

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
– NASHVILLE DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN OF NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

Judge William L. Campbell
Courtroom A826
Magistrate Judge Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

**DECLARATION OF J. GERARD STRANCH, IV IN SUPPORT OF PLAINTIFFS’
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT
AGREEMENT AND MOTION FOR AWARD OF ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES AND CLASS REPRESENTATIVE SERVICE
AWARDS**

I, J. Gerard Stranch, IV, declare:

1. I am the Managing Partner of the law firm Bransetter, Stranch, and Jennings PLLC (“Bransetter”). I submit this declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement Agreement and Motion for Award of Attorneys’ Fees, Reimbursement of Expenses and Class Representative Service Awards. I make this Declaration based on my own personal knowledge, and if called as a witness, I could and would competently testify to the matters stated therein.

2. Attached as **Exhibit 1** is a true and correct copy of the Settlement Agreement (“SA” or “Agreement” or “Settlement”) entered into by Plaintiffs, individually and on behalf of the proposed Settlement Class, and Defendant Nissan North America, Inc. (“Nissan”). Unless

otherwise indicated, all capitalized terms herein have the same meaning as set forth in the Agreement.

I. PROCEDURAL HISTORY OF THE LITIGATION

3. The Settlement will resolve the following five class action lawsuits (“Lawsuits”) filed in the Middle District of Tennessee:

- *Stringer, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00099, filed on February 5, 2021 (*Stringer Action*);
- *Lane, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00150, filed on February 25, 2021 (*Lane Action*);
- *Newton, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00169, filed on March 1, 2021 (*Newton Action*);
- *Landa v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00232, filed on March 17, 2021 (*Landa Action*); and
- *Eliason, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00263, filed on March 26, 2021 (*Eliason Action*).

4. The Lawsuits concern the performance of the continuously variable transmission (“CVT”) in model year 2014-2018 Nissan Rogue, 2015-2018 Nissan Infiniti QX60, and 2015-2018 Nissan Pathfinder vehicles (“Class Vehicles”). A CVT is a type of automatic transmission that does not use conventional gears to achieve the various ratios required during normal driving. Instead, it uses a segmented steel belt between pulleys that can be adjusted to change the reduction ratio in the transmission. This is supposed to occur smoothly and continuously. Plaintiffs contend that Nissan promoted the CVT as a major selling point and its marketing and advertisements emphasized the CVT’s smoothness, fluid-feeling performance, improved drivability, and responsiveness. The Lawsuits allege that, contrary to such representations, Class Vehicles’ CVTs were defective, causing the Class Vehicles to shudder, hesitate, stall, make unusual noises, and ultimately resulting in premature transmission failure.

5. A brief procedural history of each action and motion practice relating thereto follows.

6. On February 5, 2021, Teresa Stringer, Karen Brooks, and William Papania filed the *Stringer Action* alleging claims under the Alabama Deceptive Trade Practices Act; the Tennessee Consumer Protection Act; breach of implied warranty under Tennessee law; the Texas Deceptive Trade Practices Act; breach of implied warranty under Texas law; breach of implied warranty under the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq.* (“MMWA”); and fraudulent omission. (*Stringer Action* Dkt. No. 1.)

7. On February 25, 2021, Brandon Lane, Debbie O’Connor, and Michelle Williams filed the *Lane Action* alleging claims under the California Consumers Legal Remedies Act (“CLRA”); the California Unfair Competition Law (“UCL”); breach of implied warranty under California law; violation of Ohio’s Consumer Sales Practices Act; breach of the implied warranty in tort under Ohio law; breach of implied warranty under the MMWA; negligence under Ohio law; and fraudulent omission. (*Lane Action* Dkt. No. 1.)

8. On March 1, 2021, Jayne Newton and Beatriz Zavala filed the *Newton Action* alleging claims under the Nebraska Consumer Protection Act; the CLRA; the UCL; breach of express warranty under Nebraska law; breach of implied warranty under Nebraska law; breach of express and implied warranty under the MMWA; fraud by concealment; and unjust enrichment. (*Newton Action* Dkt. No. 1.)

9. On March 17, 2021, Menachem Landa filed the *Landa Action* alleging claims under the New York General Business Law; breach of express warranty under New York law; breach of implied warranty under New York law; breach of express and implied warranty under the MMWA; unjust enrichment; and declaratory judgment. (*Landa Action* Dkt. No. 1.)

10. On March 26, 2021, Andrea Eliason and Wayne Balnicki filed the *Eliason Action* alleging claims under the Colorado Consumer Protection Act; breach of express warranty under Colorado law; breach of implied warranty under Colorado law; violation of the Utah Consumer Sales Practices Act; breach of express warranty under Utah law; breach of implied warranty under Utah law; breach of express warranty under Tennessee law; breach of implied warranty under Tennessee law; fraudulent omission under Tennessee law; breach of express and implied warranty under the MMWA; and unjust enrichment. (*Eliason Action* Dkt. No. 1.)

11. On March 10, 2021, Plaintiffs in the *Stringer*, *Lane* and *Newton* actions filed a Motion to Consolidate Under Fed. R. Civ. P. 42 and Appoint Interim Co-Lead Class Counsel and Executive Committee Under Fed. R. Civ. P. 23 (“Motion to Consolidate”), seeking to appoint Mark S. Greenstone of Greenstone Law APC, Marc L. Godino of Glancy Prongay & Murray LLP, and J. Gerard Stranch, IV of Branstetter, Stranch & Jennings PLLC interim Co-Lead Class Counsel and Stephen R. Bassar of Barrack, Rodos & Bacine as Executive Committee Counsel. (*Stringer Action* Dkt. No. 16; *Lane Action* Dkt. No. 9.)

12. On March 30, 2021, after the *Landa Action* and *Eliason Action* were filed on March 17, 2021 and March 26, 2021, respectively, Plaintiffs filed a Supplement to the original Motion to Consolidate seeking to consolidate all five actions and to appoint Lawrence Deutsch of Berger Montague PC and Ryan McDevitt of Keller Rohrback L.L.P. to serve on the proposed Executive Committee as well. (*Stringer Action* Dkt. No. 33; *Lane Action* Dkt. No. 19.)

13. On April 7, 2021, the parties held an all-day mediation via Zoom. The mediation was moderated by Hunter Hughes, a highly regarded mediator with decades of class action experience. The parties made substantial progress toward a settlement which they continued to negotiate over the ensuing months. Prior to this mediation, Nissan provided specifically negotiated

data to inform the mediation.

14. On April 9, 2021, Plaintiffs in all five cases and Nissan filed a Joint Motion for Entry of Stipulation and Agreed Order seeking to consolidate all Plaintiffs owning Rogue vehicles in the *Stringer Action* and all Plaintiffs owning Pathfinder vehicles into the *Lane Action* and permitting Plaintiffs to file consolidated complaints into the *Stringer Action* and the *Lane Action* by no later than April 16, 2021. (*Stringer Action* Dkt. No. 38.) This Court granted Plaintiffs' Joint Motion on April 12, 2021 (*Stringer Action* Dkt. No. 39) and Plaintiffs filed consolidated complaints in the *Stringer Action* and the *Lane Action* on April 16, 2021. (*Stringer Action* Dkt. No. 42; *Lane Action* Dkt. No. 31.) The consolidated complaint in the *Lane Action* added to the putative Class Infiniti QX60 vehicles, which are equipped with the same CVT as the Nissan Pathfinder.

15. On April 19, 2021, this Court granted Plaintiffs' Motion to Consolidate and appointed Mark S. Greenstone, Marc L. Godino and J. Gerard Stranch, IV as interim Co-Lead Class Counsel, and Stephen R. Bassar, Lawrence Deutsch, and Ryan McDevitt as interim Executive Committee Counsel. (*Stringer Action* Dkt. No. 43; *Lane Action* Dkt. No. 32.)

16. On May 17, 2021, Nissan answered the consolidated complaints in the *Stringer Action* and the *Lane Action* and, among other things, denied that the CVTs are defective and asserted various defenses. (*Stringer Action* Dkt. No. 53; *Lane Action* Dkt. No. 36.)

17. At the end of June 2021 the parties executed a detailed Settlement Term Sheet.

18. On July 9, 2021, Plaintiffs and Nissan filed a Joint Motion for Entry of Stipulation and Agreed Order seeking to consolidate all Plaintiffs owning Nissan Pathfinder and Infiniti QX60 vehicles into the *Stringer Action* so that all claims concerning Nissan Rogue, Nissan Pathfinder and Infiniti QX60 vehicles could be prosecuted in one action. (*Stringer Action* Dkt. No. 57; *Lane*

Action Dkt. No. 52.) On July 12, 2021, this Court granted the Motion (*Stringer Action* Dkt. No. 58; *Lane Action* Dkt. No. 53.), and on July 15, 2021, Plaintiffs filed the operative Amended Consolidated Class Action Complaint (“Amended Complaint”) in the *Stringer Action* bringing all Plaintiffs into the *Stringer* complaint. (*Stringer Action* Dkt. No. 59.)

19. On August 17, 2021, Nissan answered the Amended Complaint and again denied that the CVTs are defective and asserted various defenses. (*Stringer Action* Dkt. No. 61.)

20. Also in August 2020 the parties finalized and executed the Settlement Agreement following months of negotiations.

21. On September 7, 2021 Plaintiffs filed their Unopposed Motion for Preliminary Approval of Class Action Settlement Agreement, Conditional Certification of Settlement Class, and Approval of Class Notice (“Motion for Preliminary Approval”).

22. On October 13, 2021, this Court granted Plaintiffs’ Motion and preliminarily approved the Settlement Agreement, preliminarily certified the Class for settlement purposes only, appointed Mark S. Greenstone, Greenstone Law APC, Marc L. Godino, Glancy Prongay & Murray LLP, and myself as Co-Lead Class Counsel, and Stephen R. Bassier, Barrack Rodos & Bacine, Lawrence Deutsch, Berger Montague PC, and Ryan McDevitt, Keller Rohrback L.L.P., as Executive Committee Counsel (“Counsel”), appointed Plaintiffs as class representatives, appointed Kurtzman Carson Consultants, LLC (“KCC”) as Settlement Administrator, and ordered that Notice be mailed in accordance with the Notice provisions of the Settlement Agreement (“Preliminary Approval Order”). (*Stringer Action* Dkt. No. 75.)

II. THE HIGHLY SUCCESSFUL NOTICE PROGRAM

23. The Notice Program was very successful. As described in more detail below, the postcard Summary Notice is estimated to have reached approximately 3,487,782 of the 3,678,041

names and addresses on the Class Member List, equating to a reach of approximately 94.82 %

24. Following preliminary approval, the parties were diligent in working with KCC to provide the information and feedback necessary to mail the Class Notice on the earliest possible date. This included providing KCC with the data necessary to compile the Class List and working with KCC to review and finalize the postcard Summary Notice and Long Form Notice, the Settlement Website, and the IVR (Interactive Voice Response) script for the Settlement's toll-free telephone hotline. As a result of these efforts, KCC was in a position to mail the Class Notice earlier than anticipated. Thus, on December 7, 2021, the parties filed a Joint Motion to Reset the Fairness Hearing date seeking to advance the hearing date by two months from May 23, 2022 to March 21, 2022, which the Court granted. (Dkt. Nos. 76, 77.)

25. On September 16, 2021, in compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. Section 1715, KCC caused Notice Packets containing the Motion for Preliminary Approval, Preliminary Approval Order, Settlement Agreement and Amended Consolidated Class Action Complaint to be mailed via Certified Mail to the United States Attorney General and the Attorneys General of each of the 50 states and the District of Columbia, the Attorneys General of the 5 recognized U.S. Territories, as well as to parties of interest to this Action.

26. On August 27, 2021, Defendant provided KCC with Vehicle Identification Number ("VIN") information for all Class Vehicles. Using this VIN information provided by Nissan, KCC utilized the services of a third-party vendor, HIS Markit, to obtain mailing address data for the Settlement Class which resulted in a Class Member List of 3,678,041. Invalid and incomplete address data was removed and the List was updated using the National Change of Address database ("NOCA") maintained by the U.S. Postal Service ("USPS") to ultimately create a Class

List for mailing purposes comprised of 3,565,409 names and addresses.

27. On December 22, 2021, KCC caused the postcard Summary Notice to be mailed to the 3,565,409 names and addresses on the Class List. After mailing, KCC received 30,400 postcard Summary Notices returned by the USPS with forwarding addresses which were promptly remailed. In addition, KCC received 94,161 postcard Summary Notices returned by USPS as undeliverable. Through credit bureau and/or other public sources, KCC performed address searches for these undeliverable postcard Summary Notices and was able to find updated addresses for 16,534 Class Members who were promptly remailed postcard Summary Notices to the new addresses.

28. Following mailing of the postcard Summary Notice, Co-Lead Class Counsel and Executive Committee Counsel were contacted by hundreds of Class Members concerning the Settlement, and continue to be contacted daily. Counsel have responded to every inquiry. In connection with this effort, Counsel have engaged in lengthy telephone discussions with Class Members regarding the terms of the Settlement Agreement; assisted Class Members with filling out the Claim Form; assisted Class Members with the compilation and review of backup documents required to accompany the Claim Form; assisted Class Members with navigating the Settlement Website; and conferred with the Settlement Administrator to address Class Member questions regarding the administration process.

III. THE VERY FAVORABLE RESPONSE OF THE SETTLEMENT CLASS

29. As noted above, the postcard Summary Notice was mailed to over 3.5 million Class Members over a month ago. To date, Co-Lead Class Counsel and Executive Committee Counsel have received a total of 8 purported objections.¹ There have been 120 requests for exclusion.

¹ It is unclear that all eight communications are intended to be objections. Counsel have included anything that could potentially be construed as an objection.

These numbers are miniscule when compared to the number of Class Members and indicate that the Settlement has been very favorably received. The objection and opt-out deadline is February 22, 2022. In accordance with the Preliminary Approval Order, Counsel will provide a response to all objections on or before March 7, 2022, fourteen days prior to the March 21, 2022 Final Fairness Hearing.

IV. COUNSELS' EXTENSIVE PRE-FILING INVESTIGATION

30. Co-Lead Class Counsel and Executive Committee Counsel collectively investigated this matter over a period of approximately one year prior to filing. Counsels' efforts included in-depth interviews with hundreds of putative Class Members, consultation with automotive technical experts, and review of relevant consumer complaints, customer service records, and technical materials to fully understand the nature and extent of the CVT issues experienced by the Class Vehicles.

31. Counsel began to investigate the factual underpinnings of this case in about the beginning of 2020. To gain an understanding of the CVT performance issues experienced by the Class Vehicles, Counsel researched the history of Nissan's initial introduction of the CVTs into the Class Vehicles and its other models, and all of the subsequent modifications and redesigns of the CVTs in those vehicles. This included review of the many Technical Service Bulletins ("TSB") issued by Nissan over time to address CVT issues in both the Class Vehicles and other vehicles equipped with the same or substantially similar transmissions. In addition, Counsel reviewed technical articles concerning the Class Vehicles' CVTs and hundreds of Class Member complaints posted on the website of the National Highway Traffic Safety Administration ("NHTSA") or elsewhere.

32. Counsel also thoroughly researched the history of prior Nissan market actions and

class action settlements relating to other Nissan vehicles equipped with CVTs. To assist Counsel with the technical aspects of our investigation, Counsel engaged and consulted with a technical expert with significant experience in automotive mechanics, including CVTs.

33. In addition, Counsel researched and compiled sales and production data for the Class Vehicles, data regarding parts and labor costs for CVT repairs, and data regarding the Class Vehicles' service history, to enable Counsel to estimate the average cost of CVT repairs and the average lifespan of a CVT.

34. As part of our investigation, Counsel proactively reached out to putative Class Members through appropriate means that comply with best practices and ethical rules governing attorney advertising. As a result of our efforts, Counsel were contacted by over 1,000 putative Class Members and conducted hundreds of interviews. This time-consuming process involved numerous second and third round interviews as well as collection and review of putative Class Member service records. Through this process Counsel were able to learn about the real-world experiences of Class Vehicle owners and lessees.

35. On October 23, 2020, Beatriz Zavala served Defendant with a pre-litigation demand letter pursuant to the California Consumers Legal Remedies Act ("CLRA") and the Magnuson-Moss Warranty Act, on behalf of Nissan owners and lessees nationwide. Also on October 23, 2020, Plaintiff Brandon Lane served Defendant with a second pre-litigation demand letter pursuant to the CLRA and the MMWA, on behalf of Nissan Pathfinder owners and lessees nationwide.

36. On November 24, 2020, Counsel discussed Plaintiffs' demand letters and the basis of the present action with Nissan's attorneys. On November 25, 2020, Counsel received a letter from Nissan's attorneys formally responding to Plaintiffs' October 23, 2020 demand letters.

37. On December 8, 2020, Teresa Stringer served Defendant with a pre-litigation

demand letter pursuant to the Alabama Deceptive Trade Practices Act (“ADTPA”), and William Papania served Defendant with a pre-litigation demand letter pursuant to the Texas Deceptive Trade Practices Act (“TDPA”), on behalf of Nissan Rogue owners and lessees nationwide.

38. Also on December 8, 2020, Menachem Landa served Defendant with a pre-litigation demand letter pursuant to New York law, on behalf of Nissan Rogue owners and lessees nationwide.

39. During this time period, discussions with Nissan’s attorneys continued. For example, on or about the week of December 21, 2020, Counsel informed Nissan’s attorneys that Plaintiff Michelle Williams’s vehicle was receiving a CVT replacement due to a recent failure and offered to tender the vehicle for inspection so that Nissan could investigate the failure and preserve the parts in evidence storage if it wished to do so.

40. As of the end of 2020, Nissan had not agreed to take any action in response to Plaintiffs’ demand letters.

41. Undeterred, Counsel moved forward filing the *Stringer Action* on February 5, 2020, followed by the *Lane Action* on February 25, 2021, the *Newton Action* on March 1, 2021, the *Landa Action* on March 17, 2021, and the *Eliason Action* on March 26, 2021.

V. COUNSELS’ CONTINUED INVESTIGATION, MEDIATION AND SETTLEMENT

42. Counsels’ intensive investigatory efforts and discussions with Nissan’s counsel continued following the filing of the Lawsuits. Through the present day, counsel have also continued to speak with putative Class Members on a weekly basis, and to review relevant information regarding the Class Vehicles and their CVTs.

43. On February 23, 2021, Nissan conducted an inspection of Plaintiff William Papania’s vehicle at Twin City Nissan in Port Arthur, Texas.

44. On March 25, 2021, Plaintiff Andrea Eliason served Defendant with a pre-litigation demand letter pursuant to Utah law, on behalf of Nissan Rogue owners and lessees nationwide. The next day, March 26, 2021, Plaintiff Wayne Balnicki served Defendant with a pre-litigation demand letter under Colorado law, on behalf of Nissan Pathfinder owners nationwide.

45. The Settlement is the product of hard-fought and arm's length negotiations conducted by experienced counsel over an extended period of time.

46. Throughout February and March of 2021, Counsel discussed with Nissan's attorneys the potential for resolution on numerous occasions. Based on these discussions, the parties agreed to mediate. Prior to the mediation, Nissan's attorneys provided important information regarding the Class Vehicles' service history relating to CVT issues and CVT countermeasures over time which Nissan's attorneys reviewed in a virtual presentation attended by all Co-Lead Class Counsel and proposed Executive Committee Counsel.

47. On April 7, 2021, the parties held an all-day mediation via Zoom. The mediation was moderated by Hunter Hughes, a highly regarded mediator with decades of class action experience who also moderated two other mediations in 2019 regarding alleged CVT issues in Nissan Altima, Nissan Sentra/Versa and Nissan Juke vehicles. All Co-Lead Class Counsel and proposed Executive Committee Counsel attended the mediation. After a full day of mediation, the parties made significant progress toward an agreement in principle on the material terms of the Settlement. As one of those terms, Plaintiffs' counsel insisted they be provided with additional confirmatory discovery. The parties did not discuss attorneys' fees, costs, expenses or Class Representative Service awards until after negotiation of the substantive relief to be provided to the Settlement Class.

48. Following the mediation, negotiations continued during the ensuing months, and

the parties spent over a month drafting a detailed Term Sheet that was executed at the end of June 2021. The parties then spent approximately two months negotiating the Settlement Agreement and related documents—a process involving the exchange of numerous drafts and multiple conversations and emails regarding the language of the Agreement, the notice documents, and other related matters. The end result is a settlement that provides significant and timely benefits to Settlement Class Members.

VI. THE EXTENSIVE INFORMATION PROVIDED BY NISSAN

49. As noted above, prior to mediation Nissan's counsel provided important information regarding the Class Vehicles' service history relating to CVT issues and CVT countermeasures over time which Nissan's attorneys reviewed in a virtual presentation attended by all proposed Co-Lead Class Counsel and proposed Executive Committee Counsel

50. On June 17, 2021, concurrently with negotiating the Term Sheet, Plaintiffs' Counsel provided Nissan's attorneys with a detailed list of confirmatory discovery required by Plaintiffs, which included both information requests and document requests.

51. In response to the information requests, Nissan has provided detailed information regarding CVT issues and countermeasures over time; the average warranty cost of CVT replacements; and sale and lease data.

52. In response to the document requests, Nissan has produced approximately 19,448 pages of documents including warranty information; project files; TSBs; investigation reports; Countermeasure Action Requests ("CAR"); customer complaints; and related materials. In addition, Nissan has produced a database comprised of 123,244 rows of warranty claim-related information for CVT repairs and replacements to the Class Vehicles with comprehensive data for tens of thousands of vehicles serviced under warranty by Nissan dealers throughout the United

States, including, *inter alia*, Vehicle Identification Number (“VIN”); make and model year; in service date; engine type; transmission type; claim type; production date; repair date; mileage at repair; cost of parts; cost of labor; operations codes; and detailed comments regarding the specific repair. This key data was important to understanding the performance history of the CVTs in the Class Vehicles and the adequacy of the relief provide by the Settlement, and this data supports final approval.

53. In addition, Counsel personally interviewed a Nissan engineer responsible for field quality investigation and overview of CVT incidents in the field concerning the history of the Class Vehicles’ CVTs; issues experienced by consumers with their CVTs; Nissan’s investigation process; the Class Vehicles’ CVT incident rate over time; countermeasures taken by Nissan to address CVT issues; and the information and documents provided by Nissan to Counsel.

VII. THE SETTLEMENT CLASS IS WELL REPRESENTED BY COUNSEL AND BY PLAINTIFFS

54. Co-Lead Class Counsel and Executive Committee Counsel are nationally recognized for their skill and experience in prosecuting complex class actions. *See* Declarations of Co-Lead Class Counsel Mark S. Greenstone and Marc L. Godino, and Executive Committee Counsel Stephen R. Basser, Lawrence Deutsch and Ryan McDevitt, attached hereto as **Exhibits 5, 6, 7, 8, and 9** respectively. They have a proven track record of success leading and successfully resolving complex automotive defect class actions and are well-suited to represent the Settlement Class Members here. *Id.*

55. Branstetter has a long history of serving as class counsel in some of the highest profile class actions in the country. For example, I was appointed to the Plaintiffs’ Steering Committee in the *In re: Volkswagen “Clean Diesel” Multi-District Litigation*, in which the district court recently approved settlements obligating *Volkswagen* to pay a minimum of \$17 billion

(including a buyback fund of over \$10 billion to eligible class members). This settlement was reported as the largest auto scandal payout in U.S. history. Similarly, in *In re Wellbutrin XL Antitrust Litigation*, in its role as co-lead counsel, the Firm successfully petitioned for certification of a class of indirect purchasers for a brand and generic version of a pharmaceutical antidepressant, achieved a \$12 million settlement for the that class, and received praise from the presiding district court judge for its work. The Firm served on the Plaintiffs' Executive Committee in *Dahl v. Bain Capital Partners, LLC*, a federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry, which reached a \$590.5 million settlement approximately two months before trial and was finally approved in 2015.

56. I also served on the Plaintiffs' Steering Committee in the *In re New England Compounding Pharmacy, Inc. Products Liability Litigation*, a mass-tort MDL proceeding stemming from the 2012 fungal meningitis catastrophe caused by tainted pharmaceuticals that resulted in the deaths of over 100 people and 700 fungal infections across the country. Although the compounding pharmacy ultimately filed for Chapter 11 bankruptcy protection, Branstetter (along with the rest of the Plaintiffs' Steering Committee) secured over \$230 million for victims in settlements with the compounding pharmacy, its vendors, and its health-care facility customers.

57. I also served as counsel in *Staubus et al., v. Endo Pharmaceuticals, Inc., et al.*, C-41916 (Circuit Court for Sullivan County at Kingsport, Tennessee) (J. Moody). Branstetter brought claims on behalf of twenty-seven cities and counties and one child born drug-dependent in upper Northeast Tennessee against numerous prescription drug manufacturers and doctors under the Tennessee Drug Dealer Liability Act due to their participating in an illegal drug market for opioids. Two defendants, Purdue Pharma and Mallinckrodt, declared bankruptcy during the litigation. After securing a default judgment based on discovery violations, Plaintiffs reached a settlement with

doctor defendants, and the remaining manufacturing defendants, Endo Pharmaceuticals, Inc., and Endo Health Solutions, Inc., settled the plaintiffs' claims on the eve of trial for \$35 million, representing the largest single recovery against these manufacturer defendants in any opioid-related litigation in the country to that point.

58. These are just a few recent and noteworthy examples from a track record of excellence by Branstetter that spans decades. Attached as **Exhibit 2** hereto is a true and accurate copy of the firm resume of Branstetter, which identifies some of the firm's other notable accomplishments.

VIII. THE SETTLEMENT MERITS FINAL APPROVAL

59. I believe that the proposed Settlement extends outstanding relief to the Settlement Class, is fair, reasonable and adequate, and should be finally approved.

60. This proposed Settlement addresses the claims of approximately 3.6 million current and former owners and lessees of 2014-2018 model year Nissan Rogue vehicles, 2015-2018 model year Nissan Pathfinder vehicles and 2015-2018 model year Infiniti QX60 vehicles equipped with a CVT. The Settlement extends powertrain coverage under the Class Vehicles' New Vehicle Limited Warranty for transmission repairs by 24 months or 24,000 miles, whichever occurs first (the "Warranty Extension Period"), enabling Settlement Class Members to seek under-warranty transmission repairs after the expiration of their existing transmission warranty (the "Extended Warranty"). SA ¶ 54. The Extended Warranty will apply automatically to all Class Vehicles without need for Settlement Class Members to submit a claim or take any other action. If a Class Vehicle transmission requires a qualifying repair or replacement during the Warranty Extension Period, a Class Member need only bring the vehicle to an authorized Nissan or Infiniti dealer to take advantage of this significant benefit.

61. The Settlement includes a valuable reimbursement program that effectively makes the Extended Warranty retroactive. Under the Settlement, Nissan will reimburse Settlement Class Members the full amount they paid to an authorized Nissan or Infiniti dealer (or up to \$5,000 paid to a non-Nissan/Infiniti repair facility) for qualifying repair or replacement of their Class Vehicle's transmission during the Warranty Extension Period. SA ¶ 56. Settlement Class Members need only complete a simple Claim Form and provide contemporaneous documentation of a Qualifying Repair to receive reimbursement under the Settlement.

62. Additionally, if an authorized Nissan or Infiniti dealer recommended repair of a Class Vehicle's transmission during the vehicle's Warranty Extension Period, but the repair was performed outside of the Warranty Extension Period, Nissan will still reimburse the full amount paid to an authorized Nissan or Infiniti dealer (or up to \$5,000 paid to a non-Nissan/Infiniti repair facility), provided the qualifying repair is performed within ninety (90) days after the Notice Date or the vehicle reaching 95,000 miles, whichever occurs earlier. *Id.* ¶ 57. Since the inception of the Lawsuits, Plaintiffs' counsel have spoken with numerous individuals who simply could not afford to have their Class Vehicle's transmission repaired. Replacing (or even repairing) a Class Vehicle's transmission can be extremely expensive. This provision provides valuable coverage for Settlement Class Members who, for financial reasons or otherwise, chose not to have a transmission repair performed prior to the expiration of the Warranty Extension Period, even if it was recommended during that period.

63. Finally, the Settlement provides a \$1,000 Voucher usable towards the purchase or lease of a new Nissan or Infiniti vehicle to all current and former Class Vehicle owners who had two or more qualifying transmission repairs or replacements during their period of ownership, as reflected by Nissan's warranty records, and who, if eligible, opted not to submit a claim for

reimbursement. SA ¶¶ 12, 59.

64. Nissan denies the existence of any CVT defect and, absent approval of the Settlement, will certainly continue to defend this litigation vigorously. Based on my experience, I believe that litigating this case to final judgment would almost certainly require substantial motion practice, extensive fact discovery, class certification briefing, dispositive motions, a trial, and, given the size of the Class and amount of money at stake, a lengthy appeal process. Continuing to litigate this case would have entailed considerable expense and risks, especially at the class certification stage, which would require expert reports and testimony in order to establish the CVT defect and show that it is common to the Class Vehicles, and that it causes transmission failure which is unrelated to and separate from normal transmission wear and tear. This is particularly true here given that the allegedly defective component—the Class Vehicles’ CVTs—is one of the Class Vehicles’ most complex systems with hundreds of sub-components. Discovery would most likely have had to have been pursued both in the United States and Japan, where Nissan’s parent is located, and would have required significant travel and the translation and analysis of highly technical documents. Plaintiffs would also have faced the risk that the Court might not certify a Class, or that they would not prevail at trial even if certified. I believe that the significant benefits of the Settlement, when weighed against the risks, expense, complexity and duration of continued litigation, support granting final approval of the Settlement.

65. For all of the foregoing reasons, as well as those discussed more fully in Plaintiffs concurrently filed Memorandum of Law in Support of Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement, I believe that final approval of the proposed Settlement, which provides immediate and substantial relief to the Settlement Class, is merited.

IX. COUNSELS’ REQUESTED AWARD OF FEES AND EXPENSES IS REASONABLE AND JUSTIFIED

66. Under the Settlement, Nissan has agreed not to oppose Counsels' application for up to \$6,250,000 for attorneys' fees, costs, and expenses. SA ¶ 114. Counsel believe the requested fee and expense award is reasonable and justified given the outstanding results achieved, the amount of work undertaken to achieve those results, and the risks associated with litigation, as discussed more fully above.

67. To provide the Court with a value to assist it in determining whether the attorneys' fees aspect of the Settlement is likely to be approved as fair, reasonable, and adequate, Plaintiffs' counsel retained Lee M. Bowron, ACAS, MAAA, an actuary who specializes in pricing and valuing extended service contracts and warranty extensions, to obtain a preliminary valuation of the Settlement's extended warranty coverage. Based on the comprehensive warranty claims data provided by Nissan, Mr. Bowron conservatively estimates the retail value to the Settlement Class of the Extended Warranty and reimbursement coverage provided for by the Settlement to be \$354,101,000. *See* Declaration of Lee M. Bowron ¶ 4 and **Exhibit 2**, filed concurrently herewith. Mr. Bowron's estimate does not include the value of any other Settlement benefits, such as a Voucher for certain current and former Class Vehicle owners, an expedited dispute resolution program for Future Transmission Claims and the substantial costs of notice and settlement administration in a case involving well over a million Class Vehicles. *Id.* Plaintiffs believe this valuation alone readily supports the award of \$6,250,000 for attorneys' fees, costs, and expenses, which represents just 1.76% of Mr. Bowron's estimate and will be paid separate and apart from the Settlement Class relief.

68. Counsel have collectively devoted 2,881.9 hours to this litigation with a corresponding lodestar of 2,085,654.80, representing a multiplier of 2.96.

69. A lodestar summary including the names of attorneys and professional support

staff who worked on this case for my firm and each timekeeper's respective hours is attached as **Exhibit 3**. A summary of my firm's expenses is attached as **Exhibit 4**. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my firm are set forth in my Firm Resume, attached hereto as **Exhibit 2**. Awards supported by my firm's hourly rates and corresponding lodestar, and expenses, have been regularly approved in class action or complex litigation matters that I have overseen, including the following: *Sullivan County et al. v. Endo Pharma., Inc., et al.*, Case No. C-41916, Circuit Court for Sullivan County Tennessee and *Howell v. Eastman Credit Union*, Case No. C-42517, Circuit Court for Sullivan County, Tennessee.

70. Lodestar and expense summaries including the names of attorneys and professional support staff who worked on this case and each timekeeper's respective hours for my Co-Lead Class Counsel Greenstone Law APC and Glancy Prongay & Murray LLP, and Executive Committee Counsel Barrack, Rodos & Bacine, Berger Montague PC and Keller Rohrback L.L.P., are set forth in the Declarations of Counsel attached as **Exhibits 5, 6, 7, 8, and 9**, respectively. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my Co-Lead Class Counsel and Executive Committee Counsel are set forth in the Firm Resumes attached to Counsels' Declarations. *Id.* As attested to in Counsels' attached Declarations, awards supported by the hourly rates and corresponding lodestar, and expenses, of my Co-Lead Class Counsel and Executive Committee Counsel have similarly been regularly approved in class action settlements that they have overseen. *See Id.*

71. All Counsels' lodestar and expense summaries were prepared by the person in each respective firm who oversaw and conducted day-to-day activities of the firm, and who reviewed printouts (and supporting documentation where necessary and appropriate) in connection with the preparation of this Declaration. The purpose of this review was to confirm both the accuracy of

the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. Counsel believe that the time reflected in each firm's lodestar calculation as set forth herein is reasonable and was necessary for the effective and efficient prosecution and resolution of the litigation.

72. The hours and lodestar incurred by Counsel will increase because Counsel is responsible for any further briefing, including responding to any objectors, attending the final approval hearing and the significant post-hearing work which will include many months of claims administration and settlement implementation. If appeals are filed, Counsel will handle the appeals. On an ongoing basis, Counsel will continue to be in regular contact with Class Members who contact counsel regarding the Settlement and its claims process, as well as the Settlement Administrator regarding the same, and will continue to oversee the repair/replacement programs and the claim process, and will continue to regularly review and act on the reports provided by the Settlement Administrator, as well as address any issues if they arise. However, no additional fees will be paid for this work.

73. Counsel have collectively incurred \$83,816.19 in costs and expenses in this case which have been summarized by each firm, by category. *See Exhibits 3-9*. The expenses were kept in each firm's books and records prepared from contemporaneous receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The out-of-pocket litigation expenses incurred by Counsel in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by Counsel successfully prosecuting class action litigation. *See* ¶ 64, *supra*, and **Exhibits 5-9**.

74. Counsel have prosecuted this case solely on a contingent-fee basis. To date,

Counsel have received no compensation of any kind for Counsels' work on this matter.

X. THE CLASS REPRESENTATIVE SERVICE AWARDS ARE REASONABLE AND JUSTIFIED

75. Nissan also agreed to pay incentive awards of \$5,000 to each of the ten Plaintiffs named in the Lawsuits. SA, ¶ 114. These awards will be paid separately from the Settlement consideration for Class Members and will not reduce Settlement benefits to Class Members. *Id.* These amounts were also negotiated after the principal terms of the Settlement were negotiated. These amounts are based on time and efforts Plaintiffs expended and their commitment to the Lawsuits. Each of the Plaintiffs stepped forward to file the various lawsuits and represent other putative Class Members knowing that they could be subject to discovery, that the litigation could take years, that they were obligated to testify at trial, and that, in the end, their efforts might not be successful. Nonetheless, the Plaintiffs were willing to and did do everything required and without them these cases would not have been brought and the Settlement obtained. Plaintiffs invested their personal time providing information and documents to Counsel, having their cars inspected (for certain of the Plaintiffs) reviewing court filings, and consulting for mediation and settlement. The relatively modest service awards are fair and reasonable.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of February 2022, at Nashville, Tennessee.

By: s/J. Gerard Stranch, IV
J. Gerard Stranch, IV

Respectfully submitted,

Dated: February 7, 2022

By: s/ J. Gerard Stranch, IV

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Other Plaintiffs' Counsel

CERTIFICATE OF SERVICE

The undersigned certifies the foregoing document was filed with the Court's Case Management/Electronic Case Filing System, this 7th day of February, 2022, and served upon the following counsel:

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By: /s/ J. Gerard Stranch, IV
J. Gerard. Stranch, IV

SETTLEMENT AGREEMENT

Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O'Connor, Michelle Williams, and Wayne Balnicki ("Plaintiffs") and Nissan North America, Inc. ("NNA") (collectively, Plaintiffs and NNA shall be referred to as the "Parties"), by and through their counsel of record enter into this Settlement Agreement, providing for settlement of all claims asserted or which could have been asserted in the five putative class action lawsuits described below relating to Class Vehicles defined below, pursuant to the terms and conditions set forth below, and subject to the approval of the Court, described below.

WHEREAS, Plaintiffs collectively are parties in the following five putative class action lawsuits (the "Lawsuits") alleging that certain Nissan vehicles contain a defect in the continuously variable transmission ("CVT") which can lead to poor transmission performance or failure, and asserting various breach of warranty, statutory, and common law theories of liability:

- *Stringer, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00099, pending in the United States District Court for the Middle District of Tennessee ("*Stringer*");
- *Newton, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00169, pending in the United States District Court for the Middle District of Tennessee ("*Newton*");
- *Landa v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00232, pending in the United States District Court for the Middle District of Tennessee ("*Landa*");
- *Lane, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00150, pending in the United States District Court for the Middle District of Tennessee ("*Lane*"); and
- *Eliason, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00263, pending in the United States District Court for the Middle District of Tennessee ("*Eliason*").

WHEREAS, NNA has denied and continues to deny all of the Plaintiffs' claims related to the CVT in their vehicles, denies all allegations of wrongdoing, fault, liability, or damage of any

kind to Plaintiffs or the Settlement Class (as defined below), denies that it acted improperly or wrongfully in any way, and believes that this litigation is without merit;

WHEREAS, the Parties to this Settlement Agreement conducted extensive investigation and discovery into the claims and defenses in this case;

WHEREAS, while Plaintiffs and their counsel believe that the claims asserted in the Lawsuits have merit, and that such claims could have been successful at trial, they recognize the costs and risks of prosecuting this litigation and believe that it is in the interest of all members of the Settlement Class to resolve finally and completely the pending and potential claims of the Plaintiffs and the Settlement Class against NNA on the terms as agreed;

WHEREAS, although NNA believes the Lawsuits have no merit, it has concluded that settlement is desirable as a further commitment to its customers, to ensure the satisfaction of its customers, to preserve and enhance goodwill with its customers, including the Plaintiffs, and to end further litigation of the claims in the Lawsuits related to Class Vehicles, which could be protracted, burdensome and expensive for both Plaintiffs and NNA;

WHEREAS, Plaintiffs' counsel and NNA's counsel conducted arm's length settlement negotiations via mediation and further telephone negotiations;

WHEREAS, NNA has agreed to class treatment of the claims alleged in *Stringer*, as amended, solely for the purpose of effectuating a compromise and settlement of those claims on a class basis, and denies that any of the Lawsuits or *Stringer*, as amended, could properly proceed on a class basis for purposes of litigation or trial.

NOW, THEREFORE, the undersigned Parties stipulate and agree, subject to the approval of the Court, that all claims of Plaintiffs and Class Members against NNA shall be finally settled, discharged, and resolved on the terms and conditions as set forth below.

DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the defined meanings set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

1. “Appropriate Contemporaneous Documentation of Nissan Diagnosis” means the original, or a true and correct copy, of written documentation created by an authorized Nissan or Infiniti dealer, at or near the time of the Nissan or Infiniti dealer’s diagnosis and recommendation, within the Warranty Extension Period, establishing that such diagnosis and recommendation occurred on a specific date and at a specific mileage.

2. “Appropriate Contemporaneous Documentation of Qualifying Repair” means the original, or a true and correct copy, of written documentation created by an authorized Nissan or Infiniti dealer, or other non-Nissan/Infiniti automotive repair facility at or near the time of a Qualifying Repair and as part of the same transaction, establishing that a Class Vehicle had a Qualifying Repair on a specific date and at a specific mileage.

3. “Authorized Reimbursement Participant” means any Class Member who has satisfied the Criteria for Reimbursement and, if the Class Member is a former owner who also meets the Criteria for a Voucher for the same Class Vehicle, has elected to receive reimbursement of a Qualifying Repair instead of a Voucher. Status or rights as an Authorized Reimbursement Participant are not transferable.

4. “Authorized Voucher Participant” means any Class Member who has satisfied the Criteria for a Voucher and, if the Class Member also meets the Criteria for Reimbursement for the same Class Vehicle, has not elected to be an Authorized Reimbursement Participant. Status or rights as an Authorized Voucher Participant are not transferable.

5. “Attorneys’ Fees and Expenses” means the amounts approved by the Court for attorneys’ fees, costs, and litigation expenses, including fees and expenses of experts or other consultants, pursuant to an application submitted by Co-Lead Class Counsel under Paragraph 113 below.

6. “Claim Form” means the claim form, substantially in the form set forth in Exhibit “B” to this Settlement Agreement, which must be timely completed and submitted by a Class Member in order to meet, in part, the Criteria for Reimbursement under the terms of this Settlement Agreement.

7. “Claims Period” means the time within which a Class Member must submit a Claim Form. The Claims Period shall commence on the Notice Date and end at a date certain ninety (90) days after the Notice Date or thirty (30) days after a Qualifying Repair, whichever is later. For Class Members who are sent a re-mailed Summary Notice pursuant to Paragraph 70, the Settlement Administrator will accept and consider Claim Forms for that Class Member received within ninety (90) days after the date of remailing of the Summary Notice.

8. “Co-Lead Class Counsel” means Mark S. Greenstone, Greenstone Law APC, Marc L. Godino, Glancy Prongay & Murray LLP, and J. Gerard Stranch, IV, Bransetter, Stranch & Jennings PLLC.

9. “Class Members” means all persons who are members of the Settlement Class, except those who validly and timely request exclusion from the Settlement Class pursuant to Paragraphs 95 and 96.

10. “Class Vehicles” means 2014-2018 model year Nissan Rogue vehicles equipped with a CVT (“Rogue Class Vehicles”) and 2015-2018 model year Nissan Pathfinder and 2015-

2018 model year Infiniti QX60 vehicles equipped with a CVT (“Pathfinder/QX60 Class Vehicles”).

11. “Court” means the United States District Court for the Middle District of Tennessee in which the *Stringer* case is pending.

12. “Criteria for a Voucher” means the criteria that a Class Member must satisfy in order to be eligible to receive a Voucher pursuant to the terms of this Settlement Agreement, which are: (1) the Class Member must be a current or former owner of a Class Vehicle as of the Notice Date; and (2) NNA warranty records reflect that, during the time that the Class Member owned the Class Vehicle, the Class Vehicle had two or more replacements or repairs to the transmission assembly (including torque converter and/or valve body) and/or Automatic Transmission Control Unit (“ATCU”). Prior software updates and/or reprogramming do not count as a prior repair.

13. “Criteria for Reimbursement” means the criteria that a Class Member must satisfy in order to be eligible to receive a reimbursement for a Qualifying Repair pursuant to the terms of this Settlement Agreement, which are: (1) the Class Member must be a current or former owner or lessee of a Class Vehicle as of the Notice Date; (2) the Class Member actually paid for a Qualifying Repair; and (3) the Class Member must submit to the Settlement Administrator within the applicable Claims Period (a) a properly completed Claim Form with a proper VIN; (b) an affirmation under penalty of perjury that the Class Member (i) is a current or former owner or lessee of the Class Vehicle identified on the Claim Form and (ii) is not seeking reimbursement for any portion of the Qualifying Repairs previously paid for by NNA or by an extended warranty or service contract provider; and (c) all necessary supporting documentation which is:

- A. Appropriate Contemporaneous Documentation of Qualifying Repair establishing that (i) a Qualifying Repair was made; (ii) the Class Member paid for the Qualifying Repair; (iii) the amount paid by the Class Member

for the Qualifying Repair; (iv) the vehicle's mileage at the time of the Qualifying Repair; and (v) the date of the Qualifying Repair.

- B. Additionally, for a Qualifying Repair made after expiration of the Warranty Extension but within the time frame described in Paragraph 57, Appropriate Contemporaneous Documentation of Nissan Diagnosis establishing that (i) an authorized Nissan or Infiniti dealer, diagnosed and recommended a repair to the transmission assembly or ATCU; (ii) the vehicle's mileage at the time of the diagnosis and recommendation was within the Warranty Extension Period; and (iii) the date on which the diagnosis and recommendation was made was within the Warranty Extension Period.

14. "Effective Date of Settlement" means sixty-one (61) days after the date when the Final Order and Judgment in the *Stringer* case is entered if no appeal is timely filed and no motion to extend the time for filing an appeal has been filed. If a motion to extend the time to file an appeal is filed within sixty (60) days after the Final Order and Judgment in the *Stringer* case is entered and the motion is subsequently denied, then the Effective Date of Settlement is the date on which the motion to extend is denied if no other appeals have been filed. If there is an appeal, the Effective Date of Settlement shall be the date on which (a) all such appeals have been dismissed; or (b) the appropriate Court of Appeals has entered a final judgment affirming the Final Order and Judgment of the Court, which (i) is no longer subject to any further appellate challenge, or (ii) has been affirmed by the United States Supreme Court, whichever is earlier.

15. "Event of Termination" means any event terminating the Settlement Agreement, including but not limited to: (1) mutual written agreement of the parties to terminate the Settlement Agreement; (2) the Court denying any motion for preliminary or final approval of the Settlement; (3) any reviewing Court reversing the Court's orders of preliminary or final approval of the Settlement; or (4) any other event set forth in this Settlement Agreement according to which the Settlement Agreement would be terminated.

16. “Excluded Claims” means (1) claims for personal injury, wrongful death, or physical damage to property other than a Class Vehicle or its component parts and (2) Future Transmission Claims.

17. “Executive Committee Counsel” means Stephen R. Bassar, Barrack, Rodos & Bacine, Lawrence Deutsch, Berger Montague PC, and Ryan McDevitt, Keller Rohrback L.L.P.

18. “Expedited Resolution Process” means the required process for addressing any Future Transmission Claims, as well as any claims or disputes relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle, which process is described in more detail in Exhibit “A” to this Settlement Agreement. No Class Member may participate as a class representative or class member in any class claim against NNA or any of the Released Parties related to claims covered by the Expedited Resolution Process.

19. “Fairness Hearing” means the final approval hearing(s) scheduled by the Court to determine whether to approve this Settlement, finally certify the Settlement Class, and to award Attorneys’ Fees and Expenses.

20. “Final Order and Judgment” means the order and final judgment of the Court dismissing the *Stringer* case with prejudice and approving this Settlement, substantially in the form of Exhibit “F” to this Settlement Agreement.

21. “Future Transmission Claims” means claims for breach of the New Vehicle Limited Warranty, as modified by the Warranty Extension, related to transmission design, manufacturing or performance based solely on events that occur after the Notice Date. No such claim will be deemed to have accrued after the Notice Date, and a Class Member shall not have standing to assert any claim against NNA for breach of the New Vehicle Limited Warranty as modified by the Warranty Extension, unless the Class Member, after the Notice Date, takes his or her Class Vehicle

to an authorized Nissan or Infiniti dealer, as appropriate for the make of Class Vehicle involved, and requests warranty coverage for a claimed defect in the transmission under the New Vehicle Limited Warranty and NNA fails to comply with the terms of the New Vehicle Limited Warranty. A claim based, in whole or in part, on any transmission performance problem, repair or repair attempt, or any other conduct or event before the Notice Date is not a Future Transmission Claim but is a Released Claim. Future Transmission Claims must be based entirely upon transmission performance issues, repairs or repair attempts, or any other conduct or events that occur after the Notice Date. However, the fact that a Class Member experienced a transmission problem before the Notice Date shall not preclude such Class Member from making a Future Transmission Claim based solely on events that occur after the Notice Date.

22. “Lawsuits” means the five proceedings captioned *Stringer, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00099, pending in the United States District Court for the Middle District of Tennessee; *Newton, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00169, pending in the United States District Court for the Middle District of Tennessee; *Landa v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00232, pending in the United States District Court for the Middle District of Tennessee; *Lane, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00150, pending in the United States District Court for the Middle District of Tennessee; and *Eliason, et al. v. Nissan of North America, Inc., et al.*, Case No. 3:21-cv-00263, pending in the United States District Court for the Middle District of Tennessee.

23. “Long Form Notice” means the Court-approved long form of notice of this Settlement to be made available to the Settlement Class on the Settlement Website, and by the Settlement Administrator upon request, substantially in the form attached hereto as Exhibit “C.”

24. “NNA’s Counsel” means E. Paul Cauley, Jr., Faegre Drinker Biddle & Reath, LLP.

25. “NNA” means Nissan North America, Inc.

26. “New Vehicle Limited Warranty” means the written limited warranty described in the applicable 2014-2018 model year Nissan Rogue Warranty Information Booklet, 2015-2018 model year Nissan Pathfinder Warranty Information Booklet, 2015-2018 model year Infiniti QX60 Warranty Information Booklet and all of their terms and conditions, including applicable limitations and exclusions.

27. “Notice” means the Court-approved form of notice of this Settlement to the Settlement Class, including the Summary Notice, Long Form Notice and other measures of providing notification to the Settlement Class of the Settlement, its terms and the Class Members’ rights and obligations.

28. “Notice and Settlement Administration Expenses” means all reasonable costs and expenses incurred in connection with preparing, printing, and mailing the Summary Notice and any costs incurred in administering the settlement.

29. “Notice Date” means the date on which the Settlement Administrator completes initial mailing of the Summary Notice or other such Court required Notice to the Settlement Class, which the Parties and Settlement Administrator will use best efforts to occur no later than one hundred and twenty (120) days from the Court’s order granting preliminary approval of the Settlement.

30. “Other Plaintiffs’ Counsel” means Caroline Ramsey Taylor, Whitfield Bryson & Mason, LLP and John G. Emerson, Emerson Firm, PLLC.

31. “Parties” means Plaintiffs and NNA.

32. “Plaintiffs” means Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O’Connor, Michelle Williams, and Wayne Balnicki.

33. “Preliminary Approval Order” means the order of the Court, substantially in the form of Exhibit “E,” preliminarily approving the Settlement, as described in Paragraph 47.

34. “Qualifying Repair” means the portion of the cost for parts and labor actually paid by a Class Member for replacement of or repair to the transmission assembly (including valve body and torque converter) and/or ATCU by an authorized Nissan dealer or other non-Nissan/Infiniti automotive repair facility within the applicable time and mileage limits specified by Paragraphs 56 and 57.

35. “Released Claims” means and includes any and all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, and causes of action of every nature and description whatsoever, ascertained or unascertained, suspected or unsuspected, accrued or unaccrued, existing or claiming to exist, including those unknown, both at law and equity which have been brought, which might have been brought, and which might be brought in the future upon the happening of certain events, against the Released Parties, or any of them, based upon or in any way related to transmission design, manufacturing, performance, or repair of Class Vehicles, including but not limited to all claims asserted in the Lawsuits, whether based upon breach of contract, violation of a duty sounding in tort, violation of any state or federal statute or regulation, violation of any state consumer protection statute or regulation (including any lemon law statute or regulation), fraud, unjust enrichment, money had and received, restitution, equitable relief, punitive or exemplary damages and civil penalties and fines or any other claims whatsoever under federal or state law. The “Released Claims” shall explicitly extend to and include any claim

for attorneys' fees, expenses, costs, and catalyst fees under any state's law or under federal law. The "Released Claims" do not include "Excluded Claims" defined above.

36. "Released Parties" means NNA, Nissan Motor Co., Ltd., JATCO, Ltd., and, for each of such corporations, all of their past and present officers, directors, agents, designees, servants, sureties, attorneys, employees, parents, associates, shareholders, general or limited partners or partnerships, subsidiaries, divisions, affiliates, insurers, franchises, suppliers, dealers, and all of their predecessors or successors in interest, assigns, or legal representatives, as well as any other person, company, or entity in the chain of distribution of a Class Vehicle, transmission components of such Class Vehicle, or repair of the transmission in such Class Vehicle.

37. "Settlement" means the agreement between the Parties, as embodied in the Settlement Agreement, including all exhibits attached to the Settlement Agreement.

38. "Settlement Class" means, collectively, the following two subclasses: Subclass A comprised of all current and former owners and lessees of 2014-2018 model year Nissan Rogue vehicles equipped with a CVT who purchased or leased the vehicle in the United States or its Territories. Subclass B comprised of current and former owners and lessees of 2015-2018 model year Nissan Pathfinder and 2015-2018 model year Infiniti QX60 vehicles equipped with a CVT who purchased or leased the vehicle in the United States or its Territories. Excluded from the Settlement Class are: (1) NNA, any entity or division in which NNA has a controlling interest, its/their legal representatives, officers, directors, assigns and successors; (2) any judge to whom this case is assigned and the judge's clerks and any member of the judge's immediate family, and the Sixth Circuit Court of Appeals; and (3) government purchasers and lessees.

39. "Settling Parties" includes all Class Members and NNA.

40. “Settlement Administrator” means Kurtzman Carson Consultants, LLC, or such other third party administrator to which the parties shall mutually agree, to handle the notice program and claims administration process.

41. “Summary Notice” means the Court-approved form of notice of this Settlement to the Settlement Class, consisting of a notice to be sent to the Settlement Class, substantially in the form of Exhibit “D” to the Settlement Agreement. The Summary Notice shall state the Claims Deadline.

42. “Voucher” is a certificate in the amount as described in Paragraph 59 that may be used by an Authorized Voucher Participant towards the purchase or lease of a single new Nissan or Infiniti vehicle at an authorized Nissan or Infiniti dealer within nine (9) months of the Effective Date of Settlement. The Voucher is not transferable. The Voucher may be used in combination with other types of valid discount offers, rebates, and incentives.

43. “Warranty Extension” means extension of the time and mileage durational limits applicable to powertrain coverage under the applicable New Vehicle Limited Warranty, but only as to the transmission assembly (including the valve body and torque converter) and ATCU on Class Vehicles, by twenty-four (24) months or twenty-four thousand (24,000) miles, whichever occurs first.

44. “Warranty Extension Period” means that period of twenty-four (24) months or twenty-four thousand (24,000) miles after expiration of the original powertrain coverage in the New Vehicle Limited Warranty applicable to the make of Class Vehicle.

REQUIRED EVENTS

Promptly after the execution of this Settlement Agreement:

45. Plaintiffs will take no further action in the *Newton*, *Landa*, *Eliason* and *Lane* cases pending preliminary and final approval of the Settlement other than to, if necessary, inform the

court of the pending settlement on behalf of a nationwide class for which approval will be sought that would include resolution of their cases, and may seek a formal stay or similar administrative relief if necessary or required by the court.

46. Co-Lead Class Counsel shall take all necessary steps to obtain preliminary approval of the Settlement in the *Stringer* case and, having done so, shall take all necessary steps consistent with this Settlement Agreement to obtain final approval of the Settlement and the Final Order and Judgment.

47. Co-Lead Class Counsel shall make best efforts to file a Motion for Preliminary Approval of this Settlement Agreement in *Stringer* by August 23, 2021. In their Motion for Preliminary Approval, Plaintiffs will submit the Settlement Agreement to the Court for Preliminary Approval and shall move for one or more orders in substantially the same form as Exhibit “E” (the Preliminary Approval Order), which by their terms shall, among other things:

- A. Preliminarily approve the terms of the Settlement;
- B. Conditionally certify the Settlement Class for Settlement purposes only;
- C. Approve the Summary Notice and Long Form Notice to be given to the Settlement Class advising them of the Settlement and of the Fairness Hearing to be held to determine the fairness, reasonableness and adequacy of the Settlement; and
- D. Schedule a hearing to review objections, if any, comments, and other issues regarding the Settlement and to consider the fairness, reasonableness and adequacy of the Settlement and the application for an award of Attorneys’ Fees and Expenses, and to consider whether the Court should issue a Final Order and Judgment (in substantially the form attached as Exhibit “F”) approving the Settlement, dismissing all claims in *Stringer* with prejudice as to NNA, and ruling upon the fairness and reasonableness of the Attorneys’ Fees and Expenses.

48. The Parties agree that certification will be sought under Federal Rule of Civil Procedure 23(b)(3) on an opt-out basis.

49. At least three (3) days prior to the filing of the Motion for Preliminary Approval, Co-Lead Class Counsel will give NNA an opportunity to review and comment on the draft Motion

for Preliminary Approval. NNA will not oppose the preliminary approval of the Settlement but NNA may, at its discretion, submit such briefing as it deems necessary to support the Motion for Preliminary Approval, clarify its positions, and otherwise protect its interests. Such briefing by NNA will be due no later than seven (7) days before the Preliminary Approval Hearing, and NNA shall, at least three (3) days prior the filing of any such brief, give Co-Lead Class Counsel the opportunity to review and comment on the draft brief.

50. No later than forty-six (46) days after the Notice Date, Co-Lead Class Counsel will file its briefing regarding Final Approval of the Settlement and Certification of the Settlement Class, and Award of Attorneys' Fees, Costs, Expenses, and Representative Service Awards (the "Briefing on Final Approval, Attorneys' Fees, and Expenses") requesting that the Court enter a Final Order and Judgment, in substantially the same form attached to this Settlement Agreement as Exhibit "F," which will, among other things, dismiss the *Stringer* case with prejudice as to NNA, subject to the continuing jurisdiction of the Court as set forth in Paragraph 106, approve the Settlement, certify the Settlement Class and render an award of Attorneys' Fees and Expenses and incentive awards. At least three (3) days prior to the filing of the Motion for Final Approval, Co-Lead Class Counsel will give NNA an opportunity to review and comment on the draft Motion for Final Approval. NNA will not oppose Final Approval of the Settlement but NNA may, at its discretion, submit such briefing as it deems necessary to support the Motion for Final Approval, clarify its positions, and otherwise protect its interests. Such briefing by NNA will be due no later than ten (10) days before the date set in the Notice for the Fairness Hearing, and NNA shall, at least three (3) days prior the filing of any such brief, give Co-Lead Class Counsel the opportunity to review and comment on the draft brief. Co-Lead Class Counsel and NNA's Counsel shall also

be entitled to file responses to any Objections that have been filed, which responses shall be filed fourteen (14) days prior to the date set in the Notice for the Fairness Hearing.

51. Five (5) days after the Effective Date of Settlement, Plaintiffs in the *Lane*, *Newton*, *Landa* and *Eliason* cases will take all further necessary actions to have those cases and any associated appeals dismissed with prejudice.

52. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Settlement Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take all actions and execute and deliver all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby.

53. In the event that the Court fails to grant Preliminary Approval or fails to issue a Final Order and Judgment, Co-Lead Class Counsel and NNA's Counsel agree to use all reasonable efforts, consistent with this Settlement Agreement, to address and resolve any concerns identified by the Court.

RELIEF TO CLASS MEMBERS

54. NNA agrees to extend the time and mileage durational limits for powertrain coverage under the applicable New Vehicle Limited Warranty for Class Vehicles to the extent it applies to the transmission assembly (including the valve body and torque converter) and ATCU by twenty-four (24) months or twenty-four thousand (24,000) miles, whichever occurs first.

55. The Warranty Extension will be subject to the terms and conditions of the original New Vehicle Limited Warranty applicable to the Class Vehicles, which excludes coverage for,

among other things, damage resulting from alteration, tampering, improper repair, misuse, environmental conditions, and lack of or improper maintenance.

56. Reimbursement for all Class Members who are Authorized Reimbursement Participants for Qualifying Repairs made after expiration of the powertrain coverage under the New Vehicle Limited Warranty but within the durational limits of the Warranty Extension Period as described in Paragraph 44 shall be made as follows:

- A. For Qualifying Repairs on Class Vehicles that were performed by an authorized Nissan or Infiniti dealer, reimbursement of 100% of the parts and labor actually paid by the Class Member.
- B. For Qualifying Repairs on Class Vehicles that were performed by a non-Nissan/Infiniti automotive repair facility, reimbursement up to a cap of \$5,000 of the parts and labor actually paid by the Class Member.

57. Class Members who present Appropriate Contemporaneous Documentation of Nissan Diagnosis to the Settlement Administrator establishing that a Nissan or Infiniti dealer, within the Warranty Extension Period, diagnosed and recommended a repair to the transmission assembly or ATCU, will be entitled to submit a claim for reimbursement for the Qualifying Repair diagnosed and recommended by the Nissan or Infiniti Dealer during the Warranty Extension Period under Paragraph 78, subject to the limitations in Paragraph 56, but only if the Class Member obtains the recommended transmission repair prior to the Class Vehicle exceeding 95,000 miles or within ninety (90) days of the Notice Date, whichever occurs first.

58. The mileage on the Class Vehicle as it relates to the Criteria for Reimbursement shall be determined as of the date of the Qualifying Repair as reflected in the Appropriate Contemporaneous Documentation of Qualifying Repair. A Class Member may make only a single claim for reimbursement per VIN, but the claim for reimbursement may include both diagnosis and repair costs, if applicable, and may include multiple Qualifying Repairs.

59. For current and former owners of Class Vehicles who meet the Criteria for a Voucher, NNA agrees to provide a Voucher in the amount of \$1,000 for either a purchase or lease of a single new Nissan or Infiniti vehicle so long as the Authorized Voucher Participant purchases or leases a new Nissan or Infiniti vehicle within nine (9) months of the Effective Date of Settlement. The Voucher may be used in combination with other types of valid discount offers, rebates, and incentives.

60. Current and former owners of Class Vehicles will be determined by the Settlement Administrator based on vehicle registration data obtained in the manner provided in Paragraph 68. That list of current and former owners of Class Vehicles and associated VINs will be checked against a list of VINs provided by NNA from a search of its warranty records for Class Vehicles that had two or more replacements or repairs to the transmission assembly (including torque converter and/or valve body) and/or ATCU. Prior software updates and/or reprogramming do not count as a prior repair. Within twenty-eight (28) days after the Effective Date of Settlement, the Settlement Administrator will send current and former owners, determined through this process to meet the Criteria for a Voucher, a notice advising them that they are an Authorized Voucher Participant.

61. No single Class Member will be entitled to more than an aggregate of five Vouchers regardless of the total number of eligible vehicles purchased by that Class Member.

62. If a current or former owner of a Class Vehicle is also eligible for reimbursement of a Qualifying Repair on the same vehicle, the current or former owner must elect either the Voucher or reimbursement, but may not receive both benefits.

NOTICE TO THE SETTLEMENT CLASS

63. The Settlement Administrator shall be responsible for implementing Notice to the Settlement Class in the manner described in this Settlement Agreement.

64. Dissemination of Notice to the Settlement Class shall be accomplished as described in Paragraphs 69-71. The Settlement Administrator shall be responsible for: (i) mailing of the Summary Notice, and (ii) responding to requests for the Notice. All Notice and Settlement Administration Expenses shall be paid by NNA.

65. The Settlement Administrator shall sign a confidentiality agreement in a form agreed to by Co-Lead Class Counsel and NNA's Counsel, which shall provide that the names, addresses and other information about specific Class Members provided by either Co-Lead Class Counsel, NNA or by individual Class Members, shall all be treated as confidential and shall be used by the Settlement Administrator only as required by this Settlement Agreement.

66. The Parties agree the names and addresses, or other identifying information, of Class Members shall not be provided to Co-Lead Class Counsel by NNA, NNA's Counsel, or the Settlement Administrator, except that, in order to allow Co-Lead Class Counsel to respond effectively and efficiently to inquiries to Co-Lead Class Counsel from specific Class Members, the Settlement Administrator shall upon request provide Co-Lead Class Counsel with the Claim Form submitted by the inquiring Class Member, supporting documentation submitted by the inquiring Class Member, and communications between the Settlement Administrator and the inquiring Class Member.

67. Notwithstanding Paragraph 66, information concerning the claims for reimbursement of a Qualifying Repair made pursuant to Paragraph 78 may be provided by the Settlement Administrator to Co-Lead Class Counsel or NNA's Counsel to the extent it is necessary and as provided in Paragraphs 85 and 86.

68. NNA will provide the Settlement Administrator with Vehicle Identification Number (VIN) information for all Class Vehicles. Using this VIN information, the Settlement

Administrator will obtain address data for the Class Members from a qualified third-party, such as IHS/R.L. Polk, that maintains databases related to the automobile industry and which specializes in obtaining such information from, inter alia, the Department of Motor Vehicles of all fifty (50) States in the United States and its territories, including Puerto Rico. The Settlement Administrator will review the address data provided by the third-party vendor, check addresses for validity, eliminate duplications and process the addresses through the National Change of Address database for the purpose of updating the addresses. The Parties anticipate that current residential addresses will be available for a very high percentage of Class Members, such that a single direct mail short form notice approved by the Court will satisfy all applicable due process requirements for notice to the Class Members.

69. The Settlement Administrator shall mail a direct mail post card with the Summary Notice, postage prepaid, via the United States Postal Service to the Settlement Class. The Notice shall be substantially in the same form as the exemplar submitted as Exhibit “D” to this Settlement Agreement, as approved by the Court. The Settlement Administrator shall also cause any other elements of Notice (including activation of the Settlement Website) to take place on or about the Notice Date.

70. Prior to mailing the Summary Notice, the Settlement Administrator shall utilize the United States Postal Service National Change of Address database to obtain updated addresses where available. In the case of any returned undeliverable mail, the Settlement Administrator shall forward any Summary Notice returned to it with a forwarding address, and otherwise perform skip trace address searches in an attempt to obtain an updated address and then re-mail the Summary Notice. Only one attempt shall be made to obtain a new address and re-mail. If the Summary Notice is undeliverable a second time, no further efforts shall be made. The Settlement

Administrator shall process undeliverable mail in the above manner on an ongoing basis in a timely fashion.

71. The Settlement Administrator shall create and maintain a dedicated mutually approved website for information about this Settlement (“Settlement Website”), on which the Settlement Administrator will make available for download in portable document format (1) the Long Form Notice as approved by the Court and (2) other documents and pleadings filed by the Parties in connection with the Settlement. The Settlement Administrator will also provide a link to the Settlement Website in the Summary Notice, maintain a toll-free number and an email address for Class Members to seek answers to questions about the Settlement, and provide a reference to the toll-free number and email address in the Summary Notice. In addition, NNA may update www.NissanAssist.com to inform owners of the warranty extension.

72. The Settlement Administrator, as directed by NNA, shall have the responsibility to prepare and provide the notices required by the Class Action Fairness Act of 2005, Pub. L. 109-2 (2005), including but not limited to, the notices to the United States Department of Justice and to the Attorneys General of all States in which Class Members reside, as specified in 28 U.S.C. § 1715. Co-Lead Class Counsel and NNA’s Counsel shall cooperate in the drafting of such notices, and Co-Lead Class Counsel shall provide to NNA’s Counsel, upon request, any information in its possession necessary for the preparation of these notices.

73. No later than forty-two (42) days prior to the date of the Fairness Hearing in the Notice, the Settlement Administrator shall provide a declaration to the Court, with a copy to Co-Lead Class Counsel and NNA’s Counsel, attesting that Notice was disseminated in a manner consistent with the terms of this Settlement Agreement, or those otherwise required by the Court.

The Settlement Administrator agrees to provide one supplemental declaration, if requested by the Parties, prior to the Fairness Hearing.

74. The Notice described in Paragraph 69, the Settlement Website contemplated by Paragraph 71, and the permitted response to inquiries in Paragraph 71, will be the only type of notice to the public or Class Members about the Settlement, and Plaintiffs may not advertise or publicize the Settlement by any other means, with the exception that Co-Lead Class Counsel will be permitted to put notification on their firms' websites (a) advising of the settlement and (b) directing potential class members to the Settlement Website.

75. Counsel for Plaintiffs and counsel for NNA will be permitted to respond to inquiries from reporters regarding this matter but only with a jointly prepared or coordinated response. Counsel may not make statements suggesting that the Lawsuits caused or forced the Settlement, or make any other similar statements suggesting that the Settlement indicates that the Lawsuits had merit or did not have merit, or that the Settlement is an admission or indication of liability or a concession of lack of merit. In no event may Plaintiffs, their counsel, or their agents or representatives initiate communication with reporters or any form of print, digital, social or broadcast media regarding the Settlement or Lawsuits. This provision does not govern motions and supporting memoranda filed in Case No. 3:21-cv-00099 related to preliminary and final approval of the Settlement as contemplated by Paragraphs 47-50.

76. Nothing in this Settlement Agreement shall prevent (1) NNA from communicating with its dealers and/or customers (including owners or lessees of Class Vehicles) at any time for purposes of customer satisfaction, as NNA generally communicates with its dealers and/or owners/lessees in the ordinary course of its business, or (2) Co-Lead Class Counsel from responding to inquiries from Class Members after preliminary approval of the Settlement.

77. Nothing in this Settlement Agreement shall prevent NNA from communicating, and it is contemplated that NNA may communicate, after preliminary approval of the Settlement, with its dealers and customers (including owners and lessees of Class Vehicles) advising them of the Warranty Extension, and if it does so, NNA may indicate the Warranty Extension is being provided as a customer satisfaction effort to address customer concerns, including those expressed by the named Plaintiffs in the Lawsuits. NNA will share the content of these communications with Co-Lead Class Counsel prior to dissemination of the communications. NNA's official communications to its dealers and owners/lessees will explain that the provision of the Warranty Extension is subject to final approval of the Settlement. After preliminary approval and prior to final approval, NNA may at its option in the interim provide Warranty Extension coverage to its customers, subject to final approval, and pay dealers for making repairs that would be covered by the Warranty Extension. In the event final settlement approval does not occur, Class Members will not be obligated to reimburse NNA for the costs of such repairs made and NNA will not be obligated to provide the Warranty Extension regardless of providing the benefit to customers in the interim. In its communication notifying Class Members of the Warranty Extension, NNA will include a statement advising owners that if they have concerns about the diagnosis of their vehicle, they can request the dealer to contact NNA.

REIMBURSEMENT CLAIMS ADMINISTRATION AND PROCEDURE

78. Class Members who believe they are eligible to receive reimbursement for a Qualifying Repair will be directed to fill out and send to the Settlement Administrator the Claim Form, in substantially the form attached to this Settlement Agreement as Exhibit "B" and all necessary supporting documentation to qualify as an Authorized Reimbursement Participant. Qualifying Class Members shall receive a check by mail.

79. Non-contemporaneous documentation, such as post hoc statements by mechanics or claimants shall not be considered to augment Appropriate Contemporaneous Documentation of Qualifying Repair or Appropriate Contemporaneous Documentation of Nissan Diagnosis.

80. The Claim Form and supporting documentation may be sent to the Settlement Administrator via mail, as provided in Paragraph 82, or via the Settlement Website. Upon receiving a Claim Form from a claimant, the Settlement Administrator will review the documentation for adequacy and validity and confirm or deny the Class Member's eligibility as an Authorized Reimbursement Participant.

81. The Claim Form, in substantially the form attached to this Settlement Agreement as Exhibit "B," will be presented to the Court for preliminary approval.

82. All Claim Forms must be submitted within the applicable Claims Period. Any Class Member who fails to submit a Claim Form by the end of the applicable Claims Period shall be forever barred from receiving any payment pursuant to this Settlement Agreement, and shall in all other respects be bound by the terms of this Settlement Agreement and by the Final Order and Judgment entered in the *Stringer* case. Class Members may not submit on appeal any new Claim Form or necessary supporting documentation described in Paragraph 78. If a Claim Form is transmitted online, it shall be deemed to have been submitted on the date it was transmitted. If a Claim Form is mailed and received with a postmark or other evidence of the date of mailing indicated on the envelope by the postal service or other independent carrier, the Claim Form shall be deemed to have been submitted on the date of the postmark. In all other cases, the Claim Form shall be deemed to have been submitted when actually received by the Settlement Administrator or its designee.

83. The Settlement Administrator shall contact a Class Member via mail or email, or both if both are available, one time to advise the Class Member that their claim is deficient and seeking to obtain additional information or supporting documentation if a Claim Form is incomplete. The Settlement Administrator has no further affirmative obligation to seek additional information or supporting documentation from or on behalf of the Class Member. The deficiency process will take place in a timely fashion after the close of the Claims Period and upon the Settlement Administrator's determination that all timely-filed claims are likely to have been received. Within thirty (30) days of that determination, the Settlement Administrator shall analyze the claims submitted and send deficiency notices. Class Members have thirty (30) days to provide additional information and supporting documentation. If, after expiration of the thirty (30) day period, a Claim Form still does not meet the requirements set forth in this Settlement Agreement and in the Claim Form instructions, or fails to include all required supporting documentation, such Claim Form shall be rejected. The Settlement Administrator shall reject a Class Member's Claim Form if: (a) the Class Member seeks payment for repairs that are not covered by the terms of this Settlement Agreement; (b) the Class Member fails to provide Appropriate Contemporaneous Documentation of Qualifying Repair and, if applicable, Appropriate Contemporaneous Documentation of Nissan Diagnosis; (c) the Claim Form is duplicative of another Claim Form; (d) the person submitting the Claim Form is not a Class Member; (e) the Claim Form was not submitted by the end of the applicable Claims Period; and (f) the Claim Form otherwise does not meet the requirements of this Settlement Agreement.

84. Each Claim Form shall be submitted to and reviewed by the Settlement Administrator, who shall determine in good faith in accordance with the terms and conditions of this Settlement Agreement the extent, if any, to which each claim shall be allowed. The Settlement

Administrator shall use all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, maintaining a record of every payment made to a Class Member.

85. Claim Forms that do not meet the terms and conditions of this Settlement Agreement, absent submission of additional information by the Class Member as described in Paragraph 83 shall be rejected by the Settlement Administrator. Upon determination that a Claim should be rejected after the close of the Claims Period, the Settlement Administrator shall notify the Class Member by U.S. Mail and email if the Class Member has provided his or her email address to the Settlement Administrator, within thirty (30) days of the determination of the rejection, and inform the Class member of the appeal procedure. Notwithstanding Paragraph 66, Co-Lead Class Counsel and NNA's Counsel shall be provided with copies of all such notifications to Class Members.

86. If any person whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the person must, within thirty (30) days after the date of mailing of the notice of the rejection described in Paragraph 85 serve upon the Settlement Administrator via the Settlement Website or by mail a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation and requesting review. Notwithstanding Paragraph 66, the Settlement Administrator shall provide to NNA's Counsel and Co-Lead Class Counsel a copy of any claimant's notice and statement of reasons for contesting the rejection within seven (7) days of the Settlement Administrator's receipt of same. If the dispute concerning a claim cannot otherwise be resolved by NNA's Counsel, Co-Lead Class Counsel and the Settlement Administrator, within ninety (90) calendar days of the request for review, the dispute shall be submitted to the Court for final decision. The Court shall have no responsibility

for determining, adjudicating or resolving claims until after a rejected claim has been contested. Prior to a claim being contested, the Settlement Administrator shall have the sole responsibility for evaluating whether a claim meets the Criteria for Reimbursement.

87. No person shall have any claim against NNA or any of the Released Parties, NNA's Counsel, the Plaintiffs, the Settlement Class, Co-Lead Class Counsel, Executive Committee Counsel, Other Plaintiffs' Counsel or the Settlement Administrator based on any eligibility determinations, distributions or payments made in accordance with this Settlement Agreement. This provision does not affect or limit in any way the right of review by the Court of any disputed Claim Forms or determinations regarding the amount of any monetary benefits, to the extent provided above.

88. Within ninety days (90) of the Effective Date of Settlement, the Settlement Administrator will mail or transmit to each Authorized Reimbursement Participant, via check, a payment for reimbursement of the costs of a Qualifying Repair for which the Authorized Reimbursement Participant has submitted Appropriate Contemporaneous Documentation of Qualifying Repair, as determined by the Settlement Administrator.

89. Within ninety days (90) of the Effective Date of Settlement, the Settlement Administrator will mail to each Authorized Voucher Participant a Voucher in the amount set forth in Paragraph 59 towards the purchase or lease of a single new Nissan or Infiniti vehicle within nine (9) months of the Effective Date of Settlement, as described in Paragraphs 42 and 59 of this Settlement Agreement.

90. If this Settlement Agreement is not approved or for any reason the Effective Date of Settlement does not occur, no benefits or distributions of any kind shall be made pursuant to this Settlement Agreement, except for the cost of Notice and Settlement Administration Expenses

incurred and the value of any reimbursements paid pursuant to Paragraph 88, if already provided to a Class Member. In such event, any funds deposited by NNA into any account opened for the purpose of this Settlement shall revert to NNA, together with all interest on the deposited funds.

OBJECTIONS AND REQUESTS FOR EXCLUSION
BY CLASS MEMBERS

91. Any Class Member who intends to object to the fairness, reasonableness, and/or adequacy of the Settlement (an “Objection”) must file a written Objection with the Court and mail a copy to NNA’s Counsel and at least one of Co-Lead Class Counsel at the addresses set forth in Paragraph 94. The Summary Notice will provide a specific date by which the Objection must be filed and copies postmarked, which date will be sixty (60) days after the Notice Date.

92. To state a valid Objection to the Settlement, a Class Member making an Objection must provide the following information in his or her written Objection: (i) the Class Member’s full name and current address; (ii) the model year and make of his or her vehicle(s) and approximate date(s) of purchase; (iii) whether the Class Member still owns the vehicle(s); (iv) the VIN number of the vehicle(s); (v) current odometer mileage of the vehicle(s) currently owned; (vi) a specific statement of the Class Member’s reasons for objecting to the Settlement, including the factual and legal grounds for his or her position; (vii) whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, (viii) a list of any other objections to any class action settlements submitted to any court, whether State, Federal, or otherwise, in the United States in the previous five (5) years; (ix) whether the Class Member intends to appear at the Fairness Hearing and whether the Class Member will be represented by separate counsel; and (x) the Class Member’s signature with the date of signature.

93. No Class Member shall be entitled to be heard at the Fairness Hearing (whether individually or through separate counsel) unless written notice of the Class Member’s intention to

appear at the Fairness Hearing and copies of any written Objections and briefs have been filed with the Court and served on NNA's Counsel and one or more of Co-Lead Class Counsel on or before the date specified in the Preliminary Approval Order and Summary Notice. Class Members who fail to timely file and serve a written Objection in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement.

94. Objections must be served:

Upon NNA's Counsel at:

E. Paul Cauley, Jr.
FAEGRE DRINKER BIDDLE & REATH LLP
1717 Main Street
Suite 5400
Dallas, Texas 75201

Upon at least one of Co-Lead Class Counsel at:

Mark S. Greenstone
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Marc L. Godino
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

J. Gerard Stranch, IV
BRANSETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 37203

95. Class Members may elect to exclude themselves from this Settlement Agreement, relinquishing their rights to benefits under this Settlement Agreement. A Class Member wishing to exclude himself/herself from the Settlement must send to the Settlement Administrator his or

her own personally signed letter or request (or, where appropriate due to disability, incapacity or other condition, a signed letter or request from a Class Member's conservator, custodian, or person with applicable power of attorney along with documentation establishing such authority) including (i) his/her name, (ii) address, (iii) telephone number, (iv) model and year of vehicle, (v) the VIN number of the vehicle(s); and (vi) a clear statement communicating that he/she elects to be excluded from the Settlement Class. Subject to the above conditions, a request signed only by a representative or attorney for the Class Member is not valid. A single written letter or request for exclusion submitted on behalf of more than one Class Member will be deemed invalid; provided, however, that an exclusion received from one Class Member will be deemed and construed as a request for exclusion by all co-owners or co-lessees of the vehicle. Mass or class opt-outs shall not be allowed. No Class Member shall be deemed opted-out of the Settlement Class through any purported "mass" or "class" opt-outs.

96. Any request for exclusion must be postmarked no later than sixty (60) days after the Notice Date. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Class Members who fail to submit a valid and timely request for exclusion on or before the date specified in the Preliminary Approval Order and Notice, shall be bound by all terms of the Settlement Agreement and the Final Order and Judgment, regardless of whether they have requested exclusion from the Settlement.

97. Any Class Member who submits a timely request for exclusion may not file an Objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement.

98. Not later than seven (7) business days after the deadline for submission of requests for exclusion, the Settlement Administrator shall provide to Co-Lead Class Counsel and NNA's Counsel a complete exclusion list together with copies of the exclusion requests.

99. Notwithstanding any other provision of this Settlement Agreement, if the number of Class Members who exclude themselves from the Settlement is in excess of seven hundred fifty (750) as of the date set forth in the Notice, NNA, in its sole discretion, may rescind and revoke the entire Settlement and this Settlement Agreement, thus rendering the Settlement void in its entirety. To do so, NNA shall send written notice that NNA revokes the Settlement pursuant to this paragraph to Co-Lead Class Counsel within fourteen (14) days following the date the Settlement Administrator informs NNA of the number of Class Members who have requested exclusion from the Settlement pursuant to Paragraph 95. In the event NNA voids the agreement under this provision, NNA is responsible for all Notice and Settlement Administration Expenses incurred to date.

100. Upon expiration of the deadlines for filing objections and requests for exclusion from the Settlement as set forth in the Preliminary Approval Order and Summary Notice, and on the date set forth in the Preliminary Approval Order and Summary Notice, the Fairness Hearing shall be conducted to determine final approval of the Settlement, along with the amount properly payable for Attorneys' Fees and Expenses. Upon final approval of the Settlement by the Court at or after the Fairness Hearing, the Parties shall present the Final Order and Judgment, substantially in the form attached to this Settlement Agreement as Exhibit "F," to the Court for approval and entry.

RELEASES, DISMISSAL OF THE LAWSUITS AND FUTURE CLAIMS

101. It is agreed that upon the Effective Date of Settlement, all Class Members and their heirs, executors, estates, predecessors, successors, assigns, agents and representatives shall be

deemed to have jointly and severally released, and forever discharged, NNA and the Released Parties from any and all Released Claims, whether known or unknown, and shall be fully and forever barred and enjoined from instituting or prosecuting in any court or tribunal, either directly or indirectly, individually or representatively, any and all Released Claims against NNA or the Released Parties.

102. Class Members who have validly and timely requested exclusion from the settlement by the date set by the Court do not release their claims and will not obtain any of the benefits of the Settlement.

103. The claims released, settled, and compromised by this Settlement Agreement include known and unknown claims relating to the Class Vehicles in the Lawsuits, and this Settlement Agreement is expressly intended to cover and include all such injuries or damages relating to such claims in the Lawsuits, including all rights of action thereunder. Class Members and Plaintiffs expressly, knowingly, and voluntarily waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Class Members and Plaintiffs expressly waive and relinquish any and all rights and benefits which they may have under, or which may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory which is similar, comparable, or equivalent to Section 1542, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment,

the Class Members and Plaintiffs acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the Released Claims, but that it is their intention to fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, which they have against NNA or Released Parties. In furtherance of such intention, the release herein given by the Class Members and Plaintiffs, to NNA and Released Parties shall be and remain in effect as a full and complete general release of the Released Claims notwithstanding the discovery or existence of any such additional different claims or facts.

104. All Future Transmission Claims, as well as any claim or dispute relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle will be governed exclusively by the Expedited Resolution Process, which is described in more detail in Exhibit “A” to this Settlement Agreement.

105. Within five (5) days of the Effective Date of Settlement, Plaintiffs in the *Lane*, *Newton*, *Landa*, and *Eliason* cases agree to dismiss, with prejudice, all claims and causes of action relating to the Class Vehicles.

106. With the exception of Future Transmission Claims which are subject to the Expedited Resolution Process, and notwithstanding the dismissal of all claims and causes of action relating to the Class Vehicles in the Lawsuits, the Court shall retain jurisdiction over the Parties to the Settlement Agreement with respect to the future performance of the terms of the Settlement Agreement including, but not limited to, whether any claim being asserted in any Court or forum is released by the terms of the Settlement Agreement. Any dispute about whether the Expedited Resolution Process applies to a claim or dispute must be presented to the Court unless both parties to that dispute agree to have another court or person decide the issue.

107. Upon the Effective Date of Settlement: (a) the Settlement Agreement shall be the exclusive remedy for any and all Released Claims of Class Members; (b) the Released Parties shall not be subject to liability or expense of any kind other than obligations under this Settlement Agreement to any Class Members; and (c) Class Members shall be permanently barred and enjoined from initiating, asserting, or prosecuting any Released Claim against the Released Parties in any federal or state court or tribunal.

**EFFECT OF CERTIFICATION AND DISAPPROVAL, CANCELLATION OR
TERMINATION OF THE SETTLEMENT**

108. For purposes of settlement only, the Parties and their counsel agree that the Court should make preliminary findings and enter the Preliminary Approval Order granting provisional certification of the Settlement Class subject to final findings and ratification in the Final Order and Judgment, and appointing Class Representatives and Co-Lead Class Counsel and Executive Committee Counsel.

109. NNA does not consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement of the Action. If this Settlement Agreement is terminated for any reason, or the Effective Date of Settlement for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating this Settlement Agreement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Lawsuits shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, the Lawsuits shall return to the procedural status quo in accordance with this paragraph, and NNA shall have the right to object to certification of the Settlement Class or any other class at any future time.

110. In the event an appeal is filed from the Court's Final Order and Judgment, or any other appellate review is sought prior to the Effective Date of Settlement, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review unless the Parties agree otherwise.

SETTLEMENT NOT EVIDENCE AGAINST PARTIES

111. The Released Parties deny any and all allegations set forth in the Lawsuits and deny all wrongdoing. This Settlement Agreement is not a concession or admission, and shall not be used against any of the Released Parties as an admission or indication with respect to any claim of any fault, concession, or omission by any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding, or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall be: (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed or referred to for any purpose, or offered or received in evidence, in any further proceeding in the Lawsuits, or any other civil, criminal, or administrative action or proceeding against any of the Released Parties except for purposes of settling the claims relating to the Class Vehicles in the Lawsuits pursuant to this Settlement Agreement. The limitations set forth in this paragraph do not apply to use and/or disclosure by any of the Released Parties against Class Members or third parties, including, without limitation, for purposes of supporting a defense or counterclaim of res judicata, collateral estoppel, release, good faith settlement, judgment bar, offset, reduction, or any other theory or claim of issue or claim preclusion or similar defense or counterclaim.

112. Whether or not this Settlement Agreement is finally approved by the Court, the Parties agree that the Settlement Agreement shall not constitute evidence of the propriety of class certification for the purpose of litigation or for trial in the Lawsuits or any other case.

ATTORNEYS' FEES AND EXPENSES

113. Only Co-Lead Class Counsel shall be entitled to apply to the Court for an award of reasonable Attorneys' Fees and Expenses in a total amount up to, but not to exceed, \$6,250,000. Co-Lead Class Counsel may also apply to the Court for an award to Class Representatives Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O'Connor, Michelle Williams, and Wayne Balnicki ("Class Representatives") of an incentive payment of \$5,000 per Class Representative. The award of Attorneys' Fees and Expenses will include all fees, expenses, and costs for Co-Lead Class Counsel, Executive Committee Counsel and Other Plaintiffs' Counsel in connection with the claims relating to the Class Vehicles in the Lawsuits. Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel shall not be permitted to petition the Court for any additional payments for fees (including catalyst fees), costs, expenses or incentive awards other than those sought in the application of Co-Lead Class Counsel expressly permitted by this paragraph, and the award shall be for all claims for Attorneys' Fees and Expenses and incentive awards past, present, and future incurred in the Lawsuits. The actual amount of any award of Attorneys' Fees and Expenses will be determined by the Court. The Parties negotiated and agreed to the amount of Attorneys' Fees and Expenses for which Co-Lead Class Counsel could apply, and the incentive awards for which the Class Representatives could apply, only after reaching agreement upon all other material terms of this Settlement Agreement.

114. NNA and its attorneys agree not to oppose any applications for Attorneys' Fees and Expenses of \$6,250,000 or less by Co-Lead Class Counsel and the Class Representative incentive

payment of \$5,000 to each Class Representative, so long as such applications are consistent with the provisions of this Settlement Agreement, and further agree to pay any amount awarded by the Court for Attorneys' Fees and Expenses and Class Representative incentive payments that does not exceed the amounts listed in this paragraph.

115. Any Attorneys' Fees and Expenses awarded by the Court to Co-Lead Class Counsel and incentive awards awarded by the Court to Plaintiffs shall be paid by NNA through the Settlement Administrator, within twenty-eight (28) days after the Effective Date of Settlement. NNA shall have no liability or other responsibility for the allocation of the Attorneys' Fees and Expenses among Co-Lead Class Counsel, Executive Committee Counsel and Other Plaintiffs' Counsel, or for the allocation of the incentive payments among and between Plaintiffs. Co-Lead Class Counsel shall distribute the Attorneys' Fees and Expenses amount awarded among all Co-Lead Class Counsel, Executive Committee Counsel and Other Plaintiffs' Counsel, in their sole discretion. In the event any dispute arises relating to the allocation of the Attorneys' Fees and Expenses, Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel agree to hold NNA harmless from any and all liabilities, costs and expenses relating to such dispute.

116. NNA's payment of the Attorneys' Fees and Expenses, as described in this Settlement Agreement, shall constitute full satisfaction of NNA's obligation to pay any person, attorney, or law firm for attorneys' fees, costs, and expenses incurred on behalf of the Plaintiffs and the Settlement Class, and shall relieve NNA and the Released Parties from any other claims or liability to any other attorney, law firm, or person for any attorneys' fees, expenses, and costs to which any of them may claim to be entitled on behalf of Plaintiffs and the Settlement Class that are in any way related to the Released Claims.

117. In the event that Co-Lead Class Counsel seek, request, or apply in any forum, in connection with this Settlement or the claims relating to the Class Vehicles asserted in the Lawsuits, for an award of Attorneys' Fees and Expenses in excess of \$6,250,000, as described in Paragraph 113, NNA shall have the right, in its sole discretion, to terminate, cancel, and/or set aside this Settlement Agreement, in which event the Settlement would become null and void. Plaintiffs and Co-Lead Class Counsel agree that no application for an award for Attorneys' Fees and Expenses in connection with the Lawsuits shall be submitted, filed, or pursued in any forum other than the Court.

118. In the event that this Settlement Agreement is not finally approved by the Court, the Parties agree that Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel shall not be entitled to and shall not seek any Attorneys' Fees and Expenses in connection with any benefits received by any Class Members related to the proposed Settlement under this Settlement Agreement. This prohibition on seeking Attorneys' Fees and Expenses is inapplicable if NNA exercises its rights under Paragraph 99, although NNA retains the right to oppose entitlement to any Attorneys' Fees and Expenses that it disputes.

CONFIDENTIAL DISCOVERY MATERIALS

119. Within sixty (60) days of the Effective Date of Settlement and upon Nissan's Counsel's request, Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel shall comply with the return or destruction of documents provision under the terms and conditions of the Agreed Protective Order entered between the Parties in the Lawsuits.

REPRESENTATIONS, WARRANTIES AND COVENANTS

120. Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel who are signatories to this Settlement Agreement represent and warrant that they have the authority, on behalf of all Plaintiffs, to execute, deliver, and perform this Settlement Agreement

and to consummate the transactions contemplated by this Settlement Agreement. Co-Lead Class Counsel further warrant and represent that they have authority to seek the dismissal with prejudice of the claims relating to the Class Vehicles in the Lawsuits, as contemplated above. This Settlement Agreement has been duly and validly executed and delivered by Co-Lead Class Counsel, Executive Committee Counsel, and Other Plaintiffs' Counsel, individually and on behalf of Plaintiffs, and constitutes their legal valid and binding obligation.

121. NNA represents and warrants that NNA has the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated by this Settlement Agreement. The execution, delivery, and performance by NNA of this Settlement Agreement and the consummation by NNA of the actions contemplated by this Settlement Agreement have been duly authorized by all necessary corporate action on the part of NNA. This Settlement Agreement has been duly and validly executed and delivered by NNA, by and through NNA's Counsel, and constitutes NNA's legal, valid, and binding obligation.

MISCELLANEOUS PROVISIONS

122. The headings in this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

123. This Settlement Agreement, including all appendices and exhibits attached to this Settlement Agreement, may not be modified or amended except in writing signed by all Parties to this Settlement Agreement.

124. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

125. The terms of this Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of Tennessee, without giving effect to any of its conflict of laws provisions.

126. Except as specifically provided in this Settlement Agreement, the Parties shall each bear their own costs and attorneys' fees, including taxable Court costs.

