDiscovery Pilot Program and is a frequent speaker on panels regarding issues of discovery. She also serves as co-chair of the Antitrust Law subcommittee of the ABA Class Action and Derivative Suits committee. She is admitted to practice law in Illinois, holds several federal district and appellate court admissions, and has attained the highest rating, AV®, from Martindale-Hubbell. Ms. Sprengel serves as the managing partner of the Firm.



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ASSOCIATES

BRIAN O'CONNELL received his law degree in 2013 from Northwestern University Pritzker School of Law, where he served as Executive Articles Editor for the *Journal of International Human Rights* and was a teaching assistant at the Center on Negotiation and Mediation. In 2009, Mr. O'Connell received B.A. from Stanford University, where he served as a staff writer, feature editor and, finally, Editor-in-Chief of *The Stanford Review*. Following law school, Mr. O'Connell served a legal fellowship in the chambers of Judge Marvin E. Aspen of the United States District Court for the Northern District of Illinois. Prior to joining CCMS, Mr. O'Connell was an associate at a firm specializing in securities and commodities litigation. Mr. O'Connell is licensed to practice in Illinois, as well as the United States District Court for the Northern District of Illinois. He is also a member of the Illinois State and Chicago Bar Associations.

JOHN SCHEFLOW received his law degree from the University of Wisconsin in 2014, and his bachelor's degree from Miami University in 2009. Mr. Schefflow, who joined CCMS's Chicago office in 2015, is currently representing plaintiffs in actions against financial advisors and commodities manipulation class actions. Prior to joining CCMS, Mr. Schefflow represented individuals in personal injury and mass tort cases. Mr. Schefflow is licensed to practice in Illinois and Wisconsin and before the U.S. District Court for the Western District of Wisconsin.

CHRISTOPHER P.T. TOUREK received his law degree, *cum laude*, from the University of Illinois College of Law in 2013. In law school, he was a member of the Federal Civil Rights Clinic. Mr. Tourek earned his bachelors from Lafayette College. Mr. Tourek joined CCMS in 2017 and is resident in its Chicago, Illinois Office. Prior to joining CCMS, Mr. Tourek was an associate at a consumer protection class action firm for three years, during which time he earned the distinction of *Super Lawyers Illinois Rising Star—Class Action/Mass Torts* for 2016 and 2017. Mr. Tourek is licensed to practice in the state courts of Illinois and Washington, D.C., as well as the United States District Courts for the Northern District of Illinois, the Southern District of Illinois, and the Eastern District of Michigan.

SENIOR COUNSEL

DOM J. RIZZI received his B.S. degree from DePaul University in 1957 and his J.D. from DePaul University School of Law in 1961, where he was a member of the *DePaul University Law Review*. From 1961 through 1977, Judge Rizzi practiced law, tried at least 39 cases, and briefed and argued more than 100 appeals. On August 1, 1977, Judge Rizzi was appointed to the Circuit Court of Cook County by the Illinois Supreme Court. After serving as circuit court judge for approximately one year, Judge Rizzi was elevated to the Appellate Court of Illinois, First District, where he served from 1978 to 1996. Judge Rizzi also teaches at both the undergraduate and graduate level: since 1980, he has been a part-time faculty member of the Loyola University School of Law and, since 1992, he has been a part-time faculty member at the University of Illinois-Chicago. Judge Rizzi became counsel to the firm in October 1996.



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STAFF ATTORNEYS

WILLIAM O'BRIEN is a 2014 graduate of Chicago-Kent College of Law where he was a CALI award recipient in Investment Funds. Mr. O'Brien also holds an LL.M in Law and Entrepreneurship from Duke University School of Law. His legal experience includes FINRA, NASDAQ and other market regulation work. He received his undergraduate degree in 2009 from the University of Illinois. Mr. O'Brien is admitted to practice in Illinois.

BRIAN ULWICK received his law degree from Loyola University Chicago School of Law in 2014 and his undergraduate degree from Knox College in 2010. Mr. Ulwick co-authored *Potential Pitfalls in Conditional Joint Tort-Feasor Releases: The Court of Appeals Speaks*, The Maryland Litigator, Jan. 2013. He clerked for the Honorable Ellen Hollander (Md. Dist.) and his legal experience includes criminal enforcement for the Illinois Attorney General. He is admitted to practice in Illinois.

FORMER ATTORNEYS

CHRISTOPHER B. SANCHEZ is a 2000 graduate of the DePaul University College of Law, where he wrote for the *Journal of Art and Entertainment Law* and was the school's student representative for the Hispanic National Bar Association. He received his undergraduate degree, *cum laude*, from the University of New Mexico in 1996. Mr. Sanchez is admitted to practice in Illinois, as well as the United States District Court for the Northern District of Illinois and United States Court of Appeals for the Seventh Circuit. He is also a member of the Illinois State Bar Association and of the Hispanic National Bar Association.

CHRISTOPHER P. DOLOTOSKY is a 2001 graduate of Villanova University School of Law, where he was the Managing Editor of Associate Editors for the *Villanova Law Review*. He received his undergraduate degree, *cum laude*, from the University of Delaware in 1998 and is admitted to practice in Pennsylvania and New Jersey.

EXHIBIT 14

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST :
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No. 1:13-cv-07789-LGS

**DECLARATION OF LINDA P. NUSSBAUM
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF NUSSBAUM LAW GROUP, P.C.**

I, Linda P. Nussbaum, declare as follows:

1. I am the Managing Director of Nussbaum Law Group, P.C. ("NLG"), one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses necessarily incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm made significant contributions to the prosecution and settlement of this case, including, but not limited to, the following:

- Serving as Co-Allocation Counsel for the Exchange-Only Class, which entailed analyzing and advocating as to the strength of that Class's liability and class certification claims, working with co-counsel and independent experts to analyze that Class's damages, and assessing the proposed Plans of Distribution;

- Analyzing and investigating the roles of brokers in the conspiracy;
- Representing two named plaintiffs' and, in furtherance of their roles as class representatives, gathering and reviewing documents and preparing them for production to defendants, and preparing those two plaintiffs for depositions; and
- Reviewing, analyzing and preparing detailed work product summarizing defendants' document productions.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates or discovery rates for document review specific to this matter. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017, has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged by the firm or a discount off of the regular rates charged by the firm for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 15,242.7. The total lodestar reflected in Exhibit 1 is \$7,665,757.50, consisting of \$7,642,322.50 for attorneys' time and \$23,435.00 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates or a discount off of the firm's billing rates, which do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$130,611.47 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

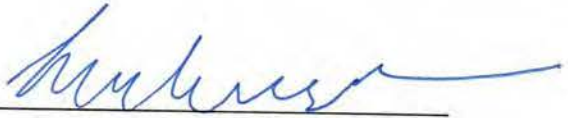
- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 4, 2018.



Linda P. Nussbaum

Jamie Mogil	2316.0	\$425.00	\$984,300.00
Abraham Schmilowitz	3709.0	\$425.00	\$1,576,325.00
Dov Kalton	165.7	\$425.00	\$70,422.50
Joshua Alpert	638.5	\$425.00	\$271,362.50
Daniel M. Trieff	372.6	\$400.00	\$149,040.00
Michael Spyropoulos	207.5	\$400.00	\$83,000.00
Total Attorney			\$7,642,322.50
Law Clerks			
Zachary Shutran	10.0	\$200.00	\$2,000.00
Daniel Alex McRae	81.6	\$200.00	16,320.00
Paralegals			
Lauren Kostman	10.0	\$150.00	\$1,500.00
Omri Gildor	24.1	\$150.00	\$3,615.00
Total Litigation Support			\$23,435.00
Total Lodestar			\$7,665,757.50

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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NUSSBAUM LAW GROUP
FIRM RÉSUMÉ AND BIOGRAPHIES

NUSSBAUM LAW GROUP, P.C.

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New York, New York 10036

Telephone: (917) 438-9189

www.nussbaumlawgroup.com

FIRM BIOGRAPHY

Nussbaum Law Group, P.C. ("NLG") is a boutique litigation firm specializing in the prosecution of antitrust and other complex litigation. Linda Nussbaum, the firm's founder, has been at the forefront of landmark fair competition cases for over 25 years. The firm's experienced litigators have played leading roles in recovering billions of dollars for their clients from the world's largest corporations, and have developed wide-ranging expertise litigating actions involving, among others, the pharmaceutical industry, the commodities markets, the banking and financial services industry.

MANAGING DIRECTOR: LINDA P. NUSSBAUM

Linda Nussbaum is the managing director of the Nussbaum Law Group, P.C. She is nationally recognized for her representation of class and individual plaintiffs in antitrust, RICO, CEA, and pharmaceutical litigation. She has served as sole or co-lead counsel in many significant class actions which have resulted in substantial recoveries, many in the realm of hundreds of millions of dollars. She has also represented large corporate clients including, among others, Hewlett-Packard Company, Kaiser Foundation Health Plan, Inc., Meijer, Inc., Bed Bath & Beyond Inc., Burlington Coat Factory Warehouse Corporation, Progressive Casualty Insurance Company, Avis Budget Group, Inc. and Wegmans Food Markets, Inc.

Ms. Nussbaum was selected "Litigator of the Week" by the AMLAW LITIGATION DAILY on April 2, 2010 for her lead counsel role in *Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals v. Pfizer*, where, after a six-week trial, a jury returned a RICO verdict for her clients. She was named as a finalist for Public Justice Foundation's 2011 Trial Lawyer of the Year award. She was selected by Global Competition Review's independent research with clients and peers as being among the world's leading competition lawyers in 2016 and 2017. Ms. Nussbaum has lectured extensively about various aspects of antitrust and class action law. Recently, she moderated a panel discussion of Class Action Ethics in Antitrust cases at the 2015 American Antitrust Institute Private Enforcement Conference. She also participated in the American Bar Association, Section of Antitrust Law, 63rd Antitrust Law Spring Meeting, April 15-17, 2015 in a debate on "Beyond Reverse Payments: the New Frontiers in Pharmaceutical Antitrust." In February 2015, she co-sponsored the American Antitrust Institute conference "After *Actavis*: Litigating Reverse Payment Cases." In November 2012, she participated in a panel for the American Bar Association on FDA Citizen Petitions and *Noerr* Immunity. Ms. Nussbaum will serve as a faculty member of the Harris Martin Pharmaceutical Antitrust Litigation Conference: Generic Drugs & Emerging Price-Fixing Cases to be held on March 3, 2017. She

NLG

FIRM BIOGRAPHY

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has participated in many other lectures and panel discussions and has spoken at the American Bar Association's Spring Meetings on a variety of antitrust topics over the past ten years. She has also has authored numerous publications.

Ms. Nussbaum's successful prosecution of complex litigation has been recognized and commended by judges in matters in which she has served as Direct Purchaser Class lead counsel.

Chief Judge Hogan of the District of Columbia commented in *In re Lorazepam & Clorazepate Antitrust Litigation*, No. 99-cv-00276 (D.D.C.):

"Obviously, the skill of the attorneys, and I'm not going to spend the time reviewing it, I'm familiar with counsel, and they, as I said, are among the best antitrust litigators in the country."

From Judge Faith S. Hochberg of the District of New Jersey:

"[W]e sitting here don't get to see such fine lawyering, and it's really wonderful for me both to have tough issues and smart lawyers. On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do."

Following the trial in *In re Neurontin Marketing and Sales Practices Litigation*, No. 04cv10981 (D. Mass.), Judge Patti Saris commented that:

"[this was] a fabulous trial[.] [I]t's the kind of thing that you become a judge to sit on."

Ms. Nussbaum is presently serving as lead class counsel in:

- *Castro v. Sanofi Pasteur Inc.* (D.N.J.)
- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (E.D.N.Y.)
- *In re Aluminum Warehousing Antitrust Litigation* (S.D.N.Y.)
- *In re Zinc Antitrust Litigation* (S.D.N.Y.)
- *In re Actos Direct Purchaser Antitrust Litigation* (S.D.N.Y.)
- *Washington County Health Care Authority Inc. v. Baxter International Inc., et al.* (N.D. Ill.)

Ms. Nussbaum is presently serving as one of the allocation counsel in *In re Foreign Exchange Benchmark Antitrust Litigation* (S.D.N.Y.). She is a member of the Plaintiff Steering Committee (P.S.C.) in *In re Generic Drugs* (E.D.P.A.) and *In re Liquid Aluminum Sulfate Litigation* (D.N.J.)

Ms. Nussbaum has represented over a dozen major public companies in *In re Payment Card Interchange and Merchant Antitrust Litigation* (E.D.N.Y.). She is presently representing large corporate clients' in individual actions in *In re American Express Anti-Steering Rules Antitrust Litigation (No. II)* (E.D.N.Y.).

DIRECTOR: BART D. COHEN

Bart Cohen has over 20 years' experience in class actions and other complex litigation. Prior to joining the Nussbaum Law Group, he was a shareholder with one of the nation's preeminent class action firms, with an emphasis on federal antitrust litigation.

Mr. Cohen was part of a group of senior attorneys responsible for leading the prosecution of *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (E.D.N.Y.), which resulted in the district court's approval of a settlement providing for \$5.7 billion in cash payments and injunctive relief worth billions more. In *Univac Dental Co. v. Dentsply, Int'l, Inc.* (M.D. Pa.), Mr. Cohen was solely responsible for the day-to-day prosecution of claims alleging monopolization on behalf of one of the defendant's former competitors. The case settled shortly before the trial date, after surviving dismissal, summary judgment and *Daubert* motions. Mr. Cohen maintained significant responsibility for representing a proposed nationwide class of ATM customers in antitrust litigation against a leading ATM network and several of the nation's largest banks in *In re ATM Fee Antitrust Litigation* (N.D. Cal.).

Mr. Cohen's writing as to antitrust issues has been published on Law360 and in several publications of the American Bar Association. His writing as to other issues has appeared in the Legal Intelligencer and publications of the Philadelphia Bar Association. He was rated as "a very strong litigator" in the Legal 500 in 2009 and 2010, and has been designated a "Pennsylvania Super Lawyer," a distinction awarded to only five percent of the attorneys in the state, in each of the nine years.

DIRECTOR: BRADLEY J. DEMUTH

Brad Demuth's practice focuses on antitrust and other complex commercial litigation. After serving as a law clerk to the United States Court of Appeals for the Second Circuit, Mr. Demuth worked for several years as an associate at two of the largest and most well-regarded defense firms in the world.

Mr. Demuth has extensive experience trying cases and litigating a range of antitrust and other complex commercial matters, including in the pharmaceutical, high-tech, luxury goods, finance, commodities, industrial materials, and sports league contexts. His most recent antitrust casework includes contributions in:

- *In re Foreign Exchange Benchmark Antitrust Litigation* (S.D.N.Y.)
- *In re Aluminum Warehousing Antitrust Litigation* (S.D.N.Y.)
- *In re Zinc Antitrust Litigation* (S.D.N.Y.)
- *In re Actos Direct Purchaser Antitrust Litigation* (S.D.N.Y.)
- *Castro v. Sanofi Pasteur, Inc.* (D.N.J.) (*re: Menactra*)

OF COUNSEL, FORMER DIRECTOR: SUSAN R. SCHWAIGER

Susan Schwaiger graduated cum laude from Brooklyn Law School in 1992 and has worked with Ms. Nussbaum since 1998. She practices in the area of antitrust and commodities litigation, with experience in cases involving a wide variety of industries including banking and financial services, pharmaceuticals and chemicals. Ms. Schwaiger has played a significant role in a number of major antitrust cases in which Ms. Nussbaum served as lead counsel including:

- *In re Lorazepam & Clorazepate Antitrust Litigation* (D.D.C.)
- *In re Microcrystalline Cellulose Antitrust Litigation* (E.D.P.A.)
- *In re Plastics Additives Antitrust Litigation* (E.D.P.A.)
- *In re Foundry Resins Antitrust Litigation* (S.D. Ohio)
- *In re Rubber Chemicals Antitrust Litigation* (N.D. Cal.)

Ms. Schwaiger currently devotes a substantial amount of her practice to antitrust and commodity class action and individual action litigation. Among the matters in which Ms. Schwaiger is presently involved are:

- *In re Automotive Parts Antitrust Litigation* (E.D. Mich.)
- *In re Packaged Seafood Products Antitrust Litigation* (S.D. Cal.)
- *In re Foreign Exchange Benchmark Antitrust Litigation* (S.D.N.Y.)

In addition, Ms. Schwaiger has been involved in representing individual plaintiffs in *In re Payment Card Interchange Fee and Merchant Antitrust Litigation* (E.D.N.Y.) and *In re American Express Anti-Steering Rules Antitrust Litigation (No. II)* (E.D.N.Y.). Prior to joining Nussbaum Law Group as a Director in April 2015, Ms. Schwaiger was a litigation associate with Shearman & Sterling, where her work included the litigation forcing The Citadel in Charleston, SC to admit women, and worked as an associate attorney in the antitrust practices of a number of plaintiffs' firms in New York City, including Pomerantz, Haudek, Block, Grossman & Gross LLP; Cohen Milstein Hausfeld & Toll, PLLC; Kaplan Fox & Kilsheimer LLP; and Grant & Eisenhofer P.A.

NLG ASSOCIATE ATTORNEYS

In addition to its Directors, Nussbaum Law Group is supported by other accomplished attorneys with extensive expertise in antitrust and other complex commercial matters, including Hugh D. Sandler and Peter Moran.

Hugh D. Sandler, Senior Associate

Prior to joining Nussbaum Law Group, Mr. Sandler spent seven years working for two international law firms in New York City. His practice experience includes drafting and arguing pre-trial motions, deposing witnesses, defending witness depositions, preparing witnesses to testify, examining witnesses, cross-examining adverse witnesses at trial, and arguing appellate matters in both federal and state appeal courts.

His litigation experience, which is both international and domestic in scope, focuses on class actions and other complex disputes arising under the Racketeer Influenced and Corrupt Organizations Act (RICO), the Sherman Act, the Alien Tort Claims Act, the Anti-Terrorism Act, the Trafficking Victims Protection Act, the Civil Rights Act, Delaware corporate law, as well as actions in fraud, breach of fiduciary duties, breach of contract, and business-related torts.

In July 2015, Mr. Sandler (along with his trial co-counsel) was awarded Public Justice's Trial Lawyer of the Year award for his trial work in *David v. Signal* (E.D. La.). Additionally, Mr. Sandler has been recognized as a "Rising Star" by Thomson Reuters's *Super Lawyers* publication in both 2014 and 2015.

Mr. Sandler served as law clerk to the Judge Arthur Gans of the Ontario Superior Court. Mr. Sandler graduated from McGill University Faculty of Law, 2007, B.C.L. and LL.B., with great distinction, and obtained a joint honors B.A. in economics and political science from the University of Waterloo in 2003. He is proficient in French and is a member of the New York Public Library Young Lions Association.

Peter E. Moran, Associate

Prior to joining the Nussbaum Law Group, Mr. Moran was an associate with an international law firm in New York City in its Global Competition group where he represented commercial clients on a variety of antitrust and complex commercial litigation issues, including violations of the federal and state antitrust and consumer protection laws, antitrust compliance, internal investigations, individual civil and criminal liability and responding to federal and foreign regulators.

Mr. Moran has also represented pro bono clients before the New York Court of Appeals and Appellate Division, First Department and was a recipient of the 2011 Legal Aid Society Pro Bono Public Award for outstanding service.

Mr. Moran graduated *cum laude* from Brooklyn Law School in 2009, where he was a member of the Brooklyn Law School Journal of International Law and Moot Court Honor Society and recipient of several academic awards.

Amal Bouhabib, Former Associate

Amal Bouhabib is a former associate with NLG. Prior to joining the Nussbaum Law Group, Ms. Bouhabib worked at an international law firm in New York City as an associate in its litigation and international arbitration groups. In her practice, she has represented international and domestic clients in all aspects of civil litigation, both state and federal, at the trial and appellate levels, and in international arbitration.

Ms. Bouhabib's litigation practice focuses on complex civil litigation and international disputes, including bringing and defending actions under foreign law, obtaining recognition and enforcement of foreign awards, representing foreign clients in U.S. federal litigation and litigating foreign discovery issues. She is also an active participant in pro bono matters, and recently second-chaired a precedent-setting five-week civil RICO and Trafficking trial, *David v. Signal* (E.D. La.), achieving the largest civil trafficking verdict in U.S. history. In July 2015, Ms.

Bouhabib, along with her co-counsel, won Public Justice's 2015 Trial Lawyer of the Year award for *David*.

Ms. Bouhabib received her J.D. from Fordham University School of Law in 2010, where she was a Ruth Whitehead Whaley Scholar, a Stein Scholar for Public Interest, a Crowley Scholar in International Human Rights, and the recipient of the Ann Moynihan Award for Outstanding Performance in the law school's International Justice Clinic, where she represented a Guantanamo detainee in his habeas petition before the D.C. District Court.

OTHER NLG CONTRACT ATTORNEYS

Abraham Schmilowitz

Abraham Schmilowitz's practice is concentrated within the financial, pharmaceutical and manufacturing industries dealing with multiple forms of financial misdeeds, environmental, patent, contract and trademark issues. In addition to motion practice, he has considerable experience performing discovery for large class actions and contract cases.

After earning an M.B.A. in both Finance and Marketing from Columbia University in New York City, he received his J.D. from Rutgers University Law School – Newark, NJ in 2002 with a 3.6 grade point average. In the 15 years since graduating from law school, he has been licensed as an attorney in New York and New Jersey. Prior to that, he specialized in the enforcement of contracting rules and regulations for the United States government.

Jamie R. Mogil

Jamie Mogil graduated from New York Law School in 2005. She is admitted to practice law in New York. She was a Law Clerk in the King's County District Attorney's Office, the Office of the New York State Attorney General and the Philadelphia District Attorney's Office. She was a Senior Associate at Faruqi & Faruqi, LLP from 2006 to 2012 and has worked as an attorney instructor with the City of New York Board of Elections and Organizing for America. She has had extensive experience in document review work with Nussbaum Law Group since 2015.

Daniel M. Trieff

Daniel Trieff graduated cum laude from Boston University School of Law in 1995. He is admitted to practice law in New York and Massachusetts. He has had extensive experience in document review work for major New York firms since 2006.

Michael Spyropoulos

Michael Spyropoulos graduated from Syracuse University College of Law in 1991. He is admitted to practice law in New York and Connecticut. He was an attorney with several law firms in New York from 1994 to 2003, including an associate with Constantine & Partners between 1998 and 2003 and Staff Attorney with Labaton Sucharow from 2004 to 2006. He has had extensive experience in document review work for major New York firms since 2013.

Dov T. Kalton

Dov Kalton graduated from Harvard Law School in 2001. He is admitted to practice law in New York and Israel. He was an associate with Clifford Chance LLP in 2001-2002, and worked as an attorney in Israel from 2004 to 2008. He has had extensive experience in document review work for major New York firms since 2009.

Joshua E. Alpert

Joshua Alpert graduated from Brooklyn Law School in 2005. He is admitted to practice law in New York. He has had extensive experience in document review work for major plaintiffs' firms in New York City since 2006.

EXHIBIT 15

I, Patricia I. Avery, declare as follows:

1. I am a member of the law firm of Wolf Popper LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as one of Plaintiffs' Counsel, communicated with named plaintiff Employees' Retirement System of the Puerto Rico Electric Power Authority ("ERS-PREPA") concerning its transactions in the foreign exchange ("FX") market; communicated with ERS-PREPA's asset managers and custodian bank to obtain PREPA's transactional data in the FX market; analyzed thousands of pages of ERS-PREPA's transactional data in the FX market covering several years; participated in strategy sessions with Lead Counsel and other Plaintiffs'

Counsel; assisted in the briefing of Plaintiffs' Motion for Leave to Amend; evaluated the requests for production, interrogatories, and notices of deposition served by defendants and prepared responses for each; prepared ERS-PREPA's representative for deposition; and reviewed thousands of documents in respect to ERS-PREPA, in connection to a document production, all at the request of Lead Counsel, pursuant to Fed. R. Civ. P. 26.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm (Elizabeth Desmond), the lodestar calculation is based on the billing rates for such personnel in her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases (with the exception that Lead Counsel capped the rates for certain types of work, and for those attorneys who had time in which Lead Counsel capped the rates, those hours are shown separately on Exhibit 1 for each of the applicable attorneys).

5. The total number of hours reflected in Exhibit 1 is 613.40. The total lodestar reflected in Exhibit 1 is \$407,504.50, consisting of \$399,382.00 for attorneys' time and \$8,122.50 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$107,591.08 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges added to these figures by my firm.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 10, 2018.



Patricia I. Avery

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**WOLF POPPER LLP
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Patricia I. Avery	72.3	\$895.00	\$64,708.50
Andrew E. Lencyk	103.8	\$895.00	92,901.00
Matthew Insley-Pruitt	130.6	\$825.00	107,745.00
Matthew Insley-Pruitt (capped Discovery Hours)*	20.4	\$425.00	8,670.00
Associates			
Fei-Lu Qian	103.9	\$575.00	59,742.50
Fei-Lu Qian (capped Hours)*	75.3	\$425.00	32,002.50
Sean Zaroogian	2.0	\$495.00	990.00
Sean Zaroogian (capped Hours)*	46.1	\$425.00	19,592.50
Elissa M. Hachmeister	2.7	\$450.00	1,215.00
Elissa M. Hachmeister (capped Hours)*	27.8	\$425.00	11,815.00
Paralegals			
Elizabeth Desmond	28.5	\$285.00	8,122.50
TOTALS	613.40		\$407,504.50

* As explained in above Declaration, ¶4, Lead Counsel capped the rates for certain types of work. The hours for those attorneys who had time in which Lead Counsel capped the rates are shown separately in this Exhibit 1 for each of the applicable attorneys. (Lead Counsel reviewed the daily time entries of counsel.)

WOLF
POPPER
LLP

EXHIBIT 3

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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WOLF POPPER LLP

FIRM RÉSUMÉ AND BIOGRAPHIES

WOLF
POPPER
LLP

BIOGRAPHICAL SKETCH OF WOLF POPPER LLP

Wolf Popper LLP (“Wolf Popper” or “the Firm”) is a nationally recognized law firm with decades of experience in the fields of securities, antitrust, consumer, and ERISA class actions and securities derivative actions. Since the Firm was founded in 1945, Wolf Popper has been a leader in efforts to protect the interests of defrauded investors, consumers, and employees, prosecuting hundreds of actions under federal and state laws throughout the United States, and recovering billions for aggrieved parties.

The Firm also has a substantial practice in corporate and commercial law. Wolf Popper’s commercial litigation practice encompasses the representation of defendants as well as plaintiffs. The Firm’s corporate practice includes business transactions, employer/employee relations, and the law of foreign missions. Among the Firm’s clients are domestic and international individuals and businesses, and foreign missions to the United Nations.

The Firm’s members are active members in a variety of professional legal associations, including serving on or chairing a number of committees of such associations and they have written extensively on a variety of subjects for numerous professional associations and legal periodicals, including internationally. Many of the Firm’s current and former members have held responsible positions in government both at the federal and the state level. For example, Benedict Wolf (now deceased) was the First Secretary and Chief Trial Examiner of the National Labor Relations Board, and Martin Popper (now deceased) was a consultant to the U.S. Delegation to the Founding Conference of the United Nations and an observer at the Nuremberg war crimes trials.

Wolf Popper has an exemplary record in its representation of plaintiffs, and the skill and experience of the attorneys at the Firm have been repeatedly recognized by Courts throughout the country. In recognition of its high standing at the bar, Courts have frequently appointed Wolf Popper to serve as lead or co-lead counsel in complex, multi-party actions, including securities, antitrust, consumer, and ERISA actions. Many of the Wolf Popper attorneys are regularly selected as New York “Super Lawyers”®. This selection represents the top 5% of attorneys practicing in New York City.

Wolf Popper has achieved notable and significant successes over the years. Some of the outstanding recoveries achieved and decisions obtained by the Firm are described below.

Securities Actions:

- In Bach v. Amedisys, Inc., 10-CV-00395 (C.D. La.), Wolf Popper represents one of the Co-Lead Plaintiffs, the Puerto Rico Teachers Retirement System. Plaintiffs allege that Amedisys, a home health care company, engaged in Medicare fraud, misrepresenting its financial statements and history of compliance with Medicare rules and regulations, and improperly securing

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revenue from Medicare billings. In essence Amedisys hid a Medicare fraud scheme by which Amedisys improperly inflated Medicare reimbursements by pressuring and intimidating nurses and therapists to provide unnecessary treatment to trigger higher fees. The District Court granted Defendants' motions to dismiss the Complaint. However, Co-Lead Plaintiffs successfully appealed that dismissal to the Fifth Circuit, which reversed the dismissal and remanded the case to the District Court for further proceedings. Following substantial discovery, the parties recently reached a settlement in the amount of \$43.75 million. The Court granted final approval to the settlement on December 13, 2017.

- In Flynn v. Sientra, Inc., Case No. 2:15-cv-07548-SJO-RAO (C.D. Cal.), Wolf Popper served as co-lead counsel for the class in an action asserting claims under both the Securities Act of 1933 (in connection with a secondary public offering ["SPO"]) and the Securities Exchange Act of 1934, on behalf of purchasers of Sientra, Inc. ("Sientra") common stock. Sientra sold breast implants made by a Brazilian manufacturer in a single facility in Rio de Janeiro, Silimed Indústria de Implantes Ltda. ("Silimed"), with whom Sientra had extensive relationships. Plaintiffs alleged that, unbeknownst to the investing public, in the spring and summer 2015, European regulators discovered that the implants manufactured in that facility were contaminated with foreign particulates, and that Silimed had performed its own inspection and reached the same conclusion. Shortly thereafter, Sientra, which needed a cash infusion, announced a \$65 million SPO. Plaintiffs alleged that the SPO's offering documents represented that Sientra, not Silimed, was "primarily responsible for the manufacturing and quality assurance of [Sientra's] products," including inspections of all products from Silimed; and that the offering documents discussed the manufacturing of Sientra's products at the Rio facility, including regulatory compliance and current good manufacturing practices ("cGMP"), without disclosing that widespread contamination at that facility had been found by regulators, and confirmed by Silimed, well before the SPO. Plaintiffs alleged that, notwithstanding Defendants' knowledge of the regulatory and internal findings, they recklessly continued with the SPO, raising more than \$65 million. Minutes after the SPO closed, the contamination was revealed by the European regulators, causing the price of Sientra's common stock to plummet. On June 9, 2016, Judge S. James Otero denied in substantial part defendants' motions to dismiss the Section 10(b), Section 11 and 12(b)(2) claims. Flynn v. Sientra, Inc., 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016), motion for reconsideration denied, slip op. (C.D. Cal. Aug 12, 2016). On May 22, 2017, the court approved a settlement of the litigation for \$10.9 million in cash.

- In Anwar v. Fairfield Greenwich Ltd., No. 09-cv-0118 (VM) (S.D.N.Y.), Wolf Popper is co-lead counsel for investors in the multi-billion "feeder" funds, managed by affiliates of the Fairfield Greenwich Group (FGG). These funds lost virtually all of their assets in the Ponzi scheme orchestrated by Bernard L. Madoff. The case includes claims under both the federal securities laws and New York state common law. Wolf Popper helped recover hundreds of millions of dollars for these Madoff victims.

Based upon the strength of plaintiffs' arguments and briefing, in a groundbreaking decision Judge Marrero broke from substantial existing precedent in the New York courts and the district courts within the Second Circuit in denying defendants' motion to dismiss, concluding that the Martin Act

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did not preempt any existing claims under New York law. Anwar v. Fairfield Greenwich, Ltd., 728 F. Supp. 2d 354 (S.D.N.Y. 2010). That decision was approved and substantially followed by the New York Court of Appeals in Assured Guar. (UK) Ltd. v J.P. Morgan Inv. Mgt. Inc., 18 N.Y.3d 341, 353 (N.Y. 2011). On March 22, 2013, the court approved a partial settlement in the amount of \$80,250,000, including a minimum of \$50,250,000 to be distributed to the settlement class upon final approval, and an additional \$30,000,000 to be distributed if not used to resolve other claims. An additional \$5,000,000 partial settlement with defendant GlobeOp was approved by the Court on November 22, 2013. On November 20, 2015, the Court gave final approval to a \$125 million settlement with the Citco Group defendants. In 2016, the Court approved a settlement with PricewaterhouseCoopers in the amount of \$55 million. Thus, Wolf Popper's efforts helped recover up to \$265 million for these victims of the Madoff Ponzi-scheme scandal.

- In Plumbers' & Pipefitters' Local #562 Supplemental Plan & Trust et al. v. J.P. Morgan Acceptance Corp. I et al., 2:09-cv-01713 (E.D.N.Y.) (PKC) (WDW), Wolf Popper represents the Public Employees' Retirement System of Mississippi ("MissPERS"), as lead plaintiff, in an action against JPMorgan Acquisition Corp. ("JPMAC"), certain individuals employed by JPMAC or its affiliates, and JP Morgan Securities, Inc. The class consists of investors who purchased certain mortgage pass-through certificates (mortgage-backed securities) across 26 Offerings, with an initial face value of approximately \$23 billion. MissPERS's consolidated complaint alleges that the offering documents pursuant to which the JPMAC securities were sold contained misrepresentations and omitted to disclose information concerning the underwriting of the mortgage loans serving as collateral for the securities. The parties engaged in extensive motion practice and discovery. In February 2012, Lead Plaintiff defeated Defendants' motion to dismiss in substantial part.

On July 24, 2014, the Honorable Pamela K. Chen entered an order approving the settlement which resolved the action for a total of \$280 million. It is one of the largest settlements in a class action against banks that issued mortgage-backed securities. The Court found that "the representation of both sides was obviously very vigorous. The plaintiffs, I know, expended efforts in terms of pursuing the investigation, the theories, the research and the advocacy." The Action "was a difficult case. Certainly in the beginning, at the time when some of the principles, the legal principles that are applied in this case, in any cases related to mortgage-backed securities, was not well established. They did yeomen's work, I think, in trying to establish some of those principles. . . . [T]his is a good result in this particular case."

- In the State of New Jersey, Department of Treasury, Division of Investment v. Merrill Lynch & Co., Inc. and Bank of America Corp., Docket No. L-3855-09 (New Jersey Superior Court, Hudson County), Wolf Popper represented the State of New Jersey, Division of Investment ("NJ") in an individual action against Merrill Lynch. On January 16, 2009, Bank of America Corp. ("BAC") announced that Merrill Lynch & Co., Inc. ("Merrill"), BAC's subsidiary, reported a net loss after taxes for the fourth quarter of 2008 of \$15.3 billion. In researching potential claims against Merrill, Wolf Popper learned that NJ had invested \$300 million in January 2008 in a private placement of Merrill preferred stock and that NJ had converted those preferred shares to common stock pursuant to an exchange agreement in July 2008. Further investigation

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revealed that a different investor, at that same time, had converted its preferred shares to a new series of preferred on terms that were preferential to the terms Merrill had offered to NJ. Prior to filing the Complaint, Wolf Popper was able to obtain discovery with respect to a class action settlement of claims against Merrill then pending in the Southern District of New York for purposes of advising NJ whether to opt out of the class action and file an individual complaint. NJ, subsequent to that discovery, determined to opt out of the class settlement. Wolf Popper filed an individual complaint on NJ's behalf on July 28, 2009, in state court in New Jersey asserting claims against Merrill Lynch for breach of contract, breach of the covenant of good faith and fair dealing, and negligent misrepresentation. After defendants removed the case to federal court, the U.S. Court of Appeals for the Third Circuit unanimously affirmed the remand of the action back to the New Jersey state court on May 18, 2011. The New Jersey Superior Court thereafter denied defendants' motion to dismiss in its entirety. Following merits and expert discovery, the Court on September 29, 2012, denied in all material respects Merrill's motion for summary judgment. The action settled in April 2013 for \$45 million, approximately one month before trial. New Jersey Attorney General Jeffrey S. Chiesa stated, in announcing the settlement, that "this is a fair and equitable outcome, and we are pleased to be recovering a substantial amount of dollars on behalf of New Jersey taxpayers."

- In In re Tycom Ltd. Sec. Litig., No. 03-3540 (GEB) (D.N.J.), Wolf Popper, representing the Lead Plaintiff, served as co-lead counsel for the class, securing a \$79 million cash settlement for the class following extensive motion practice and full discovery. At the August 25, 2010 hearing at which the Court approved the settlement, the Honorable Garrett E. Brown, Jr., Chief Judge of the U.S. District Court for the District of New Jersey, praised the Firm for its "very extensive and professional representation of the class."

- In the In re Motorola Sec. Litig., No. 03-C-287 (RRP) (N.D. Ill.), Wolf Popper represented the Lead Plaintiff, the State of New Jersey, Department of Treasury, Division of Investment. On the eve of trial, the defendants paid \$190,000,000 to the class to resolve the federal securities litigation. This recovery was obtained after more than four years of litigation. During the litigation, Wolf Popper, among other things, defeated Motorola's motion to dismiss the complaint (2004 U.S. Dist. LEXIS 18250 (Sept. 9, 2004, N.D. Ill.)) and Motorola's motions for summary judgment (2007 U.S. Dist. LEXIS 9530 (Feb. 8, 2007, N.D. Ill.)).

- In Middlesex Retirement System v. Quest Software, Inc., No. 06-06863-DOC (RNBx) (C.D. Cal.), Wolf Popper was appointed lead counsel in a federal securities class action against Quest Software, Inc. ("Quest"), a company that designs, develops, distributes and supports software products. The case is based on allegations that Quest issued materially false and misleading statements to cover up its failure to account properly for backdated stock options, causing Quest's operating and net income to be overstated and its stock price to be artificially inflated. Following comprehensive briefing opposing defendants' initial motion to dismiss, the Court denied virtually all of defendants' motion. Defendants filed subsequent motions to dismiss challenging the amended complaint which had added additional allegations. The Court denied defendants' motions to dismiss the claims under § 10(b) and § 20(a) of the Securities Exchange Act of 1934. See Middlesex Retirement System v. Quest Software, Inc., 527 F. Supp. 2d 1164 (C.D. Cal. 2007); and Amended Order (C.D. Cal. July 10, 2008). After comprehensive discovery and the

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grant of plaintiff's motion to compel discovery and plaintiff's motion for class certification, see Middlesex Retirement System v. Quest Software, Inc., Order, CV 06-6863-DOC (RNBx) (C.D. Cal. Jul. 8, 2009), aff'd, Order (C.D. Cal. Sept. 18, 2009) (order granting Plaintiff's motion to compel); and Order, CV 06-6863-DOC (RNBx) (C.D. Cal. Sept. 8, 2009) (Granting Lead Plaintiff's Motion for Class Certification), the parties entered into a proposed settlement of the action for \$29.4 million (plus the cost of providing notice of the settlement to the class). The Court preliminarily approved the settlement, stating "[Y]ou really have the court's profound congratulations and compliments," and, on April 26, 2010, gave final approval to the settlement.

- In Huberman v. Tag-It Pacific Inc., No. 2:05-cv-07352-R(Ex) (C.D. Cal.), Wolf Popper successfully appealed the district court's grant of summary judgment to defendants and the denial of class certification. In addition to reversing summary judgment, the Ninth Circuit Court of Appeals also reversed the district court's denial of class certification, and ordered the district court to certify the class. Huberman v. Tag-It Pacific Inc., 2009 U.S. App. LEXIS 2780 (9th Cir. Jan. 16, 2009). The Court approved the subsequent settlement of the litigation for an amount that was almost 50% of the court-appointed independent expert's estimate of maximum potential losses.

- In Thurber v. Mattel, Master File No. CV-99-10368-MRP (CWx) (C.D. Cal.) (§10(b) claims) and Dusek v. Mattel, Master File No. CV-99-10864-MRP (CWx) (C.D. Cal.) (§14(a) claims), Wolf Popper was a member of the Executive Committee of Plaintiffs' counsel, but was also specifically appointed by the Federal Court to have primary responsibility for the prosecution of the Dusek v. Mattel §14(a) claims. After more than three years of extremely hard-fought litigation, including two rounds of motions to dismiss, the production of millions of documents, and the taking or defending of more than 40 depositions, both cases settled for the aggregate sum of \$122 million, with \$61 million allocated for the Dusek v. Mattel §14(a) claims, believed to be the largest settlement of a § 14(a) case. Upon approving the settlement, the Judge complimented counsel saying that the settlement was an "awfully good result." The Judge also specifically found that "Wolf Popper LLP vigorously prosecuted the Dusek action and zealously represented the interests of the Dusek class members" and that Wolf Popper zealously performed in a "very capable and professional manner."

- Wolf Popper LLP was a co-lead settlement counsel for the plaintiff class in In re Service Corp. Int'l, No. H-99-280 (S.D. Tex.). The action alleged that defendants made material misrepresentations in connection with Service Corp.'s January 1999 stock-for-stock acquisition of Equity Corp. International. Based on the strength of the amended complaint, and presentation at mediation sessions, Wolf Popper recovered \$65 million for the plaintiff class, 64.7% of the class' recognized losses. The settlement, approved in 2004, was an extraordinary recovery inasmuch as there were no allegations of insider trading, a SEC investigation, or an accounting restatement, and the District Court had spent over four years deliberating over defendants' motion to dismiss the complaint, lessening plaintiffs' leverage in settlement negotiations.

- In Stanley v. Safeskin, No. 99cv454-BTM (LSP) (S.D. Cal.), Wolf Popper served as Court-appointed Co-lead Counsel for Plaintiffs, in which the Court approved a \$55 million settlement in favor of plaintiffs on March 20, 2003. The Honorable Barry T. Moskowitz thereafter

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complimented Plaintiffs' Co-Lead Counsel, noting his "incredible respect for the work that the lawyers did." Describing Plaintiffs' counsel as "highly skilled in these cases," Judge Moskowitz commented that he was "kind of looking forward to trying this case, because it would have the best lawyers in the country trying this case. . . ." The Court subsequently further complimented Co-Lead Counsel, stating that "competency is too weak of a word -- the extraordinary ability of these firms * * * I really thought that the Plaintiffs' law firms in this case not only had extraordinary ability to deal with the complicated factual issues -- and it certainly was a difficult case, and you should be applauded in that regard." Paying Plaintiffs' Co-Lead Counsel perhaps an ultimate compliment, the Court further said, "From the plaintiffs' perspective -- and I say this for all the firms -- you handled it on a much higher plane, probably on a textbook or ideal plane. If they would teach people how it should be done in law school, this would be the example of, how the lawyers handle this case."

- In Buxbaum v. Deutsche Bank, A.G., No. 98 Civ. 8460 (JGK) (S.D.N.Y.), Wolf Popper recovered \$58 million as co-lead counsel in a major securities fraud action against Deutsche Bank, A.G. and its senior officer. The action alleged that Deutsche Bank defrauded Bankers Trust shareholders by misrepresenting the status of takeover negotiations for Deutsche Bank to acquire Bankers Trust. The District Court's opinion denying defendants' motion to dismiss is reported at Fed. Sec. L. Rep. (CCH) ¶90,969 (S.D.N.Y. 2000). The decision denying defendants' motion for summary judgment is reported at 2002 U.S. Dist. LEXIS 1893 (S.D.N.Y., Jan. 30, 2002). The \$58 million recovery, obtained on the eve of trial, was equivalent to approximately 48% of the class' maximum possible recovery, and approximately 96% of the class' most likely recovery.

- In In re Sunbeam Sec. Litig., No. 98-8258-Civ.-Middlebrooks (S.D. Fl.), Wolf Popper was appointed co-lead counsel. The case was brought against Sunbeam, its auditors, and former officers and directors of the company, including "Chainsaw" Al Dunlap. Plaintiffs reached a partial settlement with Sunbeam's auditors, Arthur Andersen, for \$110 million - one of the largest settlements ever with an accounting firm in a securities class action - and reached a separate settlement with the individual defendants that included more than \$18 million in cash plus a separate \$13 million recovery from the company's excess insurance policies.

- In In re Providian Financial Sec. Litig., MDL No. 1301 (E.D. Pa.), Wolf Popper was co-lead counsel for the plaintiff class and obtained a \$38 million recovery from the defendants. The Court, in approving the settlement, remarked on the "extremely high quality" and "skill and efficiency" of plaintiffs' counsel's work, which the Court stated it had seen throughout the litigation. The Court also noted the "extremely high quality" of Wolf Popper's work is reflected in the result which it obtained and in the fact that it is a nationally prominent firm with extensive experience in the field.

- Wolf Popper was co-lead counsel in In re Chambers Development Co. Sec. Litig., No. 92-0679 (W.D. Pa.) that resulted in a \$95 million cash settlement for the class in 1996.

- Wolf Popper was the Chair of Plaintiffs' Executive and Scheduling Committees in the consolidated litigation arising out of the national scandal at Wedtech Corporation. In re

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Wedtech Sec. Litig., M 21-36 (LBS) MDL 735 (S.D.N.Y.). The action was settled for \$77.5 million, one of the then largest settlements in a securities fraud action.

- Wolf Popper was the plaintiffs' co-lead counsel in a litigation that resulted in the then largest recovery in the history of securities class actions. In In re The Standard Oil Company/British Petroleum Litig., Consolidated Case No. 12676, Court of Common Pleas, Cuyahoga County, Ohio, plaintiffs' counsel negotiated and obtained a benefit for the class in excess of \$600 million. The Court commented favorably on the quality of co-lead counsel:

The professional skill required to achieve the resultant benefits to this Class has been evidenced on nearly a daily basis by this Court.

As a result of this professional skill and excellent representation, these benefits to the Class would not have otherwise been achieved.

The Court has fully weighed in its decision the benefits bestowed on the Class. At this juncture the Court finds that the benefit is unprecedented.

- Wolf Popper was co-lead counsel in the case producing the then largest recovery in a securities class action prior to the Standard Oil litigation. In Joseph, et al v. Shell Oil Company, et al., Consolidated Civil Action No. 7450 (Del. Ch., April 19, 1985), the plaintiff stockholders successfully petitioned the Delaware Chancery Court to enjoin the proposed merger of Shell Oil Company and Royal Dutch Petroleum Company, 482 A.2d 335, Del. Ch. 1984). In approving the \$205 million recovery in the Shell Oil litigation, Vice Chancellor Maurice Hartnett stated: "The results achieved in this case for the class are outstanding."

The Firm acted as sole lead or co-lead counsel for plaintiffs in dozens, if not hundreds, of other cases throughout the United States, achieving recoveries which aggregated in the billions of dollars, many of which settlements recovered well over 50% and, in several cases, 90-100% of the damages in such cases.

Consumer Class Actions:

Wolf Popper's strong presence in prosecuting class actions on behalf of defrauded consumers has similarly resulted in the return of millions of dollars to victims of unfair business practices. These litigations in which the Firm served as sole lead or co-lead counsel include, among others:

- In a novel ruling under the Truth in Lending Act ("TILA")/Regulation Z in which the Firm represents the plaintiff, Jamison v. Bank of America, N.A., No. 2:16-cv-00422-KJM-AC, 2016 WL 3653456 (E.D. Ca., July 7, 2016), the Court in the Eastern District of California found the reasoning of the McLaughlin case prosecuted by the Firm and described below "to be persuasive and consistent with TILA's remedial purpose. . . As a result, an 'accurate' payoff statement should have disclosed the [insurance] proceeds."

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- McLaughlin v. Wells Fargo Bank, NA., No. C 15-02904 WHA (N.D. Cal.), in a precedent setting Order under the Truth in Lending Act's ("TILA") Regulation Z, the Court in the Northern District of California, in denying the motion to dismiss of Wells Fargo Bank, held that the bank is required under TILA to indicate the amount of property insurance proceeds held by the bank on the plaintiff customer's payoff statement. The Court noted that "[n]o decision from our court of appeals has ever addressed the issue of whether TILA compels lenders to include 'potential' credits in payoff statements." In holding for the plaintiff, the Court found, "[a]s a matter of law, the bank is wrong on this one." McLaughlin v. Wells Fargo Bank, NA., No. C 15-02904 WHA, Order that TILA Required Insurance Proceeds to be Reflected in Payoff Statement (N.D. Cal. Oct. 29, 2015). A settlement providing for recovery of 88% of the maximum statutory damages in a class action under TILA was approved by the Court in 2017.

- Belfiore v. The Procter & Gamble Co., 14-cv-4090 (E.D.N.Y.), a consumer class action litigation, arises from Procter & Gamble's representations that its Charmin Freshmates flushable wipes products are "flushable" and "safe for sewer and septic systems." The plaintiff alleges that, contrary to Procter & Gamble's representations, Freshmates do not break down sufficiently and, as a result, cause serious problems for septic tanks and household plumbing. In successfully defeating Procter & Gamble's motion to dismiss the class litigation, Wolf Popper LLP established new precedent in the Second Circuit enabling consumers to maintain standing to seek injunctive relief on behalf of classes of similar consumers who were injured by purchasing deceptively marketed products. As the Honorable Judge Jack B. Weinstein explained in his written opinion denying the motion to dismiss: "To hold otherwise [on the issue of standing] would denigrate the New York consumer protection statute, designed as a major support of consumers who claim to have been cheated." 2015 U.S. Dist. LEXIS 39170, at *7 (E.D.N.Y. Mar. 25, 2015). On March 27, 2017, the judge granted Wolf Popper's motion to certify classes, noting in his 135-page opinion that Wolf Popper has "handled the case with great skill and full attention."

- In re Coordinated Title Insurance Cases, No. 009600/03 (Sup. Ct., Nassau County, NY), a New York consumer fraud action brought against various Title Insurance Companies for their failure to charge the discounted rate for title insurance premiums in qualified refinancing transactions and their failure to provide borrowers with notice of the discount. In approving the settlement of over \$31 million, one of the largest consumer class actions in the history of that court, at the hearing held on July 29, 2005, the court stated:

And it's this Court's very strong opinion that what we have had before us on all sides – Plaintiffs' side, which involves two firms, and the Defendants, eight Defendants which involve five firms representing the eight different Defendants – was lawyering of the highest quality. It's always enjoyable for the Court to have high quality lawyering in front of it. It's always my opinion that it raises the level of the Bench when the lawyers before it proceed in a very high fashion, which has happened in this case.

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- Sims v. First Consumers National Bank, No. 01/604536 (Sup. Ct., New York Cnty.), this consumer fraud action challenged the misleading disclosure of fees in fine print in connection with the issuance of the bank's credit cards. The lower court's dismissal of the action was unanimously reversed by the appellate court and the action was settled in 2005 with a recovery of 100% of the damages for the class.
- Canning v. Concord EFS, Inc., No. L-6609-02 (Super. Ct., NJ, Law Division, Camden County), a consumer fraud action brought in New Jersey on behalf of recipients of certain public assistance benefits who were being illegally surcharged to access their benefits through ATM machines. The settlement, approved in May 2005, provided for a recovery of 90% of the surcharges and an injunction halting the illegal surcharging.
- Taylor v. American Bankers Insurance Group, Inc., 700 N.Y.S.2d 458 (App. Div., 1st Dept. 1999), in which the Firm successfully defended against an appeal by defendants of the certification of a nationwide class on behalf of consumers who alleged that defendants had violated §§349 and 350 of the General Business Law by misleading consumers about the purchase of insurance and improperly denying insurance claims. The Firm achieved a complete recovery for class members as defendants agreed to pay class members' disputed coverage claims in full, as well as revise their solicitations to prevent a recurrence.
- Princeton Economics Group, Inc. v. American Telephone & Telegraph Co., No. L-91-3221 (N.J. Super. Ct. 1995), the largest class action ever brought in New Jersey State Court. The action, based upon AT&T's marketing and sales of a telephone system that it advertised as well suited to small businesses because of its "conference call" features, revealed that the phone system did not function as advertised. The participants to calls could not hear each other because the conference feature lacked amplification. This litigation resulted in a settlement valued by the Court at \$85-90 million. At the conclusion of the case, the Court noted the complexity and difficulty of the issues involved and favorably commented that, "[i]f not for the skill and experience of class counsel, a settlement may not have been reached or, if it had been reached, may have resulted in a significantly diminished recovery for the class."
- Tanzer v. HIP, (1997 WL 773695), the New York Court of Appeals, New York's highest court, unanimously upheld a class action complaint on behalf of insureds who had been denied medical insurance coverage. The Firm subsequently obtained partial summary judgment against HIP for breach of HIP's contract with its insurance subscribers for failing to reimburse them for anesthesia-related expenses in conjunction with surgical procedures performed in New York State since June 7, 1993. Tanzer v. HIP, No. 114263-95, slip op., January 27, 1999. Ultimately, a settlement was reached which paid members of the class 100% of their damages.

Transactional Litigation and Corporate Governance:

Wolf Popper has represented plaintiffs in Delaware and other states' courts when in class and derivative actions, representing investors in companies where shareholders believe that officers, directors, and others have engaged in self-dealing actions or who, in the context of proposed

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mergers or tender offers, are offered inadequate compensation for their stock or are provided inadequate information to allow such investors to make informed decisions concerning whether to vote for such transactions. Wolf Popper has achieved significant corporate governance reforms and often recovered funds for shareholders victimized by such conduct. Examples where Wolf Popper acted as lead or co-lead counsel in such circumstances include:

- In re PHC, Inc. Shareholder Litigation, C.A. No. 11-11049-PBS, in which Chief Judge Patti Saris in the U.S. District of Massachusetts certified a class of stockholders who voted against or did not vote, in a breach of fiduciary duty case stemming from the Merger of PHC, Inc. and Acadia Healthcare Corp. in favor of the merger. In February-March 2017, after a two-week jury trial, the Court in a post-trial decision awarded \$2,964,396 to the plaintiff class, the full amount of the damages which plaintiff's expert said was the most appropriate damages for the controlling shareholder's breach of fiduciary duty in negotiating a sweetheart multi-million payment, almost all for himself, while negotiating a merger. Chief Judge Patti Saris complimented counsel for their skill and professionalism at the end of the trial.

- Frechter v. Zier (Nutrisystem), C.A. No. 12038-VCG (Del. Ch.), Wolf Popper, on behalf of the public shareholders of Nutrisystem Inc., brought a class action lawsuit challenging the company's bylaw that required a two-thirds vote of the shareholders to remove a director. . Wolf Popper argued that the bylaw provision violated Delaware law and that only a simple majority should be required. In an eleven-page decision, 2017 Del. Ch. LEXIS 14 (Del. Ch. Jan. 24, 2017), Delaware Vice Chancellor Sam Glasscock III agreed with Wolf Popper, concluding: "Section 141(k) [of Delaware's General Corporation Law] unambiguously confers on a majority the power to remove directors, and the contrary provision of the Company bylaws is unlawful."

- In re: Cornerstone Therapeutics Inc. Stockholder Litig., Case 8922, (Del. Ch.), in which the Firm served as Co-Lead Counsel, on January 26, 2017, Vice Chancellor Glasscock approved a settlement that established a gross settlement fund of \$17.9 million for the benefit of Cornerstone's minority stockholders. The Court stated that class attorneys achieved "almost nothing short of the best result." The Court pointed out that "[t]here was a great deal of litigation done. Interesting and undetermined areas of law had to be explored by counsel for both sides." Vice Chancellor Glasscock later said at the hearing that it was "vanishingly unlikely" that shareholders left any claims behind in the deal.

- In re Venoco, Inc. Shareholder Litig., C.A. No. 6825-VCG (Del. Ch.), Wolf Popper, as Co-Lead Counsel, challenged the going private transaction led by Venoco's founder and controlling shareholder. After almost five years of litigation, the Firm achieved a fund for the shareholders of \$19 million. (Had the company not filed for bankruptcy, the settlement would have also provided 25% of Venoco's founder's ownership interest in Venoco.) The Delaware Chancery Court approved the settlement in October 2016.

- In re: Bluegreen Corporation Shareholder Litig., Case No. 502011CA018111 (Circuit Court, 15th Judicial Circuit, Palm Beach County, Fl.), Wolf Popper, as Co-Lead Counsel, challenged the terms of a merger pursuant to which Bluegreen's shareholders were bought out of

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their interests in the company for grossly inadequate consideration. The settlement of the action, providing \$36.5 million to Bluegreen's former minority shareholders, was approved by the Court in September 2015.

- In re Yongye International, Inc. Shareholder Litigation, consolidated Case No. A-12-670468-B (Eighth Judicial District Court, Clark County, NV), in which as Co-Lead Counsel for Plaintiffs, Wolf Popper litigated the acquisition of Yongye International, Inc. on behalf of its public shareholders, securing not only an initial increase in the acquisition price, but an additional settlement fund in the amount of \$6 million, as well as substantial additional public disclosures in conjunction with the deal. According to Cornerstone Research, fewer than 8% of such cases result in settlement funds. The Court in Nevada approved the proposed settlement at a hearing held on March 3, 2016.

- Semon and Meister v. Swenson, No. 5:10-cv-143 (D. Vt. March 11, 2013) (cash settlement increasing the buyout price paid to minority shareholders of Rock of Ages Corporation ("ROAC") by 14.5%, after having initially increased the offer price after plaintiff filed suit and having made significant additional public disclosures of previously undisclosed information; Court described case as "tenacious" litigation by Wolf Popper LLP, with the Judge stating that she will "pay the compliment of tenaciousness" to Wolf Popper, that the Firm "stuck with the litigation, continued to vigorously pursue it, and convince[d] [her], through that, that they were willing to stick with the class through thick and thin ...")

- In re Atheros Communications, Inc. Shareholder Litig., C.A. No. 6124-VCN (Del. Ch. Mar. 4, 2011) (\$3.1 billion merger enjoined pending material disclosures ordered by the Court)

- In re FTD.com, Inc. Shareholder Litig., C.A. No. 19458-NC (Del. Ch.), Wolf Popper was co-lead counsel in an action that alleged that members of the board of directors of FTD.com abused their control of the company by taking FTD.com private under terms advantageous to them but not to FTD.com's public shareholders. After mediation, co-lead counsel obtained a recovery which came to more than 99% of the damages claimed by members of the class.

- Rice v. Lafarge North America, Inc., Civ. No. 268974-V (Md. Cir.) (\$383 million aggregate benefit)

- In re Aramark Corp. Shareholders Litig., C.A. No. 2117-N (Del. Ch.) (\$222 million aggregate benefit)

- In re Nortek, Inc. Shareholder Litig., C.A. No. 19538-NC (Del. Ch.) (\$63 million aggregate benefit)

- In re New Valley Corp. Shareholder Litig., C.A. No. 1678-N (Del. Ch.) (\$28 million aggregate benefit)

Antitrust Actions:

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Wolf Popper's antitrust department has regularly represented plaintiffs nationwide in price fixing cases and other violations of the federal antitrust laws. The Firm currently represents one of the institutional plaintiffs and proposed class representatives in In re Foreign Exchange Benchmark Rates Antitrust Litig., No. 1:13-cv-07789-LGS (S.D.N.Y.). The Firm has filed an action against several international banks alleging an antitrust conspiracy in fixing the price of physical gold and certain financial instruments linked to the price of physical gold, consolidated into In re London Gold Fixing Antitrust and Commodities Exchange Act Litig., No. 14 Civ. 1459 (VEC) (S.D.N.Y.), and currently pending before the Judicial Panel on Multidistrict Litigation, MDL No. 2548.

The Firm has a rich history in the successful prosecution of antitrust cases. For example, in In the Matter of the Ocean Shipping Antitrust Litig., MDL 395 (S.D.N.Y.), Wolf Popper was co-lead counsel and recovered over \$50 million on behalf of transatlantic shippers of goods who brought an action against the leading carriers of containerized shipping in the United States-Europe trade for conspiracy to fix the charges made for shipping services. The Firm served as lead or co-lead counsel in numerous other antitrust class actions, including: Wholesale Tobacco Distributors antitrust litigation and in In re Milk Antitrust Litig., 81 Civ. 1963 (RO) (S.D.N.Y. 1981); In re Bread Antitrust Litig., Master File No. CV-85-2013 (CPS) (E.D.N.Y.); In re Shopping Carts Antitrust Litig., M.D.L. No. 451 (S.D.N.Y.); In re Wiring Device Antitrust Litig., MDL 331 (E.D.N.Y.) (where Chief Judge Weinstein described counsel for the plaintiffs as "outstanding and skillful").

Trial Experience:

One of the reasons Wolf Popper maintains a favorable, formidable reputation is because of the Firm's demonstrated willingness to prosecute cases through trial in order to achieve a favorable result for our clients. The Firm's trial (and arbitration) experience includes, among other cases:

- In re PHC, Inc. Shareholder Litig., C.A. No. 11-11049-PBS, Chief Judge Patti Saris, who oversaw the two week jury trial in federal court in Boston in February-March 2017, entered a post-trial judgment ordering the former chief executive officer of PHC to disgorge \$2,964,396, plus interest. The Chief Judge complimented counsel for their skill and professionalism, stating:

I think you all [] did a great job trying this case. I was telling my law clerks you don't often see commercial litigation actually go to trial so [this is] a great example not only it being litigated but also, you know, the skills but also just this -- I've had some civil cases which did not go well for the civil bar in terms of being gentlemen and being civic and acting, you know, appropriately and you men and women did just that[.] [Y]ou're very civil throughout this entire proceeding and I thank the folks in the [your office] for so much support that they've given along the way because I know it's a big case with a lot of paper.... And someone should study the case in terms of how attorneys should treat one another, and I appreciate that....

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- Zuckerman v. FoxMeyer Health Corp., 3-96-CV 2258-L (N.D. Tex. 2002), where Wolf Popper successfully prosecuted a mini-trial before a former Magistrate Judge in the context of an ADR Proceeding to determine a binding fair value of a settlement of the action. Notwithstanding the fact that the defendant company was on the brink of insolvency (and subsequently filed for bankruptcy), the company providing the initial layer of insurance coverage was in liquidation, and the individual defendants were not wealthy, after presentation of the evidence, the neutral arbiter determined in plaintiffs' favor.

- In an arbitration before a court appointed arbitrator in Retsky Family Limited Partnership v. Price Waterhouse LLP, No. 97 C 7694 (N.D. Ill., June 18, 2001), after a full hearing and several days of testimony, the arbitrator awarded plaintiffs the total damages claimed.

- The Firm served as arbitration counsel in 1997, 1998, and 1999 in several extensive commercial arbitrations on behalf of an international airline.

- Plaintiffs' co-trial counsel in Abzug, et ano. v. Kerkorian, et al., CA 000981, Superior Court, Los Angeles, California, which was settled during trial for \$35 million.

- The Firm was co-lead counsel for plaintiffs in litigation involving the alleged "greenmail" of Walt Disney Company by Saul Steinberg and his Reliance Group, Heckmann v. Ahmanson, C.A. 000851 (Superior Court, Cal.) (Co-lead counsel for derivative actions). There the Los Angeles Superior Court in September 1989 approved a settlement at trial providing for a cash payment of \$45 million plus the therapeutic benefit of the termination of certain defendants' claim for rescission which potentially would have cost the company in excess of a billion dollars.

- Citron v. E.I. duPont de Nemours & Co., Del. Ch. (Civil Action No. 6219), in Delaware Chancery Court in which the Vice-Chancellor complimented plaintiffs' counsel "for the able way in which they presented the case," their "well-done" pre-trial briefs, and the "good job" done.

- Odmark v. Westside Bancorporation, Inc., No. C85-1099R (W.D. Wash.), settled mid-way through trial in Seattle, Washington.

- Baum v. Centronics Data Computer Corp., 85-363-L (D.N.H.), settled after trial had commenced in New Hampshire.

- The Firm also has tried several other actions on behalf of plaintiffs and plaintiff classes in securities and other actions in other federal courts, as well as in Delaware Chancery Court and elsewhere.

Court Commentary On The Firm:

Throughout the history of the Firm, the Courts before whom Wolf Popper has appeared have commented favorably and repeatedly on the ability and performance of the Firm and its

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members. A sampling of some of the praise the Firm has consistently received over the course of its practice include the following cases:

- In certifying the class in a comprehensive consumer class action against, *inter alia*, the Procter & Gamble Company and other manufacturer and retailer defendants for defects in labeling “flushable toilet wipes”, the Court in Belfiore v. The Procter & Gamble Company, 14-CV-4090 (E.D.N.Y. March 27, 2017), stated that “Counsel for plaintiff have handled the case with great skill and full attention.”

- At a settlement hearing before the Delaware Chancery Court on January 26, 2017, in In re: Cornerstone Therapeutics Inc. Stockholder Litigation, Case 8922, (Del. Ch.), in which the Firm served as Co-Lead Counsel, Vice Chancellor Glasscock approved a settlement that established a gross settlement fund of \$17.9 million for the benefit of Cornerstone’s minority stockholders. The Court stated that class attorneys achieved “almost nothing short of the best result.” The Court pointed out that “[t]here was a great deal of litigation done. Interesting and undetermined areas of law had to be explored by counsel for both sides.” Vice Chancellor Glasscock later said at the hearing that it was “vanishingly unlikely” that shareholders left any claims behind in the deal.

- In Plumbers’ & Pipefitters’ Local #562 Supplemental Plan & Trust, et al., v. J.P. Morgan Acceptance Corp., et al., No. 08-cv-1713 (PKC) (E.D.N.Y. May 1, 2014), in preliminarily approving a \$280 million settlement on behalf of persons who acquired mortgage pass-through certificates and asset-backed pass-through certificates pursuant and/or traceable to certain registration statements and prospectus supplements, Judge Pamela K. Chen stated “it’s very clear that this has been a hard fought and well negotiated, seemingly well negotiated, result. So I think that’s kudos to you all certainly better than any kinds of trial I would say.”

- In Semon and Meister v. Swenson, No. 5:10-cv-143 (D. Vt. March 11, 2013), following what the Court described as “tenacious” litigation by Wolf Popper LLP on behalf of the minority stockholders of Rock of Ages Corporation (“ROAC”) in this class action challenging the buyout of the stockholders by ROAC’s majority stockholder, Judge Christina Reiss approved the \$3.2 million settlement and certified the case as a class action. The settlement further increased the price to be paid to shareholders in the buyout by 14.5% and included other, non-monetary benefits (including Defendants earlier publication of extensive disclosures that plaintiffs had complained were lacking in the defendants’ public filings about the buyout, and that Defendants had also increased the buyout price after plaintiffs had brought suit.) The Judge said that she will “pay the compliment of tenaciousness” to Wolf Popper, noting that Wolf Popper “stuck with the litigation, continued to vigorously pursue it, and convince[d] [her], through that, that they were willing to stick with the class through thick and thin ...” The Judge further found that the firm was “experienced, competent, zealous,” and that “it’s been an interesting case for me and very professionally handled. . . .”

- In Tsereteli, et ano., v. Residential Asset Securitization Trust 2006-A8 et al., No. 08 Civ. 10637 (LAK) (S.D.N.Y. June 29, 2012), the Court granted plaintiff’s motion for class certification over the vigorous objections of defendants, commenting that “. . . lead counsel Wolf

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Popper is qualified and capable of prosecuting this action. It has conducted discovery, engaged in motion practice, and protected the interests of Vazurele and the prospective class throughout the more than three years this case has been before the Court. It has done so diligently and professionally. . . .”

- In Middlesex Retirement System v. Quest Software, Inc., No. CV 06-6863 DOC (RNBx) (C.D. Cal. Dec. 7, 2009), in which Wolf Popper had been appointed by the Court as Lead Counsel and Class Counsel, the Court stated in preliminarily approving the \$29.4 million (plus cost of providing notice) proposed settlement of the action, “once again on the record . . . I want to compliment counsel for working extraordinarily hard; . . . this appears to be an extraordinarily fair settlement for all parties concerned. * * * [Y]ou really have the court’s profound congratulations and compliments.”

- In approving the \$190,000,000 recovery for the Class in the Motorola Sec. Litig., No. 03C287 (N.D. Ill.), where Wolf Popper represented the lead plaintiff, the Court stated as follows “You did a great very professional job here. This was a hard fought, but extremely professionally fought battle and I appreciate it. Thank you.”

- Wolf Popper served as co-lead counsel for plaintiffs in Conolly v. Universal American Financial Corp., No. 13422/07 (Sup. Ct. Westchester Cnty.). At the final hearing in the action, Transcript Dec. 9, 2008 at 74-75, Hon. Alan D. Scheinkman complimented plaintiffs’ co-lead counsel, stating: “The Court has had the opportunity to see these lawyers on numerous occasions and read their submissions, not just those relating to fees but those relating to the merits of the case and the Court has become familiar with counsel and is impressed with their skill and knowledge and their professionalism.”

- On October 7, 2008, the Court approved the settlement reached by Wolf Popper LLP and its co-counsel, on behalf of former and current employees of AIG, in the amount of \$24.2 million in In re AIG ERISA Litig., No. 04 Civ. 9387 (JES)(AJP) (S.D.N.Y.), stating that “without the work of these [plaintiffs’] attorneys there would be nothing.”

- In In re TJX Companies Retail Security Breach Litig., Master Docket No. 07-10162, MDL Docket No. 1838 (D. Mass.), in which Wolf Popper was Co-Lead Counsel, the Court in approving the settlement on July 15, 2008, stated that Plaintiffs’ counsel achieved an “excellent settlement” for the consumer class, that they “have been very creative” and performed “a wonderful job.”

- Wolf Popper was appointed interim co-lead counsel by Judge Sidney Stein in January 2008, in Gray v. Citigroup, Inc., Case No. 07-CV-9790 (S.D.N.Y.) (SHS) (DCF), a consolidated ERISA class action on behalf of participants and beneficiaries of certain of Citigroup’s retirement plans. In appointing Wolf Popper as co-lead counsel over competing groups of counsel, Judge Stein stated that “... I think the group most able to represent the plaintiffs as interim lead counsel will be Wolf Popper... “because it has “...the deeper experience overall.”

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- In Dusek v. Mattel, Master File No. CV-99-10864-MRP (CWx) (C.D. Cal.), in approving the settlement of the action along with a companion action, for \$122 million, the Judge, in her Findings of Fact and Conclusions of Law entered on November 6, 2003, complimented counsel saying that “Wolf Popper LLP vigorously prosecuted the Dusek action and zealously represented the interests of the Dusek Class members,” and that Wolf Popper performed in a “very capable and professional manner.”

- The Firm served as Co-Lead Counsel for plaintiffs in Stanley v. Safeskin, No. 99cv454-BTM (LSP) (S.D. Cal.), in which the Judge noted in approving a \$55 million settlement that “Plaintiffs’ counsel are highly skilled in these cases” and that he was “kind of looking forward to trying this case, because it would have the best lawyers in the country trying this case. . . .” The Honorable Barry T. Moskowitz subsequently further complimented Co-Lead Counsel at a hearing on November 20, 2003, stating:

I think I learned more about the honorability of the firms and the competency -- and competency is too weak of a word -- the extraordinary ability of these firms in handling the cost aspects of it, and expenses aspect of it, . . . I don’t think I’ve seen lawyers so honest with the Court . . . I really thought that the Plaintiffs’ law firms in this case not only had extraordinary ability to deal with the complicated factual issues -- and it certainly was a difficult case, and you should be applauded in that regard.

* * *

And it’s not usual that the court sees lawyers behave -- we usually see them behave well, but this is extraordinarily positive. And I wanted to make that notation. . . I can -- come out of it having incredible respect for the work that the lawyers did in this case.

* * *

From the plaintiffs’ perspective -- and I say this for all the firms -- you handled it on a much higher plane, probably on a textbook or ideal plane. If they would teach people how it should be done in law school, this would be the example of, how the lawyers handle this case.

- In approving the settlement of the In re Exide Corp. Sec. Litig., No. 98-CV-60061-AA (E.D. Mich.), Transcript of Proceedings, September 2, 1999, at 34, 35-6, the Honorable George Caram Steeh complimented the Firm for its diligence and skill, saying:

The court is satisfied indeed that the settlement that was reached in arm's length bargaining, that was undertaken only after very thorough preparation on the part of plaintiff's counsel. That the counsel itself was extremely competent and considerable experience in pursuing such matters. . . .

* * *

So the court is satisfied that the attorneys on both sides of this litigation should be commended for their effort and professionalism in developing and presenting the issues and for their common sense in arriving at the settlement as it has been presented to the court for confirmation.

- In approving the over \$50 million settlement of the litigation over the merger of the American Stock Exchange and the NASD, Judge Denny Chin stated in Philipson v. American Stock Exchange, No. 98 Civ. 4219 (DC) (S.D.N.Y.), Transcript of Proceedings, February 18, 1999, at 8-11:

I've considered the papers and what I have heard today, and I find that the settlement is fair, reasonable and adequate. . . . The recovery is substantial. There is the \$30 million for the seat market program. . . . There is the potential revenue sharing, which I think at a reasonable estimate would be \$20.7 million at least, . . .

So the benefits of the proposed settlement are substantial. * * * I think that the benefits of the proposed settlement compare very well to any conceivable reasonable potential recovery. * * * There are very experienced and very good counsel on both sides. The negotiations were difficult and went on for quite a long time. * * * So, having considered all those factors, I conclude that the settlement is fair, reasonable and adequate and is approved.

* * *

Terrific job on both sides.

- Judge Donna F. Martinez complimented the Firm when she approved the settlement of a securities fraud action in Germano v. Cognitronics Securities Corp., No. 3:93-CV-00539 (CFD)(DFM) (D. Conn.), Transcript of Proceedings, September 11, 1998, at 2, 3-4), stating:

Your presentations. . .were extraordinary – extraordinarily thorough and highly expert. . . .

* * *

The issues presented were complicated. They were difficult, and as we've all said more than once now, they were bitterly and expertly fought.

* * *

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You've ended a long piece of litigation. I know that there was hard work involved not only in the litigation, but a lot of hard work and considerable number of hours that went into the efforts to resolve the case, and you're all to be commended for your very, very excellent representation of your respective clients.

The following Wolf Popper attorneys performed services in this particular litigation.

Patricia I. Avery

Patricia I. Avery is a senior partner of Wolf Popper. She holds a B.A. from New York University (1973) and is a graduate of New York University School of Law (J.D., 1976), where she was a staff member and then an editor of the Moot Court Board. Since graduation from NYU, she has concentrated on securities and other complex civil litigation, including antitrust and consumer fraud. Ms. Avery has had sole or major responsibilities for many leading decisions in the securities field and in the general area of Federal Civil Procedure. Ms. Avery has repeatedly been named to the *Super Lawyers* (R) (New York Metro Edition) list in Securities Litigation, the latest in 2014, 2015, 2016, and 2017 and she has continued to hold Martindale-Hubbell's highest rating for legal ability and ethical standards for decades.

Since joining Wolf Popper in 1982, Ms. Avery has been involved principally in securities (both class action and derivative), antitrust, and consumer fraud litigation. In addition to playing major roles in many of the leading decisions and substantial judgments obtained by the Firm over the years, she has had sole or principal responsibility at the Firm for numerous securities and other cases, including, among many others:

- McLaughlin v. Wells Fargo Bank, NA., No. C 15-02904 WHA (N.D. Cal.), in a precedent setting Order under the Truth in Lending Act's ("TILA") Regulation Z, the Court in the Northern District of California, in denying the motion to dismiss of Wells Fargo Bank, held that the bank is required under TILA to indicate the amount of property insurance proceeds held by the bank on the plaintiff customer's payoff statement. The Court noted that "[n]o decision from our court of appeals has ever addressed the issue of whether TILA compels lenders to include 'potential' credits in payoff statements." In holding for the plaintiff, the Court found, "[a]s a matter of law, the bank is wrong on this one." McLaughlin v. Wells Fargo Bank, NA., No. C 15-02904 WHA, Order that TILA Required Insurance Proceeds to be Reflected in Payoff Statement (N.D. Cal. Oct. 29, 2015). On March 15, 2017, the Court granted final approval of a settlement providing Damages Class members with 88% of the maximum available monetary recovery under TILA and requiring Wells Fargo to alter its mortgage payoff statement practices to comply with TILA.

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- In re: PHC, Inc. Shareholder Litigation, 1:11-cv-11049-PBS (D. Mass.): Ms. Avery is a member of the trial team in this litigation on behalf of shareholders of a behavioral health company, for damages arising from an unfairly priced stock-for-stock merger in which the company's CEO and chief negotiator also received a cash payment of several million dollars. Following a two-week jury trial in which the jury found that the CEO controlled the company and failed to demonstrate that the merger was entirely fair to the minority shareholders, the Court ordered the CEO to disgorge \$2,964,396, plus interest. The Court also complemented counsel, stating "I think you all [] did a great job trying this case. I was telling my law clerks you don't often see commercial litigation actually go to trial so [this is] a great example not only it being litigated but also, you know, the skills but also just this -- I've had some civil cases which did not go well for the civil bar in terms of being gentlemen and being civic and acting, you know, appropriately and you men and women did just that[.] [Y]ou're very civil throughout this entire proceeding and I thank the folks in [your office] for so much support that they've given along the way because I know it's a big case with a lot of paper.... And someone should study the case in terms of how attorneys should treat one another, and I appreciate that...."
- Jamison v. Bank of America, N.A., No. 2:16-cv-00422-KJM-AC, 2016 WL 3653456 (E.D. Ca., July 7, 2016), the Court in the Eastern District of California found the reasoning of the McLaughlin case prosecuted by Ms. Avery and described above "to be persuasive and consistent with TILA's remedial purpose. . .As a result, an 'accurate' payoff statement should have disclosed the [insurance] proceeds." The Court further rejected defendant's motion to dismiss plaintiff's claims under the California Unfair Competition Law. Defendant's motion to dismiss the amended complaint is currently pending.
- Retirement Plan v. The McGraw-Hill Companies, Inc., 120 A.D.3d 1052, 992 N.Y.S.2d 220 (N.Y App. Div. 1st Dept. 2014), as a counsel for appellant shareholders, helped to successfully reverse dismissal of request under Business Corporation Law §624 and the common law for inspection of the defendant corporation's books and records in connection with claim that defendant failed to properly oversee wrongdoing at the Company's wholly-owned subsidiary Standard & Poor's Financial Services LLC.
- In re Atheros Communications, Inc. Shareholder Litig., 2011 Del. Ch. LEXIS 36 (March 4, 2011), as Co-Lead Counsel for Plaintiff shareholders, secured an injunction against \$3.1 billion acquisition of Atheros Communications, Inc. by Qualcomm Incorporated pending further disclosures to shareholders.
- Huberman v. Tag-It Pacific, Inc., 2009 U.S. App. Lexis 2780 (9th Cir. Jan. 16, 2009) (Ninth Circuit reversed grant of summary judgment to defendants and directed that District Court grant class certification as requested by Plaintiff). Subsequent settlement was approved by the Court.
- Middlesex Retirement System v. Quest Software, Inc., 527 F.Supp.2d 1164 (C.D. Cal. 2007); and Middlesex Retirement System v. Quest Software, Inc., CV 06-6863 DOC (RNBx), Amended Order (C.D. Cal. July 10, 2008) (decisions primarily denying defendants' motions to dismiss in options backdating case); Middlesex Retirement System v. Quest Software, Inc.,

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Order, CV 06-6863-DOC (RNBx) (C.D. Cal. Jul. 8, 2009), aff'd, Order (C.D. Cal. Sept. 18, 2009) (order granting Plaintiff's motion to compel); and Order, CV 06-6863-DOC (RNBx) (C.D. Cal. Sept. 8, 2009) (Granting Lead Plaintiff's Motion for Class Certification). After extensive discovery, in December 2009, the court preliminarily approved the settlement, stating counsel "really have the court's profound congratulations and compliments." The court thereafter gave final approval to the \$29.4 million settlement.

- Thurber v. Mattel, Master File No. CV-99-10368-MRP(CWx) (C.D. Cal.) (§10(b) claims) and Dusek v. Mattel, Master File No. CV-99-10864-MRP(CWx) (C.D. Cal.) (§14(a) claims), Wolf Popper was a member of the Executive Committee of Plaintiffs' counsel, but was also specifically appointed by the Federal Court to have primary responsibility for the prosecution of the Dusek v. Mattel §14(a) claims. After more than three years of extremely hard-fought litigation in which Ms. Avery handled the day-to-day prosecution of the case, including motions, the production of millions of documents, and the taking or defending of more than 40 depositions, both cases settled for the aggregate sum of \$122 million, with \$61 million allocated for the Dusek v. Mattel §14(a) claims, believed to be the then largest settlement of a §14(a) case. Upon approving the settlement, the Judge complimented counsel saying that the settlement was an "awfully good result."
- Stanley v. Safeskin, Lead Case No. 99cv454-BTM(LSP)(Consolidated) (\$55 million settlement approved by the Court in 2003) (the Court complimented plaintiffs' co-lead counsel, Ms. Avery on behalf of Wolf Popper, for their work, noting that plaintiffs' co-lead counsel "are highly skilled in these cases," who "vigorously" and "diligently" prosecuted the case and "procured an exceptional award for the class," that they had a "great deal of experience in class action litigation" and are "highly regarded in this area of the law"; indeed, the Judge noted "I was kind of looking forward to trying this case, because it would have the best lawyers in the country trying this case. . . ."; paying them perhaps the ultimate compliment, the Court further said, "From the plaintiffs' perspective . . . you handled it on a much higher plane, probably on a textbook or ideal plane. If they would teach people how it should be done in law school, this would be the example. . . .").
- Bell v. New Horizons Worldwide, Inc., Case No. BC 289898 (Complex Litigation Program) (Superior Court of the State of California, County of Los Angeles) (innovative settlement on behalf of a nationwide class of consumers who had purchased technical training courses from Computer Learning Centers).
- Abzug, et ano. v. Kerkorian, et al., CA 000981 (Superior Court, Los Angeles, Cal.) (in which Ms. Avery was co-trial counsel in an action settled during trial for \$35 million).

Ms. Avery has also prosecuted numerous antitrust and consumer fraud cases.

Ms. Avery also has significant trial experience including, serving as trial or co-trial counsel in a variety of federal and state court cases. Most recently she served as a member of the trial team in In re PHC, Inc. Shareholder Litigation, which was tried for two weeks in federal court in Boston

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in February-March 2017, and is currently in post-trial proceedings. She served as lead trial counsel in a shareholder corporate freeze-out case in Delaware, and in business transaction trials in New York (both state and federal court), and in several bankruptcy court trials in the Southern District of New York. She was also co-trial counsel in, among other cases, Abzug, et ano. v. Kerkorian, et al, in Superior Court, Los Angeles, California (settled before jury verdict rendered), and Citron v. E.I. duPont de Nemours & Co. in Delaware Chancery Court (co-trial counsel with a senior partner of the Firm) in which the Vice-Chancellor complimented counsel "for the able way in which they presented the case" and the "good job" done. Ms. Avery was also the sole lead trial counsel in the defense of a \$100 million arbitration on behalf of an international airline that was in arbitration hearings for many weeks over the course of two years, successfully reducing damages 99% before settlement. (Ms. Avery also has served as trial or co-trial counsel in other matters tried to panels of arbitrators.)

Ms. Avery was an annual contributor to the Survey of Securities Class Actions and Derivative Suits, American Bar Association, Litigation Section, Securities Litigation Committee, Subcommittee, for five years. She is also the co-author of "To Stay or Not to Stay," Practicing Law Institute (1996); "Selection of Lead Plaintiff Under the Private Securities Litigation Reform Act of 1995," Practicing Law Institute (1996); as well as the co-author (or ghost writer) of a number of other articles on securities law practice and procedure published by the Practicing Law Institute; "The State Court Class Action--A Potpourri of Differences," The Forum, ABA, Vol. XX, No. 4, Summer 1985; and "Proving Damages in Non-Class Securities Cases," presented at the Commercial Law section of the Association of Trial Lawyers of America, annual convention, July 1986. She was admitted to the New York Bar in January 1977. She is a member of the American Bar Association and the New York County Lawyers' Association.

Andrew E. Lencyk

Andrew E. Lencyk was graduated magna cum laude from Fordham College, New York, in 1988 with a B.A. in Economics and History. At Fordham, he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law in 1992, where he was a member of the Fordham Urban Law Journal.

Mr. Lencyk has co-authored, with Marian P. Rosner, the following articles for the Practicing Law Institute's Accountants' Liability Handbooks: "Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein"; "An Accountant's Duty to Disclose Internal Control Weaknesses"; "Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts"; "Pleading Motions under the Private Securities Litigation Reform Act of 1995"; co-authored, with Stephen D. Oestreich, an article entitled, "Safe Harbor Provisions for Forward-Looking Statements," published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000; and co-authored, with Marian P. Rosner, an article entitled, "Discovery Issues in Cases Involving Auditors," appearing in the 2002 PLI Handbook on "Accountants' Liability After Enron. He was named to the 2013, 2014, 2015, 2016, and 2017 Super Lawyers®, New York Metro Edition.

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Cases in which Mr. Lencyk actively represented plaintiffs where Wolf Popper was lead, co-lead, or executive committee counsel include In re Community Psychiatric Centers Securities Litigation, SA CV-91-533-AHS (Eex) (C.D. Cal.) and McGann v. Ernst & Young, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of \$54.5 million against company and its outside auditors); In re Danskin Securities Litigation, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.); In re JWP Securities Litigation, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.)(class recovery of approximately \$36 million); In re Porta Systems Securities Litigation, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.); In re Leslie Fay Cos. Securities Litigation, No. 92 Civ. 8036 (S.D.N.Y.)((\$35 million recovery)); Berke v. Presstek, Inc., Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H.); In re Micro Focus Securities Litigation, No. C-01-01352-SBA-WDB (N.D. Cal.); Dusek v. Mattel, Inc., et al., CV99-10864 MRP (C.D. Cal.)) (\$122 million global settlement); In re Sonus Networks, Inc. Securities Litigation-II, No. 06-CV-10040 (MLW) (D. Mass.); In re AIG ERISA Litigation, No. 04 Civ. 9387 (JES) (S.D.N.Y.) (\$24.2 million recovery); In re Mutual Funds Investment Litigation, MDL No. 1586 (D. Md.); In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.); In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.); and as one of plaintiffs' co-lead counsel in In re AIG ERISA Litigation II, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) (\$40 million recovery); and Flynn v. Sientra, Inc. CV-15-07548 SJO (RAOx) (C.D. Cal.) (\$10.9 million recovery).

Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include: Flynn v. Sientra, Inc., 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016)(denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), motion for reconsideration denied, slip op. (C.D. Cal. Aug 12, 2016); In re Principal U.S. Property Account ERISA Litigation, 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss); In re AIG ERISA Litigation II, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011)(denying in substantial part defendants' motions to dismiss), renewed motion to dismiss denied, slip op. (S.D.N.Y. June 26, 2014); In re Mutual Funds Investment Litigation, 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md. June 27, 2008) (same); In re AIG ERISA Litigation, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety); Dusek v. Mattel, Inc., et al., CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety); In re Micro Focus Sec. Litig., Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint); Zuckerman v. FoxMeyer Health Corp., 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995); In re U.S. Liquids Securities Litigation, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims); Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc., et al., Case No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety); Berke v. Presstek, Inc.,

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Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss); Chalverus v. Pegasystems, Inc., 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss); Danis v. USN Communications, Inc., 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to dismiss in case); In re JWP Inc. Securities Litigation, 928 F. Supp. 1239 (S.D.N.Y. 1996) (denying defendants' motion for summary judgment); In re Danskin Securities Litigation, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y. Feb. 23, 1994) (denying corporate and underwriter defendants' motions to dismiss in all respects); see also In re UCAR International Inc., Securities Litigation, No. 3:98cv600 (JBA) (D. Conn.) (case settled during pendency of defendants' motion to dismiss).

Mr. Lencyk became a partner at Wolf Popper effective January 1, 2003. He is admitted to the Bar in Connecticut and New York. He is multi-lingual, fluent in Ukrainian, and with a working knowledge of French, Polish, and Russian.

Matthew Insley-Pruitt

Matthew Insley-Pruitt became a partner at Wolf Popper LLP on January 1, 2016. He is a graduate of the University of Chicago (B.A., Sociology & Public Policy, 2000) and the University of Pennsylvania Law School (J.D., 2005). During law school he served as Technology Editor of the University of Pennsylvania Law Review. Mr. Insley-Pruitt was listed as a *Rising Star* by *Super Lawyers* (New York--Metro Edition) in 2013, 2014, 2015, 2016, and 2017. Prior to joining Wolf Popper, he was an associate in the New York office of Paul, Weiss, Rifkind, Wharton and Garrison LLP.

Mr. Insley-Pruitt was part of the team that recovered \$280 million on behalf of investors in JPMorgan Acceptance Corp. He also represented the minority shareholders in In re Venoco, Inc. Shareholder Litigation, which settled days before the company declared bankruptcy and established a \$19 million fund for class members. These were just some of the several substantial recoveries for investors Mr. Insley-Pruitt was involved in, including In re Prospect Medical Holdings, Inc. Shareholders Litigation (establishing a common fund of \$6.25 million for public shareholders) and In re Playboy Enterprises, Inc. Shareholders Litig. (establishing a common fund of \$5.25 million for public shareholders).

Mr. Insley-Pruitt's cases have also accomplished real benefits for consumers across the country. Mr. Insley-Pruitt was one of plaintiff's counsel in McLaughlin v. Wells Fargo Bank, NA, in which the Court in the Northern District of California issued a precedent setting Order under the Truth in Lending Act's ("TILA") Regulation Z, finding that the bank is required under TILA to indicate the amount of property insurance proceeds held by the bank on the plaintiff customer's payoff statement. The Court recently approved a settlement where eligible homeowners will receive approximately \$2,500 each and Wells Fargo will change its practices going forward. A settlement in an action in Oklahoma against Bank of America established a common fund that provided eligible home owners in the class with payments of approximately \$1,300 each and also required Bank of America to change its practices. In Belfiore v. Procter & Gamble, Mr. Insley-Pruitt represents consumers of Charmin Freshmates flushable wipes, who

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allege that they paid too much for wet bathroom tissue that was not actually flushable. After litigating a class certification motion for two years, Judge Weinstein in the Eastern District of New York recently certified a class of consumers in the state of New York.

Mr. Insley-Pruitt recently co-authored an article published by the New York Law Journal on July 5, 2016, titled "[Mandatory Arbitration Clauses in Consumer Contracts and CFPB's Proposed Rules](#)."

Fei-Lu Qian

Fei-Lu Qian's wide-ranging legal investigative skills are utilized in the Firm's securities, antitrust, and merger and acquisition litigation.

Mr. Qian is an associate at Wolf Popper LLP. He is a graduate of Union College (B.A., Political Science, with Honors, 1998) and Albany Law School (J.D., 2003). During law school he served as an Associate Editor of the Albany Law Review and interned for the Honorable Lawrence E. Kahn of the United States District Court for the Northern District of New York. Mr. Qian also served as a legal intern with the Office of New York State Attorney General. Prior to Wolf Popper, Mr. Qian was an associate at Pomerantz LLP, where he specialized in securities litigation.

Sean Zaroogian

Sean Zaroogian's experience demonstrates his strong commitment to uncovering frauds and recovering damages for those that have been injured by them. Since joining Wolf Popper, Mr. Zaroogian has represented investors and consumers in numerous cases, including the following:

Consumer Fraud Litigation: Belfiore v. The Proctor & Gamble Co., 14-cv-4090 (E.D.N.Y.); In re Long Island Power Authority Hurricane Sandy Litigation, 601434/13 (NY Sup. Ct. Nassau Cty.); Bouffard, et al. v. Laboratory Corporation of America Holdings, 1:17-CV-193 (M.D.N.C.); Leslie, et al. v. Quest Diagnostics, Inc., 2:17-cv-01590-ES-MAH (D.N.J.).

Securities Litigation: Bach, et al. v. Amedisys, Inc., et al., 3:10-cv-00395-BAJ-RLB (MD La.) (settled for \$43.75 million).

Transactional Litigation: In re Sauer-Danfoss Stockholder Litigation, C.A. No. 8396-VCL (Del. Ch.) (settled for \$10 million); In re Cornerstone Therapeutics Inc. Stockholder Litigation, C.A. No. 8922-VCG (Del. Ch.) (settled for \$17.9 million); In re Home Properties, Inc. Shareholders Litigation, 24-C-15-003707 (Md. Cir. Ct.) (settled); In re Apollo Education Group, Inc. Shareholder Litigation, Case No. CV2016-001905 (Ariz. Super. Ct.) (settled); and numerous additional cases and investigations that resulted in settlements after commencing litigation, but prior to motion practice.

Sean M. Zaroogian is a graduate of the Northeastern University School of Law and the State

Wolf Popper LLP

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University of New York at Geneseo. While attending law school, Mr. Zaroogian was a co-chair of the international law society, and worked as a legal intern in the District of Columbia's Securities Bureau, a judicial intern for federal Magistrate Judge Robert B. Collings in the District of Massachusetts, a law clerk at Wolf Popper, and a legal intern in the Consumer Frauds Bureau of the New York State Attorney General's Office.

Mr. Zaroogian is a member of the New York State and New York City Bar Associations.

Elissa Hachmeister

Elissa Hachmeister is a graduate of Wake Forest University School of Law (J.D., *magna cum laude*, 2016), where she served as an Executive Editor of the *Wake Forest Law Review* and was an active member of Wake Forest's Trial Bar and Moot Court Board. Ms. Hachmeister was a semifinalist in the George K. Walker Moot Court Competition and winner of the Best Brief Award, and she competed in the 19th International Environmental Law Moot Court Competition as part of the team that won the North America Regional Round, taking home the Best Brief Award, and advanced to the quarterfinals of the International Round, where the team was recognized as Second Runner-Up for Best Brief. During a Litigation Clinic placement at the U.S. Attorney's Office for the Middle District of North Carolina, Ms. Hachmeister was the primary author of two briefs submitted to the U.S. Court of Appeals for the Fourth Circuit. While in law school, Ms. Hachmeister received eleven CALI Excellence for the Future Awards for earning the highest grade in a course and was awarded membership in the Pro Bono Honors Society. She completed her undergraduate studies at Guilford College (B.A., History & Philosophy, 2011).

EXHIBIT 16

I, Andrew J. Entwistle, declare as follows:

1. I am the managing partner at the law firm of Entwistle & Cappucci LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, investigated the claims alleged in the complaints, gathered client trading data, reviewed documents produced by the Defendants, collected and produced client documents responsive to Defendants' discovery requests, prepared for and defended client depositions, conferred with lead counsel regarding strategy and draft filings, and regularly kept our clients apprised of court filings and other developments in the case.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 2,375.65. The total lodestar reflected in Exhibit 1 is \$1,380,578.25, consisting of \$1,279,078.75 for attorneys' time and \$101,499.50 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$143,619.35 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.


There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed
on January 8, 2018.



Andrew J. Entwistle

EXHIBIT 1

EXHIBIT 1

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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	:	
	:	
	:	
	:	
	x	

**ENTWISTLE & CAPPUCCI LLP
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Andrew J. Entwistle	269.20	\$ 1150	\$ 309,580.00
Robert N. Cappucci	485.80	\$ 850	\$ 412,930.00
Vincent R. Cappucci	133.70	\$ 1150	\$ 153,755.00
Associates			
Alexander F. Schlow	21.70	\$ 475	\$ 10,307.50
Andrew N. Sher	221.00	\$ 375	\$ 82,875.00
Edward A. Panchernikov	398.65	\$ 325	\$ 129,561.25
Heather M. Sertial	332.50	\$ 475	\$ 157,937.50
Jarett N. Sena	40.40	\$ 325	\$ 13,130.00
Katherine M. Lenahan	27.70	\$ 325	\$ 9,002.50
Paralegals			
Danielle S. Ahern	27.20	\$ 190	\$ 5,168.00
Katherine L. Williams	42.7	\$ 190	\$ 8,113.00
Madeline B. Gayle	199.00	\$ 275	\$ 54,725.00
Neave R. Casey	84.30	\$ 250	\$ 21,075.00
Litigation Support			
Eduardo Hernandez	23.4	\$ 140	\$ 3,276.00
Kaitlin Davis	39.50	\$ 140	\$ 5,530.00
Pamela A. Martinez	28.9	\$ 125	\$ 3,612.50
TOTALS	2,375.65		\$ 1,380,578.25

EXHIBIT 2

EXHIBIT 2

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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ENTWISTLE & CAPPUCCI LLP
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Online Legal Research	\$ 1,916.35
Document Management/Litigation Support	\$ 40,491.4
Postage & Express Mail	\$ 121.24
Local Travel	\$ 42.31
Out of Town Travel	\$ 437.37
Outside Copying	\$ 155.31
Meals*	\$ 455.37
Contributions to Litigation Fund	\$ 100,000.00
TOTAL EXPENSES:	\$ 143,619.35

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

EXHIBIT 3

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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ENTWISTLE & CAPPUCCI LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

ENTWISTLE & CAPPUCCI LLP

FIRM RESUME

Entwistle & Cappucci LLP
299 Park Avenue, 20th Floor
New York, NY

Overview

Entwistle & Cappucci is a national law firm providing exceptional legal representation to clients globally in the most complex and challenging legal matters. Our practice encompasses all areas of litigation including securities, antitrust, corporate transactions, general corporate and commercial, creditor's rights and bankruptcy, corporate governance and fiduciary duty, government affairs, insurance, investigations and white collar defense. Our clients include public and private corporations, major hedge funds, public pension funds, governmental entities, leading institutional investors, domestic and foreign financial services companies, emerging business enterprises and individual entrepreneurs.

The founders of our Firm did so with a fresh commitment to excellence, integrity and service to our clients. Our reputation as the most highly skilled and accomplished litigators among clients, adversaries and the judiciary has not been inherited from prior generations but has been earned day-by-day, client-by-client and matter-by-matter. Over the years, the Firm has represented clients in some of the most high-profile and complex litigation and transactional matters. Our proven ability and depth of experience has earned us special recognition and distinction in our core practice areas by publications including *U.S. News, Best Lawyers in America*, *Super Lawyers*, *Law 360*, *the National Law Journal* and *The American Lawyer*.

As an entrepreneurial firm, we approach the issues facing our clients not merely as lawyers but as business owners who understand the realities of the modern business environment. We partner closely with our clients both in formulating highly effective solutions to the challenges they face and in identifying opportunities that present themselves. This approach has rewarded us with loyal and expansive relationships of which we are immensely proud.

Internally, we maintain a collegial environment that attracts and retains highly credentialed and talented legal professionals. Equipped with specialized knowledge relating to their respective areas of expertise, our legal professionals engage in a robust exchange of ideas aimed at expertly advancing and protecting our clients' interests with the highest degree of professionalism and integrity.

Practice Groups

We organize the firm's lawyers into a number of highly specialized practice groups capable of responding effectively, efficiently and expeditiously to our clients' increasingly diverse needs. Our practice groups, however, do not operate in isolation; teams of lawyers from any number of these specialized groups often work together to provide a seamless interdisciplinary approach that we find critical to effective problem solving.

In the following pages, we provide summaries of our approach to the law in the principal areas of our practice:

- Antitrust and Competition;
- Appeals;
- Creditors' Rights and Bankruptcy;
- Corporate and Commercial Litigation;
- Corporate;
- Corporate Governance and Fiduciary Duty;
- Employment Litigation and Counseling;
- Governmental Affairs;
- Immigration;
- Insurance Litigation;
- Mergers, Acquisitions, Capital and Exit Strategies;
- Securities Litigation; and

- Investigations and White Collar Defense.

Antitrust and Competition

Modern international markets have in recent years proved more susceptible to price-fixing, monopolization, bid-rigging and other anti-competitive practices. Our team of complex litigation professionals has proved particularly skilled in its ability to investigate and prosecute the most sophisticated competition matters on behalf of a diverse universe of businesses and institutions. Our firm draws on resources and expertise in various business sectors developed over the years to provide a superior understanding and sensitivity to competition and pricing practices which form the basis of potential anticompetitive claims.

Throughout its history, the Firm has represented lead parties in an impressive roster of antitrust class actions where it has worked in conjunction with law enforcement and regulatory authorities both domestically and overseas. The complexities of these matters require an ability to develop strategies and continually novel approaches while working in conjunction with industry experts and economic and damage consultants to insure the successful prosecution of claims against the most well financed, globally based corporations and enterprises.

In recent years, our Firm has shown particular expertise in investigating and prosecuting anticompetitive practices in global financial markets. The following are provided as examples of our more recent representative litigations in this practice area:

- *In re Libor-Based Financial Instruments Antitrust Litigation*, 11 MDL 2262 (S.D.N.Y.)
- *In re Credit Default Swaps Antitrust Litigation*, MDL No. 2476 (S.D.N.Y.)
- *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-07789 (S.D.N.Y.)
- *Electronic Trading Group et al v. JP Morgan et al (Securities Lending Antitrust)*, 06-cv-2859 (S.D.N.Y.)

Appeals

The Firm represents clients before state and federal appellate courts across the country. Whether seeking a reversal of an adverse result or the affirmance of a favorable outcome, clients routinely turn to our appellate lawyers for their careful assessment of the viability of an appeal, mastery of the trial court record, well-crafted briefs and effective oral argument.

Creditors' Rights and Bankruptcy

The Firm has extensive experience in complex litigation arising from corporate bankruptcy proceedings, including representation of equity and debt investors in both reorganizations and liquidations, working with debtors, creditor committees and trustee representatives to negotiate and structure Chapter 7 and 11 plans, and all ancillary proceedings such as prosecuting and defending adversary actions. The Firm currently serves on the Defense Committee in the *Tribune Fraudulent Conveyance* actions arising out of the Tribune Company's 2008 leveraged buy-out transaction, naming as defendants the thousands of disinterested former shareholders who tendered shares in the transaction. The Firm has had important roles in bankruptcy proceedings involving companies including Global Crossing, Enron, Refco, MF Global, American Banknote, Tremont Group Holdings and OMC. Our recent retentions include representing hedge funds and other sophisticated investors seeking to purchase equity estate claims and special assets in bankrupt companies. Our experience and proven ability to provide innovative and practical solutions to clients involved in a diversity of distressed situations across a variety of industries draws on our capabilities and professional talents in other departments within the Firm including securities, corporate, M&A and litigation.

Corporate and Commercial Litigation

Our commercial litigators are devoted to the creative resolution of complex business disputes on behalf of both corporate entities and individuals. We represent a diverse client base in a correspondingly broad array of matters. Although the nature of these disputes may vary greatly, our approach to resolving them is consistent. From the outset, we painstakingly marshal the relevant facts, objectively analyze the controlling law, assess the underlying commercial

realities and develop a strategy to achieve the client's business objectives as efficiently and expeditiously as possible.

Each of our commercial litigators understands this strategy, which is applied to every business dispute we encounter. Our team approach guarantees that each lawyer knows who is doing what and why they are doing it. This allows us to staff our cases leanly from a deep bench of experienced litigators, and we can rapidly expand or contract our litigation teams as circumstances dictate. However, from start to finish, we maintain a core team of experienced litigators whose overriding objective is to materially advance the client's objectives on a daily basis.

"Litigation for litigation's sake" has no place in our pragmatic and business-oriented approach. We understand firsthand that litigating complex business issues is enormously expensive and disruptive. For this reason, we vigilantly explore all available means short of a full-blown litigation to effect expeditious and favorable resolutions to disputes, whether through direct negotiation with our adversaries or some means of alternative dispute resolution, such as mediation or arbitration.

Corporate

We advise clients with respect to general legal matters relating to their business operations, including the proper choice of entity and the formation of corporations, limited liability companies and partnerships; negotiation and documentation of shareholder agreements, limited liability company agreements, partnership agreements, employment agreements and severance agreements; and partnership dissolutions and other business separations.

The Firm also negotiates, structures and documents a wide variety of transactions including consulting agreements and many other commercial agreements and contracts that are dictated by the business needs of our clients. For matters involving intellectual property and information technology, we negotiate and document licenses, franchise and distributorship arrangements, consulting agreements and related agreements.

A portion of our client base is comprised of foreign investors who buy and sell U.S.-based assets and businesses. We understand the various challenges facing those making cross-border investments in this country and can structure deals that maximize their opportunities and minimize their exposure, just as we assist domestic businesses explore, develop and engage in business transactions in foreign countries.

Finally, many of our clients have accumulated substantial assets and want to develop comprehensive estate plans that reflect their priorities. We work with individuals and families to integrate personal, business and philanthropic needs into estate planning.

Corporate Governance and Fiduciary Duty

The Corporate Governance practice at our Firm advises public and private companies, boards of directors and board committees as well as institutional and activist investors, hedge funds and public and private pension funds on a full range of matters involving corporate governance, fiduciary duties, and disclosure requirements, across a wide-range of industries and global businesses. A core focus of this practice is in advising clients on wide ranging board-level transactional issues and matters involving board structure and composition, corporate transactional fairness issues, management controlled or interested transactions, dividend declarations, restructurings and recapitalizations, spinoffs, and corporate charter and bylaw amendments.

We are highly experienced in litigating corporate transactional fairness issues, particularly in the Delaware Court of Chancery (as well as state and federal venues across the country), and over the years have represented parties in many high-profile merger and acquisition related litigations, which have served to shape the law governing process, procedural and structural fairness, as well as officer and director responsibility, duties and shareholder rights. Our lawyers are on the forefront of trends in governance best practices and proposals put forth by Congress, the SEC, the stock exchanges and independent policy and advisor groups. We strive to bring both practical and creative approaches to the issues our clients are facing to serve their needs in the most efficient and effective manner. We are well equipped to provide in-depth

analyses of governance practices and promote governance issues that best serve both short and long-term objectives.

Employment Litigation and Counseling

Our employment law group assists employers as they navigate the evolving and expanding universe of laws affecting the workplace. One of this group's most important services is counseling clients on designing and implementing policies and practices to avoid costly and disruptive litigation commenced by current and former employees. It is an unfortunate business reality that employers, regardless of size, will at some point become embroiled in disputes with employees alleging discrimination, harassment, retaliation, wrongful discharge, wage and hour law violations, whistleblower or any number of other employment-related claims. Our employment litigators are experienced in investigating and assessing the workplace claims brought against our clients and implementing a comprehensive strategy to dispose of those claims in the least disruptive manner.

In addition to defending workplace claims, we have deep experience in aggressively protecting our clients' confidential and proprietary business information. The Firm's litigators move quickly and decisively to pursue former employees and competitors in matters involving breaches of restrictive covenants, misappropriation of confidential information and trade secrets, breaches of fiduciary duty, breaches of the duty of loyalty and similar wrongdoing. We also have extensive experience managing investigations into our clients' employment practices commenced by regulators.

Our lawyers routinely draft employment contracts, employee handbooks, restrictive covenants, and other documents used to memorialize the terms of the employer-employee relationship, that optimally position the employer should that relationship terminate or turn hostile. Similarly, we help clients -- individuals and employers alike -- structure severance packages for departing executives. We also have extensive experience advising employers as they devise and implement plans for reductions in force.

Governmental Affairs

Our governmental affairs practice is national in scope. We represent clients requiring expertise in the development, management and resolution of public policy issues before the governmental community. We work to ensure that our clients have the necessary access to and level of advocacy before decision-makers in government.

Immigration

Immigration issues have proliferated as the global economy increases the demand for skilled foreign workers. We routinely counsel clients in developing strategies to address workplace immigration issues that ensure compliance with the controlling law while facilitating competition in the global marketplace.

Insurance Litigation

We have a long history of representing insurance carriers in the negotiation and litigation of complex coverage matters. In addition, carriers routinely look to our litigators to handle the most challenging claims asserted against their insureds.

We also have served as counsel to the New York State Superintendent of Insurance in his capacity as rehabilitator of troubled insurers. In that capacity, we have been called upon to determine why those insurers failed or faltered, and prosecute actions to recover wasted or misappropriated assets. We also have pursued actions against third parties, including accountants and brokers, for their role in precipitating the failure of these insurers.

Mergers, Acquisitions, Capital and Exit Strategies

We help companies, boards of directors and shareholders/owners manage their interests in mergers, acquisitions, dispositions and leveraged buy-outs. Unique issues confront entrepreneurs and capital providers who engage the firm for its experience in venture capital deals. These include start-up companies, emerging growth companies and mature businesses in a wide variety of industries -- from conventional to technology-based industries. We can

represent either portfolio companies or capital providers engaged in equity, mezzanine and/or senior debt financings.

Just as important as helping clients close a deal is helping clients choose the proper exit from a deal which can include sales, public offerings, refinancings, recapitalizations, restructuring or the spinning-off of businesses.

Securities Litigation

Entwistle & Cappucci has litigated some of the most high-profile and largest securities litigation matters in recent U.S. history and has assembled one of the most qualified and experienced team of litigators in this area of specialty. Our experience and achievements have won the Firm national recognition and distinction as one of the nation's preeminent firms qualified to undertake the most complex and challenging securities-related matters. The Firm has served as lead plaintiffs' counsel, or as counsel to institutional plaintiffs pursuing direct litigation, in securities fraud actions against publicly traded corporations including Daimler-Chrysler, UBS, Sunbeam Corporation, Global Crossing, Bear Stearns, Merrill Lynch, Waste Management, Enron, Cendant Corporation, Bank of America Corporation, HSBC, Citigroup, JP Morgan, CMS Energy Corp., Vivendi S.A., Ahold N.V., National City Bancorp, and Alere, among others. The Firm has played an active role in advancing shareholder rights and claims in the M&A context, representing clients in corporate transactional litigation in Delaware Chancery Court and other forums across the United States. Our experience includes a long history of litigating shareholder derivative actions alleging breach of fiduciary duty, corporate waste, and claims premised upon lack of fairness in process and pricing, as well as actions targeting unfair and/or self-dealing transactions.

The Firm has invaluable knowledge and experience working with the Department of Justice, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Financial Industry Regulatory Authority and other regulatory authorities, which we view as a critical element of the Firm's capabilities. We also draw from attorneys at the Firm having a full range of disciplines and specialties which enables us to navigate a very broad range of industries. Over the years, the Firm has in this practice area represented an impressive roster

of clients which has included the nation's largest public pension systems, publicly traded corporations, private equity firms, hedge funds, high-net-worth investors and charitable organizations.

Investigations and White Collar Defense

Our investigations and white collar defense practice group draws on decades of success defending public and private corporations, financial firms, investment entities and individuals in highly sensitive, federal and state criminal, civil and regulatory investigations and proceedings. Led by a team of former federal and state prosecutors and enforcement attorneys, our Firm represents clients in all stages of government investigations (including U.S. Congressional, Department of Justice, Securities and Exchange Commission, Financial Industry Regulatory Authority, state attorneys general and other agencies) from the inception of an investigation and/or service of subpoenas, through grand jury, indictment, trial, post-trial and any appellate process. Some of the group's most important and sophisticated work takes place before criminal charges even materialize and through a credibility and reputation developed over years in working the governmental authorities, our lawyers have had considerable success in persuading prosecutors not to pursue criminal charges.

As former prosecutors and long-time defense lawyers, members of our white collar defense practice group are also uniquely qualified to conduct internal corporate investigations into suspected wrongdoing or improprieties. We have led internal investigations on behalf of major corporations involving a broad cast of wrongful conduct including accounting and financial fraud, illegal financial market activities, regulatory fraud, insider trading, unauthorized trading, accounting fraud and financial malfeasance, market timing, market manipulation and obstruction of justice, among others. We have conducted such investigations as a result of our clients' independent decisions to look into suspected wrongdoing, as well as parallel to ongoing government investigations. Our focus in such matters rests with limiting our clients' exposure and providing remedial action and disclosures as necessitated by circumstances. We also assist companies in adopting procedures to promote and monitor anti-fraud and other legal compliance measures by designing and implementing legal, financial, technical, audit and other corporate

programs and related systems. Working with accountants, computer forensic and other consultants as needed, our lawyers assist clients in taking a proactive role in uncovering improper conduct by their employees, vendors, officers, directors and others.

RELEVANT ATTORNEY RESUMES

Partners

Andrew J. Entwistle

Andrew J. Entwistle is the Firm's managing partner. The son of a Scottish coal miner and an American schoolteacher, he received his undergraduate degree from the University of Notre Dame and his law degree from the University of Syracuse College of Law. Mr. Entwistle's practice principally involves the representation of public and private institutional investors and public and private corporations in complex litigation (including both the prosecution and defense of securities and antitrust cases), corporate finance and transactional matters and internal investigations.

After a brief tenure in the District Attorney's office, Mr. Entwistle became a lead trial and appellate attorney at Wilson Elser Moskowitz Edelman & Dicker, trying a broad variety of products liability, commercial, securities, insurance coverage and reinsurance, antitrust and government-related matters. During the following years with Mudge Rose Guthrie Alexander & Ferdon, Mr. Entwistle's trial and appellate practice also came to include transaction-related litigation, antitrust and bankruptcy work and internal investigations. Mr. Entwistle also works closely with the governors, treasurers and attorneys general of several states. In connection with the firm's corporate practice, Mr. Entwistle has acted as lead counsel on joint ventures, restructurings, venture capital placements and a multi-billion dollar leveraged buyout.

Recent litigation successes include: representation of the Colorado Public Employees' Retirement Association in *In re Royal Ahold N.V. Securities and ERISA Litigation* resulting in recovery of more than \$1.1B for his clients; acting as co-lead counsel in the MF Global litigation arising out of the loss of \$1.6B in customer funds where Mr. Entwistle successfully worked with the SIPA Trustee and regulators to negotiate the 100 percent recovery by customers of all net equity losses (including separate recoveries totaling more than \$100m against JPMC and the CME); successfully co-leading the JPMC settlement that resulted in contemporaneously negotiated resolutions of class, claw back and regulatory claims recovering a total of \$2.243B for Madoff victims with net losses; and co-leading the ongoing Tremont litigation that resolved claw back litigation through an agreement that resulted in a \$2.9B allowed SIPA claim for Tremont customers (and the recovery of more than \$100m in additional settlements). On the defense side, Mr. Entwistle was recently appointed by Judge Pauley as co-liaison counsel in the multi-billion dollar Tribune litigation which successfully resulted in dismissal of the Note Holder litigation.

Mr. Entwistle and his team also regularly represent corporate boards, audit and special committees in connection with internal investigations involving potential regulatory and/or criminal issues--often in "bet the company" situations where it is particularly important for regulators to understand that the investigation is being led by a team equally familiar with prevailing in billion dollar matters from both sides of the "v".

Appointed by the late Judge Lifland of the United States Bankruptcy Court for the Southern District of New York to serve on the Court's Special Mediation Panel, Mr. Entwistle has both mediated and actively litigated a number of complex bankruptcy matters including representing the Retired Employees Committee in the OMC Bankruptcy, equity holders in the American Bank Note Bankruptcy, the State of Florida in connection with the Enron Bankruptcy, acting as special litigation counsel in connection with the Global Crossing Bankruptcy, and representing investors in connection with the MF Global, Refco, Lehman, and BMIS bankruptcies.

Mr. Entwistle is proud to have received the 2013 Learned Hand Award from the American Jewish Committee, the Knute Rockne Award from Hannah & Friends where he continues to serve on the board of directors, and the 2003 Man of the Year Award from the Catholic Big Brothers for Boys and Girls after more than a decade of service on the Board of that organization--including founding Sports Buddies New York, a partnership between the youth of New York City and athletes from the New York region's professional sports teams. Mr. Entwistle has also received special commendations from the President of the United States, the Governors of the States of Georgia and Hawaii, and the New York State Assembly. In addition to the above, Mr. Entwistle is now or has previously acted as a director on several corporate, advisory and charitable boards including acting as one of the founding board members for the Giuliani Center for Urban Leadership. In addition to membership in the Federal Bar Council and various city, county, state and national bar associations, Mr. Entwistle is a member of the National Association of Public Pension Funds Attorneys and is an Educational Sustainer of the Council of Institutional Investors.

Mr. Entwistle has been named to the Martindale-Hubbell *Bar Register of Preeminent Lawyers*, the Order of International Fellowship, Who's Who In The World, Who's Who In America, Who's Who In The East, Who's Who In American Law, Who's Who In Practicing Attorneys, Who's Who In Emerging Leaders In America and Who's Who In Finance and Industry, and as a New York "Super Lawyer". The International Biographical Centre of Cambridge, England named Mr. Entwistle as its International Legal Professional of the Year for 2004 and inducted him into the Centre's International Order of Merit.

Mr. Entwistle acts as Northeast Regional Editor for the Defense Research Institute publication *The Business Suit* (from 1998-present), is a member of various bar and business associations and he has lectured extensively on a variety of general business law, litigation, securities, antitrust, bankruptcy and trial issues including, by way of example only: acting as a panelist on the Sarbanes-Oxley Panel at the Federal Bar Council's 2003 Annual Winter Bench and Bar Conference; as a panelist on both the Class Action Litigation and Cross Border Issues Panels at the Federal Bar Council's 2005 Conference; acting as a panelist on the Supreme Court Review Panel at the Federal Bar Council's 2008 Conference; acting as a panelist for the American Bar Association's conference entitled "Implied Repeals of the Antitrust Laws: How Far Are the Courts Willing to Go?"; and co-chairing a New York State Bar Association Panel on Alternative Dispute Resolution for the Trial Practice Committee of the State Bar's Commercial and Federal Litigation Section. Mr. Entwistle is frequently interviewed by journalists, including interviews on CNN and CNBC on developing legal and business issues of the day; by the Wall Street Journal and New York

Times; and by the Insider Exclusive about topics including the Bernard Madoff Scandal, Wall Street's Meltdown, the American Financial System, and the Fight to Save Tator's Dodge. In 2005 the Texas State Bar Association asked Mr. Entwistle to videotape a talk on disaster-related issues to assist lawyers and other professionals in the wake of Hurricane Katrina. The videotape also received broad distribution by the State of Mississippi and State of Texas Governors' offices.

Mr. Entwistle is also the author of numerous articles and publications on various legal and business topics, including:

"*American Pipe's* Rule Tolling the Statute of Limitations Does Not Apply to the Three-Year Statute of Repose in the Securities Act"; "Non-Party Class Members Are Not Permitted To Intervene and Use the 'Relation-Back' Doctrine of Rule 15(c) To Revive Claims Already Extinguished by Expiration of the Statute of Repose"; and "Bankruptcy Code § 546(e) Exempts from Avoidance Transfers Made to or for the Benefit of a Financial Institution in Connection with a Securities Contract, Even if the Transferee Is an Intermediary Conduit", *The Business Suit*, DRI, August 2013;

"Piercing the Corporate Veil and Indemnification Claims Are Not Mutually Exclusive"; and "Allegation That a Party Entered into an Agreement with No Intent to Fulfill Its Contractual Obligations Does Not Negate The Agreement's Arbitration Clause", *The Business Suit*, DRI, April 2013;

"Second Circuit Vacates Judgment of the United States District Court for the District of Connecticut Dismissing a Breach of Contract Action for Improper Venue Based upon a Forum Selection Clause"; and "Second Circuit Construes the Meaning Of 'Customers' Under FINRA Arbitration Code ", *The Business Suit*, DRI, March 2012;

"Revisiting Discovery 'Best Practices' and Penalties", *For The Defense*, DRI, August 2010;

"Unconscionable Terms Can Be Waived in Arbitration Agreement", *The Business Suit*, DRI, June 2010;

"Computer Hacker Can Be Sued for Securities Fraud, Second Circuit Rules"; and "New York Appellate Court Reinstates Complaint Based on Adverse Interest Exception to *In Pari Delicto* Doctrine", *The Business Suit*, DRI, January 4, 2010;

"Broad Arbitration Agreement Authorizes Arbitrator to Sanction A Party's Bad Faith Conduct; Absent Class Members Not Entitled Full Access to Attorney's Files"; and "Intentional Spoliation of Evidence May Form Basis for Fraud Claims", *The Business Suit*, DRI, August 25, 2009;

"Affiant's 'To My Knowledge' Statement Sufficient to Defeat Summary Judgment"; and "Class Action Waiver Clause in Arbitration Agreement is Unenforceable", *The Business Suit*, DRI, April 13, 2009;

“*Staehr*” Hikes Burden of Proof to Place Investor on Inquiry Notice”, New York Law Journal, December 15, 2008;

“Potential Securities Fraud: ‘Storm Warnings’ Clarified”, New York Law Journal, October 23, 2008;

“*Wagoner*’ In Pari Delicto Defenses Aid Outside Auditors”, New York Law Journal, August 29, 2008;

“Second Circuit Clarifies Pleading Requirements for Scienter in Securities Fraud Class Actions”; and “No Forum Shopping in Insurance Dispute, Second Circuit Says; New York Sets Aside Verdict Imposing Alter Ego Liability”, The Business Suit, DRI, August 11, 2008;

“Long-Arm Statute Does Not Confer Jurisdiction on Foreign Libel Litigant”; and “Crime-Fraud Exception Pierces Attorney-Client Privilege; New York May Seek Own Separate Arbitration”, The Business Suit, DRI, May 16, 2008;

“Approaches to Asset Recovery For Pension Fund Subprime Exposure”, The NAPPA Report, February 2008;

“Injunction Against NHL's Transfer of Website Denied”; and “Republic of Congo's Oil Company Immune from RICO Charges; Discovery of Anonymous Bloggers Denied”, The Business Suit, DRI, December 20, 2007;

“Ex Parte Communications with Former Employee May Not Merit Disqualification”; and “Accounting Firm Not Subject to Federal Jurisdiction; Statements Made by Employer Privileged”, The Business Suit, DRI, September 6, 2007;

“Accounting Firm Has Affirmative Duty; New York's Highest Court Rejects Insured's Single-Occurrence Theory”, The Business Suit, DRI, May 2, 2007;

“Imputation Doctrine No Longer Protects Auditors”, The Business Suit, DRI, August 2006;

“Merchant Lacks Standing to Assert Antitrust Claims Against Credit Card Companies for Chargeback Fees”, The Business Suit, DRI, December 22, 2006;

“Thompson Memorandum's Attorneys' Fees Provision Held Unconstitutional”, The Business Suit, DRI, August 2006;

“Beer Supplier and Distributor Must Arbitrate Dispute Despite New York Law to the Contrary”, The Business Suit, DRI, January 5, 2006;

“Corporate Exposure and Employment Practices Liability”, Mealey's Reinsurance Conference, November 2000;

“Distinguishing Valid Fraud Claims From Trumped Up Breach of Contract Actions”, The Business Suit, DRI, Winter 2000;

“New York Clarifies Its ‘Borrowing Statute’, New Jersey’s ‘New Business’ Rule Declared Alive and Well, Second Circuit Finds Former Corporate Executives Entitled to Fifth Amendment Privilege”, The Business Suit, DRI, January 2000;

“The Fine Line Between An Auditor’s Recklessness and Intent to Deceive”, The Business Suit, DRI, Summer 1999;

“What a Web We Weave . . . Jurisdiction in Web-Related Litigation”, The Business Suit, DRI, Winter 1998;

“Red Light, Green Light, 1-2-3: Stop and Go Traffic on the Information Superhighway”, The Business Suit, DRI, Winter 1998;

“Due Deference -- The Supreme Court Confirms the Post-Daubert Discretion of the Trial Judge as the ‘Gatekeeper’”, The Business Suit, DRI, Winter 1998;

“The Inevitable Disclosure Doctrine and the Economic Espionage Act: Emerging Weapons In the Battle to Protect Trade Secrets from Theft and Misappropriation”, The Business Suit, DRI, Spring 1998;

“Covenants Not to Compete and the Duty of Loyalty”, (DRI Spring 1997 Conference Chicago);

“New York Business Law Update 1997”, (New York State Society of CPA’s);

“New York Business Law Update 1998”, (New York State Society of CPA’s);

“Excess Insurers Late Notice and Prejudice, American Home Puts The Issue to Rest”, New York Law Journal, July 1993; and

“Managing the Risks of Accounting Liability, A Legal Perspective”, New York Society of CPA’s, 1993, 1995, 1997 and 1998.

Professional Associations

Board of Directors of Hannah & Friends

Board of Directors of the Giuliani Center for Urban Leadership

Federal Bar Council

National Association of Public Pension Funds Attorneys

Educational Sustainer of the Council of Institutional Investors

Northeast Regional Editor for the Defense Research Institute - The Business Suit

Martindale-Hubbell Rating

AV Preeminent 5.0 out of 5

State Bar Admissions

New York, New Jersey, Illinois, Texas, Colorado, District of Columbia, Pennsylvania

Court Admissions

U.S. Supreme Court; U.S. Court of Appeals for the Second, Third, Fourth, Seventh and Eighth Circuits; U.S. District Court for the Eastern and Southern Districts of New York; U.S. District Court for the District of New Jersey; U.S. District Court for the Northern District of Illinois; U.S. District Court for the District of Colorado; U.S. District Court for the Eastern District of Michigan; U.S. District Court for the Western District of Texas; and state and federal courts in the states of New York, New Jersey, Illinois, Texas, Colorado and District of Columbia

Vincent R. Cappucci

Vincent R. Cappucci is a founding partner of the Firm and is head of its Securities Litigation Practice. Throughout the years, Mr. Cappucci has served as lead counsel in many high-profile securities class actions, corporate transaction related litigation, derivative litigations as well as individual actions representing the nation's largest public pension systems, investment advisory firms, major hedge funds and proprietary trading firms. He has a distinguished record of success in securities litigation, having prosecuted cases in his career which have resulted in recoveries in the billions of dollars. His experience includes a multitude of complex trials, arguments in numerous state and federal appellate courts, appeals to the U.S. Supreme Court, and mediation and dispute resolution.

Mr. Cappucci has been named to the Martindale-Hubbell *Bar Register of Preeminent Lawyers*, for his expertise in securities litigation. In October 2010, Mr. Cappucci appeared in *Avenue Magazine's* "Legal Elite" list of top litigation attorneys in New York City. Mr. Cappucci is also a Fellow of the *Litigation Counsel of America*, a highly selective honorary society for members of the American Bar who have demonstrated excellence and accomplishment in trial and appellate advocacy. Mr. Cappucci has for consecutive years also been named in *The Best Lawyers in America*, in the Litigation-Securities and Derivatives and Futures Law practice areas, and was also recently listed in *NY Super Lawyers 2014*.

Mr. Cappucci has served as a faculty member of the National Conference on Corporate Governance and Equity Offerings sponsored by the UCLA Anderson School of Management and University of California Rady School of Management. He has also addressed legal practitioners and financial professionals before the National Association of Public Pension Fund Attorneys, Council of Institutional Investors and The American Conference Institute (Trying and Defending Securities Class Actions), and before International Institutional Investors on Corporate Governance and Shareholder litigation matters at annual conferences of the International Corporate Governance Network ("ICGN"), where he also serves on the Committee on Executive Remuneration.

Mr. Cappucci has lectured before associations of the bar and various professional organizations, providing expert commentary on a wide range of securities markets and corporate governance issues. Recently, Mr. Cappucci addressed law professors from across the country in a discussion on The Future of Securities Fraud Litigation sponsored by the RAND Institute for Civil Justice.

In addition to membership in various State and National Bar Associations, Mr. Cappucci currently sits on the *Second Circuit Courts Committee* of the Federal Bar Council and is a member of the New York State Bar Association, the American Bar Association and the Association of Trial Lawyers of America. He is also a member of the American Bar Association *Section of Antitrust Law*.

Mr. Cappucci received his undergraduate degree from Fordham University with a B.S. in Accounting and his law degree from Fordham University School of Law. In 2007, he was named a Fordham Law School Centennial Founder, served as past Chair of the Law Advisory Committee, and currently is a member of the Dean's Planning Council. In 2013, Mr. Cappucci became a member of the Board of Trustees of Fordham University.

In November, 2011 Mr. Cappucci was elected to the Board of Governors of the Columbus Citizens Foundation, which through its charitable works has disbursed millions of dollars in scholarships and grants supporting the educational goals of deserving young students nationally.

Mr. Cappucci is the author of numerous articles appearing in a host of publications, including:

“Seeking Subprime Solutions: Fed Action, Legislation and Litigation Address the Subprime Mess,” The 2007 Global Securitization Guide, May 2008;

“Legislative and Regulatory Developments in U.S. Securitizations,” The 2007 Global Securitization Guide, (May 2007);

“Pay, Performance and Proxies: The Latest in Executive Compensation,” Institutional Investor Fund Management Legal & Regulatory Report, March 2007;

“Shareholder Activism and the Use of Litigation to Accomplish Investment Goals,” Institutional Investor Fund Management Legal & Regulatory Report, April 2006;

“Corporate Governance: 2005 in Review,” Institutional Investor, 2005 Compliance Report;

“Securities Class Actions: Settlements,” The Review of Securities & Commodities Regulation, October 2003;

“Hot Topics in Advertising Law: Investor Fraud,” The Association of the Bar of the City of New York, October 22, 2003;

“Did I Really Say That? The Truth Behind the DaimlerChrysler Merger,” NAPPA Report, November 2003;

“Beyond the Sarbanes-Oxley Bill: Additional Measures to Increase Corporate Accountability and Transparency,” NAPPA Report, September 2002;

“Casino Law Is Consistent With Equal Protection,” New York Law Journal, March 20, 2002;

“Misreading ‘*Gustafson*’ Could Eliminate Liability Under Section 11,” New York Law Journal, September 22, 1997;

“Liability for Excessive Executive Compensation,” The Corporate Governance Advisor, March/April 1997;

“Must Reliance Be Proven To Certify A Class?,” New York Law Journal, August 30, 1996;

“Class Action Lawsuits and Securities Fraud: A Plaintiff Lawyer's View of the Litigation Reform Act,” Securities Industry News, October 7, 1996; and

“Conflicts Between Rule 23 And Securities Reform Act,” New York Law Journal, April 2, 1996.

Professional Associations

Federal Bar Council

New York State Bar Association

National Association of Securities Class Action Attorneys

Association of the Bar of the City of New York

American Bar Association

Association of Trial Lawyers of America

Fordham University School of Law: Dean's Law Advisory Committee and Law School Planning Committee

Litigation Counsel of America

Martindale-Hubbell Rating

AV Preeminent 5.0 out of 5

State Bar Admissions

New York

Court Admissions

U.S. Supreme Court; U.S. Court of Appeals for the Second, Fifth, Seventh, Eighth and Ninth Circuits; U.S. District Court for the Eastern, Northern and Southern Districts of New York; U.S. District Court of the Central District of Illinois; U.S. District Court of the Northern District of Illinois; U.S. District Court for the Eastern District of Michigan; and all courts of the State of New York

Robert N. Cappucci

Robert N. Cappucci, a partner of the Firm, received his undergraduate degree from Fordham University, graduating *cum laude* and in *cursu honorum*. He received his law degree from Fordham University School of Law, where he was Articles Editor of the Fordham International Law Journal. He is the author of “Amending the Treatment of Defense Production Enterprises Under the U.S. Exon-Florio Provision: A Move Toward Protectionism or Globalism?,” 16 Fordham Int'l L.J. 652 (1993). Mr. Cappucci concentrates his practice in the area of securities litigation and supervises the Firm’s Market Monitoring and Reporting Program. He has particular expertise in issues impacting the Firm’s hedge fund and institutional trading firm client base.

Mr. Cappucci is a member of the Commercial and Federal Litigation Sections of the New York State Bar Association and a member of the Litigation Section of the American Bar Association, The Federal Bar Council, The Association of the Bar of the City of New York and The Association of Trial Lawyers of America.

Before entering private practice, Mr. Cappucci interned with the Honorable John E. Sprizzo, United States District Court, Southern District of New York.

Professional Associations

Commercial and Federal Litigation Sections of the New York State Bar Association
Litigation Section - American Bar Association
Federal Bar Council
Association of the Bar of the City of New York
Association of Trial Lawyers of America

Martindale-Hubbell Rating

AV Preeminent 5.0 out of 5

State Bar Admissions

New Jersey and New York

Court Admissions

U.S. Supreme Court; U.S. Court of Appeals for the Third and Eighth Circuits; U.S. District Court for the District of New Jersey; U.S. District Court for the Eastern and Southern Districts of New York; U.S. District Court for the Eastern District of Michigan; and all state courts of New York and New Jersey

*Associates***Alexander Schlow**

Alexander Schlow litigates securities fraud, commercial dispute, investor appraisal, and white-collar and regulatory defense matters in federal and state courts. His clients include broker-dealers, investment advisers, individuals, and institutional investors. During his time at E&C, Mr. Schlow has been an active participant in the litigation of matters including *Gamco Investors, Inc. v. Vivendi Universal SA*, *In re Facebook, Inc. IPO Securities and Derivative Litigation*, *Le Metier Beauty Investment Partners LLC et al. v. Metier Tribeca LLC et al*, *In re Cobalt International Energy, Inc. Securities Litigation*, and *In re Zale Corporation Appraisal Litigation*, among other similar matters. He received his B.A. from The New College of Florida and his J.D., *cum laude*, from Fordham University School of Law.

State Bar Admissions

New York

Court Admissions

All state courts of the State of New York

Andrew Sher

Andrew Sher concentrates his practice on securities litigation and complex commercial disputes on behalf of institutional and individual investors in federal court. Mr. Sher's work involves legal research and drafting complaints, letters and motions primarily regarding securities fraud cases. In addition, he has extensive experience reviewing documents and drafting outlines for the depositions of senior management at large public companies. During his time at E&C, Mr. Sher has been an active participant in the *Cobalt International Energy, Inc. Securities Litigation* and the *Foreign Exchange Benchmark Rates Antitrust Litigation*.

Mr. Sher graduated from the University of Missouri with a B.S. in finance, *magna cum laude*, and received his J.D. from the Benjamin N. Cardozo School of Law, *cum laude*. During law school, Mr. Sher served as an Articles Editor for the *Cardozo Journal of Conflict Resolution*. While obtaining his law degree, Mr. Sher interned for the litigation counsel of a Fortune 500 company, as well as both federal and state administrative agencies. Prior to joining E&C, Mr. Sher worked as a consultant assisting a global financial institution comply with regulatory requirements.

Mr. Sher has authored the following article:

“FRCP 26 vs. FRE 408: Why Settlement Negotiations Should Be Privileged Against Third-Party Discovery,” 16 Cardozo J. Conflict Resol. 295 (2014).

State Bar Admissions

New York

Court Admissions

All state courts of the State of New York

Edward Panchernikov

Edward Panchernikov represents institutional and individual investors in securities and anti-trust litigation. Mr. Panchernikov graduated from the City University of New York – Baruch College with a B.A. in political science and history, with a minor in law and public policy. He received his J.D. from Notre Dame Law School. During law school, Mr. Panchernikov served as an Articles Editor and Submissions Editor for the *Notre Dame Journal of International and Comparative Law* and received the Dean’s Award for International and Commercial Arbitration.

While obtaining his law degree, Mr. Panchernikov worked in Notre Dame’s Economic Justice Clinic where he represented local citizens in connection with various financial matters, many of which stemmed from the fallout of the 2008 housing crisis and issues which arose due to the trading of credit default swaps, both in state and federal court.

State Bar Admissions

New York

Court Admissions

All state courts of the State of New York

Heather Sertial

Heather Sertial's practice focuses on antitrust and investment litigation matters on behalf of institutional and individual investors. More particularly, Ms. Sertial represents the Firm's clients in the *Credit Default Swaps Antitrust Litigation* and the *Foreign Exchange Benchmark Rates Antitrust Litigation*, both of which settled for \$1.865 billion and 2.009 billion, respectively. In such capacity, Ms. Sertial oversees the Firm's document discovery and production process, and responds to written discovery requests. Ms. Sertial also assisted the Firm's clients with class certification discovery and briefing in the *MF Global Investment Litigation*, as well as with internal investigations before the U.S. Securities and Exchange Commission. Ms. Sertial has been an active participant in the briefing and claims administration process of the *Tremont Securities Law, State Law and Insurance Litigation*.

Prior to joining the firm, Ms. Sertial gained substantial litigation experience as a post-graduate fellow at the New York City Law Department. Ms. Sertial earned her undergraduate degree at Fordham University, *summa cum laude*, with a Departmental Honors degree in Economics. While earning her law degree at Fordham Law School, Ms. Sertial served as an intern in the Chambers of the Honorable Paul A. Crotty, U.S. District Court, for the Southern District of New York, as well as the U.S. Federal Trade Commission, Bureau of Competition. Ms. Sertial also served as a research assistant to the former Dean of Fordham Law School, John D. Feerick, and was an Associate Editor of Fordham Law's International Law Journal.

Ms. Sertial actively serves as a board member for various non-profit organizations and charities throughout New York City.

Mr. Sertial has authored the following article:

"Hybrid Entities: Distributing Profits with a Purpose," 17 Fordham J. Corp. & Fin. L. 261 (2012).

State Bar Admissions

New York and New Jersey

Court Admissions

All state courts of the State of New York and the State of New Jersey

Jarett Sena

Jarett Sena litigates securities and commercial matters on behalf of institutional clients. Mr. Sena graduated from the University of Wisconsin-Madison, *phi beta kappa*, and earned his law degree, *cum laude* from Fordham Law School. During law school, Mr. Sena was a Notes & Articles Editor of the Fordham Urban Law Journal and served in the federal litigation clinic. He also interned for the Federal Communications Commission in Washington, D.C. and worked as a summer associate at a litigation firm in Manhattan.

Prior to joining the Firm, Mr. Sena served as a law clerk for the Honorable Allison E. Accurso in the Superior Court of New Jersey, Appellate Division.

Mr. Sena has authored the following the article:

“Preemption of Class III Medical Devices: The Contours of the Parallel Claim Exception,” 42 Fordham Urb. L.J. 291 (2015).

State Bar Admissions

New York and New Jersey

Court Admissions

All state courts of the State of New York and the State of New Jersey

Katherine Lenahan

Ms. Lenahan practiced securities litigation at Entwistle & Cappucci LLP. Ms. Lenahan graduated from Fordham University (B.A., Political Science, *magna cum laude*, 2009) and Fordham University School of Law (J.D., 2012). While at Fordham Law School, Ms. Lenahan served as an associate editor of the Fordham Intellectual Property, Media and Entertainment Law Journal and was a fellow at the Center on Law and Information Policy.

