

EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re: TelexFree Securities Litigation

Case No. 4:14-md-2566-TSH

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 The Honorable Antonin Scalia on the Supreme Court of the United States. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP. My C.V. is attached as Exhibit 1. I speak only for myself and not for Vanderbilt.

2. My teaching and research at Vanderbilt have focused on class action litigation. I teach courses on Civil Procedure, Federal Courts, and Complex Litigation. 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, the Fordham Law Review, 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 Institute on Class Actions in 2011, 2015, 2016, 2017, 2019, and 2023, as well as the ABA Annual Meeting in

2012 and 2022. Since 2010, I have also served on the Executive Committee of the Litigation Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to membership in the American Law Institute.

3. In December 2010, I published an article in the *Journal of Empirical Legal Studies* entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 *J. Empirical L. Stud.* 811 (2010) (hereinafter “Empirical Study”). This article is still the most comprehensive examination of federal class action settlements and attorneys’ fees that has ever been published. Unlike other studies of class actions, which have been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study attempted to examine *every* class action settlement approved by a federal court over a two-year period, 2006-2007. *See id.* at 812-13. As such, not only is my study based on an unbiased sample of settlements, but the number of settlements included in my study is several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements. *See id.* at 817. I presented the findings of my study at the Conference on Empirical Legal Studies at the University of Southern California School of Law in 2009, the Meeting of the Midwestern Law and Economics Association at the University of Notre Dame in 2009, and before the faculties of many law schools in 2009 and 2010. This study has been relied upon by a number of courts, scholars, and testifying experts.¹ I will draw upon this study in this Declaration and I attach it as Exhibit 2.

¹ *See, e.g., In re Stericycle Sec. Litig.*, 35 F.4th 555, 561 (7th Cir. 2022) (relying on article to assess fees); *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (same); *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 2022 WL 4329646, at *5 (D. Mass., Sep. 19, 2022) (same); *de la Cruz v. Manhattan Parking Group*, 2022 WL 3155399, at *4 (S.D.N.Y., Aug. 8, 2022) (same); *Kukorinis v. Walmart*, 2021 WL 8892812, at *4 (S.D.Fla., Sep. 21, 2021) (same); *Kuhn v. Mayo Clinic Jacksonville*, No. 3:19-cv-453-MMH-MCR, 2021 WL

4. In addition to my empirical works, I have also published many papers on what law-and-economics can tell us about how to create the best incentives for attorneys and others in class action litigation. See, e.g., Brian T. Fitzpatrick, *A Fiduciary Judge's Guide to Awarding Fees in Class Actions*, 89 Ford. L. Rev. (2021) (hereinafter "Fiduciary Judge"); Brian T. Fitzpatrick, *Do*

1207878, at *12-13 (M.D. Fla. Mar. 30, 2021) (same); *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 MD 2262 (NRB), 2020 WL 6891417, at *3 (S.D.N.Y. Nov. 24, 2020) (same); *Shah v. Zimmer Biomet Holdings, Inc.*, No. 3:16-cv-815-PPS-MGG, 2020 WL 5627171, at *10 (N.D. Ind. Sept. 18, 2020) (same); *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR), 2020 WL 3250593, at *5 (S.D.N.Y. June 16, 2020) (same); *In re Wells Fargo & Co. S'holder Derivative Litig.*, No. 16-cv-05541-JST, 2020 WL 1786159, at *11 (N.D. Cal. Apr. 7, 2020) (same); *Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, No. CV 11-10230-MLW, 2020 WL 949885, 2020 WL 949885, at *52 (D. Mass. Feb. 27, 2020), *appeal dismissed sub nom. Arkansas Tchr. Ret. Sys. v. State St. Corp.*, No. 20-1365, 2020 WL 5793216 (1st Cir. Sept. 3, 2020) (same); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at *34 (N.D. Ga. Jan. 13, 2020) (same); *In re Transpacific Passenger Air Transp. Antitrust Litig.*, No. 3:07-cv-05634-CRB, 2019 WL 6327363, at *4-5 (N.D. Cal. Nov. 26, 2019) (same); *Espinal v. Victor's Cafe 52nd St., Inc.*, No. 16-CV-8057 (VEC), 2019 WL 5425475, at *2 (S.D.N.Y. Oct. 23, 2019) (same); *James v. China Grill Mgmt., Inc.*, No. 18 Civ. 455 (LGS), 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.*, No. 14-CV-7126 (JMF), 2018 WL 6250657, at *2 (S.D.N.Y. Nov. 29, 2018) (same); *Rodman v. Safeway Inc.*, No. 11-cv-03003-JST, 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.*, No. 2:15-cv-10803, 2017 WL 3446596, at *4 (E.D. Mich. Aug. 11, 2017) (same); *Good v. W. Virginia-Am. Water Co.*, No. 14-1374, 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*, No. 15-3509, 2017 WL 1021025, at *9 (E.D. Pa. Mar. 16, 2017) (same); *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 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.*, No. 3:07-cv-5944 JST, 2016 WL 721680, at *42 (N.D. Cal. Jan. 28, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, No. MDL 2328, 2015 WL 4528880, at *19-20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-cv-4462, 2015 WL 2147679, at *2-4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-cv-4462, 2015 WL 1399367, at *3-5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 797 (N.D. Ill. 2015) (same); *In re Neurontin Marketing and Sales Practices Litig.*, 58 F. Supp. 3d 167, 172 (D. Mass. 2014) (same); *Tennille v. W. Union Co.*, No. 09-cv-00938-JLK-KMT, 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.*, No. 11-1546, 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.*, No. 2:07-CV 208, 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*, No. 10 C 816, 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).

Class Action Lawyers Make Too Little?, 158 U. Pa. L. Rev. 2043 (2010) (hereinafter “Class Action Lawyers”). Much of this work is found in a book published in 2019 by the University of Chicago Press entitled *THE CONSERVATIVE CASE FOR CLASS ACTIONS*. The thesis of the book is that a so-called “private attorney general” is superior to the public attorney general in enforcing the rules that free markets need in order to operate effectively, and that courts should appropriately incentivize class action lawyers to encourage this private attorney general behavior. I will also draw upon this work in this Declaration.

II. Summary of opinions

5. Class counsel have requested a fee equal to 33.33% of the settlement fund. I have been asked to opine on whether this fee request is reasonable in light of empirical studies and economic research on class action fee awards. In formulating my opinion, I reviewed a number of materials, which I list in Exhibit 3. My opinions are these:

- Although the court has the discretion to use either the percentage method or the lodestar method when awarding attorneys’ fees in a class action, it is clear under the circumstances of this case that the court should use the percentage method.
- Under the multifactor test that most courts in the First Circuit employ when using the percentage method, the fee percentage requested in this case is reasonable in light of the empirical studies and economics research on class action fee awards.

III. Case background

6. This MDL was created almost a decade ago to consolidate lawsuits arising out of the TelexFree bankruptcy and alleged Ponzi scheme. Some of these lawsuits target banks that profited from providing critical services to the alleged scheme. One of those banks is TD Bank. After years of litigation—including one successful motion to dismiss, one unsuccessful one, and

extensive discovery—TD Bank has now agreed to a class-wide settlement. The court certified a settlement class and preliminarily approved the settlement on October 3, 2023. Class counsel have now requested their fee award.

7. The settlement class includes all persons “who purchased TelexFree AdCentral or AdCentral Family packages and suffered a Net Loss during the period from January 1, 2012, to April 16, 2014.” Settlement Agreement ¶ 5. Under the settlement, TD Bank agrees to pay the class \$95 million in cash. *See id.* at ¶¶ 10. After deducting notice and administration costs as well as attorneys’ fees, this money will be distributed to class members pursuant to a plan of allocation that will be submitted to the court; none of this money will revert back to TD Bank. *See id.* at ¶ 42. In exchange, the class agrees to release TD Bank from, among other things, any claim “arising out of” or “in any manner connected” with “TelexFree.” *Id.* at ¶ 21.

8. Class counsel have now moved the court for an award of fees equaling 33.33% of the settlement fund they created. In my opinion, it would be reasonable in light of the empirical studies and economic research on class actions for the court to grant this request.

III. Assessment of the request for attorneys’ fees

9. When a class action reaches settlement or judgment and no fee-shifting statute is triggered, and the defendant has not agreed to pay class counsel’s fees, class counsel are paid by the class members themselves, pursuant to the common law of unjust enrichment. This is sometimes called the “common fund” or “common benefit” doctrine. It requires the court to decide how much of their class action proceeds is fair to ask class members to pay to class counsel.

10. At one time, courts that awarded fees in common fund cases did so using the familiar lodestar approach. *See Fitzpatrick, Class Action Lawyers, supra*, at 2051; *Court Awarded Attorney Fees: Report of the Third Circuit Task Force, reprinted in 108 F.R.D. 237, 242-46 (1985)*

(hereinafter “Third Circuit Task Force”). Under this approach, courts awarded counsel a fee equal to the number of hours they worked on the case (to the extent the hours were reasonable), multiplied by a reasonable hourly rate as well as by a discretionary multiplier that courts often based on the risk of non-recovery and other factors. *See Fitzpatrick, Class Action Lawyers, supra*, at 2051. Over time, however, the lodestar approach fell out of favor in common fund cases because it was difficult to calculate the lodestar (courts had to review voluminous time records and the like) and the method did not align the interests of counsel with the interests of the plaintiffs (because counsel’s recovery did not depend on how much the plaintiffs recovered). *See id.* at 2051-52. According to my empirical study, the lodestar method is now used to award fees in only a small percentage of cases, usually where the settlement calls for substantial non-monetary relief or involves a fee-shifting statute. *See Fitzpatrick, Empirical Study, supra*, at 832 (finding the lodestar method used in only 12% of class action settlements). The other large-scale study of class action fee awards found much the same. *See, e.g., Theodore Eisenberg et al., Attorneys’ Fees in Class Actions: 2009-2013*, 92 N.Y.U. Law Review 937, 945 (2017) (hereinafter “Eisenberg-Miller 2017”) (finding the lodestar method used only 6.29% of the time from 2009-2013, down from 13.6% from 1993-2002 and 9.6% from 2003-2008).

11. The more popular method of calculating attorneys’ fees is known as the “percentage method.” Under this approach, courts select a percentage that they believe is fair to counsel, multiply the settlement amount by that percentage, and then award counsel the resulting product. The percentage approach has the advantages of being easy to calculate (because courts need not review voluminous time records and the like) and aligning the interests of counsel with the interests of the plaintiffs (because the more the class recovers, the more class counsel receives). *See Fitzpatrick, Class Action Lawyers, supra*, at 2052.

12. In the First Circuit, district courts have the discretion to use either the lodestar method or the percentage method in common fund cases. *See In re Thirteen Appeals*, 56 F.3d 295, 307 (1st Cir. 1995) (“[W]e hold that in a common fund case the district court, in the exercise of its informed discretion, may calculate counsel fees either on a percentage of the fund basis or by fashioning a lodestar.”). In light of the well-recognized disadvantages of the lodestar method and the well-recognized advantages of the percentage method, it is my professional opinion that courts should use the percentage method in common fund cases whenever the value of the settlement or judgment can be reliably calculated; further, it is my opinion that the lodestar method should be used only when the value of the settlement or judgment cannot be reliably calculated and the percentage method is therefore not feasible. This is not just my opinion, but also the opinion of other leading class action scholars, *see Principles of the Law of Aggregate Litigation* § 3.13 (2010) (cmt. b) (“Although many courts in common-fund cases permit use of either a percentage-of-the-fund approach or a lodestar . . . most courts and commentators now believe that the percentage method is superior.”). Because this settlement is all cash and therefore can be easily valued, it is my opinion that the percentage method should be used here. I will therefore proceed under that method.

13. Courts usually examine a number of factors when deciding what percentage to award class counsel under the percentage method. *See Fitzpatrick, Empirical Study, supra*, at 832. The First Circuit has not yet prescribed a list of factors. But district courts in this Circuit tend either to follow the factors prescribed by the Second and Third Circuits. *See, e.g., In re Relafen*, 231 F.R.D. 52, 79 (D. Mass. 2005) (citing *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n. 1 (3d Cir. 2000) and *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000)); *In re*

Lupron Marketing and Securities Litig., 2005 WL 2006833, at *3 (D. Mass. Aug. 17, 2005). These factors are (in the order that I will address them):

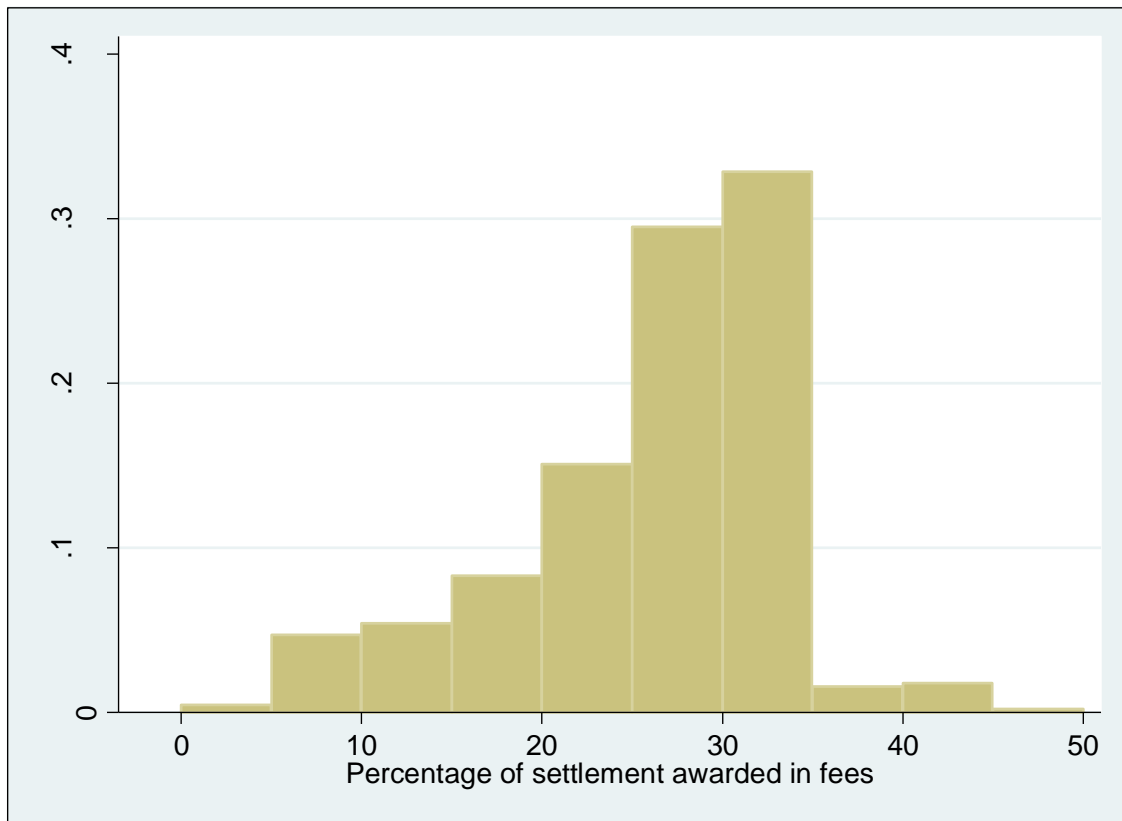
- (1) awards in similar cases;
- (2) public policy considerations;
- (3) the size of the fund created and the number of persons benefited;
- (4) the complexity of the litigation;
- (5) the risks of the litigation;
- (6) the risk of nonpayment.
- (7) the duration of the litigation;
- (8) the amount of time devoted to the case by plaintiffs' counsel;
- (9) the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel; and
- (10) the skill and efficiency of the attorneys involved.

14. In my opinion, examination of these factors shows that a fee award equal to 33.33% of the settlement fund would be reasonable in light of the empirical studies and economics research on class action fee awards.

15. Consider first factor (1): fee awards in similar cases. According to my empirical study, courts awarded fee percentages in class actions over a broad range (3% to 47%), but the most common percentages were 25%, 30%, and 33%, with nearly two-thirds of awards between 25% and 35%, and with a mean award of 25.4% and a median award of 25%. *See Fitzpatrick, Empirical Study, supra*, at 833-34, 838. The other large-scale study of class action fees found much the same. *See Eisenberg-Miller 2017, supra*, at 951 (finding mean and median of 27% and 29% nationwide since 2009); Theodore Eisenberg & Geoffrey P. Miller, *Attorneys' Fees and*

Expenses in Class Action Settlements: 1993-2008, 7 J. Empirical L. Stud. 248, 260 (2010) (hereinafter “Eisenberg-Miller 2010”) (finding mean and median of 24% and 25% nationwide before 2009). Although the fee award requested here is on the higher end of the range, the fee request here is hardly unusual. This can be depicted graphically in Figure 1, which shows the distribution of all of the percentage-method fee awards in my study. As the figure shows, the most populous range—the one comprising over thirty percent (i.e., .3) of all settlements—included fee awards that fell between 30% (inclusive) and 35%. In other words, the fee request here falls in the most populous range awarded by federal district courts.

Figure 1: Percentage-method fee awards among all federal courts, 2006-2007

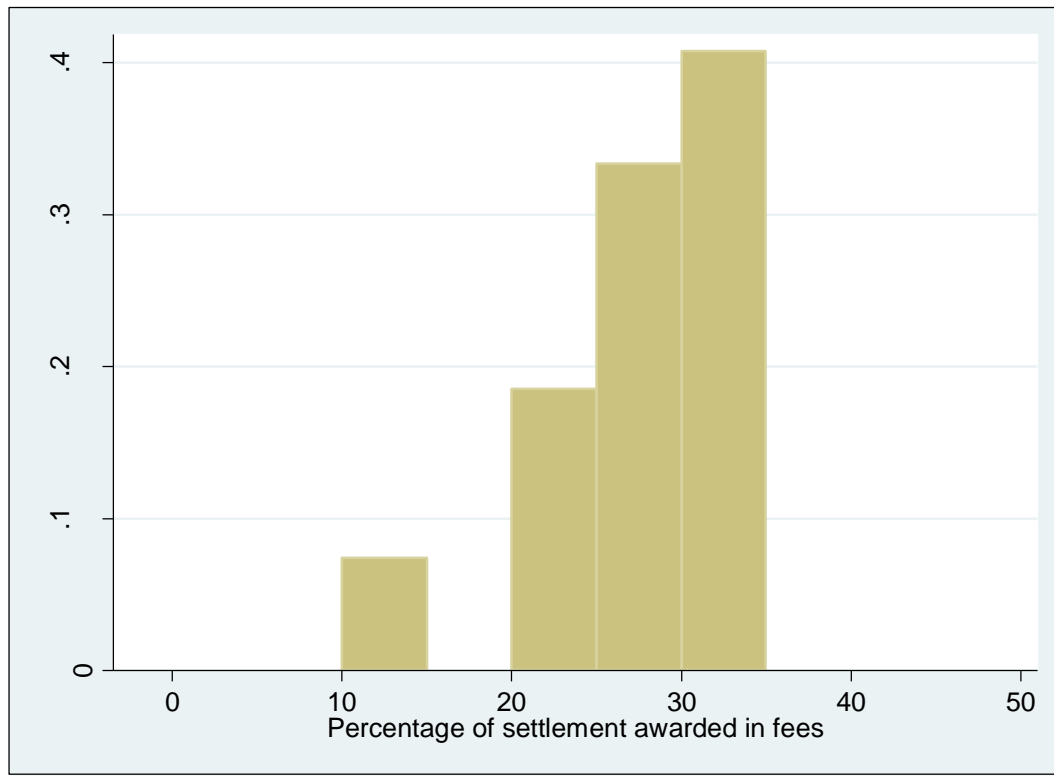


16. Moreover, the fee request here is hardly unusual when it is considered against cases from the First Circuit alone. In the 27 settlements in my study from the First Circuit where the

percentage method was used, the most common gross percentages were 25% and 33%, with over forty percent of awards between 30% and 35%. The mean was 27% and the median 25%. *See* Fitzpatrick, *Empirical Study, supra*, at 836. The other large-scale study of class action fees found much the same. *See* Eisenberg-Miller 2017, *supra*, at 951 (finding mean and median of 26% and 23% in the First Circuit since 2009); Eisenberg-Miller 2010, *supra*, at 260 (finding mean and median of 20% before 2009).² This is depicted graphically in Figure 2. Like the nationwide data, the most populous range of fee awards was between 30% and 35%. That is, the fee request here also falls within the most populous range awarded in the First Circuit. Thus, no matter how you slice it, this factor supports the fee request.

² Sometimes the Eisenberg-Miller numbers are lower than my own. This is probably because their study oversampled larger settlements, *see* Eisenberg-Miller 2010, *supra*, at 253 (“[O]ur data include only opinions that were published in some readily available form. Obviously, therefore, we have not included the full universe of cases [P]ublished opinions are not necessarily representative of the universe of all cases.”); Fitzpatrick, *Empirical Study, supra*, at 829 (discussing the unrepresentative sampling in the Eisenberg-Miller studies), and courts sometimes award smaller percentages in larger settlements. This smaller-percentage-bigger-settlement phenomenon usually occurs in so-called “megafund” settlements, which are generally understood to comprise those over \$100 million, and is not implicated here.

Figure 2: Percentage-method fee awards in the First Circuit, 2006-2007



17. Consider next factor (2): public policy considerations. As I explain in my book *THE CONSERVATIVE CASE FOR CLASS ACTIONS*, class action lawyers perform a critical law enforcement role in our country—which is why they are often referred to as “private” attorneys general. In Europe, countries rely much more on the government to police the marketplace. In America, by contrast, we believe more strongly in the self-help of the private sector, including to police the marketplace. Thus, we need class action lawyers because it is not desirable—nor even possible—for cash-strapped “public” attorneys general to police all wrongdoing. It is also impossible for individual litigants to police all wrongdoing: sometimes individual claims are too small to be viable on their own, and, even when they are viable, individuals do not have the incentive to invest in one claim the same way a defendant facing many similar claims does; as a result, the playing field between individual plaintiffs and defendants is often not level. *See*

Fitzpatrick, *Class Action Lawyers*, *supra*, at 2059. Class action lawyers level the playing field and overcome the enforcement gap that would otherwise exist in our country by aggregating non-viable and underinvested claims into effective litigation vehicles. *See id.*

18. But lawyers are rational economic actors like anyone else. They will only bring lawsuits *and* optimally invest in them if they are compensated adequately. Accordingly, in my opinion, courts should set fee awards such that future lawyers will make the best decisions about what cases to file and how to resolve them. In my view, this means courts should set fees such that lawyers will have incentives 1) to bring as many meritorious cases as possible and 2) to litigate those cases in a way that maximizes the resulting compensation for the class and the deterrence of future wrongdoing.

19. In this case, we know the litigation is meritorious because it survived a motion to dismiss. Moreover, although the losses many class members suffered here were large, class members would have been hobbled on their own against a defendant that would have had the incentive to invest more in the litigation than they do for the reasons I stated above. Moreover, although the government has taken an interest in this alleged Ponzi scheme, it has taken no action whatsoever against TD Bank. Thus, it is only because of class counsel that TD Bank will be held accountable for its conduct. Lawyers need adequate incentives to take meritorious cases when no one else has, and then to prosecute them to the fullest. In my opinion, the percentage requested here will help further the social goal of appropriately incentivizing lawyers to invest properly in meritorious cases like this one in the future.

20. Consider next the factors: (3) the size of the fund created and the number of persons benefited, (4) the complexity and duration of the litigation, (5) the risks of the litigation, and (6) the risk of nonpayment. These factors ask the court to assess how the results achieved by class

counsel look in light of the risks presented by the litigation. In other words, these factors ask the court to assess how much value for the class the lawyers here generated from the case. These factors are important because, if class action lawyers know courts will increase or decrease their fee percentages based on how much value they generate from cases, then they will have even more incentive to generate as much value from cases as they can, which furthers the public policies of maximizing compensation and deterrence. Here, I believe class counsel generated considerable value from this case. To begin with, TD Bank is paying *far more* than they profited by assisting TelexFree. They only processed some \$47 million in TelexFree-related deposits. TD Bank consistently took the position that its liability was limited to that amount or a fraction thereof. Although it is true that TD Bank may have been jointly and severally liable for the entire scheme under some legal theories, even that would have been potentially limited by the date at which they entered the alleged scheme. According to class counsel, it would have been very difficult given the facts established with respect to TD Bank in particular, to prove that TD Bank was on the hook for more than \$500 million in this case. Thus, the settlement here recovers roughly one-fifth of the theoretical maximum damages the class might have won at trial if everything had gone its way. Although I do not have data on the average recoveries in aiding-and-abetting class actions, the areas in which we do have data suggests that recovering one-fifth of the theoretical maximum damages in a class action settlement is very good. *See, e.g.,* John M. Connor & Robert H. Lande, *Not Treble Damages: Cartel Recoveries are Mostly Less Than Single Damages*, 100 Iowa L. Rev. 1997, 2010 (2015) (finding the weighted average of recoveries—the authors’ preferred measure—to be 19% of single damages for antitrust cartel cases between 1990 and 2014); Recent Trends in Securities Class Action Litigation: 2022 Full-Year Review, at p. 18 (fig. 19), available at <https://www.nera.com/publications/archive/2023/recent-trends-in-securities-class--action->

litigation--2022-full-.html (finding that the median securities fraud class action between 2013 and 2022 settled for between 1.5% and 2.5% of the most common measure of investor losses, depending on the year).

21. Of course, the fraction of the class's damages recovered by the settlement does not mean much without comparing it to the risks and complexity of the case. If this had been a slam dunk case, one-fifth might not look so good. But this was not a slam dunk case. Far from it. To begin with, TD Bank has argued that they cannot be found liable unless they "shared the intent" of TelexFree—something that it would have been very difficult for the class to prove. Indeed, if the court accepted this argument, the class could have very easily recovered nothing here. In addition, TD Bank has argued that, let alone "shared intent," the class could not even prove that the bank had "actual knowledge" of the alleged scheme; most of the class's evidence here was circumstantial and there was certainly a risk the jury would not interpret it the class's way. Similarly, TD Bank has argued that, because it closed its TelexFree accounts before TelexFree went into a death spiral, the Bank didn't "substantially assist" the scheme either. Again, there was certainly a risk a jury would buy that argument. Indeed, there was a chance the class wouldn't even get to the jury: the court granted summary judgment to Bank of America amid similar disputes. But even if all the hurdles on liability could be surmounted, there was equally large risks on damages. TelexFree's internal systems have been very difficult to reconstruct and many transactions related to the scheme never passed through formal financial institutions. TD Bank had many ways to dispute the total amount of the class's damages and many more ways to dispute how much of those damages could be attributed to the point after TD Bank actually knew and substantially assisted the scheme. Moreover, TD Bank has argued that whatever their direct liability for processed transactions might be, it should be subject to setoffs for amounts that were

transferred to other financial institutions and subsequently recovered by the TelexFree bankruptcy trustee. In other words, it is quite possible the class could have ended up with a small fraction of what it recovered in this settlement even if it could have won on liability. If you multiply all of these risks against one another—and then multiply them again by the risks on any appeal—it is my opinion that the settlement is an excellent recovery compared to the expected value of the class’s claims. Thus, all these factors, too, support the fee request.

22. Consider next factor (7): the duration of the litigation. The typical time-to-final-approval that I found in my empirical study was around three years. *See Fitzpatrick, Empirical Study, supra*, at 820. This case has transpired longer than average. This is important because the longer class counsel must wait to get paid for their work, the lower their “effective” fee becomes. This is the “time value of money”: a dollar today is worth less to us than a dollar several years ago. As such, this factor weighs in favor of the fee request as well.

23. Consider next factor (8): the amount of time devoted to the case by class counsel. There are two ways that courts might consider this factor: qualitatively or quantitatively. The qualitative approach is to assess whether class counsel dug into the case far enough how fiercely class counsel fought the defendants—that is, what class counsel did during all those years of litigation. *See, e.g., Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 456 (10th Cir. 1988) (“[I]n awarding attorneys’ fees in a common fund case, the ‘time and labor involved’ factor need not be evaluated using the lodestar formulation . . .”). The quantitative approach is to calculate class counsel’s lodestar and to “crosscheck” the fee percentage requested against the lodestar to ensure that the ensuing multiplier is not in some sense “too much.” *See e.g., In re Cendant Corp. Litig.*, 264 F.3d at 285. Only a minority of courts nationwide take the quantitative approach. *See Fitzpatrick, supra*, at 833 (finding that only 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 percent method without lodestar crosscheck).

24. In my opinion, it is clear from the public policy considerations discussed above that the majority approach—the qualitative approach—is the better one. Courts that entertain the lodestar crosscheck do not create good incentives for lawyers. In particular, the lodestar crosscheck reintroduces the very same undesirable consequences of the lodestar method that the percentage method was designed to correct in the first place. For example, if counsel believe that courts will cap the percentage awarded at some multiple of their lodestar, then they will have precisely the same incentives they would if courts used the lodestar method alone: to be inefficient, perform unnecessary projects, delay results, and overbill and overstaff work in order to run up their lodestar. The lodestar crosscheck also caps the amount of compensation counsel can receive from a settlement, thereby misaligning their incentives from those of their clients and blunting their incentive to achieve the largest possible award. *See Fitzpatrick, Class Action Lawyers, supra*, at 2065-66. For these reasons, to my knowledge, real clients have never reported using lodestar crosschecks when they hire lawyers on contingency, *see Fitzpatrick, A Fiduciary Judge, supra*, at 1167, and the Circuits that try to mimic the market have all but banned it, *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*.”).

25. Nonetheless, because class counsel have reported their lodestar should the Court wish to perform a crosscheck, I will discuss whether the lodestar in this case suggests in any way that awarding class counsel their requested fee would be unreasonable. In my view, it does not.

According to class counsel, their lodestar thus far comes to \$20.9 million. This means the requested fee awards would result in a multiplier of 1.52. By the standards of other cases, this is downright ordinary. See Fitzpatrick, *Empirical Study*, *supra*, at 834 (finding mean and median lodestar multipliers in cases using the percentage method with the lodestar crosscheck were 1.65 and 1.34, respectively); *Eisenberg-Miller 2010*, *supra*, at 273 (finding mean multiplier of 1.81 for cases between 1993 and 2008); *Eisenberg-Miller 2017*, *supra*, at 965 (finding mean multiplier of 1.48 for cases between 2009 and 2013). In other words, there is no basis to think that anything like a “windfall” could result here. Thus, this factor, too, supports the fee request.

26. Consider finally the last two factors. One of these is not fully known because the time to file objections has not yet passed: (9) whether there are any substantial objections. As of now, no objections have been filed. But the other factor—(10) the skill and efficiency of the attorneys involved—looks favorably on the fee award requested here. Class counsel count among their number some of the most experienced and highly regarded class action lawyers in the United States. Indeed, I think the results here speak for themselves: had class counsel not been so skilled, it is doubtful they would have achieved the exceptional results that they did.

27. For all these reasons, it is my opinion that the fee request is reasonable in light of the empirical studies and economic research on class action fee awards.

28. My compensation in this matter was a flat fee in no way dependent upon the outcome of class counsel’s fee motion.

Nashville, TN

November 17, 2023



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ACADEMIC APPOINTMENTS

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

- *FedEx Research Professor*, 2014-2015
- *Professor of Law*, 2012 to present
- *Associate Professor*, 2010-2012; *Assistant Professor*, 2007-2010
- Classes: Civil Procedure, Complex Litigation, Federal Courts
- 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 HANDBOOK OF CLASS ACTIONS: AN INTERNATIONAL SURVEY (Cambridge University Press 2021) (ed., with Randall Thomas)

THE CONSERVATIVE CASE FOR CLASS ACTIONS (University of Chicago Press 2019) (winner of the Pound Institute's 2022 Civil Justice Scholarship Award)

BOOK CHAPTERS

Climate Change and Class Actions in CLIMATE LIBERALISM: PERSPECTIVES ON LIBERTY, PROPERTY, AND POLLUTION (Jonathan Adler, ed., Palgrave Macmillan 2023)

How Many Class Actions are Meritless?, in THE CAMBRIDGE HANDBOOK OF CLASS ACTIONS: AN INTERNATIONAL SURVEY (ed., with Randall Thomas, Cambridge University Press 2021)

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

Distributing Attorney Fees in Multidistrict Litigation, 13 J. Leg. Anal. 558 (2021) (with Ed Cheng & Paul Edelman)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, 89 FORD. L. REV. 1151 (2021)

Many Minds, Many MDL Judges, 84 L. & Contemp. Problems 107 (2021)

Objector Blackmail Update: What Have the 2018 Amendments Done?, 89 FORD. L. REV. 437 (2020)

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)

Strict Scrutiny of Facially Race-Neutral State Action and the Texas Ten Percent Plan, 53 Baylor L. Rev. 289 (2001)

ACADEMIC PRESENTATIONS

Non-Securities Class Action Settlements in CAFA's First Eleven Years, University of Florida Law School, Gainesville, FL (Feb. 6, 2023)

Entrapment of the Little Guy: Resisting the Erosion of Investor, Employee and Consumer Protections, Institute for Law and Economic Policy, San Diego, CA (Jan. 27, 2023)

A New Source of Data for Non-Securities Class Actions, William & Mary Law School, Williamsburg, VA (Nov. 10, 2022)

Can Courts Avoid Politicization in a Polarized America?, American Bar Association Annual Meeting, Chicago, IL (Aug. 5, 2022) (panelist)

A New Source of Data for Non-Securities Class Actions, Seventh Annual Civil Procedure Workshop, Cardozo Law School, New York, NY (May 20, 2022)

Resolution Issues in Class Actions and Mass Torts, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Mar. 11, 2022) (panelist)

Developments in Discovery Reform, George Mason Law & Economics Center Fifteenth Annual Judicial Symposium on Civil Justice Issues, Charleston, SC (Nov. 16, 2021) (panelist)

Locality Litigation and Public Entity Incentives to File Lawsuits: Public Interest, Politics, Public Finance or Financial Gain?, George Mason Law & Economics Center Symposium on Novel Liability Theories and the Incentives Driving Them, Nashville, TN (Oct. 25, 2021) (panelist)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, University of California Hastings College of the Law, San Francisco, CA (Nov. 3, 2020)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, The Judicial Role in Professional Regulation, Stein Colloquium, Fordham Law School, New York, NY (Oct. 9, 2020)

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

Racial Preferences Won't Go Easily, WALL ST. J. (June 1, 2023)

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

Abstention, Tennessee Attorney General's Office Continuing Legal Education, Nashville, TN (Apr. 13, 2022)

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 Legal Studies
Referee, Journal of Law, Economics and Organization
Referee, Journal of Empirical Legal Studies
Referee, Supreme Court Economic Review
Reviewer, Aspen Publishing
Reviewer, Cambridge University Press
Reviewer, University Press of Kansas
Reviewer, Palgrave Macmillan
Reviewer, Oxford University Press
Reviewer, Routledge
Member, American Bar Association
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights, 2009-2015
Board of Directors, Tennessee Stonewall Bar Association, 2012-2022
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia & California (inactive)

COMMUNITY ACTIVITIES

Board of Directors, Beacon Center, 2018-present; Board of Directors, Nashville Ballet, 2011-2017 & 2019-2022; Nashville Talking Library for the Blind, 2008-2009



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An Empirical Study of Class Action Settlements and Their Fee Awards

*Brian T. Fitzpatrick**

This article is a comprehensive empirical study of class action settlements in federal court. Although there have been prior empirical studies of federal class action settlements, these studies have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). By contrast, in this article, I attempt to study every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first attempt to collect a complete set of federal class action settlements for any given year. I find that district court judges approved 688 class action settlements over this two-year period, involving nearly \$33 billion. Of this \$33 billion, roughly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. Most judges chose to award fees by using the highly discretionary percentage-of-the-settlement method, and the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Fee percentages were strongly and inversely associated with the size of the settlement. The age of the case at settlement was positively associated with fee percentages. There was some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located, with lower percentages in securities cases and in settlements from the Second and Ninth Circuits. There was no evidence that fee percentages were associated with whether the class action was certified as a settlement class or with the political affiliation of the judge who made the award.

I. INTRODUCTION

Class actions have been the source of great controversy in the United States. Corporations fear them.¹ Policymakers have tried to corral them.² Commentators and scholars have

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¹See, e.g., Robert W. Wood, *Defining Employees and Independent Contractors*, *Bus. L. Today* 45, 48 (May–June 2008).

²See Private Securities Litigation Reform Act (PSLRA) of 1995, Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.); Class Action Fairness Act of 2005, 28 U.S.C. §§ 1453, 1711–1715 (2006).

suggested countless ways to reform them.³ Despite all the attention showered on class actions, and despite the excellent empirical work on class actions to date, the data that currently exist on how the class action system operates in the United States are limited. We do not know, for example, how much money changes hands in class action litigation every year. We do not know how much of this money goes to class action lawyers rather than class members. Indeed, we do not even know how many class action cases are resolved on an annual basis. To intelligently assess our class action system as well as whether and how it should be reformed, answers to all these questions are important. Answers to these questions are equally important to policymakers in other countries who are currently thinking about adopting U.S.-style class action devices.⁴

This article tries to answer these and other questions by reporting the results of an empirical study that attempted to gather all class action settlements approved by federal judges over a recent two-year period, 2006 and 2007. I use class action settlements as the basis of the study because, even more so than individual litigation, virtually all cases certified as class actions and not dismissed before trial end in settlement.⁵ I use federal settlements as the basis of the study for practical reasons: it was easier to identify and collect settlements approved by federal judges than those approved by state judges. Systematic study of class action settlements in state courts must await further study;⁶ these future studies are important because there may be more class action settlements in state courts than there are in federal court.⁷

This article attempts to make three contributions to the existing empirical literature on class action settlements. First, virtually all the prior empirical studies of federal class action settlements have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). In this article, by contrast, I attempt to collect every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first to attempt to collect a complete set of federal class action settlements for

³See, e.g., Robert G. Bone, *Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness*, 83 B.U.L. Rev. 485, 490–94 (2003); Allan Erbsen, *From “Predominance” to “Resolvability”: A New Approach to Regulating Class Actions*, 58 Vand. L. Rev. 995, 1080–81 (2005).

⁴See, e.g., Samuel Issacharoff & Geoffrey Miller, *Will Aggregate Litigation Come to Europe?*, 62 Vand. L. Rev. 179 (2009).

⁵See, e.g., Emery Lee & Thomas E. Willing, *Impact of the Class Action Fairness Act on the Federal Courts: Preliminary Findings from Phase Two’s Pre-CAFA Sample of Diversity Class Actions 11* (Federal Judicial Center 2008); Tom Baker & Sean J. Griffith, *How the Merits Matter: D&O Insurance and Securities Settlements*, 157 U. Pa. L. Rev. 755 (2009).

⁶Empirical scholars have begun to study state court class actions in certain subject areas and in certain states. See, e.g., Robert B. Thompson & Randall S. Thomas, *The Public and Private Faces of Derivative Suits*, 57 Vand. L. Rev. 1747 (2004); Robert B. Thompson & Randall S. Thomas, *The New Look of Shareholder Litigation: Acquisition-Oriented Class Actions*, 57 Vand. L. Rev. 133 (2004); *Findings of the Study of California Class Action Litigation* (Administrative Office of the Courts) (First Interim Report, 2009).

⁷See Deborah R. Hensler et al., *Class Action Dilemmas: Pursuing Public Goals for Private Gain* 56 (2000).

any given year.⁸ As such, this article allows us to see for the first time a complete picture of the cases that are settled in federal court. This includes aggregate annual statistics, such as how many class actions are settled every year, how much money is approved every year in these settlements, and how much of that money class action lawyers reap every year. It also includes how these settlements are distributed geographically as well as by litigation area, what sort of relief was provided in the settlements, how long the class actions took to reach settlement, and an analysis of what factors were associated with the fees awarded to class counsel by district court judges.

Second, because this article analyzes settlements that were approved in both published and unpublished opinions, it allows us to assess how well the few prior studies that looked beyond securities cases but relied only on published opinions capture the complete picture of class action settlements. To the extent these prior studies adequately capture the complete picture, it may be less imperative for courts, policymakers, and empirical scholars to spend the considerable resources needed to collect unpublished opinions in order to make sound decisions about how to design our class action system.

Third, this article studies factors that may influence district court judges when they award fees to class counsel that have not been studied before. For example, in light of the discretion district court judges have been delegated over fees under Rule 23, as well as the salience the issue of class action litigation has assumed in national politics, realist theories of judicial behavior would predict that Republican judges would award smaller fee percentages than Democratic judges. I study whether the political beliefs of district court judges are associated with the fees they award and, in doing so, contribute to the literature that attempts to assess the extent to which these beliefs influence the decisions of not just appellate judges, but trial judges as well. Moreover, the article contributes to the small but growing literature examining whether the ideological influences found in published judicial decisions persist when unpublished decisions are examined as well.

In Section II of this article, I briefly survey the existing empirical studies of class action settlements. In Section III, I describe the methodology I used to collect the 2006–2007 federal class action settlements and I report my findings regarding these settlements. District court judges approved 688 class action settlements over this two-year period, involving over \$33 billion. I report a number of descriptive statistics for these settlements, including the number of plaintiff versus defendant classes, the distribution of settlements by subject matter, the age of the case at settlement, the geographic distribution of settlements, the number of settlement classes, the distribution of relief across settlements, and various statistics on the amount of money involved in the settlements. It should be noted that despite the fact that the few prior studies that looked beyond securities settlements appeared to oversample larger settlements, much of the analysis set forth in this article is consistent with these prior studies. This suggests that scholars may not need to sample unpublished as well as published opinions in order to paint an adequate picture of class action settlements.

⁸Of course, I cannot be certain that I found every one of the class actions that settled in federal court over this period. Nonetheless, I am confident that if I did not find some, the number I did not find is small and would not contribute meaningfully to the data reported in this article.

In Section IV, I perform an analysis of the fees judges awarded to class action lawyers in the 2006–2007 settlements. All told, judges awarded nearly \$5 billion over this two-year period in fees and expenses to class action lawyers, or about 15 percent of the total amount of the settlements. Most federal judges chose to award fees by using the highly discretionary percentage-of-the-settlement method and, unsurprisingly, the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Using regression analysis, I confirm prior studies and find that fee percentages are strongly and inversely associated with the size of the settlement. Further, I find that the age of the case is positively associated with fee percentages but that the percentages were not associated with whether the class action was certified as a settlement class. There also appeared to be some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all other areas, and district courts in some circuits—the Ninth and the Second (in securities cases)—awarded lower fee percentages than courts in many other circuits. Finally, the regression analysis did not confirm the realist hypothesis: there was no association between fee percentage and the political beliefs of the judge in any regression.

II. PRIOR EMPIRICAL STUDIES OF CLASS ACTION SETTLEMENTS

There are many existing empirical studies of federal securities class action settlements.⁹ Studies of securities settlements have been plentiful because for-profit organizations maintain lists of all federal securities class action settlements for the benefit of institutional investors that are entitled to file claims in these settlements.¹⁰ Using these data, studies have shown that since 2005, for example, there have been roughly 100 securities class action settlements in federal court each year, and these settlements have involved between \$7 billion and \$17 billion per year.¹¹ Scholars have used these data to analyze many different aspects of these settlements, including the factors that are associated with the percentage of

⁹See, e.g., James D. Cox & Randall S. Thomas, Does the Plaintiff Matter? An Empirical Analysis of Lead Plaintiffs in Securities Class Actions, 106 Colum. L. Rev. 1587 (2006); James D. Cox, Randall S. Thomas & Lynn Bai, There are Plaintiffs and . . . there are Plaintiffs: An Empirical Analysis of Securities Class Action Settlements, 61 Vand. L. Rev. 355 (2008); Theodore Eisenberg, Geoffrey Miller & Michael A. Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U.J.L. & Pol'y 5 (2009); Michael A. Perino, Markets and Monitors: The Impact of Competition and Experience on Attorneys' Fees in Securities Class Actions (St. John's Legal Studies, Research Paper No. 06-0034, 2006), available at <<http://ssrn.com/abstract=870577>> [hereinafter Perino, Markets and Monitors]; Michael A. Perino, The Milberg Weiss Prosecution: No Harm, No Foul? (St. John's Legal Studies, Research Paper No. 08-0135, 2008), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133995> [hereinafter Perino, Milberg Weiss].

¹⁰See, e.g., RiskMetrics Group, available at <<http://www.riskmetrics.com/scas>>.

¹¹See Cornerstone Research, Securities Class Action Settlements: 2007 Review and Analysis 1 (2008), available at <http://securities.stanford.edu/Settlements/REVIEW_1995-2007/Settlements_Through_12_2007.pdf>.

the settlements that courts have awarded to class action lawyers.¹² These studies have found that the mean and median fees awarded by district court judges are between 20 percent and 30 percent of the settlement amount.¹³ These studies have also found that a number of factors are associated with the percentage of the settlement awarded as fees, including (inversely) the size of the settlement, the age of the case, whether a public pension fund was the lead plaintiff, and whether certain law firms were class counsel.¹⁴ None of these studies has examined whether the political affiliation of the federal district court judge awarding the fees was associated with the size of awards.

There are no comparable organizations that maintain lists of nonsecurities class action settlements. As such, studies of class action settlements beyond the securities area are much rarer and, when they have been done, rely on samples of settlements that were not intended to be representative of the whole. The two largest studies of class action settlements not limited to securities class actions are a 2004 study by Ted Eisenberg and Geoff Miller,¹⁵ which was recently updated to include data through 2008,¹⁶ and a 2003 study by Class Action Reports.¹⁷ The Eisenberg-Miller studies collected data from class action settlements in both state and federal courts found from court opinions published in the Westlaw and Lexis databases and checked against lists maintained by the CCH Federal Securities and Trade Regulation Reporters. Through 2008, their studies have now identified 689 settlements over a 16-year period, or less than 45 settlements per year.¹⁸ Over this 16-year period, their studies found that the mean and median settlement amounts were, respectively, \$116 million and \$12.5 million (in 2008 dollars), and that the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively.¹⁹ Their studies also performed an analysis of fee percentages and fee awards. For the data through 2002, they found that the percentage of the settlement awarded as fees was associated with the size of the settlement (inversely), the age of the case, and whether the

¹²See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 17–24, 28–36; Perino, *Markets and Monitors*, *supra* note 9, at 12–28, 39–44; Perino, Milberg Weiss, *supra* note 9, at 32–33, 39–60.

¹³See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 17–18, 22, 28, 33; Perino, *Markets and Monitors*, *supra* note 9, at 20–21, 40; Perino, Milberg Weiss, *supra* note 9, at 32–33, 51–53.

¹⁴See, e.g., Eisenberg, Miller & Perino, *supra* note 9, at 14–24, 29–30, 33–34; Perino, *Markets and Monitors*, *supra* note 9, at 20–28, 41; Perino, Milberg Weiss, *supra* note 9, at 39–58.

¹⁵See Theodore Eisenberg & Geoffrey Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Stud. 27 (2004).

¹⁶See Theodore Eisenberg & Geoffrey Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008*, 7 J. Empirical Legal Stud. 248 (2010) [hereinafter Eisenberg & Miller II].

¹⁷See Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., *Attorney Fee Awards in Common Fund Class Actions*, 24 Class Action Rep. 169 (Mar.–Apr. 2003).

¹⁸See Eisenberg & Miller II, *supra* note 16, at 251.

¹⁹*Id.* at 258–59.

district court went out of its way to comment on the level of risk that class counsel had assumed in pursuing the case.²⁰ For the data through 2008, they regressed only fee awards and found that the awards were inversely associated with the size of the settlement, that state courts gave lower awards than federal courts, and that the level of risk was still associated with larger awards.²¹ Their studies have not examined whether the political affiliations of the federal district court judges awarding fees were associated with the size of the awards.

The Class Action Reports study collected data on 1,120 state and federal settlements over a 30-year period, or less than 40 settlements per year.²² Over the same 10-year period analyzed by the Eisenberg-Miller study, the Class Action Reports data found mean and median settlements of \$35.4 and \$7.6 million (in 2002 dollars), as well as mean and median fee percentages between 25 percent and 30 percent.²³ Professors Eisenberg and Miller performed an analysis of the fee awards in the Class Action Reports study and found the percentage of the settlement awarded as fees was likewise associated with the size of the settlement (inversely) and the age of the case.²⁴

III. FEDERAL CLASS ACTION SETTLEMENTS, 2006 AND 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases,²⁵ (2) four reporters of class action settlements—*BNA Class Action Litigation Report*, *Mealey's Jury Verdicts and Settlements*, *Mealey's Litigation Report*, and the *Class Action World* website²⁶—and (3) a list from the Administrative Office of Courts of all district court cases

²⁰See Eisenberg & Miller, *supra* note 15, at 61–62.

²¹See Eisenberg & Miller II, *supra* note 16, at 278.

²²See Eisenberg & Miller, *supra* note 15, at 34.

²³*Id.* at 47, 51.

²⁴*Id.* at 61–62.

²⁵The searches consisted of the following terms: (“class action” & (settle! /s approv! /s (2006 2007))); (((counsel attorney) /s fee /s award!) & (settle! /s (2006 2007)) & “class action”); (“class action” /s settle! & da(aft 12/31/2005 & bef 1/1/2008)); (“class action” /s (fair reasonable adequate) & da(aft 12/31/2005 & bef 1/1/2008)).

²⁶See <<http://classactionworld.com/>>.

coded as class actions that terminated by settlement between 2005 and 2008.²⁷ I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.²⁸ For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a 16-year period in both federal *and* state court. Indeed, the number of annual settlements identified in this study is *several times* the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.²⁹

B. Defendant Versus Plaintiff Classes

Although Rule 23 permits federal judges to certify either a class of plaintiffs or a class of defendants, it is widely assumed that it is extremely rare for courts to certify defendant classes.³⁰ My findings confirm this widely held assumption. Of the 688 class action settlements approved in 2006 and 2007, 685 involved plaintiff classes and only three involved

²⁷I examined the AO lists in the year before and after the two-year period under investigation because the termination date recorded by the AO was not necessarily the same date the district court approved the settlement.

²⁸See Fed. R. Civ. P. 23, 23.1, 23.2. I excluded from this analysis opt-in collective actions, such as those brought pursuant to the provisions of the Fair Labor Standards Act (see 29 U.S.C. § 216(b)), if such actions did not also include claims certified under the opt-out mechanism in Rule 23.

²⁹A settlement was assigned to a particular year if the district court judge's order approving the settlement was dated between January 1 and December 31 of that year. Cases involving multiple defendants sometimes settled over time because defendants would settle separately with the plaintiff class. All such partial settlements approved by the district court on the same date were treated as one settlement. Partial settlements approved by the district court on different dates were treated as different settlements.

³⁰See, e.g., Robert H. Klonoff, Edward K.M. Bilich & Suzette M. Malveaux, *Class Actions and Other Multi-Party Litigation: Cases and Materials* 1061 (2d ed. 2006).

defendant classes. All three of the defendant-class settlements were in employment benefits cases, where companies sued classes of current or former employees.³¹

C. Settlement Subject Areas

Although courts are free to certify Rule 23 classes in almost any subject area, it is widely assumed that securities settlements dominate the federal class action docket.³² At least in terms of the number of settlements, my findings reject this conventional wisdom. As Table 1 shows, although securities settlements comprised a large percentage of the 2006 and 2007 settlements, they did not comprise a majority of those settlements. As one would have

Table 1: The Number of Class Action Settlements Approved by Federal Judges in 2006 and 2007 in Each Subject Area

<i>Subject Matter</i>	<i>Number of Settlements</i>	
	<i>2006</i>	<i>2007</i>
Securities	122 (40%)	135 (35%)
Labor and employment	41 (14%)	53 (14%)
Consumer	40 (13%)	47 (12%)
Employee benefits	23 (8%)	38 (10%)
Civil rights	24 (8%)	37 (10%)
Debt collection	19 (6%)	23 (6%)
Antitrust	13 (4%)	17 (4%)
Commercial	4 (1%)	9 (2%)
Other	18 (6%)	25 (6%)
Total	304	384

NOTE: Securities: cases brought under federal and state securities laws. Labor and employment: workplace claims brought under either federal or state law, with the exception of ERISA cases. Consumer: cases brought under the Fair Credit Reporting Act as well as cases for consumer fraud and the like. Employee benefits: ERISA cases. Civil rights: cases brought under 42 U.S.C. § 1983 or cases brought under the Americans with Disabilities Act seeking nonworkplace accommodations. Debt collection: cases brought under the Fair Debt Collection Practices Act. Antitrust: cases brought under federal or state antitrust laws. Commercial: cases between businesses, excluding antitrust cases. Other: includes, among other things, derivative actions against corporate managers and directors, environmental suits, insurance suits, Medicare and Medicaid suits, product liability suits, and mass tort suits.

SOURCES: Westlaw, PACER, district court clerks' offices.

³¹See *Halliburton Co. v. Graves*, No. 04-00280 (S.D. Tex., Sept. 28, 2007); *Rexam, Inc. v. United Steel Workers of Am.*, No. 03-2998 (D. Minn. Aug. 29, 2007); *Rexam, Inc. v. United Steel Workers of Am.*, No. 03-2998 (D. Minn. Sept. 17, 2007).

³²See, e.g., John C. Coffee, Jr., *Reforming the Security Class Action: An Essay on Deterrence and its Implementation*, 106 *Colum. L. Rev.* 1534, 1539–40 (2006) (describing securities class actions as “the 800-pound gorilla that dominates and overshadows other forms of class actions”).

expected in light of Supreme Court precedent over the last two decades,³³ there were almost no mass tort class actions (included in the “Other” category) settled over the two-year period.

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court³⁴) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.³⁵ However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.³⁶ This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

The Federal Rules of Civil Procedure permit parties to seek certification of a suit as a class action for settlement purposes only.³⁷ When the district court certifies a class in such circumstances, the court need not consider whether it would be manageable to try the litigation as a class.³⁸ So-called settlement classes have always been more controversial than classes certified for litigation because they raise the prospect that, at least where there are competing class actions filed against the same defendant, the defendant could play class counsel off one another to find the one willing to settle the case for the least amount of money.³⁹ Prior to the Supreme Court’s 1997 opinion in *Amchem Products, Inc. v. Windsor*,⁴⁰ it was uncertain whether the Federal Rules even permitted settlement classes. It may therefore be a bit surprising to learn that 68 percent of the federal settlements in 2006 and 2007 were settlement classes. This percentage is higher than the percentage found in the Eisenberg-Miller studies, which found that only 57 percent of class action settlements in

³³See, e.g., Samuel Issacharoff, *Private Claims, Aggregate Rights*, 2008 Sup. Ct. Rev. 183, 208.

³⁴See Eisenberg & Miller II, *supra* note 16, at 257.

³⁵*Id.* at 262.

³⁶*Id.*

³⁷See Martin H. Redish, *Settlement Class Actions, The Case-or-Controversy Requirement, and the Nature of the Adjudicatory Process*, 73 U. Chi. L. Rev. 545, 553 (2006).

³⁸See *Amchem Prods., Inc v Windsor*, 521 U.S. 591, 620 (1997).

³⁹See Redish, *supra* note 368, at 557–59.

⁴⁰521 U.S. 591 (1997).

state and federal court between 2003 and 2008 were settlement classes.⁴¹ It should be noted that the distribution of litigation subject areas among the settlement classes in my 2006–2007 federal data set did not differ much from the distribution among nonsettlement classes, with two exceptions. One exception was consumer cases, which were nearly three times as prevalent among settlement classes (15.9 percent) as among nonsettlement classes (5.9 percent); the other was civil rights cases, which were four times as prevalent among nonsettlement classes (18.0 percent) as among settlements classes (4.5 percent). In light of the skepticism with which the courts had long treated settlement classes, one might have suspected that courts would award lower fee percentages in such settlements. Nonetheless, as I report in Section III, whether a case was certified as a settlement class was not associated with the fee percentages awarded by federal district court judges.

E. The Age at Settlement

One interesting question is how long class actions were litigated before they reached settlement. Unsurprisingly, cases reached settlement over a wide range of ages.⁴² As shown in Table 2, the average time to settlement was a bit more than three years (1,196 days) and the median time was a bit under three years (1,068 days). The average and median ages here are similar to those found in the Eisenberg-Miller study through 2002, which found averages of 3.35 years in fee-shifting cases and 2.86 years in non-fee-shifting cases, and

Table 2: The Number of Days, 2006–2007, Federal Class Action Cases Took to Reach Settlement in Each Subject Area

<i>Subject Matter</i>	<i>Average</i>	<i>Median</i>	<i>Minimum</i>	<i>Maximum</i>
Securities	1,438	1,327	392	3,802
Labor and employment	928	786	105	2,497
Consumer	963	720	127	4,961
Employee benefits	1,162	1,161	164	3,157
Civil rights	1,373	1,360	181	3,354
Debt collection	738	673	223	1,973
Antitrust	1,140	1,167	237	2,480
Commercial	1,267	760	163	5,443
Other	1,065	962	185	3,620
All	1,196	1,068	105	5,443

SOURCE: PACER.

⁴¹See Eisenberg & Miller II, *supra* note 16, at 266.

⁴²The age of the case was calculated by subtracting the date the relevant complaint was filed from the date the settlement was approved by the district court judge. The dates were taken from PACER. For consolidated cases, I used the date of the earliest complaint. If the case had been transferred, consolidated, or removed, the date the complaint was filed was not always available from PACER. In such cases, I used the date the case was transferred, consolidated, or removed as the start date.

medians of 4.01 years in fee-shifting cases and 3.0 years in non-fee-shifting cases.⁴³ Their study through 2008 did not report case ages.

The shortest time to settlement was 105 days in a labor and employment case.⁴⁴ The longest time to settlement was nearly 15 years (5,443 days) in a commercial case.⁴⁵ The average and median time to settlement varied significantly by litigation subject matter, with securities cases generally taking the longest time and debt collection cases taking the shortest time. Labor and employment cases and consumer cases also settled relatively early.

F. The Location of Settlements

The 2006–2007 federal class action settlements were not distributed across the country in the same way federal civil litigation is in general. As Figure 1 shows, some of the geographic circuits attracted much more class action attention than we would expect based on their docket size, and others attracted much less. In particular, district courts in the First, Second, Seventh, and Ninth Circuits approved a much larger share of class action settlements than the share of all civil litigation they resolved, with the First, Second, and Seventh Circuits approving nearly double the share and the Ninth Circuit approving one-and-one-half times the share. By contrast, the shares of class action settlements approved by district courts in the Fifth and Eighth Circuits were less than one-half of their share of all civil litigation, with the Third, Fourth, and Eleventh Circuits also exhibiting significant underrepresentation.

With respect to a comparison with the Eisenberg-Miller studies, their federal court data through 2008 can be separated from their state court data on the question of the geographic distribution of settlements, and there are some significant differences between their federal data and the numbers reflected in Figure 1. Their study reported considerably higher proportions of settlements than I found from the Second (23.8 percent), Third (19.7 percent), Eighth (4.8 percent), and D.C. (3.3 percent) Circuits, and considerably lower proportions from the Fourth (1.3 percent), Seventh (6.8 percent), and Ninth (16.6 percent) Circuits.⁴⁶

Figure 2 separates the class action settlement data in Figure 1 into securities and nonsecurities cases. Figure 2 suggests that the overrepresentation of settlements in the First and Second Circuits is largely attributable to securities cases, whereas the overrepresentation in the Seventh Circuit is attributable to nonsecurities cases, and the overrepresentation in the Ninth is attributable to both securities and nonsecurities cases.

It is interesting to ask why some circuits received more class action attention than others. One hypothesis is that class actions are filed in circuits where class action lawyers

⁴³See Eisenberg & Miller, *supra* note 15, at 59–60.

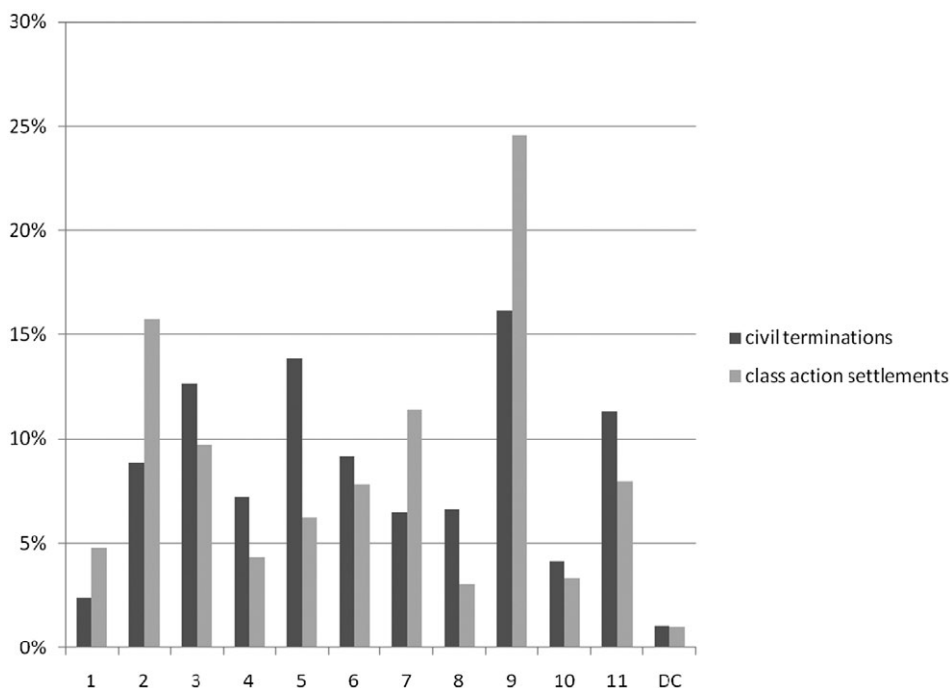
⁴⁴See *Clemmons v. Rent-a-Center W., Inc.*, No. 05-6307 (D. Or. Jan. 20, 2006).

