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20 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 In re FACEBOOK BIOMETRIC) Master File No. 3:15-cv-03747-JD
23 INFORMATION PRIVACY LITIGATION)
24) CLASS ACTION
This Document Relates To:)
25) PLAINTIFFS' MOTION FOR ATTORNEYS'
26) FEES, EXPENSES, AND INCENTIVE
ALL ACTIONS.) AWARDS
27)
28) Hearing date: Jan. 7, 2021 at 10:00 a.m.

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1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE that on January 7, 2021, or as soon thereafter as they may be
3 heard, Plaintiffs will move the Court for an order awarding attorneys’ fees and expenses to Class
4 Counsel and incentive awards to the Class Representatives. This motion is based upon the
5 following memorandum of points and authorities and the contemporaneously-filed declarations.¹

6 **INTRODUCTION**

7 After five years of “fierce[.]” litigation in the very first case ever brought under the
8 Illinois Biometric Information Privacy Act (“BIPA”), and “with no legal pebble left unturned[.]”
9 *In re Facebook Biometric Info. Privacy Litig.*, No. 15-CV-03747-JD, 2020 WL 4818608, at *1
10 (N.D. Cal. Aug. 19, 2020), and Class Counsel² successfully negotiated a \$650 million non-
11 reversionary settlement that provides substantial cash relief to the Class. In terms of total dollars
12 recovered, dollars per Class Member, and prospective relief achieved this settlement provides
13 stronger relief than almost any other privacy settlement. Plaintiffs now move for an award of
14 attorneys’ fees and expenses to Class Counsel, who litigated this case on a fully contingent basis,
15 and incentive awards to the Class Representatives.

16 The benchmark attorneys’ fee award in the Ninth Circuit is 25% of a common fund, but
17 Class Counsel’s request is substantially lower than the benchmark. Class Counsel are not seeking
18 fees on the last \$100 million of the fund, which was added as a result of additional negotiations
19 after the first preliminary approval hearing. Out of the original \$550 million, Class Counsel are
20 seeking an award of 20% (five percentage points lower than the benchmark and lower than the
21 fee cap in the original settlement) plus their reasonable expenses advanced over the five years of
22 this litigation. That amounts to \$110 million, which is 16.9% of the total Settlement Fund. For
23 the Class Representatives, they request a modest award of \$7,500 each. As explained in detail

24
25 _____
26 ¹ When Plaintiffs submit their Motion for Final Approval or before December 3, 2020, they
intend to submit a proposed order addressing both that motion and this one.

27 ² All capitalized terms herein are defined in the Amended Stipulation of Class Action Settlement
28 (ECF No. 468), unless otherwise noted.

1 below, and in the attached declarations of Professors William B. Rubenstein and Brian
2 Fitzpatrick, the requested award would fairly compensate Class Counsel for the exceptional
3 result they achieved for the Class without providing a windfall.

4 **BACKGROUND**

5 As the Ninth Circuit stated, “[t]he material facts of this case are reported in a number of
6 prior orders” and do not need to be reproduced in great detail here. *In re Facebook Biometric*
7 *Info. Privacy Litig.*, 326 F.R.D. 535, 540–41 (N.D. Cal. 2018), *aff’d* 932 F.3d 1264 (9th Cir.
8 2019). “Briefly summarized, plaintiffs are Facebook users who challenge its ‘Tag Suggestions’
9 program, which scans for and identifies people in uploaded photographs to promote user tagging.
10 Plaintiffs allege that Facebook collects and stores their biometric data without prior notice or
11 consent in violation of their privacy rights and Sections 15(a) and 15(b) of the Illinois Biometric
12 Information Privacy Act[.]” *Id.*

13 Allegations such as these have become a familiar part of the class action landscape in the
14 last five years, but on April 1, 2015, when Plaintiff Carlo Licata sued Facebook in the Circuit
15 Court of Cook County, Illinois, they were a first. (Declaration of Class Counsel (“CC Decl.”),
16 attached hereto as Exhibit 1, ¶ 8.) Although BIPA had been on the books in Illinois since 2008,
17 not a single lawsuit—class action or otherwise—had been filed under the statute. As a case
18 raising so many novel issues and issues of first impression, it is significantly more complex than
19 many BIPA actions filed today. Without providing unnecessary detail about the 19 depositions,
20 17 hearings, and five rounds of dispositive motion practice, a brief discussion of its procedural
21 background helps to illustrate the significant efforts by Plaintiffs and Class Counsel that resulted
22 in the settlement that forms the basis for the present fee request.

23 **I. Litigation Before this Court.**

24 After Licata filed suit, Facebook removed the case to federal court in Illinois and moved
25 to transfer it, as well as the two similar cases filed by Plaintiffs Adam Pezen and Nimesh Patel,
26 to this District. (*Id.* ¶¶ 9, 10.) Rather than expend time and resources on drawn-out litigation on
27 transfer or a prolonged dispute as to who would lead the cases, Plaintiffs agreed to transfer the
28 cases to this Court, to consolidate them into a single action, and to work together to reach the

1 best result for the Class. (*Id.* ¶ 12.) They filed a consolidated complaint in this Court on August
2 28, 2015, and Facebook’s motion to dismiss was on file by early October of that year. (*Id.* ¶ 14.)

3 Facebook’s principal arguments in support of its motion to dismiss were that: (1)
4 Facebook users could not assert Illinois claims because Facebook’s user agreement contained a
5 California choice-of-law clause; and (2) BIPA did not apply to Tag Suggestions because of the
6 statutory exception for photographs. (*Id.* ¶ 16.) The Court converted Facebook’s motion to a
7 summary judgment motion, and the parties engaged in an expedited discovery period, which
8 included depositions of the three plaintiffs and two Facebook witnesses as well as the exchange
9 of thousands of pages of documents. (*Id.* ¶¶ 18-23.) After further briefing, the Court held a three-
10 hour evidentiary hearing, followed by oral argument, on the question of whether Plaintiffs had
11 assented to Facebook’s user agreement. (*Id.* ¶¶ 24-26.) The Court determined that Plaintiffs had
12 assented to Facebook’s user agreement but agreed with Plaintiffs that enforcing the California
13 choice-of-law clause would be contrary to the fundamental public policy of Illinois. The Court
14 also determined that the photograph exception did not apply to Plaintiffs’ allegations. (*Id.* ¶¶ 27-
15 30.)

16 Just a few weeks after the Court’s order, Class Counsel learned of an industry-sponsored
17 effort in the Illinois Legislature to surreptitiously amend BIPA. (*Id.* ¶ 32.) The bill would have
18 retroactively changed BIPA specifically to undermine the Court’s order by preventing it from
19 applying to digital images. If it had passed, this lawsuit would have been over immediately. (*Id.* ¶
20 33.) The bill was introduced not through the normal process, but via a parliamentary mechanism
21 known as “gut and replace,” by which an unrelated piece of legislation (the “Uniform
22 Disposition of Unclaimed Property Act”) was emptied out and replaced with the proposed
23 changes to BIPA. Using this procedure allowed the bill to skip many normal stages of legislation
24 just days before the end of the Illinois legislative session, and even those well-versed in Illinois
25 parliamentary procedure could easily have missed it. (*Id.* ¶¶ 33-34.) Class Counsel, working on
26 the ground and around-the-clock in Springfield, alerted advocacy groups, government officials,
27 legislators, and media to the attempt to dismantle BIPA without so much as a committee hearing.
28 In the face of this public scrutiny, the sponsor of the amendment tabled it. (*Id.* ¶ 35.)

1 Nevertheless, efforts to gut BIPA’s protections continued throughout the pendency of this case,
2 with the introduction of at least nine more separate pieces of legislation throughout multiple
3 sessions. Each year, Class Counsel ensured that Class’s interests were represented, and their
4 efforts helped ensure that no new legislation gained momentum. (*Id.* ¶¶ 36-41.)

5 The highly technical nature of this case also required significant work by experts, whose
6 fees Class Counsel advanced. (*Id.* ¶ 52.) Due to the sensitive nature of Facebook’s source code,
7 Class Counsel and their affirmative expert, Dr. Atif Hashmi, spent seven weeks on-site
8 reviewing Facebook’s voluminous source code to allow Plaintiffs to “tender[] evidence that
9 Facebook’s algorithm collects information about face geometry.” *In re Facebook Biometric Info.*
10 *Privacy Litig.*, No. 3:15-CV-03747-JD, 2018 WL 2197546, at *3 (N.D. Cal. May 14, 2018); *see*
11 *also* ECF No. 87 § 8. Understanding and distilling this information proved crucial to Plaintiffs’
12 case because the Court determined that the parties’ “strongly conflicting interpretations of how
13 the software processes human faces” was “a quintessential dispute of fact for the jury to decide.”
14 *Facebook Biometric*, 2018 WL 2197546, at *2-3. (CC Decl. ¶ 53.) Indeed, as part of Facebook’s
15 effort to “contest the claim that its technology scans face geometry,” its expert opined that
16 Facebook’s technology “does not explicitly detect human-notable facial features” *Facebook*
17 *Biometric*, 2018 WL 2197546, at *3. (CC Decl. ¶ 54.) Accordingly, Class Counsel quickly
18 located and retained a rebuttal expert, Jeffrey Dunn, the former Technical Director for
19 Biometrics at the National Security Agency (“NSA”) Laboratory for Physical Science,
20 “specifically to rebut Dr. Turk’s testimony.” (ECF No. 343 at 8.) (CC Decl. ¶ 55.) All three
21 experts produced written reports (Facebook’s expert produced two), and all three sat for
22 depositions. (CC Decl. ¶¶ 53-57.)

23 While discovery was ongoing, Facebook was also seeking dismissal for lack of subject-
24 matter jurisdiction. (*Id.* ¶ 58.) About a year after the case was filed, the Supreme Court issued its
25 opinion in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016), which many in the defense bar
26 (including Facebook’s counsel, who also represented Spokeo) believed would end this type of
27 statutory class action. (*Id.* ¶¶ 59-60.) Indeed, other would-be BIPA plaintiffs saw their cases
28 dismissed for lack of subject-matter jurisdiction under *Spokeo*. *See, e.g., Santana v. Take-Two*

1 *Interactive Software, Inc.*, 717 F. App'x 12, 17 (2d Cir. 2017). Here, Facebook was not the only
2 party who benefited from counsel experienced in complex Article III standing issues, as counsel
3 from Edelson PC represented Mr. Robins before the Supreme Court in *Spokeo*. Class Counsel
4 briefed and argued Facebook's two separate sets of motions to dismiss for lack of subject matter
5 jurisdiction, which the Court ultimately denied. (*Id.* ¶¶ 61-67.)

6 As discovery closed, more high-stakes motion practice ensued. Plaintiffs moved for class
7 certification, and on the same day, Facebook moved for summary judgment on the basis that
8 BIPA could not apply extraterritorially and that the Dormant Commerce Clause precluded
9 liability. (*Id.* ¶¶ 68, 74.) Shortly thereafter, and before either of those motions had been decided,
10 Facebook filed another motion for summary judgment, setting out four additional arguments it
11 believed precluded a trial. (*Id.* ¶ 77.) Plaintiffs opposed both of Facebook's motions and filed
12 their own motion for partial summary judgment. (*Id.* ¶¶ 76, 79.) On top of that, the parties each
13 moved to exclude portions of the others' expert witness testimony. After hearing oral argument,
14 the Court substantially granted the class certification motion in April 2018 and denied all of the
15 summary judgment motions a month later. (*Id.* ¶¶ 80-81.)

16 After ruling on class certification and the summary judgment motions, the Court set a
17 firm trial date, and Class Counsel began intense preparation for the first BIPA trial. (*Id.* ¶ 82.)
18 Those many weeks of preparations included putting together a comprehensive notice plan (many
19 portions of which were repurposed for the settlement notice) and a five-day intensive session
20 with trial consultant Rodney Jew. (*Id.* ¶¶ 86.) That session, which included dedicated work with
21 a trial graphics expert to create demonstratives, proved immensely valuable to Class Counsel,
22 both in terms of how to effectively communicate a complex, highly technical set of facts to a
23 layperson, and how best to structure their presentation. (*Id.*) The parties exchanged 526 trial
24 exhibits and eight motions *in limine*, and they identified 17 trial witnesses. Plaintiffs issued trial
25 subpoenas to key Facebook personnel, including Mark Zuckerberg (whose subpoena Facebook
26 subsequently moved to quash). (*Id.* ¶¶ 83-85.)

1 II. Interlocutory Appeal to the Ninth Circuit

2 While trial preparation was underway, Facebook was also seeking interlocutory review of
3 the class certification order. (*Id.* ¶87.) Class Counsel opposed both Facebook’s petition for
4 interlocutory review and its request that this Court delay the trial pending its resolution, the latter
5 of which this Court denied. (*Id.* ¶¶ 88-89.) However, the Ninth Circuit granted both requests,
6 agreeing to review the class certification order and staying the trial until after the interlocutory
7 appeal was resolved. (*Id.* ¶ 91.) Meanwhile, on a parallel track, Class Counsel submitted an
8 *amicus* brief to the Illinois Supreme Court in the now-landmark BIPA case, *Rosenbach v. Six*
9 *Flags Entertainment Corp.*, 2019 IL 123186, on behalf of the Class Representatives to protect
10 the interests of the now-certified Class. The motion for leave to file the *amicus* brief was
11 ultimately denied, but the *Rosenbach* court was aware of this case and cited this Court’s
12 reasoning extensively. (*Id.* ¶ 94.)

13 Although Facebook’s petition had largely been about class certification issues, its merits
14 briefing pivoted swiftly to the issues of Article III standing and statutory standing, effectively
15 guaranteeing appellate resolution of a key disputed issue before trial. (*Id.* ¶ 96.) Class Counsel
16 continued their vigorous representation of the Class on appeal, filing not only a standard
17 appellate brief, but also a motion to dismiss the appeal after the Illinois Supreme Court in
18 *Rosenbach* ruled on the statutory standing argument in the Class’s favor. (*Id.* ¶¶ 97-99.) After
19 oral argument, the Ninth Circuit affirmed this Court’s rulings on both class certification and
20 Article III standing in full—a decisive and unambiguous victory for the Class. (*Id.* ¶ 100-101.)
21 Facebook hired a new lawyer—a former Acting U.S. Solicitor General—to seek *en banc*
22 rehearing, and, when that was denied, *certiorari* (also denied). In early 2020, the case was
23 remanded for trial. (*Id.* ¶¶ 102-108.)

24 III. Mediations and Settlement

25 Consistent with the “strong judicial policy that favors settlements, particularly where
26 complex class action litigation is concerned,” *McDonald, v. Kiloo A/S*, No. 17-CV-04344-JD,
27 2020 WL 5702113, at *4 (N.D. Cal. Sept. 24, 2020) (Donato, J.), Class Counsel engaged
28 Facebook in three separate mediated attempts to reach a settlement in this case. (*Id.* ¶ 109.)

1 The first attempt was in May 2017, before the Hon. Layn Phillips (Ret.). The parties
2 exchanged detailed mediation statements and attended an in-person mediation session with Judge
3 Phillips. However, they were unable to make substantial progress toward resolving the case, and
4 litigation continued. (*Id.* ¶ 110.)

5 About a year later, the Court directed the parties to participate in a settlement conference
6 before the Hon. Donna M. Ryu of this District. (*Id.* ¶ 111.) The parties again exchanged
7 mediation statements and attended an in-person mediation with Judge Ryu in Oakland. Although
8 discussions advanced slightly further than they had in the previous mediation attempt, it became
9 apparent that settlement would not be forthcoming, and litigation proceeded. (*Id.* ¶ 112.)

10 Finally, after the Ninth Circuit denied *en banc* rehearing and while the mandate was
11 stayed pending the Supreme Court's consideration of Facebook's *certiorari* petition, the parties
12 agreed to participate in a third mediation with Ambassador Jeffrey Bleich in San Francisco. (*Id.* ¶
13 113.) After exchanging updated statements and participating in lengthy negotiations, the parties
14 reached an agreement in principle. (*Id.* ¶ 114.) The parties then continued negotiations for the
15 next several months on the details of the settlement, including the nature and mechanics of
16 conduct relief. (*Id.* ¶ 116.) Plaintiffs moved for preliminary approval of the original \$550 million
17 settlement, which the Court denied without prejudice after citing a number of concerns. (*Id.* ¶¶
18 119-123.) The parties thereafter returned with a revised settlement, which addressed all of the
19 Court's non-monetary concerns, added an additional \$100 million to the Settlement Fund, and
20 reduced the attorneys' fee request. (*Id.* ¶¶ 124-131.) The Court granted preliminary approval of
21 the revised settlement. (*Id.* ¶ 132.)

22 Since the Court granted preliminary approval, Class Counsel have worked diligently to
23 send notice and ensure that as many Class Members as possible are able to claim. (*Id.* ¶ 133.) To
24 that end, they have carefully monitored the email notice, taking action where necessary to
25 achieve maximum visibility (such as re-sending notice to millions of Gmail users whose original
26 notice was automatically directed to spam folders). (*Id.* ¶¶ 134-135.) With the Court's assistance,
27 Class Counsel have also acted swiftly to protect the Class from inappropriate and confusing opt-
28

1 out solicitations. The Class is now on track to achieve an unprecedented claims rate for an
2 unprecedented settlement. (*Id.* ¶¶ 136-138.)

3 ARGUMENT

4 Plaintiffs now seek attorneys’ fees for Class Counsel in the amount of 20% of the first
5 \$550 million of the Settlement, payment of the expenses Class Counsel advanced or incurred in
6 prosecuting this action, and modest incentive awards of \$7,500 for the three named Class
7 Representatives. In evaluating these requests, the Court “assume[s] a fiduciary role that requires
8 close scrutiny of class counsel’s requests for fees and expenses from the common fund.” *In re*
9 *Optical Disk Drive Prod. Antitrust Litig.*, 959 F.3d 922, 930 (9th Cir. 2020). Plaintiffs and Class
10 Counsel welcome the Court’s scrutiny here. A close look at the fee request, particularly in the
11 context of empirical analysis by two leading class actions scholars, demonstrates that the
12 requested fee is reasonable given the outstanding result, the high degree of risk faced by counsel,
13 and Class Counsel’s efficient staffing. Similarly, Class Counsel’s expenses were necessary to
14 prosecute this action, and the incentive awards properly compensate the Class Representatives
15 for their role in reaching this Settlement.
16

17 **I. The Court Should Award 20% of the First \$550 Million.**

18 It is entirely within this Court’s “discretion to choose how [to] calculate[] fees,” *Farrell*
19 *v. Bank of Am, N.A.*, No. 18-56272, 2020 WL 5230456, at *1 (9th Cir. Sept. 2, 2020) (quoting *In*
20 *re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 944 (9th Cir. 2011)). ““Where a
21 settlement produces a common fund for the benefit of the entire class, courts have discretion to
22 employ either the lodestar method or the percentage-of-recovery method’ to determine the
23 reasonableness of attorney’s fees.” *Edenborough v. ADT, LLC*, No. 16-CV-02233-JST, 2019 WL
24 4164731, at *3 (N.D. Cal. July 22, 2019) (Tigar, J.) (quoting *Bluetooth*, 654 F.3d at 942).³ “The
25

26
27 ³ Because Illinois substantive law controlled the claims here, “it also governs the award of
28 fees.” *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002). There is no meaningful
difference between Illinois law and Ninth Circuit law on the question of awarding fees in a

1 Ninth Circuit has routinely applied the percentage-of-the-fund approach, treating twenty-five
2 percent as the ‘benchmark.’” *Ford v. CEC Ent. Inc.*, No. 14CV677 JLS (JLB), 2015 WL
3 11439033, at *5 (S.D. Cal. Dec. 14, 2015) (quoting *In re Pacific Enters. Sec. Litig.*, 47 F.3d 373,
4 378-79 (9th Cir. 1994)); *accord Vizcaino*, 290 F.3d at 1048.

5 The percentage method is preferred in cases where there is a cash-based common fund,
6 and the Court should therefore use that method here. *See In re Capacitors Antitrust Litig.*, No.
7 3:14-CV-03264-JD, 2017 WL 9613950, at *2 (N.D. Cal. June 27, 2017) (Donato, J.); *In re*
8 *Korean Air Lines Co., Ltd. Antitrust Litig.*, No. CV 07-05107 SJO AGRX, 2013 WL 7985367, at
9 *1 (C.D. Cal. Dec. 23, 2013) (“The use of the percentage-of-the-fund method in common-fund
10 cases is the prevailing practice in the Ninth Circuit for awarding attorneys’ fees and permits the
11 Court to focus on a showing that a fund conferring benefits on a class was created through the
12 efforts of plaintiffs’ counsel.”). When courts consider a request for attorneys’ fees based on the
13 percentage method, they consider “(1) the extent to which class counsel achieved exceptional
14 results for the class; (2) whether the case was risky for class counsel; (3) whether counsel’s
15 performance generated benefits beyond the cash settlement fund; (4) the market rate for the
16 particular field of law; (5) the burdens class counsel experienced while litigating the case; (6)
17 and whether the case was handled on a contingency basis.” *Optical Disk Drive*, 959 F.3d at 930.
18 The Ninth Circuit has also noted that in cases where the fund is very large, like this one, (a so-
19 called “megafund”) the Court should ensure that the fee awarded is based on the results achieved
20 by class counsel, so as to prevent a windfall in a case where economies of scale happen to create
21 a very large recovery. *See id.* However, the Ninth Circuit does not require district courts to use
22 any particular approach (such as a “sliding scale” or a lodestar calculation) in “megafund” cases.
23 *See id.* at 933.

24 Here, Class Counsel are requesting a fee award of \$110 million, or 20% of the first \$550
25 million of the Settlement Fund. This percentage properly compensates Class Counsel for

26 _____
27 common fund settlement. *See Brundidge v. Glendale Fed. Bank, F.S.B.*, 168 Ill. 2d 235, 245
28 (1995) (permitting courts to choose between the percentage method and the lodestar method).

1 achieving an outstanding result in extraordinarily risky litigation. Further, it is in line with the
2 market rate for a settlement of this size at this stage of the case. And while the fund is large, to be
3 sure, a \$110 million award appropriately compensates Class Counsel without creating a windfall
4 and without improperly distorting the incentive to work efficiently.

5 **A. Class Counsel Obtained an Unprecedented Result for the Class.**

6 When considering the amount of attorneys' fees in a class action, "[t]he most important
7 factor is the results achieved for the class." *In re Nat'l Collegiate Athletic Ass'n Athletic Grant-*
8 *in-Aid Cap Antitrust Litig.*, No. 4:14-MD-2541-CW, 2017 WL 6040065, at *3 (N.D. Cal. Dec. 6,
9 2017), *aff'd*, 768 F. App'x 651 (9th Cir. 2019). "Typically, courts try to ensure faithful
10 representation by tying together the interests of class members and class counsel. That is, courts
11 aim to tether the value of an attorneys' fees award to the value of the class recovery." *In re HP*
12 *Inkjet Printer Litig.*, 716 F.3d 1173, 1178 (9th Cir. 2013).

13 Where both the class and its attorneys are paid in cash, this task is fairly effortless.
14 The district court can assess the relative value of the attorneys' fees and the class
15 relief simply by comparing the amount of cash paid to the attorneys with the amount
16 of cash paid to the class. The more valuable the class recovery, the greater the fees
17 award.

16 *Id.*

17 Here, the result is unprecedented, both on its own and in comparison to other consumer
18 privacy settlements. The main relief provided to Class Members is a non-reversionary, cash fund
19 of \$650 million, not coupons or in-kind relief. The settlement class is the same class that the
20 Court already certified, and whose certification was affirmed by the Ninth Circuit. *See Bluetooth*,
21 654 F.3d at 946-47 (pointing out that post-certification settlements do not have some of the
22 problems that can be seen in pre-certification settlements). At the top end of Class Counsel's
23 target claims rate—a nearly unprecedented 30%—checks will be over \$200. In addition, Class
24 Counsel fiercely negotiated with Facebook for reform measures that it agreed to put into place to
25 ensure that it, specifically, will not violate its Illinois customers' biometric privacy rights again.
26 After this litigation is over, Facebook will delete the face template of every single Class Member
27 who does not affirmatively say otherwise after viewing a clear, detailed, and accurate
28 explanation of Facebook's face-scanning practices. In other words, this Settlement does for

1 Illinois consumers precisely what BIPA was intended to do: incentivize compliance with BIPA
2 by leveling massive damages on a company that violated consumers' privacy, and it puts control
3 of consumers' biometric data back in their own hands.

4 To be clear, the relief obtained here *is* massive, particularly as it compares to other cases
5 in this realm. Consumer privacy settlements are notorious for failing to provide consumers with
6 real-world relief for the damages they have suffered. In *In re Google Referrer Header Privacy*
7 *Litig.*, 869 F.3d 737, 740 (9th Cir. 2017), *vacated on other grounds by Frank v. Gaos*, 139 S. Ct.
8 1041 (2019), the Ninth Circuit affirmed a 25% award of attorneys' fees in a case where
9 consumers did not see a single penny. All of the money was to go to *cy pres*, with no cash relief
10 for the class at all. *Gaos*, 139 S. Ct. at 1045.

11 Though such *cy pres* settlements are common, even in consumer privacy settlements that
12 do provide monetary relief and have been adjudged to be fair and reasonable by district courts,
13 the relief is often far less than what has been made available here. Illustrating that point,
14 Professor Rubenstein, author of the leading national treatise on class action practice *Newberg on*
15 *Class Actions*, conducted a rigorous empirical analysis of class action privacy settlements since
16 2015. In terms of total dollar amount, this Settlement is the largest one that Professor
17 Rubenstein's analysis has identified—almost \$150 million more than the next closest case.
18 (Declaration of William B. Rubenstein, attached hereto as Exhibit 3, ¶ 15.) That case, the
19 *Equifax* data breach case, is not an unrestricted cash fund made available to all class members,
20 like the Settlement here. (*Id.* ¶ 16.) Rather, the centerpiece of the *Equifax* settlement is credit
21 monitoring (which only a small portion of class members ultimately opted for), with
22 substantially lower caps on the amount of cash available to class members (such as \$31 million
23 for class members without proof of loss). (*Id.*) Here, by contrast, the entire cash Settlement Fund
24 is unrestricted and will be used to pay money to Class Members in equal shares.

25 Accounting for class size, the difference between this Settlement and the other
26 settlements in Professor Rubenstein's analysis becomes even more remarkable. Compared to the
27 next closest settlement, the Settlement is *thirty percent larger*, and even that second-largest
28 settlement is an outlier. When compared to *Equifax* on numbers alone, this Settlement provides

1 over 27 times more value per Class Member—\$94.20 in cash compared to \$3.44 of restricted
2 benefits. In order to be comparable in terms of dollars available per class member, the *Equifax*
3 settlement would have had to have created \$13 billion all-cash, non-reversionary fund. The same
4 is true for other large privacy settlements. *See, e.g., In re Anthem, Inc. Data Breach Litig.*, 327
5 F.R.D. 299, 324 (N.D. Cal. 2018) (explaining that only \$13 million of the \$115 million fund was
6 available for cash payments, with the rest being reserved to purchase credit monitoring services);
7 *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-MD-02752-LHK, 2020 WL
8 4212811, at *22 (N.D. Cal. July 22, 2020) (cash relief made available to class members with
9 existing credit monitoring, out-of-pocket losses, and who paid Yahoo! for premium services).

10 A better comparison in terms of actual results achieved is the next closest large privacy
11 class settlement, *Birchmeier v. Caribbean Cruise Line, Inc.*—a \$76 million non-reversionary
12 common fund settlement valued at about \$73 per class member. (Rubenstein Decl. ¶ 17.) In that
13 case, the court determined that class counsel “provided exceptional representation for the class
14 and produced high-value output, securing the largest and strongest TCPA settlement in history.”
15 *Aranda v. Caribbean Cruise Line, Inc.*, No. 12 C 4069, 2017 WL 1369741, at *9 (N.D. Ill. Apr.
16 10, 2017), *aff’d* 896 F.3d 792 (7th Cir. 2018) (internal quotation marks omitted). The relief here,
17 on a per-class member basis, is nearly thirty percent higher than *Birchmeier*. And *Birchmeier* is
18 an outlier. Of the top twenty large privacy class action settlements since 2015, all but the top four
19 made less than \$15 in value available per class member. (Rubenstein Decl. ¶ 18.)

20 Value obtained per class member can be a misleading number, however, given that in
21 almost all settlements, not every class member will file a claim. *Claiming* class members in the
22 settlements analyzed by Professor Rubenstein generally received substantially more money than
23 the per-member relief. For example, in *In re Yahoo! Inc. Data Breach Litigation*, a \$117.5
24 million fund was made available for a class of 194,000,000 people, but only 1.3 million class
25 members submitted claims, and the settlement administrator estimated that payments for class
26 members with existing credit monitoring “will be approximately \$40 to \$50 per claimant.” 2020
27 WL 4212811, at *6, *20 (internal quotations omitted). That type of claims rate is typical in a
28 consumer class action. *See, e.g., Rael v. Children’s Place, Inc.*, No. 3:16-CV-00370-GPC-LL,

1 2020 WL 434482, at *9 (S.D. Cal. Jan. 28, 2020) (“[C]onsumer class actions tend to result in
2 claims rates in the low single digits”); *Theodore Broomfield v. Craft Brew All., Inc.*, No. 17-CV-
3 01027-BLF, 2020 WL 1972505, at *7 (N.D. Cal. Feb. 5, 2020) (approving a 2% claims rate).

4 When claims rate is taken into consideration, the Settlement distinguishes itself yet again.
5 Nearly 1.2 million people have *already* filed claims, and there is still more than a month left in
6 the claims period. Even if the claims rate doubles, there is enough money in the Settlement Fund
7 that claiming Class Members will be paid well over \$200 each. Further, this overwhelmingly
8 positive response not only demonstrates how successful the notice plan has been, but also is
9 evidence that the Class believes the Settlement to be a strong one.

10 Given that the benefits of the Settlement far outshine those in the other, similar privacy
11 class action settlements discussed in Professor Rubenstein’s report, Plaintiffs respectfully submit
12 that it is reasonable—even adjusting for the larger total size of the Settlement Fund—to award a
13 similar percentage of the recovery. *Cf. HP*, 716 F.3d at 1178 (discussing the benefits of tying
14 counsel’s compensation to class members’ recovery). In *In re Yahoo! Inc. Data Breach*
15 *Litigation*, the fee award was about 20% of the fund. 2020 WL 4212811, at *39. In *Equifax*, the
16 fee was also about 20.36% of the fund, even though much of the fund would provide only credit
17 monitoring, and the remainder includes many internal caps on cash compensation. *In re Equifax*
18 *Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at *36
19 (N.D. Ga. Mar. 17, 2020). In *Birchmeier*, the court used a declining fee scale that resulted in a
20 25% fee.

21 All of these cases are “megafunds” in Ninth Circuit parlance, and all of the judicially
22 approved fee awards are similar, on a percentage basis, to the 20% of the first \$550 million that
23 Plaintiffs request for Class Counsel here (and substantially higher than the bottom line figure of
24 16.9% of the total). The application of the megafund rule is discussed in greater detail below, but
25 even in comparison to *other megafunds*, the results achieved here are extraordinary, and the
26 requested fee is in line with what courts regularly award in the Ninth Circuit and nationwide.
27 (See Rubenstein Decl. ¶¶ 22-23.) Plaintiffs respectfully submit that awarding 20% of the first
28

1 \$550 million of the common fund is appropriate, and that there is no reason for a downward
2 departure from similar awards.⁴

3 **B. Class Counsel's Efforts Generated Non-Monetary Benefits.**

4 The monetary component of this Settlement is the chief relief made available to the
5 Class, and it is the only component of the Settlement that Class Counsel ask to be compensated
6 for directly. That said, the non-monetary benefits that Class Counsel achieved for the Class in
7 this groundbreaking litigation are significant, and they further justify the appropriateness of the
8 fee award here.

9 First, and most obviously, there is the prospective relief that Facebook agreed to. For
10 nearly every Class member, Facebook will turn *off* the face recognition feature. Facebook will
11 then disclose—in a clear and separate form—exactly how it uses face templates and make clear
12 that Facebook will not create a face template without the Class Member's affirmative consent. If
13 the Class Member takes no action after reviewing the disclosure, her face template will be
14 deleted, and face recognition will remain off. If the Class Member does not log into Facebook
15 and review the document within 180 days of the Effective Date of the Settlement, her face
16 template will be deleted, and face recognition will remain turned off. In fact, any action other
17 than reviewing the disclosure and affirmatively consenting to collection of biometric data will
18 result in the Class Member's face template being deleted and face recognition remaining off.
19 While BIPA authorizes injunctive relief as part of a judgment, it is difficult to imagine how more
20 complete injunctive relief could be obtained after a trial.

21 On top of the benefits set out in the settlement, Class Counsel's efforts in this litigation
22 have resulted in the Class being protected more generally. This litigation is unique in that, on
23 numbers alone, it is beyond doubt that the Class includes most of the adults in Illinois. BIPA
24

25 ⁴ Plaintiffs note that this Court has on occasion observed that administration and notice
26 expenses should not be considered when using the percentage method. Here, administration costs
27 are estimated to be \$1.6 million, so excluding them would reduce the fee request by \$320,000.
28 Class Counsel do not believe this reduction is necessary, given the significant benefit that Class
Members have obtained from the strong notice plan here.

1 protects Illinois residents not only in their dealings with Facebook, but also in their interactions
2 with nearly every other company that wants to use biometrics in the state. This litigation created
3 strong precedent that will protect the Class in the future. For example, the effectiveness of BIPA
4 as an incentive for companies to respect consumers' privacy rights was severely threatened by
5 the Illinois Appellate Court's decision in *Rosenbach*. When the Illinois Supreme Court reversed
6 that decision, it relied heavily on this Court's decisions finding in Plaintiffs' favor. The
7 *Rosenbach* court expressly stated that this Court had "correctly" rejected the position advanced
8 by the defendants, and it cited this Court's reasoning five times—more citations than any other
9 authority referenced in the opinion. *Rosenbach v. Six Flags Ent. Corp.*, 2019 IL 123186, ¶ 23.
10 There is no question, then, that Class Counsel's efforts here influenced the Illinois Supreme
11 Court and protected the Class in more than just this litigation. Furthermore, the size and breadth
12 of the prospective and monetary relief obtained here will serve as a deterrent to similarly situated
13 companies that wish to collect biometric data in Illinois.

14 This litigation also spawned legislative efforts, backed by well-funded industry groups, to
15 repeal or defang BIPA. Had Class Counsel ignored these efforts, a change to the statute could
16 have caused consumers to lose any opportunity to recover in this litigation as well as leaving
17 them unprotected more generally. Instead, Class Counsel deployed significant resources in
18 Springfield in order to educate legislators on the importance of this statute, coordinate efforts by
19 like-minded non-profit organizations, and generally ensure that Class Members' voices were
20 heard. Absent these efforts, the loudest voices in Springfield would have been the lobbyists paid
21 for by Facebook and the trade organizations that it bankrolls. Simply put, a legislative strategy is
22 now an integral part of prosecuting a large class action based on a statutory claim, and Class
23 Counsel's success in this area created enormous benefits for the Class.

24 **C. Pursuing this Litigation on a Contingent Basis Was Extremely Risky**
25 **for Class Counsel.**

26 In determining the appropriateness of a fee award, the next step is to consider the flip side
27 of the results—risk. That is, the amount of the fee depends in part on whether, and to what
28 degree, "class counsel ran the risk of not being paid at all." *Steiner v. Am. Broad. Co.*, 248 F.

1 App'x 780, 782 & n.2 (9th Cir. 2007). Here, Class Counsel worked entirely on contingency,
2 advancing both their time and the required cash expenses, which were substantial. (*See generally*
3 Declaration of Shawn Williams, attached hereto as Exhibit 4; Declaration of Michael Canty,
4 attached hereto as Exhibit 5; Declaration of Rafey S. Balabanian, attached hereto as Exhibit 6.)
5 As described in more detail below, the risks here went far beyond the inherent risk in any
6 litigation, given the lack of precedent and the extra-judicial attacks on the statute. If Facebook
7 had won this case, Class Counsel would not have been compensated at all.

8 While that risk exists in all contingency litigation, it was substantially more acute here
9 than in other cases. *Vizcaino*, 290 F.3d at 1048, illustrates that point well. In *Vizcaino*, one of the
10 leading Ninth Circuit cases on awarding attorneys' fees in common fund class action settlements,
11 the Ninth Circuit approved the district court's characterization of the case as "extremely risky[.]"
12 The district court arrived at that conclusion because:

13 there were no controlling precedents concerning their claims, only analogies
14 involving various areas of law. In addition, Class Counsel's risk was even greater,
15 and their work made more difficult, because Microsoft is one of the nation's largest
and most formidable companies and it, and several law firms, defended the case
vigorously for several years.

16 *Vizcaino v. Microsoft Corp.*, 142 F. Supp. 2d 1299, 1303 (W.D. Wash. 2001).

17 Here, Class Counsel found themselves in much the same situation. Unlike other statutes
18 that commonly form the basis for class actions (*e.g.*, the Telephone Consumer Protection Act;
19 the Fair Credit Reporting Act; the Fair Debt Collections Practices Act; etc.), BIPA had not been
20 heavily litigated when this case was filed in 2015. In fact, to Class Counsel's knowledge, there
21 was no litigation at all involving BIPA until this case was filed. That means that all the elements
22 of Plaintiffs' claims—indeed, even the question of what the elements of Plaintiffs' claims *are*—
23 were matters of first impression. (*See Rubenstein Decl.* at 3.) The factual landscape was similarly
24 undeveloped. While some class actions follow on the heels of a government enforcement action
25 in which a public agency has already identified and investigated a problem, this one did not. That
26 is largely because, unlike in many other consumer protection contexts "[o]ther than the private
27 right of action ... no other enforcement mechanism is available" for BIPA violations.

28 *Rosenbach*, 2019 IL 123186, ¶ 37.

1 And like in *Vizcaino*, the defendant in this first BIPA case was not an ordinary company,
2 but Facebook, now nearly always mentioned in the same breath as Microsoft when discussing
3 the nation’s largest companies. *See, e.g.*, Peter Eavis & Steve Lohr, *Big Tech’s Domination of*
4 *Business Reaches New Heights*, N.Y. TIMES (Aug. 19, 2020), <https://nyti.ms/3l6FImh>;
5 (Rubenstein Decl. at 42.) Having effectively unlimited resources, Facebook was defended by two
6 of the country’s largest law firms (with a third firm added at the appellate *en banc* and *certiorari*
7 stage), which like Microsoft’s counsel in *Vizcaino*, defended this case extremely vigorously for
8 years.

9 Subsequent developments in the case confirmed the extraordinary risk that Class Counsel
10 took on by prosecuting this action. The Ninth Circuit has agreed that a case involved a “good
11 deal of risk” where “class counsel faced two reasonably possible scenarios in which they would
12 effectively ‘lose’ and not recover any attorneys’ fees.” *Steiner*, 248 F. App’x at 782 & n.2. Here,
13 Class Counsel faced at least *six* separate reasonably likely occasions where they easily could
14 have lost the case in court:

- 15 • Facebook’s motion to dismiss/motion for summary judgment on the basis of the
16 choice-of-law clause and the subsequent evidentiary hearing;
- 17 • Facebook’s motion to dismiss for lack of subject-matter jurisdiction after the Supreme
18 Court’s decision in *Spokeo*;
- 19 • The Illinois Supreme Court’s grant of the petition for leave to appeal in *Rosenbach*;
- 20 • Facebook’s motion for summary judgment on the merits;
- 21 • Facebook’s opposition to the motion for class certification; and
- 22 • The Ninth Circuit’s review of class certification and subject-matter jurisdiction.

23 And these are only the ones with a better-than-average chance of succeeding. For example,
24 Professor Rubenstein concludes that the chance of losing on subject-matter jurisdiction
25 grounds—a concern until the Supreme Court denied Facebook’s *certiorari* petition in January of
26 this year—was an astronomical 40%. Although Plaintiffs still would have been able to continue
27 their case in a state court, the relatively late stage at which Article III standing was decided made
28 the risk very serious. If the Court lacked jurisdiction, all of the favorable orders that Plaintiffs
achieved over the years would have been vacated, and Plaintiffs may even have had to destroy
much of the material they obtained in discovery. (ECF No. 87 § 15.) Facebook could also have

1 won on any number of other issues of first impression raised in their three separate summary
2 judgment motions.

3 On top of the risks inherent in a case of first impression and the risks of losing the
4 litigation, Class Counsel faced substantial out-of-court risks not contemplated by *Vizcaino*.
5 Because *Vizcaino* involved common-law contact claims, Microsoft’s powerful lobbying presence
6 in Washington would not legitimately have been able to affect its liability to the class. Here, on
7 the other hand, industry groups used their lobbying influence in Springfield to attempt to gut
8 BIPA and end this case almost before it got off the ground. Class Counsel’s quick organizing
9 efforts and personal visits to Springfield avoided that outcome, but it was—and remains—an
10 extremely serious risk. Indeed, on at least one occasion during the pendency of this litigation,
11 industry groups successfully pressured state legislators to amend a consumer privacy statute
12 while class action litigation was pending. *See Perlin v. Time Inc.*, 237 F. Supp. 3d 623, 629-30
13 (E.D. Mich. 2017).

14 In sum, this case involved bringing claims under an untested statute against one of the
15 largest companies in the country, who then proceeded to challenge nearly every issue in nearly
16 every forum available to it. The risk of nonpayment here was extreme, and that should factor
17 heavily in the Court’s determination of a reasonable fee.

18 **D. The Market Supports the Requested Fee.**

19 Although the Ninth Circuit has not adopted the full market-mimicking approach of other
20 circuits, “the market rate for the particular field of law” is still an important consideration.
21 *Optical Disk Drive*, 959 F.3d at 930. Here, a market-based analysis supports both the
22 reasonableness of using the percentage method to calculate the fee in this case and the specific
23 percentage Class Counsel request.

24 As Professor Brian Fitzpatrick explains, the market for high-stakes, high-value,
25 plaintiff’s-side litigators is entirely driven by a percentage-of-the-recovery model. (Declaration
26 of Brian T. Fitzpatrick, attached hereto as Exhibit 2, ¶ 13-14.) That is true across the board,
27 whether in agreements with individuals who do not have much experience hiring counsel (such
28 as in personal injury cases) or in agreements with sophisticated corporate counsel. (*Id.* ¶ 14.)

1 Professor Fitzpatrick compares class actions to the most common scenario where sophisticated
2 clients enter into contingent fee arrangements—patent litigation. (*Id.*) Empirical studies of fee
3 arrangements in patent cases demonstrate that sophisticated clients always pick the same two
4 types of fee arrangements: fixed percentages or increasing percentages as the litigation matured
5 (so that a case that required a trial or appeal would result in a larger percentage). (*Id.* ¶¶ 15, 19.)
6 The relevant market comparison for the fee in this case, therefore, is the percentage of recovery.

7 In terms of the specific amount requested here, the market would likely support a fee
8 higher than the 20% of the first \$550 million that Class Counsel request. The Ninth Circuit has
9 questioned the market-based approach where the sole point of comparison is other judicially
10 approved fees. *See Vizcaino*, 290 F.3d at 1049. Accordingly, a good starting point for the market
11 comparison is “commercial litigation where the fee is determined by application of the
12 negotiated contingency percentage to the amount of the recovery.” *Id.*

13 Although no such market truly exists for class actions, *see id.*, there are meaningful
14 comparisons to be had in other areas of law. One study looked at fee arrangements with ordinary
15 clients who do not regularly interact with the legal system like the Class Members here. In those
16 cases (mostly personal injury cases), the most common fee arrangement was a flat one-third.
17 (Fitzpatrick Decl. ¶ 19.) In cases involving sophisticated clients, the average fixed percentage
18 was 38.6% of the total recovery, and the average escalating percentage fee for a case involving
19 an appeal was 40.2%. (*Id.*) Not a single client in any of these cases agreed to a fee arrangement
20 by which the client paid their lawyers a smaller percentage for a larger recovery. (*Id.*)

21 The reason for that is straightforward. As the Ninth Circuit has explained, the goal of
22 setting a fee award is to “ensure faithful representation by tying together the interests of class
23 members and class counsel.” *HP*, 716 F.3d at 1178. A system where class counsel is paid *less* for
24 recovering more money has exactly the opposite effect, and application of the “megafund”
25 principle without careful, case-specific analysis can create very poor incentives. (Fitzpatrick
26 Decl. ¶ 20.)

27 Comparison to judicially approved fees can also be useful, and that comparison supports
28 Class Counsel’s request here as well. Unsurprisingly, given the Ninth Circuit’s benchmark, the

1 mean percentage award of attorneys' fees in class actions in the Ninth Circuit is 26% of the fund.
2 (Rubenstein Decl. ¶ 23.) Considering the market by subject matter as opposed to strictly
3 geographically, the mean percentage award in recent large privacy class actions was 25.3% and
4 the median 23.97%. Even for megafund cases, the mean percentage awarded in the same range
5 as the percentage Class Counsel is seeking here. *See id.* (reviewing various empirical studies of
6 large settlements showing that mean awards in large cases range from 12% to 22.3%). And in
7 terms of the geographic reasonableness of the rates, it bears mention that a disproportionate
8 number of these privacy settlements came from Illinois, where all of the class members live or
9 lived. Class Counsel's request for 20% of the original \$550 million therefore falls several
10 percentage points below the relevant market rate. A market analysis therefore supports the
11 requested award here.

12 **E. No "Windfall" Will Result from the Fee Awarded.**

13 The overall goal in of ensuring the reasonableness of a requested fee is the same no
14 matter the size of the fund. However, the Ninth Circuit has recognized that sometimes, when a
15 fund is very large, there is a danger that class counsel could obtain a windfall simply by virtue of
16 the size of the fund. *See Bluetooth*, 654 F.3d at 942. Accordingly, courts take additional steps in
17 megafund cases to ensure that the attorneys' fee award does not overcompensate class counsel.
18 Here, Class Counsel excluded the last \$100 million of the settlement amount from the basis for
19 their fee request. They also respectfully submit that consideration of lodestar in this case would
20 not accurately account for the results Class Counsel achieved, nor would it help prevent a
21 windfall, and that it would create perverse incentives for future class actions with regard to
22 efficiency.

23 **1. Excluding the Last \$100 Million from the Fee Request**
24 **Supports the Reasonableness of the Fee**

25 The clearest and most obvious step to take to avoid providing a windfall to class counsel
26 is to identify if there are portions of a settlement that are less attributable to the efforts of class
27 counsel and to reduce the compensation for that portion. That is the logic behind the so-called
28 "sliding scale" used in some circuits, *see In re Synthroid Mktg. Litig.*, 264 F.3d 712, 721 (7th Cir.

1 2001), although it is not always applied that way. (Fitzpatrick Decl. ¶ 22.) Here, the last \$100
2 million of the Settlement Fund is certainly partially attributable to the enormous effort Class
3 Counsel have expended for the Class at every stage of this litigation. But it is also a product of
4 the concerns presented by the Court at the initial preliminary approval hearing and Facebook’s
5 response to those concerns. Accordingly, awarding fees to Class Counsel on that portion of the
6 recovery could be construed as a windfall. To eliminate this issue, Class Counsel are not seeking
7 fees on that portion of the recovery, and it will all go to the Class.

8 That said, Class Counsel are cognizant of Judge Easterbrook’s observation that
9 “percentages can be juggled, but, unless the bottom line changes, what’s the point?” *Birchmeier*
10 *v. Caribbean Cruise Line, Inc.*, 896 F.3d 792, 797 (7th Cir. 2018). That is why Class Counsel
11 have changed the bottom line too, asking not for the benchmark of 25%, but for 20% of the first
12 \$550 million. That amounts to 16.9% of the total Settlement Fund. When compared to Professor
13 Rubenstein’s dataset of similar settlements, the requested award—whether it is viewed as 20% of
14 the first \$550 million or 16.9% of the total Settlement Fund—falls well within the normal range.
15 (See Rubenstein Decl. ¶ 1 & n.2; ¶¶ 22-24.)

16 **2. Conducting a Lodestar Cross Check Here Would Not** 17 **Advance the Goal of Preventing a Windfall.**

18 One of the ways that the Ninth Circuit has suggested—although it has expressly declined
19 to require—assessing fees in a megafund case is to conduct a lodestar crosscheck. That is, to
20 consider the hours that class counsel spent on the litigation and compare them to the percentage
21 fee award to determine its reasonableness. It is “settled” law in the Ninth Circuit that lodestar
22 crosscheck is not required. *Farrell*, 2020 WL 5230456, at *2 (citing *Campbell v. Facebook, Inc.*,
23 951 F.3d 1106, 1126 (9th Cir. 2020)). Rather, a district court can determine that the
24 circumstances of a given case warrant a certain percentage of a fund—particularly if that
25 percentage is under the 25% benchmark—without considering class counsel’s lodestar. *See id.*

26 That said, Professor Fitzpatrick opines that a “lodestar crosscheck reintroduces the same
27 bad incentives of the lodestar method that the percentage method was designed to avoid.”
28 (Fitzpatrick Decl. ¶ 16.) As explained above, sophisticated private clients who engage attorneys

1 for plaintiff’s-side patent work *never* pick lodestar arrangements, and there is no evidence of any
2 of these clients insisting on—or even considering—a lodestar crosscheck when negotiating a fee.
3 (*Id.* ¶ 14.) The reason is simple: clients want to incentivize their attorneys maximizing the
4 clients’ recovery, not the number of hours spent on litigation. (*Id.* ¶ 15.) This is even more
5 important in consumer litigation, where the clients and the court are not able to monitor the
6 attorneys’ time as it is being spent in the same way as a sophisticated corporate client. (*Id.* ¶ 17.)

7 Consider, for example, *In re Volkswagen “Clean Diesel” Marketing Sales Practices, &*
8 *Products Liability Litigation*, No. 2672 CRB (JSC), 2017 WL 1047834 (N.D. Cal. Mar. 17,
9 2017), which was filed nearly nine months after this case. In *Volkswagen*, almost no adversarial
10 litigation took place. The court expressly noted, “Volkswagen’s liability [was] not contested”
11 and commented on “the short time frame it took the parties to settle the ... class action claims.”
12 *Id.* at *2. Settlement was reached by July 2016 (around the time of the first discovery scheduling
13 order in this case) and was approved by Judge Breyer in March 2017 (while the parties here were
14 deep in discovery). Nevertheless, class counsel in *Volkswagen* managed to expend approximately
15 98,000 hours litigating and settling the case, arriving at a lodestar of \$63.5 million. The court
16 found the hours reasonable and determined that “there is no indication that Class Counsel sought
17 to artificially inflate their hours to justify the lodestar amount.” *Id.* at *5.

18 In this case—where nearly *everything* was contested—Class Counsel were well aware
19 that they could have justified at least 50,000 hours, if not more. Yet, despite the many
20 opportunities that having three firms work on a case could have provided to engage in
21 duplicative work, Class Counsel staffed the case leanly and worked efficiently. Depositions were
22 not conventions, and care was taken to avoid unnecessary duplication of document review.
23 Briefs were not drafted by committee, but instead assigned to a single attorney who took charge
24 of drafting the arguments, soliciting feedback, and revising accordingly. Where possible, and in
25 keeping with the directives in the Court’s standing order, primary responsibility for tasks was
26 frequently assigned to less-experienced attorneys (with lower hourly rates), with partners acting
27 in a supervisory capacity. (*See* Rubenstein Decl. ¶ 32) (noting that tasks were delegated
28 appropriately). The renewed motion to dismiss for lack of subject matter jurisdiction, motion for

1 class certification, and interlocutory appeal in the Ninth Circuit were *all* successfully briefed and
2 argued primarily by associate-level attorneys, not senior partners. So too was the petition for *en*
3 *banc* rehearing, in which Facebook was represented by a prominent attorney who served as
4 Acting Solicitor General (not a single Ninth Circuit judge even asked for a vote on whether the
5 case should be reheard).

6 That is not to say having fewer lawyers on the case slowed down Class Counsel. Other
7 than specifically for the purpose of engaging in settlement discussions, Class Counsel repeatedly
8 opposed Facebook's efforts to stay or otherwise slow down this litigation. That is also not to say
9 that the Class did not benefit from the highly experienced partners working on this case. Given
10 the relative infrequency of class action trials, for example, the trial team was led primarily by
11 more experienced trial attorneys simply because they were the ones who had the requisite skill to
12 navigate a trial on unprecedented issues.

13 Simply put, Class Counsel have been well aware at all times of the Court's preference for
14 litigating cases efficiently and avoiding wasted time. Class Counsel has worked diligently on this
15 case, has not overstaffed, and has not performed unnecessary tasks to pad their lodestar. Simply
16 relying on a lodestar crosscheck here would effectively penalize such choices and incentivize
17 attorneys in similar situations in the future to delay cases for the purpose of manufacturing
18 thousands of unnecessary additional hours in order to inflate lodestar, rather than accept a
19 settlement that is in the best interests of the Class.

20 **3. Even if the Court Decides to Perform a Lodestar Cross-Check,**
21 **the Fee Request Is Reasonable.**

22 Nevertheless, as required by the Northern District's Procedural Guidance on Class Action
23 Settlements, Class Counsel have submitted their lodestar information and supporting documents.
24 In total, they spent 30,194.3 hours for a lodestar of \$20,701,829.25. If the Court decides that
25 lodestar crosscheck is necessary, Class Counsel respectfully submit that their hours and rates are
26 reasonable, and that the effective multiplier is consistent with the extraordinary results achieved
27 in this case.
28

1 When a court decides to conduct a lodestar crosscheck, the “calculation need entail
2 neither mathematical precision nor bean counting.” *Bellinghausen v. Tractor Supply Co.*, 306
3 F.R.D. 245, 264 (N.D. Cal. 2015). “Under the lodestar method, courts ‘calculate the fee award by
4 multiplying the number of hours reasonably spent by a reasonable hourly rate and then
5 enhancing that figure, if necessary, to account for the risks associated with the representation.’”
6 *Cheng Jiangchen v. Rentech, Inc.*, No. CV 17-1490-GW(FFMX), 2019 WL 5173771, at *10
7 (C.D. Cal. Oct. 10, 2019) (quoting *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 272
8 (9th Cir. 1989)).

9 Here, the hours worked to obtain the result are, as discussed above, more than reasonable.
10 Class Counsel were able to procure a record-breaking settlement while dedicating about a quarter
11 of the time other attorneys spent in similar cases, while still pushing the case to the brink of trial,
12 with a trip to the appeals court and three separate mediations along the way. (Rubenstein Decl.
13 ¶ 38.) The total number of hours is equivalent to about 2.5 attorneys working full time for five
14 years—quite a low figure given the amount of work done. (*Id.*) There can be no real question
15 that the hours expended here were necessary.

16 Class Counsel’s hourly rates, too, are reasonable. For attorneys with 12 years of
17 experience or less (who did the bulk of the work on this case), Class Counsel’s average rate is
18 lower than the average approved in settlements in this District. (*Id.* ¶ 30.) For the senior attorneys
19 who took supervisory roles, the rate is slightly higher than average. (*Id.*) That is unsurprising
20 here, considering that Class Counsel have been recognized as among the top in their profession.
21 (*Id.*) Further, many of Class Counsel’s rates have recent judicial approval. *See Dickey v.*
22 *Advanced Micro Devices, Inc.*, No. 15-CV-04922-HSG, 2020 WL 870928, at *8 (N.D. Cal. Feb.
23 21, 2020) (“The Court finds that the billing rates used by [Edelson PC] to calculate the lodestar
24 are reasonable and in line with prevailing rates in this district for personnel of comparable
25 experience, skill, and reputation.”); June 11, 2020 Hr’g Tr. at 25:12-16, *Kaess v. Deutsche Bank*
26 *AG*, No. 09-cv-01714 (GHW) (RWL) (S.D.N.Y.) (“I find that these billable rates [for Robbins
27 Geller] based on the timekeeper’s title, specific years of experience, and market rates for similar
28 professionals in their fields ... to be reasonable in this context.”); Nov. 15, 2017 Hr’g Tr. at

1 16:13-19, *In re Genworth Fin. Sec. Litig.*, No. 1:14-cv-02392 (AKH) (S.D.N.Y.), ECF No. 181
2 (“I don’t find the rates [for Robbins Geller and Labaton] – they’re high, but I don’t find them
3 unreasonable, given what’s going on in the market,” and “agree[d]” the firm’s rates were
4 “actually below market.”).

5 The last piece of the crosscheck analysis is the risk multiplier. “Courts regularly award
6 lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.”
7 *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) (citing *Vizcaino*, 290 F.3d at
8 1052-54); *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d 1113, 1125 (C.D. Cal. 2008) (noting
9 “ample authority” for a multiplier of 5.2 and collecting cases with substantially higher
10 multipliers); *see also In re Nat’l Collegiate Athletic Ass’n*, 2017 WL 6030065, at *9 & n.57
11 (collecting cases). The Ninth Circuit, for its part, has determined in the context of a crosscheck
12 that a multiplier of 6.85 was “well within the range of multipliers that courts have allowed.”
13 *Steiner*, 248 F. App’x at 783. That lines up with Professor Rubenstein’s research, which
14 concludes that the *average* multiplier in large cases is 3.20.

15 As explained in detail above, this is not the average case in terms of either the risk taken
16 on by Class Counsel or the results achieved for the Class. Accordingly, if the lodestar crosscheck
17 returns a multiplier above the average—but well within the range deemed allowable by the Ninth
18 Circuit—it would serve to confirm the appropriateness of the fee award here. That is precisely
19 the result. The crosscheck calculation, without accounting for the substantial amount of work
20 that remains to be done to complete this Settlement, results in a risk multiplier of 5.31.
21 (Rubenstein Decl. ¶ 41 n.53.) That is lower than the 6.8 multiplier allowed by the Ninth Circuit
22 in *Steiner*, but higher than what courts have awarded in cases with more mundane risk.

23 The results obtained by staffing this case smartly and litigating efficiently are, as
24 discussed above, difficult to quarrel with. At every turn in this case—whether it involved
25 complex legal arguments, intensely technical fact discovery, presentation of evidence to the
26 Court, or heading off legislative disaster—Class Counsel have prevailed for the Class. No benefit
27 would be gained, and no windfall prevented, by engaging in an intensive review of Class
28 Counsel’s hours and attempting to divine the appropriate multiplier. However, if the Court is

1 inclined to consider a rough lodestar crosscheck, the multiplier is reasonable and in line with
2 awards that have been affirmed by the Ninth Circuit.

3 **II. Plaintiffs' Expenses Are Reasonable.**

4 In common-fund cases, the Ninth Circuit has stated that the reasonable expenses of
5 acquiring the fund can be reimbursed to counsel who has incurred the expense. *See Vincent v.*
6 *Hughes Air W., Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *Acosta v. Frito-Lay, Inc.*, No. 15-CV-
7 02128-JSC, 2018 WL 646691, at *11 (N.D. Cal. Jan. 31, 2018) (“There is no doubt that an
8 attorney who has created a common fund for the benefit of the class is entitled to reimbursement
9 of reasonable litigation expenses from that fund.”) (citation omitted). Such expense awards
10 comport with the notion that the district court may “spread the costs of the litigation among the
11 recipients of the common benefit.” *Wininger v. SI Mgmt. L.P.*, 301 F.3d 1115, 1121 (9th Cir.
12 2002).

13
14 Here, Class Counsel request \$915,454.37 in litigation expenses and charges reasonably
15 incurred. (Williams Decl. ¶ 6; Canty Decl. ¶ 6; Balabanian Decl. ¶ 7.) The main expense here
16 relates to work performed by Plaintiffs' experts and consultants (\$251,884.89 or approximately
17 28% of total expenses). (Williams Decl. ¶ 7; Canty Decl. ¶ 7; Balabanian Decl. ¶ 8.) Class
18 Counsel retained experts and consultants in the areas of, *inter alia*, facial recognition technology,
19 software analysis, personally identifiable information, and trial strategy. Class Counsel received
20 crucial advice and assistance from these experts and consultants in connection with class
21 certification, summary judgment, and trial preparation.
22

23
24 Class Counsel were also required to travel in connection with court appearances,
25 discovery, and settlement efforts, and to work long hours. Work-related transportation, lodging,
26 and meal costs totaled \$218,177.81 or approximately 24% of aggregate expenses. (Williams
27 Decl. ¶ 7; Canty Decl. ¶ 7; Balabanian Decl. ¶ 8.) *See also In re Immune Response Sec. Litig*,

1 497 F. Supp. 2d 1166, 1177 (S.D. Cal. 2007) (“reimbursement for travel expenses ... is within the
2 broad discretion of the Court”) (citation omitted).

3 The expenses also include the costs of mediation efforts (\$30,750 or approximately 3% of
4 total expenses) and e-discovery (\$26,152.88 or approximately 3% of total expenses). (Williams
5 Decl. ¶ 7; Canty Decl. ¶ 7; Balabanian Decl. ¶ 8.) Class Counsel also seek the costs of factual
6 and legal research (\$33,741.12 or approximately 3% of total expenses). *Id.* These are the costs of
7 computerized factual and legal research services such as Lexis/Nexis, Westlaw, and PACER. It
8 is standard practice for attorneys to use such databases to assist them in researching legal and
9 factual issues and reimbursement is proper. *See Immune Response*, 497 F. Supp. 2d at 1177.

11 The other expenses for which Class Counsel seek payment are the types of expenses that
12 are necessarily incurred in litigation. These expenses include, among others, copying costs,
13 teleconferencing, and court filing fees. (Williams Decl. ¶ 7; Canty Decl. ¶ 7; Balabanian Decl.
14 ¶ 8.) The expenses are in line with those routinely approved in this District. *See, e.g., Sullivan v.*
15 *Dolgen Cal., LLC*, No. 3:15-CV-01617-JD, 2017 WL 3232540, at *2 (N.D. Cal. July 31, 2017)
16 (Donato, J.); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL
17 5158730, at *16 (N.D. Cal. Sept. 2, 2015).

19 **III. The Requested Incentive Awards Are Reasonable Given the Length of the Case and**
20 **the Significant Efforts of the Class Representatives.**

21 Finally, Plaintiffs request incentive awards of \$7,500 for each of the three Class
22 Representatives. “[I]ncentive awards that are intended to compensate class representatives for
23 work undertaken on behalf of a class are fairly typical in class action cases.” *In re Online DVD-*
24 *Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015) (internal quotation omitted). Such
25 awards “are intended to compensate class representatives for work done on behalf of the class, to
26 make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to
27 recognize their willingness to act as a private attorney general.” *Rodriguez v. W. Publ’g Corp.*,
28 563 F.3d 948, 958–59 (9th Cir. 2009). Courts’ main concern in approving incentive awards is to

1 make sure that “they do not undermine the adequacy of the class representatives.” *Radcliffe v.*
2 *Experian Info. Sols. Inc.*, 715 F.3d 1157, 1163 (9th Cir. 2013). “Courts have generally found that
3 \$7,500 incentive payments are reasonable” where that figure constitutes only a small percentage
4 of the total recovery. *Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 462 (E.D. Cal.
5 2013). Conversely, serious concerns arise when incentive awards are pre-conditioned on the
6 class representatives’ approval of the settlement, *Radcliffe*, 715 F.3d at 1167, or when they are
7 extremely high, *Roes, I-2 v. SFBSC Mgmt., LLC*, 944 F.3d 1035, 1058 (9th Cir. 2019) (raising
8 concerns about \$20,000 incentive payments).⁵

9 Here, incentive awards of \$7,500 are warranted and do not pose a danger to the adequacy
10 of the Class Representatives in this adversarially certified class action. All three of the requested
11 awards together total \$22,500, or 0.00004% of the total settlement fund (or less than 2.2 cents
12 per claimant). Class Counsel and the Class Representatives did not enter into any kind of
13 agreement by which the Class Representatives’ incentive payments are contingent on their
14 support for the Settlement.

15 In addition, the Class Representatives here each did substantial work on behalf of the
16 Class, including sitting for two depositions each, gathering documents, reviewing and
17 understanding correspondence from Class Counsel, and participating in the settlement process.
18 Over five years of litigation, Mr. Licata spent over 55 hours participating in this case, including
19 being available for the Court-ordered mediation in the middle of the night during his honeymoon
20 abroad. (Declaration of Carlo Licata, attached hereto as Exhibit 7.) Mr. Patel spent at least 55
21 hours on this case, including flying to San Francisco to attend mediation with Judge Ryu.
22 (Declaration of Nimesh Patel, attached hereto as Exhibit 8.) Mr. Pezen similarly devoted an

23
24 ⁵ While courts in this district have often used \$5,000 as the “presumptively reasonable” figure,
25 they have done so since 2009 with no adjustment at all. *See Jacobs v. California State Auto. Ass’n*
26 *Inter-Ins. Bureau*, No. C 07-00362 MHP, 2009 WL 3562871, at *5 (N.D. Cal. Oct. 27, 2009)
27 (calling \$5,000 “presumptively reasonable”); *Chen v. Chase Bank USA, N.A.*, No. 19-CV-01082-
28 JSC, 2020 WL 3432644, at *12 (N.D. Cal. June 23, 2020) (same). But accounting for inflation
alone, \$5,000 in 2009 dollars is more than \$6,100 in 2020 dollars. U.S. Bureau of Labor &
Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm

1 estimated 60 hours or more on the case, including flying from Chicago to San Francisco to
2 participate in the mediation. (Declaration of Adam Pezen, attached hereto as Exhibit 9.)

3 A \$7,500 incentive award is in line with awards given to class representatives who have
4 done similar or smaller amounts of work for the class. *See, e.g., Fowler v. Wells Fargo Bank,*
5 *N.A.*, No. 17-CV-02092-HSG, 2019 WL 330910, at *8 (N.D. Cal. Jan. 25, 2019) (awarding
6 \$7,500 to named plaintiff who assisted with settlement and written discovery but did not sit for
7 deposition); *In re Wells Fargo Loan Processor Overtime Pay Litig.*, No. MDL C-07-1841 EMC,
8 2011 WL 3352460, at *11 (N.D. Cal. Aug. 2, 2011) (approving \$7,500 incentive award to class
9 representatives who were involved in the case for five years “including appearing for
10 depositions, assisting with written discovery, and working with Class Counsel to manage the
11 settlement process”). It is appropriate to award that amount here.

12 CONCLUSION

13 Plaintiffs respectfully request that the Court approve Class Counsel’s fee request of 20%
14 of the first \$550 million of the Settlement Fund, or \$110 million, award Class Counsel costs and
15 expenses in the amount of \$915,454.37 and grant incentive awards of \$7,500 to each of the Class
16 Representatives.

1 DATED: October 15, 2020

/s/Jay Edelson
Class Counsel

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21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

23 In re FACEBOOK BIOMETRIC) Master File No. 3:15-cv-03747-JD
24 INFORMATION PRIVACY LITIGATION)
) CLASS ACTION
25 _____)
26 This Document Relates To:) DECLARATION OF CLASS COUNSEL
27 ALL ACTIONS.)
28)

1 We, Jay Edelson, Paul Geller, and Michael Canty, hereby jointly declare and state as
2 follows:

3 1. We are each partners at one of the firms named as Class Counsel in the above-
4 captioned Action and have appeared on behalf of the certified class. We make this declaration
5 based on our personal knowledge, as to each of our firms, and our review of the records our
6 respective firms kept during the pendency of this case.

7 **I. Background**

8 2. In this Action, Plaintiffs alleged that Facebook violated the Illinois Biometric
9 Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”), through its unauthorized collection
10 and storage, and subsequent use of its users’ biometric information without informed consent.

11 3. Biometric information is any information captured, converted, stored or shared
12 based on a person’s biometric identifier used to identify an individual. A “biometric identifier” is
13 any personal feature that is unique to an individual, including fingerprints, iris scans, DNA,
14 “face geometry” and others.

15 4. The Illinois Legislature has found that “[b]iometrics are unlike other unique
16 identifiers that are used to access finances or other sensitive information.” 740 ILCS 14/5(c).
17 “For example, social security numbers, when compromised, can be changed. Biometrics,
18 however, are biologically unique to the individual; therefore, once compromised, the individual
19 has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-
20 facilitated transactions.” *Id.*

21 5. Facebook is a worldwide social media company that claims over one billion
22 users.

23 6. Facebook users can use the Facebook platform to upload and share photographs
24 with friends, relatives, and other Facebook users. Once a user uploads a photograph on
25 Facebook, the user can “tag” other Facebook users and non-users who appear in the photograph.

26 7. In 2010, Facebook implemented a program called “Tag Suggestions.” Tag
27 Suggestions scans user uploaded photographs, identifies the faces appearing in those
28

1 photographs, and, if Tag Suggestions recognizes and identifies one of the faces appearing the
2 photograph, Facebook suggests that individual's name or automatically tags them.

3 8. Three class actions were filed against Facebook alleging BIPA violations in
4 connection with Tag Suggestions: (1) On April 1, 2015, Plaintiff Carlo Licata filed a putative
5 class action complaint against Facebook in the Circuit Court of Cook County, Illinois, alleging
6 violations of the BIPA, related to the alleged unauthorized collection and storage of his
7 biometric data.; (2) On April 22, 2015, Plaintiff Adam Pezen filed a putative class action
8 complaint alleging similar claims in the United States District Court for the Northern District of
9 Illinois; (3) On May 14, 2015, Plaintiff Nimesh Patel filed a putative class action complaint
10 alleging similar claims, also in the Northern District of Illinois.

11 **II. Early Motion Practice**

12 **A. Facebook's Motion to Transfer Venue & Removal to Federal Court**

13 9. On May 6, 2015, Facebook removed the Licata case from the Circuit Court of
14 Cook County, Illinois, to the United States District Court for the Northern District of Illinois.

15 10. On July 1, 2015, Facebook moved to transfer venue to the United State District
16 Court for the Northern District of California. (ECF No. 20.)

17 11. Facebook argued that by signing up for a Facebook account, Plaintiffs agreed to
18 the terms of service of the website. The terms of service included, among other things a valid
19 and enforceable forum selection clause. *Id.*

20 12. Ultimately, the Parties stipulated to transfer the three separate cases from the
21 District Court for the Northern District of Illinois to the District Court for the Northern District
22 of California. (ECF No. 120.)

23 13. On July 29, 2015, the Pezen and Patel cases, along with the removed Licata case,
24 were transferred to the Northern District of California and consolidated into this Action. *Id.*

25 **B. Facebook's First Motion to Dismiss the Consolidated Class Action 26 Complaint on Choice-of-Law and Contract Formation Grounds**

27 14. After transfer and consolidation, on August 28, 2015, Plaintiffs filed an amended
28 Consolidated Class Action Complaint. (ECF No. 40.)

1 15. On October 9, 2015, Facebook moved to dismiss the Consolidated Class Action
2 Complaint. (ECF No. 69.)

3 16. Facebook’s first motion to dismiss principally argued that: (1) Plaintiffs cannot
4 pursue a claim under BIPA because they agreed, by virtue of the signing up for a Facebook
5 account, that California law governs their dispute with Facebook; and, (2) the BIPA does not
6 apply to Tag Suggestions. *Id.* at 6, 10.

7 17. On November 9, 2015 Plaintiffs filed their opposition to Facebook’s first motion
8 to dismiss denying that they agreed to Facebook’s terms of service agreement, which includes
9 the choice-of-law provision. (ECF No. 73.) Plaintiffs denied that they agreed to Facebook’s user
10 agreement, including the choice-of-law provision and further argued that the motion to dismiss
11 raised fact disputes that could not be resolved in a Rule 12(b)(6) motion. *Id.*

12 **C. The Court’s Conversion of the First Motion to Dismiss into Summary**
13 **Judgment Proceedings**

14 18. On December 16, 2015, the Court held a hearing on Facebook’s motion to
15 dismiss. On its own motion, the Court converted the portion of Facebook’s motion to dismiss
16 related to contract formation and enforceability into a summary judgment proceeding under Rule
17 56. (ECF No. 83.) Defendant’s second argument for dismissal—that plaintiffs had failed to state
18 a claim under BIPA—was taken under submission pending resolution of the choice-of-law
19 question. *Id.*

20 19. The Court further ordered an evidentiary hearing on the contract formation
21 dispute for the choice-of-law provision. *Id.*

22 **D. Expedited Discovery Regarding Facebook’s Converted Motion for**
23 **Summary Judgment**

24 20. Over the next three months, the Parties engaged in expedited discovery to resolve
25 questions of fact related to the contract formation.

26 21. In February 2016, each of the three named Plaintiffs sat for the first of two
27 depositions in the Action.
28

1 22. That same month, Plaintiffs also took the depositions of Mark Pike, a privacy
2 program manager, and Shannon Chance, a legal analyst and custodian of records for Facebook.

3 23. During this period the Parties produced nearly a thousand pages of documents.
4 Additionally, Facebook made two hard copy productions of its source code.

5 **E. Evidentiary Hearings on Contract Formation and Choice-of-Law**
6 **Provision and the Court’s Decision**

7 24. On February 24, 2016, both Parties submitted briefing ahead of the upcoming
8 evidentiary and summary judgment hearing. (ECF Nos. 96, 97.)

9 25. Thereafter, on March 2, 2016, the Court held an evidentiary and summary
10 judgment hearing, which included live and recorded testimony from five witnesses. Facebook
11 called two live witnesses: Joachim De Lombaert, an engineering manager, and Mark Pike. (ECF
12 Nos. 96, 109.) Plaintiffs cross-examined both witnesses and presented portions of each of the
13 three plaintiffs’ videotaped depositions. (ECF No. 109.)

14 26. Immediately after the evidentiary hearing, the Court heard oral argument on the
15 summary judgment issues: whether a contract had been formed on choice-of-law, and if so,
16 whether it should be enforced to bar plaintiffs from asserting claims.

17 27. On May 5, 2016, “[a]fter briefing and an evidentiary hearing on disputed fact
18 issue underlying choice of law”, the Court opted to “resolve[] the factual dispute of whether or
19 not Plaintiffs consented to a California choice-of-law provision as argued by Facebook.” (ECF
20 No. 120.) The Court found that Plaintiffs stated a claim under BIPA and denied Facebook’s first
21 motion to dismiss and motion for summary judgment. *Id.*

22 28. In its order denying Facebook’s motion to dismiss and summary judgment, the
23 court first made findings of fact based on the evidence discussed and above, then ruled on the
24 choice-of-law issues. *Id.* The Court ruled that (1) a choice-of-law agreement was formed; and (2)
25 the contractual choice-of-law clause could not be enforced to bar Plaintiffs’ BIPA claims.

26 29. The Court applied the choice-of-law rules of the forum state, California, to hold
27 that the California choice-of-law clause is contrary to a fundamental policy of Illinois, and, that
28

1 Illinois has a greater interest in the determination of the case. *Id.* at 17. Accordingly, summary
2 judgment on this issue was denied.

3 30. The Court also denied Facebook’s first motion to dismiss, rejecting Facebook’s
4 contention that the BIPA categorically excluded all information involving photographs from its
5 scope. *Id.* at 22.

6 31. On June 2, 2016, Facebook filed its Answer to the Amended Consolidated Class
7 Action Complaint. In the Answer, Facebook denied substantially all of the allegations in the
8 Complaint related to its unauthorized collection, storage, and subsequent use of its users’
9 biometric information. (ECF No. 126.)

10 **III. Legislative Challenges to BIPA**

11 32. On May 26, 2016, Class Counsel learned that an industry-sponsored effort was
12 underway at the Illinois capital to undermine the Court’s motion to dismiss decision through
13 extra-judicial means. Over the next two days, Class Counsel worked furiously to protect putative
14 class members’ right to assert the claims in this Action.

15 33. Earlier that same day—the Thursday before Memorial Day weekend and just
16 before the end of the Illinois General Assembly session—a “gut and replace” amendment was
17 introduced to a “Uniform Disposition of Unclaimed Property Act” (which, as the name suggests,
18 had absolutely nothing whatsoever to do with biometric information or consumer privacy). *See*
19 Declaration of Tiffany Elking (ECF No. 465-4.) The new amendment transformed the bill into
20 one that sought to retroactively amend BIPA to prevent the law’s application to digital images.
21 In other words, if the bill passed it would have undone the Court’s recent ruling on the motion to
22 dismiss and left putative class members without a remedy against Facebook under BIPA.

23 34. The use of “gut and replace” procedure, which allowed the bill to skip many of
24 the normal stages of legislation that the unrelated and now-gutted bill had already been through,
25 as well as the 11th hour timing of the bill, was clearly a concerted effort to change the law under
26 cover of dark without any public scrutiny.

27 35. Class Counsel immediately worked to bring this issue of great public importance
28 into the light, working with numerous stakeholders, including consumer and privacy advocacy

1 groups, many of whose outraged members are also class members here, as well as government
2 officials, media, legislators and interest groups, to ensure that a full and fair debate would be had
3 on any such legislation. In the end, with the light of public scrutiny upon it and general public
4 uproar, the sponsor of the amendment tabled the bill the day after the amendment was
5 introduced.

6 36. This turned out to be only the first of many legislative challenges to BIPA during
7 the course of this litigation. Over the next four years, Class Counsel continued to protect class
8 members' rights to assert claims in this Action against repeated industry-sponsored efforts to
9 eviscerate BIPA, including organizing and participating in hundreds of meetings with
10 stakeholders—including industry representatives and trade associations—and virtually every
11 Illinois State Representative and Senator.

12 37. In 2018, there was a significant increase in industry-sponsored efforts to gut
13 BIPA. First, two identical bills were filed to amend BIPA. One bill, Senate Bill 3053, was filed
14 in the Illinois Senate by the Chair of the Telecommunications and Information Technology
15 Committee. The other bill, House Bill 5103, was filed by the Chair of the House Judiciary
16 Committee. The introduction of two identical bills, particularly by Chairmen of their own
17 respective committees, signaled a coordinated and serious effort to amend BIPA. Also, filing a
18 bill in both the House and Senate meant that Class Counsel had to work diligently with both
19 chambers at the same time (over 175 legislators) to inform them of the consequences of these
20 bills.

21 38. Fortunately, Class Counsel was able to work with the bill sponsor who ultimately
22 “held” it, while the stakeholders shared their issues and concerns. After months of back and forth
23 and countless meetings with various stakeholders, the Senate sponsor reluctantly agreed to not
24 call the bill.

25 39. Last year, another senior Senator introduced Senate Bill 2134 which sought to
26 amend BIPA by removing the private right of action. Fortunately again, after many negotiations
27 and meetings, Class Counsel was able to prevent this bill from gaining momentum and moving
28 out of the Senate.

1 40. Finally, this past year, Class Counsel saw six bills introduced to amend BIPA.
 2 Two of the bills were introduced in the Illinois House of Representatives by the Illinois House of
 3 Representatives' Minority Leader, and three by the Assistant Republican Leader that introduced
 4 Senate Bill 2134 from the year prior. The sixth bill was introduced by the same Senator who had
 5 filed Senate Bill 3053 two years prior, however, now this Senator is the Assistant Majority
 6 Leader/Senate Pro Tempore. Each of the six bills, if passed, would effectively gut the law's
 7 private-enforcement scheme. *See* Illinois HB 5374 (2020); SB 3593 (2020); SB 3591 (2020); SB
 8 2134 (2019). But generally speaking, the bills to gut BIPA sought to:

- 9 • eliminate the law's private right of action, *see* HB 3075 (2020); SB 3592
 10 (2020); SB 2134 (2019);
- 11 • permit the recovery of damages only for intentional violations, eliminating
 12 the ability to recover damages for negligent violations, *see* SB 3591 (2020);
- 13 • eliminate the ability of a plaintiff to recover liquidated damages, *see* SB
 14 3593 (2020); HB 5374 (2020);
- 15 • eliminate protections regarding informed consent, collection, and storage of
 16 biometric information, *see* SB 3053 (2018); HB 5103 (2018); and
- 17 • require pre-suit notice before any action for damages, *see* SB 3593. HB
 18 5374.

19 41. Unfortunately, each year, the attempts to eviscerate BIPA get more significant and
 20 the likelihood of happening, gets more real. That said, Class Counsel will continue to vigorously
 21 protect the interests of the class members from industry-sponsored attempts to gut BIPA.

22 **IV. Discovery**

23 42. Although the question of subject-matter jurisdiction (discussed in detail below)
 24 remained on the table, discovery continued after the Court's ruling on Facebook's converted
 25 summary judgment motion. Over the course of many months, the Parties conducted significant
 26 fact discovery and expert discovery, including a second round of depositions of all plaintiffs, the
 27 Parties' respective experts, and Facebook fact witnesses.

28 **A. Fact Discovery and Depositions**

 43. The Parties negotiated and agreed to a Protective Order governing the treatment
 of documents and other information produced in discovery that was entered on February 12,
 2016. (ECF No. 88.)

1 44. The Parties also negotiated and submitted a Stipulation and Pretrial Scheduling
2 Order and several modifications to the Scheduling Order, to govern, among other things, the
3 scheduling of amended pleadings, fact and expert discovery, the filing of motions for class
4 certification and summary judgment and *Daubert* motions. (ECF Nos. 32, 137, 190, 223.) When
5 the Parties failed to reach an agreement on amending the Scheduling Order, the Parties briefed
6 the issue and the Court weighed in on the matter. (ECF Nos. 224-26, 229.)

7 45. In addition, in January 2016, the Parties exchanged initial disclosures in
8 accordance with Rule 26(a)(1) of the Federal Rules of Civil Procedure.

9 46. In December 2015, both Plaintiffs and Facebook respectively served their first
10 requests for production of documents.

11 47. In the months that followed, Plaintiffs engaged in numerous meet and confers and
12 extensive negotiations with Facebook's counsel over the scope and adequacy of both sides'
13 discovery responses, including detailed discussions regarding search terms to be used and
14 custodians whose documents should be searched.

15 48. Plaintiffs searched for and gathered documents that were responsive to
16 Facebook's requests for production of documents, and Class Counsel then reviewed the
17 documents. Plaintiffs also responded to interrogatories propounded by Facebook on matters
18 related to class certification and summary judgment.

19 49. In total, Class Counsel took or defended 16 fact witness depositions, including
20 highly technical depositions of Facebook's top software engineers in charge of developing
21 Facebook's machine learning algorithms that operated its facial recognition technology.

22 50. The Parties worked diligently to resolve numerous discovery disputes, including
23 countless meet and confer negotiations on a broad range of issues, but ultimately filed three
24 motions to compel and/or for protective orders.

25 51. Throughout document discovery, the Parties exchanged tens of thousands of
26 pages of documents.

1 **B. Expert Discovery**

2 52. The highly technical nature of this case required significant work by subject-
3 matter experts to prepare for trial. Plaintiffs and their experts conducted seven weeks of on-site
4 review of Facebook’s source code, building a deep understanding of Facebook’s highly complex
5 data structures and machine learning algorithms. This work was essential to rebut Facebook’s
6 eventual contention that, due to the way in which its algorithm processes facial images, it was
7 not utilizing “scans of face geometry” within the meaning of BIPA.

8 53. Drawing on his extensive code review, and Class Counsel’s depositions of
9 Facebook’s software engineers, Plaintiffs’ expert, Dr. Atif Hashmi, prepared a detailed report
10 that was exchanged with Facebook on December 22, 2017. (ECF No. 303-2.) Dr. Hashmi’s
11 report fundamentally opined that Facebook’s facial recognition algorithm “utilize[s] facial
12 geometry to determine the location of facial landmarks including eyes, nose, mouth, chin, and
13 others in unaligned face images.” (ECF No. 372 at 4.)

14 54. Also on December 22, 2017, Facebook served on Plaintiffs the report of their
15 expert, Dr. Matthew Turk. (ECF No. 303-9.) Dr. Turk primarily opined that “[t]hrough an
16 iterative trial-and-error training process, Facebook’s [current technology] ... learned for itself
17 what features of an image’s pixel values are most useful for the purpose of characterizing and
18 distinguishing images of human faces.” (ECF 372 at 5.)

19 55. To rebut Dr. Turk’s report, Class Counsel quickly retained another expert, Jeffrey
20 Dunn, the former Technical Director for Biometrics at the National Security Agency Laboratory
21 for Physical Science, who is an expert in the biometrics industry. (ECF No. 343 at 8.) Mr. Dunn
22 submitted his rebuttal report on February 2, 2018 (ECF No. 305-2).

23 56. Dr. Turk also submitted a rebuttal report to Dr. Hashmi’s report on February 2,
24 2018, which argued principally that Facebook’s technology “‘does not explicitly detect human-
25 notable facial features’ but instead ‘combines and weights different combinations of different
26 aspects of the entire face image’s pixel values. ...’” (ECF No. 372 at 5.)

1 57. Class Counsel defended the depositions of Dr. Hashmi and Mr. Dunn on February
2 23, 2018 and February 26, 2018, respectively, and took the deposition of Dr. Turk on February
3 28, 2018.

4 **V. Post-Answer Dispositive Motion Practice.**

5 **A. Facebook’s Motion to Dismiss For Lack of Subject Matter**
6 **Jurisdiction**

7 58. On June 29, 2016, Facebook filed a motion to dismiss under Rule 12(b)(1) and
8 Rule 12(h)(3) for lack of subject matter jurisdiction.

9 59. Facebook principally argued that under the Supreme Court’s then-recent decision,
10 *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016), Plaintiffs lacked Article III standing because
11 statutory violations are insufficient to establish standing. Facebook further argued that a
12 violation of the Illinois BIPA does not cause tangible harm. (ECF No. 129.)

13 60. Counsel for Facebook had significant experience with this issue, because they
14 represented the petitioner in *Spokeo* before the Supreme Court and the Ninth Circuit.
15 Fortunately, Class Counsel had similar experience, as Edelson PC represented the respondent.

16 61. On August 4, 2016, Plaintiffs filed a response opposing the motion. (ECF No.
17 138.) Plaintiffs argued that they possess Article III standing and that the District Court for the
18 Northern District of California had federal jurisdiction because (i) Facebook’s invasion of
19 Plaintiffs property right in the information that makes up their own faces is a tangible injury that
20 confers standing; and (ii) the informational injury Plaintiffs suffered when Facebook failed to
21 make statutorily required disclosures is grounded in their right to privacy and to control the use
22 of their own likeness.

23 62. On February 7, 2017, this Court denied Facebook’s second motion to dismiss for
24 lack of subject matter jurisdiction. The motion was denied with leave to renew pending the Ninth
25 Circuit’s decision in *Spokeo* on remand from the Supreme Court. (ECF No. 193.)
26
27
28

1 **B. Facebook’s Renewed Motion to Dismiss for Lack of Subject Matter**
2 **Jurisdiction**

3 63. On September 28, 2017, after the Ninth Circuit issued its decision in *Spokeo* on
4 remand, Facebook renewed its second motion to dismiss for lack of subject matter jurisdiction.
5 (ECF No. 227.)

6 64. Facebook reasserted its arguments that Plaintiffs do not allege a concrete statutory
7 interest and that plaintiffs do not allege an actual “real-world” harm. *Id.*

8 65. On October 26, 2017, Plaintiffs filed an opposition to the renewed motion. (ECF
9 No. 236.) Plaintiffs reasserted, among other things, that the Court has already recognized that
10 BIPA protects a concrete interest, the right to privacy in personal biometric data.

11 66. On November 30, 2017, the Court held a hearing on the renewed motion to
12 dismiss and took the motion under consideration. (ECF No. 249.) Guided by the Court’s
13 standing order, oral argument for the Plaintiffs was presented by an associate with fewer than six
14 years of experience. (ECF No. 241.)

15 67. On February 26, 2018, the Court denied Facebook’s renewed motion to dismiss
16 for lack of subject matter jurisdiction. (ECF No. 294.) In doing so, the Court became one of the
17 first to interpret and apply the Supreme Court’s decision in *Spokeo, Inc. v. Robins*, 136 S. Ct.
18 1540 (2016), stating that “*Spokeo I* did not announce new standing requirements ... Rather, it
19 sharpened the focus on when an intangible harm such as the violation of a statutory right is
20 sufficiently concrete to rise to the level of an injury in fact.” *Id.* The Court’s conclusions in this
21 order have since been widely cited, including by the Illinois Supreme Court, and, as discussed in
22 detail below, were affirmed in full by the Ninth Circuit.

23 **C. Plaintiffs’ Motion for Class Certification**

24 68. On December 8, 2017, while the *Spokeo* motion was still under Court’s review,
25 Plaintiffs moved for class certification under Federal Rule of Civil Procedure 23(b)(3). (ECF No.
26 255.) Plaintiffs argued that the proposed class and subclass met the four prerequisites of Rule
27 23(a) (numerosity, commonality, typicality, and adequacy) and the prerequisites of Rule 23(b)(3)
28 (predominance and superiority). *Id.*

1 69. Plaintiffs proposed a class of all “Facebook users living in Illinois whose face
2 appeared in a photo uploaded to Facebook from Illinois between June 7, 2011, and final
3 disposition of this action.” *Id.* at 5.

4 70. On January 26, 2018 Facebook filed an opposition to class certification. Facebook
5 principally argued that the class definition was inadequate and that individualized issues would
6 predominate over class wide issues. (ECF No. 285.)

7 71. In support of their class certification request, Plaintiffs filed 24 exhibits along
8 with an additional six exhibits in reply. (ECF Nos. 255, 292.)

9 72. The Court held a hearing on the motion for class certification on March 29, 2018.
10 Oral argument was again presented by an attorney with fewer than six years of experience. (ECF
11 No. 313.)

12 73. On April 16, 2018, the Court granted Plaintiffs’ motion for class certification by
13 certifying a class consisting of: “Facebook users located in Illinois for whom Facebook created
14 and stored a face template after June 7, 2011.” (ECF No. 333.)

15 **D. Facebook’s Motion for Summary Judgment Based on Illinois’**
16 **Extraterritoriality Doctrine and the Dormant Commerce Clause**

17 74. The same day that Plaintiffs moved for class certification, Facebook moved for
18 summary judgment based on Illinois’ extraterritoriality doctrine and the Dormant Commerce
19 Clause. (ECF No. 257.)

20 75. Facebook contended that (i) in light of Illinois’s extraterritoriality doctrine, BIPA
21 does not apply because Facebook’s facial recognition processing and creation of face templates
22 occurred only on servers outside of Illinois, and (ii) in any event the Dormant Commerce Clause
23 barred relief for similar reasons.

24 76. On December 22, 2017, Plaintiffs filed a motion in opposition to Facebook’s
25 summary judgment motion. (ECF No. 272.)

1 **E. The Parties’ Cross-Motions for Summary Judgment**

2 77. Less than a month after their earlier motion for summary judgment, on March 16,
3 2018, Facebook filed a second motion for summary judgment. (ECF No. 299.) This marked the
4 third time that the Court took Facebook’s summary judgment arguments under consideration.

5 78. Facebook argued, among other things that: (1) Plaintiffs were not “aggrieved” by
6 Facebook’s purported violation of BIPA so they could not recover damages; (2) Facebook was
7 not negligent so Plaintiffs could not recover anything; and (3) that Facebook did not collect
8 anyone’s biometric identifiers because its technology “has no express dependency on human
9 facial features at all.” (ECF No. 372 at 4.) Facebook also re-raised its extraterritoriality and
10 “aggrieved” contentions in opposition to Plaintiffs’ motion for class certification. (ECF No.
11 299.)

12 79. Simultaneously, Plaintiffs cross-moved for partial summary judgment arguing
13 that it was undisputed that Facebook used facial recognition technology to collect and store
14 biometric identifiers prior to informed consent in violation of BIPA. (ECF No. 307.)

15 80. The Parties each filed motions to exclude the reports, opinions and testimony
16 filed by the other party’s experts. Plaintiffs moved to exclude the testimony of Defendant’s
17 proposed expert, Dr. Turk. (ECF No. 301.) Facebook moved to exclude portions of the expert
18 report of Dr. Hashmi and Mr. Dunn. (ECF Nos. 303, 305.) The Court later noted the magnitude
19 of the filings, stating that, “the parties filed over 100 pages of briefs for the cross-motions,
20 accompanied by several hundred pages of documents and emails, deposition testimony, expert
21 testimony and other exhibits.” (ECF No. 372.)

22 81. On May 14, 2018, the Court denied the three outstanding summary judgment
23 motions, clearing the way for a jury trial. (ECF No. 372.)

24 **F. Trial Preparation**

25 82. The following week, after briefing and argument, the Court directed that notice be
26 disseminated to class members using the Facebook platform by the end of May. (ECF No. 390.)
27 Jury selection remained scheduled to begin on July 9, 2018.

1 83. In accordance with the Court's pre-trial procedures, eight motions in limine were
2 exchanged (but not filed) by the Parties on May 17, 2018. Over the following week, Plaintiffs
3 sent Facebook: (i) a Proposed Agreed Upon Statement of Undisputed Facts, (ii) a Proposed
4 Witness List, (iii) a Proposed Exhibit List, and (iv) a Proposed Jury Instructions and Verdict
5 Forms. Additionally, Class Counsel had drafted eight oppositions to the motions in limine,
6 which were scheduled to be exchanged by May 27, 2018.

7 84. On May 9, 2018, Plaintiffs served six subpoenas on relevant individuals,
8 including Mark Zuckerberg, compelling them to testify at the upcoming trial. On May 22, 2018,
9 Facebook and Mr. Zuckerberg filed a motion to strike and/or quash the subpoena.

10 85. Plaintiffs aggressively prepared for trial, including exchanges of eight motions in
11 limine, 526 trial exhibits (258 exhibits on Plaintiffs proposed list; 268 exhibits on Facebook's
12 proposed list), and witness lists that included more than 17 witnesses.

13 86. In addition to the preparation required by the Court, Class Counsel also worked
14 hard to ensure that they were prepared to present the Class's case to the jury in the most
15 compelling manner possible. To that end, Class Counsel further engaged a highly respected trial
16 consultant, Rodney Jew of CDS Strategy Consulting, and participated in five days of intensive
17 trial preparation before the Ninth Circuit stayed the case. That preparation allowed Class
18 Counsel to put together demonstrative exhibits and determine how to present a highly technical
19 narrative to a lay jury.

20 **VI. Appellate and Illinois Proceedings**

21 **A. Facebook's Petition for Leave to Appeal and Request to Stay the** 22 **Case.**

23 87. On April 30, 2018, Facebook filed a petition for interlocutory review of the class
24 certification order in the United States Court of Appeals for the Ninth Circuit. (ECF No. 361.)

25 88. Shortly thereafter, Facebook moved for a complete stay of the case pending the
26 Ninth Circuit's decision on whether to accept interlocutory review of this Court's order
27 certifying a class for trial. (ECF No. 364.) Plaintiffs opposed, noting that they were prepared for
28 trial. (ECF No. 387.)

1 89. On May 29, 2018, the Court denied Facebook’s motion for a complete stay. (ECF
2 No. 404.) In denying the stay, the Court noted that the case has been pending since 2015, the
3 Court has decided two motions to dismiss, three motions for summary judgment, a motion for
4 class certification, multiple discovery disputes, and other matters. “Discovery closed many
5 months ago and the expert witness work is done. The case is ripe for trial, and Facebook’s last-
6 minute request to derail that is denied.” *Id.*

7 90. In response, Facebook filed an emergency motion to requesting the Ninth Circuit
8 to stay this Court’s proceedings pending consideration of the 23(f) petition.

9 91. On May 29, 2018, the Ninth Circuit granted both Facebook’s emergency stay
10 motion and the petition for interlocutory review. (ECF No. 406.)

11 **B. Illinois Supreme Court Proceedings in the Seminal *Rosenbach v. Six***
12 ***Flags Case***

13 92. The day after the Ninth Circuit granted Facebook’s petition for interlocutory
14 review of the class certification, on May 30, 2018, the Supreme Court of Illinois allowed another
15 petition in an unrelated BIPA action pending in the Illinois state courts, *Rosenbach v. Six Flags*
16 *Entertainment Corp.* (“*Rosenbach*”).

17 93. The importance of the *Rosenbach* case to the then recently certified Class is hard
18 to overstate. The appealed-from intermediate appellate ruling in *Rosenbach* was cited to no less
19 than 26 times in the Parties’ class certification briefs in this Action, and was the backbone of
20 Facebook’s most strenuous attack. (See ECF No. 333 at 8 (“Facebook puts greatest emphasis on
21 its argument about the meaning of ‘aggrieved.’ It relies almost exclusively on *Rosenbach v. Six*
22 *Flags Entertainment Corporation*, 2017 IL App (2d) 170317 (Ill. App. Ct. 2017))).
23 Consequently, more than a quarter of the Court’s order was appropriately addressed to
24 Facebook’s argument that Plaintiffs were not “aggrieved” within the meaning of the statute
25 based on *Rosenbach*. *Id.* at 8-12. After careful analysis of other Illinois precedent and the facts in
26 *Rosenbach*, the Court correctly found that the intermediate decision “would not be a good
27 prediction of how the Illinois Supreme Court would interpret ‘aggrieved’ under BIPA.” *Id.* at 12.
28

1 94. Class Counsel submitted an amicus brief in the Rosenbach appeal on behalf of the
2 Class Representatives here on July 7, 2018, although leave to file the brief was denied along
3 with several other movants.

4 95. On January 25, 2019, the Illinois Supreme Court did in fact refer explicitly to this
5 Court’s reasoning in rejecting the argument put forth by the defendants there (and Facebook
6 here) to narrowly construe the term “aggrieved” within the statute. *See Rosenbach v. Six Flags*
7 *Ent. Corp.*, 129 N.E.3d 1197, 1204 (Ill. 2019) (“We reject [that argument] as well, as a recent
8 federal district court decision correctly reasoned we might do. *In re Facebook Biometric*
9 *Information Privacy Litigation*, 326 F.R.D. 535, 545-47 (N.D. Cal. 2018)”).

10 **C. Ninth Circuit Briefing and Argument.**

11 96. Although Facebook’s petition had been largely about class certification, its
12 opening brief focused heavily on the issue of subject-matter jurisdiction in addition to class
13 certification.

14 97. Class Counsel responded to both sets of arguments in writing and at oral
15 argument. Both briefing and oral argument in the Ninth Circuit were primarily handled by
16 associates, with partner supervision.

17 98. As described above, after Class Counsel had filed its brief on behalf of the Class
18 but before oral argument, the Illinois Supreme Court issued its landmark opinion in *Rosenbach*
19 *v. Six Flags Entertainment Corp.*, 2019 IL 123186, which drew heavily on this Court’s reasoning
20 to conclude that a person need not have suffered harm other than unauthorized collection of
21 biometric information to be considered “aggrieved” under the meaning of BIPA.

22 99. In response, on January 31, 2019, Class Counsel filed a motion to vacate the order
23 granting the interlocutory appeal on the basis that *Rosenbach* rendered the appeal insubstantial.
24 The motion was taken with the case.

25 **D. The Ninth Circuit Affirms This Court’s Order on Class Certification**
26 **and Confirms that Subject-Matter Jurisdiction Is Proper.**

27 100. On August 8, 2019, the Ninth Circuit affirmed this Court’s order in full. (ECF
28 No. 416.)

1 101. On behalf of a unanimous panel, Judge Sandra Ikuta held that Plaintiffs alleged a
2 concrete and particularized harm, sufficient to confer Article III standing, because BIPA
3 protected the plaintiffs' concrete privacy interest, and violations of the procedures in BIPA
4 actually harmed or posed a material risk of harm to those privacy interests. The panel also agreed
5 with Plaintiffs that the Court had not abused its discretion in certifying the class.

6 **E. Facebook's Petition For a Rehearing *En Banc* Is Denied**

7 102. On September 9, 2019, Facebook petitioned the Ninth Circuit for a rehearing or
8 rehearing *en banc*. (ECF No. 417.) In addition to its trial counsel, Facebook retained Neal
9 Katyal, former Acting U.S. Solicitor General, to appear on its behalf.

10 103. After additional briefing from both Parties and amici curiae, the Ninth Circuit
11 declined to hear the case *en banc*, with no judges calling for a vote. (ECF No. 418.)

12 **F. Facebook Petitions for a Writ of Certiorari**

13 104. On December 2, 2019, Facebook filed a petition for a writ of certiorari with the
14 Supreme Court of the United States. (ECF No. 419.)

15 105. In its Petition for a Writ of Certiorari, Facebook presented three questions for the
16 Supreme Court:

- 17 i. Whether a court can find Article III standing based on its conclusion that a statute
18 protects a concrete interest, without determining that the plaintiff suffered a
19 personal, real-world injury from the alleged statutory violation.
- 20 ii. Whether a court can find Article III standing based on a risk that a plaintiff's
21 personal information could be misused in the future, without concluding that the
22 possibility of misuse is imminent.
- 23 iii. Whether a court can certify a class without deciding a question of law that is
24 relevant to determining whether common issues predominate under Rule 23.
25 U.S. Supreme Court (No. 19-709).

26 106. The petition garnered substantial interest from third parties. Third parties,
27 Washington Legal Foundation, the Consumer Data Industry Association, and TechFreedom filed
28

1 amicus curiae briefs with the Supreme Court. All three of the amicus briefs were filed in support
2 of Facebook, urging the high court to grant certiorari. *See* U.S. Supreme Court (No. 19-709).

3 107. Additionally, on Facebook’s motion (and over Plaintiffs’ objection), the Ninth
4 Circuit stayed issuance of the mandate pending the Supreme Court’s resolution of its petition,
5 effectively continuing the stay until the Supreme Court disposed of the case. (ECF No. 419.)

6 108. On January 21, 2020 the Supreme Court denied Facebook’s petition without
7 asking for a response from Class Counsel. (ECF No. 426.)

8 **VII. Mediations and Settlement**

9 109. The Parties attempted to resolve this dispute through mediation three separate
10 times at different stages of the proceedings, reaching a settlement only after Facebook’s *en banc*
11 petition had been denied.

12 **A. The Parties Unsuccessfully Attempt to Resolve the Dispute Through**
13 **Mediation on Two Occasions**

14 110. First, on May 19, 2017, following an exchange of opening and reply mediation
15 statements, the Parties attended a private mediation with Judge Layn Phillips (ret.), but were
16 unable to reach, or make progress toward, resolution. After the first mediation, Facebook stated
17 that they were interested in letting the motions resolve the case.

18 111. Subsequently, this Court ordered the Parties to mediation. (ECF No. 325.)

19 112. On May 4, 2018, the Parties again participated in mediation before Magistrate
20 Judge Donna M. Ryu in Oakland. The Parties exchanged statements containing their respective
21 positions, but once again, despite being on the cusp of a trial, were unable to reach an agreement.

22 **B. The Parties Reach an Agreement in Principle After the Third**
23 **Mediation**

24 113. On January 15, 2020, the Parties participated in a third mediation with former
25 Ambassador Jeffrey L. Bleich in San Francisco. After exchanging statements with their
26 respective positions for a third time and considerable arm’s-length negotiations, the Parties were
27 able to reach an agreement to resolve this Action.
28

1 114. On February 3, 2020, the Parties advised the Court that they had reached an
2 agreement in principle. (ECF No. 427.)

3 115. Shortly thereafter the Court held a status conference where the Parties advised the
4 Court that they intend to file a motion for preliminary approval in mid-March. (ECF No. 430.)

5 116. Although the Parties reached an agreement in principle there remained a number
6 of issues requiring careful consideration before filing a motion for preliminary approval.

7 117. While the process for delivering class notice had begun when the Court ordered
8 notice in May 2018 (ECF No. 390), it was put on hold after the Ninth Circuit's stay order.
9 Because of the amount of time that had passed, the data from the previous notice plan had
10 become stale and needed to be redone. Class Counsel worked together with Facebook's counsel
11 and Facebook's engineers to put together a comprehensive notice plan.

12 118. The Parties made a joint request for an extension of time to file a motion for
13 preliminary approval. (ECF No. 439.) The Court granted to Parties joint request for the
14 extension. In doing so, the Court also set a firm jury trial start date of July 13, 2020 at 9:00 AM.
15 (ECF No. 440.)

16 **C. Motion For Preliminary Approval of the Original Settlement**

17 119. On May 8, 2020 Plaintiffs filed an unopposed motion for preliminary approval of
18 the proposed settlement. (ECF No. 445.)

19 120. Plaintiffs argued that they believed that the claims asserted in the Action had
20 merit, that they would have ultimately succeeded at trial, and on any subsequent appeal, but that
21 Plaintiffs and Class Counsel recognize that Facebook has raised relevant factual and legal
22 defenses namely that there are i) obstacles to an aggregate recovery for class members and that
23 ii) several issues of law would be reviewed de novo on appeal even after plaintiffs' prevailed at
24 trial.

25 121. Given that Facebook has spared no expense in litigating thus far, Class Counsel
26 believe that Facebook would likely exhaust all potential judicial remedies during and after a trial
27 if this matter is not resolved before trial.
28

1 122. Class Counsel have also taken into account the uncertain outcome and risks of
2 any litigation, especially in complex actions, as well as the difficulty and delay inherent in such
3 litigation. Class Counsel believe that the Settlement presents an exceptional result for the Class,
4 and one that will be provided without delay. Therefore, Class Counsel believe that it is in the
5 best interest of the Class to settle the Action and that the Released Claims be fully and finally
6 compromised, settled, and resolved with prejudice, and barred pursuant to the terms and
7 conditions set forth in this Settlement Agreement.

8 123. On June 4, 2020 the Court held a hearing on the motion, denying it without
9 prejudice, listing several concerns (including the amount of the monetary relief and the utility of
10 the prospective relief given the existence of an FTC consent decree) and requesting additional
11 briefing. (ECF No. 456.)

12 **D. The Parties Renegotiate and the Court Grants Preliminary Approval**
13 **of the Revised Settlement**

14 124. On July 9, 2020, Plaintiffs filed a supplemental brief in support of the preliminary
15 approval of the class action settlement. (ECF No. 465.) The supplemental brief explained
16 primarily the basis for accepting the monetary relief for the Class and addressed the concerns
17 that the Court raised at the original preliminary approval hearing.

18 125. On July 22, 2020, Plaintiffs filed an Amended Stipulation of Class Action
19 Settlement, which included substantial additional benefits to Class Members. (ECF No. 468.)

20 126. In addition to other changes in the revised agreement, Facebook agreed to pay
21 \$650,000,000 into a non-reversionary cash fund. This represented an increase of \$100,000,000
22 from what Facebook had previously agreed to pay. (ECF Nos. 445, 474.) Class Counsel are not
23 seeking any fees from the additional \$100,000,000.

24 127. For a conduct remedy, Facebook agreed to set the Face Recognition default user
25 setting to “off” and to delete all existing and stored face templates for class members unless
26 Facebook obtains a class member’s express consent after a separate disclosure about how
27 Facebook will use the face templates. (ECF No. 468 at 13.) Silence or inaction by the user will
28 be deemed a withholding of consent, and the Face Recognition function will be set to “off.” *Id.*

1 128. To consider the revised agreement, the Court held another hearing in July 2020,
2 and heard live testimony from Gary McCoy, Facebook’s Face Recognition Product Manager.
3 (ECF No. 472.) Mr. McCoy testified on several issues that the Court had previously cited in
4 denying the preliminary approval of the settlement the first time: Specifically, Mr. McCoy
5 testified regarding the adequacy of the proposed notice to the Class and the class definition.

6 129. Importantly, Mr. McCoy detailed why the new relief agreed to in the settlement is
7 not in fact redundant of measures already required of Facebook under the consent decree entered
8 into with the Federal Trade Commission. *Id.*

9 130. The Amended Stipulation of Settlement also addressed the Court’s concerns
10 regarding the scope of release and the opt-out period. The definition of “released parties” was
11 revised to expressly exclude entities that did not use the Tag Suggestions feature. *Id.* The opt-out
12 period was also changed to “no later than 60 calendar days after the Notice Date.”

13 131. The Parties also remedied the proposed claim form and notice issues that the
14 Court identified in the initial stipulation of settlement. (ECF No. 474.) The Settlement
15 Agreement requires directed jewel notifications, notice via Facebook users’ newsfeed channel,
16 direct email notice, and a web page dedicated to the lawsuit. *Id.*

17 132. On August 19, 2020, the Court granted preliminary approval of the Settlement.
18 (ECF No. 474.)

19 **E. Class Notice and Claims Submission**

20 133. Since preliminary approval was granted, Class Counsel has worked diligently
21 with the Court-appointed settlement administrator, Gilardi & Co., and others to ensure that the
22 most effective notice program practicable was developed and implemented.

23 134. Specifically, Class Counsel conferred with Professor Dan Ariely, Professor of
24 psychology and behavioral economics at Duke University, so as to maximize the likelihood that
25 class members would file claims. Professor Ariely explained what he called consumers’ “no-
26 action bias,” which is the principle that people generally prefer to do nothing over something.
27 Accordingly, at Professor Ariely’s suggestion, Class Counsel and Facebook agreed to change the
28 claim form flow so that class members who try to leave the website without submitting a claim

1 (i.e., “do nothing”) can’t proceed without clicking a button indicating their understanding that
2 their share of the settlement would be distributed pro rata to other class members (i.e., “do
3 something”). That change was designed to reduce if not eliminate the no-action bias
4 and encourage the submission of claims.

5 135. Additionally, Class Counsel worked with the claims administrator to timely send
6 out notice to millions of email addresses belonging to class members. Class Counsel also were
7 able to rapidly identify several issues impeding the distribution of the notice to certain class
8 members, and worked with the settlement administrator to quickly resolve those issues in order
9 to complete the notice process ordered by the Court.

10 136. Class Counsel have carefully monitored the implementation of the notice
11 program, but also maintained close contact with Class Representatives and class members
12 throughout. As a result, on September 17, 2020, Class Counsel learned of misleading
13 advertisements by the firm of Levi & Korsinsky that were intended to confuse class members
14 into believing their ads were providing a means to submit claims in the Settlement, when in fact
15 they were soliciting opt-outs.

16 137. Class Counsel moved for a Temporary Restraining Order within hours of learning
17 about the misleading advertisements to prevent further confusion and remedy the extant harm
18 (ECF No. 477.) Levi & Korsinsky filed its response later that day (ECF No. 479), and Plaintiffs
19 filed their Reply on September 21, 2020. (ECF No. 480.)

20 138. The Court held a hearing on September 22, 2020 and found that the use of the
21 term “claim” in the solicitations, and the timing of the solicitations (published in advance of the
22 court-approved class notice), were deceptive and misleading. The Court ordered Levi &
23 Korsinsky not to run any further advertisements or opt-out solicitations, or to communicate in
24 any way with the 3,000 respondents (ECF No. 486.)

25 139. As of earlier this week, a total of 1,163,344 claims have been submitted in
26 connection with the Settlement, and only 48 people have opted out of the Class. One objection
27 has been filed with the Court. (ECF No. 497.)

28

1 Each of the undersigned declares under penalty of perjury under the laws of the United
2 States that the foregoing is true and correct to the best of their knowledge.

3 Executed this 15th day of October 2020.

4 /s/Paul Geller
Paul Geller

6 /s/Jay Edelson
Jay Edelson

8 /s/Michael Canty
Michael Canty

10

11

SIGNATURE ATTESTATION

12

13

I hereby attest that the content of this document is acceptable to all persons whose
14 signatures are indicated by a conformed signature (/s/) within this e-filed document.

14

15

/s/Jay Edelson

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Exhibit 2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re Facebook Biometric Information Privacy Litigation

Case No. 3:15-CV-03747-JD

DECLARATION OF BRIAN T. FITZPATRICK

I. BACKGROUND AND QUALIFICATIONS

1. I am a Professor of Law at Vanderbilt University in Nashville, Tennessee. I joined the Vanderbilt law faculty in 2007, after serving as the John M. Olin Fellow at New York University School of Law in 2005 and 2006. I graduated from the University of Notre Dame in 1997 and Harvard Law School in 2000. After law school, I served as a law clerk to The Honorable Diarmuid O’Scannlain on the United States Court of Appeals for the Ninth Circuit and to The Honorable Antonin Scalia on the United States Supreme Court. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP. My C.V. is attached as Exhibit 1.

2. My teaching and research at Vanderbilt have focused on class action litigation. I teach the Civil Procedure, Federal Courts, and Complex Litigation courses. In addition, I have published a number of articles on class action litigation in such journals as the University of Pennsylvania Law Review, the Journal of Empirical Legal Studies, the Vanderbilt Law Review, the NYU Journal of Law & Business, and the University of Arizona Law Review. My work has been cited by numerous courts, scholars, and media outlets such as the New York Times, USA Today, and Wall Street Journal. I have also been invited to speak at symposia and other events about class action litigation, such as the ABA National Institutes on Class Actions in 2011, 2015, 2016, 2017, and 2019; and the ABA Annual Meeting in 2012. Since 2010, I have also served on

the Executive Committee of the Litigation Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to the membership of the American Law Institute.

3. In December 2010, I published an article in the *Journal of Empirical Legal Studies* entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. EMPIRICAL L. STUD. 811 (2010) (hereinafter “Empirical Study”). This article is what I believe to be the most comprehensive examination of federal class action settlements and attorneys’ fees that has ever been published. Unlike other studies of class actions, which have been confined to one subject matter or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study attempted to examine *every* class action settlement approved by a federal court over a two-year period (2006-2007). *See id.* at 812-13. As such, not only is my study an unbiased sample of settlements, but the number of settlements included in my study is also several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements, including 111 from the Ninth Circuit. *See id.* at 817. I presented the findings of my study at the Conference on Empirical Legal Studies at the University of Southern California School of Law in 2009, the Meeting of the Midwestern Law and Economics Association at the University of Notre Dame in 2009, and before the faculties of many law schools in 2009 and 2010. Since then, this study has been relied upon regularly by a number of courts, scholars, and testifying experts.¹

¹ *See, e.g., Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (relying on article to assess fees); *In re Wells Fargo & Co. S’holder Derivative Litig.*, 2020 WL 1786159 at *11 (N.D. Cal. Apr. 7, 2020) (same); *Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, 2020 WL 949885 at *52 (D. Mass. Feb. 27, 2020) (same); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 2020 WL 256132, at *34 (N.D. Ga. Jan. 13, 2020) (same); *In re Transpacific Passenger Air Transp. Antitrust Litig.*, 2019 WL 6327363, at *4-5 (N.D. Cal. Nov. 26, 2019)

4. In addition to my empirical works, I have also published many papers on how law-and-economics theory affects the incentives of attorneys and others in class action litigation. *See, e.g.,* Brian T. Fitzpatrick, *The End of Objector Blackmail?*, 62 VAND. L. REV. 1623 (2009); Brian

(same); *Espinal v. Victor's Cafe 52nd St., Inc.*, 2019 WL 5425475, at *2 (S.D.N.Y. Oct. 23, 2019) (same); *James v. China Grill Mgmt., Inc.*, 2019 WL 1915298, at *2 (S.D.N.Y. Apr. 30, 2019) (same); *Grice v. Pepsi Beverages Co.*, 363 F. Supp. 3d 401, 407 (S.D.N.Y. 2019) (same); *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, 2018 WL 6250657, at *2 (S.D.N.Y. Nov. 29, 2018) (same); *Rodman v. Safeway Inc.*, 2018 WL 4030558, at *5 (N.D. Cal. Aug. 23, 2018) (same); *Little v. Washington Metro. Area Transit Auth.*, 313 F. Supp. 3d 27, 38 (D.D.C. 2018) (same); *Hillson v. Kelly Servs. Inc.*, 2017 WL 3446596, at *4 (E.D. Mich. Aug. 11, 2017) (same); *Good v. W. Virginia-Am. Water Co.*, 2017 WL 2884535, at *23, *27 (S.D.W. Va. July 6, 2017) (same); *McGreevy v. Life Alert Emergency Response, Inc.*, 258 F. Supp. 3d 380, 385 (S.D.N.Y. 2017) (same); *Brown v. Rita's Water Ice Franchise Co. LLC*, 2017 WL 1021025, at *9 (E.D. Pa. Mar. 16, 2017) (same); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 1629349, at *17 (S.D.N.Y. Apr. 24, 2016) (same); *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 236 (N.D. Ill. 2016); *Ramah Navajo Chapter v. Jewell*, 167 F. Supp 3d 1217, 1246 (D.N.M. 2016); *In re: Cathode Ray Tube (Crt) Antitrust Litig.*, 2016 WL 721680, at *42 (N.D. Cal. Jan. 28, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, 2015 WL 4528880, at *19-20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 2147679, at *2-4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 1399367, at *3-5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 2015 WL 605203, at *12 (N.D. Ill. Feb. 12, 2015) (same); *In re Neurontin Marketing and Sales Practices Litig.*, 2014 WL 5810625, at *3 (D. Mass. Nov. 10, 2014) (same); *Tennille v. W. Union Co.*, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014) (same); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 349-51 (S.D.N.Y. 2014) (same); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 991 F. Supp. 2d 437, 444-46 & n.8 (E.D.N.Y. 2014) (same); *In re Fed. Nat'l Mortg. Association Sec., Derivative, and "ERISA" Litig.*, 4 F. Supp. 3d 94, 111-12 (D.D.C. 2013) (same); *In re Vioxx Prod. Liab. Litig.*, 2013 WL 5295707, at *3-4 (E.D. La. Sep. 18, 2013) (same); *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82, 98-99 (D.D.C. 2013) (same); *In re Se. Milk Antitrust Litig.*, 2013 WL 2155387, at *2 (E.D. Tenn., May 17, 2013) (same); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (same); *Pavlik v. FDIC*, 2011 WL 5184445, at *4 (N.D. Ill. Nov. 1, 2011) (same); *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 40 (D.D.C. 2011) (same); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1033 (N.D. Ill. 2011) (same); *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 359 (E.D.N.Y. 2010) (same).

T. Fitzpatrick, *Do Class Action Lawyers Make Too Little*, 158 U. PA. L. REV. 2043 (2010) (hereinafter “Class Action Lawyers”). The culmination of these papers is a book published last year by the University of Chicago Press entitled THE CONSERVATIVE CASE FOR CLASS ACTIONS. The thesis of the book is that the so-called “private attorney general” is superior to the public attorney general in the enforcement of the rules that free markets need in order to operate effectively, and that courts should provide consistent and proper incentives to encourage such private attorney general behavior. I will draw upon this work in this declaration.

5. I have been asked by class counsel to opine on fee practices in the market for legal representation insofar as they may be relevant to a court’s task to set fees in class actions. The documents I reviewed from this litigation are listed in Exhibit 2. My opinions are as follows:

- Clients in the legal market overwhelmingly use the percentage method to pay lawyers they hire on contingency. There is no evidence that clients in the legal market—even very sophisticated ones like large corporations—use the lodestar crosscheck to limit this percentage. The reason for this is that the lodestar crosscheck causes the incentives of the lawyer and the interests of the client to diverge. If judges are interested in doing what class members themselves would want, then, to the extent the law allows for it, they should not use the lodestar crosscheck.
- Clients in the legal market overwhelmingly pay their lawyers fixed percentages of one-third or percentages that escalate with the litigation’s maturity that go even higher. This is true even among very sophisticated clients like large corporations and it is true even in the largest cases like patent infringement litigation. There is no evidence that clients in the legal market pay smaller percentages if their lawyers

recover more for them. The reason is the same: paying smaller percentages for bigger recoveries causes the incentives of the lawyer and interests of the client to diverge. If judges are interested in doing what class members themselves would want, then, to the extent the law allows for it, they should not choose smaller percentages when class counsel recovers more for the class.

