

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 **SCHONBRUN SEPLOW**  
4 **HARRIS & HOFFMAN LLP**  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 Attorneys for Plaintiffs

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE BROWN, AND  
14 BRIAN LINDSEY,

15 Plaintiffs,

16 vs.

17 FARMERS INSURANCE EXCHANGE  
18 AND MID CENTURY INSURANCE  
19 COMPANY,

20 Defendants.

Case No. BC579498

*[Assigned to the Hon. Maren Nelson in Dept.  
17 of Spring Street Courthouse]*

**DECLARATION OF JAY ANGOFF IN  
SUPPORT OF PLAINTIFFS’ MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: October 10, 2019

Time: 9:00 a.m.

Department: 17

Complaint filed: April 22, 2015

Trial Date: None Set

1 Jay Angoff, Esq.  
Cyrus Mehri, Esq.  
2 **MEHRI & SKALET PLLC**  
1250 Connecticut Ave. NW, Suite 300  
3 Washington, DC 20036  
4 Tel: (202) 822-5100  
5 Fax: (202) 822-4997  
6 jay.angoff@findjustice.com  
cyrus@findjustice.com

7 Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
8 **BERGER MONTAGUE, P.C.**  
1818 Market Street, Suite 3600  
9 Philadelphia, PA 19103  
10 Tel: (215) 875-3000  
11 Fax: (215) 875-4613  
pkahana@bm.net  
12 josterwise@bm.net

13 Jonathan K. Tycko, Esq.  
Andrea Gold, Esq.  
14 **TYCKO & ZAVAREEI LLP**  
1828 L Street NW, Suite 1000  
15 Washington, DC 20036  
16 Tel: (202) 973-0900  
17 Fax: (202) 973-0950  
jtycko@tzlegal.com  
18 agold@tzlegal.com

19 *Attorneys for Plaintiffs*

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1 I, Jay Angoff, declare and state as follows:

2 1. I am an attorney licensed to practice in the District of Columbia, and I was  
3 admitted pro hac vice in this matter on October 19, 2015. I am a partner at the law offices of  
4 Mehri & Skalet, one of the counsel for the Plaintiffs and the proposed Settlement Class in the  
5 above captioned matter. I submit this declaration in support of Plaintiffs' Unopposed Motion for  
6 Preliminary Approval of Class Action Settlement. Unless otherwise noted, I have personal  
7 knowledge of the facts set forth in this declaration and could and would testify competently to  
8 them if called upon to do so.

9 2. After several rounds of arms-length negotiation and settlement discussions, the  
10 Parties entered into a Settlement Agreement in this matter, a true and correct copy of which is  
11 attached as **EXHIBIT 1**, including all of its exhibits. The exhibits include a redacted version of  
12 the Proposed Second Amended Complaint (Exhibit 2). Counsel will provide the Court with the  
13 unredacted document at the hearing of this motion.

14 3. A true and correct copy of the firm resume of my law firm, Mehri & Skalet, is  
15 attached as **EXHIBIT 2**.

16 4. A true and correct copy of the firm resume of Tycko & Zavareei LLP is attached as  
17 **EXHIBIT 3**.

18 5. A true and correct copy of the firm resume of Berger Montague PC is attached as  
19 **EXHIBIT 4**.

20 6. A true and correct copy of the Declaration of Named Plaintiff Roger Harris in  
21 Support of the Proposed Settlement is attached as **EXHIBIT 5**.

22 7. A true and correct copy of the Declaration of Named Plaintiff Duane Brown in  
23 Support of the Proposed Settlement is attached as **EXHIBIT 6**.

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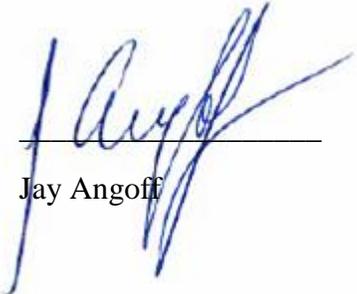
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8. A true and correct copy of the Declaration of Named Plaintiff Brian Lindsey in Support of the Proposed Settlement is attached as **EXHIBIT 7**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true of my own personal knowledge.

Executed at Washington, D.C. this 30th day of August, 2019.



Jay Angoff

# **EXHIBIT 1**

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Agreement”) is made and entered into this 29th day of August 2019, by and among (1) Plaintiffs, Roger Harris, Duane Brown, Brian Lindsey (“Plaintiffs”), individually, and on behalf of the Settlement Class, and (2) Farmers Insurance Exchange and Mid Century Insurance Company (collectively “Farmers” or “Defendants”), subject to preliminary and final approval as required by the California Rules of Court. As provided herein, Plaintiffs, Class Counsel and Farmers hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment and dismissal of the administrative investigation into Plaintiffs’ allegations (CDI File No. NC-2017-00003) (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur), all claims of the Settlement Class against Farmers in the action titled *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, County of Los Angeles, Case No. BC 57948 (“Action”), shall be settled and compromised upon the terms and conditions contained herein.

### **I. Recitals**

1. On April 22, 2015, Plaintiffs filed a class action complaint in the Superior Court of California alleging five causes of action pertaining to Farmers’ alleged use of price optimization/elasticity of demand (a.k.a., a method of taking into

account an individual's or class's willingness to pay a higher premium relative to other individuals or classes) as a rating factor in violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. ("UCL"), the California Insurance Code, and as unjust enrichment.

2. Plaintiffs filed a First Amended Complaint on October 29, 2015.

3. On November 30, 2015, Farmers filed a Demurrer to the First Amended Complaint ("Demurrer"). On December 30, 2015, Plaintiffs filed their Response in Opposition to Farmers' Demurrer, and on January 8, 2016, Farmers filed its Reply in support of its Demurrer.

4. On January 25, 2016, the Court sustained in part and denied in part Farmers' Demurrer. The Court overruled Farmers' Demurrer to Plaintiffs' causes of action under the UCL and for unjust enrichment. The Court sustained without leave to amend Farmers' Demurrer as to Plaintiffs' cause of action for violation of California Insurance Code Section 1861.10. The Court granted Farmers' request for a stay of the case pending proceedings before the California Department of Insurance (the "Department") pursuant to the primary jurisdiction doctrine.

5. For the next several months, the Department informally investigated whether Farmers was using price optimization or elasticity of demand as a rating factor. Then, both in response to the Superior Court's order and also on his own motion, on April 14, 2017 the Commissioner announced that he would hold a

hearing on “whether Farmers has violated California insurance law by using illegal price optimization” titled *In the Matter of the Rating Practices of Farmers Insurance Exchange and Mid-Century Insurance Company* (CDI File No. NC-2017-00003).

6. The Commissioner invited Plaintiffs to participate in the Department Proceeding and stated that he would convey his findings to the Superior Court.

7. Both Plaintiffs and Consumer Watchdog (“CWD”) subsequently intervened in the Department Proceeding.

8. The Department Proceeding continued for over two years and included significant motion practice and discovery. The Parties also entered into a Joint Statement of Issues in which the Parties stipulated to the following facts:

- a. The Commissioner approved Farmers’ 2008 Class Plans and associated rate filings;
- b. Farmers did not directly use price optimization software in the development of the 2008 Class Plans or any rate filings based on those Class Plans;
- c. Farmers calculated rates and premiums in a manner consistent with the 2008 Class Plans as filed with the Commissioner;

9. During that time, Farmers also filed two separate Petitions for Writ of Administrative Mandamus – one in August of 2017 and another in November of 2018 – related to the conduct and scope of the Department Proceeding.

10. After several continuances as the Parties engaged in discovery and other disputes, the Department Proceeding was set for final evidentiary hearing on

January 7, 2019.

11. In December of 2018, the Parties agreed to a mediation before the Hon. Harry W. Low (Ret.) and requested that the evidentiary hearing in the Department Proceeding be continued. The Chief Administrative Law Judge presiding over the Department Proceeding, Judge Rosi, granted that request.

12. On February 19, 2019, the Parties participated in a full day mediation with Judge Low. The mediation did not result in a settlement on that date.

13. For the next several months, the Parties continued their discussions and negotiations both in writing and over the telephone, with the participation of Judge Low. Chief Administrative Law Judge Rosi continued the evidentiary hearing in the Department Proceeding pending such settlement talks.

14. On June 5, 2019, the Parties executed a Memorandum of Understanding wherein the Parties agreed to the material terms of the settlement, the finalization of which is contingent on (1) the execution of a full and binding Settlement Agreement; (2) the Commissioner of Insurance's dismissal of the Department Proceeding (CDI File No. NC -2017-00003) (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur); (3) the entry by the Court of a Final Order and Judgment (i) affirming certification of the Settlement Class, (ii) finding the Settlement Agreement to be fair, adequate and reasonable, (iii) finding that the Notice to the Class of the Settlement

Agreement is fair, adequate and reasonable, (iv) resolving any and all objections to the Settlement Agreement, (v) dismissing with prejudice the Settlement Class Members' claims against the Released Persons with each party to bear its own costs; (4) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought, or the day following the date all appellate courts with jurisdiction to review the Final Judgment and Order with no possibility of further appellate review.

15. On June 6, 2019, Plaintiffs and Farmers filed a Stipulated Request for a Stay of the Department Proceeding pending the Settlement of the Action.

16. On June 7, 2019, the Parties filed a Notice of Settlement with the Court advising the Court of the Memorandum of Understanding and requesting a stay of all proceedings until the filing of this Settlement Agreement and a Motion for Preliminary Approval.

17. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties (definitions below). The Parties intend this Agreement to bind Plaintiffs, Farmers, and all Settlement Class Members.

18. Plaintiffs' proposed Second Amended Complaint is attached hereto as Exhibit 1. Plaintiffs will file this proposed Second Amended Complaint with the

Court as the operative complaint in the Action at the time that Plaintiffs file their Motion for Preliminary Approval.

**NOW, THEREFORE,** in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

## **II. Definitions**

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

19. “Action” means *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, Case No. BC 57948.

20. “Class Counsel” means:

MEHRI & SKALET PLLC  
Cyrus Mehri, Esq.  
Jay Angoff, Esq.  
1250 Connecticut Ave. NW  
Suite 300  
Washington, DC 20036

TYCKO & ZAVAREEI LLP  
Andrea Gold, Esq.  
1828 L Street Northwest  
Suite 1000  
Washington, DC 20036

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103

21. “Class Period” means the period from August 18, 2015, through March 31, 2017.

22. “Class Representatives” mean Roger Harris, Duane Brown, and Brian Lindsey.

23. “Court” means the Superior Court of California, County of Los Angeles.

24. “Depository Bank” shall mean BB&T or its successor.

25. “Department Proceeding” means the California Department of Insurance administrative investigatory non-compliance hearing, California Department of Insurance File No. NC-2017-00003.