⁴⁵See *Allapattah Servs. Inc. v. Exxon Corp.*, No. 91-0986 (S.D. Fla. Apr. 7, 2006).

⁴⁶See Eisenberg & Miller II, *supra* note 16, at 260.

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Figure 1: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



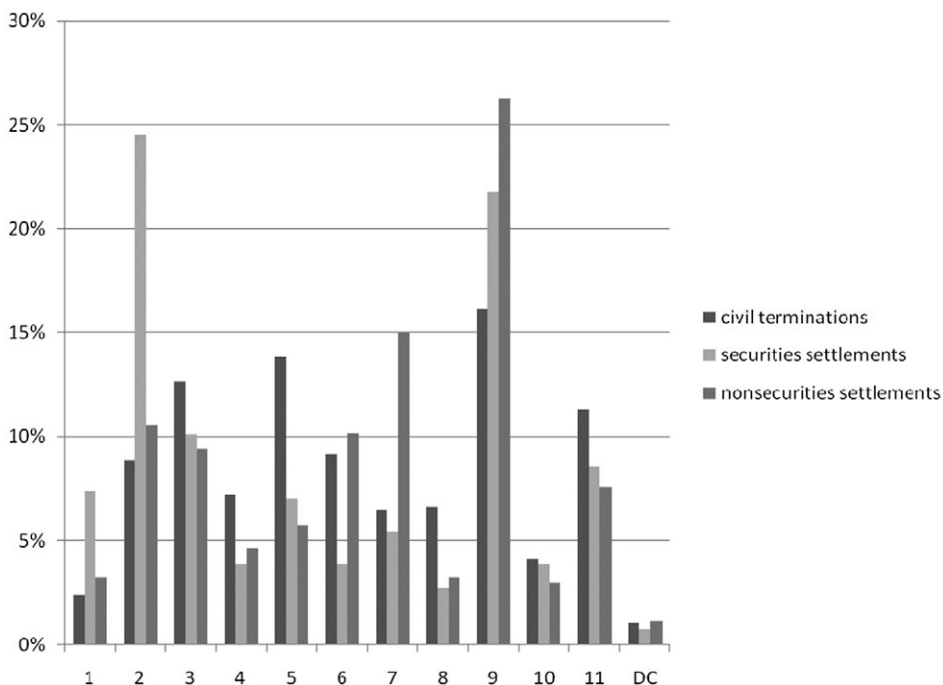
SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <<http://www.uscourts.gov/stats/index.html>>).

believe they can find favorable law or favorable judges. Federal class actions often involve class members spread across multiple states and, as such, class action lawyers may have a great deal of discretion over the district in which file suit.⁴⁷ One way law or judges may be favorable to class action attorneys is with regard to attorney fees. In Section III, I attempt to test whether district court judges in the circuits with the most over- and undersubscribed class action dockets award attorney fees that would attract or discourage filings there; I find no evidence that they do.

Another hypothesis is that class action suits are settled in jurisdictions where defendants are located. This might be the case because although class action lawyers may have discretion over where to file, venue restrictions might ultimately restrict cases to jurisdic-

⁴⁷See Samuel Issacharoff & Richard Nagareda, *Class Settlements Under Attack*, 156 U. Pa. L. Rev. 1649, 1662 (2008).

Figure 2: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <<http://www.uscourts.gov/stats/index.html>>).

tions in which defendants have their corporate headquarters or other operations.⁴⁸ This might explain why the Second Circuit, with the financial industry in New York, sees so many securities suits, and why other circuits with cities with a large corporate presence, such as the First (Boston), Seventh (Chicago), and Ninth (Los Angeles and San Francisco), see more settlements than one would expect based on the size of their civil dockets.

Another hypothesis might be that class action lawyers file cases wherever it is most convenient for them to litigate the cases—that is, in the cities in which their offices are located. This, too, might explain the Second Circuit's overrepresentation in securities settlements, with prominent securities firms located in New York, as well as the

⁴⁸See 28 U.S.C. §§ 1391, 1404, 1406, 1407. See also *Foster v. Nationwide Mut. Ins. Co.*, No. 07-04928, 2007 U.S. Dist. LEXIS 95240 at *2–17 (N.D. Cal. Dec. 14, 2007) (transferring venue to jurisdiction where defendant's corporate headquarters were located). One prior empirical study of securities class action settlements found that 85 percent of such cases are filed in the home circuit of the defendant corporation. See James D. Cox, Randall S. Thomas & Lynn Bai, Do Differences in Pleading Standards Cause Forum Shopping in Securities Class Actions?: Doctrinal and Empirical Analyses, 2009 Wis. L. Rev. 421, 429, 440, 450–51 (2009).

overrepresentation of other settlements in some of the circuits in which major metropolitan areas with prominent plaintiffs' firms are found.

G. *Type of Relief*

Under Rule 23, district court judges can certify class actions for injunctive or declaratory relief, for money damages, or for a combination of the two.⁴⁹ In addition, settlements can provide money damages both in the form of cash as well as in the form of in-kind relief, such as coupons to purchase the defendant's products.⁵⁰

As shown in Table 3, the vast majority of class actions settled in 2006 and 2007 provided cash relief to the class (89 percent), but a substantial number also provided in-kind relief (6 percent) or injunctive or declaratory relief (23 percent). As would be

Table 3: The Percentage of 2006 and 2007 Class Action Settlements Providing Each Type of Relief in Each Subject Area

<i>Subject Matter</i>	<i>Cash</i>	<i>In-Kind Relief</i>	<i>Injunctive or Declaratory Relief</i>
Securities (<i>n</i> = 257)	100%	0%	2%
Labor and employment (<i>n</i> = 94)	95%	6%	29%
Consumer (<i>n</i> = 87)	74%	30%	37%
Employee benefits (<i>n</i> = 61)	90%	0%	34%
Civil rights (<i>n</i> = 61)	49%	2%	75%
Debt collection (<i>n</i> = 42)	98%	0%	12%
Antitrust (<i>n</i> = 30)	97%	13%	7%
Commercial (<i>n</i> = 13)	92%	0%	62%
Other (<i>n</i> = 43)	77%	7%	33%
All (<i>n</i> = 688)	89%	6%	23%

NOTE: Cash: cash, securities, refunds, charitable contributions, contributions to employee benefit plans, forgiven debt, relinquishment of liens or claims, and liquidated repairs to property. In-kind relief: vouchers, coupons, gift cards, warranty extensions, merchandise, services, and extended insurance policies. Injunctive or declaratory relief: modification of terms of employee benefit plans, modification of compensation practices, changes in business practices, capital improvements, research, and unliquidated repairs to property.

SOURCES: Westlaw, PACER, district court clerks' offices.

⁴⁹See Fed. R. Civ. P. 23(b).

⁵⁰These coupon settlements have become very controversial in recent years, and Congress discouraged them in the Class Action Fairness Act of 2005 by tying attorney fees to the value of coupons that were ultimately redeemed by class members as opposed to the value of coupons offered class members. See 28 U.S.C. § 1712.

expected in light of the focus on consumer cases in the debate over the anti-coupon provision in the Class Action Fairness Act of 2005,⁵¹ consumer cases had the greatest percentage of settlements providing for in-kind relief (30 percent). Civil rights cases had the greatest percentage of settlements providing for injunctive or declaratory relief (75 percent), though almost half the civil rights cases also provided some cash relief (49 percent). The securities settlements were quite distinctive from the settlements in other areas in their singular focus on cash relief: every single securities settlement provided cash to the class and almost none provided in-kind, injunctive, or declaratory relief. This is but one example of how the focus on securities settlements in the prior empirical scholarship can lead to a distorted picture of class action litigation.

H. Settlement Money

Although securities settlements did not comprise the majority of federal class action settlements in 2006 and 2007, they did comprise the majority of the money—indeed, the *vast majority* of the money—involved in class action settlements. In Table 4, I report the total amount of ascertainable value involved in the 2006 and 2007 settlements. This amount

Table 4: The Total Amount of Money Involved in Federal Class Action Settlements in 2006 and 2007

Subject Matter	Total Ascertainable Monetary Value in Settlements (and Percentage of Overall Annual Total)			
	2006 (n = 304)		2007 (n = 384)	
Securities	\$16,728	76%	\$8,038	73%
Labor and employment	\$266.5	1%	\$547.7	5%
Consumer	\$517.3	2%	\$732.8	7%
Employee benefits	\$443.8	2%	\$280.8	3%
Civil rights	\$265.4	1%	\$81.7	1%
Debt collection	\$8.9	<1%	\$5.7	<1%
Antitrust	\$1,079	5%	\$660.5	6%
Commercial	\$1,217	6%	\$124.0	1%
Other	\$1,568	7%	\$592.5	5%
Total	\$22,093	100%	\$11,063	100%

NOTE: Dollar amounts are in millions. Includes all determinate payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.

SOURCES: Westlaw, PACER, district court clerks' offices.

⁵¹See, e.g., 151 Cong. Rec. H723 (2005) (statement of Rep. Sensenbrenner) (arguing that consumers are “seeing all of their gains go to attorneys and them just getting coupon settlements from the people who have allegedly done them wrong”).

includes all determinate⁵² payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.⁵³ I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only \$1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.⁵⁴

Table 4 shows that in both years, around three-quarters of all the money involved in federal class action settlements came from securities cases. Thus, in this sense, the conventional wisdom about the dominance of securities cases in class action litigation is correct. Figure 3 is a graphical representation of the contribution each litigation area made to the total number and total amount of money involved in the 2006–2007 settlements.

Table 4 also shows that, in total, over \$33 billion was approved in the 2006–2007 settlements. Over \$22 billion was approved in 2006 and over \$11 billion in 2007. It should be emphasized again that the totals in Table 4 understate the amount of money defendants agreed to pay in class action settlements in 2006 and 2007 because they exclude the unascertainable value of those settlements. This understatement disproportionately affects litigation areas, such as civil rights, where much of the relief is injunctive because, as I noted, very little of such relief was valued by district courts. Nonetheless, these numbers are, as far as I am aware, the first attempt to calculate how much money is involved in federal class action settlements in a given year.

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled \$6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than \$1 billion were approved in 2006.⁵⁵ Indeed, it is worth noting that the eight settlements for more than \$1

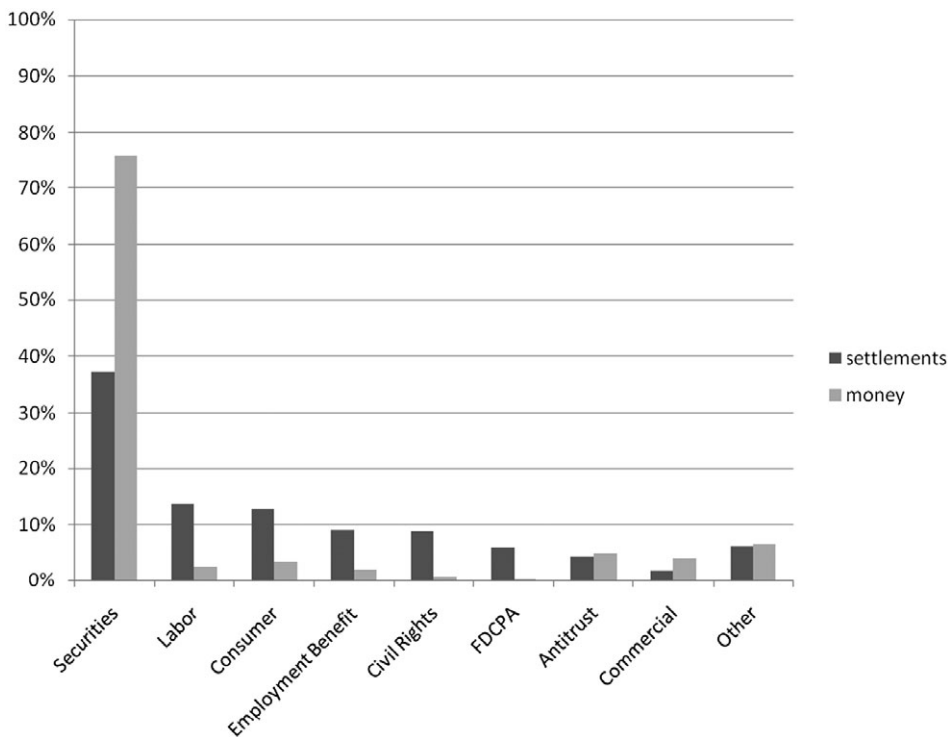
⁵²For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the settlement documents.

⁵³In some cases, the district court valued the relief in the settlement over a range. In these cases, I used the middle point in the range.

⁵⁴See Hensler et al., *supra* note 7, at 427–30.

⁵⁵See *In re Enron Corp. Secs. Litig.*, MDL 1446 (S.D. Tex. May 24, 2006) (\$6,600,000,000); *In re Tyco Int'l Ltd. Multidistrict Litig.*, MDL 02-1335 (D.N.H. Dec. 19, 2007) (\$3,200,000,000); *In re AOL Time Warner, Inc. Secs. & "ERISA" Litig.*, MDL 1500 (S.D.N.Y. Apr. 6, 2006) (\$2,500,000,000); *In re: Diet Drugs Prods. Liab. Litig.*, MDL 1203 (E.D. Pa. May 24, 2006) (\$1,275,000,000); *In re Nortel Networks Corp. Secs. Litig. (Nortel I)*, No. 01-1855 (S.D.N.Y. Dec. 26, 2006) (\$1,142,780,000); *In re Royal Ahold N.V. Secs. & ERISA Litig.*, 03-1539 (D. Md. Jun. 16, 2006)

Figure 3: The percentage of 2006–2007 federal class action settlements and settlement money from each subject area.



SOURCES: Westlaw, PACER, district court clerks' offices.

billion accounted for almost \$18 billion of the \$33 billion that changed hands over the two-year period. That is, a mere 1 percent of the settlements comprised over 50 percent of the value involved in federal class action settlements in 2006 and 2007. To give some sense of the distribution of settlement size in the 2006–2007 data set, Table 5 sets forth the number of settlements with an ascertainable value beyond fee, expense, and class-representative incentive awards (605 out of the 688 settlements). Nearly two-thirds of all settlements fell below \$10 million.

Given the disproportionate influence exerted by securities settlements on the total amount of money involved in class actions, it is unsurprising that the average securities settlement involved more money than the average settlement in most of the other subject areas. These numbers are provided in Table 6, which includes, again, only the settlements

(\$1,100,000,000); *Allapattah Servs. Inc. v. Exxon Corp.*, No. 91-0986 (S.D. Fla. Apr. 7, 2006) (\$1,075,000,000); *In re Nortel Networks Corp. Secs. Litig. (Nortel II)*, No. 05-1659 (S.D.N.Y. Dec. 26, 2006) (\$1,074,270,000).

Table 5: The Distribution by Size of 2006–2007 Federal Class Action Settlements with Ascertainable Value

<i>Settlement Size (in Millions)</i>	<i>Number of Settlements</i>
[\$0 to \$1]	131 (21.7%)
(\$1 to \$10]	261 (43.1%)
(\$10 to \$50]	139 (23.0%)
(\$50 to \$100]	33 (5.45%)
(\$100 to \$500]	31 (5.12%)
(\$500 to \$6,600]	10 (1.65%)
Total	605

NOTE: Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.

SOURCES: Westlaw, PACER, district court clerks' offices.

Table 6: The Average and Median Settlement Amounts in the 2006–2007 Federal Class Action Settlements with Ascertainable Value to the Class

<i>Subject Matter</i>	<i>Average</i>	<i>Median</i>
Securities (<i>n</i> = 257)	\$96.4	\$8.0
Labor and employment (<i>n</i> = 88)	\$9.2	\$1.8
Consumer (<i>n</i> = 65)	\$18.8	\$2.9
Employee benefits (<i>n</i> = 52)	\$13.9	\$5.3
Civil rights (<i>n</i> = 34)	\$9.7	\$2.5
Debt collection (<i>n</i> = 40)	\$0.37	\$0.088
Antitrust (<i>n</i> = 29)	\$60.0	\$22.0
Commercial (<i>n</i> = 12)	\$111.7	\$7.1
Other (<i>n</i> = 28)	\$76.6	\$6.2
All (<i>N</i> = 605)	\$54.7	\$5.1

NOTE: Dollar amounts are in millions. Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.

SOURCES: Westlaw, PACER, district court clerks' offices.

with an ascertainable value beyond fee, expense, and class-representative incentive awards. The average settlement over the entire two-year period for all types of cases was almost \$55 million, but the median was only \$5.1 million. (With the \$6.6 billion Enron settlement excluded, the average settlement for all ascertainable cases dropped to \$43.8 million and, for securities cases, dropped to \$71.0 million.) The average settlements varied widely by litigation area, with securities and commercial settlements at the high end of around \$100

million, but the median settlements for nearly every area were bunched around a few million dollars. It should be noted that the high average for commercial cases is largely due to one settlement above \$1 billion;⁵⁶ when that settlement is removed, the average for commercial cases was only \$24.2 million.

Table 6 permits comparison with the two prior empirical studies of class action settlements that sought to include nonsecurities as well as securities cases in their purview. The Eisenberg-Miller study through 2002, which included both common-fund and fee-shifting cases, found that the mean class action settlement was \$112 million and the median was \$12.9 million, both in 2006 dollars,⁵⁷ more than double the average and median I found for all settlements in 2006 and 2007. The Eisenberg-Miller update through 2008 included only common-fund cases and found mean and median settlements in federal court of \$115 million and \$11.7 million (both again in 2006 dollars),⁵⁸ respectively; this is still more than double the average and median I found. This suggests that the methodology used by the Eisenberg-Miller studies—looking at district court opinions that were published in Westlaw or Lexis—oversampled larger class actions (because opinions approving larger class actions are, presumably, more likely to be published than opinions approving smaller ones). It is also possible that the exclusion of fee-shifting cases from their data through 2008 contributed to this skew, although, given that their data through 2002 included fee-shifting cases and found an almost identical mean and median as their data through 2008, the primary explanation for the much larger mean and median in their study through 2008 is probably their reliance on published opinions. Over the same years examined by Professors Eisenberg and Miller, the Class Action Reports study found a smaller average settlement than I did (\$39.5 million in 2006 dollars), but a larger median (\$8.48 million in 2006 dollars). It is possible that the Class Action Reports methodology also oversampled larger class actions, explaining its larger median, but that there are more “mega” class actions today than there were before 2003, explaining its smaller mean.⁵⁹

It is interesting to ask how significant the \$16 billion that was involved annually in these 350 or so federal class action settlements is in the grand scheme of U.S. litigation. Unfortunately, we do not know how much money is transferred every year in U.S. litigation. The only studies of which I am aware that attempt even a partial answer to this question are the estimates of how much money is transferred in the U.S. “tort” system every year by a financial services consulting firm, Tillinghast-Towers Perrin.⁶⁰ These studies are not directly

⁵⁶See *Allapattah Servs. Inc. v. Exxon Corp.*, No. 91-0986 (S.D. Fla. Apr. 7, 2006) (approving \$1,075,000,000 settlement).

⁵⁷See Eisenberg & Miller, *supra* note 15, at 47.

⁵⁸See Eisenberg & Miller II, *supra* note 16, at 262.

⁵⁹There were eight class action settlements during 2006 and 2007 of more than \$1 billion. See note 55 *supra*.

⁶⁰Some commentators have been critical of Tillinghast’s reports, typically on the ground that the reports overestimate the cost of the tort system. See M. Martin Boyer, *Three Insights from the Canadian D&O Insurance Market: Inertia, Information and Insiders*, 14 *Conn. Ins. L.J.* 75, 84 (2007); John Fabian Witt, *Form and Substance in the Law of*

comparable to the class action settlement numbers because, again, the number of tort class action settlements in 2006 and 2007 was very small. Nonetheless, as the tort system no doubt constitutes a large percentage of the money transferred in all litigation, these studies provide something of a point of reference to assess the significance of class action settlements. In 2006 and 2007, Tillinghast-Towers Perrin estimated that the U.S. tort system transferred \$160 billion and \$164 billion, respectively, to claimants and their lawyers.⁶¹ The total amount of money involved in the 2006 and 2007 federal class action settlements reported in Table 4 was, therefore, roughly 10 percent of the Tillinghast-Towers Perrin estimate. This suggests that in merely 350 cases every year, federal class action settlements involve the same amount of wealth as 10 percent of the entire U.S. tort system. It would seem that this is a significant amount of money for so few cases.

IV. ATTORNEY FEES IN FEDERAL CLASS ACTION SETTLEMENTS, 2006 AND 2007

A. Total Amount of Fees and Expenses

As I demonstrated in Section III, federal class action settlements involved a great deal of money in 2006 and 2007, some \$16 billion a year. A perennial concern with class action litigation is whether class action lawyers are reaping an outsized portion of this money.⁶² The 2006–2007 federal class action data suggest that these concerns may be exaggerated. Although class counsel were awarded some \$5 billion in fees and expenses over this period, as shown in Table 7, only 13 percent of the settlement amount in 2006 and 20 percent of the amount in 2007 went to fee and expense awards.⁶³ The 2006 percentage is lower than the 2007 percentage in large part because the class action lawyers in the Enron securities settlement received less than 10 percent of the \$6.6 billion corpus. In any event, the percentages in both 2006 and 2007 are far lower than the portions of settlements that contingency-fee lawyers receive in individual litigation, which are usually at least 33 percent.⁶⁴ Lawyers received less than 33 percent of settlements in fees and expenses in virtually every subject area in both years.

Counterinsurgency Damages, 41 *Loy. L.A.L. Rev.* 1455, 1475 n.135 (2008). If these criticisms are valid, then class action settlements would appear even more significant as compared to the tort system.

⁶¹See Tillinghast-Towers Perrin, *U.S. Tort Costs: 2008 Update 5* (2008). The report calculates \$252 billion in total tort “costs” in 2007 and \$246.9 billion in 2006, *id.*, but only 65 percent of those costs represent payments made to claimants and their lawyers (the remainder represents insurance administration costs and legal costs to defendants). See Tillinghast-Towers Perrin, *U.S. Tort Costs: 2003 Update 17* (2003).

⁶²See, e.g., Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little?* 158 *U. Pa. L. Rev.* 2043, 2043–44 (2010).

⁶³In some of the partial settlements, see note 29 *supra*, the district court awarded expenses for all the settlements at once and it was unclear what portion of the expenses was attributable to which settlement. In these instances, I assigned each settlement a pro rata portion of expenses. To the extent possible, all the fee and expense numbers in this article exclude any interest known to be awarded by the courts.

⁶⁴See, e.g., Herbert M. Kritzer, *The Wages of Risk: The Returns of Contingency Fee Legal Practice*, 47 *DePaul L. Rev.* 267, 284–86 (1998) (reporting results of a survey of Wisconsin lawyers).

Table 7: The Total Amount of Fees and Expenses Awarded to Class Action Lawyers in Federal Class Action Settlements in 2006 and 2007

<i>Subject Matter</i>	<i>Total Fees and Expenses Awarded in Settlements (and as Percentage of Total Settlement Amounts) in Each Subject Area</i>	
	<i>2006</i> (n = 292)	<i>2007</i> (n = 363)
Securities	\$1,899 (11%)	\$1,467 (20%)
Labor and employment	\$75.1 (28%)	\$144.5 (26%)
Consumer	\$126.4 (24%)	\$65.3 (9%)
Employee benefits	\$57.1 (13%)	\$71.9 (26%)
Civil rights	\$31.0 (12%)	\$32.2 (39%)
Debt collection	\$2.5 (28%)	\$1.1 (19%)
Antitrust	\$274.6 (26%)	\$157.3 (24%)
Commercial	\$347.3 (29%)	\$18.2 (15%)
Other	\$119.3 (8%)	\$103.3 (17%)
Total	\$2,932 (13%)	\$2,063 (20%)

NOTE: Dollar amounts are in millions. Excludes settlements in which fees were not (or at least not yet) sought (22 settlements), settlements in which fees have not yet been awarded (two settlements), and settlements in which fees could not be ascertained due to indefinite award amounts, missing documents, or nonpublic side agreements (nine settlements).

SOURCES: Westlaw, PACER, district court clerks' offices.

It should be noted that, in some respects, the percentages in Table 7 overstate the portion of settlements that were awarded to class action attorneys because, again, many of these settlements involved indefinite cash relief or noncash relief that could not be valued.⁶⁵ If the value of all this relief could have been included, then the percentages in Table 7 would have been even lower. On the other hand, as noted above, not all the money defendants agree to pay in class action settlements is ultimately collected by the class.⁶⁶ To the extent leftover money is returned to the defendant, the percentages in Table 7 understate the portion class action lawyers received relative to their clients.

B. Method of Awarding Fees

District court judges have a great deal of discretion in how they set fee awards in class action cases. Under Rule 23, federal judges are told only that the fees they award to class counsel

⁶⁵Indeed, the large year-to-year variation in the percentages in labor, consumer, and employee benefits cases arose because district courts made particularly large valuations of the equitable relief in a few settlements and used the lodestar method to calculate the fees in these settlements (and thereby did not consider their large valuations in calculating the fees).

⁶⁶See Hensler et al., *supra* note 7, at 427–30.

must be “reasonable.”⁶⁷ Courts often exercise this discretion by choosing between two approaches: the lodestar approach or the percentage-of-the-settlement approach.⁶⁸ The lodestar approach works much the way it does in individual litigation: the court calculates the fee based on the number of hours class counsel actually worked on the case multiplied by a reasonable hourly rate and a discretionary multiplier.⁶⁹ The percentage-of-the-settlement approach bases the fee on the size of the settlement rather than on the hours class counsel actually worked: the district court picks a percentage of the settlement it thinks is reasonable based on a number of factors, one of which is often the fee lodestar (sometimes referred to as a “lodestar cross-check”).⁷⁰ My 2006–2007 data set shows that the percentage-of-the-settlement approach has become much more common than the lodestar approach. In 69 percent of the settlements reported in Table 7, district court judges employed the percentage-of-the-settlement method with or without the lodestar cross-check. They employed the lodestar method in only 12 percent of settlements. In the other 20 percent of settlements, the court did not state the method it used or it used another method altogether.⁷¹ The pure lodestar method was used most often in consumer (29 percent) and debt collection (45 percent) cases. These numbers are fairly consistent with the Eisenberg-Miller data from 2003 to 2008. They found that the lodestar method was used in only 9.6 percent of settlements.⁷² Their number is no doubt lower than the 12 percent number found in my 2006–2007 data set because they excluded fee-shifting cases from their study.

C. Variation in Fees Awarded

Not only do district courts often have discretion to choose between the lodestar method and the percentage-of-the-settlement method, but each of these methods leaves district courts with a great deal of discretion in how the method is ultimately applied. The courts

⁶⁷Fed. R. Civ. P. 23(h).

⁶⁸The discretion to pick between these methods is most pronounced in settlements where the underlying claim was not found in a statute that would shift attorney fees to the defendant. See, e.g., *In re Thirteen Appeals Arising out of San Juan DuPont Plaza Hotel Fire Litig.*, 56 F.3d 295, 307 (1st Cir. 1995) (permitting either percentage or lodestar method in common-fund cases); *Goldberger v. Integrated Res. Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (same); *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (same). By contrast, courts typically used the lodestar approach in settlements arising from fee-shifting cases.

⁶⁹See Eisenberg & Miller, *supra* note 15, at 31.

⁷⁰*Id.* at 31–32.

⁷¹These numbers are based on the fee method described in the district court’s order awarding fees, unless the order was silent, in which case the method, if any, described in class counsel’s motion for fees (if it could be obtained) was used. If the court explicitly justified the fee award by reference to its percentage of the settlement, I counted it as the percentage method. If the court explicitly justified the award by reference to a lodestar calculation, I counted it as the lodestar method. If the court explicitly justified the award by reference to both, I counted it as the percentage method with a lodestar cross-check. If the court calculated neither a percentage nor the fee lodestar in its order, then I counted it as an “other” method.

⁷²See Eisenberg & Miller II, *supra* note 16, at 267.

that use the percentage-of-the-settlement method usually rely on a multifactor test⁷³ and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.⁷⁴ In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.⁷⁵ Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases.⁷⁶ Nonetheless, presumptions, of course, can be overcome and, as one court has put it, “[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case.”⁷⁷ The court added: “[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility.”⁷⁸ It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court’s order or counsel’s motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.⁷⁹

It should be noted that in 218 of these 444 settlements (49 percent), district courts said they considered the lodestar calculation as a factor in assessing the reasonableness of the fee percentages awarded. In 204 of these settlements, the lodestar multiplier resulting

⁷³The Eleventh Circuit, for example, has identified a nonexclusive list of 15 factors that district courts might consider. See *Camden I Condo. Ass’n, Inc. v. Dunkle*, 946 F.2d 768, 772 n.3, 775 (11th Cir. 1991). See also *In re Tyco Int’l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249, 265 (D.N.H. 2007) (five factors); *Goldberger v. Integrated Res. Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (six factors); *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) (seven factors); *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383, 385 (D. Md. 2006) (13 factors); *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 454 (10th Cir. 1988) (12 factors); *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (seven factors).

⁷⁴See Eisenberg & Miller, *supra* note 15, at 32.

⁷⁵See *Staton v. Boeing Co.*, 327 F.3d 938, 968 (9th Cir. 2003).

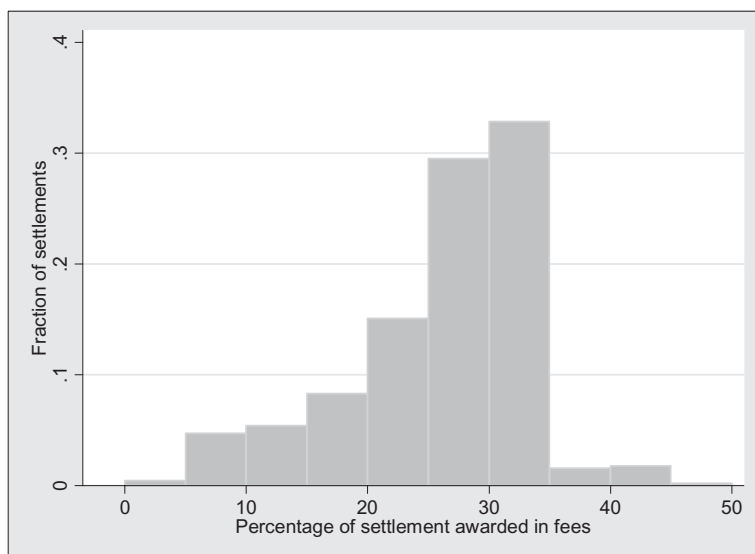
⁷⁶See, e.g., *In re Cendant Corp. Litig.*, 264 F.3d 201, 282 (3d Cir. 2001).

⁷⁷*Camden I Condo. Ass’n*, 946 F.2d at 774.

⁷⁸*Camden I Condo. Ass’n*, 946 F.2d at 774 (alterations in original and internal quotation marks omitted).

⁷⁹See Eisenberg & Miller II, *supra* note 16, at 259.

Figure 4: The distribution of 2006–2007 federal class action fee awards using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks' offices.

from the fee award could be ascertained. The lodestar multiplier in these cases ranged from 0.07 to 10.3, with a mean of 1.65 and a median of 1.34. Although there is always the possibility that class counsel are optimistic with their timesheets when they submit them for lodestar consideration, these lodestar numbers—only one multiplier above 6.0, with the bulk of the range not much above 1.0—strike me as fairly parsimonious for the risk that goes into any piece of litigation and cast doubt on the notion that the percentage-of-the-settlement method results in windfalls to class counsel.⁸⁰

Table 8 shows the mean and median fee percentages awarded in each litigation subject area. The fee percentages did not appear to vary greatly across litigation subject areas, with most mean and median awards between 25 percent and 30 percent. As I report later in this section, however, after controlling for other variables, there were statistically significant differences in the fee percentages awarded in some subject areas compared to others. The mean and median percentages for securities cases were 24.7 percent and 25.0 percent, respectively; for all nonsecurities cases, the mean and median were 26.1 percent and 26.0 percent, respectively. The Eisenberg-Miller study through 2008 found mean awards ranging from 21–27 percent and medians from 19–25 percent,⁸¹ a bit lower than the ranges in my

⁸⁰It should be emphasized, of course, that these 204 settlements may not be representative of the settlements where the percentage-of-the-settlement method was used without the lodestar cross-check.

⁸¹See Eisenberg & Miller II, *supra* note 16, at 262.

Table 8: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Subject Matter</i>	<i>Percentage of Settlement Awarded as Fees</i>	
	<i>Mean</i>	<i>Median</i>
Securities (<i>n</i> = 233)	24.7	25.0
Labor and employment (<i>n</i> = 61)	28.0	29.0
Consumer (<i>n</i> = 39)	23.5	24.6
Employee benefits (<i>n</i> = 37)	26.0	28.0
Civil rights (<i>n</i> = 20)	29.0	30.3
Debt collection (<i>n</i> = 5)	24.2	25.0
Antitrust (<i>n</i> = 23)	25.4	25.0
Commercial (<i>n</i> = 7)	23.3	25.0
Other (<i>n</i> = 19)	24.9	26.0
All (<i>N</i> = 444)	25.7	25.0

SOURCES: Westlaw, PACER, district court clerks' offices.

2006–2007 data set, which again, may be because they oversampled larger settlements (as I show below, district courts awarded smaller fee percentages in larger cases).

In light of the fact that, as I noted above, the distribution of class action settlements among the geographic circuits does not track their civil litigation dockets generally, it is interesting to ask whether one reason for the pattern in class action cases is that circuits oversubscribed with class actions award higher fee percentages. Although this question will be taken up with more sophistication in the regression analysis below, it is worth describing here the mean and median fee percentages in each of the circuits. Those data are presented in Table 9. Contrary to the hypothesis set forth in Section III, two of the circuits most oversubscribed with class actions, the Second and the Ninth, were the only circuits in which the mean fee awards were *under* 25 percent. As I explain below, these differences are statistically significant and remain so after controlling for other variables.

The lodestar method likewise permits district courts to exercise a great deal of leeway through the application of the discretionary multiplier. Figure 5 shows the distribution of lodestar multipliers in the 71 settlements in which district courts used the lodestar method and the multiplier could be ascertained. The average multiplier was 0.98 and the median was 0.92, which suggest that courts were not terribly prone to exercise their discretion to deviate from the amount of money encompassed in the lodestar calculation. These 71

Table 9: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Circuit</i>	<i>Percentage of Settlement Awarded as Fees</i>	
	<i>Mean</i>	<i>Median</i>
First (<i>n</i> = 27)	27.0	25.0
Second (<i>n</i> = 72)	23.8	24.5
Third (<i>n</i> = 50)	25.4	29.3
Fourth (<i>n</i> = 19)	25.2	28.0
Fifth (<i>n</i> = 27)	26.4	29.0
Sixth (<i>n</i> = 25)	26.1	28.0
Seventh (<i>n</i> = 39)	27.4	29.0
Eighth (<i>n</i> = 15)	26.1	30.0
Ninth (<i>n</i> = 111)	23.9	25.0
Tenth (<i>n</i> = 18)	25.3	25.5
Eleventh (<i>n</i> = 35)	28.1	30.0
DC (<i>n</i> = 6)	26.9	26.0

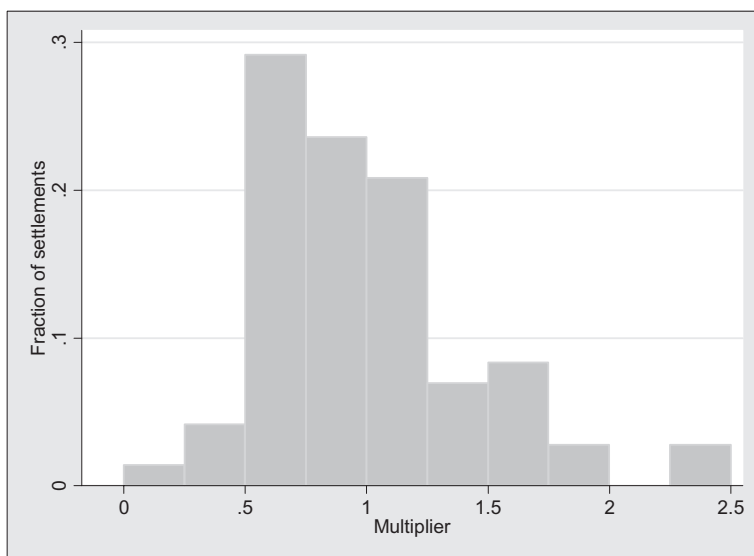
SOURCES: Westlaw, PACER, district court clerks' offices.

settlements were heavily concentrated within the consumer (median multiplier 1.13) and debt collection (0.66) subject areas. If cases in which district courts used the percentage-of-the-settlement method with a lodestar cross-check are combined with the lodestar cases, the average and median multipliers (in the 263 cases where the multipliers were ascertainable) were 1.45 and 1.19, respectively. Again—putting to one side the possibility that class counsel are optimistic with their timesheets—these multipliers appear fairly modest in light of the risk involved in any piece of litigation.

D. Factors Influencing Percentage Awards

Whether district courts are exercising their discretion over fee awards wisely is an important public policy question given the amount of money at stake in class action settlements. As shown above, district court judges awarded class action lawyers nearly \$5 billion in fees and expenses in 2006–2007. Based on the comparison to the tort system set forth in Section III, it is not difficult to surmise that in the 350 or so settlements every year, district court judges

Figure 5: The distribution of lodestar multipliers in 2006–2007 federal class action fee awards using the lodestar method.



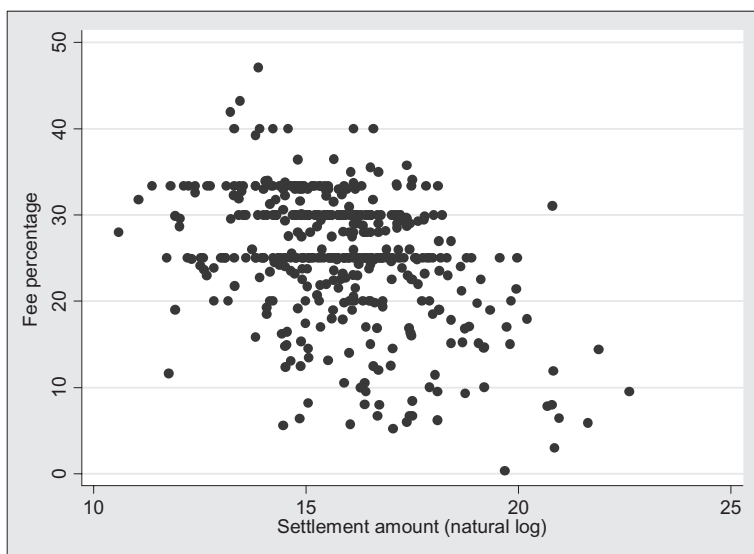
SOURCES: Westlaw, PACER, district court clerks' offices.

are awarding a significant portion of all the annual compensation received by contingency-fee lawyers in the United States. Moreover, contingency fees are arguably the engine that drives much of the noncriminal regulation in the United States; unlike many other nations, we regulate largely through the ex post, decentralized device of litigation.⁸² To the extent district courts could have exercised their discretion to award billions more or billions less to class action lawyers, district courts have been delegated a great deal of leeway over a big chunk of our regulatory horsepower. It is therefore worth examining how district courts exercise their discretion over fees. This examination is particularly important in cases where district courts use the percentage-of-the-settlement method to award fees: not only do such cases comprise the vast majority of settlements, but they comprise the vast majority of the money awarded as fees. As such, the analysis that follows will be confined to the 444 settlements where the district courts used the percentage-of-the-settlement method.

As I noted, prior empirical studies have shown that fee percentages are strongly and inversely related to the size of the settlement both in securities fraud and other cases. As shown in Figure 6, the 2006–2007 data are consistent with prior studies. Regression analysis, set forth in more detail below, confirms that after controlling for other variables, fee percentage is strongly and inversely associated with settlement size among all cases, among securities cases, and among all nonsecurities cases.

⁸²See, e.g., Samuel Issacharoff, *Regulating after the Fact*, 56 DePaul L. Rev. 375, 377 (2007).

Figure 6: Fee awards as a function of settlement size in 2006–2007 class action cases using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks' offices.

As noted above, courts often look to fee percentages in other cases as one factor they consider in deciding what percentage to award in a settlement at hand. In light of this practice, and in light of the fact that the size of the settlement has such a strong relationship to fee percentages, scholars have tried to help guide the practice by reporting the distribution of fee percentages across different settlement sizes.⁸³ In Table 10, I follow the Eisenberg-Miller studies and attempt to contribute to this guidance by setting forth the mean and median fee percentages, as well as the standard deviation, for each decile of the 2006–2007 settlements in which courts used the percentage-of-the-settlement method to award fees. The mean percentages ranged from over 28 percent in the first decile to less than 19 percent in the last decile.

It should be noted that the last decile in Table 10 covers an especially wide range of settlements, those from \$72.5 million to the Enron settlement of \$6.6 billion. To give more meaningful data to courts that must award fees in the largest settlements, Table 11 shows the last decile broken into additional cut points. When both Tables 10 and 11 are examined together, it appears that fee percentages tended to drift lower at a fairly slow pace until a settlement size of \$100 million was reached, at which point the fee percentages plunged well below 20 percent, and by the time \$500 million was reached, they plunged well below 15 percent, with most awards at that level under even 10 percent.

⁸³See Eisenberg & Miller II, *supra* note 16, at 265.

Table 10: Mean, Median, and Standard Deviation of Fee Awards by Settlement Size in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Settlement Size (in Millions)</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>
[\$0 to \$0.75] (<i>n</i> = 45)	28.8%	29.6%	6.1%
(\$0.75 to \$1.75] (<i>n</i> = 44)	28.7%	30.0%	6.2%
(\$1.75 to \$2.85] (<i>n</i> = 45)	26.5%	29.3%	7.9%
(\$2.85 to \$4.45] (<i>n</i> = 45)	26.0%	27.5%	6.3%
(\$4.45 to \$7.0] (<i>n</i> = 44)	27.4%	29.7%	5.1%
(\$7.0 to \$10.0] (<i>n</i> = 43)	26.4%	28.0%	6.6%
(\$10.0 to \$15.2] (<i>n</i> = 45)	24.8%	25.0%	6.4%
(\$15.2 to \$30.0] (<i>n</i> = 46)	24.4%	25.0%	7.5%
(\$30.0 to \$72.5] (<i>n</i> = 42)	22.3%	24.9%	8.4%
(\$72.5 to \$6,600] (<i>n</i> = 45)	18.4%	19.0%	7.9%

SOURCES: Westlaw, PACER, district court clerks' offices.

Table 11: Mean, Median, and Standard Deviation of Fee Awards of the Largest 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Settlement Size (in Millions)</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>
(\$72.5 to \$100] (<i>n</i> = 12)	23.7%	24.3%	5.3%
(\$100 to \$250] (<i>n</i> = 14)	17.9%	16.9%	5.2%
(\$250 to \$500] (<i>n</i> = 8)	17.8%	19.5%	7.9%
(\$500 to \$1,000] (<i>n</i> = 2)	12.9%	12.9%	7.2%
(\$1,000 to \$6,600] (<i>n</i> = 9)	13.7%	9.5%	11%

SOURCES: Westlaw, PACER, district court clerks' offices.

Prior empirical studies have not examined whether fee awards are associated with the political affiliation of the district court judges making the awards. This is surprising because realist theories of judicial behavior would predict that political affiliation would influence fee decisions.⁸⁴ It is true that as a general matter, political affiliation may influence district court judges to a lesser degree than it does appellate judges (who have been the focus of most of the prior empirical studies of realist theories): district court judges decide more routine cases and are subject to greater oversight on appeal than appellate judges. On the other hand, class action settlements are a bit different in these regards than many other decisions made by district court judges. To begin with, class action settlements are almost never appealed, and when they are, the appeals are usually settled before the appellate court hears the case.⁸⁵ Thus, district courts have much less reason to worry about the constraint of appellate review in fashioning fee awards. Moreover, one would think the potential for political affiliation to influence judicial decision making is greatest when legal sources lead to indeterminate outcomes and when judicial decisions touch on matters that are salient in national politics. (The more salient a matter is, the more likely presidents will select judges with views on the matter and the more likely those views will diverge between Republicans and Democrats.) Fee award decisions would seem to satisfy both these criteria. The law of fee awards, as explained above, is highly discretionary, and fee award decisions are wrapped up in highly salient political issues such as tort reform and the relative power of plaintiffs' lawyers and corporations. I would expect to find that judges appointed by Democratic presidents awarded higher fees in the 2006–2007 settlements than did judges appointed by Republican presidents.

The data, however, do not appear to bear this out. Of the 444 fee awards using the percentage-of-the-settlement approach, 52 percent were approved by Republican appointees, 45 percent were approved by Democratic appointees, and 4 percent were approved by non-Article III judges (usually magistrate judges). The mean fee percentage approved by Republican appointees (25.6 percent) was slightly *greater* than the mean approved by Democratic appointees (24.9 percent). The medians (25 percent) were the same.

To examine whether the realist hypothesis fared better after controlling for other variables, I performed regression analysis of the fee percentage data for the 427 settlements approved by Article III judges. I used ordinary least squares regression with the dependent variable the percentage of the settlement that was awarded in fees.⁸⁶ The independent

⁸⁴See generally C.K. Rowland & Robert A. Carp, *Politics and Judgment in Federal District Courts* (1996). See also Max M. Schanzenbach & Emerson H. Tiller, *Reviewing the Sentencing Guidelines: Judicial Politics, Empirical Evidence, and Reform*, 75 U. Chi. L. Rev. 715, 724–25 (2008).

⁸⁵See Brian T. Fitzpatrick, *The End of Objector Blackmail?* 62 Vand. L. Rev. 1623, 1640, 1634–38 (2009) (finding that less than 10 percent of class action settlements approved by federal courts in 2006 were appealed by class members).

⁸⁶Professors Eisenberg and Miller used a square root transformation of the fee percentages in some of their regressions. I ran all the regressions using this transformation as well and it did not appreciably change the results. I also ran the regressions using a natural log transformation of fee percentage and with the dependent variable natural log of the fee amount (as opposed to the fee percentage). None of these models changed the results

variables were the natural log of the amount of the settlement, the natural log of the age of the case (in days), indicator variables for whether the class was certified as a settlement class, for litigation subject areas, and for circuits, as well as indicator variables for whether the judge was appointed by a Republican or Democratic president and for the judge's race and gender.⁸⁷

The results for five regressions are in Table 12. In the first regression (Column 1), only the settlement amount, case age, and judge's political affiliation, gender, and race were included as independent variables. In the second regression (Column 2), all the independent variables were included. In the third regression (Column 3), only securities cases were analyzed, and in the fourth regression (Column 4), only nonsecurities cases were analyzed.

In none of these regressions was the political affiliation of the district court judge associated with fee percentage in a statistically significant manner.⁸⁸ One possible explanation for the lack of evidence for the realist hypothesis is that district court judges elevate other preferences above their political and ideological ones. For example, district courts of both political stripes may succumb to docket-clearing pressures and largely rubber stamp whatever fee is requested by class counsel; after all, these requests are rarely challenged by defendants. Moreover, if judges award class counsel whatever they request, class counsel will not appeal and, given that, as noted above, class members rarely appeal settlements (and when they do, often settle them before the appeal is heard),⁸⁹ judges can thereby virtually guarantee there will be no appellate review of their settlement decisions. Indeed, scholars have found that in the vast majority of cases, the fees ultimately awarded by federal judges are little different than those sought by class counsel.⁹⁰

Another explanation for the lack of evidence for the realist hypothesis is that my data set includes both unpublished as well as published decisions. It is thought that realist theories of judicial behavior lose force in unpublished judicial decisions. This is the case because the kinds of questions for which realist theories would predict that judges have the most room to let their ideologies run are questions for which the law is ambiguous; it is

appreciably. The regressions were also run with and without the 2006 Enron settlement because it was such an outlier (\$6.6 billion); the case did not change the regression results appreciably. For every regression, the data and residuals were inspected to confirm the standard assumptions of linearity, homoscedasticity, and the normal distribution of errors.

⁸⁷Prior studies of judicial behavior have found that the race and sex of the judge can be associated with his or her decisions. See, e.g., Adam B. Cox & Thomas J. Miles, *Judging the Voting Rights Act*, 108 *Colum. L. Rev.* 1 (2008); Donald R. Songer et al., *A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals*, 56 *J. Pol.* 425 (1994).

⁸⁸Although these coefficients are not reported in Table 8, the gender of the district court judge was never statistically significant. The race of the judge was only occasionally significant.

⁸⁹See Fitzpatrick, *supra* note 85, at 1640.

⁹⁰See Eisenberg & Miller II, *supra* note 16, at 270 (finding that state and federal judges awarded the fees requested by class counsel in 72.5 percent of settlements); Eisenberg, Miller & Perino, *supra* note 9, at 22 ("judges take a light touch when it comes to reviewing fee requests").

Table 12: Regression of Fee Percentages in 2006–2007 Settlements Using Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

<i>Independent Variable</i>	<i>Regression Coefficients (and Robust t Statistics)</i>				
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Settlement amount (natural log)	-1.77 (-5.43)**	-1.76 (-8.52)**	-1.76 (-7.16)**	-1.41 (-4.00)**	-1.78 (-8.67)**
Age of case (natural log days)	1.66 (2.31)**	1.99 (2.71)**	1.13 (1.21)	1.72 (1.47)	2.00 (2.69)**
Judge's political affiliation (1 = Democrat)	-0.630 (-0.83)	-0.345 (-0.49)	0.657 (0.76)	-1.43 (-1.20)	-0.232 (-0.34)
Settlement class		0.150 (0.19)	0.873 (0.84)	-1.62 (-1.00)	0.124 (0.15)
1st Circuit		3.30 (2.74)**	4.41 (3.32)**	0.031 (0.01)	0.579 (0.51)
2d Circuit		0.513 (0.44)	-0.813 (-0.61)	2.93 (1.14)	-2.23 (-1.98)**
3d Circuit		2.25 (1.99)**	4.00 (3.85)**	-1.11 (-0.50)	—
4th Circuit		2.34 (1.22)	0.544 (0.19)	3.81 (1.35)	—
5th Circuit		2.98 (1.90)*	1.09 (0.65)	6.11 (1.97)**	0.230 (0.15)
6th Circuit		2.91 (2.28)**	0.838 (0.57)	4.41 (2.15)**	—
7th Circuit		2.55 (2.23)**	3.22 (2.36)**	2.90 (1.46)	-0.227 (-0.20)
8th Circuit		2.12 (0.97)	-0.759 (-0.24)	3.73 (1.19)	-0.586 (-0.28)
9th Circuit		—	—	—	-2.73 (-3.44)**
10th Circuit		1.45 (0.94)	-0.254 (-0.13)	3.16 (1.29)	—
11th Circuit		4.05 (3.44)**	3.85 (3.07)**	4.14 (1.88)*	—
DC Circuit		2.76 (1.10)	2.60 (0.80)	2.41 (0.64)	—
Securities case		—	—	—	—
Labor and employment case		2.93 (3.00)**	—	—	2.85 (2.94)**
Consumer case		-1.65 (-0.88)	—	-4.39 (-2.20)**	-1.62 (-0.88)
Employee benefits case		-0.306 (-0.23)	—	-4.23 (-2.55)**	-0.325 (-0.26)
Civil rights case		1.85 (0.99)	—	-2.05 (-0.97)	1.76 (0.95)
Debt collection case		-4.93 (-1.71)*	—	-7.93 (-2.49)**	-5.04 (-1.75)*
Antitrust case		3.06 (2.11)**	—	0.937 (0.47)	2.78 (1.98)**

Table 12 *Continued*

Independent Variable	Regression Coefficients (and Robust t Statistics)				
	1	2	3	4	5
Commercial case		-0.028 (-0.01)		-2.65 (-0.73)	0.178 (0.05)
Other case		-0.340 (-0.17)		-3.73 (-1.65)	-0.221 (-0.11)
Constant	42.1 (7.29)**	37.2 (6.08)**	43.0 (6.72)**	38.2 (4.14)**	40.1 (7.62)**
N	427	427	232	195	427
R ²	.20	.26	.37	.26	.26
Root MSE	6.59	6.50	5.63	7.24	6.48

NOTE: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported.

SOURCES: Westlaw, PACER, district court clerks' offices, Federal Judicial Center.

thought that these kinds of questions are more often answered in published opinions.⁹¹ Indeed, most of the studies finding an association between ideological beliefs and case outcomes were based on data sets that included only published opinions.⁹² On the other hand, there is a small but growing number of studies that examine unpublished opinions as well, and some of these studies have shown that ideological effects persisted.⁹³ Nonetheless, in light of the discretion that judges exercise with respect to fee award decisions, it hard to characterize *any* decision in this area as “unambiguous.” Thus, even when unpublished, I would have expected the fee award decisions to exhibit an association with ideological beliefs. Thus, I am more persuaded by the explanation suggesting that judges are more concerned with clearing their dockets or insulating their decisions from appeal in these cases than with furthering their ideological beliefs.

In all the regressions, the size of the settlement was strongly and inversely associated with fee percentages. Whether the case was certified as a settlement class was not associated

⁹¹See, e.g., Ahmed E. Taha, Data and Selection Bias: A Case Study, 75 UMKC L. Rev. 171, 179 (2006).

⁹²Id. at 178–79.

⁹³See, e.g., David S. Law, Strategic Judicial Lawmaking: Ideology, Publication, and Asylum Law in the Ninth Circuit, 73 U. Cin. L. Rev. 817, 843 (2005); Deborah Jones Merritt & James J. Brudney, Stalking Secret Law: What Predicts Publication in the United States Courts of Appeals, 54 Vand. L. Rev. 71, 109 (2001); Donald R. Songer, Criteria for Publication of Opinions in the U.S. Courts of Appeals: Formal Rules Versus Empirical Reality, 73 Judicature 307, 312 (1990). At the trial court level, however, the studies of civil cases have found no ideological effects. See Laura Beth Nielsen, Robert L. Nelson & Ryon Lancaster, Individual Justice or Collective Legal Mobilization? Employment Discrimination Litigation in the Post Civil Rights United States, 7 J. Empirical Legal Stud. 175, 192–93 (2010); Denise M. Keele et al., An Analysis of Ideological Effects in Published Versus Unpublished Judicial Opinions, 6 J. Empirical Legal Stud. 213, 230 (2009); Orley Ashenfelter, Theodore Eisenberg & Stewart J. Schwab, Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Stud. 257, 276–77 (1995). With respect to criminal cases, there is at least one study at the trial court level that has found ideological effects. See Schanzenbach & Tiller, *supra* note 81, at 734.

with fee percentages in any of the regressions. The age of the case at settlement was associated with fee percentages in the first two regressions, and when the settlement class variable was removed in regressions 3 and 4, the age variable became positively associated with fee percentages in nonsecurities cases but remained insignificant in securities cases. Professors Eisenberg and Miller likewise found that the age of the case at settlement was positively associated with fee percentages in their 1993–2002 data set,⁹⁴ and that settlement classes were not associated with fee percentages in their 2003–2008 data set.⁹⁵

Although the structure of these regressions did not permit extensive comparisons of fee awards across different litigation subject areas, fee percentages appeared to vary somewhat depending on the type of case that settled. Securities cases were used as the baseline litigation subject area in the second and fifth regressions, permitting a comparison of fee awards in each nonsecurities area with the awards in securities cases. These regressions show that awards in a few areas, including labor/employment and antitrust, were more lucrative than those in securities cases. In the fourth regression, which included only nonsecurities cases, labor and employment cases were used as the baseline litigation subject area, permitting comparison between fee percentages in that area and the other nonsecurities areas. This regression shows that fee percentages in several areas, including consumer and employee benefits cases, were lower than the percentages in labor and employment cases.

In the fifth regression (Column 5 of Table 12), I attempted to discern whether the circuits identified in Section III as those with the most overrepresented (the First, Second, Seventh, and Ninth) and underrepresented (the Fifth and Eighth) class action dockets awarded attorney fees differently than the other circuits. That is, perhaps district court judges in the First, Second, Seventh, and Ninth Circuits award greater percentages of class action settlements as fees than do the other circuits, whereas district court judges in the Fifth and Eighth Circuits award smaller percentages. To test this hypothesis, in the fifth regression, I included indicator variables only for the six circuits with unusual dockets to measure their fee awards against the other six circuits combined. The regression showed statistically significant association with fee percentages for only two of the six unusual circuits: the Second and Ninth Circuits. In both cases, however, the direction of the association (i.e., the Second and Ninth Circuits awarded *smaller* fees than the baseline circuits) was opposite the hypothesized direction.⁹⁶

⁹⁴See Eisenberg & Miller, *supra* note 15, at 61.

⁹⁵See Eisenberg & Miller II, *supra* note 16, at 266.

⁹⁶This relationship persisted when the regressions were rerun among the securities and nonsecurities cases separately. I do not report these results, but, even though the First, Second, and Ninth Circuits were oversubscribed with securities class action settlements and the Fifth, Sixth, and Eighth were undersubscribed, there was no association between fee percentages and any of these unusual circuits except, again, the inverse association with the Second and Ninth Circuits. In nonsecurities cases, even though the Seventh and Ninth Circuits were oversubscribed and the Fifth and the Eighth undersubscribed, there was no association between fee percentages and any of these unusual circuits except again for the inverse association with the Ninth Circuit.

The lack of the expected association with the unusual circuits might be explained by the fact that class action lawyers forum shop along dimensions other than their potential fee awards; they might, for example, put more emphasis on favorable class-certification law because there can be no fee award if the class is not certified. As noted above, it might also be the case that class action lawyers are unable to engage in forum shopping at all because defendants are able to transfer venue to the district in which they are headquartered or another district with a significant connection to the litigation.

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.⁹⁷ This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.⁹⁸ This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.⁹⁹

V. CONCLUSION

This article has attempted to fill some of the gaps in our knowledge about class action litigation by reporting the results of an empirical study that attempted to collect all class action settlements approved by federal judges in 2006 and 2007. District court judges approved 688 class action settlements over this two-year period, involving more than \$33 billion. Of this \$33 billion, nearly \$5 billion was awarded to class action lawyers, or about 15 percent of the total. District courts typically awarded fees using the highly discretionary percentage-of-the-settlement method, and fee awards varied over a wide range under this method, with a mean and median around 25 percent. Fee awards using this method were strongly and inversely associated with the size of the settlement. Fee percentages were positively associated with the age of the case at settlement. Fee percentages were not associated with whether the class action was certified as a settlement class or with the

⁹⁷See note 75 *supra*. It should be noted that none of the results from the previous regressions were affected when the Ninth Circuit settlements were excluded from the data.

⁹⁸The Ninth Circuit's differences persisted.

⁹⁹See Eisenberg & Miller II, *supra* note 16, at 260.

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political affiliation of the judge who made the award. Finally, there appeared to be some variation in fee percentages depending on subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all of the other litigation areas, and district courts in the Ninth Circuit and in the Second Circuit (in securities cases) awarded lower fee percentages than district courts in several other circuits. The lower awards in the Ninth Circuit may be attributable to the fact that it is the only circuit that has adopted a presumptive fee percentage of 25 percent.

Documents reviewed:

- Memorandum and Order on Defendant Bank of America and TD Bank, N.A.'s Motions to Dismiss (document 602, filed 1/29/19)
- Order and Memorandum on Defendants' Motions to Dismiss (document 1418, filed 8/31/22)
- Order and Memorandum on Defendant BANA's Motions for Summary Judgment and to Strike (document 1672, filed 6/27/23)
- Plaintiffs' Memorandum in Support of Motion for Preliminary Approval of Settlement (document 1724, filed 9/1/23)
- Declaration of Robert J. Bonsignore in Support of Motion for Preliminary Approval of Settlement (document 1724-1, filed 9/1/23)
- Settlement Agreement (document 1724-4, filed 9/1/23)

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: TELEXFREE SECURITIES
LITIGATION**

MDL No. 4:14-md-2566-TSH

**This Document Relates To:
ALL CASES**

**DECLARATION OF ROBERT J. BONSIGNORE ON BEHALF OF THE
BONSIGNORE FIRM IN SUPPORT OF MDL 2566 PLAINTIFF CLASS COUNSELS'
MOTION FOR AN INTERIM AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES**

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

1. I am a partner in the law firm of Bonsignore Trial Lawyers, PLLC (“Bonsignore Firm” or “BTL”) and a member in good standing of the state bars of New Hampshire and Massachusetts. I am also admitted to multiple federal courts across the United States. As referenced on my curriculum vitae, for the past 20 years I have focused my practice on complex litigation, financial transaction litigation, class actions, and multidistrict litigation. (See Exhibit 1, Bonsignore Firm Curriculum Vitae). The Bonsignore Firm has substantial experience in complex class action litigation, multi district litigation, and financial fraud-based litigation including Pyramid and Ponzi scheme cases.

2. Except as otherwise stated, I have personal knowledge of the facts stated below and can testify competently thereto. I am familiar with the market rates charged by attorneys in Boston, and generally nationwide in, high risk, high-expense, resource-draining, high stakes litigation by handling attorneys’ fee requests, discussing fees with other attorneys, obtaining and reviewing declarations and supporting detailed time entries as relates to prevailing market rates in this and

other MDL cases, providing budgets to clients before and during litigation, otherwise auditing legal bills prepared by my firm and other lawyers, and by reviewing articles on fees in legal newspapers and treatises. I have previously served as an expert witness in the Commonwealth of Massachusetts to support a request for an award of attorney fees in an MGL 93A consumer protection action.

3. As described below, the Bonsignore Firm has performed significant legal work and has actively led, participated, managed, or monitored most activities in this litigation. I, along with my colleagues¹ at BTL, have devoted substantial resources including staffing and funds, and have applied our extensive specialized skill sets, knowledge, experience, time, and resources to this Multi District Litigation since 2014. The work performed by the Bonsignore Firm in support of this fee application is solely for work performed on behalf of the putative Worldwide Class of TelexFree Net Losers and was necessary to the prosecution of this class action.