State Bar Admissions

New York

Court Admissions

All state courts of the State of New York

EXHIBIT 17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE :
BENCHMARK RATES ANTITRUST :
LITIGATION :
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No. 1:13-cv-07789-LGS

DECLARATION OF ROBERT G. EISLER
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF GRANT & EISENHOFER, P.A.

I, Robert G. Eisler, declare as follows:

1. I am a partner at the law firm of Grant & Eisenhofer, P.A., one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, conducted factual and legal research to support the underlying claims, helped to draft responses to motions to dismiss and other pleadings, collected and reviewed our client's documents for production, reviewed other clients' documents for production, prepared for and defended our client's deposition, and reviewed documents produced by defendants.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 11,328.5. The total lodestar reflected in Exhibit 1 is \$4,403,525.50, consisting of \$4,403,525.50 for attorneys' time and \$0 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$111,998.78 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.


There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed
on January 5, 2018.



Robert G. Eisler

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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GRANT & EISENHOFER, P.A.
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
PARTNERS			
James J. Sabella	13.50	925.00	\$12,487.50
Robert G. Eisler	113.20	940.00	\$106,408.00
Linda Nussbaum	71.70	850.00	\$60,945.00
Senior Counsel			
Deborah Elman	43.40	720.00	\$31,248.00
Caitlin Moyna	16.00	650.00	\$10,400.00
Associates			
Peter Barile	375.90	695.00	\$261,250.50
James Welch	147.70	475.00	\$70,157.50
Susan Schwaiger	23.40	635.00	\$14,859.00
Ruth Yang	1,379.20	375.00	\$517,200.00
Staff Attorneys			
Greg Goodman	1,441.50	325.00	\$468,487.50
Deborah Weiss	1,332.50	350.00	\$466,375.00
Sonja Patrick	886.20	350.00	\$310,170.00
Maria Go	1,535.20	350.00	\$537,320.00
Henry Noye	1,703.50	350.00	\$596,225.00
Lindsay Doering	76.50	350.00	\$26,775.00

NAME	HOURS	HOURLY RATE	LODESTAR
Kerry Dustin	103.30	420.00	\$43,386.00
Erik Giannitrapani	94.50	350.00	\$33,075.00
Jeffrey Hawkins	114.00	350.00	\$39,900.00
Robert Minnich	62.50	350.00	\$21,875.00
Sarah Hickey	78.70	350.00	\$27,545.00
Shannon Somma	106.90	420.00	\$44,898.00
Edward Lilly	1,445.10	440.00	\$635,844.00
Steve Kwon	75.00	420.00	\$31,500.00
Timothy Noll	89.10	395.00	\$35,194.50
TOTALS	11,328.50		\$4,403,525.50

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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GRANT & EISENHOFER, P.A.
FIRM RÉSUMÉ AND BIOGRAPHIES

GRANT & EISENHOFER P.A.
ABBREVIATED FIRM BIOGRAPHY
LINK TO FULL FIRM BIOGRAPHY AT www.gelaw.com

Grant & Eisenhofer P.A. ("G&E") concentrates on federal securities and corporate governance litigation, antitrust litigation and other complex class litigation. With nearly 75 attorneys, G&E primarily represents domestic and foreign institutional investors, both public and private, who have been damaged by corporate fraud, greed and mismanagement. The Firm has been named to *The National Law Journal's* "Plaintiffs' Hot List" for more than a decade and is listed as one of America's Leading Business Law Firms by Chambers & Partners, who reported that G&E "commanded respect for its representation of institutional investors in shareholder and derivative actions, and in federal securities fraud litigation." Based in Delaware, New York, and Chicago, G&E routinely represents clients in federal and state courts throughout the country. G&E's clients include the California Public Employees' Retirement System, New York State Common Retirement Fund, Ohio Public Employees' Retirement System, State of Wisconsin Investment Board, Teachers' Retirement System of Louisiana, PIMCO, Trust Company of the West, The Capital Guardian Group and many other public and private U.S. and international institutions.

G&E was founded in 1997 by Jay W. Eisenhofer and Stuart M. Grant, former litigators in the Wilmington office of the nationally prominent firm of Skadden, Arps, Slate, Meagher & Flom LLP. Over the years, the Firm's directors have gained national reputations in securities and corporate litigation. In fact, G&E was the first law firm in the country to argue the provisions of the Private Securities Litigation Reform Act ("PSLRA") allowing an institutional investor to be appointed as lead plaintiff in a securities class action. The Firm has gone on to build a national and international reputation as a leader in securities litigation. In both class action and "opt-out" cases, G&E has attracted widespread recognition for protecting investors' rights and recovering their damages. The Firm has recovered over \$28 billion for its clients in the last ten years, and RiskMetrics Group has twice recognized G&E for winning the highest average investor recovery in securities class actions.

G&E has served as lead counsel in many of the largest securities class action recoveries in U.S. history, including:

- \$3.2 billion settlement from Tyco International Ltd. and related defendants
- \$922 million from UnitedHealth Group
- \$486 million settlement from Pfizer
- \$450 million Pan-European settlement from Royal Dutch Shell
- \$448 million settlement in Global Crossing Ltd. securities litigation
- \$422 million total class recovery for investors in the stock and bonds of Refco
- \$400 million recovery from Marsh & McLennan
- \$325 million from Delphi Corp.
- \$303 million settlement from General Motors
- \$300 million settlement from DaimlerChrysler Corporation
- \$300 million recovery from Oxford Health Plans
- \$276 million judgment & settlement for Safety-Kleen bond investors

G&E's antitrust practice group concentrates on complex antitrust class and individual actions. The Firm's antitrust attorneys have been recognized by courts and colleagues across the country and regularly speak at major conferences, as well as contribute materials to academic and other publications. G&E's antitrust attorneys have collected settlements and judgments on behalf of classes and individuals totaling well over a billion dollars.

G&E's Attorneys

The Biographies of G&E's Managing Directors, As Well As Those Attorneys Who Worked on This Litigation, are listed below

Jay W. Eisenhofer

Jay Eisenhofer, co-founder and managing director of Grant & Eisenhofer P.A., has been counsel in more multi-hundred million dollar cases than any other securities litigator, including the \$3.2 billion settlement in the Tyco case, the \$922 million UnitedHealth Group settlement, the \$486 million settlement with Pfizer, the \$450 million settlement in the Global Crossing case, a \$400 million settlement with Marsh & McLennan, a \$303 million settlement with General Motors and a \$300 million settlement with DaimlerChrysler. Internationally, Mr. Eisenhofer has organized cases on behalf of investors leading to substantial recoveries, including the \$1.36 billion settlement with Fortis in the Netherlands, the \$1 billion recovery against Royal Bank of Scotland in the United Kingdom, and the historic \$450 million pan-European settlement in the Royal Dutch Shell case in the Netherlands.. Mr. Eisenhofer was also the lead attorney in the seminal cases of *American Federation of State, County & Municipal Employees, Employees Pension Plan v. American International Group, Inc.*, where the U.S. Court of Appeals required shareholder proxy access reversing years of SEC no-action letters, and *Carmody v. Toll Brothers*, wherein the Delaware Court of Chancery first ruled that so-called "dead-hand" poison pills violated Delaware law.

Mr. Eisenhofer has served as litigation counsel to many public and private institutional investors, including, among others, Amalgamated Bank, APG Asset Management, California Public Employees Retirement System, California State Teachers Retirement System, Colorado Public Employees Retirement Association, the Florida State Board of Administration, John Hancock, Louisiana State Employees Retirement System, New York City Retirement Funds, Inc., and Service Employees International Union.

Mr. Eisenhofer is consistently ranked as a leading securities and corporate governance litigator and he has been named by Lawdragon to its annual list of the top 500 lawyers in America for several consecutive years. He is also recognized by Benchmark Litigation as one of the Top 100 Trial Lawyers. *The National Law Journal* has selected Grant & to its "Plaintiffs' Hot List" as one of the top plaintiffs' law firms in the country since the List's inception, earning the firm a place in *The National Law Journal's* "Plaintiffs' Hot List Hall Of Fame" in 2008, as well as to its list of "Elite Trial Lawyers: The 50 Leading Plaintiffs Firms in America" since commencement of the list. The firm has been selected as a "Most Feared Plaintiffs Firm" by

Law360 as "one of the most high-profile shareholder and whistleblower advocates in the country, securing record-high cash settlements." *U.S. News & World Report* has also repeatedly named Grant & Eisenhofer to its list of "Best Law Firms" in the fields of Securities Litigation, Commercial Litigation, and Corporate Law. Mr. Eisenhofer is rated AV by Martindale-Hubbell.

Mr. Eisenhofer has written and lectured widely on securities fraud and insurance coverage litigation, business and employment torts, directors' and officers' liability coverage, and the Delaware law of shareholder rights and directorial responsibilities. Among the publications he has authored: "The Shareholders Activism Handbook" Aspen Publishers; "Proxy Access Takes Center Stage – The Second Circuit's Decision in *AFSCME Employees Pension Plan v. American International Group, Inc.*" *Bloomberg Law Reports*, Vol. 1, No. 5; "Investor Litigation in the U.S. - The System is Working" *Securities Reform Act Litigation Reporter*, Vol. 22, #5; "*In re Walt Disney Co. Deriv. Litig.* and the Duty of Good Faith Under Delaware Corporate Law" *Bank & Corporate Governance Law Reporter*, Vol. 37, #1; "Institutional Investors As Trend-Setters In Post-PSLRA Securities Litigation" *Practising Law Institute*, July, 2006; "*In re Cox Communications, Inc.*: A Suggested Step in the Wrong Direction," *Bank and Corporate Governance Law Reporter*, Vol. 35, #1; "Does Corporate Governance Matter to Investment Returns?" *Corporate Accountability Report*, Vol. 3, No. 37; "Loss Causation in Light of *Dura*: Who is Getting it Wrong?" *Securities Reform Act Litigation Reporter*, Vol. 20, #1; "Giving Substance to the Right to Vote: An Initiative to Amend Delaware Law to Require a Majority Vote in Director Elections," *Corporate Governance Advisor*, Vol. 13, #1; "An Invaluable Tool in Corporate Reform: Pension Fund Leadership Improves Securities Litigation Process," *Pensions & Investments*, Nov. 29, 2004; and "Securities Fraud, Stock Price Valuation, and Loss Causation: Toward a Corporate Finance-Based Theory of Loss Causation," *Business Lawyer*, Aug. 2004. Mr. Eisenhofer has also authored a number of articles on illiquid and rouge hedge funds, including "Time for Hedge Funds to Become Accountable to Fiduciary Investors," *Pensions & Investments*, April 30, 2012; and "Hedge Funds of the Living Dead," *New York Times Dealbook*, June 4, 2012.

Mr. Eisenhofer serves as a member of the NYU Law School Advisory Board for the Center on Civil Justice, and as co-chair for the Securities Litigation Committee of the American Association for Justice. Mr. Eisenhofer currently serves as a member of the New York City Mayor's Advisory Board for the Mayor's Fund to Advance New York City, and also serves as an ex-officio Trustee on the Board of Trustees of the American Museum of Natural History. He is a graduate of the University of Pittsburgh, and a 1986 *magna cum laude* graduate of Villanova University School of Law, Order of the Coif. He was a law clerk to the Honorable Vincent A. Cirillo, President Judge of the Pennsylvania Superior Court and thereafter joined the Wilmington office of Skadden Arps Slate Meagher & Flom. Mr. Eisenhofer was a partner in the Wilmington office of Blank Rome Comisky & McCauley until forming Grant & Eisenhofer P.A. in 1997.

Stuart M. Grant

Stuart M. Grant, co-founder and managing director of Grant & Eisenhofer P.A., is internationally recognized for his extensive knowledge in the areas of Delaware corporate law, fiduciary responsibility, securities and investments, private equity and fixed income, appraisal remedies, valuation, proxy contests and other matters related to protecting and promoting the rights of institutional investors. He serves as litigation counsel to many of the largest public and private institutional investors in the world.

Mr. Grant was the first attorney to argue the provisions of the PSLRA allowing an institutional investor to be appointed as sole lead plaintiff and has served as lead counsel in eight of the ten largest settlements in the history of Delaware Chancery Court.

Among his many accolades, Mr. Grant is consistently ranked in Band 1 of *Chambers USA* as a leading litigator for his work in Delaware Chancery and securities, regulatory and corporate governance litigation. For the past several years, he has been named to Best Lawyers, ranked as a leading lawyer by Legal 500, and selected for inclusion in *Super Lawyers*. Mr. Grant, who has also been recognized as one of the Top 500 Leading Lawyers in America by *Lawdragon*, is rated AV by Martindale-Hubbell, and is recognized by Benchmark Litigation as one of the Top 100 Trial Lawyers. Additionally, *The National Law Journal* has selected Grant & Eisenhofer to its list of "Elite Trial Lawyers: The 50 Leading Plaintiffs Firms in America" since the commencement of the list.

Mr. Grant has first-chaired more nine-figure securities class action and Delaware Chancery Court case resolutions than perhaps any other litigator, including:

In re Dole Food Co. Stockholder Litigation and *In re Dole Food Co. Appraisal Litigation*, stockholder class and appraisal litigation victory following a nine-day trial;

In re Freeport-McMoRan Copper & Gold, Inc. Derivative Litigation, where in a historic first for derivative litigation, the entire cash component of the settlement was distributed to Freeport shareholders in the form of a special dividend;

City of Roseville Employees' Retirement System v. Lawrence Ellison, et al. ("Oracle Corp."), a stockholder derivative suit alleging breach of fiduciary duty;

In re El Paso Corporation Shareholder Litigation, a settlement resolving allegations that El Paso's Board of Directors negotiated a merger that was "tainted with disloyalty;"

In re Refco Inc. Securities Litigation, class action settlement over violations of federal securities laws;

In re Parmalat Securities Litigation, securities class action in what the SEC described as "one of the largest and most brazen financial frauds in history;"

Teachers' Retirement System of Louisiana v. Greenberg, et al. and American International Group, Inc., one of the largest derivative shareholder litigation settlements in the history of Delaware Chancery Court;

In re Safety-Kleen Securities Corporation Bondholders Litigation, a seven week securities class action jury trial resulting in judgments holding the company's CEO and CFO jointly and severally liable;

In re Digex Stockholders Litigation, the largest settlement in Delaware Chancery Court history, which led to the establishment of lead plaintiff provisions in Delaware.

Mr. Grant has also resolved several class and/or derivative actions, which rank among the largest in the Delaware Chancery Court:

In re Jefferies Group, Inc. Shareholders Litigation, a fiduciary duty action representing one of the top ten settlements of a post-closing action challenging the fairness of a merger in the history of the Delaware Chancery Court;

In re Del Monte Foods Company Shareholders Litigation, shareholder litigation resulting in an unprecedented and immediate change in lending policy practices among major investment banks regarding the way the banks approach financing transactions in which they represent the seller;

In re American International Group, Inc. Consolidated Derivative Litigation, a settlement resolving claims that AIG's CEO Hank Greenberg and other officers of the insurer were involved in a well-documented bid-rigging scheme used to inflate the company's income; and,

In re ACS Shareholder Litigation, a settlement resolving allegations that ACS's Board of Directors breached their fiduciary duties in connection with the negotiated buyout of ACS by Xerox Corp.

Mr. Grant serves as Vice-Chairperson of the Delaware Judicial Nominating Commission, as a member of the Board of Trustees for the University of Delaware, and on the Advisory Board for the Weinberg Center for Corporate Governance at the University of Delaware. Mr. Grant was an Adjunct Professor of Law at the Widener University School of Law from 1994-2009, where he taught securities litigation, and is a past trustee of the Delaware Art Museum.

Mr. Grant has authored a number of articles which have been cited with approval by the U.S. Supreme Court, U.S. Court of Appeals for the 2nd and 5th Circuits and numerous U.S. District Courts. His articles include, among others, "The Devil is in the Details: Application of the PSLRA's Proportionate Liability Provisions is so Fraught With Uncertainty That They May be Void for Vagueness"; "Class Certification and Section 18 of the Exchange Act"; "*Unisuper v. News Corporation*: Affirmation that Shareholders, Not Directors, Are the Ultimate Holders of Corporate Power"; "Executive Compensation: Bridging the Gap Between What Companies Are Required to Disclose and What Stockholders Really Need to Know"; and a number of annual PLI updates under the heading of "Appointment of Lead Plaintiff Under the Private Securities Litigation Reform Act."

Mr. Grant was graduated in 1982 *cum laude* from Brandeis University with a B.A. in economics and received his J.D. from New York University School of Law in 1986. He served as Law Clerk to the Honorable Naomi Reice Buchwald in the U.S. District Court for the Southern District of New York. Mr. Grant was an associate at Skadden, Arps, Slate, Meagher & Flom (1987-94), and a partner in the Wilmington office of Blank Rome Comisky & McCauley from 1994 until forming Grant & Eisenhower P.A. in 1997.

Robert G. Eisler

Robert Eisler is a director at Grant & Eisenhofer and leads the firm's antitrust practice. Mr. Eisler has been involved in many significant antitrust class action cases in recent years. He is experienced in numerous industries, including pharmaceuticals, paper products, construction materials, industrial chemicals, processed foods, municipal securities, and consumer goods.

Mr. Eisler is currently serving as co-lead counsel in several cases, including *Gordon et al. v. Amadeus et al.*, *In re London Silver Fixing, Ltd. Antitrust Litigation* and *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*. He has served as lead or co-lead counsel in many other significant antitrust cases, including *In re Buspirone Antitrust Litigation* (which led to a \$90 million settlement in which presiding Judge Koeltl stated that the plaintiffs' attorneys had done "a stupendous job"), *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, *In re Flat Glass Antitrust Litigation*, and *In re Municipal Derivatives Antitrust Litigation*.

Mr. Eisler has played major roles in a number of other significant antitrust cases, including *In re Polyurethane Foam Antitrust Litigation*, *In re Blue Cross/Blue Shield Antitrust Litigation*, and *In re Linerboard Antitrust Litigation*. He also has significant experience litigating antitrust matters in the U.K., including cases concerning cartels in a number of industries, such as air cargo services, air passenger services, automotive glass, and pharmaceuticals, among others.

In addition to his antitrust work, Mr. Eisler has extensive experience in securities, derivative, complex commercial and class action litigation at the trial and appellate levels. He has been involved in numerous securities and derivative litigation matters on behalf of public pension funds, municipalities, mutual fund companies and individual investors in state and federal courts.

Mr. Eisler graduated from LaSalle University in 1986, and in 1989, from Villanova University School of Law.

James J. Sabella

James Sabella is a director at Grant & Eisenhofer. He has over forty years of experience in complex civil litigation, including representing plaintiffs and defendants in class and derivative actions involving trial and appellate work in state and federal courts. He has substantial experience in securities litigation and litigation involving claims against accounting firms and underwriters. He has also handled antitrust litigation, whistleblower claims and cases involving claims under the False Claims Act, and cases involving the fiduciary obligations of trustees under state law.

Mr. Sabella has represented the lead plaintiffs in numerous major cases that have resulted in large recoveries, including the Pfizer securities litigation, where the settlement was nearly \$500 million, the General Motors securities litigation, where the settlement was in excess of \$300 million, and the Refco securities litigation, where the recovery was in excess of \$400 million. He also represented the lead plaintiffs in the Parmalat securities litigation, which resulted in landmark opinions establishing that the international firms that coordinate the audit services that audit firms conduct in various countries can be held liable for the conduct of such local audit firms.

Prior to joining Grant & Eisenhofer, Mr. Sabella practiced for twenty-eight years at several large Manhattan law firms, most recently as a partner in Sidley, Austin, Brown & Wood LLP, where his practice focused largely on accountants' liability defense, including the defense of actions alleging securities law violations and professional malpractice as well as grand jury investigations and investigations by the American Institute of Certified Public Accountants.

Mr. Sabella is a 1976 graduate of Columbia Law School, where he was a member of the Board of Directors of the *Columbia Law Review*. He received a B.A. *summa cum laude* from Columbia College in 1972 and a B.S. in 1973 from the Columbia School of Engineering, where he was valedictorian.

Deborah A. Elman

Deborah Elman is senior counsel at Grant & Eisenhofer, where she represents clients in complex civil litigation in federal and state court, with a particular focus on antitrust, securities, and consumer fraud litigation. She has represented institutional clients, both public and private, and individuals in class actions, opt-out litigation, derivative actions, and arbitrations.

Ms. Elman is currently serving as co-lead counsel in several cases, including *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litigation*, *In re London Silver Fixing, Ltd. Antitrust Litigation*, and *Fernandez et al. v. UBS AG et al.*

Ms. Elman has litigated numerous cases related to the financial crisis, including more than fifteen actions arising out of wrongdoing involving the issuance of residential mortgage-backed securities ("RMBS") and other complex financial products, resulting in several substantial settlements. Additionally, Ms. Elman was a member of the litigation teams that successfully represented the lead plaintiff in a case dubbed "The Enron of India," *In re Satyam Computer Services Ltd. Securities Litigation*, which settled for \$150.5 million, and *In re Kinder Morgan Energy Partners, L.P. Derivative Litigation*, which settled for \$27.5 million. She recently represented institutional investors in *In re Merck and Co., Inc. Securities, Derivative & ERISA Litigation* and *In re Petrobras Securities Litigation*, resulting in substantial investor recoveries.

Prior to joining Grant & Eisenhofer, Ms. Elman represented clients before the SEC and participated in numerous appearances before federal and state courts as an associate at a leading New York law firm.

Ms. Elman served as a law clerk for the Honorable William L. Standish, United States District Judge, in the United States District Court for the Western District of Pennsylvania, participating in all aspects of federal trial court practice.

Ms. Elman graduated *cum laude* in 2001 from the University of Pittsburgh School of Law, where she was Lead Executive Editor of the *Journal of Law and Commerce*. She received a Masters of Public Health degree in 1997 from Columbia University, where she also graduated *cum laude* with a Bachelor of Arts degree in 1995.

Caitlin M. Moyna

Caitlin Moyna is senior counsel at Grant & Eisenhofer with over 15 years of experience in securities fraud class and opt-out litigation, shareholder derivative actions, merger litigation, antitrust actions and international arbitration.

Ms. Moyna has helped achieve significant recoveries in securities fraud class actions while at G&E against Career Education Corp. and Miller Energy Resources, Inc., and others prior to her time at G&E, including against The Blackstone Group, which resulted in an \$85 million recovery. Currently, she represents a lead plaintiff in a securities fraud action against Santander Consumer USA. Her experience also includes representing institutional investors who opt of securities fraud class actions, including those against Valeant, Merck and Citigroup.

Additionally, Ms. Moyna has international arbitration experience, including representing a group of over 600 Greek investors challenging the bail-in of Cypriot banks before the International Centre for Settlement of Investment Disputes.

Ms. Moyna also represents investors challenging mergers, including in a pending action concerning the acquisition of Regency Energy Partners by Energy Transfer Partners, in the Delaware Court of Chancery. She is also representing investors challenging an early redemption of bonds issued by AgriBank and CoBank on breach of contract grounds.

Prior to joining G&E, Ms. Moyna was associated with two leading New York law firms, where she represented corporations in securities fraud class actions and government investigations, as well as a boutique litigation firm specializing in investor representation.

With Managing Director Jay W. Eisenhofer, Ms. Moyna is the co-author of two multi-series articles that explore the rights of investors in alternative entities: "What is the State of Delaware Law as It Relates to the Scope of Fiduciary Duties Owed to Investors in So-Called Alternative Entities?", *Bloomberg BNA*, Corporate Accountability Report (Dec. 5, 12, and 19, 2014); and "What Is the Current State of Delaware Law on the Scope of Fiduciary Duties Owed by Hedge Fund Managers to Their Funds and Investors?", *The Hedge Fund Law Report*, Vol. 6, Nos. 26 and 27 (Sept. 19 and 26, 2013).

Ms. Moyna is a *cum laude* graduate of Northwestern University School of Law, where she was elected to the Order of the Coif and was a member of the *Journal of Criminal Law and Criminology*. Ms. Moyna received her A.B. from Dartmouth College.

Raymond Schuenemann

Raymond Schuenemann is an attorney who focuses his practice on complex litigation, including antitrust and consumer litigation. Mr. Schuenemann received his J.D. from Widener University School of Law in 2005. He received his B.S. degree from West Chester University where he majored in Finance.

Shannon Somma

Shannon Somma is an attorney who focuses her practice on complex litigation, including securities fraud and antitrust litigation. Ms. Somma received her J.D. degree from Widener University School of Law in 2005. She received her B.A. degree from University of Delaware where she majored in Psychology.

James Welch

James Welch is an attorney who focuses his practice on antitrust litigation. Mr. Welch earned his J.D. from the University of Pennsylvania Law School in 2011 where he was a Senior Editor of the *Journal of Business Law*. He received his B.A. degree, summa cum laude, in International Studies from the University of Alabama.

Kerry Dustin

Kerry Dustin is an attorney who focuses her practice on corporate securities, appraisal and antitrust litigation. Ms. Dustin received her J.D. from Syracuse University College of Law in 2003 where she was a member of the Community Law Development Clinic and Corporate Law Society. She received her B.S. degree in Business Administration from Le Moyne College.

Edward Lilly

Edward Lilly is an attorney who focuses his practice on securities fraud and antitrust litigation. Mr. Lilly received his J.D. from Cornell Law School in 1996 and served as editor for the *LII Bulletin-NY* and *Cornell Journal of Law & Public Policy*. He received his M.S. in Social Psychology in 1993 from Purdue University and graduated magna cum laude from DePauw University with a B.A. in Economics.

Linda Nussbaum

Linda Nussbaum is an attorney who is nationally recognized for her representation of class and individual plaintiffs in antitrust litigation in pharmaceuticals, commodities and financial services. Ms. Nussbaum received her LL.M. from New York University School of Law in 1984. She received her J.D. from George Washington University in 1977 and her B.A., *magna cum laude* from Brooklyn College.

Susan Schwaiger

Susan Schwaiger is an attorney who focuses her practice on antitrust and other areas of complex civil litigation. Ms. Schwaiger received her J.D. from Brooklyn Law School, *cum laude* in 1992. She obtained her M.A. from the University of Kentucky in 1973 and her B.S. from the University of Tennessee.

H. Steven Kwon

Steve Kwon is an attorney who focuses his practice on complex litigation including antitrust litigation. Mr. Kwon earned his J.D. from Brooklyn Law School in 2000. He received his B.A. degree in government from Hamilton College in 1994.

Peter Barile

Peter Barile is an attorney who focuses his practice on federal antitrust and commodity class actions and other complex matters. Mr. Barile received his J.D. *magna cum laude* from University of Connecticut Law School in 1999. He received his B.A. in English from University of Connecticut.

Timothy Noll

Timothy Noll is an attorney who focuses his practice on complex litigation matters including antitrust and securities litigation. Mr. Noll earned his J.D. from Southwestern University School of Law in 2005. He received his B.A. in Communications from Temple University in 1990.

Michael Gallagher

Michael Gallagher is an attorney who focuses his practice on complex antitrust litigation. Mr. Gallagher received his J.D. from Rutgers School of Law in 2011. He earned his B.S. degree in International Business Relations from Franklin and Marshall College.

Ruth Yang

Ruth Yang is an attorney who focuses her practice on complex class action litigation including antitrust litigation. Ms. Yang earned her J.D. from the University of Pennsylvania Law School in 2002. She received her B.S. in Environmental System Engineering from the University of Pennsylvania in 1999.

Greg Goodman

Greg Goodman is an attorney who focuses his practice on complex litigation matters including bankruptcy and antitrust litigation. Mr. Goodman received his J.D. from California Western School of Law in 1984. He earned his B.A. degree from Syracuse University in 1979.

Deborah Weiss

Deborah Weiss is an attorney who focuses her practice on complex commercial litigation including antitrust litigation. Ms. Weiss received her J.D. from Villanova University in 1988, where she served as Associate Editor for Villanova Law Review. She received her B.A. in Journalism from State University of New York, College at Buffalo in 1978.

Sonja Patrick

Sonja Patrick is an attorney who focuses her practice on complex litigation including antitrust and bankruptcy litigation. Ms. Patrick received her J.D. from the University of Pennsylvania Law School in 2002. She received her B.A. in History from the University of California at Santa Cruz in 1993.

Maria Go

Maria Go is an attorney who focuses her practice on complex litigation including securities and antitrust litigation. Ms. Go received her J.D. from Boston University School of Law in 2001. She received her M.B.A. from Temple University in 2011 and her B.A. in Human Biology/Anthology from the University of Pennsylvania in 1997.

Henry Noye

Henry Noye is an attorney who focuses his practice on complex litigation including antitrust litigation. Mr. Noye received his J.D. from Rutgers – Camden School of Law in 1998. He received his B.S. degree in Political Science from Tennessee State University in 1995 where he graduated *magna cum laude*.

Lindsay Doering

Lindsay Doering is an attorney who focuses his practice on complex litigation including antitrust and securities class actions. Mr. Doering received his J.D. from Widener University School of Law in 2000. He received his B.A. in English from the University of Pennsylvania in 1992.

Erik Giannitrapani

Erik Giannitrapani is an attorney who focuses his practice on complex commercial litigation matters including antitrust litigation. Mr. Giannitrapani received his J.D. from Temple University in 2014. He earned his B.A. in English from University of Richmond in 2009.

Jeffrey Hawkins

Jeffrey Hawkins is an attorney who focuses his practice on complex litigation matters including antitrust and health insurance litigation. Mr. Hawkins earned his J.D. from Temple University in 2005. He received his B.S. degree in Chemistry from Chestnut Hill College in 1993.

Sarah Hickey

Sarah Hickey is an attorney who focuses her practice on litigation matters including antitrust litigation. Ms. Hickey earned her J.D. from the University of Maryland Francis King Carey School of Law in 2014. She received her B.A. in Government and Politics from the University of Maryland, College Park in 2010.

Robert Minnich

Robert Minnich is an attorney who focuses his practice on litigation matters including antitrust litigation. Mr. Minnich earned his J.D. from Dickinson School of Law in 1996. He received his B.A. in History and Political Science, *cum laude* from Bucknell University in 1991.

EXHIBIT 18

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
	:	
-----	X	

**DECLARATION OF MICHAEL M. BUCHMAN
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF MOTLEY RICE LLC**

I, Michael M. Buchman, declare as follows:

1. I am a member of the law firm of Motley Rice LLC one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, provided assistance with the selection of electronic document review platforms; attended document review and discovery-related meetings; and reviewed documents produced by Defendants in this litigation.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on

the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 12,503.65. The total lodestar reflected in Exhibit 1 is \$5,345,501.25.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$106,299.77 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 6, 2018.



Michael M. Buchman

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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	:	
	:	
	:	
-----	X	

MOTLEY RICE LLC
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Michael M. Buchman	62.90	\$925.00	\$58,182.50
Staff Attorneys			
Nicola Earle	3,761.50	\$425.00	\$1,598,637.50
Leslie Fourton	3,759.75	\$425.00	\$1,597,893.75
Carl Fuardo	2,698.75	\$425.00	\$1,146,968.75
Karen Seiden	2,220.75	\$425.00	\$943,818.75
TOTALS	12,503.65		\$5,345,501.25

EXHIBIT 2

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

	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
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	:	
	:	
	X	

MOTLEY RICE LLC
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Costs	\$416.60
Meals*	\$15.76
Online Research	\$1,501.82
Out of Town Travel*	\$3,384.13
Overnight Delivery	\$738.69
Photocopying (In-House)	\$193.67
Telephone	\$49.10
Contributions to Litigation Fund	\$100,000.00
TOTAL EXPENSES:	\$106,299.77

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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IN RE FOREIGN EXCHANGE	:	
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MOTLEY RICE LLC
FIRM RÉSUMÉ AND BIOGRAPHIES

FIRM RESUME





FIRM OVERVIEW

Motley Rice attorneys have been at the forefront of some of the most significant and monumental civil actions over the last 30 years. Our experience in complex trial litigation includes class actions and individual cases involving securities and consumer fraud, occupational disease and toxic tort, medical drugs and devices, environmental damage, terrorist attacks and human rights abuses.

Tobacco Master Settlement Agreement

In the 1990s, Motley Rice attorneys and more than half of the states' attorneys general took on the tobacco industry. Armed with evidence acquired from whistleblowers, individual smokers' cases and tobacco liability class actions, the attorneys led the campaign in the courtroom and at the negotiation table to recoup state healthcare funds and exact marketing restrictions from cigarette manufacturers. The effort resulted in significant restrictions on cigarette marketing to children and culminated in the \$246 billion Master Settlement Agreement, the largest civil settlement in U.S. history.

Asbestos Litigation

From the beginning, our lawyers were integral to the story of how "a few trial lawyers and their asbestos-afflicted clients came out . . . to challenge giant asbestos corporations and uncover the greatest and longest business cover-up of an epidemic disease, caused by a product, in American history."¹ In addition to representing thousands of workers and family members impacted by asbestos, Motley Rice has represented numerous public entities, and litigated claims alleging various insurers of asbestos defendants engaged in unfair settlement practices in connection with the resolution of underlying asbestos personal injury claims. This litigation resulted in, among other things, an eleven-state settlement with Travelers Insurance Company.

Anti-Terrorism and Human Rights

In *In re Terrorist Attacks* on September 11, 2001, Motley Rice attorneys brought a landmark lawsuit against the alleged private and state sponsors of al Qaeda and Osama bin Laden in an action filed on behalf of more than 6,500 family members, survivors, and those killed on 9/11—including the representation of more than 900 firefighters and their families. In prosecuting this action, Motley Rice has undertaken a global investigation into terrorism financing.

Our attorneys also initiated the *In re September 11 Litigation* and negotiated settlements for 56 families that opted out of the Victim Compensation Fund that far exceeded existing precedents at the time for wrongful death cases against the airline industry.

BP PLC Oil Spill Litigation

In April 2010, the Deepwater Horizon disaster spilled approximately 4.9 million gallons of oil into the water, killed 11 oil rig workers, devastated the Gulf's natural resources and profoundly harmed the economic and emotional well-being of hundreds of thousands of people. The Deepwater Horizon Economic and Property Damages Settlement is the largest civil class action settlement in U.S. history. Motley Rice co-founder Joseph Rice is a Plaintiffs' Steering Committee member and served as one of the primary negotiators of that Settlement and the Medical Benefits Settlement. In addition, Rice led negotiations in the \$1.028 billion settlement between the PSC and Halliburton Energy Services for its alleged role in the oil spill. Motley Rice attorneys continue to hold leadership roles in the litigation and are currently working to ensure that all qualifying oil spill victims are fairly compensated.

Volkswagen 'Clean Diesel' Litigation

In 2015, Volkswagen Group's admission that it had programmed more than 11 million vehicles to cheat emissions tests and bypass standards sparked worldwide outrage. Motley Rice co-founder Joe Rice served as one of the lead negotiators in the nearly \$15 billion settlement deal reached in 2016 for U.S. owners and lessees of 2.0-liter TDI vehicles, the largest auto-related consumer class action settlement in U.S. history. Rice and other Motley Rice attorneys also helped recover up to \$4.4 billion with regards to affected 3.0-liter vehicles.

Transvaginal Mesh Litigation

Motley Rice attorneys represent thousands of women and have played a leading role in litigation alleging debilitating and life-altering complications caused by defective transvaginal mesh devices. In 2014, Joe Rice, with co-counsel, negotiated the original settlement deal reached in *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* that numerous subsequent settlements with the manufacturer were modeled after.

Opioid Litigation

At the forefront of litigation targeting the alleged overprescribing and deceptive marketing of addictive opioid painkillers, Motley Rice, led by attorney Linda Singer, the former Attorney General for the District of Columbia, serves as lead counsel for the first jurisdictions to file complaints against pharmaceutical companies, the City of Chicago and Santa Clara County. Motley Rice has since filed cases for several states, cities, and counties aimed at combatting the deadly opioid crisis.

LITIGATION PROFILES *Motley Rice has held leadership roles in numerous cases. Highlights include:*

DEFECTIVE DRUGS AND DEVICES

Plaintiffs' Steering Committee and Co-lead Counsel *In re Ethicon Physiomech Flexible Composite Hernia Mesh Products Liability Litigation*, MDL 2782

Lead Counsel; Plaintiffs' Executive Committee *Essure Permanent Sterilization Device California State Court Consolidation*

Lead counsel in *In re Atrium Medical Corp. C-QUR Mesh Products Liability Litigation*, MDL No. 2753

Plaintiffs' Steering Committee *In re Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2738

Co-lead counsel *In re Zofran (Ondansetron) Products Liability Litigation*, MDL No. 2657

Plaintiffs' Executive Committee in *In re Viagra (Sildenafil Citrate) and Cialis (Tadalafil) Products Liability Litigation*, MDL 2691

Plaintiffs' Leadership Counsel of *In re Bard IVC Filters Products Liability Litigation*, MDL 2641

Plaintiffs' Steering Committee of *In re Lipitor® (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, MDL 2502.

Co-lead plaintiffs' counsel and liaison counsel *In re Kugel Mesh Hernia Patch Products Liability Litigation*, MDL No. 07-1842 (D.R.I.), Rhode Island federal court's first consolidated MDL, on behalf of thousands of people alleging injury by the hernia repair patch manufactured by Davol, Inc., as well as liaison counsel for the nearly 2,000 lawsuits consolidated in Rhode Island state court.

Co-lead coordinating counsel of *In re Ethicon, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2327 (S.D.W.Va.)

Co-lead counsel in the *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2325 (S.D.W.Va.)

Co-liaison counsel *In re C.R. Bard, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2187 (S.D.W.Va.)

Co-lead counsel *In re Boston Scientific Corp., Pelvic Repair Systems Products Liability Litigation*, MDL 2326, (S.D.W.Va.)

Co-liaison counsel *In re Pelvic Mesh Litigation/Bard*, No. L-6339-10 in New Jersey state court.

State court liaison counsel of *In re Bard Litigation* in Massachusetts and Delaware

Co-lead counsel of the *Mirena MDL* (S.D.N.Y.)

Co-lead counsel in the *In re Mirena Product Liability* state court consolidation in New Jersey

Plaintiffs' Steering Committee of *In re Power Morcellator Products Liability Litigation*, MDL No. 2652

Plaintiffs' Steering Committee of *In re Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL 2342

Plaintiffs' Steering Committee of *In re NuvaRing Products Liability Litigation*, MDL 1964

Plaintiffs' Steering Committee of *In re DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, MDL 2197

Plaintiffs' Steering Committee of *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, MDL 2244

In re A.H. Robins Co., Inc., "Dalkon Shield" IUD Products Liability Litigation (No. II), MDL 631

Plaintiffs' Steering Committee of *In re Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation*, MDL 1905

Plaintiffs' Steering Committee of *In re Trasylol Products Liability Litigation*, MDL 1928

Plaintiffs' Steering Committee of *In re Levaquin Products Liability Litigation*, MDL 1943

Plaintiffs' Steering Committee and co-lead counsel of *In re Digitek Products Liability Litigation*, MDL 1968

Plaintiffs' Steering Committee of *In re Avandia Marketing, Sales Practices and Products Liability Litigation*, MDL 1871

Plaintiffs' Steering Committee of *In re Hydroxycut Marketing and Sales Practice Litigation*, MDL 2087

Plaintiffs' Steering Committee of *In re Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation*, MDL 2096

Plaintiffs' Steering Committee and co-lead counsel of *In re Human Tissue Products Liability Litigation*, MDL 1763

In re Temporomandibular Joint (TMJ) Implants Products Liability Litigation, MDL 1001

In re Abbott Laboratories Omniflox Products Liability Litigation, MDL 1004

Plaintiffs' Steering Committee and liaison counsel of *In re Showa Denko K.K. L-tryptophan Products Liability Action*, MDL No. 865

TOXIC TORTS AND OCCUPATIONAL DISEASE

Bongani Nkala & Others v. Harmony Gold Mining Company Limited & Others, No. 48226/12 (South Gauteng High Court, Johannesburg). Motley Rice has been retained as a consultant by South African human rights lawyer Richard Spoor in his effort to take on leading global gold producers and seek justice for tens of thousands of exploited gold mine workers suffering from silicosis.

Travelers Statutory Direct Action Settlement (Bankr. Court, S.D.N.Y.), an eleven-state asbestos settlement with Travelers Insurance.

Chair, Plaintiffs' Steering Committee and liaison counsel for plaintiffs, *In re Asbestos Products Liability Litigation*, MDL 875 (E.D. Pa.).

Plaintiffs' Steering Committee and coordinating counsel, *Linscomb v. Pittsburgh Corning Corporation*, No. 1:90cv-05000 (E.D. Tex.), a national class action on behalf of asbestos victims nationwide.



Executive committee member in *In re Asbestos School Litigation*, No. 94-1494 (E.D. Pa.), a national school asbestos class action.

Lead plaintiffs' counsel in *Central Wesleyan College v. W.R. Grace & Co.*, No. 2:87-1860-8 (D.S.C.), a national asbestos property damage class action.

Lead plaintiffs' counsel in *In re Raymark Asbestos Exposure Cases*, No. 87-1016-K (D. Kan.), a national asbestos personal injury class action in which 19,684 claims were resolved.

Co-lead plaintiffs' counsel in *Cimino v. Pittsburgh Corning Corporation*, No. 1:85-CV-00676 (E.D. Tex.), an asbestos personal injury class action on behalf of approximately 2,300 plaintiffs.

Co-lead plaintiffs' counsel in *Chatham v. AC&S, et al.*, a consolidated asbestos personal injury action involving 300 plaintiffs in the Circuit Court of Harris County, Texas.

Co-lead plaintiffs' counsel in *Abrams v. GAF Corporation*, No. 88-5422(1) (Jackson Cty., Miss.), a consolidated asbestos personal action involving more than 6,000 plaintiffs.

Co-liaison plaintiffs' counsel in 3,000 asbestos personal injury cases in the Third Judicial Circuit of Illinois, Madison County, Illinois.

Co-lead plaintiffs' counsel in a consolidated asbestos personal injury action involving 540 plaintiffs pending in the Superior Court of Alameda County, California.

Counsel in numerous consolidated asbestos trials including 87 consolidated cases in Danville, Illinois; 300 consolidated cases in U.S. District Court, Western District of New York, Rochester, New York; 42 consolidated cases in State Court in Mississippi; and 315 consolidated cases in the Circuit Court of Kanawha County, West Virginia.

Plaintiffs' lead counsel in *In re Kansas Asbestos Cases* in U.S. District Court for the District of Kansas, *In re Madison County Illinois Asbestos Litigation*

Plaintiffs' lead counsel in *In re Wayne County Michigan Asbestos Cases*.

John Schumacher v. Amtico, et al., No. 2:10-1627 (E.D.Pa.), the first federal court mesothelioma case to go to trial before Eduardo C. Robreno, the judge who oversees the entire Federal Asbestos MDL, *In re Asbestos Products Liability Litigation*, MDL 875.

Plaintiffs' Steering Committee of *In re Welding Fume Products Liability Litigation*, MDL 1535

ENVIRONMENTAL CONTAMINATION

Plaintiffs' Steering Committee of *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, MDL 2179, (E.D.La.), and lead settlement negotiators of the two class action settlements reached with BP, one of which is the largest civil class action settlement in U.S. history.

Lead trial counsel in *The People of the State of California v. Atlantic Richfield Company, et al.* No. 1-00-CV-788657 (Santa Clara Cnty. Super. Ct.) Resulting in 2014 verdict holding Sherwin-Williams Company, ConAgra Grocery Products and NL Industries Inc. liable for creating a public nuisance and ordered abatement of lead paint from homes within 10 California cities and counties.

Michelle McMunn, et al. vs. Babcock & Wilcox Power Generation Group, Inc., et al., Civil Action No. 10-143 2:10-cv-00143-DSC-RCM

Lead plaintiffs' counsel in *Bates v. Tenco Services Inc.*, 132 F.R.D. 160 (D.S.C. 1990), a jet fuel pollution case involving the consolidated property damage and personal injury claims of multiple plaintiffs in the Gold Cup Springs subdivision.

ANTI-TERRORISM AND HUMAN RIGHTS

Lead counsel in *In re Thomas E. Burnett, Sr., et al. v. Al Baraka Investment & Development Corp., et al.*, Case No. 03-CV-9849 (GBD); *In re Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (S.D.N.Y.), a landmark lawsuit against the alleged sponsors of al Qaeda and Osama bin Laden in an action filed on behalf of more than 6,500 family members, survivors, and those killed on 9/11.

Linde et al. v. Arab Bank PLC, No. 1:04-cv-02799 (E.D.N.Y.) and *Almog v. Arab Bank, PLC*, No. 1:04-cv-05564-NG-VVP (E.D.N.Y.), one of the first lawsuits brought against an international bank for its alleged role in financing terrorism.

Mark McDonald, et al. vs. The Socialist People's Libyan Arab Jamahiriya, et al.; No. 06-CV-0729-JR (DC 04/21/06), a high-profile case involving Libya's longtime alleged sponsorship of IRA acts of terror.

Cummock, et al. v. Socialist People's Libyan Arab Jamahiriya, et al., No. 96-CV-1029 (D.D.C.). Victoria Cummock, Motley Rice's client, sought full accountability and a public trial as the only opt-out of the no-fault Pan Am 103/Lockerbite settlement.

Krishanthi, et al. vs. Rajaratnam, et al.; No. 09-CV-5395(D.N.J.), terrorist financing litigation against alleged financiers of the Tamil Tigers terrorist organization in Sri Lanka.

Plaintiffs' Steering Committee and lead counsel for Verizon plaintiffs in *In re National Security Agency Telecommunications Records Litigation*, MDL 1791

Ng v. Central Falls Detention Facility Corporation, et al., No. 09-53 (D. R.I.), a human rights case that alleged the defendants subjected a Chinese immigration detainee to extreme physical and mental abuse and torture while in U.S. custody.

Harris, et al. v. Socialist People's Libyan Arab Jamahiriya, et al., No. 1:06-cv-00732-RWR (D.D.C.), a case filed against Libya involving the 1986 bombing of Berlin's LaBelle Discotheque.

ANTITRUST/COMPETITION LAW

Plaintiffs' Steering Committee of *In re Digoxin & Doxycycline Antitrust Litigation*, 16 md 2724 (E.D. Pa.)

Interim Co-Lead Counsel of *In re Solodyn Antitrust Litigation*, 14 cv 2503 (D. Mass.)

Interim Co-Lead Counsel in antitrust class action *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*, MDL No. 2542 (S.D.N.Y.).

Appointed to the Executive Committee in antitrust class action *In re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D.Cal.).

Interim Liaison Counsel *In Re Aggrenox Antitrust Litigation*, MDL No. 2516 (D.Conn.).

Co-lead counsel in antitrust class action *In re Loestrin 24 Fe Antitrust Litigation*, MDL 2472 (D.R.I.).

Co-lead counsel in antitrust class action *In re Suboxone (Bupreorphine Hydrochloride and Naloxone) Antitrust Litigation*, MDL 2445 (E.D. Pa.).

Co-lead counsel in antitrust class action *In re Niaspan Antitrust Litigation*, MDL 2460 (E.D. Pa.).

Co-lead counsel in antitrust class action *In re Effexor XR Antitrust Litigation*, No. 11-cv-05590 (D.N.J.).

Co-lead counsel for the end-payor antitrust class action *In re Actos Antitrust Litigation*, (S.D.N.Y.).

Co-lead counsel in antitrust class action *In re Lipitor Antitrust Litigation*, MDL 2332 (D.N.J.).

CONSUMER PROTECTION, CATASTROPHIC INJURY AND WRONGFUL DEATH

Plaintiffs' Steering Committee of *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC)

Plaintiffs' Steering Committee of *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, No. 17-md-02777-EMC (N.D. Calif.)

Plaintiffs' Executive Committee of *In re General Motors LLC Ignition Switch Litigation*, MDL 2543

Hoover, et al. v. NFL, et al., MDL #2:12-cv-05209-AB (E.D. Pa.).

Lead counsel in *Charleston Firefighter Litigation v. Sofa Super Store, Inc., et al.*, No. 07-CP-10-3186 (Ct. of Common Pleas, Ninth Jud. Cir.), consolidated complex litigation involving the families of nine firefighters who died in a furniture store disaster.

Clifton Chesnut, a minor v. Waupaca Elevator Company, Inc., et al., No. 2013-CP-10-2060 (Ct. of Common Pleas, Ninth Jud. Cir.).

Veronica Lynne Tarjo v. SOCO, Holding, LLC et al., No. 2013-cp-26-2499 (Ct. of Common Pleas, Fifteenth Jud. Cir.).

Satterfield et al. v. Napa Home & Garden Inc., et al., No. 7:11-1514-JMC (D.S.C.).

Plaintiffs' Steering Committee and multiple plaintiffs' counsel, *In re San Juan DuPont Plaza Hotel Fire Litigation*, MDL 721 (D.P.R.).

Strother v. John Wieland Homes and Neighborhoods of the Carolinas, et al., No. 09-CO-29-1783 (Ct. of Common Pleas, Sixth Jud. Cir.), an individual catastrophic personal injury/premise liability case involving life-altering brain injury.

Plaintiffs' Steering Committee and Discovery Committee in *In re Bridgestone/Firestone, Inc. Tires Products Liability Litigation*, MDL 1373

In re Ford Motor Co. E-350 Van Products Liability Litigation (No. II), MDL 1687

Class counsel in *Carol Lee Whitfield, et al., v. Sangamo Weston*, No. 6:84-3184 (D.S.C.), a PCB personal injury and property damage class action settled while pending before U.S. District Court for the District of South Carolina, Greenville Division.

In re Graniteville Train Derailment, No. 2006-CP-02-1032 (Ct. of Common Pleas, Second Jud. Cir.), served in a leadership role for both individual and class action cases in connection with the January 2005 railroad derailment and chemical spill in Graniteville, S.C.

AVIATION DISASTERS AND PASSENGER RIGHTS

Plaintiffs' liaison counsel in *In re September 11 Litigation*, No. 21-MC-97-AKH (S.D.N.Y), representing 56 of the 96 families that opted out of the no-fault federal September 11 Victim Compensation Fund in liability and damages cases claims against the airlines and aviation security companies for their alleged failure to implement basic security measures.

Amanda Tuxworth v. Delta Air Lines, Inc., No. 2:10-cv-03212-RMG (D.S.C), an aviation passenger rights case involving a Delta passenger.

Chris Turner, Individually and as Personal Representative of The Estate of Tracy Turner v. Ramo LLC, a Florida Limited Liability Company, No. 11-14066 (Ct. of Appeals, 11th Cir.), an aviation case involving fraudulent transfer allegations in connection with a fatal plane crash.

Counsel for victims of *Asiana Airlines Flight 214*

Counsel for families of victims of *Malaysia Airlines Flight MH370*

SECURITIES FRAUD

Lead counsel in *City of Warwick Municipal Employees Pension Fund v. Rackspace Hosting, Inc. et al*, No. 1:17-cv-03501 (S.D.N.Y.)

Co-lead counsel in class action *Bennett v. Sprint Nextel Corporation*, No. 2:09-cv-02122-EFM-KMH (D. Kan.), representing the PACE Industry Union-Management Pension Fund (PIUMPF) and several other institutional investors.

Co-class counsel in *Alaska Electrical Pension Fund v. Pharmacia Corp., No. 03-1519 (D.N.J.)*, federal securities fraud litigation alleging that the defendants misrepresented clinical trial results of Celebrex® to make its safety profile appear better than rival drugs.



Lead counsel in *In re Barrick Gold Securities Litigation*, No. 1:13-cv-03851 (RPP) (S.D.N.Y.)

Lead counsel in *Hefler v. Wells Fargo & Co.*, No. 16-cv-05479-JST (N.D. Cal.)

Co-lead counsel in *Ross v. Career Education Corp.* No. 1:12-cv-00276 (N.D. Ill.).

Co-lead counsel representing a group of institutional shareholders in *In re Allion Healthcare, Inc. Shareholders Litigation*, No. 5022-cc (Del. Ch.).

Co-lead counsel representing investors in *Robert Freedman v. St. Jude Medical, Inc.*, No. 0:2012cv03070 (D. Minn.).

Co-lead counsel representing investors in *In re Hewlett-Packard Co. Securities Litigation*, No. SACV 11-1404 AG (RNBx) (C.D. Cal.).

Co-lead counsel in *In re UBS AG Securities Litigation*, No.07 Civ. 11225 (RJS) (S.D.N.Y.).

Co-lead counsel representing institutional investors in *Hill v. State Street Corporation*, No. 09-cv-12146-NG (D. Mass.).

Sole lead counsel representing lead plaintiffs in *City of Brockton Retirement System v. Avon Products, Inc.*, No. 11 Civ. 4665 (PGG) (S.D.N.Y.).

Co-lead counsel on behalf of stockholders in *Marsden v. Select Medical Corporation*, No. 04-cv-4020 (E.D. Pa.).

Co-lead counsel on behalf of a class of investors in *South Ferry LP #2 v. Killinger*, No. C04-1599C-(W.D. Wash.) (regarding Washington Mutual).

Sole lead counsel representing the lead plaintiff in class action, *In re NPS Pharmaceuticals, Inc. Securities Litigation*, No. 2:06-cv-00570-PGC-PMW (D. Utah), concerning the drug PREOS.

Co-lead counsel for co-lead plaintiffs Drywall Acoustic Lathing and Insulation Local 675 Pension Fund and Metzler Investment GmbH in *In re Molson Coors Brewing Co. Securities Litigation*, No. 1:05-cv-00294 (D. Del.).

Co-lead plaintiffs' counsel in shareholder class action *In re The DirecTV Group, Inc. Shareholder Litigation*, No. 4581-VCP (Del. Ch.).

Sole lead counsel in *Manville Personal Injury Settlement Trust v. Gemunder*, No. 10-CI-01212 (Ky. Cir. Ct.) (regarding Omnicare, Inc.), a shareholder derivative complaint stemming from federal investigations into three kickback schemes.

Co-lead plaintiffs' counsel in *City of Sterling Heights General Employees' Retirement System v. Hospira, Inc.*, No. 11 C 8332 (N.D. Ill.), a securities fraud class action.

Co-lead counsel in *In re Rehabcare Group, Inc. Shareholders Litigation*, No. 6197-VCL (Del. Ch.), merger litigation involving the acquisition of healthcare provider RehabCare Group, Inc., by Kindred Healthcare, Inc.

Class counsel in *Brown v. Charles Schwab & Co.*, No. 2:07-cv-03852-DCN (D.S.C.), one of the first cases to interpret the civil liabilities provision of the Uniform Securities Act of 2002.

Co-lead counsel in securities class action settlement *In re MBNA Corporation Securities Litigation*, No. 05-CV-00272-GMS (D.Del.).

Lead counsel for lead plaintiffs in a securities class action involving a group of shareholders who purchased publicly-traded Dell securities in *In re Dell, Inc. Securities Litigation*, No. A-06-CA-726-SS (W.D. Tex.).

Co-lead counsel in *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-6324 (PAM/AJB) (D. Minn.), representing a class of investors who purchased Medtronic common stock.

Co-lead counsel in *In re Synovus Financial Corporation*, No. 1:09-cv-01811 (N.D. Ga.), for co-lead plaintiff Sheet Metal Workers' National Pension Fund, investors in Georgia bank Synovus Financial Corp.

Plaintiffs' Steering Committee and plaintiffs' liaison counsel, *In re Policy Management Systems Corporation*, No. 3:93-0807-JFA (D.S.C.).

Sole lead counsel, *In re Coventry Health Care, Inc. Securities Litigation*, No. 7905-CS (Del. Ch.), a shareholder class action challenging the \$7.2 billion acquisition of Coventry Health Care, Inc., by Aetna, Inc.

Co-lead counsel in Louisiana class action *In re The Shaw Group, Inc. Shareholders Litigation*, No. 614399 (19th Jud. Dist. La.).

Co-lead counsel, *In re Atheros Communications Inc. Shareholder Litigation*, No. 6124-VCN (Del. Ch.), merger litigation involving Qualcomm Incorporated's proposed acquisition of Atheros Communications, Inc.

Bankruptcies

Claimants' committee in *In re A.H. Robins*, a Chapter 11 Reorganization involving Dalkon Shield victims nationwide

Claimants Committee in the *Camall Chapter 11*, the first bankruptcy associated with the Fen-Phen litigation

Motley Rice attorneys currently serve as a member of the trust advisory committee for several of the asbestos bankruptcy trusts formed under 524(g) of the federal bankruptcy code:

AC&S, Inc. Bankr., No. 02-12687 (D. Del.)

Armstrong World Industries, Inc., Bankr. No. 00-4471 (D. Del.)

Babcock & Wilcox Co. Bankr., No. 00-10992 (E.D. La.)

Celotex Corp. Bankr., Nos. 90-10016-8B1, 90-10017-8B1 (M.D. Fla.)

Dresser II Bankr., No. 03-35592 (W.D. PA.)

Federal Mogul Bankr., No. 01-10578 (D. Del.)

G-I Holdings Bankr., Nos. 01-30135 and 01-38790 (D.N.J.)

Johns-Manville Corp., No.82-B11656 through 82 B 11676 (S.D.N.Y., E.D.N.Y.)

Kaiser Aluminum Corp. Bankr., No.02-10429 (D. Del.)

Keene Bankr., No. 93B 46090,96 CV 3492 (S.D.N.Y.)

MH Detrick Bankr., No. 98 B 01004 (N.D. Ill.)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.)

Rock Wool Bankr., Nos. CV-99-J-1589-S.BK -96-08295-TBB-11 (N.D. Ala.)

Rutland Fire Clay Bankr., No. 99-11390 (D. Vt.)

Shook & Fletcher Bankr., No. 02-02771-BGc-11 (N.D. Ala.)

United States Gypsum Corp. Bankr., No. 01-2094 (D. Del.)

W.R. Grace Co. Bankr., No.s 01-1139, 01-1140 (D. Del.)

Motley Rice attorneys have served as lead or co-lead trial counsel on behalf of The Asbestos Claims Committee:

Armstrong World Industries, Inc., Bankr. No. 00-4471 (D. Del.) (estimation trial and plan confirmation trial)

Federal Mogul Bankr., No. 01-10578 (D. Del.) (estimation trial and plan confirmation trial)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.) (estimation trial and substantive consolidation trial)

Pittsburgh Corning Corp. Bankr., No. 00-22876 (W.D. Pa.) (plan confirmation trial)

W.R. Grace Co. Bankr., Nos. 01-1139, 01-1140 (D. Del.) (estimation trial and plan confirmation trial)

Motley Rice attorneys have served on The Asbestos Claims Committee involved in the formation and confirmation of various asbestos bankruptcy trusts.

AC&S Bankr., No. 02-12687 (D. Del.)

Babcock & Wilcox Bankr., No. 00-10992 (E.D. La.)

Celotex Bankr., Nos. 90-10016-8B1, 90-10017-8B1 (M.D. Fla.)

Combustion Engineering Bankr., D. Del. No. 03-10495 (D. Del.)

Congoleum Corp. Bankr., No.03-51524 (D.N.J.)

Durabla Corp. Bankr., No. 09-14415 (D. Del.)

Federal Mogul Bankr., No. 01-10578 (D. Del.)

G-I Holdings Bankr., Nos. 01-30135 and 01-38790 (D. N.J.)

Johns-Manville Corp., No.82-B11656 through 82 B 11676 (E.D.N.Y.)

Keene Bankr., No. 93B 46090,96 CV 3492 (S.D.N.Y.)

MH Detrick Bankr., No. 98 B 01004 (N.D. Ill.)

North American Refractories Corp. Bankr., No. 02-20198 (W.D. Pa.)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.)

Pittsburgh Corning Corp. Bankr., No. 00-22876 (W.D. Pa.)

Rock Wool Bankr., Nos. CV-99-J-1589-S.BK-96-08295-TBB-11 (N.D. Ala.)

Rutland Fire Clay Bankr., No. 99-11390 (D. Vt.)

Shook and Fletcher Bankr., No. 02-02771-BGc-11 (N.D. Ala.)

United States Gypsum Corp. Bankr., No. 01-2094 (D. Del.)

W.R. Grace Co. Bankr., No.s 01-1139, 01-1140 (D. Del.)



ACCOLADES FOR THE FIRM

The Plaintiffs' Hot List

The National Law Journal

2006 • 2012 • 2013 • 2014 • 2015 • 2016

"Best Law Firm"

U.S. News – Best Lawyers®

mass tort litigation/class actions-plaintiffs

2010 • 2011 • 2012 • 2013 • 2014 • 2015 • 2016 • 2017

***The Legal 500 United States* Litigation editions**

mass tort and class action: plaintiff representation-toxic tort

2007 • 2009 • 2011 • 2012 • 2013 • 2014 • 2015 • 2016 • 2017

"Elite Trial Lawyers"

The National Law Journal

2014 • 2015

"Most Feared Plaintiffs Firm"

Law360

2013 • 2015

For full methodologies and selection criteria, visit www.motleyrice.com/award-methodology

Please remember that every case is different. Although they endorse certain lawyers, *The Legal 500 United States* and *Chambers USA* and other similar organizations listed above are not Motley Rice clients. Any result we achieve for one client in one matter does not necessarily indicate similar results can be obtained for other clients.

Joseph F. Rice

LICENSED IN: DC, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court

U.S. Court of Appeals for the Second, Third, Fourth and Fifth Circuits

U.S. District Court for the District of Nebraska and the District of South Carolina

EDUCATION:

J.D., University of South Carolina School of Law, 1979

B.S., University of South Carolina, 1976

Motley Rice co-founder Joe Rice is recognized as a skillful and innovative negotiator of complex litigation settlements, having served as the lead negotiator in some of the largest civil actions our courts have seen in the last 20 years. *Corporate Legal Times* reported that national defense counsel and legal scholars described Joe as one of the nation's "five most feared and respected plaintiffs' lawyers in corporate America." As the article notes, "For all his talents as a shrewd negotiator ... Rice has earned most of his respect from playing fair and remaining humble."

Joe was recognized by some of the nation's best-regarded defense lawyers as being "the smartest dealmaker they ever sat across the table from," *Thomson Reuters* has reported. Professor Samuel Issacharoff of the New York University School of Law, a well-known professor and expert in class actions and complex litigation, has commented that he is "the best strategic thinker on the end stages of litigation that I've ever seen."

Since beginning to practice law in 1979, Joe has continued to reinforce his reputation as a skillful negotiator, including through his involvement structuring some of the most significant resolutions of asbestos liabilities on behalf of those injured by asbestos-related products. He negotiates for the firm's clients at all levels, including securities and consumer fraud, anti-terrorism, human rights, environmental, medical drugs and devices, as well as catastrophic injury and wrongful death cases.

Most recently, Joe has been involved in litigation filed by multiple states, cities and counties alleging deceptive marketing of highly addictive opioid prescription painkillers. In addition, Joe was appointed to the Plaintiffs' Steering Committee for *In re Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Products Liability Litigation*. Previously, Joe served as one of the lead negotiators in the \$15 billion Volkswagen Diesel Emissions Fraud class action settlement for 2.0-liter vehicles, the largest auto-related consumer class action settlement in U.S. history, as well as the 3.0-liter settlement. He also has led negotiations on behalf of thousands of women in the transvaginal mesh litigation that has five MDLs pending in the state of West Virginia. Joe is a member of the Plaintiffs' Steering Committee for the Lipitor® multidistrict litigation and the Plaintiffs' Executive Committee for *In re General Motors LLC Ignition Switch Litigation*.

Other notable litigation and cases that have benefited from Joe's involvement include:

BP OIL SPILL:

Joe served as a co-lead negotiator for the Plaintiffs' Steering Committee in reaching the two settlements with BP, one of which is the largest civil class action settlement in U.S. history. The Economic and Property Damages Rule 23 Class Action Settlement is estimated to make payments totaling between \$7.8 billion and \$18 billion to class members. Joe was also one of the lead negotiators of the \$1.028 billion settlement reached between the Plaintiffs' Steering Committee and Halliburton Energy Services, Inc., for Halliburton's role in the disaster.

9/11:

Joe held a crucial role in executing strategic mediations and/or resolutions on behalf of 56 families of 9/11 victims who opted out of the government-created September 11 Victim Compensation Fund. In addition to providing answers, accountability and recourse to victims' families, the resulting settlements with multiple defendants shattered a settlement matrix developed and utilized for decades. The litigation also helped provide public access to evidence uncovered for the trial.

TOBACCO:

As lead private counsel for 26 jurisdictions, including numerous State Attorneys General, Joe was integral to the crafting and negotiating of the landmark Master Settlement Agreement, in which the tobacco industry agreed to reimburse states for smoking-related health costs. This remains the largest civil settlement in U.S. history.

ASBESTOS:

Joe held leadership and negotiating roles involving the bankruptcies of several large organizations, including AWI, Federal Mogul, Johns Manville, Celotex, Garlock, W.R. Grace, Babcock & Wilcox, U.S. Gypsum, Owens Corning and Pittsburgh Corning. He has also worked on numerous Trust Advisory Committees. Today, he maintains a critical role in settlements involving asbestos manufacturers emerging from bankruptcy and has been recognized for his work in structuring significant resolutions in complex personal injury litigation for asbestos liabilities on behalf of victims injured by asbestos-related products. Joe has served as co-chair of Perrin Conferences' Asbestos Litigation Conference, the largest national asbestos-focused conference.

Joe is often sought by investment funds for guidance on litigation strategies to increase shareholder value, enhance corporate governance reforms and recover assets. He was an integral part of the shareholder derivative action against Omnicare, Inc., *Manville Personal Injury Settlement Trust v. Gemunder*, which resulted in a significant settlement for shareholders as well as new corporate governance policies for the corporation.

Joe serves on the Board of Advisors for Emory University's Institute for Complex Litigation and Mass Claims, which facilitates bipartisan discussion of ways to improve the civil justice system through the hosting of judicial seminars, bar conferences, academic programs, and research. In 1999 and 2000, he served on the faculty at Duke University School of Law



as a Senior Lecturing Fellow, and taught classes on the art of negotiating at the University of South Carolina School of Law, Duke University School of Law and Charleston School of Law.

In 2013, he and the firm created the Ronald L. Motley Scholarship Fund at The University of South Carolina School of Law in memory and honor of co-founding member and friend, Ron Motley.

AWARDS AND ACCOLADES:

The LawdragonTM

2016 *500 Leading Lawyers in America*: Plaintiffs' litigation

Chambers USA

2016 Product Liability: Plaintiffs –Nationwide, Band 2

Law360

2015 "Product Liability MVP"

The Best Lawyers in America[®]

2013 "Lawyer of the Year" Charleston, SC: mass tort litigation/class actions – plaintiffs

2007–2018 Mass tort litigation/class actions plaintiffs

Benchmark Litigation

2012–2013 National "Litigation Star": mass tort/product liability

2012–2016 South Carolina "Litigation Star": environmental, mass tort/product liability

South Carolina Super Lawyers[®] list

2008–2017 Class action/mass torts; Securities litigation; General litigation

SC Lawyers Weekly

2012 Leadership in Law Award

University of South Carolina School of Law Alumni Association

2011 Platinum Compleat Lawyer Award

The Legal 500 United States, Litigation edition

2011–2012, 2014–2017 Mass tort and class action: plaintiff representation – toxic tort

The National Trial Lawyers

2010 Top 100 Trial LawyersTM – South Carolina

National Association of Attorneys General

1998 President's Award

MUSC Children's Hospital

2010 Johnnie Dodds Award: in honor of his longtime support of the annual Bulls Bay Golf Challenge Fundraiser and continued work on behalf of our community's children

University of South Carolina

2011 Garnet Award: in recognition of Joe and his family for their passion for and devotion to Gamecock athletics

SC Junior Golf Association Programs

2011 Tom Fazio Service to Golf Award: in recognition of promotional efforts

COMMUNITY INVOLVEMENT:

Dee Norton Lowcountry Children's Center, Co-chair for inaugural Campaign for the Next Child

First Tee of Greater Charleston, Board of Advisors

ASSOCIATIONS:

American Association for Justice

American Bar Association

American Inns of Court

American Constitution Society for Law and Policy

South Carolina Association for Justice

* Although they endorse this lawyer, neither *The Legal 500 United States* nor Professor Samuel Issacharoff are Motley Rice clients.

Michael M. Buchman

LICENSED IN: CT, NY

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court

U.S. Court of Appeals for the Second Circuit

U.S. District Court for the Districts of Connecticut and

Southern and Eastern Districts of New York

U.S. Court of International Trade

EDUCATION:

LL.M., International Antitrust and Trade Law, Fordham University School of Law, 1993

J.D., The John Marshall Law School, 1992

B.A. *cum laude*, Alfred University, 1988

Michael Buchman has more than 20 years of experience, primarily litigating antitrust, consumer protection and privacy class actions in trial and appellate courts. Michael has a diverse antitrust background, having represented as lead or co-lead counsel a variety of plaintiff clients, from Fortune 500 companies to individual consumers, in complex cases covering matters such as restraint of trade, price-fixing, generic drug antitrust issues and anticompetitive "reverse payment" agreements between brand name pharmaceutical companies and generic companies. Michael leads Motley Rice's antitrust team.

Michael served as an Assistant Attorney General in the New York State Attorney General's Office, Antitrust Bureau, after receiving his LL.M. degree in International Antitrust and Trade Law. Also prior to joining Motley Rice, he was a managing partner of the antitrust department at a New York-based class action law firm. He played an active role in resolving two of the largest U.S. multi-billion dollar antitrust settlements since the Sherman Act was enacted, *In re NASDAQ Market-Makers Antitrust Litigation* and *In re Visa Check/Mastermoney Antitrust Litigation*, as well as litigated numerous multi-million dollar antitrust cases. Today, he represents the largest retailer class representative in the \$7.2 billion case *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720.*

Michael has more than thirteen years of experience representing consumers, union health and welfare plans, and health insurers in "generic drug" litigation such as *In re Augmentin Antitrust Litigation*, *In re Buspirone Antitrust Litigation*, *In re Ciprofloxacin Antitrust Litigation*, *In re Flonase Antitrust Litigation*, *In re K-Dur*



28 Bridgeside Blvd. | Mt. Pleasant, SC 29464

SC | RI | CT | NY | WV | DC | LA | MO

Joseph F. Rice (DC, SC) is the attorney responsible for this communication.

Prior results do not guarantee a similar outcome.

PD: 01.05.2018

EXHIBIT 19

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

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

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X

No. 1:13-cv-07789-LGS

**DECLARATION OF JOSEPH D. COHEN
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF GLANCY PRONGAY & MURRAY LLP**

I, Joseph D. Cohen, declare as follows:

1. I am a partner at the law firm of Glancy Prongay & Murray LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel: (a) reviewed, analyzed and coded documents under the auspices of Lead Counsel; (b) prepared electronic summaries and/or memoranda of "hot" and important documents for Lead Counsel based on the document review; (c) performed and/or managed special assignments related to documents produced by Defendants at the request of Lead Counsel; (d) assisted Lead Counsel in preparing motion to compel letter briefs; (e) worked with Plaintiffs' consulting and testifying expert witnesses to facilitate their evaluation of

the facts and the preparation of their reports; and (f) worked with Lead Counsel on settlement related assignments.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 have been accepted by courts in other complex or class action litigation, or are consistent with rates that have been accepted for similar work by Glancy Prongay & Murray attorneys of comparable experience.

5. The total number of hours reflected in Exhibit 1 is 11,530.50. The total lodestar reflected in Exhibit 1 is \$4,621,494.50, consisting of \$4,619,494.50 of attorney time and \$2,000.00 of professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$99,400.14 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

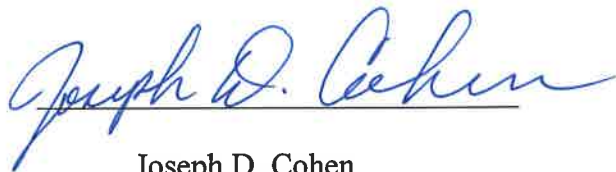
- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.

A handwritten signature in blue ink, reading "Joseph D. Cohen", is written over a horizontal line.

Joseph D. Cohen

EXHIBIT 1**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
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**GLANCY PRONGAY & MURRAY LLP
TIME REPORT****Through December 31, 2017**

TIMEKEEPER/CASE	STATUS	HOURS	HOURLY RATE	LODESTAR
ATTORNEYS:				
Brian Murray	Partner	15.40	825.00	12,705.00
Joseph Cohen	Partner	96.25	825.00	79,406.25
Lee Albert	Partner	10.60	825.00	8,745.00
Kara Wolke	Partner	11.80	700.00	8,260.00
Jonathan M. Rotter	Partner	146.40	700.00	102,480.00
Graham Clegg	Associate	2,630.00	395.00	1,038,850.00
Mehrdaud Jafarnia	Associate	4,248.20	395.00	1,678,039.00
Noreen R. Scott	Associate	2,128.10	380.00	808,678.00
Dana K. Vincent	Associate	2,233.75	395.00	882,331.25
TOTAL ATTORNEY		11,520.50		4,619,494.50
PARALEGALS:				
Peter Schock	Paralegal	10.00	200.00	2,000.00
TOTAL PARALEGAL		10.00		2,000.00
TOTAL LODESTAR		11,530.50		4,621,494.50

EXHIBIT 2**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
-----	X	

**GLANCY PRONGAY & MURRAY LLP
EXPENSE REPORT****Through December 31, 2017**

CATEGORY OF EXPENSE	AMOUNT
COURT FEES	235.00
ONLINE LEGAL RESEARCH	437.12
POSTAGE & EXPRESS MAIL	1.86
HAND DELIVERY CHARGES	65.34
LOCAL TRANSPORTATION	36.00
OUT OF TOWN TRAVEL (AIRFARE, HOTEL, AUTO)*	3,313.16
MEALS**	311.66
LITIGATION FUND	95,000.00
GRAND TOTAL	99,400.14

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night.

** All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**GLANCY PRONGAY & MURRAY LLP
FIRM RÉSUMÉ AND BIOGRAPHIES**



1925 Century Park East, Suite 2100
 Los Angeles, CA 90067
 T: 310.201.9150

FIRM RESUME

Glancy Prongay & Murray LLP (the “Firm”) has represented investors, consumers and employees for over 25 years. Based in Los Angeles, with offices in New York City and Berkeley, the Firm has successfully prosecuted class action cases and complex litigation in federal and state courts throughout the country. As Lead Counsel or as a member of Plaintiffs’ Counsel Executive Committees, the Firm has recovered billions of dollars for parties wronged by corporate fraud and malfeasance. Indeed, the Institutional Shareholder Services unit of RiskMetrics Group has recognized the Firm as one of the top plaintiffs’ law firms in the United States in its Securities Class Action Services report for every year since the inception of the report in 2003. The Firm’s efforts have been publicized in major newspapers such as the *Wall Street Journal*, the *New York Times*, and the *Los Angeles Times*.

Glancy Prongay & Murray’s commitment to high quality and excellent personalized services has boosted its national reputation, and we are now recognized as one of the premier plaintiffs’ firms in the country. The Firm works tenaciously on behalf of clients to produce significant results and generate lasting corporate reform.

The Firm’s integrity and success originate from our attorneys, who are among the brightest and most experienced in the field. Our distinguished litigators have an unparalleled track record of investigating and prosecuting corporate wrongdoing. The Firm is respected for both the zealous advocacy with which we represent our clients’ interests as well as the highly-professional and ethical manner by which we achieve results. We are ideally positioned to interpret securities litigation, consumer litigation, antitrust litigation, and derivative and corporate takeover litigation. The Firm’s outstanding accomplishments are the direct result of the exceptional talents of our attorneys and employees.

Appointed as Lead or Co-Lead Counsel by judges throughout the United States, Glancy Prongay & Murray has achieved significant recoveries for class members, including:

In re Mercury Interactive Corporation Securities Litigation, USDC Northern District of California, Case No. 05-3395-JF, in which the Firm served as Co-Lead Counsel and achieved a settlement valued at over \$117 million.

In re Real Estate Associates Limited Partnership Litigation, USDC Central District of California, Case No. 98-7035-DDP, in which the Firm served as local counsel and plaintiffs achieved a \$184 million jury verdict after a complex six week trial in Los Angeles, California and later settled the case for \$83 million.

The City of Farmington Hills Employees Retirement System v. Wells Fargo Bank, N.A., USDC District of Minnesota, Case No. 10-cv-04372-DWF/JJG, in which the Firm served as Co-Lead Counsel and achieved a settlement valued at \$62.5 million.

In re Lumenis, Ltd. Securities Litigation, USDC Southern District of New York, Case No.02-CV-1989-DAB, in which the Firm served as Co-Lead Counsel and achieved a settlement valued at over \$20 million.

In re Heritage Bond Litigation, USDC Central District of California, Case No. 02-ML-1475-DT, where as Co-Lead Counsel, the Firm recovered in excess of \$28 million for defrauded investors and continues to pursue additional defendants.

In re ECI Telecom Ltd. Securities Litigation, USDC Eastern District of Virginia, Case No. 01-913-A, in which the Firm served as sole Lead Counsel and recovered almost \$22 million for defrauded ECI investors.

Jenson v. First Trust Corporation, USDC Central District of California, Case No. 05-cv-3124-ABC, in which the Firm was appointed sole lead counsel and achieved an \$8.5 million settlement in a very difficult case involving a trustee's potential liability for losses incurred by investors in a Ponzi scheme. Kevin Ruf of the Firm also successfully defended in the 9th Circuit Court of Appeals the trial court's granting of class certification in this case.

Yaldo v. Airtouch Communications, State of Michigan, Wayne County, Case No. 99-909694-CP, in which the Firm served as Co-Lead Counsel and achieved a settlement valued at over \$32 million for defrauded consumers.

In re Infonet Services Corporation Securities Litigation, USDC Central District of California, Case No. CV 01-10456-NM, in which as Co-Lead Counsel, the Firm achieved a settlement of \$18 million.

In re Musicmaker.com Securities Litigation, USDC Central District of California, Case No. 00-02018-CAS, a securities fraud class action in which the Firm was sole Lead Counsel for the Class and recovered in excess of \$13 million.

In re ESC Medical Systems, Ltd. Securities Litigation, USDC Southern District of New York, Case No. 98 Civ. 7530-NRB, a securities fraud class action in which the Firm served as sole Lead Counsel for the Class and achieved a settlement valued in excess of \$17 million.

In re Lason, Inc. Securities Litigation, USDC Eastern District of Michigan, Case No. 99 76079-AJT, in which the Firm was Co-Lead Counsel and recovered almost \$13 million for defrauded Lason stockholders.

In re Inso Corp. Securities Litigation, USDC District of Massachusetts, Case No. 99 10193-WGY, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement valued in excess of \$12 million.

In re National TechTeam Securities Litigation, USDC Eastern District of Michigan, Case No. 97-74587-AC, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement valued in excess of \$11 million.

In re Ramp Networks, Inc. Securities Litigation, USDC Northern District of California, Case No. C-00-3645-JCS, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of nearly \$7 million.

In re Gilat Satellite Networks, Ltd. Securities Litigation, USDC Eastern District of New York, Case No. 02-1510-CPS, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of \$20 million.

Taft v. Ackermans (KPNQwest Securities Litigation), USDC Southern District of New York, Case No. 02-CV-07951-PKL, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement worth \$11 million.

Ree v. Procom Technologies, Inc., USDC Southern District of New York, Case No. 02-CV-7613-JGK, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of \$2.7 million.

Capri v. Comerica, Inc., USDC Eastern District of Michigan, Case No. 02-CV-60211-MOB, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of \$6.0 million.

Tatz v. Nanophase Technologies Corp., USDC Northern District of Illinois, Case No. 01-C-8440-MCA, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of \$2.5 million.

In re Livent, Inc. Noteholders Litigation, USDC Southern District of New York, Case No. 99 Civ 9425-VM, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of over \$27 million.

Plumbing Solutions Inc. v. Plug Power, Inc., USDC Eastern District of New York, Case No. CV 00 5553-ERK, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of over \$5 million.

Schleicher v. Wendt, (Conseco Securities Litigation), USDC Southern District of Indiana, Case No. 02-1332-SEB, a securities fraud class action in which the Firm served as Lead Counsel for the Class and achieved a settlement of over \$41 million.

Lapin v. Goldman Sachs, USDC Southern District of New York, Case No. 03-0850-KJD, a securities fraud class action in which the Firm served as Co-Lead Counsel for the Class and achieved a settlement of \$29 million.

Senn v. Sealed Air Corporation, USDC New Jersey, Case No. 03-cv-4372-DMC, a securities fraud class action, in which the Firm acted as co-lead counsel for the Class and achieved a settlement of \$20 million.

The Firm filed the initial landmark antitrust lawsuit against all of the major NASDAQ market makers and served on Plaintiffs' Counsel's Executive Committee in *In re Nasdaq Market-Makers Antitrust Litigation*, USDC Southern District of New York, Case No. 94 C 3996-RWS, MDL Docket No. 1023, which recovered \$900 million for investors in numerous heavily traded Nasdaq issues.

Glancy Prongay & Murray has also previously acted as Class Counsel in obtaining substantial benefits for shareholders in a number of actions, including:

In re F & M Distributors Securities Litigation,
Eastern District of Michigan, Case No. 95 CV 71778-DT (Executive Committee Member) (\$20.25 million settlement)

James F. Schofield v. McNeil Partners, L.P. Securities Litigation,
California Superior Court, County of Los Angeles, Case No. BC 133799

Resources High Equity Securities Litigation,
California Superior Court, County of Los Angeles, Case No. BC 080254

The Firm has served and currently serves as Class Counsel in a number of antitrust class actions, including:

In re Nasdaq Market-Makers Antitrust Litigation,
USDC Southern District of New York, Case No. 94 C 3996-RWS, MDL Docket No. 1023

In re Brand Name Prescription Drug Antitrust Litigation,
USDC Northern District of Illinois, Eastern Division, Case No. 94 C 897-CPK

Glancy Prongay & Murray has been responsible for obtaining favorable appellate opinions which have broken new ground in the class action or securities fields, or which have promoted shareholder rights in prosecuting these actions. The Firm successfully argued the appeals in a number of cases:

In *Smith v. L'Oreal*, 39 Cal.4th 77 (2006), Firm partner Kevin Ruf established ground-breaking law when the California Supreme Court agreed with the Firm's position that waiting penalties under the California Labor Code are available to *any* employee after termination of employment, regardless of the reason for that termination.

Other notable Firm cases are: *Silber v. Mabon I*, 957 F.2d 697 (9th Cir. 1992) and *Silber v. Mabon II*, 18 F.3d 1449 (9th Cir. 1994), which are the leading decisions in the Ninth Circuit regarding the rights of opt-outs in class action settlements. In *Rothman v. Gregor*, 220 F.3d 81 (2d Cir. 2000), the Firm won a seminal victory for investors before the Second Circuit Court of Appeals, which adopted a more favorable pleading standard

for investors in reversing the District Court's dismissal of the investors' complaint. After this successful appeal, the Firm then recovered millions of dollars for defrauded investors of the GT Interactive Corporation. The Firm also argued *Falkowski v. Imation Corp.*, 309 F.3d 1123 (9th Cir. 2002), *as amended*, 320 F.3d 905 (9th Cir. 2003) and favorably obtained the substantial reversal of a lower court's dismissal of a cutting edge, complex class action initiated to seek redress for a group of employees whose stock options were improperly forfeited by a giant corporation in the course of its sale of the subsidiary at which they worked. The revived action is currently proceeding in the California state court system.

The Firm is also involved in the representation of individual investors in court proceedings throughout the United States and in arbitrations before the American Arbitration Association, National Association of Securities Dealers, New York Stock Exchange, and Pacific Stock Exchange. Mr. Glancy has successfully represented litigants in proceedings against such major securities firms and insurance companies as A.G. Edwards & Sons, Bear Stearns, Merrill Lynch & Co., Morgan Stanley, PaineWebber, Prudential, and Shearson Lehman Brothers.

One of the Firm's unique skills is the use of "group litigation" - the representation of groups of individuals who have been collectively victimized or defrauded by large institutions. This type of litigation brought on behalf of individuals who have been similarly damaged often provides an efficient and effective economic remedy that frequently has advantages over the class action or individual action devices. The Firm has successfully achieved results for groups of individuals in cases against major corporations such as Metropolitan Life Insurance Company, and Occidental Petroleum Corporation.

Glancy Prongay & Murray LLP currently consists of the following attorneys:

PARTNERS

LEE ALBERT, a partner, was admitted to the bars of the Commonwealth of Pennsylvania, the State of New Jersey, and the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey in 1986. He received his B.S. and M.S. degrees from Temple University and Arcadia University in 1975 and 1980, respectively, and received his J.D. degree from Widener University School of Law in 1986. Upon graduation from law school, Mr. Albert spent several years working as a civil litigator in Philadelphia, PA. Mr. Albert has extensive litigation and appellate practice experience having argued before the Supreme and Superior Courts of Pennsylvania and has over fifteen years of trial experience in both jury and non-jury cases and arbitrations. Mr. Albert has represented a national health care provider at trial obtaining injunctive relief in federal court to enforce a five-year contract not to compete on behalf of a national health care provider and injunctive relief on behalf of an undergraduate university.

Currently, Mr. Albert represents clients in all types of complex litigation including matters concerning violations of federal and state antitrust and securities laws, mass tort/product liability and unfair and deceptive trade practices. Some of Mr. Albert's current major cases include *In Re Automotive Wire Harness Systems Antitrust Litigation* (E.D. Mich.); *In Re Heater Control Panels Antitrust Litigation* (E.D. Mich.); *Kleen Products, et al. v. Packaging Corp. of America* (N.D. Ill.); and *In re Class 8 Transmission Indirect Purchaser Antitrust Litigation* (D. Del.). Previously, Mr. Albert had a significant role in *Marine Products Antitrust Litigation* (C.D. Cal.); *Baby Products Antitrust Litigation* (E.D. Pa.); *In re ATM Fee Litigation* (N.D. Cal.); *In re Canadian Car Antitrust Litigation* (D. Me.); *In re Broadcom Securities Litigation* (C.D. Cal.); and has worked on *In re Avandia Marketing, Sales Practices and Products Liability Litigation* (E.D. Pa.); *In re Ortho Evra Birth Control Patch Litigation* (N.J. Super. Ct., Middlesex County); *In re AOL Time Warner, Inc. Securities Litigation* (S.D.N.Y.); *In re WorldCom, Inc. Securities Litigation* (S.D.N.Y.); and *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct.).

JOSEPH D. COHEN has extensive complex civil litigation experience, and currently oversees the firm's settlement department, negotiating, documenting and obtaining court approval of the firm's securities, merger and derivative settlements.

Prior to joining the firm, Mr. Cohen successfully prosecuted numerous securities fraud, consumer fraud, antitrust and constitutional law cases in federal and state courts throughout the country. Cases in which Mr. Cohen took a lead role include: *Jordan v. California Dep't of Motor Vehicles*, 100 Cal. App. 4th 431 (2002) (complex action in which the California Court of Appeal held that California's Non-Resident Vehicle \$300 Smog Impact Fee violated the Commerce Clause of the United States Constitution, paving the way for the creation of a \$665 million fund and full refunds, with interest, to 1.7 million motorists); *In re Geodyne Res., Inc. Sec. Litig.* (Harris Cty. Tex.) (settlement of securities fraud class action, including related litigation, totaling over \$200 million); *In re Cmty. Psychiatric Centers Sec. Litig.* (C.D. Cal.) (settlement of \$55.5 million was obtained from the company and its auditors, Ernst & Young, LLP); *In re McLeodUSA Inc., Sec. Litig.* (N.D. Iowa) (\$30 million settlement); *In re Arakis Energy Corp. Sec. Litig.* (E.D.N.Y.) (\$24 million settlement); *In re Metris Cos., Inc., Sec. Litig.* (D. Minn.) (\$7.5 million settlement); *In re Landry's Seafood Rest., Inc. Sec. Litig.* (S.D. Tex.) (\$6 million settlement); and *Freedman v. Maspeth Fed. Loan and Savings Ass'n*, (E.D.N.Y.) (favorable resolution of issue of first impression under RESPA resulting in full recovery of improperly assessed late fees).

Mr. Cohen was also a member of the teams that obtained substantial recoveries in the following cases: *In re: Foreign Exchange Benchmark Rates Antitrust Litig.* (S.D.N.Y.) (partial settlements of approximately \$2 billion); *In re Washington Mutual Mortgage-Backed Sec. Litig.* (W.D. Wash.) (settlement of \$26 million); *Mylan Pharm., Inc. v. Warner Chilcott Public Ltd. Co.* (E.D. Pa.) (\$8 million recovery in antitrust action on behalf of class of indirect purchasers of the prescription drug Doryx); *City of Omaha Police and Fire Ret. Sys. v. LHC Group, Inc.* (W.D. La.) (securities class action settlement of \$7.85 million); and *In re Pacific Biosciences of Cal., Inc. Sec. Litig.* (Cal. Super. Ct.) (\$7.6 million recovery).

In addition, Mr. Cohen was previously the head of the settlement department at Bernstein Litowitz Berger & Grossmann LLP. While at BLB&G, Mr. Cohen had primary responsibility for overseeing the team working on the following settlements, among others: *In Re Merck & Co., Inc. Sec., Deriv. & "ERISA" Litig.* (D.N.J.) (\$1.062 billion securities class action settlement); *New York State Teachers' Ret. Sys. v. General Motors Co.* (E.D. Mich.) (\$300 million securities class action settlement); *In re JPMorgan Chase & Co. Sec. Litig.* (S.D.N.Y.) (\$150 million settlement); *Dep't of the Treasury of the State of New Jersey and its Division of Inv. v. Cliffs Natural Res. Inc., et al.* (N.D. Ohio) (\$84 million securities class action settlement); *In re Penn West Petroleum Ltd. Sec. Litig.* (S.D.N.Y.) (\$19.76 million settlement); and *In re BioScrip, Inc. Sec. Litig.* (\$10.9 million settlement).

JOSHUA L. CROWELL, a partner in the firm's Los Angeles office, concentrates his practice on prosecuting complex securities cases on behalf of investors.

Recently he helped lead the successful resolution of *In re Penn West Petroleum Ltd. Securities Litigation*, No. 1:14-cv-06046-JGK (S.D.N.Y.), resulting in a \$19 million settlement for the U.S. shareholder class as part of a \$39 million global settlement. He also helped lead the prosecution of *In re Puda Coal Inc. Securities Litigation*, No. 1:11-cv-2598 (DLC) (S.D.N.Y.), resulting in a rare settlement against underwriter defendants for securities fraud of \$8.6 million.

Prior to joining Glancy Prongay & Murray LLP, Joshua was an Associate at Labaton Sucharow LLP in New York, where he substantially contributed to some of the firm's biggest successes. There he helped secure several large federal securities class settlements, including: *In re Countrywide Financial Corp. Securities Litigation*, No. CV 07-05295 MRP (MANx) (C.D. Cal.) – \$624 million; *In re Schering-Plough Corp. / ENHANCE Securities Litigation*, No. 08-397 (DMC) (JAD) (D.N.J.) – \$473 million; *In re Broadcom Corp. Class Action Litigation*, No. CV-06-5036-R (CWx) (C.D. Cal.) – \$173.5 million; *In re Fannie Mae 2008 Securities Litigation*, No. 08-civ-7831-PAC (S.D.N.Y.) – \$170 million; and the *Oppenheimer Champion Fund* and *Core Bond Fund* actions, Nos. 09-cv-525-JLK-KMT and 09-cv-1186-JLK-KMT (D. Colo.) – \$100 million combined. He began his legal career as an Associate at Paul, Hastings, Janofsky & Walker LLP in New York, primarily representing financial services clients in commercial litigation.

Super Lawyers has selected Joshua as a Rising Star in the area of Securities Litigation from 2015 through 2017.

Prior to attending law school, Joshua was a Senior Economics Consultant at Ernst & Young LLP, where he priced intercompany transactions and calculated the value of intellectual property. Joshua received a J.D., cum laude, from The George Washington University Law School. During law school, he was an Associate of The George Washington Law Review and a member of the Mock Trial Board. He was also a law intern for Chief Judge Edward J. Damich of the United States Court of Federal Claims. Joshua earned a B.A. in International Relations from Carleton College.

LIONEL Z. GLANCY, a graduate of University of Michigan Law School, is the founding partner of the Firm. After serving as a law clerk for United States District Judge Howard McKibben, he began his career as an associate at a New York law firm concentrating in securities litigation. Thereafter, he started a boutique law firm specializing in securities litigation, and other complex litigation, from the Plaintiff's perspective. Mr. Glancy has established a distinguished career in the field of securities litigation over the last fifteen years, having appeared and been appointed lead counsel on behalf of aggrieved investors in securities class action cases throughout the country. He has appeared and argued before dozen of district courts and a number of appellate courts. His efforts have resulted in the recovery of hundreds of millions of dollars in settlement proceeds for huge classes of shareholders. Well known in securities law, he has lectured on its developments and practice, including having lectured before Continuing Legal Education seminars and law schools.

Mr. Glancy was born in Windsor, Canada, on April 4, 1962. Mr. Glancy earned his undergraduate degree in political science in 1984 and his Juris Doctor degree in 1986, both from the University of Michigan. He was admitted to practice in California in 1988, and in Nevada and before the U.S. Court of Appeals, Ninth Circuit, in 1989.

MARC L. GODINO has extensive experience successfully litigating complex, class action lawsuits as a plaintiffs' lawyer. Since joining the firm in 2005, Mr. Godino has played a primary role in cases resulting in settlements of more than \$100 million. He has prosecuted securities, derivative, merger & acquisition, and consumer cases throughout the country in both state and federal court, as well as represented defrauded investors at FINRA arbitrations. Mr. Godino manages the Firm's consumer class action department.

While a senior associate with Stull Stull & Brody, Mr. Godino was one of the two primary attorneys involved in *Small v. Fritz Co.*, 30 Cal. 4th 167 (April 7, 2003), in which the California Supreme Court created new law in the State of California for shareholders that held shares in detrimental reliance on false statements made by corporate officers. The decision was widely covered by national media including The National Law Journal, the Los Angeles Times, the New York Times, and the New York Law Journal, among others, and was heralded as a significant victory for shareholders.

Mr. Godino's successes with Glancy Prongay & Murray LLP include: *Good Morning To You Productions Corp., et al., v. Warner/Chappell Music, Inc., et al.*, Case No. 13-04460 (C.D. Cal.) (In this highly publicized case that attracted world-wide attention, Plaintiffs prevailed on their claim that the song "Happy Birthday" should be in the public domain and achieved a \$14,000,000 settlement to class members who paid a licensing fee for the song); *Ord v. First National Bank of Pennsylvania*, Case No. 12-766 (W. D. Pa.) (\$3,000,000 settlement plus injunctive relief); *Pappas v. Naked Juice Co. of Glendora, Inc.*, Case No. 11-08276 (C.D. Cal.) (\$9,000,000 settlement plus injunctive relief); *Astiana v. Kashi Company*, Case No. 11-1967 (S.D. Cal.) (\$5,000,000 settlement); *In re Magma Design Automation, Inc. Securities Litigation*, Case No. 05-2394 (N.D. Cal.) (\$13,500,000 settlement); *In re Hovnanian Enterprises, Inc. Securities Litigation*, Case No. 08-cv-0099 (D.N.J.) (\$4,000,000 settlement); *In re Skilled Healthcare Group, Inc.*

Securities Litigation, Case No. 09-5416 (C.D. Cal.) (\$3,000,000 settlement); *Kelly v. Phiten USA, Inc.*, Case No. 11-67 (S.D. Iowa) (\$3,200,000 settlement plus injunctive relief); (*Shin et al. v. BMW of North America*, 2009 WL 2163509 (C.D. Cal. July 16, 2009) (after defeating a motion to dismiss, the case settled on very favorable terms for class members including free replacement of cracked wheels); *Payday Advance Plus, Inc. v. MIVA, Inc.*, Case No. 06-1923 (S.D.N.Y.) (\$3,936,812 settlement); *Esslinger, et al. v. HSBC Bank Nevada, N.A.*, Case No. 10-03213 (E.D. Pa.) (\$23,500,000 settlement); *In re Discover Payment Protection Plan Marketing and Sales Practices Litigation*, Case No. 10-06994 (\$10,500,000 settlement); *Sciortino v. Pepsico, Inc.*, Case No. 14-478 (N.D. CA) (obtained nationwide injunctive relief requiring certain Pepsico products to comply with California's Proposition 65); *In Re: Bank of America Credit Protection Marketing and Sales Practices Litigation*, Case No. 11-md-02269 (N.D. Cal.) (\$20,000,000 settlement).

Mr. Godino was also the principal attorney in the following published decisions: *Kramer v. Toyota Motor Corp.*, 705 F. 3d 1122 (9th Cir. 2013) (affirming denial of Defendant's motion to compel arbitration); *In re Zappos.com, Inc., Customer Data Sec. Breach Litigation*, 893 F. Supp. 2d 1058 (D. Nev. Sep 27, 2012) (motion to compel arbitration denied); *Sateriale, et al. v. R.J. Reynolds Tobacco Co.*, 697 F. 3d 777 (9th Cir. 2012) (reversing order dismissing class action complaint); *Lilly v. Jamba Juice Company*, 2014 WL 4652283 (N.D. Cal. Sep 18, 2014) (class certification granted in part); *Small v. University Medical Center of Southern Nevada*, 2013 WL 3043454 (D. Nev. June 14, 2013) (order granting conditional certification to FLSA class); *Peterson v. ConAgra Foods, Inc.*, 2014 WL 3741853 (S. D. Cal. July 29, 2014) (motion to dismiss denied); *In re 2TheMart.com Securities Litigation*, 114 F. Supp. 2d 955 (C.D. Cal. 2002) (motion to dismiss denied); *In re Irvine Sensors Securities Litigation*, 2003 U.S. Dist. LEXIS 18397 (C.D. Cal. 2003) (motion to dismiss denied); *Shin v. BMW of North America*, 2009 WL 2163509 (C.D. Cal. July 16, 2009) (motion to dismiss denied).

The following represent just a few of the cases Mr. Godino is currently litigating in a leadership position: *Griffith v. Government Employees Insurance Company, et al.*, Case No. 16-00112 (N.D. Cal.); *Cortina, et al., v. Goya Foods, Inc.*, Case No. 14-169 (S.D. Cal.) (after defeating a motion to dismiss and motion for judgment on the pleadings, summary judgment and class certification motions are pending); *Peterson v. CJ America, Inc.*, Case No. 14-2570 (S.D. Cal.) (\$1,500,000 settlement pending final approval); *Castillo, et al., v. Seagate Technology LLC*, Case No. 16-01958 (N.D. Cal.) (motion to dismiss pending); *Small v. University Medical Center of Southern Nevada*, Case No. 13-00298 (D. Nev.); *Reniger, et al., v. Hyundai Motor America, et al.*, Case No. 14-03612 (N.D. Cal.); *Smith, et al., v. The Ohio State University*, Case No. 20015-00919 (Court of Claims of Ohio) (motion to dismiss pending); *Courtright, et al., v. O'Reilly Automotive Stores, Inc., et al.*, Case No. 14-334 (W.D. Mo); *In re: Michaels Stores, Inc. Fair Credit Reporting Act Litigation*, Case no. 15-05504 (D. N.J.).

MARK S. GREENSTONE specializes in consumer, financial fraud and employment-related class actions. Possessing significant law and motion and trial experience, Mr. Greenstone has represented clients in multi-million dollar disputes in California state and federal courts, as well as the Court of Federal Claims in Washington, D.C.

Mr. Greenstone received his training as an associate at Sheppard, Mullin, Richter & Hampton LLP where he specialized in complex business litigation relating to investment management, government contracts and real estate. Upon leaving Sheppard Mullin, Mr. Greenstone founded an internet-based company offering retail items on multiple platforms nationwide. He thereafter returned to law bringing a combination of business and legal skills to his practice.

Mr. Greenstone graduated Order of the Coif from the UCLA School of Law. He also received his undergraduate degree in Political Science from UCLA, where he graduated Magna Cum Laude and was inducted into the Phi Beta Kappa honor society.

Mr. Greenstone is a member of the Consumer Attorneys Association of Los Angeles, the Santa Monica Bar Association and the Beverly Hills Bar Association. He is admitted to practice in state and federal courts throughout California.

SUSAN G. KUPFER is the founding partner of the Firm's Berkeley office and head of the Firm's Antitrust Practice Group. Ms Kupfer joined the Firm in 2003. She is a native of New York City, and received her A.B. degree from Mount Holyoke College in 1969 and her Juris Doctor degree from Boston University School of Law in 1973. She did graduate work at Harvard Law School and, in 1977, was named Assistant Dean and Director of Clinical Programs at Harvard, supervising and teaching in that program of legal practice and related academic components.

For much of her legal career, Ms. Kupfer has been a professor of law. Her areas of academic expertise are Civil Procedure, Federal Courts, Conflict of Laws, Constitutional Law, Legal Ethics, and Jurisprudence. She has taught at Harvard Law School, Hastings College of the Law, Boston University School of Law, Golden Gate University School of Law, and Northeastern University School of Law. From 1991 through 2002, she was a lecturer on law at the University of California, Berkeley, Boalt Hall, teaching Civil Procedure and Conflict of Laws. Her publications include articles on federal civil rights litigation, legal ethics, and jurisprudence. She has also taught various aspects of practical legal and ethical training, including trial advocacy, negotiation and legal ethics, to both law students and practicing attorneys.

Ms. Kupfer previously served as corporate counsel to The Architects Collaborative in Cambridge and San Francisco, and was the Executive Director of the Massachusetts Commission on Judicial Conduct. She returned to the practice of law in San Francisco with Morgenstein & Jubelirer and Berman DeValerio LLP before joining the Firm.

Ms. Kupfer's practice is concentrated in complex antitrust litigation. She currently serves, or has served, as Co-Lead Counsel in several multidistrict antitrust cases: *In re Photochromic Lens Antitrust Litig.* (MDL 2173, M.D. Fla. 2010); *In re Fresh and Process Potatoes Antitrust Litig.* (D. ID. 2011); *In re Korean Air Lines Antitrust Litig.* (MDL No. 1891, C.D. Cal. 2007); *In re Urethane Antitrust Litigation* (MDL 1616, D. Kan. 2004); *In re Western States Wholesale Natural Gas Litigation* (MDL 1566, D. Nev. 2005); and *Sullivan et al v. DB Investments et al* (D. N.J. 2004). She has been a member of the

lead counsel teams that achieved significant settlements in: *In re Sorbates Antitrust Litigation* (\$96.5 million settlement); *In re Pillar Point Partners Antitrust Litigation* (\$50 million settlement); and *In re Critical Path Securities Litigation* (\$17.5 million settlement).

Ms. Kupfer is a member of the bar of Massachusetts and California, and is admitted to practice before the United States District Courts for the Northern, Central, Eastern and Southern Districts of California, the District of Massachusetts, the Courts of Appeals for the First and Ninth Circuits, and the U.S. Supreme Court.

GREGORY B. LINKH works out of the New York office, where he specializes in securities, shareholder derivative, antitrust, and consumer litigation. Greg graduated from the State University of New York at Binghamton in 1996 and from the University of Michigan Law School in 1999. While in law school, Greg externed with United States District Judge Gerald E. Rosen of the Eastern District of Michigan. Greg was previously associated with the law firms Dewey Ballantine LLP, Pomerantz Haudek Block Grossman & Gross LLP, and Murray Frank LLP.

Greg is the co-author of *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004); *Staying Derivative Action Pursuant to PSLRA and SLUSA*, NEW YORK LAW JOURNAL, P. 4, COL. 4 (Oct. 21, 2005) and the SECURITIES REFORM ACT LITIGATION REPORTER, Vol. 20, No. 3 (Dec. 2005).

BRIAN MURRAY is the managing partner of the Firm's New York office. He received Bachelor of Arts and Master of Arts degrees from the University of Notre Dame in 1983 and 1986, respectively. He received a Juris Doctor degree, *cum laude*, from St. John's University School of Law in 1990. At St. John's, he was the Articles Editor of the ST. JOHN'S LAW REVIEW. Mr. Murray co-wrote: *Jurisdição Estrangeira Tem Papel Relevante Na De Fiesa De Investidores Brasileiros*, ESPAÇA JURÍDICO BOVESPA (August 2008); *The Proportionate Trading Model: Real Science or Junk Science?*, 52 CLEVELAND ST. L. REV. 391 (2004-05); *The Accident of Efficiency: Foreign Exchanges, American Depository Receipts, and Space Arbitrage*, 51 BUFFALO L. REV. 383 (2003); *You Shouldn't Be Required To Plead More Than You Have To Prove*, 53 BAYLOR L. REV. 783 (2001); *He Lies, You Die: Criminal Trials, Truth, Perjury, and Fairness*, 27 NEW ENGLAND J. ON CIVIL AND CRIMINAL CONFINEMENT 1 (2001); *Subject Matter Jurisdiction Under the Federal Securities Laws: The State of Affairs After Itoba*, 20 MARYLAND J. OF INT'L L. AND TRADE 235 (1996); *Determining Excessive Trading in Option Accounts: A Synthetic Valuation Approach*, 23 U. DAYTON L. REV. 316 (1997); *Loss Causation Pleading Standard*, NEW YORK LAW JOURNAL (Feb. 25, 2005); *The PSLRA 'Automatic Stay' of Discovery*, NEW YORK LAW JOURNAL (March 3, 2003); and *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004). He also authored *Protecting The Rights of International Clients in U.S. Securities Class Action Litigation*, INTERNATIONAL LITIGATION NEWS (Sept. 2007); *Lifting the PSLRA "Automatic Stay" of Discovery*, 80 N. DAK. L. REV. 405 (2004); *Aftermarket Purchaser Standing Under § 11 of the Securities Act of 1933*, 73 ST. JOHN'S L. REV. 633 (1999); *Recent Rulings Allow Section 11 Suits By Aftermarket Securities Purchasers*, NEW YORK LAW JOURNAL

(Sept. 24, 1998); and *Comment, Weissmann v. Freeman: The Second Circuit Errs in its Analysis of Derivative Copy-rights by Joint Authors*, 63 ST. JOHN'S L. REV. 771 (1989).

Mr. Murray was on the trial team that prosecuted a securities fraud case under Section 10(b) of the Securities Exchange Act of 1934 against Microdyne Corporation in the Eastern District of Virginia and he was also on the trial team that presented a claim under Section 14 of the Securities Exchange Act of 1934 against Artek Systems Corporation and Dynatach Group which settled midway through the trial.

Mr. Murray's major cases include *In re Eagle Bldg. Tech. Sec. Litig.*, 221 F.R.D. 582 (S.D. Fla. 2004), 319 F. Supp. 2d 1318 (S.D. Fla. 2004) (complaint against auditor sustained due to magnitude and nature of fraud; no allegations of a "tip-off" were necessary); *In re Turkcell Iletisim A.S. Sec. Litig.*, 209 F.R.D. 353 (S.D.N.Y. 2002) (defining standards by which investment advisors have standing to sue); *In re Turkcell Iletisim A.S. Sec. Litig.*, 202 F. Supp. 2d 8 (S.D.N.Y. 2001) (liability found for false statements in prospectus concerning churn rates); *Feiner v. SS&C Tech., Inc.*, 11 F. Supp. 2d 204 (D. Conn. 1998) (qualified independent underwriters held liable for pricing of offering); *Malone v. Microdyne Corp.*, 26 F.3d 471 (4th Cir. 1994) (reversal of directed verdict for defendants); and *Adair v. Bristol Tech. Systems, Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998) (aftermarket purchasers have standing under section 11 of the Securities Act of 1933). Mr. Murray also prevailed on an issue of first impression in the Superior Court of Massachusetts, in *Cambridge Biotech Corp. v. Deloitte and Touche LLP*, in which the court applied the doctrine of continuous representation for statute of limitations purposes to accountants for the first time in Massachusetts. 6 Mass. L. Rptr. 367 (Mass. Super. Jan. 28, 1997). In addition, in *Adair v. Microfield Graphics, Inc.* (D. Or.), Mr. Murray settled the case for 47% of estimated damages. In the *Qiao Xing Universal Telephone* case, claimants received 120% of their recognized losses.

Among his current cases, Mr. Murray represents a class of investors in a securities litigation involving preferred shares of Deutsche Bank and is co-lead counsel in a securities litigation on behalf of investors in FitBit, Inc. Mr. Murray is also currently co-lead counsel in *Avenarius, et al., v. Eaton Corp., et al.* (D. Del.), an antitrust class action against the world's largest commercial truck and transmission manufactures.

Mr. Murray served as a Trustee of the Incorporated Village of Garden City (2000-2002); Commissioner of Police for Garden City (2000-2001); Co-Chairman, Derivative Suits Subcommittee, American Bar Association Class Action and Derivative Suits Committee, (2007-Present); Member, Sports Law Committee, Association of the Bar for the City of New York, 1994-1997; Member, Litigation Committee, Association of the Bar for the City of New York, 2003-2007; Member, New York State Bar Association Committee on Federal Constitution and Legislation, 2005-2008; Member, Federal Bar Council, Second Circuit Committee, 2007-present.

Mr. Murray has been a panelist at CLEs sponsored by the Federal Bar Council and the Institute for Law and Economic Policy, at the German-American Lawyers Association Annual Meeting in Frankfurt, Germany, and is a frequent lecturer before institutional investors in Europe and South America on the topic of class actions.

LESLEY F. PORTNOY represents domestic and international clients in securities litigation and class actions. Mr. Portnoy focuses his practice on recovering losses suffered by investors resulting corporate fraud and other wrongdoing.

Mr. Portnoy has extensive experience litigating complex cases in state and federal courts nationwide, and previously served as counsel to investors in the Bernard L. Madoff securities, assisting the SIPC trustee Irving Picard in recovering assets on behalf of defrauded investors. During law school, he worked in the New York Supreme Court Commercial Division, the Second Circuit Court of Appeals, and the New York City Law Department. Mr. Portnoy has represented pro bono clients in New York and California.

ROBERT V. PRONGAY is a partner in the Firm's Los Angeles office where he focuses on the investigation, initiation, and prosecution of complex securities cases on behalf of institutional and individual investors. Mr. Prongay's practice concentrates on actions to recover investment losses resulting from violations of the federal securities laws and various actions to vindicate shareholder rights in response to corporate and fiduciary misconduct.

Mr. Prongay has extensive experience litigating complex cases in state and federal courts nationwide. Since joining the Firm, Mr. Prongay has successfully recovered millions of dollars for investors victimized by securities fraud and has negotiated the implementation of significant corporate governance reforms aimed at preventing the recurrence of corporate wrongdoing.

Mr. Prongay was recently recognized as one of thirty lawyers included in the Daily Journal's list of Top Plaintiffs Lawyers in California for 2017. Several of Mr. Prongay's cases have received national and regional press coverage. Mr. Prongay has been interviewed by journalists and writers for national and industry publications, ranging from *The Wall Street Journal* to the *Los Angeles Daily Journal*. Mr. Prongay has appeared as a guest on Bloomberg Television where he was interviewed about the securities litigation stemming from the high-profile initial public offering of Facebook, Inc.

Mr. Prongay received his Bachelor of Arts degree in Economics from the University of Southern California and his Juris Doctor degree from Seton Hall University School of Law. Mr. Prongay is also an alumnus of the Lawrenceville School.

JONATHAN M. ROTTER leads the Firm's intellectual property litigation practice. He recently served for three years as the first Patent Pilot Program Law Clerk at the United States District Court for the Central District of California, both in Los Angeles and Orange County. There, he assisted the Honorable S. James Otero, Andrew J. Guilford, George H. Wu, John A. Kronstadt, and Beverly Reid O'Connell with hundreds of patent cases in every major field of technology, from complaint to post-trial motions. Mr. Rotter also served as a law clerk for the Honorable Milan D. Smith, Jr. on the United States Court of Appeals for the Ninth Circuit.

Before his service to the court, Mr. Rotter practiced at an international law firm, where he argued appeals at the Federal Circuit, Ninth Circuit, and California Court of Appeal, tried cases, argued motions, and managed all aspects of complex litigation. He also served as a volunteer criminal prosecutor for the Los Angeles City Attorney's Office. His cases have involved diverse technologies in both "wet" and "dry" disciplines, and he excels at the critical skill of translating complex subject matter into a coherent story that can be digested by judges and juries.

In addition to intellectual property matters, Mr. Rotter litigates consumer protection, antitrust, and securities class actions. Mr. Rotter handles cases on contingency, partial contingency, and hourly bases. He works collaboratively with other lawyers and law firms across the country.

Mr. Rotter graduated with honors from Harvard Law School in 2004. He served as an editor of the Harvard Journal of Law & Technology, and was a Fellow in Law and Economics at the John M. Olin Center for Law, Economics, and Business, and a Fellow in Justice, Welfare, and Economics at the Weatherhead Center For International Affairs. He graduated with honors from the University of California, San Diego in 2000 with a B.S. in molecular biology and a B.A. in music.

Mr. Rotter serves on the Merit Selection Panel for Magistrate Judges in the Central District of California, and the Model Patent Jury Instructions and Model Patent Local Rules subcommittees of the American Intellectual Property Law Association. He has written extensively on intellectual property issues, and has been honored for his work with legal service organizations. He is admitted to practice before the United States Patent & Trademark Office, the United States Courts of Appeals for the Ninth and Federal Circuits, and the United States District Courts for the Northern, Central, and Southern Districts of California.

KEVIN F. RUF graduated from the University of California at Berkeley in 1984 with a Bachelor of Arts in Economics and earned his Juris Doctor degree from the University of Michigan in 1987. Mr. Ruf was admitted to the State Bar of California in 1988. Mr. Ruf was an associate at the Los Angeles firm Manatt Phelps and Phillips from 1988 until 1992, where he specialized in commercial litigation and was a leading trial lawyer among the associates there. In 1993, he joined the firm Corbin & Fitzgerald in order to gain experience in criminal law. There, he specialized in white collar criminal defense work, including matters related to National Medical Enterprises, Cynergy Film Productions and the Estate of Doris Duke. Mr. Ruf joined the Firm in 2001 and has taken a lead trial lawyer role in many of the Firm's cases. In 2006, Mr. Ruf argued before the California Supreme Court in the case *Smith v. L'Oreal* and achieved a unanimous reversal of the lower court rulings; the case established a fundamental right of all California workers to immediate payment of all earnings at the conclusion of employment. In 2007, Mr. Ruf took an important case before the Ninth Circuit Court of Appeals, convincing the Court to affirm the lower court's certification of a class action in a fraud case (fraud cases have traditionally faced difficulty as class actions because of the requirement of individual reliance). Mr. Ruf has extensive trial experience, including jury trials, and considers his courtroom and oral advocacy skills to be his strongest

asset as a litigator. Mr. Ruf currently acts as the Head of the Firm's Labor and Consumer Practice, and has extensive experience in securities cases as well. Mr. Ruf also has experience in real estate law and has been a Licensed California Real Estate Broker since 1999.

CASEY E. SADLER is a native of New York, New York. After graduating from the University of Southern California, Gould School of Law, Mr. Sadler joined the Firm in 2010. While attending law school, Mr. Sadler externed for the Enforcement Division of the Securities and Exchange Commission, spent a summer working for P.H. Parekh & Co. – one of the leading appellate law firms in New Delhi, India – and was a member of USC's Hale Moot Court Honors Program.

Mr. Sadler's practice focuses on securities and consumer litigation. A partner in the Firm's Los Angeles office, Mr. Sadler is admitted to the State Bar of California and the United States District Courts for the Northern, Southern, and Central Districts of California.

EX KANO S. SAMS II earned his Bachelor of Arts degree in Political Science from the University of California Los Angeles. Mr. Sams earned his Juris Doctor degree from the University of California Los Angeles School of Law, where he served as a member of the *UCLA Law Review*. After law school, Mr. Sams practiced class action civil rights litigation on behalf of plaintiffs. Subsequently, Mr. Sams was a partner at Coughlin Stoia Geller Rudman & Robbins LLP (currently Robbins Geller Rudman & Dowd LLP) – the largest plaintiffs' class action firm in the country – where his practice focused on securities and consumer class actions on behalf of investors and consumers.

Mr. Sams has served as lead counsel in dozens of securities class actions, shareholder derivative actions, and complex-litigation cases throughout the United States. Mr. Sams participated in a successful appeal before a Fifth Circuit panel that included former United States Supreme Court Justice Sandra Day O'Connor sitting by designation, in which the court unanimously vacated the lower court's denial of class certification, reversed the lower court's grant of summary judgment, and issued an important decision on the issue of loss causation in securities litigation: *Alaska Electrical Pension Fund v. Flowserve Corp.*, 572 F.3d 221 (5th Cir. 2009). The case settled for \$55 million.

Mr. Sams has also obtained other significant results. Notable examples include: *In re King Digital Entertainment plc Shareholder Litig.*, No. CGC-15-544770 (San Francisco Superior Court) (case settled for \$18.5 million); *In re Castlight Health, Inc. Shareholder Litig.*, Lead Case No. CIV533203 (California Superior Court, County of San Mateo) (case settled for \$9.5 million); *Wiley v. Envivio, Inc.*, Master File No. CIV517185 (California Superior Court, County of San Mateo) (case settled for \$8.5 million); *In re CafePress Inc. Shareholder Litig.*, Master File No. CIV522744 (California Superior Court, County of San Mateo) (case settled for \$8 million); *Robinson v. Audience, Inc.*, Case No. 1:12-cv-232227 (California Superior Court, County of Santa Clara) (case settled for \$6,050,000); *Estate of Gardner v. Continental Casualty Company*, No. 3:13-cv-1918 (JBA), 2016 WL 806823 (D. Conn. Mar. 1, 2016) (granting class certification); *Forbush v. Goodale*, No. 33538/2011, 2013 WL 582255 (N.Y. Sup. Feb. 4, 2013)

(denying motions to dismiss in a shareholder derivative action); *Curry v. Hansen Med., Inc.*, No. C 09-5094 CW, 2012 WL 3242447 (N.D. Cal. Aug. 10, 2012) (upholding securities fraud complaint; case settled for \$8.5 million); *Wilkof v. Caraco Pharm. Labs., Ltd.*, 280 F.R.D. 332 (E.D. Mich. 2012) (granting class certification in a securities-fraud action); *Puskala v. Koss Corp.*, 799 F. Supp. 2d 941 (E.D. Wis. 2011) (upholding securities fraud complaint); *Mishkin v. Zynex Inc.*, Civil Action No. 09-cv-00780-REB-KLM, 2011 WL 1158715 (D. Colo. Mar. 30, 2011) (denying defendants' motion to dismiss securities fraud complaint); and *Tsirekidze v. Syntax-Brilliant Corp.*, No. CV-07-02204-PHX-FJM, 2009 WL 2151838 (D. Ariz. July 17, 2009) (granting class certification; case settled for \$10 million).

Additionally, Mr. Sams has successfully represented consumers in class action litigation. Mr. Sams worked on nationwide litigation and a trial against major tobacco companies, and in statewide tobacco litigation that resulted in a \$12.5 billion recovery for California cities and counties in a landmark settlement. He also was a principal attorney in a consumer class action against one of the largest banks in the country that resulted in a substantial recovery and a change in the company's business practices. Mr. Sams also participated in settlement negotiations on behalf of environmental organizations along with the United States Department of Justice and the Ohio Attorney General's Office that resulted in a consent decree requiring a company to perform remediation measures to address the effects of air and water pollution.

KARA M. WOLKE is a partner in the firm's Los Angeles office. Ms. Wolke specializes in complex litigation, including the prosecution of securities fraud, derivative, consumer, and wage and hour class actions. She has extensive experience in written appellate advocacy in both State and Federal Circuit Courts of Appeals, and has successfully argued before the Court of Appeals for the State of California.

With over a decade of experience in financial class action litigation, Ms. Wolke has helped to recover hundreds of millions of dollars for injured investors, consumers, and employees. Notable cases include: *Farmington Hills Employees' Retirement System v. Wells Fargo Bank*, Case No. 10-4372 (D. Minn.) (\$62.5 million settlement on behalf of participants in Wells Fargo's securities lending program. The settlement was reached on the eve of trial and ranked among the largest recoveries achieved in a securities lending class action stemming from the 2008 financial crisis.); *Schleicher, et al. v. Wendt, et al.* (Conseco), Case No. 02-cv-1332 (S.D. Ind.) (\$41.5 million securities class action settlement); *Lapin v. Goldman Sachs*, Case No. 03-850 (S.D.N.Y.) (\$29 million securities class action settlement); *In Re: Mannkind Corporation Securities Litigation*, Case No. 11-929 (C.D. Cal) (approximately \$22 million settlement - \$16 million in cash plus stock); *Jenson v. First Trust Corp.*, Case No. 05-3124 (C.D. Cal.) (\$8.5 million settlement of action alleging breach of fiduciary duty and breach of contract against trust company on behalf of a class of elderly investors); and *Pappas v. Naked Juice Co.*, Case No. 11-08276 (C.D. Cal.) (\$9 million settlement in consumer class action alleging misleading labeling of juice products as "All Natural").

With a background in intellectual property, Ms. Wolke was a part of the team of lawyers who successfully challenged the claim of copyright ownership to the song "Happy

Birthday to You” on behalf of artists and filmmakers who had been forced to pay hefty licensing fees to publicly sing the world’s most famous song. In the resolution of that action, the defendant music publishing company funded a settlement of \$14 million and, significantly, agreed to relinquish the song to the public domain. Previously, Ms. Wolke penned an article regarding the failure of U.S. Copyright Law to provide an important public performance right in sound recordings, 7 Vand. J. Ent. L. & Prac. 411, which was nationally recognized and received an award by the American Bar Association and the Grammy® Foundation.

Committed to the provision of legal services to the poor, disadvantaged, and other vulnerable or disenfranchised individuals and groups, Ms. Wolke also oversees the Firm’s pro bono practice. Ms. Wolke currently serves as a volunteer attorney for KIND (Kids In Need of Defense), representing unaccompanied immigrant and refugee children in custody and deportation proceedings, and helping them to secure legal permanent residency status in the U.S.

Ms. Wolke graduated summa cum laude with a Bachelor of Science in Economics from The Ohio State University in 2001. She subsequently earned her J.D. (with honors) from Ohio State, where she was active in Moot Court and received the Dean’s Award for Excellence during each of her three years.

Ms. Wolke is admitted to the State Bar of California, the Ninth Circuit Court of Appeals, as well as the United States District Courts for the Northern, Southern, and Central Districts of California. She lives with her husband and two sons in Los Angeles.

SENIOR COUNSEL

JASON L. KRAJCKER is senior counsel in the firm’s Los Angeles office. He specializes in complex securities cases and has extensive experience in all phases of litigation (fact investigation, pre-trial motion practice, discovery, trial, appeal).

Prior to joining Glancy Prongay & Murray LLP, Mr. Krajcer was an Associate at Goodwin Procter LLP where he represented issuers, officers and directors in multi-hundred million and billion dollar securities cases. He began his legal career at Orrick, Herrington & Sutcliffe LLP, where he represented issuers, officers and directors in securities class actions, shareholder derivative actions, and matters before the U.S. Securities & Exchange Commission.

Mr. Krajcer is admitted to the State Bar of California, the Bar of the District of Columbia, the United States Supreme Court, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central and Southern Districts of California.

OF COUNSEL

PETER A. BINKOW has prosecuted lawsuits on behalf of consumers and investors in state and federal courts throughout the United States. He served as Lead or Co-Lead Counsel in many class action cases, including: *In re Mercury Interactive Securities Litigation* (\$117.5 million recovery); *Schleicher v Wendt* (Conseco Securities litigation - \$41.5 million recovery); *Lapin v Goldman Sachs* (\$29 million recovery); *In re Heritage Bond Litigation* (\$28 million recovery); *In re National Techteam Securities Litigation* (\$11 million recovery for investors); *In re Lason Inc. Securities Litigation* (\$12.68 million recovery), *In re ESC Medical Systems, Ltd. Securities Litigation* (\$17 million recovery); and many others. In *Schleicher v Wendt*, Mr. Binkow successfully argued the seminal Seventh Circuit case on class certification, in an opinion authored by Chief Judge Frank Easterbrook. He has argued and/or prepared appeals before the Ninth Circuit, Seventh Circuit, Sixth Circuit and Second Circuit Courts of Appeals.

Mr. Binkow joined the Firm in 1994. He was born on August 16, 1965 in Detroit, Michigan. Mr. Binkow obtained a Bachelor of Arts degree from the University of Michigan in 1988 and a Juris Doctor degree from the University of Southern California in 1994.

ASSOCIATES

GRAHAM CLEGG received his J.D. in 1988 from the Manchester University School of Law in England, with Honors. He was admitted to the New York State Bar in 2002. Mr. Clegg has significant experience in the prosecution of class claims, including *In re Bristol-Myers Squibb Securities Litigation*, which settled for \$185 million.

CHRISTOPHER FALLON focuses on securities, consumer, and anti-trust litigation. Prior to joining the firm, Mr. Fallon was a contract attorney with O'Melveny & Myers LLP working on anti-trust and business litigation disputes. He is a Certified E-Discovery Specialist through the Association of Certified E-Discovery Specialists (ACEDS).

Mr. Fallon earned his J.D. and a Certificate in Dispute Resolution from Pepperdine Law School in 2004. While attending law school, Christopher worked at the Pepperdine Special Education Advocacy Clinic and interned with the Rhode Island Office of the Attorney General. Prior to attending law school, he graduated from Boston College with a Bachelor of Arts in Economics and a minor in Irish Studies, then served as Deputy Campaign Finance Director on a U.S. Senate campaign.

BRYAN FAUBUS is based in the New York office. His work includes securities, antitrust, and consumer litigation.

Mr. Faubus received his B.A. in Urban Studies, with Honors, from the University of Texas at Austin in 2005. He received his J.D., cum laude, from Duke University School of Law, where he was the Online Editor of the Duke Law Journal. Mr. Faubus authored *Narrowing the Bankruptcy Safe Harbor for Derivatives to Combat Systemic Risk*, 59 DUKE L.J. 801 (2010). Prior to joining Glancy Prongay & Murray he practiced commercial litigation and real estate law at two large, international law firms.

MEHRDAUD JAFARNIA received his J.D. in 2001 from Southwestern University School of Law, having earlier earned a B.A. in Political Science/International Relations from the University of California at Los Angeles (UC Regents Merit Scholarship Award and the Vance Burch Scholarship). Mr. Jafarnia served as a Staff Attorney for the 9th Circuit Court of Appeals and has represented financial institutions in adversary and evidentiary proceedings in the Bankruptcy Courts.

THOMAS J. KENNEDY works out of the New York office, where he focuses on securities, antitrust, and consumer litigation. He received a Juris Doctor degree from St. John's University School of Law in 1995. At St. John's, he was a member of the ST. JOHN'S JOURNAL OF LEGAL COMMENTARY. Mr. Kennedy graduated from Miami University in 1992 with a Bachelor of Science degree in Accounting and has passed the CPA exam. Mr. Kennedy was previously associated with the law firm Murray Frank LLP.

JENNIFER M. LEINBACH served for nearly five years as a judicial law clerk for a number of judges in the Central District of California. As a judicial law clerk, Ms. Leinbach was responsible for assisting these judges with case management, preparing for hearings and trial, and drafting rulings. Ms. Leinbach worked on a variety of different cases, including cases involving financial fraud, insolvency and complex civil litigation. Ms. Leinbach was also responsible for assisting those judges, sitting by designation, on appellate cases.

Ms. Leinbach graduated magna cum laude from Vermont Law School and was a member of Vermont Law Review, where she focused on environmental law issues. During law school, Ms. Leinbach served as a judicial extern in the District of Vermont. She obtained her undergraduate degree cum laude from Pepperdine University.

CHARLES H. LINEHAN graduated summa cum laude from the University of California, Los Angeles with a Bachelor of Arts degree in Philosophy and a minor in Mathematics. Mr. Linehan received his Juris Doctor degree from the UCLA School of Law, where he was a member of the UCLA Moot Court Honors Board. While attending law school, Mr. Linehan participated in the school's First Amendment Amicus Brief Clinic (now the Scott & Cyan Banister First Amendment Clinic) where he worked with nationally recognized scholars and civil rights organizations to draft amicus briefs on various Free Speech issues.

DANIELLE L. MANNING received her Bachelor of Arts degree with honors in Environmental Analysis from Claremont McKenna College. Ms. Manning received her Juris Doctor degree from the University of California Los Angeles School of Law, where she served as Chief Managing Editor of the Journal of Environmental Law and Policy. While attending law school, Ms. Manning externed for the Honorable Laurie D. Zelon in the California Court of Appeal and interned for the California Department of Justice, Office of the Attorney General. Prior to law school, Ms. Manning worked as a paralegal in a large law firm.

ALEXA MULLARKY graduated cum laude from the University of Washington with a Bachelor of Arts degree in Law, Societies, and Justice. Ms. Mullarky received her Juris Doctor degree from the USC Gould School of Law, where she was a member of the Hale Moot Court Honors Program Executive Board. While attending law school, Ms. Mullarky interned in the legal department of Southern California Edison, a Fortune 500 company, where she worked in energy regulations.

JARED F. PITT focuses on securities, consumer, and anti-trust litigation. Prior to joining the firm, Mr. Pitt was an associate at Willoughby Doyle LLP and was a senior financial statement auditor for KMPG LLP where he earned his CPA license.

Mr. Pitt earned his J.D. from Loyola Law School in 2010. Prior to attending law school he graduated with honors from both the University of Michigan's Ross School of Business and USC's Marshall School of Business where he received a Masters of Accounting.

NOREEN R. SCOTT received her J.D. in 2002 from Tulane Law School and earned a B.A. in Economics from Emory University in 1999. She served as a law clerk to the Hon. Charles R. Jones on the Louisiana State Court of Appeal, and has extensive experience prosecuting complex class action cases.

LEANNE HEINE SOLISH graduated *summa cum laude* from Tulane University with a B.S.M. in Accounting and Finance in 2007, and she received her J.D. from the University of Texas School of Law in 2011. While attending law school, Leanne was an editor for the Texas International Law Journal, a student attorney for the Immigration and Worker Rights Clinics, and she externed with MALDEF and the Texas Civil Rights Project. Leanne is a member of the Beta Gamma Sigma Business Honors Society. She is a registered CPA in Illinois, and was admitted to the California State Bar in 2011.

GARTH A. SPENCER is based in the New York office. His work includes securities, antitrust, and consumer litigation. Mr. Spencer also works on whistleblower matters.

Mr. Spencer received his B.A. in Mathematics from Grinnell College in 2006. He received his J.D. in 2011 from Duke University School of Law, where he was a staff editor on the Duke Law Journal. From 2011 until 2014 he worked in the tax group of a large, international law firm. Since 2014 he has worked on tax whistleblower matters. Mr. Spencer received his LL.M. in Taxation from New York University in 2016 immediately prior to joining the firm.

DANA K. VINCENT received her J.D. in 2002 from Georgetown University Law Center in Washington D.C. and her B.A. cum laude from Spellman College in 1995. Dana also earned an M.A. in Economics from the New School in 1999, where she was the Aaron Diamond Fellow. Ms. Vincent has served as a Law Clerk to the Hon. Sterling Johnson, Jr. of Brooklyn, NY, and has significant experience in the New York Office of the Attorney General where she served as an Assistant Attorney General from 2003-2006. She was a consultant to the Marshall Project, an online journalism organization focusing on U.S. Criminal Justice issues.

MELISSA WRIGHT received her J.D. from the UC Davis School of Law in 2012, where she was a board member of Tax Law Society and externed for the California Board of Equalization's Tax Appeals Assistance Program focusing on consumer use tax issues. Ms. Wright also graduated from NYU School of Law, where she received her LL.M. in Taxation in 2013.

EXHIBIT 20

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

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**DECLARATION OF TODD SEAVER
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF BERMAN TABACCO**

I, Todd Seaver, declare as follows:

1. I am a partner at the law firm of Berman Tabacco, one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, represents named plaintiff, settlement class representative and putative litigation class representative Fresno County Employees’ Retirement Association (“FCERA”), a public pension fund with over \$4.5 billion in assets. The following are the principal services performed by Berman Tabacco in the Action to date:

i In conjunction with Lead Counsel, contributed to the first amended complaint with regard to fact allegations supporting antitrust injury and regarding client FCERA’s f/x transactions;

ii Participated in document preservation efforts at direction of Lead Counsel, including meet-and-confers with counsel for defendants Deutsche Bank, Goldman Sachs, Barclays, HSBC, BNP Paribas, JP Morgan, RBS, and Morgan Stanley;

iii In conjunction with Lead Counsel, contributed to Plaintiffs' opposition to Defendants' 12(b)(6) motion to dismiss;

iv Regularly communicated with client FCERA regarding litigation events and settlements;

v Dedicated staff attorneys and partner oversight to the search and collection of documents from client FCERA, and the review of the documents for responsiveness to document requests and for privilege; in addition, managed collection and production of FCERA's f/x transaction data;

vi At the direction of Lead Counsel, dedicated two experienced attorneys to the review and analysis of Defendants' documents, including the chatroom communications of various Defendants;

vii Prepared client FCERA for Rule 30(b)(6) deposition, and as of the date of this Declaration, set to defend the deposition of FCERA in mid-January 2018.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31,

2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 4,743.65. The total lodestar reflected in Exhibit 1 is \$2,374,482.00, consisting of \$2,356,450.00 for attorneys' time and \$18,032.00 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$78,624.57 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and the attorneys and professional staff for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.


Todd Seaver

EXHIBIT 1

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

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**BERMAN TABACCO
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Barenbaum, Daniel	107.80	\$760.00	\$81,928.00
DeValerio, Kyle	1,338.4	\$640.00	\$856,576.00
DeValerio, Kyle (Discovery Rate)	232.2	\$425.00	\$98,685.00
Lavallee, Nicole	13.90	\$875.00	\$12,162.50
Seaver, Todd	188.90	\$760.00	\$143,564.00
Tabacco, Joseph	22.40	\$895.00	\$20,048.00
Associates			
McGrath, Sarah	42.00	\$430.00	\$18,060.00
McGrath, Sarah (Discovery Rate)	143.2	\$425.00	\$60,860.00
Moy, Jessica	10.00	\$475.00	\$4,750.00
Poppler, Chowning	11.60	\$475.00	\$5,510.00
Sutter, John	60.30	\$550.00	\$33,165.00
Staff Attorneys			
Didrickson, Karen	193.00	\$420.00	\$81,060.00
Drake, Brian	110.50	\$380.00	\$41,990.00
Falardeau, Laura	2,001.90	\$390.00	\$780,741.00
Goffin, Glenn	202.30	\$535.00	\$108,230.50
Lee, Berna	24.00	\$380.00	\$9,120.00
Paralegals			

NAME	HOURS	HOURLY RATE	LODESTAR
Becker, Kathy	13.60	\$350.00	\$4,760.00
Litigation Support			
Scarsciotti, Jeannine	27.65	\$480.00	\$13,272.00
TOTALS	4,743.65		\$2,374,482.00

EXHIBIT 2

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

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BERMAN TABACCO
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$812.75
Online Legal Research	\$987.16
Telephones/Faxes	\$275.05
Postage & Express Mail	\$192.51
Internal Copying	\$1,553.00
Out of Town Travel*	\$4,294.34
Meals*	\$509.76
Contributions to Litigation Fund	\$70,000.00
TOTAL EXPENSES:	\$78,624.57

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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**BERMAN TABACCO
FIRM RÉSUMÉ AND BIOGRAPHIES**

BERMAN TABACCO

THE FIRM

Berman Tabacco is a national law firm with 34 attorneys located in offices in Boston and San Francisco. Since its founding in 1982, the Firm has devoted its practice to complex litigation, primarily representing plaintiffs seeking redress under U.S. federal and state securities and antitrust laws.

Over the past three decades, Berman Tabacco's attorneys have prosecuted hundreds of class actions, recovering billions of dollars on behalf of the Firm's clients and the classes they represented. In addition to financial recoveries, the Firm has achieved significant changes in corporate governance and business practices of defendant companies. Indeed, according to the most recent ISS Securities Class Action Services "Top 50 for 2015" report, Berman Tabacco was one of only six firms that recovered more than half-a-billion dollars for investors in 2015.¹ It currently holds leadership positions in securities and antitrust cases around the country.

Berman Tabacco is rated AV® Preeminent™ by Martindale-Hubbell®. The Firm was recognized as a "Top Ten Plaintiffs' Firm" for its work "on behalf of individuals and institutions who have suffered financial harm due to violations of securities or antitrust laws" by Benchmark Litigation in 2017 and 2018, <https://www.benchmarklitigation.com/firms/berman-tabacco/f-195>. Benchmark also ranked the Firm as "Highly Recommended" – the seventh time the Firm has received that distinction. Berman Tabacco's lawyers are frequently singled out for favorable comments by our clients, presiding judges and opposing counsel. For examples, please see:

<http://www.bermantabacco.com/about-the-firm/what-our-clients-say>
and <http://www.bermandetabacco.com/about-the-firm/reviews-from-the-bench>.

ANTITRUST PRACTICE

Berman Tabacco has a national reputation for our work prosecuting antitrust class actions involving price-fixing, market allocation agreements, patent misuse, monopolization and group boycotts among other types of anticompetitive conduct. Representing clients ranging from Fortune 500 companies and public pension funds to individual consumers, the experienced senior attorneys in our Antitrust Practice Group have engineered substantial settlements and changed business practices of defendant companies, recovering more than \$1 billion for our clients overall.