26. “Effective Date” means the day following: (A) the entry by the Court of the Final Order and Judgment: (i) affirming certification of the Settlement Class; (ii) finding the Settlement Agreement to be fair, adequate and reasonable; (iii) finding that the Notice to the Class of the Settlement Agreement was fair, adequate and reasonable; (iv) resolving any and all objections to the fairness and reasonableness of the Settlement Agreement, if any; (v) dismissing the Settlement Class Members’ Released Claims with prejudice against Released Persons with each Party to bear its own costs, and (B) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought; or the day following the date all appellate courts with jurisdiction affirm the Final Judgment and Order with no possibility of further appellate review existing; and (C) the Commissioner’s dismissal of the Department Proceeding (without prejudice to

reinstitution in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur).

27. “Final Approval” means the date that the Court enters an order granting final approval to the Settlement and determines the amount of fees, costs, and expenses awarded to Class Counsel and the amount of any Service Awards to the Class Representatives. The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and Farmers. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.

28. “Final Approval Order” means the final order that the Court enters upon Final Approval, which shall be substantially in the form attached as an Exhibit 2, but may include additional or revised terms ordered by the Court that do not affect the financial terms or Releases provided for herein. All Parties will in good faith support and pursue preliminary and final class-wide approval of the material terms of this Agreement. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then the Final Approval Order includes all such orders.

29. “Farmers” means Farmers Insurance Exchange and its affiliate, Mid Century Insurance Company.

30. “Net Settlement Amount” means the Settlement Amount, minus Court approved attorneys’ fees, costs and expenses, any notice and administration

expenses, and Court-approved Service Awards to Plaintiffs. The Net Settlement Amount will be allocated *pro rata* to Settlement Class Members.

31. “Non-Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who declines to renew his or her Policy within six months after the Payment Date.

32. “Notice” means the notices that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of the Settlement.

33. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, Long Form Notice, and Publication Notice (all defined herein below), which shall be substantially in the forms as the Exhibits attached hereto as Exhibits 3-6.

34. “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first mailed, and that ends no later than 30 days before the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.

35. “Parties” means Plaintiffs and Farmers.

36. “Past Policy Holder” means a Settlement Class Member who no longer holds his or her Policy as of the Effective Date.

37. “Payment Date” means that date occurring after the Effective Date on which the Court orders the payment of the Settlement Class Member Payments to begin.

38. “Plaintiffs” means Roger Harris, Duane Brown, and Brian Lindsey.

39. “Policy” means any private passenger auto insurance policy maintained by Farmers in the state of California.

40. “Policy Holder” means any person who has an ownership interest in a Policy during the Class Period.

41. “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement, substantially in the form of the exhibit attached to the Motion for Preliminary Approval.

42. “Publication Notice” means a mutually agreed notice of the Settlement published in California in the following publications in the publications identified in paragraph 70 to apprise Settlement Class Members of the Settlement.

43. The “Releases” means all of the releases contained in Paragraph 88 hereof.

44. “Released Claims” means all claims to be released as specified in Paragraph 88 hereof.

45. “Released Parties” means those persons released as specified in Paragraph 88 hereof.

46. “Releasing Parties” means Plaintiffs and all Settlement Class Members, and each of their respective heirs, assigns, beneficiaries and successors.

47. “Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who renews his or her Policy within six months after the Payment Date.

48. “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives that is in addition to any payment otherwise due Plaintiffs as Settlement Class Members.

49. “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement.

50. “Settlement Administration Costs” means all costs of the Settlement Administrator regarding notice and settlement administration.

51. “Settlement Administrator” means Epiq Systems, Inc.

52. “Settlement Class” means all Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid Century Insurance Company (“MCA”) who: (1) had 9 or more years of tenure/persistency as a FIE and/or MCA policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE and/or MCA policyholder on or before March 31, 2017, and (2) were FIE and/or

MCA policyholders of Defendants at any time during the period extending from August 18, 2015 through March 31, 2017. Excluded from the Settlement Class are (a) officers, directors, and employees of any member of the Farmers Insurance Group of Companies ; (b) the judge overseeing the proposed settlement and the judge's immediate family and (c) all Policy Holders who make a timely election to be excluded.

53. "Settlement Class Member" means any person included in the Settlement Class who does not timely opt-out of the Settlement.

54. "Settlement Class Member Payment" means the *pro rata* distribution that will be made from the Net Settlement Amount to each Settlement Class Member.

55. "Settlement Amount" means the \$15,000,000 that Farmers is obligated to pay under the Settlement. The Settlement Amount is all inclusive and will be used to pay the "Settlement Class Member Payment," any attorneys' fees, costs and Service Awards ordered by the Court, any Settlement Administration Costs including the costs of Settlement Administrator and the costs of all forms of Notice and the Notice Program, and any *cy pres* payment required under this Agreement. Any and all costs incurred by Farmers in the process of making Policy credits to Renewing Current Policy Holders shall be borne by Farmers separately and not out of the Settlement Amount.

56. “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the order preliminarily approving this Settlement, and such other documents as Class Counsel agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com), or such other URL as Class Counsel and Farmers agree upon in writing.

### **III. Certification of the Settlement Class**

57. For Settlement purposes only, Plaintiffs and Farmers agree to ask the Court to certify the Settlement Class under California Code of Civil Procedure Section 382.

### **IV. Monetary Settlement**

58. Subject to approval by the Court, the total monetary consideration to be provided by Farmers pursuant to the Settlement shall be \$15,000,000.00, inclusive of the amount paid to Settlement Class Members, any and all attorneys’ fees, costs and expenses awarded to Class Counsel, any Service Awards to the Class Representatives, all costs and expenses incurred by the Settlement Administrator and any *cy pres* payment.

59. Within 10 days of Preliminary Approval of the Settlement, Farmers shall deliver to the Settlement Administrator \$500,000 from the Settlement Amount to be deposited in a Qualified Settlement Fund account for this matter at the Depository Bank. This amount is estimated to be necessary to pay for the Notice Program and administration of the Settlement by the Settlement Administrator.

60. Within 10 days of the Effective Date Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount necessary to pay the Settlement Class Member Payments due to the Past Policy Holders and the attorneys' fees and costs payable to Class Counsel, which amount shall be deposited in the Qualified Settlement Fund account for this matter at the Depository Bank maintained by the Settlement Administrator. The Settlement Administrator shall deliver such Settlement Class Member Payments to the Past Policy Holders in accordance with the Court's Final Approval Order.

61. In order to reduce the costs of administration of the Settlement, Farmers shall retain that portion of the Settlement Amount that is allocated to Settlement Class Members who are Renewing Current Policy Holders, who will beginning on the Payment Date, at its own cost and expense, directly credit the Policies of those Renewing Current Policy Holder Settlement Class Members at the time of renewal of their Policies. At the conclusion of the renewal cycle, Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount

necessary to satisfy the Settlement Class Member Payments due to the Non-Renewing Current Policyholders, whose payments will be then be delivered by the Settlement Administrator by paper check. Farmers shall report to the Court as to the status of all Settlement Class Member Payments made to Renewing Current Policy Holders on a semi-annual basis following the Payment Date.

**V. Prospective Injunctive Relief**

62. Without admitting any liability or that it is required by law to do so, Farmers agrees to the practices outlined in the attached Exhibit 7.

**VI. Settlement Approval**

63. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an Order granting Preliminary Approval of this Settlement (“Preliminary Approval Order”). The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Farmers substantially similar to Exhibit 8 attached hereto. The motion for Preliminary Approval shall request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate and reasonable; (2) provisionally certify the Settlement Class pursuant to California Code of Civil Procedure Section 382 for settlement purposes only; (3) appoint Class Counsel as counsel for the Settlement Class; (4) appoint Plaintiffs as Class Representatives of the Settlement Class (5) approve the Notice Program set forth herein and approve the form and

content of the Notices of the Settlement; (6) approve the procedures set forth herein below for Settlement Class members to exclude themselves from the Settlement Class or to object to the Settlement; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel and counsel for Farmers, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees, costs and expenses and for Service Awards to the Class Representatives ("Final Approval Hearing").

## **VII. Settlement Administrator**

64. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Mailed and Email Notice to Settlement Class members and distributing the Settlement Amount as provided herein.

65. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

- a. Use the name and address information for Settlement Class members provided by Farmers in connection with the Notice process approved by the Court, for the purpose of mailing the Mailed Notice and sending the Email Notice, and later mailing distribution checks to Past Policy Holder Settlement Class Members and Non-Renewing Current Policy Holder Settlement Class Members, and to Renewing Current Policy Holder Settlement Class Members where it is not feasible or reasonable for Farmers to make the payment by a credit to the their Policies;
- b. Arrange for the Publication Notice;
- c. Establish and maintain a Post Office box for requests for exclusion from the Settlement Class;
- d. Establish and maintain the Settlement Website;
- e. Establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the questions of Settlement Class members who call with or otherwise communicate such inquiries;
- f. Respond to any mailed Settlement Class member inquiries;
- g. Process all requests for exclusion from the Settlement Class;
- h. Provide weekly reports to Class Counsel and Farmers that summarizes the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;

i. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Settlement Class member who timely and properly requested exclusion from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

j. Pay invoices, expenses and costs upon approval by Class Counsel and Farmers, as provided in this Agreement; and

k. any other Settlement-administration-related function at the instruction of Class Counsel and Farmers, including, but not limited to, verifying that settlement funds have been distributed.

### **VIII. Notice to Settlement Class members**

66. As soon as practicable after Preliminary Approval of the Settlement, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement including the injunctive relief; a date by which Settlement Class members may exclude themselves from or “opt-out” of the Settlement Class; a date by which Settlement Class members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the

Settlement Website at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and Farmers shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Farmers logo or trademarks or the return address of Farmers, or otherwise be styled to appear to originate from Farmers.

67. The Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Any Settlement Class member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement.

68. The Notice also shall include a procedure for Settlement Class members to object to the Settlement and/or to Class Counsel's application for attorneys' fees, costs and expenses and/or Service Awards to the Class Representatives. Objections to the Settlement, to the application for fees, costs, expenses, and/or to the Service Awards must be mailed to the Clerk of the Court, Class Counsel, and Farmers' counsel. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice.

If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

69. For an objection to be considered by the Court, the objection must also set forth:

- a. the name of the Action;
- b. the objector's full name, address and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class member;
- d. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- e. the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;

g. a copy of any orders related to or ruling upon objector's counsel's or objector's counsel's law firm's in connection with prior objections that were issued by a trial or appellate court in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

h. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

i. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

j. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

k. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

l. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or Farmers may conduct limited discovery on any objector consistent with the California Code of Civil Procedure.