4. I submit this declaration on behalf of the Bonsignore Firm² pursuant to the MDL 2566 Court's minute entry of October 3, 2023 (Dkt. 1748), which adopted Plaintiffs' Proposed Preliminary Order of Settlement Approval with modifications and established a schedule for notice to the Class, Plaintiff's motion for attorneys' fees and expenses, and final approval of the settlements. The declaration is offered by the Bonsignore Firm in support of the above-captioned motion for a second interim award of attorneys' fees (the "Motion").

5. The noteworthy settlements with TD Bank, International Payout Systems ("IPS") and Telecom Logic are in large part due to the Bonsignore Firm's skill, experience, tenacity, focus, and devotion of significant resources over 10 years, coupled with the assistance of co-counsel and

¹ Lisa Sleboda was previously listed in error as a partner, she was not a partner and was Of Counsel.

² On December 23, 2014, this Court appointed the Bonsignore Firm as interim lead counsel for all Plaintiff "Net Loser" victims of the TelexFree scheme. (Dkt. 79). On October 3, 2023, this Court appointed the Bonsignore Firm as Lead Counsel for the pending Settlement Class. (Dkts. 1723-1, 1748).

Plaintiffs' experts and consultants³.

6. The efforts put forth by the Bonsignore Firm enabled the MDL 2566 Plaintiffs to replead the dismissed claim against TD Bank and others in the Fifth Consolidated Amended Complaint (5CAC), successfully defend those claim against a new round of motions to dismiss and sustain the claims against TD Bank and others, obtain and process the considerable discovery specified below, identify, locate, select, develop and integrate the necessary evidence to support our claims of liability and damages, present a compelling case in mediation by sufficiently supporting a recovery commensurate with the class damages and, successfully obtain a substantial recovery for the Settlement Class.

7. A summary time chart for my firm is attached to hereto. (*See Exhibit 2, Bonsignore Firm Summary Time Chart*). Upon request, the voluminous granular time sheets can be produced to the Court. The upper box contains a numerical listing that identifies by number the corresponding column for the following 2023 Settlement time entry categories:

- a. Administration;
- b. Bankruptcy;
- c. Court Appearances;

³ In January 2020, I retained the services of an independent judicial evaluator, the Hon. Gerald E. Rosen (Ret.), the former Chief Judge of the Eastern District of Michigan, who in his tenure on the Court, handled a number of MDLs and numerous class actions. Judge Rosen also served as Special Master for the Hon. Mark L. Wolf of the District of Massachusetts in the post-settlement activities in the State Street Bank Case, *Arkansas Teacher Retirement System v. State Street Bank and Trust Co.*, 2018 WL 11026335 (D. Mass. June 28, 2018). Since he joined our team, I have conferred directly with Judge Rosen on an almost daily basis on virtually every aspect of this litigation. I also recruited and added to our team nationally prominent attorneys. They are the Honorable Stephen W. Rhodes (ret.) and James M. Wagstaffe. Among other things, Judge Rhodes previously served as the chief judge of the U.S. Bankruptcy Court, Eastern District of Michigan and was appointed by the Sixth Circuit Court of Appeals to presided over the Detroit bankruptcy, the largest municipal bankruptcy in U.S. history and confirmed the city's plan of adjustment in 2014. Judge Rhodes is also the co-author of the widely respected book, *The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes*. James Wagstaffe is the author of *The Wagstaffe Group Practice Guide: Federal Procedure Before Trial* published by Lexis Nexis. Jim has long served a member of the Federal Judicial Center Foundation Board, appointed by the Chief Justice of the United States. I also retained a number of highly respected, preeminent experts.

- d. Discovery;
- e. Litigation Strategy Analysis;
- f. Settlement, Negotiations and Drafting.

8. The Bonsignore Firm regularly keeps its time in tenths of an hour as recommended by the American Bar Association. Timekeepers must maintain time by activity category, including those appearing directly above.

9. The Bonsignore Firm otherwise strictly adhered to the limitations on time submissions that I imposed on all MDL 2566 Counsel including:

- a. All timekeepers are limited to billing no more than 12 hours in a given day, even if the timekeepers' actual time worked exceeded that amount;
- b. Billable rates for non-lawyers are capped at \$250 per hour; and
- c. Billable rates for contract lawyers are capped at \$250 per hour.

10. The Bonsignore Firm Summary Time Chart is generated from underlying contemporaneous time records. The Bonsignore Firm Summary Time Chart and underlying records are organized, keep record of, and display the following information: 1) Date; 2) Timekeeper; 3) Time Category; 4) Historic Hourly Rate and 5) Description of Activity.

11. All work performed by Bonsignore Firm timekeepers was authorized or assigned by me. I insist on reasonable time spent on a task-by-task basis and monitor same. All lawyers are salaried and have more than ten (10) years of related specialized experience. All non-lawyers are salaried staff. All non-lawyer staff has graduated from law school, a top-tier university, or has more than ten (10) years' experience in a law office. The Bonsignore Firm applies a customary, capped rate for non-lawyer staff and did not "rate up" or "equate" specially trained non-lawyer staff to match or exceed the same hourly rate charged by its outside vendors, for example—writing,

developing, and training others to use the TelexFree specific case management program.

12. No time related to timekeeping or preparing BTL fee-related documents is included in the time submissions. The granular detail supporting my firm's contribution to the overall lodestar submitted at this time was reviewed by me, other members of my firm, and other members of the Plaintiffs' Interim Executive Committee. I have thus reviewed and caused to be reviewed the Bonsignore Firm Summary Time Chart as well as the supporting granular time submitted by my firm for reasonableness and necessity to the litigation, and adherence to the caps set forth above.

13. The work performed by the Bonsignore Firm was necessary to the prosecution of this class action and was assigned or authorized by me in my role as Lead Counsel. The Bonsignore Firm's compensation for services rendered in this case was wholly contingent on the success of this litigation.

14. As of June 30, 2023, the Bonsignore Firm devoted the bulk of its firm resources to TelexFree, turned down other work, and actively participated in this litigation, including but not limited to performing the following work:

15. **Administration**: The Bonsignore Firm has billed 507.7 hours for administration. Most generally, as Interim Lead Counsel the Bonsignore Firm is primarily responsible for evaluating the needs of the litigation. This included among many other things, assigning work and checking in on the quality of the work product and efficiency of time spent and on all MDL 2566 related tasks and projects undertaken by Class Counsel, experts, consultants, and vendors. Because of the complexity of the underlying subject matter, the many Defendants and categories of defendant, the voluminous data and evidence, ongoing settlement efforts, and the need to frequently hold strategy, working and educational meetings, as Lead Counsel the Bonsignore Firm is also tasked with ensuring that the litigation is adequately and optimally and efficiently staffed.

Time was necessarily spent recruiting qualified counsel, experts, and specialists.

16. In the context of a massive decade old international financial fraud, the very arduous schedule of MDL 2566 imposed additional challenges. The challenges included simultaneously processing and developing voluminous highly complex, separate yet interrelated, nonintegrated proof. That voluminous, complex, separate but integrated proof had to then be streamlined and presented in context. More specifically, in a way that established and highlighted the concomitant demands that TelexFree was required to overcome to stay afloat.

17. BTL was also charged with ensuring that the MDL 2566 litigation was efficiently and adequately managed. Effectively litigating against dozens of Defendants required more than a TelexFree specific case management system and a strategically developed document review and coding system because few firms in the country have prior Ponzi scheme experience. Given the sprawling composition of TelexFree and MDL 2566, this required the adaptation and development of a TelexFree specific case management system. This in turn necessitated the training of MDL 2566 counsel and staff by BTL counsel and staff.

18. To ensure that the putative class was adequately represented by knowledgeable and prepared counsel, among other things the Bonsignore Firm regularly led litigation team meetings during which specialized areas of proof and the evidence was discussed or developed. As Lead Counsel, the Bonsignore Firm also was responsible for developing each agenda item and either presenting the topic or assigning and then working with the consultant, expert or lawyer charged with presenting a topic. BTL was also primarily responsible for all meeting logistics (start to finish to post meeting follow-up) and all other matters related to the scheduling of regular, special need, and emergency action-based litigation team meetings.

19. In addition to the in-person MDL 2566 Litigation Team meetings, the Bonsignore

Firm was primarily responsible for scheduling, determining the agenda and leading the many other telephonic and ZOOM meetings. This included, but is not limited to, the Weekly Document Review Team Meetings, as well as the regular, frequent telephonic meetings with consultants, “small groups” tasked with discrete research or projects, Defendants, outside experts, and co-counsel. As Lead Counsel, the Bonsignore Firm was also responsible for calendaring, maintaining, and, circulating briefing as well as orders and opinions issued by the Court.

20. **Bankruptcy**: The Bonsignore Firm has billed 36.9 hours since 2020 to this action for work relating to the TelexFree Bankruptcy including, but not limited to, defending Putative Class Representatives at deposition, gathering information, and purported defects in transferring the Bankruptcy Estate’s initial production. The Bonsignore firm otherwise interacted in furtherance of the cooperation agreement between the Bankruptcy Trustee and the MDL Plaintiffs on matters such as Class Notice, scheduling, and other litigation and settlement strategy. Time spent relating to the SIG System is largely not included here. I periodically checked in with the Bankruptcy Trustee’s counsel who advised me that they had retained experts associated with the Massachusetts Institute of Technology and that they were addressing all the SIG System concerns.

21. **Briefs, Motions and Pleadings**: The Bonsignore Firm has billed 1,080.2 hours to this action for work devoted to drafting, researching, editing, redlining, strategizing, finalizing and finally approving memorandum, pleadings, briefs, letters, demands, and motions. This time includes the final approval brief and documents for the Fidelity settlement, numerous preliminary injunctions, the amended complaint, every opposition to Defendant’s motions to dismiss, motions to compel, motions for reconsideration of the Court’s rulings, the mediation statements for TD Bank, the TD Bank/IPS/Telecom Logic Preliminary Approval, and most papers, briefs and motions placed on file with the Court or otherwise served upon the Defendants.

22. More specifically, since July 1, 2020, with the integral participation of the Bonsignore Firm, the Plaintiffs have fully researched, briefed and filed 105 motions, memorandums, replies, declarations, oppositions, and affidavits totaling 1,452 pages which were served against 30 defendants. During this same time period, again with the integral participation of the Bonsignore Firm, the Plaintiffs have fully researched, briefed, and filed 11 motions to compel, including 22 Memorandum, Sur-Replies, Affidavits, and Oppositions, which were served against 11 Defendants and totaled 328 pages and included 1,315 pages of exhibits. [See Dkts. 1553, 1554, 1570, 1589, 1608-1611, 1625, 1626, 1630, 1644, 1645, 1680, 1704, 1718, 1734, 1735]. Many other matters that were fully researched and briefed were not placed on file because the Bonsignore Firm was able to negotiate a resolution.

23. With rare exception⁴, the Bonsignore Firm actively and substantially participated in all briefing. In addition, the Bonsignore Firm attorneys have read or reviewed all orders and opinions issued by the Court. With rare exception, I finally approved essentially every brief placed on file.

24. **Court Appearances**: The Bonsignore Firm has billed 82.3 hours to this action for court appearances.

25. As Lead Counsel, I was primarily responsible for selecting and preparing the subject and content of all arguments brought before this Court as well as the presenters of each matter. I and my colleagues at The Bonsignore Firm worked with the lawyers and firms primarily assigned⁵ to update or redo each Defendant's hyperlinked timeline and then after garnering the best evidence as to each Defendant, took the best evidence further by distilling it and creating color

⁴ The Bonsignore firm did not lead or participate to any significant degree in the Wells Fargo, ProPay and Vantage briefing and other activities until recently.

⁵ Among certain other Defendants, the Bonsignore Firm was primarily responsible for all categories related to TD Bank.

coded oral argument charts for most presenters. During hearing, Mr. Bonsignore was responsible for texting key points and evidence. As Lead Counsel, Mr. Bonsignore presented numerous matters to this Court, including the Fidelity Final Approval.

26. **Discovery and Document Review**: The Bonsignore Firm has billed 3,538.7 hours to discovery. Among other things, the Bonsignore Firm was primarily responsible for and formulated the overall MDL 2566 Plaintiff's discovery strategy, drafted, revised, and edited all discovery requests, processed incoming discovery, and identified the documents Plaintiffs will need as evidence to support their claims of liability and damages.

27. Since July 1, 2020, the Bonsignore Firm primarily drafted Plaintiffs' written discovery, which included 439 interrogatories served on 21 defendants and 1,702 requests for production served on 21 defendants. In addition, the Bonsignore Firm recently jointly took over drafting the responses of the Putative Worldwide Class Representatives as well as the supplemental responses to 480 document requests and 148 interrogatories served upon the present Class Representative Anthony Cellucci by six different defendants.

28. The Bonsignore Firm participated in most meet and confers and served a substantial role in the drafting of most of the LR 37.1 letters and the related motions to compel. The participation of the Bonsignore Firm in the LR 37.1 meet and confers resulted in a very significant reduction in the number of discovery disputes brought before the court. The participation of the Bonsignore Firm in the review of the Defendants' responses resulted in the discovery of directly relevant evidence that certain defendants did not timely produce. The participation of the Bonsignore Firm in the related LR 37.1 meet and confers has resulted in the narrow focus of the few discovery disputes that remain active.

29. The Bonsignore Firm has at all times led and otherwise had the primary role in the

document review program including the receipt of the documents, the creation and fine-tuning of the coding panel and coding protocol, the management of the document reviewers, actual document review by BTL lawyers through to the management and quality control of the review. As of the date of this filing, Plaintiffs have received, processed and coded 2,397,297 pages of documents from various Defendants and third parties. The file sizes of these documents ranged from 104.1 megabytes up to 10.1 gigabytes; the largest files required an extensive amount of time to review and analyze.

30. The Bonsignore Firm meticulously managed the document review to ensure each document was properly coded for indexing, identified and corrected document sets that contained flaws when produced, reformatted documents and document sets that were unsearchable (or otherwise in a non-compliant format), negotiated with parties to locate and re-produce documents that were produced without the essential metadata, carry out the first level review and coding, carry out the second level review and coding, analyze the resulting work product, refine arguments, cull or harvest “hot” documents, assimilate the work product into a streamlined proof, identify appropriate witnesses, and develop examinations. Additionally, the Bonsignore Firm worked with three of the most prestigious document depository companies and contributed to Plaintiffs’ production of 136,903 documents comprising of 757,540 pages, including 7,892 spreadsheets and 126,736 PDF, email, image, and Word documents.

31. In addition to primarily managing the Document Review and coordinating nearly all things relating to the Document Depository, BTL dedicated several full-time permanent staff attorneys. In addition, Bonsignore Firm senior attorneys performed quality control of the work product, led weekly document review meetings, performed second or third level review, and cross checked and updated the hyperlinked timelines for each defendant. The Bonsignore Firm identified

the targets and preparation for deposition.

32. **Litigation Strategy and Analysis**: The Bonsignore Firm has billed 1,294.2 hours to this action for Litigation Strategy and Analysis. As described throughout, in conjunction with and following input from consultants, experts, the Putative Worldwide Class Representatives, and co-counsel, I have formulated, initiated, developed, revised, revisited, and finally approved all strategy. Bonsignore Firm members have contributed and worked with me every step of the way. The Bonsignore Firm's experience allowed us to fully appreciate that banking regulations and variations in the internal processes of Defendants present other challenges and we developed the work around and work through strategies.

33. In addition to service on the Executive Committee, I have developed and implemented the MDL 2566 Plaintiffs' strategy on most efforts from amending the complaint to discovery to briefing to oral argument to settlement to post settlement cooperation. Also, post-settlement cooperation as it relates to Fidelity Bank, TD Bank, Ryan Mitchell, Telecom Logic, International Payout Systems, Eddie Gonzales, and Natalia Yenatska (and the soon-to-be-submitted settlements with the Estate of the Late Jeffrey Babener and others).

34. Litigation, strategy, and analysis time includes research, consideration, meetings, in person and Zoom meetings, telephone conferences and taking the time to shut out all else and think, and many phone conferences with key advisors, setting out alternative strategies and variables and come to the best strategy for the present state of knowledge, evidence and the circumstances at the time.

35. Moreover, to overcome the above referenced challenges, I enlisted the assistance of and strategized with a battery of experts and consultants. In addition to Art Olsen and the Van Tassel team, I have retained the following subject matter experts to assist the TelexFree victims:

Ross Delston, an expert in the Bank Secrecy Act and anti-money-laundering regulation; Patrick McElroy, an expert in the Bank Secrecy Act and anti-money-laundering regulation; Kathy Bazoian Phelps, a well-known expert in Ponzi schemes like TelexFree; and Patricia McCoy, a Banking expert.

36. **Settlement, Negotiations and Drafting Agreements:** The Bonsignore Firm billed 591.0 hours for work categorized as settlement.

37. As to the Fidelity settlement, the Bonsignore Firm was primarily responsible for researching, drafting, editing, redlining, and finalizing all settlement documents not previously submitted. The Bonsignore Firm was also primarily responsible for the strategies following the Fidelity settlement. The Bonsignore Firm, in conjunction with and following input from consultants, experts, the Putative Worldwide Class Representatives, and co-counsel also took all efforts necessary to place a settlement value on the other defendants and initiated and participated in settlement negotiations (or focused discovery efforts following the Fidelity settlement).

38. I led and was responsible for the early and ongoing pre-mediation negotiations with TD Bank, including the expedited exchange of targeted and full discovery⁶. The expedited exchange of targeted and full discovery resulted in the agreement of the parties to submit to mediation, as well as the selection of the mediator. The Bonsignore Firm drafted, participated in redlining, finalized, and filed the voluminous and well supported TD Bank Mediation Brief including the attachments. The Bonsignore Firm drafted, exchanged drafts, and finalized the TD Bank Settlement Agreement, Preliminary Approval briefing and Class Notice. The Bonsignore Firm has kept current on the class notice with the AB Data and responded to phone call inquiries from class members.

⁶ Prior to formal mediation, Plaintiffs and the Settling Defendant TD Bank exchanged interrogatories and requests for production that I drafted.

39. Settlement with TD Bank was no easy or small undertaking. Under the direction of the Melanie Porter and myself, and with the active participation of other Bonsignore Firm employees and others, in the space of three months Plaintiffs received, coded, and analyzed approximately 50,000 pages of documents from Settling Defendant TD Bank as well as 26,483 pages of documents relating to TD Bank from the Bankruptcy Trustee. These documents included densely populated account statements, as well as account opening documents, fraud and anti-money-laundering policies, training materials, deposit slips, check images, and internal communications from over a dozen custodians.

40. Bonsignore Firm members and other Plaintiffs' counsel, under the direction or supervision of Bonsignore Firm lawyer Melanie Porter, carried out first, second, and third-level reviews of productions from TD Bank and other defendants and fully sequenced TD Bank's contacts with the TelexFree scheme and tracked the dissemination of knowledge about TelexFree across TD Bank's various departments. Because the operation of a Ponzi scheme and its ability to maintain its operation is dependent upon, and concomitant with, the assistance of multiple financial service providers and professionals at once, Melanie Porter led weekly meetings to instruct the document reviewers how to reference and analyze the temporally related involvement and conduct of other defendants was essential to Plaintiffs' analysis. Lowell Johnson was of great assistance with the bank statements. My professional relationship with Miss Neuner, while appropriately adverse, was at all times cordial and cooperative, and I believe this productive, professional relationship between counsel helped the parties to facilitate a settlement.

41. Melanie Porter and I, together with Judge Rhodes, Jim Wagstaffe and others worked with our Ponzi scheme expert, banking experts, Big Data expert, and independent judicial advisor, to translate our factual knowledge into an assessment of TD Bank's potential liability

across a range of litigation scenarios. We next developed a damages model based on the well-entrenched principles of joint and several liability and the time periods during which TD Bank provided substantial assistance to TelexFree.

42. After considering the complexities of the case, the particular nuances of the claims for aiding and abetting a Ponzi scheme, and the resources that would be required to process and absorb voluminous briefing, financial records and more, I worked with TD Bank to select a mutually agreeable mediator. We finally chose to engage the services of preeminent JAMS mediator Robert Meyers. Among other things, Mr. Meyer has extensive experience with large-scale, high stakes financial institution pyramid Ponzi scheme cases.

43. Over time, I first drafted the lengthy, fact and law-filled mediation brief and selected the voluminous attachments. After passing the draft off, I participated in the exchange of the redlined mediation brief and finalized and approved the final submission while continuing to refine the attachments.

44. After months of pre-mediation work and exchanges, a formal in-person mediation took place at JAMS Los Angeles in June 2023. Prior to mediation, the Bonsignore Firm and TD Bank simultaneously submitted to the mediator voluminous mediation briefs and even more voluminous supporting attachments.

45. Plaintiffs' briefing included a powerful presentation of law, granular factual detail, damages calculations, allocation of liability between defendants, and choice-of-law considerations. Kyle Mallinak, Judge Rhodes, James Wagstaffe, and Melanie Porter were of great assistance. The voluminous supporting attachments that BTL and the TD Bank Settlement team selected ranged from the best documented evidence of actual knowledge to expert reports on

liability and damages to the estimated prejudgment interest that would be applied to different potential verdicts.

46. During the mediation, I led the exchanges, debates, and strategy sessions of the TD Bank Mediation team and assigned on a strategic basis who, in addition to myself, would present the MDL 2566 Plaintiffs' various arguments, positions and points to the mediator. Judge Rhodes and Jim Wagstaff were of great assistance.

47. TD Bank's initial position was identical to that of the multiple Defendant Banks. In Ponzi/pyramid cases defendant banks always argue that they lack actual knowledge and that even if they had actual knowledge they are liable only for a miniscule fraction of the actual deposits that they handled, less a multitude of all-encompassing and creative deductions, and then that they are entitled to further limit damages because they are not responsible for the funds recovered by the Trustee or the federal government.

48. After the business day for many had long ended, with little movement transitioning to no movement on the part of either side, Bob Meyer pressed on. Eventually, I instructed Plaintiffs' counsel in attendance to pack their bags, walk out and wait for me by the elevator bank while I thanked Mr. Meyer for his efforts. Plaintiffs walked out of the mediation.

49. Robert Meyer then essentially kept me in a room until I agreed to gather my team, return to our designated room, and allow him to make a simultaneous double-blind "Mediator's Proposal" to both sides. I agreed based upon the extensive work product and work we had submitted, Mr. Meyer's experience and past history of success, and his work with the parties that day and into the night.

50. Mr. Meyer made his Mediator's Proposal on June 28, 2023, which we then duly considered, and internally debated. After considering all points made and considerations advanced,

in the context of TD Bank's early settlement, I eventually made the final call on Mr. Meyer's double-blind "Mediator's Proposal. Two days later Mr. Meyer informed the parties that both sides had accepted his proposal in principle.

51. After reaching an agreement in principle, I spent considerable time negotiating the procedural and substantive details of a comprehensive settlement agreement with Ms. Neuner. This process, although cordial and professional, was again hard fought, arm's length and involved many phone conferences with TD Bank counsel and exchanges of the draft agreement.

52. After the successful mediation with TD Bank, the related settlement process was impacted by the near immediate (about two days later) dismissal of Bank of America ("BANA"). The dismissal of BANA made the negotiations relating to the Settlement Agreement delicate. As a practical matter, the BANA dismissal greatly enhanced the already exceptionally great risk the MDL 2566 Plaintiffs' counsel assumed.

53. TD Bank and I finally agreed to sign the final draft of the Settlement Agreement on August 11, 2023.

54. Settlement negotiations between Plaintiffs and the IPS Defendants did not begin in earnest until after this Court granted Plaintiffs' Motion to Compel Discovery Directed to IPS. Prior to the Court's entry of that order on June 5, 2023, Plaintiffs attempted to reach a settlement, but could not because we did not believe, and could not accept that we had sufficient knowledge of IPS's connections to the TelexFree and its acquiring bank(s) to properly evaluate settlement. I saw what I was convinced were gaps in the IPS productions.⁷ To put it mildly, even after the Court's order granting Plaintiffs' motion to compel, the negotiations with IPS were brutally fought and

⁷ Similar gaps have surfaced in ProPay's productions and time was necessary recently spent on related focused efforts. Wells Fargo was ProPay's acquiring bank and recent time was necessarily spent on focused efforts certain related to gaps in documents produced.

Plaintiffs walked away multiple times out of necessity. Lowell Johnson, Michael Stewart, Kyle Mallinak, and Melanie Porter were of great assistance in identifying and forcing the production of items not yet produced and then instantly placing the documents newly produced into context.

55. The gathering of IPS related facts was made difficult because of the gaps created by law enforcement and banking immunities, and because of the stay. The importance of the newly produced evidence that had been exclusively in the possession of IPS and BANA made clear to me that an immediate settlement would serve the best interests of the Settlement Class.

56. For example, for years Bank of America has affirmatively and persistently led this Court to believe that it had effectively ceased to do business with TelexFree after May 2013. On June 27 and 28, 2023, this Court granted BANA's motion for summary judgment and denied Plaintiffs' Motions to Compel Bank of America as moot. (Dkts. 1672, 1673). Shortly thereafter Plaintiffs TD Bank Team confirmed the existence of communications between IPS and BANA that BANA had withheld from Plaintiffs and this Court. These documents unquestionably demonstrate BANA's knowledge that its banking systems were regularly being used to process transactions for TelexFree long after May 2013, contrary to BANA's repeated and unequivocal formal representations.

57. The Bonsignore Firm also directed, supervised, and took part in Plaintiffs' efforts that determined that in addition to previously withheld information about BANA's involvement with TelexFree, the IPS Defendants have direct knowledge concerning an estimated \$150 million (\$150,000,000.00) or more in TelexFree-related transactions by another financial institution that all who prosecuted before us apparently missed. The extent of TelexFree's involvement with that other financial institution was previously unknown to Plaintiffs. Plaintiffs' IPS Team, comprised of the Bonsignore Firm, the Stranch firm, and Lowell Johnson of the Miller Firm, are presently

working with IPS pursuant to the cooperation terms of the Settlement Agreement to obtain additional related records and testimonial evidence.

58. The IPS Defendants also have valuable information about payment processing industry practices and relationships that are directly relevant to the key questions of actual knowledge and substantial assistance by various financial institutions. As part of the arm's length settlement that I negotiated, IPS must cooperatively provide that evidence as part of their settlement.

59. Defendants IPS and Natalia Yenatska have met with me and the other members of the IPS Team, made a proffer of their relevant knowledge concerning TelexFree and other MDL 2566 Defendants, and I have subjected them to many tests and verifications of their knowledge by Plaintiffs' counsel as well as their level of their earnest cooperation. The Bonsignore Firm drafted, finalized, and filed the IPS Settlement Agreement and Preliminary Approval briefing. The Bonsignore Firm are jointly participating in the follow up of the IPS settlement including efforts relating to so called BANA Declaration and the ongoing efforts relating to the previously unknown Bank.

60. The Bonsignore Firm primarily was responsible for compiling the supporting evidence against the Ryan Mitchell and Telecom Logic defendants, presenting the liability and damages model, and negotiating the settlement. The Bonsignore Firm drafted, exchanged redlines, finalized, and filed the Ryan Mitchell and Telecom Logic Settlement Agreement and Preliminary Approval briefing. The Bonsignore Firm was also primarily responsible for the strategies leading up to and following the Ryan Mitchell and Telecom Logic settlement.

61. The last date the Bonsignore Firm submitted billing to this Court was September 30, 2020. The total number of hours spent on this litigation, from October 1, 2020, through June

30, 2023, by attorneys and staff at this firm is 7,283.10. Time spent preparing this fee declaration is not included. The total lodestar for this time, calculated at the firm's historic hourly rates during the litigation, is \$5,490,460.00.

62. The total number of hours the Bonsignore Firm has spent on this litigation from the inception of the litigation through to June 30, 2023, is 19,416.80. The total lodestar for the last approximate ten (10) years of litigation calculated at the firm's historic hourly rates during the litigation, is \$12,594,330.00.

63. The Bonsignore Firm was asked during the past ten (10) years to participate in many cases that it was forced to turn down, or to accept reduced roles in, because of the time, responsibilities, staffing, and economic resources that TelexFree drained from it.

64. The Bonsignore Firm has also outlaid significant out-of-pocket expenses that it continues to hold until other settlements are reached. As lead counsel, Bonsignore has contributed over \$300,000 in assessments plus carried very significant held costs. As of June 30, 2023, my Firm advanced common costs not paid for from the MDL 2566 Litigation Fund which we will continue to hold. These expenses were necessary to advance this litigation and the charges were in my opinion reasonable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 17, 2023 in Las Vegas, Nevada

/s/ Robert James Bonsignore
Robert J. Bonsignore, Esq.

BONSIGNORE TRIAL LAWYERS, PLLC

www.classactions.us

BONSIGNORE TRIAL LAWYERS, PLLC (“BTL” or “Firm”) are highly successful and experienced trial lawyers who limit their practice to complex litigation, class actions, and cases involving significant economic loss or public policy. We have learned through experience that the best way to achieve the most favorable outcome for our clients is to prepare each case to win at trial.

BTL attorneys have successfully represented businesses, governmental entities, consumers, and unions in federal and state trial and appellate courts across the United States. BTL has earned a national and international reputation for its professional integrity, competence and an aggressive approach to case prosecution. BTL is capable of litigating any case in any jurisdiction.

BTL concentrates in the practice areas of antitrust, consumer protection, business-to-business wrongs, catastrophic personal injury, Ponzi pyramid schemes, and mass tort litigation. Over the years, BTL has successfully recovered over a billion dollars for their clients. In actions where BTL has served as Lead Trial Counsel, the firm has been involved in obtaining jury verdicts that exceeded \$450 million.

The BTL’s appellate briefing team has written multiple precedent setting legal briefs. Robert Bonsignore co-authored the New Hampshire Supreme Court brief in *LaChance v Smokeless Tobacco* which extended to consumers, small businesses, and governmental entities the right to sue antitrust violators.

Robert Bonsignore successfully persuaded the Ninth Circuit Court of Appeals to set aside a \$577 million-dollar settlement of antitrust price-fixing claims that improperly excluded governmental entities, consumers, and small businesses from certain states arbitrarily selected by class counsel from the economic recovery provided for in the settlement agreement. The oral argument before the circuit court may be found at https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000013465.

Other successes include two additional Ninth Circuit Court of Appeals cases relating to wage and hours claims against Wal-Mart and music royalty claims by legacy musicians against EMI Group Limited and representing 9 of 10 New Hampshire counties in the Opioid litigation. Each is referenced below.

For the last nine years Bonsignore has served as Lead Counsel in MDL 2566, *In re: TelexFree Securities Litigation*, (the largest pyramid scheme in United States history) which advances the

rights of over 750,000 class members and over \$4 billion dollars of projected loss. Several settlements have been reached.

The Bonsignore Firm also currently serves as Class Counsel for the Plaintiffs in *Garavanian, et al. v. JetBlue Airways Corporation and Spirit Airlines, Inc.* (Case No. 1:23-cv-10678-FDS). This is a private antitrust action seeking to prohibit the proposed elimination of Spirit Airlines by JetBlue Airways Corporation as a violation of Antitrust laws. Plaintiffs filed long before DOJ tag along actions advancing similar claims on behalf of the United States.

The Bonsignore Firm is also currently serving as Class Counsel in *California Crane School, Inc., et al. v. Google LLC, Apple Inc., Tim Cook, et al.* (Northern District of California Case No. 4:21-cv-10001-HSG). This is a private antitrust suit brought under Sections 4 and 16 of the Clayton Antritrust Act (15 USC 15, 26) for actual and potential damages and injunctive relief caused by reason of and made necessary by the Defendants' past, present, and substantially threatening contunuing violations of Sections 1 and 2 of the Sherman Antritrust Act (15 USC 1, 2). Plaintiffs allege that Google pays Apple billions of dollars a year not to compete in the search engine business. Plaintiffs filed long before DOJ tag along actions advancing similar claims on behalf of the United States.

BTL also presently serves as Class Counsel for *Rosemary D'Augusta, et al. v. American Petroleum Institute, et al.* (Northern District of California Case No. 3:22-cv-01979). This is a private antitrust suit brought under Section 7 of the Clayton Antritrust Act where Defendants combined and conspired between and among themselves, Russia, and Saudi Arabia to raise the price of oil and gasoline in direct violation of Sections 1 and 2 of the Sherman Antritrust Act (15 USC 1, 2). Plaintiffs allege that the rise in the price of gas was triggered by insider dealing Plaintiffs filed long before DOJ tag along actions advancing similar claims on behalf of the United States.

BTL and its principal have been appointed or retained to serve in leadership roles in many other complex multidistrict litigation actions. For example:

BTL serves as Lead Counsel for eight of 10 counties in New Hampshire in the Opioid Taxpayer Recoupment Litigation and represents 9 of 10. BTL also consults with them as existing clients on an as-needed basis on other matters. BTL also represents additional cities, towns, and counties in New Hampshire and Massachusetts.

Robert Bonsignore was Co-Lead Counsel in MDL 1735, the largest certified wage and hour case in United States history with over 2.5 million class members. Robert Bonsignore authored the lead appellate brief in MDL 1735 and successfully argued the appeal before the Ninth Circuit and won the leading case on the rights of parties to arbitration to further review.

Robert Bonsignore served as Lead Counsel in MDL 1631, *In re: Publication Paper Antitrust Litigation* which advanced and resolved the claims of all nation-wide end-use consumers of publication paper against international conspirators. All related claims have been settled.

Robert Bonsignore served together with Mark Robinson as the RCR firm representative to the California Tobacco litigation's Plaintiffs' Executive Committee All related claims have been settled.

Robert Bonsignore served as Lead Counsel for the appellants in *Cohen ET AL. v. Brown University ET AL.* (First Circuit # 21-1032) BTL represented a group of women athletes objecting to the stripping away of the original settlement in this Title VII case.

EXEMPLAR REPRESENTATIVE CASES BY PRACTICE AREA

Exemplar Antitrust - Protection of Businesses

In Re: Broiler Chicken Grower Litigation No. II (MDL 2977) (Eastern District of Oklahoma)

BTL serves as class counsel in precedent setting private antitrust litigation brought by broiler chicken farmers against the allege that the major poultry defendants and their co-conspirators entered into an unlawful agreement, combination or conspiracy not to compete for chicken broiler grower services, with the purpose and effect of fixing, maintaining or stabilizing chicken broiler grower compensation below competitive levels. Among other things including the amount of economic loss suffered by the grower chicken farmers is the effect of the alleged conspiracy on the levels of chicken broiler grower compensation in the United States during the class period, at issue is whether the major poultry defendants alleged conspiracy violated Section 1 of the Sherman Antitrust Act and Section 202 of the Packers and Stockyards Act.

The parties have briefed and argued several Rule 12(b) motions to dismiss, and the Plaintiffs have propounded discovery requests and served third-party subpoenas, and the responding parties have begun to produce responsive documents. This matter has concluded and BTL clients served as Lead Plaintiffs and all class members were paid.

In re TelexFree Securities Litigation (MDL 2566) (USDC District of Massachusetts) -

TelexFree was a sprawling international pyramid scheme, the largest in United States history, that affected nearly a million victims and resulted in an estimated \$4 billion dollars in damages. BTL filed against TelexFree, banks, pay processors, financial institutions, licensed professional, its owners and founders, insider promoters, and others for violations of state law, including the unregistered sale of securities, deceptive trade practices statutes, fraud, aiding and abetting and conspiracy. With the case eventually being given MDL status, Mr. Bonsignore was appointed and has acting Lead Counsel for about 10 years. Total settlements thus far exceed \$115 million dollars. The litigation is ongoing.

In re: Automotive Parts Antitrust Litigation (MDL 2311) (USDC Eastern District of Michigan Southern Division) - BTL filed among the first 4 cases in one of the largest private antitrust litigation in United States history on behalf of a domestic wire harness manufacturer headquartered in Virginia. In the originally filed complaint, Plaintiffs alleged that the Defendant foreign suppliers engaged in a conspiracy over a 10-year period to illegally increase the price of “Wire Harness Systems Products,” which include wire harnesses, electrical wiring, lead wire assemblies, cable bond, wiring connectors, wiring terminals, electronic control units, fuse boxes, relay boxes, junction blocks, and power distributors. Notably, in a separate governmental investigation, two of the named Defendants, Furukawa Electric Co., Ltd. and Yazaki Corporation, as well as some of their executives, pleaded guilty for their involvement in the conspiracy and agreed to pay nearly \$700 million in criminal fines and serve prison sentences. Other guilty pleas have been entered as to other automotive suppliers. Since the cases’ filing, the number of parts involved in the litigation has increased with an additional 200 plus automotive parts anticipated to be added to the list. This litigation has been resolved through settlements.

In re: Lithium Ion Batteries Antitrust Litigation (MDL 2420) (USDC Northern District of California) - BTL filed the second case nationally and represents direct purchasers of Lithium Ion Batteries. The complaint alleges that several of the largest lithium-ion battery producers, including LG Chem, Ltd., Panasonic Corporation, Sanyo Corporation, Sony Corp., Samsung SDI, Hitachi, Ltd. and Maxell Corporation of America collectively controlled between 60 to 90 percent of the market for lithium-ion batteries between 2000 and 2011 and unlawfully conspired to fix and artificially increase the price of the batteries, inflating the cost of notebooks and other portable computers paid by consumers. The complaint also alleges that battery prices fell by nearly 50 percent when several Korean companies entered the market in the early 2000s and that, in response, the Japanese companies who had long controlled the market entered into an illegal price-fixing agreement, resulting in a stabilization of prices that lasted until 2008. The lawsuit claims that in 2008 the Defendants received notice that they were being investigated for price-fixing activities by both American and European regulators. Almost immediately after the investigations were disclosed, prices began to fall again, about 10 percent in three months. This litigation has been resolved through settlements.

In re: After Market Filters Antitrust Litigation (MDL 1957) (USDC Northern District of Illinois) – BTL represented direct purchasers of replacement automobile air and oil filters in this nationwide, antitrust price fixing case. This litigation has been resolved through settlements.

In re: Optical Disc Drive Litigation (MDL 2143) (USDC Northern District of California) - BTL represents direct purchasers in an antitrust action challenging the price fixing of optical disc drives in this international antitrust case. This litigation has been resolved through settlements.

In re: Employee Benefit Insurance Brokerage Litigation (MDL 1663) (USDC New Jersey) – BTL filed one of the first bid-rigging class actions in the country on behalf of a large upstate New York employer and major plastics manufacturer. The lawsuit alleged that insurance companies and brokers conspired with one another to allocate customers and markets and initiated kickbacks (“contingent commissions”) with certain insurance companies. It alleges that the kickback agreements were used to obtain inflated or false price quotes that the Defendants then used to steer their customers into purchasing higher priced insurance policies issued by the insurance companies that paid the brokers the highest kickbacks. BTL served as Class Counsel and was assigned to the Discovery and Class Certification Committees in the multi-district action pending in New Jersey. Robert J. Bonsignore was responsible for taking numerous depositions of the Defendants’ corporate officers and other firm members carried out numerous massive document review projects. The Class Plaintiffs have settled with the Zurich, Gallagher and Marsh Defendant groups for an aggregate amount in excess of \$218 million. This litigation has been resolved through settlements.

In re: Cement Antitrust Litigation 1:05 cv 979 (USDC Southern District of Indiana) – BTL represented a direct purchaser (business) in an antitrust action challenging the price fixing of cement in the mid-west United States. The firm served as Class Counsel in the multi-district litigation that settled in the United States District Court for the District of Indiana. This litigation has been resolved through settlements.

SKYVA International v. ABB (Privately Settled) – This was a complex matter involving arbitration, mediation, litigation and negotiation of multiple disputes revolving around a \$600 million contract and related business relationships and pending relationships with and between Microsoft, IBM, Adjenture, ABB and SKYVA. Choice of law issues involving this product technology included Swiss, New York, Delaware and Massachusetts law. This case has been settled.

In re: Polyester Staple Antitrust Litigation (MDL 1516) (USDC North Carolina) – BTL filed one of the first direct purchaser (business) cases in the country representing Malden Mills, a major textile manufacturing firm. The firm represented direct purchasers of polyester staple alleging a single, nationwide conspiracy among Defendants to fix, raise, maintain and/or stabilize the price of, and/or allocate markets and customers for, polyester staple in the United States in violation of Section 1 of the Sherman Act, 15 U.S. C. § 1. The claims brought on behalf of Plaintiffs further alleged that, as a result of the unlawful conspiracy, they and other purchasers paid more for polyester staple than they would have paid absent the conspiracy. Defendants named in the Complaints included Wellman, Inc., Nan Ya Plastics Corporation; Nan Ya Plastics Corporation, America; E.I. DuPont de Nemours and Company; DAK Americas LLC; DAK Fibers LLC.; Arteva Specialties LLC d/b/a KoSa and now named INVISTA S.ar.l.; Arteva Specialties S.ar.l.; and Koch Industries. This litigation has been resolved through settlements.

In re: Vehicle Carrier Services Antitrust Litigation (MDL No. 2471) (USDC North Carolina) – BTL filed one of the first cases in the country representing indirect purchasers of vehicle carrier services. Vehicle carriers transport large numbers of cars, trucks or other automotive vehicles including agriculture and construction equipment across large bodies of water using specialized cargo ships known as roll on/roll off vessels. The litigation alleges a conspiracy among certain vehicle carriers, between January 1, 2008 and May 24, 2013, to fix, raise, maintain and/or stabilize prices, and allocate the market and customers in the United States for, vehicle carrier services in violation of certain state and federal laws. This litigation has been resolved through settlements.

In re: Aluminum Warehousing Antitrust Litigation (MDL No. 2481) (USDC Southern District of New York) – BTL filed a claim on behalf of an aluminum and precious metals company claiming that they overpaid for aluminum and other precious metals. Facts alleged in support included allegations that Defendants hoarded, stockpiled and manipulated the supply of physical aluminum stored in their warehouses in Detroit; Defendants hold 1.5 million tons of raw aluminum in 29 industrial warehouses throughout the Detroit-metro area; Defendants made illicit payments to potential customers to secure aluminum for storage in Detroit to further their scheme; Defendants shuttled 3,000 tons of aluminum per day from one Detroit area warehouse to another to further their scheme; and Defendants agreed to charge three times the market rate for storage in the Detroit warehouses. Branch offs of this case are being litigated. This matter has been concluded.

In re: Dynamic Random-Access Memory 2 Antitrust Litigation (MDL TBD) (USDC Northern District of California) - BTL recently filed among the first-class action complaints advanced on behalf of all persons and entities in the United States who purchased Dynamic Random Access Memory (“DRAM”) directly from manufacturers between June 1, 2016, through February 1, 2018. The complaint alleges that the officers, directors, employees, agents, or other representatives entered a continuing contract, combination, or conspiracy to unreasonably restrain trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. and through their unlawful conspiracy, artificially raised, inflated, and maintained the market price of DRAM. This litigation has been resolved through settlements.

Exemplar Consumer Protection, Securities Litigation & Consumer-Based Antitrust Litigation

In re Apple Securities Litigation (Superior Court of California) – BTL filed on behalf of Apple shareholders claims that an exclusive group of tech elites created and/or ratified policies and protocols that suppressed innovation for ten years. The case asserted that Apple’s co-founder and former CEO, Steve Jobs, and executives entered into illegal non-solicitation agreements with

executives at other companies, such as Adobe Systems, Google, Inc., and Intel Corporation, with whom they had professional and personal relationships. These agreements provided that Apple and other companies would not recruit each other's employees, thus regulating the competition for talent and suppressing job mobility. "Silicon Valley's vast wealth and warped sense of entitlement led to an audacious conspiracy to suppress salaries," *Bloomberg Businessweek* had reported. Those agreements effectively stunted the success of the Bay Area's innovation which was based on the frequent turnover of employees to diffuse information and spur innovation.

Dale Bozzio/Missing Persons v. EMI Group Limited et al (USDC Northern District of California Oakland Division and Ninth Circuit Court of Appeals #13-15685) - BTL filed a lawsuit in the Northern District of California, that arose from the widespread and systematic breach of recording contracts involving legacy musicians. The complaint was brought on behalf of a nationwide class for breach of contract and statutory violations of California law against Defendants EMI Group Limited; Capitol Records, LLC; EMI North America, LLC; EMI Recorded Music; and EMI Marketing (collectively referred to herein as "EMI"). The complaint alleged that EMI's failure to properly account for and pay its recording artists and music producers for income it received and continues to receive, from the licensees of its recorded music catalog for the sale of digital downloads, ringtones and streaming music (collectively, "digital content"). The Standard EMI Recording Agreement typically sets forth payments to EMI's recording artists and producers for licensing of masters at 50% of the receipts of EMI, rather than a lesser percentage (typically 12% to 20%) as a royalty paid to the artist or producer based on the price of each unit sold. The Ninth Circuit overturned the USDC dismissal of the action as to Bozzio on the basis of standing. BTL was co-author of the successful appellate briefing. This case was resolved following a successful 9th Circuit appeal.

In re Contact Lens (MDL 2626) (USDC Middle District of Florida) - BTL co-filed a class action lawsuit on behalf its clients in sixteen states, and the District of Columbia. The complaint alleges a conspiracy among four manufacturers and the largest distributor of contact lenses in the United States (CooperVision, Inc., Alcon Laboratories, Inc., Bausch & Lomb Incorporated, and Johnson & Johnson Vision Care, Inc.) to eliminate discounting among retailers of contact lenses and to artificially fix, raise, maintain and/or stabilize the prices charged to consumers. Plaintiffs allege that they were subject to price floor policies during the period from and including June 1, 2013 through such time as the anticompetitive effects of Defendants' unlawful conduct ceases. As of mid-2014, nearly 40 million Americans wore contact lenses and spent \$4.2 billion on them annually. The manufacturer Defendants dominate and collectively control over 97% of the contact lens market in the United States. Plaintiffs allege that the Defendants set a minimum price below which no reseller could advertise or sell a particular line of contact lenses. This litigation has been resolved through settlements.

In re: Vehicle Carrier Services Antitrust Litigation (MDL 2471) (USDC District of New Jersey) - BTL represented indirect purchasers of vehicle carrier services in eleven states.

Vehicle carriers transport large numbers of cars, trucks or other automotive vehicles including agriculture and construction equipment across large bodies of water using specialized cargo ships known as roll on/roll off vessels. The complaint alleges violations of certain state and federal laws as a direct result of a conspiracy among certain vehicle carriers, between January 1, 2008 and May 24, 2013, to fix, raise, maintain and/or stabilize prices, and allocate the market and customers in the United States for, vehicle carrier services. This litigation has been resolved.

In re: Hyundai and Kia Fuel Economy Litigation (MDL 2424) (USDC Central District of California) - BTL filed a putative class-action lawsuit against Hyundai Motor America, Hyundai Motor Company of Korea, Kia Motors America, and Kia Motor Company of Korea as a result of their admission that they overstated the fuel economy for many vehicles they sold in the United States after independent tests by the Environmental Protection Agency (EPA) showed a discrepancy. The multi-district class action lawsuit in the District of Central California was brought on behalf all consumers who own or lease Hyundai and Kia vehicles whose EPA fuel economy ratings were less than the fuel economy rating produced by the applicable federal test in that model's year. BTL and others ("Non-Settling Parties") tested the sufficiency of a proposed settlement. BTL was requested to and played a major role in the related litigation advanced by the Non-Settling Parties and as a result the original settlement was greatly improved. Bonsignore LLC supports the current settlement that is pending final approval. Hyundai will lower fuel-consumption estimates on most Hyundai and Kia models produced in 2012 and 2013. This case was resolved through settlements.

In re: (CRT) Antitrust Litigation (MDL 1917) (USDC Northern District of California) - BTL filed one of the first indirect purchaser cases in the country and coordinated the filing of 12 other cases. The nationwide action alleges a price-fixing conspiracy in the CRT industry. Bonsignore waived a fee of over one million dollars to object to the settlement and now represents indirect end users from New Hampshire, Massachusetts, and Missouri who were excluded from the settlement. After BTL filed the lead appellate briefs, Mr. Bonsignore was selected to serve as lead off counsel at oral argument. Following oral argument, the Ninth Circuit ordered the parties to mediation. Mr. Bonsignore later served as co-lead negotiator for the appellants. The Ninth Circuit remanded the case to the district court, overturning a settlement of over \$500 million. This matter has been concluded.

In re: Publication Paper Antitrust Litigation (M.D.L.1631) (USDC Connecticut) - Robert Bonsignore served as Lead Counsel in MDL 1631 for all Indirect End Use Purchasers. This action focused on alleged national and international price fixing of certain types of publication grade paper during certain time periods. Final approval of a class action settlement against the last remaining Defendants was approved. This case was resolved through settlements.

In re: Massachusetts Smokeless Tobacco Litigation (Massachusetts Superior Court Business Litigation Session) - Robert Bonsignore was appointed as Co-Lead Counsel by the Chief Justice of the Business Litigation Session for the Commonwealth of Massachusetts. This action was fiercely litigated for 7 years. Notably, this was the first contested indirect purchaser class action in the Commonwealth of Massachusetts to be certified. The action sought economic damages for consumers and alleged that U.S. Smokeless unlawfully created and maintained an unlawful monopoly and artificially inflated prices. The action was also noteworthy because Mr. Bonsignore certified a fifteen-year class period by successfully establishing that fraudulent concealment of the bad acts was included in the questioned conduct. The all-cash settlement provided the greatest recovery per consumer (consumer class members were eligible to receive up \$700 cash) in any price-fixing action brought against the manufacturers of moist smokeless tobacco. This matter was resolved through settlements.

In re: New Hampshire Smokeless Tobacco Litigation (New Hampshire Superior Court) - Robert Bonsignore served as Lead Counsel. Notably, this was the first contested indirect purchaser class action in the state of New Hampshire. The cause made its way to the New Hampshire Supreme Court who extended its narrow interpretation of consumer protection statutes and allowed the Plaintiffs' claims to proceed. This successfully created new common law right of end-use indirect purchasers to bring an action to recover economic loss was later codified. The action was also noteworthy because Mr. Bonsignore again certified a fifteen-year class period by successfully establishing that fraudulent concealment of the bad acts was included in the questioned conduct. This matter was resolved through settlements.

In re: California Vitamin Cases (San Francisco Superior Court) – Robert Bonsignore served on the Executive Committee in *In re: Vitamin Cases* which was settled on behalf of California indirect purchasers. This action advanced antitrust claims against an international cartel of vitamin manufacturers accused of fixing prices and allocating markets in every level of the chain of distribution. The court granted final approval of a settlement with certain vitamin manufacturers in a class action alleging that these and other manufacturers engaged in price fixing of particular vitamins. This matter was resolved through settlements..

In re: Dynamic Random Access Memory Antitrust Litigation (MDL 1486) (USDC Northern District of California) – Robert Bonsignore filed one of the first indirect purchaser DRAM cases in the country. Bonsignore was selected to serve as a member of the Executive Committee. Subsequent to filing, BTL coordinated the consolidation and coordination of like cases in 48 states. The nationwide action alleged a price-fixing conspiracy in the DRAM industry. Robert Bonsignore was appointed by the USDC to serve as interim lead counsel of a related putative class, later absorbed into MDL 1486. This matter was resolved through settlements.

In re: Chocolate Antitrust Litigation (MDL 1935) (USDC Middle District of Pennsylvania) - BTL represented indirect end use purchasers of chocolate in 14 of 29 states involved in the litigation. The action alleged an international price-fixing conspiracy in the chocolate industry. Robert Bonsignore was responsible for taking numerous depositions of the Defendant's corporate officers, engaged in corporate document discovery, and was designated to serve as the discovery liaison with the largest purchaser of chocolate in the United States. Mr. Bonsignore also served on the 5-person Plaintiffs' Settlement Negotiation team and the expert witness and class certifications teams. Other firm members carried out numerous massive document review projects. This case was dismissed. An appeal was not taken.

Employment

In re: Wal-Mart Wage and Hour Practices Litigation (MDL 1735) (USDC District of Nevada and Ninth Circuit Court of Appeals) - This successfully and finally resolved multi-district class action is the largest certified class in a wage and hour case in United States history. The filing, coordination and prosecution of coordinated proceedings in 39 states were found to have been the brainchild of Robert Bonsignore. Bonsignore first successfully argued that the litigation should be granted MDL status and coordinated for all pre-trial proceedings. Mr. Bonsignore was then appointed to serve as national Co-Lead Counsel in this multi-district litigation and fully litigated the action. This action focused on allegations that Wal-Mart systematically failed to pay its hourly employees for all time worked, including supplemental benefits. The action settled for \$85 million dollars plus injunctive relief designed to prevent the alleged violations from occurring again. After the settlement received final approval a law firm that entered the case one-month prior to the execution of the Settlement Agreement purchased an interest in the attorney fees award ("Objector"). After allocation of the attorney fees was arbitrated, the Objector filed an federal Arbitration Act appeal of the arbitration award. The district court rejected that appeal in a lengthy opinion, finding the challenge to be meritless. The Objector appealed to the Ninth Circuit Court of Appeals. On December 18, 2013, nearly 10 years after the litigation was filed the Ninth Circuit found the appeal to be meritless and affirmed the district court's ruling. Robert Bonsignore briefed and argued all appeals. Mr. Bonsignore's oral argument before the Ninth Circuit Court of Appeals can be heard at http://www.ca9.uscourts.gov/media/view.php?pk_id=0000011351. (*Carolyn Burton, et al. v. Class Counsel and Party to Arb, et al.*, No. 11-17718). This matter was resolved through settlements.

In re: Wal-Mart Massachusetts Wage and Hour Litigation- Bonsignore served as Class Counsel in *Salvas v. Wal-Mart Stores, Inc.*, a certified Massachusetts class action of 67,000 hourly employees alleging wage and hour violations against Wal-Mart occurring in the Commonwealth of Massachusetts. This action is the largest certified employment class in Massachusetts state history. Notably, rulings and bodies of evidence obtained in this action have been relied upon in other employment litigation around the country. Attorney Robert Bonsignore

successfully convinced the Massachusetts Supreme Judicial Court to reverse a trial court decision decertifying the class. The argument, which is the second most watched archived SJC argument, set numerous precedents that have been frequently cited in numerous decisions. This matter was resolved through settlements.

Exemplar Products Liability & Mass Tort Cases

Opioids - (including but not limited to: In Re: National Prescription Opiate Litigation (MDL 2804) (United States District Court Northern District Of Ohio Eastern Division: In re: Purdue Pharma, L.P., et al., Case No. 19-23649 (RDD) (Bankr. S.D.N.Y. (\$10 billion settlement); In Re Mallinckrodt PLC., et al., (United States Bankruptcy Court For The District Of Delaware) (Case No.20-12522) (\$1.65 billion settlement) and In Re Insys Therapeutics, Inc., Case No. 19-11292 (KG) (D. Del.) BTL has actively pursued the case against the manufacturers, distributors of Opioids on behalf of 9 of the 10 New Hampshire Counties and cities and towns throughout Massachusetts and New Hampshire. In this litigation BTL primarily served as Lead Local Counsel and was responsible for obtaining all evidence relating to the economic loss suffered by each governmental entity. Several settlements have been reached and others are pending including those in the bankruptcy Court. The Center for Disease Control has reported that in the United States, prescription opioid abuse costs may approximate \$55.7 billion annually and each governmental entity incurred significant expense related to the Opioid Epidemic and will certainly incur future related expenses.

In re: Paraquat – Bonsignore actively represents victims of Paraquat including farm workers, sprayers, and people who lived in the proximity of farms that used Paraquat. Plaintiffs allege that Paraquat was negligently, willfully, and wrongfully designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, and sold. All Plaintiffs in this action suffer from Parkinson’s disease.

In re: Round-Up – Bonsignore represents approximately 100 victims of Round Up. BTL’s clients are among the first in the country to settle their cases and he has already recovered over \$2 million with many more settlements still in the works. Plaintiffs allege that Monsanto negligently, willfully, and wrongfully designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, and sold Roundup® and other Monsanto glyphosate-containing products. All Plaintiffs in this action suffer from Non-Hodgkin’s Lymphoma (“NHL”) which was directly caused by the dangerous and defective nature of Roundup®, and its active ingredient, glyphosate.

In r: Hernia Mesh (Pending in Diverse Jurisdictions) – Hernia mesh is an unnecessary product that was created as a profit center by unscrupulous medical device companies who then compounded their misconduct through a series of marketing ploys from medically unsound fish oil to bold, yet unsupported claims of efficacy. BTL so successfully litigated a claim on behalf of an individual mesh recipient that it was requested to create the consolidated litigation. The

Hernia Mesh complaints advance claims that focus on a number of theories, some specific to a particular product. They include defective design, manufacture, production, testing, study, research, training, inspection, labeling, marketing, advertising, sales, promotion, and/or distribution of the hernia mesh products. BTL represents approximately 250 mesh clients. The litigation is spread out across the country and continues.

In re: Silicone Gel Breast Implant Product Liability Litigation (MDL 926) (USDC Northern District of Alabama and USDC Eastern District of Michigan) – Bonsignore represented over 400 pre-1991 recipients of saline and silicone breast implants. During the multi-district litigation, Bonsignore served as Co-Counsel and on the Discovery Committee and was part of the discovery team. A \$2.35 billion fund was created in one of the largest class action settlements in U.S. history. This case has been settled. Mr. Bonsignore resolved the claims of 2500 breast implant claimants.

In re: Mercury Vaccine Litigation (multiple jurisdictions) – Bonsignore filed several of the first consumer protection class action cases in the country alleging that the toxic levels of mercury coupled with the increased number of vaccinations poisoned infants and directly caused their learning disabilities and autism. The action sought medical monitoring, a public release of related studies and data that could be used in diagnosis and treatment, and reimbursement of families as well as local and federal government for the staggering costs associated with the treatment of the affected children. The firm helped spearhead a collective group of North America's best trial lawyers and significantly contributed to this national litigation. Bonsignore served on the Executive, Science, Expert, Class Certification, State Coordination and Discovery Committees. The related claims gained no traction because the science relied upon were compromised when a researcher exaggerated his findings. The sudden and continuing spike in the rate of autism remains stunning and unexplained. This case was dismissed.

In re: Rezulin Products Liability Litigation (MDL 1348) (USDC Southern District of New York) - Bonsignore filed one of the first wrongful death, liver failure and consumer protection class action cases in the country. The action alleged that the makers of the diabetes drug did not adequately test its safety and efficacy prior to mass marketing it to consumers. On March 21, 2000, per the FDA's request, Warner-Lambert finally issued the Rezulin recall after its controversial run on the U.S. market. Robert Bonsignore's early aggressive discovery led to the key admission that Warner Lambert had health department reviewers of the drug on its payroll at the time it was approved. Bonsignore served on the Science, Expert, Class Certification, State Coordination and Discovery Committees in the multi-district action. In addition, Bonsignore was selected to take critical depositions. Mr. Bonsignore secured the largest single award in an individual action, obtaining a \$3.75 million-dollar recovery for his client. The remainder of this matter was resolved through settlements.

In re: Sulzer Orthopedics, Inc., Hip Prosthesis and Knee Prosthesis Product Liability Litigation (MDL 1410) (USDC Northern District of Ohio) - Bonsignore filed one of the first hip failure consumer protection class actions cases in the country. Bonsignore took and attended the first depositions obtaining key admissions. The aggressive discovery conducted by Bonsignore resulted in key admissions by one of its chief worldwide recall investigators. The multi-district class action alleged that the makers of hip and knee prostheses negligently coated these medical devices with commercial grade motor oil and did not adequately test safety and efficacy prior to mass marketing to consumers. The related products were recalled from the United States market. A settlement was reached approximating \$1 billion. This matter was resolved through settlements.

In re: Lead Paint – Bonsignore represented the City of Providence Rhode Island in an action seeking to have the manufacturers of lead paint pay for its removal and to pay for the costs absorbed by the city for the health care and special education of children who suffered from lead paint poisoning.

PRINCIPAL

ROBERT J. BONSIGNORE. Mr. Bonsignore began his career in the Office of the District Attorney for Middlesex County, Massachusetts. Since 1990 when he began his own law firm specializing in complex litigation and trial work, he has been lead trial counsel in cases with jury verdicts totaling in excess of \$350 million dollars. Mr. Bonsignore is AV rated by Martindale Hubbell and was awarded Diplomat status by the National College of Advocacy. Mr. Bonsignore is frequently requested to speak at Continuing Legal Education seminars across the country. He has lectured on topics ranging from antitrust to consumer advocacy and from trial techniques to ethics. He has co-authored a trial technique treatise on Direct Examination for Lexus/Nexus.

Mr. Bonsignore has extensive experience in antitrust, consumer protection, complex litigation, class actions, multi-district litigation, Judicial Panel on Multi-District Litigation proceedings, and commercial cases. He also has received significant jury verdicts in wrongful death and catastrophic injury cases.

Between 2001 and 2004, Mr. Bonsignore was appointed Lead Counsel in five separate certified class actions by the Chief Justice of the Business Litigation Session for the Commonwealth of Massachusetts advancing claims raised pursuant to the Massachusetts Consumer Protection statute - Massachusetts General Law 93A. All were finally approved without appeal. Mr. Bonsignore was also appointed Lead or Co-Lead counsel in four other certified and class actions that were finally approved. Mr. Bonsignore successfully argued the re-certification of the largest employment class action in Massachusetts' history at the Supreme Judicial Court level. At the

trial court level, Mr. Bonsignore presented the oral argument at the first contested end use consumer indirect purchaser monopolization class action to be certified pursuant to Mass. General Laws Chapter 93A.