127. All of the exhibits to this Settlement Agreement are material and integral parts of this Settlement Agreement and are fully incorporated into this Settlement Agreement by this reference. This Settlement Agreement and the Exhibits to this Settlement Agreement constitute the entire, fully integrated agreement among the Parties and void, cancel, and supersede all prior written and unwritten agreements and understandings pertaining to the Settlement. The Parties each covenant and warrant that they have not relied upon any promise, representation, or undertaking not set forth in writing herein to enter into this Settlement Agreement.

128. If any provision, paragraph, article, or other portion of this Settlement Agreement is found to be void, all of the remaining portions of this Settlement Agreement shall remain in effect and be binding upon mutual agreement of the Parties.

129. The Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

130. Any notice, request or instruction or other document to be given by any Party to this Settlement Agreement to any other Party to this Settlement Agreement (other than the Notice to the Settlement Class) shall be in writing and delivered via e-mail:

Upon NNA at:

E. Paul Cauley, Jr.
paul.cauley@faegredrinker.com

FAEGRE DRINKER BIDDLE & REATH LLP
1717 Main Street
Suite 5400
Dallas, Texas 75201

Upon Co-Lead Class Counsel at:

Mark S. Greenstone
mgreenstone@greenstonelaw.com
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Marc L. Godino
mgodino@glancylaw.com
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

J. Gerard Stranch, IV
gerard@bsjfirm.com
BRANSETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 37203

Upon Executive Committee Counsel at:

Stephen R. Bassar
sbassar@barrack.com
BARRACK, RODOS & BACINE
600 West Broadway, Suite 900
San Diego, CA 92101

Lawrence Deutsch
ldeutsch@bm.net
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

Ryan McDevitt
rmcdevitt@kellerrohrback.com
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Upon Other Plaintiffs' counsel at:

John G. Emerson
jemerson@emersonfirm.com
EMERSON FIRM, PLLC
2500 Wilcrest Drive, Suite 300
Houston, TX 77042

Caroline Ramsey Taylor
caroline@whitfieldbryson.com
WHITFIELD BRYSON LLP
518 Monroe Street
Nashville, TN 37208

131. All applications for Court approval or Court orders required or permitted under this Settlement Agreement shall be made with reasonable prior notice to all Parties.

132. The determination of the terms of, and the drafting of, this Settlement Agreement including its exhibits, has been by mutual agreement after negotiation, with consideration by, and participation of all Parties and their counsel. Because this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of Settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

133. The Parties agree to hold all proceedings in the Lawsuits, except such proceedings as may be necessary to implement and complete the Settlement Agreement, in abeyance pending the Fairness Hearing to be conducted by the Court.

134. The Parties believe that this Settlement Agreement is a fair, adequate, and reasonable settlement of the claims relating to the Class Vehicles in the Lawsuits and have arrived at this Settlement through arm's length negotiations, taking into account all relevant factors, present, and potential.

THE PARTIES:

PLAINTIFFS

DocuSigned by:
Wayne Balnicki
C7BED1EA5DD64CD
By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: Karen Brooks
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
DocuSigned by:
Andrea Eliason
425C65EBEDC94B6...
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS


By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By:  _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

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Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: Bh. C. L.
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

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Teresa Stringer

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By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

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Teresa Stringer

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Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: Debbie O'Connor
Debbie O'Connor

By: _____
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

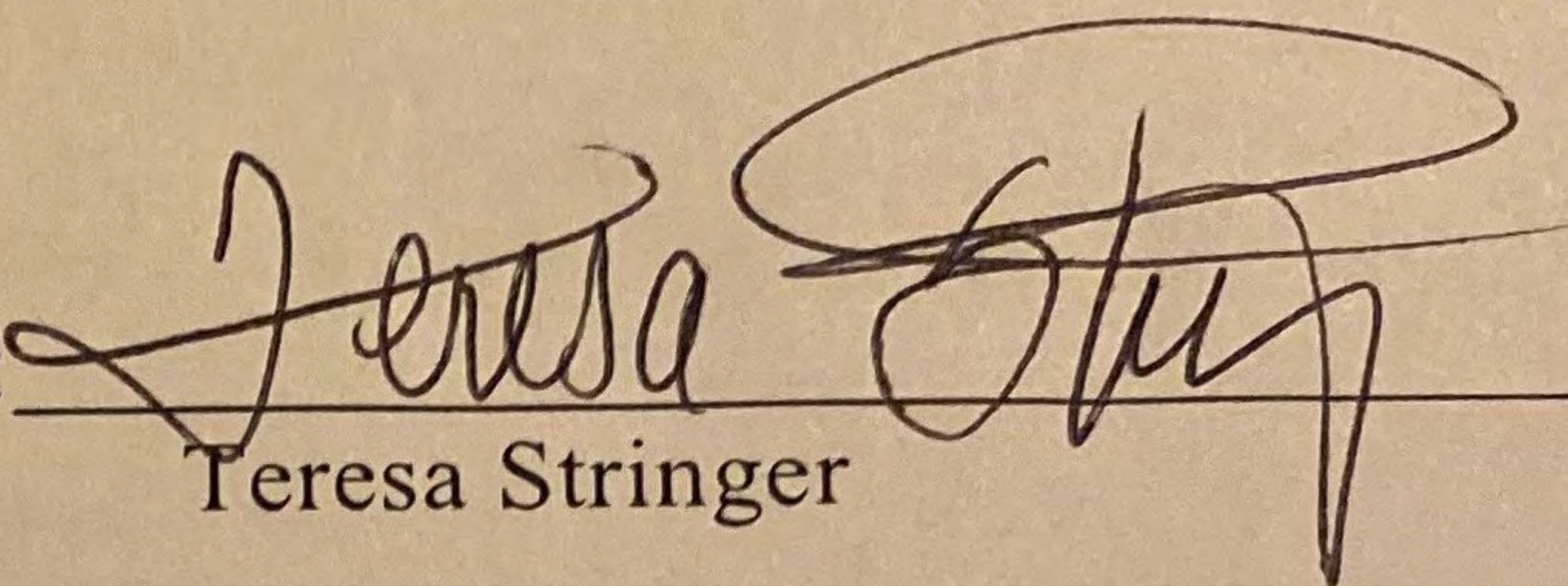
By: _____
Debbie O'Connor

By: William Papania
William Papania

THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

By:  _____
Teresa Stringer

By: _____
Karen Brooks

By: _____
Michelle Williams

By: _____
Andrea Eliason

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Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

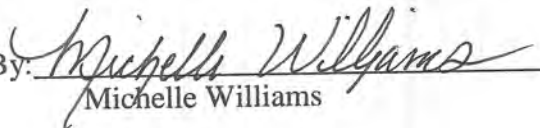
THE PARTIES:

PLAINTIFFS

By: _____
Wayne Balnicki

By: _____
Teresa Stringer

By: _____
Karen Brooks

By:  _____
Michelle Williams

By: _____
Andrea Eliason

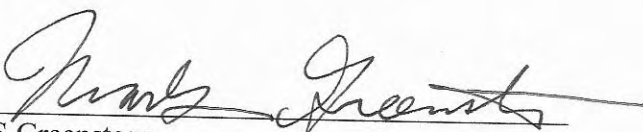
By: _____
Menachem Landa

By: _____
Brandon Lane

By: _____
Jayne Newton

By: _____
Debbie O'Connor

By: _____
William Papania

By: 
Mark S Greenstone
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, California 90067

By: _____
Marc L. Godino
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, California 90067

By: _____

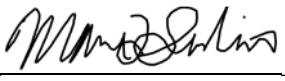
Mark S Greenstone

GREENSTONE LAW APC

1925 Century Park East, Suite 2100

Los Angeles, California 90067

By: _____



Marc L. Godino


GLANCY PRONGAY & MURRAY LLP

1925 Century Park East, Suite 2100

Los Angeles, California 90067

By: _____
J. Gerard Stranch, IV
BRANSTETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203

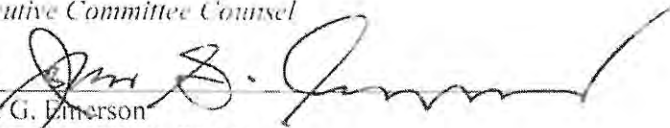
Co-Lead Class Counsel

By: _____
Stephen R. Basser
BARRACK, RODOS & BACINE
600 West Broadway, Suite 900
San Diego, CA 92101

By: _____
Lawrence Deutsch
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

By: _____
Ryan McDevitt
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Executive Committee Counsel

By: _____
John G. Emerson
EMERSON FIRM, PLLC
2500 Wilcrest Drive, Suite 300
Houston, TX 77042


By: _____
Caroline Ramsey Taylor
WHITFIELD BRYSON LLP
518 Monroe Street
Nashville, TN 37208

Other Plaintiffs' Counsel

By: _____
J. Gerard Stranch, IV
BRANSTETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203

Co-Lead Class Counsel

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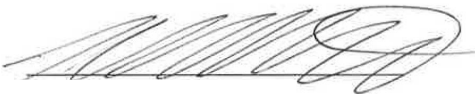
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Nashville, TN 37208


Other Plaintiffs' Counsel

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Nashville, Tennessee 37203

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2500 Wilcrest Drive, Suite 300
Houston, TX 77042

By: _____
Caroline Ramsey Taylor
WHITFIELD BRYSON LLP
518 Monroe Street
Nashville, TN 37208

Other Plaintiffs' Counsel

DEFENDANT

By:  _____

On Behalf of Nissan North America, Inc.

Faegre Drinker Biddle & Reath LLP

By: _____

E. Paul Cauley, Jr.

paul.cauley@faegredrinker.com

FAEGRE DRINKER BIDDLE & REATH LLP

1717 Main Street

Suite 5400


Dallas, Texas 75201

Counsel for Defendant Nissan North America, Inc.

DEFENDANT

By: _____
On Behalf of Nissan North America, Inc.

Faegre Drinker Biddle & Reath LLP

By: 
E. Paul Cauley, Jr.
paul.cauley@faegredrinker.com
FAEGRE DRINKER BIDDLE & REATH LLP
1717 Main Street
Suite 5400
Dallas, Texas 75201

Counsel for Defendant Nissan North America, Inc.

EXHIBIT A

To the extent that any Class Member has a claim under the New Vehicle Limited Warranty or Extended Warranty, or attempts to assert any claim or dispute relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle, the following will apply:

- (1) Claims must be submitted through an alternative dispute resolution program such as BBB AUTO LINE, BBB National Programs, or other dispute resolution program operated by another independent provider that has been mutually agreed to by the Parties (the “ADR Program”).
- (2) The ADR Program will follow its standard procedures for reaching a resolution.
- (3) No Class Member may file a lawsuit in any jurisdiction or forum related to the New Vehicle Limited Warranty or Extended Warranty, or attempt to assert any claim or dispute relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle, unless and until such claims have been submitted through the ADR Program and a decision has been rendered by the ADR Program.
- (4) A Decision by the ADR Program that requires NNA to repurchase a Class Vehicle under terms set forth by the ADR Program arbitrator will be binding on the Settlement Class Member, and the Settlement Class Member may not appeal such Decision or file a lawsuit in any jurisdiction or forum related to any Claims.
- (5) To the extent NNA has not made a written offer as contemplated in the following paragraph (6), if the ADR Program’s decision does not require NNA to repurchase the Class Member’s Vehicle, the Class Member may accept the ADR Program’s decision, appeal it, or file a lawsuit.
- (6) In addition, if NNA makes a written offer to repurchase a Class Vehicle applying the offset formula for use by the consumer, as set forth by the state law where the Settlement Class Member resides or, if no state law formula exists, the law of California, then the Settlement Class Member may not appeal such Decision or file a lawsuit in any jurisdiction or forum related to any Claims.
- (7) In any event, a Decision by the ADR Program will be binding on NNA, and NNA may not appeal a decision by the ADR Program.
- (8) Any cost for ADR Program will be borne by NNA.

Exhibit B

Claim Form

Teresa Stringer, et al. v. Nissan North America, Inc., Case No. 3:21-cv-00099

For Official Use Only

Please upload at www._____ or return by regular mail to:

All claims must be submitted online or post marked by _____ or within 30 days of the qualifying repair to your vehicle for which you seek reimbursement, whichever is later. If your claim is submitted by mail without a post mark, it must be received by _____ or within 30 days of the repair, whichever is later.

I. Claimant Contact Information

Claimant Name _____

Mailing Address _____

City _____ State _____ Zip Code _____

Daytime Telephone Number (____) _____ -- _____ Email _____

Evening Telephone Number (____) _____ -- _____

II. Claimant Verification Information

1. Did you purchase or lease a 2014-2018 model year Nissan Rogue, 2015-2018 model year Nissan Pathfinder, or 2015-2018 model year Infiniti QX60 vehicle?

Yes

No

If so, please provide the following information:

Model Year _____ Model _____

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Vehicle Identification Number (VIN)

Yes

No

2. Did you pay out of your own pocket – in whole or in part – for replacement of or repair to the transmission assembly (including torque converter and/or valve body) or Automatic Transmission Control Unit (ATCU) in your vehicle? If you paid to have the transmission assembly repaired more than once, you should include all payments you made for all repairs in this claim form.

If you answered "NO" to question 1 OR question 2, you are not eligible to submit a claim.

If you answered "YES" to questions 1 AND 2, please answer the following questions:

\$ _____

- (a) How much did you pay for parts and labor in connection with the replacement or repair? (You may not include any amounts paid for by

Nissan or Infiniti or by an extended warranty or service contract provider).

--	--	--	--	--	--

miles

(b) What was your odometer mileage at the time of replacement or repair?

(c) Do you have documentation showing that the replacement or repair was to the transmission assembly (including torque converter and/or valve body) or Automatic Transmission Control Unit (ATCU) in your vehicle?

Yes

☐

No

☐

If yes, please include an original, or true and correct copy of documentation created by an authorized Nissan or Infiniti dealer or other non-Nissan/Infiniti automotive repair facility at or near the time of the replacement or repair, which includes the following information:

1. Your vehicle's VIN;
2. Proof you paid in whole or in part for the replacement or repair out of pocket;
3. The amount you paid for the replacement or repair;
4. Your vehicle's mileage at the time of replacement or repair; and
5. The date of replacement or repair to your vehicle.

(d) If the replacement or repair was performed after the mileage and durational limits of the Warranty Extension as applicable to your vehicle, do you have documentation showing that an authorized Nissan or Infiniti dealer previously diagnosed and recommended replacement or repair to your transmission or ATCU when your vehicle was within the mileage and durational limits of the Warranty Extension?

Yes

☐

No

☐

N/A

☐

If yes, in addition to the documentation requested in part (c) above, please include an original, or true and correct copy of documentation created by an authorized Nissan or Infiniti dealer at or near the time of the diagnosis and recommendation, which includes the following information:

1. The authorized Nissan or Infiniti dealer diagnosed and recommended a replacement or repair to the transmission assembly (including torque converter and/or valve body) or ATCU in your vehicle;
2. Your Vehicle's VIN;
3. Your vehicle's mileage at the time of the Nissan or Infiniti dealer's diagnosis and recommendation; and
4. The date of the Nissan or Infiniti dealer's diagnosis and recommendation.

III. Voucher Eligibility

The Settlement Agreement provides a voucher of \$1,000 for the purchase or lease of a single Nissan or Infiniti vehicle to current or former owners of vehicles who had two or more replacements or repairs to the transmission assembly (including torque converter and valve body) and/or ATCU during their ownership experience.

If the Settlement Administrator determines that you are eligible to receive a \$1,000 voucher and you believe you are also eligible for reimbursement, you must elect whether to receive reimbursement or a voucher. *You may not receive both benefits.* Please select one of the following:

_____ I elect to receive a voucher, if I am eligible.

_____ I elect to receive reimbursement, if I am eligible. (You must complete sections I and II above for the reimbursement).

IV. Acknowledgement of Claimant(s)

Claimants must acknowledge that they have read and agree to the following by checking the boxes (mandatory):

☐ SUBMISSION TO JURISDICTION OF THE COURT. I (we) agree to submit to the exclusive jurisdiction of the United States District Court for the Middle District of Tennessee, Nashville Division, for all purposes associated with this Claim.

☐ VERIFICATION OF CLAIM. I (we) represent that I am (we are) the current or former owner(s) or lessee(s) of the vehicle identified in this Claim Form.

☐ VERIFICATION OF OUT OF POCKET PAYMENT. I (we) certify that no portion of the cost of replacement or repair for which I (we) seek reimbursement was previously paid for by Nissan, an authorized Nissan or Infiniti dealer, or an extended warranty or service contract provider.

V. Certification of Accuracy and Release of Claim

I (we) hereby declare that all the information that I (we) supplied in this Claim Form, including any documents submitted in support of this Claim Form is true and correct and this document is signed under penalty of perjury.

If more than one Owner/Lessee, this Claim Form must be signed by all Owners/Lessees.

Signature of Claimant

____/____/_____
Date of Signature

Signature of Claimant

____/____/_____
Date of Signature

If you have questions about this Claim Form, call _____ or visit www._____.com.

Exhibit C

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

NOTICE OF PROPOSED SETTLEMENT

IF YOU PURCHASED OR LEASED A 2014-2018 MODEL YEAR NISSAN ROGUE, 2015-2018 MODEL YEAR NISSAN PATHFINDER, OR 2015-2018 MODEL YEAR INFINITI QX60, YOU MAY QUALIFY FOR BENEFITS FROM A CLASS ACTION SETTLEMENT.

You should read this Notice carefully because it may affect your legal rights.

A federal court has ordered this Notice. It is not from a lawyer, and you are not being sued.

- This Settlement resolves a lawsuit about the continuously variable transmission (“CVT”) in 2014-2018 model year Nissan Rogue, 2015-2018 model year Nissan Pathfinder and 2015-2018 model year Infiniti QX60 vehicles (“Class Vehicles”).
- The Settlement will provide (1) an extension of the New Vehicle Limited Warranty applicable to the transmission for the Class Vehicles; (2) reimbursement for Class Members who paid for qualifying CVT repairs or replacements that would have been covered by the Warranty Extension; (3) a Voucher towards the purchase or lease of a new Nissan or Infiniti vehicle at an authorized Nissan or Infiniti dealer for current and former owners of Class Vehicles who qualify; and (4) an expedited resolution program through the BBB if you have future claims related to your transmission.
- Your legal rights are affected whether or not you act. ***Please read this Notice carefully.***

Your Rights and Choices:

You may:	Summary:	Read more:	Deadline:
Do nothing	You are included in the Settlement Class and, if the Settlement is approved, you will automatically receive a 24 month or 24,000 mile extension (whichever occurs first) of the warranty on the transmission of your Class Vehicle; be eligible for a Voucher towards the purchase or lease of a new Nissan or Infiniti vehicle for current or former owners of Class Vehicles, if you qualify; and be covered by an expedited resolution program through the BBB if you have a future claim related to your transmission.	Pages 4-5	
Submit a Claim	You do not have to do anything to be included in the Settlement Class, but to be eligible for reimbursement of qualifying transmission repairs, you must submit a Claim Form by the deadline.	Pages 4-5	Submit your Claim Form by: _____*
Opt out of the Settlement	Ask to get out of the Settlement. You get no Settlement benefits, but keep your right to file your own lawsuit against Nissan.	Pages 5-6	Mail your Opt Out Request Postmarked by:
Object	Remain a Class Member and tell the Court what you do not like about the Settlement. You will still be bound by the Settlement if the Court approves it. If you want your own attorney to represent you, you must pay for him or her yourself. Your attorney must file a Notice of Appearance.	Pages 6-8	Objections and/or Notice of Appearance Filed by:

*Claim Forms must be submitted to the Settlement Administrator by _____, or within 30 days of the qualifying repair to your vehicle, whichever is later.

No Settlement benefits will be distributed unless the Court approves the Settlement and it becomes final.

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Basic Information

1. What is this lawsuit about?

In this lawsuit called *Teresa Stringer, et al. v. Nissan North America, Inc.*, Case No. 3:21-cv-00099, pending in the United States District Court for the Middle District of Tennessee, Nashville Division, a number of individuals on behalf of themselves and all current and former owners and lessees of 2014-2018 model year Nissan Rogue, 2015-2018 model year Nissan Pathfinder and 2015-2018 model year Infiniti QX60 vehicles (“Class Vehicles”), allege that the Class Vehicles have a defective continuously variable transmission (“CVT”) which can lead to poor transmission performance or failure. The Plaintiffs brought claims against Nissan North America, Inc. (“Nissan” or “NNA”) for breach of express warranty, breach of implied warranty, negligence, fraudulent omission, unjust enrichment and violation of various State consumer protection statutes. They also sought various injunctive remedies and damages. The people who sued are called the Plaintiffs. The company they sued, Nissan, is called the Defendant.

Nissan has, and continues to, deny all of Plaintiffs’ claims related to the CVT in their vehicles, denies all allegations of wrongdoing, fault, liability or damage of any kind to Plaintiffs or the Settlement Class, denies that it acted improperly or wrongfully in any way, and believes that this litigation is without merit.

2. Why is the lawsuit a class action?

In a “class action lawsuit,” one or more people called “Class Representatives” sue on behalf of people who allegedly have similar claims. The people together are a “Class” or “Class Members.” The Court preliminarily has decided that this lawsuit can be a class action for settlement purposes. However, final certification of the Settlement Class will depend on the Court granting final approval of the Settlement. This means that, if the Settlement does not receive final approval by the Court, then Class Members will not get benefits under this Settlement, and Plaintiffs will need to go back to Court to seek to certify a class and prove their case through trial even if a class is certified.

3. Why is there a Settlement?

Plaintiffs believe that their case is meritorious, yet they have agreed to this Settlement because, if it is approved, it provides benefits to the Class, while avoiding risks associated with further litigation and trial.

Nissan believes the lawsuit has no merit, but nevertheless is willing to enter into this Settlement as a further commitment to its customers, to provide extra peace of mind to its customers, and to end further litigation, which could be protracted, burdensome and expensive.

The Court has not decided who is right or wrong in this lawsuit. This proposed Settlement is not, and should not be considered as, evidence of Nissan’s admission or concession of any fault, wrongdoing or liability whatsoever, nor a concession by Plaintiffs that their suit was meritless.

4. What is the Effective Date of this Settlement?

The Effective Date of this Settlement is the date when the Settlement becomes final, which is sixty-one (61) days after the date when the Final Order and Judgment in this Lawsuit is entered, unless there is an appeal. If there is an appeal, the Effective Date will be the date on which (a) all such appeals have been dismissed; or (b) the appropriate Court of Appeals has entered a final judgment affirming the Final Order and Judgment of the Court, which (i) is no longer subject to any further appellate challenge, or (ii) has been affirmed by the United States Supreme Court, whichever is earlier.

For more information regarding final approval of the Settlement, see Questions 20 and 21.

Who is in the Settlement

5. How do I know if I am part of the Settlement?

You are a Class Member and part of the Settlement if you purchased or leased in the United States or its territories, including Puerto Rico, a 2014-2018 model year Nissan Rogue, 2015-2018 model year Nissan Pathfinder or 2015-2018 model year Infiniti QX60 vehicle equipped with a CVT.

Excluded from the Settlement Class are: (1) NNA, any entity or division in which NNA has a controlling interest, its/their legal representatives, officers, directors, assigns and successors; (2) any judge to whom this case is assigned and the judge's clerks and any member of the judge's immediate family and any judge of the Sixth Circuit Court of Appeals; and (3) government purchasers and lessees.

The Settlement Benefits – What You Will Get

6. *What are the possible benefits of this Settlement?*

If you are a Class Member, you could receive one of the following benefits if the Settlement is approved:

- (1) **Warranty Extension.** Nissan will extend the terms of the New Vehicle Limited Warranty for the transmission assembly (including the valve body and torque converter) and Automatic Transmission Control Unit (“ATCU”) in all Class Vehicles by twenty-four (24) months or twenty-four thousand (24,000) miles, whichever occurs first (the “Warranty Extension”) as follows:

2014-2018 model year Nissan Rogue and 2015-2018 model year Nissan Pathfinder vehicles:

- The original coverage of 60 months or 60,000 miles, whichever comes first, will be extended to 84 months or 84,000 miles, whichever comes first.

2015-2018 model year Infiniti QX60 vehicles:

- The original coverage of 72 months or 70,000 miles, whichever comes first, will be extended to 96 months or 94,000 miles, whichever comes first.

The Warranty Extension will be subject to the terms and conditions of the original New Vehicle Limited Warranty applicable to the Class Vehicle.

- (2) **Reimbursement for Replacement of or Repair to Transmission Assembly or ATCU.** Nissan will reimburse Class Members for parts and labor actually paid by the Class Member for qualifying repairs involving the replacement of or repair to the transmission assembly or ATCU of their Class Vehicle if the work was done after the expiration of the powertrain coverage under the original New Vehicle Limited Warranty but within the mileage and time limits of the Warranty Extension. If the replacement or repair was performed by a Nissan or Infiniti dealer, the full amount the Class Member paid will be reimbursed. If the repair or replacement was performed by a non-Nissan/Infiniti automotive repair facility, Nissan will reimburse up to \$5,000 for that repair or replacement. In both cases, the replacement or repair must have occurred on or within the mileage and time limits of the Warranty Extension. If you paid for repairs on more than one occasion, you can be reimbursed for all qualifying repairs subject to the above limits. For more information, see Question 8 below.
- (3) **Voucher Towards Purchase or Lease of a New Vehicle.** Current and former owners of Class Vehicles who had two (2) or more replacements or repairs to the transmission assembly (including the valve body and torque converter) or ATCU during their ownership experience (as reflected by NNA warranty records) are eligible for a Voucher in the amount of \$1,000 for either a purchase or lease of a single new Nissan or Infiniti vehicle. Prior software updates and/or reprogramming do not count as a prior repair. The election to apply the Voucher toward the purchase or lease of a single new Nissan or Infiniti vehicle must be exercised within nine (9) months of the Effective Date of this Settlement. The Voucher is not transferable. Class Members eligible for a Voucher but also eligible for reimbursement of a qualifying repair must elect either to receive the Voucher or to receive reimbursement; you cannot receive both.

7. *What if my car is currently outside the mileage and time limits of the Warranty Extension but I paid to have repairs performed previously?*

Even if your Class Vehicle is now outside the mileage and time limits of the Warranty Extension, you may still make a claim for reimbursement but only if you previously paid out of pocket for parts and labor for replacement of or repair to the transmission assembly (including the valve body and torque converter) or ATCU by a Nissan or Infiniti dealer or other non-Nissan/Infiniti automotive repair facility while your vehicle was within the mileage and time limits of the Warranty Extension. See Question 11 for information on how to submit a claim.

8. What if I have not repaired my car, but a Nissan or Infiniti dealer has previously diagnosed and recommended a replacement of or repair to the transmission?

If a Nissan or Infiniti dealer previously diagnosed and recommended the replacement or repair of your transmission assembly or ATCU *before* your Class Vehicle was outside the mileage and time limits of the Warranty Extension but you did not have the work performed, and you pay to have that replacement or repair performed before the vehicle has been driven 95,000 miles and no later than [insert 90 days after Notice Date], then, if you submit a valid claim, you would be eligible for reimbursement of the transmission repair or replacement costs, subject to the cap of \$5,000 if the work was done by non-Nissan/Infiniti automotive repair facility. Repairs made after 95,000 miles or after [insert 90 days after Notice Date], whichever occurs first, are not eligible for reimbursement.

9. Am I giving anything up in return for my benefit?

Unless you get out of the Settlement (which is called “excluding yourself” or “opting out”), you are part of the Settlement Class. By staying part of the Settlement Class, Court orders will apply to you and you will give Nissan, Nissan-related companies and the selling or leasing dealer a “release.” This release means you cannot sue or be part of any other lawsuit against the Defendant, its related companies or the selling or leasing dealer based upon or in any way related to transmission design, manufacturing, performance, or repair of the Class Vehicles’ CVT. The specific claims and parties you will be releasing are described in full detail in Paragraphs 35, 36, 101, and 103 of the Settlement Agreement, available at www._____.com.

10. What if I have a claim related to my transmission or the Warranty Extension in the future?

If, in the future, you have a claim for breach of the Warranty Extension related to your transmission, based entirely on transmission performance issues, repairs or repair attempts, or any other conduct or events that occur after [Notice Date], that claim is not released as a part of this Settlement. If you experience transmission problems after [Notice Date] and within the Warranty Extension period, you must first present your vehicle to Nissan for repairs and request warranty coverage. If you have a dispute with Nissan regarding application of the Warranty Extension or its repairs under the warranty, you must first attempt to resolve the dispute through the BBB AUTO LINE dispute resolution program which is independently operated by the council of Better Business Bureau, Inc. (“BBB”). No lawsuit may be filed before a decision by the BBB AUTO LINE.

How to Get a Benefit

11. What do I need to do to get the benefits of this Settlement?

To remain a Class Member and obtain the Warranty Extension you do not have to do anything.

Class Members who believe they are eligible to receive reimbursement for transmission repair or replacement (described in Questions 6-8) must fill out and send to the Settlement Administrator a Claim Form. The Claim Form may be obtained at www._____.com or by calling the Settlement Administrator at _____. The completed Claim Form must be sent to the Settlement Administrator by mail at the address below or via the settlement website by [insert 90 days after date of this Notice] or within thirty (30) days after the date of the repair to your vehicle, whichever is later.

Nissan CVT Litigation Settlement Administrator
P.O. Box _____

Upon receiving a Claim Form from a claimant, the Settlement Administrator will review the documentation and confirm or deny the Class Member’s eligibility for reimbursement.

If you qualify for a \$1,000 Voucher for purchase or lease of a single new Nissan or Infiniti vehicle, you will be notified by the Settlement Administrator. To apply the Voucher, qualified individuals must visit an authorized Nissan or Infiniti dealer, provide their name and government-issued ID, and exercise their Voucher within nine (9) months of the Effective Date of this Settlement. The Voucher is not transferable but can be used in addition to all other types of valid discount offers, rebates and incentives. No single Class Member is entitled to more than five (5) Vouchers regardless of the total number of Class Vehicles purchased by that Class Member.

If you believe you are eligible for both a \$1,000 Voucher and reimbursement, you must elect on the Claim Form whether to receive reimbursement or a Voucher. You may not receive both benefits.

Your Rights – Getting Out of the Settlement

12. Can I get out of the Settlement?

You can get out of the Settlement and the Class. This is called “excluding yourself” or “opting out.” If you exclude yourself from the Settlement, you will not be entitled to receive the Settlement benefits. However, you will not be bound by any judgment or settlement of this class action lawsuit and will keep your right to sue Nissan independently over any claims you may have.

13. How can I exclude myself from the Settlement?

To exclude yourself from the Settlement, you must mail the Settlement Administrator a Request for Exclusion that contains the following information:

- (1) The name of the lawsuit: *Teresa Stringer, et al. v. Nissan North America, Inc.*, Case No. 3:21-cv-00099;
- (2) Your full name, current address and telephone number;
- (3) Your vehicle year and model;
- (4) Your vehicle’s Vehicle Identification Number (VIN);
- (5) A clear statement of your intent to exclude yourself from the Settlement (for example, “Please exclude me from the Settlement); and
- (6) Your signature and the date you signed it.

You must send your Request for Exclusion postmarked no later than [insert date __ days from the Notice Date], 2021 to the address below:

Nissan CVT Litigation Settlement Administrator
P.O. Box _____

If you do not follow these procedures and the deadline to exclude yourself from the Settlement, you will remain a Class Member and lose any opportunity to exclude yourself from the Settlement. This means that your rights will be determined in this lawsuit by the Settlement Agreement if it receives final approval from the Court.

Your Rights – Objecting to the Settlement

14. Can I tell the court I do not like the Settlement?

If you do not exclude yourself from the Settlement Class, you can tell the Court you do not like the Settlement or some part of it by filing an objection to the Settlement. If you object to the Settlement you remain a Class Member and cannot exclude yourself.

15. How can I object to the Settlement?

In order to object, you must mail a written objection and any supporting papers to: (1) the Court, (2) at least one of Co-Lead Class Counsel, and (3) Nissan’s counsel. Your objection must contain the following:

- (1) The name of the lawsuit: *Teresa Stringer, et al. v. Nissan North America, Inc.*, Case No. 3:21-cv-00099;
- (2) Your full name, current address and telephone number;

- (3) Whether, as of the date of the written objection, you currently own or lease or whether you previously owned or leased a 2014-2018 model year Nissan Rogue, 2015-2018 model year Nissan Pathfinder or 2015-2018 model year Infiniti QX60 vehicle; the specific model year(s) and the approximate date(s) of purchase or lease (for example, "I currently own a 2014 Nissan Rogue that I purchased in January 2014.");
- (4) The Vehicle Identification Number (VIN) of your vehicle(s);
- (5) Current odometer mileage of the vehicle(s) if currently owned or leased;
- (6) Specific reasons for your objection, including the factual and legal grounds for your position;
- (7) Whether the objection applies only to you, a specific subset of the Class, or to the entire Class;
- (8) A list of any other objections to any class action settlements you have submitted to any court, whether State, Federal, or otherwise, in the United States in the previous five (5) years;
- (9) Evidence and supporting papers, if any, that you want the Court to consider in support of your objection;
- (10) Whether you intend to appear at the Fairness Hearing, and whether you will be represented by separate counsel; and
- (11) Your signature and the date of your signature.

You must file your objection with the Court and mail separate copies to at least one of Co-Lead Class Counsel, and Nissan's counsel, by first-class United States Mail, no later than [insert date __ days from the Notice Date].

Your objection must be sent to the Court at the following address:

United States District Court for the Middle District of Tennessee, Nashville Division
Teresa Stringer, et al. v. Nissan North America, Inc.
Case No. 3:21-cv-00099
801 Broadway, Room ____
Nashville, TN 37203

The copies to be served on Co-Lead Class Counsel and Nissan's counsel must be mailed to the following addresses:

Co-Lead Class Counsel (send to at least one):

Mark S. Greenstone
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Marc L. Godino
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

J. Gerard Stranch, IV
BRANSETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 37203

Counsel for Nissan:

E. Paul Cauley, Jr.
FAEGRE DRINKER BIDDLE & REATH LLP
1717 Main Street
Suite 5400
Dallas, Texas 75201

If you timely file an objection, it will be considered by the Court at the Fairness Hearing. You do not need to attend the Fairness Hearing in order for the Court to consider your objection. If you do not comply with these procedures and deadline for objection, you will lose your opportunity to have your objection considered at the Fairness Hearing or otherwise contest the approval of the Settlement or to appeal from any order or judgment entered by the Court in connection with the Settlement.

16. What is the difference between excluding and objecting? Can I do both?

Excluding yourself means getting out of the Settlement altogether – you would not be entitled to receive any benefits pursuant to the Settlement, but you will not be bound by the terms of the Settlement. Objecting means remaining in the Settlement, but complaining about some part of it you do not like. You cannot do both.

Your Rights – Appearing at the Hearing

17. Can I appear at the Settlement hearing?

As long as you do not exclude yourself, you can (but do not have to) participate and speak for yourself in this lawsuit and Settlement. This is called making an appearance. You can also have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you in this lawsuit, you must file a written notice with the Court and serve your notice of intent to appear on the attorneys listed above in Question 15. You must state in that paper, “I intend to appear at the hearing.” The notice of intent to appear must be filed and served no later than [insert date], 2021.

The Lawyers Representing You

18. Do I need to hire my own attorney?

You do not need to hire an attorney, but can if you want to. You, and the entire Class, are already represented by a group of attorneys listed below, who are known as Co-Lead Class Counsel. You do not have to pay for Co-Lead Class Counsel’s services. You may contact Co-Lead Class Counsel if you have any questions about this Notice or Settlement, **but please do not contact the Court.**

Co-Lead Class Counsel:

Mark S. Greenstone
Email: mgreenstone@greenstonelaw.com
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Marc L. Godino
Email: mgodino@glancylaw.com
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

J. Gerard Stranch, IV
BRANSETTER, STRANCH & JENNINGS
PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 37203

If you decide to hire your own attorney, you will have to pay for his or her services. Your attorney must file an appearance with the Court no later than [insert date of TBD prior to the Fairness Hearing], and serve a copy on Co-Lead Class Counsel and Nissan’s counsel at the addresses provided above in Question 15, postmarked no later than [insert date TBD prior to the Fairness Hearing].

19. How much is Class Counsel being paid?

Co-Lead Class Counsel will apply to the Court for reasonable attorneys’ fees and expenses in a total amount up to \$6,250,000.00. Any award of attorneys’ fees and costs will be paid by Nissan separately from and in addition to any relief provided to the Settlement Class. Additionally, Co-Lead Class Counsel will apply to the Court for payments of \$5,000 each to

the ten (10) Class Representatives for their service to the Class. Any award of payments to the Class Representatives will be paid by Nissan separately from and in addition to any relief provided to the Settlement Class.

Final Approval of the Settlement

20. When will the Settlement become final?

The Court has preliminarily approved the Settlement provided for in the Settlement Agreement. The Settlement will not take effect unless and until: (1) the Court approves the Settlement after the Final Approval Hearing and (a) a Final Order and Judgment has been entered by the Court and the applicable period for the appeal of the Final Order and Judgment has expired without any appeals having been filed, or (b) all such appeals have been dismissed; or (2) the appropriate Court of Appeals has entered a final judgment affirming the Final Order and Judgment of the Court, which (a) is no longer subject to any further appellate challenge, or (b) has been affirmed by the United States Supreme Court.

The Court has scheduled a Final Approval Hearing, to be held on _____ at _____ Eastern Time, to decide whether certification of the Settlement Class is proper; whether the Settlement is fair, adequate, and reasonable; and whether the Settlement should be finally approved. In addition, the Court will consider Co-Lead Class Counsel's application for an award of attorneys' fees and reimbursement of expenses. The Court is located at the United States District Court for the Middle District of Tennessee, Nashville Division, Estes Kefauver Federal Building & Courthouse, 801 Broadway, Room ____, Nashville, Tennessee 37203. The Final Approval Hearing may be rescheduled to a later time without further notice. You may, but do not have to, attend the Final Approval Hearing. If the Court grants final approval to the Settlement and the time to appeal has expired, the Settlement will become final and benefits will be paid or available to the Class.

21. What happens if the Settlement is not approved?

If the Court does not approve the Settlement, Class Members will not be entitled to receive the Settlement benefits described in this Notice. It will be as if no Settlement had been reached and no class had been established.

If You Do Nothing

22. What if I do not do anything?

If you do nothing, you will remain a Class Member. You will receive the Warranty Extension benefit of the Settlement automatically, and if you are eligible, you will also receive the Voucher benefit, but any Reimbursement benefits for which you may qualify can be obtained only by timely submitting a Claim Form. In return for these benefits, you will be bound by the terms of the Settlement, which means you cannot bring a lawsuit against Defendant for the same claims at issue in this lawsuit.

More Information

23. Where can I get more information?

If you have additional questions regarding this Notice or the Settlement, or if you did not receive Notice in the mail and believe that you may be a member of the Settlement Class, you should contact the Settlement Administrator's dedicated website for this case by visiting www._____.com or calling _____ for more information, or you may communicate directly with Co-Lead Class Counsel by contacting the attorneys listed in Question 18.

This Notice, which has been approved by the Court, is only a summary of the Settlement. If you wish to obtain more detailed information, you may review the Settlement Agreement, which contains the complete terms of the Settlement. The Settlement Agreement, along with the pleadings, records and other papers regarding the lawsuit, are available on the Settlement Administrator's dedicated website for this case (www._____.com) and are on file with the Court and available to be inspected at any time during regular business hours at the Clerk's office.

The Clerk of the Court is located at:

United States District Court

**Middle District of Tennessee
801 Broadway, Room 800
Nashville, TN 37203**

Please do not contact the Court.

Date of Notice: _____

Exhibit D

LEGAL NOTICE

A Federal Court authorized this notice.

Current or former owners or lessees of 2014-2018
Nissan Rogue, 2015-2018 Nissan Pathfinder, or
2015-2018 Infiniti QX60 vehicles equipped with a
Continuously Variable Transmission (“CVT”):

**Under a proposed class action settlement,
Nissan will extend the warranty on your CVT.**

**You could also be eligible for reimbursement
for prior CVT repairs or replacements under
the extended warranty. Claims for
reimbursement are subject to strict
timeframes.**

**This notice is a summary only. Please read
this notice and then visit the settlement website
or call the number below for further important
information about the settlement.**

1- _____

www. _____ .com

Teresa Stringer, et al. v. Nissan North
America, Inc., Case No. 3:21-cv-00099
Class Action Administrator
P.O. Box _____

VIN: _____

[Customer Name]
[Customer Address 1]
[Customer Address 2]

What is this? You have been sent this notice because records indicate that you purchased or leased a 2014-2018 Nissan Rogue, 2015-2018 Nissan Pathfinder, or 2015-2018 Infiniti QX60 vehicle equipped with a “CVT” or Continuously Variable Transmission (the “**Class Vehicles**”). A Settlement has been proposed in a class action lawsuit against Nissan North America, Inc. (“NNA”) regarding the CVT in the Class Vehicles.

What is this lawsuit about? Plaintiffs allege that the Class Vehicles have a defective CVT which can lead to poor transmission performance or failure. NNA denies Plaintiffs’ claims, and believes the litigation is without merit. The settlement is not an admission by either side. The Court did not rule in favor of either party. Instead, the parties agreed to a proposed Settlement to avoid the expense and risks of litigation. The Settlement is subject to final approval by the Court.

Am I a Member of the Class? The proposed Settlement Class consists of those who purchased or leased Class Vehicles in the U.S. or its Territories.

What does the Settlement Provide?

- **Warranty Extension:** An extension by 24 months or 24,000 miles (whichever occurs first) of the New Vehicle Limited Warranty on your vehicle’s transmission. As part of the Warranty Extension, you may also be eligible for reimbursement of:
 - **Repairs Made Within the Extended Warranty Period:** Reimbursement for parts and labor you paid to repair or replace your vehicle’s transmission within the time and mileage limits of the Warranty Extension (limited to \$5,000 for work done at non-Nissan/Infiniti repair shops). You must submit a claim form by [DATE] or within 30 days of the qualifying repair, whichever is later.
 - **Dealer Recommended Repairs:** If a Nissan or Infiniti dealer previously recommended repair or replacement of your vehicle’s transmission within the time and mileage limits of the Warranty Extension but your car was not repaired at that time, you may still be reimbursed so long as you had, or have, the recommended repair made no later than [DATE] or prior to 95,000 miles, whichever occurs first. You must submit a claim form by [DATE] or within 30 days of the qualifying repair, whichever is later.
- **Vouchers for Certain Current and Former Owners:** If you are a current or former owner of a Class Vehicle, you may receive a voucher of \$1,000 towards the purchase or lease of a new Nissan or Infiniti, if you qualify. If you are also eligible for reimbursement of repair costs, you may elect either reimbursement or a voucher, but not both.
- **Release for Nissan:** Class Members will release all transmission-related claims against NNA and related parties, as explained more fully in the Long Form Notice and Settlement Agreement.

Class Counsel will ask the Court to award up to \$6,250,000 in attorneys’ fees and expenses, and a service award of \$5,000 for each class representative.

The Court will decide whether to approve the Settlement at the Fairness Hearing on [DATE] at [TIME]. You have the right to attend the Fairness Hearing or you may appear through an attorney of your choice.

What Are My Options?

1. **Do Nothing:** You will be in the Settlement Class, and you will automatically receive the Warranty Extension. If you are eligible for a Voucher, you will be notified. You will also be bound by the Settlement Agreement and any judgment in the case.

2. **Submit a Claim Form:** If you submit a Claim Form and otherwise qualify, you will also be reimbursed for qualifying transmission replacements or repairs made to your Class Vehicle.
3. **Object to the Settlement:** You can file a written objection by [DATE] explaining what you do not like about the Settlement. Further details for objecting are contained on the settlement website.
4. **Exclude Yourself from the Settlement:** You can opt out of the Settlement by submitting your request by [DATE]. You will no longer be a member of the Class and will receive no benefits under the Settlement, but will retain any claims you may have against NNA. Further details for requesting exclusion are contained on the settlement website.

This notice summarizes the Settlement. For important additional information including the full Long Form Notice, the Settlement Agreement and Claim Form go to www._____.com or call 800.xxx.xxxx.

Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC., and
NISSAN MOTOR CO., LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**[PROPOSED] PRELIMINARY
APPROVAL ORDER OF CLASS
ACTION SETTLEMENT**

District Judge William L. Campbell
Courtroom A826
Magistrate Judge Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

WHEREAS, a putative class action lawsuit (the “Lawsuit”) is pending before this Court where the Plaintiffs are Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O’Connor, Michelle Williams, and Wayne Balnicki (“Plaintiffs”);

WHEREAS, on _____, 2021, Plaintiffs filed an unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”) pursuant to Federal Rule of Civil Procedure 23(e) which sets forth the terms and conditions of the Parties’ proposed Settlement and finally resolves the Lawsuit;

WHEREAS, the Court has read and considered the Motion for Preliminary Approval and the papers filed in support thereof, including the Settlement Agreement and its attached exhibits, and has considered the arguments of counsel for the Parties in this matter and, good cause appearing,

IT IS HEREBY ORDERED:

**PRELIMINARY CLASS SETTLEMENT
APPROVAL AND SETTLEMENT HEARING**

1. Plaintiffs' Motion for Preliminary Approval is GRANTED. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms herein shall have the same meaning as set forth in the Settlement Agreement.

2. The Court preliminarily certifies the Settlement Class, for settlement purposes only, consisting of two sub-classes. Subclass A shall be comprised of current and former owners and lessees of 2014-2018 model year Nissan Rogue vehicles equipped with a continuously variable transmission ("CVT") who purchased or leased Class Vehicles in the United States or its territories including Puerto Rico. Subclass B shall be comprised of current and former owners and lessees of 2015-2018 model year Nissan Pathfinder and 2015-2018 model year Infiniti QX60 vehicles equipped with a CVT who purchased or leased Class Vehicles in the United States or its Territories. Collectively, the current and former owners and lessees of Subclass A and Subclass B vehicles shall be referred to as the "Settlement Class" and the vehicles of which they are comprised shall be referred to as the "Class Vehicles." Excluded from the Settlement Class are: (1) NNA, any entity or division in which NNA has a controlling interest, its/their legal representatives, officers, directors, assigns and successors; (2) any judge to whom this case is assigned and the judge's clerks and any member of the judge's immediate family, and any judge of the Sixth Circuit Court of Appeals; and (3) government purchasers and lessees.

3. The Court finds that, for settlement purposes only, the requirements of FED. R. CIV. P. 23(a) and 23(b)(3) have been satisfied with regard to the Settlement Class. The Court finds that this Class satisfies the numerosity requirement of Rule 23(a) for settlement purposes because it consists of the past and present owners and lessees of approximately 1.9 million Class Vehicles. The adequacy requirement of Rule 23(a) is likewise satisfied in the context of this proposed

settlement, as the Plaintiffs are members of the Settlement Class, have no antagonistic interests or conflicts, and have diligently pursued the alleged claims on behalf of the Class Members. Their claims are typical of the Class within the meaning of Rule 23(a) because they have or had ownership or leasehold interests in the Class Vehicles, all of which contain CVTs that Plaintiffs allege are prone to the same defects giving rise to the Lawsuits. These common issues for the Class as to the alleged defectiveness in design, manufacture and performance of these CVTs predominate over any individual issues and render a class action superior to individual adjudication for purposes of settlement certification.

4. The Court also finds that: the Parties have made an adequate showing at this stage that the class action settlement set forth in the Settlement Agreement is substantively and procedurally proper; the Class Representatives and Co-Lead Class Counsel have adequately represented the Class in negotiating the Settlement; the Settlement is within the range of likely final approval as fair, reasonable, and adequate for the Class; the Settlement is the product of arm's-length and informed negotiations and was negotiated with the assistance of a well-regarded independent mediator; the Settlement provides adequate relief for the Class, taking into account the cost, risks and delay of trial and appeal, the proposed methods of distribution, attorneys' fees, and its fair and equitable treatment of all Class Members relative to each other; and that the Settlement is presumptively fair, reasonable and adequate, subject only to any objections that may be raised at the Final Approval and Fairness Hearing ("Fairness Hearing"). The Court further finds that the Parties conducted sufficient investigation and research, and their attorneys were able to reasonably evaluate their respective positions. The terms of the Settlement Agreement are, therefore, preliminarily approved, subject to further consideration at the Fairness Hearing.

NOTICE OF SETTLEMENT

5. Kurtzman Carson Consultants, LLC shall serve as Settlement Administrator. The complete responsibilities of the Settlement Administrator are set forth in the Settlement Agreement, including that the Settlement Administrator will obtain addresses for Class Members from a qualified third party, such as IHS/R.L. Polk, that maintains databases related to the automobile industry and which specializes in obtaining such information from, *inter alia*, the Departments of Motor Vehicle of all fifty (50) States in the United States and its territories, including Puerto Rico.

6. The Court finds that Notice to the Class is warranted, and has considered the Notice provisions in the Settlement Agreement, the Notice methodology set forth in the Declaration of _____ (the “Notice Program”), and the Long Form Notice and Summary Notice, attached as Exhibits C and D to the Settlement Agreement, respectively. The Court finds that the direct mailing of Summary Notice in the manner set forth in the Notice Program combined with publication of the Long Form Notice, the Settlement Agreement and its other exhibits, and this Order on the Settlement Website is the best notice practicable under the circumstances; constitutes due and sufficient notice of the Settlement and this Order to all persons entitled thereto, and is in full compliance with the requirements of FED. R. CIV. P. 23(c), applicable law, and due process. The Court approves as to form and content the Long Form Notice and Summary Notice in the forms attached as Exhibits C and D to the Settlement Agreement, respectively. The Court orders the Settlement Administrator to commence the Notice Program as soon as practicable following entry of this Order.

7. Following the entry of this Order and prior to the mailing of Summary Notice to the Class Members, the Parties are permitted by mutual agreement to make changes in the font,

format and content of the Summary Notice and Long Form Notice provided that the changes do not materially alter the substance of those notices. Any material substantive changes to those notices must be approved by the Court.

8. The Settlement Administrator has agreed to prepare and provide the notices pursuant to the Class Action Fairness Act of 2005, Pub. L. 109-2 (2005), 28 U.S.C. § 1715, including, but not limited to, the notices to the United States Department of Justice and to the Attorneys General of all states in which Class Members reside. The Settlement Administrator will complete mailing of the Notice and, as provided in section 1715, the Notice shall be filed “not later than 10 days after a proposed settlement of a class action is filed in court.” The Court finds that this plan fully complies with 28 U.S.C. § 1715.

9. The Settlement Administrator shall be responsible for receipt of all written communications from the Settlement Class and shall preserve the same and all other written communications from Class Members or any other person in response to the Notices. The Settlement Administrator shall provide such communications to Co-Lead Class Counsel, upon request and to the extent necessary for counsel to respond to a request for assistance or inquiry to them from a Class Member or potential Class Member related to the Settlement.

10. The Settlement Administrator will file with the Court and serve upon Co-Lead Class Counsel and Defendant Nissan North America, Inc.’s (“NNA”) Counsel no later than forty-six (46) days after the Notice Date a declaration attesting that Notice was disseminated in a manner consistent with the terms of the Settlement Agreement and the Preliminary Approval Order.

CLASS REPRESENTATIVES AND CLASS COUNSEL

11. The Court appoints the following individuals as representatives of the Settlement Class: Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O'Connor, Michelle Williams, and Wayne Balnicki.

12. The Court appoints the following attorneys as Co-Lead Class Counsel: Mark S. Greenstone, Greenstone Law APC, Marc L. Godino, Glancy, Prongay & Murray LLP, and J. Gerard Stranch IV, Bransetter, Stranch & Jennings PLLC. In addition to Co-Lead Class Counsel, the Court appoints the following attorneys as Executive Committee counsel: Stephen R. Bassar, Barrack, Rodos & Bacine, Lawrence Deutsch, Berger Montague PC, and Ryan McDevitt, Keller Rohrback L.L.P. The Court finds that Co-Lead Class Counsel and Executive Committee Counsel have demonstrable experience litigating, certifying, and settling class actions, and will adequately represent the Settlement Class.

REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS

13. Class Members may elect to exclude themselves from this Settlement, relinquishing their rights to benefits under this Settlement Agreement. A Class Member wishing to exclude himself/herself from the Settlement must send to the Settlement Administrator his or her own, personally signed letter or request (or, where appropriate due to disability, incapacity or other conditions, a signed letter or request from a Class Member's conservator, custodian, or person with applicable power of attorney along with documentation establishing such authority) including (i) his/her name, (ii) address, (iii) telephone number, (iv) model and year of vehicle(s), (v) the VIN number of the vehicle(s); and (vi) a clear statement communicating that he/she elects to be excluded from the Settlement Class. Subject to the above conditions, a request signed only by a representative or attorney for the Class Member is not valid. A single written letter or request for

exclusion submitted on behalf of more than one Class Member will be deemed invalid; provided, however, that an exclusion received from one Class Member will be deemed and construed as a request for exclusion by all co-owners or co-lessees of the vehicle. Mass or class opt-outs shall not be allowed. No Class Member shall be deemed opted-out of the Settlement Class through any purported “mass” or “class” opt-outs.

14. Any request for exclusion must be postmarked no later than ___ days after the Notice Date. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Class Members who fail to submit a valid and timely request for exclusion on or before the date specified in the Preliminary Approval Order and Notice, shall be bound by all terms of the Settlement Agreement and the Final Order and Judgment, regardless of whether they have filed a separate lawsuit or requested exclusion from the Settlement. Any Class Member who submits a timely request for exclusion may not file an Objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement.

15. Not later than seven (7) business days after the deadline for submission of requests for exclusion, the Settlement Administrator shall provide to Co-Lead Class Counsel and NNA’s Counsel a complete exclusion list together with copies of the exclusion requests. A list of the names of the Class Members requesting exclusion will be filed with the Court by the Settlement Administrator not later than five (5) days prior to the Fairness Hearing Date.

16. All Class Members that have not submitted a timely and valid written request for exclusion from the Settlement Class will be bound by the Releases in the Settlement Agreement and other terms and conditions set forth herein and all proceedings, orders and judgments in this

Lawsuit. Class Members may exclude themselves from the Settlement or object to the Settlement, but they may not do both.

OBJECTIONS BY CLASS MEMBERS

17. In order to object to the approval of the Settlement Agreement, a Class Member must serve at least one Co-Lead Class Counsel and NNA's counsel by mail at the addresses listed below and must file the Objection with the Court, which Objection must be filed and copies postmarked no later than __ days after the Notice Date. To state a valid Objection to the Settlement, a Class Member making an Objection must provide the following information in his or her written Objection: (i) the Class Member's full name and current address; (ii) the model year and make of his or her vehicle(s) and approximate date(s) of purchase; (iii) whether the Class Member still owns the vehicle(s); (iv) the VIN number of the vehicle(s); (v) current odometer mileage of the vehicle(s) currently owned; (vi) a specific statement of the Class Member's reasons for objecting to the Settlement, including the factual and legal grounds for his or her position; (vii) whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, (viii) a list of any other objections to any class action settlements submitted to any court, whether State, Federal, or otherwise, in the United States in the previous five (5) years; (ix) whether the Class Member intends to appear at the Fairness Hearing and whether the Class Member will be represented by separate counsel; and (x) the Class Member's signature with the date of signature.

18. Objections must be served:

Upon NNA's Counsel at:

E. Paul Cauley, Jr.
FAEGRE DRINKER BIDDLE & REATH LLP
1717 Main Street, Suite 5400
Dallas, TX 75201

Upon one or more Co-Lead Class Counsel at:

Mark S. Greenstone
GREENSTONE LAW APC
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Marc L. Godino
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

J. Gerard Stranch, IV
BRANSETTER, STRANCH & JENNINGS PLLC
223 Rosa L. Parks Avenue, Suite
200 Nashville, TN 37203

19. Any Class Member who does not make an Objection in the manner provided above shall be deemed to have waived such Objection and shall forever be foreclosed from making any Objection to the fairness, reasonableness or adequacy of the proposed Settlement or the Final Order and Judgment to be entered approving the Settlement. Any Class Member who wishes to speak at the Fairness Hearing must follow the procedures outlined in the Long Form Notice posted on the Settlement Website.

20. No Class Member shall be entitled to be heard at the Fairness Hearing (whether individually or through separate counsel) unless written notice of the Class Member's intention to appear at the Fairness Hearing and copies of any written Objections and briefs have been filed with the Court and served on NNA's Counsel and one or more Co-Lead Class Counsel on or before the date specified in the Notice.

FAIRNESS HEARING

21. The Court will hold a Fairness Hearing on _____ 2022, at _____ a.m./p.m. in Courtroom _____ of the United States District Court for the Middle District of Tennessee, Nashville Division, Estes Kefauver Federal Building & Courthouse, 801 Broadway, Nashville, Tennessee 37203. The Court will determine whether the proposed Settlement Agreement is fair, reasonable, and adequate and should be granted final approval, whether certification of a

nationwide settlement class is appropriate, and whether Co-Lead Class Counsel's application for an award of Attorneys' Fees, Costs, Expenses and Class Representative Service Awards should be granted.

22. Papers by counsel in connection with the Settlement shall be filed as follows: no later than ___ days after the Notice Date, Co-Lead Class Counsel will file briefing regarding Final Approval of the Settlement and Certification of the Settlement Class, and Award of Attorneys' Fees, Costs, Expenses, and Representative Service Awards requesting that the Court enter the Final Order and Judgment in substantially the same form attached as Exhibit F to the Settlement Agreement, which will, among other things, dismiss this case, with prejudice as to NNA, subject to the continuing jurisdiction of the Court; approve the Settlement, certify the Settlement Class and render an award of attorneys' fees, expenses, costs and service awards. NNA may, at its discretion, submit such briefing as it deems necessary to support the motion for final approval, clarify its positions, and otherwise protect its interests. Such briefing by NNA will be due no later than ten (10) days before the date set by the Court for the Fairness Hearing. Co-Lead Class Counsel and NNA's Counsel shall also be entitled to file responses to any Objections which may have been filed, which responses shall be filed fourteen (14) days prior to the date set by the Court for the Fairness Hearing. Any reply briefs by NNA or Co-Lead Class Counsel to the other's filings shall be due no later than three (3) days before the Fairness Hearing.

PRELIMINARY INJUNCTION

23. The Court hereby finds that it is appropriate to enter a preliminary injunction enjoining all Class Members from instituting, maintaining, or prosecuting any action other than this lawsuit asserting any claims on a class action basis that would be Released Claims under the terms of the Settlement Agreement; and unless such Class Members first submit a valid and timely

written request to be excluded from the Settlement Class, from instituting, maintaining, or prosecuting any separate actions asserting individual claims that would be Released Claims under the terms of the Settlement Agreement. Pursuant to 28 USC §§ 1651(a) and 2283 and Federal Rule of Civil Procedure 23(d), the Court finds that issuance of a preliminary injunction is necessary and appropriate in aid of the Court's continuing jurisdiction and authority over the settlement of claims originally brought in multiple lawsuits and now before this Court, to preserve its ability and jurisdiction to consider and fully effectuate the Settlement, and in order to prevent the potential for inconsistent orders, confusion, and disruption that would be caused by the simultaneous litigation of other putative class actions involving any allegations or causes of action asserted in any other lawsuits during the Court's consideration of the Settlement.

24. Accordingly, in order to preserve the Court's jurisdiction pending consideration of whether final approval should be given to the Settlement, and to avoid irreparable harm to the settlement process, and after balancing the equities and concluding that the Settlement Agreement is sufficiently fair, reasonable, and adequate such that it merits preliminary approval and should be protected from collateral attack during the notice and final approval process, the Court hereby preliminary bars and enjoins all Class Members from:

(a) instituting, maintaining, prosecuting, intervening in, participating as a party or class member in, or otherwise pursuing or receiving any benefits from any other action other than this Lawsuit asserting any claims that would be Released Claims under the terms of the Settlement Agreement, unless they first exclude themselves from the Settlement Class in accordance with the terms of this Order; and

(b) filing, commencing, maintaining, or prosecuting any lawsuit asserting claims within the scope of the proposed Release set forth in the Settlement Agreement as

a class action, as a separate class, or as a representative action for purposes of pursuing (including by seeking to amend a pending complaint to include class allegations or by seeking class certification in a pending action in any jurisdiction) on behalf of any other Class Members any of the claims within the scope of the proposed Release contained in the Settlement, whether or not they have excluded themselves from the Settlement Class.

TERMINATION

25. If the Court declines to enter a Final Order and Judgment in substantially the same form attached as Exhibit F to the Settlement Agreement, or the Final Order and Judgment does not for any reason become final, the Parties will be returned to the same position as existed on ____, and as if the Settlement Agreement had not been negotiated, made or filed with the Court. Should this occur: (a) the Parties shall move the Court to vacate any and all orders entered by the Court pursuant to the provisions of the Settlement Agreement; and (b) neither the Settlement Agreement, nor any documents filed, submitted, or published pursuant to the Settlement Agreement may be used in any litigation (except to enforce the provisions of the Settlement Agreement) and nothing contained in any documents shall impact any legal proceedings.

26. This Order shall be of no further force or effect if the Settlement does not become final and shall not be construed or used as an admission, concession, or declaration by or against the Parties or members of the Settlement Class of the validity of any claim or counterclaim or any actual or potential fault, wrongdoing, or liability whatsoever, or by or against the Parties or members of the Settlement Class, that their claims or counterclaims lack merit or that the relief

requested in the Complaint or any counterclaims are inappropriate, improper, or unavailable, or as a waiver by any Party of any defense or claims it or they may have.

POWERS AND JURISDICTION OF THE COURT

27. The Court expressly reserves its right to change the date of the Fairness Hearing or any further adjournment thereof, and to approve the Settlement Agreement, including any modifications thereto which are acceptable to the Parties, without further notice to Class Members. Any new date shall be posted on the Settlement Website. The Parties shall be permitted to make any non-substantive corrections or changes to the Notices to the Class and other Settlement documents without seeking further approval of the Court.

28. Pending Final Approval of the Settlement, the Parties to the Settlement Agreement are directed to carry out their obligations under the terms thereof.

IT IS SO ORDERED.

Dated: _____

The Honorable William L. Campbell
United States District Court Judge

Exhibit F

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC., and
NISSAN MOTOR CO. LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**[PROPOSED] ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
AWARD OF ATTORNEYS’ FEES, COSTS,
EXPENSES AND REPRESENTATIVE
SERVICE AWARDS**

District Judge William L. Campbell
Courtroom A826
Magistrate Judge Barbara D. Holmes
Courtroom 764

Having considered Plaintiffs’ Motion for Final Approval of Class Action Settlement and supporting Memorandum of Law, and Plaintiffs’ Motion for Award of Attorneys’ Fees, Reimbursement of Expenses, and Service Awards for Class Representatives and supporting Memorandum of Law (collectively, the “Briefing on Final Approval, Attorneys’ Fees, and Expenses”) filed by Plaintiffs Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O’Connor, Michelle Williams, and Wayne Balnicki (“Plaintiffs”); having considered that, by order dated _____, 2021, this Court granted preliminary approval of the proposed Settlement Agreement¹ in this case, preliminarily certified a Settlement Class, and approved notice to that Class; and having held a Fairness Hearing on _____, 2022, and having

¹ This Order incorporates by reference the definitions in the Settlement Agreement, and all terms herein shall have the same meaning as set forth in the Settlement Agreement.

considered all of the objections, submissions and arguments with respect to the proposed Settlement;

THE COURT HEREBY FINDS AS FOLLOWS:

1. The Court confirms its previous preliminary findings in the Preliminary Approval Order and finds that the settlement of the present action (the “Lawsuit”) satisfies the applicable prerequisites for class action treatment under FED. R. CIV. P. 23(a) and 23(b)(3). Specifically, the Court finds that the Settlement Class, as defined in Paragraph 38 of the Settlement Agreement and also defined below, is so numerous that joinder of all members is not practicable, that questions of law and fact are common to the Settlement Class, that the claims of the Plaintiffs are typical of the claims of the Settlement Class, that the Plaintiffs and Class Counsel have and will fairly and adequately protect the interests of the Settlement Class without conflict of interest, that questions of law and fact common to the members of the Settlement Class predominate, for settlement purposes, over any questions affecting only individual members, including the common questions regarding the reliability, design and performance of the type of Continuously Variable Transmission (“CVT” or “transmission”) in the Class Vehicles at issue; and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy, at least for purposes of settlement.

2. Notice to the Settlement Class as required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court’s Preliminary Approval Order, and Summary Notice by first-class mail was given in an adequate and sufficient manner. This, coupled with all of the additional information contained on the Settlement Website, to which Class Members were directed by the Summary Notice, constitutes the best notice practicable under the circumstances, and satisfies all requirements of Rule 23(e) and due process.

3. In full accordance with the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, the Settlement Administrator caused to be mailed a copy of the proposed Settlement and all other documents required by said law to the Attorney General of the United States and the Attorneys General in each of the jurisdictions where Class Members reside. None of the Attorneys General filed objections to the Settlement. The Court finds and confirms that 28 U.S.C. § 1715 has been fully satisfied and that the Settlement is therefore entitled to binding effect as to all members of the Settlement Class who did not timely and validly opt out.

4. The Court has considered all relevant factors for determining the fairness of the Settlement and has concluded that all such factors weigh in favor of granting final approval. The Settlement was a result of arm's-length negotiation by experienced counsel with an understanding of the strengths and weaknesses of their respective cases. Negotiation occurred with the benefits of adequate investigation, discovery, and due diligence, and with the assistance of a well-respected independent mediator. Among the factors that counsel considered in negotiating the Settlement are those set forth in the Briefing on Final Approval, Attorneys' Fees, and Expenses. As part of the Lawsuit, Co-Lead Class Counsel have conducted a detailed investigation of the facts and analyzed the relevant legal issues. Although the Plaintiffs and Co-Lead Class Counsel believe that the claims asserted in the Amended Consolidated Class Action Complaint have merit, they also have reasonably and adequately examined the benefits to be obtained under the Settlement compared to the costs, risks, and delays associated with the continued litigation of these claims.

5. The Court finds that the Settlement is fair, reasonable, and adequate, particularly in light of the complexity, expense, and likely duration of continued litigation and the risks involved in establishing liability and damages and in maintaining class action status through trial and appeal.

6. The benefits to the Settlement Class constitute fair value given in exchange for the release of the claims of the Settlement Class. The Court finds that the consideration to be provided under the Settlement is reasonable in type and scope considering the facts and circumstances of this case, the types of claims and defenses asserted in the Lawsuit, the claims to be released, and the risks associated with the continued litigation of these claims.

7. The Court finds that in all respects, the Settlement treats Class Members equitably in relation to each other, and that the method of distribution of relief is fair, appropriate and efficient. Those benefits that reasonably can be extended automatically (the warranty extension on Class Vehicles and Vouchers for certain current and former owners not claiming reimbursement) are extended automatically. A Claim Form is required only for reimbursements, which is justified since Nissan otherwise would not have all of the information necessary to determine the amount of and entitlement to the reimbursement. The method of processing those Claim Forms is likewise fair, reasonable and adequate. Finally, there are no side agreements.

8. The Parties and Class Members have irrevocably submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement.

9. It is necessary to protect this Court's jurisdiction and ability to enforce this judgment, and also in the best interest of the Parties and the Class Members and consistent with principles of comity, judicial economy and the strong federal policy favoring settlement, that any dispute between any Class Member (including any dispute as to whether any person is a Class Member) and any Released Party which in any way relates to the applicability or scope of the Settlement, or this Final Judgment and Order of Dismissal, should be presented exclusively to this Court for resolution by this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

10. The Court certifies a Settlement Class, for settlement purposes only, consisting of the following: All current and former owners and lessees who purchased or leased a Class Vehicle in the United States and its territories including Puerto Rico. Excluded from the Settlement Class are: (1) Nissan North America, Inc. (“NNA”), any entity or division in which NNA has a controlling interest, its/their legal representatives, officers, directors, assigns and successors; (2) any judge to whom this case is assigned and the judge’s clerks and any member of the judge’s immediate family, and the Sixth Circuit Court of Appeals; and (3) government purchasers and lessees.

11. The Settlement Agreement submitted by the Parties is finally approved pursuant to FED. R. CIV. P. 23(e) as being fair, reasonable, adequate, and in the best interests of the Settlement Class. It shall be binding on Plaintiffs, Defendant, and all members of the Settlement Class who did not timely and validly opt out. The Parties are directed to perform all obligations under the Settlement Agreement in accordance with its terms.

12. The Lawsuit is hereby dismissed with prejudice and without costs. This Judgment has been entered without any admission by any Party as to the merits of any allegation by any Party in the Lawsuit and shall not constitute a finding of either fact or law as to the merits of any claim or defense asserted in the Lawsuit.

13. The Released Claims are hereby finally compromised, settled, released, discharged, and dismissed with prejudice against the Released Parties by virtue of the proceedings herein and this Final Judgment and Order of Dismissal.

14. All Class Members were given a full and fair opportunity to participate in the Final Approval Hearing, and all Class Members wishing to be heard have been heard. Class Members also have had a full and fair opportunity to opt out from the proposed Settlement and the Class.

Accordingly, the terms of the Settlement Agreement and of the Court's Order and Judgment shall be forever binding on all Class Members who did not timely opt out of the Settlement. These Class Members have released and forever discharged NNA and all Released Parties from any and all Released Claims.

15. Members of the Settlement Class and their successors and assigns are hereby permanently barred and enjoined from asserting, commencing, prosecuting or continuing to prosecute, either directly or indirectly, any Released Claim against any of the Released Parties in any forum, with the exception of any former Class Members who have duly opted out of the Settlement Class.

16. The named Plaintiffs are suitable class representatives and their appointment as representatives for the Settlement Class is hereby re-confirmed. The Court approves an award of \$5,000 to each of Plaintiffs Teresa Stringer, Karen Brooks, William Papania, Jayne Newton, Menachem Landa, Andrea Eliason, Brandon Lane, Debbie O'Connor, Michelle Williams, and Wayne Balnicki as a reasonable payment for his or her efforts, expenses and risks as Plaintiffs in bringing the Lawsuit, which shall be paid by NNA as provided in the Settlement.

17. Based upon the evidence submitted, the Court confirms its appointment as Co-Lead Class Counsel of Mark S. Greenstone, Greenstone Law APC, Marc L. Godino, Glancy, Prongay & Murray LLP, and J. Gerard Stranch, IV, Bransetter, Stranch & Jennings PLLC. In addition to Co-Lead Class Counsel, the Court confirms its appointment as Executive Committee Counsel of Stephen R. Bassar, Barrack, Rodos & Bacine, Lawrence Deutsch, Berger Montague PC, and Ryan McDevitt, Keller Rohrback L.L.P. The Court finds that these attorneys possess the requisite knowledge, experience, and skills to advance the interests of the Settlement Class. The Court approves an award of \$_____ as reasonable payment for Attorneys' Fees, Costs and

Expenses, which shall be paid by NNA and distributed by Co-Lead Class Counsel as provided in the Settlement Agreement.

18. Without affecting the finality of this judgment, the Court's retained jurisdiction of this Settlement also includes the administration and consummation of the Settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction of, and the Parties and all Class Members are hereby deemed to have submitted irrevocably to the exclusive jurisdiction of this Court for, any suit, action, proceeding or dispute arising out of or relating to this Order and the Settlement Agreement, or the applicability of the Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the Settlement Agreement, including, but not limited to, any suit, action, arbitration or other proceeding by a Class Member in which the provisions of the Settlement Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or proceeding arising out of or relating to this Order. Solely for purposes of such suit, action or proceeding, to the fullest extent possible under applicable law, the Parties hereto and all persons within the definition of the Settlement Class are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

19. All Objections filed are hereby overruled and denied for the reasons stated on the record at the fairness hearing.

20. Exhibit A lists the name and last six digits of the applicable VIN of each timely and valid opt out as determined by the Settlement Administrator. The Court agrees with and adopts the

findings of the Settlement Administrator as to the validity of opt outs. Any other opt outs are hereby ruled invalid and ineffective.

21. The Court finds that no just reason exists for delay in entering this Final Judgment and Order of Dismissal. Accordingly, the Clerk is hereby directed to enter this Final Judgment.

IT IS SO ORDERED.

Dated: _____

The Honorable William L. Campbell

United States District Court Judge

BS&J BRANSTETTER
STRANCH & JENNINGS
PLLC



NASHVILLE

The Freedom Center

223 Rosa L. Parks Ave., Ste 200
Nashville, Tennessee 37203
Tel: 615-254-8801
Fax: 615-255-5419



LOUISVILLE

Central Park

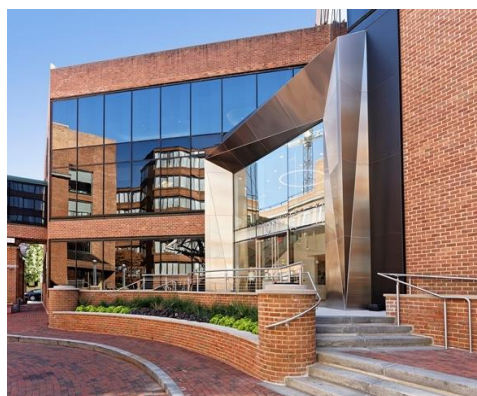
515 Park Avenue
Louisville, Kentucky 40208
Tel: 502-636-4333
Fax: 502-636-4342



CINCINNATI

US Bank Building

425 Walnut Street, Suite 2315 Cincinnati, OH
45202
Tel: 513-381-2224



WASHINGTON, D.C.

Georgetown Place

1101 30th St. NW., Ste 500
Washington, D.C. 20007
Tel: 615-254-8801

For over sixty-five years, Branstetter, Stranch & Jennings, PLLC has been known for the quality of its advocacy, and the integrity of its attorneys. The Firm enjoys a national reputation of prominence in the complex litigation arena for its work in class actions, shareholder derivative claims, securities, ERISA, labor and employment, and other complex cases, both at the trial and appellate levels.

The Firm has three offices providing a full range of legal services to its diverse clientele both regionally and nationwide. In addition to providing quality legal services, the firm is proud of the professional and civic leadership that its members have provided both locally and nationally. Our former Managing Partner, Jane Branstetter Stranch, was nominated by President Obama to the United States Court of Appeals for the Sixth Circuit, and now serves as judge on that court following her confirmation by the U.S. Senate. Branstetter, Stranch & Jennings, PLLC firm is listed in the Bar Register of Preeminent Lawyers, and was recently named among "Best Law Firms" by U.S. News & World Report for 2018-2021, receiving the highest possible Nashville ranking as a Tier 1 in two practice areas.

Statement of Practice:

General Litigation Practice in State, Federal and Appellate Courts; Class Actions and Complex Litigation; Mass Tort; Antitrust Law; Securities Law; Shareholder Derivative Law; Wage & Hour Law; Consumer Protection; Labor and Employment Law; ERISA and Pension Law; Commercial Litigation; Utility Law; Municipal Law; Personal Injury; Workers' Compensation; and, Social Security Claims.

Members and Attorneys:

Cecil D. Branstetter, (Member Emeritus – Deceased May 7, 2014) born Morgan County, Tennessee; admitted to bar, 1949, Tennessee. **Education:** Lincoln Memorial University and George Washington University (B.A., 1946); Oxford University, England and Vanderbilt University (J.D., 1949). Order of the Coif; Delta Theta Phi. Member, Board of Editors, Vanderbilt Law Review, 1949. Member, Tennessee Legislature, 1951-1953. **Member:** Past Chairperson, Tennessee Disciplinary Board of Tennessee; Nashville Bar Association (President, Junior Section, 1952-1953) and American Bar Associations; Nashville and Tennessee Bar Foundations; Tennessee Association of Criminal Defense Lawyers, Tennessee Trial Lawyers; American Board of Trial Advocates; The Association of Trial Lawyers of America; Founder, Tennessee Environmental Council; Past President, Tennessee Conversation League; Recipient, John Tune Award, Nashville Bar Association. **Practice Areas:** Personal Injury; Public Utility Law; Regulated Industries; Municipal Law; Labor & Employment; Administrative Law; Civil Litigation; Criminal Law.

James G. Stranch, III, (Member) born Abbeville, South Carolina; admitted to bar, 1973, Tennessee; 1974, U.S. District Court, Middle District of Tennessee; U.S. Tax Court; 1980, U.S. Supreme Court; 1982, U.S. Court of Appeals, Sixth Circuit, 1986; Eight Circuit, 2011; Ninth Circuit, 2008; U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2002, U.S. District Court, Colorado. **Education:** Dobbins-Bennett High School, Kingsport, Tennessee; University of Tennessee (B.S., 1969; J.D., 1973). Phi Delta Phi. **Member:** Tennessee State Ethics Commission (Chairman, 2011 – Present); Tennessee Appellate Court Nominating Committee (Secretary, 1985-1991); AFL-CIO Lawyer's Coordinating Advisory Committee (1980-present); Nashville Bar Association (1973 – Present); Tennessee Bar Association (Chairman, Labor Law Section, 1991-1992; member 1973-present) and American Bar Associations (1973-present); American and Tennessee Association for Justice (1974 –

Present); **Practice Areas:** Labor & Employment; Class Actions and Complex Litigation; Shareholder Derivative Law; Consumer Protection; ERISA; Securities Law; Civil Litigation; Personal Injury; Auto & Trucking; and Municipal Law.

R. Jan Jennings, (Member); admitted to bar, 1975, Tennessee and U.S. District Court, Eastern District of Tennessee; 1976, Georgia and U.S. Court of Appeals, Fifth Circuit; 1979, U.S. Court of Appeals, Sixth Circuit; 1981, U.S. Court of Appeals, Eleventh Circuit; 1984, U.S. Court of Appeals for the Federal Circuit and U.S. Supreme Court. **Education:** East Tennessee State University (B.S., 1964; M.B.A., 1966); University of Tennessee at Knoxville (J.D., 1974). Editor, Tennessee Law Review, 1973-1974. Member, Panel of Arbitrators, American Arbitration Association. **Member:** Tennessee Bar Association; State Bar of Georgia. **Practice Areas:** Litigation; ERISA; Labor; Personal Injury.

J. Gerard Stranch, IV, (Member) born Nashville, Tennessee; admitted to bar, 2003, Tennessee, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court for Western Tennessee; 2004 U.S. Court of Appeals, Sixth Circuit. **Education:** Emory University (B.A. 2000); Vanderbilt University Law School (J.D., 2003). Adjunct Professor of Law, Vanderbilt University Law School (2011 – Present). **Member:** Nashville and Tennessee Bar Associations; American and Tennessee Association for Justice (Governor), Class Action Trial Lawyers Association executive committee member, and AFL-CIO Lawyers Coordinating Committee; Top 40 Under 40 by the National Trial Lawyers Association. **Practice Areas:** Class Actions and Complex Litigation; Mass Torts; Securities Law; Labor & Employment; Consumer Protection; ERISA; Civil Litigation; Personal Injury and Wrongful Death.

Joe P. Leniski, Jr., (Member), admitted to bar, 2003, Tennessee; 2004, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2005, U.S. District Court, Eastern District of Arkansas, 2016, U.S. Court of Appeals for the First, Third, Sixth, and Eighth Circuits; **Education:** University of Notre Dame (B.A., cum laude, 2000), Vanderbilt University Law School (J.D., 2003). Vanderbilt Bar Association, President; Trial Advocacy Association, member; Vanderbilt Juvenile Practice Clinic. **Member:** Nashville and Tennessee Bar Associations; American Bar Association; American Association of Justice; Public Justice; Harry Phillips American Inn of Court; Super Lawyers, 2012-2019; Class Action Trial Lawyers Top 25; Mass Tort Trial Lawyers Top 25; The National Trial Lawyers Top 100 Civil Plaintiff. **Practice Areas:** Civil Litigation; Class Actions and Complex Litigation; Antitrust Law; Shareholder Derivative Law; Labor & Employment; Consumer Protection; and ERISA.

Michael G. Stewart, (Member), admitted to bar, 1994, Tennessee. **Education:** University of Pennsylvania (B.A. 1987); University of Tennessee College of Law (J.D. 1994). **Member:** Nashville, Tennessee, and American Bar Associations; Member & House Caucus Leader, Tennessee House of Representatives (2008 – Present). **Practice Areas:** Class Actions and Complex Litigation; Securities; Consumer Protection.

Michael J. Wall, (Member) born Cincinnati, Ohio; admitted to bar, 2005, Tennessee; 2006, U.S. District Court, Middle District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2009, U.S. District Court, Eastern District of Tennessee; 2006, U.S. Court of Appeals, 6th Circuit; 2010, U.S. Court of Appeals, 11th Circuit; 2011, U.S. Court of Appeals, 8th Circuit; 2009, U.S. Supreme Court. **Education:** Vanderbilt University (B.A., 2002); Vanderbilt University Law School (J.D., 2005). **Member:** Nashville,

Tennessee, and American Bar Associations. **Practice Areas:** Civil Litigation; Labor & Employment; ERISA; Class Actions and Complex Litigation.

Karla M. Campbell, (Member), admitted to Tennessee Bar 2008, U.S. District Court, Middle District of Tennessee 2011, U.S. Court of Appeals, 6th Circuit 2011; **Education:** University of Virginia (B.S., 2002); Georgetown University Law Center (J.D., 2008); **Clerkship:** Hon. Jane B. Stranch, U.S. Court of Appeals, 6th Circuit (2010-2011); **Member:** Nashville, Tennessee, and American Bar Associations; **Director:** AFL-CIO Lawyers Coordinating Committee; **Practice Areas:** Civil Litigation; Labor & Employment; Complex Litigation; ERISA. Also noteworthy is that Ms. Campbell speaks fluent Spanish.

Benjamin A. Gastel, (Member), admitted to Georgia Bar 2007, Georgia Court of Appeals 2008, U.S. District Court, Northern District of Georgia 2008, Georgia Supreme Court 2010, Tennessee Bar 2010, Tennessee Supreme Court 2010, U.S. District Court, Middle District of Tennessee, 2011. **Education:** University of Dayton (B.S., 2004); Vanderbilt School of Law (J.D., 2007). **Member:** Nashville, Tennessee, Georgia, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation; Civil Litigation; Consumer Securities and Fraud, Antitrust Litigation; and Labor & Employment.

Tricia Herzfeld, (Member), admitted to the Tennessee Bar (2007), Florida Bar (2001), and West Virginia Bar (2004), U.S. District Court Middle District of Tennessee (2008), U.S. District Court Eastern District of Tennessee (2010), U.S. District Court of Western Tennessee, 2010, U.S. District Court Southern District of West Virginia (2005), U.S. Court of Appeals, Sixth Circuit (2017), U.S. District Court, Fifth Circuit (2013), U.S. Immigration Courts (2015). **Education:** George Washington University (B.A.1998); George Washington University Law School (2001). **Member:** Super Lawyers (2012-2016), Davidson County Election Commission, (2012-present). **Practice Areas:** Complex Litigation, Personal Injury, and Civil Rights.

David O'Brien Suetholz, (Member), admitted to the Kentucky Bar (2004), Indiana Bar (2005), U.S. District Court Eastern District of Kentucky (2004), U.S. District Court Western District of Kentucky (2004), U.S. District Court of Southern District of Indiana, 2005; U.S. Court of Appeals, Sixth Circuit (2005), U.S. Court of Appeals for the Federal Circuit; Supreme Court of the United States of America (2010) **Education:** Villanova University (B.A.2000); Notre Dame Law School (2003). **Experience:** General Counsel Kentucky Labor Cabinet 2009-2011; *Thompson v. North American Stainless, L.P.*, 562 U.S. 170 (2011) (expanded Title VII protection nationwide) **Practice Areas:** Union-side Labor Law.

Anthony A. Orlandi, (Member), admitted to Tennessee Bar 2015; Massachusetts Bar 2006; U.S. District Court, District of Massachusetts; U.S. District Courts, Eastern, Middle, and Western Districts of Tennessee, Eastern and Western Districts of Arkansas; U.S. Court of Appeals for the Sixth Circuit; **Education:** Brown University, B.A., Public Policy & American Institutions, Phi Beta Kappa; University of Virginia School of Law (J.D.), Earle K. Shawe Labor Relations Award **Member:** Member, American, Tennessee, and Nashville Bar Associations; Phi Beta Kappa, National Chapter and Rhode Island Chapter Board Member Law Association for Women, Nashville Chapter Board Member; Nashville Bar Association Diversity Committee; Nashville Bar Association Social Committee; Harry Phillips American Inn of Court; Tennessee Bar Association Leadership Law Class of 2017, Nashville Bar Foundation 2015 Young Leadership Forum **Experience:** Law Clerk, Hon. Aleta A. Trauger, U.S. District Court for the Middle District of Tenn. **Practice Areas:** Complex Litigation; Constitutional Rights Litigation; Personal Injury; Products Liability

Edward Gleason, (Member), admitted to Pennsylvania Bar 1989, Washington, Washington, D.C. Bar 1991, U.S. Courts of Appeal for the Second, Third, Seventh, Ninth, D.C. Circuits, United States Supreme Court 1998, **Education**: Fordham University *Phi Beta Kappa* (B.A. 1986); Dickinson School of Law *with distinction*, (1989). **Experience**: Adjunct Professor Georgetown University Law Center for fourteen years; Pro-Bono International Labor Rights; General Counsel of Marine Engineers Beneficial Association (1996-99, 2002-2007); Counsel for International Brotherhood of Teamsters, Carhaul and Airline Divisions (2007-2013); Chief Counsel to Teamsters Local 1224 (2013-present). **Practice Areas**: Union-side Labor Law, ERISA, Labor and Employment Related Civil Litigation, and Labor and Employment Related Administrative Proceedings.

Jessica Myers, (Of Counsel), admitted to Tennessee Bar, 2006, U.S. District Court, Middle District of Tennessee, 2007; U.S. District Court, Eastern District of Tennessee, 2014; U.S. District Court, Western District of Tennessee, 2015. **Education**: Barnard College, Columbia University (B.A., 2000); Harvard Law School (J.D., 2006). **Practice Areas**: Civil Litigation.

Pamela Newport, (Senior Associate), admitted to the Ohio bar, 2005, U.S. District Court, Southern District of Ohio, U.S. District Court, Northern District of Ohio. **Education**: University of Cincinnati (B.A., 2001); University of Cincinnati (M.A., 2004); University of Cincinnati (J.D. 2005). **Member**: AFL-CIO Lawyers Coordinating Committee, NAACP, Adjunct Professor, University of Cincinnati College of Law, 2009-2011, Cincinnati Interfaith Workers Center, Board Member, 2006-2008; **Experience**: Kircher, Suetholz and Associates (2017-2018), General Counsel, UFCW Local 75 (2008-2016), Manley Burke, LPA (2005-2008) **Practice Areas**: Union-side Labor and Employment.

Marty Schubert, (Senior Associate), admitted to the New York bar, 2014, Tennessee bar, 2016, and U.S. District Court, Western District of Tennessee. **Education**: Georgetown University (B.S., 2006); Loyola Marymount University (M.A., 2008); Brooklyn Law School (J.D., 2013). **Experience**: Waller Lansden Dortch & Davis, LLP (2016-2019), Linklaters LLP (2013-2016) **Practice Areas**: Complex Civil Litigation.

Daniel Hull, (Associate), admitted to Tennessee Bar, 2005, U.S. District Court for the Middle District of Tennessee, 2006, U.S. District Court for the Eastern District of Tennessee, 2011, U.S. District Court for the Western District of Tennessee, 2019, U.S. District Court for the Western District of Kentucky (*pro hac vice*), U.S. District Court for the District of Montana (*pro hac vice*). **Education**: Carson-Newman University (B.A., 1999); University of Tennessee (M.A., 2001); University of Tennessee College of Law (J.D., 2005). **Practice Areas**: Complex Civil Litigation, Class Action, including Mass Tort Litigation, Construction Law, Employment Law, Public Utility and Eminent Domain.

Alyson Beridon, (Associate), admitted to the Ohio bar, 2011, Kentucky bar, 2017, U.S. District Court, Southern District of Ohio, Western District of Kentucky and Eastern District of Kentucky. **Education**: Salmon P. Chase College of Law at Northern Kentucky University. **Experience**: Beridon Law Office (2011-2016), Kircher, Suetholz and Associates (2016-2018). **Practice Areas**: Union-side Labor and Employment.

Clement L. Tsao, (Associate), admitted to the Ohio bar, 2013, admitted to the Kentucky bar, 2014, U.S. District Court, Southern District of Ohio, U.S. District Court, Northern District of Ohio, U.S. District

Court, Eastern District of Kentucky, U.S. Court of Federal Claims, U.S. Federal Circuit Court of Appeals; **Education:** Brown University (A.B., 2003); University of Cincinnati College of Law (J.D., 2012); **Member:** American Bar Association - Labor and Employment Section, AFL-CIO Lawyers Coordinating Committee (Board Member, 2016-2018); **Experience:** Cook & Logothetis, LLC (associate, 2013-2019); **Practice Areas:** Union-side Labor and Employment.

Janna Maples, (Associate). Admitted to Tennessee Bar, 2013 **Education:** Auburn University (B.A., 2010); Vanderbilt University School of Law (J.D., 2013). **Practice Areas:** Complex Litigation, Mass Tort.

Kathleen Grace Stranch, (Associate), admitted to the Tennessee Bar 2014, U.S. District Court of Eastern Tennessee, U.S. District Court of Middle Tennessee; U. S. District Court of Western Tennessee. **Education:** Rhodes College (2010); University of Tennessee College of Law (2014); **Practice Areas:** Union-side Labor and Employment, Utility, Social Security, Probate, and Civil Litigation.

Peter Jannace, (Associate), admitted to Kentucky Bar, 2014, U.S. District Court Western District of Kentucky, 2014, U.S. Court of Appeals 6th Circuit, 2019. **Education:** University of Louisville (B.S., 2010); Hofstra University School of Law (J.D., 2013). **Experience:** Gordon Mize & Jannace LLP (2014-2020). **Practice Areas:** Union-side Labor and Employment, Administrative Law, Appellate Advocacy, Civil Rights, Class Actions and Complex Litigation, Constitutional Law.

Megan Killion, (Staff Attorney), admitted to Tennessee Bar, 2008. **Education:** Belmont University (B.S., 2005); Vanderbilt University School of Law (J.D., 2008). **Experience:** Metropolitan Nashville Department of Law. **Practice Areas:** Antitrust, Class Actions and Complex Litigation, Personal Injury.

Matthew McGraw, (Staff Attorney), admitted to Tennessee Bar, 2013, and U.S. District Court for the Middle District of Tennessee, 2017. **Education:** The University of the South (B.A., 2010); University of Tennessee College of Law (J.D., 2013). **Experience:** Reid Leitner Law Group, PLLC (2016-2017), The Wooden Law Firm, PC (2014-2015). **Practice Areas:** Class Actions, Complex Litigation.

Jack Smith, (Staff Attorney), admitted to Tennessee Bar, 2018, U.S. District Court for the Middle District of Tennessee, 2019. **Education:** The Ohio State University (B.A., 2016); University of Tennessee College of Law (J.D., 2018). **Practice Areas:** Complex Litigation, Wage and Hour.

Matthew Jacobs, (Staff Attorney), admitted to Tennessee Bar, 2019. **Education:** Eastern Illinois University (2015); Vanderbilt University Law School (J.D., 2018). **Practice Areas:** Complex Litigation, Contract Law.

Noteworthy Cases

Branstetter, Stranch & Jennings, PLLC has served either as lead counsel or as an plaintiffs' executive committee member in a substantial number of precedent setting labor, class actions, shareholder derivative, securities, and other complex cases both in state and federal courts throughout the nation. The firm's efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions. While the firm has also defended numerous such actions, the following is a list of notable complex litigation cases that the firm is currently prosecuting, or has prosecuted to a successful conclusion:

TENNESSEE DRUG DEALER LIABILITY ACT

- Staubus et al., v. Endo Pharmaceuticals, Inc., et al., C-41916 (Circuit Court for Sullivan County at Kingsport, Tennessee) (J. Moody). The Firm brought claims on behalf of twenty-seven cities and counties and one child born drug-dependent in upper Northeast Tennessee against numerous prescription drug manufacturers and doctors under the Tennessee Drug Dealer Liability Act due to their participating in an illegal drug market for opioids. Two defendants, Purdue Pharma and Mallinckrodt, declared bankruptcy in during the litigation. Plaintiffs reached a settlement with doctor defendants, and the remaining manufacturing defendants, Endo Pharmaceuticals, Inc., and Endo Health Solutions, Inc., settled the plaintiffs' claims on the eve of trial for \$35 million, representing the largest single recovery against these manufacturer defendants in any opioid-related litigation in the country to that point.