70. Notice shall be provided to Settlement Class members in four different ways: Email notice to Settlement Class members for whom Farmers has email addresses (“Email Notice”) and who have agreed to accept their Policy statements and/or information by email; postcard Notice (“Postcard Notice”) to those Settlement Class members who have not agreed to accept their Policy statements and/or information by email or for whom Farmers does not have current email addresses; Long-Form Notice with details regarding the Settlement (“Long Form Notice”) on the Settlement Website; and a mutually agreed Publication Notice published in California in the following publications to apprise Settlement Class members of the Settlement: the Los Angeles Times, East Bay Times/Mercury News, Sacramento Bee, San Diego Union-Tribune, San Francisco Chronicle, Facebook (California IP addresses only) and Google Display Network (California IP addresses only). Email Notice and Postcard Notice shall collectively be referred to as “Mailed Notice.” Not all Settlement Class members will receive all forms of Notice, as detailed herein. The cost of all forms of Notice and the Notice Program shall be paid out of the Settlement Amount.

71. Farmers, with the assistance of the Settlement Administrator as appropriate, shall create a list of Settlement Class members and their electronic mail and/or postal addresses based on readily available information already within its possession. Farmers will bear the expense of extracting the necessary data to make

this list of Settlement Class members. Farmers will provide the list of Settlement Class members to the Settlement Administrator to provide Notice.

72. The Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail to all such Settlement Class members Postcard Notice. The Settlement Administrator shall also send out Email Notice to all Settlement Class members receiving Notice by that method. The initial Mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

73. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a “reasonable” tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). The Settlement Administrator shall send Postcard Notice to all Settlement Class members’ whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process.

74. The Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 60 days before the Final Approval Hearing.

75. Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Farmers.

#### **IX. Final Approval Order and Judgment**

76. Plaintiffs' Motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. Plaintiffs shall file their Motion for Final Approval of the Settlement, and application for attorneys' fees, costs and expenses and for Service Awards for the Class Representatives no later than 45 days before the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses and for the Service Awards for the Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses or the Service Awards application, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and entering final judgment thereon and whether to approve Class Counsel's request for attorneys' fees, costs, expenses and Service Awards. The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and Farmers, and shall be substantially in the form of Exhibit 2 attached. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
  - b. Finally certify the Settlement Class for settlement purposes only;
  - c. Determine that the Notice provided satisfies Due Process requirements;
  - d. Enter judgment dismissing the Action with prejudice and with court costs to be assessed to Plaintiffs;
  - e. Bar and enjoin all Releasing Parties from asserting any of the Released Claims hereof, bar and enjoin all Releasing Parties from pursuing any Released Claims against Farmers or its affiliates at any time, including during any appeal from the Final Approval Order, and retain jurisdiction over the enforcement of the Court's injunctions;
  - f. Release Farmers and the Released Parties from the Released Claims;
- and

g. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Farmers, all Settlement Class Members, and all objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

**X. Distributions From The Settlement Amount**

77. In exchange for the mutual promises and covenants in this Agreement, including, without limitation, the Releases and the dismissal of the Action upon Final Approval, occurrence of the Effective Date, and the Commissioner's dismissal of the Department Proceeding (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur), Farmers shall be responsible for paying the Settlement Amount, from which Settlement Class Member Payments shall be paid to the Settlement Class Members.

78. Unless a Renewing Current Policy Holder has contacted the Settlement Administrator to request a paper check instead of a Policy credit, Farmers shall credit the Policies of all Renewing Current Policy Holders their Settlement Class Member Payments at the time of the renewal of their Policies.

79. Settlement Class Member Payments to Renewing Current Policy Holders shall be made first by crediting those Policy Holder's Policies at the time of renewal of the Policies, or by mailing a standard size check if it is not feasible or reasonable to make the payment by a credit. Farmers shall notify Renewing Current

Policy Holders of any such credit on the Policy statement on which the credit is reflected and provide a brief explanation that the credit has been made as a payment in connection with the Settlement. The form and substance of this notification shall be mutually agreed upon by the Parties and shall be substantially similar to the language of Exhibit 79. Farmers will bear all costs and expenses associated with implementing the Policy credits and notification discussed in this paragraph.

80. If the renewal date of the Policy of a Policy Holder does not occur within six (6) months of the Payment Date, the Policy Holder shall receive his or her Settlement Class Member Payment via check from the Settlement Administrator. Within 10 days after the Payment Date, Farmers shall provide the Settlement Administrator with a list of the Settlement Class members who have Policies that do not have a renewal date within six (6) months of the Effective Date. Settlement Class Member Payments to such Settlement Class Members shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

81. After Farmers has processed all Settlement Class Member Payments to Renewing Current Policy Holders with Policy renewal dates occurring within six (6) months of the Payment Date, Farmers shall notify the Settlement Administrator of that portion of the Settlement Amount necessary to fund the Settlement Class Member Payments to Non-Renewing Current Policy Holders by check.

82. Settlement Class Member Payments to Non-Renewing Current Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

83. Within 10 days after Effective Date, Farmers shall provide the Settlement Administrator with a list of Past Policy Holder Settlement Class Members in order to send checks to Past Policy Holders for their Settlement Class Member Payments.

84. Settlement Class Member Payments to Past Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

85. The amount of the Net Settlement Amount attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator one year from the date that the first distribution check is mailed by the Settlement Administrator. During this time the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

## **XI. Disposition of Residual Funds**

86. Within 2 years after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts resulting from uncashed checks (“Residual Funds”) shall be distributed to a *cy pres* recipient or recipients selected by Class Counsel with input from Farmers. Class Counsel shall seek the Court’s approval of distribution to the *cy pres* recipients.

## **XII. Release**

87. As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of itself and on behalf of its respective heirs, assigns, beneficiaries and successors (“Releasing Parties”), shall automatically be deemed to have fully and irrevocably released and forever discharged Farmers and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them (“Released Parties”), of and from any claims that were or could have been alleged based on the facts pleaded in the First Amended Complaint dated October 29, 2015 and/or any subsequent amended complaint filed in conjunction with the Court’s approval of the Settlement (“Released Claims”).

### **XIII. Payment of Attorneys' Fees, Costs, and Service Awards**

88. Class Counsel will ask the Court to approve Service Awards to the Plaintiffs in the amount of \$5,000.00 each to be paid out of the Settlement Amount. The Service Awards are to be paid by the Settlement Administrator directly to the Class Representatives within 10 days of the Effective Date. The Service Awards shall be paid to the Class Representatives in addition to the Class Representatives' Settlement Class Member Payments. Farmers agrees not to oppose Class Counsel's request for the Service Awards. The Parties agree that the Court's failure to approve the Service Awards, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

89. Farmers agrees not to oppose Class Counsel's request for attorneys' fees of up to 33% of the Settlement Amount, and not to oppose Class Counsel's request for reimbursement of reasonable costs and expenses. Any award of attorneys' fees, costs, and expenses to Class Counsel shall be payable solely out of the Settlement Amount. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

90. Within 7 days of the Effective Date, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees, costs, and expenses.

91. The Parties negotiated and reached agreement regarding attorneys' fees and costs, and the Service Awards, only after reaching agreement on all other material terms of this Settlement.

#### **XIV. Termination of Settlement**

92. This Settlement may be terminated by either Class Counsel or Farmers by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and Farmers) after any of the following occurrences:

- a. Class Counsel and Farmers agree to termination;
- b. the Court rejects, materially modifies, materially amends or changes, or declines to finally approve the Settlement;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. the Effective Date does not occur;
- e. the Department Proceeding is not dismissed by the Insurance Commissioner of the California Department of Insurance following the Court's issuance of the Preliminary Approval Order and prior to the Court's issuance of the Final Approval Order (in which case notice of termination may be served and filed at any time prior to issuance of the Final Approval Order); provided however, that

such dismissal is without prejudice to reinstatement if the Settlement does not otherwise become effective; or

f. any other ground for termination provided for elsewhere in this Agreement.

93. Farmers also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days after its receipt from the Settlement Administrator of any report indicating that the number of Settlement Class members who timely request exclusion from the Settlement Class equals or exceeds the percentage specified in the separate letter executed concurrently with this Settlement by Class Counsel and Farmers. The percentage shall be confidential except to the Court, which shall upon request be provided with a copy of the letter for *in camera* review.

#### **XV. Effect of a Termination**

94. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Farmers' obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved. Any Party may move to reinstate the Department Proceeding. Any and all costs and/or

expenses associated with the Notice and administration of the Settlement prior to its termination shall be borne by Farmers.

95. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

96. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

97. In the event the Settlement is terminated in accordance with the provisions of this Agreement, or if the Settlement does not receive Final Approval, or if the Effective Date does not occur, Plaintiffs may seek to re-institute the Department Proceeding.

98. In the event the Settlement does not receive Final Approval, or a Final Approval order is reversed on appeal, or the Department Proceeding is not dismissed after the Court issues the Preliminary Approval Order, then this Settlement Agreement shall be of no force or effect, the Parties shall be returned to their status in the litigation as if the Settlement was never executed, and, in such event, the parties agree that this Settlement Agreement, and any and all negotiations,

documents and discussions associated with it, shall be without prejudice to the rights of any party, and shall not be deemed or construed to be an admission or evidence of any violation of any statute, law or regulation or of any liability or wrongdoing by Defendants or of the truth of any of the claims or allegations made by Plaintiffs in the Action.

99. All Parties expressly reserve all of their rights if the Settlement does not become final, including but not limited to Farmers' right to oppose class certification and Plaintiffs' right to seek re-institution of the Department Proceeding.

100. If the Settlement does not receive final and non-appealable Court approval, Farmers shall not be obligated to make any payments or provide any other monetary or non-monetary relief to Plaintiffs or the Settlement Class Members, any attorneys' fees, costs, or expenses to Class Counsel, and/or any Service Awards to Plaintiffs.

**XVI. No Admission of Liability**

101. Farmers continues to dispute its liability for the claims alleged in the Action, and maintains that its private passenger auto insurance policy pricing practices and representations concerning those practices complied, at all times, with applicable laws and regulations. Farmers does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Farmers has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of

burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

102. Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant formal discovery including extensive written discovery and depositions over a period of approximately 2 years, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

103. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever.

104. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.

105. In addition to any other defenses Farmers may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

#### **XIX. Miscellaneous Provisions**

106. With the exception of the claims brought on behalf of the Settlement Class and resolved pursuant to the terms of the Settlement, Class Counsel have no intention to represent any person or entity covered as a Settlement Class member in any complaint filed in this Action to re-litigate the claims covered by any of the complaints in this Action.

107. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

108. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

109. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

110. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

111. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

112. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

113. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

114. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

115. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all

Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Farmers or its affiliates at any time, including during any appeal from the Final Approval Order.

116. Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

MEHRI & SKALET PLLC  
Jay Angoff, Esq.  
1250 Connecticut Avenue NW  
Suite 300  
Washington, DC 20036  
*Class Counsel*

TYCKO & ZAVAREEI, LLP  
Andrea Gold, Esq.  
1828 L Street NW  
Suite 1000  
Washington, DC 20036  
*Class Counsel*

BERGER MONTAGUE, P.C.  
Jeff Osterwise, Esq.  
1818 Market Street  
Suite 3600  
Philadelphia, PA 19103  
*Class Counsel*

HINSHAW & CULBERTSON LLP  
James C. Castle  
633 West 5th Street  
47th Floor  
Los Angeles, CA 90071-2043  
*Counsel for Farmers*

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

117. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Farmers and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

118. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

119. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and counsel for Farmers (for Farmers), represent and warrant that the persons signing this Agreement have full power and authority to bind the person, partnership, corporation or entity included within the definitions of Plaintiffs and Farmers, for whom they are signing, to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

120. Agreement Mutually Prepared. Neither Farmers nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

121. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action (including but not limited to approximately 2 years of contested discovery in the Department Proceeding); and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

122. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

*Counsel for Plaintiffs*

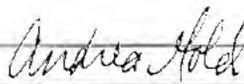
Dated: 8/29/2019

MEHRI & SKALET, PLLC  
Cyrus Mehri, Esq.  
Jay Angoff, Esq.

By: 

Dated: 8/29/2019

TYKO & ZAVAREEI LLP  
Andrea Gold, Esq.

By: 

Dated: 8/29/2019

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: 

Dated: 8/29/2019

FARMERS INSURANCE EXCHANGE

Thomas S. Noh

Chief Financial Officer

MID CENTURY INSURANCE  
COMPANY

Dated: 8/29/2019

Thomas S. Noh

Chief Financial Officer

Dated: \_\_\_\_\_

\_\_\_\_\_

# EXHIBIT 1

1 Wilmer J. Harris, SBN 150407  
wharris@sshhlaw.com  
2 SCHONBRUN SEPLOW  
HARRIS & HOFFMAN LLP  
3 715 Fremont Ave., Suite A  
South Pasadena, CA 91030  
4 Telephone: (626) 441-4129  
Facsimile: (626) 283-5770

5 Jay Angoff [D.C. Bar #248641]  
6 jay.angoff@findjustice.com  
Cyrus Mehri [D.C. Bar #420970]  
7 cyrus@findjustice.com  
Christine H. Monahan, Esq. [D.C. Bar #1035590]  
8 cmonahan@findjustice.com  
9 MEHRI & SKALET PLLC  
1250 Connecticut Ave. NW, Suite 300  
10 Washington, DC 20036  
Telephone: (202) 822-5100  
11 Facsimile: (202) 822-4997

12 Attorneys for Plaintiffs  
13 [Additional Counsel listed on following page]

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF LOS ANGELES**

16 ROGER HARRIS, DUANE BROWN, AND )  
17 BRIAN LINDSEY, )

18 Plaintiffs, )

19 vs. )

20 FARMERS INSURANCE EXCHANGE )  
21 AND MID CENTURY INSURANCE )  
COMPANY, )

22 Defendants. )

Case No: BC 579498

**SECOND AMENDED CLASS ACTION**  
**COMPLAINT FOR DAMAGES**

- 23 1. **Violation of the Unfair Competition**  
24 **Law – Commission of Unlawful**  
25 **Business Act or Practice Cal. Bus. &**  
26 **Prof. Code § 17200 et seq.**  
27 2. **Violation of the Unfair Competition**  
28 **Law – Commission of Unfair Business**  
**Act or Practice Cal. Bus. & Prof. Code**  
**§ 17200 et seq.**  
3. **Violation of the Unfair Competition**  
**Law – Commission of Fraudulent**  
**Business Act or Practice Cal. Bus. &**  
**Prof. Code § 17200 et seq.**  
4. **Unjust Enrichment**

**JURY TRIAL DEMANDED**

1 Peter Kahana, Esq. [PA Bar #33587]  
2 Jeff Osterwise, Esq. [PA Bar #201859]  
3 **BERGER MONTAGUE, P.C.**  
4 1818 Market Street, Suite 3600  
5 Philadelphia, PA 19103  
6 Tel: (215) 875-3000  
7 Fax: (215) 875-4613  
8 pkahana@bm.net  
9 josterwise@bm.net

10 Jonathan K. Tycko, Esq. [D.C. Bar #445851]  
11 Andrea Gold, Esq. [D.C. Bar #420970]  
12 **TYCKO & ZAVAREEI LLP**  
13 1828 L Street NW, Suite 1000  
14 Washington, DC 20036  
15 Tel: (202) 973-0900  
16 Fax: (202) 973-0950  
17 jtycko@tzlegal.com  
18 agold@tzlegal.com

19 *Attorneys for Plaintiffs*

20  
21  
22  
23  
24  
25  
26  
27  
28

1 Plaintiffs Roger Harris, Duane Brown, and Brian Lindsey (collectively “Plaintiffs”),  
2 bring this action on behalf of themselves and all others similarly situated against Farmers  
3 Insurance Exchange and its Affiliate, Mid Century Insurance Company (collectively referred to  
4 herein as “Farmers” or “Defendants”). Plaintiffs, through undersigned counsel, allege the  
5 following based on personal knowledge as to allegations regarding Plaintiffs and on information  
6 and belief as to other allegations.

### 7 NATURE OF THE ACTION

8 1. In California, as in other states, drivers are required to maintain auto insurance.  
9 For many consumers, who may own more than one vehicle, auto insurance costs take up a  
10 considerable portion of a household’s monthly budget.

11 2. Auto insurance companies are not permitted to determine auto insurance  
12 premiums on the basis of what the market will bear.

13 3. Instead, all states have laws requiring that auto insurance companies, including  
14 Defendants, calculate premiums based on the risk presented by the policyholder, meaning those  
15 objectively discernible characteristics or facts about the insured person which directly impact  
16 the likelihood of a covered event occurring (and thus, the cost to the insurer of providing the  
17 offered insurance).

18 4. This case arises from Defendants’ practice from at least April 2009 until October  
19 2018 of using the policyholder’s willingness to tolerate a price increase as a factor in calculating  
20 premiums, even though Defendants’ use of that factor has neither been disclosed to nor  
21 approved by the California Department of Insurance.

22 5. Using a policyholder’s willingness to tolerate a price increase—more  
23 technically, the policyholder’s elasticity of demand—as a factor in calculating premiums harms  
24 policyholders who Defendants judge to be less price-sensitive and more loyal to Defendants:  
25 they pay more than they would pay if Defendants did not use the policyholder’s willingness to  
26 tolerate a price increase as a factor in calculating premiums.

27 6. Defendants have compiled or reviewed data indicating that people with certain  
28 (non-risk based) characteristics are willing to pay more than they should pay based on the risk

1 they present. That data indicates, among other things, that their most loyal customers are price  
2 inelastic and are willing to renew their policies and pay more than the risk they present justifies.

3 7. After reviewing internal documents and testimony by Defendants' employees  
4 responsible for developing Defendants' California auto insurance class plans, California  
5 Department of Insurance Senior Casualty Actuary Edward D. Cimini, Jr. has concluded that  
6 "Farmers engaged in price optimization in the construction of its Private Passenger Auto Class  
7 Plan with regard to the selection of rate relativities for the optional rating factor of Persistency."

8 8. The use of elasticity of demand as a rating factor results in the Defendants' most  
9 loyal customers paying more than they would pay based on the risk they present. As the  
10 Department's Senior Casualty Actuary Cimini observed, "Farmers' existing persistency  
11 discounts for tenured policyholders were considerably smaller than the actuarially indicated  
12 discounts. Lower discounts for these policyholders resulted in higher premium for these  
13 policyholders."

14 9. Defendants did not disclose their use of elasticity of demand as a rating factor to  
15 the California Department of Insurance when seeking approval of their Private Passenger Auto  
16 Class Plan ("class plans" or "2008 class plans"), and the Department did not approve its use.

17 10. In their marketing materials, Defendants intentionally omit and fail to disclose  
18 their use of elasticity of demand as a rating factor in determining auto insurance premiums.

19 11. Plaintiffs and members of the Class have paid higher prices for their insurance  
20 coverage than the risk they present would justify.

21 12. Plaintiffs bring this action on behalf of themselves and other similarly situated  
22 insureds for violation of California's Unfair Competition law, and for unjust enrichment.

### 23 **JURISDICTION AND VENUE**

24 13. This action is properly brought in the Superior Court of the State of California.  
25 Each cause of action enumerated below arises from California state law and the events giving  
26 rise to this lawsuit took place in California, including the County of Los Angeles.

### 27 **PARTIES**

28 14. Plaintiff Roger Harris is a citizen of the State of California and was a customer

1 of Defendants until 2018. Mr. Harris resides in Lompoc, California in the County of Santa  
2 Barbara.

3 15. Plaintiff Harris has been a loyal customer of Defendants for more than 15 years.

4 16. Plaintiff Harris has purchased auto insurance from Defendants for multiple  
5 vehicles. Most recently, Plaintiff purchased auto insurance for one vehicle from Defendants.

6 17. Plaintiff Duane Brown is a citizen of the State of California and is a customer of  
7 Defendants. Mr. Brown resides in Lompoc, California in the County of Santa Barbara.

8 18. Plaintiff Brown became a customer of Defendants in 1997 and has been a loyal  
9 customer of Defendants since that time.

10 19. Plaintiff Brown has purchased auto insurance from Defendants. Currently,  
11 Plaintiff purchases auto insurance for six automobiles from Defendants.

12 20. Plaintiff Brian Lindsey is a citizen of the State of California and was a customer  
13 of Defendants until 2018. Mr. Lindsey resides in the County of Santa Barbara.

14 21. Plaintiff Lindsey was a loyal customer of Defendants for almost ten years.

15 22. Plaintiff Lindsey purchased auto insurance from Defendants. Plaintiff purchased  
16 auto insurance for at least one automobile from Defendants.

17 23. Defendants have never notified Plaintiffs that they are charging them more than  
18 other policyholders presenting the same risk because of their willingness to tolerate a price  
19 increase.

20 24. As explained in more detail below, Plaintiffs have been injured in fact and  
21 directly harmed as a result of Defendants' failure to disclose their use of elasticity of demand as  
22 a rating factor, in that Plaintiffs have been fraudulently, deceptively and unfairly misled into  
23 paying a premium that is higher than it would have been had Defendants calculated Plaintiffs'  
24 premiums based on the risk they present.

25 25. A direct causal relationship exists between Defendants' unlawful conduct and  
26 the ascertainable losses suffered by Plaintiffs and the Class. Had Defendants' use of elasticity  
27 of demand as a rating factor been disclosed, Plaintiffs (and other Class members) would have  
28 paid less for auto insurance.



1           32.     The statute also authorizes the Commissioner to adopt additional rating factors  
2 by regulation. Cal. Ins. Code § 1861.02(a)(4). The Department has promulgated a regulation  
3 setting forth the rating factors insurers are permitted to use, Cal. Ins. Code § 2632.5(d), and has  
4 specifically provided that “No insurer shall use a rating factor which is not set forth in these  
5 regulations.” Cal. Code Regs. § 2632.4(a).