Mr. Bonsignore is frequently called upon to serve as counsel in team approach litigation because of his decades-long experience and proven track record in multi-district litigation. After establishing himself as a trial lawyer and working cooperatively in the Silicon Breast Implant Litigation in 2000, Mr. Bonsignore was selected as the firm representative of Robinson, Calcagnie & Robinson to the “megafirm” of Herman, Middleton, Casey, Kitchens & Robinson (“HMCKR”). HMCKR formally brought together nationally top-ranked law firms to jointly prosecute MDL actions (multi-district class actions) and other complex litigation involving

antitrust, unfair competition, and pharmaceutical matters. Other mega-firm members selected Mr. Bonsignore based on his skill, experience, work ethic accomplishment, and demonstrated ability to work cooperatively with co-counsel and opposing counsel on a multitude of projects.

Mr. Bonsignore was extensively involved in trial preparation in cases against tobacco manufacturers brought by public entities as well as private attorneys general and was counsel of record for the former Governor of California as well as Orange and Los Angeles counties. He is presently retained by the majority of counties in New Hampshire to represent them in the Opioid Litigation. He also advises them on antitrust litigation. Mr. Bonsignore first drafted the State of Rhode Island’s indirect end use purchaser antitrust laws and advised the City of Providence, Rhode Island throughout the legislative process.

In cases pending in United States federal courts, Mr. Bonsignore has been appointed lead counsel in 3 cases assigned Multi-District Litigation status by the Judicial Panel on Multi-District Litigation. MDL 1631 consolidated all indirect purchaser anti-trust actions filed nationwide addressing price fixing in the publication paper industry. MDL 1735 consolidated cases nationwide addressing wage and our violations by Wal-Mart Inc. Both actions in which Mr. Bonsignore was appointed Lead Counsel were settled after being aggressively litigated and received final approval. Mr. Bonsignore presently serves as Lead Counsel in MDL 2566, *In re TelexFree Securities Litigation*.

Mr. Bonsignore has served as a member of the American Antitrust Institute’s Board of Directors since 2009. The American Trial Lawyers Association has selected him as a peer reviewed “Top Trial Lawyer” each year since 2007. In 2010, he received the Outstanding Public Service Award from the Ipswich River Foundation. He is a 2010 graduate of the Trial Lawyers College. Mr. Bonsignore served as antitrust advisor to the Chief Counsel for the City of Providence, Rhode Island. Legislation Mr. Bonsignore initially drafted that provided for municipalities and school districts to bring an indirect purchaser antitrust case was eventually signed into law in 2013. In

2020 he made a substantial donation to the Medford Public Library and a conference room was named in his family's honor in the new Bloomberg Public Library.

Mr. Bonsignore has successfully tried to verdict several high-profile cases including cases selected by the Association of Trial Lawyers of America (ATLA) as the most outstanding jury verdicts of the year. Legal publications have featured Mr. Bonsignore's success in first obtaining admissions of payoffs to medical reviewers in the Rezulin litigation. Mr. Bonsignore's finding of Sulzer's document destruction in the hip replacement litigation was publicized in the United States and Europe. His work on Sulzer hip litigation also merited a feature story in the European news magazine FACTS, where he was headlined as the "American Killer Lawyer."

Mr. Bonsignore is a past recipient of the F. Scott Baldwin Most Outstanding Young Trial Lawyer in America Award that he received in 1997. He also is a seven-time recipient of the prestigious Wiedemann-Wysocki Citation of Excellence Award that is awarded by the trial bar to the most outstanding members of its ranks. In 1994, he received the Massachusetts Junior Chamber of Commerce Most Outstanding Young Leader Award, and in 1997 he was honored by

the Massachusetts Bar Association with the Most Outstanding Young Lawyer Award. In 2005, Mr. Bonsignore was presented with the Joseph Tonihill award that is recognized as the most prestigious award presented by the Association of Trial Lawyers of America for consumer advocacy.

As a past Chair of the Association of Trial Lawyers of America, Young Lawyers Division, Mr. Bonsignore was credited with creating the practice of appointing one man and one woman representative wherever possible in each representative member state, province or country for the purpose of representing the interests of young lawyers to the bar. He created and instituted a program promoting local public service by young lawyers. In recognition of the nature and scope of this undertaking and before its demise, the Association of Trial Lawyers of America Young Lawyers Division, presented the Robert J. Bonsignore Public Service Award to a representative bar group that performs the most outstanding acts of public service.

Mr. Bonsignore previously served on the Boards of the non-profit Trial Lawyers for Public Justice and was a national officer for the Civil Justice Foundation. Mr. Bonsignore is a Life Member of the National Conference of Bar Presidents of the American Bar Association and has served on the Articles and Bylaws Committee since 1999. Mr. Bonsignore has previously served as a Consumer Advisory Commissioner for the Office of the Attorney General for the Commonwealth of Massachusetts and as an Assistant District Attorney for Middlesex County. Forbes Sky Radio selected Mr. Bonsignore as one of America's Best Lawyers. Mr. Bonsignore is an Assistant Scout Master for Scout Troop 143, St Viator School, Black Mountain District, Las

Vegas Area Counsel and the proud father of two Eagle Scouts and a pending Congressional Medal of Honor winner. His youngest daughter was the first female Scout in her District.

During 2018 and 2019 Mr. Bonsignore was requested to give about 10 Continuing Legal Education (CLE”) programs on behalf of “for pay” CLE companies on complex litigation, discovery, class actions, and e discovery. He is the author of Westlaw’s Litigating Tort Cases; Chapter 39. Direct Examination of Lay Witnesses. He most recent request to offer a course on CLE on MDL practice, class actions, and complex litigation has been put on hold in light of the above considerations.

TIME REPORT

FIRM NAME: Bonsignore Trial Lawyers, PLLC
REPORTING PERIOD: 10/1/2020-6/30/2023

Categories:

- (1) DISCOVERY AND INVESTIGATION OF CASE
- (2) ADMINISTRATION
- (3) BRIEFS MOTIONS AND PLEADINGS
- (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT
- (5) COURT APPEARANCES
- (6) TRIAL PREP
- (7) SETTLEMENT NEGOTIATIONS AND DRAFTING
- (8) APPEAL
- (9) BANKRUPTCY

Status:

- (P) Partner
- (A) Associate
- (LC) Law Clerk
- (PL) Paralegal
- (OC) Of Counsel
- (DR) Document Reviewer

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Previous Hours	Previous Lodestar	Cumulative Hours	Cumulative Lodestar
Robert Bonsignore	P/2022-2023	665.70	82.90	562.20	268.50	27.40	-	194.20	-	10.10	1,811.00	\$ 950.00	\$ 1,720,450.00	5,475.00	\$ -	7,286.00	\$ 1,720,450.00
Robert Bonsignore	P/2020-2021	481.20	62.30	214.60	206.30	43.30	-	124.30	-	8.90	1,140.90	\$ 850.00	\$ 969,765.00	-	\$ -	1,140.90	\$ 969,765.00
Melanie Porter	P/2023	431.10	10.40	158.20	184.10	-	-	69.30	-	1.20	854.30	\$ 900.00	\$ 768,870.00	-	\$ -	854.30	\$ 768,870.00
Melanie Porter	P/2022	364.50	4.80	26.60	128.70	3.20	-	123.60	-	-	651.40	\$ 850.00	\$ 553,690.00	-	\$ -	651.40	\$ 553,690.00
Frances Whitaker	A/2022-2023	874.30	19.20	58.00	289.60	8.40	-	38.20	-	-	1,287.70	\$ 850.00	\$ 1,094,545.00	-	\$ -	1,287.70	\$ 1,094,545.00
Frances Whitaker	A/2021	2.00	-	-	-	-	-	-	-	-	2.00	\$ 750.00	\$ 1,500.00	-	\$ -	2.00	\$ 1,500.00
Lisa Sleboda	OC/2021-2022	-	-	-	-	-	-	-	-	-	0.00	\$ 800.00	\$ -	2,078.80	\$ -	2,078.80	\$ -
Lisa Sleboda	OC/2020	-	-	-	-	-	-	-	-	-	0.00	\$ 750.00	\$ -	-	\$ -	0.00	\$ -
Helen Glynn	DR/2023	-	-	-	-	-	-	-	-	-	0.00	\$ 450.00	\$ -	-	\$ -	0.00	\$ -
Leslie Moore	DR/2023	-	-	-	-	-	-	-	-	-	0.00	\$ 250.00	\$ -	-	\$ -	0.00	\$ -
Susan Salas	DR/2023	-	-	-	-	-	-	-	-	-	0.00	\$ 250.00	\$ -	-	\$ -	0.00	\$ -
											0.00						
ATTORNEY TOTALS		2,818.80	179.60	1,019.60	1,077.20	82.30	-	549.60	-	20.20	5,747.30		\$ 5,108,820.00	7,553.80	\$ 7,041,860.00	13,301.10	\$ 12,150,680.00
Ross Friedman	LC/2021-2023	452.30	53.60	34.80	88.20	-	-	8.60	-	16.70	654.20	\$ 250.00	\$ 163,550.00	-	\$ -	654.20	\$ 163,550.00
Grady DiAntonio	LC/2020-2022	234.40	72.20	23.40	125.00	-	-	10.80	-	-	607.90	\$ 250.00	\$ 151,975.00	-	\$ -	607.90	\$ 151,975.00
Gray Echavarria	PL/2021	23.40	43.60	2.40	2.60	-	-	-	-	-	82.00	\$ 250.00	\$ 20,500.00	357.20	\$ -	439.20	\$ 20,500.00
Jacqueline Bonsignore	PL/2023	1.10	-	-	-	-	-	22.00	-	-	23.10	\$ 150.00	\$ 3,465.00	-	\$ -	23.10	\$ 3,465.00
Jane Stanley	PL/2020-2023	8.70	148.50	-	1.20	-	-	-	-	-	158.40	\$ 250.00	\$ 39,600.00	-	\$ -	158.40	\$ 39,600.00
Ann Piazza	PL/2020	-	10.20	-	-	-	-	-	-	-	10.20	\$ 250.00	\$ 2,550.00	-	\$ -	10.20	\$ 2,550.00
											0.00			357.20	\$ -	357.20	\$ -
NON-ATTORNEY TOTALS		719.90	328.10	60.60	217.00	0.00	0.00	41.40	0.00	16.70	1,535.80		\$ 381,640.00	357.20	\$ 62,010.00	1,893.00	\$ 443,650.00
TOTALS		3,538.70	507.70	1,080.20	1,294.20	82.30	0.00	591.00	0.00	36.90	7,283.10		\$ 5,490,460.00	12,133.70	\$ 7,103,870.00	19,416.80	\$ 12,594,330.00

EXHIBIT 3

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

CALEB PADILLA, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

COMMUNITY HEALTH SYSTEMS,
INC., WAYNE T. SMITH, LARRY CASH,
and THOMAS J. AARON,

Defendants.

Case No.: 3:19-cv-00461

DISTRICT JUDGE ELI J. RICHARDSON

MAGISTRATE JUDGE BARBARA D.
HOLMES

**DECLARATION OF J. GERARD STRANCH, IV, ESQ. IN SUPPORT OF LEAD
COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION
EXPENSES FILED ON BEHALF OF STRANCH, JENNINGS & GARVEY, PLLC**

I, J. Gerard Stranch, IV, declare as follows:

1. I am the managing partner at Stranch, Jennings & Garvey, PLLC (“Stranch Jennings”) (f/n/a Branstetter, Stranch & Jennings, PLLC), the Court-appointed Liaison Counsel in the above-captioned action (the “Action”).¹ See ECF No. 52. I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein based on my active supervision of, and participation in, the prosecution and settlement of the claims asserted in the Action and, if called upon, could and would testify thereto.

2. As Liaison Counsel for plaintiffs in this Action, Stranch Jennings, among other things: (a) reviewed, finalized and filed the complaint and served process, (b) filed motions and other pleadings; (c) attended court hearings; and (d) assisted with and attended mediation.

3. The schedule attached hereto as Exhibit A is a detailed summary indicating the amount of time spent by attorneys and professional support staff employees of my firm who, from inception of the Action through and including August 18, 2023, worked on this case, and the lodestar calculation for those individuals based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.

4. I am the partner who oversaw or conducted the day-to-day activities in the Action and I reviewed these daily time records in connection with the preparation of this declaration. The

¹ Unless otherwise defined, all capitalized terms herein have the same meanings as set forth in the Stipulation and Agreement of Settlement dated May 19, 2023. ECF No. 117-1.

purpose of this review was to confirm both the accuracy of the records as well as the necessity for, and reasonableness of, the time committed to the litigation. As a result of this review, I made reductions to certain of my firm's time entries such that the time included in Exhibit A reflect that exercise of billing judgment. Based on this review and the adjustments made, I believe that the time of Stranch Jennings & Garvey attorneys and staff reflected in Exhibit A was reasonable and necessary for the effective and efficient prosecution and resolution of the Action. No time expended on the application for fees and reimbursement of expenses has been included.

5. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are consistent with the rates approved by courts in other securities or shareholder litigation when conducting a lodestar cross-check.

6. The total number of hours reflected in Exhibit A is 50.6 hours. The total lodestar reflected in Exhibit A is \$46,549.60, consisting of \$40,700.60 for attorneys' time and \$5,849.00 for professional support staff time.

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

8. As detailed in Exhibit B, my firm is seeking reimbursement of a total of \$1,550.00 in expenses incurred in connection with the prosecution of this Action.

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

10. Attached hereto as Exhibit C is a brief biography of Stranch Jennings, including the attorneys who were involved in the Action.

I declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed on September 5, 2023 in Nashville, Tennessee.



J. GERARD STRANCH, IV

EXHIBIT A***Caleb Padilla v. Community Health Systems, Inc. et al.,***
Case No. 3:19-cv-00461**Stranch, Jennings & Garvey, PLLC****LODESTAR REPORT**
FROM INCEPTION THROUGH AUGUST 18, 2023

TIMEKEEPER/CASE	STATUS	HOURS	RATE	LODESTAR
ATTORNEYS:				
Stranch, Gerard J.	Partner	17.2	1,308.00	22,497.60
Gastel, Benjamin	Partner	16.7	1,090.00	18,203.00
TOTAL ATTORNEY				40,700.60
PROFESSIONAL STAFF:				
Steele, Jennifer	Senior Paralegal	3.8	343.35	1,304.73
Young, Mariah	Senior Paralegal	6.4	343.35	2,197.50
Vandewalker, Nicole	Senior Paralegal	6.2	343.35	2,128.77
Martin, Nathan	Law Clerk	.50	436.00	218.00
TOTAL PROFESSIONAL STAFF				5,849.00
TOTAL LODESTAR		50.80		46,549.60

EXHIBIT B

Caleb Padilla v. Community Health Systems, Inc. et al.,
Case No. 3:19-cv-00461

Stranch, Jennings & Garvey, PLLC

EXPENSE REPORT

FROM INCEPTION THROUGH AUGUST 18, 2023

ITEM	AMOUNT
COURT FILING FEES	1,550.00
GRAND TOTAL	1,550.00

EXHIBIT C
Stranch, Jennings & Garvey, PLLC
FIRM RESUME



STRANCH, JENNINGS & GARVEY PLLC

The award-winning attorneys of Stranch, Jennings & Garvey, PLLC (SJ&G), have recovered more than \$50 billion for clients, from high-profile cases to single plaintiffs who have suffered harm or unfair treatment.

SJ&G's roots go back to 1952 when Cecil Branstetter founded Branstetter, Stranch & Jennings, PLLC (BS&J), his own law firm in Nashville. For more than seven decades, our attorneys have advocated for society's under-represented voices, consumer rights, labor unions and victims of discrimination, a legacy that continues today as we work to ensure access to justice for our clients.

SJ&G's roots go back to 1952, when Cecil Branstetter founded his own Nashville firm after earning his law degree from Vanderbilt Law School in 1949. The firm grew and became known as Branstetter, Stranch & Jennings, PLLC (BS&J).

PRACTICE AREAS

- Bank Fees
- ERISA Trust Funds
- Product Liability
- Wage and Hour Disputes
- Class Action
- Labor Unions
- Personal Injury
- Worker Adjustment and Retaining Notification
- Data Breaches
- Mass Tort
- Trucking Accidents

REPRESENTATIVE CASES

SJ&G attorneys have represented plaintiffs in a substantial number of complex cases both in state and federal courts throughout the nation:

- as lead trial attorney in the Sullivan Baby Doe case (originally filed as Staubus v. Purdue) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee in Dahl v. Bain Capital Partners (anti-trust), resulting in a \$590.5 million settlement;
- appointed mediator by the circuit court in the case of the City of St. Louis v. National Football League and the Los Angeles Rams, having successfully negotiated a \$790 million settlement for the plaintiffs;
- lead plaintiff in Sherwood v. Microsoft, which set the standard for indirect antitrust actions in Tennessee and ultimately resolved for a value of \$64 million;
- litigated Qwest Savings and Investment Plan ERISA litigation, resulting in a \$57.5 million total payout to class members;
- plaintiff's co-counsel in the Paxil litigation of Orrick v. GlaxoSmithKline;
- represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. Montanez v. Gerber Childrenswear, LLC (M.D. Cal.); and
- represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.

Nashville

The Freedom Center
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Phone: 615.254.8801

St. Louis

Peabody Plaza
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Phone: 314.390.6750

Las Vegas

3100 W. Charleston Boulevard
Suite 208
Las Vegas, NV 89102
Phone: 725.235.9750



J. Gerard Stranch IV

FOUNDING MEMBER

Gerard Stranch is the managing partner at Stranch, Jennings & Garvey, PLLC (SJ&G). A third-generation trial lawyer, he leads the firm's class action and mass tort practice groups. His additional areas of practice include bank fees, data breaches, wage and hour disputes, worker adjustment and retraining notification, personal injury and trucking incidents.

Mr. Stranch has served as lead or co-lead counsel for the firm in numerous cases, including:

- lead trial attorney in the Sullivan Baby Doe case (originally filed as *Staubus v. Purdue*) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee In *Dahl v. Bain Capital Partners* (anti-trust), resulting in a \$590.5 million settlement;
- personally appointed to the steering committee In re: New England Compounding Pharmacy, Inc., resulting in more than \$230 million in settlements; and
- appointed as co-lead counsel In re: Alpha Corp. Securities litigation, resulting in a \$161 million recovery for the class.

PHONE

615.254.8801

EMAIL

gstranch@stranchlaw.com

LOCATION

The Freedom Center
223 Rosa L. Parks Avenue
Suite 200
Nashville, TN 37203

A 2000 graduate of Emory University, Mr. Stranch received his J.D. in 2003 from Vanderbilt University Law School, where he teaches as an adjunct professor about the practice of civil litigation. He led the opioid litigation team in the Sullivan Baby Doe suit, for which the team won the 2022 Tennessee Trial Lawyer of the Year award. Mr. Stranch has been listed as one of the Top 40 Under 40 by the National Trial Lawyers Association and as a Mid-South Rising Star by Super Lawyers magazine.

PRACTICE AREAS

- Class Action
- Mass Tort
- Bank Fees
- Data Breaches
- Wage and Hour Disputes
- Worker Adjustment and Retraining Notification
- Personal Injury
- Trucking Incidents

EDUCATION

- Vanderbilt University Law School (J.D., 2003)
- Emory University (B.A., 2000)

BAR ADMISSIONS

- Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals
- U.S. District Court District of Colorado

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Super Lawyers Mid-South Rising Star
- Top 40 Under 40, National Trial Lawyers Association

Memberships

- Public Justice
- Nashville Bar Association
- Tennessee Bar Association
- American Association for Justice
- Tennessee Association for Justice
- Lawyer's Coordinating Committee of the AFL-CIO
- General Counsel Tennessee AFL-CIO and Federal Appointment, Coordinator
- General Counsel Tennessee Democratic Party
- National Trial Lawyer
- Board of Directors, Cumberland River Compact
- Class Action Trial Lawyers Association, Board Member
- Board of Governor's Tennessee Association for Justice

PRESENTATIONS

- Mr. Stranch regularly speaks at conferences on issues ranging from in-depth reviews of specific cases to developments in the law, including in mass torts, class actions and voting rights.
- Mr. Stranch is one of the founding members of the Cambridge Forum on Plaintiff's Mass Tort Litigation and regularly presents at the forum.

LANGUAGES

- English
- German





James G. Stranch III

FOUNDING MEMBER

Jim Stranch is the senior partner in the complex litigation group, which he helped start on behalf of the firm. He has served as lead counsel in virtually every large complex and other class action in which the firm has served as lead plaintiff.

Mr. Stranch and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA litigation and jointly litigated numerous groundbreaking cases.

One of Mr. Stranch's first hard-earned victories came in 1979 when, along with firm founder Cecil Branstetter, he won a jury verdict in a case against Frosty Morn Meats in Montgomery County. The bankrupt company was found by a jury to have been grossly negligent in its mishandling of more than 500 employees' Christmas monies. The jury returned a nearly \$473,000 judgment against the company's board of directors, and the case helped solidify the firm's reputation in Tennessee as one that fights for workers' interests.

In addition to having founded the firm's class action practice, Mr. Stranch also focuses on Labor and Employment Law, and brings more than four decades of experience in representing labor organizations and individual workers throughout Tennessee and the South. Mr. Stranch also has extensive expertise in matters arising under the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA.

Mr. Stranch has spent his career contributing to its legacy of supporting labor unions, shareholders, small businesses and others. Mentored by the late Cecil Branstetter, Mr. Stranch also strives to mentor the firm's younger attorneys.

PHONE

615.254.8801

EMAIL

jstranch@stranchlaw.com

LOCATION

The Freedom Center
223 Rosa L. Parks Avenue
Suite 200
Nashville, TN 37203

PRACTICE AREAS

- Class Action and Complex Litigation
- Labor and Employment Law
- Personal Injury
- Consumer Protection
- ERISA Trust Funds

EDUCATION

- University of Tennessee College of Law (J.D., 1973)
- University of Tennessee (B.S., 1969)

EXPERIENCE

- Tennessee consumer protection and antitrust action against Microsoft, which led to a \$64 million recovery to the consumer class, including a \$30 million cy pres to Tennessee schools
- Qwest Savings and Investment Plan ERISA litigation, which resulted in a \$57.5 million total payout to class members
- Nortel Networks Corp. ERISA litigation, which was resolved with a \$21.5 million settlement
- Securities litigation on behalf of the State of Tennessee Consolidated Retirement System against Worldcom, which led to a \$7 million recovery
- Shareholder derivative action involving Dollar General Corporation, which resulted in a \$31.5 million recovery
- ERISA/401(k) litigations on behalf of employees and pensioners of Qwest Communications, Inc. (\$57.5 million total value recovery), Xcel Energy Inc. (\$8.6 million recovery), Provident Financial, Inc. (\$8.6 million) and Nortel, Inc. (\$21.5 million recovery)

BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court, Colorado
- U.S. Tax Court
- U.S. Supreme Court
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals

PROFESSIONAL HONORS & ACTIVITIES

Awards

- AV-Rated by Martindale Hubbell
- Best Lawyers in America – Labor and Employment Law
- Mid-South Super Lawyers Edition (2014)
- Super Lawyers (2007 – 2020)

Memberships

- Tennessee State Ethics Commission, Member and Former Chairman
- Tennessee Appellate Court Nominating Committee (Secretary, 1985 – 1991)
- AFL-CIO Lawyer's Coordinating Advisory Committee (1980 – present)
- Nashville Bar Association (1973 – present)
- Tennessee Bar Association (Chairman, Labor Law Section, 1991 – 1992; Member, 1973 – present)

- American Bar Association (1973 – present)
- American Association for Justice (1974 – present)
- Tennessee Association for Justice (1974 – present)
- Phi Delta Phi

COMMUNITY INVOLVEMENT

- Chairman, Tennessee Bureau of Ethics
- Fellow, Nashville Bar Foundation
- Former Secretary, Tennessee Appellate Court Nominating Committee
- Former Member of the AFL-CIO Lawyers Coordinating Advisory Committee
- Former Chairman, Tennessee Bar Association's Labor Law Section





R. Jan Jennings

FOUNDING MEMBER

In the initial years of his career, Jan Jennings represented labor organizations devoted to protecting the rights of employees. During the past 20 years, he has concentrated on providing services to health and pension funds that provide benefits to construction workers. He has also provided personal representation to political and labor leaders throughout the South.

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LOCATION

The Freedom Center
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Nashville, TN 37203

After obtaining an M.B.A. degree, Mr. Jennings worked in a series of managerial positions at General Electric Company, where he was responsible for union and employee relations. Upon graduation from law school, he practiced in Atlanta, Georgia, for a number of years before relocating his practice to Nashville. He joined the firm in 1977.

A native of Johnson City, Tennessee, Mr. Jennings earned his J.D. from the University of Tennessee College of Law, where he served as editor of the Tennessee Law Review. He received his B.S. and M.B.A. degrees from East Tennessee State University.

PRACTICE AREAS

- ERISA Trust Funds
- Labor Unions

EDUCATION

- University of Tennessee College of Law (J.D., 1974)
 - Editor, *Tennessee Law Review*
- East Tennessee State University,
(M.B.A., 1966)
- East Tennessee State University (B.S., 1964)

EXPERIENCE

Mr. Jennings provides ongoing representation to health and pension funds in connection with litigation concerning:

- Collection of employer delinquencies
- Denial of benefits
- Claims for subrogation/reimbursement to health funds from participants
- Breach of fiduciary duty claims
- Claims against service providers due to errors or omissions, prohibited transactions and breach of fiduciary liability
- Claims against hospitals, drug companies and other providers for excessive claims or costs
- Withdrawal liability
- Federal and state securities violations
- Consumer fraud

This representation of multiemployer funds involves the wide range of subjects encompassed by ERISA, Taft-Hartley, the IRC, HIPAA and PPACA.

BAR ADMISSIONS

- Tennessee
- U.S. District Court Eastern District of Tennessee
- Georgia
- U.S. 5th Circuit Court of Appeals
- U.S. 6th Circuit Court of Appeals
- U.S. 11th Circuit Court of Appeals
- U.S. Court of Appeals Federal Circuit
- U.S. Supreme Court
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Best Lawyers in America – Labor and Employment Law (2004 – present)
- AV-Rated by Martindale Hubbell (1975 – present)

Memberships

- Tennessee Bar Association
- State Bar of Georgia

COMMUNITY INVOLVEMENT

- Cecil D. Branstetter Scholarship Fund
- Laborers' Care Foundation





John Garvey

FOUNDING MEMBER

Judge (ret.) Jack Garvey has been practicing law for 35 years in St. Louis. He began his career in private practice, then moved to the city's prosecuting attorney office, where he tried 23 cases to verdict. He was then elected to the St. Louis Board of Aldermen, where he served for four years while also practicing as a trial attorney before joining a trial law firm. While in private practice, he tried 25 cases to verdict.

In 1998, Judge Garvey was appointed to the associate circuit court bench, where he served five years until he was elevated to a circuit court position and served for an additional 13 years. During his time on the bench, he presided over 200 jury trials, and served as the chief criminal judge, presiding juvenile court judge and assistant presiding judge, as well as the chief judge of the 22nd Judicial Circuit mass tort docket.

Following his return to private practice in 2015, Judge Garvey has been involved as plaintiff's co-counsel in the Paxil litigation of *Orrick v. GlaxoSmithKline*, St. Louis City Circuit #1322-CC00079; co-lead counsel in the opioids litigation of *Jefferson County v. Williams*, #20JE-CC00029; and local counsel in Roundup cases.

In addition to his litigation work, he has been appointed several times as a special master on discovery matters by St. Louis city and county courts. In addition, Judge Garvey was appointed mediator by the circuit court in the case of the *City of St. Louis v. National Football League* and the *Los Angeles Rams*, having successfully negotiated a \$790 million settlement for the plaintiffs in 2022.

Judge Garvey obtained his B.A. in urban affairs in 1983 from St. Louis University, and earned his J.D. in 1986 from Rutgers University School of Law. He is an adjunct professor of law at Washington University School of Law and St. Louis University School of Law.

Jack resides in South St. Louis with his wife, Kathy, a retired registered nurse. They have four children who also live in St. Louis. Jack enjoys running, reading and grilling.

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LOCATION

Peabody Plaza
701 Market Street
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St. Louis, MO 63101

PRACTICE AREAS

- Class Action
- Mass Tort
- Personal Injury
- Product Liability

EDUCATION

- Rutgers University School of Law (J.D., 1986)
- St. Louis University (B.A., 1983)

BAR ADMISSIONS

- Missouri
- U.S. District Court Eastern District of Missouri
- U.S. District Court Western District of Missouri
- U.S. District Court Southern District of Illinois

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Adjunct Faculty Member of the Year, St. Louis University Law School (2006)
- Person of the Year, Missouri Coalition Against Domestic Violence (2000)
- Pro Bono Legal Professional of the Year, St. Louis University Civil Justice Clinic (2007)
- Honored at the 2023 Missouri Lawyers Association for his role in re: National Prescription Opiate Litigation settlement, which won first place in the Top Settlements category

Memberships

- Bar Association of Metropolitan St. Louis

COMMUNITY INVOLVEMENT

- Adjunct Professor of Law, Washington University Law School – Evidence and Trial Advocacy (2001 – 2015)

- Adjunct Professor of Law, St. Louis University – Trial Advocacy (2005 – 2015)
- President of the board of directors, St. Louis Public Library (2004 – 2008)
- Alderman, 14th Ward of the City of St. Louis (1991 – 1995)

PRESENTATIONS

- "Trends in Mass Torts," HarrisMartin MDL Conference: The Current Mass Tort Landscape (March 2022)
- "Opioid Case Against the Pharmacies," HarrisMartin MDL Conference: Critical Developments in Mass Torts, MDLs, and Game-Changing Jurisprudence (May 2019)





Nathan R. Ring

PARTNER

Nate Ring oversees the firm's Las Vegas office. He concentrates his practice in the areas of labor, employment, ERISA and election law. He has represented working people and their unions across Nevada, Oregon and Washington.

Mr. Ring serves as counsel to the Nevada State AFL-CIO, Southern Nevada Building Trades Unions, the Building and Construction Trades Council of Northern Nevada, and numerous local unions. He has also served as counsel for numerous union-affiliated political action committees. He represents clients in federal and state trial and appellate courts, before administrative agencies, in arbitrations and mediations, and in the negotiation of collective bargaining agreements.

Mr. Ring earned his B.A. in public affairs in 2007 from Wayne State University in Detroit, Michigan. During his undergraduate studies, he managed and worked on Democratic political campaigns and interned for United States Senator Debbie Stabenow. He graduated cum laude in 2010 from the University of Nevada, Las Vegas, William S. Boyd School of Law. During law school, he served as an elected officer of the Student Bar Association and as a law clerk for the UAW legal department. He was awarded the Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School.

Following law school, Mr. Ring clerked for a Nevada District Court Judge, then began his practice of law in the representation of labor unions and employee benefit trust funds. In 2015, he received the Go-to Guy Award from the Nevada State AFL-CIO for advice and counsel provided to the state federation and its affiliates during the legislative session. He is a member of the AFL-CIO Union Lawyers Alliance, and was recognized as a Super Lawyers Rising Star in Labor and Employment Law from 2014 - 2020.

A native of Michigan, Mr. Ring resides in Las Vegas with his wife, Nevada State Senate Majority Leader Nicole Cannizzaro, and their infant son, Case. When not practicing law, Nate enjoys spending time with his family, watching sports and playing an occasional round of golf.

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LOCATION

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PRACTICE AREAS

- Labor
- Employment
- ERISA Trust Funds
- Election Law

EDUCATION

- University of Nevada, Las Vegas, William S. Boyd School of Law (J.D., *cum laude*, 2010)
 - Competitor, Conrad Duberstein Bankruptcy Moot Court Competition
 - Secretary, Student Bar Association
- Wayne State University (B.A., Public Affairs, 2007)

EXPERIENCE

- *Lehman v. Nelson*, 943 F.3d 891 (9th Cir. 2019): Represented a Taft-Hartley Pension Plan and argued before the Ninth Circuit in a matter of first impression under the Pension Protection Act of 2006.
- *Glazing Health & Welfare Fund v. Lamek*, 896 F.3d 908 (9th Cir. 2018): Represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.
- *Lehman v. Nelson*, 862 F.3d 1203 (9th Cir. 2017): Represented a Taft-Hartley Pension Plan in a successful Ninth Circuit appeal of a district court decision concerning contribution reciprocity under the Pension Protection Act of 2006.

- *International Brotherhood of Teamsters, Airline Division v. Allegiant Air, LLC*, 788 F.3d 1080 (9th Cir. 2015): Represented an international labor union and argued before the Ninth Circuit in an appeal raising an issue of first impression concerning bargaining under the Railway Labor Act.
- *W.G. Clark Construction Co. v. Pacific NW Regional Council of Carpenters*, 322 P.3d 1207 (Wash. 2014): Represented a Taft-Hartley Trust Fund as amici in a case that overturned prior Washington Supreme Court precedent, which held that ERISA Trust Funds could not recover contributions through state-required contractor bonds.
- *Operating Engineers Pension Trust v. Thornton Concrete Pumping*, 806 F.Supp.2d 1135 (D. Nev. 2011): Successfully represented Taft-Hartley Trust Funds in obtaining a district court judgment against a general contractor for its subcontractor's unpaid fringe benefit contributions under Nevada Revised Statutes 608.150.

BAR ADMISSIONS

- Nevada
- Washington
- Oregon
- U.S. 9th Circuit Court of Appeals
- U.S. District Court – District of Nevada
- U.S. District Court Western District of Washington
- U.S. District Court Eastern District of Washington
- U.S. District Court – District of Oregon

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Labor Partner of the Year Award from the Southern Nevada Building Trades Unions (2022)
- Super Lawyers Rising Star, Employment and Labor Law (2014 – 2020)
- Go-to Guy Award, Nevada State AFL-CIO (awarded by the executive secretary-treasurer for representation of the labor movement during the 2015 Nevada Legislative Session)
- Young Lawyers Division Fellow, ABA Labor & Employment Law Section (2012)
- Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School, William S. Boyd School of Law, UNLV (2010)

Memberships

- State Bar of Nevada
- Washington State Bar Association
- Oregon State Bar
- International Foundation of Employee Benefit Plans
- AFL-CIO Union Lawyers Alliance

PRESENTATIONS

- "Strategize for Conscious Capital for Turbulent Times," Made in America Taft-Hartley Benefits Summit (2021)
- "LMRDA: An Overview," Southern Nevada Building Trade Unions Conference (2021)
- "Update on the Substance Abuse Epidemic and Controlling Behavioral Health Costs," Made in America Taft-Hartley Benefits Summit (2019)
- "Election Campaigns: Legal Overview," Nevada State AFL-CIO COPE Conference (2018)



STRANCH, JENNINGS & GARVEY
PLLC



Marty Schubert

PARTNER

Marty Schubert focuses his practice on the firm's class action litigation, and currently represents numerous consumers who were charged improper overdraft fees by their banks or credit unions. He also assists with matters relating to voting rights and ballot access, and previously served as the voter protection director for the Tennessee Democratic Party.

Before joining Stranch, Jennings & Garvey, Mr. Schubert was a U.S. associate with Linklaters LLP in London, England, and an associate with Waller Lansden Dortch & Davis, LLP in Nashville. A native Chicagoan, he began his career as a middle school teacher in South Los Angeles. Before attending law school, he worked as a field organizer for the Obama campaign and as an Obama administration appointee at the U.S. Department of Education in Washington, D.C. Prior to beginning his legal practice, he served as a judicial intern with Chief U.S. District Judge Colleen McMahon of the U.S. District Court for the Southern District of New York.

Mr. Schubert is a 2013 graduate of Brooklyn Law School. He graduated cum laude from Georgetown University in 2006 and earned his M.A. in secondary education in 2008 from Loyola Marymount University.

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LOCATION

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Nashville, TN 37203

PRACTICE AREAS

- Class Action
- Election Law

EDUCATION

- Brooklyn Law School (J.D., 2013)
 - Member, *Brooklyn Law Review*
- Loyola Marymount University (M.A., Secondary Education, 2008)
- Georgetown University (B.S., Foreign Service, *cum laude*, 2006)

EXPERIENCE

- Obtained hundreds of millions of dollars in class action settlements against banks and credit unions in more than 30 states for the improper assessment of overdraft fees

BAR ADMISSIONS

- Tennessee
- New York

PROFESSIONAL HONORS & ACTIVITIES

Memberships

- Nashville Bar Association
- Tennessee Trial Lawyers Association

PUBLISHED WORKS

- Note, When Vultures Attack: Balancing the Right to Immunity Against Reckless Sovereigns, 78 BROOK L. REV. (Spring 2013)

LANGUAGES

- English
- Spanish

COMMUNITY INVOLVEMENT

- Throughout his career, Mr. Schubert has been involved in local education issues by representing suspended or truant students in administrative proceedings and serving as a committee member of the Nashville Area Chamber of Commerce's Education Report Card.
- He is also a founding board member of The Ubuye Challenge, which raises funds for educational initiatives in southern Africa and the Caribbean through athletic endurance competitions.





Michael G. Stewart

PARTNER

Mike Stewart is a member of the firm's complex litigation practice, representing citizens who have suffered injuries or lost money because of the actions of powerful interests. He has litigated cases that have recovered millions of dollars for defrauded investors, persons injured by defective products and consumers cheated by improper sales practices. He writes and speaks on a variety of legal and public interest topics.

A former member of the Tennessee General Assembly, Mr. Stewart aggressively fought for Tennessee's citizens, at one point calling attention to Tennessee's inadequate gun background check laws by offering an assault rifle for sale at a sidewalk lemonade stand. Mr. Stewart was elected unanimously by his fellow Democratic members to serve as their Caucus Chairman during the 109th, 110th and 111th General Assemblies. During his tenure, Democrats regained seats held by Republicans in all three of Tennessee's Grand Divisions – West, Middle and East Tennessee.

Before attending law school, Mr. Stewart served as an officer in the United States Army, with service in the Korean Demilitarized Zone and in Operation Desert Storm.

Mr. Stewart and his wife, Ruth, have three children, Will, Joseph and Eve. Ruth is a physician and an Associate Dean at Meharry Medical College. They live in East Nashville.

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LOCATION

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Nashville, TN 37203

PRACTICE AREAS

- Class Action and Complex Litigation
- Civil Litigation

EDUCATION

- University of Tennessee College of Law (J.D., *cum laude*, 1994)
 - Student Materials Editor, *Tennessee Law Review*
 - National Moot Court Team
 - Vinson & Elkins Award for Excellence in Moot Court Brief Writing
- University of Pennsylvania (B.A., 1987)

EXPERIENCE

- Represented a class of shareholders in antitrust litigation against many of the nation's largest private equity firms in a suit alleging collusion on large buyout deals. Total settlements exceeded half-a-billion dollars. *Dahl v. Bain Capital Partners* (D. Mass).
- Represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. *Montanez v. Gerber Childrenswear, LLC* (M.D. Cal.).
- Represented a consumer seriously injured by emissions from a residential air cleaner, resulting in a significant settlement. *Bearden v. Honeywell International, Inc.* (M.D. Tenn.).
- Represented a class of shareholders alleging damages from inaccurate financial statements issued by a manufacturer of cellular phone cameras, resulting in a multi-million-dollar settlement. In re: *Omnivision Technologies, Inc.* Litigation (N.D. Cal.).

BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. 6th Circuit Court of Appeals

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Best Lawyers in America (2008)
- National Trial Lawyers, Top 100 (2019)
- U.S. Eighth Army Distinguished Leader Award

Memberships

- American Bar Association
- Tennessee Bar Association
- Nashville Bar Association
- American Association of Justice

PRESENTATIONS & PUBLISHED WORKS

- Tennessee Bar Association Litigation Forum CLE – “Legislative Update”
- Nashville Bar Association CLE, “Deposition Ethics: Strategies for Taking and Defending Depositions Without Running Afoul of the Model Rules of Professional Conduct”
- “Paul Krugman Unwittingly Fulfills Fiscal Fantasies for Republicans,” *The Hill* (Nov. 18, 2017)
- “Memo to Democratic Donors: the Path to Power Passes Through the States,” *The Hill* (Dec. 22, 2016)

COMMUNITY INVOLVEMENT

- Chairman, Tennessee House Democratic Caucus
- Campaign Treasurer, Mayor Bill Purcell
- Past Member, Metro Nashville Emergency Communications Board
- Past President, Lockeland Springs Neighborhood Association
- Member, East End United Methodist Church



NASHVILLE ATTORNEYS

The Freedom Center, 223 Rosa L. Parks Avenue, Suite 200, Nashville, TN 37203



Karla M. Campbell

OF COUNSEL

EDUCATION

- Georgetown University Law Center (J.D., 2008)
 - Article Selection Editor, *Georgetown Immigration Law Journal*
- University of Virginia (B.A., *highest distinction*, 2002)

CLERKSHIP

- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals

BAR ADMISSIONS

- Tennessee
- Ohio

PRACTICE AREAS

- Appellate Practice
- Civil Litigation
- Employment Law
- ERISA Trust Funds
- Labor Law

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Kerry Dietz

ATTORNEY

EDUCATION

- Belmont University College of Law (J.D., 2016)
 - Editor-in-Chief, *Belmont Law Review Volume 3*
- George Washington University (B.A., 2009)

BAR ADMISSIONS

- Tennessee
- U.S. District Court for the Middle District of Tennessee
- U.S. 6th Circuit Court of Appeals

PRACTICE AREAS

- Civil Litigation
- Civil Rights Law
- Labor and Employment Law
- Wage and Hour

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Caleb Harbison

ATTORNEY

EDUCATION

- Belmont University College of Law (J.D., 2022)
- Liberty University (M.A., 2017)
- East Tennessee State University (B.S., *magna cum laude*, 2016)

CLERKSHIPS

- Hon. Monte Watkins in Davidson County
- Hughes & Coleman Law Firm
- Tennessee 2nd Judicial District
- Tennessee 10th Judicial District

BAR ADMISSIONS

- Tennessee

PRACTICE AREAS

- Complex Litigation
- Opioid Litigation
- Personal Injury

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NASHVILLE ATTORNEYS

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Michael Iadevaia

ASSOCIATE ATTORNEY

EDUCATION

- Cornell Law School (J.D., *cum laude*, 2019)
 - Articles Editor, *Cornell Law Review*
 - General Mills Award for Exemplary Graduate Teaching
 - CALI Award for Excellence in Labor Law
 - First Place, College of Labor & Employment Lawyers and ABA Section of Labor & Employment Law Annual Law Student Writing Competition
- Cornell University, School of Industrial and Labor Relations (B.S., with honors, 2019)

CLERKSHIP

- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals
- Federal District Court Judge

BAR ADMISSIONS

- Tennessee (pending)
- New York
- District of Columbia
- U.S. District Court for the Middle District of Tennessee
- U.S. 6th Circuit Court of Appeals

PRACTICE AREAS

- Labor Law
- Employment Law
- ERISA Trust Funds
- Appellate Practice
- Class Action Litigation and Complex Litigation



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Isaac Kimes

PARTNER

EDUCATION

- The University of Memphis, Cecil C. Humphreys School of Law (J.D., 2012)
- Arizona State University (B.S., 2007)

BAR ADMISSIONS

- Tennessee
- Missouri
- U.S. District Court Middle District of Tennessee
- American Bar Association

PRACTICE AREAS

- Personal Injury
- Mass Torts
- Complex Civil Litigation



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Kyle C. Mallinak

ATTORNEY

EDUCATION

- University of Virginia School of Law (J.D., 2013)
 - Editor, *Virginia Law Review*
 - Dean's Scholarship
 - Order of the Coif
 - Outstanding Student Award, National Association of Women Lawyers
- University of South Carolina (B.A., 2010)
 - Graduate of the South Carolina Honors College
 - McNair Scholar

BAR ADMISSIONS

- Colorado
- Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. District Court for the Eastern District of Tennessee
- U.S. District Court for the Middle District of Tennessee
- U.S. District Court for the Western District of Tennessee

PRACTICE AREAS

- Class Action Litigation and Complex Civil Litigation
 - Consumer Rights Litigation
 - General Civil Litigation
 - Business Litigation
- Hon. Robert E. Payne of the U.S. District Court for the Eastern District of Virginia
 - Hon. Eugene E. Siler of the U.S. 6th Circuit Court of Appeals

NASHVILLE ATTORNEYS

The Freedom Center, 223 Rosa L. Parks Avenue, Suite 200, Nashville, TN 37203



Nathan Martin

STAFF ATTORNEY

EDUCATION

- Nashville School of Law (J.D., 2021)
- University of Tennessee (B.A., 2000)

PRACTICE AREAS

- Civil Litigation
- Class Action

BAR ADMISSIONS

- Tennessee

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Andrew E. Mize

ATTORNEY

EDUCATION

- Louis D. Brandeis School of Law, University of Louisville (J.D., *cum laude*, 2011)
- Centre College (B.A., 2008)
- Culver Military Academy (2004)

BAR ADMISSIONS

- Kentucky
- U.S. District Court for the Western District of Kentucky
- U.S. 6th Circuit Court of Appeals

PRACTICE AREAS

- Civil Litigation
- Appellate Practice
- Criminal Law
- Labor Law

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Jack Smith

ASSOCIATE ATTORNEY

EDUCATION

- University of Tennessee College of Law (J.D., 2018)
- Acquisitions Editor, *Tennessee Law Review* and *Transactions: The Tennessee Journal of Business Law*

- Member of the Appellate Litigation Clinic, where he helped successfully appeal a Fourth Amendment search and seizure case before the Sixth Circuit, *U.S. v. Christian* (6th Cir. 2018)
- The Ohio State University (B.A., *magna cum laude*, 2014)

BAR ADMISSIONS

- Tennessee
- U.S. District Court for the Middle District of Tennessee

PRACTICE AREAS

- Class Action
- Mass Tort
- Wage and Hour Litigation
- Personal Injury

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K. Grace Stranch

ASSOCIATE ATTORNEY

EDUCATION

- University of Tennessee College of Law (J.D., 2014)
 - American Constitution Society, Founder and President
 - Environmental Law Association, President
 - ENLACE, Event Coordinator
- Rhodes College (B.A., 2010)
 - International Honors Program

BAR ADMISSIONS

- Tennessee

PRACTICE AREAS

- Complex Litigation
- Constitutional Law
- Employment and Discrimination Law
- Environmental Law
- General Litigation
- Labor Law

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LAS VEGAS ATTORNEY

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Jessica Guerra

ASSOCIATE ATTORNEY

EDUCATION

- William S. Boyd School of Law (J.D., Pro Bono Honors, 2015)
- President of La Voz, the Latin/Hispanic Law Student Association
 - Treasurer, Phi Alpha Delta
 - Event coordinator, Asian Pacific American Law Student Association (APALSA)
- University of Nevada, Las Vegas (B.A., 2012)
- Sigma Theta Psi Multicultural Sorority

BAR ADMISSIONS

- Nevada
- U.S. District Court of the State of Nevada

PRACTICE AREAS

- Labor
- Litigation

ST. LOUIS ATTORNEYS

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Colleen Garvey

ASSOCIATE ATTORNEY

EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Rockhurst University (B.A., *magna cum laude*, 2016)

CLERKSHIP

- Hon. Colleen Dolan on the Missouri Court of Appeals in the Eastern District

BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action Litigation and Complex Litigation
- General Civil Litigation



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Ellen A. Thomas

ASSOCIATE ATTORNEY

EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Saint Louis University (B.A., 2014)

CLERKSHIP

- Simon Law Firm

BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action and Complex Litigation
- General Civil Litigation





STRANCH, JENNINGS & GARVEY
PLLC

Bank Fees

Some banks and credit unions routinely and improperly assess overdraft fees on customers' debit card transactions, even when those transactions do not overdraw customers' account balances, and charge multiple insufficient funds fees on single transactions. These deceptive practices result in significant and unforeseen costs for customers and violate state and federal fair business practice acts, as well as the terms of the account documents of these financial institutions. In addition to settling numerous overdraft fee disputes against banks and credit unions across the U.S., our firm has also obtained multi-million-dollar settlements against financial institutions for improper fee assessments.

ATTORNEYS IN THIS PRACTICE AREA



Kyle C. Mallinak



Nathan Martin



Marty Schubert



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
PLLC

Class Action

Our firm has a long record of success representing plaintiffs in a substantial number of class action and mass tort cases in state and federal courts throughout the U.S. These cases include some of the most complicated litigation the courts have seen against some of the largest multinational companies. Through these cases, we defend the rights of clients harmed by defective products, pharmaceuticals, industry negligence or illegal practices.

Our attorneys have served as class counsel and as lead, co-lead and liaison counsel in landmark cases and national class actions involving data breach, wage and hour violations, anti-competitive practices, illegal generic drug suppression and bid rigging, defective products and violations of the Telephone Consumer Protection act.

- **In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. Cal.) (J. Breyer). Managing partner Gerard Stranch served on the plaintiffs’ steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called “defeat devices” in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than \$10 billion to consumers with two-liter diesel engines, and in May 2017, the court granted final approval to a \$1.2 billion settlement for consumers with three-liter diesel engines, and a \$357 million settlement with co-defendant Bosch.
- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/ Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at \$34.4 million was reached in conjunction with a companion case in Texas.
- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in a consumer class action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at \$1 billion.
- **In re: M.S. Wholesale v. Westfax et al., 58CV-15-442** (Circuit Court of Pope County, Arkansas) (J. Sutterfield). The firm served as co-lead counsel on behalf of individuals and entities in a nationwide class action under the Telephone Consumer Protection Act (TCPA) involving the sending of illegal junk facsimiles. The court granted final approval to a class settlement worth \$5.45 million.
- **In re: Horton v. Molina Healthcare, Inc., 4:17-CV-0266-CVE-JFJ** (N.D. Okla.) (J. Eagan). The firm served as co-lead counsel on behalf of individuals and entities in this national class action under the TCPA regarding the sending of illegal junk facsimiles. The court granted final approval to a class settlement worth \$3.5 million.
- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

ATTORNEYS IN THIS PRACTICE AREA



Colleen Garvey



Hon. John (Jack) Garvey



Michael Iadevaia



Kyle C. Mallinak



Nathan Martin



Andrew E. Mize



Marty Schubert



Jack Smith



Michael G. Stewart



J. Gerard Stranch IV



James G. Stranch III



K. Grace Stranch



STRANCH, JENNINGS & GARVEY
PLLC

Data Breaches

Security breach notification laws require entities to notify their customers or citizens when they have experienced a data breach and to take certain steps to deal with the situation. This gives these individuals the opportunity to mitigate personal risks resulting from the breach and minimize potential harm, such as fraud or identity theft. Currently, all 50 states, along with the District of Columbia and three U.S. territories have adopted notification laws requiring notification when a breach has occurred.

- **In re: Anthem, Inc. Data Breach Litig., MDL 2617 LHK**, (N.D. Cal. 2016). The firm served as counsel for Plaintiffs in a coordinated action consisting of nationwide cases of consumers harmed by the 2015 criminal hacking of servers of Anthem, Inc. containing more than 37.5 million records on approximately 79 million people receiving insurance and other coverage from Anthem's health plans. The case settled in 2017 for \$115 million, the largest healthcare data breach in U.S. history, and has received final approval.
- **In re: Winsouth Credit Union v. Mapco Express Inc., and Phillips v. Mapco Express, Inc. Case Nos. 3:14-cv-1573 and 1710** (M.D. Tenn.) (J. Crenshaw). The firm served as liaison counsel in consumer and financial institution action stemming from the 2013 hacking of computer systems maintained by Mapco Express, Inc. The cases settled in 2017 for approximately \$2 million.
- **In re: McKenzie et al. v. Allconnect, Inc., 5:18-cv-00359** (E.D. Ky.) (J. Hood). The firm served as class counsel in an action brought on behalf of more than 1,800 current and former employees of Allconnect, Inc., whose sensitive information contained in W-2 statements was disclosed to an unauthorized third party who sought the information through an email phishing scheme. The firm negotiated a settlement providing for direct cash payments to all class members, credit monitoring and identity theft protection plan at no cost, capped reimbursement of documented economic losses incurred per class member and other remedial measures. The approximately \$2.2 million settlement value is one of the largest per capita recoveries in a W-2 phishing litigation.

ATTORNEYS IN THIS PRACTICE AREA



Andrew E. Mize



Jack Smith



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
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ERISA Trust Funds

Founding member James G. (Jim) Stranch III and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA (Employee Retirement Income Security Act) litigation.

Our attorneys have represented clients and served as lead and co-lead counsel in a wide range of ERISA matters, including Taft-Hartley health and welfare funds JATC apprenticeship funds, defined contribution funds and defined benefit pension funds. In addition, we advise ERISA plan fiduciaries on a variety of administration and compliance issues; establish employee benefit trusts and plans; handle administrative claims and appeals for LTD, STD and other benefits; assist with Department of Labor audits, interpretations, investigations and enforcement; and numerous other issues.

- **In re: Nortel Networks Corp. "ERISA" Litigation, No. 3:03-MD-1537** (M.D. Tenn.) (Nixon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of \$21.5 million plus access to additional monies held by others.
- **In re: Hitchcock v. Cumberland University 403(b) DC Plan, 851 F.3d 522** (6th Cir. 2017). As a result of this case, the university returned hundreds of thousands of dollars to employees' retirement accounts that it had wrongfully withheld. The firm succeeded in setting the precedent that plan participants can take legal claims, such as breach of fiduciary duty, straight to the courts, without having to exhaust administrative remedies through the plan, an issue of first impression in the Sixth Circuit.
- **In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464** (D. Colo.) (Blackburn). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a \$33 million cash payment from Qwest Communications to the plan for participants, a \$4.5 million cash payment from Bankers Trust/Deutsche Bank to the plan for participants, a \$20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 et seq.
- **In re: Delphi Corp. ERISA Litigation (Polito v. Delphi Corporation, et al.), No. 05-cv-71249** (E.D. Mich.). Lawsuit brought on behalf of participants in Delphi pension plans alleging that plan fiduciaries breached their duties and responsibilities under ERISA by, among other things, failing to investigate the prudence of an investment in Delphi stock and by making misrepresentations about the company's accounting practices for off-balance sheet financing and vendor rebates dating back to 1999.
- **In re: Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453** (S.D. N.Y.) (Lynch). One of several counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. The settlement reached provided a \$79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- **In re: Providian Financial Corp. ERISA Litigation, No. C 01-5027** (N.D. C.A.) (Breyer). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of ERISA duties. Settlement provided an \$8.6 million cash payment to the plan for participants, lifted company stock sales restrictions in the plan valued between \$3.66 million and \$5.85 million, and allowed plan to recover in a parallel securities action.
- **In re: Xcel Energy, Inc. ERISA Litigation Civ. 02-2677** (D. Minn.) (Doty). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.
- **In re: Montana Power ERISA Litigation, No. 4:02-0099** (D. Mont.) (Haddon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of \$4.9 million plus access to additional monies held by others.

ATTORNEYS IN THIS PRACTICE AREA



Karla M. Campbell



Kerry Dietz



Jessica Guerra



R. Jan Jennings



Nathan R. Ring



James G. Stranch III



STRANCH, JENNINGS & GARVEY
PLLC

Labor Unions

Since our firm was founded more than seven decades ago, we have provided dependable representation for union clients in all employer-employee relations legal matters. Our attorneys are experienced in issues concerning the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA. Our representation ranges from construction, industrial and public sector unions to district and joint councils, State Federations of Labor and Central Labor Councils.

Across the years, we have helped countless clients with union-related challenges, such as collective bargaining, contract negotiation, enforcement of labor-related claims via NLRB or federal court litigation, grievance mediation, restrictive covenant issues, severance agreements and numerous additional union matters.

- **In re: Thompson v. North American Stainless LP.** Our firm helped expand Title VII retaliation protection with this case, which reached the U.S. Supreme Court. The court ruled that North American Stainless' firing of plaintiff employee Eric Thompson violated Title VII and that he could sue because he fell within the zone of interests protected by Title VII.
- **In re: International Brotherhood of Teamsters, Local 651 v. Philbeck, 5:10-cv-105-DCR** (E.D.KY 2018). The firm successfully litigated action requesting a temporary restraining order and permanent injunction by the local union to secure control of the Facebook page belonging to the union.
- **In re: Matthew Denholm, RD of NLRB Region 9 v. Smyrna Ready Mix Concrete, LLC, 5:20-cv-320-REW** (E.D.KY 2019). The firm successfully litigated NLRB charges, culminating in a complaint for injunctive relief, where the federal district court ordered the reinstatement of seven drivers and their plant manager and the reopening of a concrete plant.
- **In re: Zeon Chemicals, L.P. v. UFCW Local 72-D, 949 F.3d 980** (6th Cir. 2020). The firm successfully appealed a district court's reversal of the union's arbitration victory for an unjustly terminated member who was ordered reinstated with full back pay.

ATTORNEYS IN THIS PRACTICE AREA



Karla M. Campbell



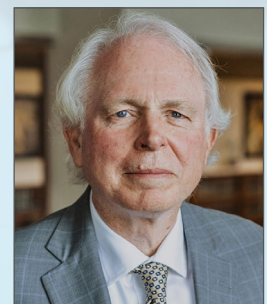
Kerry Dietz



R. Jan Jennings



Nathan R. Ring



James G. Stranch III



STRANCH, JENNINGS & GARVEY
PLLC

Mass Tort

Mass tort lawsuits occur when numerous individuals have been injured or harmed by the same act of negligence of another party, from faulty prescription drugs or medical devices to toxic contamination or defective consumer products. These types of claims provide the compensation each plaintiff needs, rather than a settlement that is split with the other plaintiffs.

Stranch, Jennings & Garvey has the experience and resources to confront the corporations responsible for the harm inflicted on plaintiffs. Our attorneys are well-versed in the necessary strategies for negotiating and litigating mass tort lawsuits, and have successfully represented numerous clients in claims against companies and corporations. Our efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions.

- **In re: National Prescription Opiate Litigation.** Managing partner Gerard Stranch was appointed as class counsel for the negotiation class in the multi-district national prescription opioid litigation (MDL 2804) in Cleveland, Ohio. Plaintiffs alleged that the manufacturers of prescription opioids grossly misrepresented the risks of long-term use of those drugs for persons with chronic pain, and distributors failed to properly monitor suspicious orders of those prescription drugs – all of which contributed to the current opioid epidemic. National settlements of up to \$26 billion were reached in 2021 to resolve litigation brought by states and local political subdivisions against three pharmaceutical distributors (McKesson, Cardinal Health and AmerisourceBergen) and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson. Jack Garvey, the partner who leads SJ&G's St. Louis office, was instrumental in securing a settlement with these companies for Missouri's counties and cities in the amount of \$183.2 million, as part of a \$458 million overall settlement for the state.

ATTORNEYS IN THIS PRACTICE AREA



Colleen Garvey



Hon. John (Jack) Garvey



Caleb Harbison



Michael G. Stewart



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
PLLC

Personal Injury

For many years, our firm has effectively represented individuals who have been harmed or injured due to third-party carelessness or misconduct. These cases include medical negligence, faulty medical devices, dangerous medications, unsafe property conditions, automobile accidents, and numerous other acts of negligence or disregard for safety that have led to injury and death.

Stranch, Jennings & Garvey proudly works to preserve and restore the rights of clients who have experienced harm due to others' actions, and our firm seeks justice for and successfully obtains full and fair compensation for these victims and their families through litigation, mediation and arbitration.

- **In re: Sullivan Baby Doe case** (originally filed as *Staubus v. Purdue*) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date
- **In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation**, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever
- **In re: Orrick v. GlaxoSmithKline**, St. Louis City Circuit #1322-CC00079 (Paxil litigation)
- **In re: Jefferson County v. Williams**, #20JE-CC00029 (opioids litigation)
- Davidson County Circuit Court bench trial verdict of \$205,274 following zero offers made prior to trial (January 2022)
- Davidson County Circuit Court jury trial verdict of \$122,755.46 following a top pre-trial offer of \$30,000 (May 2021)

ATTORNEYS IN THIS PRACTICE AREA



Hon. John (Jack) Garvey



Isaac Kimes



J. Gerard Stranch IV



K. Grace Stranch



STRANCH, JENNINGS & GARVEY
PLLC

Product Liability

Our attorneys are well-versed in consumer protection laws and unfair trade practices acts, and have successfully advocated in state and federal courts for many notable cases throughout the U.S. These cases have resulted in multi-million-dollar recoveries for consumers who have been harmed by defective products, dangerous medications, misleading or improper advertising or marketing practices, fraud and other violations of the laws and acts. In addition, our attorneys have served as lead and co-lead counsel on numerous cases.

- **In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. Cal.) (J. Breyer). The firm served on the plaintiffs’ steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called “defeat devices” in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than \$10 billion to consumers with two-liter diesel engines. In May 2017, the court granted final approval to a \$1.2 billion settlement for consumers with three-liter diesel engines and a \$357 million settlement with co-defendant Bosch.
- **In re: Montanez v. Gerber Childrenswear, LLC** (M.D. Cal.). The firm represented consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement.
- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/ Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at \$34.4 million was reached in conjunction with a companion case in Texas.
- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in consumer action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at \$1 billion.
- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

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Isaac Kimes



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
PLLC

Trucking Accidents

According to the National Safety Council (NSC), 4,842 large trucks nationwide were involved in a fatal crash in 2020 (the last year for which data is available). According to the National Center for Statistics and Analysis (NCSA), an office of the National Highway Traffic Safety Administration (NHTSA), 831 truck occupants and nearly 5,000 other individuals were killed as a result of these crashes in 2020. Between 2017 and 2020, an average of more than 42,000 truck occupants and more than 151,000 other individuals were injured.

These numbers clearly reveal the prevalence of accidents involving large trucks and the damage they inflict on individuals and their families. Our firm has decades of experience in representing victims of trucking accidents who seek compensation to cover physical and material damages.