CONSUMER PROTECTION ACTIONS

- In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (N.D. Cal.) (J. Breyer). The Firm serves on the Plaintiffs' Steering Committee in a coordinated action consisting of nationwide-cases of consumer and car dealerships alleging that Volkswagen AG and Volkswagen Group of America, and other defendants illegally installed so-called "defeat devices" in their vehicles which allowed the cars to pass emissions testing but enabled them to emit nearly forty-times the allowable pollution during normal driving conditions. In October, 2016, the court granted final approval to a settlement fund worth over \$10 billion to consumers with 2.0 liter diesel engines, and in May, 2017, the court granted final approval to a \$1.2 billion settlement for consumers with 3.0 liter diesel engines, and a \$357 million settlement with co-defendant Bosch.
- In re Anthem, Inc. Data Breach Litig., MDL 2617 LHK, (N.D. Cal. 2016). The firm served as counsel for Plaintiffs in a coordinated action consisting of nationwide-cases of consumer harmed by the 2015 criminal hacking of servers of Anthem, Inc. containing over 37.5 million records on approximately 78 million people receiving insurance and other coverage from Anthem's health plans. The case settled in 2017 for \$115 million dollars and has received final approval.
- McKenzie et al. v. Allconnect, Inc., 5:18-cv-00359 (E.D. Ky.) (J. Hood). The Firm served as class counsel in an action brought on behalf of over 1,800 current and former employees of Allconnect, Inc., whose sensitive information contained in the W-2 statements was disclosed to an unauthorized third party who sought the information through an e-mail phishing scheme. After surviving a motion to dismiss and conducting informal discovery, BSJ negotiated a settlement providing for direct cash

payments to all class members, credit monitoring and identity theft protection plan at no cost, capped reimbursement of documented economic losses incurred per class member, notice costs, and other remedial measures. Settlement value was approximately \$2.2 million, resulting in one of the largest per capita recoveries in a W-2 phishing litigation and the only that counsel are aware of with direct cash payments to all class members.

- M.S. Wholesale v. Westfax et al., 58CV-15-442 (Circuit Court of Pope County, Arkansas) (J. Sutterfield). The Firm served as co-lead counsel on behalf of individuals and entities in a nationwide class action under the Telephone Consumer Protection Act (TCPA) involving the sending of illegal junk facsimiles. The Court granted final approval to a class settlement worth \$5.45 million.
- Horton v. Molina Healthcare, Inc., 4:17-CV-0266-CVE-JFJ (N.D. Okla.) (J. Eagan). The Firm served as co-lead counsel on behalf of individuals and entities in this national class action under the TCPA regarding the sending of illegal junk facsimiles. Court granted final approval to a class settlement worth \$3.5 million.
- Davis Neurology, P.A. v. Dental Equities LLC, d/b/a Peer United et al., Case No. 4:16-cv-00371-BSM (E.D. Ark.) (J. Miller). The Firm served as lead counsel in this nationwide class action brought under the TCPA regarding the sending of illegal junk facsimiles to individuals and business entities. Court finally approved a \$1.525 million class-wide settlement.
- Irika Skeete et al. v. RePublic Schools Nashville, No. 3:16-cv-0043 (M.D. Tenn.) (J. Crenshaw). The Firm was appointed class counsel on behalf of a certified class of individuals having claims under the TCPA who received unsolicited spam texts to their cellular telephones. The Court approved a \$2.2 million settlement, resulting in claimants receiving over one-thousand dollars each in what is believed to be amongst the highest per-claimant TCPA recoveries.
- Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6 (W.D. Missouri). The firm served on Executive Committee in a nation-wide consumer class action composed of all owners or purchasers of a hot water heater manufactured by defendants with a defective dip tube. Settlement reached involved 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages caused by a defective hot water heater.
- Cox v. Shell Oil et al., Civ. No. 18844 (Weakley Chancery, Tennessee) (Judge Malon). Intervened in consumer class action composed of all persons throughout the United States, who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that resolved two competing lawsuits that was valued at \$1 billion.
- Davidson v. Bridgestone/Firestone, Inc and Ford Motor Co No. 00-C2298 (Davidson Circuit, Tennessee) (Soloman/Brothers). Lead counsel in a consumer action filed on behalf of a nationwide class of consumers against Bridgestone/Firestone, Inc and Ford Motor Co. that was certified as a nationwide class action concerning defective tires. Settlement was reached in conjunction with a companion case in Texas. Settlement was valued at \$34.4 million.
- Winsouth Credit Union v. Mapco Express Inc., and Phillips v. Mapco Express, Inc. Case Nos. 3:14-cv-1573 and 1710 (M.D. Tenn.) (J. Crenshaw). The Firm served as Liaison Counsel in consumer class

action and financial institution class action stemming from the 2013 hacking of computer systems maintained by Mapco Express, Inc. The cases settled in 2017 for approximately \$2 million.

MASS TORT ACTIONS

- In re: New England Compounding Pharmacy Product Liability Action, 1:13-md-02419 (D. Mass) (J. Zobel). Serving on the Plaintiffs' Steering Committee, Mr. Gerard Stranch represents hundreds of individuals injured as a result of exposure to tainted pharmaceuticals manufactured at New England Compounding Pharmacy in Framingham, Massachusetts. This litigation stems from the 2012 nationwide outbreak of fungal meningitis that, according to the Center for Disease Control, injured over 750 people nationwide and led to over 60 deaths. Mr. Stranch also serves as lead Tennessee Plaintiffs' Counsel in this case. Over 100 Tennesseans were injured as a result of the catastrophe and 17 Tennesseans lost their lives. Following NECC's bankruptcy, Mr. Stranch was instrumental in guiding settlement of claims against the bankrupt estate that resulted in the creation of a \$210 million tort trust. The litigation then turned to litigating the remaining claims against the doctors, clinics, and other healthcare providers that exposed their patients to tainted pharmaceuticals from NECC. The Court determined the first bellwether trials were to be against Tennessee-based defendants. All of the Tennessee cases were settled just prior to the first bellwether trial.

ERISA AND RELATED CASES (401K, ESOP, TRUST LAW)

- Deschamps v. Bridgestone Americas, Inc. (M.D. Tenn.) (Sharp). Successfully recovered promised pension benefits for long-time Bridgestone employee via summary judgment, which was upheld by the Sixth Circuit Court of Appeals. Both courts published their opinions.
- Ewing et al. v. Neuhooff, et al. (Law and Equity Court, Montgomery County, Tennessee) (Judge Boles). Lead counsel in a class action that resulted in a successful jury verdict against directors of Frosty Morn, Inc. for unlawful activities in running the corporation that directly impacted employee benefit plans. Employees received 100% of their losses.
- In re Providian Financial Corp. ERISA Litigation, No. C 01-5027 (N.D. C.A.) (Breyer). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of ERISA duties. Settlement provided \$8.6 million cash payment to the Plan for participants, lifted company stock sales restrictions in the Plan valued between \$3.66 million and \$5.85 million, and allowed Plan to recover in a parallel securities action.
- In re Montana Power ERISA Litigation, No. 4:02-0099 (D. Mont.) (Haddon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of \$4.9 million plus access to additional monies held by others.

- In re Nortel Networks Corp. “ERISA” Litigation, No. 3:03-MD-1537 (M.D. Tenn.) (Nixon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of \$21.5 Million plus access to additional monies held by others.
- In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464, (D. Colo.) (Blackburn). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a \$33 million cash payment from Qwest Communications to the Plan for participants, a \$4.5 million cash payment from Bankers Trust/Deutsche Bank to the Plan for participants, a \$20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 *et seq.*
- In re Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D. N.Y.) (Lynch). One of several counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. Settlement reached that provided a \$79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- In re Xcel Energy, Inc. ERISA Litigation Civ. 02-2677 (D. Minn.) (Doty). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Provident Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.

ANTITRUST CASES

- Dahl v. Bain Capital Partners, LLC, No. 07-cv-1238 (D. Mass) (J. Young). The Firm served on the Executive Committee in this Federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry. The parties reached a \$590.5 million settlement approximately two months before trial, and the Court finally approved this settlement in 2015.
- Plumbers & Pipefitters Local 572 Health & Welfare Fund et al. v. Bristol-Myers Squibb Co., No. 00-C-2524, (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in action against Bristol-Myers alleging violations of the Tennessee Consumer Protection Act and the Tennessee Trades Practice Act and other theories as a result of anti-competitive, unfair and deceptive acts and practices regarding Bristol-Myers’ marketing and selling of the drug Taxol. A global settlement was reached in conjunction with a multi-state indirect companion case in the District of Columbia.
- Sherwood et al. v. Microsoft Corporation, No. 99-C-3562 (Davidson Circuit, Tennessee) (Judge Kurtz). Lead counsel in a consumer and indirect purchaser Tennessee class action against Microsoft Corporation alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades

Act. Settlement was reached that was valued at \$64 million.

- Lankford v. Dow Chemical et al., No. 04-1517 (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in a consumer and indirect purchaser class action filed on behalf of Tennessee purchasers of products containing neoprene against Dow Chemical Company, E.I. du Pont de Nemours and DuPont Dow Elastomers LLC alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. A multi-state settlement was reached that was valued at \$4.2 million.
- In re: Wellbutrin XL Antitrust Litigation, No. 08-2433 (E.D. Penn.) (Judge McLaughlin). Branstetter, Stranch & Jennings served as Co-Lead counsel in an antitrust class action against pharmaceutical companies GlaxoSmithkline and Biovail on behalf of third-party payors alleging that defendants violated Tennessee, California, Florida, Wisconsin, and Nevada laws by colluding to illegally suppress a cheaper generic form of the blockbuster drug Wellbutrin XL from reaching the market. Through the efforts of the Firm and other co-lead counsel, plaintiffs were able to achieve certification of a class of indirect purchasers. Biovail reached a settlement and the remaining claims were resolved in GSK's favor.
- In re: Prograf Antitrust Litigation, No. 11621 (D. Mass) (J. Zobel). Serving in the role of Co-Lead Counsel, Branstetter, Stranch & Jennings represented a putative class of indirect purchaser plaintiffs in a nationwide antitrust action against Astellas Pharma, Inc., alleging that defendant illegally delayed entry of generic Prograf into the marketplace by filing a sham Citizen Petition with the Food and Drug Administration. Achieved partial class certification and withstood motions for summary judgment. The Court granted final approval in November, 2016 to a class-wide settlement award of \$13.25 million.
- In re: Skelaxin (Metaxalone) Antitrust Litigation, No. 1:12-cv-194 (E.D. Tenn.) (J. Collier). The Firm was appointed Lead Counsel in an antitrust class action on behalf of end-payors regarding monopoly practices which prevented the sale of generic Skelaxin, a muscle-relaxant prescription drug. The case against defendant Mutual Pharmaceuticals, Inc. was settled on a class basis for a sum total of \$9 million, and has been finally approved. The lawsuit against defendant King Pharmaceuticals, Inc. was settled on a non-class basis on behalf of the named plaintiffs.
- In re: Lipitor Antitrust Litigation, No. 3:12-cv-2389 (D.N.J) (J. Sheridan). The Firm serves on the Executive Committee representing a class of end-payors in multidistrict litigation accusing Pfizer of giving Ranbaxy the right to sell generic versions of its blockbuster Lipitor product abroad in exchange for Ranbaxy pulling a patent challenge that could have led to Pfizer losing its exclusivity in the U.S., which imposed supracompetitive prices on the end-payor class. The end-payors were originally dismissed by the district court in 2014, but were revived by the Third Circuit in August 2017. The case is currently in discovery phase.
- In re: Loestrin 24 FE Antitrust Litigation, No. 1:13-md-2472-S-PAS (D.R.I.) (J. Smith). The Firm serves on the Executive Committee of purchasers claiming that Warner Chilcott PLC signed a series of anti-competitive deals with Watson Pharmaceuticals Inc. and Lupin Pharmaceuticals Inc. that settled litigation over Loestrin and another oral contraceptive with a variety of early entry dates and exclusive sales rights. Though initially dismissed by the district court, the First Circuit revived the case in February 2016. The district court rejected the drugmakers' renewed dismissal efforts in August, 2017. End payors moved for class certification.

- In re: Columbia/HCA Healthcare Corporation Billing Practices Litigation, No. 3-98-MDL-1227 (M. D. Tenn.) (Higgins). The firm served as liaison counsel in a multi-district litigation brought on behalf of all third-party payers against Columbia Health Care Corporation/HCA Healthcare Corporation alleging over-billing for services. Settlement was reached on a cash payment, modifications in billing documents and admission practices.
- In re: Effexor Antitrust Litigation, No. 3:11-cv-5661 (D.N.J.) (J. Pisano). The Firm's client serves on the Executive Committee overseeing this end payor antitrust class action against defendants Wyeth Pharmaceuticals, manufacturer of antidepressant medication Effexor XR, and Teva Pharmaceuticals. This lawsuit alleges Defendant Wyeth unlawfully procured the patents underlying Effexor XR, filed sham litigation against generic competitors, and then entered into anti-competitive settlement agreement with Teva in order to delay the arrival of generic forms of Effexor XR, causing plaintiffs to pay supracompetitive prices for Effexor XR, when they could have paid for far cheaper generics. The case is currently in the discovery phase.
- In re: Pharmaceutical Industry Average Wholesale Price Litig., MDL No. 1456, No. 01-cv-12257-PBS (D. Mass). Counsel in a consolidated nationwide class action against pharmaceutical manufacturers, alleging that defendants published fictional Average Wholesale Prices which artificially inflated the prescription drug prices charged to the Firm's clients and other third-party payors throughout the nation. The case was ultimately settled with various defendants for approximately \$350 million.
- In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-71 (GMS) (D. Del.) (Judge Sleet). Counsel in an antitrust class action on behalf of end-payors against manufacturers of the brand-name drug Toprol XL. The case was resolved through a settlement totaling \$11 million.
- Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company et al. (Doryx Indirect Purchaser Antitrust Action), No. 2:12-cv-03824 (E.D. Penn.) (J. Diamond). The Firm served as counsel in an antitrust class action on behalf of indirect purchasers regarding antitrust conduct committed by the manufacturer of brand drug Doryx. The case was settled on a class basis for \$8 million.

SECURITIES AND SHAREHOLDER DERIVATIVE CASES

- In re: Omnivision Technologies, Inc. Securities Litigation, Civil No. 5:11-cv-05235 (N.D. Cal.). Co-Lead counsel in securities litigation alleging material misstatements in communications with investors related to Omnivision's supplier contract with Apple, Inc. The case was ultimately settled on a class basis for \$12.5 million, and was formally approved in 2015.
- Arlow, et al., v. Miller Energy Resources, Inc., Civil No. 3:11-CV-386 (E.D. Tenn.) (Judge Varland). Liason counsel in securities litigation alleging fraudulent accounting practices that overvalued assets and inflated stock prices. The case was ultimately settled and approved for \$2.9 million.
- In re: Regions Morgan Keegan Securities, Derivative & ERISA Litigation, Closed-End Fund Litigation,

Civil No. 07-cv-02830 (W.D. Tenn.) (Judge Mays). Liason counsel for lead plaintiffs in securities litigation alleging fraud in the marketing and selling of corporate bonds and preferred stocks by failing to disclose investments in asset backed securities and mortgage-backed securities. The parties settled the case for \$62 million.

- In re: King Pharmaceuticals, Inc. Derivative Litigation, Civil. No. B0019077 (M) (Sullivan Chancery, Tennessee) (Judge McLellan). Lead counsel in a shareholder derivative action against the Board of Directors and certain officers at King Pharmaceuticals alleging various breaches of fiduciary duty, abuse of control, unjust enrichment and waste of corporate assets. The parties settled the case for substantial and material revisions to the Company's corporate governance practices.
- Carolinas Electrical Workers Retirement Fund v. Kramer et al., Civ. No. H-01-1176 (S.D. TX). Co-lead counsel in a shareholder derivative suit brought on behalf of American General Corporation alleging that its directors breached fiduciary duties in connection with a purposed merger with Prudential Insurance Company. The case was successfully resolved when the merger was cancelled.
- Holle v. Prison Realty, Inc., Case No. 99-1719-III, (Davidson County Chancery) (Chancellor Lyle). Shareholder class action on behalf of shareholders of Prison Realty Trust against its board of directors for breaches of fiduciary duties and self-dealings. Settlement was reached in conjunction with a global settlement of a securities case in federal court.
- Brand et al. v. Welch et al., Case No. 00C-3066 (Davidson County Circuit) (Judge Gayden). Counsel in a shareholder action alleging breaches of fiduciary duties in connection with the merger between Quorum Corporation and Triad. A settlement was reached in which shareholders received greater value for their stock than offered in the original merger.
- Dollar General Derivative Litigation (Dixon et al v. Turner, et al), Case No. 01C-1322 (Davidson County Circuit, Tennessee) (Judge Shipley). Lead counsel in a shareholder derivative action against directors of Dollar General Corporation alleging breaches of fiduciary duties, waste of corporate assets, unjust enrichment, and gross mismanagement. Settlement of the case included \$31.5 million cash payment to the corporation and significant corporate governance changes. The settlement is the largest derivative settlement in Tennessee history.
- Benkler v. Miller et al., Case No. 00C-2630 (Davidson County, Tennessee) (Judge Soloman). Counsel in a shareholder derivative action against directors of Sirrom Capital Corporation alleging breaches of fiduciary duties in connection with merger between Sirrom Capital Corporation and Finova Financial. A global settlement was reached in conjunction with securities cases that were filed or transferred to Arizona.
- Central Laborers' Pension Fund v. Chellegren, Civ. No. 02-CI-02174 (Kenton Circuit, Kentucky). Settlement in a shareholder derivative action against the Board of Directors and certain officers at Ashland, Inc. relating to accounting practices which harmed the company. The settlement resulted with a cash payment and significant corporate governance changes.
- In re: Clayton Homes Derivative Litigation, Case No. E-19723 (Blount Circuit, Tennessee) (Young). Lead counsel in a shareholder derivative action originally against the Board of Directors and certain

officers at Clayton Homes for breaches of fiduciary duties and corporate waste. During the litigation, Clayton Homes was purchased by Berkshire Hathaway. Settlement was reached with shareholders obtaining additional money for their shares of Clayton Homes in the purchase

- National Commerce Financial Shareholder Litigation, CT-002672-04 (Shelby Circuit, Tennessee). Counsel in a shareholder action contesting the value of National Commerce stock in its merger with SunTrust. Settlement was reached.
- Accredo Health Derivative Litigation, Case No. CT-002203-03 (Shelby Circuit, Tennessee) (Judge Fields). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Accredo Health alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Accredo merged during the litigation. Settlement was reached.
- Provident Financial Derivative Litigation, No. C-1-08-168 (S.D. Ohio). Counsel in a shareholder derivative action against the Board of Directors and certain officers at Provident Financial alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Settlement was reached.
- In re: Worldcom Securities Litigation, No. 03-27211 (Davidson Chancery, Tennessee) (Judge McCoy). Co-lead counsel in a securities action by the Tennessee Consolidated Retirement System against the banks that underwrote Worldcom bonds during a period of time in which Worldcom was manipulating its accounting. Settlement was reached that provided a recovery to the retirement system of \$7 million.
- In re: UnumProvident Derivative Litigation, No. 1:02CV-386 (E.D. Tenn.) (Judge Collier). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers of UnumProvident alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. A settlement of this case that involves a payment of \$30 million to the company plus significant corporate governance changes has been approved by the court.
- In re: AFC Enterprises Derivative Litigation, Civil No. 1:03-CV-2095TWT (N.D. Ga.) (Thrasher). One of three lead counsel in a shareholder derivative action against the Board of Directors and certain officers at AFC Enterprises alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets resulting from improper accounting practices and insider trading. Settlement was reached which provided for corporate governance changes.
- In re: Dynegy, Inc., Derivative Litigation, Civil No. 2002-25250 (Harris County, Texas) (Jamison). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Dynegy, Inc. alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Settlement was reached with significant corporate changes and resignation of key officeholders.
- In re: Direct General Corporation Derivative Litigation, Civil No. 3:05-CV-00158 (M.D. Tenn.)(Campbell). Co-lead counsel in litigation against the Board of Directors and certain officers of Direct General Corporation alleging various breaches of fiduciary duty resulting from financial manipulations, insider selling, and misconduct in connection with a proposed private-equity sale of the

company. The parties ultimately reached a settlement for additional material disclosures in the proxy materials and a substantial payment to shareholders if the company is sold by the acquiring entity for more than the merger consideration within nine months of the consummation of the private-equity sale.

- In re: Caremark RX, Inc. Stock Option Litigation, Civil No. 06-C-1329 (Davidson County, Tennessee). Co-lead counsel in litigation against the board of directors of Caremark RX, Inc. alleging breach of fiduciary duties resulting from the Board's attempt to merge the company with CVS Corporation, Inc. and extinguish their liability for improperly backdating stock option grants to certain Board members and high-ranking officers at the Company. A settlement was reached that provided for corporate governance reforms concerning the granting of options, additional disclosures to voting shareholders prior to the merger vote, and recognition that the case indirectly resulted in additional compensation to shareholders.
- In re: HCA Inc. Shareholder Litigation, Civil No. 3:05-CV-0968 (M.D. Tenn.) (J. Haynes). Co-lead counsel representing shareholders of Hospital Corporation of America (HCA) Inc., alleging that the company's board of directors breached their fiduciary duties by approving a private-equity buyout of the company at an unfair price via an unfair process. A settlement was reached with provided for enhanced appraisal rights for shareholders, reduced termination fee, a "majority of the minority" provision, and additional material disclosures in the proxy materials.
- Fisk v. Alfa Corporation, Civil No. 03-CV-2007-900485.00 (Montgomery County, Alabama). Co-lead counsel representing shareholders of Alfa Corporation, alleging that the company's board of directors breached their fiduciary duties by engaging in self-dealing and approving a sale of the company to private interests for grossly inadequate consideration. A settlement was reached that resulted in an approximate additional \$161 million being paid to the shareholder class.

WAGE & HOUR AND WARN ACT CLAIMS

- Drummond et al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III (Davidson Chancery, Tennessee) (Chancellor Lyle). Lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the Metropolitan-Davidson County Board of Education. Settlement reached in which employees received 100% of their wages and benefits.
- Kizer v. Summit Partners, Case No. 1:1-CV-38 (E.D. Tenn.) Counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee in 2011. Case was successfully settled for \$275,000.
- Owens v. Carrier Corp., Case No. 2:08-2331-SHM P (W.D. Tenn.) Lead Counsel in class action on behalf of former Carrier Corp. employees at plant in Collierville, Tennessee that closed in 2008. Case was successfully settled on behalf of former employees for \$2.1 million after Lead Counsel successfully obtained class certification over plaintiffs' WARN Act claims.
- In re Sofa Express Inc., Case No. 07-924 (Bank. M.D. Tenn.) Lead counsel in class action on behalf of former Sofa Express, Inc. employees at a distribution center and headquarters in Groveport, Ohio

in 2007. Case was successfully settled on behalf of former employees for \$398,000.

- Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP (M.D. Fla.). Lead counsel in class action on behalf of former DSE Inc. employees at manufacturing facilities in in Florida and South Carolina. Case successfully settled on behalf of former employees for over \$1 million.
- Alfonso Pena et al. v. MR Drywall, LLC et al. 19-CI-007852 (Jefferson Cir. Ct. KY). The Firm successfully resolved a class action for 178 primarily immigrant framers, drywall hangers and finishers who were denied overtime on a hotel project in downtown Louisville, KY. All class members received their full wages and a portion for liquidated damages under the settlement.

LABOR and EMPLOYMENT CASES

- Thompson v. North American Stainless, L.P., 562 U.S. 170 (2011). Member David O'Brien Suetholz litigated a Title VII retaliation case for seven years on behalf of the son of a Union pipefitter who was terminated shortly after his fiancé filed an EEOC complaint against their mutual employer. The unresolved question was whether a third party is protected from retaliation solely because of their close relationship with the person engaging in protected activity. After winning at the Sixth Circuit Court of Appeals and losing before the *en banc* Sixth Circuit Court of Appeals the Supreme Court of the United States accepted and resolved the question in favor of the Plaintiff Eric Thompson. Justice Antonin Scalia wrote for the unanimous Court that Title VII prohibits retaliation against closely related third parties because harming loved ones is the oldest and most effective form of retaliation.
- Int'l Brh'd of Teamsters, Local 651 v. Philbeck, 5:10-cv-105-DCR (E.D.KY 2018). Firm successfully litigated action requesting temporary restraining order and permanent injunction by Local Union to secure control of facebook page belonging to the Union.
- Matthew Denholm, RD of NLRB Region 9 v. Smyrna Ready Mix Concrete, LLC, 5:20-cv-320-REW (E.D.KY 2019). Firm successfully litigated NLRB charges culminating in complaint for 10(j) injunctive relief where federal district court order the reinstatement of seven drivers and their plant manager and the reopening of a concrete plant.
- Zeon Chemicals, L.P. v. UFCW Local 72-D, 949 F.3d 980 (6th Cir. 2020). The Firm successfully appealed a district court's reversal of the Union's arbitration victory for an unjustly terminated member who was ordered reinstated with full back pay.
- Churchill Downs Racetrack LLC v. Laborers Local 576, 2020 WL 6946574 (W.D.KY 2020). The Firm successfully defended an arbitration award that ordered the company to cease subcontracting housekeeping and maintenance work at an off-track facility covered by the contract. The effect of the arbitrator and district court's holding was to increase the size of the Union's bargaining unit by one-third.
- Workforce Development Cabinet v. Gaines, 276 S.W.3d 789 (KY 2008). Member David O'Brien Suetholz successfully appealed to the Kentucky Supreme Court a decision that denied the protection of the public whistleblower protection statute to a state employee who reported waste, fraud or abuse to officials in her own Cabinet. The Supreme Court decision had the effect of expanding

whistleblower protections for public employees in Kentucky.

Branstetter Lodestar for Nissan CVT Litigation

Name	Title	Hours	Rate	Lodestar
Stranch, Gerard	Partner	72.7	\$ 1,150	\$ 83,605.00
Gastel, Ben	Partner	61.7	\$ 1,000	\$ 61,700.00
Alyson Beridon	Senior Associate	64.2	\$ 750	\$ 48,150.00
Stranch, Kathleen Grace	Associate	38	\$ 650	\$ 24,700.00
Leniski, Joey	Partner	9.5	\$ 1,000	\$ 9,500.00
Jessica J Meyers	Of Counsel	6.2	\$ 750	\$ 4,650.00
Killion, Megan Bradt	Staff Attorney	7.3	\$ 600	\$ 4,380.00
Nathan Martin	Staff Attorney	5.6	\$ 400	\$ 2,240.00
Steele, Jennifer	Paralegal	5.7	\$ 315	\$ 1,795.50
Young, Mariah	Paralegal	5.3	\$ 200	\$ 1,060.00
Grand Total		276.2		\$ 241,780.50

Branstetter Expenses for Nissan CVT Litigation	
Category of Expense	Amount
Court Filing Fees	\$ 4,308.00
Document Hosting	
Experts	\$ 17,000.00
Mediation	
Messengers	
Photocopying & Imaging	
Postage & Fed Ex	
Research	
Service of Process	
Travel, Meals, & Hotels	\$ 29.05
TOTAL	\$ 21,337.05

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE – NASHVILLE
DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN OF NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**DECLARATION OF MARK S.
GREENSTONE IN SUPPORT OF
PLAINTIFFS’ MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT AND
MOTION FOR AWARD OF
ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES
AND CLASS REPRESENTATIVE
SERVICE AWARDS**

Judge William L. Campbell
Courtroom A826
Magistrate Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

I, Mark S. Greenstone, declare:

1. I am an attorney duly licensed to practice law before all of the courts of the State of California and I am admitted *pro-hac vice* in the United States District Court for the Middle District of Tennessee. I am the founding principal of the law firm Greenstone Law APC, and Co-Lead Class Counsel for Plaintiffs in the above-entitled action. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Motion for Attorneys’ Fees, Reimbursement of Expenses and Class Representative Service Awards. I have personal knowledge of the facts set forth herein, and if called to testify regarding the statements herein, I could and would competently do so.

2. I believe that the proposed Settlement extends outstanding relief to the Settlement Class, is fair, reasonable and adequate, and merits final approval.

I. GREENSTONE LAW APC'S QUALIFICATIONS

3. Greenstone Law APC is a Los-Angeles based law firm that I founded in 2018. Prior to founding the firm, I was a partner at Glancy Prongay & Murray LLP, a well-known national class action law firm. Greenstone Law APC specializes in the prosecution of consumer and employment-related class actions, with a special emphasis on automobile defect class actions such as the present action. A copy of Greenstone Law APC's firm résumé is attached hereto as **Exhibit 1**.

4. I attended the UCLA School of Law from which I graduated *Order of the Coif* in 1998. I received my training as an associate at Sheppard, Mullin, Richter & Hampton LLP, a nationally renowned defense firm, where I specialized in complex business litigation relating to investment management, government contracts and real estate. Since 2012, I have focused my practice on class action litigation and am the current chair of the Cambridge Forum on Plaintiffs' Class Action Litigation.

5. I was appointed Co-Lead Class counsel in *Gann, et al. v. Nissan North America, Inc.*, Case No. 3:18-cv-00966 (M.D. Tenn., finally approved May 10, 2020), a settlement concerning approximately 1.4 million Nissan Altima vehicles with allegedly defective CVTs. I was also appointed Co-Lead Class Counsel in *Reniger, et al. v. Hyundai Motor America*, No. 4:14-cv-03612 (N.D. Cal., finally approved March 28, 2017), a settlement that established a reimbursement program and ten-year service campaign for approximately 77,000 owners and lessees of 2010-2012 Hyundai Santa Fe vehicles alleged to suffer from a stalling defect.

6. More recently, I was appointed Co-Lead Class Counsel in *Khona, et al. v. Subaru of America, Inc.*, No. 1:19-cv-09323, (N.J., finally approved July 8, 2021), a settlement involving over 200,000 Subaru Outback and Legacy vehicles alleged to have defective

windshields prone to cracking. In approving the settlement, the Court specifically recognized the outstanding nature of the relief provided, commenting: “[Q]uite frankly, by virtue of this settlement, I find that the class members are going to get more than what they normally would have gotten...an eight-year warranty for unlimited mileage is a very generous settlement. It’s very generous to the owner or the lessee. And on top of that, for any expenses that they’ve paid in the past, they’re getting reimbursed for it. So it puts them in a very good position. I find that the settlement class will be fully reimbursed.” *See* June 11, 2021 Final App. Hrng. Tr. 21:18-22:2.

7. Greenstone Law APC recently certified classes of California and Illinois current and former vehicle owners in a hotly contested class certification briefing in *Mary Quackenbush v. American Honda Motor Company, Inc.*, Case No. 3:20-cv-05599 (N.D. Cal.). *See* December 27, 2021 Order Re Motions for Class Certification and to Exclude Plaintiffs’ Expert (Dkt. No. 127). Currently, Greenstone Law APC represents drivers and lessees in the following additional automobile-defect class actions: *Andre Damico v. Hyundai Motor America*, Case No. 30-2018-01008552-CU-BC-CXC (Orange Cty. Super. Ct.); *Kathleen Cadena v. American Honda Motor Company, Inc.*, Case No. 8:19-cv-00839 (C.D. Cal.); *Dauod Shaaya v. Jaguar Land Rover North America LLC*, Case No. 2:20-cv-05679 (D.N.J.); and *Joseph Hammerschmidt, et al. v. General Motors, LLC*, Case No. 20-cv-01773 (D. Minn.).

8. I delivered excellent results as class-counsel in other consumer cases as well. For example, in *Story v. Mammoth Mountain Ski Area, LLC*, No. 2:14-cv-02422 (E.D. Cal.), I negotiated a \$3.75 million settlement on behalf of a class of approximately 37,000 individuals for an alleged violation of the Telephone Consumer Protection Act. In preliminarily approving the settlement, the Court expressly recognized counsels’ diligence, commenting: “To the

parties' credit, you've worked incredibly hard in resolving this, and the Court appreciates your effort...I found it interesting that there was at least two mediations, issues on both sides as to the merits or lack thereof of the case itself, and again to your credit with the help of mediators you came to a resolution..." I have been appointed as class counsel in other consumer class actions as well, including *Bercut, et al. v. Michaels Stores, Inc.*, No. SVC-257268 (Sonoma Cty. Super. Ct.) (\$4 million settlement under the Fair Credit Reporting Act ("FCRA") on behalf of a class of approximately 120,000 current and former employees, finally approved October 10, 2018) and *Feist, et al. v. Petco Animal Supplies, Inc.*, No. 3:16-cv-01369 (S.D. Cal.) (\$1.2 million class action settlement under the FCRA, finally approved November 16, 2018).

II. GREENSTONE LAW APC'S TIME AND EXPENSES

9. Greenstone Law APC has prosecuted this case solely on a contingent-fee basis. Greenstone Law APC has received no compensation of any kind for its work on this matter.

10. The information in this declaration regarding my firm's time and expenses is taken from time and expense printouts and supporting documentation prepared and maintained by the firm in the ordinary course of business. The time records were prepared daily or shortly thereafter by each attorney or support staff member working on the matter. The expense records are prepared from receipts, expense vouchers, check records and other documents, and are accurate record of the expenses.

11. I am the person in the firm who oversaw and conducted day-to-day activities of the firm, and I reviewed reports (and supporting documentation where necessary and appropriate) in connection with the preparation of this Declaration. The purpose of this review was to confirm both the accuracy of the entries on the reports as well as the necessity for, and

reasonableness of, the time and expenses committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation. I also believe the time and expenses are of the type that would normally be charged to a fee-paying client in the private legal marketplace.

12. Attached hereto as **Exhibit 2** is a summary of my firm's lodestar. The summary includes the names of attorneys and professional support staff who worked on this case and each timekeeper's respective hours and lodestar at current rates. The hourly rates shown in **Exhibit 2** are the usual and customary rates set by my firm for each individual. My firm has expended 949 hours working on this case and the total lodestar is \$780,242.80. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my firm are set forth in the Firm Resume, attached hereto as **Exhibit 1**.

13. Fee awards supported by Greenstone Law APC's hourly rates and corresponding lodestar have been regularly approved in class action settlements that I have overseen, including the following: *Torraca-Riano, et al., v. ATC Healthcare Services, Inc., et al.*, No. 37-2018-00065377-CU-OE-CTL (San Diego Cty. Super. Ct.), April 16, 2021 Final Approval Order; *Howell v. JonBec Care, Inc.*, No. SCV-267909 (Sonoma Cty. Super. Ct.), November 30, 2021 Final Approval Order; *Khona, et al. v. Subaru of America, Inc.*, No. 1:19-cv-09323-RMB-AMD (N.J.), October 20, 2021 Order on Motion for Attorneys' Fees (Dkt. No. 73); *Fisher, et al. v. Enterprise Rent-A-Car Company of Los Angeles, LLC*, No. 30-2017- 00907805 (Orange Cty. Super. Ct.), January 28, 2019 Final Approval Order; *Bercut, et al. v. Michaels Stores, Inc.*, No. SVC-257268 (Sonoma Cty.

Super. Ct.), October 18, 2018 Final Approval Order; *Story Mammoth Mountain Ski Area, LLC*, No. 2:14-cv-02422 (E.D. Cal.), March 13, 2018 Final Approval Order (Docket No. 92); *Feist, et al. v. Petco Animal Supplies, Inc.*, No. 3:16-cv-01369 (S.D. Cal.), November 16, 2018 Final Approval Order (Docket No. 48); *Reniger, et al., v. Hyundai Motor America, et. al*, No. 4:14-cv-03612 (N.D. Cal.), March 28, 2017 Final Approval Order (Docket No. 104).

14. Greenstone Law APC has incurred \$2,896.34 in costs and expenses on this case. Those costs and expenses are summarized by category in **Exhibit 3**. The expenses were kept in the firm's books and records prepared from contemporaneous receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The out-of-pocket litigation expenses incurred by the firm in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by the firm successfully prosecuting class action litigation. *See* paragraph 14, *supra*.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of September 2021, at Los Angeles, California.

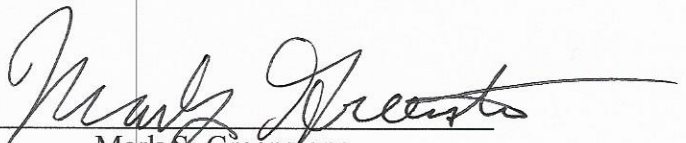
By: 
Mark S. Greenstone

EXHIBIT 1

GREENSTONE LAW APC FIRM RESUME

1925 Century Park East, Suite 2100

Century City, CA 90067

Greenstone Law APC specializes in the prosecution of consumer and employment-related class actions. The firm is headquartered in Century City California and is counsel in class action litigation pending across the country.

Attorneys

Mark S. Greenstone

The firm's founder, Mark S. Greenstone, graduated Order of the Coif from the UCLA School of Law in 1998. 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 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. Since 2012, Mr. Greenstone has focused on class action litigation and is the current chair of the Cambridge Forum on Plaintiffs' Class Action Litigation. Mr. Greenstone has been designated as class counsel in the following matters:

- *Gann v. Nissan No. Am., Inc.*, No. 3:18-cv-00966 (M.D. Tenn.) (settlement valued at \$444 million on behalf of 2.7 million Nissan Altima owners in which Mr. Greenstone was designated as one of four Co-Lead Class Counsel, finally approved March 10, 2020)
- *Reniger v. Hyundai Motor Am.*, No. 4:14-cv-03612 (N.D. Cal.) (automobile defect class action settlement on behalf of approximately 77,000 owners and lessees of 2010-2012 Hyundai Santa Fe vehicles, finally approved March 28, 2017)
- *Khona v. Subaru of Am., Inc.*, No. 1:19-cv-09323 (D. N.J.) (settlement on behalf of over 200,000 2015-2016 Subaru Outback and Legacy owners concerning a windshield defect, preliminarily approved October 14, 2020)
- *Toni Torracca-Riano v. ATC Healthcare Services, Inc., et al.*, No. 3:19-cv-00295 (San Diego Cty. Super Ct.) (\$2.75 million settlement on behalf of California wage and hour class, and national class for claims arising under Fair Credit Reporting Act ("FCRA"), preliminarily approved October 8, 2020)
- *Story v. Mammoth Mountain Ski Area, LLC*, No. 2:14-cv-02422 (E.D. Cal.) (\$3.75 million Telephone Consumer Protection Act class action settlement on behalf of approximately 37,000 class members, finally approved March 13, 2018)

- *Bercut v. Michaels Stores, Inc.*, No. SVC-257268 (Sonoma Cty. Super. Ct.) (\$4 million FCRA class action settlement on behalf of approximately 120,000 class members, finally approved October 10, 2018)
- *Feist v. Petco Animal Supplies, Inc.*, No. 3:16-cv-01369 (S.D. Cal.) (\$1.2 million FCRA class action settlement on behalf of approximately 35,000 class members, finally approved November 16, 2018)
- *Fisher v. Enterprise Rent-A-Car Co. of Los Angeles, LLC*, No. 30-2017-00907805 (Orange Cty. Super. Ct.) (FCRA class action settlement on behalf of approximately 8,500 class members, finally approved January 28, 2019)

Sharon Lin

Sharon Lin is an Of Counsel attorney with Greenstone Law. Ms. Lin received a B.A. in Psychology from Amherst College in 2005 and a J.D. from the UCLA School of Law in 2008. Ms. Lin has also spent over a decade litigating class actions and has handled every phase of class litigation. Representative cases Ms. Lin performed substantial work on include: *Behaein v. Pizza Hut, Inc.* (Los Angeles Superior Court Case No. BC384563), a \$6 million settlement of certified expense reimbursement and meal and rest break class action and *Rodriguez v. EME, Inc.* (2016) 246 Cal.App.4th 1027, defining the permissibility of combining rest periods, procuring class certification. Ms. Lin has served as lead or co-lead in negotiating class action settlements worth over \$13 million in gross recovery to class members from 2016 through 2019.

Elizabeth Rader

Elizabeth Rader is an Of Counsel attorney with Greenstone Law. Ms. Rader graduated *cum laude* from Bryn Mawr College in 1987 and graduated *cum laude* from the University of Minnesota School of Law in 1992. Ms. Rader has litigated highly complex cases in federal court for over two decades. She has been licensed to practice in California since 1996.

Representative Cases

Greenstone Law APC is currently counsel of record in numerous pending class and representative actions, including the following:

- *Cadena, v. American Honda Motor Co., Inc.*, No. 2:18-cv-04007 (C.D. Cal.)
- *Damico, et al. v. Hyundai Motor Am.*, No. 30-2018-01008552 (Orange Cty. Super. Ct.)
- *Shaaya, et al. v. Jaguar Land Rover No. Am. LLC*, No. 2:20-cv-05679 (D.N.J.)
- *Hammerschmidt v. General Motors, LLC*, Case No. 0:20-cv-01773 (D. Minn.)

- *Quackenbush v. American Honda Motor Co., Inc.*, No. 3:20-cv-05599 (N.D. Cal.)
- *Mina v. Red Robin International, Inc., et al.*, No. 2:18-cv-09472 (D. Colo.)
- *DeMesa v. Treasure Island, LLC*, No. 3:18-cv-05177 (D. Nev.)
- *Winters v. Douglas Emmett, Inc.*, No. 21STCV10680 (Los Angeles Cty. Super. Ct.)
- *Durham v. Univ. Protection Svcs., L.P.*, No. 30-2021-01188798 (Orange Cty. Super. Ct.)

EXHIBIT 2

***Stringer, et al. v. Nissan North America, et al.* - Case No. 3:21-cv-00099 (M.D. Tenn.)**

Greenstone Law APC Lodestar Summary

Timekeeper	Status	Bar Admission Year	Hours	Rate	Lodestar
Mark S. Greenstone	Partner	1998	670.2	\$914	\$612,562.80
Elizabeth H. Rader	Of Counsel	1996	55.2	\$914	\$50,452.80
Sharon Lin	Of Counsel	2008	121.2	\$756	\$91,627.20
Jovana Mancilla	Research Analyst	n/a	102.4	\$250	\$25,600.00
TOTAL			949		\$780,242.80

EXHIBIT 3

***Stringer, et al. v. Nissan North America, et al.* – Case No. 3:21-cv-00099 (M.D. Tenn.)**

Greenstone Law APC Expense Summary

Category of Expense	Amount
Court Filing Fees	
Document Hosting	
Experts	\$1,500
Mediation	
Messengers	
Photocopying & Imaging	
Postage & Fed Ex	\$96.36
Research	\$99.98
Service of Process	
Travel, Meals, & Hotels	\$1,200*
TOTAL	\$2,896.34

* Projected expenses to be incurred for hearing on Final Approval of Class Action Settlement

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE - NASHVILLE
DIVISION

TERESA STRINGER KAREN BROOKS.
WILLIAM PAPANIA. JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELISASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC., a
California corporation and NISSAN MOTOR
CO. LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**DECLARATION OF MARC L.
GODINO IN SUPPORT OF
PLAINTIFFS’ MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT AND
MOTION FOR AWARD OF
ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES
AND CLASS REPRESENTATIVE
SERVICE AWARDS**

District William L. Campbell
Courtroom A826
Magistrate Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

I, Marc L. Godino, declare:

1. I am a Partner at Glancy Prongay & Murray LLP (“GPM”). I am an attorney duly licensed to practice before all courts of the State of California and am admitted *pro hac vice* to practice before this Court. I am one of the proposed Co-Lead Class Counsel, and one of the counsel of record for plaintiffs in this action and the related actions. This Declaration is submitted in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Motion for Attorneys’ Fees, Reimbursement of Expenses and Class Representative Service Awards. I have personal knowledge of the matters stated herein and, if called upon, could and would competently testify to them.

2. Having carefully reviewed the terms of the Settlement, I believe that the proposed Settlement extends outstanding relief to the Settlement Class, is fair, reasonable and adequate,

and merits final approval.

I. GLANCY PRONGAY & MURRAY LLP'S QUALIFICATIONS

3. I have been a member of the State Bar of California since 1996. I am also admitted to practice in all California Federal District Courts as well as the United States Supreme Court. I have been practicing almost exclusively in complex class action matters in state and federal courts since 1998. During that time, I have represented consumers, investors, and employees in complex class actions throughout the country. Thus, my primary practice in complex class action litigation spans more than 20 years.

4. GPM is a national class action law firm with over 30 attorneys and offices in Los Angeles, New York, and Berkeley. A true and correct copy of GPM's firm résumé is attached hereto as **Exhibit 1**.

5. I have significant experience litigating automobile-defect class actions such as this one as a partner at GPM. I was appointed Co-Lead Class Counsel in *Gann v. Nissan North America, Inc.*, Case No. 3:18-cv-00966 (M.D. Tenn.), a settlement on behalf of approximately 2.7 million current and former owners and lessees of 2013-2016 Nissan Altima vehicles. In the underlying litigation, brought in five jurisdictions across the country over a two-year period, Plaintiffs alleged that Nissan's 2013 through 2016 Altima vehicles were equipped with defective continuously variable transmissions ("CVTs"). The settlement, finally approved March 20, 2020, provided for relief valued at \$444 million, including a 40% increase of the mileage and durational limits of the Class Vehicle's powertrain warranty and reimbursement from Nissan for the amount Class Members paid to repair or replace their CVTs. In *Shin v. BMW of North America*, Case No. 09-398 (C.D. Cal.), I was appointed as Class Counsel for in a settlement on behalf of over 27,000 owners and lessees of BMW 6-Series vehicles that

established a reimbursement program for repairs or replacements of cracked wheels. I was also appointed Co-Lead Class Counsel in *Reniger V. Hyundai Motor America*, No. 4:14-cv-03612 (N.D. Cal.) in a settlement that established a reimbursement program and ten-year service campaign for approximately 77,000 owners and lessees of 2010-2012 Hyundai Santa Fe vehicles alleged to suffer from a stalling defect. More recently, I was appointed Co-Lead Class Counsel in *Khona V. Subaru of America, Inc.*, No. 1:19-cv-09323 (D. N.J.), a nationwide class action settlement on behalf of over 200,000 2015-2016 Subaru Outback and Legacy owners concerning a windshield defect.

6. I currently represent drivers and lessees in the following additional automobile defect class actions in addition to the class actions in the preliminary approval motion supported by this declaration: : *Damico V. Hyundai Motor Am.*, Case No. 30-2018-01008552-CU-BC-CXC (Orange Cnty. Super. Ct.); *Cadena v. Honda Motor Co., Inc.*, Case No. 2:18-cv-04007 (C.D. Cal.); *Shaaya v. Jaguar Land Rover No. Am., LLC*, Case No. 2:20-cv-05679 (D.N.J.); *Hammerschmidt v. General Motors, LLC*, Case No. 0:20-cv-01773 (D. Minn.); and *Quackenbush v. American Honda Motor Co., Inc.*, No. 3:20-cv-05599 N.D. Cal.).

7. I have successfully litigated a variety of other types of class actions as a partner at GPM as well, including: *Castillo v. Seagate Technology, LLC*, Case No. 16-cv-01958-RS N.D.Cal.) (data breach case in which the class benefits were valued at \$42 million and also included injunctive relief); *In re Zappos.com, Inc. Customer Data Security Breach Litigation*, Case No. 12-cv-00325 (D. Nev.) (after defeating a motion to compel arbitration as well as obtaining a reversal in the Ninth Circuit of the lower court's dismissal of this data breach case, a favorable class settlement was achieved); *Feist v. Petco Animal Supplies, Inc.*, Case No. 16-cv-1359 (S.D.Cal.) (\$1.2 million FCRA class settlement); *Story v. Mammoth Mountain Ski*

Area, LLC, No. 2:14-cv-02422 (E.D. Cal.) (\$3.75 Million TCPA class settlement); *Peterson v. CJ America, Inc.* Case No. 14-02570 (S.D. Cal.) (\$1.5 Million class settlement in food mislabeling case); *Pappas v. Naked Juice Co. of Glendora, Inc.*, Case No. 11-08276 (C.D. Cal.) (\$9 million settlement plus injunctive relief in this food mislabeling case); *In re Magma Design Automation, Inc. Securities Litigation*, Case No. 05-2394 (N.D. Cal.) (\$13.5 million securities settlement); *Kelly v. Phiten USA, Inc.*, Case No. 11-67 (S.D. Iowa) (\$3.2 million settlement plus injunctive relief in false advertising case); *Payday Advance Plus, Inc. v. MIVA, Inc.*, Case No. 06-1923 (S.D.N.Y.) (\$3.9 million settlement in this "click fraud" case); *Sciortino v. Pepsico, Inc.*, Case No. 14-478 (N.D.Cal.) (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 (\$20 Million settlement fund).

II. GLANCY PRONGAY & MURRAY LLP'S TIME AND EXPENSES

8. GPM has prosecuted this case solely on a contingent-fee basis. GPM has received no compensation of any kind for its work on this matter.

9. The information in this declaration regarding GPM's time and expenses is taken from time and expense printouts and supporting documentation prepared and maintained by the firm in the ordinary course of business. The time records were prepared daily or shortly thereafter by each attorney or support staff member working on the matter. The expense records are prepared from receipts, expense vouchers, check records and other documents, and are accurate record of the expenses.

10. I am the person in the firm who oversaw and conducted day-to-day activities of the firm, and I reviewed printouts (and supporting documentation where necessary and

appropriate) in connection with the preparation of this Declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation. I also believe the time and expenses are of the type that would normally be charged to a fee-paying client in the private legal marketplace.

11. Attached hereto as **Exhibit 2** is a summary of GPM's lodestar. The summary includes the names of attorneys and professional support staff who worked on this case and each timekeeper's respective hours and lodestar at current rates. The hourly rates shown in **Exhibit 2** are the usual and customary rates set by my firm for each individual. My firm has expended 745.70 hours working on this case and the total lodestar is \$507,144.50. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my firm are set forth in the Firm Resume, attached hereto as **Exhibit 1**.

12. Fee and expense awards supported by my hourly rates and corresponding lodestar have been regularly approved in class action settlements that I have overseen. Most recently in *Khona, et al. v. Subaru of America, Inc.*, 2021 WL 4894929 (October 20, 2021 D.N.J.) where the court approved GPM's requested fees and expenses in full. *See also, Reniger, et al., v. Hyundai Motor America, et. al*, No. 14-03612 (N.D. Cal.), Docket No. 104; *Story Mammoth Mountain Ski Area, LLC*, No. 2:14-cv-02422 (E.D. Cal.), Docket No. 92; *Bercut, et al. v. Michaels Stores, Inc.*, No. SVC-257268 (Sonoma Cty. Super. Ct.), October 18, 2018 Final Approval Order; *Feist, et al. v. Petco Animal Supplies, Inc.*, No. 3:16-cv-01369 (S.D. Cal.), Docket No. 48; *Fisher, et al. v. Enterprise Rent-A-Car Company of Los Angeles, LLC*, No. 30-2017- 00907805 (Orange Cty. Super. Ct.), January 28, 2019 Final Approval Order.

13. My firm has incurred \$49,511.28 in costs and expenses on this case. Those costs and expenses are summarized by category in **Exhibit 3**. The expenses were kept in the firm's books and records prepared from contemporaneous receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The out-of-pocket litigation expenses incurred by the firm in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by the firm successfully prosecuting class action litigation. *See* paragraph 12, *supra*.

14. I declare under penalty of perjury that the foregoing is true and correct.
Executed this 7th day of February 2022, at Los Angeles, California.

By: 

MARC L. GODINO

EXHIBIT 1

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, Co-Lead Counsel, or as a member of Plaintiffs’ Counsel Executive Committees, the Firm’s attorneys have recovered billions of dollars for parties wronged by corporate fraud, antitrust violations 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 pursue securities, antitrust, consumer, and derivative litigation on behalf of our clients. The Firm’s outstanding accomplishments are the direct result of the exceptional talents of our attorneys and employees.

SECURITIES CLASS ACTION SETTLEMENTS

Appointed as Lead or Co-Lead Counsel by judges throughout the United States, Glancy Prongay & Murray has achieved significant recoveries for class members in numerous securities class actions, 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.

In Re Yahoo! Inc. Securities Litigation, USDC Northern District of California, Case No. 5:17-cv-00373-LHK, in which the Firm served as Co-Lead Counsel and achieved an \$80 million settlement.

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.

Shah v. Zimmer Biomet Holdings, Inc., USDC Northern District of Indiana, Case No. 3:16-cv-815-PPS-MGG, a securities fraud class action in which the Firm served as Lead Counsel for the Class and achieved a settlement of \$50 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.

Robb v. Fitbit, Inc., USDC Northern District of California, Case No. 3:16-cv-00151, a securities fraud class action in which the Firm served as Lead Counsel for the Class and achieved a settlement of \$33 million.

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.

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.

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 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.

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.

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.

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.

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 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 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 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 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.

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.

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.

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.

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.

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.

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.

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 F & M Distributors Securities Litigation, USDC Eastern District of Michigan, Case No. 95 CV 71778-DT, a securities fraud class action in which the Firm served on the Executive Committee and helped secure a \$20.25 million settlement.

ANTITRUST PRACTICE GROUP AND ACHIEVEMENTS

Glancy Prongay & Murray's Antitrust Practice Group focuses on representing individuals and entities that have been victimized by unlawful monopolization, price-fixing, market allocation, and other anti-competitive conduct. The Firm has prosecuted significant antitrust cases and has helped individuals and businesses recover billions of dollars. Prosecuting civil antitrust cases under federal and state laws throughout the country, the Firm's Antitrust Practice Group represents consumers, businesses, and Health and Welfare Funds and seeks injunctive relief and damages for violations of antitrust and commodities laws. The Firm has served, or is currently serving, as Lead Counsel, Co-Lead Counsel or Class Counsel in a substantial 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, a landmark antitrust lawsuit in which the Firm filed the first complaint against all of the major NASDAQ market makers and served on Plaintiffs' Counsel's Executive Committee in a case that recovered \$900 million for investors.

Sullivan v. DB Investments, USDC District of New Jersey, Case No. No. 04-cv-2819, where the Firm served as Co-Lead Settlement Counsel in an antitrust case against DeBeers relate to the pricing of diamonds that settled for \$295 million.

In re Korean Air Lines Antitrust Litig., USDC Central District of California, Master File No. CV 07-05107 SJO(AGRx), MDL No. 07-0189, where the Firm served as Co-Lead

Counsel in a case related to fixing of prices for airline tickets to Korea that settled for \$86 million.

In re Urethane Chemical Antitrust Litig., USDC District of Kansas, Case No. MDL 1616, where the Firm served as Co-Lead counsel in an antitrust price fixing case that settled \$33 million.

In re Western States Wholesale Natural Gas Litig., USDC District of Nevada, Case No. MDL 1566, where the Firm served as Class Counsel in an antitrust price fixing case that settled \$25 million.

In re Aggrenox Antitrust Litig., USDC District of Connecticut, Case No. 14-cv-2516, where the Firm played a major role in achieving a settlement of \$54,000,000.

In re Solodyn Antitrust Litig., USDC District of Massachusetts, Case No. MDL 2503, where the Firm played a major role in achieving a settlement of \$43,000,000.

In re Generic Pharmaceuticals Pricing Antitrust Litig., USDC Eastern District of Pennsylvania, Case No. 16-md-2427, where the Firm is representing a major Health and Welfare Fund in a case against a number of generic drug manufacturers for price fixing generic drugs.

In re Actos End Payor Antitrust Litig., USDC Southern District of New York, Case No. 13-cv-9244, where the Firm is serving on Plaintiffs' Executive Committee.

In re Heating Control Panel Direct Purchaser Action, USDC Eastern District of Michigan, Case No. 12-md-02311, representing a recreational vehicle manufacturer in a price-fixing class action involving direct purchasers of heating control panels.

In re Instrument Panel Clusters Direct Purchaser Action, USDC Eastern District of Michigan, Case No. 12-md-02311, representing a recreational vehicle manufacturer in a price-fixing class action involving direct purchasers of instrument panel clusters.

In addition, the Firm is currently involved in the prosecution of many market manipulation cases relating to violations of antitrust and commodities laws, including *Sullivan v. Barclays PLC* (manipulation of Euribor rate), *In re Foreign Exchange Benchmark Rates Antitrust Litig.*, *In re LIBOR-Based Financial Instruments Antitrust Litig.*, *In re Gold Futures & Options Trading Litig.*, *In re Platinum & Palladium Antitrust Litig.*, *Sonterra Cap. Master Fund v. Credit Suisse Group AG* (Swiss Libor rate manipulation), *Twin City Iron Pension Fund v. Bank of Nova Scotia* (manipulation of treasury securities), and *Ploss v. Kraft Foods Group* (manipulation of wheat prices).

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 ACHIEVEMENTS

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 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.).

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); *The City of Farmington Hills Retirement System v Wells Fargo* (\$62.5 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.

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).

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 thirty 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 dozens 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); *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: *In re Zappos.com, Inc., Customer Data Sec. Breach Litigation*, 714 Fed Appx. 761 (9th Cir. 2018) (reversing order dismissing class action complaint); *Small et al., v. University Medical Center of Southern Nevada, et al.*, 2017 WL 3461364 (D. Nev. Aug. 10, 2017) (denying motion to dismiss); *Sciortino v. Pepsico, Inc.*, 108 F.Supp. 3d 780 (N.D. Cal.. June 5, 2015) (motion to dismiss denied); *Peterson v. CJ America, Inc.*, 2015 WL 11582832 (S.D. Cal. May 15, 2015) (motion to dismiss denied); *Lilly v. Jamba Juice Company*, 2014 WL 4652283 (N. D. Cal. Sep 18, 2014) (class certification granted in part); *Kramer v. Toyota Motor Corp.*, 705 F. 3d 1122 (9th Cir. 2013) (affirming denial of Defendant's motion to compel arbitration); *Sateriale, et al. v. R.J. Reynolds Tobacco Co.*, 697 F. 3d 777 (9th Cir. 2012) (reversing order dismissing class action complaint); *Shin v. BMW of North America*, 2009 WL 2163509 (C.D. Cal. July 16, 2009) (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).

The following represent just a few of the cases Mr. Godino is currently litigating in a leadership position: *Small v. University Medical Center of Southern Nevada*, Case No. 13-00298 (D. Nev.); *Courtright, et al., v. O'Reilly Automotive Stores, Inc., et al.*, Case No. 14-334 (W.D. Mo); *Keskinen v. Edgewell Personal Care Co., et al.*, Case No. 17-07721 (C.D. CA); *Ryan v. Rodan & Fields, LLC*, Case No. 18-02505 (N.D. Cal)

MATTHEW M. HOUSTON, a partner in the firm's New York office, graduated from Boston University School of Law in 1988. Mr. Houston is an active member of the Bar of the State of New York and an inactive member of the bar for the Commonwealth of Massachusetts. Mr. Houston is also admitted to the United States District Courts for the Southern and Eastern Districts of New York and the District of Massachusetts, and the Second, Seventh, Ninth, and Eleventh Circuit Court of Appeals of the United States. Mr. Houston repeatedly has been selected as a New York Metro Super Lawyer.

Mr. Houston has substantial courtroom experience involving complex actions in federal and state courts throughout the country. Mr. Houston was co-lead trial counsel in one the few ERISA class action cases taken to trial asserting breach of fiduciary duty claims against plan fiduciaries, *Brieger et al. v. Tellabs, Inc.*, No. 06-CV-01882 (N.D. Ill.), and has successfully prosecuted many ERISA actions, including *In re Royal Ahold N.V. Securities and ERISA Litigation*, Civil Action No. 1:03-md-01539. Mr. Houston has been one of the principal attorneys litigating claims in multi-district litigation concerning employment classification of pickup and delivery drivers and primarily responsible for

prosecuting ERISA class claims resulting in a \$242,000,000 settlement; *In re FedEx Ground Package Inc. Employment Practices Litigation*, No. 3:05-MD-527 (MDL 1700). Mr. Houston recently presented argument before the Eleventh Circuit Court of Appeals on behalf of a class of Florida pickup and delivery drivers obtaining a reversal of the lower court's grant of summary judgment. Mr. Houston represented the interests of Nevada and Arkansas drivers employed by FedEx Ground obtaining significant recoveries on their behalf. Mr. Houston also served as lead counsel in multi-district class litigation seeking to modify insurance claims handling practices; *In re UnumProvident Corp. ERISA Benefits Denial Actions*, No. 1:03-cv-1000 (MDL 1552).

Mr. Houston has played a principal role in numerous derivative and class actions wherein substantial benefits were conferred upon plaintiffs: *In re: Groupon Derivative Litigation*, No. 12-cv-5300 (N.D. Ill. 2012) (settlement of consolidated derivative action resulting in sweeping corporate governance reform estimated at \$159 million) *Bangari v. Lesnik, et al.*, No. 11 CH 41973 (Illinois Circuit Court, County of Cook) (settlement of claim resulting in payment of \$20 million to Career Education Corporation and implementation of extensive corporate governance reform); *In re Diamond Foods, Inc. Shareholder Litigation*, No. CGC-11-515895 (California Superior Court, County of San Francisco) (\$10.4 million in monetary relief including a \$5.4 million clawback of executive compensation and significant corporate governance reform); *Pace American Shareholder Litigation*, 94-92 TUC-RMB (securities fraud class action settlement resulting in a recovery of \$3.75 million); *In re Bay Financial Securities Litigation*, Master File No. 89-2377-DPW, (D. Mass.) (J. Woodlock) (settlement of action based upon federal securities law claims resulting in class recovery in excess of \$3.9 million); *Goldsmith v. Technology Solutions Company*, 92 C 4374 (N.D. Ill. 1992) (J. Manning) (recovery of \$4.6 million as a result of action alleging false and misleading statements regarding revenue recognition).

In addition to numerous employment and derivative cases, Mr. Houston has litigated actions asserting breach of fiduciary duty in the context of mergers and acquisitions. Mr. Houston has been responsible for securing millions of dollars in additional compensation and structural benefits for shareholders of target companies: *In re Instinet Group, Inc. Shareholders Litigation*, C.A. No. 1289 (Delaware Court of Chancery); *Jasinover v. The Rouse Company*, Case No. 13-C-04-59594 (Maryland Circuit Court); *McLaughlin v. Household International, Inc.*, Case No. 02 CH 20683 (Illinois Circuit Court); *Sebesta v. The Quizno's Corporation*, Case No. 2001 CV 6281 (Colorado District Court); *Crandon Capital Partners v. Sanford M. Kimmel*, C.A. No. 14998 (Del. Ch.); and *Crandon Capital Partners v. Kimmel*, C.A. No. 14998 (Del. Ch. 1996) (J. Chandler) (settlement of an action on behalf of shareholders of Transnational Reinsurance Co. whereby acquiring company provided an additional \$10.4 million in merger consideration).

JASON L. KRAJCER is a partner 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.

SUSAN G. KUPFER is the founding partner of the Firm's Berkeley office. 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 litigates antitrust, securities, shareholder derivative, and consumer cases. 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.

Previously, Greg had significant roles in *In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation* (settled for \$125 million); *In re Crompton Corp. Securities Litigation* (settled \$11 million); *Lowry v. Andrx Corp.* (settled for \$8 million); *In re Xybernaut Corp. Securities MDL Litigation* (settled for \$6.3 million); and *In re EIS Int'l Inc. Securities Litigation* (settled for \$3.8 million). Greg also represented the West Virginia Investment Management Board ("WVIMB") in *WVIMB v. Residential Accredited Loans, Inc., et al.*, relating to the WVIMB's investment in residential mortgage-backed securities.

Currently, Greg is litigating various antitrust and securities cases, including *In re Korean Ramen Antitrust Litigation*, *In re Automotive Parts Antitrust Litigation*, and *In re Horsehead Holding Corp. Securities Litigation*.

Greg is the co-author of *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004); and *Staying Derivative Action Pursuant to PSLRA and SLUSA*, NEW YORK LAW JOURNAL, P. 4, COL. 4 (Oct. 21, 2005).

BRIAN MURRAY is the managing partner of the Firm's New York Park Avenue office and the head of the Firm's Antitrust Practice Group. 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 Horsehead Holding Corp. Sec. Litig.*, No. 16-cv-292, 2018 WL 4838234 (D. Del. Oct. 4, 2018) (recommending denial of motion to dismiss securities fraud claims where company's generic cautionary statements failed to adequately warn of known problems); *In re Deutsche Bank Sec. Litig.*, --- F.R.D. ---, 2018 WL 4771525 (S.D.N.Y. Oct. 2, 2018) (granting class certification for Securities Act claims and rejecting defendants' argument that class representatives' trading profits made them atypical class members); *Robb v. Fitbit Inc.*, 216 F. Supp. 3d 1017 (N.D. Cal. 2016) (denying motion to dismiss securities fraud claims where confidential witness statements sufficiently established scienter); *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 lead counsel in a securities class action against Horsehead Holdings, Inc. in the District of Delaware.

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, (2007-2010); 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.

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.

DANIELLA QUITT, a partner in the firm's New York office, graduated from Fordham University School of Law in 1988, is a member of the Bar of the State of New York, and is also admitted to the United States District Courts for the Southern and Eastern Districts of New York, the United States Court of Appeals for the Second, Fifth, and Ninth Circuits, and the United States Supreme Court.

Ms. Quitt has extensive experience in successfully litigating complex class actions from inception to trial and has played a significant role in numerous actions wherein

substantial benefits were conferred upon plaintiff shareholders, such as *In re Safety-Kleen Corp. Stockholders Litigation*, (D.S.C.) (settlement fund of \$44.5 million); *In re Laidlaw Stockholders Litigation*, (D.S.C.) (settlement fund of \$24 million); *In re UNUMProvident Corp. Securities Litigation*, (D. Me.) (settlement fund of \$45 million); *In re Harnischfeger Industries* (E.D. Wisc.) (settlement fund of \$10.1 million); *In re Oxford Health Plans, Inc. Derivative Litigation*, (S.D.N.Y.) (settlement benefit of \$13.7 million and corporate therapeutics); *In re JWP Inc. Securities Litigation*, (S.D.N.Y.) (settlement fund of \$37 million); *In re Home Shopping Network, Inc., Derivative Litigation*, (S.D. Fla.) (settlement benefit in excess of \$20 million); *In re Graham-Field Health Products, Inc. Securities Litigation*, (S.D.N.Y.) (settlement fund of \$5.65 million); *Benjamin v. Carusona*, (E.D.N.Y.) (prosecuted action on behalf of minority shareholders which resulted in a change of control from majority-controlled management at Gurney's Inn Resort & Spa Ltd.); *In re Rexel Shareholder Litigation*, (Sup. Ct. N.Y. County) (settlement benefit in excess of \$38 million); and *Croyden Assoc. v. Tesoro Petroleum Corp., et al.*, (Del. Ch.) (settlement benefit of \$19.2 million).

In connection with the settlement of *Alessi v. Beracha*, (Del. Ch.), a class action brought on behalf of the former minority shareholders of Earthgrains, Chancellor Chandler commented: "I give credit where credit is due, Ms. Quitt. You did a good job and got a good result, and you should be proud of it."

Ms. Quitt has focused her practice on shareholder rights and ERISA class actions but also handles general commercial and consumer litigation. Ms. Quitt serves as a member of the S.D.N.Y. ADR Panel and has been consistently selected as a New York Metro Super Lawyer.

JONATHAN M. ROTTER leads the Firm's intellectual property litigation practice and has extensive experience in class action litigation, including in the fields of data privacy, digital content, securities, consumer protection, and antitrust. His cases often involve technical and scientific issues, and he excels at the critical skill of understanding and organizing complex subject matter in a way helpful to judges, juries, and ultimately, the firm's clients. Since joining the firm, he has played a key role in cases recovering over \$100 million. He handles cases on contingency, partial contingency, and hourly bases, and works collaboratively with other lawyers and law firms across the country.

Before joining the firm, Mr. Rotter 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, advised on case management strategy, and organized and provided judicial education. 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, working on the full range of matters handled by the Circuit.

Before his service to the courts, 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.

Mr. Rotter graduated with honors from Harvard Law School in 2004. He served as an editor of the Harvard Journal of Law & Technology, was a Fellow in Law and Economics at the John M. Olin Center for Law, Economics, and Business at Harvard Law School, and a Fellow in Justice, Welfare, and Economics at the Harvard University 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 served on 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 in California and before the United States Courts of Appeals for the First, Second, Ninth and Federal Circuits, the United States District Courts for the Northern, Central, and Southern Districts of California, and the United States Patent & Trademark Office.

KEVIN F. RUF graduated from the University of California at Berkeley with a Bachelor of Arts in Economics and earned his Juris Doctor degree from the University of Michigan. He was an associate at the Los Angeles firm Manatt Phelps and Phillips from 1988 until 1992, where he specialized in commercial litigation. In 1993, he joined the firm Corbin & Fitzgerald (with future federal district court Judge Michael Fitzgerald) specializing in white collar criminal defense work.

Kevin joined the Glancy firm in 2001 and works on a diverse range of trial and appellate cases; he is also head of the firm's Labor practice. Kevin has successfully argued a number of important appeals, including in the 9th Circuit Court of Appeals. He has twice argued cases before the California Supreme Court – winning both.

In *Smith v. L'Oreal* (2006), after Kevin's winning arguments, the California Supreme Court established a fundamental right of all California workers to immediate payment of all earnings at the conclusion of their employment.

Kevin gave the winning oral argument in one of the most talked about and wide-reaching California Supreme Court cases of recent memory: *Lee v. Dynamex* (2018). The Dynamex decision altered 30 years of California law and established a new definition of employment that brings more workers within the protections of California's Labor Code. The California legislature was so impressed with the Dynamex result that promulgated AB5, a statute to formalize this new definition of employment and expand its reach.

Kevin won the prestigious California Lawyer of the Year (CLAY) award in 2019 for his work on the *Dynamex* case.

In 2021, Kevin was named by California's legal paper of record, the Daily Journal, as one of 18 California "Lawyers of the Decade."

Kevin has been named three times as one of the Daily Journal's "Top 75 Employment Lawyers."

Since 2014, Kevin has been an elected member of the Ojai Unified School District Board of Trustees. Kevin was also a Main Company Member of the world-famous Groundlings improv and sketch comedy troupe – where "everyone else got famous."

BENJAMIN I. SACHS-MICHAELS, a partner in the firm's New York office, graduated from Benjamin N. Cardozo School of Law in 2011. His practice focuses on shareholder derivative litigation and class actions on behalf of shareholders and consumers.

While in law school, Mr. Sachs-Michaels served as a judicial intern to Senior United States District Judge Thomas J. McAvoy in the United States District Court for the Northern District of New York and was a member of the Cardozo Journal of Conflict Resolution.

Mr. Sachs-Michaels is a member of the Bar of the State of New York. He is also admitted to the United States District Courts for the Southern and Eastern Districts of New York and the United States Court of Appeals for the Second Circuit.

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 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), where his practice focused on securities and consumer class actions on behalf of investors and consumers.

During his career, Mr. Sams has served as lead counsel in dozens of securities class actions and complex-litigation cases, and has worked on cases at all levels of the state and federal court systems throughout the United States. Mr. Sams was one of the

counsel for respondents in *Cyan, Inc. v. Beaver Cty. Employees Ret. Fund*, 138 S. Ct. 1061 (2018), in which the United States Supreme Court ruled unanimously in favor of respondents, holding that: (1) the Securities Litigation Uniform Standards Act of 1998 (“SLUSA”) does not strip state courts of jurisdiction over class actions alleging violations of only the Securities Act of 1933; and (2) SLUSA does not empower defendants to remove such actions from state to federal court. Mr. Sams also 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: *Beezley v. Fenix Parts, Inc.*, No. 1:17-CV-7896, 2018 WL 3454490 (N.D. Ill. July 13, 2018) (denying motion to dismiss); *In re Flowers Foods, Inc. Sec. Litig.*, No. 7:16-CV-222 (WLS), 2018 WL 1558558 (M.D. Ga. Mar. 23, 2018) (largely denying motion to dismiss; case settled for \$21 million); *In re King Digital Entm’t plc S’holder Litig.*, No. CGC-15-544770 (San Francisco Superior Court) (case settled for \$18.5 million); *In re Castlight Health, Inc. S’holder 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. S’holder Litig.*, Master File No. CIV522744 (California Superior Court, County of San Mateo) (case settled for \$8 million); *Estate of Gardner v. Continental Casualty Co.*, 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); *Curry v. Hansen Med., Inc.*, No. C 09-5094 CW, 2012 WL 3242447 (N.D. Cal. Aug. 10, 2012) (upholding 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); *Puskala v. Koss Corp.*, 799 F. Supp. 2d 941 (E.D. Wis. 2011) (upholding complaint); *Mishkin v. Zynex Inc.*, Civil Action No. 09-cv-00780-REB-KLM, 2011 WL 1158715 (D. Colo. Mar. 30, 2011) (denying motion to dismiss); 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. Additionally, Mr. Sams has been an author or co-author of several articles in major legal publications,

including “9th Circuit Decision Clarifies Securities Fraud Loss Causation Rule” published in the February 8, 2018 issue of the *Daily Journal*, and “Market Efficiency in the World of High-Frequency Trading” published in the December 26, 2017 issue of the *Daily Journal*.

LEANNE HEINE SOLISH is a partner in GPM’s Los Angeles office. Her practice focuses on complex securities litigation.

Ms. Solish has extensive experience litigating complex cases in federal courts nationwide. Since joining GPM in 2012, Ms. Solish has helped secure several large class action settlements for injured investors, including: *The City of Farmington Hills Employees Retirement System v. Wells Fargo Bank*, Case No. 10-4372--DWF/JJG (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.); *Mild v. PPG Industries, Inc. et al.*, Case No. 2:18-cv-04231 (C.D. Cal.) (\$25 million settlement); *In re Penn West Petroleum Ltd. Securities Litigation*, Case No. 1:14-cv-06046-JGK (S.D.N.Y.) (\$19 million settlement for the U.S. shareholder class as part of a \$39 million global settlement); *In re ITT Educational Services, Inc. Securities Litigation (Indiana)*, Case No. 1:14-cv-01599-TWP-DML (\$12.5375 million settlement); *In re Doral Financial Corporation Securities Litigation*, Case No. 3:14-cv-01393-GAG (D.P.R.) (\$7 million settlement); *Larson v. Insys Therapeutics Incorporated, et al.*, Lead Case No. 14-cv-01043-PHX-GMS (D. Ariz.) (\$6.125 million settlement); *In re Unilife Corporation Securities Litigation*, Case No. 1:16-cv-03976-RA (\$4.4 million settlement); and *In re K12 Inc. Securities Litigation*, Case No. 4:16-cv-04069-PJH (N.D. Cal.) (\$3.5 million settlement).

Super Lawyers Magazine has selected Ms. Solish as a “Rising Star” in the area of Securities Litigation for the past four consecutive years, 2016 through 2019.

Ms. Solish graduated *summa cum laude* with a B.S.M. in Accounting and Finance from Tulane University, where she was a member of the Beta Alpha Psi honors accounting organization and was inducted into the Beta Gamma Sigma Business Honors Society. Ms. Solish subsequently earned her J.D. from the University of Texas School of Law.

Ms. Solish is admitted to the State Bar of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Northern, and Southern Districts of California. Ms. Solish is also a Registered Certified Public Accountant in Illinois.

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 also has extensive experience in appellate advocacy in both State and Federal Circuit Courts of Appeals.

With over fifteen years 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: *Christine Asia Co. Ltd., et al. v. Jack Yun Ma, et al.*,

Case No. 15-md-02631 (S.D.N.Y.) (\$250 million securities class action settlement); *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").

Ms. Wolke has been named a Super Lawyers "Rising Star," and her work on behalf of investors has earned her recognition as a LawDragon Leading Plaintiff Financial Lawyer for 2019 and 2020.

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.

OF COUNSEL

BRIAN D. BROOKS joined the New York office of Glancy Prongay & Murray LLP in 2019, specializing in antitrust, consumer, and securities litigation. His current cases include *In re Zetia Antitrust Litigation*, No. 18-md-2836 (E.D. Va.); *Staley, et al. v. Gilead Sciences, Inc., et al.*, No. 3:19-cv-02573-EMC (N.D. Cal.); and *In re: Seroquel XR (Extended Release Quetiapine Fumarate) Litigation*, No. 1:19-cv-08296-CM (S.D.N.Y.).

Prior to joining the firm, Mr. Brooks was an associate at Murray, Frank & Sailer, LLP in New York, where his practice was focused on antitrust, consumer, and securities matters, and later a partner at Smith, Segura & Raphael, LLP, in New York and Louisiana. During his tenure at Smith Segura & Raphael, LLP, Mr. Brooks represented direct purchasers in numerous antitrust matters, including *In re: Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*, No. 2:13-md-02445 (E.D. Pa.), *In re: Niaspan Antitrust Litigation*, No. 2:13-md-02460 (E.D. Pa.), and *In re: Novartis & Par Antitrust Litigation (Exforge)*, No. 18-cv-4361 (S.D.N.Y.), and was an active member of the trial team for the class in *In re: Nexium (Esomeprazole) Antitrust Litigation*, No. 12-md-2409 (D. Mass.), the first post-Actavis reverse-payment case to be tried to verdict. He was also an active member of the litigation teams in the *King Drug Company of Florence, Inc. et al. v. Cephalon, Inc., et al. (Provigil)*, No. 2:06-cv-1797 (E.D. Pa.); *In re: Prograf Antitrust Litigation*, No. 1:11-md-2242 (D. Mass.) and *In re: Miralax antitrust matters*, which collectively settled for more than \$600 million, and a member of the litigation teams in *In re: Relafen Antitrust Litigation*, No. 01-cv-12239 (D. Mass.); *In re: Buspirone Antitrust Litigation*, MDL Dkt. No. 1410 (S.D.N.Y.); *In re: Remeron Antitrust Litigation*, No. 02-2007 (D.N.J.); *In re: Terazolin Hydrochloride Antitrust Litigation*, No. 99-MDL-1317 (S.D. Fla.); and *In re K-Dur Antitrust Litigation*, No. 10-cv-1652 (D.N.J.).

Mr. Brooks received his B.A. from Northwestern State University of Louisiana in 1998 and his J.D. from Washington and Lee School of Law in 2002, where he was a staff writer for the Environmental Law Digest and clerked for the Alderson Legal Assistance Program, handling legal matters for inmates of the Federal Detention Center in Alderson, West Virginia. He is admitted to practice in all state courts in New York and Louisiana, as well as the United States District Courts for the Southern and Eastern Districts of New York and the Eastern and Western Districts of Louisiana.

JOSHUA L. CROWELL concentrates his practice on prosecuting complex securities cases on behalf of investors.

Recently, he was co-lead counsel in *In re Yahoo! Inc. Securities Litigation*, No. 17-CV-00373-LHK (N.D. Cal.), which resulted in an \$80 million settlement for the class. He also led the prosecution of *In re Akorn, Inc. Securities Litigation*, No. 1:15-cv-01944 (N.D. Ill.), achieving a \$24 million class settlement.

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
- *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 a member of The George Washington Law Review and 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.

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.

ROBERT I. HARWOOD, Of Counsel to the firm, graduated from William and Mary Law School in 1971, and has specialized in securities law and securities litigation since beginning his career in 1972 at the Enforcement Division of the New York Stock Exchange. Mr. Harwood was a founding member of Harwood Feffer LLP. He has prosecuted numerous securities, class, derivative, and ERISA actions. He is a member of the Trial Lawyers' Section of the New York State Bar Association and has served as a guest lecturer at trial advocacy programs sponsored by the Practicing Law Institute. In a statewide survey of his legal peers published by Super Lawyers Magazine, Mr. Harwood has been consistently selected as a "New York Metro Super Lawyer." Super Lawyers are the top five percent of attorneys in New York, as chosen by their peers and through the independent research. He is also a Member of the Board of Directors of the MFY Legal Services Inc., which provides free legal representation in civil matters to the poor and the mentally ill in New York City. Since 1999, Mr. Harwood has also served as a Village Justice for the Village of Dobbs Ferry, New York.

Commenting on Mr. Harwood's abilities, in *In re Royal Dutch/Shell Transport ERISA Litigation*, (D.N.J.), Judge Bissell stated:

the Court knows the attorneys in the firms involved in this matter and they are highly experienced and highly skilled in matters of this kind. Moreover, in this case it showed. Those efforts were vigorous, imaginative and prompt in reaching the settlement of this matter with a minimal amount of discovery So both skill and efficiency were brought to the table here by counsel, no doubt about that.

Likewise, Judge Hurley stated in connection with *In re Olsten Corporation Securities Litigation*, No. 97 CV-5056 (E.D.N.Y. Aug. 31, 2001), wherein a settlement fund of \$24.1 million was created: "The quality of representation here I think has been excellent." Mr. Harwood was lead attorney in *Meritt v. Eckerd*, No. 86 Civ. 1222 (E.D.N.Y. May 30, 1986), where then Chief Judge Weinstein observed that counsel conducted the litigation with "speed and skill" resulting in a settlement having a value "in the order of \$20 Million Dollars." Mr. Harwood prosecuted the *Hoeniger v. Aylsworth* class action litigation in the United States District Court for the Western District of Texas (No. SA-86-CA-939), which resulted in a settlement fund of \$18 million and received favorable comment in the August 14, 1989 edition of *The Wall Street Journal* ("*Prospector Fund Finds Golden Touch in Class Action Suit*" p. 18, col. 1). Mr. Harwood served as co-lead counsel in *In Re Interco Incorporated Shareholders Litigation*, Consolidated C.A. No. 10111 (Delaware Chancery Court) (May 25, 1990), resulting in a settlement of \$18.5 million, where V.C. Berger found, "This is a case that has an extensive record that establishes it was very hard fought. There were intense efforts made by plaintiffs' attorneys and those efforts bore very significant fruit in the face of serious questions as to ultimate success on the merits."

Mr. Harwood served as lead counsel in *Morse v. McWhorter* (Columbia/HCA Healthcare Securities Litigation), (M.D. Tenn.), in which a settlement fund of \$49.5 million was created for the benefit of the Class, as well as *In re Bank One Securities Litigation*, (N.D. Ill.), which resulted in the creation of a \$45 million settlement fund. Mr. Harwood

also served as co-lead counsel in *In re Safety-Kleen Corp. Stockholders Litigation*, (D.S.C.), which resulted in a settlement fund of \$44.5 million; *In re Laidlaw Stockholders Litigation*, (D.S.C.), which resulted in a settlement fund of \$24 million; *In re AIG ERISA Litigation*, (S.D.N.Y.), which resulted in a settlement fund of \$24.2 million; *In re JWP Inc. Securities Litigation*, (S.D.N.Y.), which resulted in a \$37 million settlement fund; *In re Oxford Health Plans, Inc. Derivative Litigation*, (S.D.N.Y.), which resulted in a settlement benefit of \$13.7 million and corporate therapeutics; and *In re UNUMProvident Corp. Securities Litigation*, (D. Me.), which resulted in the creation of settlement fund of \$45 million. Mr. Harwood has also been one of the lead attorneys in litigating claims in *In re FedEx Ground Package Inc. Employment Practices Litigation*, No. 3:05-MD-527 (MDL 1700), a multi-district litigation concerning employment classification of pickup and delivery drivers which resulted in a \$242,000,000 settlement.

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.

ASSOCIATES

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.

THOMAS J. KENNEDY works out of the New York office, where he focuses on securities, antitrust, mass torts, 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.

DANIELLE L. MANNING is a litigation associate in the firm's Los Angeles office. Ms. Manning specializes in prosecuting complex class action lawsuits in state and federal courts nationwide, including consumer and securities fraud class actions. She has

particular experience litigating automobile defect and Telephone Consumer Protection Act (“TCPA”) cases and excels at managing multiple significant matters at once. Ms. Manning has experience in all phases of pre-trial litigation, including conducting fact investigation, drafting pleadings, researching and drafting briefs in the context of law and motion practice, drafting and responding to discovery requests, assisting with deposition preparation, and preparing for and negotiating settlements. Ms. Manning is admitted to the State Bar of California, the Ninth Circuit Court of Appeals, United States District Courts for the Central and Northern Districts of California, and the Eastern District of Michigan.

A few of the matters Ms. Manning is currently taking an active role in are: *Gann et. al. v. Nissan North America*, Case No. 3:18-cv-00966 (M.D. Tenn.) (preliminary approval granted July 16, 2019); *Salcedo v. Häagen-Dazs Shoppe Company Inc.*, Case No. 5:17-cv-03504 (N.D. Cal.); *Andre Damico et. al. v. Hyundai Motor America Inc.*, Case No. 30-2018-01008552-CU-BC-CXC (Cal. Super. Ct.) (demurrer overruled); *Elaine Hall et al. v. General Motors LLC*, Case No. 4:19-cv-10186 (E.D. Mich.) (motion to dismiss pending); *Mark Mina v. Red Robin International Inc., et al.*, Case No. 2:18-cv-09472 (C.D. Cal.) (motion to dismiss pending) and *Kohna et al. v. Subaru of America Inc.*, Case No. 1:19-cv-09323 (D.N.J.).

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. Ms. Manning received her Bachelor of Arts degree with honors in Environmental Analysis from Claremont McKenna College.

NATALIE S. PANG is an associate in the firm's Los Angeles office. Ms. Pang has advocated on behalf of thousands of consumers during her career. Ms. Pang has extensive experience in case management and all facets of litigation: from a case's inception through the discovery process—including taking and defending depositions and preparing witnesses for depositions and trial—mediation and settlement negotiations, pretrial motion work, trial and post-trial motion work.

Prior to joining the firm, Ms. Pang lead the mass torts department of her last firm, where she managed the cases of over two thousand individual clients. There, Ms. Pang worked on a wide variety of complex state and federal matters which included cases involving pharmaceutical drugs, medical devices, auto defects, toxic torts, false advertising, and uninhabitable conditions. Ms. Pang was also trial counsel in the notable case, *Celestino Acosta et al. v. City of Long Beach et al.* (BC591412) which was brought on behalf of residents of a mobile home park built on a former trash dump and resulted in a \$39.5 million verdict after an eleven-week jury trial in Los Angeles Superior Court.

Ms. Pang received her J.D. from Loyola Law School. While in law school, Ms. Pang received a Top 10 Brief Award as a Scott Moot Court competitor, was chosen to be a

member of the Scott Moot Court Honor's Board, and competed as a member of the National Moot Court Team. Ms. Pang was also a Staffer and subsequently an Editor for Loyola's Entertainment Law Review as well as a Loyola Writing Tutor. During law school, Ms. Pang served as an extern for: the Hon. Rolf Treu (Los Angeles Superior Court), the Los Angeles City Attorney's Office, and the Federal Public Defender's Office. Ms. Pang obtained her undergraduate degree from the University of Southern California and worked in the healthcare industry prior to pursuing her career in law.

PAVITHRA RAJESH is a litigation associate in the firm's Los Angeles office. She specializes in fact discovery, including pre-litigation investigation, and develops legal theories in securities, derivative, and privacy-related matters.

Ms. Rajesh has unique writing experience from her judicial externship for the Patent Pilot Program in the United States District Court for the Central District of California, where she worked closely with the Clerk and judges in the program on patent cases. Drawing from this experience, Ms. Rajesh is passionate about expanding the firm's Intellectual Property practice, and she engages with experts to understand complex technology in a wide range of patents, including network security and videogame electronics.

Ms. Rajesh graduated from University of California, Santa Barbara with a Bachelor of Science degree in Mathematics and a Bachelor of Arts degree in Psychology. She received her Juris Doctor degree from UCLA School of Law. While in law school, Ms. Rajesh was an Associate Editor for the UCLA Law Review.

GARTH A. SPENCER's work focuses on securities litigation on behalf of investors, as well as whistleblower, consumer and antitrust matters for plaintiffs. He has substantially contributed to a number of GPM's successful cases, including *Robb v. Fitbit Inc.* (N.D. Cal.) (\$33 million settlement). Mr. Spencer joined the firm's New York office in 2016, and transferred to Los Angeles in 2020. Prior to joining GPM, he worked in the tax group of a transactional law firm, and pursued tax whistleblower matters as a sole practitioner.

RAY D. SULENTIC prosecutes complex class actions for GPM. He enjoys advocating for investors because he used to be one. Before law school, Mr. Sulentic worked on Wall Street for roughly a decade—on both the buy-side, and the sell-side. His experience includes working as a former Director of Investments for a private equity fund; a special situations analyst for a \$10.0 billion multi-asset class hedge fund; and as a sell-side equity and commodity analyst for Bear Stearns & Co. Inc. While at Bear Stearns, Mr. Sulentic's investment analysis was featured in Barron's.

Since leaving the investment world, Mr. Sulentic received his early legal training from one of the largest law firms in the world, where he defended multinational corporations in securities suits and government investigations.

While in law school, Mr. Sulentic authored several seminar papers on securities law topics including on: whether SLUSA conferred exclusive jurisdiction to federal courts

deciding cases under the Securities Act of 1933; how to overcome a corporation's unilaterally adopted bylaw amendment purporting to confer exclusive forum in Delaware; and on the proliferation of appraisal arbitrage actions and whether public policy supports the Delaware Court of Chancery's role as an arbiter of market value.

He holds a B.S.M. in Finance from Tulane University; an M.B.A. with a concentration in Finance from Georgetown University; and a J.D. from the UCLA School of Law. The synergy of his finance and legal education and experience makes him well-suited for disputes related to complex accounting frauds, market manipulation matters, valuation disputes, and damages.

MELISSA WRIGHT is a litigation associate in the firm's Los Angeles office. Ms. Wright specializes in complex litigation, including the prosecution of securities fraud and consumer class actions. She has particular expertise in all aspects of the discovery phase of litigation, including drafting and responding to discovery requests, negotiating protocols for the production of Electronically Stored Information (ESI) and all facets of ESI discovery, and assisting in deposition preparation. She has managed multiple document production and review projects, including the development of ESI search terms, overseeing numerous attorneys reviewing large document productions, drafting meet and confer correspondence and motions to compel where necessary, and coordinating the analysis of information procured during the discovery phase for utilization in substantive motions or settlement negotiations.

Ms. 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 2

**GLANCY PRONGAY MURRAY LLP
FIRM LODESTAR REPORT FROM INCEPTION
EXHIBIT**

**NISSAN ROGUE/PATHFINDER TRANSMISSION
INCEPTION THROUGH FEBRUARY 7, 2022**

TIMEKEEPER/CASE	STATUS	HOURS	RATE	LODESTAR
ATTORNEYS:				
Marc Godino	Partner	245.80	925.00	227,365.00
Stanislav Karas	Of Counsel	34.20	795.00	27,189.00
Danielle Manning	Associate	181.50	570.00	103,455.00
Romelia E. Leach	Staff Attorney	236.70	570.00	134,919.00
TOTAL ATTORNEY	TOTAL	698.20		492,928.00
PARALEGALS:				
Paul Harrigan	Senior Paralegal	13.90	295.00	4,100.50
John D. Belanger	Research Analyst	15.00	290.00	4,350.00
Michaela Ligman	Research Analyst	18.60	310.00	5,766.00
TOTAL PARALEGAL	TOTAL	47.50		14,216.50
TOTAL LODESTAR	TOTAL	745.70		507,144.50

EXHIBIT 3

Stringer, et al. v. Nissan North America, et al.
Glancy Prongay Murray LLP Expense Summary

Category of Expense	Amount
Couriers & Postage	0.00
Court Filing Fees	490.00
Experts	33,652.50
Mediation	10,000.00
Photocopying/Imaging	1,500.00
Research	2,577.27
Service of Process	0.00
Travel	1,291.51
TOTAL	49,511.28

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE - NASHVILLE
DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O'CONNOR, MICHELLE WILLIAMS, and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN OF NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**DECLARATION OF STEPHEN R.
BASSER IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT, AND
MOTION FOR AWARD OF
ATTORNEYS FEES,
REIMBURSEMENT OF EXPENSES
AND CLASS REPRESENTATIVE
SERVICE AWARDS**

Judge William L. Campbell
Courtroom A826
Magistrate Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

I, Stephen R. Basser, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am a partner in the law firm of Barrack Rodos & Bacine, ("Barrack" or "BRB") and a member of Plaintiffs' Interim Executive Committee in the above-captioned action. I submit this declaration in support of the Plaintiffs' Motion for Final Approval of Class Action Settlement Agreement, and Motion for Attorneys' Fees, Reimbursement of Expenses, and Class Representative Service Awards. Each of the facts set forth below are true and correct within my personal knowledge and if called and sworn as a witness, I would competently testify thereto.