6           33.     The Commissioner has not adopted elasticity of demand as a rating factor, and  
7 thus does not permit insurers to use elasticity of demand to “establish[] or affect[] the rates,  
8 premiums, or charges assessed for a policy of automobile insurance.” Cal. Code Regs. §  
9 2632.2(a).

10          34.     In California, insurers, including Defendants, are also barred from using any  
11 rating factor that does not bear a substantial relationship to the risk of loss. Cal. Ins. Code §  
12 1861.02(a)(4); Cal. Code Regs. Tit. 10, § 2632.4(b).

13          35.     California law also provides that “no insurer may hereafter use a class plan, or  
14 charge or collect a premium which does not comply with” the California Insurance Code or the  
15 regulations of the Department of Insurance. Cal. Code Regs. Tit. 10, § 2632.10(a).

16          36.     California law also directs that “[n]o person, insurer or organization shall  
17 willfully withhold information from, or knowingly give false or misleading information to, the  
18 commissioner or to any rating organization, advisory organization, insurer or group, association  
19 or other organization of insurers, which will affect the rates, rating systems or premiums for the  
20 classes of insurance to which the provisions of this chapter are applicable. Cal. Ins. Code §  
21 1859.

22                                   **The Use of Elasticity of Demand as a Rating Factor**

23          37.     “Elasticity of demand” is the technical term for an individual’s sensitivity to  
24 price changes.

25          38.     An individual whose demand is elastic is sensitive to price changes, *i.e.*, he or  
26 she will seek insurance elsewhere in response to a relatively small price increase. The more  
27 sensitive the individual is to price changes – *i.e.*, the smaller the increase in price that will cause  
28 the individual to shop – the more elastic is that individual’s demand.

1           39.     Conversely, an individual whose demand is inelastic is relatively insensitive to  
2 price changes – he or she is relatively unlikely to seek insurance elsewhere in response to a  
3 price increase. The more the insurer can raise its prices to such an individual without causing  
4 him or her to switch carriers, the more inelastic that individual’s demand is.

5           40.     By using elasticity of demand as a rating factor, Defendants charge customers  
6 whose demand is inelastic—who are unlikely to seek insurance elsewhere in response to a price  
7 increase—more than customers who are likely to shop around in response to a price increase, all  
8 other things being equal. Defendants’ customers whose demand is inelastic thus pay prices that  
9 are higher than the risk they present would justify.

10          41.     Defendants did not disclose in their class plan the use of elasticity of demand as  
11 a rating factor to the Department, and the Department did not approve Defendants' use of  
12 elasticity of demand as a rating factor.

13     **California Has Specifically Prohibited the Use of Elasticity of Demand as a Rating Factor,**

14                             **As Have Other States**

15          42.     The term commonly used by insurance companies and insurance regulators for  
16 the use of elasticity of demand as a rating factor is “price optimization.” On February 18, 2015,  
17 the California Department of Insurance issued a Notice (the “Notice”) announcing that “any use  
18 of Price Optimization in the ratemaking/pricing process or in a rating plan is unfairly  
19 discriminatory in violation of California law,” and ordering any insurer using price optimization  
20 to discontinue doing so. The Notice defines “price optimization” as “any method of taking into  
21 account an individual’s or class’s willingness to pay a higher premium relative to other  
22 individuals or classes.” It also notes that “price optimization does not seek to arrive at an  
23 actuarially sound estimate of the risk of loss and other future costs of a risk transfer.”

24          43.     The Notice further ordered that “Any insurer currently using Price Optimization  
25 to adjust its rates in California shall cease this practice.” More specifically, the Notice ordered  
26 “any insurer that has a factor or factors based on Price Optimization in its rating plan” to  
27 “remove the factor or factors in its next filing” to be made “no later than six months from the  
28 date of this Notice.”



1 “adding a driver,” “moving to a new residence,” and “if you’ve recently switched vehicles” can  
2 cause your premium to increase. Nowhere on Farmers’ website does Farmers disclose that an  
3 insured’s elasticity of demand can affect an individual’s premium, even though that is the case.

4 52. Consultants have boasted about the fact that the use of elasticity of demand as a  
5 rating factor is hidden from regulators and therefore that regulators cannot tell whether an  
6 insurer is using an individual’s willingness to pay a higher premium than the risk-based  
7 premium in its computations.

8 **Farmers’ Use of Elasticity of Demand as a Rating Factor**

9 53. Farmers’ employees have acknowledged Farmers’ use of elasticity of demand in  
10 calculating premiums. A Senior Analyst who worked at Farmers between August 2008 and  
11 June 2012, for example, has said that his projects included “price elasticity modeling of  
12 differing consumer segments.”

13 54. An Actuarial Analyst at the Farmers Personal Lines Pricing Group, who has been  
14 in that position since February 2012, says that he is “managing team on the design,  
15 implementation, and delivery of an auto insurance price optimization tool,” and that he has  
16 “pitched potential price optimization schemes that incorporate retention, conversion, and  
17 elasticity modeling.”

18 55. A Product Manager working at Farmers between 2003 and 2008 says that he  
19 “built and used GLM’s for retention price elasticity.”

20 56. Further, a Senior Product Manager who was working at Farmers in 2007-2008  
21 says he “designed pricing strategy” through “proper segmentation” and “demand estimation.”

22 57. Defendants specifically have engaged in price optimization in California for  
23 more than a decade by charging their most loyal policyholders—those insured by the company  
24 for nine or more years—more than the risk they present justifies because they are willing to pay  
25 more than that risk-based rate.

26 58. REDACTED  
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18 68. After reviewing internal documents and testimony by Defendants' employees  
19 responsible for developing Defendants' California auto insurance filings, California Department  
20 of Insurance Senior Casualty Actuary Edward D. Cimini, Jr. testified in a sworn statement that  
21 "Farmers engaged in price optimization in the construction of its Private Passenger Auto Class  
22 Plan with regard to the selection of rate relativities for the optional rating factor of Persistency."

23 69. Mr. Cimini based his conclusion that Defendants engaged in price optimization,  
24 despite not having employed a sophisticated software program or algorithm, on evidence that  
25 "Farmers had extensively studied how sensitive their existing policyholders were to varying  
26 levels of premium increases at renewal," knew its "most tenured business ... would likely renew  
27 their policies at premium levels which were higher than premium levels supported by the  
28 underlying data," and "decided to retain its existing persistency discounts because [it] believed

1 the renewal customers would be willing to pay the higher rates.”

2 **Defendants Were Aware That the 2015 Notice on Price Optimization Reached Their**  
3 **Conduct, But Failed to File a New Class Plan Removing the Factor Based on Price**  
4 **Optimization Until August 2018**

5 70. Defendants paid close attention to state actions regulating price optimization and  
6 tried to influence regulators not to prohibit the practice.

7 71. Defendants’ employees immediately recognized that the 2015 Notice prohibited  
8 a broad range of conduct, including non-mechanized forms of price optimization. Defendants  
9 had implemented such price optimization in its 2008 Class Plans, which were then still in effect.

10 72. Nonetheless, Defendants did not file a new class plan removing the factor based  
11 on price optimization within the time period set by the Notice. Instead, Defendants did not file  
12 an amended class plan removing the price optimized persistency rating factor until August 2018  
13 — three years past the deadline.

14 **Defendants’ Use of Elasticity of Demand as a Rating Factor in California Has Injured**  
15 **Defendants’ Long-Tenured Policyholders**

16 73. Had Defendants chosen to use the indicated relativities — those based on the risk  
17 presented by the policyholder as set forth in Exhibit 4 of its 2008 class plans — the rates paid  
18 by policyholders who had been with the company for nine or more years would have been  
19 between 4.1% and 11.2% less, depending on the type of coverage a policyholder had.

20 74. During the class period, Defendants overcharged its policyholders that had been  
21 with the company for nine or more years by more than \$200 million.

22 **CLASS ALLEGATIONS**

23 75. Plaintiffs, on behalf of themselves and all others similarly situated, bring this  
24 action pursuant to California Code of Civil Procedure Section 382. This action satisfies the  
25 numerosity, commonality, typicality, adequacy, predominance and superiority requirements.

26 76. The proposed Class is defined as:

27 All persons who (1) had 9 or more years of tenure/persistency as a  
28 Farmers Insurance Exchange (“FIE” and/or Mid Century Auto

1 (“MCA”) policyholder as of August 18, 2015 or who reached 9 or  
2 more years of tenure/persistence as a FIE and/or MCA policyholder on  
3 or before March 31, 2017, and (2) were FIE and/or MCA policyholders  
4 of Defendants at any time during the period extending from August 18,  
5 2015 through March 31.

6 77. Excluded from the Class are (a) officers, directors, and employees of any  
7 member of the Farmers Insurance Group of Companies; (b) the judge overseeing the proposed  
8 settlement and the judge’s immediate family; and (c) all Policy Holders who make a timely  
9 election to be excluded.

10 78. Membership in the class is ascertainable based on computerized records  
11 maintained by Defendants. Plaintiffs reserve the right to modify or amend the definition of the  
12 proposed Class before the Court determines whether certification is appropriate.

13 79. The Class is numerous such that joinder of all Class members is impracticable.  
14 The proposed Class contains many thousands of members.

15 80. Common questions of law and fact exist as to all members of the Class and  
16 predominate over questions affecting only individual Class members. The common legal and  
17 factual questions include, but are not limited to, the following:

- 18 a. Whether Defendants consider Class members’ elasticity of demand as a  
19 rating factor in establishing the premium charged to Class members;
- 20 b. Whether Defendants’ use of elasticity of demand as a rating factor  
21 produces premiums that exceed the risk-based premium;
- 22 c. Whether Defendants’ use of elasticity of demand as a rating factor  
23 produces premiums that are higher than the expected value of future costs  
24 for those policyholders who have inelastic demand;
- 25 d. Whether Defendants’ use of elasticity of demand as a rating factor results  
26 in customers presenting the same risk being charged different premiums  
27 based on their elasticity of demand;
- 28 e. Whether Defendants use elasticity of demand as a rating factor to charge

- 1 inflated premiums that are not strictly related to individual risk transfer;
- 2 f. Whether Defendants are unjustly enriched through their use of elasticity
- 3 of demand as a rating factor;
- 4 g. Whether Defendants violate California's Unfair Competition Law
- 5 through their use of elasticity of demand as a rating factor.

- 6 81. Other questions of law and fact common to the Class include:
- 7 a. The proper method or methods by which to measure damages, and
- 8 b. The declaratory relief to which the Class is entitled.

9 82. Plaintiffs' claims are typical of the claims of other members of the Class and

10 there is no defense available to Defendants that is unique to Plaintiffs.

11 83. The claims of the representative Plaintiffs are typical of the claims of the Class

12 in that the representative Plaintiffs, like all Class members, paid more than the risk-based

13 premium due to Defendants' use of elasticity of demand as a rating factor. Furthermore, the

14 factual basis of Farmers' misconduct is common to all Class members, and represents a

15 common thread of deceptive, unfair, and unlawful conduct resulting in injury to all members of

16 the Class.