Berman Tabacco has played a major role in the prosecution of numerous landmark antitrust cases. For example, the Firm was lead counsel in the Toys "R" Us litigation, which developed the antitrust laws with respect to "hub and spoke" conspiracies and resulted in a \$62 million

¹ ISS's report "lists the top 50 plaintiffs' law firms ranked by the total dollar value of the final class action settlements occurring in 2015 in which the law firm served as lead or co-lead counsel." ISS Securities Class Action Services, *Top 50 for 2015* (May 2016), <http://www.bermantabacco.com/images/pdfs/articles/scastop502015.pdf>.

BERMAN TABACCO

settlement. Berman Tabacco brought the first action centered on so-called “reverse payments” between a brand name drug maker and a generic drug maker, resulting in an \$80 million settlement from the drug makers, which had been accused of keeping a generic version of their blood pressure medication off the market.

The Firm’s victories for victims of antitrust violations have come at the trial court level and also through landmark appeals court victories, which have contributed to shaping private enforcement of antitrust law. For example, in the Cardizem CD case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action, and obtained a pioneering ruling in the federal court of appeals regarding the “reverse payment” by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer’s payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a per se unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

In the Firm’s case against diamond giant De Beers, the Third Circuit, sitting en banc, vacated an earlier panel decision and upheld the certification of a nationwide settlement class, removing the last obstacle to final approval of a historic \$295 million settlement. The Third Circuit’s important decision provides a roadmap for obtaining settlement class certification in complex, nationwide class actions involving laws of numerous states.

In 2016, the Firm won reversal of a grant of summary judgment for defendant automakers in a group boycott-conspiracy case involving the export of new motor vehicles from Canada to the U.S. The California Court of Appeal found that plaintiffs had presented evidence of “patently anticompetitive conduct” with evidence gathered in the pre-trial phase, which was powerful enough to go to a jury. The ruling is a rare example of an appellate court analyzing and reversing a trial court’s evidentiary rulings to find evidence of a conspiracy.

Today the Firm currently holds leadership positions in significant antitrust class actions around the country, including as co-lead counsel in *In re Lithium Ion Batteries Antitrust Litigation*, and is actively representing major public pension funds in prosecuting price-fixing in the financial derivatives and commodities markets in the Euribor, Yen LIBOR and Foreign Currency Exchange actions.

While the majority of antitrust cases settle, our attorneys have experience taking antitrust class actions to trial. Because we represent only plaintiffs in antitrust matters, we do not have the conflicts of interest of other national law firms that represent both plaintiffs and defendants. Our experience also allows us to counsel medium and larger-sized corporations considering whether to participate as a class member or opt-out and pursue an individual strategy.

BERMAN TABACCO

RESULTS

ANTITRUST SETTLEMENTS

Over the past two decades, Berman Tabacco actively prosecuted scores of complex antitrust cases that led to substantial settlements for its clients. These include:

In re NASDAQ Market-Makers Antitrust Litigation, No. 94-cv-3996 (S.D.N.Y.). The Firm played a significant role in one of the largest antitrust settlements on record in a case that involved alleged price-fixing by more than 30 NASDAQ Market-Makers on about 6,000 NASDAQ-listed stocks over a four-year period. The settlement was valued at nearly \$1 billion.

In re Buspirone Antitrust Litigation, MDL No. 1413 (S.D.N.Y.). Berman Tabacco attorneys played a key role in obtaining a \$535 million agreement from Bristol-Myers Squibb Co. to partially settle claims that the drug company illegally blocked generic competition for its anxiety medication, BuSpar.

In re Foreign Currency Conversion Fee Antitrust Litigation, MDL No. 1409 (S.D.N.Y.). Berman Tabacco, as head of discovery against defendant Citigroup Inc., played a key role in reaching a \$336 million settlement. The agreement settled claims that the defendants, which include the VISA, MasterCard and Diners Club networks and other leading bank members of the VISA and MasterCard networks, violated federal and state antitrust laws in connection with fees charged to U.S. cardholders for transactions effected in foreign currencies.

In re DRAM Antitrust Litigation, No. M:02-cv-01486 (N.D. Cal.). As liaison counsel, the Firm actively participated in this multidistrict litigation, which ultimately resulted in significant settlements with some of the world's leading manufacturers of Dynamic Random Access Memory (DRAM) chips. The defendant chip-makers allegedly conspired to fix prices of the DRAM memory chips sold in the United States during the class period. The negotiated settlements totaled nearly \$326 million.

Sullivan v. DB Investments, Inc., No. 04-02819 (D.N.J.). Berman Tabacco represents a class of diamond resellers, such as diamond jewelry stores, in this case alleging that the De Beers group of companies unlawfully monopolized the worldwide supply of diamonds in a scheme to overcharge resellers and consumers. In May 2008, a federal judge approved the settlement, which included a cash payment to class members of \$295 million, an agreement by De Beers to submit to the jurisdiction of the United States court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future. This case is significant not only because of the large cash recovery but also because previous efforts to obtain jurisdiction over De Beers in both private and government actions had failed. On August 27, 2010, the Third U.S. Circuit Court of Appeals agreed to hear arguments over whether to uphold the district court's certification of the settlement class. By

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agreeing to schedule an *en banc* appeal before the full court, the Third Circuit vacated a July 13, 2010 ruling by a three-judge panel of the appeals court that, in a 2-to-1 decision, had ordered a remand of the case back to the district court, which may have required substantial adjustments to the original settlement. On February 23, 2011, the Third Circuit, sitting *en banc*, again heard oral argument from the parties. On December 20, 2011, the *en banc* Third Circuit handed down its decision affirming the district court in all respects. The settlement is now final, and checks have been distributed to class members.

In re Sorbates Direct Purchaser Antitrust Litigation, No. C 98-4886 CAL (N.D. Cal.). The Firm served as lead counsel alleging that six manufacturers of Sorbates, a food preservative, violated antitrust laws through participation in a worldwide conspiracy to fix prices and allocations to customers in the United States. The Firm negotiated a partial settlement of \$82 million with four of the defendants in 2000. Following intensive pretrial litigation, the Firm achieved a further \$14.5 million settlement with the two remaining defendants, Japanese manufacturers, in 2002. The total settlement achieved for the class was \$96.5 million.

In re Disposable Contact Lens Antitrust Litigation, MDL No. 1030 (M.D. Fla.). The Firm acted as co-lead counsel and chief trial counsel. Representing both a national class and the State of Florida, the Firm helped secure settlements from defendants Bausch & Lomb and the American Optometric Association before trial and from Johnson & Johnson after five weeks of trial. The settlements were valued at more than \$92 million and also included significant injunctive relief to make disposable contact lenses available at more discount outlets and more competitive prices.

In re Cardizem CD Antitrust Litigation, No. 99-01278 (E.D. Mich.). In another case involving generic drug competition, Berman Tabacco, as co-lead counsel, helped secure an \$80 million settlement from French-German drug maker Aventis Pharmaceuticals and the Andrx Corporation of Florida. The payment to consumers, state agencies and insurance companies settled claims that the companies conspired to prevent the marketing of a less expensive generic version of the blood pressure medication Cardizem CD. The state attorneys general of New York and Michigan joined the case in support of the class. The Firm achieved a significant appellate victory in a first of its kind ruling that the brand name drugmaker's payment of \$40 million per year for the generic company to delay bringing its generic version of blood-pressure medication Cardizem CD to market constituted an agreement not to compete that is a *per se* violation of the antitrust laws.

In re Toys "R" Us Antitrust Litigation, MDL No. 1211 (E.D.N.Y.). The California office negotiated a \$62 million settlement to answer claims that the retailer violated laws by colluding to cut off or limit supplies of popular toys to stores that sold the products at lower prices. The case developed the antitrust laws with respect to a "hub and spoke" conspiracy, where a downstream power seller coerces upstream manufacturers to the detriment of consumers. One component of the settlement required Toys "R" Us to donate \$40 million worth of toys to needy children throughout the United States over a three-year period.

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In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation, MDL No. 05-1671 (C.D. Cal.). Berman Tabacco, as one of four co-lead counsels in the case, negotiated a \$48 million settlement with Union Oil Company and Unocal. The agreement settled claims that the defendants manipulated the California gas market for summertime reformulated gasoline and increased prices for consumers. The settlement is noteworthy because it delivers to consumers a combination of clean air benefits and the prospect of funding for alternative fuel research. The settlement received final court approval in November 2008.

In re Abbott Laboratories Norvir Antitrust Litigation, Nos. 04-1511, 04-4203 (N.D. Cal.). Berman Tabacco acted as co-lead counsel in a case on behalf of indirect purchasers alleging that the defendant pharmaceutical company engaged in an illegal leveraged monopoly in the sale of its AIDS boosting drug known as Norvir (or Ritanovir). Plaintiffs were successful through summary judgment, including the invalidation of two key patents based on prior art, but were reversed on appeal in the Ninth Circuit as to the leveraged monopoly theory. The case settled for \$10 million, which was distributed net of fees and costs on a *cy pres* basis to 10 different AIDS research and charity organizations throughout the United States.

Automotive Refinishing Paint Antitrust, J.C.C.P. No. 4199 (Cal. Super. Ct.). In this class action, indirect purchaser-plaintiffs brought suit in California State Court against five manufacturers of automotive refinishing coatings and chemicals alleging that they violated California law by unlawfully conspiring to fix paint prices. Settlements were reached with all defendants totaling \$9.4 million, 55% of which was allocated among an End-User Class consisting of consumers and distributed on a *cy pres*, or charitable, basis to thirty-nine court-approved organizations throughout California, and the remaining 45% of which was distributed directly to a Refinishing Class consisting principally of auto-body shops located throughout California.

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LEADERSHIP ROLES

The Firm currently acts as lead or co-lead counsel in high-profile securities and antitrust class actions and also represents investors in individual actions, ERISA cases and derivative cases.

The following is a representative list of active class action cases in which the Firm serves as lead or co-lead counsel or as executive committee member.

- *Massachusetts Laborers' Pension Fund v. Wells Fargo & Co., et al.*, C.A. No. 12997-VCG (Del. Ch. Ct.). Counsel for Massachusetts Laborers' Pension Fund and the Employees' Retirement System of the City of Providence in action under Section 220 of the Delaware General Corporation Law in order to evaluate whether the facts support a derivative suit on behalf of Wells Fargo against its officers and directors for breaches of their fiduciary duties.
- *Ohio Public Employees Retirement System v. BP America, Inc.*, No. 12-cv-01837 (S.D. Tex.). Counsel for plaintiffs in individual action.
- *In re Digital Domain Media Group, Inc. Securities Litigation*, No. 12-14333-CIV (S.D. Fla.). Co-lead Counsel.
- *Sullivan v. Barclays PLC*, No. 13-cv-2811 (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System.
- *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System and Oklahoma Police Pension and Retirement System.
- *Trabakoolas v. Watts Water Technologies, Inc.*, No. 4:12-cv-01172-YGR (N.D. Cal.). Liaison Counsel and member of Plaintiffs' Steering Committee.
- *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.). Co-Lead Counsel.
- *Carlin v. DairyAmerica, Inc.*, No. 09-cv-00430 (E.D. Cal.). Member of the Interim Executive Committee and Liaison Counsel.
- *Automobile Antitrust Cases I and II*, Coordination Proceeding Nos. 4298 and 4303 (Cal. Super. Ct. San Francisco Cty.). Counsel for Plaintiffs.

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TRIAL EXPERIENCE

The Firm has significant experience taking class actions to trial. Over the years, Berman Tabacco's attorneys have tried cases against pharmaceutical companies in courtrooms in New York and Boston, a railroad conglomerate in Delaware, one of the nation's largest trustee banks in Philadelphia, a major food retailer in St. Louis and the top officers of a failed New England bank.

The Firm has been involved in more trials than most of the firms in the plaintiffs' class action bar. Our partners' trial experience includes:

- *MAZ Partners, LP v. Bruce A. Shear, et al.*, No. 1:11-cv-11049-PBS (D. Mass.). After two-week trial in 2017 in this breach of fiduciary class action, jury verdict for plaintiffs but no damage award. Following post-trial briefing, court exercised its equitable power and ordered \$3 million award by defendant.
- *Conway v. Licata*, No. 13-12193 (D. Mass.). 2015 jury verdict for defendants (Firm's client) after two-week trial on the vast majority of counts, awarding the plaintiffs a mere fraction of the damages sought. Jury also returned a verdict for defendants on one of their counterclaims.
- *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.). This case settled for \$50 million after the jury was empaneled.
- *White v. Heartland High-Yield Municipal Bond Fund*, No. 00-C-1388 (E.D. Wis.). Firm attorneys conducted three weeks of a jury trial against final defendant, PwC, before a settlement was reached for \$8.25 million. The total settlement amount was \$23.25 million.
- *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.). Settled for \$60 million with defendant Johnson & Johnson after five weeks of trial.
- *Gutman v. Howard Savings Bank*, No. 2:90-cv-02397 (D.N.J.). Jury verdict for plaintiffs after three weeks of trial in individual action. The Firm also obtained a landmark opinion allowing investors to pursue common law fraud claims arising out of their decision to retain securities as opposed to purchasing new shares. *See Gutman v. Howard Savings Bank*, 748 F. Supp. 254 (D.N.J. 1990).
- *Hurley v. Federal Deposit Insurance Corp.*, No. 88-cv-940 (D. Mass.). Bench verdict for plaintiffs.
- *Levine v. Fenster*, No. 2-cv-895131 (D.N.J.). Plaintiffs' verdict of \$3 million following four-week trial.

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- *In re Equitec Securities Litigation*, No. 90-cv-2064 (N.D. Cal.). Parties reached a \$35 million settlement at the close of evidence following five-month trial.
- *In re ICN/Viratek Securities Litigation*, No. 87-cv-4296 (S.D.N.Y.). Hung jury with 8-1 vote in favor of plaintiffs; the case eventually settled for over \$14.5 million.
- *In re Biogen Securities Litigation*, No. 94-cv-12177 (D. Mass.). Verdict for defendants.
- *Upp v. Mellon*, No. 91-5219 (E.D. Pa.). In this bench trial, tried through verdict in 1992, the court found for a class of trust beneficiaries in a suit against the trustee bank and ordered disgorgement of fees. The Third Circuit later reversed based on lack of jurisdiction.

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OUR ATTORNEYS

Partners

DANIEL E. BARENBAUM

A partner in the Firm's San Francisco office, Daniel Barenbaum focuses his practice on securities litigation. Mr. Barenbaum was one of the lead attorneys representing the California Public Employees' Retirement System in the landmark case brought against the major credit rating agencies (Standard & Poor's and Moody's) in connection with the marketing of one of the largest, most complex structured-finance securities ever devised. The case settled for a total of \$255 million. He also represented co-lead plaintiff for the common stock class Massachusetts Pension Reserves Investment Management Board in a case which settled for \$170 million against Fannie Mae; the complaint centered on misrepresentations regarding the amount of subprime and Alt-A on the company's books and the lack of adequate risk controls used and disclosed to manage those types of loans. Mr. Barenbaum has been an integral member of the Firm litigation teams, such as for *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), where the Firm acted as co-lead counsel representing the Massachusetts Laborers' Pension Fund for an alleged accounting fraud that originated at the company's foreign subsidiary. Mr. Barenbaum was also a key member of the team that developed the Firm's individual-case strategy necessitated by the Supreme Court's decision in *Morrison v. National Australia Bank, Ltd.*, 561 U.S. 247, 130 S. Ct. 2869 (2010), in *In re BP, p.l.c. Securities Litigation*, No. 10-md-2185 (S.D. Tex.). Mr. Barenbaum also previously worked to prepare for trial *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.) – a case before the Hon. Jack Weinstein that settled after the jury was empaneled.

Mr. Barenbaum was formerly an associate and partner at Lieff, Cabraser, Heimann & Bernstein, LLP where he was a member of the securities practice group and actively litigated, among other cases, two state-court individual securities actions involving large-scale accounting fraud. The first was against McKesson HBOC, where the Firm represented two Merrill Lynch mutual funds and that alleged state law claims; the case settled days before trial was to commence. The second involved Peregrine, where the Firm represented individual directors whose company had been acquired by Peregrine and whose options and shares had been converted to Peregrine shares. Mr. Barenbaum worked on all facets of litigation in those cases, from dispositive motions to discovery to appeals to oral argument.

At Lieff Cabraser, Mr. Barenbaum was the supervising attorney on the Firm's Vioxx injury cases, where the Firm had a leadership role in the multidistrict litigation. In that role, Mr. Barenbaum oversaw service pursuant to the Hague Convention of hundreds of Vioxx complaints against foreign (U.K) defendants and also acted as the primary point of contact for all foreign co-counsel. Mr. Barenbaum was also the lead associate on the Sulzer Hip Implant injury cases,

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where he oversaw the service of hundreds of Sulzer complaints against foreign defendants in several countries (including Switzerland).

In 2017, Mr. Barenbaum was ranked as a Recommended Attorney in Securities Litigation by The Legal 500. Mr. Barenbaum earned his J.D. and M.B.A. degrees from Emory University in 2000, where he received the business school award for *Most Outstanding Academic Accomplishment*. He obtained his B.A. in English from Tufts University in 1994. Mr. Barenbaum was Notes and Comments Editor for 1999-2000 for the Emory Bankruptcy Developments Journal. He is the author of *Delineating Covered Class Actions Under SLUSA, Securities Litigation Report* (December-January 2005), and Contributing Author to *California Class Actions Practice and Procedures* (Elizabeth J. Cabraser, Editor-in-Chief, 2003). Having successfully obtained his Series 7 and 66 licenses, he was previously registered with the U.S. Securities and Exchange Commission as both a broker-dealer representative and an investment advisor.

Mr. Barenbaum is admitted to the state bar of California, as well as the Northern, Central, Southern, and Eastern Districts of California. He is also admitted to the Ninth Circuit of the U.S. Court of Appeals.

KYLE G. DEVALERIO

Firm partner Kyle G. DeValerio was a member of the antitrust practice's new case development team, which investigates potential antitrust violations to determine the merits of potential cases. Mr. DeValerio has left since departed from the firm as of December 1, 2017.

In addition to serving as a member of the New Case Investigations Team, Mr. DeValerio works on antitrust and securities litigation. He was part of the team in *Carlson v. Xerox Corp.*, which settled for \$750 million. He was also member of the litigation team in the *In re The Bear Stearns Companies, Inc. Securities, Derivative, and ERISA Litigation* resulting in settlements with defendants totaling \$294.9 million. He was also part of the Firm's team that litigated the *In re TFT-LCD Direct Purchaser Antitrust Litigation*, which resulted in settlements totaling more than \$400 million.

Prior to joining the Firm as an associate in 2004, Mr. DeValerio worked as a legal intern in the Civil Division of the U.S. Attorney's Office in Boston.

Mr. DeValerio is a 1999 graduate of Colby College, where he earned a B.A. in Government. He also studied European Politics at the London School of Economics and Political Science. He received his J.D. in 2004 from the Suffolk University School of Law. In 2010, *Florida Super Lawyers* magazine named him a "Rising Star."

Mr. DeValerio is admitted to practice law in the Commonwealth of Massachusetts, the State of Florida and the U.S. District Courts for the District of Massachusetts, the Southern District of

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Florida and the Northern District of Illinois. He is also a member of the Palm Beach County Bar Association.

NICOLE LAVALLEE

Nicole Lavallee, the managing partner of the Firm's San Francisco office and member of the Firm's executive committee, focuses her practice on securities and derivative litigation. She is an integral member of the Firm's New Case Investigations Team, which oversees the Firm's portfolio monitoring program and investigates potential securities law violations to determine whether a case meets the Firm's exacting standards. She also advises clients on foreign litigation.

Since the enactment of the PSLRA, Ms. Lavallee has prosecuted numerous high-profile securities fraud cases for the Firm. Most recently, she was one of the lead attorneys overseeing the *IndyMac Mortgage-Backed Securities Litigation*, which settled for \$346 million – one of the largest private MBS recoveries on record and the largest of any case where the issuer bank was in bankruptcy. She was the lead partner handling the day-to-day prosecution of numerous others cases, where she handled or oversaw case investigation and factual development and briefing (including appeal briefing), conducted depositions, argued key motions (including motions to dismiss, motions for summary judgment and/or discovery motions), and participated in settlement negotiations.

Examples receiving favorable judicial commentary include: (i) *In re KLA-Tencor Corp. Securities Litigation*, No. C06-04065 (N.D. Cal.), an options-backdating class action, representing co-lead plaintiff the Louisiana Municipal Police Employees' Retirement System, which settled for \$65 million; (ii) *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), on behalf of the co-lead plaintiff Massachusetts Laborers' Pension Fund, alleging manipulation of the company's financial results, which settled for \$90 million in 2009; (iii) *Oracle Cases*, Coordination Proceeding, Special Title (Rule 1550(b)), No. JCCP 4180 (Cal. Super. Ct. San Mateo Cty.), a derivative case alleging that Lawrence Ellison engaged in illicit insider trading, and which settled weeks before trial when Mr. Ellison agreed to make \$100 million in charitable donations in Oracle's name; and (iv) opt-out actions on behalf of State of Michigan Retirement System and Fresno County Employees' Retirement Association against Countrywide Financial Corp. (*State Treasurer of The State of Michigan v. Countrywide Financial Corp.*, No. CV-11-00809 (C.D. Cal.) and *Fresno County Employees Retirement Association v. Countrywide Financial Corp.*, No. CV-11-00811 (C.D. Cal.)). She also played a key role in trial preparation for the *In re GenesisIntermedia, Inc. Securities Litigation*, No. CV 01-9024 (N.D. Cal.), class action. She also acted as local counsel in a number of cases where she played a significant role such as *State of Oregon v. McKesson HBOC, Inc.*, Master File No. 307619 (Cal. Super. Ct. San Francisco Cty.), an individual opt out action brought on behalf of the retirement systems for Colorado, Utah and Minnesota, which settled very favorably. Most recently, she oversaw the prosecution of *In re Zynga, Inc. Securities Litigation*, No. 12-cv-04007 (N.D. Cal.), which settled for \$23 million in February 2016.

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Ms. Lavallee has an AV[®] Preeminent[™] rating from Martindale-Hubbell[®] and was named a Super Lawyer in 2017 by Super Lawyers Magazine. She was also recognized as a Recommended Attorney in Securities Litigation by the Legal 500 in 2017. She has authored numerous articles and lectured on securities litigation. She is also co-chair for the 2016 Cross-Border Litigation Forum, a gathering of the most senior legal practitioners in U.S./Canada cross-border litigation (was also on the Steering Committee for the 2012 and 2014 forums). Ms. Lavallee is admitted to practice in California (1993), all federal courts in the Ninth Circuit and the Ninth Circuit of the U.S. Courts of Appeals.

TODD A. SEAVER

A partner in the San Francisco office, Todd A. Seaver litigates both antitrust and investment-related matters, with a primary focus on developing and litigating antitrust cases. He has led the day-to-day management of one of the largest antitrust class actions in history, and has litigated antitrust cases involving varied industries of high-tech, pharmaceuticals, autos, chemicals, consumer electronics, biotech, diamonds, and online retailing. He is a leader of the Firm's antitrust practice group, marshalling the Firm's extensive investigative resources and then litigating the cases.

Mr. Seaver is currently working in a leading role in several cases, including *In re Lithium Ion Batteries Antitrust Litigation*, where the Firm is co-lead counsel for direct purchaser plaintiffs and in which he argued and defeated certain of defendants' motions to dismiss, and deposed fact witnesses and defendants' expert economist. In addition, Mr. Seaver leads plaintiffs' efforts in *In re New Motor Vehicles Canadian Export Antitrust Litigation*, in which Berman Tabacco is lead counsel. The case alleges that major auto manufacturers unlawfully conspired to stop the export of cheaper new Canadian vehicles into the United States for use or resale. The case has partially settled with Toyota Motor Sales U.S.A. for \$35 million and with General Motors of Canada for \$20.15 million. The litigation is ongoing in California state court, with the California Court of Appeal having recently reversed the trial court's grant of summary judgment in favor of defendant Ford Canada.

Mr. Seaver is also presently counsel for plaintiffs and represents California State Teachers' Retirement System (CalSTRS) in the Euribor (*Sullivan v. Barclays PLC, et al.*, No. 13-cv-2811 (S.D.N.Y.)) and Yen Libor (*Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.)), and Sonterra Capital Master Fund, Ltd. v. UBS AG, No. 1:15-cv-05844 (GBD) (S.D.N.Y.)) antitrust cases involving Wall Street banks' manipulation of interest rate benchmarks and bid-ask spread price fixing on interest rate derivatives. He also currently represents Fresno County Employees' Retirement Association (FCERA) in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, an antitrust class action against Wall Street banks for manipulating a foreign currency exchange rate benchmark and fixing bid-ask spreads on trillions of dollars of foreign currency exchange transactions.

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Mr. Seaver led efforts for the Firm in an action against Netflix and Wal-Mart, *In re Online DVD Rental Antitrust Litigation*, in which Berman Tabacco was among lead counsel. He was responsible for managing many aspects of discovery, class certification, and summary judgment, as well as for achieving partial settlement with defendant Wal-Mart. He successfully argued in Ninth Circuit Court of Appeals for that case on an issue of first impression regarding the Class Action Fairness Act and settlements involving a mix of cash consideration and electronic store gift cards. He was also one of the lead counsel in *In re Optical Disk Drive Antitrust Litigation* and also worked on a number of the Firm's high-profile cases including *Cardizem CD*, still the leading generic drug competition case, which settled in 2003 for \$80 million. In the *Cardizem CD* case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action, and obtained a pioneering ruling in the federal court of appeals regarding the "reverse payment" by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer's payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a per se unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

Mr. Seaver spearheaded the landmark case against the major credit rating agencies (Standard & Poor's and Moody's), *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.). The case, filed on behalf of the nation's largest state pension fund, the California Public Employees' Retirement System (CalPERS), was groundbreaking litigation that held the rating agencies financially responsible for negligent misrepresentations in rating structured investment vehicles. Moody's and Standard & Poor's agreed to pay a total of \$255 million (\$130 million and \$125 million, respectively) to settle CalPERS' claim that "Aaa" ratings on three SIVs were negligent misrepresentations under California law. This case was groundbreaking in that (i) the settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages; and (ii) it resulted in a published appellate court opinion finding that rating agencies can, contrary to decades of jurisprudence, be liable for negligent misrepresentations under California law for their ratings of privately-placed securities.

Mr. Seaver was previously associated with the law firm Devine, Millimet & Branch, P.A., where he practiced commercial litigation. He was an adjunct Professor of Law with the New England School of Law in 2003, teaching Appellate Advocacy.

Mr. Seaver graduated *magna cum laude* from Boston University in 1994 with a B.A. in International Relations. He earned a M.Sc. from the London School of Economics in 1995 and graduated *cum laude* from the American University Washington College of Law in 1999.

While in law school, Mr. Seaver served as a law clerk at the Federal Trade Commission's Bureau of Competition and as a judicial extern for the Honorable Ricardo M. Urbina, U.S. District Court for the District of Columbia.

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In 2017, Mr. Seaver was ranked as a Recommended Attorney by The Legal 500 and was named a Super Lawyer by Super Lawyers Magazine. He was also named by Who's Who Legal: Competition in 2017. He has been admitted to practice law in the states of California, Massachusetts, and New Hampshire. He has been a member of the American Bar Association's Antitrust Section, and served a two-year term as a Director for the San Francisco Bar Association's Antitrust Committee in 2012-2013.

JOSEPH J. TABACCO, JR.

Joseph J. Tabacco, Jr., the founding member of Berman Tabacco's San Francisco office, actively litigates antitrust, securities fraud, commercial high tech and intellectual property matters.

Prior to 1981, Mr. Tabacco served as senior trial attorney for the U.S. Department of Justice, Antitrust Division in both the Central District of California and the Southern District of New York. In that capacity, he had major responsibility for several criminal and civil matters, including the antitrust trial of *United States v. IBM*. Since entering private practice in the early 1980s, Mr. Tabacco has served as trial or lead counsel in numerous antitrust and securities cases and has been involved in all aspects of state and federal litigation. In private practice, Mr. Tabacco has also tried a number of securities cases, each of which resolved successfully at various points during or after trial, including *In re MetLife Demutualization Litigation* (settled after jury empaneled), *Gutman v. Howard Savings Bank* (plaintiffs' verdict after six-week trial), *In re Equitec Securities Litigation* (settled after six months of trial) and *In re Ramtek Securities Litigation*.

Mr. Tabacco was one of the Firm's lead attorneys representing the Wyoming State Treasurer and Wyoming Retirement System in the *In re IndyMac Mortgage-Backed Securities Litigation* in which the Firm achieved settlements totaling \$346 million. He also oversaw *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.), the pioneering case that held credit rating agencies (Standard & Poor's and Moody's) financially responsible for their negligence in rating structured investment vehicles. After settling with both McGraw Hill Companies and Moody's, California Public Employees' Retirement System' total recovery for the case was \$255 million. Over the decades, Mr. Tabacco has prosecuted numerous securities fraud and antitrust cases against both domestic and international companies. In addition, he has engaged in depositions and discovery outside the U.S., including most recently in England in *CalPERS v. Moody's Corp.*

Mr. Tabacco is currently overseeing *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.), a case against domestic and foreign companies alleging a conspiracy to fix the prices of lithium ion rechargeable batteries, which affected the prices paid for the batteries and certain products in which the batteries are used and which the defendants sell.

Since 2008, Mr. Tabacco has served as an independent member of the Board of Directors of Overstock.com, a publicly-traded company internet retailer. He is Chair of the Board's Corporate Governance Committee and also serves as a member of the Board's Audit and Compensation

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Committees. He also frequently lectures and authors articles on securities and antitrust law issues and is a member of the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law and the Advisory Board of the Center for Law, Economics & Finance at the George Washington School of Law. Mr. Tabacco is also a former teaching fellow of the Attorney General's Advocacy Institute in Washington, D.C., and has served on the faculty of ALI-ABA on programs about U.S.-Canadian business litigation and trial of complex securities cases.

For 11 consecutive years, he has been among the top U.S. securities litigators ranked by *Chambers USA* and is also AV® Preeminent™ rated by Martindale-Hubbell®. Mr. Tabacco has been featured by the *Daily Journal* as one of California's top 30 securities litigators, a group chosen from both the plaintiff and defense bars, and as one of the Top Plaintiffs Lawyers in California in 2017. He was also recognized by *Who's Who Legal: Competition*, most recently in 2017—a designation he has received for the past 4 years since the creation of the publication's Plaintiffs section. Additionally, for 14 consecutive years, Mr. Tabacco has been named a Super Lawyer by *Northern California Super Lawyer Magazine*, which features the top 5% of attorneys in the region. He was ranked as a Recommended Attorney in Securities Litigation by The Legal 500 in 2017 and a Local Litigation Star by Benchmark Litigation in 2017 and 2018. He was recognized by *Best Lawyers*® (24th Ed. 2018) for Litigation-Antitrust. Mr. Tabacco was also singled out by a top defense attorney for exemplifying "the finest tradition of the trial bar."

Mr. Tabacco has been admitted to practice law in the states of California, Massachusetts, New York and the District of Columbia (currently inactive).

Associates

SARAH KHORASANEE MCGRATH

An associate in the Firm's San Francisco office, Sarah Khorasanee McGrath focuses her practice on antitrust litigation. Ms. McGrath joined Berman Tabacco in 2010 after working as a contract attorney for the Department of Justice, Antitrust Division. Prior to that, she was an attorney volunteer with the City and County of San Francisco Office of the Public Defender and the Eviction Defense Center.

Ms. McGrath earned a B.A. in Communications from the University of California at San Diego in 2002 and a J.D. from the New England School of Law in 2008.

While in law school, Ms. McGrath worked as a judicial extern to the Honorable Eric Taylor, Superior Court of California, County of Los Angeles.

Northern California Super Lawyers Magazine named Ms. McGrath a "Rising Star" in 2013-2015 and 2017. She was also included in *San Francisco* magazine's *Top Women Attorneys in Northern California* for 2013-2015 and 2017.

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Ms. McGrath is the 2016 Vice President of the Federal Bar association, Northern District of California, San Francisco and was also the Co-Chair of the Federal Bar Association's Young Lawyers Division for the Northern District of California from 2013-2015. She is admitted to practice in the State of California, the U.S. District Court for the Northern and Central Districts of California, and the U.S. Court of Appeals for the Ninth Circuit.

JESSICA MOY

Jessica Moy focuses her practice on antitrust and securities litigation. Prior to joining Berman Tabacco in 2013, Ms. Moy worked as an associate at a San Francisco law firm, where she represented plaintiffs in state and federal matters with an emphasis in antitrust, unfair competition and complex commercial litigation.

At Berman Tabacco, Ms. Moy manages and develops strategies for complex multi-national antitrust litigation as co-lead counsel, including: crafting various case protocols, creating substantive and technical architecture for document review, drafting motions, creating hearing presentations on dispositive issues, negotiating all aspects of discovery and supervising foreign language translation and review. Ms. Moy is involved in all aspects of the litigation of *In re Lithium Ion Batteries Antitrust Litigation*, a price-fixing antitrust conspiracy case brought against manufacturers of lithium-ion batteries.

Prior to attending law school, Ms. Moy spent seven months studying Chinese language at Beijing Normal University in Beijing, China as a Zeidman Fellowship recipient. Thereafter, she worked for the United States Department of Justice's Antitrust Division, Litigation II Section in Washington, DC as part of the Department's Honors Paralegal Program. While at the Antitrust Division, she assisted with the investigation and litigation of vertical and horizontal mergers, appraised divestiture options and assessed potential purchasers of international assets.

Ms. Moy earned her Juris Doctor degree from the University of California, Hastings College of the Law. During law school, she was an oral advocate finalist and awarded "Best Brief" in the Philip C. Jessup International Law Moot Court competition, acted as an Articles Editor for Hastings Constitutional Law Quarterly and served as an Executive Board Member of Hastings's Asian/Pacific-American Law Students Association. In addition, Ms. Moy externed for the Honorable Maria-Elena James in the Northern District of California, San Francisco Division and was recognized with the CALI Excellence for the Future Award and the Witkin Award for Academic Excellence in Trial Advocacy.

Northern California Super Lawyers Magazine named Ms. Moy a "Rising Star" in 2017. She is admitted to practice in California and before the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the Northern District of California.

BERMAN TABACCO

A. CHOWNING POPPLER

Chowning Poppler focuses her practice on antitrust and securities litigation. Prior to joining the Firm in 2015, she worked as a litigation associate at a San Francisco law firm where she represented plaintiffs in employment-related individual and class action matters in state and federal court. Ms. Poppler started her legal career at a plaintiffs' firm in San Diego which specializes in securities and consumer class actions.

While in law school, Ms. Poppler interned at the Public Integrity Bureau of the State of New York Office of the Attorney General where she investigated alleged corruption and fraud in local governments. Ms. Poppler served on her law school's Pro Bono Legal Advocates board where she oversaw and coordinated volunteers for the unlawful detainer law clinic. She was also a member of the *San Diego International Law Journal*.

Northern California Super Lawyers Magazine named Ms. Poppler a "Rising Star" in 2017. She has served as an Executive Board Member on the ACLU – North Peninsula Chapter Board since 2012. She is admitted to practice law in the State of California and the U.S. District Courts for the Northern, Central and Eastern Districts of California.

Of Counsel

JOHN H. SUTTER

John H. Sutter focuses on securities litigation and is a member of the Firm's whistleblower practice group. He joined Berman Tabacco as Of Counsel in early 2010 after working with the Firm for several years as a contract attorney.

Mr. Sutter has participated in a number of the Firm's important cases. He was lead associate on the securities litigation against The Bear Stearns Companies, Inc. and their auditors Deloitte and Touche arising out of Bear Stearns's collapse which resulted in a \$294.9 million recovery. Mr. Sutter is currently involved in several active whistleblower actions filed with the U.S. Securities and Exchange Commission. He also drafted investigative memoranda and mediation statements in the *Xerox* litigation, which resulted in a \$750 million recovery for plaintiffs from the company and its auditor, KPMG. He also participated in extensive document review and discovery preparation in the *State Street Bank ERISA* litigation and the *Nortel II* litigation, each of which resulted in a substantial recovery for plaintiffs. He worked on the *General Electric Co.* securities litigation, which settled for \$40 million in 2013.

Before working with Berman Tabacco, Mr. Sutter was both a corporate and litigation associate for two prominent Boston law firms. He also served as an in-house assistant general counsel with Biogen, Inc., focusing in particular on securities and compliance issues.

BERMAN TABACCO

Mr. Sutter graduated second in a class of nearly 400 from Boston University School of Law, *summa cum laude*, in 1995. He served on the *Boston University Law Review* and was a charter member of the *Phi Delta Phi* Legal Fraternity. He also was a distinguished scholar for all three years and was the recipient of the William L. and Lillian Berger Award for Distinguished Academic Achievement. He graduated from Suffolk University in 1992 with a B.A. in English Literature.

He is admitted to practice law in the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts and the United States Court of Appeals for the First Circuit.

Staff Attorneys

BRIAN J. DRAKE

A staff attorney at the Firm's Boston office, Brian J. Drake has participated in extensive document review and issue analysis in the BP litigation.

Prior to Berman Tabacco, Mr. Drake was a staff attorney at a number of prominent law firms in Washington, D.C. and Boston, where he developed a broad range of expertise, primarily in the areas of anti-trust and tax litigation.

Mr. Drake received his J.D. from the George Washington University Law School. He is admitted to practice law in the state of Virginia and the District of Columbia.

BERNA LEE

A staff attorney in the Firm's Boston office, Berna M. Lee joined the Firm in 2015, prior to which, Ms. Lee worked as an associate at a number of New York law firms.

Ms. Lee earned a B.A. in English Literature from Dartmouth College. She received her J.D., *cum laude*, from the Georgetown University Law Center, where she served on the *Georgetown Journal of Legal Ethics*, was a member of the Appellate Litigation Clinic and interned for the Hon. Gladys Kessler of the U.S. District Court for the District of Columbia.

Ms. Lee is admitted to practice law in Rhode Island, New York and the U.S. District Courts of the Southern and Eastern Districts of New York.

Project Attorneys

LAURA M. FALARDEAU

A project attorney in the Firm's Boston office, Laura M. Falardeau is a member of the document discovery team, which helps uncover and compile evidence to prove our cases.

BERMAN TABACCO

Ms. Falardeau joined the Firm in 2011 after working as a contract attorney for several major law firms. Earlier in her career, Ms. Falardeau served as an associate attorney at a law firm in the Boston area.

At Northeastern University School of Law, Ms. Falardeau interned for Judge Peter W. Agnes, Jr. of the Massachusetts Superior Court. During law school Ms. Falardeau also represented victims of domestic violence at Greater Boston Legal Services and served as a Hearings Officer at the Boston Public Health Commission.

Ms. Falardeau is admitted to practice law in the Commonwealth of Massachusetts.

Other Key Personnel

JEANNINE M. SCARSCIOTTI, SENIOR PORTFOLIO ANALYST

Jeannine M. Scarsciotti, the Firm's senior portfolio analyst has more than 15 years' experience in providing portfolio monitoring, loss calculation and settlement services to the Firm's institutional clients. Ms. Scarsciotti works collaboratively with a team of portfolio analysts to provide clients with comprehensive monitoring services. Her team works closely with the Firm's attorneys in refining loss calculations to reflect estimated recoverable damages as opposed to market losses. The portfolio analysts, along with the New Case Investigations Team attorneys, routinely work with damage experts to develop regression analyses and analyze confounding information that will impact an investor's ultimate recoverable damages. Ms. Scarsciotti also devotes a substantial portion of her time offering guidance to the Firm's institutional clients in understanding their eligibility in securities class action settlements and helping clients with any custodian bank matters or data reconciliation issues that may arise.

OFFICES

MASSACHUSETTS

One Liberty Square
Boston, MA 02109
Phone: (617) 542-8300
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CALIFORNIA

44 Montgomery Street, Suite 650
San Francisco, CA 94104
Phone: (415) 433-3200
Fax: (415) 433-6382

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EXHIBIT 21

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**DECLARATION OF MICHAEL EISENKRAFT
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF COHEN MILSTEIN SELLERS & TOLL PLLC**

I, Michael Eisenkraft, declare as follows:

1. I am a partner at the law firm of Cohen Milstein Sellers & Toll PLLC, one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, performed discovery-related work, including document review, at the direction of Lead Counsel.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm’s current billing rates. My firm billed no time for professional support staff. For personnel who are no

longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 1,613.25. The total lodestar reflected in Exhibit 1 is \$633,332.50, consisting of \$633,332.50 for attorneys' time and \$0 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$71,827.51 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

(a) For out-of-town travel, airfare is at coach rates.

- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all non-contract attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 2, 2018.



Michael Eisenkraft

EXHIBIT 1

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

	x	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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Cohen Milstein Sellers & Toll PLLC

TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Michael Eisenkraft	21.00	\$675.00	\$14,175.00
Emmy Levins	37.25	\$575.00	\$21,418.75
Staff/Contract Attorneys			
Joseph Decker	580.75	\$375.00	\$217,781.25
Jen J. Smith	974.25	\$390.00	\$379,958.00
TOTALS	1,613.25		\$633,332.50

EXHIBIT 3

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

-----	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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Cohen Milstein Sellers & Toll PLLC

FIRM RÉSUMÉ AND BIOGRAPHIES

COHENMILSTEIN

COHENMILSTEIN

COHEN MILSTEIN SELLERS & TOLL PLLC

For decades, Cohen Milstein Sellers & Toll PLLC has represented individuals, small businesses, institutional investors, and employees in many of the major class action cases litigated in the United States for violations of the antitrust, securities, consumer protection, civil rights/discrimination, ERISA, employment, and human rights laws. Cohen Milstein is also at the forefront of numerous innovative legal actions that are expanding the quality and availability of legal recourse for aggrieved individuals and businesses both domestic and international. Over its history, Cohen Milstein has obtained many landmark judgments and settlements for individuals and businesses in the United States and abroad. The firm's most significant past and present cases include:

- HEMT MBS Litigation, (No. 1:08-cv-05653, U.S. District Court for the Southern District of New York). On May 10, 2016, U.S. District Judge Paul A. Crotty finally approved a \$110 million settlement in the mortgage-backed securities class action brought by investors against Credit Suisse AG and its affiliates. This settlement ends claims brought by the New Jersey Carpenters Health Fund and other investors who claimed that the offering documents for the mortgage-backed securities at issue violated the Securities Act as they contained false and misleading misstatements concerning compliance with underwriting standards.
- In re Urethane Antitrust Litigation (Polyether Polyol Cases) (D. Kan.). Cohen Milstein serves as co-lead counsel on behalf of a class of direct purchasers of chemicals used to make many everyday products, from mattress foam to carpet cushion, who were overcharged as a result of a nationwide price-fixing conspiracy. On February 25, 2016, Cohen Milstein reached an agreement with The Dow Chemical Company to settle the case against Dow for \$835 million. Combined with earlier settlements obtained from Bayer, Huntsman, and BASF, the Dow settlement pushed the total settlements in the case to \$974 million. The settlement was approved on July 29, 2016.
- RALI MBS Litigation, (Civ. No. 08-8781, U.S. District Court for the Southern District of New York). In July 2015 On July 31, 2015, Judge Katherine Failla gave final approval to a \$235 million settlement with underwriters Citigroup Global Markets Inc., Goldman Sachs & Co., and UBS Securities LLC. She also approved a plan for distribution to investors of those funds as well as the previously approved \$100 million settlement with RALI, its affiliates, and the individual Defendants that was reached in in 2013. This global settlement marks an end to a long and complicated class action over MBS offerings that RALI and certain of its affiliates issued and sold to the New Jersey Carpenters Health Fund and other investors from 2006 through 2007. The case took seven years of intense litigation to resolve.
- In re: Bear Stearns Mortgage Pass-Through Certificates Litigation (No. 08-08093, U.S. District Court for the Southern District of New York). On May 27, 2015, U.S. District Judge Laura Taylor Swain finally approved a class action settlement with JPMorgan Chase & Co., which agreed to pay \$500 million and up to an additional \$5 million in litigation-related expenses to resolve claims arising from the sale of \$27.2 billion of mortgage-backed securities issued by Bear Stearns & Co. during 2006 and 2007 in 22 separate public offerings.

- Harborview MBS Litigation, (No. 08-5093, U.S. District Court for the Southern District of New York). In February 2014, Cohen Milstein reached a settlement with the Royal Bank of Scotland (RBS) in the Harborview MBS Litigation, resolving claims that RBS duped investors into buying securities backed by shoddy home loans. The \$275 million settlement is the fifth largest class action settlement in a federal MBS case. This case is one of eight significant MBS actions that Cohen Milstein has been named lead or co-lead counsel by courts and one of three that were nearly thrown out by the court, only to be revived in 2012.
- In Re Electronic Books Antitrust Litigation, (No. 11-md-02293, U.S. District Court for the Southern District of New York). In August 2014, a New York federal judge approved a \$400 million antitrust settlement in the hotly contested ebooks price-fixing suit against Apple Inc. Combined with \$166 million in previous settlements with five defendant publishing companies, consumers could receive more than \$560 million. The settlement resolves damages claims brought by a class of ebook purchasers and attorneys general from 33 U.S. states and territories.
- Countrywide MBS Litigation, (2:10-cv-00302, U.S. District Court in the Central District of California). In April 2013, Plaintiffs in the landmark mortgage-backed securities (MBS) class action litigation against Countrywide Financial Corporation and others, led by Lead Plaintiff, the Iowa Public Employees' Retirement System (IPERS), agreed to a \$500 million settlement. It is the nation's largest MBS-federal securities class action settlement. The settlement was approved in December 2013 and brings to a close the consolidated class action lawsuit brought in 2010 by multiple retirement funds against Countrywide and other defendants for securities violations involving the packaging and sale of MBS. The settlement is also one of the largest (top 20) class action securities settlements of all time.
- In re Beacon Associates Litigation (No. 09-cv-0777, United States District Court for the Southern District of New York). Class action settlement of \$219 million for trustees and participants in ERISA-covered employee benefit plans whose assets were lost through investments made on their behalf by Beacon Associates LLC I & II in the investment schemes of Bernard Madoff.
- In re Plasma-Derivative Protein Therapies Antitrust Litigation (No. 09 C 7666, United States District Court for the Northern District of Illinois). After four years of litigation, in October of 2013, CSL Limited, CSL Behring LLC, CSL Plasma, Inc. (collectively, "CSL"), and the Plasma Protein Therapeutics Association ("PPTA") agreed to pay \$64 million dollars to settle a lawsuit brought by the University of Utah Hospital and other health care providers alleging that CSL, the PPTA, and Baxter agreed between 2003-2009 to restrict the supply of immunoglobulin and albumin, and thereby increase the prices of those therapies. Two months later, Baxter International Inc. and Baxter Healthcare Corp. (collectively "Baxter") agreed to pay an additional \$64 million to settle these claims – bringing the total recovery to the class to \$128 million.
- Keepseagle v. Vilsack, Civil Action No. 1:99CV03119 (D.D.C.). A class of Native American farmers and ranchers allege that they have been systematically denied the same opportunities to obtain farm loans and loan servicing that have been routinely afforded white farmers by the USDA. A class was certified in 2001 by Judge Emmet Sullivan, District Judge for the U.S. District Court for the District of Columbia, and the D.C. Circuit declined USDA's request to review that decision. On October 19, 2010, the case reached a historic settlement, with the USDA agreeing to pay \$680 million in damages to thousands of Native American farmers and ranchers and forgive up to \$80 million worth of outstanding farm loan debt.

- In re Parmalat Securities Litigation, No. 04 MD 1653 (S.D.N.Y.). In this securities litigation case, Cohen Milstein has successfully negotiated two partial settlements totaling approximately \$90 million. At the second partial settlement hearing, Judge Lewis A. Kaplan remarked that plaintiffs counsel “did a wonderful job here for the class and were in all respects totally professional and totally prepared. I wish I had counsel this good in front of me in every case.” Our clients, four large European institutional investors, were appointed as co-lead plaintiffs and we were appointed as co-lead counsel. Most notably, this case allowed us the opportunity to demonstrate our expertise in the bankruptcy area. During the litigation, the company subsequently emerged from bankruptcy and we added “New Parmalat” as a defendant because of the egregious fraud committed by the now-bankrupt old Parmalat. New Parmalat strenuously objected and Judge Kaplan of the Southern District of New York ruled in the class plaintiffs’ favor, a ruling which was affirmed on appeal. This innovative approach of adding New Parmalat enabled the class to obtain an important additional source of compensation, as we subsequently settled with New Parmalat.
- Dukes v. Wal-Mart Stores, Inc., No. C-01-2252 (N.D. Cal.). Cohen Milstein is co-lead counsel in this sex discrimination case. In 2004, the U.S. District Court certified a nationwide class action lawsuit for all female employees of Wal-Mart who worked in U.S. stores anytime after December 26, 1998. This was the largest civil rights class action ever certified against a private employer, including approximately 1.5 million current and former female employees. That ruling was appealed, and while affirmed by the Ninth Circuit, was reversed by the Supreme Court in June 2011. Cohen Milstein argued the case for the plaintiffs-respondents in the Supreme Court. Since then, the *Dukes* action has been amended to address only the Wal-Mart regions that include stores in California, and other regional class cases have been or are soon to be filed. This litigation to resolve the merits of the claims – whether Wal-Mart discriminates against its female retail employees in pay and promotions – continues.
- Rubin v. MF Global, Ltd. (08-CV-02233, S.D.N.Y.). Acting as co-lead counsel in this class action, the Firm represented the Central States, Southeast and Southwest Areas Pension Fund which was one of the co-lead plaintiffs in the case. In September 2010, as a result of Plaintiffs’ decision to appeal, the U.S. Second Circuit Court of Appeals vacated in part the lower court’s dismissal of the case and remanded the case for further proceedings. In overturning the District Court decision, the Second Circuit issued a decision which differentiated between a forecast or a forward looking statement accompanied by cautionary language -- which the Appellate Court said would be insulated from liability under the bespeaks caution doctrine -- from a factual statement, or non-forward-looking statement, for which liability may exist. Importantly, the Second Circuit accepted Plaintiffs’ position that where a statement is mixed, the court can sever the forward-looking aspect of the statement from the non-forward looking aspect. The Court further stated that statements or omissions as to existing operations (and present intentions as to future operations) are not protected by the bespeaks caution doctrine. Mediation followed this decision and resulted in a settlement comprised of \$90 million in cash.
- Hughes v. Huron Consulting Group (09-CV-04734, N.D. Ill.). Cohen Milstein represented lead plaintiffs the Public School Teachers’ Pension & Retirement Fund of Chicago and the Arkansas Public Employees Retirement System (“APERS”) in this case against Huron Consulting Group, founded by former Arthur Andersen personnel following its collapse in the wake of the Enron scandal. In August 2010, the District Court for the Northern District of Illinois denied defendants’ motions to dismiss in their entirety and upheld plaintiffs’ allegations that defendants intentionally improperly accounted for acquisition-

related payments, which allowed plaintiffs to move forward with discovery. The case was settled for \$40 million, comprised of \$27 million in cash and 474,547 shares in Huron common stock, with an aggregate value at the time of final approval in 2011 of approximately \$13 million.

- In re Lucent Technologies Securities Litigation, Civ. Action No. 00-621 (JAP) (D.N.J.). A settlement in this massive securities fraud class action was reached in late March 2003. The class portion of the settlement amounts to over \$500 million in cash, stock and warrants and ranks as the second largest securities class action settlement ever completed. Cohen Milstein represented one of the co-lead plaintiffs in this action, a private mutual fund.
- Nate Pease, et al. v. Jasper Wyman & Son, Inc., et al., Civil Action No. 00-015 (Knox County Superior Court, Me.). In 2004, a state court jury from Maine found three blueberry processing companies liable for participating in a four-year price-fixing and non-solicitation conspiracy that artificially lowered the prices defendants paid to approximately 800 growers for wild blueberries. The jury ordered defendants Cherryfield Foods, Inc., Jasper Wyman & Son, Inc., and Allen's Blueberry Freezer, Inc. to pay \$18.68 million in damages, the amount which the growers would have been paid absent the defendants' conspiracy. After a mandatory trebling of this damage figure under Maine antitrust law, the total amount of the verdict for the plaintiffs is just over \$56 million. The Firm served as co-lead counsel.
- In re StarLink Corn Products, Liability Litigation, MDL No. 1403. (N.D. Ill.). Cohen Milstein successfully represented U.S. corn farmers in a national class action against Aventis CropScience USA Holding and Garst Seed Company, the manufacturer and primary distributor of StarLink corn seeds. StarLink is a genetically modified corn variety that the United States government permitted for sale as animal feed and for industrial purposes, but never approved for human consumption. However, StarLink was found in corn products sold in grocery stores across the country and was traced to widespread contamination of the U.S. commodity corn supply. The Firm, as co-lead counsel, achieved a final settlement providing more than \$110 million for U.S. corn farmers, which was approved by a federal district court in April 2003. This settlement was the first successful resolution of tort claims brought by farmers against the manufacturers of genetically modified seeds.
- Snyder v. Nationwide Mutual Insurance Company, No. 97/0633 (Sup. Ct. N.Y. Onondaga Cty.). Cohen Milstein served as one of plaintiffs' principal counsel in this case on behalf of persons who held life insurance policies issued by Nationwide through its captive agency force. The action alleged consumer fraud and misrepresentations. Plaintiffs obtained a settlement valued at more than \$85 million. The judge praised the efforts of Cohen Milstein and its co-counsel for having done "a very, very good job for all the people." He complimented "not only the manner" in which the result was arrived at, but also the "time ... in which it was done."
- Oncology & Radiation Associates, P.A. v. Bristol Myers Squibb Co., et al., No. 1:01CV02313 (D.D.C.). Cohen Milstein has been co-lead counsel in this case since its inception in 2001. Plaintiffs alleged that Bristol-Myers Squibb unlawfully monopolized the United States market for paclitaxel, a cancer drug discovered and developed by the United States government, which Bristol sells under the brand name Taxol. Bristol's scheme included a conspiracy with American BioScience, Inc., a generic manufacturer, to block generic competition. Cohen Milstein's investigation and prosecution of this litigation on behalf of direct purchasers of Taxol led to a settlement of \$65,815,000 that was finally approved by U.S. District Judge Emmet G. Sullivan on August 14, 2003 and preceded numerous Taxol-related litigations

brought by the Federal Trade Commission and State Attorneys General offices.

- Kruman v. Christie's International PLC, et al., Docket No. 01-7309. A \$40 million settlement on behalf of all persons who bought or sold items through Christie's or Sotheby's auction houses in non-internet actions was approved in this action. Cohen Milstein served as one of three leading counsel on behalf of foreign plaintiffs. The Court noted that approval of the settlement was particularly appropriate, given the significant obstacles that faced plaintiffs and plaintiffs' counsel in the litigation. The settlement marked the first time that claims on behalf of foreign plaintiffs under U.S. antitrust laws have been resolved in a U.S. court, a milestone in U.S. antitrust jurisprudence.
- Roberts v. Texaco, Inc., 94-Civ. 2015 (S.D.N.Y.). Cohen Milstein represented a class of African-American employees in this landmark litigation that resulted in the then-largest race discrimination settlement in history (\$176 million in cash, salary increases and equitable relief). The Court hailed the work of class counsel for, *inter alia*, "framing an imaginative settlement, that may well have important ameliorative impact not only at Texaco but in the corporate context as a whole ...".
- Trotter v. Perdue Farms, Inc., Case No. 99-893 (RRM) (JJF) (MPT), D. Del. This suit on behalf of hourly workers at Perdue's chicken processing facilities – which employ approximately 15,000 people – forced Perdue to pay employees for time spent "donning and doffing," that is, obtaining, putting on, sanitizing and removing protective equipment that they must use both for their own safety and to comply with USDA regulations for the safety of the food supply. The suit alleged that Perdue's practice of not counting donning and doffing time as hours worked violated the Fair Labor Standards Act and state law. In a separate settlement with the Department of Labor, Perdue agreed to change its pay practices. In addition, Perdue is required to issue retroactive credit under one of its retirement plans for "donning and doffing" work if the credit would improve employees' or former employees' eligibility for pension benefits. Cohen Milstein was co-lead counsel.

Awards & Recognition

- In 2017, Joel Laitman and Christopher Lometti, members of Cohen Milstein's Securities Litigation & Investor Protection practice group, and Betsy Miller and Victoria Nugent, co-chairs of the firm's Public Client practice group, have been named **The National Law Journal's "Plaintiffs' Lawyers Trailblazers."**
- In 2017, **The Best Lawyers in America 2018®** recognized seven Cohen Milstein partners, including Judge Martha A. Geer, Karen L. Handorf, Leslie M. Kroeger, Stephan A. LeClainche, Theodore J. Leopold, Joseph M. Sellers, and Christine E. Webber for their respective practices of law.
- In 2017, Law360 named Cohen Milstein partners, S. Douglas Bunch and Kalpana Kotagal as **"Rising Stars."**
- In 2017, The Legal 500 named Cohen Milstein a **Leading Firm** in "Antitrust: Civil Litigation / Class Actions" and "Dispute Resolution: Securities Litigation – Plaintiff."
- In 2017, The Legal 500 named Richard A. Koffman, Co-Chair of Cohen Milstein's Antitrust Practice to its **"Legal 500 Hall of Fame."**
- In 2017, Legal 500 named Sharon K. Robertson and Brent W. Johnson as **"Legal 500 Next Generation Lawyer"** in the area of Antitrust: Civil Litigation/Class Actions.
- In 2017, Super Lawyers named Brent W. Johnson as a "Rising Star" and a **"Top Rated Antitrust Litigation Attorney in Washington, DC."**
- In 2017, Super Lawyers named Leslie M. Kroeger, Stephan A. Le Clainche, and Theodore J. Leopold "Florida Super Lawyers" and Nicholas C. Johnson and Adam J. Langino "Florida Rising Stars."
- In 2017, Super Lawyers' names Christopher Cormier a 2017 "Rising Star" and **"Top Rated Antitrust Litigation Attorney in Denver, CO."**
- In 2017, the Coalition for Independent Living Options Inc. presented Michael Dolce a Special Acknowledgment Award for his Commitment to Ending Sex Crimes against People with Disabilities
- In 2017, Adam J. Langino was Elected American Association for Justice's Newsletter Chair for the Product Liability Section
- In 2017, Florida Trend Named Manuel J. Dominguez a **"Legal Elite."**
- In 2017, Nicholas C. Johnson was elected President of the F. Malcolm Cunningham, Sr. Bar Association.
- In 2017, Leslie M. Kroeger was elected Treasurer to the Florida Justice Association.
- In 2017, Nicholas C. Johnson was reappointed Director the Palm Beach County Bar Association's North County Section Board of Directors until June 2019.
- In 2017, Law360 selected Cohen Milstein as a **"Competition Practice Group of the Year"** and a **"Class Action Practice Group of the Year."**
- In 2017, South Florida Legal Guide Names Theodore J. Leopold as a **"Top Lawyer"**, and Diana L. Martin and Adam Langino a **"Top Up and Comer"**.
- In 2016, Women in Wealth Awards selects Carol V. Gilden Selected as "Best in Securities Litigation Law - Illinois & Excellence Award for Investor Protection Law"
- In 2016, Law360 named Cohen Milstein's Richard A. Koffman a Competition Law MVP.

- In 2016, Cohen Milstein Partner Martha Geer was selected as a 2016 North Carolina Leaders in the Law Honoree.
- In 2016, the Washington Lawyers' Committee for Civil Rights and Urban Affairs named Cohen Milstein Sellers & Toll a recipient of its 2016 Outstanding Achievement Award.
- In 2016, for the eighth consecutive year, Cohen Milstein was recognized by The Legal 500 as one of the leading plaintiff class action antitrust firms in the United States.
- In 2016, Agnieszka Fryszman, Joel Laitman, Chris Lometti, Kit Pierson, Joe Sellers and Steve Toll were named to the **2016 Lawdragon 500 Leading Lawyers in America**.
- In 2016, Law360 named Cohen Milstein Partner Julie Goldsmith Reiser one of the **"25 Most Influential Women in Securities Law."**
- In 2016, Cohen Milstein is named to the **National Law Journal's "Plaintiffs Hot List"** for the fifth time in six years.
- In 2016, Law360 names Cohen Milstein as one of the top firms for female attorneys.
- In 2015, Law360 selects Cohen Milstein as the sole plaintiff firm to be selected in two **"Practice Groups of the Year"** categories and one of only five class action firms recognized.
- In 2015, Cohen Milstein was named an **Elite Trial Lawyer Firm by the National Law Journal** for the second year in a row.
- In 2015, Cohen Milstein Partner Steven J. Toll named a **Law360 MVP in Securities Law**.
- In 2015, Cohen Milstein is selected as a **"Most Feared Plaintiffs Firm" by Law360** for the third year in a row.
- In 2015, Richard Koffman was named, for the fifth consecutive year, in the Legal 500 United States **"Leading Lawyers" in "Litigation - Mass Tort and Class Action: Plaintiff Representation - Antitrust"**.
- In 2015, Cohen Milstein's Denver office was named **"Antitrust Law Firm of the Year – Colorado"** by Global Law Experts.
- In 2015, Partners Theodore J. Leopold and Leslie M. Kroeger and Of Counsel Attorney Stephan A. LeClainche were selected **"Florida Super Lawyers"** and Adam J. Langino was selected **"Florida Rising Star."**
- In 2015, Cohen Milstein attorneys Andrew Friedman, Agnieszka Fryszman, Karen Handorf, Kit A. Pierson, Julie Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J. Toll and Christine E. Webber were selected as **Washington DC Super Lawyers**.
- In 2015, Cohen Milstein attorneys Laura Alexander, Monya Bunch, S. Douglas Bunch, Johanna Hickman, Kalpana Kotagal, Emmy Levens, and David Young were selected as **Washington DC Rising Stars** by Super Lawyers.
- In 2015, for the fourth time in five years, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**
- In 2015, Cohen Milstein Partner Carol V. Gilden was selected as **"Pension Funds Litigation Attorney of the Year in Illinois"** for the second year in a row by the Corporate INTL Legal Awards.
- In 2014, Cohen Milstein's Antitrust Practice was selected as a **Practice Group of the Year by Law360**. In

2014, Cohen Milstein Partner Kit Pierson was selected as an MVP by Law360.

- In 2014, Cohen Milstein was named a "**Most Feared Plaintiffs Firm**" by Law360 for the second year in a row. In 2014, Cohen Milstein was selected as an **Elite Trial Lawyer** firm by the National Law Journal.
- Cohen Milstein Partners Steven J. Toll, Joseph M. Sellers, Kit A. Pierson, and Agnieszka M. Fryszman Selected to the **2014 Lawdragon 500**.
- Joseph M. Sellers, Theodore J. Leopold, and Leslie M. Kroeger Make "**Best Lawyers**" List" for 2015.
- Released in 2014, the 2013 SCAS 50 Report on Total Securities Class Action Settlements once again ranked Cohen Milstein as a top firm.
- In 2014, Theodore J. Leopold, a partner at Cohen Milstein, was been selected to the Top 100 Miami Florida Super Lawyers list. Partner Leslie M. Kroeger was selected to the **2014 Florida Super Lawyers** list and Diana L. Martin was selected to the **Florida Rising Stars** list.
- In 2014, Cohen Milstein attorneys Leslie M. Kroeger and Adam J. Langino were both recognized in the 2014 edition of **Florida Trend's Florida Legal Elite™**. Kroeger is recognized as Legal Elite and Langino is listed as an Up-and-Comer.
- In 2014, Cohen Milstein was selected to the selected to the **National Law Journal's Midsize Hot List**.
- In 2014, Cohen Milstein was recognized as a "**Highly Recommended Washington, DC Litigation Firm**" by
- Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2014, Cohen Milstein was ranked as a **Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500** for the sixth year in a row.
- In 2014, Partner Richard Koffman was named, for the fourth consecutive year, in the Legal 500 United States "**Leading Lawyers**" list under the category of "Litigation - Mass Tort and Class Action: Plaintiff Representation - Antitrust".
- In 2014, Cohen Milstein attorneys Christopher Cormier, Agnieszka Fryszman, Julie Goldsmith Reiser, Joseph Sellers, Daniel Sommers, and Steven Toll were recognized as **Local Litigation Stars** by Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2014, Cohen Milstein attorneys R. Joseph Barton, Andrew Friedman, Agnieszka Fryszman, Karer Handorf, Kit A. Pierson, Julie Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J. Tol and Christine E. Webber were selected as **Washington DC Super Lawyers**.
- In 2014, Cohen Milstein attorneys Laura Alexander, Monya Bunch, S. Douglas Bunch, Jeffrey Dubner, Johanna Hickman, Joshua Kolsky, Kalpana Kotagal, Emmy Levens, Michelle Yau and David Young were selected as **Washington DC Rising Stars** by Super Lawyers.
- In 2014, Cohen Milstein Partner Carol V. Gilden was selected as the Illinois Pension Fund Attorney of the Year.
- In 2014, Best Lawyers named Cohen Milstein Partner Joseph Sellers D.C. Litigation - Labor & Employment Lawyer of the Year.
- In 2013, for the third-year in a row, Cohen Milstein was selected to the *National Law Journal*

Plaintiffs' Hot List.

- In 2013, Cohen Milstein was named a "**Most Feared Plaintiffs Firm**" by Law360.
- In 2013, Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500 for the fifth year in a row.
- In 2013, Cohen Milstein attorneys Joseph Barton, Andrew Friedman, Agnieszka Fryszman, Karer Handorf, Kit A. Pierson, Julie G. Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J Toll, and Christine E. Webber were selected as **Washington DC Super Lawyers**.
- In 2013, Cohen Milstein attorney Michelle Yau was selected as **Washington DC Rising Stars** by Super Lawyers. In 2013, Cohen Milstein Partner Carol V. Gilden was selected as a **2013 Illinois Super Lawyer**. She has been selected every year since 2005.
- In 2012, for the second-year in a row, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**.
- In 2012, Cohen Milstein was the recipient of the Judith M. Conti Pro Bono Law Firm of the Year Award from the Employment Justice Center.
- In 2012, Cohen Milstein was recognized as a "Highly Recommended Washington, DC Litigation Firm" by
- Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2012, Cohen Milstein was ranked as a top firm by the 2011 SCAS Report on Total Securities Class Action Settlements.
- In 2012, Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500 for the fourth year in a row.
- In 2012, Partner Joseph M. Sellers was selected as a **Washington DC Super Lawyer**. Mr. Sellers was also selected for this prestigious award in 2007, 2008, 2009, 2010, and 2012.
- In 2012, Partner Steven J. Toll was selected as a **Washington DC Super Lawyer**. Mr. Toll was also selected for this prestigious award in 2007, 2009, 2010, and 2011.
- In 2012, Partner Daniel S. Sommers was selected as a **Washington DC Super Lawyer**. Mr. Sommers was also selected for this prestigious award in 2011.
- In 2012, Partner Christine E. Webber was selected as a **Washington DC Super Lawyer**. Ms. Webber was also selected for this prestigious award in 2007.
- In 2012, Partner Agnieszka M. Fryszman was selected as a **Washington DC Super Lawyer**. In 2012, Partner Kit A. Pierson was selected as a **Washington DC Super Lawyer**.
- In 2012, Partner Carol V. Gilden was selected as an **Illinois Super Lawyer**. Ms. Gilden was also selected for this prestigious award in 2005, 2006, 2007, 2008, 2009, 2010, and 2011.
- In 2011, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**.
- In 2011, Partner Joseph M. Sellers was selected as a "**Visionary**" by The *National Law Journal*.
- In 2011, Partner J. Douglas Richards, Of Counsel Joel Laitman, and Of Counsel Christopher Lometti were selected as **New York - Metro Super Lawyers**.

- In 2011, Partner Joseph M. Sellers and the *Keepseagle v. Vilsack* team were selected as a finalist for the **2011**
- **Trial Lawyer of the Year Award** from the Public Justice Foundation.
- In 2011, **Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States** by the Legal 500 for the third year in a row.
- In 2011, Partners Steven Toll, Joseph Sellers, and Daniel Sommers were selected as **Washington DC Super Lawyers**. Partner J. Douglas Richards, Of Counsel Joel Laitman and Christopher Lometti were selected as **New York - Metro Super Lawyers**. Partner Carol Gilden was selected as an **Illinois Super Lawyer**.
- In 2011, Cohen Milstein was a recipient of The *National Law Journal's* **Pro Bono Award**. The Firm was named one of the "six firms that best reflect the pro bono tradition."
- In 2010, Partner Joseph M. Sellers was selected as one of "**The Decade's Most Influential Lawyers**" by *The National Law Journal*.
- In 2010, Partner Steven J. Toll was named one of Law360's "**Most Admired Attorneys**". In 2010, Partner Andrew N. Friedman was selected as a **Washington DC Super Lawyer**.
- In 2010, Partner Agnieszka M. Fryszman was selected as a finalist for the **Trial Lawyer of the Year Award** from the Public Justice Foundation.
- In 2010, Partners Joseph M. Sellers and Agnieszka M. Fryszman were both selected as one of the **Lawdragon 500 Leading Lawyers in America**.
- In 2010, Cohen Milstein was once again ranked as a **Leading Plaintiff Class Action Antitrust Firm in the United States** by the Legal 500.
- In 2009, Partner Steven J. Toll was named a **Top Attorney in Corporate Litigation for Securities Litigation** by Super Lawyers.
- In 2009, Partners Joseph M. Sellers and Christine E. Webber were named as **Top Washington Lawyers** by the Washingtonian Magazine.
- In 2009, Cohen Milstein was recognized as **one of the top 50 law offices in Washington D.C. for diversity efforts**.
- In 2009, Cohen Milstein was nominated for the prestigious **Class Action Law Firm of the Year** award by Global Pensions magazine for the third year in a row.
- Cohen Milstein ranked as a **2009 Leading Plaintiff Class Action Antitrust Firm in the United States** by *The Legal500*.
- The **2008 SCAS Report on Total Securities Class Action Settlements** ranked Cohen Milstein as a top firm for the second year in a row.
- In 2008, Cohen Milstein was nominated for the prestigious **Class Action Law Firm of the Year** award by Global Pensions magazine for the second year in a row.
- In 2008, Managing Partner Steven J. Toll was named one of Lawdragon's **100 Lawyers You Need to Know in Securities Litigation**.

Attorney Profiles - Partners

Michael B. Eisenkraft

Michael B. Eisenkraft is a Partner at Cohen Milstein and takes a leading role in prosecuting cases relating to the protection of commodity and financial markets for the firm and currently represents investors in the Natural Gas, KOSPI 200, LIBOR, Treasuries, and Interest Rate Swaps markets. He has also helped investors recover hundreds of millions of dollars in the Firm's mortgage-backed securities cases. Mr. Eisenkraft serves as the Administrative Partner for Cohen Milstein's New York office and chairs the firm's new business development committee.

His notable successes at Cohen Milstein include:

- HEMT MBS Litigation: \$110 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by Credit Suisse (final approval pending) after more than seven years of litigation, which included the first written decision certifying a Securities Act class of mortgage-backed securities in the country.
- RALI MBS Litigation: \$335 million in settlements on behalf of investors in mortgage-backed securities issued by Residential Capital and underwritten by various investment banks after seven years of litigation.
- Harborview MBS Litigation: \$275 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by the Royal Bank of Scotland and its subsidiaries after more than six years of litigation.
- Dynex: \$7.5 million settlement on eve of trial on behalf of investors in asset-backed securities. The decision certifying the class in the case was the first decision within the Second Circuit certifying a class of asset-backed bond purchasers under the 1934 Act.
- China MediaExpress: \$12 million settlement with auditor defendant in case involving alleged fraud at Chinese reverse merger company China MediaExpress. One of the largest settlements with an auditor defendant in a case involving a Chinese reverse merger company.

Mr. Eisenkraft's current cases include:

- Total Gas & Power Antitrust and Commodities Litigation: Represents putative class in action against the energy company Total in case alleging antitrust violations and violations of the Commodity Exchange Act in connection with manipulation of the market for natural gas.
- NovaStar MBS Litigation: Securities Act litigation involving billions of dollars of mortgage-backed securities underwritten by the Royal Bank of Scotland, Wachovia and Deutsche Bank.
- Tower Research Capital: Commodity Exchange Act class action against a high frequency trading firm alleging manipulation of the market for KOSPI 200 futures contracts (the representative stock market

index of South Korea) using spoofing or faked trades.

- LIBOR (Exchange Traded Class): Commodity Exchange Act and antitrust class action representing investors in Eurodollar futures injured by manipulation of LIBOR by world's largest banks.
- Interest Rate Swaps: Represents Public School Teachers' Pension and Retirement Fund of Chicago and putative class in action alleging that major investment banks conspired to prevent an exchange-traded market for interest rate swaps from developing.

Mr. Eisenkraft served as a law clerk to the Honorable Judge Barrington D. Parker of the United States Court of Appeals for the Second Circuit. He is the author or co-author of numerous articles on legal issues in the securities and antitrust fields among other subjects. Mr. Eisenkraft attended Brown University, where he received a B.A., *magna cum laude* and Phi Beta Kappa, and graduated *cum laude* from Harvard Law School.

Emmy L. Levens

Emmy L. Levens, a Partner in the Firm's Washington, D.C. office, is a member of the Antitrust Practice Group. With nearly a decade of experience, Ms. Levens has particular expertise in complex antitrust litigation, class actions, and appellate litigation. Ms. Levens plays a central role in helping the antitrust group evaluate potential cases and chairs the Firm's Summer Associate Committee.

Currently, Ms. Levens is litigating the following notable matters:

- Flint Water Crisis: Ms. Levens represents a group of residents and businesses in Flint, Michigan, in a suit for damages sustained as a result of their exposure to toxic levels of lead and other bacteria. This important case is ongoing in the Eastern District of Michigan.
- Resistors Antitrust Litigation: Cohen Milstein serves as interim co-lead counsel in a proposed class action accusing the world's largest manufacturers of resistors of fixing prices. As a critical member of the team of lawyers representing the proposed class of direct purchasers, Ms. Levens has been
- involved in every aspect of the case from investigation to prosecution of the class's case which is currently ongoing in the Northern District of California.
- Truck Transmissions Antitrust Litigation: Cohen Milstein serves as co-lead counsel in a putative class action alleging Eaton – the largest manufacturer of Class 8 Transmissions in the United States – conspired with manufacturers of Class 8 Trucks to exclude a rival transmission manufacturer from the market. Ms. Levens has played an important role on the case from the beginning and has recently returned to the case to assist with the appeal.
- Northeast Dairy: In *Allen vs. Dairy Farmers of America* (D. Vt.), Cohen Milstein serves as lead counsel
- for one of two subclasses of dairy farmers challenging anticompetitive conduct in the Northeast which resulted in lower prices paid to farmers. Ms. Levens has served as one of the principle attorneys litigating this matter since its inception. To date, the case has recovered a historic settlement with former defendant Dean Foods Company and another settlement for \$50 million in addition to industry- changing equitable relief has recently been preliminarily approved by the Court.

Some of her past successes include:

- Plasma-Derivative Protein Therapies Antitrust Litigation: Cohen Milstein served as co-lead counsel for plaintiffs alleging that the two largest manufacturers of IVIG and Albumin – life-saving therapies derived from blood plasma – conspired to reduce the supply, and increase the prices, of these therapies. Ms. Levens played an active role in the litigation, helping to obtain settlements totaling \$128 million for hospitals and other direct purchasers.
- Bulk Bleach Litigation: Ms. Levens served as one of the key attorneys at Cohen Milstein representing a class of municipalities and other direct purchasers of bulk bleach in a case alleging that the two dominant manufacturers of bulk bleach in the Carolina’s engaged in an illegal market allocation agreement. After successfully defeating multiple motions to dismiss, class counsel obtained a settlement that satisfied nearly all of the class’s damages. In approving the settlement, Judge Gergel complimented counsel, stating that the, “whole case has been, I think, very professionally handled, skillfully handled.”
- Asylum Appeal: Ms. Levens agreed to represent pro bono a Nepalese woman after her initial application for asylum was denied. The woman had previously advocated for democratic reforms in Nepal but was forced to leave her home country to escape Communist militias. Ms. Levens appealed the matter through two rounds of briefing to the Board of Immigration Appeals and up to the Fourth Circuit Court of Appeals. After successfully obtaining a new asylum hearing for her client, Ms. Levens negotiated an agreement that allowed her client to remain safely in the United States.

Ms. Levens was also a member of the Apple price-fixing litigation team recognized as “Legal Lions” by Law360. In addition to her work at the Firm, Ms. Levens has served as an adjunct Professor at Georgetown School of Law and is a Board member and Secretary of Global Playground, a nonprofit that builds schools in the developing world. She recently co-authored an article entitled, “Heightened Ascertainability Requirement Disregards Rule 23’s Plain Language,” which appeared in the Spring, 2016 issue of Antitrust magazine.

Prior to joining the firm, Ms. Levens worked as a staff law clerk at the U.S. Court of Appeals for the Seventh Circuit.

Ms. Levens attended the University of Kansas, graduating with honors, and earned her J.D. at UCLA Law School, graduating Order of the Coif. While at law school, Ms. Levens served as the Managing Editor for the UCLA Journal of Environmental Law and Policy, Director of the Downtown Legal Housing Clinic, and President of Moot Court.

EXHIBIT 22

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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**DECLARATION OF LOUIS F. BURKE
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF LOUIS F. BURKE P.C.**

I, LOUIS F. BURKE, declare as follows:

1. I am the partner and sole shareholder/partner of the law firm of LOUIS F. BURKE P.C., one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, interviewed our clients extensively, analyzed the foreign exchange market that our clients traded in, investigated the trading entered into by our clients, engaged a trading expert to review the trading of our clients, prepared and filed complaints on behalf of our clients in the US District Court for the Southern District of New York, attended court conferences on numerous occasions, supervised and reviewed document reviews assigned to our Firm; travelled to San Diego, CA to participate in document review

training sessions; reviewed filings contemporaneously as filings were made, reviewed monthly work performed by the Firm's associates; engaged in numerous discussions with lead counsel, and, submitted monthly time records reflecting the work performed by the Firm.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action before February 14, 2014 and after December 31, 2017, has not been included in this request. Time expended on Lead Counsel's application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, from February 14, 2014 through and including December 31, 2017, is 5,251.70. The total lodestar reflected in Exhibit 1 for that period is \$2,313,628 consisting of \$2,313,628 for attorneys' time and none for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$73,429 in litigation expenses incurred in connection with the prosecution of this Action from February 14, 2014 through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 6, 2018.



LOUIS F. BURKE

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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LOUIS F. BURKE P.C.
TIME REPORT
February 14, 2014 through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
LOUIS F. BURKE	184.4	\$850	\$156,740
Senior Counsel			
LESLIE WYBIRAL	33.8	\$500	\$16,900
Associates			
DAVID SANDLER	7	\$500	\$3,500
DAVID SANDLER (Discovery Rate)	665.5	\$425	\$282,838
Staff Attorneys			
ALISON RUFFLEY	3	\$500	\$1,500
ALISON RUFFLEY (Discovery Rate)	2991	\$425	\$1,271,175
JAMES HANLON	1367	\$425	\$580,975
TOTALS	5,251.7		\$2,313,628

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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LOUIS F. BURKE P.C.
EXPENSE REPORT

February 14, 2014 through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$400
Service of Process	
Online Legal Research	
Online Factual Research	
Document Management/Litigation Support	
Telephones/Faxes	
Postage & Express Mail	
Hand Delivery Charges	
Local Transportation	
Internal Copying	
Outside Copying	
Out of Town Travel*	\$2,780
Meals*	\$249
Court Reporters and Transcripts	
Deposition/Meeting Hosting Costs	
Experts	
Mediation Fees	
Contributions to Litigation Fund	\$70,000
TOTAL EXPENSES:	\$73,429

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are

capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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LOUIS F. BURKE P.C.
FIRM RÉSUMÉ AND BIOGRAPHIES
LOUIS F. BURKE P.C.
460 Park Avenue, 21ST FLOOR
NEW YORK, NEW YORK 10022
(New York County)
Telephone: 212-682-1700
Email: lburke@lfbllaw.com
Website: www.lfbllaw.com

Louis F. Burke has been in private practice for the past thirty years and specializes in the representation of investors in futures litigation. Mr. Burke has represented a lead plaintiff in *Kohen v. Pacific Investment Management Company LLC*, Northern District of Illinois, involving manipulation of the June Ten Year Treasury Note futures contract traded on the Chicago Board of Trade. Mr. Burke was co-lead counsel in *In re Amaranth Commodities Litigation*, Southern District of New York, involving the manipulation of the prices of natural gas futures contracts traded on NYMEX. Prior to private practice Mr. Burke spent six years in the SEC's Division of Enforcement, New York Regional Office and two years as General Counsel of the Commodity Exchange, Inc., a large precious metals futures exchange which is now part of the New York Mercantile Exchange, a subsidiary of the Chicago Mercantile Exchange.

Mr. Burke has acted as a consultant to the State Planning Commission in Beijing on the subject of the structure and formation of futures exchanges in China. Mr. Burke has been a floor trading member of the New York Board of Trade, a subsidiary of the Intercontinental Commodities Exchange. He has testified as an expert in futures litigation in federal court and before the National Futures Association (NFA). Mr. Burke also serves as an NFA and FINRA arbitrator. Mr. Burke has served on the Committee on Futures Regulation of the Association of the Bar of the City of New York and presently co-chairs the ABA Section of Litigation's Committee on Class Actions and Derivative Suits.

Born in Philadelphia, Pennsylvania, Mr. Burke was admitted to the New York bar in 1973; U.S. District Court, Southern District of New York and U.S. Court of Appeals, Second Circuit in 1974; U.S. Tax Court in 1983; U.S. District Court, Eastern District of New York in 1988; U.S. District Court for the Eastern District of Texas in 2014. Mr. Burke appears in *Best Lawyers* as one of the best commercial litigators in New York (2013 – 2017) and has been chosen by his peers as a Super Lawyer in securities litigation (2013 - 2017).

Education: Boston University (B.S.B.A., 1966); New England School of Law (J.D., 1970). Editor, New England Law Review, 1969-1970.

Working History: From 1970 to 1972, Mr. Burke worked in the Personal Trust Department of Morgan Guaranty Trust Company of New York. In 1972, he joined the enforcement division of the SEC New York Regional Office and remained there until 1976. From 1976 to 1977 Mr. Burke was general counsel of the Commodity Exchange, Inc. (“COMEX”), a precious metals futures exchange, where he began his career in the futures industry and was responsible for regulatory and enforcement of COMEX By-Laws and Rules and CFTC regulations. From 1977 to the present he has maintained a private law practice focused on commodities/futures litigation and regulatory work representing all forms of CFTC registrants including, floor brokers, floor traders, commodity trading advisors, introducing brokers, non-clearing and clearing futures commission merchants and investors/traders. In 1987, the Burke Firm became a partner in the law firm of Marchi, Jaffe, Steinberg, Crystal Katz and Burke. From 1991 to 1993, the Burke Firm was a partner at Richards & O’Neill (now Morgan Lewis and formerly Bingham McCutchen). From 1993 to 1995 the Burke Firm was part of the futures litigation practice group at Townley & Updike. At all times the Burke Firm continued its commodities/futures practice and has done so until the present. The Burke Firm has been involved in representing plaintiffs in class actions since the mid-1990’s.

Articles and publications: *Alternate Dispute Resolution in the Futures Industry*, (Juris 2013); “Energy Futures,” McGraw-Hill (1983) contributing editor; “International Derivatives Law, A Country by Country Analysis,” Risk Publications (1996) contributing editor. Author: “Arbitrating Disputes in the Futures Industry,” ABA Securities News (1998); Ponzi Schemes: Common Tactics, Red Flags, and a Selection of Cases, UIA 53rd Congress, Seville, Spain (2009); Survey of Class Actions Alleging Violation of the CEA for Manipulation, ABA Business Law Section (2010).

Arbitrator: Mr. Burke has served as an arbitrator for the National Futures Association; FINRA; New York Cotton Exchange, Inc (“NYCA”); Coffee, Sugar, Cocoa Exchange, Inc. (“CSCE”); Finex Europe; Intercontinental Commodities Exchange, Inc. (“ICE”);

Bar Associations: Mr. Burke is a member of the following:

The Association of the Bar of the City of New York (Member, Committee on Futures Regulation, (1990-1991) (2006-2008) (2009-2012)(2014-Present); Chairman, Sub-committee on Litigation Oversight, (1990-1991); Delegate to UIA (2013-Present)).

American Bar Association (Member, Sections on Corporation, Banking and Business Law; Dispute Resolution (Member of Council 2015 – 2016; Co-Chair, Arbitration Committee, 2015-2016; and Section of Litigation (Co-Chair, Committee on Securities Litigation (2000-2003); Co-Chair, International Litigation Committee (2003-2008); Council member (2009-2012); Co-Chair, Class Actions and Derivative Suits (2013-2014) (2017-Present); Co-Chair, Alternate Dispute Resolution (2014-2016); Advisory Committee, Section of Dispute Resolution (2015-2017); ABA Delegate to UIA (2005 to Present).

Union Internationale des Avocats (“UIA”) (President, UIA-USA Committee, (1999-2001); President, Commission on Financial Services, (1998-2000); Counsel to the President, (2001-2004); President, Litigation Commission (2003-2008); Executive Committee (2004 - 2016)).

Futures Industry Associations and memberships: Commodity Traders and Brokers Association (Director, 1990-1993); Intercontinental Commodities Exchange (ICE) (NYCE and CSCE member with floor trading privileges, 1984-2008); The Volatility Exchange, Inc., President, (2007-present).

CLASS ACTIONS

In re Libor-Based Financial Instrument Antitrust Litigation, 11 MD 2262
(NRB)

The Firm was engaged as Allocation counsel for the speculator class in the Libor manipulation and worked with Lead Counsel and the mediator, Ken Feinberg, on this matter.

In re Foreign Exchange Benchmark Rates Antitrust Litigation, 13-cv-07789-LGS.

The Burke Firm filed two complaints against 23 banking institutions in the United States District Court for the Southern District of New York, who were alleged to be involved in the manipulation of the Euro-Dollar foreign currency markets. Most of the banking defendants have entered into settlements in the aggregate of \$2 billion.

- *Deangelis v. Corzine, et al.*, 11-cv-07866-VM-JCF (SDNY)

The Burke Firm filed a complaint in this class action on behalf of customers of MF Global seeking in excess of \$1 billion in missing funds following MF Global’s collapse. Defendants include the former CEO of M.F. Global, Jon Corzine. (\$100 million partial settlement with defendant JPMorgan.)

- *In Re: Platinum and Palladium Commodities Litig.*, 10-cv-3617-WHP (SDNY)

The Burke Firm has filed a complaint on behalf of plaintiffs who traded in the platinum futures and options markets during the period when it is alleged that defendants were manipulating the price of the platinum and palladium futures and options markets. (proposed partial settlement of \$48,400,000 plus a \$35 million judgment and assignment)

- *In Re: Amaranth Natural Gas Commodities Litigation*, 07-cv-6377-SAS (SDNY).

The Burke Firm was appointed co-lead counsel by Judge Scheindlin and represented a lead plaintiff in this complex natural gas futures litigation involving the manipulation of the natural gas futures and options. (\$77.1 million settlement).

- *Kohen v. Pacific Investment Management Co LLC*, 05-cv-4681-RAG (ND Ill.)

The Burke Firm represented a lead plaintiff in a futures manipulation case of the June 2005 10-Year Treasury Note Futures Contract traded on the Chicago Board of Trade. (\$118,750,000 settlement).

- *Cornerstone Propane Partners v. Reliant Energy, et al.*, 03-cv-06186-VM (SDNY)

The Burke Firm represented a lead plaintiff in this litigation involving the manipulation of the natural gas futures market. (\$100,800,000 settlement).

- *In Re: WorldCom, Inc. Securities Litigation*, 02-cv-03288-DLC (SDNY)

The Burke Firm filed a complaint against WorldCom, the second-largest long-distance telephone company in the United States at the time, following its June 2002 revelations that it had overstated billions of dollars in earnings, admitting to booking billions in line cost expenses as capital investments - an accounting gimmick that hid expenses, inflated cash flow and allowed the Company to falsely report profits instead of losses. (\$6.15 billion in settlement monies on behalf of the investor class; additional settlement of \$38 million obtained in October 2012).

- *In Re: Global Crossing Ltd. Securities & "ERISA" Litigation*, 02-md-01472-GEL (SDNY)

The Burke Firm filed a complaint on behalf of plaintiffs in a securities fraud class action against Global Crossing, Ltd. involving the failed business plan of the telecom company and the eventual swapping of telecom capacity with other telecom companies. (various partial settlements in the case, totaling \$448 million.)

- *Leider v. Ralfe, et al.*, 01-cv-03137-HB-FM (SDNY)

The Burke Firm represented one of the plaintiffs in this antitrust class action against the DeBeers cartel for monopolization of the worldwide diamond markets. After being transferred to the D.N.J., this case was settled with other pending class actions for an aggregate of \$295,000,000 and substantial injunctive relief for the class.

- *In Re: Initial Public Offering Securities Litigation*, 01-cv-02014-WHP (SDNY)

The Burke Firm filed a complaint on behalf of plaintiffs alleging that the underwriter defendants engaged in conduct actionable under the federal securities laws, specifically whether the Subject Securities were artificially inflated during the Settlement Class Period. Pursuant to the Stipulation, a Settlement Fund consisting of \$586 Million in cash has been established for the settlement of all of the 309 constituent Actions.

December 2017

ASSOCIATES

David Harris Sandler

2015 -- Present Law Office of Louis F. Burke, PC

New York,
NY

Louis F. Burke, PC is a boutique law firm representing clients in various corporate, securities, and futures contracts matters.

- Assist with briefs, pre-trial motions, and trial preparation for cases in Federal District Court;
- Prepare senior partner for appellate arguments in Federal Circuit Court; draft contracts for electronic book publishing rights.
- Assist in discovery for Class Action lawsuits involving issues such as currency trading and
- wire fraud.

2012 -- Present Manhattan Community Board - Community District 5 (Appointed Position)

New York,
NY

As an appointed Official of the City of New York, I serve as an advisor to the City Council and various City agencies regarding issues of transportation, land use and zoning, and the annual City budget affecting central Manhattan.

- As an appointee to the Port Authority Bus Terminal Steering Committee, I advise the Port
- Authority of NY & NJ regarding the planning, design, and re-development of the Manhattan bus terminal for 2040 projected use.
- As the Chair of the Transportation Committee I conduct monthly public hearings and advise
- DOT regarding issues impacting City transit facilities and networks, including the streets, sidewalks, Subways, buses, and trains.

2008 -- 2015

Lighthouse Guild (Volunteer Position)New York,
NY

Lighthouse Guild is the leading nonprofit organization serving the visually impaired and the multi-disabled.

CHAIRMAN, YOUNG VISIONARIES JUNIOR BOARD

- Served 5 consecutive terms while recovering from back surgery; annually exceeded fundraising goals by an avg of 11% via implementation of new organizational structure and the establishment of accountability measures.
- Helped coordinate the launch of the "Double Up 4 Vision" fundraising initiative in 2010, an aggressive campaign that raised over \$150,000 in its 1st year and almost \$1 Million upon its completion in 2013.

2003--2005

DLA PiperNew York,
NY

DLA Piper is the largest global law firms, with over 80 offices in 30 countries generating more than \$2.48 one of Billion in 2014.

ASSOCIATE (2004 -- 2005)

- Researched issues of Product Liability and Toxic Tort law for the Litigation Department
- head in the representation of Fortune 500 clients, focusing on issues of food safety and pharmaceutical labels.
 - Assisted senior partners in trial preparation and settlement conferences by defending depositions, drafting briefs and pre-trial motions concerning Federal and State issues of law, and managing client relations.
 - Designed and implemented an internal management system to categorize and process 20,000 documents pertaining to a historic Federal Class Action lawsuit involving a major pharmaceutical company.

LAW CLERK (2003 -- 2004)

- Worked 30 hours/week during school, drafting interrogatories and preparing attorneys for depositions.

SUMMER ASSOCIATE (2003)

- Drafted Memos of Law summarizing Federal and State issues concerning complex
- commercial matters, finance issues, and bankruptcy regulations in the representation of Fortune 500 Companies.

May & Jun.,

Honorable John F. Keenan, U.S. District Court, Southern District Of NY New York, NY

2002

- *Summer Law Clerk:* Assisted prominent Federal District Court Judge; Researched criminal matters; Prepared draft orders concerning immigration issues; Assisted during criminal trials and hearings.

Jul. & Aug.,

Honorable Marvin E. Aspen, Chief Judge, U.S. District Court, Southern District Of IL

CHICAGO, IL

2002

- *Summer Law Clerk:* Assisted Chief Judge of Federal District Court; Researched civil matters; Prepared draft orders concerning complex commercial matters; Attended judicial conferences; Assisted during civil trials.

EDUCATION

2001 -- 2004	Benjamin N. Cardozo School of Law New York, NY J.D. (Concentration: General Litigation) <ul style="list-style-type: none"> <i>Honors:</i> Managing Editor, Moot Court Honors Society; Selected for the "Arts and Entertainment Law Journal," and the "International and Comparative Law Journal;" Elected Secretary of Intellectual Property Law Society.
1998 -- 2001	Columbia University New York, NY B.A. (Major: Political Science; Concentration: Comparative Politics) <ul style="list-style-type: none"> <i>Honors:</i> Graduated with Class Honors as a Senior Class Marshall; Finalist for the Edward S. Brainard Character Prize; Selected as Junior Class Marshall Chief; Dean's List.

PUBLICATIONS

May, 2004	<ul style="list-style-type: none"> World Copyright Law Report: Co-Author, <i>Penguin Allowed to Sell Disputed Dorothy Parker</i> <i>Compilation</i>, exploring compilation copyright issues.
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LESLI WYBIRAL

Education: Marymount College (B.A., Magna cum laude, 2001); Salzburg Institute, Salzburg, Austria (Certificate in International Legal Studies, 2003); New York Law School (J.D., 2005), New York Law School Law Review, Executive Case Comment Editor 2004; Associate Editor 2003; Member 2002-2003. Bar Admissions: 2006, New York, U.S. District Court, Southern District of New York and U.S. Court of Appeals, Second Circuit. Professional Affiliations: American Bar Association (Member: Young Lawyers Division; Section of International Law, International Human Rights Committee; Section of Litigation, International Litigation Committee); New York State Bar Association; The Association of the Bar of the City of New York; New York County Lawyer's Association.

Practice Areas: Commodities Regulation; Commodities Arbitration and Reparations; Securities Litigation; Commodities Litigation; Class Action Litigation; Commercial Litigation; Article 81 Guardianship; Securities Regulation; Securities Arbitration;

ALISON E. RUFFLEY**LEGAL EXPERIENCE**

CONTRACT AND TEMPORARY DOCUMENT REVIEW ATTORNEY 2007 – 2017 *Lexolution LLC*, New York, NY, June 2011 – February 2012, May – July 2012, October – December 2012, February – March, 2013, June – July, 2013, September 2013 – January 2014, March – December 2014, January 2015 – January 2016, March – September 2016, January – April 2017, June – July, 2017; *Clutch Group LLC*, New York, NY, May – June 2011; *Lexolution LLC*, New York, NY, April – May 2011; *Landmark Discovery LLC*, New York, NY, March 2011; *Lexolution LLC*, New York, NY, May 2009 – January 2011; *Law Office of Louis F. Burke PC*, New York, NY, September 2008 – April 2009; *Lexolution LLC*, New York, NY, August – September 2008; *HIRECounsel, Inc.*,

New York, June 2008; Lexolution LLC, New York, NY, October 2007 – May 2008; Update Legal, Inc., New York, NY, August – September 2007; Compliance Inc., New York, NY, July 2007; Strategic Legal Solutions, New York, NY, April – July 2007; TR Grace LLC, Simsbury, CT, March 2007; Law Office of Louis F. Burke PC, New York, NY, January – February 2007. Highlights:

- Relativity document review, and preparation of a privilege log, involving protection of trade dress rights and anti-counterfeiting efforts on a world-wide scale.
- Relativity document review to assess due diligence obligations between a parent company and a subsidiary in the financial services industry.
- Document review for a cause of action in material misrepresentation concerning an insurance underwriter and residential mortgage-backed securities.
- Document review for an adversarial proceeding concerning a bankruptcy settlement agreement and trust preferred securities holders.
- Document review in preparation for a law suit concerning the purchase of commercial mortgage-backed securities.
- Document review in preparation of a response to a second request for an anti-trust inquiry by the U.S. Department of Justice involving a securities exchange.
- Microsoft Access document review in a class action suit involving alleged price-fixing on the commodities exchange.
- Electronic Evidence Discovery, Inc., review for a breach of fiduciary responsibility suit in the financial services industry.
- Electronic document review and Microsoft database creation in preparation of expert witness reports for settlement hearings.
- Relativity document review for an internal investigation on a multi-national scale in the insurance industry.
- Iconect.net document review for the plaintiff in a patent infringement and antitrust action, and in response to an FTC second request and a U.S. Department of Justice and SEC investigation.
- Attenex and Ringtail privilege review in response to an FTC inquiry into a proposed acquisition.
- Concordance document review for a shareholders' derivative action in federal court.
- Electronic document review for relevancy in preparation for a securities fraud class-action suit.

ADMINISTRATIVE EXPERIENCE

THE FORD FOUNDATION, New York, NY 2000 – 2006 *Administrative Assistant, Economic Development Unit, Asset Building and Community Development. Highlights:*

- Provided administrative support to a grantmaking team and program unit, including scheduling and facilitating meetings for staff and grantees, organizing travel arrangements, coordinating grantmaking activities across the Foundation's programming units, and finalizing requests for grantmaking.
- Facilitated a week-long meeting for world-wide grantmakers and practitioners in development finance in Limpopo province, South Africa, November 2005.

OPERATIONS EXPERIENCE

TIME, INC., New York, NY 1984 – 1998 *Freelance Project Coordinator, Fortune Magazine Conference Division, 1998 ; Associate Production Manager, TIME International, 1997; International Makeup Editor, TIME International, 1995 –1996; Manager, TIME International Makeup Department, 1993 –1995; Editorial Makeup*

Coordinator, TIME International, 1989 –1993; and Print Bill Approver, PEOPLE Magazine, Business Assistant, IMPACT Center, and Editorial Production Coordinator, IMPACT Center, 1984 –1989. Highlights:

- Organized and managed the preparation and completion of the international editions of TIME Magazine in a news-driven environment with world-wide deadlines.
- Anticipated and reviewed the editorial content of TIME International to identify conflicts with the advertising content scheduled to appear in each issue and resolved those conflicts prior to the applicable international deadline.
- Analyzed potential scheduling conflicts among the magazine's editions and revised and rescheduled deadlines as appropriate.
- Coordinated efforts with staff at international sites to maintain deadlines while handling crucial and time-sensitive revisions effectively.
- Traveled to international production sites to review and revise processes and procedures.

EDUCATION

New York Law School, New York, NY Juris Doctor, June 2005. Admitted to the New York State Bar.

The Catholic University of America, Washington, DC

B.A. in English Literature with high honors and Phi Beta Kappa induction

ACTIVITIES

Member, Prospect Owners Corp. Board of Directors, 45 Tudor City Place, New York, NY, 2009 - 2012

Counselor, *Pro Bono* Legal Counseling Project, New York County Lawyers' Association, New York, NY, 2010 – 2011

Volunteer, Center for Seafarers' Rights, Seamens' Church Institute, New York, NY, 2009

Volunteer, Christmas-at-Sea Program, Seamens' Church Institute, New York, NY, 2007 - 2016

JAMES HANLON

LEGAL WORK EXPERIENCE

Compliance

New York NY

(Recalled) August – September 2017

March 2017 - July 7 2017

November 28 201 - Present

Mass product liability litigation involving Testosterone Replacement Therapy (TRT). TRT drugs a/k/a "androgen replacement therapy" produced by the client are accused by the plaintiffs of being unsafe. The plaintiffs also assert that low testosterone is not an actual medical condition, promotional material fail to warn of dangers, TRT products are not approved to treat low testosterone in general but only to treat a medical condition cause by low testosterone

(hypogonadism), and by marketing TRT to treat natural aging, the client is engaged in "label expansion".

DTI

New York NY

September 2016 – January 2017

Plaintiff (an ex-employee) claims Defendant paid kickbacks to Health Care Providers to prescribe certain cardiovascular drugs in violation of both the anti-kickback statute and false claim act, Government heard about the case and started an investigation. The review used Kroll.

Quislex

New York, NY

August 2016

A multi-State hard copy review where Investment bank sold off a branch dealing with wealth private clients to another bank and wanted to make sure that the employees leaving had properly clean out their physical files.

Compliance

New York

July 2016

The Plaintiff, a manufacture of television set-top boxes, components and related material on behalf of original equipment manufacturers is suing an original equipment manufacturer, the Defendant, for allegedly failing to pay for goods delivered and sold by the Plaintiff to the Defendant. The defendant in a cross-complaint alleges that the Plaintiff's delays in supplying the equipment caused the Defendant to cancel orders, causing them loss.

Compliance

New York NY

July 2016

A telephone company is responding to Subpoenas from the FBI and the Texas Department of State issued from concerns that a (ex) employee leaked confidential documents to the Chinese government. Privilege only review using relativity.

DTI

New York NY

June – July 2016

Electrical contractor seeks damages from the City of New York because the city allegedly caused serious delays in a project the electrical contractor was doing for the City with multiple change orders and cause financial harm to the electrical contractor. Used Relativity and included privilege and Q&C.

DTI

New York NY

April – June 2016

Two inmates allege that a Correction Officer had raped or sexually abused them, threatened to punish them if they reported the incidents, revealed personal information about himself, and allowed at least one of them to use his personal cell phone to make calls and update her Facebook account, all in violation of the law and Department policies.

Update Legal

New York NY

February -March 2016

DOJ investigation into the proposed acquisition of a streaming company by a video programming company. Used Relativity.

Beacon Hill Staffing

New York NY

January – February 2016

Clients, Real Estate Developers, are suing local municipalities for discrimination against their housing development, which includes a religious school and a "Mikvah" (ritual bath for women) because the defendants do not want Hasidic Jews moving within the municipal borders. Used Relativity and included a privilege review.

Compliance

New York NY

December 2015 – January 2016

Law firm accused of helping a client breach their fiduciary duties. Included privilege and Q&C using Relativity

Compliance

New York NY

November 2015

Due diligence review for the contemplated merger. Used Relativity.

Lexolution New York, NY November 2015
Dispute between investment firms which were counter parties to derivatives transactions as to the value of those transactions after one of them closed due to bankruptcy. Used Relativity and included privilege review.

Compliance New York NY October – November 2015
Investigation into possible violations of Federal Securities laws by a telephone company conducted by the Securities and Exchange Commission. Used Relativity and included privilege.

Compliance New York NY July – October 2015
Mass product liability litigation involving testosterone replacement therapy wherein plaintiffs alleged (1) the client's products are not safe, (2) low testosterone is not a medical condition, but instead just aging, (3) testosterone advertising is false and misleading, and (4) clients are engaging in "off label" promotion. Used Relativity and included QC, privilege, and redactions.

Update Legal New York NY June 2015
Internal investigation into Judicial bribery by an investment bank division specializing in infrastructure projects in India. Used Epic systems Documatrix 13.7 and including privilege review.

Compliance New York NY May 2015 – June 2015
Non-party Grand Jury Subpoena as to the involvement of an elected state official obtaining contracts and financial backing for a technologies and engineering firm in exchange for hiring the elected official's son. Used Eclipse software.

Strategic Legal New York, NY February 2015 – May 2015
Review for responsiveness, privilege and confidentiality on behalf of a car manufacture in response to discovery demands by the U.S. Attorney's Office, the Security Exchange Commission and the New York State Attorney General's Office, regarding allegedly defective automotive parts. Used Relativity.

FTI/Acuity New York NY January 2015 – February 2015
Privilege review on documents to be turned over to the U.S. Department of Justice Antitrust Division about whether music publishers communicated with each other about licensing arrangements with internet radio service providers. Used Ringtail 8.

Lexolution New York, NY October 2014– January 2015
Review documents regarding an investigation by the Manhattan District Attorney's Office into the use of minority and woman owned vendors (or lack thereof) by a contractor working on NYC construction projects (recall). Used Ringtail

Hudson New York, NY October 2014
Review documents regarding an investigation of a bank's origination, underwriting and quality control practices, for FHA-insured loans. Used Relativity and was a privilege only review.

Kelly Services Inc. August 2014
Review documents on behalf of a defendant video game publisher and developer against accusations of patent infringement concerning facial animation and automatic lip synchronization of animated characters, using Relativity and including privilege review.

Integreon New York, NY June 2014 – July 2014
 Document review for an SEC investigation concerning an investment firm which hired another firm with proprietary quantitative financial models (called indexes) to provide investment advice. Although the advising firm came into existence in 2008, documents refer to its performance going back to 2001. Used Relativity for review, privilege, and Q&C.

Trust Point International New York NY June 2014
 Review documents to satisfy subpoenas from DOJ Antitrust Division and FTC Bureau of Competition regarding a Merger of Pharmaceutical companies. Used Relativity and included a privilege review.

Lexolution New York NY April 2014
 Review documents regarding an investigation by the Manhattan District Attorney's Office into minority and women owned business enterprise vendors that a contractor used to supply materials used on NYC construction projects. Used Ringtail

Compliance New York NY March 2014
 Plaintiff claims his desktop was under powered for his upgraded graphic card, damaging the motherboard, and that the manufacture knew and had a duty to tell him. Reviewed using Autonomy and included privilege review.

Hire Counsel New York NY December 2013 – February 2014
 Review documents pursuant to investigation that a bank sold Residential Mortgage Backed Securities using offering materials full of misrepresentations and important omissions causing massive losses to investors. Used Relativity

Lexolution New York NY July 2013 – December 2013
 Discovery demand concerning whether a bank allowed an investor they preferred to cherry pick residential mortgage backed securities packages to the detriment of other investors.

Hudson New York NY December 2012 – July 2013
 Privilege review in response to an investigation concerning whether a financial institution used due diligence when recommending residential mortgage backed securities to investors. Project used Ringtail and Dochunter review platforms and included redactions.

Eltman, Eltman & Cooper New York, NY December 2004 – July 2008
 Associate Attorney
 Responsible for statewide caseload from pre-suit through judgment enforcement. Appeared in court. Handled settlement negotiations. Reviewed documents. Developed and managed processes to enforce high balance judgment accounts. Supervised legal staff including network of per diem attorneys.

John Gifford Molloy, P.C. White Plains, New York, February 2004 – December 2004
 Associate
 Defended insurance carriers in negligence actions including personal injury and property damage claims.

Police Department – City of White Plains White Plains, NY July 1983 – February 2004
 Patrol Officer, Sergeant and Lieutenant -Tour Commander

EDUCATION

Pace University School of Law, White Plains, New York, J.D. 2002
G.P.A.: 3.24

John Jay College of Criminal Justice, New York, New York, B.S. Criminal Justice
Administration and Planning 1984
G.P.A: 3.42 (*Cum Laude*)

(Document Review Programs: Caseinteractive, Relativity, Xerxo, Catalystttt, Clearwell, Citrix, Stratify, Discovery Partner, Dochunter, Ringtail, iconnect, Autonomy, Epic Systems Documatrix 13.7, Kroll).

BAR ADMISSIONS

New York (4164018), Connecticut (421400), and U.S. District Court, Southern and Eastern Districts of New York

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

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION

[illegible]

No. 1:13-cv-07789-LGS

**DECLARATION OF MICHAEL E. CRIDEN
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF CRIDEN & LOVE, P.A.**

I, Michael E. Criden, declare as follows:

1. I am a partner at the law firm of Criden & Love, P.A. (“C&L”). C&L has acted as counsel to Plaintiffs in this action. I am submitting this declaration in support of Lead Counsel’s application for an award of attorneys’ fees and expenses in connection with services rendered and expenses incurred in this action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. C&L, at the direction of lead counsel, assisted in drafting and revising the Second Consolidated Amended Complaint (“SCAC”). In connection with drafting the SCAC, we collaborated with other members of Plaintiffs’ counsel, our experts and experienced trading clients, Plaintiffs Smith, Federighi and Antonello, to analyze and generate various theories of the case. Moreover, C&L engaged in vetting our clients as well as other potential class representatives, which included organizing and analyzing trading statements and completing Plaintiff questionnaires. We also participated in the drafting of data requests regarding futures and options

EXHIBIT 23

transactions. Furthermore, C&L undertook extensive coding assignments as directed by lead counsel for both Plaintiffs' and Defendants' documents. With respect to the Defendants' document review assignments, we reviewed various communications and internal documentation and drafted memoranda summarizing those documents. C&L regularly engaged in communications with Plaintiffs Smith, Federighi and Antonello to provide case updates and to answer questions. We additionally assisted in deposition preparation for our clients.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this action, and the lodestar calculation for those individuals based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended in this litigation after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 8,132.90. The total lodestar reflected in Exhibit 1 is \$3,359,195.00, consisting of \$3,359,195.00 for attorneys' time and \$0.00 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$63,843.35 in litigation expenses incurred in connection with the prosecution of this action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading

or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 3, 2018.



MICHAEL E. CRIDEN

EXHIBIT 1**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
-----	X	

**CRIDEN & LOVE, P.A.
TIME REPORT****Through December 31, 2017**

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Criden, Michael E.	263.00	\$700.00	\$184,100.00
Associates			
Grossman, Lindsey C	521.75	\$350.00	\$182,612.50
Staff Attorneys			
Aluko, Seye B.	2119.75	\$425.00	\$900,893.75
Faris, Armond J.	1833.50	\$425.00	\$779,237.50
Schoenthal, Peter	1739.75	\$350.00	\$608,912.50
Sonko, Fatou	1655.15	\$425.00	\$703,438.75
Paralegals			
TOTALS	8,132.90		\$3,359,195.00

EXHIBIT 2**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
-----	X	

**CRIDEN & LOVE, P.A.
EXPENSE REPORT****Through December 31, 2017**

CATEGORY	AMOUNT
Online Legal Research	\$109.30
Document Management/Litigation Support	\$19.25
Telephones/Faxes	\$173.72
Postage & Express Mail	\$79.98
Internal Copying	\$1,245.40
Out of Town Travel*	\$6,478.72
Meals*	\$736.98
Contributions to Litigation Fund	\$55,000.00
TOTAL EXPENSES:	\$63,843.35

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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**CRIDEN & LOVE, P.A.
FIRM RÉSUMÉ AND BIOGRAPHIES**

CRIDEN & LOVE, P.A. is a litigation firm that devotes a substantial amount of its practice to antitrust and consumer fraud class action litigation, securities and broker misconduct litigation and complex commercial litigation. A brief biography on the attorneys in the Firm is set forth below.

Michael E. Criden attended Temple University and Florida International University and graduated with highest honors, received his law degree from the University of Miami, also with honors, and was admitted to the Florida Bar in 1987. Mr. Criden is nationally recognized in the field of securities arbitration. On behalf of approximately three thousand individual investors, Mr. Criden has recovered over \$100 million. Mr. Criden also has considerable experience in securities and other class actions involving consumer fraud matters. *See, e.g., Davis v. Prudential Securities, Inc.*, 59 F.3d 1186 (11th Cir. 1995). In addition, Mr. Criden was co-lead counsel in *Shea v. New York Life Ins. Co.*, Case No. 96-0746-Civ-Nesbitt (S.D. Fla.), wherein investors in limited partnerships received a full refund of their investment, nearly \$200 million.

Below is a list of just some of the antitrust cases that Mr. Criden has been involved in: *In re: Chocolate Confectionary Antitrust Litigation*, MDL No. 1935 (M.D. Pa.); *In re: Air Cargo Antitrust Litigation*, No. 06-md-1775 (E.D.N.Y.); *In re: Blood Reagents Antitrust Litigation*, No. 09-2081 (E.D. Pa.); *In re: Refrigerant Compressors Antitrust Litigation*, No. 09-md-2042 (E.D. Mich.); *In re: Processed Eggs Products Antitrust Litigation*, MDL No. 2002 (E.D. Pa.); *In re: Libor-Based Financial Instruments Antitrust Litigation*, MDL No. 2262 (S.D.N.Y.); *In re: Optical Disk Drive Antitrust Litigation*, No. 10-md-2143 (N.D. Cal.); *In re: Photochromic Lenses Antitrust Litigation*, MDL No. 2173 (M.D. Fla.); *In re: Rail Freight Fuel Surcharge Antitrust Litigation*, MDL No. 1869 (D.D.C.); *In re: Titanium Dioxide Antitrust Litigation*, No. 10-318 (D. Md.); *In re: Tricor Direct Purchaser Antitrust Litigation* No. 05-240 (D.Del); *In re: DDAVP Indirect Purchaser Litigation*, No. 05-2237 (CLB) (S.D.N.Y.); *In re: Ovcon Indirect Purchaser Litigation*, Case No. 05-2327 (D.D.C.) (Lead Counsel); *In re: Dental Supplies Antitrust Litigation*, No. 16-696 (E.D.N.Y.); *In re: Puerto Rican Cabotage Antitrust Litigation* (Steering Committee); *In re: Bananas Antitrust Litigation*, No.: 05-21962 (S.D. Fla.) (Executive Committee); *In re: Insurance Brokerage Antitrust Litigation*, MDL No. 1663 (D.N.J.) (Steering Committee); *In re: Vista Healthplan, Inc. v. Cephalon, Inc.*, 06-1833 (E.D. Pa.) (“Provigil Antitrust Litigation”) and *In re: Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-7789 (S.D.N.Y.).

Lindsey C. Grossman is an associate with the firm. Prior to joining the firm, Lindsey worked at Grossman & Roth, P.A., focusing on commercial and complex litigation. In 2010, she graduated with a B.A. in Philosophy, Politics & Law from Binghamton University in New York. Lindsey moved to Miami to attend the University of Miami School of Law, graduating *cum laude* in 2013. During law school, Lindsey served on the International & Comparative Law Review.

She also served as a judicial intern for the Honorable Edwin G. Torres in the United States District Court for the Southern District of Florida.

Seye B. Aluko is a staff attorney with the firm. Seye received his Juris Doctorate from the University of Miami in 2008 and his Bachelor of Science from Howard University in 2004. Seye's career has focused mainly on consumer protection, antitrust, and privacy law. Seye has worked regularly on cases involving the Department of Justice, the Consumer Protection Financial Bureau, and other governmental agencies. Prior to working with Criden & Love, P.A, Seye worked as In-House Counsel at the Embassy of Nigeria in Washington, D.C., where he handled various contract, real estate, and intellectual property matters on behalf of the Embassy. He is licensed to practice in Maryland, DC, and Florida.

Armond J. Faris is a staff attorney with the firm. Born and raised in Seattle, Washington, Armond graduated from the University of Washington in 2004 with a BA in Political Science. After briefly working in state government, he enrolled at the University of Miami in Coral Gables, Florida. While in law school, he participated in the Litigation Skills Program in addition to interning with the Miami-Dade Public Defender, and the Juvenile Justice Center. Armond graduated from the University of Miami in 2008, whereupon he began practicing law in the New York/New Jersey area. He has extensive experience in Antitrust litigation, Worker's Compensation law, Insurance Defense in addition to many other areas. He is a member in good standing of the New York and New Jersey Bar.

Fatou Sonko is a staff attorney with the firm. Her legal background includes Antitrust Litigation, Bankruptcy, Patent Litigation and Social Security law. Fatou graduated from Howard University in 2007 with a Bachelor of Science in Psychology. She subsequently received her Juris

Doctor degree from the University of Miami School of Law (FL) in 2012. Fatou is a member of the bar in both Florida and Maryland.

Peter Schoenthal is a staff attorney with the firm. Peter is an experienced trial attorney who has handled criminal and civil cases. In 2012, Peter embarked on his career as a local criminal defense attorney at the Miami-Dade Public Defender's Office. Peter earned his reputation by excelling in the courtroom and his penchant for winning difficult cases. Peter received a Bachelor of Science in Political Science and Sport Management from Florida State University where he was a Dean's List student. He received his Juris Doctorate from the University of Miami where again he excelled as a Dean's List student, and received honors in Litigation Skills. He is a member of The Florida Bar and the Florida Association for Criminal Defense Lawyers.

EXHIBIT 24

2. My firm, as Plaintiffs' Counsel, has acted as counsel for plaintiff Aureus Currency Fund LP ("Aureus") in this case, as well as counsel for both Aureus's former General Partner, Strategic Currency Advisors LLC, and its former limited partner, FiftyFifty LLC, to whom its claim in this case was assigned after the sudden, untimely death during the course of this litigation of Daniel Bribiescas (Aureus's General Partner, and the sole employee of Strategic Currency Advisors). Importantly, Mr. Bribiescas, who was my firm's contact person at Aureus prior to his death, used to work the forex desk of Wells Fargo. He was very knowledgeable about

forex trading and, before Aureus filed a complaint in this case, he analyzed the complaint carefully. He believed strongly in the merit of this case. All potentially relevant information and records had been collected from him and Aureus prior to his death by me and my firm. During the pendency of this litigation, my firm's work has included the following on behalf of Aureus and the Plaintiffs:

- Conferring with Mr. Bribiescas about details of the draft complaint and interviewing him about the market;
- Responding to questionnaires from Lead Counsel concerning Aureus's trades and business;
- Keeping Aureus (Mr. Bribiescas) apprised of the case status and strategy, including settlement discussions, as informed by Lead Counsel, and certain draft pleadings;
- Collecting, organizing, analyzing, and coding Aureus's business records that were potentially relevant or responsive to defendants' document requests, and working with Lead Counsel, and an electronically-stored information ("ESI") vendor, on ESI and other document production issues, in connection with the analysis and eventual production of Aureus's records;
- Working with Aureus and Lead Counsel with respect to drafting Initial Disclosures and responses and objections to defendants' interrogatories and requests for production of documents;
- Responding to Lead Counsel's requests for information from Aureus;
- Conferring with Mr. Bribiescas's estate and managing the assignment of Aureus's claim in this case to its limited partner FiftyFifty LLC; and
- Keeping FiftyFifty LLC's owner updated as regards case status, settlement negotiations, and litigation strategy (as informed by Lead Counsel), and preparing him for and defending him at a Rule 30(b)(6) deposition noticed and taken by defendant Credit Suisse.

3. At all times, Dan Bribiescas, on behalf of Aureus, was positive about the merit of this litigation, responsive to requests for information and records from Plaintiffs' Counsel, and prepared to assist in vigorously prosecuting the action against the defendants, including (if necessary) at a trial. Many hours were spent by Mr. Bribiescas over several years on this matter,

particularly during the discovery phase of the case. Arne Hoel, FiftyFifty LLC's owner and assignee of Aureus's claim, also spent many hours working on this case, including time spent preparing for his deposition (taken on October 19, 2017).

4. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017, has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has been excluded as well.

5. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

6. The total number of hours reflected in Exhibit 1 is 231.00. The total lodestar reflected in Exhibit 1 is \$150,481.25, consisting of \$144,281.25 for attorneys' time and \$6,200.00 for professional support staff time.

7. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

8. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$60,144.13 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

9. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

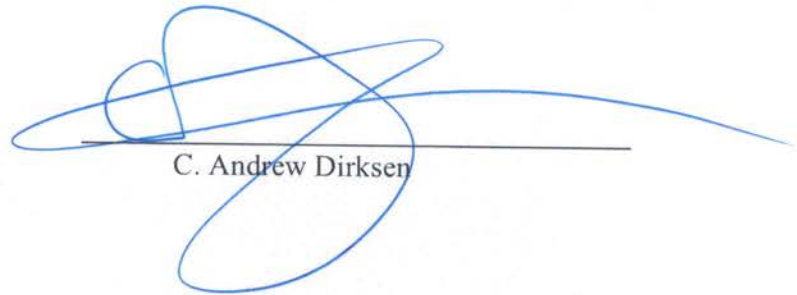
10. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

11. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel:

reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

12. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.



C. Andrew Dirksen

EXHIBIT 1

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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CERA LLP
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Solomon B. Cera	44.75	\$850-1,000.00	\$39,175.00
C. Andrew Dirksen	139.50	\$675-725.00	\$98,468.75
Associates			
Kenneth A. Frost	14.75	\$450.00	\$6,637.50
Paralegals			
John R. Leibee	31.00	\$200.00	\$6,200.00
TOTALS	231.00		\$150,481.25

EXHIBIT 2

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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CERA LLP
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	601.00
Online Legal Research	2,372.56
Telephones/Faxes	1,267.01
Postage & Express Mail	65.90
Internal Copying	399.70
Out of Town Travel*	2,598.59
Meals*	139.37
Investigation	\$2,700.00
Contributions to Litigation Fund	50,000.00
TOTAL EXPENSES:	\$60,144.13

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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CERA LLP
FIRM RÉSUMÉ AND BIOGRAPHIES



Cera LLP, formerly known as Gold Bennett Cera & Sidener LLP, is based in San Francisco, California, and has an office in Boston, Massachusetts. The Firm is devoted to the aggressive pursuit of its clients' legal objectives. The Firm's practice consists primarily of complex business litigation with an emphasis on securities litigation and antitrust litigation. The Firm has had experience representing its clients in federal and state courts located across the nation. The particular areas of the Firm's expertise include the following practice areas:

- Securities Litigation
- Antitrust Litigation
- Breach of Fiduciary Duties by Corporate Officers and Directors and General Partners
- Accountants' Liability
- Consumer Actions
- Whistleblower Litigation
- Corporate Litigation

The Firm's clientele is diverse. In the course of its practice, the Firm has served as counsel to a variety of individuals and business organizations including entrepreneurs, individual and corporate investors, and small to large businesses. The Firm represents its clients on either a contingent fee or a negotiated fee basis depending on the specific circumstances and needs of the client.

During the course of the Firm's work, its members have gained considerable knowledge of a number of varied industries. They include but are not limited to the following: commodity chemicals; airlines; banking; retailing; insurance; commercial real estate; toys; communications; electronics; video games; medical imaging; savings and loan; finance leasing; capital equipment leasing; microcomputers; mainframe computers; independent power production; industrial chemicals; oil and gas; retail and institutional brokerage; municipal bonds; tax-advantaged investments; hedged fund investing and derivatives; food and beverage; food additives; animal feed; health care and e-commerce.

In addition, members of the Firm have acquired expertise in a number of different business disciplines including: corporate reorganizations; mergers and acquisitions; investment banking; economic modeling; accounting; auditing and damage analyses.

Resume of Cera LLP
Page Two of Four

For over forty (40) years, the Firm has played a leading role in some of the most significant cases in the country. These cases resulted in substantial recoveries, well in excess of \$1 billion, for the Firm's clients and have established some of the basic principles for handling complex litigation.

Securities Litigation

The Firm has significant experience in successfully litigating securities litigation cases. Some of these cases in which the Firm has played a lead role include:

<i>Tronox Securities Litig.</i> (\$37 million) (New York)	<i>Pacific Lumber Sec. Litig.</i> (\$140 million) (New York)
<i>Peregrine Systems, Inc. Sec. Litig.</i> (\$117 million) (San Diego)	<i>Legato Systems Sec. Litig.</i> (\$85 million) (San Jose)
<i>Hedged Investment Assoc. Sec. Litig.</i> (\$50 million) (Denver)	<i>Nucorp Energy Sec. Litig.</i> (\$54 million) (San Diego)
<i>Intel Corporation Sec. Litig.</i> (\$40 million) (San Francisco)	<i>First Capital Holdings Sec. Litig.</i> (\$47.5 million) (Los Angeles)
<i>Hallwood Realty Partners, L.P. Sec. Litig.</i> (\$35.5 million) (San Francisco)	<i>Sonus Securities Litig.</i> (\$40 million) (Boston)
<i>CBT Group PLC Sec. Litig.</i> (\$32 million) (San Jose)	<i>American Energy Resources Sec. Litig.</i> (\$33 million) (San Francisco)
<i>Rent-Way Sec. Litig.</i> (\$30 million) (Erie, PA)	<i>Wickes Cos. Securities Litig.</i> (\$32 million) (San Diego)
<i>Consolidated Capital Sec. Litig.</i> (\$29.5 million) (San Francisco)	<i>Sun Microsystems Sec. Litig.</i> (\$30 million) (San Jose)
<i>Diasonics Sec. Litig.</i> (\$25 million) (San Jose)	<i>HPL Technologies, Inc. Sec. Litig.</i> (\$25.5 million) (San Francisco)
<i>BearingPoint Securities Litig.</i> (\$7.5 million) (Alexandria, VA)	<i>Textainer Equipment Partnership Litig.</i> (\$10 million) (San Francisco)

Resume of Cera LLP
Page Three of Four

Antitrust Litigation

The Firm also has significant antitrust litigation experience. The Court in the *Rubber Chemicals Antitrust Litigation* found that it was undisputed that the Firm has “extensive experience and expertise in antitrust and other class actions, as well as other complex litigation, and have successfully prosecuted such cases in courts across the country.” *In re Rubber Chemicals Antitrust Litigation*, 232 F.R.D. 346 (N.D. Cal. 2005). The Firm has played or is playing a lead role in the following antitrust actions:

<i>Titanium Dioxide Antitrust Litig.</i> (\$163.5 million) (Baltimore)	<i>Cast Iron Soil Pipe Antitrust Litig.</i> (\$30 million) (Chattanooga)
<i>EPDM Antitrust Litig.</i> (\$99.3 million) (Connecticut)	<i>Methionine Antitrust Litig.</i> (\$107 million) (San Francisco)
<i>CR Antitrust Litig.</i> (\$62 million) (Connecticut)	<i>Rubber Chemicals Antitrust Litig.</i> (\$320 million) (San Francisco)
<i>Organic Peroxide Antitrust Litig.</i> (\$37 million) (Washington, D.C.)	<i>Polyester Staple Antitrust Litig.</i> (\$63.5 million) (Charlotte)
<i>Plastic Additives Antitrust Litig.</i> (\$46.8 million) (Philadelphia)	<i>High Pressure Laminates Antitrust Litig.</i> (\$40.5 million) (New York)
<i>MCAA Antitrust Litig.</i> (\$15.6 million) (Washington D.C.)	<i>NBR Antitrust Litig.</i> (\$35 million) (Pittsburgh)
	<i>Carbon Black Antitrust Litig.</i> (\$20 million) (Boston)

The Firm is currently acting as a lead counsel for plaintiffs in a number of other pending securities and antitrust actions, and has or is also currently representing plaintiffs in other class actions: *Zinc Antitrust Litigation* (New York), *Capacitors Antitrust Litigation* (San Francisco), *Packaged Seafood Products Antitrust Litigation* (San Diego), *Bulk Bleach Antitrust Litigation* (Charleston, SC), *Aruba Networks Securities Litigation* (San Francisco), *VeriFone Securities Litigation* (San Jose), *Yuhe International Securities Litigation* (Los Angeles), *Wonder Auto Technology Securities Litigation* (New York), *Sino Clean Energy Securities Litigation* (Los Angeles), *China Intelligent Securities Litigation* (Los Angeles), *Bearings Antitrust Litigation* (Detroit), *Wire Harness Antitrust Litigation* (Detroit), *Cast Iron Soil Pipe and Fittings Antitrust Litigation* (Chattanooga), *Foreign Exchange Benchmark Rates Antitrust Litigation* (New York), *Brent Crude Futures Antitrust Litigation* (New York), *Aluminum Warehousing Antitrust Litigation* (New York), *Gold Futures Antitrust Litigation* (New York), *Municipal Derivatives Antitrust Litigation* (New York), *Blood Plasma Antitrust Litigation* (Chicago), *Lidoderm Antitrust Litigation* (San Francisco), *Vehicle Carrier Services Antitrust Litigation* (Newark), *Compressors Antitrust Litigation* (Detroit), *Railroad Freight Surcharge Antitrust Litigation* (Washington, DC), *Airfreight Shipping Surcharge Antitrust Litigation* (New York), *Sorbate Antitrust Litigation* (San

Resume of Cera LLP
Page Four of Four

Francisco), *Folding Carton Antitrust Litigation* (Chicago), *Corrugated Carton Antitrust Litigation* (Houston), *Sugar Antitrust Litigation* (San Francisco), *Beer Antitrust Litigation* (Honolulu), and the *Infant Baby Formula Antitrust Litigation* (Los Angeles).

Other Complex Business Litigation

The Firm recently obtained a Ninth Circuit reversal of a decision in an ERISA action on behalf of an individual who alleged he was denied a retirement benefit now worth approximately Fifty Million Dollars. *Sender v. Franklin Resources, Inc.*, 660 F.App'x 379 (9th Cir. 2015). The Ninth Circuit oral argument may be viewed at http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000007711

Sizeable recoveries have been made in complex business cases as well. For example, the Firm recovered approximately three million dollars (\$3,000,000) on behalf of two individuals in a business fraud case. In a major case involving breaches of trust and fiduciary duty, the Firm's effort caused a capital restructuring of a sizeable financial institution, thereby creating a substantial benefit to the Firm's clients and the financial institution (by the elimination of "management" stock), as well as a cash recovery of over one million dollars (\$1,000,000).

The Firm also represented management shareholders of a then private biotechnology company where it was successful in recovering \$2 million in stock, reconstituting the board, and imposing voting restrictions on certain significant shares which were held by investors hostile to management. The litigation was an important milestone in the Company's history and permitted the Company to complete a \$76 million Initial Public Offering.

The Firm has also handled the defense of major litigation. In one situation, the Firm orchestrated the successful defense of a multi-million dollar claim asserted against numerous sophisticated individuals and a related Chapter 11 bankruptcy proceeding. In another defense matter, we represented a publicly traded company and were successful in settling the case whereby plaintiffs agreed to pay our client (the defendant) over \$2 million. In a bankruptcy case, the Firm represented a major equityholder in connection with a Plan of Reorganization.

Proud of its prior achievements, the Firm continues to excel in its representation of diverse clients in a wide variety of complex business litigation scenarios. The Firm is willing to take on representation, where appropriate, on a contingent fee arrangement. As demonstrated by the results previously achieved, the Firm possesses the experience, qualifications and resources necessary to provide superior representation to all of its clients. Attached are profiles of the principal attorneys of the Firm.

PRINCIPAL ATTORNEYS OF THE FIRM

SOLOMON B. CERA

Mr. Cera joined the Firm as an associate in 1983, became a partner in 1994, and managing partner in 2009. Over the course of his more than thirty-two (32) year career at the Firm, Mr. Cera has played a role in virtually all of the Firm's major cases and has led the litigation of a wide variety of securities, antitrust, and consumer fraud class actions in federal and state courts throughout the country that have resulted in significant recoveries for the Firm's clients. In overseeing the Firm's nationwide practice, Mr. Cera brings to bear his vast experience in litigating cases in numerous diverse industries and disciplines. These include high tech, software, oil and gas, executive compensation, commodity chemicals, accounting, tax advantaged investments, environmental liabilities, ERISA, hedge funds, agriculture, insurance, and workers compensation, among others.

Among the more significant cases in which Mr. Cera has played a leading role include the *Titanium Dioxide Antitrust Litigation*, No. 10-318 RDB (D. Md.). In 2014, the proceeds from a recovery of \$163.5 million in this antitrust price fixing class action were distributed to hundreds of small, medium, and large businesses throughout the nation. The case was developed by the Firm and litigated intensively for three years, leading to the substantial cash recovery.

In approving the settlements, United States District Judge Richard D. Bennett stated:

And Mr. Cera has aptly noted the high quality with great pride of the plaintiffs' trial team. . . . [O]n more than one occasion, you may have noticed quite a few law clerks and interns, not just from here to my left, but also in the courtroom, who were watching the outstanding lawyering that went on here. And I would be remiss if I didn't really comment upon the extraordinarily high level of professionalism that I found attended to these cases, that you make us all proud to be part of this profession in terms of quality of your representation. I mean that sincerely as to all of you. With all the level of cynicism at times as to our profession, of the frustration and sitting in rooms, and particularly younger lawyers here going through billions of documents and document review and discovery, there's still a place here for outstanding advocacy. . . . [I]t was a pleasure to preside over this case and see the quality of the lawyering I saw on both sides of the aisle. So you present the best of our profession.

Mr. Cera's excellent advocacy has been recognized by numerous courts. For example, in *Roberts v. Heim*, No. 84-8069 TEH (N.D. Cal.), Mr. Cera represented a class of approximately 3,000 investors who lost money in an oil and gas limited partnership investment. The Firm recovered \$33 million in cash for the investors and obtained injunctions which barred collection from the limited partners on \$500 million worth of promissory notes. In this same case, Mr. Cera obtained more than 10 judgments on behalf of his clients against various defendants for in excess

of \$100 million each. In commenting on the Firm's representation of its clients in the case, the Chief Judge of the United States District Court for the Northern District of California stated as follows:

[T]his action has been extraordinarily complex, resulting in over 300 orders by this court, several of which have been published, and many of which addressed difficult issues of first impression, and were eventually published . . . [T]hroughout this action, class counsel has demonstrated superior legal abilities, and has submitted to the court briefs, memoranda and oral argument of the highest quality . . . [C]ounsel's efforts have conferred substantial benefits on the class.

Roberts v. Heim, Case No. C84-8069 TEH, 1991 WL 427888 at *6 (N.D. Cal. August 28, 1991).

In the *Peregrine Securities Litigation* No. C 02-870 (S.D. Cal.), Mr. Cera was instrumental in obtaining a recovery believed to be the largest cash payment from outside directors of a public company in class action securities litigation funded through personal assets and not insurance, payments of \$55 million in cash out of a total settlement of \$117 million.

In *Higley v. Donahue, et al.*, No. 93-CV-4288 (Denver District Court), Mr. Cera acted on behalf of the firm as co-lead counsel in an action in Colorado state court against several large, nationally known brokerage firms, based on their involvement in a hedged options trading scheme. A settlement with a value of \$50 million was reached for the benefit of a class of approximately 800 investors in the space of 15 months.

In *Joseph v. Wiles*, 223 F.3d 1155 (10th Cir. 2000), Mr. Cera obtained reinstatement of a case against officers and directors, underwriters and accountants in a class action securities fraud case involving a disk drive manufacturer. The decision is important insofar as it approves the filing of securities law claims by purchasers in the aftermarket of an initial offering of securities, and further analyzes the statute of limitations in a way which benefits investors.

Throughout his career, Mr. Cera has served as a court-appointed lead counsel, co-lead counsel, and counsel for plaintiffs in a multitude of actions, applying his wealth of experience in complex civil litigation to deliver outstanding results for the Firm's clients and the classes of individuals and businesses who have incurred damages and which the Firm has represented. Mr. Cera is fiercely dedicated to achieving meaningful results for the Firm's clients, and is prepared to litigate cases aggressively from the initial investigation stage through trial. Mr. Cera strives at all times to present the highest quality written and oral advocacy on behalf of the Firm's clients.

Mr. Cera graduated from Pomona College, Claremont, California, and received his J.D. from the University of San Francisco School of Law where he was the recipient of the American Jurisprudence Award in corporations law for attaining the highest grade in the course, and was winner of the best oral advocate award in the law school's Moot Court competition. He is admitted to practice before the Supreme Court of the United States as well as a multitude of federal courts throughout the country, and is a member of the State Bar of California and the American Bar Association, including its Litigation Section. Mr. Cera has been designated with the highest

possible “AV” rating by Martindale-Hubbell, and has repeatedly been selected as a Northern California Super Lawyer.

C. ANDREW DIRKSEN

Mr. Dirksen, who joined the Firm in April 2000, now manages the Firm’s Boston office, which opened in 2014. He devotes his practice to litigation representing clients in complex multidistrict antitrust class action matters. He has assisted in recovering more than one billion dollars for clients and other class members, and has served as Co-Lead Counsel for the class plaintiffs on numerous cases, including:

In re Titanium Dioxide Antitrust Litigation (D.Md.): After more than a year of investigation by our firm, our client Haley Paint Company initiated this price-fixing litigation in February 2010 in the United States District Court for the District of Maryland before Judge Richard D. Bennett. Settlements of \$163.5 million were obtained without the benefit of any governmental or regulatory investigation or proceeding. The last defendant settled on the Friday before trial was set to begin on Monday, September 9, 2013.

In re Rubber Chemicals Antitrust Litigation (N.D.Cal.): We recovered \$320 million for our clients and class members (purchasers of several types of rubber chemical products directly from defendants) in this price-fixing case that was prompted by a Department of Justice grand jury investigation.

In re EPDM Antitrust Litigation (D.Conn.): After years of hard-fought litigation, \$99 million was recovered for direct purchasers of EPDM, a synthetic rubber.

In re Plastics Additives Antitrust Litigation (E.D.Pa.): Recoveries of nearly \$47 million were obtained for direct purchasers of organotin heat stabilizers, MBS and acrylic impact modifiers, acrylic processing aids, and epoxidized soybean oil.

In re Methionine Antitrust Litigation (N.D.Cal.): Settlements with defendants totaling \$107 million were achieved for the benefit of direct purchasers of methionine, an animal feed additive.

Mr. Dirksen has represented plaintiffs in dozens of other antitrust actions in a variety of industries. His other matters include: *In re Capacitors Antitrust Litigation*, *In re Packaged Seafood Products Antitrust Litigation*, *In re Cast Iron Soil Pipe and Fittings Antitrust Litigation*, *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, *In re Urethane Antitrust Litigation (Polyether Polyols Cases)*, and *In re Vehicle Carrier Services Antitrust Litigation*. Mr. Dirksen also has defended a company targeted by the California Attorney General’s office in a civil antitrust investigation, and worked extensively on several of the firm’s securities fraud matters, including *In re CBT Securities Litigation*.