2. I believe that the proposed Settlement in this action extends outstanding relief to the Settlement Class, is fair, reasonable, and adequate, and merits final approval.

I. BARRACK RODOS & BACINE'S QUALIFICATIONS

3. As reflected in the Barrack Rodos & Bacine (Abbreviated) Firm Biography, attached hereto as Exhibit 1, the Barrack firm has significant depth, experience, and resources in litigating complex class action cases, including consumer class actions. BRB has been extensively involved for more than 45 years in complex class action litigation, participating in hundreds of such cases and recovering over 14 billion dollars for class members, including several such actions that have secured recoveries in excess of 1 billion dollars. BRB has had leadership roles in securities, antitrust, and consumer class actions, having been appointed by courts throughout the United States. BRB has been involved as a lead counsel, Co-Lead Counsel, or executive committee member in actions against corporations alleging misrepresentation, including fraudulent misrepresentations and concealment, harming investors and/or consumers, and/or business entities, including a number of cases in which BRB has represented public pension funds protecting the rights of retirees. Exhibit 1 hereto lists many of the complex class action cases in which the firm has participated, and including mostly cases in which Barrack was a lead, co-lead, or executive committee member.

4. I graduated from the American University, Washington D.C. (B.A., with Honors, 1973) and Temple University School of Law, Philadelphia, Pennsylvania (J.D. *cum laude*, 1976), where I was awarded the Honor of "Highest Grade and Distinguished Class Performance" by its nationally renowned clinical trial litigation program and was selected to serve as a student prosecutor under the supervision of the United States Attorney's Office for the Eastern District of Pennsylvania during my senior year. I am a member of the bars of the Supreme Court of Pennsylvania (1976), and the Supreme Court of California (1985). I have been admitted *pro hac vice* in this case, have been admitted by numerous other United States District Courts in

jurisdictions throughout the nation in other cases, and am admitted to practice in the District Courts for the Northern, Central and Southern Districts of California, the Eastern District of Pennsylvania, the District of Colorado, and the Eastern District of Wisconsin.

5. BRB has achieved significant recoveries on behalf of class members in consumer cases, including, among others, the following:

➤ “Senior Annuity” cases litigated from 2005 through the last case ending in 2015 in which BRB served as a Co-Lead Counsel, or participated as a defacto executive committee member, in the prosecution as part of a defined group of four law firms, which achieved settlements valued in the aggregate between \$552 million and \$1.273 billion, after asserting claims against insurance companies under consumer protection and elder abuse statutes, and the Racketeer Influenced and Corrupt Organizations Act, including the following:

- *Negrete. et al. v. Allianz Life Insurance Company of North America*, Case No. 05-cv-06838-CAS-MAN (C.D. Cal.), resulted in a claims-made settlement valued between \$251 million and \$971 million;
- *In re American Equity Annuity Practices and Sales Litigation*, Case No. 2:05-cv-06735-CAS-MAN (C.D. Cal.), resulted in a settlement valued at approximately \$129 million;
- *Rand v. American National Insurance Co.*, Case No. 3:09-cv-0639-WDB (N.D. Cal.), resulted in a settlement valued at more than \$9 million;
- *Negrete, et al. v. Fidelity and Guaranty Life Insurance Company*, Case No. 2:05-cv-06837-CAS-MAN (C.D. Cal.), resulted in a settlement valued at approximately \$52.7 million;
- *Meadows v. Jackson National Life Insurance Co.*, Case No. 4:12-cv-1380-CW (N.D. Cal.), resulted in a settlement valued at more than \$11.2 million;

- *Midland National Life Insurance Co Annuity Sales Practices Litigation*, Case No. 2:07-ml-01825-CAS-MAN (C.D. Cal.), resulted in a settlement valued at \$79.5 million; and

- *In re National Western Life Insurance Deferred Annuities Litigation*, Case No. 05-cv-1018-AJB (WVG), resulted in a settlement in 2014 valued at more than \$21 million.

➤ *Rieff v. Evans* (Allied Mutual Insurance Company Demutualization Litigation), Civil Action No. CE 35780 (Polk Cty., Iowa, District Ct.). BRB, as Co-Lead Counsel for a class of individual mutual insurance company policyholders (as owners of the mutual, similar to shareholder-owners of a stock company), brought an action against management for, inter alia, conversion of the value of their ownership interests in the mutual under a theory of de facto demutualization. The Iowa Supreme Court upheld the plaintiffs' theory in *Rieff v. Evans*, 630 N.W.2d 278 (Iowa 2001), and the case was subsequently resolved for approximately \$130 million.

➤ *Hernandez, et al. v. Google, Inc., et al.*, Case No. 1-15-CV-280601 (Santa Clara Cty., California, Superior Ct.), before the Honorable Brian C. Walsh. BRB, on behalf of the plaintiffs and similarly situated purchasers of gift cards issued by Google, Inc. for use in its Google Play Store, prosecuted this action to require defendants to abide by California law with regard to gift cards with less than a \$10.00 balance on them. Google agreed to comply with California law, and after the filing revised its payment system. The changes adopted by Google pursuant to the settlement are ongoing, providing benefit to millions of Google Play gift card users.

➤ *Gutierrez v. Charles J. Givens Organization, et al.*, Case No. 667169 (San Diego Cty., California, Superior Court). BRB, on behalf of the plaintiff and similarly situated class members, achieved a jury verdict in excess of \$14 million for the benefit of the plaintiff consumer class.

➤ BRB served as an Interim Executive Committee Counsel in a consumer class action entitled *Feller, et al. v. Transamerica Life Insurance Company*, Case No. 16-cv-01378 CAS

(AJWx), in the Central District of California which ultimately achieved a \$200 million settlement in 2018.

➤ BRB is currently prosecuting a consumer class action, entitled *In re: Lincoln National COI Litigation*, Case No. 16-cv-06605-GJP, in the Eastern District of Pennsylvania (Chair of Plaintiffs' Steering Committee).

➤ BRB currently serves as an Interim Executive Committee Counsel in an auto defect class action entitled *In re Toyota Hybrid Brake Litigation*, Case No. 4:20-CV-00127 ALM in the Eastern District of Texas.

➤ In 2017, the Attorney General of the State of New Mexico appointed Stephen R. Bassar, Jeffrey A. Barrack, and Samuel M. Ward, Barrack, Rodos & Bacine partners, as Special Assistant Attorneys General for the purpose of prosecuting an action on behalf of New Mexico consumers against Vivint Solar, Inc., and other defendants, for violations of New Mexico consumer law, entitled, *State of New Mexico, ex. Rel., Hector H. Balderas, Attorney General of New Mexico v. Vivint Solar Developer, LLC*, Case No. D-202-CV-2018-01936.

6. The Firm has achieved significant recoveries on behalf of consumers and business class members in antitrust cases, including, among others, the following:

- *In re Urethane Antitrust Litigation*, 2:04-md-01616-JWL (D. Kan.). After nearly nine years of litigation and four weeks of trial, the Jury reached a verdict for plaintiffs in excess of \$400 million (before trebling) against defendant Dow Chemical Company, and the District Court entered a Judgment of \$1.06 billion, which was upheld on appeal by the Tenth Circuit Court of Appeals. While on appeal to the U.S. Supreme Court, the case against Dow settled for \$835 million, which was in addition to earlier settlements reached with other defendants. BRB served as a member of the trial team for the case;

- *In re Vitamins Antitrust Litigation*, MDL No. 1285 (D.D.C.), highly complex litigation, which plaintiffs achieved settlements in excess of \$1 billion. BRB served as a member of the Executive Committee.

- *In re Citric Acid Antitrust Litigation*, Master File No. 95-2963 (N.D. Cal.). After five years of litigation, plaintiffs achieved settlements totaling over \$80 million. BRB served as Co-Lead Counsel.

- *In re Graphite Electrodes Antitrust Litigation*, Master File No. 97-CV-4182 (CRW) (E.D. Pa.). After six years of litigation, plaintiffs achieved settlements totaling over \$133 million. BRB served as Co-Lead Counsel.

- *In re Automotive Refinishing Paint Antitrust Litigation*, MDL No. 1426 (E.D. Pa.). After five years of litigation, plaintiffs achieved settlements totaling over \$105 million. See 617 F. Supp.2d 336 (E.D. Pa. 2007). BRB served as Co-Lead Counsel.

- *In re Sorbates Antitrust Litigation*, No. C 98-4886 (N.D. Cal.). After four years of litigation, plaintiffs achieved settlements in the total amount of \$96.5 million. BRB served as Co-Lead Counsel.

- *Thomas & Thomas Rodmakers, Inc., et al. v. Newport Adhesives and Composites, et al.*, No. CV-99-07796 FMC (RNBx) (C.D. Cal.) (Carbon Fiber Antitrust Litigation). Plaintiffs achieved settlements totaling \$67.5 million. BRB served as Co-Lead Counsel.

- *In re Polypropylene Carpet Antitrust Litigation*, MDL No. 1075 (N.D. Ga.). After five years of litigation, plaintiffs achieved a recovery of nearly \$50 million. See 93 F. Supp. 2d 1348 (N.D. Ga. 2000). BRB served as Co-Lead Counsel.

- *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (E.D. Pa.). After more than seven years of litigation, plaintiffs were successful in maintaining the case on appeal, *see* 385 F.3d 350 (3d Cir. 2004), and achieved total recoveries of more than \$120 million. BR&B served as Co-Lead Counsel.

7. BRB has achieved significant recoveries as a Lead or Co-Lead Counsel on behalf of class member investors, including institutional clients, in numerous cases arising under the Private Securities Litigation Reform Act of 1995, (“PSLRA”). The following lists some of the more notable recoveries:

- *In re WorldCom, Inc. Securities Litigation*, Master File No. 02 Civ. 3288 (DLC) (S.D.N.Y.). BRB, as Co-Lead Counsel for lead plaintiff the Comptroller of the State of New York, the sole Trustee for the New York State Common Retirement Fund (“NYSCRF”), negotiated \$6.19 billion in settlements with defendants, including a settlement with the company’s outside auditor, Arthur Andersen LLP, after nearly five weeks of trial. The recovery is the largest ever achieved in the Southern District of New York and in the Second Circuit.

- *In re Cendant Corporation Litigation*, Civil Action No. 98-1664 (WHW) (D.N.J.). BRB, as Co-Lead Counsel, represented Co-Lead Plaintiffs NYSCRF and the California Public Employees’ Retirement System. This litigation was settled for \$3.18 billion – which, at the time, was by far the largest recovery ever achieved in a class action under the securities laws – plus a contingency that brought the total recovery to \$3.32 billion. The \$335 million settlement with Ernst & Young, the outside auditor for one of the Cendant predecessor companies, continues to stand as the largest recovery from an accounting firm in a securities class action. The recovery is the largest ever achieved in the District of New Jersey and in the Third Circuit.

- *In re McKesson HBOC, Inc. Securities Litigation*, Master File No. CV-99-20743 RMW (N.D. Cal.). BRB, as Co-Lead Counsel, represented the NYSCRF as sole Lead Plaintiff. BRB vigorously prosecuted the case against the company, its management, HBOC, Inc.'s former auditor, Arthur Andersen LLP, and Bear Stearns & Co., Inc., which had issued a fairness opinion in connection with the merger between McKesson and HBOC. After contentious motion practice and during discovery, BRB participated with the NYSCRF in negotiating settlements totaling \$1.052 billion. The recovery is one of the largest ever achieved in the Northern District of California and in the Ninth Circuit.

- *In re American International Group, Inc. 2008 Securities Litigation*, Case No. 08-cv-4772-LTS-DCF (S.D.N.Y.). BRB served as a Co-Lead Counsel representing the State of Michigan Retirement Systems. After more than six years of intensive litigation, including the completion of all fact discovery and full briefing, an evidentiary hearing, and oral argument on lead plaintiff's motion for class certification, the parties reached settlements totaling \$970.5 million, which the court approved on March 20, 2015, finding that it was an "outstanding result obtained on behalf of the settlement class." The recovery is among the largest achieved in a securities fraud class action stemming from the 2008 financial crisis, and appears to be the largest securities class action settlement in the absence of a criminal indictment, an SEC enforcement action or a restatement of a company's financial statements.

- *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, Master File No. 07-cv-9633 (LBS)(AJP)(DFE), pending before the Honorable Jed S. Rakoff in the Southern District of New York. BRB, as Co-Lead Counsel for sole Lead Plaintiff the State Teachers Retirement System of Ohio, negotiated a \$475 million settlement with defendants in January 2009.

- *Pennsylvania Public School Employees' Retirement System v. Bank of America Corp., et al.*, Civil Action No. 1:11-cv-733-WHP, before the Honorable William H. Pauley, III, in the Southern District of New York. After nearly six years of litigation, BRB, as the sole Lead Counsel for sole Lead Plaintiff the Pennsylvania Public School Employees' Retirement System, negotiated a \$335 million settlement with defendants that the court approved in December 2016.

- *In re DaimlerChrysler AG Securities Litigation*, Master File No. 00-993 (JJF) (D. Del.). BRB, as Co-Lead Counsel for institutional investors the Denver Employees Retirement Plan, the Policemen's Annuity and Benefit Fund of Chicago, and the Municipal Employees Annuity and Benefit Fund of Chicago, negotiated in October 2003, a \$300 million settlement of this case involving the purported "merger of equals" between Daimler Benz and Chrysler Corporation. Notably, in a related opt out case, the court granted summary judgment in defendants' favor, leaving the opt out plaintiff with no recovery.

- *In re The Mills Corporation Securities Litigation*, Civil Action No. 1:06-cv-00077 (LO/TRJ) (E.D. Va.). BRB, as Co-Lead Counsel and counsel for Co-Lead Plaintiff the Iowa Public Employees Retirement System ("IPERS"), negotiated settlements totaling \$202.75 million with the defendant real estate investment trust corporation, with Mills' former auditor, Ernst & Young, and with a foreign real estate development company. When it was approved in December 2009, the global settlement of the case was the largest securities fraud class action recovery in the Eastern District of Virginia.

- *In re Schering-Plough Securities Litigation*, Master File No. 01-CV-0829 (KSH/RJH), before the Honorable Katherine Hayden in the District of New Jersey. BRB, as Lead Counsel for sole Lead Plaintiff the Florida State Board of Administration, negotiated a \$165 million settlement after 8 years of hard-fought litigation. The settlement, approved in December

2009, was described by the Court as the product of “hard work and good judgment in ultimately achieving a negotiated resolution of substantial value to the class.”

- *In re Apollo Group, Inc. Securities Litigation*, Master File No. CV 04-2147-PHX-JAT, before the Honorable James A. Teilborg in the District of Arizona. BRB, as Lead Counsel for sole Lead Plaintiff the Policemen’s Annuity and Benefit Fund of Chicago (“PABF”), conducted a two-month trial which resulted in a unanimous jury verdict in January 2008 for the lead plaintiff and investor class for the full amount of price inflation per share that the lead plaintiff had requested. On March 7, 2011, the U.S. Supreme Court denied defendants’ petition for *certiorari*, thereby allowing the Ninth Circuit’s decision to stand and for the district court to enter judgment in favor of the plaintiff class. The case was resolved by the payment by defendants of \$145 million for the benefit of the injured investors, and on April 20, 2012, the court granted final approval of the case resolution.

8. I have personally litigated complex class actions and complex mass tort actions during my almost 46-year professional career. My experience in such cases covers the gamut from investigation, complaint preparation, motion practice, oral argument, and trial, including trial by jury. The following cases are a representative sample of complex class action cases in which I have played a lead, co-lead, or executive committee role:

- All of the “Senior Annuity” cases noted above, which collectively achieved recoveries valued between \$552 million and \$1.273 million.
- I was the Lead Counsel and Lead Trial Counsel for BRB in the “*Apollo*” class action, cited above, which was litigated in the United States District Court for the District of Arizona, before the Honorable James A. Teilborg, until final approval of its settlement in 2012 in the amount of \$145 million after a jury verdict in 2008 and successful appeals. The trial of that

action coursed from mid - November 2007 through mid-January 2008 and involved numerous fact and expert depositions, as well as the presentation and cross-examination of numerous fact and expert witness in the jury trial. The *Apollo* case involved extensive issues with regard to Federal Securities Law, presentations of evidence bearing on the issue of false and misleading representations of statements, and difficult issues of damages and causation.

- I was Co-Lead Counsel in *In re McKesson HBOC, Inc. Securities Litigation*, cited above, which ultimately settled for a total of \$1.052 billion. My participation in the prosecution of *McKesson* commenced from the very outset of complaint preparation and investigation, and extended through discovery, motion practice, oral argument, trial preparation, and appellate briefing and assistance with oral argument before the Ninth Circuit Court of Appeals. *McKesson* is one of the largest class action recoveries in the history of the Northern District of California.

- *In re Chiron Shareholder Deal Litigation*, Case No. RG 05-230567, before the Honorable Robert B. Freedman in the California Superior Court for Alameda County. I represented, as Lead Counsel, an individual investor and the class in this class action litigation contesting the proposed acquisition of Chiron Corp. by Novartis AG in 2005. After extensive discovery and injunction practice, Novartis agreed to increase the offering price from its initial offer of \$40 per share to the final price of \$48, a benefit to the class of approximately \$880 million.

- *In re Applied Micro Circuits Corp. Securities Litigation*, Civil Action No. 01-cv-0649-K (AJB) (S.D. Cal.). As Lead Counsel for Lead Plaintiff, the Florida State Board of Administration, I negotiated a \$60 million settlement in 2005 after vigorous litigation.

- *In re 3Com Securities Litigation*, Master File No. C 97-21083-EAI (N.D. Cal.). This case, in which BRB and I served as Co-Lead Counsel representing a group of individual

investors, involved discovery taken throughout the United States and in Europe with respect to 3Com and its outside auditing firm. A settlement in the amount of \$259 million was reached at the end of the discovery process.

- *In re Roadrunner Transportation Systems, Inc. Securities Litigation*, Case No. 17-cv-144-PP, before the Honorable Pamela Pepper in the Eastern District of Wisconsin (Lead Counsel). Settlement was achieved in the sum of \$20 million;

- *In re Omnivision Technologies, Inc. Securities Litigation*, Case No. 5:11-cv-05235, before the Honorable Ronald M. Whyte in the Northern District of California (Lead Counsel) (\$12.5 million settlement);

- *In re Bridgestone Securities Litigation*, Master File No. 3:01-0017, before the Honorable Robert L. Echols in the Middle District of Tennessee (Co-Lead Counsel). Settlement achieved in the amount of \$30 million;

- *In re WageWorks, Inc. Securities Litigation*, Case No. 4:18-cv-01523-JSW, before the Honorable Jeffrey S. White in the Northern District of California (Lead Counsel). Settlement achieved in the amount of \$30 million.

- I served as a Co-Lead Counsel in the *Carbon Fiber Antitrust Litigation* matter, cited above, arising under the federal antitrust laws, which settled for a total of \$67.5 million after extensive discovery, including depositions in Hong Kong.

- I currently serve as Interim Executive Committee Counsel in *In re Toyota Hybrid Brake Litigation*, Case No. 4:20-cv-00127 ALM, in the Eastern District of Texas.

- I successfully served as a Special Assistant Attorney General appointed by the Attorney General of the State of New Mexico in 2017 to prosecute the “*Vivint*” action, cited above, asserting violations of New Mexico’s consumer and RICO statutes.

- I served as an Interim Executive Committee Counsel in the *Transamerica* case, cited above, a consumer action under the consumer statutes of the State of California, which arose as a consequence of the insurer's escalation of cost of insurance monthly rates. *Transamerica* settled in 2018 for \$200 million.

9. I also participated in the prosecution as a non-lead attorney in other significant consumer cases, including, for example:

- *In re: Anthem, Inc. Data Breach Litigation*, 5:15-md-02617-LHK (N.D. Cal.), which resulted in a \$115 million settlement to end claims against Anthem, one of the largest for-profit managed health care companies in the nation, for putting over 78 million customers' personal information at risk through a 2015 data breach. This is the largest data breach settlement in U.S. history. I was instrumental in aiding lead counsel in identifying, working with, and retaining cyber-expert witnesses.

10. I have extensive experience working with experts in a variety of disciplines, including both technical, product defect oriented, and with respect to econometric and damages issues and analysis. While practicing with prominent firms in Philadelphia, Pennsylvania from 1976 to the end of 1984, before ultimately relocating to California, I defended numerous product liability cases alleging defects of design and/or manufacture including for representative clients such as United States Steel, Foseco Industries, PepsiCo, Litton Industries, Bell-Sikorsky Helicopters, Inc., and, mass tort actions against Owens Corning Fiberglass Corporation. My experience also includes having represented auto dealers in the Delaware Valley, Pennsylvania, including cases alleging deceptive sales practices and the sale of defective vehicles.

11. While serving as a Co-Lead Counsel in the *Bridgestone* class action, cited above, involving corporate misrepresentations related to the Company's tires placed on Ford Explorer

vehicles, which were alleged to be defectively designed, I personally took the depositions of several high ranking corporate officers and/or employees related to such product defect allegations. These depositions were highly technical and document intensive.

II. BARRACK RODOS & BACINE'S TIME AND EXPENSES

12. BRB has prosecuted this case solely on a contingent-fee basis. BRB has received no compensation of any kind for its work on this matter.

13. The information in this declaration regarding my firm's time and expenses is taken from time and expense printouts and supporting documentation prepared and maintained by the firm in the ordinary course of business. The time records were prepared daily or shortly thereafter by each attorney or support staff member working on the matter. The expense records are prepared from receipts, expense vouchers, check records and other documents, and are accurate record of the expenses.

14. I am the person in the firm who oversaw and conducted day-to-day activities of the firm, and I reviewed printouts (and supporting documentation where necessary and appropriate) in connection with the preparation of this Declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation. I also believe the time and expenses are of the type that would normally be charged to a fee-paying client in the private legal marketplace.

15. Attached hereto as **Exhibit 2** is a summary of the Barrack firm's lodestar. The summary includes the names of attorneys and professional support staff who worked on this case

and each timekeeper's respective hours and lodestar at current rates. The hourly rates shown in **Exhibit 2** are the usual and customary rates set by my firm for each individual. My firm has expended 119 hours working on this case and the total lodestar is \$82,285.00. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my firm are set forth in the abbreviated Firm Biography, attached hereto as **Exhibit 1**.

16. Fee awards supporting and approving the Barrack firm's hourly rates for myself, partner Samuel M. Ward, and paralegals, were most recently granted on August 20, 2021 in *In re WageWorks, Inc. Securities Litigation*, Case No. 4:18-cv-01523-JSW (N.D. Cal.) and on October 28, 2021, in *Khoja v. Orexigen Therapeutics, Inc., et al.*, No. 3:15-cv-00540 JLS (KSC) (S.D. Cal.). These cases are examples of fee awards supporting the reasonableness of the Barrack firm's hourly rates for lawyers and paralegals in class action, contingent fee litigation.

17. My firm has incurred \$561.15 in costs and expenses on this case. Those costs and expenses are summarized by category in **Exhibit 3**. The expenses were kept in the firm's books and records prepared from contemporaneous receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The out-of-pocket litigation expenses incurred by the firm in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by the firm successfully prosecuting class action litigation. For example, *see* paragraph 16, *supra* and also *In re Syngenta AG MIR162 Corn Products Litigation*, Master File No. 2:14-MD-02591-JWL-JPO MDL No. 2591 (D. Kan.) (July 19, 2019).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 4th day of February, 2022, in San Diego, California.

By: /s/STEPHEN R. BASSER
STEPHEN R. BASSER



BARRACK | RODOS | BACINE

(Abbreviated)

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EXHIBIT 1

Barrack, Rodos & Bacine ("BR&B") has been extensively involved for more than forty years in complex class action and derivative litigation, participating in hundreds of such cases and recovering over ten billion dollars for class members, including several such actions that alone have secured recoveries in excess of \$1 billion. The Firm has concentrated this complex practice in securities, shareholder rights, antitrust, and consumer class actions. The Firm has had significant leadership positions in these litigations, having been appointed by courts as lead counsel in numerous class actions throughout the United States.

Significant Consumer Cases

The Firm has achieved significant recoveries on behalf of class members in consumer cases, including the following:

➤ "Senior Annuity" cases in which BR&B served as a co-lead counsel or participated in the prosecution group, which achieved settlements valued in the aggregate **between \$552 million and \$1.273 billion**, after asserting claims against insurance companies under consumer protection and elder abuse statutes arising from sales and marketing practices and the Racketeer Influenced and Corrupt Organizations Act, including the following:

- *Negrete. et al. v. Allianz Life Insurance Company of North America*, Case No. 05-cv-06838-CAS-MAN (C.D. Cal.), resulted in a claims-made settlement valued between \$251 million and \$971 million;

- *In re American Equity Annuity Practices and Sales Litigation*, Case No. 2:05-cv-06735-CAS-MAN (C.D. Cal.), resulted in a settlement valued at approximately \$129 million;

- *Rand v. American National Insurance Co.*, Case No. 3:09-cv-0639-WDB (N.D. Cal.), resulted in a settlement valued at more than \$9 million;

- *Negrete, et al. v. Fidelity and Guaranty Life Insurance Company*, Case No. 2:05-cv-06837-CAS-MAN (C.D. Cal.), resulted in a settlement valued at approximately \$52.7 million;

- *Meadows v. Jackson National Life Insurance Co.*, Case No. 4:12-cv-1380-CW (N.D. Cal.), resulted in a settlement valued at more than \$11.2 million;

- *Midland National Life Insurance Co Annuity Sales Practices Litigation*, Case No. 2:07-mi-01825-CAS-MAN (C.D. Cal.), resulted in a settlement valued at \$79.5 million; and

- *In re National Western Life Insurance Deferred Annuities Litigation*, Case No. 05-cv-1018-AJB (WVG), resulted in a settlement valued at more than \$21 million.

➤ *Rieff v. Evans* (Allied Mutual Insurance Company Demutualization Litigation), Civil Action No. CE 35780 (Polk Cty., Iowa, District Ct.). BR&B, as co-lead counsel for a class of individual mutual insurance company policyholders (as owners of the mutual, similar to shareholder-owners of a stock company), brought an action against management for, inter alia, conversion of the value of their ownership interests in the mutual under a theory of de facto demutualization. The Iowa Supreme Court upheld the plaintiffs' theory in *Rieff v. Evans*, 630 N.W.2d 278 (Iowa 2001), and the case was subsequently resolved for **approximately \$130 million**.

➤ *Gutierrez v. Charles J. Givens Organization, et al.*, Case No. 667169 (San Diego Cty., California, Superior Court). BR&B, on behalf of the plaintiff and similarly situated class members, achieved a jury verdict in **excess of \$14 million** for the benefit of the plaintiff consumer class.

➤ *In Feller, et al. v. Transamerica Life Insurance Company*, Case No. 16-cv-01378 CAS (AJWx), in the Central District of California, which was ultimately **settled for \$200 million**, BR&B served as interim executive committee counsel.

➤ BR&B is currently serving in a leadership position in consumer class actions, including *In re: Lincoln National COI Litigation*, Case No. 16-cv-06605-GJP (E.D. Pa.) (Chair of Plaintiffs' Steering Committee), and *In re: Lincoln National 2017 COI Rate Litigation*, Case No. 2:17-cv-04150-GJP (E.D. Pa.) (Co-Chair of Plaintiffs' Steering Committee).

➤ In 2017, the Attorney General of the State of New Mexico appointed Stephen R. Bassar, Jeffrey A. Barrack, and Samuel M. Ward of Barrack, Rodos & Bacine as Special Assistant Attorneys General for the purpose of prosecuting an action on behalf of New Mexico consumers against Vivint Solar, Inc., and other defendants for violations of New Mexico Consumer law. The action, *State of New Mexico, ex. Rel., Hector H. Balderas, Attorney General of New Mexico v. Vivint Solar Developer, LLC*, Case No. D-202-CV-2018-01936, was settled in 2020 in exchange for a substantial cash payment and changes to Vivint's marketing and training policies.

➤ Currently serving via Barrack partner Stephen R. Bassar as Interim Executive Committee Counsel in *In re Toyota Hybrid Brake Litigation*, Case No. 4:20-CV-00127-ALM, in the Eastern District of Texas.

➤ Currently serving via Barrack partner Stephen R. Bassar as Interim Executive Committee Counsel in *Lane, et al. v. Nissan of Norther America, Inc.*, (*In re Nissan CVT Litigation*) CV-00150, in the Middle District of Tennessee.

➤ Served as Interim Executive Counsel via Barrack partner Stephen R. Bassar in *In re General Mills Glyphosate Litigation*, Case No. 0:16:-CV-2869, in the District of Minnesota.

➤ Currently serving via Barrack partner Mark R. Rosen as Interim Executive Committee Counsel in *In re Evenflo Co., Inc. Marketing, Sales Practices and Products Liability Litigation*, Civil Action No. 1:20md-02938-DJC in the District of Massachusetts.

➤ *Hernandez, et al. v. Google, Inc., et al.*, Case No. 1-15-CV-280601 (Santa Clara Cty., California, Superior Ct.), before the Honorable Brian C. Walsh. BR&B, on behalf of the plaintiffs and similarly situated purchasers of gift cards issued by Google, Inc. for use in its Google Play Store, prosecuted this action to require defendants to abide by California law with regard to gift cards with less than a \$10.00 balance on them. Pursuant to the settlement reached in the case, which is pending final approval, Google agreed to comply with California law, which requires sellers to refund gift card balances of less than \$10.00 upon request. In addition, Google agreed to (1) provide refunds to all Google Play users who had previously requested, but were denied, such refunds; (2) provide additional training regarding the refund requirements to its customer service representatives; and (3) provide notice of the availability of refunds on its website. Notably, after the filing of the lawsuit, Google revised its payment system, allowing gift card users to combine their gift cards with other forms of payment. The changes adopted by Google pursuant to the settlement are ongoing, providing benefit to millions of Google Play gift card users.

Significant Antitrust Cases

The firm has been appointed lead counsel or to the leadership group in many antitrust class action cases, including:

In re Lithium Ion Batteries Antitrust Litigation, MDL Docket No. 2420, the Honorable Yvonne Gonzalez Rogers in the Northern District of California;

In re Fasteners Antitrust Litigation, MDL Docket No. 1912, the Honorable R. Barclay Surrick in the Eastern District of Pennsylvania;

In re Publication Paper Antitrust Litigation, Docket No. 3:04 MDL 1631 (SRU), the Honorable Stefan R. Underhill in the District of Connecticut;

In re Automotive Paint Refinishing Antitrust Litigation, MDL No. 1426, the Honorable R. Barclay Surrick in the Eastern District of Pennsylvania;

Brookshire Brothers, Ltd., et al. v. Chiquita Brands International, Inc., et al., Lead Case No. 05-21962-Cooke/Brown, the Honorable Marcia G. Cooke in the Southern District of Florida, Miami Division;

Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives and Composites, Inc., et al. (Carbon Fiber Antitrust Litigation), No. CV-99-07796-GHK(Ctx), the Honorable Florence Marie Cooper in the Central District of California, Western Division;

In re Graphite Electrodes Antitrust Litigation, Master File No. 97-CV-4182(CRW), the Honorable Charles R. Weiner in the Eastern District of Pennsylvania;

In re Flat Glass Antitrust Litigation, Master Docket Misc. No. 970550, MDL No. 1200, the Honorable Donald E. Ziegler in the Western District of Pennsylvania;

In re New Jersey Title Insurance Litigation, No. 2:08-cv-01425-GEB, the Honorable Garrett E. Brown in the District of New Jersey;

In re Bath and Kitchen Fixtures Antitrust Litigation, Docket No. 05-cv-00510-MAM, the Honorable Mary A. McLaughlin in the Eastern District of Pennsylvania;

In re Sorbates Antitrust Litigation, Master File No. C 98-4886 MCC, the Honorable William H. Orrick, Jr. in the Northern District of California;

In re Sodium Gluconate Antitrust Litigation, No. C-97-4142CW, the Honorable Claudia Wilken in the Northern District of California;

In re Vitamins Antitrust Litigation, MDL No. 1285, the Honorable Thomas F. Hogan in the District of Columbia;

In re: Metal Building Insulation Antitrust Litigation, Master File No. H-96-3490, the Honorable Nancy F. Atlas in the Southern District of Texas;

In re Carpet Antitrust Litigation, MDL No. 1075, the Honorable Harold L. Murphy in the Northern District of Georgia, Rome Division;

In re Citric Acid Antitrust Litigation, Master File No. 95-2963, the Honorable Charles A. Legge in the Northern District of California; and

Capital Sign Company, Inc. v. Alliance Metals, Inc., et al., Civil Action No. 95-CV-6557 (LHP), the Honorable Louis H. Pollak in the Eastern District of Pennsylvania;

Plastic Cutlery Antitrust Litigation, Master File No. 96-728, the Honorable Joseph L. McGlynn in the Eastern District of Pennsylvania.

Recoveries Achieved in Antitrust Cases

The Firm has achieved significant recoveries on behalf of class members in antitrust cases, including the following:

- *In re Urethane Antitrust Litigation*, 2:04-md-01616-JWL (D. Kan.). After nearly nine years of litigation and four weeks of trial, the Jury reached a verdict for plaintiffs in excess of \$400 million (before trebling) against defendant Dow Chemical Company, and the District Court entered a Judgment of \$1.06 billion, which was upheld on appeal by the Tenth Circuit Court of Appeals. While on appeal to the U.S. Supreme Court, the case against Dow settled for **\$835 million**, which was in addition to earlier settlements reached with other defendants. BR&B served as a member of the trial team for the case.
- *In re Vitamins Antitrust Litigation*, MDL No. 1285 (D.D.C.). In this highly complex litigation, plaintiffs achieved settlements **in excess of \$1 billion**. BR&B served as a member of the executive committee.
- *In re Citric Acid Antitrust Litigation*, Master File No. 95-2963 (N.D. Cal.). After five years of litigation, plaintiffs achieved settlements totaling **over \$80 million**. BR&B served as co-lead counsel.
- *In re Graphite Electrodes Antitrust Litigation*, Master File No. 97-CV-4182 (CRW) (E.D. Pa.). After six years of litigation, plaintiffs achieved settlements totaling **over \$133 million**. BR&B served as co-lead counsel.
- *In re Automotive Refinishing Paint Antitrust Litigation*, MDL No. 1426 (E.D. Pa.). After five years of litigation, plaintiffs achieved settlements totaling **over \$105 million**. See 617 F. Supp.2d 336 (E.D. Pa. 2007). BR&B served as co-lead counsel.
- *In re Sorbates Antitrust Litigation*, No. C 98-4886 (N.D. Cal.). After four years of litigation, plaintiffs achieved settlements in the total amount of **\$96.5 million**. BR&B served as co-lead counsel.
- *Thomas & Thomas Rodmakers, Inc., et al. v. Newport Adhesives and Composites, et al.*, No. CV-99-07796 FMC (RNBx) (C.D. Cal.) (Carbon Fiber Antitrust Litigation).

Plaintiffs achieved settlements totaling **\$67.5 million**. BR&B served as co-lead counsel.

- *In re Polypropylene Carpet Antitrust Litigation*, MDL No. 1075 (N.D. Ga.). After five years of litigation, plaintiffs achieved a recovery of **nearly \$50 million**. See 93 F. Supp. 2d 1348 (N.D. Ga. 2000). BR&B served as co-lead counsel.
- *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (E.D. Pa.). After more than seven years of litigation, plaintiffs were successful in maintaining the case on appeal, see 385 F.3d 350 (3d Cir. 2004), and achieved total recoveries of **more than \$120 million**. BR&B served as co-lead counsel.

Significant Securities and Shareholder Cases

Among the many securities law, derivative and fiduciary duty cases where the Firm has been appointed lead counsel in recent years are the following:

In re Grand Canyon Education, Inc. Securities Litigation, No. 20-639-MN-CJB, before the Honorable Maryellen Noreika in the District of Delaware;

Allegheny County Employees' Retirement System v. Energy Transfer LP, et al., Case No. 2:20-cv-00200-GAM, before the Honorable Gerald A. McHugh in the Eastern District of Pennsylvania;

In re Dentsply Sirona, Inc. Securities Litigation, No. 18-cv-7253 (NG) (PK), before the Honorable Nina Gershon in the Southern District of New York;

In re WageWorks, Inc. Securities Litigation, Case No. 4:18-cv-01523-JSW, before the Honorable Jeffrey S. White in the Northern District of California;

Shenk v. Mallinckrodt PLC, et al., No. 1:17-00145-DLF, before the Honorable Dabney L. Friedrich in the District of Columbia;

In re Roadrunner Transportation Systems, Inc. Securities Litigation, Case No. 17-cv-144-PP, before the Honorable Pamela Pepper in the Eastern District of Wisconsin;

In re DFC Global Corp. Securities Litigation, Civil Action No. 2:13-cv-06731-BMS, before the Honorable Berle M. Schiller in the Eastern District of Pennsylvania;

Pennsylvania Public School Employees' Retirement System v. Bank of America Corp., et al., Civil Action No. 1:11-cv-733-WHP, before the Honorable William H. Pauley, III, in the Southern District of New York;

In re Omnivision Technologies, Inc. Securities Litigation, Case No. 5:11-cv-05235, before the Honorable Ronald M. Whyte in the Northern District of California;

Louisiana Municipal Police Employees Retirement System v. Green Mountain Coffee Roasters et al., Case No. 11-cv-00289, before the Honorable William K. Sessions, III, in the District of Vermont;

In re American International Group Inc. 2008 Securities Litigation, Master File No. 08-CV-4772-LTS, before the Honorable Laura Taylor Swain in the Southern District of New York;

In re McKesson HBOC, Inc. Securities Litigation, No. C-99-20743-RMW, before the Honorable Ronald M. Whyte in the Northern District of California;

In re WorldCom, Inc. Securities Litigation, Master File No. 02-Civ-3288 (DLC), before the Honorable Denise L. Cote in the Southern District of New York;

In re Cendant Corporation Litigation, Master File No. 98-1664 (WHW), before the Honorable William H. Walls in the District of New Jersey;

In re Apollo Group, Inc. Securities Litigation, Master File No. CV 04-2147-PHX-JAT, before the Honorable James A. Teilborg in the District of Arizona;

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633 (LBS)(AJP)(DFE), before the Honorable Jed S. Rakoff in the Southern District of New York;

In re The Mills Corporation Securities Litigation, Civil Action No. 1:06-77 (GBL), before the Honorable Liam O'Grady in the Eastern District of Virginia;

In re R & G Financial Corp. Securities Litigation, No. 05 cv 4186, before the Honorable John E. Sprizzo in the Southern District of New York;

In re Bridgestone Securities Litigation, Master File No. 3:01-0017, before the Honorable Robert L. Echols in the Middle District of Tennessee;

In re DaimlerChrysler Securities Litigation, No. 00-0993, before the Honorable Joseph J. Farnan, Jr. in the District of Delaware;

In re Schering-Plough Securities Litigation, Master File No. 01-CV-0829 (KSH/RJH), before the Honorable Katherine Hayden in the District of New Jersey;

In re Pepsi Bottling Group Shareholder Litigation, C.A. No. 4526-VCS, before the Honorable Leo E. Strine, Jr. in the Delaware Court of Chancery;

In re Nationwide Financial Services Litigation, Case No. 2:08-CV-00249, before the Honorable H. Michael Watson, in the Southern District of Ohio;

In re Chiron Shareholder Deal Litigation, Case No. RG 05-230567, before the Honorable Robert B. Freedman in the California Superior Court for Alameda County; and

Dennis Rice v. Lafarge North America, Inc., et al., Civil No. 268974-V, before the Honorable Michael D. Mason in the Circuit Court for Montgomery County, Maryland.

Recoveries Achieved in Securities and Shareholder Cases

The Firm has achieved significant recoveries on behalf of class members, including institutional clients, in more than 50 cases since passage of the PSLRA, including the following:

➤ *In re WorldCom, Inc. Securities Litigation*, Master File No. 02 Civ. 3288 (DLC) (S.D.N.Y.). BR&B, as co-lead counsel for lead plaintiff the Comptroller of the State of New York, the sole Trustee for the New York State Common Retirement Fund ("NYSCRF"), negotiated **\$6.19 billion** in settlements with defendants, including a settlement with the company's outside auditor, Arthur Andersen LLP, after nearly five weeks of trial. The recovery is the largest ever achieved in the Southern District of New York and in the Second Circuit.

➤ *In re Cendant Corporation Litigation*, Civil Action No. 98-1664 (WHW) (D.N.J.). BR&B, as co-lead counsel, represented co-lead plaintiffs NYSCRF and the California Public Employees' Retirement System. This litigation was settled for \$3.18 billion – which, at the time, was by far the largest recovery ever achieved in a class action under the securities laws – plus a contingency that brought the total recovery to **\$3.32 billion**. The \$335 million settlement with Ernst & Young, the outside auditor for one of the Cendant predecessor companies, continues to stand as the largest recovery from an accounting firm in a securities class action. The recovery is the largest ever achieved in the District of New Jersey and in the Third Circuit.

➤ *In re McKesson HBOC, Inc. Securities Litigation*, Master File No. CV-99-20743 RMW (N.D. Cal.). BR&B, as co-lead counsel, represented the NYSCRF as sole lead plaintiff. BR&B vigorously prosecuted the case against the company, its management, HBOC, Inc.'s former auditor, Arthur Andersen LLP, and Bear Stearns & Co., Inc., which had issued a fairness opinion in connection with the merger between McKesson and HBOC. After contentious motion practice and during discovery, BR&B participated with the NYSCRF in negotiating settlements totaling **\$1.052 billion**. The recovery is the largest ever achieved in the Northern District of California and in the Ninth Circuit.

➤ *In re American International Group, Inc. 2008 Securities Litigation*, Case No. 08-cv-4772-LTS-DCF (S.D.N.Y.). BR&B served as a co-lead counsel representing the State of Michigan Retirement Systems. After more than six years of intensive litigation, including the completion of all fact discovery and full briefing, an evidentiary hearing, and oral argument on lead plaintiff's motion for class certification, the parties reached settlements totaling **\$970.5 million**, which the court approved on March 20, 2015, finding that it was an "outstanding result obtained on behalf of the settlement class." The recovery is among the largest achieved in a securities fraud class action stemming from the 2008 financial crisis, and appears to be the largest securities class action settlement in the absence of a criminal indictment, an SEC enforcement action or a restatement of a company's financial statements.

➤ *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, Master File No. 07-cv-9633 (LBS)(AJP)(DFE), pending before the Honorable Jed S. Rakoff in the Southern District of New York. BR&B, as co-lead counsel for sole lead plaintiff the State Teachers Retirement System of Ohio, negotiated a **\$475 million** settlement with defendants in January 2009.

➤ *Pennsylvania Public School Employees' Retirement System v. Bank of America Corp., et al.*, Civil Action No. 1:11-cv-733-WHP, pending before the Honorable William H. Pauley, III, in the Southern District of New York. After nearly six years of litigation, BR&B, as the sole lead counsel for sole lead plaintiff the Pennsylvania Public School Employees' Retirement System, negotiated a **\$335 million** settlement with defendants that the court approved in December 2016.

➤ *In re DaimlerChrysler AG Securities Litigation*, Master File No. 00-993 (JJF) (D. Del.). BR&B, as co-lead counsel for institutional investors the Denver Employees Retirement Plan, the Policemen's Annuity and Benefit Fund of Chicago, and the Municipal Employees

Annuity and Benefit Fund of Chicago, negotiated in October 2003, a **\$300 million** settlement of this case involving the purported "merger of equals" between Daimler Benz and Chrysler Corporation. Notably, in a related opt out case, the court granted summary judgment in defendants' favor, leaving the opt out plaintiff with no recovery.

➤ *In re The Mills Corporation Securities Litigation*, Civil Action No. 1:06-cv-00077 (LO/TRJ) (E.D. Va.). BR&B, as co-lead counsel and counsel for co-lead plaintiff the Iowa Public Employees Retirement System ("IPERS"), negotiated settlements totaling **\$202.75 million** with the defendant real estate investment trust corporation, with Mills' former auditor, Ernst & Young, and with a foreign real estate development company. When it was approved in December 2009, the global settlement of the case was the largest securities fraud class action recovery in the Eastern District of Virginia.

➤ *In re Schering-Plough Securities Litigation*, Master File No. 01-CV-0829 (KSH/RJH), before the Honorable Katherine Hayden in the District of New Jersey. BR&B, as lead counsel for sole lead plaintiff the Florida State Board of Administration, negotiated a **\$165 million** settlement after 8 years of hard-fought litigation. The settlement, approved in December 2009, was described by the Court as the product of "hard work and good judgment in ultimately achieving a negotiated resolution of substantial value to the class."

➤ *In re Apollo Group, Inc. Securities Litigation*, Master File No. CV 04-2147-PHX-JAT, before the Honorable James A. Teilborg in the District of Arizona. BR&B, as lead counsel for sole lead plaintiff the Policemen's Annuity and Benefit Fund of Chicago ("PABF"), conducted a two month trial which resulted in a **unanimous jury verdict in January 2008 for the lead plaintiff and investor class for the full amount of price inflation per share that the lead plaintiff had requested**. Although the district court judge entered a judgment for defendants notwithstanding the verdict on loss causation grounds, on June 23, 2010, the Ninth Circuit overturned the judgment and reinstated the jury verdict in favor of plaintiffs and the investor class. The decision of the Court of Appeals to reinstate the plaintiffs' jury verdict appears to be the only time such an appellate decision has been made since passage of the PSLRA. On March 7, 2011, the U.S. Supreme Court denied defendants' petition for certiorari, thereby allowing the Ninth Circuit's decision to stand and for the district court to enter judgment in favor of the plaintiff class. Later in 2011, the case was resolved by the payment by defendants of **\$145 million** for the benefit of the injured investors. On April 20, 2012, the court granted final approval of the case resolution.

➤ *Michael Rubin v. M.F. Global Ltd.*, Case No. 08cv2233 (VM), before the Honorable Victor Marrero in the Southern District of New York. BR&B, as co-lead counsel and counsel for co-lead plaintiffs IPERS and the PABF, negotiated a **\$90 million** settlement after the Second Circuit Court of Appeals reversed the trial court's dismissal of the complaint.

➤ *In re R&G Financial Corporation, et al.*, Civil Action No. 1:05cv04186 (JES), before the Honorable John E. Sprizzo in the Southern District of New York. BR&B, as co-lead counsel for co-lead plaintiff the City of Philadelphia Board of Pensions and Retirement, negotiated a **\$51 million** settlement with defendants.

➤ *In re Pepsi Bottling Group Shareholder Litigation*, C.A. No. 4526-VCS, before the Honorable Leo E. Strine, Jr. in the Delaware Court of Chancery. BR&B, as co-lead counsel for co-lead plaintiff IBEW Local 98, challenged the proposed takeover of Pepsi Bottling Group (PBG), by PepsiCo, and in related actions, shareholders of PepsiCo's other primary bottling company, PepsiAmericas, Inc. (PAS), challenged the proposed takeover of PAS by PepsiCo. After significant litigation of the PBG and PAS actions, and through negotiations of special

committees of both bottling companies' boards, PepsiCo agreed to: (a) significantly higher acquisition prices that provided PBG shareholders as a group with **\$1.022 billion** more in value; (b) delete the cross-conditionality provision for the two deals; (c) reductions in the merger agreements' termination fees and termination tail periods; and (d) additional disclosures in the final proxy statements for the two deals. On June 1, 2010, then-Vice Chancellor Strine granted final approval of the settlements of the related cases, crediting the litigation brought by the plaintiffs and their counsel as a causal factor in prompting PepsiCo to make fuller offers for the bottling companies.

➤ *In re Nationwide Financial Services Litigation*, Case No. 2:08-CV-00249, before the Honorable H. Michael Watson, in the U.S. District Court for the Southern District of Ohio. BR&B, as co-lead counsel, represented lead plaintiff the International Brotherhood of Electrical Workers Local 98 Pension Fund in this class action litigation contesting the buy-out of Nationwide Financial Services, Inc. by its majority owner Nationwide Mutual Insurance Company and certain affiliates in 2008. After extensive negotiations, Nationwide Mutual agreed to increase its tender offer price from its initial offer of \$47.20 per share to the final price of \$52.25 per share, a benefit to the class of approximately **\$232.8 million** (a 10.7% increase), and further agreed to additional disclosures in the final proxy statement. In assessing the settlement, the Court agreed with lead plaintiffs that it represented an "excellent result for the Class."

➤ *Dennis Rice v. Lafarge North America, Inc., et al.*, Civil No. 268974-V, before the Honorable Michael D. Mason in the Circuit Court for Montgomery County, Maryland. BR&B, as co-lead counsel, represented lead plaintiff the City of Philadelphia Board of Pensions and Retirement in this class action litigation contesting the buy-out of Lafarge North America by majority owner Lafarge S.A in 2006. After extensive discovery and injunction practice, Lafarge SA agreed to increase its tender offer price from its initial offer of \$75 per share to the final price of \$85.50, a benefit to the class of approximately **\$388 million**.

➤ *In re Chiron Shareholder Deal Litigation*, Case No. RG 05-230567, before the Honorable Robert B. Freedman in the California Superior Court for Alameda County. BR&B, as lead counsel, represented an individual investor and the class in this class action litigation contesting the proposed acquisition of Chiron Corp. by Novartis AG in 2005. After extensive discovery and injunction practice, Novartis agreed to increase the offering price from its initial offer of \$40 per share to the final price of \$48, a benefit to the class of approximately **\$880 million**.

➤ *In re Applied Micro Circuits Corp. Securities Litigation*, Civil Action No. 01-cv-0649-K (AJB) (S.D.Cal.). BR&B, as sole lead counsel for lead plaintiff the Florida State Board of Administration, negotiated a **\$60 million** settlement in 2005.

➤ *In re Sunbeam Securities Litigation*, Case No. 98-8258-Civ-Middlebrooks (S.D. Fla.). BR&B represented a lead plaintiff group that included the CWA/ITU Negotiated Pension Plan in this litigation, which could not be prosecuted against Sunbeam itself due to its bankruptcy filing. This case resulted in settlements in 2002 totaling **more than \$140 million** from Arthur Andersen LLP, Albert J. Dunlap, Russell Kersh and one of the Company's insurers. The settlement included a record breaking \$110 million settlement with Arthur Andersen and one of the largest individual securities settlements (\$15 million) from the company's former chief executive officer, "Chainsaw" Al Dunlap.

➤ *In re 3Com Securities Litigation*, Master File No. C 97-21083-EAI (N.D. Cal.). This case, in which BR&B represented a lead plaintiff group of individual investors, involved

discovery taken throughout the United States and in Europe with respect to 3Com and its outside auditing firm. A settlement in the amount of **\$259 million** was reached at the end of the discovery process.

➤ *In Re Barnes & Noble Stockholder Derivative Litigation*, C.A. No. 4813-CS, before the Honorable Leo E. Strine, Jr. in the Delaware Court of Chancery. BRB served as co-lead counsel in this derivative action challenging the corporation's overpayment for an asset owned by its controlling stockholder. After extensive litigation, an eve-of-trial settlement providing a reduction in the purchase price of the asset of **\$29 million** was achieved. The settlement was approved on September 4, 2012.

➤ *In re Cheniere Energy, Inc. Stockholders Litigation*, C.A. No. 9710-VCL, in the Delaware Chancery Court. BR&B achieved a settlement of lawsuits filed on behalf of investors against Cheniere's CEO, certain other senior executives, and the members of Cheniere's board of directors alleging that Cheniere's management team and board breached the terms of the company's bylaws as well as their fiduciary duties to the company and its shareholders with respect to stock awards made in 2013. Upon the filing of the initial complaint by BR&B, Cheniere postponed the Annual Stockholder Meeting for three months, and thereafter took off the agenda for the Meeting the proposal to add another 30 million shares to the stock incentive plan's share reserve. The settlement negotiated with defendants, among other things: (a) invalidated the board's ability to issue to company insiders 7.845 million shares of stock that the company claimed had been validly set aside for compensation purposes based on a prior stockholder vote, which shares had a market price-based value at the time of the settlement of approximately **\$565 million**; (b) provided that the 7.845 million shares could be used for compensation purposes only if the company scheduled a new vote and obtained stockholder authorization pursuant to a voting standard in line with the default provision of Delaware law, a so-called "present and entitled to vote" standard under which abstentions are counted as "no" votes; and (c) prohibited the company from granting to company insiders or seeking stockholder approval for any further stock-based compensation to company insiders until January 1, 2017. The Court approved the settlement in March 2015.

➤ *Public Employees' Retirement System of Mississippi v. Leonard S. Schleifer, et al.* (Regeneron Pharmaceuticals, Inc. Derivative Case), No. 656813/2017, Part 39 (N.Y. Supreme Ct.). BR&B, on behalf of the MPERS, filed a shareholder derivative complaint in the New York Supreme Court in November 2017, alleging that Regeneron Pharmaceuticals, Inc.'s then-current and certain former directors breached their fiduciary duties and were unjustly enriched when they approved and/or received allegedly excessive compensation in 2013, 2014, 2015, and 2016, and that they breached their fiduciary duties in 2014 when they approved a long-term incentive plan and in 2017 when they approved the amended and restated plan, both of which authorized the award of equity compensation to directors and others. After certain Court-ordered document discovery took place, BR&B negotiated a settlement on behalf of MPERS (subsequently joined by plaintiffs in a related action) in which: (1) Regeneron agreed to a significant reduction of the compensation that will be provided to its non-employee directors and the chairman of its board for the next five years, providing a financial benefit to the Company of **\$44.5 million**; (2) defendants agreed that after 2021, only a vote of non-affiliated shareholders can increase the compensation caps agreed to in the settlement, meaning the Company insiders as well as other potentially interested shareholders will not be able to vote on this issue; (3) Regeneron agreed to provide increased disclosures concerning director compensation for the next five years, in excess of what would otherwise be required by SEC regulations; and (4) Regeneron agreed to institute certain governance reforms concerning director compensation. The Court approved the settlement in December 2018.

Extensive Class Action Trial Experience

The Firm has extensive experience in trying class action cases in federal and state court, including the following:

In re Apollo Group, Inc. Securities Litigation, Master File No. CV-04-2147-PHX-JAT (District of Arizona) (jury verdict in 2008 for the full amount of per share damages requested, and later settled after the jury verdict was upheld on appeal for \$145 million);

In re WorldCom, Inc. Securities Litigation, Master File No. 02-Civ-3288(DLC) (Southern District of New York) (2005 securities class action jury trial against accounting firm, which was settled just before closing arguments for \$65 million and a contingency claim later settled for \$38 million);

Becker v. The Bank of New York Mellon Trust Co., N.A., et al., No. 2:11-cv-06460 (JRS) (Eastern District of Pennsylvania) (case sought \$15 million in damages, plus interest, settling on the even of closing arguments for **\$13.5 million**. The Court approved the settlement in December 2018.

Equity Asset Investment Trust, et al. v. John G. Daugman, et al., No. 20395 (Delaware Court of Chancery) (non-jury trial in 2003 in which BR&B represented Iridian Technologies, Inc., the world leader at the time in iris recognition technologies, and its common shareholder-elected directors);

Uniondale Beer Co., Inc. v. Anheuser-Busch, Inc., et al., Civil Action No. CV 86-2400(TCP) (Eastern District of New York) (antitrust class action trial);

Gutierrez v. Charles J. Givens Organization, et al., Case No. 667169 (Superior Court of California, County of San Diego) (jury verdict in excess of \$14 million for plaintiff consumer class);

In re Control Data Corporation Securities Litigation, 933 F.2d 616 (8th Cir. 1991) (securities class action that BR&B took to trial, got directed verdict overturned on appeal, and thereafter favorably settled for the certified class);

Gould v. Marlon, CV-86-968-LDG (D. Nev.) (jury verdict for plaintiff class);

Betanzos v. Huntsinger, CV-82-5383 RMT (C.D. Cal.) (jury verdict for plaintiff class).

Stephen R. Bassar, partner in Barrack, Rodos & Bacine, is a graduate of the American University, Washington D.C. (B.A., with Honors, 1973) and Temple University School of Law, Philadelphia, Pennsylvania (J.D. *cum laude* 1976), where he was awarded the honor of "Highest Grade and Distinguished Class Performance" by its nationally renowned clinical trial litigation program and was selected to serve as a student prosecutor under the supervision of the United States Attorney's Office for the Eastern District of Pennsylvania. Mr. Bassar has been practicing in the area of securities class and derivative actions, and corporate litigation generally, for over 32 years, during which time he has analyzed laws and provided advice on issues relevant to pension fund boards of trustees. He was admitted to the bars of the Supreme Court of Pennsylvania in 1976, and the Supreme Court of California in 1985. He is also a member of the bars of the United States Circuit Courts of Appeals for the Sixth and Ninth Circuits, and the United States District Courts for the Southern, Central and Northern Districts of California, the District of Colorado, the Eastern District of Pennsylvania and the Northern District of Texas. Mr. Bassar is the managing partner of the Firm's San Diego, CA office.

Mr. Bassar is an experienced civil litigator in federal and state courts and has successfully tried numerous civil jury and non-jury cases to verdict. In addition to litigating product liability, medical malpractice, catastrophic injury, mass toxic tort and complex business disputes, Mr. Bassar has extensive experience prosecuting securities class actions, including actions against Pfizer, Inc., Procyte Corp., Wall Data Corp., Louisiana-Pacific Corp., Samsonite Corp., TriTeal Corp., Sybase, Inc., Silicon Graphics, Inc., Orthologic Corp., Adobe, PeopleSoft, Inc., Safeskin Corp., Bridgestone Corp., Harmonic, Inc., 3Com Corp., Dignity Partners, Inc., Daou, Vivus, Inc., FPA Medical, Inc., Union Banc of California, Merix Corporation, Simulation Sciences, Inc., Informix Corporation, OmniVision Technologies, Inc. and Hewlett Packard Company. Mr. Bassar served as lead counsel representing lead plaintiff the Florida State Board of Administration in *In re Applied Micro Circuits Corp. Securities Litigation*, Lead Case No. 01-cv-0649-K (AJB), which settled for \$60 million, one of the largest recoveries in a securities class action in the Southern District of California since passage of the PSLRA. He also acted as co-lead counsel for lead plaintiff the NYSCRF in *In re McKesson HBOC, Inc. Securities Litigation*, Master File No. CV-99-20743 RMW, which settled for a total of \$1.052 billion from all defendants and is the largest securities fraud class action recovery in the Northern District of California. Mr. Bassar was the lead attorney in *In re Chiron Shareholder Deal Litigation*, Case No. RG 05-230567, (Superior Court in and for the County of Alameda, California), resulting in a settlement for the shareholder class valued at approximately \$880 million, constituting one of the largest securities ever achieved in a merger related class action alleging breach of fiduciary duties by corporate officers and directors. He was the lead trial attorney in *In re Apollo Group Inc. Securities Litigation*, Master File No. CV-04-2147 PHX-JAT (District of Arizona), before the Honorable James A. Teilborg, which was tried to a federal jury from November 2007 until the jury returned a unanimous verdict for investors in January 2008, ultimately recovering \$145 million for the shareholder class.

Mr. Bassar has prosecuted derivative shareholder actions on behalf of and for the benefit of nominal corporate entities such as Pfizer, Apple, Nvidia and Quest, achieving significant corporate governance therapeutics on behalf of those entities. Mr. Bassar has also vigorously pursued the rights of the elderly, and consumers serving as a co-lead counsel and as part of a group of firms prosecuting class actions ("*senior Annuity Litigation*") alleging federal RICO claims against companies that target senior citizens in the sale of deferred annuity products, ultimately securing benefits collectively valued at over \$1 billion.

Mr. Bassar was the firm's primary attorney assisting in the development of expert witnesses in aid of the prosecution of the *In re Anthem, Inc. Data Breach Litigation* which secured a \$115 million settlement. He served as Interim Executive Committee Counsel in the *Feller v. Transamerica Life Insurance Litigation* that settled for \$200 million. He currently serves

as Interim Executive Committee Counsel in the *Toyota Hybrid Brake* and the *Nissan CVT* litigation cases.

Mr. Bassar has regularly shared his experience and knowledge with attorneys, Judges, public pension funds and the lay public. He also lectured on the topic of securities related litigation and shareholder issues in the wake of the derivative securities, toxic debt portfolio and real estate mortgage default related global economic crisis of 2008, at the American Association of Justice, Winter Convention, February 2010 and the American Association of Justice, Summer Convention 2010, presented on the topic of "Securities Litigation" at the Federal Judicial Center's Workshop for Judges of the Ninth Circuit on February 1, 2011 and lectured on the topic of trying a complex class action at Vanderbilt Law School entitled "Battle in the Valley of the Sun: Strategy Tactics and Honor in Litigation," October 17, 2013. He has written for the American Association of Justice Quarterly Newsletter, Fall 2009, co-authoring "*Securities Litigation in the Wake of the Sub-Prime Crisis*." Mr. Bassar has been repeatedly selected as a California "Super Lawyer," as LAWDRAGON's "100 Attorneys You Need to Know in Securities Litigation" and has been regularly commended by San Diego Magazine and the Los Angeles Times as a "Top Lawyer." He has also been repeatedly cited as one of Southern California's "Top 100 High-Stakes Litigators."

Samuel M. Ward, partner in Barrack, Rodos & Bacine, is a graduate of the University of California, Hastings College of Law (J.D. 2001), and a 1995 honors graduate of the University of California, San Diego (B.A. 1995). Mr. Ward was admitted to practice in California in 2001 and is a member of the bars of the United States District Courts for the Southern, Central and Northern District of California. Before joining BR&B, Mr. Ward worked as a political consultant, managing both Congressional and State Assembly campaigns. At the Firm, he has litigated numerous securities cases in federal district courts throughout the country. Mr. Ward was a member of the trial team in *In re Apollo Group Inc. Securities Litigation*, before the Honorable James A. Teilborg in the District of Arizona, where he played a critical role in mastering the deposition and documentary proof that was used at trial to secure the jury's unanimous verdict. Mr. Ward also represented the plaintiff class in *In re Applied Micro Circuits Corp. Securities Litigation*, achieving a \$60 million settlement for class members, one of the largest recoveries in a securities class action in the Southern District of California since passage of the PSLRA. Mr. Ward is the former Chair of Planned Parenthood Affiliates of California and former Vice-Chair of the Board of Directors of Planned Parenthood of the Pacific Southwest. Mr. Ward can be reached at the Firm's San Diego, CA office.

Significant Judicial Praise

In *In re Apollo Group Inc. Securities Litigation*, Master File No. CV-04-2147 PHX-JAT (U.S. District Court for the District of Arizona), Barrack, Rodos & Bacine, as the sole lead counsel for the class, secured a jury verdict for the full amount per share requested. Judge Teilborg commented that trial counsel **"brought to this courtroom just extraordinary talent and preparation.... The technical preparation, the preparation for your examination and cross-examination of witnesses has been evident in every single instance. The preparation for evidentiary objections and responses to those objections have been thorough and foresighted. The arguments that have been made in every instance have been well-prepared and well-presented throughout the case. *** Likewise, for the professionalism and the civility that you -- and the integrity that you have all demonstrated and exuded throughout the handling of this case, it has just, I think, been**

very, very refreshing and rewarding to see that. * [W]hat I have seen has just been truly exemplary."**

BR&B ultimately secured payment of \$145 million from the defendants – the largest post-verdict judgment and recovery achieved in a shareholder class action for violations of the federal securities laws since passage of the PSLRA. In approving the \$145 million resolution on April 20, 2012 (see 2012 WL 1378677), Judge Teilborg further stated: "[S]ince the enactment of the Private Securities Litigation Securities Reform Act ("PLSRA"), securities class actions rarely proceed to trial. Because Plaintiffs faced the burden of proving multiple factors relating to securities fraud, there was great risk that this case would not result in a favorable verdict after trial. Further, after the jury verdict, this Court granted judgment as a matter of law in favor of Defendants and Class Counsel pursued a risky and successful appeal to the Ninth Circuit Court of Appeals. Thereafter, Class Counsel successfully opposed a petition for certiorari to the United States Supreme Court. **Based on this procedural history and the seven years of diligence in representing the Class, Class Counsel achieved an exceptional result for the Class. Such a result is unique in such securities cases and could not have been achieved without Class Counsel's willingness to pursue this risky case throughout trial and beyond. ... [A]s discussed above, Plaintiffs' Lead Counsel achieved exceptional results for the Class and pursued the litigation despite great risk.**"

In *In re WorldCom, Inc. Securities Litigation*, No. 02 Civ. 3288 (DLC), BR&B was co-lead counsel for the Class and achieved settlements in excess of \$6.13 billion. After a partial settlement with one group of defendants for in excess of \$2.56 billion, Judge Cote stated that **"the settlement amount ... is so large that it is of historic proportions."** The Judge found that **"Lead Counsel has performed its work at every juncture with integrity and competence. It has worked as hard as a litigation of this importance demands, which for some of the attorneys, including the senior attorneys from Lead Counsel on whose shoulders the principal responsibility for this litigation rests, has meant an onerous work schedule for over two years."** Judge Cote further found that **"the quality of the representation given by Lead Counsel is unsurpassed in this Court's experience with plaintiffs' counsel in securities litigation. Lead Counsel has been energetic and creative. Its skill has matched that of able and well-funded defense counsel. It has behaved professionally and has taken care not to burden the Court or other parties with needless disputes. Its negotiations with the Citigroup Defendants have resulted in a settlement of historic proportions. It has cooperated with other counsel in ways that redound to the benefit of the class and those investors who have opted out of the class. The submissions of Lead Counsel to the Court have been written with care and have repeatedly been of great assistance."** The Court also found that **"In sum, the quality of representation that Lead Counsel has provided to the class has been superb."** In approving the final settlements totaling \$3.5 billion, in an opinion and order dated September 20, 2005, the Court stated **"The impressive extent and superior quality of Lead Counsel's efforts as of May 2004 were described in detail in the Opinion approving the Citigroup Settlement. ... At the conclusion of this litigation, more than ever, it remains true that 'the quality of representation that Lead Counsel has provided to the class has been superb.' ... At trial against Andersen, the quality of Lead Counsel's representation remained first-rate. .. The size of the recovery achieved for the class – which has been praised even by several objectors – could not have been achieved without the unwavering commitment of Lead Counsel to this litigation."**

Further, the Court found that **"Despite the existence of these risks, Lead Counsel obtained remarkable settlements for the Class while facing formidable opposing counsel from some of the best defense firms in the country;"** and **"If the Lead Plaintiff had been**

represented by less tenacious and competent counsel, it is by no means clear that it would have achieved the success it did here on behalf of the Class.” In reiterating that the size of the settlements was “historic,” Judge Cote stated: **“it is likely that less able plaintiffs’ counsel would have achieved far less.”**

In *Becker v. Bank of New York Mellon, et al.*, 11-cv-06460-JS (E.D. Pa.), BR&B served as class counsel, and achieved a cash settlement of \$13,500,000 to resolve all claims asserted by the plaintiff and the class. In approving the settlement, the Court noted that trial counsel’s **“skill and efficiency”** in defending against a **“litany of pretrial motions, including a new motion to dismiss, motions in limine, and several Daubert motions,”** as well as during the trial. The Court further stated that: **“This favorable settlement is attributable in large part to class counsel’s zealous advocacy for the class and vigorous prosecution of this action in the face of formidable opposition from Defendants.”**

In *In re Automotive Refinishing Paint Antitrust Litigation*, 2:10-md-01426-RBS (E.D. Pa.), BR&B, co-lead counsel for a Class of direct purchasers of automotive refinishing paint, achieved settlements with five defendants in excess of \$100 million. After reaching a settlement with the last two defendants remaining in the litigation, the Court stated, **“I want to commend counsel on both sides of this litigation. I think that the representation on both sides of this litigation is as good as I’ve ever seen in my entire professional career. Counsel worked together in this case. They frankly made the job of this Court very easy and I commend all of you for what you’ve done in this litigation.”**

In *In re Nationwide Financial Services Litigation*, Case No. 2:08-CV-00249, before the Honorable H. Michael Watson, in the U.S. District Court for the Southern District of Ohio. BR&B, as co-lead counsel, represented a lead plaintiff in a class action litigation contesting the buy-out of Nationwide Financial Services, Inc. by its majority owner Nationwide Mutual Insurance Company and certain affiliates in 2008. In assessing the settlement, the Court found: **“Plaintiffs and their counsel have made a thoroughly considered judgment that the Settlement is not only fair, adequate and reasonable, but an excellent result for the Class.** The \$52.25 per share revised offer was 12% more than NFS’s closing price on August 6; it was 10.7% higher than Nationwide Mutual’s initial offer of March 10, 2008 (providing an aggregate benefit of \$232.8 million to the members of the Class); and it was negotiated in the midst of an overall decline in the financial markets, and apparently while internal forecasts for NFS indicated some decline in its projected results.” And, in assessing the work of co-lead counsel, the Court found that the **“quality and skill in the work performed by Plaintiffs’ Counsel is evident through the significant economic and non-economic recovery achieved in this Action.”**

In *In re Cendant Corporation Litigation*, No. 98-CV-1664 (WHW) (D.N.J.), BR&B was co-lead counsel for the Class and achieved settlements with defendants in excess of **\$3.18 billion**, more than three times larger than the next highest recovery ever achieved in a securities law class action suit by that time. The *Cendant* settlement included what was, at the time, the largest amount by far ever paid in a securities class action by an issuing company and the amount paid by Ernst & Young remains the largest amount ever paid in a securities class action by an outside auditor. The *Cendant* settlement further included extensive corporate governance reforms, and a contingency recovery of one-half the net recovery that Cendant and certain of its affiliated individuals may recover in on-going proceedings against CUC’s former auditor. The *Cendant* Court stated that **“we have all been favored with counsel of the highest competence and integrity and fortunately savvy in the ways of the law and the market.”** The Court found that the **“standing, experience and expertise of counsel, the skill and professionalism with which counsel prosecuted the case and the performance and**

quality of opposed counsel were and are high in this action." The Court further found that the result of lead counsel's efforts were ***"excellent settlements of uncommon amount engineered by highly skilled counsel with reasonable cost to the class."***

Barrack Rodos & Bacine Lodestar Summary

Timekeeper	Status	Bar Admission Year	Hours	Rate	Lodestar
Stephen R. Basser	Partner	1976 (PA)	67.75	\$820.00	\$55,555.00
		1985 (CA)			
Samuel M. Ward	Partner	2001 (CA)	29.75	\$660.00	\$19,635.00
Gavin O'Hara	Paralegal		21.50	\$330.00	\$ 7,095.00
TOTAL			119		\$82,285.00

EXHIBIT 2

Barrack Rodos & Bacine Expense Summary

Category of Expense	Amount
Court Filing Fees	\$49.00
Document Hosting	
Experts	
Mediation	
Messengers	
Phone/Facsimile	\$386.57
Photocopying & Imaging	\$39.50
Postage & Fed Ex	
Research	\$86.08
Service of Process	
Travel, Meals, & Hotels	
TOTAL	\$561.15

EXHIBIT 3

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE – NASHVILLE
DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O’CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN OF NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants.

Case No. 3:21-cv-00099

CLASS ACTION

**DECLARATION OF LAWRENCE
DEUTSCH IN SUPPORT OF
PLAINTIFFS’ MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT AND
MOTION FOR AWARD OF
ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES
AND CLASS REPRESENTATIVE
SERVICE AWARDS**

Judge William L. Campbell
Courtroom A826
Magistrate Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

I, Lawrence Deutsch, declare:

1. I am an attorney duly licensed to practice law before all of the courts of the Commonwealth of Pennsylvania and State of New Jersey, and I am admitted *pro-hac vice* in the United States District Court for the Middle District of Tennessee. I am a shareholder at Berger Montague PC (“Berger Montague”), and am on the Executive Committee for Plaintiffs in the above-entitled action. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Motion for Attorneys’ Fees, Reimbursement of Expenses and Class Representative Service Awards. I have personal knowledge of the facts set forth herein, and if called to testify regarding the statements herein, I could and would competently do so.

2. I believe that the proposed Settlement provides exceptional relief to the

Settlement Class, is fair, reasonable and adequate, and merits final approval.

I. BERGER MONTAGUE'S QUALIFICATIONS

3. Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. In numerous precedent-setting cases, the firm has played a principal or lead role, and has recovered more than \$30 billion for its clients and the classes they have represented. Berger Montague maintains offices in Pennsylvania, Minnesota, California and Washington, D.C. A copy of Berger Montague's firm résumé is attached hereto as **Exhibit 1**.

4. I am a shareholder in Berger Montague's Consumer Protection Department and co-Chair of the Auto Defects Group, with extensive experience in consumer protection and product defect class actions, including automobile defect cases, at both the trial and appellate levels in federal courts. I am leading Berger Montague's team on this matter along with seasoned automotive law attorneys, Jeffrey Osterwise and Amey Park.

5. I and my Berger Montague colleagues have extensive leadership experience in litigating complex matters, including automotive defect class actions such as this one. In particular, I, as Class Counsel and with co-Class Counsel, successfully obtained final approval of nationwide class settlements resolving consumer claims against Nissan of North America, Inc. and Nissan Motor Co. Ltd. ("Defendants" or "Nissan") stemming from the manufacture of the defective continuously variable transmissions ("CVTs") in three recent actions: *Batista v. Nissan N. Am., Inc.*, No. 14-24728-RNS (S.D. Fla. June 29, 2017), Dkt. No. 191 ("*Batista*"), covering 2013-2014 model year Nissan Pathfinder vehicles; *Weckwerth, et al., v. Nissan of North America, Inc., et al.*, 3:18-cv-00588, Dkt. No. 181, (M.D. Tenn. Mar. 10, 2020) ("*Weckwerth*"), covering 2013-2017 model year Nissan Sentra vehicles, 2014-2017 model

year Nissan Versa Note vehicles, and 2012-2017 model year Nissan Versa vehicles; and *Norman, et al., v. Nissan of North America, Inc., et al.*, 3:18-cv-00534, Dkt. No. 123, (M.D. Tenn. Mar. 10, 2020) (“*Norman*”), covering 2013-2017 model year Nissan Juke vehicles. These settlements covering millions of vehicles were collectively valued as providing hundreds of millions of dollars in value to these classes.

6. In addition to the *Batista*, *Weckwerth* and *Norman* settlements, Berger Montague has successfully obtained numerous favorable class action settlements providing relief to automobile owners and lessees, *See, e.g., Parrish v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-01148 (C.D. Cal. Jan. 27, 2022), Dkt. No. 81 (preliminarily approving class action settlement for owners and lessees of certain 2019 Volkswagen Jetta or 2018, 2019, and/or 2019 Volkswagen Tiguan vehicles equipped with 8-speed transmissions susceptible to possible oil leaks, rattling, hesitation, or jerking); *Patrick v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-01908 (C.D. Cal. Sept. 28, 2021), Dkt. No. 72 (final approval of class action settlement for owners and lessees of certain 2019 and 2020 Volkswagen Golf GTI or Jetta GLI vehicles equipped with manual transmissions suffering from an alleged engine stalling defect); *Davis v. General Motors LLC*, No. 17-02431 (M.D. Fla. closed Dec. 6, 2018) (as co-counsel, obtained favorable settlement on non-class basis for owners and lessees of Cadillac SRX vehicles with defective headlights); *Vargas v. Ford Motor Co.*, No. CV12-08388 AB (FFMX), 2017 WL 4766677 (C.D. Cal. Oct. 18, 2017) (approving class action settlement involving transmission defects for 1.8 million class vehicles); *Yaeger, et al. v. Subaru of America, Inc., et al.*, No. 14-4490 (JBS/KMW) (D.N.J.) (as co-lead counsel, obtained class action settlement providing oil consumption testing, repairs and replacements of engine components, reimbursements for certain past expenses, and warranty extensions); *Soto, et al. v. American*

Honda Motor Co., Inc., No. 3:12-cv-1377-SI (N.D. Cal.) (obtained settlement valued at over \$40 million that provided reimbursements for engine misfire repairs and extension of the Powertrain Limited Warranty to cover engine misfire lasting eight years after the original sale or lease of each Settlement Class Vehicle with no mileage limitation); *In re Volkswagen and Audi Warranty Extension Litig.*, No. 07-md-01790-WGY (D. Mass.) (as co-lead counsel, obtained settlement that applied to 479,768 certain Audi and Volkswagen Passat vehicles alleged to be unusually prone to the formation of oil sludge and coking deposits); *Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.*, No. ATL-1461-03 (N.J. Sup. Ct. 2007) (as co-lead counsel, obtained settlement for nationwide class alleging damages from defectively designed timing belt tensioners); *Parker v. American Isuzu Motors, Inc.*, No. 030903496 (Pa. Ct. Com. Pl., Phila. Cty.) (as lead counsel, obtained a settlement providing class members up to \$500 each for economic damages due to faulty brakes); *Burgo v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.*, No. HUD-L-2392-01 (N.J. Sup. Ct. 2001) (as co-lead counsel, obtained settlement for proposed class members alleging damages arising from defective tires prone to bubbling and bulging).

7. I am currently litigating consumer class actions against Volkswagen and Fiat Chrysler, including: *Gioffe v. Volkswagen Group of America Inc.*, No. 1:22-cv-00193 (D.N.J.), *Gerritsen v. FCA US LLC*, No. 2:21-cv-10278-SFC-RSW (E.D. Mich.), and *Pistorio v. FCA US LLC*, No. 2:20-cv-11838 (E.D. Mich.). I have also served as lead counsel or as a primary attorney in numerous class actions and complex litigation cases addressing consumer defects including: *Cole v. NIBCO, Inc.*, No. 13-cv-7871 (D.N.J.) (originally commenced in the Middle District of Tennessee and transferred for nationwide settlement to the District of New Jersey where \$43.5 million settlement for consumers harmed by defective plumbing products was

approved); *In Re: CertainTeed Fiber Cement Siding Litigation*, MDL NO. 11-2270 (E.D. Pa.) (served on a team of lead counsel as \$103.9 million settlement for defective siding); *Tim George v. Uponor, Inc., et al.*, No. 12-CV-249 (D. Minn.) (obtained \$21 million settlement for defective plumbing products). My experience as lead counsel or a primary attorney in other class actions and complex litigation cases is further described in **Exhibit 1**.

II. BERGER MONTAGUE'S TIME AND EXPENSES

8. Berger Montague has prosecuted this case solely on a contingent-fee basis. Berger Montague has received no compensation of any kind for its work on this matter.

9. The information in this declaration regarding my firm's time and expenses is taken from time and expense printouts and supporting documentation prepared and maintained by the firm in the ordinary course of business. The time records were prepared daily or shortly thereafter by each attorney or support staff member working on the matter. The expense records are prepared from receipts, expense vouchers, check records and other documents, and are accurate record of the expenses.

10. I am the person in the firm who oversaw and conducted day-to-day activities of the firm for this case, and I reviewed printouts (and supporting documentation where necessary and appropriate) in connection with the preparation of this Declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation. I also believe the time and expenses are of the type that would normally be charged to a fee-paying client in the private legal marketplace.

11. Attached hereto as **Exhibit 2** is a summary of my firm's lodestar. The summary includes the names of attorneys and professional support staff who worked on this case and each timekeeper's respective hours and lodestar at current rates. The hourly rates shown in **Exhibit 2** are the usual and customary rates set by my firm for each individual. My firm has expended 396.7 hours working on this case and the total lodestar is \$254,329.00. The backgrounds and qualifications of the attorneys who worked on this matter on behalf of my firm are set forth in the Firm Resume, attached hereto as **Exhibit 1**.

12. Fee awards supported by the hourly rates and corresponding lodestar in Berger Montague's auto defect and other consumer product class action settlements have been regularly approved by federal district courts, including the following: *Batista*, Dkt. No. 191; *Weckwerth*, Dkt. No. 181; *Norman*, Dkt. No. 123; ; *Patrick v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-01908 (C.D. Cal.), Dkt. No. 72, Sept. 28, 2021 Order Granting Final Approval and Attorneys' Fees, Expenses, and Service Awards; *Bentley v. LG Electronics U.S.A., Inc.*, No. 2:19-cv-13554 (D.N.J.), Dkt. No. 67 Order Granting Attorneys' Fees, Expenses, and Service Awards; *Cole v. NIBCO, Inc.*, No. 13-cv-7871 (D.N.J.), Dkt. No. 230, Apr. 12, 2019 Final Judgment Entering Orders Granting Final Approval and Attorneys' Fees, Expenses, and Service Awards; *In Re: CertainTeed Fiber Cement Siding Litigation*, MDL NO. 11-2270 (E.D. Pa.), Dkt. No. 119, Mar. 20, 2014 Order Granting Final Approval and Attorneys' Fees, Expenses, and Service Awards; *Tim George v. Uponor, Inc., et al.*, No. 12-CV-249 (D. Minn.), Dkt. No. 275, Sept. 9, 2015 Order Granting Final Approval and Attorneys' Fees, Expenses, and Service Awards.

13. My firm has incurred and expects to incur¹ a total of \$1,717.75 in costs and expenses on this case. Those costs and expenses are summarized by category in **Exhibit 3**. The expenses were kept in the firm's books and records prepared from contemporaneous receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The out-of-pocket litigation expenses incurred by the firm in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by the firm successfully prosecuting class action litigation. *See* paragraph 12, *supra*.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of February 2022, at Lower Merion, Pennsylvania.

By: /s/ Lawrence Deutsch
Lawrence Deutsch
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¹ As detailed in Exhibit 3, the \$1,717.75 total includes \$717.75 in costs incurred to date, as well as \$1,000.00 expected to be incurred for travel (including air travel), hotels, and meals in connection with the hearing on Plaintiffs' Motion for Final Approval of Class Action Settlement Agreement and Motion for Award of Attorneys' Fees, Reimbursement of Expenses and Class Representative Service Awards.

EXHIBIT 1



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About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal* selected Berger Montague in 12 out of 14 years (2003-2005, 2007-2013, 2015-2016) for its "Hot List" of top plaintiffs-oriented litigation firms in the United States. The select group of law firms recognized each year had done "exemplary, cutting-edge work on the plaintiffs' side." The *National Law Journal* ended its "Hot List" award in 2017 and replaced it with "Elite Trial Lawyers," which Berger Montague has won from 2018-2021. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2021 "Best Law Firm" by *U.S. News - Best Lawyers*.

Currently, the firm consists of 76 lawyers; 14 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm's complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for

plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead class counsel and lead trial counsel in the *Cook v. Rockwell International Corporation* litigation arising out of a serious incident at the Rocky Flats nuclear weapons facility in Colorado.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

Diversity, Equity and Inclusion Initiatives

Berger Montague not only supports the idea of its Diversity, Equity and Inclusion (“DEI”) initiatives, it is a part of the DNA and fabric of the firm—internally amongst the Berger Montague family and in the way we practice law with co-counsel, opposing counsel, the courts, and with our clients. Through our DEI initiatives, Berger Montague actively works to increase diversity at all levels of our firm and to ensure that professionals of all races, religions, national origins, gender identities, ethnicities, sexual orientations, and physical abilities feel supported and respected in the workplace.

Berger Montague has a DEI Task Force with the leadership of the DEI Coordinator, Camille Fundora Rodriguez, and including, Candice J. Enders, Caitlin G. Coslett, Sophia Rios, and Reginald L. Streater. Berger Montague has enacted a broad range of diversity and inclusion projects, including successful efforts to hire and retain attorneys and non-attorneys from diverse backgrounds and to foster an inclusive work environment, including through firmwide trainings on implicit bias issues that may impact the workplace.

Additionally, at Berger Montague women lead. Women comprise over 30% of Berger Montague's shareholders, well above the national average as reported by the National Association of Women Lawyers. Moreover, women at the firm are encouraged and have taken advantage of professional development support to bolster their trajectories into key participation and leadership roles, both within and outside the firm, including mentoring, networking, and educational opportunities for women across all career levels. As a result of these intentional policies and initiatives, women attorneys at Berger Montague are managing departments, running offices, overseeing major

administrative programs, generating new business, serving as first chair in trials, handling large matters, and holding numerous other leadership positions firmwide.

Berger Montague's commitment to DEI activities extends beyond our firm. For example, DEI Task Force members are involved in numerous community and professional activities outside of the firm. Representative activities include membership in and/or board or leadership positions with the Hispanic Bar Association, the Barristers' Association of Philadelphia, the Philadelphia Public School Board of Education, Court Appointed Special Advocates (CASA) of Philadelphia, Philadelphia Bar Association's Business Law Section's Antitrust Committee, Community Legal Services of Philadelphia, the Greater Philadelphia Chapter of the Pennsylvania ACLU, AccessMatters, After School Activities Partnerships, and Leadership Council on Legal Diversity. As such, Berger Montague's commitment to DEI has created an atmosphere in which the attorneys can share their gifts with the legal and greater communities from which they come.

Commitment to *Pro Bono*

Berger Montague attorneys commit their most valuable resource, their time, to charities, nonprofit organizations, and *pro bono* legal work. For over 50 years, Berger Montague has encouraged its attorneys to support charitable causes and volunteer in the community. Our lawyers understand that participating in *pro bono* representation is an essential component of their professional and ethical responsibilities.

Berger Montague is strongly committed to numerous charitable causes. Over his lengthy career, David Berger, the firm's founding partner, was prominent in a great many philanthropic and charitable enterprises, including serving as Honorary Chairman of the American Heart Association; a Trustee of the American Cancer Society; and a member of the Board of Directors of the American Red Cross. This tradition continues to the present.

Community Legal Services of Philadelphia, an organization that provides free legal advice and representation to low-income residents of Philadelphia, honored Berger Montague with its 2021 Champion of Justice Award for the firm's work leading a case against the IRS that succeeded in getting unemployed people their rightful benefits during the COVID-19 pandemic.

In prior years, Berger Montague received the Chancellor's Award presented by the Philadelphia Volunteers for the Indigent Program ("VIP"), which provides crucial legal services to more than 1,000 low-income Philadelphia residents each year. VIP relies on volunteer attorneys to provide *pro bono* representation for families and individuals. In 2009 and 2010, Berger Montague also received an award for our volunteer work with the VIP Mortgage Foreclosure Program.

Today, Berger Montague attorneys engage in *pro bono* work for many organizations, including:

- Public Interest Law Center of Philadelphia ("PILCOP")
- Community Legal Services of Philadelphia ("CLS")
- Philadelphia Legal Assistance
- Education Law Center

- Legal Clinic for the Disabled
- Support Center for Child Advocates
- Veterans Pro Bono Consortium
- AIDS Law Project of Philadelphia
- Center for Literacy
- National Liberty Museum
- Philadelphia Volunteers for the Indigent Program
- Philadelphia Mortgage Foreclosure Program

We are proud of our written *pro bono* policy that encourages and strongly supports our attorneys to get involved in this important and rewarding work. Many attorneys at Berger Montague have been named to the First District of Pennsylvania's Pro Bono Honor Roll.

Berger Montague also makes annual contributions to the Philadelphia Bar Foundation, an umbrella charitable organization dedicated to promoting access to justice for all people in the community, particularly those struggling with poverty, abuse, and discrimination.

The firm also has held numerous clothing drives, toy drives, food drives, and blood drives. Through these efforts, Berger Montague professional and support staff have donated thousands of items of clothing, toys, and food to local charities including the Salvation Army, Toys for Tots, and Philabundance, a local food bank. Blood donations are made to the American Red Cross. Berger Montague attorneys also volunteer on an annual basis at MANNA, which prepares and delivers nourishing meals to those suffering with serious illnesses.

Practice Areas and Case Profiles

Antitrust

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 50 years, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (settlement of approximately \$5.6 billion), *In re Namenda Direct Purchaser Antitrust Litigation* (recovery of \$750 million), *In re Loestrin 24 Fe Antitrust Litigation* (recovery of \$120 million), and *In re Domestic Drywall Antitrust Litigation* (settlements totaling \$190.7 million).

Once again, Berger Montague has been selected by *Chambers and Partners* for its 2021 *Chambers USA* Guide as one of Pennsylvania's top antitrust firms. *Chambers USA 2021* states that Berger Montague's antitrust practice group is "a preeminent force in the Pennsylvania antitrust market, offering expert counsel to clients from a broad range of industries."

The Legal 500, a guide to worldwide legal services providers, ranked Berger Montague as a Top Tier Law Firm for Antitrust: Civil Litigation/Class Actions: Plaintiff in the United States in its 2021 guide and states that Berger Montague's antitrust department "has a flair for handling high-stakes plaintiff-side cases, regularly winning high-value settlements for clients following antitrust law violations."

- ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:*** Berger Montague served as co-lead counsel for a national class including millions of merchants in the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* against Visa, MasterCard, and several of the largest banks in the U.S. (e.g., Chase, Bank of America, and Citi). The lawsuit alleged that merchants paid excessive fees to accept Visa and MasterCard cards because the payment cards, individually and together with their respective member banks, violated the antitrust laws. The challenged conduct included, *inter alia*, the collective fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees. The lawsuit further alleged that defendants maintained their conspiracy even after both Visa and MasterCard changed their corporate forms from joint ventures owned by member banks to publicly-owned corporations following commencement of this litigation. On September 18, 2018, after thirteen years of hard-fought litigation, Visa and MasterCard agreed to pay as much as approximately \$6.26 billion, but no less than approximately \$5.56 billion, to settle the case. This result is the largest-ever class action settlement of an antitrust case. The settlement received preliminary approval on January 24, 2019. The settlement received final approval on December 16, 2019, for approximately \$5.6 billion.
- ***Contant, et al. v. Bank of America Corp., et al.:*** Berger Montague served as lead class counsel in the multistate indirect purchaser antitrust class action *Contant, et al. v. Bank of America Corp., et al.*, against 16 of the world's largest dealer banks. Plaintiffs alleged that the defendants colluded to manipulate prices on foreign currency ("FX") instruments, using a number of methods to carry out their conspiracies, including sharing confidential price and order information through electronic chat rooms, thereby enabling the defendants to coordinate pricing and eliminate price competition. As with prior bank rigging scandals involving conspiracies to manipulate prices on other financial instruments, the defendants' alleged conspiracy to manipulate FX prices was the subject of numerous governmental investigations as well as direct purchaser class actions brought under antitrust federal law. However, the *Contant* action was the first of such cases to bring claims under state indirect purchaser antitrust laws on behalf of state-wide classes of retail investors of those financial instruments and whose claims have never been redressed. On July 29, 2019, U.S. District Judge Lorna G. Schofield granted preliminary approval of a \$10 million settlement with Citigroup and a \$985,000 settlement with MUFG Bank Ltd. On July 17, 2020, the Court granted preliminary approval of three settlements with all remaining defendants for a combined \$12.695 million. Each of the five settlements, totaling \$23.63 million, received final approval on November 19, 2020.
- ***In re Dental Supplies Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of dental practices and dental laboratories in *In re Dental Supplies Antitrust Litigation*, a suit brought against Henry Schein, Inc., Patterson Companies, Inc., and Benco Dental Supply Company, the three largest distributors of dental supplies in the United States. On September 7, 2018, co-lead counsel announced that they agreed with defendants to settle on a classwide basis for \$80 million. The settlement received final

approval on June 24, 2019. The suit alleged that the defendants, who collectively control close to 90 percent of the dental supplies and equipment distribution market, conspired to restrain trade and fix prices at anticompetitive levels, in violation of the Sherman Act. In furtherance of the alleged conspiracy, plaintiffs claimed that the defendants colluded to boycott and pressure dental manufacturers, dental distributors, and state dental associations that did business with or considered doing business with the defendants' lower-priced rivals. The suit claimed that, because of the defendants' anticompetitive conduct, members of the class were overcharged on dental supplies and equipment. In the 2019 Fairness Hearing, Judge Brian M. Cogan of the U.S. District Court for the Eastern District of New York said: "This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

- ***In re Domestic Drywall Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the U.S. and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." Berger Montague represented a class of direct purchasers of drywall from defendants for the period from January 1, 2012 to January 31, 2013. USG Corporation and United States Gypsum Company (collectively, "USG"), New NGC, Inc., Lafarge North America Inc., Eagle Materials, Inc., American Gypsum Company LLC, TIN Inc. d/b/a Temple-Inland Inc., and PABCO Building Products, LLC were named as defendants in this action. On August 20, 2015, the district court granted final approval of two settlements—one with USG and the other with TIN Inc.—totaling \$44.5 million. On December 8, 2016, the district court granted final approval of a \$21.2 million settlement with Lafarge North America, Inc. On February 18, 2016, the district court denied the motions for summary judgment filed by American Gypsum Company, New NGC, Inc., Lafarge North America, Inc., and PABCO Building Products. On August 23, 2017, the district court granted direct purchaser plaintiffs' motion for class certification. On January 29, 2018, the district court granted preliminary approval of a joint settlement with the remaining defendants, New NGC, Inc., Eagle Materials, Inc., American Gypsum Company LLC, and PABCO Building Products, LLC, for \$125 million. The settlement received final approval on July 17, 2018, bringing the total amount of settlements for the class to \$190.7 million.
- ***In re Currency Conversion Fee Antitrust Litigation:*** Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. A subsequent settlement with American Express increased the settlement amount to \$386 million. (MDL No. 1409 (S.D.N.Y)).