17 84. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs

18 have no interests that are antagonistic to those of the Class. Plaintiffs have the ability to assist

19 and adequately protect the rights and interests of the Class during litigation. Further, Plaintiffs

20 are represented by counsel who are competent and experienced in this type of class action

21 litigation.

22 85. This class action is not only the appropriate method for the fair and efficient

23 adjudication of the controversy, it is the superior method because:

- 24 a. Joinder of thousands of individual Class members is impracticable,
- 25 cumbersome, unduly burdensome, and a waste of judicial and litigation
- 26 resources;
- 27 b. There is no special interest by the Class members in individually
- 28 controlling separate causes of action;

- 1 c. The Class members' individual claims are small compared with the  
2 expense of litigating the claim thereby making it impracticable, unduly  
3 burdensome, and expensive, if not totally impossible, to justify individual  
4 Class members addressing their losses in litigation;
- 5 d. When liability is determined, the claims of all Class members can be  
6 determined through routine mathematical calculations and thus can be  
7 determined by the Court and administered efficiently in a manner that is  
8 far less onerous, burdensome, and expensive than if it were attempted  
9 through filing, discovery, and trial of many individual cases;
- 10 e. This class action will promote the orderly, efficient, expeditious, and  
11 appropriate adjudication and administration of class claims to promote  
12 economies of time and resources;
- 13 f. This class action will assure uniformity of decisions among Class  
14 members;
- 15 g. The resolution of this controversy through this class action presents fewer  
16 management difficulties than individual claims filed in which the parties  
17 may be subject to varying adjudication of their rights.

18 86. Furthermore, class treatment is appropriate because Defendants have acted on  
19 grounds generally applicable to the Class, making class-wide equitable, injunctive, declaratory  
20 and monetary relief appropriate. In addition, the prosecution of separate actions by or against  
21 individual members of the Class would create a risk of incompatible standards of conduct for  
22 Defendants and inconsistent or varying adjudications for all parties.

### 23 CAUSES OF ACTION<sup>3</sup>

#### 24 FIRST CAUSE OF ACTION

#### 25 **Violation of the Unfair Competition Law – Commission of Unlawful Business Act or** 26 **Practice**

27 \_\_\_\_\_  
28 <sup>3</sup> Plaintiffs have removed their Fifth Cause of Action for Violation of California Insurance Code  
§ 1861.10 consistent with the Court's Order on January 25, 2016. However, Plaintiffs are not  
waiving any of their rights vis-à-vis this cause of action, including their right to appeal.

1 **Cal. Bus. & Prof. Code § 17200 et seq.,**

2 87. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
3 paragraphs 1-86 above as if set forth herein.

4 88. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
5 business act or practice.”

6 89. Defendants’ conduct is “unlawful” because it violates the California Insurance  
7 Code and its implementing regulations in the following ways:

- 8 a. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
9 Ins. Code § 1861.02 because it is not one of the three mandatory rating  
10 factors that are authorized by § 1861.02(a) and it has not been adopted by  
11 the Commissioner as a permissible rating factor pursuant to §  
12 1861.02(a)(4).
- 13 b. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
14 Code Regs. Tit. 10, § 2632.4(a) because elasticity of demand constitutes  
15 a rating factor that is not set forth in or authorized by California  
16 regulations.
- 17 c. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
18 Ins. Code § 1861.02(a)(4) and Cal. Code Regs. Tit. 10, § 2632.4(b)  
19 because elasticity of demand does not bear a substantial relationship to  
20 loss.
- 21 d. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
22 Code Regs. Tit. 10, § 2632.10(a) in that it causes Farmers to collect a  
23 premium which is not calculated in accordance with a class plan that  
24 complies with California regulation.
- 25 e. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
26 Ins. Code § 1859 in that Farmers willfully withheld information from, or  
27 knowingly gave false or misleading information to, the California  
28 Insurance Commissioner concerning its use of elasticity of demand as a

1 rating factor to unlawfully increase Plaintiffs’ and the Class’ insurance  
2 premiums.

3 90. Plaintiffs and the Class members have suffered injury in fact and have lost  
4 money as a result of Defendants’ unlawful business acts or practices.

5 91. Pursuant to Business and Professions Code §§ 17200 and 17203, Plaintiffs seek  
6 an order providing restitution and disgorgement of all profits relating to the above-described  
7 unfair business acts or practices, and injunctive and declaratory relief as may be appropriate.

8 **SECOND CAUSE OF ACTION**

9 **Violation of the Unfair Competition Law – Commission of Unfair Business Act or Practice**

10 **Cal. Bus. & Prof. Code § 17200 *et seq.*,**

11 92. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
12 paragraphs 1-91 above as if set forth herein.

13 93. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
14 business act or practice.”

15 94. The acts and practices of Defendants as alleged herein also constitute “unfair”  
16 business acts and practices under the UCL in that Defendants’ conduct is unconscionable,  
17 immoral, deceptive, unfair, illegal, unethical, oppressive, and/or unscrupulous. Further, the  
18 gravity of Defendants’ conduct outweighs any conceivable benefit of such conduct.

19 95. Defendants have, in the course of their business and in the course of trade or  
20 commerce, undertaken and engaged in unfair business acts and practices under the UCL by  
21 using elasticity of demand as a rating factor.

22 96. Defendants have also, in the course of their business and in the course of trade or  
23 commerce, undertaken and engaged in unfair business acts and practices by:

- 24 a. Engaging in bad faith in using elasticity of demand as a rating factor;
- 25 b. Not calculating auto insurance premiums based on risk or loss costs but,  
26 instead, using elasticity of demand as a rating factor to inflate premiums;
- 27 c. Making material and misleading omissions about the manner in which  
28 they determine a customer’s auto insurance premium;

- 1 d. Using elasticity of demand as a rating factor in a manner that was not  
2 transparent, ascertainable, or verifiable by Plaintiffs and Class members;  
3 and  
4 e. Unlawfully and unfairly using elasticity of demand as a rating factor to  
5 extract additional revenues from their price inelastic customers, including  
6 but not limited to those who are or were most loyal by virtue of their  
7 tenure as insureds of Defendants.  
8 f. Failing to remove price optimization from their class plans even after  
9 being instructed to do so by the Department in its February 2015 Notice.

10 97. The above-described unfair business acts or practices present a threat and  
11 likelihood of harm and deception to members of the Class in that Defendants have  
12 systematically perpetrated the unfair conduct upon members of the public by engaging in the  
13 conduct described herein.

14 98. Pursuant to Business and Professions Code §§ 17200 and 17203, Plaintiffs seek  
15 an order providing restitution and disgorgement of all profits relating to the above-described  
16 unfair business acts or practices, and injunctive and declaratory relief as may be appropriate.

17 **THIRD CAUSE OF ACTION**

18 **Violation of the Unfair Competition Law – Commission of Fraudulent Business Act or**  
19 **Practice**

20 **Cal. Bus. & Prof. Code § 17200 *et seq.*,**

21 99. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
22 paragraphs 1-98 above as if set forth herein.

23 100. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
24 business act or practice.”

25 101. The acts and practices of Defendants as alleged herein constitute “fraudulent”  
26 business acts and practices under the UCL in that Defendants’ conduct is false, misleading, and  
27 has a tendency to deceive the Class and the general public.

28 102. Defendants’ conduct in using elasticity of demand as a rating factor to inflate

1 auto insurance premiums for its price inelastic customers was likely to deceive, and did in fact  
2 deceive, Plaintiffs and the Class.

3 103. Defendants' conduct in failing to disclose to Plaintiffs and members of the Class  
4 their use of elasticity of demand as a rating factor to inflate auto insurance premiums for price  
5 inelastic policyholders was likely to deceive, and did in fact deceive, Plaintiffs and the Class.

6 104. Plaintiffs and the Class members have suffered injury in fact and have lost  
7 money as a result of Defendants' fraudulent business acts or practices.

8 105. The above-described fraudulent business acts or practices present a threat and  
9 likelihood of harm and deception to members of the Class in that Defendants have  
10 systematically perpetrated the fraudulent conduct upon members of the public by engaging in  
11 the conduct described herein.

12 106. Pursuant to Business and Professions Code §§ 17200 and 17203 Plaintiffs seek  
13 an order providing restitution and disgorgement of all profits relating to the above-described  
14 fraudulent business acts or practices, and injunctive and declaratory relief as may be  
15 appropriate.

16 **FOURTH CAUSE OF ACTION**

17 **Unjust Enrichment**

18 107. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
19 paragraphs 1-106 above as if set forth herein.

20 108. Defendants have been unjustly enriched at the expense of Plaintiffs and Class  
21 members as a result of their conduct as alleged above.

22 109. Defendants have wrongfully and unjustly collected higher auto insurance  
23 payments from thousands of insureds than they were entitled to by using elasticity of demand as  
24 a rating factor.

25 110. It would be inequitable to allow Defendants to retain these ill-gotten gains, and  
26 the Plaintiffs and Class members are entitled to restitution and/or disgorgement of all revenues  
27 obtained by Defendants as a result of their unlawful conduct.

28

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs, individually and on behalf of the Class, pray for judgment in favor  
3 of Plaintiffs and the Class and against Defendants as follows:

- 4 A. Finding that this action satisfies the prerequisites for maintenance as a class  
5 action under California Code of Civil Procedure Section 382 and certifying the  
6 Class defined herein;
- 7 B. Designating Plaintiffs as representatives of the Class and their counsel as class  
8 counsel;
- 9 C. Declaring Defendants’ use of elasticity of demand as a rating factor to be  
10 unlawful and granting equitable and/or injunctive relief;
- 11 D. Awarding Plaintiffs and members of the Class their compensatory damages in  
12 an amount to be determined at trial;
- 13 E. Disgorgement of, restitution of, and/or imposing a constructive trust upon, the  
14 ill-gotten gains derived by Defendants from their unjust enrichment;
- 15 F. Plaintiffs’ reasonable attorneys’ fees and non-taxable expenses;
- 16 G. Plaintiffs’ taxable costs;
- 17 H. Pre- and post-judgment interest at the maximum rate permitted by applicable  
18 law; and
- 19 I. Granting such further relief as the Court deems just.

20 **JURY DEMAND**

21 Plaintiffs demand a trial by jury on all issues so triable.

22  
23 Dated: August \_\_, 2019

SCHONBRUN SEPLOW  
HARRIS & HOFFMAN LLP

MEHRI & SKALET PLLC

26 BERGER MONTAGUE, P.C.

27 TYCKO & ZAVAREEI LLP  
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By: \_\_\_\_\_  
Jay Angoff

*Attorneys for Plaintiffs*

# EXHIBIT 2

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 SCHONBRUN SEFLOW  
4 HARRIS & HOFFMAN LLP  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 *Attorneys for Plaintiffs and the Proposed Settlement Class*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE  
14 BROWN, AND BRIAN  
15 LINDSEY,

16 Plaintiffs,

17 v.