ATTORNEYS IN THIS PRACTICE AREA



Hon. John (Jack) Garvey



Isaac Kimes



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
PLLC

Wage and Hour Disputes

For decades, our firm has represented working people with individual claims or as part of class action litigation regarding their employers' wage and hour compliance. Our attorneys have broad litigation experience on behalf of employees in nearly every industry sector, covering a wide range of violations – from unpaid overtime or “off-the-clock” work to independent contractors, improper wage deductions and exemption requirements. They are well-versed in the provisions of the Fair Labor Standards Act, along with other federal and state statutes, and stay on top of developing case law and changes in current laws.

- **In re: Drummond et. al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III** (Davidson Chancery, Tennessee). The firm served as lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the Metropolitan-Davidson County Board of Education. A settlement was reached in which employees received 100% of their wages and benefits.

ATTORNEYS IN THIS PRACTICE AREA



Jessica Guerra



Nathan R. Ring



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY
PLLC

Worker Adjustment and Retraining Notification

The Worker Adjustment and Retraining Notification (WARN) Act is a federal law that helps ensure advance notice to employees in cases of qualified plant closings and mass layoffs. Employers are required to provide written notice 60 days prior to the date of a mass layoff or plant closing, in addition to other requirements. Employees of companies who have not complied with the WARN Act are entitled to certain rights. Our firm has represented clients in numerous cases that have resulted in monetary settlements for employees whose employers did not comply with the law.

- **In re: Kizer v. Summit Partners, Case No. 1:1-CV-38** (E.D. Tenn.) The firm served as lead counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee. Case was successfully settled for \$275,000.
- **In re: Owens v. Carrier Corp., Case No. 2:08-2331-SHM P** (W.D. Tenn.) The firm served as lead counsel in class action on behalf of former Carrier Corp. employees at the closed Collierville, Tennessee, plant. Case was successfully settled for \$2.1 million on behalf of former employees after lead counsel successfully obtained class certification over plaintiffs' WARN Act claims.
- **In re: Sofa Express Inc., Case No. 07-924** (Bank. M.D. Tenn.) The firm served as lead counsel in class action on behalf of former Sofa Express, Inc. employees at company headquarters and a distribution center in Groveport, Ohio. Case was successfully settled for \$398,000 on behalf of former employees.
- **In re: Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP** (M.D. Fla.). The firm served as lead counsel in class action on behalf of former DSE Inc. employees at Florida and South Carolina manufacturing facilities. Case was successfully settled for more than \$1 million on behalf of former employees.

ATTORNEYS IN THIS PRACTICE AREA



Michael Iadevaia



J. Gerard Stranch IV

EXHIBIT 4

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: TELEXFREE SECURITIES
LITIGATION

MDL No. 4:14-md-2566-TSH

This Document Relates To:
ALL CASES

**DECLARATION OF E. POWELL MILLER IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS COUNSEL FEE AWARD**

I, E. Powell Miller, declare as follows, pursuant to 28 U.S.C. § 1746.

1. I, E. Powell Miller, am an attorney licensed to practice before the courts of Michigan, including in the Eastern District of Michigan. I am the founder and managing partner of The Miller Law Firm, P.C. ("Miller Law"). I have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs' Motion for Class Counsel Fee and Expense Award.

2. Miller Law has extensive experience litigating complex class actions throughout the United States and, particularly, in Michigan. Miller Law—the first nationally recognized class action firm in Michigan—has litigated more than 600 class and commercial cases in Michigan and throughout the United States. *See Exhibit 1*, Miller Law Resume. Miller Law now has 40 attorneys and has recovered more than three billion dollars for class members in Michigan and across the country,

including a rare achievement in class action practice: three separate cases of 100% net cash recovery for class members, plus attorneys' fees, paid by defendants.

3. In addition to Mr. Miller, Miller Law's class action department includes numerous other experienced and talented litigators. Notably, Miller Law had more class action attorneys recognized by Super Lawyers Magazine ("Super Lawyers") in 2023 than any other firm in Michigan. And in 2023, six Miller Law partners were named Michigan Top 100 Lawyers by Super Lawyers, more than any other firm in Michigan (including those multiple times larger than Miller Law), and two Miller Law attorneys were recognized as Top 50 Women. Additionally, six other Miller Law attorneys were named as Super Lawyers and an additional four more as Rising Stars, for a total of 16 attorneys recognized by Super Lawyers. Super Lawyers Magazine has recognized me as one of Michigan's Top 10 lawyers every year from 2009 to 2022, and, in 2023, I am honored to have been ranked as the number one attorney in Michigan. *See Firm Resume* for additional awards.

4. Miller Law has successfully litigated numerous class cases. Miller Law has recovered nearly three billion dollars for its clients in courts across the country. For example, Mr. Miller served as Co-Lead Counsel in *In re AIG 2008 Securities Litigation*, No. 1:08-cv-04772 (S.D.N.Y.), which was successfully settled in 2015 for \$970.5 million, the highest securities settlement in the United States in 2015. He also served as Co-Lead Class Counsel and Lead Trial Counsel in *City of Farmington*

v. *Wells Fargo Bank*, No. 0:10-cv-04372 (D. Minn.), which was resolved on the weekend before trial for \$62.5 million. Miller Law was also the first in the country to initiate and served as a member of the Plaintiffs' Steering Committee in *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, No. 2:17-md-02785 (D. Kan.), which recovered more than \$600 million for class members.

5. During the pendency of this litigation, counsel carefully coordinated their activities to avoid engaging in duplicative work.

6. My firm was responsible for work assigned by Interim Lead Counsel specific to advancing the litigation on behalf of Plaintiffs and the putative class members.

7. During the course of the litigation, Miller Law performed the following tasks:

- a. Worked on responding to Motions to Dismiss and briefing related thereto, and preparing for oral argument on Defendants' Motions to Dismiss;
- b. Investigated allegations in the Fifth Amended Consolidated Complaint;
- c. Draft discovery requests and responses on behalf of the Plaintiffs;
- d. Drafted and responded to extensive discovery deficiency letters;

- e. Engaged in extensive meet and confer sessions regarding discovery issues;
- f. Drafted and responded to discovery motions;
- g. Participate in team strategy meetings regarding motion practice and discovery;
- h. Communicated with Plaintiffs regarding the collection of discovery;
- i. Reviewed and analyze thousands of pages of discovery documents produced by various defendants and the Bankruptcy Trustee.

8. As summarized below, The Miller Law Firm, P.C. devoted 6,526.90 hours to the prosecution of this matter through June 30, 2023 resulting in a lodestar of \$3,650,092.25. The Miller Law Firm's Lodestar has been calculated based on historic hourly rates for each year, as set forth on the following table:

<u>Name</u>	<u>Role</u>	<u>Hours</u>	<u>Rate</u>	<u>Rate x Hours</u>
2021 E. Powell Miller	P	16.80	\$890.00	\$ 14,952.00
2022 E. Powell Miller	P	278.60	\$925.00	\$ 257,705.00
2023 E. Powell Miller	P	43.20	\$975.00	\$ 42,120.00
2021 Marc Newman	P	5.50	\$750.00	\$ 4,125.00
2022 Marc Newman	P	748.80	\$790.00	\$ 591,552.00
2023 Marc Newman	P	264.30	\$825.00	\$ 218,047.50
2022 Ann Miller	P	176.50	\$690.00	\$ 121,785.00
2023 Ann Miller	P	389.00	\$690.00	\$ 268,410.00
2022 Brian Saxe	P	35.40	\$725.00	\$ 25,665.00
2022 Christopher Kaye	P	34.80	\$675.00	\$ 23,490.00
2022 Lowell Johnson	Sr. Atty	2,043.15	\$495.00	\$ 1,011,359.25
2023 Lowell Johnson	Sr. Atty	766.65	\$550.00	\$ 421,657.50

2022 Craig Dickinson	A	6.70	\$475.00	\$ 3,182.50
2022 Emily Honet	A	399.90	\$325.00	\$ 129,967.50
2023 Emily Honet	A	29.40	\$375.00	\$ 11,025.00
2022 Greg Mitchell	A	28.50	\$495.00	\$ 14,107.50
2023 Greg Mitchell	A	8.50	\$525.00	\$ 4,462.50
2022 Lee McNair	A	1,198.30	\$385.00	\$ 461,345.50
2023 Lee McNair	A	1.10	\$385.00	\$ 423.50
2022 Rick Decker	A	34.00	\$465.00	\$ 15,810.00
2023 Rick Decker	A	17.80	\$500.00	\$ 8,900.00
TOTALS		6,526.90		\$ 3,650,092.25

9. The Miller Law Firm regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, relating to this matter. Supporting time records are available at the request of the Court for review in camera.

10. The hourly rates shown above are the usual and customary lodestar rates charged by The Miller Law Firm in other complex class action litigation, and reflects The Miller Law Firm's expertise in class action litigation, the complexity of the matters involved in this litigation, the skill of opposing counsel, and other factors that are commonly used to justify similar rates.

11. The Miller Law Firm does not utilize non-firm employees as contract lawyers and does not permit nonlawyers to perform document review. Further, The Miller Law Firm has not billed for any non-lawyers, such as administrative staff, on this matter.

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on November 14, 2023 at Rochester, Michigan.



E. Powell Miller

EXHIBIT 1

THE MILLER LAW FIRM
A Professional Corporation

950 W. University Dr., Ste. 300
Rochester, MI 48307
(248) 841-2200

www.millerlawpc.com

THE MILLER LAW FIRM, P.C. | FIRM RESUME

The Miller Law Firm, P.C. (the “Firm”) is one of the premier litigation law firms in the United States and Michigan’s leading financial class action firm. A recognized leader in the area of complex commercial litigation, the Firm is ranked Tier 1 in Detroit by *U.S. News-Best Lawyers* “Best Law Firms” for commercial litigation. Since the Firm’s founding in 1994, the Firm has developed a national reputation for successfully prosecuting securities fraud and consumer class actions on behalf of its clients. As Lead Counsel or Co-Lead Counsel appointed by judges throughout the United States in some of the country’s largest and most complex cases, the Firm has achieved over \$3 billion in settlements, recoveries and/or verdicts on behalf of injured class members.

Highlights of Results Obtained

- 2023 *Cooper (nee Zimmerman) v. The 3M Company and Wolverine*
(United States District Court, Western District of Michigan)
(Case No. 1:17-cv-01062) (Co-Lead Counsel)
- Result: \$54 million settlement
- Reynolds v. FCA*
(United States District Court, Eastern District of Michigan)
(Case No. 2:19-cv-11745) (Co-Lead Counsel)
- Result: Over \$30 million settlement value
- Kain v. The Economist Newspaper NA, Inc.*
(United States District Court, Eastern District of Michigan)
(Case No. 4:21-cv-11807) (Co-Lead Counsel)
- Result: \$9.5 million settlement
- Thomsen v. Morley*
(United States District Court, Eastern District of Michigan)
(Case No. 1:22-cv-10271) (Plaintiffs’ Executive Committee)
- Result: \$4.3 million settlement
- 2022 *In re; National Prescription Opiate Litigation (CVS, Walgreens and*
Walmart retail pharmacy and two manufacturers Allergan and Teva)
(United States District Court, Northern District Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties
who were parties to and benefited from the global settlement)

Result: \$18.5 billion global settlement plus Narcan or additional cash from Teva

In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.,
(United States District Court, District of Kansas)
(Case No. 2:17-md-02785) (Plaintiffs' Steering Committee)

Result: \$609 million in settlements

Wood, et al. v. FCA US LLC
(United States District Court, Eastern District of Michigan)
(Case No. 5:20-cv-11054) (Co-Lead Counsel)

Result: Over \$108 million settlement value

Persad, et al. v. Ford Motor Company
(United States District Court, Eastern District of Michigan)
(Case No. 2:17-cv-12599) (Co-Lead Counsel)

Result: Over \$42 million settlement value

Loftus v. Outside Integrated Media, LLC
(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11809) (Co-Lead Counsel)

Result: Approximately \$1 million settlement

Graham, et al. v. University of Michigan, et al.,
(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11168) (Co-Lead Counsel)

Result: Injunctive relief settlement mandating University reforms to address and prevent sexual misconduct

John Doe MC-1 v. University of Michigan, et. al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:20-cv-10568) (Represented several victims of sexual abuse in private, confidential settlement)

2021

In re; National Prescription Opiate Litigation (Distributor and Manufacturer Janssen Pharmaceuticals Settlement)
(United States District Court, Northern District of Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties who were parties to and benefited from the global settlement.)

Result: \$26 billion global settlement

Simmons, et al. v. Apple, Inc.

(Superior Court of the State of California, County of Santa Clara)
(Case No. 17CV312251) (Co-Lead Counsel)

Result: \$9.75 million settlement

Dougherty v Esperion Therapeutics, Inc., et. Al.

(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-10089) (Local Counsel)

Result: \$18.25 million settlement

In re Broiler Chicken Antitrust Litigation

(United States District Court, Northern District of Illinois, Eastern
Division) (Case No. 1:16-cv-08637)

Result: \$93.5 million in settlements in 2021

2020

In re Resistors Antitrust Litigation

(United States District Court, Northern District of California)
(Case No. 3:15-cv-03820) (Informal member of Steering Committee)

Result: \$33.4 million in settlements in 2020

In re Capacitors Antitrust Litigation

(United States District Court, Northern District of California)
(Case No. 03:17-md-02801) (Informal member of Steering
Committee)

Result: \$30.95 million in settlements in 2020

2019

Carl Palazzolo, et al. Fiat Chrysler Automobiles N.V., et al.

(United States District Court, Eastern District of Michigan)
(Case No. 16-cv-12803) (Co-Lead Counsel)

Result: \$14.75 million settlement

Zimmerman v. Diplomat Pharmacy, Inc., et al.

(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-14005) (Liaison Counsel)

Result: \$14.1 million settlement

2018

In re Freight Forwarders Antitrust Litigation

(United States District Court, Eastern District of New York)
(Case No. 08-cv-00042) (Counsel for Class Representative)

Result: \$1 billion settlement

2017 *Foster v. L3 Communications, EO Tech*
(United States District Court, Western District of Missouri)
(Case No. 15-cv-03519) (Co-Lead Counsel)

Result: \$51 million settlement (100% recovery)

2016 *In re Automotive Parts Antitrust Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 12-md-02311) (Liaison Counsel)

Result: Over \$1 billion in settlements

GM Securities Class Action/New York Teachers Retirement System v. General Motors Company
(United States District Court, Eastern District of Michigan)
(Case No. 4:14-cv-11191) (Local Counsel)

Result: \$300 million settlement

ERISA Class Action/Davidson v. Henkel Corporation
(United States District Court, Eastern District of Michigan)
(Case No. 12-cv-14103) (Lead Counsel)

Result: \$3.35 million settlement (100% Recovery for 41 member class)

Pat Cason-Merenda and Jeffrey A. Suhre v. VHS of Michigan, Inc., dba Detroit Medical Center (Antitrust)
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-cv-15601) (Special Trial Counsel)

Result: \$42 million settlement

2015 *In re AIG 2008 Securities Litigation*
(United States District Court, Southern District of New York)
(Case No. 08-cv-04772) (Co-Lead Counsel)

Result: \$970.5 million settlement

2014 *City of Farmington Hills Employees Retirement System v. Wells Fargo Bank, N.A.*
(United States District Court, District of Minnesota)
(Case No. 10-cv-04372) (Co-Lead Counsel and Primary Trial Counsel)

Result: \$62.5 million settlement approved

The Shane Group, Inc., et al. v. Blue Cross Blue Shield of Michigan
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-14360) (Co-Lead Counsel)

Result: \$30 million settlement pending final approval

In re Refrigerant Compressors Antitrust Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 09-md-02042) (Co-Lead Counsel)

Result: \$30 million settlement

2013 *The Board of Trustees of the City of Birmingham Employees et. al. v. Comerica Bank et. al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:09-13201) (Co-Lead Counsel)

Result: \$11 million settlement

In Re Caraco Pharmaceutical Laboratories, Ltd. Securities Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 2:09-cv-12830) (Co-Lead Counsel)

Result: \$2.975 million settlement

In Re TechTeam Global Inc. Shareholder Litigation
(Oakland County Circuit Court, State of Michigan)
(Case No. 10-114863-CB) (Liaison Counsel)

Result: \$1.775 million settlement

General Retirement System of the City of Detroit and Police and Fire Retirement System of the City of Detroit vs. UBS Securities, LLC (Structured Investment Vehicle)
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-13920) (Lead Counsel)

Result: Confidential settlement

2010 *Epstein, et al. v. Heartland Industrial Partners, L.P., et al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-CV-13555) (Substantial role)

Result: \$12.2 million settlement

In Re Skilled Healthcare Group, Inc. Securities Litigation
(United States District Court, Central District of California)

(Case No. 09-5416) (Substantial role)

Result: \$3 million settlement

2009

In Re Proquest Company Securities Litigation

(United States District Court, Eastern District of Michigan)

(Case No. 4:06-CV-11579) (Substantial role; argued Motion to Dismiss)

Result: \$20 million settlement

In Re Collins & Aikman Corporation Securities Litigation

(United States District Court, Eastern District Michigan)

(Case No. 03-CV-71173) (Substantial role)

Result: \$10.8 million settlement

In re IT Group Securities Litigation

(United States District Court, Western District of Pennsylvania)

(Civil Action No. 03-288) (Co-Lead Counsel)

Result: \$3.4 million settlement

2008

In re Mercury Interactive Securities Litigation

(United States District Court, Northern District of California)

(Civil Action No. 03:05-CV-3395-JF) (Substantial role)

Result: \$117 million settlement

In Re General Motors Corporation Securities and Derivative Litigation

(United States District Court, Eastern District of Michigan)

(Master Case No. 06-MD-1749) (Co-Lead Counsel)

Status: Obtained major corporate governance reforms to address accounting deficiencies

2007

Wong v. T-Mobile USA, Inc.

(United States District Court, Eastern District of Michigan)

(Case No. 05-CV-73922) (Co-Lead)

Result: Settlement for 100% of damages

In re CMS Energy Corporation Securities Litigation

(United States District Court, Eastern District Michigan)

(Master File No. 2:02 CV 72004) (Substantial role)

Result: \$200 million settlement

2005 *In re Comerica Securities Fraud Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 2:02-CV-60233) (Substantial role)

Result: \$21 million in total settlements

Street v. Siemens
(Philadelphia State Court)
(Case No. 03-885) (Co-Lead Counsel)

Result: \$14.4 million (100% recovery)

Redmer v. Tournament Players Club of Michigan
(Wayne County Circuit Court) (Case No. 02-224481-CK) (Co-Lead)

Result: \$3.1 million settlement

2004 *Passucci v. Airtouch Communications, Inc.*
(Wayne County Circuit Court) (Case No. 01-131048-CP) (Co-Lead)

Result: Estimated settlement valued between \$30.9 and \$40.3 million

Johnson v. National Western Life Insurance
(Oakland County Circuit Court)
(Case No. 01-032012-CP) (Substantial role)

Result: \$10.7 million settlement

2003 *Felts v. Starlight*
(United States District Court, Eastern District Michigan)
(Case No. 01-71539) (Co-Lead)

Result: Starlight agrees to stop selling ephedrine as an ingredient in its weight loss dietary supplement product

In re Lason Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 99-CV-76079) (Co-Lead)

Result: \$12.68 million settlement

2001 *Mario Gasperoni, et al. v. Metabolife International, Inc.*
(United States District Court, Eastern District Michigan)
(Case No. 00-71255) (Co-Lead)

Result: Nationwide settlement approved mandating changes in advertising and labeling on millions of bottles of dietary supplement, plus approximately \$8.5

million in benefits

1999 *Pop v. Art Van Furniture and Alexander Hamilton Insurance Company*
(Wayne County Circuit Court) (Case No. 97-722003-CP) (Co-Lead)

Result: Changes in sales practices and \$9 million in merchandise.

Schroff v. Bombardier
(United States District Court, Eastern District Michigan)
(Case No. 99-70327) (Co-Lead)

Result: Recall of more than 20,000 defective Seadoos throughout North America; repair of defect to reduce water ingestion problem; extended warranties; and approximately \$4 million in merchandise.

In re National Techteam Securities Litigation
(United States District Court, Eastern District Michigan)
(Master File No. 97-74587) (Substantial role)

Result: \$11 million settlement

In Re F&M Distributors, Inc., Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 95-CV-71778-DT) (Minor role)

Result: \$20 million settlement

1998 *In Re Michigan National Corporation Securities Litigation*
(United States District Court, Eastern District Michigan)
(Case No 95 CV 70647 DT) (Substantial role)

Result: \$13.3 million settlement

1995 *In re Intel Pentium Processor Litigation*
(Superior Court, Santa Clara County, California) (Master File No. 745729)
(Substantial role)

Result: Intel agreed to replace millions of defective Pentium chips on demand without any cost to consumers

SELECTED RESUME



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ROCHESTER
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SUITE 300
ROCHESTER, MI 48307

DETROIT
211 WEST FORT ST.
SUITE 705
DETROIT, MI 48226

E. POWELL MILLER, PARTNER



✉ EPM@millerlawpc.com

Powell Miller has been recognized as Michigan’s number one ranked attorney by Super Lawyers Magazine for 2020 and 2023. He has also been named one of the Top 10 lawyers in Michigan for fourteen consecutive years, from 2009-present, by Super Lawyers Magazine, and in 2010, 2015, 2019 and 2020 he was the recipient of the Best Lawyers – Lawyer of the Year in the category of Bet-The-Company Litigation. In 2017, Mr. Miller was the recipient of the Judge Friedman and Cook Civility Award, which is awarded to only one lawyer each year. He has been named as one of the Best Lawyers in America every year since 2005. Mr. Miller has earned Martindale-Hubbell’s highest rating, AV[®] Preeminent[™] 5/5.0 for legal ethics and ability and a 10/10 from AVVO a public rating system. Mr. Miller is also ranked as only one of nine in Michigan to receive the highest Band 1 rating by Chambers USA, describing Mr. Miller as a “Superb trial lawyer” who “routinely acts for high-profile clients based across the [United] states.”

Mr. Miller focuses his practice on all aspects of litigation. He has been retained by many Fortune 500 and other clients to represent them in litigation throughout the United States, including in Michigan, New York, New Jersey, Pennsylvania, Arkansas, Florida, Texas, Kentucky, Ohio, California, Colorado, Indiana, and Illinois.

Mr. Miller recently won an arbitration against Jimmy Johns in the amount of \$4.8 million including a \$1 million attorney fee award. He has never lost a trial, including verdicts in excess of \$5 million, \$10 million and \$23 million and a split verdict on a Rule 23(c)(4) issue trial. Mr. Miller has also obtained in excess of \$3 billion in settlements. These settlements are regularly among the top ten in Michigan each year, including a high-profile verdict in May, 2016 for 100% liability.

In October, 2019 Mr. Miller defended a consumer goods manufacturer against Plaintiffs asserting complex price discrimination and antitrust claims, and alleging millions of dollars in damages. Following a 3-week trial and seven hours of deliberations, a California jury returned a unanimous verdict in favor of his client, rejecting all of Plaintiffs’ claims.

Mr. Miller has previously served as Co-President of the Detroit Chapter of the Federal Bar Association Antitrust and Securities Committees. He also serves on the Executive Committee for the Wayne State University Law School Board of Visitors and has served a Co-Chair of the American Bar Association Procedures Subcommittee on class actions and multi-district litigation. He lectures regularly on securities litigation at the University of Michigan School of Law. He has also served as an Adjunct Professor at the University of Detroit Law School teaching trial practice. In addition, Mr. Miller regularly speaks at continuing legal education seminars on securities fraud class actions. Mr. Miller also serves as a Master member of The Oakland County Bar Association Inns of Court.

Mr. Miller graduated third in his class from Wayne State University Law School, magna cum laude, in 1986. He was named to the honor society, Order of the Coif and he was an Editor of the Wayne Law Review. In 1986, Mr. Miller joined the Detroit law firm of Honigman Miller Schwartz and Cohn, where he was elected partner in 1990. In 1994, he formed his own firm.

Mr. Miller has been recognized as a top debater in the United States. He won first place at the Harvard University National Debate Tournament as a freshman at Georgetown University. He also represented Georgetown in a special international debating exhibition against the Oxford Debating Union of Great Britain.

Mr. Miller is a proud supporter of the Detroit Urban Debate League, a nonprofit that supports the creation of debate programs in under-served high schools; the University of Detroit Jesuit High School and Academy; The Joe Niekro Foundation, which is committed to aiding in the research and treatment of aneurysm patients and families; and Charlotte's Wings, a nonprofit that is dedicated to supporting ailing children in Southeast Michigan through donations of new books to the children and their families in hospital and hospice care.

EDUCATION:

UNIVERSITY OF DETROIT JESUIT HIGH SCHOOL, 1979

GEORGETOWN UNIVERSITY, B.A., 1983

WAYNE STATE UNIVERSITY LAW SCHOOL, J.D., 1986

IN RE: TELEXFREE SECURITIES LITIGATION
MDL NO.: 4:14-md-02566-TSH
TIME REPORT

FIRM NAME: The Miller Law Firm, P.C.
REPORTING PERIOD: Inception-June 30, 2023

Categories:

- | | |
|--|---|
| (1) Investigation, Factual Research | (6) Litigation Strategy, Analysis and Case Management |
| (2) Discovery | (7) Trial Preparation |
| (3) Pleadings, Briefs and Pretrial Motions | (8) Appeal |
| (4) Court Appearances | (9) Bankruptcy |
| (5) Settlements | |

Status:

- (P) Partner
(A) Associate
(LC) Law Clerk
(PL) Paralegal

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar
2021 E. Powell Miller	P	16.80											16.80	\$890.00	\$ 14,952.00	16.80	\$ 14,952.00
2022 E. Powell Miller	P	37.70		1.00		43.40	190.9	1.20	4.40				278.60	\$925.00	\$ 257,705.00	278.60	\$ 257,705.00
2023 E. Powell Miller	P		0.40	3.60		6.80	32.4						43.20	\$975.00	\$ 42,120.00	43.20	\$ 42,120.00
2021 Marc Newman	P	5.50											5.50	\$750.00	\$ 4,125.00	5.50	\$ 4,125.00
2022 Marc Newman	P	77.50	12.60	53.90		298.00	238.4	66.90	1.50				748.80	\$790.00	\$ 591,552.00	748.80	\$ 591,552.00
2023 Marc Newman	P	2.20	18.40	151.00		51.20	33.9		7.60				264.30	\$825.00	\$ 218,047.50	264.30	\$ 218,047.50
2022 Ann Miller	P	0.20	6.40	99.00		40.20	22.8	7.90					176.50	\$690.00	\$ 121,785.00	176.50	\$ 121,785.00
2023 Ann Miller	P	0.20	38.40	300.20		36.15	10.55		3.50				389.00	\$690.00	\$ 268,410.00	389.00	\$ 268,410.00
2022 Brian Saxe	P					33.70	1.7						35.40	\$725.00	\$ 25,665.00	35.40	\$ 25,665.00
2022 Christopher Kaye	P	0.20				25.60	9						34.80	\$675.00	\$ 23,490.00	34.80	\$ 23,490.00
2022 Craig Dickinson	A	0.80		0.20			5.7						6.70	\$475.00	\$ 3,182.50	6.70	\$ 3,182.50
2022 Emily Honet	A	194.80	7.00	6.10		172.20	1.6	18.20					399.90	\$325.00	\$ 129,967.50	399.90	\$ 129,967.50
2023 Emily Honet	A		0.10	29.00		0.30							29.40	\$375.00	\$ 11,025.00	29.40	\$ 11,025.00
2022 Greg Mitchell	A					24.50	2		2.00				28.50	\$495.00	\$ 14,107.50	28.50	\$ 14,107.50
2023 Greg Mitchell	A					8.50							8.50	\$525.00	\$ 4,462.50	8.50	\$ 4,462.50
2022 Lowell Johnson	A	1,045.75	903.50			86.70	7.2						2,043.15	\$495.00	\$ 1,011,359.25	2,043.15	\$ 1,011,359.25
2023 Lowell Johnson	A		741.95	0.20		3.00			21.50				766.65	\$550.00	\$ 421,657.50	766.65	\$ 421,657.50
2022 Lee McNair	A	560.30		12.70		7.00	615.8		2.50				1,198.30	\$385.00	\$ 461,345.50	1,198.30	\$ 461,345.50
2023 Lee McNair	A						1.1						1.10	\$385.00	\$ 423.50	1.10	\$ 423.50
2022 Rick Decker	A	32.60		1.40									34.00	\$465.00	\$ 15,810.00	34.00	\$ 15,810.00
2023 Rick Decker	A		2.30	15.50									17.80	\$500.00	\$ 8,900.00	17.80	\$ 8,900.00
ATTORNEY TOTALS		1,974.55	1,731.05	673.80	0.00	837.25	1,173.05	94.20	43.00	0.00	0.00	0.00			\$ 3,650,092.25	6,526.90	\$ 3,650,092.25
NON-ATTORNEY TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			\$ -	\$ -	\$ -
TOTALS		1,974.55	1,731.05	673.80	0.00	837.25	1,173.05	94.20	43.00	0.00	0.00	0.00	6,526.90		\$ 3,650,092.25	\$ 6,526.90	\$ 3,650,092.25

EXHIBIT 5

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re:)	
)	MDL No. 4:14-md-02566-TSH
)	
TELEXFREE SECURITIES LITIGATION)	
)	
This Document Relates To:)	
All Actions)	

**DECLARATION OF GREGG M. FISHBEIN IN SUPPORT OF PLAINTIFFS’ MOTION
FOR FINAL APPROVAL OF SETTLEMENT, AWARD OF ATTORNEYS’ FEES AND
REIMBURSEMENT OF EXPENSES**

I, Gregg M. Fishbein, declare as follows:

1. I am a partner in the law firm Lockridge Grindal Nauen P.L.L.P. (“LGN”). I am a member in good standing of the State Bar of Minnesota and have been admitted to this Court *pro hac vice*. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I would testify competently to them. I make this Declaration in support of Plaintiffs’ request for attorneys’ fees and reimbursement of litigation expenses, as set forth in Plaintiffs’ Motion For Preliminary Approval Of Proposed Settlement, Approval Of The Form And Manner Of Notice To The Class, and Proposed Schedule For A Fairness Hearing. LGN is one of the law firms that is counsel of record in this case for Plaintiffs.

2. Our firm began working on this case in February of 2022. Throughout the course of our involvement, my firm kept files contemporaneously documenting all time spent, including tasks performed, and expenses incurred, and provided those reports when requested to Lead Counsel. All the time and expenses reported by my firm advanced were reasonably necessary for the prosecution of this case in order to achieve the class-wide results obtained for the benefit of the Class.

3. LGN attorneys and support staff have worked on a variety of assigned tasks. Lead Counsel assigned LGN to a number of teams either in a lead capacity or in a support capacity. Some teams were created by Lead Counsel for particular defendants and other teams were created for particular tasks or assignments. As members of particular teams, LGN attorneys were assigned responsibilities in connection with motion practice, including motions to dismiss and various discovery motions. LGN attorneys contributed to drafting and editing various briefs in opposition to a number of Defendants' motions to dismiss. LGN attorneys gave the oral arguments in opposition to three of the Defendants' motions to dismiss directed at the 5th Amended Complaint. LGN attorneys have been asked to participate in strategic meetings and attended a number of in-person strategy meetings. During these in-person meetings, LGN attorneys worked with various teams to develop discovery, including developing a detailed and comprehensive list of search terms that were used to negotiate search term parameters with Defendants. LGN attorneys also worked on an ESI protocol team to update an ESI protocol that was distributed to and negotiated with Defendants. LGN attorneys assisted in drafting discovery requests for Bank and Payment Processor Defendants. LGN attorneys have assisted in drafting discovery requests and editing of multiple discovery briefs. LGN attorneys promulgated and managed third party discovery to multiple entities associated with assigned Defendants. LGN attorneys also assisted other team members with drafting additional third party subpoenas. LGN attorneys coordinated the e-discovery framework for document productions and coordinated with vendors and internal ESI specialists to remediate e-discovery issues with prior e-discovery infrastructure. LGN attorneys also established the current document review framework and assisted on the document review protocol. LGN attorneys have also been involved in both first and second level document review work.

4. The schedule attached as Exhibit 1, prepared from contemporaneous time records regularly prepared and maintained by my firm and incorporated herein, is a summary of the amount of time spent by my firm's partners, attorneys, and professional support staff who were involved in this litigation. It does not include any time devoted to preparing this Declaration or otherwise pertaining to the request for an award of attorney's fees and reimbursement of expenses. The lodestar calculation is based on my firm's historical billing rates agreed to by hourly-fee paying clients or submitted to other courts for which compensation was requested. The total number of hours reasonably expended on this litigation by my firm from February of 2022 through June 30, 2023, which does not include time spent preparing this Declaration, is 4,141.90 hours. The total lodestar for my firm at historic rates is \$2,797,869.00. Expense items are billed separately and are not duplicated in my firm's lodestar. Those records have been provided to Lead Counsel and I authorize them to be submitted for *in camera* inspection by the Court, if necessary.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of November, 2023, in Minneapolis, MN.

/s/ Gregg M. Fishbein
Gregg M. Fishbein

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	
1	EXHIBIT 1: IN RE: TELEXFREE SECURITIES LITIGATION																		
2	MDL NO.: 4:14-md-02566-TSH																		
3	TIME REPORT																		
4	FIRM NAME: Lockridge Grindal Nauen P.L.L.P.																		
5	REPORTING PERIOD: February 1, 2022 - June 30, 2023																		
6																			
7	Categories:																		
8	(1) Investigation, Factual Research											(6) Litigation Strategy, Analysis and Case Management	Status:						
9	(2) Discovery											(7) Trial Preparation	(P) Partner						
10	(3) Pleadings, Briefs and Pretrial Motions											(8) Appeal	(A) Associate						
11	(4) Court Appearances											(9) Bankruptcy	(LC) Law Clerk						
12	(5) Settlements												(PL) Paralegal						
13																			
14	NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar	
15	Gregg M. Fishbein (2022)	P		250.50	225.00	9.50		496.5						981.50	\$975.00	\$ 956,962.50	981.50	\$ 956,962.50	
16	Gregg M. Fishbein (2023)	P		283.00	343.00			144						770.00	\$1,050.00	\$ 808,500.00	770.00	\$ 808,500.00	
17	Laura M. Matson (2022)	A		185.70	81.40	1.90	0.60	130.1						399.70	\$650.00	\$ 259,805.00	399.70	\$ 259,805.00	
18	Laura M. Matson (2023)	A		118.40	17.30			39.8						175.50	\$725.00	\$ 127,237.50	175.50	\$ 127,237.50	
19	Leona B. Ajavon (2022)	A			16.60									16.60	\$640.00	\$ 10,624.00	16.60	\$ 10,624.00	
20	Leona B. Ajavon (2023)	A		62.20				7.3						69.50	\$690.00	\$ 47,955.00	69.50	\$ 47,955.00	
21	Paul E. Buchel	A		183.50	19.00			23.9						226.40	\$650.00	\$ 147,160.00	226.40	\$ 147,160.00	
22	Breanna C. Crye	A		1,279.00										1,279.00	\$300.00	\$ 383,700.00	1,279.00	\$ 383,700.00	
23																			
24	ATTORNEY TOTALS		0.00	2,362.30	702.30	11.40	0.60	841.60	0.00	0.00	0.00	0.00	0.00	3,918.20		\$ 2,741,944.00	3,918.20	\$ 2,741,944.00	
25																			
26	Amber M. Raak (2022)	PL		11.50	1.90			9.80						23.20	\$250.00	\$ 5,800.00	23.20	\$ 5,800.00	
27	Amber M. Raak (2023)	PL		49.90	8.80			16.40						75.10	\$250.00	\$ 18,775.00	75.10	\$ 18,775.00	
28	Greg A. Loeding	E-Discovery		44.60										44.60	\$250.00	\$ 11,150.00	44.60	\$ 11,150.00	
29	Kira Q. Le	LC	6.50					31.50						38.00	\$250.00	\$ 9,500.00	38.00	\$ 9,500.00	
30	Tyler S. Blackmon	LC		2.00	16.20			24.60						42.80	\$250.00	\$ 10,700.00	42.80	\$ 10,700.00	
31																			
32	NON-ATTORNEY TOTALS		6.50	108.00	26.90	0.00	0.00	82.30	0.00	0.00	0.00	0.00	0.00	223.70		\$ 55,925.00	\$ 223.70	\$ 55,925.00	
33																			
34	TOTALS		6.50	2,470.30	729.20	11.40	0.60	923.90	0.00	0.00	0.00	0.00	0.00	4,141.90		\$ 2,797,869.00	4,141.90	\$ 2,797,869.00	

EXHIBIT 6

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: TELEXFREE SECURITIES
LITIGATION

MDL No. 4:14-md-2566-TSH

This Document Relates To:
ALL CASES

**DECLARATION OF W. DANIEL “DEE” MILES, III IN SUPPORT OF PLAINTIFFS’
MOTION FOR CLASS COUNSEL FEE AWARD AND EXPENSE AWARD**

I, W. Daniel “Dee” Miles, III, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am a member in good standing of the Alabama bar. I am admitted *pro hac vice* to this Court and serve as counsel for Plaintiffs and the Class. I respectfully submit this declaration in further support of Plaintiffs’ Motion for Class Counsel Fee Award. The following is based on my personal knowledge, and if called upon to do so, I could and would competently testify to the statements set forth below.

2. I am a principal at Beasley, Allen, Crow, Methvin, Portis & Miles P.C. (“Beasley Allen”), and I practice in my firm’s Montgomery office. I, along with my colleagues listed below, have applied our extensive and specialized knowledge and skill sets to the efficient and effective resolution of this case.

QUALIFICATIONS

3. Beasley Allen has nearly 100 attorneys in four cities across the U.S. and has played an integral role in some of the nation’s most important consumer litigation, including the Vioxx MDL, the BP Oil Spill MDL, the Toyota SUA MDL, the VW Diesel MDL, the Chrysler Fiat MDL, the Takata MDL, and many others. Beasley Allen has recovered nearly \$30 billion for our clients through verdicts and settlements. My colleagues, listed below, and I have an exceptional track record in class action litigation, having successfully litigated, and actively litigating, class actions across the country. Most recently, we won a \$102.6 million jury verdict in the Northern District of California in a rare automotive class action trial against General Motors. We also settled a

consumer class action for approximately \$287 million, bringing substantial economic relief to 4.9 million class members. The background and experience of my firm is summarized in the resumé attached as Exhibit 1.

LODESTAR

4. The work performed by this firm was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. This firm's compensation for services rendered in this case was wholly contingent on the success of this litigation.

5. Beasley Allen regularly keeps its time in tenths of an hour as recommended by the American Bar Association. Timekeepers also maintain time by activity category.

6. As of June 30, 2023, Beasley Allen actively participated in this litigation, including by performing the following work:

a. **Briefs, Motions and Pleadings**: Beasley Allen attorneys billed 386.70 hours to this action for work devoted to the pleadings, briefs and motions. Beasley Allen lawyers have been actively involved in the briefing in this matter. Among other things, Beasley Allen lawyers were primary drafters for Plaintiffs' oppositions to the second round of motions to dismiss filed by Defendants Wells Fargo Bank, Wells Fargo Advisors, Mauricio Cardenas and Michael Montalvo against Plaintiffs' Fifth Consolidated Amended Complaint.

b. **Case Management, Litigation and Analysis**: Beasley Allen attorneys have billed 980 hours in this action for case management and litigation strategy and analysis.

c. **Court Appearances**: Beasley Allen attorneys have billed 15.20 hours in this action for court appearances.

d. **Discovery and Document Review**: Beasley Allen attorneys have billed 707.50 hours on discovery and document review in this action. These hours include the review of some Defendants' discovery responses, meet and confer conferences, drafting and filing Motions to Compel, drafting Plaintiffs' discovery responses, as well as other discovery projects.

e. **Settlement, Negotiations and Drafting**: Beasley Allen attorneys have billed 44.40 hours for performing work related to settlement.

7. The hourly rates of Beasley Allen paralegals \$225 per hour, law clerks \$200 per hour, attorneys ranged from \$550-\$650 per hour for associate work, to \$850-1100 per hour for partner work.

8. I also have knowledge of the firm's policies regarding the assignment of work and the recording of time and expense records.

9. Attorneys at Beasley Allen are instructed to maintain contemporaneous time records reflecting the time spent on this and other matters. The total number of hours spent on this litigation as of June 30, 2023, by attorneys, paralegals and law clerks at this firm is 2,717.10.

10. The total lodestar for this time, calculated at the firm's historic hourly rate during the litigation, is \$2,020,787.50.

11. A summary report of my firm's lodestar with the total time spent by each attorney and paralegal of this firm on this case and the lodestar calculation for that attorney or paralegal based on this firm's historic billing rates is attached hereto as Exhibit 2.

12. The hourly rates shown in Exhibit 2 are the usual and customary lodestar rates charged in Montgomery, Alabama and in Atlanta Georgia, and the national venues in which the firm typically handles cases for each individual doing the type of work performed in this litigation. These rates were not adjusted, notwithstanding the complexity of this litigation, the skill and tenacity of the opposition, the preclusion of other employment, the delay in payment, or any other factors that could be used to justify a higher hourly compensation.

13. We are prepared to provide a detailed spreadsheet in Microsoft Excel that lists billed tasks.

14. As of June 30, 2023, my firm has incurred common costs of approximately \$2,500.00. These expenses are reflected in the books and records of my firm. All the expenses incurred were reasonable and necessary for the prosecution of this case.

15. On behalf of Plaintiffs and all counsel in this litigation, I respectfully request that the Court award the requested attorneys' fees and common expenses.

Dated: November 17, 2023

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.

/s/ W. Daniel "Dee" Miles, III.

W. Daniel "Dee" Miles, III, Esq. (AL #7656-
M75W)*

C. Lance Gould, Esq. (AL #0913-G66C)*

James B. Eubank, Esq. (FL #0101496)*

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Email: Tyner.Helms@BeasleyAllen.com

* *admitted pro hac vice*

** *pro hac vice pending or to be filed*

EXHIBIT 1

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C. RESUMÉ

I. Background of Beasley Allen

In 1979, Jere Locke Beasley founded the firm now known as Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. (“Beasley Allen”), which is located in Montgomery, AL; Atlanta, GA; Mobile, AL and Dallas, TX. From 1970 through 1978, Jere served as Lieutenant Governor of the State of Alabama, and for a short period as Governor. In 1979, he re-entered the private practice of law representing plaintiffs and claimants in civil litigation. This was the genesis of the present law firm, which is now made up of ninety-six attorneys and approximately two-hundred forty-two support staff representing clients all over the country. Beasley Allen has sixty-six principals, one managing attorney, six supervising attorneys, five Board of Directors, and five non-attorney supervisors. Our support staff includes full time legal secretaries, paralegals, nurses, investigators, an Information Technology Team, and a marketing team. Beasley Allen is adequately qualified, prepared, and equipped to handle complex litigation on a national scale.

II. Experience of Beasley Allen

Beasley Allen’s highly qualified attorneys and staff work tirelessly for clients throughout the country, representing plaintiffs and claimants in the following areas: Personal Injury, Products Liability, Consumer Fraud, Class Actions, Business Litigation, Employment, Toxic Torts, and Mass Torts Litigation. We have handled cases involving verdicts and settlements amounting to nearly \$30 billion. For instance, Beasley Allen has played an integral role in this nation’s most important consumer litigation such as Vioxx MDL, BP MDL, Toyota SUA MDL, VW MDL, Chrysler Fiat MDL and many others. Beasley Allen has recovered multi-million dollar verdicts for our clients against many corporate wrongdoers, many of which are in the healthcare industry, including AstraZeneca, \$216 million, GSK, \$83 million, Johnson & Johnson, Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc., \$72 million in February of 2016, \$55 million in May of 2016, \$70 million in October of 2016, and \$110 million in May of 2017, as well as Exxon, \$11.9 billion, and General Motors, \$155 million, just to name a few.

Beasley Allen has extensive experience handling complex litigation, attorney general litigation, multi-district litigation throughout the U.S., including district and federal courts, *qui tam* litigation, and class-action lawsuits all involving matters in the healthcare, pharmaceutical, and medical device industry. Our attorneys have also represented clients testifying before U.S. Congressional committees on Capitol Hill in Washington, D.C. Beasley Allen has also been appointed to the Plaintiff’s Steering Committee in many complex litigations.

i. Beasley Allen’s Involvement as Lead or Co-Lead Counsel Representing States in Complex Litigation, as well as our Qui Tam and Class Action Litigation Experience

Beasley Allen is a proven leader in complex litigation on a national level. Beasley Allen has successfully represented the states of Alabama, Louisiana, Mississippi, Alaska, Hawaii, South Carolina, Kansas, Utah, and Kentucky involving various issues within the healthcare arena, and

has confidentially investigated matters for several other Attorneys General. Beasley Allen's experience representing states with complex legal theories involves investigating wrongdoing, advising the states as to whether litigation should be pursued, handling all aspects of filed litigation, negotiating the Attorney General's claims in settlement discussions, and trying the litigations before a judge and jury. Our firm's experience with Attorney General cases involves litigating violations of Medicaid fraud, antitrust violations, consumer protection statutes, false claims act violations, fraud, false advertising, negligence, unjust enrichment, breach of contract, and unfair and deceptive trade practices with respect to the provision of healthcare goods and services. Beasley Allen's Attorney General litigation background includes the Average Wholesale Price litigations on behalf of eight states concerning the fraudulent pricing of prescription drugs, the representation of four states against McKesson Corporation for its fraudulent and unfair practices involving prescription drugs, the Fresenius litigation on behalf of two states involving the medical device GranuFlo, the Unapproved Drugs litigations on behalf of two states concerning the states' reimbursement of drugs with a fraudulently obtained Medicaid reimbursement approval status, the Usual and Customary litigations regarding the false reporting of pharmacy price lists by the nation's largest chain pharmacies, the Actos litigation, and many other investigations. Beasley Allen's attorneys serve or served as lead counsel in the following cases:

- a. *State of Louisiana, ex rel. v. Fresenius Medical Care Holdings, Inc., et al.*, Suit No. 631,586, Div. "D"; 19th JDC; Parish of East Baton Rouge, Judge Janice Clark;
- b. *In Re: Alabama Medicaid Pharmaceutical Average Wholesale Price Litigation* filed in the Circuit Court of Montgomery, Alabama, Master Docket No. CV-2005-219, Judge Charles Price;
- c. *In Re: Kansas Medicaid Pharmaceutical Average Wholesale Price Litigation* filed in the District Court of Wyandotte County, Kansas, Master Docket No. MV-2008-0668, Division 7, Judge George A. Groneman;
- d. *In Re: Mississippi Medicaid Pharmaceutical Average Wholesale Price Litigation* filed in the Chancery Court of Rankin County, Mississippi, Master Docket No. 09-444, Judge W. Hollis McGehee;
- e. *The State of Utah v. Apotex Corporation, et al.*, filed in the Third Judicial District Court of Salt Lake City, Utah, Case No. 08-0907678, Judge Tyrone E. Medley;
- f. *The State of Utah v. Abbott Laboratories, et al.*, filed in the Third Judicial District Court of Salt Lake City, Utah, Case No. 07-0915690, Judge Robert Hilder;
- g. *The State of Utah v. Actavis US, et al.*, filed in Third Judicial District Court of Salt Lake City, Utah, Case No. 07-0913717, Judge Kate A. Toomey;

- h. *The State of Louisiana, et al. v. Molina Healthcare, Inc., et al.*, filed in 19th Judicial District Court, Parish of East Baton Rouge, Suit No. 631612, Judge Janice Clark;
- i. *The State of Louisiana, et al. v. Takeda Pharmaceuticals America, Inc., et al.*, filed in 19th Judicial District Court, Parish of East Baton Rouge, Suit No. 637447, Judge R. Michael Caldwell;
- j. *The State of Mississippi v. CVS Health Corporation, et al.*, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01392, Judge Mitchell M. Lundy, Jr.;
- k. *The State of Mississippi v. Fred's, Inc., et al.*, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01389, Judge Mitchell M. Lundy, Jr.;
- l. *The State of Mississippi v. Rite Aid Corporation, et al.*, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01390, Judge Percy L. Lynchard, Jr.;
- m. *The State of Mississippi v. Walgreen Co., et al.*, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01391, Judge Mitchell M. Lundy, Jr.;
- n. *In the Matter of the Attorney General's Investigation*, AGO Case No. AN2014103885, Alaska Pay-for-Delay Antitrust Investigation;
- o. *State of Louisiana v. Pfizer, Inc., et al.*, Docket No. 625543, Sec. 24, 19th Judicial District Court, Parish of East Baton Rouge, Judge R. Michael Caldwell;
- p. *State of Louisiana v. Abbott Laboratories, Inc., et al.*, Docket No. 596164, Sec. 25, 19th Judicial District Court, Parish of East Baton Rouge, Judge Wilson Fields;
- q. *State of Louisiana v. McKesson Corporation*, Docket No. 597634, Sec. 25, 19th Judicial District Court, Parish of East Baton Rouge, Judge Wilson Fields;
- r. *State of South Carolina v. Abbott Laboratories, Inc., et al., In Re: South Carolina Pharmaceutical Pricing Litigation*, Master Caption Number: 2006-CP-40-4394, State of South Carolina, County of Richland, Fifth Judicial Circuit, Judge J. Cordell Maddox, Jr.;

- s. *State of Alaska v. Alharma Branded Products Division, Inc., et al.*, Case No.: 3AN-06-12026, Superior Court for the State of Alaska, Third Judicial District at Anchorage, Judge William F. Morse;
- t. *State of Alaska v. McKesson Corporation and First DataBank, Inc.*, Case No. 3AN-10-11348-CI, Superior Court for the State of Alaska, Third Judicial Circuit of Anchorage, Judge Peter A. Michalski;
- u. *State of Kansas, ex rel. v. McKesson Corporation, et al.*, Case No. 10-CV-1491, Division 2, District Court of Wyandotte County, Kansas, Judge Constance Alvey;
- v. *State of Hawaii, ex rel. v. Abbott Laboratories, Inc., et al.*, Civil Action No. 06-1-0720-04, State of Hawaii, First Circuit, Judge Eden Elizabeth Hifo;
- w. *State of Hawaii, ex rel. v. McKesson Corporation, et al.*, Civil Action No. 10-1-2411-11, State of Hawaii, First Circuit, Judge Gary W. B. Chang;
- x. *Commonwealth of Kentucky. v. Fresenius Medical Care Holdings, Inc., et al.*, Civil Action No. 16-CI-00946, Franklin Circuit Court, Div. 2, Judge Thomas D. Wingate;
- y. *State of Mississippi v. Actavis Pharma, Inc., et al.*, Civil Action No. 17-cv-000306, Hinds County Chancery Court, District 1, Judge Patricia D. Wise;
- z. *State of Mississippi v. Barr Laboratories, Inc., et al.*, Civil Action No. 17-cv-000304, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;
- aa. *State of Mississippi v. Camline, L.L.C. (f/k/a PamLab, L.L.C.)*, Civil Action No. 17-cv-000307, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;
- bb. *State of Mississippi v. E. Claiborne Robins Company, Inc., et al.*, Civil Action No. 17-cv-000305, Hinds County Chancery Court, District 1, Judge Denise Owens;
- cc. *State of Mississippi v. Endo Pharmaceuticals, Inc.*, Civil Action No. 17-cv-000309, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;
- dd. *State of Mississippi v. United Research Laboratories, Inc., et al.*, Civil Action No. 17-cv-000308, Hinds County Chancery Court, District 1, Judge Denise Owens;

- ee. *State of West Virginia v. Merck-Medco*, Civil Action No. 02-C-2944, Circuit Court of Kanawha County, West Virginia, Judge Jennifer F. Bailey;
- ff. *State of Alabama, ex. rel. Troy King, Attorney General v. Transocean, Ltd., et al.*, Civil Action No. 2:10-cv-691-MHT-CSC, Middle District of Alabama, Northern Division, Judge Myron H. Thompson;
- gg. *State of Alabama v. Purdue Pharma, LP, et al.*, Civil Action No. 03-CV-2019-901174, Circuit Court of Montgomery County, Alabama, Judge J.R. Gaines;
- hh. *State of Georgia v. Purdue Pharma, et al.*, Civil Action No. 19-A-00060-2, Superior Court of Gwinnett County, Georgia, Judge Tracie H. Cason; and
- ii. *State of Louisiana v. Abbott Laboratories, Inc., et al.*, Suit No. 624,522, Sec. 26; Parish of East Baton Rouge, Judge Donald R. Johnson.
- jj. *State of Alabama, ex. rel. Luther Strange, Attorney General v. BP, PLC., et al.*, MDL No. 2179, E.D. La., Judge Carl Barbier

Through the various representations of the states listed in the previous paragraph, our firm has recovered billions of dollars for the states, with over \$1.5 billion pertaining to recoveries involving state funds. Beasley Allen continues to represent states with complex litigation involving the manufacture and marketing of pharmaceuticals and pharmaceutical devices, including, but not limited to, allegations of Medicaid fraud, antitrust, consumer protection violations, false claims, fraud, unjust enrichment, false advertising, and unfair and deceptive trade practices with respect to the manufacture, marketing, pricing, and sale of pharmaceuticals, pharmaceutical devices, and the general provision of goods and services in the healthcare industry.

In addition to representing states, Beasley Allen is one of the nation's leading firms in *qui tam* litigation, especially in the healthcare industry. Beasley Allen, with the cooperation of the U.S. Department of Justice (DOJ), settled one of the most important *qui tam* cases in recent history against U.S. Investigations Services, Inc. (USIS), a private government contractor, for \$30 million. The case is *United States ex rel. Blake Percival v. U.S. Investigations Services, Inc.*, Civil Action No. 2:11-cv-527-WKW, (M.D. Ala.). Beasley Allen also represented one of six whistleblowers jointly responsible for a \$39 million settlement in a False Claims Act case alleging illegal kickbacks and off-label marketing against Daiichi-Sankyo Company, Ltd. The case was *United States, et al., ex rel. Jada Bozeman v. Daiichi-Sankyo Company*, Civil Action No. 14-cv-11606-FDS. Beasley Allen's *qui tam* cases involve a variety of complex legal issues, including but not limited to violations of the Anti-Kickback Statute, Stark Law, Medicare/Medicaid fraud, military contractor fraud, abuse of Title IV funds, federal grant fraud and government contracting malfeasance.

Beasley Allen is also a leader in complex class action litigation. Beasley Allen has successfully brought a number of class actions, some of which were subsequently transferred to multidistrict litigation, which we originally filed in federal and state courts, including: *Ace Tree*

Surgery, Inc. v. Terex Corporation, et al., Case No. 1:16-cv-00775-SCJ D (N.D. Ga., filed July 22, 2015); *In Re: Polaris Marketing, Sales Practices, and Products Liability Litigation*, Case No. 0:18-cv-00939-WMW-DTS (D. Minn., filed April 5, 2018); *Scott Peckerar et al. v. General Motors, LLC*, Case No. 5:18-cv-02153-DMG-SP (C.D. Cal., filed December 9, 2018); *Jason Compton et al v. General Motors, LLC*, Case No. 1:19-cv-00033-MW-GRJ (N.D. Fla., filed February 21, 2019); *Simerlein v. Toyota Motor Corporation et al.*, Case No. 3:17-cv-01091-VAB (D. Conn., filed June 30, 2017); *Kerkorian et al v. Nissan North America, Inc.*, Case No. 18-cv-07815-DMR (N.D. Cal., filed December 31, 2018); *Monteville Sloan, Jr. v. General Motors LLC*, Case No. 3:16-cv-07244-EMC (C.D. Cal., filed December 19, 2016); *William Don Cook v. Ford Motor Company*, Case No. 2:19-cv-00335-ECM-GMB (M.D. Ala., filed May 8, 2019); *Sigfredo Rubio et al., vs. ZF-TRW Automotive Holdings Corp., et al.*, Case No. 2:19-cv-11295-LVP-RSW (E.D. Mich., filed May 3, 2019); *Weidman, et al. v. Ford Motor Co.*, Case No. 2:18-cv-12719 (E.D. Mich., filed August 30, 2018); *Gerrell Johnson v. Subaru of America, Inc. et al.*, Case No. 2:19-cv-05681-JAK-MAA (C.D. Cal., filed June 28, 2019); *Thondukolam et al., vs. Corteva, Inc., et al.*, Case No. 4:19-cv-03857 (N.D. Cal., filed July 3, 2019); *Dickman, et al. v. Banner Life Insurance Company, et al.*, Case No. 1:16-cv-00192-WMN (D. Md., filed January 19, 2016); *Lesley S. Rich, et al. v. William Penn Life Insurance Company of New York*, Case No. 1:17-cv-02026-GLR (D. Md., filed July 20, 2017); *Vivian Farris, et al. v. U.S. Financial Life Insurance Company*, Case No. 1:17-cv-417 (S.D. Ohio, filed June 19, 2017); *In Re: Apple Inc. Device Performance Litigation*, Case No. 5:18-md-02827-EJD (N.D. Cal., filed April 5, 2018); *Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation*, Case No. 3:18-md-02828 (D. Or., filed April 5, 2018); *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, Case No. Case 1:14-md-02583-TWT (N.D. Ga., filed November 13, 2014); *In Re: German Automotive Manufacturers Antitrust Litigation*, Case No. 3:17-md-02796-CRB (N.D. Cal., filed October 5, 2017); *In Re: Domestic Airline Travel Antitrust Litigation*, Case No. 1:15-mc-01404-CKK (D.D.C., filed October 13, 2015); *In Re: Facebook, Inc., Consumer Privacy User Profile Litigation*; Case No. 5:18-md-02827-EJD (N.D. Cal., filed June 6, 2018); *Estrada v. Johnson & Johnson, et al.*, Case No. 2:14-cv-01051-TLN-KJN (E.D. Cal., filed April 28, 2014); *Larry Clairday, et al. v. Tire Kingdom, Inc., et al.*, No. 2007-CV-020 (S.D. Ga.); *Wimbreth Chism, et al. v. The Pantry, Inc. d/b/a Kangaroo Express*, No. 7:09-CV-02194-LSC (N.D. Ala.); *Danny Thomas, et al. v. Southern Pioneer Life Insurance Company*, No. CIV-2009-257JF, in the Circuit Court of Greene County, State of Arkansas; *Dolores Dillon v. MS Life Insurance Company n/k/a American Bankers Life Assurance Company of Florida*, No. 03-CV-2008-900291, in the Circuit Court of Montgomery County, Alabama; *Coates v. MidFirst Bank*, 2:14-cv-01079 (N.D. Ala., certified July 29, 2015); *Walls v. JP Morgan Chase Bank, N.A.*, 3:11-cv-00673 (W.D. Ky., certified October 13, 2016); *In Re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litig.*, 3:15-md-02672 (N.D. Cal., settlements approved October 25, 2016 and May 17, 2017); *In Re: Takata Airbag Products Liability Litig.*, 1:15-md-02599 (S.D. Fla.); *Bolooki et al., vs. Honda Motor Co. Ltd. et al.*, 2:22-cv-04252-MCS-SK (C.D. Cal.); and *In Re: ARC Airbag Inflators Products Liability Litigation*, 22-md-03051-ELR (N.D. Ga.). Beasley Allen's class action cases involve a variety of complex legal issues.

ii. *Beasley Allen's Additional Experience as Lead or Co-Lead Counsel in Nationwide Complex Litigation*

Beasley Allen is one of the country's leading firms involved in complex civil litigation on behalf of claimants, having represented hundreds of thousands of people. Attorneys from Beasley Allen have been selected by Federal Courts as lead counsel or co-lead counsel in the following complex multidistrict litigations:

- a. *In Re: Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657; (Andy Birchfield, Shareholder of Beasley Allen);
- b. *In Re: Reciprocal of America (ROA) Sales Practices Litigation*, United States District Court for the Western District of Tennessee, Judge J. Daniel Breen, MDL No. 1551; (Dee Miles and Jere Beasley, both Shareholders in Beasley Allen);
- c. *In Re: American General Life and Accident Insurance Company Industrial Life Insurance Litigation*, United States District Court for the District of South Carolina, Judge Cameron McGowan Currie, MDL No. 11429; (Dee Miles, Shareholder of Beasley Allen);
- d. *In Re: Dollar General Corp. Fair Labor Standards Acts Litigation*, United States District Court for the Northern District of Alabama, Western Division, Judge U.W. Clemon, MDL No. 1635; (Dee Miles, Shareholder of Beasley Allen);
- e. *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- f. *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the District of New Jersey, Judge Freda L. Wolfson, MDL No. 2738 (Leigh O'Dell, Shareholder of Beasley Allen);
- g. *Bruner et al v. Polaris Industries, Inc. et al*, United States District Court for the District of Minnesota, Judge David T. Schultz Case 0:18-cv-00939-WMW-DTS, 0:18-cv-00975-WMW-DTS (Dee Miles, Shareholder of Beasley Allen)¹;
- h. *Weidman et al v. Ford Motor Company*, United States District Court of the Eastern District of Michigan, Judge Gershwin A. Drain, 2:18-cv-12719 (Dee Miles, Shareholder of Beasley Allen)².

¹ Beasley Allen was appointed as interim co-lead counsel.

² Beasley Allen was appointed as interim co-lead counsel.