- ***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.***: Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long-haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."

- ***Ross, et al. v. Bank of America (USA) N.A., et al.***: Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. In June 2009, the National Arbitration Forum (or "NAF") was added as a defendant. Berger Montague also reached a settlement with NAF. Under that agreement, NAF ceased administering arbitration proceedings involving business cards for a period of three and one-half (3.5) years, which relief is in addition to the requirements of a Consent Judgment with the State of Minnesota, entered into by the NAF on July 24, 2009.

- ***Johnson, et al. v AzHHA, et al.***: Berger Montague was co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved \$24 million in settlements on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over \$2 billion in settlements in such cases over the past decade, including:

- ***In re: Namenda Direct Purchaser Antitrust Litigation:*** Berger Montague is co-lead counsel for the class in this antitrust action brought on behalf of a class of direct purchasers of branded and/or generic Namenda IR and/or branded Namenda XR. It settled for \$750 million on the very eve of trial. The \$750 million settlement received final approval on May 27, 2020, and is the largest single-defendant settlement ever for a case alleging delayed generic competition. (Case No. 15-cv-7488 (S.D.N.Y.)).
- ***King Drug Co. v. Cephalon, Inc.:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of the prescription drug Provigil (modafinil). After nine years of hard-fought litigation, the court approved a \$512 million partial settlement, then the largest settlement ever for a case alleging delayed generic competition. (Case No. 2:06-cv-01797 (E.D. Pa.)). Subsequent non-class settlements pushed the total settlement figure even higher.
- ***In re Aggrenox Antitrust Litigation:*** Berger Montague represented a class of direct purchasers of Aggrenox in an action alleging that defendants delayed the availability of less expensive generic Aggrenox through, *inter alia*, unlawful reverse payment agreements. The case settled for \$146 million. (Case No. 14-02516 (D. Conn.)).
- ***In re Asacol Antitrust Litigation:*** The firm served as class counsel for direct purchasers of Asacol HS and Delzicol in a case alleging that defendants participated in a scheme to block generic competition for the ulcerative colitis drug Asacol. The case settled for \$15 million. (Case No. 15-cv-12730-DJC (D. Mass.)).
- ***In re Celebrex (Celecoxib) Antitrust Litigation:*** The firm represented a class of direct purchasers of brand and generic Celebrex (celecoxib) in an action alleging that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case settled for \$94 million. (Case No. 14-cv-00361 (E.D. VA.)).
- ***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).
- ***In re K-Dur Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class in this long-running antitrust litigation. Berger Montague litigated the case before the Court of Appeals and won a precedent-setting victory and continued the fight before the Supreme Court. On remand, the case settled for \$60.2 million. (Case No. 01-1652 (D.N.J.)).

- ***In re Loestrin 24 Fe Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class of direct purchasers of brand Loestrin, generic Loestrin, and/or brand Minastrin. The direct purchaser class alleged that defendants violated federal antitrust laws by unlawfully impairing the introduction of generic versions of the prescription drug Loestrin 24 Fe. The case settled shortly before trial for \$120 million (Case No. 13-md-2472) (D.R.I.).
- ***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).
- ***Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.:*** Berger Montague served as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case settled for \$15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).
- ***In re Oxycontin Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for \$16 million. (Case No. 1:04-md-01603 (S.D.N.Y.)).
- ***In re Prandin Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel and recovered \$19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10-cv-12141 (E.D. Mich.)).
- ***Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.:*** Berger Montague served as co-lead counsel on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for \$17.25 million. (Case No. 07-142 (D. Del.)).
- ***In re Skelaxin Antitrust Litigation:*** Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for \$73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).
- ***In re Solodyn Antitrust Litigation:*** Berger Montague served as co-lead counsel representing a class of direct purchasers of brand and generic Solodyn (extended-release minocycline hydrochloride tablets) alleging that defendants entered into agreements not to compete in the market for extended-release minocycline hydrochloride tablets in violation of the Sherman Act. With a final settlement on the eve of trial, the case settled for a total of more than \$76 million. (Case No. 14-MD-2503-DJC (D. Mass.)).

- ***In re Tricor Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).
- ***In re Wellbutrin XL Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of \$37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. (Case No. 08-cv-2431 (E.D. Pa.)).

Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- ***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.:*** Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).
- ***Forbes v. GMH:*** Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

Commodities & Financial Instruments

Berger Montague ranks among the country's preeminent firms for managing and trying complex Commodities & Financial Instruments related cases on behalf of individuals and as class actions. The firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

- ***In re Peregrine Financial Group Customer Litigation:*** Berger Montague served as co-lead counsel in a class action which helped deliver settlements worth more than \$75 million on behalf of former customers of Peregrine Financial Group, Inc., in litigation against U.S. Bank, N.A., and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse in July 2012. The lawsuit alleges that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use. (No. 1:12-cv-5546)

- ***In re MF Global Holdings Ltd. Investment Litigation:*** Berger Montague is one of two co-lead counsel that represented thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the former major global commodities brokerage firm MF Global. Berger Montague reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that collectively helped to return approximately \$1.6 billion to the class. Ultimately, class members received more than 100% of the funds allegedly misappropriated by MF Global even after all fees and expenses. (No. 11-cv-07866 (S.D.N.Y.)).

- ***In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation:*** Berger Montague is one of two co-lead counsel representing traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).

- ***In re Libor-Based Financial Instruments Antitrust Litigation:*** Berger Montague represents exchange-based investors in this sprawling litigation alleging a conspiracy among many of the world's largest banks to manipulate the key LIBOR benchmark rate. LIBOR plays an important role in valuing trillions of dollars of financial instruments worldwide. The case, filed in 2011, alleges that the banks colluded to misreport and manipulate LIBOR rates for their own benefit. The banks' conduct damaged, among others, exchange-based investors who transacted in Eurodollar futures and options on the CME between 2005 and 2010. Eurodollar futures and options are keyed to LIBOR and are the world's most heavily traded short-term interest rate contracts. Following years of hotly contested litigation on behalf of these exchange-based investors, Berger Montague and its co-counsel achieved settlements with seven banks totaling more than \$180 million. In September 2019, the Court granted preliminary approval of a plan of distribution for these settlement funds. A final approval hearing on the settlement is scheduled in September 2020. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

Consumer Protection

Berger Montague's Consumer Protection Group protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.

- ***In re Public Records Fair Credit Reporting Act Litigation:*** Berger Montague is class counsel in three class action settlements involving how the big three credit bureaus, Experian, TransUnion, and Equifax, report public records, including tax liens and civil judgments. The settlements provide groundbreaking injunctive relief valued at over \$100 billion and provide a streamlined process for consumers to receive uncapped monetary payments for claims related to inaccurate reporting of public records.
- ***In re: CertainTeed Fiber Cement Siding Litigation:*** The firm, as one of two Co-Lead Counsel firms obtained a settlement of more than \$103 million in this multidistrict products liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class. (MDL No. 2270 (E.D. Pa.)).
- ***Countrywide Predatory Lending Enforcement Action:*** Berger Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.
- ***In re Experian Data Breach Litigation:*** Berger Montague served on the Executive Committee of this class action lawsuit that arose from a 2015 data breach at Experian in which computer hackers stole personal information including Social Security numbers and other sensitive personal information for approximately 15 million consumers. The settlement is valued at over \$170 million. It consisted of \$22 million for a non-reversionary cash Settlement Fund; \$11.7 million for Experian's remedial measures implemented in connection with the lawsuit; and two years of free credit monitoring and identity theft insurance. The aggregate value of credit monitoring claimed by class members during the claims submission process exceeded \$138 million, based on a \$19.99 per month retail value of the service.
- ***In re Pet Foods Product Liability Litigation:*** The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for \$24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).
- ***In re TJX Companies Retail Security Breach Litigation:*** The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based

on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).

- ***In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. (No. 4:09-MD-2046 (S.D. Tex. 2009)).
- ***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).
- ***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation:*** The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).
- ***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

Corporate Governance and Shareholder Rights

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

- ***Emil Rossdeutscher and Dennis Kelly v. Viacom:*** The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).

- ***Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.***: The firm, as lead counsel, obtained a settlement resulting in a fund of \$8.25 million for the class.

Employee Benefits & ERISA

Berger Montague represents employees who have claims under the federal Employee Retirement Income Security Act. We litigate cases on behalf of employees whose 401(k) and pension investments have suffered losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers and retirees, and also gained favorable changes to their retirement plans.

- ***Diebold v. Northern Trust Investments, N.A.***: As co-lead counsel in this ERISA breach of fiduciary duty case, the firm secured a \$36 million settlement on behalf of participants in retirement plans who participated in Northern Trust's securities lending program. Plaintiffs alleged that defendants breached their ERISA fiduciary duties by failing to manage properly two collateral pools that held cash collateral received from the securities lending program. The settlement represented a recovery of more than 25% of alleged class member losses. (No. 1:09-cv-01934 (N.D. Ill.)).
- ***Glass Dimensions, Inc. v. State Street Bank & Trust Co.***: The firm served as co-lead counsel in this ERISA case that alleged that defendants breached their fiduciary duties to the retirement plans it managed by taking unreasonable compensation for managing the securities lending program in which the plans participated. After the court certified a class of the plans that participated in the securities lending program at issue, the case settled for \$10 million on behalf of 1,500 retirement plans that invested in defendants' collective investment funds. (No. 1:10-cv-10588-DPW (D. Mass)).
- ***In re Eastman Kodak ERISA Litigation***: The firm served as class counsel in this ERISA breach of fiduciary duty class action which alleged that defendants breached their fiduciary duties to Kodak retirement plan participants by allowing plan investments in Kodak common stock. The case settled for \$9.7 million. (Master File No. 6:12-cv-06051-DGL (W.D.N.Y.)).
- ***Lequita Dennard v. Transamerica Corp. et al.***: The firm served as counsel to plan participants who alleged that they suffered losses when plan fiduciaries failed to act solely in participants' interests, as ERISA requires, when they selected, removed and monitored plan investment options. The case settled for structural changes to the plan and \$3.8 million monetary payment to the class. (Civil Action No. 1:15-cv-00030-EJM (N.D. Iowa)).

Employment & Unpaid Wages

The Berger Montague Employment & Unpaid Wages Department works tirelessly to safeguard the rights of employees and devotes all of their energies to helping the firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such

as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

Berger Montague is at the forefront of class action litigation, seeking remedies for employees under the Fair Labor Standards Act, state wage and hour law, breach of contract, unjust enrichment, and other state common law causes of action.

Berger Montague's Employment & Unpaid Wages Group, which is chaired by Executive Shareholder Shanon Carson, is repeatedly recognized for outstanding success in effectively representing its clients. In 2015, *The National Law Journal* selected Berger Montague as the top plaintiffs' law firm in the Employment Law category at the Elite Trial Lawyers awards ceremony. Portfolio Media, which publishes *Law360*, also recognized Berger Montague as one of the eight Top Employment Plaintiffs' Firms in 2009.

Representative cases include the following:

- ***Fenley v. Wood Group Mustang, Inc.***: The firm served as lead counsel and obtained a settlement of \$6.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-326 (S.D. Ohio)).
- ***Sanders v. The CJS Solutions Group, LLC***: The firm served as co-lead counsel and obtained a settlement of \$3.24 million on behalf of a class of IT healthcare consultants who allegedly did not receive overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 17-3809 (S.D.N.Y.)).
- ***Gundrum v. Cleveland Integrity Services, Inc.***: The firm served as lead counsel and obtained a settlement of \$4.5 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 4:17-cv-55 (N.D. Okl.)).
- ***Fenley v. Applied Consultants, Inc.***: The firm served as lead counsel and obtained a settlement of \$9.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-259 (W.D. Pa.)).
- ***Acevedo v. Brightview Landscapes, LLC***: The firm served as co-lead counsel and obtained a settlement of \$6.95 million on behalf of a class of landscaping crew members who allegedly did not receive proper overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 3:13-cv-02529 (M.D. Pa.)).
- ***Jantz v. Social Security Administration***: The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities ("TDEs") alleged

that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million. (EEOC No. 531-2006-00276X (2015)).

- ***Ciamillo v. Baker Hughes, Incorporated:*** The firm served as lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who allegedly did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).
- ***Salcido v. Cargill Meat Solutions Corp.:*** The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).
- ***Chabrier v. Wilmington Finance, Inc.:*** The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class). (No. 06-4176 (E.D. Pa.)).
- ***Bonnette v. Rochester Gas & Electric Co.:*** The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016, Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by *The National Law Journal*.

- ***Cook v. Rockwell International Corporation:*** In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with

interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their “long and hard-fought” victory against “formidable corporate and government defendants.” (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.

- ***In re Exxon Valdez Oil Spill Litigation:*** On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs’ discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 “Trial Lawyer of the Year Award” given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).
- ***Drayton v. Pilgrim’s Pride Corp.:*** The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim’s Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants’ motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).
- ***In re Three Mile Island Litigation:*** As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

Insurance Fraud

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

- ***Spencer v. Hartford Financial Services Group, Inc.:*** The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer*

v. Hartford Financial Services Group, Inc., Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.

- ***Nationwide Mutual Insurance Company v. O'Dell***: The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

Predatory Lending and Borrowers' Rights

Berger Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger Montague has successfully obtained multi-million-dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

- ***Coonan v. Citibank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Citibank and its affiliates in the United States District Court for the Northern District of New York concerning alleged kickbacks Citibank received in connection with its force-placed insurance programs. The firm obtained a settlement of \$122 million on behalf of a class of hundreds of thousands of borrowers.

- ***Arnett v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the District of Oregon concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$31 million on behalf of a class of hundreds of thousands of borrowers.
- ***Clements v. JPMorgan Chase Bank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against JPMorgan Chase and its affiliates in the United States District Court for the Northern District of California concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$22,125,000 on behalf of a class of thousands of borrowers.
- ***Holmes v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the Western District of North Carolina concerning alleged kickbacks received in connection with its force-placed wind insurance program. The firm obtained a settlement of \$5.05 million on behalf of a class of thousands of borrowers.

Securities & Investor Protection

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

- ***In re Merrill Lynch Securities Litigation***: Berger Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).
- ***In re: Oppenheimer Rochester Funds Group Securities Litigation***: The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).
- ***In re KLA Tencor Securities Litigation***: The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).
- ***In re NetBank, Inc. Securities Litigation***: The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5

million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

- ***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.***: The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).
- ***In re Alcatel Alsthom Securities Litigation***: The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).
- ***Qwest Securities Action***: The firm represented New Jersey in an opt-out case against Qwest and certain officers, which was settled for \$45 million. (C.A. No. L-3838-02 (Superior Court New Jersey, Law Division)).

Whistleblower, *Qui Tam*, and False Claims Act

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$3 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than \$500 million in rewards. Berger Montague's time-tested approach in whistleblower/*qui tam* representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

Judicial Praise for Berger Montague Attorneys

Berger Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

Antitrust Cases

From **Judge Lorna G. Schofield**, of the U.S. District Court for the Southern District of New York:

"I'm not sure I've ever seen a case without a single objection or opt-out, so congratulations on that."

Transcript of the November 19, 2020 Hearing in ***Contant, et al. v. Bank of America Corp., et al.***, No. 1:17-cv-03139 (S.D.N.Y.).

From **Judge William E. Smith**, of the U.S. District Court for the District of Rhode Island:

“The degree to which you all litigated the case is – you know, I can’t imagine attorneys litigating a case more rigorously than you all did in this case. It seems like every conceivable, legitimate, substantive dispute that could have been fought over was fought over to the max. So you, both sides, I think litigated the case as vigorously as any group of attorneys could. The level of representation of all parties in terms of the sophistication of counsel was, in my view, of the highest levels. I can’t imagine a case in which there was really a higher quality of representation across the board than this one.”

Transcript of the August 27, 2020 Hearing in ***In re Loestrin 24 Fe Antitrust Litigation***, No. 13-md-02472 (D.R.I.).

From **Judge Margo K. Brodie**, of the U.S. District Court for the Eastern District of New York:

“Class counsel has without question done a tremendous job in litigating this case. They represent some of the best plaintiff-side antitrust groups in the country, and the size and skill of the defense they litigated against cannot be overstated. They have also demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required...”

In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, No. 1:05-md-01720 (E.D.N.Y. 2019) (Mem. & Order).

From **Judge Brian M. Cogan**, of the U.S. District Court of the Eastern District of New York:

“This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs’ lawyers in this case who were running it.”

Transcript of the June 24, 2019 Fairness Hearing in ***In re Dental Supplies Antitrust Litigation***, No. 16-cv-696 (E.D.N.Y.).

From **Judge Michael M. Baylson**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[C]ounsel...for direct action plaintiffs have done an outstanding job here with representing the class, and I thought your briefing was always very on point. I thought the presentation of the very contentious issues on the class action motion was very well done, it was very well briefed, it was well argued.”

Transcript of the June 28, 2018 Hearing in *In re Domestic Drywall Antitrust Litigation*, No. MD-13-2437 at 11:6-11.

From **Judge Madeline Cox Arleo**, of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

“I just want to thank you for an outstanding presentation. I don’t say that lightly . . . it’s not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don’t see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you’ve shown for each other, the respect you’ve shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don’t fight, good lawyers advocate. And I really appreciate that more than I can express.”

Transcript of the September 9 to 11, 2015 Daubert Hearing in *Castro v. Sanofi Pasteur*, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

“Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression.”

* * *

“Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.”

In re Currency Conversion Fee Antitrust Litigation, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg**, of the United States District court for the District of New Jersey:

“[W]e sitting here don’t always get to see such fine lawyering, and it’s really wonderful for me both to have tough issues and smart lawyers ... I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, ... On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do.”

In re Remeron Antitrust Litig., Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again.”

In re Linerboard Antitrust Litig., 2004 WL 1221350, at *5-*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

“[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel....[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]”

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras**, of the U.S. District Court for the Northern District of Illinois:

“The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . . There is no question that the results achieved by class counsel were extraordinary [.]”

Regarding the work of Berger Montague in achieving more than \$700 million in settlements with some of the defendants in ***In Re Brand Name Prescription Drugs Antitrust Litigation***, 2000 U.S. Dist. LEXIS 1734, at *3-*6 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte**, of the U.S. District Court for the District of Maryland:

“The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs’ counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded.”

Settlement Approval Hearing, Oct. 28, 1994, in ***Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.***, CA No. PJM-92-3624 (D. Md.).

From **Judge Donald W. Van Artsdalen**, of the U.S. District Court for the Eastern District of Pennsylvania:

“As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs’ counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure.”

Bogosian v. Gulf Oil Corp., 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:

“Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result.”

In re Art Materials Antitrust Litigation, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

From **Judge Joseph Blumenfeld**, of the U.S. District Court for the District of Connecticut:

“The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions.”

In re Master Key Antitrust Litigation, 1977 U.S. Dist. LEXIS 12948, at *35 (Nov. 4, 1977).

Securities & Investor Protection Cases

From **Judge Brantley Starr** of the U.S. District Court for the Northern District of Texas, Dallas Division:

“I think y’all have been a model on how to handle a case like this. So I appreciate the diligence y’all have put in separating the fee negotiations until after the main event is resolved...Everything I see here is in great shape, and really a testament to y’all’s diligence and professionalism. So hats off to y’all...So thanks again for your professionalism in handling this case and handling the stipulated settlement. Y’all are model citizens, and so I wish I could send everyone to y’all’s school of litigation management.”

Howell Family Trust DTD 1/27/2004 v. Hollis Greenlaw, et al., No. 3:18-cv-02864-X (N.D. Tex., March 25, 2021).

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

Court stated that lead counsel had made “very full and well-crafted” and “excellent submissions”; that there was a “very fine job done by plaintiffs’ counsel in this case”; and that this was “surely a very good result under all the facts and circumstances.”

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:

“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

In re CIGNA Corp. Sec. Litig., 2007 U.S. Dist. LEXIS 51089, at *17-*18 (E.D. Pa. July 13, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett... [A]nd the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

In re U.S. Bioscience Secs. Litig., No. 92-0678 (E.D. Pa. April 4, 1994).

From **Judge Wayne Andersen** of the U.S. District Court for the Northern District of Illinois:

“[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here...I would say this has been the best representation that I have seen.”

In re: Waste Management, Inc. Secs. Litig., No. 97-C 7709 (N.D. Ill. 1999).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

“All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that’s a testimony – Mr. Valihura correctly says that’s what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.”

Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202 (Del. Ch., Oct. 22, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

“Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here.”

In re Rite Aid Corp. Securities Litigation, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

“In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.”

* * *

“Throughout the course of their representation, the attorneys at Berger Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.”

In Re Melridge, Inc. Securities Litigation, No. CV 87-1426-FR (D. Ore. April 15, 1996).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

“[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action... These counsel have also acted vigorously in their clients’ interests...”

* * *

“The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines.”

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in ***In re Ikon Office Solutions, Inc. Securities Litigation***, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:

“In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger Montague....”

* * *

“Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich.”

Commenting in *In re Revco Securities Litigation*, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

Consumer Protection Cases

From **Judge Paul A. Engelmayer** of the U.S. District Court for the Southern District of New York:

“I know the diligence of counsel and dedication of counsel to the class...Thank you, Ms. Drake. As always I appreciate the – your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It’s a pleasure always to have you before me...Class Counsel [] generated this case on their own initiative and at their own risk. Counsel’s enterprise and ingenuity merits significant compensation...Counsel here are justifiably proud of the important result that they achieved.”

Sept. 22, 2020, Final Approval Hearing, *Gambles v. Sterling Info., Inc.*, No. 15-cv-9746.

From **Judge Joel Schneider** of the U.S. District Court for the District of New Jersey:

“I do want to compliment all counsel for how they litigated this case in a thoroughly professional manner. All parties were zealously represented in the highest ideals of the profession, legitimately and professionally, and not the usual acrimony we see in these cases...I commend the parties and their counsel for a very workmanlike professional effort.”

Transcript of the September 10, 2020 Final Fairness Hearing in *Somogyi, et al. v. Freedom Mortgage Corp.*

From **Judge Harold E. Kahn** of the Superior Court of California County of San Francisco:

“You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys’ fees. And I congratulate you on your excellent work.”

Civil/Human Rights Cases

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

“We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers.”

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

Insurance Litigation

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

Noting the “very significant risk in pursuing this action” given its uniqueness in that “there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants.” Further, “the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel’s outstanding work in this case and substantial effort over five years, no member of the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result.”

Regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in **Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.**, in the Order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

Customer/Broker Arbitrations

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

About the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in ***Steinman v. LMP Hedge Fund, et al.***, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

Employment & Unpaid Wages Cases

From **Judge Timothy R. Rice**, United States Magistrate Judge for the U.S. District Court for the Eastern District of Pennsylvania:

Describing Berger Montague as “some of the finest legal representation in the nation,” who are “ethical, talented, and motivated to help hard working men and women.”

Regarding the work of Berger Montague attorney Camille F. Rodriguez in ***Gonzalez v. Veritas Consultant Group, LLC, d/b/a Moravia Health Network***, No. 2:17-cv-1319-TR (E.D. Pa. March 13, 2019).

From **Judge Malachy E. Mannion**, United States District Judge for the U.S. District Court for the Middle District of Pennsylvania:

“At the final approval hearing, class counsel reiterated in detail the arguments set forth in the named plaintiffs’ briefing. ... The court lauded the parties for their extensive work in reaching a settlement the court deemed fair and reasonable.

* * *

“The court is confident that [class counsel] are highly skilled in FLSA collective and hybrid actions, as seen by their dealings with the court and the results achieved in both negotiating and handling the settlement to date.”

Acevedo v. Brightview Landscapes, LLC, No. 3:13-cv-2529, 2017 WL 4354809 (M.D. Pa. Oct. 2, 2017).

From **Judge Joseph F. Bataillon**, United States District Judge for the U.S. District Court for the District of Nebraska:

[P]laintiffs' counsel succeeded in vindicating important rights. ... The court is familiar with "donning and doffing" cases and based on the court's experience, defendant meat packing companies' litigation conduct generally reflects "what can only be described as a deeply-entrenched resistance to changing their compensation practices to comply with the requirements of FLSA." (citation omitted). Plaintiffs' counsel perform a recognized public service in prosecuting these actions as a 'private Attorney General' to protect the rights of underrepresented workers.

The plaintiffs have demonstrated that counsel's services have benefitted the class. ... The fundamental policies of the FLSA were vindicated and the rights of the workers were protected.

Regarding the work of Berger Montague among other co-counsel in ***Morales v. Farmland Foods, Inc.***, No. 8:08-cv-504, 2013 WL 1704722 (D. Neb. Apr. 18, 2013).

From **Judge Jonathan W. Feldman**, United States Magistrate Judge for the U.S. District Court for the Western District of New York:

"The nature of the instant application obliges the Court to make this point clear: In my fifteen years on the bench, no case has been litigated with more skill, tenacity and legal professionalism than this case. The clients, corporate and individual, should be proud of the manner in which their legal interests were brought before and presented to the Court by their lawyers and law firms."

and

"...the Court would be remiss if it did not commend class counsel and all those who worked for firms representing the thousands of current and former employees of Kodak for the outstanding job they did in representing the interests of their clients. For the last several years, lead counsel responsibilities were shared by Shanon Carson Their legal work in an extraordinarily complex case was exemplary, their tireless commitment to seeking justice for their clients was unparalleled and their conduct as officers of the court was beyond reproach."

Employees Committed For Justice v. Eastman Kodak, (W.D.N.Y. 2010) (\$21.4 million settlement).

Other Cases

From **Stephen M. Feiler, Ph.D.**, Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA *on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania*:

“On behalf of the Supreme Court of Pennsylvania and AOPC’s Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years.”

About the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

Our Founding Partner and Attorneys

Founding Partner

David Berger – 1912-2007

David Berger was the founder and the Chairman of Berger Montague. He received his A.B. *cum laude* in 1932 and his LL.B. *cum laude* in 1936, both from the University of Pennsylvania. He was a member of The Order of the Coif and was an editor of the *University of Pennsylvania Law Review*. He had a distinguished scholastic career including being Assistant to Professor Francis H. Bohlen and Dr. William Draper Lewis, Director of the American Law Institute, participating in the drafting of the first Restatement of Torts. He also served as a Special Assistant Dean of the University of Pennsylvania Law School. He was a member of the Board of Overseers of the Law School and Associate Trustee of the University of Pennsylvania. In honor of his many contributions, the Law School established the David Berger Chair of Law for the Improvement of the Administration of Justice.

David Berger was a law clerk for the Pennsylvania Supreme Court. He served as a deputy assistant to Director of Enemy Alien Identification Program of the United States Justice Department during World War II.

Thereafter he was appointed Lt.j.g. in the U.S. Naval Reserve and he served in the South Pacific aboard three aircraft carriers during World War II. He was a survivor of the sinking of the U.S.S. Hornet in the Battle of Santa Cruz, October 26, 1942. After the sinking of the Hornet, Admiral Halsey appointed him a member of his personal staff when the Admiral became Commander of the South Pacific. Mr. Berger was ultimately promoted to Commander. He was awarded the Silver Star and Presidential Unit Citation.

After World War II, he was a law clerk in the United States Court of Appeals. The United States Supreme Court appointed David Berger a member of the committee to draft the Federal Rules of Evidence, the basic evidentiary rules employed in federal courts throughout the United States.

David Berger was a fellow of the American College of Trial Lawyers, the International Society of Barristers, and the International Academy of Trial Lawyers, of which he was a former Dean. He was a Life Member of the Judicial Conference of the Third Circuit and the American Law Institute.

A former Chancellor (President) of the Philadelphia Bar Association, he served on numerous committees of the American Bar Association and was a lecturer and author on various legal subjects, particularly in the areas of antitrust, securities litigation, and evidence.

David Berger served as a member of President John F. Kennedy's committee which designed high speed rail lines between Washington and Boston. He drafted and activated legislation in the Congress of the United States which resulted in the use of federal funds to assure the continuance of freight and passenger lines throughout the United States. When the merger of the Pennsylvania Railroad and the New York Central Railroad, which created the Penn Central Transportation Company, crashed into Chapter 11, David Berger was counsel for Penn Central and a proponent of its reorganization. Through this work, Mr. Berger ensured the survival of the major railroads in the Northeastern section of the United States including Penn Central, New Jersey Central, and others.

Mr. Berger's private practice included clients in London, Paris, Dusseldorf, as well as in Philadelphia, Washington, New York City, Florida, and other parts of the United States. David Berger instituted the first class action in the antitrust field, and for over 30 years he and the Berger firm were lead counsel and/or co-lead counsel in countless class actions brought to successful conclusions, including antitrust, securities, toxic tort and other cases. He served as one of the chief counsel in the litigation surrounding the demise of Drexel Burnham Lambert, in which over \$2.6 billion was recovered for various violations of the securities laws during the 1980s. The recoveries benefitted such federal entities as the FDIC and RTC, as well as thousands of victimized investors.

In addition, Mr. Berger was principal counsel in a case regarding the Three Mile Island accident near Harrisburg, Pennsylvania, achieving the first legal recovery of millions of dollars for economic harm caused by the nation's most serious nuclear accident. As part of the award in the case, David Berger established a committee of internationally renowned scientists to determine the effects on human beings of emissions of low-level radiation.

In addition, as lead counsel in *In re Asbestos School Litigation*, he brought about settlement of this long and vigorously fought action spanning over 13 years for an amount in excess of \$200 million.

David Berger was active in Democratic politics. President Clinton appointed David Berger a member of the United States Holocaust Memorial Council, in which capacity he served from 1994-2004. In addition to his having served for seven years as the chief legal officer of Philadelphia, he was a candidate for District Attorney of Philadelphia, and was a Carter delegate in the Convention which nominated President Carter.

Over his lengthy career David Berger was prominent in a great many philanthropic and charitable enterprises some of which are as follows: He was the Chairman of the David Berger Foundation and a long time honorary member of the National Commission of the Anti-Defamation League. He was on the Board of the Jewish Federation of Philadelphia and, at his last place of residence, Palm Beach, as Honorary Chairman of the American Heart Association, Trustee of the American Cancer Society, a member of the Board of Directors of the American Red Cross, and active in the Jewish Federation of Palm Beach County.

David Berger's principal hobby was tennis, a sport in which he competed for over 60 years. He was a member of the Board of Directors of the International Tennis Hall of Fame and other related organizations for assisting young people in tennis on a world-wide basis.

Firm Chair

Eric L. Cramer – Chairman

Mr. Cramer is Chairman of the Firm and Co-Chair of the Firm's antitrust department. He has a national practice in the field of complex litigation, primarily in the area of antitrust class actions. He is currently co-lead counsel in multiple significant antitrust class actions across the country in a variety of industries and is responsible for winning numerous significant settlements for his clients totaling well over \$3 billion. Most recently, he has focused on representing workers claiming that anticompetitive practices have suppressed their pay, including cases on behalf of mixed-martial-arts fighters, luxury retail workers, and chicken growers.

In 2020, *Law360* named Mr. Cramer a Titan of the Plaintiffs Bar, and *Who's Who Legal* identified him as a Global Elite Thought Leader, stating that he "comes recommended by peers as a top name for antitrust class action proceedings." In 2019, *The National Law Journal* awarded Mr. Cramer the 2019 Keith Givens Visionary Award, which was developed to honor an outstanding trial lawyer who has moved the industry forward through his or her work within the legal industry ecosystem, demonstrating excellence in all aspects of work from client advocacy to peer education and mentoring. In 2018, he was named Philadelphia antitrust "Lawyer of the Year" by *Best Lawyers*, and in 2017, he won the American Antitrust Institute's Antitrust Enforcement Award for Outstanding Antitrust Litigation Achievement in Private Law Practice for his work in *Castro v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.). In that case, Mr. Cramer represented a national class of physicians challenging Sanofi Pasteur with anticompetitive conduct in the market for meningitis vaccines, resulting in a settlement of more than \$60 million for the class. He has also been identified as a top tier antitrust lawyer by *Chambers & Partners* in Pennsylvania and nationally. In 2020, *Chambers & Partners* observed that Mr. Cramer is "a fantastic lawyer...He has real trial experience and is very capable and super smart." He has been highlighted annually since 2011 by *The Legal 500* as one of the country's top lawyers in the field of complex antitrust litigation and repeatedly deemed one of the "Best Lawyers in America," including for 2021. In 2014 and 2018, Mr. Cramer was selected by *Philadelphia Magazine* as one of the top 100 lawyers in Philadelphia.

Mr. Cramer is also a frequent speaker at antitrust and litigation related conferences and a leader of multiple non-profit advocacy groups. He is President of the Board of Directors of Public Justice, a national public interest advocacy group and law firm; a Senior Fellow and Vice President of the Board of Directors of the American Antitrust Institute; a past President of COSAL (Committee to Support the Antitrust Laws), a leading industry group; and a member of the Advisory Board of the Institute of Consumer Antitrust Studies of the Loyola University Chicago School of Law. He was the only Plaintiffs' lawyer selected to serve on the American Bar Association's Antitrust Section Transition Report Task Force delivered to the incoming Obama Administration in 2012.

He has written widely in the fields of class certification and antitrust law. Among other writings, Mr. Cramer has co-authored *Antitrust, Class Certification, and the Politics of Procedure*, 17 George Mason Law Review 4 (2010), which was cited by both the First Circuit in *In re Nexium Antitrust Litig.*, 777 F.3d 9, 27 (1st Cir. 2015), *quoting* Davis & Cramer, 17 Geo. Mason L. Rev. 969, 984-85 (2010), and the Third Circuit in *Behrend v. Comcast Corp.*, 655 F.3d 182, 200, n.10 (3d Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1426 (2013). He has also co-written a number of other pieces, including: *Of Vulnerable Monopolists?: Questionable Innovation in the Standard for Class Certification in Antitrust Cases*, 41 Rutgers Law Journal 355 (2009-2010); *A Questionable New Standard for Class Certification in Antitrust Cases*, published in the ABA's Antitrust Magazine, Vol. 26, No. 1 (Fall 2011); a Chapter of American Antitrust Institute's Private International Enforcement Handbook (2010), entitled "*Who May Pursue a Private Claim?*"; and a chapter of the American Bar Association's Pharmaceutical Industry Handbook (July 2009), entitled "Assessing Market Power in the Prescription Pharmaceutical Industry."

Mr. Cramer is a *summa cum laude* graduate of Princeton University (1989), where he earned membership in *Phi Beta Kappa*. He graduated *cum laude* from Harvard Law School with a J.D. in 1993.

Executive Shareholders

Sherrie R. Savett – Executive Shareholder, Chair *Emeritus*

Sherrie R. Savett, Chair *Emeritus* of the Firm, Co-Chair of the Securities Litigation Department and *Qui Tam*/False Claims Act Department, and member of the Firm's Management Committee, has practiced in the areas of securities litigation, class actions, and commercial litigation since 1975.

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

- ***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.));
- ***In re CIGNA Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.));

- ***In re Fleming Companies, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.));
- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.));
- ***Medaphis/Deloitte & Touche*** (class settlement of \$96.5 million) (No. 1:96-CV-2088-FMH (N.D. GA));
- ***In re Rite Aid Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349) (E.D. Pa.);
- ***In re Sotheby's Holding, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant (No. 00-cv-1041 (DLC) (S.D.N.Y.));
- ***In re Waste Management, Inc. Securities Litigation:*** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash, which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)); and
- ***In re Xcel Inc. Securities, Derivative & "ERISA" Litigation:*** The firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under § 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir. 1996).

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993).

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants' motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

Additionally, Ms. Savett has become increasingly well-known in the area of consumer litigation, achieving a groundbreaking \$24 million settlement in 2008 in the *Menu Foods* case brought by pet owners against manufacturers of allegedly contaminated pet food. (*In re Pet Food Products Liability Litigation*, MDL Docket No. 1850 (D.N.J. 2007).

In the data breach area, she was co-lead counsel in *In re TJX Retail Securities Breach Litigation*, MDL Docket No. 1838 (D. Mass.), the first very large data breach case where hackers stole personal information from 45 million consumers. The settlement, which became the template for future data breach cases, consisted of providing identity theft insurance to those whose social security or driver's license numbers were stolen, a cash fund for actual damages and time spent mitigating the situation, and injunctive relief.

Ms. Savett also litigated a case on behalf of the City of Philadelphia titled *City of Philadelphia v. Wells Fargo & Co.*, No. 17-cv-02203 (E.D. Pa.), involving alleged violations of the Fair Housing Act. The case was resolved in 2019 with a settlement providing \$10 million to go to citizens of Philadelphia for down payment assistance, to local agencies to assist homeowners in foreclosure, and for greening and cleaning foreclosed properties in Philadelphia which blight neighborhoods.

In the past decade, she has also actively worked in the False Claims Act arena. She was part of the team that litigated over more than a decade and settled the Average Wholesale Price *qui tam* cases, which collectively settled for more than \$1 billion.

Ms. Savett speaks and writes frequently on securities litigation, consumer class actions and False Claims Act litigation. She is a lecturer and panelist at the University of Pennsylvania Law School on the subjects of Securities Law and the False Claims Act/*Qui Tam* practice from the whistleblower's perspective. She has also lectured at the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions and on False Claims Act Litigation. She is frequently invited to present and serve as a panelist in American Bar Association, American Law Institute/American Bar Association and Practising Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI's Securities Litigation and Enforcement Institute annually from 1995 to 2010. She has also spoken at major institutional investor and insurance industry conferences, and DRI – the Voice of the Defense Bar. In February 2009, she was a member of a six-person panel who presented an analysis of the current state of securities litigation before more than 1,000 underwriters and insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009, as well as the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Most recently, in April 2019, she spoke as a panelist at PLI's Securities Litigation 2019: From Investigation to Trial program. Her panel was titled "Commencement of a Civil Action: Filing the Complaint, Preparing the Motion to Dismiss, Coordinating Multiple Securities Litigation Actions." Ms. Savett also co-authored an article for the program that was published in PLI's *Corporate Law and Practice Court Handbook Series*. The article is titled "After the Fall—A Plaintiff's Perspective."

In 2015 and 2016, she served as a panelist in American Law Institute programs held in New York City called "Securities and Shareholder Litigation: Cutting-Edge Developments, Planning and Strategy." Ms. Savett also spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled "The Good, The Bad, and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs." The other program focused on consumer class actions in the real estate area and was entitled "The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure."

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

Ms. Savett has written numerous articles on securities and complex litigation issues in professional publications, including:

- "After the Fall – A Plaintiff's Perspective," with Phyllis M. Parker, *PLI Corporate Law and Practice Course Handbook Series No. B-2475*, pg. 73-105, April 2019
- "Plaintiffs' Vision of Securities Litigation: Current Trends and Strategies," 1762 *PLL* October 2009
- "Primary Liability of 'Secondary' Actors Under the PSLRA," I *Securities Litigation Report*, (Glasser) November 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," 1442 *PLI Corp. 13*, September – October 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SJ084 ALI-ABA 399, May 13-14, 2004
- "The 'Indispensable Tool' of Shareholder Suits," *Directors & Boards*, Vol. 28, February 18, 2004
- "Plaintiffs Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case," 679 *PLI*, August 2002
- "Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley From a Plaintiffs Perspective," 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SG091 ALI-ABA, May 2-3, 2002
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SF86 ALI-ABA 1023, May 10, 2001
- "Greetings From the Plaintiffs' Class Action Bar: We'll be Watching," SE082 ALI-ABA739, May 11, 2000
- "Preventing Financial Fraud," B0-00E3 *PLJB0-00E3* April – May 1999
- "Shareholders Class Actions in the Post Reform Act Era," SD79 ALI-ABA 893, April 30, 1999

- “What to Plead and How to Plead the Defendant’s State of Mind in a Federal Securities Class Action,” with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998
- “The Merits Matter Most: Observations on a Changing Landscape Under the Private Securities Litigation Reform Act of 1995,” 39 *Arizona Law Review* 525, 1997
- “Everything David Needs to Know to Battle Goliath,” ABA Tort & Insurance Practice Section, *The Brief*, Vol. 20, No.3, Spring 1991
- “The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy,” *PLIH4-0528*, September 1, 1987
- “Prosecution of Derivative Actions: A Plaintiffs Perspective,” *PLIH4-5003*, September 1, 1986

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

In 2019, *The Legal Intelligencer* named Ms. Savett a “Distinguished Leader,” and in 2018 she was named to the *Philadelphia Business Journal*’s 2018 Best of the Bar: Philadelphia’s Top Lawyers.

The Legal Intelligencer and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005, 2007-2013, and 2015-2016, Berger Montague was named to the *National Law Journal*’s “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” The firm is on the *National Law Journal*’s “Hall of Fame,” and Ms. Savett’s achievements were mentioned in many of these awards.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and/or a “Pennsylvania Super Lawyer” from 2004 through 2021 by Thomson Reuters after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500 Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly*, which stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.” In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

Unquestionably, it is because of Ms. Savett, who for decades has been in the top leadership of the firm, that the firm has a remarkably high proportion of women lawyers and shareholders.

Ms. Savett has aggressively sought to hire women, without regard to age or whether they are “right out of law school.” Several of the women who have children are able to continue working at

the firm because Ms. Savett has instituted a policy of flexible work time and fosters an atmosphere of cooperation, teamwork and mutual respect. As a result, the women attorneys stay on and have long and productive careers while still maintaining a balanced life. Ms. Savett has a personal understanding of the challenges and satisfactions that women experience in practicing law while raising a family. Ms. Savett has three children and five grandchildren. One of her daughters and her daughter-in-law are lawyers.

Ms. Savett has taught those around her more than good lawyering. She places great emphasis in her own life on devotion to family, community service and involvement in charitable organizations. She teaches others by her example and her obvious interest in their efforts and achievements.

Ms. Savett is a well-known leader of the Philadelphia legal, business, cultural and Jewish community. She is an exemplary citizen who spends endless hours of her after-work time helping others in the community.

From 2011 – 2014, Ms. Savett served as President and Board Chair of the Jewish Federation of Greater Philadelphia (JFGP), a community of over 215,000 Jewish people. She is only the third woman to serve as the President, the top lay leader of the Federation, in the 117 years of its existence.

Ms. Savett also serves on the Board of the National Liberty Museum, The National Museum of American Jewish History, and the local and national boards of American Associates of Ben Gurion University of the Negev. She had previously served as Chairperson of the Southeastern Pennsylvania State of Israel Bonds Campaign and has served as a member of the National Cabinet of State of Israel Bonds. In 2005, Ms. Savett received The Spirit of Jerusalem Medallion, the State of Israel Bonds' highest honor.

Ms. Savett has used her positions of leadership in the community to identify and help promote women as volunteer leaders. Ms. Savett has selected a few worthy causes to which she tirelessly dedicates herself. According to leaders of The Jewish Federation of Greater Philadelphia, Ms. Savett is viewed by many women in the philanthropic world as a role model.

Ms. Savett earned her J.D. from the University of Pennsylvania Law School and a B.A. *summa cum laude* from the University of Pennsylvania. She is a member of Phi Beta Kappa.

Ms. Savett has three married children, four grandsons, and two granddaughters. She enjoys tennis, biking, physical training, travel, and collecting art, especially glass and sculpture.

Merrill G. Davidoff – Executive Shareholder, Chair *Emeritus*

Merrill G. Davidoff is Chairman *Emeritus* and an Executive Shareholder, in addition to his continuing work as Co-Chairman of the Antitrust Department and Chairman of the Environmental

Group. Mr. Davidoff has litigated and tried a wide range of antitrust, commodities, securities and environmental class actions.

In *In re Currency Conversion Fee Antitrust Litigation*, MDL No. 1409, Mr. Davidoff was co-lead counsel in class actions that resulted in settlements of \$386 million.

In a long-running environmental class action on behalf of property owners whose land was contaminated by plutonium from a neighboring nuclear weapons facility (Rocky Flats near Denver, Colorado), Mr. Davidoff served as lead counsel and lead trial counsel in a 2005-2006 trial that resulted in a \$554 million jury verdict, third largest of 2006. In 2009 the Rocky Flats trial team, led by Mr. Davidoff, received the prestigious Public Justice Award for "Trial Lawyer of the Year." A 2010 decision by the 10th Circuit Court of Appeals reversed the judgment that had been won in the district court, but Berger Montague persevered and sought entry of judgment under alternative state law grounds. After losing this battle in the district court, plaintiffs appealed to the 10th Circuit again, and, after an appeal argued by Mr. Davidoff, the Court of Appeals (by then-judge, now Justice, Neil Gorsuch) reversed and held that plaintiffs could proceed on state law nuisance grounds. Just before competing petitions for certiorari were to be decided by the Supreme Court, a settlement of \$375 million was announced in May 2016. The settlement received final approval on April 28, 2017.

Mr. Davidoff also concentrates his practice in representation for commodities futures and options traders as well as derivatives matters. He was co-lead counsel for the customer class in *In re MF Global Holdings Limited Investment Litigation*, which settled for well over a billion dollars and resulted in the recovery and return of 100% of lost customer funds after MF Global's October 31, 2011 collapse.

Mr. Davidoff has represented diverse clients, including many companies, sports organizations, trading firms and governmental entities. In the *Qwest* securities litigation, Mr. Davidoff represented New Jersey, securing a \$45 million "opt-out" settlement, and also represented New Jersey in "opt-out" litigation against the former public accounting firm for Lehman Brothers Inc.

Mr. Davidoff served as co-lead and trial counsel for a plaintiff class in the first mass tort class action trial in a federal court which resulted in a precedent-setting settlement for class members, *In re Louisville Explosions Litigation*. In the Canadian Radio-Television and Telecommunications Commission ("CRTC") Decisions (Challenge Communications, Ltd. v. Bell Canada), Mr. Davidoff was lead counsel for Applicant (plaintiff) in three evidentiary hearings before the CRTC. The hearings resulted in the first precedent-breaking Bell Canada's monopoly over the telecommunications equipment which was connected to its telephone network. He was lead counsel in the *Revco Securities Litigation*, an innovative "junk bond" class action, which settled for \$36 million. Mr. Davidoff was lead plaintiffs' counsel and lead trial counsel in *In re Melridge Securities Litigation* tried to jury verdicts for \$88 million (securities fraud) and \$240 million (RICO). He was co-lead counsel for the class in *In re Graphite Electrodes Antitrust Litigation*, an international price-fixing case which yielded settlements ranging from 18% to 32% of the plaintiffs' and class' purchases from the defendants (aggregate settlements totaled \$134 million). He was

one of co-lead counsel in the *Ikon Securities Litigation*, in which a settlement of \$111 million was obtained. He was co-lead counsel and designated lead trial counsel in the *In Re Sunbeam Securities Litigation*, where settlements of \$142 million were reached. One of his areas of concentration is representation in commodities futures and options matters, and expertise in derivatives. He has represented market-makers on the Philadelphia Stock Exchange, where he owned a member firm in the 1990s, as well as broker-dealers and market-makers on other exchanges.

Daniel Berger – Executive Shareholder

Daniel Berger graduated with honors from Princeton University and Columbia Law School, where he was a Harlan Fiske Stone academic scholar. He is a senior member and Executive Shareholder. Over the last two decades, he has been involved in complicated commercial litigation including class action securities, antitrust, consumer protection and bankruptcy cases. In addition, he has prosecuted important environmental, mass tort and civil rights cases during this period. He has led the Firm's practice involving improprieties in the marketing of prescription drugs and the abuse of marketing exclusivities in the pharmaceutical industry, including handling landmark cases involving the suppression of generic competition in the pharmaceutical industry. For this work, he has been recognized by the *Law360* publication as a "titan" of the plaintiffs' Bar ("Titan of the Plaintiffs Bar: Daniel Berger" *Law360*, September 23, 2014).

In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities. He also leads the firm's representation of states and other public bodies and agencies.

Mr. Berger has frequently represented public institutional investors in securities litigation, including representing the state pension funds of Pennsylvania, Ohio and New Jersey in both individual and class action litigation. He also represents Pennsylvania and New Jersey on important environmental litigation involving contamination of groundwater by gasoline manufacturers and marketers.

Mr. Berger has a background in the study of economics, having done graduate level work in applied microeconomics and macroeconomic theory, the business cycle, and economic history. He has published law review articles in the *Yale Law Journal*, the *Duke University Journal of Law and Contemporary Problems*, the *University of San Francisco Law Review* and the *New York Law School Law Review*. Mr. Berger is also an author and journalist who has been published in *The Nation* magazine, reviewed books for *The Philadelphia Inquirer* and authored a number of political blogs, including in *The Huffington Post* and the Roosevelt Institute's *New Deal 2.0*. He has also appeared on MSNBC as a political commentator.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy, and the Philadelphia Cultural Fund, which was responsible for all City grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which

the NEA makes grants. Mr. Berger also serves on the board of the Wilma Theater, Philadelphia's pre-eminent theater for new plays and playwrights.

Shanon J. Carson – Executive Shareholder

Shanon J. Carson is an Executive Shareholder of the firm. He Co-Chairs the Employment & Unpaid Wages, Consumer Protection, Defective Products, and Defective Drugs and Medical Devices Departments and is a member of the Firm's Commercial Litigation, Employee Benefits & ERISA, Environment & Public Health, Insurance Fraud, Predatory Lending and Borrowers' Rights, and Technology, Privacy & Data Breach Departments.

Mr. Carson has achieved the highest peer-review rating, "AV," in Martindale-Hubbell, and has received honors and awards from numerous publications. In 2009, Mr. Carson was selected as one of 30 "Lawyers on the Fast Track" in Pennsylvania under the age of 40. In both 2015 and 2016, Mr. Carson was selected as one of the top 100 lawyers in Pennsylvania, as reported by Thomson Reuters. In 2018, Mr. Carson was named to the *Philadelphia Business Journal's* "2018 Best of the Bar: Philadelphia's Top Lawyers."

Mr. Carson is often retained to represent plaintiffs in employment cases, wage and hour cases for minimum wage violations and unpaid overtime, ERISA cases, consumer cases, insurance cases, construction cases, automobile defect cases, defective drug and medical device cases, product liability cases, breach of contract cases, invasion of privacy cases, false advertising cases, excessive fee cases, and cases involving the violation of state and federal statutes. Mr. Carson represents plaintiffs in all types of litigation including class actions, collective actions, multiple plaintiff litigations, and single plaintiff litigation. Mr. Carson is regularly appointed by federal courts to serve as lead counsel and on executive committees in class actions and mass torts.

Mr. Carson is frequently asked to speak at continuing legal education seminars and other engagements and is active in nonprofit and professional organizations. Mr. Carson currently serves on the Board of Directors of the Philadelphia Trial Lawyers Association (PTLA) and as a Co-Chair of the PTLA Class Action/Mass Tort Committee. Mr. Carson is also a member of the American Association for Justice, the American Bar Foundation, Litigation Counsel of America, the National Trial Lawyers - Top 100, and the Pennsylvania Association for Justice.

While attending the Dickinson School of Law of the Pennsylvania State University, Mr. Carson was senior editor of the Dickinson Law Review and clerked for a U.S. District Court Judge. Mr. Carson currently serves on the Board of Trustees of the Dickinson School of Law of the Pennsylvania State University.

Todd S. Collins – Executive Shareholder

Todd S. Collins has led scores of securities and ERISA litigations over his 38 years at the firm, winning recoveries in the hundreds of millions of dollars on behalf of plaintiffs and the classes

they represent. He chairs the firm's ERISA practice, and he serves on the firm's Executive Committee and as the firm's Chief Counsel. Mr. Collins, a graduate of the University of Pennsylvania Law School, won the 1978 Henry C. Laughlin Prize for Legal Ethics.

Mr. Collins has served as lead counsel or co-lead counsel in numerous cases that have achieved significant benefits on behalf of the Class. These cases include: *In re AMF Bowling Securities Litigation* (S.D.N.Y.) (\$20 million recovery, principally against investment banks, where defendants asserted that Class suffered no damages); *In re Aero Systems, Inc. Securities Litigation* (S.D. Fla.) (settlement equal to 90 percent or more of Class members' estimated damages); *Price v. Wilmington Trust Co.* (Del. Ch.) (in litigation against bank trustee for breach of fiduciary duty, settlement equal to 70% of the losses of the Class of trust beneficiaries); *In re Telematics International, Inc. Securities Litigation* (S.D. Fla.) (settlements achieved, after extensive litigation, following 11th Circuit reversal of dismissal below); *In re Ex-Cell-O Securities Litigation* (E.D. Mich.); *In re Sequoia Systems, Inc.* (D. Mass.); *In re Sapiens International, Inc. Securities Litigation* (S.D.N.Y.); *In re Datastream Securities Litigation* (D.S.C.); *Copland v. Tolson* (Pa. Common Pleas) (on eve of trial, in case against corporate principals for breach of fiduciary duty, settlement reached that represented 65% or more of claimants' losses, with settlement funded entirely from individual defendants' personal funds); and *In re IKON Office Solutions, Inc. Securities Litigation* (E.D. Pa.). In *IKON*, where Mr. Collins was co-lead counsel as well as the chief spokesman for plaintiffs and the Class before the Court, plaintiffs' counsel created a fund of \$111 million for the benefit of the Class.

In addition, Mr. Collins has served as lead or co-lead counsel in several of the leading cases asserting the ERISA rights of 401(k) plan participants. Mr. Collins has served as co-lead counsel in *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.); *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.); *In re SPX Corporation ERISA Litigation* (W.D. N.C.); and *King v. Wal-Mart Stores, Inc.* (D. Nev.). In *Lucent*, Mr. Collins and his team achieved a settlement consisting of \$69 million for the benefit of plan participants, as well as substantial injunctive relief with respect to the operation of the 401(k) plans.

Mr. Collins is at the forefront of litigation designed to achieve meaningful corporate governance reform. Recently, he brought to a successful conclusion two landmark cases in which corporate therapeutics are at the core of the relief obtained. In *Oorbeek v. FPL Group, Inc.* (S.D. Fla.), a corporate derivative action brought on behalf of the shareholders of FPL Group, plaintiffs challenged excessive "change of control" payments made to top executives. In the settlement, plaintiffs recovered not only a substantial cash amount but also a range of improvements in FPL's corporate governance structure intended to promote the independence of the outside directors.

Similarly, in *Ashworth Securities Litigation* (S.D. Cal.), a Section 10(b) fraud case, in which Mr. Collins was co-lead counsel, plaintiffs again have been successful in recovering millions of dollars and also securing important governance changes. In this case, the changes focused on strengthening the accounting function and improving revenue recognition practices.

In corporate acquisition cases, Mr. Collins has served as co-lead counsel in cases such as *In re Portec Rail Products, Inc. Shareholders Litig.* (C.P. Allegheny County, Pennsylvania) (tender offer enjoined), *Silberman v. USANA Health Sciences, Inc. et. al.* (D. Utah) (offer enjoined on plaintiffs' motion).

Michael Dell'Angelo – Executive Shareholder

Michael Dell'Angelo is an Executive Shareholder in the Antitrust, Commercial Litigation, Commodities & Financial Instruments practice groups and Co-Chair of the Securities department. He serves as co-lead counsel in a variety of complex antitrust cases, including *Le, et al. v. Zuffa, LLC*, No. 15-1045 (D. Nev.) (alleging the Ultimate Fighting Championship (“UFC”) obtained illegal monopoly power of the market for Mixed Martial Arts promotions and suppressed the compensation of MMA fighters).

Mr. Dell'Angelo is responsible for winning numerous significant settlements for his clients and class members. Most recently, as co-lead counsel, Mr. Dell'Angelo helped to reach settlements totaling more than \$190 million in the multidistrict litigation *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437 (E.D. Pa.). There, in granting final approval to the last settlement, the court observed about Mr. Dell'Angelo and his colleagues that “Plaintiffs’ counsel are experienced antitrust lawyers who have been working in this field of law for many years and have brought with them a sophisticated and highly professional approach to gathering persuasive evidence on the topic of price-fixing.” *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, at *18 (E.D. Pa. July 17, 2018). “[I]t bears repeating,” the court emphasized, “that the result attained is directly attributable to having highly skilled and experienced lawyers represent the class in these cases.” *Id.*

Mr. Dell'Angelo also serves or has recently served as co-lead counsel or class counsel in numerous cases alleging price-fixing or other wrongdoing affecting a variety of financial instruments, including *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litig.*, 1:14-MD-2548-VEC (S.D.N.Y.) (\$102 million settlement pending approval; litigation is ongoing as to the remaining defendants); *In re Platinum and Palladium Antitrust Litig.*, No. 14-cv-09391-GHW (S.D.N.Y.); *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.) (\$23.6 million in settlements); *In re Libor-Based Financial Instruments Antitrust Litig.*, No. 11-md-2262 (S.D.N.Y.) (\$187 million in settlements pending final approval); *Alaska Elec. Pension Fund, et al. v. Bank of Am. Corp., et al.*, No. 14 Civ. 7126-JMF (S.D.N.Y.) (\$504.5 million in settlements); *In re Crude Oil Commodity Futures Litig.*, No. 11-cv-3600 (S.D.N.Y.); and *In re London Silver Fixing, Ltd. Antitrust Litig.*, No. 14-md-2573 (S.D.N.Y.) (\$38 million settlement pending approval; litigation is ongoing as to the remaining defendants).

Mr. Dell'Angelo also serves as lead counsel in numerous individual antitrust cases on behalf of purchasers of rail freight services from the four major rail carriers in the United States.

The National Law Journal featured Mr. Dell'Angelo in its profile of Berger Montague for a special annual report entitled “Plaintiffs’ Hot List.” *The National Law Journal's* Hot List identifies the top

plaintiff practices in the country. The Hot List profile focused on Mr. Dell'Angelo's role in the MF Global litigation (*In re MF Global Holding Ltd. Inv. Litig.*, No. 12-MD-2338-VM (S.D.N.Y.)). In *MF Global*, Mr. Dell'Angelo represented former commodity account holders seeking to recover approximately \$1.6 billion of secured customer funds after the highly publicized collapse of MF Global, a major commodities brokerage. At the outset of this high-risk litigation, the odds appeared grim: MF Global had declared bankruptcy, leaving the corporate officers, a bank, and a commodity exchange as the only prospect for the recovery of class's misappropriated funds. Nonetheless, four years later, a result few would have believed possible was achieved. Through a series of settlements, the former commodity account holders recovered more than 100 percent of their missing funds, totaling over \$1.6 billion.

Mr. Dell'Angelo has been recognized consistently as a Pennsylvania Super Lawyer, a distinction conferred upon him annually since 2007. He is regularly invited to speak at Continuing Legal Education (CLE) and other seminars and conferences, both locally and abroad. In response to his recent CLE, "How to Deal with the Rambo Litigator," Mr. Dell'Angelo was singled out as "One of the best CLE speakers [attendees] have had the pleasure to see."

E. Michelle Drake – Executive Shareholder

E. Michelle Drake is an Executive Shareholder in the Firm's Minneapolis office. With career settlements and verdicts valued at more than \$150 million, Michelle has had great success in a wide variety of cases.

Michelle focuses her practice primarily on consumer protection, improper credit reporting, and financial services class actions. Michelle is empathetic towards her clients and unyielding in her desire to win. Possessing a rare combination of an elite academic pedigree and real-world trial skills, Michelle has successfully gone toe-to-toe with some of the world's most powerful companies.

Michelle helped achieve one of the largest class action settlements in a case involving improper mortgage servicing practices associated with force-placed insurance, resulting in a settlement valued at \$110 million for a nationwide class of borrowers who were improperly force-placed with overpriced insurance. Michelle also served as liaison counsel and part of the Plaintiffs' Steering Committee on behalf of consumers harmed in the Target data breach, a case she helped successfully resolve on behalf of over ninety million consumers whose data was affected by the breach. In 2015, Michelle resolved a federal class action on behalf of a group of adult entertainers in New York for \$15 million. Most recently, Michelle has been successful in litigating numerous cases protecting consumers' federal privacy rights under the Fair Credit Reporting Act, securing settlements valued at over \$10 million on behalf of tens of thousands of consumers harmed by improper background checks and inaccurate credit reports in the last two years alone.

Michelle was admitted to the bar in 2001 and has since served as lead class counsel in over fifty class and collective actions alleging violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Fair Labor Standards Act, various states' unfair and deceptive trade

practices acts, breach of contract and numerous other pro-consumer and pro-employee causes of action.

Michelle serves on the Board of the National Association of Consumer Advocates, is a member of the Partner's Council of the National Consumer Law Center, and is an At-Large Council Member for the Consumer Litigation Section for the Minnesota State Bar Association. She was named as a Super Lawyer in 2013-2018 and was named as a Rising Star prior to that. Michelle was also appointed to the Federal Practice Committee in 2010 by the United States District Court for the District of Minnesota. She has been quoted in the New York Times and the National Law Journal, and her cases were named as "Lawsuits of the Year" by Minnesota Law & Politics in both 2008 and 2009.

Michelle began her practice of law by defending high stakes criminal cases as a public defender in Atlanta. Michelle has never lost her desire to litigate on the side of the "little guy."

David F. Sorensen – Executive Shareholder

David Sorensen is an Executive Shareholder and Co-Chair of the Firm's antitrust department. He graduated from Duke University (A.B. 1983) and Yale Law School (J.D. 1989), and clerked for the Hon. Norma L. Shapiro (E.D. Pa.). He concentrates his practice on antitrust and environmental class actions.

Mr. Sorensen co-tried *Cook v. Rockwell Int'l Corp.*, No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Mr. Sorensen played a major role in the Firm's representation of the State of Connecticut in *State of Connecticut v. Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion (excluding interest) from certain manufacturers of tobacco products. And he served as co-lead class counsel in *Johnson v. AzHHA, et al.*, No. 07-1292 (D. Ariz.), representing a class of temporary nursing personnel who had been underpaid because of an alleged conspiracy among Arizona hospitals. The case settled for \$24 million.

Mr. Sorensen also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of

the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *King Drug Co. v. Cephalon, Inc.*, (E.D. Pa.) (\$512 million partial settlement); *In re: Aggrenox Antitrust Litigation* (\$146 million settlement); *In re Loestrin 24 Fe Antitrust Litigation* (\$120 million); *In re: K-Dur Antitrust Litigation* (\$60.2 million); *In re: Prandin Direct Purchaser Antitrust Litigation* (\$19 million); *In re: Doryx Antitrust Litigation* (\$15 million); *In re: Skelaxin Antitrust Litigation* (\$73 million); *In re: Wellbutrin XL Antitrust Litigation* (\$37.50 million); *In re: Oxycontin Antitrust Litigation* (\$16 million); *In re: DDAVP Direct Purchaser Antitrust Litigation* (\$20.25 million settlement following precedent-setting victory in the Second Circuit, which Mr. Sorensen argued, see 585 F.3d 677 (2d Cir. 2009)); *In re: Nifedipine Antitrust Litigation* (\$35 million); *In re: Terazosin Hydrochloride Antitrust Litigation*, MDL 1317 (S.D. Fla.) (\$74.5 million); and *In re: Remeron Antitrust Litigation* (\$75 million). Mr. Sorensen is serving as co-lead counsel or on the executive committee of numerous similar, pending cases.

In 2017, the American Antitrust Institute presented its Antitrust Enforcement Award to Mr. Sorensen and others for their work on the *K-Dur* case. In 2019, Mr. Sorensen and others were recognized again by the AAI for their work on the *King Drug* case, being awarded the Outstanding Antitrust Litigation Achievement in Private Law Practice. Mr. Sorensen and his team received the same award in 2020 for their work on the *Namenda* case. Also in 2020, *Law360* named Mr. Sorensen a Competition MVP of the Year.

Shareholders

Glen L. Abramson – Shareholder

Glen L. Abramson is a Shareholder in the Philadelphia office. He concentrates his practice on complex consumer protection, product defects, and financial services litigation, and representing public and private institutional investors in securities fraud class actions and commercial litigation.

Mr. Abramson has served as co-lead counsel in numerous successful consumer protection and securities fraud class actions, including:

Casey v. Citibank, N.A., No. 5:12-cv-00820 (N.D.N.Y.). As Co-Lead Counsel, Mr. Abramson obtained a settlement valued at \$110 million in this consolidated class action on behalf of nationwide classes of borrowers whose mortgage loans were serviced by Citibank or CitiMortgage and who were force-placed with hazard, flood or wind insurance.

In re Oppenheimer Rochester Funds Group Securities Litigation, No. 09-md-02063-JLK-KMT (D. Colo.). As Co-Lead Counsel, Mr. Abramson represented shareholders in Oppenheimer municipal bond funds in connection with losses suffered during the financial crisis of 2008. The case settled in 2014 for \$89.5 million.

In re Tremont, Securities Law, State Law, and Insurance Litig., No. 1:08-cv-11117-TPG. Mr. Abramson represented insurance policyholders who lost money in connection with the Madoff Ponzi scheme. The combined cases were settled for more than \$100 million.

In re Mutual Fund Investment Litig., No. 04-md-15861-CCB. As Co-Lead Counsel, Mr. Abramson represented shareholders of various mutual fund families who lost money as the result of market timing in mutual funds. Mr. Abramson was lead counsel for Scudder/Deutsche Bank mutual fund shareholders and helped orchestrate combined settlements of more than \$14 million.

In re Fleming Companies, Inc. Sec. Litig., No. 03-md-1530 (E.D. Tex.). As Co-Lead Counsel, Mr. Abramson represented shareholders of Fleming Companies, Inc. in connection with losses suffered as a result of securities fraud by Fleming and its auditors and underwriters. The case resulted in a \$93.5 million settlement.

Prior to joining Berger Montague, Mr. Abramson practiced at Dechert LLP in Philadelphia, where he handled complex commercial litigation, product liability, intellectual property, and civil rights disputes. While at Dechert, Mr. Abramson co-chaired a civil rights trial in federal court that led to a six-figure verdict. Mr. Abramson also spent three years as a professional equities trader.

Mr. Abramson is a graduate of Cornell University (B.A. *with distinction* 1993) and Harvard Law School (*cum laude* 1996). He is a past member of the Harvard Legal Aid Bureau and is a member of Cornell University's Phi Beta Kappa honors society.

John G. Albanese – Shareholder

John Albanese is a Shareholder in the Minneapolis office. Mr. Albanese concentrates his practice on consumer protection with a focus on Fair Credit Reporting Act violations related to criminal background checks. Mr. Albanese has also prosecuted class actions related to illegal online lending, unfair debt collection, privacy breaches, and other consumer law issues. Mr. Albanese is regularly invited to speak on consumer law and litigation issues. Mr. Albanese has obtained favorable decisions for consumers in state and federal courts all over the country. He also frequently represents consumer advocacy groups as *amici curiae* at the appellate level.

Mr. Albanese is a graduate of Columbia Law School and Georgetown University. At Columbia, he was a managing editor of the Columbia Law Review and was elected to speak at graduation by his classmates. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois.

Zachary D. Caplan – Shareholder

Zach Caplan concentrates his practice on complex civil litigation and investigations. He has significant experience with antitrust, class action, financial, and healthcare matters.

Mr. Caplan is fluent in all phases of litigation including strategy development, drafting all sorts of briefs and motions, negotiations with opposing counsel, depositions, managing experts, working with government enforcers, settlement/mediation, and trial. He has navigated a variety of

individual and corporate clients through difficult legal, factual, and regulatory issues in high-stakes matters.

In addition to his case work, Mr. Caplan is particularly knowledgeable concerning eDiscovery and data privacy. He serves as the firm's subject matter expert in these areas. In this role, he distills legal and technology jargon to provide practical counsel to clients and litigation teams in all practice areas. He also provides guidance on overseeing outside vendors and conducts training programs for the firm.

Joy P. Clairmont – Shareholder

Joy Clairmont is a Shareholder in the Whistleblower, *Qui Tam* & False Claims Act Group, which has recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Ms. Clairmont also has experience practicing in the area of securities fraud litigation.

Ms. Clairmont has been investigating and litigating whistleblower cases for over fifteen years and has successfully represented whistleblower clients in federal and state courts throughout the United States. On behalf of her whistleblower clients, Ms. Clairmont has pursued fraud cases involving a diverse array of companies: behavioral health facilities, a national retail pharmacy chain, a research institution, pharmaceutical manufacturers, skilled nursing facilities, a national dental chain, mortgage lenders, hospitals and medical device manufacturers.

Most notably, Ms. Clairmont has participated in several significant and groundbreaking cases involving fraudulent drug pricing:

United States ex rel. Streck v. AstraZeneca, LP, et al., C.A. No. 08-5135 (E.D. Pa.): a Medicaid rebate fraud case which settled in 2015 for a total of \$55.5 million against three pharmaceutical manufacturers, AstraZeneca, Cephalon, and Biogen. The case alleged that the defendants did not properly account for millions of dollars of payments to wholesalers for drug distribution and other services. As a result, the defendants underpaid the government in rebates owed under the Medicaid Drug Rebate Program.

United States ex rel. Kieff and LaCorte v. Wyeth and Pfizer, Inc., Nos. 03-12366 and 06-11724-DPW (D. Mass.): a Medicaid rebate fraud case involving Wyeth's acid-reflux drug, Protonix, which settled for \$784.6 million in April 2016.

"AWP" Cases: a series of cases in federal and state courts against many of the largest pharmaceutical manufacturers, including Bristol-Myers Squibb, Boehringer Ingelheim, and GlaxoSmithKline, for defrauding the government through false and inflated price reports for their drugs, which resulted in more than \$2 billion in recoveries for the government.

Earlier in her career, Ms. Clairmont gained experience litigating securities fraud class actions including, most notably, *In Re Sunbeam Securities Litigation*, a class action which led to the recovery of over \$142 million for the class of plaintiffs in 2002.

Ms. Clairmont graduated in 1995 with a B.A. *cum laude* from George Washington University and in 1998 with a J.D. from George Washington University Law School.

Caitlin G. Coslett – Shareholder

Caitlin G. Coslett is a Co-Chair of the firm's Antitrust Department. She concentrates her practice on complex litigation, including antitrust and mass tort litigation.

Ms. Coslett represents classes of direct purchasers of pharmaceutical drugs who allege that drug manufacturers have violated federal antitrust law by wrongfully keeping less-expensive generic drugs off the market and/or by wrongfully impeding generic competition. Her work on generic suppression cases has contributed to significant settlements totaling hundreds of millions of dollars, including in the cases of *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation* (for which Ms. Coslett served as Co-Lead Counsel), *In re Lidoderm Antitrust Litigation*, and *In re Skelaxin (Metaxalone) Antitrust Litigation*. Ms. Coslett is currently litigating several similar antitrust pharmaceutical cases, such as *In re Effexor XR Antitrust Litigation*, *In re Bystolic Antitrust Litigation*, *In re Intuniv Antitrust Litigation*, *In re Lamictal Antitrust Litigation*, *In re Novartis and Par Antitrust Litigation*, *In re Opana ER Antitrust Litigation*, and *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*. She was honored for "Outstanding Antitrust Litigation Achievement by a Young Lawyer" for her work in *In re Lidoderm Antitrust Litigation*.

Ms. Coslett's experience litigating antitrust class actions also includes *In re CRT Antitrust Litigation*, *In re Domestic Drywall Antitrust Litigation*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, *In re Steel Antitrust Litigation*, and *In re Urethane [Polyether Polyols] Antitrust Litigation*.

Ms. Coslett also played a significant role in the post-trial litigation in *Cook v. Rockwell International Corporation*, a mass tort class action brought on behalf of thousands of property owners near the Rocky Flats nuclear plant in Colorado. The case settled for \$375 million following a successful appeal to the Tenth Circuit and, in ruling for the plaintiffs on appeal, then-Judge Neil Gorsuch (who is now a Supreme Court Justice) praised Class Counsel's successful "judicial jiu jitsu" in litigating the case through the second appeal.

Ms. Coslett was named a "Next Generation Lawyer" by *The Legal 500 United States 2019* in the Civil Litigation/Class Actions: Plaintiff category and was selected as a Rising Star by Super Lawyers every year from 2014 – 2021. She has served as pro bono counsel for clients referred by the AIDS Law Project of Pennsylvania and Philly VIP and is a member of the National LGBT Bar Association.

A Philadelphia native, Ms. Coslett graduated *magna cum laude* from Haverford College with a B.S. in mathematics and economics and graduated *cum laude* from New York University School of Law. At NYU Law, Ms. Coslett was a Lederman/Milbank Fellow in Law and Economics and an articles selection editor for the NYU Review of Law and Social Change. Prior to law school, she was an economics research assistant at the Federal Reserve Board in Washington, D.C. Ms. Coslett was formerly one of the top 75 rated female chess players in the U.S.

Andrew C. Curley – Shareholder

Andrew C. Curley is a Shareholder in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Curley served as Co-Lead Class Counsel on behalf of a class of independent truck stops and other retail merchants in *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, Case No. 07-1078 (E.D. Pa.). The *Marchbanks* litigation settled in January 2014 for \$130 million and significant prospective relief in the form of, among other things, meaningful and enforceable commitments by the largest over-the-road trucker fleet card issuer in the United States to modify or not to enforce those portions of its merchant services agreements that plaintiffs challenged as anticompetitive, and that an expert economist has determined to be worth an additional \$260 million to \$491 million (bringing the total value of the settlement to between \$390 and \$621 million).

Mr. Curley is also involved in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Those cases include: *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (\$76 million settlements); and *In re Aggrenox Antitrust Litig.*, No. 3:14-md-02516 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-MD-2343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litig.*, No. 08-2431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Opana ER Antitrust Litig.*, No. 14-cv-10150 (N.D. Ill.) and *In re Niaspan Antitrust Litig.*, No. 12-MD-2460 (E.D. Pa.).

Prior to joining the firm, Mr. Curley practiced in the litigation department of a large Philadelphia law firm where he represented clients in a variety of industries in complex commercial litigation in both state and federal court.

Josh P. Davis – Shareholder

Josh supervises the Firm's San Francisco Bay Area Office. He focuses his practice on antitrust, appeals, class certification, and class action and complex litigation ethics. He is one of the leading scholars in the nation on antitrust procedure, class certification, and ethics in class actions and complex litigation.

Josh is currently a Research Professor at the University of California, Hastings College of the Law, where he is associated with the Center for Litigation and Courts, and the Director of the Center for Law and Ethics at the University of San Francisco School of Law. He has also taught at the Willamette University College of Law and the Georgetown University Law Center. He has testified before Congress on matters related to civil procedure and presented on matters related to private antitrust enforcement before the U.S. Department of Justice and the Federal Trade Commission.

Josh received a CLAY California Attorney of the Year Award in Antitrust in 2016. His law review article, "Defying Conventional Wisdom: The Case for Private Antitrust Enforcement," 48 Ga. L. Rev. 1 (2013), won the 2014 award for best academic article from George Washington University School of Law and Institute on Competition Law. His scholarship has been cited by multiple federal appellate and trial courts. He has published dozens of articles and book chapters on antitrust, civil procedure, class certification, legal ethics, and legal philosophy, among other topics. He regularly presents throughout the country and the world at scholarly and professional conferences and symposia on aggregate litigation, civil procedure, and ethics. Recently, he has written various articles and book chapters on artificial intelligence (AI) and the law and is completing his first book, "Unnatural Law: AI, Consciousness, Ethics, and Legal Theory" (forthcoming in Cambridge University Press 2022/23).

Josh graduated from N.Y.U. School of Law in 1993, where he won the Frank H. Sommer Memorial Award for top general scholarship and achievement in his class, served as the Articles Editor for the N.Y.U. Law Review, and was admitted to the Order of the Coif. After law school, he was a law clerk for Patrick E. Higginbotham of the U.S. Court of Appeals for the Fifth Circuit. He was a partner at Lieff, Cabraser, Heimann & Bernstein, LLP, until 2000, when he entered full-time legal academia until joining the Firm in 2022.

Lawrence Deutsch – Shareholder

Mr. Deutsch has been involved in numerous major shareholder class action cases. He served as lead counsel in the Delaware Chancery Court on behalf of shareholders in a corporate governance litigation concerning the rights and valuation of their shareholdings. Defendants in the case were the Philadelphia Stock Exchange, the Exchange's Board of Trustees, and six major Wall Street investment firms. The case settled for \$99 million and also included significant corporate governance provisions. Chancellor Chandler, when approving the settlement allocation and fee awards on July 2, 2008, complimented counsel's effort and results, stating, "Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class." The Chancellor had previously described the intensity of the litigation when he had approved the settlement, "All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong like they have gone at it in this case."

Mr. Deutsch was one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al.* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768) resulting in an \$8 million judgment against the directors and officers of the company for breach of fiduciary duty.

Over his 25 years working in securities litigation, Mr. Deutsch has been a lead attorney on many substantial matters. Mr. Deutsch served as one of lead counsel in the *In Re Sunbeam Securities Litigation* class action concerning "Chainsaw" Al Dunlap (recovery of over \$142 million for the class in 2002). As counsel on behalf of the City of Philadelphia he served on the Executive Committee for the securities litigation regarding *Frank A. Dusek, et al. v. Mattel Inc., et al.* (recovery of \$122 million for the class in 2006).

Mr. Deutsch served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide *Mutual Funds Market Timing* cases. Mr. Deutsch served on the Plaintiffs' Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to "market time" and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

Mr. Deutsch has been court-appointed Lead or a primary attorney in numerous complex litigation cases: *NECA-IBEW Pension Trust Fund, et al. v. Precision Castparts Corp., et al.* (Civil Case No. 3:16-cv-01756-YY); *Fox et al. v. Prime Group Realty Trust, et al.* United States District Court Northern District of Illinois (Civil Case No. 1:12-cv-09350) (\$8.25 million settlement pending); served as court-appointed lead counsel in *In Re Inergy LP Unitholder Litigation* (Del. Ch. No. 5816-VCP) (\$8 million settlement).

Mr. Deutsch served on a team of lead counsel in *In Re: CertainTeed Fiber Cement Siding Litigation*, E.D.Pa. MDL NO. 11-2270 (\$103.9 million settlement); *Tim George v. Uponor, Inc., et al.*, United States District Court, District of Minnesota, Case No. 12-CV-249 (ADM/JJK) (\$21 million settlement); *Batista, et al. v. Nissan North America, Inc.*, United States District Court, Southern District of Florida, Miami Division, Case No 1:14-cv-24728 (settlement valued at \$65,335,970.00).

In addition to his litigation work, Mr. Deutsch has been a member of the firm's Executive Committee and also manages the firm's paralegals. He has also regularly represented indigent parties through the Bar Association's VIP Program, including the Bar's highly acclaimed representation of homeowners facing mortgage foreclosure.

Prior to joining the firm, Mr. Deutsch served in the Peace Corps from 1973-1976, serving in Costa Rica, the Dominican Republic, and Belize. He then worked for ten years at the United States General Services Administration.

Mr. Deutsch is a graduate of Boston University (B.A. 1973), George Washington University's School of Government and Business Administration (M.S.A. 1979), and Temple University's School of Law (J.D. 1985). He became a member of the Pennsylvania Bar in 1986 and the New Jersey Bar in 1987. He has also been admitted to practice in Eastern District of Pennsylvania, the First Circuit Court of Appeals, the Second Circuit Court of Appeals, the Third Circuit Court of Appeals, the Fourth Circuit Court of Appeals, Eleventh Circuit Court of Appeals and the U.S. Court of Federal Claims as well as various jurisdictions across the country for specific cases.

Candice J. Enders – Shareholder

Candice J. Enders is a Shareholder in the Antitrust practice group. She concentrates her practice in complex antitrust litigation.

Ms. Enders has significant experience investigating and developing antitrust cases, navigating complex legal and factual issues, negotiating discovery, designing large-scale document reviews,

synthesizing and distilling conspiracy evidence, and working with economic experts to develop models of antitrust impact and damages. Her work on antitrust conspiracy cases has contributed to significant settlements totaling hundreds of millions of dollars, including in *In re Domestic Drywall Antitrust Litigation*, No. 13-2437 (E.D. Pa.) (\$190 million in total settlements); *In re Commodity Exchange, Inc. Gold Futures & Options Trading Litigation*, No. 14-2548 (S.D.N.Y.) (\$60 million settlement with Deutsche Bank preliminarily approved; preliminary approval of \$42 million settlement with Defendant HSBC pending; litigation continuing against remaining defendants); *In re Microcrystalline Cellulose Antitrust Litigation*, No. 01-111 (E.D. Pa.) (\$50 million settlement achieved shortly before trial).

In addition to her case work, Ms. Enders contributes to the administration of the firm by serving as the firm's Attorney Recruitment Coordinator, Paralegal Coordinator, and a member of the Diversity, Equity & Inclusion Task Force.

Michael T. Fantini – Shareholder

Michael T. Fantini is a Shareholder in the Consumer Protection and Commercial Litigation practice groups. Mr. Fantini concentrates his practice on consumer class action litigation.

Mr. Fantini has considerable experience in notable consumer cases such as: *In re TJX Companies Retail Security Breach Litigation*, Master Docket No. 07-10162 (D. Mass) (class action brought on behalf of persons whose personal and financial data were compromised in the largest computer theft of personal data in history - settled for various benefits valued at over \$200 million); *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grade 7-12 Litigation*, MDL No. 1643 (E.D. La. 2006) (settlement of \$11.1 million on behalf of persons who were incorrectly scored on a teachers' licensing exam); *Block v. McDonald's Corporation*, No: 01CH9137 (Cir. Ct. Of Cook County, Ill.) (settlement of \$12.5 million where McDonald's failed to disclose beef fat in french fries); *Fitz, Inc. v. Ralph Wilson Plastics Co.*, No. 1-94-CV-06017 (D. N.J.) (claims-made settlement whereby fabricators fully recovered their losses resulting from defective contact adhesives); *Parker v. American Isuzu Motors, Inc.*; No: 3476 (CCP, Philadelphia County) (claims-made settlement whereby class members recovered \$500 each for their economic damages caused by faulty brakes); *Crawford v. Philadelphia Hotel Operating Co.*, No: 04030070 (CCP Phila. Cty. 2005) (claims-made settlement whereby persons with food poisoning recovered \$1,500 each); *Melfi v. The Coca-Cola Company* (settlement reached in case involving alleged misleading advertising of Enviga drink); *Vaughn v. L.A. Fitness International LLC*, No. 10-cv-2326 (E.D. Pa.) (claims made settlement in class action relating to failure to cancel gym memberships and improper billing); *In re Chickie's & Pete's Wage and Hour Litigation*, Master File No. 12-cv-6820 (E.D. Pa.) (settled class action relating to failure to pay proper wage and overtime under FLSA).

Notable security fraud cases in which Mr. Fantini was principally involved include: *In re PSINet Securities Litigation*, No: 00-1850-A (E.D. Va.) (settlement in excess of \$17 million); *Ahearn v. Credit Suisse First Boston, LLC*, No: 03-10956 (D. Mass.) (settlement of \$8 million); and *In re Nesco Securities Litigation*, 4:01-CV-0827 (N.D. Okla.).

Mr. Fantini has represented the City of Chicago in an action against certain online travel companies, such as Expedia, Hotels.com, and others, for their alleged failure to pay hotel taxes. He also represented the City of Philadelphia in a similar matter.

Prior to joining the firm, Mr. Fantini was a litigation associate with Dechert LLP. At George Washington University Law School, he was a member of the Moot Court Board. From 2017 - 2021, Mr. Fantini was named a Pennsylvania Super Lawyer by Thomson Reuters.

Michael J. Kane – Shareholder

Michael J. Kane, a Shareholder of the firm, is a graduate of Rutgers University and Ohio Northern University School of Law, with distinction, where he was a member of the Law Review. Mr. Kane is admitted to practice in Pennsylvania and various federal courts.

Mr. Kane joined the antitrust practice in 2005. Prior to joining the firm, Mr. Kane was affiliated with Mager, White & Goldstein, LLP where he represented clients in complex commercial litigation involving alleged unlawful business practices including: violations of federal and state antitrust and securities laws, breach of contract and other unfair and deceptive trade practices. Mr. Kane has extensive experience working with experts on economic issues in antitrust cases, including impact and damages. Mr. Kane has served in prominent roles in high profile antitrust, securities, and unfair trade practice cases filed in courts around the country.

Currently, Mr. Kane is one the lead attorneys actively litigating and participating in all aspects of the *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) alleging, *inter alia*, that certain of Visa and MasterCard rules, including anti-steering restraints and default interchange fees, working in tandem have caused artificially inflated interchange fees paid by Merchants on credit and debit card transactions. After over a decade of litigation, a settlement of as much as \$6.24 billion and no less than \$5.54 billion was preliminary approved in January 2019. He is also one of the lead counsel in *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.) alleging a conspiracy among horizontal competitors to fix the prices of foreign currencies and certain foreign currency instruments to recover damages caused by defendants on behalf of plaintiffs and members of a proposed class of indirect purchasers of FX instruments from defendants.

Mr. Kane was also one of the lead lawyers in *Castro v. Sanofi Pasteur, Inc.*, No. 2:11-cv-07178-JMV-MAH (D.N.J.), a certified class action of over 26,000 physician practices, other healthcare providers, and vaccine distributors direct purchasers, alleging that defendant Sanofi engaged in anticompetitive conduct to maintain its monopoly in the market for MCV4 vaccines resulting in artificially inflated prices for Sanofi's MCV4 vaccine Menactra and the MCV4 vaccine Menveo. In October 2017 the court granted final approval the \$61.5 million settlement.

Mr. Kane also had a leading role in *Ross v. American Express Company* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied). In the related matter *Ross v. Bank of America* (S.D.N.Y.) involving claims that the defendant banks and American Express unlawfully acted in concert to require cardholders to

arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions, Mr. Kane was one of the primary trial counsel in the five week bench trial. Mr. Kane also has had a prominent role in several antitrust cases against pharmaceutical companies challenging so-called pay for delay agreements wherein the brand drug company allegedly seeks to delay competition from generic equivalents to the brand drug through payments by the brand drug company to the generic drug company. Mr. Kane served as co-lead counsel in *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct., Middlesex Cty.), in which plaintiffs alleged that as a result of Microsoft Corporation's anticompetitive practices, Massachusetts consumers paid more than they should have for Microsoft's operating systems and software. The case was settled for \$34 million. Other cases in which Mr. Kane has had a prominent role include: *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.) (settlement for \$336 million and injunctive relief); *In re Nasdaq Market Makers Antitrust Litig.* (S.D.N.Y.); *In re Compact Disc Antitrust Litig.* (C.D. Cal.); *In re WorldCom, Inc. Securities Litig.* (S.D.N.Y.); *In re Lucent Technologies, Inc. Securities Litig.* (D.N.J.); *City Closets LLC v. Self Storage Assoc., Inc.* (S.D.N.Y.); *Rolite, Inc. v. Wheelabrator Environmental Sys. Inc.*, (E.D. Pa.); and *Amin v. Warren Hospital* (N.J. Super.).

Jon J. Lambiras – Shareholder

Jon J. Lambiras, Esq., CPA, CFE is a Shareholder in the Securities and Consumer Protection practice groups. Since joining the firm in 2003, he has practiced primarily in the areas of securities fraud, consumer fraud, and data breach class actions.

In the Securities group, he concentrates on class action and opt-out litigation involving accounting fraud and financial misrepresentations. In the Consumer Protection group, he concentrates on data breach litigation involving the theft of personal information by computer hackers.

Jon's clients are plaintiffs such as individual investors, institutional investors, and consumers. He strives to provide a smooth, comfortable litigation experience for his clients. He welcomes inquiries from potential clients and referring counsel regarding new matters. Fees in his cases are generally earned on a contingent basis, meaning clients do not pay out-of-pocket attorneys' fees or expenses.

Jon is an attorney, Certified Public Accountant, and Certified Fraud Examiner. Prior to law school, he practiced accounting for four years as a financial statement auditor, including with a Big-Four accounting firm.

Jon has obtained the highest peer review rating, "AV Preeminent," in Martindale-Hubbell for his legal abilities and ethical standards. Also, for several years from 2012 to the present, he was selected for inclusion in "Pennsylvania Super Lawyers" or "Rising Stars," honors conferred on less than 5% of attorneys in Pennsylvania. He was also named to the National Trial Lawyers Top 100 Civil Trial Lawyers in Philadelphia in 2021.

Jon has published numerous articles and lectured on various class action topics as summarized below. He has also commented on class action issues for publications such as The Washington

Post and The Legal Intelligencer, among others. The cases on which he worked have collectively settled for hundreds of millions of dollars.

While in law school, Jon was a Lead Articles Editor for the Pepperdine Law Review. His law review article was named Student Article of the Year by Pepperdine Law Review, *i.e.*, best article among all student articles published that year.

Jon's speaking engagements include the following:

- "Securities Fraud Class Actions: A Primer for Certified Fraud Examiners," 2018, presented to the Association of Certified Fraud Examiners
- "Securities Fraud Class Actions: A Bird's Eye View," 2017, presented to the Delaware County Bar Association
- "Securities Fraud Class Actions: A Bird's Eye View for Attorney-CPAs," 2017, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs
- "How the CFO Landed in Prison: The Nuts & Bolts of His Fraud," 2012, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs
- "State of the Cyber Nation Address," 2011, presented at HB Litigation/NetDiligence Cyber Risk & Privacy Forum
- "Data Breach Class Actions Involving Theft of Personal Information," 2009, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs
- "Class Actions Involving Estate Planning, Financial Planning, Trusts, and Income Tax," 2009, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs
- "Securities Fraud Class Actions: Comparing and Contrasting the Plaintiffs' and Defendants' View," 2007, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs
- "Securities Fraud Class Actions: A Primer for the Attorney-CPA," 2006-08, presented to the Philadelphia Chapter of the American Academy of Attorney-CPAs

Robert Litan – Shareholder

Robert Litan is a Shareholder in the Antitrust practice group. Litan is one of the few practicing lawyers (in any field, including antitrust) with a PhD in economics and an extensive research and testimonial career in economics. During his legal career, Litan has specialized in administrative and antitrust litigation, concentrating on economic issues, working closely with economic experts (having been a testimonial witness in more than 20 legal and administrative proceedings himself). He previously was a partner with Powell, Goldstein, Frazier and Murphy (Washington, D.C. and Atlanta) and Korein Tillery (St. Louis Chicago). He began his legal career as an Associate at Arnold & Porter (Washington, D.C.)

Litan has directed economic research at three leading national organizations: the Brookings Institution, the Kauffman Foundation and Bloomberg Government.

Litan has held several appointed positions in the federal government. In 1993, he was appointed Principal Deputy Assistant Attorney General in the Antitrust Division of the Justice Department, where he oversaw civil non-merger litigation and the Department's positions on regulatory

matters, primarily in telecommunications. During his tenure, he settled the Department's antitrust lawsuit against the Ivy League and MIT for fixing financial aid awards, oversaw the Department's first monopolization case against Microsoft (resulting in 1994 consent decree) and the initial stages of the Antitrust Division's price fixing case against Nasdaq (also resulting in a consent decree). In 1995, Litan was appointed Associate Director of the Office of Management and Budget, where he oversaw the budgets of five cabinet level agencies.

Litan has co- chaired two panels of studies for the National Academy of Sciences (Measuring Innovation and Disaster Loan Estimation), has served on one other NAS Committee (Use of Scientific Evidence), and consulted for NAS (on energy modeling). He has also been a member of the Presidential-Congressional Commission on the Causes of the Savings and Loan Crisis (1991-93).

Litan has consulted for a broad range of private and governmental organizations, including the U.S. Justice Department (antitrust division), the U.S. Treasury Department, the Federal Reserve Bank of New York, the Federal Home Loan Bank of San Francisco, and the Financial Institutions Subcommittee of the House Banking Committee, the Monetary Authority of Singapore and the World Bank.

Litan has been adjunct professor teaching banking law at the Yale Law School and a Lecturer in Economics at Yale University. He also has taught economics and counter-insurgency at the U.S. Army Command General Staff College, Ft. Leavenworth

Patrick F. Madden – Shareholder

Patrick F. Madden is a Shareholder in the Antitrust, Consumer Protection, Insurance Fraud, and Predatory Lending and Borrowers' Rights practice groups. His practice principally focuses on class actions concerning antitrust violations, financial practices, and insurance products.