Prior to attending law school, Mr. Dirksen worked in Washington, D.C., at a large firm as a paralegal on a variety of complex antitrust matters. He assisted in the defense of corporate clients

involved in individual and class action antitrust litigation, as well as federal Department of Justice and state attorneys general grand jury investigations.

Mr. Dirksen is admitted to practice in all California and Massachusetts state courts; in the United States District Court for the Northern District of California; in the United States District Court for the District of Massachusetts; and in the Ninth Circuit Court of Appeals. Mr. Dirksen received his B.A. *magna cum laude* from Boston College and his J.D. from the University of San Francisco School of Law. During law school, he served as the Article Editor of USF's *Maritime Law Journal*. In law school, Mr. Dirksen interned in the Special Prosecution Unit of the San Francisco District Attorney's Office. After law school, Mr. Dirksen performed work for clients engaged in products liability, patent, and maritime litigation in both state and federal courts, until he joined the firm in 2000.

Mr. Dirksen is a member of the State Bar of California, the State Bar of Massachusetts, and the American Bar Association. He also serves as Vice President and Associate General Counsel to The Mockingbird Foundation, an all-volunteer-run 501(c)(3) charitable organization that has raised and distributed over \$1,000,000 to music education programs for children nationwide since its founding in 1997.

THOMAS C. BRIGHT

Mr. Bright joined the Firm in 2002. Mr. Bright concentrates his practice on antitrust class action litigation involving price fixing and securities class action litigation involving fraud. He is also one of the Partners who oversees the firm's new matter department.

Mr. Bright handles a range of complex securities fraud cases where the firm is appointed Lead or Co-Lead Counsel, including:

In re VeriFone Systems Securities Litigation (N.D. Cal.): The firm is representing an institutional investor in litigation alleging the Defendants made false and misleading statements regarding the company's growth and revenues.

In re China Intelligent Lighting and Electronics, Inc. (C.D. Cal.): The firm is representing an institutional investor in litigation alleging the Offering Documents of the Company contained false and misleading statements.

In re Tronox, Inc., Securities Litigation (S.D. N.Y.): Recovered \$37 million on behalf of investors in a suit against a Company which had been spun-off from a parent corporation. The suit alleged that the Company, its parent corporation, parent's officers and general counsel, and parent's successor corporation were liable for false and misleading statements made about the spun-off company's environmental remediation liabilities and its reserves during and following the company's initial public offering.

Gary Redwen v. Sino Clean Energy, Inc. (C.D. Cal.): Recovered \$2 million for investors in a lawsuit alleging Defendants overstated their revenues, owned "ghost factories," used strictly for show, which had no operations, and identified the existence of customers which were not doing any business with the Company.

In re Wonder Auto Technologies, Inc. Securities Litigation. (S.D.N.Y.): Recovered \$3 million on behalf of investors in a case alleging Defendants made certain materially false and misleading statements and omissions about WATG's financial results, internal controls, and inventory accounting and, as a result, the prices of WATG securities were inflated.

Mr. Bright also played a key role in the following securities cases: *In re Aspeon, Inc. Securities Litigation*, No. 00-cv-995 (C.D. Cal.); *Jerome Feitelberg v. Credit Suisse First Boston LLC, et al.*, No. 03-cv-817914 (Superior Court of Santa Clara); *In re HR Block Securities Litigation*, No. 06-cv-00236 (W.D. Missouri); *In re Peregrine Systems, Inc. Securities Litigation*, No. 02-cv-00870 (S.D. Cal.); and *In re Rent-Way Securities Litigation*, No. 00-cv-323 (W.D. Pa.).

Mr. Bright represents class representatives in antitrust cases, including:

In re Air Cargo Shipping Services Antitrust Litigation (E.D.N.Y.): The firm represents a freight forwarder serving as a class representative in a multi-district antitrust litigation stemming from an investigation by governmental authorities of worldwide price-fixing activity in the air cargo industry. At this time, recoveries in this case exceed \$900 million.

In re Processed Egg Products Antitrust Litigation, No. 08-md-02002 (E.D. Pa.): The firm represents two direct purchaser class representatives in antitrust litigation alleging that producers fixed the price of whole eggs and egg products in the United States by controlling the aggregate supply of domestic eggs. To date, the recoveries in this case exceed \$60 million.

In re Bearings (E.D. Mich.): The firm represents two direct purchasers of ball bearings serving as class representatives in a multi-district antitrust litigation alleging worldwide price-fixing activity in the automotive and industrial ball bearing industry.

In re Polyester Staple Antitrust Litigation, No. 03-cv-1516 (W.D. North Carolina): Recovered \$63.5 million on behalf of a class, which represented a little more than 100% of the damages. The firm was appointed Co-Lead Counsel in this multi-district antitrust litigation alleging a national price-fixing conspiracy in the textile industry. Mr. Bright played a lead role in preparing the case for trial and it settled successfully just before the trial began.

In re Refrigerant Compressors Antitrust Litigation (E.D. Mich.): Recovered \$48.4 million in a multi-district antitrust litigation alleging a national price-fixing conspiracy in the refrigerant compressor industry.

In re Parcel Tanker Shipping Svc Antitrust Litigation (D. Conn.): The firm was appointed Co-Lead Counsel in a multi-district antitrust litigation alleging worldwide price-fixing activity in the parcel tanker industry. The case went to the Supreme Court of the United States where Mr. Bright was on the brief.

Before joining the firm in 2002, Mr. Bright worked for an antitrust, intellectual property and business litigation firm in San Francisco whose clients were small to medium-sized businesses including publicly listed companies.

Prior to his relocation to San Francisco, Mr. Bright engaged in complex business and insurance litigation for four years in the Southern California office of a national firm based in New York. In addition to litigating primarily commercial liability coverage disputes, tort, employment and business matters, Mr. Bright was an entertainment lawyer and assumed various roles in attorney fee matters, ranging from performing internal audits to serving as counsel in litigated matters.

After law school, he worked in the motor sports division of International Management Group, the country's largest sports agency.

Mr. Bright graduated from Vanderbilt University in Nashville, Tennessee with a Bachelor of Arts degree in History. He received his Juris Doctorate from the Pepperdine University School of Law in Malibu, California. During his final year of law school, he was an extern under Justice Mildred Lillie for the California Court of Appeals, Second Appellate District, Division Seven.

Mr. Bright is a member of the State Bar of California, the State Bar of New York and the District of Columbia Bar. Mr. Bright is also admitted to practice in the Southern District of California, Central District of California, Eastern District of California and Northern District of California.

PAMELA A. MARKERT

Ms. Markert joined the Firm in 2006. Ms. Markert specializes in securities class action and complex multidistrict antitrust class action litigation. She also has experience in business, consumer and general liability matters representing clients ranging from individuals, partnerships and closely-held corporations to multinational companies. Cases in which Ms. Markert has played a key role include:

Sonus Networks, Inc. Securities Litigation (D.Mass.): Recovered \$40 million for shareholders in securities fraud action arising from false statements and omissions allegedly contained in company's publicly issued financial statements.

BearingPoint, Inc., Securities Litigation (E.D.Va.): Recovered \$7.5 million for shareholders in a securities fraud action arising from false statements and omissions allegedly contained in company's publicly issued financial statements and after the subsequent bankruptcy and liquidation of the company.

Gianzero v. Wal-Mart Stores, Inc. et.al. (D.Colo.): Obtained \$8 million settlement involving Wal-Mart Stores, Inc., Claims Management, Inc., Concentra Health Services, Inc., and American Home Assurance Co. Claims arose from alleged dictation of medical care and treatment of Wal-Mart and Sam's Club employees who suffered workplace injuries and submitted workers' compensation claims in Colorado. Settlement also includes four-year injunction against Wal-Mart and CMI, and programmatic relief of four years duration as to Concentra.

Feyko v. Yuhe International Inc., et al. (C.D.Cal.): Recovered \$2.7 million for shareholders in a securities fraud action arising from false statements and omissions

allegedly contained in company's publicly issued financial statements. Defendants included a company headquartered in the People's Republic of China and three of its officers; the company's independent auditor and three underwriters of its stock offering.

Ms. Markert has worked, or continues to work, on a number of antitrust and securities fraud cases including: *Mazzafero v. Aruba Networks, Inc., et al.*; *In re Bearings Direct Purchaser Antitrust Litigation*; *In re Municipal Derivatives Antitrust Litigation*; *In re Processed Egg Products Antitrust Litigation*; and *In re Plasma-Derivative Protein Therapies Antitrust Litigation*.

Prior to her career in law, Ms. Markert worked at SunGard Financial Systems, Inc. providing technical direction to clients for a comprehensive investment accounting and portfolio management system for client portfolios totaling more than \$27 billion. While at SunGard, she spent a year in Washington D.C. providing on-site client support for the capital markets division of the Resolution Trust Corporation.

Ms. Markert received a B.S. in Business Administration, Finance *cum laude* from California State University, Northridge, and a J.D. from Santa Clara University School of Law. She was an Articles Editor of the *Santa Clara Law Review* and her comment was published. Ms. Markert was honored as an Emery Academic Scholarship recipient at Santa Clara.

Ms. Markert is admitted to practice in the State of California, United States District Court for the Northern District of California, United States District Court for the Central District of California, United States District Court for the District of Colorado, Fourth Circuit Court of Appeals and the Ninth Circuit Court of Appeals.

Ms. Markert is a member of Queen's Bench Bar Association of the San Francisco Bay Area since 2000. She served as a Director from September 2008 through 2009, and chaired the Bylaws Committee from 2008 through 2011.

LOUIS A. KESSLER

Louis A. Kessler is an associate with Cera LLP where he specializes in complex antitrust and securities fraud class action litigation. His legal career has been devoted to advocating for consumers, investors, employees and small businesses who have been subject to harmful and illegal business practices. Below is a representative list of complex cases in which Mr. Kessler has had significant involvement:

- *In re Aluminum Warehousing Antitrust Litigation*
- *In re Sara Lee Corporation Securities Litigation*
- *In re AOL Time Warner Inc. Securities Litigation*
- *In re Salomon Analyst AT&T Litigation*
- *In re Merrill Lynch Research Reports Securities Litigation*
- *In re RC2 Corp. Toy Lead Paint Products Liability Litigation*

- *In re Air Cargo Shipping Services Antitrust Litigation*
- *In re Rubber Chemicals Antitrust Litigation*
- *In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litigation*
- *In re DRAM Antitrust Litigation*
- *In re TFT-LCD (Flat Panel) Antitrust Litigation*
- *In re Tronox, Inc. Securities Litigation*
- *In re Titanium Dioxide Antitrust Litigation*
- *Redwen v. Sino Clean Energy Inc.*

Before joining the firm in 2011, Mr. Kessler worked at Equal Rights Advocates, a public interest law firm in San Francisco, at the Securities and Exchange Commission's Enforcement Division and at high-profile plaintiff class action firms in Chicago and New York.

Mr. Kessler is admitted to practice in Illinois and California, the Federal District Courts for the Northern District of Illinois, the Eastern District of Wisconsin, the Northern District of California, the Central District of California and the Southern District of California.

Mr. Kessler received his J.D. from the University of Chicago Law School in 2002 and his B.A. from Amherst College in 1997 where he majored in Physics and Philosophy.

COLLEEN L. CLEARY

Ms. Cleary joined the Firm in March 2017. She devotes her litigation practice to representing clients in complex multidistrict antitrust class actions. Since joining the Firm, Ms. Cleary has been actively involved in multiple antitrust cases, including: *In re Packaged Seafood Products Antitrust Litigation* and *In re Bearings Antitrust Litigation*.

Prior to joining the Firm, Ms. Cleary worked for a national plaintiffs' class action law firm, where she was involved in litigating antitrust cases on behalf of consumers.

Ms. Cleary received her B.A. *cum laude* from the University of San Francisco, where she majored in English Literature and double minored in Philosophy and Legal Studies. She then obtained a J.D. from the University of San Francisco's School of Law and an M.B.A. from USF's School of Management. During law school, Ms. Cleary interned at the Federal Trade Commission and the Department of Justice's Antitrust Division. She was also a member of the *University of San Francisco Law Review*, and earned the CALI Award of Excellence in European Union Economic Law. Upon graduation, she received a Business Certificate with Honors.

Ms. Cleary is admitted to practice in the State of California and United States District Court for the Northern District of California.

**Selected Published Decisions
In Which The Firm
Has Played A Significant Role**

1. *Merced Irrigation Dist. v. Barclays Bank PLC*,
165 F. Supp. 3d 122 (S.D.N.Y. 2016)
2. *In re Activision Securities Litigation*,
(CCH) Fed.Sec.L.Rep. ¶92,397 (N.D.Cal. 1985)
3. *In re Activision Securities Litigation*,
621 F.Supp. 415 (N.D.Cal. 1985)
4. *In re Activision Securities Litigation*,
723 F.Supp. 1373 (N.D.Cal. 1989)
5. *Adobe Systems, Inc. Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶95,873 (N.D.Cal. 1991)
6. *Adobe Systems, Inc. Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶96,051 (N.D.Cal. 1991)
7. *In re ASK Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶96,991 (N.D.Cal. 1992)
8. *Businessland Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶96,059 (N.D.Cal. 1991)
9. *In re BearingPoint Securities Litigation*,
232 F.R.D. 534 (E.D. Va. 2006)
10. *In re Carbon Black Antitrust Litigation*,
2005 W.L. 102966 (D. Mass. 2005)
11. *Colaprico v. Sun Microsystems, Inc.*,
Fed.Sec.L.Rep. (CCH) ¶95,874 (N.D.Cal. 1991)
12. *Colaprico v. Sun Microsystems, Inc.*,
Fed.Sec.L.Rep. (CCH) ¶96,198 (N.D.Cal. 1991)
13. *In re Consolidated Air West Securities Litigation*,
73 F.R.D. 12 (N.D.Cal. 1977)
14. *In re Consolidated Capital Securities Litigation*,
(CCH) Fed.Sec.Rptr. ¶95,238 (N.D.Cal. 1990)

15. *In re Daisy Systems Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶96,190 (N.D.Cal. 1991)
16. *Desmond v. BankAmerica Corp.*,
Fed.Sec.L.Rep. (CCH) ¶90,995 (N.D.Cal. 2000)
17. *In re Disonics Securities Litigation*,
599 F.Supp. 447 (N.D.Cal. 1984)
18. *Digital Microwave Corp. Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶97,044 (N.D. Cal. 1992)
19. *Duval v. Gleason*,
Fed.Sec.L.Rep. (CCH) ¶96,153 (N.D.Cal. 1991)
20. *Eminence Capital, LLC v. Aspeon, Inc.*,
316 F.3d 1048 (9th Cir. 2003)
21. *Eza Charitable Trust v. Rent-Way, Inc.*,
136 F.Supp.2d 435 (W.D. Pa. 2001)
22. *In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litig.*,
681 F. Supp. 2d 141 (D. Conn. 2009).
23. *In re Fortune Systems Securities Litigation*,
604 F.Supp. 150 (N.D.Cal. 1984)
24. *Gaillard v. Natomas Co.*,
173 Cal.App.3d 410, 219 Cal.Rptr. 74 (1985)
25. *Gaillard v. Natomas*,
208 Cal.App.3d 1250 (1989)
26. *In re Gap Stores Securities Litigation*,
79 F.R.D. 283 (N.D.Cal. 1978)
27. *In re Granite Partners, L.P.*,
194 BR 318 (Bankr. S.D.N.Y. 1996)
28. *Green v. Occidental*,
541 F.2d 1335 (9th Cir. 1976)
29. *Haley Paint Co. v. E.I. DuPont de Nemours and Co.*,
804 F. Supp. 2d 419 (D.Md. 2011)

30. *In re: Zinc Antitrust Litig.*,
No. 14-CV-3728 (KBF), 2016 WL 3167192 (S.D.N.Y. June 6, 2016)
31. *Hudson v. Capital Management, Inc.*,
565 F.Supp. 615 (N.D.Cal. 1983)
32. *Hudson v. Capital Management Int'l., Inc.*,
Fed.Sec.L.Rep. (CCH) ¶99,221 (N.D.Cal. 1982)
33. *Hudson v. Capital Management Int'l., Inc.*,
Fed.Sec.L.Rep. (CCH) ¶99,222 (N.D.Cal. 1982)
34. *In re Itel Securities Litigation*,
596 F.Supp. 226 (N.D.Cal. 1984)
35. *In re Itel Securities Litigation*,
89 F.R.D. 104 (N.D.Cal. 1981)
36. *Joseph v. Wiles*,
223 F.3d 1155 (10th Cir. 2000)
37. *Lilley v. Charren*,
936 F.Supp. 708 (N.D.Cal. 1996)
38. *Marshall v. Holiday Magic*,
550 F.2d 1173 (9th Cir. 1977)
39. *Masstor Systems Corporation Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶92,719 (N.D.Cal. 1986)
40. *Matrix Capital Management Fund, LP v. BearingPoint, Inc.*
576 F.3d 172 (4th Cir. 2009)
41. *McFarland v. Memorex Corp.*,
581 F.Supp. 878 (N.D.Cal. 1984)
42. *In re Memorex Securities Case*,
61 F.R.D. 88 (N.D.Cal. 1973)
43. *In re Nucorp Energy Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶99,158 (S.D.Cal. 1983)
44. *In re Nucorp Energy Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶93,224 (S.D.Cal. 1987)

45. *In re Plastic Additives Antitrust Litigation*,
2004 WL 2743591 (E.D. Pa. 2004)
46. *In re Pizza Time Theatre Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶92,537 (N.D.Cal. 1986)
47. *In re Polyester Staple Antitrust Litig.*,
No. 03-cv-1516, 2007 WL 2111380 (W.D. N.C. July 19, 2007)
48. *Primavera Familienstiftung v. Askin*,
173 F.R.D. 115 (S.D.N.Y. 1997)
49. *In re Rent-Way Sec. Litig.*,
209 F.Supp.2d 493 (W.D. Pa. 2002)
50. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶94,393 (N.D.Cal. 1989)
51. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶94,394 (N.D.Cal. 1989)
52. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶95,430 (N.D.Cal. 1990)
53. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶95,431 (N.D.Cal. 1990)
54. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶96,094 (N.D. Cal. 1991)
55. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶96,095 (N.D.Cal. 1991)
56. *Roberts v. Heim*,
Fed.Sec.L.Rep. (CCH) ¶96,221 (N.D.Cal. 1991)
57. *Roberts v. Heim*,
Case No. C 84-8069 TEH, 1991 WL 427888 (N.D.Cal. 1991)
58. *Roberts v. Peat Marwick Mitchell & Co.*,
857 F.2d 646 (9th Cir. 1988)
59. *Rogers v. NationsCredit Financial Services Corp.*,
Bankr. L. Rep. (CCH) ¶77,918 (N.D.Cal. 1999)

60. *In re Rubber Chemicals Antitrust Litigation*,
232 F.R.D. 346 (N.D. Cal. 2005)
61. *In re Seagate Technology II Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶97,028 (N.D. Cal. 1992)
62. *In re Technical Equities Federal Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶94,093 (N.D.Cal. 1988)
63. *In re Titanium Dioxide Antitrust Litig.*,
284 F.R.D. 328 (D.Md. 2012)
64. *In re Titanium Dioxide Antitrust Litig.*,
959 F. Supp. 2d 799 (D.Md. 2013)
65. *In re Tronox, Inc. Sec. Litig.*
262 F.R.D. 338 (S.D.N.Y. 2009)
66. *In re Tronox, Inc. Securities Litigation*,
2010 WL 2835545 (S.D.N.Y. June 28, 2010)
67. *In re Tronox, Inc. Sec. Litig.*
769 F. Supp. 2d 202 (S.D.N.Y. 2011)
68. *In re Victor Technologies Securities Litigation*,
102 F.R.D. 53 (N.D.Cal. 1984)
69. *In re Victor Technologies Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶93,158 (N.D.Cal. 1987)
70. *In re Worlds of Wonder Securities Litigation*,
35 F.3d 1407 (9th Cir. 1994)
71. *In re Worlds of Wonder Securities Litigation*,
721 F.Supp. 1140 (N.D.Cal. 1989)
72. *In re Worlds of Wonder Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶95,004 (N.D.Cal. 1990)
73. *In re Worlds of Wonder Securities Litigation*,
694 F.Supp. 1427 (N.D.Cal. 1988)
74. *In re Worlds of Wonder Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶97,041 (N.D. Cal. 1992)

75. *In re Worlds of Wonder Securities Litigation*,
Fed.Sec.L.Rep. (CCH) ¶97,018 (N.D. Cal. 1992)
76. *Zatkin v. Primuth*,
551 F.Supp. 39 (S.D.Cal. 1982)
77. *Zell v. Intercapital Income Securities, Inc.*,
675 F.2d 1041 (9th Cir. 1982)

EXHIBIT 25

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**DECLARATION OF PATRICK F. MORRIS
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF MORRIS AND MORRIS LLC
COUNSELORS AT LAW**

I, Patrick F. Morris, declare as follows:

1. I am a partner at the law firm of Morris and Morris LLC, Counselors At Law, one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, (working principally with Kirby McInerney and, later, with Cafferty Clobes Meriwether and Sprengel) was actively involved in the investigation and development of the case on behalf of class members who transacted in futures contracts and options on futures contracts transacted on exchanges. This work entailed extensive legal research and factual investigation of issues related to, *inter alia*, the foreign exchange (“FX”)

futures markets, pleading violations of the Commodity Exchange Act (“CEA”), including intent, pricing of FX instruments in the futures and the spot markets, and jurisdictional implications of suing foreign banks under the CEA. My firm worked closely with the independent consulting expert retained in support of the drafting of the futures action complaint, including analyzing daily trading activity for multiple high volume FX currency pairs to determine evidence of price manipulation in the FX future market, damages calculation methodologies, and preliminary damages estimates for the futures market. This work helped underpin subsequent work by the Firm (and others) as one of the exchange class allocation counsel. Work as exchange class allocation counsel entailed factual and legal analysis and involved active participation over a multi-month period in rigorous, arm’s-length negotiations with separately appointed over-the-counter class allocation counsel to arrive at a proposed fair and equitable allocation process in the distribution of settlement funds between futures and spot class members. My firm was also actively involved in legal research and the drafting of multiple submissions to the Court related to the litigation, including in support of plaintiffs’ opposition briefing in connection with the non-settling defendants’ motion to dismiss.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December

31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 1,333.75. The total lodestar reflected in Exhibit 1 is \$1,121,325.00, consisting solely of attorneys' time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$243,842.70 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.

(e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.


Patrick F. Morris

EXHIBIT 1

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

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	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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MORRIS AND MORRIS LLC
COUNSELORS AT LAW
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Karen L. Morris	304.45	975.00	296,838.75
Patrick F. Morris	625.95	850.00	532,057.50
Associates			
R. Michael Lindsey	403.35	725.00	292,428.75
TOTALS	1,333.75		1,121,325.00

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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	X	

MORRIS AND MORRIS LLC
COUNSELORS AT LAW
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	400.00
Online Legal Research	3,156.37
Out of Town Travel*	6,882.99
Experts	183,403.34
Contributions to Litigation Fund	50,000.00
TOTAL EXPENSES:	243,842.70

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**MORRIS AND MORRIS LLC
COUNSELORS AT LAW
FIRM RÉSUMÉ AND BIOGRAPHIES**

Morris and Morris LLC Counselors at Law is a law firm whose practice is concentrated principally in representative and class action litigation, including derivative and antitrust litigation. The firm is active in major litigations in federal courts throughout the United States.

The Partners:

Karen L. Morris is a leading class and derivative action litigator. Ms. Morris has served as Lead Counsel in major antitrust litigation, including most recently, as Interim Co-Lead Counsel for Bondholders in the LIBOR antitrust litigation pending in the Second Circuit. In addition, Ms. Morris has spoken frequently on antitrust and other representative litigation. Ms. Morris has been practicing for thirty-two years, and is a graduate of Yale University (B.A. 1980, M.A. 1980) and of the Duke University School of Law (J.D. 1983). Thereafter, Ms. Morris served as a law clerk to the late Daniel L. Herrmann, then Chief Justice of the Supreme Court of the State of Delaware. Ms. Morris was a founding partner in 1991 of Morris and Morris, the predecessor firm to the present firm of Morris and Morris LLC Counselors At Law. Ms. Morris previously practiced with the firm of Fried, Frank, Harris, Shriver & Jacobson, New York, New York, from 1984 through 1990. While at Fried, Frank, she was principally involved in accounting and securities fraud litigation, both civil and criminal, complex tax litigation, and litigation in connection with merger and acquisition transactions. Ms. Morris served on the Permanent Lawyers Advisory Committee to the Federal District Court for the District of Delaware between 1992 and 1994. Ms. Morris was Co-Chair of the ABA Subcommittee on Governance Issues in Litigation and Investigations from 2008 to 2011, and served as the Chair of the Subcommittee on Governance Litigation and Resolution. Ms. Morris has served as a Special Assistant Attorney General for the State of Delaware. Ms. Morris is admitted to the Bars of the States of New York and Delaware; the United States District Courts for the Southern District of New York, Eastern District of New York and the District of Delaware; United States Courts of

Appeals for the Second, Third and Sixth Circuits; and the United States Supreme Court.

Patrick F. Morris is a graduate of West Point (B.S. 1978) and of the Duke University School of Law (J.D. 1983), where he graduated Order of the Coif. Mr. Morris has been a member of the Firm since November 1994. Prior to joining the Firm as an associate in 1991, Mr. Morris served as a Major in the Office of the Judge Advocate General with the Department of the Army. Mr. Morris is a member of the Bars of the States of Florida and Delaware, and is admitted to the District of Delaware; United States Court of Appeals for the Second Circuit, and the United States Supreme Court.

Counsel:

R. Michael Lindsey is a graduate of Penn State University (B.A. 1985, with Honors in English Literature) and of the Dickinson School of Law (J.D. 1988, magna cum laude). Prior to his association with Morris and Morris in 2003, Mr. Lindsey practiced in the fields of corporate litigation and white collar crime with the law firm of Skadden, Arps, Slate Meagher & Flom from 1989 to 1998, and in the fields of corporate, securities and commercial litigation, including with Bouchard Margules & Friedlander, PA, a firm specializing in Delaware Chancery Court corporation litigation. Mr. Lindsey is a member of the Board of Directors of the Delaware Center for Justice. Mr. Lindsey is a member of the Delaware Bar, and is admitted to the United States Court of Appeals for the Second Circuit, and the United States Supreme Court.

Our Practice:

The practice of the Firm has been substantially devoted to the field of representative litigation. Illustrative of the cases in which the Firm has participated are the following:

Antitrust Class Actions

(a) In Re LIBOR-Based Financial Instruments Antitrust Litigation, MDL No. 2262 - Gelboim et al. v. Credit Suisse Group AG, et al., Civil Action No. 12-1025 (S.D.N.Y.). On February 9, 2012, the Firm, with co-counsel filed the Gelboim complaint, alleging manipulation by multiple American and international banking institutions to manipulate and artificially suppress reported U.S. Dollar London Interbank Overnight Rate ("LIBOR") daily rates. The Gelboim complaint alleged that as the result of the antitrust conduct, holders of variable rate bonds, the interest rate payments on which were set to LIBOR rates, were injured by not receiving the full amount of interest they would have been paid absent the manipulation.

The Court designated the Gelboim bondholder class as a separate class in the multidistrict LIBOR antitrust action, and appointed the Firm Interim Co-Lead Counsel for the Bondholder Class. Plaintiffs allege the defendant banks – members of the U.S. Dollar LIBOR panel – colluded to artificially suppress LIBOR rates between August 2007 and May 2010. On March 29, 2013, the Southern District of New York dismissed the Sherman Act antitrust claims in all LIBOR-related actions then pending before it, including the Bondholder Action in its entirety. Bondholder plaintiffs appealed to the Second Circuit, which, by Order dated October 30, 2013, dismissed the appeal. The United States Supreme Court granted Bondholder plaintiffs'

petition for a writ of certiorari. Following argument before the Supreme Court on December 9, 2014, by unanimous opinion dated January 21, 2015, the Supreme Court ruled in favor of the Bondholder plaintiffs, and directed that their appeal of the district court's dismissal of the Sherman Act antitrust claims proceed. Briefing on the appeal before the Second Circuit was completed in August 2015, and oral argument was heard by a three judge panel of the Second Circuit on November 13, 2015. By opinion dated May 23, 2016, the Second Circuit reversed the District Court and remanded the Bondholder Action back to the District Court. Following briefing and oral argument on a second motion to dismiss, by Order dated December 20, 2016, the District Court again dismissed the Bondholder Plaintiffs' antitrust claim. This dismissal is presently on appeal to the Second Circuit.

(b) Neil Taylor, et al. v. Bank of America Corporation, et al., Civil Action 15-cv-1350, filed in the United States District Court for the Southern District of New York. This action, alleging both Sherman Act Section 1 and Commodity Exchange Act claims, was filed by the firm and co-counsel, following extensive expert consultation, on behalf of a putative class of persons and entities who traded in Foreign Exchange ("Forex") futures contracts and options on futures contracts (collectively "Futures") on registered exchanges in the United States during the alleged class period. The action alleges that defendants, major international banks active in the Forex market, colluded to manipulate Forex rates to benefit proprietary trading positions, resulting in pricing manipulation in the Futures market. The Taylor Action was brought in connection with the broader Forex over-the-counter benchmark manipulation class action litigation. Following litigation and discussions among counsel, Taylor Action counsel have agreed to work as allocation counsel for a separate exchange-based futures class, within the framework of a single consolidated Forex manipulation class action (In re Foreign Exchange Benchmark Rates Antitrust Litigation, Civil Action 13-cv-7789 (LGS)). Multiple defendant banks have already settled and the firm, as part of the exchange-based allocation counsel team, actively participated in the process to determine the appropriate allocation of settlement proceeds as between the Forex over-the-counter and exchange-based classes.

(c) BP Propane Direct Purchaser Antitrust Litigation, Master Case File No. 1:06-CV-3621, filed in the United States District Court for the Northern District of Illinois. By Docket Entry dated September 19, 2006, pursuant to Federal Rule of Civil Procedure 23(g), the Firm was one of three counsel appointed as Interim Class Counsel with responsibility for the prosecution of this direct purchaser antitrust action alleging that BP Products North America ("BPNA"), by and through its employees, attempted to and did monopolize the supply of Mont Belvieu, Texas TET Propane in, among other possible times, early 2004. Plaintiffs contended that this conduct resulted in, among other things, market manipulation and substantial damages to market participants who purchased propane directly from BPNA and from others at prices tied to Mont Belvieu TET and/or non-TET propane pricing. By Order dated January 26, 2009, the Court, *inter alia*, certified a settlement class, appointed Interim Class Counsel as Class Counsel for the settlement class and preliminarily approved a proposed settlement providing for the payment of \$52 million for the benefit of the settlement class. By Order dated May 26, 2009, the Court granted final approval of the settlement.

(d) Charlotte Kruman, et al. v. Christie's International PLC, et al. Antitrust Litigation, Civil Action 00 Civ. 0996 (LAK) (S.D.N.Y.). The Firm was one of the principle counsel in this

federal antitrust class action litigation brought on behalf of buyers and sellers in auctions held outside of the United States by the Christie's and Sotheby's Auction Houses between 1993 and 2000 (for buyers) and 1995 and 2000 (for sellers). Plaintiffs' Sherman Act antitrust claims were originally dismissed by the District Court due to a finding of lack of subject matter jurisdiction based upon the then-current interpretation of the Foreign Trade Antitrust Improvements Act, 15 U.S.C. § 6a. Plaintiffs' counsel were successful in their appeal to the Second Circuit, causing that Circuit to be the first in the country to interpret the Foreign Trade Antitrust Improvements Act to provide jurisdiction to United States courts for alleged antitrust violations that occur outside of the United States. On June 2, 2003, the Court approved a settlement providing for the payment of \$40 million for the benefit of class members.

(e) In re Salomon Treasury Antitrust Litigation, Consolidated Civil Action No. 91 CIV 5471 (S.D.N.Y.). The Firm had a leading role in this complex federal securities fraud, anti-trust and RICO class action arising from the highly publicized 1991 manipulation and "squeeze" of the cash and financing markets for a number of issues of United States Treasury Securities, and the subsequent public disclosures by Salomon Brothers of its having violated Treasury Department rules in submitting bids in auctions of Treasury Securities. On July 26, 1994, the District Court approved a settlement of the action with all but one of the named defendants that provided a \$100 million fund for distribution to the Class. The Firm was a major participant in all aspects of the litigation, including, among other things, the preparation and drafting of two amended and consolidated complaints, numerous pretrial motions, the conduct of approximately 150 days of deposition testimony by party and non-party witnesses, the review and management of hundreds of thousands of pages of documents, numerous hearings before the Court, and the negotiation of the settlement with defense counsel. The Firm was also in charge of all expert discovery and expert damage analysis, which proved critical to understanding the highly technical Treasury Securities markets and the methods by which plaintiffs alleged defendants were able to manipulate and squeeze segments of those markets. The Firm successfully briefed and argued two discovery motions resulting in reported decisions: In re Salomon Bros. Treasury Litig., [1992-93 Transfer Binder] Fed. Sec. L. Rptr. (CCH) ¶97,254 (S.D.N.Y. 1992) aff'd sub nom., In re Steinhardt Partners, L.P., 9 F.3d 230 (2d Cir. 1993)(rejecting an exception to work-product waiver for voluntary submissions to governmental regulatory and law enforcement agencies); and In re Salomon Bros. Treasury Litig., [1993-1994] Fed. Sec. L. Rptr. (CCH) ¶98,119 (S.D.N.Y. 1994)(rejecting claims of quasi-governmental privileges for information obtained from private sources and compelling the Federal Reserve Bank of New York to produce documents). In re Steinhardt Partners, L.P. involved an issue of first impression in the Second Circuit.

Derivative Litigation

(f) In Re Johnson & Johnson Derivative Litigation, Civil Action No. 10-cv-2033 (FLW) (D.N.J.). The firm was one of the lead counsel in this demand futility shareholder derivative litigation against current and former directors and officers of Johnson & Johnson. Plaintiffs claimed defendants breached their fiduciary duties to the company in connection with pervasive off-label promotion and sales of major drugs and systemic manufacturing problems in violation of FDA current Good Manufacturing Practices which resulted in plant closures and recalls of hundreds of millions of dollars of major company products. By Final Order and

Judgment dated October 26, 2012, the District Court approved the settlement of the derivative claims providing for substantial corporate governance and compliance reforms at J&J, including the requirement for the implementation of a comprehensive product risk management system at the company world-wide for the identification, timely resolution and escalation of problems, with independent monitoring and reporting from the product team level up through quality channels to the Chief Quality Officer and the Board; the adoption by the Board of a Quality and Compliance Core Objective imposing specific responsibilities upon the Board and management, and requiring that adherence to and furtherance of the core objective will be considered in the evaluation and compensation of all Johnson & Johnson employees; and the adoption of a charter and detailed operating procedure for the newly formed Regulatory, Compliance & Government Affairs Committee of the Board, imposing robust reporting and oversight responsibilities on the committee. The Court found the governance and compliance reforms to be carefully tailored to work within J&J's globally decentralized business model and to address the alleged problems underpinning the derivative action. The Court thus found, for example, that the Quality & Compliance Core Objective, "by creating company-wide control and assurance systems, [] remedies the failings of J&J's decentralized management approach." The Court further identified the requirement for detailed and critical reporting to the Board to be a key benefit "that directly addresses the alleged lack of reporting to the Board of quality control issues at various J&J subsidiary plants." *In re Johnson & Johnson Derivative Litig.*, 900 F.Supp.2d 467, 473, 489 (D.N.J. 2012).

(g) N.A. Lambrecht et al. v. Taurel, et al. Derivative Litigation, Civil Action No. 1:08-cv-68-WTL-TAB (N.D. Ind.) (Eli Lilly"). The Firm was Co-Lead Counsel of the Executive Committee in this shareholder derivative action against then current and former officers and directors of Eli Lilly. Plaintiffs claimed defendants breached their fiduciary duties in connection with, inter alia, the pervasive and illegal off-label sales of Eli Lilly's drugs, particularly its blockbuster drug Zyprexa, which resulted in injury to the Company, including payment of a \$1.4 billion fine to the government. By Order dated July 27, 2010, the District Court approved the settlement of the derivative claims providing for substantial corporate governance and compliance reforms at Eli Lilly, including the requirement for the Company to adopt policies and procedures to support scientific excellence in the development and communication of product safety and effectiveness information and the medical and scientific risks and benefits throughout the life cycle of both products and product candidates at Eli Lilly. The Court found that the settlement "directs numerous and significant governance changes over the next three years, including adoption of 'Product Safety and Medical Risk Management' and 'Compliance' Core Objectives. The Stipulation also provides for changes in board-level and management-level positions, and outlines changes in compensation, compliance training, discipline, and monitoring." *Report and Recommendation on Motion for Entry of Order and Final Judgment*, dated June 8, 2010, at p. 3.

(h) Pendolphina v. Becherer et al. Derivative Litigation, Civil Action No. 01CV1421 (D.N.J.) ("Schering-Plough Corporation"). The Firm was co-counsel in this shareholder derivative action against the directors of Schering-Plough seeking to recover damages for defendants' breach of fiduciary duties. The complaint alleged defendants intentionally or recklessly ignored repeated warnings that essential Company production facilities were plagued by severe and pervasive manufacturing and quality control system breakdowns and failures.

Further, the complaint alleged defendants intentionally or recklessly authorized and/or permitted the Company to engage in improper sales practices which operated as a fraud upon federal and state governmental authorities, thereby exposing the Company to a series of ongoing federal and state investigations and jeopardizing its all-important eligibility to participate in Medicaid and other government programs. By Order dated January 14, 2008, the District Court approved the settlement of the derivative claims, finding that the action brought about significant changes to Schering's corporate governance structure that "will serve to prevent or deter misconduct at the Board and middle-management levels, while also providing mechanisms to identify emerging misconduct." The Court also recognized the significance of management-level changes "designed to complement the Board's oversight functions, particularly centralizing Schering's global compliance and audit functions in the office of the Senior Vice President of Global Compliance and Business Practices, which facilitates the direct reporting of compliance information to the Board." *In re Schering-Plough Corporation Shareholder Derivative Litig.*, 2008 WL 185809 at *4 (D.N.J. Jan. 14, 2008).

(i) TimeWarner, Inc. Derivative Litigation, Civil Action No. 04-CV-9316 (S.D.N.Y.). The Firm was Co-Lead Counsel in a derivative litigation against the directors and certain officers of Time Warner, Inc., that alleged these defendants breached their fiduciary duties to shareholders of the combined Time Warner/America Online company in connection with wrongdoing related to improper and/or illegal recording of millions of dollars of sham profits purportedly earned on multiple advertising agreements. The Southern District of New York, by Memorandum Opinion dated September 6, 2006, approved a settlement of these derivative claims which entailed, among other relief, substantial monetary and corporate governance benefits to the company. The S.D.N.Y. expressly found that the corporate governance and compliance changes "will not only help deter the type of misconduct underlying Plaintiffs' claims, but may enhance investor confidence by ensuring that the Company maintains a healthy governance structure." *In re AOL Time Warner Shareholder Derivative Litigation* ("AOL"), 2006 U.S. Dist. LEXIS 63260 at *12 (S.D.N.Y. September 6, 2006).

(j) Pierce v. Ellison Derivative Litigation, No. 416147 (Ca. Super. Ct.). The Firm was co-counsel in this shareholder derivative action against certain current and/or former directors and/or officers of Oracle Corporation. The complaint alleged that the defendants intentionally or recklessly disregarded known or obvious internal warnings regarding declining revenue growth trends of its critical license business in the first two months of its third quarter, fiscal year 2001, in the face of express representations to the contrary. The complaint also charged certain defendants, including Oracle's Chairman and Chief Executive Officer, Larry Ellison, of selling millions of shares of Oracle stock while in possession of this non-public, negative financial information. As alleged in the complaint, this illegal scheme earned the defendants hundreds of millions of dollars of profits in violation of their fiduciary duties of loyalty as Oracle directors and/or officers. Plaintiffs contended that defendants' misconduct exposed Oracle to substantial financial harm. Among other things, the complaint demanded that the insider trading defendants, at a minimum, disgorge their illegal gains. Plaintiffs survived a motion to dismiss this complaint, and subsequently settled the claims for a total of \$100 million, to be paid by Ellison over a five year period to fund charitable contributions by Oracle, as well as \$21 million separately paid by Ellison to fund attorneys' fees and expenses.

(k) UnumProvident et al. Derivative Litigation, MDL Civil Action No. 03-MD-1552 (E.D. Tenn.). The Firm was Co-Lead Counsel in this shareholder derivative action arising out of allegations of wrongdoing related to the management of UnumProvident's disability insurance policies and certain financial disclosures. This alleged wrongdoing was the subject of extensive regulatory investigations. The derivative action was directed to the conduct of the Board and certain of the Company's senior officers. By Final Order and Judgment dated February 24, 2010, the District Court approved the settlement of the derivative claims, recognizing the role of the derivative claims in the Company's ability to obtain \$30 million in insurance proceeds, and providing for substantial corporate governance reforms at the Company.

(l) In re Moody's Corporation Shareholder Derivative Litigation, Master File No. 1:08-CV-9323 (S.D.N.Y.). Pursuant to Stipulation and Pre-Trial Order dated June 22, 2010, the Firm was appointed Co-Lead Counsel in this derivative litigation against officers and directors of Moody's Corporation, alleging, *inter alia*, breaches of fiduciary duty for conduct arising out of Moody's role in the rating of structured finance securities in the run up to the financial crisis. By Final Order and Judgment, dated September 7, 2012, the Court approved the settlement of the derivative claims which included the adoption by the company of an integrated system of internal control and oversight focused on defined quality-based core objectives, directed to the implementation and maintenance of enhanced management and board oversight processes.

(m) Mutual Fund Multi-District Derivative Litigation, MDL Civil Action Nos. 04-15862 and 15863 (D. Maryland). The Firm was lead counsel in a derivative action against the parent companies of Alliance Capital arising out of allegations regarding late trading and market timing. By Order dated August 10, 2011, the District Court approved the settlement of the derivative claims providing for substantial corporate governance and compliance reforms at AllianceBernstein Holding, LP. and \$23 million in monetary relief. The Firm played a central role in both the management and litigation of this derivative case.

(n) In re Bankers Trust Derivative Litigation, 94 Civ 7926 (PKL) (S.D.N.Y.). The Firm served as Co-Chair of the Executive Committee in the derivative action brought on behalf of the shareholders of Bankers Trust New York Corporation. The action alleged the directors breached their fiduciary duties to their corporate shareholders by failing to properly oversee and monitor the company's sales practices and procedures, particularly regarding the sale of high risk derivative instruments, resulting in substantial injury to the company and its shareholders. The District Court approved a settlement for a cash recovery of \$8.5 million together with significant changes to the Bank's monitoring responsibilities.

(o) McCall, et al. v. Scott, et al. Derivative Litigation, Civil Action No. 3-97-0838 (M.D. Tenn.). The Firm was co-counsel in this derivative suit brought against the directors of Columbia/HCA alleging that their failure to assure the Company had in place adequate corporate information and reporting systems and compliance controls led to pervasive and systemic billing fraud, principally against Medicare, Medicaid and Champus. These reckless or intentional failures on the defendants' part resulted in one of the most extensive federal fraud investigations ever undertaken against a company. In 1998, the District Court granted defendants' motion to dismiss. Plaintiffs were successful in having this decision overturned, in part, by the Sixth Circuit Court of Appeals, and remanded back to the District Court (February 12, 2001). The

Firm played a significant role in briefing the opposition to the motion to dismiss, both before the District Court and the Sixth Circuit, and was actively involved in all aspects of the discovery process. This case settled for \$14 million in cash and substantive corporate governance changes at the Company.

Securities Class Actions

(p) Sidney Neidich, et al., v. Geodyne Resources, et al. Securities Litigation, Civil Action Nos. 94-05286, 94-059799 (S.D.N.Y.). The Firm served as Co-Lead Counsel in the action. The Firm brought its action in the District Court of Harris County, District of Texas, on behalf of purchasers of PaineWebber/Geodyne Energy Income Limited Partnership units. The litigation alleged that PaineWebber engaged in fraud and breached its fiduciary duties to its clients by selling oil and gas limited partnership units as safe and suitable investments for small and conservative investors. The action subsequently was consolidated for pre-trial and discovery purposes with a similar action in the United States District Court for the Southern District of New York alleging, among other counts, fraud and RICO claims. The Firm directed a team of over twenty lawyers to review and analyze over 350,000 pages of documents, coordinated an intensive analysis of that discovery with industry consultants, deposed numerous witnesses and actively participated in settlement negotiations. On March 1, 1997, the Court approved a settlement providing for a total recovery of \$200 million, \$125 million in cash and additional benefits with a present value of \$75 million.

(q) Orman, et al., v. America Online, Inc., et al. Securities Litigation, Civil Action No. 97-264-A (E.D.Va.). The Firm was Co-Lead Counsel in this action alleging that defendants defrauded investors by making material misrepresentations about certain accounting practices at AOL and about the expected average value of its subscribers. The Firm played a critical role in drafting a second amended complaint and in successfully defeating a motion to dismiss that complaint. Following the motion to dismiss, the Firm took a leading role in extensive motion practice and discovery (including the review and analysis of over 250,000 pages of documents and nearly a gigabyte, *i.e.*, the equivalent of nearly 1,000 3.5" floppy diskettes of data and electronic documents, in only six months) and in preparing the case for trial. The parties agreed on May 20, 1998, to settle the claims for \$35 million.

(r) Schaffer v. National Medical Enterprises, Inc. Securities Litigation, Civil Action No. 93-5224 TJH (BX) (C.D.Cal.). The Firm was co-lead counsel in this federal securities fraud class action brought on behalf of stockholders of National Medical Enterprises, Inc. ("NME"). Plaintiffs alleged the defendants failed to disclose the impact that governmental investigations and civil claims by insurance carriers arising from widespread fraudulent business practices in NME's psychiatric hospital division would likely have on the Company's financial position and prospects. While formal discovery was stayed pending a hard fought two-year motion to dismiss, the Firm engaged in a nationwide investigation, assembling information concerning the allegedly fraudulent conduct. After successfully defeating the motion to dismiss, the Firm was actively involved in client depositions and formal discovery. On June 2, 1998, the Court approved a settlement providing for a total recovery of \$11,650,000.

(s) In re Merrill Lynch, et al., Securities Litigation, Civil Action No. 94-5343 (DRD) (D.N.J.). The Firm led an effort to effect a recovery for a class of investors who purchased or sold NASDAQ securities through three large brokerage houses without knowing the brokerage houses executed the trades using the National Best Bid and Offer prices (the “NBBO”) and, further, without the brokerage houses telling the customers of the reasonable availability of better prices through Instinet and SelectNet. The three brokerage houses executed trades for themselves and favored customers on the same superior systems without disclosing they were doing so to ordinary investors. After the District Court granted summary judgment on a limited record against the plaintiffs, see 911 F. Supp. 754 (D.N.J. 1995), the Firm appealed to the United States Court of Appeals for the Third Circuit. A three-judge panel of the Third Circuit affirmed the District Court in an opinion subsequently withdrawn and not reported. The Firm then successfully petitioned for rehearing before the Third Circuit *en banc*. Following the *en banc* hearing before ten of the then twelve judges of the Third Circuit (two judges recused themselves) and further argument and briefing before the Third Circuit, the Third Circuit reversed the summary judgment by a vote of 10 to 0. See 135 F.3d 266 (3rd Cir. 1998). The United States Supreme Court denied defendants' petition for certiorari. See 119 S.Ct. 44 (Oct. 12, 1998). On remand the District Court permitted the plaintiffs to add parties and extend the class period but denied plaintiffs' motion for class certification (November 8, 1999). The plaintiffs then moved the Third Circuit for review of the denial pursuant to new Rule 27(f) (November 24, 1999). The Third Circuit granted plaintiffs' petition for review, but ultimately upheld the District Court's opinion on other grounds.

(t) Frank, et al. v. CenTrust Bank, et al. Securities Litigation, Consolidated Civil Action Nos. 90-0084-Civ-Atkins, 90-0196-Civ-Atkins, 90-0683-Civ-Atkins and 90-0850-Civ-Atkins (S.D.Fla.). The Firm served as Co-Lead Counsel in this federal securities fraud class action brought on behalf of investors in CenTrust Savings Bank, N.A. This suit arose from the “Savings and Loan” scandal of the 1980's and involved a complex web of accounting fraud in which the Bank, its officers and its outside advisors covered up a large cache of junk bonds and a high-stakes trading strategy used to inflate the bank's balance sheet. In the course of litigating this action, the Firm took a major role in organizing the review of over 6 million pages of documents. The Firm played the lead role in securing compensation for investors from the Drexel Bankruptcy proceedings and the Milken Compensation fund proceedings and in settling claims against other defendants which provided a total recovery of approximately \$18.5 million.

(u) In re Columbia Gas Securities Litigation, Consolidated Civil Action No. 91-357 (D.Del.). The Firm was sole lead counsel in this federal securities fraud class action brought on behalf of investors in Columbia Gas System, Inc., in connection with the defendants' alleged misrepresentations of excess gas cost contracts which led to the company's bankruptcy in July 1991. The Firm conducted the preparation of highly technical financial analysis and damage assessments in conjunction with various expert consultants. The Firm also conducted intensive negotiations with defense counsel involving, in addition to issues of liability and damages, legal research and evaluation as to the impact of the company's bankruptcy on the pending class action. The Firm drafted a comprehensive Consolidated Amended Class Action Complaint and negotiated all aspects of the settlement the District Court approved on November 2, 1995, providing for a recovery of \$36.5 million for the Class.

ERISA, Deceptive Practices and Other Class Actions

(v) In re Guidant Corporation ERISA Litigation, Master Docket No. 1:05-cv-1009-(LJM-TAB) (N.D.IN). The Firm was Co-Lead Counsel in this ERISA class action brought against certain directors and officers of the former Guidant Corporation, alleging that these defendants breached their fiduciaries duties to the Company's ERISA plan and plan participants by, *inter alia*, continuing to hold and to allocate new shares of Guidant common stock during a period in which they knew or should have known that such stock was an unsuitable and imprudent investment for the plan. By Order dated, September 15, 2006, the District Court dismissed Plaintiffs' claims based on lack of standing. By Order dated June 5, 2007, the Seventh Circuit overturned this dismissal and remanded the case back to the District Court. By Order dated September 9, 2010, the District Court approved a settlement for a cash recovery to the Class of \$7 million.

(w) Leodore J. Roy v. Independent Order of Foresters Class Action Litigation, Civil Action No. 97-CV-6225 (JCL) (D.N.J.). The Firm was Co-Lead Counsel in this federal class action, brought on behalf of a class of individuals who purchased life insurance issued in the United States by the Independent Order of Foresters ("IOF") between 1984 and 1998. Plaintiff alleged the IOF engaged in a series of fraudulent and deceptive practices in the sales and maintenance of life insurance policies it issued during the Class Period. The Firm was instrumental in the investigation and drafting of the complaint, and was actively involved in discovery (including the review of approximately 400,000 pages of documents) and in almost two years of settlement negotiations. Under the terms of the settlement, members of the Class were eligible for relief valued at approximately \$114 million. The United States District Court for the District of New Jersey approved the settlement on August 3, 1999, expressly finding Plaintiff's counsel to be "highly competent and experienced class action attorneys" and Morris and Morris to be "a firm of very qualified attorneys" in the area of class action litigation. *Roy v. The Independent Order of Foresters*, Civ. No. 97-6225 (D.N.J.) Opinion at 32.

(x) In re Paramount Communication, Inc., Class Action Litigation, Consolidated Civil Action No. 13117 (Del.Ch.). The Firm was Co-Lead Counsel in this class action which was brought on behalf of Paramount Communications, Inc. shareholders in connection with a proposed merger of Viacom, Inc. and Paramount Communications, Inc. In successfully obtaining a preliminary injunction against the proposed merger and particular "lock-up" terms contained therein, the Firm was directly involved in coordinating and conducting extensive document and deposition discovery on an expedited basis, had primary responsibility for legal research and brief writing, and was extensively involved in preparation for oral arguments at hearings before both the Delaware Court of Chancery and the Delaware Supreme Court. Plaintiffs were successful both in obtaining an order enjoining a merger Paramount's board of directors had approved without having taken adequate care to maximize shareholder value, QVC Network, Inc. v. Paramount Communications, Inc., Del. Ch., 635 A.2d 1245 (1993), and in defending that result before the Delaware Supreme Court, QVC Network, Inc. v. Paramount Communications, Inc., Del. Supr., 637 A.2d 34 (1994). As a direct consequence of the litigation, Paramount's board of directors conducted an auction of the company that ultimately resulted in a new merger agreement, the terms of which benefitted Paramount's public stockholders by hundreds of millions of dollars over the amount they would have received had the proposed merger originally challenged by the shareholder plaintiffs been consummated.

EXHIBIT 25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE :
BENCHMARK RATES ANTITRUST :
LITIGATION : No. 1:13-cv-07789-LGS
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**DECLARATION OF C. MOZE COWPER
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF COWPER LAW LLP**

I, C. Moze Cowper, declare as follows:

1. I am a partner at the law firm of Cowper Law LLP, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, assisted with international electronic discovery, privacy issues raised by the exchange of information that was located in various countries outside of the United States, as well as the identification of a third-party to assist with class notice issues.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved

in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in **Exhibit 1 is 36.6 hours**. The total lodestar reflected in **Exhibit 1 is \$25,437**.

6. My firm did not incur any other expenses in the litigation.

7. Attached hereto as Exhibit 2 is a brief description of Cowper Law LLP and a brief biography of C. Moze Cowper.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 6, 2018.


C. Moze Cowper

EXHIBIT 1**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**COWPER LAW LLP
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners	36.6	\$695.00	\$25,437
C. Moze Cowper			
Of Counsel			
Senior Counsel			
Associates			
Staff Attorneys			
Paralegals			

NAME	HOURS	HOURLY RATE	LODESTAR
Litigation Support			
TOTALS	36.6		\$25,437

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

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**COWPER LAW LLP
FIRM RÉSUMÉ AND BIOGRAPHY OF C. MOZE COWPER**

Cowper Law LLP is a boutique law firm focused on plaintiff mass torts.

Moze Cowper has spent the last seventeen years developing a deep understanding of complex litigation. He has been recognized “as one of the most innovative attorneys in the United States” by Law360 for his work at the intersection of litigation and technology. In 2012, he was recognized by the Association of Corporate Counsel as a rising star under the age of forty. In 2017, he was recognized by the highly regarded *Chambers USA* for his work on litigation and e-discovery.

Prior to establishing his own firm, he spent over ten years at the largest biotech company in the world where he managed the products liability, consumer fraud, securities and derivative litigation for the entire company. As a young litigator at Drinker Biddle & Reath, he focused his practice on product liability and class actions. As a law clerk to the Honorable Marina Corodemus in New Jersey Superior Court’s mass tort division, he worked on the national diet drug class action, the national breast implant litigation, the national defective tire litigation, the tobacco litigation, and numerous drug and medical device class actions.

He has authored numerous articles on litigation, e-discovery, privacy, and international e-discovery. For example, he was a senior editor on THE SEDONA CONFERENCE’S FRAMEWORK FOR ANALYSIS OF CROSS-BORDER DISCOVERY CONFLICTS: *A Practical Guide to Navigating the Competing Currents of International Data Privacy and E-Discovery*. He is also a frequent lecturer on e-discovery and is a member of The Sedona Conference® Working Group 1 on Electronic Document Retention and Production and Working Group 6 on International Electronic Information Management, Discovery and Disclosure. He has also served on the faculty of Georgetown Law School’s Advanced E-discovery Institute.

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**DECLARATION OF DANIEL COHEN
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF CUNEO GILBERT & LADUCA, LLP**

I, Daniel Cohen, declare as follows:

1. I am a partner at the law firm of Cuneo Gilbert & LaDuca, LLP one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, performed document review and investigative research.

3. The schedule attached hereto is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar

calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017, has not been included in this request. The application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, from February 14, 2014 through and including December 31, 2017, is 424. The total lodestar reflected in Exhibit 1 for that period is \$191,945.00 for attorneys' time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit, my firm is seeking reimbursement for a total of \$198.17 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

(a) For out-of-town travel, airfare is at coach rates.

- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 3, 2018.

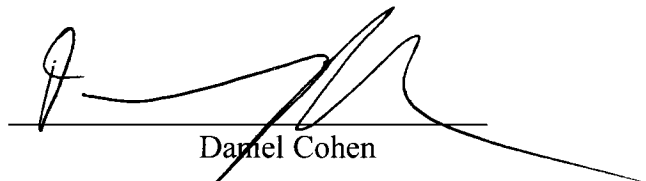

Daniel Cohen

EXHIBIT 1

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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CUNEO GILBERT & LADUCA, LLP
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Daniel Cohen	43.50	\$695	\$30,232.50
	380.50	\$425	\$161,712.50
TOTALS	424.00		\$191,945.00

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:
BENCHMARK RATES ANTITRUST	: No. 1:13-cv-07789-LGS
LITIGATION	:
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CUNEO GILBERT & LADUCA, LLP
FIRM RÉSUMÉ AND BIOGRAPHIES

CUNEO GILBERT & LADUCA, LLP
FIRM PROFILE

Civil Litigation in Federal and State Courts. General Commercial Practice. Antitrust, Civil Rights, Government Relations, Products Liability, Administrative, Securities, Labor, and Consumer law.

ATTORNEYS

Jonathan W. Cuneo, born New York, New York, September 10, 1952. Admitted to the District of Columbia Bar, 1977; New York Bar, 2006. Admitted to practice before the United States Supreme Court, 1994; United States Court of Appeals for the First Circuit, 2006; United States Court of Appeals for the Second Circuit, 2007; United States Court of Appeals for the Third Circuit, 2004; United States Court of Appeals for the Fourth Circuit, 2005; United States Court of Appeals for the Fifth Circuit, 2009; United States Court of Appeals for the Ninth Circuit, 2007; United States Court of Appeals for the Tenth Circuit, 2011; United States Court of Appeals for Eleventh Circuit, 2012; United States Court of Appeals for the District of Columbia Circuit, 1978; United States District Court for the Eastern District of Michigan; United States District Court for the Eastern District of New York, 2006; United States District Court for the Southern District of New York, 2006; United States District Court for the Northern District of New York, 2002; United States District Court for the District of Columbia, 1978. Education: Columbia University (A.B., 1974); Cornell University (J.D., 1977). Experience: Law clerk to the Honorable Edward Tamm, United States Court of Appeals, District of Columbia Circuit (1977-1978); Attorney, Office of the General Counsel, Federal Trade Commission (1978-1981); Assistant Counsel and Counsel, Subcommittee on Monopolies and Commercial Law, House Committee on the Judiciary (1981-1986); General Counsel, Committee to Support the Antitrust

Laws (1986 - 2004); Legislative Counsel, National Association of Shareholder and Consumer Attorneys (1988-2004); Legislative Counsel, National Coalition of Petroleum Retailers and Service Station Dealers of America (1988-1994). Activities: Arlington County Democratic Committee (1983-1987); Board Member, Juvenile Law Center (2009-); Board Member, American Antitrust Institute (1998 - 2009); Board Member, Violence Policy Center (1999 - 2009); Board Member, Appleseed Legal Foundation (1999-2005). Honors: Rated by Martindale-Hubbell as AV® Preeminent™; Listed in Marquis “Who’s Who in America”; Dean’s Board of Advisors, The George Washington University Law School (2012 – current); Finalist, 2006 Trial Lawyer of the Year, Trial Lawyers for Public Justice. Publications: *Judge Tamm and the Evolution of Administrative Law: The Art of Judging*, 74 GEORGETOWN L.J. 1595 (1986); *Pulling the Plug on Antitrust Law* (with Jerry Cohen), THE NATION (1987); *House Takes Up Cause of Discounters*, LEGAL TIMES, Vol X, No. 30 (1987); *Supreme Court’s “Sharp” Ruling Means Higher Prices, Fewer Choices for Consumers*, MANHATTAN LAWYER (1988); Chapter, *Consumer Protection -- Federal Trade Commission*, CHANGING AMERICA: BLUEPRINTS FOR THE NEW ADMINISTRATION (edited by Mark Green) (1992); *Antitrust and Clinton: Changes on the Horizon*, THE CALIFORNIA LAWYER (1993); *Action on Class Actions*, THE RECORDER (1997); *The Gold Train Case: Successfully Suing the United States on Behalf of a Class of Holocaust Era Victims* (with Professor Charles Tiefer), 27 CLASS ACTION REPORTS 139 (2006); THE INTERNATIONAL HANDBOOK OF PRIVATE ENFORCEMENT OF COMPETITION LAW (with Albert A. Foer) (Edward Elgar Publishing Inc., 2010). *Remediation and Deterrence: The Real Requirements of the Vindication Doctrine*, publication forthcoming (2013), publication forthcoming in George Washington Law Review. Guest Lecturer: Southwestern Law School, 1997 and 1998; numerous appearances in CLE programs in the United States and Canada; District of Columbia Judicial Conference (2007). Member: American Bar Association; District of Columbia Bar Association; American Association for Justice.

Pamela B. Gilbert, born New Brunswick, New Jersey, October 3, 1958. Admitted to the New York

Bar, 1985 (inactive); District of Columbia Bar 1986. Admitted to practice in D.C. Education: Tufts University (B.A., *magna cum laude*, 1980); New York University (J.D., 1984). Experience: Consumer Program Director, United States Public Interest Research Group (1984-1989); Legislative Director, Executive Director, Public Citizen’s Congress Watch (1990-1992; 1992-1994); Attorney, M+R Strategic Services (1995); Executive Director, Consumer Product Safety Commission (1996-2001); Chief Operating Officer, M+R Strategic Services (2001-2002). Honors and Activities: Board Member, American Antitrust Institute (2010 -); Board Member, Center for Effective Government (2009 -); Board Member, National Environmental Law Center (2006 -); Board Member, Equal Justice Works (2004 - 2012). Publications: PRIVATE ENFORCEMENT OF THE ANTITRUST LAWS IN THE UNITED STATES (edited by Albert A. Foer and Randy M. Stutz), “Proposals for Reform,” written with Victoria Romanenko. Member: New York Bar Association; District of Columbia Bar Association; American Bar Association; American Association for Justice; Public Justice; Consumer Attorneys of California.

Charles J. LaDuca, born Buffalo, New York, September 30, 1974. Admitted to the New York State Bar, 2001; District of Columbia Bar, 2002; United States Supreme Court, 2009; United States Court of Appeals for the Second Circuit, 2007; United States Court of Appeals for the Third Circuit, 2004; United States Court of Appeals for the Sixth Circuit, 2012; United States

Court of Appeals for the Ninth Circuit, 2011; United States Court of Appeals for the District of Columbia Circuit, 2013; United States District Court for the Northern District of New York, 2002; United States District Court for the Western District of New York, 2004; United States District Court for the Southern District of New York, 2013; United States District Court for the District of Columbia, 2002; United States District Court for the Central District of Illinois, 2009; United States District Court for the District of Colorado, 2008; United States District Court for the Western District of Michigan, 2010. Education: George Washington University (B.A., 1996); Catholic University of America (J.D., 2000). Member: District of Columbia Bar Association (Corporation, Finance and Securities Law Section); New York State Bar Association; New York State Society.

Joel Davidow, born Trenton, New Jersey, July 24, 1938. Admitted to the Bar in the District of Columbia, 1965; New York Bar, 1981; Court Admissions: U.S. Supreme Court, U.S. Court of Appeals (D.C., Ninth, First and Federal Circuits), U.S. District Court, S.D. N.Y., U.S. District Court, E.D. N.Y. Education: Columbia University School of Law (LLB, *cum laude*, 1963); Princeton University, Woodrow Wilson School of Public Affairs (B.A., *summa cum laude*, 1960). Experience: Notes editor of the Columbia Law Review and the winner of the National Jessup Moot Court Competition; Two years in the U.S. Federal Trade Commission; Fifteen years in Antitrust Division of the Department of Justice, where he eventually served as Chief of the Foreign Commerce Section and then Director of Policy and Planning; Senior antitrust partner in major New York City and Washington, D.C. law firms, representing clients from Japan, Europe, and the United States, as both plaintiffs and defendants, in antitrust, patent, and trade litigation matters; Counsel of record in numerous antitrust class actions and has briefed and argued multi-million dollar appeals before the First, Second, Seventh, Ninth and Federal Circuit courts of appeal. Publications: ANTITRUST GUIDE FOR INTERNATIONAL BUSINESS ACTIVITIES (BNA, 4th ed. 2011); PATENT-RELATED MISCONDUCT ISSUES IN U.S. LITIGATION (OUP, 2010); and numerous articles dealing with international antitrust and patent litigation topics. Adjunct Professor: George Washington University School of Law, Columbia Law School, Georgetown Law Center, American University Law School, and George Mason University Law School, where he has taught courses in antitrust, regulation, and international competition policy.

Daniel M. Cohen, born Detroit, Michigan, January 24, 1958. Admitted to the Florida Bar, 1989; District of Columbia Bar, 2001; Maryland State Bar, 2003; Virginia State Bar, 2010. Admitted to practice before the United States District Court for Maryland, 2002; United States District Court for the Middle District of Florida, 2003; United States District Court of District of Columbia, 2008; Eastern District of Virginia, 2010; Western District of Virginia, 2010; Southern District of Florida, 2013. Education: Ithaca College (B.A., 1981); Western New England School of Law (J.D., 1988). Experience: Criminal Defense Trial Attorney, Public Defenders Office, tried 70 jury trials, Jacksonville Florida, 1989-1999. Member: District of Columbia Bar Association (Antitrust and Consumer Law Section); Florida State Bar Association.

Michael J. Flannery, born January 22, 1963. Admitted to the Virginia Bar, 1991; District of Columbia Bar, 1992; California Bar, 1998; Missouri Bar, 2001. Admitted to practice before the United States Court of Appeals for the Third Circuit; United States Court of Appeals for the Ninth Circuit; United States District Court for the Eastern District of Missouri, United States District Court for the Western District of Missouri, United States District Court for the Southern

District of Illinois, United States District Court for the Northern District of Illinois, United States District Court for the Northern District of California, United States District Court for the Southern District of California, United States District Court for the Central District of California, United States District Court for the Eastern District of California, and the United States District Court for the District of Columbia. Education: University of Notre Dame (B.A., 1985); College of William and Mary Marshall-Wythe School of Law (J.D., 1991). Honors and Awards: William and Mary Law Review (1989-91); Publication of Student Note: "Abridged Too Far: Anticipatory Search Warrants and the Fourth Amendment," 32 WM. & MARY L. REV. 781 (1991) (reprinted in 14 Criminal Law Review (1992)); Teaching Assistant, William and Mary Legal Skills Program; Chief Justice, William and Mary Honor Council; Notre Dame Scholar/Edward W. Krause Academic Scholarship. Experience: Cohen, Milstein, Hausfeld & Toll, Washington, DC, 1994-1997; Milberg Weiss Bershad Hynes & Lerach, San Diego, CA, 1997-2000; Carey, Danis & Lowe, St. Louis, MO, 2000-2012.

Matthew E. Miller, born Queens, New York, May 16, 1966. Admitted to the Bar of the Commonwealth of Massachusetts, 1992; Louisiana Bar, 1993; District of Columbia Bar, 1994. Admitted to practice before the United States Courts of Appeals for the First Circuit, 1998, Fourth Circuit, 2010, Ninth Circuit, 2010, Tenth Circuit, 2011, D.C. Circuit, 2012; United States District Court for the District of Massachusetts, 1994; United States District Court for the District of the District of Columbia, 2008. Education: Tufts University (B.A., *magna cum laude*, 1988); University of Virginia (J.D., 1991). Experience: Law Clerk to the Honorable Edith Brown Clement, United States District Court for the District of Louisiana, 1991-1993; Berman, DeValerio & Pease, Boston, MA 1994-1999; sole practitioner, 1999-2008. Languages: French, Spanish.

Alexandra C. Warren, born Bucharest, Romania, October 9, 1977. Admitted to the New York Bar, 2003; Massachusetts Bar, 2003; Pennsylvania Bar, 2004; District of Columbia Bar, 2007. Admitted to practice before the United States District Court for the Eastern District of Pennsylvania, 2005; United States District Court for the Western District of Pennsylvania, 2007; United States District Court for the District of Columbia, 2007; United States District Court for the District of Colorado, 2008; United States District Court for the Middle District of Pennsylvania, 2009; United States District Court for the Western District of Michigan, 2010; United States District Court for the District of Massachusetts, 2012; United States Court of Appeals for the Third Circuit, 2009; United States Court of Appeals for the Fifth Circuit, 2009; United States Court of Appeals for the Ninth Circuit, 2011; United States Supreme Court, 2009. Education: Brandeis University (B.A., *cum laude*, 1999); Fordham University Law School (J.D., 2002) (Fordham Environmental Law Journal, Staff). Honors: Archibald R. Murray Public Service Award (2002); Addison M. Metcalf Labor Law Prize (2002). Experience: Law Clerk to the Honorable John E. Jones III, United States District Court for the Middle District of Pennsylvania (2002-2004); Associate, MacElree Harvey, Ltd. (2004-2006). Member: District of Columbia Bar Association; Philadelphia Trial Lawyers Association.

William H. Anderson, born Trenton, New Jersey, March 28, 1979. Admitted to the Pennsylvania Bar, 2004; District of Columbia Bar, 2007; United States District Court for the District of Columbia 2007; United States Court of Appeals for the District of Columbia Circuit 2009; Colorado Bar, 2013; United States District Court for the District of Colorado 2013

. Education: The George Washington University (B.A., *cum laude*, 2000); American University (J.D., 2004). Honors and Awards: Super Lawyers DC Rising Star 2014 & 2015. Experience: Law clerk to the Honorable Rhonda Reid Winston, Superior Court, District of Columbia (2004-2005). Member: American Bar Association; District of Columbia Bar Association; Pennsylvania Bar Association; Public Justice Foundation. Languages: Spanish and English.

Katherine W. Van Dyck, born Corpus Christi, Texas, July 4, 1979. Admitted to the Texas Bar, 2004; District of Columbia Bar, 2008. Admitted to practice before the United States District Court for the Northern District of Texas, 2006; United States District Court for the District of Columbia, 2008; United States Court of Appeals for the Fourth Circuit, 2009. Education: Texas Christian University (B.A. 2001); Texas Tech University Law School (J.D., 2004). Texas Tech Law Review - Articles Editor, Outstanding Third Year Editor, Outstanding Second Year Editor (2002-2004) Experience: Law clerk to the Honorable Hayden W. Head, Jr., United States District Court for the Southern District of Texas (2004-2006); Associate, Fee, Smith, Sharp & Vitullo, LLP (2006-2007); Associate, Griffith & Wheat, LLP (2008-2012).

Jennifer E. Kelly, born Elmira, New York, July 7, 1975. Admitted to the Maryland Bar, 2007, District of Columbia Bar, 2008, U.S. District Court for the District of Columbia, 2012. Education: Boston University (B.A., *cum laude*, 1997), American University (J.D., *cum laude*, 2007; highest grade designation, Wills, Trusts, & Estates). Experience: Internship, Parliament of Great Britain (1995); Internship, District of Columbia Corporation Counsel (1996); Legislative Assistant, Office of Senator Robert C. Byrd (1998-2002); American University Civil Practice Clinic (Oral Argument before the Maryland Court of Special Appeals and Maryland District Court Small Claims Trial) (2006); Associate, Bracewell & Giuliani, LLP (2007-2009) (Paralegal, 2003-2007); Volunteer Attorney, American Red Cross (2010-2011). Member: American Bar Association.

Brendan S. Thompson, born Buffalo, New York, February 21, 1974. Admitted to the Maryland Bar, 2008; Admitted to practice before the United States District Court for the District of Colorado, 2008; United States District Court for the Central District of Illinois, 2008; United States Court of Appeals for the Ninth Circuit, 2011. Education: University of Detroit (B.S., 1997); visiting student, George Mason Law School; University of Baltimore Law School (J.D., 2008). Experience: Student Internships: Congressman Brian Higgins (D-NY) (2007); Chambers of the Honorable LeRoy F. Millett Jr., Circuit Court for the 31st Judicial Circuit of Virginia (2006); The Commonwealth's Attorney's Office for Prince William County, Virginia (2005). Member: Maryland State Bar Association, Bar Association of Baltimore City, American Bar Association; New York State Society.

Victoria O. Romanenko, born Kiev, Ukraine, April 8, 1983. Admitted to the Maryland Bar, 2009; the District of Columbia Bar, 2012. Education: Catholic University, Columbus School of Law (J.D., 2009); Brandeis University (B.A., with honors, 2006). Experience: Worked at a Washington D.C. firm engaging in antitrust and telecommunications litigation (2009-2011). Law Clerk at U.S. International Trade Commission (2009) (antidumping, countervailing duties, Section 337). Law Clerk at Department of Labor (2008) (Occupation Safety and Health Division). Law Clerk at District of Columbia Office of the Attorney General (2007) (Civil

Enforcement Section). Ms. Romanenko was also nominated for the 2009 Jan Jancin award upon her completion of law school. This nomination is given to the student with the highest Intellectual Property GPA in the graduating class. Publications: *Remediation and Deterrence: The Real Requirements of the Vindication Doctrine* (2013), publication forthcoming in George Washington Law Review; PRIVATE ENFORCEMENT OF THE ANTITRUST LAW IN THE UNITED STATES (edited by Albert A. Foer and Randy M. Stutz) (2012), Chapter, *Proposals for Reform*, co-authored with Pamela Gilbert. Ms. Romanenko has a working knowledge of Russian and French.

Beatrice O. Yakubu, born Melbourne, Florida, January 3, 1984. Admitted to the Maryland Bar, 2010. Education: American University, Washington College of Law (J.D. 2010); Florida State University (B.S. 2005). Experience: clerked at the United States Attorney's Office and a criminal defense firm, and worked as a Student Attorney for the Mid-Atlantic Innocence Project. Ms. Yakubu is conversational in the Yoruba language.

Yifei Li, born Wuhan, China, February 15, 1988. Admitted to the New York State Bar, 2013; United States Court of Appeals for the Second Circuit, 2013; United States Court of Appeals for the District of Columbia Circuit, 2013; United States Court of Federal Claims, 2013; United States District Court for the Eastern District of Michigan, 2013; United States District Court for the Eastern District of New York, 2013; United States District Court for the Southern District of New York, 2013. Education: The George Washington University Law School (LL.M., 2011); Beijing Foreign Studies University Law School (LL.B., B.A., Scholarship Recipient, 2010). Experience: Judicial Intern to the Honorable Chief Judge Randall R. Rader at U.S. Court of Appeals for the Federal Circuit (2012-2013). Legal Intern at Federal Circuit Bar Association (2011-2012). Law Clerk at Jingtian & Gongcheng Attorneys At Law (2009). Judicial Intern at People's Court of Jiang'An District (2007). Member: New York State Bar Association; American Bar Association. Ms. Li is a native speaker of Chinese (Mandarin).

Peter Gil-Montllor, born Manhasset, New York, October 11, 1987. Admitted to the New York Bar, 2014. Admitted to practice before the United States District Court for the Eastern District of New York, 2015; United States District Court for the Southern District of New York, 2015. Education: Georgetown University (J.D., magna cum laude, 2013); University of Chicago (A.B., with honors, 2009). Experience: Law clerk to the Honorable Allyne R. Ross, United States District Court for the Eastern District of New York (2015-2016). Member: Federal Bar Council. Mr. Gil-Montllor is a native speaker of Spanish.

Matthew T. Prewitt, born Oakland, California, August 6, 1986. Admitted to the California Bar, 2013. Education: University of Michigan Law School (J.D., cum laude, 2013); Brown University (A.B., economics, 2008). Experience: Law clerk to the Honorable Thomas P. Griesa, United States District Court for the Southern District of New York (2014-2015); Associate, Orrick Herrington & Sutcliffe LLP (2013-2014). Member: American Bar Association. Mr. Prewitt is conversational in German.

SPECIAL COUNSEL

Robert J. Cynkar, born Chicago, Illinois, April 22, 1952. Admitted to the Illinois Bar, 1977;

District of Columbia Bar, 1978; Virginia Bar, 1984. Admitted to practice before the United States Supreme Court and before the United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Eleventh, District of Columbia Circuit, and Federal Circuits. Education: Princeton University (A.B., *magna cum laude*, 1974); New York University School of Law (J.D., 1977) (Staff, Law Review). Experience: Associate, Fried, Frank, Harris, Shriver & Kampelman, Washington, D.C. (1977-1979); Counsel to Chairman Bob Dole, Subcommittee on Improvements in Judicial Machinery, United States Senate Committee on the Judiciary (1979-1981); General Counsel to Chairman Paul Laxalt, Subcommittee on Regulatory Reform, United States Senate Committee on the Judiciary (1981-1983); Assistant United States Attorney, Eastern District of Virginia (Criminal Division) (1983-1985); Special Assistant to Attorney General Edwin Meese (1985); Deputy Assistant Attorney General, Civil Division, United States Department of Justice (1985-1988); Associate, Shaw, Pittman, Potts & Trowbridge, Washington, D.C. (1988-1991); Partner, Shaw, Pittman, Potts & Trowbridge, Washington, D.C. (1991-1996); Founding Partner, Cooper & Kirk, Washington, D.C. (1996-2003); Partner, Egan, Fitzpatrick, Malsch & Cynkar, Vienna, Virginia (2004-2006); has tried over 25 cases in federal and state courts; has briefed numerous appeals in the majority of Federal Circuits and in State Supreme Courts, and in the U. S. Supreme Court, and personally argued many of those appeals. Sample Noteworthy Cases: *U.S. v. Fleming* (E.D.Va. 1984) (successful prosecution of a drunk driver who killed a mother of 11 for second-degree murder); *U.S. v. Winstar* (U.S. Sup. Ct. 1996) (holding that even the requirements of a broad change in regulatory policy by Congress cannot excuse the federal government's breach of contract); *U.S. ex rel. Ubl v. IIF Data Solutions* (E.D. Va. 2009) (successful defense of a government contractor accused of violating the False Claims Act in a bet-the-company case); *Livingston v. Virginia Dept. of Transportation* (Va. Sup. Ct. 2012) (establishing that a damaging for public use does not need to rise to the level of a taking to qualify for just compensation under the Virginia Constitution); *Settle v. RGR*, (Prince William Cir. Ct. 2012)(over \$3 million jury award for the widow of a truck driver killed in a collision with a train). Publications: *Dumping on Federalism*, 75 U. COLO. L. REV. 1261 (2004); *The Changing Vocabulary of Administrative Law*, 43 FOOD DRUG COSM. L.J. 681 (1988); “*Buck v. Bell: ‘Felt Necessities’ v. Fundamental Values?*” 81 COLUM. L. REV. 1418 (1981). Member: District of Columbia Bar Association; Virginia Bar Association; Fairfax County Bar Association; Federalist Society.

OF COUNSEL TO THE FIRM

Charles Tiefer, born January 21, 1954. Admitted to the District of Columbia Bar. Admitted to practice before the United States Supreme Court; United States Court of Federal Claims. Education: Columbia University (B.A., *summa cum laude*, 1974), Harvard Law School (J.D., *magna cum laude*, 1977) (Member, Harvard Law Review). Experience: Law clerk, United States Court of Appeals for the D.C. Circuit (1977-1978); Trial Attorney, United States Department of Justice, Civil Rights Division (1978-1979); Assistant Senate Legal Counsel, United States Senate (1979-1984); Solicitor and Deputy General Counsel, United States House of Representatives (1984-1995); Professor of Law, University of Baltimore School of Law (1995 -). Publications: *VEERING RIGHT: HOW THE BUSH ADMINISTRATION SUBVERTS THE LAW FOR CONSERVATIVE CAUSES* (U. Cal. Berkeley, 2004); *GOVERNMENT CONTRACT LAW: CASES AND MATERIALS* (co-author) (Carolina Academic Press, 2d ed., 2004); *THE SEMI-SOVEREIGN PRESIDENCY* (Westview, 1994); *CONGRESSIONAL PRACTICE AND PROCEDURE* (Greenwood Press, 1989); *Congress’s Transformative “Republican Revolution” in 2001-2006 and the Future of*

One-Party Rule, J. L. & POL. OF U. VA. (2008); *The Iran Debacle: The Rise and Fall of Procurement-Aided Unilateralism as a Paradigm of Foreign War*, UNIV. PENN. J. INT'L ECON. LAW (2008); *Can Appropriation Riders Speed Our Exit From Iraq?* 42 STAN. J. INT'L L. 291 (2006); *The Gold Train Case: Successfully Suing the United States on Behalf of a Class of Holocaust-Era Victims*, 27 CLASS ACTION REP. 136 (2006); *Cancellation and Termination Without Forfeiture*, 54 MERCER L. REV. 1031 (2003). Member: District of Columbia Bar Association.

David W. Stanley, born St. Louis, Missouri, May 30, 1944. Admitted to the District of Columbia Bar, 1973; Virginia State Bar, 1972. Admitted to practice before the United States Supreme Court, 1980; United States Court of Appeals for the District of Columbia Circuit, 1978; United States District Court for the District of Columbia, 1974. Education: University of Virginia (B.A., 1966); University of Virginia School of Law (J.D., 1972). Experience: Law clerk to Honorable Gerard D. Reilly, Chief Judge, District of Columbia Court of Appeals (1972-1973). Assistant U.S. Attorney, U.S. Attorney's Office for the District of Columbia, 1973-1984 (Fraud Division, 1981-1984); Assistant Chief Trial Attorney, Division of Enforcement, U.S. Securities and Exchange Commission (1984-1987); Of Counsel, Swidler & Berlin, Chartered (1987-1992). Member: District of Columbia Bar Association (Corporation, Finance and Securities Law Section; Litigation Section); Assistant U.S. Attorneys Association (President, 1994-1995); Association of Securities and Exchange Commission Alumni; The Barristers.

Bradford E. Kile. Admitted to the District of Columbia Bar. Admitted to practice before the United States Supreme Court, United States Court of Appeals for the Federal, Fourth, and DC Circuits, United States District Court for the District of Columbia and Eastern District of Virginia. Registered to practice before the United States Patent and Trademark Office – Reg. No. 25,223. Education: The Ohio State University (B. Mech. Engr., 1966); The George Washington University (J.D., 1970; LL.M. 1978). Publications: *Legal 'X-Games' Risk: Officer and Director Passive Retention of Personal Liability for Patent Infringement*, 7 IP Litigator 11 (2001); "Lotus v. Borland-Copyright Protection of Computer Software in a State of Transition," Copyright World, 1995. Member: American Bar Association; Fellow of the Inn – Giles S. Rich American Inn of Court; American Intellectual Property Law Association; Federal Circuit Hi

EXHIBIT 28

- Worked with lead counsel to staff and monitor document review; analyzed draft notices to class and provided feedback to lead counsel; participated in case webinar with expert.
- Reviewed, analyzed and coded documents at direction of lead counsel; worked with lead counsel to devise keyword searches and conduct various database

searches; updated working chatroom memo; drafted memos for lead counsel in connection with specific document review assignments.

- Met numerous times with individual trader clients John Kerstein and Tom Gramatis; oversaw the clients' preservation of documents; collected potentially responsive documents and data from clients; developed a search-and review methodology; oversaw the search-and-review process; and supervised the search and review of thousands of the clients' electronic documents and ultimately produced responsive documents.
- Met and prepared individual trader plaintiffs John Kerstein and Tom Gramatis for deposition.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 5653.10. The total lodestar reflected in Exhibit 1 is \$2,435,953.50, consisting of \$2,435,953.50 for attorneys' time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$772.04 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 5, 2018.


Michael J. Freed

EXHIBIT 1

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

-----	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
-----	X	

**FREED KANNER LONDON & MILLEN LLC
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Steven A. Kanner	60.20	\$845	\$50,869.00
Robert J. Wozniak	13.40	\$675	\$9,045.00
Of Counsel			
Brian Watkins	2576.50	\$425	\$1,095,012.50
John McCarthy	2605.00	\$425	\$1,107,125.00
Philip Moyer	89.50	\$425	\$38,037.50
Kevin LaCorte	147.90	\$425	\$62,857.50
Associates			
Brian M. Hogan	52.80	\$515	\$27,192.00
Brian M. Hogan (Discovery Rate)	107.80	\$425	\$45,815.00
TOTALS	5653.10		\$2,435,953.50

EXHIBIT 2

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

-----	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
	:	
	:	
	:	
-----	X	

**FREED KANNER LONDON & MILLEN LLC
EXPENSE REPORT**

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$430.00
Online Legal Research	\$39.20
Telephones/Faxes	\$4.76
Postage & Express Mail	\$212.68
Internal Copying	\$58.90
Out of Town Travel*	\$13.50
Meals*	\$13.00
TOTAL EXPENSES:	\$772.04

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

-----	X	
	:	
IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
	:	
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	:	
-----	X	

**FREED KANNER LONDON & MILLEN LLC
FIRM RÉSUMÉ AND BIOGRAPHIES**



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Freed Kanner London & Millen LLC (“FKLM”) is one of the nation’s premier plaintiffs’ class action practices. The firm’s attorneys are among the pioneers and leaders in the class action field, having played leadership roles in major antitrust, consumer fraud, securities, unlawful business practices and insurance fraud cases for decades.

FKLM was founded on January 1, 2007. The founding partners of FKLM, formerly principals and partners of Much Shelist Freed Denenberg Ament & Rubenstein, P.C., have successfully prosecuted class actions for over 40 years, including as lead or co-lead counsel in dozens of cases, resulting in recoveries for class members of more than \$2 billion.

APPOINTMENTS AS LEAD OR CO-LEAD COUNSEL

➤ ***In re Automotive Parts Antitrust Litigation, MDL 2311 (E.D. Mich.)***

FKLM is serving as interim co-lead counsel on behalf of direct purchasers of automotive parts in multiple concurrently active nationwide, antitrust price-fixing cases relating to the following products: wire harnesses; instrument panel clusters; heater control panels; occupant safety parts; fuel senders; bearings; air conditioning systems; windshield wiper systems; starters; windshield washer systems; spark plugs; oxygen and air fuel ratio sensors; fuel injection systems; brake hoses; alternators; ignition coils; power window motors; shock absorbers; and electric power steering assemblies.

➤ ***In re Opana ER Antitrust Litigation, MDL 2580 (N.D. Ill.)***

FKLM is serving as interim co-lead counsel on behalf of indirect purchasers (end-payors) of brand or generic Opana ER, an opioid painkiller, in this antitrust “pay-for-delay” case brought under the laws of 30 states.

➤ ***Kleen Products, Inc. et al. v. International Paper, et al., 10-CV-5711 (N.D. Ill.) (“Containerboard Antitrust Litigation”)***

FKLM is serving as co-lead counsel on behalf of direct purchasers of containerboard and related products in this antitrust price-fixing case. In August 2016, the Seventh Circuit Court of Appeals affirmed the district court’s order certifying a nationwide class.



➤ ***Daniel Gordon, et al. v. Amadeus IT Group S.A., et al.*, 1:15-cv-05457 (S.D.N.Y.) (“GDS Antitrust Litigation”)**

FKLM is serving as interim co-lead counsel on behalf of airline ticket purchasers seeking injunctive relief in this antitrust case brought against the three major Global Distribution Systems alleging collusion in their dealings with 9 major U.S. Air Carriers.

➤ ***In re Pharmacy Benefit Managers Antitrust Litigation*, MDL No. 1782 (E.D. Pa.)**

FKLM is serving as co-lead counsel in these consolidated class actions brought on behalf of retail pharmacies against prescription benefit managers for fixing at artificially low levels the prices paid to pharmacies for pharmaceuticals sold, and reimbursement for services rendered, to the members of plans created by the prescription benefit managers. The complaints allege that the prescription benefit managers illegally aggregate the purchases of their members in order to effectuate the underpayment.

➤ ***In re Hydrogen Peroxide Antitrust Litigation*, MDL 1682 (E.D. Pa.)**

FKLM attorneys served as co-lead counsel in this antitrust price-fixing action against hydrogen peroxide producers. The case resulted in settlements of over \$97 million for the class. In approving the Plaintiffs' motion for an award of attorneys' fees and expenses, Judge Stewart Dalzell lauded co-lead counsel:

[t]he “skill and efficiency of the attorneys involved” is of a very high order indeed, and as we noted at the fairness hearing yesterday, we have been impressed that these attorneys have prosecuted this matter vigorously against seasoned opponents without needlessly distracting the Court with discovery disputes.

➤ ***In re Brand Name Prescription Drugs Antitrust Litigation*, MDL 997 (N.D. Ill.)**

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action. Settlements totaling approximately \$715 million were recovered on behalf of the plaintiff class.

➤ ***In re Clozapine Antitrust Litigation*, MDL No. 874 (N.D. Ill.)**

FKLM as attorneys served as co-lead counsel in this antitrust class action against Caremark and Sandoz Pharmaceuticals alleging that the defendants entered into an illegal agreement to distribute a drug



known as Clozaril by tying it to the purchase of a blood testing system, by fixing the price of the packaged sale, and by conspiring to monopolize the relevant market. More than \$20 million was recovered for the class.

➤ ***In re High Fructose Corn Syrup Antitrust Litigation, MDL 1087 (C.D. Ill.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action against major manufacturers of high fructose corn syrup. The case was settled for \$531 million for the class. At the close of the hearing where counsel fees were approved, Judge Michael M. Mihm stated:

I've said many times during this litigation that you and the attorneys who represent the defendants here are as good as it gets. Very professional. At least in my presence or in my contacts with you, you've always been civil. You've always been cutting to the chase and not wasting my time or each other's time or adding to the cost of the litigation.

➤ ***In re Linerboard Antitrust Litigation, MDL 1261 (E.D. Pa.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing case, which resulted in settlements of over \$200 million for the plaintiff class.

➤ ***SchagrinGas Co. v. BP Products North America, et al., No. 1:06-cv-3621 (N.D. Ill.)***

FKLM served as co-lead counsel on behalf of direct purchaser plaintiffs in this nationwide class action involving monopolization claims under Section 2 of the Sherman Act. The case resulted in a settlement of over \$50 million.

➤ ***In re Aftermarket Filters Antitrust Litigation, MDL 1957 (N.D. Ill.)***

FKLM served as interim co-lead counsel on behalf of direct purchasers of replacement automobile air and oil filters in this nationwide, antitrust price-fixing case. The case resulted in settlements of nearly \$18 million.

➤ ***In re Flat Glass Antitrust Litigation (No. II), MDL 1942 (W.D. Pa.)***

FKLM served as co-lead counsel on behalf of direct purchaser plaintiffs of construction flat glass in this nationwide, antitrust price-fixing case. The case resulted in settlements exceeding \$22 million.

➤ ***In re Urethane Chemicals Antitrust Litigation, MDL 1616 (D. Kan.)***



FKLM attorneys served as co-lead counsel in this antitrust price-fixing action. The case resulted in settlements of \$33 million for the class.

➤ ***In re Methyl Methacrylate (MMA) Antitrust Litigation, MDL 1768 (E.D. Pa.)***

FKLM served as co-lead counsel in this antitrust price-fixing action against producers of methyl methacrylate and polymethyl methacrylate. The case resulted in a settlement of over \$15 million for the class.

➤ ***In re Infant Formula Antitrust Litigation, MDL 878 (N.D. Fla.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action against the major manufacturers of infant formula. The case settled for over \$125 million.

➤ ***In re Chubb Drought Insurance Litigation, MDL 782 (S.D. Ohio)***

FKLM attorneys served as co-lead counsel in this class action filed on behalf of farmers who purchased drought insurance that Chubb refused to honor. The settlement exceeded \$110 million and was achieved in less than 9 months. This sum, together with \$8 million recovered at trial against Chubb's general agent, resulted in complete recovery for the affected farmers.

➤ ***In re Ocean Shipping Antitrust Litigation, MDL 395 (S.D.N.Y.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action, which resulted in a \$79 million recovery for thousands of U.S. and European shippers. Distributions were made to claimants in the United States and throughout a number of European countries.

➤ ***In re Isostatic Graphite Antitrust Litigation, Master File 00-CV-1857 (E.D. Pa.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action. The case resulted in combined settlements of over \$11 million for the class.

➤ ***In re Carbon Dioxide Antitrust Litigation, MDL 940 (M.D. Fla.)***

FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action in which the plaintiff class recovered \$53 million and achieved significant therapeutic relief for the class.



➤ ***In re Morrison Knudson Securities Litigation, CA No. 94-CV-3345 (D. Idaho)***

FKLM attorneys served as co-lead counsel in this securities class action where the plaintiff class received \$43 million and approximately 3 million shares of Morrison Knudson common stock in settlement of their claims.

➤ ***In re M-L Lee Acquisition Fund Securities Litigation (D. Del.)***

FKLM attorneys served as co-lead counsel in this securities class action case against a syndicate of partnerships and its general partners, involving Merrill Lynch and its affiliates, and a leveraged buy-out specialty firm overseen by Thomas H. Lee. The case resulted in a \$33 million settlement on behalf of the limited partners.

➤ ***In re Public Service Company of New Mexico (S.D. Cal.)***

FKLM attorneys served as lead counsel in this derivative action and obtained \$33 million dollars in a joint settlement with class plaintiffs in a related securities fraud class action. Judge Harry R. McCue, District Court Judge for the Southern District of California stated:

The petitioners in this case are members of respected law firms which specialize in class action litigation. These attorneys brought considerable legal talents together, and were able to achieve the successful completion of this litigation. They are entitled to fair and reasonable compensation.

➤ ***Piggly Wiggly Antitrust Litigation (E.D. Tex.)***

FKLM attorneys served as co-lead counsel in this statewide (Texas) antitrust price-fixing action, which resulted in total settlements of approximately \$32 million for class members.

➤ ***Koch Gathering Systems, Inc. Oil Spill Litigation (Dist. Ct. of Nueces County, Tex.)***

FKLM attorneys served as co-lead counsel in this case concerning a marine oil spill in which a class consisting of commercial fisherman and shrimpers recovered over \$10 million.



OTHER LEADERSHIP ROLES

In addition to serving as lead or co-lead counsel, FKLM attorneys regularly play key roles as members of executive or steering committees, negotiating ESI issues, taking and defending depositions, working with expert witnesses, and managing all aspects of pre-trial discovery.

➤ ***Mulhern, et al. v. Pepperidge Farm, 16-CV-32199 (N.D. Ill.)***

FKLM is serving as liaison counsel and managing discovery efforts in this class action alleging that drivers/distributors are improperly classified by Pepperidge Farm as “independent contractors” in order to wrongfully deny them certain compensation and other benefits.

➤ ***In re Lithium Ion Batteries Antitrust Litigation, MDL No. 2420 (N.D. Cal.)***

FKLM is serving as a member of the Direct Purchaser Plaintiff Direct Purchaser Plaintiffs’ Steering Committee in this case on behalf of direct purchasers of Lithium-Ion Battery products in this nationwide price fixing case.

➤ ***In re Rail Freight Fuel Surcharge Antitrust Litigation, MDL 1869 (DC)***

FKLM is serving as co-chair of the Executive Committee in this case on behalf of direct purchasers of rail freight services that paid fuel surcharges in this nationwide, antitrust price-fixing case.

➤ ***Standard Iron Works v. ArcelorMittal et al., 08-CV-5214 (N.D. Ill.)***

FKLM is serving as liaison counsel on behalf of direct purchasers of steel in this nationwide supply manipulation and price-fixing case.

➤ ***In re Blood Reagents Antitrust Litigation, MDL 2081 (E.D. Pa.)***

FKLM is serving as a member of the Executive Committee in this nationwide antitrust class action brought on behalf of direct purchasers of blood reagents.

➤ ***In re NCAA Student-Athlete Name & Likeness Licensing Litigation, 4:09-CV-1967 (N.D. Cal.)***

FKLM attorneys managed a variety of critical discovery matters in this antitrust case brought on behalf of former collegiate athletes.



➤ ***In re Fresh and Process Potatoes Antitrust Litigation*, MDL 2186 (D. Idaho)**

In addition to handling all aspects of discovery concerning two defendants, FKLM attorneys worked closely with lead counsel in drafting the consolidated complaint and successfully opposing a motion to dismiss in this nationwide antitrust class action brought on behalf of direct purchasers of fresh and process potatoes.

➤ ***In re Processed Egg Products Antitrust Litigation*, MDL 2002 (E.D. Pa.)**

FKLM attorneys worked closely with lead counsel in drafting the original complaint and successfully opposing a motion to dismiss in this nationwide antitrust class action brought on behalf of direct purchasers of eggs and egg products.

➤ ***In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL 1917 (N.D. Cal.)**

FKLM served as Chair of Discovery and worked closely with lead counsel to manage a variety of top level matters, including negotiating ESI issues and taking key depositions in this nationwide price-fixing class action with over \$100 million in partial settlements.

➤ ***In re Optical Disk Drive (ODD) Antitrust Litigation*, MDL 2143 (N.D. Cal.)**

FKLM was one of several firms that assisted lead counsel with discovery and briefing in this nationwide price-fixing class action brought on behalf of direct purchasers of optical disk drives.

➤ ***In re Municipal Derivatives Antitrust Litigation*, MDL 1940 (S.D.N.Y.)**

FKLM oversaw discovery of a key defendant and worked closely with lead counsel on a variety of other pre-trial matters in this nationwide class action brought on behalf of purchasers of municipal derivatives.

➤ ***In re American Express Anti-Steering Rules Antitrust Litigation (No. II)*, MDL 2221 (E.D.N.Y.)**

FKLM managed discovery of independent merchant (opt-out) plaintiffs in this nationwide antitrust case.

➤ ***In re Air Cargo Shipping Services Antitrust Litigation*, MDL 1775 (E.D.N.Y.)**

FKLM attorneys served as co-chairs of discovery in this antitrust class action involving claims under Section 1 of the Sherman Act. Settlements in the case totaled nearly \$600 million.



➤ ***In re Intel Corp. Microprocessor Antitrust Litigation*, MDL 1717 (D. Del.)**

FKLM attorneys managed discovery from dozens of named plaintiffs in this nationwide antitrust action. Among other things, the firm played a key role in overseeing document production and coordinating, managing and defending over 50 depositions.

➤ ***In re Vitamins Antitrust Litigation*, MDL 1285 (D.D.C.)**

FKLM attorneys served as co-chairs of discovery in this antitrust price-fixing action, which resulted in over \$1.3 billion in settlements.

➤ ***In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, MDL 1486 (N.D. Cal.)**

FKLM attorneys served as co-chairs of discovery in this nationwide, antitrust price-fixing action, which resulted in settlements of over \$300 million for class members.

➤ ***In re Rubber Chemicals Antitrust Litigation*, MDL 1648 (N.D. Cal.)**

FKLM attorneys served on the executive committee in this nationwide, antitrust price-fixing action, which resulted in settlements of over \$300 million for class members.

➤ ***In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litigation*, MDL 1542 (D. Conn.)**

FKLM attorneys served as co-chairs of discovery in this nationwide antitrust price-fixing action, which has resulted in settlements of over \$87 million for class members.

➤ ***In re Static Random Access Memory (SRAM) Antitrust Litigation*, MDL 1819 (N.D. Cal.)**

FKLM was a member of the executive committee representing direct purchaser plaintiffs in this antitrust price-fixing case which resulted in settlements exceeding \$76 million.

➤ ***In re Waste Management, Inc. Securities Litigation*, Master File 97-CV-7709 (N.D. Ill.)**

FKLM attorneys were actively involved in litigating the case and served as liaison counsel. A settlement for the plaintiff class of \$220 million was obtained.



➤ ***Blinder Robinson Securities Litigation (E.D. Pa.)***

FKLM attorneys served as members of the Steering Committee in this securities fraud action in which an injunction was obtained preventing a transfer of assets; judgment of \$71 million was later entered.

➤ ***In re Drill Bits Antitrust Litigation, CA No. H-91-627 (S.D. Tex.)***

FKLM attorneys served as members of the Steering Committee in this antitrust price-fixing class action and were instrumental in achieving a settlement for the class in excess of \$52 million.

➤ ***In re Industrial Gas Antitrust Litigation, CA No. 80 C. 3479 (N.D. Ill.)***

FKLM attorneys served as members of the executive committee in this antitrust price-fixing class action, which ultimately recovered more than \$50 million dollars for the class. The settlement included assignable purchase certificates, which the court found increased the competitive value of the settlement.

➤ ***In re Records and Tapes Antitrust Litigation (N.D. Ill.)***

FKLM attorneys served as members of the executive committee in this antitrust price-fixing class action. The class recovered \$26 million dollars in settlement in cash and assignable purchase certificates.

➤ ***Kaufman v. Motorola, Inc. (N.D. Ill.)***

FKLM attorneys served as actively involved in litigating the case and served as liaison counsel. A settlement of \$25 million was obtained for the plaintiff class.

➤ ***In re Unisys Securities Litigation, CA No. 99-5333 (E.D. Pa.)***

FKLM attorneys served as members of the executive committee in this derivative action in which Plaintiffs recovered \$20 million for corporation.

* * *

Other large class action cases in which FKLM attorneys were involved in a leadership position include *In re Folding Cartons Antitrust Litigation*, *In re Plywood Antitrust Litigation*, *In re Standard Screws Antitrust Litigation*, *In re Cotton Yarn Antitrust Litigation*, *In re Glass Containers Antitrust Litigation*, *In re Aluminum Siding Antitrust Litigation*, *Rusty Jones Warranty Litigation*, *NPA Securities Litigation*, *In re Chlor-alkali and Caustic Soda Antitrust Litigation*, and *In re Potash Antitrust Litigation*.



FKLM frequently serves as local counsel for a variety of cases, working closely with law firms located outside of Illinois. Some examples include *North Miami General Employees Retirement Fund et al. v. Parkinson et al.*, Case No. 1:10-cv-06514 (N.D. Ill.) (pending), *Marvin H. Maurras Revocable Trust v. Bronfman Jr. et al.*, Case No. 1:12-cv-03395 (N.D. Ill.) (pending), and *St. Lucie County Fire District Firefighters' Pension Trust Fund v. Motorola, Inc. et al.*, Case No. 1:10-cv-00427 (N.D. Ill.) actions where FKLM was appointed as liaison counsel.

ATTORNEY PROFILES

Michael J. Freed

After leaving the Department of Justice Antitrust Division, Mr. Freed has engaged in private antitrust class action litigation for 50 years. He has served as co-lead counsel in many prominent antitrust and securities fraud class action cases. Presently, Mr. Freed is serving as co-lead counsel in the *Kleen Products v. International Paper/Containerboard Antitrust* case and *In re Opana ER Antitrust Litigation*. Prior antitrust class actions in which Mr. Freed served as co-lead counsel include *In re Aftermarket Filters Antitrust Litigation*, *In re Brand Name Prescription Drugs Antitrust Litigation*, *In re High Fructose Corn Syrup Antitrust Litigation*, *In re Linerboard Antitrust Litigation*, *In re Carbon Dioxide Antitrust Litigation*, *In re Infant Formula Antitrust Litigation*, and *In re Ocean Shipping Antitrust Litigation*. More than \$2 billion has been recovered for the plaintiff classes in cases in which Mr. Freed has served as co-lead counsel.

Mr. Freed has been named an Illinois Super Lawyer by Chicago Magazine, an Illinois Leading Lawyer by the Leading Lawyer's Network, and one of the top plaintiffs' antitrust lawyers in Illinois by Chambers and Partners. In March 2007, Mr. Freed was honored by the Chicago Appleseed Fund for Justice for his exceptional pro bono efforts.

Mr. Freed was formerly a trial and appellate attorney with the United States Department of Justice, Antitrust Division (Honors Program). He is a graduate of the University of Pennsylvania (B.S., 1959) and University of Chicago Law School (J.D., 1962).



Steven A. Kanner

Mr. Kanner has over 30 years' experience in complex antitrust litigation and previously led the class action practice at Much Shelist Freed. His experience includes investigation, discovery, trial and appeal of antitrust, securities and other complex cases. Mr. Kanner has been designated an Illinois Super Lawyer by *Chicago Magazine* for the past 5 years and is a frequent lecturer both domestically and internationally on antitrust and trade regulation.

With respect to antitrust matters, Mr. Kanner has been involved in a leadership capacity in many of the cases described above. Cases in which Mr. Kanner is currently serving as co-lead counsel or interim co-lead counsel include *In re Automotive Parts Antitrust Litigation*, MDL 2311 (E.D. Mich.), (an international price fixing conspiracy of historic proportions which currently includes individual cases for Wire Harnesses, Instrument Panel Clusters, Fuel Senders, Heater Control Panels, Occupant Safety Systems, Ball Bearings, Air Conditioning Systems, Windshield Wiper Systems, Starters, Alternators, Windshield Washer Systems), *Kleen Products, et al. v. International Paper, et al.*, 10-CV-5711 (N.D. IL) ("*Containerboard Antitrust Litigation*"), *In re Vehicle Carrier Antitrust Litigation*, MDL 2471 N.D. NJ). Mr. Kanner is also Co-Chair of the Executive Committee in *In re Rail Freight Fuel Surcharge Antitrust Litigation* MDL 1869 (DC).

A 1979 graduate of DePaul University Law School, Mr. Kanner is admitted to the Bars of Illinois, the Northern District of Illinois (member of the trial bar), the United States Court of Appeals (Second, Third, Fourth, Fifth, Seventh and Tenth Circuits) and the United States Supreme Court. He is also a member of the Chicago Bar Association (Committees on Litigation and Antitrust Law), the Illinois State Association (Sections on Antitrust Law and Litigation), the American Bar Association (Sections on Antitrust Law and Litigation), the Illinois Trial Lawyers Association, and the Decalogue Society where he previously served on the Editorial Board of the Society's Law Journal. Prior to entering private practice, Mr. Kanner was employed by the Federal Trade Commission as a consumer affairs specialist.



Douglas A. Millen

Mr. Millen devotes his practice to prosecuting direct purchaser, price-fixing class actions and has played a key role in many of the most successful price-fixing cases in the United States. Most recently, in the Southern District of New York, Mr. Millen was appointed of the co-lead counsel in the *Daniel Gordon, et al. v. Amadeus IT Group S.A., et al.*, 1:15-cv-05457 (S.D.N.Y.) (“GDS Antitrust Litigation”) by Judge Katherine Polk Failla.

Northern District of California, Judge Yvonne Gonzalez Rogers appointed Mr. Millen to the Direct Purchaser Plaintiffs’ Steering Committee in *In re Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420 (N.D. Cal.). He has extensive experience litigating complex commercial matters, with an emphasis on cases involving antitrust, consumer protection, securities and contract law claims. Mr. Millen also has substantial experience in electronic discovery matters and the leveraging of technology to achieve effective and efficient client advocacy. He formerly chaired the Technology Committee at Much Shelist Freed and has handled many complicated electronic discovery issues.

Mr. Millen has played a prominent role in many of the largest antitrust cases in recent history – including *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, MDL 1486 (N.D. Cal.), *In re Vitamins Antitrust Litigation*, MDL 1285 (D.D.C.), and *In re Rubber Chemicals Antitrust Litigation*, MDL 1648 (N.D. Cal.) – and his efforts have assisted in the recovery of billions of dollars for class members. Among other cases, Mr. Millen is presently involved in *In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL 1917 (N.D. Cal.), *In re American Express Anti-Steering Rules Antitrust Litigation (No. II)*, MDL 2221 (E.D.N.Y.), and *In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL 1869 (D.D.C.) He has also provided antitrust compliance consultation for large, multi-national companies.

Mr. Millen is a graduate of the University of Michigan (B.G.S., 1991) and University of Illinois College of Law (J.D. *magna cum laude*, 1994). In 1994, he was admitted to the New York and Connecticut State Bars; and in 1995 he was admitted to the Illinois State Bar. He is also admitted to practice in the Northern and



Southern Districts of Illinois. Mr. Millen is a member of the American Bar Association, Antitrust Section and the Chicago Bar Association. Prior to founding FKLM, Mr. Millen was a partner at Much Shelist Freed, where he practiced with the class action group from November 1995 through December 31, 2006.

William H. London

Mr. London has been litigating class action cases for over 25 years. He served as trial counsel for the plaintiff class in *In re High Pressure Laminates Antitrust Litigation*, a case that was tried before a jury in the Southern District of New York. He was actively involved in several cases in which FKLM was serving in a leadership capacity, including *In re Flat Glass Antitrust Litigation (No. II)*, MDL No. 1942 (W.D. Pa.); *In re Static Random Access Memory (SRAM) Antitrust Litigation*, MDL No. 1819 (N.D. Cal.); and *In re Hydrogen Peroxide Antitrust Litigation*, MDL 1682 (E.D. Pa.). Mr. London presently has significant involvement in *In re Automotive Parts Antitrust Litigation*, MDL 2311 (E.D. Mich.) and *In re Optical Disk Drive Products Antitrust Litigation*, No. 3:10-md-2143 (N.D. Cal.).

Mr. London graduated *Magna Cum Laude* from Syracuse University in 1984 and received his law degree in 1987 from IIT Chicago-Kent College of Law. In 1987, he was admitted to the Illinois Bar and the Federal Bar; and in 1988, he was admitted to practice before the United States Court of Appeals for the Seventh Circuit. Mr. London is a member of the American Bar Association and is a past-Chairman of the Chicago Bar Association Class Litigation Committee. He was formerly an Assistant Attorney General for the State of Illinois, during which time he argued cases in the United States Court of Appeals for the Seventh Circuit and the Illinois Supreme Court. Since 1990, Mr. London has concentrated on complex and commercial litigation, with an emphasis on class action litigation involving antitrust claims. Mr. London practiced with Much Shelist Freed from March 1993 through December 31, 2006.

Michael E. Moskovitz

Michael E. Moskovitz is a partner at Freed Kanner London & Millen LLC and has been involved in trial and appellate litigation for more than 15 years. Since 2000, he has concentrated on complex commercial



litigation, with a primary emphasis on class action litigation involving antitrust, securities fraud, and consumer fraud claims. Mr. Moskowitz previously played a key role in the class action practice of Much Shelist Freed. He is significantly involved in several pending antitrust class actions, *In re Automotive Parts Antitrust Litigation*, MDL 2311 (E.D. Mich.), and *In re Vehicle Carrier Services Antitrust Litigation*, MDL No. 2471. Mr. Moskowitz is also a member of The Sedona Conference's Working Group 1 (Electronic Document Retention and Production) and has spoken at The Sedona Conference's Midyear meeting and has co-written papers published by The Sedona Conference.

Mr. Moskowitz is a graduate of Indiana University (B.A., 1993) and New York University School of Law (J.D., 1996).

Robert J. Wozniak

Robert J. Wozniak is a partner at Freed Kanner London & Millen LLC. Since 2001, Mr. Wozniak has been involved in complex commercial litigation, with a primary emphasis on antitrust and consumer class action cases. Prior to engaging in private law practice, Mr. Wozniak worked as a trial attorney for the United States Department of Justice, Antitrust Division (Honors Program). Mr. Wozniak was then employed by Cohen Milstein Hausfeld & Toll, a Washington, D.C. class action firm, before joining Much Shelist Freed in 2004.

The complex antitrust class actions in which Mr. Wozniak has had significant involvement include: *In re Opana ER Antitrust Litigation* (N.D. Ill.); *Mulhern, et al. v. Pepperidge Farm* (N.D. Ill.); *Kleen Products, et al. v. International Paper, et al.* (N.D. Ill.) ("*Containerboard Antitrust Litigation*"); *In re NCAA Student-Athlete Names & Likeness Licensing Litigation* (N.D. Cal.); *In re Fresh and Process Potatoes Antitrust Litigation* (D. Idaho); *In re Municipal Derivatives Antitrust Litigation* (S.D.N.Y.); *In re Flat Glass Antitrust Litigation (II)* (W.D. Pa.); *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal.); *In re Static Random Access Memory (SRAM) Antitrust Litigation* (N.D. Cal.); *In re Hydrogen Peroxide Antitrust Litigation* (E.D. Pa.); *In re Intel Corp. Microprocessor Antitrust Litigation* (D. Del.); *In re Dynamic Random Access Memory (DRAM) Litigation* (N.D. Cal.); *In re Buspirone Antitrust Litigation* (S.D.N.Y.); and *In re Terazosin Hydrochloride Antitrust Litigation* (S.D. Fla.).



Mr. Wozniak is a graduate of the University of Michigan (B.A., 1988), University of Minnesota (M.A., 1994), and Wayne State University Law School (J.D., 2000, *cum laude*, Order of the Coif). He has been admitted to practice law in Illinois, Michigan and the District of Columbia.

Brian M. Hogan

Brian M. Hogan is an associate attorney at Freed Kanner London & Millen LLC. He specializes in class action litigation and has a wide range of experience successfully handling product liability, mass tort, toxic and environmental exposure, consumer protection and antitrust cases. He has litigated cases in numerous state and federal courts nationwide, including multidistrict litigation. Mr. Hogan has tried over a dozen cases to verdict.

Currently, Mr. Hogan has significant involvement litigating *In re Automotive Parts Antitrust Litigation* (E.D. Mich.), where Freed Kanner London & Millen is court-appointed co-lead counsel representing direct purchasers of automotive parts who were overcharged as a result of price-fixing and bid-rigging conspiracies by various sets of defendants throughout the automotive parts industry. The litigation follows the largest United States Department of Justice criminal antitrust investigation in history.

Mr. Hogan received a B.A. from Indiana University and his J.D. from Chicago-Kent College of Law.

Philip Moyer

Philip Moyer is a project attorney for Freed Kanner London & Millen LLC, concentrating his time on *In re Foreign Exchange Benchmark Rates Antitrust Litigation*. Mr. Moyer specializes in class action litigation, and he has more than three years of experience working on antitrust matters.

Mr. Moyer received a B.A. from Columbia University in New York in 2005, and he received his J.D. from Drexel University in Philadelphia in 2009.



John McCarthy

John McCarthy is a project attorney for Freed Kanner London & Millen LLC, concentrating his time on *In re Foreign Exchange Benchmark Rates Antitrust Litigation*. Mr. McCarthy specializes in antitrust, tax and financial matters, and he has more than four years of experience working on complex matters, including antitrust.

Mr. McCarthy received a B.S. from The Pennsylvania State University in 2005. He received his J.D. from Temple University Beasley School of Law in Philadelphia in 2009, and he received his LL.M. in Taxation from Temple University Beasley School of Law in 2013.

Kevin LaCorte

Kevin LaCorte is a project attorney for Freed Kanner London & Millen LLC, concentrating his time on *In re Foreign Exchange Benchmark Rates Antitrust Litigation*. Mr. LaCorte specializes in complex litigation, and he has over four years of experience working on antitrust matters. Before entering private practice, Mr. LaCorte clerked for the Honorable John S. Holston, Jr., of the Superior Court of New Jersey – Appellate Division.

Mr. LaCorte graduated from Rutgers University in 1999, and he received his J.D. and MBA (with Concentrations in Management and Accounting) from Rutgers School of Law and Rutgers School of Business in 2003.

Brian J. Watkins

Brian J. Watkins is a project attorney for Freed Kanner London & Millen LLC, concentrating his time on *In re Foreign Exchange Benchmark Rates Antitrust Litigation*. Mr. Watkins specializes in class action litigation with over fourteen years of experience working on antitrust and related matters.

Mr. Watkins received a B.S. degree from Allegheny College in 2000, and he received his J.D. from Temple University in 2004.

EXHIBIT 29

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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**DECLARATION OF RENAE D. STEINER
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF HEINS MILLS & OLSON, P.L.C**

I, Renae D. Steiner, declare as follows:

1. I am a partner at the law firm of Heins Mills & Olson, P.L.C., one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, reviewed and analyzed transcripts of chatroom conversations among employees of both settling and non-settling Defendants to identify and describe evidence of overarching conspiratorial conduct. This work included coding documents for relevance and probative value and writing comments to explain reasons for coding documents as probative; and for each chatroom reviewed, drafting a comprehensive memorandum summarizing significant evidence contained in the transcripts and identifying key participants.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The total number of hours reflected in Exhibit 1 is 781.75. The total lodestar reflected in Exhibit 1 is \$332,243.75 consisting entirely of attorneys' time.

5. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

6. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$284.35 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

7. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.


- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

8. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

9. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

10. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.



Renae D. Steiner

EXHIBIT 1

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

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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**HEINS MILLS & OLSON, P.L.C.
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Dylan J. McFarland (Discovery Rate)	781.75	\$425	\$332,243.75
TOTALS	781.75		\$332,243.75

EXHIBIT 2

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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HEINS MILLS & OLSON, P.L.C.
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$228.15
Online Legal Research	\$56.20
TOTAL EXPENSES:	\$284.35

EXHIBIT 3

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

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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HEINS MILLS & OLSON, P.L.C.
FIRM RÉSUMÉ AND BIOGRAPHIES



Heins Mills & Olson, p.l.c.

Firm Résumé

The law firm of Heins Mills & Olson, P.L.C., located in Minneapolis, is a premier advocate for businesses, consumers and investors in the nation's courts. We focus our practice on complex litigation, an arena in which the firm has distinguished itself as one of the preeminent firms in the United States representing national classes of businesses, shareholders and consumers in a wide range of industries to prosecute in actions alleging antitrust violations, securities fraud, deceptive trade practices and consumer fraud. We have concentrated our efforts in the area of antitrust to redress harm suffered to classes victimized by price-fixing, supply limitation, monopolization, market allocation and other anticompetitive conduct. Our team of lawyers collectively has many decades of experience in complex litigation and has successfully handled hundreds of class actions, primarily in a leadership role, including cases tried to verdict.

Please see the firm's website at www.heinsmills.com for a complete discussion of the firm's practice.



Dylan J. McFarland

Dylan is a partner of the firm. Named a “Super Lawyer” and previously a “Rising Star” by *Minnesota Law & Politics*, he practiced in the area of complex commercial litigation as an associate with Gray Plant Mooty before attending the University of Minnesota Medical School. As a partner of Burstein Hertogs Olson & McFarland, P.A., he continued to represent corporations and municipalities in complex litigation, including shareholder derivative actions. In a case of first impression, he represented the defendant shareholders in *Skoglund v. Brady* (Minn. Ct. App.), which helped define the scope of derivative claims and the authority of special litigation committees under Minnesota law.

Since joining the firm, Dylan has worked on several securities fraud class actions, including *In re AOL Time Warner Securities Litigation* (S.D.N.Y.) (\$2.65 billion recovery for shareholders of AOL and Time Warner); *In re Broadcom Corp. Securities Litigation* (C.D. Cal.) (\$150 million recovery for shareholders of semiconductor manufacturer).

Dylan also is currently or has been involved a number of antitrust and other class actions, including *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal.) (price-fixing claims against producers of liquid crystal displays); *In re Municipal Derivatives Antitrust Litigation* (S.D.N.Y.) (claims on behalf of local governments against brokers, banks and insurance companies alleging bid-rigging and other anticompetitive practices in the municipal derivatives industry); *In re: LIBOR-Based Financial Instruments Antitrust Litigation* (S.D.N.Y.) (claims alleging that member banks of the British Bankers’ Association conspired to manipulate the London InterBank Offered Rate); *In re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D. Cal.); *Gordon et al v. Amadeus IT Group, S.A. et al* (S.D.N.Y) (alleging anticompetitive conduct by providers of airline reservation systems); *Fond Du Lac Bumper Exchange, Inc., et. al. v. Jui Li Enterprise Company, Ltd., et. al.* (E.D. Wis.) (supply and price-fixing claims against manufacturers and distributors of aftermarket automotive sheet metal parts); *In re Plasma Derivative Protein Therapies Antitrust Litigation* (N.D. Ill.) (supply and price-fixing claims against manufacturers of plasma-derivative protein therapies); *In re Pool Products Distribution Market Antitrust Litigation* (E.D. La.) (asserting claims of monopolization and attempted monopolization of the U.S. pool products distribution market); *In re American Express Anti-Steering Rules Antitrust Litigation* (E.D.N.Y.) (challenging rules preventing merchants from providing consumers with incentives to use forms of payment that are less expensive than American Express branded payment cards); *In re Puerto Rican Cabotage Antitrust Litigation* (D.P.R.) (antitrust claims against the largest providers of domestic ocean shipping between the mainland U.S. and Puerto Rico); *Glaberson v. Comcast Corp.* (E.D. Pa.) (antitrust claims against cable services



provider on behalf of subscribers); and *In re Lawnmower Engines Horsepower Marketing & Sales Practices Litigation* (MDL No. 1999 E.D. Wis.) (alleging consumer fraud, civil conspiracy and unjust enrichment claims against manufacturers of lawn mowers and lawn mower engines); *In re Lithium Ion Batteries Antitrust Litigation* (N.D. Cal.) (asserting antitrust claims against manufacturers of lithium ion batteries); *In re National Hockey League Players' Concussion Injury Litigation* (MDL No. 14-2551 (SRN/JSM), D. Minn.) (alleging negligence and other claims against the NHL on behalf of all retired NHL hockey players, both those diagnosed with concussion-related injuries and those who have not yet been diagnosed); *In re Automotive Parts Antitrust Litigation (Wire Harness Systems)* (E.D. Mich.) (price-fixing in aftermarket market for automotive wire harnesses).

While attending Harvard Law School, Dylan was an editor of the *Harvard Civil Rights-Civil Liberties Law Review*. He was an Adjunct Professor of Law at William Mitchell College of Law from 1998-2002, where he taught Legal Writing, Trial Skills, and Appellate Advocacy, and he has spoken at legal education programs on a number of litigation topics.

Dylan is named as a "Litigation Star" in *Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms & Attorneys*.

B.A. *summa cum laude*, U. of Minnesota; J.D. *cum laude*, Harvard Law School
Admitted: Hawaii and Minnesota; U.S. District Court, District of Minnesota; U.S. Court of Appeals, Second, Eighth and Ninth Circuits

EXHIBIT 30

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

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IN RE FOREIGN EXCHANGE	:
BENCHMARK RATES ANTITRUST	: No. 1:13-cv-07789-LGS
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**DECLARATION OF ERIC L. YOUNG, ESQUIRE
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES
FILED ON BEHALF OF YOUNG LAW GROUP, P.C.**

I, Eric L. Young, Esquire, declare as follows:

1. I am a partner at the law firm of Young Law Group, P.C. (d/b/a McEldrew Young, Attorneys-at-Law), one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, was retained to represent United Food & Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund ("UFCW Fund") in the instant matter. My firm represented the UFCW Fund throughout this litigation with regard to case investigations, plaintiffs' and defendants' document discovery, and in preparation for and representation of the UFCW Fund's designated representative at deposition.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours

to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 1453.8. The total lodestar reflected in Exhibit 1 is \$527,865.00. That amount consists solely of attorneys' time; no professional support staff time has been billed to this matter.

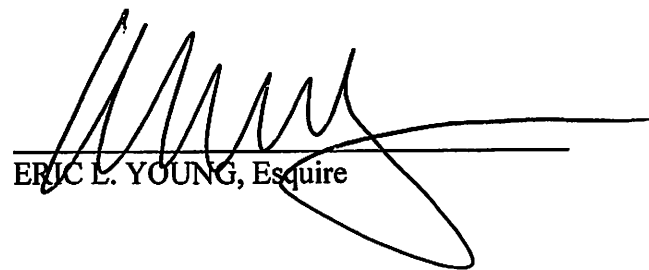
6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items.

7. My firm is not seeking reimbursement for any litigation expenses incurred in connection with the prosecution of this Action.

8. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

9. Attached hereto as Exhibit 2 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 4, 2018.



ERIC L. YOUNG, Esquire

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
LITIGATION	:	
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YOUNG LAW GROUP, P.C.
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
ERIC L. YOUNG	42.3	800	\$33,840.00
Associates			
SEAN F. BIGLEY	1,411.5	350	\$494,025.00
TOTALS	1,453.8		\$527,865.00

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE FOREIGN EXCHANGE	:	
BENCHMARK RATES ANTITRUST	:	No. 1:13-cv-07789-LGS
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YOUNG LAW GROUP, P.C. (d/b/a McEldrew Young, Attorneys-at-Law)
FIRM RÉSUMÉ AND BIOGRAPHIES

McELDREW YOUNG

McEldrew Young is a boutique litigation specializing in whistleblower claims, class actions, and complex mass tort and personal injury cases.

Attorney McEldrew is a former President of the Philadelphia Trial Lawyers Association. Attorney Young has represented clients in numerous class actions in areas including healthcare and securities fraud, in addition to some of the nation's largest whistleblower recoveries. Attorney Young served as an expert witness in litigation over the largest tax whistleblower case to date, Bradley Birkenfeld's award of more than \$100 million for reporting UBS, a Swiss bank, for helping Americans evade U.S. taxes overseas.

Attorneys McEldrew and Young have had their commentary and cases widely mentioned by the media, including articles in the Wall Street Journal, Forbes, Associated Press, Philadelphia Inquirer, Legal Intelligencer, Fox News, Accounting Today, IAWatch, and Think Advisor.

CLASS ACTION AND PERSONAL INJURY LITIGATION

McEldrew Young attorneys have experience in both class action and multidistrict litigation, representing clients in numerous securities fraud lawsuits, wage & hour actions, railroad mass tort lawsuits and medical device injuries. McEldrew Young also has an extensive catastrophic personal injury practice, representing victims of medical malpractice, railroad injuries and other torts. Attorney McEldrew has recovered more than \$100 million on behalf of injured clients during his legal career.

FALSE CLAIMS ACT REPRESENTATION

Attorney Young has represented whistleblowers in several of the nation's largest *qui tam* recoveries under federal and state false claims acts including *United States ex. rel. Lucia Paccione v. Cephalon Inc.*, E.D.P.A., 03-CV-6268 (\$425 Million civil settlement against one of the largest biotechnology firms in the United States involving unlawful off-label marketing by Cephalon of drugs, including Gabitril, Actiq, and Provigil). McEldrew Young is currently in litigation against some of the largest pharmaceutical manufacturers in the world, including Pfizer, Novartis and Teva.

SECURITIES AND SEC/CFTC

McEldrew Young represents individuals in matters involving securities and commodities law, including both the SEC and CFTC whistleblower programs. Attorney Young represents Taft-Hartley pension funds in securities fraud and anti-trust litigation. Attorney Brandon Lauria was a Management Associate at the Federal Reserve Bank of Atlanta and a junior accountant at a finance processing company prior to law school. Attorney Robert Melton was an options market maker on the Philadelphia Stock Exchange trading index and equity options prior to law school. Attorney Peter Lennon, Of Counsel, is an attorney and C.P.A. with experience in accounting and auditing issues implicating both tax fraud and violations of SEC rules.

IRS WHISTLEBLOWER REPRESENTATION

Attorney Young is a recognized authority in whistleblower cases. Attorney Young secured the first-ever mandatory IRS/tax fraud whistleblower reward (22% of the IRS' total amount recovered) for an anonymous client in 2011. At a time when the IRS has been criticized for not paying rewards to more than a handful of whistleblowers, Mr. Young has successfully secured several awards for clients.

ERIC L. YOUNG, ESQUIRE

Attorney Eric L. Young, based in Philadelphia, has served as an advocate for the rights of labor organizations and employees for most of his legal career. He has represented union pension and health and welfare funds in a wide array of class actions involving corporate fraud and misconduct during the course of his 18-year legal career. Capitalizing on this experience, Attorney Young has become one of the nation's leading whistleblower attorneys. Attorney Young represents individuals filing *qui tam* lawsuits under the False Claims Act as well as those submitting tips to the Securities and Exchange Commission, Commodity Futures Trading Commission, and Internal Revenue Service.

While representing the interests of union benefit funds and whistleblowers, Attorney Young routinely deals with complex legal issues including, but not limited to, healthcare fraud, tax fraud, securities law, and anti-trust violations.

Attorney Young's legal commentary has been published on the websites of Forbes, The Hill and the Delaware Business Court Insider, among others. He has also been quoted in

numerous articles on whistleblower issues, including the Wall Street Journal, Pittsburgh Post-Gazette and Accounting Today.

Attorney Young has been retained as an expert in his field, including in the largest tax whistleblower case to date, where Bradley Birkenfeld was awarded more than \$100 million for reporting UBS, a Swiss bank, for helping Americans evade U.S. taxes overseas.

Attorney Young has spoken to numerous industry organizations about whistleblowing. He participated in a roundtable organized by the International Ethics Standards Board of Accountants in 2014 to discuss upcoming changes to their ethics code for accountants to allow the reporting of suspected fraud. He also presented to members of the Anti-Corruption and FCPA Compliance Committee of the American Chamber of Commerce in India.

Previously, Attorney Young was a named partner at two Philadelphia law firms that specialized in class actions and whistleblower cases.

In 2011, Attorney Young represented the first IRS whistleblower to receive an award under section 7623(b), the mandatory reward program for tax informants passed by Congress. To date, there are only a handful of attorneys who have successfully represented clients through this process. His client, an accountant, remained anonymous and received an award of \$4.5 million for providing information about tax evasion to the Internal Revenue Service.

Attorney Young has also been involved in some of the nation's largest qui tam lawsuits. He served as co-counsel of record in *United States ex. rel. Lucia Paccione v. Cephalon Inc.*, E.D.Pa., Case No. 036268, which led to a civil settlement of \$425 million by Cephalon for off-label marketing. Attorney Young also represented a client in *United States ex. rel. Kruszewski v. Pfizer, Inc.* In September 2009, Pfizer agreed to pay more than \$2 billion in civil and criminal fines to settle allegations that it had defrauded Medicare in the marketing of four drugs. The settlement is still the largest in the United States under the False Claims Act.

Attorney Young has also represented union benefit funds in numerous class action cases involving areas including, but are not limited to, securities fraud, anti-trust, and health care fraud. These cases include, but are not limited to: *In re Diamond Foods, Inc. Shareholder Derivative Litigation*, Ca. Super., San Francisco Cty. No. CGC-11-515895; *Barbara L. McLay Trust, et al. v. Veolia Environment S.A., et al.*, S.D.N.Y. No. 11-CV-9526; *United Food and Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund v. Advanced Emissions Solutions, Inc., et al.*, Dist. Colo., 14-CV-01243 (Consolidated with 14-CV-1402); *In re: Treasury Antitrust Securities Action Antitrust Litigation*, S.D.N.Y., 15-CV-2673; and *In re: Avalanche Biotechnologies Securities Litigation*, N.D.C.A. 15-CV-03185.

Most recently, Eric Young represented the whistleblowers in a lawsuit under the False Claims Act alleging kickbacks by Valeant subsidiary Salix Pharmaceuticals. The case was settled by the U.S. Government for \$54 million in 2016.

Prior to entering private practice, Attorney Young served as General Counsel of the United Food and Commercial Workers, Local 1776. UFCW Local 1776 is one of the largest local unions in the country.

SEAN F. BIGLEY, ESQUIRE

McEldrew Young Attorney Sean F. Bigley has been a zealous advocate for clients facing long odds during his career as a trial lawyer in Philadelphia and Los Angeles. He has represented a diverse group of clients with limited resources, including employees in high stakes fraud litigation against their employers, poor families in danger of losing their homes through eviction from public housing, and military veterans camped on Los Angeles' "Skid Row" in need of legal representation.

At McEldrew Young, Attorney Bigley represents clients in class action and whistleblower cases under the False Claims Act as well as tips through the IRS, SEC, and NHTSA whistleblower programs. He has particular knowledge of the False Claims Act, the Anti-Kickback Statute and 10b-5 securities fraud litigation.

Prior to joining McEldrew Young, Sean worked as a trial attorney at the Legal Aid Foundation of Los Angeles. As the recipient of an AmeriCorps Veterans Legal Corps Fellowship, Sean defended poor families and military veterans in eviction lawsuits throughout Southern California. He also represented homeless veterans in various criminal matters and encouraged service organizations to help his clients, who had already sacrificed a portion of their lives for their country.

Attorney Bigley graduated Magna Cum Laude from Temple University in 2006 with degrees in Political Science and History. In 2008, he graduated from the University College Dublin, in Dublin, Ireland, with a Master's of Science degree in International Relations.

Attorney Bigley received his law degree from the Drexel University Thomas R. Kline School of Law in 2012. He is licensed to practice law in the Supreme Courts of Pennsylvania, New Jersey and California, and the Federal District Court for the Central District of California.

EXHIBIT 31

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

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**DECLARATION OF JOHN D. RADICE
IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF THE RADICE LAW FIRM, PC**

I, John D. Radice, declare as follows:

1. I am a partner at the law firm of the Radice Law Firm, PC, one of Plaintiffs' Counsel in the above-captioned action (the "Action"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs' Counsel, represented one of over-the-counter plaintiffs and three of the exchange plaintiffs. My firm was extensively involved in designing the document collection and review protocols for plaintiffs, meeting and conferring with defendants about the same, implementing that framework to review the voluminous collection of data and documents from plaintiffs, legal research at the direction of Lead Counsel, and drafting and revising responses and objections to discovery. My firm was also heavily involved in the review of

defendants' documents and materials and was selected by Lead Counsel for numerous projects that funneled to plaintiffs' experts and other sensitive tasks. Our client United Food and Commercial Workers Tri-State Pension Fund was the first plaintiff to have its deposition taken, and we prepared the witness for that and participated in that deposition.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 15,591.7. The total lodestar reflected in Exhibit 1 is \$6,993,746, consisting entirely of attorneys' time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$17,605.29 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel:

reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 3, 2018.


John D. Radice

EXHIBIT 1

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

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RADICE LAW FIRM, PC
TIME REPORT

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
John D. Radice	1496.6	\$675	\$1,010,205
Of Counsel			
April Lambert	566.0	\$545	\$308,470
Daniel Rubenstein	635.7	\$545	\$346,457
Eva Kane	1974.4	\$545	\$1,076,048
Clark Craddock	2072.9	\$545	\$1,129,731
Associates			
Luke Smith	176.6	\$525	\$92,715
Kenneth Pickle	301.1	\$475	\$143,023
Staff Attorneys			
Eric Blanco	3226.0	\$345	\$1,112,970
Megon Walker	1171.2	\$345	\$404,064
Joan Brandl	739.0	\$345	\$254,955
Do Im Park	830.4	\$345	\$286,488

Catherine Rhy	102.4	\$345	\$35,328
Shirley Menard	2299.4	\$345	\$793,293
TOTALS	15,591.70		\$6,993,746

EXHIBIT 2

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

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RADICE LAW FIRM, PC
EXPENSE REPORT

Through December 31, 2017

CATEGORY	AMOUNT
Telephones/Faxes	\$22.00
Postage & Express Mail	\$73.41
Out of Town Travel*	\$16,363.74
Meals*	\$1,146.14
TOTAL EXPENSES:	\$17,605.29

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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RADICE LAW FIRM, PC
FIRM RÉSUMÉ AND BIOGRAPHIES

RADICE LAW FIRM, PC

The Radice Law Firm PC was founded in 2012 to prosecute antitrust, False Claims Act, and other complex litigation. Attorneys at the firm have extensive experience in health care and other highly-regulated industries and are involved in all aspects of litigation, from initial case investigation through trial. We offer top-quality work, performed efficiently, with the focus and attention to clients that they deserve.

The Radice Law Firm has been instrumental in developing new cases. In one example of this, the Radice Law Firm, with co-counsel, investigated and filed the first complaint alleging a years-long conspiracy to fix margins in the market for dental supplies. Over sixty law firms subsequently filed similar cases and John Radice was appointed liaison counsel in that litigation, *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.).

Radice Law Firm PC has grown to include full-time attorneys from top law schools including Harvard, NYU, and the University of Pennsylvania. Biographies of Radice Law Firm attorneys follow.

John Radice

John Radice founded the Radice Law Firm PC in 2012. Mr. Radice has associated with some of the largest and most-respected plaintiffs' firms in the country and has been a part of the litigation or trial teams in, *inter alia*, the following cases:

- *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (filed first case and appointed liaison in case alleging nationwide margin fixing conspiracy among dental suppliers).
- *In re Flonase Direct Purchaser Antitrust Litigation* (\$150 million settlement on the eve of trial in case alleging sham citizen petitioning to delay generic entry);
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation* (\$73 million settlement in case alleging delayed generic entry);
- *In re Norvir Direct Purchaser Antitrust Litigation* (\$52 million settlement following three days of trial in case alleging anticompetitive bundling of Norvir and Kaletra);
- *In re Puerto Rico Cabotage Antitrust Litigation* (\$52.25 million cash settlement plus price freeze option following alleged price fixing and market allocation);
- *In re Tricor Direct Purchaser Antitrust Litigation* (\$250 million settlement after the start of trial in case alleging delayed entry of generic versions of Tricor);
- *In re Neurontin Marketing & Sales Litigation* (resulting in a RICO jury verdict statutorily trebled to over \$142 million for the unlawful and fraudulent promotion of Neurontin);
- *United States ex rel. Piacentile v. Bristol-Myers Squibb Co.* (\$515 million qui tam settlement related to unlawful promotion of Abilify); and
- *United States ex rel. Marchese v. Cell Therapeutics, Inc.* (\$10.5 million qui tam settlement stemming from unlawful marketing of Trisonex).