18 FARMERS INSURANCE  
19 EXCHANGE AND MID  
20 CENTURY INSURANCE  
21 COMPANY,

22 Defendants.

Case No.: BC579498

**[PROPOSED] ORDER  
GRANTING FINAL APPROVAL  
OF CLASS ACTION  
SETTLEMENT**

**Complaint filed: April 22, 2015  
Trial Date: TBD**

23  
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26  
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28  
Case No.: BC579498

1 MEHRI & SKALET PLLC  
2 Cyrus Mehri, Esq.  
3 Jay Angoff, Esq.  
4 1250 Connecticut Ave. NW  
5 Suite 300  
6 Washington, DC 20036

7 TYCKO & ZAVAREEI LLP  
8 Andrea Gold, Esq.  
9 1828 L Street Northwest  
10 Suite 1000  
11 Washington, DC 20036

12 BERGER MONTAGUE, P.C.  
13 Peter Kahana, Esq.  
14 Jeff Osterwise, Esq.  
15 1818 Market Street, Suite 3600  
16 Philadelphia, PA 19103

17 Plaintiffs Roger Harris, Duane Brown, and Brian Lindsey have  
18 submitted to the Court a Motion for Final Approval of the Settlement  
19 Agreement (“Motion”) with Defendants Farmers Insurance Exchange and Mid  
20 Century Insurance Company in this case. The Parties’ motion for final  
21 approval of class action settlement is GRANTED.

### 22 **BACKGROUND**

23 In this consumer class action case, Plaintiffs Roger Harris, Duane  
24 Brown, and Brian Lindsey allege Defendants Farmers Insurance Exchange and  
25 Mid Century Insurance Company (collectively “Farmers” or “Defendants”)  
26 improperly used price optimization/elasticity of demand (a.k.a., a method of  
27 taking into account an individual’s or class’s willingness to pay a higher  
28 premium relative to other individuals or classes) as a rating factor. The class  
action Complaint filed on April 22, 2015 in the Superior Court for the State of  
California, County of Los Angeles alleged five causes of action. Plaintiffs  
filed a First Amended Complaint on October 29, 2015 and Farmers demurred.

1 The Court granted in part and denied in part Farmers' demurrer, dismissing  
2 only Plaintiffs' cause of action for violation of California Insurance Code  
3 Section 1861.10. The Court granted Farmers' request for a stay of the case  
4 pending proceedings before the California Department of Insurance (the  
5 "Department") pursuant to the primary jurisdiction doctrine.

6 Plaintiffs filed a Second Amended Complaint concurrently with their  
7 Motion for Preliminary Approval. Plaintiffs currently allege violations of  
8 California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*  
9 ("UCL") and the California Insurance Code, and unjust enrichment. Farmers  
10 denies all allegations contained in the Second Amended Complaint.

11 After the Court ruled on Farmers' demurrer to Plaintiffs' First Amended  
12 Complaint, for the next several months the Department sought to determine  
13 whether Farmers was using price optimization or elasticity of demand as a  
14 rating factor but was unable to resolve the issue. Thus, both in response to the  
15 Superior Court's order and also on his own motion, on April 14, 2017 the  
16 Commissioner announced that he would hold a hearing on "whether Farmers  
17 has violated California insurance law by using illegal price optimization" titled  
18 In the Matter of the Rating Practices of Farmers Insurance Exchange and Mid-  
19 Century Insurance Company (CDI File No. NC-2017-00003). The  
20 Commissioner invited Plaintiffs to participate in the Department Proceeding  
21 and stated that he would convey his findings to the Superior Court. Both  
22 Plaintiffs and Consumer Watchdog ("CWD") subsequently intervened in the  
23 Department Proceeding.

24 The Department Proceeding continued for over two years and included  
25 significant motion practice and discovery. During that time, Farmers also filed  
26 two separate Petitions for Writ of Administrative Mandamus – one in August  
27 of 2017 and another in November of 2018 – related to the conduct and scope  
28 of the Department Proceeding. After several continuances as the Parties

1 engaged in discovery and other disputes, the Department Proceeding was set  
2 for final evidentiary hearing on January 7, 2019.

3 In December of 2018, the Parties agreed to a mediation before the Hon.  
4 Harry W. Low (Ret.) and requested that the evidentiary hearing in the  
5 Department Proceeding be continued. The Chief Administrative Law Judge  
6 presiding over the Department Proceeding, Judge Rosi, granted that request.  
7 On February 19, 2019, the Parties participated in a full day mediation with  
8 Judge Low. The mediation did not result in a settlement on that date. For the  
9 next several months, the Parties continued their discussions and negotiations  
10 both in writing and over the telephone, with the participation of Judge Low.  
11 Chief Administrative Law Judge Rosi continued the evidentiary hearing in the  
12 Department Proceeding pending such settlement talks.

13 On June 5, 2019, the Parties executed a Memorandum of Understanding  
14 wherein the Parties agreed to the material terms of the settlement. On  
15 June 6, 2019, Plaintiffs and Farmers filed a Stipulated Request for a Stay of  
16 the Department Proceeding pending the Settlement of the Action. On June 7,  
17 2019, the Parties filed a Notice of Settlement with this Court advising the Court  
18 of the Memorandum of Understanding and requesting a stay of all proceedings  
19 until the filing of this Settlement Agreement and a Motion for Preliminary  
20 Approval.

21 On August \_\_, 2019, the Parties subsequently executed a long-form  
22 Settlement Agreement and Release (“Settlement Agreement”), a copy of  
23 which was filed with the Court along with Plaintiffs’ unopposed Motion for  
24 Preliminary Approval of Class Action Settlement. The Court granted  
25 preliminary approval to the agreement on September \_\_, 2019. The Notice to  
26 the Settlement Class was thereafter distributed pursuant to the terms of the  
27 Preliminary Approval Order.

28 The Parties have agreed to settle this Action as set forth in the

1 Agreement. The Settlement provides for Farmers to pay a Settlement Amount  
2 of \$15,000,000.00 for the benefit of Settlement Class Members. The  
3 Settlement Amount will be used to: (a) pay Settlement Class Members their  
4 respective Settlement Class Member Payments; (b) Class Counsel for any  
5 Court-awarded attorneys' fees and litigation expenses and costs; (c) any Court-  
6 awarded Service Awards for the Class Representatives; and (d) Settlement  
7 Administration Costs. If funds remain, those funds shall be donated to a *cy*  
8 *pres* recipient or recipients selected by Class Counsel with input from Farmers  
9 and to be approved by the Court.

10 Settlement Class members do not have to submit claims or take any  
11 other affirmative step to receive relief under the Settlement or to receive a  
12 Settlement Class Member Payment. Instead, Farmers and the Settlement  
13 Administrator will distribute the Net Settlement Amount to all Settlement  
14 Class Members either in the form of a paper check or policy credit. All  
15 Settlement Class Members who are entitled to a Settlement Class Member  
16 Payment will receive an equal pro rata distribution from the Net Settlement  
17 Amount.

18 Now before the Court is the motion for final approval of the Settlement.  
19 For purposes of this Settlement only, the Court has jurisdiction over the subject  
20 matter of the Complaint and personal jurisdiction over the Parties and the  
21 Settlement Class.

22 Pursuant to Cal. Code Civ. P. § 382, and based on findings made in the  
23 Preliminary Approval Order, the Court certifies, solely for purposes of  
24 effectuating this Settlement, the following Settlement Class:

25 All Policy Holders of Defendants Farmers Insurance Exchange ("FIE")  
26 and Mid Century Insurance Company ("Mid-Century") who: (1) had 9 or more  
27 years of tenure/persistency as a FIE and/or Mid-Century) policyholder as of  
28 August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE

1 and/or Mid-Century policyholder on or before March 31, 2017, and (2) were  
2 FIE and/or Mid-Century policyholders of Defendants at any time during the  
3 period extending from August 18, 2015 through March 31, 2017.

4 Notwithstanding the certification of the foregoing Settlement Class for  
5 purposes of effecting the Settlement, if this Final Approval Order is reversed  
6 on appeal or the Settlement is terminated, or the Effective Date is not reached  
7 or is not consummated for any reason, the foregoing certification of the  
8 Settlement Class shall be void and of no further effect, and the parties to the  
9 proposed Settlement shall be returned to the status each occupied before entry  
10 of this Final Approval Order without prejudice to any legal argument that any  
11 of the parties to the Settlement might have asserted but for the Settlement.

12 The Court has determined that the Notice given to the Settlement Class  
13 fully and accurately informed the Settlement Class of all material elements of  
14 the proposed Settlement and constituted valid, due, and sufficient notice with  
15 all applicable requirements. The Court further finds that the Notice Program  
16 satisfies due process and has been fully implemented.

17 The Settlement Class Members listed on *Exhibit 1* to this Final Approval  
18 Order have properly and timely opted-out of the Settlement and are therefore  
19 not bound by the Settlement, Releases, Final Approval Order or Final  
20 Judgment.

21 The Court finally approves the Settlement of this Action in accordance  
22 with the terms of the Agreement. Having considered the matters required under  
23 applicable law, the Court finds that the Settlement is in all respects fair,  
24 reasonable, adequate and in the best interest of the Settlement Class, especially  
25 in light of the fact that Plaintiffs and the Settlement Class, by and through their  
26 counsel, have adequately represented the Settlement Class by investigating the  
27 facts and law relating to the matters alleged in the Complaint, First Amended  
28 Complaint, and Second Amended Complaint, including through dispositive

1 motion practice, legal research as to the sufficiency of the claims, extensive  
2 written discovery as well as numerous depositions, expert analysis and pre-  
3 filed direct testimony in the Department Proceeding, an evaluation of the risks  
4 associated with continued litigation, trial, and/or appeal, and discovery.

5 The Court finds the method of distribution to Settlement Class Members  
6 is effective, especially given that there is no claims process required by the  
7 Settlement. In finding the Settlement fair, reasonable and adequate, the Court  
8 has also considered the number of exclusions from the Settlement, the lack of  
9 objections by Settlement Class Members, and the opinion of competent Class  
10 Counsel concerning such matters.

### 11 ANALYSIS OF SETTLEMENT AGREEMENT

#### 12 A. Does a presumption of fairness exist?

##### 13 1. Was the settlement reached through arm's length bargaining?

14 Yes. The Settlement was reached after arm's-length negotiations  
15 between Class Counsel and counsel for Farmers, which occurred because of  
16 mediation before the Honorable Harry Low (Ret.). The Settlement confers  
17 substantial benefits upon the Settlement Class, without the costs, uncertainties,  
18 delays, and other risks associated with continued litigation, trial, and/or appeal.

19 Class Counsel represents that the parties did not discuss attorneys' fees  
20 and costs or any potential service award until they first agreed on the material  
21 terms of the settlement, including the definition of the Settlement Class, notice,  
22 class benefits, and scope of relief. (*Id.* at ¶ \_\_.)