Mr. Madden has served in key roles in multiple nationwide consumer class actions. For example, he represented homeowners whose mortgage loan servicers force-placed extraordinarily high-priced insurance on them and allegedly received a kickback from the insurer in exchange. Collectively, Mr. Madden's force-placed insurance settlements have made more than \$175 million in recoveries available to class members.

He has also represented plaintiffs in antitrust class actions. For example, Mr. Madden represents a proposed class of elite mixed martial arts fighters in an antitrust lawsuit against the Ultimate Fighting Championship. *Le, et al. v. Zuffa, LLC*, No. 15-cv-1045 (D. Nev.). Mr. Madden also represents a proposed class of broiler chicken farmers in an antitrust suit against the major chicken processing companies for colluding to suppress compensation to the farmers.

Prior to attending law school, Mr. Madden worked at the United States Department of Labor, Office of Labor-Management Standards as an investigator during which time he investigated allegations of officer election fraud and financial crimes by union officers and employees.

While at Temple Law School, Mr. Madden was the Executive Editor of Publications for the Temple Journal of Science, Technology & Environmental Law.

Ellen T. Noteware – Shareholder

Ms. Noteware has successfully represented investors, retirement plan participants, employees, consumers, and direct purchasers of prescription drug products in a variety of class action cases. She currently chairs the firm's Pro Bono Committee.

Ms. Noteware served on the trial team for *Cook v. Rockwell Int'l Corp.* No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Ms. Noteware also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *In re Loestrin 24 Fe Antitrust Litigation*, (D.R.I.) (\$120 million settlement 3 weeks before trial was set to begin); *In re Ovcon Antitrust Litigation*, (D.D.C.) (\$22 million settlement); *In re Tricor Direct Purchaser Antitrust Litigation*, (D. Del.) (\$250 million settlement); *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) (Norvir) (\$52 million); and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.) (\$95 million).

Ms. Noteware is also extensively involved in litigating breach of fiduciary duty class action cases under the Employee Retirement Income Securities Act ("ERISA"). Her ERISA settlements include: *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.) (\$21 million settlement); *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.) (\$69 million settlement); *In re SPX Corporation ERISA Litigation* (W.D.N.C.) (\$3.6 million settlement); *Short v. Brown University*, (D.R.I.) (\$3.5M settlement plus requirement that independent adviser for ERISA plans be retained); *Dougherty v. The University of Chicago*, No. 1:17-cv-03736 (N.D. Ill.) (\$6.5M settlement); and *Nicolas v. The Trustees of Princeton University*, No. 3:17-cv-03695 (D.N.J.) (settlement announced).

Ms. Noteware is a graduate of Cornell University (B.S. 1989) and the University of Wisconsin-Madison Law School (J.D. *cum laude* 1993) where she won the Daniel H. Grady Prize for the highest grade point average in her class, served as Managing Editor of the Law Review, and

earned Order of the Coif honors. She is currently a member of the Pennsylvania, New York, and District of Columbia bars.

Phyllis Maza Parker – Shareholder

Phyllis Maza Parker is a Shareholder at the firm. She is a member of the firm's Securities and Investor Protection Department, where she focuses on complex securities class action litigation under the federal securities laws, representing both individual and institutional investors. She is also a member of the firm's Employment Law Department representing employees in class and collective action wage and hour employment cases.

Among securities class action cases, Ms. Parker served on the team as co-lead counsel for the Class in *In re Xcel Energy, Inc. Securities Litigation* (D. Minn.). The case, which settled for \$80 million, was listed among the 100 largest securities class action settlements in the United States since the enactment of the 1933-1934 Securities Acts. Among other cases, she has also served as co-lead counsel in *In re Reliance Group Holdings, Inc. Securities Litigation* (\$15 million settlement); *In re The Loewen Group, Inc. Securities Litigation* (\$6 million settlement); as lead counsel in *In re Veeco Instruments Inc. Securities Litigation* (\$5.5 million settlement on the eve of trial); as co-lead counsel in *In re Nuvelo, Inc. Securities Litigation* (\$8.9 million settlement); and, most recently, as co-lead counsel in *Coady v. Perry, et al.* (IndyMac Bancorp, Inc.) (\$6.5 million settlement).

While studying for her J.D. at Temple, Ms. Parker was a member of the Temple Law Review. She published a Note on the subject of the Federal Sentencing Guidelines in the Temple Law Review, Vol. 67, No. 4, 1994, which has been cited by a court and in a law review article. After her first year of law school, Ms. Parker interned with the Honorable Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit. Following law school, Ms. Parker clerked for the Honorable Murray C. Goldman of the Philadelphia Court of Common Pleas.

Ms. Parker is fluent in Hebrew and French.

Russell D. Paul – Shareholder

Russell Paul is a Shareholder in the Securities, Consumer Protection, *Qui Tam*/Whistleblower, Corporate Governance/Shareholder Rights and Commercial Litigation practice groups. He concentrates his practice on securities class actions and derivative suits, complex securities, and commercial litigation matters, False Claims Act suits and consumer class actions.

Mr. Paul has litigated securities class actions against Tyco International Ltd., Baxter Healthcare Corp., ALSTOM S.A., Able Laboratories, Inc., Refco Inc., Toll Brothers and the Federal National Mortgage Association (Fannie Mae). He has also litigated derivative actions in various state courts around the country, including in the Delaware Court of Chancery. He has litigated consumer protection and product defect actions in the automotive, pet food, soft drink, and home products industries. Mr. Paul has also briefed and argued several federal appeals.

In addition to securities litigation, Mr. Paul has broad corporate law experience, including mergers and acquisitions, venture capital financing, proxy contests, and general corporate matters. He began his legal career in the New York office of Skadden, Arps, Slate, Meagher & Flom.

Mr. Paul has been designated a "Pennsylvania Super Lawyer" and a "Top Attorney in Pennsylvania."

Mr. Paul graduated from the Columbia University School of Law (J.D. 1989) where he was a Harlan Fiske Stone Scholar, served on the Moot Court Review Board, was an editor of Pegasus (the law school's catalog) and interned at the United States Attorneys' Office for the Southern District of New York. He completed his undergraduate studies at the University of Pennsylvania, earning a B.S. in Economics from the Wharton School (1986) and a B.A. in History from the College of Arts and Sciences (1986). He was elected to the Beta Gamma Sigma Honors Society.

Barbara A. Podell – Shareholder

Barbara A. Podell is a Shareholder in the Securities practice group at the firm. She concentrates her practice on securities class action litigation.

Ms. Podell graduated from the University of Pennsylvania (*cum laude*) and the Temple University School of Law (*magna cum laude*), where she was Editor-in-Chief of the Temple Law Quarterly.

Ms. Podell was one of the firm's senior attorneys representing the Pennsylvania State Employees' Retirement System ("SERS") as the lead plaintiff in the *In re CIGNA Corp. Sec. Litig.*, No. 02-CV-8088 (E.D. Pa.), a federal securities fraud class action in which SERS moved for, and was appointed, lead plaintiff. CIGNA allegedly concealed crucial operational problems, which, once revealed, caused the company's stock price to fall precipitously. The firm obtained a \$93 million settlement. This was a remarkable recovery because there were no accounting restatements, government investigations, typical indicators of financial fraud, or insider trading. Moreover, the case was settled on the eve of trial (22.7% of losses recovered).

Before joining the firm, Ms. Podell was a founding member of Savett Frutkin Podell & Ryan, P.C., and before that, a shareholder at Kohn, Savett, Klein & Graf and an associate at Dechert LLP, all in Philadelphia.

Camille Fundora Rodriguez – Shareholder

Ms. Rodriguez is a Shareholder in the firm's Employment Law, Consumer Protection, and Lending Practices & Borrowers' Rights practice groups. Ms. Rodriguez primarily focuses on wage and hour class and collective actions arising under the Fair Labor Standards Act and state laws.

Prior to joining the firm, Ms. Rodriguez practiced in the litigation department at a boutique Philadelphia law firm where she represented clients in a variety of personal injury, disability, and employment discrimination matters. Ms. Rodriguez is a graduate of Widener University School of Law.

Ms. Rodriguez is an active member of the Pennsylvania, Philadelphia, and Hispanic Bar Associations.

Martin I. Twersky – Shareholder

Martin I. Twersky is a Shareholder in the Antitrust Department. He has considerable experience in litigation involving a wide range of industries including oil and gas, banking, airline, waste hauling, agricultural chemicals and other regulated industries. For more than 40 years, Mr. Twersky has successfully represented numerous plaintiffs and defendants in both individual and class actions pending in state and federal courts.

Mr. Twersky has played a leading role in the following class action cases among others: *In re Containerboard Antitrust Litigation* (N.D. Ill.) (where settlements of more than \$350 million were obtained for the class; see 306 F.R.D. 585 (N.D. Ill., 2015) (certifying class)); *In re Linerboard Antitrust Litigation* (E.D. Pa.) (as a member of the Executive Committee, he helped obtain settlements of more than \$200 million and he received specific praise from the court for co-managing the major discovery effort; see 2004 WL 1221350 at *10); *In re Graphite Antitrust Litigation* (E.D. Pa.) (settlements of more than \$120 million); *In re Catfish Antitrust Litigation* (N.D. Miss.) (as a member of the trial team he helped obtain settlements of more than \$27 million); *In re Revco Securities Litigation* (N.D. Ohio) ("Junk Bond" class action where settlements of \$36 million were reached and where he received judicial praise from Senior District Court Judge William K. Thomas for the "specialized, highly competent and effective quality of the legal services." See 1993 CCH Fed Sec. L. Rep. at Para. 97,809); *Bogosian v. Gulf Oil* (E.D. Pa.) (landmark litigation with settlements and injunctive relief on behalf of a nationwide class of gasoline dealers). In *Bogosian*, District Judge Donald Van Artsdalen praised class counsel as follows: "Despite the extreme uncertainties of trial, plaintiffs' counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants..."; see 621 f. supp 27, 31 (E.D. Pa. 1985); and *Lease Oil Antitrust* (S.D. Tex.), where in a significant class action decision, the Fifth Circuit affirmed the granting of an injunction prohibiting settlements in related state court actions (see 200 F.3d 317 (5th Cir. 2000), cert. denied, 530 U.S. 1263). Mr. Twersky was appointed one of the co-lead counsel in *In re Abrasive Grains Antitrust Litig.* (95-cv-7574) (W.D.N.Y.).

Mr. Twersky has also played a key role in various non-class action cases, such as *Kutner Buick v. America Motors*, 848 F.2d 614 (3rd Circuit 1989) (breach of contract) (cited in the Advisory Committee Notes to the 1991 Amendment to Rule 50, Fed. R. Civ. P.), *Florham Park v. Chevron* (D.N.J. 1988) (Petroleum Marketing Act case), and *Frigitemp v. IDT Corp.*, 638 F. Supp. 916 (S.D. N.Y. 1986) and 76 B.R. 275, 1987 LEXIS 6547 (S.D. N.Y. 1987) (RICO case brought by the Trustee of Frigitemp Corp. against General Dynamics and others involving extortion of kickbacks from Frigitemp officers). Mr. Twersky also served prominently in savings-and-loan related securities and fraud litigation in federal and state courts in Florida, where the firm represented the Resolution Trust Corporation and officers of a failed bank in complex litigation involving securities, RICO and breach of fiduciary duty claims. E.g., *Royal Palm v. Rapaport*, Civ. No. 88-8510 (S.D. Fla.) and *Rapaport v. Burgoon*, CL-89-3748 (Palm Beach County).

Nick Urban – Shareholder

Nick Urban is a Shareholder in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Urban focuses on antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. These cases include *In re Namenda Direct Purchaser Antitrust Litigation*, No. 1:15-cv-07488 (S.D.N.Y.) (\$750 million settlement); *In re Modafinil Antitrust Litigation*, 2:06-cv-01797 (E.D. Pa.) (\$512 million settlement with three of five defendants); *In re Aggrenox Antitrust Litigation*, 3:13-cv-01776 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litigation*, 2:08-cv-02431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In Re: Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*, 1:18-md-02819 (E.D.N.Y.); *In re Niaspan Antitrust Litigation*, 2:13-md-02460 (E.D. Pa.); *King Drug Company of Florence, Inc. et al., v. Abbott Laboratories et al*, 2:19-cv-3565 (E.D. Pa.); and *In re EpiPen Direct Purchaser Litigation* 0:20-cv-00827 (D. Minn.).

He has also devoted significant time to antitrust cases brought against the banking industry. E.g., *Ross and Wachsmuth v. American Express Co., et al.*, 04-CV-5723 (S.D.N.Y.) (\$49.5 million settlement); and *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 05-CV-7116 (S.D.N.Y.) (obtained settlements with four of the nation's largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years).

While at the University of Pennsylvania Law School, Mr. Urban served as senior editor for the *Journal of Law and Social Change* and worked at several organizations dedicated to increasing the availability of quality affordable housing through impact litigation and development. Prior to attending law school, he worked as an anti-hunger advocate in the San Diego region, and also worked for the Office of the Secretary of State of California.

Daniel J. Walker – Shareholder

Dan Walker is a Shareholder of the firm, which he rejoined in July 2017 after serving three years in the Health Care Division at the Federal Trade Commission. Mr. Walker practices in the firm's Washington, D.C. office.

While at the Federal Trade Commission, Mr. Walker investigated and litigated antitrust matters in the health care industry. In addition to leading various nonpublic investigations in the pharmaceutical and health information technology sectors, Mr. Walker litigated *Federal Trade Commission v. AbbVie Inc., et al.*, a case alleging that a brand pharmaceutical manufacturer engaged in sham patent litigation to delay generic competition, and *Federal Trade Commission v. Cephalon Inc.*, a "pay-for-delay" lawsuit over a brand pharmaceutical manufacturer's payment to four generic competitors in return for the generics' agreement to delay entry into the market. The Cephalon case settled shortly before trial for \$1.2 billion-the largest equitable monetary relief ever secured by the Federal Trade Commission-as well as significant injunctive relief.

During his time in private practice, Mr. Walker has litigated cases on behalf of plaintiffs and defendants in many areas of law, including antitrust, financial fraud, breach of contract, bankruptcy, and intellectual property. Mr. Walker has helped recover hundreds of millions of dollars on behalf of plaintiffs, including in *In re Titanium Dioxide Antitrust Litigation* (with settlements totaling \$163.5 million for purchasers of titanium dioxide), *In re High Tech Employee Antitrust Litigation* (with settlements totaling \$435 million for workers in the high tech industry), and *Adriana Castro, M.D., P.A., et al. v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.) (with a \$61.5 million settlement pending court approval for purchasers of pediatric vaccines). Mr. Walker was also a member of the team that recovered the funds lost by account holders during MF Global's collapse and a member of the trial team that successfully represented the Washington Mutual stockholders seeking to recover investments lost in the bankruptcy.

In addition, Mr. Walker has spoken frequently on antitrust issues, including on the intersection of antitrust and intellectual property in the health care industry.

Mr. Walker is a *magna cum laude* graduate of Amherst College and Cornell University Law School, where he was an Articles Editor for the Cornell Law Review. Before entering private practice, Mr. Walker clerked for the Honorable Richard C. Wesley of the United States Court of Appeals for the Second Circuit.

Senior Counsel

Andrew Abramowitz – Senior Counsel

Andrew Abramowitz, Senior Counsel in the Securities Department, concentrates his practice in shareholder litigation, representing investors in matters under the federal securities laws and state law governing breach of fiduciary duty. Prior to joining the firm, Mr. Abramowitz was a partner with a prominent Philadelphia law firm where he practiced for more than twenty years.

Mr. Abramowitz has served as one of the lead counsel in numerous cases, including, of note, *In re Parmalat Securities Litigation* (S.D.N.Y.), often referred to as “the Enron of Europe,” which was a worldwide securities fraud involving an international dairy conglomerate; *In re SCOR Holding (Switzerland) AG Litigation* (S.D.N.Y.), the first case ever to secure recovery for investors in both a U.S. jurisdiction and a foreign forum; and *In re Abbott Depakote Shareholder Derivative Litigation* (N.D. Ill.), involving the off-label marketing of an anti-seizure drug.

Other notable cases in which Mr. Abramowitz played a significant role include: *Howard v. Liquidity Services, Inc.* (D.D.C.); *In re The Bancorp, Inc. Securities Litigation* (D. Del.); *In re Life Partners Holdings, Inc. Derivative Litigation* (W.D. Tex.); *In re Synthes Inc. Shareholder Litigation* (Del. Ch.); *In re Atheros Communications, Inc. Shareholder Litigation* (Del. Ch.); *Utah Retirement Systems v. Strauss* (American Home Mortgage) (E.D.N.Y.); *In re PSINet, Inc. Securities Litigation* (E.D. Va.); *Penn Federation BMW v. Norfolk Southern Corp.* (E.D. Pa.); *Inter-Local Pension Fund of the Graphic Communications Conference of the International Brotherhood of Teamsters v. Cybersource Corp.* (Del. Ch.).

He previously served as Legal Counsel to Tradeoffs, a popular health policy podcast launched by a prominent Philadelphia journalist.

Mr. Abramowitz graduated *cum laude* from Franklin & Marshall College (1993) where he earned membership in Phi Beta Kappa. He earned a J.D. from the University of Maryland School of Law (1996), where he was Assistant Editor for *The Business Lawyer*, published jointly with the American Bar Association.

He was a long-standing member of the Corporate Advisory Board of the Pennsylvania Association of Public Employee Retirement Systems (PAPERS), an organization dedicated to educating trustees and fiduciaries of public pension funds throughout Pennsylvania. He has also participated for more than fifteen years in the University of Pennsylvania School of Law's Mentoring Program, in which he mentors international students in the L.L.M. program about the practice of law in the U.S. He has written and spoken extensively on matters relating to securities litigation and corporate governance.

Mr. Abramowitz is also the author of two novels, *A Beginner's Guide to Free Fall* (Lake Union Publishing, 2019), and *Thank You, Goodnight* (Touchstone/Simon & Schuster, 2015).

Natisha Aviles – Senior Counsel

Natisha Aviles is Senior Counsel in the firm's Antitrust practice group. She concentrate her practice on complex antitrust litigation.

Jennifer Elwell – Senior Counsel

Jennifer Elwell is Senior Counsel in the firm's Consumer Protection group. She concentrates her practice in complex civil litigation involving actions brought on behalf of consumers for corporate wrongdoing and consumer fraud.

Abigail J. Gertner – Senior Counsel

Abigail J. Gertner is an attorney in the firm's Philadelphia office and practices in the firm's Consumer Protection and ERISA Litigation practice groups.

Before joining the firm, Ms. Gertner worked at both plaintiff and defense firms, where she gained experience in complex litigation, including consumer fraud, ERISA, toxic tort, and antitrust matters. She concentrates her current practice on automotive defect, consumer fraud, and ERISA class actions.

Ms. Gertner graduated from Santa Clara University School of Law in 2003, where she interned for the Santa Clara County District Attorney's Office in the Child and Elder Abuse Unit. She completed her undergraduate studies at Tulane University in 2000, earning a B.S. in Psychology and a B.A. in Classics.

She is also active in her community, formerly serving as a Youth Aid Panel chairperson for Upland in Delaware County. She now serves on the Upland Borough Council, beginning her four-year term in January 2020.

Ms. Gertner is admitted to practice in state courts in Pennsylvania and New Jersey; and the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan.

Matthew Hartman – Senior Counsel

Matthew Hartman is Senior Counsel in the firm's San Diego office. He primarily practices in complex litigation.

Joseph C. Hashmall – Senior Counsel

Joe Hashmall, Senior Counsel, is a member of the firm's Consumer Protection practice group. In that practice group, Mr. Hashmall primarily focuses on consumer class actions concerning financial and credit reporting practices.

Mr. Hashmall is a graduate of the Grinnell College and the Cornell University School of Law. During law school, Mr. Hashmall served as the Executive Editor of the Cornell Legal Information Institute's Supreme Court Bulletin and as an Editor for the Cornell International Law Journal. Mr. Hashmall has also worked as law clerk for President Judge Bonnie B. Leadbetter of the Pennsylvania Commonwealth Court and for the Honorable David J. Ten Eyck of the Minnesota District Court.

J. Quinn Kerrigan – Senior Counsel

J. Quinn Kerrigan is Senior Counsel in the firm's Consumer Protection practice group. He concentrates his practice in the area of complex consumer litigation, prosecuting actions against corporate defendants and other institutions for violations of state and federal law, including state causes of action challenging unfair and deceptive practices.

Before joining the firm, Mr. Kerrigan gained notable experience litigating antitrust and consumer class actions, corporate mergers, derivative claims, and insurance coverage disputes.

Mr. Kerrigan is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey.

Mr. Kerrigan is a graduate of Temple University's Beasley School of Law and John Hopkins University.

Joseph P. Klein – Senior Counsel

Joseph Klein is Senior Counsel in the Antitrust practice group and focuses his work on complex antitrust litigation.

David A. Langer – Senior Counsel

David A. Langer is Senior Counsel in the Antitrust practice group. He concentrates his practice in complex antitrust litigation.

Mr. Langer has had a primary role in the prosecution of the following antitrust class actions: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. Visa and MasterCard cardholders; extraordinary settlement participation from class members drawing more than 10 million claimants in one of the largest consumer antitrust class actions); *Ross and Wachsmuth v. American Express Co., et al.* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied); *Ross, et al. v. Bank of America, N.A. (USA), et al.* (S.D.N.Y.) (obtained settlements with four of the nations' largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years, and a settlement with the non-bank defendant arbitration provider (NAF), who agreed to cease administering arbitration proceedings involving business cards for 3.5 years); and *In re Linerboard Antitrust Litigation* (E.D. Pa.) (helped obtain settlements of more than \$200 million dollars).

Mr. Langer was one of the trial team chairs in the 5-week consolidated bench trial of arbitration antitrust claims in *Ross v. American Express* and *Ross v. Bank of America*, where the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, commended the "extraordinary talents of Plaintiffs' counsel."

Mr. Langer has also had a primary role in appellate proceedings, obtaining relief for his clients in a number of matters, including *Ross, et al. v. American Express Co., et al.*, 547 F.3d 137 (S.D.N.Y. 2008) (precluding an alleged co-conspirator from relying on the doctrine of equitable estoppel to invoke arbitration clauses imposed by its competitor co-conspirators); *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 524 F.3d 217 (S.D.N.Y. 2008) (holding that antitrust plaintiffs possess Article III standing to challenge the defendants' collusive imposition of arbitration clauses barring participation in class actions); *In re Pharmacy Benefit Managers Antitrust Litig.*, 700 F.3d 109 (3d Cir. 2012) (finding opposing party waived the right to compel arbitration and reversing district court).

While at Vermont Law School, Mr. Langer was Managing Editor and a member of the Vermont Law Review.

Natalie Lesser – Senior Counsel

Natalie Lesser is Senior Counsel in the firm's Consumer Protection and Employee Benefits & ERISA practice groups. She concentrates her practice on automotive defect, consumer fraud, and ERISA class actions.

Before joining the firm, Ms. Lesser gained experience at both plaintiff and defense firms, litigating complex matters involving consumer fraud, securities fraud, and managed care disputes.

Ms. Lesser is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan, and the United States Courts of Appeals for the Third Circuit and the Ninth Circuit.

Ms. Lesser received her law degree from the University of Pittsburgh School of Law in 2010 and her undergraduate degree in English from the State University of New York at Albany in 2007. While attending the University of Pittsburgh School of Law, Ms. Lesser was Editor in Chief of the University of Pittsburgh Law Review.

Hans Lodge – Senior Counsel

Hans Lodge is a zealous advocate and is dedicated to protecting the rights of consumers in and out of court. Hans assists consumers who have been denied jobs or housing due to inaccurate criminal history information reporting in their employment/tenant background check reports. Hans also assists consumers who have been denied credit due to inaccurate information reporting in their credit reports and have suffered harm due to unlawful debt collection behavior.

Hans is an aggressive and strategic litigator who has a reputation of working tirelessly to get favorable outcomes for his clients. Hans understands how frustrating it can be trying to deal with background check companies, credit reporting agencies, credit bureaus, and debt collectors, and has a passion for helping clients navigate these areas of the law during their times of need.

Prior to joining the firm, Hans combined his passions for fighting for the little guy and oral advocacy by representing consumers in individual and class action litigation where he held businesses, banks, background check companies, credit bureaus, and debt collectors accountable for illegal practices. As an Associate Attorney at a consumer rights law firm, Hans represented consumers who had trouble paying their bills and were abused and harassed by debt collection agencies, some of whom had their motor vehicles wrongfully repossessed, bringing numerous individual and class action claims under the Fair Debt Collection Practices Act (FDCPA).

Hans also represented consumers who had trouble obtaining credit, employment, and housing due to inaccuracies in their credit reports and background check reports, bringing numerous individual and class action claims under the Fair Credit Reporting Act (FCRA). As an Associate Attorney at a national employment and consumer protection law firm, Hans represented consumers who purchased defective products and employees misclassified as independent contractors, bringing class action claims under consumer protection statutes and the Fair Labor Standards Act (FLSA).

Hans grew up in the Twin Cities and received his Bachelor's Degree from Gustavus Adolphus College in St. Peter, Minnesota, where he double-majored in Political Science and Communication Studies and graduated with honors. His first experience resolving quasi-legal disputes began as a Student Representative on the Campus Judicial Board, where he served for three years and resolved numerous complex disputes between students and the College. His

interests in sports and ethics took him to New Zealand, Australia, and Fiji, where he studied Sports Ethics.

During his time at Marquette University Law School, Hans concentrated his legal studies on civil litigation and sports law. As a second-year law student, Hans gained valuable experience working as a law clerk for the Honorable Joan F. Kessler at the Wisconsin Court of Appeals. He also served as a member of the Marquette Sports Law Review where he wrote and edited articles about legal issues impacting the sports industry.

As a member of Marquette Law's moot court team, his brief writing and oral advocacy skills earned him a regional championship and an appearance in the national competition at the New York City Bar Association. Hans was also a member of Marquette's mock trial team, finishing in third place at the regional competition at the Daley Center in Chicago, Illinois.

Mr. Lodge is admitted to practice law in the United States District Court, District of Minnesota; United States District Court, Western District of Wisconsin; and both Minnesota and Wisconsin state courts.

In addition to practicing law, Hans is an Adjunct Professor at Concordia University, St. Paul, where he teaches a sports law course in the Master of Arts in Sports Management program. He is also a professionally-trained umpire and umpires Little League, high school, college, legion, and amateur baseball throughout Minnesota. In his free time, Hans enjoys working out, long distance running, road biking, bowling, going to concerts, playing ping pong and softball, and kayaking on Lake Minnetonka.

Jeffrey L. Osterwise – Senior Counsel

Mr. Osterwise pursues relief for consumers and businesses in a broad array of matters.

Mr. Osterwise litigates class actions on behalf of consumers who have been damaged by automobile manufacturers that conceal known defects in their vehicles and refuse to fulfill their warranty obligations. His experience includes actions against General Motors, Nissan North America, American Honda Motor Company, among others.

Mr. Osterwise also has substantial experience advising consumers and businesses of their rights with respect to a variety of other defective products. He has helped injured parties pursue their claims arising from defects in pharmaceuticals, solar panels, riding lawn tractors, and HVAC and plumbing products.

In addition to defective product claims, Mr. Osterwise has fought to protect consumers from unfair business practices. For example, he has represented clients deceived by their auto insurance carriers and consumers improperly billed by a national health club chain.

Mr. Osterwise also has significant experience representing the interests of shareholders in securities fraud and corporate governance matters. And, he represented the City of Philadelphia and the City of Chicago in separate actions against certain online travel companies for their failure to pay hotel taxes.

Kerri Petty – Senior Counsel

Kerri Petty is Senior Counsel for the firm and concentrates her practice on complex litigation.

Alexandra Korohey Piazza – Senior Counsel

Alexandra Korohey Piazza, Senior Counsel, is a member of the firm's Employment Law, Consumer Protection and Lending Practices & Borrowers' Rights practice groups. In the Employment Law practice group, Ms. Piazza primarily focuses on wage and hour class and collective actions arising under state and federal law. Ms. Piazza's work in the Consumer Protection and Lending Practices & Borrowers' Rights practice groups involves consumer class actions concerning financial practices.

Ms. Piazza is a graduate of the University of Pennsylvania and Villanova University School of Law. During law school, Ms. Piazza served as a managing editor of the Villanova Sports and Entertainment Law Journal and as president of the Labor and Employment Law Society. Ms. Piazza also interned at the United States Attorney's Office and served as a summer law clerk for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

Jacob M. Polakoff – Senior Counsel

Since joining the firm in 2006, Mr. Polakoff has concentrated his practice on the prosecution of class actions and other complex litigation, including the representation of plaintiffs in consumer protection, securities, and commercial cases.

Mr. Polakoff currently represents homeowners throughout the country in various product liability actions concerning defective construction products, including plumbing and roofing. He served on the teams of co-lead counsel in two nationwide class action plumbing lawsuits: (i) against NIBCO, Inc., claiming that NIBCO's cross-linked polyethylene (PEX) plumbing tubes and component parts were defective and prematurely failed (\$43.5 million settlement), and (ii) in *George v. Uponor, Inc., et al.*, a class action about Uponor's high zinc yellow brass PEX plumbing fittings (\$21 million settlement).

He represented the shareholders of the Philadelphia Stock Exchange in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, in the Delaware Court of Chancery, which settled for in excess of \$99 million in addition to significant corporate governance provisions. He also is on the team of co-lead counsel representing the shareholders of Patriot National, Inc., and helped secure a \$6.5 million settlement with the bankrupt company's directors and officers.

Mr. Polakoff's experience also includes representing entrepreneurs and small businesses in actions against Fortune 500 companies.

Mr. Polakoff was selected as a Pennsylvania Super Lawyer in 2021, an honor conferred upon only the top 5% of attorneys in Pennsylvania. He was previously selected as a Pennsylvania Super Lawyer – Rising Star in 2010 and 2013-2019.

Mr. Polakoff is a 2006 graduate of the joint J.D./M.B.A. program at the University of Miami, where he was the recipient of the Dean's Certificate of Achievement in Legal Research & Writing, was awarded a Graduate Assistantship and was honored with the Award for Academic Excellence in Graduate Studies.

He holds a 2002 B.S.B.A. from Boston University's School of Management, where he concentrated in finance.

Mr. Polakoff is the Judge of Election for Philadelphia's 30th Ward, 1st Division. He was also a member of the planning committee and the sponsorship sub-committee for the Justice for All 5K from its inception. The event benefited Community Legal Services of Philadelphia, which provides free legal services, in civil matters, to low-income Philadelphians.

Geoffrey C. Price – Senior Counsel

Geoffrey C. Price is Senior Counsel in the firm's antitrust division, specializing in complex litigation related to pharmaceuticals, investment fraud, and general anti-competitive business practices.

Richard Schwartz – Senior Counsel

Richard Schwartz is Senior Counsel in the Antitrust practice group. Mr. Schwartz concentrates his practice in the area of complex antitrust litigation with a focus on representation of direct purchasers of prescription drugs.

Prior to joining the firm, Mr. Schwartz was an attorney in the New York and Philadelphia offices of a firm where he represented plaintiffs in a variety of matters before trial and appellate courts with a focus on antitrust and shareholder class actions.

Mr. Schwartz is a member of the teams prosecuting a number of antitrust class actions on behalf of direct purchasers of prescription drugs in which the purchasers allege that generic drugs have been illegally kept off the market. Those cases include *In re Opana ER Antitrust Litigation*, No. 14-cv-10151 (N.D. Ill.); *In re Suboxone*, No. 13-MD-2445 (E.D. Pa.); *In re Solodyn*, No. 14-MD-2503 (D. Mass.) and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.).

Mr. Schwartz is admitted to practice in New York, Pennsylvania, and Illinois.

Daniel F. Thornton – Senior Counsel

Daniel F. Thornton is Senior Counsel in the firm's Employment & Unpaid Wages practice group, where he advocates for employees whose wages have been withheld or who have experienced unlawful harassment, discrimination, or retaliation in the workplace. Dan is frequently consulted by employees who have been wronged and works tirelessly to vindicate his clients' rights. He handles a variety of high-stakes cases ranging from single-plaintiff litigation to complex class and collective actions.

Dan is an experienced employment litigator who deploys the strategic insights gained from his defense background to aggressively and efficiently resolve disputes for his clients. Prior to joining the firm, Dan worked for a large defense firm, where he represented sophisticated employers in

a wide range of industries. Before that, he spent several years as a Deputy Attorney General with the New Jersey Office of the Attorney General, where he represented New Jersey in litigation involving age and race discrimination, employee benefits, and a breach-of-contract class action, among other matters, and handled numerous appeals. During the 2014-2015 court term, Dan clerked for the Honorable Carmen H. Alvarez, Presiding Judge of the New Jersey Superior Court, Appellate Division.

Dan is involved in his community, serving as Young Lawyer Trustee and co-chair of the Administrative Law Committee for the Burlington County Bar Association, as well as on the Board of Trustees of the Burlington County Bar Foundation. Dan also serves as Music Leader for Covenant Presbyterian Church in Cherry Hill.

Dan is a graduate of the University of Virginia School of Law, where he received the Franklin O. Blechman Merit Scholarship and served as Executive Editor of the Virginia Tax Review. Dan also graduated with honors from Washington and Lee University, where he received degrees in computer science and music performance.

Lane L. Vines – Senior Counsel

Lane L. Vines's practice is concentrated in the areas of securities/investor fraud, consumer and *qui tam* litigation. For more than 17 years, Mr. Vines has prosecuted both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Mr. Vines also represents consumers in class actions involving unlawful and deceptive practices, as well as relators in *qui tam*, whistleblower and False Claims Act litigations. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and numerous federal courts.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the firm's principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

During law school, Mr. Vines was a member of the Villanova Law Review and served as a Managing Editor of *Outside Works*. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

Mr. Vines has achieved the highest peer rating, "AV Preeminent" in Martindale-Hubbell for legal abilities and ethical standards. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and several federal courts.

Dena Young – Senior Counsel

Dena Young is Senior Counsel in the firm's Consumer Protection practice group. She concentrates her practice in the area of complex consumer litigation, prosecuting actions against pharmaceutical and product manufacturers for violations of state and federal law.

Before joining the firm, Dena worked for prominent law firms in the Philadelphia region where she worked on personal injury and mass tort cases involving dangerous and defective medical devices, pharmaceutical, and consumer products including Talcum Powder, Transvaginal Mesh, Roundup, Risperdal, Viagra, Zofran, and Xarelto. She also assisted in the prosecution of cases on behalf of the U.S. Government and other government entities for violations of federal and state false claims acts and anti-kickback statutes.

Recently, the Honorable Brian R. Martinotti appointed Dena to serve on the plaintiffs' steering committee (PSC) of MDL 2921 in the *Allergan BIOCELL Textured Breast Implant Products Liability Litigation*, situated in the United States District Court for the District of New Jersey. In this case, Dena represents plaintiffs diagnosed with breast implant associated anaplastic large cell lymphoma (BIA-ALCL), a deadly form of cancer caused by Allergan's textured breast implants.

Early in her legal career, Dena represented clients diagnosed with devastating asbestos-related diseases, including mesothelioma and lung cancer. Cases she handled resulted in millions of dollars in settlements for her clients.

During law school, Dena represented defendants in preliminary hearings and misdemeanor trials while working for the Defender Association of Philadelphia. She also clerked for the Animal Protection Litigation section of the United States Humane Society. In 2008-2009, Young worked for the Honorable Renee Cardwell Hughes of Philadelphia's Court of Common Pleas.

In 2010, she received her Juris Doctor degree, with honors, from Drexel University's Thomas R. Kline School of Law where she founded the School's Student Animal Legal Defense Fund chapter.

Dena is admitted to practice in state courts in Pennsylvania and New Jersey, the U.S. District Court for the Eastern District of Pennsylvania, and the U.S. District Court for the District of New Jersey.

Associates

Hope Brinn – Associate

Hope Brinn is an Associate in the firm's Antitrust group. Prior to joining the firm, Ms. Brinn clerked for the Honorable Janet Bond Arterton in the District of Connecticut. Ms. Brinn graduated from the University of Michigan Law School, where she was a senior editor for the Michigan Law Review, and the executive notes editor for the Michigan Journal of Race & the Law.

Prior to law school, Ms. Brinn worked at The Philadelphia School and Breakthrough of Greater Philadelphia.

William H. Ellerbe – Associate

William H. Ellerbe is an Associate in the Philadelphia office and practices in the firm's Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Ellerbe represents whistleblowers in litigation across the country and also actively assists in investigating and evaluating potential whistleblower claims before a lawsuit is filed.

Mr. Ellerbe received an A.B. in English from Princeton University. He graduated *magna cum laude* from the University of Michigan Law School and also received a certificate in Science, Technology, and Public Policy from the Ford School of Public Policy. During law school, Mr. Ellerbe was an Associate Editor of the *Michigan Telecommunications and Technology Law Review* and an active member of both the Environmental Law Society and the Native American Law Students Association.

Prior to joining the firm, Mr. Ellerbe clerked for the Honorable Anne E. Thompson of the United States District Court for the District of New Jersey. He also worked as a white collar and commercial litigation associate at two large corporate defense firms.

Mr. Ellerbe is admitted to practice in the state courts of Pennsylvania, New Jersey, and New York, as well as the Third and Fourth Circuit Courts of Appeals and the United State District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, the Southern District of New York, and the Eastern District of New York.

William H. Fedullo – Associate

William H. Fedullo is an Associate in the firm's Philadelphia office, practicing in the Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Fedullo represents whistleblowers in active litigation throughout the country. He also assists in the pre-litigation investigation and evaluation of potential whistleblower claims.

Prior to joining the firm, Mr. Fedullo was a commercial litigation associate at a large full-service Philadelphia law firm. His practice there focused on protecting small businesses that had been the victims of usurious "merchant cash advance" lending practices. He also took an active role in franchisee rights litigation in the hospitality industry. He served as lead associate in numerous state and federal litigations as well as AAA and JAMS arbitrations. His accomplishments included primarily authoring briefs that obtained critical injunctive relief in bet-the-business arbitration; primarily authoring dispositive and appellate briefs in parallel state and federal actions against one of the largest debt collection companies in the world, resulting in a federal court denying a motion to dismiss a consumer's Fair Debt Collections Practices Act claims; and authoring a complaint brought by over ninety hotel franchisees against a prominent international hotel

franchisor. Additionally, Mr. Fedullo played key roles in several other cases that resulted in favorable verdicts or settlements for his clients.

Mr. Fedullo received a Bachelor of Arts from Swarthmore College with High Honors, with a major in Philosophy and minor in English Literature. He graduated from the University of Pennsylvania Law School *cum laude*. In law school, he was an executive editor of the Penn Law Journal of Constitutional Law, where he published a Comment, “Classless and Uncivil.” He also worked as a research assistant for the reporter for the forthcoming Restatement (Third) of Conflicts of Law, and as a teaching assistant at the Wharton School of Business for the undergraduate class “Constitutional Law and Free Enterprise.” He was the recipient of the 2019 Penn Law Fred G. Leebron Memorial Prize for Best Paper in Constitutional Law for his paper “Original Public Meaning Originalism and Women Presidents.” Finally, he received honors from both the Philadelphia Bar Association and Penn Law for his involvement in pro bono activities, which included serving as a board member for the Custody and Support Assistance Clinic, a student-run organization that provides legal assistance to low-income Philadelphians facing family law issues; working on low-income housing and utility issues at Community Legal Services; and working as a certified legal intern in the Civil Practice Clinic, litigating several cases for low-income Philadelphians before the Philadelphia Court of Common Pleas.

Mr. Fedullo is admitted to practice law in the state courts of the Commonwealth of Pennsylvania as well as the United States District Court for the Eastern District of Pennsylvania.

Ariana B. Kiener – Associate

Ariana B. Kiener is an Associate in the firm’s Minneapolis office and practices in the firm’s Consumer Protection group.

Before joining the firm, Ms. Kiener worked for several years in education, first as a classroom teacher (through a Fulbright Scholarship in Northeastern Thailand) and eventually as the communications director for an education advocacy nonprofit organization. While in law school, she clerked at the Firm and served as a Certified Student Attorney and Student Director with the Mitchell Hamline Employment Discrimination Mediation Representation Clinic.

Julia McGrath – Associate

Julia McGrath is an Associate in the firm’s Antitrust practice group. She represents consumers, businesses, and public entities in complex class action litigation, prosecuting anticompetitive conduct such as price-fixing, bid-rigging, and illegal monopolization.

Ms. McGrath has challenged anticompetitive conduct in a variety of industries, including the single-serve coffee industry in *In Re Keurig Green Mountain Single-Serve Antitrust Litigation*; the pharmaceutical industry in *In Re: Ranbaxy Generic Drug Application Antitrust Litigation* (D. Mass) and *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation* (E.D. Pa.); and the financial industry in *In re London Silver Fixing Ltd. Antitrust Litigation* (S.D.N.Y.) and *In re: GSE Bonds Antitrust Litigation* (S.D.N.Y.).

Prior to law school, Ms. McGrath had a successful career in government and politics. She worked on political campaigns at the local, state, and federal level. She's advised top-tier congressional, gubernatorial, and U.S. Senate candidates in Pennsylvania and New Jersey and served as the Finance Director for U.S. Senator Bob Casey. In 2013, she was appointed by President Obama to serve as Special Assistant to the Mid-Atlantic Regional Administrator of the U.S. General Services Administration.

Ms. McGrath earned her J.D., *cum laude*, from Temple University Beasley School of Law and her B.A. in History from Boston University.

Amey J. Park – Associate

Amey J. Park is an Associate in the firm's Philadelphia office and practices in the firm's Consumer Protection and Commercial Litigation practice groups.

Before joining the firm, Ms. Park was an associate in the litigation department of a large corporate defense firm. She represented corporate and individual clients in complex commercial litigation, product liability, and personal injury matters in a wide variety of industries, including financial services, insurance, trust administration, and real estate. Ms. Park also represented clients *pro bono*, serving as first-chair counsel in a federal jury trial for violations of an inmate's constitutional rights by law enforcement officers and assisting a young refugee seeking asylum in federal immigration court.

In 2019, Ms. Park was named a "Lawyer on the Fast Track" by The Legal Intelligencer, an honor conferred upon only 25 attorneys in Pennsylvania under the age of 40 that year. Ms. Park also currently serves on the Executive Committee of the Temple American Inn of Court.

Ms. Park is admitted to practice in state courts in Pennsylvania and New Jersey; the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan; and the United States Court of Appeals for the Third Circuit.

John D. Parron – Associate

John D. Parron is an Associate in the Philadelphia office and practices in the firm's Antitrust practice group. He concentrates his practice on complex antitrust litigation.

Prior to starting at the firm, Mr. Parron clerked for the Honorable Michael M. Baylson on the United States District Court for the Eastern District of Pennsylvania. Before clerking, he worked as an Assistant District Attorney in Philadelphia handling appellate matters.

Mr. Parron is a graduate of the University of Hawai'i at Manoa, and the University of Pennsylvania Law School, where he served as an Articles Editor for the Journal of Constitutional Law, and was an active member of the Equal Justice Foundation. He is currently a member of the University of

Pennsylvania Inn of Court, and an Ambassador for Penn Law's Graduates of the Last Decade committee.

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

Haley Pritchard – Associate

Haley Pritchard is an Associate in the Antitrust group for the firm. Prior to joining the firm, Ms. Pritchard was a Legal Fellow at the ACLU of Pennsylvania, where she advocated against pretrial and probation-related detention. Ms. Pritchard graduated from the University of Pennsylvania Law School, where she was an executive editor of the Journal of Law and Social Change.

Prior to law school, Ms. Pritchard worked for a nonprofit focused on girls and young women in the juvenile justice system, and obtained her master's degree in Sex, Gender & Violence from the University of Aberdeen.

Sophia Rios – Associate

Sophia Rios is an associate in the firm's San Diego office and practices in the Consumer Protection and Antitrust practice groups.

Before joining the firm, Sophia was an associate in the litigation department of a large international law firm. She represented corporate and individual clients in consumer protection, complex commercial litigation, securities, and Americans with Disabilities Act (ADA) matters. In her pro bono practice, Sophia assisted refugees seeking asylum in the United States.

Sophia is committed to furthering diversity and inclusion in law firms. She serves on the firm's Diversity, Equity & Inclusion Task Force. Sophia has also participated in the Leadership Council on Legal Diversity's Pathfinder Program.

While at Stanford Law School, Sophia served as an extern Legal Adviser in the Office of Commissioner Julie Brill at the Federal Trade Commission in Washington, DC. Sophia co-founded the Stanford Critical Law Society, which serves as a student forum for the discussion of the relationship between law and race. Sophia was a Lead Article Editor for the Stanford Environmental Law Journal.

Before beginning law school, Sophia attended UC Berkeley and served as an intern on the White House Council of Environmental Quality. She is a first-generation college student and a San Diego native.

Reginald L. Streater – Associate

Reginald L. Streater, an Associate, is a member of the firm's Employment & Unpaid Wages, Consumer Protection, and Predatory Lending and Borrowers' Rights practice groups. In the Employment & Unpaid Wages practice group, Mr. Streater focuses on discrimination and wage and hour class and collective actions arising under state and federal law. Mr. Streater's work in the Consumer Protection and Predatory Lending and Borrowers' Rights practice groups involves

consumer class actions concerning financial practices. Mr. Streater is a member of the firm's Diversity, Equity & Inclusion Task Force.

Before joining the firm, Mr. Streater was an associate at a large regional law firm where his practice focused on commercial and complex litigation. His clients ranged from individuals and small businesses to large corporations and public entities. Mr. Streater handled a variety of litigation matters, including contract disputes, usury claims, federal claims, federal civil rights claims, insurance matters, employment claims, fraud claims, and tort claims in Pennsylvania, New Jersey, and New York, where he has federal and state trial experience. His prior work experience also includes positions with the Pennsylvania Innocence Project and the District Office of State Representative Brian Sims of Philadelphia.

Mr. Streater graduated from Temple University's College of Liberal Arts where he studied Political Science and African American Studies. There he was inducted into Pi Sigma Alpha – the National Political Science Honor Society. Subsequently, Mr. Streater graduated from Temple University Beasley School of Law, where he was an active leader within the Temple Law community. Mr. Streater served as the first Black President of the Student Bar Association, President of the Black Law Students Association, and as an Advisor to the Affinity Group Coalition. Mr. Streater was Staff Editor for Volume 31 of the Temple International & Comparative Law Journal, and he served as a teaching assistant for the Integrated Transactional Advocacy Program and the Integrated Trial Advocacy Program. He was a Rubin Public Interest Law Honor Society Fellow, as well as a member of the National Lawyers Guild Temple Law Chapter and Phi Alpha Delta Law Fraternity. During law school, Reggie received the Henry J. Richardson III Award, the Captain Robert Miller Knox Award, and the H. Monica Rasch Memorial Award. He was also the recipient of the Barristers Association of Philadelphia Merit Scholarship, the McCool Scholarship, and the Conwell Scholarship.

Mark Suter – Associate

Mark Suter is an Associate in the firm's Philadelphia office. He represents businesses, workers, consumers, and public entities in complex civil litigation, including class and collective actions, with a focus on antitrust, labor, and consumer protection matters.

Mr. Suter has successfully challenged price-fixing, bid-rigging, and other anticompetitive conduct in a wide array of industries, including as co-trial counsel in *In re Capacitors Antitrust Litigation* (N.D. Cal.) (\$451.5 million in settlements to date); co-lead counsel in *In re Domestic Drywall Antitrust Litigation* (E.D. Pa.) (\$190.7 million total settlements); co-lead counsel in *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation* (S.D.N.Y.) (\$102 million in settlements to date); counsel for the City and County of Denver in *In re Liquid Aluminum Sulfate Antitrust Litigation* (D.N.J.) (\$90.5 million total settlements); and co-lead counsel in *In re Dental Supplies Antitrust Litigation* (E.D.N.Y.) (\$80 million total settlements). Among other matters, he currently serves as co-lead counsel in *Le, et al v. Zuffa, LLC d/b/a Ultimate Fighting Championship* (D. Nev.), representing a class of professional mixed martial arts fighters, and *Fusion Elite All Stars, et al. v. Varsity Brands, LLC, et al.* (W.D. Tenn.) on behalf of a proposed

class of All Star Cheer gyms and parents. Mr. Suter also represents whistleblowers in *qui tam* or False Claims Act litigation against companies that have committed fraud against the government.

Mr. Suter serves as Co-Chair for the Young Lawyers Division of the Committee to Support Antitrust Laws (COSAL) and on the Executive Committee for Community Legal Services Justice Rising Advocates. He maintains an active pro bono practice partnering with local public interest organizations and volunteering at juvenile expungement clinics.

Mr. Suter graduated from Rutgers Law School with *magna cum laude* and Order of the Coif honors. While in law school, he served as Senior Editor of the *Rutgers Law Review* and represented children and families as part of the Rutgers Child Advocacy Clinic. Mr. Suter received his B.A. in Philosophy and Political Science from McGill University.

Y. Michael Twersky – Associate

Y. Michael Twersky concentrates his practice primarily on representing plaintiffs in complex litigation, including on insurance, antitrust, and environmental matters.

In the past, Mr. Twersky has worked on a wide variety of insurance matters including an insurance case in which a Federal District Court found on Summary Judgement that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan. Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including: *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement in 2014), and *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (combined settlements in excess of \$76 million in 2018). Mr. Twersky has also represented inmates in connection with allegations that various inmate calling services charged unreasonable rates and fees in violation of the Federal Communication Act.

Currently, Mr. Twersky is litigating a number of complex class actions related to insurance products, including proposed class actions in multiple forums against a workers' compensation insurance company alleging that the company deceptively sold illegal workers' compensation programs that were not properly filed with state regulators. *E.g.*, *Shasta Linen Supply, Inc. v Applied Underwriters et al.*, No. 2:16-cv-0158 (N.D. Cal.). Mr. Twersky is also involved in a proposed class action in Federal Court brought on behalf of Alaska-enrolled Medicaid Healthcare Providers against the developers of the Alaska Medicaid Management Information System Company alleging that providers were harmed as a result of the negligent and faulty design and implementation of the MMIS system. *See South Peninsula Hospital et al v. Xerox State Healthcare, LLC*, 3:15-cv-00177 (D. Alaska). Mr. Twersky is also involved in environmental litigation on behalf of various states to recover the costs of remediation for contamination to groundwater resources.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition, Mr.

Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.

Michaela Wallin – Associate

Michaela Wallin is an Associate in the Antitrust and Employment Law practice groups. Ms. Wallin's work in the Antitrust group involves complex class actions, including those alleging that pharmaceutical manufacturers have wrongfully kept less expensive drugs off the market, in violation of the antitrust laws. In the Employment Law Group, Ms. Wallin focuses on wage and hour class and collective actions arising under federal and state law.

Prior to joining the firm, Ms. Wallin served as a law clerk for the Honorable James L. Cott of the United States District Court of the Southern District of New York. She also completed an Equal Justice Works Fellowship at the ACLU Women's Rights Project, where she worked to challenge local laws that target domestic violence survivors for eviction and impede tenants' ability to call the police.

Ms. Wallin is a graduate of Columbia Law School, where she was a Harlan Fiske Stone Scholar. Ms. Wallin graduated *magna cum laude* from Bowdoin College, where she was Phi Beta Kappa and a Sarah and James Bowdoin Scholar.

Counsel

Alexandra Antoniou – Counsel

Alexandra Antoniou is an attorney in the firm's Philadelphia office, and works in the firm's Auto Defect practice area.

Kaylynn Johnson – Counsel

Kaylynn Johnson is a strategic advocate with a passion for protecting the rights of consumers against large, faceless corporations. Kaylynn assists consumers who have been denied jobs or housing due to inaccurate criminal history reporting in their employment/tenant background check reports. Kaylynn also assists consumers who have been denied credit due to inaccurate reporting in their credit reports and have suffered harm as a result. Given the wide-spread use of consumer reports, Kaylynn understands the lasting damages inaccurate reporting has on hardworking individuals and is committed to helping them navigate the complex legal process.

Prior to joining the firm, Kaylynn worked as a general practice attorney in areas of law including criminal law, post-conviction, family law, personal injury, and real estate. As an associate attorney, Kaylynn developed a well-rounded, flexible lawyering style that allowed her to zealously advocate for clients in any legal situation. She also was able to connect with her clients in a personalized setting and witness firsthand the harmful effects the legal system has on their lives.

Her decision to focus on consumer rights law primarily stemmed from working on criminal and housing expungements. Throughout law school and in her practice, Kaylynn worked tirelessly to

help individuals expunge their records after repeatedly being denied housing and employment due to a conviction several years earlier. As a natural transition, Kaylynn sought out a civil litigation practice allowing her to defend individuals against consumer reporting agencies whom inaccurately report criminal and housing history.

Kaylynn grew up in Hastings, Minnesota approximately forty minutes south of the Twin Cities. She received her Bachelor's Degree from the University of Wisconsin-Madison where she double-majored in Legal Studies and Communication Science & Rhetorical Studies with a minor in Criminal Justice. During her time at the University of Wisconsin, Kaylynn served on the board of Badgers for Special Olympics where she first was inspired to help people and later fueled her desire to attend law school.

During her time at Mitchell Hamline School of Law, Kaylynn focused her studies on civil dispute resolution and post-conviction. Kaylynn received a Certificate of Conflict Resolution Theory and Practice. Outside of her coursework, Kaylynn served as the Associate Director of the Mitchell Hamline Self-Help Clinic where she assisted members of the community with criminal expungement documents. She also served as a Writing Associate for the Mitchell Hamline Law Journal of Public Policy and Practice where she published an article on the Minnesota Criminal Expungement Statute advocating for more expansive expungement law. To strengthen her advocacy and oral argument skills, Kaylynn participated in the mock trial team and competed nationally in Washington, D.C.

In addition to practicing law, Kaylynn is an Adjunct Professor for Mitchell Hamline School of Law where she teaches students how to improve their legal writing and research skills. She also grades essays for Themis Bar Review to assist recent law school graduates in their preparation for upcoming bar exams across the United States. In her free time, Kaylynn enjoys attending comedy shows, baking, hiking, traveling, trying new restaurants, and cheering on the Wisconsin Badgers.

Daniel E. Listwa – Counsel

Daniel E. Listwa has worked on a number of antitrust matters, with a focus on the suppression of generic competition by major pharmaceutical manufacturers. Before joining the firm, Mr. Listwa clerked for the Honorable J. Brian Johnson of the Lehigh County Court of Common Pleas, and was an associate at a medical malpractice defense firm in Blue Bell, PA. While in law school, Mr. Listwa was a staff writer for the Boston College Environmental Affairs Law Review, and interned at the U.S. District Court for the Eastern District of Pennsylvania.

Stacy Savett – Counsel

Stacy Savett is a Staff Attorney in the firm's Employment & Unpaid Wages Group. She focuses on wage and hour class and collective actions arising under federal and state laws.

Of Counsel

H. Laddie Montague Jr. – Chair *Emeritus* & Of Counsel

H. Laddie Montague Jr. is Chairman *Emeritus* of the firm, in addition to his continuing work as Of Counsel. Mr. Montague was Chairman of the firm from 2003 to 2016 and served as a member of the firm's Executive Committee for decades, having joined the firm's predecessor David Berger, P.A., at its inception in 1970.

In addition to being one of the courtroom trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague has served as lead or co-lead counsel in many class actions, including, among others, *High Fructose Corn Syrup Antitrust Litigation* (2006), *In re Infant Formula Antitrust Litigation* (1993) and *Bogosian v. Gulf Oil Corp.* (1984), a nationwide class action against thirteen major oil companies. Mr. Montague was co-lead counsel for the State of Connecticut in its litigation against the tobacco industry. He is currently co-lead counsel in several pending class actions. In addition to the *Exxon Valdez Oil Spill Litigation*, he has tried several complex and protracted cases to the jury, including three class actions: *In re Master Key Antitrust Litigation* (1977), *In re Corrugated Container Antitrust Litigation* (1980) and *In re Brand Name Prescription Drugs Antitrust Litigation*, M.D.L. (1997-1998). For his work as trial counsel in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague shared the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award.

Mr. Montague has been repeatedly singled out by *Chambers USA: America's Leading Lawyers for Business* as one of the top antitrust attorneys in the Commonwealth of Pennsylvania. He is lauded for his stewardship of the firm's antitrust department, referred to as "the dean of the Bar," stating that his peers in the legal profession hold him in the "highest regard," and explicitly praised for, among other things, his "fair minded[ness]." He also is or has been listed in *Lawdragon*, *An International Who's Who of Competition Lawyers*, and *The Legal 500: United States (Litigation)*. He has repeatedly been selected by *Philadelphia Magazine* as one of the top 100 lawyers in Pennsylvania. Mr. Montague has also been one of the only two inductees in the American Antitrust Institute's inaugural Private Antitrust Enforcement Hall of Fame.

He has been invited and made a presentation at the Organization for Economic Cooperation and Development (Paris, 2006); the European Commission and International Bar Association Seminar (Brussels, 2007); the Canadian Bar Association, Competition Section (Ottawa, 2008); and the 2010 Competition Law & Policy Forum (Ontario).

Mr. Montague is a graduate of the University of Pennsylvania (B.A. 1960) and the Dickinson School of Law (L.L.B. 1963), where he was a member of the Board of Editors of the Dickinson Law Review. He is the former Chairman of the Board of Trustees of the Dickinson School of Law of Penn State University and current Chairman of the Dickinson Law Association.

Harold Berger –Of Counsel, Executive Shareholder *Emeritus*

Judge Berger is an Executive Shareholder *Emeritus* & Of Counsel. He participated in many complex litigation matters, including the *Exxon Valdez Oil Spill Litigation*, No. A89-095, in which he served on the case management committee and as Co-Chair of the national discovery team. He also participated in the *Three Mile Island Litigation*, No. 79-0432 (M.D. Pa.), where he acted as liaison counsel, and in the nationwide school asbestos property damage class action, *In*

re Asbestos School Litigation, Master File No. 83-0268 (E.D. Pa.), where the firm served as co-lead counsel.

A former Judge of the Court of Common Pleas of Philadelphia, he has long given his service to the legal community and the judiciary. He is also active in law and engineering alumni affairs at the University of Pennsylvania and in other philanthropic endeavors. He serves as a member of Penn's Board of Overseers and as Chair of the Friends of Penn's Biddle Law Library, having graduated from both the engineering and law schools at Penn. Judge Berger also serves on the Executive Board of Penn Law's Center for Ethics and Rule of Law. In 2017, he was the recipient of Penn Law's Inaugural Lifetime Commitment Award, which recognizes graduates "who through a lifetime of service and commitment to Penn Law have truly set a new standard of excellence."

He is past Chair of the Federal Bar Association's National Committee on the Federal and State Judiciary and past President of the Federal Bar Association's Eastern District Chapter. He is the author of numerous law review articles, has lectured extensively before bar associations and at universities, and has served as Chair of the International Conferences on Global Interdependence held at Princeton University. Judge Berger has served as Chair of the Aerospace Law Committees of the American, Federal and Inter-American Bar Associations and, in recognition of the importance and impact of his scholarly work, was elected to the International Academy of Astronautics in Paris.

As his biographies in *Who's Who in America*, *Who's Who in American Law* and *Who's Who in the World* outline, he is the recipient of numerous awards, including the Special Service Award of the Pennsylvania Conference of State Trial Judges, a Special American Bar Association Presidential Program Award and Medal, and a Special Federal Bar Association Award for distinguished service to the Federal and State Judiciary. He has been given the highest rating (AV Preeminent) for legal ability as well as the highest rating for ethical standards by Martindale-Hubbell. Judge Berger was also presented with a Lifetime Achievement Award in 2014 by *The Legal Intelligencer* in recognition of figures who have helped shape the law in Pennsylvania and who had a distinct impact on the legal profession in the Commonwealth.

He is a permanent member of the Judicial Conference of the United States Court of Appeals for the Third Circuit and has served as Chair of both the Judicial Liaison and International Law Committees of the Philadelphia Bar Association. He has also served as National Chair of the FBA's Alternate Dispute Resolution Committee.

Recipient of the Alumnus of the Year Award of the Thomas McKean Law Club of the University of Pennsylvania Law School, he was further honored by the University's School of Engineering and Applied Science by the dedication of the Harold Berger Biennial Distinguished Lecture and Award given to a technical innovator who has made a lasting contribution to the quality of our lives. He was also honored by the University by the dedication of an auditorium and lobby bearing his name and by the dedication of a student award in his name for engineering excellence.

Long active in diverse, philanthropic, charitable, community and inter-faith endeavors Judge Berger serves as a Lifetime Honorary Trustee of the Federation of Jewish Charities of Greater Philadelphia, as a Director of the National Museum of Jewish History, as a National Director of the Hebrew Immigrant Aid Society (HIAS) in its endeavors to assist refugees and indigent souls of all faiths, as A Charter Fellow of the Foundation of the Federal Bar Association and as a member of the Hamilton Circle of the Philadelphia Bar Foundation.

Among other honors and awards, as listed above, Judge Berger was honored by the University of Pennsylvania Law School at its annual Benefactors' Dinner and is the recipient of the "Children of the American Dream" award of HIAS for his leadership in the civic, legal, academic and Jewish communities.

Gary E. Cantor – Of Counsel

Gary E. Cantor is Of Counsel in the Philadelphia office. He concentrates his practice on securities and commercial litigation and derivatives valuations.

Mr. Cantor served as co-lead counsel in *Steiner v. Phillips, et al. (Southmark Securities)*, Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), (class settlement of \$82.5 million), and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB), (class settlement involving 119 separate limited partnerships resulting in cash settlement, oversight of partnership governance and debt restructuring (with as much as \$100 million in wrap mortgage reductions)). Mr. Cantor also represented plaintiffs in numerous commodity cases.

In recent years, Mr. Cantor played a leadership role in *In re Oppenheimer Rochester Funds Group Securities Litigation* (\$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc.), No. 09-md-02063-JLK (D. Col.); *In re KLA-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.) (\$65 million class settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement.); *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.) (\$70 million class settlement). He was also actively involved in the *Merrill Lynch Securities Litigation* (class settlement of \$475 million) and *Waste Management Securities Litigation* (class settlement of \$220 million).

For over 20 years, Mr. Cantor also has concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's cases involving stocks, bonds, derivatives, and commodities. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor was a member of the Moot Court Board at University of Pennsylvania Law School where he authored a comment on computer-generated evidence in the University of Pennsylvania Law Review. He graduated from Rutgers College with the highest distinction in economics and was a member of Phi Beta Kappa.

Peter R. Kahana –Of Counsel

Peter R. Kahana is Of Counsel in the Insurance and Antitrust practice groups. He concentrates his practice in complex civil and class action litigation involving relief for insurance policyholders and consumers of other types of products or services who have been victimized by fraudulent conduct and unfair business practices.

Significant class cases vindicating the rights of insurance policyholders or consumers in which Mr. Kahana was appointed as co-class counsel have included: settlement in 2012 for \$90 million of breach of fiduciary duty and negligence claims (certified for trial in 2009) on behalf of a class of former policyholder-members of Anthem Insurance Companies, Inc. ("Anthem") alleging the class was paid insufficient cash compensation in connection with Anthem's conversion from a mutual insurance company to a publicly-owned stock insurance company (a process known as "demutualization") (*Ormond v. Anthem, Inc., et al.*, USDC, S.D. Ind., Case No. 1:05-cv-01908 (S.D. Ind. 2012)); settlement in 2010 for \$72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against The Hartford and its affiliates on behalf of a class of personal injury and workers compensation claimants for the Hartford's alleged deceptive business practices in settling these injury claims for Hartford insureds with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); settlement in 2009 for \$75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia automobile policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37); and, settlement in 2004 for \$20 million on behalf of a class of cancer victims alleging that their insurer refused to pay for health insurance benefits for chemotherapy and radiation treatment (*Bergonzi v. CSO, USDC, D.S.D.*, Case No. C2-4096). For his efforts in regard to the Bergonzi matter, Mr. Kahana was named as the recipient of the American Association for Justice's Steven J. Sharp Public Service Award, which is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policymakers and the public about the importance of consumers' rights.

Mr. Kahana has also played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* (\$723 million settlement), *In re Ashland Oil Spill Litigation* (\$30 million settlement), and *In re Exxon Valdez* (\$287 million compensatory damage award and \$507.5 million punitive damage award). In connection with his work as a member of the trial team that prosecuted *In re The Exxon Valdez*, Mr. Kahana was selected in 1995 to share the Trial Lawyer of the Year Award by the Public Justice Foundation.

Susan Schneider Thomas – Of Counsel

Susan Schneider Thomas concentrates her practice on *qui tam* litigation.

Ms. Thomas has substantial complex litigation experience. Before joining the firm, she practiced law at two Philadelphia area firms, Schnader, Harrison, Segal & Lewis and Greenfield & Chimicles, where she was actively involved in the litigation of complex securities fraud and derivative actions.

Upon joining the firm, Ms. Thomas concentrated her practice on complex securities and derivative actions. In 1986, she joined in establishing Zlotnick & Thomas where she was a partner with primary responsibility for the litigation of several major class actions including *Geist v. New Jersey Turnpike Authority*, C.A. No. 92-2377 (D.N.J.), a bond redemption case that settled for \$2.25 million and *Burstein v. Applied Extrusion Technologies*, C.A. No. 92-12166-PBS (D. Mass.), which settled for \$3.4 million.

Upon returning to the firm, Ms. Thomas has had major responsibilities in many securities and consumer fraud class actions, including *In re CryoLife Securities Litigation*, C.A. No. 1:02-CV-1868 BBM (N.D.Ga.), which settled in 2005 for \$23.25 million and *In re First Alliance Mortgage Co.*, Civ. No. SACV 00-964 (C.D.Cal.), a deceptive mortgage lending action which settled for over \$80 million in cooperation with the FTC. More recently, Ms. Thomas has concentrated her practice in the area of healthcare *qui tam* litigation. As co-counsel for a team of whistleblowers, she worked extensively with the U.S. Department of Justice and various State Attorney General offices in the prosecution of False Claims Act cases against pharmaceutical manufacturers that recovered more than \$2 billion for Medicare and Medicaid programs and over \$350 million for the whistleblowers. She has investigated or is litigating False Claims Act cases involving defense contractors, off-label marketing by drug and medical device companies, federal grant fraud, upcoding and other billing issues by healthcare providers, drug pricing issues and fraud in connection with for-profit colleges and student loan programs.

Tyler E. Wren – Of Counsel

Mr. Wren is a trial lawyer with over 35 years of experience in both the public and private sectors.

Mr. Wren has represented both plaintiffs and defendants in a broad spectrum of litigation matters, including class actions, environmental, civil rights, commercial disputes, personal injury, insurance coverage, election law, zoning and historical preservation matters and other government affairs. Mr. Wren routinely appears in both state and federal courts, as well as before local administrative agencies.

Following his graduation from law school, Mr. Wren served as staff attorney to the Committee of Seventy, a local civic watchdog group. Mr. Wren then spent a decade in the Philadelphia City Solicitor's Office in various positions in which his litigation and counseling skills were developed: Chief Assistant City Solicitor for Special Litigation and Appeals, Divisional Deputy City Solicitor for the Environment, Counsel to the Philadelphia Board of Ethics and Counsel to the Philadelphia Planning Commission. After leaving government employ and before joining the Firm in 2010, Mr.

Wren was in private practice, including nine years with the Sprague and Sprague firm, headed by nationally recognized litigator Richard Sprague.

EXHIBIT 2

Stringer, et al. v. Nissan North America, et al. - Case No. 3:21-cv-00099 (M.D. Tenn.)

Berger Montague PC Lodestar Summary

Timekeeper	Status	Bar Admission Year	Hours	Rate	Lodestar
Park, Amey J.	Associate	2013	64.00	\$570.00	\$36,480.00
Barnes, Colleen A.	Paralegal	n/a	37.90	\$265.00	\$10,043.50
Mucollari, Dionis	Legal Support Staff	n/a	38.40	\$280.00	\$10,752.00
Deleon Magnus, Eleanor C.	Legal Support Staff	n/a	0.60	\$220.00	\$ 132.00
Osterwise, Jeff L.	Senior Counsel	2005	77.70	\$645.00	\$50,116.50
Deutsch, Lawrence	Shareholder	1986	163.60	\$850.00	\$139,060.00
Hamner, Peter H.	Attorney	2010	12.50	\$570.00	\$7,125.00
Gebo, Rachel X.	Legal Support Staff	n/a	2.00	\$310.00	\$620.00
TOTAL			396.7		\$254,329.00

EXHIBIT 3

***Stringer, et al. v. Nissan North America, et al.* – Case No. 3:21-cv-00099 (M.D. Tenn.)**

Berger Montague PC Expense Summary

Category of Expense	Amount
Court Filing Fees	\$135.00
Document Hosting	
Experts	
Mediation	
Messengers	
Photocopying & Imaging	\$15.30
Postage & Fed Ex & Telephone	\$90.30
Research	\$477.15
Service of Process	
Travel, Meals, & Hotels	\$1,000.00*
TOTAL	\$1,717.75

* Projected expenses to be incurred for hearing on Final Approval of Class Action Settlement

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TERESA STRINGER, KAREN BROOKS,
WILLIAM PAPANIA, JAYNE NEWTON,
MENACHEM LANDA, ANDREA
ELIASON, BRANDON LANE, DEBBIE
O'CONNOR, MICHELLE WILLIAMS and
WAYNE BALNICKI, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.,

Defendants.

No. 3:21-cv-00099

**DECLARATION OF RYAN
MCDEVITT IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT AND
MOTION FOR AWARD OF
ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES
AND CLASS REPRESENTATIVE
SERVICE AWARDS**

Judge William L. Campbell
Courtroom A826
Magistrate Barbara D. Holmes
Courtroom 764

JURY TRIAL DEMANDED

I, Ryan McDevitt, declare:

1. I am an attorney licensed to practice law in the states of Washington and Michigan, and am admitted to this court *pro hac vice*. I am a partner in the law firm of Keller Rohrback L.L.P. ("Keller Rohrback"), counsel of record and a member of the Plaintiffs' Executive Committee in this matter. I make this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Reimbursement of Expenses and Class Representative Service Awards. I have personal knowledge of the facts set forth herein, and if called to testify regarding the statements herein, I could and would competently do so.

2. I believe that the proposed Settlement provides outstanding relief to the Settlement Class, is fair, reasonable and adequate, and merits final approval.

I. KELLER ROHRBACK'S QUALIFICATIONS

3. Keller Rohrbach L.L.P. has over 70 attorneys in six cities and its Complex Litigation practice group has spent nearly 30 years fighting corporate abuse and pursuing litigation on behalf of consumers, whistleblowers, government entities, small businesses, institutional investors, and employees in many of the major class action cases litigated in the United States. The firm prides itself on serving the public interest by taking on cases that make a tangible difference in our communities. To date, Keller Rohrbach has recovered over \$23.5 billion for the individual, institutional and governmental plaintiffs the firm represents.

4. For over ten years, I have litigated consumer protection, antitrust, and fraud cases in a wide variety of industries against numerous Fortune 500 companies, including several major automakers, through every phase of litigation. I have helped to recover billions of dollars for consumers, competitors, investors, and employees. In addition to my appointment to the Plaintiffs' Executive Committee in this matter, I currently help lead the Keller Rohrbach team appointed interim co-lead counsel in another significant automotive defect class action, *Altobelli et al. v. General Motors, LLC*, No. 20-cv-13256-TGB (E.D. Mich.), concerning defective batteries in Chevrolet Bolt electric vehicles; and serve on several of the plaintiffs' leadership committees in the multistate Delta Dental antitrust litigation, *In re: Delta Dental Antitrust Litigation*, No. 1:19-cv-06734 (N.D. Ill.).

5. I have also worked closely with my Keller Rohrbach partners in high-profile automotive, consumer, and antitrust cases where they or the firm were appointed to leadership positions. For example, I worked on discovery, briefing, negotiation, and settlement administration teams in the landmark Volkswagen "Clean Diesel," MDL 2672 (N.D. Cal.) ("Volkswagen") and Chrysler-Dodge-Jeep "EcoDiesel," MDL 2777 (N.D. Cal.) multidistrict litigations, where Keller Rohrbach managing partner Lynn Sarko was appointed to the Plaintiffs'

Steering Committees. I have similar roles in two other significant automotive defect cases where partner Gretchen Freeman Cappio serves on the Plaintiffs' Steering Committees: *In re: ZF-TRW Airbag Control Units Prods. Liab. Litig.*, MDL 2905 (C.D. Cal.), concerning defective airbag control units in 12.3 million automobiles from six major automakers, and *Won et al. v. General Motors LLC*, No. 19-cv-11044 (E.D. Mich.), concerning, much like this case, defective transmissions in millions of vehicles. I also work closely with partner Derek Loeser in his court-appointed leadership role in consolidated antitrust litigation against Amazon.com, *De Coster et al. v. Amazon.com, Inc.*, No. 2:21-cv-00693 (W.D. Wash.).

6. Keller Rohrbach attorneys have, in recent years, been appointed to leadership roles in numerous high-profile cases in addition to those described above, including *In re National Opiate Litigation*, MDL 2804, an important MDL seeking to hold opioid manufacturers and distributors accountable for devastating communities across the country; in *In re Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, MDL 2913 (N.D. Cal.), another case with important public health implications relating to the marketing of Juul e-cigarette products; the MDL litigation stemming from the Facebook/Cambridge Analytica scandal, *In re: Facebook, Inc., Consumer Privacy User Profile Litigation*, MDL 2843 (N.D. Cal.); and *Jabbari v. Wells Fargo*, No. 15-02159 (N.D. Cal.), the Wells Fargo unauthorized account consumer class action; *In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, MDL No. 2785 (D. Kan.), the MDL concerning EpiPen price-gouging allegations; and *In Re: Blackbaud, Inc., Customer Data Breach Litigation*, MDL 2972 (D.S.C.), the MDL regarding Blackbaud's massive data breach.

7. Attached hereto as **Exhibit 1** is a true and correct copy of Keller Rohrbach's Firm Resume.

II. KELLER ROHRBACK'S TIME AND EXPENSES

8. Keller Rohrbach has prosecuted this case solely on a contingent fee basis, and has received no compensation of any kind to date for its work on this matter.

9. The information in this declaration concerning my firm's time and expenses is taken from time and expense records and supporting documentation maintained in the ordinary course of the firm's business, and were maintained contemporaneously by each attorney and staff member working on the case. The expense records are based on receipts, invoices, and check and banking records, and are an accurate record of the expenses.

10. I oversaw and conducted my firm's day-to-day work on this case, and I reviewed the fee and expense records that support this Declaration in order to ensure their accuracy and the necessity and reasonableness of the time and expenses committed to the litigation. The time reflected in the firm's lodestar calculation, and the expenses for which reimbursement is sought, are reasonable and were necessary for the effective and efficient prosecution and resolution of this matter. I also believe the time and expenses are of the type and amount that would normally be charged to a fee-paying client in the private legal marketplace.

11. Attached hereto as **Exhibit 2** is a summary of my firm's lodestar. The summary includes the names of attorneys and professional support staff who worked on this case and each timekeeper's respective hours and lodestar at their current hourly rates. These are the usual and customary rates set and charged by my firm for each professional. My firm has expended 395.3 hours working on this case to date, and the total lodestar is \$219,873. The backgrounds and qualifications of the attorneys who worked on this matter at my firm are set forth in Exhibit 1.

12. Fee awards supported by my firm's hourly rates and corresponding lodestar have regularly been approved in class action settlements. Recent examples include *Ryder et al. v. Wells Fargo Bank, N.A.*, Case No. 1:19-cv-638, Docket No. 57 (S.D. Ohio Jan. 25, 2022); *In re:*

EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation, MDL No. 2785, Docket No. 2506 (D. Kan. Nov. 17, 2021); *Fox et al. v. Iowa Health System*, Case No. 3:18-cv-00327, Docket No. 115 (W.D. Wis. Mar. 4, 2021); *In re Chrysler-Dodge-Jeep “EcoDiesel” Marketing, Sales, Practices, and Products Liability Litig.*, MDL No. 2777, Docket No. 561 (N.D. Cal. May 3, 2019); *Jabbari v. Wells Fargo*, Case No. 15-02159, Docket No. 271 (N.D. Cal. June 14, 2018); and four separate settlements in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litig.*, MDL No. 2672 (N.D. Cal.): Audi C0₂ Cases, MDL 2672 Docket No. 7244 (Mar. 2, 2020); 3.0-liter TDI Settlement, 2017 WL 3175924 (July 21, 2017); Bosch Settlement, 2017 WL 2178787 (May 17, 2017); and 2.0-liter TDI Settlement, 2017 WL 1047834 (Mar. 17, 2017).

13. My firm has incurred \$7,792.62 in costs and expenses for this case. Those costs and expenses are summarized by category in **Exhibit 3**. The expenses were kept in the firm’s books and records in the ordinary course of business, based on contemporaneous receipts, invoices, check and banking records, and are an accurate record. The out-of-pocket litigation expenses incurred by the firm in this case are reasonable in amount and were necessary for the effective and efficient prosecution of the case. Multiple courts have approved similar expenses incurred by the firm in successfully prosecuting class action litigation. *See* paragraph 12 above.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day of February, 2022, at Seattle, Washington.



Ryan McDevitt

EXHIBIT 1

COMPLEX LITIGATION

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 (Judge Cote)

Keller Rohrback's lawyers excel by being prepared and persuasive. It's a simple formula that combines our strengths: outstanding writing and courtroom skill, 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, including numerous financial crisis cases against Wall Street banks and mortgage originators. Our lawyers are 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 plaintiffs' firm for large-scale, complex individual and class action cases. We represent public and private investors, businesses, governments and individuals in a wide range of actions, including securities fraud, fiduciary breach, antitrust, insurance coverage, 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 court and in negotiations.



Founded in 1919, Keller Rohrback's over 70 attorneys and about 100 staff members are based in six offices across the country in Seattle, Oakland, Santa Barbara, Phoenix, New York, and Missoula. 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 and to work together to achieve outstanding results—essential skills in large-scale cases in which several firms represent the 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. Keller Rohrback attorneys earn the respect of our colleagues and our opponents through our deft handling of the array of complex issues and obstacles our clients face.

ABOUT KELLER ROHRBACK



What We Do

Keller Rohrback's Complex Litigation Group represents plaintiffs in large-scale cases involving corporate wrongdoing. We litigate against companies that pollute, commit fraud, fix prices and take advantage of consumers, employees, and investors. We are passionate advocates for justice. In addition, the Complex Litigation Group regularly calls on attorneys in the firm's other practice areas for expertise in areas such as bankruptcy, constitutional law, corporate transactions, financial institutions, insurance coverage and intellectual property. Our group's access to these in-house resources distinguishes Keller Rohrback from other plaintiffs' class action firms and contributes to the firm's success. We also have a history of working with legal counsel from other countries to vigorously pursue legal remedies on behalf of clients around the globe.

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.

Whom We Serve

We represent individuals, institutions, and government agencies. The common denominators of our clients is a desire to see justice done—and to be represented by attorneys who practice law with integrity, honesty, and devotion to serving our clients' interests.



"Despite substantial obstacles to recovery, Keller Rohrback was willing to undertake the significant risks presented by this case...Class Counsel achieved real and substantial benefits for members of the Class. [Their] extensive prior experience in complex class action securities litigation...enabled the Class to analyze and achieve this excellent result." Getty v. Harmon (SunAmerica Securities Litigation) (Judge Dwyer).

ATTORNEYS

Lynn Lincoln Sarko
Gretchen Freeman Cappio
Derek Loeser
Alison Chase
Felicia Craick
Adele Daniel
Max Goins
Ryan McDevitt
Sydney Read
Emma Wright

Keller Rohrback is renowned for its success in representing consumers in high-stakes, complex litigation involving automotive defects and misrepresentations. Courts regularly appoint our nationally recognized attorneys to plaintiffs' leadership teams for automotive class actions, including numerous actions consolidated in multidistrict litigation. These cases reflect our firm's ongoing commitment to ensuring the safety of drivers, passengers, their vehicles, and the environment.

REPRESENTATIVE CASES

ZF-TRW Airbag Control Units Products Liability Litigation, No. 19-ml-02905-JAK-FFM (C.D. Cal.)

Gretchen Freeman Cappio is a member of the Plaintiffs' Steering Committee. In her work on the PSC, Gretchen has directed briefing efforts on cutting edge legal issues and steers plaintiffs' global strategy. Plaintiffs' allegations against auto parts supplier ZF-TRW and automakers FCA/Stellantis, Kia, Hyundai, Toyota, Honda, and Mitsubishi relate to defective airbag control units in 12.3 million vehicles that may cause airbags to fail to inflate in the event of a crash.

Won et al. v. General Motors, LLC, et al., No. 19-cv-11044-DML-DRG (E.D. Mich.)

Gretchen Freeman Cappio was recently appointed to the Plaintiffs' Steering Committee in the GM transmission litigation and expects to play a major role in the case. In this putative class action, Plaintiffs allege that transmission defects in GM, Chevrolet, and Cadillac vehicles sold as early as 2014 can cause unsafe conditions that GM failed to disclose or repair despite longstanding knowledge and numerous attempts.

In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2777 (N.D. Cal.)

From the outset, Keller Rohrback played a major role in this multidistrict litigation, representing consumers nationwide who alleged that Fiat Chrysler used an emissions defeat device in over 100,000 Ram 1500 and Jeep Grand Cherokee diesel trucks and SUVs. Keller Rohrback Managing Partner Lynn Sarko was appointed by the Court to the Plaintiffs' Steering Committee leading this case, and Keller Rohrback attorneys took an active role in discovery and served on the negotiating team that achieved and implemented a settlement worth over \$307 million. The settlement, involving both Fiat Chrysler and supplier Bosch, provided owners and lessees of the affected vehicles with substantial cash payments in addition to government-approved emissions repairs and valuable extended warranty protection.

REPRESENTATIVE CASES continued

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, No. 3:15-md-02672 (N.D. Cal.)

Keller Rohrback filed the first multi-Plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Keller Rohrback represented consumers nationwide who alleged they were damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States. Keller Rohrback Managing Partner Lynn Sarko served on the Plaintiffs' Steering Committee for this national litigation. Lynn Sarko and partner Gretchen Freeman Cappio served on the negotiating team for the \$15 billion class action settlement for 2.0-liter vehicles, the largest auto-related consumer class action in U.S. history. Keller Rohrback played a similar role in reaching and implementing similar settlements with Volkswagen and Bosch regarding approximately 100,000 3-liter vehicles.

Short et al. v. Hyundai Motor America, Inc., et al., No. 19-cv-00318-JLR (W.D. Wash.)

Keller Rohrback leads litigation against Hyundai Motor Company, Kia Motors Corporation, and their American subsidiaries. The litigation, filed in the United States District Court for the Western District of Washington, arises out of Hyundai's and Kia's failure to disclose or timely remedy several serious defects of design and manufacturing that can cause the engines of certain vehicles to suddenly stall while at speed or to burst into flames. The litigation is ongoing and the parties are in discovery.

Altobelli et al. v. General Motors LLC, No. 2:20-cv-13256 (E.D. Mich.)

Judge Berg recently appointed Keller Rohrback Co-Lead Counsel in the consolidated Chevrolet Bolt defective battery litigation. Plaintiffs allege that General Motors failed to disclose dangerous battery defects that led to an increased risk of catastrophic fires and diminished battery function. The litigation is on-going.

Stringer et al. v. Nissan of North America et al., No. 3:21-cv-00099 (M.D. Tenn.); *Lane et al. v. Nissan of North America et al.*, No. 3:21-cv-00150 (M.D. Tenn.)

Ryan McDevitt has been appointed to the Executive Committee in two Consolidated Cases in the Middle District of Tennessee. The cases allege that faulty continuously variable transmissions (CVT) in certain Rogue and Pathfinder vehicles fail prematurely, causing dangerous driving conditions for everyone on the road.

ATTORNEYS

Lynn Lincoln Sarko
Gretchen Freeman Cappio
Alison Chase
Felicia Craick
Matt Gerend
Max Goins
Cari Campen Laufenberg
Derek Loeser
Ryan McDevitt
Daniel Mensher

Keller Rohrback's antitrust and trade regulation practice represents Plaintiffs in state and federal courts to ensure that consumers get the benefits of free and fair competition in the marketplace. Keller Rohrback has successfully litigated cases on behalf of both consumers and businesses who have been harmed by illegal anti-competitive conduct, such as price fixing, price discrimination, misleading and deceptive marketing practices, and the monopolization and attempted monopolization of markets.

Keller Rohrback has served as lead counsel, on MDL executive committees, and in other prominent roles in large price-fixing and price discrimination cases.

REPRESENTATIVE CASES

Nurse Wage Litigation: Fleischman v. Albany Medical Center (N.D.N.Y.); Cason-Merenda v. Detroit Medical Center (E.D. Mich.)

Keller Rohrback was Co-Lead Counsel in these long-running antitrust actions which recovered \$105 million in underpaid wages resulting from an alleged conspiracy among hospitals to set the compensation of their nurse employees in Albany, New York, and Detroit, Michigan.

Ferko v. National Ass'n For Stock Car Auto Racing, Inc., No. 02-50 (E.D. Tex.)

Keller Rohrback was Counsel for Plaintiff, a shareholder in Texas Motor Speedway (TMS), in a lawsuit that charged NASCAR with breach of contract, unlawful monopolization, and conspiring with International Speedway Corporation (ISC) to restrain trade in violation of the antitrust laws. The settlement agreement allowed TMS to purchase North Carolina Speedway from ISC and required NASCAR to sanction a Nextel Cup Series race at TMS in the future, relief that was valued at \$100.4 million.

In re Vitamins Antitrust Litigation, MDL No. 1285 (D.D.C.)

Keller Rohrback played a significant role in litigating this MDL case, one of the largest and most successful antitrust cases in history. Chief Judge Thomas Hogan certified two classes of businesses who directly purchased bulk vitamins and were overcharged as a result of a ten-year global price-fixing and market-allocation conspiracy. Recoveries for the class through settlement and verdict totaled over \$1 billion.

In re Online DVD Rental Antitrust Litigation, MDL No. 2029 (N.D. Cal.)

Keller Rohrback represented purchasers of online DVD rental services accusing Walmart and Netflix of engaging in a market allocation scheme. The class achieved settlements of over \$30 million.

Johnson v. Arizona Hospital and Healthcare Association, No. 07-1292 (D. Ariz.)

Keller Rohrback represented agency nurses who worked at various Arizona hospitals seeking to recover the underpayment of wages resulting from a conspiracy to suppress the cost of agency nurses. The class achieved settlements of more than \$26 million.

"The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does again." *In re Linerboard Antitrust Litigation* (E.D. Pa. June, 2 2004) (Judge DuBois).

REPRESENTATIVE CASES continued

Daisy Mountain Fire District v. Microsoft Corp., MDL No. 1332 (D. Md.)

Keller Rohrback obtained a settlement in of over \$4 million on behalf of a class of Arizona governmental entities that indirectly purchased operating systems and software from Microsoft for overcharges resulting from Microsoft's monopolistic practices. The settlement returned millions of dollars to local government entities at a time of severe budget crisis in the state.

Molecular Diagnostics v. Hoffman-La Roche, Inc., No. 04-1649 (D.D.C.)

Keller Rohrback served on the Executive Committee of this class action lawsuit on behalf of direct purchasers of thermus aquaticus DNA polymerase (Taq), an essential input to technologies used to study DNA. The lawsuit alleged that various Hoffman-La Roche entities, in concert with the Perkins Elmer Corp., fraudulently procured a patent for Taq with the intent of illegally monopolizing the Taq market. The court approved a \$33 million settlement in 2008.

In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation, MDL No. 2785 (D. Kan.)

Keller Rohrback serves as Plaintiffs' Co-Lead Counsel in this litigation regarding the marketing, pricing, and sale of EpiPen auto-injector devices in the United States. Plaintiffs allege that defendants Mylan and Pfizer engaged in unfair and illegal activities that stifled competitors, allowing defendants to maintain their dominant market positions and increase the prices of EpiPen products by over 500%. These practices forced consumers to pay inflated and unnecessary costs for EpiPens—a device on which many lives depend. On February 27, 2020, the Court certified two classes of consumers and payors against Defendants Mylan and Pfizer. Trial is set to begin in January 2022.

Johnson v. Arizona Hospital and Healthcare Association, No. 07-1292 (D. Ariz.)

Keller Rohrback represented agency nurses who worked at various Arizona hospitals seeking to recover the underpayment of wages resulting from a conspiracy to suppress the cost of agency nurses. The class achieved settlements of more than \$26 million.

Transamerican Refining Corporation v. Dravo Corp., No. 88-789 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed on behalf of all cost-plus purchasers of specialty steel pipe. Fabricators and suppliers of that pipe were sued on allegations of a nationwide price fixing conspiracy. The class of electric generating plant and oil refinery owners, achieved a settlement of over \$49 million.

In re: Liquid Aluminum Sulfate Antitrust Litigation, MDL No. 2687 (D.N.J.)

In 2016, Keller Rohrback filed numerous class action complaints in federal courts on behalf of several municipalities in Washington, California, and Arizona that purchase and use liquid aluminum sulfate ("Alum") to treat and clean their waste water. The complaints contained claims against the major manufacturers of Alum who allegedly engaged in a conspiracy to artificially inflate the price of this essential chemical used in municipal water treatment. As a result of these antitrust violations, municipalities – and their taxpayers – had overpaid millions of dollars to the co-conspirators for the Alum they purchased during the long life of this conspiracy. In March 2020, the Court authorized the transfer of settlement funds to pay claims of the Settlement Class Members.

ATTORNEYS

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Cari Campen Laufenberg
Jeffrey Lewis
Derek Loeser
Gretchen Obrist
Erin Riley
Matthew Preusch

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 appellate experience is particularly important in large cases, including complex class actions. Keller Rohrback has the experience and talent to handle any issue that arises involving interlocutory appeals and will work to ensure that any judgment or settlement is affirmed on appeal.

REPRESENTATIVE CASES

Clarke v. Baptist Memorial Healthcare Corp., --F. App'x-- (6th Cir. 2016)

Keller Rohrback overturned the district court's denial of intervention, thus allowing our clients to challenge an earlier denial of class certification.

Campidoglio, LLC v. Wells Fargo & Company, 870 F. 3D 963 (9th Cir. 2017)

This is a proposed class action arising out of the Bank's alleged miscalculation of the interest rates charged to Borrowers. The Ninth Circuit reverse the dismissal finding that the Home Owners' Loan Act does not preempt the Borrowers' interest rate calculation breach of contract claim, which arises under Washington law.

Alcantara v. Bakery & Confectionary Union, 751 F.3d 71 (2d Cir. 2014)

Keller Rohrback successfully defended the trial court's decision and judgment that the Defendants had unlawfully reduced pension benefits.

Gates v. UnitedHealth Group Inc., 561 F. App'x 73 (2d Cir. 2014)

Keller Rohrback persuaded the Second Circuit to reverse the district court's dismissal of our client's claims for medical coverage.

Wurtz v. Rawlings Co., 761 F.3d 232 (2d Cir. 2014)

Keller Rohrback submitted an amicus brief on behalf of the New York State Trial Lawyers Association in support of the appellants. The Second Circuit cited the amicus brief and adopted much of its reasoning in reversing the trial court.

Heckman v. Williamson County, 369 S.W.3d 137 (Tex. 2012)

Keller Rohrback represented a proposed class of indigent criminal Defendants who challenged the constitutionality of a number of pretrial procedures. Keller Rohrback persuaded the Texas Supreme Court to reverse the Texas Court of Appeals and allow the Plaintiffs to proceed with their claims.

Braden v. Walmart Stores, Inc., 588 F.3d 585 (8th Cir. 2009)

Keller Rohrback represented a class of Walmart employees who alleged that Walmart's 401(k) plan charged them excessive fees. Keller Rohrback convinced the Eighth Circuit to reverse the trial court and reinstate the employees' claims.

In re Syncor ERISA Litigation, 516 F.3d 1095 (9th Cir. 2008)

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.

ATTORNEYS

Laurie Ashton
Gary A. Gotto
Christopher Graver

Keller Rohrback attorneys have deep and broad experience litigating in the bankruptcy courts on behalf of Plaintiffs whose claims were interrupted by bankruptcy petitions, as well as creditors, debtors, and creditor committees.