Mr. Radice, either alone or with co-authors, frequently publishes articles on current topics in antitrust and False Claims Act law, including:

- “Where do we go now? The Hatch-Waxman Act 25 Years Later: Successes, Failures, and Prescriptions for the Future,” 41 Rutgers L. J. 229 (Fall 2009 & Winter 2010);
- “The False Claims Act: A Public-Private Partnership” in Volume II, in AAJ 2009 ANNUAL CONVENTION: AAJ EDUCATION REFERENCE MATERIALS 1497 (Jennifer Adams ed., 2009); and
- “Daubert and Rule 702 in the Context of Antitrust Economic Experts: A Practitioner’s Guide,” Daubert 15 Years Later: How Have Economists Fared (ABA Spring Meeting 2009).

Mr. Radice clerked for Judge Edith Brown Clement in the United States Court of Appeals for the Fifth Circuit in New Orleans following his graduation from New York University School of Law. Through the Arthur Garfield Hays Civil Liberties Program at NYU Law, where he was a Palmer Weber Fellow, Mr. Radice pursued internships at the NAACP Legal Defense & Education Fund, the ACLU, and a prominent civil rights law firm. At Princeton, where he graduated *magna cum laude*, Mr. Radice was a member of the lightweight crew team. Mr. Radice founded and is president of Insicknessandinhealth.org, a non-profit dedicated to promoting health and well-being in underserved communities.

A. Luke Smith

Attorney A. Luke Smith joined Radice Law Firm PC as an associate in May 2014. Mr. Smith has considerable experience litigating all phases of complex antitrust class actions, from pre-filing investigations through post-trial briefing. Throughout his career, Mr. Smith has had the privilege of working alongside the nation's most preeminent plaintiffs law firms and lawyers, and has been part of the litigation or trial teams in, *inter alia*, the following cases:

- *In re Metoprolol Succinate Direct Purchaser Antitrust Litigation*, 06-52 (D. Del.) (\$20 million settlement in case challenging Astra-Zeneca conduct to delay generic entry)
- *In re Wellbutrin XL Antitrust Litigation*, No. 08-2431 (E.D. Pa.) (\$37.5 million partial settlement in case challenging the conduct of SmithKline Beecham Corp. and Biovail Laboratories in delaying generic drug competition)
- *In re Prandin Direct Purchaser Antitrust Litigation*, 10-12141AC-DAS (E.D. Mich.) (\$19 million settlement in case challenging Novo Nordisk's conduct to delay generic entry)
- *Marchese v. Cablevision Systems Corporation*, 2:10-cv-02190 (D.N.J.) (accusing Cablevision of illegally tying two-way cable services to rentals of a Cablevision-supplied set-top box)
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation*, 12-2343 (E.D. Tenn.) (\$73 million settlement in case alleging delayed generic entry)
- *In re Nexium (Esomeprazole) Antitrust Litigation*, 1:12-md-02409 (D. Mass.) (\$24 million partial mid-trial settlement in "pay-for-delay" case challenging agreements between AstraZeneca and generic competitors to delay generic entry)
- *Smith v. FDA*, 12-5141 (*pro se* case challenging FDA's public disclosure policies under FOIA)
- *In re Solodyn Antitrust Litig.*, No. 14-10438 (D. Mass.) (alleging that Medicis engaged in an anticompetitive scheme to delay generic competition)
- *In re Lidoderm Antitrust Litig.*, No. 14-2521 (N.D. Cal.) (alleging that Endo paid its generic competitor, Watson (now known as Actavis), to delay generic versions of Lidoderm.

Mr. Smith recently co-authored an article on abusive "life cycle management" practices in the pharmaceutical industry, "Life Cycle Management: The Courts Examine Brand Strategies to Defend Blockbuster Franchises" (ABA Antitrust Law Division, 63rd Spring Meeting, April 15-17, 2015).

Mr. Smith earned his J.D. from Pennsylvania State University Dickinson School of Law (2010), and graduated *summa cum laude* from Cheyney University of Pennsylvania with a degree in Business Management (2007). While in law school, Mr. Smith was certified as a Miller Center Public Interest Advocate in recognition of his service at the Family Law Clinic, and competed in the American Constitution Society Constance Baker Motley National Moot Court Competition. Mr. Smith has completed internships for the Honorable Joseph A. Greenaway, then of the United States District Court for the District of New Jersey, the New Jersey Office of the Public

Defender, and at the Pennsylvania Attorney General, Bureau of Consumer Protection. Mr. Smith also devotes significant energy serving his community, and in 2012 co-founded Germantown United CDC (a 501(c)(3) revitalizing Germantown's business corridors through a community-driven approach to economic development), where he currently serves as secretary of the board and a member of the executive committee. He is also a board member of the Ebenezer Maxwell Mansion (an authentically restored Victorian house museum in Philadelphia), and is V.P. and Chair of the Zoning Committee for WCGN (neighborhood civic association and RCO representing Tulpehocken Historic Station District). Mr. Smith also serves as Democratic Committee Person for Philadelphia's 59th Ward, 22 Division, after his public election to that post in 2014.

Mr. Smith is licensed to practice in Pennsylvania and New Jersey has been admitted to the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

Kenneth Pickle

Kenneth Pickle has been an associate with the Radice Law Firm since 2013.

Prior to law school, he was an analytical chemist for a large pharmaceutical company. His litigation experience includes representing plaintiffs in all phases of litigation, including case evaluation and assessment, development of case strategy, all phases of discovery, trial strategy development, and trial. He has been part of the litigation or trial teams in numerous class actions against pharmaceutical companies alleging anticompetitive delayed-generic entry business practices, including:

- *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (alleging nationwide margin fixing conspiracy among dental suppliers).
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation*, 12-2343 (E.D. Tenn.) (\$73 million settlement in case alleging delayed generic entry)
- *In re Nexium (Esomeprazole) Antitrust Litigation*, 1:12-md-02409 (D. Mass.) (\$24 million partial mid-trial settlement in “pay-for-delay” case challenging agreements between AstraZeneca and generic competitors to delay generic entry)
- *In re Solodyn Antitrust Litig.*, No. 14-10438 (D. Mass.) (alleging that Medicis engaged in an anticompetitive scheme to delay generic competition)

Mr. Pickle also has experience litigating class action antitrust cases in the financial trading and telecommunication industries.

Mr. Pickle graduated from Cardozo Law School in 2011, where he served as associate editor for the Cardozo Journal of International and Comparative Law. He is admitted to the bar of the State of New York, as well as the U.S. District Courts for the Southern District of New York and Eastern District of New York. He is also a registered patent attorney with the U.S. Patent and Trademark Office.

April D. Lambert

April D. Lambert joined Radice Law Firm PC as of counsel in June 2016. Prior to joining Radice Law Firm PC, Ms. Lambert was an associate in the intellectual property litigation group at Sidley Austin LLP. Ms. Lambert has extensive experience litigating patent infringement and antitrust cases, as well as handling other intellectual property matters. Ms. Lambert has also participated on the discovery teams of a range of litigation matters. Representative cases Ms. Lambert has worked on including the following:

- *Medtronic AVE, Inc. v. Cordis Corp.* (E.D. Tex.) – patent infringement litigation case involving balloon stent catheters; favorably settled on eve of pre-trial conference
- *SynQor, Inc. v. Artesyn* (E.D. Tex.) – patent infringement litigation case involving power converters
- *Celgene Corp. v. Natco Pharma Ltd.* (D.N.J.) – patent infringement case involving the drug lenalidomide

Ms. Lambert earned her J.D. from the New York University School of Law (2003), where she was a McKay Scholar, an award given to the top 25% of the class, and was the Executive Editor of the *NYU Journal of Legislation and Public Policy*. While at NYU, Ms. Lambert served as an intern for the New York City Public Advocate's Office. Ms. Lambert also graduated *Phi Beta Kappa* from Johns Hopkins University (2000) and earned a masters in library and information science from the University of Illinois (2013). Ms. Lambert has published on the topics of cybersecurity education and library patron privacy.

Throughout her career Ms. Lambert has been active in *pro bono* matters. In law school she volunteered as a student advocate for women through a battered women's program and assisted women in obtaining divorces. Ms. Lambert continued this work once in practice and served as counsel for petitioners for protection from abuse orders, often negotiating consent orders and avoiding the trauma of a hearing on the matter. Ms. Lambert also served as an intake coordinator for the Chicago Volunteer Legal Services (CVLS) Hull House Legal Clinic and earned awards for exemplary service to the CVLS program.

Ms. Lambert is admitted to practice in Illinois and Pennsylvania (inactive) and has been admitted to the United States District Courts for the Northern District of Illinois and the Western District of Pennsylvania.

Daniel Rubenstein

Daniel Rubenstein began work with the Radice Law Firm PC in March 2016, and became of counsel to the firm in June 2016. Mr. Rubenstein is an experienced litigation attorney who has handled complex cases in both federal and state courts.

Mr. Rubenstein practiced for more than five years as a litigator with the New York-based plaintiff's firm LeBow & Associates, handling primarily civil rights and constitutional cases. His practice included cases involving discrimination and harassment on the basis of race, gender, and sexual orientation; wrongful imprisonment; excessive force; and retaliation against whistleblowers. During that time, he achieved numerous settlements for clients, had multiple cases receive media coverage, and drafted three appeals to the Second Circuit.

Prior to Mr. Rubenstein's experience with LeBow & Associates, he practiced corporate law. He worked with New York law firms Feldman, Weinstein & Smith and Mintz & Fraade, working on transactions including mergers, joint ventures, technology licensing, and reverse mergers, and on securities offerings and SEC reporting. A significant part of his practice with those firms involved the representation of emerging technology companies. He also worked in Tokyo, Japan with the Japanese law firms Blakemore & Mitsuki and Nagashima & Hashimoto, assisting both Japanese companies and foreign companies doing business in Japan, and working on English-language contracts and cross-border transactions.

Mr. Rubenstein earned his J.D. from Harvard Law School in 2000, and graduated *magna cum laude* from Carleton College in 1997 with a B.A. in Economics, where he was named to Phi Beta Kappa and also to the Dean's List for 1994-6. He also took biology, organic chemistry, and biochemistry at West Virginia State University and Marshall University, and uses that background to assist with scientific issues in his legal practice.

Mr. Rubenstein is admitted to practice in New York and Texas (currently inactive in Texas), and in the Southern and Eastern Districts of New York.

Eva Kane

Ms. Kane began work with the Radice Law Firm PC in 2013 and currently serves as of counsel to the firm. She has substantial experience conducting and managing both plaintiffs' and defendants' discovery and has served important roles in, *inter alia*, the *Capacitors*, *Skelaxin*, *Suboxone*, and *Foreign Exchange* litigations.

Ms. Kane has been involved for years with pharmaceutical patent litigation, technology patent litigation as well as intellectual property matters and mergers. Prior to that, Ms. Kane represented both plaintiffs and defendants in her personal practice, in which she handled successfully personal injury cases from inception to jury verdicts as well as immigration cases and small claims matters.

Ms. Kane earned her J.D. from Jacob D. Fuchsberg Law Center and graduated as an honor student in the top 25% of her class. Ms. Kane was a member of the Transnational Journal and interned for Judge Doyle in Supreme Court in NY and Judge Conte in Superior Court, Hackensack, NJ. She is admitted to practice law in the States of New York and New Jersey, and in Federal Courts in the Eastern and Southern Districts of New York and the District Court of New Jersey.

Clark Craddock

Ms. Craddock began work with the Radice Law Firm PC in 2016. Prior to joining the Radice Law Firm, Ms. Craddock worked for more than nine years as an attorney in the New York office of Jones Day, where she primarily practiced intellectual property cases. Her practice included cases concerning patent infringement, trademark infringement and unfair trade practices. Ms. Craddock also worked in the San Francisco office of the Quinn Emanuel Urquhart & Sullivan, where she continued to practice intellectual property law before joining the Radice Law Firm.

Ms. Craddock earned her J.D. from the University of Pennsylvania Law School in 2004. She received a B.S. in Biology from the College of William and Mary. She then earned her Ph.D. in Ecology and Evolution from Rutgers University with research examining on the genetic relationships among molluscan species at deep-sea hydrothermal vents and cold-water seeps. Prior to law school, Ms. Craddock taught undergraduate and graduate science courses at the University of South Florida.

Ms. Craddock is admitted to practice in New York, New Jersey and California, and in the Southern District of New York.

Do Im Park

Ms. Park began work with Radice Law Firm PC in June 2016. She started her legal career in social security disability law, helping low-income clients obtain SSI benefits and other legal and public services. Ms. Park then worked as a project manager at the Department of Justice Antitrust division, San Francisco, where she worked with attorneys, foreign language experts, government agencies, vendors, DOJ and contract staff to assess, plan and execute complex trial preparation projects. She analyzed electronic data for mergers and acquisitions and criminal antitrust investigations. She streamlined document review and production process, drafting project protocols and conducting quality assurance, as needed.

Ms. Park further developed her e-discovery skills as an electronic data processing project manager for Discovia, a California based managed e-discovery services provider to law firms and corporations. There, she coordinated and determined best practices with electronic data processing and production application and workflow to assure accurate and timely data delivery.

Ms. Park studied biology and English at the University of California, Davis. She earned her J.D. at the Lewis and Clark College School of Law (2002). Ms. Park is admitted to practice in California.

Eric Blanco

Mr. Blanco had been working with Radice Law Firm since 2016. He has over a decade of discovery expertise, having managed and worked on a number of large scale electronic document reviews in many areas of law including securities fraud, patent infringement and pharmaceutical cases.

Mr. Blanco has extensive knowledge of both the legal and technical aspects of the discovery process, and has made significant contributions while working on a number of large scale plaintiff-side litigations involving financial instruments. In addition to identifying case-critical documents, his work has been instrumental in the drafting of complaints and motions as well as in preparing for witness depositions and potential trials.

Mr. Blanco graduated from Fordham University School of Law in 2005 and was admitted to practice in New York State in 2006. He is a 2001 graduate of Boston College.

Shirley Menard

Ms. Menard is a seasoned attorney having worked extensively in the field of e-discovery as a legal consultant for several prominent law firms on matters ranging from corporate finance, class actions suits, fraud, insurance, insider trading, intellectual property disputes, mergers & acquisitions and a variety of media based transactions. She has been involved in several high profile cases including the Deepwater Horizon Oil Spill, the Anheuser-Busch/SAB Miller merger and the Barclays Bank LIBOR scandal.

She is proficient in web based discovery software includes Ringtail, Relativity, Axcelerate, Recommind and other similar programs and extremely knowledgeable in matters regarding attorney-client privilege, having prepared multiple privilege logs and substantive review of complex privilege matter as well as the rules of privilege in the United Kingdom, France and Canada. Ms. Menard is also fluent in French (and Creole) and has participated in multiple document review projects involving French language documents (written and audio files as well as translation of court documents).

As a supervisor at the Garden City Group, she trained, supervised and worked with between 25-100 attorneys on specific projects involving class action matters. Ms. Menard was charged with meeting deadlines, organizing assignments, scheduling, budgeting and meeting with senior legal staff to prepare documents for production and review by various federal agencies.

Prior to working as an e-discovery legal consultant, Ms. Menard was a contract attorney in the entertainment industry, working with the legal departments of MTV, Viacom, Worldvision and Hallmark Television. She also established full service management consulting firm specializing in legal consulting, artist management, business organization, public relations, event production and promotions as well as managed the careers of several World Music and Reggae artists.

Ms. Menard earned her Juris Doctorate from Fordham University School of Law in 1994 and her undergraduate degree from Dartmouth College in 1990 where she earned a B.A. in Government. She is admitted to practice in the State of New York.

Megan Walker

Ms. Walker began work with the Radice Law Firm PC in 2016, and has substantial experience in complex litigation in federal court.

Ms. Walker was associated with several national law firms prior to joining the Radice Law Firm. She litigated cases concerning pharmaceuticals and patents covering other types of intellectual property. Ms. Walker also has extensive document review and privileged log experience in cases concerning financial instruments like RMBS and foreign exchange, biotech patent, and FDA/ANDA/pharma matters.

Ms. Walker graduated from Harvard Law School in 2009 and previously earned a computational biology PhD from Boston University. She is admitted to the federal patent bar and to the state bar of Texas.

Joan Brandl

Ms. Brandl began work with the Radice Law Firm PC in 2016. Ms. Brandl has extensive experience with complex litigation and as great familiarity with multiple platforms for document review and privilege logging.

Ms. Brandl's prior experience includes document review projects for the World Bank, as well as substantial cases involving allegations of antitrust and unfair trade practices. Numerous cases involved challenged financial and accounting practices.

Ms. Brandl graduated from The John Marshall Law School in 1996, where she was a member of the John Marshall Journal of Computer & Information Law. Ms. Brandl is admitted to the bar in the State of Illinois and is a member of the Chicago Bar Association.

Catherine Rhy

Ms. Rhy began work with the Radice Law Firm PC in 2016. Ms. Rhy has substantial experience in complex litigation involving financial instruments.

Prior to joining the Radice Law Firm, Ms. Rhy was an attorney with Deloitte Touche LLP and Ernst & Young. In both of those positions Ms. Rhy worked on cases involving allegations of large-scale financial and antitrust violations and government investigations. Ms. Rhy has extensive document review experience and frequently serves as a team leader on review projects.

Ms. Rhy graduated from the Georgetown University Law Center in 2011, where she was a Global Law Scholar, and is admitted to the bars of New York and New Jersey.

EXHIBIT 32

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

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**DECLARATION OF ADAM FRANKEL
IN SUPPORT OF LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF GREENWICH LEGAL ASSOCIATES, LLC**

I, Adam Frankel, declare as follows:

1. I am a partner at the law firm of Greenwich Legal Associates, LLC, one of Plaintiffs’ Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm, as Plaintiffs’ Counsel, has worked with Lead Counsel and other Plaintiffs’ counsel in connection with named plaintiffs Systrax Corp., Syena Global Emerging Markets Fund, Michael Melissinos and Casey Sterk with respect to written discovery, deposition discovery and Plaintiffs’ document discovery.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys of my firm who were involved in, and billed ten or more hours

to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 254.70. The total lodestar reflected in Exhibit 1 is \$101,337.50 for attorneys' time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$853.04 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect "caps" based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.

- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor.

There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 4, 2018.



Adam Frankel

EXHIBIT 1

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

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**GREENWICH LEGAL ASSOCIATES, LLC
TIME REPORT**

Through December 31, 2017

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Adam Frankel	150.65	\$500	\$75,325.00
Contract Attorneys			
Jennifer Frankel	71.65	\$250	\$17,912.50
Andres Carullo	32.4	\$250	\$8,100
TOTALS	254.70		\$101,337.50

EXHIBIT 2

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

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**GREENWICH LEGAL ASSOCIATES, LLC
EXPENSE REPORT**

Through December 31, 2017

CATEGORY	AMOUNT
Out of Town Travel*	\$853.04
TOTAL EXPENSES:	\$853.04

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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**GREENWICH LEGAL ASSOCIATES, LLC
FIRM RÉSUMÉ AND BIOGRAPHIES**

GREENWICH LEGAL ASSOCIATES, LLC

Greenwich Legal Associates, LLC is a boutique law firm focusing on sophisticated class action litigation in the securities, antitrust and consumer areas.

We are currently involved with a variety of class action lawsuits including but not limited to:

- *In Re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-7789 (SDNY)
- *In re London Silver Fixing Antitrust Litigation*, 1:14-md-02573 (SDNY)
- *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*, 1:14-md-02542 (SDNY)
- *In re Aluminum Warehousing Antitrust Litigation*, 1:13-md-02481 (SDNY)

Greenwich Legal handles complex antitrust class actions and other cases that target some of the most powerful and well-funded corporate interests in the world. Greenwich Legal's clients include businesses, traders, investors and consumers who have endured harm at the hands of illegal monopolies and corporate alliances.

Greenwich Legal represents investors in market manipulation matters involving commodities, interest rates, currencies, financial derivatives, futures and options.

Greenwich Legal represents investors who have been negatively affected by fraud or corporate transactions. We have a firm understanding of the laws that regulate the securities markets and in the disclosure requirements of the corporations that issue publicly-traded securities. We also pursue shareholder derivative actions to remedy injuries to a corporation to the benefit of its shareholders, including injunctions to prevent threatened harmful action before it occurs,

monetary damages to compensate the corporation for injury and corporate governance measures.

Greenwich Legal represents consumers in class action lawsuits against some of the country's largest corporations. Consumers wronged by fraudulent conduct, unfair business practices or faulty products often have recourse against the responsible companies. The consumer protection practice at Greenwich Legal focuses on a variety of consumer-related litigation encompassing a diverse range of substantive and legal areas.

Greenwich Legal also provides services throughout the business life cycle, from formation to mergers and acquisitions, contracts (drafting, review and negotiating), daily operations to protecting intellectual property, raising capital to securities law compliance, and corporate governance to ventures and tax management.

ATTORNEY BIOGRAPHIES

Brandon Lacoff

Brandon is the Managing Partner of Greenwich Legal. Brandon has extensive finance and accounting experience from his years at Ernst & Young, in its Mergers and Acquisitions group. He is a licensed attorney in both New York and Connecticut.

Brandon received a Bachelor of Science degree in finance from Syracuse University Whitman School of Management and later received his Juris Doctorate degree from Hofstra University School of Law and a Master of Business Administration degree in finance and accounting from Hofstra University Frank G. Zarb School of Business.

Adam Frankel

Adam Frankel is a partner at Greenwich Legal. Adam has experience representing clients in antitrust, securities and consumer class actions, as well as general business transactions. Adam received his undergraduate degree from Drexel University's LeBow College of Business (*magna cum laude*) in 2006. He graduated with honors from Western Michigan University (*cum laude*) in 2009, where he served as a senior editor on the Thomas M. Cooley Law Review. Adam is also counsel for Belpointe Companies, a family office making private investments and offering a wide range of wealth management, legal and real estate services.

Jennifer Frankel

Jennifer Frankel is a contract attorney for Greenwich Legal. Jennifer has experience representing businesses and community associations in litigation matters. Most recently, Jennifer managed the day-to-day operations of a large community associations department including handling all aspects of collections and foreclosure litigation. Previously, Jennifer served as general counsel for a corporation where she was responsible for all legal matters for multiple businesses and provided strategic legal and advice on negotiations, commercial transactions, compliance and general business ideas and anticipated lawsuits. Jennifer received her undergraduate degree from the University of Florida in 2006 and earned her law degree from Western Michigan University in 2009.

Andres Carullo

Andres Carullo is a contract attorney for Greenwich Legal. Andres is a Dallas-based attorney whose practice includes DUI/DWI defense, immigration, family law, mediation, and general business law. Andres earned his Juris Doctor from Western Michigan University and received his Bachelor's Degree in political science from Florida International University. He is a native Spanish speaker and a qualified mediator. Andres has also provided litigation support to law firms and corporate legal departments, reviewing confidential documents for relevancy to specific case protocol, confidentiality, and attorney/client privilege.

EXHIBIT 32

retained a fiduciary expert to provide an opinion as to the fairness of the proposed settlement to ERISA plans who are members of the classes.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed ten or more hours to, this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on the Action after December 31, 2017 has not been included in this request. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has also been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1 is 1,046.70. The total lodestar reflected in Exhibit 1 is \$637,257.50, consisting of \$579,893.50 for attorneys' time and \$57,364.00 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$48,463.95 in litigation expenses incurred in connection with the prosecution of this Action through and including December 31, 2017.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses or reflect “caps” based on application of the following criteria:

- (a) For out-of-town travel, airfare is at coach rates.
- (b) Hotel charges per night are capped at \$350 for large cities (London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY) and \$250 for all other cities.
- (c) Meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (d) Internal copying is charged at \$0.10 per page.
- (e) Online research charges reflect only out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors. In addition, my firm has removed all time entries and expenses related to the following activities if not specifically authorized by Lead Counsel: reading

or reviewing correspondence or pleadings, appearances at hearings or depositions, and travel time and expenses related thereto.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all current Keller Rohrback L.L.P. attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 8, 2018.


Derek W. Loeser

EXHIBIT 2

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

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**KELLER ROHRBACK L.L.P.
EXPENSE REPORT**

Through December 31, 2017

CATEGORY	AMOUNT
Court Fees	\$2,014.20
Online Legal Research	\$1,427.75
Online Factual Research	\$180.00
Telephones/Faxes	\$716.63
Postage & Express Mail	\$25.73
Internal Copying	\$463.80
Out of Town Travel*	\$4,076.18
Meals*	\$334.66
Experts	\$39,225.00
TOTAL EXPENSES:	\$48,463.95

* Out of town travel includes hotels in the following cities capped at \$350 per night: London, United Kingdom; Chicago, IL; Washington, DC; and New York, NY; all other cities are capped at \$250 per night. All meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

EXHIBIT 3

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

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**KELLER ROHRBACK L.L.P.
FIRM RÉSUMÉ AND BIOGRAPHIES**



ERISA LITIGATION

ABOUT KELLER ROHRBACK



Devoted to Justice

"[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity...[Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions..." *In re WorldCom, Inc. ERISA Litigation*, No. 02-4816 (S.D.N.Y.) (Cote, J.).

Keller Rohrback's lawyers excel by being prepared and persuasive. It's a simple formula that combines our strengths: outstanding writing and courtroom skills, together with unparalleled passion and integrity. We have recovered billions of dollars for our clients, and have served as lead counsel in many prominent cases. Our lawyers are widely recognized as leaders in their fields who have dedicated their careers to combating corporate fraud and misconduct. We have the talent as well as the financial resources to litigate against Fortune 500 companies—and do so every day.

Who We Are

Keller Rohrback's Complex Litigation Group has a national reputation as the go-to plaintiff's firm for large-scale, complex individual and class action cases. We represent employees and retirees, public and private investors, businesses, governments, and individuals in a wide range of actions, including fiduciary breach, securities fraud, manipulation, and other illegal practices relating to financial services and products, ERISA, antitrust, whistleblower, environmental, and product liability cases. Our approach is straightforward—we represent clients who have been harmed by conduct that is wrong, and we litigate with passion and integrity to obtain the best results possible. Every case is different, but we win for the same reason: we are persuasive. When you hire us, you hire smart, creative lawyers who are skilled in the courtroom and in negotiations.

Founded in 1919, Keller Rohrback's seventy-three attorneys and 100 staff members are based in six offices across the country in Seattle, Oakland, Santa Barbara, Phoenix, New York, and Ronan. Over the past century, our firm has built a distinguished reputation by providing top-notch representation. We offer exceptional service and a comprehensive understanding of federal and state law nationwide. We also are well known for our abilities to collaborate with co-counsel to achieve outstanding results—essential skills in large-scale cases in which several firms represent plaintiffs. We pride ourselves on our reputation for working smartly with opposing counsel, and we are comfortable and experienced in coordinating high-stakes cases with simultaneous state and federal government investigations.

We have won verdicts in state and federal courts throughout the nation and have obtained judgments and settlements on behalf of clients in excess of \$23.25 billion. Courts around the country have praised our work, and we are regularly appointed lead counsel in nationally prominent class action cases. Our work has had far-reaching impacts for our clients in a variety of settings and industries, creating a better, more accountable society.





EMPLOYEE BENEFITS

ATTORNEYS

Lynn Lincoln Sarko
 Laurie Ashton
 Gretchen Freeman Cappio
 T. David Copley
 Alison Gaffney
 Laura R. Gerber
 Matthew Gerend
 Gary Gotto
 Benjamin Gould
 Christopher Graver
 Dean N. Kawamoto
 Ron Kilgard
 David Ko
 Tanya Korkhov
 Cari Campen Laufenberg
 Elizabeth A. Leland
 Jeffrey Lewis
 Derek Loeser
 Ian Mensher
 Rachel Morowitz
 Gretchen Obrist
 David Preminger
 Erin Riley
 Karin B. Swope
 Havila C. Unrein
 Amy Williams-Derry
 Laura Zanzig-Wong

Keller Rohrback L.L.P. is a pioneer in litigation under the Employee Retirement Income Security Act of 1974 (ERISA), recovering to date over two billion dollars of retirement and other benefits for our clients. And this is not merely a matter of money, as important as that is. Keller Rohrback's lawyers have worked tirelessly to shape ERISA law, so that the statute protects the interests of participants and beneficiaries, rather than their employers and service providers. We have seen time and again fiduciaries attempt to use ERISA to thwart participants' interests, whether in the design of 401(k) plans, the structuring of Employee Stock Ownership Plans (ESOPs), the investments in defined benefit plans, or the attempt to read ERISA's exceptions broadly to favor the employers' and service providers' interests, not the participants' interests. We have successfully opposed all these efforts in scores of cases.

Keller Rohrback attorneys have done this since the statute was enacted in 1974. In that year, David Preminger, of our New York office, wrote two of the first scholarly articles on ERISA. Jeff Lewis, across the country and now in our Oakland office, began practice the year after ERISA was adopted and has been representing plaintiffs in pension and other benefit matters ever since. He is also the co-chair of the Board of Senior Editors of *Employee Benefits Law*, the major ERISA practitioner's treatise, used daily by benefits lawyers throughout the country. David and Jeff are only two of our ERISA lawyers, albeit the most senior. We have a very deep bench in ERISA matters. Lawyers at Keller Rohrback have testified before Congress, served as editors of numerous employee benefits books and manuals, and written scholarly ERISA articles, amicus briefs, and comments to regulatory agencies overseeing ERISA plans. We frequently are invited to make presentations at national legal education seminars regarding employee benefit class actions and ERISA. We have also served as fiduciaries and mediators.

We are involved in all aspects of ERISA litigation, from administrative reviews to district court trials to circuit court appeals to handling cases and filing amicus briefs in the U.S. Supreme Court. We are proud of our history, but we don't rest on our laurels, we listen carefully to employees' stories and craft cases that enforce ERISA's longstanding duties—which are the highest known to the law.

Attorneys at Keller Rohrback have pioneered application of ERISA to the evolving manifestations of waste and abuse affecting retirement savings nationwide. For example, Gary Gotto and Ron Kilgard brought the first successful defined contribution company stock case, *Whetman v. IKON Office Solutions*, spawning an entire area of litigation that resulted in billions of dollars being recovered around the country for employees and their retirement plans. Keller Rohrback's Managing Partner and Complex Litigation Group Leader, Lynn Sarko, along with Derek Loeser, Erin Riley, and many others, pushed this area of the law forward with the *WorldCom* and *Enron* ERISA class actions—the latter of which resulted in the largest settlement in such a case, at over \$264 million. More recently, we have led the charge with private ESOP, church plan, and our 401k plan cases challenging excessive and conflicted fees. We have even represented public employees in successfully striking down as unconstitutional cut-backs to their retirement benefits.



EMPLOYEE BENEFITS

Keller Rohrback is routinely appointed lead or co-lead counsel in major employee benefit class actions. Our work in this complex and rapidly developing area has been praised by our clients, our co-counsel, and federal courts throughout the country. Keller Rohrback has excelled in managing complex employee benefits cases by developing a deep understanding of employee benefits law and by drawing on our attorneys' experience in numerous related practice areas, including securities, accounting, corporate, insurance coverage, bankruptcy, financial institution regulation, mergers and acquisitions, contracts, employment law, executive compensation, professional malpractice, constitutional law, and class action law.

We are proud to represent employees in connection with their retirement and other benefits. The following pages summarize the breadth of our expertise and experience in these areas.





EMPLOYEE BENEFITS

PENSION PLANS

Congress enacted ERISA in light of several highly publicized failures of private pension plans which left long-term employees at the end of their careers without their promised benefits. ERISA “seek[s] to ensure that employees will not be left empty-handed once employers have guaranteed them certain benefits.” *Lockheed Corp. v. Spink*, 517 U.S. 882, 887 (1996). Attorneys at Keller Rohrback have filed numerous cases on behalf of ERISA plan participants in order to make sure that the fiduciaries manage the plans’ assets prudently and that pensioners and their beneficiaries receive the benefits that they were promised. Keller Rohrback further supports ERISA pension plan participants and beneficiaries through writing amicus briefs related to pension issues. *E.g.*, Brief for The Pension Rights Center as Amicus Curiae in Support of Respondent, *Spokeo, Inc. v. Robins*, No. 13-1339 (U.S.); Brief for the Pension Rights Center as Amicus Curiae in Support of Petitioner, *Pundt v. Verizon Communications, Inc.*, No. 15-785 (U.S.).



REPRESENTATIVE CASES

Mertens v. Kaiser Steel Retirement Plan, 829 F. Supp. 1158 (N.D. Cal.)

A firm attorney served as co-counsel for a putative class of retirees of Kaiser Steel whose benefits were drastically reduced when the plan was terminated in an underfunded position. Plaintiff alleged that following an outside takeover of Kaiser, the company systematically underfunded the company’s pension plan so that the new owners could instead take profits from the company. The lawsuit also alleged that the Kaiser retirement plan’s actuaries also contributed to the underfunding by committing malpractice. The court held that the malpractice claims against the actuaries were not preempted by ERISA. The case ultimately settled, resulting in the payments of millions of dollars to the class members.

Canseco v. Construction Laborers Pension Trust, 93 F.3d 600 (9th Cir.)

A firm attorney served as co-counsel for a class of pension plan retirees in a case challenging the plan’s failure to pay retroactive benefits to retirees who were eligible for full benefits under the plan, but did not immediately apply for their benefits. The U.S. court of appeals’ opinion reversed the district court’s judgment for defendants and resulted in the payment of millions of dollars in retroactive benefits to class members. The case also established the principle that it is an abuse of discretion for a plan fiduciary to interpret a plan contrary to its plain meaning.

McDaniel v. National Shopmen Pension Fund, 889 F.2d 804 (9th Cir.)

A firm attorney served as co-counsel for a class of pension plan participants in a case challenging the plan’s reduction in vested benefits based on the fact that their employer had withdrawn from the plan. The Ninth Circuit held that the reduction was improper and benefits were restored to the participants.

Cleary v. Retirement Plan for Employees of Northern Montana Hospital, No. 16-00061 (D. Mont.)

Keller Rohrback brought this class action on behalf of the participants in, and/or beneficiaries of, the Retirement Plan for Employees of Northern Montana Hospital. The complaint alleges that the members of these classes have been, or will be denied, certain retirement benefits to which they are entitled under the terms of the Plan and/or ERISA with respect to vesting and accrual of benefits. The complaint also alleges that Defendants failed to comply with ERISA’s rules for claims procedures.



EMPLOYEE BENEFITS

PENSION PLANS

Judy Hunter v. Berkshire Hathaway, Inc., No. 14-663 (N.D. Tex.)

Keller Rohrback serves as Co-Lead Counsel in this class action filed on behalf of the participants and beneficiaries of two ERISA plans: a pension plan and a 401(k) plan. The complaint alleges that despite explicit plan language prohibiting the reduction of future benefits, the corporate parent company caused its subsidiary to reduce those benefits. The trial court initially granted Berkshire Hathaway's motion to dismiss, but on appeal Keller Rohrback persuaded the United States Court of Appeals for the Fifth Circuit to reverse and remand. The case is currently headed towards trial.

Fletcher v. ConvergeX, No. 13-9150 (S.D.N.Y.)

Keller Rohrback serves as co-counsel in this lawsuit filed in the Southern District of New York that alleges Defendants violated ERISA by "double-charging" for transition management and brokerage services. Defendants funneled trade orders to an offshore subsidiary broker located in Bermuda, which created a "spread" between the actual price and the reported price by adding mark-ups/mark downs. While the reported price was confirmed with customers, the actual prices were undisclosed and unauthorized additional compensation. After the trial court mistakenly dismissed the case, the United States Court of Appeals for the Second Circuit reversed and reinstated plaintiffs' claims. A Petition for Certiorari has been filed with the United States Supreme Court, which we oppose on behalf of the class.

Monper v. Boeing, No. 13-1569 (W.D. Wash.)

Keller Rohrback served as Counsel in this lawsuit that alleged Defendants violated ERISA by misrepresenting to plaintiffs that their pension benefit accruals would not change if they transferred their work locations from California to Washington.

In re Bakery & Confectionery Union & Industry Int'l Pension Fund Pension Plan, No. 11-1471 (S.D.N.Y.)

Keller Rohrback and co-counsel filed this action alleging that an amendment to the Bakery & Confectionery Union & Industrial Pension Fund Pension Plan violated ERISA's anti-cutback provisions. Plaintiffs prevailed at both the district court and appellate levels, and Defendants implemented adjustments to reinstate the benefits due to eligible employees.

Palmason v. Weyerhaeuser, No. 11-695 (W.D. Wash.)

Keller Rohrback and co-counsel filed this action alleging that Weyerhaeuser and other fiduciaries caused its pension plan to engage in a risky investment strategy involving alternative investments and derivatives, causing the Plans' master trust to become underfunded. A settlement was reached for injunctive relief on behalf of the Plans' participants and beneficiaries.

Buus v. WaMu Pension Plan, No. 07-903 (W.D. Wash.)

Keller Rohrback served as Lead Counsel in this class action on behalf of participants and beneficiaries of Washington Mutual's defined benefit pension plan whose benefit accrual was frozen under the existing pension formula and replaced with a new "cash balance plan" accrual system that reduced the rate of future benefit accrual. The complaint alleged that participants were not given proper notice of these reductions. In conjunction with Washington Mutual's bankruptcy proceedings, a settlement of \$20 million was approved.

EMPLOYEE BENEFITS



401(K) & SAVINGS PLANS: COMPANY STOCK & PUBLIC ESOPs

ERISA sets minimum standards for the management of employer-sponsored retirement and health benefit plans.

Workers and retirees across America depend on their company-sponsored benefit plans to provide them with health insurance and financial security after retirement. Keller Rohrback is a pioneer in ensuring that ERISA's fiduciary duties of prudence and loyalty apply to all plan investment options, including company stock. Ensuring fiduciary responsibility over company stock funds is of paramount importance, given that an employee's livelihood is also tied to the well-being of their employer—thus, if an employer's stock collapses, employees can lose their jobs at the same time that their retirement savings is decimated.

Keller Rohrback's work in this area resulted in numerous pivotal judicial opinions. *E.g.*, *In re WorldCom, Inc.*, 263 F. Supp. 2d 745 (S.D.N.Y.); *In re Enron Corp. Sec., Derivative & "ERISA" Litig.*, 284 F. Supp. 2d 511 (S.D. Tex.); and *In re Syncor ERISA Litig.*, 516 F.3d 1095 (9th Cir.). Additionally, Keller Rohrback has further supported this area of law through presentations at ERISA conferences, as well as amicus briefs. *E.g.*, Brief for Law Professors as Amici Curiae in Support of the Respondents, *Fifth Third Bancorp v. Dudenhoeffer*, No. 12-751 (U.S.).

REPRESENTATIVE CASES

Whetman v. IKON Office Solutions, Inc., MDL No. 1318 (E.D. Pa.).

The wave of 401(k) company stock cases began with *Whetman v. IKON Office Solutions, Inc.* In a first-of-its-kind complaint, we alleged that company stock was an imprudent investment for the plan, that the fiduciaries of the plan failed to provide complete and accurate information concerning company stock to the participants, and that they failed to address their conflicts of interest. This case resulted in ground-breaking opinions in the ERISA 401(k) area of law on motions to dismiss, class certification, approval of securities settlements with a carve-out for ERISA claims, and approval of ERISA settlements providing a total recovery to the Plans of \$111 million.

In re Enron Corp. ERISA Litigation, MDL No. 02-1446 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action. After groundbreaking motions to dismiss decisions, and several years of discovery, Keller Rohrback negotiated five separate settlements with different groups of defendants, resulting in recoveries of over \$264 million for the class.

In re WorldCom, Inc. ERISA Litigation, No. 02-4816 (S.D.N.Y.)

Keller Rohrback served as Lead Counsel in this class action on behalf of participants and beneficiaries of the WorldCom 401(k) Salary Savings Plan who invested in WorldCom stock. Settlements providing for injunctive relief and payments of over \$48 million to the plan were approved by Judge Denise Cote.

In re Lucent Technologies, Inc. ERISA Litigation, No. 01-3491 (D.N.J.)

Keller Rohrback served as Co-Lead Counsel in this class action brought on behalf of participants and beneficiaries of the Lucent defined contribution plans who invested in Lucent stock. A settlement providing injunctive relief and the payment of \$69 million to the plan was approved by Judge Joel Pisano.

EMPLOYEE BENEFITS



401(K) & SAVINGS PLANS: COMPANY STOCK & PUBLIC ESOPs

In re AIG ERISA Litigation, No. 04-09387 (S.D.N.Y.) and In re AIG ERISA Litigation II, No. 08-05722 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in these two class actions on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for the payment of \$25 million to the plans was approved by Judge Kevin T. Duffy in *AIG I*, and a settlement providing for the payment of \$40 million to the plans was approved by Judge Laura Swain in *AIG II*.

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, No. 07-10268 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action on behalf of participants and beneficiaries of Merrill Lynch's defined contribution plans who invested in Merrill Lynch stock. A settlement providing injunctive relief and a payment of \$75 million to the plans was approved by Judge Jed S. Rakoff.

Alvidres v. Countrywide Financial Corp., No. 07-5810 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action on behalf of participants and beneficiaries of the Countrywide 401(k) plan who invested in Countrywide stock. A settlement providing for injunctive relief and the payment of \$55 million to the plan was approved by Judge John F. Walter.

In re Washington Mutual, Inc. ERISA Litigation, No. 07-1874 (W.D. Wash.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action brought on behalf of participants and beneficiaries in the company's retirement plans who invested in Washington Mutual stock. Judge Marsha J. Pechman granted final approval of a \$49 million settlement in the ERISA action.

In re Global Crossing, Ltd. ERISA Litigation, No. 02-7453 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action on behalf of participants and beneficiaries of the Global Crossing defined contribution plans who invested in Global Crossing stock. A settlement providing injunctive relief and a payment of \$79 million to the plan was approved by Judge Gerard Lynch.





EMPLOYEE BENEFITS

401(K) & SAVINGS PLANS: PRIVATE ESOPs

An ESOP is a tax-qualified defined contribution employee benefit plan governed by ERISA. ESOPs are intended to invest primarily in the stock of the ESOP participant's employer. Keller Rohrback is a national leader in ESOP cases, and has substantial experience representing ESOPs in breach of fiduciary actions against trustees who approve or permit transactions that favor corporate interests to the detriment of the ESOP despite having a fiduciary duty to act in the ESOP's best interests. Keller Rohrback's attorneys have achieved many notable successes for their ESOP clients, including obtaining seven-figure judgments at trial, and recovering millions of dollars in settlements.

REPRESENTATIVE CASES

Schwartz v. Cook, No. 15-3347 (N.D. Cal.)

Keller Rohrback represents a participant in the Buckles-Smith Electric Company ESOP in this lawsuit that alleges that the ESOP's fiduciaries caused Buckles-Smith to redeem the ESOP's shares in that company for less than they were worth, thereby benefitting the remaining shareholders (including the ESOP's fiduciaries) at the expense of the ESOP. The case preliminary settled and is currently awaiting final approval.

Rader v. Bruister, No. 13-1081 (S.D. Miss.)

This case alleges breach of fiduciary duty and prohibited transactions in connection with the purchase by the Bruister Company ESOP of shares from its founder. We obtained a judgment for approximately \$6.5 million after a lengthy bench trial. Defendants appealed the judgment, and the Fifth Circuit affirmed. The Fifth Circuit also affirmed the award of attorneys' fees. Collection actions are proceeding on the existing judgment.

Wagner v. Stiefel Labs., Inc., No. 12-3234 (N.D. Ga.)

Keller Rohrback served as counsel for several ESOP plan participants in this lawsuit that alleged Defendants directed and approved the repurchase of Stiefel Labs., Inc. stock from ESOP participants and the ESOP at a fraction of the actual fair market value of Stiefel stock, allowing Defendants to reap a substantially higher portion of the proceeds in a subsequent \$3.6 billion sale of the company to GlaxoSmithKline. The case was resolved pursuant to a confidential settlement prior to trial.

Wool v. Sitrick, No. 10-2741 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this ESOP valuation action brought on behalf of participants and beneficiaries in the company's ESOP against Defendants who repurchased shares from the ESOP at a price significantly below fair market value. A settlement providing a payment \$6.25 million settlement was approved by Judge Jacqueline Nguyen.

Johnson v. Couturier, No. 05-2046 (E.D. Cal.)

Keller Rohrback obtained a major victory for participants of the Noll Manufacturing Co. ESOP against Defendants who awarded themselves grossly excessive compensation at the expense of the ESOP. In a seminal case frequently cited in ESOP litigation by courts across the country, the Ninth Circuit affirmed a preliminary injunction by the district court which prohibited an ESOP plan sponsor from paying litigation costs to indemnify the ESOP's trustees. *Johnson v. Couturier*, 572 F.3d 1067 (9th Cir.).

Hans v. Tharaldson, No. 05-115 (D.N.D.)

Keller Rohrback served as Lead Counsel for the then-current employees in an ESOP valuation action that alleged the ESOP paid an excessive price for their shares in a transaction approved by Defendants. A settlement providing for a \$15 million settlement fund, including a \$4 million cash payment to all current and former participants and beneficiaries of the ESOP, and an \$11 million credit against the principal owed by the ESOP to the company was approved by Chief Judge Ralph Erikson.



EMPLOYEE BENEFITS

401(K) & SAVINGS PLANS: EXCESSIVE & IMPROPER FEES

Precious retirement savings—particularly in defined contribution or 401(k) plans—are vulnerable to being whittled away by fees associated with investment products. There are as many types of fees as investment products available to retirement plans. Many fees are hidden or undisclosed. Some fees are paid directly by participants, while others are levied indirectly as kickbacks from one service provider or fiduciary to another. In many cases, these fees are charged for improper purposes—to enrich plan fiduciaries or service providers at the expense of hard-working Americans. High fees over time can slash retiree balances by a third, or more. No matter who pays or collects excessive fees or conflicted fees, ERISA provides robust protections and remedies. Specifically, ERISA prohibits fiduciaries from self-dealing and any conduct that puts their own interests—or the interests of their affiliates or third parties—above those of the plan participants to whom they owe fiduciary duties.

Keller Rohrback has successfully litigated ERISA class actions challenging excessive and conflicted fees. Our attorneys have challenged investments that contain many layers of securities and insurance products—and many layers of fees.

Keller Rohrback has been selected by federal courts to serve as lead or co-lead counsel in class action cases challenging excessive and self-dealing fees. We have written articles and presented on these topics, and we authored an amicus brief in the first ERISA excessive fee case to reach the U.S. Supreme Court. See Brief for Law Professors as Amici Curiae in Support of the Petitioners, *Tibble, et al. v. Edison International, et al.*, No. 13-550 (U.S.).

REPRESENTATIVE CASES

Braden v. Wal-Mart Stores, Inc., No. 08-3109 (W.D. Mo.)

Keller Rohrback served as Lead Counsel in this class action on behalf of participants and beneficiaries of Wal-Mart's 401(k) plan who invested in retail class mutual funds that charged excessive fees to participants and paid hidden fees to the plan's trustee and recordkeeper, Merrill Lynch. The complaint alleged that the revenue sharing and the other fees were excessive in light of the size of the plan, and that these fees were not properly disclosed. Keller Rohrback's attorneys secured the *first appellate victory* in a fee case of this kind when they obtained an order from the Eighth Circuit reversing dismissal and articulating the pleading standard for process-based breaches of ERISA, see *Braden v. Wal-Mart*, 588 F.3d 585 (2009). A settlement that included \$13.5 million along with injunctive relief was approved by Judge Gary A. Fenner.

Santomenno v. Transamerica Life Insurance Company, No. 12-2782 (C.D. Cal.)

This class action was filed on behalf of participants or beneficiaries of many 401(k) plans to whom Transamerica Life Insurance Company provided fiduciary services through one of its group annuity contracts. The complaint alleges that Defendants extracted impermissible fees from the annuity contracts issued to 401(k) plans created for small- and mid-sized businesses through the use of add-on or wrapper fees. The Court issued an order denying Defendants' motions to dismiss the ERISA claims because Transamerica allegedly acted as a fiduciary with regard to its fees, and also certified two classes of participants with claims for prohibited transactions and breaches of loyalty and prudence who are in thousands of different ERISA plans that use Transamerica's annuity contracts.

In re Regions Morgan Keegan ERISA Litigation, No. 08-2192 (W.D. Tenn.)

Keller Rohrback served as Co-Lead Class Counsel in this ERISA breach of fiduciary duty class action on behalf of participants and beneficiaries in the company's retirement plans as well as customer plans for which Regions served as a fiduciary. A settlement providing injunctive relief and a payment of \$22.7 million was approved by Judge Samuel H. Mays, Jr.

EMPLOYEE BENEFITS



401(K) & SAVINGS PLANS: IMPRUDENT INVESTMENTS

Many times ERISA plans end up in high-risk or other patently imprudent investments due to breaches by the plans' fiduciaries. Depending on the structure of the investment, fiduciaries may have been incentivized by the fees that could be generated to invest plan assets in investments that are simply unacceptably risky for ERISA plans. Keller Rohrback has successfully litigated and resolved numerous cases challenging fiduciaries' imprudent investment of plan assets in high risk investment strategies.

REPRESENTATIVE CASES

Kayes v. Pacific Lumber Co., 51 F.3d 1449 (9th Cir.)

A firm attorney served as co-counsel for a class of retirees and employees of Pacific Lumber Co. The complaint alleged that defendants' selection of Executive Life Insurance Company to provide annuities to pension plan participants (upon termination of the plan) violated ERISA's fiduciary standards. The Ninth Circuit decision upheld plaintiffs' standing to pursue the claims, affirmed the lower court finding that defendant corporate officers were fiduciaries, and broadly defined term "plan asset" for purposes of ERISA's prohibited transaction provisions. On remand, the case settled, resulting in the payment of approximately \$7 million to the class.

Madoff Direct & Feeder Fund Litigation: Hartman v. Ivy Asset Management LLC, No. 09-8278 (S.D.N.Y.)

Keller Rohrback successfully litigated this direct action on behalf of the trustees of seventeen employee benefit plans damaged by the Madoff Ponzi scheme. The action alleged that Ivy Asset Management and J.P. Jeanneret Associates, Inc. breached their fiduciary duties under ERISA by causing the plans to be invested directly or indirectly in Madoff funds. Keller Rohrback obtained a settlement of over \$219 million in this case and related actions, including claims brought by the United States Secretary of Labor and the New York Attorney General.

In re State Street Bank and Trust Co. ERISA Litigation, No. 07-08488 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this ERISA case brought on behalf of participants and beneficiaries in a class of retirement plans that had invested in State Street's fixed income bond funds. Plaintiffs alleged that State Street, investment manager of the bond funds, had imprudently invested the purportedly conservative funds in high-risk and/or highly leveraged financial instruments tied to mortgage-backed securities. A settlement providing a payment of \$89.75 million was approved by Judge Richard J. Holwell.

EMPLOYEE BENEFITS



401(K) & SAVINGS PLANS: FOREIGN CURRENCY TRADING

Foreign exchange is a necessary component of all international investment transactions, yet the foreign exchange market is one of the least transparent and least regulated of the international markets. The large banks and other financial institutions that make up this market act as market-makers and trade currencies amongst each other in this \$5.3 trillion-a-day market. The lack of regulation in the marketplace makes it easy for the banks to manipulate transactions and the rates at which they are effected to the banks' advantage—at the expense of their clients. Keller Rohrback's practice has encompassed a range of foreign exchange trading abuses faced by both institutional investors and participants and beneficiaries of retirement plans.

REPRESENTATIVE CASES

Farrell v. JPMorgan Chase & Co., No. 16-2627 (S.D.N.Y.) / *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-7789 (S.D.N.Y.)

The complaint alleges that JPMorgan Chase, who sponsored collective investment trusts or provided asset management in connection with foreign investments requiring securities exchange, engaged in a world-wide foreign currency manipulation scheme spanning a decade. The complaint also alleges that JPMorgan is therefore a fiduciary to hundreds of ERISA plans affected by this scheme. The multi-bank scheme is subject to antitrust and commodities act claims as well. Numerous banks, including JPMorgan, have settled the related price-fixing case for over \$2 billion thus far. Keller Rohrback is currently serving as ERISA Allocation Counsel with regard to these partial settlements.

Andover Cos. Emp. Savings & Profit Sharing Plan v. State Street Bank & Trust Co., No. 12-11698 (D. Mass.)

This complaint was filed on behalf of a class of all qualified ERISA plans, and their participants, beneficiaries, and named fiduciaries, who suffered losses as a result of State Street Bank and Trust Company's alleged deceptive acts and practices concerning hidden charges for foreign currency exchange transactions between 1998 and 2009. Plaintiffs allege that State Street improperly marked up or marked down currency transactions, and engaged in ERISA prohibited transactions when it failed to disclose fully the details of the foreign currency transactions it was undertaking on behalf of the Plans. A settlement of \$300 million was approved on behalf of the consumer claims and the ERISA claims by Judge Mark L. Wolf.

Bank of New York Mellon Corp. Forex Transactions Litigation, No. 12-2335 (S.D.N.Y.)

Keller Rohrback served as counsel in this foreign currency exchange transaction class action, representing qualified ERISA participants and beneficiaries on behalf of their respective plans. Judge Lewis A. Kaplan granted final approval of a global resolution of the private and governmental enforcement actions against BNY Mellon in which \$504 million will be paid back to BNY Mellon customers (and \$335 million of which is directly attributable to the class litigation).



EMPLOYEE BENEFITS

WELFARE PLANS

In addition to retirement plans, ERISA also governs how employee health care plans are administered. ERISA creates fiduciary responsibilities for those who manage and control health plans, requires that plans provide participants with accurate plan information, and gives plan participants the right to sue for benefits and breaches of fiduciary duty. Therefore, health care plans must be operated in compliance with ERISA's particular standards that were designed to protect the interests of employees, retirees, and other plan beneficiaries, such as family members.

REPRESENTATIVE CASES

Dobson v. Hartford Financial Services Group, Inc., 389 F. 3d 386 (2d Cir.)

A firm attorney served as co-counsel for a putative class of participants in ERISA-covered long-term disability plans challenging Hartford's failure to pay interest on retroactive payments it made to disabled participants after those participants were successful in using the plan's internal review procedure and obtaining reversals of claim denials. The district court granted the named plaintiff's claims on one of his legal theories, but denied class certification and rejected other claims. The court of appeals reversed in these latter respects. After remand and further proceedings in both the district and appeals court, the case settled. The settlement provided for future payment of interest on claims where appeals were favorably decided and for some retroactive payments.

In re Cigna Corp. PBM Litigation, No. 16-1702 (D. Conn.)

Keller Rohrback serves on the Plaintiffs' Executive Committee in this ERISA and RICO case against Cigna, its affiliates, and its primary external Pharmacy Benefit Manager (PBM) OptumRx. Plaintiffs here allege that Cigna and its PBMs engage in a "Clawback Scheme" where patients are overcharged for their prescription medications above and beyond the negotiated price of the drug or the retail cash price of the drug charged to someone without health insurance, while Defendants keep the overcharges.

In re Humana PBM Litigation, No. 16-0706 (W.D. Ky.)

Keller Rohrback is co-lead counsel in this case alleging Humana uses its in-house Pharmacy Benefit Manager (PBM) Humana Pharmacy Solutions, as well as Argus Health Systems, to engage in a hidden fee scheme where patients are overcharged for their prescription medications above and beyond the negotiated price of the drug, while Defendants keep the undisclosed overcharges. Given Humana's significant presence in the Medicare plan market, the claims here are pursuant to RICO and state consumer laws, as well as common law theories. Humana also provides health plans governed by ERISA.

Turpin v. Consolidated Coal Company, No. 99-1886 (W.D. Pa.)

A firm attorney served as co-counsel for plaintiff in a case alleging that a Blue Cross entity's use of computer-generated Explanation of Benefits (EOB) forms violated ERISA regulations guaranteeing plan participants a full and fair review of their claims. The class action settlement resulted in significant changes to the forms, including detailed information as to how participants could appeal claim denials and reform of the forms' denial codes so that they were more understandable to the class members.



ERISA APPELLATE PRACTICE

ERISA appeals require specialized skills and experience, and Keller Rohrback has a seasoned appellate team that includes award-winning brief writers and outstanding oral advocates. Our ERISA appellate expertise is particularly important in large cases, including complex class actions.

REPRESENTATIVE CASES

Fletcher v. ConvergeX Group, L.L.C., No. 13-9150, 2017 WL 549025 (2d Cir.)

Keller Rohrback serves as co-counsel in this lawsuit filed in the Southern District of New York that alleges Defendants violated ERISA by “double-charging” for transition management and brokerage services. After the trial court mistakenly dismissed the case, the Second Circuit reversed and reinstated plaintiffs’ claims.

Hunter v. Berkshire Hathaway Inc., 829 F.3d 357 (5th Cir.)

Keller Rohrback represented retirement plan participants against Acme Brick Company and its sole owner, Berkshire Hathaway Inc., to enforce Berkshire Hathaway’s promise, when it acquired Acme, not to cause Acme to reduce retirement plan benefits. At Keller Rohrback’s urging, the Fifth Circuit determined that Berkshire Hathaway could be liable for that promise and reversed the trial court’s dismissal of claims against Berkshire Hathaway.

Alcantara v. Bakery & Confectionary Union, 751 F.3d 71 (2d Cir.)

Keller Rohrback successfully defended the trial court’s decision and judgment that Defendants had unlawfully reduced pension benefits.

Wurtz v. Rawlings Co., 761 F.3d 232 (2d Cir.)

Keller Rohrback filed an amicus brief on behalf of the New York State Trial Lawyers Association, arguing that ERISA did not preempt a New York state law. The Second Circuit agreed with the position advanced by Keller Rohrback and adopted the reasoning and even some of the language of its amicus brief.

Braden v. Wal-Mart Stores, Inc., 588 F.3d 585 (8th Cir.)

Keller Rohrback represented a class of Wal-Mart employees who alleged that Wal-Mart’s 401(k) plan charged them excessive fees and convinced the Eighth Circuit to reverse the trial court and reinstate the employees’ claims.

Johnson v. Couturier, 572 F.3d 1067 (9th Cir.)

Keller Rohrback obtained a major victory for participants of an ESOP after Defendants awarded themselves grossly excessive compensation at the expense of the ESOP. On appeal, the Ninth Circuit affirmed a preliminary injunction by the district court which prohibited an ESOP plan sponsor from paying litigation costs to indemnify the ESOP’s trustees. The opinion is frequently cited in ESOP litigation by courts across the country.

In re Syncor ERISA Litigation, 516 F.3d 1095 (9th Cir.)

Keller Rohrback represented a group of workers who alleged that their employer had violated the law by investing their retirement savings in the employer’s stock. Keller Rohrback convinced the Ninth Circuit to reverse the dismissal of the trial court and reinstate the workers’ claims.

Tatum v. RJR Pension Investment Committee, 392 F.3d 636 (4th Cir.) and 761 F.3d 346 (4th Cir.)

Attorney Jeff Lewis persuaded the Fourth Circuit to affirm the trial court’s decisions that fiduciaries of the R.J. Reynolds 401(k) plan breached their fiduciary duties and that the breaching fiduciaries bore the burden of proof with respect to loss causation. Mr. Lewis further successfully persuaded the Fourth Circuit that the trial court applied an incorrect legal standard in concluding that the breach did not cause the plan’s losses.

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.



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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
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- Class Actions
- Constitutional Law
- Commodities & Futures Contracts
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- Data Breach
- Employment Law
- Environmental Litigation
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services
- Government & Municipalities
- Institutional Investors
- Intellectual Property
- International Law
- Mass Personal Injury
- Medical Negligence
- Securities & Financial Fraud
- Whistleblower

Lynn Lincoln Sarko is a master strategist and litigator who leads Keller Rohrback's nationally-recognized Complex Litigation Group. One of the nation's top attorneys in complex litigation, Lynn does not just help clients win—he helps them win what they want. Through smart, efficient strategy and tailored, creative problem solving, Lynn and his team accomplish the best outcomes while minimizing costs and maximizing value.

Lynn's diverse experience enables him to think outside the box to resolve complex cases. He regularly interacts with international business interests, representing sovereign nations and institutional clients seeking to recover investment losses caused by financial fraud and other malfeasance. He is currently involved in several matters involving complex derivatives and specialty investment products. Lynn is the driving force behind Keller Rohrback's membership with the Sovereign Wealth Fund Institute, a global organization of leading asset managers and service providers engaged in the public investor community. He represents clients with regard to regulatory investigations and issues involving state and federal supervisory agencies and has litigated actions involving several of the nation's largest accounting and investment firms. Lynn is part of the team representing the City of Tacoma in its fight to hold opioid manufacturers accountable.

Lynn has led the firm's securities and retirement fund practice for over 25 years and regularly serves as lead counsel in multiparty individual and class action cases involving ERISA, antitrust, securities, breach of fiduciary duty and other investment fraud issues. Other law firms often hire him as settlement counsel in these and other complex cases because of his reputation as a skilled negotiator. His successes in this area include multimillion dollar settlements in the IKON, Anicom, United Companies Financial Corp., and the Enron, WorldCom, Global Crossing, Health South, Delphi, Washington Mutual, Countrywide, Lucent, Merrill Lynch, and Xerox consolidated pension and retirement plan cases.

Courts and professional organizations have honored Lynn for his work on financial, fiduciary duty, consumer and numerous other high-profile public cases. After serving as trial counsel in the Exxon Valdez Oil Spill case, which resulted in a \$5 billion punitive damages verdict, Lynn was appointed by the court as Administrator for all funds recovered. He prosecuted the Microsoft civil antitrust case, Vitamin price-fixing cases, the MDL Fen/Phen Diet Drug Litigation, and notable public service lawsuits such as Erickson v. Bartell Drug Co., which established a woman's right to prescription contraceptive health coverage.

Before joining Keller Rohrback, Lynn was an Assistant United States Attorney for the District of Columbia, Criminal Division, an associate at the Washington, D.C. office of Arnold & Porter, and law clerk to the Honorable Jerome Farris, United States Court of Appeals for the Ninth Circuit, in Seattle. He has been the managing partner of Keller Rohrback since 1991.

Lynn appears in federal courts from coast to coast, maintaining an active national litigation practice. He counsels and represents consumers, employees and businesses who have suffered harm resulting from the improper disclosure of proprietary, personal, health and other protected information.

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.

EDUCATION

University of Wisconsin

B.B.A., 1977

M.B.A., 1978, *Beta Alpha Psi*

J.D., 1981, *Order of the Coif*; Editor-in-Chief, *Wisconsin Law Review*; Salmon Dalberg Award (outstanding graduate)

BAR & COURT ADMISSIONS

1981, Wisconsin

1981, U.S. Court of Appeals for the Ninth Circuit

1983, District of Columbia

1983, District of Columbia Appellate Court

1984, United States Supreme Court

1984, U.S. Court of Appeals for the Seventh Circuit

1984, U.S. Court of Appeals for the Fourth Circuit

1984, U.S. Court of Appeals for the Tenth Circuit

1985, U.S. Tax Court

1986, U.S. District Court for the Western District of Washington

1986, U.S. District Court for the Eastern District of Washington

1986, Washington

1986, U.S. Court of Appeals for the First Circuit

1988, U.S. District Court for the Eastern District of Wisconsin

1996, U.S. District Court for the Western District of Wisconsin

2001, U.S. Court of Appeals for the Third Circuit

2002, U.S. District Court for the Eastern District of Michigan

2003, U.S. Court of Appeals for the Fifth Circuit

2003, U.S. Court of Appeals for the Eleventh Circuit

2004, U.S. District Court for the Northern District of Illinois

2008, U.S. Court of Appeals for the Eighth Circuit

2009, U.S. Court of Appeals for the Sixth Circuit

2010, U.S. District Court for North Dakota

2013, U.S. Court of Appeals for the Second Circuit

2016, U.S. District Court for the Central District of Illinois

2016, U.S. District Court for the Southern District of Illinois

HONORS & AWARDS

Super Lawyers List, Washington Law & Politics

Avvo Top Tax Lawyer, Washington CEO Magazine

Trial Lawyer of the Year

Salmon Dalberg Award

PROFESSIONAL & CIVIC INVOLVEMENT

American Bar Association, *Member*

Bar Association of The District of Columbia, *Member*

Federal Bar Association, *Member*

King County Bar Association, *Member*

State Bar of Wisconsin, *Member*

Trial Lawyers for Public Justice, *Member*

Washington State Bar Association, *Member*

Washington State Trial Lawyers Association, *Member*

American Association for Justice, *Member*

Social Venture Partners of Santa Barbara, Founding Partner

The Association of Trial Lawyers of America, *Member*

American Academy of Trial Counsel, *Fellow*

Editorial Board, *Washington State Securities Law Deskbook*

KELLER ROHRBACK

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- Mortgage Put-Back Litigation
- Securities Fraud
- Whistleblower

Derek Loeser is a senior member of Keller Rohrbach's nationally recognized Complex Litigation Group and a member of the firm's Executive Committee. He maintains a national practice prosecuting class action and large-scale individual cases, including corporate fraud and misconduct, securities, Employee Retirement Income Security Act ("ERISA") pension and health plan, breach of fiduciary duty, and investment mismanagement cases. Derek has served as lead and co-lead counsel in large, complex cases in state and federal courts around the country.

Derek has been a plaintiffs' attorney for over 20 years. He has a passion for taking on large corporations and holding them accountable for wrongdoing. Through all stages of litigation, including trial, he has helped recover billions of dollars for consumers, employees, retirees, retirement plans and institutions. Notable cases include the Wells Fargo unauthorized account consumer class action, for which he serves as lead counsel. Derek and the Keller Rohrbach team achieved a \$142 million settlement that requires Wells Fargo to refund all improper fees, and provide first-of-its kind credit damage reimbursement, among other relief, to Wells Fargo customers. Other notable cases include mortgage-backed securities cases on behalf of the Federal Home Loan Banks of Chicago, Indianapolis and Boston; ERISA class cases on behalf of employees of Enron, WorldCom, Countrywide, and Washington Mutual, among others, whose retirement savings were decimated by corporate fraud and abuse; fraud, RICO, and antitrust cases against drug manufacturers, pharmacy benefit managers and insurance companies for conspiring to drive up the cost of life-saving medications, such as insulin and epinephrine (EpiPens).

Derek also represents state and local government entities in a number of matters, including ongoing cases against opioid manufacturers for misrepresenting the safety and efficacy of opioids for chronic pain. The opioid cases are quintessential examples of the type of litigation Derek and the Keller Rohrbach team pursue with purpose and passion: corporate fraud and malfeasance causing serious harm to the public.

Many of Derek's cases have required coordinating with state and federal agencies involved in litigation that parallels cases pursued by Keller Rohrbach, including states attorneys general, the Department of Justice, and the Department of Labor. In addition, Derek has extensive experience negotiating complex, multi-party settlements, and coordinating with the many parties and counsel necessary to accomplish this.

Before joining Keller Rohrbach, Derek served as a law clerk for the Hon. Michael R. Hogan, U.S. District Court for the District of Oregon, and was a trial attorney in the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. He is a frequent speaker at national conferences on class actions, ERISA and other complex litigation topics.

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.

EDUCATION

Middlebury College

B.A., *summa cum laude*, 1989, American Literature (highest department honors), Stolley-Ryan American Literature Prize, Phi Beta Kappa

University of Washington School of Law

J.D., *with honors*, 1994

HONORS & AWARDS

U.S. Department of Justice Honors Program Hire, 1994

U.S. Department of Justice Award for Public Service, 1996

U.S. Department of Justice Achievement Award, 1996

Selected to Rising Stars list in Super Lawyers - Washington, 2005-2007

Selected to Super Lawyers list in Super Lawyers - Washington, 2007-2012, 2014-2017

Recipient of the 2010 Burton Award for Legal Achievement for the article, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty, Pension & Benefits Reporter*, Bureau of National Affairs, Inc. (Sept. 1, 2009).

AV®, Peer Review Top-Rated by Martindale-Hubbell

BAR & COURT ADMISSIONS

1994, Washington

1998, U.S. District Court for the Western District of Washington

1998, U.S. District Court for the Eastern District of Washington

2002, U.S. District Court for the Eastern District of Michigan

2004, U.S. District Court for the Northern District of Illinois

2010, United States Supreme Court

1998, U.S. Court of Appeals for the Ninth Circuit

2006, U.S. Court of Appeals for the Eleventh Circuit

2009, U.S. Court of Appeals for the Eighth Circuit

2010, U.S. Court of Appeals for the Fourth Circuit

2012, U.S. Court of Appeals for the Third Circuit

2013, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the First Circuit

2017, New York

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member; Employment Benefits Committee Member*

National Employment Lawyers Association, *Member*

American Civil Liberties Union of Washington, *Cooperating counsel*

PUBLICATIONS & PRESENTATIONS

Panelist, HarrisMartin's National Opioid Litigation Conference - *Current Landscape of Opioid Litigation*, Chicago, IL, October, 2017.

Speaker, *Trends in Auto Defect Litigation*, Seattle, WA, May, 2017.

Panelist, Law Seminars International - VW Diesel Emissions Litigation: A Case Study of the Interplay Between Government Regulatory Activity and Consumer Fraud Class Actions, May 6, 2016.

Speaker, *Class Action & Data Breach Litigation*, Santa Barbara, CA, March, 2016.

Speaker, *Fiduciary Challenges in a Low Return Environment*, Seattle, WA, December, 2014.

Speaker, *Post-Certification Motion Practice in Class Actions*, Seattle, WA, June, 2014.

Speaker, *Investment Litigation: Fees & Investments in Defined Contribution Plans*, ERISA Litigation, Washington, D.C., 2012.

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- Financial Products and Services
- Whistleblower

EDUCATION

University of Nebraska - Lincoln

B.S. with distinction, 1999,
Women's Studies, UNL Honors
Program

University of Nebraska - Lincoln, College of Law

J.D., with high distinction, 2005,
Order of the Coif, Editor-in-Chief,
Nebraska Law Review, 2004-2005

Gretchen Obrist provides her clients with a clear voice in complex cases.

Gretchen is a member of Keller Rohrback's nationally recognized Complex Litigation group whose work as a dedicated advocate dates back nearly two decades to her role at a nonprofit organization focused on impact litigation.

With her work as a law clerk and as a litigator, Gretchen has significant experience with a broad range of federal cases at all stages. Her nationwide practice focuses on Employee Retirement Income Security Act ("ERISA") fiduciary breach and prohibited transaction cases. Gretchen's work has helped curtail excessive and conflict-ridden fees in the multi-trillion dollar retirement savings industry and provide recourse to retirement plan participants and beneficiaries who have faced pension reductions, misrepresentations, and other unfair practices related to their retirement plan benefits. Gretchen's ERISA experience includes a successful appeal to the Eighth Circuit in *Braden v. Wal-Mart Stores, Inc.* reversing dismissal of the lead plaintiff's excessive fee case, significant contributions to cases challenging cash balance pension plan conversions by Washington Mutual and JPMorgan, and representation of the employees who lost nearly all of their ESOP savings with the collapse of Bear Stearns.

More recently, Gretchen has been instrumental in the firm's litigation against pharmacy benefit managers, drug manufacturers, and other entities whose business practices have driven up the cost of prescription drugs for ERISA welfare plan participants, as well as Medicare plan and ACA/individual plan members, and the uninsured.

Gretchen's breadth of practice extends to consumer protection and financial fraud claims, civil rights issues, and qui tam relator representation. She has played a key role in class action and multi-district cases arising out of the collapse of the mortgage securities industry and the residential mortgage modification and foreclosure crisis, including several ERISA actions and a consumer MDL against JPMorgan Chase.

Prior to joining Keller Rohrback, Gretchen served as a law clerk to the Honorable John C. Coughenour, U.S. District Judge for the Western District of Washington. Before obtaining her law degree, she worked at a public defender's office, the Nebraska Domestic Violence Sexual Assault Coalition, and the Nebraska Appleseed Center for Law in the Public Interest—where she recently was profiled for Nebraska Appleseed's 20th Anniversary celebration as an innovator in the organization's earliest days.

Gretchen is a Plaintiff Co-Chair of the ABA Employee Benefits Committee's Fiduciary Responsibility Subcommittee and a Chapter Editor for the ERISA treatise *Employee Benefits Law* (Jeffrey Lewis et al. eds., 3d ed. BNA 2012), whose 4th edition is forthcoming. She frequently speaks at conferences and CLEs, is quoted in pension-related publications, and has published a number of articles related to her practice areas.

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BAR & COURT ADMISSIONS

2005, Washington

2007, U.S. District Court for the Western District of Washington

2008, U.S. District Court for the Eastern District of Michigan

2008, U.S. Court of Appeals for the Eighth Circuit

2010, U.S. Court of Appeals for the Ninth Circuit

2011, U.S. District Court for the Eastern District of Washington

2011, U.S. Court of Appeals for the Second Circuit

2011, U.S. Court of Appeals for the Sixth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

The William L. Dwyer American Inn of Court, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*, Litigation/Labor and Employment Sections

HONORS & AWARDS

Recipient of the 2004 Robert G. Simmons Law Practice Award (first place)

Theodore C. Sorensen Fellow, 2004-2005

National Association of Women Lawyers Outstanding Law Student Award, 2005

Selected to Rising Stars list in *Super Lawyers - Washington*, 2010

PUBLICATIONS & PRESENTATIONS

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee - Mid-Winter Meeting, Clearwater Beach, FL, February 2018 (Prescription Drug Program Trends and Litigation).

Speaker, ABA Joint Committee on Employee Benefits - National Institute on ERISA Litigation, Chicago, IL, 2017 (Fiduciary Litigation Update).

Speaker, Western Pension & Benefits Council - Spring Seminar, Seattle, WA, 2017 (Litigation Issues in Health and Retirement Plans: a Plaintiff's Class Action Attorney's Perspective).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee - Mid-Winter Meeting, Las Vegas, NV, 2016 (Will Class Actions Live After This Supreme Court Term?).

Lynn L. Sarko, Erin M. Riley, and Gretchen S. Obrist, Brief for Law Professors as Amici Curiae in Support of the Petitioners, Tibble, et al. v. Edison International, et al., No. 13-550 (U.S. 2014).

Erin M. Riley and Gretchen S. Obrist, Contributors, "Attorneys Reflect on 40 Years of ERISA's Biggest Court Rulings" Pension & Benefits Daily, Bloomberg BNA, discussing CIGNA Corp. v. Amara, 131 S.Ct. 1866, 50 EBC 2569 (U.S. 2011) (95 PBD, 5/17/11; 38 BPR 990, 5/24/11) (BNA Sept. 9, 2014) (www.bna.com).

Speaker, ABA Joint Committee on Employee Benefits - 24th Annual National Institute on ERISA Litigation, Chicago, IL, 2014 (Fiduciary Litigation: Disclosure & Investment; Ethical Considerations in ERISA Litigation).

Speaker, Western Pension & Benefits Council - Spring Seminar, Seattle, WA, 2014 (What's New in Fiduciary Litigation?).

Speaker, ABA Joint Committee on Employee Benefits - 23rd Annual National Institute on ERISA Litigation, Chicago, IL, 2013 (Fiduciary Litigation Part 1: Disclosure & Investment; Fiduciary Litigation Part 2: Cutting Edge Issues).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee - Mid-Winter Meeting, Charleston, SC, 2013 (ERISA 408(b)(2) and 404(a) Disclosures and the Ongoing Fee Litigation).

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PRACTICE EMPHASIS

- Class Actions
- Employee Benefits & Retirement Security
- Fiduciary Breach

EDUCATION

Rutgers University

B.A., 1969, Mathematics

New York University School of Law

J.D., 1972 New York

David Preminger is a practiced advocate for employees, retirees, and beneficiaries. The resident partner in the firm's Complex Litigation Group New York office, David focuses on Employee Retirement Income Security Act ("ERISA") fiduciary breach class action cases as well as individual benefit claims. He has been litigating ERISA cases for over 40 years, since the Act's passage in 1974. David has been the lead counsel or co-counsel on numerous ERISA cases alleging misconduct in connection with the investment of retirement plan assets, including *Hartman et al. v. Ivy Asset Management et al.*, a case involving fiduciary breach related to Madoff investments that resulted in a \$219 million settlement with consolidated cases. He has been involved in ERISA cases against Bear Stearns, Merrill Lynch, Colonial BancGroup and Marsh & McLennan resulting in multi-million dollar settlements on behalf of class members. David's familiarity with the changes to and nuances of ERISA law allows him to expertly and efficiently interpret the statute and regulations and analyze issues on behalf of his clients. He has handled over 100 trials and in addition to his ERISA experience has extensive experience litigating and negotiating antitrust, real estate, civil rights, family law, and general commercial and corporate matters.

Prior to joining Keller Rohrbach, David was a partner at Rosen Preminger & Bloom LLP where his successes included the In re Masters Mates & Pilots Pension Plan and IRAP Litigation. He was previously a Supervisory Trial Attorney for the Equal Employment Opportunity Commission, a Senior Attorney with Legal Services for the Elderly Poor, and a Reginald Heber Smith Fellow with Brooklyn Legal Services. He is a charter fellow of the American College of Employee Benefits Counsel, a senior editor of Employee Benefits Law (Bloomberg BNA), and Chair of the Board of Mabou Mines, an experimental theater company in New York City, for the past 20 years.

BAR & COURT ADMISSIONS

1973, New York

1973, U.S. District Court for the Eastern District of New York

1974, U.S. District Court for the Southern District of New York

1974, U.S. Court of Appeals for the Second Circuit

1976, United States Supreme Court

1991, U.S. District Court for the Western District of New York

1993, U.S. Court of Appeals for the Ninth Circuit

1995, U.S. District Court for the Northern District of New York

2001, U.S. Court of Appeals for the District of Columbia Circuit

2006, U.S. Court of Appeals for the Seventh Circuit

2010, U.S. Court of Appeals for the Fourth Circuit

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

PROFESSIONAL & CIVIC INVOLVEMENT

The Association of the Bar of the City of New York,
Member, Committee on Employee Benefits, 1993-1996;
1996-1999; 2002-2005; Committee on Legal Problems of
the Aging, 1985-1988

New York State Bar Association, *Member*

American Bar Association, *former Co-Chair*, Fiduciary
Responsibility Subcommittee; Committee on Employee
Benefits , Labor and Employment Section; former Co-
Chair, Subcommittee on ERISA Preemption and the
Subcommittee on ERISA Reporting and Disclosure

American College of Employee Benefits Counsel, *Member
and Charter Fellow*

PUBLICATIONS & PRESENTATIONS

Mr. Preminger regularly speaks at conferences on ERISA
and employee benefits litigation and has lectured at New
York University School of Law, Saint John's University
School of Law, and Rutgers University, and has testified
before Congress on proposed amendments to ERISA and
participated in New York State Attorney General's hearings
on protection of pension benefits.

Senior Editor, Employee Benefits Law (BNA)

Preminger & Clancy, *Aspects of Federal Jurisdiction Under
Sections 301(c)(5) and 302(e) of The Taft-Hartley Act – The
"Sole and Exclusive Benefit Requirement,"* 4 Tex. S. U. L. Rev.
1 (1976).

David S. Preminger, E. Judson Jennings & John Alexander,
*What Do You Get With the Gold Watch? An Analysis of the
Employee Retirement Income Security Act of 1974.* 17 Ariz. L.
Rev. 426 (1975).

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PRACTICE EMPHASIS

- Appeals
- Class Actions
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Securities

EDUCATION

Gonzaga University

B.A., *cum laude*, 1992, French & History

University of Wisconsin Law School

J.D., *cum laude*, 2000, Wisconsin Law Review

Erin Riley knows that strong relationships are key in complex cases.

Erin was a summer associate at Keller Rohrback in 1999, and joined Keller Rohrback's complex litigation group in 2000.

Since the Fall of 2001, her practice has focused on representing employees and retirees in ERISA actions involving defined contribution, defined benefit, and health benefit plans. She has successfully litigated a number of ERISA breach of fiduciary duty cases including cases filed against Washington Mutual, Merrill Lynch and WorldCom. Erin has worked on ERISA-related articles and amicus briefs, and has spoken at ERISA-related conferences. She is a former Plaintiffs' Co-Chair of the Civil Procedure Subcommittee for the ABA Employee Benefits Committee, and is currently a senior editor of the Employee Benefits Law (BNA) treatise.

She earned her J.D. from the University of Wisconsin, where she served as an editor of the Wisconsin Law Review. She received her undergraduate degree from Gonzaga University.

When not at work, Erin enjoys spending time with her family and friends.

BAR & COURT ADMISSIONS

2000, Wisconsin
2000, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Wisconsin State Bar Association, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

Civil Procedure Sub-Committee for the ABA Employee Benefits Committee, *Plaintiffs' Co-Chair*, 2012 – 2016

Employee Benefits Law (BNA), Chapter Editor, 2012 – 2016

Employee Benefits Law (BNA), Senior Editor, 2016 - present

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*, 2009

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ARTICLES & PRESENTATIONS

Panelist, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Austin, TX, 2017 (How to Get the Class Action Settlement Your Client Needs).

Quoted in Jacklyn Wille, “Ninth Circuit Adopts Pro-Worker Pension Framework,” *Pension & Benefits Daily*, Bloomberg BNA (Apr. 22, 2016) (www.bna.com).

“*Amgen Inc. v. Harris*: What is the Status of ERISA Company Stock Cases Post-*Amgen*,” ABA Employee Benefits Committee Newsletter, Spring, 2016.

Speaker, ACI ERISA Litigation, Chicago, IL, 2016 (Supreme Court Roundup).

Panelist, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Las Vegas, NV, 2016 (mock mediation).

Quoted in Andrea L. Ben-Yosef, “Class Action Suits on Plan Fees Steam Ahead,” *Pension & Benefits Blog*, Bloomberg BNA (Feb. 10, 2016) (www.bna.com).

Br. of Amicus Curiae of Pension Rights Center in Supp. of Petition, *Pundt v. Verizon Communications*, No. 15-785 (U.S. 2016).

Br. of Amicus Curiae AARP and National Employment Lawyers Association in Supp. of Pls.-Appellees, *Whitley v. BP, P.L.C.*, No. 15-20282 (5th Cir. Oct. 28, 2015).

Br. of The Pension Rights Center as Amicus Curiae in Supp. of Resp’t, *Spokeo, Inc. v. Robins*, No. 13-1339 (U.S. Sept. 4, 2015).

Lynn L. Sarko, Erin M. Riley, and Gretchen S. Obrist, Brief for Law Professors as Amici Curiae in Support of the Petitioners, *Tibble, et al. v. Edison International, et al.*, No. 13-550 (U.S. 2014).

Quoted in Jacklyn Wille, “High Court to Address Statute of Limitations for Suits Challenging Retirement Plan Fees,” *Pension & Benefits Daily*, Bloomberg BNA (Oct. 3, 2014) (www.bna.com).

Speaker, Western Pension & Benefits Council – 2014 Spring Seminar, Seattle, WA, 2014 (What’s New in Fiduciary Litigation?).

Erin M. Riley and Gretchen S. Obrist, Contributors, “Attorneys Reflect on 40 Years of ERISA’s Biggest Court Rulings” *Pension & Benefits Daily*, Bloomberg BNA, discussing *CIGNA Corp. v. Amara*, 131 S.Ct. 1866, 50 EBC 2569 (U.S. 2011) (95 PBD, 5/17/11; 38 BPR 990, 5/24/11) (<http://www.bna.com>)

Erin M. Riley and Gretchen S. Obrist, “The Impact of Fifth Third Bancorp v. Dudenhoefter: Finally, a Court Gets it Right!” *Pension & Benefits Daily*, Bloomberg BNA (154 PBD, 8/11/2014) (<http://www.bna.com>).

Lynn L. Sarko and Erin M. Riley, Brief for Law Professors as Amici Curiae in Support of the Respondents, *Fifth Third Bancorp v. Dudenhoefter*, No. 12-751 (U.S. March 5, 2014).

“Erin M. Riley Explores the Pro-Plaintiff Aspects of the Citigroup Ruling”, ERISA Litigation Tracker: Litigator Q&A, Bloomberg BNA (Dec. 1, 2011). Reproduced with permission from ERISA Litigation Tracker Litigator Q & A (Dec. 5, 2011). Copyright 2011 by The Bureau of National Affairs, Inc. (800-372-1033)

Sarah H. Kimberly, Erin M. Riley, “Court Declines to Limit Damages in *Neil v. Zell*”, ABA Employee Benefits Committee Newsletter (Spring, 2011).

Derek W. Loeser, Erin M. Riley and Benjamin Gould, “2010 ERISA Employer Stock Cases: The Good, the Bad, and the In-Between Plaintiffs’ Perspective”, Bureau of National Affairs, Inc. (Jan. 28, 2011).

Derek W. Loeser and Erin M. Riley, “The Case Against the Presumption of Prudence”, Bureau of National Affairs, Inc. (Sept. 10, 2010).

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PRACTICE EMPHASIS

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EDUCATION

University of Wisconsin

B.A., with distinction, 2005,
Political Science, Phi Beta Kappa

Georgetown University Law Center

J.D., *cum laude*, 2010; Executive
Articles Editor, *Georgetown Journal
on Poverty Law and Policy*

Matthew Gerend practices in the firm's nationally recognized Complex Litigation Group, representing employees and other investors in litigation to enforce securities laws and the Employee Income Retirement Security Act ("ERISA"). Matt has represented plaintiffs in federal courts across the country to redress harms stemming from breaches of fiduciary duties, investment fraud, and other misconduct that threatens employees' retirement security.

Matt became interested in the laws protecting retirement and pension benefits as a clerk with AARP Foundation Litigation, where he helped draft a number of amicus curiae briefs filed in the U.S. Supreme Court and U.S. Courts of Appeals regarding the proper interpretation and implementation of ERISA. During law school, Matt also worked as an intern with the Community Development Project at the Lawyers' Committee for Civil Rights Under Law. Matt believes that lawyers have a unique ability to effect social change, an ethic that has guided his work representing individuals and investors against those engaged in divisive and fraudulent practices.

BAR & COURT ADMISSIONS

2010, Washington
2011, U.S. District Court for the Western District of Washington
2012, U.S. Court of Appeals for the Third Circuit
2013, U.S. District Court for the Eastern District of Michigan
2014, U.S. Court of Appeals for the Sixth Circuit
2014, U.S. Court of Appeals for the Ninth Circuit
2015, U.S. Court of Appeals for the Seventh Circuit
2015, U.S. District Court for the District of Colorado
2016, U.S. Court of Appeals for the Fourth Circuit
2016, U.S. Court of Appeals for the Tenth Circuit
2016, Supreme Court of the United States

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*, 2014, 2016-2017.

EXHIBIT 34

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Attorney Fees and Expenses in Class Action Settlements: 1993–2008

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<http://scholarship.law.cornell.edu/facpub/967>

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Journal of Empirical Legal Studies
Volume 7, Issue 2, 248–281, June 2010

Attorney Fees and Expenses in Class Action Settlements: 1993–2008

*Theodore Eisenberg and Geoffrey P. Miller**

We report on a comprehensive database of 18 years of available opinions (1993–2008, inclusive) on settlements in class action and shareholder derivative cases in state and federal courts. An earlier study, covering 1993–2002, revealed a remarkable relationship between attorney fees and class recovery size: regardless of the methodology for calculating fees ostensibly employed by the courts, the class recovery size was the overwhelmingly important determinant of the fee. The present study, which nearly doubles the number of cases in the database, confirms that relationship. Fees display the same relationship to class recoveries in both data sets and neither fees nor recoveries materially increased over time. Although the size of the class recovery dwarfs other influences, significant associations exist between the fee amount and both the fee method used and the riskiness of the case. We found no robust evidence of significant differences between federal and state courts. The strong association between fee and class recovery persists in cases with recoveries of \$100 million or more, as do the significant associations between fee level and fee method and risk. Fees were not significantly affected by the existence of a settlement class, the presence of objectors, or opt outs from the class. Courts granted the requested fee in over 70 percent of the cases, with the Second Circuit granting the requested amount least often. In cases denying the requested fee, the mean fee was 68 percent of the requested amount. Fees and costs exhibit scale effects with the percent of each decreasing as the class recovery amount increased. Costs are strongly associated with hours expended on the case.

I. INTRODUCTION AND BACKGROUND

Class actions and their close cousins, shareholder derivative lawsuits, are vital mechanisms by which the legal system copes with mass harms—similar injuries to a large number of people. Long a feature of the U.S. landscape, class actions have recently begun to spread across the world.¹

*Address correspondence to Theodore Eisenberg, Cornell Law School, Myron Taylor Hall, Ithaca, NY 14853; email ted-eisenberg@lawschool.cornell.edu. Eisenberg is Henry Allen Mark Professor of Law & Adjunct Professor of Statistical Sciences, Cornell Law School; Miller is Stuyvesant P. Comfort Professor of Law, New York University Law School.

We have from time to time acted as expert witnesses or consultants on the issue of attorney fees in class action cases. We thank participants at the International Conference on Empirical Legal Studies, Tel Aviv University and Kevin Clermont for comments, and Thomas P. Eisenberg, Nicholas Germain, and Erica Miller for excellent research assistance.

¹See, e.g., Samuel Issacharoff & Geoffrey Miller, Will Aggregate Litigation Come to Europe? 62 *Vanderbilt L. Rev.* 179 (2009).

A crucial issue for all class and derivative litigation is the matter of compensating counsel. Unless class counsel are adequately compensated, class and derivative litigation will be undersupplied in the legal market. On the other hand, if class action attorneys are overcompensated they may bring too many of these lawsuits and receive an excessive share of the settlement value in cases that are brought.

In normal litigation the attorney compensation can be set by private agreement between lawyer and client, but private agreement does not work in the case of class action and derivative litigation: in these contexts there is no client capable of negotiating with the attorney. In class actions, the clients are disorganized and, prior to notice of certification, usually do not even know that a lawsuit has been filed on their behalf. Except perhaps in the case of private securities litigation, the representative plaintiff cannot effectively negotiate with the attorneys over fees and costs: he or she has only a minority stake in the matter (in consumer cases, often a miniscule one), is often unsophisticated, and may be strongly influenced by the attorney's advice. In derivative cases, the ostensible client—the corporation—is usually managed by defendants in the lawsuits and therefore is unwilling to pay any fee to incentivize an attorney to bring the lawsuit. In both settings, therefore, the court must independently determine the appropriate attorney fee award.

Where can the court look for information on this question? No private stakeholder is a reliable source of information. The class attorneys' suggested fee is not impartial since, at the time of the settlement, their interest is to seek the largest possible award. Nor can the court rely on the defendant's recommendations. Settlement agreements often contain "clear-sailing" clauses under which defendants agree not to object to a fee request up to a certain amount. However, clear-sailing agreements are of little value when the defendant is not paying the fee—indeed, it is not clear that the defendant has any "skin in the game" when the fee will be paid out of the class recovery. Even when the defendant does pay the fee—as in the typical consumer class action—the clear-sailing agreement has limited probative value unless the parties have deferred fee negotiations until after achieving a definite agreement on the merits. Otherwise, there is reason for concern that the defendant may have agreed to pay class counsel a premium in exchange for reductions in the amount going to the class. The reaction of the class to the settlement and proposed fee is also not a reliable guide. Empirical research suggests that the vast majority of class members are rationally indifferent to class action settlements; their failure to opt out of a settlement does not indicate approval of the proposed fee.² Nor can the court rely on objectors to the settlement. Few objectors appear at class action fairness hearings,³ and those who show up may not object to the fee. Even if objectors do complain about the fee, they have only a small amount at stake and thus lack the incentive to thoroughly research the fee question.

Lacking reliable guidance from class counsel, the defendant, class members, or objectors, the judge has no alternative but to make an independent investigation. Where, however, should the judge look for information pertinent to the task of setting fees? Among

²See Theodore Eisenberg & Geoffrey Miller, *The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues*, 57 *Vanderbilt L. Rev.* 1529 (2004).

³*Id.*

the factors that judges typically examine in setting fees, the most important is probably that of “awards in similar cases.”⁴ Precedents of fees awarded by other courts should, in theory, be relatively reliable guides because the prior courts were presumably exercising the requisite rigorous scrutiny and judicial independence when they set the fees, and because class counsel will have presumably considered the relevant case law in calculating whether to take on the litigation in the case at bar. But even this approach is not problem-free. In the typical class action settlement, the fee is taken from the common fund generated on behalf of the class. No party, in this case, has the right incentives to vigorously research the precedents running contrary to counsel’s fee request. Unless the judge does his or her own research, he or she may not have access to unbiased information about fees in similar cases.

The present empirical study is intended to assist courts in the task of fee setting—and counsel in the task of identifying appropriate fees to request—by supplying an account of compensation practices in courts across the country, studied over an extended period of time, and conducted in an academic setting outside the fires of litigation. The information provided in this article is the best data on “awards in similar cases” from cases with available opinions. If used effectively, our study may be of material assistance in further rationalizing the compensation of class counsel.

We find, regardless of the methodology for calculating fees ostensibly employed by the courts, that the overwhelmingly important determinant of the fee is simply the size of the recovery obtained by the class. Fees display the same relationship to class recoveries in data sets spanning both 1993 to 2002 and 2003 to 2008. Neither fees nor recoveries materially increased over time. Although the size of the class recovery dwarfs other influences, significant associations exist between the fee amount and both the fee method used and the riskiness of the case. We found no robust evidence of significant differences between federal and state courts. The strong association between fee and class recovery persists in cases with recoveries of \$100 million or more, as do the significant associations between fee level and fee method and risk.

Courts granted the requested fee in over 70 percent of the cases, with courts in the Second Circuit granting the requested amount least often. In cases in which the requested fee was not awarded, the mean fee was 68 percent of the requested amount. Costs are modest, with both means and median costs comprising less than 3 percent of the class recovery. Fees and costs both exhibit scale effects, with the percent of each decreasing as the class recovery amount increased. Costs are strongly associated with hours expended on the case. Fees were not significantly affected by the existence of a settlement class, the presence of objectors, or opt outs from the class.

Section II of this article describes the data gathering and coding. Section III presents the relation between fee amount and class recovery and fee percent and class recovery over time, and by locale (including state and federal courts), and by case category. It also explores the relation between the fee and risk, settlement class, and the presence of opt outs and objectors. Section IV assesses the relation between the fee and the method used to compute

⁴See, e.g., *Thompson v. Connick*, 553 F.3d 836 (5th Cir. 2008); *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000); *Spell v. McDaniel*, 824 F.2d 1380, 1402 n.18 (4th Cir. 1987).

the fee, as well as the pattern of multipliers used in connection with lodestar fees. Section V reports on the pattern of costs and expenses. Section VI presents multivariate results that confirm our core findings. Section VII discusses the results and Section VIII concludes.

II. METHODOLOGY

The results reported here were gathered in two segments. The first segment covered cases reported from 1993 to 2002 and its results are reported in previous work.⁵ That study also described the motivation for the variables used in this study. The basis for believing that the variables studied might relate to fee awards is reasonably self-evident and need not be repeated here.

As previously reported, we searched in the WESTLAWTM “AllCases” database using the search “settlement & ‘class action’ & attorney! w/2 fee! & date(=[1993–2002])”. This search’s results were checked against a search of the LEXISTM “Mega” database using equivalent search terms. We also compiled lists of citations in the cases found by these search requests and included any additional cases meeting the basic search criteria. We further checked the list against the CCHTM Federal Securities and Trade Regulation Reporters. Once cases had been identified by this method, we sometimes gathered additional information about case characteristics from other sources—for example, information on the Internet or docket entries in the U.S. Courts PACER system. The second segment covered the period 2003 to 2008, inclusive. We replicated the WESTLAW search (expanded to include the term “derivative” to make doubly sure we picked up all derivative settlements) and checked the results, in many cases, against information available on the Internet or in PACER.

The present study focuses solely on common fund cases and does not assess cases in which a court applied a statutory fee-shifting statute to assess fees. Our searches and exclusion criteria yielded recovery and fee information for a total sample of 689 common fund cases. Relatively more cases come from the later period (301 cases for six years from 2003 to 2008 compared with 388 cases for the preceding 10 years). This was principally due to the significantly expanded coverage of the PACER system in the later period, and also to our inclusion of cases in which fee-shifting statutes could have been applied but the fee was not determined by formally applying the fee-shifting statute.

We used the following conventions for coding in both searches. If the court stated a range of value (e.g., for the amount of class recovery), we used the midpoint. If there was no better estimate available but a maximum recovery value could be ascertained, we used the maximum possible recovery. If the court estimated the relief at “over” or “more than” a sum, the sum that was the minimum was used. Where the settlement amount included post- or prejudgment interest, we included that in the amount of the settlement. We collected only the number of attorney hours, thus excluding, where possible, the (usually minor) hours reported for paralegals or law clerks.

⁵For our prior empirical study of class action attorney fees, see Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Stud. 27 (2004).

To code the court's fee calculation method, we tracked whether the court engaged in a lodestar calculation and, if so, the purity of the lodestar approach. This generated the following fee method categories: (1) percentage method cases in which no lodestar calculation exists, (2) cases in which both the lodestar calculation and the percentage approach were used (usually with the lodestar being employed as a "cross-check" on the percentage fee), and (3) pure lodestar cases in which the lodestar method was the exclusive method used. If the lodestar amount was not specified, but could be estimated with reasonable accuracy, we included it. We used plaintiffs' own estimates of their lodestar only when these estimates were not contested by the court. In some cases, the court simply reported a fee without explaining its methodology; these we recorded as missing or as "negotiated" if the approved fee was the one negotiated by the parties.

The coding of variables related to fee shifting was somewhat subtle. Many class action cases are brought under numerous claims for relief, some of which authorize the court to award fees to the prevailing plaintiff or prevailing party. When these cases settle, the courts often set fees without reference to the fee-shifting statute. Even when fee-shifting statutes are potentially available, the fee is often awarded out of the class recovery. Our "fee-shifting" variable codes whether the fee *could* have been calculated under a fee-shifting statute had the case progressed to a litigated judgment, regardless of whether the court actually invoked the fee-shifting statute as a basis for awarding the fee. For the later cases (2003–2008), we kept track of whether the court had actually used the fee-shifting statute as a basis for awarding the fee. In that period, a fee-shifting statute was available in 177 cases but was used as the basis for awarding the fee in only 21 cases, 11.9 percent. We included as common fund cases the 156 cases in which fee-shifting statutes were available but were not used. Preliminary regression models indicated no significant difference in fee awards between these cases and "purer" common fund cases.

For many other variables, coding was reasonably straightforward. In employment discrimination and civil rights cases, two prominent categories of fee-shifting statute cases, the amount of the relief to the class, as expected, often was difficult to quantify because an important element of relief in such cases was often injunctive. For civil rights cases involving only injunctive relief, the cost to the defendant was used as a measure of the value of the relief for the class when this was available. In some fee-shifting cases, the court awarded attorney fees but it was impossible to estimate the amount of class damages. These fee and recovery coding conventions led to usable values for the fee amount and the client recovery, two of our core variables, in the 689 cases studied here.

We also coded cases for risk. Where the court addressed the question of risk, we coded according to our best estimate of the court's evaluation. In many cases, however, the court did not explicitly address the risk of the litigation. Coding therefore depended on assuming that risk was not prominent in cases in which courts did not mention it. We divided the cases into three risk categories. If nothing was said about risk or if the court's discussion suggested a normal degree of risk, the case was coded as being medium risk. If the court affirmatively indicated the existence of substantial risk, or if exceptional risk was evident from the facts or procedural history of the case, we coded the case as having high risk. If the court indicated or the facts otherwise suggested that the case was very likely to generate a substantial recovery for the class at the time it was brought (e.g., if the case grew

out of a prior government prosecution that had resulted in fines or convictions), we coded the case as low risk.

As in our earlier work, two caveats about using published opinions are in order. First, our data include only opinions that were published in some readily available form. Obviously, therefore, we have not included the full universe of cases in our data set. Although published opinions are not necessarily representative of the universe of all cases, they can lead to important insights. For judges seeking to inform their fee decisions with knowledge of other cases, published opinions are the prime source of data. Further, the present study expands on the published opinion data by delving into unpublished materials available on PACER when these could supply information missing from the published case reports.

A second caveat about the published opinion data is that this methodology overweights federal cases. Opinions of state trial court judges are published less frequently than opinions of federal district courts; and since fee awards are typically reported in the court of first instance, we found many more federal than state opinions responsive to our search request. Further, the PACER system allowed us to “dig” for more information in the case of federal opinions. There is no state analog to PACER, and therefore we could only rarely discover information about fees and related issues when a state opinion on a class action or derivative case failed to report the necessary data.

III. BIVARIATE RESULTS: FEE AMOUNT AND FEE PERCENT

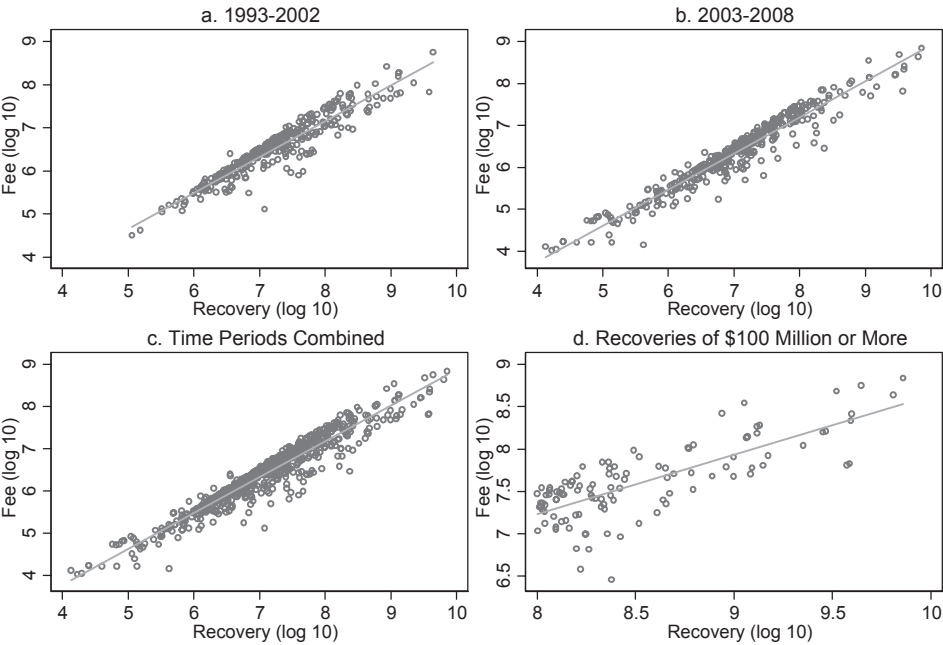
We first examine bivariate results—that is, the relation between either the fee amount or the fee percent and one of the other variables coded in our data. We outline the persistent regular relationship between fees and recovery in both data sets (1993–2002 and 2003–2008). We then examine the pattern of fees across other dimensions such as time, locale, case category, risk, settlement class status, and the presence of opt outs and objectors. All amounts are in 2008 inflation-adjusted dollars.

A. The Persistent Relation Between Fee and Recovery

The relation between fee amount and class recovery has remained consistent over time. Figure 1 shows scatterplots of the fee amount and class recovery for each of the two time periods (Figures 1a and 1b), for the time periods combined (Figure 1c), and for cases with recoveries greater than or equal to \$100 million (Figure 1d). The scales have been transformed into log₁₀ units to address the bunching of cases at the lower end of the recovery scale that would occur in a linear dollar scale. Units of log₁₀ can easily be interpreted because the log₁₀ scale is simply based on powers of 10 (e.g., a value of 9 on a log₁₀ scale is equal to \$1 billion, or one followed by nine zeros).

Figures 1a and 1b show that the pattern is virtually unchanged over time. The associations between fee and recovery are striking and large. The linear correlation between fee and recovery exceeds 0.94 for each time period and the slope of the relationships appears constant for the two time periods. In a regression model with a dummy

Figure 1: Fees as a function of recovery.



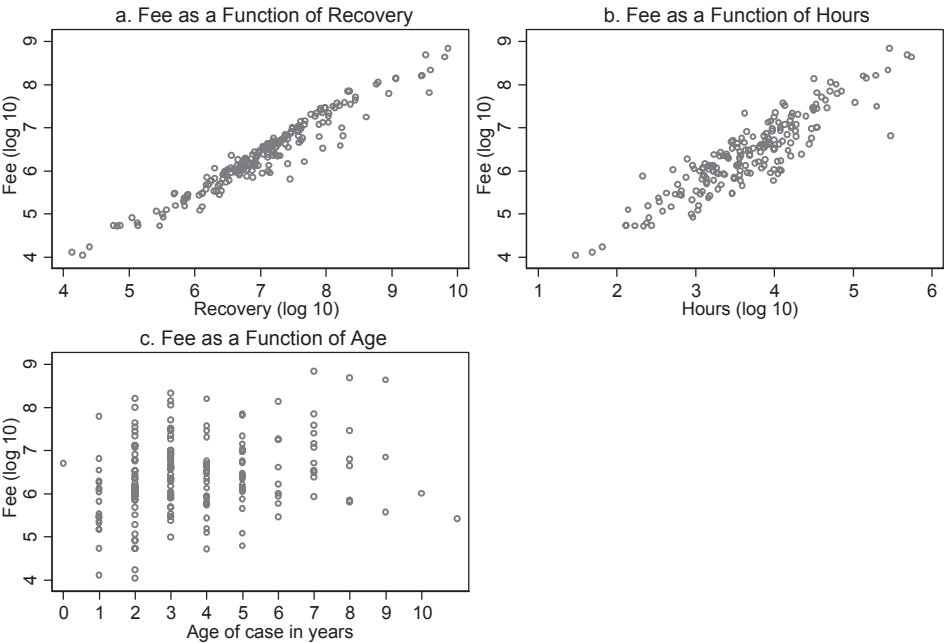
variable for time period and an interaction term consisting of the product of the time period dummy variable and the class recovery size, one cannot reject the hypothesis that the dummy variable and the interaction term coefficients are jointly zero, thus confirming the consistency of the pattern. The relation between fees and class recoveries is also observed when the data are combined, as shown in Figure 1c. In both the separate and combined data sets, the size of the class recovery swamps all other influences on the size of the fee, as shown in regression models in Section VI of this article.⁶ Figure 1d, which is limited to large cases, also shows a strong linear relation between fee and recovery. For these 109 cases, the linear correlation coefficient is 0.77 ($p < 0.0001$). The decreased slope for the high end of case recoveries is consistent with the scaling effect discussed in Section III.B.4 of this article.

Figure 2 further supports the primacy of the recovery as the explanation for the fee award. For ease of comparison, Figure 2a reproduces the combined time period data from Figure 1c. Figures 2b and 2c show that neither the hours claimed nor the age of a case are as strongly associated with the fee amount as is the class recovery amount.

With six additional years of data, we can extend our prior analysis of the pattern of fees and class recoveries over time. One notable earlier finding was the absence of

⁶Figure 1b shows the later time period with more low-recovery cases (less than \$100,000). This is likely attributable to our inclusion in the non-fee-shifting sample cases in which a fee-shifting statute existed but was not used, as well as to the information about smaller cases now available on PACER See Section II.

Figure 2: Fee as a function of recovery, hours, and age, 2003–2008.



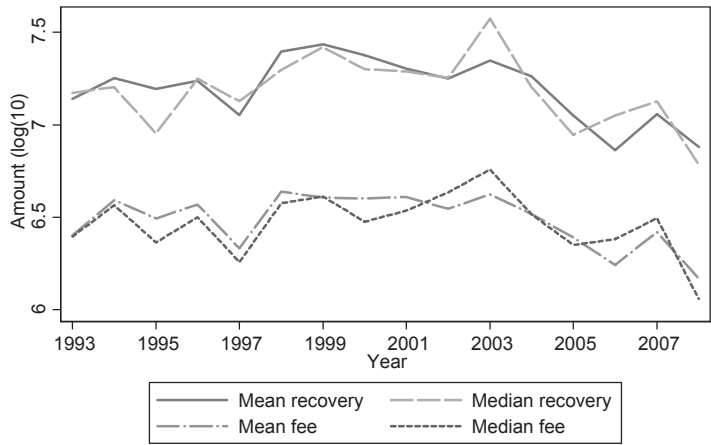
increases in class recoveries or fees over time,⁷ a finding that heartened opponents of attempts to reform the class action system via the Class Action Fairness Act of 2005 (CAFA)⁸ and prompted a response from a noted Yale Law School professor.⁹ The newer data reveal that the level of both class recoveries and attorney fees has not varied substantially over time. As Figure 3 shows, these amounts have shown no distinct time trend for most of 16 years. Inflation-adjusted recoveries and fees through 2007 were at levels not significantly different from levels in 1993 and in fact are lower in inflation-adjusted dollars. In 2008, a noticeable drop in mean and median recoveries and fees occurred. The difference in class recovery medians between 2008 and all earlier years combined is statistically significant at $p=0.002$, and the difference in fees between 2008 and earlier years is significant at $p=0.0003$. The difference in the median ratio of fee to recovery (ratio of the logs) did not significantly differ between 2008 and earlier years

⁷Eisenberg & Miller, *supra* note 5.

⁸Class Action Fairness Act, Pub. L. No. 109-2, 119 Stat. 4 (2005). See 149 Cong. Rec. S1299902 (Oct. 22, 2003) (remarks of Senator Feingold); 151 Cong. Rec. S1086-02 (Feb. 8, 2005) (remarks of Senator Feingold).

⁹George L. Priest, What We Know and What We Don't Know About Modern Class Actions: A Review of the Eisenberg-Miller Study (Feb. 2005, Manhattan Inst.).

Figure 3: Class recovery and attorney fee over time, mean and median.



SOURCES: Westlaw, LexisNexis, PACER.

($p=0.517$).¹⁰ We therefore do not view the changes in 2008 as necessarily indicating anything significant about longer-term fee patterns.

B. Locales, Case Categories, and Other Factors

Table 1 shows the distribution of cases by locale. It combines all 25 federal appellate opinions into one category, “Appeal,” and all 75 state cases into one category, “State.” Federal district court cases dominate the sample, accounting for approximately 85 percent of the cases. The federal class action cases cluster by districts. The Southern District of New York accounted for 103 of 589 federal district court cases, and the Eastern District of Pennsylvania accounted for 70 such cases. They are the only two districts to account for 10 percent or more of the federal trial court portion of the sample and together accounted for 25 percent of all cases in the sample. Two other districts accounted for more than 5 percent of the federal court portion of the sample: the Northern District of California had 47 cases

¹⁰This pattern of average and median fees in more recent years may be partly due to the increase in smaller cases that we were able to code by accessing the PACER database and to inclusion in the later period of cases in which fee-shifting statutes were theoretically available but not used to set the fee. We investigated whether a changing mix of cases explained the pattern by separately assessing, for the two time periods, cases with recoveries greater than or equal to \$5 million and recoveries less than \$5 million. For both recovery size groups, the difference in recovery across the two time periods was not statistically significantly different. The difference over time in medians for cases with recoveries greater than or equal to \$5 million was significant at $p = 0.590$; for cases with recoveries less than \$5 million, the difference in medians was significant at $p = 0.749$. But the smaller cases were more prevalent in the later period. Cases with recoveries of less than \$5 million comprised 33 percent of the later period cases compared to 24 percent of the earlier period cases, a difference statistically significant at $p = 0.022$. Thus the decreasing recovery amount over time is attributable to a different mix of cases in our sample, and not to differences in treatment of similar cases over time. Thus, throughout more than a decade of civil litigation reform efforts based on claims of increasing awards and fees, the pattern in available opinions, which tend to include the largest cases, has not significantly changed.

Table 1: Frequency of Class Action Fee Opinions, by Court, 1993–2008

<i>Locale</i>	<i>N</i>	<i>% of Cases</i>
Other	161	23.37
SDNY	103	14.95
State	75	10.89
EDPA	70	10.16
NDCA	47	6.82
DNJ	35	5.08
NDIL	29	4.21
EDNY	26	3.77
APPEAL	25	3.63
DDC	18	2.61
EDMI	17	2.47
DMN	16	2.32
EDLA	13	1.89
MDFL	12	1.74
EDCA	12	1.74
CDCA	10	1.45
DMA	10	1.45
SDCA	10	1.45
Total	689	100.00

SOURCES: Westlaw, LexisNexis, PACER.

and the District of New Jersey 35 cases. The Northern District of Illinois had just under 5 percent of the federal district cases. Together, these five districts accounted for over 50 percent of the federal district court opinions.

These results suggest that class action litigation in the federal system is heavily concentrated in a few jurisdictions. Of the 94 federal district courts, nearly half of all class actions in our data set occurred in five courts. Even adjusting for population (the popular class action districts also tend to be ones with large populations), the concentration ratio remains striking. We take this as evidence that certain jurisdictions offer advantages for class action litigation, either in the form of experienced judges who can handle these cases in a fair and expeditious manner, faster dockets, a sense on the part of plaintiffs’ attorneys that the courts in these districts are reasonably well-inclined toward class action litigation, or a concentration of class action attorneys specializing in the practice.

We also investigated whether different federal courts appear to specialize in different types of cases. Table 2 shows the breakdown of the four largest case types, plus the residual case type, “Other,” in the federal district courts with the largest number of class action settlements in our data (those listed in Table 1). For each case category, one column shows the percent of cases in each district and a second column shows the number of cases. For example, the Southern District of New York accounted for 70 of 253 securities cases, 28 percent of that category. Thus, the Southern District of New York tends to dominate securities class actions, whereas the Eastern District of Pennsylvania is the leader in antitrust

Table 2: Class Action Case Categories by Locale, 1993–2008

District	Antitrust		Consumer		Employment		Securities		Other		Total	
	%	N	%	N	%	N	%	N	%	N	%	N
Other	16	10	35	34	30	15	21	52	38	49	27	160
SDNY	7	4	1	1	10	5	28	70	18	23	18	103
EDPA	20	12	14	13	2	1	14	36	6	8	12	70
NDCA	7	4	7	7	14	7	8	19	8	10	8	47
DNJ	8	5	7	7	2	1	6	15	5	7	6	35
NDIL	10	6	7	7	4	2	5	12	2	2	5	29
EDNY	5	3	7	7	2	1	6	14	1	1	4	26
DDC	16	10	1	1	0	0	1	2	4	5	3	18
EDMI	3	2	0	0	0	0	2	6	7	9	3	17
DMN	5	3	3	3	4	2	2	6	2	2	3	16
EDLA	0	0	3	3	4	2	2	4	3	4	2	13
EDCA	0	0	2	2	16	8	0	0	2	2	2	12
MDFL	2	1	2	2	2	1	3	7	1	1	2	12
CDCA	0	0	2	2	6	3	1	3	2	2	2	10
DMA	2	1	5	5	0	0	1	2	2	2	2	10
SDCA	0	0	2	2	4	2	2	5	1	1	2	10
Total	100	61	100	96	100	50	100	253	100	128	100	588

NOTE: Table includes only federal district court cases.
SOURCES: Westlaw, LexisNexis, PACER.

and consumer cases. The Northern and Eastern Districts of California are the leaders in employment cases. Table 2 shows that the SDNY’s dominance is almost completely attributable to its large role in securities cases.

1. Fees Across Locales

Table 3 shows summary statistics about fees and recoveries by locale. The mean fee to recovery ratio was 0.23, or 23 percent of the class award, but this percent varies by recovery size, as shown in Figure 5 and Table 7. The mean fee was \$12.8 million and the median was \$2.3 million. The mean class recovery was \$116.0 million and the median was \$12.5 million.

Some bankruptcy case fee studies¹¹ and other studies of case outcomes show notable interdistrict variation. Like these studies, we find significant variation across federal districts. For the 16 federal districts with at least 10 cases with necessary information in the

¹¹See Lynn M. LoPucki & Joseph W. Doherty, The Determinants of Professional Fees in Large Bankruptcy Reorganization Cases, 1 J. Empirical Legal Stud. 111, 114, 136 (2004) (showing significant fee request reduction variation across Delaware and the Southern District of New York); Stephen J. Lubben, Corporate Reorganization and Professional Fees, 82 Am. Bankr. L.J. 82 (2008) (showing some significant Delaware and Southern District of New York effects). But see Lynn M. LoPucki & Joseph W. Doherty, Professional Overcharging in Large Bankruptcy Reorganization Cases, 5 J. Empirical Legal Stud. 983, 1010 (2008) (tbl. 5, showing insignificant Delaware and Southern District of New York effects).

Table 3: Fee and Class Recoveries, by Locale, 1993–2008

	<i>Mean Ratio</i>	<i>Median Ratio</i>	<i>Mean Fee</i>	<i>Median Fee</i>	<i>Mean Gross Recovery</i>	<i>Median Gross Recovery</i>	<i>Number of Cases</i>
APPEAL	0.19	0.20	5.89	2.15	57.86	13.37	25
CDCA	0.25	0.25	3.93	2.75	16.30	19.90	10
DDC	0.22	0.22	16.69	2.14	134.79	13.00	18
DMA	0.16	0.15	11.50	7.00	118.55	81.00	10
DMN	0.25	0.27	8.77	4.75	40.99	14.25	16
DNJ	0.21	0.22	32.26	7.80	503.42	36.88	35
EDCA	0.26	0.25	0.40	0.12	3.26	0.54	12
EDLA	0.26	0.23	7.79	1.77	43.53	8.61	13
EDMI	0.22	0.20	6.56	1.34	34.80	11.75	17
EDNY	0.32	0.25	11.33	2.38	142.42	9.03	26
EDPA	0.28	0.29	12.66	1.51	75.79	6.88	70
MDFL	0.21	0.21	3.64	2.66	18.23	14.87	12
NDCA	0.26	0.25	4.44	2.00	24.06	9.25	47
NDIL	0.24	0.24	12.14	2.75	51.45	12.50	29
Other	0.24	0.25	20.47	3.25	154.98	16.38	161
SDCA	0.26	0.25	4.66	1.14	63.12	4.90	10
SDNY	0.22	0.22	11.54	2.13	127.97	12.85	103
State	0.20	0.20	5.94	2.00	61.61	12.32	75
Total	0.23	0.24	12.84	2.33	116.01	12.50	689

NOTE: Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

sample (including “Other” as a district), a test of the hypothesis that the median ratio of fee to class recovery does not differ significantly can be rejected, with a Mann-Whitney test yielding a significance level of $p = 0.014$. Given the strong association between fee and class recovery, we explored these initial interdistrict differences by accounting for recovery level and case category in regression models. The district dummy variables were collectively statistically significant ($p = 0.035$), indicating that when the size of class recoveries and case categories are accounted for, one can reject the hypothesis of no statistically significant interdistrict differences. Table 3’s first two numerical columns suggest that interdistrict differences can be nontrivial but are not dramatic. With one exception, the District of Massachusetts, the median ratio always ranges from 0.20 to 0.29.

In federal courts, attorney fee doctrine is dictated at the circuit court level if the appeals court has issued an opinion on point (the Supreme Court has never offered definitive guidance on this issue). The Ninth Circuit has a 25 percent benchmark fee in common fund cases but allows departures based on individual case factors,¹² and the Eleventh Circuit has indicated that its district courts view 25 percent as a benchmark.¹³

¹²E.g., *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993).

¹³*Camden I Condo. Ass’n v. Dunkle*, 946 F.2d 768, 775 (11th Cir. 1991).

Table 4: Fee and Class Recoveries, by Federal Circuit, 1993–2008

<i>Circuit</i>	<i>Mean Ratio</i>	<i>Median Ratio</i>	<i>Mean Fee</i>	<i>Median Fee</i>	<i>Mean Gross Recovery</i>	<i>Median Gross Recovery</i>	<i>Number of Cases</i>
1st	0.20	0.20	31.83	3.50	227.41	19.32	21
2nd	0.23	0.24	10.58	2.13	119.06	11.63	145
3rd	0.26	0.26	17.38	3.00	193.50	13.38	120
4th	0.20	0.21	29.27	1.89	320.07	13.55	8
5th	0.24	0.23	42.39	2.63	368.34	15.65	26
6th	0.23	0.23	10.42	3.33	94.65	15.50	42
7th	0.26	0.24	8.79	2.15	38.37	10.07	42
8th	0.25	0.30	11.21	4.18	68.35	14.70	29
9th	0.25	0.25	4.53	1.80	32.97	9.50	101
10th	0.22	0.23	12.46	7.42	63.96	32.00	22
11th	0.21	0.22	17.35	4.22	87.09	26.85	34
DC	0.21	0.22	15.17	1.94	122.04	11.00	20
Total	0.24	0.25	13.74	2.40	123.12	12.50	610

NOTE: Three Federal Circuit cases and all state court cases are omitted. Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

The Eleventh and D.C. Circuits mandate the percentage method exclusively, while other circuits allow percentage or lodestar methods.¹⁴ The Second Circuit’s *Goldberger* decision rejected the use of benchmarks and mandated a fact-specific inquiry.¹⁵

Table 4 explores intercircuit variation, showing summary statistics about fees and recoveries by circuit, and excludes state court cases. The median and mean fee to recovery ratios were 0.24 and 0.25, respectively. In regression models of the ratio, circuit dummy variables were not collectively statistically significant ($p = 0.124$), indicating that when the size of class recoveries and case categories are accounted for, one cannot reject the hypothesis of no statistically significant intercircuit differences. We also explored differences between particular circuits and all other circuits based on announced benchmarks and methods. In regression models using dummy variables for individual circuits, and controlling for case category and recovery size, none of the individual circuit effects were statistically significant. Nor were differences within the Second Circuit significantly different pre- and post-*Goldberger*.¹⁶

¹⁴*Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1271 (D.C. Cir. 1993); *Camden I Condo. Ass’n v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991).

¹⁵*Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000).

¹⁶Nor was the variance in fee percent significantly different between the Ninth or Eleventh Circuits and other circuits. For a more in-depth exploration of the effect (or lack of effect) of the *Goldberger* decision, see Theodore Eisenberg, Geoffrey Miller & Michael Perino, A New Look at Judicial Impact: Attorneys’ Fees in Securities Class Actions After *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U. J. Law & Policy 5 (2009).

2. State-Federal Differences

We hypothesized that the fee percent would tend to be higher in class actions in state court than in federal court.¹⁷ Beliefs in differences in how federal and state courts process class actions were cited as reasons for enactment of CAFA.¹⁸ The Congress that enacted CAFA intended to route interstate class actions to federal court, “with the expressed intent of defeating the plaintiffs’ bar’s manipulation of state courts.”¹⁹ President George W. Bush declared that it “marks a critical step toward ending the lawsuit culture in our country.”²⁰ Empirical support for CAFA was almost entirely lacking, however, with both Federal Judicial Center (FJC) research²¹ and our own prior work²² suggesting little in the way of significant state-federal differences.

Table 3 shows that the mean fee to class recovery ratio for state court cases was 0.20, lower than the overall mean ratio of 0.24. Regression models of the fee (log 10) or the ratio (of logs) as a function of the case category and the class recovery size indicate that the federal-state difference was sometimes statistically significant in the direction suggested by Table 3—namely, that state courts award lower percentage fees.²³ The direction of the effect is surprising if one believes federal courts are less receptive to class actions than are state courts. A lower fee to recovery ratio suggests somewhat less encouragement of class action activity by state courts compared to federal courts.

3. Case Categories

Table 5 summarizes fees, recoveries, and their ratios by case categories. Mean fees ranged from 11 percent of the class recovery in tax cases to 27 percent in employment cases. In the

¹⁷Eisenberg & Miller, *supra* note 5.

¹⁸Pub. L. No. 109-2, 119 Stat. 4 (2005) (codified in scattered sections of 28 U.S.C.). See generally Kevin M. Clermont & Theodore Eisenberg, *CAFA Judicata: A Tale of Waste and Politics*, 156 U. Pa. L. Rev. 1553 (2008); Georgene M. Vairo, *Class Action Fairness Act of 2005* (2005).

¹⁹Clermont & Eisenberg, *supra* note 18, at 1554–55.

²⁰Remarks on Signing the Class Action Fairness Act of 2005, 41 Weekly Comp. Pres. Doc. 265, 265 (Feb. 18, 2005); see also Edward A. Purcell, Jr., *The Class Action Fairness Act in Perspective: The Old and the New in Federal Jurisdictional Reform*, 156 U. Pa. L. Rev. 1823 (2008) (stressing partisan support for CAFA).

²¹Thomas E. Willging & Shannon R. Wheatman, *Attorney Choice of Forum in Class Action Litigation: What Difference Does it Make?* 81 Notre Dame L. Rev. 591, 645, 652–54 (2006) (finding insignificant differences in state court and federal court treatment of class actions, and observing that “[a]ttorney perceptions of judicial predispositions toward their clients’ interests show little or no relationship to the judicial rulings in the surveyed [state and federal class action] cases”). See also Section VII.

²²Eisenberg & Miller, *supra* note 5.

²³The state court effect was significant in multilevel models with a random intercept for case category. The effect was insignificant in models with dummy variables for case category.

Table 5: Fee and Class Recoveries, by Case Category, 1993–2008

	<i>Mean Ratio</i>	<i>Median Ratio</i>	<i>Mean Fee</i>	<i>Median Fee</i>	<i>Mean Gross Recovery</i>	<i>Median Gross Recovery</i>	<i>Number of Cases</i>
Antitrust	0.22	0.23	21.02	9.15	163.48	39.36	71
Civil rights	0.24	0.23	4.10	1.52	16.53	7.48	18
Consumer	0.25	0.20	10.04	1.70	128.42	9.33	125
Corporate	0.21	0.19	3.35	1.12	16.51	9.86	30
Employment	0.27	0.25	2.43	0.75	12.28	3.00	55
ERISA	0.23	0.25	6.61	3.46	29.54	14.00	43
Securities	0.23	0.25	14.78	2.52	141.96	12.50	268
Tax refund/tax	0.11	0.06	12.96	5.50	188.01	60.07	8
Tort	0.21	0.20	30.15	6.33	254.60	25.86	29
Other	0.23	0.25	13.59	2.00	61.86	10.75	42
Total	0.23	0.24	12.84	2.33	116.01	12.50	689

NOTE: Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

Table 6: Frequency of Case Categories, by Time Period

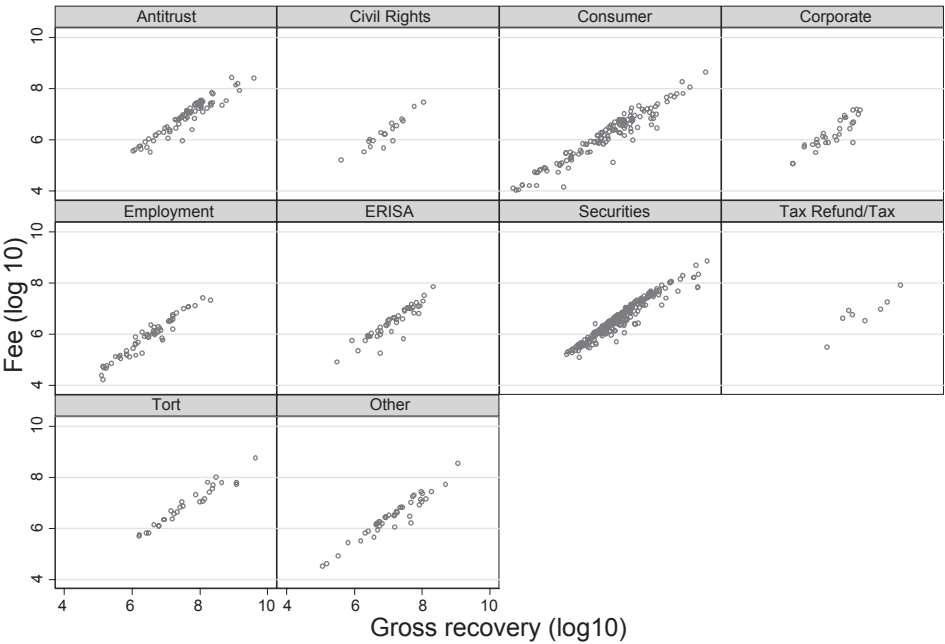
	<i>Non-Fee-Shifting Cases</i>			
	<i>1993–2002</i>		<i>2003–2008</i>	
	<i>N</i>	<i>% of Cases in Period</i>	<i>N</i>	<i>% of Cases in Period</i>
Antitrust	36	11.9	35	9.1
Civil rights	2	0.7	16	4.2
Consumer	52	17.2	73	18.9
Corporate	15	5.0	15	3.9
Employment	7	2.3	48	12.4
ERISA	7	2.3	36	9.3
Securities	142	46.9	126	32.6
Tax refund/tax	6	2.0	2	0.5
Tort	17	5.6	12	3.1
Other	19	6.3	23	6.0
Total	303	100	386	100

SOURCES: Westlaw, LexisNexis, PACER.

larger case categories, fees ranged from 21 percent to 27 percent of recoveries. A test of the hypothesis that the median ratio of fees to recoveries is the same across case categories can be rejected at $p < 0.022$, if one includes the small civil rights and tax categories. But the effect becomes statistically insignificant if one excludes the two smallest categories ($p = 0.222$).

The case category makeup of the samples varied over time. Table 6 shows the case category breakdown for the time period of our prior study and the years 2003 to 2008, added for purposes of this study. In each time period, securities cases were the dominant case category, but they declined as a proportion of the sample in the later time period. This

Figure 4: Fee and recovery by case category, 1993–2008.



SOURCES: Westlaw, LexisNexis, PACER.

is due to the increase in the proportion of civil rights, employment, and ERISA cases, which likely increased because of the change in coding, discussed above, to allow inclusion with common fund cases, cases subject to a fee-shifting statute but in which the fee was not determined pursuant to the statute, as well as to increased availability of information through the PACER database.

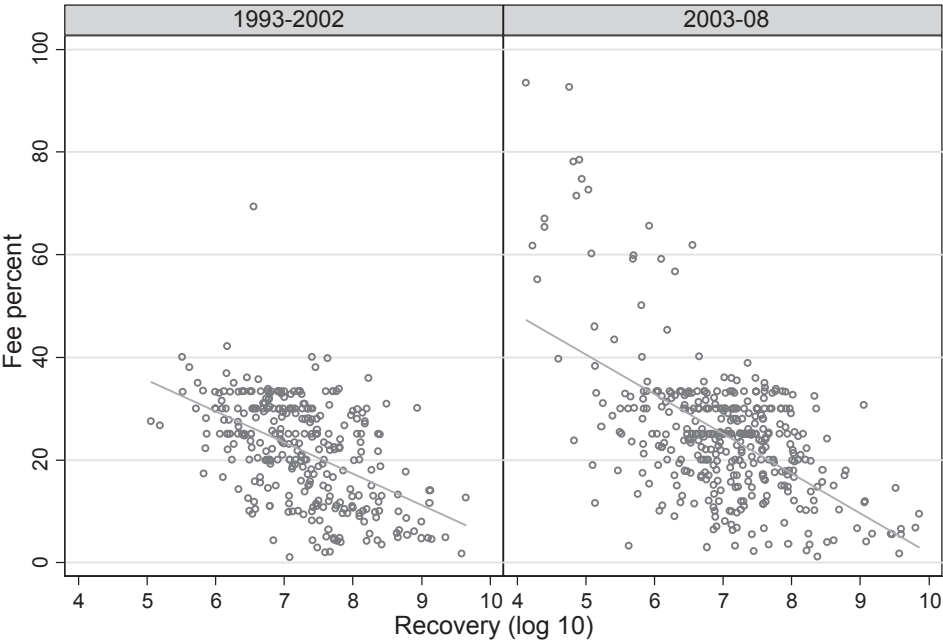
Figure 4 explores whether the core relation between fee amount and class recovery varies by case category. It shows that relation through separate scatterplots for 10 case categories. The consistency of the pattern across category is striking. Every category shows the same basic relation between fee and recovery.

4. Scaling Effect

The existence of a scaling effect—the fee percent decreases as class recovery increases—is central to justifying aggregate litigation such as class actions. Plaintiffs’ ability to aggregate into classes that reduce the percentage of recovery devoted to fees should be a hallmark of a well-functioning class action system.²⁴ As Figure 5 shows, a substantial scaling effect existed

²⁴Eisenberg & Miller, *supra* note 5.

Figure 5: Fee as a percent of recovery for two time periods.



SOURCES: Westlaw, LexisNexis, PACER.

in the 2003–2008 period, as well as in the earlier 1993–2002 period. The linear correlation coefficient for 2003–2008 was -0.57 and for 1993–2002 was -0.50 , both statistically significant at $p < 0.0001$. The lines in the figure show the best-fitting regression line for each data subset.

Table 7 presents additional information about the scale effect. For purposes of this table, we divided the range of class recoveries into deciles of about 69 cases each. Table 7’s first column shows the bounds on the deciles, starting with the lowest decile of class recoveries. Thus the table’s first numerical row includes cases with class recoveries in the first decile, those recoveries less than or equal to \$1.1 million. The table’s last row includes cases in the highest decile, those with recoveries greater than \$175.5 million. The table’s columns show, within each decile range, the mean, median, and standard deviation of the fee percent for the row decile. Thus, for the 69 cases with class recoveries of less than \$1.1 million, the mean fee percent award was 37.9 percent in 69 cases, the median fee percent award was 32.3 percent, and the standard deviation was 19.6 percent. Although there is some fluctuation in the scale effect trend across the middle deciles, the overall trend is clear, with the highest decile having less than one-third of the median and mean percentage fee of the lowest decile.

Table 7: Mean, Median, and Standard Deviation of Fee Percent, Controlling for Class Recovery Amount, 1993–2008

<i>Range of Class Recovery (Millions) Decile</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>	<i>N</i>
Recovery <= 1.1	37.9	32.3	19.6	69
Recovery > 1.1 <= 2.8	27.1	26.4	9.1	69
Recovery > 2.8 <= 5.3	26.4	25.0	9.8	69
Recovery > 5.3 <= 8.7	22.8	22.1	8.4	69
Recovery > 8.7 <= 14.3	23.8	25.0	8.1	69
Recovery > 14.3 <= 22.8	22.7	23.5	7.5	69
Recovery > 22.8 <= 38.3	22.1	24.9	8.7	68
Recovery > 38.3 <= 69.6	20.5	21.9	10.0	70
Recovery > 69.6 <= 175.5	19.4	19.9	8.4	69
Recovery > 175.5	12.0	10.2	7.9	68

SOURCES: Westlaw, LexisNexis, PACER.

Table 8: Fee Percent, by Risk Level

	<i>High Risk</i>		<i>Low/Medium Risk</i>	
	<i>N</i>	<i>Fee %</i>	<i>N</i>	<i>Fee %</i>
Antitrust	9	20.1	62	22.2
Civil rights	4	29.3	13	23.2
Consumer	14	31.3	110	24.7
Corporate	4	23.4	26	20.8
Employment	4	35.1	51	26.2
ERISA	5	24.6	38	23.2
Securities	45	26.4	217	22.7
Tax refund/tax	—	—	8	10.8
Tort	8	25.1	21	19.0
Other	13	22.1	29	23.9
Total	106	26.1	575	23.1

SOURCES: Westlaw, LexisNexis, PACER.

5. Risk

Standards applied to attorney fees uniformly indicate that greater risk warrants an increased fee.²⁵ Table 8 reports, by case category, the mean fee percent separately for high risk and other cases. It confirms that courts systematically reward risk. For every case category except antitrust and “other,” mean fee percents were higher in high-risk cases than in other cases. The difference within a case category between high-risk cases and other cases

²⁵E.g., *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000).

Table 9: Fee Percent and Settlement Classes, Opt Outs, Objectors

	Period 2003–2008	
	N	Fee %
A. Settlement Class Status		
Settlement class	208	24.4%
Not a settlement class	160	25.4%
B. Presence of Objectors		
Any objector	142	23.4%
No objector	123	28.6%
C. Number of Opt Outs		
No opt outs	28	34.6%
One opt out	20	37.2%
>One opt out	116	23.6%

SOURCES: Westlaw, LexisNexis, PACER.

was statistically significant only for the large securities category (t test significance level, $p = 0.006$).

6. Settlement Classes, Opt Outs, and Objectors

Table 9 reports the relation between the fee percent and three class action case characteristics: settlement class status (Panel A),²⁶ whether any objection was filed (Panel B), and the number of class members opting out of the class (Panel C). We collected useful data on these issues only for the later time period (2003–2008). No significant difference in fee percent for settlement class cases compared to nonsettlement class cases emerged. There were significant differences in the fee percent for cases with and without objectors. Cases with objectors tended to have lower fee percents than cases without objectors. Cases with more than one opting-out class member tended to have lower fee percents than cases with zero or one opting-out class member. But, in regression models that supplement those reported in Table 17, the objector and opt-out variables were found not to be significant once one controlled for recovery size.

IV. BIVARIATE RESULTS: FEE METHODS AND MULTIPLIERS

The dominant method used to calculate fees in class actions has evolved from considering multiple factors²⁷ to the dominance of two other methods, the lodestar and percentage

²⁶A settlement class is a case in which a class was certified for settlement purposes only.

²⁷The factors include the time and labor required, the customary fee, whether the fee is fixed or contingent, the amount involved and the results obtained, the experience, reputation, and ability of the attorneys, awards in similar

Table 10: Frequency of Method Used, by Time Period

	1993–2002		2003–2008	
	N	% of Cases in Period	N	% of Cases in Period
Lodestar	38	13.6	37	9.6
Percent	158	56.4	146	37.8
Both (usually % with LS check)	68	24.3	165	42.8
Other	16	5.7	38	9.8
Total	280	100	386	100

NOTE: LS = lodestar method.
SOURCES: Westlaw, LexisNexis, PACER.

methods. Under the lodestar method, courts multiply the reasonable number of hours expended by counsel by a reasonable hourly rate and then adjust the product for various factors.²⁸ Under the percentage method, the court multiplies the amount recovered on behalf of the class by a percentage factor. Some courts adopt a blended approach that checks the percentage method for reasonableness against a lodestar calculation.²⁹ We explore here the rates at which courts use the fee calculation methods, the relation between those methods and fees, the rates at which courts granted requested fees, and the use of multipliers in cases using the lodestar method.