- In my opinion, the fee percentage requested in this case is even lower than class members themselves would have chosen if they had hired attorneys to represent them in a case of this magnitude, risk, and complexity.

II. CASE BACKGROUND

6. This settlement arises out of litigation between Facebook and its Illinois users, who alleged that Facebook violated Illinois' Biometric Information Privacy Act (BIPA) by collecting and storing their biometric data (i.e., face scans) without their prior informed, written consent. Since this litigation began in April 2015, class counsel have litigated two motions to dismiss, three motions for summary judgement, a motion for class certification, *Daubert* motions, an appeal to the Ninth Circuit and a petition for writ of certiorari to the U.S. Supreme Court. *See* ECF Nos. 69, 73, 76, 85, 96, 97-3, 120, 129, 138, 140, 167, 227, 236, 239, 255, 257, 262, 266, 272, 278, 285, 292, 294, 299, 301, 303, 305, 307, 333, 337, 341-343, 350, 352, 354, 357, 359, 372, 416, 418, 426. Counsel have also engaged in extensive discovery, twice unsuccessfully attempted to reach settlement through mediation (*see* ECF Nos. 78, 325), and began preparing for trial in earnest. The parties have now reached a settlement, which this court preliminarily approved on August 19, 2020. ECF No. 474. The parties have now moved the court for final approval.

7. The class includes Facebook users located in Illinois for whom Facebook created and stored a face template between June 7, 2011, and the date of the Preliminary Approval Order.

See Settlement Agreement ¶ 1.7. Under the settlement, the class will receive \$650 million in cash and Facebook will disable the face recognition setting for class members until it obtains an individual class member’s express, informed consent. *See id.* at ¶¶ 2.1, 2.9. The cash will be distributed pro rata to those who file claims and any uncashed checks will be redistributed to the those who cashed their checks; none of it will revert to Facebook. *See id.* at ¶¶ 2.6, 2.7. In exchange for these benefits, the class will release Facebook and its affiliates from all claims that, among other things, are “related to plaintiffs’ allegations regarding the alleged collection, storage, or dissemination of biometric data related to facial recognition technology from Facebook users located in Illinois.” *Id.* at ¶¶ 1.25, 1.26.

8. Class counsel have now moved the court for an award of \$110 million in fees, or approximately 16.9% of the total settlement amount.

III. WHY THE LEGAL MARKET IS RELEVANT TO CLASS ACTIONS

9. It is well known that judges must act as “fiduciaries” for class members when overseeing class actions. *See, e.g.*, William B. Rubenstein, *NEWBERG ON CLASS ACTIONS* § 13.40 (5th ed. 2020) (“[T]he law requires the judge to act as a fiduciary . . .”). The reason is that class members are often not in a good position to protect their own interests. Sometimes they are stuck in the class action whether they like it or not because they are not allowed to opt-out, as in a Rule 23(b)(2) “injunctive relief” class. Even when they can opt out, sometimes they do not receive notice that they are even part of the class action. Even when they can opt out and do receive notice, there may be no point to opting out because they have so little at stake they would never sue on their own.

10. What does it mean to be a fiduciary? It means that the judges are acting as agents for absent class members. When awarding fees, this means that judges should choose the same

fee arrangements that rational class members would have employed had they been able to bargain with class counsel directly at the start of litigation. *See* Restatement (Third) of Agency § 8.01 (Am. Law Inst. 2006) (“An agent has a fiduciary duty to act loyally for the principal’s benefit in all matters connected with the agency relationship.”); *id.* at § 8.10 (“An agent has a duty, within the scope of the agency relationship, to act reasonably and to refrain from conduct that is likely to damage the principal’s enterprise.”); *id.* at § 2.02, cmt. f (“The agent’s fiduciary duty to the principal obliges the agent to interpret the principal’s manifestations so as to infer, in a reasonable manner, what the principal desires to be done in light of facts of which the agent has notice at the time of acting.”).

11. In my opinion, the best way to ascertain what rational clients like class members would do when hiring a lawyer, is to ask what rational clients *actually* do when they hire a lawyer. That is, to examine how clients actually hire lawyers who work on contingency like class counsel do. As I explain below, this examination shows the following. First, clients overwhelmingly choose the percentage method and they always choose it without the lodestar crosscheck. Second, clients overwhelmingly choose to pay fixed percentages or escalating percentages of one-third or more; they do not pay their lawyers smaller percentages if they recover more for them.

III. THE LEGAL MARKET IS DOMINATED BY THE PERCENTAGE METHOD AND THERE IS NO EVIDENCE ANYONE USES THE LODESTAR CROSSCHECK

12. In the market for legal services, lawyers who work on contingency are almost always paid a percentage of their clients’ recoveries. The most famous studies are from Professor Herbert Kritzer of the University of Minnesota School of Law. *See, e.g.,* HERBERT M. KRITZER, RISKS, REPUTATIONS, AND REWARDS (2004). Ninety-five percent of the clients in his studies chose the percentage method. *Id.* at 39. Most of the time, the agreements employed fixed percentages,

but some of the time the agreements employed percentages that escalated as the litigation matured. The other five percent were split among a variety of methods with a contingent component. *Id.* at 40. No one used a lodestar crosscheck. *Id.*

13. The Kritzer studies are largely based on fee agreements with unsophisticated clients. *Id.* at 35 (noting that “personal injury was the dominant type of case”). But studies from sophisticated clients like large corporations largely confirm Kritzer’s findings. Although the data on sophisticated clients is limited—these clients usually pay lawyers by the hour instead of on contingency—we do have some data. The best of it comes from cases where corporations hire lawyers on contingency to represent them in patent litigation.

14. The best study of contingent fee arrangements in patent litigation is from David Schwartz. *See* David L. Schwartz, *The Rise of Contingent Fee Representation in Patent Litigation*, 64 ALA. L. REV. 335, 360 (2012). Professor Schwarz interviewed lawyers and businesspeople associated with contingent litigation in patent law during 2010 and 2011 and obtained copies of their contingent fee agreements. *See id.* at 356-57. Many of these cases presented enormous potential damages. *Id.* at 363 (“They . . . select cases that they perceive to . . . have extremely high potential damages.”). Nonetheless, he found that corporations who hire patent litigators on contingency use the same two types of fee agreements that unsophisticated clients do: fixed percentages or escalating percentages as the litigation matured. *Id.* at 360. No one used a lodestar crosscheck.

15. It is easy to understand why even sophisticated clients choose the percentage method without the lodestar crosscheck. The percentage method incentivizes lawyers to maximize the value of the client’s recovery; the more the client recovers, the more the lawyer is paid. The lodestar method creates different and much inferior incentives. Because it ties lawyers’

compensation to the time they expend, it motivates counsel to focus on building their hours. But clients care about hours only when additional work increases their recoveries. They have no interest in paying lawyers to expend time for time's sake. Time-based compensation also encourages delay, which lawyers use to amass the number of hours that, they hope, will maximize their compensation. *See Kirchoff v. Flynn*, 786 F.2d 320, 325–26 (7th Cir. 1986) (Easterbrook, J.) (“The contingent fee uses private incentives rather than careful monitoring to align the interests of lawyer and client. The lawyer gains only to the extent his client gains The unscrupulous lawyer paid by the hour may be willing to settle for a lower recovery coupled with a payment for more hours. Contingent fees eliminate this incentive and also ensure a reasonable proportion between the recovery and the fees assessed to defendants At the same time as it automatically aligns interests of lawyer and client, rewards exceptional success, and penalizes failure, the contingent fee automatically handles compensation for the uncertainty of litigation.”).

16. The lodestar crosscheck reintroduces the same bad incentives of the lodestar method that the percentage method was designed to avoid. *See Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011) (“The . . . argument . . . that any percentage fee award exceeding a certain lodestar multiplier is excessive . . . echoes the ‘megafund’ cap we rejected in *Synthroid*.”). Consider the following examples. Suppose a lawyer had worked on a case for one year and accrued a lodestar of \$1 million. If the lawyer believed that a court would award it a fee of 33 $\frac{1}{3}$ %, or 1.5 times his lodestar, whichever was lesser, then he would be completely indifferent as between recommending that his or her client accept a settlement offer at this point of \$4.5 million or \$45 million. Either way he would get only \$1.5 million. Needless to say, the incentive to be indifferent as to the size of the settlement is not good for clients. Or suppose the lawyer had been offered a settlement offer of \$9 million after one year of work. If the lawyer again believed

the court would not award a fee of 33⅓% unless it was no more than 1.5 times his lodestar, the lawyer would have the incentive to delay recommending acceptance of the settlement until he could generate another \$1 million in lodestar and thereby reap the maximum fee. Again, dragging cases along for nothing is not good for clients or courts.

17. Indeed, it is even *more* imperative that we avoid the lodestar crosscheck in class actions than in conventional lawsuits because it is doubtful that class members and the judges acting as their fiduciaries can monitor class action lawyers as effectively as sophisticated corporate clients can. Rather, we must rely even more than sophisticated clients do on the invisible hand of incentives to harmonize class counsel's incentives and class members' interests as closely as possible. See Nancy Morawetz, *Bargaining, Class Representation, and Fairness*, 54 OHIO ST. L. J. 1, 5 (1993) (noting that "[t]he law and economics literature has suggested that clients are unable to monitor their attorneys' behavior in the class setting and that fee structures should be altered to better align attorney incentives with the interests of the client class"). As Professor John Coffee puts it: "[E]ven uninformed clients can align their attorney's interests with their own by compensating them through a percentage-of-recovery fee formula." John C. Coffee, Jr., *The Regulation of Entrepreneurial Litigation: Balancing Fairness and Efficiency in the Large Class Action*, 54 U. CHI. L. REV. 877, 887 (1987). Percentages do not perfectly align the lawyer's incentives with the client's interests, see Steven Shavell, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW 435 (2009) ("the lawyer . . . press[es] for settlement more often . . . because the lawyer bears all the litigation costs but obtains only a percentage of the settlement"), but they are *far* superior to the lodestar method and its cousin the lodestar crosscheck.

18. The good news is that, according to my empirical study and those by other scholars, the vast majority of courts choose the percentage method. See Brian Fitzpatrick, *Empirical Study*,

supra, at 832 (finding the percentage method used in 69% of fee awards); Theodore Eisenberg, et al., *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. REV. 937, 945 (2017) (hereinafter "Eisenberg-Miller 2017") (finding the percentage method used 91.8% of the time from 2009-2013 and 79.4% from 1993-2008). But the bad news is that a significant minority of these courts also use the lodestar crosscheck. *See* Fitzpatrick, *Empirical Study*, *supra*, at 833 (finding that 49% of courts consider lodestar when awarding fees with the percentage method); Eisenberg-Miller 2017, *supra*, at 945 (finding percent method with lodestar crosscheck used 38% of the time versus 54% for percentage method without lodestar crosscheck). In my opinion, the majority has it right: class members on their own would not hire contingency lawyers using the lodestar crosscheck; therefore, judges acting as good fiduciaries for them should not force that arrangement upon them in class actions. Thankfully, the lodestar crosscheck is not required in the Ninth Circuit. *See Farrell v. Bank of Am. Corp., N.A.*, 2020 WL 5230456, *1 (9th Cir. 2020) ("This Court has consistently refused to adopt a crosscheck requirement, and we do so once more.").

IV. THE LEGAL MARKET IS DOMINATED BY FIXED OR ESCALATING PERCENTAGES OF AT LEAST ONE-THIRD; THERE IS NO EVIDENCE ANYONE PAYS SMALLER PERCENTAGES FOR BIGGER RECOVERIES

19. In the market for legal services, clients who choose the percentage method usually pay their lawyers a fixed percentage of one-third or an escalating percentage as the case matures that can go even higher. In the Kritzer studies, 60% of clients chose a fixed one-third percentage, 31% chose escalating percentages, and the other 9% chose different fixed percentages or, as I noted above, other arrangements altogether. *See* KRITZER, RISKS, REPUTATIONS, AND REWARDS, *supra*, at 39-40. The same is true of the study of patent litigation by Professor Schwartz. *See* Schwartz, *The Rise of Contingent Fee Representation in Patent Litigation*, *supra*. Of the plaintiffs who used

fixed percentages, the mean percentage was 38.6%. Of those who used escalating percentages, the mean upon filing was 28% and the mean through appeal was 40.2%. *Id.* at 360. No one in any of these studies ever paid their lawyers a smaller percentage if the lawyers recovered more money rather than less.

20. The reason why no clients choose to pay smaller percentages for bigger recoveries is the same reason why no one chooses the lodestar crosscheck: it causes the lawyer's incentives to diverge from the client's. *See, e.g., In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir. 2001) ("*Synthroid P*") (Easterbrook, J.) ("This means that counsel for the consumer class could have received \$22 million in fees had they settled for \$74 million but were limited to \$8.2 million in fees because they obtained an extra \$14 million for their clients Why there should be such a notch is a mystery. Markets would not tolerate that effect"). Indeed, the incentives here are particularly perverse. Consider the following example: if courts award class action attorneys 33⅓% of settlements when they are under \$100 million but only 20% of settlements when they are over \$100 million, then rational class action attorneys will prefer to recommend settlements for \$90 million (*i.e.*, a \$30 million fee award) than for \$125 million (*i.e.*, a \$25 million fee award)! No client would want that. No client chooses that. And, in my opinion, judges acting as good fiduciaries for them should not force them to live with it in class actions.

21. Unfortunately, as with the lodestar crosscheck, I and others have found that some judges nonetheless award class counsel a smaller percentage if they recover more than if they recover less. *See Fitzpatrick, Empirical Study, supra*, at 828 (noting a statistically significant effect, largely in settlements above \$100 million); Eisenberg-Miller 2017, *supra*, at 947 (same). But not all judges do this. *See, e.g., In re Cendant Corp. Litig.*, 264 F.3d 201, 284 n.55 (3d Cir. 2001) ("Th[e] position [that the percentage of a recovery devoted to attorneys' fees should decrease

as the size of the overall settlement or recovery increases] . . . has been criticized by respected courts and commentators, who contend that such a fee scale often gives counsel an incentive to settle cases too early and too cheaply.”) (alteration in original); *Allapattah Servs. Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1213 (S.D. Fla. 2006) (“By not rewarding Class Counsel for the additional work necessary to achieve a better outcome for the class, [this] approach creates the perverse incentive for Class Counsel to settle too early for too little.”); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1367 (S.D. Fla. 2011) (quoting *Allapattah*); *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 8:10ML-02151-JVS, 2013 WL 12327929, at *17 n.16 (C.D. Cal. June 17, 2013) (“The Court also agrees with . . . other courts, e.g., *Allapattah Servs.*, 454 F. Supp. 2d at 1213, which have found that decreasing a fee percentage based only on the size of the fund would provide a perverse disincentive to counsel to maximize recovery for the class.”). And, importantly, the Ninth Circuit does not require it. *See In re Optical Disk Drive Prod. Antitrust Litig.*, 959 F.3d 922, 933 (9th Cir. 2020) (“[W]e have already declined to adopt a bright-line rule requiring the use of sliding-scale fee awards for class counsel in megafund cases. . .”).

22. It is true that sometimes sophisticated clients *taper* fee percentages downward on a *marginal basis* as the recovery becomes larger. That is, pay the lawyer, say, one-third of the first \$100 million recovered and 25% of any recovery above that. Although these practices were not found in the studies I cited above, they are not unheard of. *See In re Synthroid I*, 264 F.3d at 721. But it is also true that sophisticated clients sometimes taper fee percentages *upward* as recoveries become large. *See, e.g., In re AT & T Corp.*, 455 F.3d 160, 163 (3d Cir. 2006) (describing fee agreement between class counsel and “the lead plaintiff New Hampshire Retirement Systems”: “The formula provided attorneys’ fees would equal 15% of any settlement amount up to \$25

million, 20% of any settlement amount between \$25 million and \$50 million, and 25% of any settlement amount over \$50 million.”). With limited data from sophisticated clients, it is impossible to know which practice is more prevalent. But it should be noted that downward tapering undermines the percentage method’s alignment of the lawyer’s incentives and the client’s interests. *See In re Synthroid I*, 264 F.3d at 721 (“[D]eclining marginal percentages . . . create declining marginal returns to legal work This feature exacerbates the agency costs inherent in any percentage-of-recovery system”). In class actions, where it is doubtful that class members and even judges can monitor lawyers as well as sophisticated clients can, in my opinion it is usually a mistake to run this risk of misaligned incentives. If fee percentages are to be tapered at all in this context, they should probably be tapered upward. *See* John C. Coffee, Jr., *Understanding the Plaintiff’s Attorney: The Implications of Economic Theory for Private Enforcement of Law Through Class and Derivative Actions*, 86 COLUM. L. REV. 669, 697 (1986) (“[T]he most logical answer to this problem of premature settlement would be to base fees on a graduated, increasing percentage of the recovery formula—one that operates, much like the Internal Revenue Code, to award the plaintiff’s attorney a marginally greater percentage of each defined increment of the recovery.”); Jill E. Fisch, *Lawyers on the Auction Block: Evaluating the Selection of Class Counsel by Auction*, 102 COLUM. L. REV. 650, 678 (2002) (same because the “last dollars of recovery are generally the most costly to produce”).

V. CONCLUSIONS

23. The Ninth Circuit has explained that a district court has “discretion to choose how [to] calculate[] fees” and that a lodestar crosscheck is not required. *Farrell*, 2020 WL 5230456, at *1 (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 944 (9th Cir. 2011)). In my opinion, the Court should exercise its discretion to decline to use a lodestar crosscheck to determine the reasonableness of Class Counsel’s fee award.

24. Class Counsel in this case have applied for an attorneys’ fee award of 16.9% of the Settlement Fund. Based on my academic research, this percentage is even lower than the contingency fee class members would have agreed to pay in a case of this magnitude, complexity, and risk had they hired Class Counsel on their own.

Nashville, TN

October 14, 2020

A handwritten signature in black ink, appearing to read "Brian T. Fitzpatrick", with a stylized flourish at the end.

Brian T. Fitzpatrick

EXHIBIT 1

BRIAN T. FITZPATRICK
Vanderbilt University Law School
131 21st Avenue South
Nashville, TN 37203
(615) 322-4032
brian.fitzpatrick@law.vanderbilt.edu

ACADEMIC APPOINTMENTS

VANDERBILT UNIVERSITY LAW SCHOOL, *Milton R. Underwood Chair in Free Enterprise*, 2020 to present

- *Professor of Law*, 2012 to present
- *FedEx Research Professor*, 2014-2015; *Associate Professor*, 2010-2012; *Assistant Professor*, 2007-2010
- Classes: Civil Procedure, Complex Litigation, Federal Courts, Comparative Class Actions
- Hall-Hartman Outstanding Professor Award, 2008-2009
- Vanderbilt's Association of American Law Schools Teacher of the Year, 2009

HARVARD LAW SCHOOL, *Visiting Professor*, Fall 2018

- Classes: Civil Procedure, Litigation Finance

FORDHAM LAW SCHOOL, *Visiting Professor*, Fall 2010

- Classes: Civil Procedure

EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, 2000

- Fay Diploma (for graduating first in the class)
- Sears Prize, 1999 (for highest grades in the second year)
- *Harvard Law Review*, Articles Committee, 1999-2000; Editor, 1998-1999
- *Harvard Journal of Law & Public Policy*, Senior Editor, 1999-2000; Editor, 1998-1999
- Research Assistant, David Shapiro, 1999; Steven Shavell, 1999

UNIVERSITY OF NOTRE DAME, B.S., Chemical Engineering, *summa cum laude*, 1997

- First runner-up to Valedictorian (GPA: 3.97/4.0)
- Steiner Prize, 1997 (for overall achievement in the College of Engineering)

CLERKSHIPS

HON. ANTONIN SCALIA, Supreme Court of the United States, 2001-2002

HON. DIARMUID O'SCANNLAIN, U.S. Court of Appeals for the Ninth Circuit, 2000-2001

EXPERIENCE

NEW YORK UNIVERSITY SCHOOL OF LAW, Feb. 2006 to June 2007
John M. Olin Fellow

HON. JOHN CORNYN, United States Senate, July 2005 to Jan. 2006
Special Counsel for Supreme Court Nominations

SIDLEY AUSTIN LLP, Washington, DC, 2002 to 2005
Litigation Associate

BOOKS

THE CAMBRIDGE INTERNATIONAL HANDBOOK OF CLASS ACTIONS (Cambridge University Press, forthcoming 2021) (ed., with Randall Thomas)

THE CONSERVATIVE CASE FOR CLASS ACTIONS (University of Chicago Press 2019)

ACADEMIC ARTICLES

Why Class Actions are Something both Liberals and Conservatives Can Love, 73 VAND. L. REV. 1147 (2020)

Deregulation and Private Enforcement, 24 LEWIS & CLARK L. REV. 685 (2020)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, 40 NW. J. INT'L L. & BUS. 203 (2020) (with Randall Thomas)

Can the Class Action be Made Business Friendly?, 24 N.Z. BUS. L. & Q. 169 (2018)

Can and Should the New Third-Party Litigation Financing Come to Class Actions?, 19 THEORETICAL INQUIRIES IN LAW 109 (2018)

Scalia in the Casebooks, 84 U. CHI. L. REV. 2231 (2017)

The Ideological Consequences of Judicial Selection, 70 VAND. L. REV. 1729 (2017)

Judicial Selection and Ideology, 42 OKLAHOMA CITY UNIV. L. REV. 53 (2017)

Justice Scalia and Class Actions: A Loving Critique, 92 NOTRE DAME L. REV. 1977 (2017)

A Tribute to Justice Scalia: Why Bad Cases Make Bad Methodology, 69 VAND. L. REV. 991 (2016)

The Hidden Question in Fisher, 10 NYU J. L. & LIBERTY 168 (2016)

An Empirical Look at Compensation in Consumer Class Actions, 11 NYU J. L. & BUS. 767 (2015) (with Robert Gilbert)

The End of Class Actions?, 57 ARIZ. L. REV. 161 (2015)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, 98 VA. L. REV. 839 (2012)

Twombly and Iqbal Reconsidered, 87 NOTRE DAME L. REV. 1621 (2012)

An Empirical Study of Class Action Settlements and their Fee Awards, 7 J. EMPIRICAL L. STUD. 811 (2010) (selected for the 2009 Conference on Empirical Legal Studies)

Do Class Action Lawyers Make Too Little?, 158 U. PA. L. REV. 2043 (2010)

Originalism and Summary Judgment, 71 OHIO ST. L.J. 919 (2010)

The End of Objector Blackmail?, 62 VAND. L. REV. 1623 (2009) (selected for the 2009 Stanford-Yale Junior Faculty Forum)

The Politics of Merit Selection, 74 MISSOURI L. REV. 675 (2009)

Errors, Omissions, and the Tennessee Plan, 39 U. MEMPHIS L. REV. 85 (2008)

Election by Appointment: The Tennessee Plan Reconsidered, 75 TENN. L. REV. 473 (2008)

Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?, 13 MICH. J. RACE & LAW 277 (2007)

BOOK CHAPTERS

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, in THE CAMBRIDGE INTERNATIONAL HANDBOOK OF CLASS ACTIONS (ed., with Randall Thomas, Cambridge University Press, forthcoming 2021) (with Randall Thomas)

Do Class Actions Deter Wrongdoing? in THE CLASS ACTION EFFECT (Catherine Piché, ed., Éditions Yvon Blais, Montreal, 2018)

Judicial Selection in Illinois in AN ILLINOIS CONSTITUTION FOR THE TWENTY-FIRST CENTURY (Joseph E. Tabor, ed., Illinois Policy Institute, 2017)

Civil Procedure in the Roberts Court in BUSINESS AND THE ROBERTS COURT (Jonathan Adler, ed., Oxford University Press, 2016)

Is the Future of Affirmative Action Race Neutral? in A NATION OF WIDENING OPPORTUNITIES: THE CIVIL RIGHTS ACT AT 50 (Ellen Katz & Samuel Bagenstos, eds., Michigan University Press, 2016)

ACADEMIC PRESENTATIONS

Objector Blackmail Update: What Have the 2018 Amendments Done?, Institute for Law and Economic Policy, Fordham Law School, New York, NY (Feb. 28, 2020)

Keynote Debate: The Conservative Case for Class Actions, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Jan. 24, 2020)

The Future of Class Actions, National Consumer Law Center Class Action Symposium, Boston, MA (Nov. 16, 2019) (panelist)

The Conservative Case for Class Actions, Center for Civil Justice, NYU Law School, New York, NY (Nov.11, 2019)

Deregulation and Private Enforcement, Class Actions, Mass Torts, and MDLs: The Next 50 Years, Pound Institute Academic Symposium, Lewis & Clark Law School, Portland, OR (Nov. 2, 2019)

Class Actions and Accountability in Finance, Investors and the Rule of Law Conference, Institute for Investor Protection, Loyola University Chicago Law School, Chicago, IL (Oct. 25, 2019) (panelist)

Incentivizing Lawyers as Teams, University of Texas at Austin Law School, Austin, TX (Oct. 22, 2019)

“Dueling Pianos”: *A Debate on the Continuing Need for Class Actions*, Twenty Third Annual National Institute on Class Actions, American Bar Association, Nashville, TN (Oct. 18, 2019) (panelist)

A Debate on the Utility of Class Actions, Contemporary Issues in Complex Litigation Conference, Northwestern Law School, Chicago, IL (Oct.16, 2019) (panelist)

Litigation Funding, Forty Seventh Annual Meeting, Intellectual Property Owners Association, Washington, DC (Sep. 26, 2019) (panelist)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, International Class Actions Conference, Vanderbilt Law School, Nashville, TN (Aug. 24, 2019)

A New Source of Class Action Data, Corporate Accountability Conference, Institute for Law and Economic Policy, San Juan, Puerto Rico (April 12, 2019)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, Ninth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 14, 2018)

MDL: Uniform Rules v. Best Practices, Miami Law Class Action & Complex Litigation Forum, University of Miami Law School, Miami, FL (Dec. 7, 2018) (panelist)

Third Party Finance of Attorneys in Traditional and Complex Litigation, George Washington Law School, Washington, D.C. (Nov. 2, 2018) (panelist)

MDL at 50 - The 50th Anniversary of Multidistrict Litigation, New York University Law School, New York, New York (Oct. 10, 2018) (panelist)

The Discovery Tax, Law & Economics Seminar, Harvard Law School, Cambridge, Massachusetts (Sep. 11, 2018)

Empirical Research on Class Actions, Civil Justice Research Initiative, University of California at Berkeley, Berkeley, California (Apr. 9, 2018)

A Political Future for Class Actions in the United States?, The Future of Class Actions Symposium, University of Auckland Law School, Auckland, New Zealand (Mar. 15, 2018)

The Indian Class Actions: How Effective Will They Be?, Eighth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 19, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 8, 2017) (panelist)

Critical Issues in Complex Litigation, Contemporary Issues in Complex Litigation, Northwestern Law School (Nov. 29, 2017) (panelist)

The Conservative Case for Class Actions, Consumer Class Action Symposium, National Consumer Law Center, Washington, DC (Nov. 19, 2017)

The Conservative Case for Class Actions—A Monumental Debate, ABA National Institute on Class Actions, Washington, DC (Oct. 26, 2017) (panelist)

One-Way Fee Shifting after Summary Judgment, 2017 Meeting of the Midwestern Law and Economics Association, Marquette Law School, Milwaukee, WI (Oct. 20, 2017)

The Conservative Case for Class Actions, Pepperdine Law School Malibu, CA (Oct. 17, 2017)

One-Way Fee Shifting after Summary Judgment, Vanderbilt Law Review Symposium on The Future of Discovery, Vanderbilt Law School, Nashville, TN (Oct. 13, 2017)

The Constitution Revision Commission and Florida's Judiciary, 2017 Annual Florida Bar Convention, Boca Raton, FL (June 22, 2017)

Class Actions After Spokeo v. Robins: Supreme Court Jurisprudence, Article III Standing, and Practical Implications for the Bench and Practitioners, Northern District of California Judicial Conference, Napa, CA (Apr. 29, 2017) (panelist)

The Ironic History of Rule 23, Conference on Secrecy, Institute for Law & Economic Policy, Naples, FL (Apr. 21, 2017)

Justice Scalia and Class Actions: A Loving Critique, University of Notre Dame Law School, South Bend, Indiana (Feb. 3, 2017)

Should Third-Party Litigation Financing Be Permitted in Class Actions?, Fifty Years of Class Actions—A Global Perspective, Tel Aviv University, Tel Aviv, Israel (Jan. 4, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 2, 2016) (panelist)

The Ideological Consequences of Judicial Selection, William J. Brennan Lecture, Oklahoma City University School of Law, Oklahoma, City, Oklahoma (Nov. 10, 2016)

After Fifty Years, What's Class Action's Future, ABA National Institute on Class Actions, Las Vegas, Nevada (Oct. 20, 2016) (panelist)

Where Will Justice Scalia Rank Among the Most Influential Justices, State University of New York at Stony Brook, Long Island, New York (Sep. 17, 2016)

The Ironic History of Rule 23, University of Washington Law School, Seattle, WA (July 14, 2016)

A Respected Judiciary—Balancing Independence and Accountability, 2016 Annual Florida Bar Convention, Orlando, FL (June 16, 2016) (panelist)

What Will and Should Happen to Affirmative Action After Fisher v. Texas, American Association of Law Schools Annual Meeting, New York, NY (January 7, 2016) (panelist)

Litigation Funding: The Basics and Beyond, NYU Center on Civil Justice, NYU Law School, New York, NY (Nov. 20, 2015) (panelist)

Do Class Actions Offer Meaningful Compensation to Class Members, or Do They Simply Rip Off Consumers Twice?, ABA National Institute on Class Actions, New Orleans, LA (Oct. 22, 2015) (panelist)

Arbitration and the End of Class Actions?, Quinnipiac-Yale Dispute Resolution Workshop, Yale Law School, New Haven, CT (Sep. 8, 2015) (panelist)

The Next Steps for Discovery Reform: Requester Pays, Lawyers for Civil Justice Membership Meeting, Washington, DC (May 5, 2015)

Private Attorney General: Good or Bad?, 17th Annual Federalist Society Faculty Conference, Washington, DC (Jan. 3, 2015)

Liberty, Judicial Independence, and Judicial Power, Liberty Fund Conference, Santa Fe, NM (Nov. 13-16, 2014) (participant)

The Economics of Objecting for All the Right Reasons, 14th Annual Consumer Class Action Symposium, Tampa, FL (Nov. 9, 2014)

Compensation in Consumer Class Actions: Data and Reform, Conference on The Future of Class Action Litigation: A View from the Consumer Class, NYU Law School, New York, NY (Nov. 7, 2014)

The Future of Federal Class Actions: Can the Promise of Rule 23 Still Be Achieved?, Northern District of California Judicial Conference, Napa, CA (Apr. 13, 2014) (panelist)

The End of Class Actions?, Conference on Business Litigation and Regulatory Agency Review in the Era of Roberts Court, Institute for Law & Economic Policy, Boca Raton, FL (Apr. 4, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, University of Missouri School of Law, Columbia, MO (Mar. 7, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, George Mason Law School, Arlington, VA (Mar. 6, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, Roundtable for Third-Party Funding Scholars, Washington & Lee University School of Law, Lexington, VA (Nov. 7-8, 2013)

Is the Future of Affirmative Action Race Neutral?, Conference on A Nation of Widening Opportunities: The Civil Rights Act at 50, University of Michigan Law School, Ann Arbor, MI (Oct. 11, 2013)

The Mass Tort Bankruptcy: A Pre-History, The Public Life of the Private Law: A Conference in Honor of Richard A. Nagareda, Vanderbilt Law School, Nashville, TN (Sep. 28, 2013) (panelist)

Rights & Obligations in Alternative Litigation Financing and Fee Awards in Securities Class Actions, Conference on the Economics of Aggregate Litigation, Institute for Law & Economic Policy, Naples, FL (Apr. 12, 2013) (panelist)

The End of Class Actions?, Symposium on Class Action Reform, University of Michigan Law School, Ann Arbor, MI (Mar. 16, 2013)

Toward a More Lawyer-Centric Class Action?, Symposium on Lawyering for Groups, Stein Center for Law & Ethics, Fordham Law School, New York, NY (Nov. 30, 2012)

The Problem: AT & T as It Is Unfolding, Conference on *AT & T Mobility v. Concepcion*, Cardozo Law School, New York, NY (Apr. 26, 2012) (panelist)

Standing under the Statements and Accounts Clause, Conference on Representation without Accountability, Fordham Law School Corporate Law Center, New York, NY (Jan. 23, 2012)

The End of Class Actions?, Washington University Law School, St. Louis, MO (Dec. 9, 2011)

Book Preview Roundtable: Accelerating Democracy: Matching Social Governance to Technological Change, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law, Chicago, IL (Sep. 15-16, 2011) (participant)

Is Summary Judgment Unconstitutional? Some Thoughts About Originalism, Stanford Law School, Palo Alto, CA (Mar. 3, 2011)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Northwestern Law School, Chicago, IL (Feb. 25, 2011)

The New Politics of Iowa Judicial Retention Elections: Examining the 2010 Campaign and Vote, University of Iowa Law School, Iowa City, IA (Feb. 3, 2011) (panelist)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Washington University Law School, St. Louis, MO (Oct. 1, 2010)

Twombly and Iqbal Reconsidered, Symposium on Business Law and Regulation in the Roberts Court, Case Western Reserve Law School, Cleveland, OH (Sep. 17, 2010)

Do Class Action Lawyers Make Too Little?, Institute for Law & Economic Policy, Providenciales, Turks & Caicos (Apr. 23, 2010)

Originalism and Summary Judgment, Georgetown Law School, Washington, DC (Apr. 5, 2010)

Theorizing Fee Awards in Class Action Litigation, Washington University Law School, St. Louis, MO (Dec. 11, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Conference on Empirical Legal Studies, University of Southern California Law School, Los Angeles, CA (Nov. 20, 2009)

Originalism and Summary Judgment, Symposium on Originalism and the Jury, Ohio State Law School, Columbus, OH (Nov. 17, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Meeting of the Midwestern Law and Economics Association, University of Notre Dame Law School, South Bend, IN (Oct. 10, 2009)

The End of Objector Blackmail?, Stanford-Yale Junior Faculty Forum, Stanford Law School, Palo Alto, CA (May 29, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, University of Minnesota School of Law, Minneapolis, MN (Mar. 12, 2009)

The Politics of Merit Selection, Symposium on State Judicial Selection and Retention Systems, University of Missouri Law School, Columbia, MO (Feb. 27, 2009)

The End of Objector Blackmail?, Searle Center Research Symposium on the Empirical Studies of Civil Liability, Northwestern University School of Law, Chicago, IL (Oct. 9, 2008)

Alternatives To Affirmative Action After The Michigan Civil Rights Initiative, University of Michigan School of Law, Ann Arbor, MI (Apr. 3, 2007) (panelist)

OTHER PUBLICATIONS

Memo to Mitch: Repeal the Republican Tax Increase, THE HILL (July 17, 2020)

The Right Way to End Qualified Immunity, THE HILL (June 25, 2020)

I Still Remember, 133 HARV. L. REV. 2458 (2020)

Proposed Reforms to Texas Judicial Selection, 24 TEX. R. L. & POL. 307 (2020)

The Conservative Case for Class Actions?, NATIONAL REVIEW (Nov. 13, 2019)

9th Circuit Split: What's the math say?, DAILY JOURNAL (Mar. 21, 2017)

Former clerk on Justice Antonin Scalia and his impact on the Supreme Court, THE CONVERSATION (Feb. 24, 2016)

Lessons from Tennessee Supreme Court Retention Election, THE TENNESSEAN (Aug. 20, 2014)

Public Needs Voice in Judicial Process, THE TENNESSEAN (June 28, 2013)

Did the Supreme Court Just Kill the Class Action?, THE QUARTERLY JOURNAL (April 2012)

Let General Assembly Confirm Judicial Selections, CHATTANOOGA TIMES FREE PRESS (Feb. 19, 2012)

“Tennessee Plan” Needs Revisions, THE TENNESSEAN (Feb. 3, 2012)

How Does Your State Select Its Judges?, INSIDE ALEC 9 (March 2011) (with Stephen Ware)

On the Merits of Merit Selection, THE ADVOCATE 67 (Winter 2010)

Supreme Court Case Could End Class Action Suits, SAN FRANCISCO CHRONICLE (Nov. 7, 2010)

Kagan is an Intellect Capable of Serving Court, THE TENNESSEAN (Jun. 13, 2010)

Confirmation “Kabuki” Does No Justice, POLITICO (July 20, 2009)

Selection by Governor may be Best Judicial Option, THE TENNESSEAN (Apr. 27, 2009)

Verdict on Tennessee Plan May Require a Jury, THE MEMPHIS COMMERCIAL APPEAL (Apr. 16, 2008)

Tennessee’s Plan to Appoint Judges Takes Power Away from the Public, THE TENNESSEAN (Mar. 14, 2008)

Process of Picking Judges Broken, CHATTANOOGA TIMES FREE PRESS (Feb. 27, 2008)

Disorder in the Court, LOS ANGELES TIMES (Jul. 11, 2007)

Scalia’s Mistake, NATIONAL LAW JOURNAL (Apr. 24, 2006)

GM Backs Its Bottom Line, DETROIT FREE PRESS (Mar. 19, 2003)

Good for GM, Bad for Racial Fairness, LOS ANGELES TIMES (Mar. 18, 2003)

10 Percent Fraud, WASHINGTON TIMES (Nov. 15, 2002)

OTHER PRESENTATIONS

Does the Way We Choose our Judges Affect Case Outcomes?, American Legislative Exchange Council 2018 Annual Meeting, New Orleans, Louisiana (August 10, 2018) (panelist)

Oversight of the Structure of the Federal Courts, Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, United States Senate, Washington, D.C. (July 31, 2018)

Where Will Justice Scalia Rank Among the Most Influential Justices, The Leo Bearman, Sr. American Inn of Court, Memphis, TN (Mar. 21, 2017)

Bringing Justice Closer to the People: Examining Ideas for Restructuring the 9th Circuit, Subcommittee on Courts, Intellectual Property, and the Internet, United States House of Representatives, Washington, D.C. (Mar. 16, 2017)

Supreme Court Review 2016: Current Issues and Cases Update, Nashville Bar Association, Nashville, TN (Sep. 15, 2016) (panelist)

A Respected Judiciary—Balancing Independence and Accountability, Florida Bar Annual Convention, Orlando, FL (June 16, 2016) (panelist)

Future Amendments in the Pipeline: Rule 23, Tennessee Bar Association, Nashville, TN (Dec. 2, 2015)

The New Business of Law: Attorney Outsourcing, Legal Service Companies, and Commercial Litigation Funding, Tennessee Bar Association, Nashville, TN (Nov. 12, 2014)

Hedge Funds + Lawsuits = A Good Idea?, Vanderbilt University Alumni Association, Washington, DC (Sep. 3, 2014)

Judicial Selection in Historical and National Perspective, Committee on the Judiciary, Kansas Senate (Jan. 16, 2013)

The Practice that Never Sleeps: What's Happened to, and What's Next for, Class Actions, ABA Annual Meeting, Chicago, IL (Aug. 3, 2012) (panelist)

Life as a Supreme Court Law Clerk and Views on the Health Care Debate, Exchange Club, Nashville, TN (Apr. 3, 2012)

The Tennessee Judicial Selection Process—Shaping Our Future, Tennessee Bar Association Leadership Law Retreat, Dickson, TN (Feb. 3, 2012) (panelist)

Reexamining the Class Action Practice, ABA National Institute on Class Actions, New York, NY (Oct. 14, 2011) (panelist)

Judicial Selection in Kansas, Committee on the Judiciary, Kansas House of Representatives (Feb. 16, 2011)

Judicial Selection and the Tennessee Constitution, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Mar. 24, 2009)

What Would Happen if the Judicial Selection and Evaluation Commissions Sunset?, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Feb. 24, 2009)

Judicial Selection in Tennessee, Chattanooga Bar Association, Chattanooga, TN (Feb. 27, 2008) (panelist)

Ethical Implications of Tennessee's Judicial Selection Process, Tennessee Bar Association, Nashville, TN (Dec. 12, 2007)

PROFESSIONAL ASSOCIATIONS

Member, American Law Institute
Referee, Journal of Law, Economics and Organization
Referee, Journal of Empirical Legal Studies
Reviewer, Oxford University Press
Reviewer, Supreme Court Economic Review
Member, American Bar Association
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights
Board of Directors, Tennessee Stonewall Bar Association
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia

COMMUNITY ACTIVITIES

Board of Directors, Nashville Ballet, 2011-2017 & 2019-present; Board of Directors, Beacon Center, 2018-present; Nashville Talking Library for the Blind, 2008-2009

EXHIBIT 2

Documents reviewed:

- Plaintiffs' Unopposed Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities in Support Thereof (document 445, filed 05/08/20)
- Facebook's Supplemental Brief in Support of Preliminary Approval of the Settlement (document 447, filed 05/08/20)
- Facebook's Second Supplemental Brief in Support of Preliminary Approval of the Settlement (document 462, filed 07/09/20)
- Plaintiffs' Supplemental Brief in Support of Preliminary Approval of a Class Action Settlement (document 465, filed 07/09/20)
- Declaration of Rafey S. Balabanian (document 465-1, filed 07/09/20)
- Transcript of Remote Zoom Video Conference Held on 06/04/20, Before the Honorable Judge James Donato (document 465-2, filed 07/09/20)
- Transcript of Videotaped Deposition of Nimesh Patel (document 465-3, filed 07/09/20)
- Declaration of Tiffany Elking (document 465-4, filed 07/09/20)
- Notice of Amended Stipulation of Class Action Settlement, including Exhibit A, thereto, Amended Stipulation of Class Action Settlement ("Settlement Agreement") (document 468, filed 07/22/20)
- Transcript of Videoconference Proceedings Held on 07/23/20, Before the Honorable Judge James Donato (document 470, filed 07/28/20)
- Order Granting Preliminary Approval of Class Action Settlement (document 474, filed 08/19/20)

Exhibit 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: FACEBOOK BIOMETRIC
INFORMATION PRIVACY LITIGATION

Case No. 15-CV-03747-JD

THIS DOCUMENT RELATES TO:

ALL ACTIONS

EXPERT DECLARATION OF PROFESSOR WILLIAM B. RUBENSTEIN

1. I am the Bruce Bromley Professor of Law at Harvard Law School and a leading national expert on class action law and practice. Class Counsel¹ seek a fee of \$110 million, which constitutes 20% of the original \$550 million settlement.² Class Counsel have retained me

¹ The Settlement Agreement states that “‘Class Counsel’ means the law firms of Edelson PC; Robbins Geller Rudman & Dowd LLP; and Labaton Sucharow LLP.” Settlement Agreement § 1.8, ECF No. 445-2.

² The proposed fee constitutes 16.9% of the total \$650 million settlement, but Class Counsel inform me that they will seek a fee only from the initial \$550 million and hence that number provides the proper basis of analysis. I can appreciate why Class Counsel has taken this approach but I am more hesitant to ignore the additional \$100 million the class will receive for three reasons: (1) Class Counsel’s work to secure the first \$550 million had a lot to do with why Facebook was willing to forego another \$100 million, so they deserve something more than zero credit for that addition; (2) giving class counsel no credit for monetary relief achieved after a District Court expresses concern about an initial settlement proposal could create odd incentives, prompting class counsel to do anything necessary to finish the deal without incentivizing them to recover more *money* for the class; and (3) regardless of whether you label Class Counsel’s cut “20%,” the class members are paying only 16.9%. It might be best for class action law, if a bit more complex, to enable class counsel, in situations like this, to recover, say, 18% of the initial \$550 million (or \$99 million) and half as much, 9%, of the additional \$100 million, for a total fee

to provide my expert opinion as to whether this request is reasonable in the context of this litigation. As this Court has noted,³ Ninth Circuit law authorizes this Court to utilize a percentage or lodestar approach, most courts in similar common fund cases utilize a percentage approach, the benchmark percentage award in the Ninth Circuit is 25%, the benchmark may be checked by a lodestar cross-check, and must be justified against a number of other factors (such as the risks counsel took, the results they achieved, and awards in similar cases). After setting forth my qualifications to serve as an expert (Part I, *infra*) and assessing the scope of Class Counsel's achievement (Part II, *infra*), I employ this Court's approach to reach the following conclusions:

- ***Class Counsel's requested percentage fits easily within the Ninth Circuit's 25% benchmark and is just above the high end of percentages courts typically award in larger fund cases*** (Section III(A), *infra*). In common fund cases, class counsel are entitled to a percentage of the fund that their efforts created for the class. In the Ninth Circuit, 25% is the benchmark for such awards. The requested fee here is 20% below that benchmark. Courts tend to approve lower percentages in large fund cases, with empirical data showing a range from about 12–22%, with most cases of this magnitude somewhere between 12–18%. Conceptualizing Class Counsel's fee as 20% puts it at the high end of these larger fund awards, while viewing it as 16.9%, *see* note 2, *supra*, places it closer to the middle of the large fund range. Given the fact that Class Counsel are submitting their lodestar and thereby enabling the Court to "cross-check" the percentage award, the precise placement of the percentage number itself in a range of comparatives recedes in importance.
- ***Class Counsel's lodestar reflects reasonable billing rates based on the market for attorneys in this community and a reasonable quantity of hours for the work undertaken in this matter*** (Section III(B), *infra*). For purposes of this Declaration, my research assistants compiled a database of all billing rates

(\$108 million). This approximates the fee level Class Counsel seek, while conceptualizing it slightly differently – and importantly, it enables a conclusion that Class Counsel's fee is 16.6% of the total fund, hence enabling appropriate cross-case comparisons.

³ *See, e.g., In re Capacitors Antitrust Litig.*, No. 3:17-md-02801-JD, 2018 WL 4790575, at *2–3 (N.D. Cal. Sept. 21, 2018).

explicitly approved by courts overseeing class action settlements in the Northern District of California in 2019 (164 rates from 19 cases). The billing rates Class Counsel employ are consistent with, albeit slightly (about 1.2%) higher than, those approved rates. Similarly, Class Counsel's average hourly rate (or "blended billing rate") is at the higher end of the range of blended rates approved in recent Northern District cases, but not inconsistent with other approved rates. Class Counsel's rates appropriately reflect the scale and complexity of this type of case: most cases in the comparison set were more routine wage-and-hour cases and no case in the comparison set involved a fee over \$8 million.

- ***Class Counsel's lodestar reflects a reasonable quantity of hours for the work undertaken in this matter*** (Section III(C), *infra*). My research assistants undertook a similar empirical evaluation of the number of hours Class Counsel billed, comparing that total to hours billed in settlements of this magnitude (roughly \$400–800 million). That analysis found that the total number of hours that all Class Counsel expended in this case is below the mean for cases of this size, supporting the conclusions that these Class Counsel were efficient in prosecuting this case and engaged in no churning or lodestar padding. A qualitative assessment of the time spent also supports these conclusions: Class Counsel report that they devoted about 30,000 hours of time in the 5.5 years of this case, roughly 5,455 hours/year, or the equivalent of 2.5 lawyers working close to full time (2,182 hours/year) on the case throughout its duration. In light of the complexity of the case, and the investigation, discovery, preparation for trial, and general adversarial litigation undertaken by Class Counsel, it is evident that the case could have consumed the full attention of about 2.5 attorneys for its duration.
- ***Class Counsel are entitled to a fee enhancement because of the risk the firms undertook and the results they achieved for the class – and the multiplier sought, though high, is at the level courts approve in extraordinary circumstances like those present here*** (Part III(D), *infra*). This was an exceedingly risky case: it was not a case piggy-backing on a prior government investigation, nor the next case applying a law regularly deployed by class counsel, but a novel use of a relatively new statute, applied for the first time, to the practices of a major social networking service. The facts involved complex biometric issues requiring technological expertise, and the law involved nuanced choice-of-law, extraterritoriality, and class certification issues. Worse, within a year of the case's launch, the Supreme Court rendered its decision in the *Spokeo* case, so tightening standing requirements in statutory damages cases that more than 50 reported decisions immediately dismissed ongoing class actions, including cases litigated under this Illinois statute. Similarly, in the midst of the case, the Illinois legislature considered bills that threatened to gut the class's substantive claims. Class Counsel shouldered all of this risk while litigating against one of the largest and richest corporations in the world, with seemingly

bottomless coffers, yet they did so in a lean fashion without running up an enormous lodestar nor enlisting dozens of law firms to share the risk. Despite these risks, Class Counsel have secured the largest privacy settlement in American history, in raw dollars, and one of the highest ever in terms of recovery per class member. The relief is not only historic, it is available to the full class, easily claimed, and complements significant non-monetary changes in the defendant's practices as well.

2. Having served as a fees expert in nearly 100 cases, I can testify that there are only two – interrelated – facts about this fee petition that stick out: (a) the total number of hours Class Counsel expended here is remarkably low relative to settlements of this size and hence (b) their lodestar multiplier, in the 5 range, is high.⁴ Because the purpose of examining Class Counsel's lodestar is to “cross-check” the proposed percentage award and guard against an excessive fee, the resulting high multiplier implies that the Court should reduce the percentage award. Indeed, I have consistently urged courts to engage in a lodestar cross-check, believing it is the single most important backstop against excessive fees in most cases.⁵ I am, nonetheless, hesitant to *automatically* conclude that a high multiplier is problematic, particularly on facts such as these. Because this high multiplier is a result of Class Counsel's low quantity of hours, it implies that the lawyers worked with admirable efficiency in producing this huge settlement. To penalize them for that efficiency by lowering the percentage award will simply incentivize class counsel in future cases to churn unnecessary work, thereby raising their hours and lodestar, and lowering the proposed multiplier. That benefits no one, particularly not the underlying class members

⁴ Importantly, the lodestar multiplier is not high because of unusual billing rates.

⁵ See 5 William B. Rubenstein, *Newberg on Class Actions* § 15:86 (5th ed. & Supp. 2020) [hereinafter *Newberg on Class Actions*]; see also *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 504, 376 P.3d 672, 687 (2016) (“We tend to agree with the amicus curiae brief of Professor William B. Rubenstein that these concerns [about the lodestar cross-check] are likely overstated and the benefits of having the lodestar cross-check available as a tool outweigh the problems its use could cause in individual cases.”).

awaiting their recovery. On the other hand, if the multiplier is high, it might in fact reflect an excessive fee, so I am also hesitant automatically to excuse a high multiplier on this “efficiency” rationale. Balancing these competing concerns, I find that the presence of a high multiplier in this situation – a record settlement, produced efficiently – should not be dispositive one way or the other, but should trigger a closer analysis of some underlying facts. Thus, in the treatise that I author (*Newberg on Class Actions*), more than five years ago, I set out a “multiplier calculator” to assist courts in broadly assessing the reasonableness of the proposed multiplier.⁶ This calculator synthesizes reported case law and, translating the approach the judiciary has taken into a point system, assigns multiplier points based on the risks counsel took and the results that they achieved. There I state that risk factors each supporting a one point increase in the multiplier are: (1) unique cases, not based on rote, prior pleadings; (2) cases in which counsel themselves enforce the law and do not simply follow government enforcement actions; and (3) cases in which counsel are solely responsible for the case’s costs and cannot share this risk among a larger group of firms. As discussed below, *see* Part III(D), *infra*, all three of these factors apply here, supporting an increase from a 1 to a 4 multiplier. On the results side, I report that the law tends to increase multipliers by ½ point according to factors such as: “the ease with which class members are able to receive compensation and, if decipherable, the value of that compensation compared to the value of the claim itself.”⁷ Here, all class members can receive relief and they can do so with great ease, meeting the first factor; and the value of each class member’s recovery here is also strong relative to the value of the underlying claim *as litigated in the aggregate*, as

⁶ *Id.* at § 15:87.

⁷ *Id.*

explained in ¶ 19(a), *infra*. These results therefore back the additional point in my multiplier, suggesting that my 2015 “calculator” supports a multiplier in the 5 range. Thus, although the requested multiplier here is high, I am comforted by the fact that [1] the single driver of that height is Class Counsel’s efficiency and [2] the principles I set forth in the *Newberg* treatise some years ago independently support a multiplier in the range proposed. Put simply, it is surely the rare settlement that justifies a lodestar multiplier in the 5 range, but, just as surely, this case is that rare case.

I. BACKGROUND AND QUALIFICATIONS⁸

3. I am the Bruce Bromley Professor of Law at Harvard Law School. I graduated from Yale College, *magna cum laude*, in 1982 and from Harvard Law School, *magna cum laude*, in 1986. I clerked for the Hon. Stanley Sporkin in the U.S. District Court for the District of Columbia following my graduation from law school. Before joining the Harvard faculty as a tenured professor in 2007, I was a law professor at the UCLA School of Law for a decade, and an adjunct faculty member at Harvard, Stanford, and Yale Law Schools while a litigator in private practice during the preceding decade. I am admitted to practice law in the Commonwealth of Massachusetts, the State of California, the Commonwealth of Pennsylvania (inactive), the District of Columbia (inactive), the U.S. Supreme Court, six U.S. Courts of Appeals, and four U.S. District Courts.

4. My principal area of scholarship is complex civil litigation, with a special emphasis on class action law. I am the author, co-author, or editor of five books and more than a dozen scholarly articles, as well as many shorter publications (a fuller bibliography appears in

⁸ My full c.v. is attached as Exhibit A.

my appended c.v.). Much of this work concerns various aspects of class action law. Since 2008, I have been the sole author of the leading national treatise on class action law, *Newberg on Class Actions*, and I have re-written the entire 10-volume treatise from scratch. In 2015, I wrote and published a 600-page volume (volume 5) of the Treatise on attorney's fees, costs, and incentive awards; this is the most sustained scholarly treatment of class action attorney's fees and has been cited in numerous federal court fee decisions. For five years (2007–2011), I published a regular column entitled "Expert's Corner" in the publication *Class Action Attorney Fee Digest*. My work has been excerpted in casebooks on complex litigation, as noted on my c.v.

5. My expertise in complex litigation has been recognized by judges, scholars, and lawyers in private practice throughout the country for whom I regularly provide consulting advice and educational training programs. For each of the past ten years, the Judicial Panel on Multidistrict Litigation (JPML) has invited me to give a presentation on the current state of class action law at the annual MDL Transferee Judges Conference, and I have often spoken on the topic of attorney's fees to the MDL judges. The Federal Judicial Center invited me to participate as a panelist (on the topic of class action settlement approval) at its March 2018 judicial workshop celebrating the 50th anniversary of the JPML, *Managing Multidistrict and Other Complex Litigation Workshop*. The Ninth Circuit invited me to moderate a panel on class action law at the 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop. The American Law Institute selected me to serve as an Adviser on a Restatement-like project developing the *Principles of the Law of Aggregate Litigation*. In 2007, I was the co-chair of the Class Action Subcommittee of the Mass Torts Committee of the ABA's Litigation Section. I am on the

Advisory Board of the publication *Class Action Law Monitor*. I have often presented continuing legal education programs on class action law at law firms and conferences.

6. My teaching focuses on procedure and complex litigation. I regularly teach the basic civil procedure course to first-year law students, and I have taught a variety of advanced courses on complex litigation, remedies, and federal litigation. I have received honors for my teaching activities, including: the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence, as the best teacher at Harvard Law School during the 2011–2012 school year; the Rutter Award for Excellence in Teaching, as the best teacher at UCLA School of Law during the 2001–2002 school year; and the John Bingham Hurlbut Award for Excellence in Teaching, as the best teacher at Stanford Law School during the 1996–1997 school year.

7. My academic work on class action law follows a significant career as a litigator. For nearly eight years, I worked as a staff attorney and project director at the national office of the American Civil Liberties Union (ACLU) in New York City. In those capacities, I litigated dozens of cases on behalf of plaintiffs pursuing civil rights matters in state and federal courts throughout the United States. I also oversaw and coordinated hundreds of additional cases being litigated by ACLU affiliates and cooperating attorneys in courts around the country. I therefore have personally initiated and pursued complex litigation, including class actions.

8. I have been retained as an expert witness in roughly 85 cases and as an expert consultant in about another 30 cases. These cases have been in state and federal courts throughout the United States, most have been complex class action cases, and many have been MDL proceedings. I have been retained to testify as an expert witness on issues ranging from the propriety of class certification, to the reasonableness of settlements and fees, to the preclusive

effect of class action judgments. I have been retained by counsel for plaintiffs, for defendants, for objectors, and by courts:

- From 2018–2020, I served as an expert consultant to the Court on complex class action and fees issues in the national opioid MDL, pending in the United States District Court for the Northern District of Ohio.
- In 2017, the United States District Court for the Eastern District of Pennsylvania appointed me as an expert witness on certain attorney’s fees issues in the NFL concussion litigation. In my final report to the Court, I recommended, *inter alia*, that the Court should cap individual retainer agreements at 22%, a recommendation that the Court adopted.⁹
- In 2015, the United States Court of Appeals for the Second Circuit appointed me to argue for affirmance of a district court order that significantly reduced class counsel’s fee request in a large, complex securities class action, a task I completed successfully when the Circuit summarily affirmed the decision on appeal.¹⁰

9. One of the functions I can provide as an expert witness is to present empirical evidence of class action practices from other cases. As part of my scholarly work on class action law, I have created and maintain a database containing data on more than 1,000 class action lawsuits. Specifically, my research assistants coded the data from case reports appearing in the journal, *Class Action Attorney Fee Digest* (CAAFD). CAAFD was published monthly from January 2007 to September 2011 for a total of 57 issues, and reported on 1,187 unique court-approved state and federal class actions. For each case, a CAAFD case abstract describes the awarding court and judge, the subject matter of the dispute, the settlement/judgment benefits, the attorney fee and expense awards (both as requested by plaintiff’s counsel and as approved by the

⁹ *In re Nat’l Football League Players’ Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *1 (E.D. Pa. Apr. 5, 2018) (“I adopt the conclusions of Professor Rubenstein and order that IRPAs’ fees be capped at 22% plus reasonable costs.”).

¹⁰ *See In re IndyMac Mortg.-Backed Sec. Litig.*, 94 F. Supp. 3d 517 (S.D.N.Y. 2015), *aff’d sub nom. DeValerio v. Olinski*, 673 F. App’x 87 (2d Cir. 2016).

court), the case filing and attorney fee award dates, any named plaintiff awards, and miscellaneous data on case and settlement/judgment administration. In creating the database from the CAAFD reports, my research team cross-checked the accuracy of a subset of federal reports against source documents from PACER; we found only one error – an understatement of the settlement benefit value by 2% – in 726 data fields, or fewer than 0.15% of fields. I am therefore confident about the accuracy of the data in my database and use it regularly as a source for my scholarship and expert witness work.

10. Courts have often relied on expert witness testimony in fee matters.¹¹

11. I have been retained in this case to provide an opinion concerning the issues set forth in the first paragraph, above. I am being compensated for providing this expert opinion. I was paid a flat fee in advance of rendering my opinion, so my compensation is in no way contingent upon the content of my opinion.

12. In analyzing these issues, I have discussed the case with the counsel who retained me. I have also reviewed documents from this litigation, a list of which is attached as Exhibit B. I have also reviewed the applicable case law and scholarship on the topics of this Declaration.

¹¹ See, e.g., *In re Genetically Modified Rice Litig.*, 764 F.3d 864, 872 (8th Cir. 2014); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *4 (E.D. Pa. Apr. 5, 2018); *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2017 WL 3175924, at *3 (N.D. Cal. July 21, 2017); *Aranda v. Caribbean Cruise Line, Inc.*, No. 1:12-cv-04069, 2017 WL 1369741, at *5 (N.D. Ill. Apr. 10, 2017), *aff'd sub nom. Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792 (7th Cir. 2018); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL 5158730, at *9 (N.D. Cal. Sept. 2, 2015); *Asghari v. Volkswagen Grp. of Am., Inc.*, No. 13-CV-02529 MMM, 2015 WL 12732462, at *44 (C.D. Cal. May 29, 2015); *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-md-2591-JWL, 2015 WL 2165341, at *5 (D. Kan. May 8, 2015); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010); *Commonwealth Care All v. Astrazeneca Pharm. L.P.*, No. CIV.A. 05-0269 BLS 2, 2013 WL 6268236, at *2 (Mass. Super. Aug. 5, 2013).

II.
THE REMARKABLE SCOPE OF CLASS COUNSEL'S ACHIEVEMENT

13. Before analyzing the reasonableness of Class Counsel's proposed fee, I found myself wanting to contextualize Class Counsel's achievement in this matter. Why? Put simply, my initial reaction to hearing of this settlement was astonishment at the size of the common fund. I thought it had to be the largest data privacy settlement in history. I have followed class action privacy (often data breach) settlements with interest, particularly as my students and I helped litigate an internet privacy case against Google about a decade ago.¹² My sense is that most of these types of settlements are far below \$100 million and, because they tend to involve enormous class sizes, many are "full *cy pres*" settlements that return no money to class members directly.¹³ The first task I therefore assigned my research assistants when I began assessing the reasonableness of Class Counsel's fee request was to check whether empirical evidence of privacy settlements actually supported my gut instinct that this settlement is extraordinary.

14. I directed my research assistants to review recent (2015 to the present) privacy-related litigation in the federal courts. Using a neutral search term in Westlaw,¹⁴ they gathered an initial list of 680 cases. They proceeded to review each case, screening out cases that: (1) did not involve some privacy issue (2) did not result in a finally approved class settlement or (3) did not have sufficiently granular information (*e.g.*, adequate class size estimates) available to permit

¹² *In re Google Buzz Privacy Litig.*, No. C 10-00672 JW, 2011 WL 7460099 (N.D. Cal. June 2, 2011) (granting final approval).

¹³ For a discussion of full *cy pres* settlements, see 5 *Newberg on Class Actions* § 15:89.

¹⁴ The specific search string used was <"final approval" & "settlement" & ("data breach" "privacy" "Stored Communications Act" "Fair Credit Reporting Act" "Telephone Consumer Protection Act" "Computer Fraud #and Abuse Act" "Health Insurance Portability #and Accountability Act") & DA(aft 12/31/2014)>, which as of October 5, 2020 returned 680 cases.

comparison. To ensure they had not missed anything, they then checked their Westlaw results with Google searches, identifying three additional settlements not found on Westlaw.¹⁵ This effort yielded data set of 75 settlements at or above \$5 million, from which the information in the following paragraphs is drawn.

15. We first ranked the 20 largest privacy settlements from largest to smallest, with Table 1, below, reflecting the ranking.

¹⁵ These three are: (1) *Edwards v. Hearst Commc'ns, Inc.*, No. 1:15-cv-09279 (S.D.N.Y. Apr. 24, 2019), ECF No. 314; (2) *Bull v. US Coachways, Inc.*, No. 1:14-cv-05789 (N.D. Ill. Nov. 9, 2016), ECF No. 87; and (3) *Medeiros v. HSBC Card & Retail Servs., Inc.*, No. 2:15-cv-09093 (C.D. Cal. Nov. 29, 2017), ECF No. 109.

TABLE 1
LARGEST PRIVACY CLASS SETTLEMENTS SINCE 2015
SORTED BY SIZE OF SETTLEMENT FUND

#	Case	Settlement
1	In re Facebook Biometric Info. Privacy Litig.	\$650,000,000
2	In re Equifax Inc. Customer Data Sec. Breach Litig.	Max: \$505,500,000 Min: \$380,500,000
3	In re USC Health Ctr. Litig.	\$215,000,000
4	Jabbari v. Wells Fargo & Co.	\$142,000,000
5	In re Yahoo! Inc. Customer Data Sec. Breach Litig.	\$117,500,000
6	In re Anthem, Inc. Data Breach Litig.	\$115,000,000
7	Ebarle v. Lifelock, Inc.	\$80,808,000
8	Birchmeier v. Caribbean Cruise Line, Inc.	\$76,000,000
9	In re Capital One Tel. Consumer Prot. Act Litig.	\$75,455,099
10t	First Choice Fed. Credit Union v. Wendy's Co.	\$50,000,000
10t	Edwards v. Hearst Commc'ns, Inc.	\$50,000,000
12	Bull v. US Coachways, Inc.	\$49,932,375
13	Hageman v. AT&T Mobility LLC	\$45,000,000
14	White v. Experian Info. Sols., Inc.	\$44,150,666
15	Wilkins v. HSBC Bank Nevada, N.A.	\$39,975,000
16	In re Easysaver Rewards Litig.	\$38,000,000
17	Hooker v. Sirius XM Radio, Inc.	\$35,000,000
18	Gehrich v. Chase Bank USA, N.A.	\$34,000,000
19	In re Premera Blue Cross Data Breach Litig.	\$32,000,000
20	In re the Home Depot, Inc. Data Breach Litig.	\$28,444,056

16. Table 1 shows that, in terms of raw value, this settlement is in a class of its own. The second settlement on the list (the Equifax data breach) is deceptively close, as the vast bulk of the settlement was allotted to credit monitoring, not direct cash payouts to class members.¹⁶

¹⁶ This is true of several other data breach settlements on the list: for example, the \$115 million valuation of the Anthem settlement is primarily attributable to credit monitoring, as the settlement set a cap of \$15 million on reimbursement of out-of-pocket costs and \$13 million for cash payments for class members who already had credit monitoring. *See Settlement Agreement at §§ 5.3, 6.4, In re Anthem, Inc. Data Breach Litig.*, No. 5:15-md-02617 (N.D. Cal. Dec. 1, 2017), ECF No. 916-20. Similarly, the Home Depot settlement set aside \$6.5 million for credit-monitoring type services and the \$13 million cash component required reasonable documentation

The third settlement on the list is less than a third the size of this settlement, and the numbers decrease rapidly thereafter: more than half of the top 20 settlements did not secure even 10% of the amount of this settlement.

17. Raw settlement size can be deceiving if the size of the underlying class varies across the settlements. Accordingly, we next aimed to assess settlements in terms of the amounts returned per class member, focusing on settlements with more than one million class members.¹⁷ We did so by simply dividing the size of the common fund by the number of class members.¹⁸ Table 2 reports the results of this comparison.¹⁹

of substantiated losses. *See* Settlement Agreement & Release, *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, No. 1:14-md-02583 (N.D. Ga. Mar. 7, 2016), ECF No. 181-2.

¹⁷ We limited this comparison to cases involving classes encompassing one million or more members because recovery-per-class-member varied rather significantly depending upon the size of the class. Nonetheless, as set forth below, *see infra* note 20, this settlement fares well per class member against the full data set.

¹⁸ This analysis does not account for potentially different claiming rates across the cases, but that data is rarely available, *see* Nicholas M. Pace & William B. Rubenstein, *Shedding Light on Outcomes in Class Actions*, in CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM 20 (Joseph W. Doherty, Robert T. Reville & Laura Zakaras eds., 2012) (with Nicholas M. Pace) (describing absence of data on claiming rates), and we had no reason to believe it would vary so significantly from case to case as to significantly alter our conclusions.

¹⁹ The class size estimate for this settlement was drawn from the Plaintiffs' Motion for Class Certification at 6, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. Dec. 8, 2017), ECF No. 255.

TABLE 2
HIGHEST PER-CLASS-MEMBER RECOVERY
IN PRIVACY SETTLEMENTS WITH CLASS SIZES OF ONE MILLION
OR MORE (SINCE 2015)

#	Case	Per Member
1	In re Facebook Biometric Info. Privacy Litig.	\$93.64
2	Birchmeier v. Caribbean Cruise Line, Inc.	\$73.05
3	Jabbari v. Wells Fargo & Co.	\$52.01
4	In re Easysaver Rewards Litig.	\$29.23
5	Snyder v. Ocwen Loan Servicing	\$14.75
6	Edwards v. Hearst Commc'ns, Inc.	\$12.75
7	Ebarle v. Lifelock, Inc.	\$12.43
8	Hashw v. Dep't Stores Nat'l Bank	\$10.42
9	In re Uber FCRA Litig.	\$7.91
10	Medeiros v. HSBC Card Servs.	\$7.53
11	Wright v. Nationstar Mortg. LLC	\$5.16
12	Bowman v. Art Van Furniture, Inc.	\$5.03
13	Lee v. Global Tel*link Corp.	\$4.90
14	Vasco v. Power Home Remodeling LLC	\$4.71
15	Charvat v. Resort Mktg. Grp., Inc.	\$4.55
16	Wilkins v. HSBC Bank Nevada, N.A.	\$4.41
17	In re Capital One Tel. Consumer Prot. Act Litig.	\$4.31
18	Duncan v. JPMorgan Chase Bank, N.A.	\$4.13
19	Markos v. Wells Fargo Bank, N.A.	\$3.96
20	In re Equifax Inc. Customer Data Sec. Breach Litig.	\$3.44

18. Table 2 again shows the extraordinary achievement here: compared to other large-class privacy settlements, the recovery per class member here is about 30% higher than the next closest settlement, nearly twice the size of the second closest, and more than three times the size of the third closest.²⁰ Fifteen of these cases return less than \$15 per member, while this settlement returns close to \$100.

²⁰ As noted above, *see supra* note 17, we limited the comparison set to settlements with large class sizes, but it hardly mattered. When we compared the per-class-member recovery here to

19. There are two other comparatives that we considered and found inapposite, for somewhat interlocking reasons.

a. *First*, we considered comparing the recovery per class member in this case to the potential recovery of statutory damages. This comparison would enable a conclusion that counsel secured some specific percentage of the potential statutory relief – and we could then compare how they did to how class counsel have done in other statutory damage cases. There were two problems with this analysis, one practical and one conceptual. The practical problem is that assigning a set statutory damage to cases is not a straightforward task. Statutory damages vary from statute to statute, within each statute they might vary according to degree of the wrong or the number of harms, and many cases may start with allegations under multiple statutes enabling statutory damages. More conceptually, comparing individual recoveries in statutory damage class actions to individual statutory damage awards is an apples-to-oranges comparison. Why? I am not aware of any class action case in which (a) a class of significant size such as this one was certified and a case then (b) tried to a judgment awarding something akin to (full) statutory damages to each class member. The numbers would be so staggering in such a situation, some courts (though not the Ninth Circuit)²¹ have taken the position that classes cannot

the cases in Table 1 – representing the 20 largest privacy settlements in terms of raw value – it was still the fifth highest. The four settlements with larger recoveries per class member all involved significantly smaller class sizes: the first three involve classes between 5,000–16,000 members, while the fourth involved a class of 143,000 members, about 2% the size of the present class. Moreover, the numbers fell quickly in the comparison, with half of the top 20 cases returning less than \$5 per class member. When compared to our full dataset of 75 privacy settlements, this settlement falls in the top quartile and is about nine times greater than the median per-class-member recovery (\$10.42).

²¹ *Bateman v. American Multi-Cinema, Inc.*, 623 F.3d 708 (9th Cir. 2010).

be certified for statutory damages.²² A step back helps clarify why: both the class action device itself and statutory damage awards are mechanisms meant to enable litigation (so as to deter wrongdoing) in cases involving small or difficult-to-calculate harms. The two devices are rarely combined – individuals pursuing their own cases, or small-group/class cases, might receive 100% statutory damage awards, but when a class of millions is assembled, the flat amount of the statutory damage award may no longer be the appropriate measuring stick for each class member’s relief. Again, some courts have seen that as a reason not to certify a class – finding that a class action is not a “superior” form of adjudication in these circumstances²³ – but that conclusion is unfortunate: left to individual actions, maybe a few dozen class members here would actually collect \$1,000, penalizing Facebook a few thousand dollars. The class suit is the only meaningful deterrent, and it surely hits that mark in disgorging Facebook of \$650 million, but that large a collective recovery necessarily breaks down to smaller amounts per class member. Thus the best approach to statutory damage *class actions* involving large classes, one endorsed by the Eighth Circuit, is to enable class certification but simultaneously to ensure that the total damage award is not so excessive as to violate the Due Process Clause; in the pertinent Eighth Circuit case, the District Court achieved this end by reducing a \$500 statutory damage award for a class of about three million to \$10, yielding a \$32 million total judgment.²⁴ In sum,

²² The classic case is *Ratner v. Chemical Bank New York Trust Co.*, 54 F.R.D. 412 (S.D.N.Y. 1972). For a listing of the many other cases on point, discussion and critique, see 2 *Newberg on Class Actions* § 4:83 & n.13.

²³ For a listing, see 2 *Newberg on Class Actions* § 4:83 n.13.

²⁴ See *Golan v. Veritas Entm't, LLC*, No. 4:14CV00069 ERW, 2017 WL 3923162 (E.D. Mo. Sept. 7, 2017), *aff'd sub nom. Golan v. FreeEats.com, Inc.*, 930 F.3d 950 (8th Cir. 2019).

aiming to compare the per-class-member recovery in a class action involving a seven million member class to individual statutory damage amounts is not a pertinent mode of analysis.

b. *Second*, the analysis from the last sub-paragraph also helps explain why comparing this settlement to settlements under Illinois's Biometric Information Privacy Act (BIPA) is not particularly enlightening. While we focused on a comparison set of cases litigated in federal court, as this case is a BIPA case, we also reviewed a set of about 50 BIPA cases primarily litigated in state court. We concluded that the BIPA settlements did not provide a particularly useful comparison for three reasons: (1) most of the BIPA cases involved employees suing their employers for collecting biometric data (*e.g.*, finger scans) without their consent;²⁵ (b) the class sizes were therefore relatively miniscule (only one case had more than 10,000 class members and the vast bulk had fewer than 1,000); and (3) the resulting settlement funds accordingly much smaller in size than this settlement (the largest to date only about 1% the size of this fund).²⁶ For the reasons outlined in the prior sub-point, these cases returned a higher recovery per class member than this case, but given our findings that the raw size of this settlement fund and of its class are both so distant from any of the BIPA settlement funds or class sizes, those per-class-member recoveries do not shed much light on the strength of Class Counsel's achievement.

²⁵ See, *e.g.*, Final Judgment & Order of Dismissal with Prejudice at ¶ 3, *Fluker v. Glanbia Performance Nutrition Inc.*, No. 2017-CH-12993 (Ill. Cir. Ct. Aug. 25, 2020) (certifying settlement class of the defendant's current and former employees who used a finger scan for timekeeping purposes); Final Judgment & Order of Dismissal with Prejudice at ¶ 3, *Lloyd v. Xanitos, Inc.*, No. 2018-CH-15351 (Ill. Cir. Ct. July 25, 2019) (similarly certifying employee class).

²⁶ See *Prelipceanu v. Jumio Corp.*, No. 2018-CH-15883 (Ill. Cir. Ct. July 21, 2020) (approving a \$7 million settlement).

20. In my qualitative assessment of the reasonableness of the proposed fee award, I return to analyze the results Class Counsel achieved for the class. *See* Part III(D), *infra*. This preliminary analysis, however, has convinced me that my gut instinct about this settlement was accurate: the sheer size of the settlement is totally unparalleled, as is its recovery per class member, especially when compared to large class settlements. Put simply, this is a milestone class action settlement. This review helps contextualize the analysis of the proposed fee that follows.

III. THE REQUESTED FEE IS REASONABLE

21. This Court has recently articulated the legal standard for a fee petition as follows:

District courts in the Ninth Circuit use either the “percentage-of-the-fund” or the “lodestar” method in calculating fees in common fund settlements. Using either method, the ultimate inquiry is whether the end result is reasonable. Where there is an easily quantifiable benefit to the class—namely, the cash recovery achieved through the settlement—the percentage of the fund approach is appropriate. Indeed, the percentage-of-the-fund method is *preferred* when counsel’s efforts have created a common fund for the benefit of the class. . . . Courts in the Ninth Circuit applying the “percentage of the fund” approach use a twenty-five percent benchmark. Selection of the benchmark or any other rate, however, must be supported by findings that take into account all of the circumstances of the case. The benchmark is subject to adjustment—upward or downward—based on the Court’s analysis of the factors the Ninth Circuit considered in *Vizcaino*: (1) the results achieved for the class; (2) the complexity of the case and the risk of and expense to counsel of litigating it; (3) the skill, experience, and performance of counsel on both sides; (4) the contingent nature of the fee; and (5) fees awarded in comparable cases.²⁷

Following this Court’s approach in applying Ninth Circuit fees law, the following sections consider the reasonableness of Class Counsel’s requested percentage (Part III(A), *infra*); their

²⁷ *In re Capacitors Antitrust Litig.*, No. 3:17-md-02801-JD, 2018 WL 4790575, at *2–3 (N.D. Cal. Sept. 21, 2018) (Donato, J.) (citations and internal quotation marks omitted).

proposed hourly rates (Part III(B), *infra*); their total hours (Part III(C), *infra*); and their proposed multiplier, in quantitative and qualitative (risks and results) terms (Part III(D), *infra*).

(A)

***The Requested Fee is Significantly Below the Ninth Circuit's 25% Benchmark,
While at the High End of Percentages in Larger Fund Cases***

22. Class Counsel seek a fee constituting 20% of the original \$550 million settlement amount. They seek no additional fee from the extra \$100 million added to the common fund following the Court's rejection of the initial preliminary approval motion.²⁸

23. Class Counsel's requested 20% is in the appropriate range of percentage awards generally and at the high end of the range of percentages awarded in larger fund cases like this, as shown by several independent indicia:

- In the Ninth Circuit, 25% is the benchmark, or normal, fee.²⁹
- Empirical research from one study demonstrated that, in common fund cases between 1993–2008, the mean percentage award in the Ninth Circuit was 25%³⁰ and in the Northern District of California specifically, 26%.³¹
- Empirical research from a second study demonstrated that, in common fund cases between 2009–2013, the mean percentage award in the Ninth Circuit was 26%³² and in the Northern District of California specifically, also 26%.³³

²⁸ As I explained above, *see* note 2, *supra*, it is nonetheless plausible to view Class Counsel's proposed fee as 16.9% of the \$650 million total fund and, of course, that alternative framing only bolsters the conclusions I reach herein.

²⁹ *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047–48 (9th Cir. 2002).

³⁰ *See* Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 260 tbl.4 (2010) [hereinafter "Eisenberg & Miller II"].

³¹ *See id.* at 259 tbl.3.

³² Theodore Eisenberg, Geoffrey Miller & Roy Germano, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. Rev. 937, 951 tbl.3 (2017) [hereinafter "Eisenberg & Miller III"].

³³ *Id.* at 950 tbl. 2.

- Empirical research from a third study demonstrated that the mean award for all settlements in the Ninth Circuit in a two-year period (2006–2007) was 23.9%.³⁴
- Empirical research shows that in 16 of the 20 largest privacy settlements over the past five years (discussed in the prior section), the mean percentage award was 25.3% and the median 23.97%.³⁵
- Empirical research demonstrates that percentage awards tend to decrease as the size of the fund increases.³⁶ While the effect is easily demonstrated in the aggregate,³⁷ pinning down percentage awards for this level of settlement is more difficult given that relatively few settlements reach this magnitude. One study divided settlements by size into ten tranches and found that the mean award in the top tranche (settlements over \$175.5 million) was 12%;³⁸ a later version of that study, using the same methodology, found that the mean award for the top tranche (settlements over \$67.5 million) was 22.3%.³⁹ A third study, using the same methodology, found that the mean award in the top tranche was 18.4% (settlements over \$72.5 million).⁴⁰ That third study then broke the top tranche into five sub-tranches, with the three middle tranches reflecting mean awards of 17.9% (\$100–\$250 million), 17.8% (\$250–\$500 million) and 12.9% (\$500 million–\$1 billion); while the last data point is most closely correlated with the size of this settlement, it reflects only two underlying data points.⁴¹
- In my own dataset (described in ¶ 9 above), there are 11 similarly sized settlements (\$400–\$800 million), with the average percentage award across 10 of

³⁴ Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical Legal Stud. 811, 836 tbl.9 (2010).

³⁵ We were not able to pin down a percentage award in three of the cases and the fourth missing case among the top 20 is this case.

³⁶ This is referred to as the “mega-fund” or “mega-case” concept. *See 5 Newberg on Class Actions* § 15:81.

³⁷ *See id.* Graphs 1–2.

³⁸ Eisenberg & Miller II, *supra* note 30, at 265 tbl.7.

³⁹ Eisenberg & Miller III, *supra* note 32, at 948 & fig.5.

⁴⁰ Fitzpatrick, *supra* note 34, at 839 tbl.10.

⁴¹ *Id.* at 839 tbl.11.

these settlements being 16.0% and the percentage award in the median case of the 10 being 15.5%.⁴²

24. These data points support the conclusions that Class Counsel's requested fee of 20% of the common fund is below the Ninth Circuit benchmark, below the actual awards in Northern District and Ninth Circuit cases, below the percentages awarded in other large privacy cases, and somewhat higher than the percentages awarded in so-called mega-fund cases.

(B)
The Requested Hourly Rates Are Reasonable

25. The *Manual for Complex Litigation* states:

What constitutes a reasonable hourly rate varies according to geographic area and the attorney's experience, reputation, practice, qualifications, and customary charge. The rate should reflect what the attorney would normally command in the relevant marketplace.⁴³

Two sets of related data demonstrate the reasonableness of the requested rates: a comparison of the rates sought to the rates approved by courts in the Northern District of California in 2019 (¶¶ 26–30, *infra*); a comparison of Class Counsel's blended lodestar to rates approved by courts in the Northern District in 2019 (¶¶ 31–32, *infra*).

26. For purposes of this Declaration, I directed my research assistants to create a database of Northern District of California fee rates to serve as an empirical basis by which to assess the reasonableness of Class Counsel's proposed rates. Using the Federal Judicial Center's

⁴² I have excluded the 11th case because the percentage award was calculated against potential benefits to a class in a way that amounted to 0.2% of those potential benefits.

⁴³ *Manual for Complex Litigation (Fourth)*, § 14.122 (2004) (citing *Blum v. Stenson*, 465 U.S. 886, 895 (1984) (“‘[R]easonable fees’ . . . are to be calculated according to the prevailing market rates in the relevant community”); *Lindy Bros. Builders, Inc. of Phila. v. Am. Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 167 (3d Cir. 1973)).

database listing all civil cases terminated in a given year,⁴⁴ my research assistants identified (a) all class actions (b) terminated in the Northern District with (c) judicially approved settlements in 2019. They then reviewed the order granting approval of class counsel's fees to see if the fees included lodestar data and, if so, to see if the judge *explicitly* approved the proposed billing rates. This process yielded 19 total cases, listed in Exhibit D; no cases meeting these criteria were discarded. My team then reviewed class counsel's lodestar submissions in each of the 19 cases and found that they encompassed a total of 166 individual hourly rates, 164 of which we employ in our analysis.⁴⁵ We adjusted all these rates to August 2020 dollars using the U.S. Bureau of Labor Statistics' Producer Price Index-Office of Lawyers (PPI-OL) index.⁴⁶

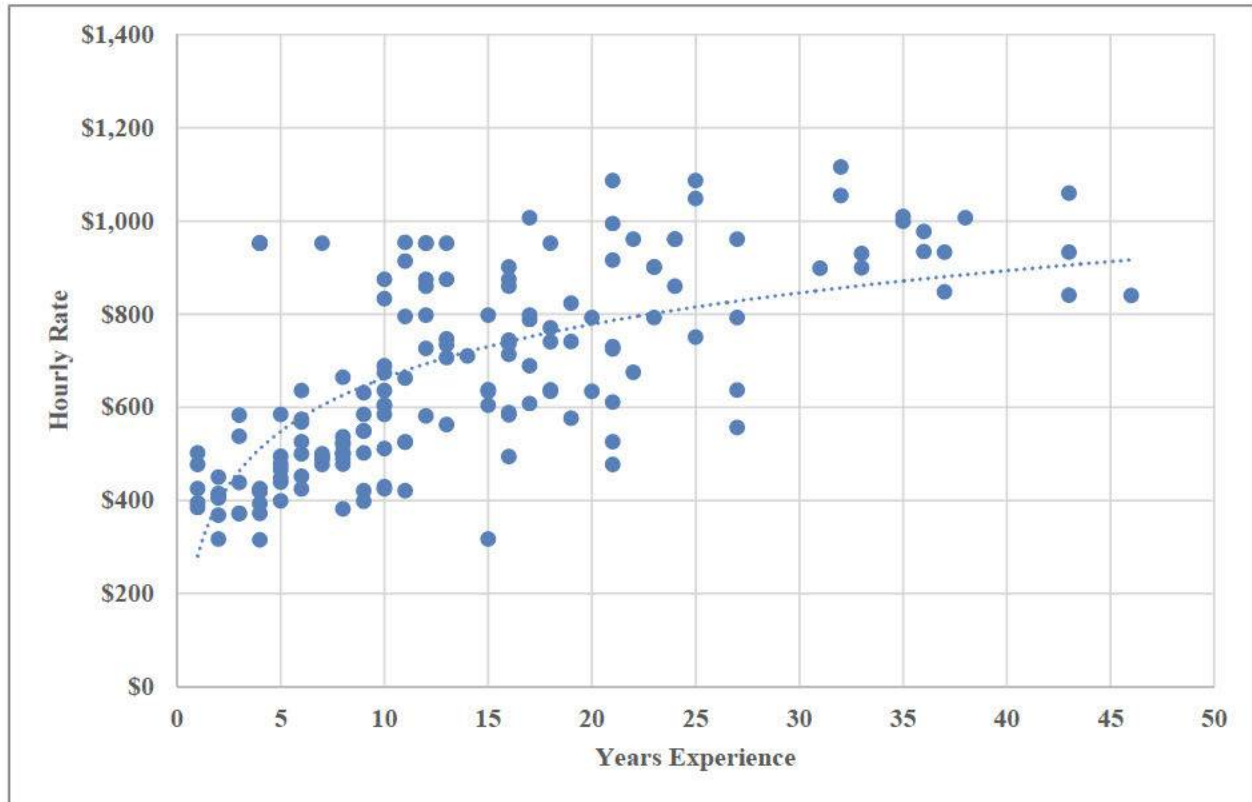
27. Once each timekeeper's experience level had been identified and all of the dollar amounts had been set at 2020 levels, we plotted the rates on an x-y axis, with the x-axis representing the years since the timekeeper's admission to the bar and the y-axis representing the timekeeper's hourly rate. The resulting scatter plot, set forth below in Graph 1, provides a snapshot of judicially approved hourly rates in 2019 Northern District of California class actions.

⁴⁴ *Civil Cases Filed, Terminated, and Pending from SY 1988 to Present*, Federal Judicial Center, <https://www.fjc.gov/research/idb/civil-cases-filed-terminated-and-pending-sy-1988-present>.

⁴⁵ As explained below, we plot the rates according to an attorney's year of admission to the bar; for two of the 166 total rates, we were unable to verify the attorney's admission year and accordingly did not utilize the associated rates.

⁴⁶ This price database can be accessed here: <https://www.bls.gov/ppi/#data>. To specifically access the PPI-OL, first click on "One Screen" in the "Industry Data" row below "PPI Databases." Then select "541110 Offices of lawyers" as the industry and "541110541110 Offices of lawyers" as the product.

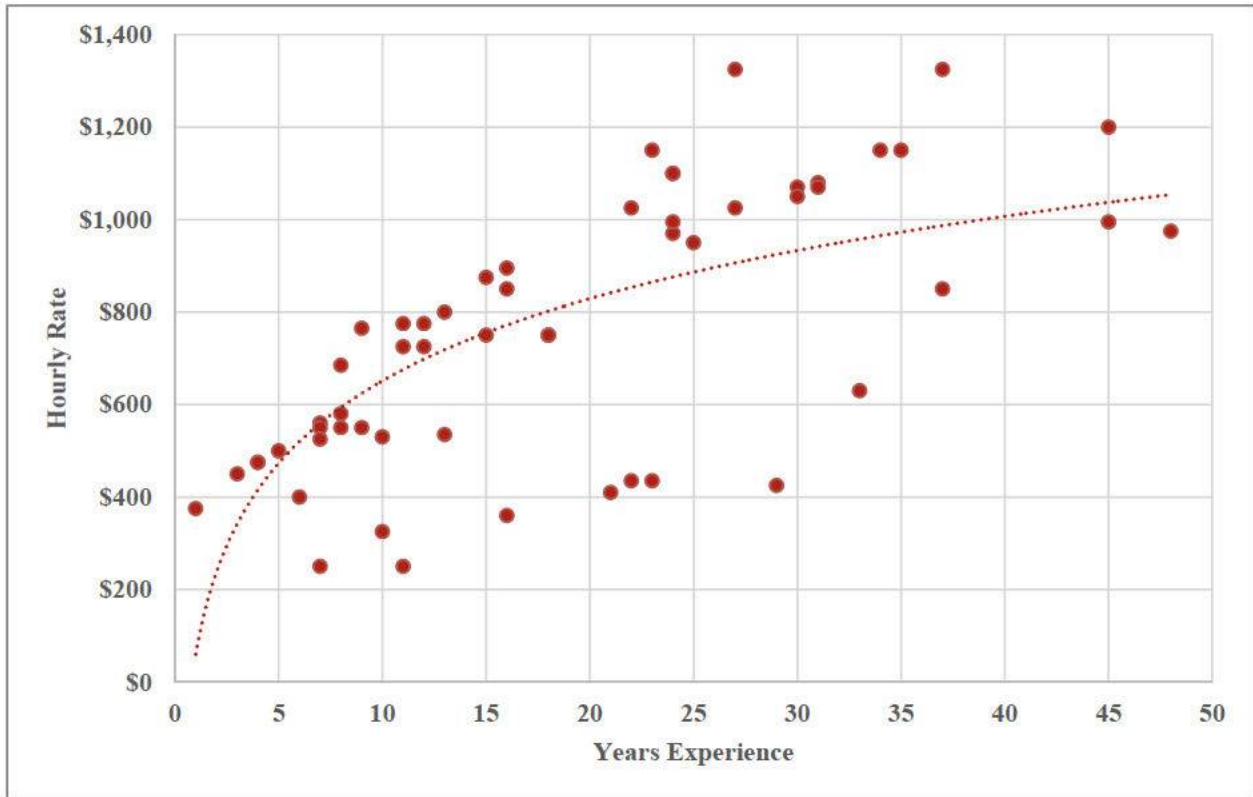
GRAPH 1
JUDICIALLY APPROVED HOURLY RATES IN 2019 N.D. CAL. CLASS ACTIONS



28. I next directed my research assistants to similarly plot the rates utilized by Class Counsel in this matter. Class Counsel supplied us with spreadsheets containing the names of 56 professionals (non-paralegals), their year of admission to the bar, and their proposed hourly rates.⁴⁷ We plotted these rates onto the same type of x-y axis that we had employed for the Northern District of California comparison set. The resulting scatter plot, set forth below in Graph 2, provides a snapshot of Class Counsel’s proposed billing rates, with the red logarithmic trend line sketching the trend of Class Counsel’s rates across experience levels.

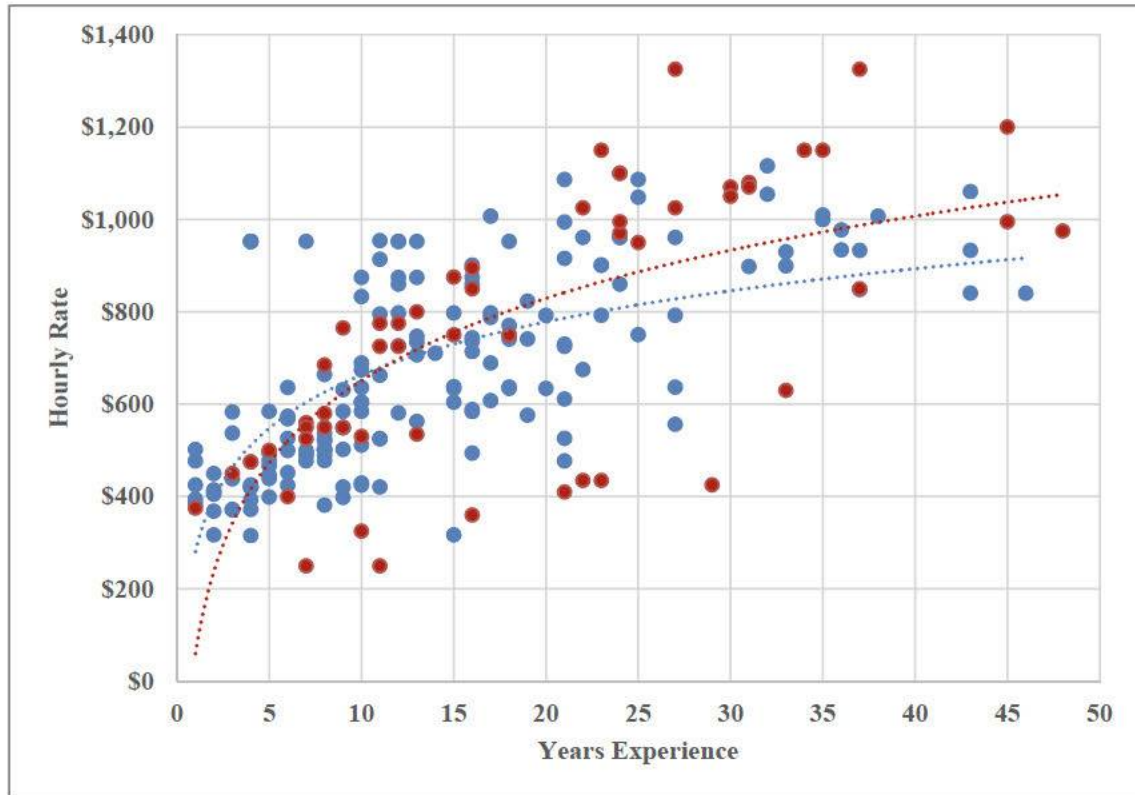
⁴⁷ Class Counsel utilize their current rates for all time spent in the litigation. The law supports using current rates as “an appropriate adjustment for delay in payment.” *Missouri v. Jenkins*, 491 U.S. 274, 283–84 (1989).

GRAPH 2
CLASS COUNSEL’S PROPOSED HOURLY RATES



29. Finally, we aggregated the data from Graphs 1 and 2 onto a single scatter plot that indicates the judicially approved rates in the Northern District of California with blue dots and a blue logarithmic line and Class Counsel’s proposed rates with red dots and a red logarithmic line. These data appear in Graph 3, below.

GRAPH 3
CLASS COUNSEL'S PROPOSED HOURLY RATES

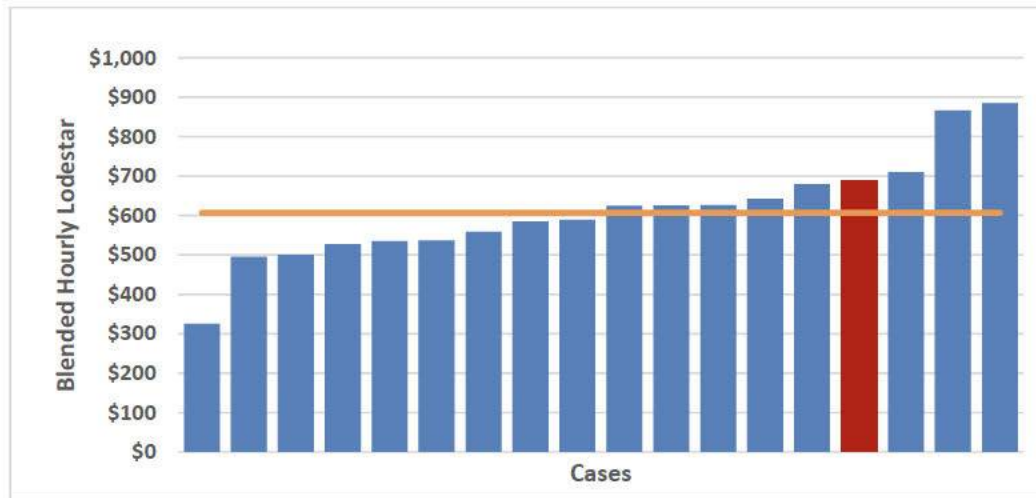


30. As Graph 3 demonstrates, the two logarithmic trend lines track one another somewhat closely. For lawyers with 12 years of experience or less, Class Counsel's trend line lies below the trend line for rates in approved Northern District of California class action fee petitions. For more senior lawyers, Class Counsel's trend line rises above the trend line for the comparison group. Specifically, the proposed rates for 25 of Class Counsel's 56 timekeepers are below the Northern District trend line; on average, Class Counsel's trend line is 11.1% below the approved rate trend line at those 25 points. For the 31 timekeepers whose rates are above the trend line, Class Counsel's trend line is, on average, 8.0% above the comparison trend line at those 31 points. When the differences between the trend lines are compared at all 56 points,

Class Counsel's trend line is, on average, 1.2% above the trend line for rates approved in Northern District of California class action fee petitions. That Class Counsel are charging rates slightly higher than the norm is not surprising: these firms are among the leading class action law firms in the United States, the lawyers who worked on this case possess years of experience, have track records of success, and can be counted among the elite of the profession generally and this area of law specifically; by contrast, the 2019 comparison set generally encompasses much smaller class actions (not one settled for more than \$30 million), typically litigated by more local attorneys specializing in discrete areas like wage-and-hour cases (35% of the comparison cases are wage-and-hour cases).

31. In addition to assessing the hourly rates of each lawyer, we also reviewed Class Counsel's blended lodestar. The blended lodestar is calculated by taking the total lodestar and dividing it by the total number of hours worked by all of the timekeepers (partners, associates, paralegals, etc.) in the case. The resulting number provides the cost of an average hour expended on the case. We reviewed the blended lodestar in this matter by comparing it to the blended lodestars in the 19 cases described in the prior paragraphs. The blended lodestar rate in the comparison cases (again adjusted to 2020 dollars) ranged from a low of \$325/hour to a high of \$885/hour, with a median rate of \$607. This is reflected in the Graph 4, below, with the blended lodestar in this case (\$688) highlighted in red and the median rate represented by the orange horizontal bar.

GRAPH 4
CLASS COUNSEL'S BLENDED LODESTAR COMPARED TO BLENDED
LODESTARS IN N.D. CAL. COMPARISON SET



32. As the Court can see, the blended rate in this case is on the higher end of the graph – about 13% above the median rate – but it is closer to the next lower grouping and median rate than it is to the two largest rates. A higher-than-average blended lodestar is typically attributable to the fact that there are more partner hours spent on a case than associate hours, often, for example, where there is not a mound of routine document review, but a host of tricky legal questions. That characterization fits this case in comparison to some other high-profile/large-settlement cases in which I have served as an expert, such as the Volkswagen Clean Diesel matter. Drilling down on the data, we also found that the primary component of the higher blended rate here is that the lawyers who worked on this case simply have more experience than the lawyers who worked on the comparable cases: the average experience for lawyers in this case is 18.9 years, while the average experience for lawyers in the comparison set is 14.1 years. When we weighted those averages based on how the work was distributed (that is, how many hours each lawyer billed), we found that the average hour in the comparison set

decreased by less than 1% (14.1 to 14.0 years), while the average hour here dropped by 16% (18.9 to 15.8). That suggests that while the lawyers in this case have more experience than the lawyers in the comparison case, the experienced partners here also delegated work appropriately.

33. In sum, the hourly rates Class Counsel utilize are entirely consistent with the rates judges in this District explicitly approved in overseeing class action settlements in 2019, and the average, or blended, hourly rate – while above the median – appropriately reflects the level of lawyering required for a case of this magnitude.

(C)
The Total Amount of Hours Billed is Reasonable

34. Counsel are entitled to be compensated for reasonable time spent at all points in the litigation. Courts are cautioned to avoid engaging in an “*ex post facto* determination of whether attorney hours were necessary to the relief obtained.”⁴⁸ The issue “is not whether hindsight vindicates an attorney’s time expenditures, but whether, at the time the work was performed, a reasonable attorney would have engaged in similar time expenditures.”⁴⁹

35. I examined the hours that Class Counsel billed in two ways: *first*, by a quantitative comparison to the hours expended in similarly large cases (§ 36, *infra*); and *second*, by a qualitative analysis of the tasks undertaken (§ 37, *infra*).⁵⁰

⁴⁸ *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992).

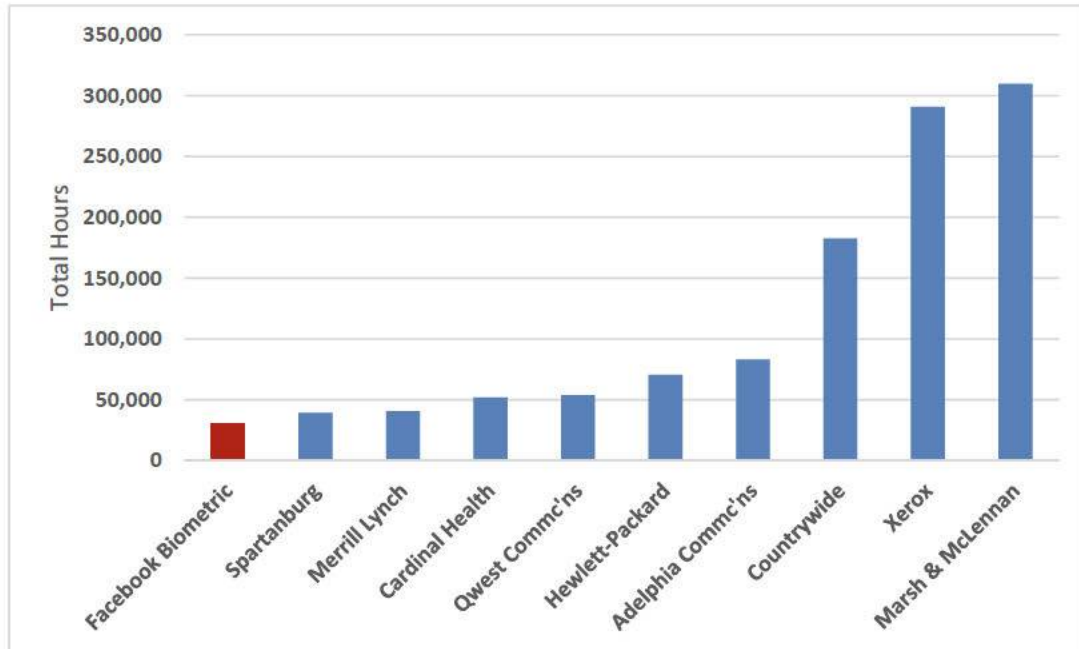
⁴⁹ *Id.*; accord *League of Residential Neighborhood Advocates v. City of Los Angeles*, 633 F. Supp. 2d 1119, 1133 (C.D. Cal. 2009) (noting that litigant’s brief quoted language from *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992), and approving time expended).

⁵⁰ Class Counsel did not provide me – nor did I ask to see – a breakdown of each hour expended, as such a fine-grained lodestar audit is not required for purposes of the lodestar cross-check. As this Court has noted, “[T]he lodestar cross-check calculation need entail neither mathematical precision nor bean-counting. The district courts may rely on summaries submitted by the

36. *Quantitative Assessment.* To analyze the hours Class Counsel expended on this case, I determined that the data set of 2019 Northern District of California class action approvals was unhelpful, as none of those cases exceeded \$30 million in recovery. Those cases therefore do not helpfully address the question of how many hours it might take lawyers to achieve a \$650 million settlement. Accordingly, I directed my research assistants to gather data from our own database (*see* ¶ 9, *supra*) of the hours expended in cases with settlements of comparable size. Our database contained 11 cases with settlements sizes ranging from \$400 million to \$800 million; the cases with the most and fewest hours had data so out of proportion to the other nine cases we excluded them from the following analysis (had we kept them in the database, the conclusions below regarding Class Counsel’s efficiency would only be bolstered). The hours in these cases ranged from 39,347 to 309,538. Graph 5 below shows the how the total hours in this case compare to the total hours in the set of comparably sized settlements.

attorneys and need not review actual billing records.” *In re Capacitors Antitrust Litig.*, No. 3:14-CV-03264-JD, 2017 WL 9613950, at *6 (N.D. Cal. June 27, 2017) (Donato, J.) (quoting *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 306–07 (3d Cir. 2005)); *see Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (“[W]here used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court.”).

GRAPH 5
TOTAL HOURS BILLED IN COMPARABLY SIZED CLASS SETTLEMENTS



37. As the Court can readily see, Class Counsel’s total hours (represented by the red bar) fall at the lowest range of these comparably sized settlements. This dispels any concerns that Class Counsel padded their lodestar and suggests that they performed their duties efficiently. Indeed, the average number of hours across the nine cases was 124,733 and the median case was 70,600. In this case, Class Counsel billed 30,128 hours to produce a comparably sized settlement. That means Class Counsel produced a settlement of comparable size in about a quarter of the time of the nine-case average across the comparison group and in less than half the time of the median case in the comparison group. The cross-check not only shows that they did not pad their hours, it suggests they did the opposite: securing an enormous settlement with remarkable efficiency.

38. *Qualitative Assessment.* Class Counsel initially filed a complaint in May 2015, over five years ago. Given the research that precedes the filing of that complaint, I estimate that the firms worked on this matter for about 5.5 years. In that time, Class Counsel have cumulatively logged about 30,000 hours of time, or roughly 5,455 hours/year, or the equivalent of 2.5 lawyers working close to full time (2,182 hours/year)⁵¹ on the case throughout its duration. A review of the various aspects of Class Counsel's work in this case supports the conclusion that these activities would have easily kept 2.5 lawyers busy full time for 5.5 years. These activities included:

- Identifying and understanding the defendant's practices of collecting, storing, and using biometric information, and undertaking all the factual investigation required before filing a detailed complaint in court;
- Linking that factual investigation to the proper legal claims by researching relevant legal precedents under state and federal law;
- Screening potential clients and securing retention;
- Preparing, filing, and serving the initial complaints, ensuring compliance with the pleading standards of Rule 8 and Rule 12, as interpreted by the Supreme Court in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007);

⁵¹ Roughly speaking, 2,200 hours/year may be considered as one lawyer working "full time." Data support this reference. The National Association for Law Placement (NALP)'s most recent data available online, published in February 2012, reflect the hours billed by firms in 2009 and 2010. *Number of Associate Hours Worked Increases at Largest Firms*, NALP (Feb. 2012), http://www.nalp.org/billable_hours_feb2012. Those data show that, for lawyers at the largest firms (700+ lawyers), about 2/3 billed more than 2,200 hours/year, and the average number of hours billed in 2010 was 2,208. These data are a good referent in that Class Counsel litigated this case against large law firms similar to those included in the NALP study. To compete with firms equipped with such significant expertise and resources, Class Counsel likely billed at least the number of hours they did in defending this case.

- Responding, successfully, to an initial motion to dismiss and motion for summary judgment concerning choice-of-law issues and the application of the Illinois Biometric Information Privacy Act to the software program at issue;
- Responding, successfully, to a subsequent motion to dismiss for lack of subject-matter jurisdiction based on the intervening Supreme Court decision in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016);
- Litigating several motions for summary judgment, involving issues such as Illinois’s extraterritoriality doctrine, the dormant Commerce Clause, and whether the defendant’s purported BIPA violations were negligent;
- Identifying, lobbying against, and help to deter proposed amendments to BIPA, including an amendment that’s retroactive effect would have ended this case;
- Undertaking discovery, including taking several lengthy and technical depositions;
- Identifying these experts and working with them to produce expert reports in conjunction with the class certification motions, including taking and defending expert depositions;⁵²
- Researching, drafting, filing, and serving a consolidated amended complaint;
- Researching, drafting, filing, and litigating a motion for class certification;
- Defending the class representatives’ depositions in conjunction with the class certification motion;
- Arguing, successfully, the class certification motion before this Court;
- Defending, successfully, this Court’s orders regarding Article III standing and class certification before the Ninth Circuit;

⁵² The complexities and novelty of the experts’ testimony in this matter is reflected in the brief Facebook filed in support of the proposed settlement. Facebook’s Supplemental Brief in Support of Preliminary Approval of the Settlement, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. May 8, 2020), ECF No. 447. There, Facebook leads the Court through the question of whether “Facebook’s facial recognition technology collects a ‘scan of face geometry’ under BIPA,” *id.* at 4–5, and in doing so, recounts the experts’ testimony in terms that require significant redactions of confidential information.

- Preparing the case for trial, including *in limine* motions, mock trials, and focus group work;
- Responding, again successfully, to several voluminous motions concerning attempts to disqualify or limit testimony of plaintiffs' expert witnesses;
- Engaging in several rounds of mediation to produce a settlement, including the 11-hour mediation with former U.S. Ambassador Jeffrey Bleich that produced an agreement in principle for the initial \$550 million settlement;
- Helping to memorialize and document the settlement terms in a final settlement agreement, including releases of liability, class action notices, and claim forms;
- Shepherding the settlement agreement through a contested preliminary approval process.

39. The range and depth of Class Counsel's efforts set forth in the prior paragraph adds important context to the low number of hours they expended on the case. That low number, standing alone, might have suggested that they got lucky with a strong merits case and simply "mailed in" a quick settlement. The qualitative review of Class Counsel's work demonstrates precisely the opposite: this was hard-fought litigation, prepared all the way to the brink of trial in this Court and fought in the Ninth Circuit as well. The outcome was never inevitable, and Class Counsel should be commended not just for achieving it, but for achieving it so efficiently.

40. In sum, the combination of the low quantity of total hours relative to other settlements of this magnitude and the qualitative review of Class Counsel's efforts easily support the conclusion that the hours expended were reasonable. Indeed, these data, combined with the outcome, show that Class Counsel achieved a monumental settlement in an expeditious fashion. This fact becomes critical in assessing the magnitude of their lodestar multiplier, a task to which I now turn.

(D)

***A Lodestar Enhancement Is Appropriate and
the Requested Multiplier, While on the High Side, Is in the Range of Multipliers
Justified in the Extraordinary Circumstances Presented Here***

41. Class Counsel’s \$110 million fee request constitutes a fee about 5 times higher than their lodestar.⁵³

42. Class action attorneys serve a critical social function in pursuing legal claims worth less than the cost of litigation (so-called “negative value claims”),⁵⁴ a function captured by the title “private attorneys general.”⁵⁵ Fees are what incentivize an attorney to set up an entire legal practice around the pursuit of such negative value claims. Yet if the contingent fee attorney were paid at only her hourly rate, she would have no incentive to invest her time and money in a client’s case – she would take the far less risky path of representing clients who could presently pay her on an hourly basis, as most corporate counsel are paid.

43. The California Supreme Court has summarized the point by quoting two commentators:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which

⁵³ At present, the fee is a 5.31 multiple of Class Counsel’s lodestar, but Class Counsel’s work will continue through the culmination of the claiming process here and may encompass appellate work if there are objectors who appear, lose, and appeal. (This is all separate and apart from time spent on the fee petition and/or defending the fee petition here or on appeal, which would not appear in Class Counsel’s lodestar in a common fund case.) The final lodestar multiplier will be closer to 5 and my analysis proceeds on that basis, particularly as the cross-check is not meant to be an exact science. *See supra* note 50.

⁵⁴ For a discussion, see William B. Rubenstein, *Why Enable Litigation: A Positive Externalities Theory of the Small Claims Class Action*, 74 U.M.K.C. L. Rev. 709 (2006).

⁵⁵ For a discussion, see William B. Rubenstein, *On What a “Private Attorney General” Is – And Why It Matters*, 57 Vand. L. Rev. 2129 (2004).

cancels the debt of the client to the lawyer) is much higher than that of conventional loans.⁵⁶

A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.⁵⁷

44. The Ninth Circuit has similarly embraced the multiplied fee, noting that:

[C]ourts have routinely enhanced the lodestar to reflect the risk of non-payment in common fund cases. This mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases. In common fund cases, attorneys whose compensation depends on their winning the case must make up in compensation in the cases they win for the lack of compensation in the cases they lose.⁵⁸

45. As the lodestar cross-check has long been a part of class action fee jurisprudence, there are numerous court opinions utilizing it in assessing proposed fees. Scholars have long studied the data from these cases and they have reported on them in a handful of oft-cited empirical studies published in the past quarter century. The studies each survey hundreds of instances of lodestar cross-check application and cumulatively cover thousands of cases across several decades.

⁵⁶ *Ketchum v. Moses*, 17 P.3d 735, 742 (Cal. 2001) (quoting Richard A. Posner, *Economic Analysis of Law* 534, 567 (4th ed. 1992)) (internal quotation marks omitted).

⁵⁷ *Id.* (quoting John Leubsdorf, *The Contingency Factor in Attorney Fee Awards*, 90 Yale L.J. 473, 480 (1981)) (internal quotation marks omitted).

⁵⁸ *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002) (internal quotation marks and citations omitted).

46. The empirical evidence that emerges from the studies is generally consistent in showing that the average percentage fee award embodies a positive lodestar multiplier.⁵⁹ In the five studies with pertinent data, the average lodestar multiplier ranged from 1.42 to 3.89.

TABLE 4
EMPIRICAL DATA ON LODESTAR MULTIPLIERS IN ALL CASES

	YEARS STUDIED	CASES WITH MULTIPLIER DATA	AVERAGE MULTIPLIER
Rubenstein & Krishna ⁶⁰	2006–2011	790	1.42
Eisenberg, Miller & Germano ⁶¹	2009–2013	294	1.48
Fitzpatrick ⁶²	2006–2007	204	1.65
Eisenberg & Miller ⁶³	1993–2008	368	1.81
Logan, Moore & Moshman ⁶⁴	1973–2003	1,120	3.89

⁵⁹ Some of that consistency is explained by the fact that a number of the studies cover similar years and report on the same cases. However, as the Court can see from the second and third columns in Table 4, the overlap across studies is relatively minimal and the results generally reinforce, not repeat, one another.

⁶⁰ 5 *Newberg on Class Actions* § 15:89 (5th ed. & Supp. 2019) (reporting on data from William B. Rubenstein & Rajat Krishna, *Class Action Fee Awards: A Comprehensive Empirical Study* (draft on file with author)).

⁶¹ See Eisenberg & Miller III, *supra* note 32, at 965 tbl. 12 (2017).

⁶² See Fitzpatrick, *supra* note 34, at 833–34. This average encompasses cases using both a percentage method with a lodestar cross-check and pure lodestar cases.

⁶³ See Eisenberg & Miller II, *supra* note 30, at 272 tbl.14. This multiplier data set excludes those cases that report a multiplier of 1, but appears to include cases with multipliers both below and above 1.

⁶⁴ See Stuart J. Logan, Beverly C. Moore & Jack Moshman, *Attorney Fee Awards in Common Fund Class Actions*, 24 *Class Action Rep.* 167, 167 (2003). This multiplier data set appears to include cases that utilized a percentage-of-the-fund method for calculating fees (without a lodestar cross-check), as well as those using a lodestar method and mixed methods. *Id.* at 169 (table headings).

47. What these data show is that across decades of class action practice, in thousands of cases throughout the United States, in the average case, the percentage-of-the-fund method yielded an award to class counsel of about 1.5 times their normal hourly rates.

48. All of the empirical studies with pertinent data⁶⁵ also show that multipliers tend to rise as the size of the class's fund increases. Thus, in Table 5, below, I present the data on average lodestar multiplier in cases with common funds of comparable size to this one. The average multiplier in these larger fund cases across the four studies is 3.20 (the average of the four numbers listed in the last column below).

TABLE 5
EMPIRICAL DATA ON MULTIPLIERS IN CASES OF COMPARABLE SIZE

	DEFINITION OF TRANCHE	CASES IN TRANCHE	AVERAGE MULTIPLIER
Eisenberg, Miller & Germano ⁶⁶	\$67.5 million+	35	2.72
Eisenberg & Miller ⁶⁷	\$175.5 million+	40	3.18
Rubenstein & Krishna ⁶⁸	\$44.6 million+	89	2.39
Logan, Moore & Moshman ⁶⁹	\$100 million+	64	4.50

49. While the multiplier sought here is higher than the average multiplier in cases with similar fund sizes, it is not a complete outlier. Case reports demonstrate that, in appropriate

⁶⁵ Professor Fitzpatrick's study, cited in Table 4, does not break down multiplier data by fund size.

⁶⁶ See Eisenberg & Miller III, *supra* note 32, at 967 tbl.13.

⁶⁷ See Eisenberg & Miller II, *supra* note 30, at 274 tbl.15.

⁶⁸ 5 *Newberg on Class Actions* § 15:89 (reporting on data from Rubenstein & Krishna, *supra* note 60).

⁶⁹ Logan, Moore & Moshman, *supra* note 64, at 167.

circumstances, courts have approved percentage awards embodying lodestar multipliers at or above the range sought here. Thus, this Court, citing the leading Ninth Circuit case on point, has stated that, “In the Ninth Circuit, a lodestar multiplier of around 4 times has frequently been awarded in common fund cases such as this.”⁷⁰ In the Ninth Circuit decision upon which this Court relied for the statement (*Vizcaino*), the Court established 25% as the benchmark percentage fee and approved a multiplier of 3.65, writing that this number “was within the range of multipliers applied in common fund cases”⁷¹ and appending a list of such cases to its decision. Similarly, in Exhibit C, I provide a list of 67 cases with multipliers of 4 or greater, 44 of which are cases with multipliers of 5 or greater. This list is not meant to be either exhaustive or representative of all multipliers. Rather, it demonstrates that courts approve percentage awards that embody multipliers consistent with the multiplier sought here in appropriate circumstances.

50. As courts have approved a fee award embodying multipliers in the 5 range in appropriate circumstances, the sole question is whether Class Counsel’s work in *this* case justifies this multiplier. The Ninth Circuit offers several reasonableness factors to consider in making this assessment, “including the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.”⁷² In the

⁷⁰ *In re Capacitors Antitrust Litig.*, 2017 WL 9613950, at *6 (N.D. Cal. June 27, 2017) (citing *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002)) (emphasis added).

⁷¹ *Vizcaino*, 290 F.3d at 1051; *see also Dyer v. Wells Fargo Bank, N.A.*, No. 13-CV-02858-JST, 2014 WL 5369395, at *6 (N.D. Cal. Oct. 22, 2014) (“A 2.83 multiplier falls within the Ninth Circuit’s presumptively acceptable range of 1.0–4.0. Given the complexity and duration of this litigation, the results obtained for the class, and the risk counsel faced in bringing the litigation, the Court finds the 2.83 multiplier appropriate.” (citation omitted)).