Our experience includes representing claimants and class claimants in numerous large-scale bankruptcies - such as the pending Purdue Pharma bankruptcy in New York, which forms a part of our larger representations in the nationwide opioid litigation. Keller Rohrback's representations have involved virtually all areas of sophisticated bankruptcy practice, including: (i) negotiating acceptable terms of a

plan of reorganization with the debtor, creditors' committee, and other bankruptcy constituencies; (ii) pursuing relief from the automatic stay to litigate claims in district court; (iii) seeking and opposing orders to withdraw the reference to the bankruptcy court; (iv) certifying a claimant class in bankruptcy; (v) asserting rights to officer, director, or fiduciary insurance policies between conflicting bankruptcy claimants; (vi) evaluating and negotiating proposals for debtor financing, cash collateral orders, estate sale orders and other bankruptcy administrative matters; and (vii) defending against subordination claims.

Keller Rohrback's bankruptcy attorneys also have extensive experience in a wide variety of matters involving corporate restructuring and commercial bankruptcies. Our bankruptcy clients have ranged from tort claimants to operating entities to institutional lenders. Examples include representation of the official committee of victims of clergy sexual abuse in the Chapter 11 reorganization of a Catholic diocese, the debtors in a reorganization of fifty commercial real properties across the nation; and a national services company in the acquisition of a competitor's assets in a bankruptcy court-approved sale in the Northern District of California.

In addition to the representative cases listed below, Keller Rohrback has achieved similar results in numerous other bankruptcy proceedings involving corporations such as Global Crossing Ltd., Mirant Corp., Delphi Corp., and Fremont General Corp.

REPRESENTATIVE CASES

In re Enron Corp., No. 01-16034 (Bankr. S.D.N.Y.)

Keller Rohrback obtained stay relief to pursue litigation in the Southern District of Texas and defended against a motion to subordinate claims. Keller Rohrback achieved a settlement for the class that included the allowance of a \$265 million claim in the Enron bankruptcy.

In re WorldCom, Inc., Nos. 02 Civ. 3288(DLC), 02 Civ. 8981(DLC) (Bankr. S.D.N.Y.)

Keller Rohrback defended against a motion to subordinate claims and successfully negotiated a simultaneous resolution of claims in the bankruptcy and district courts against third parties in the total amount of \$48 million.

In re Nortel Networks, Inc., No. 09-10138(KG) (Bankr. D. Del.)

Keller Rohrback represented class claimants in simultaneous insolvency proceedings in Canada under the Companies' Creditors Arrangement Act and bankruptcy court in the District of Delaware. Keller Rohrback obtained stay relief to pursue litigation in the Middle District of Tennessee and ultimately settled class claims in Tennessee for over \$21 million.

In re Washington Mutual, Inc., No. 08-12229(MFW) (Bankr. D. Del.)

Keller Rohrback sought stay relief to pursue litigation in the Western District of Washington and pursued claims in bankruptcy court in Delaware, resulting in a simultaneous resolution of claims in the bankruptcy and district courts for \$20 million.

CONSUMER PROTECTION CLASS ACTIONS **KR**

ATTORNEYS

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Cari Campen Laufenberg
Ryan McDevitt
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Nathan Nanfelt
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Havila C. Unrein
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Amy Williams-Derry
Michael Woerner

For decades, consumers have trusted Keller Rohrback attorneys to protect them from harmful and unfair practices. Our firm is a leader in representing consumers in class action and complex litigation in diverse areas, including vehicles, children's products, food contamination, drugs, mortgage modifications, identity theft, and data breaches. Keller Rohrback currently represents a wide range of consumers, such as vehicle owners and lessees, parents, environmentalists, fishermen, employees, professors, doctors, and nurses.



Through decades of hard work, ingenuity, and creativity, Keller Rohrback has achieved meaningful results. These results impact not only our clients, but future consumers too. For example, homeowners now benefit from improved loan-modification practices at one of the country's biggest banks as a result of our advocacy.

Keller Rohrback attorneys are frequently featured speakers and presenters at prestigious legal education seminars on class actions, consumer protection, and data privacy.

REPRESENTATIVE CASES

Jabbari v. Wells Fargo & Company, No. 15-2159 (N.D. Cal.)

Keller Rohrback filed a class action lawsuit against Wells Fargo alleging the bank victimized its customers by opening checking, savings and credit card accounts, and lines of credit without customers' authorization. Keller Rohrback negotiated a \$142 million settlement on behalf of consumers, which requires Wells Fargo to refund fees charged to unauthorized accounts, compensate consumers for increased borrowing

costs due to credit damage, and provide other substantial compensation. Final Approval of the settlement was granted on June 14, 2018.

In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation, MDL No. 2785 (D. Kan.)

Keller Rohrback serves as Plaintiffs' Co-Lead Counsel in this litigation regarding the marketing, pricing, and sale of EpiPen auto-injector devices in the United States. Plaintiffs allege that defendants Mylan and Pfizer engaged in unfair and illegal activities that stifled competitors, allowing defendants to maintain their dominant market positions and increase the prices of EpiPen products by over 500%. These practices forced consumers to pay inflated and unnecessary costs for EpiPens—a device on which many lives depend. On February 27, 2020, the Court certified two classes of consumers and payors against Defendants Mylan and Pfizer. Trial is set to begin in January 2022.

CONSUMER PROTECTION CLASS ACTIONS

REPRESENTATIVE CASES continued

In re JPMorgan Chase Mortgage Modification Litigation, MDL No. 2290 (D. Mass.)

Keller Rohrback served as Co-Lead Counsel in this MDL, representing homeowners who attempted to obtain mortgage loan modifications from JPMorgan Chase and related entities. Plaintiffs alleged breach of contract and violations of consumer protection laws when Defendants failed to timely evaluate or approve mortgage modification applications of homeowners who had completed identified prerequisites. Keller Rohrback achieved a settlement for the class valued at over \$500 million.

In re Mattel, Inc., Toy Lead Paint Products Liability Litigation, MDL No. 1897 (C.D. Cal.)

Keller Rohrback served as Chair of the Executive Committee in this nationwide MDL against Mattel and Fisher-Price on behalf of purchasers of toys recalled because they were manufactured using lead paint and/or dangerous magnets. On behalf of Plaintiffs, Keller Rohrback achieved a settlement valued at approximately \$50 million.

Fox v. Iowa Health System, No. 18-00327 (W.D. Wis.)

Plaintiffs filed this complaint against Iowa Health System (UnityPoint Health) on behalf of individuals in Wisconsin, Iowa, and Illinois whose protected health information was compromised as a result of data breaches that occurred on at least two separate occasions between November 2017 and March 2018. On July 25, 2019, the Court granted in part and denied in part Defendant's motion to dismiss. The parties have since reached a settlement, and the Court granted preliminary approval on September 16, 2020. Notice of the settlement has been sent to approximately 1.4 million class members and the Court will hold a Hearing on Final Approval of the settlement on February 19, 2021.

Ormond v. Anthem, Inc., No. 05-1908 (S.D. Ind.)

Anthem Insurance converted from a mutual company to a stock company on November 2, 2001. More than 700,000 former members of the mutual company sued Anthem, alleging that the cash compensation they received as a result of the demutualization was inadequate. After class certification and shortly before the start of trial, Keller Rohrback and co-counsel settled the action for \$90 million.

Corona v. Sony Pictures Entertainment, Inc., No. 14-9600 (C.D. Cal.)

Keller Rohrback served as interim Co-Lead Counsel and Liaison Counsel in this case against Sony Pictures Entertainment, Inc. on behalf of former and current Sony employees affected by the company's highly publicized data breach. Plaintiffs alleged that Sony failed to secure and protect its computer systems, servers, and databases, resulting in the release of the named Plaintiffs and other class members' personal information. Keller Rohrback obtained a significant settlement for the class in October 2015, which was approved in April 2016.

In re: Arizona Theranos, Inc. Litigation, No. 16-2138 (D. Ariz.)

Keller Rohrback filed class action complaints in California and Arizona federal courts against Walgreens Boots Alliance, Inc., Walgreen Arizona Drug Company, and the leaders of Theranos, Inc.: Elizabeth Holmes and Ramesh (Sunny) Balwani. Theranos claimed to have developed a "tiny blood test," and it ventured with Walgreens to market its product and offer it in select Walgreens retail stores. The vaunted technology did not work. Thousands of Theranos test results were either invalidated or called into question. Holmes and Balwani also face related criminal charges. On March 6, 2020, the U.S. District Court in Phoenix, Arizona granted class certification in favor of an estimated 175,000 consumers in Arizona and California against Defendants. Defendants are appealing that decision, and the litigation is ongoing.

CONSUMER PROTECTION CLASS ACTIONS

REPRESENTATIVE CASES continued

Iacovelli v. SBTickets.com, LLC, No. 15-1459 (Maricopa Cnty. Super. Ct., Ariz.)

Keller Rohrback filed a class action in Arizona state court on behalf of individuals who paid for, but did not receive, tickets to the 2014 Super Bowl (Super Bowl XLIX) from the ticket broker SBTickets. Despite purchasing tickets and receiving numerous representations that their tickets were guaranteed, SBTickets customers were told just days before the game, and in some instances, only hours before kickoff, that their ticket orders would not be fulfilled. The case was settled on favorable terms for the class notwithstanding the Defendant's insolvency and bankruptcy proceedings.

Telephone Consumer Protection Act Cases, (King Cnty. Super. Ct., Wash.)

Keller Rohrback prosecuted numerous class actions concerning the sending of unsolicited facsimiles in violation of the Telephone Consumer Protection Act and the Washington Consumer Protection Act, resulting in the issuance of eleven permanent injunctions and the recovery of over \$56 million on behalf of injured Plaintiffs.

In re Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation, MDL No. 08-1967 (W.D. Mo.)

Keller Rohrback served on the Plaintiffs' Steering Committee in this MDL on behalf of purchasers of plastic baby bottles and "sippy" cups which contained the chemical bisphenol-A (BPA). The action was favorably settled.

Brotherson v. Professional Basketball Club, L.L.C., No. 07-1787 (W.D. Wash.)

Keller Rohrback represented Seattle SuperSonics season ticket holders who renewed their 2007-2008 season ticket packages before the team was relocated to Oklahoma City. After Plaintiffs prevailed on class certification and defeated summary judgment, the parties negotiated a significant settlement that returned substantial sums to the class.

In Re 21st Century Oncology Customer Data Breach Litigation, MDL No. 2737 (M.D. Fla.)

In 2016, Keller Rohrback L.L.P. filed three proposed Class Action Complaints against the Florida-based healthcare provider 21st Century Oncology concerning an October 2015 data breach. All cases concerning the breach were consolidated in October 2016 for coordinated pretrial proceedings. On November 18, 2016, Keller Rohrback and Robinson Calcagnie were appointed Interim Co-Lead Counsel. On March 11, 2019, the Court entered its Order denying the Defendants' Motion to Dismiss the Amended Consolidated Complaint. In June 2020, the parties reached a settlement in principle, which the Court preliminarily approved on November 2, 2020. Notice to class members will be sent in early January, and a Hearing to determine whether the Settlement is fair, adequate and reasonable will be held June 15, 2021.

In re Apple Inc. Device Performance Litigation, MDL No. 2827 (N.D. Cal.)

Keller Rohrback served as Co-Chair of the Executive Committee for Offensive Discovery and also as the ESI Coordinator in this consolidated action concerning iOS software installed on certain Apple iPhone devices. The Plaintiffs asserted claims that this software diminished the performance of those devices. Numerous cases were consolidated before Judge Edward J. Davila in the Northern District of California. A settlement of up to \$500 million has been granted preliminary approval for the benefit of the Settlement Class Members. The Final Fairness Hearing was held December 4, 2020.

ATTORNEYS

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Adele Daniel
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Benjamin Gould
David Ko
Derek Loeser
Chris Springer
Michael Woerner
Emma Wright

Keller Rohrback is a pioneer in representing consumers and employees who have had their personal information breached. Our Data Privacy Litigation team has an established reputation of successful data breach litigation in federal and appellate courts.

Our success in this area includes the groundbreaking case, *Krottner v. Starbucks*, where the Ninth Circuit recognized that Plaintiffs-Appellants' injury caused by a stolen laptop containing their personal information sufficiently satisfied the Article III standing requirement. This decision established an important legal precedent that formed a building block for privacy litigation under federal law.

Keller Rohrback's Data Privacy Litigation team has made headlines in various publications, including *Variety*, the *Los Angeles Times*, *Law.com*, and *The Guardian*. We have also been featured on broadcasts such as NPR's Morning Edition and KIRO 7 Seattle.

REPRESENTATIVE CASES

In re: Facebook, Inc. Consumer Privacy User Profile Litigation, MDL No. 2843 (N.D. Cal.)

Keller Rohrback partner Derek Loeser serves as Interim Co-Lead Counsel in this multidistrict litigation arising out of the Cambridge Analytica scandal, wherein Facebook acknowledged that a third-party app had collected the personal information of 87 million Facebook users. Plaintiffs' consolidated complaint, filed on behalf of Facebook users in the United States, alleges that Facebook shared users' personal information with its business partners and certain third-party applications without users' authorization or consent. On September 9, 2019, the Court issued an order on Facebook's motion to dismiss, allowing most of Plaintiffs' claims to proceed. The litigation is proceeding in discovery.

Corona v. Sony Pictures Entertainment, Inc., No. 14-9600 (C.D. Cal.)

Keller Rohrback served as Interim Co-Lead Counsel and Liaison Counsel in this case against Sony Pictures Entertainment, Inc. on behalf of former and current Sony employees affected by the company's highly publicized data breach. Plaintiffs alleged that Sony failed to secure and protect its computer systems, servers, and databases, resulting in the release of the named Plaintiffs and other class members' personal information. Keller Rohrback obtained a significant settlement for the class in October 2015, which was approved in April 2016.

Fox v. Iowa Health System, No. 18-00327 (W.D. Wis.)

Plaintiffs filed this complaint against Iowa Health System (UnityPoint Health) on behalf of individuals in Wisconsin, Iowa, and Illinois whose protected health information was compromised as a result of data breaches that occurred on at least two separate occasions between November 2017 and March 2018. On July 25, 2019, the Court granted in part and denied in part Defendant's motion to dismiss. The parties have since reached a settlement, providing for credit monitoring and insurance services, reimbursement for out-of-pocket costs, and payment for time incurred as a result of the data breaches. The Court granted preliminary approval of the settlement on September 16, 2020. Notice of the settlement has been sent to approximately 1.4 million class members and the Court will hold a hearing on final approval of the settlement on February 19, 2021.

REPRESENTATIVE CASES continued

In Re Experian Data Breach Litigation, No. 15-1592 (C.D. Cal.)

In October 2015, Experian announced a nationwide data breach affecting an estimated 15 million consumers. Keller Rohrback was appointed to serve on the Plaintiffs' Steering Committee. After three years of litigation, a settlement was reached valued at more than \$150 million, providing credit monitoring and insurance services, reimbursement for out-of-pocket costs, and payment for time incurred as a result of the data breach. The Court granted final approval of the settlement in May 2019.

In Re 21st Century Oncology Customer Data Breach Litigation, MDL No. 2737 (M.D. Fla.)

In 2016, Keller Rohrback filed three proposed class action complaints against the Florida-based healthcare provider 21st Century Oncology concerning an October 2015 data breach impacting 2.2 million class members. All cases concerning the breach were consolidated in October 2016 for coordinated pretrial proceedings. On November 18, 2016, Keller Rohrback and Robinson Calcagnie were appointed Interim Co-Lead Counsel. On March 11, 2019, the Court entered its order denying the Defendants' motion to dismiss the amended consolidated complaint. In June 2020, the parties reached a settlement in principle, valued at more than \$16 million, providing for credit monitoring and insurance services, reimbursement for out-of-pocket costs, and payment for time incurred as a result of the data breach. The Court preliminarily approved the settlement on November 2, 2020. Notice to class members was sent in early January, and a hearing to determine whether the settlement is fair, adequate and reasonable will be held June 15, 2021.

Krottner v. Starbucks Corp., 628 F.3d 1139 (9th Cir. 2010)

In 2008, Keller Rohrback filed a class action on behalf of approximately 97,000 Starbucks employees whose unencrypted private information was contained on a stolen Starbucks laptop. Plaintiffs' claims included negligence and breach of contract for failing to protect employees' personally identifiable information. The district court granted Starbucks's motion to dismiss, but Keller Rohrback successfully appealed the decision as to standing, resulting in the Ninth Circuit establishing a new legal precedent that the theft of PII constituted injury under Article III.

In re Blackbaud, Inc., Customer Data Security Breach Litigation, MDL No. 2972 (D. S.C.)

Keller Rohrback partner Gretchen Freeman Cappio serves as Chair of the Plaintiffs' Steering Committee in this multidistrict litigation arising out of the 2020 Blackbaud Data Breach. Plaintiffs' consolidated complaint, filed in the District of South Carolina, alleges that Blackbaud's clients' user data was exposed during a breach that lasted months, and Blackbaud further delayed Plaintiffs' ability to protect their data by their failure to announce the breach, despite knowledge of it, for months. Plaintiffs' claims survived Blackbaud's three motions to dismiss, and the litigation is proceeding in discovery.

Carp v. T-Mobile USA, Inc., No. 21-01130 (W.D. Wash.)

Keller Rohrback filed a class action on behalf of the 100 million T-Mobile customers whose data was exposed in the August 2021 Data Breach. Plaintiffs' complaints allege that T-Mobile failed to protect data of customers and consumers who applied for credit with T-Mobile, leading to the exposure of information including their social security numbers, names, and dates of birth. The case was consolidated by the JPML in December 2021 and litigation is currently proceeding in the Western District of Missouri.

ATTORNEYS

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Gretchen Obrist
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Erin Riley
Havila C. Unrein
Amy Williams-Derry
Michael Woerner

Keller Rohrback is the preeminent firm for Employee Retirement Income Security Act of 1974 (ERISA) and other employee benefit class action and complex litigation. Our firm is a pioneer of ERISA class action litigation, with over a billion dollars of pension and health benefits recovered for our clients. Keller Rohrback has played a major role in developing the law and establishing that ERISA's protections apply to all investments in company-sponsored retirement plans, as well as to benefits in health and welfare plans. Keller Rohrback's attorneys are also well versed in ERISA preemption matters and have a long history of supporting city and state efforts to fill gaps in providing health and retirement benefits to their constituents.

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. Managing a complex, large-scale employee benefit case requires knowledge of employee benefit, securities, accounting, corporate, bankruptcy, and class action law. Keller Rohrback has excelled in these cases by developing a deep understanding of ERISA and by drawing on our expertise in numerous related practice areas.

Keller Rohrback has a very deep bench in ERISA matters. Lawyers at Keller Rohrback have testified before Congress, served as editors of numerous employee benefit books and manuals, and written scholarly ERISA articles, amicus briefs, and comments to regulatory agencies overseeing ERISA plans. We are frequently featured speakers and presenters at prestigious legal education seminars on 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' and retirees' stories and craft cases that enforce ERISA's longstanding duties—which are the highest known to the law.

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 IKON's 401(k) plan, that the fiduciaries of the plan failed to provide complete and accurate information about 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. Judge Katz granted final approval of the settlement in 2002.

REPRESENTATIVE CASES continued

In re Enron Corp. ERISA Litigation, MDL No. 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 four separate settlements with different groups of Defendants, resulting in recoveries of over \$264 million. Judge Melinda Harmon approved the fifth and final settlement on February 23, 2007.

In re Lucent Technologies, 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 on December 12, 2003.

"[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... [Keller Rohrback] should be appropriately rewarded as an incentive for the further protection of employees and their pension plans not only in this litigation but in all ERISA actions." *In re WorldCom, Inc. ERISA Litigation*, No. 02-4816, 2004 WL 2338151, *10 (S.D.N.Y. Oct. 18, 2004) (Judge Cote).

In re WorldCom, Inc. ERISA Litigation, No. 02-4816 (S.D.N.Y.)

Keller Rohrback served as Lead Counsel in this class action filed in the Southern District of New York 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 on October 26, 2004 and November 21, 2005.

In re AIG ERISA Litigation, No. 04-9387 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for injunctive relief and the payment of \$25 million to the plans was approved by Judge Kevin T. Duffy on October 8, 2008.

Alvidres v. Countrywide Financial Corp., No. 07-5810 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action filed 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 on November 16, 2009.

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 filed in the Southern District of New York on behalf of participants and beneficiaries of the GX defined contribution plans who invested in GX stock. A settlement providing injunctive relief and a payment of \$79 million to the plan was approved by Judge Gerard Lynch on November 10, 2004.

REPRESENTATIVE CASES continued

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 filed in the Southern District of New York 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 on August 21, 2009.

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 filed on behalf of participants and beneficiaries in the company's retirement plans who invested in Washington Mutual stock. On January 7, 2011, Judge Marsha J. Pechman granted final approval of the \$49 million settlement in the ERISA action.

Judy Hunter v. Berkshire Hathaway, Inc., No. 14-663 (N.D. Tex.)

Keller Rohrback was class counsel in a case under the Employee Retirement Income Security Act ("ERISA") against Berkshire Hathaway Inc. ("Berkshire Hathaway"). Plaintiffs alleged that, when Berkshire Hathaway acquired a subsidiary ("Acme") in 2000, Berkshire Hathaway made promises in a merger agreement that amended Acme's pension and 401(k) plans, and that Berkshire Hathaway violated ERISA and those promises when it allegedly caused Acme to freeze accrual of pension benefits and decrease the employer's matching contribution to the 401(k) plan. On May 26, 2020, the Court granted final approval of the parties' Class Action Settlement Agreement, providing the classes an estimated \$10 million in value and resolving Plaintiffs' ERISA claims with no admission of liability by Berkshire Hathaway.

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.

In re State Street Bank and Trust Co. ERISA Litigation, No. 07-8488 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Southern District of New York brought on behalf of participants and beneficiaries in the company's retirement plans. A settlement providing a payment of \$89.75 million was approved by Judge Richard J. Holwell on February 19, 2010.

REPRESENTATIVE CASES continued

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.

Griffith v. Providence Health & Services, No. 14-01720 (W.D. Wash.)

Keller Rohrback served as Class Counsel in this lawsuit alleging that the Providence Health & Services Cash Balance Retirement Plan was improperly claiming an exemption from ERISA as a “church plan.” In 2017, the Court granted final approval of a class settlement of \$350 million to the Plan and a guarantee that the Plan’s trust will have sufficient assets to pay benefits as they come due; and additional administrative protections and other equitable relief for Plan participants.

Hodges v. Bon Secours Health System, Inc., No. 16-01079 (D. Md.)

Keller Rohrback served as co-counsel in this lawsuit alleging that Bon Secours Health System’s seven defined benefit pension plans were improperly claiming an exemption from ERISA as “church plan(s).” In 2017, the Court granted final approval of a settlement providing for equitable relief, plus payment of over \$98 million to the Plans.

Lann v. Trinity Health Corporation, No. 14-02237 (D. Md.)

Keller Rohrback served as Class Counsel in this lawsuit alleging that Trinity Health Corporation and Catholic Health East were improperly claiming an exemption from ERISA as “church plan.” In 2017, the Court granted final approval of a settlement providing for equitable relief, plus payment of over \$76 million to the Plan.

Spires v. Schools, No. 16-616 (D.S.C.)

Keller Rohrback and co-counsel represented participants and beneficiaries in the Piggly Wiggly ESOP. The complaint alleged that Defendants breached their fiduciary duties by doing nothing as the value of the Piggly Wiggly stock plummeted by nearly 90%. A settlement providing a payment of between \$7.675 million and \$8.65 million was approved by Judge Richard Gergel.

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 other fees were excessive in light of the size of the plan, and that these fees were not properly disclosed. Our 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.

REPRESENTATIVE CASES continued

Beach v. JPMorgan Chase Bank, No. 17-563 (S.D.N.Y.)

Plaintiffs allege that JPMorgan Chase Bank (Chase) breached its fiduciary duties to the participants and beneficiaries of the JPMorgan Chase 401(k) Savings Plan (Plan) in violation of ERISA by, among other things, failing to prudently and loyally manage the Plan's assets by selecting and retaining unduly expensive Core Funds and Target Date Funds as investment options in the Plan and by engaging in prohibited transactions as a result of conflicts of interest. Defendants' motion to dismiss was largely denied. The case is now in the discovery phase.

In re Express Scripts / Anthem ERISA Litigation, No. 16-3399 (S.D.N.Y.)

Keller Rohrback serves as interim Co-Lead Counsel in this class action filed on behalf of both plan fiduciaries and all participants and beneficiaries of Anthem-insured ERISA plans and self-insured ERISA plans against both Anthem and Express Scripts, Inc. (ESI) for breaches of fiduciary duty and prohibited transactions under ERISA. ESI serves as the exclusive Pharmacy Benefit Manager (PBM) to Anthem-insured and -administered plans under a ten-year agreement, and the claims arise out of Defendants' practice of overcharging the class for pharmaceutical drugs. The case is pending before the Second Circuit Court of Appeals.

Gates v. United Health, No. 11-3487 (S.D.N.Y.)

Keller Rohrback served as counsel in this lawsuit that alleged Defendants violated ERISA through use of an "estimating policy" which caused Medicare eligible participants and beneficiaries to be paid lower benefits than required by the plan in which they participate for services provided by out-of-network providers. Following an initial dismissal, Keller Rohrback successfully appealed to the Second Circuit Court of Appeals, and the district court then agreed with Plaintiff.

ERISA Industry Committee v. City of Seattle, No. 18-1188 (W.D. Wa.)

Keller Rohrback is co-counsel (along with the City Attorney) in defending a Seattle ordinance that mandates that large hotels pay specified amounts of money for employee health care. A nationwide employer association brought suit claiming that the ordinance is preempted by ERISA. The U.S. District Court granted the City's motion to dismiss and the district court's decision was recently upheld on appeal.

"The Court finds that [Keller Rohrback] is experienced and qualified counsel who is generally able to conduct the litigation as lead counsel on behalf of the putative class. Keller Rohrback has significant experience in ERISA litigation, serving as co-lead counsel in the Enron ERISA litigation, the Lucent ERISA litigation, and the Provident ERISA litigation, and experience in complex class action litigation in other areas of law" *In re Williams Cos. ERISA Litigation*, No. 02-153, 2002 U.S. Dist. LEXIS 27691, *8 (N.D. Okla. Oct. 28, 2002) (Judge Holmes).

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Attorneys in Keller Rohrback's Complex Litigation Group have successfully represented individuals, class members, municipalities, and nonprofit organizations in complex and critical environmental litigation. In cases involving oil spills, mishandled hazardous waste, contaminated consumer products, and industrial pollution, Keller Rohrback works to protect human health and the environment. The firm combines its unparalleled experience in consumer protection and its deep knowledge of environmental law, making Keller Rohrback a worldwide leader in litigation to safeguard our environment and the people and animals that rely on it.

REPRESENTATIVE CASES

PCB Litigation Against Monsanto Company for Environmental Contamination and Public Nuisance on Behalf of State and Local Governments

Keller Rohrback has been retained by numerous state and local governments to pursue claims against Monsanto for the long-lasting and devastating impacts that Monsanto's polychlorinated biphenyls ("PCBs") have inflicted on fish, wildlife, ecosystems, and communities. Monsanto was the sole manufacturer of PCBs in the United States, selling over 1.4 billion pounds of these highly persistent and toxic chemicals. Although the manufacture of PCBs has been banned since the late 1970s, PCBs continue to contaminate land, water, and nearly all living things. By pursuing these cases against the Monsanto defendants, Keller Rohrback is working to hold Monsanto responsible for the environmental contamination and degradation it has inflicted upon communities across the United States for generations.

State of Oregon v. Monsanto Company et al., No. 18CV00540 (Multnomah Cnty. Cir. Ct., Oregon)

Oregon appointed Keller Rohrback to represent the State in this important matter. The State seeks to make Monsanto pay to clean up its PCBs from Oregon's lands and waters, and to compensate Oregonians for the many impacts PCBs have had on fish and wildlife statewide. Keller Rohrback, together with co-counsel, filed the complaint in 2018, and Oregon has prevailed on two motions to dismiss and defeated all eight motions for summary judgment. Trial is set for May 2022.

State of Delaware, ex rel. Kathleen Jennings v. Monsanto Company, et al., Case No. N21C-09-179 MMJ CCLD (New Castle Cty Superior Ct., DE)

The State of Delaware hired Keller Rohrback to pursue claims against Monsanto sounding in nuisance, trespass, and unjust enrichment. The complaint was filed in September 2021, and the case is proceeding in Delaware State Court.

City of Seattle v. Monsanto et al, 2:16-CV-00107 (W.D. Wash.)

Keller Rohrback has the honor of representing the City of Seattle in its case against Monsanto. The City's action focuses on the Lower Duwamish Waterway, which suffers from significant PCB contamination. The Waterway's PCB contamination has resulted in fish consumption advisories and interferes with the public's ability to fully use and enjoy the river. Discovery is ongoing and trial is set for September 2022.

OTHER REPRESENTATIVE CASES

In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2777 (N.D. Cal.)

From the outset, Keller Rohrback played a major role in this multidistrict litigation, representing consumers nationwide who alleged that Fiat Chrysler used an emissions defeat device in over 100,000 Ram 1500 and Jeep Grand Cherokee diesel trucks and SUVs. Keller Rohrback Managing Partner Lynn Sarko was appointed by the Court to the Plaintiffs' Steering Committee leading this case, and Keller Rohrback attorneys took an active role in discovery and served on the negotiating team that achieved and implemented a settlement worth over \$307 million. The settlement, involving both Fiat Chrysler and supplier Bosch, provided owners and lessees of the affected vehicles with substantial cash payments in addition to government-approved emissions repairs and valuable extended warranty protection.

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, No. 3:15-md-02672 (N.D. Cal.)

Keller Rohrback filed the first multi-Plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Keller Rohrback represented consumers nationwide who alleged they were damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States. Keller Rohrback Managing Partner Lynn Sarko served on the Plaintiffs' Steering Committee for this national litigation. Lynn Sarko and partner Gretchen Freeman Cappio served on the negotiating team for the \$15 billion class action settlement for 2.0-liter vehicles, the largest auto-related consumer class action in U.S. history. Keller Rohrback played a similar role in reaching and implementing similar settlements with Volkswagen and Bosch regarding approximately 100,000 3-liter vehicles.

In re Exxon Valdez, No. 89-95 (D. Alaska)

Keller Rohrback was trial counsel representing fishermen, landowners, and businesses located in Prince William Sound in their action against Exxon to recover damages caused by

the Exxon Valdez oil spill. A federal jury awarded a \$5 billion judgment in favor of Keller Rohrback clients. At the time, it was the largest punitive damages verdict in U.S. history. Additional claims against the Alyeska Pipeline Service Company were settled for \$98 million. More than 25 years after the tragic spill, the Exxon Valdez spill is still considered one of the most devastating human-caused environmental disasters. In addition, Keller Rohrback Managing Partner Lynn Sarko was appointed to serve as the Administrator of the Exxon and Alyeska Qualified Settlement Funds.

Andrews v. Plains All American Pipeline, No. 2:15-04113 (C.D. Cal.)

Keller Rohrback serves as Co-Lead Counsel representing fisherman, fish processors, and others affected by the May 2015 spill from Plains All American's Line 901 pipeline in Santa Barbara County. The oil spill contaminated pristine beaches, closed critical fishing grounds, and damaged natural resources throughout the region. Keller Rohrback seeks compensation for victims of the spill for their present and future damages and to hold Plains accountable for the harm it caused to the local economy and environment.

Meeker v. Bullseye Glass Co., No. 16CV07002 (Multnomah Cnty. Cir. Ct., Oregon)

Keller Rohrback successfully negotiated a classwide settlement with Bullseye Glass Company for contaminating a residential neighborhood in Portland, Oregon, by emitting hazardous levels of arsenic, cadmium, chromium, and other toxic materials from its glass-making facility for years. Despite using thousands of pounds a year of dangerous heavy metals, Bullseye Glass had used no pollution control technology for more than four decades. Using innovative air and soil monitoring, Keller Rohrback helped this neighborhood to protect itself and hold Bullseye accountable for the harm it caused. The final settlement approved by the Court includes a two-year air monitoring program, ongoing use of pollution control devices by the defendant, and significant monetary payments to class members, including reimbursement for air emissions-related expenses.

OTHER REPRESENTATIVE CASES continued

Clean Water Act Enforcement – General Magnaplate

In partnership with the non-profit Environmental Defense Center, one of the oldest environmental organizations in the United States, Keller Rohrback L.L.P. helped reach a final settlement with General Magnaplate California to control the significant pollutants the company discharged via stormwater into the fragile Santa Clara River. Under the settlement, General Magnaplate agreed to implement enhanced storm water management measures at its electroplating facility to ensure that storm water runoff does not contain high levels of pollutants that pose a threat to human health and the environment. These measures include installing effective treatment technology and repairing paved surfaces. In addition, General Magnaplate will contribute \$15,000 to the Rose Foundation for Communities and the Environment to be used to improve the water quality in the Santa Clara River watershed.

Resendez, et al. v. Precision Castparts Corp., et al., No. 16CV16164 (Multnomah Cnty. Cir. Ct., Oregon)

Keller Rohrback represents a proposed class of homeowners and residents in Multnomah and Clackamas County who seek relief from Precision Castparts Corp. for the company's heavy metal particulate air pollution that has clouded their neighborhood and unreasonably interfered with their real property rights. Plaintiffs have prevailed on the defendants' motions to dismiss and for summary judgment. Class certification has been briefed and argued, and the parties are awaiting the court's ruling.

Southern California Gas Leak Cases, No. JCCP4861 (Los Angeles Cnty. Sup. Ct., Calif.)

This action concerns one of the worst human-caused environmental disasters in this nation's history. These consolidated cases stem from the massive blowout at a natural gas storage well at the Aliso Canyon Natural Gas Storage Facility beginning in 2015. The blowout raged out of control for over 100 days, spewing huge volumes of natural gas, its constituents, and other toxic chemicals into the surrounding community. When the blowout was finally contained, it had released a volume of methane gas that caused a 25% increase in all of California's greenhouse gas emissions in 2015. Over 22,000 residents living within a 5-mile radius of the blowout were forced from their homes when their properties and schools were contaminated with a soup of toxic chemicals and known carcinogens. A motion for preliminary approval of a class action settlement to resolve the property-related claims of these residents is pending before the Superior Court of California, County of Los Angeles. Keller Rohrback serves on the Plaintiffs' Steering Committee for the Class Action Track for this action.

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Michael Woerner

Keller Rohrback has successfully represented government entities in a wide range of complex litigation. Whether fighting environmental contamination, combating antitrust activities, or recovering hundreds of millions of dollars from misleading investments, Keller Rohrback knows how to work effectively and collaboratively with and for government clients. Our unparalleled experience in consumer protection, antitrust and other areas of law—plus our hands-on, cooperative approach to litigation—have made our firm an effective partner for governments, sovereign nations and government-sponsored entities (GSEs).

REPRESENTATIVE CASES

In re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2913 (N.D. Cal.)

Keller Rohrback has filed complaints on behalf of school districts and various counties in the United States alleging that Defendants have engaged in conduct which endangers or injures the health and safety of those communities by Defendants' production, promotion, distribution, and marketing of vapor products for use by minors in those communities. These cases have been centralized before Judge Orrick in the Northern District of California along with consumer class actions and individual injury actions alleging similar conduct. The Court has named Keller Rohrback partner Dean Kawamoto as co-lead counsel in the MDL.

In re National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio)

Keller Rohrback Managing Partner Lynn Sarko serves on the Plaintiffs' Executive Committee in this multidistrict litigation, which includes governments throughout the nation that have been damaged by the current opioid crisis. Opioid manufacturers' and distributors' dubious marketing and aggressive sales of prescription opioids significantly contributed to the epidemic. Keller Rohrback represents over 75 governmental entities, including counties, cities, tribes, school districts, and third-party payors across the country. Some larger clients include King County in Washington, Maricopa County in Arizona, and City and County of Denver in Colorado.

In re: Liquid Aluminum Sulfate Antitrust Litigation, MDL No. 2687 (D.N.J.)

In 2016, Keller Rohrback filed numerous class action complaints in federal courts on behalf of several municipalities in Washington, California, and Arizona that purchase and use liquid aluminum sulfate ("Alum") to treat and clean their waste water. The complaints contained claims against the major manufacturers of Alum who allegedly engaged in a conspiracy to artificially inflate the price of this essential chemical used in municipal water treatment. As a result of these antitrust violations, municipalities – and their taxpayers – had overpaid millions of dollars to the co-conspirators for the Alum they purchased during the long life of this conspiracy. In March 2020, the Court authorized the transfer of settlement funds to pay claims of the Settlement Class Members.

The Republic of the Marshall Islands v. United States of America et al., No. 14-1885 (N.D. Cal.)

Keller Rohrback represented the Republic of the Marshall Islands (RMI) in an action for breach of the Treaty on the Non-Proliferation of Nuclear Weapons. We also represented the RMI in cases at the International Court of Justice against the United Kingdom, India, and Pakistan, for breach of treaty and violations of customary international law. For this ground-

REPRESENTATIVE CASES continued

breaking work, Keller Rohrback and the RMI's former Foreign Minister, Tony deBrum, were nominated for the 2016 Nobel Peace Prize.

Federal Home Loan Bank Litigation

Keller Rohrback has represented several Federal Home Loan Banks ("FHLBs") in mortgage-backed securities litigation across the country against dozens of issuers, underwriters, and sponsors of these complex instruments. Representing these GSEs simultaneously in multiple state and federal courts has required us to approach coordinated, complex litigation by mastering the law of various jurisdictions and pressing similar claims, albeit under different governing law, in multiple fora at the same time. The FHLB complaints named more than 120 defendants and involved over 200 securities with a collective original face value of over \$13 billion. The relief sought by the FHLBs includes rescission and damages under state blue sky laws and the federal securities laws. We have recovered hundreds of millions of dollars on behalf of our clients to date.

The Navajo Nation v. Urban Outfitters, Inc., et al., No. 12-00197 (D. N.M.)

Keller Rohrback represented the Navajo Nation against Urban Outfitters and its Anthropologie and Free People subsidiaries, alleging that these retailers infringed the Nation's trademarks by marketing inauthentic jewelry, handbags, and clothing using the NAVAJO mark. A settlement resolved the Nation's claims, and the parties agreed to enter a supply agreement that requires Urban Outfitters to purchase authentic goods from tribal artisans.

Daisy Mountain Fire District v. Microsoft Corp., MDL No. 1332 (D. Md.)

Keller Rohrback obtained a settlement in excess of \$4 million on behalf of a class of Arizona governmental entities that indirectly purchased operating systems and software from Microsoft for overcharges resulting from Microsoft's monopolistic practices. The settlement returned millions of dollars to local government entities at a time of severe budget crisis in the state.

In re Liquid Aluminum Sulfate Antitrust Litigation, MDL No. 2687 (D. N.J.)

In early 2016, Keller Rohrback filed numerous class action complaints in the federal courts on behalf of several municipalities in the states of Washington, California and Arizona, including the cities of Tacoma, Everett, Spokane, Phoenix, Scottsdale, Mesa and Sacramento. These complaints assert claims against the major manufacturers of liquid aluminum sulfate ("LAS") who are alleged to have engaged in a conspiracy to artificially inflate the price of this essential chemical used in municipal water treatment. The complaints allege a conspiracy going as far back as 1997 and through at least 2010. As a result of these antitrust violations, municipalities—and their taxpayers—have allegedly overpaid millions of dollars to the co-conspirators for the aluminum sulfate they purchased during the long life of this conspiracy. The complaints seek to recover the money the municipalities paid in excess of the competitive price for LAS, and to ensure that such companies do not abuse the public bidding process again for their own gains.

King County v. Lexington Insurance Co., Allied World Assurance Co., Inc., and CH2M Hill, No. 15-2-03541 (Wash. Super. Court)

Keller Rohrback represented King County, Washington, in a multi-million-dollar insurance coverage and bad faith lawsuit arising from a disaster at the County's Brightwater Wastewater Treatment Facility. Our litigation returned millions of dollars to the taxpayers and allowed the County to upgrade its treatment facility to prevent future malfunctions.

Village of Rockton, Illinois v. Sonoco Products Company, No. 14-50228 (N.D. Ill.)

Keller Rohrback represented the Village of Rockton in its efforts to make Sonoco Products Company, a paper and plastics manufacturing company, clean up the toxic mess it left when it abandoned its facility in the heart of the Village. Although the Illinois Environmental Protection Agency concluded that the levels of contamination at the site far exceeded state and federal laws and were threatening to spread to other sites in town and pollute the river, Sonoco

REPRESENTATIVE CASES continued

refused to take any action. That changed, however, when Keller Rohrback began working on the case.

Using the experience and skills of the attorneys at KR, the Village took matters into its own hands and commenced legal action against Sonoco to protect the health and well-being of its dynamic community. As a result of Keller Rohrback's intervention, Sonoco has cleaned up the site and left the Village of Rockton a now safer and better place. Our firm is committed to making communities like Rockton clean and healthy places to live and visit.

ERISA Industry Committee v. City of Seattle, No. 18-1188 (W.D. Wash.)

Keller Rohrback is co-counsel (along with the City Attorney) in defending a Seattle ordinance that mandates that large hotels pay specified amounts of money for employee health care. A nationwide employer association brought suit claiming that the ordinance is preempted by ERISA. The U.S. District Court granted the City's motion to dismiss and the district court's decision was recently upheld on appeal.

State of Oregon v. Monsanto Company et al., No. 18CV00540 (Multnomah Cnty. Cir. Ct., Oregon)

Oregon appointed Keller Rohrback to represent the State in this important matter. The State seeks to make Monsanto pay to clean up its PCBs from Oregon's lands and waters, and to compensate Oregonians for the many impacts PCBs have had on fish and wildlife statewide. Keller Rohrback, together with co-counsel, filed the complaint in 2018, and Oregon has prevailed on two motions to dismiss and defeated all eight motions for summary judgment. Trial is set for May 2022.

State of Delaware, ex rel. Kathleen Jennings v. Monsanto Company, et al., Case No. N21C-09-179 MMJ CCLD (New Castle Cty Superior Ct., DE)

The State of Delaware hired Keller Rohrback to pursue claims against Monsanto sounding in nuisance, trespass, and unjust enrichment. The complaint was filed in September 2021, and the case is proceeding in Delaware State Court.

City of Seattle v. Monsanto et al, 2:16-CV-00107 (W.D. Wash.)

Keller Rohrback has the honor of representing the City of Seattle in its case against Monsanto. The City's action focuses on the Lower Duwamish Waterway, which suffers from significant PCB contamination. The Waterway's PCB contamination has resulted in fish consumption advisories and interferes with the public's ability to fully use and enjoy the river. Discovery is ongoing and trial is set for September 2022.

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Keller Rohrback's insurance coverage lawyers have represented policyholders and insurers in state and federal courts for over 50 years. We have been at the forefront of policy interpretation and litigation to ensure that policyholders get the full benefit of the insurance coverage they purchased. Our litigation experience in this area includes coverage questions, breach of contract, insurance bad faith, negligent claims handling, violations of the Insurance Fair Conduct Act, and breach of the duty to defend. Our team has unmatched experience representing policyholders in cases involving business interruption coverage, dependent property coverage, home and property insurance, life and health insurance, professional insurance, and general and surplus insurance.

REPRESENTATIVE CASES

Chorak, et al. v. Hartford Casualty Ins. Co., et al., No. 2:20-cv- 00797 (W.D. Wash.); *Marler, et al. v. Aspen American Ins. Co.*, No. 2:20-cv-00616 (W.D. Wash.); *McCulloch et al. v. Valley Forge Ins. Co., et al.*, No. 2:20-cv- 00809 (W.D. Wash); *Nguyen, et al. v. Travelers Casualty Ins. Co. of America, et al.*, No. 2:20-cv- 00597 (W.D. Wash.); *Nue LLC v. Oregon Mutual Ins. Co.*, No. 3:20-cv-01449 (D. Or.); *Perry Street Brewing Company, LLC v. Mutual of Enumclaw Ins. Co.*, No. 20-2-02212-32 (Wash. Super. Ct. Spokane Cty.); *Hill & Stout v. Mutual of Enumclaw Ins. Co.*, No. 20-2-07925-1 (Wash. Super. Ct. King Cty.)

Keller Rohrback filed the first of many class action complaints nationwide against insurance companies for their failure to provide policyholders with business interruption insurance benefits for which businesses paid premiums. Plaintiffs alleged that they sustained a variety of losses due to COVID-19 closure orders and "stay home" proclamations, and that these losses are continuing. The losses include lost, foregone, or reduced sales and monthly membership fees due to the interruption of their business. Plaintiffs brought these claims on behalf of themselves and similarly situated members of several proposed national and state classes, as well as individual (non-class) claims on behalf of certain prominent regional businesses and organizations. Plaintiffs have prevailed in King County Superior Court and Spokane Superior Court. Cases in the Western District of Washington were dismissed in an omnibus order currently on appeal to the Ninth Circuit.

Merriman v. Am. Guarantee & Liab. Ins. Co., 198 Wn. App. 594, 396 P.3d 351, rev. den., 189 Wn.2d 1038, 413 P.3d 565 (2017)

Keller Rohrback successfully litigated this action in the Washington Court of Appeals, establishing a policyholder's right to bring claims against insurance claim service providers. *Merriman* has been cited by other courts more than twenty times, including by the Washington Supreme Court, the Washington Court of Appeals, the Iowa Supreme Court, and the Ninth Circuit. The decision has been cited more than 60 times in litigation reporters and in secondary sources, including *Couch on Insurance*, *American Law Reports*, and *Corpus Juris Secundum*.

Glendale & 27th Investments, LLC v. Delos Insurance Company, 610 F. App'x 661 (9th Cir. 2015)

After Keller Rohrback's jury trial landed a punitive damages award against the insurer with a ratio of "roughly 3.5," the firm successfully defended an appeal seeking to overturn the punitive jury award as unconstitutional. The Ninth Circuit affirmed the jury's award of punitive damages, finding that plaintiff had presented evidence at trial, among other things, that the insurer "made intentional and material misrepresentations in the administration of [plaintiffs] claim."

REPRESENTATIVE CASES continued

Utica Mutual Insurance Company v. Lifequotes of America, Inc., et al., No. 06-cv-0228-EFS (E.D. Wash.)

Keller Rohrback was awarded a series of significant class action judgments against defendant Lifequotes of America, Inc. in King County Superior Court in 2007. Facing an insolvent defendant, the class then purchased the claims and rights of defendant Lifequotes against its insurance company, Utica Mutual Insurance Company. Keller Rohrback continued to represent the class, who stepped into the shoes of the former defendant, on the new claims, and litigated against Utica Mutual in federal court in the Eastern District of Washington. The class pursued counterclaims against Utica Mutual for coverage, bad faith, and violations of the Washington Consumer Protection Act. Keller Rohrback's hard-fought and successful litigation against insurer Utica Mutual resulted in a \$44 million recovery for the class.

The Charter Oak Fire Insurance Co., et al. v. 21st Century Oncology Investments, LLC, et al., No. 8:17-cv-582-MSS-AEP (M.D. Fla.)

Keller Rohrback represents plaintiffs and a proposed class in a data breach action against healthcare provider 21st Century Oncology. Insurers sued the insured as well as the data breach plaintiffs for a declaration that there was no duty to defend and indemnify. After 21st Century declared bankruptcy, the data breach plaintiffs reached an agreement for relief from the automatic stay and an assignment of rights to a number of 21st Century's insurance policies. Keller Rohrback's clients then asserted counterclaims against the insurer, briefed cross motions for summary judgment involving unsettled law, and recently reached an agreement to settle.

Group Health Coop. v. Coon, 193 Wn.2d 841, 447 P.3d 139 (2019)

Keller Rohrback successfully represented the policyholder before the Washington Supreme Court, and prevailed in reaffirming the made-whole doctrine in favor of policyholders in insurance subrogation claims.

ATTORNEYS

Lynn Lincoln Sarko
Laurie Ashton
Alison Chase
Juli Farris
Gary A. Gotto

Keller Rohrback has experience in international forums. Keller Rohrback clients included sovereign nations, state and local governments, sovereign Native American tribes, and quasi-governmental agencies where international agreements or other tort or statutory claims are at issue.

Keller Rohrback has been honored to represent sovereigns in litigation and arbitration matters involving governmental and business entities. The firm's attorneys have argued cases in the International Court of Justice and pursued a breach of treaty claim on behalf of a sovereign nation. Keller Rohrback is also investigating environmental contamination claims on behalf of a sovereign nation.

Keller Rohrback attorneys have also represented clients in international arbitration proceedings, including International Centre for Dispute Resolution and International Chamber of Commerce arbitrations, as well as ad hoc arbitrations conducted under the United Nations Commission on International Trade Law Arbitration Rules. Domestically, these international arbitrations have given rise to related litigation in U.S. courts, including confirmation and enforcement proceedings under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

In addition, Keller Rohrback attorneys have represented private clients with international interests in civil litigation in U.S.



courts, including state and federal courts in California, New York, Illinois, and Texas. Keller Rohrback attorneys have litigated trademark claims on foreign-registered trademarks in several western European countries and have also succeeded in obtaining rulings to conduct depositions and other discovery in Russia for litigation matters pending in the U.S. federal courts. The firm has also represented claimants in insolvency proceedings in Canada, proceeding under the Companies' Creditors Arrangement Act.

Keller Rohrback is a member firm of several international organizations: the Global Justice Network, a consortium of international counsel working together and across borders for the benefit of victims; the International Financial Litigation Network of attorneys, who handle cross-border litigation in the finance arena; and the Sovereign Wealth Fund Institute, a global organization of asset managers and service providers.

REPRESENTATIVE CASES

The Republic of the Marshall Islands v. United States of America et al., No. 14-1885 (N.D. Cal.)

Keller Rohrback represented the Republic of the Marshall Islands (RMI) in an action for breach of the Treaty on the Non-Proliferation of Nuclear Weapons and also represented the RMI in cases at the International Court of Justice against the United Kingdom, India, and Pakistan, for breach of treaty and violations of customary international law. For this groundbreaking work, Keller Rohrback was nominated by the International Peace Bureau for the 2016 Nobel Peace Prize as part of the international legal team, together with the RMI's former Foreign Minister, Tony deBrum.

ATTORNEYS

Lynn Lincoln Sarko
Derek Loeser
Alison Chase
Juli Farris
Laura Gerber
Matthew Gerend
Gary A. Gotto
Benjamin Gould
Dean N. Kawamoto
Ron Kilgard
David Ko
Eric Laliberte
Ryan McDevitt
Gretchen Obrist
David S. Preminger
Erin Riley
Havila C. Unrein
Amy Williams-Derry
Michael Woerner

Keller Rohrback enjoys a national reputation for excellence in prosecuting securities and financial fraud matters. We represent a variety of investors ranging from classes of individuals to large institutions. Many of our cases reflect recent financial scandals: we are pursuing claims against a group of international banks for rigging LIBOR; we represent investors in connection with their purchases of billions of dollars of mortgage-backed securities; and we pursued claims on behalf of employee benefit plans in connection with the Madoff Ponzi scheme. While our experience is diverse, our approach is simple and straightforward: we master the factual and legal bases for our claims with a focus on providing clear and concise explanations of the financial fraud and why our clients are entitled to recover.

REPRESENTATIVE CASES

Federal Home Loan Bank Litigation

Keller Rohrback has played a prominent role in large securities fraud and other investment cases litigated across the country involving mortgage-backed securities. Keller Rohrback has been retained by several Federal Home Loan Banks (FHLBs) to pursue securities and common law claims against dozens of issuers, underwriters, and sponsors of mortgage-backed securities. The FHLB complaints named more than 120 defendants and involved over 200 securities with a collective original face value of \$13 billion. The relief sought by the FHLBs includes rescission and damages under state blue sky laws and the federal securities laws. We have recovered hundreds of millions of dollars on behalf of our clients to date.

In re the Bank of New York Mellon (as Trustee), No. 651786/2011 (N.Y. Sup. Ct.)

Keller Rohrback was a member of the three-firm steering committee addressing significant mortgage repurchase issues that impacted institutional investors. Keller Rohrback represented certificate holders who intervened in a proposed \$8.5 billion settlement initiated by Bank of New York Mellon, as Trustee of 530 Countrywide mortgage-backed securities trusts. Our firm played a lead role in discovery and the eight-week bench trial in New York contesting the fairness of the settlement. The objection we pursued and tried was the only objection the trial court sustained.

In re LIBOR-Based Financial Instruments Antitrust Litig., No. 11-2262 (S.D.N.Y.)

Keller Rohrback represents institutional funds pursuing antitrust claims based on the manipulation of the London Interbank Offered Rate (LIBOR) by the international panel of banks entrusted to set that rate. Multiple government investigations have revealed that certain panel banks manipulated LIBOR to mislead the markets and investors about the state of their financial health. The case is in discovery.

Diebold v. Northern Trust Investments, N.A., No. 09-1934 (N.D. Ill.)

Keller Rohrback was Class Counsel in this class action litigation against Northern Trust alleging that Northern Trust imprudently structured and managed its securities lending program by improperly investing cash collateral in long term debt, residential mortgage-backed securities, SIVs, and other risky and illiquid assets. On August 7, 2015, Judge Susan E. Cox approved the allocation plan for a \$36 million settlement.

REPRESENTATIVE CASES continued

Louisiana Firefighters' Retirement System v. Northern Trust Investments, N.A., No. 09-7203 (N.D. Ill.)

Keller Rohrback is Co-Lead Counsel in this securities lending litigation, a class action brought on behalf of four public retirement systems alleging that Northern Trust breached its fiduciary and contractual duties to investors when it imprudently structured and managed its securities lending program by improperly investing cash collateral in long-term debt, residential mortgage-backed securities, SIVs, and other risky and illiquid assets, rather than conservative, liquid investments. Plaintiffs allege that Northern Trust's imprudent management of the collateral pools caused Plaintiffs and other investors to suffer hundreds of millions of dollars in losses. On May 6, 2011, the Honorable Robert W. Gettleman denied in significant part Defendants' motion to dismiss. Plaintiffs also successfully defeated Defendants' third party complaint. The Court thereafter approved a partial settlement of \$24 million in cash, plus interest earned thereon, which represents settlement of the indirect lending claims of settlement class members.

In re Bank of New York Mellon Corp. Forex Transactions Litigation, No. 12-2335 (S.D.N.Y.)

Keller Rohrback served as Lead ERISA Counsel in this class action against the Bank of New York Mellon arising from its undisclosed charges for Standing Instruction Foreign Currency ("SI FX") transactions. Plaintiffs allege that from January 12, 1999 to the present, Bank of New York Mellon breached its fiduciary duties by failing to prudently and loyally manage the Plan's foreign currency transactions in the best interests of the participants, failing to disclose fully the details of the relevant SI FX transactions it was undertaking on behalf of the Plans, and engaging in prohibited transactions. In March 2015, a global resolution of the private and governmental enforcement actions was announced in which \$504 million will be paid back to BNY Mellon customers—\$335 million of which is directly attributable to funds received in the class litigation.

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 IKON Office Solutions, Inc. Securities Litigation, MDL No. 1318 (E.D. Pa.)

Keller Rohrback served as Co-Lead Counsel representing the City of Philadelphia and eight other lead Plaintiffs in this certified class action alleging securities fraud. Class counsel achieved the highest securities fraud settlement at that time in the Eastern District of Pennsylvania by settling with Defendant IKON Office Solutions, Inc. for \$111 million. The settlement was listed as one of the "largest settlements in class-action securities-fraud lawsuits since Congress reformed securities litigation in 1995" by *USA Today*.

In re Apple Computer, Inc. Derivative Litigation, No. 06-4128 (N.D. Cal.)

Keller Rohrback served on the Management Committee in this federal derivative shareholder action against nominal Defendant Apple Computer, Inc. and current and former directors and officers of Apple. Plaintiffs pursued breach of fiduciary duty, unjust enrichment, and gross mismanagement claims arising from backdated stock options granted between 1993 and 2001, which diverted millions of dollars of corporate assets to Apple executives. We achieved a settlement that awarded \$14 million—one of the largest cash recoveries in a stock backdating case—and that required Apple to adopt a series of unique and industry-leading corporate enhancements.



LYNN LINCOLN SARKO

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Appeals
- Class Actions
- Constitutional Law
- Commodities & Futures Contracts
- Consumer Protection
- Data Privacy Litigation
- Employment Law
- Environmental Litigation
- Employee Benefits & Retirement Security
- Financial Products & Services
- Government & Municipalities
- Institutional Investors
- Intellectual Property
- International Law
- Mass Personal Injury
- Securities & Financial Fraud
- Whistleblower

Managing Partner Lynn Sarko uses thoughtful innovation to solve

complex issues. Having led Keller Rohrback L.L.P.'s Complex Litigation Group since its inception over 30 years ago, Lynn's work has led to new developments in case law and significant, impactful settlements for his clients.

A dynamic leader with a tenacious dedication to justice, Lynn has been selected by courts across the nation to serve in key leadership roles in a wide variety of cutting-edge cases. Namely, he was appointed Co-Lead counsel for *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litigation*, MDL No. 2785 (D. Kan.), the nationwide class action against pharmaceutical company Mylan and others for anticompetitive and unfair business practices in its sale and marketing of the EpiPen Auto-Injector device. He was also selected to serve in a leadership position on behalf of governmental entities and other plaintiffs in the vast litigation regarding the nationwide prescription opioid epidemic, *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The National Law Journal referred to this leadership team as a "Who's Who' in mass torts."

Some of Lynn's other remarkable successes include consumer protection cases aimed at holding automotive companies accountable for wrongdoing. One such case was *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.), for which Lynn was appointed to the Plaintiffs' Steering Committee—a group referred to as a "class action dream team." The case settled for over \$17 billion. Lynn was also appointed to the Plaintiffs' Steering Committee for *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2777 (N.D. Cal.), which settled for \$307.5 million, including required emissions modifications for 100,000 eligible vehicles. In addition to consumer protection cases, Lynn has also served in leadership positions for cases involving financial fraud and breaches of fiduciary duty. He was selected to lead teams of attorneys representing plaintiffs in the litigations against Enron, Worldcom, and Madoff—three of the biggest financial frauds of our time.

Lynn is widely renowned within the legal community and beyond for his diplomacy and fearless devotion to justice. He was a member of the legal team nominated for the 2016 Nobel Peace Prize for seeking enforcement of the Nuclear Non-Proliferation Treaty on behalf of the Republic of the Marshall Islands. He was also honored to receive the Trial Lawyers for Public Justice Trial Lawyer of the Year Award for his work on the Exxon Valdez Oil Spill trial team, and he was one of four Washington lawyers recognized as one of the 500 "Leading Lawyers in America" by Lawdragon. He is also AV-rated by Martindale-Hubbell and has been consecutively named to the Washington Super Lawyers list for 21 years.

Lynn holds a BBA and an MBA in accounting and finance from the University of Wisconsin, where he also served as an accounting instructor. He graduated with his J.D. from the University of Wisconsin Law school, where he was Editor-

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

in-Chief of the Wisconsin Law Review and received the faculty award given to the most outstanding member of the graduating class.

Prior to 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.

EDUCATION

University of Wisconsin

B.B.A., 1977

University of Wisconsin

M.B.A., 1978, *Beta Alpha Psi*

University of Wisconsin

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 Court of Appeals

1984, District of Columbia

1984, U.S. District Court for the District of Columbia

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

1984, U.S. Tax Court

1986, Washington

1986, U.S. District Court for the Western District of Washington

1988, U.S. District Court for the Eastern District of Wisconsin

1989, U.S. District Court for the Eastern District of Washington

1996, U.S. District Court for the Western District of Wisconsin

1997, U.S. District Court for the District of Colorado

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

2018, U.S. Court of Appeals for the First Circuit

2019, Arizona

HONORS & AWARDS

Selected to Super Lawyers list in *Super Lawyers - Washington*, 1999-2021

National Trial Lawyers: Top 100 Civil Plaintiff Trial Lawyers in Washington

Lawdragon, 500 Leading Lawyers in America, 2018

Fellow of the American Bar Foundation

Avvo Top Tax Lawyer, Washington CEO Magazine

Trial Lawyer of the Year, Trial Lawyers for Public Justice

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*

The Association of Trial Lawyers of America, *Member*

American Academy of Trial Counsel, *Fellow*

Editorial Board, *Washington State Securities Law Deskbook*

Fellow, American Bar Foundation

Human Rights Watch Committee

Washington Athletic Club, *Member*

SELECTED PUBLICATIONS & PRESENTATIONS

Presenter, Colorado County Attorneys Association Virtual Summer Conference, Statewide Opioid Litigation Update, June 11, 2021.

Thomson/West Webinar, "Stock Drop and Roll: Key Supreme Court Rulings and New Standards in ERISA 'Stock Drop' Cases," July 24, 2014

14th Annual Pension Law, Governance and Solvency Conference, 2013

Canadian Institute's 14th Annual Advanced Forum on Pension Law, Governance and Solvency, 2013

ERISA Litigation & Regulatory Compliance Congress, 2013

American Conference Institute's 6th National Forum on ERISA Litigation, 2013

25th Annual ERISA Litigation Conference, 2012

American Conference Institute's 5th National Forum on ERISA Litigation, 2012



LAURIE ASHTON

CONTACT INFO

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lashton@kellerrohrback.com

PRACTICE EMPHASIS

- Business Reorganizations
- Class Action & Consumer Litigation
- Constitutional Law
- Employee Benefits and Retirement Security
- Fiduciary Breach
- International Law

EDUCATION

University of California, San Diego

B.A., 1987, Economics

Arizona State University College of Law

J.D., 1990, Order of the Coif;
Member, Arizona State Law Journal,
1988-1990; Note and Comment
Editor, *Arizona State Law Journal,*
1989-1990; Student Instructor,
Legal Research and Writing, 1989-
1990.

Laurie Ashton is Of Counsel to Keller Rohrback. Prior to becoming Of Counsel, she was a partner in the Arizona affiliate of Keller Rohrback. Early in her career, as an Adjunct Professor, she taught semester courses in Lawyering Theory and Practice and Advanced Business Reorganizations. She also served as a law clerk for the Honorable Charles G. Case, U.S. Bankruptcy Court, for the District of Arizona for two years.

An important part of Laurie's international work involves the domestic and international legal implications of treaty obligations and breaches. She is a member of the international legal team that represented the Marshall Islands at the International Court of Justice in The Hague. For its work, the team was nominated by the International Peace Bureau for the 2016 Nobel Peace Prize, along with the former Foreign Minister, Tony deBrum. Laurie was also part of the team representing parties impacted by the Trump administration's Muslim travel ban and policies related to it. That work included claims arising out of the United States' failure to reunite refugee families as legally required.

In complex litigation, Laurie was the lead attorney for Keller Rohrback in a series of successful groundwater contamination suits brought in 1996 against multiple international defendants concerning chemical releases spanning over 60 years. She was also the lead attorney for Keller Rohrback in an ERISA class action suit on behalf of over 21,000 employees who lost a material percentage of their retirement assets at the hands of corporate fiduciaries—a case that was, at its time, amongst the largest of its kind. Laurie has led or been a member of the team leading numerous high-profile business reorganizations, including a case in which the Court confirmed a reorganization plan over the objection of the international life insurance company's feasibility expert, based on Laurie's cross examination.

Laurie served on the Ethics Committee of the State Bar of Arizona for six years. She was the coauthor of a textbook on limited liability companies and partnerships, published by West, and she is AV Preeminent rated by Martindale.

Laurie is frequently interviewed and has been cited by Reuters, Newsweek, Fox News, Huffington Post, Slate Magazine, Radio New Zealand, Radio Australia, and others. She currently serves as a Director of the Santa Barbara City College Foundation, a member of the Human Rights Watch Council in Santa Barbara, and as an Advisor of the Global Justice Center in New York, which advances human rights pursuant to various international laws, including the Geneva and Genocide Conventions, as well as customary international law.

BAR & COURT ADMISSIONS

1990, Arizona
1999, Colorado
2007, Washington, D.C.
2013, Eastern District of Michigan
2014, U.S. Court of Appeals for the Sixth Circuit
2015, U.S. Court of Appeals for the Ninth Circuit
2016, U.S. Court of Appeals for the Tenth Circuit
2016, U.S. Supreme Court
International Court of Justice

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member*
Colorado Bar Association, *Member*
Washington, D.C. Bar Association, *Member*
Adjunct Professor of Law, *Advanced Chapter 11*, Arizona State University, 1996
Adjunct Professor of Law, *Lawyering Theory & Practice*, Arizona State University, 1997
Committee on the Rules of Professional Conduct ("Ethics Committee"), State Bar of Arizona, *Member*, 1997-2003
Court Appointed Special Advocate, King County, 2007-2009
Global Justice Center, New York, *Advisor*
Human Rights Watch Committee, Santa Barbara, *Member*
Santa Barbara City College Foundation, *Director*

PUBLICATIONS & PRESENTATIONS

Author, Case Note, *Arizona Mortgage and Deed of Trust Anti-Deficiency Statutes: The Underlying Obligation on a Note Secured By Residential Real Property After Baker v. Gardner*, 21 Ariz. St. L.J. 465, 470 (1989).

Co-Author, *Arizona Legal Forms: Limited Liability Companies and Partnerships* (1996-2004).

Guest Lecturer, Harvard Law School, 1997, 1999, 2001-2002.

Guest Lecturer, Stanford Law School, 2003.

Speaker, United Nations 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons; Panel, *Marshall Islands Nuclear Zero Lawsuits*

Speaker, Humanity House, The Hague, "*Legal Obligations for Nuclear Disarmament*," March 2016.

Speaker, Bertha Von-Suttner Master Class, The Peace Palace, The Hague, "*Forward Into Light, The Barbarization of the Sky*."

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



IAN BIRK

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PRACTICE EMPHASIS

- Appeals
- Class Action & Consumer Litigation
- Employment Law
- Employment Litigation
- ERISA
- Insurance Bad Faith & Policyholder Rights
- Insurance Litigation
- Medical Malpractice Litigation
- Personal Injury Litigation
- Personal Injury & Wrongful Death

EDUCATION

University of Washington

B.A., *summa cum laude*, 1997

University of Washington School of Law

J.D., 2001

Ian is a trial lawyer representing people who have been injured because of insurance bad faith, medical negligence, product liability, workplace discrimination, and in auto and trucking collisions.

Ian believes the courtroom is a place to make society safer and fairer for everyone. His work has resulted in landmark rulings protecting consumers, including representation of a family who was sued by their own insurance company, arguing to reinstate a jury verdict after a judge improperly overruled the jury, and testifying before the Washington Legislature in support of consumers making insurance claims. Known for his representation of people and businesses when they have disputes with insurance companies, Ian is a sponsor of United Policyholders, a public interest non-profit which provides guidance on insurance claims for consumers.

A fifth generation Washingtonian and lifelong resident of the Pacific Northwest, Ian has served on the Board of Governors and as Chair of the Insurance Section of the American Association for Justice. He also regularly volunteers at the King County Bar Association Neighborhood Legal Clinic.

HONORS & AWARDS

Selected to the Top 40 Under 40 in Washington by The National Trial Lawyers, 2012

Selected to Rising Stars list in *Super Lawyers - Washington*, 2005–2006, 2008–2015

Selected to Super Lawyers list in *Super Lawyers - Washington*, 2016–2021

Selected to Top 100 in *Super Lawyers - Washington*, 2019–2021

BAR & COURT ADMISSIONS

2001, Washington

2005, U.S. Supreme Court

2005, U.S. Court of Appeals for the Ninth Circuit

2005, U.S. District Court for the Western District of Washington

2005, U.S. District Court for the Eastern District of Washington

2011, U.S. District Court for the Southern District of New York

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PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Tacoma-Pierce County Bar Association, *Past Member*

American Constitution Society, Puget Sound Chapter, *Past Co-Chair*

American Association for Justice, *Member*

Washington State Association for Justice, *Member*

Associate Editor for insurance law, Trial News

Volunteer Attorney, King County Bar Association
Neighborhood Legal Clinics

PUBLICATIONS & PRESENTATIONS

Ian Birk, "'Made-Whole' Rule Comes to Health Insurance," Trial News, vol. 55, n.3, Washington State Association for Justice (November 2019).

WSAJ's 37th Annual Insurance Seminar, Class Actions in Insurance Cases and anti-SLAPP Update, Sea-Tac & Spokane, Washington, January 23 & 30, 2015.

The *Cedell* Presumption: Discovery of the Insurer's Claim File in Insurance Bad Faith Litigation in Washington, 49 Gonz. L. Rev. 503 (2014).

Washington Civil Procedure Deskbook, Chapter 19 (3d. ed. 2014).

Tacoma-Pierce County Bar Association, Tort Law Update, UIM Bad Faith Claims, Fircrest, Washington, October 17, 2014.

The Right of an Additional Insured to a Copy of the Insurance Policy, Trial News, vol. 48, n. 9, Washington State Association for Justice (May 2013), page 1.

WSAJ's 35th Annual Insurance Seminar, Co-Chair, Spokane & Tacoma, Washington, January 24 & 25, 2013.

WSAJ's 34th Annual Insurance Seminar, Reasonableness Hearings under RCW 4.22.060 and the Right to Jury Trial, Spokane & Tacoma, Washington, 2012.

Ian S. Birk, "Supreme Court accepts review in stipulated judgment case," Trial News, vol. 47, n. 3, Washington State Association for Justice (November 2011).

WSAJ's 1st Annual Winter Conference, Using Consumer

Laws to Better Represent Your Injured Clients, Seattle, Washington, 2010.

Ian S. Birk and Lorraine Lewis Phillips, "Should Juries Be Informed of the Consequences of Their Apportionment Decisions?" Litigation News, Litigation Section of the Washington State Bar Association, vol. 21, n. 2 (Fall 2009).

Ian S. Birk, Review: "The Trial of the Templars looks at the use of torture in legal proceedings." Trial News, Washington State Trial Lawyers Association, vol. 43, n. 1 (September 2007).

Ian S. Birk, Review: "All Deliberate Speed: Carrying the Mandate of Brown v. Board of Education into the Future." Trial News, Washington State Trial Lawyers Association, vol. 40, n. 11 (July/August 2005).

Paul Chemnick and Ian S. Birk, "Defeating Allegations of Contributory Fault in Medical Negligence Cases," Trial News, vol. 39, n. 11, Washington State Trial Lawyers Association (July/August 2004).



GRETCHEN FREEMAN CAPPIO

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PRACTICE EMPHASIS

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- Data Privacy Litigation
- Employee Benefits & Retirement Security
- Employment Law
- Environmental Litigation
- Governments & Municipalities
- Financial Products & Services
- Mass Personal Injury
- Whistleblower

EDUCATION

Dartmouth College

B.A., *magna cum laude*, 1995,
Religion, Environmental Studies
Certificate, Phi Beta Kappa

University of Washington School of Law

J.D., 1999, Executive Comments
Editor, Pacific Rim Law & Policy
Journal, 1998-1999

Gretchen Freeman Cappio leverages the power of litigation to make people's lives better.

With a passion for strategic advocacy that achieves meaningful change, Gretchen represents clients in many well-known consumer protection, public health, environmental, and data privacy cases. Remaining true to her southern roots, she brings civility and a sense of humor to her practice. Gretchen's colleagues at Keller Rohrback recognize her skill and natural ability to lead, electing her to the firm's six-member Executive Committee—the third woman elected in the firm's 100-plus-year history.

Gretchen has played a key role in many of Keller Rohrback's consumer protection and automotive cases, among others. In the multibillion-dollar Volkswagen "Clean Diesel" case, Gretchen served on the Plaintiffs' Settlement Team. During the rapid-fire negotiations, she drafted settlement documents and supervised notice in three separate, complex settlements. She also served as a member of the Plaintiffs' Settlement Team for *In re Chrysler-Dodge-Jeep EcoDiesel*, MDL 2777 (N.D. Cal.). In *Jabbari v. Wells Fargo & Co.*, No. 15-2159 (N.D. Cal.), where employees unlawfully took customers' data to set up unauthorized accounts, Keller Rohrback served as sole plaintiffs' counsel. Gretchen helped negotiate an innovative \$142 million settlement.

Courts across the country have recognized Gretchen's leadership abilities. Recently, she was appointed to the Plaintiffs' Steering Committees in *In re: ZF-TRW Airbag Control Units Products Liability Litigation*, MDL 2905 (C.D. Cal.), a complex case against several auto manufacturers and parts suppliers regarding defective airbags, and *Won et al. v. General Motors, LLC, et al.*, No. 19-cv-11044 (E.D. Mich.), a class action concerning defective vehicle transmissions. Judge Childs also just appointed Gretchen Chair of the Plaintiffs' Steering Committee in *In re: Blackbaud, Inc., Customer Data Security Breach Litigation*, MDL 2972 (D.S.C.), in which plaintiffs seek to hold Blackbaud accountable for failing to implement and maintain reasonable security procedures and practices to protect individuals' and businesses' private information against unauthorized access by third parties.

Gretchen's advocacy extends to government clients in major public health cases. As part of the Keller Rohrback team working to hold opioid defendants accountable in the *Opioid* MDL, Gretchen serves as the lead client contact for the fourth largest county in the country, and was a chief negotiator of the One Arizona Memorandum of Understanding to allocate millions in opioid settlement funds, signed by the state, all counties, and nearly all of the 90 cities and towns in Arizona. Similarly, in *In re: EpiPen*, MDL 2785 (D. Kan.), in which Keller Rohrback's Managing Partner Lynn Sarko is Co-Lead Counsel, Gretchen leads the firm's contributions to the coordination of counsel, including directing PSC meetings, briefing and discovery, resulting in the

KELLER ROHRBACK

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certification of a nationwide class.

Gretchen's leadership and devotion to justice drive her legal work and personal time. In 2021, Gretchen was elected Board Chair of the Global Justice Center, a nonprofit promoting gender equality worldwide. She is also a founding board member of the Mother Attorneys Mentoring Association (MAMA), an organization supporting mothers in the legal profession, now with nine chapters across the United States.

BAR & COURT ADMISSIONS

1999, Washington

2000, U.S. District Court for the Western District of Washington

2008, U.S. Court of Appeals for the Eighth Circuit

2009, U.S. Court of Appeals for the Ninth Circuit

2009, U.S. Supreme Court

2011, U.S. District Court for the Eastern District of Washington

2011, U.S. Court of Appeals for the Sixth Circuit

2015, U.S. District Court for the Eastern District of Michigan

2020, Michigan

PROFESSIONAL & CIVIC INVOLVEMENT

Institute for Complex Litigation and Mass Claims at Emory University School of Law

Emerging Leaders Board of Advisors, *Inaugural Member*

Class Action Roundtable, *Reporter*

Global Justice Center, *Board Chair*

The Global Justice Center works worldwide and domestically with women's rights advocates, grassroots groups, and policymakers to prevent and respond to gender-based violence.

The William L. Dwyer American Inn of Court, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

Washington Women Lawyers, *Member*

Washington State Trial Lawyers Association, *Member*

American Association for Justice, *Member*

The National Trial Lawyers, *Member*

Mother Attorney Mentoring Association (MAMAS), *Member; Founding Board Member, 2006-2008*

HONORS & AWARDS

Selected to Rising Stars and Super Lawyers lists in *Super Lawyers - Washington*, 2002, 2009-2012, 2020-2021

PUBLICATIONS & PRESENTATIONS

Gretchen Freeman Cappio, "Mental Health on College Campuses Amid Covid," Letter to the Editor in *New York Times*, January 4, 2022

Guest Lecturer, Seattle University School of Law, "Complex Litigation, MDL Experience, and Bellwether Trials," September 23, 2021.

Presenter, Colorado County Attorneys Association Virtual Summer Conference, Statewide Opioid Litigation Update, June 11, 2021.

Guest Lecturer, Seattle University School of Law, "MDL Mechanics Q&A," March 8, 2021.

Guest Lecturer, Stanford Law School, "From Takeoff to Landing: Litigating MDLs," February 23, 2021.

Law Seminars International Presents: The 16th Annual Conference On Litigating Class Actions, November 12-13, 2020.

Presenter, Trials in Class Actions and Post-Trial Motions

Panelist, Settlement Strategies

Guest Lecturer, Stanford Law School, "From Takeoff to Landing: Litigating the MDL," February 14, 2020.

Colorado Municipal League: Annual Seminar on Municipal Law, September 27-28, 2019.

Presenter, Opioid Class Action Litigation

Law Seminars International Presents: The 15th Annual Conference on Litigating Class Actions, May 9-10, 2019.

Presenter, Settlement Strategies

Guest Lecturer, Stanford Law School, Multidistrict Litigation, February 22, 2019.

Presenter, ABA Section of Litigation, Discovery and Ethical "Rules of the Road" for Working with Expert Witnesses, July 19, 2018.

Presenter, Bristol Myers Squibb Panel, UC-Irvine, UC-Berkeley, & Emory University Schools of Law First Joint Coordination Conference at Berkeley, June 5, 2018.

PUBLICATIONS & PRESENTATIONS (CONT.)

Law Seminars International Presents: The 14th Annual Conference On Litigating Class Actions, May 10-11, 2018.

Presenter, Consumer Protection and the Opioid Crisis.

Presenter, Corporate Fraud Against Consumers.

Presenter, Settlement Strategies for Class Actions and Multidistrict Litigation.

Presenter, HarrisMartin's Plaintiff Opioid MDL Conference, "Causation and Science," January 8, 2018.

Presenter, HarrisMartin MDL Conference, "Opioid, Equifax & Talcum Powder, Equifax Data Breach: What Happened? Who Was Impacted? What Are the Damages?," November 29, 2017.

Presenter, National Consumer Law Center, "Effectively Persuading Your Judge," NCLC Consumer Class Action Symposium, November 18, 2017.

Presenter, Practising Law Institute 22nd Annual Consumer Financial Services Institute, 2017.

Panelist, Law Seminars International – 13th Annual Conference on Litigating, "Settlement Strategies for Class Actions and Multidistrict Litigation," April 28, 2017.

Panelist, EmoryLaw NextGen Conference and EmoryLaw Fed. Judicial Ctr. and JPML Program, December 14-16, 2016.

Panelist, HarrisMartin's MDL Conference, "Settlements in Mass Tort and Class Action Litigation," July 27, 2016.

Panelist, American Association for Justice webinar, "Dissecting the U.S. Supreme Court Decision in Spokeo," Inc. v. Robins, May 26, 2016.

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.

Presenter, PLI Consumer Financial Services Institute 2016, "Data Security & Privacy Issues," May 12, 2016.

Panelist, HarrisMartin Pharmaceutical and Environmental Mass Tort Litigation, Class Action and Data Breach Litigation, March 30, 2016.

Panelist, Bridgeport Consumer Class Action Litigation

Conference, "Current State of the Law on Ascertainability and Standing," January 8, 2016.

Panelist, HarrisMartin MDL Conference Volkswagen and Pharmaceutical Update: RICO and Additional Defendants, December 2, 2015.

Panelist, Bridgeport Volkswagen Class Action & MDL Seminar – Diesel Emissions Scandal, November 23, 2015.

Panelist, HarrisMartin Volkswagen Diesel Emissions Litigation Conference: RICO and Additional Defendants, October 27, 2015.

Panelist, Law Seminars International, The Eleventh Annual Comprehensive Conference on Class Actions, "Data Breaches: Cases at the Intersection of Class Actions and Internet Technology," June 4, 2015.

Panelist, ABA Section of Dispute Resolution Meeting 17th Annual Spring Conference, "Solutions in Seattle: A View From the Trenches: What's Working and What's Not Working with Mediators," April 16, 2015.

Presenter, HarrisMartin Data Breach Litigation Conference, "Coming of Age: The Differences between Employee and Consumer Cases," March 25, 2015.

Presenter, Practising Law Institute, Managing Complex Litigation 2014: Class Actions; Mass Torts & MDL, October 21, 2014.

Presenter, Class Action Conference, "Recent Settlement Trends in Class Actions and Multidistrict Litigation: A Detailed Look at the Process for Settling and Administering Settlements," June 13, 2014.

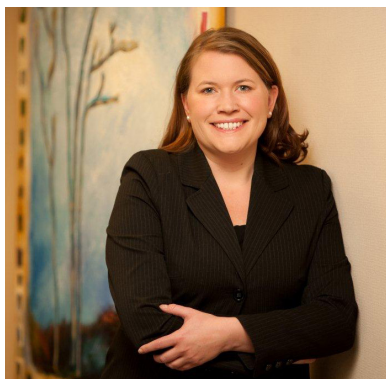
Presenter, Harris Martin's MDL Conference, "Target Data Security Breach Litigation: Recent Development, Issues in Data Breach Litigation," March 26, 2014.

Presenter, Law Seminars International, Class Actions and Other Aggregate Litigation Seminar: Post-Certification Motion Issues in Class Actions, May 14, 2013.

Panelist, Chartis Security & Privacy Seminar, October 20, 2011.

Presenter, 20th Annual American Bar Association Tort Trial and Insurance Practice Section Spring CLE Meeting, "Toxic Torts: Toxins In Everyday Products," April 1, 2011.

Gretchen Freeman Cappio, Erosion of Indigenous Right to Negotiate in Australia, 7 Pac. Rim L. & Pol'y J. 405 (1998).



ALISON CHASE

CONTACT INFO

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Santa Barbara, CA 93101
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achase@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- Environmental Litigation
- International Law
- Securities

EDUCATION

Emory University

B.A., *magna cum laude*, 2000,
Political Science and Philosophy,
Phi Beta Kappa

Yale Law School

J.D., 2003; Editor, *Yale Law Journal*,
Articles Editor, *Yale Journal of
International Law*

Alison is a partner in Keller Rohrbach's nationally-recognized Complex Litigation Group. Alison works tirelessly to hold corporations responsible for reckless and dangerous conduct that harms consumers and the public.

Alison is a key member of the team representing consumers affected by EpiPen price gouging, in the litigation *In re: EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices, & Antitrust Litig.*, MDL 2785 (D. Kan.). She has taken a central role in this important case, which seeks redress for millions of EpiPen purchasers who have been forced to pay skyrocketing prices for this necessary and life-saving medication. Alison is particularly proud to represent parents of children suffering severe allergies, who have been affected by monopolistic, unfair, and predatory practices. Keller Rohrbach's managing partner, Lynn Sarko, is co-lead of the litigation, and Alison has had a substantial role in briefing, written and deposition discovery, and expert work.

Alison is an integral member of the team representing a class of residents affected by the largest natural gas leak in U.S. history, *Southern California Gas Leak Cases*, JCCP No. 4861 (LA Superior). That gas leak devastated the community of Porter Ranch, causing the closure of schools and the relocation of tens of thousands of residents. Similarly, Alison has represented victims of the 2015 Santa Barbara Oil Spill in seeking redress for this environmental disaster.

In addition, Alison has a deep background in financial litigation. She has been a key member of the team representing the Federal Home Loan Banks of Chicago, Boston, and Indianapolis in mortgage-backed securities litigation against a host of Wall Street and international banks. These complex cases have resulted in the recovery of hundreds of millions of dollars for the firm's clients. Alison has also represented consumers in a broad array of financial litigation, including in actions on behalf of mortgage borrowers, in actions arising from fraudulent account scandals, and actions relating to novel FinTech.

Alison also maintains an active practice in appellate and international law. She represented the Republic of the Marshall Islands in groundbreaking litigation before the International Court of Justice and U.S. Courts. Alison also represented a class consisting of the sitting judges of the State of Arizona in constitutional litigation that was resolved in her clients' favor by the Arizona Supreme Court.

Having clerked for both a federal district court and for the Ninth Circuit Court of Appeals, Alison is deeply committed to civility, teamwork, and working cooperatively with opposing counsel. Alison's broad litigation experience, which has included both plaintiff- and defense-side work, enables her to guide clients through a wide variety of complex litigation.

CLERKSHIPS

The Honorable J. Clifford Wallace, U.S. Court of Appeals for the Ninth Circuit

The Honorable Valerie Baker Fairbank, U.S. District Court for the Central District of California

BAR & COURT ADMISSIONS

2003, California

2004, United States District Court for the Eastern District of California

2007, United States District Court for the Central District of California

2010, Ninth Circuit Court of Appeals

2011, Arizona

2014, United States District Court for the Northern District of California

2016, United States District Court for the Southern District of California

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of California, *Member*

State Bar of Arizona, *Member*

Santa Barbara Lawyers Association, *Member*

Santa Barbara Women's Lawyers Association, *Member*

California Women's Lawyers Association, *Member*

HONORS & AWARDS

Finalist, Morris Tyler Moot Court

Recipient, Gherini Prize for Outstanding Paper in International Law

PUBLICATIONS & PRESENTATIONS

Alison Chase, *The Politics of Lending and Reform: The International Monetary Fund and the Nation of Egypt*, Stanford Journal of International Law, Vol. 93 (2006).

Alison Chase, *Legal Mechanisms of the International Community and the United States Concerning the State Sponsorship of Terrorism*, Virginia Journal of International Law, Vol. 41 (2004).

Alison Chase, *Book Review: The Invention of Peace*, Yale Journal of International Law, Vol. 27 (2002).



FELICIA CRAICK

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Seattle, WA 98101
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PRACTICE EMPHASIS

- Class Action and Consumer Litigation
- Governments and Municipalities

EDUCATION

Northeastern University

B.S., *summa cum laude*, 2014,
Criminal Justice

Harvard Law School

J.D., *cum laude*, 2018

BAR & COURT ADMISSIONS

2019, Washington

2019, Western District of
Washington

Felicia delves deep into the issues at hand to get concrete results for her clients. As an attorney in Keller Rohrback's nationally recognized Complex Litigation Group, Felicia is able to combine her interest in people with her drive to hold bad actors responsible for wrongdoing.

Drawn to complex cases, Felicia currently focuses on multidistrict litigation, including representing government entities in the fight against the youth vaping epidemic in the *In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation* and representing consumers in cases where the business practices of drug manufacturers, pharmacy benefit managers, and other entities have driven up the costs of pharmaceuticals to the detriment of consumers, such as in the *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*.

Prior to joining Keller Rohrback as an attorney, Felicia received her J.D., *cum laude*, from Harvard Law School, where she served as an Executive Article Editor of the Harvard Law & Policy Review. Felicia gained practical legal experience as a clinical student attorney, representing low-income survivors of domestic violence in family court and prosecuting criminal cases in state court, and as a summer associate at Keller Rohrback. Driven by the work of complex litigation and the firm's justice-oriented community, Felicia returned to Keller Rohrback at the conclusion of her clerkship with Washington State Supreme Court Chief Justice Mary Fairhurst.

Outside of work, Felicia enjoys hiking, watching soccer and gymnastics, and reading fantasy novels.

PROFESSIONAL & CIVIC INVOLVEMENT

Washington Women Lawyers, *Member*

Washington State Bar Litigation Section, *Member*

Washington State Bar Criminal Law Section, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2021



ADELE DANIEL

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adaniel@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action and Consumer Litigation
- Data Privacy Litigation

EDUCATION

Carleton College

B.A, *magna cum laude*, 2014,
History

University of Michigan Law School

J.D., Order of the Coif, *magna cum laude*, 2017

BAR & COURT ADMISSIONS

2018, Washington

Adele Daniel always has the big picture in mind. As an attorney in our nationally recognized Complex Litigation Group, she takes the time to deeply understand the opposing side in order to forcefully rebut the opposition's arguments.

Adele graduated *magna cum laude* from University of Michigan Law School, where she served as an Articles Editor for the Michigan Law Review. Following her graduation, Adele clerked for Chief Judge Michael Mosman at the U.S. District Court for the District of Oregon. She then moved to Seattle to clerk for Judge Ronald Gould at the U.S. Court of Appeals for the Ninth Circuit.

Interested in using litigation to make a lasting impact for consumers, Adele joined Keller Rohrbach in 2019. As a member of the firm's automotive litigation team, Adele embraces the opportunity to represent deserving clients, and in so doing, deter corporations from future misconduct.

In her spare time, Adele heads to Washington's mountains and rivers for cycling, backpacking, and whitewater kayaking.

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*



JULI FARRIS

CONTACT INFO

801 Garden Street, Suite 301
Santa Barbara, CA 93101
(805) 456-1496

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900

jfarris@kellerrohrback.com

PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Class Actions
- Consumer Protection
- Employee Benefits & Retirement Security
- Environmental Litigation
- Fiduciary Breach
- Financial Products & Services
- Governments and Municipalities
- International Law
- Securities
- Whistleblower

Juli Farris' clients count on her commitment to excellence to meet their legal needs. Juli is a member of Keller Rohrback's nationally-recognized Complex Litigation Group and divides her time between the firm's Seattle and Santa Barbara offices. Her current cases include serving as co-lead counsel representing victims of the 2015 Refugio California Oil Spill and representing patients affected by prescription drug overcharges. She is also part of the team pursuing claims to hold drug manufacturers accountable for the current opioid health crisis.

In addition to her work on environmental torts, consumer protection and whistleblower litigation, Juli has represented both plaintiffs and defendants in class action litigation involving banking and securities regulation, antitrust, ERISA fraud and other areas.

Before joining Keller Rohrback in 1991, Juli served as a judicial law clerk for Judge E. Grady Jolly of the U.S. Court of Appeals, Fifth Circuit, and she practiced law at the Washington, D.C. office of Sidley Austin, where her practice involved trial and appellate litigation covering a wide array of subject matters.

EDUCATION

Stanford University

B.A., 1982, English

Stanford Law School

J.D., 1987, Notes Editor, *Stanford Law Review*

BAR & COURT ADMISSIONS

1988, Washington

1989, California

1990, District of Columbia

1995, Western District of Washington

1997, U.S. Court of Appeals for the Ninth Circuit

1999, Central District of California

2000, Northern District of California

2001, Eastern District of California

2003, Southern District of California

2003, U.S. Court of Appeals for the Fifth Circuit

2003, U.S. Court of Appeals for the Eleventh Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Loren Miller Bar Association, *Member*

American Bar Association, *Member*

California State Bar Association, *Member*

Washington State Bar Association, *Member*

Washington State Association for Justice, *Member*

Santa Barbara County Bar Association, *Member*

Santa Barbara Women Lawyers, *Member*

American Bar Foundation, *Member*

The National Association of Public Pension Attorneys,
Member

Seattle Repertory Theater, *Board Member*

Treehouse, *Board Member Emeritus, Past Board Chair*

Susan G. Komen, Puget Sound Affiliate, *Former Board Member*

HONORS & AWARDS

Selected to Super Lawyers list in *Super Lawyers - Washington*, 2015-2021

Selected to Rising Stars list in *Super Lawyers - Washington*, 2000-2001

Recipient of Promise of One Award from the Puget Sound Affiliate of Susan G. Komen for the Cure, 2013

PUBLICATIONS & PRESENTATIONS

Andrew D. Freeman & Juli E. Farris, *Grassroots Impact Litigation: Mass Filing of Small Claims*, 26 U.S.F.L. Rev. 261 (1992).

Editorial Board, *Washington State Securities Law Deskbook* (2012)

REPRESENTATIVE MATTERS

In re IKON Office Solutions, Inc., 277 F.3d 658 (3rd Cir. 2002)

In re WorldCom, Inc. ERISA Litig., 354 F. Supp. 2d 423 (S.D.N.Y. 2005)

Hansen v. Ticket Track, Inc., 213 F.R.D. 412 (W.D. Wash. 2003)

In re Scientific-Atlanta, Inc. Securities Litigation, 239 F. Supp. 2d 1351 (N.D. Ga. 2002)

In re Domestic Air Transp. Antitrust Litig., 137 F.R.D. 677 (N.D. Ga. 1991)

In re Potash Antitrust Litig., 954 F. Supp. 1334 (D. Minn. 1997)

Andrews v. Plains All American Pipeline, L.P., No. 2:15-cv-04113 (C.D. Cal.)

Johnson v. OptumRx, (D.N.J.)



ERIC FIERRO

CONTACT INFO

3101 N Central Avenue, Ste. 1400
Phoenix, AZ 85012
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efierro@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- Consumer Protection
- eDiscovery
- Financial Products and Services
- Intellectual Property
- Mass Personal Injury
- Securities
- Whistleblower

EDUCATION

Arizona State University

B.S., 2002, Justice Studies

New England School of Law

J.D., 2006, Senior Editor, *New England Journal of International and Comparative Law*

Eric Fierro bridges the gap between technology and the law. Eric practices in Keller Rohrback's nationally recognized Complex Litigation Group and oversees the firm's legal technology group, providing electronic discovery and litigation support to colleagues and clients on a wide array of cases. Whether he is helping to preserve significant amounts of data for institutional clients or walking an individual through the data collection process to increase accuracy and maximize privacy, Eric works closely with clients to understand their needs and provide solutions.