A. Lodestar

1. Frequency of Use of Lodestar Versus Percent

Table 10 reports the rate of use of competing methods of computing a fee award. One result is the decline in the use of the lodestar method. From 1993 to 2002, 13.6 percent of cases used a pure lodestar method. From 2003 to 2008, only 9.6 percent of cases used the lodestar method, a notable but not statistically significant reduction ($p = 0.136$). This is likely due to the relatively few cases using the lodestar method exclusively.

Table 10 also suggests a reduction in use of the pure percent method, from 56.4 percent to 37.8 percent, but this understates the dominance of the percent method. For the 1993 to 2002 period, we coded which method was primary and which was used as a check. In non-fee-shifting cases in this period, 61 cases used the percent method with a lodestar

cases, the nature and length of the professional relationship with the client, the time limitations imposed by the client or the circumstances, the preclusion of other employment by the attorney due to acceptance of the case, the novelty and difficulty of the questions, the skill needed to perform the legal services, and the “undesirability” of the case. The leading precedent outlining this multifactor approach is *Johnson v. Georgia Highway Express*, 488 F.2d 714, 717–19 (5th Cir. 1974).

²⁸E.g., *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002). See Charles Silver, *Unloading the Lodestar: Toward a New Fee Award Procedure*, 70 Tex. L. Rev. 865 (1992); Charles Silver, *Due Process and the Lodestar Method: You Can’t Get There from Here*, 74 Tulane L. Rev. 1809 (2000).

²⁹See notes 12–15 *supra* for circuit level case law addressing the fee method to be used.

Figure 6: Pure lodestar use over time.



check compared with three cases that used the lodestar method with the percent method as a check. The 68 cases shown as using “both” methods in the earlier period included an additional four cases that used both methods without indicating which was dominant. So cases coded as using “both” methods were almost always percent method cases with a lodestar check. We used less detailed coding of the method in the second period. If a case used both methods, we simply coded it as “both.” Nevertheless, it is reasonable to assume that the “both” cases in the second period are similar to those in the earlier period and are dominated by the percent method with the lodestar as a check. So our best estimate is that the percent method is the overwhelmingly dominant method of computing fees, either as the sole method or as the primary method with the lodestar as a check. Figure 6 shows the rate of pure lodestar use over time, with a separate line for the large subset of securities class actions. Figure 1’s strong linear correlation between fee and recovery supports this assessment as a lodestar-dominated system would likely show a less strong association between fee and class recovery.

Table 11 limits the sample to federal cases and shows the fee method used broken down by circuit. As suggested by Table 10, the use of the percent method, combined with the use of the percent method with a lodestar check, dominates. Table 11 shows that this is the pattern in every circuit, regardless of formal fee method doctrine. The lodestar method peaks at 21 percent of cases in the Sixth Circuit and only the Second Circuit combines nontrivial lodestar use with a substantial number of cases. The table slightly overstates the more recent federal rate of lodestar use, which totaled only 9 percent in cases from 2003 to 2008.

Table 11: Fee Method by Circuit, Federal Cases, 1993–2008

<i>Circuit</i>	<i>Lodestar</i>		<i>Percent</i>		<i>Both</i>		<i>Other</i>		<i>Total</i>	
	%	N	%	N	%	N	%	N	%	N
1st	5	1	60	12	35	7	0	0	100	20
2nd	19	26	37	51	40	55	5	7	100	139
3rd	5	6	37	43	56	65	3	3	100	117
4th	13	1	50	4	38	3	0	0	100	8
5th	20	5	40	10	36	9	4	1	100	25
6th	21	8	62	24	13	5	5	2	100	39
7th	10	4	61	25	17	7	12	5	100	41
8th	0	0	59	17	34	10	7	2	100	29
9th	9	9	48	48	30	30	13	13	100	100
10th	9	2	41	9	45	10	5	1	100	22
11th	3	1	52	17	36	12	9	3	100	33
D.C.	0	0	50	10	35	7	15	3	100	20
Federal Circuit	0	0	100	3	0	0	0	0	100	3
Total	11	63	46	273	37	220	7	40	100	596

SOURCES: Westlaw, LexisNexis, PACER.

Table 12: Fee Percent by Method Used, by Time Period

	<i>1993–2002</i>			<i>2003–2008</i>		
	N	Mean Fee	% of Recovery	N	Mean Fee	% of Recovery
Lodestar	38		17.2	37		31.6
Percent	158		23.4	146		25.3
Both (usually % with LS check)	68		22.9	165		21.9
Other	16		11.4	38		28.7
Total	280		21.7	386		24.8

NOTE: LS = lodestar method.

SOURCES: Westlaw, LexisNexis, PACER.

2. Is Use of the Lodestar Method Associated with Lower Fee Awards?

Table 12 explores the relation between fee method and fee percent. Although the table’s first row suggests a substantial increase in fee percents in lodestar cases over time, the higher fee percents in recent lodestar cases are an artifact of case category. Consumer cases comprise 37 percent of the lodestar category and the difference between percent and lodestar methods vanishes if one excludes consumer cases. The consumer case category percent of cases changed for the two periods in our sample. Consumer cases were 59.5 percent of the lodestar cases in the later period compared to 15.8 percent of the lodestar cases in the earlier period. The lodestar method was used at a higher rate, 23.0 percent, in consumer cases than in any case category other than the small tax category. These high-percent consumer cases (see Table 8) are the source of the change in mean lodestar fee percents over time. The increased prominence of consumer cases in the later period

sample is likely attributable to our including as common fund cases those in which a fee-shifting statute was theoretically available but was not in fact used. In regression models, reported below (see Table 18), the percent and “both” fee methods have positive and statistically significant coefficients compared to the lodestar method once case category is controlled for.

For the period 2003 to 2008, we coded the hours worked by attorneys in cases with opinions reporting that information. The lower lodestar awards appear to be a consequence of fewer hours worked, or at least fewer hours claimed in court filings. Fewer hours were worked, on average, in lodestar method cases than in other cases and fewer hours were worked in consumer cases than in any other case category. As in regressions of the fee amount, regression of hours worked that controlled for fee method, case category, and circuit yielded coefficients for the percent and “both” method dummy variables that are statistically significant and positive compared to lodestar cases.

B. Fee Grant Rates

Fee requests were generally granted in the amount requested, with 72.5 percent of requests granted in full, as shown in Table 13’s last row (Panel A). Our data for the rate of grants is limited to the 2003 to 2008 period because requested amounts were not recorded for the earlier time period. Table 13 shows that strong intercircuit differences ($p = 0.012$, excluding the two Federal Circuit cases) in the grant rate existed, with the Second Circuit granting the requested amount statistically significantly less often than the Third Circuit or the Ninth Circuit. These intercircuit differences remain significant in logistic regression models that control for case category and recovery amount, and in models that exclude securities cases. The table also shows that state courts tended to grant award requests at a lower rate than federal courts. The difference between federal and state grant rates was only statistically significant at $p = 0.148$.

Fee requests were not granted in full in 100 of 363 cases. In those cases, the mean fee grant was 68 percent of the request and the median was 74 percent. The mean grant of 61 percent in state court cases was lower than the 69 percent in federal court cases and the median of 66 percent in state court cases was also lower than the median of 75 percent in federal court cases. However, only nine of the 100 cases with less than full grants were state court cases.

Table 13, Panel B, shows the rate at which requested fees were granted in relation to the range of class of recovery, using the same decile ranges as Table 7. It shows a declining grant rate as the class recovery increases. The grant rate for the lowest recovery decile was 83 percent compared to 56 percent for the highest recovery decile. We interpret this as indicating that judges tend to scrutinize fee requests in large cases more closely than they do for smaller cases. Panel C shows the grant rate in relation to the percent of class recovery requested as fees. Instead of using class recovery deciles, it uses deciles of the percent of recovery requested, which range from the lowest decile of requests up to 11.8 percent of the recovery to the highest decile of requests over 35.7 percent. It shows a trend of decreasing grant rates as the percent of the recovery requested increased. Attorneys requesting the lowest percents received requested amounts

Table 13: Rates at Which Requested Fees Were Given, 2003–2008

<i>A. By Locale</i>		
<i>Locale</i>	<i>Proportion of Fee Requests Granted in the Amount Requested</i>	<i>N</i>
1st	0.70	10
2nd	0.54	74
3rd	0.83	64
4th	0.60	5
5th	0.69	13
6th	0.79	24
7th	0.79	14
8th	0.83	18
9th	0.83	72
10th	0.77	13
11th	0.64	22
D.C.	0.80	10
Federal Circuit	0.50	2
State court	0.59	22
Total	0.72	363
<i>B. By Range of Class Recovery (Millions)</i>		
<i>Range of Class Recovery (Millions) Decile</i>	<i>Rate Granted</i>	<i>N</i>
Recovery <= 1.1	0.83	52
Recovery > 1.1 <= 2.8	0.75	36
Recovery > 2.8 <= 5.3	0.82	38
Recovery > 5.3 <= 8.7	0.67	33
Recovery > 8.7 <= 14.3	0.77	35
Recovery > 14.3 <= 22.8	0.68	34
Recovery > 22.8 <= 38.3	0.76	33
Recovery > 38.3 <= 69.6	0.68	34
Recovery > 69.6 <= 175.5	0.67	36
Recovery > 175.5	0.56	32
<i>C. By Range of Class Recovery Percent Requested Decile</i>		
	<i>Rate Granted</i>	<i>N</i>
Percent of recovery requested <= 11.8%	0.81	36
Percent of recovery requested > 11.8% <= 17.8%	0.86	36
Percent of recovery requested > 17.8% <= 21.9%	0.62	37
Percent of recovery requested > 21.9% <= 25%	0.76	75
Percent of recovery requested > 25.0% <= 30.0%	0.72	72
Percent of recovery requested > 30.0% <= 33.3%	0.71	35
Percent of recovery requested > 33.3% <= 35.7%	0.67	36
Percent of recovery requested > 35.7%	0.61	36

NOTE: In Panel C, the number of observations in the fourth and fifth rows reflects the bunching of fee requests at 25 percent and 30 percent. They each occupy approximately two deciles of fee requests.
SOURCES: Westlaw, LexisNexis, PACER.

Table 14: Mean Multiplier by Circuit and Case Category

	<i>Mean Multiplier</i>	N
A. Circuit		
1st	2.10	15
2nd	1.58	97
3rd	2.01	87
4th	2.43	7
5th	2.07	15
6th	1.97	22
7th	1.85	16
8th	2.30	14
9th	1.54	50
10th	1.91	14
11th	1.19	19
D.C.	2.23	11
Federal	1.54	1
Total	1.81	368
B. Case Category		
Antitrust	2.24	38
Civil rights	1.99	11
Consumer	1.82	60
Corporate	1.94	7
Employment	1.24	21
ERISA	1.58	29
Securities	1.75	177
Tort	1.83	11
Other	2.35	14
Total	1.81	368

SOURCES: Westlaw, LexisNexis, PACER.

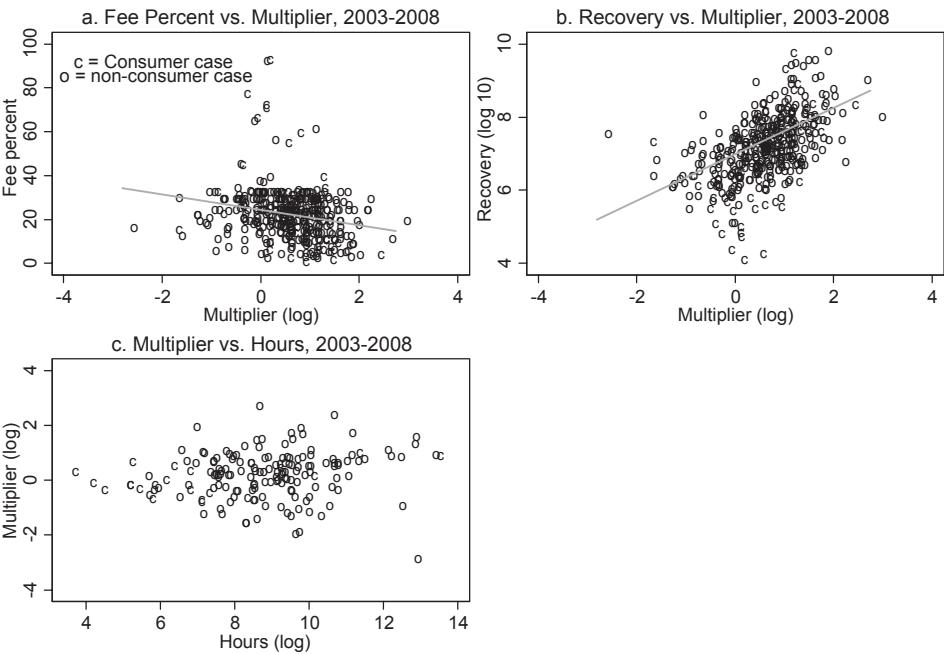
in 81 percent of cases compared to 61 percent for attorneys requesting the highest percents. This result suggests that attorneys who make more modest fee requests have a greater chance of having their requests granted.

We explored the effects of the class recovery amount, percent of recovery requested, circuit, and type of case in logistic regression models in which whether the requested fee was granted was a dichotomous dependent variable. The class recovery amount and the percent of recovery requested were highly statistically significant (each $p < 0.001$), the circuit dummy variables were jointly significant at $p = 0.005$, and the case type dummy variables were not statistically significant ($p = 0.262$).

C. Multipliers

Courts often check the percentage-based attorney fee against the lodestar award. If the percentage fee grossly exceeds the lodestar amount, the fee may be deemed excessive, and the courts can adjust the fee downward to a more reasonable range. Table 14 reports, for

Figure 7: Relation between multipliers and fee percent, recovery, and hours, 2003–2008.



SOURCES: Westlaw, LexisNexis, PACER.

federal cases, the mean multiplier applied by circuit and by case category. The sample is limited to those cases that reported a multiplier that was not equal to 1.

The mean multiplier ranged from 1.19 in the Eleventh Circuit to 2.43 in the Fourth Circuit. Across case categories, the mean multiplier ranged from 2.35 in “other” to 1.24 in employment cases. But, in regression models of the multiplier (log) as a function of circuits and case categories, neither the dummy variables for circuits nor for case categories were collectively significant. We therefore cannot reject the hypotheses that multipliers are similar across circuits and case categories.

We do, however, find significantly different multipliers used in cases in which fee-shifting statutes were available and cases in which they were not. With no statute in the background, multipliers averaged 1.96 in 161 cases with necessary data. If a fee-shifting statute was available, multipliers averaged 1.38 in 66 cases. The difference in medians was significant at $p = 0.021$.

Figure 7 shows the relation between the fee outcomes, class recovery amount, and multipliers (Figures 7a and 7b), and between multiplier and hours reported (Figure 7c).

Since a suspected fee windfall is most likely to occur when the percentage method would yield what is perceived to be too high a fee, we expect the multiplier to tend to bring high percentage fee cases into a more moderate range. We therefore predicted and found, in our prior study, a strong negative correlation between the lodestar multiplier (fee award

Table 15: Mean, Median, and Standard Deviation of Multiplier, Controlling for Class Recovery Amount, 1993–2008

<i>Range of Class Recovery (Millions) Decile</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>	<i>N</i>
Recovery <= 1.1	0.88	0.74	0.45	33
Recovery > 1.1 <= 2.8	0.95	0.77	0.67	40
Recovery > 2.8 <= 5.3	1.44	1.25	0.74	32
Recovery > 5.3 <= 8.7	1.59	1.25	1.32	34
Recovery > 8.7 <= 14.3	1.49	1.45	0.87	37
Recovery > 14.3 <= 22.8	1.68	1.51	0.85	38
Recovery > 22.8 <= 38.3	1.83	1.44	1.44	33
Recovery > 38.3 <= 69.6	1.98	1.75	1.00	38
Recovery > 69.6 <= 175.5	2.70	2.09	2.43	43
Recovery > 175.5	3.18	2.60	1.99	40

SOURCES: Westlaw, LexisNexis, PACER.

divided by the lodestar) and the percentage fee awarded.³⁰ A similar relation exists for 2003–2008, as shown in Figure 7a.

Higher multipliers should, in general, lead to higher recoveries, a result shown in Figure 7b. Increased multipliers do not appear to be being used as a reward for hours worked. Figure 7c shows no clear positive association between multipliers and hours.

Table 15 presents more detailed information about the relation between class recovery and multipliers. It uses the recovery deciles reported in Table 7, but Table 15 includes fewer observations because the sample is limited to cases with multipliers not equal to 1. The table reports the mean, median, and standard deviation for each recovery decile. The pattern for the mean and median multiplier confirms that suggested by Figure 7b. As the recovery decile increases, the multiplier also tends to increase, with the multiplier in the highest recovery decile more than triple that of the multiplier in the lowest recovery decile.

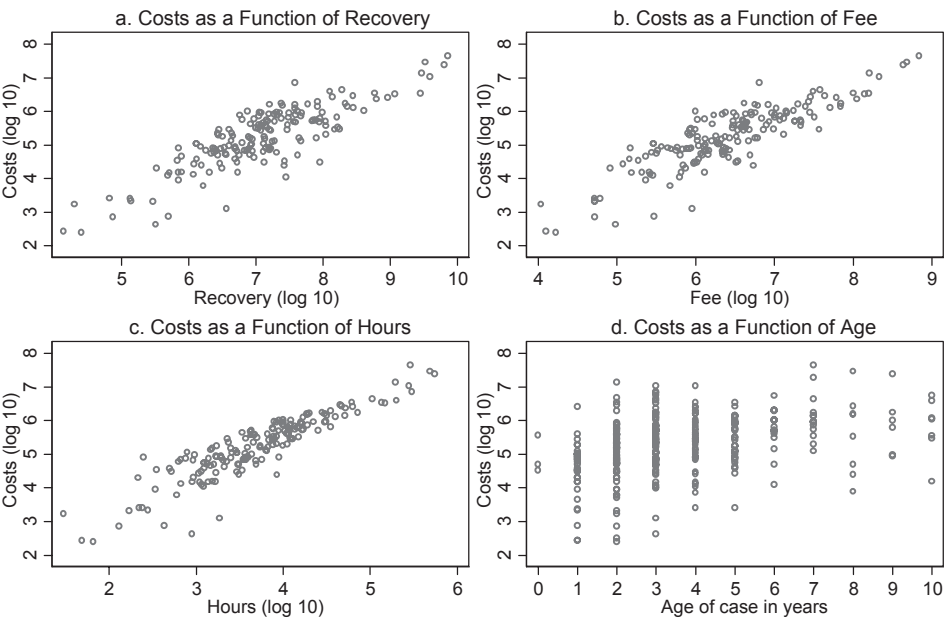
V. COSTS AND EXPENSES

Costs and expenses (collectively “costs”) tended to be a small percentage of the class recovery and have remained a fairly constant percentage over time. For the 232 cases from 1993 to 2002 for which cost data were available, mean costs were 2.8 percent of the recovery and median costs were 1.7 percent. For the 304 cases with necessary data from 2003 to 2008, mean costs were 2.7 percent of the recovery and median costs remained at 1.7 percent. As before, we found no evidence that the cost percent increased over time.³¹

³⁰Eisenberg & Miller, *supra* note 5.

³¹*Id.*

Figure 8: Costs as a function of recovery, fees, hours, and age, non-fee-shifting cases, 2003–2008.



NOTE: Cases with age greater than 10 years old are coded as 10 years old.
SOURCES: Westlaw, LexisNexis, PACER.

We further explored costs as a function of four variables: (1) the class recovery, (2) the fee, (3) the hours reported in the court’s opinion, and (4) the age of the case in years. We only coded hours billed and case age beginning with the 2003 to 2008 data. Figure 8 shows the relation between costs and the four factors and limits the sample to cases in which hours were reported in opinions and costs were at least \$100. All four factors are positively associated with costs. The figure also suggests that the strongest association is between costs and hours.

Table 16 shows the correlation coefficients between costs and the four factors in Figure 8. The first four numerical columns cover the period 2003–2008, for which hours data were recorded. The last two numerical columns show the correlation between costs and fee and recovery for the period 1993–2002. The correlations between costs and recovery and fee for either period do not reach the strength of association of hours and costs in the later period. The weaker correlation between costs and age may be in part a function of age being coded only in whole years and therefore providing a less continuous measure of that factor.

A regression model, not reported here, of costs as a percent of recovery controls for case category and other factors. It shows that costs, like fees, have a scale effect: their percent of recovery significantly declines as the size of the recovery increases. The cost

Table 16: Correlations Between Costs and Four Factors

	<i>Fee</i> <i>(Log10)</i>	<i>Recovery</i> <i>(Log10)</i>	<i>Hours</i> <i>(Log)</i>	<i>Age in Years</i>	<i>Fee</i> <i>(Log10)</i>	<i>Recovery</i> <i>(Log10)</i>
	<i>Period = 2003–2008</i>				<i>Period = 1993–2002</i>	
Correlation Coeff.	0.86	0.85	0.91	0.34	0.77	0.71
Significance	<0.0001	<0.0001	<0.0001	<0.0001	<0.0001	<0.0001
<i>N</i>	167	167	167	167	232	232

SOURCES: Westlaw, LexisNexis, PACER.

percent significantly increases with hours. In a model with both case age and hours as explanatory variables, only hours were statistically significant.

VI. MULTIVARIATE RESULTS

Some of the above results are so strong and robust that no further analysis is needed to support their credibility. The strong correlation between fees and class recovery and the scale effect survive any reasonable analysis, are reasonably represented by Figures 1 and 5, and are confirmed in regression models reported below. Other key results consist of factors associated with the level of the fee award. These include:

- 1. The tendency of state courts to award a lower percent of recovery as a fee,
- 2. The relation between case category and fee percent,
- 3. The tendency of high-risk cases to receive a higher percent of the class recovery as a fee, and
- 4. The tendency of lodestar awards in non-fee-shifting cases to be lower than percent-method awards.

This section first explores the robustness of these results to simultaneous control for recovery level and then reports regression models.

A. *The Relation Between the Fee Award and State Court Status, Risk, and the Lodestar Method*

As Figure 1 and our earlier work suggest, for most explanatory variables, the size of the class recovery is the most important potential confounding factor in assessing the relation between other covariates and the fee award. From Figures 1 and 5, we know that: (1) the fee award increased with class recovery, and (2) the fee award was a declining percent of the class recovery as the class recovery increased. Regression models assessing nonrecovery covariates thus require both a dummy variable for the covariate, and an interaction term between the covariate and the class recovery. That is, the covariate may influence both the intercept and the slope of the line representing the relation between the covariate and the fee award. The use of class recovery, a dummy covariate, and an interaction term raises problems of multicollinearity in the regression model, which preliminary analysis confirmed. The problems arose even when a single covariate and interaction term were

Table 17: Influence of Locale, Risk, and Lodestar Method on Percent Fee Award, Controlling for Class Recovery Amount, 1993–2008

Range of Class Recovery (Millions) Decile	Federal-State		Risk		Lodestar	
	Federal Case	State Case	Low-/Medium-Risk Case	High-Risk Case	Other Methods	Pure Lodestar
Recovery <= 1.1	38.7	27.2	37.1	48.4	32.3	58.0
N	64	5	64	5	53	15
Recovery > 1.1 <= 2.8	26.8	30.4	26.7	29.5	26.6	33.4
N	63	6	60	9	64	5
Recovery > 2.8 <= 5.3	27.0	23.2	26.0	29.3	26.8	17.9
N	58	11	61	8	65	2
Recovery > 5.3 <= 8.7	22.7	23.2	21.8	26.8	23.3	20.5
N	61	8	55	14	54	9
Recovery > 8.7 <= 14.3	24.1	21.4	23.3	26.8	24.8	19.0
N	61	8	58	11	56	11
Recovery > 14.3 <= 22.8	23.3	15.6	22.7	23.0	23.3	16.3
N	62	6	63	6	61	6
Recovery > 22.8 <= 38.3	22.3	20.8	20.9	29.2	24.0	11.7
N	58	10	58	10	53	11
Recovery > 38.3 <= 69.6	21.2	15.7	19.9	24.6	21.6	9.8
N	61	9	62	8	61	7
Recovery > 69.6 <= 175.5	19.6	16.0	17.3	24.7	20.0	10.0
N	64	5	50	19	62	4
Recovery > 175.5	12.6	6.5	10.6	16.5	12.7	4.3
N	61	7	52	16	62	5

SOURCES: Westlaw, LexisNexis, PACER.

included in regression models, and were magnified when multiple covariates and interaction terms were used. Rather than simply report possibly questionable regression models, we first used a simpler technique to explore the possible influence of certain covariates on the fee award while simultaneously accounting for the class recovery.

Table 17 expands on Section III’s tables by reporting in more detail, for non-fee-shifting cases, the relation between the fee awarded and three key covariates—state court status, risk, and use of the lodestar method—while controlling for the size of the class recovery. As was done for Tables 7, 13, and 15, we divided the range of class recoveries into deciles. Table 17’s first column shows the bounds on the deciles, starting with the lowest decile of class recoveries. Each decile’s statistics are reported in two rows; the first shows the fee percent and the second row shows the number of cases included in the fee percent calculation. Thus the table’s first two numerical rows include cases with class recoveries in the first decile, those recoveries less than or equal to \$1.1 million. The table’s last two rows include cases in the highest decile, those with recoveries greater than \$175.5 million. The table’s second and third columns show, within each decile range, the mean fee percent award and the number of cases, divided by federal court versus state court status. Thus, for the 69 cases with class recoveries of less than \$1.1 million, the mean federal case fee percent award was 38.7 percent in 64 cases and the mean state case fee percent award was 27.2

percent in five cases. The table’s fourth and fifth columns show the same information, but now divided by high-risk case status versus low-/medium-risk case status. The table’s sixth and seventh columns show the same information divided by use of the pure lodestar method versus use of all other methods.

With respect to federal versus state court status, the mean state case fee percent is lower than the mean federal percent for every recovery decile except the second and fourth. Thus, after controlling for class recovery size, state courts tend to award lower fees than federal courts but not overwhelmingly so. The pattern is even more consistent with respect to risk. For every recovery decile, the fee percent is higher in high-risk cases than in low-/medium-risk cases. The lodestar effect follows the same trend, with every class recovery decile except the lowest two showing a lower fee percent in pure lodestar cases than in other cases. In the low recovery deciles, of course, the lodestar method can compensate attorneys for substantial efforts that a percent fee award may not fully reflect. Section III’s results for these three covariates therefore survive analysis that controls for the key potential confounder, the class recovery size.

B. Regression Models

Table 18 reports ordinary least squares regression models that confirm our core results. Model 1 shows that over 90 percent of the variance in the fee is explained by the size of the

Table 18: Regression Models of Fees

	1	2	3	4	5
	<i>Dependent Variable = Fee (Log10)</i>				
Gross recovery (log10)	0.850 (74.37)**	0.850 (73.79)**	0.846 (73.32)**	0.833 (62.21)**	0.827 (61.35)**
State court case		−0.088 (8.25)**	−0.083 (8.15)**	−0.040 (3.13)**	0.003 (0.15)
High-risk case			0.111 (7.16)**	0.102 (6.06)**	0.098 (5.06)**
Lodestar = reference category					
Percent method				0.188 (4.76)**	0.169 (4.22)**
Both methods				0.181 (4.82)**	0.158 (4.15)**
Other methods				0.032 (0.62)	0.028 (0.51)
Constant	0.374 (4.91)**	0.382 (4.69)**	0.395 (4.92)**	0.331 (3.28)**	0.440 (3.64)**
Case category dummies	No	No	No	No	Yes
Observations	689	688	681	663	663
R ²	0.92	0.92	0.92	0.93	0.93

NOTES: Robust *t* statistics in parentheses; *significant at 5 percent; **significant at 1 percent; standard errors are clustered by locale.

SOURCES: Westlaw, LexisNexis, PACER.

recovery. None of the other models add materially to the explanatory power of this simple model. Nevertheless, it is noteworthy that the model with the largest set of explanatory variables, Model 5, shows no statistically significant difference between state and federal courts. The models also consistently confirm that fee methods other than the pure lodestar method tend to have higher fees. The models confirm the association between greater risk and increased fees.³² In Model 5, a test of the hypothesis that the case category dummy variables are jointly equal to zero can be rejected at $p = 0.0003$. Their significance persists if one omits the two small cases categories, civil rights and tax, but the significance level increases to $p = 0.012$. The significance of the results in Table 18 persists if one limits the sample to the 106 cases with recoveries of \$100 million or more but the sizes of the coefficients do change. The percent of variance explained then ranges from 72 percent to 77 percent, depending on the model.

We also tested whether the use of a lodestar “cross-check” generated a different pattern of fees than when fees were calculated according to the percentage method alone. A regression analysis not reported here does not find any statistically significant difference between fees calculated by the percentage method alone and those calculated by the percentage method with the lodestar cross-check. This result may raise questions about the utility of the lodestar cross-check, which can involve a time-consuming analysis of the reasonableness of the attorneys’ hours and hourly rates.

VII. DISCUSSION

The data support several major conclusions.

Strength of Relation and Dominance of Method. The percentage fee method is overwhelmingly the method used by courts in awarding fees in class actions. It is so widely used and so consistently employed that other information about cases adds little explanatory power to study of the fee award. The amount of the class recovery dwarfs all other effects. Even in circuits that eschew the percentage method, it appears to be the dominant de facto method used and best explains the pattern of awards. The consistent pattern may help attorneys to calibrate their fee requests and lead to courts usually approving the requested fee amount.

Scale Effect and Aggregate Litigation. The pattern of class action awards continues to exhibit a strong scale effect. Attorneys receive a smaller proportion of the recovery as the size of the recovery increases. Aggregation of claims thus appears to have produced the kind of efficiency hoped for. This characteristic of aggregate litigation should be considered when evaluating devices designed to preclude or discourage aggregate litigation or arbitration, such as prohibitions on class arbitration.³³

³²Multilevel models, using random intercepts for locale and case category, do not yield materially different results.

³³For a study suggesting possible efforts to discourage aggregate litigation, see Theodore Eisenberg, Geoffrey P. Miller & Emily Sherwin, Mandatory Arbitration for Customers But Not for Peers: A Study of Arbitration Clauses in Consumer

The Scope and Nature of Our Sample. Some perspective on the scope of our sample relative to the universe of class action cases comes from a study of class actions against insurers from 1993 through 2002. The RAND Institute for Civil Justice surveyed 269 property and casualty insurers and 207 life and health insurers, received responses from 205 companies, and obtained usable information from 199 insurers.³⁴ Of 564 attempted class actions, 12 percent led to a class settlement.³⁵ In 32 cases, the respondents provided information about the aggregate pool of funds offered to settle the case and its associated expenses. The amounts ranged from \$360,000 to \$150 million, with a mean fund size of \$12.8 million and a median size of \$2.6 million. Almost two-thirds of the cases, 62.5 percent, resulted in a common fund of less than \$5 million.³⁶ In 48 cases, the respondents supplied information about the award to class counsel for fees and expenses. Fees and expenses ranged from \$50,000 to \$50,000,000, with a mean of \$3.4 million and a median of \$554,000.³⁷ The overall median fee and expense ratio from the pooled data was thus about 21 percent (\$554,000 divided by \$2.6 million). This compares to a pooled median fee of \$2.33 million and median gross recovery of \$12.5 million in our sample, as shown in Table 3, which yields a pooled ratio of 19 percent. The scaling effect, combined with our higher median gross recovery, probably helps explain the lower ratio in our sample of cases.

Aside from the RAND study's similar findings about fee levels, the study shows the small fraction of class action filings that lead to information about fees, even in the absence of being limited to available opinions. In the RAND data, 564 purported class actions led to 78 certified classes and 32 cases with available fee information. Thus, less than 15 percent of purported class actions were certified and about 6 percent led to usable fee information. If the same proportions are assumed to apply more broadly, then our 689 fee cases can be thought of as representing over 12,000 purported class action filings.

Federal-State Differences. Despite claims that CAFA was needed to redress differences in state and federal court processing of class actions, our data provide little evidence of federal-state differences. The fee per amount recovered did not systematically differ between federal and state courts, as shown in Table 17. Table 13 shows that state courts were, if anything, less likely than federal courts to grant the requested fee amount.

and Non-Consumer Contracts, 92 *Judicature* 118 (Nov.–Dec. 2008); Theodore Eisenberg, Geoffrey P. Miller & Emily Sherwin, *Arbitration's Summer Soldiers: An Empirical Study of Arbitration Clauses in Consumer and Nonconsumer Contracts*, U. Mich J.L. Reform 871 (2008), reprinted in 4 *ICFAI U.J. of Alternative Disp. Resol.* 51 (2008).

³⁴Nicholas M. Pace, Stephen J. Carroll, Ingo Vogelsang & Laura Zakaras, *Insurance Class Actions in the United States* 9–10 (2007).

³⁵*Id.* at 47 (tbl. 3.16).

³⁶*Id.* at 54.

³⁷*Id.* at 55.

The absence of pro-class bias in state courts is consistent with sources cited above³⁸ and with additional research. In the RAND insurance study, of 564 attempted class actions, 12 percent led to a class settlement, with 12 percent of the 465 state court cases and 15 percent of the 98 federal court cases settling.³⁹ The modal outcome of a pretrial ruling for the defense did not significantly differ between federal and state courts.⁴⁰ The settlement rate for the cases with certified classes did not statistically significantly differ between federal and state courts.⁴¹

Thus, available evidence about comparative state-federal judicial performance in class actions consistently suggests no strong differences.

VIII. CONCLUSION

Over the course of 16 years, attorney fees in class action cases have displayed a strikingly strong linear relation to class recoveries. Significant associations also exist between the fee amount and both the fee method and the riskiness of the case. Despite CAFA's premise of differences between federal and state court treatment of class actions, our findings add to a growing body of evidence that little hard data support claims of significant state-federal differences. Core results persisted in mega-cases, those with recoveries of \$100 million or more, in cases with settlement classes, and in cases with and without objectors and opt outs. Fees and costs decline as a percent of the recovery as the recovery amount increases, suggesting the efficiency of this form of aggregate litigation. In this data set that likely includes the most significant class action decisions, those that lead to an available opinion, neither fees nor recoveries materially increased over time.

We hope that the information contained in this study can be of use to courts charged with the important and sometimes daunting task of setting counsel fees in class action and derivative cases.

³⁸Text accompanying notes 18–22 *supra*.

³⁹Pace et al., *supra* note 34, at 47 (tbl. 3.16).

⁴⁰*Id.*

⁴¹*Id.* at 48 (tbl. 3.17). The study did not distinguish between orders certifying the case for a class trial, those certifying for settlement purposes only, and those certifying on a provisional basis only. *Id.* at 17. Neil Marchand reports that plaintiffs' preferences for state or federal court in Michigan class actions vary depending on the governing substantive law, with preference for state courts in cases governed by state substantive law and preference for federal courts in cases governed by federal substantive law. Neil J. Marchand, *Class Action Activity in Michigan's State and Federal Courts*, available at <<http://ssrn.com/abstract=1334923>>.

EXHIBIT 35

PART 1

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ATTORNEYS' FEES IN CLASS ACTIONS: 2009-2013

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INTRODUCTION

When a class action settles (or, rarely, when it generates a litigated outcome), the court is faced with the job of awarding an appropriate attorneys' fee. The issue is important. If fees are set too low, counsel will not receive fair compensation for their services to the class. Worse yet, if fees are too low, then qualified counsel will not bring these cases in the first place. Injured parties will receive no *938 redress, and potential wrongdoers will no longer be deterred out of fear of potential class action liability. If fees are set too high, attorneys will receive an unjustified windfall, and some of the benefits that should have gone to class members will be diverted to class counsel. Excessive class counsel fees might also induce class counsel to bring weak cases. Setting an appropriate counsel fee is thus crucial to the effective functioning of class action litigation.

But how is the court to determine the fee? In ordinary cases, the fee is determined by private negotiation between lawyer and client, subject only to minimal regulations against unfair or exorbitant fees. Not so for class actions: In these cases, there is no negotiation over fees between class counsel and absent class members. There may be a retainer agreement between counsel and the representative plaintiff, which can provide valuable information, but the retainer agreement cannot bind absent class members. Unlike most issues presented to a court in litigation, moreover, the judge cannot rely on adversarial presentation to inform her of the possibilities for decision. In “common fund” cases, the fee is taken out of the class recovery.¹ At this stage, class counsel has a potential conflict with their own clients because each dollar that goes to the attorneys is a dollar that does not go to class members. Defendants, for their part, have no stake in how the settlement amounts are distributed between class counsel and class members. Even in consumer cases where the defendant agrees to pay the class's counsel fees, the adversarial process is disarmed because the settlement includes

the defendant's agreement to pay the fee up to a specified amount. Adversarial presentation is not completely absent: Objectors may take issue with the size of the fee request, for example. But even when their objections are bona fide, objectors can rarely mount an effective challenge to the fee request: They usually have limited time and resources and have limited access to the relevant facts.

***939** A review of other class action fee awards is central to the court's analysis.² But here, too, the courts face a difficulty. Over the past few decades, courts have ruled on thousands of class action fee requests. No judge has the time to engage in a comprehensive review of awards in similar cases, and the cases provided to the court by counsel may not be an unbiased sample of awards in similar cases because counsel's interest is in persuading the court that their fee request is reasonable.

Here is where the empirical analysis of law can offer genuine help. Although courts are not able to conduct a thorough review of awards in similar cases, empirical researchers can do so. The analysis of class counsel fees is thus a telling example of the potential benefits of empirical analysis of law as a discipline: It can both illuminate legal practices and help researchers better understand the operation of our legal system, and it can also offer judges concrete assistance when deciding important and difficult litigation issues.

Federal judges recognize the value of empirical research in the area of class action attorneys' fees and rely extensively on those studies when assessing fee requests in particular cases.³ The leading empirical studies are papers by two of the authors of the present paper (Eisenberg and Miller) published in 2004 and 2010, and a 2010 paper by Professor Brian Fitzpatrick.⁴ These authors use contrasting, but complementary, approaches to the topic. Eisenberg and Miller's studies are broad--covering all reported decisions in which fees could be determined over two time periods: The first Eisenberg and Miller paper reported on 362 opinions issued in the years 1993-2002,⁵ and the second Eisenberg and Miller paper examined data from nearly 700 common-fund settlements between 1993 and 2008.⁶ Fitzpatrick, in contrast, focused on a shorter time period but included unreported as ***940** well as reported cases: He analyzed nearly 700 common-fund settlements in 2006 and 2007.⁷ The whole of this literature is more than the sum of its parts; even though Eisenberg/Miller and Fitzpatrick examined somewhat different data sets, the empirical results they reported were remarkably consistent.

The data examined in these studies did not extend past 2008. Much has happened during the ensuing years--most importantly, the financial crisis of 2007-2009, and the legal, political, and attitudinal changes associated with that event.⁸ Those events were of such a magnitude as to raise the question whether the patterns observed in previous years would continue as they had before, or whether some significant long-term changes would be observed.

This study seeks to answer that question. We study 458 cases reported in the five years from 2009-2013. Our present study examined a larger number of cases per year than we had examined in previous research, due to the increased availability of PACER as a resource to supplement information that could be obtained from reported decisions alone. This resulted in more comprehensive coverage and also generated a somewhat greater number of smaller-value cases in the overall mix. The overarching headline of the present study is that despite the financial crisis and its many effects on our national life, little has changed in class action attorneys' fees. Average fee percentages are in line with prior studies. We continue to find a "scaling" effect, in the sense that fees as a percentage of the recovery tend to decrease as the size of the recovery increases--an effect that appears to be due to the economies of scale that can sometimes be achieved in very large cases.⁹ The key fee determinant continues to be the size of the class recovery: The amazingly regular relationship between these variables continues in the present data.¹⁰ As in the previous ***941** Eisenberg/Miller studies,¹¹ we find that fees are a function of the risk of the case--large fees in high-risk cases--although in the most recent data the effect is only weakly statistically significant. As in prior work,¹² we document an inverse relationship between the percentage fee and the lodestar multiplier (the enhancement factor that applies when fees are determined on the basis of hours and

hourly rate);¹³ Cases with lower percentage fees are associated with higher multipliers--a factor we associate with the economies of scale that can be realized for legal representation in large cases. Likewise, and for similar reasons, lodestar multipliers tend to rise with the size of class recovery.

I

EMPIRICAL ANALYSIS

Our data set consists of all class action cases reported during the 2009-2013 period from which usable information on counsel fees could be obtained.¹⁴ We harvested this data using the same technique as in our prior studies: We conducted a search of reported cases using *942 computerized legal research tools, and then supplemented that research by examining the federal court's PACER database in order to locate additional pertinent information.¹⁵ This resulted in a larger number of cases harvested and analyzed per year because the PACER data was more comprehensive in the more recent data. We begin by examining short- and long-term trends in recoveries and fees over time. We follow by investigating potential determinants of fee awards and fee percentages.

A . C lass R ecoveries and A ttorneys' Fees over T ime

Figure 1 shows mean and median recoveries and mean and median attorneys' fees from 2003-2013. The data have been adjusted for inflation and transformed into base 10 logarithms to account for the fact that the distributions are skewed heavily to the left with a few extreme outliers. Logging the data helps to normalize the distributions and reduce the influence of outliers on the mean. These units are interpretable as powers of 10. A value of 6, for instance, is equal to 10^6 , or \$1,000,000. Figure 1a shows recoveries and fees for all cases from 2003-2013. It appears from these data that recoveries and fees decreased over the 2003-2013 period, particularly after the onset of the financial crisis in 2007-2008. We urge caution, however, in interpreting Figure 1a. PACER, the database we used to build these data sets, became more available and more complete over the years we are examining. As a result, more cases with small recoveries came into the database over time. We therefore believe that the presence of more large-recovery cases in the earlier years of the series is driving up the mean and median values in the 2003-2008 data set compared to the 2009-2013 data set.

To account for this possibility, we split our sample into cases with recoveries of less than \$50 million (Figure 1b) and recoveries greater than \$50 million (Figure 1c). Figure 1b shows that among cases with recoveries of less than \$50 million, mean and median recoveries and fees held more or less constant between 2003 and 2013. A t-test indicates that the mean fee in 2013 was not statistically different than the mean fee in 2003. Figure 1c indicates that among cases with recoveries greater than \$50 million, recoveries and fees did not follow a discernable up or down pattern over the 2003-2013 period. It is therefore safe to say that recoveries and fees did not increase over the 2003-2013 period.

*943 FIGURE 1. CLASS RECOVERY AND ATTORNEY FEES OVER TIME, MEAN AND MEDIAN (LOG 10), 2003-20133

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Figure 2 presents median and mean recoveries and fees during the 2009-2013 period, the focus of this article. The data have been adjusted for inflation and disaggregated by cases with recoveries of less than \$100 million (Figures 2a and 2b) and cases with recoveries greater than \$100 million (Figures 2c and 2d). The majority of cases during the 2009-2013 period (92%) had recoveries under \$100 million. Figure 2a shows that the mean recovery for these smaller cases ranged from a low of \$9 million in 2013 to a high of \$12.2 million in 2010; the median recovery ranged from a low of \$2.9 million in 2013 to a high of \$5.1 million in 2010. Figure 2b shows that the mean fee award for cases with recoveries under \$100 million increased from \$2.6 million in 2009 to \$3.1 million in 2011, then decreased to \$2.1 million by 2013. Median fees, on the other hand, decreased steadily from a high of \$1.3 million in 2009 to a low of \$695,000 in 2013.

Looking now at cases with recoveries greater than \$100 million, we see greater volatility in annual changes in mean and median recoveries and fees. Figure 2c shows that the mean recovery decreased from \$467 million in 2009 to \$158 million in 2010, then went back up to \$322 million in 2011 and back down to \$249 million in 2012. The mean recovery then surged in 2013 to a staggering \$976 million--an increase that was driven primarily by an unprecedented settlement by Visa, *944 Mastercard, and other credit card companies worth \$7.25 billion.¹⁶ As a point of reference, note that only 1.5% of class action cases over the 2009-2013 period resulted in recoveries greater than \$500 million. The three largest recoveries after \$7.25 billion were \$1.08 billion,¹⁷ \$926 million,¹⁸ and \$730 million.¹⁹ Figure 2d depicts similar volatility in mean and median fees for cases with recoveries greater than \$100 million. The mean fee, for instance, decreased from \$74.4 million in 2009 to \$37.9 million in 2010. It then rose to \$86.7 million in 2011, decreased to \$51 million in 2012, and surged to \$124 million in 2013.

FIGURE 2. RECOVERIES AND FEES IN INFLATION-ADJUSTED DOLLARS, 2009-2013.

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B. Fee Method and the Strong Linear Fee-Recovery Relationship

Attorneys' fees are calculated using the lodestar method, a percentage method, a mix of the two methods, or by leaving the fee to *945 judicial discretion. The lodestar method involves multiplying the reasonable hours expended by attorneys by a reasonable hourly rate, then using certain factors to adjust the fee award up or down. The percentage method multiplies the gross recovery by a fixed percentage to determine the fee award. The mixed method usually employs a percentage method, which is then cross-checked with the lodestar method to ensure that the percentage method has not resulted in an excessively high fee. Table 1 shows the breakdown of cases by fee calculation methodology for cases in which the methodology could be determined.²⁰

TABLE 1. FREQUENCY OF METHOD USED, 2009-2013.

	N	% OF CASES IN TIME PERIOD
Lodestar	27	6.29
Percent	230	53.61
Both	164	38.23
Discretion	8	1.86
Total	429	100

The vast majority of fee awards during the 2009-2013 period were decided using the percentage method or the mixed method. The percentage method was used in 53.61% of cases and used in combination with a lodestar check in an additional 38.23% of cases. The use of the pure lodestar method, on the other hand, was used in only 6.29% of cases

during the 2009-2013 period. This is down from 13.6% during the 1993-2002 period²¹ and 9.6% during the 2003-2008 period.²²

Not surprisingly, we find that the strong positive relationship between fee award and recovery amount that we reported in analyses of 1993-2008 data²³ persists over the 2009-2013 period as well. Figure 3a shows the relationship between fee awards and class recoveries for all cases (n = 458) and Figure 3b shows the relationship between fee awards and recoveries for cases where recoveries were larger than \$100 million (n = 34). Both figures indicate that these variables are strongly correlated, even in cases with large recoveries. When all cases are assessed, the correlation coefficient is 0.99. This is comparable to *946 what we reported in our analyses of the 1993-2008 data.²⁴ When the 34 outlying cases are assessed independently, the correlation coefficient remains high at 0.89. This 0.89 correlation is stronger than the 1.77 correlation coefficient we reported for cases with large recoveries over the 1993-2008 period.²⁵ While both correlations are strong, the stronger correlation we find in the 2009-2013 data suggests that the percentage method is being used more often in large-recovery cases in recent years compared to past years.

FIGURE 3. FEES AS A FUNCTION OF RECOVERY, 2009-2013

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An important difference between Figures 3a and 3b is the slope of the regression lines. When all cases are assessed, the slope of the line in Figure 3a is nearly equal to one. This signifies that, in general, attorneys' fees increase in direct proportion to increases in recovery amounts. As recoveries become very large, however, the fee increases at a slower pace. So although the recovery size has a significant influence on the fee size, the fee-to-recovery ratio tends to be lower in cases with very large recoveries. How much lower? Figure 4 shows the mean and median fee-to-recovery ratios over the 2009-2013 period for all cases and for cases with recoveries larger than \$100 million. Between 2009 and 2013, the mean and median ratio fluctuated from a *947 minimum of 0.25 to a maximum of 0.30. The average fee percentage during this period, in other words, was between 25% and 30% of the gross recovery. On average, fees were 27% of gross recovery during the 2009-2013 period, which is higher than the average fee percentage of 23% that we reported in our analyses of the 1993-2008 period.²⁶ Figure 4 also shows that the fee-to-recovery ratio over the 2009-2013 period was lower for cases with recoveries larger than \$100 million. Looking only at cases with recoveries larger than \$100 million, we see that mean and median fee percentages varied from a low of 16.6% in 2009 to a high of 25.5% in 2011--variation that is probably due to the significantly smaller number of very large cases in our data set.

FIGURE 4. MEAN AND MEDIAN FEE PERCENTAGES, 2009-2013

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C. Scaling Effect

The flatter slope we observed in Figure 3b and the lower fee percentages we see in Figure 4 for cases with recoveries larger than \$100 million are indicative of a scaling effect that we discussed in prior studies.²⁷ Figure 5 presents more insight into this hypothesized scaling effect by breaking recoveries into deciles of about 45 cases each and showing corresponding mean and median fee percentages for cases with recovery amounts in those ranges. The first marker on the x-axis *948 of Figure 5, for instance, represents the first decile, or cases with recovery amounts under \$400,000. The second marker represents the second decile, or cases with recovery amounts in the range of \$400,000 to \$750,000, and so on all the way up to the tenth marker, which represents the tenth decile, or cases with recovery amounts exceeding \$67.5 million. Figure 5 indicates that as recovery amount increases, the ratio of the size of the attorneys' fee relative to the size of the recovery (i.e., the fee percentage) tends to decrease. This is especially true for recoveries in ranges higher than the fifth decile, in which the maximum amount is \$3.9 million. Average fee percentages range between 28% and 31% for cases

with recoveries of less than \$3.9 million. Beyond \$3.9 million, average fee percentages fall steadily from 27.4% in the sixth decile to 22.3% in the tenth decile.

FIGURE 5. FEE PERCENTAGE, BY CLASS RECOVERY AMOUNT (DECILE RANGES), 2009-2013

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Class recovery ranges are as follows. First decile: less than \$400,000; second decile: \$400,000-\$750,000; third decile: \$750,000-\$1.4 million; fourth decile: \$1.4-\$2.65 million; fifth decile: \$2.65-\$3.9 million; sixth decile: \$3.9-\$6.5 million; seventh decile: \$6.5-\$12 million; eighth decile: \$12-\$23.4 million; ninth decile: \$23.5-\$67.5 million; tenth decile: greater than \$67.5 million.

***949 D. Locale and Case Category**

Table 2 shows the 10 federal district courts with the most class action cases. By far the largest number of class action cases was brought in the Southern District of New York and the Northern District of California. The Southern District of New York accounted for 76 of the 458 cases in the data set and the Northern District of California accounted for 53. These are the only two districts that account for more than 10% of the total cases by themselves, and combined they account for over 25% of all cases. Only one other district, the Southern District of California, accounted for more than 5% of the cases in the sample. Table 2 shows some variation in the mean and median fee percentages, attorneys' fees, and recoveries awarded in these districts. Of note is the large average recovery in the Eastern District of New York. This \$381.96 million average recovery--nearly eight times larger than the overall average recovery--is driven by the record credit card settlement mentioned earlier. Examining median values, which are less sensitive to outliers than the mean, we see that the largest median recoveries were awarded in the District of New Jersey (\$11.38 million), the Eastern District of New York (\$9.25 million), and the District of Minnesota (\$8.95 million). The lowest average fee percentages were 24%, awarded in the Central District of California and the Western District of Washington; the highest were 30%, awarded in the Eastern District of Pennsylvania and the District of New Jersey.

Table 2 shows that the difference in fee percentages between state courts and federal courts that we discussed in our analyses of the 1993-2008 period has not carried over to the 2009-2013 period.²⁸ Note that the mean and median fee percentages in state courts were 27% and 30%, respectively, which are nearly identical to the fee percentages for federal courts. It is also important to note that only a small fraction of cases were brought to state courts--1.7% of all cases in our data set. Over the 1993-2008 period, more than 10% of cases were state cases.²⁹ This shift from state to federal courts suggests that the Class Action Fairness Act of 2005³⁰ may have been successful in routing class action cases away from state courts to federal courts.³¹

***950 TABLE 2. FEE AND CLASS RECOVERIES, BY LOCALE, 2009-2013**

COURT	N	RECOVERIES		FEES		FEE PERCENTAGES	
		MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (%)	MEDIAN (%)
S.D.N.Y.	78	63.77	3.7	11.14	1.04	27	31
N.D. Cal.	53	37.2	5.13	10.34	1.32	26	25
S.D. Cal.	24	6.03	2.58	1.45	0.61	25	25
C.D. Cal.	21	30.88	3.63	5.36	0.88	24	25
E.D.N.Y.	21	381.96	9.25	36.08	2.56	27	30
E.D. Pa.	19	15.74	4	4.92	1	30	30
D.N.J.	18	41.78	11.38	8.66	3.77	30	33
E.D. Cal.	16	1.52	0.93	0.45	0.25	31	31
D. Minn.	10	100.43	8.95	8.55	1.99	26	29
W.D. Wash.	9	27.53	2.75	5.83	0.55	24	21
State	8	33.08	21.5	8.37	5	27	30
Federal	6	14.25	1.79	4.26	0.57	29	30
Appeal	3	30.48	42	7.65	10.5	27	25
Other	172	21.5	3.39	5.38	0.99	27	29
Total	458	48.53	3.93	8.20	0.99	27	29

At the federal level, if the circuit has issued a binding opinion regarding fee awards, that opinion will dictate how fees are awarded within the circuit. Table 3 explores variation between circuits. This table presents the mean and median of the fee award, the recovery, and fee-to-recovery ratio (excluding state cases) for each circuit. The largest median recoveries were in the Fifth Circuit (\$13.75 million), the D.C. Circuit (\$11.64 million), and the First Circuit (\$8.2 million). The highest median fees were awarded in the Fifth Circuit (\$2.66 million), the D.C. Circuit (\$2.21 million), and the Seventh Circuit (\$2.17 million). Mean fee percentages ranged from a low of 19% in the D.C. Circuit to a high of 30% in the Eleventh Circuit. The D.C. Circuit and the Eleventh Circuit also registered the highest and lowest median fee percentages at 19% and 33%, respectively.

***951 TABLE 3. FEE AND CLASS RECOVERIES, BY FEDERAL CIRCUIT, 2009-2013**

CIRCUIT	N	RECOVERIES		FEES		FEE PERCENTAGES	
		MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (%)	MEDIAN (%)
1st	11	45.77	8.2	9.62	1.85	26	23
2nd	116	113.14	3.38	14.31	0.99	28	30
3rd	46	24.48	6.45	5.84	1.71	29	32
4th	22	25	3.66	5.9	0.91	26	25
5th	12	27.72	13.75	6.61	2.66	23	24
6th	23	23.2	5.2	6.38	1.5	26	30
7th	14	30.76	7.38	9.17	2.17	28	30
8th	21	50.74	4.2	5.04	1.11	29	32
9th	144	23.86	3	5.96	0.78	26	25
10th	18	30.07	6.21	7.5	1.36	27	25
11th	11	2.2	2.02	0.65	0.65	30	33
D.C.	6	34.72	11.64	6.57	2.21	19	19
Fed.	6	14.25	1.79	4.26	0.57	29	30
Total	450	48.8	3.83	8.2	1	27	29

Table 4 shows the mean and median of fee, recovery, and ratio of fee to recovery by case type. The most common class action case category during the 2009-2013 period was Fair Labor Standards Act (FLSA) cases with 108 cases. The next largest case categories were Securities (74), Consumer (52), Employment (25), Labor (23), Employee Retirement Income Security Act (ERISA) (22), Civil Rights (21), and Antitrust (19). Excluding Truth in Lending Act (TILA) cases--a category with data for just two cases, one of which had a relatively low recovery and the other a very high recovery--we find that the categories with the highest median recoveries were Antitrust (\$37.3 million) and Securities (\$22.25 million). Major case categories with the lowest median recoveries were Employment (\$670,000) and FLSA (\$1,025,000). Again excluding TILA cases, the highest median fees were awarded in Antitrust (\$10.25 million), Securities (\$5.16 million), and Products Liability (\$4.56 million) cases. Major case categories with the lowest median fee awards were Employment (\$170,000), FLSA (\$300,000), and Labor (\$330,000). The mean of the fee percentage ranged from a low of 23% in Securities, up to 28%-30% in Fair Labor Standards Act, Employment, Civil Rights, and Products Liability.

EXHIBIT 35
PART 2

*952 TABLE 4. FEE AND CLASS RECOVERIES, BY CASE CATEGORY, 2009-2013

CASE CATEGORY	N	RECOVERIES		FEES		FEE PERCENTAGES	
		MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (MILLIONS OF DOLLARS)	MEDIAN (MILLIONS OF DOLLARS)	MEAN (%)	MEDIAN (%)
Antitrust	19	501.09	37.3	64.1	10.25	27	30
Civil Rights	21	6.51	3	1.66	0.91	28	30
Consumer	52	18.8	8.75	4.81	2.21	26	25
Corporate	9	19.47	16	5.01	2.2	27	29
Derivative	6	18.68	2.88	5.61	0.77	29	31
Employment	25	5.6	0.67	1.63	0.17	28	30
ERISA	22	25.75	6.6	4.92	1.75	26	26
FCRA	4	1.34	1.41	0.34	0.36	29	29
FDCPA	2	0.41	0.41	0.1	0.1	26	26
FLSA	108	4.15	1.03	1.19	0.3	30	33
Health Care	5	72.08	4	14.64	1.21	28	30
Labor	23	9.44	1	2.17	0.33	29	30
Mass Tort	13	23.34	4.2	5.5	1.11	27	28
Other	60	13.27	4.14	3.11	1.04	25	25
Products Liability	10	24.99	16.2	7.47	4.56	28	30
Securities	74	106.45	22.25	18.75	5.16	23	25
TILA	2	168.4	168.4	25.75	25.75	23	23
Unknown	3	0.86	1	0.22	0.18	27	30

Figure 6 demonstrates that the positive relationship between fee amount and recovery amount is strong across case categories. This result is consistent with findings reported for the 1993-2008 period.³²

FIGURE 6. FEE AND RECOVERY BY CASE CATEGORY, 2009-2013

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*953 Table 5 shows the breakdown of the four largest case types among the 10 district courts with the most class action cases. These case types include FLSA, Securities, Consumer, and Employment. For each case category, the first column (*N*) shows how many cases of that type were brought in various districts, while the second column (%) shows the percentage of each category's cases that were brought in a particular district. The large percentage of cases in the Southern District of New York is mostly attributable to its dominance in FLSA and Securities cases--the two most common case categories. Nearly 40% of all FLSA cases and more than 28% of Securities cases were brought in the Southern District of New York. The Southern District of New York also has a sizeable fraction of Employment cases. The Northern District of California dominates in Consumer cases and Employment. It holds twice as many Consumer cases as the District of New Jersey and nearly twice as many Employment cases as the Eastern District of California.

TABLE 5. CLASS ACTION CASES BY LOCALE AND CASE CATEGORY, 2009-2013

LOCALE	ALL CATEGORIES		FLSA		SECURITIES		CONSUMER		EMPLOYMENT	
	N	%	N	%	N	%	N	%	N	%
S.D.N.Y.	78	17.03	43	39.81	21	28.38	0	0	3	12
N.D. Cal.	53	11.57	10	9.26	5	6.76	10	19.23	7	28
S.D. Cal.	24	5.24	3	2.78	3	4.05	4	7.69	1	4
C.D. Cal.	21	4.59	5	4.63	2	2.70	4	7.69	3	12
E.D.N.Y.	21	4.59	8	7.41	4	5.41	2	3.85	1	4
E.D. Pa.	19	4.15	2	1.85	3	4.05	3	5.77	0	0
D.N.J.	18	3.93	3	2.78	3	4.05	5	9.62	0	0
E.D. Cal.	16	3.49	3	2.78	0	0	0	0	4	16
D. Minn.	10	2.18	0	0	1	1.35	1	1.92	0	0
W.D. Wash.	9	1.97	0	0	1	1.35	2	3.85	0	0
State	8	1.75	0	0	2	2.70	1	1.92	0	0
Federal	6	1.31	0	0	0	0	0	0	1	4
Appeal	3	0.66	1	0.93	1	1.35	0	0	0	0
Other	172	37.55	30	27.78	28	37.84	20	38.46	5	20

Total Number of Cases	458	100	108	100	74	100	52	100	25	100
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E. Fee Requests

In 78% of cases, the requested fee was awarded. Figure 7a shows the strong positive relationship between the fee requested and the fee awarded for all cases in our data set. This relationship holds up not only in typical cases with recoveries less than \$100 million (Figure 7b), but also in cases with recoveries greater than \$100 million (Figure 7c). Exact fee requests were not granted in 100 of the 452 cases examined. In only six of those cases did the courts grant a fee that was higher than the fee requested, and most of those were only nominally ^{*954} higher.³³ In the remaining 94 cases, the fee granted was less than what was requested. The fee granted was between 1% and 25% lower than the amount requested in 47 of the 94 cases, between 26% and 49% lower than the amount requested in 28 of the 94 cases, and between 50% and 83% lower than the amount requested in just nine of the 94 cases. This tells us that even when courts do not grant fees exactly as requested, they typically award amounts that are close to the amount requested. Only in rare instances do courts grant fees that are significantly lower than the amount requested.

FIGURE 7. FEE AWARDS AS A FUNCTION OF FEE REQUESTS, 2009-2013

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Courts may be willing to grant fee requests because fee requests are standardized around certain common fee percentages, as evidenced by Figure 8. Figure 8 shows the frequency with which particular fee percentages were requested during the 2009-2013 period. By far, the most popular fee percentage requested was between 33% and 34%—i.e., one-third—of the gross recovery. Nearly 29% of cases were in the 33%-34% fee range. The next most popular fee requests were 25% and 30% of gross recovery. A 25% fee request was made in 12% of cases, and a fee request of 30% was made in 11% of cases. ^{*955} Overall, a fee request between 25% and 34% of the gross recovery was made in 72% of cases during the 2009-2013 period.

FIGURE 8. COMMON FEE REQUESTS, 2009-2013

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Figure 9 suggests that judges are more likely to scrutinize fee requests in high-recovery cases. Here, we see that the likelihood that a fee request will be granted decreases as the size of the recovery increases. Cases in the two lowest-recovery deciles, for instance, had requested fees granted 85% of the time, compared to 60%-71% of the time in the two highest-recovery deciles.

^{*956} FIGURE 9. PERCENTAGE OF CASES WHERE FEE GRANTED WAS SAME AS FEE REQUESTED, BY CLASS RECOVERY AMOUNT (DECILE-RANGES), 2009-2013

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Note: Class recovery ranges are as follows. First decile: less than \$400,000; second decile: \$400,000-\$750,000; third decile: \$750,000-\$1.4 million; fourth decile: \$1.4-\$2.65 million; fifth decile: \$2.65-\$3.9 million; sixth decile: \$3.9-\$6.5 million; seventh decile: \$6.5-\$12 million; eighth decile: \$12-\$23.4 million; ninth decile: \$23.5-\$67.5 million; tenth decile: greater than \$67.5 million.

Are fee requests granted in full at the same rate, or do grant rates vary according to case type or jurisdiction? Table 6 explores these questions. It discloses a surprising degree of variation. Fees were granted in full in each of the 10 Products Liability cases in the data set but only granted in full in half of the Truth in Lending, Fair Credit Reporting, and Fair Debt Collection Practices cases. The District of New Jersey granted more than 94% of fee requests in full, compared

with the Northern District of California, which granted only about 57%. The differences might be due to norms or conventions that arise in specialized contexts or particular courts.

***957 TABLE 6. PERCENTAGE OF CASES FULL FEE GRANTED, BY CASE TYPE AND DISTRICT, 2009-2013**

A. Case Type

	N	FULL FEE REQUEST GRANTED (% OF CASES)
Products Liability	10	100.0
FLSA	108	87.0
Labor	23	87.0
Derivative	6	83.3
Health Care	5	80.0
Other	60	80.0
Corporate	9	77.8
Mass Tort	13	76.9
Antitrust	19	73.7
Consumer	52	73.1
Civil Rights	21	71.4
Securities	74	70.3
Employment	25	68.0
Unknown	3	66.7
ERISA	22	63.6
FCRA	4	50.0
FDCPA	2	50.0
TILA	2	50.0

B. District

	N	FULL FEE REQUEST GRANTED (% OF CASES)
D.N.J.	18	94.4%
E.D. Pa.	19	89.5%
S.D. Cal.	24	87.5%
E.D.N.Y.	21	85.7%
E.D. Cal.	16	81.3%
S.D.N.Y.	78	74.4%
W.D. Wash.	9	77.8%
C.D. Cal.	21	61.9%
D. Minn.	10	60.0%
N.D. Cal.	53	58.5%

***958 F.Risk**

Eisenberg and Miller's study of 1993-2008 data presented evidence in support of the hypothesis that high-risk cases are associated with higher percentage fees.³⁴ They found that for each case category except one, cases with high risk resulted in a higher fee percentage on average.³⁵ Table 7, Panel A suggests that the association between risk and fee percentage continues in the 2009-2013 data. However, the association is not as clear-cut. In the four largest case categories (FLSA, Consumer, Employment, and Securities), only high-risk cases in the Consumer and Employment categories had significantly higher fee percentages compared to low- and medium-risk cases. FLSA cases show a small increase in fee percentage for high-risk cases, while Securities cases actually show a lower fee percentage for high-risk cases. Table 7, Panel B shows that when all categories are combined, we see little difference between the mean fee percentages in high-risk cases and those in low- and medium-risk cases. The high-risk cases have a mean fee percentage that is 1% greater than the low- and medium-risk cases, and that difference is not statistically significant. High-risk cases, on the other hand, do have larger fee awards. The mean fee award for high-risk cases was \$15.3 million, while the mean fee award for low- and medium-risk cases was \$4.76 million--a statistically significant difference ($p < 0.05$). The median fee awards are also different. The median fee award for high-risk cases was \$1.73 million, while the median fee award for low- and medium-risk cases was \$943,000--a difference of \$787,000 ($p < 0.05$).

***959 TABLE 7. MEAN FEE PERCENTAGE, BY RISK LEVEL, 2009-2013**

A. By Case Category

	HIGH RISK		LOW MEDIUM RISK	
	N	MEAN FEE %	N	MEAN FEE %
ERISA	9	27.21	12	24.52
FCRA	1	21.42	3	31.68
FDCPA	1	27.87	1	25
FLSA	23	30.41	79	29.99
TILA	1	15.25	1	30
Antitrust	10	26.49	5	24.91
Civil Rights	4	32.5	12	27.2
Consumer	17	27.27	32	24.27
Corporate	5	30.46	4	22.02
Derivative	4	26.55	1	36.69
Employment	4	30.96	20	27.31
Health Care	2	26.67	3	28.53
Labor	12	29.11	10	28.57
Mass Tort	2	27.92	9	26.95
Products Liability	-	-	10	28.47
Securities	20	23.06	50	24.04
Other	8	28.74	47	24.58

B. All Categories Combined

	N	MEAN FEE %	MEAN FEE AWARD (MILLIONS OF DOLLARS)	MEDIAN FEE AWARD (MILLIONS OF DOLLARS)
High Risk	123	27.6	15.3	1.73

Low/Medium Risk	302	26.7	4.76	0.943
Difference		0.9	10.54	0.787

G. Opt-Outs and Objectors

Table 8 reports the relationship between the fee percentage and two class action case characteristics: whether any objection was filed (Panel A) and whether any class members opted out (Panel B). We find that cases with no objectors obtained a statistically significantly higher fee percentage on average than cases with objectors ($p < 0.01$), ***960** but a lower average fee award. The mean fee award for cases with objectors was \$13.2 million compared to a mean fee award of \$3.73 million for cases with no objectors. This difference is statistically significant ($p < 0.01$). Cases with no opt-outs generated a statistically significantly higher fee percentage on average than cases with opt-outs ($p < 0.01$), but a lower average fee award. The mean fee award for cases with opt-outs was \$6.79 million compared to a mean fee award of \$2.22 million for cases with no opt-outs.

TABLE 8. OBJECTORS AND OPT-OUTS, 2009-2013

A. Presence of an Objector

	N	FEE %	MEAN FEE AWARD (MILLIONS OF DOLLARS)	MEDIAN FEE AWARD (MILLIONS OF DOLLARS)
Objection Filed	269	24.53	13.2	2.85
No Objector	189	28.24	3.73	0.55
Difference		-3.70	9.45	2.3

B. Number of Opt-Outs

	N	FEE %	MEAN FEE AWARD (MILLIONS OF DOLLARS)	MEDIAN FEE AWARD (MILLIONS OF DOLLARS)
One or More Opt-Outs	187	26.49	6.79	1.20
No Opt-Outs	91	28.82	2.22	0.35
Difference		-2.32	4.57	0.85

We also examined the frequency of objectors and opt-outs. As in prior work,³⁶ we find that both opt-outs and objectors were uncommon. Objectors averaged only 0.115% of the class in the 286 cases for which this information was available--approximately one objector for every 1000 class members. Opt-outs averaged 0.544% of the class in the 244 cases for which this information was available--approximately one opt-out per 200 class members.

***961** H. Soft Relief

Some class action settlements include items of “soft” relief--our term for nonpecuniary relief that is not measured in the dollar value obtained for the class. One might expect that the presence of such soft relief would lead to larger attorneys' fees because courts would reward counsel for obtaining a result that benefited class members, even if the amount of the benefit could not be quantified.³⁷ Table 9 examines this question and finds that percentage fees tended to be lower in cases where soft relief constituted an important part of the recovery obtained by the class, although the differences were only weakly significant for mean fee percentage ($p = 0.066$) and not significant for mean fee amount ($p = 0.8905$).

TABLE 9. THE IMPACT OF SOFT RELIEF ON FEES, 2009-2013

	N	MEAN FEE %	MEAN FEE AWARD (MILLIONS OF DOLLARS)	MEDIAN FEE AWARD (MILLIONS OF DOLLARS)
Not Significant	371	27.44	6.39	0.98
Significant	55	25.65	6.8	1.2

I. Settlement Classes

Many class actions are resolved as settlement classes--meaning that the parties settle the class certification issue at the same time as they settle the merits, and present both agreements to the judge for approval at the fairness hearing.³⁸ Settlement classes were common in our data, constituting approximately three-quarters of the cases: Of the 422 cases for which data were available, 318 were settlement classes and 104 were litigation classes. Table 10 shows significant variation in the frequency of settlement classes across case types.

***962** TABLE 10. FREQUENCY OF SETTLEMENT CLASSES BY CASE TYPE, 2009-2013

	TOTAL NUMBER OF CASES BY TYPE	NUMBER OF SETTLEMENT CLASSES	% SETTLEMENT CLASSES
ERISA	20	15	75.00
FCRA	4	4	100.00

FDCPA	2	0	0.00
FLSA	99	83	83.84
Other	55	37	67.27
TILA	2	2	100.00
Antitrust	16	11	68.75
Civil Rights	19	14	73.68
Consumer	51	39	76.47
Corporate	7	3	42.86
Derivative	4	2	50.00
Employment	23	19	82.61
Health Care	5	3	60.00
Labor	23	17	73.91
Mass Tort	10	7	70.00
Products Liability	10	9	90.00
Securities	69	51	73.91
Unknown	3	2	66.67

Table 11 shows that settlement classes were significantly associated with higher mean fee amount ($p = 0.0069$), but not with mean fee percentage ($p = 0.695$).

TABLE 11. THE IMPACT OF SETTLEMENT CLASSES ON FEES, 2009-2013

	N	MEAN FEE %	MEAN FEE AWARD (M ILLIONS OF DOLLARS)	MEDIAN FEE AWARD (M ILLIONS OF DOLLARS)
No	104	26.81	16.1	1.07
Yes	318	27.15	5.6	0.99

***963 J. Costs and Expenses**

As we found with the previous data,³⁹ costs and expenses tended to make up a relatively low percentage of the recovery. For the 379 cases in this data set where data were available, the median costs as a percentage of recovery were 1.71%, while mean costs as a percentage of recovery were 3.93%. To dig deeper, we explored cost as a function of three variables: recovery, fee award, and the age of the case. These relationships are shown in Figure 10. The graphs show a strong association between costs and both recovery ($r = 0.81$) and fees ($r = 0.81$), and a relatively strong association between costs and age ($r = 0.43$).

EXHIBIT 35

PART 3

FIGURE 10. COSTS AS A FUNCTION OF RECOVERY, FEES, AND AGE, 2009-2013

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K. Fee Methods and Multipliers

Although the pure lodestar method was rarely used during the 2009-2013 period, courts frequently used the percentage method with a lodestar check. This means computing the lodestar fee and adjusting the percentage fee if it markedly deviates from the lodestar calculation. The multiplier is calculated by dividing the fee award by the ^{*964} lodestar. Table 12 reports the average multiplier in each federal circuit and for each case category. The mean multipliers ranged from 0.57 in the Eleventh Circuit to 2.52 in the First Circuit, and from 0.52 in FDCPA cases to 4.61 in Health Care cases. These two categories, however, have one and two cases, respectively, so they are not necessarily representative of the larger sample; of categories with at least five cases, the mean multiplier ranged from 0.92 for ERISA cases to 1.81 for Securities cases. In contrast to our analysis of 1993-2008 data,⁴⁰ we did not find a statistically significant difference in the multiplier if there was a fee-shifting statute available: The 42 cases available with no statute had an average multiplier of 1.82, and the 49 cases with a fee-shifting statute had an average multiplier of 1.63.

965 TABLE 12. MEAN MULTIPLIER BY CIRCUIT AND CASE CATEGORY, 2009-2013*A. Circuit**

	N	MEAN MULTIPLIER
1 st	5	2.4
2 nd	76	1.93
3 rd	41	1.35
4 th	11	1.4
5 th	6	1.75
6 th	16	1.13
7 th	7	1.76
8 th	17	1.47
9 th	97	1.26
10 th	9	1.18
11 th	4	0.57
Federal	2	1.96
D.C.	2	1.33

Total	294	1.48
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B. Case Type

	N	M E A N M U L T I P L I E R
Antitrust	15	1.61
Civil Rights	10	1.51
Consumer	36	1.32
Corporate	6	1
Derivative	3	0.74
Employment	16	1.28
ERISA	15	0.88
FCRA	4	1.72
FDCPA	1	0.52
FLSA	68	1.54
Health Care	2	4.61
Labor	13	1.06
Mass Tort	8	1.18
Other	33	1.65
Products Liability	8	1.08
Securities	57	1.79
TILA	2	1.94
Total	297	1.48

***966** Figure 11 shows the relationship between fee percentage and multiplier and the relationship between recovery size and the multiplier. In our previous studies of the 1993-2002 and 2003-2008 periods, we hypothesized and presented evidence for a negative correlation between the multiplier and the fee percentage.⁴¹ The logic was that a high multiplier indicates that the fee percentage is too high under the percentage method and should be brought into check. As Figure 11a shows, the relationship still appears to be negative during the 2009-2013 period; however, the relationship is weaker. We suspect that this change from prior periods could be due to increasing convergence in the legal community around acceptable fee percentages. Figure 11b shows the relationship between the multiplier and recovery amount. As we found previously,⁴² higher multipliers are associated with higher recoveries.

FIGURE 11. RELATIONSHIPS BETWEEN MULTIPLIERS AND FEE PERCENT & RECOVERY SIZE, 2009-2013

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Table 13 shows the mean and standard deviation of the multiplier by recovery size deciles. Here we see that the multiplier is relatively low in the first two deciles and relatively high in the last decile. It is worth noting that the standard deviation of the multiplier tends to *967 increase with the recovery amount, suggesting that there is more variation in the multiplier at higher recovery levels.

TABLE 13. MEAN, MEDIAN, AND STANDARD DEVIATION OF MULTIPLIER, CONTROLLING FOR CLASS RECOVERY AMOUNT, 2009-2013

RANGE OF CLASS RECOVERY AMOUNT (M ILLIONS)	M E A N	M E D I A N	S D	N
Recovery <=0.4	0.85	0.67	0.52	33
Recovery > 0.4 <= 0.75	0.72	0.74	0.32	25
Recovery > 0.75 <= 1.4	1.49	1.42	0.93	20
Recovery > 1.4 <= 2.65	1.26	1.15	0.79	29
Recovery > 2.65 <= 3.9	1.28	1.2	0.75	26
Recovery > 3.9 <= 6.5	1.37	1.03	1.28	29
Recovery > 6.5 <=12	1.48	1.09	0.98	34
Recovery > 12 <= 23.4	1.86	1.35	1.58	29
Recovery > 23.4 <= 67.5	1.65	1.5	1.27	32
Recovery > 67.5	2.72	1.5	3.59	35

L . R egression Analysis

This section uses regression analysis to explore the effects of some of the variables mentioned above on the fees awarded in class action settlements. The dependent variable is the log-transformed fee award. The key independent variables are the log-transformed gross recovery amount and fee request, both of which we found to be strongly correlated with the fee award in figures presented earlier. Our models also control for variables that appear as if they might have an impact on the fee, such as the costs and expenses requested by the plaintiffs' attorneys, and dummy variables identifying high-risk cases, cases where the pure lodestar method was used in lieu of the percentage method or percentage method with lodestar check, cases where opt-outs and objectors were present, and cases where the defendant paid the fee. In some models we included fixed effects for case categories and federal circuits. Table 14 presents summary statistics for the dependent and independent variables.

*968 TABLE 14. SUMMARY STATISTICS

VARIABLE	N	M E A N	STD .DEV.	M I N	M A X
Fee Award (log)	458	6.061025	0.8359642	3.736243	8.744136
Gross Recovery (log)	458	6.648762	0.8789425	4.230449	9.860338
Fee Request (log)	454	6.089077	0.8392878	3.736243	8.744136
Costs and Expenses (log)	371	4.961283	0.9602119	2.522444	7.940662
High Risk Case	425	0.2894118	0.4540238	0	1
Lodestar Method Used	429	0.0629371	0.2431333	0	1
Incentive Bonus (log)	318	4.202167	0.5929221	1.431364	7.164353
Case with Objectors	343	0.4489796	0.4981168	0	1
Case with Opt-Outs	278	0.6726619	0.4700881	0	1
Soft Relief Significant	426	0.129108	0.3357137	0	1
Settlement Class	422	0.7535545	0.4314525	0	1
Defendant Pays Fee	453	0.1059603	0.308127	0	1

Table 15 presents regression results. Considering the strong positive relationships we observed in Figures 3a and 7a, we are not surprised to find that gross recovery and fee request are reliable predictors of fee award. Models 1 and 2 show that a one-unit increase in the gross recovery or fee request results in a near-one-unit increase in the fee awarded. The R-squared for these models demonstrates that on their own, gross recovery and fee request account for 97.7% and 99% of variance in the dependent variable, respectively. When we put the variables for gross recovery and fee request on the right-hand side of the same regression model, we notice that the variable for fee request has a larger substantive effect on the dependent variable than does the gross recovery variable. This may be due to the fact that the size of the gross recovery influences the amount requested by the plaintiffs' attorneys, and the amount requested then tends to determine the fee award. The strong association between fee award and both the recovery amount and the fee request are robust to the inclusion of several additional controls (Models 4-8). These relationships continue to hold up in models where fixed effects for case category and circuit are added (Models 9-11).

Other variables that appeared to be associated with higher or lower fees in Sections A-M also demonstrate statistically significant associations in the regression models, although not to the extent that the variables for gross recovery and fee request do. First, we find that all else equal, cases determined by the pure lodestar method result in a lower fee on average than cases determined by the percentage method or the percentage method with lodestar check (Models 6-11).

*969 The difference between fees determined by the lodestar method or others, however, is substantively small--only about 1% on average on the log 10 scale in which the dependent variable has been coded. Second, we find evidence that high-risk cases are more likely to result in higher fees (Model 5). The substantive effect of this variable, however, is small compared to the effects of the fee requested and gross recovery variables. In crosstabs presented in Table 8, we observed that cases with opt-outs and cases without objectors had higher average fees. The statistically significant differences we reported earlier, however, are not robust to the addition of control variables. We also included a dummy variable for cases where the defendant paid the fee. Although we found this variable to have a statistically significant effect in our

analyses of the 1993-2002 period,⁴³ it is not statistically significant here. The presence of soft relief or settlement classes is not statistically significant. Finally, the size of the incentive award is significantly associated with higher fee awards in most specifications of the model.

CONCLUSION

In sum, our regression models show that the size of the recovery and the fee requested are by far the strongest predictors of attorneys' fees in class actions. The strong associations hold up across locales and case types and are robust to the inclusion of several control variables. We also find that high-risk cases are, all else equal, associated with somewhat higher fees on average, and that cases that use the pure lodestar method are associated with somewhat lower fees. A pronounced scaling effect exists: Higher recoveries are associated with lower percentage fees and higher lodestar multipliers. There appears to be a trend towards convergence in fee awards, indicating that courts are gaining experience in this area and, possibly, that they are relying more heavily on the robust empirical literature on fee awards. Overall, our data are broadly consistent with the results of studies of fee awards in earlier time periods. Together with other empirical research, the results of our study can provide useful information to attorneys, judges, and policymakers interested in rationalizing and improving the procedures and methodology used for calculating fees in class action cases.

***970 TABLE 15. REGRESSION RESULTS. DEPENDENT VARIABLE: FEE AWARD (LOG 10)**

VARIABLES	(1) FEE (LOG)	(2) FEE (LOG)	(3) FEE (LOG)	(4) FEE (LOG)	(5) FEE (LOG)	(6) FEE (LOG)	(7) FEE (LOG)	(8) FEE (LOG)	(9) FEE (LOG)	(10) FEE (LOG)	(11) FEE (LOG)
Gross Recovery (log)	0.940 ^{aaa1}		0.230 ^{aaa1}	0.148 ^{aaa1}	0.142 ^{aaa1}	0.133 ^{aaa1}	0.166 ^{aaa1}	0.182 ^{aaa1}	0.183 ^{aaa1}	0.196 ^{aaa1}	0.196 ^{aaa1}
	(0.00677)		(0.0268)	(0.0286)	(0.0285)	(0.0289)	(0.0337)	(0.0416)	(0.0461)	(0.0434)	(0.0448)
Fee Request (log)		0.992 ^{aaa1}	0.754 ^{aaa1}	0.832 ^{aaa1}	0.832 ^{aaa1}	0.842 ^{aaa1}	0.802 ^{aaa1}	0.797 ^{aaa1}	0.798 ^{aaa1}	0.784 ^{aaa1}	0.795 ^{aaa1}
		(0.00478)	(0.0281)	(0.0298)	(0.0297)	(0.0300)	(0.0345)	(0.0430)	(0.0472)	(0.0448)	(0.0458)
Costs and Expenses (log)				0.00929	0.0114 ^{a1}	0.0102	0.0107	0.00313	0.000710	-0.00385	-0.000486
				(0.00673)	(0.00676)	(0.00682)	(0.00734)	(0.00887)	(0.00932)	(0.00913)	(0.00949)
High Risk Case					0.0179 ^{aa1}	0.0146 ^{a1}	0.0240 ^{aaa1}	0.0224 ^{a1}	0.0200	0.0183	0.0263 ^{aa1}
					(0.00842)	(0.00844)	(0.00923)	(0.0122)	(0.0127)	(0.0126)	(0.0128)
Lodestar Method Used						-0.0799 ^{aaa1}	-0.0756 ^{aaa1}	-0.0555 ^{aaa1}	-0.0608 ^{aa1}	-0.0749 ^{aaa1}	-0.109 ^{aaa1}
						(0.0161)	(0.0200)	(0.0234)	(0.0267)	(0.0265)	(0.0313)
Incentive Bonus (log)							0.0269 ^{aaa1}	0.0282 ^{aaa1}	0.0274 ^{aaa1}	0.0224 ^{aa1}	0.0146
							(0.00799)	(0.00976)	(0.0102)	(0.0101)	(0.0114)
Case with Objectors								-0.0225 ^{a1}	-0.0185	-0.00795	-0.0150

								(0.0125)	(0.0130)	(0.0125)	(0.0141)
Case with Opt-Outs								-0.0143	-0.0122	-0.0127	-0.00337
								(0.0122)	(0.0127)	(0.0124)	(0.0125)
Soft Relief Significant									-0.0143	-0.00734	-0.000316
									(0.0168)	(0.0166)	(0.0195)
Settlement Class									-0.0102	-0.0149	-0.00938
									(0.0151)	(0.0148)	(0.0157)
Defendant Pays Fee									-0.000656	-0.0252	-0.0259
									(0.0257)	(0.0247)	(0.0243)
Constant	-0.189 ^{aa1}	0.0154	-0.0626 ^{aa1}	-0.0366	-0.0153	-0.00633	-0.0968 ^{aa1}	-0.124 ^{aa1}	-0.113 ^{a1}	-0.0670	-0.131 ^{a1}
	(0.0454)	(0.0294)	(0.0287)	(0.0299)	(0.0303)	(0.0307)	(0.0415)	(0.0582)	(0.0631)	(0.0676)	(0.0687)
Category Fixed Effects	No	No	No	No	No	No	No	No	Yes	No	Yes
Circuit Fixed Effects	No	No	No	No	No	No	No	No	No	Yes	Yes
Observations	458	454	454	371	353	339	242	142	136	136	136
R-squared	0.977	0.990	0.991	0.993	0.993	0.993	0.993	0.993	0.993	0.994	0.996
Standard errors in parentheses											

Footnotes

aa1 p<0.01,

aa1 p<0.05,

a1 p<0.10

Footnotes

a1 Professor Eisenberg was the Henry Allen Mark Professor of Law and Adjunct Professor of Statistical Sciences at Cornell University. Although Professor Eisenberg died before this paper was written, we have followed the methodology he developed in earlier papers on attorneys' fees co-authored with Professor Miller. He is in every sense a coauthor of the present paper. The authors would like to thank the excellent research assistants who contributed to this project: Lauren Citrome, Colin S. Huston-Liter, Adam Karman, Jacob Millikin, Jack B. Neff, Joshua Matthew Pirutinsky, Jeremy Schiffres, and Peter Van Valkenburgh.

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1 *See* Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980) (noting that the common fund doctrine derives from the equitable principle that those benefitting from a fund should share costs); Florida v. Dunne, 915 F.2d 542, 545 (9th Cir. 1990) (endorsing percentage-of-recovery method for common fund calculation); Brown v. Phillips Petroleum Co., 838 F.2d 451, 454 (10th Cir. 1988) (exploring the “basic differences in the rationale for calculating attorneys’ fees in common fund cases”); *In re* Fine Paper Antitrust Litig., 751 F.2d 562, 583 & n.19 (3d Cir. 1984) (noting that there are different public policy considerations in common fund and fee-shifting cases); *In re* Smithkline Beckman Corp. Sec. Litig., 751 F. Supp. 525, 532-33 (E.D. Pa. 1990) (explaining the rationale behind using different fee-setting methods in common fund and statutory fee-shifting cases); Mashburn v. Nat’l Healthcare, Inc., 684 F. Supp. 679, 689 (M.D. Ala. 1988) (explaining the differences between common fund and statutory fee-setting).

2 *See, e.g.*, Johnson v. Ga. Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974) (referring to factors for fee calculation, including “[a]wards in similar cases” (emphasis omitted)).

3 *See, e.g.*, *In re* Heartland Payments Sys., Inc. Customer Data Sec. Breach Litig., 851 F. Supp. 2d 1040, 1080-81 (S.D. Tex. 2012) (“District courts increasingly consider empirical studies analyzing class-action-settlement fee awards to set the appropriate percentage benchmark or to test the reasonableness of a given benchmark Using these studies alleviates the concern that the number selected is arbitrary.”).

4 Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. EMPIRICAL LEGAL STUD. 27 (2004) [hereinafter Eisenberg & Miller I]; Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. EMPIRICAL LEGAL STUD. 248 (2010) [hereinafter Eisenberg & Miller II]; Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. EMPIRICAL LEGAL STUD. 811 (2010).

5 Eisenberg & Miller I, *supra* note 4, at 45.

6 *See* Eisenberg & Miller II, *supra* note 4, at 251 (stating that the total sample size was 689 cases).

7 *See* Fitzpatrick, *supra* note 4, at 813 (reviewing 688 published and unpublished class action settlements).

8 The financial crisis exacerbated public distrust in financial institutions and thus might have resulted in higher class action awards against those institutions, or against big business in general, and might have increased counsel fees as a way of rewarding and incentivizing litigation against these institutions. Studies of the crisis are legion; for a sampling, see, for example, BEN S. BERNANKE, *THE FEDERAL RESERVE AND THE FINANCIAL CRISIS* (2013); ALAN S. BLINDER, *AFTER THE MUSIC STOPPED: THE FINANCIAL CRISIS, THE RESPONSE, AND THE WORK AHEAD* (2013); TIMOTHY F. GEITHNER, *STRESS TEST: REFLECTIONS ON FINANCIAL CRISES* (2014); GARY B. GORTON, *SLAPPED BY THE INVISIBLE HAND: THE PANIC OF 2007* (2010); MERVYN KING, *THE END OF ALCHEMY: MONEY, BANKING AND THE FUTURE OF THE GLOBAL ECONOMY* (2016); MICHAEL LEWIS, *PANIC: THE STORY OF MODERN FINANCIAL INSANITY* (2009).

9 Eisenberg & Miller I, *supra* note 4, at 28; Eisenberg & Miller II, *supra* note 4, at 263-64.

10 Eisenberg & Miller I, *supra* note 4, at 28; Eisenberg & Miller II, *supra* note 4, at 250.

11 Eisenberg & Miller I, *supra* note 4, at 77; Eisenberg & Miller II, *supra* note 4, at 279.

12 Eisenberg & Miller I, *supra* note 4, at 39, 55; Eisenberg & Miller II, *supra* note 4, at 273-74.

13 *See infra* Section I.B describing fee calculation methods.

14 We conducted our research as follows. First, we searched the Westlaw? database for all state and federal decisions, using the search term: ““settlement” & “class action” & approv! & attorney! / 2 fee! & DA(aft 1-1-2000) & TI(“et al.” “et anon.” other! “behalf” “similarly” “class” representative! “in re” derivative! shareholder!). We reviewed the results of that search and weeded out cases that were obviously not relevant (for example, lawsuits that were neither class action nor derivative cases). Where necessary, we supplemented the information obtained from a review of the published opinion by information obtained about the case from the federal courts PACER database. We coded the cases for a variety of variables. Most of these have a straightforward interpretation. The class recovery was the total quantified recovery for the class. This included

monetary recovery and other non-monetary recovery the value of which was quantified by the court. The fee was the fee awarded by the court. We coded the method of fee calculation by a review of the methodology used by the court. Sometimes the court was explicit about its methodology; at other times, the methodology could be determined by an analysis of the court's calculations. In many cases, the court used both the percentage and the lodestar methods as cross checks. Case types were usually straightforward to code; in rare cases of ambiguity the coder used judgment to assign the case to the category that was most pertinent. As in the previous Eisenberg and Miller studies, we coded risk as "high" if the court described it in these terms in the opinion awarding fees. A case was coded as "low" in risk if the court described it in these terms or if the case followed on criminal or civil enforcement actions involving the same or overlapping facts. We coded a settlement as involving "soft relief" if it included a significant element of nonpecuniary relief that was not measured in the dollar value obtained for the class. A case was designated as a settlement class if the settlement included an agreement to certify the matter as a class action. Our measure of costs was the amount of expenses and court costs awarded to class counsel by the court (if any). We also included shareholders' derivative cases, but there were too few of these in our data set to generate reliable results.

15 See Eisenberg & Miller I, *supra* note 4, at 44 (describing search methodology); Eisenberg & Miller II, *supra* note 4, at 251 (same).

16 Robb Mandelbaum, *Visa and MasterCard Settle Lawsuit, but Merchants Aren't Celebrating*, N.Y. TIMES, Aug. 9, 2012, at B6. This settlement was thrown out in June 2016. Rachel Abrams, *Credit Card Settlement Overturned on Appeal*, N.Y. TIMES, July 1, 2016, at B3.

17 *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, 2013 WL 1365900, at *7 (N.D. Cal. Apr. 3, 2013).

18 *In re UnitedHealth Grp. Inc. PSLRA Litig.*, 643 F. Supp. 2d 1094, 1099 (D. Minn. 2009).

19 *In re Citigroup Inc. Bond Litig.*, 988 F. Supp. 2d 371, 372 (S.D.N.Y. 2013).

20 Often the method of calculating the fee was explicit in the cases. Where it was not, we coded the method if it could reasonably be deduced from the court's analysis; if not, we omitted the information.

21 Eisenberg & Miller II, *supra* note 4, at 267.

22 *Id.*

23 *Id.* at 253-54.

24 See *id.* at 253 (finding a 0.94 correlation coefficient).

25 *Id.* at 254.

26 *Id.* at 258.

27 *Id.* at 263-64; Eisenberg & Miller I, *supra* note 4, at 54-55, 64.

28 See Eisenberg & Miller II, *supra* note 4, at 259 tbl.3, 261 (finding that the mean fee-to-recovery ratio was lower in state courts than in federal courts).

29 See *id.* at 257 tbl.1 (stating that 10.89% of the study's opinions were brought in state courts).

30 Class Action Fairness Act of 2005 (CAFA), Pub. L. No. 109-2, 119 Stat. 4 (codified as amended at 28 U.S.C. §§ 1332(d), 1453, 1711-1715 (2012)).

31 See *Tanoh v. Dow Chem. Co.*, 561 F.3d 945, 952 (9th Cir. 2009) ("[T]he Act's purposes make[] clear [that] CAFA was designed primarily to curb perceived abuses of the class action device which, in the view of CAFA's proponents, had often been used to litigate multi-state or even national class actions in state courts." (citing CAFA § 2)).

32 Eisenberg & Miller II, *supra* note 4, at 263.

33 In one of the six cases, however, the fee granted was significantly higher than the fee requested: 14%, or \$1.1 million.

- 34 Eisenberg & Miller II, *supra* note 4, at 265.
- 35 *Id.*
- 36 See Theodore Eisenberg & Geoffrey Miller, *The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues*, 57 VAND. L. REV. 1529, 1546 & tbl.1 (2004) (stating that the median percentage of opt-outs was 0.1% and the median percentage of objectors was zero).
- 37 See *Staton v. Boeing Co.*, 327 F.3d 938, 974 (9th Cir. 2003) (holding that while the value of injunctive relief can rarely be included in the calculation of the common fund, “courts should consider the value of the injunctive relief obtained as a ‘relevant circumstance’ in determining what percentage of the common fund class counsel should receive as attorneys’ fees” (quoting *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1049 (9th Cir. 2002))).
- 38 See FED. R. CIV. P. 23(e)(2) (stating that a proposal to settle a class action that binds class members can only be approved “after a hearing and on finding that it is fair, reasonable, and adequate”).
- 39 See Eisenberg & Miller II, *supra* note 4, at 274 (finding that from 1993 to 2002, mean costs were 2.8% of recovery and median costs were 1.7% while, from 2003 to 2008, mean costs were 2.7% of recovery and median costs were 1.7%).
- 40 *Id.* at 273.
- 41 *Id.* at 273-74.
- 42 *Id.* at 274.
- 43 Eisenberg & Miller I, *supra* note 4, at 77.

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EXHIBIT 36

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An Empirical Study of Class Action Settlements and Their Fee Awards

*Brian T. Fitzpatrick**

This article is a comprehensive empirical study of class action settlements in federal court. Although there have been prior empirical studies of federal class action settlements, these studies have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). By contrast, in this article, I attempt to study every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first attempt to collect a complete set of federal class action settlements for any given year. I find that district court judges approved 688 class action settlements over this two-year period, involving nearly \$33 billion. Of this \$33 billion, roughly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. Most judges chose to award fees by using the highly discretionary percentage-of-the-settlement method, and the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Fee percentages were strongly and inversely associated with the size of the settlement. The age of the case at settlement was positively associated with fee percentages. There was some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located, with lower percentages in securities cases and in settlements from the Second and Ninth Circuits. There was no evidence that fee percentages were associated with whether the class action was certified as a settlement class or with the political affiliation of the judge who made the award.

I. INTRODUCTION

Class actions have been the source of great controversy in the United States. Corporations fear them.¹ Policymakers have tried to corral them.² Commentators and scholars have

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¹See, e.g., Robert W. Wood, *Defining Employees and Independent Contractors*, *Bus. L. Today* 45, 48 (May–June 2008).

²See Private Securities Litigation Reform Act (PSLRA) of 1995, Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.); Class Action Fairness Act of 2005, 28 U.S.C. §§ 1453, 1711–1715 (2006).

suggested countless ways to reform them.³ Despite all the attention showered on class actions, and despite the excellent empirical work on class actions to date, the data that currently exist on how the class action system operates in the United States are limited. We do not know, for example, how much money changes hands in class action litigation every year. We do not know how much of this money goes to class action lawyers rather than class members. Indeed, we do not even know how many class action cases are resolved on an annual basis. To intelligently assess our class action system as well as whether and how it should be reformed, answers to all these questions are important. Answers to these questions are equally important to policymakers in other countries who are currently thinking about adopting U.S.-style class action devices.⁴

This article tries to answer these and other questions by reporting the results of an empirical study that attempted to gather all class action settlements approved by federal judges over a recent two-year period, 2006 and 2007. I use class action settlements as the basis of the study because, even more so than individual litigation, virtually all cases certified as class actions and not dismissed before trial end in settlement.⁵ I use federal settlements as the basis of the study for practical reasons: it was easier to identify and collect settlements approved by federal judges than those approved by state judges. Systematic study of class action settlements in state courts must await further study;⁶ these future studies are important because there may be more class action settlements in state courts than there are in federal court.⁷

This article attempts to make three contributions to the existing empirical literature on class action settlements. First, virtually all the prior empirical studies of federal class action settlements have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). In this article, by contrast, I attempt to collect every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first to attempt to collect a complete set of federal class action settlements for

³See, e.g., Robert G. Bone, *Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness*, 83 B.U.L. Rev. 485, 490–94 (2003); Allan Erbsen, *From “Predominance” to “Resolvability”: A New Approach to Regulating Class Actions*, 58 Vand. L. Rev. 995, 1080–81 (2005).

⁴See, e.g., Samuel Issacharoff & Geoffrey Miller, *Will Aggregate Litigation Come to Europe?*, 62 Vand. L. Rev. 179 (2009).

⁵See, e.g., Emery Lee & Thomas E. Willing, *Impact of the Class Action Fairness Act on the Federal Courts: Preliminary Findings from Phase Two’s Pre-CAFA Sample of Diversity Class Actions* 11 (Federal Judicial Center 2008); Tom Baker & Sean J. Griffith, *How the Merits Matter: D&O Insurance and Securities Settlements*, 157 U. Pa. L. Rev. 755 (2009).

⁶Empirical scholars have begun to study state court class actions in certain subject areas and in certain states. See, e.g., Robert B. Thompson & Randall S. Thomas, *The Public and Private Faces of Derivative Suits*, 57 Vand. L. Rev. 1747 (2004); Robert B. Thompson & Randall S. Thomas, *The New Look of Shareholder Litigation: Acquisition-Oriented Class Actions*, 57 Vand. L. Rev. 133 (2004); *Findings of the Study of California Class Action Litigation* (Administrative Office of the Courts) (First Interim Report, 2009).

⁷See Deborah R. Hensler et al., *Class Action Dilemmas: Pursuing Public Goals for Private Gain* 56 (2000).

any given year.⁸ As such, this article allows us to see for the first time a complete picture of the cases that are settled in federal court. This includes aggregate annual statistics, such as how many class actions are settled every year, how much money is approved every year in these settlements, and how much of that money class action lawyers reap every year. It also includes how these settlements are distributed geographically as well as by litigation area, what sort of relief was provided in the settlements, how long the class actions took to reach settlement, and an analysis of what factors were associated with the fees awarded to class counsel by district court judges.

Second, because this article analyzes settlements that were approved in both published and unpublished opinions, it allows us to assess how well the few prior studies that looked beyond securities cases but relied only on published opinions capture the complete picture of class action settlements. To the extent these prior studies adequately capture the complete picture, it may be less imperative for courts, policymakers, and empirical scholars to spend the considerable resources needed to collect unpublished opinions in order to make sound decisions about how to design our class action system.

Third, this article studies factors that may influence district court judges when they award fees to class counsel that have not been studied before. For example, in light of the discretion district court judges have been delegated over fees under Rule 23, as well as the salience the issue of class action litigation has assumed in national politics, realist theories of judicial behavior would predict that Republican judges would award smaller fee percentages than Democratic judges. I study whether the political beliefs of district court judges are associated with the fees they award and, in doing so, contribute to the literature that attempts to assess the extent to which these beliefs influence the decisions of not just appellate judges, but trial judges as well. Moreover, the article contributes to the small but growing literature examining whether the ideological influences found in published judicial decisions persist when unpublished decisions are examined as well.

In Section II of this article, I briefly survey the existing empirical studies of class action settlements. In Section III, I describe the methodology I used to collect the 2006–2007 federal class action settlements and I report my findings regarding these settlements. District court judges approved 688 class action settlements over this two-year period, involving over \$33 billion. I report a number of descriptive statistics for these settlements, including the number of plaintiff versus defendant classes, the distribution of settlements by subject matter, the age of the case at settlement, the geographic distribution of settlements, the number of settlement classes, the distribution of relief across settlements, and various statistics on the amount of money involved in the settlements. It should be noted that despite the fact that the few prior studies that looked beyond securities settlements appeared to oversample larger settlements, much of the analysis set forth in this article is consistent with these prior studies. This suggests that scholars may not need to sample unpublished as well as published opinions in order to paint an adequate picture of class action settlements.

⁸Of course, I cannot be certain that I found every one of the class actions that settled in federal court over this period. Nonetheless, I am confident that if I did not find some, the number I did not find is small and would not contribute meaningfully to the data reported in this article.

In Section IV, I perform an analysis of the fees judges awarded to class action lawyers in the 2006–2007 settlements. All told, judges awarded nearly \$5 billion over this two-year period in fees and expenses to class action lawyers, or about 15 percent of the total amount of the settlements. Most federal judges chose to award fees by using the highly discretionary percentage-of-the-settlement method and, unsurprisingly, the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Using regression analysis, I confirm prior studies and find that fee percentages are strongly and inversely associated with the size of the settlement. Further, I find that the age of the case is positively associated with fee percentages but that the percentages were not associated with whether the class action was certified as a settlement class. There also appeared to be some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all other areas, and district courts in some circuits—the Ninth and the Second (in securities cases)—awarded lower fee percentages than courts in many other circuits. Finally, the regression analysis did not confirm the realist hypothesis: there was no association between fee percentage and the political beliefs of the judge in any regression.

II. PRIOR EMPIRICAL STUDIES OF CLASS ACTION SETTLEMENTS

There are many existing empirical studies of federal securities class action settlements.⁹ Studies of securities settlements have been plentiful because for-profit organizations maintain lists of all federal securities class action settlements for the benefit of institutional investors that are entitled to file claims in these settlements.¹⁰ Using these data, studies have shown that since 2005, for example, there have been roughly 100 securities class action settlements in federal court each year, and these settlements have involved between \$7 billion and \$17 billion per year.¹¹ Scholars have used these data to analyze many different aspects of these settlements, including the factors that are associated with the percentage of

⁹See, e.g., James D. Cox & Randall S. Thomas, Does the Plaintiff Matter? An Empirical Analysis of Lead Plaintiffs in Securities Class Actions, 106 Colum. L. Rev. 1587 (2006); James D. Cox, Randall S. Thomas & Lynn Bai, There are Plaintiffs and . . . there are Plaintiffs: An Empirical Analysis of Securities Class Action Settlements, 61 Vand. L. Rev. 355 (2008); Theodore Eisenberg, Geoffrey Miller & Michael A. Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U.J.L. & Pol'y 5 (2009); Michael A. Perino, Markets and Monitors: The Impact of Competition and Experience on Attorneys' Fees in Securities Class Actions (St. John's Legal Studies, Research Paper No. 06-0034, 2006), available at <<http://ssrn.com/abstract=870577>> [hereinafter Perino, Markets and Monitors]; Michael A. Perino, The Milberg Weiss Prosecution: No Harm, No Foul? (St. John's Legal Studies, Research Paper No. 08-0135, 2008), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133995> [hereinafter Perino, Milberg Weiss].

¹⁰See, e.g., RiskMetrics Group, available at <<http://www.riskmetrics.com/scas>>.

¹¹See Cornerstone Research, Securities Class Action Settlements: 2007 Review and Analysis 1 (2008), available at <http://securities.stanford.edu/Settlements/REVIEW_1995-2007/Settlements_Through_12_2007.pdf>.

the settlements that courts have awarded to class action lawyers.¹² These studies have found that the mean and median fees awarded by district court judges are between 20 percent and 30 percent of the settlement amount.¹³ These studies have also found that a number of factors are associated with the percentage of the settlement awarded as fees, including (inversely) the size of the settlement, the age of the case, whether a public pension fund was the lead plaintiff, and whether certain law firms were class counsel.¹⁴ None of these studies has examined whether the political affiliation of the federal district court judge awarding the fees was associated with the size of awards.

There are no comparable organizations that maintain lists of nonsecurities class action settlements. As such, studies of class action settlements beyond the securities area are much rarer and, when they have been done, rely on samples of settlements that were not intended to be representative of the whole. The two largest studies of class action settlements not limited to securities class actions are a 2004 study by Ted Eisenberg and Geoff Miller,¹⁵ which was recently updated to include data through 2008,¹⁶ and a 2003 study by Class Action Reports.¹⁷ The Eisenberg-Miller studies collected data from class action settlements in both state and federal courts found from court opinions published in the Westlaw and Lexis databases and checked against lists maintained by the CCH Federal Securities and Trade Regulation Reporters. Through 2008, their studies have now identified 689 settlements over a 16-year period, or less than 45 settlements per year.¹⁸ Over this 16-year period, their studies found that the mean and median settlement amounts were, respectively, \$116 million and \$12.5 million (in 2008 dollars), and that the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively.¹⁹ Their studies also performed an analysis of fee percentages and fee awards. For the data through 2002, they found that the percentage of the settlement awarded as fees was associated with the size of the settlement (inversely), the age of the case, and whether the

¹²See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 17–24, 28–36; Perino, *Markets and Monitors*, *supra* note 9, at 12–28, 39–44; Perino, Milberg Weiss, *supra* note 9, at 32–33, 39–60.

¹³See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 17–18, 22, 28, 33; Perino, *Markets and Monitors*, *supra* note 9, at 20–21, 40; Perino, Milberg Weiss, *supra* note 9, at 32–33, 51–53.

¹⁴See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 14–24, 29–30, 33–34; Perino, *Markets and Monitors*, *supra* note 9, at 20–28, 41; Perino, Milberg Weiss, *supra* note 9, at 39–58.

¹⁵See Theodore Eisenberg & Geoffrey Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Stud. 27 (2004).

¹⁶See Theodore Eisenberg & Geoffrey Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008*, 7 J. Empirical Legal Stud. 248 (2010) [hereinafter Eisenberg & Miller II].

¹⁷See Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., *Attorney Fee Awards in Common Fund Class Actions*, 24 Class Action Rep. 169 (Mar.–Apr. 2003).

¹⁸See Eisenberg & Miller II, *supra* note 16, at 251.

¹⁹*Id.* at 258–59.

district court went out of its way to comment on the level of risk that class counsel had assumed in pursuing the case.²⁰ For the data through 2008, they regressed only fee awards and found that the awards were inversely associated with the size of the settlement, that state courts gave lower awards than federal courts, and that the level of risk was still associated with larger awards.²¹ Their studies have not examined whether the political affiliations of the federal district court judges awarding fees were associated with the size of the awards.

The Class Action Reports study collected data on 1,120 state and federal settlements over a 30-year period, or less than 40 settlements per year.²² Over the same 10-year period analyzed by the Eisenberg-Miller study, the Class Action Reports data found mean and median settlements of \$35.4 and \$7.6 million (in 2002 dollars), as well as mean and median fee percentages between 25 percent and 30 percent.²³ Professors Eisenberg and Miller performed an analysis of the fee awards in the Class Action Reports study and found the percentage of the settlement awarded as fees was likewise associated with the size of the settlement (inversely) and the age of the case.²⁴

III. FEDERAL CLASS ACTION SETTLEMENTS, 2006 AND 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases,²⁵ (2) four reporters of class action settlements—*BNA Class Action Litigation Report*, *Mealey's Jury Verdicts and Settlements*, *Mealey's Litigation Report*, and the *Class Action World* website²⁶—and (3) a list from the Administrative Office of Courts of all district court cases

²⁰See Eisenberg & Miller, *supra* note 15, at 61–62.

²¹See Eisenberg & Miller II, *supra* note 16, at 278.

²²See Eisenberg & Miller, *supra* note 15, at 34.

²³*Id.* at 47, 51.

²⁴*Id.* at 61–62.

²⁵The searches consisted of the following terms: (“class action” & (settle! /s approv! /s (2006 2007))); (((counsel attorney) /s fee /s award!) & (settle! /s (2006 2007)) & “class action”); (“class action” /s settle! & da(aft 12/31/2005 & bef 1/1/2008)); (“class action” /s (fair reasonable adequate) & da(aft 12/31/2005 & bef 1/1/2008)).

²⁶See <<http://classactionworld.com/>>.

coded as class actions that terminated by settlement between 2005 and 2008.²⁷ I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.²⁸ For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a 16-year period in both federal *and* state court. Indeed, the number of annual settlements identified in this study is *several times* the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.²⁹

B. Defendant Versus Plaintiff Classes

Although Rule 23 permits federal judges to certify either a class of plaintiffs or a class of defendants, it is widely assumed that it is extremely rare for courts to certify defendant classes.³⁰ My findings confirm this widely held assumption. Of the 688 class action settlements approved in 2006 and 2007, 685 involved plaintiff classes and only three involved

²⁷I examined the AO lists in the year before and after the two-year period under investigation because the termination date recorded by the AO was not necessarily the same date the district court approved the settlement.

²⁸See Fed. R. Civ. P. 23, 23.1, 23.2. I excluded from this analysis opt-in collective actions, such as those brought pursuant to the provisions of the Fair Labor Standards Act (see 29 U.S.C. § 216(b)), if such actions did not also include claims certified under the opt-out mechanism in Rule 23.

²⁹A settlement was assigned to a particular year if the district court judge's order approving the settlement was dated between January 1 and December 31 of that year. Cases involving multiple defendants sometimes settled over time because defendants would settle separately with the plaintiff class. All such partial settlements approved by the district court on the same date were treated as one settlement. Partial settlements approved by the district court on different dates were treated as different settlements.

³⁰See, e.g., Robert H. Klonoff, Edward K.M. Bilich & Suzette M. Malveaux, *Class Actions and Other Multi-Party Litigation: Cases and Materials* 1061 (2d ed. 2006).

defendant classes. All three of the defendant-class settlements were in employment benefits cases, where companies sued classes of current or former employees.³¹

C. Settlement Subject Areas

Although courts are free to certify Rule 23 classes in almost any subject area, it is widely assumed that securities settlements dominate the federal class action docket.³² At least in terms of the number of settlements, my findings reject this conventional wisdom. As Table 1 shows, although securities settlements comprised a large percentage of the 2006 and 2007 settlements, they did not comprise a majority of those settlements. As one would have

Table 1: The Number of Class Action Settlements Approved by Federal Judges in 2006 and 2007 in Each Subject Area

Subject Matter	Number of Settlements	
	2006	2007
Securities	122 (40%)	135 (35%)
Labor and employment	41 (14%)	53 (14%)
Consumer	40 (13%)	47 (12%)
Employee benefits	23 (8%)	38 (10%)
Civil rights	24 (8%)	37 (10%)
Debt collection	19 (6%)	23 (6%)
Antitrust	13 (4%)	17 (4%)
Commercial	4 (1%)	9 (2%)
Other	18 (6%)	25 (6%)
Total	304	384

NOTE: Securities: cases brought under federal and state securities laws. Labor and employment: workplace claims brought under either federal or state law, with the exception of ERISA cases. Consumer: cases brought under the Fair Credit Reporting Act as well as cases for consumer fraud and the like. Employee benefits: ERISA cases. Civil rights: cases brought under 42 U.S.C. § 1983 or cases brought under the Americans with Disabilities Act seeking nonworkplace accommodations. Debt collection: cases brought under the Fair Debt Collection Practices Act. Antitrust: cases brought under federal or state antitrust laws. Commercial: cases between businesses, excluding antitrust cases. Other: includes, among other things, derivative actions against corporate managers and directors, environmental suits, insurance suits, Medicare and Medicaid suits, product liability suits, and mass tort suits.

SOURCES: Westlaw, PACER, district court clerks' offices.

³¹See *Halliburton Co. v. Graves*, No. 04-00280 (S.D. Tex., Sept. 28, 2007); *Rexam, Inc. v. United Steel Workers of Am.*, No. 03-2998 (D. Minn. Aug. 29, 2007); *Rexam, Inc. v. United Steel Workers of Am.*, No. 03-2998 (D. Minn. Sept. 17, 2007).

³²See, e.g., John C. Coffee, Jr., *Reforming the Security Class Action: An Essay on Deterrence and its Implementation*, 106 Colum. L. Rev. 1534, 1539–40 (2006) (describing securities class actions as “the 800-pound gorilla that dominates and overshadows other forms of class actions”).

expected in light of Supreme Court precedent over the last two decades,³³ there were almost no mass tort class actions (included in the “Other” category) settled over the two-year period.

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court³⁴) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.³⁵ However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.³⁶ This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

The Federal Rules of Civil Procedure permit parties to seek certification of a suit as a class action for settlement purposes only.³⁷ When the district court certifies a class in such circumstances, the court need not consider whether it would be manageable to try the litigation as a class.³⁸ So-called settlement classes have always been more controversial than classes certified for litigation because they raise the prospect that, at least where there are competing class actions filed against the same defendant, the defendant could play class counsel off one another to find the one willing to settle the case for the least amount of money.³⁹ Prior to the Supreme Court’s 1997 opinion in *Amchem Products, Inc. v. Windsor*,⁴⁰ it was uncertain whether the Federal Rules even permitted settlement classes. It may therefore be a bit surprising to learn that 68 percent of the federal settlements in 2006 and 2007 were settlement classes. This percentage is higher than the percentage found in the Eisenberg-Miller studies, which found that only 57 percent of class action settlements in

³³See, e.g., Samuel Issacharoff, *Private Claims, Aggregate Rights*, 2008 Sup. Ct. Rev. 183, 208.

³⁴See Eisenberg & Miller II, *supra* note 16, at 257.

³⁵*Id.* at 262.

³⁶*Id.*

³⁷See Martin H. Redish, *Settlement Class Actions, The Case-or-Controversy Requirement, and the Nature of the Adjudicatory Process*, 73 U. Chi. L. Rev. 545, 553 (2006).

³⁸See *Amchem Prods., Inc v Windsor*, 521 U.S. 591, 620 (1997).

³⁹See Redish, *supra* note 368, at 557–59.

⁴⁰521 U.S. 591 (1997).

state and federal court between 2003 and 2008 were settlement classes.⁴¹ It should be noted that the distribution of litigation subject areas among the settlement classes in my 2006–2007 federal data set did not differ much from the distribution among nonsettlement classes, with two exceptions. One exception was consumer cases, which were nearly three times as prevalent among settlement classes (15.9 percent) as among nonsettlement classes (5.9 percent); the other was civil rights cases, which were four times as prevalent among nonsettlement classes (18.0 percent) as among settlements classes (4.5 percent). In light of the skepticism with which the courts had long treated settlement classes, one might have suspected that courts would award lower fee percentages in such settlements. Nonetheless, as I report in Section III, whether a case was certified as a settlement class was not associated with the fee percentages awarded by federal district court judges.

E. The Age at Settlement

One interesting question is how long class actions were litigated before they reached settlement. Unsurprisingly, cases reached settlement over a wide range of ages.⁴² As shown in Table 2, the average time to settlement was a bit more than three years (1,196 days) and the median time was a bit under three years (1,068 days). The average and median ages here are similar to those found in the Eisenberg-Miller study through 2002, which found averages of 3.35 years in fee-shifting cases and 2.86 years in non-fee-shifting cases, and

Table 2: The Number of Days, 2006–2007, Federal Class Action Cases Took to Reach Settlement in Each Subject Area

<i>Subject Matter</i>	<i>Average</i>	<i>Median</i>	<i>Minimum</i>	<i>Maximum</i>
Securities	1,438	1,327	392	3,802
Labor and employment	928	786	105	2,497
Consumer	963	720	127	4,961
Employee benefits	1,162	1,161	164	3,157
Civil rights	1,373	1,360	181	3,354
Debt collection	738	673	223	1,973
Antitrust	1,140	1,167	237	2,480
Commercial	1,267	760	163	5,443
Other	1,065	962	185	3,620
All	1,196	1,068	105	5,443

SOURCE: PACER.

⁴¹See Eisenberg & Miller II, *supra* note 16, at 266.

⁴²The age of the case was calculated by subtracting the date the relevant complaint was filed from the date the settlement was approved by the district court judge. The dates were taken from PACER. For consolidated cases, I used the date of the earliest complaint. If the case had been transferred, consolidated, or removed, the date the complaint was filed was not always available from PACER. In such cases, I used the date the case was transferred, consolidated, or removed as the start date.

medians of 4.01 years in fee-shifting cases and 3.0 years in non-fee-shifting cases.⁴³ Their study through 2008 did not report case ages.

The shortest time to settlement was 105 days in a labor and employment case.⁴⁴ The longest time to settlement was nearly 15 years (5,443 days) in a commercial case.⁴⁵ The average and median time to settlement varied significantly by litigation subject matter, with securities cases generally taking the longest time and debt collection cases taking the shortest time. Labor and employment cases and consumer cases also settled relatively early.

F. The Location of Settlements

The 2006–2007 federal class action settlements were not distributed across the country in the same way federal civil litigation is in general. As Figure 1 shows, some of the geographic circuits attracted much more class action attention than we would expect based on their docket size, and others attracted much less. In particular, district courts in the First, Second, Seventh, and Ninth Circuits approved a much larger share of class action settlements than the share of all civil litigation they resolved, with the First, Second, and Seventh Circuits approving nearly double the share and the Ninth Circuit approving one-and-one-half times the share. By contrast, the shares of class action settlements approved by district courts in the Fifth and Eighth Circuits were less than one-half of their share of all civil litigation, with the Third, Fourth, and Eleventh Circuits also exhibiting significant underrepresentation.

With respect to a comparison with the Eisenberg-Miller studies, their federal court data through 2008 can be separated from their state court data on the question of the geographic distribution of settlements, and there are some significant differences between their federal data and the numbers reflected in Figure 1. Their study reported considerably higher proportions of settlements than I found from the Second (23.8 percent), Third (19.7 percent), Eighth (4.8 percent), and D.C. (3.3 percent) Circuits, and considerably lower proportions from the Fourth (1.3 percent), Seventh (6.8 percent), and Ninth (16.6 percent) Circuits.⁴⁶

Figure 2 separates the class action settlement data in Figure 1 into securities and nonsecurities cases. Figure 2 suggests that the overrepresentation of settlements in the First and Second Circuits is largely attributable to securities cases, whereas the overrepresentation in the Seventh Circuit is attributable to nonsecurities cases, and the overrepresentation in the Ninth is attributable to both securities and nonsecurities cases.

It is interesting to ask why some circuits received more class action attention than others. One hypothesis is that class actions are filed in circuits where class action lawyers

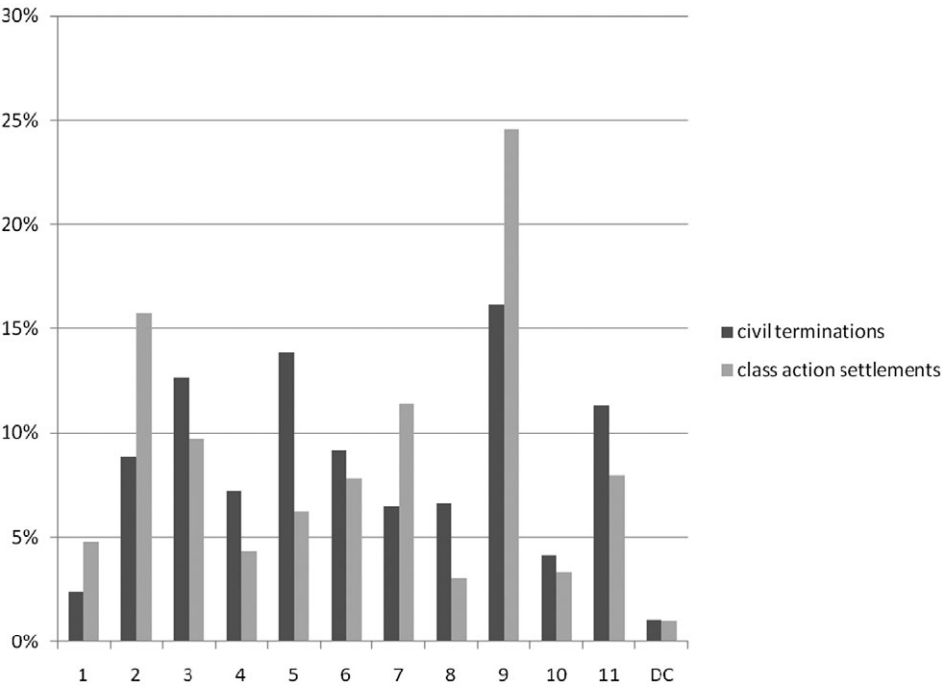
⁴³See Eisenberg & Miller, *supra* note 15, at 59–60.

⁴⁴See *Clemmons v. Rent-a-Center W., Inc.*, No. 05-6307 (D. Or. Jan. 20, 2006).

⁴⁵See *Allapattah Servs. Inc. v. Exxon Corp.*, No. 91-0986 (S.D. Fla. Apr. 7, 2006).

⁴⁶See Eisenberg & Miller II, *supra* note 16, at 260.

Figure 1: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



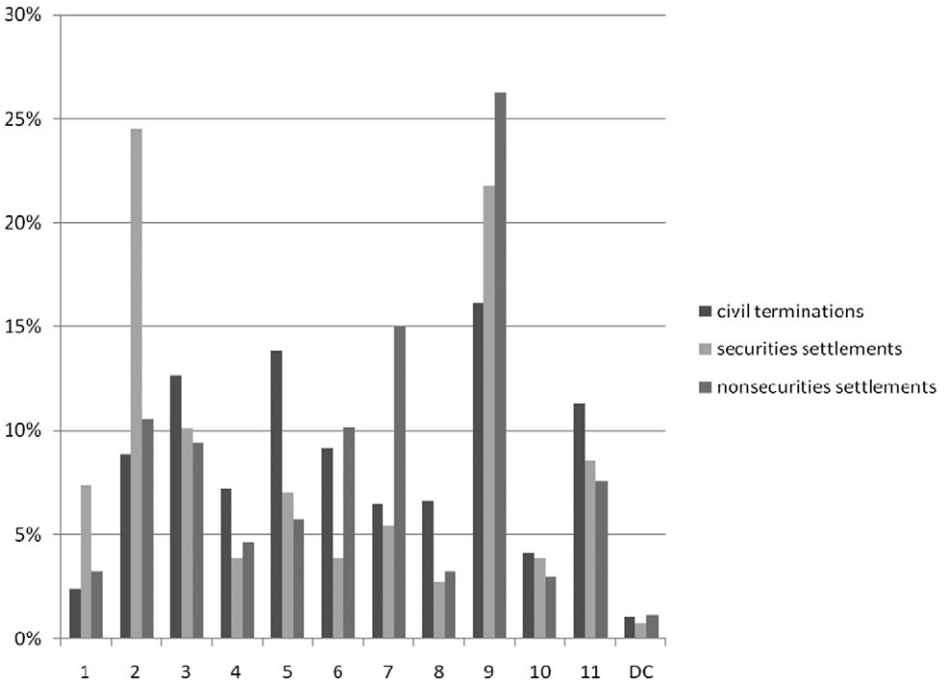
SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <<http://www.uscourts.gov/stats/index.html>>).

believe they can find favorable law or favorable judges. Federal class actions often involve class members spread across multiple states and, as such, class action lawyers may have a great deal of discretion over the district in which file suit.⁴⁷ One way law or judges may be favorable to class action attorneys is with regard to attorney fees. In Section III, I attempt to test whether district court judges in the circuits with the most over- and undersubscribed class action dockets award attorney fees that would attract or discourage filings there; I find no evidence that they do.

Another hypothesis is that class action suits are settled in jurisdictions where defendants are located. This might be the case because although class action lawyers may have discretion over where to file, venue restrictions might ultimately restrict cases to jurisdic-

⁴⁷See Samuel Issacharoff & Richard Nagareda, Class Settlements Under Attack, 156 U. Pa. L. Rev. 1649, 1662 (2008).

Figure 2: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <<http://www.uscourts.gov/stats/index.html>>).

tions in which defendants have their corporate headquarters or other operations.⁴⁸ This might explain why the Second Circuit, with the financial industry in New York, sees so many securities suits, and why other circuits with cities with a large corporate presence, such as the First (Boston), Seventh (Chicago), and Ninth (Los Angeles and San Francisco), see more settlements than one would expect based on the size of their civil dockets.

Another hypothesis might be that class action lawyers file cases wherever it is most convenient for them to litigate the cases—that is, in the cities in which their offices are located. This, too, might explain the Second Circuit’s overrepresentation in securities settlements, with prominent securities firms located in New York, as well as the

⁴⁸See 28 U.S.C. §§ 1391, 1404, 1406, 1407. See also *Foster v. Nationwide Mut. Ins. Co.*, No. 07-04928, 2007 U.S. Dist. LEXIS 95240 at *2–17 (N.D. Cal. Dec. 14, 2007) (transferring venue to jurisdiction where defendant’s corporate headquarters were located). One prior empirical study of securities class action settlements found that 85 percent of such cases are filed in the home circuit of the defendant corporation. See James D. Cox, Randall S. Thomas & Lynn Bai, Do Differences in Pleading Standards Cause Forum Shopping in Securities Class Actions?: Doctrinal and Empirical Analyses, 2009 Wis. L. Rev. 421, 429, 440, 450–51 (2009).

overrepresentation of other settlements in some of the circuits in which major metropolitan areas with prominent plaintiffs’ firms are found.

G. Type of Relief

Under Rule 23, district court judges can certify class actions for injunctive or declaratory relief, for money damages, or for a combination of the two.⁴⁹ In addition, settlements can provide money damages both in the form of cash as well as in the form of in-kind relief, such as coupons to purchase the defendant’s products.⁵⁰

As shown in Table 3, the vast majority of class actions settled in 2006 and 2007 provided cash relief to the class (89 percent), but a substantial number also provided in-kind relief (6 percent) or injunctive or declaratory relief (23 percent). As would be

Table 3: The Percentage of 2006 and 2007 Class Action Settlements Providing Each Type of Relief in Each Subject Area

<i>Subject Matter</i>	<i>Cash</i>	<i>In-Kind Relief</i>	<i>Injunctive or Declaratory Relief</i>
Securities (<i>n</i> = 257)	100%	0%	2%
Labor and employment (<i>n</i> = 94)	95%	6%	29%
Consumer (<i>n</i> = 87)	74%	30%	37%
Employee benefits (<i>n</i> = 61)	90%	0%	34%
Civil rights (<i>n</i> = 61)	49%	2%	75%
Debt collection (<i>n</i> = 42)	98%	0%	12%
Antitrust (<i>n</i> = 30)	97%	13%	7%
Commercial (<i>n</i> = 13)	92%	0%	62%
Other (<i>n</i> = 43)	77%	7%	33%
All (<i>n</i> = 688)	89%	6%	23%

NOTE: Cash: cash, securities, refunds, charitable contributions, contributions to employee benefit plans, forgiven debt, relinquishment of liens or claims, and liquidated repairs to property. In-kind relief: vouchers, coupons, gift cards, warranty extensions, merchandise, services, and extended insurance policies. Injunctive or declaratory relief: modification of terms of employee benefit plans, modification of compensation practices, changes in business practices, capital improvements, research, and unliquidated repairs to property.

SOURCES: Westlaw, PACER, district court clerks’ offices.

⁴⁹See Fed. R. Civ. P. 23(b).

⁵⁰These coupon settlements have become very controversial in recent years, and Congress discouraged them in the Class Action Fairness Act of 2005 by tying attorney fees to the value of coupons that were ultimately redeemed by class members as opposed to the value of coupons offered class members. See 28 U.S.C. § 1712.

expected in light of the focus on consumer cases in the debate over the anti-coupon provision in the Class Action Fairness Act of 2005,⁵¹ consumer cases had the greatest percentage of settlements providing for in-kind relief (30 percent). Civil rights cases had the greatest percentage of settlements providing for injunctive or declaratory relief (75 percent), though almost half the civil rights cases also provided some cash relief (49 percent). The securities settlements were quite distinctive from the settlements in other areas in their singular focus on cash relief: every single securities settlement provided cash to the class and almost none provided in-kind, injunctive, or declaratory relief. This is but one example of how the focus on securities settlements in the prior empirical scholarship can lead to a distorted picture of class action litigation.

H. Settlement Money

Although securities settlements did not comprise the majority of federal class action settlements in 2006 and 2007, they did comprise the majority of the money—indeed, the *vast majority* of the money—involved in class action settlements. In Table 4, I report the total amount of ascertainable value involved in the 2006 and 2007 settlements. This amount

Table 4: The Total Amount of Money Involved in Federal Class Action Settlements in 2006 and 2007

Subject Matter	Total Ascertainable Monetary Value in Settlements (and Percentage of Overall Annual Total)			
	2006 (n = 304)		2007 (n = 384)	
Securities	\$16,728	76%	\$8,038	73%
Labor and employment	\$266.5	1%	\$547.7	5%
Consumer	\$517.3	2%	\$732.8	7%
Employee benefits	\$443.8	2%	\$280.8	3%
Civil rights	\$265.4	1%	\$81.7	1%
Debt collection	\$8.9	<1%	\$5.7	<1%
Antitrust	\$1,079	5%	\$660.5	6%
Commercial	\$1,217	6%	\$124.0	1%
Other	\$1,568	7%	\$592.5	5%
Total	\$22,093	100%	\$11,063	100%

NOTE: Dollar amounts are in millions. Includes all determinate payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.

SOURCES: Westlaw, PACER, district court clerks’ offices.

⁵¹See, e.g., 151 Cong. Rec. H723 (2005) (statement of Rep. Sensenbrenner) (arguing that consumers are “seeing all of their gains go to attorneys and them just getting coupon settlements from the people who have allegedly done them wrong”).

includes all determinate⁵² payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.⁵³ I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only \$1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.⁵⁴

Table 4 shows that in both years, around three-quarters of all the money involved in federal class action settlements came from securities cases. Thus, in this sense, the conventional wisdom about the dominance of securities cases in class action litigation is correct. Figure 3 is a graphical representation of the contribution each litigation area made to the total number and total amount of money involved in the 2006–2007 settlements.

Table 4 also shows that, in total, over \$33 billion was approved in the 2006–2007 settlements. Over \$22 billion was approved in 2006 and over \$11 billion in 2007. It should be emphasized again that the totals in Table 4 understate the amount of money defendants agreed to pay in class action settlements in 2006 and 2007 because they exclude the unascertainable value of those settlements. This understatement disproportionately affects litigation areas, such as civil rights, where much of the relief is injunctive because, as I noted, very little of such relief was valued by district courts. Nonetheless, these numbers are, as far as I am aware, the first attempt to calculate how much money is involved in federal class action settlements in a given year.

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled \$6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than \$1 billion were approved in 2006.⁵⁵ Indeed, it is worth noting that the eight settlements for more than \$1

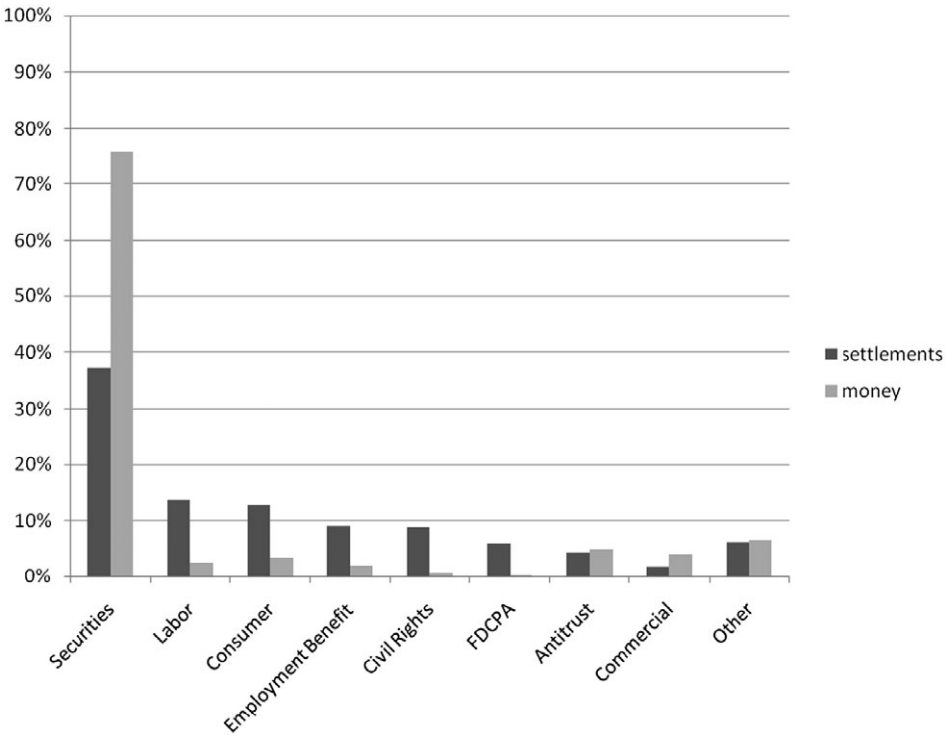
⁵²For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the settlement documents.

⁵³In some cases, the district court valued the relief in the settlement over a range. In these cases, I used the middle point in the range.

⁵⁴See Hensler et al., *supra* note 7, at 427–30.

⁵⁵See *In re Enron Corp. Secs. Litig.*, MDL 1446 (S.D. Tex. May 24, 2006) (\$6,600,000,000); *In re Tyco Int'l Ltd. Multidistrict Litig.*, MDL 02-1335 (D.N.H. Dec. 19, 2007) (\$3,200,000,000); *In re AOL Time Warner, Inc. Secs. & "ERISA" Litig.*, MDL 1500 (S.D.N.Y. Apr. 6, 2006) (\$2,500,000,000); *In re Diet Drugs Prods. Liab. Litig.*, MDL 1203 (E.D. Pa. May 24, 2006) (\$1,275,000,000); *In re Nortel Networks Corp. Secs. Litig. (Nortel I)*, No. 01-1855 (S.D.N.Y. Dec. 26, 2006) (\$1,142,780,000); *In re Royal Ahold N.V. Secs. & ERISA Litig.*, 03-1539 (D. Md. Jun. 16, 2006)

Figure 3: The percentage of 2006–2007 federal class action settlements and settlement money from each subject area.



SOURCES: Westlaw, PACER, district court clerks’ offices.

billion accounted for almost \$18 billion of the \$33 billion that changed hands over the two-year period. That is, a mere 1 percent of the settlements comprised over 50 percent of the value involved in federal class action settlements in 2006 and 2007. To give some sense of the distribution of settlement size in the 2006–2007 data set, Table 5 sets forth the number of settlements with an ascertainable value beyond fee, expense, and class-representative incentive awards (605 out of the 688 settlements). Nearly two-thirds of all settlements fell below \$10 million.

Given the disproportionate influence exerted by securities settlements on the total amount of money involved in class actions, it is unsurprising that the average securities settlement involved more money than the average settlement in most of the other subject areas. These numbers are provided in Table 6, which includes, again, only the settlements

(\$1,100,000,000); Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) (\$1,075,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel II), No. 05-1659 (S.D.N.Y. Dec. 26, 2006) (\$1,074,270,000).

Table 5: The Distribution by Size of 2006–2007 Federal Class Action Settlements with Ascertainable Value

<i>Settlement Size (in Millions)</i>	<i>Number of Settlements</i>
[\$0 to \$1]	131 (21.7%)
(\$1 to \$10]	261 (43.1%)
(\$10 to \$50]	139 (23.0%)
(\$50 to \$100]	33 (5.45%)
(\$100 to \$500]	31 (5.12%)
(\$500 to \$6,600]	10 (1.65%)
Total	605

NOTE: Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks’ offices.

Table 6: The Average and Median Settlement Amounts in the 2006–2007 Federal Class Action Settlements with Ascertainable Value to the Class

<i>Subject Matter</i>	<i>Average</i>	<i>Median</i>
Securities (<i>n</i> = 257)	\$96.4	\$8.0
Labor and employment (<i>n</i> = 88)	\$9.2	\$1.8
Consumer (<i>n</i> = 65)	\$18.8	\$2.9
Employee benefits (<i>n</i> = 52)	\$13.9	\$5.3
Civil rights (<i>n</i> = 34)	\$9.7	\$2.5
Debt collection (<i>n</i> = 40)	\$0.37	\$0.088
Antitrust (<i>n</i> = 29)	\$60.0	\$22.0
Commercial (<i>n</i> = 12)	\$111.7	\$7.1
Other (<i>n</i> = 28)	\$76.6	\$6.2
All (<i>N</i> = 605)	\$54.7	\$5.1

NOTE: Dollar amounts are in millions. Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks’ offices.

with an ascertainable value beyond fee, expense, and class-representative incentive awards. The average settlement over the entire two-year period for all types of cases was almost \$55 million, but the median was only \$5.1 million. (With the \$6.6 billion Enron settlement excluded, the average settlement for all ascertainable cases dropped to \$43.8 million and, for securities cases, dropped to \$71.0 million.) The average settlements varied widely by litigation area, with securities and commercial settlements at the high end of around \$100

million, but the median settlements for nearly every area were bunched around a few million dollars. It should be noted that the high average for commercial cases is largely due to one settlement above \$1 billion;⁵⁶ when that settlement is removed, the average for commercial cases was only \$24.2 million.