⁷² *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (citation omitted); *see also In re Capacitors Antitrust Litig.*, 2017 WL 9613950, at *3–4 (N.D. Cal. June 27, 2017) (Donato, J.) (applying standard by starting with results obtained and risks taken).

following paragraphs, I sort these factors into two categories – risks and results – and consider each in turn.

51. Nine independent factors demonstrate the riskiness of this case:⁷³

- ***This case was risky because it did not piggy-back on a government enforcement action.*** Many class actions follow on the heels of government enforcement actions, such as securities class actions that follow SEC enforcement actions or antitrust cases that follow Department of Justice actions. Class counsel have a lower risk in such cases as their investigative costs may be lower, as they may be able to employ non-mutual offensive issue preclusion to establish liability without litigation,⁷⁴ and/or as the defendant has a natural incentive to settle with the government, easing the road to settlement with the class. Not this case: no government agency has pursued this set of claims, using this privacy statute, against the defendant. Class Counsel detected, investigated, theorized, and executed the entire case from scratch.⁷⁵
- ***This case was especially risky because of its novelty.*** Many class actions are pursued by lawyers who specialize in particular areas (securities, antitrust, consumer, etc.) and can economize their practices and lower their risks by repeating efforts from one case to the next. Not this case: here Class Counsel have taken a relatively new state statute, typically used for smaller class actions involving employer/employee privacy concerns, and – for the first time – applied it to a practice of a huge national internet

⁷³ The point is not to look at Counsel’s risks *ex post*, but rather to demonstrate the strength of the achievement compared to the risks *ex ante*.

⁷⁴ See, e.g., *Parklane Hosiery Co., Inc. v. Shore*, 439 U.S. 322 (1979).

⁷⁵ As the Court is aware, Facebook has entered a separate, but marginally related, settlement with the Federal Trade Commission (FTC). I note that the FTC’s complaint against Facebook, though apparently based on a 2012 agreement between the FTC and Facebook, was filed in the summer of 2019, about four years after the commencement of this suit. See Complaint for Civil Penalties, Injunction & Other Relief, *United States of America v. Facebook*, No. 1:19-cv-02184-TJK (D.D.C. July 24, 2019), ECF No. 1. More pertinently, as Class Counsel have noted, the core of this case is unrelated to the FTC’s action, as “neither Face Recognition nor image tagging was a subject of the 2012 decree.” Plaintiffs’ Supplemental Brief in Support of Preliminary Approval of a Class Action Settlement at 23 n.23, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. July 9, 2020), ECF No. 465. Similarly, Facebook has explained that this settlement “provides prospective relief to the class that goes well beyond what is required by the FTC settlement,” Facebook’s Second Supplemental Brief in Support of Preliminary Approval of the Settlement at 9, ECF No. 462, and the company provided a Venn diagram showing that this case barely relates to the FTC matter, *id.* Based on this review, it seems clear to me that this lawsuit is *sui generis* and not a “piling on” to any government enforcement action.

organization. This application had no precedent and, as the Court is aware, Class Counsel spent significant time litigating the applicability of BIPA to Facebook’s specific tagging practices. Thus, Class Counsel laid out a list of novel issues a jury would have been asked to address had this case gone to trial: “[1] Whether Plaintiffs and the Class Members provided BIPA-compliant consent . . . [2] Whether Facebook collects ‘scans of face geometry’ . . . [3] Whether the photograph exclusion applied . . . [4] Whether Facebook negligently, willfully or recklessly violated the Statute . . . [and] [5] Where the offending conduct took place . . .”⁷⁶

- ***This case was especially risky because of its factual and legal complexity.*** All class action cases are typically more complex than the average contingent fee case – that is why the field is known as “complex litigation.” But many class actions involve straightforward enforcement of a well-worn statute. Not this case: the novel legal issues outlined in the prior bullet point involve complex technical questions, as does comprehension of Facebook platform and practices as applied to these biometric questions. Legally, the BIPA questions had no precedent and BIPA’s application outside of Illinois raised uncharted choice-of-law and extraterritoriality concerns.
- ***The case was risky because intervening Supreme Court doctrine threatened to foreclose the plaintiffs’ claims and/or capacity to proceed in the aggregate in federal court.*** Class Counsel commenced this case on May 14, 2015. Almost precisely one year later (May 16, 2016) the Supreme Court handed down its landmark decision in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016). As the Court is aware, the decision concerned the standing requirements for cases involving so-called statutory harms. As I explain in the *Newberg* treatise, the Court’s apparent tightening of the standing requirement led to an absolute flood of motions to dismiss statutory harm-based class actions such as this one.⁷⁷ I report that there were “roughly 150 **reported** decisions addressing whether *Spokeo* require dismissal of (primarily) statutory class actions”⁷⁸ and I note that while “a majority of courts rejected such challenges . . . about 60 cases were dismissed on *Spokeo* grounds.”⁷⁹ Based on these data alone – without knowing how many cases were dismissed without being reported – there was, roughly speaking, about a 40% chance that this case, and Class Counsel’s investment in it, could have been swept away on standing grounds in the wake of *Spokeo*.⁸⁰ That

⁷⁶ Plaintiffs’ Supplemental Brief in Support of Preliminary Approval, *supra* note 75, at 7–9.

⁷⁷ See 1 *Newberg on Class Actions* § 2:4.

⁷⁸ *Id.* (emphasis added).

⁷⁹ *Id.*

⁸⁰ It is plausible that Class Counsel could have re-lodged the case in state court thereafter, as state courts are not bound by Article III standing doctrine. However, that re-lodging is speculative and, at the least, would have required Class Counsel to begin again from scratch, without the benefits of the rulings in this matter to that point.

risk was especially palpable given that courts in fact dismissed BIPA cases on *Spokeo* grounds, as this Court is aware.⁸¹ It is extraordinarily rare that in the midst of high-profile, high-stakes litigation of this type, a single Supreme Court decision cuts so broad a path of destruction through a field of litigation.

- ***This case was especially risky because Class Counsel litigated against a large, well-funded defendant.*** Facebook is one of the ten largest public companies by market capitalization, coming in at \$629 billion.⁸² Facebook’s general and administrative costs – which include its legal costs – were roughly \$10.5 billion in 2019,⁸³ meaning the company spent close to \$30 million every single day of the year on legal costs. Class Counsel’s lodestar and expenses show that they invested over \$20 million of their own time and money in this case – which is impressive. Yet, by reference to its most recent level of general and administrative costs, Facebook expended that much money by sundown on January 1st of this year. Thus, while Class Counsel were litigating with their own limited resources, they were litigating against a party with relatively unlimited resources.
- ***This case was especially risky because the Illinois Legislature considered amending the very law upon which the case is based – BIPA – in the midst of the action.*** In addition to the risks of going up against a well-funded, well-connected defendant in court, Class Counsel also confronted enormous risk on another front: the Illinois Legislature. During the pendency of this action, the Legislature considered various pieces of legislation that could have ended this case.⁸⁴ If the Illinois Legislature had

⁸¹ See *Patel v. Facebook Inc.*, 290 F.Supp.3d 948, 955 (N.D. Cal. 2018) (distinguishing *Spokeo*-dismissed BIPA cases on the grounds that that, in those cases, “the plaintiffs indisputably knew that their biometric data would be collected before they accepted the services offered by the businesses involved”) (discussing *McCollough v. Smarte Carte, Inc.*, No. 16 C 03777, 2016 WL 4077108, at *4 (N.D. Ill. Aug. 1, 2016) (“Even without prior written consent to retain, if Smarte Carte did indeed retain the fingerprint data beyond the rental period, this Court finds it difficult to imagine, without more, how this retention could work a concrete harm.”); *Santana v. Take-Two Interactive Software, Inc.*, 717 F. App’x 12, 14 (2d Cir. 2017)).

⁸² PwC, *Global Top 100 Companies by Market Capitalization: Update to 30 June 2020* at 11, <https://www.pwc.com/gx/en/audit-services/publications/assets/global-top-100-companies-june-2020-update.pdf>.

⁸³ See Facebook, Inc., *2019 Form 10-K* at 54–55, U.S. Securities & Exchange Commission, <https://www.sec.gov/ix?doc=/Archives/edgar/data/1326801/000132680120000013/fb-12312019x10k.htm> (showing \$10.465 billion in general and administrative expenses).

⁸⁴ Senate Bill 2134 (101st General Assembly), introduced on February 15, 2019, would have amended BIPA by removing the private right of action. It failed to get reported out of committee by March 28, 2019 and no subsequent action was taken. See Karen Kidd, *Lawyer: Illinois Businesses Should Take Steps to Limit BIPA Liability After Reform Legislation Fails*, Cook County Record (Apr. 30, 2019), <https://cookcountyrecord.com/stories/512458013-lawyer->

passed a bill to amend BIPA – for example by removing the private right of action or statutory damages provisions – this case could have been rendered worthless. Thus, Class Counsel accepted not only the normal contingency risk of not being able to predict what a judge or jury will do, but also the heightened risk of not being able to predict whether BIPA would continue to exist.

- ***This case was especially risky because the issues and money at stake were so significant that the defendant litigated especially vigorously.*** Notwithstanding Facebook’s enormous legal budget, it is not every day it settles a case for more than half a billion dollars. It surely did so in part because the risk of a trial loss was greater – and it has altered its own practices accordingly. Given the magnitude of this case, it goes without saying that the company defended it with special interest and vigor.
- ***This case was especially risky because of its high expense.*** Class Counsel report a lodestar and expenses above \$20 million. This means that Class Counsel have loaned the class more than twenty million dollars – and risked losing every penny of it on the outcome of this case.
- ***Given their commitment to this highly risky case, Class Counsel were precluded from taking other, simpler, work.*** It is fair to conclude that Class Counsel’s extraordinary devotion of time and resources to this novel and complex case prevented them from pursuing simpler, bread-and-butter, actions, any of which would have had a higher expectation of settlement and hence ease of recovery of a contingent fee, possibly a well-multiplied one.

52. These nine points demonstrate what seems incontestable: Class Counsel took large risks in litigating this case from inception to judgment. Like any investor that takes large

illinois-businesses-should-take-steps-to-limit-bipa-liability-after-reform-legislation-fails; Susan M. Lorenc, James Shreve & Ryan Gehbauer, *BIPA Litigation Offers No Legislative Reprieve to Employers - Yet*, mondaq (June 14, 2019), <https://www.mondaq.com/unitedstates/privacy-protection/815122/bipa-litigation-offers-no-legislative-relief-to-employers-yet>. Further, a proposed-but-rejected amendment to House Bill 6074 (99th General Assembly; HB6074 was an otherwise unrelated bill concerning unclaimed property) would have jeopardized this lawsuit by (i) expressly excluding both physical and digital photographs from the definition of “biometric identifier” and (ii) defining “scan” to mean “data resulting from an ***in-person process*** whereby a part of the body is traversed by a detector or an electronic beam” (emphasis added). See Russell Brandom, *Someone’s Trying to Gut America’s Strongest Biometric Privacy Law*, The Verge (May 27, 2016, 8:27 AM EDT), <https://www.theverge.com/2016/5/27/11794512/facial-recognition-law-illinois-facebook-google-snapchat>.

risks, these attorneys are entitled to a return on their investment, so long as the risks they took paid off. I will now turn to that analysis.

53. At least eight components of this case’s outcome speak to the results Class Counsel obtained in this matter.

- ***Counsel obtained significant monetary relief for the class.*** Put simply, \$650 million is an extraordinary sum. As discussed in Part II, *supra*, this appears to be by far the largest privacy settlement in the last five years, if not of all time, and by far the largest per-class-member recovery of any privacy settlement involving a large class.
- ***100% of the class is eligible for relief.*** The settlement agreement explains that the class, for settlement purposes, is defined as “Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011 up to the date of the Preliminary Approval Order.”⁸⁵ In turn, the claim form for most class members simply requires the class member to provide the email/phone number associated with their Facebook account and to attest that they “lived in the state of Illinois for a period of at least 183 days (6 months).” Any class member who meets these criteria eligible to file a claim for damages.⁸⁶ Most class members similarly benefit from the significant changes Facebook will make to its policies going forward.
- ***Class members will receive cash not script.*** Class actions sometimes end in settlements that return class members little direct compensation, occasionally nothing more concrete than coupons or recoveries going exclusively to third party *cy pres* recipients.⁸⁷ The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements “granting class members illusory nonmonetary benefits, such as discount coupons for more of defendants’ products. . . .”⁸⁸ The settlement secured in this case will

⁸⁵ Amended Stipulation of Class Action Settlement at 5, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. July 22, 2020), ECF No. 468.

⁸⁶ As is evident, class members who lived in Illinois for fewer than six months (183 days) are not eligible for monetary relief, but this provision resulted from questions about the extraterritorial application of BIPA, not some attempt to disenfranchise a portion of the class. See Plaintiffs’ Unopposed Notice of Motion & Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points & Authorities in Support Thereof at 13–14, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. May 8, 2020), ECF No. 445.

⁸⁷ See 4 *Newberg on Class Actions* §§ 12:7–12:13 (on nonpecuniary damages).

⁸⁸ *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

deliver cash compensation directly to class members, a form of recovery that speaks highly of the case's outcome.

- ***Class members will receive significant cash payments.*** Not only does this settlement provide cash payments to class members, the payments are significant: the class action notice states that class members could “potentially get an estimated \$200 - \$400.”⁸⁹ Indeed, even if the settlement fund (\$650 million) is divided by the entire estimated class size (6,941,720) – in other words, if 100% of the class members filed claims – the gross per-class-member recovery is roughly \$94. Compared to other privacy-related settlements involving a large number of class members (as set forth in Part II, *supra*), this is a significant achievement.
- ***The claims process is straightforward.*** Class actions often end with settlements requiring class members to file claims. The claim-filing process may often dissuade class members from making the effort, particularly in small-claim situations. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements “imposing such strict eligibility conditions or cumbersome claims procedures that many members will be unlikely to claim benefits. . . .”⁹⁰ Here, the claim form could not be more straightforward: most class members need only fill in identifying information and then attest that she meets the six-month Illinois residency requirement.⁹¹ The ease of claiming here is reflected in the rate at which claims have been filed: Class Counsel inform me that about 1.1 million class members – or roughly 15% of the class – have filed claims as of October 15, 2020. In my data set of over 1,000 class action cases, *see supra* ¶ 9, I have data on claiming rates in 327 cases. When those 327 cases are sorted into deciles by class size, the highest decile of 32 cases is for classes of 317,227 or more. The average claiming rate in those large class cases is 4.8%. This class is therefore claiming at a rate about 3 times higher than my data would have predicted.
- ***The relief required significant, contested adversarial litigation against strong opposition, leaving no hint of collusion.*** The defendant contested nearly every aspect of this lawsuit, often repeatedly. A critical concern in class suits is that the class's agents might be tempted to sell out the class by agreeing to a low recovery in return for a high fee. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements that “[a]ctive judicial oversight of the settlement process [is necessary to] prevent collusion between counsel for

⁸⁹ Class Action Settlement Notice, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. July 22, 2020), ECF No. 468 [Ex. C at 53].

⁹⁰ *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

⁹¹ Class Action Settlement Claims Procedure, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. July 22, 2020), ECF No. 468 [Ex. A at 44–48].

the class and defendant and [to] minimize the potential for unfair settlements.”⁹² Here, there is not a hint of collusion – this case has been nothing but adversarial since its inception, encompassing five years of hard-fought litigation. There is, therefore, no evidence whatsoever of Class Counsel selling out the Class’s interest.

- ***The case contributed to significant changes in defendant’s practices.*** The prior points focus on the common fund Class Counsel secured for the class. It is important to acknowledge, as well, that this lawsuit has produced meaningful changes to Facebook’s policies. Namely, through Class Counsel’s efforts, Facebook has agreed to “turn Face Recognition off automatically” and delete existing any existing face template for class members who do not affirmatively opt in to Face Recognition.⁹³
- ***Public interest.*** While all class action settlements assist in the government’s enforcement of the law,⁹⁴ this settlement provides an important and unique public service. Through their persistent and protected efforts, Class Counsel have helped establish legal limits in a critical and developing field – the use of technology to invade privacy. That description sounds general, but unlike the mass of data breach cases, the facts of this case are far more specific, targeted, and important: the use of biometrics is a specific area of particular and growing concern, Illinois’s statute is precedent setting, and this settlement’s application of it to a major national internet provider like Facebook, landmark.

54. As explained at the outset, *see* ¶ 2, *supra*, Class Counsel’s multiplier is on the high end here solely because of the efficiency with which they produced this landmark settlement. It would be perverse to penalize them for that efficiency. That conclusion is independently supported by this qualitative review. These nine risks and eight results demonstrate what seems incontestable: Class Counsel took significant risks in investing substantial capital and labor in highly adversarial litigation without the promise of any easy

⁹² *Manual for Complex Litigation (Fourth)* § 22.923 (2004).

⁹³ Declaration of Gary McCoy at 10–11, *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal. July 9, 2020), ECF No. 463.

⁹⁴ *See Deposit Guar. Nat. Bank, Jackson, Miss. v. Roper*, 445 U.S. 326, 339 (1980) (“The aggregation of individual claims in the context of a classwide suit is an evolutionary response to the existence of injuries unremedied by the regulatory action of government.”).

return on that investment, and Class Counsel shouldered that risk superbly, prevailing at each critical juncture and generating an important return for the client class.

* * *

55. I have testified that:

- The requested fee is well below the Ninth Circuit's 25% benchmark and, while at the high end, in the range of percentages for large fund cases;
- A lodestar cross-check supports the requested award:
 - ✓ The hourly billing rates are normal;
 - ✓ The hours billed are far below normal;
 - ✓ The resulting multiplier, though high, is in the range of multipliers justified here: it is consistent with the unique risks that Class Counsel shouldered and the record-setting results that they achieved for the class.

In sum, it is my expert opinion that Class Counsel's \$110 million fee request – which can be conceptualized as 20% of \$550 or 16.9% of \$650 million – is within the range of a reasonable award.



William B. Rubenstein

October 15, 2020

EXHIBIT A

PROFESSOR WILLIAM B. RUBENSTEIN

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ACADEMIC EMPLOYMENT

HARVARD LAW SCHOOL, CAMBRIDGE MA

Bruce Bromley Professor of Law	2018-present
Sidley Austin Professor of Law	2011-2018
Professor of Law	2007-2011
Bruce Bromley Visiting Professor of Law	2006-2007
Visiting Professor of Law	2003-2004, 2005-2006
Lecturer in Law	1990-1996

Courses: Civil Procedure; Class Action Law; Remedies
Awards: 2012 Albert M. Sacks-Paul A. Freund Award for Teaching Excellence
Membership: American Law Institute; American Bar Foundation Fellow

UCLA SCHOOL OF LAW, LOS ANGELES CA

Professor of Law	2002-2007
Acting Professor of Law	1997-2002

Courses: Civil Procedure; Complex Litigation; Remedies
Awards: 2002 Rutter Award for Excellence in Teaching
Top 20 California Lawyers Under 40, *Calif. Law Business* (2000)

STANFORD LAW SCHOOL, STANFORD CA

Acting Associate Professor of Law	1995-1997
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Courses: Civil Procedure; Federal Litigation
Awards: 1997 John Bingham Hurlbut Award for Excellence in Teaching

YALE LAW SCHOOL, NEW HAVEN CT

Lecturer in Law	1994, 1995
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BENJAMIN N. CARDOZO SCHOOL OF LAW, NEW YORK NY

Visiting Professor	Summer 2005
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LITIGATION-RELATED EMPLOYMENT

AMERICAN CIVIL LIBERTIES UNION, NATIONAL OFFICE, NEW YORK NY

Project Director and Staff Counsel	1987-1995
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-Litigated impact cases in federal and state courts throughout the United States.
-Supervised a staff of attorneys at the national office, oversaw work of ACLU attorneys around the country, and coordinated work with private cooperating counsel nationwide.
-Significant experience in complex litigation practice and procedural issues; appellate litigation; litigation coordination, planning and oversight.

HON. STANLEY SPORKIN, U.S. DISTRICT COURT, WASHINGTON DC

Law Clerk	1986-87
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PUBLIC CITIZEN LITIGATION GROUP, WASHINGTON DC

Intern	Summer 1985
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EDUCATION

HARVARD LAW SCHOOL, CAMBRIDGE MA
J.D., 1986, *magna cum laude*

YALE COLLEGE, NEW HAVEN CT
B.A., 1982, *magna cum laude*
Editor-in-Chief, YALE DAILY NEWS

SELECTED COMPLEX LITIGATION EXPERIENCE

Professional Service and Highlighted Activities

- ◇ *Author*, NEWBERG ON CLASS ACTIONS (sole author since 2008, sole author of entirely re-written Fifth Edition (2011-2019); sole author of NEWBERG AND RUBENSTEIN ON CLASS ACTIONS (6th ed. 2022) (forthcoming))
- ◇ *Speaker*, Judicial Panel on Multidistrict Litigation, Multidistrict Litigation (MDL) Transferee Judges Conference, Palm Beach, Florida (invited to present to MDL judges on recent developments in class action law and related topics (2010, 2011, 2012, 2013, 2014 (invited), 2015, 2016, 2017, 2018, 2019))
- ◇ *Panelist*, Federal Judicial Center, *Managing Multidistrict Litigation and Other Complex Litigation Workshop* (for federal judges) (March 15, 2018)
- ◇ *Amicus curiae*, authored *amicus* brief in United States Supreme Court on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, 139 S. Ct. 1041 (2019))
- ◇ *Amicus curiae*, authored *amicus* brief in California Supreme Court on proper approach to attorney's fees in common fund cases (*Laffitte v. Robert Half Int'l Inc.*, 376 P.3d 672, 687 (Cal. 2016) (noting reliance on *amicus* brief))
- ◇ *Amicus curiae*, authored *amicus* brief in the United States Supreme Court filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion*, No. 09-893, 131 S. Ct. 1740 (2011))
- ◇ *Adviser*, American Law Institute, *Project on the Principles of the Law of Aggregate Litigation*, Philadelphia, Pennsylvania
- ◇ *Advisory Board*, *Class Action Law Monitor* (Strafford Publications), 2008-
- ◇ *Co-Chair*, ABA Litigation Section, Mass Torts Committee, Class Action Sub-Committee, 2007
- ◇ *Planning Committee*, American Bar Association, Annual National Institute on Class Actions Conference, 2006, 2007
- ◇ "Expert's Corner" (Monthly Column), *Class Action Attorney Fee Digest*, 2007-2011

Judicial Appointments

- ◇ *Mediator.* Appointed by the United States District Court for the Southern District of New York to mediate a set of complex issues in ongoing civil rights class action (*Grottano v. City of New York*, Civ. Action No. 15-cv-9242 (RMB) (May 29, 2020))
- ◇ *Expert consultant.* Retained by the United States District Court for the Northern District of Ohio, and Special Master, as an expert consultant on class certification and attorney's fees issues in complex multidistrict litigation (*National Prescription Opiate Litigation*, MDL 2804, Civ. Action No. 1:17-md-2804 (N.D. Ohio Aug. 13, 2018; June 29, 2019; March 10, 2020))
- ◇ *Expert witness.* Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney's fees in complex litigation, with result that the Court adopted recommendations (*In re National Football League Players' Concussion Injury Litigation*, 2018 WL 1658808 (E.D.Pa. April 5, 2018))
- ◇ *Appellate counsel.* Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff'd sub. nom.*, *DeValerio v. Olinski*, 673 F. App'x 87, 90 (2d Cir. 2016))

Expert Witness

- ◇ Retained as an expert witness on attorney's fees issues (*In re Facebook Biometric Information Privacy Litigation*, Civil Action No. 3:15-cv-03747-JD (N.D. Cal. (2020))
- ◇ Retained as an expert witness on class action issues in complex mass tort MDL (*In re Roundup Products Liability Litigation*, Civil Action No. 3:16-md-02741-VC (N.D. Cal. (2020))
- ◇ Retained as an expert witness on issues regarding the Lead Plaintiff/Lead Counsel provisions of the Private Securities Litigation Reform Act of 1995 (PSLRA) (*In re Apple Inc. Securities Litigation.*, Civil Action No. 4:19-cv-02033-YGR (N.D. Cal. (2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Amador v. Baca*, Civil Action No. 2:10-cv-01649 (C.D. Cal. February 9, 2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement (*In re: Columbia Gas Cases*, Civil Action No. 1877CV01343G (Mass. Super. Ct., Essex County, February 6, 2020))
- ◇ Submitted an expert witness declaration, and reply declaration, concerning reasonableness of attorney's fee request (*Hartman v. Pompeo*, Civil Action No. 1:77-cv-02019 (D.D.C. October 10, 2019; February 28, 2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee

request (*In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724, 16-MD-2724 (E.D. Pa. May 15, 2019))

- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, relied upon by court in awarding fees (*Hale v. State Farm Mut. Auto. Ins. Co.*, 2018 WL 6606079 (S.D. Ill. Dec. 16, 2018))
- ◇ Submitted expert witness affidavit and testified at fairness hearing concerning second phase fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.*, Case No. 217-2010-CV-00294 (New Hampshire Superior Court, Merrimack County (2018))
- ◇ Submitted expert witness report – and rebutted opposing expert – concerning class certification issues for proposed class action within a bankruptcy proceeding (*In re Think Finance*, Case No. 17-33964 (N.D. Tex. Bankrpt. 2018))
- ◇ Submitted expert witness declaration concerning specific fee issues raised by Court at fairness hearing and second declaration in response to report of Special Master (*In re Anthem, Inc. Data Breach Litigation*, Case No. 15-MD-02617-LHK (N.D. Cal. 2018))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request following plaintiffs' verdict at trial in consumer class action (*Krakauer v. Dish Network, L.L.C.*, Civil Action No. 1:14-cv-00333 (M.D.N.C. 2018))
- ◇ Submitted three expert witness declarations and deposed by/testified in front of Special Master in investigation concerning attorney's fee issues (*Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, Civ. Action No. 1:11-cv-10230 (D. Mass. 2017-18))
- ◇ Retained as an expert witness on issues regarding the preclusive effect of a class action judgment on later cases (*Sanchez v. Allianz Life Insurance Co. of N. Amer.*, Case No. BC594715 (California Superior Court, Los Angeles County (2018))
- ◇ Retained as an expert witness and submitted report explaining meaning of the denial of a motion to dismiss in American procedure to foreign tribunals (*In re Qualcomm Antitrust Matter*, declaration submitted to tribunals in Korea and Taiwan (2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 3.0-liter settlement, referenced by court in awarding fees (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, 2017 WL 3175924 (N.D. Cal. July 21, 2017))
- ◇ Retained as an expert witness concerning impracticability of joinder in antitrust class action (*In re Celebrex (Celecoxib) Antitrust Litigation*, Civ. Action No. 2-14-cv-00361 (E.D. Va. (2017))
- ◇ Submitted an expert witness declaration and deposed concerning impracticability of joinder in antitrust class action (*In re Modafinil Antitrust Litigation*, Civ. Action No. 2-06-cv-01797 (E.D. Pa. (2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 2.0-liter settlement (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability*

Litigation, 2017 WL 1047834 (N.D. Cal., March 17, 2017))

- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Aranda v. Caribbean Cruise Line, Inc.*, 2017 WL 1368741 (N.D. Ill., April 10, 2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*McKinney v. United States Postal Service*, Civil Action No. 1:11-cv-00631 (D.D.C. (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Johnson v. Caremark RX, LLC*, Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Geancopoulos v. Philip Morris USA Inc.*, Civil Action No. 98-6002-BLS1 (Mass. Superior Court, Suffolk County))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Gates v. United Healthcare Insurance Company*, Case No. 11 Civ. 3487 (S.D.N.Y. 2015))
- ◇ Retained as an expert trial witness on class action procedures and deposed prior to trial in matter that settled before trial (*Johnson v. Caremark RX, LLC*, Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*In re High-Tech Employee Antitrust Litig.*, 2015 WL 5158730 (N.D. Cal. Sept. 2, 2015))
- ◇ Retained as an expert witness concerning adequacy of putative class representatives in securities class action (*Medoff v. CVS Caremark Corp.*, Case No. 1:09-cv-00554 (D.R.I. (2015))
- ◇ Submitted an expert witness declaration concerning reasonableness of proposed class action settlement, settlement class certification, attorney's fees, and incentive awards (*Fitzgerald Farms, LLC v. Chesapeake Operating, L.L.C.*, Case No. CJ-2010-38, Dist. Ct., Beaver County, Oklahoma (2015))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Asghari v. Volkswagen Grp. of Am., Inc.*, 2015 WL 12732462 (C.D. Cal. May 29, 2015))
- ◇ Submitted an expert witness declaration concerning propriety of severing individual cases from class action and resulting statute of repose ramifications (*In re: American International Group, Inc. 2008*

Securities Litigation, 08-CV-4772-LTS-DCF (S.D.N.Y. (2015))

- ◇ Retained by Fortune Global 100 Corporation as an expert witness on fee matter that settled before testimony (2015)
- ◇ Submitted an expert witness declaration and testified at Special Master proceeding concerning reasonableness of attorney's fee allocation in sealed fee mediation (2014-2015)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*In re: Hyundai and Kia Fuel Economy Litigation*, MDL 13-02424 (C.D. Cal. (2014))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Ammari Electronics v. Pacific Bell Directory*, Case No. RG0522096, California Superior Court, Alameda County (2014))
- ◇ Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Deutsche Bank Securities, Inc.*, Case No. CGC-10-497839, California Superior Court, San Francisco County (2014))
- ◇ Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Credit Suisse Securities (USA) LLC*, Case No. CGC-10-497840, California Superior Court, San Francisco County (2014))
- ◇ Retained as expert witness on proper level of common benefit fee in MDL (*In re Neurontin Marketing and Sales Practice Litigation*, Civil Action No. 04-10981, MDL 1629 (D. Mass. (2014))
- ◇ Submitted an expert witness declaration concerning Rule 23(g) selection of competing counsel, referenced by court in deciding issue (*White v. Experian Information Solutions, Inc.*, 993 F. Supp. 2d 1154 (C.D. Cal. (2014))
- ◇ Submitted an expert witness declaration concerning proper approach to attorney's fees under California law in a statutory fee-shifting case (*Perrin v. Nabors Well Services Co.*, Case No. 1220037974, Judicial Arbitration and Mediation Services (JAMS) (2013))
- ◇ Submitted an expert witness declaration concerning fairness and adequacy of proposed nationwide class action settlement (*Verdejo v. Vanguard Piping Systems*, Case No. BC448383, California Superior Court, Los Angeles County (2013))
- ◇ Retained as an expert witness regarding fairness, adequacy, and reasonableness of proposed nationwide consumer class action settlement (*Herke v. Merck*, No. 2:09-cv-07218, MDL Docket No. 1657 (*In re Vioxx Products Liability Litigation*) (E. D. La. (2013))
- ◇ Retained as an expert witness concerning ascertainability requirement for class certification and related issues (*Henderson v. Axiom Risk Mitigation, Inc.*, Case No. 3:12-cv-00589-REP (E.D. Va. (2013))

- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement and performing analysis of Anet expected value@ of settlement benefits, relied on by court in approving settlement (*In re Navistar Diesel Engine Products Liab. Litig.*, 2013 WL 10545508 (N.D. Ill. July 3, 2013))
- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement and attorney's fee request (*Commonwealth Care All. v. Astrazeneca Pharm. L.P.*, 2013 WL 6268236 (Mass. Super. Aug. 5, 2013))
- ◇ Submitted an expert witness declaration concerning propriety of preliminary settlement approval in nationwide consumer class action settlement (*Anaya v. Quicktrim, LLC*, Case No. CIVVS 120177, California Superior Court, San Bernardino County (2012))
- ◇ Submitted expert witness affidavit concerning fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.*, Case No. 217-2010-CV-00294, New Hampshire Superior Court, Merrimack County (2012))
- ◇ Submitted expert witness declaration and deposed concerning class certification issues in nationwide fraud class action, relied upon by the court in affirming class certification order (*CVS Caremark Corp. v. Lauriello*, 175 So. 3d 596, 609-10 (Ala. 2014))
- ◇ Submitted expert witness declaration in securities class action concerning value of proxy disclosures achieved through settlement and appropriate level for fee award (*Rational Strategies Fund v. Jhung*, Case No. BC 460783, California Superior Court, Los Angeles County (2012))
- ◇ Submitted an expert witness report and deposed concerning legal malpractice in the defense of a class action lawsuit (*KB Home v. K&L Gates, LLP*, Case No. BC484090, California Superior Court, Los Angeles County (2011))
- ◇ Retained as expert witness on choice of law issues implicated by proposed nationwide class certification (*Simon v. Metropolitan Property and Cas. Co.*, Case No. CIV-2008-1008-W (W.D. Ok. (2011))
- ◇ Retained, deposed, and testified in court as expert witness in fee-related dispute (*Blue, et al. v. Hill*, Case No. 3:10-CV-02269-O-BK (N.D. Tex. (2011))
- ◇ Retained as an expert witness in fee-related dispute (*Furth v. Furth*, Case No. C11-00071-DMR (N.D. Cal. (2011))
- ◇ Submitted expert witness declaration concerning interim fee application in complex environmental class action (*DeLeo v. Bouchard Transportation*, Civil Action No. PLCV2004-01166-B, Massachusetts Superior Court (2010))
- ◇ Retained as an expert witness on common benefit fee issues in MDL proceeding in federal court (*In re Vioxx Products Liability Litigation*, MDL Docket No. 1657 (E.D. La. (2010))

- ◇ Submitted expert witness declaration concerning fee application in securities case, referenced by court in awarding fee (*In re AMICAS, Inc. Shareholder Litigation*, 27 Mass. L. Rptr. 568 (Mass. Sup. Ct. (2010))
- ◇ Submitted an expert witness declaration concerning fee entitlement and enhancement in non-common fund class action settlement, relied upon by the court in awarding fees (*Parkinson v. Hyundai Motor America*, 796 F.Supp.2d 1160, 1172-74 (C.D. Cal. 2010))
- ◇ Submitted an expert witness declaration concerning class action fee allocation among attorneys (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))
- ◇ Submitted an expert witness declaration concerning settlement approval and fee application in wage and hour class action settlement (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))
- ◇ Submitted an expert witness declaration concerning objectors' entitlement to attorney's fees (*Rodriguez v. West Publishing Corp.*, Case No. CV-05-3222 (C.D. Cal. (2010))
- ◇ Submitted an expert witness declaration concerning fairness of settlement provisions and processes, relied upon by the Ninth Circuit in reversing district court's approval of class action settlement (*Radcliffe v. Experian Inform. Solutions Inc.*, 715 F.3d 1157, 1166 (9th Cir. 2013))
- ◇ Submitted an expert witness declaration concerning attorney's fees in class action fee dispute, relied upon by the court in deciding fee issue (*Ellis v. Toshiba America Information Systems, Inc.*, 218 Cal. App. 4th 853, 871, 160 Cal. Rptr. 3d 557, 573 (2d Dist. 2013))
- ◇ Submitted an expert witness declaration concerning common benefit fee in MDL proceeding in federal court (*In re Genetically Modified Rice Litigation*, MDL Docket No. 1811 (E.D. Mo. (2009))
- ◇ Submitted an expert witness declaration concerning settlement approval and fee application in national MDL class action proceeding (*In re Wal-Mart Wage and Hour Employment Practices Litigation*, MDL Docket No.1735 (D. Nev. (2009))
- ◇ Submitted an expert witness declaration concerning fee application in national MDL class action proceeding, referenced by court in awarding fees (*In re Dept. of Veterans Affairs (VA) Data Theft Litigation*, 653 F. Supp.2d 58 (D.D.C. (2009))
- ◇ Submitted an expert witness declaration concerning common benefit fee in mass tort MDL proceeding in federal court (*In re Kugel Mesh Products Liability Litigation*, MDL Docket No. 1842 (D. R.I. (2009))
- ◇ Submitted an expert witness declaration and supplemental declaration concerning common benefit fee in consolidated mass tort proceedings in state court (*In re All Kugel Mesh Individual Cases*, Master Docket No. PC-2008-9999, Superior Court, State of Rhode Island (2009))

- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Warner v. Experian Information Solutions, Inc.*, Case No. BC362599, California Superior Court, Los Angeles County (2009))
- ◇ Submitted an expert witness declaration concerning process for selecting lead counsel in complex MDL antitrust class action (*In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL Docket No. 1869 (D. D.C. (2008))
- ◇ Retained, deposed, and testified in court as expert witness on procedural issues in complex class action (*Hoffman v. American Express*, Case No. 2001-022881, California Superior Court, Alameda County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Salsgiver v. Yahoo! Inc.*, Case No. BC367430, California Superior Court, Los Angeles County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Voight v. Cisco Systems, Inc.*, Case No. 106CV075705, California Superior Court, Santa Clara County (2008))
- ◇ Retained and deposed as expert witness on fee issues in attorney fee dispute (*Stock v. Hafif*, Case No. KC034700, California Superior Court, Los Angeles County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in consumer class action (*Nicholas v. Progressive Direct*, Civil Action No. 06-141-DLB (E.D. Ky. (2008))
- ◇ Submitted expert witness declaration concerning procedural aspects of national class action arbitration (*Johnson v. Gruma Corp.*, JAMS Arbitration No. 1220026252 (2007))
- ◇ Submitted expert witness declaration concerning fee application in securities case (*Drulias v. ADE Corp.*, Civil Action No. 06-11033 PBS (D. Mass. (2007))
- ◇ Submitted expert witness declaration concerning use of expert witness on complex litigation matters in criminal trial (*U.S. v. Gallion, et al.*, No. 07-39 (E. D. Ky. (2007))
- ◇ Retained as expert witness on fees matters (*Heger v. Attorneys' Title Guaranty Fund, Inc.*, No. 03-L-398, Illinois Circuit Court, Lake County, IL (2007))
- ◇ Retained as expert witness on certification in statewide insurance class action (*Wagner v. Travelers Property Casualty of America*, No. 06CV338, Colorado District Court, Boulder County, CO (2007))
- ◇ Testified as expert witness concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corporate Derivative Litigation*, Case No. 01098905, California Superior Court, Santa Barbara Cty, CA (2006))
- ◇ Submitted expert witness declaration concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corp. Corporate Derivative Litigation*, Case No. CV-03-11

RSWL (C.D. Cal. (2006))

- ◇ Retained as expert witness as to certification of class action (*Canova v. Imperial Irrigation District*, Case No. L-01273, California Superior Court, Imperial Cty, CA (2005))
- ◇ Retained as expert witness as to certification of nationwide class action (*Enriquez v. Edward D. Jones & Co.*, Missouri Circuit Court, St. Louis, MO (2005))
- ◇ Submitted expert witness declaration on procedural aspects of international contract litigation filed in court in Korea (*Estate of Wakefield v. Bishop Han & Jooan Methodist Church* (2002))
- ◇ Submitted expert witness declaration as to contested factual matters in case involving access to a public forum (*Cimarron Alliance Foundation v. The City of Oklahoma City*, Case No. Civ. 2001-1827-C (W.D. Ok. (2002))
- ◇ Submitted expert witness declaration concerning reasonableness of class certification, settlement, and fees (*Baird v. Thomson Elec. Co.*, Case No. 00-L-000761, Cir. Ct., Mad. Cty, IL (2001))

Expert Consultant

- ◇ Provided expert consulting services to Harvard Law School Predatory Lending and Consumer Protection Clinic concerning complex class action issues in bankruptcy (*In re: ITT Educational Services Inc.*, Case No. 16-07207-JMC-7A (Bank. S.D. Ind. 2020))
- ◇ Provided expert consulting services to law firm concerning complex federal procedural and bankruptcy issues (*Homaidan v. Navient Solutions, LLC*, Adv. Proc. No. 17-1085 (Bank. E.D.N.Y 2020))
- ◇ Provided expert consulting services to the ACLU on multi-district litigation issues arising out of various challenges to President Trump's travel ban and related policies (*In re American Civil Liberties Union Freedom of Information Act Requests Regarding Executive Order 13769*, Case Pending No. 28, Judicial Panel on Multidistrict Litigation (2017); *Darweesh v. Trump*, Case No. 1:17-cv-00480-CBA-LB (E.D.N.Y. (2017))
- ◇ Provided expert consulting services to law firm regarding billing practices and fee allocation issues in nationwide class action (2016)
- ◇ Provided expert consulting services to law firm regarding fee allocation issues in nationwide class action (2016)
- ◇ Provided expert consulting services to the ACLU of Southern California on class action and procedural issues arising out of challenges to municipality's treatment of homeless persons with disabilities (*Glover v. City of Laguna Beach*, Case No. 8:15-cv-01332-AG-DFM (C.D. Cal. (2016))
- ◇ Retained as an expert consultant on class certification issues (*In re: Facebook, Inc., IPO Securities and Derivative Litigation*, No. 1:12-md-2389 (S.D.N.Y. 2015))

- ◇ Provided expert consulting services to lead class counsel on class certification issues in nationwide class action (2015)
- ◇ Retained by a Fortune 100 Company as an expert consultant on class certification issues
- ◇ Retained as an expert consultant on class action and procedure related issues (*Lange et al v. WPX Energy Rocky Mountain LLC*, Case No. 2:13-cv-00074-ABJ (D. Wy. (2013))
- ◇ Retained as an expert consultant on class action and procedure related issues (*Flo & Eddie, Inc., v. Sirius XM Radio, Inc.*, Case No. CV 13-5693 (C.D. Cal. (2013))
- ◇ Served as an expert consultant on substantive and procedural issues in challenge to legality of credit card late and over-time fees (*In Re Late Fee and Over-Limit Fee Litigation*, 528 F.Supp.2d 953 (N.D. Cal. 2007), *aff'd*, 741 F.3d 1022 (9th Cir. 2014))
- ◇ Retained as an expert on Class Action Fairness Act (CAFA) removal issues and successfully briefed and argued remand motion based on local controversy exception (*Trevino, et al. v. Cummins, et al.*, No. 2:13-cv-00192-JAK-MRW (C. D. Cal. (2013))
- ◇ Retained as an expert consultant on class action related issues by consortium of business groups (*In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico on April 20, 2010*, MDL No. 2179 (E.D. La. (2012))
- ◇ Provided presentation on class certification issues in nationwide medical monitoring classes (*In re: National Football League Players' Concussion Injury Litigation*, MDL No. 2323, Case No. 2:12-md-02323-AB (E.D. Pa. (2012))
- ◇ Retained as an expert consultant on class action related issues in mutli-state MDL consumer class action (*In re Sony Corp. SXR D Rear Projection Television Marketing, Sales Practices & Prod. Liability Litig.*, MDL No. 2102 (S.D. N.Y. (2009))
- ◇ Retained as an expert consultant on class action certification, manageability, and related issues in mutli-state MDL consumer class action (*In re Teflon Prod. Liability Litig.*, MDL No. 1733 (S.D. Iowa (2008))
- ◇ Retained as an expert consultant/co-counsel on certification, manageability, and related issues in nationwide anti-trust class action (*Brantley v. NBC Universal*, No.- CV07-06101 (C.D. Cal. (2008))
- ◇ Retained as an expert consultant on class action issues in complex multi-jurisdictional construction dispute (*Antenucci, et al., v. Washington Assoc. Residential Partner, LLP, et al.*, Civil No. 8-04194 (E.D. Pa. (2008))
- ◇ Retained as an expert consultant on complex litigation issues in multi-jurisdictional class action litigation (*McGreevey v. Montana Power Company*, No. 08-35137, U.S. Court of Appeals for the Ninth Circuit (2008))

- ◇ Retained as an expert consultant on class action and attorney fee issues in nationwide consumer class action (*Figueroa v. Sharper Image*, 517 F.Supp.2d 1292 (S.D. Fla. 2007))
- ◇ Retained as an expert consultant on attorney's fees issue in complex class action case (*Natural Gas Anti-Trust Cases Coordinated Proceedings*, D049206, California Court of Appeals, Fourth District (2007))
- ◇ Retained as an expert consultant on remedies and procedural matters in complex class action (*Sunscreen Cases*, JCCP No. 4352, California Superior Court, Los Angeles County (2006))
- ◇ Retained as an expert consultant on complex preclusion questions in petition for review to California Supreme Court (*Mooney v. Caspari*, Supreme Court of California (2006))
- ◇ Retained as an expert consultant on attorney fee issues in complex common fund case (*In Re DietDrugs (Phen/Fen) Products Liability Litigation* (E. D. Pa. (2006))
- ◇ Retained as an expert consultant on procedural matters in series of complex construction lien cases (*In re Venetian Lien Litigation*, Supreme Court of the State of Nevada (2005-2006))
- ◇ Served as an expert consultant on class certification issues in countywide class action (*Beauchamp v. Los Angeles Cty. Metropolitan Transp. Authority*, (C.D. Cal. 2004))
- ◇ Served as an expert consultant on class certification issues in state-wide class action (*Williams v. State of California*, Case No. 312-236, Cal. Superior Court, San Francisco)
- ◇ Served as an expert consultant on procedural aspects of complex welfare litigation (*Allen v. Anderson*, 199 F.3d 1331 (9th Cir. 1999))

Ethics Opinions

- ◇ Retained to provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2017))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2013))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2011))
- ◇ Provided expert opinion on issues of professional ethics in implicated by nationwide class action practice (*In re Professional Responsibility Inquiries* (2010))
- ◇ Provided expert opinion on issues of professional ethics implicated by complex litigation matter (*In re Professional Responsibility Inquiries* (2010))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional*

*Responsibility Inquiries (2007))**Publications on Class Actions & Procedure*

- ◇ *The Negotiation Class: A Cooperative Approach to Class Actions Involving Large Stakeholders*, __ TEXAS L. REV. __ (forthcoming 2020) (with Francis E. McGovern)
- ◇ NEWBERG ON CLASS ACTIONS (sole since 2008, sole author of entirely re-written Fifth Edition (2011-2018))
- ◇ *Profit for Costs*, 63 DEPAUL L. REV. 587 (2014) (with Morris A. Ratner)
- ◇ *Procedure and Society: An Essay for Steve Yeazell*, 61 U.C.L.A. REV. DISC. 136 (2013)
- ◇ *Supreme Court Round-Up – Part II*, 5 CLASS ACTION ATTORNEY FEE DIGEST 331 (September 2011)
- ◇ *Supreme Court Round-Up – Part I*, 5 CLASS ACTION ATTORNEY FEE DIGEST 263 (July-August 2011)
- ◇ *Class Action Fee Award Procedures*, 5 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2011)
- ◇ *Benefits of Class Action Lawsuits*, 4 CLASS ACTION ATTORNEY FEE DIGEST 423 (November 2010)
- ◇ *Contingent Fees for Representing the Government: Developments in California Law*, 4 CLASS ACTION ATTORNEY FEE DIGEST 335 (September 2010)
- ◇ *Supreme Court Roundup*, 4 CLASS ACTION ATTORNEY FEE DIGEST 251 (July 2010)
- ◇ *SCOTUS Okays Performance Enhancements in Federal Fee Shifting Cases – At Least In Principle*, 4 CLASS ACTION ATTORNEY FEE DIGEST 135 (April 2010)
- ◇ *The Puzzling Persistence of the AMega-Fund@ Concept*, 4 CLASS ACTION ATTORNEY FEE DIGEST 39 (February 2010)
- ◇ *2009: Class Action Fee Awards Go Out With A Bang, Not A Whimper*, 3 CLASS ACTION ATTORNEY FEE DIGEST 483 (December 2009)
- ◇ *Privatizing Government Litigation: Do Campaign Contributors Have An Inside Track?*, 3 CLASS ACTION ATTORNEY FEE DIGEST 407 (October 2009)
- ◇ *Supreme Court Preview*, 3 CLASS ACTION ATTORNEY FEE DIGEST 307 (August 2009)
- ◇ *Supreme Court Roundup*, 3 CLASS ACTION ATTORNEY FEE DIGEST 259 (July 2009)
- ◇ *What We Now Know About How Lead Plaintiffs Select Lead Counsel (And Hence Who Gets Attorney's Fees!) in Securities Cases*, 3 CLASS ACTION ATTORNEY FEE DIGEST 219 (June 2009)

- ◇ *Beware Of Ex Ante Incentive Award Agreements*, 3 CLASS ACTION ATTORNEY FEE DIGEST 175 (May 2009)
- ◇ *On What a “Common Benefit Fee” Is, Is Not, and Should Be*, 3 CLASS ACTION ATTORNEY FEE DIGEST 87 (March 2009)
- ◇ *2009: Emerging Issues in Class Action Fee Awards*, 3 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2009)
- ◇ *2008: The Year in Class Action Fee Awards*, 2 CLASS ACTION ATTORNEY FEE DIGEST 465 (December 2008)
- ◇ *The Largest Fee Award – Ever!*, 2 CLASS ACTION ATTORNEY FEE DIGEST 337 (September 2008)
- ◇ *Why Are Fee Reductions Always 50%?: On The Imprecision of Sanctions for Imprecise Fee Submissions*, 2 CLASS ACTION ATTORNEY FEE DIGEST 295 (August 2008)
- ◇ *Supreme Court Round-Up*, 2 CLASS ACTION ATTORNEY FEE DIGEST 257 (July 2008)
- ◇ *Fee-Shifting For Wrongful Removals: A Developing Trend?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 177 (May 2008)
- ◇ *You Cut, I Choose: (Two Recent Decisions About) Allocating Fees Among Class Counsel*, 2 CLASS ACTION ATTORNEY FEE DIGEST 137 (April 2008)
- ◇ *Why The Percentage Method?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 93 (March 2008)
- ◇ *Reasonable Rates: Time To Reload The (Laffey) Matrix*, 2 CLASS ACTION ATTORNEY FEE DIGEST 47 (February 2008)
- ◇ *The “Lodestar Percentage” A New Concept For Fee Decisions?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2008)
- ◇ *Class Action Practice Today: An Overview*, in ABA SECTION OF LITIGATION, CLASS ACTIONS TODAY 4 (2008)
- ◇ *Shedding Light on Outcomes in Class Actions*, in CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM 20-59 (Joseph W. Doherty, Robert T. Reville, and Laura Zakaras eds. 2008) (with Nicholas M. Pace)
- ◇ *Finality in Class Action Litigation: Lessons From Habeas*, 82 N.Y.U. L. REV. 791 (2007)
- ◇ *The American Law Institute’s New Approach to Class Action Objectors’ Attorney’s Fees*, 1 CLASS ACTION ATTORNEY FEE DIGEST 347 (November 2007)
- ◇ *The American Law Institute’s New Approach to Class Action Attorney’s Fees*, 1 CLASS ACTION

ATTORNEY FEE DIGEST 307 (October 2007)

- ◇ *“The Lawyers Got More Than The Class Did!”: Is It Necessarily Problematic When Attorneys Fees Exceed Class Compensation?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 233 (August 2007)
- ◇ *Supreme Court Round-Up*, 1 CLASS ACTION ATTORNEY FEE DIGEST 201 (July 2007)
- ◇ *On The Difference Between Winning and Getting Fees*, 1 CLASS ACTION ATTORNEY FEE DIGEST 163 (June 2007)
- ◇ *Divvying Up The Pot: Who Divides Aggregate Fee Awards, How, and How Publicly?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 127 (May 2007)
- ◇ *On Plaintiff Incentive Payments*, 1 CLASS ACTION ATTORNEY FEE DIGEST 95 (April 2007)
- ◇ *Percentage of What?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 63 (March 2007)
- ◇ *Lodestar v. Percentage: The Partial Success Wrinkle*, 1 CLASS ACTION ATTORNEY FEE DIGEST 31 (February 2007) (with Alan Hirsch)
- ◇ *The Fairness Hearing: Adversarial and Regulatory Approaches*, 53 U.C.L.A. L. REV. 1435 (2006) (excerpted in THE LAW OF CLASS ACTIONS AND OTHER AGGREGATE LITIGATION 447-449 (Richard A. Nagareda ed., 2009))
- ◇ *Why Enable Litigation? A Positive Externalities Theory of the Small Claims Class Action*, 74 U.M.K.C. L. REV. 709 (2006)
- ◇ *What a “Private Attorney General” Is – And Why It Matters*, 57 VAND. L. REV. 2129(2004) (excerpted in COMPLEX LITIGATION 63-72 (Kevin R. Johnson, Catherine A. Rogers & John Valery White eds., 2009)).
- ◇ *The Concept of Equality in Civil Procedure*, 23 CARDOZO L. REV. 1865 (2002) (selected for the Stanford/Yale Junior Faculty Forum, June 2001)
- ◇ *A Transactional Model of Adjudication*, 89 GEORGETOWN L.J. 371 (2000)
- ◇ *The Myth of Superiority*, 16 CONSTITUTIONAL COMMENTARY 599 (1999)
- ◇ *Divided We Litigate: Addressing Disputes Among Clients and Lawyers in Civil Rights Campaigns*, 106 YALE L. J. 1623 (1997) (excerpted in COMPLEX LITIGATION 120-123 (1998))

Selected Presentations

- ◇ *Opioid Litigation: What's New and What Does it Mean for Future Litigation?*, RAND Institute for Civil Justice and RAND Kenneth R. Feinberg Center for Catastrophic Risk Management and Compensation, RAND Corporation, October 22, 2020 (forthcoming)
- ◇ *The Opioid Crisis: Where Do We Go From Here?* Clifford Symposium 2020, DePaul University College of Law, Chicago, Illinois, May 28-29, 2020)
- ◇ *Class Action Law Update*, MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2019
- ◇ *Class Action Law Update*, MDL Transferee Judges Conference, Palm Beach, Florida, October 31, 2018
- ◇ *Attorneys' Fees Issues*, MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2018
- ◇ *Panelist*, Federal Judicial Center, Managing Multidistrict Litigation and Other Complex Litigation Workshop (for federal judges) (March 15, 2018)
- ◇ *Class Action Update*, MDL Transferee Judges Conference, Palm Beach, Florida, November 1, 2017
- ◇ *Class Action Update*, MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2016
- ◇ *Judicial Power and its Limits in Multidistrict Litigation*, American Law Institute, Young Scholars Medal Conference, *The Future of Aggregate Litigation*, New York University School of Law, New York, New York, April 12, 2016
- ◇ *Class Action Update & Attorneys' Fees Issues Checklist*, MDL Transferee Judges Conference, Palm Beach, Florida, October 28, 2015
- ◇ *Class Action Law*, 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop, Tucson, Arizona, January 26, 2015
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2014
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2013
- ◇ *Class Action Remedies*, ABA 2013 National Institute on Class Actions, Boston, Massachusetts, October 23, 2013
- ◇ *The Public Life of the Private Law: The Logic and Experience of Mass Litigation – Conference in Honor of Richard Nagareda*, Vanderbilt Law School, Nashville, Tennessee, September 27-28, 2013
- ◇ *Brave New World: The Changing Face of Litigation and Law Firm Finance*, Clifford Symposium 2013, DePaul University College of Law, Chicago, Illinois, April 18-19, 2013

- ◇ *Twenty-First Century Litigation: Pathologies and Possibilities: A Symposium in Honor of Stephen Yeazell*, UCLA Law Review, UCLA School of Law, Los Angeles, California, January 24-25, 2013
- ◇ *Litigation's Mirror: The Procedural Consequences of Social Relationships*, Sidley Austin Professor of Law Chair Talk, Harvard Law School, Cambridge, Massachusetts, October 17, 2012
- ◇ *Alternative Litigation Funding (ALF) in the Class Action Context – Some Initial Thoughts*, Alternative Litigation Funding: A Roundtable Discussion Among Experts, George Washington University Law School, Washington, D.C., May 2, 2012
- ◇ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Brooklyn Law School Faculty Workshop, Brooklyn, New York, April 2, 2012
- ◇ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Loyola Law School Faculty Workshop, Los Angeles, California, February 2, 2012
- ◇ *Recent Developments in Class Action Law and Impact on MDL Cases*, MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2011
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 26, 2010
- ◇ *A General Theory of the Class Suit*, University of Houston Law Center Colloquium, Houston, Texas, February 3, 2010
- ◇ *Unpacking The “Rigorous Analysis” Standard*, ALI-ABA 12th Annual National Institute on Class Actions, New York, New York, November 7, 2008
- ◇ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of California (Boalt Hall) School of Law Civil Justice Workshop, Berkeley, California, February 28, 2008
- ◇ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of Pennsylvania Law Review Symposium, Philadelphia, Pennsylvania, Dec. 1, 2007
- ◇ *Current CAFA Consequences: Has Class Action Practice Changed?*, ALI-ABA 11th Annual National Institute on Class Actions, Chicago, Illinois, October 17, 2007
- ◇ *Using Law Professors as Expert Witnesses in Class Action Lawsuits*, ALI-ABA 10th Annual National Institute on Class Actions, San Diego, California, October 6, 2006
- ◇ *Three Models for Transnational Class Actions*, Globalization of Class Action Panel, International Law Association 2006 Conference, Toronto, Canada, June 6, 2006
- ◇ *Why Create Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, UMKC Law Review Symposium, Kansas City, Missouri, April 7, 2006

- ◇ *Marks, Bonds, and Labels: Three New Proposals for Private Oversight of Class Action Settlements*, UCLA Law Review Symposium, Los Angeles, California, January 26, 2006
- ◇ Class Action Fairness Act, Arnold & Porter, Los Angeles, California, December 6, 2005
- ◇ ALI-ABA 9th Annual National Institute on Class Actions, Chicago, Illinois, September 23, 2005
- ◇ Class Action Fairness Act, UCLA Alumni Assoc., Los Angeles, California, September 9, 2005
- ◇ Class Action Fairness Act, Thelen Reid & Priest, Los Angeles, California, May 12, 2005
- ◇ Class Action Fairness Act, Sidley Austin, Los Angeles, California, May 10, 2005
- ◇ Class Action Fairness Act, Munger, Tolles & Olson, Los Angeles, California, April 28, 2005
- ◇ Class Action Fairness Act, Akin Gump Strauss Hauer Feld, Century City, CA, April 20, 2005

SELECTED OTHER LITIGATION EXPERIENCE

United States Supreme Court

- ◇ Served as *amicus curiae* and authored *amicus* brief on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, No. 17-961, October Term 2018)
- ◇ Co-counsel on petition for writ of *certiorari* concerning application of the voluntary cessation doctrine to government defendants (*Rosebrock v. Hoffman*, 135 S. Ct. 1893 (2015))
- ◇ Authored *amicus* brief filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion*, No. 09-893, 131 S. Ct. 1740 (2011))
- ◇ Co-counsel in constitutional challenge to display of Christian cross on federal land in California's Mojave preserve (*Salazar v. Buono*, 130 S. Ct. 1803 (2010))
- ◇ Co-authored *amicus* brief filed on behalf of constitutional law professors arguing against constitutionality of Texas criminal law (*Lawrence v. Texas*, 539 U.S. 558 (2003))
- ◇ Co-authored *amicus* brief on scope of *Miranda* (*Illinois v. Perkins*, 496 U.S. 292 (1990))

Attorney's Fees

- ◇ Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney's fees in complex litigation, with result that the Court adopted recommendations (*In re National Football League Players' Concussion Injury Litigation*, 2018 WL 1658808 (E.D.Pa. April 5, 2018))

- ◇ Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff'd sub. nom.*, *DeValerio v. Olinski*, 673 F. App'x 87, 90 (2d Cir. 2016)).
- ◇ Served as *amicus curiae* and co-authored *amicus* brief on proper approach to attorney's fees in common fund cases, relied on by the court in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 504, 376 P.3d 672, 687 (2016).

Consumer Class Action

- ◇ Co-counsel in challenge to antenna-related design defect in Apple's iPhone4 (*Dydyk v. Apple Inc.*, 5:10-cv-02897-HRL, U.S. Dist. Court, N.D. Cal.) (complaint filed June 30, 2010)
- ◇ Co-class counsel in \$8.5 million nationwide class action settlement challenging privacy concerns raised by Google's Buzz social networking program (*In re Google Buzz Privacy Litigation*, 5:10-cv-00672-JW, U.S. Dist. Court, N.D. Cal.) (amended final judgment June 2, 2011)

Disability

- ◇ Co-counsel in successful ADA challenge (\$500,000 jury verdict) to the denial of health care in emergency room (*Howe v. Hull*, 874 F. Supp. 779, 873 F. Supp 72 (N.D. Ohio 1994))

Employment

- ◇ Co-counsel in challenges to scope of family benefit programs (*Ross v. Denver Dept. of Health*, 883 P.2d 516 (Colo. App. 1994)); (*Phillips v. Wisc. Personnel Com'n*, 482 N.W.2d 121 (Wisc. 1992))

Equal Protection

- ◇ Co-counsel in (state court phases of) successful challenge to constitutionality of a Colorado ballot initiative, Amendment 2 (*Evans v. Romer*, 882 P.2d 1335 (Colo. 1994))
- ◇ Co-counsel (and *amici*) in challenges to rules barring military service by gay people (*Able v. United States*, 44 F.3d 128 (2d Cir. 1995); *Steffan v. Perry*, 41 F.3d 677 (D.C. Cir. 1994) (*en banc*))
- ◇ Co-counsel in challenge to the constitutionality of the Attorney General of Georgia' firing of staff attorney (*Shahar v. Bowers*, 120 F.3d 211 (11th Cir. 1997))

Fair Housing

- ◇ Co-counsel in successful Fair Housing Act case on behalf of group home (*Hogar Agua y Vida En el Desierto v. Suarez-Medina*, 36 F.3d 177 (1st Cir. 1994))

Family Law

- ◇ Co-counsel in challenge to constitutionality of Florida law limiting adoption (*Cox v. Florida Dept. of Health and Rehab. Svcs.*, 656 So.2d 902 (Fla. 1995))
- ◇ Co-authored *amicus* brief in successful challenge to Hawaii ban on same-sex marriages (*Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993))

First Amendment

- ◇ Co-counsel in successful challenge to constitutionality of Alabama law barring state funding for university student groups (*GLBA v. Sessions*, 930 F.Supp. 1492 (M.D. Ala. 1996))
- ◇ Co-counsel in successful challenge to content restrictions on grants for AIDS education materials (*Gay Men's Health Crisis v. Sullivan*, 792 F.Supp. 278 (S.D.N.Y. 1992))

Landlord / Tenant

- ◇ Lead counsel in successful challenge to rent control regulation (*Braschi v. Stahl Associates Co.*, 544 N.E.2d 49 (N.Y. 1989))

Police

- ◇ Co-counsel in case challenging DEA brutality (*Anderson v. Branen*, 27 F.3d 29 (2nd Cir. 1994))

Racial Equality

- ◇ Co-authored *amicus* brief for constitutional law professors challenging constitutionality of Proposition 209 (*Coalition for Economic Equity v. Wilson*, 110 F.3d 1431 (9th Cir. 1997))

SELECTED OTHER PUBLICATIONS

Editorials

- ◇ *Follow the Leaders*, NEW YORK TIMES, March 15, 2005
- ◇ *Play It Straight*, NEW YORK TIMES, October 16, 2004
- ◇ *Hiding Behind the Constitution*, NEW YORK TIMES, March 20, 2004
- ◇ *Toward More Perfect Unions*, NEW YORK TIMES, November 20, 2003 (with Brad Sears)
- ◇ *Don't Ask, Don't Tell, Don't Believe It*, NEW YORK TIMES, July 20, 1993
- ◇ *AIDS: Illness and Injustice*, WASH. POST, July 26, 1992 (with Nan D. Hunter)

BAR ADMISSIONS

- ◇ Massachusetts (2008)
- ◇ California (2004)
- ◇ District of Columbia (1987) (inactive)
- ◇ Pennsylvania (1986) (inactive)
- ◇ U.S. Supreme Court (1993)
- ◇ U.S. Court of Appeals for the First Circuit (2010)
- ◇ U.S. Court of Appeals for the Second Circuit (2015)
- ◇ U.S. Court of Appeals for the Fifth Circuit (1989)
- ◇ U.S. Court of Appeals for the Ninth Circuit (2004)
- ◇ U.S. Court of Appeals for the Eleventh Circuit (1993)
- ◇ U.S. Court of Appeals for the D.C. Circuit (1993)
- ◇ U.S. District Courts for the Central District of California (2004)
- ◇ U.S. District Court for the District of the District of Columbia (1989)
- ◇ U.S. District Court for the District of Massachusetts (2010)
- ◇ U.S. District Court for the Northern District of California (2010)

EXHIBIT B

In re Facebook Biometric Information Privacy Litigation
Case No. 3:15-cv-03747-JD
U.S. District Court for the Northern District of California

EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN

EXHIBIT B

Partial List of Documents Reviewed by Professor Rubenstein
(other than case law and scholarship on the relevant issues)

A. *In re Facebook Biometric Info. Privacy Litig.*, No. 3:15-cv-03747 (N.D. Cal.)

1. Consolidated Class Action Complaint, ECF No. 40
2. Defendant Facebook, Inc.'s Motion to Dismiss: Memorandum of Points and Authorities in Support, ECF No. 69
3. Plaintiffs' Opposition to Facebook's Motion to Dismiss, ECF No. 73
4. Defendant Facebook, Inc.'s Reply in Support of Motion to Dismiss, ECF No. 76
5. Defendant Facebook, Inc.'s Pre-Hearing Brief, ECF No. 96
6. Plaintiffs' Opposition to Defendant's Motion for Summary Judgment, ECF No. 97-3
7. Order re: Motion to Dismiss and Summary Judgment, ECF No. 120
8. Defendant Facebook, Inc.'s Answer and Affirmative Defenses to Plaintiffs' Complaint, ECF No. 126
9. Defendant Facebook, Inc.'s Motion to Dismiss Under Rule 12(b)(1) and Rule 12(h)(3) for Lack of Subject Matter Jurisdiction; Memorandum of Points and Authorities in Support, ECF No. 129
10. Plaintiffs' Joint Response in Opposition to Facebook's Motion to Dismiss for Lack of Subject Matter Jurisdiction, ECF No. 138
11. Defendant Facebook, Inc.'s Reply in Support of Its Motion to Dismiss for Lack of Subject Matter Jurisdiction, ECF No. 140
12. Defendant Facebook, Inc.'s Amended Answer and Affirmative Defenses to Plaintiffs' Complaint, ECF No. 169
13. Defendant Facebook, Inc.'s Renewed Motion to Dismiss Under Rule 12(b)(1) for Lack of Subject Matter Jurisdiction, ECF No. 227
14. Plaintiffs' Response in Opposition to Facebook's Renewed Motion to Dismiss for Lack of Subject Matter Jurisdiction, ECF No. 236
15. Defendant Facebook, Inc.'s Reply in Support of Its Renewed Motion to Dismiss Under Rule 12(b)(1) for Lack of Subject Matter Jurisdiction, ECF No. 239
16. Plaintiffs' Motion for Class Certification, ECF No. 255
17. Facebook, Inc.'s Motion for Summary Judgment Based on Illinois' Extraterritoriality Doctrine and the Dormant Commerce Clause, ECF No. 257
18. Plaintiffs' Opposition to Defendant Facebook, Inc.'s Motion for Summary Judgment; and Plaintiffs' Deferral Request Under Rule 56(d), ECF No. 271-3
19. Facebook's Reply in Support of Its Motion for Summary Judgment Based on Illinois' Extraterritoriality Doctrine and the Constitution's Dormant Commerce Clause, ECF No. 278
20. Facebook's Opposition to Plaintiffs' Motion for Class Certification, ECF No. 284-1

21. Plaintiffs' Reply in Support of Motion for Class Certification, ECF No. 291-1
22. Order re Renewed Motion to Dismiss for Lack of Subject Matter Jurisdiction, ECF No. 294 [*Patel v. Facebook Inc.*, 290 F. Supp. 3d 948]
23. Facebook, Inc.'s Motion for Summary Judgment, ECF No. 299
24. Plaintiffs' Notice of Motion and Motion for Partial Summary Judgment; Memorandum of Points and Authorities in Support Thereof, ECF No. 306-1
25. Order re: Class Certification, ECF No. 333
26. Facebook's Opposition to Plaintiffs' Motion for Partial Summary Judgment, ECF No. 337
27. Plaintiffs' Opposition to Facebook, Inc.'s Motion for Summary Judgment, ECF No. 341
28. Facebook's Reply in Support of Its Motion for Summary Judgment, ECF No. 350
29. Reply in Support of Plaintiffs' Motion for Partial Summary Judgment, ECF No. 359
30. Plaintiffs' Notice of Motion and Motion for Approval of Class Notice Plan and for an Order Compelling Defendant to Cooperate in Class Notice: Memorandum of Points and Authorities in Support Thereof, ECF No. 370
31. Exhibit A, Declaration of Alan Vasquez Regarding Class Notice Plan, ECF No. 370-2
32. Order re: Summary Judgment Motions, ECF No. 372
33. Facebook, Inc.'s Motion for Summary Judgment, ECF No. 377-1
34. Defendant Facebook, Inc.'s Opposition to Plaintiffs' Motion for Approval of Class Notice Plan and for an Order Compelling Defendant to Cooperate in Class Notice, ECF No. 382
35. Reply in Support of Plaintiffs' Motion for Approval of Class Notice Plan and for an Order Compelling Defendant to Cooperate in Class Notice, ECF No. 386
36. Order re: Pre-Trial Class Notice, ECF No. 402
37. Order re: Request for Stay, ECF No. 404
38. U.S. Court of Appeals for the Ninth Circuit Order re: Petition for Permission to Appeal Under 23(f), ECF No. 406
39. U.S. Court of Appeals for the Ninth Circuit Opinion Affirming Order re: Class Certification, ECF No. 416
40. Plaintiffs' Unopposed Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities in Support Thereof, ECF No. 445
41. Declaration of Jay Edelson, ECF No. 445-1
42. Exhibit 1, Stipulation of Class Action Settlement, ECF No. 445-2
43. Exhibit 2, Transcript of Proceedings, May 21, 2018, ECF No. 445-3
44. Exhibit 3, Declaration of Jeffrey L. Bleich, ECF No. 445-4
45. [Proposed] Order Granting Motion for Preliminary Approval of Class Action Settlement, ECF No. 445-5
46. Facebook's Supplemental Brief in Support of Preliminary Approval of the Settlement, ECF No. 447
47. Declaration of Whitty Somvichian, ECF No. 447-1
48. Exhibit 1 to Somvichian Declaration, Transcript of Videotaped Deposition of Yaniv Taigman [Redacted Version of Document], ECF No. 447-2
49. Order Denying Motion for Preliminary Approval, ECF No. 456
50. Stipulated Request in Response to the Court's Minute Order, ECF No. 458

51. Transcript of Remote Zoom Video Conference, June 4, 2020, ECF No. 460
52. Facebook's Second Supplemental Brief in Support of Preliminary Approval of the Settlement, ECF No. 462
53. Declaration of Whitty Somvichian, ECF No. 462-1
54. Exhibit 1 to Somvichian Declaration, 2012 FTC LEXIS 135, ECF No. 462-2
55. Exhibit 2 to Somvichian Declaration, *U.S. v. Facebook*, Complaint for Civil Penalties, Injunction, and Other Relief, ECF No. 462-3
56. Exhibit 3 to Somvichian Declaration, *U.S. v. Facebook*, Stipulated Order for Civil Penalty, Monetary Judgment, and Injunctive Relief, ECF No. 462-4
57. Exhibit 4 to Somvichian Declaration, *Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies*, ECF No. 462-5
58. Exhibit 5 to Somvichian Declaration, Excerpt from Transcript of Videotaped Deposition of Dan Barak, ECF No. 462-6
59. Exhibit 6 to Somvichian Declaration, *Lloyd v. Xanitos, Inc.*, Stipulation of Class Action Settlement, ECF No. 462-7
60. Exhibit 7 to Somvichian Declaration, *Dixon v. Washington & Jane Smith Home*, Amended Settlement Agreement and Release, ECF No. 462-8
61. Exhibit 8 to Somvichian Declaration, *Svagdis v. Alro Steel Corp.*, Settlement Agreement and Release, ECF No. 462-9
62. Exhibit 9 to Somvichian Declaration, *Zepeda v. Kimpton Hotel & Restaurant Grp., LLC*, Settlement and Release Agreement, ECF No. 462-10
63. Exhibit 10 to Somvichian Declaration, *Zhirovetskiy v. Zayo Grp., LLC*, Settlement and Release Agreement, ECF No. 462-11
64. Exhibit 11 to Somvichian Declaration, *Fluker v. Glanbia Performance Nutrition*, Stipulation of Class Action Settlement, ECF No. 462-12
65. Exhibit 12 to Somvichian Declaration, *Glynn v. eDriving, LLC*, Settlement and Release Agreement, ECF No. 462-13
66. Exhibit 13 to Somvichian Declaration, *Smith v. Pineapple Hosp. Co.*, Settlement and Release Agreement, ECF No. 462-14
67. Exhibit 14 to Somvichian Declaration, *Johnson v. Resthaven Illiana Christian Convalescent Home, Inc.*, Settlement Agreement and Release Agreement, ECF No. 462-15
68. Exhibit 15 to Somvichian Declaration, *Parker v. DaBecca Natural Foods, Inc.*, Stipulation of Class Action Settlement, ECF No. 462-16
69. Exhibit 16 to Somvichian Declaration, *Prelipceanu v. Jumio Corp.*, Settlement Agreement, ECF No. 462-17
70. Exhibit 17 to Somvichian Declaration, *Graziano v. Royal Die & Stamping LLC*, Settlement and Release Agreement, ECF No. 462-18
71. Exhibit 18 to Somvichian Declaration, *Gordon v. IFCO Sys. US, LLC*, Stipulation of Class Action Settlement, ECF No. 462-19
72. Exhibit 19 to Somvichian Declaration, *Muniz v. Workwell Techs., Inc.*, Stipulation of Class Action Settlement, ECF No. 462-20
73. Declaration of Gary McCoy, ECF No. 463
74. Exhibit A, "Making Photo Tagging Easier," ECF No. 463-1
75. Exhibit B, Facebook's Privacy Policy, ECF No. 463-2
76. Exhibit C, ECF No. 463-3

77. Exhibit D, “What is the face recognition setting on Facebook and how does it work?”, ECF No. 463-4
78. Plaintiffs’ Supplemental Brief in Support of Preliminary Approval of a Class Action Settlement and Request for Referral to Ambassador Jeffrey L. Bleich, ECF No. 465
79. Declaration of Rafey S. Balabanian, ECF No. 465-1
80. Exhibit 1, Excerpts of Transcript of Remote Zoom Conference, June 4, 2020, ECF No. 465-2
81. Exhibit 2, Excerpt of Transcript of Videotaped Deposition of Nimesh Patel, ECF No. 465-3
82. Exhibit 3, Declaration of Tiffany Elking, ECF No. 465-4
83. Order Granting Preliminary Approval of Class Action Settlement, ECF No. 474
84. Emergency Motion for a Temporary Restraining Order as to Levi & Korsinsky LLP, ECF No. 477
85. Declaration of Christopher L. Dore, ECF No. 477-1
86. Exhibit 1, ECF No. 477-2
87. Exhibit 2, ECF No. 477-3
88. Exhibit 3, ECF No. 477-4
89. [Proposed] Temporary Restraining Order, ECF No. 477-5
90. Levi & Korsinsky, LLP’s Response to Emergency Application for a Temporary Restraining Order, ECF No. 479
91. Plaintiffs’ Reply in Further Support of Emergency Motion for a Temporary Restraining Order as to Levi & Korsinsky LLP, ECF No. 480
92. Levi & Korsinsky, LLP’s Sur-reply in Response to Plaintiffs’ Emergency Motion for a Temporary Restraining Order, ECF No. 483-1
93. Declaration of Gregory M. Nespole, ECF No. 483-2
94. Third Joint Report Regarding Progress of Notice, ECF No. 492

B. *Patel v. Facebook, Inc.*, No. 18-15982 (9th Cir.)

1. Appellant’s Brief, ECF No. 31-1
2. Brief of *Amici Curiae* American Civil Liberties Union, American Civil Liberties Union of Illinois, American Civil Liberties Union Foundation of Northern California, American Civil Liberties Union Foundation of Southern California, Center for Democracy & Technology, Electronic Frontier Foundation, and Illinois PIRG Education Fund, Inc., in Support of Plaintiffs-Appellees Seeking Affirmance, ECF No. 43
3. Brief of *Amicus Curiae* Electronic Privacy Information Center (EPIC) in Support of Plaintiffs-Appellees, ECF No. 46
4. Opinion Affirming Order re: Class Certification, ECF No. 85-1 [932 F.3d 1264]
5. Washington Legal Foundation’s *Amicus Curiae* Brief in Support of the Petition for Rehearing *En Banc*, ECF No. 92
6. Brief of *Amicus Curiae* Consumer Data Industry Association in Support of Appellant Facebook’s Petition for Rehearing *En Banc*, ECF No. 93
7. Brief of *Amicus Curiae* TechFreedom in Support of Petitioner’s Petition for Rehearing *En Banc*, ECF No. 97

8. Brief for *Amicus Curiae* Internet Association in Support of Defendant-Appellant Facebook, Inc.’s Petition for Rehearing En Banc, ECF No. 100
9. Brief for the Chamber of Commerce of the United States as *Amicus Curiae* in Support of Appellant’s Petition for Rehearing En Banc, ECF No. 101
10. Opposition of Plaintiffs-Appellees to Petition for Rehearing En Banc
11. Order Denying Petition for Rehearing En Banc, ECF No. 105

C. *U.S. v. Facebook*, No. 19-cv-02184 (D.D.C.)

1. Complaint for Civil Penalties, Injunction, and Other Relief, ECF No. 1
2. Decision and Order, 2012 FTC LEXIS 135, ECF No. 1-1
3. Complaint, 2012 FTC LEXIS 136, ECF No. 1-2
4. “Better Controls for Managing Your Content,” ECF No. 1-3
5. “Making It Easier to Share With Who You Want,” ECF No. 1-4
6. “Privacy Checkup Is Now Rolling Out,” ECF No. 1-5
7. Civil Cover Sheet, ECF No. 1-6

C. *Facebook, Inc. v. Patel*, No. 19-706 (U.S.)

1. Petition for a Writ of Certiorari, December 2019
2. Brief of Washington Legal Foundation as *Amicus Curiae* in Support of Petitioner, December 13, 2019
3. Brief of *Amicus Curiae* Consumer Data Industry Association in Support of Petitioner, January 3, 2020
4. Brief of *Amicus Curiae* TechFreedom in Support of Petitioner, January 3, 2020

EXHIBIT C

In re Facebook Biometric Information Privacy Litigation
Case No. 3:15-cv-03747-JD
U.S. District Court for the Northern District of California

EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN

EXHIBIT C

List of Cases with Multipliers of 4 or More

1. *In re Merry-Go-Round Enterprises, Inc.*, 244 B.R. 327, 335-45 (Bankr. D. Md. 2000) (“Based on Fidelity's analysis which assumes a \$300 blended hourly rate would be reasonable, the contingent fee requested by Snyder, Weiner, as modified, of \$71.2 million would be 19.6 times the lodestar starting point....Snyder, Weiner will be awarded its requested fee in the amount of \$71.2 million for professional services as special litigation counsel for the Chapter 7 Trustee.”) (bankruptcy).
2. *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, NO. CIV.A. 03-457, 2005 WL 1213926, at *18 (E.D. Pa. May 19, 2005) (“The Court further notes that the high lodestar multiplier (15.6) which results from the Court’s award of attorneys’ fees in this case is neutralized with respect to the reasonableness of a percentage fee award of 20% by the extraordinary support Plaintiffs have shown for counsel’s request for fees.”).
3. *Glendora Cmty. Redevelopment Agency v. Demeter*, 155 Cal. App. 3d 465, 479 (Ct. App. 1984) (“The contention of [appellant] is that the fee sought is more than 12 times the fee for which services at an hourly rate would have been obtained from an attorney specializing in condemnation (including \$8,000 for costs on appeal). Such calculations are based upon hindsight rather than reasonable expectation.”) (condemnation proceeding).
4. *In re Doral Fin. Corp. Sec. Litig.*, No. 1:05-md-01706, ECF No. 107 at 5 (S. D. N.Y. July 17, 2007) (“Lead Plaintiff’s counsel’s total lodestar is \$1,917,094.50. A 15.25% fee represents a reasonable multiplier of 10.26. Given the public policy and judicial economy interests that support the expeditious settlement of cases...the requested fee is reasonable.”).
5. *Weiss v. Mercedes-Benz*, 899 F. Supp. 1297 (D. N.J. 1995), *aff’d*, 66 F.3d 314 (3d Cir. 1995) , as reported in *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 962 F. Supp. 572, 592 (D.N.J. 1997) (stating that *Weiss* court had “award[ed] fee that resulted in a multiple of 9.3 times the lodestar and an average hourly rate of \$2,779.63”), *vacated on other grounds sub nom. In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283 (3d Cir. 1998).
6. *Conley v. Sears, Roebuck & Co.*, 222 B.R. 181, 182 (D. Mass. 1998) (“If a lodestar approach were used, the actual amount of attorney’s fees of class counsel calculated by multiplying the number of hours worked by the hourly billing rate totals \$826,665.00,

such that the requested attorney's fees would constitute a lodestar multiplier of 8.9 percent. After hearing, and some hand-wringing, the Court concludes that the fee is not unreasonable under the common fund doctrine.”) (class action within bankruptcy).

7. *Cosgrove v. Sullivan*, 759 F. Supp. 1667, 167 n.1 (S.D.N.Y. 1991) (“Under these circumstances, we set the prevailing counsel’s fee at \$1,000,000.00...[t]he total ‘lodestar’ in this case, which represents hours worked multiplied by a reasonable hourly rate, is \$114,398.00.”) (8.74 multiplier).
8. *Muchnick v. First Federal Savings & Loan Association of Philadelphia*, No. CIV.A. 86-1104, 1986 WL 10791, at *1 (E.D. Pa. Sept. 30, 1986) (“Although the lodestar in this case is approximately \$30,000.00, counsel seeks an attorneys’ fee of \$250,000.00 . . . I conclude that the requested fee is eminently reasonable under the circumstances of this case and can be justified under the lodestar method of calculation”) (8.33 multiplier).
9. *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, Civil Action No. 05-11148-PBS, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) (“Balancing all the factors under the crosscheck approach, I award the amount of \$70,000,000, which represents a multiplier of about 8.3 times lodestar, and about 20 percent of the common fund.”).
10. *Santos v. Camacho*, No. CIV. 04-00006, 2008 WL 8602098, at*39 (D. Guam Apr. 23, 2008) (“Based on the significant results achieved through the efforts of Class Counsel in creating the funds for settlement and in light of case law, the court should find that this factor weighs strongly in favor of granting counsel a multiplier of 8.”), *aff’d Simpao v. Gov’t of Guam*, 369 F. App’x 837, 840 (9th Cir. 2010).
11. *Yuzary v. HSBC Bank USA, N.A.*, No. 12 CIV. 3693 PGG, 2013 WL 5492998, at *11 (S.D.N.Y. Oct. 2, 2013) (“Here, the lodestar sought by Class Counsel, approximately 7.6 times, falls within the range granted by courts and equals the 31.7% being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs’ counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.”).
12. *Hainey v. Parrott*, No. 1:02-CV-733, 2007 WL 3308027, at *1-2 (S.D. Ohio Nov. 6, 2007) (“[C]ounsel’s lodestar fee calculation is approximately \$241,000...[i]n consideration of the above factors, the Court finds that an award of attorney’s fees of 30% of the common fund, or \$1.8 million, is appropriate in this case.”) (7.47 effective multiplier).
13. *In re Boston and Maine Corp. v. Sheehan, Phinney, Bass & Green, P.A.*, 778 F.2d 890 (1st Cir. 1985) (awarding a “final fee of \$232,310” contrasted with “hourly fees of \$33,110”) (bankruptcy).
14. *In re Rite Aid Corp. Sec. Litigation*, 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) (“Based

on the \$31,660,328.75 proposed fee award and the \$4,549,824.75 lodestar, we conclude that plaintiffs' counsel requests approval of a fee award with a 6.96 multiplier.”).

15. *Steiner v. Amer. Broadcasting Co., Inc.*, 248 Fed. Appx. 780, 783 (9th Cir. 2007) (“Based on class counsel’s total hours, the lodestar multiplier was approximately 6.85. Although this multiplier is higher than those in many common fund cases, it still falls well within the range of multipliers that courts have allowed.”) (internal citations omitted).
16. *Ramirez v. Lovin' Oven Catering Suffolk, Inc.*, No. 11 CIV. 0520 JLC, 2012 WL 651640 (S.D.N.Y. Feb. 24, 2012) (granting fees equal to 6.8 times lodestar).
17. *Riveras v. Bilboa Rest. Corp.*, No. 17-CV-4430-LTS-BCM, 2018 WL 8967112, at *1 (S.D.N.Y. Dec. 14, 2018) (finding 6.7 multiplier reasonable in FLSA action).
18. *In re UnitedHealth Grp. Inc. PSLRA Litig.*, 643 F. Supp. 2d 1094, 1106 (D. Minn. 2009) (“Using the Court-calculated lodestar, this fee would represent a multiplier of nearly 6.5. The Court finds this multiplier appropriate”).
19. *Nieman v. Duke Energy Corp.*, No. 312CV00456MOCDS, 2015 WL 13609363, at *2 (W.D.N.C. Nov. 2, 2015) (“The amount of the settlement and the efficiency of counsel in reaching such a resolution reinforce an upward variance from a 4.5 multiplier, but not an 8.0 multiplier. Considering all of the arguments presented, the court finds that the work accomplished in this case—which was substantial—is reasonably compensated by an 18% fee when the *Johnson* factors are considered and then crosschecked.”) (6.43 multiplier).
20. *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 482 (S.D.N.Y. 2013) (“Here, the lodestar sought by Class Counsel, approximately 6.3 times, falls within the range granted by courts and equals the one-third percentage being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs’ counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.”).
21. *Spartanburg Reg'l Health Servs. Dist., Inc. v. Hillenbrand Indus., Inc.*, No. 7:03-cv-02141, ECF Nos. 377 (D. S.C. Aug. 15, 2006) (approving fee request noting multiplier “slightly above six”); ECF No. 338-5 (providing data showing 6.22 multiplier).
22. *Stevens v. SEI Investments Co.*, No. CV 18-4205, 2020 WL 996418, at *13 (E.D. Pa. Feb. 28, 2020) (“Class Counsel's request for \$2,266,666.00 (one-third of the settlement amount) will result in Class Counsel receiving approximately 6.16 times the lodestar. Courts frequently approve attorneys’ fees awards for amounts in excess of the calculated lodestar. Indeed, multiples ranging from 1 to 8 are often used in common fund cases.”).

23. *Kane Cty., Utah v. United States*, 145 Fed. Cl. 15, 20 (2019) (“In order to equal one third of the total recovery, this lodestar amount must be subjected to a multiplier of approximately 6.13, which is within the range courts have approved in common fund cases.”).
24. *Wenzel v. Colvin*, No. EDCV 11-0338 JEM, 2014 WL 3810247, at *4 (C.D. Cal. Aug. 1, 2014) (“The \$1,000 per hour rate constitutes a multiplier of 6.06 over counsel’s normal hourly rate, consistent with cases that reward excellent results.”).
25. *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 2016) (“The loadstar calculation submitted by Class Counsel totals over \$41 million as of April 1, reflecting over 93,000 hours of work by Class Counsel. This amount is equivalent to a loadstar multiple of just over 6.”).
26. *In re Cardinal Health Inc. Securities Litigations*, 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007) (“From the Court’s analysis of the previous factors, the Court has found that approximately 18% is a reasonable award, which would yield a lodestar multiplier of six.”).
27. *In re Krispy Kreme Doughnuts, Inc. Sec. Litig.*, No. 1:04-cv-00416, ECF No. 203 (M.D. N.C. Feb. 15, 2007) (approving fee request); ECF No. 193 at 17 (stating fee request embodied multiplier of “approximately 6”).
28. *In re RJR Nabisco, Inc. Securities Litigation*, No. 88 Civ. 7905(MBM), 1992 WL 210138, at *5-6 (S.D. N.Y. Aug. 14, 1992) (“[T]he requested fees total six times the value of the time spent by plaintiffs’ counsel, what is referred to as the lodestar amount, which amount he says equals the total fees of all defense counsel. . . . [T]he award of a percentage fee in common fund cases such as this is consistent with the better and increasingly prevailing view in such cases, the requested percentage lies well within the limits awarded in similar cases, plaintiffs’ counsel have not taken a free ride on the efforts of a government agency and the settlement was skillfully negotiated.”).
29. *Ladewig v. Arizona Dep’t of Revenue*, 204 Ariz. 352, 359, 63 P.3d 1089, 1096 (Ariz. Tax Ct. 2003) (“In this case, the Court believes that in light of the lengthy delay in recovery, and the high risks assumed by counsel, that a lodestar multiplier of 6 is appropriate.”).
30. *Williams v. Rohm & Haas Pension Plan*, No. 04-0078-SEB, 2010 WL 4723725 (S.D. Ind. Nov. 12, 2010), *aff’d*, 658 F.3d 629 (7th Cir. 2011) (awarding fees of \$43.5 million, representing 5.85 multiplier).
31. *Athale v. Sinotech Energy Ltd.*, No. 11 CIV. 05831 (AJN), 2013 WL 11310686, at *9 (S.D.N.Y. Sept. 4, 2013) (“This amounts to a lodestar multiplier of 5.65, which although high, is not unreasonable under the particular facts of this case.”).
32. *In re Charter Commc’ns, Inc., Sec. Litig.*, No. 4:02-CV-1186 CAS, 2005 WL 4045741,

at *22 (E.D. Mo. June 30, 2005) (“Here fees of 20% of the settlement yield a 5.61 multiplier, which is within the range of multipliers awarded in comparable complex cases.”).

33. *Geneva Rock Prod., Inc. v. United States*, 119 Fed. Cl. 581, 595 (2015), *rev'd on other grounds, Longnecker Prop. v. United States*, No. 2015-5045, 2016 WL 9445914 (Fed. Cir. Nov. 14, 2016) (“In this case, an award 5.39 times the lodestar is reasonable under RCFC 23(h), given the complexity of the litigation, the diligent and skillful work by class counsel, and the pendency of the case for over six years.”).
34. *Rawa v. Monsanto Co.*, No. 4:17CV01252 AGF, 2018 WL 2389040, at *9 (E.D. Mo. May 25, 2018), on appeal (noting that fee award had “corresponding lodestar multiplier of 5.3” that was “quite high compared to similar cases in this circuit” but finding it not “too high”).
35. *Arrington v. Optimum Healthcare IT, LLC.*, No. CV 17-3950, 2018 WL 5631625, at *10 (E.D. Pa. Oct. 31, 2018) (“When calculated against the requested fee of \$1,633,333.33, the lodestar multiplier is 5.3. . . . However, in this case, class counsel undertook significant risk to achieve a substantial settlement amount, and should not be penalized for settling the case early in the litigation. We are satisfied with the reasonableness of the requested fee and we will approve class counsel's request for \$1,633,333.33 in attorneys' fees.”).
36. *Davis v. J.P. Morgan Chase & Co.*, 827 F. Supp. 2d 172, 185 (W.D.N.Y. 2011) (“In this case, dividing the \$14 million fee request by the lodestar figure yields a multiplier of about 5.3. A review of the case law indicates that while that figure is toward the high end of acceptable multipliers, it is not atypical for similar fee-award cases.”).
37. *Merkner v. AK Steel Corp.*, No. 1:09-CV-423-TSB, 2011 WL 13202629, at *5 (S.D. Ohio Jan. 10, 2011) (“Applying the rates requested with regard to the hours reflected in the Declarations of Mr. Coleman and Ms. Wallace yields a lodestar figure of \$1,699,467. In light of the \$9.1 million sought, the ‘lodestar multiplier’ would be 5.3. This multiplier is acceptable under the facts and circumstances of this case.”).
38. *Di Giacomo v. Plains All Am. Pipeline*, No. CIV.A.H-99-4137, 2001 WL 34633373, at *11 (S.D. Tex. Dec. 19, 2001) (“This court finds that 5.3 is an acceptable multiplier in light of the particular facts of this case, discussed more fully below.”).
39. *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d 1113, 1123 (C.D. Cal. 2008) (“The plaintiffs’ request in this case for 25% of the class fund would result in a fee of \$6,375,000, which is a multiplier of approximately 5.2 times the \$1.2 Million lodestar in this case. The Court has concluded that it will award Class Counsel 25% of the class fund, and addresses the reasons for doing so below.”).
40. *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 347 (S.D.N.Y. 2014) (noting that, “A fee award of 25% of the fund or \$11,475,000 would represent a

multiplier of 5.2 of the lodestar” and approving 25% award).

41. *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732, 791 (S.D. Tex. 2008) (“[T]he Court finds that the exceptional obstacles to recovery that were present here, and the remarkable success obtained by Lead Counsel’s skill and experience make this a rare and exceptional case warranting the application of the requested 5.2 multiplier under a lodestar cross-check or enhancement under a lodestar analysis.”) (internal quotation marks and citation omitted).
42. *Zeltser v. Merrill Lynch & Co.*, No. 13 CIV. 1531 FM, 2014 WL 4816134, at *10 (S.D.N.Y. Sept. 23, 2014) (stating that “the lodestar sought by Class Counsel, approximately 5.1 times the fees sought, falls within the range granted by courts” and approving award).
43. *Ferrick v. Spotify USA Inc.*, No. 16-CV-8412 (AJN), 2018 WL 2324076, at *10 (S.D.N.Y. May 22, 2018) (finding that fee amounting to a 5.02 multiplier would “adequately compensate Class Counsel, and it recognizes the complexity of the case, the risks involved in the litigation, the efforts of Class Counsel and the quality of representation provided, and the benefits to the class from the settlement”).
44. *In re Fernald Litig.*, No. C-1-85-149, 1989 WL 267038, at *5 (S.D. Ohio Sept. 29, 1989) (“We conclude, therefore, that plaintiffs’ class counsel are entitled to twenty (20%) percent of the common fund created or an equivalent multiplier of five.”).
45. *Fleisher v. Phoenix Life Ins. Co.*, No. 11-CV-8405 (CM), 2015 WL 10847814, at *18 (S.D.N.Y. Sept. 9, 2015) (“Based on the requested fee (\$13,500,000), class counsel’s aggregate lodestar yields a ‘crosscheck’ multiplier of 4.87. This is well within the range of crosscheck multipliers awarded in this circuit.”).
46. *Meijer, Inc. v. 3M*, No. CIV.A. 04-5871, 2006 WL 2382718, at *24 (E.D. Pa. Aug. 14, 2006) (“[T]he Court finds that, given the facts of this case, the requested lodestar multiplier of 4.77 is acceptable and does not call for a reduction in Plaintiffs’ Counsel’s requested attorneys’ fees award.”).
47. *Cornwell v. Credit Suisse Grp.*, No. 08-CV-03758(VM), 2011 WL 13263367, at *2 (S.D.N.Y. July 20, 2011) (“Lead Plaintiffs’ counsel’s total lodestar is \$4,049,631.50. A 27.5% fee represents a multiplier of 4.7. Given the public policy and judicial economy interests that support the expeditious settlement of cases, the requested fee is reasonable.”) (citation omitted).
48. *In re Xcel Energy, Inc., Sec., Derivative & “ERISA” Litig.*, 364 F. Supp. 2d 980, 999 (D. Minn. 2005) (approving lodestar multiplier of 4.7 for securities class action component, because “[u]nder these circumstances, the court concludes that the 25% attorney fee, when cross-checked against a lodestar multiplier of 4.7, is reasonable;” also approving lodestar multiplier of 2.16 for ERISA component).

49. *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) (“Finally, in ‘cross-checking’ the percentage fee against the lodestar-multiple, it clearly appears that the modest multiplier of 4.65 is fair and reasonable.”).
50. *Flores v. Express Servs., Inc.*, No. CV 14-3298, 2017 WL 1177098, at *4 (E.D. Pa. Mar. 30, 2017) (“The counsel fee request of \$1,895,362.33 results in a multiplier of 4.6, that is a requested fee which is 4.6 times the lodestar amount. This multiplier is reasonable . . .”).
51. *Holleran v Rita Medical Systems, Inc.*, No. RG06302394, 2007 WL 7759253 (Cal. Super. Oct. 04, 2007) (“Counsel for Plaintiffs seek fees in the total amount of \$290,000, which represents a multiplier of 4.57. The agreed fees sought are substantially higher than the lodestar, but presumably reflect the contingent risk of the case to class counsel, the benefits of certainty and of limiting its own attorneys’ fees to Angiodynamics, and other factors.”).
52. *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2015 WL 2438274, at *7 & 8 n.3 (N.D. Cal. May 21, 2015) (stating that, “[c]onsidering all of the facts and circumstances, the Court, in its discretion, concludes that [one firm] deserves a multiplier of 2 and [second firm] deserves a multiplier of 5.5” and noting that net result is a total multiplier of 4.53).
53. *Municipal Authority of Town of Bloomsburg v. Commonwealth of Pennsylvania*, 527 F. Supp. 982, 1000 (M.D. Pa. 1981) (“The multiplier of 4.5 requested by Petitioners will be applied to the lodestar fee despite the facts that such a multiplier is extremely high and appears to be probably without precedent. It is warranted only because of the peculiar facts of this case.”).
54. *Deloach v. Philip Morris Companies*, No. 1:00CV01235, 2003 WL 23094907, at *11 (M.D.N.C. Dec. 19, 2003) (“A multiplier of 4.45, in conjunction with an adjusted lodestar of \$15,914,905.50, results in a fee award of \$70,821,329.48. This figure represents a reasonable fee for the services provided by Plaintiffs’ Co-Lead Counsel in this case.”).
55. *Rabin v. Concord Assets Group, Inc.*, No. 89 Civ. 6130, 1991 WL 275757 (S.D. N.Y. Dec. 19, 1991) (“The requested attorneys’ fees of \$2,544,122.78 represents a multiplier of 4.4 to the lodestar figure based on time (which this Court finds to have been reasonably expended) and at various hourly rates (which this Court finds to be reasonable for the particular attorneys performing services).”).
56. *Johnson v. Fujitsu Tech. & Bus. of Am., Inc.*, No. 16-CV-03698-NC, 2018 WL 2183253, at *7 (N.D. Cal. May 11, 2018) (“This amount requires a risk multiplier of 4.375 to reach the \$3.5 million Plaintiffs seek. Though on the high end, this multiplier falls within the range of reasonableness.”).
57. *Monserrate v. Tequipment, Inc.*, No. 11 CV 6090 RML, 2012 WL 5830557, at *4

- (E.D.N.Y. Nov. 16, 2012) (“In sum, I find that a fee award of \$465,000 which provides a 4.34 multiplier of the reduced lodestar and constitutes fifteen percent of the \$3,100,000.00 Settlement Fund, is a fair and reasonable fee under *Goldberger* and related cases and should adequately compensate class counsel for its time and effort, for the risk it faced in this case, and for the high quality of its representation. Moreover, that reduced fee award will allow additional monies to be distributed to class members.”).
58. *Buccellato v. AT & T Operations, Inc.*, No. C10-00463-LHK, 2011 WL 3348055, at *2 (N.D. Cal. Jun. 30, 2011) (“The resulting multiplier of 4.3 is reasonable in light of the time and labor required, the difficulty of the issues involved, the requisite legal skill and experience necessary, the excellent and quick results.”).
 59. *In re AremisSoft Corp. Sec. Litig.*, 210 F.R.D. 109, 135 (D.N.J. 2002) (“Even assuming a value of one dollar per share, the 4.3 lodestar multiplier would be proper in this case.”).
 60. *Demaria v. Horizon Healthcare Servs., Inc.*, No. 2:11-CV-07298 (WJM), 2016 WL 6089713, at *5 (D.N.J. Oct. 18, 2016) (“Although a lodestar multiplier of 4.3 is large, it is not unreasonable.”).
 61. *In re VeriFone Holdings, Inc. Sec. Litig.*, No. C-07-6140 EMC, 2014 WL 12646027, at *2 (N.D. Cal. Feb. 18, 2014) (“[A]lthough the lodestar cross-check though reveals a high multiplier—4.3 compared to the Ninth Circuit’s observation that over 80% of multipliers fall between 1.0 and 4.0—other courts have awarded multipliers in excess of 4.0, and the Court finds that the multiplier here is acceptable in light of the very substantial risks involved and Lead Plaintiff’s risk and extensive work on the case.”).
 62. *Shannon v. Hidalgo County Board of Comm’r*, No. 08-369 (D. N.M. June 4, 2009) (4.2 multiplier) (“Class Counsel are awarded reasonable attorneys’ fees, costs and gross receipts tax in the total amount of \$333,333, to be paid forthwith from the settlement fund.”).
 63. *In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593, at *5 (S.D.N.Y. June 16, 2020) (“A fee award of 20% of the settlement fund, or \$77.3 million, thus represents a multiplier of 4.09 of this lodestar. Although on the high end, a 4.09 multiplier is within the range of what has considered reasonable by courts.”).
 64. *Uschold v. NSMG Shared Servs., LLC*, No. 18-CV-01039-JSC, 2020 WL 3035776, at *16 (N.D. Cal. June 5, 2020) (“A multiplier of 4 is warranted here based on the contingent nature of the fee agreement and Mr. Benjamin’s explanation at the final approval hearing that this action required the majority of his firm’s resources and attention since January 2018. The high end multiplier is warranted because it would result in a percentage of recovery of 12.9% of the Gross Settlement Amount, which is below “the usual range” awarded in common fund cases.”).

65. *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-CV-3066-JEC, 2012 WL 12540344, at *5 (N.D. Ga. Oct. 26, 2012) (“Here, the requested fee would represent a multiplier of approximately four times lodestar, which is well within the range of approved fees.”).
66. *Hillson v. Kelly Servs. Inc.*, No. 2:15-CV-10803, 2017 WL 3446596, at *6 (E.D. Mich. Aug. 11, 2017) (“Here, as discussed, the risk in this case was considerable but not extraordinary. A multiplier of 4 would seem to adequately account for that risk.”).
67. *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 359-60 (S.D.N.Y. 2003) (“When combined with the attorneys’ fees awarded pursuant to the Citigroup Settlement, the amount sought is equivalent to a lodestar multiple of 4.0. . . . As no objection remains to the amount of costs sought by Lead Counsel, and the expenses do not appear facially unreasonable, the application for reimbursement of expenses is approved.”).

EXHIBIT D

In re Facebook Biometric Information Privacy Litigation
Case No. 3:15-cv-03747-JD
U.S. District Court for the Northern District of California

EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN

EXHIBIT D

List of Included Northern District of California Cases
Affirming Class Action Fee Awards in 2019

1. *Strong v. C & H Sugar Co., Inc.*, No. 3:17-cv-00480 (N.D. Cal. Apr. 4, 2019), ECF No. 57.
2. *Weeks v. Google LLC*, No. 5:18-cv-00801 (N.D. Cal. Dec. 13, 2019), ECF No. 184.
3. *Huntsman v. Southwest Airlines*, No. 3:17-cv-03972 (N.D. Cal. Oct. 4, 2019), ECF No. 57.
4. *Sampino v. Versace USA, Inc.*, No. 4:16-cv-07198 (N.D. Cal. Aug. 19, 2019), ECF No. 73.
5. *Corzine v. Maytag Corp.*, No. 5:15-cv-05764 (N.D. Cal. Dec. 31, 2019), ECF No. 134.
6. *Cryer v. Franklin Resources, Inc.*, No. 4:16-cv-04265 (N.D. Cal. Oct. 4, 2019), ECF No. 168.
7. *Austin v. Foodliner, Inc.*, No. 4:16-cv-07185 (N.D. Cal. May 10, 2019), ECF No. 61.
8. *Fowler v. Wells Fargo Bank, N.A.*, No. 4:17-cv-02092 (N.D. Cal. Jan. 25, 2019), ECF No. 94.
9. *Cabiness v. Educational Financial Servs.*, No. 4:16-cv-01109 (N.D. Cal. Mar. 26, 2019), ECF No. 128.
10. *San Miguel v. HP, Inc.*, No. 5:16-cv-05820 (N.D. Cal. June 28, 2019), ECF No. 146.
11. *Terry v. Hoovestol, Inc.*, No. 4:16-cv-05183 (N.D. Cal. May 9, 2019), ECF No. 70.
12. *Giroux v. Essex Property Trust, Inc.*, No. 4:16-cv-01722 (N.D. Cal. Mar. 14, 2019), ECF No. 80.
13. *Walters v. Kimpton Hotel & Restaurant Grp.*, No. 3:16-cv-05387 (N.D. Cal. July 11, 2019), ECF No. 117.
14. *Vikram v. First Student Mgmt.*, No. 4:17-cv-04656 (N.D. Cal. Sept. 3, 2019), ECF No. 74.

15. *Cooper v. Thoratec Corp.*, No. 4:14-cv-00360 (N.D. Cal. June 25, 2019), ECF No. 137.
16. *Esomonu v. Omnicare, Inc.*, No. 4:15-cv-02003 (N.D. Cal. Feb. 8, 2019), ECF No. 102.
17. *Noroma v. Home Point Financial Corp.*, No. 4:17-cv-07205 (N.D. Cal. Nov. 6, 2019), ECF No. 64.
18. *Fitzhenry-Russell v. The Coca-Cola Co.*, No. 5:17-cv-00603 (N.D. Cal. Oct. 3, 2019), ECF No. 95.
19. *Pettit v. Procter & Gamble Co.*, No. 3:15-cv-02150 (N.D. Cal. Mar. 29, 2019), ECF No. 135.

Exhibit 4

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12 Attorneys for Plaintiffs
13

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 In re FACEBOOK BIOMETRIC)
18 INFORMATION PRIVACY LITIGATION)

Master File No. 3:15-cv-03747-JD

) CLASS ACTION

19 This Document Relates To:)
20)

21 ALL ACTIONS.)

) DECLARATION OF SHAWN A.
) WILLIAMS FILED ON BEHALF OF
) ROBBINS GELLER RUDMAN & DOWD
) LLP IN SUPPORT OF APPLICATION FOR
) AWARD OF ATTORNEYS' FEES AND
) EXPENSES/CHARGES

1 I, SHAWN A. WILLIAMS, declare as follows:

2 1. I am a member of the firm of Robbins Geller Rudman & Dowd LLP (“Robbins
3 Geller” or the “Firm”). I am submitting this declaration in support of my Firm’s application for an
4 award of attorneys’ fees, expenses and charges (“expenses”) in connection with services rendered in
5 the above-entitled action (the “Litigation”).

6 2. This Firm is counsel of record for plaintiff Nimesh Patel and the Class.

7
8 3. The information in this declaration regarding the Firm’s time and expenses is taken
9 from time and expense reports and supporting documentation prepared and/or maintained by the
10 Firm in the ordinary course of business. I am one of the partners who oversaw and/or conducted the
11 day-to-day activities in the Litigation and I reviewed these reports (and backup documentation where
12 necessary or appropriate) in connection with the preparation of this declaration. The purpose of this
13 review was to confirm both the accuracy of the entries on the printouts as well as the necessity for,
14 and reasonableness of, the time and expenses committed to the Litigation. As a result of this review,
15 reductions were made to both time and expenses in the exercise of billing judgment. Based on this
16 review and the adjustments made, I believe that the time reflected in the Firm’s lodestar calculation
17 and the expenses for which payment is sought herein are reasonable and were necessary for the
18 effective and efficient prosecution and resolution of the Litigation. In addition, I believe that these
19 expenses are all of a type that would normally be charged to a fee-paying client in the private legal
20 marketplace.
21

22 4. After the reductions referred to above, the number of hours spent on the Litigation by
23 the Firm is 9,577.30. A breakdown of the lodestar at current rates is provided in the attached Exhibit
24 A. The lodestar amount for attorney/paraprofessional time based on the Firm’s current rates is
25 \$7,165,427.75. The current hourly rates shown in Exhibit A are the usual and customary rates set by
26 the Firm for each individual.
27
28

1 5. Attached as Exhibit B is a chart reflecting the time billed by each timekeeper in each
2 of the 17 categories, and also reflects each timekeeper's individual hours and lodestar at their current
3 rate (or most recent rate for former employees).

4 6. The Firm seeks an award of \$391,460.98 in expenses and charges in connection with
5 the prosecution of the Litigation. Those expenses and charges are summarized by category in the
6 attached Exhibit C.

7 7. The following is additional information regarding certain of these expenses:

8 (a) Filing, Witness and Other Fees: \$3,882.75. These expenses have been paid to
9 the Court for filing fees and to attorney service firms or individuals who either: (i) served process of
10 the complaint or subpoenas; or (ii) obtained copies of court documents for plaintiffs. The vendors
11 who were paid for these services are set forth in the attached Exhibit D.

12 (b) Transportation, Hotels & Meals: \$87,649.17. In connection with the
13 prosecution of this case, the Firm has paid for travel expenses to, among other things, attend court
14 hearings, meet with witnesses, mediators and opposing counsel and take or defend depositions. The
15 date, destination and purpose of each trip is set forth in the attached Exhibit E.

16 (c) Court Hearing Transcripts and Deposition Reporting, Transcripts and
17 Videography: \$8,886.89. The vendors who were paid for these services are listed in the attached
18 Exhibit F.

19 (d) Experts/Consultants: \$77,507.50.

20 (i) CDS Strategy Consulting, Inc. ("CDS"): \$71,187.50. CDS is a
21 litigation and trial strategy consulting firm providing fact analysis and presentation strategies for jury
22 selection and trial in complex litigation. Plaintiffs retained CDS and its principle, Rodney Jew, to
23 provide litigation and consulting services including the face to face trial strategy workshops and
24 assist in the development of streamlined trial demonstratives.

1 (ii) Labaton Sucharow LLP (reimbursement for initial expert payment to
2 Dr. Joseph Atick): \$6,320.00. Dr. Joseph Atick is a Mathematical Physics PhD and is regarded as an
3 expert in the field of digital and biometric identity. He is a co-founder of Visionics, among the early
4 face recognition technology development companies. Dr. Atick is also the co-founder and Director
5 Emeritus of the International Biometrics and Identification Association and Chairman of ID4Africa,
6 a pan-African movement to promote digital identity and its applications for socio-economic
7 development in Africa. In addition to being an early developer of face recognition technologies, Dr.
8 Atick has also been an advocate for responsible development and use of technology for verifying
9 identity including consultation with developing countries on the socioeconomic, political
10 development and national security impacts of the use of biometric identity technology. Plaintiffs
11 retained Dr. Atick to provide expert consultation on the history and development of facial
12 recognition technology and its potential uses and abuses. Additional payments were made to Dr.
13 Atick from the litigation expense fund. *See* Exhibit H attached hereto.

14 (e) Photocopies: \$1,877.79. In connection with this case, the Firm made 2,792
15 black and white copies. Robbins Geller requests \$0.15 per copy for a total of \$418.80. Each time an
16 in-house copy machine is used, our billing system requires that a case or administrative billing code
17 be entered and that is how the number of in-house copies were identified as related to the Litigation.
18 The Firm also paid \$1,458.99 to outside copy vendors. A breakdown of these outside charges by
19 date and vendor is set forth in the attached Exhibit G.

21 (f) Online Legal and Financial Research: \$22,170.78. This category includes
22 vendors such as LexisNexis Products, PACER, Thomson Financial, and Westlaw. These resources
23 were used to obtain access to factual databases, legal research and for cite-checking of briefs. This
24 expense represents the expenses incurred by Robbins Geller for use of these services in connection
25 with this Litigation. The charges for these vendors vary depending upon the type of services
26 requested. For example, Robbins Geller has flat-rate contracts with some of these providers for use
27 of their services. When Robbins Geller utilizes online services provided by a vendor with a flat-rate
28

1 contract, access to the service is by a billing code entered for the specific case being litigated. At the
2 end of each billing period in which such service is used, Robbins Geller's costs for such services are
3 allocated to specific cases based on the percentage of use in connection with that specific case in the
4 billing period. As a result of the contracts negotiated by Robbins Geller with certain providers, the
5 Class enjoys substantial savings in comparison with the "market-rate" for *a la carte* use of such
6 services which some law firms pass on to their clients. For example, the "market rate" charged to
7 others by LexisNexis for the types of services used by Robbins Geller is more expensive than the
8 rates negotiated by Robbins Geller.

10 (g) eDiscovery Database Hosting: \$22,032.88. Robbins Geller requests
11 \$22,032.88 for hosting eDiscovery related to this Litigation. Robbins Geller has installed top tier
12 software, infrastructure and security. The platform implemented, Relativity, is offered by over 100
13 vendors and is currently being used by 198 of the AmLaw200. Over 30 servers are dedicated to
14 Robbins Geller's Relativity hosting environment with all data stored in a secure SSAE 16 Type II
15 data center with automatic replication to a datacenter located in a different geographic location. By
16 hosting in-house, Robbins Geller is able to charge a reduced, all-in rate that includes many services
17 which are often charged as extra fees when hosted by a third party vendor. Robbins Geller's hosting
18 fee includes user logins, ingestion, processing, OCRing, TIFFing, bates stamping, productions and
19 archiving – all at no additional cost. Also, included is unlimited structured and conceptual analytics
20 (*i.e.*, email threading, inclusive detection, near-dupe detection, concept searching, assisted review,
21 clustering, and more). Robbins Geller is able to provide all these services for a rate that is typically
22 much lower than outsourcing to a third party vendor. Utilizing a secure, advanced platform in-house
23 has allowed Robbins Geller to prosecute actions more efficiently and has reduced the time and
24 expense associated with maintaining and searching electronic discovery databases. Similar to third-
25 party vendors, Robbins Geller uses a tiered rate system to calculate hosting charges. The amount
26
27
28

1 requested reflects charges for nearly 50,000 pages of documents produced by defendants and non-
2 parties in this action.

3 (h) My Firm maintained a litigation expense fund for certain common expenses in
4 connection with the prosecution of this case. The category entitled "Litigation Fund Contribution"
5 in each plaintiffs' counsel's fee and expense declaration represents contributions to this expense
6 fund. A breakdown of the contributions to and payments made from the litigation expense fund is
7 attached as Exhibit H.
8

9 (i) Mediation Fees (Jeffrey L. Bleich): \$7,500.00. These are the fees of the
10 mediator, Ambassador Jeffrey Bleich, who conducted multiple mediation sessions and conferences
11 with the parties leading to the settlement of the Litigation. Additional mediation fees were paid to
12 Phillips ADR (Layn Phillips) from the litigation expense fund. *See* Exhibit H attached hereto.

13 8. The expenses pertaining to this case are reflected in the books and records of this
14 Firm. These books and records are prepared from receipts, expense vouchers, check records and
15 other documents and are an accurate record of the expenses.