Eric has over 15 years of experience with legal technology. While attending law school in the evening, Eric worked full-time for the U.S. Attorney's Office for the District of Massachusetts where he provided technical support for all criminal and civil units, including the healthcare fraud, securities fraud, and other white collar crime units. Eric also worked as a summer law clerk for the computer crime and intellectual property unit at the U.S. Attorney's Office. Before joining Keller Rohrback, he was a managing consultant for Huron Consulting Group, providing consultative services for complex electronic discovery and document review matters.

When not at work, Eric enjoys spending time with his family, golfing, and rebuilding off-road vehicles in his garage.

BAR & COURT ADMISSIONS

2009, Arizona

2009, U.S. District Court for the District of Arizona

PROFESSIONAL & CIVIC INVOLVEMENT

Arizona State Bar Association, *Member*

PUBLICATIONS & PRESENTATIONS

Presenter, 2019 ASU-Arkfeld eDiscovery and Digital Evidence Conference, "Everyday Devices and the Internet of Things: Working with ESI in the Forest of Smart Device."

Presenter, 2018 Complex Litigation E-Discovery Forum, Plaintiff Offensive Review Workflows and Tips, September 2018.

Presenter, 2017 Complex Litigation E-Discovery Forum, Best Practice for Plaintiff Document Collection, September 2017.

Presenter, 2016 Complex Litigation E-Discovery Forum, Negotiating a State of the Art ESI Protocol, September 23, 2016.

Panelist, IPro Innovations for The Sedona Conference, The 2015 Federal Rule Amendments: Has Anything Really Changed? April 2016.



ALISON GAFFNEY

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
agaffney@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Opioid Litigation
- Governments & Municipalities
- Mass Personal Injury/Tort
- Environmental Litigation

EDUCATION

Swarthmore College

B.A., 2002, Linguistics and Languages (Spanish & Mandarin Chinese); McCabe Scholar

University of California, San Diego

M.A., 2007, Latin American Studies

University of Washington School of Law

J.D., 2012

Alison Gaffney is a fighter. Once she takes on a client—as a partner in Keller Rohrbach’s nationally recognized Complex Litigation Group or as a cooperating attorney with the ACLU—she commits to doing everything she can to fight for justice for her client.

That tenacity was evident in her pursuit to reunite Somali refugee Joseph Doe with his family after their separation was prolonged because of the Muslim Travel Ban. Alison is a member of the team that sued the Trump Administration on behalf of Doe and other individuals and organizations harmed by the travel ban in *Doe, et al. v. Donald Trump, et al.* (W.D. Washington). Three weeks after the court granted Doe’s motion for a preliminary injunction, Alison had the honor of seeing Doe reunited with his wife and three sons in Seattle.

Alison is passionate about using litigation to combat complex world problems. In the National Prescription Opiate Multi-District Litigation, Alison represents over 70 city, county, and tribal governments in their fight to hold prescription opioid manufacturers and distributors accountable for the devastating effects these drugs have had on their communities. She has played a key role within Keller Rohrbach’s Opioid Litigation team, and in the national MDL she has been involved in drafting the master complaints, dispositive briefing, discovery, and preparing and defending medical experts. In addition, Alison represents school districts and counties in litigation against JUUL Labs, Inc. and other e-cigarette manufacturers for targeting youth with their marketing and product design and addicting a new generation to nicotine.

Both before and during law school, Alison’s passion for justice and human rights drew her to immigration law and policy. She completed a master’s degree focused on international migration, and as a law student, she interned with the Seattle Immigration Court and the Northwest Immigrant Rights Project (NWIRP) in Tacoma, where she gave “Know Your Rights” presentations at the Northwest Detention Center. She represented clients in deportation proceedings through NWIRP as well as the law school’s Immigration Law Clinic, and she continues to volunteer as a pro bono attorney for NWIRP.

When she is not fighting for her clients, Alison is busy keeping up with her two sons, scrambling and climbing with The Mountaineers, and generally enjoying the beauty of the Pacific Northwest.

BAR & COURT ADMISSIONS

2012, Washington

2013, U.S. District Court for the Western District of Washington

2013, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the Ninth Circuit

2015, U.S. District Court for the Eastern District of Washington

2016, U.S. District Court for the Central District of Illinois

2017, U.S. District Court for the Eastern District of Wisconsin

2018, U.S. District Court for the District of Colorado

2020, U.S. Court of Appeals for the District of Columbia

PROFESSIONAL & CIVIC INVOLVEMENT

ACLU Cooperating Attorney

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Mother Attorneys Mentoring Association of Seattle (MAMAS), *Member*

Northwest Immigrant Rights Project, *Pro Bono Attorney*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2020-2021

LANGUAGES

Spanish



LAURA R. GERBER

CONTACT INFO

1201 Third Avenue, Suite 3200
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lgerber@kellerrohrback.com

PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Action & Consumer Litigation
- Consumer Protection
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services
- Governments & Municipalities
- Institutional Investors
- Whistleblower

Laura R. Gerber is a strong advocate for her clients. From her early years in a whistleblower protection organization, to her current practice litigating against some of America's largest corporations, Laura has built her career as a trusted advocate for plaintiffs. Laura represents her clients with skill, tact and diplomacy. As a result, Laura's clients trust her to listen carefully, keep them informed, provide excellent legal advice, and to diligently pursue their interests in litigation against powerful defendants.

For over fifteen years, Laura has practiced in Keller Rohrbach's Complex Litigation Group where she has developed a diverse practice with a focus on holding corporations and other institutions accountable. Laura is experienced in litigating consumer protection, RICO, antitrust, ERISA, environmental, excessive fee, breach of contract and breach of fiduciary duty, qui tam, and Ponzi scheme matters.

Laura's strategic persistence in complex cases has led to impressive results with her clients receiving substantial recoveries. Laura played a key role in managing litigation enhancing the security of pension plan benefits for healthcare workers at religiously affiliated healthcare systems, resulting in settlements exceeding \$800 million.

In addition to her J.D., Laura has a Masters in Public Administration.

EDUCATION

Goshen College

B.A., 1994, History, Economics

University of Washington School of Law

J.D., 2003

Evans School of Public Affairs, University of Washington

M.P.A., 2003

PUBLICATIONS & PRESENTATIONS

Speaker, American Conference Institute's 8th National Forum on ERISA Litigation, October 2014, (New Trends in Church Plan Litigation).

L. Gerber and R. Giovarelli, *Land Reform and Land Markets in Eastern Europe*, Food and Agriculture Organization of the United Nations (2005).

David Weissbrodt, Penny Parker, Laura Gerber, Muria Kruger, Joe W. (Chip) Pitts III, *A Review of the Fifty-Fourth Session of the Sub-Commission on the Promotion and Protection of Human Rights*, 21 NETH Q. HUM. RTS. 291 (2003)

BAR & COURT ADMISSIONS

2004, Washington
2006, U.S. District Court for the Eastern District of Washington
2006, U.S. District Court for the Western District of Washington
2010, U.S. District Court for the Northern District of Illinois
2013, U.S. District Court for the District of Colorado
2016, U.S. District Court for the Southern District of Illinois
2016, U.S. District Court for the Eastern District of Missouri
2016, U.S. District Court for the Northern District of Ohio
2016, U.S. District Court for the Western District of Oklahoma
2016, U.S. District Court for the Central District of Illinois
2016, U.S. District Court for the Northern District of Indiana
2006, U.S. Court of Appeals for the Ninth Circuit Court
2014, U.S. Court of Appeals for the Sixth Circuit Court
2015, U.S. Court of Appeals for the Tenth Circuit Court
2019, U.S. Court of Appeals for the Seventh Circuit Court
2019, U.S. Court of Appeals for the Eighth Circuit Court
2017, Supreme Court of the United States

PROFESSIONAL & CIVIC INVOLVEMENT

Campaign for Equal Justice, *Board Member*, 2018-present
Hanford Challenge, *Board of Directors*, 2018-present
Washington Appleseed, *Board of Directors*, 2012-2019
King County Bar Association, *Member*
Washington State Bar Association, *Member*
Federal Bar Association, *Member*
American Bar Association, *Member*
American Bar Foundation, *Fellow*
American Association for Justice, *Member*
Mother Attorney Mentoring Association (MAMA), *Member*

HONORS & AWARDS

Selected to Rising Stars and Super Lawyers lists in *Super Lawyers - Washington*, 2009, 2014, 2020-2021



MATTHEW GEREND

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
mgerend@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Securities

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
2018, U.S. Court of Appeals for the Second Circuit
2018, U.S. District Court for the Eastern District of Wisconsin

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*,
2014-2021

PUBLICATIONS & PRESENTATIONS

Contributing Author, *Zanglein et. al., ERISA Litigation*
(Bloomberg BNA 2015).

Deborah M. Austin and Matthew M. Gerend, *The Scope
and Potential of Section 3 as Currently Implemented*, 19 J.
Affordable Housing & Commun. Dev. L. 89 (2009).



MAX GOINS

CONTACT INFO

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mgoins@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action & Consumer Litigation

EDUCATION

University of Oregon

B.A., 2006, Philosophy

Miami University

M.A., 2009, Philosophy

Lewis & Clark Law School

J.D., 2018, *magna cum laude*

As a member of Keller Rohrback L.L.P.'s nationally recognized Complex Litigation Group, Max Goins gets to use his research and writing skills to help uncover the truth behind corporate malfeasance and misconduct.

A 2017 summer associate at Keller Rohrback, Max was invited back to the firm in September 2018 to work on consumer protection and class action cases. For the past three years, Max has been part of the team representing consumers affected by EpiPen price gouging, in the litigation *In re: EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices, & Antitrust Litig.*, MDL 2785 (D. Kan.). Max has worked on every aspect of this case, including discovery, class certification, summary judgment, settlement, and trial preparation.

During law school at Lewis & Clark in Portland, Oregon, Max served as submissions editor for the Law Review. He also collaborated with Professor Robert Klonoff to update Klonoff's complex litigation textbook, *Class Actions and Other Multi-Party Litigation* (4th Ed.). Max worked extensively with Professor Klonoff on the new cutting-edge chapter about multidistrict litigation ("MDL"). In addition, Max externed for Judge Ann Aiken of the District of Oregon, where he performed exhaustive legal research and wrote published opinions on issues like attorney fees, joining local Native American tribes as necessary parties, and the fairness of class action settlements.

When he's not working, you can find Max at the movies, in retro arcades, mentoring law students at Lewis & Clark, or—weather permitting—at a tennis meet-up.

BAR & COURT ADMISSIONS

2018, Washington

2018, US District Court for the Western District of Washington

2019, US District Court for the Eastern District of Michigan

2021, Oregon

HONORS & AWARDS

Cornelius Honors Society, as selected by the Lewis & Clark Law School faculty for distinguished scholarship, leadership, and contribution to the legal community, 2018

Selected to Rising Stars list in *Super Lawyers - Washington*, 2020-2021

PROFESSIONAL & CIVIC INVOLVEMENT

Voz: Northwest Workers Rights Education Project, 2015-2016, *Volunteer*

PILP: Public Interest Law Project, 2015-2017, *Volunteer and CLE Director*

Housing Justice Project, *Volunteer*

Pound Civil Justice Institute, *Associate Fellow*



GARY GOTTO

CONTACT INFO

3101 N Central Avenue, Ste. 1400
Phoenix, AZ 85012-2600
(602) 230-6322
ggotto@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- Debtor-Creditor
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Institutional Investors
- Real Estate Securities

EDUCATION

University of Pennsylvania

B.A., *cum laude*, 1976

Arizona State University of College of Law

J.D., *summa cum laude*, 1982,
Order of the Coif

Gary Gotto's diverse experience helps him meet his clients' diverse

needs. Gary is a member of Keller Rohrback's nationally-recognized Complex Litigation Group. He has a broad range of practice experience and interests, including all aspects of corporate and real estate transactional work, securities issuance and compliance, Chapter 11 bankruptcy and workout matters, and general commercial and ERISA litigation. Gary speaks and teaches regularly on a number of topics, including an annual real estate bankruptcy case study presented at the Harvard Law School. He has practiced in Phoenix since 1982.

BAR & COURT ADMISSIONS

1982, Arizona

1982, U.S. District Court for the District of Arizona

2005, U.S. Court of Appeals for the Second Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member; Chair*, Subcommittee on Revising the Limited Partnership Act, Business Law Section, 1991

Adjunct Professor Law, Arizona State University College of Law, 1989

PUBLICATIONS & PRESENTATIONS

Co-Author, *Arizona Legal Forms: Limited Liability Companies and Partnerships* (1996-2002).

Co-Author, *Limited Liability Companies and Partnerships* (1996-1997).

Guest Lecturer, *Chapter 11 Reorganizations*, Harvard Law School, 1996-1997, 1999, 2001, 2002.

Guest Lecturer, *Chapter 11 Reorganizations*, Stanford Law School, 2003.

Speaker, National Business Institutes, *Negotiating and Drafting Acquisition Agreements in Arizona*, 1997.

Speaker, National Business Institutes, *Choice of Business Entity in Arizona*, 1996.

Speaker, National Business Institutes, *Limited Liability Companies*, 1994.

Speaker, Professional Education Systems, Inc., *Non-Corporate Business Forms*, 1994.

Speaker, State Bar of Arizona, *Limited Liability Companies*, 1994.

Speaker, National Business Institutes, *Arizona Limited Liability Company Legislation*, 1993.



BENJAMIN GOULD

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
bgould@kellerrohrback.com

PRACTICE EMPHASIS

- Appeals
- Class Actions
- Constitutional Law
- Data Privacy Litigation
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Institutional Investors

EDUCATION

Yale University

B.A., *summa cum laude*, 2002,
English, Phi Beta Kappa

Yale Law School

J.D., 2006, Editor, *Yale Law Journal*,
Editor-in-Chief, *Yale Journal of Law
and the Humanities*

Benjamin Gould makes the law work for his clients. Ben, a Seattle native, practices in Keller Rohrbach's nationally recognized Complex Litigation Group. His ability to clearly and efficiently communicate factual and legal issues to his clients and courts allows him to adeptly serve the interest of clients who have been harmed by others' misconduct.

Ben has extensive experience in appellate litigation and has active appeals pending in state and federal courts throughout the nation. He has secured successful results for his clients before the U.S. Courts of Appeals for the Second, Eighth, and Ninth Circuits and numerous state appellate courts. Ben also maintains an active practice outside the appellate arena. He has represented clients in cases involving pensions, securities, and consumer-protection law, among other subjects.

Before joining the firm, Ben worked as a Legal Fellow of the ACLU Drug Law Reform Project, litigating cases related to drug policy and civil rights. He also served as a clerk to two federal appellate judges: the Honorable Betty Binns Fletcher of the U.S. Court of Appeals for the Ninth Circuit and the Honorable Diana E. Murphy of the U.S. Court of Appeals for the Eighth Circuit.

BAR & COURT ADMISSIONS

2007, California
2010, District of Columbia
2010, U.S. Court of Appeals for the Ninth Circuit
2011, Washington
2011, U.S. District Court for the Western District of Washington
2012, U.S. District Court for the Eastern District of Washington
2012, U.S. Court of Appeals for the Third Circuit
2013, U.S. Court of Appeals for the Second Circuit
2013, U.S. Court of Appeals for the Sixth Circuit
2013, U.S. Court of Appeals for the Eighth Circuit
2013, U.S. Court of Appeals for the Eleventh Circuit
2014, U.S. Court of Appeals for the First Circuit
2015, U.S. Supreme Court

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*; Appellate Law Section
Washington State Bar Association, *Member*
Washington State Association for Justice, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers* - Washington, 2016-2021

PUBLICATIONS & PRESENTATIONS

Benjamin Gould, "Inoculation Altercation: What Critics Misunderstand About the Washington Supreme Court Vaccination Order" in *Washington State Bar News*, Oct. 21, 2021.

Benjamin Gould, "Subject-Matter Jurisdiction in the Washington Supreme Court: Unsettling the Settled," in *NWSidebar*, November 2020.

Benjamin Gould, "Vaccine Law: An Overview of Current Law and a Look at the Future," in *NWLawyer*, November 2019.

Benjamin Gould, *Radical Jurisprudence*, 93 Wash. L. Rev. Online 49 (2018).

Speaker on Rule 23(f) and Class Action Appeals, American Bar Association 19th Annual National Institute on Class Actions, New Orleans, LA, 2015.

A Review of Antonin Scalia and Bryan A. Garner, Reading Law (2012), in *Trial News*, March 2014.

Derek W. Loeser & Benjamin Gould, *Point/Counterpoint: Is Rule 23(b)(1) Still Applicable to ERISA Class Actions?*, ERISA Compliance and Enforcement Library of the Bureau of National Affairs, Inc. (May 1, 2009).

Derek W. Loeser & Benjamin Gould, *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).*

Derek W. Loeser, Erin M. Riley & Benjamin Gould, *2010 ERISA Employer Stock Cases: The Good, the Bad, and the In Between-Plaintiffs' Perspective*, *Pensions & Benefits Daily*, Bureau of National Affairs, Inc. (Jan. 28, 2011).



CHRISTOPHER GRAVER

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Phoenix, Arizona 85012-2600
(602) 248-0088
cgraver@kellerrohrback.com

PRACTICE EMPHASIS

- Business Litigation
- Bankruptcy and Creditors' Rights

EDUCATION

St. John's College

B.A., 1976

University of New Mexico

J.D., *magna cum laude*, 1990
Order of the Coif

Chris is a member of Keller Rohrback's Complex Litigation and Bankruptcy Groups.

He has represented debtors, creditors, Court-appointed committees, and asset purchasers in Chapter 11 reorganization proceedings and workouts. In recent years he has also focused on representing plaintiffs in ERISA class actions. Chris has wide-ranging experience in complex commercial matters, from corporate restructuring to breach of fiduciary duty, commercial real estate, contracts, patent infringement, and environmental insurance coverage.

Together with colleagues, Chris has represented clients as diverse as pension plan participants in class actions challenging their employers' asserted exemption from ERISA, the committee of victims of clergy sexual abuse in the Chapter 11 reorganization of a Catholic diocese, an American Indian business corporation in a commercial dispute, and a developer restructuring a portfolio of real property interests nationwide.

A graduate of the Great Books liberal arts program at St. John's College in Santa Fe, Chris earned his law degree from the University of New Mexico Law School *magna cum laude* in 1990. While his practice is centered in the Southwest, Chris represents clients in federal courts coast to coast.

BAR & COURT ADMISSIONS

1990, Arizona

1990, United States District Court for the District of Arizona

2004, United States Court of Appeals for the Ninth Circuit

2015, United States Court of Appeals for the Fifth Circuit

2016, United States Court of Appeals for the Tenth Circuit

2017, United States Supreme Court

PROFESSIONAL & CIVIC INVOLVEMENT

Arizona State Bar Association, *Member*

Maricopa County Bar Association, *Member*

PUBLICATIONS & PRESENTATIONS

"Confirming the Catholics: The Diocese of Tucson Experience, Norton Bankruptcy Law Advisor," 2005.

"Representing the Tort Claimants' Committee in the Chapter 11 Case Filed by the Roman Catholic Diocese of Tucson, prepared for the National Conference of Bankruptcy Judges," 2005.

"Decoding the Code," *AzBusiness Magazine*, 2005.

Speaker, Maricopa County Bar Association presentation, *New Bankruptcy Code: Changing the Way Creditors are Treated*, 2006.



ZACK GUSSIN

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1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
zgussin@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action and Consumer Litigation
- Governments and Municipalities

EDUCATION

University of Washington

B.A., 2010, English: Creative Writing

University of Washington Law School

J.D., high honors, 2017; University of Washington Law Review, Moot Court Honor Board, Children and Youth Advocacy Clinic

Zack develops solutions that effect change. As an attorney in Keller Rohrback's Complex Litigation Group, Zack is able to combine his passion for social justice with his love of intellectual challenges.

A lifelong Washingtonian with a family of social workers and teachers, Zack is no stranger to fighting for equity. Drawn to KR's longstanding commitment to obtaining justice on behalf of our communities and the intricacy of the firm's litigation work, Zack first joined the firm as a summer associate in 2016, and eventually joined full-time as an associate attorney in 2020.

Zack graduated from University of Washington School of Law in 2017 with High Honors. During law school, he served on the University of Washington Law Review, the Moot Court Honor Board, and at the Children and Youth Advocacy Clinic. He also participated in the Willem C. Vis International Commercial Arbitration Moot competition and received four CALI Excellence for the Future Awards—an award given to the highest scoring student in each law school class. After graduating with his J.D., Zack served as a Judicial Law Clerk for the United States District Court for the Eastern District of Washington.

Outside of work, Zack enjoys reading poetry and spending time with his family and rescue dog, Aspen.

BAR & COURT ADMISSIONS

2018, Washington



IRENE M. HECHT

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
ihecht@kellerrohrback.com

PRACTICE EMPHASIS

- Insurance Litigation

EDUCATION

University of Washington

B.A., *magna cum laude*, 1977,
Speech Communication

University of Washington School of Law

J.D., with honors, 1980

Irene Hecht is an experienced trial lawyer whose practice emphasizes insurance law, particularly in coverage and bad faith litigation. She also has an active appellate practice and has represented insurance companies in trial courts, the Court of Appeals, and before the Washington State Supreme Court. Ms. Hecht has over 38 years of experience in coverage analysis and representation, including both commercial and personal lines, umbrella and excess coverage, and first- and third-party coverage. She has dealt with a wide variety of coverage issues including: advertising injury, personal injury, construction defect, automobile, underinsured motorist, personal injury protection, homeowner's, products-completed operations, E&O, and D&O. Ms. Hecht also actively advises and defends insurers in bad faith litigation, with respect to both first- and third-party matters.

BAR & COURT ADMISSIONS

1980, Washington
1980, U.S. District Court for the Western District of Washington
1990, U.S. District Court for the Eastern District of Washington
1998, U.S. Court of Appeals for the Ninth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*
Washington State Bar Association, *Member*
American Bar Association, *Member; Tort and Insurance sections*
Washington Defense Trial Lawyers Association, *Member*
Northwest Insurance Coverage Association, *Member*
International Association of Defense Counsel, *Member*

HONORS & AWARDS

Selected to Super Lawyers list in *Super Lawyers - Washington*, 2001, 2003, 2007, 2010-2021.

PUBLICATIONS & PRESENTATIONS

Speaker, Washington Defense Trial Lawyers Annual Insurance Law Update, Hot Topics in UIM Coverage, 2012.

Speaker, Washington Defense Trial Lawyers Annual Insurance Law Update, Duty to Settle, 2011.

Editor, Washington Bar Association, Washington Motor Vehicle Accident Insurance Deskbook, 2009 Supplement, Chapter 3: Exclusions to Liability Coverage, 2009.

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

PUBLICATIONS & PRESENTATIONS (CONT)

National Business Institute, Inc., *Challenges In Washington Insurance Coverage Litigation--Analyzing Insurance Contract Provisions & Bad Faith Litigation*, 2003.

Speaker, Northwest Insurance Coverage Association, *Multiple Claims, Inadequate Limits: What is an Insurer to Do?*, 2002.

Washington State Bar Association – Editor, *Washington Motor Vehicle Accident Insurance Deskbook*, 2d ed., Chapter 3: Liability Insurance: Exclusions, 2001.

National Business Institute, Inc., *Insurance Law: Third-Party Coverage in Washington--Automobile Insurance & Rules of Professional Conduct and Conflicts of Interest*, 1998.

National Business Institute, Inc., *Insurance Law: Third-Party Coverage in Washington - Automobile Coverage*, 1996.

Speaker, King County Bar Association, *The Liability Insurance Policy - The Duties to Defend, Pay and Settle, Reservations of Rights Situations*, 1996.

Speaker, Seattle King County Bar Association, Special Issues in Defending an Insured, 1993.

Seattle King County Bar Association, *Annual Nuts and Bolts of Insurance Coverage, Part II - Special Issues in Defending an Insured*, 1992.

Speaker, Seattle-King County Bar Association, *How to Read an Insurance Policy*, 1990.

National Business Institute, Inc., *Challenges In Washington Insurance Coverage Litigation--Analyzing Insurance Contract Provisions & Bad Faith Litigation*, 2003.

Speaker, Northwest Insurance Coverage Association, *Multiple Claims, Inadequate Limits: What is an Insurer to Do?*, 2002.

Washington State Bar Association – Editor, *Washington Motor Vehicle Accident Insurance Deskbook*, 2d ed., Chapter 3: Liability Insurance: Exclusions, 2001.

National Business Institute, Inc., *Insurance Law: Third-Party Coverage in Washington--Automobile Insurance & Rules of Professional Conduct and Conflicts of Interest*, 1998.

National Business Institute, Inc., *Insurance Law: Third-Party Coverage in Washington - Automobile Coverage*, 1996.

Speaker, King County Bar Association, *The Liability Insurance Policy - The Duties to Defend, Pay and Settle, Reservations of Rights Situations*, 1996.

Speaker, Seattle King County Bar Association, Special Issues in Defending an Insured, 1993.

Seattle King County Bar Association, *Annual Nuts and Bolts of Insurance Coverage, Part II - Special Issues in Defending an Insured*, 1992.

Speaker, Seattle-King County Bar Association, *How to Read an Insurance Policy*, 1990.



GARRETT HEILMAN

CONTACT INFO

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Seattle, WA 98101
(206) 623-1900
gheilman@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Employee Benefits and Retirement Security

EDUCATION

**University of Washington
School of Law**

J.D., 2013

University of Puget Sound

B.A., 2009

Garrett Heilman is a proud member of Keller Rohrback L.L.P.'s nationally recognized Complex Litigation Group, where he focuses on cutting-edge cases that hold corporations and other institutions accountable for wrongdoings.

Garrett's interest in corporate accountability began as a law student at the University of Washington School of Law, where he contributed to publications and reports regarding corporate responsibility and human rights and developed training programs for Fortune 500 companies to educate employees on conducting business ethically.

Prior to joining Keller Rohrback, Garrett practiced at a boutique litigation firm and clerked for the Honorable Mary K. Dimke in the U.S. District Court for the Eastern District of Washington and the Honorable George B. Fearing at the Washington State Court of Appeals.

When time permits, Garrett enjoys providing pro bono counsel at the King County Neighborhood Legal Clinic and working to vindicate and/or protect people's First Amendment rights.

BAR & COURT ADMISSIONS

2014, Washington

2015, Illinois

2016, U.S. Court of Appeals for the Ninth Circuit

2016, U.S. District Court for the Western District of Washington

2017, U.S. Court of Appeals for the Third Circuit

2019, U.S. District Court for the Eastern District of Washington

2019, U.S. District Court for the Eastern District of Wisconsin

PROFESSIONAL & CIVIC INVOLVEMENT

Legal Foundation of Washington – Associates Campaign Committee, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

ARTICLES & PRESENTATIONS

Chapter Editor, *Employment Benefits Law – 2019 Cumulative Supplement* (Bloomberg BNA), 2019-present

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2020-2021



DEAN KAWAMOTO

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
dkawamoto@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Environmental Litigation
- Financial Products & Services
- Institutional Investors
- Mortgage Put-Back Litigation
- Securities

EDUCATION

University of California at Berkeley

B.A., History and Biology, *High Distinction*, 1998

Yale Law School

J.D., 2003

University of Cambridge (UK)

LL.M., International Law, *First Class Honors*, 2007

Dean Kawamoto understands complex cases. Many of Dean's cases involve complicated financial transactions, sophisticated institutional and government clients, large-scale discovery, extensive expert analysis, and massive damages. Dean's litigation experience is broad, and includes litigation involving public health, systemic corporate fraud, financial services and securities transactions, consumer protection, product liability, environmental remediation, and professional liability.

As a partner in the firm's Complex Litigation Group, Dean has played an important role in many of Keller Rohrbach's largest cases. In the Opiate MDL, Dean has played a lead role in developing the case against Mallinckrodt and has also worked closely with the experts in the case. Dean was part of the Keller Rohrbach team that successfully sued Volkswagen, Audi, and Porsche for engaging in a massive fraud to cheat emission standards by using "defeat devices." Dean is currently part of the litigation team representing several of the Federal Home Loan Banks in litigation against dozens of issuers, underwriters, and sponsors of private label mortgage-backed securities worth \$13 billion. He was also part of the trial team that successfully objected on behalf of the firm's clients to the \$8.5 billion settlement between Bank of New York Mellon and Bank of America over Countrywide's massive mortgage liabilities, the only objection that was sustained by the trial court. Most recently, Dean was appointed by the Honorable Judge William Orrick as co-lead counsel for *In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, the multidistrict litigation against JUUL Labs, Inc. and other defendants for actions relating to the vaping epidemic among minors.

Dean also has an extensive background in environmental law. He has performed climate change research in the Arctic Tundra. He has worked for the United States Senate Committee on Environment and Public Works, where he was in charge of issues relating to water pollution and the Clean Water Act. During law school, he was a research assistant and teaching assistant to Professor Daniel Esty, the former Commissioner of the Connecticut Department of Energy and Environmental Protection. Dean also served as an adjunct instructor in environmental law and policy for the University of Southern California.

Dean served as a clerk for the Honorable Wm. Matthew Byrne, U.S. District Judge for the Central District of California and was previously a Professional Staff Member on the U.S. Senate Committee on Environment and Public Works and a Legislative Aide to Senator Lincoln D. Chafee of Rhode Island.

BAR & COURT ADMISSIONS

2004, California

2004, U.S. District Court for the Central District of California

2009, District of Columbia

2011, Washington

2015, U.S. District Court for the Northern District of California

2015, U.S. District Court for the Eastern District of California

2015, U.S. District Court for the Western District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

State Bar of California, *Member*

District of Columbia Bar, *Member*

American Bar Association, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*, 2014-2015

Recipient of the Clifford Chance C.J. Hamson Prize for thesis on class actions

John Gardner Public Service Fellow

Recipient of the Departmental Citation for Integrative Biology (awarded to the top graduate in the major)



ERIKA KEECH

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
ekeech@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action and Consumer Litigation

EDUCATION

**Washington State University
Honors College**

B.A., 2006, *cum laude*

**Gonzaga University School
of Law**

J.D., 2012, *cum laude*, Managing
Editor, Gonzaga Law Review

Erika Keech is no stranger to standing up for justice. Her background and passion for public service guide her as a member of Keller Rohrback's nationally-recognized Complex Litigation Group. Erika is committed to advocating for consumers, holding institutions accountable for wrongdoing, and keeping the public safe.

During Law School, Erika was the Managing Editor of the Gonzaga Law Review and was a member of the National Appellate Advocacy Competition moot court team. She was also a summer associate at Keller Rohrback and a rule 9 intern at the Snohomish County Prosecuting Attorney's Office.

After law school, she clerked for the Honorable Linda C. Krese in Snohomish County Superior Court, before joining the Snohomish County Prosecuting Attorney's Office, where she served as a Deputy Prosecuting Attorney (DPA) from 2013 to 2017. As a DPA, Erika prosecuted both misdemeanor and felony crimes, including over thirty jury trials, and gained extensive trial, advocacy, and courtroom experience.

Prior to law school, from 2006 to 2009, Erika worked at the Washington State Legislature. During college she studied abroad in Costa Rica, Chile, and Spain.

BAR & COURT ADMISSIONS

2013, Washington

2018, U.S. District Court for the Eastern District of Washington

2018, U.S. Court of Appeals for the Ninth Circuit

2018, U.S. District Court for the Western District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Women in eDiscovery, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*, 2019-2021



RON KILGARD

CONTACT INFO

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rkilgard@kellerrohrback.com

PRACTICE EMPHASIS

- Appeals
- Antitrust & Trade Regulation
- Class Action
- Constitutional Law
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services

EDUCATION

Harvard College B.A., 1973,
History

Harvard Divinity School M.T.S.,
1975, Old Testament

**Arizona State University College
of Law** J.D., 1979, Editor-in
Chief, *Arizona State Law Journal*,
Armstrong Award (outstanding
graduate)

Ron Kilgard is a 40-year civil litigation lawyer. Over a long career, he has handled all manner of civil cases, from routine automobile accidents and two-party contract disputes of no interest to anyone but the parties, to multi-million dollar class actions covered in *The New York Times* and *The Wall Street Journal*. For the last 20 years, Ron has mostly litigated pension plan class actions. Ron helped Keller Rohrback pioneer company stock ERISA litigation in the late 1990s and early 2000s; he was part of the team that obtained settlements of over \$265 million in the Enron 401(k) litigation. In 2017, after six years of litigation, Ron prevailed in an action challenging as unconstitutional the cutbacks to the pensions of Arizona state court judges. That same year, Ron began representing pro bono, and is still representing, a client fleeing gang-related violence in El Salvador.

Ron is a Phoenix native. He clerked for the Hon. Mary M. Schroeder, U. S. Court of Appeals for the Ninth Circuit, in 1979-80 and has practiced in Phoenix ever since. He was one of the lawyers who formed the Phoenix office of Keller Rohrback L.L.P. in November 2002.

HONORS & AWARDS

Best Lawyers in America, ERISA Practice, 2013-2022

Florence Immigrant & Refugee Rights Project, 2018 Pro Bono Attorney of the Year (adult cases)

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member*

District of Columbia Bar, *Member*

New York State Bar Association, *Member*

National Immigrant Justice Center, *Pro Bono Counsel*

Florence Immigrant & Refugee Rights Project, *Pro Bono Counsel*

BAR & COURT ADMISSIONS

1979, Arizona Supreme Court
1979, U.S. District Court for the District of Arizona
1982, U.S. Court of Appeals for the Ninth Circuit
1995, U.S. Supreme Court
2005, U.S. Court of Appeals for the Second Circuit
2005, U.S. Court of Appeals for the Fifth Circuit
2007, U.S. District Court for the Eastern District of Michigan
2009, District of Columbia Court of Appeals
2010, U.S. Court of Appeals for the Fourth Circuit
2010, U.S. District Court for the District of North Dakota
2011, New York Supreme Court, Appellate Division
2012, U.S. District Court for the Southern District of New York
2013, U.S. District Court for the District of Colorado
2013, U.S. Court of Appeals for the Eighth Circuit
2014, U.S. Court of Appeals for the Sixth Circuit
2014, U.S. Court of Appeals for the Third Circuit
2015, U.S. Court of Appeals for the Seventh Circuit
2015, U.S. Court of Appeals for the Tenth Circuit
2016, U.S. District Court for the Southern District of Illinois
2016, U.S. District Court for the Western District of Oklahoma
2016, U.S. District Court for the Eastern District of Missouri
2016, U.S. District Court of the Central District of Illinois
2016, U.S. District Court of the Northern District of Indiana
2017, Executive Office for Immigration Review
2019, U.S. District Court for the Northern District of New York

PUBLICATIONS & PRESENTATIONS

Speaker, ABA Seminar, After Enron, 2006
Speaker, Chicago Bar Association, Company Stock Litigation, 2006
Speaker, West LegalWorks ERISA Litigation Conference, 2007
Speaker, National Center for Employee Ownership, *Fiduciary Implications of Company Stock Lawsuits*, 2012 and 2013
Speaker, American Conference Institute, *New Developments in Church Plan Litigation*, 2015-2017



DAVID KO

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
dko@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Data Privacy Litigation
- Employee Benefits and Retirement Security
- Financial Products and Services
- Governments & Municipalities
- Institutional Investors
- Securities

David is a partner in the firm's nationally recognized Complex Litigation Group where he litigates cases on behalf of plaintiffs in federal and state courts across the country in a wide variety of cases involving corporate wrongdoing. He has helped his clients—including government entities, retirement plans, institutional investors, and consumers—obtain multimillion-dollar recoveries against some of the largest corporations in the country. He has significant trial experience, having tried month-long trials in both federal and state court.

David is currently at the center of the firm's largest and most high-profile cases. He represents hundreds of government entities all over the country in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio)—seeking to hold manufacturers, distributors, and dispensers responsible for creating and fueling the opioid epidemic—and *In re: JUUL Labs, Inc. Marketing, Sales Practices, & Products Liability Litigation*, MDL 2913 (N.D. Cal.), seeking to hold JUUL and Altria responsible for creating and fueling the youth vaping epidemic. He is also one of the lead attorneys in *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, MDL 2843 (N.D. Cal.), a class action on behalf of all Facebook U.S. users alleging Facebook discloses user information and data without consent.

Prior to joining the firm, David clerked for the Honorable Ricardo S. Martinez, Chief U.S. District Judge in the Western District of Washington. He is past President of the Korean American Bar Association of Washington, and a Fellow of the Washington Leadership Institute. While born in Seoul and extremely proud of his Korean heritage, David has spent most of his life in Seattle, where he currently lives with his wife and two young daughters and is an avid supporter of all Seattle sports.

EDUCATION

University of Washington

B.A., 2002, History and Political Science

Seattle University School of Law

J.D., *cum laude*, 2006; National Order of Barristers

University of Washington School of Law

LL.M., 2007 Taxation

BAR & COURT ADMISSIONS

2006, Washington

2010, U.S. District Court for the Western District of Washington

2010, U.S. District Court for North Dakota

2011, U.S. Court of Appeals for the Ninth Circuit

2016, U.S. District Court for the Eastern District of Michigan

2018, U.S. Court of Appeals for the Second Circuit

2018, U.S. District Court for the Eastern District of Washington

2019, U.S. District Court for Colorado

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Korean American Bar Association, *Board Member*

Asian American Bar Association, *Member*

National Center for Employee Ownership, *Member*

PUBLICATIONS & PRESENTATIONS

Speaker, Human Right to Health: Pathways and Responses, Opioid Abuse and Litigation: Legal and Policy Responses (Seattle, WA, November 2019)

Speaker, Washington State Society of Healthcare Attorneys Annual Conference, *Opioid Litigation on Behalf of Local Governments* (Seattle, WA, April 2018)

Speaker, Mass Torts Made Perfect, *National Costs of Opioid Crisis* (Las Vegas, NV, April 2018)

Speaker, National Center for Employee Ownership Annual Conference, *Fundamentals of the Repurchase Obligation* (Denver, CO, March 2017)

Speaker, National Business Institute, *Legal Ethics: Top Attorney-Client Mistakes* (Seattle, WA, December 2016)

Speaker, National Business Institute, *Title Law: Ethics* (Seattle, WA, April 2016)

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers – Washington*, 2019-2020



CARI CAMPEN LAUFENBERG

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
claufenberg@kellerrohrback.com

PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Appeals
- Class Actions
- Consumer Protection
- Data Privacy Litigation
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services

EDUCATION

University of California, San Diego

B.A., 1993, Art History

University of Washington

M.A., 1998, Public Administration

University of Washington School of Law

J.D., 2003

As a partner in Keller Rohrback's nationally recognized Complex Litigation Group, Cari Laufenberg maintains a national practice representing consumers, employees, and institutions in complex consumer and employee class actions involving corporate fraud, privacy and data breach issues, breach of fiduciary duty, and the Employee Retirement Income Security Act ("ERISA"). Since joining Keller Rohrback, she has played a key role in obtaining multi-million dollar recoveries for consumers, employees, and shareholders in many of the firm's largest and most complex cases, including cases involving Anthem Inc., Sony Pictures Entertainment Inc., Marsh McLennan Companies, Goodyear Tire & Rubber Co., and HealthSouth Corporation.

Cari has been appointed to numerous leadership positions in federal courts across the country and serves as Co-Lead Counsel for over 2 million data breach victims in *In Re: 21st Century Oncology Customer Data Security Breach Litigation* in the Middle District of Florida. She also serves as an appointed member of several leadership committees including: *In Re: Experian Data Breach Litigation* in the Central District of California, *In Re: VTech Data Breach Litigation*, and *In Re: 100% Grated Parmesan Cheese Marketing and Sales Practices Litigation*, both in the Northern District of Illinois, Eastern Division.

Over the past 15 years, Cari's background in nonprofit management and public administration has served her clients well. She is adept at organizing large complex cases, working collaboratively with other counsel, and developing a cogent strategy which achieves short-term goals and long-term successes. Before joining Keller Rohrback in 2003, Cari served as a judicial extern for Judge Barbara Jacobs Rothstein of the U.S. District Court for the Western District of Washington. She is a frequent speaker at national conferences on class actions, identity theft and privacy, and other complex litigation topics.

BAR & COURT ADMISSIONS

2003, Washington

2004, U.S. District Court for the Western District of Washington

2006, U.S. District Court for the Eastern District of Michigan

2006, U.S. Court of Appeals for the Eleventh Circuit

2011, U.S. Court of Appeals for the Seventh Circuit

2011, U.S. Court of Appeals for the Ninth Circuit

2013, U.S. Court of Appeals for the Eighth Circuit

HONORS & AWARDS

Best Lawyers in America, ERISA Practice, 2022

Selected to Rising Stars list in *Super Lawyers – Washington*, 2008-2009, 2011

AV®, Peer Review Top-Rated by Martindale-Hubbell

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

King County Washington Women Lawyers, *Member*;
Member of the Board of Directors (2003-2005)

Washington Women Lawyers, *Member*

The William L. Dwyer American Inn of Court, *Founding Student Member* (2002-2003)

Federal Bar Association, *Member*

American Association for Justice, *Member*

Washington State Association for Justice, *Member*

Northwest Immigrant Rights Project, *Volunteer Attorney*

National Association for Public Pension Attorneys, *Member*

PUBLICATIONS & PRESENTATIONS

Presenter, Capital One Data Breach Litigation, HarrisMartin's MDL Conference, Beverly Hills, CA, September 2019.

Presenter, Consumer Recovery of Damages for Security Breaches or Misuse of Consumer Information, Law Seminars International Artificial Intelligence & Privacy Conference, Seattle, WA, August 2019.

Presenter, Data Breach & Privacy Class Action Litigation, Law Seminars International Class Action Litigation Conference, Seattle, WA, May 2019.

Presenter, Facebook Breach – Is Anyone's Data Safe, HarrisMartin MDL Conference, Chicago, IL, May 2018.

Class Action Lawsuits and Settlements: Uncovering the Things You Need to Know, The Knowledge Group Online CLE, November 2018.

Presenter, Intel: The OEM Cases, HarrisMartin MDL Conference, Miami, FL, March 2018.

Presenter, *Legal Claims: Equifax and Other Data Breach Cases*, HarrisMartin's Equifax Data Breach Litigation Conference, Atlanta, GA, November 2017.

Tana Lin, Cari Laufenberg and Lisa A. Nowlin, Brief for American College of Obstetricians and Gynecologists as Amicus Curiae in Support of Respondent, *Coffey v. Public Hosp. Dist. No. 1, Skagit Cty. Wash. d/b/a Skagit Regional Health, et al.*, No. 75769-5) (Wash. Ct. App. Apr. 5, 2017).

Panelist, *Recent Settlements & Litigation Trends*, HB Litigation Conferences, Data Breach Litigation and Investigation Forum 2017, San Francisco, CA, January 2017.

Presenter, *Don't Be Spokeo'd: What You Need to Know in Litigating Data Breach Cases*, American Bar Association, Business Law Section Annual Meeting, Boston, MA, September 2016.

Panelist, *The Client's Perspective: ADR Users Share Insights Regarding What Mediators Do To Make the Process Succeed or Fail*, American Bar Association, 18th Annual Section of Dispute Resolution Spring Conference, New York, NY, April 2016.

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JEFFREY LEWIS

CONTACT INFO

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PRACTICE EMPHASIS

- Appeals
- Employee Benefits and Retirement Security
- Complex Litigation
- Employment Litigation
- Private Judge, Mediator, Special Master

EDUCATION

Yale University

B.A., 1970

University of California at Berkeley School of Law

Order of the Coif – J.D., 1975

Jeffrey Lewis has specialized in ERISA and employee benefits law since 1975. He has successfully litigated individual, group, and class action claims on behalf of hundreds of thousands of employees, retirees, and the disabled. He was a founding partner of Lewis, Feinberg, Lee & Jackson, one of the first firms in the nation to specialize in ERISA litigation on behalf of plaintiffs. Among his major successes was serving as one of appointed counsel for employees of WorldCom, Inc. in a class action which resulted in a settlement that paid more than \$47 million to participants in WorldCom's 401(k) plan. He recently recovered over \$40 million for retirees after a lengthy trial in which he served as lead counsel. Mr. Lewis serves as a mediator for the U.S. District Court, the Northern District of California, and in private practice, and has served as an arbitrator and expert witness in ERISA cases. He has also advised employee groups and benefit plan fiduciaries, is a fiduciary of two large employee benefit plans, and has served as an independent fiduciary of employee benefit plans.

In addition to his litigation and advisory activities throughout the U.S., Mr. Lewis has testified before Congressional committees regarding pension issues and served as one of the Co-Chairs of the Senior Board of Editors of the Employee Benefits Law treatise. He has also taught employee benefits law at the University of California at Berkeley School of Law, as well as pension law courses at several other law schools.

BAR & COURT ADMISSIONS

1975, California
1976, U.S. District Court for the Northern District of California
1981, U.S. Court of Appeals for the Ninth Circuit
1985, U.S. District Court for the Eastern District of California
1991, U.S. District Court for the Southern District of California
1993, U.S. District Court for the Central District of California
1995, Supreme Court of the United States
1999, U.S. Court of Appeals for the Tenth Circuit
2001, U.S. Court of Appeals for the 2nd Circuit
2001, U.S. Court of Appeals for the Third Circuit
2004, U.S. Court of Appeals for the Fourth Circuit
2005, U.S. Court of Appeals for the Fifth Circuit
2007, U.S. Court of Appeals for the Seventh Circuit
2015, U.S. District Court for the District of Colorado
2018, U.S. Court of Appeals for the Second Circuit

PUBLICATIONS & PRESENTATIONS

Co-Chair of the Board of Senior Editors of Lewis, et al.,
Employee Benefits Law (3d ed. BNA)

Board of Senior Editors, *Employee Benefits Law* (2d ed. BNA)

Former editor of the Discrimination Claims Under ERISA
chapter of *Employee Rights Litigation: Pleading and
Practice* (Matthew Bender, 1991)

Frequent speaker on ERISA topics such as preemption,
fiduciary duty, and benefit claims at seminars sponsored
by the American Bar Association, the Bureau of National
Affairs, the National Employment Lawyers Association
(NELA), and other organizations.

PROFESSIONAL & CIVIC INVOLVEMENT

Elected as a charter fellow of the College of Employee
Benefits Counsel, Board of Governors

American Bar Association, Member, Labor & Employment
Section, Former Plaintiff Co-Chair of the Employee Benefits
Committee

AC Transit Retirement Board, Chair, Board of Trustees

Goodyear Retiree Health Care Trust, Member of the Plan
Committee

HONORS & AWARDS

Selected to Super Lawyers List, *Super Lawyers - Northern
California*, 2005-2021

Selected to Top 100 Lawyers List in *Super Lawyers -
Northern California*, 2010-2016

Top Attorney for ERISA Plaintiffs in the San Francisco Bar
Area, *The Recorder*

Forty Top Benefits Attorneys, *The National Law Journal*,
1998



DEREK LOESER

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Appeals
- Class Action & Consumer Litigation
- Data Privacy Litigation
- Employee Benefits & Retirement Security
- Employment Law
- Environmental Litigation
- Financial Products & Services
- Governments and Municipalities
- Institutional Investors
- Mortgage Put-Back Litigation
- Securities Fraud
- Whistleblower

Derek is a senior partner in Keller Rohrbach's nationally recognized Complex Litigation Group and a member of the firm's Executive Committee.

Derek's passion for holding large corporations accountable for wrongdoing has helped recover billions of dollars for consumers, retirees, governments and institutions. He has served in leadership roles in major complex cases across the country. Currently, he is co-lead counsel in *In re Facebook, Inc. Consumer Privacy User Profile Litigation*, the MDL litigation against Facebook stemming from the Facebook Cambridge Analytica scandal.

Derek also serves as lead counsel for the Wells Fargo unauthorized account consumer class action. In this case, Derek and the Keller Rohrbach team achieved a \$142 million settlement requiring the bank to refund all improper fees and provide first-of-its kind credit damage reimbursement, among other relief, to Wells Fargo customers.

In addition to his class action work, Derek helps manage the Keller Rohrbach team representing state and local government entities in a number of matters involving significant public health crises. For example, Derek leads the Keller Rohrbach team litigating government cases against opioid manufacturers and distributors in *In re National Prescription Opiate Litigation*. In the Opioid MDL, Derek serves on the Expert and Law & Briefing Committees, and directs the litigation against a major generic opioid manufacturer. He also represents school districts and counties in litigation against the e-cigarette company, JUUL, for targeting and addicting youth. These cases are quintessential examples of the type of litigation Derek and the Keller Rohrbach team fervently pursue: corporate fraud and malfeasance causing serious harm to the public.

Some of Derek's 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 whose retirement savings were decimated by corporate fraud and abuse on the part of Enron, WorldCom, Countrywide, and Washington Mutual, among others. He has also litigated 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.

Many of Derek's cases have required coordinating with state and federal agencies involved in litigation that parallels cases pursued by Keller Rohrbach, including state 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. He is also frequently asked to speak at national conferences about class actions, public health litigation, ERISA, and

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.

other complex litigation topics.

Before joining Keller Rohrback, Derek served as a law clerk for the Honorable Michael R. Hogan, U.S. District Court for the District of Oregon. He was also employed as a trial attorney in the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C.

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

Listed as Lawdragon 500 Leading Lawyers in America 2018

Selected to Super Lawyers list in *Super Lawyers - Washington*, 2007-2012, 2014-2021

AV®, Peer Review Top-Rated by Martindale-Hubbell

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)

Selected to Rising Stars list in *Super Lawyers - Washington*, 2005-2007

U.S. Department of Justice Award for Public Service, 1996

U.S. Department of Justice Achievement Award, 1996

U.S. Department of Justice Honors Program Hire, 1994

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

1998, U.S. Court of Appeals for the Ninth Circuit

2002, U.S. District Court for the Eastern District of Michigan

2004, U.S. District Court for the Northern District of Illinois

2006, U.S. Court of Appeals for the Eleventh Circuit

2009, U.S. Court of Appeals for the Eighth Circuit

2010, United States Supreme Court

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, Law Seminars International - Health Care Class Actions: The Role of Class Actions as a Path to Recovery of Damages Related to the Opioid Crisis - *Class certification issues for human health impacts vs. financial impacts on government entities*, November, 2020.

Panelist, HarrisMartin's MDL Conference: JUUL and Capital One Data Breach Litigation – JUUL, E-Cigarettes & Vaping Litigation – An Overview of JUUL Legal Landscape: Case Filings, Judicial Rulings and MDL Submissions, Beverly Hills, CA, September, 2019.

Panelist, HarrisMartin's MDL Conference: Opioid, Equifax & Talcum Powder – *Opioid Litigation Landscape: Venues, Jurisdictional Hurdles, Defenses and Cause of Action*, St. Louis, MO, November, 2017.

PUBLICATIONS & PRESENTATIONS (CONT)

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, 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.

Speaker, *Post-Certification: Motion Issues in Class Actions*, Litigating Class Actions, Seattle, WA, 2012.

Derek W. Loeser, Erin M. Riley & Benjamin B. Gould, 2010 *ERISA Employer Stock Cases: The Good, the Bad, and the In Between-Plaintiffs' Perspective*, Pension & Benefits Daily, Bureau of National Affairs, Inc. (Jan. 28, 2011).

Derek W. Loeser & Erin M. Riley, *The Case Against the Presumption of Prudence*, Pension & Benefits Daily, Bureau of National Affairs, Inc. (Sept. 10, 2010).

Speaker, ABA Mid-Winter Meeting, San Antonio, TX, 2010.

Speaker, 22nd Annual ERISA Litigation Conference - New York, NY, Nov. 2009.

Speaker, 22nd Annual ERISA Litigation Conference - Las Vegas, NV, Oct. 2009.

Derek W. Loeser & Benjamin B. Gould, *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).

Derek W. Loeser & Benjamin B. Gould, *Point/Counterpoint: Is Rule 23(b)(1) Still Applicable to ERISA Class Actions?*, ERISA Compliance and Enforcement Library of the Bureau of National Affairs, Inc. (May 1, 2009).

Derek W. Loeser, *The Legal, Ethical, and Practical Implications of Noncompetition Clauses: What Physicians Should Know Before They Sign*, J.L. Med. & Ethics, Vol. 31:2 (2003).



RYAN MCDEVITT

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1201 Third Avenue, Suite 3200

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Action & Consumer Litigation
- Consumer & Data Privacy Protection
- Financial Products & Services
- Intellectual Property
- Securities

EDUCATION

Claremont McKenna College

B.A., 2007, Government and Leadership Sequence, Departmental Honors in Government

Columbia Law School

J.D., 2010, Harlan Fiske Stone Honors Scholar

Ryan McDevitt protects consumers, competitors, investors, and

innovators. As a partner in Keller Rohrback's nationally recognized Complex Litigation Group, he focuses on ensuring fairness in the marketplace.

In recent years Ryan has played a significant role in achieving and administering landmark settlements on behalf of drivers of Volkswagen, Audi, Porsche, Ram, and Jeep vehicles in the Volkswagen "Clean Diesel" and Fiat Chrysler "EcoDiesel" multidistrict litigations. Ryan currently serves on the court-appointed Executive Committee in litigation concerning defective transmissions in Nissan and Infiniti vehicles, and is a key member of the Keller Rohrback team appointed co-lead counsel in litigation concerning a serious safety defect in Chevrolet Bolt EV batteries. He also works alongside partner Gretchen Freeman Cappio in her capacity as a member of the Plaintiffs' Steering Committees in significant matters involving allegedly defective airbag control units in 12.3 million vehicles from six major automakers and allegedly defective transmissions in numerous Chevrolet, Cadillac, and GMC vehicles, and as Settlement Counsel in a case concerning alleged engine defects in numerous Hyundai and Kia models.

In addition to these and numerous other automotive fraud and defect cases involving major automakers and auto parts suppliers, Ryan has litigated consumer protection and antitrust claims, financial and securities fraud, intellectual property infringement, and federal labor law violations in federal and state courts nationwide. For example, he has represented the Federal Home Loan Banks of Boston, Chicago, and Indianapolis in litigation against dozens of issuers, underwriters, and sponsors of private label mortgage-backed securities worth \$13 billion; classes of mortgage borrowers treated unfairly by mortgage servicers and banks; and the Navajo Nation in protecting its rights to the NAVAJO trademark.

Before joining the firm, Ryan served as a law clerk in the Antitrust Division of the Washington State Attorney General, where he worked on multistate investigations of international price-fixing conspiracies. In law school, he was a research assistant to June Besek, chair of the American Bar Association's Copyright Task Force.

BAR & COURT ADMISSIONS

2010, Washington

2011, U.S. District Court for the Western District of Washington

2012, U.S. Court of Appeals for the Ninth Circuit

2019, US District Court for the Eastern District of Michigan

2019, US District Court for the Eastern District of Washington

2020, Michigan

2021, US Court of Appeals for the Seventh Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

American Bar Association, *Member*

Seattle Academy of Arts & Sciences, past *Alumni Board
President, Trustee Ex Officio, and Strategic Planning
Committee Member.*

ARTICLES & PRESENTATIONS

Panelist, HarrisMartin's MDL Conference: HIV Drugs,
Valsartan, 3M Earplugs and Litigation in a Post-Fosamax
World Agenda - *Automotive MDLs - Preview of Tomorrow's
Arguments*, Portland, OR, July 2019.

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*,
2020-2021



DANIEL MENSHER

CONTACT INFO

1201 Third Avenue, Suite 3200
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(206) 623-1900
dmensher@kellerrohrback.com

PRACTICE EMPHASIS

- Consumer Protection
- Environmental Litigation
- Financial Products and Services
- Government and Municipalities
- Mass Personal Injury

EDUCATION

Wesleyan University

B.A., 1998, History

University of Wisconsin

M.S., 2002, Geography

Lewis & Clark Law School

J.D., *cum laude*, 2007,
Environmental Law Certificate;
Cornelius Honors Society; Articles
Editor, *Environmental Law Review*

Daniel Mensher translates thorough preparation into courtroom success.

Dan practices in Keller Rohrback's nationally-recognized Complex Litigation Group with a focus on environmental cases and representing government entities in important litigation. He collaborates with his colleagues and clients to identify problems and craft creative, long-lasting solutions.

Dan has litigated important environmental and consumer cases across the country in federal and state court. He presently represents the State of Oregon in its case against Monsanto seeking to hold the corporate giant responsible for natural resource damages related to its sale and marketing of PCBs. He is also part of the Keller Rohrback team representing more than 70 counties, cities, and tribes in the fight to hold drug manufacturers and other entities accountable for the opioid crisis.

Before joining the firm, Dan was an environmental law professor at Lewis & Clark Law School in Portland, Oregon, where he also litigated cases involving toxic waste, water pollution, and natural resource management. He has sat on governmental advisory boards and helped to draft key environmental regulations in place today. Dan uses his passion and experience to protect our environment and the people and communities that rely on clean air, water, and products.

BAR & COURT ADMISSIONS

2007, Oregon

2008, U.S. Court of Appeals for the Ninth Circuit

2008, U.S. District Court for the District of Oregon

2010, U.S. Court of Appeals for the District of Columbia

2011, U.S. District Court for the District of Wisconsin

2014, U.S. District Court for the Eastern District of Washington

2014, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Oregon State Bar Association, *Member*

Washington State Bar Association, *Member*

Toxic Free Future, *Board Member*

Northwest Environmental Defense Center, *Board Member*, 2009-2014

PUBLICATIONS & PRESENTATIONS

Panelist, "Accountability for Climate Change Harms in the Pacific Northwest: Scientific, Policy and Legal Perspectives," Lewis & Clark Law School's Green Energy Institute, the Center for Climate Integrity, and Breach Collective, March 18, 2021

Speaker, Alliance of California Judges Symposium on the Economics of Consumer Protection, "Federalism and the Preemption of State Public Nuisance Actions," November 2019

Speaker, Bridgeport Environmental Class Action Webinar, March 2016

Speaker, Harris Martin Porter Ranch Gas Leak Litigation Conference, "Testing of the Air Quality and Expert Witnesses for the Cases," 19 January 2016

Daniel P. Mensher, *With Friends Like These...: The Trouble With Auer Deference*, 43 *Envtl. Law Rev.* 4 (2013)

Speaker, Oregon Water Law Conference, November 7, 2013 (Addressing Issues in Water Quality Trading)

Speaker, Northwest Environmental Conference and Tradeshow, December 11, 2013 (The Precautionary Principle in Environmental Law)

Speaker, RainOps Conference, 2013, Spokane, WA, Longview, WA (Clean Water Act Stormwater Regulation)

Presenter, Oregon State Bar Environmental and Natural Resources Committee annual Continuing Legal Education Program, 2013 (Salmon Issues in Oregon and the Pacific Northwest)

Speaker, Oregon State Bar CLE, Debate Regarding *Decker v. NEDC*, 2012.

Daniel P. Mensher, *Common Law On Ice: Using Federal Nuisance Law to Address Global Warming*, 37 *Envtl. Law Rev.* 2 (2007)

Chris Ryciewicz and Dan Mensher, *Growing State Authority Under the Clean Water Act*, 22 *Nat. Resources & Env't* 2 (2007)



NATHAN NANFELT

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
nnanfelt@kellerrohrback.com

PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Employment Litigation
- Insurance, Bad Faith & Policyholder Rights
- Personal Injury, Wrongful Death, Securities & Catastrophic Property Loss

EDUCATION

Seattle University School of Law

J.D. 2012

Wheaton College

B.A., *cum laude*, 2007

BAR & COURT ADMISSIONS

2012, Washington

Nathan Nanfelt has the heart of an advocate. He's committed to fighting for justice, fairness, and human rights. As an attorney in Keller Rohrback's Plaintiff's Tort Litigation Group, Nathan represents classes, individuals, and businesses harmed by others.

Nathan sharpened his litigation skills trying cases for the King County Prosecuting Attorney's Office. With his extensive trial and courtroom experience, Nathan knows when it's time to fight—but he also has the discernment to know when compromise benefits his clients.

A 2012 graduate of Seattle University School of Law, Nathan co-wrote constitutional and human rights educational materials for youth in Zambia, with a focus on gender-based violence and police brutality. Nathan's work was inspired by six months he spent in Zambia in college. A professor and mentor noticed Nathan's "advocate's heart" and encouraged him to pursue a career in law.

Prior to joining Keller Rohrback, Nathan served as a judicial law clerk in the U.S. District Court, Western District of Washington. He also served as a certified law clerk for the Los Angeles County District Attorney's Office's Victim Impact Program. Before that, he worked as a paralegal at a large firm in Chicago.

PROFESSIONAL & CIVIC INVOLVEMENT

Youth and Law Forum, *Board Member*

William L. Dwyer Inn of Court, *Member*

Washington State Association for Justice, *Member*

Federal Bar Association, *Member*

King County Bar Association, *Member*

KCBA Young Lawyer Division, *Board Trustee* (2013-2016)

HONORS & AWARDS

Received three CALI awards and the Witkin Award for Academic Excellence in Dispute Resolution.

Selected to Rising Stars list in *Super Lawyers - Washington*, 2020-2021

PRESENTATIONS & PUBLICATIONS

"Gender Equity in the Legal Profession," CLE co-presentation to the William Dwyer Inn of Court (2018).



GRETCHEN OBRIST

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PRACTICE EMPHASIS

- Appeals
- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Fiduciary Breach
- 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 partner in Keller Rohrback's nationally recognized Complex Litigation Group whose work as a dedicated advocate dates back 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. Walmart 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 ("PBMs"), 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. In 2018, Gretchen was appointed by the Court as Plaintiffs' Interim Lead Class Counsel in the *In Re EpiPen ERISA Litigation*, No. 17-cv-01884-PAM-HB (D. Minn.), a case alleging that the PBMs are fiduciaries under ERISA who breached their duties to the putative class of participants who paid inflated prices for EpiPens.

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 was profiled for Nebraska Appleseed's 20th Anniversary celebration as an innovator in the organization's earliest days.

Gretchen has served as a Plaintiff Co-Chair of the ABA Employee Benefits

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.

Committee's Fiduciary Responsibility Subcommittee and a Chapter Editor for *Employee Benefits Law* (Jeffrey Lewis et al. eds., 3d ed. BNA 2012; Ivelisse Berio LeBeau, 4th ed. BNA 2017). 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.

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

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

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, Nashville, TN, 2019 (Top Ten Employee Benefits Topics of 2018).

Speaker, ABA Joint Committee on Employee Benefits CLE Webinar, October 18, 2018 (Prescription Drug Program Trends and Litigation).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee - Mid-Winter Meeting, Clearwater Beach, FL, 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: Anatomy of a Deposition).

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?).

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

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).

Contributing Editor and Writer, Foreclosure Manual
for Judges: A Reference Guide to Foreclosure Law in
Washington State, A Resource by Washington Appleseed
(2013).

Gretchen S. Obrist, “ERISA Fee Litigation: Overview of
Developments in 2012 and What to Expect in 2013,”
Benefits Practitioners’ Strategy Guide, Bloomberg BNA
(Mar. 26, 2013) (www.bna.com).

Gretchen S. Obrist, “ERISA Fee Litigation: The Impact of
New Disclosure Rules, and What’s Next in Pending Cases,”
Pension & Benefits Daily, Bloomberg BNA (Feb. 21, 2013)
(www.bna.com).

Speaker, ABA Section of Labor and Employment Law,
Employee Benefits Committee – Mid-Winter Meeting,
Savannah, GA, 2011 (Update on ERISA Fee Litigation and
the Impact of the Regulations).

Gretchen S. Obrist, Note, The Nebraska Supreme Court
Lets Its Probation Department Off the Hook in *Bartunek
v. State*: “No Duty” as a Non-Response to Violence Against
Women and Identifiable Victims, 83 Neb. L. Rev. 225
(2004).



DAVID PREMINGER

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dpreminger@kellerrohrback.com

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

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 Rohrback, 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, was for many years a senior editor of *Employee Benefits Law* (Bloomberg BNA), and a longtime Board member and Chair Emeritus of the Board of Mabou Mines, an experimental theater company in New York City.

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

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), (2014-2018).

Chapter Editor, *Employee Benefits Law* (BNA), Chapter 10,
Fiduciary Responsibility (2014-2018).

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).

HONORS & AWARDS

Named to Super Lawyers list in *Super Lawyers - New York*,
2007-2021



MATTHEW PREUSCH

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mpreusch@kellerrohrback.com

PRACTICE EMPHASIS

- Consumer & Data Privacy Protection
- Environmental Litigation
- Governments and Municipalities

EDUCATION

Pomona College

B.A., 2000, Politics, Philosophy,
and Economics

Lewis & Clark Law School

J.D., *magna cum laude*, 2013,
Environmental & Natural
Resources Law Certificate

Matthew Preusch practices in Keller Rohrback's nationally-recognized Complex Litigation Group. Before joining Keller Rohrback, Matthew served as an honors attorney in the Oregon Department of Justice's appellate and trial divisions. He was a judicial extern for the Hon. Michael W. Mosman in the District of Oregon during law school. Prior to his legal career, he spent 10 years as a journalist in the Pacific Northwest, covering regional and national news for The Oregonian, The New York Times and other publications.

Matthew is passionate about protecting people and the environment. He's helped initiate landmark consumer litigation related to Volkswagen's "Clean Diesel" deceit and Wells Fargo's unauthorized account scheme. When studies of moss samples in trees in Portland, Oregon identified several pollution "hotspots" in that city, he and others at Keller Rohrback launched cases on behalf of residents to hold the responsible manufacturers accountable. Working on behalf of government entities, including the State of Oregon, Matthew has investigated or is litigating claims related to PCB contamination and the opioid epidemic.

BAR & COURT ADMISSIONS

2013, Oregon

2014, California

2014, U.S. District Court for the Central District of California

2014, U.S. District Court for the Eastern District of California

2014, U.S. District Court for the Northern District of California

2014, U.S. District Court for the Southern District of California

2014, U.S. Court of Appeals for the Ninth Circuit

2018, U.S. District Court for the District of Oregon

PROFESSIONAL & CIVIC INVOLVEMENT

Santa Barbara Bar Association, *Member*

Underscore Media Collaboration, *Board Member*

PUBLICATIONS & PRESENTATIONS

Panelist, Bridgeport Consumer Class Action Litigation Conference, "Current State of the Law on Ascertainability and Standing," January 2017

Speaker, Bridgeport Environmental Class Action Webinar, March 2016

Panelist, Lewis and Clark Law School, Public Interest Law Project, "Cutting-Edge Bet the Company Mega Class Action CLE," February 2016

Panelist, Bridgeport Consumer Class Action Litigation Conference, "Current State of the Law on Ascertainability and Standing," January 2016

Speaker, Harris Martin Porter Ranch Gas Leak Litigation Conference, "Remedies," January 2016

"Don't Say, 'No Comment': How To Ethically and Effectively Talk to Reporters," Santa Barbara County Bar Association (Sept. 16, 2015)

Oregon State Bar Environmental & Natural Resources Section Case Notes (July 2015)

Matthew Preusch, "Tim Weaver, Yakama Tribes' Salmon Champion, Says His Goodbyes," The Oregonian (Jan. 1, 2010).

Matthew Preusch, "DEQ to Help Polluter Seek Federal Break on Mercury Emission," The Oregonian (Aug. 19, 2009).

Matthew Preusch, "Amid Forests Ashes, a Debate Over Logging Profits is Burning On," The New York Times (April 15, 2004)



SYDNEY READ

CONTACT INFO

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Seattle, WA 98101
(206) 623-1900
sread@kellerrohrback.com

PRACTICE EMPHASIS

- Automotive Litigation
- Class Action and Consumer Litigation

EDUCATION

Middlebury College

B.A., *magna cum laude*, 2017, Art History

University of Colorado School of Law

J.D., 2021

Sydney's diligent care for the written word and enthusiasm for learning new areas of law allow her to create strong legal arguments for her clients. Her high degree of intellectual curiosity, continued passion for law, and commitment to social justice make her a great fit for Keller Rohrback's Complex Litigation Group.

Sydney first joined the firm as a research analyst in KR's Santa Barbara office and she later transitioned into a paralegal role in the Seattle office. Those experiences taught her about the intricacies of complex litigation and the excitement of the legal industry, sparking her interest in becoming an attorney. Sydney went on to attend law school at the University of Colorado Law School, during which she volunteered at CU's RAP Lab, participated in the Marshall-Brennan Constitutional Literacy Project and the Colorado Appellate Advocacy Competition, and received the Shawn Stigler and Alex Nelson Alpine Endeavors Law Scholarship.

After graduating with her J.D. in 2021, Sydney rejoined Keller Rohrback as an associate in the firm's Complex Litigation Group, where she focuses on areas like automotive litigation, opioids litigation, and *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*. Sydney's interest in these sprawling cases which seek to address corporate wrongdoing stems from her previous experience as a research analyst working with the firm's Volkswagen "Clean Diesel" litigation team.



ERIN RILEY

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
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eriley@kellerrohrback.com

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. As a partner in Keller Rohrback's Complex Litigation Group, Erin has allowed these collaborative and lasting relationships to inform her work for over 20 years.

Since 2001, Erin's practice has focused on representing employees and retirees in Employee Retirement Income Security Act ("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 numerous ERISA-related articles and amicus briefs, and frequently speaks at employee benefits conferences. She has been actively involved with the *Employee Benefits Law* (Bloomberg-BNA) treatise since 2012 and currently serves as the lead editor, employee-side, of the Treatise.

Erin earned her J.D. from the University of Wisconsin, where she was an editor of the Wisconsin Law Review. Prior to joining Keller Rohrback as an attorney in 2000, she worked with the firm as a summer associate in 1999.

BAR & COURT ADMISSIONS

2000, Wisconsin
2000, Washington
2001, U.S. District Court for the Western District of Washington
2010, U.S. Court of Appeals for the Fourth Circuit
2011, U.S. Court of Appeals for the Second Circuit
2011, U.S. Court of Appeals for the Ninth Circuit
2015, U.S. Court of Appeals for the Seventh Circuit
2016, Supreme Court of the United States

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 (Bloomberg-BNA), Chapter Editor, 2012 – 2016

Employee Benefits Law (Bloomberg-BNA), Senior Editor, 2016 – 2018

Employee Benefits Law (Bloomberg-BNA), Co-Chair, Board of Senior Editors, 2018 – present

Washington State Supreme Court, Pro Bono Publico Honor Roll, 2014 – present

PUBLICATIONS & PRESENTATIONS

Panelist, "ERISA Class Actions: Plaintiff and Defense Perspectives," Western Alliance Bank ERISA Webinar, September 22, 2021.

Quoted, "Benefits Practice Group of the Year: Keller Rohrbach," *Law360* (Dec. 7, 2020).

Panelist, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Rancho Mirage, California, 2020 (Defined Contribution Investment Litigation Update).

Brief for Law Professors as Amici Curiae in Support of the Petitioners, *Thole v. U.S. Bank*, No. 17-1712 (U.S. 2019).

Speaker, Western Pension & Benefits Council – Spring Seminar, Seattle, WA, 2019 (Litigation Update: Two Perspectives).

Panelist, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Nashville, Tennessee, 2019 (Arbitration: What's Different About ERISA?).

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).



MARK D. SAMSON

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PRACTICE EMPHASIS

- Medical Malpractice Litigation
- Products Liability - Plaintiffs
- Personal Injury Litigation
- Commercial Litigation
- Complex Litigation

EDUCATION

Arizona State University

B.S., *summa cum laude*, 1976, Bio-Ag Sciences

Washington State University College of Veterinary Medicine

D.V.M., *summa cum laude*, 1980

Washington State University College of Veterinary Medicine

M.S., 1983, Veterinary Anatomy

Arizona State University College of Law

J.D., *summa cum laude*, 1986,
Order of the Coif

As a licensed veterinarian, Mark has the medical knowledge that helps get his clients the results they deserve. Given that strong medical science background, Mark's practice focuses on tort law, including medical negligence, product liability, and other significant personal injury cases. He has nearly 35 years of experience litigating medical malpractice cases with victories including the landmark Edwards verdict, a transfusion-associated AIDS case that remains one of the largest personal injury verdicts in Arizona history. Mark was born in New York, but he moved to the Phoenix area in 1959 and grew up there. He practiced from 1986 to 1995 at Meyer, Hendricks, Victor, Osborn & Maledon, becoming a member in 1992. In 1995, Mark helped form Dalton Gotto Samson & Kilgard, P.L.C. ("DGSK") and was one of the members of DGSK who formed Keller Rohrback P.L.C. in 2002, and then Keller Rohrback L.L.P. in 2015.

BAR & COURT ADMISSIONS

1986, Arizona
1986, U.S. District Court for the District of Arizona
1986, U.S. Court of Appeals for the Ninth Circuit
1986, U.S. Supreme Court
2008, Washington, D.C.

HONORS & AWARDS

Named to Super Lawyers list in *Super Lawyers - Southwest*, 2008-2021

Best Lawyers in America, Medical Malpractice Practice, 2022

PROFESSIONAL & CIVIC INVOLVEMENT

Maricopa County Bar Association, *Member*

Arizona State Bar Association, *Member*

American Association for Justice, *Member*

Arizona Association for Justice, *Sustaining Member*

PUBLICATIONS & PRESENTATIONS

American Veterinary Medical Law Association, *The Lawyer's Role in Meeting 21st Century Changes in Veterinary Medicine*, 2018.

Maricopa County Association of Paralegals, *Personal Injury Law in Arizona*, 2018.

Arizona State University College of Law, *Health Law and Policy*, 2016.

Arizona Paralegal Association, *Health Law – Medical Malpractice in Today's World*, 2016.

Arizona Trial Lawyers Association, *From the Heart: Letting Go in Front of the Jury*,

2015.

PUBLICATIONS & PRESENTATIONS (CONT)

Arizona Trial Lawyers Association, *Medical Malpractice Seminar*, 2013.

Arizona Trial Lawyers Association, *Trial Masters: A Look Inside the Value Options Case & Tools for Difficult Cases*, 2011.

Arizona State Bar, *Comparing Veterinary and Legal Ethics*, 2009.

Arizona Trial Lawyers Association, *Loss of a Chance in Medical Mal Cases*, 2008.

Arizona Trial Lawyers Association, *Issues in FTCA Claims*, 2008.

Co-Chair, Arizona Trial Lawyers Association, *Trial Practice - Damages*, 2007.

Chairman, Arizona Trial Lawyers Association, *Rapid Fire on Litigation Issues*, Oct. 2006.

Co-Chair, Arizona Trial Lawyers Association, *Liens*, Jan. 2006.

Author, Blackwell's 5-Minute Veterinary Practice Management Consult, *Negotiating 101*, 2006.

Maricopa County Bar Association, *Arizona Appellate Update*, 2005.

Maricopa County Bar Association, *Liens Again*, 2004.

Chairman, Arizona State Bar, *New Ethical Rules in Arizona*, Oct. 2003.

Speaker, Arizona Veterinary Medical Association, *Application of legal principles to veterinary medicine*, 1999-2003.

Speaker, Arizona Paralegal Association, *Settlement conferences versus trial in medical malpractice cases*, 2002;

Speaker, Arizona Paralegal Association, *Changes and issues in Arizona's ethical rules for attorneys*, 2003.

Maricopa County Bar Association, *Punitive Damages after Campbell v. State Farm*, May 2003.

Co-Chair, Arizona Trial Lawyers Association, *Anatomy of Pain*, 2002.

Speaker, Arizona Trial Lawyers Association Medical Malpractice Seminar, *Use of medical literature in the courtroom*, 1996;

Speaker, Arizona Trial Lawyers Association Medical Malpractice Seminar, *New legal theories in medical malpractice*, 1999.

Chair, Maricopa County Bar Association, *Seminar on Medical Malpractice in the Ages of Disclosure*.

Speaker, National Meeting of American Veterinary Medical Law Association, *Tort and Regulatory Issues Affecting Veterinarians*, 1995.

Chair, Maricopa County Bar Association, *Seminar on Anatomy*, 1994.



CHRIS SPRINGER

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PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Appeals
- Class Action & Consumer Litigation
- Consumer Protection
- Data Privacy Litigation
- Employee Benefits & Retirement Security
- Environmental Litigation

EDUCATION

Dartmouth College
B.A., *cum laude*, 2000
U.C. Berkeley School of Law
J.D., 2008

Chris Springer is dedicated to working to help people who have been harmed by the unlawful conduct of large corporations and other entities.

He is a member of Keller Rohrback's nationally recognized Complex Litigation Group and practices in the firm's Santa Barbara office. He is experienced in cases involving consumer protection, data security, environmental protection, disability access, employment rights, and ERISA.

Before joining Keller Rohrback, Chris worked in the field of software development and testing. His practice now focuses on data-privacy and other consumer-protection litigation. Since joining Keller Rohrback, he helped obtain a multimillion-dollar recovery in *Corona v. Sony Pictures Entertainment, Inc.*, No. 14-9600 (C.D. Cal.), which involved the theft and disclosure of medical, financial, and employment information. He is also actively involved in other data privacy matters, including *In re 21st Century Oncology Customer Data Security Breach Litigation*, which involves the unauthorized disclosure of personal and medical information.

BAR & COURT ADMISSIONS

2013, California
2017, U.S. District Court for the Central District of California
2017, U.S. District Court for the Northern District of California

PROFESSIONAL & CIVIC INVOLVEMENT

California State Bar Association, *Member*
Santa Barbara Bar Association, *Member*
American Bar Association, *Member*

HONORS & AWARDS

American Jurisprudence Award, Civil Procedure



**NATIDA
SRIBHIBHADH**

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PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Consumer Protection
- Governments and Municipalities

EDUCATION

University of Washington

B.A., Journalism, 2008

**University of San Diego School
of Law**

J.D., 2014; High honors in
Mediation, Negotiation, and
Education and Disability Clinic

Natida Sribhibhadh is driven by a desire to make a lasting impact in our community and the world. With the public's best interest always in mind, Natida brings a strong sense of collaboration and teamwork to her work in Keller Rohrbach's Complex Litigation Group.

Coming from a family of teachers, the importance of leaving a lasting impact was impressed upon Natida from a young age. As a Seattle native who attended international school in Bangkok, Natida grew up cognizant of how big the world is and how much needs to be changed. In 2021, Natida joined Keller Rohrbach, drawn to the firm's commitment to obtaining large-scale justice for those who have been harmed by corporate wrongdoing. Equipped with a fierce ability to remain calm under pressure and a love of challenging cases, Natida is well suited to the firm.

Natida graduated with her J.D. from the University of San Diego School of Law in 2014. Following that, she was an attorney at a Seattle-based law firm for five years, where she worked as a plaintiffs' personal injury attorney, gaining experience in all stages of litigation and dispute resolution, including discovery, pretrial motions, arbitration, and settlement negotiations. During her time in law school, Natida served as a legal intern for Peter D. Lange in Sydney, Australia, as a judicial extern at San Diego Superior Court, and as a legal intern at USD's Education and Disability Clinic representing parents and children in cases against local school districts.

BAR & COURT ADMISSIONS

2015, Washington

2021, U.S. District Court for the Western District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar, *Member*, 2015 - Present

Washington State Association for Justice, *Eagle Member*, 2016 - Present

Academy of Truck Accident Attorneys, *Member*, 2021 - Present



HAVILA UNREIN

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Environmental Contamination
- Fiduciary Breach
- Financial Products and Services
- Mass Personal Injury
- Securities
- Whistleblower

EDUCATION

Dartmouth College

B.A., *magna cum laude*, 2003,
Russian Area Studies

University of Washington School of Law

J.D./LL.M. (Tax), *with honors*, 2008

Havila Unrein gives her clients a voice in the legal system. Havila practices in Keller Rohrback's nationally recognized Complex Litigation Group, where she is dedicated to helping clients who have been harmed by others engaged in fraud, cutting corners, and abuses of power.

Havila made significant contributions to *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. She currently represents plaintiffs in multiple cases alleging violations of the Employee Retirement Income Security Act of 1974 ("ERISA") by healthcare institutions attempting to claim exempt "church plan" status under ERISA.

During law school, Havila provided tax and business advice to low-income entrepreneurs and high-tech start-ups as a student in the Entrepreneurial Law Clinic. She also served as an extern to the Honorable Stephanie Joannides of the Anchorage Superior Court. Prior to law school, Havila worked and studied abroad in Russia, Azerbaijan, and the Czech Republic.

BAR & COURT ADMISSIONS

2008, Washington
2009, U.S. District Court for the Western District of Washington
2012, Montana
2012, U.S. Court of Appeals for the Ninth Circuit
2012, U.S. District Court for the District of Montana
2013, California
2013, U.S. District Court for the District of Colorado
2013, U.S. District Court for the Central District of California
2013, U.S. District Court for the Eastern District of California
2013, U.S. District Court for the Northern District of California
2013, U.S. District Court for the Southern District of California
2014, U.S. Court of Appeals for the Sixth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

California State Bar Association, *Member*
Santa Barbara County Bar Association, *Member*
Washington State Bar Association, *Member*
King County Bar Association, *Member*
Montana State Bar Association, *Member*



GABE VERDUGO

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PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Insurance Bad Faith & Policyholder Rights
- Personal Injury Litigation

EDUCATION

University of Washington

B.S., Plant Biology, 2008

B.A., German Language and Literature, 2008

Delta Phi Alpha, German Honors Society

Undergraduate Law Review, Senior Editor, Spring 2007

University of Washington School of Law

J.D., 2011

Gabe Verdugo practices in Keller Rohrbach's Plaintiff Tort Litigation and Complex Litigation practice groups. Gabe's practice focuses on litigating on behalf of individuals and classes who have been injured. He has represented insureds in disputes with insurance carriers and litigated class actions on behalf of consumers who were deceived by drug manufacturers and other companies. Currently, Gabe is investigating claims related to the opioid crisis.

Before joining Keller Rohrbach, Gabe served as a judicial law clerk for Chief Judge Rosanna M. Peterson of the U.S. District Court, Eastern District of Washington. Gabe also clerked for Justice Steven C. González of the Washington Supreme Court. During law school, Gabe externed for Judge Robert S. Lasnik of the U.S. District Court, Western District of Washington. He is proficient in written and spoken German.

BAR & COURT ADMISSIONS

2011, Washington

2015, U.S. District Court for the Eastern District of Washington

2015, U.S. District Court for the Western District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

WSBA Administrative Law Section, *Past Section Chair*

QLaw Association, *Board Member*, 2011-2015

QLaw Association, Judicial Evaluations Committee Member, *Mentor*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2019-2021



AMY WILLIAMS-DERRY

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PRACTICE EMPHASIS

- Class Actions
- Consumer and Data Privacy Protection
- Employee Benefits and Retirement Security
- Environmental Litigation
- Fiduciary Breach Financial Projects and Services
- Institutional Investors
- Insurance Coverage
- Securities
- Whistleblower

EDUCATION

Brown University

B.A., with honors, 1993 Sociology

University of Virginia School of Law

J.D., 1998; Editor in Chief, *Virginia Environmental Law Journal*, 1997-1998

Amy is a senior member of the Complex Litigation Group at Keller

Rohrback. Through a diverse legal career spanning more than 20 years, Amy has represented clients throughout the socio-economic spectrum: newly-arrived immigrants fighting to unite stranded family members in the face of President Trump's travel ban; tribes and non-profits enforcing their rights under the endangered species law; families and neighborhoods banding together against local air polluters; small businesses and community arts organizations demanding insurance coverage for COVID-19 closures; cities and states seeking PCB clean-up costs from manufacturer Monsanto; government-sponsored entities enforcing their investor rights under the securities laws; and Fortune 500 companies defending intellectual property and commercial disputes. Amy draws from this broad experience to successfully approach complex legal problems from a variety of perspectives.

Prior to law school, Amy worked on environmental, energy, and transportation issues in Washington, D.C. At the University of Virginia School of Law, Amy was the Editor-in-Chief of the *Virginia Environmental Law Journal*.

Amy's current representative cases include *City of Seattle v. Monsanto Co., et al.* (W.D. Wash.), *Federal Home Loan Bank of Boston v. Moody's Corp., et al.* (New York Cty. NY), *State of Delaware v. Monsanto Co., et al.* (New Castle Cty. Del.), *State of Maryland v. Monsanto Co., et al.* (Baltimore City MD), and *State of Oregon v. Monsanto Co., et al.* (Multnomah Cty. Ore.).

Amy serves as a cooperating attorney with the American Civil Liberties Union (ACLU) of Washington, Special Assistant Litigation Counsel for the Delaware Department of Justice, as Special PCB Litigation Counsel for the State of Maryland, and is a Special Assistant Attorney General for the State of Oregon.

BAR & COURT ADMISSIONS

1998, Washington

1999, U.S. District Court for the Western District of Washington

1999, U.S. Court of Appeals for the Ninth Circuit

2000, U.S. District Court for the Eastern District of Washington

2007, U.S. District Court for the Eastern District of Michigan

2007, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the First Circuit

2015, U.S. Supreme Court

2015, Massachusetts

2019, Oregon

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*
King County Bar Association, *Member*
American Bar Association, *Member*
Washington Women Lawyers, *Member*
King County Washington Women Lawyers, *Member*
The National Association of Public Pension Attorneys, *Member*
American Constitution Society, *Member*
WithinReach, *Board of Directors*, 2006-2009
The Evergreen School, *Annual Giving Co-Chair*, 2012-2013
Broadview Rising, *Founding Member*, 2017-2018
Friends of Ingraham High School, *Auction Committee*, 2019-2020

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2003-2009
AV®, Peer Review Top-Rated by Martindale-Hubbell
Member, 2017 Washington State Supreme Court Pro Bono Publico Honor Roll

PUBLICATIONS & PRESENTATIONS

Panelist, Impact of Trump's Travel Ban & Related Litigation, Council on American-Islamic Relations, Redmond, WA, 2017.

Presenter, *Doe v. Trump, et al.*, Law & Religion Symposium University of Washington School of Law, 2017.

Presenter, HarrisMartin MDL Conference: *Environmental Contamination Cases*, Seattle, WA, 2016.

Presenter, HarrisMartin *Aliso Canyon Gas Leak Litigation Conference*, Santa Barbara, CA, 2016.

Presenter, HarrisMartin MDL Conference: *Fantasy Sports, Volkswagen, Porsche, and Pharmaceutical Litigation*, Cape Coral, FL, 2016.

Presenter, Washington State Bar Association, Employment Benefits CLE, *Hot Topics in ERISA Class Action Litigation*, Seattle, WA, 2010.

Presenter, American Law Institute-American Bar Association ERISA Conference, *Employer Stock Cases and Cash Balance Plans*, Scottsdale, AZ, 2008.

No Surprises After Winstar: Contractual Certainty and Habitat Conservation Planning Under the Endangered Species Act, 17 Va. Env'tl. L.J. 357 (1998)



MICHAEL WOERNER

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Data Privacy Litigation
- Employee Benefits and Retirement Security
- Environmental Litigation
- Mass Personal Injury
- Medical Negligence
- Securities

EDUCATION

University of Puget Sound
B.S., 1982
Notre Dame Law School
J.D., 1985

Mike Woerner works for the public good. A member of Keller Rohrback's nationally recognized Complex Litigation Group since 1985, Mike focuses on class action and mass personal injury cases. He is skilled at focusing the Courts' attention on key issues in litigation and at negotiating favorable settlements to bring relief to people who have experienced physical, emotional, and financial harm from environmental contamination, dangerous pharmaceutical drugs, and other negligent acts with far-reaching consequences.

Mike was a member of the litigation team that received the 1995 Trial Lawyer of the Year Award from Trial Lawyers for Public Justice for the In re Exxon Valdez litigation resulting from the devastation of thousands of miles of fishing ground around Prince William Sound, Kodiak Island, Chignik, and Cook Inlet after the infamous oil spill. He has more recently represented hundreds of clients in multiple states at risk of heart-valve damage or primary pulmonary hypertension from fen-phen diet drugs. Mike also has experience litigating and negotiating widespread medical negligence issues and misconduct by fiduciaries charged with investing retirement plan assets. With his focus on impact litigation, Mike strives to achieve full compensation for his clients as well as to compel institutional reform and change the conduct of powerful bad actors to prevent them from causing future harm.

Outside of work, Mike enjoys traveling with his family experiencing new places and cultures, as well as staying closer to home cheering on his kids' basketball and volleyball teams.

BAR & COURT ADMISSIONS

1985, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Issaquah Food and Clothing Bank, *Vice-Chair*
King County Bar Association, *Member*
Washington State Bar Association, *Member*
American Bar Association, *Member*

HONORS & AWARDS

Trial Lawyer of the Year – Trial Lawyers for Public Justice, 1995

Selected to Rising Stars and Super Lawyers lists in *Super Lawyers - Washington*, 2001, 2018-2021



EMMA WRIGHT

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PRACTICE EMPHASIS

- Class Action and Consumer Litigation
- Data Privacy Litigation

EDUCATION

Loyola Marymount University

B.A., 2015, Political Science

Seattle University School of Law

J.D., *magna cum laude*, 2020
Editor-in-Chief, Seattle University
Law Review

Emma's fierce intelligence and attention to detail allows her to delve into the legal intricacies of every case. Emma brings great enthusiasm to Keller Rohrback's nationally recognized Complex Litigation Group—a practice for which she is well suited, as each case is unique and intellectually demanding.

Having aspired to be an attorney since childhood, Emma was initially drawn to litigation when she took a civil procedure course in law school and learned just how complex and rule-intensive litigation is. In addition, Emma sees complex litigation as an avenue with which to hold large corporations accountable, which connects to her personal dedication to equity.

In 2020, Emma graduated *magna cum laude* with her J.D. from Seattle University School of Law, where she served as Editor-in-Chief of the Seattle University Law Review, on the Moot Court Board, and as a research assistant to her civil procedure professor. During law school, she also externed for Judge John C. Coughenour of the Western District of Washington.

Drawn to the firm's culture of collaboration and commitment to social justice, Emma first worked at Keller Rohrback as a summer associate in 2018 and 2019, eventually returning to the firm full-time as an associate attorney in 2020. She is excited to rejoin the team working on *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, which the firm filed when Emma was a 1L summer associate.

In her spare time, Emma enjoys skiing, traveling, and spending time with her dog, Winter.

BAR & COURT ADMISSIONS

2020, Washington

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

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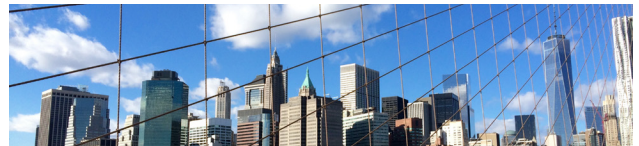
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EXHIBIT 2

Stringer, et al. v. Nissan North America, et al. - Case No. 3:21-cv-00099 (M.D. Tenn.)

Keller Rohrback LLP Lodestar Summary

Timekeeper	Status	Bar Admission Year	Hours	Rate	Lodestar
Sarko, Lynn Lincoln	Managing Partner	1981	1	\$1,200.00	\$1,200.00
Cappio, Gretchen	Partner	1999	13.6	\$1,045.00	\$14,212.00
McDevitt, Ryan P.	Partner	2010	125.2	\$755.00	\$94,526.00
Goins, Max	Associate	2018	39.2	\$585.00	\$22,932.00
Wright, Emma M.	Associate	2020	10.9	\$550.00	\$5,995.00
Mersing, Jacob T.	Paralegal	N/A	179.4	\$405.00	\$72,657.00
Wilson, Kiana R.	Paralegal	N/A	3.4	\$350.00	\$1,190.00
Rodgers, Aubrey A.	Support Staff - Manager	N/A	10.5	\$350.00	\$3,675.00
Nealious, Bianca	Paralegal	N/A	1.6	\$320.00	\$512.00
Oldach, John E.	Paralegal	N/A	1.7	\$300.00	\$510.00
LaPorte, Kait B.	Support Staff - Specialist	N/A	8.8	\$280.00	\$2,464.00
TOTAL			395.3		\$219,873.00

EXHIBIT 3

Keller Rohrback LLP Expense Summary

Category of Expense	Amount
Court Filing Fees	\$210.00
Document Hosting	
Experts	
Mediation	
Messengers	
Photocopying & Imaging	\$6.40
Postage & Fed Ex	\$7.47
Research	\$7,568.75
Service of Process	
Travel, Meals, & Hotels	
TOTAL	\$7,792.62