- i. *Sharon Cheng, et al. v. Toyota Motor Corporation, et al.*, United States District Court, Eastern District of New York, Judge William F. Kuntz, II, 1:20-cv-00629-WFK-CLP (Dee Miles, Shareholder of Beasley Allen)³;
- j. *Simerlein v. Toyota Motor Corporation et al.*, United States District Court District of Connecticut, Judge Victor A. Bolden, Case No. 3:17-cv-01091-VAB (Dee Miles, Shareholder of Beasley Allen);
- k. *Tucker Oliver, et al. v. Honda Motor Company Limited, et al.*, United States District Court, Eastern District of Alabama, Judge Madeline Hughes Haikala, 5:20-cv-006666-MHH (Dee Miles, Shareholder of Beasley Allen)⁴;
- l. *The K's Inc. v. Westchester Surplus Lines Insurance Company*, United States District Court, Northern District of Georgia, Judge William M. Ray, II, 1:20-cv-1724-WMR (Dee Miles, Shareholder of Beasley Allen);
- m. *In Re: Johnson & Johnson Aerosol Sunscreen Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Raag Singhal, MDL No. 3015 (Andy Birchfield and David Byrne, both Shareholders of Beasley Allen);⁵
- n. *Hamid Bolooki et al., vs. Honda Motor Co. Ltd. et al.*, United States District Court, Central District of California, Judge Mark C. Scarsi, 2:22-cv-04252-MCS-SK (H. Clay Barnett, III, Principal of Beasley Allen);⁶
- o. *In Re: Social Media Cases*, JCCP No. 5255, Judge Carolyn Kuhl, Department SS12, Los Angeles Superior Court, Lead Case 22STCV21355 (Joseph VanZandt, Principal of Beasley Allen);
- p. *In Re: ARC Airbag Inflators Products Liability Litigation*, United States District Court, Northern District of Georgia, Judge Eleanor L. Ross, 22-md-03051-ELR (Demet Basar, Principal of Beasley Allen); and
- q. *Cohen v. Subaru Corporation et al.*, United States District Court of New Jersey, Judge Joseph R. Rodriguez, Case No. 1:20-cv-08442-JHR (Dee Miles, Shareholder of Beasley Allen).

³ Beasley Allen was appointed as interim co-lead counsel.

⁴ Beasley Allen was appointed as interim co-lead counsel.

⁵ Beasley Allen was appointed as interim MDL Class counsel.

⁶ Beasley Allen was appointed as interim Class counsel.

iii. *Beasley Allen's Leadership Appointments on Executive and/or Plaintiff Steering Committees in Complex Multidistrict Litigation*

Beasley Allen has been appointed to the Plaintiff's Executive Committee and/or Steering Committee in many complex litigations. All of these multidistrict litigations involved multiple claims against multiple defendants, which required excellent organization and leadership from our attorneys. Beasley Allen has been appointed to leadership committees in the following MDL complex litigation cases:

- a. *In Re: Social Media Adolescent Addiction/Personal Injury Product Liability Litigation*, Civil Action No. 4:22-md-03047-YGR, MDL No. 3047;
- b. *In Re: Motor Fuel Temperature Sales Practices Litigation*, United States District Court for the Middle District of Kansas, Judge Kathryn Vratil, MDL No. 1840;
- c. *In Re: Bextra/Celebrex, Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation*, United States District Court for the Northern District of California, Judge Charles R. Breyer, MDL No. 1699;
- d. *In Re: Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657;
- e. *In Re: Actos (Pioglitazone) Products Liability Litigation*, United States District Court for the Western District of Louisiana, Judge Rebecca F. Doherty, MDL No. 2299;
- f. *In Re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, United States District Court for the Eastern District of Pennsylvania, Judge Cynthia M. Rufe, MDL No. 2342;
- g. *In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)*, United States District Court District of New Jersey, Judge Garrett E. Brown, Jr., MDL No. 2243;
- h. *In Re: Fosamax Products Liability Litigation*, United States District Court, Southern District of New York, Judge John F. Keenan, MDL No. 1789;
- i. *In Re: Depuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, United States District Court for the Northern District of Ohio, Judge David A. Katz, MDL No. 2197;
- j. *In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, US District Court for the Northern District of Texas, Judge Ed Kinkeade, MDL No. 2244;

- k. *In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, US District Court for the Northern District of Indiana, Judge Robert L. Miller, Jr., MDL No. 2391;
- l. *In Re: Prempro Products Liability Litigation*, United States District Court, Eastern District of Arkansas, Western Division, Judge Billy Roy Wilson, MDL No. 1507;
- m. *In Re: Mirena IUD Products Liability Litigation*, United States District Court, Southern District of New York, Judge Cathy Seibel, MDL No. 2434;
- n. *In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, United States District Court, District of Massachusetts, Judge Douglas P. Woodlock, MDL No. 2428;
- o. *In Re: American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of Ohio, Judge Joseph R. Goodwin, MDL No. 2325;
- p. *In Re: C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2187;
- q. *In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of West Virginia, Judge Joseph R. Goodwin, MDL No. 2326;
- r. *In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2327;
- s. *In Re: Coloplast Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2387;
- t. *In Re: Google Inc. Gmail Litigation*; United States District Court for the Northern District of California, San Jose Division, Judge Lucy H. Koh, MDL No. 2430;
- u. *In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Central District of California, Judge James V. Selna, MDL No. 2151;
- v. *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*; California Northern District (San Francisco), Hon. Charles R. Breyer, Case No. 3:15-md-02672-CRB;

- w. *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- x. *In Re: Target Corporation Customer Data Security Breach Litigation*, United States District Court for the District of Minnesota, Judge Paul A. Magnuson, MDL No. 2522;
- y. *In Re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the District of South Carolina, Judge Richard M. Gergel, MDL No. 2502;
- z. *In Re: Blue Cross Blue Shield Antitrust Litigation*, United States District Court for the Northern District of Alabama, Judge R. David Proctor, MDL No. 2406;
- aa. *In Re: Androgel Products Liability Litigation*, United States District Court for the Northern District of Illinois, Judge Matthew F. Kennelly, MDL No. 2545;
- bb. *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, United States District Court for the Northern District of Georgia, Judge, Thomas W. Thrash, Jr., MDL No. 2583;
- cc. *In Re: Takata Airbag Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Federico A. Moreno, MDL No. 2599, serving on a discovery committee responsible for two Auto Manufacturer's discovery⁷;
- dd. *In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the Northern District of California, Judge Edward Chin, MDL No. 2777;
- ee. *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, United States District Court of the Eastern District of Louisiana, Judge Carl J. Barbier, MDL No. 2179;
- ff. *In Re: Invokana (Canagliflozin) Products Liability Litigation*, United States District Court District of New Jersey, Judge Lois H. Goodman, MDL No. 2750;
- gg. *In Re: Proton-Pump Inhibitor Products Liability Litigation*, United States District Court District of New Jersey, Judge Claire C. Cecchi, MDL No. 2789;

⁷ Discovery Committee appointment only.

- hh. *In Re: Apple Inc. Device Performance Litigation*, United States District Court for the Northern District of California, Judge Edward J. Davila, MDL 2827;
- ii. *In Re: JUUL Labs, Inc. Marketing, Sales Practices & Products Liability Litigation*, United States District Court for the Northern District of California, Judge William H. Orrick, MDL 2913;
- jj. *In Re: ZF-TRW Airbag Control Units Products Liability Litigation*, United States District Court Central District of California, Judge John A. Kronstadt, MDL No. 2905;
- kk. *In Re: Zantac (Ranitidine) Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Robin L. Rosenberg, MDL No. 2924;
- ll. *In Re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Western District of New York, Judge Geoffrey Crawford, MDL No. 1:19-mc-2903;
- mm. *In Re: Robinhood Outage Litigation*, United States District Court for the Northern District of California, Judge James Donato, Case No. 20-cv-01626-JD;
- nn. *In Re: Paraquat Products Liability Litigation*, United States District Court for the Southern District of Illinois, Judge Nancy J. Rosenstengel, Case No. 3:21-md-03004-NJR;
- oo. *In Re: Camp Lejeune Water Litigation*, United States District Court for the Eastern District of North Carolina, Judge Robert B. Jones, Jr, Case No. 7:23-cv-897;
- pp. *In Re: Hair Relaxer Marketing, Sales Practices, And Products Liability Litigation*, United States District Court for the Northern District of Illinois, Judge Mary M. Royland, MDL No. 3060;
- qq. *In Re: Actos (Pioglitazone) Products Liability Litigation*, United States District Court for the Western District of Louisiana, Judge Rebecca F. Doherty, MDL No.2299; and
- rr. *In Re: Stryker Rejuvenate & ABG II Modular Hip Implant Litigation*, Superior Court of New Jersey Law Division: Bergen County, Judge Rachelle L. Harz, Case No. 296 Master Docket No. BER-L-936-13-MCL.

III. Qualifications of Beasley Allen Attorneys

Beasley Allen is comprised of highly qualified attorneys and staff that are well-equipped to be the co-lead counsel in handling any investigation and litigation. Our attorneys are some of the most qualified and experienced attorneys in the country.

On a firm-wide basis, national publications have profiled several Beasley Allen lawyers, including Forbes, Time Magazine, BusinessWeek, The New York Times, The Wall Street Journal, Jet Magazine, The National Law Journal, The ABA Journal, and Lawyers Weekly USA. Beasley Allen has also appeared nationally on Good Morning America, 60 Minutes, The O'Reilly Factor, CNN Live at Daybreak, CNN Headline News, ABC Evening News, CBS Evening News, NBC Evening News, FOX, National Public Radio, and Court TV.

Additionally, Beasley Allen attorneys have some of this country's largest verdicts and settlements in the following categories:

- a. Largest verdict against an oil company in American history, \$11,903,000,000, in *State of Alabama v. Exxon*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-99-2368, Judge Tracy S. McCooey;
- b. *Tolbert v. Monsanto*, private environmental settlement, \$750,000,000, filed in the United States District Court for the Northern District of Alabama, Civil Action No. CV-01-1407PWG-S, Judge Paul W. Greene;
- c. Largest predatory lending verdict in American history \$581,000,000, in *Barbara Carlisle v. Whirlpool*, filed in the Circuit Court of Hale County, Alabama, Case No. CV-97-068, Judge Marvin Wiggins;
- d. Largest average wholesale price litigation verdict, \$215,000,000, in *State of Alabama v. AstraZeneca*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.10, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- e. Second largest average wholesale price litigation verdict, \$114,000,000, in *State of Alabama v. GlaxoSmithKline - Novartis*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.52, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- f. Third largest average wholesale price litigation verdict, \$78,000,000, in *State of Alabama v. Sandoz, Inc.*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.65, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- g. Average wholesale price litigation verdict, \$30,200,000, in *State of Mississippi v. Sandoz, Inc.*, filed in the Chancery Court of Rankin County,

Mississippi, Case No. 09-00480, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);

- h. Average wholesale price litigation verdict, \$30,262,052, in *State of Mississippi v. Watson Laboratories, Inc., et al.*, filed in the Chancery Court of Rankin County, Mississippi, Case Nos. 09-488, 09-487, and 09-455, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
- i. Hormone Therapy Litigation Verdict, \$72,600,000, in *Elfont v. Wyeth Pharmaceuticals, Inc., et al.*, *Mulderig v. Wyeth Pharmaceuticals, Inc., et al.*, *Kalenkoski v. Wyeth Pharmaceuticals, Inc., et al.*, filed in the County of Philadelphia, Court of Common Pleas, Case Nos. July Term 2004, 00924, 00556, 00933, Judge Gary S. Glazer;
- j. Hormone Therapy Litigation Verdict, \$5,100,100, in *Okuda v. Wyeth Pharmaceuticals, Inc.*, filed in the United States District Court of Utah, Northern Division, Case No. 1:04-cv-00080-DN, Judge David Nuffer;
- k. Talcum Powder Litigation Verdict, \$72,000,000, in *Fox v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison; and
- l. Talcum Powder Litigation Verdict, \$55,000,000, in *Ristesund v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison.

Additionally, Beasley Allen maintains a full-time Information Technology department comprised of eight professionals who have successfully passed rigorous industry certification exams. The technological advancements not only allow Beasley Allen to successfully present the case for our clients at hearings and trial, but they allow our firm to stay in the forefront of multi-media and case management.

EXHIBIT 2

IN RE: TELEXFREE SECURITIES LITIGATION

MDL NO.: 4:14-md-02566-TSH

TIME REPORT

FIRM NAME:

EXHIBIT 2

REPORTING PERIOD: May 2021 - June 2023

Categories:

- (1) ASSESSMENT AND PRE-SUIT INVESTIGATION OF CASE
- (2) DISCOVERY
- (3) BRIEFS MOTIONS AND PLEADINGS
- (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT
- (5) COURT APPEARANCES
- (6) TRIAL PREP
- (7) SETTLEMENT NEGOTIATIONS AND DRAFTING
- (8) APPEAL
- (9) BANKRUPTCY
- (10) TRAVEL

Status:

- (P) Partner
- (A) Associate
- (LC) Law Clerk
- (PL) Paralegal

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar
W. Daniel "Dee" Miles, III. (WDM) 2021	P			6.20	3.60			0.10					9.90	\$1,100.00	\$ 10,890.00	9.90	\$ 10,890.00
W. Daniel "Dee" Miles, III. (WDM) 2022	P		16.60	28.70	117.60	2.70		0.90			67.00		233.50	\$1,100.00	\$ 256,850.00	233.50	\$ 256,850.00
W. Daniel "Dee" Miles, III. (WDM) 2023	P		17.80	1.70	68.00			5.60	1.20				94.30	\$1,100.00	\$ 103,730.00	94.30	\$ 103,730.00
C. Lance Gould (CLG) 2021	P			9.50	13.80			0.50					23.80	\$950.00	\$ 22,610.00	23.80	\$ 22,610.00
C. Lance Gould (CLG) 2022	P		78.10	63.20	149.20	4.60		1.20			65.70		362.00	\$950.00	\$ 343,900.00	362.00	\$ 343,900.00
C. Lance Gould (CLG) 2023	P		107.90	11.70	102.60			7.80	0.20				230.20	\$950.00	\$ 218,690.00	230.20	\$ 218,690.00
James B. Eubank (JBE) 2021	P			0.50	15.70			2.00					18.20	\$850.00	\$ 15,470.00	18.20	\$ 15,470.00
James B. Eubank (JBE) 2022	P	0.20	122.30	127.40	178.50	3.70		0.90			56.50		489.50	\$850.00	\$ 416,075.00	489.50	\$ 416,075.00
James B. Eubank (JBE) 2023	P		80.30	14.70	71.00			15.80	2.30				184.10	\$850.00	\$ 156,485.00	184.10	\$ 156,485.00
Rachel N. Minder (RNM) 2022	P			35.50									35.50	\$750.00	\$ 26,625.00	35.50	\$ 26,625.00
Tyner D. Helms (TDH) 2021	A			4.80	7.50								12.30	\$550.00	\$ 6,765.00	12.30	\$ 6,765.00
Tyner D. Helms (TDH) 2022	A		124.10	69.60	158.80	4.20		0.20			27.70		384.60	\$550.00	\$ 211,530.00	384.60	\$ 211,530.00
Tyner D. Helms (TDH) 2023	A		160.40	13.20	93.70			9.40					276.70	\$550.00	\$ 152,185.00	276.70	\$ 152,185.00
ATTORNEY TOTALS		0.20	707.50	386.70	980.00	15.20	0.00	44.40	3.70	0.00	216.90	0.00	0.00	\$0.00	\$ -	0.00	\$ -
Holly M. Busler 2021	PL			11.30	1.80								13.10	\$225.00	\$ 2,947.50	13.10	\$ 2,947.50
Holly M. Busler 2022	PL		24.40	15.10	96.00						0.20		135.70	\$225.00	\$ 30,532.50	135.70	\$ 30,532.50
Holly M. Busler 2023	PL		39.80	8.00	52.80				0.20				100.80	\$225.00	\$ 22,680.00	100.80	\$ 22,680.00
Whitney C. Oakley 2021	PL			2.00	0.30								2.30	\$225.00	\$ 517.50	2.30	\$ 517.50
Whitney C. Oakley 2022	PL			0.20	0.10						0.30		0.60	\$225.00	\$ 135.00	0.60	\$ 135.00
Whitney C. Oakley 2023	PL												0.00	\$225.00	\$ -	0.00	\$ -
Jason Kingry 2022	LC				31.60								31.60	\$200.00	\$ 6,320.00	31.60	\$ 6,320.00
Jason Kingry 2023	LC		2.00										2.00	\$200.00	\$ 400.00	2.00	\$ 400.00
Rachel L. Friend 2022	PL				5.00								5.00	\$225.00	\$ 1,125.00	5.00	\$ 1,125.00
Jessica Stapp 2022	PL		1.60										1.60	\$225.00	\$ 360.00	1.60	\$ 360.00
Jessica Stapp 2023	PL				0.20								0.20	\$225.00	\$ 45.00	0.20	\$ 45.00
Adam Beaudry 2022	LC		18.00	16.40	35.20								69.60	\$200.00	\$ 13,920.00	69.60	\$ 13,920.00
Adam Beaudry 2023	LC												0.00	\$200.00	\$ -	0.00	\$ -
NON-ATTORNEY TOTALS		0.00	85.80	53.00	223.00	0.00	0.00	0.00	0.20	0.00	0.50	0.00			\$ 78,982.50	\$ 362.50	\$ 78,982.50
TOTALS		0.20	793.30	439.70	1,203.00	15.20	0.00	44.40	3.90	0.00	217.40	0.00	2,717.10		\$ 2,009,897.50	\$ 2,717.10	\$ 2,020,787.50

EXHIBIT 7

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**IN RE: TELEXFREE SECURITIES
LITIGATION**

MDL No. 4:14-md-2566-TSH

**This Document Relates To:
ALL CASES**

**DECLARATION OF RONALD A. DARDENO IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES**

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

1. I am a partner with the law firm of the Law Offices of Frank N. Dardeno LLP. I am an attorney in good standing and an active member of the Bar of the Commonwealth of Massachusetts (since 1986). I am also admitted to practice before the United States District Court for the District of Massachusetts, and before the First Circuit Court of Appeals.

2. I am a Senior Partner and Chief Litigating Partner of the Law Offices of Frank N. Dardeno LLP. A copy of my Resume is attached as Exhibit 1.

3. The following averments are set forth on personal knowledge. I am available and competent to testify thereto if called as a witness.

4. This Declaration is submitted in support of Class Counsel's application for an award of attorneys' fees and reimbursement of expenses in connection with services rendered for the Plaintiffs in this matter.

5. The Law Offices of Frank N. Dardeno LLP has substantial experience in complex commercial litigation and banking matters, among other practices. More particularly, the Law Offices of Frank N. Dardeno LLP has extensive experience representing banks in various banking-

related litigation matters, including matters revolving around the Bank Secrecy Act, Uniform Commercial Code, commercial collection actions, contract actions, and prejudgment security. I personally represent or have represented several large regional banks and financial institutions in a variety of litigation matters.

6. My firm and I initiated this action in April, 2014, after I was approached by several TelexFree victims who were deeply concerned about the possibility that they had been defrauded by TelexFree and that they would not recover their investments in the company. I then brought this matter to the attention of Lead Counsel, Robert J. Bonsignore, Esq., and together we investigated the possibility of pursuing an action on behalf of TelexFree's victims. We were also alarmed by the fact that such a large and predatory Ponzi scheme had been able to operate within the auspices of the U.S. banking and payment processing system.

7. At the outset of these proceedings, in light of my litigation experience, knowledge of banking law, and contacts with several TelexFree victims, Lead Counsel asked my firm and me to serve as a member of the to-be-formed Plaintiffs' Interim Executive Committee ("PIEC").

8. Class counsel's representation of the class to date has included (1) filing and amending complaints as facts were discovered; (2) opposing motions to dismiss and motions for reconsideration filed by defendants; (3) investigating and analyzing facts outside any formal discovery process to inform and guide the litigation, including reviewing and coding millions of documents; (4) retaining, consulting with, otherwise working with experts in the fields of banking, payment processing, legal malpractice, accounting, and economics to guide discovery, motion practice and trial preparation; (5) participating in formal mediation and informal negotiations with the Trustee; (6) pursuing ongoing settlement possibilities with opposing counsel while balancing the need for immediate class compensation against the value of evidence directed towards other

defendants; (7) Responding to numerous Discovery Requests; and (8) reviewing over a million pages of documents on an expedited basis. During the course of this litigation, Plaintiffs received an enormous number of documents from various Defendants and third parties. The file size of these documents ranged from 104.1 MB to 10.1 GB, the largest files of which took an extensive amount of time to review and analyze.

9. The Law Offices of Frank N. Dardeno LLP has participated in these MDL proceedings on behalf of Plaintiffs and as a member of the PIEC since its inception in 2014. The hours submitted with this application are solely for work performed on behalf of the class alleged in this action.

10. The work performed by the Law Offices of Frank N. Dardeno LLP was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel.

11. My firm's compensation for services rendered in this case is wholly contingent on the success of this litigation, and is totally at risk.

12. As a matter of course, all attorneys and other professionals of the Law Offices of Frank N. Dardeno LLP record their time in tenths of an hour, as recommended by the American Bar Association, and we have done so consistently in connection with these MDL proceedings.

13. I have supervised all of the work performed by attorneys and professionals of the Law Offices of Frank N. Dardeno LLP professionals. I also have knowledge of the firm's policies regarding the assignment of work and the recording of time and expense records.

14. All attorneys and professionals of the Law Offices of Frank: N. Dardeno LLP maintain contemporaneous time records reflecting all time spent on this and other matters. As of June 30, 2023, the attorneys and professionals of the Law Offices of Frank N. Dardeno LLP have spent a total of 2,905.10 hours on this case, working on behalf of the Plaintiffs in these MDL

proceedings. We have not charged any fees for preparing the fee petition, this Declaration and related matters.

15. The total lodestar value for this time, calculated at the Law Offices of Frank N. Dardeno LLP's usual and established hourly rates during the course of these MDL proceedings, is \$1,277,115.00.

16. A summary report of the Law Offices of Frank N. Dardeno LLP's lodestar, with the total time spent by each attorney and paralegal in these MDL proceedings, and the lodestar calculation for that attorney or paralegal based on our usual, historic, and established billing rates is attached hereto as Exhibit 2. The rates set forth therein are the same hourly rates generally charged for other matters for other clients.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 17th day of November, 2023.

/s/ Ronald A. Dardeno

Ronald A. Dardeno, Esq.

MA BBO# 688881

Law Offices of Frank N. Dardeno, LLP

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES 7.1

I hereby certify that Plaintiffs and their counsel have complied with Local Rules 7.1 of the United States District Court for the District of Massachusetts and have attempted in good faith to confer with counsel for the aforesaid Defendants.

/s/ Ronald A. Dardeno
Ronald A. Dardeno, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on this 17 day of November, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court by using the Case Management/Electronic Case Filing (CM/ECF) system, which will send notice of electronic filing to all parties registered with the CM/ECF system in the above-captioned matter. A copy will be forwarded via first class mail, postage prepaid, to those parties not electronically registered.

/s/ Ronald A. Dardeno
Ronald A. Dardeno, Esquire

Exhibit 1

User	Title	Lodestar Rate	Hours	Total Fee
Ronald A. Dardeno	P/2020	\$450	212.50	\$95,625.00
Ronald A. Dardeno	P/2021	\$450	82.20	\$36,990.00
Ronald A. Dardeno	P/2021	\$550	76.10	\$41,855.00
Ronald A. Dardeno	P/2022	\$550	719.38	\$395,660.00
Ronald A. Dardeno	P/2023	\$700	395.15	\$276,605.00
Alexander D. Wall	P/2020	\$350	133.70	\$46,795.00
Alexander D. Wall	P/2021	\$350	87.30	\$30,205.00
Alexander D. Wall	P/2021	\$400	45.10	\$18,040.00
Riccardo L. Rullo	P/2022	\$425	4.90	\$2,082.50
Riccardo L. Rullo	P/2022	\$450	39.50	\$17,775.00
Riccardo L. Rullo	P/2023	\$600	11.00	\$6,600.00
Law Clerk	LC/2022	\$125	167.90	\$20,987.50
Law Clerk	LC/2023	\$200	34.29	\$6,858.00
Peter R. Winnett	A/2022	\$350	390.80	\$136,780.00
Peter R. Winnett	P/2023	\$400	158.20	\$63,280.00
Kara L. Dardeno	P/2022	\$425	11.20	\$4,760.00
Kara L. Dardeno	P/2023	\$550	2.00	\$1,100.00
Document Reviewer	DR/2020	\$225	334.00	\$75,150.00
Total				\$1,277,148.00

EXHIBIT 8

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: TELEXFREE SECURITIES
LITIGATION

MDL No. 4:14-md-2566-TSH

This Document Relates to:
ALL CASES

**DECLARATION OF D. MICHAEL NOONAN IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

I, D. Michael Noonan, declare as follows:

1. I am a partner with the law firm of Shaheen & Gordon, P.A. I am an attorney in good standing and an active member of the State and Federal Bars of New Hampshire, Maine, Vermont, Massachusetts and Hawaii. I have personal knowledge of the following facts and could and would testify competently thereto if called as a witness. I submit this Declaration in support of Class Counsel's application for an award of attorneys' fees in connection with services rendered in the above action and reimbursement of expenses incurred by this firm related to the investigation, prosecution, and settlement of claims in the course of this litigation.

2. Shaheen & Gordon, P.A. has substantial experience in complex litigation and/or class action cases. I have been designated lead counsel in several cases. Shaheen & Gordon, P.A. has also participated in many class actions assigned Multi District Litigation status by the Judicial Panel on Multi District Litigation as Class Cases. The background and experience of my firm and its attorneys is summarized in the *Curriculum Vitae* attached hereto as Exhibit 1.

3. As a result of its prosecuting class actions lawsuits and other forms of complex litigation, Shaheen & Gordon, P.A. was able to provide substantial benefits to the class in this

matter. In this action, I was selected to serve on the Plaintiffs' Interim Executive Committee and fully carried out all that I was charged to do.

4. I am a member of the Bar Associations for the States of New Hampshire, Maine, Vermont and Hawaii as well as the Commonwealth of Massachusetts. I graduated from Boston University School of Law. I was admitted to practice in the State of New Hampshire in 1990, Massachusetts in 1991, Maine in 1991, Vermont in 2004 and Hawaii in 2022.

5. I have also been admitted to practice before the following courts: the United States District Court of Massachusetts, the United States District Court for the District of New Hampshire, the United States District Court for the District of Maine, the United States District Court for the District of Vermont, the United States District Court for the District of Hawaii, the Supreme Court of the United States, United States Court of Federal Claims, United States Court of Appeals Ninth Circuit.

6. I am the managing partner of the Law Firm of Shaheen & Gordon, P.A. since January 1, 2007.

7. Shaheen & Gordon, P.A. has participated in this litigation and has performed work on behalf of Plaintiffs since its inception. The hours submitted with this application are solely for work performed on behalf of the class alleged in the above-captioned action.

8. The work performed by this firm was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. This firm's compensation for services rendered in this case is wholly contingent on the success of this litigation, and is totally at risk.

9. Shaheen & Gordon, P.A. regularly keeps its time in tenths of an hour as recommended by the American Bar Association. Timekeepers also maintain time by activity category and are requested when reasonably called for to provide a further description.

10. This firm actively participated in this litigation, including by performing the following work:

a. **Briefs, Motions and Pleadings**: Shaheen & Gordon attorneys and other timekeepers have billed 367.7 hours to this action for work devoted to the pleadings, briefs and motions in this action. This includes the research and drafting and assisting in drafting of individual state-based law complaints and then a nationwide civil action complaint and various memo's and work on pleadings assigned by lead counsel.

b. **Case Management, Litigation and Analysis**: Shaheen & Gordon, P.A. attorneys and other timekeepers have billed 233.0 hours to this action for case management and active service on the Executive Committee.

c. **Court Appearances**: Shaheen & Gordon, P.A. attorneys have billed 19.5 hours in this action for court appearances. These hours include both the preparation and court appearance. No time was billed for Court appearances relating to the appointment of Plaintiff's leadership structure.

d. **Discovery**: The Shaheen & Gordon, P.A. attorneys have billed 2,239.6 hours to discovery. These hours include assisting in the review of millions of pages of documents for evidence identified by Lead Counsel. Additionally, as requested by lead counsel and at his direction Shaheen & Gordon, P.A. attorneys engaged in detailed review and analysis of documents in support of work directed by lead counsel.

e. **Investigation and Factual Research**: Shaheen & Gordon, P.A. firm's attorneys have billed 415.6 hours for work devoted to drafting following a determination by a case assessment team that the case should be prosecuted and to "beef up the factual content".

f. **Settlement, negotiations and drafting**: In carrying out its duties as a member of the Executive Committee, Shaheen & Gordon, P.A. billed 1.8 hours for work that could be categorized as settlement. I was present and took part during negotiations and mediation with Defendant Fidelity.

11. I have supervised the work performed on this case by other members of Shaheen & Gordon, P.A. except for certain document review work that was directly supervised by persons designated by Lead Counsel for that task, in which case I monitored the work to the extent I was required to do so. I also have knowledge of the firm's policies regarding the assignment of work and the recording of time and expense records. Shaheen & Gordon, P.A. keeps separate accounting numbers for each matter in the firm, including the *In re: TelexFree Securities Litigation*.

12. All attorneys at Shaheen & Gordon, P.A. are instructed to maintain contemporaneous time records reflecting the time spend on this and other matters. The total number of hours spent on this litigation, from inception, by attorneys and paralegals at this firm has been 2,806.3. Time spent preparing the fee petition and related documents is not included.

13. The total lodestar for this time from October 1, 2020 through June 30, 2023, calculated at the firm's historic hourly rates during the litigation, is \$1,278.656.25.

14. Shaheen & Gordon's prior lodestar through September 30, 2020 previously submitted to this Court in January, 2021 was \$1,981,056.00 with costs of \$149,141.88. Shaheen & Gordon, P.A. has also contributed \$300,000 to the litigation fund in this matter.

15. A summary report of my firm's lodestar with the total time spent by each attorney and paralegal of this firm on this case, and the lodestar calculation for that attorney or paralegal based on this firm's historic billing rates is attached hereto as Exhibit 2. The lawyers involved

in this case work primarily on a contingent fee basis. The rates charged are the same hourly rates offered for all matters by these firm timekeepers. The rates for each attorney have been previously approved by other courts in many instances. None of the time included in this declaration represents any work done in connection with the application for fees. The summary report was prepared from contemporaneous daily time records regularly maintained by this firm, which are available at the request of the Court.

16. This firm has also expended significant non-reimbursed expenses in connection with the prosecution of this litigation. Per Lead Counsel's representation we do not seek reimbursement at this time for held costs and will continue to carry them.

17. The expenses incurred pertaining to this case are reflected in the books and records of this firm maintained in the ordinary course of business. These books and records are prepared from expense vouchers, invoices, check records and similar items, and are an accurate record of expenses incurred.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 30th day of August, 2023.

/s/ D. Michael Noonan

D. Michael Noonan

EXHIBIT 1

SHAHEEN & GORDON, P.A.

Shaheen & Gordon has ample resources and extensive experience in complex, document intensive litigation including class action litigation. Shaheen & Gordon has forty-two (42) lawyers engaged in active litigation in state and federal courts in New Hampshire, Maine, Massachusetts, Vermont and elsewhere.

Attorneys D. Michael Noonan and Christine M. Craig have extensive experience pursuing class action cases on behalf of New Hampshire, Maine, Vermont and Massachusetts Consumers.

Attorney Steve Gordon negotiated the successful resolution on behalf of a former chief financial officer in a securities enforcement action brought by the United States Securities and Exchange Commission, *United States Securities and Exchange Commission v. Patel, et al*, Civ. No. 01:07-00039 (2007), which was approved by the Court by Order dated June 24, 2011 (Document# 244).

In 2007 Attorneys Craig and Noonan achieved an outstanding settlement in a New Hampshire Consumer Protection class action against U.S. Smokeless Tobacco Company.

Attorney Noonan acted as Co-Lead Counsel in this ground breaking case which established in New Hampshire for the first time the right of New Hampshire Consumers to pursue indirect purchaser antitrust claims under the New Hampshire Consumer Protection Act. *LaChance v. US. Smokeless Tobacco*, 156 N.H. 88 (2007). Attorney Craig successfully handled both the appeal of the original dismissal of this matter and the appeal of the approval of the *LaChance* settlement.

Attorney Noonan has also been approved by Massachusetts courts as Co-Lead counsel in several consumer class actions¹. These actions were all litigated and pursued to a successful

¹*Sullivan et at v Walgreen Eastern Co., Inc*, Suffolk Superior Court, 04-2524-BLS appointed by order dated 6/15/04 by Judge Van Gestel Senior Justice Business Litigation Session; *Morrissey eta/ v. Lowe's Home Center, Inc.*, Middlesex County Superior Court, docket number 03-3879-L2, appointed by order dated 4/28/05; *Sullivan et al v Target Corporation*, Suffolk County Superior Court, 04-0169 BLS, Appointed by order dated 12/21/04 by Judge Van Gestel.

conclusion and approved by the Superior Court. Attorney Noonan argued in the Lowe's matter on behalf of the Plaintiff class at the Fairness Hearing. The class was certified and the settlement was approved. Attorney Craig has assisted in all of these cases and played a leading role in the Smokeless litigation and on-going class action consumer protection cases against Honeywell International, Inc. and others. Attorney Noonan has been recognized each year since 1998 in the Best Lawyers In America for personal injury litigation based on an exhaustive search for the country's top attorneys performed by the esteemed national polling firm of Woodward-White. Also, since 2009 Attorney Noonan has been recognized each year by Thompson Reuters as a "Super Lawyer". Attorney Noonan is currently serving on the Plaintiff's Interim Executive in *In re TelexFree Securities Litigation, Dist. Of Mass., No. 4:14-md-2566-TSH*.

Several other Shaheen & Gordon attorneys have extensive experience in complex litigation and class action work. Founding Partner Steven Gordon has been with the firm since its beginning in 1981. Since 1991 Attorney Gordon has been recognized each year in the Best Lawyers in America. Attorney Gordon has a very successful civil trial practice emphasizing complex business litigation. Successes include defending former all pro NFL quarterback Jim Kelly of the Buffalo Bills in a libel action brought by Kelly's former attorney and agent. The Favorable Jury verdict was affirmed on appeal to the First Circuit Court of Appeals. Attorney Gordon also successfully represented Jonathan Harr, author of the New York Times Bestseller, *A Civil Action*, and his Publisher, Random House, in a defamation suit. Attorney Gordon and Attorney Bill Christie, another Shaheen & Gordon lawyer and partner, achieved a significant victory in the First Circuit Court of Appeals when that court reversed a lower court decision and reinstated the McIntyre family's wrongful death suit against the United States Government and the FBI for leaking confidential information to Whitey Bulger and other infamous mob figures resulting in the murder of Brian Halloran and John McIntyre. Shaheen & Gordon was lead discovery counsel

for all consolidated cases dealing with the FBI's misconduct. Attorneys Gordon and Christie ultimately tried the McIntyre case in federal court in Boston and secured a first of its kind verdict of \$3.1 million against the United States Government for their clients.

In the October 2003 New Hampshire Magazine listing the "ideal" New Hampshire Attorneys in various areas as voted by lawyers throughout the state, Steve Gordon was recognized as an ideal lawyer in two categories - Complex Litigation and Criminal Law.

Founding Partner William H. Shaheen started the firm in 1981 with Steve Gordon. Attorney Shaheen was appointed by President Jimmy Carter as the U.S. Attorney for the State of New Hampshire and served in that post from 1977 to 1981. When he left the U.S. Attorney's office Attorney Shaheen was appointed by NH Governor Hugh Gallen to serve as District Court Judge in Durham, New Hampshire. Attorney Shaheen and his wife, United States Senator Jeanne Shaheen, recently elected to her third term in The United States Senate, were named in 2012 to Business NH Magazine's list of "The 10 Most Powerful People in New Hampshire."

Attorneys Steve Gordon, Mike Noonan, Christine Craig, Alex Spadinger, James Rosenberg, Sean O'Connell, Tracey Goyette Cote, Jared O'Connor, Cathy J. Green, Benjamin Siracusa Hillman, Timothy M. Harrington, William H. Shaheen, Francis G. Murphy, Randall Smith, Lawrence Vogelman, Ron Abramson, Crystal Maldonado, Heather Menezes, Colleen D. O'Connell, Laura Tetrault, Stephanie Annunziata and Brian Quirk have been recognized by Best Lawyers in America.

Shaheen & Gordon attorneys D. Michael Noonan and William E. Christie have been certified as members of the Million Dollar Advocates Forum. Attorneys D. Michael Noonan, Steven M. Gordon, James D. Rosenberg, William Christie, Francis Murphy, Tracey Goyette Cote, Timothy M. Harrington, Benjamin Siracusa Hillman, Cathy Green, Jared O'Connor, James Rosenberg, Brian Quirk, Colleen O'Connell, Lawrence Vogelman and Roger Turgeon have been named to Super Lawyers. Attorney Gordon has been recognized in the Best Lawyers in America for First Amendment Law and White Collar Criminal Defense since 1991. Attorney Noonan has been recognized in the Best Lawyers in America since 2008. Shaheen & Gordon maintains an A V rating from Martindale Hubbell.

² Attorney Gordon was also selected by his peers to appear in a London based publication entitled "The International Who's Who of Business Crime Lawyers 2003" and has been selected again in 2004 and 2005. The International Who's Who List identifies the foremost legal practitioners in over 20 distinct areas of the International legal marketplace. The list is generated by Law Business Research Limited, an independent London Based publishing group which provides research, analysis and reporting on the international legal services marketplace.

³ Attorney Shaheen continued as Durham District Court Judge from 1981 until 1996 when he resigned to focus on his wife Jeanne's first of three successful campaigns for Governor of New Hampshire.

EXHIBIT 2

IN RE: TELEXFREE SECURITIES LITIGATION				
MDL NO.: 4:14-MD-02566-TSH				
SHAHEEN & GORDON TIME REPORT 10/1/2020-6/30/2023				
Attorney	Hours	Time Period	Rate	Lodestar
William H. Shaheen (WHS) (P)	5.3	2014-present	\$ 600.00	\$ 3,180.00
D. Michael Noonan (DMN)(P)	215.1	2014-2022	600.00	129,060.00
D. Michael Noonan (DMN)(P)	48.7	2023	660.00	32,142.00
Christine M. Craig (CMC)(P)	1131	2014-present	525.00	593,775.00
Anthony M. Carr (AMC)(P)	1.2	2020-2023	300.00	360.00
Timothy J. McLaughlin(TJM)(P)	1.7	2020-2023	275.00	467.50
William E. Christie (WEC)(P)	0.5	2020-2023	500.00	250.00
Danielle L. Pomeroy(DLP)(A)	136.8	2020-2021	225.00	30,780.00
Danielle L. Pomeroy(DLP)(A)	84	2021	240.00	20,160.00
Danielle L. Pomeroy(DLP)(A)	83.2	2022	250.00	20,800.00
Danielle L. Pomeroy(DLP)(A)	37.2	2023	265.00	9,858.00
Nicholas G. Kline(NGK)(A)	672.5	2020-2023	285.00	191,662.50
Raheela Rahman(R2R)(A)	1026.5	2020-2023	200.00	205,300.00
Sabrina Beavens(SB)(A)	0.1	2021	325.00	32.50
Sabrina Beavens(SB)(A)	1.4	2022	350.00	490.00
Madeline Blackburn(MAB)(A)	11.9	2022-2023	225.00	2,677.50
Michele Bouchard(MMB)(A)	98.1	2020-2022	375.00	36,787.50
S. Amy Spencer (SAS)(P)	0.6	2022	350.00	210.00
Diane Morris(DM)(PL)	3.4	2021	125.00	425.00
Brittany Green (BG)(PL)	0.3	2021	125.00	37.50
Patti Kretschmar(PAK)(PL)	0.4	2020-2023	125.00	50.00
Tara Lake(TL)(PL)	1.1	2020-2023	137.50	151.25
				1,278,656.25

IN RE: TELEXFREE SECURITIES LITIGATION
MDL NO.: 4:14-md-02566-TSH
TIME REPORT

FIRM NAME: Shaheen & Gordon, P.A.
REPORTING PERIOD: 10/01/2020 to 06/30/2023

Categories:

- | | |
|---|--|
| (1) ASSESSMENT AND PRE-SUIT INVESTIGATION OF CASE | (6) TRIAL PREP |
| (2) DISCOVERY | (7) SETTLEMENT NEGOTIATIONS AND DRAFTING |
| (3) BRIEFS MOTIONS AND PLEADINGS | (8) APPEAL |
| (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT | (9) BANKRUPTCY |
| (5) COURT APPEARANCES | |

Status:

- (P) Partner
(A) Associate
(LC) Law Clerk
(PL) Paralegal

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar
													0.00	\$0.00	\$ -	0.00	\$ -
William H. Shaheen	P		5.30										5.30	\$600.00	\$ 3,180.00	5.30	\$ 3,180.00
D. Michael Noonan	P	0.70	45.10	33.30	115.10	8.70	10.2	1.80		0.20			215.10	\$600.00	\$ 129,060.00	215.10	\$ 129,060.00
D. Michael Noonan	P		23.80		24.90								48.70	\$660.00	\$ 32,142.00	48.70	\$ 32,142.00
Christine M. Craig	P	73.30	503.30	258.20	256.20	7.90	31.8			0.30			1,131.00	\$525.00	\$ 593,775.00	1,131.00	\$ 593,775.00
Anthony M. Carr	P	1.20											1.20	\$300.00	\$ 360.00	1.20	\$ 360.00
Timothy J. McLaughlin	P	1.30			0.40								1.70	\$275.00	\$ 467.50	1.70	\$ 467.50
William E. Christie	P	0.50											0.50	\$500.00	\$ 250.00	0.50	\$ 250.00
Danielle Pomeroy	A	34.70	62.50	29.40	2.30		7.9						136.80	\$225.00	\$ 30,780.00	136.80	\$ 30,780.00
Danielle Pomeroy	A	2.00	82.00										84.00	\$240.00	\$ 20,160.00	84.00	\$ 20,160.00
Danielle Pomeroy	A	65.30	17.10		0.80								83.20	\$250.00	\$ 20,800.00	83.20	\$ 20,800.00
Danielle Pomeroy	A		37.20										37.20	\$265.00	\$ 9,858.00	37.20	\$ 9,858.00
Nicholas G. Kline	A	145.40	414.40	46.80	53.00	2.90	10						672.50	\$285.00	\$ 191,662.50	672.50	\$ 191,662.50
Raheela Rahman	A	88.20	938.30										1,026.50	\$200.00	\$ 205,300.00	1,026.50	\$ 205,300.00
Sabrina Beavens	A	0.10											0.10	\$325.00	\$ 32.50	0.10	\$ 32.50
Sabrina Beavens	A	1.40											1.40	\$350.00	\$ 490.00	1.40	\$ 490.00
Madeline Blackburn	A		11.90										11.90	\$225.00	\$ 2,677.50	11.90	\$ 2,677.50
Michele Bouchard	A		98.10										98.10	\$375.00	\$ 36,787.50	98.10	\$ 36,787.50
S. Amy Spencer	P		0.60										0.60	\$350.00	\$ 210.00	0.60	\$ 210.00
													0.00	\$0.00	\$ -	0.00	\$ -
ATTORNEY TOTALS		414.10	2,239.60	367.70	0.00	19.50	59.90	1.80	0.00	0.50	0.00	0.00			\$ 1,277,992.50	3,555.80	\$ 1,277,992.50
Diane Morris	PL						3.40						3.40	\$125.00	\$ 425.00	3.40	\$ 425.00
Brittany Green	PL						0.30						0.30	\$125.00	\$ 37.50	0.30	\$ 37.50
Patti Kretschmar	PL	0.40											0.40	\$125.00	\$ 50.00	0.40	\$ 50.00
Tara Lake	PL	1.10											1.10	\$137.50	\$ 151.25	1.10	\$ 151.25
													0.00	\$0.00	\$ -	0.00	\$ -
													0.00	\$0.00	\$ -	0.00	\$ -
													0.00	\$0.00	\$ -	0.00	\$ -
													0.00	\$0.00	\$ -	0.00	\$ -
NON-ATTORNEY TOTALS		1.50	0.00	0.00	0.00	0.00	3.70	0.00	0.00	0.00	0.00	0.00			\$ 663.75	\$ 5.20	\$ 663.75
TOTALS		415.60	2,239.60	367.70	168.90	19.50	63.60	1.80	0.00	0.50	0.00	0.00	3,555.70		\$ 1,278,656.25	\$ 3,561.00	\$ 1,278,656.25

EXHIBIT 9

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: TELEXFREE SECURITIES
LITIGATION**

MDL No. 4:14-md-2566-TSH

**This Document Relates to:
ALL CASES**

**DECLARATION OF ERNEST WARREN IN SUPPORT OF
CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’ FEES**

I, Ernest Warren, declare as follows:

1. I am the managing partner with the Law Offices of WARREN & SUGARMAN Attorneys at Law (the “Warren Firm”). I am an attorney in good standing and an active member of the State Bar of Oregon. I appeared pro hac vice in these multidistrict litigation proceedings. [Dkts. 951, 952]. I have personal knowledge of the following facts and could and would testify competently thereto if called as a witness. I submit this Declaration in support of Class Counsel’s application for an award of attorneys’ fees in connection with services rendered in the above action.
2. The Warren Firm has experience in complex class action litigation. The Warren Firm has also participated in general class actions assigned Multi District Litigation status by the Judicial Panel on Multi District Litigation. The background and experience of my firm and its attorneys is summarized in the *Curriculum Vitae* attached hereto as Exhibit 1.

3. As a result of its prosecuting class action lawsuits and other forms of complex litigation, the Warren Firm was able to provide substantial benefits to the class in this matter.

4. The Warren Firm has participated in this litigation and has performed work on behalf of Plaintiffs. The hours submitted with this application are solely for work performed on behalf of the class alleged in the above-captioned action.

5. The work performed by this firm was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. This firm's compensation for services rendered in this case was wholly contingent on the success of this litigation and was totally at risk.

6. The Warren Firm regularly keeps its time in tenths of an hour as recommended by the American Bar Association. Timekeepers also maintain time by activity category and are requested when reasonably called for to provide a further description.

7. This is the first declaration submitted by the Warren Firm in support of class counsel's request for attorneys' fees.

8. From April 29, 2020, up through December 6, 2021, the Warren Firm actively participated in this litigation, including by performing the following work:

a. **Briefs, Motions and Pleadings**: Warren Firm attorneys have billed 48.9 hours to this action for work devoted to the pleadings, briefs and motions. This time includes: preparing the final approval brief and documents for the Fidelity settlement, briefing Vantage preliminary injunction, drafting and editing amended complaint, drafting and editing various oppositions to Defendants' motions to dismiss, preparing

briefs related to various motions for reconsideration of the Court's rulings, as well as editing and reviewing other briefs and motions. In addition, the Warren Firm attorneys have read or reviewed all orders and opinions issued by the Court.

b. **Case Management, Litigation and Analysis**: The Warren Firm attorneys have billed 149.6 hours to this action for case management and service on the Executive Committee. This time includes numerous co-counsel meetings, meetings with Bankruptcy counsel, scheduling, drafting research memorandums and other litigation strategy.

c. **Court Appearances**: The Warren Firm attorneys have billed 6 hours in this action for court appearances.

d. **Discovery and Document Review**: The Warren Firm attorneys have billed 143.6 hours to discovery and document review. Besides document review, the Warren Firm was involved with several other discovery projects and research.

e. **Settlement, negotiations and drafting**: In carrying out its duties as a member of the Executive Committee, the Warren Firm billed 0 hours for work categorized as drafting.

9. I also have knowledge of the firm's policies regarding the assignment of work and the recording of time and expense records. The Warren Firm keeps separate accounting numbers for each matter in the firm, including the *In re: TelexFree Securities Litigation*.

10. All attorneys at the Warren Firm are instructed to maintain contemporaneous time records reflecting the time spent on this and other matters. The

total number of hours spent on this litigation, from April 29, 2020 up to December 6, 2021, by attorneys at this firm is 348.1. Time spent preparing this fee declaration is not included.

11. The total lodestar for this time, calculated at the firm's historic hourly rates during the litigation, is \$243,670.

12. Time spent on this litigation by The Warren Firm paralegals is not included.

13. A summary report of my firm's lodestar with the total time spent by each attorney of this firm on this case, and the lodestar calculation for that attorney or paralegal based on this firm's historic billing rates is attached hereto as Exhibit 2. The Warren Firm primarily practices contingent litigation. The rates charged are the same hourly rates used for all matters at the firm. The summary report was prepared from contemporaneous daily time records regularly maintained by this firm, which are available at the request of the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief. EXECUTED this 16th day of November 2023.

/s/Ernest Warren, Jr.
Ernest Warren

ERNEST WARREN JR.

838 SW 1st Avenue, Suite 200
Portland, Oregon 97204
503-228-6655
e.warren@ernestwarrenlaw.com

EXPERIENCE:

1990 to Present: Managing Partner of Warren and Sugarman Law Firm (formerly Walker, Warren and Watkins), Portland, Oregon. Primary practice is personal injury, real property, corporate and criminal practice in the State of Oregon and federal work in the US District Court of Oregon and the US District Court of Western Washington.

General Counsel for a non-profit low-income rental-housing corporation that is currently doing a multi-million dollar rehabilitation of its real property portfolio. My responsibilities include legal advisement of corporate directors and officers, all litigations activities for breach of contract, creditors issues in Bankruptcy, housing discrimination issues, affordable housing issues, transactional work regarding purchases or acquisitions of real property, loan workouts, modifications and extensions.

Outside Legal Counsel for RTC/FDIC whereby I litigate commercial and residential real property issues in Oregon and Washington, creditors rights issues in Bankruptcy, transactional work regarding purchases and acquisitions of real property, loan workouts, modifications and extensions, and occasional monitoring and compliance activities for RTC's Affordable Housing requirements (1990-1998).

Outside Legal Counsel to Portland Development Commission. (1995-2007)

Defend claims brought against insured of two national insurance carriers (1991-1995).

Successfully litigated cases against the world's largest corporations such as Walmart and Optical Disc Drive.

Prosecuted numerous civil rights cases.

EDUCATION:

Juris Doctor - Arizona State University, College of Law (1988).

Masters of Business Administration for Business, Government and Not-for-Profit Management - Willamette University, Atkinson School of Management (1986).

Bachelor of Science - Willamette University, Economics (1981).

Trial Lawyers College - Dubois, Wyoming (1995).

MEMBERSHIPS:

Oregon Bar Association since April 1989.

Washington Bar Association since June 1989.

US District Court of Oregon since February 1992.

US District Court of Western Washington since May 1996.

Criminal Justice Act Panel Attorney since 1992.

Multnomah Bar Association since 2016.

Oregon Criminal Defense Lawyers Association since 2017.

PROFESSIONAL AND COMMUNITY INVOLVEMENT:

Financial Institutions Committee, Business Law Section, OSBA 1993-1997.

Court Liaison Committee, Multnomah Bar Association 2000 - 2003.

Alumni Board of Directors, Willamette University, 2000 - 2004.

Portland Gang Violence Task Force Mentor 2012-present.

Multnomah County Bar Association Mentor 2014-present.

Oregon State Bar PLF Mentor 2010-present.

Oregon State Bar Board of Examiners, Co-Grader 2014-2017, summers only.

Multnomah County District Attorney's Office Citizens Budget Advisory Committee, Chairman 2017-present.

OCDLA Trial Skills College, Faculty Member 2017-present.

AWARDS AND CERTIFICATES:

Multnomah Bar Association- Diversity Award, 2018

National Academy of Criminal Defense Attorneys- Nationally Ranked Top Ten Attorney Award, 2017

Exceptional Achievement in re Optical Disk Drive Products Antitrust Litigation from the City of Lancaster, 2014

Community Support Award from the Portland Community Reinvestment Initiatives, 2012

Convocation on Equality Certificate of Appreciation from the Oregon State Bar, 2011

Certificate of Appreciation from the Emmanuel Temple Church, 2004

"I believe I can fly" Award Recipient from the African American Chamber of Commerce, 1999

PUBLICATIONS:

Oregon State Bar Criminal Defense Editor 2013.

**Exhibit-2
TIME REPORT**

FIRM NAME: Warren & Sugerman
REPORTING PERIOD: 04/29/2020 - 12/06/2021

- | | | |
|--------------------|---|--|
| Categories: | (1) DISCOVERY AND INVESTIGATION OF CASE | (6) TRIAL PREP |
| | (2) ADMINISTRATION | (7) SETTLEMENT NEGOTIATIONS AND DRAFTING |
| | (3) BRIEFS MOTIONS AND PLEADINGS | (8) APPEAL |
| | (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT | (9) BANKRUPTCY |
| | (5) COURT APPEARANCES | |
| | | Status: |
| | | (P) Partner |
| | | (A) Associate |
| | | (LC) Law Clerk |
| | | (PL) Paralegal |
| | | (OC) Of Counsel |
| | | (DR) Document Reviewer |

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Previous Hours	Previous Lodestar	Cumulative Hours	Cumulative Lodestar
Ernest Warren	P/2020-2021	143.60	-	48.90	149.60	6.00	-	-	-	-	348.10	\$ 700.00	\$ 243,670.00	-	\$ -	348.10	\$ 243,670.00
													\$ -	-	\$ -	0.00	\$ -
											0.00		\$ -		\$ -		\$ -
ATTORNEY TOTALS		143.60	-	48.90	149.60	6.00	-	-	-	-	348.10		\$ 243,670.00	-	\$ -	348.10	\$ 243,670.00
NON-ATTORNEY TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		\$ -	-	\$ 62,010.00	0.00	\$ 62,010.00
TOTALS		143.60	0.00	48.90	149.60	6.00	0.00	0.00	0.00	0.00	348.10		\$ 243,670.00	-		348.10	\$ 243,670.00

EXHIBIT 10

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**IN RE: TELEXFREE SECURITIES
LITIGATION**

MDL No. 4:14-md-2566-TSH

**This Document Relates to:
ALL CASES**

**DECLARATION OF MONEET K. KOHLI IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES**

I, Moneet K. Kohli, declare as follows:

1. I am a sole practitioner who has specialized in E-Discovery and document review for essentially my entire career. My experience primarily is with large scale, complex cases, and large document depositories. I have worked primarily with the largest defense firms in the country and have reviewed documents, supervised document reviews, designed the parameters of document reviews, and have been charged with quality control of document review and document reviewers.

2. I am an attorney in good standing and an active member of the State Bar of California since 2007. I have personal knowledge of the following facts and could and would testify competently thereto if called as a witness. I submit this Declaration in support of Class Counsel's application for an award of attorneys' fees in connection with services rendered in the above action.

3. I was assigned and performed work in the above-referenced matter by interim lead counsel, Robert Bonsignore. Mr. Bonsignore contacted me and asked that I carryout quality control review of both the document review and document reviewers.

Among other things he also asked that I inventory the document depository and evaluate the search terms.

4. At his request, I performed various tasks including first and second level document review and quality assurance. At least once I contributed to what I understood were briefing and other document support related tasks. I had multiple telephonic discussions with lead counsel regarding issue analysis across document production, quality control review of both the document review and document reviewers, the inventory of the document depository, and the search terms. I also briefly worked with other Plaintiffs' counsel regarding discovery responses and coordinating Plaintiffs' responses.

5. I have substantial experience in complex class action litigation and e-discovery matters. I have also participated in many class actions assigned Multi District Litigation status by the Judicial Panel on Multi District Litigation. Additional background and experience is summarized in the *Curriculum Vitae* attached hereto as Exhibit 1.

6. As a result of my specialized experience with E-discovery and document review, I provided a substantial benefit to the Plaintiffs and assisted in prosecuting this class action lawsuit.

7. I participated in this litigation, performed work, and carried out discrete tasks on behalf of Plaintiffs as requested beginning in or about October 2020. The hours submitted with this application are solely for work performed on behalf of the class alleged in the above-captioned action.

8. The work that I performed was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. My compensation for services

rendered in this case was wholly contingent on the success of this litigation and was totally at risk.

9. I keep track of my time in tenths of an hour as recommended by the American Bar Association and, as requested, maintained my related time by activity category and provided a further description for each time entry.

10. This is the first declaration I have submitted by in support of class counsel's request for attorneys' fees.

11. I actively participated in this litigation, including by performing the following work:

a. **Briefs, Motions and Pleadings**: I billed 2.0 hours to this action for work devoted to the pleadings, briefs, and motions. This time includes work related to International Payout Systems and Wells Fargo.

b. **Discovery and Document Review**: I billed 224.7 hours to discovery and document review. I performed substantial first- and second-level document review. Besides document review, I was involved with quality assurance and other document support focused related tasks relating to regarding issue analysis across document production, search terms, quality control review of both the document review and document reviewers, and the inventory of the document depository. I also briefly worked with other Plaintiffs' counsel regarding discovery responses and coordinating Plaintiff responses. I had multiple telephonic discussions with Lead Counsel.

c. **Administration**: I have billed 0.2 hours for administration, which included assisting with an administration task as instructed by lead counsel.

12. The total number of hours I spent on this litigation, from the inception of the litigation up to June 30, 2023, is 226.9. The total lodestar for all time from the inception of the litigation up through June 30, 2023, calculated at historic hourly rates during the litigation, is \$102,105.00. Time spent preparing this fee declaration is not included.

13. A summary report of my lodestar with the total time spent on this case, and the lodestar calculation for myself historic billing rates is attached hereto as Exhibit 2. The summary report was prepared from contemporaneous daily time records which are available at the request of the Court.

I swear and declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 17th of November 2023.

/s/ Moneet K Kohli, Esq
Moneet K. Kohli, Esq.

Moneet Kohli, Esq. | CEDS

moneet@kohli.com | (781) 354-3600

Experienced Lawyer | LegalTech Expert

PROFESSIONAL EXPERIENCE

Moneet Kohli, Esq.

Attorney & Of Counsel

September 2020 - present

- Handle, manage and prepare class action litigation filings and related documents
- Provide legal advice related to on-going litigation and investigations
- Conduct trial preparation, court filings, and document production review, including project management, reporting, and quality control
- Consult with case teams to further develop class action cases

DISCO

Consultant, Legal Technology & Enterprise Implementation

April 2021 - June 2023

- Launched Company's Legal Technology Consulting division, providing strategic consulting for eDiscovery, information governance and legal operations clients
- Delivered a stakeholder-driven approach to tech deployment
- Developed innovative legal operations solutions, including automated workflows
- Advised attorneys and legal professionals on best practices for managing high document volume matters
- Created a repeatable technology implementation process for litigation, investigation, and matter management requirements

MOKO

Managing Member

September 2019 - April 2021

- Founded consulting company advising on legal technology product development and marketing
- Identified product development, sales and partnership opportunities for in-house legal teams, law firms, and legal tech companies
- Presented at legal industry conferences, speaking on technology, product development and DEI

Logikcull

Product Evangelist & Counsel

May 2018 - September 2019

- Counseled corporate and law firm legal teams on the use of legal technology for successfully meeting litigation and investigation requirements
- Supported sales enablement and client relationships at all stages, from lead generation through matter resolution, fostering long-term client partnership
- Advised clients on workflow for complex legal matters

- Built discovery review teams and provided support for key enterprise accounts
- Reported on quarterly goals, including KPIs and metrics
- Published online, conference and continuing legal education content on legal operations topics

FRONTEO USA

Director, Managed Review

May 2015 - September 2017

- Directed eDiscovery review operations covering 1250+ attorney seats across multiple company offices and client remote locations
- Consulted on use of Legal Technology for litigation and investigations, including concept clustering, predictive coding, and relevance scoring
- Conducted early case assessment, workflow design, technology training, attorney review team management, and litigation team reporting, including metrics
- Developed and implemented standardized quality control and project reporting process

Wilson Sonsini Goodrich and Rosati

Attorney

May 2009 - March 2015

- Excelled as Lead eDiscovery Manager and Attorney on complex matters, including anti-competition, pharmaceutical, and securities regulatory investigations
- Successfully led large-scale eDiscovery projects, managing high volume datasets, robust deadlines, review budgets, data scope, workflow, and training for 75+ Attorney Teams
- Developed specialized expertise in training Attorneys on issue and confidentiality/privacy analysis, while establishing reliable reporting processes for actionable discovery insights

Morrison & Foerster

Contract Attorney

April 2009 - April 2011

- Worked on consumer class action and intellectual property litigation matters
- Performed project management and document review, including legal issue, privilege, privacy and confidentiality analysis

Reed Smith

Contract Attorney

July 2007 - March 2008

- Worked on financial services class action litigation matters
- Prepared litigation filings, client communications and conference presentations
- Provided legal analysis on financial services product offerings
- Assisted with preparation of expert declarations

EDUCATION

New England School of Law – Juris Doctor

Admitted on full merit scholarship

Columbia University in the City of New York – Bachelor of Arts

Middle East and Asian Languages and Cultures Major

TIME REPORT

FIRM NAME: Moneet Kohli, Esq. Sole Practitioner
REPORTING PERIOD: 10/1/2020-6/30/2023

Categories:

- | | |
|---|--|
| (1) DISCOVERY AND INVESTIGATION OF CASE | (6) TRIAL PREP |
| (2) ADMINISTRATION | (7) SETTLEMENT NEGOTIATIONS AND DRAFTING |
| (3) BRIEFS MOTIONS AND PLEADINGS | (8) APPEAL |
| (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT | (9) BANKRUPTCY |
| (5) COURT APPEARANCES | |

Status:

- (P) Partner
- (A) Associate
- (LC) Law Clerk
- (PL) Paralegal
- (OC) Of Counsel
- (DR) Document Reviewer

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Previous Hours	Previous Lodestar	Cumulative Hours	Cumulative Lodestar
Moneet Kohli	P/2020-2021	224.70	0.20	2.00	-	-	-	-	-	-	226.90	\$ 450.00	\$ 102,105.00	-	\$ -	226.90	\$ 102,105.00
											0.00		\$ -	-	\$ -		\$ -
ATTORNEY TOTALS		224.70	0.20	2.00	-	-	-	-	-	-	226.90		\$ 102,105.00	-	\$ -		\$ -
											0.00		\$ -	-	\$ -		\$ -
NON-ATTORNEY TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		\$ -	-	\$ -		\$ -
													\$ -	-	\$ -		\$ -
TOTALS		224.70	0.20	2.00	0.00	0.00	0.00	0.00	0.00	0.00	226.90		\$ 102,105.00	-	\$ -	226.90	\$ 102,105.00

EXHIBIT 11

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>IN RE: TELEXFREE SECURITIES LITIGATION</p> <p>This Document Relates To: All Actions</p>	<p>MDL No. 4:14-md-2566-TSH</p>
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AFFIDAVIT OF PLAINTIFF'S COUNSEL

I, Brian E. Murphy, hereby state and depose as follows:

1. I am an attorney representing the Plaintiff's in the above captioned matter in this case. I make this affidavit based on the best of my personal knowledge and submit it in support of the Plaintiffs' Fee Petition.