16 9. The identification and background of my Firm and its partners is attached hereto as
17 Exhibit I.
18

19 I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th
20 day of October, 2020, at San Francisco, California.

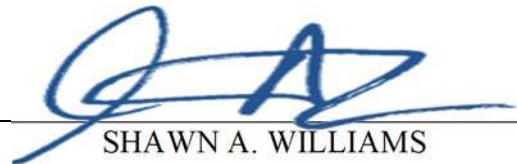
21
22 
23 SHAWN A. WILLIAMS

EXHIBIT A

EXHIBIT A

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
 Robbins Geller Rudman & Dowd LLP
 Inception through September 30, 2020

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Alexander, Susan K.	(P)	473.15	1,150	\$ 544,122.50
Barz, James E.	(P)	12.75	1,025	13,068.75
Davidson, Stuart	(P)	336.25	970	326,162.50
Dearman, Mark J.	(P)	55.10	1,025	56,477.50
Downs III, Travis E.	(P)	60.00	1,070	64,200.00
Forge, Jason A.	(P)	109.00	1,100	119,900.00
Geller, Paul J.	(P)	448.45	1,325	594,196.25
Gold, Christopher C.	(P)	473.25	765	362,036.25
Gusikoff Stewart, Ellen A.	(P)	133.80	1,080	144,504.00
Love, Andrew S.	(P)	87.40	1,150	100,510.00
Olts, Lucas F.	(P)	253.10	850	215,135.00
Williams, Shawn A.	(P)	1,869.40	1,100	2,056,340.00
Frame, Amanda M.	(A)	500.65	535	267,847.75
George, John H.	(A)	866.70	560	485,352.00
Hall, David W.	(A)	1,257.45	530	666,448.50
Pfeffer-Gillett, Alexi H.	(A)	25.60	475	12,160.00
Richter, Frank A.	(A)	19.25	580	11,165.00
Bandman, Randi D.	(OC)	115.30	1,070	123,371.00
Bays, Lea M.	(OC)	30.75	775	23,831.25
Coughlin, Patrick J.	(OC)	222.10	1,325	294,282.50
Mehta, Dharmi C.	(SA)	84.15	400	33,660.00
Mccue, Charles T.	(PA)	206.90	425	87,932.50
Brandon, Kelley T.	(I)	17.50	290	5,075.00
Eivazian, Lindsay	(LS)	31.25	290	9,062.50
Freer, Brad C.	(LS)	45.00	290	13,050.00
Lee, Alexander J.	(LS)	106.25	220	23,375.00
Magos, Bailey	(LS)	79.10	220	17,402.00
Torres, Michael	(LS)	36.85	375	13,818.75
Ulloa, Sergio	(LS)	14.75	290	4,277.50
Chwa, Jessilyn J.	(SUA)	34.25	175	5,993.75
Lee, Brandon N.	(SUA)	13.40	175	2,345.00
Bloyd, Sierra S.	(PL)	12.50	275	3,437.50

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Lai, Nhung	(PL)	152.25	275	41,868.75
Mccormack, Kirsten M.	(PL)	14.25	350	4,987.50
Morris, Sarah A.	(PL)	711.10	350	248,885.00
Navarrete, Ivania G.	(PL)	202.25	325	65,731.25
Puerto, Patricia	(PL)	21.45	350	7,507.50
Tiffith, Pierre R.	(PL)	156.00	325	50,700.00
Williams, Susan	(PL)	18.85	350	6,597.50
Price, Amanda E.	(DC)	39.50	150	5,925.00
Shaffer, Sydney A.	(DC)	193.10	150	28,965.00
Johnson, Terrance J.	(CR)	17.30	100	1,730.00
Wood, Greg A.	(CR)	19.90	100	1,990.00
<i>TOTAL</i>		<i>9,577.30</i>		<i>\$ 7,165,427.75</i>

(P) Partner

(A) Associate

(OC) Of Counsel

(SA) Staff Attorney

(PA) Project Attorney

(RA) Research Analyst

(I) Investigator

(LS) Litigation Support

(SUA) Summer Associate

(PL) Paralegal

(DC) Document Clerk

(CR) Client/Class Member
Relations

EXHIBIT B

EXHIBIT B

**In re Facebook Biometric Information Privacy Litigation , Case No. 3:15-cv-03747-JD
Category Lodestar Chart by Timekeeper**

Firm Name: Robbins Geller Rudman & Dowd, LLC
Reporting Period: Inception through September 30, 2020

Categories:

- | | | | |
|--|---|---|---------------------------------------|
| (1) Factual Investigation | (6) Motion to Dismiss | (11) Experts, Consultants & Investigators | (16) Court Appearance & Preparation |
| (2) Legal Research | (7) Class Certification & Notice | (12) Summary Judgment | (17) Client/Shareholder Communication |
| (3) Litigation Strategy & Analysis | (8) Discovery | (13) Settlement Negotiations | |
| (4) Draft Initial or Amended Complaint | (9) Document Review | (14) Trial Preparation | |
| (5) Lead Plaintiff Motion | (10) Other Pleadings, Briefs and Pretrial Motions | (15) Appeal | |

<i>Timekeeper</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>	<i>Total Sum of Hours</i>	<i>Rate</i>	<i>Lodestar</i>
Alexander, Susan K. (P)															473.15			473.15	1,150.00	544,122.50
Barz, James E. (P)	5.75		4.25	2.75														12.75	1,025.00	13,068.75
Davidson, Stuart (P)		9.00	42.15	5.50	0.75	4.25	2.45	71.15	0.20	44.10	5.50	7.70	58.60	41.80	37.30	5.60	0.20	336.25	970.00	326,162.50
Dearman, Mark J. (P)	0.20		24.15	1.00			3.25	5.50	9.75	11.25								55.10	1,025.00	56,477.50
Downs III, Travis E. (P)			46.00	10.50	0.25	0.25				3.00								60.00	1,070.00	64,200.00
Forge, Jason A. (P)		4.00	29.50										32.00	38.00	5.50			109.00	1,100.00	119,900.00
Geller, Paul J. (P)	5.00	1.00	79.40	11.00	4.50	5.15		16.45		74.85	1.50	5.20	212.80	16.00	15.60			448.45	1,325.00	594,196.25
Gold, Christopher C. (P)	26.70	14.90	29.25			0.40	34.10	1.00	1.80	68.00	2.90	62.40	17.20	173.60	40.10	0.90		473.25	765.00	362,036.25
Gusikoff Stewart, Ellen A. (P)			2.50				48.30						82.00			1.00		133.80	1,080.00	144,504.00
Love, Andrew S. (P)															87.40			87.40	1,150.00	100,510.00
Olts, Lucas F. (P)		2.80	7.50										3.60	202.00	37.20			253.10	850.00	215,135.00
Williams, Shawn A. (P)	18.40	15.60	166.10	24.70	27.50	27.70	39.60	175.40	7.00	150.20	66.40	286.45	329.05	217.45	187.90	123.00	6.95	1,869.40	1,100.00	2,056,340.00
Frame, Amanda M. (A)			1.90					16.40	18.50	445.45			12.90		4.00	1.50		500.65	535.00	267,847.75
George, John H. (A)	3.20	17.25	15.50				6.50	16.00		149.40	52.70	128.00	150.35	225.90	97.50	2.50	1.90	866.70	560.00	485,352.00
Hall, David W. (A)		7.75	107.20	3.50	6.50	37.00		616.25	1.00	249.75	3.00	35.50	93.25			94.75	2.00	1,257.45	530.00	666,448.50
Pfeffer-Gillett, Alexi H. (A)			25.60															25.60	475.00	12,160.00
Richter, Frank A. (A)	1.00		10.50	7.75														19.25	580.00	11,165.00
Bandman, Randi D. (OC)	25.20	4.60	1.30							2.70				74.00	7.50			115.30	1,070.00	123,371.00
Bays, Lea M. (OC)		1.50						29.25										30.75	775.00	23,831.25
Coughlin, Patrick J. (OC)		3.00											49.50	150.60	19.00			222.10	1,325.00	294,282.50
Mehta, Dharmi C. (SA)	12.00	72.15																84.15	400.00	33,660.00
Mccue, Charles T. (PA)			3.50					2.10			20.00			181.30				206.90	425.00	87,932.50
Brandon, Kelley T. (I)	17.50																	17.50	290.00	5,075.00
Eivazian, Lindsay (LS)								31.25										31.25	290.00	9,062.50
Freer, Brad C. (LS)									45.00									45.00	290.00	13,050.00
Lee, Alexander J. (LS)	4.00	0.50				0.50		43.50			2.00		0.50	48.50	6.75			106.25	220.00	23,375.00
Magos, Bailey (LS)								1.00	61.60					16.50				79.10	220.00	17,402.00
Torres, Michael (LS)								2.75	1.40					32.70				36.85	375.00	13,818.75
Ulloa, Sergio (LS)			14.75															14.75	290.00	4,277.50
Chwa, Jessilyn J. (SUA)		34.25																34.25	175.00	5,993.75
Lee, Brandon N. (SUA)		12.90													0.50			13.40	175.00	2,345.00
Bloyd, Sierra S. (PL)										3.00					9.50			12.50	275.00	3,437.50
Lai, Nhung (PL)		3.25						2.50	35.25	79.00		31.25		1.00				152.25	275.00	41,868.75
Mccormack, Kirsten M. (PL)	7.00							5.00		2.25								14.25	350.00	4,987.50

<i>Timekeeper</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>	<i>Total Sum of Hours</i>	<i>Rate</i>	<i>Lodestar</i>
Morris, Sarah A. (PL)			6.50				1.10	121.00		146.30	0.40	127.55	50.50	199.05	58.30		0.40	711.10	350.00	248,885.00
Navarrete, Ivania G. (PL)		2.50				3.00		108.00	13.25	75.50								202.25	325.00	65,731.25
Puerto, Patricia (PL)		4.50	1.50	0.30	5.00				1.25	8.90								21.45	350.00	7,507.50
Tiffith, Pierre R. (PL)		6.00		15.25				38.75	1.50	75.50		17.50				1.50		156.00	325.00	50,700.00
Williams, Susan (PL)			0.25	8.50						9.50					0.60			18.85	350.00	6,597.50
Price, Amanda E. (DC)								39.50										39.50	150.00	5,925.00
Shaffer, Sydney A. (DC)									180.60			11.50		1.00				193.10	150.00	28,965.00
Johnson, Terrance J. (CR)																	17.30	17.30	100.00	1,730.00
Wood, Greg A. (CR)	1.00																	18.90	19.90	1,990.00
TOTAL:	126.95	217.45	619.30	90.75	44.50	78.25	135.30	1,342.75	378.10	1,598.65	154.40	713.05	1,092.25	1,619.40	1,087.80	230.75	47.65	9,577.30		\$ 7,165,427.75

(P) Partner
(A) Associate
(OC) Of Counsel
(SA) Staff Attorney
(PA) Project Attorney
(RA) Research Analyst
(I) Investigator
(LS) Litigation Support
(SUA) Summer Associate
(PL) Paralegal
(DC) Document Clerk
(CR) Client/Class Member Relations

EXHIBIT C

EXHIBIT C

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
 Robbins Geller Rudman & Dowd LLP
 Inception through October 2, 2020

CATEGORY		AMOUNT
Filing, Witness and Other Fees		\$ 3,882.75
Class Action Notices/Business Wire		545.45
Transportation, Hotels & Meals		87,649.17
Telephone, Facsimile		811.24
Postage		171.30
Messenger, Overnight Delivery		1,644.23
Court Hearing Transcripts and Deposition Reporting, Transcripts and Videography		8,886.89
Experts/Consultants		77,507.50
CDS Strategy Consulting, Inc.	\$ 71,187.50	
Labaton Sucharow LLP	6,320.00	
Photocopies		1,877.79
Outside	\$ 1,458.99	
In-House Photocopies (2,792 copies at \$0.15 per page)		418.80
Online Legal and Financial Research		22,170.78
eDiscovery Database Hosting		22,032.88
Litigation Fund Contribution		155,737.40
Mediation Fees (Jeffrey L. Bleich)		7,500.00
Publications/Subscriptions		1,043.60
TOTAL		\$ 391,460.98

EXHIBIT D

EXHIBIT D

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Robbins Geller Rudman & Dowd LLP

Filing, Witness and Other Fees: \$3,882.75

DATE	VENDOR	PURPOSE
05/15/15	Clerk of the Court	05/14/15- Filing fee for initial complaint
05/16/15	Clerk of the Court	05/15/15 - Filing fee for <i>Pro Hac Vice</i> motion - D. Hall and S. Davidson
05/19/15	Clerk of the Court	05/18/15 - Filing fee for <i>Pro Hac Vice</i> motion - M. Dearman and S. Williams
08/31/15	Class Action Research & Litigation Support Services, Inc.	Court filing: Courtesy copy for chambers; courtesy copy for chambers; consolidation class action complaint motion for admin relief; declaration of S. Williams; stipulation and proposed order; consolidated class action complaint
10/03/15	Clerk of the Court	10/02/15 – Filing fees for <i>Pro Hac Vice</i> motions for Florida Attorneys in Norther District of California
10/05/15	Wheels of Justice, Inc.	10/05/15 - Courtesy copies for Judge Donato
02/25/16	Class Action Research & Litigation Support Services, Inc.	02/25/16 - Court filing: Courtesy copy for chambers; admin motion to file exhibits to declaration of S. Williams under seal; declaration of D. Hall in support of admin motion; proposed order; plaintiffs opposition to defendants motion for summary judgment (redacted); plaintiffs opposition to defendants' motion for summary judgement (sealed); declaration of S. Williams in support of plaintiffs opposition to motion for summary judgment with exhibits 1-13 (sealed)
03/02/16	Wheels of Justice, Inc.	03/02/16 - Courtesy copies for Judge Donato

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
03/22/16	Wheels of Justice, Inc.	03/04/16 - Delivery to CSR box
05/27/16	Class Action Research & Litigation Support Services, Inc.	05/27/16 - Personal Service: J. Nadolenco, Esq. at business Mayer Brown LLP - Plaintiffs first set of requests for admission to defendant Facebook, Inc., plaintiffs second set of interrogatories to defendant Facebook, Inc., plaintiffs second notice of deposition pursuant to Federal Rule of Civil Procedure 30(b)(6)
06/23/16	Class Action Research & Litigation Support Services, Inc.	06/23/16 - Court filing: Courtesy copy for judge's chambers; joint case management statement
06/29/16	Class Action Research & Litigation Support Services, Inc.	06/29/16 - Court filing: Courtesy copy for judge's chambers; plaintiffs' revised proposed case management schedule in connection with the June 29, 2016 case management conference
10/07/16	Courtcall	09/30/16 - Courtcall for S. Williams
10/08/16	Courtcall	01/07/16 - Courtcall regarding discovery
01/20/17	Courtcall	01/19/17 - Courtcall charge for D. Hall and S. Williams; telephonic hearing appearance on discovery dispute
01/31/17	Class Action Research & Litigation Support Services, Inc.	01/31/16 - Courtesy copy for judge's chambers; stipulation and (proposed) order regarding discovery of electronically stored information
02/24/17	Courtcall	Courtcall for S. Williams
04/07/17	Class Action Research & Litigation Support Services, Inc.	10/12/16 - Courtesy copy for judge's chambers; correspondence to Judge Donato dated 10/12/16 regarding discovery

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
04/30/17	Class Action Research & Litigation Support Services, Inc.	11/29/16 - Courtesy copy for judge's chambers; plaintiffs' administrative motion to file letter regarding discovery under seal; declaration of S. Williams in support of motion; proposed order; redacted letter brief; unredacted letter
06/20/17	Class Action Research & Litigation Support Services, Inc.	01/20/17 - Courtesy copy for judge's chambers; plaintiffs' notice regarding Facebook, Inc.'s motion for consideration of untimely declaration in support of sealing confidential information
06/30/17	Class Action Research & Litigation Support Services, Inc.	01/31/17 - Courtesy copy for judge's chambers; stipulation to extent the fact discovery cut off; proposed order
12/22/17	Courtcall	Conference call with court regarding discovery dispute - 12/15/17
02/08/18	Clerk of the Court	02/07/18 – Filing fee for <i>Pro Hac Vice</i> motion for C. Gold

EXHIBIT E

EXHIBIT E

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Robbins Geller Rudman & Dowd LLP

Transportation, Hotels & Meals: \$87,649.17

NAME	DATE	DESTINATION	PURPOSE
Geller, Paul	07/01/15 – 07/02/15	Chicago, IL	Lead plaintiff presentment hearing
Hall, David	02/15/16 – 02/18/16	Chicago, IL	Prepare for and attend depositions of N. Patel and A. Pezen
Williams, Shawn	02/15/16 – 02/16/16	Chicago, IL	Prepare for and attend N. Patel deposition
Hall, David	06/12/16 – 06/14/16	New York, NY	Prepare for and attend meeting with potential expert on facial recognition
Williams, Shawn	06/12/16 – 06/13/16	New York, NY	Prepare for and meet with J. Atick
Hall, David	05/18/17 – 05/19/17	Newport Beach, CA	Prepare for and attend mediation
Williams, Shawn	05/18/17 – 05/19/17	Newport Beach, CA	Prepare for and attend mediation
Davidson, Stuart	05/18/17 – 05/20/17	Newport Beach, CA	Prepare for and attend mediation
Hall, David	09/18/17 – 09/20/17	Washington, DC	Prepare for and attend deposition of Sherman
Hall, David	10/23/17 – 10/25/17	Chicago, IL	Prepare for and attend second depositions of C. Licata and A. Pexen
Hall, David	12/06/17 – 12/08/17	Chicago, IL	Prepare for and defend N. Patel deposition
Williams, Shawn	12/06/17 – 12/07/17	Chicago, IL	Prepare for and defend N. Patel deposition
George, John	02/27/18 – 02/28/18	Los Angeles, CA	Prepare for and attend deposition of Turk
Gold, Christopher	05/01/18 – 05/06/18	San Francisco, CA	Trial preparation and attendance at mediation
Davidson, Stuart	05/01/18 – 05/05/18	San Francisco, CA	Attend mediation session with Magistrate Judge Ryu, co-counsel and defense counsel; trial preparation
Patel, Minesh (c/o Shawn Williams)	05/03/18 – 05/04/18	San Francisco, CA	Attend Court ordered mediation
Gold, Christopher	05/06/18 – 05/12/18	Yountville, CA	Attend sessions with trial consultant (CDS Consulting)

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
George, John	05/08/18 – 05/09/18	Napa, CA	Trial preparation with R. Jew (CDS Consulting)
Williams, Shawn	05/09/18	Napa, CA	All-day session with trial/jury consultant
Olts, Lucas	05/14/18 – 05/17/18	San Francisco, CA	Trial preparation; draft verdict form, jury instructions, witness list, opposition to defendants' motion in limine, exhibit list and statement of undisputed facts
Coughlin, Patrick	05/14/18 – 05/18/18	San Francisco, CA	Trial preparation
Gold, Christopher	05/15/18 – 05/19/18	San Francisco, CA	Trial preparation
Olts, Lucas	05/17/18 – 05/18/18	San Francisco, CA	Trial preparation; draft verdict form, jury instructions, witness list, opposition to defendants' motion in limine, exhibit list and statement of undisputed facts
Coughlin, Patrick	05/20/18 – 05/25/18	San Francisco, CA	Trial preparation
Olts, Lucas	05/21/18 – 05/25/18	San Francisco, CA	Trial preparation; draft motion in limine oppositions; prepare for meet-and-confer call with defendant regarding motions in limine and witness list; meet with expert regarding trial preparation
Gold, Christopher	05/23/18 – 05/25/18	San Francisco, CA	Trial preparation
Coughlin, Patrick	05/25/18 – 05/29/18	San Francisco, CA	Trial preparation
Strozza, Kathleen	05/26/18	San Francisco, CA	Rental of rooms for trial; case stayed (includes deposit and partial credit)
McCue, Charles	05/29/18 – 05/31/18	San Francisco, CA	Travel to continue research per P. Coughlin; meet with S. Morris regarding trial exhibit list
Olts, Lucas	05/29/18 – 05/31/18	San Francisco, CA	Meet with expert regarding trial testimony; review and edit motion in limine oppositions
Geller, Paul	08/28/19 – 08/29/19	San Francisco, CA	Prepare for and attend meeting with new defense counsel M. Rhodes and co-counsel R. Balabanian
Forge, Jason	10/29/19 – 10/30/19	San Francisco, CA	Trial preparation

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
Olts, Lucas	10/29/19 – 10/31/19	San Francisco, CA	Prepare for and attend trial preparation meeting
Geller, Paul	01/14/20 – 01/16/20	San Francisco, CA	Prepare for and participate in mediation
Williams, Shawn	02/06/20	San Francisco, CA	Prepare for and attend status conference regarding settlement

EXHIBIT F

EXHIBIT F

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Robbins Geller Rudman & Dowd LLP

Court Hearing Transcripts and Deposition Reporting, Transcripts and Videography: \$8,886.89

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
12/18/15	Katherine Powell Sullivan	12/16/15 Motion to dismiss hearing transcript
02/11/16	Aptus Court Reporting, LLC	M. Pike deposition
02/11/16	Aptus Court Reporting, LLC	S. Chance Time W/E
02/12/16	Aptus Court Reporting, LLC	J. Lombaert Deposition
02/16/16	TSG Reporting, Inc.	N. Patel video deposition and deposition transcript
03/04/16	Katherine Powell Sullivan	Evidentiary hearing transcript
07/07/16	Joan Marie Columbini, CSR, ROR	Hearing Transcript
10/27/16	Lydia R. Zinn	Transcript of hearing on MTD
01/09/17	Lydia R. Zinn	01/05/17 telephonic discovery hearing transcript
09/08/17	Lydia R. Zinn	09/07/17 status conference hearing transcript
07/27/20	Katherine Powell Sullivan	07/23/20 Hearing transcript

EXHIBIT G

EXHIBIT G

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Robbins Geller Rudman & Dowd LLP

Photocopies: \$1,877.79

In-house Photocopies: \$418.80 (2,792 copies at \$0.15 per copy)

Outside Photocopies: \$1,458.99 (detailed below)

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
02/29/16	Advantage E-Discovery Solutions, Inc.	Heavy litigation photocopies/preparation of litigation binders for summary judgment hearing

EXHIBIT H

EXHIBIT H – LITIGATION EXPENSE FUND BREAKDOWN*In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD

<i>CONTRIBUTIONS TO LITIGATION FUND</i>	<i>AMOUNT</i>
Robbins Geller Rudman & Dowd LLP	\$ 155,737.39
Edelson PC	155,737.39
Labaton Sucharow LLP	155,737.39
<i>TOTAL</i>	<i>\$ 467,212.17</i>

<i>VENDORS PAID FROM LITIGATION FUND</i>	<i>AMOUNT</i>
Quandary Peak Research ¹	\$ 243,747.79
Identification Technology Partners ²	114,565.11
Joseph J. Atick (Identity Counsel Int'l) ³	25,740.00

¹ Quandary Peak Research (“Quandary Peak”) is a litigation consulting firm providing the services of computer and software engineers for litigation support including software analysis, technology audits, and due diligence. Plaintiffs’ counsel retained Quandary Peak to provide software analysis, source code review, and expert analysis in connection with the Litigation. Specifically, plaintiffs retained Atif Hashmi, M.S. Ph.D., of Quandary Peak to review and analyze Facebook’s source code underlying its facial recognition technology used to power its “Tag Suggestions” feature. Dr. Hashmi performed several weeks of source code review, submitted an expert report, and gave expert deposition testimony in connection with summary judgment. Quandary Peak’s services and Dr. Hashmi’s analysis and testimony were significant to the advancement and ultimate proof of plaintiffs’ claims against Facebook.

² Identification Technology Partners (“IDTP”) is a technical consulting services firm providing biometric and smart card technology consulting services to businesses, as well as litigation support regarding subject matter areas of personally identifiable information, collection and storage of personally identifiable information, and issues of consent and ethics. Plaintiffs’ counsel retained IDTP and specifically Jeffrey Dunn, a IDTP senior consultant and former Technical Director for Biometrics at the National Security Agency Laboratory for Physical Science, to analyze evidence collected in the litigation and provide expert analysis and testimony regarding Facebook’s facial recognition technology. Jeffrey Dunn provided such analysis and submitted an expert rebuttal report on behalf of plaintiffs in connection with summary judgment. IDTP and Jeffrey Dunn’s services and testimony were material to the advancement and ultimate proof of plaintiffs’ claims against Facebook.

³ Dr Joseph J. Atick is a Mathematical Physics Ph.D. and is regarded as an expert in the field of digital and biometric identity. He is a co-founder of Visionics, one of the early facial recognition technology development companies. Dr. Atick is also the co-founder and Director Emeritus of the International Biometrics and Identification Association and Chairman of ID4Africa, a pan-African movement to promote digital identity and its applications for socio-economic development in Africa. In addition to being an early developer of facial recognition technologies, Dr. Atick has

<i>VENDORS PAID FROM LITIGATION FUND</i>	<i>AMOUNT</i>
Phillips ADR Enterprises, P.C. ⁴	17,360.00
US Legal Support ⁵	13,916.25
L.R. Hodges & Associates, Ltd. ⁶	12,493.70
TSG Reporting, Inc. ⁷	10,927.90
Dan Ariely LLC ⁸	10,000.00
Class Action Research & Litigation Support Services, Inc. ⁹	7,743.10
Aptus Court Reporting ¹⁰	7,406.74

also been an advocate for responsible development and use of technology for verifying identity including consultation with developing countries on the socioeconomic, political development and national security impacts of the use of biometric identity technology. Plaintiffs retained Dr. Atick to provide expert consultation on the history and development of facial recognition technology and its potential uses and abuses.

⁴ The parties retained United States District Court Judge Layn R. Phillips (Ret.) to provide mediation services in the litigation, which were held on May 19, 2017 in Newport Beach, California. The mediation concluded without an agreement in principle to resolve the litigation.

⁵ Court reporting fees for deposition and original and one certified copy of transcript of Dan Barak on October 10, 2017, Omry Yadam on October 26, 2017, and Dr. Matthew Turk on February 28, 2018.

⁶ L.R. Hodges & Associates, Ltd. (“LRH&A”) is a private investigative research firm that provided investigative services to Plaintiffs’ counsel in connection with the litigation. LRH&A’s services included identifying, locating and interviewing prospective witnesses in preparation for trial.

⁷ Court reporting fees to obtain deposition transcripts of Nimesh Patel, Carlo Licata, Adam Pezen, Dr. Atif Hashmi, and Jeffrey Dunn.

⁸ Professor Dan Ariely is the James B. Duke Professor of Psychology and Behavioral Economics at Duke University in Durham, North Carolina, and a founding member of the Center for Advanced Hindsight. Professor Ariely has dedicated most of his research in behavioral economics on the irrational ways people ordinarily behave. Plaintiffs’ counsel retained Professor Ariely to provide input on the flow of the online claim form on the Settlement website to ensure that class members’ typical behavior was factored in, and to maximize, to the greatest extent possible, the number of claims made.

⁹ Attorney service fees for filing documents with the court; delivering courtesy copies of documents to the Court; service of process of multiple Subpoenas to Appear and Testify at a Hearing or Trial in a Civil Action.

¹⁰ Court reporting fees and original and certified copies of the deposition transcripts of Yaniv Taigman and Robert Sherman held on October 18, 2016 and September 19, 2017, respectively;

<i>VENDORS PAID FROM LITIGATION FUND</i>	<i>AMOUNT</i>
Goldstein & Russell, P.C. ¹¹	2,375.00
Inservio3 ¹²	672.33
Debra Pas, CRR ¹³	154.80
Jo Ann Bryce, Official Reporter ¹⁴	79.75
Katherine Powell Sullivan ¹⁵	29.70
<i>TOTAL</i>	<i>\$ 467,212.17</i>

and fees for obtaining official audio and video transcript of an oral argument in the Illinois Supreme Court related to this action.

¹¹ Goldstein & Russell P.C. is a Maryland based law firm specializing in United States Supreme Court practice. Plaintiffs' counsel obtained consultation from Goldstein & Russell in connection with Facebook's petition for a writ of certiorari to the Supreme Court on issues decided in the Ninth Circuit's August 8, 2019 order affirming the district court's order certifying the class.

¹² Inservio3 is a third-party vendor plaintiffs' counsel used for large-scale printing in connection with trial preparation prior to the Ninth Circuit's stay order.

¹³ Court reporting fees to obtain hearing transcript of 11/30/17 motion to dismiss hearing.

¹⁴ Court reporting fees to obtain transcript of proceedings heard before the Court on February 6, 2020.

¹⁵ Court reporting fees to obtain transcript of proceedings heard before the Court on March 29, 2018.

EXHIBIT I

FIRM RESUME

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INTRODUCTION

Robbins Geller Rudman & Dowd LLP (“Robbins Geller” or the “Firm”) is a 200-lawyer firm with offices in Boca Raton, Chicago, Manhattan, Melville, Nashville, San Diego, San Francisco, Philadelphia, and Washington, D.C. (www.rgrdlaw.com). The Firm is actively engaged in complex litigation, emphasizing securities, consumer, antitrust, insurance, healthcare, human rights, and employment discrimination class actions. The Firm’s unparalleled experience and capabilities in these fields are based upon the talents of its attorneys, who have successfully prosecuted thousands of class action lawsuits and numerous individual cases, recovering billions of dollars.

This successful track record stems from our experienced attorneys, including many who came to the Firm from federal or state law enforcement agencies. The Firm also includes several dozen former federal and state judicial clerks.

The Firm is committed to practicing law with the highest level of integrity in an ethical and professional manner. We are a diverse firm with lawyers and staff from all walks of life. Our lawyers and other employees are hired and promoted based on the quality of their work and their ability to treat others with respect and dignity.

We strive to be good corporate citizens and work with a sense of global responsibility. Contributing to our communities and environment is important to us. We often take cases on a *pro bono* basis and are committed to the rights of workers, and to the extent possible, we contract with union vendors. We care about civil rights, workers’ rights and treatment, workplace safety, and environmental protection. Indeed, while we have built a reputation as the finest securities and consumer class action law firm in the nation, our lawyers have also worked tirelessly in less high-profile, but no less important, cases involving human rights and other social issues.

PRACTICE AREAS AND SERVICES

Securities Fraud

As recent corporate scandals demonstrate clearly, it has become all too common for companies and their executives – often with the help of their advisors, such as bankers, lawyers, and accountants – to manipulate the market price of their securities by misleading the public about the company’s financial condition or prospects for the future. This misleading information has the effect of artificially inflating the price of the company’s securities above their true value. When the underlying truth is eventually revealed, the prices of these securities plummet, harming those innocent investors who relied upon the company’s misrepresentations.

Robbins Geller is the leader in the fight to protect investors from corporate securities fraud. We utilize a wide range of federal and state laws to provide investors with remedies, either by bringing a class action on behalf of all affected investors or, where appropriate, by bringing individual cases.

The Firm’s reputation for excellence has been repeatedly noted by courts and has resulted in the appointment of Firm attorneys to lead roles in hundreds of complex class-action securities and other cases. In the securities area alone, the Firm’s attorneys have been responsible for a number of outstanding recoveries on behalf of investors. Currently, Robbins Geller attorneys are lead or named counsel in hundreds of securities class action or large institutional-investor cases. Some notable current and past cases include:

- *In re Enron Corp. Sec. Litig.*, No. H-01-3624 (S.D. Tex.). Robbins Geller attorneys and lead plaintiff The Regents of the University of California aggressively pursued numerous defendants, including many of Wall Street’s biggest banks, and successfully obtained settlements in excess of **\$7.2 billion** for the benefit of investors. ***This is the largest securities class action recovery in history.***
- *Jaffe v. Household Int’l, Inc.*, No. 02-C-05893 (N.D. Ill.). As sole lead counsel, Robbins Geller obtained a record-breaking settlement of **\$1.575 billion** after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a securities fraud verdict in favor of the class. In 2015, the Seventh Circuit Court of Appeals upheld the jury’s verdict that defendants made false or misleading statements of material fact about the company’s business practices and financial results, but remanded the case for a new trial on the issue of whether the individual defendants “made” certain false statements, whether those false statements caused plaintiffs’ losses, and the amount of damages. The parties reached an agreement to settle the case just hours before the retrial was scheduled to begin on June 6, 2016. ***The \$1.575 billion settlement, approved in October 2016, is the largest ever following a securities fraud class action trial, the largest securities fraud settlement in the Seventh Circuit and the seventh-largest settlement ever in a post-PSLRA securities fraud case.*** According to published reports, the case was just the seventh securities fraud case tried to a verdict since the passage of the PSLRA.

- ***In re Valeant Pharms. Int'l, Inc. Sec. Litig.***, No. 3:15-cv-07658 (D.N.J.). As sole lead counsel, Robbins Geller attorneys obtained preliminary approval of a \$1.2 billion settlement in the securities case that *Vanity Fair* reported as “the corporate scandal of its era” that had raised “fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations.” The settlement resolves claims that defendants made false and misleading statements regarding Valeant’s business and financial performance during the class period, attributing Valeant’s dramatic growth in revenues and profitability to “innovative new marketing approaches” as part of a business model that was low risk and “durable and sustainable.” Pending court approval, *Valeant* is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever.
- ***In re Am. Realty Cap. Props., Inc. Litig.***, No. 1:15-mc-00040 (S.D.N.Y.). As sole lead counsel, Robbins Geller attorneys zealously litigated the case arising out of ARCP’s manipulative accounting practices and obtained a \$1.025 billion settlement. For five years, the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and the Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages of any major PSLRA case prior to trial and includes the largest personal contributions by individual defendants in history.
- ***In re UnitedHealth Grp. Inc. PSLRA Litig.***, No. 06-CV-1691 (D. Minn.). Robbins Geller represented the California Public Employees’ Retirement System (“CalPERS”) and demonstrated its willingness to vigorously advocate for its institutional clients, even under the most difficult circumstances. The Firm obtained an \$895 million recovery on behalf of UnitedHealth shareholders, and former CEO William A. McGuire paid \$30 million and returned stock options representing more than three million shares to the shareholders, bringing the total recovery for the class to over \$925 million, the largest stock option backdating recovery ever, and ***a recovery that is more than four times larger than the next largest options backdating recovery.*** Moreover, Robbins Geller obtained unprecedented corporate governance reforms, including election of a shareholder-nominated member to the company’s board of directors, a mandatory holding period for shares acquired by executives via option exercise, and executive compensation reforms that tie pay to performance.
- ***Alaska Elec. Pension Fund v. CitiGroup, Inc. (In re WorldCom Sec. Litig.)***, No. 03 Civ. 8269 (S.D.N.Y.). Robbins Geller attorneys represented more than 50 private and public institutions that opted out of the class action case and sued WorldCom’s bankers, officers and directors, and auditors in courts around the country for losses related to WorldCom bond offerings from 1998 to 2001. The Firm’s attorneys recovered more than \$650 million for their clients, substantially more than they would have recovered as part of the class.
- ***Luther v. Countrywide Fin. Corp.***, No. 12-cv-05125 (C.D. Cal.). Robbins Geller attorneys secured a \$500 million settlement for institutional and individual investors in what is the largest RMBS purchaser class action settlement in history, and one of the largest class action securities settlements of all time. The unprecedented settlement resolves claims against Countrywide and Wall Street banks that issued the securities. The action was the first securities class action case filed against originators and Wall Street banks as a result of the credit crisis. As co-lead counsel Robbins Geller forged through six years of hard-fought litigation, oftentimes litigating issues of first impression, in order to secure the landmark settlement for its clients and the class.
- ***In re Wachovia Preferred Sec. & Bond/Notes Litig.***, No. 09-cv-06351 (S.D.N.Y.). On behalf of investors in bonds and preferred securities issued between 2006 and 2008, Robbins Geller and co-

counsel obtained a significant settlement with Wachovia successor Wells Fargo & Company and Wachovia auditor KPMG LLP. ***The total settlement – \$627 million – is one of the largest credit-crisis settlements involving Securities Act claims and one of the 20 largest securities class action recoveries in history.*** The settlement is also one of the biggest securities class action recoveries arising from the credit crisis. The lawsuit focused on Wachovia’s exposure to “pick-a-pay” loans, which the bank’s offering materials said were of “pristine credit quality,” but which were actually allegedly made to subprime borrowers, and which ultimately massively impaired the bank’s mortgage portfolio. Robbins Geller served as co-lead counsel representing the City of Livonia Employees’ Retirement System, Hawaii Sheet Metal Workers Pension Fund, and the investor class.

- ***In re Cardinal Health, Inc. Sec. Litig.***, No. C2-04-575 (S.D. Ohio). As sole lead counsel representing Cardinal Health shareholders, Robbins Geller obtained a recovery of \$600 million for investors on behalf of the lead plaintiffs, Amalgamated Bank, the New Mexico State Investment Council, and the California Ironworkers Field Trust Fund. At the time, the \$600 million settlement was the tenth-largest settlement in the history of securities fraud litigation and is the largest-ever recovery in a securities fraud action in the Sixth Circuit.
- ***AOL Time Warner Cases I & II***, JCCP Nos. 4322 & 4325 (Cal. Super. Ct., Los Angeles Cnty.). Robbins Geller represented The Regents of the University of California, six Ohio state pension funds, Rabo Bank (NL), the Scottish Widows Investment Partnership, several Australian public and private funds, insurance companies, and numerous additional institutional investors, both domestic and international, in state and federal court opt-out litigation stemming from Time Warner’s disastrous 2001 merger with Internet high flier America Online. After almost four years of litigation involving extensive discovery, the Firm secured combined settlements for its opt-out clients totaling over \$629 million just weeks before The Regents’ case pending in California state court was scheduled to go to trial. The Regents’ gross recovery of \$246 million is the largest individual opt-out securities recovery in history.
- ***In re HealthSouth Corp. Sec. Litig.***, No. CV-03-BE-1500-S (N.D. Ala.). As court-appointed co-lead counsel, Robbins Geller attorneys obtained a combined recovery of \$671 million from HealthSouth, its auditor Ernst & Young, and its investment banker, UBS, for the benefit of stockholder plaintiffs. The settlement against HealthSouth represents one of the larger settlements in securities class action history and is considered among the top 15 settlements achieved after passage of the PSLRA. Likewise, the settlement against Ernst & Young is one of the largest securities class action settlements entered into by an accounting firm since the passage of the PSLRA.
- ***Jones v. Pfizer Inc.***, No. 1:10-cv-03864 (S.D.N.Y.). Lead plaintiff Stichting Philips Pensioenfond obtained a \$400 million settlement on behalf of class members who purchased Pfizer common stock during the January 19, 2006 to January 23, 2009 class period. The settlement against Pfizer resolves accusations that it misled investors about an alleged off-label drug marketing scheme. As sole lead counsel, Robbins Geller attorneys helped achieve this exceptional result after five years of hard-fought litigation against the toughest and the brightest members of the securities defense bar by litigating this case all the way to trial.
- ***In re Dynege Inc. Sec. Litig.***, No. H-02-1571 (S.D. Tex.). As sole lead counsel representing The Regents of the University of California and the class of Dynege investors, Robbins Geller attorneys obtained a combined settlement of \$474 million from Dynege, Citigroup, Inc., and Arthur Andersen LLP for their involvement in a clandestine financing scheme known as Project Alpha. Most notably, the settlement agreement provides that Dynege will appoint two board members to be nominated by The Regents, which Robbins Geller and The Regents believe will benefit all of Dynege’s stockholders.

- ***In re Qwest Commc'ns Int'l, Inc. Sec. Litig.***, No. 01-cv-1451 (D. Colo.). In July 2001, the Firm filed the initial complaint in this action on behalf of its clients, long before any investigation into Qwest's financial statements was initiated by the SEC or Department of Justice. After five years of litigation, lead plaintiffs entered into a settlement with Qwest and certain individual defendants that provided a \$400 million recovery for the class and created a mechanism that allowed the vast majority of class members to share in an additional \$250 million recovered by the SEC. In 2008, Robbins Geller attorneys recovered an additional \$45 million for the class in a settlement with defendants Joseph P. Nacchio and Robert S. Woodruff, the CEO and CFO, respectively, of Qwest during large portions of the class period.
- ***Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.***, No. 1:09-cv-03701 (S.D.N.Y.). Robbins Geller attorneys served as lead counsel for a class of investors and obtained court approval of a \$388 million recovery in nine 2007 residential mortgage-backed securities offerings issued by J.P. Morgan. The settlement represents, on a percentage basis, the largest recovery ever achieved in an MBS purchaser class action. The result was achieved after more than five years of hard-fought litigation and an extensive investigation.
- ***Smilovits v. First Solar, Inc.***, No. 2:12-cv-00555 (D. Ariz.). As sole lead counsel, Robbins Geller obtained a \$350 million settlement in *Smilovits v. First Solar, Inc.* The settlement, which was reached after a long legal battle and on the day before jury selection, resolves claims that First Solar violated §§10(b) and 20(a) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. The settlement is the fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.
- ***NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.***, No. 1:08-cv-10783 (S.D.N.Y.). As sole lead counsel, Robbins Geller obtained a \$272 million settlement on behalf of Goldman Sachs' shareholders. The settlement concludes one of the last remaining mortgage-backed securities purchaser class actions arising out of the global financial crisis. The remarkable result was achieved following seven years of extensive litigation. After the claims were dismissed in 2010, Robbins Geller secured a landmark victory from the Second Circuit Court of Appeals that clarified the scope of permissible class actions asserting claims under the Securities Act of 1933 on behalf of MBS investors. Specifically, the Second Circuit's decision rejected the concept of "tranche" standing and concluded that a lead plaintiff in an MBS class action has class standing to pursue claims on behalf of purchasers of other securities that were issued from the same registration statement and backed by pools of mortgages originated by the same lenders who had originated mortgages backing the lead plaintiff's securities.
- ***Schuh v. HCA Holdings, Inc.***, No. 3:11-cv-01033 (M.D. Tenn.). As sole lead counsel, Robbins Geller obtained a groundbreaking \$215 million settlement for former HCA Holdings, Inc. shareholders – the largest securities class action recovery ever in Tennessee. Reached shortly before trial was scheduled to commence, the settlement resolves claims that the Registration Statement and Prospectus HCA filed in connection with the company's massive \$4.3 billion 2011 IPO contained material misstatements and omissions. The recovery achieved represents more than 30% of the aggregate classwide damages, far exceeding the typical recovery in a securities class action.
- ***In re AT&T Corp. Sec. Litig.***, MDL No. 1399 (D.N.J.). Robbins Geller attorneys served as lead counsel for a class of investors that purchased AT&T common stock. The case charged defendants AT&T and its former Chairman and CEO, C. Michael Armstrong, with violations of the federal securities laws in connection with AT&T's April 2000 initial public offering of its wireless tracking stock, one of the largest IPOs in American history. After two weeks of trial, and on the eve of scheduled testimony by Armstrong and infamous telecom analyst Jack Grubman, defendants agreed to settle the case for \$100 million.

- ***Silverman v. Motorola, Inc.***, No. 1:07-cv-04507 (N.D. Ill.). The Firm served as lead counsel on behalf of a class of investors in Motorola, Inc., ultimately recovering \$200 million for investors just two months before the case was set for trial. This outstanding result was obtained despite the lack of an SEC investigation or any financial restatement.
- ***City of Pontiac Gen. Emps.' Ret. Sys. v. Wal-Mart Stores, Inc.***, No. 5:12-cv-05162 (W.D. Ark.). Robbins Geller attorneys and lead plaintiff City of Pontiac General Employees' Retirement System achieved a \$160 million settlement in a securities class action case arising from allegations published by *The New York Times* in an article released on April 21, 2012 describing an alleged bribery scheme that occurred in Mexico. The case charged that Wal-Mart portrayed itself to investors as a model corporate citizen that had proactively uncovered potential corruption and promptly reported it to law enforcement, when in truth, a former in-house lawyer had blown the whistle on Wal-Mart's corruption years earlier, and Wal-Mart concealed the allegations from law enforcement by refusing its own in-house and outside counsel's calls for an independent investigation. Robbins Geller "achieved an exceptional [s]ettlement with skill, perseverance, and diligent advocacy," said Judge Hickey when granting final approval.
- ***Bennett v. Sprint Nextel Corp.***, No. 2:09-cv-02122 (D. Kan.). As co-lead counsel, Robbins Geller obtained a \$131 million recovery for a class of Sprint investors. The settlement, secured after five years of hard-fought litigation, resolved claims that former Sprint executives misled investors concerning the success of Sprint's ill-advised merger with Nextel and the deteriorating credit quality of Sprint's customer base, artificially inflating the value of Sprint's securities.
- ***In re LendingClub Sec. Litig.***, No. 3:16-cv-02627 (N.D. Cal.). Robbins Geller attorneys obtained a \$125 million settlement for the court-appointed lead plaintiff Water and Power Employees' Retirement, Disability and Death Plan of the City of Los Angeles and the class. The settlement resolved allegations that LendingClub promised investors an opportunity to get in on the ground floor of a revolutionary lending market fueled by the highest standards of honesty and integrity. The settlement ranks among the top ten largest securities recoveries ever in the Northern District of California.
- ***Knurr v. Orbital ATK, Inc.***, No. 1:16-cv-01031 (E.D. Va.). In the *Orbital* securities class action, Robbins Geller obtained court approval of a \$108 million recovery for the class. The Firm succeeded in overcoming two successive motions to dismiss the case, and during discovery were required to file ten motions to compel, all of which were either negotiated to a resolution or granted in large part, which resulted in the production of critical evidence in support of plaintiffs' claims. Believed to be the fourth-largest securities class action settlement in the history of the Eastern District of Virginia, the settlement provides a recovery for investors that is more than ten times larger than the reported median recovery of estimated damages for all securities class action settlements in 2018.
- ***Hsu v. Puma Biotechnology***, No. SACV15-0865 (C.D. Cal.). After a two-week jury trial, Robbins Geller attorneys won a complete plaintiffs' verdict against both defendants on both claims, with the jury finding that Puma Biotechnology, Inc. and its CEO, Alan H. Auerbach, committed securities fraud. The Puma case is only the fifteenth securities class action case tried to a verdict since the Private Securities Litigation Reform Act was enacted in 1995.
- ***Marcus v. J.C. Penney Co., Inc.***, No. 13-cv-00736 (E.D. Tex.). Robbins Geller attorneys obtained a \$97.5 million recovery on behalf of J.C. Penney shareholders. The result resolves claims that J.C. Penney and certain officers and directors made misstatements and/or omissions regarding the company's financial position that resulted in artificially inflated stock prices. Specifically, defendants failed to disclose and/or misrepresented adverse facts, including that J.C. Penney

would have insufficient liquidity to get through year-end and would require additional funds to make it through the holiday season, and that the company was concealing its need for liquidity so as not to add to its vendors' concerns.

- ***Chicago Laborers Pension Fund v. Alibaba Grp. Holding Ltd.***, No. CIV535692 (Cal. Super. Ct., San Mateo Cnty.). Robbins Geller attorneys and co-counsel obtained a \$75 million settlement in the Alibaba Group Holding Limited securities class action, resolving investors' claims that Alibaba violated the Securities Act of 1933 in connection with its September 2014 initial public offering. Chicago Laborers Pension Fund served as a plaintiff in the action.
- ***Luna v. Marvell Tech. Grp., Ltd.***, No. 3:15-cv-05447 (N.D. Cal.). In the *Marvell* litigation, Robbins Geller attorneys represented the Plumbers and Pipefitters National Pension Fund and obtained a \$72.5 million settlement. The case involved claims that Marvell reported revenue and earnings during the class period that were misleading as a result of undisclosed pull-in and concession sales. The settlement represents approximately 24% to 50% of the best estimate of classwide damages suffered by investors who purchased shares during the February 19, 2015 through December 7, 2015 class period.
- ***Garden City Emps.' Ret. Sys. v. Psychiatric Sols., Inc.***, No. 3:09-cv-00882 (M.D. Tenn.). In the *Psychiatric Solutions* case, Robbins Geller represented lead plaintiff and class representative Central States, Southeast and Southwest Areas Pension Fund in litigation spanning more than four years. Psychiatric Solutions and its top executives were accused of insufficiently staffing their in-patient hospitals, downplaying the significance of regulatory investigations and manipulating their malpractice reserves. Just days before trial was set to commence, attorneys from Robbins Geller achieved a \$65 million settlement that was the fourth-largest securities recovery ever in the district and one of the largest in a decade.
- ***Plumbers & Pipefitters Nat'l Pension Fund v. Burns***, No. 3:05-cv-07393 (N.D. Ohio). After 11 years of hard-fought litigation, Robbins Geller attorneys secured a \$64 million recovery for shareholders in a case that accused the former heads of Dana Corp. of securities fraud for trumpeting the auto parts maker's condition while it actually spiraled toward bankruptcy. The Firm's Appellate Practice Group successfully appealed to the Sixth Circuit Court of Appeals twice, reversing the district court's dismissal of the action.
- ***In re BHP Billiton Ltd. Sec. Litig.***, No. 1:16-cv-01445 (S.D.N.Y.). As lead counsel, Robbins Geller obtained a \$50 million class action settlement against BHP, a Australian-based mining company that was accused of failing to disclose significant safety problems at the Fundão iron-ore dam, in Brazil. The Firm achieved this result for lead plaintiffs City of Birmingham Retirement and Relief System and City of Birmingham Firemen's and Policemen's Supplemental Pension System, on behalf of purchasers of the American Depositary Shares ("ADRs") of defendants BHP Billiton Limited and BHP Billiton Plc (together, "BHP") from September 25, 2014 to November 30, 2015.
- ***In re St. Jude Med., Inc. Sec. Litig.***, No. 0:10-cv-00851 (D. Minn.). After four and a half years of litigation and mere weeks before the jury selection, Robbins Geller obtained a \$50 million settlement on behalf of investors in medical device company St. Jude Medical. The settlement resolves accusations that St. Jude Medical misled investors by utilizing heavily discounted end-of-quarter bulk sales to meet quarterly expectations, which created a false picture of demand by increasing customer inventory due of St. Jude Medical devices. The complaint alleged that the risk of St. Jude Medical's reliance on such bulk sales manifested when it failed to meet its forecast guidance for the third quarter of 2009, which the company had reaffirmed only weeks earlier.

Robbins Geller's securities practice is also strengthened by the existence of a strong appellate department, whose collective work has established numerous legal precedents. The securities practice also utilizes an extensive group of in-house economic and damage analysts, investigators, and forensic accountants to aid in the prosecution of complex securities issues.

Shareholder Derivative and Corporate Governance Litigation

The Firm's shareholder derivative and corporate governance practice is focused on preserving corporate assets and enhancing long-term shareowner value. Shareowner derivative actions are often brought by institutional investors to vindicate the rights of the corporation injured by its executives' misconduct, which can effect violations of the nation's securities, anti-corruption, false claims, cyber-security, labor, environmental, and/or health & safety laws.

Robbins Geller attorneys have aided Firm clients in significantly enhancing shareowner value by obtaining hundreds of millions of dollars in financial clawbacks and successfully negotiating corporate governance enhancements. Robbins Geller has worked with its institutional clients to address corporate misconduct such as options backdating, bribery of foreign officials, pollution, off-label marketing, and insider trading and related self-dealing. Additionally, the Firm works closely with noted corporate governance consultants Robert Monks and Richard Bennett and their firm, ValueEdge Advisors LLC, to shape corporate governance practices that will benefit shareowners.

Robbins Geller's efforts have conferred substantial benefits upon shareowners, and the market effect of these benefits measures in the billions of dollars. The Firm's significant achievements include:

- ***City of Westland Police & Fire Ret. Sys. v. Stumpf (Wells Fargo Derivative Litigation)***, No. 3:11-cv-02369 (N.D. Cal.). Prosecuted shareholder derivative action on behalf of Wells Fargo & Co. alleging that Wells Fargo's executives allowed participation in the mass-processing of home foreclosure documents by engaging in widespread robo-signing, *i.e.*, the execution and submission of false legal documents in courts across the country without verification of their truth or accuracy, and failed to disclose Wells Fargo's lack of cooperation in a federal investigation into the bank's mortgage and foreclosure practices. In settlement of the action, Wells Fargo agreed to provide \$67 million in homeowner down-payment assistance, credit counseling, and improvements to its mortgage servicing system. The initiatives will be concentrated in cities severely impacted by the bank's foreclosure practices and the ensuing mortgage foreclosure crisis. Additionally, Wells Fargo agreed to change its procedures for reviewing shareholder proposals and a strict ban on stock pledges by Wells Fargo board members.
- ***In re Ormat Techs., Inc. Derivative Litig.***, No. CV10-00759 (Nev. Dist. Ct., Washoe Cnty.). Robbins Geller brought derivative claims for breach of fiduciary duty and unjust enrichment against the directors and certain officers of Ormat Technologies, Inc., a leading geothermal and recovered energy power business. During the relevant time period, these Ormat insiders caused the company to engage in accounting manipulations that ultimately required restatement of the company's financial statements. The settlement in this action includes numerous corporate governance reforms designed to, among other things: (i) increase director independence; (ii) provide continuing education to directors; (iii) enhance the company's internal controls; (iv) make the company's board more independent; and (iv) strengthen the company's internal audit function.
- ***In re Alphatec Holdings, Inc. Derivative S'holder Litig.***, No. 37-2010-00058586 (Cal. Super. Ct., San

Diego Cnty.). Obtained sweeping changes to Alphatec's governance, including separation of the Chairman and CEO positions, enhanced conflict of interest procedures to address related-party transactions, rigorous director independence standards requiring that at least a majority of directors be outside independent directors, and ongoing director education and training.

- ***In re Finisar Corp. Derivative Litig.***, No. C-06-07660 (N.D. Cal.). Prosecuted shareholder derivative action on behalf of Finisar against certain of its current and former directors and officers for engaging in an alleged nearly decade-long stock option backdating scheme that was alleged to have inflicted substantial damage upon Finisar. After obtaining a reversal of the district court's order dismissing the complaint for failing to adequately allege that a pre-suit demand was futile, Robbins Geller lawyers successfully prosecuted the derivative claims to resolution obtaining over \$15 million in financial clawbacks for Finisar. Robbins Geller attorneys also obtained significant changes to Finisar's stock option granting procedures and corporate governance. As a part of the settlement, Finisar agreed to ban the repricing of stock options without first obtaining specific shareholder approval, prohibit the retrospective selection of grant dates for stock options and similar awards, limit the number of other boards on which Finisar directors may serve, require directors to own a minimum amount of Finisar shares, annually elect a Lead Independent Director whenever the position of Chairman and CEO are held by the same person, and require the board to appoint a Trading Compliance officer responsible for ensuring compliance with Finisar's insider trading policies.
- ***Loizides v. Schramm (Maxwell Technology Derivative Litigation)***, No. 37-2010-00097953 (Cal. Super. Ct., San Diego Cnty.). Prosecuted shareholder derivative claims arising from the company's alleged violations of the Foreign Corrupt Practices Act of 1977 ("FCPA"). As a result of Robbins Geller's efforts, Maxwell insiders agreed to adopt significant changes in Maxwell's internal controls and systems designed to protect Maxwell against future potential violations of the FCPA. These corporate governance changes included establishing the following, among other things: a compliance plan to improve board oversight of Maxwell's compliance processes and internal controls; a clear corporate policy prohibiting bribery and subcontracting kickbacks, whereby individuals are accountable; mandatory employee training requirements, including the comprehensive explanation of whistleblower provisions, to provide for confidential reporting of FCPA violations or other corruption; enhanced resources and internal control and compliance procedures for the audit committee to act quickly if an FCPA violation or other corruption is detected; an FCPA and Anti-Corruption Compliance department that has the authority and resources required to assess global operations and detect violations of the FCPA and other instances of corruption; a rigorous ethics and compliance program applicable to all directors, officers, and employees, designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws; an executive-level position of Chief Compliance Officer with direct board-level reporting responsibilities, who shall be responsible for overseeing and managing compliance issues within the company; a rigorous insider trading policy buttressed by enhanced review and supervision mechanisms and a requirement that all trades are timely disclosed; and enhanced provisions requiring that business entities are only acquired after thorough FCPA and anti-corruption due diligence by legal, accounting, and compliance personnel at Maxwell.
- ***In re SciClone Pharms., Inc. S'holder Derivative Litig.***, No. CIV 499030 (Cal. Super. Ct., San Mateo Cnty.). Robbins Geller attorneys successfully prosecuted the derivative claims on behalf of nominal party SciClone Pharmaceuticals, Inc., resulting in the adoption of state-of-the-art corporate governance reforms. The corporate governance reforms included the establishment of an FCPA compliance coordinator; the adoption of an FCPA compliance program and code; and the adoption of additional internal controls and compliance functions.

- ***Policemen & Firemen Ret. Sys. of the City of Detroit v. Cornelison (Halliburton Derivative Litigation)***, No. 2009-29987 (Tex. Dist. Ct., Harris Cnty.). Prosecuted shareholder derivative claims on behalf of Halliburton Company against certain Halliburton insiders for breaches of fiduciary duty arising from Halliburton's alleged violations of the FCPA. In the settlement, Halliburton agreed, among other things, to adopt strict intensive controls and systems designed to detect and deter the payment of bribes and other improper payments to foreign officials, to enhanced executive compensation clawback, director stock ownership requirements, a limitation on the number of other boards that Halliburton directors may serve, a lead director charter, enhanced director independence standards, and the creation of a management compliance committee.
- ***In re UnitedHealth Grp. Inc. PSLRA Litig.***, No. 06-CV-1691 (D. Minn.). In the *UnitedHealth* case, our client, CalPERS, obtained sweeping corporate governance improvements, including the election of a shareholder-nominated member to the company's board of directors, a mandatory holding period for shares acquired by executives via option exercises, as well as executive compensation reforms that tie pay to performance. In addition, the class obtained \$925 million, the largest stock option backdating recovery ever and four times the next largest options backdating recovery.
- ***In re Fossil, Inc. Derivative Litig.***, No. 3:06-cv-01672 (N.D. Tex.). The settlement agreement included the following corporate governance changes: declassification of elected board members; retirement of three directors and addition of five new independent directors; two-thirds board independence requirements; corporate governance guidelines providing for "Majority Voting" election of directors; lead independent director requirements; revised accounting measurement dates of options; addition of standing finance committee; compensation clawbacks; director compensation standards; revised stock option plans and grant procedures; limited stock option granting authority, timing, and pricing; enhanced education and training; and audit engagement partner rotation and outside audit firm review.
- ***Pirelli Armstrong Tire Corp. Retiree Med. Benefits Tr. v. Sinegal (Costco Derivative Litigation)***, No. 2:08-cv-01450 (W.D. Wash.). The parties agreed to settlement terms providing for the following corporate governance changes: the amendment of Costco's bylaws to provide "Majority Voting" election of directors; the elimination of overlapping compensation and audit committee membership on common subject matters; enhanced Dodd-Frank requirements; enhanced internal audit standards and controls, and revised information-sharing procedures; revised compensation policies and procedures; revised stock option plans and grant procedures; limited stock option granting authority, timing, and pricing; and enhanced ethics compliance standards and training.
- ***In re F5 Networks, Inc. Derivative Litig.***, No. C-06-0794 (W.D. Wash.). The parties agreed to the following corporate governance changes as part of the settlement: revised stock option plans and grant procedures; limited stock option granting authority, timing, and pricing; "Majority Voting" election of directors; lead independent director requirements; director independence standards; elimination of director perquisites; and revised compensation practices.
- ***In re Community Health Sys., Inc. S'holder Derivative Litig.***, No. 3:11-cv-00489 (M.D. Tenn.). Robbins Geller obtained unprecedented corporate governance reforms on behalf of Community Health Systems, Inc. in a case against the company's directors and officers for breaching their fiduciary duties by causing Community Health to develop and implement admissions criteria that systematically steered patients into unnecessary inpatient admissions, in contravention of Medicare and Medicaid regulations. The governance reforms obtained as part of the settlement include two shareholder-nominated directors, the creation of a Healthcare Law Compliance Coordinator with

specified qualifications and duties, a requirement that the board's compensation committee be comprised solely of independent directors, the implementation of a compensation clawback that will automatically recover compensation improperly paid to the company's CEO or CFO in the event of a restatement, the establishment of an insider trading controls committee, and the adoption of a political expenditure disclosure policy. In addition to these reforms, \$60 million in financial relief was obtained, which is the largest shareholder derivative recovery ever in Tennessee and the Sixth Circuit.

Options Backdating Litigation

As has been widely reported in the media, the stock options backdating scandal suddenly engulfed hundreds of publicly traded companies throughout the country in 2006. Robbins Geller was at the forefront of investigating and prosecuting options backdating derivative and securities cases. The Firm has recovered over \$1 billion in damages on behalf of injured companies and shareholders.

- *In re KLA-Tencor Corp. S'holder Derivative Litig.*, No. C-06-03445 (N.D. Cal.). After successfully opposing the special litigation committee of the board of directors' motion to terminate the derivative claims, Robbins Geller recovered \$43.6 million in direct financial benefits for KLA-Tencor, including \$33.2 million in cash payments by certain former executives and their directors' and officers' insurance carriers.
- *In re Marvell Tech. Grp. Ltd. Derivative Litig.*, No. C-06-03894 (N.D. Cal.). Robbins Geller recovered \$54.9 million in financial benefits, including \$14.6 million in cash, for Marvell, in addition to extensive corporate governance reforms related to Marvell's stock option granting practices, board of directors' procedures, and executive compensation.
- *In re KB Home S'holder Derivative Litig.*, No. 06-CV-05148 (C.D. Cal.). Robbins Geller served as co-lead counsel for the plaintiffs and recovered more than \$31 million in financial benefits, including \$21.5 million in cash, for KB Home, plus substantial corporate governance enhancements relating to KB Home's stock option granting practices, director elections, and executive compensation practices.

Corporate Takeover Litigation

Robbins Geller has earned a reputation as the leading law firm in representing shareholders in corporate takeover litigation. Through its aggressive efforts in prosecuting corporate takeovers, the Firm has secured for shareholders billions of dollars of additional consideration as well as beneficial changes for shareholders in the context of mergers and acquisitions.

The Firm regularly prosecutes merger and acquisition cases post-merger, often through trial, to maximize the benefit for its shareholder class. Some of these cases include:

- *In re Kinder Morgan, Inc. S'holders Litig.*, No. 06-C-801 (Kan. Dist. Ct., Shawnee Cnty.). In the largest recovery ever for corporate takeover class action litigation, the Firm negotiated a settlement fund of \$200 million in 2010.
- *In re Dole Food Co., Inc. S'holder Litig.*, No. 8703-VCL (Del. Ch.). Robbins Geller and co-counsel went to trial in the Delaware Court of Chancery on claims of breach of fiduciary duty on behalf of Dole Food Co., Inc. shareholders. The litigation challenged the 2013 buyout of Dole by its billionaire Chief Executive Officer and Chairman, David H. Murdock. On August 27, 2015, the

court issued a post-trial ruling that Murdock and fellow director C. Michael Carter – who also served as Dole’s General Counsel, Chief Operating Officer, and Murdock’s top lieutenant – had engaged in fraud and other misconduct in connection with the buyout and are liable to Dole’s former stockholders for over \$148 million, the largest trial verdict ever in a class action challenging a merger transaction.

- ***Nieman v. Duke Energy Corp.***, No. 3:12-cv-00456 (W.D.N.C.). Robbins Geller, along with co-counsel, obtained a \$146.25 million settlement on behalf of Duke Energy Corporation investors. The settlement resolves accusations that defendants misled investors regarding Duke’s future leadership following its merger with Progress Energy, Inc., and specifically, their premeditated coup to oust William D. Johnson (CEO of Progress) and replace him with Duke’s then-CEO, John Rogers. This historic settlement represents the largest recovery ever in a North Carolina securities fraud action, and one of the five largest recoveries in the Fourth Circuit.
- ***In re Rural Metro Corp. S’holders Litig.***, No. 6350-VCL (Del. Ch.). Robbins Geller and co-counsel were appointed lead counsel in this case after successfully objecting to an inadequate settlement that did not take into account evidence of defendants’ conflicts of interest. In a post-trial opinion, Delaware Vice Chancellor J. Travis Laster found defendant RBC Capital Markets, LLC liable for aiding and abetting Rural/Metro’s board of directors’ fiduciary duty breaches in the \$438 million buyout of Rural/Metro, citing “the magnitude of the conflict between RBC’s claims and the evidence.” RBC was ordered to pay nearly \$110 million as a result of its wrongdoing, the largest damage award ever obtained against a bank over its role as a merger adviser. The Delaware Supreme Court issued a landmark opinion affirming the judgment on November 30, 2015, *RBC Cap. Mkts., LLC v. Jervis*, 129 A.3d 816 (Del. 2015).
- ***In re Del Monte Foods Co. S’holders Litig.***, No. 6027-VCL (Del. Ch.). Robbins Geller exposed the unseemly practice by investment bankers of participating on both sides of large merger and acquisition transactions and ultimately secured an \$89 million settlement for shareholders of Del Monte. For efforts in achieving these results, the Robbins Geller lawyers prosecuting the case were named Attorneys of the Year by *California Lawyer* magazine in 2012.
- ***In re TD Banknorth S’holders Litig.***, No. 2557-VCL (Del. Ch.). After objecting to a modest recovery of just a few cents per share, the Firm took over the litigation and obtained a common fund settlement of \$50 million.
- ***In re Chaparral Res., Inc. S’holders Litig.***, No. 2633-VCL (Del. Ch.). After a full trial and a subsequent mediation before the Delaware Chancellor, the Firm obtained a common fund settlement of \$41 million (or 45% increase above merger price) for both class and appraisal claims.
- ***Laborers’ Local #231 Pension Fund v. Websense, Inc.***, No. 37-2013-00050879-CU-BT-CTL (Cal. Super. Ct., San Diego Cnty.). Robbins Geller successfully obtained a record-breaking \$40 million in *Websense*, which is believed to be the largest post-merger common fund settlement in California state court history. The class action challenged the May 2013 buyout of Websense by Vista Equity Partners (and affiliates) for \$24.75 per share and alleged breach of fiduciary duty against the former Websense board of directors, and aiding and abetting against Websense’s financial advisor, Merrill Lynch, Pierce, Fenner & Smith, Inc. Claims were pursued by the plaintiff in both California state court and the Delaware Court of Chancery.
- ***In re Onyx Pharms., Inc. S’holder Litig.***, No. CIV523789 (Cal. Super. Ct., San Mateo Cnty.). Robbins Geller obtained \$30 million in a case against the former Onyx board of directors for

breaching its fiduciary duties in connection with the acquisition of Onyx by Amgen Inc. for \$125 per share at the expense of shareholders. At the time of the settlement, it was believed to set the record for the largest post-merger common fund settlement in California state court history. Over the case's three years, Robbins Geller defeated defendants' motions to dismiss, obtained class certification, took over 20 depositions, and reviewed over one million pages of documents. Further, the settlement was reached just days before a hearing on defendants' motion for summary judgment was set to take place, and the result is now believed to be the second largest post-merger common fund settlement in California state court history.

- ***Harrah's Entertainment***, No. A529183 (Nev. Dist. Ct., Clark Cnty.). The Firm's active prosecution of the case on several fronts, both in federal and state court, assisted Harrah's shareholders in securing an additional \$1.65 billion in merger consideration.
- ***In re Chiron S'holder Deal Litig.***, No. RG 05-230567 (Cal. Super. Ct., Alameda Cnty.). The Firm's efforts helped to obtain an additional \$800 million in increased merger consideration for Chiron shareholders.
- ***In re Dollar Gen. Corp. S'holder Litig.***, No. 07MD-1 (Tenn. Cir. Ct., Davidson Cnty.). As lead counsel, the Firm secured a recovery of up to \$57 million in cash for former Dollar General shareholders on the eve of trial.
- ***In re Prime Hosp., Inc. S'holders Litig.***, No. 652-N (Del. Ch.). The Firm objected to a settlement that was unfair to the class and proceeded to litigate breach of fiduciary duty issues involving a sale of hotels to a private equity firm. The litigation yielded a common fund of \$25 million for shareholders.
- ***In re UnitedGlobalCom, Inc. S'holder Litig.***, No. 1012-VCS (Del. Ch.). The Firm secured a common fund settlement of \$25 million just weeks before trial.
- ***In re eMachines, Inc. Merger Litig.***, No. 01-CC-00156 (Cal. Super. Ct., Orange Cnty.). After four years of litigation, the Firm secured a common fund settlement of \$24 million on the brink of trial.
- ***In re PeopleSoft, Inc. S'holder Litig.***, No. RG-03100291 (Cal. Super. Ct., Alameda Cnty.). The Firm successfully objected to a proposed compromise of class claims arising from takeover defenses by PeopleSoft, Inc. to thwart an acquisition by Oracle Corp., resulting in shareholders receiving an increase of over \$900 million in merger consideration.
- ***ACS S'holder Litig.***, No. CC-09-07377-C (Tex. Cty. Ct., Dallas Cnty.). The Firm forced ACS's acquirer, Xerox, to make significant concessions by which shareholders would not be locked out of receiving more money from another buyer.

Insurance

Fraud and collusion in the insurance industry by executives, agents, brokers, lenders, and others is one of the most costly crimes in the United States. Some experts have estimated the annual cost of white collar crime in the insurance industry to be over \$120 billion nationally. Recent legislative proposals seek to curtail anti-competitive behavior within the industry. However, in the absence of comprehensive regulation, Robbins Geller has played a critical role as private attorney general in protecting the rights of consumers against insurance fraud and other unfair business practices within the insurance industry.

Robbins Geller attorneys have long been at the forefront of litigating race discrimination issues within the life insurance industry. For example, the Firm has fought the practice by certain insurers of charging African-Americans and other people of color more for life insurance than similarly situated Caucasians. The Firm recovered over \$400 million for African-Americans and other minorities as redress for civil rights abuses, including landmark recoveries in *McNeil v. American General Life & Accident Insurance Company*; *Thompson v. Metropolitan Life Insurance Company*; and *Williams v. United Insurance Company of America*.

The Firm's attorneys fight on behalf of elderly victims targeted for the sale of deferred annuity products with hidden sales loads and illusory bonus features. Sales agents for life insurance companies such as Allianz Life Insurance Company of North America, Midland National Life Insurance Company, and National Western Life Insurance Company targeted senior citizens for these annuities with lengthy investment horizons and high sales commissions. The Firm recovered millions of dollars for elderly victims and seeks to ensure that senior citizens are afforded full and accurate information regarding deferred annuities.

Robbins Geller attorneys also stopped the fraudulent sale of life insurance policies based on misrepresentations about how the life insurance policy would perform, the costs of the policy, and whether premiums would "vanish." Purchasers were also misled about the financing of a new life insurance policy, falling victim to a "replacement" or "churning" sales scheme where they were convinced to use loans, partial surrenders, or withdrawals of cash values from an existing permanent life insurance policy to purchase a new policy.

- **Brokerage "Pay to Play" Cases.** On behalf of individuals, governmental entities, businesses, and non-profits, Robbins Geller has sued the largest commercial and employee benefit insurance brokers and insurers for unfair and deceptive business practices. While purporting to provide independent, unbiased advice as to the best policy, the brokers failed to adequately disclose that they had entered into separate "pay to play" agreements with certain third-party insurance companies. These agreements provide additional compensation to the brokers based on such factors as profitability, growth, and the volume of insurance that they place with a particular insurer, and are akin to a profit-sharing arrangement between the brokers and the insurance companies. These agreements create a conflict of interest since the brokers have a direct financial interest in selling their customers only the insurance products offered by those insurance companies with which the brokers have such agreements.

Robbins Geller attorneys were among the first to uncover and pursue the allegations of these practices in the insurance industry in both state and federal courts. On behalf of the California Insurance Commissioner, the Firm brought an injunctive case against the biggest employee benefit insurers and local San Diego brokerage, ULR, which resulted in major changes to the way they did business. The Firm also sued on behalf of the City and County of San Francisco to recover losses due to these practices. Finally, Robbins Geller represents a putative nationwide class of individuals, businesses, employers, and governmental entities against the largest brokerage houses and insurers in the nation. To date, the Firm has obtained over \$200 million on behalf of policyholders and enacted landmark business reforms.

- **Discriminatory Credit Scoring and Redlining Cases.** Robbins Geller attorneys have prosecuted cases concerning countrywide schemes of alleged discrimination carried out by Nationwide, Allstate, and other insurance companies against African-American and other persons of color who are purchasers of homeowner and automobile insurance policies. Such discrimination includes alleged redlining and the improper use of "credit scores," which disparately impact minority communities. Plaintiffs in these actions have alleged that the insurance companies' corporate-driven scheme of intentional racial discrimination includes refusing coverage and/or charging

them higher premiums for homeowners and automobile insurance. On behalf of the class of aggrieved policyholders, the Firm has recovered over \$400 million for these predatory and racist policies.

- **Senior Annuities.** Robbins Geller has prosecuted numerous cases against insurance companies and their agents who targeted senior citizens for the sale of deferred annuities. Plaintiffs alleged that the insurers misrepresented or failed to disclose to senior consumers material facts concerning the costs associated with their fixed and equity indexed deferred annuities and enticed seniors to buy the annuities by promising them illusory up-front bonuses. As a result of the Firm's efforts, hundreds of millions of dollars in economic relief has been made available to seniors who have been harmed by these practices. Notable recoveries include:
 - *Negrete v. Allianz Life Ins. Co. of N. Am.*, No. CV-05-6838 (C.D. Cal.). Robbins Geller attorneys served as co-lead counsel on behalf of a nationwide RICO class consisting of over 200,000 senior citizens who had purchased deferred annuities issued by Allianz Life Insurance Company of North America. In March 2015, after nine years of litigation, District Judge Christina A. Snyder granted final approval of a class action settlement that made available in excess of \$250 million in cash payments and other benefits to class members. In approving the settlement, the court praised the effort of the Firm and noted that "counsel has represented their clients with great skill and they are to be complimented."
 - *In re Am. Equity Annuity Pracs. & Sales Litig.*, No. CV-05-6735 (C.D. Cal.). As co-lead counsel, Robbins Geller attorneys secured a settlement that made available \$129 million in economic benefits to a nationwide class of 114,000 senior citizens.
 - *In re Midland Nat'l Life Ins. Co. Annuity Sales Pracs. Litig.*, MDL No. 07-1825 (C.D. Cal.). After four years of litigation, the Firm secured a settlement that made available \$79.5 million in economic benefits to a nationwide class of 70,000 senior citizens.
 - *Negrete v. Fidelity & Guar. Life Ins. Co.*, No. CV-05-6837 (C.D. Cal.). The Firm's efforts resulted in a settlement under which Fidelity made available \$52.7 million in benefits to 56,000 class members across the country.
 - *In re Nat'l Western Life Ins. Deferred Annuities Litig.*, No. 05-CV-1018 (S.D. Cal.). The Firm litigated this action for more than eight years. On the eve of trial, the Firm negotiated a settlement providing over \$21 million in value to a nationwide class of 12,000 senior citizens.

Antitrust

Robbins Geller's antitrust practice focuses on representing businesses and individuals who have been the victims of price-fixing, unlawful monopolization, market allocation, tying, and other anti-competitive conduct. The Firm has taken a leading role in many of the largest federal and state price-fixing, monopolization, market allocation, and tying cases throughout the United States.

- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.). Robbins Geller attorneys, serving as co-lead counsel on behalf of merchants, obtained a settlement amount of \$5.5 billion. In approving the settlement, the court noted that Robbins Geller and co-counsel "demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required, litigating on behalf of a class of over 12 million

for over fourteen years, across a changing legal landscape, significant motion practice, and appeal and remand. Class counsel's pedigree and efforts alone speak to the quality of their representation."

- ***Dahl v. Bain Cap. Partners, LLC***, No. 07-cv-12388 (D. Mass). Robbins Geller attorneys served as co-lead counsel on behalf of shareholders in this antitrust action against the nation's largest private equity firms that colluded to restrain competition and suppress prices paid to shareholders of public companies in connection with leveraged buyouts. Robbins Geller attorneys recovered more than \$590 million for the class from the private equity firm defendants, including Goldman Sachs Group Inc. and Carlyle Group LP.
- ***Alaska Elec. Pension Fund v. Bank of Am. Corp.***, No. 14-cv-07126 (S.D.N.Y.). Robbins Geller attorneys prosecuted antitrust claims against 14 major banks and broker ICAP plc who were alleged to have conspired to manipulate the ISDAfix rate, the key interest rate for a broad range of interest rate derivatives and other financial instruments in contravention of the competition laws. The class action was brought on behalf of investors and market participants who entered into interest rate derivative transactions between 2006 and 2013. Final approval has been granted to settlements collectively yielding \$504.5 million from all defendants.
- ***In re Currency Conversion Fee Antitrust Litig.***, 01 MDL No. 1409 (S.D.N.Y.). Robbins Geller attorneys served as lead counsel and recovered \$336 million for a class of credit and debit cardholders. The court praised the Firm as "indefatigable," noting that the Firm's lawyers "vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar."
- ***In re SSA Bonds Antitrust Litig.***, No. 1:16-cv-03711 (S.D.N.Y.). Robbins Geller attorneys are serving as co-lead counsel in a case against several of the world's largest banks and the traders of certain specialized government bonds. They are alleged to have entered into a wide-ranging price-fixing and bid-rigging scheme costing pension funds and other investors hundreds of millions. To date, three of the more than a dozen corporate defendants have settled for \$95.5 million.
- ***In re Aftermarket Auto. Lighting Prods. Antitrust Litig.***, 09 MDL No. 2007 (C.D. Cal.). Robbins Geller attorneys served as co-lead counsel in this multi-district litigation in which plaintiffs allege that defendants conspired to fix prices and allocate markets for automotive lighting products. The last defendants settled just before the scheduled trial, resulting in total settlements of more than \$50 million. Commenting on the quality of representation, the court commended the Firm for "expend[ing] substantial and skilled time and efforts in an efficient manner to bring this action to conclusion."
- ***In re Dynamic Random Access Memory (DRAM) Antitrust Litig.***, 02 MDL No. 1486 (N.D. Cal.). Robbins Geller attorneys served on the executive committee in this multi-district class action in which a class of purchasers of dynamic random access memory (or DRAM) chips alleged that the leading manufacturers of semiconductor products fixed the price of DRAM chips from the fall of 2001 through at least the end of June 2002. The case settled for more than \$300 million.
- ***Microsoft I-V Cases***, JCCP No. 4106 (Cal. Super. Ct., San Francisco Cnty.). Robbins Geller attorneys served on the executive committee in these consolidated cases in which California indirect purchasers challenged Microsoft's illegal exercise of monopoly power in the operating system, word processing, and spreadsheet markets. In a settlement approved by the court, class counsel obtained an unprecedented \$1.1 billion worth of relief for the business and consumer class members who purchased the Microsoft products.

Consumer Fraud and Privacy

In our consumer-based economy, working families who purchase products and services must receive truthful information so they can make meaningful choices about how to spend their hard-earned money. When financial institutions and other corporations deceive consumers or take advantage of unequal bargaining power, class action suits provide, in many instances, the only realistic means for an individual to right a corporate wrong.

Robbins Geller attorneys represent consumers around the country in a variety of important, complex class actions. Our attorneys have taken a leading role in many of the largest federal and state consumer fraud, privacy, environmental, human rights, and public health cases throughout the United States. The Firm is also actively involved in many cases relating to banks and the financial services industry, pursuing claims on behalf of individuals victimized by abusive telemarketing practices, abusive mortgage lending practices, market timing violations in the sale of variable annuities, and deceptive consumer credit lending practices in violation of the Truth-In-Lending Act. Below are a few representative samples of our robust, nationwide consumer and privacy practice.

- ***In re Nat'l Prescription Opiate Litig.*** Robbins Geller serves on the Plaintiffs' Executive Committee to spearhead more than 2,900 federal lawsuits brought on behalf of governmental entities and other plaintiffs in the sprawling litigation concerning the nationwide prescription opioid epidemic. In reporting on the selection of the lawyers to lead the case, *The National Law Journal* reported that "[t]he team reads like a 'Who's Who' in mass torts."
- ***Apple Inc. Device Performance Litigation.*** Robbins Geller serves on the Plaintiffs' Executive Committee to advance judicial interests of efficiency and protect the interests of the proposed class in the *Apple* litigation. The case alleges Apple misrepresented its iPhone devices and the nature of updates to its mobile operating system (iOS), which allegedly included code that significantly reduced the performance of older-model iPhones and forced users to incur expenses replacing these devices or their batteries.
- ***In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*** Robbins Geller serves as co-lead counsel in a case against Mylan Pharmaceuticals and Pfizer for engaging in crippling anti-competitive behavior that allowed the price of their ubiquitous and life-saving EpiPen auto-injector devices to rise over 600%, bilking American children and adults for hundreds of millions of dollars.
- ***Cordova v. Greyhound Lines, Inc.*** Robbins Geller represented California bus passengers *pro bono* in a landmark consumer and civil rights case against Greyhound for subjecting them to discriminatory immigration raids. Robbins Geller achieved a watershed court ruling that a private company may be held liable under California law for allowing border patrol to harass and racially profile its customers. The case heralds that Greyhound passengers do not check their rights and dignity at the bus door and has had an immediate impact, not only in California but nationwide. Within weeks of Robbins Geller filing the case, Greyhound added "know your rights" information to passengers to its website and on posters in bus stations around the country, along with adopting other business reforms.
- ***In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*** As part of the Plaintiffs' Steering Committee, Robbins Geller reached a series of settlements on behalf of purchasers, lessees, and dealers that total well over \$17 billion, the largest settlement in history, concerning illegal "defeat devices" that Volkswagen installed on many of its diesel-engine vehicles. The device tricked regulators into believing the cars were complying with emissions standards, while the cars were actually emitting between 10 and 40 times the allowable limit for harmful pollutants.

- ***Yahoo Data Breach Class Action.*** Robbins Geller helped secure final approval of a \$117.5 million settlement in a class action lawsuit against Yahoo, Inc. arising out of Yahoo's reckless disregard for the safety and security of its customers' personal, private information. In September 2016, Yahoo revealed that personal information associated with at least 500 million user accounts, including names, email addresses, telephone numbers, dates of birth, hashed passwords, and security questions and answers, was stolen from Yahoo's user database in late 2014. The company made another announcement in December 2016 that personal information associated with more than one billion user accounts was extracted in August 2013. Ten months later, Yahoo announced that the breach in 2013 actually affected all three billion existing accounts. This was the largest data breach in history, and caused severe financial and emotional damage to Yahoo account holders. In 2017, Robbins Geller was appointed to the Plaintiffs' Executive Committee charged with overseeing the litigation.
- ***Trump University.*** After six and a half years of tireless litigation and on the eve of trial, Robbins Geller, serving as co-lead counsel, secured a historic recovery on behalf of Trump University students around the country. The settlement provides \$25 million to approximately 7,000 consumers, including senior citizens who accessed retirement accounts and maxed out credit cards to enroll in Trump University. The extraordinary result means individual class members are eligible for upwards of \$35,000 in restitution. The settlement resolves claims that President Donald J. Trump and Trump University violated federal and state laws by misleadingly marketing "Live Events" seminars and mentorships as teaching Trump's "real-estate techniques" through his "hand-picked" "professors" at his so-called "university." Robbins Geller represented the class on a *pro bono* basis.
- ***In re Morning Song Bird Food Litig.*** Robbins Geller obtained final approval of a settlement in a civil Racketeer Influenced and Corrupt Organizations Act consumer class action against The Scotts Miracle-Gro Company and its CEO James Hagedorn. The settlement of up to \$85 million provides full refunds to consumers around the country and resolves claims that Scotts Miracle-Gro knowingly sold wild bird food treated with pesticides that are hazardous to birds. In approving the settlement, Judge Houston commended Robbins Geller's "skill and quality of work [as] extraordinary" and the case as "aggressively litigated." The Robbins Geller team battled a series of dismissal motions before achieving class certification for the plaintiffs in March 2017, with the court finding that "Plaintiffs would not have purchased the bird food if they knew it was poison." Defendants then appealed the class certification to the Ninth Circuit, which was denied, and then tried to have the claims from non-California class members thrown out, which was also denied.
- ***Bank Overdraft Fees Litigation.*** The banking industry charges consumers exorbitant amounts for "overdraft" of their checking accounts, even if the customer did not authorize a charge beyond the available balance and even if the account would not have been overdrawn had the transactions been ordered chronologically as they occurred – that is, banks reorder transactions to maximize such fees. The Firm brought lawsuits against major banks to stop this practice and recover these false fees. These cases have recovered over \$500 million thus far from a dozen banks and we continue to investigate other banks engaging in this practice.
- ***Visa and MasterCard Fees.*** After years of litigation and a six-month trial, Robbins Geller attorneys won one of the largest consumer-protection verdicts ever awarded in the United States. The Firm's attorneys represented California consumers in an action against Visa and MasterCard for intentionally imposing and concealing a fee from cardholders. The court ordered Visa and MasterCard to return \$800 million in cardholder losses, which represented 100% of the amount illegally taken, plus 2% interest. In addition, the court ordered full disclosure of the hidden fee.

- ***Sony Gaming Networks & Customer Data Security Breach Litigation.*** The Firm served as a member of the Plaintiffs' Steering Committee, helping to obtain a precedential opinion denying in part Sony's motion to dismiss plaintiffs' claims involving the breach of Sony's gaming network, leading to a \$15 million settlement.
- ***Tobacco Litigation.*** Robbins Geller attorneys have led the fight against Big Tobacco since 1991. As an example, Robbins Geller attorneys filed the case that helped get rid of Joe Camel, representing various public and private plaintiffs, including the State of Arkansas, the general public in California, the cities of San Francisco, Los Angeles, and Birmingham, 14 counties in California, and the working men and women of this country in the Union Pension and Welfare Fund cases that have been filed in 40 states. In 1992, Robbins Geller attorneys filed the first case in the country that alleged a conspiracy by the Big Tobacco companies.
- ***Garment Workers Sweatshop Litigation.*** Robbins Geller attorneys represented a class of 30,000 garment workers who alleged that they had worked under sweatshop conditions in garment factories in Saipan that produced clothing for top U.S. retailers such as The Gap, Target, and J.C. Penney. In the first action of its kind, Robbins Geller attorneys pursued claims against the factories and the retailers alleging violations of RICO, the Alien Tort Claims Act, and the Law of Nations based on the alleged systemic labor and human rights abuses occurring in Saipan. This case was a companion to two other actions, one which alleged overtime violations by the garment factories under the Fair Labor Standards Act and local labor law, and another which alleged violations of California's Unfair Practices Law by the U.S. retailers. These actions resulted in a settlement of approximately \$20 million that included a comprehensive monitoring program to address past violations by the factories and prevent future ones. The members of the litigation team were honored as Trial Lawyers of the Year by the Trial Lawyers for Public Justice in recognition of the team's efforts at bringing about the precedent-setting settlement of the actions.
- ***In re Intel Corp. CPU Mktg., Sales Pracs. & Prods. Liab. Litig.*** Robbins Geller serves on the Plaintiffs' Steering Committee in *Intel*, a massive multidistrict litigation pending in the United States District Court for the District of Oregon. *Intel* concerns serious security vulnerabilities – known as “Spectre” and “Meltdown” – that infect nearly all of Intel's x86 processors manufactured and sold since 1995, the patching of which results in processing speed degradation of the impacted computer, server or mobile device.
- ***Hauck v. Advanced Micro Devices, Inc.*** An attorney from Robbins Geller serves as co-lead counsel in a case against Advanced Micro Devices, Inc. (“AMD”), which alleges that AMD's processors are incapable of operating as intended and at processing speeds represented by AMD without exposing users to the Spectre vulnerability, which allows hackers to covertly access sensitive information stored within the CPU's kernel.
- ***West Telemarketing Case.*** Robbins Geller attorneys secured a \$39 million settlement for class members caught up in a telemarketing scheme where consumers were charged for an unwanted membership program after purchasing Tae-Bo exercise videos. Under the settlement, consumers were entitled to claim between one and one-half to three times the amount of all fees they unknowingly paid.
- ***Dannon Activia®.*** Robbins Geller attorneys secured the largest ever settlement for a false advertising case involving a food product. The case alleged that Dannon's advertising for its Activia® and DanActive® branded products and their benefits from “probiotic” bacteria were overstated. As part of the nationwide settlement, Dannon agreed to modify its advertising and establish a fund of up to \$45 million to compensate consumers for their purchases of Activia® and DanActive®.

- **Mattel Lead Paint Toys.** In 2006-2007, toy manufacturing giant Mattel and its subsidiary Fisher-Price announced the recall of over 14 million toys made in China due to hazardous lead and dangerous magnets. Robbins Geller attorneys filed lawsuits on behalf of millions of parents and other consumers who purchased or received toys for children that were marketed as safe but were later recalled because they were dangerous. The Firm's attorneys reached a landmark settlement for millions of dollars in refunds and lead testing reimbursements, as well as important testing requirements to ensure that Mattel's toys are safe for consumers in the future.
- **Tenet Healthcare Cases.** Robbins Geller attorneys were co-lead counsel in a class action alleging a fraudulent scheme of corporate misconduct, resulting in the overcharging of uninsured patients by the Tenet chain of hospitals. The Firm's attorneys represented uninsured patients of Tenet hospitals nationwide who were overcharged by Tenet's admittedly "aggressive pricing strategy," which resulted in price gouging of the uninsured. The case was settled with Tenet changing its practices and making refunds to patients.
- **Pet Food Products Liability Litigation.** Robbins Geller served as co-lead counsel in this massive, 100+ case products liability MDL in the District of New Jersey concerning the death of and injury to thousands of the nation's cats and dogs due to tainted pet food. The case settled for \$24 million.

Human Rights, Labor Practices, and Public Policy

Robbins Geller attorneys have a long tradition of representing the victims of unfair labor practices and violations of human rights. These include:

- **Does I v. The Gap, Inc.**, No. 01 0031 (D. N. Mar. I.). In this groundbreaking case, Robbins Geller attorneys represented a class of 30,000 garment workers who alleged that they had worked under sweatshop conditions in garment factories in Saipan that produced clothing for top U.S. retailers such as The Gap, Target, and J.C. Penney. In the first action of its kind, Robbins Geller attorneys pursued claims against the factories and the retailers alleging violations of RICO, the Alien Tort Claims Act, and the Law of Nations based on the alleged systemic labor and human rights abuses occurring in Saipan. This case was a companion to two other actions: **Does I v. Advance Textile Corp.**, No. 99 0002 (D. N. Mar. I.), which alleged overtime violations by the garment factories under the Fair Labor Standards Act and local labor law, and **UNITE v. The Gap, Inc.**, No. 300474 (Cal. Super. Ct., San Francisco Cty.), which alleged violations of California's Unfair Practices Law by the U.S. retailers. These actions resulted in a settlement of approximately \$20 million that included a comprehensive monitoring program to address past violations by the factories and prevent future ones. The members of the litigation team were honored as Trial Lawyers of the Year by the Trial Lawyers for Public Justice in recognition of the team's efforts at bringing about the precedent-setting settlement of the actions.
- **Liberty Mutual Overtime Cases**, No. JCCP 4234 (Cal. Super. Ct., Los Angeles Cnty.). Robbins Geller attorneys served as co-lead counsel on behalf of 1,600 current and former insurance claims adjusters at Liberty Mutual Insurance Company and several of its subsidiaries. Plaintiffs brought the case to recover unpaid overtime compensation and associated penalties, alleging that Liberty Mutual had misclassified its claims adjusters as exempt from overtime under California law. After 13 years of complex and exhaustive litigation, Robbins Geller secured a settlement in which Liberty Mutual agreed to pay \$65 million into a fund to compensate the class of claims adjusters for unpaid overtime. The Liberty Mutual action is one of a few claims adjuster overtime actions brought in California or elsewhere to result in a successful outcome for plaintiffs since 2004.

- ***Veliz v. Cintas Corp.***, No. 5:03-cv-01180 (N.D. Cal.). Brought against one of the nation's largest commercial laundries for violations of the Fair Labor Standards Act for misclassifying truck drivers as salesmen to avoid payment of overtime.
- ***Kasky v. Nike, Inc.***, 27 Cal. 4th 939 (2002). The California Supreme Court upheld claims that an apparel manufacturer misled the public regarding its exploitative labor practices, thereby violating California statutes prohibiting unfair competition and false advertising. The court rejected defense contentions that any misconduct was protected by the First Amendment, finding the heightened constitutional protection afforded to noncommercial speech inappropriate in such a circumstance.

Shareholder derivative litigation brought by Robbins Geller attorneys at times also involves stopping anti-union activities, including:

- ***Southern Pacific/Overnite***. A shareholder action stemming from several hundred million dollars in loss of value in the company due to systematic violations by Overnite of U.S. labor laws.
- ***Massey Energy***. A shareholder action against an anti-union employer for flagrant violations of environmental laws resulting in multi-million-dollar penalties.
- ***Crown Petroleum***. A shareholder action against a Texas-based oil company for self-dealing and breach of fiduciary duty while also involved in a union lockout.

Environment and Public Health

Robbins Geller attorneys have also represented plaintiffs in class actions related to environmental law. The Firm's attorneys represented, on a *pro bono* basis, the Sierra Club and the National Economic Development and Law Center as *amici curiae* in a federal suit designed to uphold the federal and state use of project labor agreements ("PLAs"). The suit represented a legal challenge to President Bush's Executive Order 13202, which prohibits the use of project labor agreements on construction projects receiving federal funds. Our *amici* brief in the matter outlined and stressed the significant environmental and socio-economic benefits associated with the use of PLAs on large-scale construction projects.

Attorneys with Robbins Geller have been involved in several other significant environmental cases, including:

- ***Public Citizen v. U.S. D.O.T.*** Robbins Geller attorneys represented a coalition of labor, environmental, industry, and public health organizations including Public Citizen, The International Brotherhood of Teamsters, California AFL-CIO, and California Trucking Industry in a challenge to a decision by the Bush administration to lift a Congressionally-imposed "moratorium" on cross-border trucking from Mexico on the basis that such trucks do not conform to emission controls under the Clean Air Act, and further, that the administration did not first complete a comprehensive environmental impact analysis as required by the National Environmental Policy Act. The suit was dismissed by the United States Supreme Court, the court holding that because the D.O.T. lacked discretion to prevent crossborder trucking, an environmental assessment was not required.
- ***Sierra Club v. AK Steel***. Brought on behalf of the Sierra Club for massive emissions of air and water pollution by a steel mill, including homes of workers living in the adjacent communities, in violation of the Federal Clean Air Act, the Resource Conservation Recovery Act, and the Clean Water Act.

- **MTBE Litigation.** Brought on behalf of various water districts for befouling public drinking water with MTBE, a gasoline additive linked to cancer.
- **Exxon Valdez.** Brought on behalf of fisherman and Alaska residents for billions of dollars in damages resulting from the greatest oil spill in U.S. history.
- **Avila Beach.** A citizens' suit against UNOCAL for leakage from the oil company pipeline so severe it literally destroyed the town of Avila Beach, California.

Federal laws such as the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act and state laws such as California's Proposition 65 exist to protect the environment and the public from abuses by corporate and government organizations. Companies can be found liable for negligence, trespass, or intentional environmental damage, be forced to pay for reparations, and to come into compliance with existing laws. Prominent cases litigated by Robbins Geller attorneys include representing more than 4,000 individuals suing for personal injury and property damage related to the Stringfellow Dump Site in Southern California, participation in the Exxon Valdez oil spill litigation, and litigation involving the toxic spill arising from a Southern Pacific train derailment near Dunsmuir, California.

Robbins Geller attorneys have led the fight against Big Tobacco since 1991. As an example, Robbins Geller attorneys filed the case that helped get rid of Joe Camel, representing various public and private plaintiffs, including the State of Arkansas, the general public in California, the cities of San Francisco, Los Angeles, and Birmingham, 14 counties in California, and the working men and women of this country in the Union Pension and Welfare Fund cases that have been filed in 40 states. In 1992, Robbins Geller attorneys filed the first case in the country that alleged a conspiracy by the Big Tobacco companies.

Pro Bono

Robbins Geller provides counsel to those unable to afford legal representation as part of a continuous and longstanding commitment to the communities in which it serves. Over the years the Firm has dedicated a considerable amount of time, energy, and a full range of its resources for many *pro bono* and charitable actions.

Robbins Geller has been honored for its *pro bono* efforts by the California State Bar (including a nomination for the President's Pro Bono Law Firm of the Year award) and the San Diego Volunteer Lawyer's Program, among others.

Some of the Firm's and its attorneys' *pro bono* and charitable actions include:

- Representing public school children and parents in Tennessee challenging the state's private school voucher law, known as the Education Savings Account (ESA) Pilot Program. Robbins Geller helped achieve favorable rulings enjoining implementation of the ESA for violating the Home Rule provision of the Tennessee Constitution, which prohibits the General Assembly from passing laws that target specific counties without local approval.

- Representing California bus passengers *pro bono* in a landmark consumer and civil rights case against Greyhound for subjecting them to discriminatory immigration raids. Robbins Geller achieved a watershed court ruling that a private company may be held liable under California law for allowing border patrol to harass and racially profile its customers. The case heralds that Greyhound passengers do not check their rights and dignity at the bus door and has had an immediate impact, not only in California but nationwide. Within weeks of Robbins Geller filing the case, Greyhound added “know your rights” information to passengers to its website and on posters in bus stations around the country, along with adopting other business reforms.
- Working with the Homeless Action Center (HAC) to provide no-cost, barrier-free, culturally competent legal representation that makes it possible for people who are homeless (or at risk of becoming homeless) to access social safety net programs that help restore dignity and provide sustainable income, healthcare, mental health treatment, and housing. Based in Oakland and Berkeley, the non-profit is the only program in the Bay Area that specializes in legal services to those who are chronically homeless. In 2016, HAC provided assistance to 1,403 men and 936 women, and 1,691 cases were completed. An additional 1,357 cases were still pending when the year ended. The results include 512 completed SSI cases with a success rate of 87%.
- Representing Trump University students in two class actions against President Donald J. Trump. The historic settlement provides \$25 million to approximately 7,000 consumers. This means individual class members are eligible for upwards of \$35,000 in restitution – an extraordinary result.
- Representing children diagnosed with Autism Spectrum Disorder, as well as children with significant disabilities, in New York to remedy flawed educational policies and practices that cause substantial harm to these and other similar children year after year.
- Representing 19 San Diego County children diagnosed with Autism Spectrum Disorder in their appeal of the San Diego Regional Center’s termination of funding for a crucial therapy. The victory resulted in a complete reinstatement of funding and set a precedent that allows other children to obtain the treatments they need.
- Serving as Northern California and Hawaii District Coordinator for the United States Court of Appeals for the Ninth Circuit’s Pro Bono program since 1993.
- Representing the Sierra Club and the National Economic Development and Law Center as *amici curiae* before the U.S. Supreme Court.
- Obtaining political asylum, after an initial application had been denied, for an impoverished Somali family whose ethnic minority faced systematic persecution and genocidal violence in Somalia, as well as forced female mutilation.
- Working with the ACLU in a class action filed on behalf of welfare applicants subject to San Diego County’s “Project 100%” program. Relief was had when the County admitted that food-stamp eligibility could not hinge upon the Project 100% “home visits,” and again when the district court ruled that unconsented “collateral contacts” violated state regulations. The decision was noted by the *Harvard Law Review*, *The New York Times*, and *The Colbert Report*.

- Filing numerous *amicus curiae* briefs on behalf of religious organizations and clergy that support civil rights, oppose government-backed religious-viewpoint discrimination, and uphold the American traditions of religious freedom and church-state separation.
- Serving as *amicus* counsel in a Ninth Circuit appeal from a Board of Immigration Appeals deportation decision. In addition to obtaining a reversal of the BIA's deportation order, the Firm consulted with the Federal Defenders' Office on cases presenting similar fact patterns, which resulted in a precedent-setting *en banc* decision from the Ninth Circuit resolving a question of state and federal law that had been contested and conflicted for decades.

E-Discovery

Robbins Geller has successfully litigated some of the largest and most complex shareholder and antitrust actions in history and has become the vanguard of a rapidly evolving world of e-discovery in complex litigation. The Firm has 200 attorneys supported by a large staff of forensic and e-discovery specialists and has a level of technological sophistication that is unmatched by any other firm. As the size and stakes of complex litigation continue to increase, it is more important than ever to retain counsel with a successful track record of results. Robbins Geller has consistently proven to be the right choice for anyone seeking representation in actions against the largest corporations in the world.

Led by 20-year litigation veteran Tor Gronborg, and advised by Lea Bays, e-discovery counsel, and Christine Milliron, Director of E-Discovery and Litigation Support, the Robbins Geller e-discovery practice group is a multi-disciplinary team of attorneys, forensic analysts, and database professionals. No plaintiff's firm is better equipped to develop the type of comprehensive and case specific e-discovery strategy that is necessary for today's complex litigation. The attorneys have extensive knowledge and experience in drafting and negotiating sophisticated e-discovery protocols, including those involving the use of predictive coding. High quality document review services are performed by a consistent group of staff attorneys who are experienced in the Firm's litigation practice areas and specialize in document review and analysis. A team of forensic and technology professionals work closely with the attorneys to ensure an effective and efficient e-discovery strategy. The litigation support team includes six Relativity Certified Administrators. Collectively, the Robbins Geller forensic and technology professionals have more than 75 years of e-discovery experience.

Members of the practice group are also leaders in shaping the broader dialogue on e-discovery issues. They regularly contribute to industry publications, speak at conferences organized by leading e-discovery think tanks such as The Sedona Conference and Georgetown University Law Center's Advanced eDiscovery Institute, and play prominent roles in the local chapters of Women in eDiscovery and the Relativity Users Steering Committee. The e-discovery practice group also offers regular in-house training and education, ensuring that members of the Firm are always up-to-date on the evolving world of e-discovery law and technology.

Robbins Geller has always been a leader in document-intensive litigation. Boasting high-performing infrastructure resources, state-of-the-art technology, and a deep bench of some of the most highly trained Relativity Certified Administrators and network engineers, the Firm's capabilities rival, if not outshine, those of the top e-discovery vendors in the industry. Additionally, the Firm's implementation of advanced analytic technologies and custom workflows makes its work fast, smart, and efficient. Combined with Robbins Geller's decision to manage and host its litigation support in-house, these technologies reduce the Firm's reliance on third-party vendors, enabling it to offer top-notch e-discovery services to clients at a fair and reasonable cost.

Security is a top priority at Robbins Geller. The Firm's hosted e-discovery is secured using bank-level 128 encryption and is protected behind state-of-the-art Cisco firewalls. All e-discovery data is hosted on Firm-owned equipment at an SSAE 16-compliant, SOC 1, 2, and 3 audited facility that features 9.1 megawatts of power, N+1 or better redundancy on all data center systems, and security protocols required by leading businesses in the most stringent verticals. Originally designed to support a large defense contractor, it is built to rigorous standards, complete with redundant power and cooling systems, plus multiple generators.

PROMINENT CASES, PRECEDENT-SETTING DECISIONS, AND JUDICIAL COMMENDATIONS

Prominent Cases

Over the years, Robbins Geller attorneys have obtained outstanding results in some of the most notorious and well-known cases, frequently earning judicial commendations for the quality of their representation.

- *In re Enron Corp. Sec. Litig.*, No. H-01-3624 (S.D. Tex.). Investors lost billions of dollars as a result of the massive fraud at Enron. In appointing Robbins Geller lawyers as sole lead counsel to represent the interests of Enron investors, the court found that the Firm’s zealous prosecution and level of “insight” set it apart from its peers. Robbins Geller attorneys and lead plaintiff The Regents of the University of California aggressively pursued numerous defendants, including many of Wall Street’s biggest banks, and successfully obtained settlements in excess of **\$7.2 billion** for the benefit of investors. *This is the largest securities class action recovery in history.*

The court overseeing this action had utmost praise for Robbins Geller’s efforts and stated that “[t]he experience, ability, and reputation of the attorneys of [Robbins Geller] is not disputed; it is one of the most successful law firms in securities class actions, if not the preeminent one, in the country.” *In re Enron Corp. Sec., Derivative & “ERISA” Litig.*, 586 F. Supp. 2d 732, 797 (S.D. Tex. 2008).

The court further commented: “[I]n the face of extraordinary obstacles, the skills, expertise, commitment, and tenacity of [Robbins Geller] in this litigation cannot be overstated. Not to be overlooked are the unparalleled results, . . . which demonstrate counsel’s clearly superlative litigating and negotiating skills.” *Id.* at 789.

The court stated that the Firm’s attorneys “are to be commended for their zealousness, their diligence, their perseverance, their creativity, the enormous breadth and depth of their investigations and analysis, and their expertise in all areas of securities law on behalf of the proposed class.” *Id.*

In addition, the court noted, “This Court considers [Robbins Geller] ‘a lion’ at the securities bar on the national level,” noting that the Lead Plaintiff selected Robbins Geller because of the Firm’s “outstanding reputation, experience, and success in securities litigation nationwide.” *Id.* at 790.

The court further stated that “Lead Counsel’s fearsome reputation and successful track record undoubtedly were substantial factors in . . . obtaining these recoveries.” *Id.*

Finally, Judge Harmon stated: “As this Court has explained [this is] an extraordinary group of attorneys who achieved the largest settlement fund ever despite the great odds against them.” *Id.* at 828.

- *Jaffe v. Household Int’l, Inc.*, No. 02-C-05893 (N.D. Ill). As sole lead counsel, Robbins Geller obtained a record-breaking settlement of **\$1.575 billion** after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a securities fraud verdict in favor of the class. In 2015, the Seventh Circuit Court of Appeals upheld the jury’s verdict that defendants made false or misleading statements of material fact about the company’s business practices and financial results, but remanded the case for a new trial on the issue of whether the individual defendants “made” certain false statements, whether those false statements caused plaintiffs’ losses, and the amount of

damages. The parties reached an agreement to settle the case just hours before the retrial was scheduled to begin on June 6, 2016. *The \$1.575 billion settlement, approved in October 2016, is the largest ever following a securities fraud class action trial, the largest securities fraud settlement in the Seventh Circuit and the seventh-largest settlement ever in a post-PSLRA securities fraud case.* According to published reports, the case was just the seventh securities fraud case tried to a verdict since the passage of the PSLRA.

In approving the settlement, the Honorable Jorge L. Alonso noted the team's "skill and determination" while recognizing that "Lead Counsel prosecuted the case vigorously and skillfully over 14 years against nine of the country's most prominent law firms" and "achieved an exceptionally significant recovery for the class." The court added that the team faced "significant hurdles" and "uphill battles" throughout the case and recognized that "[c]lass counsel performed a very high-quality legal work in the context of a thorny case in which the state of the law has been and is in flux." The court succinctly concluded that the settlement was "a spectacular result for the class." *Jaffe v. Household Int'l, Inc.*, No. 02-C-5892, 2016 U.S. Dist. LEXIS 156921, at *8 (N.D. Ill. Nov. 10, 2016); *Jaffe v. Household Int'l, Inc.*, No. 02-C-05893, Transcript at 56, 65 (N.D. Ill. Oct. 20, 2016).

- ***In re Valeant Pharms. Int'l, Inc. Sec. Litig.***, No. 3:15-cv-07658 (D.N.J.). As sole lead counsel, Robbins Geller attorneys obtained preliminary approval of a \$1.2 billion settlement in the securities case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." The settlement resolves claims that defendants made false and misleading statements regarding Valeant's business and financial performance during the class period, attributing Valeant's dramatic growth in revenues and profitability to "innovative new marketing approaches" as part of a business model that was low risk and "durable and sustainable." Pending court approval, *Valeant* is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever.
- ***In re Am. Realty Cap. Props., Inc. Litig.***, No. 1:15-mc-00040 (S.D.N.Y.). As sole lead counsel, Robbins Geller attorneys zealously litigated the case arising out of ARCP's manipulative accounting practices and obtained a \$1.025 billion settlement. For five years, the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages of any major PSLRA case prior to trial and includes the largest personal contributions by individual defendants in history.

In approving the settlement, the Honorable Alvin K. Hellerstein lauded the Robbins Geller litigation team, noting: "My own observation is that plaintiffs' representation is adequate and that the role of lead counsel was fulfilled in an extremely fine fashion by [Robbins Geller]. At every juncture, the representations made to me were reliable, the arguments were cogent, and the representation of their client was zealous."

- ***In re UnitedHealth Grp. Inc. PSLRA Litig.***, No. 06-CV-1691 (D. Minn.). In the *UnitedHealth* case, Robbins Geller represented the California Public Employees' Retirement System ("CalPERS") and demonstrated its willingness to vigorously advocate for its institutional clients, even under the most difficult circumstances. For example, in 2006, the issue of high-level executives backdating stock options made national headlines. During that time, many law firms, including Robbins Geller, brought shareholder derivative lawsuits against the companies' boards of directors for breaches of their fiduciary duties or for improperly granting backdated options. Rather than pursuing a shareholder derivative case, the Firm filed a securities fraud class action against the company on behalf of CalPERS. In doing so, Robbins Geller faced significant and unprecedented legal

obstacles with respect to loss causation, *i.e.*, that defendants' actions were responsible for causing the stock losses. Despite these legal hurdles, Robbins Geller obtained an \$895 million recovery on behalf of the UnitedHealth shareholders. Shortly after reaching the \$895 million settlement with UnitedHealth, the remaining corporate defendants, including former CEO William A. McGuire, also settled. McGuire paid \$30 million and returned stock options representing more than three million shares to the shareholders. The total recovery for the class was over \$925 million, the largest stock option backdating recovery ever, and **a recovery that is more than four times larger than the next largest options backdating recovery**. Moreover, Robbins Geller obtained unprecedented corporate governance reforms, including election of a shareholder-nominated member to the company's board of directors, a mandatory holding period for shares acquired by executives via option exercise, and executive compensation reforms that tie pay to performance.

- ***Alaska Elec. Pension Fund v. CitiGroup, Inc. (In re WorldCom Sec. Litig.)***, No. 03 Civ. 8269 (S.D.N.Y.). Robbins Geller attorneys represented more than 50 private and public institutions that opted out of the class action case and sued WorldCom's bankers, officers and directors, and auditors in courts around the country for losses related to WorldCom bond offerings from 1998 to 2001. The Firm's clients included major public institutions from across the country such as CalPERS, CalSTRS, the state pension funds of Maine, Illinois, New Mexico, and West Virginia, union pension funds, and private entities such as AIG and Northwestern Mutual. Robbins Geller attorneys recovered more than \$650 million for their clients, substantially more than they would have recovered as part of the class.
- ***Luther v. Countrywide Fin. Corp.***, No. 12-cv-05125 (C.D. Cal.). Robbins Geller attorneys secured a \$500 million settlement for institutional and individual investors in what is the largest RMBS purchaser class action settlement in history, and one of the largest class action securities settlements of all time. The unprecedented settlement resolves claims against Countrywide and Wall Street banks that issued the securities. The action was the first securities class action case filed against originators and Wall Street banks as a result of the credit crisis. As co-lead counsel Robbins Geller forged through six years of hard-fought litigation, oftentimes litigating issues of first impression, in order to secure the landmark settlement for its clients and the class.

In approving the settlement, Judge Mariana R. Pfaelzer repeatedly complimented plaintiffs' attorneys, noting that it was "beyond serious dispute that Class Counsel has vigorously prosecuted the Settlement Actions on both the state and federal level over the last six years." Judge Pfaelzer also commented that "[w]ithout a settlement, these cases would continue indefinitely, resulting in significant risks to recovery and continued litigation costs. It is difficult to understate the risks to recovery if litigation had continued." *Me. State Rel. Sys. v. Countrywide Fin. Corp.*, No. 2:10-CV-00302, 2013 U.S. Dist. LEXIS 179190, at *44, *56 (C.D. Cal. Dec. 5, 2013).

Judge Pfaelzer further noted that the proposed \$500 million settlement represents one of the "largest MBS class action settlements to date. Indeed, this settlement easily surpasses the next largest . . . MBS settlement." *Id.* at *59.

- ***In re Wachovia Preferred Sec. & Bond/Notes Litig.***, No. 09-cv-06351 (S.D.N.Y.). In litigation over bonds and preferred securities, issued by Wachovia between 2006 and 2008, Robbins Geller and co-counsel obtained a significant settlement with Wachovia successor Wells Fargo & Company (\$590 million) and Wachovia auditor KPMG LLP (\$37 million). ***The total settlement – \$627 million – is one of the largest credit-crisis settlements involving Securities Act claims and one of the 20 largest securities class action recoveries in history.*** The settlement is also one of the biggest securities class action recoveries arising from the credit crisis.

As alleged in the complaint, the offering materials for the bonds and preferred securities misstated and failed to disclose the true nature and quality of Wachovia's mortgage loan portfolio, which exposed the bank and misled investors to tens of billions of dollars in losses on mortgage-related assets. In reality, Wachovia employed high-risk underwriting standards and made loans to subprime borrowers, contrary to the offering materials and their statements of "pristine credit quality." Robbins Geller served as co-lead counsel representing the City of Livonia Employees' Retirement System, Hawaii Sheet Metal Workers Pension Fund, and the investor class.

- ***In re Cardinal Health, Inc. Sec. Litig.***, No. C2-04-575 (S.D. Ohio). As sole lead counsel representing Cardinal Health shareholders, Robbins Geller obtained a recovery of \$600 million for investors. On behalf of the lead plaintiffs, Amalgamated Bank, the New Mexico State Investment Council, and the California Ironworkers Field Trust Fund, the Firm aggressively pursued class claims and won numerous courtroom victories, including a favorable decision on defendants' motion to dismiss. *In re Cardinal Health, Inc. Sec. Litigs.*, 426 F. Supp. 2d 688 (S.D. Ohio 2006). At the time, the \$600 million settlement was the tenth-largest settlement in the history of securities fraud litigation and is the largest-ever recovery in a securities fraud action in the Sixth Circuit. Judge Marbley commented: "[T]his is an extraordinary settlement relative to all the other settlements in cases of this nature and certainly cases of this magnitude. . . . This was an outstanding settlement. . . . [I]n most instances, if you've gotten four cents on the dollar, you've done well. You've gotten twenty cents on the dollar, so that's been extraordinary. *In re Cardinal Health, Inc. Sec. Litig.*, No. 2:04-CV-575, Transcript at 16, 32 (S.D. Ohio Oct. 19, 2007). Judge Marbley further stated:

The quality of representation in this case was superb. Lead Counsel, [Robbins Geller], are nationally recognized leaders in complex securities litigation class actions. The quality of the representation is demonstrated by the substantial benefit achieved for the Class and the efficient, effective prosecution and resolution of this action. Lead Counsel defeated a volley of motions to dismiss, thwarting well-formed challenges from prominent and capable attorneys from six different law firms.

In re Cardinal Health Inc. Sec. Litigs., 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007).

- ***AOL Time Warner Cases I & II***, JCCP Nos. 4322 & 4325 (Cal. Super. Ct., Los Angeles Cnty.). Robbins Geller represented The Regents of the University of California, six Ohio state pension funds, Rabo Bank (NL), the Scottish Widows Investment Partnership, several Australian public and private funds, insurance companies, and numerous additional institutional investors, both domestic and international, in state and federal court opt-out litigation stemming from Time Warner's disastrous 2001 merger with Internet high flier America Online. Robbins Geller attorneys exposed a massive and sophisticated accounting fraud involving America Online's e-commerce and advertising revenue. After almost four years of litigation involving extensive discovery, the Firm secured combined settlements for its opt-out clients totaling over \$629 million just weeks before The Regents' case pending in California state court was scheduled to go to trial. The Regents' gross recovery of \$246 million is the largest individual opt-out securities recovery in history.

- ***Abu Dhabi Commercial Bank v. Morgan Stanley & Co.***, No. 1:08-cv-07508-SAS-DCF (S.D.N.Y.), and ***King County, Washington v. IKB Deutsche Industriebank AG***, No. 1:09-cv-08387-SAS (S.D.N.Y.). The Firm represented multiple institutional investors in successfully pursuing recoveries from two failed structured investment vehicles, each of which had been rated “AAA” by Standard & Poors and Moody’s, but which failed fantastically in 2007. The matter settled just prior to trial in 2013. This result was only made possible after Robbins Geller lawyers beat back the rating agencies’ longtime argument that ratings were opinions protected by the First Amendment.
- ***In re HealthSouth Corp. Sec. Litig.***, No. CV-03-BE-1500-S (N.D. Ala.). As court-appointed co-lead counsel, Robbins Geller attorneys obtained a combined recovery of \$671 million from HealthSouth, its auditor Ernst & Young, and its investment banker, UBS, for the benefit of stockholder plaintiffs. The settlement against HealthSouth represents one of the larger settlements in securities class action history and is considered among the top 15 settlements achieved after passage of the PSLRA. Likewise, the settlement against Ernst & Young is one of the largest securities class action settlements entered into by an accounting firm since the passage of the PSLRA. HealthSouth and its financial advisors perpetrated one of the largest and most pervasive frauds in the history of U.S. healthcare, prompting Congressional and law enforcement inquiry and resulting in guilty pleas of 16 former HealthSouth executives in related federal criminal prosecutions. In March 2009, Judge Karon Bowdre commented in the *HealthSouth* class certification opinion: “The court has had many opportunities since November 2001 to examine the work of class counsel and the supervision by the Class Representatives. The court finds both to be far more than adequate.” *In re HealthSouth Corp. Sec. Litig.*, 257 F.R.D. 260, 275 (N.D. Ala. 2009).
- ***In re Dynegy Inc. Sec. Litig.***, No. H-02-1571 (S.D. Tex.). As sole lead counsel representing The Regents of the University of California and the class of Dynegy investors, Robbins Geller attorneys obtained a combined settlement of \$474 million from Dynegy, Citigroup, Inc., and Arthur Andersen LLP for their involvement in a clandestine financing scheme known as Project Alpha. Given Dynegy’s limited ability to pay, Robbins Geller attorneys structured a settlement (reached shortly before the commencement of trial) that maximized plaintiffs’ recovery without bankrupting the company. Most notably, the settlement agreement provides that Dynegy will appoint two board members to be nominated by The Regents, which Robbins Geller and The Regents believe will benefit all of Dynegy’s stockholders.
- ***Jones v. Pfizer Inc.***, No. 1:10-cv-03864 (S.D.N.Y.). Lead plaintiff Stichting Philips Pensioenfond obtained a \$400 million settlement on behalf of class members who purchased Pfizer common stock during the January 19, 2006 to January 23, 2009 class period. The settlement against Pfizer resolves accusations that it misled investors about an alleged off-label drug marketing scheme. As sole lead counsel, Robbins Geller attorneys helped achieve this exceptional result after five years of hard-fought litigation against the toughest and the brightest members of the securities defense bar by litigating this case all the way to trial.

In approving the settlement, United States District Judge Alvin K. Hellerstein commended the Firm, noting that “[w]ithout the quality and the toughness that you have exhibited, our society would not be as good as it is with all its problems. So from me to you is a vote of thanks for devoting yourself to this work and doing it well. . . . You did a really good job. Congratulations.”

- ***In re Qwest Commc’ns Int’l, Inc. Sec. Litig.***, No. 01-cv-1451 (D. Colo.). Robbins Geller attorneys served as lead counsel for a class of investors that purchased Qwest securities. In July 2001, the Firm filed the initial complaint in this action on behalf of its clients, long before any investigation into Qwest’s financial statements was initiated by the SEC or Department of Justice. After five years of litigation, lead plaintiffs entered into a settlement with Qwest and certain individual defendants that provided a \$400 million recovery for the class and created a mechanism that

allowed the vast majority of class members to share in an additional \$250 million recovered by the SEC. In 2008, Robbins Geller attorneys recovered an additional \$45 million for the class in a settlement with defendants Joseph P. Nacchio and Robert S. Woodruff, the CEO and CFO, respectively, of Qwest during large portions of the class period.

- ***Fort Worth Emps.’ Ret. Fund v. J.P. Morgan Chase & Co.***, No. 1:09-cv-03701 (S.D.N.Y.). Robbins Geller attorneys served as lead counsel for a class of investors and obtained court approval of a \$388 million recovery in nine 2007 residential mortgage-backed securities offerings issued by J.P. Morgan. The settlement represents, on a percentage basis, the largest recovery ever achieved in an MBS purchaser class action. The result was achieved after more than five years of hard-fought litigation and an extensive investigation. In granting approval of the settlement, the court stated the following about Robbins Geller attorneys litigating the case: “[T]here is no question in my mind that this is a very good result for the class and that the plaintiffs’ counsel fought the case very hard with extensive discovery, a lot of depositions, several rounds of briefing of various legal issues going all the way through class certification.”
- ***Smilovits v. First Solar, Inc.***, No. 2:12-cv-00555 (D. Ariz.). As sole lead counsel, Robbins Geller obtained a \$350 million settlement in *Smilovits v. First Solar, Inc.* The settlement, which was reached after a long legal battle and on the day before jury selection, resolves claims that First Solar violated §§10(b) and 20(a) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. The settlement is the fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.
- ***NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.***, No. 1:08-cv-10783 (S.D.N.Y.). As sole lead counsel, Robbins Geller obtained a \$272 million settlement on behalf of Goldman Sachs’ shareholders. The settlement concludes one of the last remaining mortgage-backed securities purchaser class actions arising out of the global financial crisis. The remarkable result was achieved following seven years of extensive litigation. After the claims were dismissed in 2010, Robbins Geller secured a landmark victory from the Second Circuit Court of Appeals that clarified the scope of permissible class actions asserting claims under the Securities Act of 1933 on behalf of MBS investors. Specifically, the Second Circuit’s decision rejected the concept of “tranche” standing and concluded that a lead plaintiff in an MBS class action has class standing to pursue claims on behalf of purchasers of other securities that were issued from the same registration statement and backed by pools of mortgages originated by the same lenders who had originated mortgages backing the lead plaintiff’s securities.

In approving the settlement, the Honorable Loretta A. Preska of the Southern District of New York complimented Robbins Geller attorneys, noting:

Counsel, thank you for your papers. They were, by the way, extraordinary papers in support of the settlement, and I will particularly note Professor Miller’s declaration in which he details the procedural aspects of the case and then speaks of plaintiffs’ counsel’s success in the Second Circuit essentially changing the law.

I will also note what counsel have said, and that is that this case illustrates the proper functioning of the statute.

* * *

Counsel, you can all be proud of what you’ve done for your clients. You’ve done an extraordinarily good job.

NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co., No. 1:08-cv-10783, Transcript at 10-11 (S.D.N.Y. May 2, 2016).