Table 6 permits comparison with the two prior empirical studies of class action settlements that sought to include nonsecurities as well as securities cases in their purview. The Eisenberg-Miller study through 2002, which included both common-fund and fee-shifting cases, found that the mean class action settlement was \$112 million and the median was \$12.9 million, both in 2006 dollars,⁵⁷ more than double the average and median I found for all settlements in 2006 and 2007. The Eisenberg-Miller update through 2008 included only common-fund cases and found mean and median settlements in federal court of \$115 million and \$11.7 million (both again in 2006 dollars),⁵⁸ respectively; this is still more than double the average and median I found. This suggests that the methodology used by the Eisenberg-Miller studies—looking at district court opinions that were published in Westlaw or Lexis—oversampled larger class actions (because opinions approving larger class actions are, presumably, more likely to be published than opinions approving smaller ones). It is also possible that the exclusion of fee-shifting cases from their data through 2008 contributed to this skew, although, given that their data through 2002 included fee-shifting cases and found an almost identical mean and median as their data through 2008, the primary explanation for the much larger mean and median in their study through 2008 is probably their reliance on published opinions. Over the same years examined by Professors Eisenberg and Miller, the Class Action Reports study found a smaller average settlement than I did (\$39.5 million in 2006 dollars), but a larger median (\$8.48 million in 2006 dollars). It is possible that the Class Action Reports methodology also oversampled larger class actions, explaining its larger median, but that there are more “mega” class actions today than there were before 2003, explaining its smaller mean.⁵⁹

It is interesting to ask how significant the \$16 billion that was involved annually in these 350 or so federal class action settlements is in the grand scheme of U.S. litigation. Unfortunately, we do not know how much money is transferred every year in U.S. litigation. The only studies of which I am aware that attempt even a partial answer to this question are the estimates of how much money is transferred in the U.S. “tort” system every year by a financial services consulting firm, Tillinghast-Towers Perrin.⁶⁰ These studies are not directly

⁵⁶See *Allapattah Servs. Inc. v. Exxon Corp.*, No. 91-0986 (S.D. Fla. Apr. 7, 2006) (approving \$1,075,000,000 settlement).

⁵⁷See Eisenberg & Miller, *supra* note 15, at 47.

⁵⁸See Eisenberg & Miller II, *supra* note 16, at 262.

⁵⁹There were eight class action settlements during 2006 and 2007 of more than \$1 billion. See note 55 *supra*.

⁶⁰Some commentators have been critical of Tillinghast’s reports, typically on the ground that the reports overestimate the cost of the tort system. See M. Martin Boyer, *Three Insights from the Canadian D&O Insurance Market: Inertia, Information and Insiders*, 14 *Conn. Ins. L.J.* 75, 84 (2007); John Fabian Witt, *Form and Substance in the Law of*

comparable to the class action settlement numbers because, again, the number of tort class action settlements in 2006 and 2007 was very small. Nonetheless, as the tort system no doubt constitutes a large percentage of the money transferred in all litigation, these studies provide something of a point of reference to assess the significance of class action settlements. In 2006 and 2007, Tillinghast-Towers Perrin estimated that the U.S. tort system transferred \$160 billion and \$164 billion, respectively, to claimants and their lawyers.⁶¹ The total amount of money involved in the 2006 and 2007 federal class action settlements reported in Table 4 was, therefore, roughly 10 percent of the Tillinghast-Towers Perrin estimate. This suggests that in merely 350 cases every year, federal class action settlements involve the same amount of wealth as 10 percent of the entire U.S. tort system. It would seem that this is a significant amount of money for so few cases.

IV. ATTORNEY FEES IN FEDERAL CLASS ACTION SETTLEMENTS, 2006 AND 2007

A. Total Amount of Fees and Expenses

As I demonstrated in Section III, federal class action settlements involved a great deal of money in 2006 and 2007, some \$16 billion a year. A perennial concern with class action litigation is whether class action lawyers are reaping an outsized portion of this money.⁶² The 2006–2007 federal class action data suggest that these concerns may be exaggerated. Although class counsel were awarded some \$5 billion in fees and expenses over this period, as shown in Table 7, only 13 percent of the settlement amount in 2006 and 20 percent of the amount in 2007 went to fee and expense awards.⁶³ The 2006 percentage is lower than the 2007 percentage in large part because the class action lawyers in the Enron securities settlement received less than 10 percent of the \$6.6 billion corpus. In any event, the percentages in both 2006 and 2007 are far lower than the portions of settlements that contingency-fee lawyers receive in individual litigation, which are usually at least 33 percent.⁶⁴ Lawyers received less than 33 percent of settlements in fees and expenses in virtually every subject area in both years.

Counterinsurgency Damages, 41 *Loy. L.A.L. Rev.* 1455, 1475 n.135 (2008). If these criticisms are valid, then class action settlements would appear even more significant as compared to the tort system.

⁶¹See Tillinghast-Towers Perrin, *U.S. Tort Costs: 2008 Update 5* (2008). The report calculates \$252 billion in total tort “costs” in 2007 and \$246.9 billion in 2006, *id.*, but only 65 percent of those costs represent payments made to claimants and their lawyers (the remainder represents insurance administration costs and legal costs to defendants). See Tillinghast-Towers Perrin, *U.S. Tort Costs: 2003 Update 17* (2003).

⁶²See, e.g., Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little?* 158 *U. Pa. L. Rev.* 2043, 2043–44 (2010).

⁶³In some of the partial settlements, see note 29 *supra*, the district court awarded expenses for all the settlements at once and it was unclear what portion of the expenses was attributable to which settlement. In these instances, I assigned each settlement a pro rata portion of expenses. To the extent possible, all the fee and expense numbers in this article exclude any interest known to be awarded by the courts.

⁶⁴See, e.g., Herbert M. Kritzer, *The Wages of Risk: The Returns of Contingency Fee Legal Practice*, 47 *DePaul L. Rev.* 267, 284–86 (1998) (reporting results of a survey of Wisconsin lawyers).

Table 7: The Total Amount of Fees and Expenses Awarded to Class Action Lawyers in Federal Class Action Settlements in 2006 and 2007

Subject Matter	Total Fees and Expenses Awarded in Settlements (and as Percentage of Total Settlement Amounts) in Each Subject Area	
	2006 (n = 292)	2007 (n = 363)
Securities	\$1,899 (11%)	\$1,467 (20%)
Labor and employment	\$75.1 (28%)	\$144.5 (26%)
Consumer	\$126.4 (24%)	\$65.3 (9%)
Employee benefits	\$57.1 (13%)	\$71.9 (26%)
Civil rights	\$31.0 (12%)	\$32.2 (39%)
Debt collection	\$2.5 (28%)	\$1.1 (19%)
Antitrust	\$274.6 (26%)	\$157.3 (24%)
Commercial	\$347.3 (29%)	\$18.2 (15%)
Other	\$119.3 (8%)	\$103.3 (17%)
Total	\$2,932 (13%)	\$2,063 (20%)

NOTE: Dollar amounts are in millions. Excludes settlements in which fees were not (or at least not yet) sought (22 settlements), settlements in which fees have not yet been awarded (two settlements), and settlements in which fees could not be ascertained due to indefinite award amounts, missing documents, or nonpublic side agreements (nine settlements).

SOURCES: Westlaw, PACER, district court clerks’ offices.

It should be noted that, in some respects, the percentages in Table 7 overstate the portion of settlements that were awarded to class action attorneys because, again, many of these settlements involved indefinite cash relief or noncash relief that could not be valued.⁶⁵ If the value of all this relief could have been included, then the percentages in Table 7 would have been even lower. On the other hand, as noted above, not all the money defendants agree to pay in class action settlements is ultimately collected by the class.⁶⁶ To the extent leftover money is returned to the defendant, the percentages in Table 7 understate the portion class action lawyers received relative to their clients.

B. Method of Awarding Fees

District court judges have a great deal of discretion in how they set fee awards in class action cases. Under Rule 23, federal judges are told only that the fees they award to class counsel

⁶⁵Indeed, the large year-to-year variation in the percentages in labor, consumer, and employee benefits cases arose because district courts made particularly large valuations of the equitable relief in a few settlements and used the lodestar method to calculate the fees in these settlements (and thereby did not consider their large valuations in calculating the fees).

⁶⁶See Hensler et al., *supra* note 7, at 427–30.

must be “reasonable.”⁶⁷ Courts often exercise this discretion by choosing between two approaches: the lodestar approach or the percentage-of-the-settlement approach.⁶⁸ The lodestar approach works much the way it does in individual litigation: the court calculates the fee based on the number of hours class counsel actually worked on the case multiplied by a reasonable hourly rate and a discretionary multiplier.⁶⁹ The percentage-of-the-settlement approach bases the fee on the size of the settlement rather than on the hours class counsel actually worked: the district court picks a percentage of the settlement it thinks is reasonable based on a number of factors, one of which is often the fee lodestar (sometimes referred to as a “lodestar cross-check”).⁷⁰ My 2006–2007 data set shows that the percentage-of-the-settlement approach has become much more common than the lodestar approach. In 69 percent of the settlements reported in Table 7, district court judges employed the percentage-of-the-settlement method with or without the lodestar cross-check. They employed the lodestar method in only 12 percent of settlements. In the other 20 percent of settlements, the court did not state the method it used or it used another method altogether.⁷¹ The pure lodestar method was used most often in consumer (29 percent) and debt collection (45 percent) cases. These numbers are fairly consistent with the Eisenberg-Miller data from 2003 to 2008. They found that the lodestar method was used in only 9.6 percent of settlements.⁷² Their number is no doubt lower than the 12 percent number found in my 2006–2007 data set because they excluded fee-shifting cases from their study.

C. Variation in Fees Awarded

Not only do district courts often have discretion to choose between the lodestar method and the percentage-of-the-settlement method, but each of these methods leaves district courts with a great deal of discretion in how the method is ultimately applied. The courts

⁶⁷Fed. R. Civ. P. 23(h).

⁶⁸The discretion to pick between these methods is most pronounced in settlements where the underlying claim was not found in a statute that would shift attorney fees to the defendant. See, e.g., *In re Thirteen Appeals Arising out of San Juan DuPont Plaza Hotel Fire Litig.*, 56 F.3d 295, 307 (1st Cir. 1995) (permitting either percentage or lodestar method in common-fund cases); *Goldberger v. Integrated Res. Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (same); *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (same). By contrast, courts typically used the lodestar approach in settlements arising from fee-shifting cases.

⁶⁹See Eisenberg & Miller, *supra* note 15, at 31.

⁷⁰*Id.* at 31–32.

⁷¹These numbers are based on the fee method described in the district court’s order awarding fees, unless the order was silent, in which case the method, if any, described in class counsel’s motion for fees (if it could be obtained) was used. If the court explicitly justified the fee award by reference to its percentage of the settlement, I counted it as the percentage method. If the court explicitly justified the award by reference to a lodestar calculation, I counted it as the lodestar method. If the court explicitly justified the award by reference to both, I counted it as the percentage method with a lodestar cross-check. If the court calculated neither a percentage nor the fee lodestar in its order, then I counted it as an “other” method.

⁷²See Eisenberg & Miller II, *supra* note 16, at 267.

that use the percentage-of-the-settlement method usually rely on a multifactor test⁷³ and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.⁷⁴ In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.⁷⁵ Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases.⁷⁶ Nonetheless, presumptions, of course, can be overcome and, as one court has put it, “[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case.”⁷⁷ The court added: “[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility.”⁷⁸ It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court’s order or counsel’s motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.⁷⁹

It should be noted that in 218 of these 444 settlements (49 percent), district courts said they considered the lodestar calculation as a factor in assessing the reasonableness of the fee percentages awarded. In 204 of these settlements, the lodestar multiplier resulting

⁷³The Eleventh Circuit, for example, has identified a nonexclusive list of 15 factors that district courts might consider. See *Camden I Condo. Ass’n, Inc. v. Dunkle*, 946 F.2d 768, 772 n.3, 775 (11th Cir. 1991). See also *In re Tyco Int’l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249, 265 (D.N.H. 2007) (five factors); *Goldberger v. Integrated Res. Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (six factors); *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) (seven factors); *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383, 385 (D. Md. 2006) (13 factors); *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 454 (10th Cir. 1988) (12 factors); *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (seven factors).

⁷⁴See *Eisenberg & Miller*, *supra* note 15, at 32.

⁷⁵See *Staton v. Boeing Co.*, 327 F.3d 938, 968 (9th Cir. 2003).

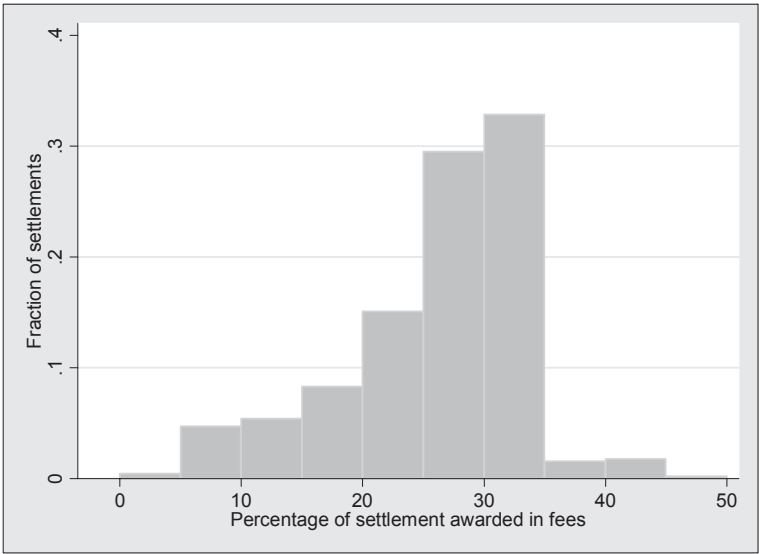
⁷⁶See, e.g., *In re Cendant Corp. Litig.*, 264 F.3d 201, 282 (3d Cir. 2001).

⁷⁷*Camden I Condo. Ass’n*, 946 F.2d at 774.

⁷⁸*Camden I Condo. Ass’n*, 946 F.2d at 774 (alterations in original and internal quotation marks omitted).

⁷⁹See *Eisenberg & Miller II*, *supra* note 16, at 259.

Figure 4: The distribution of 2006–2007 federal class action fee awards using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks’ offices.

from the fee award could be ascertained. The lodestar multiplier in these cases ranged from 0.07 to 10.3, with a mean of 1.65 and a median of 1.34. Although there is always the possibility that class counsel are optimistic with their timesheets when they submit them for lodestar consideration, these lodestar numbers—only one multiplier above 6.0, with the bulk of the range not much above 1.0—strike me as fairly parsimonious for the risk that goes into any piece of litigation and cast doubt on the notion that the percentage-of-the-settlement method results in windfalls to class counsel.⁸⁰

Table 8 shows the mean and median fee percentages awarded in each litigation subject area. The fee percentages did not appear to vary greatly across litigation subject areas, with most mean and median awards between 25 percent and 30 percent. As I report later in this section, however, after controlling for other variables, there were statistically significant differences in the fee percentages awarded in some subject areas compared to others. The mean and median percentages for securities cases were 24.7 percent and 25.0 percent, respectively; for all nonsecurities cases, the mean and median were 26.1 percent and 26.0 percent, respectively. The Eisenberg-Miller study through 2008 found mean awards ranging from 21–27 percent and medians from 19–25 percent,⁸¹ a bit lower than the ranges in my

⁸⁰It should be emphasized, of course, that these 204 settlements may not be representative of the settlements where the percentage-of-the-settlement method was used without the lodestar cross-check.

⁸¹See Eisenberg & Miller II, *supra* note 16, at 262.

Table 8: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Subject Matter</i>	<i>Percentage of Settlement Awarded as Fees</i>	
	<i>Mean</i>	<i>Median</i>
Securities (<i>n</i> = 233)	24.7	25.0
Labor and employment (<i>n</i> = 61)	28.0	29.0
Consumer (<i>n</i> = 39)	23.5	24.6
Employee benefits (<i>n</i> = 37)	26.0	28.0
Civil rights (<i>n</i> = 20)	29.0	30.3
Debt collection (<i>n</i> = 5)	24.2	25.0
Antitrust (<i>n</i> = 23)	25.4	25.0
Commercial (<i>n</i> = 7)	23.3	25.0
Other (<i>n</i> = 19)	24.9	26.0
All (<i>N</i> = 444)	25.7	25.0

SOURCES: Westlaw, PACER, district court clerks’ offices.

2006–2007 data set, which again, may be because they oversampled larger settlements (as I show below, district courts awarded smaller fee percentages in larger cases).

In light of the fact that, as I noted above, the distribution of class action settlements among the geographic circuits does not track their civil litigation dockets generally, it is interesting to ask whether one reason for the pattern in class action cases is that circuits oversubscribed with class actions award higher fee percentages. Although this question will be taken up with more sophistication in the regression analysis below, it is worth describing here the mean and median fee percentages in each of the circuits. Those data are presented in Table 9. Contrary to the hypothesis set forth in Section III, two of the circuits most oversubscribed with class actions, the Second and the Ninth, were the only circuits in which the mean fee awards were *under* 25 percent. As I explain below, these differences are statistically significant and remain so after controlling for other variables.

The lodestar method likewise permits district courts to exercise a great deal of leeway through the application of the discretionary multiplier. Figure 5 shows the distribution of lodestar multipliers in the 71 settlements in which district courts used the lodestar method and the multiplier could be ascertained. The average multiplier was 0.98 and the median was 0.92, which suggest that courts were not terribly prone to exercise their discretion to deviate from the amount of money encompassed in the lodestar calculation. These 71

Table 9: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Circuit</i>	<i>Percentage of Settlement Awarded as Fees</i>	
	<i>Mean</i>	<i>Median</i>
First (<i>n</i> = 27)	27.0	25.0
Second (<i>n</i> = 72)	23.8	24.5
Third (<i>n</i> = 50)	25.4	29.3
Fourth (<i>n</i> = 19)	25.2	28.0
Fifth (<i>n</i> = 27)	26.4	29.0
Sixth (<i>n</i> = 25)	26.1	28.0
Seventh (<i>n</i> = 39)	27.4	29.0
Eighth (<i>n</i> = 15)	26.1	30.0
Ninth (<i>n</i> = 111)	23.9	25.0
Tenth (<i>n</i> = 18)	25.3	25.5
Eleventh (<i>n</i> = 35)	28.1	30.0
DC (<i>n</i> = 6)	26.9	26.0

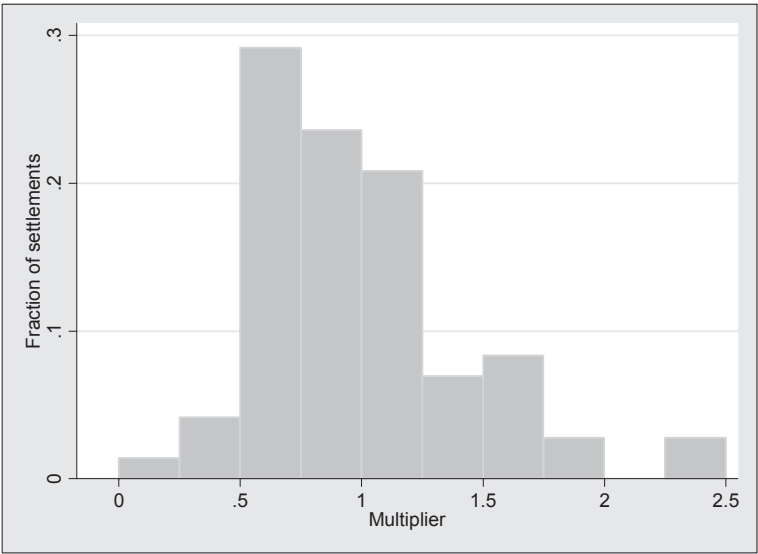
SOURCES: Westlaw, PACER, district court clerks’ offices.

settlements were heavily concentrated within the consumer (median multiplier 1.13) and debt collection (0.66) subject areas. If cases in which district courts used the percentage-of-the-settlement method with a lodestar cross-check are combined with the lodestar cases, the average and median multipliers (in the 263 cases where the multipliers were ascertainable) were 1.45 and 1.19, respectively. Again—putting to one side the possibility that class counsel are optimistic with their timesheets—these multipliers appear fairly modest in light of the risk involved in any piece of litigation.

D. Factors Influencing Percentage Awards

Whether district courts are exercising their discretion over fee awards wisely is an important public policy question given the amount of money at stake in class action settlements. As shown above, district court judges awarded class action lawyers nearly \$5 billion in fees and expenses in 2006–2007. Based on the comparison to the tort system set forth in Section III, it is not difficult to surmise that in the 350 or so settlements every year, district court judges

Figure 5: The distribution of lodestar multipliers in 2006–2007 federal class action fee awards using the lodestar method.



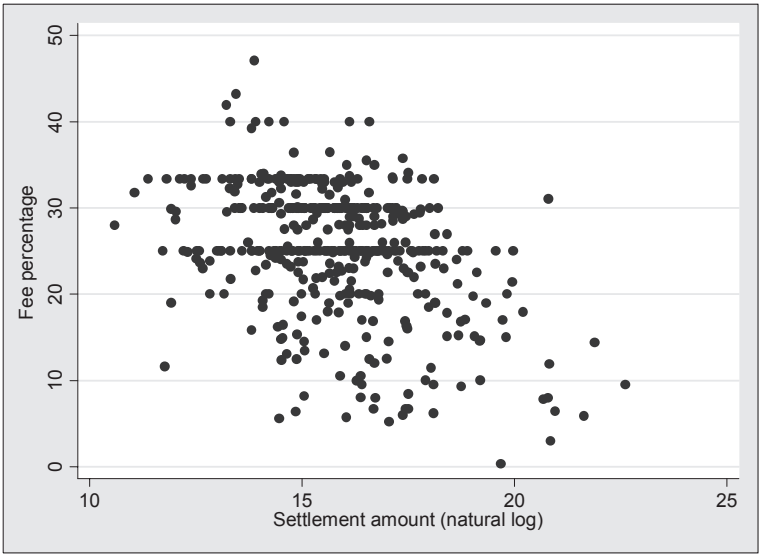
SOURCES: Westlaw, PACER, district court clerks’ offices.

are awarding a significant portion of all the annual compensation received by contingency-fee lawyers in the United States. Moreover, contingency fees are arguably the engine that drives much of the noncriminal regulation in the United States; unlike many other nations, we regulate largely through the ex post, decentralized device of litigation.⁸² To the extent district courts could have exercised their discretion to award billions more or billions less to class action lawyers, district courts have been delegated a great deal of leeway over a big chunk of our regulatory horsepower. It is therefore worth examining how district courts exercise their discretion over fees. This examination is particularly important in cases where district courts use the percentage-of-the-settlement method to award fees: not only do such cases comprise the vast majority of settlements, but they comprise the vast majority of the money awarded as fees. As such, the analysis that follows will be confined to the 444 settlements where the district courts used the percentage-of-the-settlement method.

As I noted, prior empirical studies have shown that fee percentages are strongly and inversely related to the size of the settlement both in securities fraud and other cases. As shown in Figure 6, the 2006–2007 data are consistent with prior studies. Regression analysis, set forth in more detail below, confirms that after controlling for other variables, fee percentage is strongly and inversely associated with settlement size among all cases, among securities cases, and among all nonsecurities cases.

⁸²See, e.g., Samuel Issacharoff, *Regulating after the Fact*, 56 DePaul L. Rev. 375, 377 (2007).

Figure 6: Fee awards as a function of settlement size in 2006–2007 class action cases using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks’ offices.

As noted above, courts often look to fee percentages in other cases as one factor they consider in deciding what percentage to award in a settlement at hand. In light of this practice, and in light of the fact that the size of the settlement has such a strong relationship to fee percentages, scholars have tried to help guide the practice by reporting the distribution of fee percentages across different settlement sizes.⁸³ In Table 10, I follow the Eisenberg-Miller studies and attempt to contribute to this guidance by setting forth the mean and median fee percentages, as well as the standard deviation, for each decile of the 2006–2007 settlements in which courts used the percentage-of-the-settlement method to award fees. The mean percentages ranged from over 28 percent in the first decile to less than 19 percent in the last decile.

It should be noted that the last decile in Table 10 covers an especially wide range of settlements, those from \$72.5 million to the Enron settlement of \$6.6 billion. To give more meaningful data to courts that must award fees in the largest settlements, Table 11 shows the last decile broken into additional cut points. When both Tables 10 and 11 are examined together, it appears that fee percentages tended to drift lower at a fairly slow pace until a settlement size of \$100 million was reached, at which point the fee percentages plunged well below 20 percent, and by the time \$500 million was reached, they plunged well below 15 percent, with most awards at that level under even 10 percent.

⁸³See Eisenberg & Miller II, *supra* note 16, at 265.

Table 10: Mean, Median, and Standard Deviation of Fee Awards by Settlement Size in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Settlement Size (in Millions)</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>
[\$0 to \$0.75] (<i>n</i> = 45)	28.8%	29.6%	6.1%
(\$0.75 to \$1.75] (<i>n</i> = 44)	28.7%	30.0%	6.2%
(\$1.75 to \$2.85] (<i>n</i> = 45)	26.5%	29.3%	7.9%
(\$2.85 to \$4.45] (<i>n</i> = 45)	26.0%	27.5%	6.3%
(\$4.45 to \$7.0] (<i>n</i> = 44)	27.4%	29.7%	5.1%
(\$7.0 to \$10.0] (<i>n</i> = 43)	26.4%	28.0%	6.6%
(\$10.0 to \$15.2] (<i>n</i> = 45)	24.8%	25.0%	6.4%
(\$15.2 to \$30.0] (<i>n</i> = 46)	24.4%	25.0%	7.5%
(\$30.0 to \$72.5] (<i>n</i> = 42)	22.3%	24.9%	8.4%
(\$72.5 to \$6,600] (<i>n</i> = 45)	18.4%	19.0%	7.9%

SOURCES: Westlaw, PACER, district court clerks’ offices.

Table 11: Mean, Median, and Standard Deviation of Fee Awards of the Largest 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Settlement Size (in Millions)</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>
(\$72.5 to \$100] (<i>n</i> = 12)	23.7%	24.3%	5.3%
(\$100 to \$250] (<i>n</i> = 14)	17.9%	16.9%	5.2%
(\$250 to \$500] (<i>n</i> = 8)	17.8%	19.5%	7.9%
(\$500 to \$1,000] (<i>n</i> = 2)	12.9%	12.9%	7.2%
(\$1,000 to \$6,600] (<i>n</i> = 9)	13.7%	9.5%	11%

SOURCES: Westlaw, PACER, district court clerks’ offices.

Prior empirical studies have not examined whether fee awards are associated with the political affiliation of the district court judges making the awards. This is surprising because realist theories of judicial behavior would predict that political affiliation would influence fee decisions.⁸⁴ It is true that as a general matter, political affiliation may influence district court judges to a lesser degree than it does appellate judges (who have been the focus of most of the prior empirical studies of realist theories): district court judges decide more routine cases and are subject to greater oversight on appeal than appellate judges. On the other hand, class action settlements are a bit different in these regards than many other decisions made by district court judges. To begin with, class action settlements are almost never appealed, and when they are, the appeals are usually settled before the appellate court hears the case.⁸⁵ Thus, district courts have much less reason to worry about the constraint of appellate review in fashioning fee awards. Moreover, one would think the potential for political affiliation to influence judicial decision making is greatest when legal sources lead to indeterminate outcomes and when judicial decisions touch on matters that are salient in national politics. (The more salient a matter is, the more likely presidents will select judges with views on the matter and the more likely those views will diverge between Republicans and Democrats.) Fee award decisions would seem to satisfy both these criteria. The law of fee awards, as explained above, is highly discretionary, and fee award decisions are wrapped up in highly salient political issues such as tort reform and the relative power of plaintiffs' lawyers and corporations. I would expect to find that judges appointed by Democratic presidents awarded higher fees in the 2006–2007 settlements than did judges appointed by Republican presidents.

The data, however, do not appear to bear this out. Of the 444 fee awards using the percentage-of-the-settlement approach, 52 percent were approved by Republican appointees, 45 percent were approved by Democratic appointees, and 4 percent were approved by non-Article III judges (usually magistrate judges). The mean fee percentage approved by Republican appointees (25.6 percent) was slightly *greater* than the mean approved by Democratic appointees (24.9 percent). The medians (25 percent) were the same.

To examine whether the realist hypothesis fared better after controlling for other variables, I performed regression analysis of the fee percentage data for the 427 settlements approved by Article III judges. I used ordinary least squares regression with the dependent variable the percentage of the settlement that was awarded in fees.⁸⁶ The independent

⁸⁴See generally C.K. Rowland & Robert A. Carp, *Politics and Judgment in Federal District Courts* (1996). See also Max M. Schanzenbach & Emerson H. Tiller, *Reviewing the Sentencing Guidelines: Judicial Politics, Empirical Evidence, and Reform*, 75 U. Chi. L. Rev. 715, 724–25 (2008).

⁸⁵See Brian T. Fitzpatrick, *The End of Objector Blackmail?* 62 Vand. L. Rev. 1623, 1640, 1634–38 (2009) (finding that less than 10 percent of class action settlements approved by federal courts in 2006 were appealed by class members).

⁸⁶Professors Eisenberg and Miller used a square root transformation of the fee percentages in some of their regressions. I ran all the regressions using this transformation as well and it did not appreciably change the results. I also ran the regressions using a natural log transformation of fee percentage and with the dependent variable natural log of the fee amount (as opposed to the fee percentage). None of these models changed the results

variables were the natural log of the amount of the settlement, the natural log of the age of the case (in days), indicator variables for whether the class was certified as a settlement class, for litigation subject areas, and for circuits, as well as indicator variables for whether the judge was appointed by a Republican or Democratic president and for the judge's race and gender.⁸⁷

The results for five regressions are in Table 12. In the first regression (Column 1), only the settlement amount, case age, and judge's political affiliation, gender, and race were included as independent variables. In the second regression (Column 2), all the independent variables were included. In the third regression (Column 3), only securities cases were analyzed, and in the fourth regression (Column 4), only nonsecurities cases were analyzed.

In none of these regressions was the political affiliation of the district court judge associated with fee percentage in a statistically significant manner.⁸⁸ One possible explanation for the lack of evidence for the realist hypothesis is that district court judges elevate other preferences above their political and ideological ones. For example, district courts of both political stripes may succumb to docket-clearing pressures and largely rubber stamp whatever fee is requested by class counsel; after all, these requests are rarely challenged by defendants. Moreover, if judges award class counsel whatever they request, class counsel will not appeal and, given that, as noted above, class members rarely appeal settlements (and when they do, often settle them before the appeal is heard),⁸⁹ judges can thereby virtually guarantee there will be no appellate review of their settlement decisions. Indeed, scholars have found that in the vast majority of cases, the fees ultimately awarded by federal judges are little different than those sought by class counsel.⁹⁰

Another explanation for the lack of evidence for the realist hypothesis is that my data set includes both unpublished as well as published decisions. It is thought that realist theories of judicial behavior lose force in unpublished judicial decisions. This is the case because the kinds of questions for which realist theories would predict that judges have the most room to let their ideologies run are questions for which the law is ambiguous; it is

appreciably. The regressions were also run with and without the 2006 Enron settlement because it was such an outlier (\$6.6 billion); the case did not change the regression results appreciably. For every regression, the data and residuals were inspected to confirm the standard assumptions of linearity, homoscedasticity, and the normal distribution of errors.

⁸⁷Prior studies of judicial behavior have found that the race and sex of the judge can be associated with his or her decisions. See, e.g., Adam B. Cox & Thomas J. Miles, *Judging the Voting Rights Act*, 108 *Colum. L. Rev.* 1 (2008); Donald R. Songer et al., *A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals*, 56 *J. Pol.* 425 (1994).

⁸⁸Although these coefficients are not reported in Table 8, the gender of the district court judge was never statistically significant. The race of the judge was only occasionally significant.

⁸⁹See Fitzpatrick, *supra* note 85, at 1640.

⁹⁰See Eisenberg & Miller II, *supra* note 16, at 270 (finding that state and federal judges awarded the fees requested by class counsel in 72.5 percent of settlements); Eisenberg, Miller & Perino, *supra* note 9, at 22 ("judges take a light touch when it comes to reviewing fee requests").

Table 12: Regression of Fee Percentages in 2006–2007 Settlements Using Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Independent Variable</i>	<i>Regression Coefficients (and Robust t Statistics)</i>				
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Settlement amount (natural log)	−1.77 (−5.43)**	−1.76 (−8.52)**	−1.76 (−7.16)**	−1.41 (−4.00)**	−1.78 (−8.67)**
Age of case (natural log days)	1.66 (2.31)**	1.99 (2.71)**	1.13 (1.21)	1.72 (1.47)	2.00 (2.69)**
Judge’s political affiliation (1 = Democrat)	−0.630 (−0.83)	−0.345 (−0.49)	0.657 (0.76)	−1.43 (−1.20)	−0.232 (−0.34)
Settlement class		0.150 (0.19)	0.873 (0.84)	−1.62 (−1.00)	0.124 (0.15)
1st Circuit		3.30 (2.74)**	4.41 (3.32)**	0.031 (0.01)	0.579 (0.51)
2d Circuit		0.513 (0.44)	−0.813 (−0.61)	2.93 (1.14)	−2.23 (−1.98)**
3d Circuit		2.25 (1.99)**	4.00 (3.85)**	−1.11 (−0.50)	—
4th Circuit		2.34 (1.22)	0.544 (0.19)	3.81 (1.35)	—
5th Circuit		2.98 (1.90)*	1.09 (0.65)	6.11 (1.97)**	0.230 (0.15)
6th Circuit		2.91 (2.28)**	0.838 (0.57)	4.41 (2.15)**	—
7th Circuit		2.55 (2.23)**	3.22 (2.36)**	2.90 (1.46)	−0.227 (−0.20)
8th Circuit		2.12 (0.97)	−0.759 (−0.24)	3.73 (1.19)	−0.586 (−0.28)
9th Circuit		—	—	—	−2.73 (−3.44)**
10th Circuit		1.45 (0.94)	−0.254 (−0.13)	3.16 (1.29)	—
11th Circuit		4.05 (3.44)**	3.85 (3.07)**	4.14 (1.88)*	—
DC Circuit		2.76 (1.10)	2.60 (0.80)	2.41 (0.64)	—
Securities case		—			—
Labor and employment case		2.93 (3.00)**		—	2.85 (2.94)**
Consumer case		−1.65 (−0.88)		−4.39 (−2.20)**	−1.62 (−0.88)
Employee benefits case		−0.306 (−0.23)		−4.23 (−2.55)**	−0.325 (−0.26)
Civil rights case		1.85 (0.99)		−2.05 (−0.97)	1.76 (0.95)
Debt collection case		−4.93 (−1.71)*		−7.93 (−2.49)**	−5.04 (−1.75)*
Antitrust case		3.06 (2.11)**		0.937 (0.47)	2.78 (1.98)**

Table 12 Continued

Independent Variable	Regression Coefficients (and Robust t Statistics)				
	1	2	3	4	5
Commercial case		-0.028 (-0.01)		-2.65 (-0.73)	0.178 (0.05)
Other case		-0.340 (-0.17)		-3.73 (-1.65)	-0.221 (-0.11)
Constant	42.1 (7.29)**	37.2 (6.08)**	43.0 (6.72)**	38.2 (4.14)**	40.1 (7.62)**
N	427	427	232	195	427
R ²	.20	.26	.37	.26	.26
Root MSE	6.59	6.50	5.63	7.24	6.48

NOTE: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported.
SOURCES: Westlaw, PACER, district court clerks’ offices, Federal Judicial Center.

thought that these kinds of questions are more often answered in published opinions.⁹¹ Indeed, most of the studies finding an association between ideological beliefs and case outcomes were based on data sets that included only published opinions.⁹² On the other hand, there is a small but growing number of studies that examine unpublished opinions as well, and some of these studies have shown that ideological effects persisted.⁹³ Nonetheless, in light of the discretion that judges exercise with respect to fee award decisions, it hard to characterize *any* decision in this area as “unambiguous.” Thus, even when unpublished, I would have expected the fee award decisions to exhibit an association with ideological beliefs. Thus, I am more persuaded by the explanation suggesting that judges are more concerned with clearing their dockets or insulating their decisions from appeal in these cases than with furthering their ideological beliefs.

In all the regressions, the size of the settlement was strongly and inversely associated with fee percentages. Whether the case was certified as a settlement class was not associated

⁹¹See, e.g., Ahmed E. Taha, Data and Selection Bias: A Case Study, 75 UMKC L. Rev. 171, 179 (2006).

⁹²Id. at 178–79.

⁹³See, e.g., David S. Law, Strategic Judicial Lawmaking: Ideology, Publication, and Asylum Law in the Ninth Circuit, 73 U. Cin. L. Rev. 817, 843 (2005); Deborah Jones Merritt & James J. Brudney, Stalking Secret Law: What Predicts Publication in the United States Courts of Appeals, 54 Vand. L. Rev. 71, 109 (2001); Donald R. Songer, Criteria for Publication of Opinions in the U.S. Courts of Appeals: Formal Rules Versus Empirical Reality, 73 Judicature 307, 312 (1990). At the trial court level, however, the studies of civil cases have found no ideological effects. See Laura Beth Nielsen, Robert L. Nelson & Ryon Lancaster, Individual Justice or Collective Legal Mobilization? Employment Discrimination Litigation in the Post Civil Rights United States, 7 J. Empirical Legal Stud. 175, 192–93 (2010); Denise M. Keele et al., An Analysis of Ideological Effects in Published Versus Unpublished Judicial Opinions, 6 J. Empirical Legal Stud. 213, 230 (2009); Orley Ashenfelter, Theodore Eisenberg & Stewart J. Schwab, Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Stud. 257, 276–77 (1995). With respect to criminal cases, there is at least one study at the trial court level that has found ideological effects. See Schanzenbach & Tiller, *supra* note 81, at 734.

with fee percentages in any of the regressions. The age of the case at settlement was associated with fee percentages in the first two regressions, and when the settlement class variable was removed in regressions 3 and 4, the age variable became positively associated with fee percentages in nonsecurities cases but remained insignificant in securities cases. Professors Eisenberg and Miller likewise found that the age of the case at settlement was positively associated with fee percentages in their 1993–2002 data set,⁹⁴ and that settlement classes were not associated with fee percentages in their 2003–2008 data set.⁹⁵

Although the structure of these regressions did not permit extensive comparisons of fee awards across different litigation subject areas, fee percentages appeared to vary somewhat depending on the type of case that settled. Securities cases were used as the baseline litigation subject area in the second and fifth regressions, permitting a comparison of fee awards in each nonsecurities area with the awards in securities cases. These regressions show that awards in a few areas, including labor/employment and antitrust, were more lucrative than those in securities cases. In the fourth regression, which included only nonsecurities cases, labor and employment cases were used as the baseline litigation subject area, permitting comparison between fee percentages in that area and the other nonsecurities areas. This regression shows that fee percentages in several areas, including consumer and employee benefits cases, were lower than the percentages in labor and employment cases.

In the fifth regression (Column 5 of Table 12), I attempted to discern whether the circuits identified in Section III as those with the most overrepresented (the First, Second, Seventh, and Ninth) and underrepresented (the Fifth and Eighth) class action dockets awarded attorney fees differently than the other circuits. That is, perhaps district court judges in the First, Second, Seventh, and Ninth Circuits award greater percentages of class action settlements as fees than do the other circuits, whereas district court judges in the Fifth and Eighth Circuits award smaller percentages. To test this hypothesis, in the fifth regression, I included indicator variables only for the six circuits with unusual dockets to measure their fee awards against the other six circuits combined. The regression showed statistically significant association with fee percentages for only two of the six unusual circuits: the Second and Ninth Circuits. In both cases, however, the direction of the association (i.e., the Second and Ninth Circuits awarded *smaller* fees than the baseline circuits) was opposite the hypothesized direction.⁹⁶

⁹⁴See Eisenberg & Miller, *supra* note 15, at 61.

⁹⁵See Eisenberg & Miller II, *supra* note 16, at 266.

⁹⁶This relationship persisted when the regressions were rerun among the securities and nonsecurities cases separately. I do not report these results, but, even though the First, Second, and Ninth Circuits were oversubscribed with securities class action settlements and the Fifth, Sixth, and Eighth were undersubscribed, there was no association between fee percentages and any of these unusual circuits except, again, the inverse association with the Second and Ninth Circuits. In nonsecurities cases, even though the Seventh and Ninth Circuits were oversubscribed and the Fifth and the Eighth undersubscribed, there was no association between fee percentages and any of these unusual circuits except again for the inverse association with the Ninth Circuit.

The lack of the expected association with the unusual circuits might be explained by the fact that class action lawyers forum shop along dimensions other than their potential fee awards; they might, for example, put more emphasis on favorable class-certification law because there can be no fee award if the class is not certified. As noted above, it might also be the case that class action lawyers are unable to engage in forum shopping at all because defendants are able to transfer venue to the district in which they are headquartered or another district with a significant connection to the litigation.

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.⁹⁷ This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.⁹⁸ This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.⁹⁹

V. CONCLUSION

This article has attempted to fill some of the gaps in our knowledge about class action litigation by reporting the results of an empirical study that attempted to collect all class action settlements approved by federal judges in 2006 and 2007. District court judges approved 688 class action settlements over this two-year period, involving more than \$33 billion. Of this \$33 billion, nearly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. District courts typically awarded fees using the highly discretionary percentage-of-the-settlement method, and fee awards varied over a wide range under this method, with a mean and median around 25 percent. Fee awards using this method were strongly and inversely associated with the size of the settlement. Fee percentages were positively associated with the age of the case at settlement. Fee percentages were not associated with whether the class action was certified as a settlement class or with the

⁹⁷See note 75 *supra*. It should be noted that none of the results from the previous regressions were affected when the Ninth Circuit settlements were excluded from the data.

⁹⁸The Ninth Circuit's differences persisted.

⁹⁹See Eisenberg & Miller II, *supra* note 16, at 260.

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political affiliation of the judge who made the award. Finally, there appeared to be some variation in fee percentages depending on subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all of the other litigation areas, and district courts in the Ninth Circuit and in the Second Circuit (in securities cases) awarded lower fee percentages than district courts in several other circuits. The lower awards in the Ninth Circuit may be attributable to the fact that it is the only circuit that has adopted a presumptive fee percentage of 25 percent.

EXHIBIT 37

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

: ECF CASE

:
: No: 1:13-cv-07789-LGS
:
:

DECLARATION OF PROFESSOR GEOFFREY P. MILLER

I, Geoffrey P. Miller, declare as follows:

1. I have been retained to provide an opinion about the reasonableness of counsel's request for an award of attorneys' fees in this action. I make this declaration on the basis of the information described in Appendix 1 and empirical research cited throughout this declaration. If called as a witness, I could and would competently testify to the matters stated herein.

Background and qualifications

2. As set forth in my resume attached hereto as Appendix 2, I am the Stuyvesant Comfort Professor of Law at NYU Law School, where I serve as co-faculty director of the Center on Civil Justice and Senior Faculty Fellow of the Program on Corporate Compliance and Enforcement. I am a founder, past president and current Senior Fellow of the Society for Empirical Legal Studies, a scholarly organization devoted to statistical methods in legal studies, I am a member of the American Law Institute, the Reporter on the ALI's Principles of the Law, Compliance, Enforcement, and Risk Management for Corporations, Nonprofits, and other Organizations, and a 2011 inductee in the American Academy of Arts and Sciences.

3. For nearly thirty years, I have been involved in the area of class actions and complex litigation as a teacher, scholar, attorney, consultant, and expert witness.

4. I am presently teaching or have taught classes covering the issue of attorneys' fees, including Civil Procedure, Complex Litigation, Corporations, Professional Responsibility, and Securities Regulation. I have lectured on attorneys' fees issues in continuing legal education seminars and participated in academic conferences and meetings devoted to these issues. I was a member of the advisory committee for the American Law Institute's Principles of the Law project on Aggregate Litigation, which addressed questions of attorneys' fees in class actions and related types of cases.

5. I have frequently consulted with attorneys to assist with issues pertaining to awards of attorneys' fees. I have been qualified as an expert and testified in cases in state and federal courts across the United States, including testimony on the topic of attorneys' fees.

6. I have published widely cited studies of attorneys' fees in class action cases. These include the following:

- Theodore Eisenberg, Geoffrey Miller, and Roy Germano, Attorneys' Fees in Class Actions: 2009-2013, 92 N.Y.U. Law Review 937 (2017).

- Theodore Eisenberg and Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008, 7 Journal of Empirical Legal Studies 248 (2010).

- Theodore Eisenberg, Geoffrey Miller, and Michael Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Washington University Journal of Law & Policy 5-35 (2009).

- Theodore Eisenberg & Geoffrey P. Miller, Attorney Fees in Class Action Settlements: An Empirical Study, 1 Journal of Empirical Legal Studies 51 (2004).

7. My research articles on class action cases, especially in the area of attorneys' fees, have been cited by many state and federal courts across the United States. A list of cases citing to my research is provided as Appendix 3.

Summary of opinion

8. For the reasons stated below, it is my opinion that the requested attorneys' fees are entirely reasonable when compared to available empirical evidence of fees awarded in similar cases, and also when judged in light of the facts and circumstances of this case.

Materials relied on

9. In preparing this opinion, I have reviewed pleadings and other documents in this case, including, but not limited to, the materials listed in Appendix 1. I have discussed this matter with counsel and investigated appropriate case law and secondary authorities.

The litigation

10. The fifteen settlement agreements now before the Court resolve litigation against some of the world's largest financial institutions (the "Settling Defendants").¹ Plaintiffs allege that these entities conspired to fix prices and/or manipulate the foreign exchange (FX) market in violation of the Sherman Antitrust Act and the Commodity Exchange Act.

11. The litigation that lead up to these settlements was extraordinarily complex, involving simultaneously litigating against sixteen defendants; successfully defending dispositive motions; attempting to establish an extended pattern of collusive behavior in a highly opaque and decentralized global market covering 100 currency pairs; negotiating the scope of transaction data, audio files, and document production; serving subpoenas on numerous non-parties; making delicate judgments regarding compliance with foreign privacy and confidentiality laws; filing motions to compel discovery; reviewing more than 16.5 million pages of documents, many phrased in technical or slang terms; listening to more than 36,000 audio files; obtaining 6.5 terabytes of

¹ The Settling Defendants are (a) Bank of America Corporation, Bank of America, N.A., and Merrill Lynch, Pierce, Fenner & Smith Inc.; (b) Barclays Bank PLC and Barclays Capital Inc.; (c) BNP Paribas Group, BNP Paribas North America Inc., BNP Paribas Securities Corp., and BNP Prime Brokerage, Inc. (d) Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc.; (e) The Goldman Sachs Group, Inc. and Goldman, Sachs & Co.; (f) HSBC Holdings PLC, HSBC Bank PLC, HSBC North America Holdings Inc., HSBC Bank USA, N.A., and HSBC Securities (USA) Inc.; (g) JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A.; (h) The Royal Bank of Scotland Group PLC, The Royal Bank of Scotland PLC, and RBS Securities Inc.; (i) UBS AG, UBS Group AG, and UBS Securities LLC; (j) The Bank of Tokyo-Mitsubishi UFJ, Ltd.; (k) Morgan Stanley, Morgan Stanley & Co., LLC, and Morgan Stanley & Co. International plc; (l) RBC Capital Markets, LLC; (m) Société Générale; (n) Standard Chartered Bank; and (o) Deutsche Bank AG.

transaction data; cleaning and combining transaction data covering more than 10 billion rows from more than 30 different bank trading systems to custom-build one of the largest ever litigation databases; consulting with technical experts in a variety of fields; preparing for, taking, and defending numerous depositions; engaging in protracted and adversarial mediations and settlement discussions; drafting complex settlement documents; and devising a plan for distributing the settlement funds. These various tasks required enormous amounts of professional time and financial resources, all of which Class Counsel conducted on a contingent basis.

12. The settlement agreements provide that the Settling Defendants will pay an aggregate of \$2,310,275,000 into a common fund for the benefit of the class (the "Settlement Fund"). In addition, each Settling Defendant agrees to provide continuing cooperation in the prosecution of claims against the remaining group of defendants, Credit Suisse AG, Credit Suisse Group AG, and Credit Suisse Securities (USA) LLC.

13. The Notice of Class Action Settlement states that plaintiffs' counsel will submit an application to the Court for payment of attorneys' fees and expenses in a total amount not to exceed 18% of the Settlement Fund.

14. Lead Counsel now seek an attorneys' fee award of 16.51% of the Settlement Fund to be distributed among the more than 30 law firms that have served as Plaintiffs' Counsel.

Opinion

15. I am aware that the Court's responsibility is to determine a reasonable counsel fee and that the role of an expert witness is necessarily limited. However, I hope that the opinions expressed below can offer some assistance to the Court in carrying out that responsibility.

16. Based on my review of the empirical evidence available on attorneys' fees awarded in other class action settlements, it is my opinion that the 16.51% fee requested by Lead Counsel is reasonable and well within the range of fee awards approved in similar litigation. Based on my review of the materials listed in Appendix 1, it is my also my opinion that the facts and circumstances of this litigation further support the requested fee award.

Awards in similar cases

17. Attorneys' fees in class action settlements are calculated by two methods: the "percentage of the recovery" method, under which the fee is determined as a reasonable percentage of the value obtained for the class, and the "lodestar" method, under which the fee is awarded based on an evaluation of counsel's reasonable hours and reasonable hourly rate, adjusted by a "multiplier" to account for factors such as the risk of the litigation. Either methodology is permitted for courts in the Second Circuit. *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43 (2000). Following the common practice, I will first discuss the percentage-of-recovery method and then discuss the lodestar "cross check."

18. In my analysis, I draw on an extensive body of empirical research on the topic of class action attorneys' fees. The use of such research is by now a well-accepted, indeed, nearly ubiquitous feature of class action adjudication. *See, e.g., In re Heartland Payments Systems, Inc. Customer Data Security Breach Litigation*, 851 F.Supp.2d 1040, 1080-1081 (S.D. Tex. 2012) (Rosenthal, J.) ("[Judges] increasingly consider empirical studies analyzing class-action-settlement fee awards to set the appropriate percentage benchmark or to test the reasonableness of a given benchmark. . . . Using these studies alleviates the concern that the number selected is arbitrary.").

Percentage of the recovery

19. The percentage-of-recovery approach offers advantages as compared with the lodestar method. For this reason, the percentage approach is the most commonly used methodology for determining attorneys' fees in class action settlements across the country.

20. Advantages of the percentage method include the following:

(a) It mimics private market arrangements for contingent fee litigation, which nearly always employ a percentage rather than a lodestar methodology.

(b) It is easy to calculate and does not require courts to don a "green visor" in order to audit counsel's hours and hourly rate.

(c) It aligns counsel's incentives with those of the clients by giving attorneys a pecuniary interest in the outcome of the case.

(d) It encourages counsel to engage in efficient litigation tactics and discourages excessive expenditures of attorney time.

21. Taken as a whole, the empirical literature overwhelmingly demonstrates the reasonableness of Lead Counsel's fee request when considered as a percentage of the class recovery. The most recent empirical study of fee awards in class action settlements is my paper (coauthored with Theodore Eisenberg and Roy Germano) published a few months ago in the NYU Law Review. Theodore Eisenberg, Geoffrey Miller, and Roy Germano, Attorneys' Fees in Class Actions: 2009-2013, 92 N.Y.U. Law Review 937 (2017).

22. Analyzing all reported class action settlements between 2009 and 2013, inclusive, that study finds that the mean fee percentage awarded in class actions across the country was 27% and the median fee percentage was 29%. *Id.* at 947. For the 116 settlements from the Second Circuit, the mean fee was 28% and the median fee was 30%. *Id.* at 951 Table 3. For the 78 settlements from the Southern District of New York, the mean fee was 27% and the median fee was 31%. *Id.* at 950 Table 2. For 19 antitrust settlements nationwide, the mean fee was 27% and the median fee was 30%. *Id.* at 952 Table 4. The fee requested in this case -- 16.51% -- is well below each of these relevant mean and median figures.

23. Like other researchers, Eisenberg, Miller, and Germano found that average percentage fees tend to decline with class recovery. For cases in the highest decile of class recovery (>\$67.5 million), Eisenberg, Miller, and Germano found that the average percentage fee was 22.3%. *Id.* at 948 & Figure 5. For settlements recovering more than \$100 million, the mean and median fee percentages varied from a low of 16.6% to a high of 25.5%. *Id.* at 947. So even taking into account the "scaling" effect that tends to reduce the fee percentage for the highest-dollar settlements, this study indicates that the requested 16.51% fee is well below average.

24. Other empirical studies also support the reasonableness of Lead Counsel's fee request. Eisenberg and Miller's study of all reported class action settlements between 1993 and

2008 found that the mean percentage fee in federal courts was 24% and the median fee was 25%; in the Second Circuit, mean and median percentage fees were 23% and 24%, respectively; in the Southern District of New York, the mean and median percentage fees were both 22%; and in antitrust settlements, the mean fee was 22% and the median fee was 23%. Theodore Eisenberg and Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008, 7 Journal of Empirical Legal Studies 248 (2010), Tables 3, 4, and 5. Once again, the fee requested in this case – 16.51% -- is well below each of these relevant mean and median figures from a dataset covering 15 years.

25. Eisenberg and Miller found a mean of 12% and a median of 10.2% for cases in their top decile (>\$175.5 million), with a standard deviation of 7.9%. While the 16.51% fee sought in this case is somewhat higher than the mean for the top decile in this study, it is well within the one-standard-deviation range, meaning that it would be below the 84th percentile of fee awards in the highest-dollar cases.

26. Fitzpatrick's study of federal class action settlements in 2006-2007, including non-reported as well as reported cases, found that the mean attorneys' fee was 25.7% and the median fee was 25%. Brian Fitzpatrick, An Empirical Study of Class Action Settlements and Their Fee Awards, 7 J. Empirical L. Stud. 811, 835 Table 8 (2010). Fitzpatrick found a mean of 18.4% and a median of 19% for cases in his top decile (>\$72.5 million), with a standard deviation of 7.9%. *Id.* at 839 Table 10. Counsel's fee request of 16.51% is well below the means and medians found by Fitzpatrick as well.

27. Although there is a relative dearth of data on mega settlements exceeding \$1 billion, Fitzpatrick's was the only I am aware of to specifically calculate the mean and median attorneys' fees percentages in such cases. Fitzpatrick found a mean of 13.7% and a median of 9.5% for cases with recoveries over \$1 billion, with a standard deviation of 11%. *Id.* at 839 Table 11. Thus, even assuming that it was appropriate to treat the 15 individual settlements here as one mega settlement of \$2.31 billion, Lead Counsel's request for a 16.51% fee would only be somewhat higher than the mean found by Fitzpatrick, and it would be well within the one-standard-deviation range in the

study. Alternatively, if looking at these 15 settlements individually—as seems more appropriate given that they were separately negotiated over a span of multiple years—then the 16.51% fee sought by Lead Counsel from each settlement is below the mean and median fee percentages found by Fitzpatrick for comparably sized settlements. *See id.* (for example, 10 of the 15 settlements here are between \$100 million and \$500 million, and Fitzpatrick found mean and median fees of 17.9% and 16.9% for settlements between \$100 million and \$250 million, and mean and median fees of 17.8% and 19.5% for settlements between \$250 million and \$500 million).

28. Also potentially pertinent to the percentage-of-recovery analysis are studies published in the late 1990s. A 1996 study by the National Economic Research Associates examined average and median fee awards for settled securities fraud cases:

Table 1: Plaintiffs' Attorneys Fees by Federal Circuit (CAR Data)

Circuit	Number of Settlements	Average Attorney Fee as a Percentage of Settlement
D.C.	2	31.67
First	26	30.99
Second	69	31.48
Third	58	32.00
Fourth	12	32.78
Fifth	26	30.73
Sixth	13	31.00
Seventh	18	31.83
Eighth	12	32.47
Ninth	155	32.57
Tenth	13	32.13
Eleventh	29	29.92
Total	433	31.84

Source: Denise N. Martin, Vinita M. Juneja, Todd S. Foster, and Frederick C. Dunbar, Recent Trends IV: What Explains Filings and Settlements in Shareholder Class Actions? Table 12b (1996).

Counsel's request for a 16.51% fee is below the mean reported for the 2nd Circuit (31.48%) and for the country as a whole (31.84%).

29. To like effect is a 1999 study conducted by researchers affiliated with National Economic Research Associates (NERA). This study found that, exclusive of expenses, attorneys' fee awards in securities class actions cluster between 31-33% of the common fund recovery:

Table 2: Fee Awards in Settled Securities Class Actions 1991-1999

	1991	1992	1993	1994	1995	1996	1997	1998	Jun-99
Number of Settlements	48	79	90	101	104	104	98	80	29
Average Fee as a Percentage of Average Settlement	33%	27%	24%	34%	33%	31%	32%	31%	33%

Source: Todd S. Foster, Denise N. Martin, Vinita M. Juneja, Frederick C. Dunbar, Trends in Securities Litigation and the Impact of PSLRA, Figure 12 (June 1999).

Lead Counsel's requested fee of 16.51% is well below the average fee awarded in each year covered by this study.

30. A 1996 Federal Judicial Center study examined all class actions terminated in four federal district courts between July 1, 1992 and June 30, 1994. Thomas E. Willging, et al., *Empirical Study of Class Actions in Four Federal District Courts: Final Report to the Advisory Committee on Civil Rules 4* (1996). Median fee awards ranged from 27% to 30%, and most awards were between 20% and 40% of the monetary settlement. Fee awards clustered at around 30 percent in all types of class action litigation in the four federal district courts.

Table 3: Percentage Fees in Four Federal District Courts

Court	Mean	Median
E.D. Pa.	28%	27%
S.D. Fl.	26%	27%
N.D. In.	31%	30%
N.D. Ca.	29%	30%

Source: Thomas E. Willging, Laural L. Hooper & Robert J. Niemic, Empirical Study of Class Actions in Four Federal District Courts: Final Report to the Advisory Committee on Civil Rules 151 (1996).

Again, Lead Counsel's requested 16.51% fee is well below the mean and median fee awards reported in this study.

31. Based on these empirical studies, I have no difficulty concluding that, when viewed as a percent of the Settlement Fund, counsel's fee request is reasonable and is in fact at the low end of what would be expected in a case of this dimension.

Lodestar cross-check

32. I now consider a "cross-check" of the requested fee based on an analysis of counsel's lodestar. I am informed that counsel have expended a total of 330,600.98 professional hours litigating this action and that the overall lodestar is equal to \$174,041,760.50. Based on the fee request of \$381,353,830.27, the effective lodestar multiplier requested is 2.19.

33. Empirical evidence demonstrates the reasonableness of a 2.19 multiplier on the facts of this case. Eisenberg, Miller, and Germano's 2017 study found an average lodestar multiplier of 1.93 for 76 cases in the Second Circuit. For the country as a whole, the mean multiplier was 1.48. Theodore Eisenberg, Geoffrey Miller, and Roy Germano, Attorneys' Fees in Class Actions: 2009-2013, 92 N.Y.U. Law Review 937 (2017), 965 Table 12. The lodestar multiplier associated with the fee requested in the present case is somewhat higher than these numbers. However, a multiplier of 2.19 is entirely reasonable when the size of the present case is taken into account. The study just cited found a strong positive association between class recovery and lodestar multiplier: as recoveries grow larger, so do lodestar multipliers. For 35 cases with recoveries in excess of \$67.5 million, the average multiplier reported in Eisenberg, Miller and

Germano's study was 2.72 – in excess of the 2.19 multiplier requested in the present case. Moreover, because the trend is upward, a “mega” case such as the present litigation, with a combined class recovery in excess of \$2.3 billion, can be expected to result in a multiplier even higher than 2.72. This study indicates that Lead Counsel's requested 2.19 multiplier is below what would be expected in a case of this dimension.

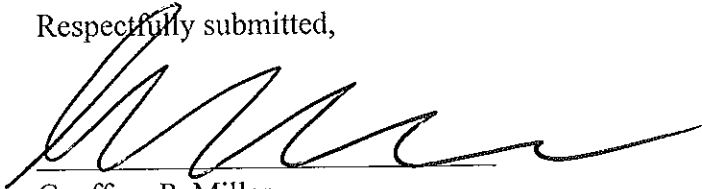
34. The same conclusion follows from a review of Eisenberg and Miller's 2010 paper. That study found mean multipliers of 1.81 for the country as a whole and 1.58 for the Second Circuit. Theodore Eisenberg and Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008, 7 Journal of Empirical Legal Studies 248 (2010), 272 Table 14. For cases with class recoveries of more than \$175.5 million, however, the mean multiplier was 3.18. *Id.* at 274 Table 15. Class Counsel's requested multiplier of 2.19 is reasonable when judged against this benchmark.

35. Empirical evidence also demonstrates a strong negative correlation between percentage fees awarded and lodestar multipliers: the lower the percentage fee, the higher the lodestar multiplier. Theodore Eisenberg, Geoffrey Miller, and Roy Germano, Attorneys' Fees in Class Actions: 2009-2013, 92 N.Y.U. Law Review 937, 941 (2017). This inverse relationship suggests that a higher-than-average multiplier would be expected in a case with a lower-than-average percentage fee. In the present case, however, *both* the percentage fee *and* the multiplier are at or below what would be expected in a case of similar size. The independent reasonableness of both the percentage fee and the lodestar multiplier further enhances my confidence in the reasonableness of Lead Counsel's fee request.

Conclusion

36. In light of the foregoing, it is my opinion that the requested fee award is reasonable when judged in light of the risk of the case, the results obtained, and fees awarded in similar cases.

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Geoffrey P. Miller

January 12, 2018

Appendix 1: Materials Reviewed

- Third Amended Consolidated Amended Class Action Complaint
- Order Approving the Form and Manner of Notice of the Settlement and Preliminarily Approving the Plan of Distribution
- Proposed Orders Preliminarily Approving Settlements, Conditionally Certifying the Settlement Classes, and Appointing Class Counsel and Class Representative for the Settlement Classes
- Orders Preliminarily Approving Settlements, Conditionally Certifying the Settlement Classes, and Appointing Class Counsel and Class Representative for the Settlement Classes
- Proposed Plan of Distribution
- Mail Notice of Class Action Settlement
- Publication Notice of Class Action Settlement
- Plaintiffs' Memoranda of Law in Support of Motions for Preliminary Approval of Settlements
- Plaintiffs' Notices of Motion and Motions for Preliminary Approval of Settlement
- Declarations of Christopher M. Burke and Michael D. Hausfeld in Support Of Class Plaintiffs' Motion For Preliminary Approval
- Claim Form
- Stipulation and Agreement of Settlement with Bank of America Corporation, Bank of America, N.A., and Merrill Lynch, Pierce, Fenner & Smith Incorporated
- Stipulation and Agreement of Settlement with Barclays Bank PLC and Barclays Capital Inc.
- Stipulation and Agreement of Settlement with BNP Paribas Group, BNP Paribas North America Inc., BNP Paribas Securities Corp., and BNP Prime Brokerage, Inc.
- Stipulation and Agreement of Settlement with Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc.
- Stipulation and Agreement of Settlement with The Goldman Sachs Group, Inc. and Goldman, Sachs & Co.

- Stipulation and Agreement of Settlement with HSBC Holdings PLC, HSBC Bank PLC, HSBC North America Holdings Inc., HSBC Bank USA, N.A., and HSBC Securities (USA) Inc.
- Stipulation and Amended Agreement of Settlement with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A.
- Stipulation and Agreement of Settlement with The Royal Bank of Scotland Group PLC, The Royal Bank of Scotland PLC, and RBS Securities Inc.
- Stipulation and Amended Agreement of Settlement with UBS AG, UBS Group AG, and UBS Securities LLC
- Stipulation and Agreement of Settlement with The Bank of Tokyo-Mitsubishi UFJ, Ltd.
- Stipulation and Agreement of Settlement with Morgan Stanley, Morgan Stanley & Co., LLC, and Morgan Stanley & Co. International plc
- Stipulation and Agreement of Settlement with RBC Capital Markets, LLC
- Stipulation and Agreement of Settlement with Société Générale
- Stipulation and Agreement of Settlement with Standard Chartered Bank
- Stipulation and Agreement of Settlement with Deutsche Bank AG

Appendix 2: Resume

GEOFFREY P. MILLER

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(212) 995-4659 (fax)
geoffrey.miller@nyu.edu

Work Experience

New York University Law School (1995-present)
Stuyvesant P. Comfort Professor of Law
Co-Director, Program in Corporate Compliance and Enforcement (2014-2017)
Senior Faculty Fellow, Program in Corporate Compliance and Enforcement
(2017-present)
Faculty Co-Director, Center on Civil Justice at NYU Law School (2015-present)
Director, NYU Center for Financial Institutions (1994-present)
Co-Director, NYU Center for Law, Economics and Organization (2006-2012)
Chair, Academic Personnel Committee (1999-2000; 2004-2006)
Chair, Promotions and Tenure Committee (2007-2009)

University of Chicago Law School (1983-1995)
Kirkland & Ellis Professor (1989-1995)
Editor, Journal of Legal Studies (1989-1995)
Director, Program in Law and Economics (1994-1995)
Director, Legal Theory Workshop (1989-1993)
Associate Dean (1987-1989)
Professor of Law (1987-1989)
Assistant Professor of Law (1983-1987)

Distinguished Visiting Professor, Vanderbilt Law School, 2014
Visiting Professor, University of Frankfurt, Summer 2013
Faculty Member, Study Center Gerzensee, Switzerland, Spring 2012, Summer 2016
Visiting Lecturer, University of Genoa Department of Law, 2011
Visiting Lecturer, Collegio Carlo Alberto (Moncalieri, Italy), 2011, 2013
Visiting Scholar, European University Institute, Florence, Italy, Fall/Winter 2010
Visiting Chair on Private Actors and Globalisation, Hague Institute for the Internationalisation of
Law, Fall/Winter 2010

Robert B. and Candace J. Haas Visiting Professor of Law, Harvard Law School,
Fall 2009
Max Schmidheiny Guest Professor, University of St. Gallen, Switzerland
Summer 2009
Faculty Member, NYU-NUS in Singapore, 2009, 2011, 2013
Fresco Endowed Professor of Law, University of Genoa, Italy, Summer 2008,
Spring 2009, Summer 2010
Visiting Scholar, University of Minnesota Law School, Spring 2008
Visiting Lecturer, University of Bolzano, Italy, Summer 2007
Commerzbank Visiting Professor, Institute for Law & Finance, University of Frankfurt,
Germany, Summer 2004, Summer 2005, Summer 2010
Visiting Professor, Columbia Law School, Fall 2001
Visiting Professor, University of Sydney, Australia, Summer 2002; Summer 2006;
Spring 2009
Zaeslin Visiting Professor, University of Basel, Switzerland, Summers 2001-2017
Visiting Scholar, CentER for Economic Research, Tilburg, Holland, Summer 1996
John M. Olin Visiting Scholar, Cornell University Law School, Summer 1992,
Spring 1996; Winter 1997, Summer 2005, Spring 2008, Spring 2009, Spring 2010
Visiting Scholar, Bank of Japan, Spring 1995
Visiting Professor, New York University Law School, Fall 1994
Consultant, Federal Reserve Bank of Chicago, 1992-1994
Visiting Scholar, New York University Law School, Fall 1993
Simpson Grierson Butler White Visiting Professor, University of Auckland,
New Zealand, Summer 1993

Associate, Ennis, Friedman, Bersoff & Ewing
Washington, D.C. (1982-83)

Attorney Adviser, Office of Legal Counsel
U.S. Department of Justice (1980-82)

Clerk, Hon. Byron R. White
Supreme Court of the United States (1979-80)

Clerk, Hon. Carl McGowan
U.S. Court of Appeals, District of Columbia (1978-79)

Scholarly and Law Reform Activities

Member, American Law Institute (elected 2015)

American Law Institute, Reporter, Principles of the Law, Compliance, Enforcement, and Risk
Management for Corporations, Nonprofits, and Other Organizations (2014-present)

Fellow, American Academy of Arts and Sciences (elected 2011)

Society for Empirical Legal Studies

Co-Founder and Co-President (2006-2007)

Board Member (2006-2014)

Corporate Service

Member of the Board of Directors, State Farm Bank (2010-present) – board and committee service for nontraditional thrift institution with \$17 billion in assets. Audit Committee Chair (2015-present)

Education

Columbia Law School, J.D. (1978)

Editor-in-Chief, Columbia Law Review (1977-78)

Princeton University, A.B. *magna cum laude* (1973)

Publications

Books

The Economics of Securities Law I (editor) (Edward Elgar 2016)

The Economics of Securities Law II (editor) (Edward Elgar 2016)

The Economics of Financial Law I (editor) (Edward Elgar 2016)

The Economics of Financial Law II (editor) (Edward Elgar 2016)

Banking Law and Regulation, Little, Brown & Co. 1992 (with Jonathan R. Macey); Second Edition, Aspen Law & Business 1997 (with Jonathan R. Macey), Third Edition, Aspen Law & Business 2001 (with Jonathan R. Macey and Richard Scott Carnell); Fourth Edition, Aspen Law & Business 2008 (with Richard Scott Carnell and Jonathan R. Macey), under title “The Law of Banking and Financial Institutions”; Fifth Edition (with Richard Scott Carnell and Jonathan R. Macey), under title “The Law of Financial Institutions, Wolters Kluwer Law & Business (2013); Sixth Edition, under title “The Law of Financial Institutions,” Wolters Kluwer Law & Business (2017)

Banking Law and Regulation: Statutory and Case Supplement (Little, Brown & Co. 1992; Second Edition, Aspen Law & Business, 1997) (with Jonathan R. Macey), Third Edition, Aspen

Law & Business, 2000) (with Jonathan R. Macey and Richard Scott Carnell); Fourth Edition, Aspen Law & Business 2008 (with Richard Scott Carnell and Jonathan Macey)

Banking Law and Regulation: Teacher's Manual (1992; Second Edition 1997; Third Edition 2001, Fourth Edition 2008) (with Jonathan R. Macey and Richard Scott Carnell)

The Law of Governance, Risk Management and Compliance (Wolters Kluwer Law and Business 2014); Second Edition 2017.

The Law of Governance, Risk Management and Compliance Teachers Manual (Wolters Kluwer Law and Business, 2014; Second Edition 2017.

The Governance of International Banking (co-authored with Fabrizio Cafaggi, with Tiago Andreotti, Maciej Borowicz, Agnieszka Janczuk, Eugenia Macchiavello and Paolo Saguato) (Edward Elgar 2013)

Ways of a King: Legal and Political Ideas in the Bible (Vandenhoeck & Ruprecht 2011)

Trust, Risk, and Moral Hazard in Financial Markets (Il Mulino 2011)

The Origins of the Necessary and Proper Clause (with Gary Lawson, Robert Natelson, and Guy Seidman) (Cambridge University Press 2010)

The Economics of Ancient Law (editor) (Edward Elgar 2010)

Bank Mergers and Acquisitions (editor, with Yakov Amihud) (Kluwer Academic Publishers 1998)

La Banca Central en América Latina: Aspectos Económicos y Jurídicos [Central Banks in Latin America and Their New Legal Structure] (in Spanish) (editor, with Ernesto Aguirre and Roberto Junguito Bonnet) (Tercer Mundo: Bogotá 1997)

Costly Policies: State Regulation and Antitrust Exemption in Insurance Markets (AEI Press 1993) (with Jonathan R. Macey)

Articles

Civil Procedure

Attorneys' Fees in Class Actions: 2009-2013, 92 NYU Law Review 937 (With Theodore Eisenberg and Roy Germano)

A New Procedure for State Court Personal Jurisdiction (manuscript on file with the author)

An Information-Forcing Approach to the Motion to Dismiss, 5 Journal of Legal Analysis 437-465 (2014) (with Samuel Issacharoff)

In Search of the Most Adequate Forum: State Court Personal Jurisdiction, 2 Stanford Journal of Complex Litigation 1 (2014)

Group Litigation in the Enforcement of Tort Law, in Jennifer Arlen, ed., The Economics of Torts (2013)

The Quasi-Class Action Method of Managing Multi-District Litigations: Problems and a Proposal, 63 Vanderbilt Law Review 107 (2010) (with Charles Silver)

Will Aggregate Litigation Come to Europe?, 62 Vanderbilt Law Review 177-210 (2009) (with Samuel Issacharoff)

Preliminary Judgments, 2010 University of Illinois Law Review 165 (2009)

A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Washington University Journal of Law & Policy 5-35 (2009) (with Theodore Eisenberg and Michael Perino)

Punti cardine in tema di class action negli Stati Uniti e in Italia (Cutting-Edge Issues in U.S. and Italian Class Action Litigation), 2008 Analisi Giuridica dell'Economia 211-230 (2008)

Compensation and Deterrence in Consumer Class Actions in the United States, in Fabrizio Cafaggi and Hans W. Micklitz, eds., New Frontiers in Consumer Protection: The Interplay Between Private and Public Enforcement 263-282 (2009)

Pleading after *Tellabs*, 2009 Wisconsin Law Review 507-534 (2009)

Mandatory Arbitration for Customers But Not For Peers, 92 Judicature 118-123 (2009) (with Theodore Eisenberg and Emily Sherwin)

Arbitration's Summer Soldiers: An Empirical Study of Arbitration Clauses in Consumer and Non-Consumer Contracts, 41 University of Michigan Journal of Law Reform 871-96 (2008) (with Theodore Eisenberg and Emily Sherwin); reprinted in 7 ICFAI University Journal of Alternative Dispute Resolution (Hyderabad, India)

Reversal, Dissent, and Variability in State Supreme Courts: The Centrality of Jurisdictional Source, 89 Boston University Law Review 2009 (2009) (with Theodore Eisenberg)

All-or-Nothing Versus Proportionate Damages, 38 Journal of Legal Studies 345-382 (2009)
(with Shmuel Leshem)

Judicial Review of Class Action Settlements, 1 Journal of Legal Analysis 167-205 (2008) (with
Jonathan R. Macey)

Do Juries Add Value? Evidence From an Empirical Study of Jury Trial Waiver Clauses in Large
Corporate Contracts, 4 Journal of Empirical Legal Studies 539 (2007) (with Theodore Eisenberg)

The Flight from Arbitration: An Empirical Study of *Ex Ante* Arbitration Clauses in Publicly-
Held Companies' Contracts, 56 DePaul Law Review 335 (2007) (with Theodore Eisenberg),
reprinted in 49 Corporate Practice Commentator 323 (2007)

Rethinking Certification and Notice in Opt-Out Class Actions, 74 University of Missouri Kansas
City Law Review 637 (2006)

Incentive Awards to Class Action Plaintiffs: An Empirical Study, 53 UCLA Law Review 1303
(2006) (with Theodore Eisenberg)

Review of the Merits in Class Action Certification, 33 Hofstra Law Review 51 (2004)

The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical
Issues, 57 Vanderbilt Law Review 1529 (2004) (with Theodore Eisenberg)

Competing Bids in Class Action Settlements, 31 Hofstra Law Review 633-650 (2003)

On the Costs of Civil Justice, 80 University of Texas Law Review 2115 (2002)

Class Actions in the Gulf States: Empirical Analysis of a Cultural Stereotype, 74 Tulane Law
Review 681 (2000)

Full Faith and Credit to Settlements in Overlapping Class Actions: A Reply to Kahan and
Silberman, 73 New York University Law Review 1167-1178 (1998)

Nonpecuniary Class Action Settlements, 60 Law and Contemporary Problems 97-155 (1997)
(with Lori Singer)

Class Actions, in I New Palgrave Dictionary of Economics and the Law 257-262 (Peter
Newman, ed., Macmillan Press 1998)

The Legal-Economic Analysis of Comparative Civil Procedure, 45 American Journal of
Comparative Law 905-19 (1997)

Overlapping Class Actions, 71 New York University Law Review 514 (1996)

Settlement of Litigation: A Critical Retrospective, in Larry Kramer, ed., Reforming the Civil Justice System 13-37 (NYU Press 1996)

Expanding on the Fifty Percent Hypothesis: A Multimodal Approach to the Selection of Cases for Litigation, 25 Journal of Legal Studies 233 (1996) (with Daniel Kessler and Thomas Meites)

A Market Approach to Tort Reform Via Rule 23, 80 Cornell Law Review 909 (1995) (with Jonathan R. Macey)

Settlement Escrows, 24 Journal of Legal Studies 87 (1994) (with Robert Gertner)

Introduction: Economic Analysis of Civil Procedure, 23 Journal of Legal Studies 303 (1994)

Auctioning Class Action and Derivative Suits: A Rejoinder, 87 Northwestern Law Review 701 (1992) (with Jonathan R. Macey)

The Plaintiffs' Attorney's Role in Class Action and Derivative Litigation: Economic Analysis and Recommendations for Reform, 58 University of Chicago Law Review 1 (1991) (with Jonathan R. Macey), reprinted in Franklin A. Gevurtz, Corporate Law Anthology 186-194 (1997)

Some Thoughts on the Equilibrium Hypothesis, 69 Boston University Law Review 561 (1989)

Some Agency Problems in Settlement, 16 Journal of Legal Studies 189 (1987)

An Economic Analysis of Rule 68, 15 Journal of Legal Studies 93 (1986)

The Public Interest in Attorneys' Fees Awards for Public Interest Litigation, 47 Law and Contemporary Problems 233 (1984) (with Robert V. Percival), reprinted in University of Chicago Law School Record (1989)

Note, Aldinger v. Howard and Pendent Jurisdiction, 77 Columbia Law Review 127 (1977)

Legal Ethics/Legal Profession

The English vs. the American Rule on Attorneys' Fees: An Empirical Study of Attorney Fee Clauses in Publicly-Held Companies' Contracts, 98 Cornell Law Review 327 (2013) (with Theodore Eisenberg)

Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008, 7 Journal of Empirical Legal Studies 248 (2010) (with Theodore Eisenberg)

Ethical Considerations in Class Action Practice, in Practising Law Institute, Class Action Litigation 2007: Prosecution & Defense Strategies (2007)

From Club to Market: The Evolving Role of Business Lawyers, 74 Fordham Law Review 1105 (2005)

Bad Judges, 83 Texas Law Review 431 (2004)

Attorneys' Fees in Class Action Settlements: An Empirical Study, 1 Journal of Empirical Legal Studies 27 (2004) (with Theodore Eisenberg)

Professional Independence and the Corporate Lawyer (with William T. Allen), in Jay W. Lorsch, Leslie Berlowitz, and Andy Zelleke, Restoring Trust in American Business 113-126 (American Academy of Arts and Sciences 2005)

Conflicts of Interest in Class Action Litigation: An Inquiry into the Appropriate Standard, 2003 University of Chicago Legal Forum 581-630 (2003)

Payment of Expenses in Securities Class Actions: Ethical Dilemmas, Class Counsel, and Congressional Intent, 22 Review of Litigation 557 (2003)

Ethical Considerations in Class Action Practice, in Practising Law Institute, Class Action Litigation: Prosecution & Defense Strategies (2003)

Conflicts of Interest in Negotiation: An After-word and a Reply, 84 Iowa Law Review 1133-1139 (1999) (with Jonathan R. Macey)

Second Opinions in Litigation, 84 Virginia Law Review 1411-1437 (1998)(with Michael Klausner and Richard Painter)

Kaye, Scholer as Original Sin: The Lawyer's Duty of Candor and the Bar's Temptations of Evasions and Apology, 23 Law & Social Inquiry 305-313 (1998)

An Economic Analysis of Conflict of Interest Regulation, 82 Iowa Law Review 965-1005 (1997) (with Jonathan R. Macey), republished in Foundations of the Law and Ethics of Lawyering, George Meredith Cohen and Susan P Koniak, editors. New York: Foundation Press (2004)

Reflections on Professional Responsibility in a Regulatory State, 63 George Washington Law Review 1105 (1995) (with Jonathan R. Macey)

Government Lawyers' Ethics in a System of Checks and Balances, 54 University of Chicago Law Review 1293 (1987)

Corporate, Contract and Securities Law

Introduction, in The Economics of Securities Law (Geoffrey Miller, editor) (Edward Elgar, forthcoming)

The Problem of Reliance in Securities Fraud Class Actions, 57 Arizona Law Review 61 (2015)

Damages versus Specific Performance: Lessons from Commercial Contracts, 12 Journal of Empirical Legal Studies 29 (2015) (with Theodore Eisenberg)

A Modest Proposal for Fixing Delaware's Broken Duty of Care, 2010 Columbia Business Law Review 319 (2010)

Un-manifested Harm in Business-to-Business Cases, 167 Journal of Theoretical and Institutional Economics 80-93 (2011)

A Modest Proposal for Securities Fraud Pleading After Tellabs, 75 Law & Contemporary Problems 93 (2012)

Process as Currency with the Courts: Judicial Scrutiny of Directors' Decisions, 1 International Journal of Corporate Governance 337-365 (2010) (with Jonathan R. Macey)

A Simple Theory of Takeover Regulation in the United States and Europe, 42 Cornell International Law Journal 301 (2009) (with Guido Ferrarini), reprinted in 55 Rivista Delle Società 680 (2010)

Bargains Bicoastal: New Light on Contract Theory, 31 Cardozo Law Review 1475 (2010)

Flight to New York: an Empirical Analysis of Choice of Law and Forum Selection Clauses in Large Commercial Contracts, 30 Cardozo Law Review 1475 (2009) (with Theodore Eisenberg)

The Market for Contracts, 30 Cardozo Law Review 2073 (2009) (with Theodore Eisenberg)

Ex Ante Choices of Law and Forum: An Empirical Analysis of Corporate Merger Agreements, 59 Vanderbilt Law Review 1975 (2006) (with Theodore Eisenberg)

Catastrophic Failures: Enron and Beyond, 89 Cornell Law Review 423-455 (2004)

Capital Markets on the Internet: An Introduction, 5 New York University Journal of Legislation and Public Policy 1 (2001-2002)

Das Kapital: Solvency Regulation of the American Business Enterprise, in Eric Posner, ed., Chicago Lectures in Law and Economics 65-81 (2000)

Takeovers: English and American, 6 European Financial Management 533-542 (2000)

Choice of Law as a Pre-Commitment Device, in F.H. Buckley, ed., The Fall and Rise of Freedom of Contract 357-69 (Duke University Press 1998)

On the Advantages of Defined Contribution Plans, in Samuel Estreicher, ed., Proceedings of the 50th Annual Conference on Labor (Kluwer Academic Press, forthcoming 1998)

Political Structure and Corporate Governance: Some Points of Contrast Between the U.S. and the U.K., 1998 Columbia Business Law Review 51-78 (1998), reprinted in Sloan Project on Corporate Governance at Columbia Law School, Corporate Governance Today 629-648 (1998)

Finance and the Firm, 152 Journal of Institutional and Theoretical Economics [Zeitschrift für die Gesamte Staatswissenschaft] 89-107 (1996)

Corporate Governance and Commercial Banking: A Comparative Examination of Germany, Japan and the United States, 48 Stanford Law Review 73 (1995) (with Jonathan R. Macey)

Comment on "Brokerage, Market Fragmentation, and Securities Market Regulation," in Andrew W. Lo, ed., The Industrial Organization and Regulation of the Securities Industry, University of Chicago Press (1996)

Corporate Stakeholders: A Contractual Perspective, 43 University of Toronto Law Review 401 (1993) (with Jonathan R. Macey)

The Culture of Capital: Comments on Conley and O'Barr, 71 North Carolina Law Review 201 (1992)

The Economic Efficiency of Close Corporation Law: A Comment, 70 Washington University Law Quarterly 399 (1992)

Lessons from Financial Economics: Materiality, Reliance, and the Utility of Empirical Methodology in Extending the Reach of Basic v. Levinson, 77 Virginia Law Review 1015 (1991) (with Jonathan R. Macey, Jeffrey Netter, and Mark Mitchell)

The Fraud on the Market System Revisited, 77 Virginia Law Review 999 (1991) (with Jonathan R. Macey)

Politics, Bureaucracies, and Financial Markets: Bank Entry into Commercial Paper Underwriting in the United States and Japan, 139 University of Pennsylvania Law Review 369-453 (1990) (with David Litt, Jonathan R. Macey, and Edward L. Rubin)

Good Finance, Bad Economics: An Analysis of the Fraud on the Market Theory, 42 Stanford Law Review 1059 (1990) (with Jonathan R. Macey)

Trans-Union Reconsidered, 98 Yale Law Journal 127 (1988)(with Jonathan R. Macey)

Toward an Interest Group Theory of Delaware Corporate Law, 65 Texas Law Review 469 (1987) (with Jonathan R. Macey)

Constitutional Law

Confederacy, in Encyclopedia of Political Thought 661-62 (Wiley-Blackwell: 2014)

The President's Power of Interpretation: Implications of a Unified Theory of Constitutional Law, 56 Law and Contemporary Problems 35 (1993)

The Unitary Executive in a Unified Theory of Constitutional Law: The Problem of Interpretation, 15 Cardozo Law Review 201 (1993)

Liberty and Constitutional Architecture: The Rights-Structure Paradigm, 16 Harvard Journal of Law & Public Policy 87 (1993)

Rights and Structure in Constitutional Theory, 8 Social Philosophy & Policy 196 (1991), reprinted in E. Frankel Paul, ed., Reassessing Civil Rights (1991)

The Appropriations Power and the Necessary and Proper Clause, 68 Washington University Law Quarterly 640 (1990) (panel)

From Compromise to Confrontation: Separation of Powers in the Reagan Era, 57 George Washington Law Review 401 (1989)

Rediscovering Economic Liberties, 41 Rutgers Law Review 773 (1989) (panel)

War Powers and the Constitution: A Middle Ground, 43 University of Miami Law Review 35 (1988) (panel)

The Debate Over Independent Agencies in Light of the Empirical Evidence, 1988 Duke Law Journal 215 (1988)

Independent Agencies, 1986 Supreme Court Review 41 (1986)

Compliance and Risk Management

Financial Private Regulation and Enforcement, in Fabrizio Cafaggi, ed., *Enforcement of Transnational Regulation: Ensuring Compliance in a Global World*, pp. 263-278 (Edward Elgar 2012)

Risk Management and Compliance in Banks: The United States and Europe, in Danny Busch and Guido Ferrarini, eds., *The European Banking Union* (Oxford University Press, forthcoming)

Compliance in Corporate Law, in Jeffrey N Gordon and Georg Ringe, eds., *Oxford Handbook of Corporate Law and Governance* (Oxford University Press, forthcoming 2015)

The Rise of Risk Management: An Essay in Honor of Peter Nobel, in Peter Sester, ed., *Liber Amicorum Peter Nobel* (forthcoming 2015)

An Economic Analysis of Effective Compliance Programs, in Jennifer Arlen, ed., *Research Handbook on Corporate Crime and Financial Misdealing* (Edward Elgar, forthcoming 2015)

Financial Institutions

Introduction, in *The Economics of Financial Law* (Geoffrey Miller, editor) (Edward Elgar, forthcoming)

Intellectual Hazard and the Design of Financial Stability Regulation, in *University of St. Gallen Series in Law and Economics*, Peter Nobel, ed. (Zurich: Schulthess, 2010) (with Gerald Rosenfeld)

Intellectual Hazard: How Conceptual Biases in Complex Organizations Contributed to the Crisis of 2008, 33 *Harvard Journal of Law & Public Policy* 807 (2010) (with Gerald Rosenfeld)

Helping Law Catch Up to Markets: Applying Broker-Dealer Law to Subprime Mortgages, 34 *Journal of Corporation Law* 789 (2009) (with Jonathan Macey, Maureen O'Hara and Gabriel D. Rosenberg)

The Basel Committee, Global Administrative Law, and the Developing World, in Benedict Kingsbury and Richard Stewart, eds., *India, the South and the Shaping of Global Administrative Law* (forthcoming, Oxford University Press India 2008) (with Michael Barr)

Comment: Credit Risk Transfer, Hedge Funds, and the Supply of Liquidity, in Peter Nobel and Marina Gets, eds., *Law and Economics of Risk in Finance*, *University of St. Gallen Series in Law and Economics* 73 (2008)

Global Administrative Law – The View from Basel, 17 *European Journal of International Law* 15 (2006) (with Michael Barr)

Three Myths about Central Banks, Federal Reserve Bank of Cleveland Economic Commentary (November 2002)

Central Bank Independence in Ordinary and Extraordinary Times, in Jan Kleinman, ed., *Central Bank Independence: the Economic Foundations, the Constitutional Implications, and Democratic Accountability* (Kluwer Academic Press 2000) 31-51 (with Rosa Lastra)

External Review of Central Bank Decisions, in 1 *International Monetary Fund, Current Developments in Monetary and Financial Law* 535-51 (1999)

Bank Mergers and American Bank Competitiveness, in Yakov Amihud & Geoffrey Miller, eds., *Bank Mergers and Acquisitions* 175-190 (Kluwer Academic Publishers, 1998) (with Jonathan R. Macey)

Introduction: Bank Mergers and Acquisitions, in Yakov Amihud & Geoffrey Miller, eds., *Bank Mergers and Acquisitions* vii-xiii (Kluwer Academic Publishers, 1998)

Deposit Insurance for Economies in Transition, in *Kluwers Yearbook of International and Financial Law* 103-138 (1997) and R. Lastra and H. Schiffman, eds., *Bank Failures and Bank Insolvency Law in Economies in Transition* 37-70 (Kluwers Academic Press 1998)

Central Bank Independence, Liberalization and Inflation in Transition Economies: An International Perspective, 49 *Journal of Monetary Economics* 237 (2002) (with Alex Cukierman and Bilin Neyapti)

An Interest-Group Theory of Central Bank Independence, 27 *Journal of Legal Studies* 433-453 (June 1998)

On the Obsolescence of Commercial Banking, 154 *Journal of Institutional and Theoretical Economics* [Zeitschrift für die gesamte Staatswissenschaft] 61-73 (1998)

Banking Crises in Perspective: Two Causes and One Cure, in Gerard Caprio, Jr, William C. Hunter, George G. Kaufman, and Danny M. Leipziger, eds., *Preventing Banking Crises: Lessons from Recent Global Bank Failures* 279-287 (Federal Reserve Bank of Chicago, 1998)

Universal Banks are Not the Answer to America's Corporate Governance "Problem": A Look at Germany, Japan, and the U.S., 9 *Journal of Applied Corporate Finance* 57-73 (1997)(with Jonathan R. Macey), republished in *The Revolution in Corporate Finance*, Joel M Stern and David H. Chew, editors, Marldon, MA: Blackwell (2003)

Cooperation, Conflict, and Convergence in Japanese Finance: Evidence from the "Jusen" Problem, 29 Law and Policy in International Business 1-78 (1998)(pre-published as Washington University School of Law, Working Paper No. 97-3-1) (with Curtis Milhaupt)

Nihon no kin'yu ni okeru jusenmondai hoteki bunsekito keizaiteki bunseki [The Jusen Problem in Japanese Finance: A Legal and Economic Analysis], 1132 Jurisuto 140-49; 1134 Jurisuto 86-92; 1136 Jurisuto 83-89 (1998) (with Curtis Milhaupt) (in Japanese)

A Regulatory Cartel Model of Decisionmaking in Japanese Finance, 4 Zeitschrift fur Japanisches Recht 18-29 (1997)(with Curtis Milhaupt)

Banco de Fondos Mutuos Para América Latina? [Mutual Fund Banking for Latin America?], in La Banca Central en América Latina: Aspectos Económicos y Jurídicos [Central Banks in Latin America and Their New Legal Structure], Ernesto Aguirre, Roberto Junguito Bonnet, and Geoffrey Miller, eds. 272-280 (1997) (in Spanish)

The Role of a Central Bank in A Bubble Economy, 18 Cardozo Law Review 1053 (1996)

Decisionmaking at the Bank of Japan, 28 Law and Policy in International Business 1 (1996)

Is Deposit Insurance Inevitable? Lessons From Argentina, 16 International Review of Law and Economics 211 (1996), reprinted in Jagdeep Bandhori and Alan Sykes, eds., Economic Dimensions in International Law: Comparative and Empirical Perspectives 392-404 (Cambridge University Press, 1998)

El Papel del Banco Central en una Economía Especulativa [The Role of a Central Bank in a Speculative Economy], in Miguel Mancera Aguayo, ed., El Banco de México en la Reconstrucción Económica Nacional 137 (Centro Cultural Manuel Gómez Morin, A.C., 1996)

Comments on Rajan and James, in A. Saunders & I. Walter, eds., Universal Banking: Financial System Design Reconsidered 330-333 (Irwin & Co. 1996)

Deposit Insurance, the Regulatory Contract, and the Mismatch in the Term Structure of Banks' Assets and Liabilities, 12 Yale Journal on Regulation 1-50 (1995)(with Jonathan R. Macey), reprinted as L'Assurance Des Depots, Le Contrat Reglementaire Implicite, et la Destruction des Eschances des Actifs et Passifs Bancaires, 6 Journal des Economistes et des Etudes Humaines 531 (1995)

Double Liability of Bank Shareholders: A Look at the New Data, 28 Wake Forest Law Review 933 (1993) (with Jonathan R. Macey)

Politics of Deposit Insurance Reform: The Case of Argentina, Federal Reserve Bank of Chicago, Proceedings of a Conference on Bank Structure and Competition 473 (1993) and 1 University of Chicago Law School Roundtable 129 (1994), republished as "Políticas de Reforma de Seguro de Depósito. El Caso de la Argentina," in Revista de Derecho Bancario y de la Actividad Financiera, Año 4, Enero-diciembre 1994, No. 19/24, at 221-239 (1995) (Argentine journal)

Comment on Universal Banks and Financial Stability, 19 Brooklyn International Law Journal 197 (1993)

Kaye, Scholar, FIRREA and the Desirability of Early Closure: A View of the Kaye, Scholar Case from the Perspective of Bank Regulatory Policy, 66 University of Southern California Law Review 1115 (1993) (with Jonathan R. Macey)

Constitutional Moments, Pre-commitment, and Fundamental Reform: The Case of Argentina, 71 Washington University Law Quarterly 1061 (1993)

Legal Restrictions on Bank Consolidation: An Economic Analysis, 77 Iowa Law Review 1083 (1992)

The Community Reinvestment Act: An Economic Analysis, 79 Virginia Law Review 291 (1993) (with Jonathan R. Macey)

Drunken Sailors on a Sinking Ship? The Rehnquist Court and the Bank Failure Problem, 1993 Public Interest Law Review 83 (1993)

Comments on Calomiris, in M. Klausner & L. White, eds., Structural Change in Banking 212 (1993)

The McCarran-Ferguson Act: A Case Study of Regulatory Federalism, 68 New York University Law Review 13 (1993), republished in 7 National Insurance Law Review 521 (1995)(with Jonathan R. Macey)(study prepared originally under the auspices of the American Enterprise Institute's Project on Federalism)

Bank Failure: The Politicization of a Social Problem, 45 Stanford Law Review 289 (1992) (with Jonathan R. Macey)

Toward Enhanced Consumer Choice in Banking: Uninsured Depository Facilities as Financial Intermediaries for the 1990s, 1991 N.Y.U. Annual Survey of American Law 865 (1992) (with Jonathan R. Macey)

Nondeposit Deposits and the Future of Bank Regulation, 91 Michigan Law Review 237-273(1992) (with Jonathan R. Macey)

America's Banking System: The Origins and Future of the Current Crisis, 69 Washington University Law Quarterly 769 (1991) (with Jonathan R. Macey)

Bank Failures, Risk Monitoring, and the Market for Corporate Control (with Jonathan R. Macey), 88 Columbia Law Review 1153 (1988) (study conducted under the auspices of the Administrative Conference of the United States)

The Future of the Dual Banking System, 53 Brooklyn Law Review 1 (1987)

Public Policy Implications of Legislation Limiting the Growth of Interstate Banks, Federal Reserve Bank of Chicago, Proceedings of a Conference on Bank Structure and Competition 602 (1986)

Interstate Branching and the Constitution, 41 Business Lawyer 337 (1986)

Interstate Banking in the Court, 1985 Supreme Court Review 179 (1985)

Legal History

The Corporate Law Origins of the Necessary and Proper Clause, 79 George Washington University Law Review 1 (2010)

Meinhard v. Salmon, in Jonathan R. Macey, ed., Corporate Law Stories (2008)

The Industrial Organization of Political Production: A Case Study, 149 Journal of Institutional and Theoretical Economics [Zeitschrift für die gesamte Staatswissenschaft] 769 (1993)

Comments on Priest, 36 Journal of Law and Economics 325 (1993)

Toward "Neutral Principles" in the Law: Selections from the Oral History of Herbert Wechsler, 93 Columbia Law Review 854 (1993) (with Norman Silber)

Double Liability of Bank Shareholders: History and Implications, 27 Wake Forest Law Review 31 (1992) (with Jonathan R. Macey)

Origin of the Blue Sky Laws, 70 Texas Law Review 347 (1991) (with Jonathan R. Macey), reprinted in 34 Corporate Practice Commentator 223 (1992)

Public Choice at the Dawn of the Special Interest State: The Story of Butter and Margarine, 77 California Law Review 83 (1989)

The True Story of Carolene Products, 1987 Supreme Court Review 397 (1987), reprinted in Michael J. Glennon, et al., eds., Constitutional Law Anthology (Anderson Publishing 1997), pp.

94-103; reprinted in J. Ely, *Property Rights in American History: Reform and Regulation of Property Rights* (Garland Publishing 1997), pp. 165-197.

Interviewer, Columbia University Oral History Collection, *Life of Herbert Wechsler* (1980-1982) (with Norman Silber)

Jurisprudence

Empirical Analysis of Legal Theory: In Honor of Theodore Eisenberg, 171 *Journal of Institutional and Theoretical Economics* 6-18 (2015)

Law and Economics versus Economic Analysis of Law, 19 *American Bankruptcy Institute Law Review* 459 (2011)

The Case of the Speluncean Explorers: Contemporary Proceedings, 61 *George Washington Law Review* 1798 (1993)

The End of History and the New World Order: The Triumph of Capitalism and the Competition Between Liberalism and Democracy, 25 *Cornell International Law Journal* 277 (1992) (with Jonathan R. Macey)

The Canons of Statutory Construction and Judicial Preferences, 45 *Vanderbilt Law Review* 647 (1992) (with Jonathan R. Macey)

Pragmatics and the Maxims of Interpretation, 1990 *Wisconsin Law Review* 1179 (1990)

Economic Efficiency and the Lockean Proviso, 10 *Harvard Journal of Law and Public Policy* 401 (1987)

Ancient Law

The Kingdom of God in Samuel, in Diana Edelman and Ehud Ben Zvi, *Leadership, Social Memory, and Judean Discourse in the 5th–2nd Centuries BCE*, pp. 77-87 (*Worlds of the Ancient Near East and Mediterranean Series*: Equinox Press (2016)

Property Law, in II *Oxford Encyclopedia of the Bible and Law*, pp. 175-182 (Oxford University Press: 2015)

Taxation, in II *Oxford Encyclopedia of the Bible and Law*, pp. 356-360 (Oxford University Press: 2015)

The Political Function of Revelation: Lessons from the Hebrew Bible, 30 *Touro Law Review* 77 (2014)

Logos and Narrative, NYU School of Law, Public Law Research Paper No. 10-78 (2010)

Monarchy in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-76 (2010)

Nationhood and Law in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-57 (2010)

Revelation and Legitimacy in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-52 (2010)

The Book of Judges: The Hebrew Bible's Federalist Papers, NYU School of Law, Public Law Research Paper No. 10-66 (2010)

Consent of the Governed in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-56 (2010)

Nomadism, Dependency, Slavery and Nationhood: Comparative Politics in the Book of Exodus, NYU School of Law, Public Law Research Paper No. 10-49 (2010)

Economics of Ancient Law, in Geoffrey P. Miller, ed., *The Economics of Ancient Law* (Edward Elgar, forthcoming 2010)

Patriarchy: The Political Theory of Family Authority in the Book of Genesis (manuscript 2010)

The Dark Age: How the Biblical Narratives Demonstrate the Necessity for Law and Government (NYU School of Law, Public Law Research Paper No. 10-18)

Origin of Obligation: Genesis 2:4b-3:24 (NYU School of Law, Public Law Research Paper No. 09-60)

Sovereignty and Conquest in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-61 (2010)

Golden Calves, Stone Tablets, and Fundamental Law: A Political Interpretation of Exodus 32 (NYU School of Law, Public Law Research Paper No. 10-02)

A Riposte Form in the Song of Deborah, in Tikva Frymer-Kensky, Bernard Levinson and Victor Matthews, eds., *Gender and Law in the Hebrew Bible and the Ancient Near East* 113-27 (1998)

Foreword: The Development of Ancient Near Eastern Law, 70 *Chicago-Kent Law Review* 1623 (1996)

Why Ancient Law?, 70 Chicago-Kent Law Review 1465 (1995)(with James Lindgrin and Laurent Mayali)

Foreword: Land Law in Ancient Times, 71 Chicago-Kent Law Review 233 (1996)

The Song of Deborah: A Legal-Economic Analysis, 144 University of Pennsylvania Law Review 2293 (1996)

The Legal-Economic Approach to Biblical Interpretation, 150 Journal of Institutional and Theoretical Economics [Zeitschrift für die gesamte Staatswissenschaft] 755 (1994)

J as Constitutionalist: A Legal-Economic Interpretation of Exodus 17:8-16 and Related Texts, 70 Chicago-Kent Law Review 1829 (1995)

Verbal Feud in the Hebrew Bible: Judges 3:12-30 and 19-21, 55 Journal of Near Eastern Studies 105 (1995)

Contracts of Genesis, 22 Journal of Legal Studies 15-45 (1993), reprinted in Beth Kissileff, ed., Reading Genesis Beginnings (Bloomsbury T&T Clark 2016).

Ritual and Regulation: A Legal-Economic Analysis of Selected Biblical Texts, 22 Journal of Legal Studies 477 (1993)

Law and Society

Parental Bonding and the Design of Child Support Obligations, in William S. Comanor, ed., The Law and Economics of Child Support Payments 210-240 (Edward Elgar 2004)

The Legal Function of Ritual, 80 Chicago-Kent Law Review 1181 (2005)

Handicapped Parking, 29 Hofstra Law Review 81 (2000) (with Lori S. Singer)

Custody and Couvade: The Importance of Paternal Bonding in the Law of Family Relations, 33 Indiana Law Review 691 (2000)

Norm Enforcement in the Public Sphere: The Case of Handicapped Parking, 71 George Washington Law Review 895-933 (2004)

Norms and Interests, 32 Hofstra Law Review 637 (2003)

Female Genital Mutilation: A Cultural-Legal Analysis (manuscript)

Circumcision: A Legal-Cultural Analysis, 9 Virginia Journal of Social Policy and the Law 498-585 (2002), pre-published as New York University Public Law and Legal Theory Working Paper Series, Working Paper 5 (2000)

Law, Pollution, and the Management of Social Anxiety, 7 Michigan Women's Law Journal 221-289 (2001)

Other:

Richard Posner, 61 N.Y.U. Annual Survey of American Law 13 (2004)

Introduction: The Law and Economics of Risk, 19 Journal of Legal Studies 531 (1990) (with Richard A. Epstein)

Law School Curriculum: A Reply to Kennedy, 14 Seton Hall Law Review 1077 (1984) (under pen name of Chris Langdell)

Book Reviews

Defusing the Banks' Financial Time Bomb, BusinessWeek (Mar. 11, 2010) (review of Robert Pozen, Too Big to Save? How to Fix the U.S. Financial System)

Love & Joy: Law, Language and Religion in Ancient Israel, by Yochanan Muffs, 58 Journal of Near Eastern Studies 144-45 (1999)

Jesus and the Jews: The Pharisaic Tradition in John; The Trial Of Jesus; Jesus And The Law, by Alan Watson, 1 Edinburgh Law Review 273 (1997)

No Contest: Corporate Lawyers and the Perversion of Justice in America, by Ralph Nader and Wesley J. Smith, Washington Post (October 13, 1996)

The Rise and Fall of the Classical Corporation: Hovenkamp's Enterprise and American Law: 1836-1937, 59 University of Chicago Law Review 1677 (1993)

Property Rights and the Constitution: A Review of James W. Ely, Jr.'s The Guardian of Every Other Right, 37 American Journal of Legal History 378 (1993)

Anatomy of A Disaster: Why Bank Regulation Failed, 86 Northwestern University Law Review 742 (1992)

The Glittering Eye of Law, 84 Michigan Law Review 1901 (1986)

A Rhetoric of Law, 52 University of Chicago Law Review 247 (1985)

Major Lectures

Revelation as a Source of Legal Authority (Keynote Address, Conference on Religious Liberty, Touro Law School 2013)

Trust, Risk, and Moral Hazard in Financial Markets (University of Genoa, Fresco Chair Lectures in Law and Finance, June 2010)

A Simple Theory of Takeover Regulation in the United States and Europe; Intellectual Hazard (Commerzbank Lectures, University of Frankfurt, May 2010)

The European Union's Takeover Directive and Its Implementation in Italy (University of Rome III, 2008)

Catastrophic Financial Failures: Enron, HIH and More (Ross Parsons Lecture, Sydney, Australia, 2002)

Das Kapital: Solvency Regulation of the American Business Enterprise (Coase Lecture, University of Chicago Law School, 1993)

Banking in the Theory of Finance; The Simple Economics of Litigation and Settlement; The Economic Structure of Corporation Law (University of Auckland, New Zealand, 1993)

Journal Referee Reports

American Law and Economics Review
Journal of Legal Studies
Journal of Law, Economics and Organization
Review of Law and Economics

Conferences Organized

ETH-NYU Law and Banking Conference 2017 (Bad Homburg, co-sponsored with University of Frankfurt); 2016 (New York); 2015 (Zurich); 2014 (New York); 2013 (Zurich); 2012 (New York); 2011 (Florence)

Achieving and Responsible Enterprise: Principles of Effective Compliance and Enforcement (May 8, 2015)

Global Economic Policy Forum (New York 2013) (keynote speakers included Federal Reserve Bank of New York President William Dudley and former Governor of the Bank of England Baron King of Lothbury).

The Good Bank Debate (New York 2013) (co-sponsored with Mazars)

NYU Global Economic Policy Forum 2012, 2010, 2009, 2007

Judicial Dialogue on Mass Litigation, Florence Italy, October 15-16, 2010 (co-organizer of conference co-sponsored by NYU Law School, the American Law Institute, and the European University Institute)

Finlawmetrics 2010: Central Banking, Regulation & Supervision after the Financial Crisis (co-sponsor and member of steering committee)

Finlawmetrics 2009: After The Big Bang: Reshaping Central Banking, Regulation and Supervision (Milan, Italy, Spring 2009) (co-sponsor and member of steering committee)

NYU Global Economic Policy Forum 2009: The Future of Regulation and Capital Markets (November 5, 2009) (co-organized with Professor Alan Rechtschaffen and with the NYU Law School Alumni Association)

Third Annual Conference on Empirical Legal Studies (Cornell University, Ithaca, New York, Fall 2008) (co-organizer)

Second Annual Conference on Empirical Legal Studies (New York, New York, November 10-11, 2007). Major conference (425 participants) exploring all aspects of the empirical study of law. Co-organized with Jennifer Arlen, Bernard Black, Theodore Eisenberg and Michael Heise.

First Annual Conference on Empirical Legal Studies (Austin, Texas, October 2006). Major conference exploring all aspects of the empirical study of law. Co-organized with Jennifer Arlen, Bernard Black, Theodore Eisenberg and Michael Heise.

Conference on Legal Aspects of the International Activities of Central Banks, Lima Peru, October 1997. This conference, co-sponsored by the central bank of Peru, brought together leaders in the legal and economic issues facing central banks in the management of their external reserves.

Conference on the Governance of Institutional Investors (New York, New York, February 14, 1997). This conference, sponsored by the NYU Stern School of Business Salomon Center in association with the New York University Law School Center for the Study of Central Banks, brought together top executives, attorneys, scholars and others interested in the management and organization, both economic and legal, of the nation's large institutional investors, including its mutual fund industry.

Conference on Bank Mergers and Acquisitions (New York, New York, October 11, 1996). This conference, sponsored by the NYU Stern School of Business Salomon Center in association with the New York University Law School's Center for the Study of Central Banks, brought together leading academics, lawyers, and investment bankers to discuss some of the broader implications of bank mergers and acquisitions. Co-organizer of this conference was Professor Yakov Amihud of the Stern School's Finance Department.

Conference in Central Banks in Latin America (Bogota, Colombia, February, 1996). This conference, co-sponsored by the central bank of Colombia with technical assistance from the Legal Affairs Department of the International Monetary Fund, brought together leaders of Latin American central banks, the international financial community, and scholars from a variety of disciplines, to discuss issues related to the independence of central banks and economic development.

Conference on Central Banks in Asia (Shanghai, China, October, 1995). This conference, co-sponsored with KPMG-Peat Marwick, brought together leaders from commercial banks, investment banks, and industrial firms, as well as central bankers, to discuss Asian central banks to address issues such as the proposed law granting a degree of independence to the central bank of China.

Conference on Ancient Law (Berkeley, California, March 1995). This conference, organized with Professors James Lindgren of Chicago-Kent Law School and Laurent Mayali of the University of California at Berkeley Law School, brought together important figures from a variety of disciplines interested in Ancient Law.

Conference on Central Banks in Eastern Europe and the Newly Independent States (Chicago, Illinois, April 1994). This conference brought together the Prime Minister of Estonia, three present or former Ministers of Finance of Eastern European states (including Boris Fyoderov, former Finance Minister of the Russian Republic), the heads of the central banks of eleven nations in Eastern Europe and the Newly Independent States, together with a wide variety of highly-placed officials from these countries and from the west, to discuss issues related to the independence of central banks and economic development.

Professional Memberships and Positions

New York State Bar
District of Columbia Bar
American Bar Association
American Law Institute (1988-1996)
Member, Paolo Baffi Centre Scientific Advisory Board, Milan, Italy (2008- present)
Member, International Academic Council, University of St. Gallen,
Switzerland (2004-present)
Chairman, Section on Business Associations, American Association of Law

Schools (1995)

Member of the Board of Directors, American Law and Economics Association
(1995-1998)

Member of the Foreign Advisory Committee, Latin American Law and
Economics Association (1995-2000)

Member of the Foreign Advisory Board, Universidad Tucurato Di Tella School of Law,
Buenos Aires, Argentina (1992-1999)

Member of the Editorial Board, Supreme Court Economic Review

Member of the Editorial Board, The Independent Review

Member of the Advisory Board, Yearbook of International Financial and
Economic Law

Member of the Advisory Board, University of Hong Kong Faculty of Law Asian Institute
of International Financial Law (2001-present)

Member of the Advisory Board, LSN Comparative Law Abstracts

Courses

Governance, Risk and Compliance (Study Center Gerzensee, Switzerland 2016)

Law and Business of Bitcoin and Block Chain (2015; 2017) (with David Yermack)

Compliance and Risk Management for Attorneys (2014, 2015, 2017)

Legal Profession (1985-93; 1996-98; 2003-2007; 2013)

The Crisis of 2008 (2009, 2010)

Reading Class: Restructuring Finance (2009); Cutting Issues in Finance (2014-2015); Law and
Politics in Shakespeare (2015-2016)

Property (1986-87)

Corporations (1985-88; 1991-93; 1997-2000; 2005; 2008; 2012; 2014; 2016)

Seminar on Separation of Powers (1985, 1987)

Civil Procedure (1983-84; 2004-2005; 2011; 2013; 2016)

Federal Regulation of Banking (1983, 1989-93; 1995-97; 2003, 2006-2010; 2012; 2015)

Law and Business of Banking (2012; with Gerald Rosenfeld)

Land Development (1984-85)

Securities Law (1990-91)

Workshop in Legal Theory (1989-91)

Seminar on Financial Institutions (1992-93 (with Merton Miller); 1996-97)

Ethics in Class Action Practice (Continuing Legal Education Seminar 2002-2005)

Law and Economics (University of Basel, Switzerland 2005, 2007-2014)

Advanced Seminar on Law and Economics (University of Genoa, Italy 2008)

Banking and the Financial Crisis (University of Genoa, Italy 2009)

Trust, Risk, and Moral Hazard in Financial Markets (University of Genoa, Italy, 2010)

International Banking (University of Sydney, Australia, 2002, 2006)

Introduction to Banking Law (University of Basel, Switzerland 2001, 2002, 2003, 2004, 2009,
2010; 2011; 2012; 2013; 2014)

Banking in the Theory of Finance (University of Frankfurt, Germany 2004, 2005)

Banking Regulation in Crisis (University of Frankfurt, Germany, 2010)

Banking: Law and Economics Issues after the Financial Crisis (Study Center Gerzensee, 2012)

Expert Witness Testimony (past five years)

In re Checking Account Overdraft Litigation, Case No.: 1:09-MD-02036-JLK, United States District Court for the Southern District of Florida (2012) (Bank of America case; declaration and supplemental declaration on fees)

In re Checking Account Overdraft Litigation, Case No.: 1:09-MD-02036-JLK, United States District Court for the Southern District of Florida (2012) (Bank of Oklahoma case; declaration on fairness of settlement and fees)

In re Cell Therapeutics Inc. Securities Litigation, Master Docket No. C10-414 MJP, United States District Court for the Western District of Washington (2012) (declaration on fees)

In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL NO. 2179, Eastern District of Louisiana (2012) (declarations on economic and medical benefits class settlements)

Freudenberg v. eTrade Financial Corporation, Case No.: 07-CV-8538, United States District Court for the Southern District of New York (2012) (declaration on fees)

LaCour v. Whitney Bank, Case No. 8:11-cv-1896-VMC-MAP (United States District Court for the Middle District of Florida (2012) (declaration on settlement and fees)

In re Checking Account Overdraft Litigation, Case No.: 1:09-MD-02036-JLK, United States District Court for the Southern District of Florida (2012) (Union Bank case; declaration on fees)

Smith v. American Bankers Insurance Company of Florida, Case No.: 2:11-cv-02113-PKH, Western District of Arkansas (2012) (declaration on class certification)

Blankenship v. RBS Citizens, N.A., Case No. 1:10-cv-22942-JLK, Southern District of Florida (2012) (declaration on fees)

Mazzadra, et al. v. TD Bank, N.A., Case No. 1:10-cv-21870-JLK, Southern District of Florida (2012) (declaration on fees)

In re Citigroup Inc. Securities Litigation, Case No. 07-civ-9901-SHS, Southern District of New York (2013) (declaration on fees)

Rubery v. E*Trade Financial Corporation, Case No. 07-CV-8612 (JPO), Southern District of New York (2013) (declaration and supplemental declaration on fees)

Chieftain Royalty Co. v. QEP Energy Co., Case No. 11-cv-00212-R (Western District of Oklahoma 2013) (declaration on fairness of settlement and fees)

Drummond v. Range Resources Corp., Case No. CJ-2010-510, District Court of Grady County, Oklahoma (2013) (declaration on fairness of settlement and fees)

Landman Partners Inc. v. Blackstone Group LP, Case No. 08 Civ. 3601 (HB)(FM), Southern District of New York (2013) (declaration on fees)

White v. Experian Information Solutions, Inc., Case No. 05-cv-1070 DOC, Central District of California (2013) (declaration on fees)

Berry v. LexisNexis Risk & Information Analytics Group, Inc., Case No. 3:11cv754, Eastern District of Virginia (2013) (declaration on fees)

Dyer v. Wells Fargo Bank, N.A., Case No. C-13 2858, Northern District of California (2014) (declaration on fees)

US. Foodservice Inc. Pricing Litigation, Case No. 3:07-md-1894, District of Connecticut (2014) (declaration on fees)

Kacsuta v. Lenovo (United States) Inc., Case No. SACV 13-00316-CJC, Central District of California (2014) (declaration on fees)

De Leon v. Bank of America, Case No. 6:09-cv-1251-Orl-JA KRS, Middle District of Florida (2014) (declaration on fees)

Chieftain Royalty Co. v. SM Energy Co., Case No. DIV-011-177-D (Western District of Oklahoma 2015) (declaration on settlement and fees)

In re General Motors LLC Ignition Switch Litigation, No. 14-MD-2543 (Southern District of New York 2016) (declaration on motion to dismiss lead counsel)

In re General Motors LLC Ignition Switch Litigation, No. 14-MD-2543 (Southern District of New York 2016) (declaration on confidentiality of case files)

In re Life Partners Holdings, Inc., No. 15-40289-RFN (Northern District of Texas 2016) (declaration on fees)

Rhea v. Apache Corporation, Case No. 6:14-cv-00433-FHS (Eastern District of Oklahoma 2016) (declaration on class certification)

Hooker v. Sirius XM Radio, Inc., No. 4:13-cv-00003 (Eastern District of Virginia 2016) (declaration on fees and fairness of the settlement)

Axiom Investment Advisors, LLC v. Barclays Bank PLC, Case No. 15-cv-9323-LGS (Southern District of New York 2017) (declaration on fees)

Marcus v. JC Penney Company, Inc., Civil Action No. 6:13-cv-00736-RWS-KNM (Eastern District of Texas 2017) (declaration on fees)

Thomas v. Wells Fargo Bank, Case No. 15-cv-03194 (Central District of California 2017) (declaration on fees)

United States of America ex rel. Trakhter v. Provider Services, Inc., (Southern District of Ohio 2017) (declaration on fees)

White v. Experian Information Services, Inc. Case No. 05-CV-1070 2017) (Central District of California) (declaration on fairness of settlement and fees)

In Re: Takata Airbag Products Liability Litigation, Case No. 1:15-md-02599-FAM (Southern District of Florida 2017) (declaration on fees)

Rierdon v. XTO Energy, Inc., No 6:16-cv-00087-KEW (Eastern District of Oklahoma 2017) (declaration on fees)

In Re Cnova N.V. Securities Litigation, No. 16 CV 444-LTS (Southern District of New York 2017) (declaration on fees)

Other Activities

Fellow, Society for Empirical Legal Studies (2015-present)

Member, Board of Directors, American Law and Economics Association (1996-1999)

Member, Board of Advisors, The Independent Review (1996-present)

Member, Board of Advisors, Asian Institute of International Financial Law (2001-present)

Member, Editorial Advisory Board, Supreme Court Economic Review (1995-2001)

Member, Editorial Advisory Board, The Brookings-Wharton Papers on Financial Policy (1997-present)

President, Section on Financial Institutions and Consumer Financial Services, American Association of Law Schools (1999)

President, Section on Business Associations, American Association of Law Schools (1995)

Member, Board of Contributors, American Bar Association Preview of Supreme Court Cases (1985-1993)

Consultant, Administrative Conference of the United States (1988-89; 1991-1992)

Board of Directors and Volunteer Listener, D.C. Hotline (1980-83)

Awards

1992 Paul M. Bator Award for Excellence in Teaching, Scholarship and Public Service, from the Federalist Society for Law and Public Policy Studies

Podell Distinguished Teaching Award (NYU Law School 2016)

Languages

Reading knowledge of Spanish, French, and Italian.

Blog Posts

Whistleblowing in the Wind, Compliance and Enforcement (June 29, 2016)

Banking's Cultural Revolution, Compliance and Enforcement (June 8, 2016)

Breach of Contract \neq Fraud, Compliance and Enforcement (May 25, 2016)

Judges are not Potted Plants, Compliance and Enforcement (May 18, 2016)

Compliance Goes to School, Compliance and Enforcement (May 12, 2016)

CFPB Issues Proposed Consumer Arbitration Rule, Compliance and Enforcement (May 5, 2016)

FSOC Socked, Compliance and Enforcement (April 28, 2016)

Compliance and Risk Management: Area for Legal Teaching and Scholarship?, Harvard Law School Forum on Corporate Governance and Financial Regulation (May 22, 2014)

Shorter Works

Defusing The Banks' Financial Time Bomb: Without Tough Reforms, Writes Robert Pozen, We'll Probably Face An Ugly Repeat of Recent History (Business Week, March 11, 2010)

Why Interstate Banking is in the National Interest, Testimony Before the Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance of the House Committee on Banking, Housing and Urban Affairs (September 29, 1993)

Challenging the Concept of the Common Law as a Closed System, Columbia Law School Report, Autumn, 1993 (with Norman Silber)

The Insurance Industry's Antitrust Exemption: A Longstanding Tradition Faces its Greatest Challenge, 1992-93 ABA Preview of Supreme Court Cases 198 (1993)

Shootout at the Escheat Corral, 1992-93 ABA Preview of Supreme Court Cases (1993)

Choices and Chances for Consumers, Legal Times, Oct. 12, 1992, at 29-30.

Impeachment Procedures: An Unexplored Territory in the Separation of Powers, 1992-93 ABA Preview of Supreme Court Cases 39 (1992)

An (Ex)changing of the Guard, 21 Journal of Legal Studies iii (1992)

Revisiting the Contingency Factor in Fee-Shifting Awards, 1991-92 ABA Preview of Supreme Court Cases 327 (1992)

The Foreign Sovereign Immunities Act and the Market for Public International Debt, 1991-92 ABA Preview of Supreme Court Cases 307 (1992)

Return of the Tenth Amendment?: Federal Control and State Autonomy over Low Level Radioactive Wastes, 1991-92 ABA Preview of Supreme Court Cases 284 (1992)

What are the Limits on Congressional Power to Influence Pending Cases?, 1991-92 ABA Preview of Supreme Court Cases 158 (1991)

RICO Standing for Securities Fraud: Does the Purchaser-Seller Rule of Rule 10b-5 Apply?, 1991-92 ABA Preview of Supreme Court Cases 155 (1991)

Banking and Investment: Introduction to UPA Index and Microfiche Collection (University Publications of America 1991)

Source of Strength in the Court: Can Bank Holding Companies be Required to Support Failing Subsidiary Banks?, 1991-92 ABA Preview of Supreme Court Cases 42 (1991)

Source of Strength: A Source of Trouble, Legal Times, September 30, 1991 (Special Supplement, pp. 22-25)

The Once and Future American Banking Industry, The American Enterprise (with Jonathan R. Macey)(1991)

The Former Stockholder as Plaintiff in Short-Swing Trading Cases, 1990-91 ABA Preview of Supreme Court Cases (1991)

Disposing of Demand Excuse in Derivative Litigation, 1990-91 ABA Preview of Supreme Court Cases (1991)

Up in the Air: Can Congress Require States to Appoint Members of Congress to State Agencies?, 1990-91 ABA Preview of Supreme Court Cases 294 (1991)

The Statute of Limitations under Rule 10b-5, 1990-91 ABA Preview of Supreme Court Cases (1991)

Tort Claims Against Federal Banking Agencies: New Hope For Shareholders and Officers of Failed Depository Institutions?, 1990-91 ABA Preview of Supreme Court Cases 94 (1991)

Punitive Damages Redux: If the Eighth Amendment Doesn't Apply, What About the Due Process Clause?, 1990-91 ABA Preview of Supreme Court Cases 47 (1990)

Quandaries of Causation: Proxy Solicitation in Freeze-Out Mergers, 1990-91 ABA Preview of Supreme Court Cases 57 (1990)

Racial Statesmanship, Legal Times S31 (July 23, 1990)

Eurodollars, Sovereign Risk, and the Liability of U.S. Banks for Deposits in Foreign Branches, 1989-90 ABA Preview of Supreme Court Cases 281 (1990)

When is a Note a Note?, 1989-90 ABA Preview of Supreme Court Cases 18 (1990)

Interstate Banking and the Commerce Clause, 1989-90 ABA Preview of Supreme Court Cases 168 (1990)

Federal Courts, Municipalities, and the Contempt Power, 1989-90 ABA Preview of Supreme Court Cases 37 (1989)

Shoe Could Still Drop on Issue of Punitive Damages, National Law Journal (August 21, 1989)

Punitive Damages and the Constitution, 1988-89 ABA Preview of Supreme Court Cases 391 (1989)

States, Bankruptcy and the Eleventh Amendment, 1988-89 ABA Preview of Supreme Court Cases 412 (1989)

Stockholders, Arbitration, and the Securities Act of 1933, 1988-89 ABA Preview of Supreme Court Cases 383 (1989)

Appropriations Riders, Nondisclosure Agreements, and the Separation of Powers, 1988-89 ABA Preview of Supreme Court Cases 375 (1989)

Judicial Appointments and the ABA: Business as Usual or Brand New World?, 1988-89 ABA Preview of Supreme Court Cases 379 (1989)

S & L Receiverships, State Law, and the Federal Courts, 1988-89 ABA Preview of Supreme Court Cases 255 (1989)

The Non-delegation Doctrine in Taxation: A Different Constitutional Calculus?, 1988-89 ABA Preview of Supreme Court Cases 261 (1989)

Bankruptcy, Tax Liens, and Post-Petition Interest, 1988-89 ABA Preview of Supreme Court Cases (1989)

Federal Courts, State Taxes: A Vexing Dilemma For the Enforcement of Civil Rights in a Federal System, 1989-90 ABA Preview of Supreme Court Cases 95 (1988)

Separation of Powers and the Sentencing Commission, 1988-89 ABA Preview of Supreme Court Cases 23 (1988)

Administering the Savings and Loan Crisis: New Problems for the FSLIC, 1988-89 ABA Preview of Supreme Court Cases (1988)

Federal Procurement and the Separation of Powers, 1988-89 ABA Preview of Supreme Court Cases 26 (1988)

Thinking About a Career in Law, 1988-89 Talbot's Student Planning Book 32 (1988)

Carl McGowan: A Great Judge Remembered, 56 George Washington Law Review 697 (1988)

Separation of Powers: The Independent Counsel Case Tests the Limits, 1987-88 ABA Preview of Supreme Court Cases 390 (1988)

Decisionmaking in Collegial Bodies, Judicature, April/May 1988

The FDIC, Bank Officers and the Due Process Clause, 1987-88 ABA Preview of Supreme Court Cases 326 (1988)

Farm Foreclosures in Bankruptcy, 1987-88 ABA Preview of Supreme Court Cases 199 (1988)

Equal Access to Justice and Government Litigation, 1987-88 ABA Preview of Supreme Court Cases 160 (1988)

The Time Value of Money in Bankruptcy Cases, 1987-88 ABA Preview of Supreme Court Cases 116 (1987)

Getting the Fee First? Attorneys and the SSI Program 1987-88 ABA Preview of Supreme Court Cases 118 (1987)

The Farmer and the FDIC, 1987-88 ABA Preview of Supreme Court Cases 48 (1987)

Testing the Limits of Securities Fraud: Financial Gossip in the Court, 1987-88 ABA Preview of Supreme Court Cases 26 (1987)

Checks and Balances in the Twenty-First Century, 33 University of Chicago Law School Record 7 (1987)

Separation of Powers May Become Focus Over NSC, Legal Times, Dec. 15, 1986, at 15

If a Bank is a Broker, is a Brokerage a Branch? 1986-87 ABA Preview of Supreme Court Cases 65 (1986)

Attorney's Fees in the Supreme Court, American Bar Association Journal 40 (November, 1986)

The Contingency Factor in Attorney's Fees Reconsidered, 1986-87 ABA Preview of Supreme Court Cases 20 (1986)

Restitution and Bankruptcy in a Federal System, 1986-87 ABA Preview of Supreme Court Cases (1986)

Don't Limit Contingent Fees, Chicago Tribune, June 11, 1986

The Budget and the Separation of Powers: Gramm-Rudman in the Court, 1985-86 ABA Previews of Supreme Court Cases 359 (1986)

Keeping Attorneys' Fees in Proportion, 1985-86 ABA Preview of Supreme Court Cases 325 (1986)

Must the Federal Government Pay Interest on Attorneys' Fees Awards?, 1985-86 ABA Preview of Supreme Court Cases 241 (1986)

The Contingency Factor in Attorneys' Fees Awards, 1985-86 ABA Preview of Supreme Court Cases 243 (1986)

The FCC as Cop: Forcing State Public Service Commissions to Obey Federal Agency Orders, 1985-86 ABA Preview of Supreme Court Cases 191 (1986)

Preemption, Public Utilities, and Power Over Telephone Rate-Setting, 1985-86 ABA Preview of Supreme Court Cases 187 (1986)

A Bank is a Bank is a Bank -- or is it?, 1985-86 ABA Preview of Supreme Court Cases 67 (1985)

Settlement Offers Conditioned on Waiver of Attorneys' Fees: A Legal and Ethical Dilemma Confronts the Court, 1985-86 ABA Preview of Supreme Court Cases 55 (1985)

Bankruptcy and the Environment: The Case of Hazardous Wastes, 1985-86 ABA Preview of Supreme Court Cases 25 (1985)

A Different Approach to Interstate Banking, American Banker (August 8, 1985)

The SEC as Censor: Is Banning an Investment Advice Newsletter a Prior Restraint of the Press?, 1984-85 ABA Preview of Supreme Court Cases 243 (1985)

Enforcing Federal Rights in State Courts, 1984-85 ABA Preview of Supreme Court Cases 277 (1985)

Interstate Banking and the Constitution, 1984-85 ABA Preview of Supreme Court Cases 364 (1985)

The "Sale of Business" Doctrine in the Supreme Court, 1984-85 ABA Preview of Supreme Court Cases 344 (1985)

Sale of Business Revisited: Does the Doctrine Apply to Partial Sales of Corporate Control, 1984-85 ABA Preview of Supreme Court Cases 347 (1985)

Six Cases Shape Business Law, American Bar Association Journal 124 (Jan. 1985)

Offers of Settlement in Civil Rights Cases Pose Attorneys' Fees Question, 1984-85 ABA Preview of Supreme Court Cases 105 (1984)

Using Bankruptcy to Avoid Liability for Cleaning up Toxic Wastes, 1984-85 ABA Preview of Supreme Court Cases 36 (1984)

A Judicial Footnote Cemented the New Deal, Wall Street Journal, September 13, 1984

May Bank Holding Companies Provide Discount Brokerage Savings?, 1984-85 ABA Preview of Supreme Court Cases 575 (1984)

Blum v. Stenson: Fundamental Questions About Attorneys' Fees Awards to Public Interest Lawyers, 1984-85 ABA Preview of Supreme Court Cases 301 (1984)

Myths on the Midway, 30 Chicago Law School Record 13 (1984)

Smith v. Robinson: Another Step Towards Solving the Attorneys' Fees Puzzle? 1983-84 ABA Preview of Supreme Court Cases 437 (1984)

Securities Industry Association v. Board of Governors: Can Banks Distribute Commercial Paper? 1983-84 ABA Preview of Supreme Court Cases 425 (1984)

The "7-Eleven" Case: Arbitration v. Litigation in a Federal System, 1983-84 ABA Preview of Supreme Court Cases 161 (1983)

The Bildisco Case: Reconciling Federal Bankruptcy and Labor Policies, 1983-84 ABA Preview of Supreme Court Cases 169 (1983)

The "Daily Income Fund" Case: What Role Should a Mutual Fund's Board of Directors Play in Disputes over Investment Advisor Fees, 1983-84 ABA Preview of Supreme Court Cases 107 (1983)

Pulliam v. Allen: Should State Judges who Act Unconstitutionally Pay the Plaintiff's Attorneys' Fees?, 1983-84 ABA Preview of Supreme Court Cases 115 (1983)

"Shortsighted" Bill Proposes D.C. Court Divestiture, Legal Time of Washington, August 16, 1982

The Tax Bill May Be Unconstitutional, Baltimore Sun, August 16, 1982 (with Donald N. Bersoff)

Appendix 3: Cases Citing to Geoffrey Miller's Research on Class Action Litigation

- *In re: National Collegiate Athletic Association Athletic Grant-In-Aid Cap Antitrust Litigation*, No. 4:14-cv-02758-CW, 2017 WL 6040065 (N.D. California. 2017);
- *In re Sears, Roebuck and Co. Front-Loading Washer Products Liability Litig.*, --- F.3d ---, 2017 WL 3470400 (7th Cir. 2017);
- *Good v. West Virginia-American Water Co.*, 2017 WL 2884535 (S.D. W.Va. 2017);
- *Chieftain Royalty Company v. Enervest Energy Institutional Fund XIII-A*, 861 F.3d 1182 (10th Cir. 2017);
- *Nitsch v. DreamWorks Animation SKG Inc.*, 2017 WL 2423161 (N.D. Ca. 2017);
- *McGreevy v. Life Alert Emergency Response, Inc.*, --- F.Supp.3d ---, 2017 WL 1534452 (S.D.N.Y. 2017);
- *Seijas v. Republic of Argentina*, 2017 WL 1511352 (S.D.N.Y. 2017);
- *Brown v. Rita's Water Ice Franchise Company LLC*, --- F.Supp.3d ----2017 WL 1021025 (E.D. Pa. 2017);
- *Thomas v. FTS USA, LLC*, 2017 WL 1148283 (E.D. Va. 2017);
- *Briggs v. PNC Financial Services Group, Inc.*, 2016 WL 7018566 (N.D. Ill. 2016);
- *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215 (N.D. Ill. 2016);
- *In re TRS Recovery Services, Inc. and Telecheck Services, Inc., Fair Debt Collection Practices Act (FDCPA) Litigation*, 2016 WL 543137 (D. Me. 2016);
- *In re Urethane Antitrust Litigation*, 2016 WL 406-156 (D. Kan., July 29, 2016);
- *Laffitte v. Robert Half Intern., Inc.* 1 Cal.5th 480 376 P.3d 672 (Cal. 2016);
- *In re Polyurethane Foam Antitrust Litigation*, -- F.Supp.3d ---- 2015 WL 7348208 (N.D. Oh. 2015);
- *In re: Cathode Ray Tube (CRT) Antitrust Litigation*, 2016 WL 721680 (N.D. Ca. 2016);
- *In re High-Tech Employee Antitrust Litigation*, 2015 WL 5158730 (N.D. Ca. 2015);
- *Palmer v. Dynamic Recovery Solutions, LLC*, 2016 WL 2348704 (M.D. Fla. 2016);
- *In re: Sears, Roebuck and Co. Front-Loading Washer Products Liability Litigation*, 2016 WL 4765679 (N.D. Ill. 2016);

- *In re Pool Products Distribution Market Antitrust Litigation*, 2015 WL 4528880 (E.D. La. 2015);
- *Abbott v. Lockheed Martin Corp.*, 2015 WL 4398475 (S.D. Ill. 2015);
- *Craftwood Lumber Company v. Interline Brands, Inc.*, 2015 WL 2147679 (N.D. Ill. 2015);
- *In re IndyMac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015);
- *Wilkins v. HSBC Bank Nevada, N.A.*, 2015 WL 890566 (N.D. Ill. 2015);
- *In re Capital One Telephone Consumer Protection Act Litigation*, 80 F.Supp.3d 781 (N.D. Ill. 2015);
- *In re Dairy Farmers of America, Inc.*, 80 F.Supp.3d 838 (N.D. Ill. 2015);
- *In re Colgate-Palmolive Co. ERISA Litigation*, 36 F.Supp.3d 344 (S.D.N.Y. 2014);
- *Haggart v. United States*, 116 Fed. Cl. 131 (Ct. Fed. Claims 2014);
- *Richardson v. L'Oreal USA, Inc.*, --- F.Supp.2d ----, 2013 WL 5941486 (D.D.C. 2013);
- *Swift v. Direct Buy, Inc.*, 2013 WL 5770633 (N.D. Ind. 2013);
- *Singleton v. Domino's Pizza, LLC*, --- F.Supp.2d ----, 2013 WL 5506027 (D.Md. 2013);
- *In re Schering-Plough Corp. Enhance Securities Litigation*, 2013 WL 5505744 (D.N.J. 2013);
- *In re Vioxx Products Liability Litigation*, 2013 WL 5295707 (E.D. La. 2013);
- *Evans v. TIN, Inc.*, 2013 WL 4501061 (E.D.La. 2013);
- *Silverman v. Motorola Solutions, Inc.*, --- Fed.Appx. ----, 2013 WL 4082893 (7th Cir. 2013);
- *City of Pontiac General Employees' Retirement System v. Lockheed Martin Corp.*, --- F.Supp.2d ---, 2013 WL 3796658 (S.D.N.Y. 2013);
- *Gortat v. Capala Bros.*, --- F.Supp.2d ----, 2013 WL 2566622 (E.D.N.Y. 2013);
- *In re Southeastern Milk Antitrust Litigation*, 2013 WL 2155387 (E.D. Tenn. 2013);
- *Strawn v. Farmers Ins. Co. of Oregon*, 353 Or. 210, 297 P.3d 439 (Or. 2013);
- *Heekin v. Anthem, Inc.*, 2012 WL 5878032 (S.D. Ind. 2012);
- *Espenscheid v. DirectSat USA, LLC*, 688 F.3d 872, 877 (7th Cir. 2012);

- *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741, 744 (7th Cir. 2011);
- *Allapattah Servs., Inc. v. Exxon Corp.*, 362 F.3d 739, 760 (11th Cir. 2004) (Judges Tjoflat and Birch, dissenting from denial of en banc review);
- *Strawn v. Farmers Ins. Co. of Oregon*, 353 Or. 210, 297 P.3d 439 (2013);
- *In re Amaranth Natural Gas Commodities Litig.*, No. 07-6377, 2012 U.S. Dist. LEXIS 82599, at *7 n.12 (S.D.N.Y. June 11, 2012);
- *Board of Trustees of AFTRA Ret. Fund v. JPMorgan Chase Bank, N.A.*, No. 09-686, 2012 U.S. Dist. LEXIS 79418, at *5 n.12 (S.D.N.Y. June 7, 2012);
- *Lane v. Page*, No. 06-1071, 2012 U.S. Dist. LEXIS 74273, at *161 (D.N.M. May 22, 2012);
- *Silverman v. Motorola, Inc.*, No. 07-4507, 2012 U.S. Dist. LEXIS 63477, at *15 (N.D. Ill. May 7, 2012);
- *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, MDL No. 09-2046, 2012 U.S. Dist. LEXIS 37326, at *94, *116 (S.D. Tex. Mar. 20, 2012);
- *Walsh v. Popular, Inc.*, No. 09-1552, 2012 U.S. Dist. LEXIS 32991, at *24 (D.P.R. Mar. 12, 2012);
- *Am. Int'l Group, Inc. v. Ace Ina Holdings, Inc.*, No. 07-2898, 2012 U.S. Dist. LEXIS 25265, at *59 (N.D. Ill. Feb. 28, 2012);
- *Ebbert v. Nassau County*, 05-5445, 2011 U.S. Dist. LEXIS 150080, at *41 (E.D.N.Y. Dec. 22, 2011);
- *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1336 n.4 (S.D. Fla. 2011);
- *Latorraca v. Centennial Techs., Inc.*, No. 97-10304, 2011 U.S. Dist. LEXIS 135435, at *11 (D. Mass. Nov. 22, 2011);
- *In re Ky. Grilled Chicken Coupon Mktg. & Sales Litig.*, 2011 WL 5599129 (N.D. Ill. Nov. 16, 2011);
- *Pavlik v. FDIC*, No. 10-816, 2011 U.S. Dist. LEXIS 126016, at *11 (N.D. Ill. Nov. 1, 2011);
- *In re Trans Union Corp. Privacy Litigation*, --- F.3d --- (7th Cir. 2011);
- *Thoroughgood v. Sears, Roebuck & Co.*, 627 F.3d 289 (7th Cir. 2010);
- *Rodriguez v. West Publishing Corp.*, 563 F.3d 948 (9th Cir. 2009);
- *Allapattah Services, Inc. v. Exxon Corp.*, 362 F.3d 739 (11th Cir. 2004);

- *In re Cendent Corp. Litigation*, 264 F.3d 201 (3d Cir. 2001);
- *Scardeletti v. Debarr*, 265 F.3d 195 (4th Cir. 2001);
- *AUSA Life Ins. Co. v. Ernst & Young*, 206 F.3d 202 (2d Cir., 2000);
- *Davis v. Carl Cannon Chevrolet-Olds, Inc.*, 182 F.3d 792 (11th Cir. 1999);
- *In re Vioxx Products Liability Litigation*, 2011 WL 3563004 (E.D.La. 2011);
- *Wren v. RGIS Inventory Specialists*, 2011 WL 1230826 (N.D.Ca. 2011);
- *In re AT&T Mobility Wireless Data Services Sales Tax Litigation*, 2011 WL 2173746 (N.D.Ill. 2011);
- *Velez v. Novartis Pharmaceuticals Corp.*, 2010 WL 4877852 (S.D.N.Y. 2010);
- *Kay Co. v. Equitable Production Co.*, --- F.Supp.2d ----, 2010 WL 4501572 (S.D.W.Va. 2010);
- *In re Vioxx Products Liability Litig.*, No. 2:05-md-01657-EEF-DEK (E.D. La., October 19, 2010);
- *In re Lawnmower Engine Horsepower Marketing & Sales Practices Litigation*, --- F.Supp.2d ----, 2010 WL 3310264 (E.D.Wis. 2010);
- *Klein v. O'Neal, Inc.*, 705 F.Supp.2d 632 (N.D.Tex. 2010);
- *In re Marsh Erisa Litigation*, 265 F.R.D. 128 (S.D.N.Y. 2010);
- *In re MetLife Demutualization Litigation*, 689 F.Supp.2d 297 (E.D.N.Y. 2010);
- *Braud v. Transport Service Co. of Illinois*, 2010 WL 3283398 (E.D.La. 2010);
- *Fiala v. Metropolitan Life Ins. Co., Inc.*, 27 Misc.3d 599, 899 N.Y.S.2d 531, 2010 N.Y. Slip Op. 20071 (N.Y.Sup., 2010);
- *In re Revlon, Inc. Shareholders Litigation*, 990 A.2d 940 (Del.Ch. 2010);
- *Strawn v. Farmers Ins. Co. of Oregon*, 226 P.3d 86 (Or. App. 2010);
- *In re Trans Union Corp. Privacy Litigation*, 2009 WL 4799954 (N.D.Ill. 2009);
- *Hall v. Children's Place Retail Stores, Inc.*, 669 F. Supp. 2d 399 (S.D.N.Y. 2009);
- *Loudermilk Services, Inc. v. Marathon Petroleum Co. LLC*, 623 F.Supp.2d 713 (S.D.W.Va. 2009);

- *In re OCA, Inc. Securities and Derivative Litigation*, 2009 WL 512081 (E.D.La. 2009);
- *Lubin v. Farmers Group*, 2009 WL 3682602 (Tex. App. 2009);
- *Steiner v. Apple Computer Inc.*, 556 F. Supp. 2d 1016 (N.D.Cal. 2008);
- *In re Enron Corp. Securities, Derivative and ERISA Litigation*, 586 F. Supp. 2d 732 (S.D. Tex. 2008);
- *In re Cardinal Health Inc. Securities Litigations*, 528 F.Supp.2d 752 (S.D. Ohio 2007);
- *Acosta v. Trans Union, LLC*, 240 F.R.D. 564 (C.D. Ca. 2007);
- *Turner v. Murphy Oil USA, Inc.*, 472 F. Supp. 2d 830 (E.D. La. 2007);
- *Wang v. Chinese Daily News, Inc.*, 236 F.R.D. 485 (C.D.Ca. 2006);
- *In re Cabletron Sys. Inc. Securities Litigation*, 239 F.R.D. 30 (D.N.H. 2006);
- *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation*, 447 F.Supp.2d 612 (E.D. La. 2006);
- *In re Chiron Corp. Securities Litigation*, 2007 WL 4249902 (N.D.Cal. 2007);
- *In re Lupron Marketing and Sales Practices Litigation*, 2005 WL 2006833 (D. Mass. 2005);
- *In re Relafen Antitrust Litigation*, 221 F.R.D. 260 (D. Mass. 2004);
- *In re Microstrategy Inc.*, 172 F. Supp. 2d 778 (E.D. Va. 2001);
- *In re Auction Houses Antitrust Litigation*, 197 F.R.D. 71 (S.D.N.Y. 2000);
- *Burke v. Ruttenberg*, 102 F. Supp. 2d 1280 (N.D. Al. 2000);
- *In re Texlon Corp. Securities Litigation*, 67 F. Supp. 2d 803 (N.D. Oh. 1999);
- *In re Baan Co. Securities Litigation*, 186 F.R.D. 214 (D.D.C. 1999);
- *In re Quantum Health Resources Inc.*, 962 F. Supp. 1254 (C.D. Ca. 1997);
- *Strong v. BellSouth Telecommunications Inc.*, 173 F.R.D. 167 (W.D. La. 1997).