2. Attached hereto as Exhibit A is a true and accurate copy of a spreadsheet reflecting the time spent on this matter by myself and other members so my firm.

3. My standard hourly rate at the time of this filing is \$700.00. During the time work was performed on this case my hourly rate was \$500 to \$600 and is included at the rate in place at the time work was performed. My partner Ben Rudolf performed work on this case and is included at the rate in place at the time the work was performed which was \$500.

4. Valerie Anderson and Sarah Varney were associates who worked for my firm and their time is included at the hourly rate in effect at the time of \$250.

5. Ainsley McCosker, Michael Stanwood, Jules Souza, Jamie Narus, and Keily Everson are paralegals in my office who worked on this matter and their standard hourly rate at the time was \$125.00.

6. Heather Tacket was a legal intern who performed work on this case and was billed at her hourly rate of \$125.

7. The attorney and paralegal billing rates applied during my firm's representation of the Plaintiffs were all comparable to rates charged by similar-sized firms in the Worcester area.

Signed and sworn to under the pains and penalties of perjury this 16 November 2023:

/s/ Brian Murphy
Brian E. Murphy

IN RE: TELEXFREE SECURITIES LITIGATION
MDL NO.: 4:14-md-02566-TSH
TIME REPORT

FIRM NAME: Murphy & Rudolf, LLP
REPORTING PERIOD: 2021-2022

Categories:

- | | |
|--|---|
| (1) Investigation, Factual Research | (6) Litigation Strategy, Analysis and Case Management |
| (2) Discovery | (7) Trial Preparation |
| (3) Pleadings, Briefs and Pretrial Motions | (8) Appeal |
| (4) Court Appearances | (9) Bankruptcy |
| (5) Settlements | |

Status:

- (P) Partner
(A) Associate
(LC) Law Clerk
(PL) Paralegal

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar
Brian Murphy	P/2021					2.20							2.20	\$500.00	\$ 1,100.00	2.20	\$ 1,100.00
Brian Murphy	P/2021-2022	103.60		16.10	30.00								149.70	\$500.00	\$ 74,850.00	149.70	\$ 74,850.00
Brian Murphy	P/2022	40.70			27.70								68.40	\$600.00	\$ 41,040.00	68.40	\$ 41,040.00
Benjamin Rudolf	P/2021	1.30											1.30	\$250.00	\$ 325.00	1.30	\$ 325.00
Benjamin Rudolf	P/2021-2022				0.60								0.60	\$250.00	\$ 150.00	0.60	\$ 150.00
Valerie Anderson	A/2022	2.30											2.30	\$250.00	\$ 575.00	2.30	\$ 575.00
ATTORNEY TOTALS		147.90	0.00	16.10	58.30	2.20	0.00	0.00	0.00	0.00	0.00	0.00			\$ 116,940.00	224.50	\$ 118,040.00
Ainsley McOsker	PL/2021-2022	25.90	13.80	15.70									55.40	\$125.00	\$ 6,925.00	55.40	\$ 6,925.00
Jules Souza	PL/2021-2022	2.70	10.70										13.40	\$125.00	\$ 1,675.00	13.40	\$ 1,675.00
Jules Souza	PL/2022			1.80									1.80	\$125.00	\$ 225.00	1.80	\$ 225.00
Michael Stanwood	PL/2021	1.20											1.20	\$125.00	\$ 150.00	1.20	\$ 150.00
Jamie Narus	PL/2021		1.50										1.50	\$125.00	\$ 187.50	1.50	\$ 187.50
Keily Everson	PL/2021	9.30											9.30	\$125.00	\$ 1,162.50	9.30	\$ 1,162.50
Keily Everson	PL/2022		2.30										2.30	\$125.00	\$ 287.50	2.30	\$ 287.50
Sarah Varney	PL/2022	0.10		0.90									1.00	\$125.00	\$ 125.00	1.00	\$ 125.00
Heather Tackett	PL/2021	7.80											7.80	\$125.00	\$ 975.00	7.80	\$ 975.00
NON-ATTORNEY TOTALS		47.00	28.30	18.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	93.70		\$ 11,712.50	\$ 93.70	\$ 11,712.50
TOTALS		194.90	28.30	34.50	58.30	2.20	0.00	0.00	0.00	0.00	0.00	0.00	166.30		\$ 128,652.50	\$ 318.20	\$ 129,752.50

EXHIBIT 12

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: TELEXFREE SECURITIES
LITIGATION**

MDL No. 4:14-md-2566-TSH

**This Document Relates to:
ALL CASES**

**DECLARATION OF JAMES M. WAGSTAFFE IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES**

I, James M. Wagstaffe, declare as follows:

1. I am a member in good standing of the California State Bar. I have personal knowledge of the following facts, and if called upon, could and would competently testify thereto. I submit this Declaration in support of Class Counsel's application for an award of attorneys' fees in connection with services rendered in the above action.

Background and Experience

1. Briefly summarized, my background is as follows: I am a partner in the firm of Wagstaffe, von Loewenfeldt, Busch & Radwick LLP, attorneys for the Plaintiffs in this action. I

have handled diverse litigation including class actions, professional and governmental representation, business and employment litigation, and for many years media cases. My practice is focused on civil litigation, trials and appeals. I have litigated many class actions and have previously been appointed class counsel. I have also participated in many cases in which attorneys' fees have been sought and awarded.

2. In 1977, I received my A.B. degree with distinction from Stanford University. In 1980, I received my J.D. degree from UC Law, SF (formerly University of California, Hastings College of the Law). Following law school, I served as a judicial law clerk for the Honorable Spencer Williams, United States District Court Judge for the Northern District of California. While clerking in the federal court, I had the opportunity to assist the Court in reviewing and evaluating numerous motions and petitions for attorneys' fees, a process that included review of methods for determining appropriate hourly rates, the reasonable value of legal services and similar matters.

3. I have been admitted to practice in the following courts: Supreme Court of the United States, Supreme Court of California, United States Court of Appeals for the Ninth Circuit, United States Court of Appeals for the Tenth Circuit, United States District Court for the Northern District of California, United States District Court for the Southern District of California, United States District Court for the Eastern District of California, United States District Court for the Central District of California, United States District Court for the Eastern District of Texas, United States Court of Appeals for the Federal Circuit, United States District Court for the District of Colorado, United States District Court for the Southern District of Ohio, and United States District Court for the District of Arizona.

4. After completing my clerkship for Judge Williams, I entered private practice as an associate attorney for the law firm of Cooper, White & Cooper from 1982-1986 and later as a partner with that firm from 1990-1999. In the interim period, I was a partner with the law firm of Kaus, Kerr & Wagstaffe from 1986-1990. From 1999 through 2018, I was a partner and co-founder of the law firm of Kerr & Wagstaffe LLP, and starting in 2018 formed my current firm.

5. In addition to my litigation practice, I have been a regular lecturer for the Federal Judicial Center for over thirty-five years, for whom I have taught federal jurisdiction and procedure to federal judges across the country. I have been an adjunct professor at UC Law, SF since 1990, and have taught Constitutional Law, Civil Procedure and California Civil Procedure. I was selected to be Teacher of the Year on two occasions, and just this month received the Mary Kay Kane Excellence in Teaching Award. I have also taught a course for almost forty years on Media Law at San Francisco State University. Previously, I taught a course on Federal Practice for several years at the University of San Francisco Law School. And, I have taught Practical Speech Communication at Stanford University for more than forty years.

6. I am the author or co-author of several legal publications, including (1) The Wagstaffe Group Practice Guide: Federal Civil Procedure Before Trial (LexisNexis 2023), a - three volume work on all aspects of federal procedure; and (2) The Wagstaffe Group California Practice Guide: Civil Procedure Before Trial (LexisNexis 2023) – also a three-volume set on California procedure.

Governing Market Rates for Attorneys' Fees

7. I am familiar with the market rates charged by attorneys in San Francisco, and generally by handling attorneys' fees litigation, discussing fees with other attorneys, obtaining declarations regarding prevailing market rates in cases in which I handled attorneys' fees applications in other cases, providing budgets to clients before and during litigation, auditing legal bills prepared by other lawyers, and by reviewing articles on fees in legal newspapers and treatises.

8. My reasonable hourly rate for comparable legal services in the local community for non-contingent litigation of the same type is \$1,200 per hour.

9. My reasonable hourly rate for comparable legal services would be justified here given (i) the complexity and contingent nature of this MDL action, (ii) Lead Counsel's well-supported decision to involve me as a national expert on civil procedure, class actions and federal motion practice, (iii) the fact that I was to remain available upon request to review and

write critical motions as well as to argue such motions, and (iv) the fact that, absent a contingent multiplier, I would not be able to redirect my practice to be available on this case to the detriment of availability on the remainder of my practice.

10. By way of confirming the reasonableness of my requested fees here, I most typically receive (when successful) more than \$2,000 per hour on my pure contingency fee cases.

11. I agreed to a reduced hourly rate in exchange for an off the top multiplier to be applied only upon the collection of funds by Plaintiffs' counsels and as an intra counsel matter of distribution.

12. It is my opinion that the hourly rate being claimed by me in this matter is at or below hourly rates charged by attorneys of equivalent experience, skill, and expertise for comparable work, and when working on a contingent basis in such class actions and have been an added benefit to the putative class. See more on my credentials and experience at www.wvbrlaw.com.

Legal Fees Allocable to Work on this MDL

11. The described fees as sought here (see below) are recoverable as they derived from all the work performed by me on this MDL. In particular, I was brought on for my special expertise in such cases and in federal civil procedure in particular. I have been asked to read multiple briefs (often as the final reader), I have drafted large portions of briefs, I argued many of the motions to dismiss and have participated in the primary strategy sessions since my involvement. In addition, I attended two of the mediations, and played a major role in formulating the settlement strategies leading up to the favorable settlements under consideration here.

12. In particular, I performed the following work as set forth more specifically in the attached billing records that I have kept contemporaneously on these matters:

- Communicated with Robert Bonsignore and eventually most of my co-counsel to learn the background facts of the litigation and the context of the procedural and litigation steps in this case.
- Regularly consult with co-counsel on case strategies, motion practice, discovery issues and matters relating to vital oral arguments on dispositive motions.
- Reviewed the pleadings, discovery and materials from the related cases and on which the motion practice has depended.
- Researched and prepared multiple portions of briefs, outlines for the oral arguments on the motions to dismiss, a motion for summary judgment, and along with the submitted Declarations prepared by my co-counsel.
- Reviewed the multiple opposition materials submitted by defendants.

Attached hereto as Exhibit A is a more detailed summary of hours and the applicable lodestar sums. As can be seen, my firm and I regularly keep time in tenths of an hour as recommended by the American Bar Association. As timekeepers, we also maintain time by activity category and are requested when reasonably called for to provide a further description.


13. All attorneys at WVBR maintain contemporaneous time records reflecting the time spent on this and other matters. The total number of hours spent on this litigation, from March 14, 2022 up to June 30, 2023, by attorneys and paralegals at my firm is 355.5 (JMW – 333.1; MVL – 7.4, MR .4; paralegal GP 14.6). Time spent preparing this fee declaration is not included. The total lodestar for this time, calculated at the reduced \$800 hourly rate for partners (mostly me) and the paralegal time at \$200 per hour is \$272,720. Therefore, the agreed-upon

and reasonable two times multiplier for partner time and lodestar level for paralegal time results in a **total fee request of \$548,360**.

14. In my opinion, this is a case that reasonably justifies the agreed-upon and promised enhanced two-times multiplier to the lodestar due to the successful result obtained, superior representation, the skill displayed in presenting this case and addressing the excellent legal work of the opposing side. While an award of a multiplier remains within the discretion of the Court, my experience and expertise, combined with the reduced base hourly rate as described above, well supports the agreed-upon and promised multiplier here. Accordingly, overall the attorney's and paralegal fees I am seeking here on and related to this motion are fully reasonable under all these circumstances

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in San Francisco, California on November 17, 2023.

By 
JAMES M. WAGSTAFFE



Wagstaffe, von Loewenfeldt,
Busch & Radwick LLP

100 Pine Street, Suite 2250, San Francisco, CA 94111
415-357-8900 *Main* 415-357-8910 *Fax* wvbrlaw.com

J a m e s M . W a g s t a f f e
P a r t n e r

E-Mail: wagstaffe wvbrlaw.com

James (Jim) M. Wagstaffe, partner and co-founder of Wagstaffe, von Loewenfeldt, Busch & Radwick LLP, handles a diverse range of litigation matters and also leads the firm’s successful Federal Practice Group. His practice focuses on complex litigation, professional and governmental representation, will and trust disputes, legal ethics, and First Amendment matters. Jim is also the author of *California Civil Procedure*, published by Lexis Nexis. In addition, Jim is recognized as an authority and frequently is consulted by other law firms and clients alike on complicated civil procedure, attorneys’ fees and trial practice issues.

Jim currently serves as a member Chair of the Federal Judicial Center Foundation Board, appointed by the Chief Justice of the United States Supreme Court. For more than 30 years, he has been responsible for development and delivery of various annual forums, seminars, webinars, and workshop sessions directed at educating federal judges and their respective clerk staffs on civil procedure and other aspects of federal law. In 2017, he was selected as California Lawyer Attorney of the Year for his successful representation of The State Bar of California in a high-profile privacy trial. In addition, Jim has been consistently named one of the Top 100 Super Lawyers in Northern California

d r

Jim’s reputation as litigator is exemplified by his frequent retention in high stakes cases where his strategic and procedural expertise is particularly invaluable. Jim has recently tried multiple jury trials resulting in multi-million dollar verdicts for the firm s clients. These include:

The successful 2017 federal whistleblower jury trial against Bio-Rad producing a \$14.6 million judgment. This is the largest Dodd-Frank jury verdict in history.

A 2017 jury trial verdict in a defamation action filed in San Luis Obispo County. It was the largest verdict of this type in the County for several years.

Obtaining a \$5 million judgment jury verdict in San Francisco for a law firm partner suing for breach of contract.

Jim also has extensive experience trying court trials and arbitrations before retired judges. These include:

The successful defense of a Trustee sued for over \$100 million by disgruntled beneficiaries.

An across-the-board trial victory for the State Bar of California in the high-profile **d r** case invoking the rights of Bar applicants to maintain privacy as to demographic and racial data.

Successfully defending the Golden State Warriors in litigation seeking \$55 million arising out of a dispute involving its Arena lease.

Obtaining success for plaintiffs on an anti-SLAPP motion in case against City of Vallejo brought by couple who were wrongfully accused of having faked their kidnapping.

Jim's practice includes substantial work on virtual world issues, including electronic discovery, related legal ethics questions, and Wi-Fi technology. He was the successful lead attorney in the seminal e-discovery case, **d r**, 327 Fed. Appx. 877 (Fed. Cir. 2008). Several years ago he began representing the Australian government in high profile litigation involving the patent for indoor wireless technology. See **M r r d d r r**, 297 Fed. Appx. 970 (Fed. Cir. 2008). Jim and the firm continue to represent the Australian government in litigation over its WiFi patents.

The State Bar of California has looked to Jim for over 15 years to handle its most challenging cases, including those raising serious constitutional issues. For example, Jim successfully argued the high-profile **r r** case before the California Supreme Court. In **rd r r**, 21 Cal.4th 628 (1999), Jim also represented the Bar in a lawsuit in which the plaintiffs alleged the exemptions from the MCLE (continuing education) program were unconstitutional. The matter went up to the California Supreme Court, which ruled in favor of the Bar.

Jim is considered one of the most sought after First Amendment defamation lawyers in the country. He has represented broadcasters, newspapers, magazines, celebrities and public officials, as well as a host of others – both as plaintiff and defendant. He has been the lawyer on many of the leading anti-SLAPP cases in California and has tried more defamation cases to trial than perhaps any attorney in the state. Jim's First Amendment and media experience is exemplified by his successful defense of **r r M** in the libel trial **M r r**, 832 F. Supp. 1350 (N.D. Cal. 1993), aff'd 85 F.3d 1394 (9th Cir. 1996). More recently, Jim obtained an injunction for airline pilots to exercise their free speech rights to commentate at Midway Airport. **r**, 186 F.Supp.3d 836 (N.D. Ill. 2016).

r

In addition to his leadership as a trial lawyer, Jim is highly active in the firm’s appellate practice. He handles appeals in both state and federal courts, representing clients seeking to affirm a favorable trial court decision as well as those whose goal it is to obtain a reversal. Jim has established an enviable track record on appeal and has led the way in a number of groundbreaking decisions. For example, Jim has successfully argued many cases in the California Supreme Court including the recent anti-SLAPP statute victory in **r** (2016) and **r r** (2014).

In addition, Jim has numerous recent appellate victories for governmental parties including achieving a total victory in a multimillion dollar takings case for the City of San Rafael **M**, 714 F.3d 1118 (9th Cir. 2013) obtaining an affirmance of a civil rights dismissal, **r**, (9th Cir. 2012) 468 Fed. Appx. 728, and a CE A victory for the City of Redwood City in **d d**, (2011) 191 Cal. App. 4th 1559.

In **r**, 337 F 3d 1024 (9th Cir. 2003), Jim secured a sweeping victory from the Ninth Circuit Court of Appeals in a landmark decision with far reaching implications in all areas of domain name registration and Internet infrastructure. Similarly, in **r**, 359 F.3d 1066 (9th Cir. 2003), **r d d**, 543 U.S. 813 (2004), Jim succeeded in obtaining a reversal of the district court’s dismissal of his clients’ lawsuit in a published decision that established new boundaries on subpoenas aimed at email communications.

Businesses, individual, and government entities and agencies, and notably, other lawyers, are among the many clients who seek out Jim to represent them at trial and on appeal.

r, 222 Cal.App.4th 1346 (2014) (leading case in state on testamentary capacity); **r ddr** (2014) (appointed lead attorney in nationwide class action); **r d r** litigation (2013) (attorneys for Dell Computer in national class action). In his almost three decades of appellate experience, Jim has represented parties and amici on appeal in matters involving constitutional and civil rights claims, defamation cases, environmental CE A, probate disputes, securities fraud, and consumer rights, just to name a few. A listing of Jim’s appellate cases is set forth below.

r r r r

In addition to Jim’s courtroom experience, Jim has authored and co-authored a number of publications, including **r r d dr r dr r**, published by Lexis Nexis in 2017 and updated annually, and **r r dr r d r**, published by LexisNexis in 2020 and updated twice annually. Selected other legal publications are listed below. Jim also authored (Random House) a spirited step-by-step guide to effective public speaking and was a contributing author with Arthur Sulzberger Jr., Larry King, and Ira Glass, among others, to **r d r d** (Clarkson Potter 2004).

Jim is committed to sharing his knowledge and experience with judges, lawyers and students alike. Jim has served as an instructor at the Federal Judicial Center's annual New Judges Workshop since 1990, educating newly-appointed federal judges on all aspects of federal procedure. Throughout the year, Jim has been asked to present, moderate and participate in panel discussions and seminars throughout the country with other judges and lawyers on current topics of interest to the legal community. In conjunction with the Practising Law Institute, Jim was the Chair of the 2013 California Trial Evidence program in October, 2013. The program was a day-long legal educational program focusing on the recent case law and statutory developments in the law of trial evidence.

In addition, Jim is an adjunct professor in constitutional law and civil procedure at Hastings College of the Law and in Media Law at San Francisco State University. He has also taught the Practical Speech Communication course at Stanford University for over 35 years.

r M r

American Bar Association

California Bar Association

Bar Association of San Francisco

Federal Bar Association

d

Stanford University, B.A. 1977 (with distinction in Communications)

University of California, Hastings College of the Law, J.D. 1980

rd d

California Lawyer Attorney of the Year (2017)

Federal Judicial Center Foundation Board, Chair, appointed by the Chief Justice of the United States Supreme Court

Selected by Super Lawyers (a designation reserved for the top 5 of attorneys in Northern California) (Top 100 attorneys 2017)

Alumnus of the Year, Hastings College of the Law, selected by students (2016)

Judge John R. Brown Award for Judicial Scholarship and Education, Federal Judicial Center (recognition as the top teacher of federal judges in the country) (2011)

Teacher of the Year, Hastings College of the Law, selected by students (2009, 2011)

Commencement Speaker, Hastings College of Law (2009, 2011)

Peabody Award for legal counsel on the documentary *The DNA Project* (2005)

Top Twenty Lawyers of the Year, *California Lawyer* (December 1999)

James Madison Freedom of Information Award, The Society of Professional Journalists (1991)

d

The Wagstaffe Group Practice Guide: Federal Civil Procedure Before Trial (Lexis Nexis) (2017)

California Pretrial Civil Procedure Practice Guide: The Wagstaffe Group (Lexis Nexis) (2020)

Lexis Nexis Litigation Practice Videos (2017)

Hastings College of the Law, Adjunct Professor (Constitutional Law and Civil Procedure)

San Francisco State University, Lecturer (Media Law)

Stanford University, Teacher (Practical Speech Communication)

Federal Judicial Center's annual *New Judges Workshop*, Instructor since 1990

California Trial Evidence (Practising Law Institute; Litigation and Administrative Practice Course Handbook Series, 2013)

California Trial Evidence program, Practising Law Institute, Chair, 2013

Game Changers: New Federal Rule Amendments (Thomson Reuters, 2011)

The Expert's Guide to 100 Things Everyone Should Know How to Do (Clarkson Potter, 2004), Contributing Author

Romancing the Room (Random House, 2002)

California Legal Ethics (The Rutter Group, 1999)

Commencing and Removing Actions to Federal Court (The Rutter Group, 1986)

Much Ado About Doe Defendants, 5 Cal. Lawyer, No. 9

Life After Remand, Federal Litigation

d

L Technologies, Inc. v. Does 1–7, 13 Cal. App. 5th 603 (July 19, 2017)

Huskins v. City of Vallejo, Case No. 2:16-cv-00603-TLN-EFB (E.D.CA June 30, 2017)

Barry v. State Bar of California, 2 Cal. 5th 318 (January 5, 2017)

Baral v. Schnitt, 1 Cal. 5th 376 (2016)

Heal the Bay, Inc. v. McCarthy, 671 Fed. Appx. 466 (9th Cir. Cal. November 28, 2016)

In re Rearden LLC, 841 F.3d 1327 (Fed. Cir. November 17, 2016)

Dell Inc. v. Hitachi, Ltd. (In re Cathode Ray Tube (CRT) Antitrust Litig.), 2016 U.S. Dist. LE IS 182512 (N.D. Cal. October 3, 2016)

Rose v. Stephens Institute, 2016 U.S. Dist. LE IS 128269, 2016 WL 5076214 (N.D. Cal. September 20, 2016)

Southwest Airlines Pilots Association v. City of Chicago, 186 F. Supp. 3d 836 (N.D. Ill. May 14, 2016)

Abbey v. Sheputis, 2016 Cal. Super., LE IS 2603 (March 08, 2016)

Abbey v. Sheputis, 2015 Cal. Super. LE IS 9943 (December 14, 2015)

Southern California Institute of Law, Inc. v. State Bar of California, 2016 Cal. App. Unpub. LE IS 2657 (Cal. App. 2d Dist. April 13, 2016)

Southern California Institute of Law v. State Bar of California, 613 Fed. Appx. 659, 2015 U.S. App. LE IS 14896 (9th Cir. Cal. Aug. 24, 2015)

In re Optical Disk Drive Antitrust Litigation, 801 F.3d 1072 (9th Cir. Cal. September 10, 2015)

Tenborg v. Calcoastnews, 2015 Cal. App. Unpub. LE IS 5273 (Cal. App. 2d Dist. July 28, 2015)

Gabbert v. Kathleen, 2015 Cal. Super. LE IS 8295 (July 22, 2015)

Galligan & Biscay v. Galligan, 2015 Cal. Super. LE IS 9874 (February 20, 2015)

Cohen v. L Techs., Inc., 2015 U.S. Dist. LE IS 1362, 2015 WL 93732 (W.D.N.C. Jan. 7, 2015)

Roe v. Estate of White, 2015 U.S. Dist. LE IS 446 (N.D. Cal. January 5, 2015)

In re Hume, 2014 Cal. Sup. LE IS 2768 (August 1, 2014)

In re Hume, 2014 Cal. Sup. LE IS 2769 (August 1, 2014)

Roe v. White, 2014 U.S. Dist. LE IS 101205 (N.D. Cal. July 14, 2014)

Danko v. Milgrom (In re O'Reilly & Collins), 2014 U.S. App. LE IS 24787 (9th Cir. Cal. November 14, 2014)

Componex Corp. v. Electronics for Imaging, Inc., 58 F. Supp. 3d 912 (W.D. Wis. November 4, 2014)

Componex Corp. v. Electronics for Imaging, Inc., 2014 U.S. Dist. LE IS 97690, 2014 WL 3556064 (W.D. Wis. July 18, 2014)

Componex Corp. v. Electronics for Imaging, Inc., 2014 U.S. Dist. LE IS 149767, 2014 WL 5361946 (W.D. Wis. Oct. 21, 2014)

Commonwealth Science & Industrial Research Organisation v. Mediatek Inc., 2014 U.S. Dist. LE IS 194384 (E.D. Tex. August 5, 2014)

Commonwealth Science & Industrial Research Organisation v. Mediatek Inc., 2014 U.S. Dist. LE IS 194383 (E.D. Tex. Aug. 5, 2014)

Commonwealth Science & Industrial Research Organisation v. Mediatek Inc., 2014 U.S. Dist. LE IS 65382 (E.D. Tex. May 12, 2014)

Commonwealth Science & Industrial Research Organisation v. Mediatek Inc., 2014 U.S. Dist. LE IS 194381 (E.D. Tex. Aug. 5, 2014)

Commonwealth Science & Industrial Research Organisation v. Mediatek Inc., 2014 U.S. Dist. LE IS 194379 (E.D. Tex. Aug. 4, 2014)

Commonwealth Science & Industrial Research Organisation v. Cisco Systems, 809 F.3d 1295, 2015 U.S. App. LE IS 20942, 117 U.S.P. 2D (BNA) 1527 (Fed. Cir. Dec. 3, 2015)

Commonwealth Science & Industrial Research Organisation v. Cisco Systems, 2014 U.S. Dist. LE IS 107612 (E.D. Tex. July 23, 2014)

Harper v. Lugbauer, 577 Fed. Appx. 663 (9th Cir. Cal. May 30, 2014)

Radware Ltd. v. A10 Networks, Inc., __ F.Supp.2d __ 2014 WL 1572644 (N.D. Cal. April 18, 2014)

In re White, __ Fed. Appx. __, 2014 WL 1101304 (March 21, 2014)

Radware, Ltd. v. A10 Networks, Inc., 2014 WL 631537 (N.D. Cal. February 14, 2014)

Opperman v. Path, Inc., 2014 WL 246972 (N.D. Cal. January 22, 2014)

Lintz v. Lintz, 222 Cal.App.4th 1346 (Cal.App. 6th Dist. January 14, 2014)

Radware, Ltd. v. A10 Networks, Inc., __ F.Supp. 2d __, 2014 WL 116428 (N.D. Cal. January 10, 2014)

In re Garcia, 58 Cal. 4th 440 (Supreme Court of CA 2014)

Graham-Sult v. Clainos, 738 F.3d 1131 (9th Cir. 2013)

Sander v. State Bar of Cal, 58 Cal.4th 300 (2013)

Pagtakhan v. Doe, __ F.Supp. 2d __, 2013 WL 639639 (N.D. Cal. November 21, 2013)

Harper v. Lugbauer, __ F.Supp.2d __, 2013 WL 5978321 (N.D. Cal. November 8, 2013)

Nahat v. Ballet San Jose, Inc., 2013 WL 5934705 (N.D. Cal. November 1, 2013)

Opperman v. Path, Inc., __ F.Supp.2d __, 2013 WL 5643334 (N.D. Cal. October 15, 2013)

Lintz v. Bank of America, N.A., 2013 WL 5432873 (N.D. Cal. September 27, 2013)

Abbey v. Fortune Drive Associates, LLC, 2013 WL 393462 (Cal.App. 1st Dist. July 29, 2013)

MHC Financing Ltd. Partnership v. City of San Rafael, 714 F.3d 1118 2013 WL 1633067 (9th Cir. 2013)

Graham-Sult v. Clainos, 2013 WL 1190294 (N.D. Cal. March 21, 2013)

Bigler v. Harker School, 213 Cal.App.4th 727 (Cal.App. 6th Dist. February 6, 2013)

Harper v. Lugbauer, 2012 WL 1499174 (N.D. Cal. April 9, 2012)

Douglas v. Town of Portola Valley, 468 Fed. Appx. 728 (9th Cir. 2012)

Doe v. University of Pacific, 467 Fed. Appx. 685 (9th Cir. 2012)

Ricciardi v. California, 2011 WL 6413766 (S.D. N.Y. December 13, 2011)

Wilson & Wilson v. City Council of Redwood City, 191 Cal.App.4th 1559 (2011)

Sander v. State Bar of California, 196 Cal.App.4th 614 (2011)

Elder v. National Conference of Bar Examiners, 2011 WL 4079623 (N.D. Cal. September 12, 2011)

Herson v. City of Richmond, 2011 WL 3516162 (N.D. Cal. August 11, 2011)

Cho v. UCBH Holdings, Inc., 2011 WL 3809903 (N.D. Cal. May 17, 2011)

Adetuyi v. City and County of San Francisco, 2011 WL 1878853 (Cal App. 1st Dist. May 17, 2011)

L Technologies, Inc. v. Gartner Group, Inc., 2011 WL 1831704 (9th Cir. May 13, 2011)

Digital Video Systems, Inc. v. Sun, 2011 WL 1134662 (Cal.App. 6th Dist. March 29, 2011)

In re Mercury Interactive Corp. Securities Litigation, 2011 WL 826797 (N.D. Cal. March 3, 2011)

Elder v. National Conference of Bar Examiners, 2011 WL 672662 (N.D. Cal. February 16, 2011)

Roe ex rel. Rodriguez Borrego v. White, 395 Fed.Appx. 470 (9th Cir. 2010)

In re D.R., 185 Cal.App.4th 852 (2010)

L Technologies, Inc. v. Gartner, Inc., 709 F.Supp.2d 789 (N.D. Cal. 2010)

In re Estate of Gridley, 2010 WL 4102359 (Cal.App. 1st Dist. October 19, 2010)

Shingle Springs Band of Miwok Indians v. Sharp Image Gaming, Inc., 2010 WL 4054232 (E.D. Cal. October 15, 2010)

Sand Hill Advisors, LLC v. Sand Hill Advisors, LLC, 2010 WL 3703029 (N.D. Cal. September 16, 2010)

Geographic Expeditions Inc. v. Estate of Jason Lhotka, 2010 WL 3516116 (N.D. Cal. September 8, 2010)

Bay Guardian Co. v. New Times Media LLC, 187 Cal.App.4th 438 (Cal.App. 1st Dist. August 11, 2010)

Douglas v. Town of Portola Valley, 2010 WL 2898736 (N.D. Cal. July 21, 2010)

Roe v. White, 2009 WL 4899211 (N.D. Cal. December 11, 2009)

L Technologies, Inc. v. Gartner, Inc., 2009 WL 3706821 (N.D. Cal. November 4, 2009)

urich American Ins. Co. v. Electronics for Imaging, Inc., 2009 WL 2252098 (N.D. Cal. July 28, 2009)

Konig v. Dal Cerro, 2009 WL 636518 (N.D. Cal. March 11, 2009)

Commonwealth Scientific and Indust. Research Organisation v. Buffalo Technology (USA), 2009 WL 260953 (E.D. Texas February 3, 2009)

Kuo v. Sun, 2009 WL 162730 (Cal.App. 6th Dist. January 26, 2009)

Sutton v. Llewellyn, 288 Fed.Appx. 411 (9th Cir. 2008)

Commonwealth Scientific & Indus. Research Organisation v. Toshiba America Information Systems, Inc., 297 Fed.Appx. 970 (Fed. Cir. 2008)

ualcomm Inc. v. Batchelder, 327 Fed.Appx. 877 (Fed. Cir. 2008)

Fresenius Medical Care Holdings, Inc. v. Baxter Intern., Inc., 2008 WL 2020533 (N.D. Cal. May 8, 2008)

Commonwealth Scientific & Indus. Research Organisation v. Toshiba America Information Systems, Inc., 2008 WL 4680559 (Fed Cir. (Tex.) October 23, 2008)

Konig v. Dal Cerro, 2008 WL 4628038 (N.D. Cal. October 16, 2008)

Gridley v. Gridley, 166 Cal.App.4th 1562 (2008)

In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 43 Cal.4th 1143 (2008)

ualcomm Inc. v. Broadcom Corp., 2008 WL 638108 (S.D. Cal. March 5, 2008)

MHC Financing, Ltd. v. City of San Rafael, 2008 WL 440283 (N.D. Cal. February 12, 2008)

MHC Financing, Ltd. v. City of San Rafael, 2008 WL 440282 (N.D. Cal. January 29, 2008)

Arthur J. Gallagher, & Co., Inc. v. Edgewood Partners Ins., 2008 WL 205274 (N.D. Cal. January 23, 2008)

Levi v. State Bar of California, 2008 WL 53144 (N.D. Cal. January 2, 2008)

Poon v. Poon, 2007 WL 3360164 (Cal.App. 1st Dist. November 14, 2007)

O'Lee v. Compuware Corp., 2007 WL 963450 (Cal.App. 1st Dist. April 2, 2007)

People ex rel. Brown v. Tehama County Bd. of Sup'rs, 148 Cal.App.4th 790 (2007)

Coffee Lane Alliance v. County of Sonoma, 2007 WL 185478 (Cal.App. 1st Dist. January 25, 2007)

MHC Financial Ltd. Partnership v. City of San Rafael, 2006 WL 3507937 (N.D. Cal. December 5, 2006)

Sutton v. Llewellyn, 2006 WL 3371623 (N.D. Cal. November 21, 2006)

IntelCorp. v. Commonwealth Scientific and Indus. Research Organisation, 455 F.3d 1364 (Fed. Cir. 2006)

Big-D Const. Corp.-California v. Leprino Foods Co., 188 Fed.Appx. 563 (9th Cir 2006)

Franklin v. Terr, 174 Fed.Appx. 388 (9th Cir. 2006)

Miniace v. Pacific Maritime Ass'n, 2006 WL 335389 (N.D. Cal. February 13, 2006)

In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 133 Cal.App.4th 154 (2005)

Schoenfeld v. Grabisch, 2005 WL 697975 (Cal.App. 1st Dist. March 28, 2005)

Schoenfeld v. wakenberg, 2005 WL 697990 (Cal.App. 1st Dist. March 28, 2005)

-Rock Communications Corp. v. William A. Exline, Inc., 2004 WL 2496158 (N.D. Cal. November 5, 2004)

Atkinson v. McLaughlin, 343 F. Supp.2d 868 (D.N.D. November 4, 2004)

Radil v. Sanborn Western Camps, Inc., 384 F.3d 1220 (10th Cir. 2004)

Central Garden & Pet Co., Inc. v. Scotts Co., 85 Fed.Appx. 633 (9th Cir. 2004)

Rader v. Sutter, 90 Fed.Appx. 268 (9th Cir. 2004)

Boylan v. McGeever, 2004 WL 1794484 (N.D. Ill. August 10, 2004)

Olaques v. Stafford, 316 F.Supp.2d 393 (E.D. La. 2004)

ack v. Marin Emergency Radio Authority, 118 Cal.App.4th 617 (2004)

Chapman v. Enos, 116 Cal.App.4th 920 (2004)

Martinez v. Marin Sanitary Service, 349 F.Supp.2d 1234, (N.D. Cal. 2004)

Thoefel v. Farey Jones, 359 F.3d 1066 (9th Cir. 2004)

Hoffman v. State Bar of California, 113 Cal.App.4th 630 (2003)

Theofel v. Farey Jones, 341 F.3d 978 (9th Cir. 2003)

Airport Parking Services, Inc. v. City of San Bruno, 2003 WL 21205926 (Cal.App. 1st Dist. May 23, 2003)

Kremen v. Cohen, 337 F.3d 1024 (9th Cir. 2003)

Franklin v. Fox, 312 F.3d 423 (9th Cir. 2002)

Oakland-Alameda County Coliseum Authority v. CC Partners, 101 Cal.App.4th 635 (2002)

Glenn K. Jackson Inc. v. Roe, 273 F.3d 1192, (9th Cir. 2001)

Lee v. American Nat. Ins. Co., 260 F.3d 997, (9th Cir. 2001)

Carnegie Mellon University v. Hoffmann-La Roche, Inc., 148 F.Supp.2d 1004, (N.D. Cal. 2001)

Fricke-Parks Press, Inc. v. Fang, 149 F.Supp.2d 1175, (N.D. Cal. 2001)

EXHIBIT A

TIME REPORT

FIRM NAME: WVBR Firm
REPORTING PERIOD: 10/1/2020-6/30/2023

Categories:

- | | |
|---|--|
| (1) DISCOVERY AND INVESTIGATION OF CASE | (6) TRIAL PREP |
| (2) ADMINISTRATION | (7) SETTLEMENT NEGOTIATIONS AND DRAFTING |
| (3) BRIEFS MOTIONS AND PLEADINGS | (8) APPEAL |
| (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT | (9) BANKRUPTCY |
| (5) COURT APPEARANCES | |

Status:

- (P) Partner
- (A) Associate
- (LC) Law Clerk
- (PL) Paralegal
- (OC) Of Counsel
- (DR) Document Reviewer

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Previous Hours	Previous Lodestar	Cumulative Hours	Cumulative Lodestar
James Wagstaffe	P/2022-2023	-	-	333.10	-	-	-	-	-	-	333.10	\$ 800.00	\$ 266,480.00	-	\$ -	333.10	\$ 266,480.00
Michael von Loewenfeldt	A/2022-2023			7.40							7.40	\$ 800.00	\$ 5,920.00		\$ -	7.40	\$ 5,920.00
Maria Radwick	A/2022-2023			0.40							0.40	\$ 800.00	\$ 320.00		\$ -	0.40	\$ 320.00
				0.00							0.00	\$ -	\$ -		\$ -	0.00	\$ -
ATTORNEY TOTALS		-	-	340.90	-	-	-	-	-	-	340.90		\$ 272,720.00	-	\$ -	340.90	\$ 272,720.00
GP	PL-2022-2023		14.60								14.60	\$ -	\$ -		\$ -		
				0.00							0.00	\$ -	\$ -		\$ -	0.00	\$ -
NON-ATTORNEY TOTALS		0.00	14.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	14.60		\$ -	-	\$ -	14.60	\$ -
TOTALS		0.00	14.60	340.90	0.00	0.00	0.00	0.00	0.00	0.00	355.50		\$ 272,720.00	-	\$ -	355.50	\$ 272,720.00

EXHIBIT 13

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: TELEXFREE SECURITIES
LITIGATION

MDL No. 4:14-md-2566-TSH

This Document Relates to:
ALL CASES

**DECLARATION OF HONORABLE STEVEN RHODES (RET.) IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES**

I, Steven Rhodes, declare as follows:

1. I am a sole practitioner employed by Steven Rhodes Consulting, LLC, of which I am the sole owner and manager. I am an attorney in good standing and an active member of the State Bar of Michigan. I appeared pro hac vice in these multidistrict litigation proceedings. [Dkts. 1494, 1514]. I have personal knowledge of the following facts and could and would testify competently thereto if called as a witness. I submit this Declaration in support of Class Counsel's application for an award of attorneys' fees in connection with services rendered in the above action.

2. My background and experience are summarized in the *Curriculum Vitae* attached hereto as Exhibit 1.

3. As a result of my background and experience, I was able to provide substantial benefits to the class in this matter.

4. I have participated in this litigation and have performed work on behalf of Plaintiffs since October 2022. The hours submitted with this application are solely for work performed on behalf of the class alleged in the above-captioned action.

5. The work that I performed was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. Half of my compensation for services rendered in this case is contingent on the success of this litigation and that half is at risk.

6. I regularly keep my time in quarter of an hour increments. I also maintain time by activity category and can when reasonably called for provide a further description.

7. This is my first declaration submitted in support of class counsel's request for attorneys' fees.

8. From October 2022, up through June 30, 2023, I actively participated in this litigation, including by performing the following work:

a. **Litigation Strategy, Analysis and Case Management:** In carrying out my duties, I billed 11.7 hours for work categorized as litigation strategy, analysis and case management.

b. **Settlement, negotiations and drafting:** In carrying out its duties, I billed 50.5 hours for work categorized as settlement, negotiations and drafting.

9. I maintain separate time and billing accountings for each of my matters, including the *In re: TelexFree Securities Litigation*.

10. I maintain contemporaneous time records reflecting the time spent on this and other matters. My total number of hours spent on this litigation, from October 1, 2022, up to June 30, 2023, is 62.25. Time spent preparing this fee declaration is not included.

11. The total lodestar for this time, calculated my historic hourly rates during the litigation, is \$26,456.25.

12. The total number of hours spent on this litigation, from the inception of the litigation up to June 30, 2023, by me is 62.25. The total lodestar for all time from the inception of the litigation up through June 30, 2023, calculated at the firm's historic hourly rates during the litigation, is \$26,456.25.

13. A summary report of my lodestar with my total time spent on this case, and my lodestar calculation based on my historic billing rates is attached hereto as Exhibit 2. The rates charged are approximately the same hourly rates used for all of my matters. The summary report was prepared from contemporaneous daily time records that I regularly maintain, which are available at the request of the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 17th day of November 2023.

/s/ Steven Rhodes
Hon. Steven Rhodes (Ret.)

Steven Rhodes
1610 Arborview
Ann Arbor, MI 48103
734 646 7406
rhodessw@comcast.net

Employment

Steven Rhodes Consulting, LLC, February 2015 - Present

Mediator & Arbitrator, JAMS Detroit Office, February 2017-April 2020

Transition Manager, Detroit Public Schools, Detroit Public Schools Community District, March 2016-December 2016, appointed by Michigan Governor Rick Snyder

United States Bankruptcy Judge, Eastern District of Michigan-Detroit, appointed 1985, reappointed 1999 and 2013; retired February 2015

Appointed by the Chief Judge of the Sixth Circuit Court of Appeals in July 2013 to preside over the City of Detroit bankruptcy case

Chief Judge, United States Bankruptcy Court, Eastern District of Michigan, 2002-2009

Bankruptcy Appellate Panel of the Sixth Circuit, 1997-2004 and 2008-2011

Chief Judge of the Bankruptcy Appellate Panel, 2002-2004

Adjunct Professor, University of Michigan Law School, teaching bankruptcy law, 1992-2003; 2013

Adjunct Professor, University of Detroit Law School, teaching ethics, 1986

United States Magistrate, Eastern District of Michigan, 1981-1985

Kelly and Rhodes, 1977-1981

Assistant United States Attorney, Eastern District of Michigan, 1974-1977

Law Clerk, Honorable John Feikens, United States District Judge, the Eastern District of Michigan, 1973-1974

Bar Admissions

State Bar of Michigan, 1973

United States District Court Eastern District of Michigan, 1973

Memberships

State Bar of Michigan

American Bankruptcy Institute

Federal Bar Association, Detroit Chapter

Positions

Sixth Circuit Representative, Board of Governors, National Conference of Bankruptcy Judges, 2011-2012

Bankruptcy Judges Representative, Judicial Council of Sixth Circuit, 2011-2012

Chair, Advisory Board, American Bankruptcy Institute Consumer Fee Study, 2009-2011

Distinguished Service Award, American Bankruptcy Institute, 2009

Judicial Chair, American Bankruptcy Institute, Consumer Bankruptcy Association Veterans Day Consumer Conference, 2006-2012

Vice President for Research, American Bankruptcy Institute, 2005-2009

Judicial Advisor, National Association of Bankruptcy Trustees Ethics Committee, 2005-2013

Chair, National Conference of Bankruptcy Judges Endowment for Education, 2002-2004

Member, Advisory Board, American Bankruptcy Institute Central States Conference, 1997-2013;
Judicial Chair, 1997-2005

Associate Editor, American Bankruptcy Law Journal, published by the National Conference of Bankruptcy Judges, 1994-1996

Honors and Awards

Detroit Metropolitan Bar Association Foundation, 2015 Dennis Archer Community Service Award, November 19, 2015

The Detroit News, A 2015 Michiganiaan of the Year, November 11, 2015

Commercial Law League of America, Lawrence P. King Award for Excellence in the Field of Bankruptcy, September 29, 2015

Goodwill Industries Barbara R. Smith Lifetime Achievement Award, May 18, 2015

Michigan Lawyers Weekly, 2015 Michigan Lawyer of the Year, March 26, 2015

Crain's Detroit Business 2014 Newsmaker of the Year Award, February 25, 2015

Walsh College, Honorary Doctor of Laws, January 10, 2015

Sixth Circuit Judicial Conference, Life Member, 2015

National Association of Bankruptcy Trustees, Award for Dedication and Contribution to the Chapter 7 Community and to the NABT, 2014

Distinguished Service Award, American Bankruptcy Institute, 2009

Michigan Bar Foundation, Fellow, 2000

American College of Bankruptcy, Fellow, 1995

Publications

From a Doodle to the Grand Bargain, Michigan Lawyers Weekly, May 1, 2017, co-authored with Hon. Gerald Rosen (Ret.)

Chapter, *In Pari Delicto: Solutions to an Inequity Plaguing Bankruptcy Trustees and Innocent Creditors*, Norton Annual Survey of Bankruptcy Law (West 2015), co-author

Chapter, *Effective Expert Testimony*, FRAUD AND FORENSICS: PIERCING THROUGH THE DECEPTION IN A COMMERCIAL FRAUD CASE (American Bankruptcy Institute 2015)

Equity Receivers and the In Pari Delicto Defense, 69 Bus. Law. 699 (American Bar Association May 2014), co-authored with Kathy Bazoian Phelps

Obtaining the Release of Grand Jury Evidence in Ponzi Cases, 42 Golden Gate U. L. Rev. 657 (2012)

Coordination Agreements in Parallel Forfeiture and Bankruptcy Proceedings, American Bar Association Business Law Section's Online Resource, Business Law Today, June 21, 2012

Supplementing the Tools in the Trustee's Toolbox, NABTalk, The Journal of the National Conference of Bankruptcy Trustees, Spring 2012, co-author

The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes, LexisNexis (2012), co-authored

The Ethical Obligations of a Chapter 7 Trustee, 80 AM. BANKR. L.J. 147 (2006)

A Preview of "Demonstrating a Serious Problem with Undisclosed Assets in Chapters 7 Cases," May 2002 Norton Bankr. L. Advisor 1

An Empirical Study of Consumer Bankruptcy Papers, 73 AM. BANKR. L.J. 653 (1999)

Eight Statutory Causes of Delay and Expense in Chapter 11 Cases, 67 AM. BANKR. L.J. 287 (1993)

Speaking at Conferences, Seminars, and Programs

American Bankruptcy Institute

American Bar Association

American College of Bond Counsel

American College of Trial Lawyers

Association of Insolvency and Restructuring Accountants

Byrne Judicial Clerkship Institute at Pepperdine Law School

Cleveland Bankruptcy Bar Association

Commercial Law League of America

Consumer Bankruptcy Association, Eastern District of Michigan

Encuentro Nacional de la Diáspora Puertorriqueña

Federal Bar Association National Conference

Federal Bar Historical Society, Eastern District of Michigan
Federal Judicial Center
George Mason University Law School
The Hill: Puerto Rico's Fiscal Future: What's Next for America's Largest Territory?
International Women's Insolvency and Restructuring Confederation
Lewis & Clark Law School
Los Angeles Bankruptcy Foundation
Mackinac Policy Conference
Michigan Association of Certified Public Accountants
Michigan Institute for Continuing Legal Education
Michigan Municipal League
Michigan State University Law School
Midwest Bankruptcy Institute
National Association of Attorneys General
National Association of Bankruptcy Trustees
National Association of Chapter Thirteen Trustees
National Association of Federal Equity Receivers
National Conference of Bankruptcy Judges
National Federation of Municipal Analysts
National Tax Association
New York Federal Reserve Bank
Oakland County Community College
Oregon State Bar Debtor-Creditor Section
Osher Lifelong Learning Institute
Sacramento Bankruptcy Bar Association
Seventh Circuit Judicial Conference
State Bar of Michigan Debtor Creditor Rights Committee
Third Circuit Judicial Conference
Turnaround Management Association
United States District Court Eastern District of Michigan Historical Society
United States Trustee Program
University of Michigan Gerald R. Ford School of Public Policy
University of Michigan Law School

University of Wisconsin Law School

Walsh College

Wayne State University Law School

Western District of Michigan Federal Bar Association Bankruptcy Section

Wisconsin Bar Association Bankruptcy Section

Education

University of Michigan Law School, Juris Doctor, *cum laude*, 1972; Associate Editor, Michigan Law Review

Purdue University, Bachelor of Science in Mechanical Engineering, 1970; *Tau Beta Pi*, The Engineering Honor Society; *Pi Tau Sigma* International Mechanical Engineering Honor Society

TIME REPORT

FIRM NAME: Steven Rhodes Consulting
REPORTING PERIOD: 10/1/2020-6/30/2023

- | | | | |
|--------------------|---|--|------------------------|
| Categories: | (1) DISCOVERY AND INVESTIGATION OF CASE | (6) TRIAL PREP | Status: |
| | (2) ADMINISTRATION | (7) SETTLEMENT NEGOTIATIONS AND DRAFTING | (P) Partner |
| | (3) BRIEFS MOTIONS AND PLEADINGS | (8) APPEAL | (A) Associate |
| | (4) LITIGATION STRATEGY, ANALYSIS AND CASE MANAGEMENT | (9) BANKRUPTCY | (LC) Law Clerk |
| | (5) COURT APPEARANCES | | (PL) Paralegal |
| | | | (OC) Of Counsel |
| | | | (DR) Document Reviewer |

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Previous Hours	Previous Lodestar	Cumulative Hours	Cumulative Lodestar
Steven Rhodes	P/2022-2023	-	-	-	11.70	-	-	50.50	-	-	62.20	\$ 425.00	\$ 26,435.00	-	\$ -	62.20	\$ 26,435.00
											0.00		\$ -		\$ -	0.00	\$ -
ATTORNEY TOTALS		-	-	-	11.70	-	-	50.50	-	-	62.20		\$ 26,435.00	-	\$ -	62.20	\$ 26,435.00
											0.00		\$ -	-	\$ -	0.00	\$ -
NON-ATTORNEY TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		\$ -	-	\$ -	0.00	\$ -
											0.00		\$ -	-	\$ -	0.00	\$ -
TOTALS		0.00	0.00	0.00	11.70	0.00	0.00	50.50	0.00	0.00	62.20		\$ 26,435.00	-	\$ -	62.20	\$ 26,435.00

EXHIBIT 14

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: TELEXFREE SECURITIES
LITIGATION

MDL No. 4:14-md-2566-TSH

This Document Relates to:
ALL CASES

DECLARATION OF R. ALEXANDER SAVERI IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES

I, R. Alexander Saveri, declare as follows:

1. I am the managing partner with the law firm of Saveri & Saveri, Inc. (the "Saveri Firm"). I am an attorney in good standing and an active member of the State Bar of California. I am appearing pro hac vice in these multidistrict litigation proceedings. [Dkts. 301, 306]. I have personal knowledge of the following facts and could and would testify competently thereto if called as a witness. I submit this Declaration in support of Class Counsel's application for an award of attorneys' fees in connection with services rendered in the above action.

2. The Saveri Firm has substantial experience in complex class action litigation. I have been designated lead counsel in numerous class action cases. The Saveri Firm has also participated in many class actions assigned Multi District Litigation status by the Judicial Panel on Multi District Litigation. The background and experience of my firm and its attorneys is summarized in the *Curriculum Vitae* attached hereto as Exhibit 1.

3. As a result of its prosecuting class action lawsuits and other forms of complex litigation, the Saveri Firm was able to provide substantial benefits to the class in

this matter. In this action, I was selected to serve on the Plaintiffs' Interim Executive Committee.

4. The Saveri Firm has participated in this litigation and has performed work on behalf of Plaintiffs since its inception. The hours submitted with this application are solely for work performed on behalf of the class alleged in the above-captioned action.

5. The work performed by this firm was necessary to the prosecution of this class action and was assigned or authorized by Lead Counsel. This firm's compensation for services rendered in this case was wholly contingent on the success of this litigation and was totally at risk.

6. The Saveri Firm regularly keeps its time in tenths of an hour as recommended by the American Bar Association. Timekeepers also maintain time by activity category and are requested when reasonably called for to provide a further description.

7. This is the second declaration submitted by the Saveri Firm in support of class counsel's request for attorneys' fees. In its first declaration in support of attorneys' fees, the Saveri Firm submitted time for hours worked from the inception of the litigation up through October 2020. During that time period, the Saveri Firm spent a total of 8,081.65 hours on this litigation for a total lodestar of \$2,612,368.75 calculated at the firm's historical hourly rates. [See Dkt. 1103-1, Ex. 5 at ¶¶ 10–11].

8. From November 1, 2020, up through June 30, 2023, the Saveri Firm actively participated in this litigation, including by performing the following work:

a. **Briefs, Motions and Pleadings**: Saveri Firm attorneys have billed 941.90 hours to this action for work devoted to the pleadings, briefs and motions. Saveri lawyers

have been actively involved in the briefing in this matter. Among other things, Saveri lawyers were charged with supervising and coordinating Plaintiffs' oppositions to the second round of motions to dismiss filed by the Defendants against Plaintiffs' Fifth Consolidated Amended Complaint. In this role, Saveri lawyers consulted with the primary drafters of Plaintiffs' oppositions and reviewed and edited Plaintiffs' oppositions. Saveri lawyers were also the primary drafters of two of the oppositions (TD Bank and PNC Bank). In addition, Saveri lawyers spent substantial time: preparing the final approval brief and documents for the Fidelity settlement, briefing Vantage preliminary injunction, drafting and editing the amended complaint, preparing briefs related to various motions for reconsideration of the Court's rulings, drafting portions of the mediation statement for TD Bank, as well as editing and reviewing other briefs and motions. In addition, the Saveri Firm attorneys have read or reviewed all orders and opinions issued by the Court.

b. **Case Management, Litigation and Analysis**: The Saveri Firm attorneys have billed 344.35 hours to this action for case management and service on the Executive Committee. This time includes numerous co-counsel meetings, meetings with Bankruptcy counsel, scheduling, drafting research memorandums and other litigation strategy.

c. **Court Appearances**: The Saveri Firm attorneys have billed 5.20 hours in this action for court appearances.

d. **Discovery and Document Review**: The Saveri Firm attorneys have billed 925.25 hours to discovery and document review. The Saveri Firm had a dedicated document review attorney who participated in the TelexFree document review

program. These hours include assisting in the review of documents for evidence identified by Lead Counsel. Besides document review, the Saveri Firm was involved with several other discovery projects and research.

e. **Settlement, negotiations and drafting**: In carrying out its duties as a member of the Executive Committee, the Saveri Firm billed 30.00 hours for work categorized as settlement. The Saveri Firm was involved in finalizing the documents related to the Fidelity settlement, negotiations with other defendants and the TD Bank mediation.

9. I also have knowledge of the firm's policies regarding the assignment of work and the recording of time and expense records. The Saveri Firm keeps separate accounting numbers for each matter in the firm, including the *In re: TelexFree Securities Litigation*.

10. All attorneys at the Saveri Firm are instructed to maintain contemporaneous time records reflecting the time spent on this and other matters. The total number of hours spent on this litigation, from November 1, 2020, up to June 30, 2023, by attorneys and paralegals at this firm is 2,246.70. Time spent preparing this fee declaration is not included.

11. The total lodestar for this time, calculated at the firm's historic hourly rates during the litigation, is \$1,161,250.00.

12. The total number of hours spent on this litigation, from the inception of the litigation up to June 30, 2023, by attorneys and paralegals at this firm is 10,328.35. The total lodestar for all time from the inception of the litigation up through June 30, 2023, calculated at the firm's historic hourly rates during the litigation, is \$3,773,618.75.

13. A summary report of my firm's lodestar with the total time spent by each attorney and paralegal of this firm on this case, and the lodestar calculation for that attorney or paralegal based on this firm's historic billing rates is attached hereto as Exhibit 2. The Saveri Firm primarily practices contingent litigation. The rates charged are the same hourly rates used for all matters at the firm. The summary report was prepared from contemporaneous daily time records regularly maintained by this firm, which are available at the request of the Court.

14. The Saveri Firm has incurred a total of \$200,000.00 in litigation assessments during the period from case inception through June 30, 2023.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED this 16th day of November 2023.

/s/ R. Alexander Saveri
R. Alexander Saveri

EXHIBIT 1

SAVERI & SAVERI, INC.
706 SANSOME STREET
SAN FRANCISCO, CALIFORNIA 94111
Telephone: (415) 217-6810
Facsimile: (415) 217-6813

SAVERI & SAVERI, INC., an AV-rated law firm, was established in 1959. The firm engages in antitrust and securities litigation, product defect cases, and in general civil and trial practice. For over sixty years the firm has specialized in complex, multidistrict, and class action litigation.

The Saveri Firm has extensive experience in antitrust class action litigation and trial experience, including leadership roles in many of the major antitrust class actions in the Northern District of California. In the last twenty-five years, representative leadership positions include: *In re Citric Acid Antitrust Litig.*, MDL No. 1092, Case No. C-95-2963 FMS (N.D. Cal.) (Smith, J.) (appointed Co-Lead Counsel); *In re Methionine Antitrust Litigation*, MDL No. 1311, Case No. C-99-3491-CRB (N.D. Cal.) (Breyer, J.) (appointed Co-Lead Counsel); *In re Dynamic Random Access Memory Antitrust Litigation*, MDL No. 1486, Case No. 02-md-01486-PHJ (N.D. Cal.) (Hamilton, J.) (“*DRAM P*”) (appointed Co-Lead Counsel); *In re Tableware Antitrust Litigation*, Case No. C-04-3514 VRW (N.D. Cal.) (Walker, J.) (appointed Chair of Plaintiffs’ Counsel); *In re Static Random Access Memory (SRAM) Antitrust Litigation*, MDL No. 1819, Case No. 07-cv-01819-CW (N.D. Cal.) (Wilken, J.) (appointed to Steering Committee); *In re Flash Memory Antitrust Litigation*, No. 4:07-CV-00086 SBA (N.D. Cal.) (Armstrong, J.) (appointed Co-Lead Counsel); *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827, Case No. 07-md-01827 (N.D. Cal.) (Illston, J.) (member of plaintiffs’ executive committee); *In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL No. 1917, Case No. 07-cv-5944-JST (N.D. Cal.) (Tigar, J.) (appointed Lead Counsel); *In re California Title Insurance Antitrust Litigation*, Case No. 08-01341-JSW (N.D. Cal.) (White, J.) (appointed Co-Lead Counsel); *In re Optical Disk Drive (ODD) Antitrust Litigation*, MDL No. 2143, Case No. 10-md-02143-RS (N.D. Cal.) (Seeborg, J.) (appointed Chair of Plaintiffs’ Executive Committee); *In re Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420, Case No. 13-md-2420-YGR (N.D. Cal.) (Gonzalez Rogers, J.) (appointed Co-Lead Counsel); *In re Dynamic Random Access Memory (DRAM) Direct Purchaser Antitrust Litigation*, No. 18-cv-3805-JSW-KAW (N.D. Cal.) (White, J.) (“*DRAM IP*”) (appointed Co-Lead Counsel); *Cameron v. Apple Inc.*, No. 4:19-cv-03074-YGR (N.D. Cal.) (Gonzalez Rogers, J.) (appointed to Plaintiffs’ Executive Committee).

In addition to these cases, the Saveri Firm has been appointed to lead major antitrust class actions in federal courts throughout the country. The Saveri Firm is known for its antitrust class action experience, dedication to vigorously prosecuting its cases, and working collaboratively and efficiently with other counsel.

PROFESSIONALS

PARTNERS

R. ALEXANDER SAVERI, born San Francisco, California, 1965; admitted to bar, 1994, California and U.S. District Court, Northern District of California; 1995, U.S. Court of Appeals, Ninth Circuit; 2000, U.S. District Court, Southern District of California and U.S. District Court, Central District of California; 2012, U.S. Court of Appeals, Third Circuit. *Education*: University of Texas at Austin (B.B.A., Finance 1990); University of San Francisco School of Law (J.D., 1994), University of San Francisco Maritime Law Journal 1993–1994. *Member*: State Bar of California; American Bar Association (Member, Antitrust Section); Association of Trial Lawyers of America; University of San Francisco Inn of Court; National Italian American Bar Association; University of San Francisco Board of Governors (2003–2006); Legal Aid Society (Board of Directors).

Mr. Saveri is the managing partner of Saveri & Saveri, Inc. After graduating from law school, he began working for his father and uncle at Saveri & Saveri, P.C. on antitrust and complex litigation. The current practice of Saveri & Saveri, Inc. emphasizes class action antitrust litigation.

He has an AV Preeminent Peer Review Rating on Martindale-Hubbell and was named a “Super Lawyer for Northern California” in 2019–2023.