- ***Schuh v. HCA Holdings, Inc.***, No. 3:11-cv-01033 (M.D. Tenn.). As sole lead counsel, Robbins Geller obtained a groundbreaking \$215 million settlement for former HCA Holdings, Inc. shareholders – the largest securities class action recovery ever in Tennessee. Reached shortly before trial was scheduled to commence, the settlement resolves claims that the Registration Statement and Prospectus HCA filed in connection with the company’s massive \$4.3 billion 2011 IPO contained material misstatements and omissions. The recovery achieved represents more than 30% of the aggregate classwide damages, far exceeding the typical recovery in a securities class action. At the hearing on final approval of the settlement, the Honorable Kevin H. Sharp described Robbins Geller attorneys as “gladiators” and commented: “Looking at the benefit obtained, the effort that you had to put into it, [and] the complexity in this case . . . I appreciate the work that you all have done on this.” *Schuh v. HCA Holdings, Inc.*, No. 3:11-CV-01033, Transcript at 12-13 (M.D. Tenn. Apr. 11, 2016).
- ***Silverman v. Motorola, Inc.***, No. 1:07-cv-04507 (N.D. Ill.). The Firm served as lead counsel on behalf of a class of investors in Motorola, ultimately recovering \$200 million for investors just two months before the case was set for trial. This outstanding result was obtained despite the lack of an SEC investigation or any financial restatement. In May 2012, the Honorable Amy J. St. Eve of the Northern District of Illinois commented: “The representation that [Robbins Geller] provided to the class was significant, both in terms of quality and quantity.” *Silverman v. Motorola, Inc.*, No. 07 C 4507, 2012 U.S. Dist. LEXIS 63477, at *11 (N.D. Ill. May 7, 2012), *aff’d*, 739 F.3d 956 (7th Cir. 2013).

In affirming the district court’s award of attorneys’ fees, the Seventh Circuit noted that “no other law firm was willing to serve as lead counsel. Lack of competition not only implies a higher fee but also suggests that most members of the securities bar saw this litigation as too risky for their practices.” *Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013).

- ***In re AT&T Corp. Sec. Litig.***, MDL No. 1399 (D.N.J.). Robbins Geller attorneys served as lead counsel for a class of investors that purchased AT&T common stock. The case charged defendants AT&T and its former Chairman and CEO, C. Michael Armstrong, with violations of the federal securities laws in connection with AT&T’s April 2000 initial public offering of its wireless tracking stock, one of the largest IPOs in American history. After two weeks of trial, and on the eve of scheduled testimony by Armstrong and infamous telecom analyst Jack Grubman, defendants agreed to settle the case for \$100 million. In granting approval of the settlement, the court stated the following about the Robbins Geller attorneys handling the case:

Lead Counsel are highly skilled attorneys with great experience in prosecuting complex securities action[s], and their professionalism and diligence displayed during [this] litigation substantiates this characterization. The Court notes that Lead Counsel displayed excellent lawyering skills through their consistent preparedness during court proceedings, arguments and the trial, and their well-written and thoroughly researched submissions to the Court. Undoubtedly, the attentive and persistent effort of Lead Counsel was integral in achieving the excellent result for the Class.

In re AT&T Corp. Sec. Litig., MDL No. 1399, 2005 U.S. Dist. LEXIS 46144, at *28-*29 (D.N.J. Apr. 25, 2005), *aff’d*, 455 F.3d 160 (3d Cir. 2006).

- *In re Dollar Gen. Corp. Sec. Litig.*, No. 01-CV-00388 (M.D. Tenn.). Robbins Geller attorneys served as lead counsel in this case in which the Firm recovered \$172.5 million for investors. The *Dollar General* settlement was the largest shareholder class action recovery ever in Tennessee.
- *Carpenters Health & Welfare Fund v. Coca-Cola Co.*, No. 00-CV-2838 (N.D. Ga.). As co-lead counsel representing Coca-Cola shareholders, Robbins Geller attorneys obtained a recovery of \$137.5 million after nearly eight years of litigation. Robbins Geller attorneys traveled to three continents to uncover the evidence that ultimately resulted in the settlement of this hard-fought litigation. The case concerned Coca-Cola's shipping of excess concentrate at the end of financial reporting periods for the sole purpose of meeting analyst earnings expectations, as well as the company's failure to properly account for certain impaired foreign bottling assets.
- *Schwartz v. TXU Corp.*, No. 02-CV-2243 (N.D. Tex.). As co-lead counsel, Robbins Geller attorneys obtained a recovery of over \$149 million for a class of purchasers of TXU securities. The recovery compensated class members for damages they incurred as a result of their purchases of TXU securities at inflated prices. Defendants had inflated the price of these securities by concealing the fact that TXU's operating earnings were declining due to a deteriorating gas pipeline and the failure of the company's European operations.
- *In re Doral Fin. Corp. Sec. Litig.*, 05 MDL No. 1706 (S.D.N.Y.). In July 2007, the Honorable Richard Owen of the Southern District of New York approved the \$129 million settlement, finding in his order:

The services provided by Lead Counsel [Robbins Geller] were efficient and highly successful, resulting in an outstanding recovery for the Class without the substantial expense, risk and delay of continued litigation. Such efficiency and effectiveness supports the requested fee percentage.

Cases brought under the federal securities laws are notably difficult and notoriously uncertain. . . . Despite the novelty and difficulty of the issues raised, Lead Plaintiffs' counsel secured an excellent result for the Class.

. . . Based upon Lead Plaintiff's counsel's diligent efforts on behalf of the Class, as well as their skill and reputations, Lead Plaintiff's counsel were able to negotiate a very favorable result for the Class. . . . The ability of [Robbins Geller] to obtain such a favorable partial settlement for the Class in the face of such formidable opposition confirms the superior quality of their representation

In re Doral Fin. Corp. Sec. Litig., No. 1:05-md-01706, Order at 4-5 (S.D.N.Y. July 17, 2007).

- *In re Exxon Valdez*, No. A89 095 Civ. (D. Alaska), and *In re Exxon Valdez Oil Spill Litig.*, No. 3 AN 89 2533 (Alaska Super. Ct., 3d Jud. Dist.). Robbins Geller attorneys served on the Plaintiffs' Coordinating Committee and Plaintiffs' Law Committee in this massive litigation resulting from the Exxon Valdez oil spill in Alaska in March 1989. The jury awarded hundreds of millions in compensatory damages, as well as \$5 billion in punitive damages (the latter were later reduced by the U.S. Supreme Court to \$507 million).
- *Mangini v. R.J. Reynolds Tobacco Co.*, No. 939359 (Cal. Super. Ct., San Francisco Cnty.). In this case, R.J. Reynolds admitted that "the *Mangini* action, and the way that it was vigorously litigated, was an early, significant and unique driver of the overall legal and social controversy regarding underage smoking that led to the decision to phase out the Joe Camel Campaign."

- ***Does I v. The Gap, Inc.***, No. 01 0031 (D. N. Mar. I.). In this groundbreaking case, Robbins Geller attorneys represented a class of 30,000 garment workers who alleged that they had worked under sweatshop conditions in garment factories in Saipan that produced clothing for top U.S. retailers such as The Gap, Target, and J.C. Penney. In the first action of its kind, Robbins Geller attorneys pursued claims against the factories and the retailers alleging violations of RICO, the Alien Tort Claims Act, and the Law of Nations based on the alleged systemic labor and human rights abuses occurring in Saipan. This case was a companion to two other actions: ***Does I v. Advance Textile Corp.***, No. 99 0002 (D. N. Mar. I.), which alleged overtime violations by the garment factories under the Fair Labor Standards Act and local labor law, and ***UNITE v. The Gap, Inc.***, No. 300474 (Cal. Super. Ct., San Francisco Cty.), which alleged violations of California's Unfair Practices Law by the U.S. retailers. These actions resulted in a settlement of approximately \$20 million that included a comprehensive monitoring program to address past violations by the factories and prevent future ones. The members of the litigation team were honored as Trial Lawyers of the Year by the Trial Lawyers for Public Justice in recognition of the team's efforts in bringing about the precedent-setting settlement of the actions.
- ***Hall v. NCAA (Restricted Earnings Coach Antitrust Litigation)***, No. 94-2392 (D. Kan.). Robbins Geller attorneys were lead counsel and lead trial counsel for one of three classes of coaches in these consolidated price-fixing actions against the National Collegiate Athletic Association. On May 4, 1998, the jury returned verdicts in favor of the three classes for more than \$70 million.
- ***In re Prison Realty Sec. Litig.***, No. 3:99-0452 (M.D. Tenn.). Robbins Geller attorneys served as lead counsel for the class, obtaining a \$105 million recovery.
- ***In re Honeywell Int'l, Inc. Sec. Litig.***, No. 00-cv-03605 (D.N.J.). Robbins Geller attorneys served as lead counsel for a class of investors that purchased Honeywell common stock. The case charged Honeywell and its top officers with violations of the federal securities laws, alleging the defendants made false public statements concerning Honeywell's merger with Allied Signal, Inc. and that defendants falsified Honeywell's financial statements. After extensive discovery, Robbins Geller attorneys obtained a \$100 million settlement for the class.
- ***Schwartz v. Visa Int'l***, No. 822404-4 (Cal. Super. Ct., Alameda Cnty.). After years of litigation and a six-month trial, Robbins Geller attorneys won one of the largest consumer protection verdicts ever awarded in the United States. Robbins Geller attorneys represented California consumers in an action against Visa and MasterCard for intentionally imposing and concealing a fee from their cardholders. The court ordered Visa and MasterCard to return \$800 million in cardholder losses, which represented 100% of the amount illegally taken, plus 2% interest. In addition, the court ordered full disclosure of the hidden fee.
- ***Thompson v. Metro. Life Ins. Co.***, No. 00-cv-5071 (S.D.N.Y.). Robbins Geller attorneys served as lead counsel and obtained \$145 million for the class in a settlement involving racial discrimination claims in the sale of life insurance.
- ***In re Prudential Ins. Co. of Am. Sales Practs. Litig.***, MDL No. 1061 (D.N.J.). In one of the first cases of its kind, Robbins Geller attorneys obtained a settlement of \$4 billion for deceptive sales practices in connection with the sale of life insurance involving the "vanishing premium" sales scheme.

Precedent-Setting Decisions

Robbins Geller attorneys operate at the vanguard of complex class action of litigation. Our work often changes the legal landscape, resulting in an environment that is more-favorable for obtaining recoveries for our clients.

- ***Stoyas v. Toshiba Corp.***, 896 F.3d 933 (9th Cir. 2018), *cert. denied*, 588 U.S. __ (2019). In July 2018, the Ninth Circuit ruled in plaintiffs' favor in the *Toshiba* securities class action. Following appellate briefing and oral argument by Robbins Geller attorneys, a three-judge Ninth Circuit panel reversed the district court's prior dismissal in a unanimous, 36-page opinion, holding that Toshiba ADRs are a "security" and the Securities Exchange Act of 1934 could apply to those ADRs that were purchased in a domestic transaction. *Id.* at 939, 949. The court adopted the Second and Third Circuits' "irrevocable liability" test for determining whether the transactions were domestic and held that plaintiffs must be allowed to amend their complaint to allege that the purchase of Toshiba ADRs on the over-the-counter market was a domestic purchase and that the alleged fraud was in connection with the purchase.
- ***Cyan, Inc. v. Beaver Cnty. Emps. Ret. Fund***, No. 15-1439 (U.S.). In March 2018, the U.S. Supreme Court ruled in favor of investors represented by Robbins Geller, holding that state courts continue to have jurisdiction over class actions asserting violations of the Securities Act of 1933. The court's ruling secures investors' ability to bring Securities Act actions when companies fail to make full and fair disclosure of relevant information in offering documents. The court confirmed that the Securities Litigation Uniform Standards Act of 1998 was designed to preclude securities class actions asserting violations of state law – not to preclude securities actions asserting federal law violations brought in state courts.
- ***Mineworkers' Pension Scheme v. First Solar Inc.***, 881 F.3d 750 (9th Cir. 2018), *cert. denied*, 588 U.S. __ (2019). In January 2018, the Ninth Circuit upheld the district court's denial of defendants' motion for summary judgment, agreeing with plaintiffs that the test for loss causation in the Ninth Circuit is a general "proximate cause test," and rejecting the more stringent revelation of the fraudulent practices standard advocated by the defendants. The opinion is a significant victory for investors, as it forecloses defendants' ability to immunize themselves from liability simply by refusing to publicly acknowledge their fraudulent conduct.
- ***In re Quality Sys., Inc. Sec. Litig.***, No. 15-55173 (9th Cir.). In July 2017, Robbins Geller's Appellate Practice Group scored a significant win in the Ninth Circuit in the *Quality Systems* securities class action. On appeal, a three-judge Ninth Circuit panel unanimously reversed the district court's prior dismissal of the action against Quality Systems and remanded the case to the district court for further proceedings. The decision addressed an issue of first impression concerning "mixed" future and present-tense misstatements. The appellate panel explained that "non-forward-looking portions of mixed statements are not eligible for the safe harbor provisions of the PSLRA Defendants made a number of mixed statements that included projections of growth in revenue and earnings based on the state of QSI's sales pipeline." The panel then held *both* the non-forward-looking and forward-looking statements false and misleading and made with scienter, deeming them actionable. Later, although defendants sought rehearing by the Ninth Circuit sitting *en banc*, the circuit court denied their petition.
- ***Local 703, I.B. of T. Grocery & Food Emps. Welfare Fund v. Regions Fin. Corp.***, No. CV-10-J-2847-S (N.D. Ala.). In the *Regions Financial* securities class action, Robbins Geller represented Local 703, I.B. of T. Grocery and Food Employees Welfare Fund and obtained a \$90 million settlement in September 2015 on behalf of purchasers of Regions Financial common stock during the class period. In August 2014, the Eleventh Circuit Court of Appeals affirmed the district court's

decision to certify a class action based upon alleged misrepresentations about Regions Financial's financial health before and during the recent economic recession, and in November 2014, the U.S. District Court for the Northern District of Alabama denied defendants' third attempt to avoid plaintiffs' motion for class certification.

- ***Omnicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund***, No. 13-435 (U.S.). In March 2015, the U.S. Supreme Court ruled in favor of investors represented by Robbins Geller that investors asserting a claim under §11 of the Securities Act of 1933 with respect to a misleading statement of opinion do not, as defendant Omnicare had contended, have to prove that the statement was subjectively disbelieved when made. Rather, the court held that a statement of opinion may be actionable either because it was not believed, or because it lacked a reasonable basis in fact. This decision is significant in that it resolved a conflict among the federal circuit courts and expressly overruled the Second Circuit's widely followed, more stringent pleading standard for §11 claims involving statements of opinion. The Supreme Court remanded the case back to the district court for determination under the newly articulated standard. In August of 2016, upon remand, the district court applied the Supreme Court's new test and denied defendants' motion to dismiss in full.
- ***NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.***, 693 F.3d 145 (2d Cir. 2012). In a securities fraud action involving mortgage-backed securities, the Second Circuit rejected the concept of "tranche" standing and found that a lead plaintiff has class standing to pursue claims on behalf of purchasers of securities that were backed by pools of mortgages originated by the same lenders who had originated mortgages backing the lead plaintiff's securities. The court noted that, given those common lenders, the lead plaintiff's claims as to its purchases implicated "the same set of concerns" that purchasers in several of the other offerings possessed. The court also rejected the notion that the lead plaintiff lacked standing to represent investors in different tranches.
- ***In re VeriFone Holdings, Inc. Sec. Litig.***, 704 F.3d 694 (9th Cir. 2012). The panel reversed in part and affirmed in part the dismissal of investors' securities fraud class action alleging violations of §§10(b), 20(a), and 20A of the Securities Exchange Act of 1934 and SEC Rule 10b-5 in connection with a restatement of financial results of the company in which the investors had purchased stock.

The panel held that the third amended complaint adequately pleaded the §10(b), §20A, and Rule 10b-5 claims. Considering the allegations of scienter holistically, as the U.S. Supreme Court directed in *Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S 27, 48-49 (2011), the panel concluded that the inference that the defendant company and its chief executive officer and former chief financial officer were deliberately reckless as to the truth of their financial reports and related public statements following a merger was at least as compelling as any opposing inference.

- ***Fox v. JAMDAT Mobile, Inc.***, 185 Cal. App. 4th 1068 (2010). Concluding that Delaware's shareholder ratification doctrine did not bar the claims, the California Court of Appeal reversed dismissal of a shareholder class action alleging breach of fiduciary duty in a corporate merger.
- ***In re Constar Int'l Inc. Sec. Litig.***, 585 F.3d 774 (3d Cir. 2009). The Third Circuit flatly rejected defense contentions that where relief is sought under §11 of the Securities Act of 1933, which imposes liability when securities are issued pursuant to an incomplete or misleading registration statement, class certification should depend upon findings concerning market efficiency and loss causation.
- ***Matrixx Initiatives, Inc. v. Siracusano***, 563 U.S 27 (2011), *aff'g* 585 F.3d 1167 (9th Cir. 2009). In a

securities fraud action involving the defendants' failure to disclose a possible link between the company's popular cold remedy and a life-altering side effect observed in some users, the U.S. Supreme Court unanimously affirmed the Ninth Circuit's (a) rejection of a bright-line "statistical significance" materiality standard, and (b) holding that plaintiffs had successfully pleaded a strong inference of the defendants' scienter.

- ***Alaska Elec. Pension Fund v. Flowserve Corp.***, 572 F.3d 221 (5th Cir. 2009). Aided by former U.S. Supreme Court Justice O'Connor's presence on the panel, the Fifth Circuit reversed a district court order denying class certification and also reversed an order granting summary judgment to defendants. The court held that the district court applied an incorrect fact-for-fact standard of loss causation, and that genuine issues of fact on loss causation precluded summary judgment.
- ***In re F5 Networks, Inc., Derivative Litig.***, 207 P.3d 433 (Wash. 2009). In a derivative action alleging unlawful stock option backdating, the Supreme Court of Washington ruled that shareholders need not make a pre-suit demand on the board of directors where this step would be futile, agreeing with plaintiffs that favorable Delaware case law should be followed as persuasive authority.
- ***Lormand v. US Unwired, Inc.***, 565 F.3d 228 (5th Cir. 2009). In a rare win for investors in the Fifth Circuit, the court reversed an order of dismissal, holding that safe harbor warnings were not meaningful when the facts alleged established a strong inference that defendants knew their forecasts were false. The court also held that plaintiffs sufficiently alleged loss causation.
- ***Institutional Inv'rs Grp. v. Avaya, Inc.***, 564 F.3d 242 (3d Cir. 2009). In a victory for investors in the Third Circuit, the court reversed an order of dismissal, holding that shareholders pled with particularity why the company's repeated denials of price discounts on products were false and misleading when the totality of facts alleged established a strong inference that defendants knew their denials were false.
- ***Alaska Elec. Pension Fund v. Pharmacia Corp.***, 554 F.3d 342 (3d Cir. 2009). The Third Circuit held that claims filed for violation of §10(b) of the Securities Exchange Act of 1934 were timely, adopting investors' argument that because scienter is a critical element of the claims, the time for filing them cannot begin to run until the defendants' fraudulent state of mind should be apparent.
- ***Rael v. Page***, 222 P.3d 678 (N.M. Ct. App. 2009). In this shareholder class and derivative action, Robbins Geller attorneys obtained an appellate decision reversing the trial court's dismissal of the complaint alleging serious director misconduct in connection with the merger of SunCal Companies and Westland Development Co., Inc., a New Mexico company with large and historic landholdings and other assets in the Albuquerque area. The appellate court held that plaintiff's claims for breach of fiduciary duty were direct, not derivative, because they constituted an attack on the validity or fairness of the merger and the conduct of the directors. Although New Mexico law had not addressed this question directly, at the urging of the Firm's attorneys, the court relied on Delaware law for guidance, rejecting the "special injury" test for determining the direct versus derivative inquiry and instead applying more recent Delaware case law.
- ***Lane v. Page***, No. 06-cv-1071 (D.N.M. 2012). In May 2012, while granting final approval of the settlement in the federal component of the Westland cases, Judge Browning in the District of New Mexico commented:

Class Counsel are highly skilled and specialized attorneys who use their substantial

experience and expertise to prosecute complex securities class actions. In possibly one of the best known and most prominent recent securities cases, Robbins Geller served as sole lead counsel – *In re Enron Corp. Sec. Litig.*, No. H-01-3624 (S.D. Tex.). See Report at 3. The Court has previously noted that the class would “receive high caliber legal representation” from class counsel, and throughout the course of the litigation the Court has been impressed with the quality of representation on each side. *Lane v. Page*, 250 F.R.D. at 647.

Lane v. Page, 862 F. Supp. 2d 1182, 1253-54 (D.N.M. 2012).

In addition, Judge Browning stated: “Few plaintiffs’ law firms could have devoted the kind of time, skill, and financial resources over a five-year period necessary to achieve the pre- and post-Merger benefits obtained for the class here.’ . . . [Robbins Geller is] both skilled and experienced, and used those skills and experience for the benefit of the class [Robbins Geller is] both skilled and experienced, and used those skills and experience for the benefit of the class.” *Id.* at 1254.

- *Luther v. Countrywide Home Loans Servicing LP*, 533 F.3d 1031 (9th Cir. 2008). In a case of first impression, the Ninth Circuit held that the Securities Act of 1933’s specific non-removal features had not been trumped by the general removal provisions of the Class Action Fairness Act of 2005.
- *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049 (9th Cir. 2008). The Ninth Circuit upheld defrauded investors’ loss causation theory as plausible, ruling that a limited temporal gap between the time defendants’ misrepresentation was publicly revealed and the subsequent decline in stock value was reasonable where the public had not immediately understood the impact of defendants’ fraud.
- *In re WorldCom Sec. Litig.*, 496 F.3d 245 (2d Cir. 2007). The Second Circuit held that the filing of a class action complaint tolls the limitations period for all members of the class, including those who choose to opt out of the class action and file their own individual actions without waiting to see whether the district court certifies a class – reversing the decision below and effectively overruling multiple district court rulings that *American Pipe* tolling did not apply under these circumstances.
- *In re Merck & Co. Sec., Derivative & ERISA Litig.*, 493 F.3d 393 (3d Cir. 2007). In a shareholder derivative suit appeal, the Third Circuit held that the general rule that discovery may not be used to supplement demand-futility allegations does not apply where the defendants enter a voluntary stipulation to produce materials relevant to demand futility without providing for any limitation as to their use. In April 2007, the Honorable D. Brooks Smith praised Robbins Geller partner Joe Daley’s efforts in this litigation:

Thank you very much Mr. Daley and a thank you to all counsel. As Judge Cowen mentioned, this was an exquisitely well-briefed case; it was also an extremely well-argued case, and we thank counsel for their respective jobs here in the matter, which we will take under advisement. Thank you.

In re Merck & Co., Inc. Sec., Derivative & ERISA Litig., No. 06-2911, Transcript at 35:37-36:00 (3d Cir. Apr. 12, 2007).

- *Alaska Elec. Pension Fund v. Brown*, 941 A.2d 1011 (Del. 2007). The Supreme Court of Delaware held that the Alaska Electrical Pension Fund, for purposes of the “corporate benefit” attorney-fee doctrine, was presumed to have caused a substantial increase in the tender offer price paid in a “going private” buyout transaction. The Court of Chancery originally ruled that Alaska’s counsel, Robbins Geller, was not entitled to an award of attorney fees, but Delaware’s high court, in its published opinion, reversed and remanded for further proceedings.
- *Crandon Cap. Partners v. Shelk*, 157 P.3d 176 (Or. 2007). Oregon’s Supreme Court ruled that a shareholder plaintiff in a derivative action may still seek attorney fees even if the defendants took actions to moot the underlying claims. The Firm’s attorneys convinced Oregon’s highest court to take the case, and reverse, despite the contrary position articulated by both the trial court and the Oregon Court of Appeals.
- *In re Qwest Commc’ns Int’l*, 450 F.3d 1179 (10th Cir. 2006). In a case of first impression, the Tenth Circuit held that a corporation’s deliberate release of purportedly privileged materials to governmental agencies was not a “selective waiver” of the privileges such that the corporation could refuse to produce the same materials to non-governmental plaintiffs in private securities fraud litigation.
- *In re Guidant S’holders Derivative Litig.*, 841 N.E.2d 571 (Ind. 2006). Answering a certified question from a federal court, the Supreme Court of Indiana unanimously held that a pre-suit demand in a derivative action is excused if the demand would be a futile gesture. The court adopted a “demand futility” standard and rejected defendants’ call for a “universal demand” standard that might have immediately ended the case.
- *Denver Area Meat Cutters v. Clayton*, 209 S.W.3d 584 (Tenn. Ct. App. 2006). The Tennessee Court of Appeals rejected an objector’s challenge to a class action settlement arising out of Warren Buffet’s 2003 acquisition of Tennessee-based Clayton Homes. In their effort to secure relief for Clayton Homes stockholders, the Firm’s attorneys obtained a temporary injunction of the Buffet acquisition for six weeks in 2003 while the matter was litigated in the courts. The temporary halt to Buffet’s acquisition received national press attention.
- *DeJulius v. New Eng. Health Care Emps. Pension Fund*, 429 F.3d 935 (10th Cir. 2005). The Tenth Circuit held that the multi-faceted notice of a \$50 million settlement in a securities fraud class action had been the best notice practicable under the circumstances, and thus satisfied both constitutional due process and Rule 23 of the Federal Rules of Civil Procedure.
- *In re Daou Sys.*, 411 F.3d 1006 (9th Cir. 2005). The Ninth Circuit sustained investors’ allegations of accounting fraud and ruled that loss causation was adequately alleged by pleading that the value of the stock they purchased declined when the issuer’s true financial condition was revealed.
- *Barrie v. Intervoice-Brite, Inc.*, 397 F.3d 249 (5th Cir.), *reh’g denied and opinion modified*, 409 F.3d 653 (5th Cir. 2005). The Fifth Circuit upheld investors’ accounting-fraud claims, holding that fraud is pled as to both defendants when one knowingly utters a false statement and the other knowingly fails to correct it, even if the complaint does not specify who spoke and who listened.
- *City of Monroe Emps. Ret. Sys. v. Bridgestone Corp.*, 399 F.3d 651 (6th Cir. 2005). The Sixth Circuit held that a statement regarding objective data supposedly supporting a corporation’s belief that its tires were safe was actionable where jurors could have found a reasonable basis to believe the corporation was aware of undisclosed facts seriously undermining the statement’s accuracy.

- ***Ill. Mun. Ret. Fund v. Citigroup, Inc.***, 391 F.3d 844 (7th Cir. 2004). The Seventh Circuit upheld a district court’s decision that the Illinois Municipal Retirement Fund was entitled to litigate its claims under the Securities Act of 1933 against WorldCom’s underwriters before a state court rather than before the federal forum sought by the defendants.
- ***Nursing Home Pension Fund, Local 144 v. Oracle Corp.***, 380 F.3d 1226 (9th Cir. 2004). The Ninth Circuit ruled that defendants’ fraudulent intent could be inferred from allegations concerning their false representations, insider stock sales and improper accounting methods.
- ***Southland Sec. Corp. v. INSpire Ins. Sols. Inc.***, 365 F.3d 353 (5th Cir. 2004). The Fifth Circuit sustained allegations that an issuer’s CEO made fraudulent statements in connection with a contract announcement.
- ***Smith v. Am. Family Mut. Ins. Co.***, 289 S.W.3d 675 (Mo. Ct. App. 2009). Capping nearly a decade of hotly contested litigation, the Missouri Court of Appeals reversed the trial court’s judgment notwithstanding the verdict for auto insurer American Family and reinstated a unanimous jury verdict for the plaintiff class.
- ***Troyk v. Farmers Grp., Inc.***, 171 Cal. App. 4th 1305 (2009). The California Court of Appeal held that Farmers Insurance’s practice of levying a “service charge” on one-month auto insurance policies, without specifying the charge in the policy, violated California’s Insurance Code.
- ***Lebrilla v. Farmers Grp., Inc.***, 119 Cal. App. 4th 1070 (2004). Reversing the trial court, the California Court of Appeal ordered class certification of a suit against Farmers, one of the largest automobile insurers in California, and ruled that Farmers’ standard automobile policy requires it to provide parts that are as good as those made by vehicle’s manufacturer. The case involved Farmers’ practice of using inferior imitation parts when repairing insureds’ vehicles.
- ***In re Monumental Life Ins. Co.***, 365 F.3d 408, 416 (5th Cir. 2004). The Fifth Circuit Court of Appeals reversed a district court’s denial of class certification in a case filed by African-Americans seeking to remedy racially discriminatory insurance practices. The Fifth Circuit held that a monetary relief claim is viable in a Rule 23(b)(2) class if it flows directly from liability to the class as a whole and is capable of classwide “computation by means of objective standards and not dependent in any significant way on the intangible, subjective differences of each class member’s circumstances.”
- ***Dent v. National Football League***, No. 15-15143 (9th Cir.). In September 2018, the United States Court of Appeals for the Ninth Circuit issued an important decision reversing the district court’s previous dismissal of the *Dent v. National Football League* litigation, concluding that the complaint brought by NFL Hall of Famer Richard Dent and others should not be dismissed on labor-law preemption grounds. The case was remanded to the district court for further proceedings.
- ***Kwikset Corp. v. Superior Court***, 51 Cal. 4th 310 (2011). In a leading decision interpreting the scope of Proposition 64’s new standing requirements under California’s Unfair Competition Law (UCL), the California Supreme Court held that consumers alleging that a manufacturer has misrepresented its product have “lost money or property” within the meaning of the initiative, and thus have standing to sue under the UCL, if they “can truthfully allege that they were deceived by a product’s label into spending money to purchase the product, and would not have purchased it otherwise.” *Id.* at 317. *Kwikset* involved allegations, proven at trial, that defendants violated California’s “Made in the U.S.A.” statute by representing on their labels that their products were “Made in U.S.A.” or “All-American Made” when, in fact, the products were substantially made with foreign parts and labor.

- ***Safeco Ins. Co. of Am. v. Superior Court***, 173 Cal. App. 4th 814 (2009). In a class action against auto insurer Safeco, the California Court of Appeal agreed that the plaintiff should have access to discovery to identify a new class representative after her standing to sue was challenged.
- ***Consumer Privacy Cases***, 175 Cal. App. 4th 545 (2009). The California Court of Appeal rejected objections to a nationwide class action settlement benefiting Bank of America customers.
- ***Koponen v. Pac. Gas & Elec. Co.***, 165 Cal. App. 4th 345 (2008). The Firm's attorneys obtained a published decision reversing the trial court's dismissal of the action, and holding that the plaintiff's claims for damages arising from the utility's unauthorized use of rights-of-way or easements obtained from the plaintiff and other landowners were not barred by a statute limiting the authority of California courts to review or correct decisions of the California Public Utilities Commission.
- ***Sanford v. MemberWorks, Inc.***, 483 F.3d 956 (9th Cir. 2007). In a telemarketing-fraud case, where the plaintiff consumer insisted she had never entered the contractual arrangement that defendants said bound her to arbitrate individual claims to the exclusion of pursuing class claims, the Ninth Circuit reversed an order compelling arbitration – allowing the plaintiff to litigate on behalf of a class.
- ***Ritt v. Billy Blanks Enters.***, 870 N.E.2d 212 (Ohio Ct. App. 2007). In the Ohio analog to the *West* case, the Ohio Court of Appeals approved certification of a class of Ohio residents seeking relief under Ohio's consumer protection laws for the same telemarketing fraud.
- ***Haw. Med. Ass'n v. Haw. Med. Serv. Ass'n***, 148 P.3d 1179 (Haw. 2006). The Supreme Court of Hawaii ruled that claims of unfair competition were not subject to arbitration and that claims of tortious interference with prospective economic advantage were adequately alleged.
- ***Branick v. Downey Sav. & Loan Ass'n***, 39 Cal. 4th 235 (2006). Robbins Geller attorneys were part of a team of lawyers that briefed this case before the Supreme Court of California. The court issued a unanimous decision holding that new plaintiffs may be substituted, if necessary, to preserve actions pending when Proposition 64 was passed by California voters in 2004. Proposition 64 amended California's Unfair Competition Law and was aggressively cited by defense lawyers in an effort to dismiss cases after the initiative was adopted.
- ***McKell v. Wash. Mut., Inc.***, 142 Cal. App. 4th 1457 (2006). The California Court of Appeal reversed the trial court, holding that plaintiff's theories attacking a variety of allegedly inflated mortgage-related fees were actionable.
- ***West Corp. v. Superior Court***, 116 Cal. App. 4th 1167 (2004). The California Court of Appeal upheld the trial court's finding that jurisdiction in California was appropriate over the out-of-state corporate defendant whose telemarketing was aimed at California residents. Exercise of jurisdiction was found to be in keeping with considerations of fair play and substantial justice.
- ***Kruse v. Wells Fargo Home Mortg., Inc.***, 383 F.3d 49 (2d Cir. 2004), and ***Santiago v. GMAC Mortg. Grp., Inc.***, 417 F.3d 384 (3d Cir. 2005). In two groundbreaking federal appellate decisions, the Second and Third Circuits each ruled that the Real Estate Settlement Practices Act prohibits marking up home loan-related fees and charges.

Additional Judicial Commendations

Robbins Geller attorneys have been praised by countless judges all over the country for the quality of their representation in class-action lawsuits. In addition to the judicial commendations set forth in the Prominent Cases and Precedent-Setting Decisions sections, judges have acknowledged the successful results of the Firm and its attorneys with the following plaudits:

- In May 2020, in granting final approval of the settlement, the Honorable Mark L. Wolf praised Robbins Geller: “[T]he class has been represented by excellent honorable counsel [T]he fund was represented by experienced, energetic, able counsel, the fund was engaged and informed, and the fund followed advice of experienced counsel. Counsel for the class have been excellent, and I would say honorable.” Additionally, Judge Wolf noted, “I find that the work that’s been done primarily by Robbins Geller has been excellent and honorable and efficient. . . . [T]his has been a challenging case, and they’ve done an excellent job.” *McGee v. Constant Contact, Inc.*, No. 1:15-cv-13114-MLW, Transcript at 21, 31, 61 (D. Mass. May 27, 2020).
- In December 2019, the Honorable Margo K. Brodie noted in granting final approval of the settlement that “[Robbins Geller and co-counsel] have also demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required, litigating on behalf of a class of over 12 million for over fourteen years, across a changing legal landscape, significant motion practice, and appeal and remand. Class counsel’s pedigree and efforts alone speak to the quality of their representation.” *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, No. 1:05-md-01720-MKB-JO, Memorandum & Order (E.D.N.Y. Dec. 16, 2019).
- In October 2019, the Honorable Claire C. Cecchi noted that Robbins Geller is “capable of adequately representing the class, both based on their prior experience in class action lawsuits and based on their capable advocacy on behalf of the class in this action.” The court further commended the Firm and co-counsel for “conduct[ing] the [l]itigation . . . with skill, perseverance, and diligent advocacy.” *Lincoln Adventures, LLC v. Those Certain Underwriters at Lloyd’s, London Members*, No. 2:08-cv-00235-CCC-JAD, Order at 4 (D.N.J. Oct. 3, 2019); *Lincoln Adventures, LLC v. Those Certain Underwriters at Lloyd’s, London Members of Syndicates*, No. 2:08-cv-00235-CCC-JAD, Order Awarding Attorneys’ Fees and Expenses/Charges and Service Awards at 3 (D.N.J. Oct. 3, 2019).
- In June 2019, the Honorable T.S. Ellis, III noted that Robbins Geller “achieved the [\$108 million] [s]ettlement with skill, perseverance, and diligent advocacy.” At the final approval hearing, the court further commended Robbins Geller by stating, “I think the case was fully and appropriately litigated [and] you all did a very good job. . . . [T]hank you for your service in the court. . . . [You’re] first-class lawyers” *Knurr v. Orbital ATK, Inc.*, No. 1:16-cv-01031, Order Awarding Attorneys’ Fees and Expenses at 3 (E.D. Va. June 7, 2019); *Knurr v. Orbital ATK, Inc.*, No. 1:16-cv-01031, Transcript at 28-29 (E.D. Va. June 7, 2019).
- In June 2019, in granting final approval of the settlement, the Honorable John A. Houston stated: Robbins Geller’s “skill and quality of work was extraordinary I’ll note from the top that this has been an aggressively litigated action.” *In re Morning Song Bird Food Litig.*, No. 3:12-cv-01592-JAH-AGS, Transcript at 4, 9 (S.D. Cal. June 3, 2019).
- In May 2019, in granting final approval of the settlement, the Honorable Richard H. DuBois stated: Robbins Geller is “highly experienced and skilled” for obtaining a “fair, reasonable, and adequate” settlement in the “interest of the [c]lass [m]embers” after “extensive investigation.” *Chicago Laborers Pension Fund v. Alibaba Grp. Holding Ltd.*, No. CIV535692, Judgment and Order

Granting Final Approval of Class Action Settlement at 3 (Cal. Super. Ct., San Mateo Cnty. May 17, 2019).

- In April 2019, the Honorable Kathaleen St. J. McCormick noted: “[S]ince the inception of this litigation, plaintiffs and their counsel have vigorously prosecuted the claims brought on behalf of the class. . . . When Vice Chancellor Laster appointed lead counsel, he effectively said: Go get a good result. And counsel took that to heart and did it. . . . The proposed settlement was the product of intense litigation and complex mediation. . . . [Robbins Geller has] only built a considerable track record, never burned it, which gave them the credibility necessary to extract the benefits achieved.” *In re Calamos Asset Mgmt., Inc. S’holder Litig.*, No. 2017-0058-JTL, Transcript at 87, 93, 95, 98 (Del. Ch. Apr. 25, 2019).
- In April 2019, the Honorable Susan O. Hickey noted that Robbins Geller “achieved an exceptional [s]ettlement with skill, perseverance, and diligent advocacy.” *City of Pontiac Gen. Emps.’ Ret. Sys. v. Wal-Mart Stores, Inc.*, No. 5:12-cv-5162, Order Awarding Attorneys’ Fees and Expenses at 3 (W.D. Ark. Apr. 8, 2019).
- In January 2019, the Honorable Margo K. Brodie noted that Robbins Geller “has arduously represented a variety of plaintiffs’ groups in this action[,] . . . [has] extensive antitrust class action litigation experience . . . [and] negotiated what [may be] the largest antitrust settlement in history.” *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 34 (E.D.N.Y. 2019).
- On December 20, 2018, at the final approval hearing for the settlement, the court lauded Robbins Geller’s attorneys and their work: “[T]his is a pretty extraordinary settlement, recovery on behalf of the members of the class. . . . I’ve been very impressed with the level of lawyering in the case . . . and with the level of briefing . . . and I wanted to express my appreciation for that and for the work that everyone has done here.” The court concluded, “your clients were all blessed to have you, [and] not just because of the outcome.” *Duncan v. Joy Global, Inc.*, No. 16-CV-1229, Transcript at 12, 20-21 (E.D. Wis. Dec. 20, 2018).
- In October 2017, the Honorable William Alsup noted that Robbins Geller and lead plaintiff “vigorously prosecuted this action.” *In re LendingClub Sec. Litig.*, No. 3:16-cv-02627-WHA, Order at 13 (N.D. Cal. Oct. 20, 2017).
- On November 9, 2018, in granting final approval of the settlement, the Honorable Jesse M. Furman commented: “[Robbins Geller] did an extraordinary job here. . . . [I]t is fair to say [this was] probably the most complicated case I have had since I have been on the bench. . . . I cannot really imagine how complicated it would have been if I didn’t have counsel who had done as admirable [a] job in briefing it and arguing as you have done. You have in my view done an extraordinary service to the class. . . . I think you have done an extraordinary job and deserve thanks and commendation for that.” *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, No. 1:14-cv-07126-JMF-OTW, Transcript at 27-28 (S.D.N.Y. Nov. 9, 2018).
- On September 12, 2018, at the final approval hearing of the settlement, the Honorable William H. Orrick of the Northern District of California praised Robbins Geller’s “high-quality lawyering” in a case that “involved complicated discovery and complicated and novel legal issues,” resulting in an “excellent” settlement for the class. The “lawyering . . . was excellent” and the case was “very well litigated.” *In re Lidoderm Antitrust Litig.*, No. 14-MDL-02521-WHO, Transcript at 11, 14, 22 (N.D. Cal. Sept. 12, 2018).

- On March 31, 2017, in granting final approval of the settlement, the Honorable Gonzalo P. Curiel hailed the settlement as “extraordinary” and “all the more exceptional when viewed in light of the risk” of continued litigation. The court further commended Robbins Geller for prosecuting the case on a *pro bono* basis: “Class Counsel’s exceptional decision to provide nearly seven years of legal services to Class Members on a *pro bono* basis evidences not only a lack of collusion, but also that Class Counsel are in fact representing the best interests of Plaintiffs and the Class Members in this Settlement. Instead of seeking compensation for fees and costs that they would otherwise be entitled to, Class Counsel have acted to allow maximum recovery to Plaintiffs and Class Members. Indeed, that Eligible Class Members may receive recovery of 90% or greater is a testament to Class Counsel’s representation and dedication to act in their clients’ best interest.” In addition, at the final approval hearing, the court commented that “this is a case that has been litigated – if not fiercely, zealously throughout.” *Low v. Trump Univ., LLC*, 246 F. Supp. 3d 1295, 1302, 1312 (S.D. Cal. 2017), *aff’d*, 881 F.3d 1111 (9th Cir. 2018); *Low v. Trump University LLC and Donald J. Trump*, No. 10-cv-0940 GPC-WVG, and *Cohen v. Donald J. Trump*, No. 13-cv-2519-GPC-WVG, Transcript at 7 (S.D. Cal. Mar. 30, 2017).
- In January 2017, at the final approval hearing, the Honorable Kevin H. Sharp of the Middle District of Tennessee commended Robbins Geller attorneys, stating: “It was complicated, it was drawn out, and a lot of work clearly went into this [case] I think there is some benefit to the shareholders that are above and beyond money, a benefit to the company above and beyond money that changed hands.” *In re Community Health Sys., Inc. S’holder Derivative Litig.*, No. 3:11-cv-00489, Transcript at 10 (M.D. Tenn. Jan. 17, 2017).
- In November 2016, at the final approval hearing, the Honorable James G. Carr stated: “I kept throwing the case out, and you kept coming back. . . . And it’s both remarkable and noteworthy and a credit to you and your firm that you did so. . . . [Y]ou persuaded the Sixth Circuit. As we know, that’s no mean feat at all.” Judge Carr further complimented the Firm, noting that it “goes without question or even saying” that Robbins Geller is very well-known nationally and that the settlement is an excellent result for the class. He succinctly concluded that “given the tenacity and the time and the effort that [Robbins Geller] lawyers put into [the case]” makes the class “a lot better off.” *Plumbers & Pipefitters Nat’l Pension Fund v. Burns*, No. 3:05-cv-07393-JGC, Transcript at 4, 10, 14, 17 (N.D. Ohio Nov. 18, 2016).
- In September 2016, in granting final approval of the settlement, Judge Arleo commended the “vigorous and skilled efforts” of Robbins Geller attorneys for obtaining “an excellent recovery.” Judge Arleo added that the settlement was reached after “contentious, hard-fought litigation” that ended with “a very, very good result for the class” in a “risky case.” *City of Sterling Heights Gen. Emps.’ Ret. Sys. v. Prudential Fin., Inc.*, No. 2:12-cv-05275-MCA-LDW, Transcript of Hearing at 18-20 (D.N.J. Sept. 28, 2016).
- In August 2015, at the final approval hearing for the settlement, the Honorable Karen M. Humphreys praised Robbins Geller’s “extraordinary efforts” and “excellent lawyering,” noting that the settlement “really does signal that the best is yet to come for your clients and for your prodigious labor as professionals. . . . I wish more citizens in our country could have an appreciation of what this [settlement] truly represents.” *Bennett v. Sprint Nextel Corp.*, No. 2:09-cv-02122-EFM-KMH, Transcript at 8, 25 (D. Kan. Aug. 12, 2015).
- In August 2015, the Honorable Judge Max O. Cogburn, Jr. noted that “plaintiffs’ attorneys were able [to] achieve the big success early” in the case and obtained an “excellent result.” The “extraordinary” settlement was because of “good lawyers . . . doing their good work.” *Nieman v. Duke Energy Corp.*, No. 3:12-cv-456, Transcript at 21, 23, 30 (W.D.N.C. Aug. 12, 2015).

- In July 2015, in approving the settlement, the Honorable Douglas L. Rayes of the District of Arizona stated: “Settlement of the case during pendency of appeal for more than an insignificant amount is rare. The settlement here is substantial and provides favorable recovery for the settlement class under these circumstances.” He continued, noting, “[a]s against the objective measures of . . . settlements [in] other similar cases, [the recovery] is on the high end.” *Teamsters Local 617 Pension & Welfare Funds v. Apollo Grp., Inc.*, No. 2:06-cv-02674-DLR, Transcript at 8, 11 (D. Ariz. July 28, 2015).
- In June 2015, at the conclusion of the hearing for final approval of the settlement, the Honorable Susan Richard Nelson of the District of Minnesota noted that it was “a pleasure to be able to preside over a case like this,” praising Robbins Geller in achieving “an outstanding [result] for [its] clients,” as she was “very impressed with the work done on th[e] case.” *In re St. Jude Med., Inc. Sec. Litig.*, No. 0:10-cv-00851-SRN-TNL, Transcript at 7 (D. Minn. June 12, 2015).
- In May 2015, at the fairness hearing on the settlement, the Honorable William G. Young noted that the case was “very well litigated” by Robbins Geller attorneys, adding that “I don’t just say that as a matter of form. . . . I thank you for the vigorous litigation that I’ve been permitted to be a part of.” *Courtney v. Avid Tech., Inc.*, No. 1:13-cv-10686-WGY, Transcript at 8-9 (D. Mass. May 12, 2015).
- In January 2015, the Honorable William J. Haynes, Jr. of the Middle District of Tennessee described the settlement as a “highly favorable result achieved for the Class” through Robbins Geller’s “diligent prosecution . . . [and] quality of legal services.” The settlement represents the fourth-largest securities recovery ever in the Middle District of Tennessee and one of the largest in more than a decade. *Garden City Emps.’ Ret. Sys. v. Psychiatric Sols., Inc.*, No. 3:09-cv-00882, 2015 U.S. Dist. LEXIS 181943, at *6-*7 (M.D. Tenn. Jan. 16, 2015).
- In September 2014, in approving the settlement for shareholders, Vice Chancellor John W. Noble noted “[t]he litigation caused a substantial benefit for the class. It is unusual to see a \$29 million recovery.” Vice Chancellor Noble characterized the litigation as “novel” and “not easy,” but “[t]he lawyers took a case and made something of it.” The court commended Robbins Geller’s efforts in obtaining this result: “The standing and ability of counsel cannot be questioned” and “the benefits achieved by plaintiffs’ counsel in this case cannot be ignored.” *In re Gardner Denver, Inc. S’holder Litig.*, No. 8505-VCN, Transcript at 26-28 (Del. Ch. Sept. 3, 2014).
- In May 2014, at the conclusion of the hearing for final approval of the settlement, the Honorable Elihu M. Berle stated: “I would finally like to congratulate counsel on their efforts to resolve this case, on excellent work – it was the best interest of the class – and to the exhibition of professionalism. So I do thank you for all your efforts.” *Liberty Mutual Overtime Cases*, No. JCCP 4234, Transcript at 20:1-5 (Cal. Super. Ct., Los Angeles Cnty. May 29, 2014).
- In March 2014, Ninth Circuit Judge J. Clifford Wallace (presiding) expressed the gratitude of the court: “Thank you. I want to especially thank counsel for this argument. This is a very complicated case and I think we were assisted no matter how we come out by competent counsel coming well prepared. . . . It was a model of the type of an exercise that we appreciate. Thank you very much for your work . . . you were of service to the court.” *Eclectic Properties East, LLC v. The Marcus & Millichap Co.*, No. 12-16526, Transcript (9th Cir. Mar. 14, 2014).
- In February 2014, in approving a settlement, Judge Edward M. Chen noted the “very substantial risks” in the case and recognized Robbins Geller had performed “extensive work on the case.” *In*

re VeriFone Holdings, Inc. Sec. Litig., No. C-07-6140, 2014 U.S. Dist. LEXIS 20044, at *5, *11-*12 (N.D. Cal. Feb. 18, 2014).

- In August 2013, in granting final approval of the settlement, the Honorable Richard J. Sullivan stated: “Lead Counsel is to be commended for this result: it expended considerable effort and resources over the course of the action researching, investigating, and prosecuting the claims, at significant risk to itself, and in a skillful and efficient manner, to achieve an outstanding recovery for class members. Indeed, the result – and the class’s embrace of it – is a testament to the experience and tenacity Lead Counsel brought to bear.” *City of Livonia Emps. Ret. Sys. v. Wyeth*, No. 07 Civ. 10329, 2013 U.S. Dist. LEXIS 113658, at *13 (S.D.N.Y. Aug. 7, 2013).
- In July 2013, in granting final approval of the settlement, the Honorable William H. Alsup stated that Robbins Geller did “excellent work in this case,” and continued, “I look forward to seeing you on the next case.” *Fraser v. Asus Comput. Int’l*, No. C 12-0652, Transcript at 12:2-3 (N.D. Cal. July 11, 2013).
- In June 2013, in certifying the class, U.S. District Judge James G. Carr recognized Robbins Geller’s steadfast commitment to the class, noting that “plaintiffs, with the help of Robbins Geller, have twice successfully appealed this court’s orders granting defendants’ motion to dismiss.” *Plumbers & Pipefitters Nat’l Pension Fund v. Burns*, 292 F.R.D. 515, 524 (N.D. Ohio 2013).
- In November 2012, in granting appointment of lead plaintiff, Chief Judge James F. Holderman commended Robbins Geller for its “substantial experience in securities class action litigation” and commented that the Firm “is recognized as ‘one of the most successful law firms in securities class actions, if not the preeminent one, in the country.’” *In re Enron Corp. Sec.*, 586 F. Supp. 2d 732, 797 (S.D. Tex. 2008) (Harmon, J.).” He continued further that, “‘Robbins Geller attorneys are responsible for obtaining the largest securities fraud class action recovery ever [\$7.2 billion in *Enron*], as well as the largest recoveries in the Fifth, Sixth, Eighth, Tenth and Eleventh Circuits.’” *Bristol Cnty. Ret. Sys. v. Allscripts Healthcare Sols., Inc.*, No. 12 C 3297, 2012 U.S. Dist. LEXIS 161441, at *21 (N.D. Ill. Nov. 9, 2012).
- In June 2012, in granting plaintiffs’ motion for class certification, the Honorable Inge Prytz Johnson noted that other courts have referred to Robbins Geller as “‘one of the most successful law firms in securities class actions . . . in the country.’” *Local 703, I.B. v. Regions Fin. Corp.*, 282 F.R.D. 607, 616 (N.D. Ala. 2012) (quoting *In re Enron Corp. Sec. Litig.*, 586 F. Supp. 2d 732, 797 (S.D. Tex. 2008)), *aff’d in part and vacated in part on other grounds*, 762 F.3d 1248 (11th Cir. 2014).
- In June 2012, in granting final approval of the settlement, the Honorable Barbara S. Jones commented that “class counsel’s representation, from the work that I saw, appeared to me to be of the highest quality.” *In re CIT Grp. Inc. Sec. Litig.*, No. 08 Civ. 6613, Transcript at 9:16-18 (S.D.N.Y. June 13, 2012).
- In March 2012, in granting certification for the class, Judge Robert W. Sweet referenced the *Enron* case, agreeing that Robbins Geller’s “‘clearly superlative litigating and negotiating skills’” give the Firm an “‘outstanding reputation, experience, and success in securities litigation nationwide,’” thus, “[t]he experience, ability, and reputation of the attorneys of [Robbins Geller] is not disputed; it is one of the most successful law firms in securities class actions, if not the preeminent one, in the country.” *Billhofer v. Flamel Techs., S.A.*, 281 F.R.D. 150, 158 (S.D.N.Y. 2012).
- In March 2011, in denying defendants’ motion to dismiss, Judge Richard Sullivan commented:

“Let me thank you all. . . . [The motion] was well argued . . . and . . . well briefed I certainly appreciate having good lawyers who put the time in to be prepared” *Anegada Master Fund Ltd. v. PxRE Grp. Ltd.*, No. 08-cv-10584, Transcript at 83 (S.D.N.Y. Mar. 16, 2011).

- In January 2011, the court praised Robbins Geller attorneys: “They have gotten very good results for stockholders. . . . [Robbins Geller has] such a good track record.” *In re Compellent Techs., Inc. S’holder Litig.*, No. 6084-VCL, Transcript at 20-21 (Del. Ch. Jan. 13, 2011).
- In August 2010, in reviewing the settlement papers submitted by the Firm, Judge Carlos Murguia stated that Robbins Geller performed “a commendable job of addressing the relevant issues with great detail and in a comprehensive manner The court respects the [Firm’s] experience in the field of derivative [litigation].” *Alaska Elec. Pension Fund v. Olofson*, No. 08-cv-02344-CM-JPO (D. Kan.) (Aug. 20, 2010 e-mail from court re: settlement papers).
- In June 2009, Judge Ira Warshawsky praised the Firm’s efforts in *In re Aeroflex, Inc. S’holder Litig.*: “There is no doubt that the law firms involved in this matter represented in my opinion the cream of the crop of class action business law and mergers and acquisition litigators, and from a judicial point of view it was a pleasure working with them.” *In re Aeroflex, Inc. S’holder Litig.*, No. 003943/07, Transcript at 25:14-18 (N.Y. Sup. Ct., Nassau Cnty. June 30, 2009).
- In March 2009, in granting class certification, the Honorable Robert Sweet of the Southern District of New York commented in *In re NYSE Specialists Sec. Litig.*, 260 F.R.D. 55, 74 (S.D.N.Y. 2009): “As to the second prong, the Specialist Firms have not challenged, in this motion, the qualifications, experience, or ability of counsel for Lead Plaintiff, [Robbins Geller], to conduct this litigation. Given [Robbins Geller’s] substantial experience in securities class action litigation and the extensive discovery already conducted in this case, this element of adequacy has also been satisfied.”
- In June 2008, the court commented, “Plaintiffs’ lead counsel in this litigation, [Robbins Geller], has demonstrated its considerable expertise in shareholder litigation, diligently advocating the rights of Home Depot shareholders in this Litigation. [Robbins Geller] has acted with substantial skill and professionalism in representing the plaintiffs and the interests of Home Depot and its shareholders in prosecuting this case.” *City of Pontiac Gen. Emps.’ Ret. Sys. v. Langone*, No. 2006-122302, Findings of Fact in Support of Order and Final Judgment at 2 (Ga. Super. Ct., Fulton Cnty. June 10, 2008).
- In a December 2006 hearing on the \$50 million consumer privacy class action settlement in *Kehoe v. Fidelity Fed. Bank & Tr.*, No. 03-80593-CIV (S.D. Fla.), United States District Court Judge Daniel T.K. Hurley said the following:

First, I thank counsel. As I said repeatedly on both sides, we have been very, very fortunate. We have had fine lawyers on both sides. The issues in the case are significant issues. We are talking about issues dealing with consumer protection and privacy. Something that is increasingly important today in our society. . . . I want you to know I thought long and hard about this. I am absolutely satisfied that the settlement is a fair and reasonable settlement. . . . I thank the lawyers on both sides for the extraordinary effort that has been brought to bear here

Kehoe v. Fidelity Fed. Bank & Tr., No. 03-80593-CIV, Transcript at 26, 28-29 (S.D. Fla. Dec. 7, 2006).

- In *Stanley v. Safeskin Corp.*, No. 99 CV 454 (S.D. Cal.), where Robbins Geller attorneys obtained \$55 million for the class of investors, Judge Moskowitz stated:

I said this once before, and I'll say it again. I thought the way that your firm handled this case was outstanding. This was not an easy case. It was a complicated case, and every step of the way, I thought they did a very professional job.

Stanley v. Safeskin Corp., No. 99 CV 454, Transcript at 13 (S.D. Cal. May 25, 2004).

ATTORNEY BIOGRAPHIES

Mario Alba Jr. | Partner

Mario Alba is a partner in the Firm's Melville office. He is a member of the Firm's Institutional Outreach Team, which provides advice to the Firm's institutional clients, including numerous public pension systems and Taft-Hartley funds throughout the United States, and consults with them on issues relating to corporate fraud in the U.S. securities markets, as well as corporate governance issues and shareholder litigation. Some of Alba's institutional clients are currently involved in securities cases involving: BRF S.A.; Ryanair Holdings PLC; HCP, Inc.; Iconix Brand Group; Advisory Board Company; Endo International PLC; Impax Laboratories, Inc.; Super Micro Computer, Inc.; Skechers USA, Inc.; and Hertz Global Holdings, Inc. Alba's institutional clients are also involved in certain antitrust actions, namely: *In re National Prescription Opiate Litigation*, *In re Epipen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, and *Forth v. Walgreen Co.* Alba has served as lead counsel in numerous cases and is responsible for initiating, investigating, researching, and filing securities and consumer fraud class actions. He has recovered millions of dollars in numerous actions, including cases against BHP Billiton Limited (\$50 million), NBTY, Inc. (\$16 million), OSI Pharmaceuticals (\$9 million), and PXRe Group, Ltd. (\$5.9 million). Alba has lectured at numerous institutional investor conferences throughout the United States on various shareholder issues, including at the Illinois Public Pension Fund Association, the New York State Teamsters Conference, the American Alliance Conference, and the TEXPERS/IPPPA Joint Conference at the New York Stock Exchange, among others.

Education

B.S., St. John's University, 1999; J.D., Hofstra University School of Law, 2002

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2012-2013, 2016-2017; B.S., Dean's List, St. John's University, 1999; Selected as participant in Hofstra Moot Court Seminar, Hofstra University School of Law

Susan K. Alexander | Partner

Susan Alexander is a partner in the Firm's San Francisco office. Alexander's practice specializes in federal appeals of securities fraud class actions on behalf of investors. With nearly 30 years of federal appellate experience, she has argued on behalf of defrauded investors in circuit courts throughout the United States. Among her most notable cases are *Mineworkers' Pension Scheme v. First Solar Inc.* (\$350 million recovery), *In re VeriFone Holdings, Inc. Sec. Litig.* (\$95 million recovery), and the successful appellate ruling in *Alaska Elec. Pension Fund v. Flowserve Corp.* (\$55 million recovery). Other representative results include: *Stoyas v. Toshiba Corp.*, 896 F.3d 933 (9th Cir. 2018) (reversing dismissal of securities fraud action and holding that the Exchange Act applies to unsponsored American Depositary Shares), *cert. denied*, 588 U.S. ___ (2019); *W. Va. Pipe Trades Health & Welfare Fund v. Medtronic, Inc.*, 845 F.3d 384 (8th Cir. 2016) (reversing summary judgment of securities fraud action on statute of limitations grounds); *In re Ubiquiti Networks, Inc. Sec. Litig.*, 669 F. App'x 878 (9th Cir. 2016) (reversing dismissal of §11 claim); *Carpenters Pension Tr. Fund of St. Louis v. Barclays PLC*, 750 F.3d 227 (2d Cir. 2014) (reversing dismissal of securities fraud complaint, focused on loss causation); *Panther Partners Inc. v. Ikanos Commc'ns, Inc.*, 681 F.3d 114 (2d Cir. 2012) (reversing dismissal of §11 claim); *City of Pontiac Gen. Emps. Ret. Sys. v. MBIA, Inc.*, 637 F.3d 169 (2d Cir. 2011) (reversing dismissal of securities fraud complaint, focused on statute of limitations); *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049 (9th Cir. 2008) (reversing dismissal of securities fraud complaint, focused on loss causation); *Barrie v. Intervoice-Brite, Inc.*, 397 F.3d 249 (5th Cir.) (reversing dismissal of securities fraud complaint, focused on scienter), *reh'g denied and op. modified*, 409 F.3d 653 (5th Cir. 2005); and *Pirraglia v. Novell, Inc.*, 339 F.3d 1182 (10th Cir. 2003) (reversing dismissal of securities fraud complaint, focused on scienter). Alexander's prior appellate work was with the California Appellate Project ("CAP"), where she prepared appeals and petitions for writs of *habeas corpus* on behalf of individuals sentenced to death. At CAP, and subsequently in private practice, she litigated and consulted on death penalty direct and collateral appeals for ten years.

Education

B.A., Stanford University, 1983; J.D., University of California, Los Angeles, 1986

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2015-2020; American Academy of Appellate Lawyers; California Academy of Appellate Lawyers; Ninth Circuit Advisory Rules Committee; Appellate Delegate, Ninth Circuit Judicial Conference; ABA Council of Appellate Lawyers

Jason H. Alperstein | Partner

Jason Alperstein is a partner in the Firm's Boca Raton office. His practice focuses on consumer fraud, securities fraud, mass torts, and data breach litigation. Alperstein was an integral member of the *In re Volkswagen "Clean Diesel" Marketing, Sales Pracs., & Prods. Liab. Litig.*, No. 15-md-2672 (N.D. Cal.), litigation team, prosecuting claims on behalf of almost 600,000 consumers who were duped into purchasing and leasing Volkswagen, Audi, and Porsche vehicles that were marketed as environmentally friendly, yet spewed toxic pollutants up to 40 times the legal limit permitted by the EPA. Working closely with Plaintiffs' Steering Committee ("PSC") member Paul J. Geller, Alperstein was involved in almost all aspects of the litigation. The PSC and government agencies ultimately reached a series of settlements on behalf of purchasers, lessees, and dealers that totaled well over \$17 billion, the largest consumer automotive settlement in history. Alperstein is actively involved in a number of other class actions and MDLs pending throughout the country, including: *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-md-02752 (N.D. Cal.), regarding the largest data breach in history; *In re FieldTurf Artificial Turf Mktg. & Sales Pracs. Litig.*, No. 17-md-02779 (D.N.J.), concerning the sale of defective synthetic turf for use in athletic fields; *In re Chrysler-Dodge-Jeep Ecodiesel Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 17-md-02777 (N.D. Cal.), pertaining to Fiat Chrysler's use of defeat devices to hide emission levels on its Jeep and Dodge "EcoDiesel" vehicles; *Benkle v. Ford Motor Co.*, No. 16-cv-01569 (C.D. Cal.), involving defective electronic throttle body units in Ford vehicles; and *Zimmerman v. The 3M Company*, No. 17-cv-01062 (W.D. Mich.), relating to the dumping of toxic waste and polluting of groundwater in Kent County, Michigan.

Before joining Robbins Geller, Alperstein served on lead and co-lead litigation teams in nationwide and statewide class action lawsuits against dozens of the largest banking institutions in connection with the unlawful assessment of checking account overdraft fees. His efforts resulted in over \$250 million in settlements for his clients and significant changes in the way banks charge overdraft fees to their customers. In addition, he led consumer class actions against product manufacturers for false and deceptive labeling, and some of the world's largest clothing retailers for their use of false and deceptive comparative pricing in their outlet stores.

Education

B.A., Brown University, 2004; M.B.A., University of Miami School of Business, 2008, J.D., University of Miami School of Law, 2008

Honors / Awards

40 & Under Hot List, *Benchmark Litigation*, 2017-2020; Rising Star, *Super Lawyers Magazine*, 2014-2019; Rising Star, Consumer Protection, *Law360*, 2017; J.D., *Cum Laude*, University of Miami School of Law, 2008; B.A., with Honors, Brown University, 2004

Matthew I. Alpert | Partner

Matthew Alpert is a partner in the Firm's San Diego office and focuses on the prosecution of securities fraud litigation. He has helped recover over \$800 million for individual and institutional investors financially harmed by corporate fraud. Alpert's current cases include securities fraud cases against XPO Logistics (D. Conn.), Canada Goose (S.D.N.Y.), Inogen (C.D. Cal.), and Under Armour (D. Md.). Most recently, Alpert and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.* (D.N.J.), a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever. Alpert was also a member of the litigation team that successfully obtained class certification in a securities fraud class action against Regions Financial, a class certification decision which was substantively affirmed by the United States Court of Appeals for the Eleventh Circuit in *Local 703, I.B. of T. Grocery & Food Emps. Welfare Fund v. Regions Fin. Corp.*, 762 F.3d 1248 (11th Cir. 2014). Upon remand, the United States District Court for the Northern District of Alabama granted class certification again, rejecting defendants' post-*Halliburton II* arguments concerning stock price impact.

Education

B.A., University of Wisconsin at Madison, 2001; J.D., Washington University, St. Louis, 2005

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2019

Darryl J. Alvarado | Partner

Darryl Alvarado is a partner in the Firm's San Diego office. He focuses his practice on securities fraud and other complex civil litigation. Alvarado was a key member of the trial team in *Smilovits v. First Solar, Inc.*, which recovered \$350 million for aggrieved investors. The *First Solar* settlement, reached on the eve of trial after more than seven years of hard-fought litigation and an interlocutory appeal to the U.S. Supreme Court, is the fifth-largest PSLRA recovery ever obtained in the Ninth Circuit. Alvarado also helped secure \$388 million for investors in J.P. Morgan RMBS in *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.* That settlement is, on a percentage basis, the largest recovery ever achieved in an RMBS class action. He was also a member of a team of attorneys that secured \$95 million for investors in Morgan Stanley-issued RMBS in *In re Morgan Stanley Mortg. Pass-Through Certificates Litig.* In addition, Alvarado was a member of a team of lawyers that obtained landmark settlements, on the eve of trial, from the major credit rating agencies and Morgan Stanley arising out of the fraudulent ratings of bonds issued by the Cheyne and Rhinebridge structured investment vehicles in *Abu Dhabi Commercial Bank v. Morgan Stanley & Co. Incorporated* and *King County, Washington v. IKB Deutsche Industriebank AG*. He was integral in obtaining several precedent-setting decisions in those cases, including defeating the rating agencies' historic First Amendment defense and defeating the ratings agencies' motions for summary judgment concerning the actionability of credit ratings.

Education

B.A., University of California, Santa Barbara, 2004; J.D., University of San Diego School of Law, 2007

Honors / Awards

40 & Under Hot List, *Benchmark Litigation*, 2018-2020; Rising Star, *Super Lawyers Magazine*, 2015-2020; "Outstanding Young Attorneys," *San Diego Daily Transcript*, 2011

X. Jay Alvarez | Partner

Jay Alvarez is a partner in the Firm's San Diego office. He focuses his practice on securities fraud litigation and other complex litigation. Alvarez's notable cases include *In re Qwest Commc'ns Int'l, Inc. Sec. Litig.* (\$400 million recovery), *In re Coca-Cola Sec. Litig.* (\$137.5 million settlement), *In re St. Jude Medical, Inc. Sec. Litig.* (\$50 million settlement), and *In re Cooper Cos. Sec. Litig.* (\$27 million recovery). Most recently, Alvarez was a member of the litigation team that secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump. The settlement provides \$25 million to approximately 7,000 consumers. This result means individual class members are eligible for upwards of \$35,000 in restitution. He represented the class on a *pro bono* basis.

Prior to joining the Firm, Alvarez served as an Assistant United States Attorney for the Southern District of California from 1991-2003. As an Assistant United States Attorney, he obtained extensive trial experience, including the prosecution of bank fraud, money laundering, and complex narcotics conspiracy cases. During his tenure as an Assistant United States Attorney, Alvarez also briefed and argued numerous appeals before the Ninth Circuit Court of Appeals.

Education

B.A., University of California, Berkeley, 1984; J.D., University of California, Berkeley, Boalt Hall School of Law, 1987

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020

Dory P. Antullis | Partner

Dory Antullis is a partner in the Firm's Boca Raton office. Her practice focuses on complex class actions, including securities, corporate governance, and consumer fraud litigation.

Prior to joining the Firm, Antullis worked as an associate in the Miami office of Greenberg Traurig, P.A., where she practiced in the area of commercial defense litigation and international arbitration, and as General Counsel for a medical and defense industry manufacture and supply company in Coral Gables, Florida.

Education

B.A., Rice University, 1999; J.D., Columbia Law School, 2003

Honors / Awards

National Merit Scholar, Rice University; Golden Key National Honor Society, Rice University; Nominated for *The Rice Undergraduate* academic journal, Rice University; Michael I. Sovern Scholar, Columbia Law School; Hague Appeal for Peace, Committee for a Just and Effective Response to 9/11, Columbia Law School; Columbia Mediation and Political Asylum Clinics, Columbia Law School; Harlem Tutorial Program, Columbia Law School; Journal of Eastern European Law, Columbia Law School; Columbia Law Women's Association, Columbia Law School

Stephen R. Astley | Partner

Stephen Astley is a partner in the Firm's Boca Raton office. Astley devotes his practice to representing institutional and individual shareholders in their pursuit to recover investment losses caused by fraud. He has been lead counsel in numerous securities fraud class actions across the country, helping secure significant recoveries for his clients and investors. He was on the trial team that recovered \$60 million on behalf of investors in *City of Sterling Heights Gen. Emps.' Ret. Sys. v. Hospira, Inc.* Other notable representations include: *In re Red Hat, Inc. Sec. Litig.* (E.D.N.C.) (\$20 million settlement); *Eshe Fund v. Fifth Third Bancorp* (S.D. Ohio) (\$16 million); *City of St. Clair Shores Gen. Emps.' Ret. Sys. v. Lender Processing Serus., Inc.* (M.D. Fla.) (\$14 million); and *In re Synovus Fin. Corp.* (N.D. Ga.) (\$11.75 million).

Prior to joining the Firm, Astley was with the Miami office of Hunton & Williams, where he concentrated his practice on class action defense, including securities class actions and white collar criminal defense. Additionally, he represented numerous corporate clients accused of engaging in unfair and deceptive practices. Astley was also an active duty member of the United States Navy's Judge Advocate General's Corps where he was the Senior Defense Counsel for the Naval Legal Service Office Pearl Harbor Detachment. In that capacity, Astley oversaw trial operations for the Detachment and gained substantial first-chair trial experience as the lead defense counsel in over 75 courts-martial and administrative proceedings. Additionally, from 2002-2003, Astley clerked for the Honorable Peter T. Fay, U.S. Court of Appeals for the Eleventh Circuit.

Education

B.S., Florida State University, 1992; M. Acc., University of Hawaii at Manoa, 2001; J.D., University of Miami School of Law, 1997

Honors / Awards

J.D., *Cum Laude*, University of Miami School of Law, 1997; United States Navy Judge Advocate General's Corps., Lieutenant

A. Rick Atwood, Jr. | Partner

Rick Atwood is a partner in the Firm's San Diego office. As a recipient of the *California Lawyer* Attorney of the Year ("CLAY") Award for his work on behalf of shareholders, he has successfully represented shareholders in securities class actions, merger-related class actions, and shareholder derivative suits in federal and state courts in more than 30 jurisdictions. Through his litigation efforts at both the trial and appellate levels, Atwood has helped recover billions of dollars for public shareholders, including the largest post-merger common fund recoveries on record. Most recently, in *In re Dole Food Co., Inc. S'holder Litig.*, which went to trial in the Delaware Court of Chancery on claims of breach of fiduciary duty on behalf of Dole Food Co., Inc. shareholders, Atwood helped obtain \$148 million, the largest trial verdict ever in a class action challenging a merger transaction. He was also a key member of the litigation team in *In re Kinder Morgan, Inc. S'holders Litig.*, where he helped obtain an unprecedented \$200 million common fund for former Kinder Morgan shareholders, the largest merger & acquisition class action recovery in history.

Atwood also led the litigation team that obtained an \$89.4 million recovery for shareholders in *In re Del Monte Foods Co. S'holders Litig.*, after which the Delaware Court of Chancery stated that "it was only through the effective use of discovery that the plaintiffs were able to 'disturb[] the patina of normalcy surrounding the transaction.'" The court further commented that "Lead Counsel engaged in hard-nosed discovery to penetrate and expose problems with practices that Wall Street considered 'typical.'" One Wall Street banker even wrote in *The Wall Street Journal* that "Everybody does it, but Barclays is the one that got caught with their hand in the cookie jar . . . Now everybody has to rethink how we conduct ourselves in financing situations." Atwood's other significant opinions include *Brown v. Brewer* (\$45 million recovery) and *In re Prime Hosp., Inc. S'holders Litig.* (\$25 million recovery).

Education

B.A., University of Tennessee, Knoxville, 1987; B.A., Katholieke Universiteit Leuven, Belgium, 1988; J.D., Vanderbilt School of Law, 1991

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Recommended Lawyer, *The Legal 500*, 2017-2019; M&A Litigation Attorney of the Year in California, *Corporate International*, 2015; Super Lawyer, *Super Lawyers Magazine*, 2014-2017; Attorney of the Year, *California Lawyer*, 2012; B.A., Great Distinction, Katholieke Universiteit Leuven, Belgium, 1988; B.A., Honors, University of Tennessee, Knoxville, 1987; Authorities Editor, *Vanderbilt Journal of Transnational Law*, 1991

Aelish M. Baig | Partner

Aelish Marie Baig is a partner in the Firm's San Francisco office. She specializes in federal securities and consumer class actions. She focuses primarily on securities fraud litigation on behalf of individual and institutional investors, including state and municipal pension funds, Taft-Hartley funds, and private retirement and investment funds. Baig has litigated a number of cases through jury trial, resulting in multi-million dollar awards and settlements for her clients, and has prosecuted securities fraud, consumer, and derivative actions obtaining millions of dollars in recoveries against corporations such as Wells Fargo, Verizon, Celera, Pall, and Prudential.

Baig, along with other Robbins Geller attorneys, is currently leading the effort on behalf of cities and counties around the country in *In re National Prescription Opiate Litigation*. Additionally, she prosecuted an action against Wells Fargo's directors and officers accusing the giant of engaging in the robo-signing of foreclosure papers so as to mass-process home foreclosures, a practice which contributed significantly to the 2008-2009 financial crisis. The resulting settlement was worth more than \$67 million in cash, corporate preventative measures, and new lending initiatives for residents of cities devastated by Wells Fargo's alleged unlawful foreclosure practices. Baig was part of the litigation and trial team in *White v. Cellco Partnership d/b/a Verizon Wireless*, which resulted in a \$25 million settlement and Verizon's agreement to an injunction restricting its ability to impose early termination fees in future subscriber agreements. She was also part of the team that prosecuted dozens of stock option backdating actions, securing tens of millions of dollars in cash recoveries as well as the implementation of comprehensive corporate governance enhancements for numerous companies victimized by their directors' and officers' fraudulent stock option backdating practices. Additionally, Baig prosecuted an action against Prudential Insurance for its alleged failure to pay life insurance benefits to beneficiaries of policyholders it knew or had reason to know had died, resulting in a settlement in excess of \$30 million.

Education

B.A., Brown University, 1992; J.D., Washington College of Law at American University, 1998

Honors / Awards

Best Lawyer in America: One to Watch, *Best Lawyers*®, 2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Featured in "Lawyer Limelight" series, *Lawdragon*, 2020; Leading Lawyer in America, *Lawdragon*, 2020; Litigation Trailblazer, *The National Law Journal*, 2019; California Trailblazer, *The Recorder*, 2019; Super Lawyer, *Super Lawyers Magazine*, 2012-2013; J.D., *Cum Laude*, Washington College of Law at American University, 1998; Senior Editor, *Administrative Law Review*, Washington College of Law at American University

Randall J. Baron | Partner

Randy Baron is a partner in the Firm's San Diego office. He specializes in securities litigation, corporate takeover litigation, and breach of fiduciary duty actions. For almost two decades, Baron has headed up a team of lawyers whose accomplishments include obtaining instrumental rulings both at injunction and trial phases, and establishing liability of financial advisors and investment banks. With an in-depth understanding of merger and acquisition and breach of fiduciary duty law, an ability to work under extreme time pressures, and the experience and willingness to take a case through trial, he has been responsible for recovering more than a billion dollars for shareholders.

Notable achievements over the years include: *In re Kinder Morgan, Inc. S'holders Litig.* (Kan. Dist. Ct., Shawnee Cnty.), where Baron obtained an unprecedented \$200 million common fund for former Kinder Morgan shareholders, the largest merger & acquisition class action recovery in history; *In re Dole Food Co., Inc. S'holder Litig.* (Del. Ch.), where he went to trial in the Delaware Court of Chancery on claims of breach of fiduciary duty on behalf of Dole Food Co., Inc. shareholders and obtained \$148 million, the largest trial verdict ever in a class action challenging a merger transaction; and *In re Rural/Metro Corp. S'holders Litig.* (Del. Ch.), where Baron and co-counsel obtained nearly \$110 million total recovery for shareholders against Royal Bank of Canada Capital Markets LLC. In *In re Del Monte Foods Co. S'holders Litig.* (Del. Ch.), he exposed the unseemly practice by investment bankers of participating on both sides of large merger and acquisition transactions and ultimately secured an \$89 million settlement for shareholders of Del Monte. Baron was one of the lead attorneys representing about 75 public and private institutional investors that filed and settled individual actions in *In re WorldCom Sec. Litig.* (S.D.N.Y.), where more than \$657 million was recovered, the largest opt-out (non-class) securities action in history. Most recently, Baron successfully obtained a partial settlement of \$60 million in *In re Tesla Motors, Inc. S'holder Litig.*, a case that alleged that the members of the Tesla Board of Directors breached their fiduciary duties, unjustly enriched themselves, and wasted corporate assets in connection with their approval of Tesla's acquisition of SolarCity Corp. in 2016.

Education

B.A., University of Colorado at Boulder, 1987; J.D., University of San Diego School of Law, 1990

Honors / Awards

Fellow, Advisory Board, Litigation Counsel of America (LCA); Rated Distinguished by Martindale-Hubbell; Best Lawyer in America, *Best Lawyers*®, 2019-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Hall of Fame, *The Legal 500*, 2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2016, 2018-2020; National Practice Area Star, *Benchmark Litigation*, 2019-2020; Local Litigation Star, *Benchmark Litigation*, 2018, 2020; Southern California Best Lawyer, *Best Lawyers*®, 2019-2020; Leading Lawyer, *The Legal 500*, 2014-2019; Leading Lawyer, *Chambers USA*, 2016-2019; Leading Lawyer in America, *Lawdragon*, 2011, 2017-2019; Litigation Star, *Benchmark Litigation*, 2016-2019; California Star, *Benchmark Litigation*, 2019; State Litigation Star, *Benchmark Litigation*, 2019; Winning Litigator, *The National Law Journal*, 2018; Titan of the Industry, *The American Lawyer*, 2018; Recommended Lawyer, *The Legal 500*, 2017; Mergers & Acquisitions Trailblazer, *The National Law Journal*, 2015-2016; Litigator of the Week, *The American Lawyer*, October 16, 2014; Attorney of the Year, *California Lawyer*, 2012; Litigator of the Week, *The American Lawyer*, October 7, 2011; J.D., *Cum Laude*, University of San Diego School of Law, 1990

James E. Barz | Partner

James Barz is a partner with the Firm and manages the Firm's Chicago office. He has tried 18 cases to verdict and he is a registered CPA, former federal prosecutor, and has been an adjunct professor at Northwestern University School of Law from 2008 to 2019, teaching courses on trial advocacy and class action litigation.

Barz has focused on representing investors in securities fraud class actions that have resulted in recoveries of over \$2 billion. Most recently, Barz was lead counsel in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, and secured a \$1.21 billion recovery for investors, a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest securities class action settlement ever.

Barz has also secured substantial recoveries for investors in *HCA* (\$215 million, M.D. Tenn.); *Motorola* (\$200 million, N.D. Ill.); *Sprint* (\$131 million, D. Kan.); *Orbital ATK* (\$108 million, E.D. Va.); *Psychiatric Solutions* (\$65 million, M.D. Tenn.); *Dana Corp.* (\$64 million, N.D. Ohio); *Hospira* (\$60 million, N.D. Ill.); *Career Education* (\$27.5 million, N.D. Ill.); and *LJM Funds Management, Ltd.* (\$12.85 million, N.D. Ill.). He has been lead trial counsel in several of these cases obtaining favorable settlements just days or weeks before trial and after obtaining denials of summary judgment. Barz also handles whistleblower cases, including a successful settlement in *United States v. Signature Healthcare LLC* (M.D. Tenn.) (\$30 million), and antitrust cases, including currently serving on the Plaintiffs' Steering Committee in *In re Dealer Management Systems Antitrust Litigation* (N.D. Ill.).

Education

B.B.A., Loyola University Chicago, School of Business Administration, 1995; J.D., Northwestern University School of Law, 1998

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2018-2020; Leading Lawyer, *Law Bulletin Media*, 2018; B.B.A., *Summa Cum Laude*, Loyola University Chicago, School of Business Administration, 1995; J.D., *Cum Laude*, Northwestern University School of Law, 1998

Nathan W. Bear | Partner

Nate Bear is a partner in the Firm's San Diego office. Bear advises institutional investors on a global basis. His clients include Taft-Hartley funds, public and multi-employer pension funds, fund managers, insurance companies, and banks around the world. He counsels clients on securities fraud and corporate governance, and frequently speaks at conferences worldwide. Bear has been part of Robbins Geller litigation teams which have recovered over \$1 billion for investors, including *In re Cardinal Health, Inc. Sec. Litig.* (\$600 million) and *Jones v. Pfizer Inc.* (\$400 million). In addition to initiating securities fraud class actions in the United States, he possesses direct experience in Australian class actions, potential group actions in the United Kingdom, settlements in the European Union under the Wet Collectieve Afwikkeling Massaschade (WCAM), the Dutch Collective Mass Claims Settlement Act, as well as representative actions in Germany utilizing the Kapitalanlegermusterverfahrensgesetz (KapMuG), the Capital Market Investors' Model Proceeding Act. In *Abu Dhabi Commercial Bank v. Morgan Stanley & Co. Inc.*, Bear was a member of the litigation team which achieved the first major ruling upholding fraud allegations against the chief credit rating agencies. That ruling led to the filing of a similar case, *King County, Washington v. IKB Deutsche Industriebank AG*. These cases, arising from the fraudulent ratings of bonds issued by the Cheyne and Rhinebridge structured investment vehicles, ultimately obtained landmark settlements – on the eve of trial – from the major credit rating agencies and Morgan Stanley. Bear maintained an active role in litigation at the heart of the worldwide financial crisis, and pursued banks over their manipulation of LIBOR, FOREX, and other benchmark rates. Additionally, Bear represents investors damaged by the defeat device scandal enveloping German automotive manufacturers, including Volkswagen, Porsche, and Daimler.

Education

B.A., University of California at Berkeley, 1998; J.D., University of San Diego School of Law, 2006

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2016; "Outstanding Young Attorneys," *San Diego Daily Transcript*, 2011

Alexandra S. Bernay | Partner

Xan Bernay is a partner in the Firm's San Diego office, where she specializes in antitrust and unfair competition class-action litigation. She has also worked on some of the Firm's largest securities fraud class actions, including the *Enron* litigation, which recovered an unprecedented \$7.2 billion for investors. Bernay currently serves as co-lead counsel in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, in which a settlement of \$5.5 billion was approved in the Eastern District of New York. This case was brought on behalf of millions of U.S. merchants against Visa and MasterCard and various card-issuing banks, challenging the way these companies set and collect tens of billions of dollars annually in merchant fees. The settlement is believed to be the largest antitrust class action settlement of all time.

Additionally, Bernay is involved in *In re Remicade Antitrust Litig.* pending in the Eastern District of Pennsylvania – a large case involving anticompetitive conduct in the biosimilars market, where the Firm is sole lead counsel for the end-payor plaintiffs. She is also part of the litigation team in *In re Dealer Mgmt. Sys. Antitrust Litig.* (N.D. Ill.), which involves anticompetitive conduct related to dealer management systems on behalf of auto dealerships across the country. Another representative case is *Persian Gulf Inc. v. BP West Coast Prods. LLC* (S.D. Cal.), a massive case against the largest gas refiners in the world brought by gasoline station owners who allege they were overcharged for gasoline in California as a result of anticompetitive conduct.

Education

B.A., Humboldt State University, 1997; J.D., University of San Diego School of Law, 2000

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Litigator of the Week, *Global Competition Review*, October 1, 2014

Erin W. Boardman | Partner

Erin Boardman is a partner in the Firm's Melville office, where her practice focuses on representing individual and institutional investors in class actions brought pursuant to the federal securities laws. She has been involved in the prosecution of numerous securities class actions that have resulted in millions of dollars in recoveries for defrauded investors, including: *Medoff v. CVS Caremark Corp.* (D.R.I.) (\$48 million recovery); *Construction Laborers Pension Tr. of Greater St. Louis v. Autoliv Inc.* (S.D.N.Y.) (\$22.5 million recovery); *In re Gildan Activewear Inc. Sec. Litig.* (S.D.N.Y.) (resolved as part of a \$22.5 million global settlement); *In re L.G. Phillips LCD Co., Ltd., Sec. Litig.* (S.D.N.Y.) (\$18 million recovery); *In re Giant Interactive Grp., Inc. Sec. Litig.* (S.D.N.Y.) (\$13 million recovery); *In re Coventry HealthCare, Inc. Sec. Litig.* (D. Md.) (\$10 million recovery); *Lenartz v. American Superconductor Corp.* (D. Mass.) (\$10 million recovery); *Dudley v. Haub* (D.N.J.) (\$9 million recovery); *Hildenbrand v. W Holding Co.* (D.P.R.) (\$8.75 million recovery); *In re Doral Fin. Corp. Sec. Litig.* (D.P.R.) (\$7 million recovery); and *Van Dongen v. CNinsure Inc.* (S.D.N.Y.) (\$6.625 million recovery). During law school, Boardman served as Associate Managing Editor of the *Journal of Corporate, Financial and Commercial Law*, interned in the chambers of the Honorable Kiyoo A. Matsumoto in the United States District Court for the Eastern District of New York, and represented individuals on a *pro bono* basis through the Workers' Rights Clinic.

Education

B.A., State University of New York at Binghamton, 2003; J.D., Brooklyn Law School, 2007

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2018; B.A., *Magna Cum Laude*, State University of New York at Binghamton, 2003

Douglas R. Britton | Partner

Doug Britton is a partner in the Firm's San Diego office. His practice focuses on securities fraud and corporate governance. Britton has been involved in settlements exceeding \$1 billion and has secured significant corporate governance enhancements to improve corporate functioning. Notable achievements include *In re WorldCom, Inc. Sec. & "ERISA" Litig.*, where he was one of the lead partners that represented a number of opt-out institutional investors and secured an unprecedented recovery of \$651 million; *In re SureBeam Corp. Sec. Litig.*, where he was the lead trial counsel and secured an impressive recovery of \$32.75 million; and *In re Amazon.com, Inc. Sec. Litig.*, where he was one of the lead attorneys securing a \$27.5 million recovery for investors.

Education

B.B.A., Washburn University, 1991; J.D., Pepperdine University School of Law, 1996

Honors / Awards

J.D., *Cum Laude*, Pepperdine University School of Law, 1996

Luke O. Brooks | Partner

Luke Brooks is a partner in the Firm's securities litigation practice group in the San Diego office. He focuses primarily on securities fraud litigation on behalf of individual and institutional investors, including state and municipal pension funds, Taft-Hartley funds, and private retirement and investment funds. Brooks served as trial counsel in *Jaffe v. Household International* in the Northern District of Illinois, a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. Other prominent cases recently prosecuted by Brooks include *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.*, in which plaintiffs recovered \$388 million for investors in J.P. Morgan residential mortgage-backed securities, and a pair of cases – *Abu Dhabi Commercial Bank v. Morgan Stanley & Co. Inc.* (“Cheyne”) and *King County, Washington, et al. v. IKB Deutsche Industriebank AG* (“Rhinebridge”) – in which plaintiffs obtained a settlement, on the eve of trial in Cheyne, from the major credit rating agencies and Morgan Stanley arising out of the fraudulent ratings of bonds issued by the Cheyne and Rhinebridge structured investment vehicles. *Reuters* described the settlement as a “landmark” deal and emphasized that it was the “first time S&P and Moody’s have settled accusations that investors were misled by their ratings.” An article published in *Rolling Stone* magazine entitled “The Last Mystery of the Financial Crisis” similarly credited Robbins Geller with uncovering “a mountain of evidence” detailing the credit rating agencies’ fraud. Most recently, Brooks served as lead counsel in *Smilovits v. First Solar, Inc.*, and obtained a \$350 million settlement on the eve of trial. The settlement is fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.

Education

B.A., University of Massachusetts at Amherst, 1997; J.D., University of San Francisco, 2000

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Local Litigation Star, *Benchmark Litigation*, 2017-2018, 2020; California Star, *Benchmark Litigation*, 2019; State Litigation Star, *Benchmark Litigation*, 2019; Recommended Lawyer, *The Legal 500*, 2017-2018; Member, *University of San Francisco Law Review*, University of San Francisco

Spencer A. Burkholz | Partner

Spence Burkholz is a partner in the Firm's San Diego office and a member of the Firm's Executive and Management Committees. He has 25 years of experience in prosecuting securities class actions and private actions on behalf of large institutional investors. Burkholz was one of the lead trial attorneys in *Jaffe v. Household International* in the Northern District of Illinois, a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. Burkholz has also recovered billions of dollars for injured shareholders in cases such as *Enron* (\$7.2 billion), *WorldCom* (\$657 million), *Countrywide* (\$500 million), and *Qwest* (\$445 million).

Education

B.A., Clark University, 1985; J.D., University of Virginia School of Law, 1989

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Best Lawyer in America, *Best Lawyers*®, 2018-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2020; Super Lawyer, *Super Lawyers Magazine*, 2015-2016, 2020; Leading Lawyer in America, *Lawdragon*, 2018-2020; Top 100 Trial Lawyer, *Benchmark Litigation*, 2018-2020; National Practice Area Star, *Benchmark Litigation*, 2020; Local Litigation Star, *Benchmark Litigation*, 2015-2018, 2020; Lawyer of the Year, *Best Lawyers*®, 2020; Southern California Best Lawyer, *Best Lawyers*®, 2018-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Recommended Lawyer, *The Legal 500*, 2017-2019; Top 20 Trial Lawyer in California, *Benchmark Litigation*, 2019; California Star, *Benchmark Litigation*, 2019; State Litigation Star, *Benchmark Litigation*, 2019; Plaintiff Attorney of the Year, *Benchmark Litigation*, 2018; B.A., *Cum Laude*, Clark University, 1985; *Phi Beta Kappa*, Clark University, 1985

Michael G. Capeci | Partner

Michael Capeci is a partner in the Firm's Melville office. His practice focuses on prosecuting complex securities class action lawsuits in federal and state courts. Throughout his tenure with the Firm, Capeci has played an integral role in the teams prosecuting cases such as: *In re BHP Billiton Ltd. Sec. Litig.* (\$50 million recovery); *Galestan v. OneMain Holdings, Inc.* (\$9 million recovery); *Carpenters Pension Tr. Fund of St. Louis v. Barclays PLC* (\$14 million recovery); *City of Pontiac General Emps.' Ret. Sys. v. Lockheed Martin Corp.* (\$19.5 million recovery); and *Plumbers and Pipefitters Local Union No. 630 Pension-Annuity Tr. Fund v. Arbitron Inc.* (\$7 million recovery). Capeci is currently prosecuting numerous cases in federal and state courts alleging violations of the Securities Exchange Act of 1934 and the Securities Act of 1933. Recently, Michael led the litigation team that achieved the first settlement of a 1933 Act claim in New York state court, *In re EverQuote, Inc. Sec. Litig.* (\$4.75 million recovery), following the U.S. Supreme Court's landmark decision in *Cyan, Inc. v. Beaver Cnty. Emps. Ret. Fund* in 2018.

Education

B.S., Villanova University, 2007; J.D., Hofstra University School of Law, 2010

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2014-2019; J.D., *Cum Laude*, Hofstra University School of Law, 2010

Brian E. Cochran | Partner

Brian Cochran is a partner in the Firm's San Diego and Chicago offices. He focuses his practice on complex securities, shareholder, consumer protection, and ERISA litigation. In particular, Cochran specializes in case investigation and initiation, and lead plaintiff issues arising under the Private Securities Litigation Reform Act of 1995. He has developed dozens of cases under the federal securities laws and recovered hundreds of millions of dollars for injured investors and consumers. Several of Cochran's cases have pioneered new ground, such as cases on behalf of cryptocurrency investors, and sparked follow-on governmental investigations into corporate malfeasance.

Most recently, Cochran was a member of the litigation team that achieved a \$1.21 billion settlement (subject to court approval) in the *Valeant Pharmaceuticals* securities litigation. Cochran was also part of the team that secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump one week before trial. The settlement provided \$25 million to approximately 7,000 consumers, entitling individual class members for upwards of \$35,000 in restitution. Cochran prosecuted the case on a *pro bono* basis. Other notable recoveries include: *Scotts Miracle-Gro* (up to \$85 million); *Psychiatric Solutions* (\$65 million); *Big Lots* (\$38 million); *Fifth Street Finance* (\$14 million); and *Third Avenue Management* (\$14 million). Several of Cochran's pending cases have secured class certification and/or successfully opposed a motion to dismiss against prominent corporate defendants, such as Goldman Sachs, General Electric, JP Morgan, Johnson & Johnson, and Walgreens.

Education

A.B., Princeton University, 2006; J.D., University of California at Berkeley School of Law, Boalt Hall, 2012

Honors / Awards

Next Generation Partner, *The Legal 500*, 2020; Rising Star, *Super Lawyers Magazine*, 2020; Rising Star, *The Legal 500*, 2019; A.B., With Honors, Princeton University, 2006; J.D., Order of the Coif, University of California at Berkeley School of Law, Boalt Hall, 2012

Joseph D. Daley | Partner

Joseph Daley is a partner in the Firm's San Diego office, serves on the Firm's Securities Hiring Committee, and is a member of the Firm's Appellate Practice Group. Precedents include: *City of Birmingham Ret. & Relief Sys. v. Davis*, __ F. App'x __, 2020 WL 1189621 (2d Cir. 2020); *City of Providence v. Bats Glob. Mkts., Inc.*, 878 F.3d 36 (2d Cir. 2017); *DeJulius v. New Eng. Health Care Emps. Pension Fund*, 429 F.3d 935 (10th Cir. 2005); *Frank v. Dana Corp.* ("Dana I"), 547 F.3d 564 (6th Cir. 2008); *Frank v. Dana Corp.* ("Dana II"), 646 F.3d 954 (6th Cir. 2011); *Freidus v. Barclays Bank Plc*, 734 F.3d 132 (2d Cir. 2013); *In re HealthSouth Corp. Sec. Litig.*, 334 F. App'x 248 (11th Cir. 2009); *In re Merck & Co. Sec., Derivative & ERISA Litig.*, 493 F.3d 393 (3d Cir. 2007); *In re Quality Sys., Inc. Sec. Litig.*, 865 F.3d 1130 (9th Cir. 2017); *In re Qwest Commc'ns Int'l*, 450 F.3d 1179 (10th Cir. 2006); *Luther v. Countrywide Home Loans Servicing LP*, 533 F.3d 1031 (9th Cir. 2008); *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.*, 693 F.3d 145 (2d Cir. 2012); *Rosenbloom v. Pyott* ("Allergan"), 765 F.3d 1137 (9th Cir. 2014); *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956 (7th Cir. 2013); *Siracusano v. Matrixx Initiatives, Inc.*, 585 F.3d 1167 (9th Cir. 2009), *aff'd*, 563 U.S. 27 (2011); and *Southland Sec. Corp. v. INSpire Ins. Solutions Inc.*, 365 F.3d 353 (5th Cir. 2004). Daley is admitted to practice before the U.S. Supreme Court, as well as before 12 U.S. Courts of Appeals around the nation.

Education

B.S., Jacksonville University, 1981; J.D., University of San Diego School of Law, 1996

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2011-2012, 2014-2018; Appellate Moot Court Board, Order of the Barristers, University of San Diego School of Law; Best Advocate Award (Traynore Constitutional Law Moot Court Competition), First Place and Best Briefs (Alumni Torts Moot Court Competition and USD Jessup International Law Moot Court Competition)

Patrick W. Daniels | Partner

Patrick Daniels is a founding and managing partner in the Firm's San Diego office. He is widely recognized as a leading corporate governance and investor advocate. *Daily Journal*, the leading legal publisher in California, named him one of the 20 most influential lawyers in California under 40 years of age. Additionally, the Yale School of Management's Millstein Center for Corporate Governance and Performance awarded Daniels its "Rising Star of Corporate Governance" honor for his outstanding leadership in shareholder advocacy and activism.

Daniels is an advisor to political and financial leaders throughout the world. He counsels private and state government pension funds and fund managers in the United States, United Arab Emirates, United Kingdom, the Netherlands, and other countries within the European Union on issues related to corporate fraud in the United States securities markets and "best practices" in the corporate governance of publicly traded companies. Daniels has represented dozens of institutional investors in some of the largest and most significant shareholder actions, including *Enron*, *WorldCom*, *AOL Time Warner*, *BP*, *Pfizer*, *Countrywide*, *Petrobras*, and *Volkswagen*, to name just a few. In the wake of the financial crisis, he represented dozens of investors in structured investment products in ground-breaking actions against the ratings agencies and Wall Street banks that packaged and sold supposedly highly rated shoddy securities to institutional investors all around the world.

Education

B.A., University of California, Berkeley, 1993; J.D., University of San Diego School of Law, 1997

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Rising Star of Corporate Governance, Yale School of Management's Milstein Center for Corporate Governance & Performance, 2008; One of the 20 Most Influential Lawyers in the State of California Under 40 Years of Age, *Daily Journal*; B.A., *Cum Laude*, University of California, Berkeley, 1993

Stuart A. Davidson | Partner

Stuart Davidson is a partner in Robbins Geller Rudman & Dowd LLP's Boca Raton office. His practice focuses on complex consumer class actions, including cases involving deceptive and unfair trade practices, privacy and data breach issues, and antitrust violations. Davidson has served as class counsel in some of the nation's most significant privacy cases, including: *In re Facebook Biometric Info. Priv. Litig.*, No. 3:15-cv-03747 (N.D. Cal.) (\$650 million recovery (pending approval), a cutting-edge class action concerning Facebook's alleged privacy violations through its collection of user's biometric identifiers without informed consent); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 5:16-md-02752 (N.D. Cal.) (\$117.5 million recovery in the largest data breach in history); *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.*, No. 3:11-md-02258 (S.D. Cal.) (settlement valued at \$15 million concerning the massive data breach of Sony's PlayStation Network); and *Kehoe v. Fid. Fed. Bank & Tr.*, No. 9:03-cv-80593 (S.D. Fla.) (\$50 million recovery in Driver's Privacy Protection Act case on behalf of half-a-million Florida drivers against a national bank).

Davidson currently serves as Plaintiffs' Co-Lead Counsel in *In re Am. Med. Collection Agency, Inc. Customer Data Sec. Breach Litig.*, No. 2:19-md-02904 (D.N.J.) (representing class of LabCorp customers), on Plaintiffs' Steering Committee in *In re Intel Corp. CPU Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 3:18-md-02828 (D. Or.) (representing class of Intel CPU purchasers based on serious security

vulnerabilities – including those known as “Spectre” and “Meltdown” – that infect nearly all of Intel’s x86 processors manufactured and sold since 1995), and spearheads several aspects of *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 2:17-md-02785 (D. Kan.) (representing certified class for RICO and antitrust claims involving the illegal monopolization of the epinephrine auto-injector market, which allowed the prices of the life-saving EpiPen to rise over 600% in 9 years).

Davidson also served as Plaintiffs’ Co-Lead Counsel in *In re NHL Players’ Concussion Injury Litig.*, No. 0:14-md-02551 (D. Minn.) (representing retired National Hockey League players in multidistrict litigation suit against the NHL regarding injuries suffered due to repetitive head trauma and concussions), and in *In re Pet Food Prods. Liab. Litig.*, No. 1:07-cv-02867 (D.N.J.) (\$24 million recovery in multidistrict consumer class action on behalf of thousands of aggrieved pet owners nationwide against some of the nation’s largest pet food manufacturers, distributors, and retailers). He also served as Plaintiffs’ Co-Lead Counsel in *In re UnitedGlobalCom, Inc. S’holder Litig.*, C.A. No. 1012-VCS (Del. Ch.) (\$25 million recovery weeks before trial); *In re Winn-Dixie Stores, Inc. S’holder Litig.*, No. 16-2011-CA-010616 (Fla. Cir. Ct.) (\$11.5 million recovery for former Winn-Dixie shareholders following the corporate buyout by BI-LO); and *In re AuthenTec, Inc. S’holder Litig.*, No. 5-2012-CA-57589 (Fla. Cir. Ct.) (\$10 million recovery for former AuthenTec shareholders following a merger with Apple). The latter two cases are the two largest merger and acquisition recoveries in Florida history.

Davidson is a former lead assistant public defender in the Felony Division of the Broward County, Florida Public Defender’s Office. During his tenure at the Public Defender’s Office, he tried over 30 jury trials and defended individuals charged with major crimes ranging from third-degree felonies to life and capital felonies.

Education

B.A., State University of New York at Geneseo, 1993; J.D., Nova Southeastern University Shepard Broad College of Law, 1996

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2020; J.D., *Summa Cum Laude*, Nova Southeastern University Shepard Broad College of Law, 1996; Associate Editor, *Nova Law Review*, Book Awards in Trial Advocacy, International Law, and Criminal Pretrial Practice

Jason C. Davis | Partner

Jason Davis is a partner in the Firm's San Francisco office where he practices securities class actions and complex litigation involving equities, fixed-income, synthetic, and structured securities issued in public and private transactions. Davis was on the trial team in *Jaffe v. Household Int'l, Inc.*, a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. Most recently, he was part of the litigation team in *Luna v. Marvell Tech. Grp., Ltd.*, resulting in a \$72.5 million settlement that represents approximately 24% to 50% of the best estimate of classwide damages suffered by investors.

Before joining the Firm, Davis focused on cross-border transactions, mergers and acquisitions at Cravath, Swaine and Moore LLP in New York.

Education

B.A., Syracuse University, 1998; J.D., University of California at Berkeley, Boalt Hall School of Law, 2002

Honors / Awards

B.A., *Summa Cum Laude*, Syracuse University, 1998; International Relations Scholar of the year, Syracuse University; Teaching fellow, examination awards, Moot court award, University of California at Berkeley, Boalt Hall School of Law

Mark J. Dearman | Partner

Mark Dearman is a partner in the Firm's Boca Raton office, where his practice focuses on consumer fraud, securities fraud, mass torts, antitrust, and whistleblower litigation. Dearman, along with other Robbins Geller attorneys, is currently leading the effort on behalf of cities and counties around the country in *In re National Prescription Opiate Litig.* He was also recently appointed as the Chair of the Plaintiffs' Executive Committee in *In re Apple Inc. Device Performance Litig.* and was appointed to the Plaintiffs' Executive Committee in *In re FieldTurf Artificial Turf Mktg. Pracs. Litig.*, which alleges that FieldTurf USA Inc. and its related companies sold defective synthetic turf for use in athletic fields. His other recent representative cases include: *In re NHL Players' Concussion Injury Litig.*, 2015 U.S. Dist. LEXIS 38755 (D. Minn. 2015); *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.*, 903 F. Supp. 2d 942 (S.D. Cal. 2012); *In re Volkswagen "Clean Diesel" Mktg. Sales Pracs. & Prods. Liab. Litig.*, 2016 U.S. Dist. LEXIS 1357 (N.D. Cal. 2016); *In re Ford Fusion & C-Max Fuel Econ. Litig.*, 2015 U.S. Dist. LEXIS 155383 (S.D.N.Y. 2015); *Looper v. FCA US LLC*, No. 5:14-cv-00700 (C.D. Cal.); *In re Aluminum Warehousing Antitrust Litig.*, 95 F. Supp. 3d 419 (S.D.N.Y. 2015), *aff'd*, 833 F.3d 151 (2d Cir. 2016); *In re Liquid Aluminum Sulfate Antitrust Litig.*, No. 16-md-2687 (D.N.J.); *In re Winn-Dixie Stores, Inc. S'holder Litig.*, No. 16-2011-CA-010616 (Fla. 4th Jud. Cir. Ct., Duval Cnty.); *Gemelas v. Dannon Co. Inc.*, No. 1:08-cv-00236 (N.D. Ohio); and *In re AuthenTec, Inc. S'holder Litig.*, No. 05-2012-CA-57589 (Fla. 18th Jud. Cir. Ct., Brevard Cnty.). Prior to joining the Firm, he founded Dearman & Gerson, where he defended Fortune 500 companies, with an emphasis on complex commercial litigation, consumer claims, and mass torts (products liability and personal injury), and has obtained extensive jury trial experience throughout the United States. Having represented defendants for so many years before joining the Firm, Dearman has a unique perspective that enables him to represent clients effectively.

Education

B.A., University of Florida, 1990; J.D., Nova Southeastern University, 1993

Honors / Awards

AV rated by Martindale-Hubbell; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2020; In top 1.5% of Florida Civil Trial Lawyers in *Florida Trend's* Florida Legal Elite, 2004, 2006

Kathleen B. Douglas | Partner

Kathleen Douglas is a partner in the Firm's Boca Raton office. She focuses her practice on securities fraud class actions and consumer fraud. Most recently, Douglas and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever.

Douglas was also a key member of the litigation team in *In re UnitedHealth Grp. Inc. PSLRA Litig.*, in which she and team of Robbins Geller attorneys achieved a substantial \$925 million recovery. In addition to the monetary recovery, UnitedHealth also made critical changes to a number of its corporate governance policies, including electing a shareholder-nominated member to the company's Board of Directors. Likewise, in *Nieman v. Duke Energy Corp.*, she and a team of attorneys obtained a \$146.25 million recovery, which is the largest recovery in North Carolina for a case involving securities fraud and is one of the five largest recoveries in the Fourth Circuit. In addition, Douglas was a member of the team of attorneys that represented investors in *Knurr v. Orbital ATK, Inc.*, which recovered \$108 million for shareholders and is believed to be the fourth-largest securities class action settlement in the history of the Eastern District of Virginia. Douglas has served as class counsel in several class actions brought on behalf of Florida emergency room physicians. These cases were against some of the nation's largest Health Maintenance Organizations and settled for substantial increases in reimbursement rates and millions of dollars in past damages for the class.

Education

B.S., Georgetown University, 2004; J.D., University of Miami School of Law, 2007

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2012-2017; B.S., *Cum Laude*, Georgetown University, 2004

Travis E. Downs III | Partner

Travis Downs is a partner in the Firm's San Diego office. His areas of expertise include prosecution of shareholder and securities litigation, including complex shareholder derivative actions. Downs led a team of lawyers who successfully prosecuted over 65 stock option backdating derivative actions in federal and state courts across the country, resulting in hundreds of millions in financial givebacks for the plaintiffs and extensive corporate governance enhancements, including annual directors elections, majority voting for directors, and shareholder nomination of directors. Notable cases include: *In re Community Health Sys., Inc. S'holder Derivative Litig.* (\$60 million in financial relief and unprecedented corporate governance reforms); *In re Marvell Tech. Grp. Ltd. Derivative Litig.* (\$54 million in financial relief and extensive corporate governance enhancements); *In re McAfee, Inc. Derivative Litig.* (\$30 million in financial relief and extensive corporate governance enhancements); *In re Affiliated Computer Servs. Derivative Litig.* (\$30 million in financial relief and extensive corporate governance enhancements); *In re KB Home S'holder Derivative Litig.* (\$30 million in financial relief and extensive corporate governance enhancements); *In re Juniper Networks Derivative Litig.* (\$22.7 million in financial relief and extensive corporate governance enhancements); *In re Nvidia Corp. Derivative Litig.* (\$15 million in financial relief and extensive corporate governance enhancements); and *City of Pontiac Gen. Emps.' Ret. Sys. v. Langone* (achieving landmark corporate governance reforms for investors).

Downs was also part of the litigation team that obtained a \$67 million settlement in *City of Westland Police & Fire Ret. Sys. v. Stumpf*, a shareholder derivative action alleging that Wells Fargo participated in the mass-processing of home foreclosure documents by engaging in widespread robo-signing, and a \$250 million settlement in *In re Google, Inc. Derivative Litig.*, an action alleging that Google facilitated in the improper advertising of prescription drugs. Downs is a frequent speaker at conferences and seminars and has lectured on a variety of topics related to shareholder derivative and class action litigation.

Education

B.A., Whitworth University, 1985; J.D., University of Washington School of Law, 1990

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Best Lawyer in America, *Best Lawyers*®, 2018-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Southern California Best Lawyer, *Best Lawyers*®, 2018-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2019; Board of Trustees, Whitworth University; Super Lawyer, *Super Lawyers Magazine*, 2008; B.A., Honors, Whitworth University, 1985

Daniel S. Drosman | Partner

Dan Drosman is a partner in the Firm's San Diego office and a member of the Firm's Management Committee. He focuses his practice on securities fraud and other complex civil litigation and has obtained significant recoveries for investors in cases such as *Morgan Stanley*, *Cisco Systems*, *Coca-Cola*, *Petco*, *PMI*, and *America West*. Drosman served as one of the lead trial attorneys in *Jaffe v. Household Int'l, Inc.* in the Northern District of Illinois, a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. He also led a group of attorneys prosecuting fraud claims against the credit rating agencies, where he was distinguished as one of the few plaintiffs' counsel to overcome the credit rating agencies' motions to dismiss. Most recently, Drosman served as lead counsel in *Smilovits v. First Solar, Inc.*, and obtained a \$350 million settlement on the eve of trial. The settlement is fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.

Prior to joining the Firm, Drosman served as an Assistant District Attorney for the Manhattan District Attorney's Office, and an Assistant United States Attorney in the Southern District of California, where he investigated and prosecuted violations of the federal narcotics, immigration, and official corruption law.

Education

B.A., Reed College, 1990; J.D., Harvard Law School, 1993

Honors / Awards

Best Lawyer in America, *Best Lawyers*®, 2019-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2017-2020; Leading Lawyer in America, *Lawdragon*, 2018-2020; Southern California Best Lawyer, *Best Lawyers*®, 2019-2020; Recommended Lawyer, *The Legal 500*, 2017-2018; Top 100 Lawyer, *Daily Journal*, 2017; Department of Justice Special Achievement Award, Sustained Superior Performance of Duty; B.A., Honors, Reed College, 1990; *Phi Beta Kappa*, Reed College, 1990

Thomas E. Egler | Partner

Tom Egler is a partner in the Firm's San Diego office and focuses his practice on representing clients in major complex, multidistrict litigations, such as *Lehman Brothers*, *Countrywide Mortgage Backed Securities*, *WorldCom*, *AOL Time Warner*, and *Qwest*. He has represented institutional investors both as plaintiffs in individual actions and as lead plaintiffs in class actions.

Egler also serves as a Lawyer Representative to the Ninth Circuit Judicial Conference from the Southern District of California, and in the past has served on the Executive Board of the San Diego chapter of the Association of Business Trial Lawyers. Prior to joining the Firm, Egler was a law clerk to the Honorable Donald E. Ziegler, Chief Judge, United States District Court, Western District of Pennsylvania.

Education

B.A., Northwestern University, 1989; J.D., The Catholic University of America, Columbus School of Law, 1995

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2017-2018; Associate Editor, *Catholic University Law Review*

Alan I. Ellman | Partner

Alan Ellman is a partner in the Firm's Melville office, where he concentrates his practice on prosecuting complex securities fraud cases on behalf of institutional investors. Most recently, Ellman was on the team of Robbins Geller attorneys who obtained a \$34.5 million recovery in *Patel v. L-3 Communications Holdings, Inc.*, which represents a high percentage of damages that plaintiffs could reasonably expect to be recovered at trial and is more than eight times higher than the average settlement of cases with comparable investor losses. He was also on the team of attorneys who recovered in excess of \$34 million for investors in *In re OSG Sec. Litig.*, which represented an outsized recovery of 93% of bond purchasers' damages and 28% of stock purchasers' damages. The creatively structured settlement included more than \$15 million paid by a bankrupt entity.

Ellman was also on the team of Robbins Geller attorneys who achieved final approval in *Curran v. Freshpet, Inc.*, which provides for the payment of \$10.1 million for the benefit of eligible settlement class members. Additionally, he was on the team of attorneys who obtained final approval of a \$7.5 million recovery in *Plymouth County Retirement Association v. Advisory Board Company*. In 2006, Ellman received a Volunteer and Leadership Award from Housing Conservation Coordinators (HCC) for his *pro bono* service defending a client in Housing Court against a non-payment action, arguing an appeal before the Appellate Term, and staffing HCC's legal clinic. He also successfully appealed a *pro bono* client's criminal sentence before the Appellate Division.

Education

B.S., B.A., State University of New York at Binghamton, 1999; J.D., Georgetown University Law Center, 2003

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2017-2019; Rising Star, *Super Lawyers Magazine*, 2014-2015; B.S., B.A., *Cum Laude*, State University of New York at Binghamton, 1999

Jason A. Forge | Partner

Jason Forge is a partner in the Firm's San Diego office. He specializes in complex investigations, litigation, and trials. As a federal prosecutor and private practitioner, Forge has conducted and supervised scores of jury and bench trials in federal and state courts, including the month-long trial of a defense contractor who conspired with Congressman Randy "Duke" Cunningham in the largest bribery scheme in congressional history. He recently obtained approval of a \$160 million recovery in the first successful securities fraud case against Wal-Mart Stores, Inc. in *City of Pontiac General Employees' Retirement System v. Wal-Mart Stores, Inc.* Most recently, Forge was a member of the Firm's trial team in *Hsu v. Puma Biotechnology, Inc.*, a securities fraud class action that resulted in a verdict in favor of investors after a two-week jury trial.

After the trial victory over Puma Biotechnology and Alan Auerbach, Forge joined a Robbins Geller litigation team that had defeated 12 motions for summary judgment against 40 defendants and was about to depose 17 experts in the home stretch to trial. Forge and the team used these depositions to disprove a truth-on-the-market argument that nine defense experts had embraced. Soon after the last of these expert depositions, the Robbins Geller team secured a \$1.025 billion settlement from American Realty Capital Properties and other defendants that included a record \$237 million contribution from individual defendants and represented more than twice the recovery rate obtained by several funds that had had

opted out of the class.

Forge was a key member of the litigation team that secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump. The settlement refunds over 90% of the money thousands of students paid to “enroll” in Trump University. He represented the class on a *pro bono* basis. Forge has also successfully defeated motions to dismiss and obtained class certification against several prominent defendants, including the first federal RICO case against Scotts Miracle-Gro, which recently settled for up to \$85 million. He was a member of the litigation team that obtained a \$125 million settlement in *In re LendingClub Securities Litigation*, a settlement that ranks among the top ten largest securities recoveries ever in the Northern District of California.

In a case against another prominent defendant, Pfizer Inc., Forge led an investigation that uncovered key documents that Pfizer had not produced in discovery. Although fact discovery in the case had already closed, the district judge ruled that the documents had been improperly withheld and ordered that discovery be reopened, including reopening the depositions of Pfizer’s former CEO, CFO, and General Counsel. Less than six months after completing these depositions, Pfizer settled the case for \$400 million.

Education

B.B.A., The University of Michigan Ross School of Business, 1990; J.D., The University of Michigan Law School, 1993

Honors / Awards

Best Lawyer in America, *Best Lawyers*®, 2019-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Local Litigation Star, *Benchmark Litigation*, 2020; Southern California Best Lawyer, *Best Lawyers*®, 2019-2020; Plaintiffs’ Lawyer Trailblazer, *The National Law Journal*, 2018; Top 100 Lawyer, *Daily Journal*, 2017; Litigator of the Year, *Our City San Diego*, 2017; Two-time recipient of one of Department of Justice’s highest awards: Director’s Award for Superior Performance by Litigation Team; numerous commendations from Federal Bureau of Investigation (including commendation from FBI Director Robert Mueller III), Internal Revenue Service, and Defense Criminal Investigative Service; J.D., *Magna Cum Laude*, Order of the Coif, The University of Michigan Law School, 1993; B.B.A., High Distinction, The University of Michigan Ross School of Business, 1990

Paul J. Geller | Partner

Paul Geller, managing partner of the Firm's Boca Raton, Florida office, is a founding partner of the Firm, a member of its Executive and Management Committees, and head of the Firm's Consumer Practice Group. Geller's 27 years of litigation experience is broad, and he has handled cases in each of the Firm's practice areas. Notably, before devoting his practice to the representation of consumers and investors, he defended companies in high-stakes class action litigation, providing him an invaluable perspective. Geller has tried bench and jury trials on both the plaintiffs' and defendants' sides, and has argued before numerous state, federal, and appellate courts throughout the country.

Geller was recently selected to serve in a leadership position on behalf of governmental entities and other plaintiffs in the sprawling litigation concerning the nationwide prescription opioid epidemic. In reporting on the selection of the lawyers to lead the case, *The National Law Journal* reported that Geller and "[t]he team reads like a 'Who's Who' in mass torts." Geller was also part of the leadership team representing consumers in the massive *Volkswagen "Clean Diesel" Emissions* case. The San Francisco legal newspaper *The Recorder* labeled Geller and the group that was appointed in that case, which settled for more than \$17 billion, a "class action dream team."

Geller is also currently serving as Co-Lead Counsel in *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, a nationwide class action that alleges that pharmaceutical company Mylan N.V. and others engaged in anticompetitive and unfair business conduct in its sale and marketing of the EpiPen Auto-Injector device.

Some of Geller's other recent noteworthy successes include a \$265 million recovery against Massey Energy in *In re Massey Energy Co. Sec. Litig.*, in which Massey was found accountable for a tragic explosion at the Upper Big Branch mine in Raleigh County, West Virginia. Geller also secured a \$146.25 million recovery against Duke Energy in *Nieman v. Duke Energy Corp.*, the largest recovery in North Carolina for a case involving securities fraud, and one of the five largest recoveries in the Fourth Circuit.

Education

B.S., University of Florida, 1990; J.D., Emory University School of Law, 1993

Honors / Awards

Rated AV by Martindale-Hubbell; Fellow, Litigation Counsel of America (LCA) Proven Trial Lawyers; Best Lawyer in America, *Best Lawyers*®, 2017-2021; Legend, *Lawdragon*, 2020; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2007-2020; Leading Lawyer in America, *Lawdragon*, 2006-2007, 2009-2020; Recommended Lawyer, *The Legal 500*, 2016, 2019; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2018; Lawyer of the Year, *Best Lawyers*®, 2018; Attorney of the Month, *Attorney At Law*, 2017; Featured in "Lawyer Limelight" series, *Lawdragon*, 2017; Top Rated Lawyer, South Florida's Legal Leaders, *Miami Herald*, 2015; Litigation Star, *Benchmark Litigation*, 2013; "Legal Elite," *Florida Trend Magazine*; One of "Florida's Most Effective Lawyers," *American Law Media*, One of Florida's top lawyers in *South Florida Business Journal*, One of the Nation's Top "40 Under 40," *The National Law Journal*; One of Florida's Top Lawyers, *Law & Politics*; Editor, *Emory Law Journal*; Order of the Coif, Emory University School of Law

Christopher C. Gold | Partner

Christopher Gold is a partner in Robbins Geller Rudman & Dowd LLP's Boca Raton office. His practice focuses on mass tort and class action litigation involving consumer fraud, privacy and data breach issues, and securities fraud. He has successfully recovered millions of dollars on behalf of clients. Gold currently serves on the Plaintiffs' Steering Committee in *In re Allergan Biocell Textured Breast Implant Prods, Liab. Litig.* (D.N.J.). Gold also serves on the Law and Briefing and Government Entity Committees in *In re Juul Labs, Inc. Mktg., Sales Pracs., & Prods. Liab. Litig.* multidistrict litigation, where he represents the School Boards of Broward County and Miami-Dade County, Montgomery County, Maryland, and other government entities seeking damages caused by the public nuisance of youth e-cigarette use in those communities. He also currently serves on the Class and Discovery committees in *In re Zantac (Ranitidine) Prods. Liab. Litig.* (S.D. Fla.).