EXHIBIT 38

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

In re Foreign Exchange Benchmark Rates Antitrust Litigation

Case No. 1:13-cv-07789

DECLARATION OF BRIAN T. FITZPATRICK

I. Background and qualifications

1. I am a Professor of Law at Vanderbilt University in Nashville, Tennessee. I joined the Vanderbilt law faculty in 2007, after serving as the John M. Olin Fellow at New York University School of Law in 2005 and 2006. I graduated from the University of Notre Dame in 1997 and Harvard Law School in 2000. After law school, I served as a law clerk to The Honorable Diarmuid O'Scannlain on the United States Court of Appeals for the Ninth Circuit and to The Honorable Antonin Scalia on the United States Supreme Court. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP. My C.V. is attached as Exhibit 1.

2. My teaching and research at Vanderbilt and New York University have focused on class action litigation. I teach the Civil Procedure, Federal Courts, and Complex Litigation courses at Vanderbilt. In addition, I have published a number of articles on class action litigation in such journals as the University of Pennsylvania Law Review, the Journal of Empirical Legal Studies, the Vanderbilt Law Review, the University of Arizona Law Review, and the NYU Journal of Law & Business. My work has been cited by numerous courts, scholars, and popular media outlets, such as the New York Times, USA Today, and the Wall Street Journal. I am also frequently invited to speak at symposia and other events about class action litigation, such as the ABA National Institutes on Class Actions in 2011, 2015, 2016, and 2017, and the ABA Annual Meeting in 2012. Since 2010, I have also served on the Executive Committee of the Litigation

Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to membership in the American Law Institute.

3. In December 2010, I published an article in the Journal of Empirical Legal Studies entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811 (2010) (hereinafter “Empirical Study”). This article is what I believe to be the most comprehensive examination of federal class action settlements and attorneys’ fees that has ever been published. Unlike other studies of class actions, which have been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study attempted to examine *every* class action settlement approved by a federal court over a two-year period, 2006-2007. *See id.* at 812-13. As such, not only is my study an unbiased sample of settlements, but the number of settlements included in my study is several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements, including 109 from the Second Circuit alone. *See id.* at 817. I presented the findings of my study at the Conference on Empirical Legal Studies at the University of Southern California School of Law in 2009, the Meeting of the Midwestern Law and Economics Association at the University of Notre Dame in 2009, and before the faculties of many law schools in 2009 and 2010. This study has been relied upon by a number of courts, scholars, and testifying experts. *See, e.g., Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (relying on article to assess fees); *Good v. W. Virginia-Am. Water Co.*, 2017 WL 2884535, at *23, *27 (S.D.W. Va. July 6, 2017) (same); *McGreevy v. Life Alert Emergency Response, Inc.*, 2017 WL 1534452, at *3 (S.D.N.Y. Apr. 28, 2017) (same); *Brown v. Rita's Water Ice Franchise Co. LLC*, 2017 WL 1021025, at *9 (E.D. Pa.

Mar. 16, 2017) (same); *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *7 (D. Kan. July 29, 2016) (same); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 1629349, at * 17 (S.D.N.Y. Apr. 24, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, 2015 WL 4528880, at *19-20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 2147679, at *2-4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 1399367, at *3-5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 2015 WL 605203, at *12 (N.D. Ill. Feb. 12, 2015) (same); *In re Neurontin Marketing and Sales Practices Litigation*, 2014 WL 5810625, at *3 (D. Mass. Nov. 10, 2014) (same); *Tennille v. W. Union Co.*, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014) (same); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F.Supp.3d 344, 349-51 (S.D.N.Y. 2014) (same); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 991 F.Supp.2d 437, 444-46 & n.8 (E.D.N.Y. 2014) (same); *In re Federal National Mortgage Association Securities, Derivative, and “ERISA” Litigation*, 4 F.Supp.3d 94, 111-12 (D.D.C. 2013) (same); *In re Vioxx Products Liability Litigation*, 2013 WL 5295707, at *3-4 (E.D. La. Sep. 18, 2013) (same); *In re Black Farmers Discrimination Litigation*, 953 F.Supp.2d 82, 98-99 (D.D.C. 2013) (same); *In re Southeastern Milk Antitrust Litigation*, 2013 WL 2155387, at *2 (E.D. Tenn., May 17, 2013) (same); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (same); *Pavlik v. FDIC*, 2011 WL 5184445, at *4 (N.D. Ill. Nov. 1, 2011) (same); *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 40 (D.D.C. 2011) (same); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1033 (N.D. Ill. 2011) (same); *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 359 (E.D.N.Y. 2010) (same).

4. I have been asked by class counsel to opine on whether the attorneys' fees they have requested in the fifteen settlements before the court are reasonable in light of the fees that have been awarded in other class action cases. In order to formulate my opinion, I reviewed a number of documents provided to me by class counsel; I have attached a list of these documents (and indicated how I refer to them herein) in Exhibit 2. As I explain, based on the empirical studies of settlements across the country and in the Second Circuit in particular, I believe the fees are well within the range of reason.

II. Case background

5. These settlements arise out of litigation against sixteen of the largest banks in the world (and their affiliated entities) over collusive practices in foreign currency trading allegedly in violation of federal antitrust laws and the Commodity Exchange Act. Class counsel have now reached settlements with fifteen banks (and their affiliated entities) with respect to these allegations; litigation against one remaining bank is ongoing.

6. Although these settlements were negotiated at different points over the last few years, in order to save class members the unnecessary expense of duplicative class settlement notices and multiple partial distributions (many class members exchanged currencies with more than one bank), class counsel submitted the settlements to the court for preliminary approval as soon as possible (to accelerate the settling defendants' settlement payments and cooperation against other defendants) but delayed notice to class members until October 2017. The court preliminarily approved the settlements and their corresponding settlement classes on December 15, 2015, September 8, 2017, and September 29, 2017. Notice to the settlement classes was issued and the parties have now moved the court for final approval of all fifteen settlements.

7. Each settlement agreement sets forth the definition of two settlement classes, and I will not repeat them here. As summarized in Table 1, below, each of the settlements requires the defendants to pay cash of varying amounts to class members (to be distributed *pro rata* based largely on transaction volume per the plan of allocation that has been separately submitted to the court), bars any leftover cash from reverting to the defendants (if any money is leftover after the first distributions to class members, it will be redistributed to class members), and requires the defendants to provide substantial cooperation to class counsel as they continue to litigate against the non-settling defendant. In exchange, the classes agree to release the defendants from the claims they brought here or could have brought here related to the factual underpinnings of these lawsuits. The settlements are listed in Table 1 in chronological order as of the date at which agreements in principle were reached.

Table 1: Settlements in *In re Foreign Exchange Litigation*

Settlement	Cash	Reversion to Defendant	Cooperation
JP Morgan Chase	\$104,500,000	NO	YES
UBS	\$141,075,000	NO	YES
Citigroup	\$402,000,000	NO	YES
Barclays	\$384,000,000	NO	YES
Bank of America	\$187,500,000	NO	YES
Goldman Sachs	\$135,000,000	NO	YES
Royal Bank of Scotland	\$255,000,000	NO	YES
BNP Paribas	\$115,000,000	NO	YES
HSBC	\$285,000,000	NO	YES
Bank of Tokyo Mitsubishi	\$10,500,000	NO	YES
Morgan Stanley	\$50,000,000	NO	YES
RBC Capital Markets	\$15,500,000	NO	YES
Société Générale	\$18,000,000	NO	YES
Standard Chartered	\$17,200,000	NO	YES
Deutsche Bank	\$190,000,000	NO	YES

8. Class counsel have now moved the court for awards of fees equal to 16.51% of each of these settlements. Based on the empirical studies of class action settlements across the

country and in the Second Circuit in particular, it is my opinion that these requests are well within the range of reason.

III. Assessment of the reasonableness of the requests for attorneys' fees

9. The settlements at issue here are so-called “common fund” settlements, where the efforts by attorneys for the plaintiffs have created common funds of cash for the benefit of plaintiffs, but, because these are class action settlements and no fee-shifting statute was triggered, the attorneys can be compensated only from the funds they have created. At one time, courts that awarded fees in common fund class action cases did so using the familiar “lodestar” approach. *See* Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little*, 158 U. Pa. L. Rev. 2043, 2051 (2010) (hereinafter “Class Action Lawyers”). Under this approach, courts awarded class counsel a fee equal to the number of hours they worked on the case (to the extent the hours were reasonable), multiplied by a reasonable hourly rate as well as by a discretionary multiplier that courts often based on the risk of non-recovery and other factors. *See id.*

10. Over time, however, the lodestar approach fell out of favor in common fund class actions. It did so largely for two reasons. First, courts came to dislike the lodestar method because it was difficult to calculate the lodestar; courts had to review voluminous time records and the like. Second—and more importantly—courts came to dislike the lodestar method because it did not align the interests of class counsel with the interests of the class; class counsel’s recovery did not depend on how much the class recovered, but, rather, on how many hours could be spent on the case. *See id.* at 2051-52. According to my empirical study, the lodestar method is now used to award fees in only a small percentage of class action cases, usually those involving fee-shifting statutes or those where the relief is predominantly injunctive

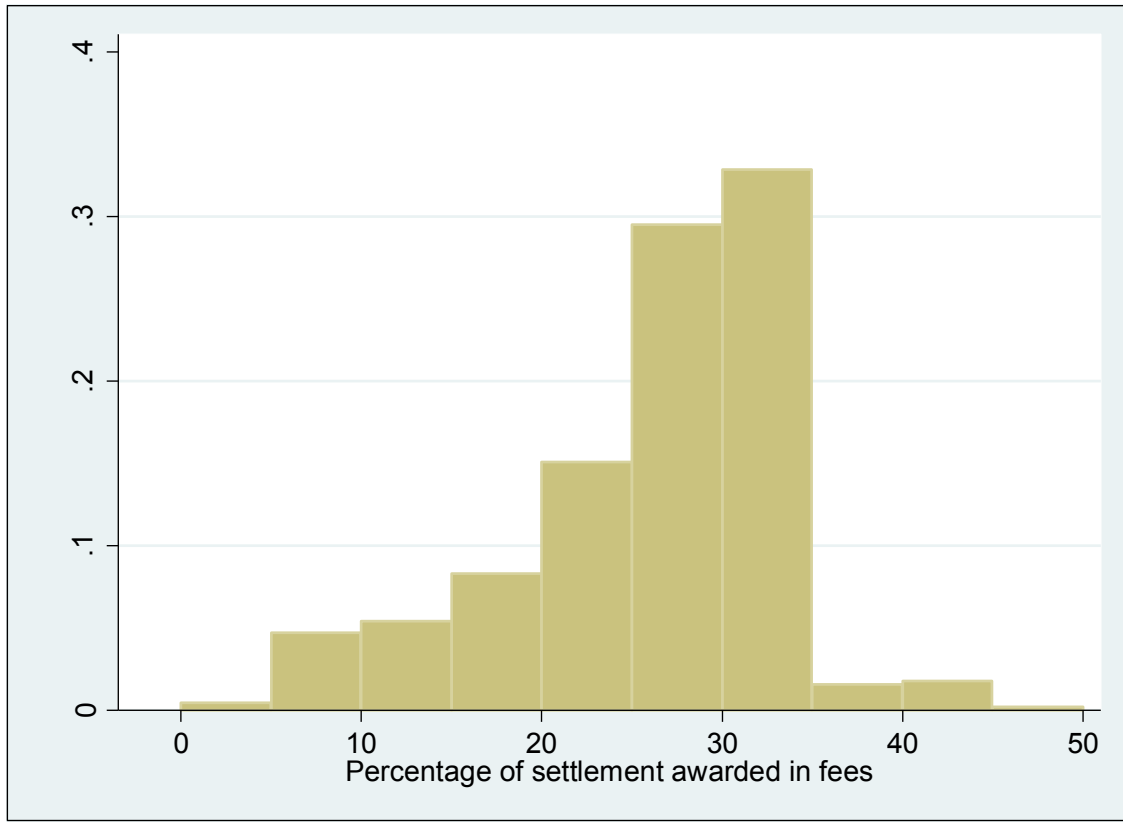
in nature (and the value of the injunction cannot be reliably calculated). *See Fitzpatrick, Empirical Study, supra*, at 832 (finding the lodestar method used in only 12% of settlements). The other large-scale academic study of class action fees, authored over time by Geoff Miller and the late Ted Eisenberg, agrees with my findings. *See Theodore Eisenberg & Geoffrey P. Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical L. Stud. 248, 267 (2010) (finding lodestar method used only 13.6% of the time before 2002 and less than 10% of the time thereafter); Theodore Eisenberg et al., *Attorneys' Fees in Class Action Settlements: 2009-2013*, 92 N.Y.U. L. Rev. 937, 945 (2017) (finding lodestar method used less than 7% of the time since 2009).

11. The more common method of calculating attorneys' fees today is known as the "percentage" method. Under this approach, courts select a percentage of the settlement fund that they believe is fair to class counsel, multiply the settlement amount by that percentage, and then award class counsel the resulting product. The percentage approach has become the preferred method for awarding fees to class counsel in common fund cases precisely because it corrects the deficiencies of the lodestar method: it is less cumbersome to calculate, and, more importantly, it aligns the interests of class counsel with the interests of the class because the more the class recovers, the more class counsel recovers. *See Fitzpatrick, Class Action Lawyers, supra*, at 2052.

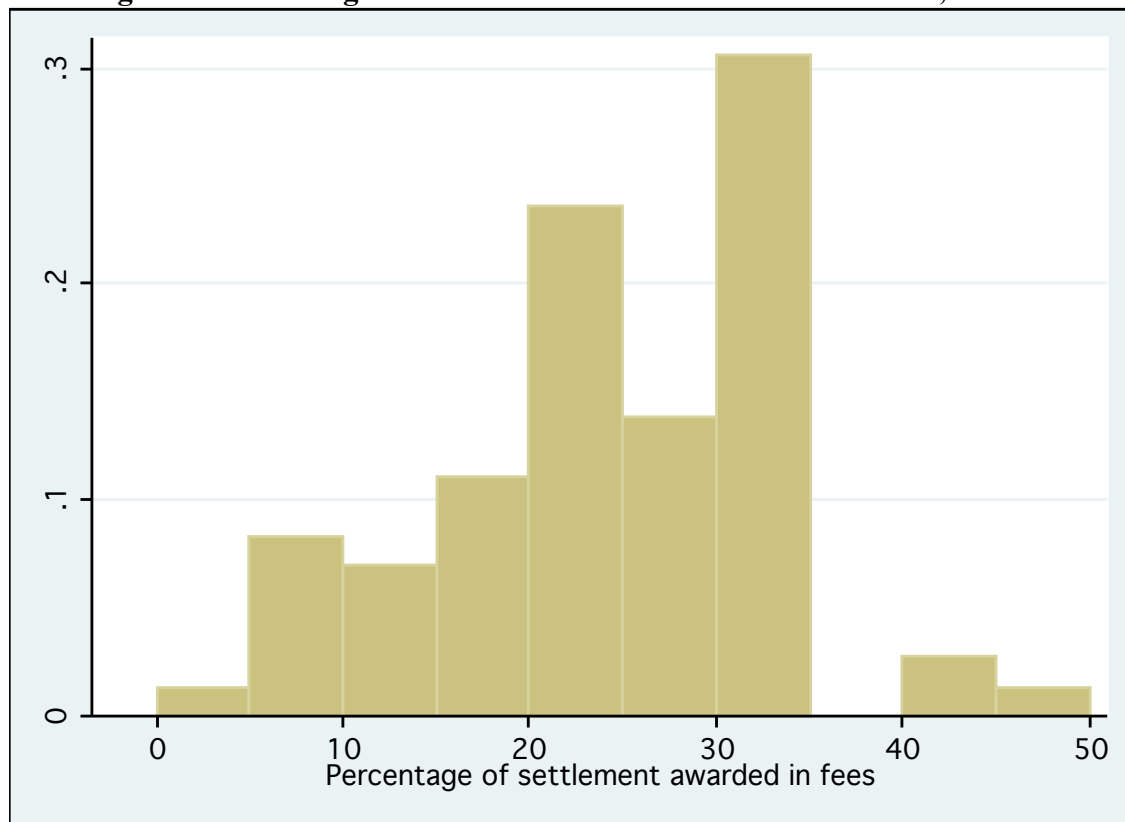
12. In the Second Circuit, courts have discretion to use either the lodestar method or the percentage method in awarding attorneys' fees in common fund class actions. *See Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 45 (2d Cir. 2000) ("We hold that either the lodestar or percentage of the recovery methods may properly be used to calculate fees in common fund cases."). But "[t]he trend in this Circuit is toward the percentage method" *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2005). Because these settlements

can be reliably valued (they consist entirely of cash) and because almost all courts today use the percentage method when the value of the settlement can be reliably calculated, I will assume the use of that method in my assessment below.

13. The fees requested here are 16.51% of each of the fifteen settlements. The existing data shows that these requests are more much more modest than the fees awarded in the vast majority of class actions, whether one looks nationwide or in the Second Circuit alone. For example, according to my empirical study, the most common percentages awarded by federal courts nationwide using the percentage method were 25%, 30%, and 33%, with a mean award of 25.4% and a median award of 25%. *See Fitzpatrick, Empirical Study, supra*, at 833-34, 838. The *vast majority* of awards were well above the 16.51% sought here. This can be seen graphically in Figure 1, which shows the distribution of all of the percentage-method fee awards in my study. In particular, the figure shows what fraction of settlements (y-axis) had fee awards within each five-point range of fee percentages (x-axis). As the figure shows, over 70% of all fee awards were equal to or above 20%. Again, the findings of the other large-scale academic study are in agreement. *See Eisenberg & Miller, supra*, at 260 (finding mean and median of 24% and 25%, respectively); Eisenberg et al., *supra*, at 951 (finding mean and median of 27% and 29%, respectively). Thus, the fee requests here are clearly on the low end of the nationwide range.

Figure 1: Percentage-method fee awards among all federal courts, 2006-2007

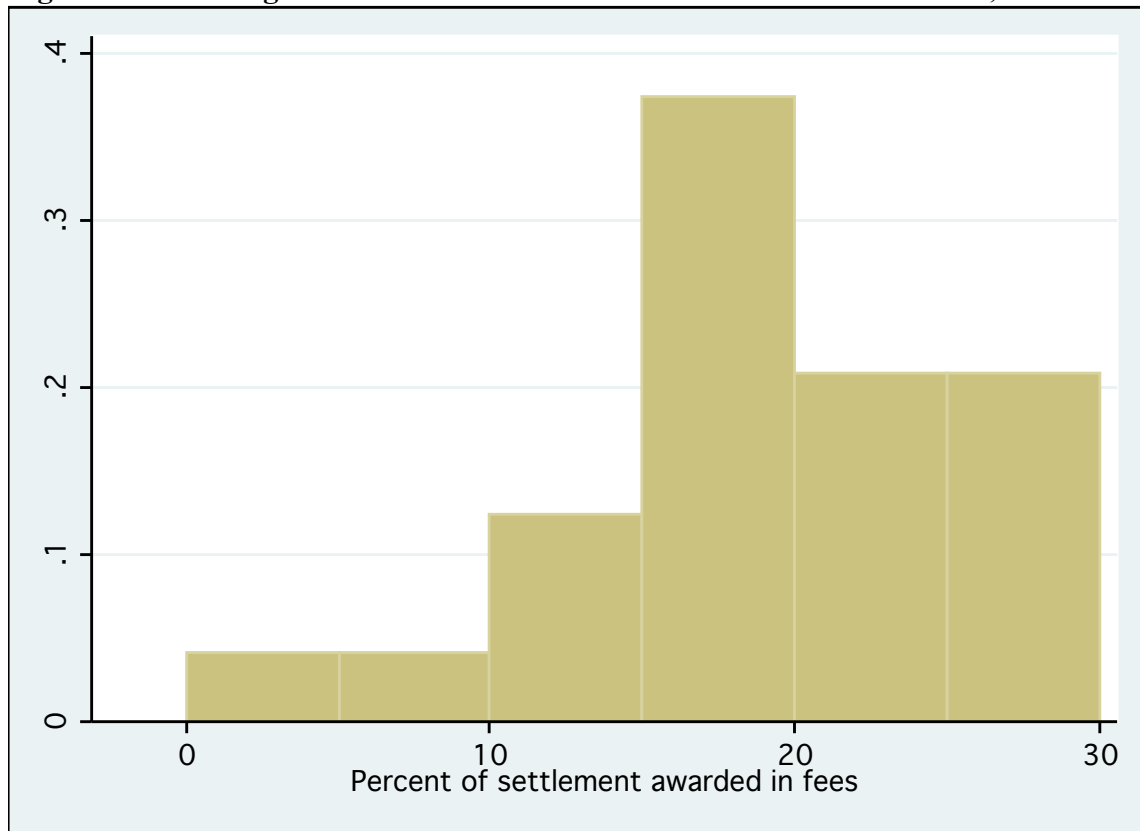
14. The same is true when looking at fee awards in the Second Circuit alone. In the 72 settlements in my study from the Second Circuit where the percentage method was used, the mean and median were 23.8% and 24.5%, respectively, with, again, the vast majority of awards well above 16.51%. *See Fitzpatrick, Empirical Study, supra*, at 836. This is depicted graphically in Figure 2. Again, the findings of the other large-scale academic study are in agreement. *See Eisenberg & Miller, supra*, at 260 (finding mean and median in the Second Circuit of 23% and 24%, respectively); Eisenberg et al., *supra*, at 951 (finding mean and median in the Second Circuit of 28% and 30%, respectively). Thus, the fee requests here are clearly on the low end of the range in the Second Circuit just as they are of the range nationwide.

Figure 2: Percentage-method fee awards in the Second Circuit, 2006-2007

15. The same is true even if we look solely at antitrust cases. According to my study, the average and median fee awards in antitrust cases where the percentage-method was used were 25.4% and 25%, respectively. *See Fitzpatrick, Empirical Study, supra*, at 835. The study by Professors Eisenberg and Miller found much the same thing. *See Eisenberg & Miller, supra*, at 262 (finding mean and median of 22% and 23%, respectively); Eisenberg et al., *supra*, at 952 (finding mean and median of 27% and 30%, respectively). Thus, again, the fee requests here are well below those awarded in most antitrust cases.

16. It should be noted that many of the settlements here are quite large: ten of the fifteen are over \$100 million, and one is over \$400 million. In my empirical study, only 41 settlements nationwide (less than 7%) exceeded \$100 million. *See Fitzpatrick, Empirical Study, supra*, at 828. This is notable because my empirical study showed that settlement size had a

statistically significant but inverse relationship with the fee percentages awarded by federal courts—*i.e.*, that federal courts awarded lower percentages in cases where settlements were larger. *See id.* at 838, 842-44. This relationship was found in the other large-scale academic study as well. *See Eisenberg & Miller, supra*, at 263-65; Eisenberg et al., *supra*, at 947-48. Thus, for example, the mean and median fee percentages awarded in the fourteen percentage-method settlements in my dataset between \$100 and \$250 million were only 17.9% and 16.5%, respectively, with similar numbers for settlements between \$250 million and \$500 million: 17.8% and 19.5%. *See id.* at 839. This is depicted in Figure 3, which shows the distribution of fee percentages awarded in all settlements between \$100 million and \$500 million in my empirical study. But, even though fee awards in bigger settlements tend to be lower, as Figure 3 shows, class counsel's 16.51% request is *still* modest compared to other cases. (The Eisenberg-Miller study does not report separate fee-percentage averages and medians for very large settlements.)

Figure 3: Percentage-method fee awards between \$100 and \$500 million, 2006-2007

17. Thus far, I have analyzed class counsel's fee requests as fifteen different requests from fifteen different (but related) settlements. That is because they are: these separately negotiated settlements based in large part on the strength of the evidence against each individual defendant were arrived at over many years, and it is only because class counsel wanted to save the classes money on notice that they are all before the court for final approval at the same time. Nonetheless, class counsel have asked me to additionally assess the reasonableness of their fee request if we assume this was one gigantic \$2.3 billion settlement rather than fifteen smaller ones. In other words, would 16.51% of \$2.3 billion be reasonable compared to other cases? As I explain below, I think it would.

18. To begin with, in my empirical study, the mean percentage-method fee award for settlements above \$1 billion was 13.7%, and the median was 9.5%. *See Fitzpatrick, Empirical*

Study, supra, at 839. (As I noted, the Eisenberg-Miller study does not report separate fee-percentage averages and medians for very large settlements.) Although the fee request here would be higher than those numbers, it should be noted that the standard deviation in my study for the billion-dollar settlements was 11%. *See id.* This means that the fee range was very broad; indeed, the largest award was 31.33%. *See Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006). At 16.51%, the request here is well within one standard deviation of the mean and therefore well within the mainstream of fee awards in billion-dollar cases. *See* Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical L. Stud. 27, 74 (2004) (“[F]ee requests falling within one standard deviation above or below the mean should be viewed as generally reasonable and approved by the court unless reasons are shown to question the fee.”).

19. It is true that billion-dollar settlements are infrequent, and, because my study spanned only two years, it included only nine settlements of billion-dollar magnitude. *See* Fitzpatrick, *Empirical Study, supra*, at 839. One might thus wonder whether my data are an accurate reflection of the universe of billion-dollar cases. In order to answer this question, I supplement my study below in Table 2, where I list *all known* percentage-method fee awards in federal class action settlements over \$1 billion. As Table 2 shows, there have been 23 such settlements, with average and median awards a bit lower (depending on how you calculate the value of some of the settlements) than the nine included in my study.

Table 2: All percentage-method fee awards in \$1B+ class action settlements

Case	Settlement Amount	Lodestar Multiplier	Fee Percentage
BP Gulf Oil Spill (2012) ¹	\$13 billion	2.3	4.3%
Volkswagen Diesel Engine (Consumer) (2017) ²	\$10 billion	2.6	1.7%
Enron Securities Fraud (2008) ³	\$7.2 billion	5.2	9.52%
Diet Drugs Products Liability (2008) ⁴	\$6.4 billion	2.6+	6.75%
WorldCom Securities (2005) ⁵	\$6.1 billion	4.0	5.5%
Payment Card Interchange Fees Antitrust (2014) ⁶	\$5.7 billion	3.4	9.56%
Visa Antitrust (2003) ⁷	\$3.4 billion	3.5	6.5%
Tyco Securities (2007) ⁸	\$3.3 billion	2.7	14.5%
Cendant Securities (2003) ⁹	\$3.2 billion	Not calculated	1.73%
AOL Securities (2006) ¹⁰	\$2.65 billion	3.7	5.9%
Toshiba Diskette (2000) ¹¹	\$2.1 billion (total) \$1 billion(cash)	Not calculated	7.1% (total) 15% (cash)
Toyota Unintended Acceleration (2013) ¹²	\$1.6 billion (total) \$757 million (cash)	2.9	12.3% (total) 26.4% (cash)
Credit Default Swaps Antitrust (2016) ¹³	\$1.87 billion	6.2	13.6%
Prudential Insurance (2000) ¹⁴	\$1.8 billion	2.1	7.5%
Household Securities (2016) ¹⁵	\$1.58 billion	Not calculated	24.7%
Black Farmers Discrimination (2013) ¹⁶	\$1.2 billion	<2.0	7.4%
TFT-LCD Antitrust (2013) ¹⁷	\$1.1 billion	≈2.5	28.5%
Nortel Securities I (2006) ¹⁸	\$1.1 billion	2.1	3%
Nortel Securities II (2006) ¹⁹	\$1.1 billion	Not calculated	8%
Royal Ahold Securities (2006) ²⁰	\$1.1 billion	2.6	12%
Allapattah Contract (2006) ²¹	\$1.1 billion	Not calculated	31.33%

¹ *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, 2016 WL 6215974 (E.D.La. Oct. 25, 2016)

² *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liab. Litig.*, No. 15-md-02672 (N.D. Cal., Mar. 17, 2017).

³ *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732 (S.D. Tex. 2008).

⁴ *In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Products Liab. Litig.*, 553 F. Supp. 2d 442 (E.D. Pa. 2008).

⁵ *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319 (S.D.N.Y. 2005).

⁶ *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 991 F. Supp. 2d 437 (E.D.N.Y. 2014).

⁷ *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503 (E.D.N.Y. 2003).

⁸ *In re Tyco Int’l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249 (D.N.H. 2007).

⁹ *In re Cendant Corp. Litig.*, 243 F. Supp. 2d 166 (D.N.J. 2003).

¹⁰ *In re AOL Time Warner, Inc. Sec.*, 2006 WL 3057232 (S.D.N.Y. Oct. 25, 2006).

¹¹ *Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F. Supp. 2d 942 (E.D. Tex. 2000).

¹² *In re Toyota Motor. Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liab. Litig.*, No. 10-ml-2151 (C.D. Cal., June 17, 2013).

¹³ *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524 (S.D.N.Y. Apr. 26, 2016).

¹⁴ *In re Prudential Ins. Co. of Am. Sales Practice Litig.*, 106 F. Supp. 2d 721, 736 (D.N.J. 2000).

¹⁵ *Lawrence E. Jaffe Pension Plan v. Household Int’l, Inc.*, No. 2-cv-05893 (E.D.Ill., Nov. 10, 2016).

¹⁶ *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82 (D.D.C. 2013) (incurred rather than awarded expenses).

¹⁷ *In re TFT-LCD (Flat Panel) Antitrust Litig.*, 2013 WL 1365900 (N.D. Cal. Apr. 3, 2013).

¹⁸ *In re Nortel Networks Corp. Sec. Litig.*, No. 01-cv-1855 (S.D.N.Y., Jan. 29, 2007).

¹⁹ *In re Nortel Networks Corp. Sec. Litig.*, No. 04-cv-2115 (S.D.N.Y., Dec. 26, 2006).

²⁰ *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383 (D. Md. 2006).

Case	Settlement Amount	Lodestar Multiplier	Fee Percentage
Nasdaq Antitrust (1998) ²²	\$1 billion	4.0	14%
Sulzer Hip (2003) ²³	\$1 billion	2.4	4.8%
N = 23		Low = <2.0 High = 6.2 Avg = 3.16 Med = 2.65	Low = 1.70% High = 31.33% Avg = 10.44% (total) 11.40% (cash) Med = 7.50% (total) 8.00% (cash) Std = 7.97% (total) 8.63% (cash)

20. Table 2 confirms that the 16.51% request here would be a bit higher than the average award as a percentage of cash recovery (11.40%) if we considered this to be one multi-billion-dollar settlement as opposed to fifteen smaller ones. But, as in my study, there has been a broad range of awards in billion dollar cases, with standard deviations at or more than 8%. As in my study, the fee request here would be within one standard deviation of the mean in Table 2. As I noted above, this means the request is within the mainstream of even the largest settlements.

21. The same is true even if we look only at the antitrust cases in Table 2. There are five antitrust settlements in the Table, and the average fee percentage awarded in those settlements was 14.43%, the median 13.6%, and the standard deviation 8.44%. The fee request of 16.51% here is thus even closer to the mean among billion-dollar antitrust cases than it is among all billion-dollar cases.

²¹ *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006); *Allapattah Servs., Inc. v. Exxon Corp.*, No. 91-cv-986 (S.D. Fla. Apr. 16, 2007).

²² *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 489 (S.D.N.Y. 1998).

²³ *In re Sulzer Hip Prosthesis & Knee Prosthesis Liab. Litig.*, 268 F. Supp. 2d 907, 939 (N.D. Ohio 2003).

22. Indeed, the fact that there is such a broad range over which courts have awarded fees in billion-dollar cases in the past suggest that they have a great deal of discretion to award fees in accordance with the facts and circumstances of each case. This raises the question whether there are any facts and circumstances here that counsel in favor of a fee percentage that is a bit above average (if we assume this is one big settlement) but still well within the mainstream. To my mind there are two such considerations.

23. First, the recovery here is much more successful than in the typical case, especially in light of risks and complexity class counsel faced. According to class counsel, the aggregate settlement amount of \$2.3 billion represents approximately 33% to 43% of the classes' best-case single damages estimate. *See Deutsche Bank Preliminary Approval Motion pp. 7-8.* This is *more than twice* what the typical price-fixing case recovers. *See John M. Connor & Robert H. Lande, Not Treble Damages: Cartel Recoveries are Mostly Less Than Single Damages*, 100 Iowa L. Rev. 1997, 2010 (2015) (finding the weighted average of recoveries—the authors' preferred measure—to be 19% of single damages for cartel cases between 1990 to 2014).

24. Second, class counsel expended roughly 330,600 hours on this litigation, for a total lodestar amount of \$174,041,760 (based on current hourly rates). This means that the fee requested here is only 2.19 times class counsel's lodestar. According to Table 2, this lodestar multiplier would be *below both the mean and the median* multiplier in billion-dollar cases—even though the risk of nonpayment that class counsel faced in these cases was just as substantial as many of the past cases. Moreover, among the five antitrust settlements exceeding \$1 billion, the lodestar multipliers were 2.5, 3.4, 3.5, 4, and 6.2. At 2.19, class counsel's lodestar multiplier would be the lowest ever in an antitrust settlement of more than \$1 billion, and less than half of

the highest such multiplier (which was awarded in 2016 by another judge in the Southern District of New York).

25. In other words, even if we considered this to be one \$2.3 billion settlement rather than fifteen smaller ones, in my opinion it would not be unreasonable to award class counsel an above-average fee percentage for above-average results, especially when doing so would not even compensate class counsel with an average risk multiplier—either in antitrust cases specifically, or all multi-billion-dollar class cases generally.

26. For all these reasons, it is my opinion that class counsel's fee requests here are well within the range of reason in light of the awards in other cases.

Nashville, TN

January 12, 2018

A handwritten signature in blue ink, appearing to read 'B. Fitzpatrick', with a long horizontal flourish extending to the right.

Brian T. Fitzpatrick

EXHIBIT 1

BRIAN T. FITZPATRICK

Vanderbilt University Law School
131 21st Avenue South
Nashville, TN 37203
(615) 322-4032
brian.fitzpatrick@law.vanderbilt.edu

ACADEMIC APPOINTMENTS

VANDERBILT UNIVERSITY LAW SCHOOL, *Professor*, 2012-present

- *FedEx Research Professor*, 2014-15; *Associate Professor*, 2010-12; *Assistant Professor*, 2007-10
- Classes: Civil Procedure, Federal Courts, Complex Litigation
- Hall-Hartman Outstanding Professor Award, 2008-2009
- Vanderbilt's Association of American Law Schools Teacher of the Year, 2009

EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, 2000

- Fay Diploma (for graduating first in the class)
- Sears Prize, 1999 (for highest grades in the second year)
- *Harvard Law Review*, Articles Committee, 1999-2000; Editor, 1998-1999
- *Harvard Journal of Law & Public Policy*, Senior Editor, 1999-2000; Editor, 1998-1999
- Research Assistant, David Shapiro, 1999; Steven Shavell, 1999

UNIVERSITY OF NOTRE DAME, B.S., Chemical Engineering, *summa cum laude*, 1997

- First runner-up to Valedictorian (GPA: 3.97/4.0)
- Steiner Prize, 1997 (for overall achievement in the College of Engineering)

CLERKSHIPS

HON. ANTONIN SCALIA, Supreme Court of the United States, 2001-2002

HON. DIARMUID O'SCANNLAIN, U.S. Court of Appeals for the Ninth Circuit, 2000-2001

EXPERIENCE

NEW YORK UNIVERSITY SCHOOL OF LAW, Feb. 2006 to June 2007

John M. Olin Fellow

HON. JOHN CORNYN, United States Senate, July 2005 to Jan. 2006

Special Counsel for Supreme Court Nominations

SIDLEY AUSTIN LLP, Washington, DC, 2002 to 2005

Litigation Associate

BOOKS

THE CONSERVATIVE CASE FOR CLASS ACTIONS (University of Chicago Press, forthcoming 2018)

ACADEMIC ARTICLES

An Empirical Look at Compensation in Consumer Class Actions, 11 NYU J. L. & BUS. 767 (2015) (with Robert Gilbert)

The End of Class Actions?, 57 ARIZ. L. REV. 161 (2015)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, 98 VA. L. REV. 839 (2012)

Twombly and Iqbal Reconsidered, 87 NOTRE DAME L. REV. 1621 (2012)

An Empirical Study of Class Action Settlements and their Fee Awards, 7 J. EMPIRICAL L. STUD. 811 (2010) (selected for the 2009 Conference on Empirical Legal Studies)

Do Class Action Lawyers Make Too Little?, 158 U. PA. L. REV. 2043 (2010)

Originalism and Summary Judgment, 71 OHIO ST. L.J. 919 (2010)

The End of Objector Blackmail?, 62 VAND. L. REV. 1623 (2009) (selected for the 2009 Stanford-Yale Junior Faculty Forum)

The Politics of Merit Selection, 74 MISSOURI L. REV. 675 (2009)

Errors, Omissions, and the Tennessee Plan, 39 U. MEMPHIS L. REV. 85 (2008)

Election by Appointment: The Tennessee Plan Reconsidered, 75 TENN. L. REV. 473 (2008)

Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?, 13 MICH. J. RACE & LAW 277 (2007)

BOOK CHAPTERS

Civil Procedure in the Roberts Court in BUSINESS AND THE ROBERTS COURT (Jonathan Adler, ed., Oxford University Press, 2016)

Is the Future of Affirmative Action Race Neutral? in A NATION OF WIDENING OPPORTUNITIES: THE CIVIL RIGHTS ACT AT 50 (Ellen Katz & Samuel Bagenstos, eds., Michigan University Press, 2016)

ACADEMIC PRESENTATIONS

The Next Steps for Discovery Reform: Requester Pays, Lawyers for Civil Justice Membership Meeting, Washington, DC (May 5, 2015)

Private Attorney General: Good or Bad?, 17th Annual Federalist Society Faculty Conference, Washington, DC (Jan. 3, 2015)

Liberty, Judicial Independence, and Judicial Power, Liberty Fund Conference, Santa Fe, NM (Nov. 13-16, 2014) (participant)

The Economics of Objecting for All the Right Reasons, 14th Annual Consumer Class Action Symposium, Tampa, Florida (Nov. 9, 2014)

Compensation in Consumer Class Actions: Data and Reform, Conference on The Future of Class Action Litigation: A View from the Consumer Class, NYU Law School, New York, New York (Nov. 7, 2014)

The Future of Federal Class Actions: Can the Promise of Rule 23 Still Be Achieved?, Northern District of California Judicial Conference, Napa, California (Apr. 13, 2014) (panelist)

The End of Class Actions?, Conference on Business Litigation and Regulatory Agency Review in the Era of Roberts Court, Institute for Law & Economic Policy, Boca Raton, Florida (Apr. 4, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, University of Missouri School of Law (Mar. 7, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, George Mason Law School (Mar. 6, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, Roundtable for Third-Party Funding Scholars, Washington & Lee University School of Law (Nov. 7-8, 2013)

Is the Future of Affirmative Action Race Neutral?, Conference on A Nation of Widening Opportunities: The Civil Rights Act at 50, University of Michigan Law School (Oct. 11, 2013)

The Mass Tort Bankruptcy: A Pre-History, The Public Life of the Private Law: A Conference in Honor of Richard A. Nagareda, Vanderbilt Law School (Sep. 28, 2013) (panelist)

Rights & Obligations in Alternative Litigation Financing and Fee Awards in Securities Class Actions, Conference on the Economics of Aggregate Litigation, Institute for Law & Economic Policy, Naples, Florida (Apr. 12, 2013) (panelist)

The End of Class Actions?, Symposium on Class Action Reform, University of Michigan Law School (Mar. 16, 2013)

Toward a More Lawyer-Centric Class Action?, Symposium on Lawyering for Groups, Stein Center for Law & Ethics, Fordham Law School (Nov. 30, 2012)

The Problem: AT & T as It Is Unfolding, Conference on *AT & T Mobility v. Concepcion*, Cardozo Law School (Apr. 26, 2012) (panelist)

Standing under the Statements and Accounts Clause, Conference on Representation without Accountability, Corporate Law Center, Fordham Law School (Jan. 23, 2012)

The End of Class Actions?, Washington University Law School (Dec. 9, 2011)

Book Preview Roundtable: Accelerating Democracy: Matching Social Governance to Technological Change, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law (Sep. 15-16, 2011) (participant)

Is Summary Judgment Unconstitutional? Some Thoughts About Originalism, Stanford Law School (Mar. 3, 2011)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Northwestern Law School (Feb. 25, 2011)

The New Politics of Iowa Judicial Retention Elections: Examining the 2010 Campaign and Vote, University of Iowa Law School (Feb. 3, 2011) (panelist)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Washington University Law School (Oct. 1, 2010)

Twombly and Iqbal Reconsidered, Symposium on Business Law and Regulation in the Roberts Court, Case Western Reserve Law School (Sep. 17, 2010)

Do Class Action Lawyers Make Too Little?, Institute for Law & Economic Policy, Providenciales, Turks & Caicos (Apr. 23, 2010)

Originalism and Summary Judgment, Georgetown Law School (Apr. 5, 2010)

Theorizing Fee Awards in Class Action Litigation, Washington University Law School (Dec. 11, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Conference on Empirical Legal Studies, University of Southern California Law School (Nov. 20, 2009)

Originalism and Summary Judgment, Symposium on Originalism and the Jury, Ohio State Law School (Nov. 17, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Meeting of the Midwestern Law and Economics Association, University of Notre Dame Law School (Oct. 10, 2009)

The End of Objector Blackmail?, Stanford-Yale Junior Faculty Forum, Stanford Law School (May 29, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, University of Minnesota School of Law (Mar. 12, 2009)

The Politics of Merit Selection, Symposium on State Judicial Selection and Retention Systems, University of Missouri Law School (Feb. 27, 2009)

The End of Objector Blackmail?, Searle Center Research Symposium on the Empirical Studies of Civil Liability, Northwestern University School of Law (Oct. 9, 2008)

Alternatives To Affirmative Action After The Michigan Civil Rights Initiative, University of Michigan School of Law (Apr. 3, 2007) (panelist)

OTHER PUBLICATIONS

Lessons from Tennessee Supreme Court Retention Election, THE TENNESSEAN (Aug. 20, 2014)

Public Needs Voice in Judicial Process, THE TENNESSEAN (June 28, 2013)

Did the Supreme Court Just Kill the Class Action?, THE QUARTERLY JOURNAL (April 2012)

Let General Assembly Confirm Judicial Selections, CHATTANOOGA TIMES FREE PRESS (Feb. 19, 2012)

“Tennessee Plan” Needs Revisions, THE TENNESSEAN (Feb. 3, 2012)

How Does Your State Select Its Judges?, INSIDE ALEC 9 (March 2011) (with Stephen Ware)

On the Merits of Merit Selection, THE ADVOCATE 67 (Winter 2010)

Supreme Court Case Could End Class Action Suits, SAN FRANCISCO CHRONICLE (Nov. 7, 2010)

Kagan is an Intellect Capable of Serving Court, THE TENNESSEAN (Jun. 13, 2010)

Confirmation “Kabuki” Does No Justice, POLITICO (July 20, 2009)

Selection by Governor may be Best Judicial Option, THE TENNESSEAN (Apr. 27, 2009)

Verdict on Tennessee Plan May Require a Jury, THE MEMPHIS COMMERCIAL APPEAL (Apr. 16, 2008)

Tennessee’s Plan to Appoint Judges Takes Power Away from the Public, THE TENNESSEAN (Mar. 14, 2008)

Process of Picking Judges Broken, CHATTANOOGA TIMES FREE PRESS (Feb. 27, 2008)

Disorder in the Court, LOS ANGELES TIMES (Jul. 11, 2007)

Scalia's Mistake, NATIONAL LAW JOURNAL (Apr. 24, 2006)

GM Backs Its Bottom Line, DETROIT FREE PRESS (Mar. 19, 2003)

Good for GM, Bad for Racial Fairness, LOS ANGELES TIMES (Mar. 18, 2003)

10 Percent Fraud, WASHINGTON TIMES (Nov. 15, 2002)

OTHER PRESENTATIONS

The New Business of Law: Attorney Outsourcing, Legal Service Companies, and Commercial Litigation Funding, Tennessee Bar Association, Nashville, TN (Nov. 12, 2014)

Hedge Funds + Lawsuits = A Good Idea?, Vanderbilt University Alumni Association, Washington, DC (Sep. 3, 2014)

Judicial Selection in Historical and National Perspective, Committee on the Judiciary, Kansas Senate (Jan. 16, 2013)

The Practice that Never Sleeps: What's Happened to, and What's Next for, Class Actions, ABA Annual Meeting, Chicago, IL (Aug. 3, 2012) (panelist)

Life as a Supreme Court Law Clerk and Views on the Health Care Debate, Exchange Club of Nashville (Apr. 3, 2012)

The Tennessee Judicial Selection Process—Shaping Our Future, Tennessee Bar Association Leadership Law Retreat, Dickson, TN (Feb. 3, 2012) (panelist)

Reexamining the Class Action Practice, ABA National Institute on Class Actions, New York, NY (Oct. 14, 2011) (panelist)

Judicial Selection in Kansas, Committee on the Judiciary, Kansas House of Representatives (Feb. 16, 2011)

Judicial Selection and the Tennessee Constitution, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Mar. 24, 2009)

What Would Happen if the Judicial Selection and Evaluation Commissions Sunset?, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Feb. 24, 2009)

Judicial Selection in Tennessee, Chattanooga Bar Association, Chattanooga, TN (Feb. 27, 2008) (panelist)

Ethical Implications of Tennessee's Judicial Selection Process, Tennessee Bar Association, Nashville, TN (Dec. 12, 2007)

PROFESSIONAL ASSOCIATIONS

Referee, Journal of Empirical Legal Studies
Reviewer, Oxford University Press
Reviewer, Supreme Court Economic Review
Member, American Law Institute
Member, American Bar Association
Fellow, American Bar Foundation
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights, 2009-2015
Board of Directors, Tennessee Stonewall Bar Association
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia

COMMUNITY ACTIVITIES

Board of Directors, Nashville Ballet; Nashville Talking Library for the Blind, 2008-2009

EXHIBIT 2

Documents reviewed:

- Consolidated Amended Class Action Complaint (document 172, filed 3/31/14)
- Opinion and Order (denying motions to dismiss) (document 242, filed 1/28/15)
- Class Plaintiffs' Memorandum of Law in Support of Motion for Preliminary Approval of Settlement Agreements with Bank of America, Barclays, BNP Paribas, Citigroup, Goldman Sachs, HSBC, JPMorgan, RBS, and UBS (document 480, filed 10/22/15)
- Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of Class Plaintiffs' Motion for Preliminary Approval of Settlement Agreements with Bank of America, Barclays, BNP Paribas, Citigroup, Goldman Sachs, HSBC, JPMorgan, RBS, and UBS (document 481, filed 10/22/15) and the exhibits thereto
- Order Preliminarily Approving Settlements, Conditionally Certifying the Settlement Classes, and Appointing Class Counsel and Class Representatives for the Settlement Classes (document 536, filed 12/15/15)
- Order Approving the Form and Manner of Notice of Settlements and Preliminarily Approving the Plan of Distribution (document 700, filed 12/20/16)
- Class Plaintiffs' Memorandum of Law in Support of Motion for Preliminary Approval of Settlement Agreements with the Bank of Tokyo-Mitsubishi UFJ, Ltd., Morgan Stanley, Morgan Stanley & Co., LLC, Morgan Stanley & Co. International PLC, RBC Capital Markets, LLC, Societe Generale, and Standard Chartered Bank (document 821, filed 7/28/17)
- Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of Class Plaintiffs' Motion for Preliminary Approval of Settlement Agreements with BTMU, Morgan Stanley, RBC, Soc Gen, and Standard Chartered (document 822, filed 7/28/17) and the exhibits thereto
- Class Plaintiffs' Memorandum of Law in Support of Motion for Preliminary Approval of Settlement Agreement with Deutsche Bank AG (document 876, filed 9/29/17) ("Deutsche Bank Preliminary Approval Motion")
- Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of Class Plaintiffs' Motion for Preliminary Approval of Settlement Agreement with Deutsche Bank AG (document 877, filed 9/29/17) and the exhibits thereto

- Class Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Final Approval of Fifteen Settlement Agreements (filed herewith)
- Memorandum of Law in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (filed herewith)
- Joint Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of (A) Class Plaintiffs' Motion for Final Approval of Settlement Agreements and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (filed herewith)

EXHIBIT 39

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

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

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No. 1:13-cv-07789-LGS

**REPORT OF PROFESSOR CHARLES SILVER ON THE REASONABLENESS OF
CLASS COUNSEL’S REQUEST FOR AN AWARD OF ATTORNEYS’ FEES**

I, Charles Silver, state as follows:

I. SUMMARY OF OPINIONS

1. The attorneys’ fees requested by Class Counsel, which represent roughly 16.51% of the total recovery achieved on behalf of the Class, are reasonable because they are (1) considerably lower than the prevailing market rates for contingency fee agreements in similar litigation, (2) considerably lower than any of the named plaintiffs’ operative contingency fee agreements, and (3) lower than what absent class members could likely have negotiated *ex ante* in light of the risks associated with this litigation, notwithstanding the large potential recoveries and the existence of parallel government investigations.

II. CREDENTIALS

2. In this Declaration, I offer my perspective as an expert on class actions, attorneys’ fees, and legal ethics—subjects I have studied and written about for years. My résumé appears below in Appendix A.

3. I have testified as an expert on attorneys’ fees many times. Judges have cited or relied upon my opinions when awarding fees in the following major cases, as well as many smaller ones: *In re: Urethane Antitrust Litigation*, No. 04-1616-JWL, 2016 WL 4060156 (D. Kan. July 29, 2016) (\$974 million recovery); *San Allen, Inc. v. Buehrer, Administrator, Ohio Bureau of*

Workers' Compensation, (Ohio Common Pleas—Cuyahoga County, 2014) (\$420 million recovery); *Silverman v. Motorola, Inc.*, No. 07 C 4507, 2012 WL 1597388 (N.D. Ill. May 7, 2012) (\$200 million recovery); *In re Checking Account Overdraft Litigation*, 830 F. Supp. 2d 1330 (S.D. Fla. 2011) (\$410 million recovery); *In re Enron Corp. Securities, Derivative & "ERISA" Litig.*, 586 F. Supp. 2d 732 (S.D. Tex. 2008) (\$7.2 billion recovery); *Allapattah Services, Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006) (recovery in excess of \$1 billion).

4. Professionally, I hold the Roy W. and Eugenia C. McDonald Endowed Chair in Civil Procedure at the University of Texas School of Law, where I also serve as Co-Director of the Center on Lawyers, Civil Justice, and the Media. I joined the Texas faculty in 1987, after receiving an M.A. in political science at the University of Chicago and a J.D. at the Yale Law School. I received tenure in 1991. Since then I have been a Visiting Professor at the University of Michigan School of Law, the Vanderbilt University Law School, and the Harvard Law School.

5. From 2003 through 2010, I served as an Associate Reporter on the American Law Institute's Principles of the Law of Aggregate Litigation (2010). Many courts have cited the Principles with approval, including the U.S. Supreme Court.

6. I have taught, researched, written, consulted with lawyers, and testified about class actions, other large lawsuits, attorneys' fees, professional responsibility, and related subjects for 30 years. I have published over 80 major writings, many of which appeared in peer-reviewed publications and many of which focus on subjects relevant to this Declaration. In 2015, two co-authors and I published a major study of fee awards in securities class actions in the Columbia Law Review. Lynn A. Baker, Michael A. Perino, and Charles Silver, *Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions*, 115 COLUMBIA L. REV. 1371 (2015). My writings are cited and discussed in leading treatises and other authorities, including the MANUAL

FOR COMPLEX LITIGATION, THIRD (1996) and the MANUAL FOR COMPLEX LITIGATION, FOURTH (2004), and the RESTATEMENT (THIRD) OF THE LAW OF RESTITUTION AND UNJUST ENRICHMENT. In 2009, the Tort Trial and Insurance Practice Section of the American Bar Association gave me the Robert B. McKay Award in recognition of my scholarship in the areas of tort and insurance law.

7. Finally, because awards of attorneys' fees may be thought to raise issues relating to the professional responsibilities of attorneys, I note that I have an extensive background, publication record, and experience as an expert witness testifying on matters relating to this field. For example, I am a coauthor of William T. Barker and Charles Silver, PROFESSIONAL RESPONSIBILITIES OF INSURANCE DEFENSE COUNSEL (LexisNexis Mathew Bender, Updated 2014). I also served as the Invited Academic Member of the Task Force on the Contingent Fee created by the Tort Trial and Insurance Practice Section of the American Bar Association. I have also taught the subject of legal ethics for years, including a specialized course titled Professional Responsibility for Civil Litigators that includes a good deal of material on aggregate lawsuits and lawyers' fees.

III. DOCUMENTS REVIEWED

8. When preparing this Declaration, I reviewed the items listed in the bullet points below, which, unless noted otherwise, were generated in connection with this case:

- Retention Agreements with the Class Plaintiffs;
- Class Plaintiffs' Notices of Motions and Motions for Preliminary Approval of the Settlement Agreements with the "Settling Defendants";¹

¹ The "Settling Defendants" are Bank of America, Barclays, BNP Paribas, Citigroup, Goldman Sachs, HSBC, JPMorgan, RBS, UBS, Bank of Tokyo-Mitsubishi, Morgan Stanley, RBC Capital Markets, Société Générale, Standard Chartered Bank, and Deutsche Bank.

- [Proposed] Orders Preliminarily Approving Settlements, Conditionally Certifying the Settlement Classes, and Appointing Class Counsel and Class Representatives for the Settlement Classes;
- Class Plaintiffs' Memoranda of Law in support of Motions for Preliminary Approval of Settlement Agreements with the Settling Defendants;
- Declarations of Christopher M. Burke and Michael D. Hausfeld in Support of Class Plaintiffs' Motions for Preliminary Approval of Settlement Agreements with the Settling Defendants;
- Declarations of Kenneth R. Feinberg in Support of Class Plaintiffs' Motions for Preliminary Approval of Settlement Agreements with the Settling Defendants;
- Orders Preliminarily Approving Settlements, Conditionally Certifying the Settlement Classes, and Appointing Class Counsel and Class Representatives for the Settlement Classes;
- Class Plaintiffs' Notices of Motions for Approval of the form and Manner of Notice of Settlements and Preliminarily Approving the Plan of Distribution;
- Memoranda of Law in Support of Class Plaintiffs' Motions for Approval of the form and Manner of Notice of Settlements and Preliminarily Approving the Plan of Distribution;
- Opinions on Motions to Dismiss filed by Defendants in this Action (*In re Foreign Exch. Benchmark Rates Antitrust Litig.*, 74 F. Supp. 3d 581 (S.D.N.Y. 2015); *In re Foreign Exchange Benchmark Rates Antitrust Litig.*, 2016 WL 1268267 (S.D.N.Y. Mar. 31, 2016); *In re Foreign Exchange Benchmark Rates Antitrust Litig.*, 2016 WL 5108131 (S.D.N.Y. Sept. 20, 2016));

- Class Action Complaint for Violations of the Sherman Act, filed in Haverhill Retirement System v. Barclays Bank et al., 1:13-cv-07789-ER, dated Nov. 1, 2013;
- Third Consolidated Amended Class Action Complaint;
- Class Plaintiffs' Motion for Final Approval of Settlement Agreements;
- Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses; and
- Joint Declaration of Christopher M. Burke and Michael D. Hausfeld in Support of (A) Class Plaintiffs' Motion for Final Approval of Settlement Agreements and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses.

I also reviewed other items, including the cases, treatises, news reports, correspondence, and published scholarly works cited herein.

IV. THE FEE AWARD SHOULD REFLECT MARKET RATES FOR CONTINGENCY FEES IN SIMILAR CASES

9. I have repeatedly urged judges to apply market rates when awarding attorneys' fees out of common fund recoveries. I did so in the first article I published after becoming a law professor almost 30 years ago and, much more recently, in an article I prepared for an academic conference on securities litigation in 2016. *See* Charles Silver, *A Restitutionary Theory of Attorneys' Fees in Class Actions*, 76 CORNELL L. REV. 656 (1991); and Charles Silver, *The Mimic-the-Market Method of Regulating Common Fund Fee Awards: A Status Report on Securities Fraud Class Actions*, presented at the Fourth Annual Workshop on Corporate & Securities Litigation, Chicago, IL, Sept. 30-Oct 1, 2016, and *forthcoming in* Sean Griffith, Jessica Erickson, David H. Webber, and Verity Winship, Eds., RESEARCH HANDBOOK ON REPRESENTATIVE SHAREHOLDER LITIGATION

(2018) (hereinafter “*Mimic-the-Market Method*”). Altogether, I have publicly espoused this view dozens of times.

10. In the time that I have advocated for the use of market rates in contingency fee awards, many judges have recognized the wisdom of the mimic-the-market approach. Although only the Seventh Circuit has formally adopted the approach, judges in other circuits also frequently take note of market rates. They regularly do so when applying the lodestar method by looking to the market as the most objective and reliable source of lawyers’ hourly rates. They also mimic the market when awarding fees as a percentage of common fund recoveries, in hope of paying lawyers amounts like those that class members would have agreed to *ex ante* had they bargained with their attorneys face-to-face.

11. The Second Circuit has also endorsed the use of market rates in contingency fee awards. Although *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43 (2d Cir. 2000), is best known for its requirement that judges consider the traditional factors—the time and labor expended by counsel, the magnitude and complexity of the litigation, the risk of losing, etc.—the Second Circuit also spoke glowingly of market rates in that decision: “market rates, where available, are the ideal proxy for [lawyers’] compensation.” *Id.* at 52. The Second Circuit’s only concern was the difficulty of “know[ing] precisely what fees common fund plaintiffs in an efficient market for legal services would agree to, given an understanding of the particular case and the ability to engage in collective arm’s-length negotiation with counsel.” *Id.*

12. Although it is not possible to determine the contingency fee that would have resulted from such a hypothetical negotiation with certainty, it is possible to place the fee within a particular range with a high degree of confidence. By studying similar litigations in which real clients hired real lawyers using a contingency fee structure, we can generate a range of fees that

absent class members would have found it economically advantageous to pay and that class counsel would have willingly accepted. Judge Frank Easterbrook made this point in *In re Synthroid Mktg. Litig.*, 264 F.3d 712 (7th Cir. 2001). He “grant[ed] the [Second Circuit’s *Goldberger*] premise; it is indeed impossible to know *ex post* the outcome of a hypothetical bargain *ex ante*.” *Id.* at 719. But he went on to point out that “a court can learn about *similar* bargains,” and can put fee awards on a defensible and objective basis by using them as guides. *Id.* (original emphasis). “Even *Goldberger*, which resorted to using a lodestar, had to look at the market rate for lawyers’ hours. Determining lawyers’ fees *ex post* is a perilous process. But any method other than looking to prevailing market rates assures random and potentially perverse results.” *Id.*

13. It is a bad idea to award contingency fees at less than market rates for at least two reasons. First, there is the problem of unjust enrichment. The law of restitution allows lawyers whose efforts help create common funds to request payments because class members are enriched at their expense. But under the law of restitution, the remedy for enrichment resulting from services is the market value of the service, no more but also no less. RESTATEMENT (THIRD) OF RESTITUTION AND UNJUST ENRICHMENT § 49(3)(c) (2011) (“Enrichment from the receipt of nonreturnable benefits may be measured by ... the market value of the benefit”). As Professor Douglas Laycock observed, the law of restitution “proceeds on the fiction of an implied promise to pay.... If there were a real promise, it would probably be to pay the market value, and the implied promise is analogized to that.” Douglas Laycock, MODERN AMERICAN REMEDIES 488 (1985)). *See also* Charles Silver, *A Restitutionary Theory of Attorneys’ Fees in Class Actions*, 76 CORNELL L. REVIEW 656, 700 (1991) (“Quasi-contractual damages usually equal the reasonable or market value of the service provided.”).

14. Second, when paid at below-market rates, contingency lawyers are not incentivized optimally. Market rates are set by sophisticated clients that hire contingency lawyers on terms that motivate them to maximize the clients' recoveries. Often, recovery maximization requires paying a higher fee rather than a lower one. To see this, imagine what would happen if a lawyer's contingency fee was set at 0 percent. The lawyer would have no financial incentive to work, there being no reward for securing a recovery, and the client would recover nothing. Thus, a 1 percent fee would be clearly better than a 0 percent fee even though the client would pay more, and a 2 percent fee might be better still because the lawyer's financial motivation would be even stronger, thus potentially leading to a higher net recovery for the client despite the higher fee.

15. When buying contingency-fee legal services in the market, sophisticated clients know that fee-setting is not a zero-sum game in which more for the lawyer means less for the client. It is an optimization exercise where, by choosing the right fee percentage, a lawyer can make a profit and a client can maximize its recovery net of legal fees and other costs. Mimicking the market is desirable because sophisticated clients understand this and know how to get fees right. And because lawyers compete for their business, sophisticated clients are well-positioned to get lawyers' best rates.

16. If the desirability of mimicking the market is accepted, then it is appropriate to ignore the fact that a large settlement is on the table when the fee is being determined. In the market for legal services, fees are set *ex ante*, at which time no one knows what the outcome will be. When setting fees *ex ante*, class members and their lawyers could have known only that the case had the potential to create an enormous recovery. The question is: What fee terms would they have set in light of that possibility? That question can be answered empirically, and I provide some of that empirical evidence below.

17. In a forthcoming essay, I write that

It can take courage to mimic the market, because a commitment to applying market rates can require a judge to award an enormous percentage-based fee in a mega-fund case. In *Allapattah Services, [Inc. v. Exxon Corp.]*, 454 F. Supp. 2d 1185, 1211 (S.D. Fla. 2006)], the court awarded a 31.33 percent fee on a recovery north of \$1 billion, being convinced for many reasons that this was the market rate. In *Standard Iron Works v. Arcelormittal et al.*, 2014 WL 7781572, at *1 (N.D. Ill. Oct. 22, 2014), which settled for \$164 million, the district court found “that a 33% fee comport[ed] with the prevailing market rate for legal services of similar quality in similar cases.” And in *Silverman v. Motorola, Inc.*, 2012 WL 1597388 (N.D. Ill. May 7, 2012), the fee award was 27.5 percent of \$200 million because the market would have compensated class counsel at this level, given the risk. Numbers like these are bound to scare many judges. Lawyers are greatly disliked, and judges who award them tens or even hundreds of millions of dollars in fees aren’t going to win any popularity contests. But applying the market rate means following the lead of sophisticated clients and ignoring uninformed critics.

Charles Silver, *Mimic-the-Market Method*, *supra*, p. 7.

18. When hiring lawyers to provide contingent fee representation, sophisticated clients don’t care what the public thinks. They want to win, and to win as efficiently as they can. As a consequence, they agree to terms that, in their judgment, maximize their expected net recoveries. Their opinions matter because their money is on the line. By contrast, the views of those not directly impacted by the litigation should carry no weight.

19. The perverse result most to be feared in a case where the *ex post* fee determination is made following a large class settlement is that the court will inadvertently punish success by awarding a fee below the market rate. *Ex ante*, lawsuits seem like risky propositions. This is why, when contingent fees are set in advance, the percentages are high enough to motivate lawyers to expend large amounts of time and bear significant litigation costs despite the (often substantial) risk of nonpayment. But once a class-based settlement is proposed, it becomes hard to imagine that a case might have been lost. The danger of punishing success arises because, with a large

settlement on the table, the nonpayment risk will seem smaller than it was or even disappear from view.

20. Researchers call the problem I have described “the hindsight bias.” It is a widely recognized and well understood defect in human reasoning. Judge Easterbrook discussed it in *Synthroid*:

On remand the district court must estimate the terms of the contract that private plaintiffs would have negotiated with their lawyers, had bargaining occurred at the outset of the case (that is, when the risk of loss still existed). The best time to determine this rate is the beginning of the case, not the end (when hindsight alters the perception of the suit’s riskiness, and sunk costs make it impossible for the lawyers to walk away if the fee is too low). This is what happens in actual markets. Individual clients and their lawyers never wait until after recovery is secured to contract for fees. They strike their bargains before work begins.... Only *ex ante* can bargaining occur in the shadow of the litigation’s uncertainty[.]... But in this case the district judge let the opportunity slip away, turning to fees only *ex post*. Now the court must set a fee by approximating the terms that would have been agreed to *ex ante*, had negotiations occurred.

In re Synthroid Mktg. Litig., 264 F.3d at 718–19.

21. If absent class members and Class Counsel had bargained directly over fees before litigation started, they would have known that no recovery was guaranteed. Consequently, they would have agreed to terms that compensated Class Counsel at the market rate for the risk of losing, in which event the lawyers would have gone home unpaid after incurring substantial costs. The fee award that Class Counsel are requesting should be measured against this market rate.

V. THE FEE AWARD REQUESTED BY CLASS COUNSEL IS WELL BELOW THE MARKET RATE FOR CONTINGENCY FEES IN SIMILAR LITIGATION

22. Class Counsel are requesting an attorneys’ fee award that is roughly 16.51% of the total class recovery of \$2.31 billion. In terms of percentage of recovery, this represents a substantial discount off the low end of the normal range of market contingency fees in similarly high-stakes litigation. The bottom end of the normal range is 25 percent, while the top end of the normal

range exceeds 35 percent. It is extremely rare to see *ex ante* contingency fees below 20 percent in the market.

23. I start by noting that there are many other cases in which sophisticated clients have agreed to pay contingent fees in the normal range in class actions with the potential to generate enormous recoveries. Consider the series of antitrust class actions listed in Table 1. The defendants in these lawsuits were name brand and generic drug manufacturers that used pay-to-delay tactics to extend monopolies. The class members were 20 or so drug wholesalers who appeared in the cases repeatedly. All were large companies—several were of Fortune 500 size or bigger—and most or all had in-house or personal counsel monitoring the litigations. The potential damages in several of the cases were enormous. One, *King Drug Company of Florence, Inc. v. Cephalon, Inc.*, No. 2:06-cv-1797-MSG (E.D. Pa. Oct. 8, 2015), settled for over \$500 million, and the series as a whole recovered more than \$2 billion. Even so, in all of the cases the wholesalers actively supported fee awards in the normal range. Many submitted declarations or letters urging judges to pay the indicated amounts. Seeing that these sophisticated clients believed that class counsel should receive market contingency rates despite the large recoveries, the presiding judges gave great weight to their opinions.

TABLE 1. RECOVERIES AND FEE AWARDS IN PHARMACEUTICAL ANTITRUST CASES, SORTED BY SETTLEMENT DATE		
Case	Recovery (millions)	Fee Award
<i>King Drug Company of Florence, Inc. v. Cephalon, Inc.</i> , No. 2:06-cv-1797-MSG (E.D. Pa. Oct. 8, 2015)	\$512	27.5% plus expenses
<i>In re Doryx Antitrust Litig.</i> , No. 12-3824 (E.D. Pa. Sept. 15, 2014)	\$15	33⅓% plus expenses
<i>In re Neurontin Antitrust Litig.</i> , No. 02-1830 (D.N.J. Aug. 6, 2014)	\$191	33⅓% plus expenses
<i>In re Skelaxin (Metaxalone) Antitrust Litig.</i> , No. 12-cv-83 (E.D. Tenn. June 30, 2014)	\$73	33⅓% plus expenses
<i>In re Flonase Antitrust Litig.</i> , No. 08-cv-3149 (E.D. Pa. June 14, 2013)	\$150	33⅓% plus expenses
<i>In re Wellbutrin XL Antitrust Litig.</i> , No. 08-cv-2431 (E.D. Pa. Nov. 7, 2012)	\$37.50	33⅓% plus expenses
<i>Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.</i> , No. 07-142 (D. Del. May 31, 2012)	\$17.25	33⅓% plus expenses
<i>In re DDAVP Antitrust Litig.</i> , No. 05-2237 (S.D.N.Y. Nov. 28, 2011)	\$20.25	33⅓% plus expenses
<i>In re Wellbutrin SR Antitrust Litig.</i> , No. 04-5525 (E.D. Pa. Nov. 21, 2011)	\$49	33⅓% plus expenses
<i>Meijer, Inc. v. Abbott Labs.</i> , No. C07-5985 CW (N.D. Cal. Aug. 11, 2011)	\$52	33⅓% plus expenses
<i>In re Nifedipine Antitrust Litig.</i> , No. 03-mc-223-RJL (D.D.C. Jan. 31, 2011)	\$35	33⅓% plus expenses
<i>In re Oxycontin Antitrust Litig.</i> , No. 04-md-1603-SHS (S.D.N.Y. Jan. 25, 2011)	\$16	33⅓% plus expenses
<i>In re Tricor Direct Purchaser Antitrust Litig.</i> , No. 05-cv-340 (D. Del. April 23, 2009)	\$250	33⅓% plus expenses
<i>In re Remeron Direct Purchaser Antitrust Litig.</i> , 2005 U.S. Dist. LEXIS 27013 (D.N.J. Nov. 9, 2005)	\$75	33⅓% plus expenses
<i>In re Terazosin Hydrochloride Antitrust Litig.</i> , No. 99-MDL-1317, 2005 U.S. Dist. LEXIS 43082 (S.D. Fla. Apr. 19, 2005)	\$74	33⅓% plus expenses
<i>In re Relafen Antitrust Litig.</i> , No. 01-12239, 2004 U.S. Dist. LEXIS 28801 (D. Mass. April 9, 2004)	\$175	33⅓% plus expenses
<i>In re Buspirone Antitrust Litig.</i> , No. 01-CV-7951, 2003 U.S. Dist. LEXIS 26538 (S.D.N.Y. April 11, 2003)	\$220	33⅓% plus expenses
<i>In re Cardizem CD Antitrust Litig.</i> , MDL No. 1278 (E.D. Mich. Nov. 26, 2002)	\$110	30% plus expenses

24. *In re U.S. Foodservice, Inc. Pricing Litigation*, Case No. 3:07-md-1894 (AWT) (D. Ct.), which produced a \$297 million settlement, provides another example. One of the named plaintiffs there, Thomas & King Inc., was formerly one of the largest operators of Applebee's

franchises in the United States and the nation's eighth-largest restaurant franchise company overall, with approximately 7,500 employees. The other named plaintiff, Catholic Healthcare West/Dignity Health, was the fifth largest health system in the nation and the largest provider of non-profit hospital services in California. Both clients were represented by counsel in their fee negotiations with class counsel, and both agreed that the fee award might be as high as 40 percent. *See Report of Professor Charles Silver on the Reasonableness of Class Counsel's Request for an Award of Fees and Expenses from the Common Fund*, Aug. 27, 2014, pp. 26-30, Dkt. 510, *In re US Foodservice Inc. Pricing Litigation*, Case No. 3:07-md-12894-AWT (D. Ct.). The court awarded one-third of the recovery as fees. *See Order Approving Settlements*, Dec. 9, 2014, Dkt. 521, *In re US Foodservice Inc. Pricing Litigation*, Case No. 3:07-md-12894-AWT (D. Ct.).

25. Yet another example is *San Allen, Inc. v. Buehrer, Admin., Ohio Bureau of Workers' Compensation*, CV-07-644950 (Oh. Ct. Common Pleas). There, class counsel sued an arm of the State of Ohio and challenged the legality of a workers' compensation insurance program that enjoyed enormous political support. The complaint sought almost a billion dollars in premium refunds. The case later settled for \$420 million. The seven named plaintiffs, all of which were small businesses, had signed retainer contracts in which they agreed to pay 33.3 percent of the gross recovery as fees, with a bump to 35 percent in the event of an appeal, and expenses to be reimbursed separately. The court awarded 32.5 percent of the recovery as fees. *See Order and Opinion Granting Final Approval of the Settlement Agreement*, Nov. 25, 2014, *San Allen, Inc. v. Buehrer, Admin., Ohio Bureau of Workers' Compensation*, CV-07-644950 (Oh. Ct. Common Pleas).

26. Turning from class suits to large cases with single plaintiffs, again fees equal to or greater than 25 percent of the recovery prevail in the market. A famous case from the 1980s

involved the Texas law firm of Vinson & Elkins (V&E). ETSI Pipeline Project (EPP) hired V&E to sue Burlington Northern Railroad and other defendants, alleging a conspiracy on their part to prevent EPP from constructing a \$3 billion coal slurry pipeline. In a sworn affidavit, Harry Reasoner, then V&E's managing partner, described the financial relationship between EPP and V&E.

The terms of our retention were that our client would pay all out-of-pocket expenses as they were incurred, but all legal fees were contingent upon a successful outcome. We were paid 1/3 of all amounts received by way of settlement or judgment. We litigated the matter for 5 years. At the conclusion, we had settled with all defendants for a total of \$634,900,000.00. As a result, a total of \$211,633,333.00 was paid as contingent legal fees.

Declaration of Harry Reasoner, filed in *In re Washington Public Power Supply System Securities Litigation*, MDL No. 551 (D. Arizona, Nov. 30, 1990).

27. The patent dispute between NTP Inc. and Research In Motion Ltd., the company that manufactures the Blackberry, provides another prominent example of the prevalence of fees of 25 percent more in high-stakes litigation. In that case, NTP promised its law firm, Wiley Rein & Fielding (WRF), a one-third contingent fee. When the case settled for \$612.5 million, WRF received more than \$200 million in fees. Yuki Noguchi, *D.C. Law Firm's Big BlackBerry Payday: Case Fees of More Than \$200 Million Are Said to Exceed Its 2004 Revenue*, WASHINGTON POST, March 18, 2006, at D03.

28. The terms in WRF's fee agreement were typical, as Professor David L. Schwartz learned by interviewing 44 experienced patent lawyers and reviewing 42 contingent fee agreements that were used in patent cases. Professor Schwartz reported that, across the board, fee percentages were significantly higher than the fee requested here.

On the whole, the contingent rates are similar to the "one-third" that a stereotypical contingent personal injury lawyer charges. There are two main ways of setting the fees for the contingent fee lawyer: a graduated rate and a flat rate. Of the agreements using a flat fee reviewed for this Article, the mean rate was 38.6% of the recovery. The graduated rates typically set milestones such as "through close of fact discovery," "through trial," and "through appeal," and tied rates to recovery

dates. As the case continued, the lawyer's percentage increased. Of the agreements reviewed for this Article that used graduated rates, the average percentage upon filing was 28% and the average through appeal was 40.2%.

David L. Schwartz, *The Rise of Contingent Fee Representation in Patent Litigation*, 64 ALABAMA L. REV. 335, 360 (2012). Unfortunately, Professor Schwartz did not indicate the damages that were at issue in the cases he studied, but he did make it clear that many of them were large.²

29. Sophisticated clients sometimes use scales of percentages in patent cases, and when they do, the percentages rarely fall below 25 percent. In *Tanox, Inc. v. Akin, Gump, Strauss, Hauer & Feld, LLP, et al.*, 105 S.W.3d 244 (Tex. App.—Houston, 2003), a sophisticated client “agreed to pay the lawyers a contingency fee pursuant to a sliding scale: 25% of the first \$32 million recovered by Tanox, 33 1/3% of recovery from \$32 million to \$60 million, 40% of recovery from \$60 million to \$200 million, and 25% of recovery over \$200 million.” *Id.* at 248-249. The agreement also contained other provisions favorable to the lawyers, including a promise of “\$100 million if they obtained a permanent injunction.” “The total fees Tanox agreed to pay the Lawyers were capped at \$500 million and the total fees derived from royalties were capped at \$300 million.” *Id.* at 249. Like NTP in the *Blackberry* litigation, Tanox agreed to pay both a high percentage and a potentially enormous amount.

30. Turning from antitrust and patent lawsuits to large matters of other types, compensation as a significant percentage of recovery is equally common. Perhaps the most telling example comes from the National Credit Union Administration's (NCUA) recent (2011-2017) litigation against more than a dozen Wall Street banks—many of which are also Defendants in this litigation.

² See Schwartz, 64 ALABAMA L. REV. at 363 (reporting that the elite patent lawyers interviewed undertake “select cases that they perceive ... to have extremely high potential damages,” often \$100 million or more).

tion—seeking to recover losses on residential mortgage-backed securities (RMBS). NCUA’s potential recoveries in the litigation were in the billions of dollars, and as a government agency, it had robust fiscal and political incentives to secure the most favorable fee arrangement possible from the broader national legal market. NCUA retained two firms, Korein Tillery and Kellogg Huber, to prosecute the cases and agreed to pay them an uncapped contingency fee of 25 percent of the total recovery. *See* <https://www.ncua.gov/regulation-supervision/Pages/corporate-system-resolution/legal-recoveries.aspx>. NCUA’s private counsel eventually obtained recoveries exceeding \$5.1 billion, for which they earned attorneys’ fees of more than \$1.2 billion. *Id.*

31. In response to public inquiries about the enormous attorneys’ fees, NCUA defended the economic soundness of its contingency fee arrangement. “‘We were the first federal financial institutions regulator to sue these firms, and we were going up against some of the world’s most powerful institutions,’ [NCUA Board Chairman Rick] Metsger said.” *See* <https://www.housingwire.com/articles/38346-ncua-reveals-it-paid-1-billion-to-lawyers-in-fight-to-recover-credit-union-crisis-losses>. “‘The outcome was far from certain, but we engaged expert outside counsel, and our team has been very successful.’” *Id.* “‘Without this fee arrangement, which shifted most of the risk of these legal actions to outside counsel, there would have been no legal investigation of potential claims, no litigation, and no legal recoveries.’” *Id.* Thus, from the perspective of a sophisticated governmental agency, the contingency fee arrangement of 25 percent in multibillion dollar litigation was not only economically optimal, but also the alternative was recovering nothing at all.

32. In another recent example from 2012, the U.S. Court of Appeals for the Tenth Circuit decided a case involving a dispute over the fee that a business client owed the law firm of

Susman & Godfrey (S&G), which had handled an oil and gas matter on the following terms. “Under the Fee Agreement, [the client] agreed to pay [S&G] 30% ‘of the sum recovered by settlement or judgment,’” subject to caps based on when the lawsuit was resolved. *Grynberg Production Corp. v. Susman Godfrey, L.L.P.*, No. 10-1248, 2012 U.S. App. LEXIS 3316, at *2 (10th Cir. Colo., February 16, 2012). “[T]he Fee Agreement capped fees at \$50 million if the case settled within one year after the action was filed.” *Id.* The fee agreement thus entitled S&G to be paid \$50 million for a year’s worth of work—and that is what an arbitrator decided S&G should receive, subject to an offset of less than \$2 million that, for present purposes, is irrelevant. The Tenth Circuit affirmed the fee award.

33. According to an article published in THE ADVOCATE, a journal produced by the Litigation Section of the State Bar of Texas, S&G’s fee percentage was typical:

A pure contingency fee arrangement is the most traditional alternative fee arrangement. In this scenario, a firm receives a fixed or scaled percentage of any recoveries in a lawsuit brought on behalf of the client as a plaintiff. Typically, the contingency is approximately 33%, with the client covering litigation expenses; however, firms can also share part or all of the expense risk with clients. Pure contingency fees, which are usually negotiated at approximately 40%, can be useful structures in cases where the plaintiff is seeking monetary or monetizable damages. They are also often appropriate when the client is an individual, start up, or corporation with limited resources to finance its litigation. Even large clients, however, appreciate the budget certainty and risk-sharing inherent in a contingent fee arrangement.

Trey Cox, *Alternative Fee Arrangements: Partnering with Clients through Legal Risk Sharing*, 66 THE ADVOCATE (TEXAS) 20 (2011).

34. Rather than add more examples on top of those already discussed, I will simply point out that, to the best of my knowledge, contingent fees of 25 percent or more prevail in all areas but two: airplane accident lawsuits and securities fraud class actions where certain public

pension funds are at the helm.³ Fees ranging from 25 percent to 40 percent are the norm in commercial cases of all types, including those with the potential to generate enormous recoveries. These are the market benchmarks against which Class Counsel's fee request of 16.51% should be measured, and there is no question that the requested fee is well below prevailing market rates.

VI. NAMED PLAINTIFFS AGREED TO PAY MUCH HIGHER FEES THAN CLASS COUNSEL IS REQUESTING

35. When awarding fees in class actions, district court judges often take guidance from fee agreements that sophisticated lead plaintiffs enter into with the lawyers they retain. For example, in the Credit Default Swaps Antitrust Litigation, Judge Denise Cote of the Southern District of New York awarded 13.61 percent of the \$1.86 billion settlement as fees partly because "the sliding fee schedule negotiated by lead plaintiff Los Angeles County Employees Retirement Association [] at the outset of th[e] Action" promised the lawyers that amount. Order Granting Class Counsel's Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for Class Representatives, ¶ 8.d, *In re Credit Default Swaps Antitrust Litigation*, 1:13-md-02476-DLC, Dkt. 554 (April 18, 2016).

36. The insight that supports the growing practice of taking guidance from lead plaintiffs' fee agreements is that sophisticated claimants with large financial interests can be expected to hire good lawyers on appropriate terms. The fee-setting process can therefore be improved and

³ Personal injury cases brought in the wake of commercial airplane crashes are a known exception. In these cases, fees are said to fall near 20 percent because liability is usually conceded. Public pension funds sometimes negotiate "declining percentage" fee formulas where the attorneys' fees are reduced as a percentage on successive, increasing blocks of recovery, occasionally ending up with a blended fee percentage below 25 percent. Professor John C. Coffee, Jr., America's leading class action scholar, has hypothesized that pension funds enter into these arrangements for political and public relations purposes, but actually end up doing themselves and other investors a disservice by encouraging cheap settlements. See Declaration of John C. Coffee, Jr., submitted in *In re High Fructose Corn Syrup Antitrust Litigation*, M.D.L. 1087 (C.D. Ill. Oct. 7, 2004), ¶ 22.

simplified for all class members by treating sophisticated plaintiffs with large financial stakes as bargaining agents for everyone else. Judges need only apply the fee terms that lead plaintiffs negotiate when awarding fees from common fund recoveries. Professors Lynn Baker, Michael Perino, and I made the case for judicial reliance on lead plaintiffs' fee agreements at length in an empirical study of securities fraud class actions that was published in 2015. Lynn A. Baker, Michael A. Perino, and Charles Silver, *Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions*, 115 COLUMBIA L. REV. 1371 (2015).⁴

37. Because I view contingency fee arrangements negotiated by sophisticated lead plaintiffs to be reliable indicators of market rates, I asked Class Counsel for copies of the named plaintiffs' operative retention agreements in this case to learn about the percentage of recovery that they agreed to pay their counsel as fees. Although not every agreement set a specific percentage of recovery that counsel could earn as attorneys' fees—many deferred that determination to the Court—the ones that did uniformly set a percentage that was substantially higher than the 16.51% that Class Counsel is requesting.⁵

38. For example, the retention agreements of over-the-counter plaintiffs Haverhill Retirement System and Oklahoma Firefighters Pension and Retirement System both set the maximum recoverable attorneys' fee percentage at 33.33%. The same was true of exchange plaintiffs Robert

⁴ The CORPORATE PRACTICE COMMENTATOR chose our study as one of the ten best articles on corporate and securities law in 2016. See <http://www.professorthompson.com/annual-list-of-best-corporate-articles.html>.

⁵ In class actions, it is not uncommon for retention agreements to set the attorneys' fees by reference to an eventual determination to be made by the court. That is the case for two reasons: (1) the parties to the agreement understand that the only plausible resolution that would result in attorneys' fees would take place in the class context, where a court would decide the appropriate attorneys' fees; and (2) the court making an award of attorneys' fees on a class-wide basis would not be bound by the percentage set in any individual plaintiff's or class member's retention agreement.

Miller, Mark Miller, and Peter Rives. The lowest attorneys' fee percentage in the retention agreements I reviewed was 30%. As detailed above, these percentages fall within the range that normally prevails when sophisticated clients retain lawyers to handle complex high-dollar commercial lawsuits on straight contingency. Accordingly, the named plaintiffs' fee agreements provide further evidence that Class Counsel's fee request of 16.51% is well below prevailing market rates for this type of litigation.

39. Notably, the retention agreements I reviewed show that the named plaintiffs knew that their lawyers would prosecute the Forex litigation as a class action. It follows that when they negotiated fee terms, the named plaintiffs should have done so in light of the dynamics of a class suit, which may include economies of scale in litigation costs and the possibility of a large recovery. When retaining counsel on contingency, these sophisticated investors surely knew that the damages could be enormous. The market for legal services also contained many law firms that were ready, willing, and able to help clients with Forex claims, as evidenced by the fact that more than 30 unique firms represent the various named plaintiffs. Because many law firms were open to requests for representation, sophisticated investors with significant stakes should have been able to obtain competitive rates.

VII. IT IS HIGHLY UNLIKELY THAT ABSENT CLASS MEMBERS COULD HAVE NEGOTIATED LOWER FEES THROUGH DIRECT BARGAINING

40. Although the 16.51% contingency fee requested by Class Counsel is well below the market rate in similar litigation, I have been asked to also consider whether, in light of the unique circumstances of this case, a hypothetical *ex ante* negotiation between absent class members and experienced counsel would have been likely to result in an even lower percentage. I conclude that, despite the existence of parallel government investigations at the time this lawsuit

was filed, it is highly unlikely that an arm's length negotiation between sophisticated clients and class counsel would result in a contingency fee below 16.51% of total recovery.

41. The object of this hypothetical exercise is to figure out the terms that would have emerged from direct negotiations had bargaining occurred around the time that the first complaint was filed by the Haverhill Retirement System on November 1, 2013. *See Class Action Complaint for Violations of the Sherman Act, Haverhill Retirement System v. Barclays Bank PLC et al.*, Case 1:13-cv-07789-ER (S.D. N.Y. filed Nov. 1, 2013). The fee would have reflected important features of the lawsuit, including the cost of litigating, the likelihood of winning, the recoverable damages, and any other aspect of the case that would rationally have influenced the legal team's demand for compensation and class members' willingness to pay. In the subsections that follow, I will identify several unique characteristics of this case and assess their bearing on the reasonableness of Class Counsel's request for fees.

A. The Difficulty of Certifying Antitrust Classes for Litigation

42. One obviously salient feature in fee negotiations would have been the difficulty of certifying an antitrust class action. As noted above, the named plaintiffs and their attorneys expected the litigation to proceed on behalf of a class. There was, however, no guarantee that a class action would be certified. To the contrary, in 2013 everyone would have known that antitrust class certification is a risky proposition.

43. The Roberts Court has been decidedly unfriendly to class actions as a whole and to antitrust class actions in particular. Writing in 2008, Allyson Ho observed that "[t]he Roberts Court ha[d] decided a remarkable number of antitrust cases" and had "rejected the claims of antitrust plaintiffs by a combined 46-5 vote." She concluded that there is "a broad consensus in the middle of the Court [that is] generally hostile to broad antitrust liability." Allyson N. Ho, *Getting*

Down to Business: Early Observations on the Roberts Court's Business Cases, 9 ENGAGE: JOURNAL OF THE FEDERALIST SOCIETY PRACTICE GROUPS 92, 94 (2008).

44. In 2014, Mark Popofsky and Douglas Hallward-Driemeier noted that the Roberts Court had been almost three times as active in the antitrust area as the Rehnquist Court. In a section entitled "Raising the Class Action Bar," they wrote:

In its first decade, the Roberts Court has consistently raised the threshold for plaintiffs seeking to pursue class actions. Although non-antitrust cases illustrate the trend as well, it is not mere coincidence, given the prevalence and nature of contemporary antitrust class action litigation, that a trilogy of antitrust cases provided vehicles for the Court's key decisions in this area: (1) *Bell Atlantic Corp. v. Twombly*, [550 U.S. 544 (2007)], which cracked down on notice pleading (a watershed decision that, of course, transcends both class actions and antitrust); (2) *Comcast Corp. v. Behrend*, [133 S. Ct. 1426 (2013)], which requires putative plaintiff classes to offer, at the class-certification stage, a competent damages model tied to their theory of liability; and (3) *American Express Co. v. Italian Colors Restaurant*, [133 S. Ct. 2304 (2013)], which upheld class action waivers in arbitration agreements. Collectively, these decisions impose significant new obstacles to sustaining class actions under Rule 23.

Mark S. Popofsky and Douglas H. Hallward-Driemeier, *Antitrust and the Roberts Court*, 28-SUM ANTITRUST 26, 26 (2014).

45. No list of important cases would be complete without mentioning *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011). There, the Supreme Court not only decertified the class, but it also hinted strongly that the requirements of *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993) should apply to testimony given in connection with class certification. The reaction was immediate. In class actions of all types, defense lawyers began subjecting plaintiffs' economic experts to *Daubert* challenges at the certification stage, with devastating effect. As the author of *Death by Daubert* observed:

Private antitrust class actions are under attack.... Antitrust cases were already on life support thanks to heightened pleading and evidentiary hurdles. The final nail in the coffin may be a new judicial barrier: pre-class certification review of expert testimony under Federal Rule of Evidence 702, commonly called *Daubert*."

Christine P. Bartholomew, *Death by Daubert: The Continued Attack on Private Antitrust*, 35 CARDOZO LAW REVIEW 2147, 2148-2150 (2014).

46. Because of these developments, the number of antitrust class action cases filed in federal courts had fallen far from its peak by the time this litigation began. In 2008, 766 antitrust class actions were filed, “but 2009 witnessed a precipitous decline to 375, and filings for 2010 will return to the level of a decade earlier at the current rate.” Donald W. Hawthorne, *Recent Trends in Federal Antitrust Class Action Cases*, 24-SUM ANTITRUST 58, 58 (2010). Private attorneys not only file fewer cases, but they are also increasingly reluctant to initiate litigation without accompanying government investigations. “Nearly 60 percent of antitrust class actions [filed between 2007 and 2009] arose from a prior government enforcement action, domestic or foreign.” *Id.*, p. 58.

47. The difficulty of proving antitrust damages has a lot to do with this. Even in non-class cases, antitrust damages are hard to prove because they often require a comparison between actual prices and hypothetical prices that would have prevailed in a free market. Estimating the latter requires expert testimony based upon sophisticated economic models that are always open to challenge and that always *are* challenged. The battle of the experts and the accompanying *Daubert* objections to the admissibility of testimony offered by plaintiffs’ experts are fixtures of antitrust litigation. See Rebecca Haw, *Adversarial Economics in Antitrust Litigation: Losing Academic Consensus in the Battle of the Experts*, 106 NORTHWESTERN UNIVERSITY LAW REVIEW 1261, 1270-71 (2012) (“Since the rise of microeconomics as the dominant tool for analyzing competition, antitrust has become one of the most expert-driven areas of law.”).

48. When negotiating over fees in 2013, the parties would have known that a battle of the experts lay ahead. “[I]t has become standard practice to use economic testimony in support of,

or in opposition to, class certification motions.” The Sedona Conference Working Group on the Role of Economics in Antitrust, *Best Practices in Using Economics for Class Certification Motions Under Rule 23 of the Federal Rules of Civil Procedure*, 6 SEDONA CONFERENCE JOURNAL 46 (2005). This battle engages dueling experts over the possibility of proving class-wide injury for all or most class members using a single methodology.

In antitrust class actions, expert economic evidence is offered in certification proceedings most often on issues of whether impact and damages are susceptible of class-wide proof. To show that impact is susceptible to class-wide proof, class action plaintiffs are required to proffer a plausible method of proving that the vast majority of the class has been injured. On a class motion, an expert report must support plaintiffs’ “minimum burden of showing there is a reasonable probability of establishing . . . common impact.”

Id., p. 47 (quoting *In re Playmobil Antitrust Litig.*, 35 F. Supp. 2d 231, 247 (E.D.N.Y. 1998)). “Where individual damage ‘does not lend itself to ... mechanical calculation,’ but requires ‘separate mini-trial[s]’ of an overwhelming[ly] large number of individual claims, class certification will be denied.” *Id.* (quoting *Windham v. American Brands, Inc.*, 565 F.2d 59, 68 (4th Cir. 1977)). See also *Broussard v. Meineke Discount Muffler Shops, Inc.*, 155 F.3d 331, 342 (4th Cir. 1998) (decertifying class because, among other things, “each putative class member’s claim for lost profits damages was inherently individualized and thus not easily amenable to class treatment”).

49. The difficulty of winning the battle of the experts may explain why, by comparison to lawsuits of other types, successful antitrust class actions are uncommon. Professor Brian Fitzpatrick, who gathered all federal class action settlements that occurred in 2006 and 2007, found 30 antitrust cases, an average of 15 per year. Other types of cases were far more numerous. Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 JOURNAL OF EMPIRICAL LEGAL STUDIES 811, 818 Table 1 (2010) (hereinafter “*Fitzpatrick Study*”). Professor Fitzpatrick identified 257 settled securities class actions, 94 settled labor and employment class

actions, and 87 settled consumer protection class actions. Only settlements of commercial class actions were fewer in number than antitrust settlements.

50. In direct negotiations between class members and their attorneys, then, the difficulty of certifying an antitrust class action would have exerted upward pressure on fees.

B. The Governmental Investigations

51. Governmental investigations often precede or run in parallel with class actions brought to secure private damages. When they do, they can be a mixed blessing. Although they often make private actions less risky, they can also cause considerable delays. On the whole, however, and judging from private lawyers' behavior, they are a plus. Thus, in the preceding subsection I quoted Donald Hawthorne to the effect that "[n]early 60 percent of antitrust class actions [filed between 2007 and 2009] arose from a prior government enforcement action, domestic or foreign." Donald W. Hawthorne, *Recent Trends in Federal Antitrust Class Action Cases*, 24-SUM ANTITRUST 58, 58 (2010). If public investigations are a hallmark of good cases and usually reduce private lawyers' risks and costs, the existence of parallel public enforcement actions should drive down fee percentages in the market for legal services. In other words, lawyers who handle private antitrust cases without the benefit of public investigations should earn more.

52. International enforcement is an increasingly important precursor of private antitrust litigation. Hawthorne described "the increasing significance of international enforcement" as "[t]he most notable change in triggering events" for private litigation. During the period he examined,

European Commission ["EC"] enforcement actions preceded 24 private class action case filings [in the United States], ranking second to DOJ enforcement as a triggering event. The EC acted alone in 5 cases and cooperated with other enforcers in 19 cases. Investigations by other national enforcers also served as triggering events in whole or part for 20 cases, including actions by the United Kingdom's Fair Trading Commission, the Canadian Competition Bureau, and the Korea Fair Trade Commission.

Id.

53. In hope of learning more about the impact public investigations have on private antitrust attorneys' market rates, I searched on-line for antitrust class actions that contained evidence of the fees agreed to by the named plaintiffs and that also indicated whether a public investigation preceded their filing. For example, the Consolidated Amended Complaint filed in the Indirect Purchaser Action in *In re Polyurethane Foam Antitrust Litigation*, 2011 WL 12611684 (N.D. Ohio), stated that, in 2010, a manufacturer named Vitafoam voluntarily self-reported anti-competitive activities to the DOJ and cooperated with a criminal investigation. When the Indirect Purchaser Action settled and class counsel applied for fees, the court observed that "[t]he representative Plaintiffs [had] entered into contingent fee agreements with Class Counsel," several of which "specif[ied] that attorney fees will be at least 35% of the client recovery." *In re Polyurethane Foam Antitrust Litig.*, 168 F. Supp. 3d 985 (N.D. Ohio 2016). When a portion of the parallel action on behalf of Direct Purchasers also settled, the court found that "five of the seven [retainer] agreements [entered into by the class representatives] specify that attorney fees will be at least one-third of the client recovery." Memorandum Opinion and Order Re: Settlement Motions, Direct Purchaser Class, *In re Polyurethane Foam Antitrust Litigation*, Case No. 1:10 MD 2196 (N.D. Ohio Nov. 19, 2015), p. 16.

54. Clearly, the fee agreements just described show that neither the existence of a prior governmental proceeding nor the presence of a cooperating conspirator necessarily reduces the market rate for private antitrust lawyers below the typical range.

55. *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK (N.D. Cal.) provides another example. There, the DOJ's Antitrust Division spent two years investigating the employment and recruitment practices of various Silicon Valley technology companies. In 2010,

it sued certain employers, who subsequently entered into agreements to refrain from further anti-competitive practices. A private class action was filed on the heels of the settlement. It settled in 2015 and, in the course of awarding attorney's fees, the court mentioned that the lawyers serving as class counsel had entered into retainer agreements with the named plaintiffs. See *In re High-Tech Employee Antitrust Litig.*, 2015 WL 5158730, at *10 (N.D. Cal. Sept. 2, 2015).

56. Unfortunately, the court did not say what the agreed fee percentages were, and I searched the case docket for the retainer agreements without success. However, I knew from a prior engagement that, toward the end of the litigation, one of the named plaintiffs, Michael Devine, retained new counsel for the purpose of objecting to a proposed settlement. Mr. Devine agreed to pay his new lawyers, Girard Gibbs LLP, up to 40 percent of the gross recovery *after a settlement was on the table*.⁶ If he and the other named plaintiffs agreed to similar terms when retaining their original lawyers, again it seems that a prior governmental investigation did not reduce the lawyers' market rate below the normal range.

57. Perhaps the best example comes from *In re High Fructose Corn Syrup Antitrust Litigation*, M.D.L. 1087 (C.D. Ill.), a case in which Professor John C. Coffee, Jr., America's leading class action scholar, testified as an expert witness. Litigation commenced after an investigation into price fixing at ADM (formerly Archer Daniels Midland) that included hundreds of hours of tape recordings made by an employee-whistleblower, who participated in the conspiracy. When

⁶ Mr. Devine is not the only client to have paid a contingent fee in the normal range when a settlement was already on the table. In *In re Synthroid Marketing Litig.*, 264 F.3d 712, 727 (7th Cir. 2001), Judge Easterbrook reported that, after a settlement was already on the table, "a group of more than 100 [third party payers] ... contracted with two law firms to represent them.... [T]he contracts provided for a 25% contingent fee at maximum." The lawyers' job was merely to garner for the third-party payers as large a portion of the settlement fund as possible. Consequently, they bore little or no risk of non-payment. Even so, their sophisticated clients promised them fees in the normal range.

the litigation settled for \$531 million, class counsel retained Professor Coffee to provide an expert report on fees. Because the multi-district litigation was centered in the Seventh Circuit, the trial judge had to base the fee award on the prevailing market rate. In the course of testifying that the market rate was 25 percent, Professor Coffee placed great weight on the fee agreements signed by the business claimants that were plaintiffs in the case:

[T]his Court has before it fee agreements between two of the named plaintiffs (Zarda Enterprises, d/b/a Allstate Bottling (“Zarda”) and Publix Supermarkets Inc. (“Publix”)), who each entered into fee agreements providing for payment to their attorneys of 30% and “more than 25%” of the recovery, respectively. In addition, the one opt out in this litigation—Gray & Co.—also entered into a fee agreement with its attorney that provides for a fee of 33% or 40% depending upon the time of any settlement. Finally, the Honickman Group, a large class member, agreed to a 25% fee, and The Coca-Cola Company, the largest class member, and Admiral Beverage Corporation, another large class member, have submitted declarations stating that they would have paid at least a 25% fee (and PepsiCo Inc., the second largest class member, similarly supports a 25% fee).

Declaration of John C. Coffee, Jr., submitted in *In re High Fructose Corn Syrup Antitrust Litigation*, M.D.L. 1087 (C.D. Ill. Oct. 7, 2004), ¶ 2. These agreements and affirmations were “reliable,” Professor Coffee continued, “because these class members were highly sophisticated ‘repeat players’ at litigation, who had no reason to inflate their estimates in order to benefit class counsel (and [because] the lone opt-out has entered into a legally binding agreement to pay 33% to 40% at a time when less risk existed).” *Id.*

58. Professor Coffee’s examples are consistent with the view expressed here, which is that contingent fees normally run to 25 percent or more in high dollar, commercial lawsuits. The fee agreements he reviewed bottomed out at 25 percent of the recovery and a few were higher. The existence of a prior governmental investigation did not drive fees below the normal range even though the clients were sophisticated and should have understood the connection between the investigation and the risk of losing the case.

59. In sum, governmental investigations do serve a sorting function. When deciding whether to file an antitrust class action, a plaintiffs' attorney will view a prior public investigation, domestic or international, as a plus. But public investigations appear to have limited impact on contingent fee lawyers' market rates. They drive fees down to the bottom of the normal range, but not below it. Professor Coffee cited no instance in which a sophisticated corporate client (as distinct from a public pension fund) paid a fee lower than 25 percent, and I know of none either.

60. In addition, it is worth noting that, at the time the first complaint was filed in November 2013, the governmental investigations into the manipulation of the Forex market were in their nascent stages. None had led to any settlements, fines, pleas, or even preliminary findings, and it was uncertain whether the investigations would eventually lead to such results based on the available evidence. Indeed, the first major fines against certain of the Settling Defendants were not assessed until November 2014. *See In re Foreign Exch. Benchmark Rates Antitrust Litig.*, 74 F. Supp. 3d 581 (S.D.N.Y. 2015). Because these outcomes, and those that followed, were far from certain at the time that *ex ante* negotiations over fees would have taken place, it is likely that they would have had limited, if any, impact in exerting downward pressure on the fee that experienced class counsel would be willing to accept in late 2013. The fact that regulatory settlements starting in late 2014 and continuing into 2015 and 2016 may have facilitated similar settlements in this case should not impact the analysis of the market rates for Class Counsel's services at the start of this litigation.

C. Cost of Litigation and Potential Recovery

61. Significant recoverable damages, including the trebling provided for by the anti-trust laws, are perhaps the most obvious potential source of downward pressure on fees. Whether damages large enough to foster billion-dollar settlements drive contingent fees below the normal range is, however, an empirical question. They could have the opposite effect. Large collectible

damages could drive fee percentages upward because enormous recoveries are possible only when defendants are wealthy. But a wealthy defendant might think it rational to spend tens or even hundreds of millions of dollars fending off billion-dollar claims. Because plaintiffs' attorneys must counter defendants' litigation outlays by deploying resources of their own, large cases may saddle them with financial risks they have great difficulty bearing. This is one reason why cases like this one are typically waged by consortia of plaintiffs' firms.⁷

62. That a wealthy defendant might spend millions or even billions of dollars defending itself is not just a theoretical possibility. It is a common event. For example, Merck & Co., Inc. reportedly bore \$1.2 billion in defense costs before paying \$4.85 billion to settle thousands of cases brought by consumers who claimed to have been injured by Vioxx, an anti-inflammatory drug. Alex Berenson, *Merck Agrees to Settle Vioxx Suits for \$4.85 Billion*, NEW YORK TIMES, Nov. 9, 2007, http://www.nytimes.com/2007/11/09/business/09merck.html?_r=0. At the time of the aggregate settlement, Merck's legal fees were running \$600 million a year. *Id.* See also Teresa Curtin & Ellen Relkin, *Preamble Preemption and the Challenged Role of Failure to Warn and Defective Design Pharmaceutical Cases in Revealing Scientific Fraud, Marketing Mischief, and Conflicts of Interest*, 35 HOFSTRA L. REV. 1773, 1797 (2007) ("Merck has admitted that during 2006, 'the Company spent \$500 million, including \$175 million in the fourth quarter, in the aggregate in legal defense costs worldwide' and recorded charges of \$673 million to increase the

⁷ Plaintiffs' law firms tend to be much smaller than the law firms that represent corporate defendants. For example, Lieff Cabraser Heimann & Bernstein, LLP, the law firm ranked first for plaintiffs in mass tort litigation and class action work by USNews & World Report, has fewer than 200 lawyers. See *Best Law Firms for Mass Tort Litigation / Class Actions – Plaintiffs*, USNEWS & WORLD REPORT, <http://bestlawfirms.usnews.com/mass-tort-litigation-class-actions-plaintiffs> (visited Sept. 26, 2016). By comparison, Winston & Strawn LLP, the firm ranked first for defendants, has over 1800, nine times as many. See *Law Firm of the Year, Mass Tort Litigation / Class Actions – Defendants*, USNEWS & WORLD REPORT, <http://bestlawfirms.usnews.com/profile/winston-strawn/overview/3938> (visited Sept. 26, 2016).

reserve solely for its future legal costs to \$858 million.”) (citing Merck & Co., Inc., Annual Report (Form 10-K), at 5, 16 & 17 (Feb. 28, 2007)).

63. Merck’s enormous expenditure on defense costs was not extraordinary. Wealthy corporations often spend lavishly in hope of fending off claims. Years before the Vioxx settlement, one source reported that in major pharma cases “[d]efense costs can easily reach to billions of dollars.” William G. Childs, *The Implementation of FDA Determinations in Litigation: Why Do We Defer to the PTO but Not to the FDA?*, 5 MINN. INTELL. PROP. REV. 155, 182 (2004). Nor is pharmaceutical litigation unique. Corporations operating in all sorts of contexts adhere to the same logic. They all understand that they can reduce their total losses by spending (or demonstrating their willingness to spend) enormous sums to defend themselves aggressively.

64. The point of spending lavishly is to intimidate plaintiffs’ attorneys by threatening to bankrupt them. Cigarette manufacturers employed this tactic for decades to keep personal injury lawyers at bay. As one of their lawyers wrote,

[T]he aggressive posture we have taken regarding depositions and discovery in general continues to make these cases extremely burdensome and expensive for plaintiffs’ lawyers, particularly sole practitioners. To paraphrase General Patton, the way we won these cases was not by spending all of [R.J. Reynolds’] money, but by making that other son of a bitch spend all of his.

D. Douglas Blanke, *Towards Health With Justice: Litigation and Public Inquiries as Tools for Tobacco Control* 18 (2002) (quoting Memorandum of R.J. Reynolds’ attorney J. Michael Jordan, Apr. 29, 1988), as quoted in *Haines v. Liggett Group, Inc.*, 814 F. Supp. 414, 421 (D. N.J. 1993)). When considering litigation risks, the ability of one side to force the other to spend money should not be ignored.

65. Finally, it almost goes without saying that defensive outlays can be truly stratospheric when multiple corporate defendants are involved. For plaintiffs' attorneys who must grapple with an army of defense lawyers, the prospect of facing off against a group of corporations with practically limitless assets can be daunting. This case provides a good example. Because of the complexity of the subject matter and the data-driven nature of the evidence, it was virtually inevitable *ex ante* that plaintiffs' counsel would have to front substantial litigation costs to pay for discovery and experts. This, too, would have been an important factor in hypothetical fee negotiations in late 2013. And, in fact, despite numerous early settlements and discovery stays requested by the Department of Justice, Class Counsel still incurred roughly \$21.8 million in expenses prosecuting this suit with no guarantee of recovery.

VIII. CONCLUSION

66. The attorneys' fees requested by Class Counsel, which represent roughly 16.51% of the total recovery achieved on behalf of the Class, are reasonable because they are (1) considerably lower than the prevailing market rates for contingency fee agreements in similar litigation, (2) considerably lower than any of the named plaintiffs' operative contingency fee agreements, and (3) lower than what absent class members could likely have negotiated *ex ante* in light of the risks associated with this litigation, notwithstanding the large potential recoveries and the existence of parallel government investigations.

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

January 12, 2018

A handwritten signature in black ink, appearing to be 'CS' or 'Charles Silver', is positioned above a horizontal line.

CHARLES SILVER

EXHIBIT A

RESUME OF PROFESSOR CHARLES SILVER

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ACADEMIC EMPLOYMENTS

UNIVERSITY OF TEXAS SCHOOL OF LAW

Roy W. and Eugenia C. McDonald Endowed Chair in Civil Procedure	2004-present
Co-Director, Center on Lawyers, Civil Justice, and the Media	2001-present
Robert W. Calvert Faculty Fellow	2000-2004
Cecil D. Redford Professor	1994-2004
W. James Kronzer Chair in Trial & Appellate Advocacy	Summer 1994
Graves, Dougherty, Hearon & Moody Centennial Faculty Fellow	1991-1992
Assistant Professor	1987-1991

HARVARD LAW SCHOOL

Visiting Professor	Fall 2011
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VANDERBILT UNIVERSITY LAW SCHOOL

Visiting Professor	2003
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UNIVERSITY OF MICHIGAN LAW SCHOOL

Visiting Professor	1994
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UNIVERSITY OF CHICAGO

Managing Editor, Ethics: A Journal of Social, Political and Legal Philosophy	1983-1984
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EDUCATION

JD 1987, Yale Law School
MA 1981, University of Chicago (Political Science)
BA 1979, University of Florida (Political Science)

SPECIAL PROJECTS

Associate Reporter, Principles of the Law of Aggregate Litigation, American Law Institute (2010) (with Samuel Issacharoff (Reporter), Robert Klonoff and Richard Nagareda (Associate Reporters)).

Co-Reporter, Practical Guide for Insurance Defense Lawyers, International Association of Defense Counsel (2002) (with Ellen S. Pryor and Kent D. Syverud) (published on the IADC website in 2003 and revised and distributed to all IADC members as a supplement to the Defense Counsel J. in January 2004).

BOOKS

MEDICAL MALPRACTICE LITIGATION: HOW IT WORKS, WHAT IT DOES, AND WHY TORT REFORM HASN'T HELPED (with Bernard S. Black, David A. Hyman, Myungho Paik, and William M. Sage) (in progress).

OVERCHARGED: FROM MEDICARE TO OBAMACARE AND BEYOND (with David A. Hyman) (Cato Press, forthcoming 2018)

HEALTH LAW AND ECONOMICS, Vols. I and II (Edward Elgar 2016) (coedited with Ronen Avraham and David A. Hyman).

LAW OF CLASS ACTIONS AND OTHER AGGREGATE LITIGATION, 2nd Edition (2012) (with Richard Nagareda, Robert Bone, Elizabeth Burch and Patrick Woolley) (updated annually).

PROFESSIONAL RESPONSIBILITIES OF INSURANCE DEFENSE COUNSEL (2012) (with William T. Barker) (updated annually).

ARTICLES AND WORKS IN PROGRESS

(* indicates Peer Reviewed)

Health Care Law & Policy

1. "It Was on Fire When I Lay Down on It: Defensive Medicine, Tort Reform, and Healthcare Spending," in I. Glenn Cohen, Allison Hoffman, and William M. Sage, eds., OXFORD HANDBOOK OF AMERICAN HEALTH LAW (2017) (with David A. Hyman).*
2. "Compensating Persons Injured by Medical Malpractice and Other Tortious Behavior for Future Medical Expenses Under the Affordable Care Act," 25 Annals of Health Law 35 (2016) (with Maxwell J. Mehlman, Jay Angoff, Patrick A. Malone, and Peter H. Weinberger).
3. "Double, Double, Toil and Trouble: Justice-Talk and the Future of Medical Malpractice Litigation," 63 DePaul L. Rev. 574 (2014) (with David A. Hyman) (invited symposium).
4. "Five Myths of Medical Malpractice," 143:1 Chest 222-227 (2013) (with David A. Hyman).*

5. “Health Care Quality, Patient Safety and the Culture of Medicine: ‘Denial Ain’t Just A River in Egypt,’” (coauthored with David A. Hyman), 46 New England L. Rev. 101 (2012) (invited symposium).
6. “Medical Malpractice and Compensation in Global Perspective: How Does the U.S. Do It?” in Ken Oliphant & Richard W. Wright, eds., MEDICAL MALPRACTICE AND COMPENSATION IN GLOBAL PERSPECTIVE (2013) (coauthored with David A. Hyman)*; originally published in 87 Chicago-Kent L. Rev. 163 (2012).
7. “Justice Has (Almost) Nothing to Do With It: Medical Malpractice and Tort Reform,” in Rosamond Rhodes, Margaret P. Battin, and Anita Silvers, eds., MEDICINE AND SOCIAL JUSTICE, Oxford University Press 531-542 (2012) (with David A. Hyman).*
8. “Medical Malpractice Litigation and Tort Reform: It’s the Incentives, Stupid,” 59 Vanderbilt L. Rev. 1085 (2006) (with David A. Hyman) (invited symposium).
9. “Medical Malpractice Reform Redux: Déjà Vu All Over Again?” XII Widener L. J. 121 (2005) (with David A. Hyman) (invited symposium).
10. “Speak Not of Error, Regulation (Spring 2005) (with David A. Hyman).
11. “The Poor State of Health Care Quality in the U.S.: Is Malpractice Liability Part of the Problem or Part of the Solution?” 90 Cornell L. Rev. 893 (2005) (with David A. Hyman).
12. “Believing Six Improbable Things: Medical Malpractice and ‘Legal Fear,’” 28 Harv. J. L. and Pub. Pol. 107 (2004) (with David A. Hyman) (invited symposium).
13. “You Get What You Pay For: Result-Based Compensation for Health Care,” 58 Wash. & Lee L. Rev. 1427 (2001) (with David A. Hyman).
14. “The Case for Result-Based Compensation in Health Care,” 29 J. L. Med. & Ethics 170 (2001) (with David A. Hyman).*

Empirical Studies of Medical Malpractice Litigation

15. “Screening Plaintiffs and Selecting Defendants in Medical Malpractice Litigation: Evidence from Illinois and Indiana,” 15 J. Empirical Legal Stud. 1 (forthcoming March 2018) (with Bernard S. Black, David A. Hyman, Jing Liu, and Mohammad H. Rahmati).
16. “Insurance Crisis or Liability Crisis? Medical Malpractice Claiming in Illinois, 1980-2010,” 13 J. Empirical Legal Stud. 183 (2016) (with Bernard S. Black, David A. Hyman, and Mohammad H. Rahmati).
17. “Policy Limits, Payouts, and Blood Money: Medical Malpractice Settlements in the Shadow of Insurance,” 5 U.C. Irvine L. Rev. 559 (2015) (with Bernard S. Black, David A. Hyman, and Myungho Paik) (invited symposium).

18. “Does Tort Reform Affect Physician Supply? Evidence from Texas,” Int’l Rev. of L. & Econ. (2015) (with Bernard S. Black, David A. Hyman, and Myungho Paik), available at <http://dx.doi.org/10.1016/j.irle.2015.02.002>.*
19. “How do the Elderly Fare in Medical Malpractice Litigation, Before and After Tort Reform? Evidence From Texas” (with Bernard S. Black, David A. Hyman, Myungho Paik, and William M. Sage), Amer. L. & Econ. Rev. (2012), doi: 10.1093/aler/ahs017.*
20. “Will Tort Reform Bend the Cost Curve? Evidence from Texas” (with Bernard S. Black, David A. Hyman, Myungho Paik), 9 J. Empirical Legal Stud. 173-216 (2012).*
21. “O’Connell Early Settlement Offers: Toward Realistic Numbers and Two-Sided Offers,” 7 J. Empirical Legal Stud. 379 (2010) (with Bernard S. Black and David A. Hyman).*
22. “The Effects of ‘Early Offers’ on Settlement: Evidence From Texas Medical Malpractice Cases, 6 J. Empirical Legal Stud. 723 (2009) (with David A. Hyman and Bernard S. Black).*
23. “Estimating the Effect of Damage Caps in Medical Malpractice Cases: Evidence from Texas,” 1 J. Legal Analysis 355 (2009) (with David A. Hyman, Bernard S. Black, and William M. Sage) (inaugural issue).*
24. “The Impact of the 2003 Texas Medical Malpractice Damages Cap on Physician Supply and Insurer Payouts: Separating Facts from Rhetoric,” 44 The Advocate (Texas) 25 (2008) (with Bernard S. Black and David A. Hyman) (invited symposium).
25. “Malpractice Payouts and Malpractice Insurance: Evidence from Texas Closed Claims, 1990-2003,” 3 Geneva Papers on Risk and Insurance: Issues and Practice 177-192 (2008) (with Bernard S. Black, David A. Hyman, William M. Sage and Kathryn Zeiler).*
26. “Physicians’ Insurance Limits and Malpractice Payments: Evidence from Texas Closed Claims 1990-2003,” 36 J. Legal Stud. S9 (2007) (with Bernard S. Black, David A. Hyman, William M. Sage, and Kathryn Zeiler).*
27. “Do Defendants Pay What Juries Award? Post-Verdict Haircuts in Texas Medical Malpractice Cases, 1988-2003,” J. Empirical Legal Stud. 3-68 (2007) (with Bernard S. Black, David A. Hyman, William M. Sage, and Kathryn Zeiler).*
28. “Stability, Not Crisis: Medical Malpractice Claim Outcomes in Texas, 1988-2002,” 2 J. Empirical Legal Stud. 207–259 (July 2005) (with Bernard S. Black, David A. Hyman, and William S. Sage).*

Empirical Studies of the Law Firms and Legal Services

29. “Medical Malpractice Litigation and the Market for Plaintiff-Side Representation: Evidence from Illinois,” 13 J. Empirical Legal Stud. 603-636 (2016) (with David A. Hyman, Mohammad Rahmati, Bernard S. Black).*

30. “The Economics of Plaintiff-Side Personal Injury Practice,” U. Ill. L. Rev. 1563 (2015) (with Bernard S. Black and David A. Hyman).
31. “Access to Justice in a World without Lawyers: Evidence from Texas Bodily Injury Claims,” 37 Fordham Urb. L. J. 357 (2010) (with David A. Hyman) (invited symposium).
32. “Defense Costs and Insurer Reserves in Medical Malpractice and Other Personal Injury Cases: Evidence from Texas, 1988-2004,” 10 Amer. Law & Econ. Rev. 185 (2008) (with Bernard S. Black, David A. Hyman, and William M. Sage).*

Attorneys’ Fees—Empirical Studies and Policy Analyses

33. “The Mimic-the-Market Method of Regulating Common Fund Fee Awards: A Status Report on Securities Fraud Class Actions,” RESEARCH HANDBOOK ON REPRESENTATIVE SHAREHOLDER LITIGATION, Sean Griffith, Jessica Erickson, David H. Webber, and Verity Winship, Eds. (forthcoming 2017).
34. “Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions,” 115 Columbia L. Rev. 1371 (2015) (with Lynn A. Baker and Michael A. Perino).
35. “Regulation of Fee Awards in the Fifth Circuit,” 67 The Advocate (Texas) 36 (2014) (invited submission).
36. “Setting Attorneys’ Fees In Securities Class Actions: An Empirical Assessment,” 66 Vanderbilt L. Rev. 1677 (2013) (with Lynn A. Baker and Michael A. Perino).
37. “The Quasi-Class Action Method of Managing Multi-District Litigations: Problems and a Proposal,” 63 Vanderbilt L. Rev. 107 (2010) (with Geoffrey P. Miller).
38. “Incentivizing Institutional Investors to Serve as Lead Plaintiffs in Securities Fraud Class Actions,” 57 DePaul L. Rev. 471 (2008) (with Sam Dinkin) (invited symposium), reprinted in L. Padmavathi, Ed., SECURITIES FRAUD: REGULATORY DIMENSIONS (2009).
39. “Reasonable Attorneys’ Fees in Securities Class Actions: A Reply to Mr. Schneider,” 20 The NAPP Report 7 (Aug. 2006).
40. “Dissent from Recommendation to Set Fees Ex Post,” 25 Rev. of Litig. 497 (2006).
41. “Due Process and the Lodestar Method: You Can’t Get There From Here,” 74 Tul. L. Rev. 1809 (2000) (invited symposium).
42. “Incoherence and Irrationality in the Law of Attorneys’ Fees,” 12 Tex. Rev. of Litig. 301 (1993).
43. “Unloading the Lodestar: Toward a New Fee Award Procedure,” 70 Tex. L. Rev. 865 (1992).

44. “A Restitutionary Theory of Attorneys’ Fees in Class Actions,” 76 Cornell L. Rev. 656 (1991).

Liability Insurance and Insurance Defense Ethics

45. “The Treatment of Insurers’ Defense-Related Responsibilities in the Principles of the Law of Liability Insurance: A Critique,” 68 Rutgers U. L. Rev. 83 (2015) (with William T. Barker) (symposium issue).
46. “The Basic Economics of the Duty to Defend,” in D. Schwarcz and P. Siegelman, eds., RESEARCH HANDBOOK IN THE LAW & ECONOMICS OF INSURANCE 438-460 (2015).*
47. “Insurer Rights to Limit Costs of Independent Counsel,” ABA/TIPS Insurance Coverage Litigation Section Newsletter 1 (Aug. 2014) (with William T. Barker).
48. “Litigation Funding Versus Liability Insurance: What’s the Difference?,” 63 DePaul L. Rev. 617 (2014) (invited symposium).
49. “Ethical Obligations of Independent Defense Counsel,” 22:4 Insurance Coverage (July-August 2012) (with William T. Barker), available at <http://apps.americanbar.org/litigation/committees/insurance/articles/julyaug2012-ethical-obligations-defense-counsel2.html>.
50. “Settlement at Policy Limits and The Duty to Settle: Evidence from Texas,” 8 J. Empirical Leg. Stud. 48-84 (2011) (with Bernard S. Black and David A. Hyman).*
51. “When Should Government Regulate Lawyer-Client Relationships? The Campaign to Prevent Insurers from Managing Defense Costs,” 44 Ariz. L. Rev. 787 (2002) (invited symposium).
52. “Defense Lawyers’ Professional Responsibilities: Part II—Contested Coverage Cases,” 15 G’town J. Legal Ethics 29 (2001) (with Ellen S. Pryor).
53. “Defense Lawyers’ Professional Responsibilities: Part I—Excess Exposure Cases,” 78 Tex. L. Rev. 599 (2000) (with Ellen S. Pryor).
54. “Flat Fees and Staff Attorneys: Unnecessary Casualties in the Battle over the Law Governing Insurance Defense Lawyers,” 4 Conn. Ins. L. J. 205 (1998) (invited symposium).
55. “The Lost World: Of Politics and Getting the Law Right,” 26 Hofstra L. Rev. 773 (1998) (invited symposium).
56. “Professional Liability Insurance as Insurance and as Lawyer Regulation: A Comment on Davis, Institutional Choices in the Regulation of Lawyers,” 65 Fordham L. Rev. 233 (1996) (invited symposium).
57. “All Clients are Equal, But Some are More Equal than Others: A Reply to Morgan and Wolfram,” 6 Coverage 47 (1996) (with Michael Sean Quinn).

58. “Are Liability Carriers Second-Class Clients? No, But They May Be Soon-A Call to Arms against the Restatement of the Law Governing Lawyers,” 6 Coverage 21 (1996) (with Michael Sean Quinn).
59. “The Professional Responsibilities of Insurance Defense Lawyers,” 45 Duke L. J. 255 (1995) (with Kent D. Syverud); reprinted in IX INS. L. ANTHOL. (1996) and 64 Def. L. J. 1 (Spring 1997).
60. “Wrong Turns on the Three Way Street: Dispelling Nonsense about Insurance Defense Lawyers,” 5-6 Coverage 1 (Nov./Dec.1995) (with Michael Sean Quinn).
61. “Introduction to the Symposium on Bad Faith in the Law of Contract and Insurance,” 72 Tex. L. Rev. 1203 (1994) (with Ellen Smith Pryor).
62. “Does Insurance Defense Counsel Represent the Company or the Insured?” 72 Tex. L. Rev. 1583 (1994); reprinted in Practising Law Institute, INSURANCE LAW: WHAT EVERY LAWYER AND BUSINESSPERSON NEEDS TO KNOW (1998).
63. “A Missed Misalignment of Interests: A Comment on *Syverud, The Duty to Settle*,” 77 Va. L. Rev. 1585 (1991); reprinted in VI INS. L. ANTHOL. 857 (1992).

Class Actions, Mass Actions, and Multi-District Litigations

64. “What Can We Learn by Studying Lawyers’ Involvement in Multidistrict Litigation? A Comment on *Williams, Lee, and Borden, Repeat Players in Federal Multidistrict Litigation*,” 5 J. of Tort L. 181 (2014), DOI: 10.1515/jtl-2014-0010 (invited symposium).
65. “The Responsibilities of Lead Lawyers and Judges in Multi-District Litigations,” 79 Fordham L. Rev. 1985 (2011) (invited symposium).
66. “The Allocation Problem in Multiple-Claimant Representations,” 14 S. Ct. Econ. Rev. 95 (2006) (with Paul Edelman and Richard Nagareda).*
67. “A Rejoinder to *Lester Brickman, On the Theory Class’s Theories of Asbestos Litigation*,” 32 Pepperdine L. Rev. 765 (2005).
68. “Merging Roles: Mass Tort Lawyers as Agents and Trustees,” 31 Pepp. L. Rev. 301 (2004) (invited symposium).
69. “We’re Scared To Death: Class Certification and Blackmail,” 78 N.Y.U. L. Rev. 1357 (2003).
70. “The Aggregate Settlement Rule and Ideals of Client Service,” 41 S. Tex. L. Rev. 227 (1999) (with Lynn A. Baker) (invited symposium).
71. “Representative Lawsuits & Class Actions,” in B. Bouckaert & G. De Geest, eds., INT’L ENCY. OF L. & ECON. (1999).*

72. “I Cut, You Choose: The Role of Plaintiffs’ Counsel in Allocating Settlement Proceeds,” 84 Va. L. Rev. 1465 (1998) (with Lynn A. Baker) (invited symposium).
73. “Mass Lawsuits and the Aggregate Settlement Rule,” 32 Wake Forest L. Rev. 733 (1997) (with Lynn A. Baker) (invited symposium).
74. “Comparing Class Actions and Consolidations,” 10 Tex. Rev. of Litig. 496 (1991).
75. “Justice in Settlements,” 4 Soc. Phil. & Pol. 102 (1986) (with Jules L. Coleman).*

General Legal Ethics and Civil Litigation

76. “A Private Law Defense of the Ethic of Zeal” (in progress), available at <http://ssrn.com/abstract=2728326>.
77. “The DOMA Sideshow” (in progress), available at <http://ssrn.com/abstract=2584709>.
78. “Fiduciaries and Fees,” 79 Fordham L. Rev. 1833 (2011) (with Lynn A. Baker) (invited symposium).
79. “Ethics and Innovation,” 79 George Washington L. Rev. 754 (2011) (invited symposium).
80. “In Texas, Life is Cheap,” 59 Vanderbilt L. Rev. 1875 (2006) (with Frank Cross) (invited symposium).
81. “Introduction: Civil Justice Fact and Fiction,” 80 Tex. L. Rev. 1537 (2002) (with Lynn A. Baker).
82. “Does Civil Justice Cost Too Much?” 80 Tex. L. Rev. 2073 (2002).
83. “A Critique of *Burrow v. Arce*,” 26 Wm. & Mary Envir. L. & Policy Rev. 323 (2001) (invited symposium).
84. “What’s Not To Like About Being A Lawyer?” 109 Yale L. J. 1443 (2000) (with Frank B. Cross) (review essay).
85. “Preliminary Thoughts on the Economics of Witness Preparation,” 30 Tex. Tech L. Rev. 1383 (1999) (invited symposium).
86. “And Such Small Portions: Limited Performance Agreements and the Cost-Quality/Access Trade-Off,” 11 G’town J. Legal Ethics 959 (1998) (with David A. Hyman) (invited symposium).
87. “Bargaining Impediments and Settlement Behavior,” in D.A. Anderson, ed., *DISPUTE RESOLUTION: BRIDGING THE SETTLEMENT GAP* (1996) (with Samuel Issacharoff and Kent D. Syverud).
88. “The Legal Establishment Meets the Republican Revolution,” 37 S. Tex. L. Rev. 1247 (1996) (invited symposium).

89. “Do We Know Enough about Legal Norms?” in D. Braybrooke, ed., SOCIAL RULES: ORIGIN; CHARACTER; LOGIC: CHANGE (1996) (invited contribution).
90. “Integrating Theory and Practice into the Professional Responsibility Curriculum at the University of Texas,” 58 Law and Contemporary Problems 213 (1995) (with Amon Burton, John S. Dzienkowski, and Sanford Levinson,).
91. “Thoughts on Procedural Issues in Insurance Litigation,” VII INS. L. ANTHOL. (1994).

Legal and Moral Philosophy

92. “Elmer’s Case: A Legal Positivist Replies to Dworkin,” 6 L. & Phil. 381 (1987).*
93. “Negative Positivism and the Hard Facts of Life,” 68 The Monist 347 (1985).*
94. “Utilitarian Participation,” 23 Soc. Sci. Info. 701 (1984).*

Practice-Oriented Publications

95. “Your Role in a Law Firm: Responsibilities of Senior, Junior, and Supervisory Attorneys,” in F.W. Newton, ed., A GUIDE TO THE BASICS OF LAW PRACTICE (3D) (Texas Center for Legal Ethics and Professionalism 1996).
96. “Getting and Keeping Clients,” in F.W. Newton, ed., A GUIDE TO THE BASICS OF LAW PRACTICE (3D) (Texas Center for Legal Ethics and Professionalism 1996) (with James M. McCormack and Mitchel L. Winick).
97. “Advertising and Marketing Legal Services,” in F.W. Newton, ed., A GUIDE TO THE BASICS OF LAW PRACTICE (Texas Center for Legal Ethics and Professionalism 1994).
98. “Responsibilities of Senior and Junior Attorneys,” in F.W. Newton, ed., A GUIDE TO THE BASICS OF LAW PRACTICE (Texas Center for Legal Ethics and Professionalism 1994).
99. “A Model Retainer Agreement for Legal Services Programs: Mandatory Attorney’s Fees Provisions,” 28 Clearinghouse Rev. 114 (June 1994) (with Stephen Yelenosky).

Miscellaneous

100. “Public Opinion and the Federal Judiciary: Crime, Punishment, and Demographic Constraints,” 3 Pop. Res. & Pol. Rev. 255 (1984) (with Robert Y. Shapiro).*

NOTABLE SERVICE ACTIVITIES

Associate Reporter, American Law Institute Project on the Principles of Aggregate Litigation

Interested Party, Statistical Information Task Force, National Association of Insurance Commissioners, Model Medical Malpractice Closed Claim Reporting Law

Invited Academic Member, American Bar Association/Tort & Insurance Practice Section Task Force on the Contingent Fee

Chair, Dean Search Committee, School of Law, University of Texas at Austin

Chair, Budget Committee, School of Law, University of Texas at Austin

Coordinator, General Faculty Colloquium Series, School of Law, University of Texas at Austin

Sole Drafter, Assessment Report for the Juris Doctor Program at the School of Law, University of Texas at Austin, for the Commission on Colleges of the Southern Association of Colleges and Schools

RECENT AWARDS

Distinguished Fellow, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law (2014)

Robert B. McKay Law Professor Award, Tort Trial & Insurance Practice Section, American Bar Association (2009)

Faculty Research Grants, University of Texas at Austin (various years)

MEMBERSHIPS

American Bar Foundation

Texas Bar Foundation (Life Fellow)

State Bar of Texas (admitted 1988)

Tort Trial and Insurance Practice Section, American Bar Association

Society for Empirical Legal Studies

American Law and Economics Association

American Association for Justice

Association of American Law Schools