Mr. Saveri has served or is serving as court-appointed Co-Lead or Liaison Counsel in the following cases:

In re Lithium Ion Batteries Antitrust Litigation, MDL No. 2420, Case No. 13-md-2420-YGR, United States District Court, Northern District of California (antitrust class action on behalf of direct purchasers of lithium ion batteries).

In re California Title Insurance Antitrust Litigation, Case No. 08-01341 JSW, United States District Court, Northern District of California (antitrust class action involving federal antitrust laws and California statutory law for unlawful practices concerning payments for title insurance in California).

In re Intel Corp. Microprocessor Antitrust Litigation, MDL No. 1717, United States District Court, District of Delaware (antitrust class action on behalf of all consumers in the United States that indirectly purchased Intel x86 microprocessors).

In re Vitamin C Antitrust Litigation, MDL No. 1738, United States District Court, Eastern District of New York (antitrust class action on behalf of all California indirect purchasers of Vitamin C).

In re Polychloroprene Antitrust Cases, J.C.C.P. No. 4376, Los Angeles Superior Court (antitrust class action on behalf of all California indirect purchasers of polychloroprene rubber).

In re NBR Cases, J.C.C.P. No. 4369, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of acrylonitrile-butadiene rubber (“NBR”)).

Carpinelli v. Boliden AB, Master File No. CGC-04-435547, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of copper tubing).

Competition Collision Center, LLC v. Crompton Corporation, Case No. CGC-04-431278, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of plastic additives).

In re Urethane Cases, J.C.C.P. No. 4367, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of urethane and urethane chemicals).

The Harman Press v. International Paper Co., Master File No. CGC-04-432167, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of publication paper).

In re Label Stock Cases, J.C.C.P. No. 4314, San Francisco Superior Court (antitrust class action on behalf of all California indirect purchasers of high pressure label stock).

Richard Villa v. Crompton Corporation, Master File No. CGC-03-419116, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of EPDM).

Russell Reidel v. Norfalco LLC, Master File No. CGC-03-418080, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of sulfuric acid).

Smokeless Tobacco Cases I–IV, J.C.C.P. Nos. 4250, 4258, 4259 and 4262, San Francisco Superior Court (certified antitrust class action on behalf of California consumers of smokeless tobacco products).

Electrical Carbon Products Cases, J.C.C.P. No. 4294, San Francisco Superior Court (Private Entity Cases) (antitrust class action on behalf of California indirect purchasers of electrical carbon products).

The Vaccine Cases, J.C.C.P. No. 4246, Los Angeles Superior Court (medical monitoring class action on behalf of children exposed to mercury laden vaccines).

In re Laminate Cases, J.C.C.P. No. 4129, Alameda Superior Court (antitrust class action on behalf of California indirect purchasers of high pressure laminate).

Compact Disk Cases, J.C.C.P. No. 4123, Los Angeles Superior Court (antitrust class action on behalf of California consumers of prerecorded compact disks).

Sorbate Prices Cases, J.C.C.P. No. 4073, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of sorbate).

In re Flat Glass Cases, J.C.C.P. No. 4033, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of flat glass products).

Vitamin Cases, J.C.C.P. No. 4076, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of vitamins).

California Indirect Purchaser MSG Antitrust Cases, Master File No. 304471, San Francisco Superior Court (antitrust class action on behalf of California indirect purchasers of Monosodium Glutamate).

In re Aspartame Indirect Purchaser Antitrust Litigation, Master Docket No. 06-1862-LDD, United States District Court, Eastern District of Pennsylvania (antitrust class action on behalf of California indirect purchasers of aspartame).

GM Car Paint Cases, J.C.C.P. No. 4070, San Francisco Superior Court (class action on behalf of all California owners of General Motors vehicles suffering from paint delamination).

In re TelexFree Securities Litigation, Master Docket No. 4:14-md-02566-TSH (appointed to the executive committee in one of the largest pyramid scheme cases in history).

GEOFFREY C. RUSHING, born San Jose, California, 1960; admitted to bar, 1986, California and U.S. District Court, Northern District of California; 2017, U.S. Court of Appeals, Ninth Circuit. *Education*: University of California, Berkeley (A.B. with honors, 1982); University of California, Berkeley, Boalt Hall (J.D., 1986). *Member*: State Bar of California. *Honors & Distinctions*: Named a “Super Lawyer for Northern California” in 2020–2023.

ASSOCIATES

MATTHEW D. HEAPHY, born Hartford, Connecticut, 1974, admitted to bar, 2003, California and U.S. District Court, Northern District of California; 2017, U.S. Court of Appeals, Ninth Circuit. *Education*: Wesleyan University (B.A., 1997); University of San Francisco School of Law (J.D., *cum laude*, 2003), University of San Francisco Law Review, International & Comparative Law Certificate, with Honors. *Publications*: Comment: The Intricacies of Commercial Arbitration in the United States and Brazil: A Comparison of Two National Arbitration Statutes, 37 U.S.F. L. Rev. 441 (2003); M. Heaphy & Co-Author, Does the United States Really Prosecute its Servicemembers for War Crimes? Implications for Complementarity Before the ICC, 21 Leiden J. Int’l L. 165 (March 2008); M. Heaphy, The United States and the 2010 Review Conference of the Rome Statute of the ICC, 81 Int’l Rev. Penal L. 77 (2010). *Member*: State Bar of California. *Languages*: French, Italian.

DAVID HWU, born Stanford, California, 1985; admitted to bar, 2012, California and U.S. District Court, Northern District of California. *Education*: University of California, Berkeley (B.A., 2008); University of San Francisco School of Law (J.D., 2011). *Member*: State Bar of California. *Languages*: Chinese, Japanese. *Honors & Distinctions*: Named to the Super Lawyers Northern California Rising Stars List, 2018–2023.

LEGAL ASSISTANTS

ALYSSA WEAVER (Paralegal), born San Mateo, California, 1989. *Education*: City College of San Francisco (A.S. 2015).

FOUNDING PARTNERS

GUIDO SAVERI, born San Francisco, California, 1925; admitted to bar, 1951, California; died October 18, 2021. *Education*: University of San Francisco (B.S., *summa cum laude*, 1947; LL.B., *summa cum laude*, 1950). *Member*: Bar Association of San Francisco; State Bar of California; American Bar Association (Member, Antitrust Section); Lawyers Club of San Francisco.

Mr. Saveri was a senior partner of Saveri & Saveri, Inc. He started the firm in 1959 and associated with Joseph L. Alioto, Esq. in the practice of antitrust and other corporate litigation. Between completing law school in 1951 and until forming his firm in 1959 he was associated with the law firm of Pillsbury, Madison & Sutro in San Francisco, California.

Mr. Saveri testified before the Federal Judiciary Committee on antitrust matters and lectured on antitrust matters before The Association of Trial Lawyers of America, the Federal Practice Institute, and other lawyer associations. Mr. Saveri also wrote various periodicals on antitrust topics. Mr. Saveri was named the 2007 Antitrust Lawyer of the Year by the State Bar of California's Antitrust and Unfair Competition Law Section. He has the highest rating in Martindale Hubbell, namely, "AV" and was named a "Super Lawyer for Northern California" in 2010.

From the time he started his firm in 1959, Mr. Saveri devoted practically all of his time to antitrust and other corporate and complex litigation. He actively participated in antitrust cases involving myriad industries: electronics, electrical, water meter, scrap metal, liquid asphalt, dairy products, typewriter, vanadium, pipe-fitting, grocery business, liquor, movie, animal-raising business, chemical, snack food, paper label, chrysanthemum, drug, sugar, records, industrial gas, wheelchair, rope, copper tubing, folding cartons, ocean shipping, pancreas gland, corrugated container, glass container, fine paper, food additives, prescription drugs, medical x-ray film, computer chips, and many others.

RICHARD SAVERI, Partner, 1951–1999.

The following are some of the class actions in which Mr. Guido Saveri actively participated:

Nisley v. Union Carbide and Carbon Corp., 300 F. 2d 561 (10th Cir. 1960), and *Continental Ore. Co. v. Union Carbide and Carbon Corp.*, 370 U.S. 690 (1962). In 1960, Mr. Saveri was one of the trial attorneys in the above cases which are the forerunners of present class action litigation and are responsible for Rule 23 as it exists today and for some of the most important rulings in the field of antitrust law. The *Nisley* case was a class action tried before a jury both on liability and damages and resulted in a verdict for the named plaintiffs and the entire class. It is considered one of the leading cases on class actions, is often referred to as a model for the trial of class actions, and has been followed in antitrust class action cases which have gone to trial.

Sacramento Municipal Utility District v. Westinghouse Elec. Corp., 62 CCH Trade Cases, Par. 70,552 (N.D. Cal. 1962). Mr. Saveri was one of the principal attorneys in several cases which have come to be known as the *Electrical Equipment* cases. In 1961–1965, Mr. Saveri represented such clients as the State of Washington, Sacramento Municipal Utility District and Modesto Irrigation District. Mr. Saveri was one of the attorneys who tried several of these cases and did very extensive work under a coordinated program instituted by the Murrah Committee under the direction of the then Chief Justice of the United States. This Committee later became the Judicial Panel for Multi-District Litigation. As a result of his experience in these cases, Mr. Saveri participated in drafting proposed legislation creating the Panel on Multi-District Litigation.

Nurserymen's Exchange v. Yoder Brothers, Inc., No. 70-1510, in the United States District Court, Northern District of California, before Judge Harris. Mr. Saveri was the sole attorney for a class of 10,000 chrysanthemum growers. This case was settled for substantial sums.

City of San Diego v. Rockwell Manufacturing Co., before Judge Boldt in San Francisco. Mr. Saveri was Liaison and Lead Counsel in the above case involving water meters. This case was settled for substantial sums.

In re Private Civil Treble Damage Actions Against Certain Snack Food Companies, Civil No. 70-2121-R, United States District Court, Central District of California. Mr. Saveri was the lead attorney for the retail grocers' class comprised of all retail grocers in the states of California, Nevada, and Arizona certified by Judge Real involving the snack food industry. The case was settled for substantial sums.

In re Sugar Antitrust Litigation, MDL No. 201, United States District Court, Northern District of California, before Judges Boldt and Cahn. Mr. Saveri was the lead attorney for the retail grocer classes in the Western Sugar litigation. In this litigation, he was a member of the Executive Committee, Steering Committee and Settlement Committee. This case settled for more than \$35,000,000.

Sun Garden Packing Co. v. International Paper Co., et al., C-72-52, United States District Court, Northern District of California. In 1972 Mr. Saveri filed the first price fixing class action against the paper industry. He was the sole attorney representing all purchasers of lithograph paper labels in the United States. The lithograph paper labels case was settled at a substantial figure. The lithograph paper labels case was responsible for subsequent government indictments in lithograph paper labels, folding cartons, small paper bags, and corrugated containers.

In re Folding Carton Antitrust Litigation, MDL No. 250, United States District Court, Eastern District of Illinois, before Judges Will and Robson. Mr. Saveri was a member of the Executive Committee, Vice Chairman of Discovery and a member of the Trial Team in this action involving a horizontal conspiracy to fix prices for folding cartons. The case was settled for more than \$200,000,000.

In re Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions, MDL No. 10, 4-72 Civ 435, United States District Court, District of Minnesota, Fourth Division, before Judge Lord. Mr. Saveri was the attorney for the institutional class and consumer class for the States of Utah and Hawaii. These actions were settled for substantial sums.

Building Service Union Health & Welfare Trust Fund v. Chas. Pfizer & Co., No. 4-71 Civ. 435; No. 4-71 Civ. 413, United States District Court, District of Minnesota, before Judge Lord. Mr. Saveri was the sole attorney for a class of 9,000 health and welfare trust funds in the United States in this antitrust action against the drug companies. In 1974–1975 this class action went to trial before two juries at the same time and in the same court on liability and damages for the entire class and lasted ten months. It was settled for a substantial sum. Mr. Saveri was the sole attorney representing the plaintiff health and welfare trust fund class at trial.

In re Corrugated Container Antitrust Litigation, MDL No. 310, United States District Court, Southern District of Texas, before Judge Singleton. Horizontal price fixing action. The case was settled for more than \$400,000,000.

In re Fine Paper Antitrust Litigation, MDL No. 323, United States District Court, Eastern District of Pennsylvania, before Judge McGlynn. Mr. Saveri was a member of the Executive Committee and the trial team. The case was settled for approximately \$80,000,000.

In re Ocean Shipping Antitrust Litigation, MDL No. 395, United States District Court, Southern District of New York, before Judge Stewart. Mr. Saveri was a member of the Steering Committee and the Negotiating Committee. The firm understands this case was the first class action settlement involving claims by foreign companies. Mr. Saveri was appointed an officer of the New York Federal District Court to audit foreign claims in Europe. The case was settled for approximately \$79,000,000.

In re Corn Derivatives Antitrust Litigation, MDL No. 414, United States District Court, District of New Jersey, before Judge Seitz. Mr. Saveri was Chairman of the Steering Committee and Executive Committee.

In re Coconut Oil Antitrust Litigation, MDL No. 474, United States District Court, Northern District of California, before Judge Orrick. Mr. Saveri was Co-Lead Counsel.

In re Intel Securities Litigation, No.C-79-2168A, United States District Court, Northern District of California, before Judge Aguilar. Mr. Saveri was a member of the Steering Committee.

O'Neill Meat Co. v. Eli Lilly and Co., No. 30 C 5093, United States District Court, Northern District of Illinois, before Judge Holderman. Mr. Saveri was Co-Lead Counsel for the class in this antitrust litigation involving pancreas glands.

United National Records, Inc. v. MCA, Inc., No.82 C 7589, United States District Court, Northern District of Illinois, before Judge Bua. Mr. Saveri was a member of the Steering Committee in this records antitrust litigation. The class recovered \$26,000,000 in cash and assignable purchase certificates.

In re Industrial Gas Antitrust Litigation, No. 80 C 3479, United States District Court, Northern District of Illinois, before Judge Endamer. Mr. Saveri was a member of the Steering Committee. The class recovered more than \$50,000,000.

Superior Beverages, Inc. v. Owens-Illinois, No. 83-C512, United States District Court, Northern District of Illinois, before Judge Will. Mr. Saveri was a member of the Executive Committee in this antitrust litigation involving the price fixing of glass containers. The class recovered more than \$70,000,000 in cash and coupons.

In re Washington Public Power Supply Securities Litigation, MDL No. 551, United States District Court, W.D. Washington, Second (Seattle) Division, before Judge Browning. Mr. Saveri was one of the court appointed attorneys for the class.

In re Ask Computer Systems Securities Litigation, No. C-85-20207 (A) RPA, United States District Court, Northern District of California, before Judge Aguilar. Mr. Saveri was Co-Lead Counsel for the class.

Big D. Building Corp. v. Gordon W. Wattles., MDL No. 652, United States District Court, Middle District of Pennsylvania. Mr. Saveri was a member of the Steering Committee and Settlement Committee in this price fixing class action involving the rope industry.

In re Insurance Antitrust Litigation, MDL No. 767, United States District Court, Northern District of California, before Judge Schwarzer. Mr. Saveri was Administrative Liaison Counsel and a member of the Steering Committee.

In re Sun Microsystems Securities Litigation, No. C-89-20351 RMW, United States District Court, Northern District of California, before Judge Whyte. Mr. Saveri was appointed Co-Lead Counsel.

In re Infant Formula Antitrust Litigation, MDL No. 878, United States District Court, Northern District of Florida, Tallahassee Division. Mr. Saveri was one of the principal attorneys. The case was settled for \$125,760,000.

In re Carbon Dioxide Industry Antitrust Litigation, MDL No. 878, Case No. 92-940 PHB, United States District Court, Middle District of Florida, Orlando Division. Mr. Saveri was a member of the Steering Committee. The class recovered \$53,000,000 and achieved significant therapeutic relief for the class.

In re Medical X-Ray Film Antitrust Litigation, No. CV 93-5904, FB, United States District Court, Eastern District of New York. Mr. Saveri was a member of the Steering Committee.

In re Baby Food Antitrust Litigation, No. 92-5495 NHP, United States District Court, District of New Jersey, before Judge Politan. Mr. Saveri was a member of the Steering Committee.

In re Brand Name Prescription Drugs Antitrust Litigation, MDL No. 997, Case No. 94-C-897 CPK, United States District Court, Northern District of Illinois, Eastern Division, before Judge Kocoras. Mr. Saveri was Co-Lead Counsel on behalf of approximately 50,000 retail pharmacies nationwide alleging an illegal cartel between seventeen drug manufacturers and six drug wholesalers in preventing discounts to retail pharmacies. The case was tried for eight weeks. The case was settled for \$700,000,000 in cash and \$25,000,000 in product. Mr. Saveri was one of four lead trial lawyers.

In re Citric Acid Antitrust Litigation, MDL No. 1092, C-95-2963 FMS, United States District Court, Northern District of California, before Judge Smith. Mr. Saveri was Co-Lead Counsel representing a certified class of purchasers of citric acid throughout the United States against the citric acid manufacturers for violations of the Sherman Act for fixing the price of citric acid in the United States and around the world. The case was settled for \$86,000,000.

In re Methionine Antitrust Litigation, MDL No. 1311 CRB, United States District Court, Northern District of California, before Judge Breyer. A nationwide class action on behalf

of direct purchasers of methionine alleging price-fixing. Saveri & Saveri, Inc. served as Co-Lead Counsel in this litigation. The case was settled for \$107,000,000.

In re Managed Care Litigation, MDL No. 1334, Master File No. 00-1334-MD, United States District Court, Southern District of Florida, before Judge Moreno. The Saveri Firm served as a member of the Executive Committee representing the California Medical Association, Texas Medical Association, Georgia Medical Association and other doctors against the nation's HMOs for violations of the Federal RICO Act. The case was settled with benefits approximating \$1 billion dollars.

In re Dynamic Random Access Memory Antitrust Litigation, MDL No. 1486, United States District Court, Northern District of California, before Judge Hamilton. Mr. Saveri served as Co-Lead Counsel on behalf of a nationwide class of direct purchasers of dynamic random access memory (DRAM) alleging price-fixing. The case settled for more than \$325 million in cash.

In re Flash Memory Antitrust Litigation, No. 07-cv-00086-SBA, United States District Court, Northern District of California, before Judge Armstrong. Mr. Saveri served as Co-Lead Counsel on behalf of a nationwide class of direct purchasers of flash memory (Flash) alleging price-fixing.

In re Cathode Ray Tube (CRT) Antitrust Litigation, MDL No. 1917, Case No. C 07-5944 JST, United States District Court, Northern District of California before Judge Tigar. Mr. Saveri serves as Lead Counsel on behalf of a nationwide class of direct purchasers of cathode ray tubes (CRTs) alleging price-fixing.

In re Optical Disk Drive (ODD) Products Antitrust Litigation, MDL No. 2143, 10-md-02143-RS, United States District Court, Northern District of California, before Judge Seeborg. Mr. Saveri served as Chair of the Committee of Direct Purchaser Plaintiffs' Counsel on behalf of a nationwide class of direct purchasers of optical disk drives (ODDs) alleging price-fixing.

CLASS ACTION LITIGATION

The following are some additional class action cases in which Saveri & Saveri, Inc. actively participated as class counsel:

In re NASDAQ Market-Makers Antitrust Litigation, MDL No. 1023, United States District Court, Southern District of New York. A nationwide class action on behalf of purchasers of securities on the NASDAQ market alleging a violation of the Sherman Act for fixing the spread between the quoted buy and sell prices for the securities sold on the NASDAQ market.

In re Potash Antitrust Litigation, MDL No. 981, United States District Court, District of Minnesota, Third Division. A class action on behalf of all direct purchasers of potash throughout the United States alleging a horizontal price fix.

In re Airline Ticket Commission Antitrust Litigation, MDL No. 1058, United States District Court, District of Minnesota. A class action alleging that the major airlines conspired to fix travel agents' commission rates.

Pharmaceutical Cases I, II & III, J.C.C.P. Nos. 2969, 2971 & 2972, San Francisco Superior Court. A certified class action on behalf of all California consumers against the major drug manufacturers for fixing the price of all brand name prescription drugs sold in California.

Perish v. Intel Corp., Civ. No. 755101, Santa Clara Superior Court. A nationwide class action on behalf of purchasers of Intel Pentium chips alleging consumer fraud and false advertising.

In re Carpet Antitrust Litigation, MDL No. 1075, United States District Court, Northern District of Georgia, Rome Division. A nationwide class action on behalf of all direct purchasers of polypropylene carpet alleging a horizontal price fix.

In re California Indirect-Purchaser Plasticware Antitrust Litigation, Civ. Nos. 961814, 963201, 963590, San Francisco Superior Court. A class action on behalf of indirect purchasers of plasticware alleging price-fixing.

In re Worlds of Wonder Securities Litigation; No.C-87-5491 SC, United States District Court, Northern District of California.

Pastorelli Food Products, Inc. v. Pillsbury Co., et al., No. 87C 20233, United States District Court, Northern District of Illinois.

Red Eagle Resources Corp., et al. v. Baker Hughes Incorporated, et al., No. 91-627 (NWB) (Drill Bits Litigation), United States District Court, Southern District of Texas, Houston Division.

In re Wirebound Boxes Antitrust Litigation, MDL No. 793, United States District Court, District of Minnesota, Fourth Division. A nationwide class action on behalf of purchasers of wirebound boxes alleging a horizontal price fix.

In re Bulk Popcorn Antitrust Litigation, No. 3-89-710, United States District Court, District of Minnesota, Third Division. A nationwide class action on behalf of direct purchasers of bulk popcorn alleging price-fixing.

Nancy Wolf v. Toyota Sales, U.S.A. and Related Cases, No. C 94-1359, United States District Court, Northern District of California.

Mark Notz v. Ticketmaster - Southern, and Related Cases, No. 943327, San Francisco Superior Court. A consumer class action alleging a territorial allocation in violation of the Cartwright Act.

Neve Brothers v. Potash Corp., No. 959867, San Francisco Superior Court. A class action alleging price-fixing on behalf of indirect purchasers of potash in California.

In re Chrysler Corporation Vehicle Paint Litigation, MDL No. 1239. Nationwide class action on behalf of owners of delaminating Chrysler vehicles.

Miller v. General Motors Corp., Case No. 98 C 7836, United States District Court, Northern District of Illinois. Nationwide class action alleging a defective paint process which causes automobile paint to peel off when exposed to ordinary sunlight.

ANTITRUST LITIGATION

The following list outlines some of the antitrust litigation in which the firm of Saveri & Saveri, Inc. has been involved:

1. *Union Carbide & Carbon Corp. v. Nisley*, 300 F. 2d 561 (10th Cir. 1960)
2. *Continental Ore. Co. v. Union Carbide and Carbon Corp.*, 370 U.S. 690 (1962)
3. *Public Service C. of N.M. v. General Elec. Co.*, 315 F.2d 306 (10th Cir. 1963)
4. *State of Washington v. General Elec. Co.*, 246 F. Supp. 960 (W.D. Wash. 1965)
5. *Nurserymen's Exchange v. Yoder Brothers, Inc.*, No. 70-1510 (N.D. Cal. 1970)
6. *Bel Air Markets v. Foremost Dairies Inc.*, 55 F.R.D. 538 (N.D. Cal. 1972)
7. *In re Western Liquid Asphalt Case*, 487 F.2d 191 (9th Cir. 1973)
8. *In re Gypsum Cases*, 386 F. Supp. 959 (N.D. Cal. 1974)
9. *City of San Diego v. Rockwell Manufacturing Co.*
10. *In re Private Civil Treble Damage Actions Against Certain Snack Food Companies*, Civil No. 70-2121-R (C.D. Cal. 1970)
11. *In re Sugar Antitrust Litigation*, MDL No. 201, 559 F.2d 481 (9th Cir. 1977)
12. *Sun Garden Packing Co. v. International Paper Co.*, No. C-72-52 (N.D. Cal. 1972)
13. *In re Folding Carton Antitrust Litigation*, MDL No. 250 (E.D. Ill.)
14. *In re Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions*, No. 4-72 Civ 435, 410 F. Supp. 706 (D. Minn. 1972)
15. *Building Service Union Health & Welfare Trust Fund v. Chas. Pfizer & Company*, Nos. 4-71 Civ. 435, 4-71 Civ. 413 (D. Minn. 1971)
16. *In re Fine Paper Antitrust Litigation*, MDL No. 323 (E.D. Pa.)
17. *In re Armored Car Antitrust Litigation*, CA No. 78-139A, 472 F. Supp. 1357 (N.D. Ga. 1978)
18. *In re Ocean Shipping Antitrust Litigation*, MDL No. 395, 500 F. Supp. 1235 (3d Cir. 1984)
19. *In re Corn Derivatives Antitrust Litigation*, MDL No. 414 (D.N.J. 1980)
20. *In re Coconut Oil Antitrust Litigation*, MDL No. 474 (N.D. Cal.)
21. *Garside v. Everest & Jennings Intern.*, No. S-80-82 MLS, 586 F. Supp. 389 (E.D. Cal. 1984)
22. *Lorries Travel & Tours, Inc. v. SFO Airporter Inc.*, 753 F.2d 790 (9th Cir. 1985)
23. *O'Neill Meat Co. v. Eli Lilly and Company*, No. 30 C 5093 (N.D. Ill.)
24. *In re Records and Tapes Antitrust Litigation*, No.82 C 7589, 118 F.R.D. 92 (N.D. Ill. 1987)

25. *In re Industrial Gas Antitrust Litigation*, No. 80 C 3479, 100 F.R.D. 280 (N.D. Ill. 1987)
26. *Matter of Superior Beverages/Glass Container Consolidated Pretrial*, No. 83-C512, 137 F.R.D. 119 (N.D. Ill. 1990)
27. *Big D. Building Corp. v. Gordon W. Wattles*, MDL No. 652
28. *In re Insurance Antitrust Litigation*, MDL No. 767 (N.D. Cal.)
29. *In re Wirebound Boxes Antitrust Litigation*, MDL No. 793 (D. Minn.)
30. *In re Domestic Air Transp. Antitrust Litigation*, MDL No. 861, 144 F.R.D. 421 (N.D. Ga. 1992)
31. *In re Infant Formula Antitrust Litigation*, MDL No. 878 (N.D. Fla.)
32. *Finnegan v. Campeau Corp.*, 915 F.2d 824 (2d Cir. 1990)
33. *In re Carbon Dioxide Industry Antitrust Litigation*, MDL No. 940, 155 F.R.D. 209 (M.D. Fla.)
34. *In re Medical X-Ray Film Antitrust Litigation*, No. CV 93-5904 (E.D.N.Y. 1993)
35. *In re Bulk Popcorn Antitrust Litigation*, 792 F. Supp. 650 (D. Minn. 1992)
36. *In re Baby Food Antitrust Litigation*, No. 92-5495 (NHP) (D.N.J. 1992)
37. *In re Potash Antitrust Litigation*, MDL No. 981 (D. Minn.)
38. *In re Brand Name Prescription Drugs Antitrust Litigation*, MDL No. 997, 94 C 897 (N.D. Ill.)
39. *In re Citric Acid Antitrust Litigation*, MDL No. 1092 (N.D. Cal.)
40. *In re NASDAQ Market-Makers Antitrust Litigation*, MDL No. 1023 (S.D.N.Y.)
41. *In re Airline Ticket Commission Antitrust Litigation*, MDL No. 1058 (D. Minn.)
42. *Pharmaceutical Cases I, II & III*, J.C.C.P. Nos. 2969, 2971 & 2972, San Francisco Superior Court
43. *In re Carpet Antitrust Litigation*, MDL No. 1075 (N.D. Ga.)
44. *In re California Indirect-Purchaser Plastic Ware Antitrust Litigation*, Nos. 961814, 963201, 963590, San Francisco Superior Court
45. *Pastorelli Food Products, Inc. v. Pillsbury Co.*, No. 87C 20233 (N.D. Ill.)
46. *Red Eagle Resources Corp. v. Baker Hughes Inc.*, No. 91-627 (NWB) (Drill Bits Litigation) (S.D. Tex.)
47. *Mark Notz v. Ticketmaster - Southern, and Related Cases*, No. 943327, San Francisco Superior Court
48. *Neve Brothers. v. Potash Corp.*, No. 959867, San Francisco Superior Court
49. *Food Additives (Citric Acid) Cases*, J.C.C.P. No. 3625, Master File No. 974-120
50. *Biljac Associates v. First Interstate Bank*, No. 824-289, San Francisco Superior Court

51. *Diane Barela v. Ralph's Grocery Co.*, No. BC070061, Los Angeles Superior Court
52. *Leslie K. Bruce v. Gerber Products Co.*, No. 948-857, San Francisco Superior Court
53. *In re California Indirect Purchaser Medical X-Ray Film Antitrust Litigation*, Master File No. 960886
54. *Lee Bright v. Kanzaki Specialty Papers, Inc.*, No. 963-598, San Francisco Superior Court
55. *Neve Brothers v. Potash Corporation of America*, No. 959-767, San Francisco Superior Court
56. *Gaehwiler v. Sunrise Carpet Industries Inc.*, No. 978345, San Francisco Superior Court
57. *In re Commercial Tissue Products Antitrust Litigation*, MDL No. 1189 (N.D. Fla.)
58. *Sanitary Paper Cases I and II*, J.C.C.P. Nos. 4019 & 4027, San Francisco Superior Court
59. *Gaehwiler v. Aladdin Mills, Inc.*, No. 300756, San Francisco Superior Court
60. *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (3d Cir.)
61. *Flat Glass Cases*, J.C.C.P. No. 4033, San Francisco Superior Court
62. *Sorbate Prices Cases*, J.C.C.P. No. 4073, San Francisco Superior Court
63. *In re Stock Options Trading Antitrust Litigation*, MDL No. 1283 (S.D.N.Y.)
64. *In re Vitamin Antitrust Litigation*, MDL No. 1285 (D.D.C.)
65. *In re Sorbates Direct Purchaser Antitrust Litigation*, Master File No. C 98-4886 CAL (N.D. Cal. 1998)
66. *Vitamin Cases*, J.C.C.P. No. 4076, San Francisco Superior Court
67. *In re PRK/Lasik Consumer Litigation*, Master File No. CV 772894, Santa Clara Superior Court
68. *In re Nine West Shoes Antitrust Litigation*, Master File No. 99-CV-0245 (BDP) (S.D.N.Y. 1999)
69. *Food Additives (HFCS) Cases*, J.C.C.P. No. 3261, Stanislaus County Superior Court
70. *In re Toys "R" Us Antitrust Litigation*, MDL No. 1211 (E.D.N.Y.)
71. *Cosmetics Cases*, J.C.C.P. No. 4056, Marin County Superior Court
72. *In re Methionine Antitrust Litigation*, MDL No. 1311 (N.D. Cal.)
73. *Bromine Cases*, J.C.C.P. No. 4108
74. *Fu's Garden Restaurant v. Archer-Daniels-Midland*, No. 304471, San Francisco Superior Court
75. *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives and Composites, Inc.*, No. CV 99-07796 GHK (C.D. Cal. 1999)
76. *In re Monosodium Glutamate Antitrust Litigation*, MDL No. 1328 (D. Minn.)

77. *California Indirect Purchaser Auction House Cases*, Master Case No. 310313, San Francisco Superior Court
78. *In re Cigarette Antitrust Litigation*, MDL No. 1342 (N.D. Ga.)
79. *Cigarette Price Fixing Cases*, J.C.C.P. No. 4114, Alameda County Superior Court
80. *Microsoft Cases*, J.C.C.P. No. 4106, San Francisco Superior Court
81. *Compact Disk Cases*, J.C.C.P. No. 4123, Los Angeles Superior Court
82. *In re Compact Disc Minimum Advertised Price Antitrust Litigation*, MDL No. 1361 (D. Me.)
83. *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, MDL No. 1383 (E.D.N.Y.)
84. *In re Bupirone Antitrust Litigation*, MDL No. 1413 (S.D.N.Y.)
85. *In re K-Durr Prescription Drug Antitrust Litigation*, MDL No. 1419
86. *Carbon Cases*, J.C.C.P. Nos. 4212, 4216 and 4222, San Francisco Superior Court
87. *In re Polychloroprene Antitrust Cases*, J.C.C.P. No. 4376, Los Angeles Superior Court
88. *In re Urethane Cases*, J.C.C.P. No. 4367, San Francisco Superior Court
89. *The Harman Press v. International Paper Co.*, Master File No. CGC-04-432167, San Francisco Superior Court
90. *In re Label Stock Cases*, J.C.C.P. No. 4314, San Francisco Superior Court
91. *Richard Villa v. Crompton Corp.*, Master File No. CGC-03- 419116, San Francisco Superior Court
92. *Russell Reidel v. Norfalco LLC*, Master File No. CGC-03-418080, San Francisco Superior Court
93. *Smokeless Tobacco Cases I-IV*, J.C.C.P. Nos. 4250, 4258, 4259, & 4262, San Francisco Superior Court
94. *Natural Gas Antitrust Cases*, J.C.C.P. No. 4312
95. *In re Western States Wholesale Natural Gas Litigation*, MDL No. 1566 (D. Nev.)
96. *In re Automotive Refinishing Paint Cases*, J.C.C.P. No. 4199, Alameda County Superior Court
97. *In re Tableware Antitrust Litigation*, Master File No. C-04-3514 VRW (N.D. Cal. 2004)
98. *In re Credit/Debit Card Tying Cases*, J.C.C.P. No. 4335, San Francisco Superior Court
99. *In re NBR Cases*, J.C.C.P. No. 4369, San Francisco Superior Court
100. *Competition Collision Center, LLC v. Crompton Corp.*, No. CGC-04-431278, San Francisco Superior Court
101. *In re Urethane Chemicals Antitrust Litigation*, MDL No. 1616 (D. Kan.)
102. *In re Rubber Chemicals Antitrust Litigation*, MDL No. 1648 (N.D. Cal.)

103. *Carpinelli v. Boliden AB*, Master File No. CGC-04-435547, San Francisco Superior Court
104. *Automobile Antitrust Cases I and II*, J.C.C.P. Nos. 4298 and 4303, San Francisco Superior Court
105. *In re Currency Conversion Fee Antitrust Litigation*, MDL No. 1409 (S.D.N.Y.)
106. *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, MDL No. 1486 (N.D. Cal.)
107. *In re Publication Paper Antitrust Litigation*, MDL No. 1631 (D. Conn.)
108. *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1663 (D.N.J.)
109. *In re Hydrogen Peroxide Antitrust Litigation*, MDL No. 1682 (E.D. Pa.)
110. *In re Intel Corp. Microprocessor Antitrust Litigation*, MDL No. 1717 (D. Del.)
111. *In re Air Cargo Shipping Services Antitrust Litigation*, MDL No. 1775 (E.D.N.Y.)
112. *In re International Air Transportation Surcharge Antitrust Litigation*, MDL No. 1793 (N.D. Cal.)
113. *Carbon Black Cases*, J.C.C.P. No. 4323, San Francisco Superior Court
114. *Madani v. Shell Oil Co.*, No. 07-CV-04296 MJJ (N.D. Cal.)
115. *In re Static Random Access Memory (SRAM) Antitrust Litigation*, MDL No. 1819 (N.D. Cal.)
116. *In re Flash Memory Antitrust Litigation*, No. 07-CV-00086-SBA (N.D. Cal.)
117. *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.)
118. *In re Korean Air Lines Co., Ltd., Antitrust Litigation*, MDL No. 1891 (C.D. Cal.)
119. *In re Fasteners Antitrust Litigation*, MDL No. 1912 (E.D. Pa.)
120. *In re Transpacific Passenger Air Transportation Antitrust Litigation*, MDL No. 1913 (N.D. Cal.)
121. *In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL No. 1917 (N.D. Cal.)
122. *In re Chocolate Confectionary Antitrust Litigation*, MDL No. 1935 (M.D. Pa.)
123. *In re Flat Glass Antitrust Litigation (II)*, MDL No. 1942 (W.D. Pa.)
124. *In re Municipal Derivatives Antitrust Litigation*, MDL No. 1950 (S.D.N.Y.)
125. *In re Aftermarket Filters Antitrust Litigation*, MDL No. 1957 (N.D. Ill.)
126. *In re Puerto Rican Cabotage Antitrust Litigation*, MDL No. 1960 (D.P.R.)
127. *In re Hawaiian and Guamanian Cabotage Antitrust Litigation*, MDL No. 1972 (W.D. Wash.)
128. *In re California Title Insurance Antitrust Litigation*, No. 08-01341 JSW (N.D. Cal.)
129. *In re Optical Disk Drive (ODD) Antitrust Litigation*, MDL No. 2143 (N.D. Cal.)
130. *Kleen Products LLC v. Packaging Corporation of America*, No. 10-5711 (N.D. Ill.)

131. *In re Automotive Parts Antitrust Litigation*, MDL No. 2311 (E.D. Mich.)
132. *In re On-Line Travel Company (OTC)/Hotel Booking Antitrust Litigation*, MDL No. 2405 (N.D. Tex.)
133. *In re Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420 (N.D. Cal.)
134. *In re Capacitors Antitrust Litigation*, Master File No. 14-cv-03264 JD (N.D. Cal.)
135. *In re Resistors Antitrust Litigation*, Master File No. 15-cv-03820 JD (N.D. Cal.)
136. *In re Domestic Airline Travel Antitrust Litigation*, MDL No. 2656 (D.D.C.)
137. *In re Broiler Chicken Antitrust Litigation*, Master File No. 16-cv-08637 (N.D. Ill.)
138. *In re Inductors Antitrust Litigation*, Master File No. 18-cv-00198 EJD (N.D. Cal.)
139. *In re Dynamic Random Access Memory (DRAM) Direct Purchaser Antitrust Litigation*, No. 18-cv-3805-JSW-KAW (N.D. Cal.)
140. *Cameron v. Apple Inc.*, No. 4:19-cv-03074-YGR (N.D. Cal.)

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EXHIBIT 2

TIME REPORT

FIRM NAME: Saveri & Saveri, Inc.

REPORTING PERIOD: 11/2020 - 06/2023

Categories:

- (1) DISCOVERY AND INVESTIGATION OF CASE
- (2) ADMINISTRATION
- (3) BRIEFS MOTIONS AND PLEADINGS
- (4) LITIGATION STRATEGY ANALYSIS AND CASE MANAGEMENT
- (5) COURT APPEARANCES

- (6) TRIAL PREP
- (7) SETTLEMENT NEGOTIATIONS AND DRAFTING
- (8) APPEAL
- (9) BANKRUPTCY

- Status:
- (P) Partner
 - (A) Associate
 - (LC) Law Clerk
 - (PL) Paralegal
 - (OC) Of Counsel
 - (DR) Document Reviewer

NAME	STATUS/YEAR	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	Current Hours	Hourly Rate	Current Lodestar	Cumulative Hours	Cumulative Lodestar
R. Alexander Saveri	P/2023	1.70		0.40	10.30			0.70			13.10	\$900.00	\$ 11,790.00	13.10	\$ 11,790.00
R. Alexander Saveri	P/2022	0.40		15.80	25.45	2.50		1.90			46.05	\$800.00	\$ 36,840.00	46.05	\$ 36,840.00
R. Alexander Saveri	P/2021	1.10		22.30	18.30	2.70		1.30			45.70	\$800.00	\$ 36,560.00	45.70	\$ 36,560.00
R. Alexander Saveri	P/2020	0.90		37.80	4.40			0.40			43.50	\$800.00	\$ 34,800.00	43.50	\$ 34,800.00
Geoffrey C. Rushing	P/2023	0.50		54.40	74.00						128.90	\$900.00	\$ 116,010.00	128.90	\$ 116,010.00
Geoffrey C. Rushing	OC/2022			425.50	185.80						611.10	\$800.00	\$ 488,880.00	611.10	\$ 488,880.00
Geoffrey C. Rushing	OC/2021			59.10	2.90						62.00	\$800.00	\$ 49,600.00	62.00	\$ 49,600.00
Geoffrey C. Rushing	OC/2020			34.10	2.70						36.80	\$800.00	\$ 29,440.00	36.80	\$ 29,440.00
Sarah Van Culin	A/2022	5.80		138.00	9.10			1.10			154.00	\$475.00	\$ 73,150.00	154.00	\$ 73,150.00
Sarah Van Culin	A/2021	7.50		53.20	5.50			5.90			72.10	\$475.00	\$ 34,247.50	72.10	\$ 34,247.50
Sarah Van Culin	A/2020	0.10		70.90	0.10			11.60			82.70	\$475.00	\$ 39,282.50	82.70	\$ 39,282.50
Matthew Heaphy	A/2023	1.75		10.50	3.00			7.00			22.25	\$600.00	\$ 13,350.00	22.25	\$ 13,350.00
Matthew Heaphy	A/2022	6.00		20.00	3.00						29.00	\$600.00	\$ 17,400.00	29.00	\$ 17,400.00
Dennis Stuchak	DR/2021	637.50									637.50	\$200.00	\$ 127,500.00	637.50	\$ 127,500.00
Dennis Stuchak	DR/2020	262.00									262.00	\$200.00	\$ 52,400.00	262.00	\$ 52,400.00
TOTALS		925.25	0.00	942.00	344.35	5.20	0.00	29.90	0.00	0.00	2,246.70		\$ 1,161,250.00	2,246.70	\$ 1,161,250.00

EXHIBIT 15

Firm Name	Current Hours	Current Lodestar
Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.	2,717.10	\$2,020,787.50
Bonsignore Trial Lawyers, PLLC	7,283.10	\$5,490,460.00
Law Offices of Frank N. Dardeno	2,905.10	\$1,277,115.00
Lockridge, Grindal & Nauen PLLP	4,141.90	\$2,797,869.00
Miller Firm, P.C.	6,526.90	\$3,650,092.25
Moneet Kohli, Sole Practitioner	226.90	\$102,105.00
Murphy & Rudolf, LLP	166.30	\$128,652.50
Saveri & Saveri, Inc.	2,246.70	\$1,161,250.00
Shaheen & Gordon, P.A.	2,806.30	\$1,278,656.25
Steven Rhodes Consulting, LLC	62.20	\$26,435.00
Stranch, Jennings, Garvey PLLC	5,263.20	\$2,450,381.30
Wagstaffe, von Loewenfeldt, Bush & Radwick LLP	355.50	\$272,720.00
Warren & Sugarman	348.10	\$243,670.00
TOTAL:	35,049.3	\$20,900,193.80

EXHIBIT 16

Summary of Expenses

Category	Vendor Name	Total
Bank Service Fee	Eastern Bank	\$50.00
Case Management Systems	FileVine, Inc.	\$32,394.04
	Legal Systems & Resource Management	\$9,774.50
	VineSkills	\$45,000.00
Class Notice	A.B. Data, LTD	\$102,292.71
Court Transcripts	Marianne Kusa-Ryll, RDR, CRR	\$636.65
Document Depository	Array	\$50,777.06
	Consilio	\$106,326.47
	CS Disco, Inc.	\$92,239.01
Expert Fees	Friedman LLP	\$50,000.00
	Ghiglieri and Company	\$10,000.00
	Global Payment Experts, LLC	(\$10,000.00)
	Raines Feldman, LLC	\$50,000.00
	Roger J. Dodd Lawyers PC	\$15,000.00
	Ross Delston	\$25,000.00
Professional & Legal Fees	CISION US Inc.	\$3,560.00
	JAMS, Inc.	\$298,231.40
	McElroy Consulting	\$10,000.00
	Perry Dampf Dispute Solutions	\$3,993.75
	Special Counsel/Parker & Lynch	\$7,037.39
	Thompson Coburn, LLP	\$25,000.00
TOTAL:		\$927,312.98

EXHIBIT 17

From: TelexFree Settlement Administrator help@mg.abdataclassactionmail.com
Subject: Test - Notice of Class Action Settlement – In re: TelexFree Securities Litigation
Date: November 6, 2023 at 11:18 AM
To: Eric Schachter eric.schachter@abdata.com



EXTERNAL SENDER

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS
In re: TelexFree Securities Litigation, Case No. 4:14-md-2566-TSH

If You Bought a TelexFree AdCentral or AdCentral Family Package, Class Action Settlements Totaling Over \$95 Million May Affect Your Rights.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.

- A class action lawsuit brought on behalf of victims of the TelexFree pyramid scheme is currently pending.
- Plaintiffs allege that they were injured as a result of the Defendants' assistance and participation in the TelexFree pyramid scheme. Defendants dispute Plaintiffs' claims.
- New settlements totaling \$95,525,000 have now been reached in this litigation regarding claims against: T.D. Bank, N.A. ("TD Bank"); International Payout Systems, Inc. ("IPS"), Natalia Yenatska, and Edwin Gonzalez (the "IPS Defendants"); and Ryan Mitchell and Telecom Logic (the "Mitchell" or "Mitchell/Telecom Logic Defendants") (collectively the "Settling Defendants").
- These are the fifth, sixth, and seventh settlements reached in this litigation. Four settlements were previously reached with eleven Defendants and related third-parties and have received final approval by the Court.
- Your legal rights will be affected whether you act or do not act. This Notice includes information on the new settlements and the lawsuit. Please read the entire Notice carefully.
- The Court in charge of this case still has to decide whether to approve the settlements.
- **This Notice and additional information translated in a variety of other languages is available by visiting www.TelexFreeSettlement.com. You may also call 877-829-4140 to obtain additional information in a variety of other languages. Translators are available upon request.**

YOUR LEGAL RIGHTS AND OPTIONS

**OBJECT BY
DECEMBER 7**

Submit your objection explaining why you disagree with the settlements and/or the requested attorneys' fees, litigation expenses, and incentive awards

<p>DECEMBER 7, 2023</p>	<p>expenses, and incentive awards.</p> <p><i>See Question 9 for more information.</i></p>
<p>EXCLUDE YOURSELF BY DECEMBER 7, 2023</p>	<p>This is the only option that allows you to individually sue the Settling Defendants about the claims asserted in this case. You will no longer be a member of the Settlement Class and you will not receive any funds from the settlements.</p> <p><i>See Question 9 for more information.</i></p>
<p>GO TO THE HEARING ON FEBRUARY 6, 2024, AT 2:00 P.M.</p>	<p>Ask to speak in Court about any aspect of the settlements and/or the requested attorneys' fees, litigation expenses, and incentive awards.</p> <p><i>See Questions 11–12 for more information.</i></p>
<p>DO NOTHING</p>	<p>You will remain a member of the Settlement Class. You will give up any rights you currently have to separately sue the Settling Defendant for the conduct that is the subject of the lawsuits.</p> <p><i>See Questions 9–10 for more information.</i></p>

WHAT THIS NOTICE CONTAINS

Basic Information

1. Why did I get this Notice?
2. Who are the Defendants?
3. What is this lawsuit about?
4. What is the status of the litigation?
5. What is a class action?

The Settlement Class

6. How do I know if I'm part of the Settlement Class?
7. What do the settlements provide?
8. When can I get a payment?
9. What are my rights in the Settlement Class?
10. What am I giving up to stay in the Settlement Class?

The Settlement Approval Hearing

11. When and where will the Court decide whether to approve the settlements?
12. Do I have to attend the hearing?

The Lawyers Representing You

13. Do I have a lawyer in the case?
14. How will the lawyers be paid?

Getting More Information

15. How do I get more information?

BASIC INFORMATION

1. Why did I get this Notice?

Records indicate that you may have purchased one or more TelexFree AdCentral or AdCentral Family packages and suffered a net loss between January 1, 2012, and April 16, 2014.

A "net loss" is defined as having occurred when the Settlement Class Member invested more funds in TelexFree than he or she withdrew.

You have the right to know about the case and about your legal rights and options before the Court decides whether to approve the settlement.

This Notice explains the litigation, the settlements, and your legal rights.

The litigation is before Judge Timothy S. Hillman of the United States District Court for the District of Massachusetts and the case is called *In re: TelexFree Securities Litigation*, Case Number 4:14-md-2566-TSH. The people who sued are called Plaintiffs and the companies and people they sued are called Defendants.

2. Who are the Defendants?

The Defendants fall into several categories.

TelexFree Entities: TelexElectric, LLLP and Telex Mobile Holdings, Inc., TelexFree, Inc., TelexFree, LLC, and TelexFree Financial, Inc. are not currently named as Defendants in the litigation due to their Chapter 11 bankruptcy protections.

The other Defendants are people and entities alleged to have participated in, or aided or abetted, the pyramid scheme.

TelexFree Founders, Principals, Executive Office Members, and Associated Individuals: James M. Merrill, Carlos N. Wanzeler, Carlos Roberto Costa, Steven M. Labriola, Joseph H. Craft, Craft Financial Solutions, LLC, Ana Paula Oliveira, Andreia B. Moreira, and Katia Wanzeler.

Attorney Defendants: Gerald P. Nehra, Esq., Gerald P. Nehra, Attorney at Law, PLLC, Law Offices of Nehra and Waak, Garvey Schubert Barer, P.C., Robert Weaver, Samuel C. Kauffman, Gary P. Tober, Sara P. Sandford, Jeffrey A. Babener, and Babener & Associates.

Bank Defendants: TD Bank, N.A., Wells Fargo Bank, N.A., Michael Montalvo, Fidelity Co-operative Bank, John F. Merrill, and Synovus Bank.

Payment Processing Service Companies: International Payout Systems, Inc., Edwin Gonzalez, Natalia Yenatska, ProPav, Inc., Base Commerce, LLC, John Hughes, Alexander

Sidell, Austin Petersen, Peter, Eric, Base Commerce, LLC, John Hughes, Alexander Sidel, Jason Doolittle, John Kirchhefer, Brian Bonfiglio, Vantage Payments, LLC, Dustin Sparman, Allied Wallet, Ltd., Allied Wallet, Inc., Ahmad Khawaja, Mohammed Diab, Amy Rountree, Priority Payout Corp., Thomas A. Wells, Bank Card Consultants, Inc., and John Yurick.

Investment Services Providers: Wells Fargo Advisors, LLC and Mauricio Cardenas.

Other Defendants: Telecom Logic, LLC and Ryan James Mitchell.

3. What is this lawsuit about?

Plaintiffs allege that they were injured as a result of the Defendants' assistance and participation in the TelexFree Pyramid/Ponzi Scheme.

Plaintiffs allege that TelexFree, Inc., TelexFree, LLC, TelexFree Financial, Inc., and their related entities and individuals operated an illegal scheme whereby they sold memberships and ostensibly paid promoters for placing advertisements for a voice over internet protocol ("VOIP") product, but in reality paid them to recruit other investors whose new membership fees kept the scheme afloat. Plaintiffs further allege that TelexFree, Inc., TelexFree, LLC, TelexFree Financial, Inc., and their related entities and individuals carried out other related ongoing operations, including, but not limited to, money laundering and the transfer of funds and operations offshore and beyond the reach of the United States' justice system. Plaintiffs allege that TelexFree's business and operations constituted an illegal Pyramid/Ponzi Scheme. Plaintiffs seek compensation for the economic loss they suffered as a result of the Defendants' alleged participation in, and/or aiding or abetting of, TelexFree's illegal Scheme. Plaintiffs also seek equitable relief.

Defendants dispute Plaintiffs' claims. Settling Defendants deny that they knew TelexFree was an illegal scheme when they provided banking services to the company. The Court has not yet decided who is right.

4. What is the status of the litigation?

These settlements with TD Bank, the IPS Defendants, and the Mitchell/Telecom Logic Defendants are the fifth, sixth, and seventh settlements reached in the litigation.

Four settlements, which have been approved by the Court, were previously reached regarding claims against fourteen parties, eleven of which are Defendants and three of which are related third-parties. The first settlement was with Defendants Base Commerce, LLC (formerly known as Phoenix Payments, LLC), John Hughes, Brian Bonfiglio, John Kirchhefer, and Alex Sidel (collectively, the "Base Commerce Defendants"). The second settlement was with Defendant Synovus Bank. The third settlement was with Defendants Joseph Craft and Craft Financial Solutions, Inc. and related third-parties BWFC Processing Center, LLC, ACE LLP, and Audra Craft. The fourth settlement was with Fidelity Bank and John Merrill (the "Fidelity Bank Defendants"). For more information on these settlements, including the settlement agreements and related Court orders and filings, please visit www.TelexFreeSettlement.com.

The litigation will continue against the other named Defendants until all Defendants reach a settlement or the case is dismissed or goes to trial. The funds obtained may be used for the benefit of the class in the ongoing litigation.

5. What is a class action?

In a class action, one or more people, called class representatives, sue on behalf of people who have similar claims. All these people are members of the class, except for those who exclude themselves from the class.

Important information about the case will be posted on the website, www.TelexFreeSettlement.com, as it becomes available. Please check the website to be kept informed about any future developments.

THE SETTLEMENT CLASS

6. How do I know if I'm part of the Settlement Class?

The Settlement Class includes persons who purchased TelexFree AdCentral or AdCentral Family packages and suffered a Net Loss during the period from January 1, 2012, to April 16, 2014.

A "Net Loss" means that the Settlement Class Member invested more funds than they withdrew.

7. What do the settlements provide?

The settlement with TD Bank provides for a payment of \$95,000,000. The settlement with the IPS Defendants provides for a payment of \$500,000. The settlement with the Mitchell/Telecom Logic Defendants provides for a payment of \$25,000. All of the settlements also require continuing cooperation by the Settling Defendants to the extent set forth in their individual Settlement Agreements. In return for the payment and benefits, Settlement Class Members are required to give up their claims against Settling Defendants and their past, present, and future employees, officers, directors, incorporators, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, fiduciaries, partners, partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, principals, managing directors, members, managers, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, advisors, consultants, brokers, dealers, lenders, attorneys, representatives, accountants, insurers, coinsurers, reinsurers, associates, and their related parties.

More details are in each of the Settlement Agreements, available at www.TelexFreeSettlement.com.

8. When can I get a payment?

No money will be distributed to any Settlement Class Member yet. The lawyers will continue to pursue the lawsuit against the other, non-settling Defendants to see if any future settlements or judgments can be obtained in the case and then the funds will be distributed in the best method available in order to reduce administrative expenses.

The plan of distribution for the settlement funds will depend on the total amount recovered from the Defendants, and attorney fees and case costs. You will be notified when and how to submit a claim. The plan of distribution for the settlement funds must be approved by the Court before the funds can be distributed.

9. What are my rights in the Settlement Class?

Remain in the Settlement Class: If you wish to remain a member of the Settlement Class, you do not need to take any action at this time. If you remain in the Settlement Class and participate in the settlements, you retain your right to administratively contest the amount you are awarded with the settlement administrator after you are notified what that amount is.

Opt Out of the Settlement Class: If you wish to keep your rights to sue the Settling Defendant about the conduct alleged in this litigation, any act or omission of the Settling Defendant alleged in the Complaints as it relates to the TelexFree Scheme, or any conduct alleged and causes of action asserted or that could have been alleged or asserted, in any class action or other complaints filed in this litigation, you must exclude yourself from the Settlement Class. You will not get any money from the settlements if you exclude yourself.

To exclude yourself from the Settlement Class, you must send a letter that includes the following:

1. Your name, home address at the time of your transactions with TelexFree, your current home address if different, your phone number, your current email address, your email address(es) at the time you conducted business with TelexFree, evidence of your transactions with TelexFree, your estimate of the date range of your transactions with TelexFree, and your estimated dollar transactions with TelexFree;
2. the name and contact information for all legal counsel(s) that you have consulted with as it relates to TelexFree or that represent you;
3. A statement saying that you wish to be excluded from the Settlement Class in *In re TelexFree Securities Litigation* – Case No. 4:14-md-2566-TSH, as to the TD Bank, IPS Defendants, and Mitchell/Telecom Logic Defendants for which you wish to retain your rights to sue; and
4. Your signature and the date you sign.

You must mail your exclusion request, postmarked no later than **December 7, 2023**, to:

TelexFree Securities Litigation
c/o A.B. Data. Ltd.

ATTN: EXCLUSIONS
P.O. Box 173001
Milwaukee, WI 53217

Remain in the Settlement Class and Object: You can ask the Court to deny approval of the settlements by filing an objection. You can't ask the Court to order larger settlements; the Court can only approve or deny the settlements. If the Court denies approval of the settlements, no payments from the settlements will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

If you are a Settlement Class Member, you may object to the proposed settlements in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you wish to speak at the Final Approval Hearing, you must send a letter informing the Clerk of the Court. If you appear through your own attorney, you are responsible for paying that attorney.

All written objections must be made under penalty of perjury and the supporting papers must include:

1. A heading that clearly identifies the case name and number (*In re TelexFree Securities Litigation* – Case No. 4:14-md-2566-TSH);
2. The objector's name, address, telephone number, and the contact information for any attorney retained in connection with the objection or otherwise in connection with the lawsuit;
3. A detailed statement of the specific factual and legal basis for the objection to the proposed settlements with TD Bank, the IPS Defendants, and the Mitchell/Telecom Logic Defendants;
4. A statement as to whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying the counsel by name, address, and telephone number;
5. A list of any witnesses the objector may call at the Final Approval Hearing, together with a brief summary of each witness's expected testimony;
6. A list of and copies of any exhibits which the objector may seek to use at the Final Approval Hearing;
7. A list of any legal authority the objector may present at the Final Approval Hearing; and
8. The objector's signature executed under penalty of perjury.

Objections must be submitted to the Court by mailing them to the Clerk's Office, United States District Court for Massachusetts, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts 01608.

Objections must be filed or postmarked on or before **December 7, 2023**.

10. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement Class, you can't sue Settling Defendants or be part of any other lawsuit against Settling Defendants, or their disclosed parents, subsidiaries, affiliates, divisions, predecessors, and successors, their respective past and present officers, directors, and employees, and insurers and reinsurers, about the legal issues in this case. It also means that all of the decisions made by the Court will bind you. The "Release of Claims" included in the Settlement Agreements covers all claims against the Settling Defendants relating to TelexFree and includes any causes of action asserted or that could have been asserted in the lawsuit.

The precise terms and conditions of the Settlement Agreements are available at www.TelexFreeSettlement.com.

THE SETTLEMENT APPROVAL HEARING

11. When and where will the Court decide whether to approve the settlements?

The Court will hold a Fairness Hearing in Courtroom 2 at **2:00 p.m. on February 6, 2024**, at the United States District Courthouse, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts 01608. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the settlement website for information. At this hearing, the Court will consider whether the settlements are fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlements. We do not know how long this decision will take.

12. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you file or mail an objection, you don't have to attend the hearing to talk about it. As long as you filed or mailed your written objection on time and comply with the above objection requirements, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has appointed the law firm of Bonsignore Trial Lawyers, PLLC to represent you as Lead Counsel and the Hon. Steven W. Rhodes (Ret.) Esq. of Detroit, Michigan; James Wagstaffe, Esq. of the WVBR Law Firm (San Francisco, CA); J. Gerard Stranch, Esq. of the Stranch, Jennings & Garvey, PLLC Law Firm (Nashville Tennessee); R. Alexander Saveri, Esq. of the Saveri Law Firm (San Francisco, CA); Ronald Dardeno, Esq. of the Law Offices of Frank

L. Dardeno, LLP (Somerville, MA); D. Michael Noonan of the Shaheen and Gordon law firm (Dover, NH); and Melanie Porter (Bonsignore) as Class Counsel for the Settlement Class. You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have that lawyer appear in court for you in this case, you may hire one at your own expense.

The contact information for Class Counsel is as follows:

Robert J. Bonsignore, Esq. Bonsignore Trial Lawyers, PLLC 23 Forest St. Medford, MA 02155 Telephone: 781-856-7650	R. Alexander Saveri, Esq. Saveri & Saveri, Inc. 706 Sansome Street San Francisco, CA 94111 Telephone: 415-217-6810
D. Michael Noonan, Esq. Shaheen and Gordon 353 Central Ave., Suite 200 P.O. Box 977 Dover, NH 03820 Telephone: 603-749-5000	Ronald A. Dardeno, Esq. Law Offices of Frank N. Dardeno 424 Broadway Somerville, MA 02145 Telephone: 617-666-2600

14. How will the lawyers be paid?

Class Counsel will submit an Application for Attorneys' Fees, Expenses, and Class Representative Incentive Awards to be heard at the same time as the Fairness Hearing on **February 6, 2024**. Class Counsel will ask the Court for attorneys' fees of one-third of the total settlement fund, or \$31,523,250, plus reimbursement of their costs as approved by the Court. In accordance with the provisions of the Settlement Agreement, Class Counsel will also request payment for the actual cost of class notice not to exceed \$500,000.00.

Class Counsel will also ask the Court to approve an incentive award of \$10,000 for the proposed class representatives.

Class Counsel will file their Application for Attorneys' Fees, Expenses, and Class Representative Incentive Awards on or before **November 17, 2023**. On the same day, Class Counsel will post their Application for Attorneys' Fees, Expenses, and Class Representative Incentive Awards on the settlement website, www.TelexFreeSettlement.com.

You may comment on or object to Class Counsel's Application for Attorneys' Fees, Expenses, and Class Representative Incentive Awards by following the procedure set forth in Question 9 above. Any comment or objection must be filed with the Court or postmarked by **December 7, 2023**.

GETTING MORE INFORMATION

15. How do I get more information?

This Notice summarizes the proposed settlements. For the precise terms and conditions of the settlements, please see the Settlement Agreements available at www.TelexFreeSettlement.com.

You can also get more information by contacting Class Counsel at the addresses listed above under Question 13, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.mad.uscourts.gov/cgi-bin/login.pl>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Massachusetts, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts 01608 between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

For More Information Call: 877-829-4140 or Visit: www.TelexFreeSettlement.com

**PLEASE DO NOT TELEPHONE THE COURT OR THE CLERK'S OFFICE TO INQUIRE
ABOUT
THE SETTLEMENT OR THE CLAIM PROCESS.**

Dated: October 3, 2023

BY ORDER OF THE COURT

If you'd like to unsubscribe [click here](#).