Gold was part of the trial team in *In re Facebook Biometric Info. Priv. Litig.* (N.D. Cal.), a landmark case under the Illinois Biometric Information Privacy Act (BIPA) that obtained a \$650 million settlement, subject to court approval, on behalf of Facebook users in Illinois whose biometric information was collected without written consent. Gold was also part of the team that achieved a settlement valued at \$15 million in *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.* (S.D. Cal.), a case that arose from a massive data breach of Sony's PlayStation Network.

In the securities fraud space, Gold currently represents institutional investors who are claimants in arbitration proceedings pending in the Market Arbitration Chamber of the Securities and Exchange Commission of Brazil (CVM). Previously, Gold helped achieve a \$15 million settlement in *Boland v. Gerdau S.A.* (S.D.N.Y.) on behalf of investors in a Brazilian steel conglomerate that failed to disclose its alleged bribery of Brazilian tax authorities. In *In re Winn-Dixie Stores, Inc. S'holder Litig.* (Fla. 4th Cir. Ct.), Gold helped to achieve a \$9 million settlement for former Winn-Dixie shareholders whose stock was undervalued in a buyout of the company. And in *In re AuthenTec, Inc. S'holder Litig.* (Fla. 18th Cir. Ct.), he helped to achieve a \$10 million settlement on behalf of the former shareholders of AuthenTec following its buyout by Apple, which incorporated AuthenTec's fingerprint technology into the Apple iPhone. Gold is fluent in Brazilian Portuguese.

Education

B.S., Lynn University, 2006; J.D., DePaul University College of Law, 2010

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2019-2020

Jonah H. Goldstein | Partner

Jonah Goldstein is a partner in the Firm's San Diego office and is responsible for prosecuting complex securities cases and obtaining recoveries for investors. He also represents corporate whistleblowers who report violations of the securities laws. Goldstein has achieved significant settlements on behalf of investors including in *In re HealthSouth Sec. Litig.* (over \$670 million recovered against HealthSouth, UBS and Ernst & Young), *In re Cisco Sec. Litig.* (approximately \$100 million), and *Marcus v. J.C. Penney Company, Inc.* (\$97.5 million recovery). Goldstein also served on the Firm's trial team in *In re AT&T Corp. Sec. Litig.*, MDL No. 1399 (D.N.J.), which settled after two weeks of trial for \$100 million, and aided in the \$65 million recovery in *Garden City Emps.' Ret. Sys. v. Psychiatric Solutions, Inc.*, the fourth-largest securities recovery ever in the Middle District of Tennessee and one of the largest in more than a decade. Most recently, he was part of the litigation team in *Luna v. Marvell Tech. Grp., Ltd.*, resulting in a \$72.5 million settlement that represents approximately 24% to 50% of the best estimate of classwide damages suffered by investors. Before joining the Firm, Goldstein served as a law clerk for the Honorable William H. Erickson on the Colorado Supreme Court and as an Assistant United States Attorney for the Southern District of California, where he tried numerous cases and briefed and argued appeals before the Ninth Circuit Court of Appeals.

Education

B.A., Duke University, 1991; J.D., University of Denver College of Law, 1995

Honors / Awards

Recommended Lawyer, *The Legal 500*, 2018-2019; Comments Editor, *University of Denver Law Review*, University of Denver College of Law

Benny C. Goodman III | Partner

Benny Goodman is a partner in the Firm's San Diego office. He primarily represents plaintiffs in shareholder actions on behalf of aggrieved corporations. Goodman has recovered hundreds of millions of dollars in shareholder derivative actions pending in state and federal courts across the nation. Most recently, he led a team of lawyers in litigation brought on behalf of Community Health Systems, Inc., resulting in a \$60 million payment to the company, the largest recovery in a shareholder derivative action in Tennessee and the Sixth Circuit, as well as best-in-class value-enhancing corporate governance reforms that included two shareholder-nominated directors to the Community Health Board of Directors.

Similarly, Goodman recovered a \$25 million payment to Lumber Liquidators and numerous corporate governance reforms, including a shareholder-nominated director, in *In re Lumber Liquidators Holdings, Inc. S'holder Derivative Litig.* In *In re Google Inc. S'holder Derivative Litig.*, Goodman achieved groundbreaking corporate governance reforms designed to mitigate regulatory and legal compliance risk associated with online pharmaceutical advertising, including among other things, the creation of a \$250 million fund to help combat rogue pharmacies from improperly selling drugs online.

Education

B.S., Arizona State University, 1994; J.D., University of San Diego School of Law, 2000

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2018-2020; Recommended Lawyer, *The Legal 500*, 2017

Elise J. Grace | Partner

Elise Grace is a partner in the San Diego office and counsels the Firm's institutional clients on options to secure premium recoveries in securities litigation both within the United States and internationally. Grace is a frequent lecturer and author on securities and accounting fraud, and develops annual MCLE and CPE accredited educational programs designed to train public fund representatives on practices to protect and maximize portfolio assets, create long-term portfolio value, and best fulfill fiduciary duties. Grace has routinely been named a Recommended Lawyer by *The Legal 500* and named a Leading Plaintiff Financial Lawyer by *Lawdragon*. Grace has prosecuted various significant securities fraud class actions, as well as the AOL Time Warner state and federal securities opt-out litigations, which resulted in a combined settlement of over \$629 million for defrauded investors. Before joining the Firm, Grace practiced at Clifford Chance, where she defended numerous Fortune 500 companies in securities class actions and complex business litigation.

Education

B.A., University of California, Los Angeles, 1993; J.D., Pepperdine School of Law, 1999

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Recommended Lawyer, *The Legal 500*, 2016-2017; J.D., *Magna Cum Laude*, Pepperdine School of Law, 1999; American Jurisprudence Bancroft-Whitney Award – Civil Procedure, Evidence, and Dalsimer Moot Court Oral Argument; Dean's Academic Scholarship Recipient, Pepperdine School of Law; B.A., *Summa Cum Laude*, University of California, Los Angeles, 1993; B.A., *Phi Beta Kappa*, University of California, Los Angeles, 1993

Tor Gronborg | Partner

Tor Gronborg is a partner in the Firm's San Diego office and a member of the Firm's Management Committee. He often lectures on topics such as the Federal Rules of Civil Procedure and electronic discovery. Gronborg has served as lead or co-lead counsel in numerous securities fraud cases that have collectively recovered nearly \$2 billion for investors. Most recently, Gronborg and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever.

In addition to *Valeant*, Gronborg's work has included significant recoveries against corporations such as Cardinal Health (\$600 million), Motorola (\$200 million), Duke Energy (\$146.25 million), Sprint Nextel Corp. (\$131 million), Prison Realty (\$104 million), CIT Group (\$75 million), Wyeth (\$67.5 million), and Intercept Pharmaceuticals (\$55 million), to name a few. Gronborg was also a member of the Firm's trial team in *Hsu v. Puma Biotechnology, Inc.*, No. SACV15-0865 (C.D. Cal.), a securities fraud class action that resulted in a verdict in favor of investors after a two-week jury trial. On three separate occasions, Gronborg's pleadings have been upheld by the federal Courts of Appeals (*Broudo v. Dura Pharms., Inc.*, 339 F.3d 933 (9th Cir. 2003), *rev'd on other grounds*, 544 U.S. 336 (2005); *In re Daou Sys.*, 411 F.3d 1006 (9th Cir. 2005); *Staehr v. Hartford Fin. Servs. Grp.*, 547 F.3d 406 (2d Cir. 2008)). He has also been responsible for a number of significant rulings, including *In re Sanofi-Aventis Sec. Litig.*, 293 F.R.D. 449 (S.D.N.Y. 2013); *Silverman v. Motorola, Inc.*, 798 F. Supp. 2d 954 (N.D. Ill. 2011); *Roth v. Aon Corp.*, 2008 U.S. Dist. LEXIS 18471 (N.D. Ill. 2008); *In re Cardinal Health, Inc. Sec. Litigs.*, 426 F. Supp. 2d 688 (S.D. Ohio 2006); and *In re Dura Pharms., Inc. Sec. Litig.*, 452 F. Supp. 2d 1005 (S.D. Cal. 2006).

Education

B.A., University of California, Santa Barbara, 1991; Rotary International Scholar, University of Lancaster, U.K., 1992; J.D., University of California, Berkeley, 1995

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2013-2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2019; Moot Court Board Member, University of California, Berkeley; AFL-CIO history scholarship, University of California, Santa Barbara

Ellen Gusikoff Stewart | Partner

Ellen Stewart is a partner in the Firm's San Diego office, and is a member of the Firm's Summer Associate Hiring Committee. She currently practices in the Firm's settlement department, negotiating and documenting complex securities, merger, ERISA, and derivative action settlements. Notable settlements include: *KBC Asset Management v. 3D Systems Corp.* (D.S.C. 2018) (\$50 million); *Luna v. Marvell Tech. Grp.* (N.D. Cal. 2018) (\$72.5 million); *Garden City Emps.' Ret. Sys. v. Psychiatric Solutions, Inc.* (M.D. Tenn. 2015) (\$65 million); and *City of Sterling Heights Gen. Emps.' Ret. Sys v. Hospira, Inc.* (N.D. Ill. 2014) (\$60 million).

Stewart has served on the Federal Bar Association Ad Hoc Committee for the revisions to the Settlement Guidelines for the Northern District of California and was a contributor to the Guidelines and Best Practices – Implementing 2018 Amendments to Rule 23 Class Action Settlement Provisions manual of the Bolch Judicial Institute at the Duke University School of Law.

Education

B.A., Muhlenberg College, 1986; J.D., Case Western Reserve University, 1989

Honors / Awards

Rated Distinguished by Martindale-Hubbell

Robert Henssler | Partner

Bobby Henssler is a partner in the Firm's San Diego office, where he focuses his practice on securities fraud and other complex civil litigation. He has obtained significant recoveries for investors in cases such as *Enron*, *Blackstone*, and *CIT Group*. Henssler is currently a key member of the team of attorneys prosecuting fraud claims against Goldman Sachs stemming from Goldman's conduct in subprime mortgage transactions (including "Abacus").

Most recently, Henssler and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever.

Henssler was also lead counsel in *Schuh v. HCA Holdings, Inc.*, which resulted in a \$215 million recovery for shareholders, the largest securities class action recovery ever in Tennessee. The recovery achieved represents more than 30% of the aggregate classwide damages, far exceeding the typical recovery in a securities class action. Henssler also led the litigation teams in *Marcus v. J.C. Penney Company, Inc.* (\$97.5 million recovery), *Landmen Partners Inc. v. The Blackstone Group L.P.* (\$85 million recovery), *In re Novatel Wireless Sec. Litig.* (\$16 million recovery), *Carpenters Pension Trust Fund of St. Louis v. Barclays PLC* (\$14 million settlement), and *Kmiec v. Powerwave Technologies, Inc.* (\$8.2 million settlement), to name a few.

Education

B.A., University of New Hampshire, 1997; J.D., University of San Diego School of Law, 2001

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2020; Recommended Lawyer, *The Legal 500*, 2018-2019

Steven F. Hubachek | Partner

Steve Hubachek is a partner in the Firm's San Diego office. He is a member of the Firm's appellate group, where his practice concentrates on federal appeals. He has more than 25 years of appellate experience, has argued over 100 federal appeals, including 3 cases before the United States Supreme Court and 7 cases before en banc panels of the Ninth Circuit Court of Appeals. Prior to his work with the Firm, Hubachek joined Perkins Coie in Seattle, Washington, as an associate. He was admitted to the Washington State Bar in 1987 and was admitted to the California State Bar in 1990, practicing for many years with Federal Defenders of San Diego, Inc. He also had an active trial practice, including over 30 jury trials, and was Chief Appellate Attorney for Federal Defenders.

Education

B.A., University of California, Berkeley, 1983; J.D., Hastings College of the Law, 1987

Honors / Awards

AV rated by Martindale-Hubbell; Super Lawyer, *Super Lawyers Magazine*, 2007-2009, 2019-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2014-2020; Assistant Federal Public Defender of the Year, National Federal Public Defenders Association, 2011; Appellate Attorney of the Year, San Diego Criminal Defense Bar Association, 2011 (co-recipient); President's Award for Outstanding Volunteer Service, Mid City Little League, San Diego, 2011; E. Stanley Conant Award for exceptional and unselfish devotion to protecting the rights of the indigent accused, 2009 (joint recipient); *The Daily Transcript* Top Attorneys, 2007; J.D., *Cum Laude*, Order of the Coif, Thurston Honor Society, Hastings College of Law, 1987

Maxwell R. Huffman | Partner

Maxwell Huffman is a partner in the Firm's San Diego office. He focuses his practice on representing both institutional and individual shareholders in securities class action litigation in the context of mergers and acquisitions. Huffman was part of the litigation team for *In re Dole Food Co., Inc. S'holder Litig.*, where he went to trial in the Delaware Court of Chancery on claims of breach of fiduciary duty on behalf of Dole Food Co., Inc. shareholders and obtained \$148 million, the largest trial verdict ever in a class action challenging a merger transaction. Most recently, Huffman successfully obtained a partial settlement of \$60 million in *In re Tesla Motors, Inc. S'holder Litig.*, a case that alleged that the members of the Tesla Board of Directors breached their fiduciary duties, unjustly enriched themselves, and wasted corporate assets in connection with their approval of Tesla's acquisition of SolarCity Corp. in 2016.

Education

B.A., California State University, Sacramento, 2005; J.D., Gonzaga University School of Law, 2009

Honors / Awards

Top 40 Under 40, *Daily Journal*, 2020; Recommended Lawyer, *The Legal 500*, 2019; Winning Litigator, *The National Law Journal*, 2018; Titan of the Industry, *The American Lawyer*, 2018

James I. Jaconette | Partner

James Jaconette is one of the founding partners of the Firm and is located in its San Diego office. He manages cases in the Firm's securities class action and shareholder derivative litigation practices. He has served as one of the lead counsel in securities cases with recoveries to individual and institutional investors totaling over \$8 billion. He also advises institutional investors, including hedge funds, pension funds, and financial institutions. Landmark securities actions in which he contributed in a primary litigating role include *In re Informix Corp. Sec. Litig.*, and *In re Dynegy Inc. Sec. Litig.* and *In re Enron Corp. Sec. Litig.*, where he represented lead plaintiff The Regents of the University of California. Most recently, Jaconette was part of the trial team in *Schuh v. HCA Holdings, Inc.*, which resulted in a \$215 million recovery for shareholders, the largest securities class action recovery ever in Tennessee. The recovery achieved represents more than 30% of the aggregate classwide damages, far exceeding the typical recovery in a securities class action.

Education

B.A., San Diego State University, 1989; M.B.A., San Diego State University, 1992; J.D., University of California Hastings College of the Law, 1995

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; J.D., *Cum Laude*, University of California Hastings College of the Law, 1995; Associate Articles Editor, *Hastings Law Journal*, University of California Hastings College of the Law; B.A., with Honors and Distinction, San Diego State University, 1989

Rachel L. Jensen | Partner

Rachel Jensen is a partner in the Firm's San Diego office. Jensen has developed a nearly 20-year track record of success in helping to craft impactful business reforms and recover billions of dollars on behalf of individuals, businesses, and government entities injured by unlawful business practices, fraudulent schemes, and hazardous products.

Jensen was one of the lead attorneys who secured a historic recovery on behalf of Trump University students nationwide in two class actions against President Donald J. Trump, which provided \$25 million and nearly 100% refunds to class members. Jensen represented the class on a *pro bono* basis. As a member of the Plaintiffs' Steering Committee in the Fiat Chrysler EcoDiesel litigation, Jensen helped obtain an \$840 million global settlement for concealed defeat devices in "EcoDiesel" SUVs and trucks. Jensen also represented drivers against Volkswagen in one of the most brazen corporate frauds in recent history, helping recover \$17 billion for emission cheating in "clean" diesel vehicles. Additionally, Jensen serves as lead counsel for investors in Grupo Televisa ADRs who lost millions when it was revealed that the Mexican media giant obtained broadcasting rights to FIFA World Cup tournaments not by fair play but bribery. Jensen also serves as one of the lead counsel for policyholders against certain Lloyd's of London syndicates for collusive practices in the insurance market. Most recently, Jensen's representation of California passengers in a landmark consumer and civil rights case against Greyhound for subjecting them to discriminatory immigration raids had an immediate impact as Greyhound now provides "know your rights" information to passengers and implemented other business reforms.

Among other recoveries, Jensen has played significant roles in *In re LendingClub Sec. Litig.*, No. 3:16-cv-02627-WHA (N.D. Cal.) (\$125 million settlement that ranks among the top ten largest securities recoveries ever in N.D. Cal.); *Negrete v. Allianz Life Ins. Co. of N. Am.*, No. CV056838CAS(MANx) (C.D.

Cal.) (\$250 million to senior citizens targeted for exorbitant deferred annuities that would not mature in their lifetimes); *In re Ins. Brokerage Antitrust Litig.*, No. 04-5184(CCC) (D.N.J.) (\$200 million recovered for policyholders who paid inflated premiums due to kickback scheme among major insurers and brokers); *In re Morning Song Bird Food Litig.*, No. 3:12-cv-01592-JAH-AGS (S.D. Cal.) (\$85 million settlement in refunds to bird lovers who purchased Scotts Miracle-Gro wild bird food treated with pesticides that are hazardous to birds); *City of Westland Police & Fire Ret. Sys. v. Stumpf*, No. 3:11-cv-02369-SI (N.D. Cal.) (\$67 million in homeowner down-payment assistance and credit counseling for cities hardest hit by the foreclosure crisis and computer integration for mortgage servicing segments in derivative settlement with Wells Fargo for “robo-signing” of foreclosure affidavits); *In re Mattel, Inc., Toy Lead Paint Prods. Liab. Litig.*, No. 2:07-ml-01897-DSF-AJW (C.D. Cal.) (\$50 million in refunds and quality assurance business reforms for toys made in China with lead and magnets); and *In re Checking Account Overdraft Litig.*, No. 1:09-md-2036-JLK (S.D. Fla.) (\$500 million in settlements with major banks for manipulating debit transactions to maximize overdraft fees).

Education

B.A., Florida State University, 1997; University of Oxford, International Human Rights Law Program at New College, Summer 1998; J.D., Georgetown University Law School, 2000

Honors / Awards

Best Lawyer in America: One to Watch, *Best Lawyers®*, 2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2016-2020; Leading Lawyer in America, *Lawdragon*, 2017-2020; California Trailblazer, *The Recorder*, 2019; Plaintiffs’ Lawyer Trailblazer, *The National Law Journal*, 2018; Top Woman Lawyer, *Daily Journal*, 2017; Rising Star, *Super Lawyers Magazine*, 2015; Nominated for 2011 Woman of the Year, *San Diego Magazine*; Editor-in-Chief, *First Annual Review of Gender and Sexuality Law*, Georgetown University Law School; Dean’s List 1998-1999; B.A., *Cum Laude*, Florida State University’s Honors Program, 1997; *Phi Beta Kappa*

Steven M. Jodlowski | Partner

Steven Jodlowski is a partner in the Firm's San Diego office. His practice focuses on high-stakes complex litigation, often involving antitrust, securities, and consumer claims. In recent years, he has specialized in representing investors in a series of antitrust actions involving the manipulation of benchmark rates, including the *ISDAfix Benchmark* litigation, which to date resulted in the recovery of \$504.5 million on behalf of investors, and *In re SSA Bonds Antitrust Litig.*, which resulted in the recovery of \$95.5 million on behalf of investors. He is currently serving as interim co-lead class counsel in *Thompson v. 1-800 Contacts, Inc.*, where the court has granted preliminary approval of \$24.9 million in settlements. Jodlowski was also part of the trial team in an antitrust monopolization case against a multinational computer and software company.

Jodlowski has successfully prosecuted numerous antitrust and RICO cases. These cases resulted in the recovery of more than \$1 billion for investors and policyholders. Jodlowski has also represented institutional and individual shareholders in corporate takeover actions in state and federal court. He has handled pre- and post-merger litigation stemming from the acquisition of publicly listed companies in the biotechnology, oil and gas, information technology, specialty retail, electrical, banking, finance, and real estate industries, among others.

Education

B.B.A., University of Central Oklahoma, 2002; J.D., California Western School of Law, 2005

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2019; Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2018; CAOC Consumer Attorney of the Year Award Finalist, 2015; J.D., *Cum Laude*, California Western School of Law, 2005

Chad Johnson | Partner

Chad Johnson is a partner in the Firm's Manhattan office. Johnson has more than 25 years' experience handling complex securities cases and breach of fiduciary duty actions, which includes significant time as a plaintiffs' lawyer, a securities-fraud prosecutor, and a defense lawyer. Johnson previously served as the head of New York's securities fraud unit referred to as the Investor Protection Bureau. In that role, he prosecuted cases that resulted in billions of dollars of recoveries for New Yorkers and made new law in the area of securities enforcement for the benefit of investors. Among the cases that Johnson handled in that role included prosecuting dark pool operators for making false statements to the investing public.

In the private sector, Johnson represents institutional and other investors in securities and breach of fiduciary duty cases, including representing investors in direct or "opt-out" actions and also in class actions. Johnson represents some of the world's largest and most sophisticated asset managers, public pension funds, and sovereign wealth funds. Johnson also represents whistleblowers in false claims act or "*qui tam*" actions.

Education

B.A., University of Michigan, 1989; J.D., Harvard Law School, 1993

Honors / Awards

J.D., *Cum Laude*, Harvard Law School, 1993; B.A., High Distinction, University of Michigan, 1989

Evan J. Kaufman | Partner

Evan Kaufman is a partner in the Firm's Melville office. He focuses his practice in the area of complex litigation, including securities, ERISA, corporate fiduciary duty, derivative, and consumer fraud class actions. Kaufman has served as lead counsel or played a significant role in numerous actions, including: *In re TD Banknorth S'holders Litig.* (\$50 million recovery); *In re Gen. Elec. Co. ERISA Litig.* (\$40 million cost to GE, including significant improvements to GE's employee retirement plan, and benefits to GE plan participants valued in excess of \$100 million); *EnergySolutions, Inc. Sec. Litig.* (\$26 million recovery); *Lockheed Martin Corp. Sec. Litig.* (\$19.5 million recovery); *In re Warner Chilcott Ltd. Sec. Litig.* (\$16.5 million recovery); *In re Third Avenue Mgmt. Sec. Litig.* (\$14.25 million recovery); *In re Giant Interactive Grp., Inc. Sec. Litig.* (\$13 million recovery); *In re Royal Grp. Tech. Sec. Litig.* (\$9 million recovery); *Fidelity Ultra Short Bond Fund Litig.* (\$7.5 million recovery); *In re Audiovox Derivative Litig.* (\$6.75 million recovery and corporate governance reforms); *State Street Yield Plus Fund Litig.* (\$6.25 million recovery); *In re Merrill Lynch & Co., Inc., Internet Strategies Sec. Litig.* (resolved as part of a \$39 million global settlement); and *In re MONY Grp., Inc. S'holder Litig.* (obtained preliminary injunction requiring disclosures in proxy statement).

Education

B.A., University of Michigan, 1992; J.D., Fordham University School of Law, 1995

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2013-2015, 2017-2019; Member, *Fordham International Law Journal*, Fordham University School of Law

David A. Knotts | Partner

David Knotts is a partner in the Firm's San Diego office and, in addition to ongoing litigation work, teaches a full-semester course on M&A litigation at the University of California Berkeley School of Law. He focuses his practice on securities class action litigation in the context of mergers and acquisitions, representing both individual shareholders and institutional investors. Knotts has been counsel of record for shareholders on a number of significant recoveries in courts and throughout the country, including *In re Rural/Metro Corp. S'holders Litig.* (nearly \$110 million total recovery, affirmed by the Delaware Supreme Court in *RBC v. Jervis*), *In re Del Monte Foods Co. S'holders Litig.* (\$89.4 million), *Websense* (\$40 million), *In re Onyx S'holders Litig.* (\$30 million), and *Joy Global* (\$20 million). *Websense* and *Onyx* are both believed to be the largest post-merger class settlements in California state court history. When Knotts recently presented the settlement as lead counsel for the stockholders in *Joy Global*, the United States District Court for the Eastern District of Wisconsin noted that "this is a pretty extraordinary settlement, recovery on behalf of the members of the class. . . . [I]t's always a pleasure to work with people who are experienced and who know what they are doing."

Before joining Robbins Geller, Knotts was an associate at one of the largest law firms in the world and represented corporate clients in various aspects of state and federal litigation, including major antitrust matters, trade secret disputes, and unfair competition claims.

Education

B.S., University of Pittsburgh, 2001; J.D., Cornell Law School, 2004

Honors / Awards

40 & Under Hot List, *Benchmark Litigation*, 2018, 2020; Next Generation Partner, *The Legal 500*, 2019-2020; Recommended Lawyer, *The Legal 500*, 2017-2019; Wiley W. Manuel Award for Pro Bono Legal Services, State Bar of California; Casa Cornelia Inns of Court; J.D., *Cum Laude*, Cornell Law School, 2004

Laurie L. Largent | Partner

Laurie Largent is a partner in the Firm's San Diego, California office. Her practice focuses on securities class action and shareholder derivative litigation and she has helped recover millions of dollars for injured shareholders. Largent was part of the litigation team that obtained a \$265 million recovery in *In re Massey Energy Co. Sec. Litig.*, in which Massey was found accountable for a tragic explosion at the Upper Big Branch mine in Raleigh County, West Virginia. She also helped obtain \$67.5 million for Wyeth shareholders in *City of Livonia Emps.' Ret. Sys. v. Wyeth*, settling claims that the defendants misled investors about the safety and commercial viability of one of the company's leading drug candidates. Most recently, Largent was on the team that secured a \$64 million recovery for Dana Corp. shareholders in *Plumbers & Pipefitters Nat'l Pension Fund v. Burns*, in which the Firm's Appellate Practice Group successfully appealed to the Sixth Circuit Court of Appeals twice, reversing the district court's dismissal of the action. Some of Largent's other cases include: *In re Sanofi-Aventis Sec. Litig.* (S.D.N.Y.) (\$40 million); *In re Bridgepoint Educ., Inc. Sec. Litig.* (S.D. Cal.) (\$15.5 million); *Ross v. Abercrombie & Fitch Co.* (S.D. Ohio) (\$12 million); *Maiman v. Talbott* (C.D. Cal.) (\$8.25 million); *In re Cafepress Inc. S'holder Litig.* (Cal. Super. Ct., San Mateo Cnty.) (\$8 million); and *Krystek v. Ruby Tuesday, Inc.* (M.D. Tenn.) (\$5 million). Largent's current cases include securities fraud cases against Dell, Inc. (W.D. Tex.) and Banc of California (C.D. Cal.).

Largent is a past board member on the San Diego County Bar Foundation and the San Diego Volunteer Lawyer Program. She has also served as an Adjunct Business Law Professor at Southwestern College in Chula Vista, California.

Education

B.B.A., University of Oklahoma, 1985; J.D., University of Tulsa, 1988

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Board Member, San Diego County Bar Foundation, 2013-2017; Board Member, San Diego Volunteer Lawyer Program, 2014-2017

Angel P. Lau | Partner

Angel Lau is a partner in the Firm's San Diego office, where her practice focuses on complex securities litigation. She is a member of the litigation team prosecuting actions against investment banks and the leading national credit rating agencies for their role in structuring and rating structured investment vehicles. These cases are among the first to successfully allege fraud against the rating agencies, whose ratings have historically been protected by the First Amendment.

As part of the Firm's litigation team, Lau helped secure a \$388 million recovery for investors in J.P. Morgan residential mortgage-backed securities in *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.* The resulting settlement is, on a percentage basis, the largest recovery ever achieved in a class action brought on behalf of purchasers of RMBS. She was part of the litigation team that obtained a landmark \$272 million recovery from the Second Circuit Court of Appeals in its precedent-setting *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.* decision, which dramatically expanded the scope of permissible class actions asserting claims under the Securities Act of 1933 on behalf of mortgage-backed securities investors. Additionally, Lau also helped to obtain a landmark settlement, on the eve of trial, from the major credit rating agencies and Morgan Stanley arising out of the fraudulent ratings of bonds issued by the structured investment vehicles in *Abu Dhabi Commercial Bank v. Morgan Stanley & Co. Inc.* Before joining the Firm, Lau worked at an investment bank in New York, with experience in arbitrage trading and securitized products.

Education

B.A., Stanford University, 1994; J.D., University of San Diego School of Law, 2012

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2020

Arthur C. Leahy | Partner

Art Leahy is a founding partner in the Firm's San Diego office and a member of the Firm's Executive and Management Committees. He has over 20 years of experience successfully litigating securities actions and derivative cases. Leahy has recovered well over two billion dollars for the Firm's clients and has negotiated comprehensive pro-investor corporate governance reforms at several large public companies. Most recently, Leahy helped secure a \$272 million recovery on behalf of mortgage-backed securities investors in *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.* In the *Goldman Sachs* case, he helped achieve favorable decisions in the Second Circuit Court of Appeals on behalf of investors of Goldman Sachs mortgage-backed securities and again in the Supreme Court, which denied Goldman Sachs' petition for certiorari, or review, of the Second Circuit's reinstatement of the plaintiff's case. He was also part of the Firm's trial team in the AT&T securities litigation, which AT&T and its former officers paid \$100 million to settle after two weeks of trial. Prior to joining the Firm, he served as a judicial extern for the Honorable J. Clifford Wallace of the United States Court of Appeals for the Ninth Circuit, and served as a judicial law clerk for the Honorable Alan C. Kay of the United States District Court for the District of Hawaii.

Education

B.A., Point Loma Nazarene University, 1987; J.D., University of San Diego School of Law, 1990

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Super Lawyer, *Super Lawyers Magazine*, 2016-2017; J.D., *Cum Laude*, University of San Diego School of Law, 1990; Managing Editor, *San Diego Law Review*, University of San Diego School of Law

Nathan R. Lindell | Partner

Nate Lindell is a partner in the Firm's San Diego office, where his practice focuses on representing aggrieved investors in complex civil litigation. He has helped achieve numerous significant recoveries for investors, including: *In re Enron Corp. Sec. Litig.* (\$7.2 billion recovery); *In re HealthSouth Corp. Sec. Litig.* (\$671 million recovery); *Luther v. Countrywide Fin. Corp.* (\$500 million recovery); *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.* (\$388 million recovery); *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.* (\$272 million recovery); *In re Morgan Stanley Mortg. Pass-Through Certificates Litig.* (\$95 million recovery); *Massachusetts Bricklayers & Masons Tr. Funds v. Deutsche Alt-A Sec., Inc.* (\$32.5 million recovery); *City of Ann Arbor Emps.' Ret. Sys. v. Citigroup Mortg. Loan Trust Inc.* (\$24.9 million recovery); *Plumbers' Union Local No. 12 Pension Fund v. Nomura Asset Acceptance Corp.* (\$21.2 million recovery); and *Genesee Cnty. Emps.' Ret. Sys. v. Thornburg Mortg., Inc.* (\$11.25 million recovery). In October 2016, Lindell successfully argued in front of the New York Supreme Court, Appellate Division, First Judicial Department, for the reversal of an earlier order granting defendants' motion to dismiss in *Phoenix Light SF Limited v. Morgan Stanley*.

Lindell was also a member of the litigation team responsible for securing a landmark victory from the Second Circuit Court of Appeals in its precedent-setting *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.* decision, which dramatically expanded the scope of permissible class actions asserting claims under the Securities Act of 1933 on behalf of mortgage-backed securities investors, and ultimately resulted in a \$272 million recovery for investors.

Education

B.S., Princeton University, 2003; J.D., University of San Diego School of Law, 2006

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2017; Charles W. Caldwell Alumni Scholarship, University of San Diego School of Law; CALI/AmJur Award in Sports and the Law

Ryan Llorens | Partner

Ryan Llorens is a partner in the Firm's San Diego office. Llorens' practice focuses on litigating complex securities fraud cases. He has worked on a number of securities cases that have resulted in significant recoveries for investors, including: *In re HealthSouth Corp. Sec. Litig.* (\$670 million); *AOL Time Warner* (\$629 million); *In re AT&T Corp. Sec. Litig.* (\$100 million); *In re Fleming Cos. Sec. Litig.* (\$95 million); and *In re Cooper Cos., Inc. Sec Litig.* (\$27 million).

Education

B.A., Pitzer College, 1997; J.D., University of San Diego School of Law, 2002

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015

Andrew S. Love | Partner

Andrew Love is a partner in the Firm's San Francisco office. His practice focuses primarily on appeals of securities fraud class action cases. Love has briefed and argued cases on behalf of defrauded investors and consumers in several U.S. Courts of Appeal, as well as in the California appellate courts. Prior to joining the Firm, Love represented inmates on California's death row in appellate and habeas corpus proceedings, successfully arguing capital cases in both the California Supreme Court and the Ninth Circuit. During his many years as a death penalty lawyer, he co-chaired the Capital Case Defense Seminar (2004-2013), recognized as the largest conference for death penalty practitioners in the country. He regularly presented at the seminar and at other conferences on a wide variety of topics geared towards effective appellate practice. Additionally, he was on the faculty of the National Institute for Trial Advocacy's Post-Conviction Skills Seminar. Love has also written several articles on appellate advocacy and capital punishment that have appeared in *The Daily Journal*, *CACJ Forum*, *American Constitution Society*, and other publications.

Education

University of Vermont, 1981; J.D., University of San Francisco School of Law, 1985

Honors / Awards

J.D., *Cum Laude*, University of San Francisco School of Law, 1985; McAuliffe Honor Society, University of San Francisco School of Law, 1982-1985

Erik W. Luedeke | Partner

Erik Luedeke is a partner in the Firm's San Diego office, where he represents individual and institutional investors in shareholder derivative and securities litigation. As corporate fiduciaries, directors and officers are duty-bound to act in the best interest of the corporation and its shareholders. When they fail to do so they breach their fiduciary duty and may be held liable for harm caused to the corporation. Luedeke's shareholder derivative practice focuses on litigating breach of fiduciary duty and related claims on behalf of corporations and shareholders injured by wayward corporate fiduciaries. Notable shareholder derivative actions in which he recently participated and the recoveries he helped to achieve include *In re Community Health Sys., Inc. S'holder Derivative Litig.* (\$60 million in financial relief and unprecedented corporate governance reforms), *In re Lumber Liquidators Holdings, Inc. S'holder Derivative Litig.* (\$26 million in financial relief plus substantial governance), and *In re Google Inc. S'holder Derivative Litig.* (\$250 million in financial relief to fund substantial governance).

Luedeke's practice also includes the prosecution of complex securities class action cases on behalf of aggrieved investors. Luedeke was a member of the litigation team in *Jaffe v. Household Int'l, Inc.*, No. 02-C-5893 (N.D. Ill.), that resulted in a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial ending in a plaintiffs' verdict. He was also a member of the litigation teams in *In re UnitedHealth Grp. Inc. PSLRA Litig.*, No. 06-CV-1691 (D. Minn.) (\$925 million recovery), and *In re Questcor Pharms., Inc. Sec. Litig.*, No. 8:12-cv-01623 (C.D. Cal.) (\$38 million recovery).

Education

B.S./B.A., University of California Santa Barbara, 2001; J.D., University of San Diego School of Law, 2006

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2017; Student Comment Editor, *San Diego International Law Journal*, University of San Diego School of Law

Carmen A. Medici | Partner

Carmen Medici is a partner in the Firm's San Diego office and focuses on complex antitrust class action litigation and unfair competition law. He represents businesses and consumers who are the victims of price-fixing, monopolization, collusion, and other anticompetitive and unfair business practices. Medici specializes in litigation against giants in the financial, pharmaceutical, and commodities industries.

Medici currently serves as co-lead counsel in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, in which a settlement of \$5.5 billion was approved in the Eastern District of New York. This case was brought on behalf of millions of U.S. merchants against Visa and MasterCard and various card-issuing banks, challenging the way these companies set and collect tens of billions of dollars annually in merchant fees. The settlement is believed to be the largest antitrust class action settlement of all time. He is also a part of the co-lead counsel team in *In re SSA Bonds Antitrust Litig.*, pending in the Southern District of New York, representing bond purchasers who were defrauded by a brazen price-fixing scheme perpetrated by traders at some of the nation's largest banks. Medici is also a member of the litigation team in *In re Dealer Mgmt. Sys. Antitrust Litig.*, a lawsuit brought on behalf of car dealerships pending in federal court in Chicago, where one defendant has settled for nearly \$30 million.

Education

B.S., Arizona State University, 2003; J.D., University of San Diego School of Law, 2006

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2020

Matthew S. Melamed | Partner

Matthew Melamed is a partner in the Firm's San Francisco office, where he focuses on securities litigation whistleblower representation. Since joining the Firm, he has been a member of litigation teams responsible for substantial investor recoveries, including *Jones v. Pfizer Inc.* (S.D.N.Y.), *In re St. Jude Med., Inc. Sec. Litig.* (D. Minn.), *Oklahoma Police Pension & Ret. Sys. v. Sientra, Inc.* (Cal. Super. Ct., San Mateo Cnty.), and *In re Willbros Grp., Inc. Sec. Litig.* (S.D. Tex.). He has also contributed to the Firm's appellate work, including in *Mineworkers' Pension Scheme, British Coal Staff Superannuation v. First Solar, Inc.* (9th Cir.), and *China Development Industrial Bank v. Morgan Stanley & Co. Incorporated* (N.Y. App. Div.). Along with other Robbins Geller attorneys, Melamed is currently leading the effort on behalf of cities, counties, and states in a nationwide litigation concerning the marketing and distribution of prescription opioids.

Education

B.A., Wesleyan University, 1996; J.D., University of California, Hastings College of the Law, 2008

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2018; J.D., *Magna Cum Laude*, University of California, Hastings College of the Law, 2008; Tony Patiño Fellow, University of California, Hastings College of the Law; Order of the Coif, University of California, Hastings College of the Law; Senior Articles Editor, *Hastings Law Journal*, University of California, Hastings College of the Law; Student Director, General Assistance Advocacy Project, University of California, Hastings College of the Law

Mark T. Millkey | Partner

Mark Millkey is a partner in the Firm's Melville office. He has significant experience in the areas of securities and consumer litigation, as well as in federal and state court appeals.

During his career, Millkey has worked on a major consumer litigation against MetLife that resulted in a benefit to the class of approximately \$1.7 billion, as well as a securities class action against Royal Dutch/Shell that settled for a minimum cash benefit to the class of \$130 million and a contingent value of more than \$180 million. Since joining Robbins Geller, he has worked on securities class actions that have resulted in approximately \$300 million in settlements.

Education

B.A., Yale University, 1981; M.A., University of Virginia, 1983; J.D., University of Virginia, 1987

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2013-2019

David W. Mitchell | Partner

David Mitchell is a partner in the Firm's San Diego office and focuses his practice on antitrust and securities fraud litigation. He is a former federal prosecutor who has tried nearly 20 jury trials. As head of the Firm's Antitrust and Competition Law Practice Group, he has served as lead or co-lead counsel in numerous cases and has helped achieve substantial settlements for shareholders. His most notable antitrust cases include *Dahl v. Bain Cap. Partners, LLC*, obtaining more than \$590 million for shareholders, and *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, in which a settlement of \$5.5 billion was approved in the Eastern District of New York. This case was brought on behalf of millions of U.S. merchants against Visa and MasterCard and various card-issuing banks, challenging the way these companies set and collect tens of billions of dollars annually in merchant fees. The settlement is believed to be the largest antitrust class action settlement of all time.

Additionally, Mitchell served as co-lead counsel in the ISDAfix Benchmark action against 14 major banks and broker ICAP plc, obtaining \$504.5 million for plaintiffs. Currently, Mitchell serves as court-appointed lead counsel in *In re Aluminum Warehousing Antitrust Litig.*, *City of Providence, Rhode Island v. BATS Global Markets Inc.*, *In re SSA Bonds Antitrust Litig.*, *In re Remicade Antitrust Litig.*, and *In re 1-800 Contacts Antitrust Litig.*

Education

B.A., University of Richmond, 1995; J.D., University of San Diego School of Law, 1998

Honors / Awards

Member, Enright Inn of Court; Best Lawyer in America, *Best Lawyers®*, 2018-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2016-2020; Leading Lawyer in America, *Lawdragon*, 2020; Southern California Best Lawyer, *Best Lawyers®*, 2018-2020; Honoree, Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2018; Antitrust Trailblazer, *The National Law Journal*, 2015; "Best of the Bar," *San Diego Business Journal*, 2014

Maureen E. Mueller | Partner

Maureen Mueller is a partner in the Firm's Boca Raton office, where her practice focuses on complex securities litigation. Mueller has helped recover more than \$3 billion for investors. She was a member of the Firm's trial team in *Jaffe v. Household Int'l, Inc.*, No. 02-C-05893 (N.D. Ill.), a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. She was also a member of the team of attorneys responsible for recovering a record-breaking \$925 million for investors in the *UnitedHealth* litigation, *In re UnitedHealth Grp. Inc. PSLRA Litig.*, No. 06-CV-1216 (JMR/FLN) (D. Minn.), and served as co-lead counsel in *In re Wachovia Preferred Securities and Bond/Notes Litig.*, No. 09 Civ. 6351 (RJS) (S.D.N.Y.), which recovered \$627 million. More recently, Mueller was part of the litigation team that secured a \$64 million recovery for shareholders of Dana Corp. in *Plumbers & Pipefitters National Pension Fund v. Burns*, No. 3:05-cv-07393-JGC (N.D. Ohio), in which the Firm's Appellate Practice Group successfully appealed to the Sixth Circuit Court of Appeals twice, reversing the district court's dismissal of the action. She was also a member of the team of attorneys that recovered \$13 million in *Burges v. BancorpSouth, Inc.*, No. 3:14-cv-01564 (M.D. Tenn.), and represented investors in *Knurr v. Orbital ATK, Inc.*, No. 1:16-cv-01031-TSE-MSN (E.D. Va.), which recovered \$108 million for shareholders and is believed to be the fourth-largest securities class action settlement in the history of the Eastern District of Virginia.

Education

B.S., Trinity University, 2002; J.D., University of San Diego School of Law, 2007

Honors / Awards

Next Generation Partner, *The Legal 500*, 2018-2020; Recommended Lawyer, *The Legal 500*, 2017, 2019; Top Litigator Under 40, *Benchmark Litigation*, 2017; Top Women Lawyer, *Daily Journal*, 2017; Rising Star, *Super Lawyers Magazine*, 2015-2017; "Outstanding Young Attorneys," *San Diego Daily Transcript*, 2010; Lead Articles Editor, *San Diego Law Review*, University of San Diego School of Law

Danielle S. Myers | Partner

Danielle Myers is a partner in the Firm's San Diego office and focuses her practice on complex securities litigation. Myers is one of the partners who oversees the Portfolio Monitoring Program® and provides legal recommendations to the Firm's institutional investor clients on their options to maximize recoveries in securities litigation, both within the United States and internationally, from inception to settlement.

In addition, Myers advises the Firm's clients in connection with lead plaintiff applications and has secured appointment of the Firm's clients as lead plaintiff and the Firm's appointment as lead counsel in over 140 securities class actions in the past several years which have yielded more than \$3 billion for investors, including 2018-2020 recoveries in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, No. 3:15-cv-07658 (D.N.J.) (\$1.2 billion pending final approval); *In re Am. Realty Cap. Proprs., Inc. Litig.*, No. 1:15-mc-00040 (S.D.N.Y.) (\$1.025 billion); *City of Pontiac Gen. Ret. Sys. v. Wal-Mart Stores, Inc.*, No. 5:12-cv-5162 (W.D. Ark.) (\$160 million); *Evellard v. LendingClub Corp.*, No. 3:16-cv-02627 (N.D. Cal.) (\$125 million); *Knurr v. Orbital ATK, Inc.*, No. 1:16-cv-01031 (E.D. Va.) (\$108 million); and *Marcus v. J.C. Penney Co., Inc.*, No. 6:13-cv-00736 (E.D. Tex.) (\$97.5 million). Myers is also a frequent lecturer on securities fraud and corporate governance reform at conferences and events around the world.

Education

B.A., University of California at San Diego, 1997; J.D., University of San Diego, 2008

Honors / Awards

Best Lawyer in America: One to Watch, *Best Lawyers*®, 2021; Leading Lawyer, *The Legal 500*, 2020; Future Star, *Benchmark Litigation*, 2019-2020; Next Generation Lawyer, *The Legal 500*, 2017-2019; Recommended Lawyer, *The Legal 500*, 2019; Rising Star, *Super Lawyers Magazine*, 2015-2018; One of the "Five Associates to Watch in 2012," *Daily Journal*; Member, *San Diego Law Review*; CALI Excellence Award in Statutory Interpretation

Eric I. Niehaus | Partner

Eric Niehaus is a partner in the Firm's San Diego office, where his practice focuses on complex securities and derivative litigation. His efforts have resulted in numerous multi-million dollar recoveries to shareholders and extensive corporate governance changes. Recent examples include: *In re NYSE Specialists Sec. Litig.* (S.D.N.Y.); *In re Novatel Wireless Sec. Litig.* (S.D. Cal.); *Batwin v. Occam Networks, Inc.* (C.D. Cal.); *Comm'n Workers of Am. Plan for Emps.' Pensions and Death Benefits v. CSK Auto Corp.* (D. Ariz.); *Marie Raymond Revocable Tr. v. Mat Five* (Del. Ch.); and *Kelleher v. ADVO, Inc.* (D. Conn.). Niehaus is currently prosecuting cases against several financial institutions arising from their role in the collapse of the mortgage-backed securities market. Before joining the Firm, Niehaus worked as a Market Maker on the American Stock Exchange in New York and the Pacific Stock Exchange in San Francisco.

Education

B.S., University of Southern California, 1999; J.D., California Western School of Law, 2005

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2016; J.D., *Cum Laude*, California Western School of Law, 2005; Member, *California Western Law Review*

Brian O. O'Mara | Partner

Brian O'Mara is a partner in the Firm's San Diego office. His practice focuses on complex securities and antitrust litigation. Since 2003, O'Mara has served as lead or co-lead counsel in numerous shareholder and antitrust actions, including: *Bennett v. Sprint Nextel Corp.* (D. Kan.) (\$131 million recovery); *In re CIT Grp. Inc. Sec. Litig.* (S.D.N.Y.) (\$75 million recovery); *In re MGM Mirage Sec. Litig.* (D. Nev.) (\$75 million recovery); *C.D.T.S. No. 1 v. UBS AG* (S.D.N.Y.); *In re Aluminum Warehousing Antitrust Litig.* (S.D.N.Y.); and *Alaska Elec. Pension Fund v. Bank of Am. Corp.* (S.D.N.Y.). Most recently, O'Mara served as class counsel in the ISDAfix Benchmark action against 14 major banks and broker ICAP plc, obtaining \$504.5 million for plaintiffs.

O'Mara has been responsible for a number of significant rulings, including: *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, 175 F. Supp. 3d 44 (S.D.N.Y. 2016); *Bennett v. Sprint Nextel Corp.*, 298 F.R.D. 498 (D. Kan. 2014); *In re MGM Mirage Sec. Litig.*, 2013 U.S. Dist. LEXIS 139356 (D. Nev. 2013); *In re Constar Int'l, Inc. Sec. Litig.*, 2008 U.S. Dist. LEXIS 16966 (E.D. Pa. 2008), *aff'd*, 585 F.3d 774 (3d Cir. 2009); *In re Direct Gen. Corp. Sec. Litig.*, 2006 U.S. Dist. LEXIS 56128 (M.D. Tenn. 2006); and *In re Dura Pharms., Inc. Sec. Litig.*, 452 F. Supp. 2d 1005 (S.D. Cal. 2006). Prior to joining the Firm, he served as law clerk to the Honorable Jerome M. Polaha of the Second Judicial District Court of the State of Nevada.

Education

B.A., University of Kansas, 1997; J.D., DePaul University, College of Law, 2002

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2016-2020; Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2018; CALI Excellence Award in Securities Regulation, DePaul University, College of Law

Lucas F. Olts | Partner

Luke Olts is a partner in the Firm's San Diego office, where his practice focuses on securities litigation on behalf of individual and institutional investors. Olts has recently focused on litigation related to residential mortgage-backed securities, and has served as lead counsel or co-lead counsel in some of the largest recoveries arising from the collapse of the mortgage market. For example, he was a member of the team that recovered \$388 million for investors in J.P. Morgan residential mortgage-backed securities in *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.*, and a member of the litigation team responsible for securing a \$272 million settlement on behalf of mortgage-backed securities investors in *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.* Olts also served as co-lead counsel in *In re Wachovia Preferred Sec. & Bond/Notes Litig.*, which recovered \$627 million under the Securities Act of 1933. He also served as lead counsel in *Siracusano v. Matrixx Initiatives, Inc.*, in which the U.S. Supreme Court unanimously affirmed the decision of the Ninth Circuit that plaintiffs stated a claim for securities fraud under §10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. Before joining the Firm, Olts served as a Deputy District Attorney for the County of Sacramento, where he tried numerous cases to verdict, including crimes of domestic violence, child abuse, and sexual assault.

Education

B.A., University of California, Santa Barbara, 2001; J.D., University of San Diego School of Law, 2004

Honors / Awards

Future Star, *Benchmark Litigation*, 2018-2020; Next Generation Lawyer, *The Legal 500*, 2017; Top Litigator Under 40, *Benchmark Litigation*, 2017; Under 40 Hotlist, *Benchmark Litigation*, 2016

Steven W. Pepich | Partner

Steve Pepich is a partner in the Firm's San Diego office. His practice has focused primarily on securities class action litigation, but has also included a wide variety of complex civil cases, including representing plaintiffs in mass tort, royalty, civil rights, human rights, ERISA, and employment law actions. Pepich has participated in the successful prosecution of numerous securities class actions, including: *Carpenters Health & Welfare Fund v. Coca-Cola Co.* (\$137.5 million recovery); *In re Fleming Cos. Inc. Sec. & Derivative Litig.* (\$95 million recovered); *In re Boeing Sec. Litig.* (\$92 million recovery); *In re Louisiana-Pacific Corp. Sec. Litig.* (\$65 million recovery); *Haw. Structural Ironworkers Pension Trust Fund v. Calpine Corp.* (\$43 million recovery); *In re Advanced Micro Devices Sec. Litig.* (\$34 million recovery); and *Gohler v. Wood*, (\$17.2 million recovery). Pepich was a member of the plaintiffs' trial team in *Mynaf v. Taco Bell Corp.*, which settled after two months of trial on terms favorable to two plaintiff classes of restaurant workers for recovery of unpaid wages. He was also a member of the plaintiffs' trial team in *Newman v. Stringfellow* where, after a nine-month trial in Riverside, California, all claims for exposure to toxic chemicals were ultimately resolved for \$109 million.

Education

B.S., Utah State University, 1980; J.D., DePaul University, 1983

Daniel J. Pfefferbaum | Partner

Daniel Pfefferbaum is a partner in the Firm's San Francisco office, where his practice focuses on complex securities litigation. He has been a member of litigation teams that have recovered more than \$100 million for investors, including: *Garden City Emps.' Ret. Sys. v. Psychiatric Sols., Inc.* (\$65 million recovery); *In re PMI Grp., Inc. Sec. Litig.* (\$31.25 million recovery); *Cunha v. Hansen Natural Corp.* (\$16.25 million recovery); *In re Accuray Inc. Sec. Litig.* (\$13.5 million recovery); and *Twinde v. Threshold Pharms., Inc.* (\$10 million recovery). Pfefferbaum was a member of the litigation team that secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump. The settlement provides \$25 million to approximately 7,000 consumers. This result means individual class members are eligible for upwards of \$35,000 in restitution. He represented the class on a *pro bono* basis.

Education

B.A., Pomona College, 2002; J.D., University of San Francisco School of Law, 2006; LL.M. in Taxation, New York University School of Law, 2007

Honors / Awards

40 & Under Hot List, *Benchmark Litigation*, 2016-2020; Future Star, *Benchmark Litigation*, 2018-2020; Top 40 Under 40, *Daily Journal*, 2017; Rising Star, *Super Lawyers Magazine*, 2013-2017

Theodore J. Pintaer | Partner

Ted Pintaer is a partner in the Firm's San Diego office. Pintaer has over 20 years of experience prosecuting securities fraud actions and derivative actions and over 15 years of experience prosecuting insurance-related consumer class actions, with recoveries in excess of \$1 billion. He was part of the litigation team in the AOL Time Warner state and federal court securities opt-out actions, which arose from the 2001 merger of America Online and Time Warner. These cases resulted in a global settlement of \$618 million. Pintaer was also on the trial team in *Knapp v. Gomez*, which resulted in a plaintiff's verdict. Pintaer has successfully prosecuted several RICO cases involving the deceptive sale of deferred annuities, including cases against Allianz Life Insurance Company of North America (\$250 million), American Equity Investment Life Insurance Company (\$129 million), Midland National Life Insurance Company (\$80 million), and Fidelity & Guarantee Life Insurance Company (\$53 million). He has participated in the successful prosecution of numerous other insurance and consumer class actions, including: (i) actions against major life insurance companies such as Manufacturer's Life (\$555 million initial estimated settlement value) and Principal Mutual Life Insurance Company (\$380+ million), involving the deceptive sale of life insurance; (ii) actions against major homeowners insurance companies such as Allstate (\$50 million) and Prudential Property and Casualty Co. (\$7 million); (iii) actions against automobile insurance companies such as the Auto Club and GEICO; and (iv) actions against Columbia House (\$55 million) and BMG Direct, direct marketers of CDs and cassettes. Additionally, Pintaer has served as a panelist for numerous Continuing Legal Education seminars on federal and state court practice and procedure.

Education

B.A., University of California, Berkeley, 1984; J.D., University of Utah College of Law, 1987

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2017; CAOC Consumer Attorney of the Year Award Finalist, 2015; Note and Comment Editor, *Journal of Contemporary Law*, University of Utah College of Law; Note and Comment Editor, *Journal of Energy Law and Policy*, University of Utah College of Law

Willow E. Radcliffe | Partner

Willow Radcliffe is a partner in the Firm's San Francisco office, where she concentrates her practice in securities class action litigation in federal court. She has been significantly involved in the prosecution of numerous securities fraud claims, including actions filed against Pfizer, Inc. (\$400 million recovery), Flowserve Corp. (\$55 million recovery), NorthWestern Corp. (\$40 million recovery), Ashworth, Inc. (\$15.25 million recovery), and Allscripts Healthcare Solutions, Inc. (\$9.75 million recovery). Additionally, Radcliffe has represented plaintiffs in other complex actions, including a class action against a major bank regarding the adequacy of disclosures made to consumers in California related to access checks. Before joining the Firm, she clerked for the Honorable Maria-Elena James, Magistrate Judge for the United States District Court for the Northern District of California.

Education

B.A., University of California, Los Angeles 1994; J.D., Seton Hall University School of Law, 1998

Honors / Awards

Best Lawyer in America: One to Watch, *Best Lawyers®*, 2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2020; J.D., *Cum Laude*, Seton Hall University School of Law, 1998; Most Outstanding Clinician Award; Constitutional Law Scholar Award

Mark S. Reich | Partner

Mark Reich is a partner in the Firm's Melville office. Reich focuses his practice on challenging unfair mergers and acquisitions in courts throughout the country. Reich's notable cases include: *In re Aramark Corp. S'holders Litig.*, where he achieved a \$222 million increase in consideration paid to shareholders of Aramark and a substantial reduction to management's voting power – from 37% to 3.5% – in connection with the approval of the going-private transaction; *In re Delphi Fin. Grp. S'holders Litig.*, resulting in a \$49 million post-merger settlement for Class A Delphi shareholders; and *In re TD Banknorth S'holders Litig.*, where Reich played a significant role in raising the inadequacy of the \$3 million initial settlement, which the court rejected as wholly inadequate, and later resulted in a vastly increased \$50 million recovery.

Reich has also played a central role in other shareholder-related litigation. His cases include *In re Gen. Elec. Co. ERISA Litig.*, resulting in structural changes to company's 401(k) plan valued at over \$100 million, benefiting current and future plan participants, and *In re Doral Fin. Corp. Sec. Litig.*, obtaining a \$129 million recovery for shareholders in a securities fraud litigation.

Education

B.A., Queens College, 1997; J.D., Brooklyn Law School, 2000

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2013-2019; Member, *The Journal of Law and Policy*, Brooklyn Law School; Member, Moot Court Honor Society, Brooklyn Law School

Jack Reise | Partner

Jack Reise is a partner in the Firm's Boca Raton office. Devoted to protecting the rights of those who have been harmed by corporate misconduct, his practice focuses on class action litigation (including securities fraud, shareholder derivative actions, consumer protection, antitrust, and unfair and deceptive insurance practices). Reise also dedicates a substantial portion of his practice to representing shareholders in actions brought under the federal securities laws. He is currently serving as lead counsel in more than a dozen cases nationwide. Most recently, Reise and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.* (D.N.J.), a case that *Vanity Fair* reported as “the corporate scandal of its era” that had raised “fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations.” Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever. As lead counsel, Reise has also represented investors in a series of cases involving mutual funds charged with improperly valuating their net assets, which settled for a total of more than \$50 million. Other notable actions include: *In re NewPower Holdings, Inc. Sec. Litig.* (S.D.N.Y.) (\$41 million settlement); *In re Red Hat, Inc. Sec. Litig.* (E.D.N.C.) (\$20 million settlement); and *In re AFC Enters., Inc. Sec. Litig.* (N.D. Ga.) (\$17.2 million settlement).

Education

B.A., Binghamton University, 1992; J.D., University of Miami School of Law, 1995

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; American Jurisprudence Book Award in Contracts; J.D., *Cum Laude*, University of Miami School of Law, 1995; *University of Miami Inter-American Law Review*, University of Miami School of Law

Darren J. Robbins | Partner

Darren Robbins is a founding partner of Robbins Geller Rudman & Dowd LLP. Over the last two decades, Robbins has served as lead counsel in more than 100 securities class actions and has recovered billions of dollars for investors. Robbins recently served as lead counsel in *In re Am. Realty Cap. Proprs., Inc. Litig.*, a securities class action arising out of improper accounting practices, recovering more than \$1 billion for class members. The *American Realty* settlement represents the largest recovery as a percentage of damages of any major class action brought pursuant to the Private Securities Litigation Reform Act of 1995 and resolved prior to trial. The \$1+ billion settlement included the largest personal contributions (\$237.5 million) ever made by individual defendants to a securities class action settlement.

Robbins also led Robbins Geller's prosecution of wrongdoing related to the sale of residential mortgage-backed securities (RMBS) prior to the global financial crisis, including an RMBS securities class action against Goldman Sachs that yielded a \$272 million recovery for investors. Robbins served as co-lead counsel in connection with a \$627 million recovery for investors in *In re Wachovia Preferred Securities & Bond/Notes Litig.*, one of the largest securities class action settlements ever involving claims brought solely under the Securities Act of 1933.

One of the hallmarks of Robbins' practice has been his focus on corporate governance reform. In *UnitedHealth*, a securities fraud class action arising out of an options backdating scandal, Robbins represented lead plaintiff CalPERS and obtained the cancellation of more than 3.6 million stock options held by the company's former CEO and secured a record \$925 million cash recovery for shareholders. He also negotiated sweeping corporate governance reforms, including the election of a shareholder-nominated director to the company's board of directors, a mandatory holding period for shares acquired via option exercise, and compensation reforms that tied executive pay to performance. Recently, Robbins led a shareholder derivative action brought by several pension funds on behalf of Community Health Systems, Inc. that yielded a \$60 million payment to Community Health as well as corporate governance reforms that included two shareholder-nominated directors, the creation and appointment of a Healthcare Law Compliance Coordinator, the implementation of an executive compensation clawback in the event of a restatement, the establishment of an insider trading controls committee, and the adoption of a political expenditure disclosure policy.

Education

B.S., University of Southern California, 1990; M.A., University of Southern California, 1990; J.D., Vanderbilt Law School, 1993

Honors / Awards

Best Lawyer in America, *Best Lawyers*®, 2010-2021; Leading Lawyer, *The Legal 500*, 2020; Local Litigation Star, *Benchmark Litigation*, 2013-2018, 2020; Southern California Best Lawyer, *Best Lawyers*®, 2012-2020; Recommended Lawyer, *The Legal 500*, 2011, 2017, 2019; Leading Lawyer, *Chambers USA*, 2014-2019; Benchmark California Star, *Benchmark Litigation*, 2019; State Litigation Star, *Benchmark Litigation*, 2019; Lawyer of the Year, *Best Lawyers*®, 2017; Influential Business Leader, *San Diego Business Journal*, 2017; Litigator of the Year, *Our City San Diego*, 2017; Top 50 Lawyers in San Diego, *Super Lawyers Magazine*, 2015; One of the Top 100 Lawyers Shaping the Future, *Daily Journal*; One of the "Young Litigators 45 and Under," *The American Lawyer*; Attorney of the Year, *California Lawyer*; Managing Editor, *Vanderbilt Journal of Transnational Law*, Vanderbilt Law School

Robert J. Robbins | Partner

Robert Robbins is a partner in the Firm's Boca Raton office. He focuses his practice on investigating securities fraud, initiating securities class actions, and helping institutional and individual shareholders litigate their claims to recover investment losses caused by fraud. Representing shareholders in all aspects of class actions brought pursuant to the federal securities laws, Robbins provides counsel in numerous securities fraud class actions across the country, helping secure significant recoveries for investors. Most recently, Robbins and a team of Robbins Geller attorneys obtained preliminary approval of a \$1.21 billion settlement in *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, a case that *Vanity Fair* reported as "the corporate scandal of its era" that had raised "fundamental questions about the functioning of our health-care system, the nature of modern markets, and the slippery slope of ethical rationalizations." Subject to court approval, this is the largest securities class action settlement against a pharmaceutical manufacturer and the ninth largest ever. Robbins has also been a key member of litigation teams responsible for the successful prosecution of many other securities class actions, including: *Hospira* (\$60 million recovery); *3D Systems* (\$50 million); *CVS Caremark* (\$48 million recovery); *Baxter International* (\$42.5 million recovery); *R.H. Donnelley* (\$25 million recovery); *Spiegel* (\$17.5 million recovery); *TECO Energy* (\$17.35 million recovery); *AFC Enterprises* (\$17.2 million recovery); *Accretive Health* (\$14 million recovery); *Lender Processing Services* (\$14 million recovery); *Imperial Holdings* (\$12 million recovery); *Mannatech* (\$11.5 million recovery); *Newpark Resources* (\$9.24 million recovery); *Gilead Sciences* (\$8.25 million recovery); *TCP International* (\$7.175 million recovery); *Cryo Cell International* (\$7 million recovery); *Gainsco* (\$4 million recovery); and *Body Central* (\$3.425 million recovery).

Education

B.S., University of Florida, 1999; J.D., University of Florida College of Law, 2002

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Rising Star, *Super Lawyers Magazine*, 2015-2017; J.D., High Honors, University of Florida College of Law, 2002; Member, *Journal of Law and Public Policy*, University of Florida College of Law; Member, *Phi Delta Phi*, University of Florida College of Law; *Pro bono* certificate, Circuit Court of the Eighth Judicial Circuit of Florida; Order of the Coif

Henry Rosen | Partner

Henry Rosen is a partner in the Firm's San Diego office, where he is a member of the Hiring Committee and the Technology Committee, the latter of which focuses on applications to digitally manage documents produced during litigation and internally generate research files. He has significant experience prosecuting every aspect of securities fraud class actions and has obtained more than \$1 billion on behalf of defrauded investors. Prominent cases include *In re Cardinal Health, Inc. Sec. Litig.*, in which Rosen recovered \$600 million for defrauded shareholders. This \$600 million settlement is the largest recovery ever in a securities fraud class action in the Sixth Circuit, and remains one of the largest settlements in the history of securities fraud litigation. Additional recoveries include: *Jones v. Pfizer Inc.* (\$400 million); *In re First Energy* (\$89.5 million); *In re CIT Grp. Inc. Sec. Litig.* (\$75 million); *Stanley v. Safeskin Corp.* (\$55 million); *In re Storage Tech. Corp. Sec. Litig.* (\$55 million); and *Rasner v. Sturm* (FirstWorld Communications) (\$25.9 million).

Education

B.A., University of California, San Diego, 1984; J.D., University of Denver, 1988

Honors / Awards

Editor-in-Chief, *University of Denver Law Review*, University of Denver

David A. Rosenfeld | Partner

David Rosenfeld is a partner in the Firm's Melville office. He has focused his practice of law for more than 15 years in the areas of securities litigation and corporate takeover litigation. He has been appointed as lead counsel in dozens of securities fraud lawsuits and has successfully recovered hundreds of millions of dollars for defrauded shareholders. Rosenfeld works on all stages of litigation, including drafting pleadings, arguing motions, and negotiating settlements. Most recently, he was on the team of Robbins Geller attorneys who obtained a \$34.5 million recovery in *Patel v. L-3 Communications Holdings, Inc.*, which represents a high percentage of damages that plaintiffs could reasonably expect to be recovered at trial and is more than eight times higher than the average settlement of cases with comparable investor losses.

Additionally, Rosenfeld led the Robbins Geller team in recovering in excess of \$34 million for investors in Overseas Shipholding Group, which represented an outsized recovery of 93% of bond purchasers' damages and 28% of stock purchasers' damages. The creatively structured settlement included more than \$15 million paid by a bankrupt entity. Rosenfeld also led the effort that resulted in the recovery of nearly 90% of losses for investors in Austin Capital, a sub-feeder fund of Bernard Madoff. In connection with this lawsuit, Rosenfeld met with and interviewed Madoff in federal prison. Rosenfeld has also achieved remarkable recoveries against companies in the financial industry. In addition to recovering \$70 million for investors in Credit Suisse Group, and having been appointed lead counsel in the securities fraud lawsuit against First BanCorp (which provided shareholders with a \$74.25 million recovery), he recently settled claims against Barclays for \$14 million, or 20% of investors' damages, for statements made about its LIBOR practices.

Education

B.S., Yeshiva University, 1996; J.D., Benjamin N. Cardozo School of Law, 1999

Honors / Awards

Advisory Board Member of *Stafford's Securities Class Action Reporter*; Future Star, *Benchmark Litigation*, 2016-2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2019; Recommended Lawyer, *The Legal 500*, 2018; Rising Star, *Super Lawyers Magazine*, 2011-2013

Robert M. Rothman | Partner

Robert Rothman is a partner in Robbins Geller Rudman & Dowd LLP's Melville office and a member of the Firm's Management Committee. He has recovered well in excess of \$1 billion on behalf of victims of investment fraud, consumer fraud, and antitrust violations.

Recently, Rothman served as lead counsel in *In re Am. Realty Cap. Props., Inc. Litig.* where he obtained a \$1.025 billion cash recovery on behalf of investors. Rothman and the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and the Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages ever obtained in a major PSLRA case before trial and includes the largest personal contributions by individual defendants in history. Additionally, Rothman has recovered hundreds of millions of dollars for investors in cases against First Bancorp, Doral Financial, Popular, iStar, Autoliv, CVS Caremark, Fresh Pet, The Great Atlantic & Pacific Tea Company (A&P), NBTY, Spiegel, American Superconductor, Iconix Brand Group, Black Box, OSI Pharmaceuticals, Gravity, Caminus, Central European Distribution Corp., OneMain Holdings, The Children's Place, CNinsure, Covisint, FleetBoston Financial, Interstate Bakeries, Hibernia Foods, Jakks Pacific, Jarden, Portal Software, Ply Gem Holdings, Orion Energy, Tommy Hilfiger, TD Banknorth, Teletech, Unitek, Vicuron, Xerium, W Holding, and dozens of others.

Rothman also represents shareholders in connection with going-private transactions and tender offers. For example, in connection with a tender offer made by Citigroup, Rothman secured an increase of more than \$38 million over what was originally offered to shareholders. He also actively litigates consumer fraud cases, including a case alleging false advertising where the defendant agreed to a settlement valued in excess of \$67 million.

Education

B.A., State University of New York at Binghamton, 1990; J.D., Hofstra University School of Law, 1993

Honors / Awards

New York Trailblazer, *New York Law Journal*, 2020; Super Lawyer, *Super Lawyers Magazine*, 2011, 2013-2019; Dean's Academic Scholarship Award, Hofstra University School of Law; J.D., with Distinction, Hofstra University School of Law, 1993; Member, *Hofstra Law Review*, Hofstra University School of Law

Samuel H. Rudman | Partner

Sam Rudman is a founding member of the Firm, a member of the Firm's Executive and Management Committees, and manages the Firm's New York offices. His 26-year securities practice focuses on recognizing and investigating securities fraud, and initiating securities and shareholder class actions to vindicate shareholder rights and recover shareholder losses. A former attorney with the SEC, Rudman has recovered hundreds of millions of dollars for shareholders, including a \$200 million recovery in *Motorola*, a \$129 million recovery in *Doral Financial*, an \$85 million recovery in *Blackstone*, a \$74 million recovery in *First BanCorp*, a \$65 million recovery in *Forest Labs*, a \$50 million recovery in *TD Banknorth*, a \$48 million recovery in *CVS Caremark*, and a \$34.5 million recovery in *L-3 Communications Holdings*.

Education

B.A., Binghamton University, 1989; J.D., Brooklyn Law School, 1992

Honors / Awards

New York Trailblazer, *New York Law Journal*, 2020; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2020; Leading Lawyer in America, *Lawdragon*, 2016-2020; National Practice Area Star, *Benchmark Litigation*, 2019-2020; Local Litigation Star, *Benchmark Litigation*, 2013-2020; Recommended Lawyer, *The Legal 500*, 2018-2019; Leading Lawyer, *Chambers USA*, 2014-2019; Litigation Star, *Benchmark Litigation*, 2013, 2017-2019; Super Lawyer, *Super Lawyers Magazine*, 2007-2019; Dean's Merit Scholar, Brooklyn Law School; Moot Court Honor Society, Brooklyn Law School; Member, *Brooklyn Journal of International Law*, Brooklyn Law School

Joseph Russello | Partner

Joseph Russello is a partner in the Firm's Melville office. He principally prosecutes violations of the federal securities laws and breaches of fiduciary duty on behalf of individual and institutional investors. During his tenure at the Firm, Russello has achieved significant results in complex and challenging cases.

Currently, Russello is leading the Firm's efforts in litigating securities claims against several companies in the Commercial Division of the New York State Supreme Court, New York County, in the wake of the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver Cnty. Emps.' Ret. Fund*, _ U.S. _, 138 S. Ct. 1061 (2018), which confirmed that state courts have concurrent jurisdiction of claims under the Securities Act of 1933. He is also prosecuting federal securities fraud cases against Telefonaktiebolaget LM Ericsson (known as Ericsson) and former executives and directors of Allied Nevada Gold Corporation, the latter of which was the subject of a favorable decision from the Ninth Circuit Court of Appeals reversing dismissal and reinstating the claims in their entirety (*In re Allied Nev. Gold Corp. Sec. Litig.*, 743 F. App'x 887 (9th Cir. 2018) (summary order)).

Recently, Russello led the team responsible for recovering \$50 million in litigation against BHP Billiton, an Australian-based mining company accused of failing to disclose significant safety problems at the Fundão iron-ore dam, in Brazil. Together with Brazilian mining company Vale S.A., BHP owned Samarco Mineração S.A., which operated the mining complex at which the Fundão dam was located. On November 5, 2015, the dam collapsed and unleashed a torrent of mining waste, resulting in the death of 19 people, the destruction of the town of Bento Rodrigues, and the decimation of the surrounding environment. Even today, this event is regarded as the worst environmental disaster in Brazil's history. Russello and a team from Robbins Geller represented two institutional investors and an individual in defeating BHP's motion to dismiss (*In re BHP Billiton Ltd. Sec. Litig.*, 276 F. Supp. 3d 65 (S.D.N.Y. 2017)), and prosecuted and ultimately resolved the case on behalf of two sets of purchasers of American Depositary Shares (ADSs) trading on the New York Stock Exchange.

Education

B.A., Gettysburg College, 1998; J.D., Hofstra University School of Law, 2001

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2019; *Law360* Securities Editorial Advisory Board, 2017

Scott H. Saham | Partner

Scott Saham is a partner in the Firm's San Diego office, where his practice focuses on complex securities litigation. He is licensed to practice law in both California and Michigan. Most recently, Saham was a member of the litigation team that obtained a \$125 million settlement in *In re LendingClub Sec. Litig.*, a settlement that ranks among the top ten largest securities recoveries ever in the Northern District of California. He was also part of the litigation teams in *Schuh v. HCA Holdings, Inc.*, which resulted in a \$215 million recovery for shareholders, the largest securities class action recovery ever in Tennessee, and *Luna v. Marvell Tech. Grp., Ltd.*, which resulted in a \$72.5 million settlement that represents approximately 24% to 50% of the best estimate of classwide damages suffered by investors. He also served as lead counsel prosecuting the *Pharmacia* securities litigation in the District of New Jersey, which resulted in a \$164 million recovery. Additionally, Saham was lead counsel in the *In re Coca-Cola Sec. Litig.* in the Northern District of Georgia, which resulted in a \$137.5 million recovery after nearly eight years of litigation. He also obtained reversal from the California Court of Appeal of the trial court's initial dismissal of the landmark *Countrywide* mortgage-backed securities action. This decision is reported as *Luther v. Countrywide Fin. Corp.*, 195 Cal. App. 4th 789 (2011), and following this ruling that revived the action the case settled for \$500 million.

Education

B.A., University of Michigan, 1992; J.D., University of Michigan Law School, 1995

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020

Jessica T. Shinnfield | Partner

Jessica Shinnfield is a partner in the Firm's San Diego office. Currently, her practice focuses on initiating, investigating, and prosecuting securities fraud class actions. Shinnfield served as lead counsel in *In re Am. Realty Cap. Props., Inc. Litig.*, a case arising out of ARCP's manipulative accounting practices, and obtained a \$1.025 billion recovery. For five years, she and the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and the Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages of any major PSLRA case prior to trial and includes the largest personal contributions by individual defendants in history. Shinnfield also served as lead counsel in *Smilovits v. First Solar, Inc.*, and obtained a \$350 million settlement on the eve of trial. The settlement is fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.

Shinnfield was also a member of the litigation team prosecuting actions against investment banks and leading national credit rating agencies for their roles in structuring and rating structured investment vehicles backed by toxic assets in *Abu Dhabi Commercial Bank v. Morgan Stanley & Co. Incorporated* and *King County, Washington v. IKB Deutsche Industriebank AG*. These cases were among the first to successfully allege fraud against the rating agencies, whose ratings have traditionally been protected by the First Amendment. Shinnfield also litigated individual opt-out actions against AOL Time Warner – *Regents of the Univ. of Cal. v. Parsons* and *Ohio Pub. Emps. Ret. Sys. v. Parsons* (recovery more than \$600 million). Additionally, she litigated an action against Omnicare, in which she helped obtain a favorable ruling for plaintiffs from the United States Supreme Court. Shinnfield has also successfully appealed lower court decisions in the Second, Seventh, and Ninth Circuit Courts of Appeals.

Education

B.A., University of California at Santa Barbara, 2001; J.D., University of San Diego School of Law, 2004

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Litigator of the Week, *The American Lawyer*, 2020; Rising Star, *Super Lawyers Magazine*, 2015-2019; 40 & Under Hot List, *Benchmark Litigation*, 2018-2019; B.A., *Phi Beta Kappa*, University of California at Santa Barbara, 2001

Elizabeth A. Shonson | Partner

Elizabeth Shonson is a partner in the Firm's Boca Raton office. She concentrates her practice on representing investors in class actions brought pursuant to the federal securities laws. Shonson has litigated numerous securities fraud class actions nationwide, helping achieve significant recoveries for aggrieved investors. She was a member of the litigation teams responsible for recouping millions of dollars for defrauded investors, including: *In re Massey Energy Co. Sec. Litig.* (S.D. W.Va.) (\$265 million); *Nieman v. Duke Energy Corp.* (W.D.N.C.) (\$146.25 million recovery); *Eshe Fund v. Fifth Third Bancorp* (S.D. Ohio) (\$16 million); *City of St. Clair Shores Gen. Emps. Ret. Sys. v. Lender Processing Servs., Inc.* (M.D. Fla.) (\$14 million); and *In re Synovus Fin. Corp.* (N.D. Ga.) (\$11.75 million).

Education

B.A., Syracuse University, 2001; J.D., University of Florida Levin College of Law, 2005

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2016-2019; J.D., *Cum Laude*, University of Florida Levin College of Law, 2005; Editor-in-Chief, *Journal of Technology Law & Policy*; Phi Delta Phi; B.A., with Honors, *Summa Cum Laude*, Syracuse University, 2001; Phi Beta Kappa

Trig Smith | Partner

Trig Smith is a partner in the Firm's San Diego office where he focuses his practice on complex securities litigation. He has been involved in the prosecution of numerous securities class actions that have resulted in over a billion dollars in recoveries for investors. His cases have included: *In re Cardinal Health, Inc. Sec. Litig.* (\$600 million recovery); *Jones v. Pfizer Inc.* (\$400 million recovery); *Silverman v. Motorola, Inc.* (\$200 million recovery); and *City of Livonia Emps.' Ret. Sys. v. Wyeth* (\$67.5 million). Most recently, he was a member of the Firm's trial team in *Hsu v. Puma Biotechnology, Inc.*, a securities fraud class action that resulted in a verdict in favor of investors after a two-week jury trial.

Education

B.S., University of Colorado, Denver, 1995; M.S., University of Colorado, Denver, 1997; J.D., Brooklyn Law School, 2000

Honors / Awards

Member, *Brooklyn Journal of International Law*, Brooklyn Law School; CALI Excellence Award in Legal Writing, Brooklyn Law School

Mark Solomon | Partner

Mark Solomon is a founding partner in the Firm's San Diego office and leads its international litigation practice. Over the last 27 years, he has regularly represented United States- and United Kingdom-based pension funds and asset managers in class and non-class securities litigation in federal and state courts throughout the United States. He has been admitted to the Bars of England and Wales (Barrister), Ohio, and California, but now practices exclusively in California, as well as in various United States federal district and appellate courts.

Solomon has spearheaded the prosecution of many significant securities fraud cases. He has obtained multi-hundred million dollar recoveries for plaintiffs in pre-trial settlements and significant corporate governance reforms designed to limit recidivism and promote appropriate standards. He litigated, through the rare event of trial, the securities class action against Helionetics Inc. and its executives, where he won a \$15.4 million federal jury verdict. Prior to the most recent financial crisis, he was instrumental in obtaining some of the first mega-recoveries in the field in California and Texas, serving as co-lead counsel in *In re Informix Corp. Sec. Litig.* (N.D. Cal.) and recovering \$131 million for Informix investors; and serving as co-lead counsel in *Schwartz v. TXU Corp.* (N.D. Tex.), where he helped obtain a recovery of over \$149 million for a class of purchasers of TXU securities. Solomon is currently counsel to a number of pension funds serving as lead plaintiffs in cases throughout the United States. For instance, Solomon represented the Norfolk County Council, as Administering Authority of the Norfolk Pension Fund, in *Hsu v. Puma Biotechnology, Inc.* where, after three weeks of trial, the Fund obtained a jury verdict in favor of the class against the company and its CEO. He also represented the British Coal Staff Superannuation Scheme and the Mineworkers' Pension Scheme in *Smilovits v. First Solar, Inc.* in which the class recently recovered \$350 million on the eve of trial. The settlement is fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.

Education

B.A., Trinity College, Cambridge University, England, 1985; L.L.M., Harvard Law School, 1986; Inns of Court School of Law, Degree of Utter Barrister, England, 1987

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2017-2018; Recommended Lawyer, *The Legal 500*, 2016-2017; Lizette Bentwich Law Prize, Trinity College, 1983 and 1984; Hollond Travelling Studentship, 1985; Harvard Law School Fellowship, 1985-1986; Member and Hardwicke Scholar of the Honourable Society of Lincoln's Inn

Jeffrey J. Stein | Partner

Jeffrey Stein is a partner in the Firm's San Diego office, where he practices securities fraud litigation and other complex matters. He was a member of the litigation team that secured a historic recovery on behalf of Trump University students in two class actions against President Donald J. Trump. The settlement provides \$25 million to approximately 7,000 consumers. This result means individual class members are eligible for upwards of \$35,000 in restitution. Stein represented the class on a *pro bono* basis.

Before joining the Firm, Stein focused on civil rights litigation, with special emphasis on the First, Fourth, and Eighth Amendments. In this capacity, he helped his clients secure successful outcomes before the United States Supreme Court and the Ninth Circuit Court of Appeals.

Education

B.S., University of Washington, 2005; J.D., University of San Diego School of Law, 2009

Christopher D. Stewart | Partner

Christopher Stewart is a partner in the Firm's San Diego office. His practice focuses on complex securities and shareholder derivative litigation. Stewart served as lead counsel in *In re Am. Realty Cap. Props., Inc. Litig.*, a case arising out of ARCP's manipulative accounting practices, and obtained a \$1.025 billion recovery. For five years, he and the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and the Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages of any major PSLRA case prior to trial and includes the largest personal contributions by individual defendants in history. Most recently, Stewart served as lead counsel in *Smilovits v. First Solar, Inc.*, and obtained a \$350 million settlement on the eve of trial. The settlement is fifth-largest PSLRA settlement ever recovered in the Ninth Circuit.

He was also part of the litigation team that obtained a \$67 million settlement in *City of Westland Police & Fire Ret. Sys. v. Stumpf*, a shareholder derivative action alleging that Wells Fargo participated in the mass-processing of home foreclosure documents by engaging in widespread robo-signing.

Education

B.S., Santa Clara University, 2004; M.B.A., University of San Diego School of Business Administration, 2009; J.D., University of San Diego School of Law, 2009

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2015-2020; J.D., *Magna Cum Laude*, Order of the Coif, University of San Diego School of Law, 2009; Member, *San Diego Law Review*

Douglas Wilens | Partner

Douglas Wilens is a partner in the Firm's Boca Raton office. Wilens is a member of the Firm's Appellate Practice Group, participating in numerous appeals in federal and state courts across the country. Most notably, Wilens handled successful and precedent-setting appeals in *Ind. Pub. Ret. Sys. v. SAIC, Inc.*, 818 F.3d 85 (2d Cir. 2016) (addressing duty to disclose under SEC Regulation Item 303 in §10(b) case), *Mass. Ret. Sys. v. CVS Caremark Corp.*, 716 F.3d 229 (1st Cir. 2013) (addressing pleading of loss causation in §10(b) case), and *Lormand v. US Unwired, Inc.*, 565 F.3d 228 (5th Cir. 2009) (addressing pleading of falsity, scienter, and loss causation in §10(b) case).

Before joining the Firm, Wilens was an associate at a nationally recognized firm, where he litigated complex actions on behalf of numerous professional sports leagues, including the National Basketball Association, the National Hockey League, and Major League Soccer. He has also served as an adjunct professor at Florida Atlantic University and Nova Southeastern University, where he taught undergraduate and graduate-level business law classes.

Education

B.S., University of Florida, 1992; J.D., University of Florida College of Law, 1995

Honors / Awards

Book Award for Legal Drafting, University of Florida College of Law; J.D., with Honors, University of Florida College of Law, 1995

Shawn A. Williams | Partner

Shawn Williams is the managing partner of Robbins Geller Rudman & Dowd LLP's San Francisco office and a member of the Firm's Management Committee. His practice focuses on securities class actions. Williams has served as lead counsel in securities class actions that have yielded hundreds of millions of dollars, including in: *Chicago Laborers Pension Fund v. Alibaba Grp. Holding Ltd.* (\$75 million recovery); *In re Krispy Kreme Doughnuts, Inc. Sec. Litig.* (\$75 million recovery); *In re Medtronic, Inc. Sec. Litig.* (\$43 million recovery); *In re Cadence Design Sys., Inc. Sec. Litig.* (\$38 million recovery); and *City of Sterling Heights Gen. Emps'. Ret. Sys. v. Prudential Fin., Inc.* (\$33 million recovery).

Williams is a member of the Firm's Shareholder Derivative Practice Group which has secured tens of millions of dollars in cash recoveries and comprehensive corporate governance reforms in a number of high-profile cases including: *In re McAfee, Inc. Derivative Litig.*; *In re Marvell Tech. Grp. Ltd. Derivative Litig.*; *In re KLA-Tencor Corp. S'holder Derivative Litig.*; and *The Home Depot, Inc. Derivative Litig.* More recently, in a shareholder derivative action, *City of Westland Police and Fire Ret. Sys. v. Stumpf (Wells Fargo & Co.)*, Williams and a team of Robbins Geller attorneys secured significant governance reforms and corporate initiatives, including \$36.5 million in funding for homeownership down-payment assistance in communities affected by the financial crisis and high foreclosure rates.

Before joining the Firm, Williams served for 5 years as an Assistant District Attorney in the Manhattan District Attorney's Office, where he tried over 20 cases to New York City juries and led white-collar fraud grand jury investigations.

Education

B.A., The State of University of New York at Albany, 1991; J.D., University of Illinois, 1995

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2014-2017, 2020; Board Member, Leading Lawyer in America, *Lawdragon*, 2018-2020; Top 100 Lawyer, *Daily Journal*, 2019; California Trailblazer, *The Recorder*, 2019; Titan of the Plaintiffs Bar, *Law360*, 2019; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2019; California Bar Foundation, 2012-2014

David T. Wissbroecker | Partner

David Wissbroecker is a partner in the Firm's San Diego and Chicago offices. He focuses his practice on securities class action litigation in the context of mergers and acquisitions, representing both individual shareholders and institutional investors. As part of the litigation team at Robbins Geller, Wissbroecker has helped secure monetary recoveries for shareholders that collectively exceed \$1 billion. Wissbroecker has litigated numerous high-profile cases in Delaware and other jurisdictions, including shareholder class actions challenging the acquisitions of Dole, Kinder Morgan, Del Monte Foods, Affiliated Computer Services, Intermix, and Rural Metro. His practice has recently expanded to include numerous proxy fraud cases in federal court, along with shareholder document demand litigation in Delaware. Before joining the Firm, Wissbroecker served as a staff attorney for the United States Court of Appeals for the Seventh Circuit, and then as a law clerk for the Honorable John L. Coffey, Circuit Judge for the Seventh Circuit.

Education

B.A., Arizona State University, 1998; J.D., University of Illinois College of Law, 2003

Honors / Awards

Leading Plaintiff Financial Lawyer, *Lawdragon*, 2020; Recommended Lawyer, *The Legal 500*, 2019; Rising Star, *Super Lawyers Magazine*, 2015; J.D., *Magna Cum Laude*, University of Illinois College of Law, 2003; B.A., *Cum Laude*, Arizona State University, 1998

Christopher M. Wood | Partner

Christopher Wood is the partner in charge of Robbins Geller Rudman & Dowd LLP's Nashville office, where his practice focuses on complex securities litigation. He has been a member of the litigation teams responsible for recovering hundreds of millions of dollars for investors, including: *In re Massey Energy Co. Sec. Litig.* (\$265 million recovery); *In re VeriFone Holdings, Inc. Sec. Litig.* (\$95 million recovery); *Garden City Emps.' Ret. Sys. v. Psychiatric Solutions, Inc.* (\$65 million recovery); *In re Micron Tech., Inc. Sec. Litig.* (\$42 million recovery); and *Winslow v. BancorpSouth, Inc.* (\$29.5 million recovery).

Wood has provided pro bono legal services through the San Francisco Bar Association's Volunteer Legal Services Program, the Ninth Circuit's Pro Bono Program, Volunteer Lawyers & Professionals for the Arts, and Tennessee Justice for Our Neighbors.

Education

B.A., Vanderbilt University, 2003; J.D., University of San Francisco School of Law, 2006

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2011-2013, 2015-2019

Debra J. Wyman | Partner

Debra Wyman is a partner in the Firm's San Diego office. She specializes in securities litigation and has litigated numerous cases against public companies in state and federal courts that have resulted in over \$1 billion in securities fraud recoveries.

Wyman served as lead counsel in *In re Am. Realty Cap. Props., Inc. Litig.*, a case arising out of ARCP's manipulative accounting practices, and obtained a \$1.025 billion recovery. For five years, she and the litigation team prosecuted nine different claims for violations of the Securities Exchange Act of 1934 and the Securities Act of 1933, involving seven different stock or debt offerings and two mergers. The recovery represents the highest percentage of damages of any major PSLRA case prior to trial and includes the largest personal contributions by individual defendants in history.

Wyman was a member of the trial team in *Schuh v. HCA Holdings, Inc.*, which resulted in a \$215 million recovery for shareholders, the largest securities class action recovery ever in Tennessee. The recovery achieved represents more than 30% of the aggregate classwide damages, far exceeding the typical recovery in a securities class action. Wyman prosecuted the complex securities and accounting fraud case *In re HealthSouth Corp. Sec. Litig.*, one of the largest and longest-running corporate frauds in history, in which \$671 million was recovered for defrauded HealthSouth investors. She was also part of the trial team that litigated *In re AT&T Corp. Sec. Litig.*, which was tried in the United States District Court, District of New Jersey, and settled after only two weeks of trial for \$100 million. Wyman was also part of the litigation team that secured a \$64 million recovery for Dana Corp. shareholders in *Plumbers & Pipefitters National Pension Fund v. Burns*, in which the Firm's Appellate Practice Group successfully appealed to the Sixth Circuit Court of Appeals twice, reversing the district court's dismissal of the action.

Education

B.A., University of California Irvine, 1990; J.D., University of San Diego School of Law, 1997

Honors / Awards

MVP, *Law360*, 2020; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Leading Lawyer in America, *Lawdragon*, 2020; Litigator of the Week, *The American Lawyer*, 2020; Top Women Lawyer, *Daily Journal*, 2017; Litigator of the Year, *Our City San Diego*, 2017; Super Lawyer, *Super Lawyers Magazine*, 2016-2017

Laura M. Andracchio | Of Counsel

Laura Andracchio is Of Counsel in the Firm's San Diego office. Having first joined the Firm in 1997, she was a Robbins Geller partner for ten years before her role as Of Counsel. As a partner with the Firm, Andracchio led dozens of securities fraud cases against public companies throughout the country, recovering hundreds of millions of dollars for injured investors. Her current focus remains securities fraud litigation under the federal securities laws.

Most recently, Andracchio was a member of the litigation team in *In re Am. Realty Cap. Props. Sec. Litig.* (S.D.N.Y.), in which a \$1.025 billion recovery for ARCP investors was approved in January 2020. She was also on the litigation team for *City of Pontiac Gen. Emps.' Ret. Sys. v. Walmart Stores, Inc.* (W.D. Ark.), in which a \$160 million recovery for Walmart investors was approved in 2019. She also assisted in litigating a case brought against J.P. Morgan Chase & Co., *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.* (S.D.N.Y.), on behalf of investors in residential mortgage-backed securities, which resulted in a recovery of \$388 million in 2017.

Andracchio was also a lead member of the trial team in *In re AT&T Corp. Sec. Litig.*, recovering \$100 million for the class after two weeks of trial in district court in New Jersey. Before trial, she managed and litigated the case, which was pending for four years. She also led the trial team in *Brody v. Hellman*, a case against Qwest and former directors of U.S. West seeking an unpaid dividend, recovering \$50 million for the class, which was largely comprised of U.S. West retirees. Other cases Andracchio has litigated include: *City of Hialeah Emps.' Ret. Sys. v. Toll Brothers, Inc.*; *Ross v. Abercrombie & Fitch Co.*; *In re GMH Cmty. Tr. Sec. Litig.*; *In re Vicuron Pharms., Inc. Sec. Litig.*; and *In re Navarre Corp. Sec. Litig.*

Education

B.A., Bucknell University, 1986; J.D., Duquesne University School of Law, 1989

Honors / Awards

Order of the Barristers, J.D., with honors, Duquesne University School of Law, 1989

Randi D. Bandman | Of Counsel

Randi Bandman is Of Counsel in the Firm's Boca Raton office. Throughout her career, she has represented and advised hundreds of clients, including pension funds, managers, banks, and hedge funds, such as the Directors Guild of America, Screen Actors Guild, Writers Guild of America, and Teamster funds. Bandman's cases have yielded billions of dollars of recoveries. Notable cases include the AOL Time Warner, Inc. merger (\$629 million), *In re Enron Corp. Sec. Litig.* (\$7.2 billion), Private Equity litigation (*Dahl v. Bain Cap. Partners, LLC*) (\$590.5 million), and *In re WorldCom Sec. Litig.* (\$657 million).

Bandman is currently representing plaintiffs in the Foreign Exchange Litigation pending in the Southern District of New York which alleges collusive conduct by the world's largest banks to fix prices in the \$5.3 trillion a day foreign exchange market and in which billions of dollars have been recovered to date for injured plaintiffs. Bandman is part of the Robbins Geller Co-Lead Counsel team representing the class in the "High Frequency Trading" case, which accuses stock exchanges of giving unfair advantages to high-speed traders versus all other investors, resulting in billions of dollars being diverted. Bandman is also currently a member of the trial team in *In re Facebook Biometric Info. Priv. Litig.*, concerning Facebook's alleged privacy violations through its collection of user's biometric identifiers without informed consent. Bandman was instrumental in the landmark state settlement with the tobacco companies for \$12.5 billion. Bandman also led an investigation with congressional representatives on behalf of artists into allegations of "pay for play" tactics, represented Emmy winning writers with respect to their claims involving a long-running television series, represented a Hall of Fame sports figure, and negotiated agreements in connection with a major motion picture. Recently, Bandman was chosen to serve on the Law Firm Advisory Board of the Association of Media & Entertainment Counsel, an organization made up of thousands of attorneys from studios, networks, guilds, talent agencies, and top media companies, dealing with protecting content distributed through a variety of formats worldwide.

Education

B.A., University of California, Los Angeles; J.D., University of Southern California

Lea Malani Bays | Of Counsel

Lea Malani Bays is Of Counsel in the Firm's San Diego office. She focuses on e-discovery issues, from preservation through production, and provides counsel to the Firm's multi-disciplinary e-discovery team consisting of attorneys, forensic analysts, and database professionals. Through her role as counsel to the e-discovery team, Bays is very familiar with the various stages of e-discovery, including identification of relevant electronically stored information, data culling, predictive coding protocols, privilege, and responsiveness reviews, as well as having experience in post-production discovery through trial preparation. Through speaking at various events, she is also a leader in shaping the broader dialogue on e-discovery issues.

Bays was recently part of the litigation team that earned the approval of a \$131 million settlement in favor of plaintiffs in *Bennett v. Sprint Nextel Corp.* The settlement, which resolved claims arising from Sprint Corporation's ill-fated merger with Nextel Communications in 2005, represents a significant recovery for the plaintiff class, achieved after five years of tireless effort by the Firm. Prior to joining Robbins Geller, Bays was a Litigation Associate at Kaye Scholer LLP's New York office. She has experience in a wide range of litigation, including complex securities litigation, commercial contract disputes, business torts, antitrust, civil fraud, and trust and estate litigation.

Education

B.A., University of California, Santa Cruz, 1997; J.D., New York Law School, 2007

Honors / Awards

Leading Lawyer, *Chambers USA*, 2019; J.D., *Magna Cum Laude*, New York Law School, 2007; Executive Editor, *New York Law School Law Review*; Legal Aid Society's Pro Bono Publico Award; NYSBA Empire State Counsel; Professor Stephen J. Ellmann Clinical Legal Education Prize; John Marshall Harlan Scholars Program, Justice Action Center

Mary K. Blasy | Of Counsel

Mary Blasy is Of Counsel to the Firm and is based in the Firm's Melville and Washington, D.C. offices. Her practice focuses on the investigation, commencement, and prosecution of securities fraud class actions and shareholder derivative suits. Blasy has recovered hundreds of millions of dollars for investors in securities fraud class actions against Reliance Acceptance Corp. (\$66 million); Sprint Corp. (\$50 million); Titan Corporation (\$15+ million); Martha Stewart Omni-Media, Inc. (\$30 million); and Coca-Cola Co. (\$137.5 million). Blasy has also been responsible for prosecuting numerous complex shareholder derivative actions against corporate malefactors to address violations of the nation's securities, environmental, and labor laws, obtaining corporate governance enhancements valued by the market in the billions of dollars.

In 2014, the Presiding Justice of the Appellate Division of the Second Department of the Supreme Court of the State of New York appointed Blasy to serve as a member of the Independent Judicial Election Qualification Commission, which until December 2018 reviewed the qualifications of candidates seeking public election to New York State Supreme Courts in the 10th Judicial District. She also served on the *Law360* Securities Editorial Advisory Board from 2015 to 2016.

Education

B.A., California State University, Sacramento, 1996; J.D., UCLA School of Law, 2000

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2016-2019; *Law360* Securities Editorial Advisory Board, 2015-2016; Member, Independent Judicial Election Qualification Commission, 2014-2018

William K. Cavanagh, Jr. | Of Counsel

Bill Cavanagh is Of Counsel in the Firm's Washington, D.C. office. Cavanagh concentrates his practice in employee benefits law and works with the Firm's Institutional Outreach Team. Prior to joining Robbins Geller, Cavanagh was employed by Ullico for the past nine years, most recently as President of Ullico Casualty Group. The Ullico Casualty Group is the leading provider of fiduciary liability insurance for trustees in both the private as well as the public sector. Prior to that he was President of the Ullico Investment Company.

Preceding Cavanagh's time at Ullico, he was a partner at the labor and employee benefits firm Cavanagh and O'Hara in Springfield, Illinois for 28 years. In that capacity, Cavanagh represented public pension funds, jointly trustee Taft-Hartley, health, welfare, pension, and joint apprenticeship funds advising on fiduciary and compliance issues both at the Board level as well as in administrative hearings, federal district courts, and the United States Courts of Appeals. During the course of his practice, Cavanagh had extensive trial experience in state and the relevant federal district courts. Additionally, Cavanagh served as co-counsel on a number of cases representing trustees seeking to recover plan assets lost as a result of fraud in the marketplace.

Education

B.A., Georgetown University, 1974; J.D., John Marshall Law School, 1978

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell

Christopher Collins | Of Counsel

Christopher Collins is Of Counsel in the Firm's San Diego office and his practice focuses on antitrust and consumer protection. Collins served as co-lead counsel in *Wholesale Elec. Antitrust Cases I & II*, charging an antitrust conspiracy by wholesale electricity suppliers and traders of electricity in California's newly deregulated wholesale electricity market wherein plaintiffs secured a global settlement for California consumers, businesses, and local governments valued at more than \$1.1 billion. He was also involved in California's tobacco litigation, which resulted in the \$25.5 billion recovery for California and its local entities. Collins is currently counsel on the California Energy Manipulation antitrust litigation, the Memberworks upsell litigation, as well as a number of consumer actions alleging false and misleading advertising and unfair business practices against major corporations. He formerly served as a Deputy District Attorney for Imperial County where he was in charge of the Domestic Violence Unit.

Education

B.A., Sonoma State University, 1988; J.D., Thomas Jefferson School of Law, 1995

Patrick J. Coughlin | Of Counsel

Patrick Coughlin is Of Counsel to the Firm and is based in the San Diego office. He has been lead counsel for several major securities matters, including one of the earliest and largest class action securities cases to go to trial, *In re Apple Computer Sec. Litig.*, No. C-84-20148 (N.D. Cal.). Most recently, Coughlin was a member of the Firm's trial team in *Hsu v. Puma Biotechnology, Inc.*, No. SACV15-0865 (C.D. Cal.), a securities fraud class action that resulted in a verdict in favor of investors after a two-week jury trial. Coughlin currently serves as co-lead counsel in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, in which a settlement of \$5.5 billion was approved in the Eastern District of New York. This case was brought on behalf of millions of U.S. merchants against Visa and MasterCard and various card-issuing banks, challenging the way these companies set and collect tens of billions of dollars annually in merchant fees. The settlement is believed to be the largest antitrust class action settlement of all time.

Coughlin was one of the lead attorneys who secured a historic \$25 million recovery on behalf of approximately 7,000 Trump University students in two class actions against President Donald J. Trump, which means individual class members are eligible for upwards of \$35,000 in restitution. He represented the class on a *pro bono* basis. Additional prominent securities class actions prosecuted by Coughlin include: the *Enron* litigation, in which \$7.2 billion was recovered; the *Qwest* litigation, in which a \$445 million recovery was obtained; and the *HealthSouth* litigation, in which a \$671 million recovery was obtained.

Education

B.S., Santa Clara University, 1977; J.D., Golden Gate University, 1983

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Best Lawyer in America, *Best Lawyers®*, 2006-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2004-2020; Hall of Fame, *Lawdragon*, 2020; Southern California Best Lawyer, *Best Lawyers®*, 2012-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Plaintiffs' Lawyer Trailblazer, *The National Law Journal*, 2019; Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2018; Senior Statesman, *Chambers USA*, 2014-2018; Antitrust Trailblazer, *The National Law Journal*, 2015; Top 100 Lawyers, *Daily Journal*, 2008; Leading Lawyer in America, *Lawdragon*, 2006, 2008-2009

Desiree Cummings | Of Counsel

Desiree Cummings is Of Counsel in the Firm's Manhattan office. Desiree focuses her practice on complex securities litigation.

Before joining Robbins Geller, Desiree spent several years prosecuting securities fraud as an Assistant Attorney General with the New York State Office of the Attorney General's Investor Protection Bureau. As an Assistant Attorney General, Desiree was instrumental in the office's investigation and prosecution of J.P. Morgan and Goldman Sachs in connection with the marketing, sale and issuance of residential mortgage-backed securities, resulting in recoveries worth over \$1.6 billion for the State of New York. Desiree began her career as a litigator at Paul, Weiss, Rifkind, Wharton & Garrison LLP where she spent several years representing major financial institutions, a pharmaceutical manufacturer, and public and private companies in connection with commercial litigations and regulatory investigations.

Education

B.A., Binghamton University, 2001, *cum laude*; J.D., University of Michigan Law School, 2004

Vicki Multer Diamond | Of Counsel

Vicki Multer Diamond is Of Counsel to the Firm and is based in the Firm's Melville office. She has over 25 years of experience as an investigator and attorney. Her practice at the Firm focuses on the initiation, investigation, and prosecution of securities fraud class actions. Diamond played a significant role in the factual investigations and successful oppositions to the defendants' motions to dismiss in a number of cases, including *Tableau*, *One Main*, *Valeant*, and *Orbital ATK*.

Diamond has served as an investigative consultant to several prominent law firms, corporations, and investment firms. Before joining the Firm, she was an Assistant District Attorney in Brooklyn, New York, where she served as a senior Trial Attorney in the Felony Trial Bureau, and was special counsel to the Special Commissioner of Investigations for the New York City schools, where she investigated and prosecuted crime and corruption within the New York City school system.

Education

B.A., State University of New York at Binghamton, 1990; J.D., Hofstra University School of Law, 1993

Honors / Awards

Member, *Hofstra Property Law Journal*, Hofstra University School of Law

Michael J. Dowd | Of Counsel

Mike Dowd was a founding partner of the Firm. He has practiced in the area of securities litigation for 20 years, prosecuting dozens of complex securities cases and obtaining significant recoveries for investors in cases such as *UnitedHealth* (\$925 million), *WorldCom* (\$657 million), *AOL Time Warner* (\$629 million), *Qwest* (\$445 million), and *Pfizer* (\$400 million).

Dowd served as lead trial counsel in *Jaffe v. Household International* in the Northern District of Illinois, a securities class action that obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. Dowd also served as the lead trial lawyer in *In re AT&T Corp. Sec. Litig.*, which was tried in the District of New Jersey and settled after only two weeks of trial for \$100 million. Dowd served as an Assistant United States Attorney in the Southern District of California from 1987-1991, and again from 1994-1998, where he handled dozens of jury trials and was awarded the Director's Award for Superior Performance.

Education

B.A., Fordham University, 1981; J.D., University of Michigan School of Law, 1984

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Director's Award for Superior Performance, United States Attorney's Office; Best Lawyer in America, *Best Lawyers*®, 2015-2021; Leading Plaintiff Financial Lawyer, *Lawdragon*, 2019-2020; Super Lawyer, *Super Lawyers Magazine*, 2010-2020; Lawyer of the Year, *Best Lawyers*®, 2020; Southern California Best Lawyer, *Best Lawyers*®, 2015-2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Recommended Lawyer, *The Legal 500*, 2016-2019; Hall of Fame, *Lawdragon*, 2018; Litigator of the Year, *Our City San Diego*, 2017; Leading Lawyer in America, *Lawdragon*, 2014-2016; Litigator of the Week, *The American Lawyer*, 2015; Litigation Star, *Benchmark Litigation* 2013; Directorship 100, NACD Directorship, 2012; Attorney of the Year, *California Lawyer*, 2010; Top 100 Lawyers, *Daily Journal*, 2009; B.A., *Magna Cum Laude*, Fordham University, 1981

John K. Grant | Of Counsel

John Grant is Of Counsel in the Firm's San Francisco office where he devotes his practice to representing investors in securities fraud class actions. Grant has been lead or co-lead counsel in numerous securities actions and recovered tens of millions of dollars for shareholders. His cases include: *In re Micron Tech, Inc. Sec. Litig.* (\$42 million recovery); *Perera v. Chiron Corp.* (\$40 million recovery); *King v. CBT Grp., PLC* (\$32 million recovery); and *In re Exodus Commc'ns, Inc. Sec. Litig.* (\$5 million recovery).

Education

B.A., Brigham Young University, 1988; J.D., University of Texas at Austin, 1990

Mitchell D. Gravo | Of Counsel

Mitchell Gravo is Of Counsel to the Firm and is a member of the Firm's institutional investor client services group. With more than 30 years of experience as a practicing attorney, he serves as liaison to the Firm's institutional investor clients throughout the United States and Canada, advising them on securities litigation matters.

Gravo's clients include Anchorage Economic Development Corporation, Anchorage Convention and Visitors Bureau, UST Public Affairs, Inc., International Brotherhood of Electrical Workers, Alaska Seafood International, Distilled Spirits Council of America, RIM Architects, Anchorage Police Department Employees Association, Fred Meyer, and the Automobile Manufacturer's Association. Prior to joining the Firm, he served as an intern with the Municipality of Anchorage, and then served as a law clerk to Superior Court Judge J. Justin Ripley.

Education

B.A., Ohio State University; J.D., University of San Diego School of Law

Dennis J. Herman | Of Counsel

Dennis Herman is Of Counsel in the Firm's San Francisco office where he focuses his practice on securities class actions. He has led or been significantly involved in the prosecution of numerous securities fraud claims that have resulted in substantial recoveries for investors, including settled actions against Massey Energy (\$265 million), Coca-Cola (\$137 million), VeriSign (\$78 million), Psychiatric Solutions, Inc. (\$65 million), St. Jude Medical, Inc. (\$50 million), NorthWestern (\$40 million), BancorpSouth (\$29.5 million), America Service Group (\$15 million), Specialty Laboratories (\$12 million), Stellant (\$12 million), and Threshold Pharmaceuticals (\$10 million).

Education

B.S., Syracuse University, 1982; J.D., Stanford Law School, 1992

Honors / Awards

Best Lawyer in America, *Best Lawyers*®, 2018-2021; Northern California Best Lawyer, *Best Lawyers*®, 2018-2020; Super Lawyer, *Super Lawyers Magazine*, 2017-2018; Order of the Coif, Stanford Law School; Urban A. Sontheimer Award (graduating second in his class), Stanford Law School; Award-winning Investigative Newspaper Reporter and Editor in California and Connecticut

Helen J. Hodges | Of Counsel

Helen Hodges is Of Counsel in the Firm's San Diego office. She specializes in securities fraud litigation. Hodges has been involved in numerous securities class actions, including: *Dynegy*, which was settled for \$474 million; *Thurber v. Mattel*, which was settled for \$122 million; *Nat'l Health Labs*, which was settled for \$64 million; and *Knapp v. Gomez*, Civ. No. 87-0067-H(M) (S.D. Cal.), in which a plaintiffs' verdict was returned in a Rule 10b-5 class action. Additionally, beginning in 2001, Hodges focused on the prosecution of *Enron*, where a record \$7.2 billion recovery was obtained for investors.

Education

B.S., Oklahoma State University, 1979; J.D., University of Oklahoma, 1983

Honors / Awards

Rated AV by Martindale-Hubbell; Philanthropist of the Year, Women for OSU at Oklahoma State University, 2020; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2019; Super Lawyer, *Super Lawyers Magazine*, 2007; Oklahoma State University Foundation Board of Trustees, 2013

David J. Hoffa | Of Counsel

David Hoffa is Of Counsel in the Firm's Washington D.C. office. He has served as a liaison to over 110 institutional investors in portfolio monitoring, securities litigation, and claims filing matters. His practice focuses on providing a variety of legal and consulting services to U.S. state and municipal employee retirement systems and single and multi-employer U.S. Taft-Hartley benefit funds. In addition to serving as a leader on the Firm's Israel Institutional Investor Outreach Team, Hoffa also serves as a member of the Firm's lead plaintiff advisory team, and advises public and multi-employer pension funds around the country on issues related to fiduciary responsibility, legislative and regulatory updates, and "best practices" in the corporate governance of publicly traded companies.

Early in his legal career, Hoffa worked for a law firm based in Birmingham, Michigan, where he appeared regularly in Michigan state court in litigation pertaining to business, construction, and employment related matters. Hoffa has also appeared before the Michigan Court of Appeals on several occasions.

Education

B.A., Michigan State University, 1993; J.D., Michigan State University College of Law, 2000

Andrew W. Hutton | Of Counsel

Drew Hutton is Of Counsel in the Firm's San Diego and New York offices, responsible for simplifying cases of complex financial fraud. Hutton has prosecuted a variety of securities actions, achieving high-profile recoveries and results. Representative cases against corporations and their auditors include *In re AOL Time Warner Sec. Litig.* (\$2.5 billion) and *In re Williams Cos. Sec. Litig.* (\$311 million). Representative cases against corporations and their executives include *In re Broadcom Sec. Litig.* (\$150 million) and *In re Clarent Corp. Sec. Litig.* (class plaintiff's 10b-5 jury verdict against former CEO). Hutton is also active in shareholder derivative litigation, achieving monetary recoveries and governance changes, including *In re Affiliated Computer Servs. Derivative Litig.* (\$30 million), *In re KB Home S'holder Derivative Litig.* (\$30 million), and *In re KeyCorp Derivative Litig.* (modified CEO stock options and governance). Hutton has also litigated securities cases in bankruptcy court (*In re WorldCom, Inc.* – \$15 million for individual claimant) and a complex options case before FINRA (eight-figure settlement for individual investor). Hutton is also experienced in complex, multi-district consumer litigation. Representative nationwide insurance cases include *In re Prudential Sales Pracs. Litig.* (\$4 billion), *In re Metro. Life Ins. Co. Sales Pracs. Litig.* (\$2 billion), and *In re Conseco Life Ins. Co. Cost of Ins. Litig.* (\$200 million). Representative nationwide consumer lending cases include a \$30 million class settlement of Truth-in-Lending claims against American Express and a \$24 million class settlement of RICO and RESPA claims against Community Bank of Northern Virginia (now PNC Bank).

Hutton is the founder of Hutton Law Group, a plaintiffs' litigation practice currently representing retirees, individual investors, and businesses, and is also the founder of Hutton Investigative Accounting, a financial forensics and investigation firm. Before founding Hutton Law and joining Robbins Geller, Hutton was a public company accountant, Certified Public Accountant, and broker of stocks, options, and insurance products. Hutton has also served as an expert litigation consultant in both financial and corporate governance capacities. Hutton is often responsible for working with experts retained by the Firm in litigation and has conducted dozens of depositions of financial professionals, including audit partners, CFOs, directors, bankers, actuaries, and opposing experts.

Education

B.A., University of California, Santa Barbara, 1983; J.D., Loyola Law School, 1994

Frank J. Janecek, Jr. | Of Counsel

Frank Janecek is Of Counsel in the Firm's San Diego office and practices in the areas of consumer/antitrust, Proposition 65, taxpayer, and tobacco litigation. He served as co-lead counsel, as well as court-appointed liaison counsel, in *Wholesale Elec. Antitrust Cases I & II*, charging an antitrust conspiracy by wholesale electricity suppliers and traders of electricity in California's newly deregulated wholesale electricity market. In conjunction with the Governor of the State of California, the California State Attorney General, the California Public Utilities Commission, the California Electricity Oversight Board, a number of other state and local governmental entities and agencies, and California's large, investor-owned electric utilities, plaintiffs secured a global settlement for California consumers, businesses, and local governments valued at more than \$1.1 billion. Janecek also chaired several of the litigation committees in California's tobacco litigation, which resulted in the \$25.5 billion recovery for California and its local entities, and also handled a constitutional challenge to the State of California's Smog Impact Fee in *Ramos v. Dep't of Motor Vehicles*, which resulted in more than a million California residents receiving full refunds and interest, totaling \$665 million.

Education

B.S., University of California, Davis, 1987; J.D., Loyola Law School, 1991

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2013-2018

Nancy M. Juda | Of Counsel

Nancy Juda is Of Counsel to the Firm and is based in the Firm's Washington, D.C. office. Her practice focuses on advising Taft-Hartley pension and welfare funds on issues related to corporate fraud in the United States securities markets. Juda's experience as an ERISA attorney provides her with unique insight into the challenges faced by pension fund trustees as they endeavor to protect and preserve their funds' assets.

Prior to joining Robbins Geller, Juda was employed by the United Mine Workers of America Health & Retirement Funds, where she began her practice in the area of employee benefits law. She was also associated with a union-side labor law firm in Washington, D.C., where she represented the trustees of Taft-Hartley pension and welfare funds on qualification, compliance, fiduciary, and transactional issues under ERISA and the Internal Revenue Code.

Using her extensive experience representing employee benefit funds, Juda advises trustees regarding their options for seeking redress for losses due to securities fraud. She currently advises trustees of funds providing benefits for members of unions affiliated with North America's Building Trades of the AFL-CIO. Juda also represents funds in ERISA class actions involving breach of fiduciary claims.

Education

B.A., St. Lawrence University, 1988; J.D., American University, 1992

Francis P. Karam | Of Counsel

Frank Karam is Of Counsel to the Firm and is based in the Firm's Melville office. Karam is a trial lawyer with 30 years of experience. His practice focuses on complex class action litigation involving shareholders' rights and securities fraud. He also represents a number of landowners and royalty owners in litigation against large energy companies. He has tried complex cases involving investment fraud and commercial fraud, both on the plaintiff and defense side, and has argued numerous appeals in state and federal courts. Throughout his career, Karam has tried more than 100 cases to verdict.

Karam has served as a partner at several prominent plaintiffs' securities firms. From 1984 to 1990, Karam was an Assistant District Attorney in the Bronx, New York, where he served as a senior Trial Attorney in the Homicide Bureau. He entered private practice in 1990, concentrating on trial and appellate work in state and federal courts.

Education

A.B., College of the Holy Cross; J.D., Tulane University School of Law

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2019; "Who's Who" for Securities Lawyers, *Corporate Governance Magazine*, 2015

Ashley M. Kelly | Of Counsel

Ashley Kelly is Of Counsel in the San Diego office, where she represents large institutional and individual investors as a member of the Firm's antitrust and securities fraud practices. Her work is primarily federal and state class actions involving the federal antitrust and securities laws, common law fraud, breach of contract, and accounting violations. Kelly's case work has been in the financial services, oil & gas, e-commerce, and technology industries. In addition to being an attorney, she is a Certified Public Accountant. Kelly was an important member of the litigation team that obtained a \$500 million settlement on behalf of investors in *Luther v. Countrywide Fin. Corp.*, which was the largest residential mortgage-backed securities purchaser class action recovery in history.

Education

B.S., Pennsylvania State University, 2005; J.D., Rutgers University-Camden, 2011

Honors / Awards

Rising Star, *Super Lawyers Magazine*, 2016, 2018-2020

Noam Mandel | Of Counsel

Noam Mandel is Of Counsel to the Firm and is based in the Manhattan office. Mandel has extensive experience in all aspects of litigation on behalf of investors, including securities law claims, corporate derivative actions, fiduciary breach class actions, and appraisal litigation. Mandel has represented investors in federal and state courts throughout the United States and has significant experience advising investors concerning their interests in litigation and investigating and prosecuting claims on their behalf.

Mandel has served as counsel in numerous outstanding securities litigation recoveries, including in *In re Nortel Networks Corporation Securities Litigation* (\$1.07 billion shareholder recovery), *Ohio Public Employees Retirement System v. Freddie Mac* (\$410 million shareholder recovery), and *In re Satyam Computer Services, Ltd. Securities Litigation* (\$150 million shareholder recovery). Mandel has also served as counsel in notable fiduciary breach class and derivative actions, particularly before the Court of Chancery of the State of Delaware. These actions include the groundbreaking fiduciary duty litigation challenging the CVS/Caremark merger (*Louisiana Municipal Police Employees' Retirement System v. Crawford*), which resulted in more than \$3.3 billion in additional consideration for Caremark shareholders. Mandel currently serves as counsel in *In re Dell Technologies Inc. Class V Stockholders Litigation*, which is presently before the Court of Chancery of the State of Delaware.

Education

B.S., Georgetown University, School of Foreign Service, 1998; J.D., Boston University School of Law, 2002

Honors / Awards

J.D., *Cum Laude*, Boston University School of Law, 2002; Member, *Boston University Law Review*, Boston University School of Law

Jerry E. Martin | Of Counsel

Jerry Martin is Of Counsel in the Firm's Nashville office. He specializes in representing individuals who wish to blow the whistle to expose fraud and abuse committed by federal contractors, health care providers, tax cheats, or those who violate the securities laws. Martin was a member of the litigation team that obtained a \$65 million recovery in *Garden City Emps.' Ret. Sys. v. Psychiatric Solutions, Inc.*, the fourth-largest securities recovery ever in the Middle District of Tennessee and one of the largest in more than a decade.

Before joining the Firm, Martin served as the presidentially appointed United States Attorney for the Middle District of Tennessee from May 2010 to April 2013. As U.S. Attorney, he made prosecuting financial, tax, and health care fraud a top priority. During his tenure, Martin co-chaired the Attorney General's Advisory Committee's Health Care Fraud Working Group. Martin has been recognized as a national leader in combatting fraud and has addressed numerous groups and associations, such as Taxpayers Against Fraud and the National Association of Attorneys General, and was a keynote speaker at the American Bar Association's Annual Health Care Fraud Conference.

Education

B.A., Dartmouth College, 1996; J.D., Stanford University, 1999

Honors / Awards

Super Lawyer, *Super Lawyers Magazine*, 2016-2019

Ruby Menon | Of Counsel

Ruby Menon is Of Counsel to the Firm and serves as a member of the Firm's legal, advisory, and business development group. She also serves as the liaison to the Firm's many institutional investor clients in the United States and abroad. For over 12 years, Menon served as Chief Legal Counsel to two large multi-employer retirement plans, developing her expertise in many areas of employee benefits and pension administration, including legislative initiatives and regulatory affairs, investments, tax, fiduciary compliance, and plan administration.

Education

B.A., Indiana University, 1985; J.D., Indiana University School of Law, 1988

Eugene Mikolajczyk | Of Counsel

Eugene Mikolajczyk is Of Counsel to the Firm and is based in the Firm's San Diego Office. Mikolajczyk has over 30 years' experience prosecuting shareholder and securities litigation cases as both individual and class actions. Among the cases are *Heckmann v. Ahmanson*, in which the court granted a preliminary injunction to prevent a corporate raider from exacting greenmail from a large domestic media/entertainment company.

Mikolajczyk was a primary litigation counsel in an international coalition of attorneys and human rights groups that won a historic settlement with major U.S. clothing retailers and manufacturers on behalf of a class of over 50,000 predominantly female Chinese garment workers, in an action seeking to hold the Saipan garment industry responsible for creating a system of indentured servitude and forced labor. The coalition obtained an unprecedented agreement for supervision of working conditions in the Saipan factories by an independent NGO, as well as a substantial multi-million dollar compensation award for the workers.

Education

B.S., Elizabethtown College, 1974; J.D., Dickinson School of Law, Penn State University, 1978

Roxana Pierce | Of Counsel

Roxana Pierce is Of Counsel in the Firm's Washington D.C. office. She is an international lawyer whose practice focuses on securities litigation, arbitration, negotiations, contracts, international trade, real estate transactions, and project development. She has represented clients in over 75 countries, with extensive experience in the Middle East, Asia, Russia, the former Soviet Union, Germany, Belgium, the Caribbean, and India. Pierce's client base includes large institutional investors, international banks, asset managers, foreign governments, multi-national corporations, sovereign wealth funds, and high net worth individuals.

Pierce has counseled international clients since 1994. She has spearheaded the contract negotiations for hundreds of projects, including several valued at over \$1 billion, and typically conducts her negotiations with the leadership of foreign governments and the leadership of Fortune 500 corporations, foreign and domestic. Pierce presently represents several European legacy banks in litigation concerning the 2008 financial crisis.

Education

B.A., Pepperdine University, 1988; J.D., Thomas Jefferson School of Law, 1994

Honors / Awards

Certificate of Accomplishment, Export-Import Bank of the United States; Humanitarian Spirit Award for Advocacy, The National Center for Children and Families, 2019

Svenna Prado | Of Counsel

Svenna Prado is Of Counsel in the Firm's San Diego office, where she focuses on various aspects of international securities and consumer litigation. She was part of the litigation teams that secured settlements against German defendant IKB, as well as Deutsche Bank and Deutsche Bank/West LB for their role in structuring residential mortgage-backed securities and their subsequent collapse. Before joining the Firm, Prado was Head of the Legal Department for a leading international staffing agency in Germany where she focused on all aspects of employment litigation and corporate governance. After she moved to the United States, Prado worked with an internationally oriented German law firm as Counsel to corporate clients establishing subsidiaries in the United States and Germany. As a law student, Prado worked directly for several years for one of the appointed Trustees winding up Eastern German operations under receivership in the aftermath of the German reunification. Utilizing her experience in this area of law, Prado later helped many clients secure successful outcomes in U.S. Bankruptcy Court.

Education

J.D., University of Erlangen-Nuremberg, Germany, 1996; Qualification for Judicial Office, Upper Regional Court Nuremberg, Germany, 1998; New York University, "U.S. Law and Methodologies," 2001

Stephanie Schroder | Of Counsel

Stephanie Schroder is Of Counsel in the Firm's San Diego office and focuses her practice on advising institutional investors, including public and multi-employer pension funds, on issues related to corporate fraud in the United States and worldwide financial markets. Schroder has been with the Firm since its formation in 2004, and has over 17 years of securities litigation experience.

Schroder has obtained millions of dollars on behalf of defrauded investors. Prominent cases include: *In re AT&T Corp. Sec. Litig.* (\$100 million recovery at trial); *In re FirstEnergy Corp. Sec. Litig.* (\$89.5 million recovery); *Rasner v. Sturm (FirstWorld Communications)*; and *In re Advanced Lighting Sec. Litig.* Schroder also specializes in derivative litigation for breaches of fiduciary duties by corporate officers and directors. Significant litigation includes *In re OM Grp. S'holder Litig.* and *In re Chiquita S'holder Litig.* Schroder also represented clients that suffered losses from the Madoff fraud in the *Austin Capital* and *Meridian Capital* litigations, which were successfully resolved. In addition, Schroder is a frequent lecturer on securities fraud, shareholder litigation, and options for institutional investors seeking to recover losses caused by securities and accounting fraud.

Education

B.A., University of Kentucky, 1997; J.D., University of Kentucky College of Law, 2000

Christopher P. Seefer | Of Counsel

Christopher Seefer is Of Counsel in the Firm's San Francisco office. He concentrates his practice in securities class action litigation, including cases against Verisign, UTStarcom, VeriFone, Nash Finch, NextCard, Terayon, and America West. Seefer served as an Assistant Director and Deputy General Counsel for the Financial Crisis Inquiry Commission, which reported to Congress in January 2011 its conclusions as to the causes of the global financial crisis. Prior to joining the Firm, he was a Fraud Investigator with the Office of Thrift Supervision, Department of the Treasury (1990-1999), and a field examiner with the Office of Thrift Supervision (1986-1990).

Education

B.A., University of California Berkeley, 1984; M.B.A., University of California, Berkeley, 1990; J.D., Golden Gate University School of Law, 1998

Arthur L. Shingler III | Of Counsel

Arthur Shingler is Of Counsel in the Firm's San Diego office. Shingler has successfully represented both public and private sector clients in hundreds of complex, multi-party actions with billions of dollars in dispute. Throughout his career, he has obtained outstanding results for those he has represented in cases generally encompassing shareholder derivative and securities litigation, unfair business practices litigation, publicity rights and advertising litigation, ERISA litigation, and other insurance, health care, employment, and commercial disputes.

Representative matters in which Shingler served as lead litigation or settlement counsel include, among others: *In re Royal Dutch/Shell ERISA Litig.* (\$90 million settlement); *In re Priceline.com Sec. Litig.* (\$80 million settlement); *In re General Motors ERISA Litig.* (\$37.5 million settlement, in addition to significant revision of retirement plan administration); *Wood v. Ionatron, Inc.* (\$6.5 million settlement); *In re Lattice Semiconductor Corp. Derivative Litig.* (corporate governance settlement, including substantial revision of board policies and executive management); *In re 360networks Class Action Sec. Litig.* (\$7 million settlement); and *Rothschild v. Tyco Int'l (US), Inc.*, 83 Cal. App. 4th 488 (2000) (shaped scope of California's Unfair Practices Act as related to limits of State's False Claims Act).

Education

B.A., Point Loma Nazarene College, 1989; J.D., Boston University School of Law, 1995

Honors / Awards

B.A., *Cum Laude*, Point Loma Nazarene College, 1989

Leonard B. Simon | Of Counsel

Leonard Simon is Of Counsel in the Firm's San Diego office. His practice has been devoted to litigation in the federal courts, including both the prosecution and the defense of major class actions and other complex litigation in the securities and antitrust fields. Simon has also handled a substantial number of complex appellate matters, arguing cases in the United States Supreme Court, several federal Courts of Appeals, and several California appellate courts. He has also represented large, publicly traded corporations. Simon served as plaintiffs' co-lead counsel in *In re Am. Cont'l Corp./Lincoln Sav. & Loan Sec. Litig.*, MDL No. 834 (D. Ariz.) (settled for \$240 million), and *In re NASDAQ Market-Makers Antitrust Litig.*, MDL No. 1023 (S.D.N.Y.) (settled for more than \$1 billion). He was also in a leadership role in several of the state court antitrust cases against Microsoft, and the state court antitrust cases challenging electric prices in California. He was centrally involved in the prosecution of *In re Washington Pub. Power Supply Sys. Sec. Litig.*, MDL No. 551 (D. Ariz.), the largest securities class action ever litigated.

Simon is an Adjunct Professor of Law at Duke University, the University of San Diego, and the University of Southern California Law Schools. He has lectured extensively on securities, antitrust, and complex litigation in programs sponsored by the American Bar Association Section of Litigation, the Practising Law Institute, and ALI-ABA, and at the UCLA Law School, the University of San Diego Law School, and the Stanford Business School. He is an Editor of *California Federal Court Practice* and has authored a law review article on the PSLRA.

Education

B.A., Union College, 1970; J.D., Duke University School of Law, 1973

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Top Lawyer in San Diego, *San Diego Magazine*, 2016-2020; Super Lawyer, *Super Lawyers Magazine*, 2008-2016; J.D., Order of the Coif and with Distinction, Duke University School of Law, 1973

Laura S. Stein | Of Counsel

Laura Stein is Of Counsel in the Firm's Philadelphia office. Since 1995, she has practiced in the areas of securities class action litigation, complex litigation, and legislative law. Stein has served as one of the Firm's and the nation's top asset recovery experts with a focus on minimizing losses suffered by shareholders due to corporate fraud and breaches of fiduciary duty. She also seeks to deter future violations of federal and state securities laws by reinforcing the standards of good corporate governance. Stein works with over 500 institutional investors across the nation and abroad, and her clients have served as lead plaintiff in successful cases where billions of dollars were recovered for defrauded investors against such companies as: AOL Time Warner, TYCO, Cardinal Health, AT&T, Hanover Compressor, 1st Bancorp, Enron, Dynegy, Inc., Honeywell International, Bridgestone, LendingClub, Orbital ATK, and Walmart, to name a few. Many of the cases led by Stein's clients have accomplished groundbreaking corporate governance achievements, including obtaining shareholder-nominated directors. She is a frequent presenter and educator on securities fraud monitoring, litigation, and corporate governance.

Education

B.A., University of Pennsylvania, 1992; J.D., University of Pennsylvania Law School, 1995

John J. Stoia, Jr. | Of Counsel

John Stoia is Of Counsel to the Firm and is based in the Firm's San Diego office. He is one of the founding partners and former managing partner of the Firm. He focuses his practice on insurance fraud, consumer fraud, and securities fraud class actions. Stoia has been responsible for over \$10 billion in recoveries on behalf of victims of insurance fraud due to deceptive sales practices such as "vanishing premiums" and "churning." He has worked on dozens of nationwide complex securities class actions, including *In re Am. Cont'l Corp./Lincoln Sav. & Loan Sec. Litig.*, which arose out of the collapse of Lincoln Savings & Loan and Charles Keating's empire. Stoia was a member of the plaintiffs' trial team that obtained verdicts against Keating and his co-defendants in excess of \$3 billion and settlements of over \$240 million.

He also represented numerous large institutional investors who suffered hundreds of millions of dollars in losses as a result of major financial scandals, including AOL Time Warner and WorldCom. Currently, Stoia is lead counsel in numerous cases against online discount voucher companies for violations of both federal and state laws including violation of state gift card statutes.

Education

B.S., University of Tulsa, 1983; J.D., University of Tulsa, 1986; LL.M., Georgetown University Law Center, 1987

Honors / Awards

Rated AV Preeminent by Martindale-Hubbell; Top Lawyer in San Diego, *San Diego Magazine*, 2013-2020; Super Lawyer, *Super Lawyers Magazine*, 2007-2017; Litigator of the Month, *The National Law Journal*, July 2000; LL.M. Top of Class, Georgetown University Law Center

David C. Walton | Of Counsel

David Walton was a founding partner of the Firm. For over 25 years, he has prosecuted class actions and private actions on behalf of defrauded investors, particularly in the area of accounting fraud. He has investigated and participated in the litigation of highly complex accounting scandals within some of America's largest corporations, including Enron (\$7.2 billion), HealthSouth (\$671 million), WorldCom (\$657 million), AOL Time Warner (\$629 million), Countrywide (\$500 million), and Dynegy (\$474 million), as well as numerous companies implicated in stock option backdating.

Walton is a member of the Bar of California, a Certified Public Accountant (California 1992), a Certified Fraud Examiner, and is fluent in Spanish. In 2003-2004, he served as a member of the California Board of Accountancy, which is responsible for regulating the accounting profession in California.

Education

B.A., University of Utah, 1988; J.D., University of Southern California Law Center, 1993

Honors / Awards

Recommended Lawyer, *The Legal 500*, 2019; Super Lawyer, *Super Lawyers Magazine*, 2015-2016; California Board of Accountancy, Member, 2003-2004; *Southern California Law Review*, Member, University of Southern California Law Center; Hale Moot Court Honors Program, University of Southern California Law Center

Bruce Gamble | Special Counsel

Bruce Gamble is Special Counsel to the Firm in the Firm's Washington D.C. office and is a member of the Firm's institutional investor client services group. He serves as liaison with the Firm's institutional investor clients in the United States and abroad, advising them on securities litigation matters. Gamble formerly served as Of Counsel to the Firm, providing a broad array of highly specialized legal and consulting services to public retirement plans. Before working with Robbins Geller, Gamble was General Counsel and Chief Compliance Officer for the District of Columbia Retirement Board, where he served as chief legal advisor to the Board of Trustees and staff. Gamble's experience also includes serving as Chief Executive Officer of two national trade associations and several senior level staff positions on Capitol Hill.

Education

B.S., University of Louisville, 1979; J.D., Georgetown University Law Center, 1989

Honors / Awards

Executive Board Member, National Association of Public Pension Attorneys, 2000-2006; American Banker selection as one of the most promising U.S. bank executives under 40 years of age, 1992

Tricia L. McCormick | Special Counsel

Tricia McCormick is Special Counsel to the Firm and focuses primarily on the prosecution of securities class actions. McCormick has litigated numerous cases against public companies in the state and federal courts which resulted in hundreds of millions of dollars in recoveries to investors. She is also a member of a team that is in constant contact with clients who wish to become actively involved in the litigation of securities fraud. In addition, McCormick is active in all phases of the Firm's lead plaintiff motion practice.

Education

B.A., University of Michigan, 1995; J.D., University of San Diego School of Law, 1998

Honors / Awards

J.D., *Cum Laude*, University of San Diego School of Law, 1998

R. Steven Aronica | Forensic Accountant

Steven Aronica is a Certified Public Accountant licensed in the States of New York and Georgia and is a member of the American Institute of Certified Public Accountants, the Institute of Internal Auditors, and the Association of Certified Fraud Examiners. Aronica has been instrumental in the prosecution of numerous financial and accounting fraud civil litigation claims against companies that include Lucent Technologies, Tyco, Oxford Health Plans, Computer Associates, Aetna, WorldCom, Vivendi, AOL Time Warner, Ikon, Doral Financial, First BanCorp, Acclaim Entertainment, Pall Corporation, iStar Financial, Hibernia Foods, NBTY, Tommy Hilfiger, Lockheed Martin, the Blackstone Group, and Motorola. In addition, he assisted in the prosecution of numerous civil claims against the major United States public accounting firms.

Aronica has been employed in the practice of financial accounting for more than 30 years, including public accounting, where he was responsible for providing clients with a wide range of accounting and auditing services; the investment bank Drexel Burnham Lambert, Inc., where he held positions with accounting and financial reporting responsibilities; and at the SEC, where he held various positions in the divisions of Corporation Finance and Enforcement and participated in the prosecution of both criminal and civil fraud claims.

Education

B.B.A., University of Georgia, 1979

Andrew J. Rudolph | Forensic Accountant

Andrew Rudolph is the Director of the Firm's Forensic Accounting Department, which provides in-house forensic accounting expertise in connection with securities fraud litigation against national and foreign companies. He has directed hundreds of financial statement fraud investigations, which were instrumental in recovering billions of dollars for defrauded investors. Prominent cases include *Qwest*, *HealthSouth*, *WorldCom*, *Boeing*, *Honeywell*, *Vivendi*, *Aurora Foods*, *Informix*, *Platinum Software*, *AOL Time Warner*, and *UnitedHealth*.

Rudolph is a Certified Fraud Examiner and a Certified Public Accountant licensed to practice in California. He is an active member of the American Institute of Certified Public Accountants, California's Society of Certified Public Accountants, and the Association of Certified Fraud Examiners. His 20 years of public accounting, consulting, and forensic accounting experience includes financial fraud investigation, auditor malpractice, auditing of public and private companies, business litigation consulting, due diligence investigations, and taxation.

Education

B.A., Central Connecticut State University, 1985

Christopher Yurcek | Forensic Accountant

Christopher Yurcek is the Assistant Director of the Firm's Forensic Accounting Department, which provides in-house forensic accounting and litigation expertise in connection with major securities fraud litigation. He has directed the Firm's forensic accounting efforts on numerous high-profile cases, including *In re Enron Corp. Sec. Litig.* and *Jaffe v. Household Int'l, Inc.*, which obtained a record-breaking \$1.575 billion settlement after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a verdict for plaintiffs. Other prominent cases include *HealthSouth*, *UnitedHealth*, *Vesta*, *Informix*, *Mattel*, *Coca-Cola*, and *Media Vision*.

Yurcek has over 20 years of accounting, auditing, and consulting experience in areas including financial statement audit, forensic accounting and fraud investigation, auditor malpractice, turn-around consulting, business litigation, and business valuation. He is a Certified Public Accountant licensed in California, holds a Certified in Financial Forensics (CFF) Credential from the American Institute of Certified Public Accountants, and is a member of the California Society of CPAs and the Association of Certified Fraud Examiners.

Education

B.A., University of California, Santa Barbara, 1985

Exhibit 5

1 ROBBINS GELLER RUDMAN
& DOWD LLP
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4 Telephone: 415/288-4545
415/288-4534 (fax)
5 shawnw@rgrdlaw.com
jgeorge@rgrdlaw.com

6 LABATON SUCHAROW LLP
7 MICHAEL P. CANTY (*pro hac vice*)
CORBAN S. RHODES (*pro hac vice*)
8 140 Broadway
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9 Telephone: 212/907-0700
212/818-0477 (fax)
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brichman@edelson.com
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11
12 Attorneys for Plaintiffs

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 In re FACEBOOK BIOMETRIC)
INFORMATION PRIVACY LITIGATION)

Master File No. 3:15-cv-03747-JD

18 _____)

CLASS ACTION

19 This Document Relates To:)

20 ALL ACTIONS.)

DECLARATION OF MICHAEL P. CANTY
FILED ON BEHALF OF LABATON
SUCHAROW LLP IN SUPPORT OF
APPLICATION FOR AWARD OF
21 ATTORNEYS' FEES AND)
22 EXPENSES/CHARGES)

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1 I, Michael P. Canty, declare as follows:

2 1. I am a member of the law firm of Labaton Sucharow LLP (“Labaton Sucharow”
3 or the “Firm”) and am one of the partners who oversaw and conducted the day-to-day activities
4 in the Litigation. I am submitting this declaration in support of my Firm’s application for an
5 award of attorneys’ fees, expenses and charges (“expenses”) in connection with services
6 rendered in the above-entitled action (the “Litigation”).¹
7

8 2. This Firm is counsel of record for Plaintiff Adam Pezen and Court-appointed
9 Class Counsel, together with Edelson P.C. and Robbins Geller Rudman & Dowd LLP.

10 3. The information in this declaration regarding the Firm’s time and expenses is
11 taken from time and expense reports and supporting documentation prepared and/or maintained
12 by the Firm in the ordinary course of business. These reports (and backup documentation where
13 necessary or appropriate) were reviewed, under my direction, in connection with the preparation
14 of this declaration. The purpose of this review was to confirm both the accuracy of the entries,
15 as well as the necessity for, and reasonableness of, the time and expenses committed to the
16 Litigation. As a result of this review, reductions were made to both time and expenses in the
17 exercise of billing judgment. Based on this review and the adjustments made, I believe that the
18 time reflected in the Firm’s lodestar calculation and the expenses for which payment is sought
19 herein are reasonable and were necessary for the effective and efficient prosecution and
20 resolution of the Litigation. In addition, I believe that the expenses are all of a type that would
21 normally be charged to a fee-paying client in the private legal marketplace.

22 4. After the reductions referred to above, the number of hours spent on the Litigation
23 by the Firm is 8,103.4. A breakdown of the lodestar (at current rates, or most recent rate for
24 former employees) is provided in the attached Exhibit A. The lodestar amount for
25

26 _____
27 ¹ Labaton Sucharow will also compensate its former Illinois counsel, the Law Offices of Norman
28 Rifkind, for the time and expenses it committed to the case while acting as local counsel in
Illinois.

1 attorney/paraprofessional time based on the Firm's current rates is \$5,140,083.00. The current
2 hourly rates shown in Exhibit A are the usual and customary rates set by the Firm annually for
3 each individual.

4 5. Attached as Exhibit B is a chart reflecting the time of each timekeeper in each of
5 the 17 task categories, and also reflecting each timekeeper's individual hours and lodestar at their
6 current rates (or most recent rate for former employees).

7 6. The Firm seeks an award of \$320,950.36 in expenses and charges in connection
8 with the prosecution of the Litigation. Those expenses and charges are summarized by category
9 in the attached Exhibit C.

10 7. The following is additional information regarding certain of these expenses:

11 (a) Filing, Witness & Other Court Fees: \$3,250.50. These expenses have
12 been paid to courts for filing fees and to an attorney service firm that served an initial complaint
13 in the Litigation. The vendors that were paid for these services are set forth in the attached
14 Exhibit D.

15 (b) Transportation, Hotels & Meals: \$111,857.77. In connection with the
16 prosecution of this case, the Firm has paid for work-related transportation and meals, and also
17 travel expenses related to, among other things, attending court hearings, taking or defending
18 depositions, meetings, and the mediations. All first-class airfare has been reduced to economy
19 fares. The date, destination and purpose of each trip is set forth in the attached Exhibit E.

20 (c) Court Hearing Transcripts, Deposition Reporting & Videography:
21 \$1,603.70. The vendors that were paid for these services are listed in the attached Exhibit F.

22 (d) Experts/Consultants: \$12,320.00. The Firm contributed to a joint
23 Litigation Expense Fund maintained by Robbins Geller for the payment of the majority of the
24

1 expenses in the Litigation, including the expenses of experts and consultants. The
2 expert/consultant fees reported herein were incurred solely by Labaton Sucharow.

3 (i) Dr. Joseph Atick: \$10,320.00. Dr. Joseph Atick is a Mathematical
4 Physics PhD and is regarded as a leading expert in the field of biometric identification and facial
5 recognition. He is a co-founder of Visionics, among the early face recognition technology
6 development companies. Dr. Atick is also the co-founder and Director Emeritus of the
7 International Biometrics and Identification Association and Chairman of ID4Africa, a pan-
8 African movement to promote digital identity and its applications for socio-economic
9 development in Africa. In addition to being an early developer of face recognition technologies,
10 Dr. Atick has also been an advocate for responsible development and use of technology for
11 verifying identity including consultation with developing countries on the socioeconomic,
12 political development and national security impacts of the use of biometric identity technology.
13 Plaintiffs retained Dr. Atick to provide expert consultation on the history and development of
14 facial recognition technology and its potential uses and abuses, as well as to help Plaintiffs better
15 understand Facebook's facial recognition technology.

16 (ii) National Economic Research Associates: \$2,000.00. National
17 Economic Research Associates ("NERA") is an internationally recognized global consulting firm
18 with experts that specialize in economic, statistical, and quantitative problem solving. The Firm
19 retained NERA to explore ways to quantify or measure the economic harm to class members
20 from the alleged misappropriation of their biometric data in order to rebut Facebook's argument
21 that class members did not suffer any "real world harm."

22 (e) Photocopies/Printing: \$10,058.00. In connection with this case, the Firm
23 made 42,048 black and white and 3,558 color copies/printouts in-house, at \$0.20 per black and
24 white page and \$0.40 per color page, for a total of \$9,832.80. Each time an in-house copy
25 machine or printer is used, our system requires that a case or administrative client-matter code be
26 entered and that is how the number of in-house pages were identified as related to the Litigation.
27
28

1 The Firm also paid \$225.20 to outside vendors for copies/printouts. A breakdown of these
2 outside charges by date and vendor is set forth in the attached Exhibit G.

3 (f) Online Legal and Financial Research: \$11,570.34. This category includes
4 vendors such as LexisNexis products, PACER, Bloomberg BNA, Thomson West, and Westlaw.
5 These resources were used to obtain access to factual and legal databases for the purpose of
6 investigating the claims, filing court documents and tracking case developments, and legal
7 research. This expense represents the expenses incurred by the Firm for the use of these services
8 in connection with this particular Litigation. The charges for these vendors vary depending upon
9 the type of services requested, but generally when the Firm utilizes one of these services, access
10 to the service is by a client-matter code entered for the case being litigated. At the end of each
11 billing period, the Firm's monthly costs for such services are allocated to each case that used the
12 service.
13

14 (g) Mediation Fees (Jeffrey L. Bleich): \$10,500.00. The parties retained
15 Ambassador Jeffrey L. Bleich to assist them with a renewed effort to reach a negotiated
16 resolution of the Litigation. These are the fees of Ambassador Bleich that were paid by Labaton
17 Sucharow.
18

19 8. The expenses pertaining to this case are reflected in the books and records of the
20 Firm. These books and records are prepared from receipts, expense vouchers, check records and
21 other documents and are an accurate record of the expenses.

22 9. The identification and background of my Firm and its partners is attached hereto
23 as Exhibit H.
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I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of October, 2020, at Lynbrook, NY.



MICHAEL P. CANTY

EXHIBIT A

EXHIBIT A

In re Facebook Biometric Information Privacy Litigation; Case No. 3:15-cv-03747-JD
 LABATON SUCHAROW LLP
 Inception through September 30, 2020

<i>NAME</i>	<i>STATUS</i>	<i>HOURS</i>	<i>CURRENT RATE</i>	<i>CURRENT LODESTAR</i>
Lawrence Sucharow	P	41.4	\$1,200	\$49,680.00
Jonathan Gardner	P	66.4	\$1,050	\$69,720.00
Joel Bernstein	P	645.6	\$995	\$642,372.00
Mark Arisohn	P	23.3	\$975	\$22,717.50
Nicole Zeiss	P	66.5	\$950	\$63,175.00
Michael Canty	P	592.3	\$895	\$530,108.50
Corban Rhodes	P	2,422.9	\$800	\$1,938,320.00
Ross Kamhi	A	527.5	\$550	\$290,125.00
Jeffrey McEachern	A	173.2	\$375	\$64,950.00
Mark Winston	OC	87.1	\$850	\$74,035.00
Maureen Flanigan	SA	865.1	\$435	\$376,318.50
Andrew McGoey	SA	353.2	\$435	\$153,642.00
Gregory Sczesnik	SA	1,460.1	\$410	\$598,641.00
Adedayo Soneye	SA	293.5	\$360	\$105,660.00
Stacy Auer	PL	289.6	\$335	\$97,016.00
Reka Viczian	PL	108.4	\$325	\$35,230.00
Matthew Molloy	PL	43.8	\$325	\$14,235.00
Kristen Gutierrez	MC	43.5	\$325	\$14,137.50
TOTAL		8,103.4		\$5,140,083.00

(P) Partner

(A) Associate

(OC) Of Counsel

(SA) Staff Attorney

(PL) Paralegal

(MC) Managing Clerk

EXHIBIT B

EXHIBIT B
In re Facebook Biometric Information Privacy Litigation , Case No. 3:15-cv-03747-JD
 Category Lodestar Chart by Timekeeper

Firm Name: LABATON SUCHAROW LLP
 Reporting Period: Inception through September 30, 2020

- Categories:
- | | | | |
|--|---|---|--|
| (1) Factual Investigation | (6) Motion to Dismiss | (11) Experts, Consultants & Investigators | (16) Court Appearance & Preparation |
| (2) Legal Research | (7) Class Certification & Notice | (12) Summary Judgment | (17) Client/Class Member Communication |
| (3) Litigation Strategy & Analysis | (8) Discovery | (13) Settlement Negotiations | |
| (4) Draft Initial or Amended Complaint | (9) Document Review | (14) Trial Preparation | |
| (5) Lead Plaintiff Motion | (10) Other Pleadings, Briefs and Pretrial Motions | (15) Appeal | |

Timekeeper	Status	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total Sum of Hours	Current Rate	Lodestar at Current Rate
Lawrence Sucharow	P			5.5										35.9					41.4	\$1,200	\$49,680.00
Jonathan Gardner	P			12.2										54.2					66.4	\$1,050	\$69,720.00
Joel Bernstein	P	12.5	6.5	146.4	33.1	17.5	33.9	8.7	70.4		12.1	50.9	12.0	95.8	3.0		132.3	10.5	645.6	\$995	\$642,372.00
Mark Arisohn	P			10.3	1.0		2.0		5.5					1.0	3.5				23.3	\$975	\$22,717.50
Nicole Zeiss	P							4.5			4.5			49.8			7.7		66.5	\$950	\$63,175.00
Michael Canty	P	2.8	7.2	110.3	0.4			3.2	4.3		24.4	25.3	3.3	177.0	116.1	37.3	74.2	6.5	592.3	\$895	\$530,108.50
Corban Rhodes	P	21.6	27.7	192.3	52.8	14.5	71.9	87.8	625.2		103.9	405.7	57.0	270.7	172.5	100.6	174.8	43.9	2,422.9	\$800	\$1,938,320.00
Ross Kamhi	A	26.9	23.4	38.8	32.3	9.5	4.7	22.0	98.6		18.5	54.4	8.8	41.2	61.6	36.1	50.5	0.2	527.5	\$550	\$290,125.00
Jeffrey McEachern	A		24.4	20.6					15.8		21.2	0.5		11.5	79.2				173.2	\$375	\$64,950.00
Mark Winston	OC	0.6									0.5			7.1	74.6	1.0	3.3		87.1	\$850	\$74,035.00
Maureen Flanigan	SA								22.1	489.6	260.4	0.8			92.2				865.1	\$435	\$376,318.50
Andrew McGoey	SA									281.9				71.3					353.2	\$435	\$153,642.00
Gregory Sczesnik	SA							21.2		1,039.2				45.4	42.0	312.3			1,460.1	\$410	\$598,641.00
Adedayo Soneye	SA									293.5									293.5	\$360	\$105,660.00
Stacy Auer	PL	1.8	6.7	1.1	5.8	2.8	5.9	2.3	71.8	0.5	53.8	25.2	7.9	26.6	41.6	13.7	22.0	0.1	289.6	\$335	\$97,016.00
Reka Viczian	PL	6.4	1.0		1.0	7.6	5.8		37.4		20.4	1.4	2.8	6.6			18.0		108.4	\$325	\$35,230.00
Matthew Molloy	PL			1.3					10.9		2.5	27.2			1.9				43.8	\$325	\$14,235.00
Kristen Gutierrez	MC		2.0				1.5		1.5		19.2	4.0	1.0			7.3	7.0		43.5	\$325	\$14,137.50
TOTAL:		72.6	98.9	538.8	126.4	51.9	125.7	149.7	963.5	2,104.7	541.4	595.4	138.2	890.7	958.5	196.0	489.8	61.2	8,103.4		\$ 5,140,083.00

- (P) Partner
 (A) Associate
 (OC) Of Counsel
 (SA) Staff Attorney
 (PL) Paralegal
 (MC) Managing Clerk

EXHIBIT C

EXHIBIT C

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
 LABATON SUCHAROW LLP
 Inception through September 30, 2020

<i>CATEGORY</i>		<i>AMOUNT</i>
Filing, Witness & Other Court Fees		\$3,250.50
Transportation, Hotels & Meals		\$111,857.77
Long Distance Telephone, Conference Calls, CourtCall, & Wifi Fees		\$2,472.70
Overnight Delivery		\$566.96
Court Hearing Transcripts, Deposition Reporting, & Videography		\$1,603.70
Experts/Consultants		\$12,320.00
Dr. Joseph Atick	\$10,320.00	
National Economic Research Associates, Inc.	\$2,000.00	
Photocopies & Printing		\$10,058.00
Outside	\$225.20	
In-House Black and White: (42,048 pages at \$0.20 per page)	\$8,409.60	
In-House Color: (3,558 pages at \$0.40 per page)	\$1,423.20	
Online Legal & Financial Research		\$11,570.34
Litigation Fund Contributions		\$155,737.39
Mediation Fees		\$10,500.00
Miscellaneous		\$1,013.00
<i>TOTAL</i>		<i>\$320,950.36</i>

EXHIBIT D

EXHIBIT D

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
LABATON SUCHAROW LLP

Filing, Witness & Other Court Fees: \$3,250.50

DATE	VENDOR	PURPOSE
4/24/2015	Serving by Irving, Inc.	Process Service
4/28/2015	U.S. District Court N.D. IL	<i>Pro Hac Vice</i> for Joel Bernstein
4/28/2015	U.S. District Court N.D. IL	<i>Pro Hac Vice</i> for Corban Rhodes
4/28/2015	U.S. District Court N.D. IL	<i>Pro Hac Vice</i> for Ross Kamhi
9/17/2015	Clerk Appellate Division	Certificate of Good Standing for Ross Kamhi
9/18/2015	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Joel Bernstein
9/18/2015	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Corban Rhodes
9/18/2015	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Ross Kamhi
6/14/2016	Illinois Trial Lawyers' Association	Membership to conduct Illinois Case
4/4/2018	Clerk of the Court	Certificate of Good Standing for Mark Winston
4/10/2018	Clerk of the Court	Certificate of Good Standing for Lawrence Sucharow
4/11/2018	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Michael Canty
4/11/2018	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Lawrence Sucharow
4/11/2018	Clerk Appellate Division	Certificate of Good Standing for Michael Canty
4/13/2018	U.S. District Court N.D. Cal.	<i>Pro Hac Vice</i> for Mark Winston
5/10/2018	U.S. Court of Appeals - San Francisco, CA	Attorney Admission Fee for Corban Rhodes
5/14/2018	U.S. Court of Appeals - San Francisco, CA	Attorney Admission Fee for Michael Canty
6/7/2018	Clerk of the Illinois Supreme Court	Copies of Cert. Petition

DECLARATION ON BEHALF OF LABATON SUCHAROW LLP IN SUPPORT OF AWARD OF ATTORNEYS' FEES AND EXPENSES/CHARGES - 3:15-cv-03747-JD

EXHIBIT E

EXHIBIT E*In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD
LABATON SUCHAROW LLP

Local Work-Related Transportation & Meals: \$7,718.01

Out-of-Town Transportation, Hotels & Meals: \$104,139.76 (trips detailed below)

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
J. Bernstein, C. Rhodes, R. Kamhi	04/21/15	Chicago, IL	Client Meeting
J. Bernstein, C. Rhodes	04/29/15 – 05/01/15	San Diego, CA	Expert Meeting
J. Bernstein, C. Rhodes, R. Kamhi	06/01/15 – 06/02/15	Chicago, IL	Attorney Meeting
J. Bernstein	07/01/15 – 07/02/15	Chicago, IL	Attorney Meeting/Court Hearing
J. Bernstein	12/15/15 – 12/17/15	San Francisco, CA	Court Hearing - MTD
C. Rhodes, R. Kamhi	02/10/16 – 02/12/16	San Francisco, CA	Facebook Depositions
C. Rhodes	02/16/16 – 02/18/16	Chicago, IL	Plaintiff Depositions
J. Bernstein, C. Rhodes	02/29/16 – 03/03/16	San Francisco, CA	Attorney Meetings and Court Hearing
J. Bernstein, C. Rhodes	05/11/16 – 05/13/16	San Francisco, CA	Attorney Meetings
C. Rhodes	06/27/16 – 06/29/16	San Francisco, CA	Case Management Conf.
J. Bernstein	08/22/16 – 08/23/16	Chicago, IL	Attorney Meeting
C. Rhodes	10/17/16 – 10/19/16	San Francisco, CA	Facebook Deposition
J. Bernstein, C. Rhodes	10/26/16 – 10/28/16	San Francisco, CA	Court Hearing – MTD
C. Rhodes	01/09/17 – 01/13/17	San Francisco, CA	Attorney Meetings/Onsite Expert Source Code Review
J. Bernstein, C. Rhodes	05/17/17 – 05/20/17	Newport Beach, CA	Mediation
C. Rhodes	07/17/17 – 07/21/17	San Francisco, CA	Onsite Expert Source Code Review
C. Rhodes, R. Kamhi	09/06/17 – 09/07/17	San Francisco, CA	Case Management Conf.
R. Kamhi	09/18/17 – 09/19/17	Washington D.C.	Facebook Deposition
C. Rhodes	10/09/17 – 10/11/17	San Francisco, CA	Facebook Depositions
C. Rhodes	10/23/17 – 10/27/17	Chicago, IL	Plaintiff and

DECLARATION ON BEHALF OF LABATON SUCHAROW LLP IN SUPPORT OF AWARD
OF ATTORNEYS' FEES AND EXPENSES/CHARGES - 3:15-cv-03747-JD

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<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
		San Francisco, CA	Facebook Depositions
R. Kamhi	11/29/17 – 11/30/17	San Francisco, CA	Court Hearing - MTD
C. Rhodes	02/21/18 – 02/28/18	San Francisco, CA Los Angeles, CA	Expert Depositions
C. Rhodes	03/28/18 – 03/30/18	San Francisco, CA	Court Hearing
L. Sucharow, M. Canty, C. Rhodes	05/02/18 – 05/04/18	San Francisco, CA	Attorney Meetings/Mediation
A. Pezen	05/03/18 – 05/05/18	San Francisco, CA	Attorney Meetings/Mediation
M. Canty, C. Rhodes	05/06/18 – 05/12/18	Napa Valley, CA	Attorney Meetings
C. Rhodes	05/20/18 – 05/21/18	San Francisco, CA	Court Hearing
M. Canty, C. Rhodes	05/22/19 – 05/23/19	San Francisco, CA	Attorney Meetings
M. Canty, C. Rhodes	06/10/19 – 06/12/19	San Francisco, CA	Court Hearing
M. Canty, C. Rhodes	11/07/19 – 11/09/19	San Francisco, CA	Expert Meetings
J. Gardner, M. Canty, C. Rhodes	01/14/20 – 01/16/20	San Francisco, CA	Mediation
M. Canty	02/05/20 – 02/06/20	San Francisco, CA	Court Hearing

EXHIBIT F

EXHIBIT F

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
LABATON SUCHAROW LLP

Court Hearing Transcripts, Deposition Reporting, & Videography: \$1,603.70

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
2/18/2016	TSG Reporting, Inc.	Transcript Pezen Deposition
2/18/2016	TSG Reporting, Inc.	Videosynch Pezen Deposition
2/18/2016	TSG Reporting, Inc.	DVD of Pezen Deposition

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EXHIBIT G

EXHIBIT G

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
LABATON SUCHAROW LLP

Total Photocopies/Printing: \$10,058.00

In-house black and white: \$8,409.60 (42,048 pages at \$0.20 per page)

In-house color: \$1,423.20 (3,558 pages at \$0.40 per page)

Outside Photocopies/Printing: \$225.20 (detailed below)

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
06/29/2016	Hotel Business Center – Torrance, CA	Copies for Case Management Conf.
10/25/2017	Federal Express Office - Palo Alto, CA	Copies for Pezen Deposition

EXHIBIT H

**Labaton
Sucharow**

Firm Resume

Consumer Protection and Data Privacy



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ABOUT THE FIRM

Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs' firms in the United States. For more than half a century, Labaton Sucharow has successfully exposed corporate misconduct and recovered billions of dollars in the United States and around the globe on behalf of investors and consumers. Our mission is to continue this legacy and to continue to advance market fairness and transparency in the areas of securities, antitrust, corporate governance and shareholder rights, and data privacy and cybersecurity litigation, as well as whistleblower representation.

Our Firm has recovered significant losses for investors and secured corporate governance reforms on behalf of the nation's largest institutional investors, including public pension, Taft-Hartley, and hedge funds, investment banks, and other financial institutions.

Along with securing newsworthy recoveries, the Firm has a track record for successfully prosecuting complex cases from discovery to trial to verdict. As *Chambers and Partners* has noted, the Firm is **"considered one of the greatest plaintiffs' firms,"** and *The National Law Journal* "Elite Trial Lawyers" recently recognized our attorneys for their **"cutting-edge work on behalf of plaintiffs."** Our appellate experience includes winning appeals that increased settlement values for clients and securing a landmark 2013 U.S. Supreme Court victory benefitting all investors by reducing barriers to the certification of securities class action cases.

Our Firm provides global securities portfolio monitoring and advisory services to more than 300 institutional investors, including public pension funds, banks, asset managers, hedge funds, mutual funds, sovereign wealth funds, and multi-employer plans—with collective assets under management (AUM) in excess of \$2 trillion. We are equipped to deliver results due to our robust infrastructure of more than 60 full-time attorneys, a dynamic professional staff, and innovative technological resources. Labaton Sucharow attorneys are skilled in every stage of business litigation and have challenged corporations from every sector of the financial market. Our professional staff includes paralegals, financial analysts, e-discovery specialists, a certified public accountant, a certified fraud examiner, and a forensic accountant. We have one of the largest in-house investigative teams in the securities bar.

FIRM HIGHLIGHTS

For more than 50 years, Labaton Sucharow has focused on all forms of financial litigation and has pioneered alternative avenues of recovery for investors. In recent years, we have secured landmark recoveries against corporate actors like AIG, Countrywide, and Facebook.

- A \$192.5 million recovery in a securities class action against SCANA Corporation, one of the largest investor recoveries of 2019. The suit alleged that SCANA made false and misleading statements about the construction of two nuclear reactors in South Carolina. Despite touting progress to investors, the company and senior executives knew the project suffered from a host of fundamental problems.
- A \$650 million settlement in a data privacy class action against Facebook, Inc., the largest cash settlement ever resolving a privacy related lawsuit. The suit alleged that Facebook collected biometric information in the form of face prints, for the purpose of supporting its “face tagging” feature, in violation of the Illinois Biometric Information Privacy Act.
- A \$50 million recovery in a state court action against Endo International plc, the largest class settlement stemming from a secondary public offering of securities. The action alleged that Endo failed to disclose adverse trends facing its generic drugs division in advance of a secondary public offering that raised \$2 billion to finance the acquisition of Par Pharmaceuticals.
- A landmark \$1 billion recovery in a securities class action against AIG. The Firm defeated 22 motions to dismiss and took or defended nearly 100 depositions in an eight-year litigation over AIG's involvement in a market division scheme that included payment of allegedly improper contingent commissions and illegal insurance bid rigging and an accounting fraud that wiped out \$2.26 billion in shareholder equity.
- A \$624 million recovery in a securities class action against Countrywide Financial, one of the largest securities settlements against a principal architect of the mortgage crisis. The action alleged, among other matters, that defendants violated the federal securities laws by making false and misleading statements concerning Countrywide's business as an issuer of residential mortgages, and by misrepresenting high risk low documentation loans as being “prime,” violating Generally Accepted Accounting Principles (GAAP).
- A recovery premium achieved through a successful direct action litigation stemming from a major accounting fraud at Adelphia Communications. The filing was made after the company disclosed that it had hid more than \$2 billion of debt from its balance sheet that was incurred by members of the Rigas family, who founded the company, but that, pursuant to co-borrowing agreements, Adelphia was ultimately responsible for repaying. Through the direct action, our clients resolved all of their claims.

“The Labaton Firm is very well known to the Courts for the excellence of its representation.” *Honorable Jed S. Rakoff*

“In a difficult case like this I feel, as I have said before, very gratified to have some of the nation's best lawyers working on it.” *Honorable Keith P. Ellison*

“I have a lot of papers, but let me tell you that initially, this was one of the best sets of papers that I've seen on a preliminary approval. Thank you, it's really very professional, very thorough.” *Honorable Beth Labson Freeman*



CONSUMER PROTECTION AND DATA PRIVACY

A leader in contingent complex litigation, Labaton Sucharow has secured billions of dollars in recoveries on behalf of investors and consumers.

Labaton Sucharow is dedicated to putting our expertise to work on behalf of consumers who have been wronged by fraud in the marketplace. As competition intensifies and business practices require greater examination, consumers need strong allies to protect their rights and ensure that they are getting what they pay for.

Built on our unmatched litigation skills, deep understanding of federal and state rules and regulations, and an unwavering commitment to fairness, our Consumer Protection Litigation Practice focuses on protecting consumers and improving the standards of business conduct through litigation and reform.

ONGOING INVESTIGATIONS OR LITIGATION AND RESULTS

Facebook Biometric Information Privacy Litigation

- In this photo-tagging case, we represent plaintiffs who have been harmed by Facebook's violation of the Illinois Biometric Information Privacy. Our team recently achieved a historic \$650 million settlement—the largest consumer data privacy settlement ever. It is one of the first cases asserting biometric privacy rights of consumers under Illinois' Biometric Information Privacy Act (BIPA). In this photo-tagging case, our team represented plaintiffs who had been harmed by Facebook's violation of Illinois' BIPA.

Marriott International Inc. Data Privacy Security Breach Litigation

- In this data security breach case, we represent plaintiffs who have been harmed by misleading statements surrounding the security of customer stored data. The case follows the 2018 announcement that unauthorized access to the Starwood guest reservation database had potentially affected up to 500 million Marriott customers and further disclosures that an internal investigation revealed that there had been unauthorized access to the Starwood network since 2014.

Takata Airbags Products Liability Litigation

- Labaton Sucharow filed the first nationwide consumer class action against airbag manufacturer Takata Corporation and several major vehicle manufacturers. Takata Corporation, TK Holdings, Inc., and Highland Industries, Inc. allegedly designed, manufactured, tested, and marketed millions of potentially lethal airbags, which were distributed and sold to other manufacturers. Affected vehicles include models from BMW, Ford, Honda, Lexus, Nissan, and Toyota, among others.



Fishbein et al., v. All Market Inc. (Vita Coco Coconut Water Marketing Practices Litigation)

- Labaton Sucharow secured a \$10 million settlement in a nationwide class action against maker of Vita Coco, alleging misleading and deceptive advertising.

In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation

- Serves as a lead counsel in this class action lawsuit on behalf of lawn care professionals and property owners against E. I. du Pont de Nemours and Company for damage to trees and other vegetation caused by DuPont's herbicide Imprelis®. Based on the settlement agreement, DuPont agreed to arrange for the removal and replacement of damaged trees at no cost, and to provide additional compensation to members of the class.

**Labaton
Sucharow**

AWARDS AND ACCOLADES

CONSISTENTLY RANKED AS A LEADING FIRM



The National Law Journal "Elite Trial Lawyers" named Labaton Sucharow the **2020 Law Firm of the Year for Securities Litigation**. This marks the second consecutive year the Firm has received the prestigious award and the third time overall. The winner was chosen for their "**cutting-edge work on behalf of plaintiffs over the last 15 months**" as well as possessing "**a solid track record of client wins over the past three to five years.**" Additionally, the Firm was recognized as a finalist in the **Antitrust** and **Class Action** categories. The Firm was also recognized for its pro bono efforts, being named the **2020 Law Firm of the Year in the Immigration Category**.



Labaton Sucharow has been recognized as one of the **Nation's Best Plaintiffs' Firms** by *The Legal 500*. In 2020, the Firm earned a **Tier 1 ranking in Securities Litigation** and was also ranked for its excellence in the **Antitrust** and **M&A Litigation**. Ten Labat Sucharow Partners were ranked or recommended in the 2020 guide noting "**Labaton Sucharow has a deep and experienced team in the securities litigation space. The expertise they display gives us a high degree of confidence in the successful litigation of our class action cases.**"



Benchmark Litigation US recognized Labaton Sucharow both nationally and regionally, Delaware and New York, in its 2020 edition and named nine Partners as **Litigation Stars** and **Future Stars** across the U.S. The Firm received top rankings in the **Securities** and **Dispute Resolution** categories. The publication also named the Firm as one of the "**Top 10 Plaintiffs' Firms**" in the country.



Labaton Sucharow has been recognized by *Chambers USA 2020* as among the leading plaintiffs' firms in the nation, receiving a total of five practice group rankings and seven individual rankings. *Chambers* noted that the Firm is "**considered one of the greatest plaintiffs' firms,**" a "**very good and very thoughtful group.**" They "**take strong advocacy positions on behalf of their clients.**"



Labaton Sucharow was named a finalist for *Euromoney Women in Business Law Awards 2020* in the Best National Firm for Women in Business Law-North America category. *Euromoney's* WIBL Awards recognizes the firms advancing diversity in the profession.



Lawdragon recognized 22 Labaton Sucharow partners as among the **leading plaintiff financial lawyers in the country**. The guide presents a "curated look at the best of the U.S. plaintiff bar who specialize in representing plaintiffs in securities and other business litigation, antitrust, and whistleblower claims."



Labaton Sucharow was named *Law360 2019 Practice Group of the Year* in two categories, Class Action and Securities. The awards recognize the firms behind the work that "resonated throughout the legal industry in the past year."



COMMITMENT TO DIVERSITY AND INCLUSION

Labaton Sucharow



Diversity and inclusion are vital to our success as a national law firm, giving us diverse viewpoints from which to address our global clients' most pressing needs and complex legal challenges. At Labaton Sucharow, we are continually committed to developing initiatives that focus on our diversity and inclusion goals—which include recruiting, professional development, and attorney retention and advancement of diverse and minority candidates—while also raising awareness to the legal profession as a whole.

This commitment has not gone unnoticed. In recognition of our ongoing work, our Firm has been shortlisted for *Chambers & Partners* Inclusive Firm of the Year award and by *Euromoney* for Best National Firm for Women in Business Law.

“There is strength in diversity. At Labaton Sucharow, we strive to improve diversity within the Firm’s ranks and the legal profession as a whole. We believe having a variety of viewpoints and backgrounds improves the quality of our work and makes us better lawyers.”

– Gregory Ascioffa, Partner and Chair of the Diversity & Inclusion Committee

OUR MISSION

Over the last fifty years, our Firm has earned global recognition for extraordinary success in securing historic recoveries and reforms for investors and consumers. We strive to achieve the same level of success in promoting fairness and equality within our ranks and in the industry, and believe that can only be achieved by building a team of professionals who have a broad range of backgrounds, orientations and interests. To that end, we actively recruit, mentor, and promote to partnership minority and female lawyers. The Firm’s leadership recognizes the importance of extending leadership positions to diverse lawyers and is committed to investing time and resources to develop the next generation of lawyers and promote diversity.

WOMEN’S INITIATIVE

The Firm’s Women’s Networking and Mentoring Initiative

Labaton Sucharow became the first securities litigation firm to have a dedicated program to foster the growth, leadership, and success of its female attorneys. Established in 2007, the Women’s Initiative has hosted numerous educational seminars and networking events. Its goal is to promote the advancement and growth of our women lawyers and staff in order to groom them into future leaders and to collaborate with industry and thought leaders to promote the advancement of women as a whole. The Women’s Initiative does this in part by engaging phenomenal female speakers to impart wisdom, share professional lessons learned, and serve





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as an inspiration to the group. The Women's Initiative also hosts workshops throughout the year that focus on enhancing professional development. Past workshops have focused on strengthening negotiation and public speaking skills, the importance of business development, and addressing gender inequality issues for women in the law.



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WOMEN'S
INITIATIVE

INSTITUTIONAL INVESTING IN WOMEN AND MINORITY-LED INVESTMENT FIRMS 2020

In September 2018, Labaton Sucharow's Women's Initiative hosted its inaugural half-day event featuring two all-female panels on institutional investing in women and minority-led investment firms at the Four Seasons Hotel in New York. The event was designed to bring public pension funds, diverse managers, hedge funds, investment consultants, and legal counsel together to address the importance of diversity investing and to hear firsthand from leaders in the space as to how we can advance institutional investing in diverse investment firms. Noteworthy research has shown that diversity in background, gender, and ethnicity leads to smarter, more balanced, and informed decision-making—which leads to generations of greater returns for all involved. And, investing in women and minority-led investment firms creates a positive social impact that addresses economic imbalances that may be socially driven.



The event allowed us to provide a platform to highly accomplished women within the pension and investment community to share their experiences and expertise in this area. One of the primary goals of this event was to foster awareness of the diverse manager opportunity and discuss the benefits of allocations to diverse firms, while highlighting the best ways to create opportunities for diverse managers to showcase their unique strengths to institutional investors. It is also notable that the event featured all-female panels, a movement which is important to support the recognition and advancement of women, and one that we believe will continue at national and international conferences each year. Finally, the event was targeted in terms of its audience to those in the investment community who could continue this dialogue and advance its cause and as such, while very well-attended with people coming from all over the country to be part of the discussion, was also intimate in nature in a way that allowed for a free exchange of thoughts and ideas.

The inaugural event, which was co-chaired by Partners Serena P. Hallowell, Carol C. Villegas, and Marisa N. DeMato, was shortlisted for *Euromoney's* Best Gender Diversity Initiative award and for a *Chambers & Partners* Diversity & Inclusion award. In addition, the Firm has been



recognized as a finalist by *Chambers & Partners* for “Inclusive Firm of the Year” and by *Euromoney* as the “Best National Firm for Women in Business Law.”

MINORITY SCHOLARSHIP AND INTERNSHIP

Demonstrating our commitment to diversity in law and to introduce minority students to our Firm, we established the Labaton Sucharow Minority Scholarship and Internship in 2006.

Every year, we present a grant and a summer associate position to a first-year minority student from a metropolitan New York law school who has demonstrated academic excellence, community commitment, and superior personal integrity. Several past scholarship recipients have become full-time attorneys at the Firm. The Firm also offers two annual summer internships to Hunter College students, who rotate through our various departments, shadowing Firm partners and getting a feel for the inner workings of a law firm.



PROFESSIONAL PROFILES

Labaton Sucharow employs 170 individuals, composed of 70 attorneys (including partners, of counsel, and associates), 20 staff attorneys, 39 legal support staff (including law clerks, case development professionals, investigators, data analysts, and paralegals), and 41 other support staff. The attorneys in the Firm's New York office are primarily dedicated to securities class action litigation and antitrust litigation services. The Firm's Case Evaluation Team, which includes attorneys dedicated to case development, in-house securities data analysts, and our internal investigative unit, also is based in the New York office. The Firm's case evaluation process is led by a team of seven attorneys focused on evaluating the merits of filed cases and developing proprietary new matters overlooked by other firms. We have four separate litigation teams dedicated to prosecuting securities class actions, which include several senior female partners. The personnel in Labaton Sucharow's Delaware office focuses on representing institutional investors in shareholder derivative, merger & acquisition, and corporate governance litigation. The focus of our Washington, D.C. office is U.S. and non-U.S. securities litigation and whistleblower representation.

PROFESSIONAL PROFILES

Christopher J. Keller Chairman

Christopher J. Keller is Chairman of Labaton Sucharow LLP and head of the Firm's Executive Committee. He is based in the Firm's New York office. Chris focuses on complex securities litigation cases and works with institutional investor clients, including some of the world's largest public and private pension funds with tens of billions of dollars under management.

Chris's distinction in the plaintiffs' bar is has earned him recognition from *Lawdragon* as an "Elite Lawyer in the Legal Profession" and "Leading Plaintiff Financial Lawyer," as well as recommendations from *The Legal 500* for excellence in the field of securities litigation.

Described by *The Legal 500* as a "sharp and tenacious advocate" who "has his pulse on the trends," Chris has been instrumental in the Firm's appointments as lead counsel in some of the largest securities matters arising out of the financial crisis, such as actions against Countrywide (\$624 million settlement), Bear Stearns (\$275 million settlement with Bear Stearns Companies and \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor), and Goldman Sachs.

Chris has been integral in the prosecution of traditional fraud cases such as *In re Schering-Plough Corporation/ENHANCE Securities Litigation*; *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; as well as *In re Satyam Computer Services, Ltd. Securities Litigation*, where the Firm obtained a settlement of more than \$150 million. Chris was also a principal litigator on the trial team of *In re Real Estate Associates Limited Partnership Litigation*. The six-week jury trial resulted in a \$185 million plaintiffs' verdict, one of the largest jury verdicts since the passage of the Private Securities Litigation Reform Act.



In addition to his active caseload, Chris holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. In response to the evolving needs of clients, Chris also established, and currently leads, the Case Development Group, which is composed of attorneys, in-house investigators, financial analysts, and forensic accountants. The group is responsible for evaluating clients' financial losses and analyzing their potential legal claims both in and outside of the U.S. and tracking trends that are of potential concern to investors.

Educating institutional investors is a significant element of Chris's advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

Chris is a member of several professional groups, including the New York State Bar Association and the New York County Lawyers' Association. He is a prior member of the Board of Directors of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association aimed at engaging and supporting the legal profession in advancing social justice.

Chris earned his Juris Doctor from St. John's University School of Law. He received his bachelor's degree from Adelphi University.

Lawrence A. Sucharow **Of Counsel and Senior Adviser**

Lawrence A. Sucharow is Of Counsel and Senior Adviser in the New York office of Labaton Sucharow LLP. In this role, Larry focuses on counseling the Firm's large institutional clients, developing creative and compelling strategies to advance and protect clients' interests, and prosecuting and resolving many of the Firm's leading cases. With more than four decades of experience, Larry is an internationally recognized trial lawyer and a leader of the class action bar. Under his guidance, the Firm has earned its position as one of the top plaintiffs securities and antitrust class action firms in the world.

In recognition of his career accomplishments and standing in the securities bar, Larry was selected by *Law360* as one of the 10 Most Admired Securities Attorneys in the United States and as a Titan of the Plaintiffs Bar. Larry was honored with the *National Law Journal's* Elite Trial Lawyers Lifetime Achievement Award, and he is one of a small handful of plaintiffs' securities lawyers in the United States recognized by *Chambers & Partners USA*, *The Legal 500*, and *Benchmark Litigation* for his successes in securities litigation. Larry has been consistently recognized by *Lawdragon* as one of the country's leading lawyers, and in 2020, Larry was inducted in the Hall of Fame in recognition of his outstanding contributions as a leader and litigator. Referred to as a "legend" by his peers in *Benchmark Litigation*, *Chambers* describes him as an "immensely respected plaintiff advocate" and a "renowned figure in the securities plaintiff world...[that] has handled some of the most high-profile litigation in this field." According to *The Legal 500*, clients characterize Larry as "a strong and passionate advocate with a desire to win." In addition, Brooklyn Law School honored Larry as Alumni of the Year Award in 2012 for his notable achievements in the field.

Over the course of his career, Larry has prosecuted hundreds of cases and the Firm has recovered billions in groundbreaking securities, antitrust, business transaction, product liability, and other class actions. In fact, a landmark case tried in 2002—*In re Real Estate Associates Limited Partnership Litigation*—was the very first securities action successfully tried to a jury verdict following the



enactment of the Private Securities Litigation Reform Act (PSLRA). Experience such as this has made Larry uniquely qualified to evaluate and successfully prosecute class actions.

Other representative matters include: *Arkansas Teacher Retirement System v. State Street Corporation* (\$300 million settlement); *In re CNL Resorts, Inc. Securities Litigation* (\$225 million settlement); *In re Paine Webber Incorporated Limited Partnerships Litigation* (\$200 million settlement); *In re Prudential Securities Incorporated Limited Partnerships Litigation* (\$110 million partial settlement); *In re Prudential Bache Energy Income Partnerships Securities Litigation* (\$91 million settlement); and *Shea v. New York Life Insurance Company* (over \$92 million settlement).

Larry's consumer protection experience includes leading the national litigation against the tobacco companies in *Castano v. American Tobacco Co.*, as well as litigating *In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation*. Currently, he plays a key role in *In re Takata Airbag Products Liability Litigation* and a nationwide consumer class action against Volkswagen Group of America, Inc., arising out of the wide-scale fraud concerning Volkswagen's "Clean Diesel" vehicles. Larry further conceptualized the establishment of two Dutch foundations, or "Stichtingen" to pursue settlement of claims against Volkswagen on behalf of injured car owners and investors in Europe.

In 2018, Larry was appointed to serve on Brooklyn Law School's Board of Trustees. He has served a two-year term as President of the National Association of Shareholder and Consumer Attorneys, a membership organization of approximately 100 law firms that practice complex civil litigation including class actions. A longtime supporter of the Federal Bar Council, Larry serves as a trustee of the Federal Bar Council Foundation. He is a member of the Federal Bar Council's Committee on Second Circuit Courts, and the Federal Courts Committee of the New York County Lawyers' Association. He is also a member of the Securities Law Committee of the New Jersey State Bar Association and was the Founding Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association, a position he held from 1988-1994. In addition, Larry serves on the Advocacy Committee of the World Federation of Investors Corporation, a worldwide umbrella organization of national shareholder associations. In May 2013, Larry was elected Vice Chair of the International Financial Litigation Network, a network of law firms from 15 countries seeking international solutions to cross-border financial problems.

Larry earned his Juris Doctor, *cum laude*, from Brooklyn Law School. He received his bachelor's degree from Baruch School of the City College of the City University of New York.

Eric J. Belfi

Partner

Eric J. Belfi is a Partner in the New York office of Labaton Sucharow LLP and a member of the Firm's Executive Committee. An accomplished litigator with a broad range of experience in commercial matters, Eric represents many of the world's leading pension funds and other institutional investors. Eric actively focuses on domestic and international securities and shareholder litigation, as well as direct actions on behalf of governmental entities. As an integral member of the Firm's Case Development Group, Eric has brought numerous high-profile domestic securities cases that resulted from the credit crisis, including the prosecution against Goldman Sachs. Along with his domestic securities litigation practice, Eric leads the Firm's Non-U.S. Securities Litigation Practice, which is dedicated exclusively to analyzing potential claims in non-U.S. jurisdictions and advising on the risks and benefits of litigation in those forums. Additionally, Eric oversees the Financial Products and Services Litigation Practice, focusing on individual actions



against malfeasant investment bankers, including cases against custodial banks that allegedly committed deceptive practices relating to certain foreign currency transactions.

Lawdragon has recognized Eric as one of the country's "500 Leading Plaintiff Financial Lawyers" as the result of their research into top verdicts and settlements, and input from "lawyers nationwide about whom they admire and would hire to seek justice for a claim that strikes a loved one."

In his work with the Case Development Group, Eric was actively involved in securing a combined settlement of \$18.4 million in *In re Colonial BancGroup, Inc. Securities Litigation*, regarding material misstatements and omissions in SEC filings by Colonial BancGroup and certain underwriters. Eric's experience includes noteworthy M&A and derivative cases such as *In re Medco Health Solutions Inc. Shareholders Litigation* in which he was integrally involved in the negotiation of the settlement that included a significant reduction in the termination fee.

Under Eric's direction, the Firm's Non-U.S. Securities Litigation Practice—one of the first of its kind—also serves as liaison counsel to institutional investors in such cases, where appropriate. Eric represents nearly 30 institutional investors in over a dozen non-U.S. cases against companies including SNC-Lavalin Group Inc. in Canada, Vivendi Universal, S.A. in France, OZ Minerals Ltd. in Australia, Lloyds Banking Group in the UK, and Olympus Corporation in Japan. Eric's international experience also includes securing settlements on behalf of non-U.S. clients including the U.K.-based Mineworkers' Pension Scheme in *In re Satyam Computer Securities Services Ltd. Securities Litigation*, an action related to one of the largest securities fraud in India, which resulted in \$150.5 million in collective settlements. While representing two of Europe's leading pension funds, Deka Investment GmbH and Deka International S.A., Luxembourg, in *In re General Motors Corp. Securities Litigation*, Eric was integral in securing a \$303 million settlement in relation to multiple accounting manipulations and overstatements by General Motors.

As head of the Financial Products and Services Litigation Practice, Eric served as lead counsel to Arkansas Teacher Retirement System in a class action against State Street Corporation and certain affiliated entities alleging misleading actions in connection with foreign currency exchange trades, which resulted in a \$300 million recovery. He has also represented the Commonwealth of Virginia in its False Claims Act case against Bank of New York Mellon, Inc.

Prior to joining Labaton Sucharow, Eric served as an Assistant Attorney General for the State of New York and as an Assistant District Attorney for the County of Westchester. As a prosecutor, Eric investigated and prosecuted white-collar criminal cases, including many securities law violations. He presented hundreds of cases to the grand jury and obtained numerous felony convictions after jury trials.

Eric is a member of the National Association of Public Pension Attorneys (NAPPA) Securities Litigation Working Group. He has spoken on the topics of shareholder litigation and U.S.-style class actions in European countries and has also discussed socially responsible investments for public pension funds.

Eric earned his Juris Doctor from St. John's University School of Law and received his bachelor's degree from Georgetown University.



Michael P. Canty

Partner

Michael P. Canty is a Partner in the New York office of Labaton Sucharow LLP, where he serves as General Counsel and head of the Firm's Consumer Cybersecurity and Data Privacy group. Michael's practice focuses on complex fraud cases on behalf of institutional investors and consumers.

Recommended by *The Legal 500* and *Benchmark Litigation* as an accomplished litigator, Michael has more than a decade of trial experience in matters relating to national security, white collar crime, and cybercrime. Michael has been recognized as a Plaintiffs' Trailblazer and a NY Trailblazer by the *National Law Journal* and the *New York Law Journal*, respectively, for his impact on the practice and business of law. *Lawdragon* has also recognized Mike as one of the 500 Leading Plaintiff Financial Lawyers in America, as the result of their research into the country's top verdicts and settlements.

Michael has successfully prosecuted a number of high-profile securities matters involving technology companies. Most notably, Michael is part of the litigation team that recently achieved a historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever and one of the first cases asserting consumers' biometric privacy rights under Illinois' Biometric Information Privacy Act (BIPA). Michael has also led cases against AMD, a multi-national semiconductor company, and Ubiquiti Networks, Inc., a global software company. In both cases, Michael played a pivotal role in securing favorable settlements for investors.

Prior to joining Labaton Sucharow, Michael served as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Eastern District of New York, where he was the Deputy Chief of the Office's General Crimes Section. During his time as a federal prosecutor, Michael also served in the Office's National Security and Cybercrimes Section. Prior to this, he served as an Assistant District Attorney for the Nassau County District Attorney's Office, where he handled complex state criminal offenses and served in the Office's Homicide Unit.

Michael has extensive trial experience both from his days as a prosecutor in New York City for the U.S. Department of Justice and as a Nassau County Assistant District Attorney. Michael served as trial counsel in more than 35 matters, many of which related to violent crime, white-collar, and terrorism-related offenses. He played a pivotal role in *United States v. Abid Naseer*, where he prosecuted and convicted an al-Qaeda operative who conspired to carry out attacks in the United States and Europe. Michael also led the investigation in *United States v. Marcos Alonso Zea*, a case in which he successfully prosecuted a citizen for attempting to join a terrorist organization in the Arabian Peninsula and for providing material support for planned attacks.

Michael also has extensive experience investigating and prosecuting cases involving the distribution of prescription opioids. In January 2012, Michael was assigned to the U.S. Attorney's Office Prescription Drug Initiative to mount a comprehensive response to what the Centers for Disease Control and Prevention (CDC) has called an epidemic increase in the abuse of so-called opioid analgesics. As a member of the initiative, in *United States v. Conway* and *United States v. Deslouché*, Michael successfully prosecuted medical professionals who were illegally prescribing opioids. In *United States v. Moss et al.*, he was responsible for dismantling one of the largest oxycodone rings operating in the New York metropolitan area at the time. In addition to prosecuting



these cases, Michael spoke regularly to the community on the dangers of opioid abuse as part of the Office's community outreach.

Before becoming a prosecutor, Michael worked as a Congressional Staff Member for the U.S. House of Representatives. He primarily served as a liaison between the Majority Leader's Office and the Government Reform and Oversight Committee. During his time with the House of Representatives, Michael managed congressional oversight of the United States Postal Service and reviewed and analyzed counter-narcotics legislation as it related to national security matters.

Michael earned his Juris Doctor, *cum laude*, from St. John's University's School of Law. He received his Bachelor of Arts, *cum laude*, from Mary Washington College.

Marisa N. DeMato

Partner

Marisa N. DeMato is a Partner in the New York office of Labaton Sucharow LLP. With more than 15 years of securities litigation experience, Marisa advises leading pension funds and other institutional investors in the United States and Canada on issues related to corporate fraud in U.S. securities markets and provides representation in complex civil actions. Her work focuses on monitoring the well-being of institutional investments and counseling clients on best practices in corporate governance of publicly traded companies.

Marisa is known to be "the ultimate professional." *Lawdragon* has named her one of the 500 Leading Plaintiff Financial Lawyers in America, and as a result of her work, the Firm has received a Tier 1 ranking in Plaintiff Securities Litigation from *Legal 500*. According to clients, "It is because of Marisa that Labaton stands out from its competitors."

Marisa has achieved significant settlements on behalf of clients. She represented Seattle City Employees' Retirement System in a \$90 million derivative settlement that achieved historic corporate governance reforms from Twenty-First Century Fox, Inc., following allegations of workplace harassment incidents at Fox News. Marisa also successfully represented investors in high-profile cases against LifeLock, Camping World, Rent-A-Center, and Castlight Health. In *In re Walgreen Co. Derivative Litigation*, she served as legal adviser to the West Palm Beach Police Pension Fund and secured significant corporate governance reforms and extended Drug Enforcement Agency commitments from Walgreens in response to the company's violation of the U.S. Controlled Substances Act.

Marisa is one of the Firm's leading advocates for institutional investing in women and minority-led firms. Since 2018, Marisa serves as co-chair of the Firm's annual Women's Initiative Forum, which has been recognized by *Euromoney* and *Chambers USA* as one of the best gender diversity initiatives. Marisa is instrumental in the development and execution of these events, and the programs have been praised by attendees for offering insightful discussions on how pension funds and other institutional investors can provide opportunities for women and minority-owned firms.

An accomplished speaker, Marisa frequently lectures on topics pertaining to securities fraud litigation, fiduciary responsibility, and corporate governance issues. Marisa has spoken widely on the subprime mortgage crisis and its disastrous effect on the pension fund community in the United States, as well as on the global implications and related fraud to institutional investors in Italy, France, and the U.K. She has also presented on issues arising from the federal regulatory response to the financial crisis, including implications of the Dodd-Frank Act and the national



debate on executive compensation and proxy access for shareholders. Marisa has testified before the Texas House of Representatives Pensions Committee on the changing legal landscape for public pensions following the Supreme Court's *Morrison* decision and best practices for non-U.S. investment recovery. Her skillful communication also extends to her interactions with clients. "Marisa stands out as the most effective communicator in regards to our portfolio. She will always keep us informed as to what cases are out there, how solid the merits of the case are, and our potential success as a lead plaintiff."

Prior to joining Labaton Sucharow, Marisa worked for a nationally recognized securities litigation firm and devoted a substantial portion of her time to litigating securities, derivatives, mergers and acquisitions, and consumer fraud. Over the course of those eight years, she represented numerous pension funds, municipalities, and individual investors throughout the U.S. and was an integral member of legal teams that secured multimillion dollar settlements, including *In re Managed Care Litigation* (\$135 million recovery); *Cornwell v. Credit Suisse Group* (\$70 million recovery); *Michael v. SFBC International, Inc.* (\$28.5 million recovery); *Ross v. Career Education Corporation* (\$27.5 million recovery); and *Village of Dolton v. Taser International Inc.* (\$20 million recovery).

Marisa is an active member of the National Association of Public Pension Attorneys (NAPPA) and the National Association of Securities Professionals (NASP). She is also a member of the Federal Bar Council, an organization of lawyers dedicated to promoting excellence in federal practice and fellowship among federal practitioners.

Marisa earned her Juris Doctor from the University of Baltimore School of Law. She received her Bachelor of Arts from Florida Atlantic University.

Thomas A. Dubbs

Partner

Thomas A. Dubbs is a Partner in the New York office of Labaton Sucharow LLP. Tom focuses on the representation of institutional investors in domestic and multinational securities cases. Tom serves or has served as lead or co-lead counsel in some of the most important federal securities class actions in recent years, including those against American International Group, Goldman Sachs, the Bear Stearns Companies, Facebook, Fannie Mae, Broadcom, and WellCare.

Tom is highly-regarded in his practice. He has been named a top litigator by *Chambers & Partners* for 10 consecutive years and has been consistently ranked as a Leading Lawyer in Securities Litigation by *The Legal 500*. *Law360* named him an MVP of the Year for distinction in class action litigation, and he has been recognized by *The National Law Journal*, *Lawdragon*, and *Benchmark Litigation* for excellence in securities litigation. Tom has also received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory. In addition, *The Legal 500* has inducted Tom into its Hall of Fame—an honor presented to only four plaintiffs securities litigators "who have received constant praise by their clients for continued excellence."

Tom has played an integral role in securing significant settlements in several high-profile cases, including *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion); *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al.* (WellCare Securities Litigation) (over \$200 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Broadcom*



Corp. Securities Litigation (\$160.5 million settlement with Broadcom, plus \$13 million settlement with Ernst & Young LLP, Broadcom's outside auditor); *In re St. Paul Travelers Securities Litigation* (\$144.5 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$78 million settlement).

Representing an affiliate of the Amalgamated Bank, Tom successfully led a team that litigated a class action against Bristol-Myers Squibb, which resulted in a settlement of \$185 million as well as major corporate governance reforms. He has argued before the U.S. Supreme Court and has argued 10 appeals dealing with securities or commodities issues before the U.S. Courts of Appeals.

Due to his reputation in securities law, Tom frequently lectures to institutional investors and other groups, such as the Government Finance Officers Association, the National Conference on Public Employee Retirement Systems, and the Council of Institutional Investors. He is a prolific author of articles related to his field, including "Textualism and Transnational Securities Law: A Reappraisal of Justice Scalia's Analysis in *Morrison v. National Australia Bank*," which he penned for the *Southwestern Journal of International Law*. He has also written several columns in U.K. publications regarding securities class actions and corporate governance.

Prior to joining Labaton Sucharow, Tom was Senior Vice President & Senior Litigation Counsel for Kidder, Peabody & Co. Incorporated, where he represented the company in many class actions, including the *First Executive* and *Orange County* litigation and was first chair in many securities trials. Before joining Kidder, Tom was head of the litigation department at Hall, McNicol, Hamilton & Clark, where he was the principal partner representing Thomson McKinnon Securities Inc. in many matters, including the *Petro Lewis* and *Baldwin-United* class actions.

Tom serves as a FINRA Arbitrator and is an Advisory Board Member for the Institute for Transnational Arbitration. He is a member of the New York State Bar Association and the Association of the Bar of the City of New York, as well as a patron of the American Society of International Law. Tom is an active member of the American Law Institute and is currently an adviser on the proposed Restatement of the Law Third, Conflict of Laws; he was also a member of the Consultative Groups for the Restatement of the Law Fourth, U.S. Foreign Relations Law, and the Principles of Law, Aggregate Litigation. Tom also serves on the Board of Directors for The Sidney Hillman Foundation.

Tom earned his Juris Doctor and bachelor's degree from the University of Wisconsin-Madison. He received his master's degree from the Fletcher School of Law and Diplomacy, Tufts University.

Christine M. Fox

Partner

Christine M. Fox is a Partner in the New York office of Labaton Sucharow LLP. With more than 20 years of securities litigation experience, Christine prosecutes complex securities fraud cases on behalf of institutional investors.

Christine is recognized by *Lawdragon* as one of the "500 Leading Plaintiff Financial Lawyers in America."

Christine is actively involved in litigating matters against Molina Healthcare, Hain Celestial, Avon, Adient, AT&T, and Apple. She has played a pivotal role in securing favorable settlements for investors in class actions against Barrick Gold Corporation, one of the largest gold mining



companies in the world (\$140 million recovery); CVS Caremark, the nation's largest pharmacy retail chain (\$48 million recovery); Nu Skin Enterprises, a multilevel marketing company (\$47 million recovery); and Intuitive Surgical, a manufacturer of robotic-assisted technologies for surgery (\$42.5 million recovery).

Christine is actively involved in the Firm's pro bono immigration program and recently reunited a father and child separated at the border. She is currently working on their asylum application.

Prior to joining the Firm, Christine worked at a national litigation firm focusing on securities, antitrust, and consumer litigation in state and federal courts. She played a significant role in securing class action recoveries in a number of high-profile securities cases, including *In re Merrill Lynch Co., Inc. Research Reports Securities Litigation* (\$475 million recovery); *In re Informix Corp. Securities Litigation* (\$136.5 million recovery); *In re Alcatel Alsthom Securities Litigation* (\$75 million recovery); and *In re Ambac Financial Group, Inc. Securities Litigation* (\$33 million recovery).

She is a member of the American Bar Association, New York State Bar Association, and Puerto Rican Bar Association.

Christine earned her Juris Doctor from the University of Michigan Law School and received her bachelor's degree from Cornell University.

Christine is conversant in Spanish.

Jonathan Gardner

Partner

Jonathan Gardner is a Partner in the New York office of Labaton Sucharow LLP and serves as Head of Litigation for the Firm. With more than 28 years of experience, Jonathan oversees all of the Firm's litigation matters, including prosecuting complex securities fraud cases on behalf of institutional investors.

A *Benchmark Litigation* "Star" acknowledged by his peers as "engaged and strategic," Jonathan has also been named an MVP by *Law360* for securing hard-earned successes in high-stakes litigation and complex global matters. He is recommended by *The Legal 500*, whose sources remarked on Jonathan's ability to "understand the unique nature of complex securities litigation and strive for practical yet results-driven outcomes." Jonathan is also recognized by *Lawdragon* as one of the 500 Leading Plaintiff Financial Lawyers in America.

Jonathan has played an integral role in securing some of the largest class action recoveries against corporate offenders since the global financial crisis. He led the Firm's team in the investigation and prosecution of *In re Barrick Gold Securities Litigation*, which resulted in a \$140 million recovery. He has also served as the lead attorney in several cases resulting in significant recoveries for injured class members, including *In re Hewlett-Packard Company Securities Litigation* (\$57 million recovery); *Public Employees' Retirement System of Mississippi v. Endo International PLC* (\$50 million recovery); *Medoff v. CVS Caremark Corporation* (\$48 million recovery); *In re Nu Skin Enterprises, Inc., Securities Litigation*, (\$47 million recovery); *In re Intuitive Surgical Securities Litigation* (\$42.5 million recovery); *In re Carter's Inc. Securities Litigation* (\$23.3 million recovery against Carter's and certain officers, as well as its auditing firm PricewaterhouseCoopers); *In re*



Aeropostale Inc. Securities Litigation (\$15 million recovery); *In re Lender Processing Services Inc.* (\$13.1 million recovery); and *In re K-12, Inc. Securities Litigation* (\$6.75 million recovery).

Jonathan has led the Firm's representation of investors in many high-profile cases including *Rubin v. MF Global Ltd.*, which involved allegations of material misstatements and omissions in a Registration Statement and Prospectus issued in connection with MF Global's IPO. The case resulted in a recovery of \$90 million for investors. Jonathan also represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements exceeding \$600 million against Lehman Brothers' former officers and directors, Lehman's former public accounting firm, as well the banks that underwrote Lehman Brothers' offerings. In representing lead plaintiff Massachusetts Bricklayers and Masons Trust Funds in an action against Deutsche Bank, Jonathan secured a \$32.5 million recovery for a class of investors injured by the bank's conduct in connection with certain residential mortgage-backed securities.

Jonathan has also been responsible for prosecuting several of the Firm's options backdating cases, including *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement); *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement); *In re Semtech Securities Litigation* (\$20 million settlement); and *In re MRV Communications, Inc. Securities Litigation* (\$10 million settlement). He also was instrumental in *In re Mercury Interactive Corp. Securities Litigation*, which settled for \$117.5 million, one of the largest settlements or judgments in a securities fraud litigation based on options backdating. Jonathan also represented the Successor Liquidating Trustee of Lipper Convertibles, a convertible bond hedge fund, in actions against the fund's former independent auditor and a member of the fund's general partner as well as numerous former limited partners who received excess distributions. He successfully recovered over \$5.2 million for the Successor Liquidating Trustee from the limited partners and \$29.9 million from the former auditor.

Jonathan is a member of the Federal Bar Council, New York State Bar Association, and the Association of the Bar of the City of New York.

Jonathan earned his Juris Doctor from St. John's University School of Law. He received his bachelor's degree from American University.

David Goldsmith

Partner

David J. Goldsmith is a Partner in the New York office of Labaton Sucharow LLP. A principal litigator at the Firm, David is responsible for the Firm's appellate practice and has briefed and argued multiple appeals in the federal Courts of Appeals and state appellate courts. David has extensive experience representing public and private institutional investors in a variety of securities and class action litigations.

David is recognized by *Lawdragon* as "among the leading plaintiff financial lawyers nationwide" and has been recommended by *The Legal 500* as part of the Firm's top-tier plaintiffs' team in securities class action litigation.

David's significant pending cases include federal appeals of dismissed actions against Molina Healthcare and Skechers U.S.A., and appeals by an intervenor challenging a landmark class action



settlement with Endo Pharmaceuticals in state court. In the Supreme Court of the United States, David acted as co-counsel for AARP and AARP Foundation as *amici curiae* in *China Agritech, Inc. v. Resh*, 138 S. Ct. 1800 (2018), and as co-counsel for a group of federal jurisdiction and securities law scholars as *amici curiae* in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 138 S. Ct. 1061 (2018).

As a trial lawyer, David was an integral member of the team representing the Arkansas Teacher Retirement System in a significant action alleging unfair and deceptive practices by State Street Bank in connection with foreign currency exchange trades executed for its custodial clients. The resulting \$300 million settlement is the largest class action settlement ever reached under the Massachusetts consumer protection statute, and one of the largest class action settlements reached in the First Circuit. David also represented the New York State Common Retirement Fund and New York City pension funds as lead plaintiffs in the landmark *In re Countrywide Financial Corp. Securities Litigation*, which settled for \$624 million. He has successfully represented state and county pension funds in class actions in California state court arising from the IPOs of technology companies, and recovered tens of millions of dollars for a large German bank and a major Irish special-purpose vehicle in individual actions alleging fraud in connection with the sale of residential mortgage-backed securities.

David regularly advises the Genesee County (Michigan) Employees' Retirement Commission with respect to potential securities, shareholder, and antitrust claims, and represented the System in a major action charging a conspiracy by some of the world's largest banks to manipulate the U.S. Dollar ISDAfix benchmark interest rate. This case, which settled for a total of \$504.5 million, was featured in *Law360's* selection of the Firm as a Class Action Group of the Year for 2017.

David is an active member of several professional organizations, including The National Association of Shareholder & Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice complex civil litigation including class actions, the American Association for Justice, New York State Bar Association, and the Association of the Bar of the City of New York. David is a long-time tenor and board member with AmorArtis, a chamber chorus dedicated to illuminating the relationship between Renaissance, Baroque, and Contemporary music.

David earned his Juris Doctor from Benjamin N. Cardozo School of Law, Yeshiva University. During law school, David was Managing Editor of the *Cardozo Arts & Entertainment Law Journal* and served as a judicial intern to the Honorable Michael B. Mukasey, then a United States District Judge for the Southern District of New York. He received his bachelor's and master's degrees from the University of Pennsylvania.

Serena P. Hallowell

Partner

Serena P. Hallowell is a Partner in the New York office of Labaton Sucharow and Head of the Direct Action Litigation Practice. Serena focuses on complex litigation, prosecuting securities fraud cases on behalf of some of the world's largest institutional investors, including pension funds, hedge funds, mutual funds, asset managers, and other large institutional investors. She also regularly advises and represents institutional investors regarding recovery opportunities in connection with fraud-related conduct. In addition to her active caseload, Serena serves as Co-Chair of the Firm's Women's Networking and Mentoring Initiative and oversees the Firm's summer associate and lateral hiring programs.



Serena is regarded as one of the leading securities lawyers in New York. She was selected to *The National Law Journal's* "Elite Women of the Plaintiffs Bar" for her innate ability to consistently excel in high-stakes matters on behalf of plaintiffs. She has been named a "Securities MVP" by *Law360*; a "Trailblazer" by *The National Law Journal*; and a "Leading Lawyer in America" as well as a "Leading Plaintiffs Financial Lawyer" by *Lawdragon*. Serena has also been recommended in securities litigation by *The Legal 500* and been named a "Future Star" by *Benchmark Litigation* and a "Rising Star" by *Law360*.

Serena is currently prosecuting cases against Valeant Pharmaceuticals and Endo International, among others. Recently, in Endo, the parties have announced an agreement to settle the matter for \$50 million. Also, in Valeant, Serena leads a team that won a significant motion in the District of New Jersey, when the court sustained claims arising under the NJ RICO Act in direct actions filed against Valeant.

Serena was part of a highly-skilled team that reached a \$140 million settlement against one of the world's largest gold mining companies in *In re Barrick Gold Securities Litigation*. Playing a principal role in prosecuting *In re Computer Sciences Corporation Securities Litigation* in a "rocket docket" jurisdiction, she helped secure a settlement of \$97.5 million on behalf of lead plaintiff Ontario Teachers' Pension Plan Board, the third largest all cash settlement in the Fourth Circuit at the time. She was also instrumental in securing a \$48 million recovery in *Medoff v. CVS Caremark Corporation*, a \$42.5 million settlement in *In re Intuitive Surgical Securities Litigation*, and a \$41.5 million settlement in *In re NII Holdings, Inc. Securities Litigation*. Serena also has broad appellate and trial experience.

Serena is a member of the New York City Bar Association, where she serves on the Securities Litigation Committee; the Federal Bar Council; the South Asian Bar Association; the National Association of Public Pension Attorneys; and the National Association of Women Lawyers. Her pro bono work includes representing immigrant detainees in removal proceedings for the American Immigrant Representation Project and devoting time to the Securities Arbitration Clinic at Brooklyn Law School.

Serena earned her Juris Doctor from Boston University School of Law, where she served as the Note Editor for the *Journal of Science Technology Law*. She received her bachelor's degree from Occidental College.

She is conversational in Urdu/Hindi.

Thomas G. Hoffman, Jr.

Partner

Thomas G. Hoffman, Jr. is a partner in the New York office of Labaton Sucharow LLP. Thomas focuses on representing institutional investors in complex securities actions. He is currently prosecuting cases against BP and Allstate.

Thomas was instrumental in securing a \$1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered \$170 million for investors in *In re 2008 Fannie Mae Securities Litigation*.

Thomas earned his Juris Doctor from UCLA School of Law, where he was Editor-in-Chief of the *UCLA Entertainment Law Review* and served as a Moot Court Executive Board Member. In



addition, he served as a judicial extern to the Honorable William J. Rea, United States District Court for the Central District of California. Thomas received his bachelor's degree, with honors, from New York University.

James W. Johnson

Partner

James W. Johnson is a Partner in the New York office of Labaton Sucharow LLP. Jim focuses on litigating complex securities fraud cases. In addition to his active caseload, Jim holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. He also serves as the Executive Partner overseeing firm-wide issues.

Jim has been recognized by *Lawdragon* as one of the 500 Leading Lawyers in America and one of the country's top Plaintiff Financial Lawyers. He has also received a rating of AV Preeminent from the publishers of the *Martindale-Hubbell* directory.

In representing investors who have been victimized by securities fraud and breaches of fiduciary responsibility, Jim's advocacy has resulted in record recoveries for wronged investors. Currently, he is prosecuting the high-profile case against financial industry leader Goldman Sachs—*In re Goldman Sachs Group, Inc. Securities Litigation*.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions. These include *In re HealthSouth Corp. Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (\$200 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement); and *In re SCANA Securities Litigation* (\$192.5 million settlement). Other notable successes include *In re National Health Laboratories, Inc. Securities Litigation*, which resulted in a recovery of \$80 million in the federal action and a related state court derivative action, and *In re Bristol Myers Squibb Co. Securities Litigation*, in which the court approved a \$185 million settlement including significant corporate governance reforms and recognized plaintiff's counsel as "extremely skilled and efficient."

Jim also represented lead plaintiffs in *In re Bear Stearns Companies, Inc. Securities Litigation*, securing a \$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor. In *County of Suffolk v. Long Island Lighting Co.*, Jim represented the plaintiff in a RICO class action, securing a jury verdict after a two-month trial that resulted in a \$400 million settlement. The Second Circuit quoted the trial judge, the Honorable Jack B. Weinstein, as stating, "Counsel [has] done a superb job [and] tried this case as well as I have ever seen any case tried." On behalf of the Chugach Native Americans, he also assisted in prosecuting environmental damage claims resulting from the Exxon Valdez oil spill.

Jim is a member of the American Bar Association and the Association of the Bar of the City of New York, where he served on the Federal Courts Committee. He is also a Fellow in the Litigation Council of America.

Jim earned his Juris Doctor from New York University School of Law and his bachelor's degree from Fairfield University.



Edward Labaton

Partner

Edward Labaton is a Partner in the New York office of Labaton Sucharow LLP. An accomplished trial and appellate lawyer, Ed has devoted his 50 years of practice to representing a full range of clients in class action and complex litigation matters in state and federal court.

Ed's distinguished career has won his recognition from *The National Law Journal* as a "Plaintiffs' Lawyer Trailblazer" and from *Lawdragon* one of the country's "500 Leading Plaintiff Financial Lawyers," as well as recommendations from *The Legal 500* for excellence in the field of securities litigation. Notably, Ed is the recipient of the Alliance for Justice's "Champion of Justice Award," given to outstanding individuals whose life and work exemplifies the principle of equal justice.

Ed has played a leading role as plaintiffs' class counsel in a number of successful, high-profile cases involving companies such as PepsiCo, Dun & Bradstreet, Financial Corporation of America, ZZZZ Best, Revlon, GAF Co., American Brands, Petro Lewis, and Jim Walter, as well as several Big Eight (now Big Four) accounting firms. He has also argued appeals in state and federal courts, achieving results with important precedential value.

Ed's commitment to the bar extends far beyond the courtroom. For more than 30 years, he has lectured on a variety of topics, including federal civil litigation, securities litigation, and corporate governance. Since its founding, Ed has been President of the Institute for Law and Economic Policy, which co-sponsors symposia with major law schools to address issues relating to the civil justice system. In 2010, he was appointed to the newly-formed Advisory Board of George Washington University's Center for Law, Economics, & Finance, a think tank within the Law School, for the study and debate of major issues in economic and financial law confronting the United States and the globe. In addition, Ed has served on the Executive Committee and has been an officer of the Ovarian Cancer Research Fund since its inception.

Ed is an Honorary Lifetime Member of the Lawyers' Committee for Civil Rights under Law, a member of the American Law Institute, and a life member of the ABA Foundation. Ed is a past Chairman of the Federal Courts Committee of the New York County Lawyers Association and was a member of the organization's Board of Directors. He is an active member of the New York City Bar Association, where he was Chair of the Senior Lawyers' Committee and served on its Task Force on the Role of Lawyers in Corporate Governance. He has also served on its Federal Courts, Federal Legislation, Securities Regulation, International Human Rights, and Corporation Law Committees. Ed previously served as Chair of the Legal Referral Service Committee, a joint committee of the New York County Lawyers' Association and the New York City Bar Association. He has been an active member of the American Bar Association, the Federal Bar Council, and the New York State Bar Association, where was a member of the House of Delegates.

Ed earned his Bachelor of Laws from Yale University. He received his Bachelor of Business Administration from City College of New York.

Francis P. McConville

Partner

Francis P. McConville is a Partner in the New York office of Labaton Sucharow LLP. Francis focuses on prosecuting complex securities fraud cases on behalf of institutional investor clients. As a lead member of the Firm's Case Development Group, he focuses on the identification,



investigation, and development of potential 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.

Francis has played a key role in filing several matters on behalf of the Firm, including *In re PG&E Corporation Securities Litigation*; *In re SCANA Securities Litigation* (\$192.5 million settlement); *Steamfitters Local 449 Pension Plan v. Skechers U.S.A., Inc.*; and *In re Nielsen Holdings PLC Securities Litigation*.

Prior to joining Labaton Sucharow, Francis was a Litigation Associate at a national law firm primarily focused on securities and consumer class action litigation. Francis has represented institutional and individual clients in federal and state court across the country in class action securities litigation and shareholder disputes, along with a variety of commercial litigation matters. He assisted in the prosecution of several matters, including *Kiken v. Lumber Liquidators Holdings, Inc.* (\$42 million recovery); *Hayes v. MagnaChip Semiconductor Corp.* (\$23.5 million recovery); and *In re Galena Biopharma, Inc. Securities Litigation* (\$20 million recovery).

Francis received his Juris Doctor, *magna cum laude*, from New York Law School, where he was named a John Marshall Harlan Scholar, and received a Public Service Certificate. Francis served as Associate Managing Editor of the *New York Law School Law Review* and worked in the Urban Law Clinic. He earned his Bachelor of Arts degree from the University of Notre Dame.

Domenico (Nico) Minerva

Partner

Domenico “Nico” Minerva is a Partner in the New York office of Labaton Sucharow LLP. A former financial advisor, his work focuses on securities, antitrust, and consumer class actions and shareholder derivative litigation, representing Taft-Hartley and public pension funds across the country. Nico advises leading pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets.

Nico is described by clients as “always there for us” and known to provide “an honest answer and describe all the parameters and/or pitfalls of each and every case.” As a result of his work, the Firm has received a Tier 2 ranking in Antitrust Civil Litigation and Class Actions from *Legal 500*.

Nico’s extensive securities litigation experience includes the case against global security systems company Tyco and co-defendant PricewaterhouseCoopers (*In re Tyco International Ltd., Securities Litigation*), which resulted in a \$3.2 billion settlement—the largest single-defendant settlement in post-PSLRA history. He also has counseled companies and institutional investors on corporate governance reform.

Nico has also done substantial work in antitrust class actions. These include pay-for-delay or “product hopping” cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Limited Co.*, *In re Lidoderm Antitrust Litigation*, *In re Solodyn (MinocyclineHydrochloride) Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Aggrenox Antitrust Litigation*, and *Sergeants Benevolent Association Health & Welfare Fund et al. v. Actavis PLC et al.* In the anticompetitive matter *The Infirmary LLC vs. National Football League Inc et al.*, Nico played an instrumental part in challenging an exclusivity agreement between the NFL and DirectTV over the service’s “NFL Sunday Ticket” package. He also litigated on behalf of



indirect purchasers in a case alleging that growers conspired to control and suppress the nation's potato supply, *In re Fresh and Process Potatoes Antitrust Litigation*.

On behalf of consumers, Nico represented a plaintiff in *In Re ConAgra Foods Inc.*, over misleading claims that Wesson-brand vegetable oils are 100% natural.

An accomplished speaker, Nico has given numerous presentations to investors on topics related to corporate fraud, wrongdoing, and waste. He is also an active member of the National Association of Public Pension Plan Attorneys.

Nico earned his Juris Doctor from Tulane University Law School, where he completed a two-year externship with the Honorable Kurt D. Engelhardt of the United States District Court for the Eastern District of Louisiana. He received his bachelor's degree from the University of Florida.

Corban S. Rhodes

Partner

Corban S. Rhodes is a Partner in the New York office of Labaton Sucharow LLP. Corban focuses on prosecuting consumer cybersecurity and data privacy litigation, as well as complex securities fraud cases on behalf of institutional investors.

Corban has been recognized as a "Rising Star" in Consumer Protection Law by *Law360*. Corban was also recognized as a New York Metro "Rising Star" by *Super Lawyers*, a Thomson Reuters publication, noting his experience and contribution to the securities litigation field. In 2020, he was selected to *Benchmark Litigation's* "40 & Under Hot List," which includes "the best and brightest law firm partners who stand out in their practices" and are "ready to take the reins."

Corban is actively pursuing a number of matters involving consumer data privacy, including cases of alleged misuse or misappropriation of consumer data. Most notably, Corban is part of the litigation team that recently achieved a historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever, and one of the first cases asserting biometric privacy rights of consumers under Illinois' Biometric Information Privacy Act (BIPA). Corban has also litigated cases of negligence or other malfeasance leading to data breaches, including the largest known data breach in history, *In re Yahoo! Inc. Customer Data Breach Security Litigation*, affecting nearly 3 billion consumers.

Corban maintains an active practice representing shareholders litigating fraud-based claims and has successfully litigated dozens of cases against most of the largest Wall Street banks in connection with their underwriting and securitization of mortgage-backed securities leading up to the financial crisis. Currently, Corban is litigating the massive high frequency trading scandal in *City of Providence, et al. v. BATS Global Markets, et al.*, alleging preferential treatment of trading orders for certain customers of the large securities exchanges. Corban is also actively prosecuting several securities fraud actions against pharmaceutical giant AbbVie Inc., stemming from alleged misrepresentations in connection with their failed \$54 billion merger with U.K.-based Shire.

Prior to joining Labaton Sucharow, Corban was an Associate at Sidley Austin LLP where he practiced complex commercial litigation and securities regulation and served as the lead associate on behalf of large financial institutions in several investigations by regulatory and enforcement agencies related to the financial crisis.



Corban has served on the Securities Litigation Committee of the New York City Bar Association and is also a past recipient of the Thurgood Marshall Award for his pro bono representation on a habeas petition of a capital punishment sentence.

Corban received a Juris Doctor, *cum laude*, from Fordham University School of Law, where he received the Lawrence J. McKay Advocacy Award for excellence in oral advocacy and was a board member of the Fordham Moot Court team. He earned his Bachelor of Arts, *magna cum laude*, in History from Boston College.

Michael H. Rogers

Partner

Michael H. Rogers is a Partner in the New York office of Labaton Sucharow LLP. An experienced litigator, Mike focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

He is actively involved in prosecuting *In re Goldman Sachs, Inc. Securities Litigation*; 3226701 *Canada, Inc. v. Qualcomm, Inc.*; *Murphy v. Precision Castparts Corp.*; and *Vancouver Asset Alumni Holdings, Inc. v. Daimler AG*.

Mike was a member of the lead counsel teams in successful class actions against Countrywide Financial Corp. (\$624 million settlement), HealthSouth Corp. (\$671 million settlement), State Street (\$300 million settlement), Mercury Interactive Corp. (\$117.5 million settlement), Computer Sciences Corp. (\$97.5 million settlement), and SCANA Corp. (\$192.5 million settlement).

Prior to joining Labaton Sucharow, Mike was an attorney at Kasowitz, Benson, Torres & Friedman LLP, where he practiced securities and antitrust litigation, representing international banking institutions bringing federal securities and other claims against major banks, auditing firms, ratings agencies and individuals in complex multidistrict litigation. He also represented an international chemical shipping firm in arbitration of antitrust and other claims against conspirator ship owners. Mike began his career as an attorney at Sullivan & Cromwell, where he was part of Microsoft's defense team in the remedies phase of the Department of Justice antitrust action against the company.

Mike earned his Juris Doctor, *magna cum laude*, from the Benjamin N. Cardozo School of Law, Yeshiva University, where he was a member of the *Cardozo Law Review*. He earned his bachelor's degree, *magna cum laude*, from Columbia University.

Mike is proficient in Spanish.

Ira A. Schochet

Partner

Ira A. Schochet is a partner in the New York office of Labaton Sucharow LLP. A seasoned litigator with three decades of experience, Ira focuses on class actions involving securities fraud. Ira has played a lead role in securing multimillion dollar recoveries in high-profile cases such as those against Countrywide Financial Corporation (\$624 million), Weatherford International Ltd (\$120 million), Massey Energy Company (\$265 million), Caterpillar Inc. (\$23 million), Autoliv Inc. (\$22.5 million), and Fifth Street Financial Corp. (\$14 million).



A highly regarded industry veteran, Ira has been recommended in securities litigation by *The Legal 500*, named a “Leading Plaintiff Financial Lawyer” by *Lawdragon* and been awarded an AV Preeminent rating, the highest distinction, from Martindale-Hubbell.

Ira is a longtime leader in the securities class action bar and represented one of the first institutional investors acting as a lead plaintiff in a post-Private Securities Litigation Reform Act case and ultimately obtained one of the first rulings interpreting the statute’s intent provision in a manner favorable to investors in *STI Classic Funds, et al. v. Bollinger Industries, Inc.* His efforts are regularly recognized by the courts, including in *Kamarasy v. Coopers & Lybrand*, where the court remarked on “the superior quality of the representation provided to the class.” In approving the settlement he achieved in *In re InterMune Securities Litigation*, the court complimented Ira’s ability to secure a significant recovery for the class in a very efficient manner, shielding the class from prolonged litigation and substantial risk.

Ira has also played a key role in groundbreaking cases in the field of merger and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, he achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an unprecedented provision of direct payments to stockholders by means of a special dividend. In another first-of-its-kind case, Ira was featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work in *In re El Paso Corporation Shareholder Litigation*. The action alleged breach of fiduciary duties in connection with a merger transaction, including specific reference to wrongdoing by a conflicted financial advisory consultant, and resulted in a \$110 million recovery for a class of shareholders and a waiver by the consultant of its fee.

From 2009-2011, Ira served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice class action and complex civil litigation. During this time, he represented the plaintiffs’ securities bar in meetings with members of Congress, the Administration, and the SEC.

From 1996 through 2012, Ira served as Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association. During his tenure, he has served on the Executive Committee of the Section and authored important papers on issues relating to class action procedure including revisions proposed by both houses of Congress and the Advisory Committee on Civil Procedure of the United States Judicial Conference. Examples include: “Proposed Changes in Federal Class Action Procedure”; “Opting Out On Opting In,” and “The Interstate Class Action Jurisdiction Act of 1999.”

Ira earned his Juris Doctor from Duke University School of Law and received his bachelor’s degree, *summa cum laude*, from State University of New York at Binghamton.

Ira has lectured extensively on securities litigation at seminars throughout the country.

David J. Schwartz

Partner

David J. Schwartz is a Partner in the New York office of Labaton Sucharow LLP. David focuses on event driven and special situation litigation using legal strategies to enhance clients’ investment return.



David has been named a “Future Star” by *Benchmark Litigation*. He was also selected to *Benchmark Litigation’s* “40 & Under Hot List,” which recognized him as one of the nation’s most accomplished partners under 40 years old.

David’s extensive experience includes prosecuting, as well as defending against, securities and corporate governance actions for an array of institutional clients including hedge funds, merger arbitrage investors, pension funds, mutual funds, and asset management companies. He played a pivotal role in several securities class action cases, including against real estate service provider Altisource Portfolio Solutions, where he helped achieve a \$32 million cash settlement, and investment management firm Virtus Investment Partners, which resulted in a \$22 million settlement. David has also done substantial work in mergers and acquisitions appraisal litigation, and direct action/opt-out litigation.

David earned his Juris Doctor from Fordham University School of Law, where he served as an editor of the *Urban Law Journal*. He received his bachelor’s degree, with honors, from the University of Chicago.

Irina Vasilchenko **Partner**

Irina Vasilchenko is a Partner in the New York office of Labaton Sucharow LLP and head of the Firm’s Associate Training Program. Irina focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

Irina is recognized as an up-and-coming litigator whose legal accomplishments transcend her age. Irina has been named to *Benchmark Litigation’s* 40 & Under Hot List and has been recognized as a “Rising Star” by *Law360*. Lawdragon has also named her one of the “500 Leading Plaintiff Financial Lawyers in America.”

Irina is actively involved in prosecuting *In re Goldman Sachs Group, Inc. Securities Litigation*; *In re Acuity Brands, Inc. Securities Litigation*; and *Vancouver Alumni Asset Holdings, Inc. v. Daimler AG*. Since joining Labaton Sucharow, she has been part of the Firm’s teams in *In re Massey Energy Co. Securities Litigation* (\$265 million all-cash settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Hewlett-Packard Company Securities Litigation* (\$57 million settlement); and *In re SCANA Corporation Securities Litigation* (\$192.5 million settlement).

Irina maintains a commitment to pro bono legal service including, most recently, representing an indigent defendant in a criminal appeal case before the New York First Appellate Division, in association with the Office of the Appellate Defender. As part of this representation, she argued the appeal before the First Department panel.

Prior to joining Labaton Sucharow, Irina was an Associate in the general litigation practice group at Ropes & Gray LLP, where she focused on securities litigation.

Irina is a member of the New York City Bar Association’s Women in the Courts Task Force.

Irina received her Juris Doctor, *magna cum laude*, from Boston University School of Law, where she was an editor of the *Boston University Law Review* and was the G. Joseph Tauro Distinguished Scholar, the Paul L. Liacos Distinguished Scholar, and the Edward F. Hennessey Scholar. Irina



earned a Bachelor of Arts in Comparative Literature, *summa cum laude* and Phi Beta Kappa, from Yale University.

Irina is fluent in Russian and proficient in Spanish.

Carol C. Villegas

Partner

Carol C. Villegas is a Partner in the New York office of Labaton Sucharow LLP. Carol focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

Leading one of the Firm's litigation teams, she is actively overseeing litigation against AT&T, Marriott, Nielsen Holdings, Skechers, World Wrestling Entertainment, and Danske Bank. In addition to her litigation responsibilities, Carol holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee, as Co-Chair of the Firm's Women's Networking and Mentoring Initiative, and as the Chief of Compliance.

Carol's development of innovative case theories in complex cases, her skillful handling of discovery work, and her adept ability during oral argument has earned her accolades from *The National Law Journal* as a "Plaintiffs' Trailblazer" and the *New York Law Journal* as a "Top Woman in Law." *The National Law Journal* recognized Carol's superb ability to excel in high-stakes matters and selected her to its 2020 class of "Elite Women of the Plaintiffs Bar." She has also been recognized as a "Future Star" by *Benchmark Litigation* and a "Next Generation Lawyer" by *The Legal 500*, where clients praised her for helping them "better understand the process and how to value a case." *Lawdragon* named her one of the "500 Leading Plaintiff Financial Lawyers in America."

Carol has played a pivotal role in securing favorable settlements for investors, including AMD, a multi-national semiconductor company; Liquidity Services, an online auction marketplace; Aeropostale, a leader in the international retail apparel industry; ViroPharma Inc., a biopharmaceutical company; and Vocera, a healthcare communications provider, among others. Carol has also helped revive a securities class action against LifeLock after arguing an appeal before the Ninth Circuit.

Prior to joining Labaton Sucharow, Carol served as the Assistant District Attorney in the Supreme Court Bureau for the Richmond County District Attorney's office, where she took several cases to trial. She began her career as an Associate at King & Spalding LLP, where she worked as a federal litigator.

Carol is a member of the Executive Council for the New York State Bar Association's Committee on Women in the Law and a Board Member of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association. She is also a member of the National Association of Public Pension Attorneys, the National Association of Women Lawyers, and the Hispanic National Bar Association.

Carol earned her Juris Doctor from New York University School of Law, where she was the recipient of The Irving H. Jurow Achievement Award for the Study of Law and received the Association of the Bar of the City of New York Diversity Fellowship. She received her bachelor's degree, with honors, from New York University.

She is fluent in Spanish.



Ned Weinberger

Partner

Ned Weinberger is a Partner in the Delaware office of Labaton Sucharow LLP and is chair of the Firm's Corporate Governance and Shareholder Rights Litigation Practice. An experienced advocate of shareholder rights, Ned focuses on representing investors in corporate governance and transactional matters, including class action and derivative litigation.

Highly regarded in his practice, Ned has been recognized by *Chambers & Partners USA* in the Delaware Court of Chancery and was named "Up and Coming" for three consecutive years—the by-product of his impressive range of practice areas. Ned has been recognized as a "Future Star" by *Benchmark Litigation* and has been selected to *Benchmark's* "40 & Under Hot List." He has also been named a "Leading Lawyer" by *The Legal 500*, whose sources remarked that he "is one of the best plaintiffs' lawyers in Delaware," who "commands respect and generates productive discussion where it is needed."

Ned is actively prosecuting, among other matters, *In re Straight Path Communications Inc. Consolidated Stockholder Litigation*, which alleges breaches of fiduciary duty by the controlling stockholder of Straight Path Communications, Howard Jonas, in connection with the company's sale to Verizon Communications Inc. He recently led a class and derivative action on behalf of stockholders of Providence Service Corporation—*Haverhill Retirement System v. Kerley*—that challenged an acquisition financing arrangement involving Providence's board chairman and his hedge fund. The case settled for \$10 million.

Ned was part of a team that achieved a \$12 million recovery on behalf of stockholders of ArthroCare Corporation in a case alleging breaches of fiduciary duty by the ArthroCare board of directors and other defendants in connection with Smith & Nephew, Inc.'s acquisition of ArthroCare. Other recent successes on behalf of stockholders include *In re Vaalco Energy Inc. Consolidated Stockholder Litigation*, which resulted in the invalidation of charter and bylaw provisions that interfered with stockholders' fundamental right to remove directors without cause.

Prior to joining Labaton Sucharow, Ned was a Litigation Associate at Grant & Eisenhofer P.A., where he gained substantial experience in all aspects of investor protection, including representing shareholders in matters relating to securities fraud, mergers and acquisitions, and alternative entities. Representative of Ned's experience in the Delaware Court of Chancery is *In re Barnes & Noble Stockholders Derivative Litigation*, in which Ned assisted in obtaining approximately \$29 million in settlements on behalf of Barnes & Noble investors. Ned was also part of the litigation team in *In re Clear Channel Outdoor Holdings, Inc. Shareholder Litigation*, the settlement of which provided numerous benefits for Clear Channel Outdoor Holdings and its shareholders, including, among other things, a \$200 million cash dividend to the company's shareholders.

Ned earned his Juris Doctor from the Louis D. Brandeis School of Law at the University of Louisville, where he served on the Journal of Law and Education. He received his bachelor's degree, *cum laude*, from Miami University.

Mark S. Willis

Partner

Mark S. Willis is a Partner in the D.C. office of Labaton Sucharow LLP. With nearly three decades of experience, Mark's practice focuses on domestic and international securities litigation. Mark



advises leading pension funds, investment managers, and other institutional investors from around the world on their legal remedies when impacted by securities fraud and corporate governance breaches. Mark represents clients in U.S. litigation and maintains a significant practice advising clients on the pursuit of securities-related claims abroad.

Mark is recommended by *The Legal 500* for excellence in securities litigation and has been named one of *Lawdragon's* "500 Leading Plaintiff Financial Lawyer in America." Under his leadership, the Firm has been awarded *Law360* Practice Group of the Year Awards for Class Actions and Securities.

Mark represents institutions from the United Kingdom, Spain, the Netherlands, Denmark, Germany, Belgium, Canada, Japan, and the United States in a novel lawsuit in Texas against BP plc to salvage claims that were dismissed from the U.S. class action because the claimants' BP shares were purchased abroad (thus running afoul of the Supreme Court's *Morrison* rule that precludes a U.S. legal remedy for such shares). These previously dismissed claims have now been sustained and are being pursued under English law in a Texas federal court.

Mark also represents the Utah Retirement Systems in a shareholder action against the DeVry Education Group, and he represented the Arkansas Public Employees Retirement System in a shareholder action against The Bancorp (which settled for \$17.5 million), and Caisse de dépôt et placement du Québec, one of Canada's largest institutional investors, in a U.S. shareholder class action against Liquidity Services (which settled for \$17 million).

In the *Converium* class action, Mark represented a Greek institution in a nearly four-year battle that eventually became the first U.S. class action settled on two continents. This trans-Atlantic result saw part of the \$145 million recovery approved by a federal court in New York, and the rest by the Amsterdam Court of Appeal. The Dutch portion was resolved using the Netherlands then newly enacted Act on Collective Settlement of Mass Claims. In doing so, the Dutch Court issued a landmark decision that substantially broadened its jurisdictional reach, extending jurisdiction for the first time to a scenario in which the claims were not brought under Dutch law, the alleged wrongdoing took place outside the Netherlands, and none of the potentially liable parties were domiciled in the Netherlands.

In the corporate governance arena, Mark has represented both U.S. and overseas investors. In a shareholder derivative action against Abbott Laboratories' directors, he charged the defendants with mismanagement and fiduciary breaches for causing or allowing the company to engage in a 10-year off-label marketing scheme, which had resulted in a \$1.6 billion payment pursuant to a Justice Department investigation—at the time the second largest in history for a pharmaceutical company. In the derivative action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act, as well as the restructuring of a board committee and enhancing the role of the Lead Director. In the *Parmalat* case, known as the "Enron of Europe" due to the size and scope of the fraud, Mark represented a group of European institutions and eventually recovered nearly \$100 million and negotiated governance reforms with two large European banks who, as part of the settlement, agreed to endorse their future adherence to key corporate governance principles designed to advance investor protection and to minimize the likelihood of future deceptive transactions. Securing governance reforms from a defendant that was not an issuer was a first at that time in a shareholder fraud class action.



Mark has also represented clients in opt-out actions. In one, brought on behalf of the Utah Retirement Systems, Mark negotiated a settlement that was nearly four times more than what its client would have received had it participated in the class action.

On non-U.S. actions Mark has advised clients, and represented their interests as liaison counsel, in more than 30 cases against companies such as Volkswagen, Olympus, the Royal Bank of Scotland, the Lloyds Banking Group, and Petrobras, and in jurisdictions ranging from the UK to Japan to Australia to Brazil to Germany.

Mark has written on corporate, securities, and investor protection issues—often with an international focus—in industry publications such as *International Law News*, *Professional Investor*, *European Lawyer*, and *Investment & Pensions Europe*. He has also authored several chapters in international law treatises on European corporate law and on the listing and subsequent disclosure obligations for issuers listing on European stock exchanges. He also speaks at conferences and at client forums on investor protection through the U.S. federal securities laws, corporate governance measures, and the impact on shareholders of non-U.S. investor remedies.

Mr. Willis earned his Juris Doctor from the Pepperdine University School of Law and his master's degree from Georgetown University Law Center.

Nicole M. Zeiss

Partner

Nicole M. Zeiss is a Partner in the New York office of Labaton Sucharow. A litigator with nearly two decades of experience, Nicole leads the Firm's Settlement Group, analyzing the fairness and adequacy of the procedures used in class action settlements. Her practice focuses on negotiating and documenting complex class action settlements and obtaining the required court approval of the settlements, notice procedures, and payments of attorneys' fees.

Nicole was part of the Labaton Sucharow team that successfully litigated the \$185 million settlement in *In re Bristol-Myers Squibb Securities Litigation*. She played a significant role in *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement). Nicole also litigated on behalf of investors who have been damaged by fraud in the telecommunications, hedge fund, and banking industries. Over the past decade, Nicole has been actively involved in finalizing settlements with Massey Energy Company (\$265 million), Fannie Mae (\$170 million), and Schering-Plough (\$473 million), among many others.

Prior to joining Labaton Sucharow, Nicole practiced poverty law at MFY Legal Services. She also worked at Gaynor & Bass practicing general complex civil litigation, particularly representing the rights of freelance writers seeking copyright enforcement.

Nicole maintains a commitment to pro bono legal services by continuing to assist mentally ill clients in a variety of matters—from eviction proceedings to trust administration.

Nicole is a member of the Association of the Bar of the City of New York.

She received a Juris Doctor from the Benjamin N. Cardozo School of Law, Yeshiva University and earned a Bachelor of Arts in Philosophy from Barnard College.



Rachel A. Avan Of Counsel

Rachel A. Avan is Of Counsel in the New York office of Labaton Sucharow LLP. With more than a decade of experience in securities litigation, she focuses on advising institutional investors regarding fraud-related losses on securities and the investigation and development of U.S. and non-U.S. securities fraud class, group, and individual actions.

Rachel has been consistently recognized as a New York Metro “Rising Star” in securities litigation by Super Lawyers, a Thomson Reuters publication.

Rachel has extensive experience prosecuting complex securities fraud cases on behalf of institutional investors. She was an active member of the team prosecuting the securities fraud class action against Satyam Computer Services, Inc., in *In re Satyam Computer Services Ltd. Securities Litigation*, dubbed “India’s Enron.” The case achieved a \$150.5 million settlement for investors from the company and its auditors. She also had an instrumental part in the pleadings in a number of class actions, including *In re Barrick Gold Securities Litigation* (\$140 million settlement); *Freedman v. Nu Skin Enterprises, Inc.* (\$47 million recovery); and *Iron Workers District Council of New England Pension Fund v. NII Holdings, Inc.* (\$41.5 million recovery).

Rachel also has spearheaded the filing of more than 75 motions for lead plaintiff appointment in U.S. securities class actions, including *In re Facebook, Inc. IPO Securities & Derivative Litigation*; *In re Computer Sciences Corporation Securities Litigation*; *In re Petrobras Securities Litigation*; *In re Spectrum Pharmaceuticals, Inc. Securities Litigation*; *Weston v. RCS Capital Corporation*; and *Cummins v. Virtus Investment Partners Inc.*

In addition to her securities class action litigation experience, Rachel also played a role in prosecuting several of the Firm’s derivative matters, including *In re Barnes & Noble Stockholder Derivative Litigation*; *In re Coca-Cola Enterprises Inc. Shareholders Litigation*; and *In re The Student Loan Corporation Litigation*.

This extensive experience has aided Rachel in her work with the Firm’s Non-U.S. Securities Litigation Practice, which is dedicated to analyzing the merits, risks, and benefits of potential claims outside the United States. She has played a key role in ensuring that the Firm’s clients receive substantial recoveries through non-U.S. securities litigation.

Rachel brings valuable insight into corporate matters, having previously served as an Associate at a corporate law firm, where she counseled domestic and international public companies regarding compliance with federal and state securities laws. Her analysis of corporate securities filings is also informed by her previous work assisting with the preparation of responses to inquiries by the U.S. Securities and Exchange Commission and the Financial Industry Regulatory Authority.

Rachel earned her Juris Doctor from Benjamin N. Cardozo School of Law. She received her master’s degree in English and American Literature from Boston University and her bachelor’s degree, *cum laude*, in Philosophy and English from Brandeis University.

Rachel is proficient in Hebrew.



Mark Bogen Of Counsel

Mark Bogen is Of Counsel in the New York office of Labaton Sucharow LLP. Mark advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. His work focuses on securities, antitrust, and consumer class action litigation, representing Taft-Hartley and public pension funds across the country.

Among his many efforts to protect his clients' interests and maximize shareholder value, Mark recently helped bring claims against and secure a settlement with Abbott Laboratories' directors, whereby the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Mark has written weekly legal columns for the Sun-Sentinel, one of the largest daily newspapers circulated in Florida. He has been legal counsel to the American Association of Professional Athletes, an association of over 4,000 retired professional athletes. He has also served as an Assistant State Attorney and as a Special Assistant to the State Attorney's Office in the State of Florida.

Mark earned his Juris Doctor from Loyola University School of Law. He received his bachelor's degree from the University of Illinois.

Jeffrey A. Dubbin Of Counsel

Jeffrey A. Dubbin is Of Counsel in the New York office of Labaton Sucharow LLP. Jeff focuses on prosecuting complex securities fraud cases on behalf of institutional investors. He is actively involved in prosecuting notable class actions, such as *In re Goldman Sachs Group, Inc. Securities Litigation, Inc.*; *In re Eaton Corporation Securities Litigation*; and *In re PG&E Corporation Securities Litigation*.

Jeff joined Labaton Sucharow following clerkships with the Honorable Marilyn L. Huff and the Honorable Larry Alan Burns in the U.S. District Court for the Southern District of California. Prior to that, he worked as legal counsel for the investment management firm Matrix Capital Management.

Jeff received his Juris Doctor from the University of Pennsylvania Law School and his Bachelor of Arts, *magna cum laude*, from Harvard University.

Joseph H. Einstein, Of Counsel

Joseph H. Einstein is Of Counsel in the New York office of Labaton Sucharow LLP. A seasoned litigator, Joe represents clients in complex corporate disputes, employment matters, and general commercial litigation. He has litigated major cases in state and federal courts and has argued many appeals, including appearing before the U.S. Supreme Court.

Joe has an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.



His experience encompasses extensive work in the computer software field including licensing and consulting agreements. Joe also counsels and advises business entities in a broad variety of transactions.

Joe serves as a Mediator for the U.S. District Court for the Southern District of New York. He has served as a Commercial Arbitrator for the American Arbitration Association and currently is a FINRA Arbitrator and Mediator. Joe is a former member of the New York State Bar Association Committee on Civil Practice Law and Rules, and the Council on Judicial Administration of the Association of the Bar of the City of New York. He also is a former member of the Arbitration Committee of the Association of the Bar of the City of New York.

Joe received his Bachelor of Laws and Master of Laws from New York University School of Law. During his time at NYU, Joe was a Pomeroy and Hirschman Foundation Scholar and served as an Associate Editor of the *New York University Law Review*.

John J. Esmay **Of Counsel**

John J. Esmay is Of Counsel in the New York office of Labaton Sucharow LLP. John focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

Prior to joining Labaton Sucharow, John was an Associate at a white collar defense firm where he assisted in all aspects of complex litigation including securities fraud, banking regulation violations, and other regulatory matters. John successfully defended a disciplinary hearing brought by the Financial Industry Regulatory Authority's (FINRA) enforcement division for allegations of insider trading and securities fraud. John helped reach a successful conclusion of the criminal prosecution of a trader for one of the nation's largest financial institutions involved in a major bid-rigging scheme.

He was also instrumental in clearing charges and settling a regulatory matter against a healthcare provider brought by the New York State Office of the Attorney General.

Prior to his white collar defense experience, John was an Associate at Hogan Lovells US LLP and litigated many large complex civil matters including securities fraud cases, antitrust violations, and intellectual property disputes. John also served as a Judicial Clerk for the Honorable William H. Pauley III in the Southern District of New York.

John earned his Juris Doctor, *magna cum laude*, from Brooklyn Law School and his Bachelor of Science from Pomona College.

Derrick B. Farrell **Of Counsel**

Derrick Farrell is Of Counsel in the Delaware office of Labaton Sucharow LLP. He focuses his practice on representing shareholders in appraisal, class, and derivative actions.

Derrick has substantial trial experience as both a petitioner and a respondent on a number of high-profile matters, including *In re Appraisal of Ancestry.com, Inc.*; *IQ Holdings, Inc. v. Am. Commercial*



Lines Inc.; and *In re Cogent, Inc. Shareholder Litigation*. He has also argued before the Delaware Supreme Court on multiple occasions.

Prior to joining Labaton Sucharow, Derrick practiced with Latham & Watkins LLP, where he gained substantial insight into the inner workings of corporate boards and the role of investment bankers in a sale process. Derrick started his career as a Clerk for the Honorable Donald F. Parsons, Jr., Vice Chancellor, Court of Chancery of the State of Delaware.

He has guest lectured at Harvard University and co-authored numerous articles for publications including the *Harvard Law School Forum on Corporate Governance and Financial Regulation* and *PLI*.

Derrick received his Juris Doctor, *cum laude*, from the Georgetown University Law Center. At Georgetown, he served as an advocate and coach to the Barrister's Council (Moot Court Team) and was Magister of Phi Delta Phi. He received his Bachelor of Science in Biomedical Science from Texas A&M University.

Alfred L. Fatale III Of Counsel

Alfred L. Fatale III is Of Counsel in the New York office of Labaton Sucharow LLP. Alfred focuses on prosecuting complex securities fraud cases on behalf of institutional and individual investors.

Alfred represents investors in cases related to the protection of financial markets in trial and appellate courts throughout the country. In particular, he leads the Firm's efforts in litigating securities class actions in state courts following the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver County Employees Retirement Fund*. This includes prosecuting *In re ADT Inc. Shareholder Litigation*, a case alleging that the offering documents for ADT's \$1.47 billion IPO misrepresented the competition the company was facing from do-it-yourself home security products.

He secured an \$11 million settlement for investors in *In re CPI Card Group Inc., Securities Litigation*, a class action brought by an individual retail investor against a debit and credit card manufacturer that allegedly misrepresented demand for its products prior to the company's IPO.

Alfred is actively involved in *Murphy v. Precision Castparts Corp.*, a case against a major aerospace parts manufacturer that allegedly misled investors about its market share and demand for its products, and *Boston Retirement System v. Alexion Pharmaceuticals Inc.*, a class action arising from the company's conduct in connection with sales of Soliris—a drug that costs between \$500,000 and \$700,000 a year.

Prior to joining Labaton Sucharow, Alfred was an Associate at Fried, Frank, Harris, Shriver & Jacobson LLP, where he advised and represented financial institutions, investors, officers, and directors in a broad range of complex disputes and litigations including cases involving violations of federal securities law and business torts.

Alfred is an active member of the American Bar Association, Federal Bar Council, New York State Bar Association, New York County Bar Association, and New York City Bar Association.

Alfred earned his Juris Doctor from Cornell Law School, where he was a member of the *Cornell Law Review*, as well as the Moot Court Board. While at Cornell, he also served as a Judicial Extern



under the Honorable Robert C. Mulvey. Alfred received his bachelor's degree, *summa cum laude*, from Montclair State University.

Mark Goldman Of Counsel

Mark S. Goldman is Of Counsel in the New York office of Labaton Sucharow LLP. Mark has 30 years of experience in commercial litigation, primarily litigating class actions involving securities fraud, consumer fraud, and violations of federal and state antitrust laws.

Mark has been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

Mark is currently prosecuting securities fraud claims on behalf of institutional and individual investors against the manufacturer of communications systems used by hospitals that allegedly misrepresented the impact of the ACA and budget sequestration of the company's sales, and a multi-layer marketing company that allegedly misled investors about its business structure in China. Mark is also participating in litigation brought against international air cargo carriers charged with conspiring to fix fuel and security surcharges, and domestic manufacturers of various auto parts charged with price-fixing.

Mark successfully litigated a number of consumer fraud cases brought against insurance companies challenging the manner in which they calculated life insurance premiums. He also prosecuted a number of insider trading cases brought against company insiders who, in violation of Section 16(b) of the Securities Exchange Act, engaged in short swing trading. In addition, Mark participated in the prosecution of *In re AOL Time Warner Securities Litigation*, a massive securities fraud case that settled for \$2.5 billion.

Mark is a member of the American Bar Association.

Mark earned his Juris Doctor from the University of Kansas. He earned his Bachelor of Arts from Pennsylvania State University.

Lara Goldstone Of Counsel

Lara Goldstone is Of Counsel in the New York office of Labaton Sucharow LLP. Lara advises pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets.

Before joining Labaton Sucharow, Lara worked as a legal intern in the Larimer County District Attorney's Office and the Jefferson County District Attorney's Office. Prior to her legal career, Lara worked at Industrial Labs where she worked closely with Federal Drug Administration standards and regulations. In addition, she was a teacher in Irvine, California.

Lara earned her Juris Doctor from University of Denver Sturm College of Law, where she was a judge of the Providence Foundation of Law & Leadership Mock Trial and a competitor of the Daniel S. Hoffman Trial Advocacy Competition. She earned a Bachelor of Arts degree from George Washington University where she received a Presidential Scholarship for academic excellence.



James McGovern Of Counsel

James McGovern is Of Counsel in the New York office of Labaton Sucharow LLP and advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. James' work focuses primarily on securities litigation and corporate governance, representing Taft-Hartley, public pension funds, and other institutional investors across the country in domestic securities actions. He also advises clients as to their potential claims tied to securities-related actions in foreign jurisdictions.

James has worked on a number of large securities class action matters, including *In re Worldcom, Inc. Securities Litigation*, the second-largest securities class action settlement since the passage of the PSLRA (\$6.1 billion recovery); *In re Parmalat Securities Litigation* (\$90 million recovery); *In re American Home Mortgage Securities Litigation* (amount of the opt-out client's recovery is confidential); *In re The Bancorp Inc. Securities Litigation* (\$17.5 million recovery); *In re Pozen Securities Litigation* (\$11.2 million recovery); *In re Cabletron Systems, Inc. Securities Litigation* (\$10.5 million settlement); and *In re UICI Securities Litigation* (\$6.5 million recovery).

In the corporate governance arena, James helped bring claims against Abbott Laboratories' directors, on account of their mismanagement and breach of fiduciary duties for allowing the company to engage in a 10-year off-label marketing scheme. Upon settlement of this action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Following the unprecedented takeover of Fannie Mae and Freddie Mac by the federal government in 2008, James was retained by a group of individual and institutional investors to seek recovery of the massive losses they had incurred when the value of their shares in these companies was essentially destroyed. He brought and continues to litigate a complex takings class action against the federal government for depriving Fannie Mae and Freddie Mac shareholders of their property interests in violation of the Fifth Amendment of the U.S. Constitution, and causing damages in the tens of billions of dollars.

James also has addressed members of several public pension associations, including the Texas Association of Public Employee Retirement Systems and the Michigan Association of Public Employee Retirement Systems, where he discussed how institutional investors could guard their assets against the risks of corporate fraud and poor corporate governance.

Prior to focusing his practice on plaintiffs securities litigation, James was an attorney at Latham & Watkins where he worked on complex litigation and FIFRA arbitrations, as well as matters relating to corporate bankruptcy and project finance. At that time, he co-authored two articles on issues related to bankruptcy filings: *Special Issues In Partnership and Limited Liability Company Bankruptcies* and *When Things Go Bad: The Ramifications of a Bankruptcy Filing*.

James earned his J.D., *magna cum laude*, from Georgetown University Law Center. He received his bachelor's and master's from American University, where he was awarded a Presidential Scholarship and graduated with high honors.



Mark D. Richardson **Of Counsel**

Mark D. Richardson is Of Counsel in the Delaware office of Labaton Sucharow LLP. Mark focuses on representing shareholders in derivative litigation and corporate governance matters.

In addition to his active caseload, Mark has contributed to numerous publications and is the recipient of *The Burton Awards'* Distinguished Legal Writing Award for his article published in the *New York Law Journal*, "Options When a Competitor Raids the Company."

Prior to joining Labaton Sucharow, Mark was an associate at Schulte Roth & Zabel LLP, where he focused on complex commercial litigation within the financial services industry. He advised and represented clients in class action litigation, expedited bankruptcy proceedings and arbitrations, fraudulent transfer actions, proxy fights, internal investigations, employment disputes, breaches of contract, enforcement of non-competes, data theft, and misappropriation of trade secrets.

Mark earned his Juris Doctor from Emory University School of Law, where he served as the President of the Student Bar Association. He now teaches as an Adjunct Professor in Emory's Kessler-Eidson Program for Trial Techniques. He received his Bachelor of Science from Cornell University.

Elizabeth Rosenberg **Of Counsel**

Elizabeth Rosenberg is Of Counsel in the New York office of Labaton Sucharow LLP. Elizabeth focuses on litigating complex securities fraud cases on behalf of institutional investors, with a focus on obtaining court approval of class action settlements, notice procedures and payment of attorneys' fees.

Prior to joining Labaton Sucharow, Elizabeth was an associate at Whatley Drake & Kallas LLP, where she litigated securities and consumer fraud class actions. Elizabeth began her career as an associate at Milberg LLP where she practiced securities litigation and was also involved in the pro bono representation of individuals seeking to obtain relief from the World Trade Center Victims' Compensation Fund.

Elizabeth earned her Juris Doctor from Brooklyn Law School. She received her bachelor's degree from the University of Michigan.

Exhibit 6

1 ROBBINS GELLER RUDMAN
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6 LABATON SUCHAROW LLP
 7 MICHAEL P. CANTY (*pro hac vice*)
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11
12 Attorneys for Plaintiffs

13
14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN FRANCISCO DIVISION

17 In re FACEBOOK BIOMETRIC)
 18 INFORMATION PRIVACY LITIGATION)

Master File No. 3:15-cv-03747-JD

CLASS ACTION

19 _____)
 20 This Document Relates To:)

21 ALL ACTIONS.)

DECLARATION OF RAFEY S.
 BALABANIAN FILED ON BEHALF OF
 EDELSON PC IN SUPPORT OF
 APPLICATION FOR AWARD OF
 ATTORNEYS' FEES AND
 22 EXPENSES/CHARGES)

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1 Pursuant to 28 U.S.C. § 1746, I hereby declare and state as follows:

2 1. I am an attorney admitted to practice in California, Illinois, and the United States
3 District Court for the Northern District of California, among others. This declaration is based
4 upon my personal knowledge unless otherwise indicated. If called upon to testify as to the
5 matters stated herein, I could and would competently do so.

6 2. I am the Managing Partner and General Counsel of my law firm, Edelson PC
7 (“Edelson” or the “Firm”), which was retained to represent Class Representative Carlo Licata
8 related to the harvesting of his biometric information by Defendant Facebook. I am one of the
9 attorneys who oversaw and conducted the day-to-day activities in the above-entitled action (the
10 “Litigation”). I am submitting this declaration in support of my Firm’s application for an award of
11 attorneys’ fees, expenses and charges (“expenses”) in connection with the legal services rendered
12 by my Firm in the Litigation.

13 3. The Firm is counsel of record for Plaintiff Licata and is also the Court-appointed
14 Class Counsel in the Litigation, together with Robbins Geller Rudman & Dowd LLP (“RGRD”)
15 and Labaton Sucharow LLP (“Labaton”).

16 4. The information in this declaration regarding the Firm’s time and expenses is taken
17 from time and expense reports and supporting documentation prepared and/or maintained by the
18 Firm in the ordinary course of business. These reports (and backup documentation where necessary
19 or appropriate) were reviewed by me and under my direction, in connection with the preparation
20 of this declaration. The purpose of this review was to confirm both the accuracy of the entries, as
21 well as the necessity for, and reasonableness of, the time and expenses committed to the Litigation.
22 As a result of this review, reductions were made to both time and expenses in the exercise of billing
23 judgment. Based on this review and the adjustments made, I believe that the time reflected in the
24 Firm’s lodestar calculation and the expenses for which reimbursement is sought herein are
25 reasonable and were necessary for the effective and efficient prosecution and resolution of the
26 Litigation. In addition, I believe that the expenses are all of a type that would normally be charged
27 to a fee-paying client in the private legal marketplace.

28

1 5. After the reductions referred to above, the number of hours spent on the Litigation
2 by my Firm is 12,423.10. A breakdown of the lodestar (at current rates, or what the current rate
3 would be for former members of the Firm) is provided in the attached Exhibit A. The lodestar
4 amount for attorney/paralegal/law clerk time based on the Firm's current rates is \$8,379,642.50.
5 The current hourly rates shown in Exhibit A are the usual and customary rates set by the Firm
6 annually for each individual and are the same rates that the Firm charges its hourly paying clients.

7 6. Attached as Exhibit B is a chart reflecting the time of each timekeeper (except with
8 respect to paralegals and law clerks, which are grouped together as one timekeeper) in each of the
9 18 task categories, and also reflecting each timekeeper's individual hours and lodestar at their
10 current rates (or what the current rate would be for former members of the Firm).

11 7. The Firm seeks an award of \$203,043.03 in expenses and charges in connection
12 with the prosecution of the Litigation. Those expenses and charges are summarized by category in
13 the attached Exhibit C.

14 8. The following is additional information regarding certain of these expenses:

15 (a) Filing, Witness & Other Court Fees: \$2,774.43.43. These expenses have
16 been paid to courts for filing fees, to attorney service firms that served the initial complaint,
17 summons, and other initiating documents, courtesy copies in the Litigation, and Court Call fees.
18 The vendors that were paid for these services are set forth in the attached Exhibit D.

19 (b) Transportation, Hotels & Meals: \$18,670.87. In connection with the
20 prosecution of this case, the Firm has paid for work-related transportation and meals, and also
21 travel expenses related to, among other things, attending court hearings, taking or defending
22 depositions, source code review, meetings, the mediations and the legislative work that we did to
23 protect the Illinois Biometric Information Privacy Act ("BIPA"). All first-class airfare has been
24 reduced to economy fares. The date, destination and purpose of each trip is set forth in the attached
25 Exhibit E.

26 (c) eDiscovery Review Platform: \$4,120.00. Kroll Ontrack is an eDiscovery
27 Review Platform that the Firm used to securely house and review documents and other
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1 electronically stored information produced in the Litigation. The vendor that was paid for these
2 services and the breakdown of these charges by date are set forth in the attached Exhibit F.

3 (d) Messenger/Overnight Delivery: \$350.78. The Firm utilized messenger
4 services for the delivery of same day, overnight or next day deliveries of courtesy copies. A
5 breakdown of these charges by date and vendor is set forth in the attached Exhibit G

6 (e) Court Hearing Transcripts, Deposition Reporting & Videography:
7 \$1,694.55. The vendors that were paid for these services are listed in the attached Exhibit H.

8 (f) Experts/Consultants: \$162,057.39.

9 (i) The Firm contributed \$155,737.39 to a joint Litigation Expense
10 Fund maintained by RGRD for the payment of the majority of the expenses in the Litigation,
11 including the expenses of experts and consultants. The expert/consultant fees that were paid
12 through the Litigation Expense Fund are detailed in Exhibit H of the Declaration of Shawn A.
13 Williams, filed concurrently herewith.

14 (ii) The Firm reimbursed Labaton in the amount of \$6,320.00 for the
15 initial expert fees due to Dr. Joseph Atick. Dr. Joseph Atick is Mathematical Physics PhD and is
16 regarded as a leading expert in the field of biometric identification and facial recognition. He is a
17 co-founder of Visionics, among the early face recognition technology development companies.
18 Dr. Atick is also the co-founder and Director Emeritus of the International Biometrics and
19 Identification Association and Chairman of ID4Africa, a pan-African movement to promote digital
20 identity and its applications for socioeconomic development in Africa. In addition to being an early
21 developer of face recognition technologies, Dr. Atick has also been an advocate for responsible
22 development and use of technology for verifying identity including consultation with developing
23 countries on the socioeconomic, political development and national security impacts of the use of
24 biometric identity technology. Plaintiffs retained Dr. Atick to provide expert consultation on the
25 history and development of facial recognition technology and its potential uses and abuses, as well
26 as to help Plaintiffs better understand Facebook's facial recognition technology.

27 (g) Photocopies/Printing: \$275.01. As a matter of Firm policy, the Firm does
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1 not seek reimbursement for costs incurred in connection with in-house copying or printing. This
2 category includes only copying and printing costs by vendors such as Federal Express or at hotels
3 at which attorneys stayed in connection with the Litigation. A breakdown of these outside charges
4 by date and vendor is set forth in the attached Exhibit I.

5 (h) Graphics Design Fees: \$350.00. The Firm retained Edward Gershon to
6 provide graphics design services as to the notice that was disseminated to Class Members apprising
7 them of the Settlement.

8 (i) Mediation Fees (Jeffrey L. Bleich): \$12,750.00. The parties retained
9 Ambassador Jeffrey L. Bleich to assist them with a renewed effort to reach a negotiated resolution
10 of the Litigation. These are the fees of Ambassador Bleich that were paid by Edelson.

11 9. The expenses pertaining to this case are reflected in the books and records of the
12 Firm. These books and records are prepared from receipts, expense vouchers, check records, credit
13 card statements, and other documents and are an accurate record of the expenses.

14 10. The identification and background of my Firm, its partners, associates,
15 investigators and other staff members is attached hereto as Exhibit J.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed this 15th day of October, 2020, at San Rafael, California.

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20 _____
21 RAFEY S. BALABANIAN

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EXHIBIT A

EXHIBIT A

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC
Inception through September 30, 2020

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Jay Edelson	(P)	1,143.1	\$1,150.00	\$1,314,565.00
Rafey S. Balabanian	(P)	1,376.5	\$875.00	\$1,204,437.50
Benjamin H. Richman	(P)	919	\$775.00	\$712,225.00
Ryan D. Andrews	(P)	490	\$750.00	\$367,500.00
Roger Perlstadt	(P)	61.7	\$750.00	\$46,275.00
Ari J. Scharg	(P)	1,095	\$725.00	\$793,875.00
Christopher L. Dore	(P)	675	\$725.00	\$489,375.00
David I. Mindell	(P)	1,215.6	\$685.00	\$832,686.00
J. Aaron Lawson	(A)	922.8	\$550.00	\$507,540.00
Jacob Wright	(A)	2,200.1	\$525.00	\$1,155,052.50
Alex Tievskv	(A)	305.4	\$500.00	\$152,700.00
Lily Hough	(A)	146.2	\$475.00	\$69,445.00
J. Dominic Larrv	(FA)	319.4	\$550.00	\$175,670.00
Alexander T. Nyugen	(FP)	320.6	\$750.00	\$240,450.00
Richard Campbell	(IHDRA)	589.9	\$250.00	\$147,475.00
Andrew Schmidt	(IHDRA)	314.1	\$250.00	\$78,525.00
Clerks & Paralegals	(C&P)	262	\$250.00	\$65,500.00
Shawn Davis	(FI)	66.7	\$395.00	\$26,346.50
TOTAL		12,423.10		\$8,379,642.50

(P) Partner
(A) Associate
(FP) Former Partner
(FA) Former Associate
(IHDRA) In-House Doc Review Attorney
(FI) Forensic Investigator

EXHIBIT B

EXHIBIT B
In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
 Category Lodestar Chart by Timekeeper

Firm Name: Edelson PC
 Reporting Period: Inception through September 30, 2020

Categories:

- | | | | |
|------------------------------------|--|---|---|
| (1) Factual Investigation | (6) Motions to Dismiss | (11) Experts, Consultants & Investigators | (16) Court Appearance & Preparation |
| (2) Legal Research | (7) Class Certification & Notice | (12) Summary Judgment | (17) Client/Class Member/Opposing and Co-Counsel Communications |
| (3) Litigation Strategy & Analysis | (8) Discovery | (13) Settlement Work | (18) Legislative Efforts |
| (4) Initial or Amended Complaint | (9) Document Review | (14) Trial Preparation | |
| (5) Lead Plaintiff Motion | (10) Case Management, Other Pleadings, Briefs and Pretrial Motions | (15) Appeals | |

Timekeeper	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Total Sum of Hours	Current Rate	Lodestar at Current Rate
Jay Edelson (P)	21.3	35.1	345.8	19.9	32.7	4.5	78.2	10.1	14.4	37.7	47.9	27.4	143.6	35.8	76.4	7.1	68.5	96.2	1143.1	\$1,150.00	\$1,314,565.00
Rafey S. Balabanian (P)	35.5	76	179.8	32.8	14	79.3	90.8	188	43.9	65.5	59.2	17	198.7	41.2	68.9	35	127.3	23.6	1376.5	\$875.00	\$1,204,437.50
Benjamin H. Richman (P)	19.4	35.1	41	22.5	8.8	29.6	85.3	197.2	58.7	44	57.6	15.2	73.7	57.6	23.2	16.4	128	5.7	919	\$775.00	\$712,225.00
Ryan D. Andrews (P)	6.5	1.9	5.3			17.6	6.4			27.8		3.6	116.2		229.3		75.4		490	\$750.00	\$367,500.00
Roger Perlstadt (P)		5.8				18.6	1.5					1.2	9.4		25.2				61.7	\$750.00	\$46,275.00
Ari J. Scharg (P)																		1095	1095	\$725.00	\$793,875.00
Christopher L. Dore (P)	267																155	253	675	\$725.00	\$489,375.00
David I. Mindell (P)	105.07	50.2	96.57	118		20.8	9.3	221.2	0.5	30.2	5.7	1.6	29.9			5.5	92.8	428.26	1215.6	\$685.00	\$832,686.00
J. Aaron Lawson (A)	18.1	39	3			1.1	127.2	31.7	10.4	41.6	23.1	7.4	111.2	66.2	342.3	2.2	98.3		922.8	\$550.00	\$507,540.00
Jacob Wright (A)																		2200.1	2200.1	\$525.00	\$1,155,052.50
Alex Tievsky (A)	1.2	37.7	1.3			69	22.6			14.5			60.5	10.4	26	19.3	42.9		305.4	\$500.00	\$152,700.00
Lily Hough (A)		11				3	43.2	74.9		5.4	2.7	4	2						146.2	\$475.00	\$69,445.00
Nick Larry (FA)	1	48	9.5	18.2	25	69		51.3		8.9	25.8	16.5	0.5		2.2	6.7	36.1	0.7	319.4	\$550.00	\$175,670.00
Alex Nyguen (FP)	6.4	65.1		18.2	1	34	0.9	69.8		0.4	0.3	7.5				40.7	8.8		320.6	\$750.00	\$240,450.00
Richard Campbell (IHDRA)									589.9										589.9	\$250.00	\$147,475.00
Andy Schmidt (IHDRA)									314.1										314.1	\$250.00	\$78,525.00
Clerks & Paralegals	14.4	35			9.8	19.6	29.6	77		31.5					18.5	18	8.6		262	\$250.00	\$65,500.00
Shawn Davis (FI)	66.7																		66.7	\$395.00	\$26,346.50
TOTAL:	562.57	439.9	682.27	229.6	91.3	406.6	495	921.2	1,031.90	307.5	222.3	168.9	745.7	211.2	812	150.9	841.7	4,102.56	12,423.10		\$8,379,642.50

- (P) Partner
 (A) Associate
 (FP) Former Partner
 (FA) Former Associate
 (IHDRA) In House Doc Review Attorney
 (FI) Forensic Investigator

EXHIBIT C

EXHIBIT C

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Inception through September 30, 2020

<i>CATEGORY</i>	<i>AMOUNT</i>
Filing, Witness and Other Fees	\$2,774.43
Transportation, Hotels & Meals	\$18,670.87
eDiscovery Review Platform	\$4,120.00
Messenger, Overnight Delivery	\$350.78
Court Hearing Transcripts and Deposition Transcripts and Videography	\$1,694.55
Experts/Consultants: Dr. Joseph Atick	\$6,320.00
Outside Photocopies	\$275.01
Litigation Fund Contributions	\$155,737.39
Graphics Design Services	\$350.00
Mediation Fees: Ambassador Jeffrey L. Bleich	\$12,750.00
TOTAL	\$203,043.03

EXHIBIT D

EXHIBIT D

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Filing, Witness, Court and Other Fees: \$2,774.43

DATE	VENDOR	PURPOSE
4/5/15	Clerk of the Court (Cook County, IL)	Filing of Initial Complaint
4/7/15	Delaware Attorney Services LLC	Service of Complaint and Summons
9/30/15	Clerk of the Court (N.D. Cal.)	Pro Hac Vice Applications - J. Edelson, A. Nguyen, J. Larry
3/2/16	Court Call	Court Appearance
3/2/16	Court Call	Court Appearance
4/1/16	Clerk of the Court (N.D. Cal.)	Pro Hac Vice Application - R. Balabanian
6/2/16	IL Secretary of State	Lobbyist Registration Fee
9/7/16	Clerk of the Court (N.D. Cal.)	Pro Hac Vice Application - B. Richman
10/10/16	Court Call	Court Appearance
1/5/17	Court Call	Court Appearance
1/5/17	Court Call	Court Appearance
2/22/17	Court Call	Court Appearance
10/23/17	Clerk of the Court (N.D. Cal.)	Pro Hac Vice Application - A. Tievsky
12/21/17	Court Call	Court Appearance

EXHIBIT E

EXHIBIT E

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Transportation, Hotels & Meals: \$18,670.87

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
Edelson, J.	7/3/15	Chicago, IL	Meeting with Co-Counsel
Larry, J.	12/15/15 - 12/16/15	San Francisco, CA	Prepare for and attend Court
Nguyen, A.	12/15/15 - 12/16/15	San Francisco, CA	Prepare for and attend Court
Nguyen, A.	2/10/16 - 2/12/16	San Francisco, CA	Prepare for and attend deposition of Facebook 30(b)(6)
Nguyen, A.	2/29/16 - 3/3/16	San Francisco, CA	Prepare for and attend Court for hearing on motion to dismiss and for summary judgment
Scharg, A.	6/1/16 - 6/2/16	Springfield, IL	Prepare for and attend meetings re: legislative changes to the BIPA
Richman, B.	6/13/16 - 6/14/16	New York, NY	Prepare for and attend meetings with potential experts
Larry, J.	6/13/16 - 6/14/16	New York, NY	Prepare for and attend meetings with potential experts
Mindell, D.	6/14/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
Mindell, D.	6/21/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
Mindell, D.	7/25/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
Mindell, D.	9/3/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
Scharg, A.	9/3/16	Chicago, IL	Prepare for and attend meetings with

DECLARATION ON BEHALF OF EDELSON PC IN SUPPORT OF AWARD OF
ATTORNEYS' FEES AND EXPENSES/CHARGES - 3:15-cv-03747-JD

EXHIBIT F

1				legislators re: legislative changes to the BIPA
2	Dore, C.	9/3/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
3				
4				
5	Mindell, D.	10/6/16	Chicago, IL	Prepare for and attend meetings with legislators re: legislative changes to the BIPA
6				
7				
8	Tievsky, A.	10/26/16 - 10/27/16	San Francisco, CA	Prepare for and attend Court for hearing on motion to dismiss
9				
10	Richman, B.	5/18/17 - 5/20/17	Newport Beach, CA	Prepare for and attend mediation
11	Balabanian, R.	5/18/17 - 5/19/17	Newport Beach, CA	Prepare for and attend mediation
12	Tievsky, A.	11/29/17 - 12/1/17	San Francisco, CA	Prepare for and attend hearing on motion to dismiss
13	Tievsky, A.	3/27/18 - 3/29/18	San Francisco, CA	Prepare for and attend hearing on class certification
14				
15	Edelson, J.	5/3/18 - 5/5/18	San Francisco, CA	Prepare for and attend mediation with Magistrate Judge Rvu
16	Richman, B.	5/3/18 - 5/5/18	San Francisco, CA	Prepare for and attend mediation with Magistrate Judge Rvu
17				
18	Lawson, J.	5/6/18 - 5/12/18	San Francisco, CA	Attend sessions with trial consultant (CDS Consulting)
19	Andrews, R.	6/10/19 - 6/12/19	San Francisco, CA	Prepare for and attend Ninth Circuit oral argument
20				
21				
22				
23				
24				
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EXHIBIT F

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

eDiscovery Review Platform: \$4,120.00

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
11/30/16	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
12/21/16	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
1/27/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
2/21/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
3/16/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
5/25/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
6/28/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
7/31/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
8/31/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
9/30/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
11/1/17	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents

DECLARATION ON BEHALF OF EDELSON PC IN SUPPORT OF AWARD OF
ATTORNEYS' FEES AND EXPENSES/CHARGES - 3:15-cv-03747-JD

1	1/1/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
2			
3	1/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
4			
5	3/1/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
6			
7	3/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
8			
9	4/30/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
10			
11	5/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
12			
13	6/30/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
14			
15	7/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
16			
17	8/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
18			
19	9/30/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
20			
21	10/31/18	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
22			
23	3/31/19	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
24			
25	4/30/19	Kroll Ontrack	eDiscovery security and review platform for securely storing and review documents
26			
27			

28

DECLARATION ON BEHALF OF EDELSON PC IN SUPPORT OF AWARD OF ATTORNEYS' FEES AND EXPENSES/CHARGES - 3:15-cv-03747-JD

EXHIBIT G

EXHIBIT G

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Messenger, Overnight Delivery: \$350.78

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
11/9/15	First Legal Network Insurance Services LLC	Delivery of courtesy copies of opposition to motion to dismiss
8/5/16	First Legal Network Insurance Services LLC	Delivery of courtesy copies of opposition to motion to dismiss for lack of subject matter jurisdiction
10/17/16	One Hour Delivery Service, Inc.	Delivery of courtesy copies of opposition to motion for leave to file amended answer

EXHIBIT H

EXHIBIT H

In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Court Hearing Transcripts and Deposition Reporting, Transcripts and Videography: \$1,694.55

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
3/1/16	TSG Reporting	Transcript and video of Initial deposition of Plaintiff Licata
1/8/18	TSG Reporting	Transcript of second deposition of Plaintiff Licata
4/2/18	Katherine Powell Sullivan	Transcript of hearing on 3/29/18

EXHIBIT I

EXHIBIT I

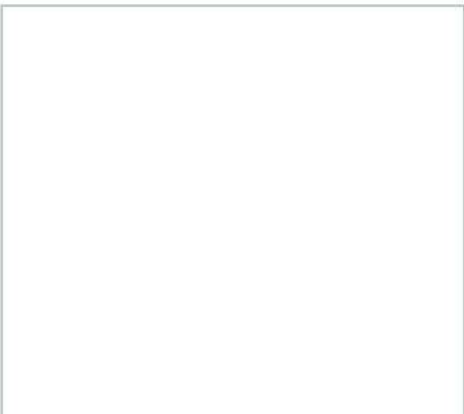
In re Facebook Biometric Information Privacy Litigation, Case No. 3:15-cv-03747-JD
Edelson PC

Outside Photocopies/Printing: \$275.01

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
12/15/15	Westin Hotel	Printing for hearing on motion to dismiss
9/3/16	FedEx	Printing and binding for legislators re: potential legislative changes to the BIPA
10/6/16	FedEx	Printing and binding for legislators re: potential legislative changes to the BIPA
6/26/17	FedEx	Printing of courtesy copies of courtesy copies of opposition to motion to stay
12/11/17	FedEx	Printing of courtesy copies of opposition to motion to dismiss
5/16/18	FedEx	Printing for trial preparation

EXHIBIT J

Edelson



Beyond
the Law.

"National reputation
as a maverick in [its]
commitment to pursuing
big-ticket . . . cases."

—Law360

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Managing Partner	
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Benjamin H. Richman	25
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Who We Are

Who We Are

EDELSON PC is a law firm concentrating on high-stake's plaintiff's work ranging from class and mass actions to public client investigations and prosecutions. The cases we have litigated -- as either lead counsel or as part of a broader leadership structure -- have resulted in settlements and verdicts totalling over \$20 billion.

- ▶ We hold records for the largest jury verdict in a privacy case (\$925m), the largest consumer privacy settlement (\$650m), and the largest TCPA settlement (\$76m). We also secured one of the most important consumer privacy decisions in the U.S. Supreme Court (*Robins v. Spokeo*). Our class actions, brought against the national banks in the wake of the housing collapse, restored over \$5 billion in home equity credit lines. We served as counsel to a member of the 11-person Tort Claimant's Committee in the PG&E Bankruptcy, resulting in an historic \$13.5 billion settlement. We successfully represented dozens of family members who lost loved ones in the Boeing 737-Max plane crashes in Indonesia and Ethiopia. We are the only firm to have established that online apps can constitute illegal gambling under state law, resulting in settlements that collectively are worth \$200 million. We are co-lead counsel in the NCAA personal injury concussion cases, leading an MDL involving over 300 class action lawsuits. And we are representing, or have represented, regulators in cases involving the deceptive marketing of opioids, environmental cases, privacy cases against Facebook, Uber, Google and others, cases related to the marketing of e-cigarettes to children, and cases asserting claims that energy companies and for-profit hospitals abused the public trust.
- ▶ We have testified before the United States Senate and state legislative and regulatory bodies on class action and consumer protection issues, cybersecurity and privacy (including election security, children's privacy and surreptitious geotracking), sex abuse in children's sports, and gambling, and have repeatedly been asked to work on federal, state, and municipal legislation involving a broad range of issues. We speak regularly at seminars on consumer protection and class action issues, and also routinely lecture at law schools and other graduate programs.

Who We Are

- ▶ We have a “one-of-a-kind” investigation team that sets us apart from others in the plaintiffs’ bar. Our dedicated “internal lab of computer forensic engineers and tech-savvy lawyers” investigate issues related to “fraudulent software and hardware, undisclosed tracking of online consumer activity and illegal data retention,” among numerous other technology related issues facing consumers. Cybersecurity & Privacy Practice Group of the Year, Law360 (January 2019). Instead of chasing the headlines, our case development team is leading the country in both identifying emerging privacy and technology issues, as well as crafting novel legal theories to match. Some examples of their groundbreaking accomplishments include: demonstrating that Microsoft and Apple were continuing to collect certain geolocation data even after consumers turned “location services” to “off”; filing multiple suits revealing mobile apps that “listen” through phone microphones without consent; filing a lawsuit stemming from personal data collection practices of an intimate IoT device; and filing suit against a data analytics company alleging that it had surreptitiously installed tracking software on consumer computers.

As the Hollywood Reporter explained, we are “accustomed to big cases that have lasting legacy.”

Recognition

The firm and our attorneys regularly get recognized for our groundbreaking work. We have been named by Law360 as a Consumer Protection Group of the Year (2017, 2018, 2019), a Class Action Group of the Year (2019), a Plaintiffs Class Action Powerhouse (2017, 2018, 2019), a Cybersecurity and Privacy Group of the Year (2017, 2018, 2019), a “Privacy Litigation Heavyweight” by Law360, a “Cybersecurity Trailblazer” by The National Law Journal (2016) and won sole recognition in 2019 as “Elite Trial Lawyers” in Gaming Law. The National Law Journal also recognized us in 2019 as “Elite Trial Lawyers” in Consumer Protection, Privacy/Data Breach, Mass Torts, and Sports, Entertainment and Media Law. In 2019, we were recognized for the third consecutive year as an “Illinois Powerhouse,” alongside Kirkland & Ellis, Dentons, Schiff Hardin and Swanson Martin; in each year, we were the only plaintiffs’ firm, and the only firm with fewer than one hundred lawyers, recognized.

- ▶ Our founder has been recognized as a “Titan of the Plaintiff’s Bar” by Law360, one of “America’s top trial lawyers” in the mass action arena, LawDragon’s 2020 Leading Plaintiff Financial Lawyers, and one of “Chicago’s Top Ten Startup Founders Over Age 45” by Tech.co – the only law firm founder to win such an award. Our Global Managing Partner was recognized as a top 100 lawyer in California by California Lawyer Magazine.
- ▶ We have also been recognized by courts for our approach to litigation, which led the then-Chief Judge of the United States Court for the Northern District of Illinois to praise our work as “consistent with the highest standards of the profession” and “a model of what the profession should be. . . .” *In re Kentucky Fried Chicken Coupon Mktg. & Sales Practices Litig.*, No. 09-cv-7670, MDL 2103 (N.D. Ill. Nov. 30, 2011). Likewise, in appointing our firm interim co-lead in one of the most high-profile banking cases in the country, a federal court pointed to our ability to be “vigorous advocates, constructive problem-solvers, and civil with their adversaries.” *In re JPMorgan Chase Home Equity Line of Credit Litig.*, No. 10 C 3647 (N.D. Ill. July 16, 2010).

Plaintiffs' Class and Mass Action Practice

We have several sub-specialties within our plaintiffs'
class and mass action practice:

Mass/Class Tort Cases

We are currently representing, among others, labor unions seeking to recover losses arising out of the Opioid Crisis, classes of student athletes suffering from the long-term effects of concussive and sub-concussive injuries, hundreds of families suffering the ill-effects of air and water contamination in their communities, and individuals damaged by the “Camp Fire” in Northern California.

Representative cases and settlements include:

- ▶ Representing over 1,000 victims of the Northern California “Camp Fire,” allegedly caused by utility company Pacific Gas & Electric. Served as counsel to a member of the 11-person Tort Claimant’s Committee in the PG&E Bankruptcy, resulting in a historic \$13.5 billion settlement.
- ▶ *In re Nat’l Collegiate Athletic Ass’n Single School/Single Sport Concussion Litig.*, No. 16-cv-8727, MDL No. 2492 (N.D. Ill.): Appointed co-lead counsel in MDL against the NCAA, its conferences and member institutions alleging personal injury claims on behalf of college football players resulting from repeated concussive and sub-concussive hits.
- ▶ Representing numerous labor unions and health and welfare funds seeking to recover losses arising out of the Opioid Crisis.
See, e.g., Illinois Public Risk Fund v. Purdue Pharma L.P., et al., No. 2019-CH-05847 (Cir. Ct. Cook Cty., Ill.); *Inter’l Union of Operating Eng’rs, Local 150, et al. v. Purdue Pharma L.P., et al.*, No. 2019-CH-01548 (Cir. Ct. Cook Cty., Ill.); *Village of Addison et al. v. Actavis LLC et al.*, No. 2020-CH-05181 (Cir. Ct. Cook Cty., Ill.).
- ▶ We served as lead negotiators in representing dozens of family members who lost loved ones in the Boeing 737-Max plane crash in Indonesia. The cases settled for confidential amounts. Currently counsel for families who lost loved ones in the Boeing 737-Max plane crash in Ethiopia.

Banking, Lending and Finance

We were at the forefront of litigation arising in the aftermath of the federal bailouts of the banks. Our suits included claims that certain banks unlawfully suspended home credit lines based on pretextual reasons, and that certain banks failed to honor loan modification programs. We achieved the first federal appellate decision in the country recognizing the right of borrowers to enforce HAMP plans under state law. The court noted that “[p]rompt resolution of this matter is necessary not only for the good of the litigants but for the good of the Country.” *Wigod v. Wells Fargo Bank, N.A.*, 673 F.3d 547, 586 (7th Cir. 2012) (Ripple, J., concurring). Our settlements restored billions of dollars in home credit lines to people throughout the country.

Representative cases and settlements include:

- ▶ *In re JP Morgan Chase Bank Home Equity Line of Credit Litig., No. 10-cv-3647 (N.D. Ill.):* Appointed co-lead counsel in nationwide putative class action alleging illegal suspensions of home credit lines. Settlement restored between \$3.2 billion and \$4.7 billion in credit to the class.
- ▶ *Hamilton v. Wells Fargo Bank, N.A., No. 09-cv-04152-CW (N.D. Cal.):* Lead counsel in class actions challenging Wells Fargo’s suspensions of home equity lines of credit. Nationwide settlement restored access to over \$1 billion in credit and provides industry leading service enhancements and injunctive relief.
- ▶ *In re Citibank HELOC Reduction Litig., No. 09-cv-0350-MMC (N.D. Cal.):* Lead counsel in class actions challenging Citibank’s suspensions of home equity lines of credit. The settlement restored up to \$653,920,000 worth of credit to affected borrowers.
- ▶ *Wigod v. Wells Fargo, No. 10-cv-2348 (N.D. Ill.):* Obtained first appellate decision in the country recognizing the right of private litigants to sue to enforce HAMP plans. Settlement provided class members with permanent loan modifications and substantial cash payments.

Privacy and Data Security

The New York Times has explained that our “cases read like a time capsule of the last decade, charting how computers have been steadfastly logging data about our searches, our friends, our bodies.” Courts have described our attorneys as “pioneers in the electronic privacy class action field, having litigated some of the largest consumer class actions in the country on this issue.” See *In re Facebook Privacy Litig.*, No. C 10-02389 (N.D. Cal. Dec. 10, 2010) (order appointing us interim co-lead of privacy class action); see also *In re Netflix Privacy Litig.*, No. 11-cv-00379 (N.D. Cal. Aug. 12, 2011) (appointing us sole lead counsel due, in part, to our “significant and particularly specialized expertise in electronic privacy litigation and class actions”). In *Barnes v. Aрызta*, No. 17-cv-7358 (N.D. Ill. Jan. 22, 2019), the court endorsed an expert opinion finding that we “should ‘be counted among the elite of the profession generally and [in privacy litigation] specifically’ because of [our] expertise in the area.”

Representative cases and settlements include:

- ▶ *In re Facebook Biometric Privacy Litig.*, No. 3:15-cv-03747 (N.D. Cal.): Filed the first of its kind class action against Facebook under the Illinois Biometric Information Privacy Act, alleging Facebook collected facial recognition data from its users without authorization. Appointed Class Counsel in securing adversarial certification of class of Illinois Facebook users. Case settled on the eve of trial for a record breaking \$650m.
- ▶ *Wakefield v. Visalus*, No. 3:15-cv-01857 (D. Ore. Apr. 12, 2019): Lead counsel in class action alleging that defendant violated federal law by making unsolicited telemarketing calls. Obtained jury verdict and judgment equating to more than \$925 million in damages to the class.
- ▶ *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016): Lead counsel in the landmark case affirming the ability of plaintiffs to bring statutory claims for relief in federal court. The United States Supreme Court rejected the argument that individuals must allege “real world” harm to have standing to sue in federal court; instead the court recognized that “intangible” harms and even the “risk of future harm” can establish “standing.” Commentators have called Spokeo the most significant consumer privacy case in recent years.

Privacy and Data Security

- ▶ *Birchmeier v. Caribbean Cruise Line, Inc., et al.*, No. 12-cv-4069 (N.D. Ill.): Co-lead counsel in class action alleging that defendant violated federal law by making unsolicited telemarketing calls. On the eve of trial, the case resulted in the largest Telephone Consumer Protection settlement to date, totaling \$76 million.
- ▶ *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946 (9th Cir. 2009): Won first ever federal decision finding that text messages constituted “calls” under the TCPA. In total, we have secured text message settlements worth over \$100 million.
- ▶ *Kusinski v. ADP LLC*, No. 2017-CH-12364 (Cir. Ct. Cook Cty. Ill.): Secured key victories establishing the liability of time clock vendors under the Illinois Biometric Information Privacy Act and the largest-ever BIPA settlement in the employment context with a time clock vendor for \$25 million.
- ▶ *Dunstan v. comScore, Inc.*, No. 11-cv-5807 (N.D. Ill.): Lead counsel in certified class action accusing Internet analytics company of improper data collection practices. The case settled for \$14 million.
- ▶ *Doe v. Ann & Robert H. Lurie Children’s Hosp. of Chi.*, No. 2020-CH-04123 (Cir. Ct. Cook Cty., Ill.): Lead counsel in a class action alleging breach of contract, breach of confidentiality, negligent supervision, and other claims against Lurie Children’s Hospital after employees allegedly accessed medical records without permission.
- ▶ *American Civil Liberties Union et al. v. Clearview AI, Inc.*, No. 2020-CH-04353 (Cir. Ct. Cook Cty., Ill.): Represent the American Civil Liberties Union in lawsuit against Clearview AI for violating the Illinois Biometric Information Privacy act through its collection and storage of Illinois residents’ faceprints.
- ▶ *Consumer Watchdog v. Zoom Video Commc’ns, Inc.*, No. 2020 CA 003516 B (D.C. Super. Ct.): Represent advocacy group Consumer Watchdog in its lawsuit against Zoom Video Communications Inc, alleging the company falsely promised to protect communications through end-to-end encryption.
- ▶ *Mocek v. AllSaints USA Ltd.*, No. 2016-CH-10056 (Cir. Ct. Cook Cty, Ill.): Lead counsel in a class action alleging the clothing company AllSaints violated federal law by revealing consumer credit card numbers and expiration dates. Case settled for \$8 million with class members receiving about \$300 each.

Privacy and Data Security

- ▶ *Resnick v. Avmed*, No. 10-cv-24513 (S.D. Fla.): Lead counsel in data breach case filed against a health insurance company. Obtained landmark appellate decision endorsing common law unjust enrichment theory, irrespective of whether identity theft occurred. Case also resulted in the first class action settlement in the country to provide data breach victims with monetary payments irrespective of whether they suffered identity theft.
- ▶ *N.P. v. Standard Innovation (US), Corp.*, No. 1:16-cv-08655 (N.D. Ill.): Brought and resolved first ever IoT privacy class action against adult-toy manufacturer accused of collecting and recording highly intimate and sensitive personal use data. Case resolved for \$3.75 million.
- ▶ *Halaburda v. Bauer Publ'g Co.*, No. 12-cv-12831 (E.D. Mich.); *Grenke v. Hearst Commc'ns, Inc.*, No. 12-cv-14221 (E.D. Mich.); *Fox v. Time, Inc.*, No. 12-cv-14390 (E.D. Mich.): Lead counsel in consolidated actions brought under Michigan's Preservation of Personal Privacy Act, alleging unlawful disclosure of subscribers' personal information to data miners. In a ground-breaking decision, the court denied three motions to dismiss finding that the magazine publishers were covered by the act and that the illegal sale of personal information triggers an automatic \$5,000 award to each aggrieved consumer. Secured a \$30 million in cash settlement and industry-changing injunctive relief.

General Consumer Matters

We have represented plaintiffs in consumer fraud cases in courts nationwide against companies alleged to have been peddling fraudulent software, engaging in online gambling businesses in violation of state law, selling defective products, or engaged in otherwise unlawful conduct.

Representative cases and settlements include:

- ▶ Having secured a watershed Ninth Circuit victory for consumers in *Kater v. Churchill Downs Inc.*, 886 F.3d 784 (9th Cir. 2018), we are now pursuing consumer claims against more than a dozen gambling companies for allegedly profiting off of illegal internet casinos. Settlements in several of these cases total \$200 million.
- ▶ Prosecuted over 100 cases alleging that unauthorized charges for mobile content were placed on consumer cell phone bills. Cases collectively settled for over \$100m. See, e.g., *McFerren v. AT&T Mobility LLC*, No. 08-cv-151322 (Sup. Ct. Fulton Cty., Ga.); *Paluzzi et al. v. mBlox, Inc., et al.*, No. 2007-CH-37213, (Cir. Ct. Cook Cty., Ill.); *Williams et al. v. Motricity, Inc. et al.*, No. 2009-CH-19089 (Cir. Ct. Cook Cty., Ill.).
- ▶ *Edelson PC v. Christopher Bandas, et al.*, No. 1:16-cv-11057 (N.D. Ill.): Filed groundbreaking lawsuit seeking to hold professional objectors and their law firms responsible for, among other things, alleged practice of objecting to class action settlements in order to extort payments for themselves, and the unauthorized practice of law. After several years of litigation and discovery, secured first of its kind permanent injunction against the objector and his law firm, which, inter alia, barred them from practicing in Illinois or asserting objections to class action settlements in any jurisdiction absent meeting certain criteria.
- ▶ Brought numerous cases alleging that defendants deceptively designed and marketed computer repair software. Cases collectively settled for over \$45 million. *Beaton v. SpeedyPC Software*, 907 F.3d 1018 (7th Cir. 2018).
- ▶ *McCormick, et al. v. Adtalem Glob. Educ., Inc., et al.*, No. 2018-CH-04872 (Cir. Ct. Cook Cty., Ill): After students at one of the country's largest for-profit colleges, DeVry University, successfully advanced their claims that the school allegedly induced them to enroll and charged a premium based on inflated job placement statistics, the parties agreed to a \$45 million settlement—the largest private settlement DeVry has entered into regarding the claims.

General Consumer Matters

- ▶ *1050 W. Columbia Condo. Ass'n v. CSC ServiceWorks, Inc.*, No. 2019-CH-07319 (Cir. Ct. Cook Cty., Ill): Representing a class of landlords in securing a multifaceted settlement—including a cash component of up to \$30 million—with a laundry service provider over claims that the provider charged fees that were allegedly not permitted in the parties' contracts. The settlement's unique structure allows class members to choose repayment in the near term, or to lock in more favorable rates for the next decade.
- ▶ *Dickey v. Advanced Micro Devices, Inc.*, No. 15-cv-4922 (N.D. Cal.): Lead counsel in a complex consumer class action alleging AMD falsely advertised computer chips to consumers as “eight-core” processors that were, in reality, disguised four-core processors. The case settled for \$12.1 million.
- ▶ *Barrett v. RC2 Corp.*, No. 07 CH 20924 (Cir. Ct. Cook Cty., Ill.): Co-lead counsel in lead paint recall case involving Thomas the Tank toy trains. Settlement was valued at over \$30 million and provided class with full cash refunds and reimbursement of certain costs related to blood testing.
- ▶ *In re Pet Food Prods. Liability Litig.*, No. 07-cv-2867 (D.N.J.): Part of mediation team in class action involving largest pet food recall in United States history. Settlement provided \$24 million common fund and \$8 million in charge backs.

Insurance Matters

We have successfully represented individuals and businesses in a multitude of insurance related actions, including dozens of businesses whose business interruption insurance claims were denied by various insurers in the wake of the COVID-19 crisis. We successfully prosecuted and settled multi-million dollar suits against J.C. Penney Life Insurance for allegedly illegally denying life insurance benefits under an unenforceable policy exclusion and against a Wisconsin insurance company for terminating the health insurance policies of groups of self-insureds.

Representative cases and settlements include:

- ▶ *Biscuit Cafe Inc. et al. v. Society Ins., Inc.*, No. 1:20-cv-02514 (N.D. Ill.); *America's Kids, LLC v. Zurich American Ins. Co.*, No. 1:20-cv-03520 (N.D. Ill.); *MAIA Salon Spa and Wellness Corp. et al. v. Sentinel Ins. Co., Ltd. et al.*, No. 1:20-cv-3805 (E.D.N.Y.); *Badger Crossing, Inc. v. Society Ins., Inc.*, No. 2020CV000957 (Cir. Ct. Dane Cty.); and *Sea Land Air Travel, Inc. v. Auto-Owners Inc. Co. et al.*, No. 20-005872-CB (Cir. Ct. Wayne Cty.): In one of the most prominent areas for class action litigation related to the COVID-19 pandemic, we were among the first to file class action lawsuits against the insurance industry to recover insurance benefits for business owners whose businesses were shuttered by the pandemic. We represent an array of small and family-owned businesses—including restaurants and eateries, movie theatres, salons, retail stores, healthcare providers, and travel agencies—in a labyrinthine legal dispute about whether commercial property insurance policies cover business income losses that occurred as a result of business interruptions related to the COVID-19 pandemic. With over 800 cases filed nationwide to date, we have played an active role in efforts to coordinate the work of plaintiffs' attorneys through the Insurance Law Section of the American Association for Justice (AAJ), including by leading various roundtables and workgroups as the State Co-Chairs for Illinois, Wisconsin, and Michigan of the Business Interruption Litigation Taskforce (BILT), a national collaborative of nearly 300 practitioners representing policyholders in insurance claims arising out of the COVID-19 pandemic.
- ▶ *Holloway v. J.C. Penney*, No. 97 C 4555 (N.D. Ill.): One of the primary attorneys in a multi-state class action suit alleging that the defendant illegally denied life insurance benefits to the class. Case settled, resulting in a multi-million dollar cash award to the class.
- ▶ *Ramlow v. Family Health Plan* (Wisc. Cir. Ct., WI): Co-lead counsel in a class action suit challenging defendant's termination of health insurance to groups of self-insureds. The plaintiff won a temporary injunction, which was sustained on appeal, prohibiting such termination. Case eventually settled, ensuring that each class member would remain insured.

Public Client Litigation and Investigations

We have been retained as outside counsel by states, cities, and other regulators to handle investigations and litigation relating to environmental issues, the marketing of opioids and e-cigarettes, privacy issues, and general consumer fraud.

Representative cases and settlements include:

- ▶ *State of Idaho v. Purdue Pharma L.P., et al.*, No. CV01-19-10061 (Cir. Ct. Ada Cty., Idaho): We represent the State of Idaho, and nearly 50 other governmental entities—with a cumulative constituency of over three million Americans—in litigation against manufacturers and distributors of prescription opioids.
- ▶ *District of Columbia v. Juul Labs, Inc.*, No. 2019 CA 07795 B (D.C. Super. Ct.): We were appointed to represent the District of Columbia in a suit against e-cigarette giant Juul Labs, Inc. for alleged predatory and deceptive marketing.
- ▶ *State of New Mexico, ex. rel. Hector Balderas v. Google, LLC*, No. 1:20-cv-00143 (D.N.M.): We represent the State of New Mexico in case against Google for violating the Children's Online Privacy Protection Act by collecting data from children under the age of 13 through its G-Suite for Education products and services.
- ▶ *District of Columbia v. Facebook, Inc.*, No. 2018 CA 8715 B (D.C. Super. Ct.) and *People of Illinois v. Facebook Inc., et al.*, No. 2018-CH-03868 (Cir. Ct. Cook Cty., Ill.): We were appointed to represent the District of Columbia as well as the People of the State of Illinois (through the Cook County State's Attorney) in lawsuits against the world's largest social network, Facebook, and Cambridge Analytica—a London-based electioneering firm—for allegedly collecting (or allowing the collecting of) and misusing the private data of 50 million Facebook users.
- ▶ ComEd Bribery Litigation: Representing the Citizens Utility Board, the statutorily-designated representative of Illinois utility ratepayers, in advancing and defending interests of ratepayers amid numerous class actions seeking to hold Commonwealth Edison liable for a multi-year
- ▶ *Village of Melrose Park v. Pipeline Health Sys. LLC, et al.*, No. 19-CH-03041 (Cir. Ct. Cook Cty., Ill.): We successfully represented the Village of Melrose Park in litigation arising from the closure of Westlake Hospital in what has been called “one of the most complicated hospital closure disputes in the state's history.”
- ▶ *In re Marriott Int'l, Inc. Customer Data Security Breach Litig.*, MDL 2879 (D. Md.). We represent the City of Chicago in the ongoing Marriott data breach litigation.
- ▶ *In re Equifax, Inc., Customer Data Security Breach Litig.*, MDL No. 2800 (N.D. Ga.): Successfully represented the City of Chicago in the Equifax data breach litigation, securing a landmark seven-figure settlement under Chicago's City-specific ordinance.
- ▶ *City of Chicago, et al. v. Uber Techs., Inc.*, No. 17-CH- 15594 (Cir. Ct. Cook Cty., Ill.). We were appointed to represent both the City of Chicago and the People of the State of Illinois (through the Cook County State's Attorney) in a lawsuit against tech giant Uber Technologies, stemming from a 2016 data breach at the company and an alleged cover-up that followed.

Mass/Class Tort Cases Environmental Litigation

We have been chosen by courts to handle some of the most complex and significant issues affecting our country today. We represent hundreds of families suffering the damaging effects of ethylene oxide exposure in their communities, consumers and businesses whose local water supply was contaminated by a known toxic chemical, and property owners impacted by the flightpath of Navy fighter planes.

Representative cases and settlements include:

- ▶ We represent hundreds of individuals in numerous locations around the country that are suffering the ill-effects of ethylene oxide exposure (a gas commonly used in medical sterilization processes). We have brought over 100 personal injury and wrongful death cases against EtO emitters across the country, as well as numerous medical monitoring class actions. *Brincks et al. v. Medline Indus., Inc., et al.*, No. 2020-L-008754 (Cir. Ct. Cook Cty., Ill.); *Leslie v. Steris Isomedix Operations, Inc., et al.*, No. 1:20-cv-01654 (N.D. Ill.); *Jackson v. 3M Company, et al.*, No. 2:19-cv-00522 (D.S.C.).
- ▶ We represent hundreds of individuals who have been exposed through their own drinking water and otherwise to PFAS and related "forever chemical" used in various applications. This exposure has allegedly led to serious health issues, including cancer, as well as the devaluation of private property due to, among other things, the destruction of the water supply. In conjunction with our work in this space, we have been appointed to the Plaintiffs' Executive Committee in *In re: Aqueous Film-Forming Foams (AFFF) Prods. Liability Litig.*, 2:18-mn-2873-RMG, MDL No., 2873 (D.S.C.).
- ▶ We represent property owners on Whidbey Island, Washington, whose homes sit directly in the flightpath of dozens of Navy fighter planes. The Navy is alleged to have significantly increased the number of these planes at the bases at issue, as well as the frequency of their flights, to the detriment of our clients' privacy and properties. *Pickard v. USA*, No. 19-1938 (Ct. Fed. Claims); *Newkirk v. USA*, No. 20-628L (Ct. Fed. Claims).
- ▶ Environmental Panel Counsel: our team has been designated as Panel Members on a State Attorney General's Environmental Counsel Panel.

General Commercial Litigation

Our attorneys have also handled a wide range of general commercial litigation matters, from partnership and business-to-business disputes to litigation involving corporate takeovers. We have handled cases involving tens of thousands of dollars to “bet the company” cases involving up to hundreds of millions of dollars. Our attorneys have collectively tried hundreds of cases, as well as scores of arbitrations. We have routinely been brought on to be “negotiation” counsel in various high-stakes or otherwise complex commercial disputes.

Our Team

Our Team



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Jay Edelson

Founder and CEO

Considered one of the nation's leading class and mass action lawyers.

Law360 described Jay as a "Titan of the Plaintiff's Bar." The American Bar Association recognized Jay Edelson as one of the "most creative minds in the legal industry." Jay has also been recognized as one of "America's top trial lawyers" in the mass action arena, and was included in LawDragon's 2020 list of Leading Plaintiff Financial Lawyers. Law360 noted that he has "taken on some of the biggest companies and law firms in the world and has had success where others have not." Another publication explained that "when it comes to legal strategy and execution, Jay is simply one of the best in the country." Professor Todd Henderson, the Michael J. Marks Professor of Law at the University of Chicago Law School, opined that when thinking about "who's the most innovative lawyer in the US ... [Jay is] at or near the top of my list."

Of Counsel explained that Jay has made a career out of "battling bullies":

Big banks. Big tech firms. Big Pharma. The big business that is the NCAA. Plaintiff's attorney Jay Edelson wages battle against many of the nation's most fortified institutions. Not only does he refuse to back down to anyone, regardless of their stature or deep pockets, he welcomes the challenge.

Edelson earned a monumental victory in the US Supreme Court in what's been characterized as one of the most important consumer privacy cases of the last several years, *Robins v. Spokeo*. He and his team are leading the charge against the NCAA

in representing former college football players who suffered concussions, and their families. And, on behalf of labor unions and governmental bodies, he's elbow-deep in litigation against pharmaceutical companies and distributors for their pivotal role in the opioid crisis. Simply put, he's a transformational lawyer.

- ▶ Jay has been appointed to represent state and local regulators on some of the largest issues of the day, ranging from opioids suits against pharmaceutical companies, to environmental actions against polluters, to breaches of trust against energy companies and for-profit hospitals, to privacy suits against Google, Facebook, Uber, Marriott, and Equifax.

Jay Edelson

Founder and CEO

- ▶ Jay has received special recognition for his success in taking on Silicon Valley. The national press has dubbed Jay and the firm the “most feared” litigators in Silicon Valley and, according to the New York Times, tech’s “babyfaced ... boogeyman.” Most recently, Chicago Lawyer Magazine dubbed Jay “Public Enemy No. 1 in Silicon Valley.” In the emerging area of privacy law, the international press has called Jay one of the world’s “profilier testen (most prominent)” privacy class action attorneys. The National Law Journal has similarly recognized Jay as a “Cybersecurity Trailblazer”—one of only two plaintiff’s attorneys to win this recognition.
- ▶ Jay has taught class actions and negotiations at Chicago-Kent College of Law and privacy litigation at UC Berkeley School of Law. He has written a blog for Thomson Reuters, called Pardon the Disruption, where he focused on ideas necessary to reform and reinvent the legal industry and has contributed opinion pieces to TechCrunch, Quartz, the Chicago Tribune, Law360, and others. He also serves on Law360’s Privacy & Consumer Protection editorial advisory board. In recognition of the fact that his firm runs like a start-up that “just happens to be a law firm,” Jay was recently named to “Chicago’s Top Ten Startup Founders over 40” by Tech.co.
- ▶ Jay currently serves on Chicago’s 47th Ward Democratic Organization Judicial Recommendation Committee, which is responsible for interviewing, vetting and slating Cook County Judicial Candidates for election.

Our Team



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Rafey S. Balabanian

Global Managing Partner
Director of Nationwide Litigation

Appointed lead class counsel in more than two dozen class actions in state and federal courts across the country.

Rafey started his career as a trial lawyer, serving as a prosecutor for the City of Chicago where he took part in dozens of trials. Rafey went on to join a litigation boutique in Chicago where he continued his trial work, before eventually starting with EDELSON in 2008. He is regarded by his peers as a highly skilled litigator, and has been appointed lead class counsel in more than two dozen class actions in state and federal courts across the country. His work has led to groundbreaking results in trial courts nationwide, including a \$925 million jury verdict in *Wakefield v. ViSalus*-- the largest privacy verdict in this nation's history. In 2020, Rafey was recognized as a top 100 lawyer in California by *California Lawyer Magazine*.

- ▶ Rafey has been at the forefront of protecting consumer data, and in 2018 helped lead the effort to obtain adversarial class certification for the first time in the history of the Illinois Biometric Information Privacy Act, on behalf of a class of Illinois users. On the eve of trial, the case settled for a record-breaking \$650 million.
- ▶ Some of Rafey's more notable achievements include nationwide settlements involving the telecom industry, including companies such as AT&T, Google, Sony, Motricity, and OpenMarket valued at more than \$100 million.
- ▶ Rafey has been appointed to represent state Attorneys General and regulators on a variety of issues including the District of Columbia in a suit against Facebook for the Cambridge Analytica Scandal. He also represents labor unions and governmental entities in lawsuits against the drug manufacturers and distributors over the ongoing opioid crisis.
- ▶ Rafey has also been appointed to the Executive Committee in the NCAA concussion cases, considered to be "one of the largest actions pending in the country, a multi district litigation ... that currently include [more than 300] personal injury class actions filed by college football players[.]" And he represents a member of the Tort Claimant's Committee in the PG&E Bankruptcy action, which resulted in a historic \$13.5 billion settlement.
- ▶ Rafey served as trial court counsel in *Robins v. Spokeo, Inc.*, 2:10-cv-05306-ODW-AGR, which has been called the most significant consumer privacy case in recent years.

Rafey S. Balabanian

Global Managing Partner
Director of Nationwide Litigation

- ▶ Rafey's class action practice also includes his work in the privacy sphere, and he has reached groundbreaking settlements with companies like Netflix, LinkedIn, Walgreens, and Nationstar. Rafey also served as lead counsel in the case of Dunstan, et al. v. comScore, Inc., No. 11-cv-5807 (N.D. Ill.), where he led the effort to secure class certification of what is believed to be the largest adversarial class to be certified in a privacy case in the history of U.S. jurisprudence.
- ▶ Rafey's work in general complex commercial litigation includes representing clients ranging from "emerging technology" companies, real estate developers, hotels, insurance companies, lenders, shareholders and attorneys. He has successfully litigated numerous multi-million dollar cases, including several "bet the company" cases.
- ▶ Rafey is a frequent speaker on class and mass action issues, and has served as a guest lecturer on several occasions at UC Berkeley Boalt School of Law. Rafey also serves on the Executive Committee of the Antitrust, Unfair Competition and Privacy Section of the State Bar of California where he has been appointed Vice Chair of Privacy, as well as the Executive Committee of the Privacy and Cybersecurity Section of the Bar Association of San Francisco.
- ▶ Rafey received his J.D. from the DePaul University College of Law in 2005. A native of Colorado, Rafey received his B.A. in History, with distinction, from the University of Colorado – Boulder in 2002.

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Benjamin H. Richman

Managing Partner, Chicago office

Appointed by the federal and state courts to be Class or Lead Counsel in dozens of cases

Benjamin handles plaintiff's-side class and mass actions, helping employees in the workplace, consumers who were sold deceptive products or had their privacy rights violated, individuals and families suffering the ill-effects of exposure to toxic chemicals, student athletes suffering from the effects of concussions, and labor unions and governmental bodies seeking to recover losses arising out of the opioid crisis. He also routinely represents technology and brick and mortar companies in a wide variety of commercial litigation and other matters. Overall, Ben has been appointed by the federal and state courts to be Class or Lead Counsel in dozens of cases. His suits have recovered hundreds of millions of dollars for his clients.

- ▶ Ben also represents state Attorneys General, counties, and cities in high-stakes litigation and investigations, including the State of Idaho in asserting claims against some of the largest pharmaceutical manufacturers and distributors in the world related to the ongoing opioid epidemic, including in the MDL pending in the Northern District of Ohio. Ben also leads the team representing approximately 50 other governmental entities in opioid litigation; the State of New Mexico in their lawsuit against Google LLC for allegedly collecting data from children under the age of 13 through its G-Suite for Education products and services; the District of Columbia in a suit against e-cigarette giant Juul for alleged predatory and deceptive marketing; and was appointed as a Special Assistant State's Attorney to prosecute Facebook's violations of the Illinois Consumer Fraud Act in the Cambridge Analytica scandal.
- ▶ Ben has been one of the primary forces behind the development of the firm's environmental practice. In the last year alone, Ben led a team representing hundreds of individuals across the country suffering the effects of exposure to ethylene oxide—a carcinogenic chemical compound used in sterilization applications—emitted into the air in their communities, including coordinating litigation across state and federal courts in various jurisdictions; was appointed to the Plaintiffs' Executive Committee overseeing the prosecution of the *In re: Aqueous Film-Forming Foams Prods. Liability Litig.*, No. 18-mn-2873, MDL No. 2873 (D.S.C.) (which includes more than 500 cases against the largest chemical manufacturers in the world, among others); and was designated as a Panel Member on a State Attorney General's Environmental Counsel Panel, which was formed to assist and represent the State in a wide range of environmental litigation.

Benjamin H. Richman

Managing Partner, Chicago office

- ▶ Ben is currently part of the team leading the *In re* National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation – Single Sport/Single School (Football) multidistrict litigation, bringing personal injury lawsuits against the NCAA, athletic conferences, and its member institutions over concussion-related injuries. In addition, Ben has and is currently acting as lead counsel in numerous class actions involving alleged violations of class members' common law and statutory rights (e.g., violations of Alaska's Genetic Privacy Act, Illinois' Biometric Information Privacy Act, the federal Telephone Consumer Protection Act, and others).
- ▶ Some of Ben's notable achievements include acting as class counsel in litigating and securing a \$45 million settlement of claims against for-profit DeVry University related to allegedly false reporting of job placement statistics. He has acted as lead counsel in securing settlements collectively worth \$50 million in over a half-dozen nationwide class actions against software companies involving claims of fraudulent marketing and unfair business practices. He was part of the team that litigated over a half-dozen nationwide class actions involving claims of unauthorized charges on cellular telephones, which ultimately led to settlements collectively worth hundreds of millions of dollars. And he has been lead counsel in numerous multi-million dollar privacy settlements, including several that resulted in individual payments to class members reaching into the tens of thousands of dollars and another that—in addition to securing millions of dollars in monetary relief—also led to a waiver by the defendants of their primary defenses to claims that were not otherwise being released.
- ▶ Ben's work in complex commercial matters includes successfully defending multiple actions against the largest medical marijuana producer in the State of Illinois related to the issuance of its cultivation licenses, and successfully defending one of the largest mortgage lenders in the country on claims of unjust enrichment, securing dismissals or settlements that ultimately amounted to a fraction of typical defense costs in such actions. Ben has also represented startups in various matters, including licensing, intellectual property, and merger and acquisition.
- ▶ Each year since 2015, Ben has been recognized by Super Lawyers as a Rising Star and Leading Lawyers as an Emerging Lawyer in both class action and mass tort litigation.
- ▶ Ben received his J.D. from The John Marshall Law School, where he was an Executive Editor of the Law Review and earned a Certificate in Trial Advocacy. While in law school, Ben served as a judicial extern to the late Honorable John W. Darrah of the United States District Court for the Northern District of Illinois. Ben has also routinely guest-lectured at various law schools on issues related to class actions, complex litigation and negotiation.

Our Team



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Ryan D. Andrews

Partner

Appointed class counsel in numerous federal and state class actions nationwide.

Ryan presently leads the firm's complex case resolution and appellate practice group, which oversees the firm's class settlements, class notice programs, and briefing on issues of first impression.

- ▶ Ryan has been appointed class counsel in numerous federal and state class actions nationwide that have resulted in over \$100 million in refunds to consumers, including: *Satterfield v. Simon & Schuster*, No. C 06 2893 CW (N.D. Cal.); *Ellison v. Steve Madden, Ltd.*, No. cv 11-5935 PSG (C.D. Cal.); *Robles v. Lucky Brand Dungarees, Inc.*, No. 10-cv-04846 (N.D. Cal.); *Lozano v. 20th Century Fox*, No. 09-cv-05344 (N.D. Ill.); *Paluzzi v. Cellco P'ship*, No. 07 CH 37213 (Cir. Ct. Cook Cty., Ill.); and *Lofton v. Bank of America Corp.*, No. 07-5892 (N.D. Cal.).
- ▶ Representative reported decisions include: *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016); *Kater v. Churchill Downs Inc.*, 886 F.3d 784 (9th Cir. 2018); *Warciak v. Subway Rests., Inc.*, 880 F.3d 870 (7th Cir. 2018), cert. denied, 138 S. Ct. 2692 (2018); *Beaton v. SpeedyPC Software*, 907 F.3d 1018 (7th Cir. 2018), cert. denied, ___ S. Ct. ___ (2019); *Klaudia Sekura v. Krishna Schaumburg Tan, Inc.*, 2018 IL App (1st) 180175; *Yershov v. Gannett Satellite Info. Network, Inc.*, 820 F. 3d 482 (1st Cir. 2016); *Resnick v. AvMed, Inc.*, 693 F. 3d 1317 (11th Cir. 2012); and *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946 (9th Cir. 2009).
- ▶ Ryan graduated from the University of Michigan, earning his B.A., with distinction, in Political Science and Communications. Ryan received his J.D. with High Honors from the Chicago-Kent College of Law and was named Order of the Coif. Ryan has served as an Adjunct Professor of Law at Chicago-Kent, teaching a third-year seminar on class actions. While in law school, Ryan was a Notes & Comments Editor for The Chicago-Kent Law Review, earned CALI awards for the highest grade in five classes, and was a teaching assistant for both Property Law and Legal Writing courses. Ryan externed for the Honorable Joan B. Gottschall in the United State District Court for the Northern District of Illinois.

Our Team



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Christopher L. Dore

Partner

Appointed by the federal and state courts to be Class or Lead Counsel in dozens of cases

Chris focuses his practice on emerging consumer technology and privacy issues, as well as mass tort and mass action matters.

- ▶ Chris oversees the Firm's Case Development & Investigations Group. His team investigates complex technological fraud and privacy related violations, including fraudulent software and hardware, undisclosed tracking of online consumer activity, illegal data retention, and large-scale commercial data breaches. In the privacy space, Chris plays an active role in applying older federal and state statutes to new technologies. He has been appointed class counsel in multiple class actions, including one of the largest settlements under the Telephone Consumer Protection Act, groundbreaking issues in the mobile phone industry and fraudulent marketing, as well as consumer privacy.
- ▶ Chris also works on mass tort and mass action matters, including representing thousands of former football players suffering from the long-term effects of concussive and sub-concussive hits; hundreds of families who lost their homes, businesses, and even loved ones in the Camp Fire that ravaged Northern California in November 2018; and thousands of consumers exposed to toxic chemical emissions.
- ▶ Chris has been asked to appear on television, radio, and in national publications to discuss consumer protection and privacy issues, as well as asked to lecture at his alma mater on class action practice.
- ▶ Chris received his law degree from The John Marshall Law School, his M.A. in Legal Sociology from the International Institute for the Sociology of Law (located in Onati, Spain), and his B.A. in Legal Sociology from the University of California, Santa Barbara. Chris also serves on the Illinois Bar Foundation, Board of Directors.

Our Team



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David I. Mindell

Partner
Co-Chair, Public Client and Government Affairs group

Counsels governments and state and federal lawmakers on a range of policy issues.

David represents state Attorneys General, counties, and cities in high-stakes litigation and investigations involving consumer protection, information security and privacy violations, the opioid crisis, and other areas of enforcement that protect government interests and vulnerable communities. David also counsels governments and state and federal lawmakers on a range of policy issues involving consumer protection, privacy, technology, and data security.

- ▶ In addition to his Public Client and Government Affairs practice, David helps direct the firm's Investigations team, including the group's internal lab "of computer forensic engineers and tech-savvy lawyers [who study] fraudulent software and hardware, undisclosed tracking of online consumer activity and illegal data retention." Cybersecurity & Privacy Practice Group of the Year, Law360 (Jan. 2019). His team's research has led to lawsuits involving the fraudulent development, marketing and sale of computer software, unlawful tracking of consumers through mobile-devices and computers, unlawful collection, storage, and dissemination of consumer data, mobile-device privacy violations, large-scale data breaches, unlawful collection and use of biometric information, unlawful collection and use of genetic information, and the Bitcoin industry.
- ▶ David also helps oversee the firm's class and mass action investigations, including claims against helmet manufacturers and the National Collegiate Athletic Association by thousands of former high school, college, and professional football players suffering from the long-term effects of concussive and sub-concussive hits; claims on behalf of hundreds of families and business who lost their homes, businesses, and even loved ones in the "Camp Fire" that ravaged thousands of acres of Northern California in November 2018; and on behalf of survivors of sexual abuse.
- ▶ Prior to joining EDELSON PC, David co-founded several tech, real estate, and hospitality related ventures, including a tech startup that was acquired by a well-known international corporation within its first three years. David has advised tech companies on a variety of legal and strategic business-related issues, including how to handle and protect consumer data. He has also consulted with startups on the formation of business plans, product development, and launch.
- ▶ While in law school, David was a research assistant for University of Chicago Law School Kauffman and Bigelow Fellow, Matthew Tokson, and for the preeminent cyber-security professor, Hank Perritt at the Chicago-Kent College of Law. David's research included cyberattack and denial of service vulnerabilities of the Internet, intellectual property rights, and privacy issues.
- ▶ David has spoken to a wide range of audiences about his investigations and practice.

Our Team



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Roger Perlstadt

Partner

Briefed appeals and motions in numerous federal and state appellate courts.

Roger's practice focuses on appeals and critical motions. He has briefed appeals and motions in numerous federal and state appellate courts, including the United States Supreme Court's seminal case of *Spokeo, Inc. v. Robins*, and has argued multiple times before the United States Courts of Appeals for the Sixth, Seventh, Eighth, and Ninth Circuits.

- ▶ Roger has also briefed complex issues at the trial court level in cases throughout the country. These cases generally involve matters of first impression relating to new statutes or novel uses of long-standing statutes, as well as the intersection of privacy law and emerging technologies.
- ▶ Prior to joining EDELSON PC, Roger was a law clerk to United States District Court Judge Elaine E. Bucklo, an associate at a litigation boutique in Chicago, and a Visiting Assistant Professor at the University of Florida Levin College of Law. He has published articles on the Federal Arbitration Act in various law reviews.
- ▶ Roger has been named a Rising Star by Illinois Super Lawyer Magazine four times since 2010.
- ▶ Roger graduated from the University of Chicago Law School, where he was a member of the University of Chicago Law Review. After law school, he served as a clerk to the Honorable Elaine E. Bucklo of the United States District Court for the Northern District of Illinois.

Our Team



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Eve-Lynn Rapp

Partner
Co-Chair, Public Client team

Appointed by the federal and state courts to be Class or Lead Counsel in dozens of cases

Eve focuses her practice on a wide range of consumer protection and privacy class and mass actions, as well as government enforcement litigation, including matters on behalf of various Attorneys General and municipalities and counties across the country. Eve has been appointed class counsel or led the litigation efforts in dozens of matters and has recovered or secured verdicts of over a billion dollars for her clients.

- ▶ Specific to her Public Client and Government Affairs practice, Eve represents the District of Columbia in its litigation against Juul for its deceptive e-cigarette manufacturing and sales, the State of New Mexico in its suit against Google alleging that its G-Suite for Education product and services illegally collected data from New Mexico school children in violation of COPPA, and has helped to represent the State of Idaho and dozens of other government entities in their lawsuits against the pharmaceutical companies relating to the opioid crisis. Eve likewise represented the City of Chicago in the Equifax suit where she secured a landmark seven-figure settlement under Chicago's City-specific ordinance.
- ▶ Eve has also devoted a considerable amount of her practice to consumer technology cases, with a particular emphasis on cell phone telephony and Telephone Consumer Protection Act ("TCPA") cases, consumer fraud cases, and privacy lawsuits. Eve has helped lead approximately 40 TCPA class actions, including *Wakefield v. ViSalus, Inc.*, No. 15-cv-01857, Hon. Michael H. Simon (D. Or.), where, as Class Counsel, she led and coordinated Edelson's litigation efforts, achieved certification of an adversarial TCPA class, and paved the way to a \$925 million jury verdict. She also led Edelson's efforts in *Birchmeier v. Caribbean Cruise Line, Inc. et al.*, No. 12-cv-04069 (N.D. Ill.), where, after obtaining class certification and partial summary judgment, she secured a \$76 million settlement—the largest ever for a TCPA case—four days before trial. Eve likewise served as lead counsel in then one of the few "Do Not Call" TCPA cases to settle, resulting in a multi-million dollar settlement and affording class members with as much as \$5,000 individually, and prosecuted dozens of TCPA cases on an individual basis in arbitrations, winning six-figure settlements.

Eve-Lynn Rapp

Partner
Co-Chair, Public Client team

- ▶ Eve is also responsible for leading one of the first “Internet of Things” cases under the Federal Wiretap Act against a company collecting highly sensitive personal information from consumers, in which she obtained a \$5 million (CAD) settlement that afforded individual class members over one hundred dollars in relief.
- ▶ In addition to her government and privacy work, Eve has led over a dozen consumer fraud cases, against a variety of industries, including e-cigarette sellers, on-line gaming companies, electronic and sport products distributors. Most recently, she led and resolved a case against a well-known national fitness facility for misrepresenting its “lifetime memberships,” which resulted in tens of millions of dollars of relief. She likewise has special expertise in products liability and pharmaceutical litigation—representing over a dozen municipalities in lawsuits against the pharmaceutical companies relating to the opioid crisis. Eve’s victory in the United States Supreme Court in a products liability case involving the All Writs Act paved the way for hundreds of thousands of people to litigate their claims for deceptive marketing.
- ▶ From 2015-2019, Eve was selected as an Illinois Emerging Lawyer by Leading Lawyers.
- ▶ Eve received her J.D. from Loyola University of Chicago-School of Law, graduating cum laude, with a Certificate in Trial Advocacy. During law school, she was an Associate Editor of Loyola’s International Law Review and externed as a “711” at both the Cook County State’s Attorney’s Office and for Cook County Commissioner Larry Suffredin. Eve also clerked for both civil and criminal judges (The Honorable Judge Yvonne Lewis and Plummer Lott) in the Supreme Court of New York. Eve graduated from the University of Colorado, Boulder, with distinction and Phi Beta Kappa honors, receiving a B.A. in Political Science.

Our Team



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Ari J. Scharg

Partner
Co-Chair, Government Affairs Group

Recognized as one of the leading experts on privacy and emerging technologies.

Ari counsels governmental entities and officials on a range of policy and strategic issues involving consumer protection, privacy, technology, and data security. Known as an aggressive advocate, Ari also leverages his experience litigating hundreds of complex class and mass action lawsuits to help local governments prosecute large-scale cost recovery actions, including those against the pharmaceutical companies responsible for the opioid crisis.

- ▶ Recognized as one of the leading experts on privacy and emerging technologies, Ari serves on the inaugural Executive Oversight Council for the Array of Things Project where he advises on privacy and data security matters, chairs the Illinois State Bar Association's Privacy and Information Security Section, and was recently appointed by the Illinois Senate President to Co-Chair the Illinois Blockchain and Distributed Ledgers Task Force alongside Representative Michael Zalewski (21st Dist.). Ari was selected as an Illinois Rising Star by Super Lawyers (2013 – 2018), and received the Michigan State Bar Foundation's Access to Justice Award (2017) for "significantly advancing access to justice for the poor" through his consumer cases.
- ▶ Ari regularly speaks about data security and technology at law schools and conferences around the country, and has testified before the Michigan House of Representatives Committee on Commerce and Trade about the privacy implications raised by the surging data mining industry and the Nevada Assembly Commerce and Labor Committee about the privacy implications raised by the surreptitious collection and use of geolocation data.
- ▶ Ari received his B.A. in Sociology from the University of Michigan – Ann Arbor and graduated magna cum laude from The John Marshall Law School where he served as a Staff Editor for The John Marshall Law Review and competed nationally in trial competitions. During law school, he also served as a judicial extern to the Honorable Bruce W. Black of the U.S. Bankruptcy Court for the Northern District of Illinois.

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Ben Thomassen

Partner
Member, Issues & Appeals Group

Appointed as class counsel in several high profile cases including, *Harris v. comScore, Inc.*, No. 11-cv-5807

Ben regularly litigates complex issues—often ones of first impression—in trial and appellate courts, has been appointed as class counsel for numerous certified federal classes, and has played key roles in industry-changing cases that have secured millions of dollars of relief for consumers. Substantively, Ben's work focuses on issues concerning data privacy/security, technology, and consumer fraud.

- ▶ Ben's work at the firm has achieved significant results for classes of consumers. He has been appointed as class counsel in several high profile cases, including, for example, *Harris v. comScore, Inc.*, No. 11-cv-5807 (N.D. Ill.) (in case against data analytics company, estimated to be the largest privacy class action certified on adversarial basis and resulted in \$14 million settlement). Ben has also played critical and leading roles in developing, briefing, and arguing novel legal theories on behalf of his clients, including by delivering the winning oral argument to the Eleventh Circuit in the seminal case of *Resnick, et al. v. AvMed, Inc.*, No. 10-cv-24513 (S.D. Fla.) (appointed class counsel in industry-changing data breach case, which obtained a landmark appellate decision endorsing common law unjust enrichment theory, irrespective of whether identity theft occurred) and recently obtaining certification of a class of magazine subscribers in *Coulter-Owens v. Time, Inc.*, No. 12-cv-14390 (E.D. Mich.) (achieved adversarial certification in a privacy case brought by a class of magazine subscribers against a magazine publisher under Michigan's Preservation of Personal Privacy Act). His cases have resulted in millions of dollars to consumers.
- ▶ Ben graduated magna cum laude from Chicago-Kent College of Law, where he also earned a certificate in Litigation and Alternative Dispute Resolution and was named Order of the Coif. He also served as Vice President of Chicago-Kent's Moot Court Honor Society and earned (a currently unbroken firm record of) seven CALI awards for receiving the highest grade in Appellate Advocacy, Business Organizations, Conflict of Laws, Family Law, Personal Income Tax, Property, and Torts. In 2017, Ben was selected as an Illinois Emerging Lawyer by Leading Lawyers.
- ▶ Before settling into his legal career, Ben worked in and around the Chicago and Washington, D.C. areas in a number of capacities, including stints as a website designer/developer, a regular contributor to a monthly Capitol Hill newspaper, and a film projectionist and media technician (with many years' experience) for commercial theatres, museums, and educational institutions. Ben received a Master of Arts degree from the University of Chicago and his Bachelor of Arts degree, summa cum laude, from St. Mary's College of Maryland.

Our Team



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Arthur Turner II

Of Counsel

Sponsored legislation to increase economic development and help give loans to small businesses.

Art's practice focuses on consumer and privacy-related class actions and mass tort litigation.

- ▶ After college, Art served as a community organizer and mentor to youth in North Lawndale. He worked as a tax credit analyst and underwriter for the Illinois Housing Development Authority. In 2010, he was elected to serve as the state representative in the 9th House District.
- ▶ As a legislator, Art sponsored legislation to increase economic development and help give loans to small businesses; particularly in areas in need of the greatest economic growth. Art advocated for stronger personal privacy measures to protect consumers and their personal information online. Art's legislative agenda also focused on providing affordable housing for Illinois residents, and access to quality health care for all.
- ▶ Art joined the House Leadership team in 2013 as an Assistant Majority leader. He became Deputy Majority Leader in 2017. Art served as a member of various committees including Executive, Revenue & Finance, Public Utilities, Cybersecurity, Data Analytics & IT, and chairman of the Judiciary – Criminal Law Committee.
- ▶ Art has been recognized for his legislative efforts by a wide variety of advocates and organizations, including being named an Edgar Fellow in 2012.
- ▶ Art graduated with a degree in political science from Morehouse College and received his J.D. from Southern Illinois University School of Law.

Our Team



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Theo Benjamin

Associate

Led the litigation and settlement of a variety of class action cases alleging claims under federal, state, and local laws.

Theo's practice focuses on consumer, privacy, tech-related class actions, and mass tort litigation.

- ▶ Theo is a member of Edelson's COVID-19 Legal Task Force and is currently litigating insurance class actions on behalf of businesses nationwide alleging wrongful denial of claims for business interruption insurance coverage resulting from losses sustained due to the ongoing COVID-19 pandemic. Theo is also litigating and represents former college and high school athletes suffering from the harmful effects of concussive and sub-concussive head impacts. Theo's recent work includes litigating and protecting the rights of consumers under state laws like the Illinois Biometric Information Privacy Act (BIPA).
- ▶ Theo received his J.D. from Northwestern Pritzker School of Law, where he served as a Comment Editor for Northwestern's Journal of Criminal Law & Criminology and founded Northwestern's chapter of the International Refugee Assistance Project and helped provide legal aid, representation, and policy research to refugees and asylum seekers undergoing the U.S. resettlement process.

Our Team



Éviealle Dawkins

Associate

Member of the Charles Hamilton Houston National Moot Court Team at Howard University School of Law.

Éviealle practice focuses on consumer, privacy-related, and tech-related class actions.

- ▶ Éviealle received her J.D. from Howard University School of Law, where she was a member of the Charles Hamilton Houston National Moot Court Team, a student attorney in the Fair Housing Clinic and Alternative Dispute Resolution Consortium and served on the executive board of the Student Bar Association.
- ▶ Prior to becoming a lawyer, Éviealle worked in campaigns and political consulting as an Operations Director and Project Manager. She served as a White House Intern in Spring 2013.

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Our Team



Lily Hough

Associate

A key player in defeating a motion to dismiss claims under the federal Wiretap Act.

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Lily's practice focuses on consumer privacy-related class actions.

- ▶ Lily has extensive experience litigating complex technical issues and novel legal theories in "Internet of Things" privacy cases arising under federal and state laws. For example, in *S.D. v. Hytto, Ltd., d/b/a Lovense*, No. 3:18-cv-00688 (N.D. Cal.), Lily was a key player in defeating a motion to dismiss claims under the federal Wiretap Act in a class action lawsuit alleging that an adult sex toy company collected highly sensitive data on customer usage. During her first year of practice, Lily briefed and argued a successful opposition to a motion to dismiss another class action under the federal Wiretap Act, in which she represented users of the Golden State Warriors' mobile application in *Satchell v. Sonic Notify, Inc. d.b.a. Signal 360 et al.*, No. 3:16-cv-04961 (N.D. Cal.).
- ▶ Lily has also achieved unique victories in efforts to end harassing robocalls to consumers through class action lawsuits under the Telephone Consumer Protection Act ("TCPA"). In 2019, she and co-counsel represented class members in a jury trial that secured a \$925 million verdict in *Wakefield v. Visalus, Inc.*, No. 3:15-cv-01857 (D. Or.). Lily recently defeated a motion to dismiss TCPA claims and successfully litigated challenging questions of statutory interpretation involving whether job offer solicitations constituted "telemarketing" in *Risher v. Adecco, Inc., et al.*, No. 3:19-cv-05602 (N.D. Cal.).
- ▶ In 2020, Lily joined the firm's efforts to litigate claims by survivors of childhood sexual abuse against various entities under California's recently enacted AB 218.
- ▶ Lily received her J.D., cum laude, from Georgetown University Law Center. In law school, Lily served as a Law Fellow for Georgetown's first year Legal Research and Writing Program and as the Executive Editor of the Georgetown Immigration Law Journal. She participated in D.C. Law Students In Court, one of the oldest clinical programs in the District of Columbia, where she represented tenants in Landlord & Tenant Court and plaintiff consumers in civil matters in D.C. Superior Court. She also worked as an intern at the U.S. Department of State in the Office of the Legal Adviser, International Claims and Investment Disputes (L/CID).
- ▶ Prior to law school, Lily attended the University of Notre Dame, where she graduated magna cum laude with departmental honors and earned her B.A. in Political Science and was awarded a James F. Andrews Scholarship for commitment to social concerns. She is also a member of the Pi Sigma Alpha and Phi Beta Kappa honor societies.

Our Team



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J. Aaron Lawson

Associate

Argued in four federal Courts of Appeals and numerous district courts around the country.

Aaron's practice focuses on appeals and complex motion practice. Aaron regularly litigates complex issues in both trial and appellate courts, including jurisdictional issues and class certification. Aaron has argued in four federal Courts of Appeals and numerous district courts around the country. In 2019, Aaron won and successfully defended class certification in a case challenging Facebook's collection of facial recognition data gathered through the platform's photo tagging feature. The case settled on the eve of trial for a record breaking \$650 million.

- ▶ In addition to his work at Edelson PC, Aaron serves on the Privacy Subcommittee of the California Lawyers Association's Antitrust, UCL & Privacy Section, and edits the yearly treatise produced by the subcommittee.
- ▶ Prior to joining EDELSON PC, Aaron served for two years as a Staff Attorney for the United States Court of Appeals for the Seventh Circuit, handling appeals involving a wide variety of subject matter, including consumer-protection law, employment law, criminal law, and federal habeas corpus. While at the University of Michigan Law School, Aaron served as the Managing Editor for the Michigan Journal of Race & Law, and participated in the Federal Appellate Clinic. In the clinic, Aaron briefed a direct criminal appeal to the United States Court of Appeals for the Sixth Circuit, and successfully convinced the court to vacate his client's sentence.

Our Team



Todd Logan

Associate

Led the litigation and settlement of a variety of class action cases alleging claims under federal, state, and local laws.

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Todd focuses his practice on class and mass actions and large-scale governmental suits. He represents Butte County residents who lost their homes and businesses in the Camp Fire, governments and other entities seeking to recover losses arising out of the nationwide opioid epidemic, former NCAA football players suffering from the harmful effects of concussions, consumers seeking compensation for their gambling losses to illegal internet casinos, and consumers who have been defrauded or otherwise suffered damages under state consumer protection laws.

- ▶ In recent years, Todd has led the litigation and settlement of a variety of class action cases alleging claims under federal, state, and local laws. For example, in *Dickey v. Advanced Micro Devices, Inc.*, No. 15-cv-04922, 2019 WL 251488, (N.D. Cal. Jan. 17, 2019), Todd briefed and argued a successful motion for nationwide class certification in a complex consumer class action alleging claims under California Law. In *Robins v. Spokeo*, No. 10-cv-5306 (C.D. Cal.), after remand from both the Supreme Court and the Ninth Circuit, Todd led the litigation of the class' claims under the Fair Credit Reporting Act for more than a year before the case entered settlement posture on favorable terms. And in *Sekura v. L.A. Tan Enterprises, Inc.*, No. 15-CH-16694 (Cir. Ct. Cook Cty., Ill.), Todd represented a class of consumers alleging claims under Illinois' Biometric Information Privacy Act (BIPA) and ultimately obtained a seven-figure class action settlement – the first ever BIPA class action settlement.
- ▶ Before becoming a lawyer, Todd built SQL databases for a technology company and worked at various levels in state and local government. Todd received his J.D. cum laude from Harvard Law School, where he was Managing Editor of the *Harvard Journal of Law and Technology*. Todd also assisted Professor William B. Rubenstein with research and analysis on a wide variety of class action issues, and is credited for his work in more than eighty sections of *Newberg on Class Actions*.
- ▶ From 2016-17, Todd served as a judicial law clerk for the Honorable James Donato of the Northern District of California.

Our Team



Michael Ovca

Incoming Associate

Litigating a half-dozen Telephone Consumer Protection Act cases.

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Michael focuses on consumer, privacy-related and technology-related class actions.

- ▶ Michael's recent consumer class action work involves bringing claims on behalf of students suing for-profit colleges that used allegedly-fraudulent advertising to lead them to enroll. Michael's environmental practice involves representing individuals who were exposed to ethylene oxide ("EtO") emitted by medical equipment sterilization and chemical manufacturing plants, as well as those exposed to dangerous "forever" chemicals through tainted groundwater that accumulate in the body, ultimately causing cancer. Michael is also litigating a half-dozen Telephone Consumer Protection Act cases brought by recipients of text messages sent by entertainment venues from around the country. In terms of governmental representation, Michael has worked on cases brought by the City of Chicago against Uber; by various cities and towns in Illinois against opiate manufacturers, distributors, and prescribers; and a village seeking to prevent the closure of its hospital.
- ▶ Michael received his J.D. cum laude from Northwestern University, where he was an associate editor of the *Journal of Criminal Law and Criminology*, and a member of several award-winning trial and moot court teams.
- ▶ Prior to law school, Michael graduated summa cum laude with a degree in political science from the University of Illinois.

Our Team



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Emily Penkowski

Incoming Associate

Cum laude from Northwestern University
Pritzker School of Law

Emily's practice focuses on privacy- and tech-related class actions.

- ▶ Emily received her J.D. cum laude from Northwestern University Pritzker School of Law, where she served as an Associate Editor of Northwestern University Law Review and a Problem Writer for the 2020 Julius Miner Moot Court Board. Emily participated in the Bluhm Legal Clinic's Supreme Court Clinic, where she worked on cases before the Supreme Court including *Ritzen Group, Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582, 584 (2020). She placed on the Dean's List every semester and served on the student executive boards for the Moot Court Society and the Collaboration for Justice, a justice system reform-oriented student group.
- ▶ Emily spent her law school summers at the Maryland Office of the Attorney General and the U.S. Attorney's Office for the Western District of Washington. In the Western District of Washington, Emily assisted in prosecuting cryptocurrency money laundering, cybercrime, and complex frauds. In Maryland, she wrote criminal appeals briefs for the State in the Maryland Court of Special Appeals.
- ▶ Before entering law school, Emily worked as an intelligence analyst for the National Security Agency, in the Office of Counterintelligence & Cyber (previously the NSA/CSS Threat Operations Center) and the Office of Counterterrorism. She analyzed significant, technical, complex, and short-suspense intelligence in support of law enforcement, military, computer network defense, diplomatic, and other intelligence efforts, while serving as a "reporting expert" for over three hundred analysts on an agency-wide project. She also briefed NSA and military leadership on cyber and counterintelligence threats to the U.S. government and military.
- ▶ As a digital network analyst, Emily increased intelligence coverage on a counterterrorism target through social network analysis, including eigenvector and cluster analysis, used metric databases to manage and prioritize intelligence collection, and worked with collectors to streamline data flows and eliminate duplicative sources of information.
- ▶ Emily received her Bachelor of Science in International Studies, specializing in Security and Intelligence, at Ohio State. She also received minors in Computer and Information Science and Mandarin Chinese. She began learning Mandarin in high school. During college, Emily interned at the National Security Agency, in the Office of Counterproliferation, and at Huntington National Bank, on its Anti-Money Laundering and Bank Secrecy Act team.

Our Team



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Albert J. Plawinski

Associate
Member, Investigations and Mass Actions teams

Works on the development of the environmental mass tort and mass action cases.

Albert identifies and evaluates potential cases and works with the firm's computer forensic engineers to investigate privacy violations by consumer products and IoT devices. Albert also works on the development of the environmental mass tort and mass action cases, including preparing lawsuits on behalf of (1) victims of the California Camp Fire—the largest and most devastating fire in California's history; (2) individuals exposed to toxic chemicals in their drinking water; and (3) individuals exposed to carcinogenic ethylene oxide.

- ▶ Albert received his J.D. from the Chicago-Kent College of Law. While in law school, Albert served as the Web Editor of the Chicago-Kent Journal of Intellectual Property. Albert was also a research assistant for Professor Hank Perritt for whom he researched various legal issues relating to the emerging consumer drone market—e.g., data collection by drone manufacturers and federal preemption obstacles for states and municipalities seeking to legislate the use of drones. Additionally, Albert earned a CALI award for receiving the highest course grade, in Litigation Technology.
- ▶ Prior to law school, Albert graduated with Highest Distinctions with a degree in Political Science from the University of Illinois at Urbana-Champaign.

Our Team



Dan Schneider

Associate

Protects the rights of consumers under state laws.

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Dan's his practice focuses on plaintiff-side class action and mass tort litigation. He represents former college and high school athletes suffering from the harmful effects of concussive and sub-concussive head impacts. Dan also protects the rights of consumers under state laws like the Illinois Biometric Information Privacy Act (BIPA) and federal laws like the Telephone Consumer Protection Act (TCPA).

- ▶ Dan received his J.D. summa cum laude from the University of Wisconsin, where he served as an Articles Editor for the Wisconsin Law Review.
- ▶ Prior to law school, Dan graduated magna cum laude with a B.A. in Visual and Media Arts from Emerson College. He worked as a freelance journalist for many years covering economics, activism, and music in the Boston area. His work has appeared in The Atlantic, The Boston Globe, and In These Times, among other outlets.

Our Team



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Brandt Silver-Korn

Associate

Focuses on class and mass actions and large-scale governmental suits.

Brandt's practice focuses on class and mass actions and large-scale governmental suits. His current clients include families who lost their homes and businesses in the Camp Fire, communities that have been severely impacted by the opioid epidemic, and consumers who have suffered gambling losses to illegal internet casinos.

- ▶ Brandt received his J.D. from Stanford Law School, where he was awarded the Gerald Gunther Prize for Outstanding Performance in Criminal Law, and the John Hart Ely Prize for Outstanding Performance in Mental Health Law. While in law school, Brandt was also the leading author of several simulations for the Gould Negotiation and Mediation Program.
- ▶ Prior to law school, Brandt graduated summa cum laude from Middlebury College with a degree in English and American Literatures.

Our Team



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Alexander G. Tievsky

Associate

Briefed and argued cases in numerous federal appellate and district court.

Alex concentrates on complex motion practice and appeals in consumer class action litigation.

- ▶ Alex has briefed and argued cases in numerous federal appellate and district courts, and he has successfully defended consumers' right to have their claims heard in a federal forum, including, for example, defeating Facebook's attempt to deprive its users of a federal forum to adjudicate their claims for wrongful collection of biometric information in violation of state privacy statute in *In re Facebook Biometric Info. Privacy Litig.*, 290 F. Supp. 3d 948 (N.D. Cal. 2018), *aff'd* 932 F.3d 1264 (9th Cir. 2019); winning reversal of summary judgment in Telephone Consumer Protection Act (TCPA) case on the basis that the defendant could be held liable for ratifying the actions of its callers, even though it did not place the calls itself in *Henderson v. United Student Aid Funds, Inc.*, 918 F.3d 1068 (9th Cir. 2019); and winning reversal of district court's dismissal in first-of-its-kind ruling that so-called "free to play" casino apps are illegal gambling, which allows consumers to recover their losses under Washington law. See *Kater v. Churchill Downs, Inc.*, 886 F.3d 784 (9th Cir. 2018)
- ▶ Alex received his J.D. from the Northwestern University School of Law, where he graduated from the two-year accelerated J.D. program. While in law school, Alex was Media Editor of the Northwestern University Law Review. He also worked as a member of the Bluhm Legal Clinic's Center on Wrongful Convictions. Alex maintains a relationship with the Center and focuses his public service work on seeking to overturn unjust criminal convictions in Cook County.
- ▶ Alex's past experiences include developing internal tools for an enterprise software company and working as a full-time cheesemonger. He received his A.B. in linguistics with general honors from the College of the University of Chicago.

Our Team



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Schulyer Ufkes

Associate

Currently litigating consumer class actions on behalf of employees under the Illinois Biometric Information Privacy Act

Schulyer focuses on consumer and privacy-related class actions.

- ▶ Schulyer is currently litigating nearly a dozen consumer class actions on behalf of employees under the Illinois Biometric Information Privacy Act ("BIPA") for their employers' failure to comply with the Act's notice and consent requirements before collecting, storing, and in some instances disclosing their biometric data. Schulyer is also litigating several Telephone Consumer Protection Act cases brought by recipients harassing debt-collection calls as well as spam text messages.
- ▶ Schulyer received his J.D. magna cum laude, and Order of the Coif, from the Chicago-Kent College of Law. While in law school, Schulyer served as an Executive Articles Editor for the Chicago-Kent Law Review and was a member of the Moot Court Honor Society. Schulyer earned five CALI awards for receiving the highest grade in Legal Writing II, Legal Writing III, Pretrial Litigation, Supreme Court Review, and Professional Responsibility.
- ▶ Prior to law school, Schulyer graduated with High Honors from the University of Illinois Urbana-Champaign earning a degree in Consumer Economics and Finance.

Our Team



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J. Eli Wade-Scott

Associate

Returned some of the highest per-person relief ever secured in a privacy case.

Eli's practice focuses on privacy- and tech-related class actions and enforcement actions brought by governments. Eli has been appointed to represent several states, including as a Special Assistant State's Attorney to prosecute Facebook's violations of the Illinois Consumer Fraud Act in the Cambridge Analytica scandal, and by the State of New Mexico to prosecute Google's violations of the Children's Online Privacy Protection Act. In his work representing classes of employees and consumers, Eli has returned some of the highest per-person relief ever secured in a privacy case—resulting in checks for nearly a thousand dollars to be sent directly to entire classes with no need to make a claim.

- ▶ Before joining Edelson, Eli served as a law clerk to the Honorable Rebecca Pallmeyer of the Northern District of Illinois. Eli has also worked as a Skadden Fellow at Legal Aid Chicago, Cook County's federally-funded legal aid provider. There, Eli represented dozens of low-income tenants in affirmative litigation against their landlords to remedy dangerous housing conditions.
- ▶ Eli received his J.D. magna cum laude from Harvard Law School, where he was an Executive Editor on the Harvard Law and Policy Review and a research assistant to Professor Vicki C. Jackson.

Our Team



Jacob Wright

Director of Public Policy

Advises federal, state, county, and local government officials on a variety of issues.

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Jacob is part of the firm's Public Client and Government Affairs Group. Jacob advises federal, state, county, and local government officials on a variety of issues involving consumer protection, data security, privacy, and technology. Jacob's work includes working alongside numerous public interest organizations and non-governmental organizations to defend current law and advocate for the adoption of new laws that better protect consumers.

- ▶ Jacob has testified multiple times before committees in both the Illinois House of Representatives and the Illinois Senate. He has also guest lectured at the Chicago-Kent College of Law and is frequently asked to speak at town halls, public forums, and conferences involving issues such as privacy, net neutrality, data security, and technology.
- ▶ Prior to joining Edelson, Jacob was Assistant Counsel to the Speaker of the Illinois House of Representatives where he was tasked with reviewing and drafting legislation, analyzing bills, providing memoranda and analyses on legislative matters to House leadership, and assisting House members with committee testimony and floor debate.
- ▶ Jacob received his B.A. in Government and Middle Eastern Studies from the University of Texas at Austin, received his MA in International Affairs from the American University School of International Service, and graduated cum laude from American University Washington College of Law. During law school, he clerked for the Honorable Sally D. Adkins of the Maryland Court of Appeals and worked in the Office of U.S. Senator Richard J. Durbin.
- ▶ Jacob is a Member of the Equality Illinois Political Action Committee as well as a Next Generation Board Member of La Casa Norte.

Our Team



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Shawn Davis

Director of Digital Forensics

Experience testifying in federal court, briefing members of U.S. Congress on Capitol Hill.

Shawn leads a technical team in investigating claims involving privacy violations and tech-related abuse. His team's investigations have included claims arising out of the fraudulent development, marketing, and sale of computer software, unlawful tracking of consumers through digital devices, unlawful collection, storage, and dissemination of consumer data, large-scale data breaches, receipt of unsolicited communications, and other deceptive marketing practices.

- ▶ Shawn has experience testifying in federal court, briefing members of U.S. Congress on Capitol Hill, and is routinely asked to testify before legislative bodies on critical areas of cybersecurity and privacy, including those impacting the security of our country's voting system, issues surrounding children privacy (with a special emphasis on surreptitious geotracking), and other ways data collectors and aggregators exploit and manipulate people's private lives. Shawn has taught courses on cybersecurity and forensics at the undergraduate and graduate levels and has provided training and presentations to other technology professionals as well as members of law enforcement, including the FBI.
- ▶ Shawn's investigatory work has forced major companies (from national hotel chains to medical groups to magazine publishers) to fix previously unrecognized security vulnerabilities. His work has also uncovered numerous issues of companies surreptitiously tracking consumers, which has led to groundbreaking lawsuits.
- ▶ Prior to joining EDELSON PC, Shawn worked for Motorola Solutions in the Security and Federal Operations Centers as an Information Protection Specialist. Shawn's responsibilities included network and computer forensic analysis, malware analysis, threat mitigation, and incident handling for various commercial and government entities.
- ▶ Shawn is an Adjunct Industry Associate Professor for the School of Applied Technology at the Illinois Institute of Technology (IIT) where he has been teaching since December of 2013. Additionally, Shawn is a faculty member of the IIT Center for Cyber Security and Forensics Education which is a collaborative space between business, government, academia, and security professionals. Shawn's contributions aided in IIT's designation as a National Center of Academic Excellence in Information Assurance by the National Security Agency.
- ▶ Shawn graduated with high honors from the Illinois Institute of Technology with a Masters of Information Technology Management with a specialization in Computer and Network Security. During graduate school, Shawn was inducted into Gamma Nu Eta, the National Information Technology Honor Society.

Exhibit 7

1 [CAP/SIG retrieved by: [Initials] on 5/17/18 at 12:06 p.m.]

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re FACEBOOK BIOMETRIC
INFORMATION PRIVACY LITIGATION

) Master File No. 3:15-cv-03747-JD

) CLASS ACTION

) This Document Relates To:

) DECLARATION OF CARLO LICATA

) ALL ACTIONS.
)

1 I, Carlo Licata, declare as follows:

2 1. I am a citizen of the state of Illinois and I am one of the three Class
3 Representatives in the above referenced case against Facebook.

4 2. I respectfully submit this Declaration in support of the \$650,000,000 settlement
5 (the "Settlement") of this case between the plaintiffs and the certified Class of Facebook users
6 for whom Facebook created or stored a face template from June 7, 2011 and Facebook.

7
8 3. I have directly participated in the case from its inception. To my knowledge, I was
9 the first-ever individual to assert their rights in a suit brought under the Illinois Biometric
10 Privacy Act. Since that time I have been kept fully informed of case developments and
11 procedural matters over the course of the this case, including regular correspondence with my
12 lawyers at Edelson PC concerning discovery, class certification, summary judgment, Ninth
13 Circuit briefing and review, the potential for United States Supreme court review, settlement
14 negotiations, and the ultimate proposed resolution of this case. Specifically, as part of my role
15 as class representative in this case I searched for, identified, and provided relevant documents
16 and information in response to discovery requests from Facebook, and sat for two depositions,
17 the first on February 17, 2016, and then on October 24, 2017. I also worked closely with my
18 lawyers at Edelson PC to prepare for these depositions, and to prepare a declaration in support of
19 Plaintiffs' Motion for Class Certification. In addition, the Court-ordered mediation that was
20 scheduled took place during my honeymoon. I attended that mediation by phone, which took
21 place overnight where I was at the time.
22

23
24 4. Altogether, I would estimate that I have expended at least 55 hours participating
25 in and helping to oversee this litigation on behalf of the Class.

26 5. I have discussed with counsel and evaluated the risks of continuing the case and
27 authorized counsel to settle this matter for \$650,000,000 for Class Members and non- monetary
28

1 relief including the requirement that Facebook turn off Facial Recognition for everyone in the
2 Class unless those people provided their informed choice to turn it back on (and that all face
3 templates will be deleted if people don't agree to turn it back on). I believe this Settlement is fair
4 and reasonable and is in the best interest of the Class members.
5

6
7 I declare under penalty of perjury that the foregoing is true and correct.
8

9 Executed this ⁰⁹ _____ day of October 2020 at Chicago, Illinois.
10

11 

12 _____
13 CARLO LICATA
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Exhibit 8

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re FACEBOOK BIOMETRIC
INFORMATION PRIVACY LITIGATION

) Master File No. 3:15-cv-03747-JD

) CLASS ACTION

This Document Relates To:

) DECLARATION OF NIMESH PATEL

) ALL ACTIONS.

1 I, Nimesh Patel, declare as follows:

2 1. I am a resident of the state of Illinois and I am one of the three named plaintiffs and
3 Class Representatives in the above-referenced case against Facebook, Inc. (“Facebook”).

4 2. I respectfully submit this Declaration in support of the \$650,000,000 settlement (the
5 “Settlement”) of this case between the plaintiffs and the certified Class of Facebook users for
6 whom Facebook created or stored a face template after June 7, 2011.

7
8 3. I have directly participated in the case from its inception. On May 14, 2015, I filed
9 a lawsuit against Facebook under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1
10 *et seq.*. Since that time, I have been kept fully informed of case developments and procedural
11 matters over the course of the case, including regular correspondence with my lawyers at Robbins
12 Geller Rudman & Dowd LLP (“Robbins Geller”) concerning discovery, class certification,
13 summary judgment, Ninth Circuit briefing and review, the potential for United States Supreme
14 Court review, settlement negotiations and the ultimate proposed resolution of this case.
15 Specifically, as part of my role as a named plaintiff and Class Representative in this case, and in
16 addition to the above, I searched for and provided information in response to discovery requests
17 from Facebook, and sat for two depositions, the first on February 16, 2016, and the second on
18 December 7, 2017. I also worked closely with my lawyers at Robbins Geller to prepare for these
19 depositions, and to prepare a declaration in support of Plaintiffs’ Motion for Class Certification.
20 In addition, I participated in person in the Court-ordered mediation with Magistrate Judge Ryu on
21 May 4, 2018.

22 4. Altogether, I would estimate that I have expended at least 55 hours participating in
23 and helping to oversee this litigation on behalf of the Class.

24 5. I have discussed with counsel and evaluated the risks of continuing the case and
25 authorized counsel to settle this matter for \$650,000,000 for Class members and non-monetary
26 relief, including the requirement that Facebook turn off Facial Recognition for everyone in the
27 Class unless those people provided their informed choice to turn it back on (and that all face
28

1 templates will be deleted if people don't agree to turn it back on). I believe this Settlement is fair
2 and reasonable and is in the best interest of the Class members.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed this 14 day of October, 2020 at Chicago, IL.

7 *Nimesh Patel*

NIMESH PATEL

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Exhibit 9

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re FACEBOOK BIOMETRIC INFORMATION PRIVACY LITIGATION)	Master File No. 3:15-cv-03747-JD
_____)	<u>CLASS ACTION</u>
This Document Relates To:)	DECLARATION OF ADAM PEZEN
ALL ACTIONS.)	
_____)	

1 I, Adam Pezen, declare as follows:

2 1. I am a resident of Illinois, and one of the three named plaintiffs and Class
3 Representatives in the above referenced litigation against Facebook.

4 2. I respectfully submit this Declaration in support of the \$650,000,000 settlement (the
5 “Settlement”) of the case between Facebook, on the one hand, and the plaintiffs and certified Class
6 of Facebook users for whom Facebook created or stored a face template since June 7, 2011, on the
7 other.

8
9 3. Over the course of more than five years of litigation, I have directly participated in
10 the case from its inception and kept fully informed of case developments and procedural matters. I
11 reviewed and provided input into the complaint and many other legal filings drafted by Class
12 Counsel Labaton Sucharow LLP’s (“Labaton”), Robbins Geller Rudman & Dowd LLP’s and
13 Edelson PC. Through email correspondence, phone calls and in-person meetings with my attorneys
14 at Labaton, I have stayed informed about the significant events throughout the course of the case,
15 including with respect to the motions to dismiss, class certification, summary judgment, appellate
16 proceedings, settlement negotiations and the ultimate proposed resolution of this class action.

17
18 4. Specifically, both for my own sake and to satisfy my duties as class representative, I:

19 (a) reviewed drafts of the complaint and many other court filings in district court
20 (both in Illinois and California) and appellate courts, and provided my input as a plaintiff and class
21 representative;

22 (b) searched for, identified and provided relevant documents and information in
23 response to discovery requests;

24 (c) was deposed twice, once on February 18, 2016 and again on October 24,
25 2017, and met with my attorneys at Labaton before each deposition to prepare;

26 (d) flew from Chicago to San Francisco in April of 2018 to attend and participate
27 in a court-ordered mediation;

28

1 (e) spoke with my attorneys at Labaton about Facebook's offer to settle the case,
2 informed myself about the risks of continued litigation, and ultimately approved of the Settlement in
3 my role as class representative;

4 (f) reviewed drafts of the settlement agreement and discussed it in detail with my
5 attorneys at Labaton; and

6 (g) discussed the procedure for notifying class members about the Settlement and
7 optimizing the process for class members to submit claims with my attorneys at Labaton.

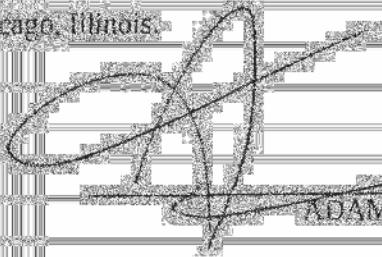
8 5. There were multiple instances throughout the case in which I either took off work, or
9 otherwise re-arranged my work schedule, in order to participate in the case and fulfill my
10 responsibilities as a class representative. In one instance I was compensated for actual lost wages
11 incurred as a result of my having to take time off from non-salaried employment to travel to San
12 Francisco to participate in a mediation in the amount of \$792.00. I have not received any other
13 compensation or reimbursement for my time spent on this case.
14

15 6. In total, I estimate that I expended at least 60 hours in my oversight and participation
16 in the case as a plaintiff and class representative.

17 7. I have discussed with counsel and evaluated the risks of continuing the case and
18 authorized counsel to settle for \$650,000,000 and non-monetary relief, including the requirement
19 that Facebook turn off Facial Recognition for everyone in the Class unless those people make an
20 informed choice to turn it back on (and that all face templates will be deleted if people do not agree
21 to turn it back on). I believe this Settlement is fair and reasonable and is in the best interest of the
22 Class Members.
23

24 8. I declare under penalty of perjury under the laws of the United States of America that
25 the foregoing is true and correct.
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1
2 Executed on October 14, 2020, in Chicago, Illinois.

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ADAM PEZEN

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