##### 23 2. Were investigation and discovery sufficient to allow counsel and 24 the Court to act intelligently?

25 Yes. The Parties were involved in extensive discovery in the  
26 Department Proceeding which lasted approximately 2 years.

##### 27 3. Is counsel experienced in similar litigation?

28 Yes. Class Counsel is experienced in class action litigation (Declaration

1 of Class Counsel ISO Final Approval, ¶¶ \_\_)

2 4. What percentage of the class has objected?

3 \_\_ objectors. (Azari Decl. ¶\_\_.)

4 B. Is the settlement fair, adequate, and reasonable?

5 1. Strength of Plaintiffs' case.

6 “The most important factor is the strength of the case for plaintiffs on  
7 the merits, balanced against the amount offered in the settlement.” (*Kullar v.*  
8 *Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 130.)

9 Here, Class Counsel represents that at trial, Settlement Class could have  
10 recovered approximately \$42 million if it had prevailed on its strongest theory  
11 of recovery. Specifically, in February 2015, the Commissioner of the  
12 California Department of Insurance issued a bulletin stating that “any use of  
13 Price Optimization in the ratemaking/pricing process or in a rating plan is  
14 unfairly discriminatory in violation of California law,” and instructing “[a]ny  
15 insurer that ha[d] a factor or factors based on Price Optimization in its rating  
16 plan [to] remove the factor or factors in its next filing,” which was required to  
17 be submitted within six months from the date of the bulletin. Although  
18 Farmers denies that it used any price optimization/elasticity of demand (a.k.a.,  
19 a method of taking into account an individual’s or class’s willingness to pay a  
20 higher premium relative to other individuals or classes) as a rating factor, it  
21 did not make its next filing until March 2017, nineteen months after the  
22 Commissioner’s deadline to submit a filing removing price optimization.

23 If Plaintiffs were successful proving that Farmers’ pre-March 2017 class  
24 plans relied on price optimization that was not disclosed to the Department of  
25 Insurance, Plaintiffs would then have their best opportunity to overcome  
26 Farmers’ key defense. The Settlement achieves almost 36% of those damages,  
27 which is an excellent result. *See Wershba*, 91 Cal.App.4th at 250 (“A  
28 settlement need not obtain 100 percent of the damages sought in order to be

1 fair and reasonable. Compromise is inherent and necessary in the settlement  
2 process. Thus, even if the relief afforded by the proposed settlement is  
3 substantially narrower than it would be if the suits were to be successfully  
4 litigated, this is no bar to a class settlement because the public interest may  
5 indeed be served by a voluntary settlement in which each side gives ground in  
6 the interest of avoiding litigation.”) (quotations omitted); *City of Detroit v.*  
7 *Grinnell Corp.*, 495 F.2d 448, 455 n.2 (2d Cir. 1974) (“[T]here is no reason,  
8 at least in theory, why a satisfactory settlement could not amount to a  
9 hundredth or even a thousandth part of a single percent of the potential  
10 recovery.”), *abrogated on other grounds by Goldberger v. Integrated Res.,*  
11 *Inc.*, 209 F.3d 43 (2d Cir. 2000).

12 Plaintiffs also achieved significant non-monetary relief. Farmers has  
13 agreed not to use any form of price optimization//elasticity of demand (a.k.a.,  
14 a method of taking into account an individual’s or class’s willingness to pay a  
15 higher premium relative to other individuals or classes) as a rating factor in  
16 connection with California private passenger auto rates or class plans, nor to  
17 challenge the Commissioner’s legal authority to regulate the use of price  
18 optimization.

19 2. Risk, expense, complexity and likely duration of further  
20 litigation.

21 Given the nature of the class claims, the case is likely to be expensive  
22 and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are  
23 also likely to prolong the litigation as well as any recovery by the class  
24 members.

25 3. Risk of maintaining class action status through trial.

26 Even if a class is certified, there is always a risk of decertification.  
27 (*Weinstat v. Dentsply Intern. Inc.* (2010) 180 Cal. App. 4th 1213, 1226 [“Our  
28 Supreme Court has recognized that trial courts should retain some flexibility

1 in conducting class actions, which means, under suitable circumstances,  
2 entertaining successive motions on certification if the court subsequently  
3 discovers that the propriety of a class action is not appropriate.”].)

4 4. Amount offered in settlement.

5 Plaintiffs’ counsel achieved a \$15,000,000 non-reversionary settlement.  
6 The \$15,000,000 Settlement Amount represents approximately 36% of the  
7 Settlement Class’s alleged damages (Class Counsel Decl. ISO Final Approval  
8 ¶ \_\_), which is within the “ballpark” of reasonableness. If the requested  
9 deductions are taken in full, \$ \_\_\_\_\_ will remain for distribution to Settlement  
10 Class Members. Payments to the \_\_\_\_\_ participating Settlement Class  
11 Members will average \$ \_\_\_\_\_.

12 5. Extent of discovery completed and stage of the proceedings.

13 As indicated above, at the time of the settlement, Class Counsel  
14 contends it had conducted sufficient discovery. Class Counsel and Farmers  
15 engaged in extensive discovery in the Department Proceedings including  
16 production and review of approximately 70,000 pages of documents and  
17 numerous depositions.

18 6. Experience and views of counsel.

19 The settlement was negotiated and endorsed by class counsel who, as  
20 indicated above, are experienced in class action litigation, including consumer  
21 actions. Class Counsel is of the opinion that the Settlement is fair, adequate,  
22 and reasonable (Declaration of Class Counsel ISO Attorneys’ Fees, Costs, and  
23 Service Awards (“Class Counsel Decl. ISO Fees”) ¶ \_\_\_\_.)

24 7. Presence of a governmental participant.

25 This factor is not applicable here.

26 8. Reaction of the class members to the proposed settlement.

27 Number of class members: \_\_\_\_\_ (Azari Decl. ¶ \_\_\_\_.)

28 Number of notice packets mailed: \_\_\_\_ (*Id.* at \_\_\_\_.)

1 Number of undeliverable notices: \_\_\_ (*Id.* at ¶15.)

2 Number of opt-outs: \_\_\_ (*Id.* at ¶\_\_.)

3 Number of objections: \_\_\_ (*Id.* at ¶\_\_.)

4 Number of participating Settlement Class Members: \_\_\_\_\_ (*Id.* at ¶¶\_\_, \_\_.)

5 Average individual payment: \$ \_\_\_\_\_

6 C. Attorney Fees and Costs

7 Class Counsel requests an award of \$ \_\_\_\_\_ in fees and \$ \_\_\_\_\_ in  
8 costs. The Settlement Agreement provides for fees up to \$5,000,000 as well as  
9 costs; the Settlement Class was provided notice of the requested awards, and  
10 \_\_\_ Settlement Class members objected. (Azari Decl. ¶ \_\_.)

11 “Courts recognize two methods for calculating attorney fees in civil class  
12 actions: the lodestar/multiplier method and the percentage of recovery  
13 method.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App 4th 224, 254,  
14 disapproved on another ground in *Hernandez v. Restoration Hardware, Inc.*  
15 (2018) 4 Cal. 5th 260.) Here, Class Counsel requests attorney fees using the  
16 percentage method. In common fund cases, the Court may employ a  
17 percentage of the benefit method, as cross-checked against the lodestar.  
18 (*Laffitte v. Robert Half Int’l.* (2016) 1 Cal. 5th 480, 503.) The fee request  
19 represents 33.3% of the gross Settlement Amount, which is the average  
20 generally awarded in class actions. (*See In re Consumer Privacy Cases* (2009)  
21 175 Cal. App. 4th 545, 558, fn. 13 [“Empirical studies show that, regardless  
22 whether the percentage method or the lodestar method is used, fee awards in  
23 class actions average around one-third of the recovery.”].)

24 Class Counsel has also provided information regarding lodestar. (Class  
25 Counsel Decl. ISO Fees at Ex. \_\_.)

26 Here the \$ \_\_\_\_\_ fee request represents a reasonable percentage of the  
27 total funds paid by Farmers. Notice of the fee request was provided to  
28 Settlement Class members in the notice packet and there were \_\_\_ objectors.

1 As for costs, Class Counsel is requesting \$ \_\_\_\_\_. (Class Counsel Decl.  
2 ISO Fees ¶ \_\_.) This is equal to the amount in the Settlement Agreement, for  
3 which Settlement Class members were given notice. (Azari Decl. at Ex. \_\_.)  
4 Class Counsel incurred actual costs in the amount of \$ \_\_\_\_\_. (Class  
5 Counsel Decl. ISO Fees at ¶ \_\_.) The costs listed included  
6 \_\_\_\_\_. (*Ibid.*) The costs appear to be reasonable in  
7 amount and reasonably necessary to this litigation. 1. The costs and  
8 expenses incurred by Class Counsel are unreimbursed out-of-pocket expenses  
9 and costs that were incurred in prosecution of the claims and in obtaining the  
10 Settlement and are therefore reasonable litigation expenses.

11 Based on the above, the Court awards \$ \_\_\_\_\_ for attorneys' fees and  
12 \$ \_\_\_\_\_ for attorneys' costs.

13 D. Service Awards to Class Representatives

14 Class Counsel requests a Service Award of \$5,000 each for Plaintiffs  
15 Roger Harris, Duane Brown, and Brian Lindsey. Plaintiffs each filed a  
16 declaration describing his contributions to this litigation. Class Counsel  
17 provides as follows: Plaintiffs were integral to litigating and settling this case.  
18 Plaintiffs put themselves forward to protect the class members by being the  
19 named plaintiffs in this suit. They also reviewed and collected their records  
20 related to their Policies and worked with counsel on the complaint. (Class  
21 Counsel Decl. ISO Fees ¶ \_\_.) Based on the above, the recommendation is to  
22 award the requested \$5,000 each to Plaintiffs.

23 Subject to the Effective Date occurring, the Court **dismisses with**  
24 **prejudice** the Action and all Released Claims. These dismissals are without  
25 costs to any party, except as specifically provided in the Agreement. Subject  
26 to the Effective Date occurring, the Settlement shall be binding on, and have  
27 res judicata and preclusive effect in, all pending and future lawsuits or other  
28 proceedings maintained by or on behalf of the Plaintiffs, Settlement Class

1 Members, and Releasing Parties.

2 The Court adjudges that the Plaintiffs and all Settlement Class Members  
3 shall be bound by this Final Approval Order.

4 Upon the Effective Date, Plaintiffs and each Settlement Class Member,  
5 shall, by operation of this Final Approval Order, be deemed to have released  
6 all Released Parties in accordance with paragraphs \_\_\_ of the Agreement.  
7 Plaintiffs and each Settlement Class Member shall also be barred and  
8 permanently enjoined from bringing on behalf of themselves, or through any  
9 person purporting to act on their behalf or purporting to assert a claim under  
10 or through them, any of the Released Claims against Farmers in any forum,  
11 action, or proceeding of any kind.

12 Without affecting the finality of this Final Approval Order in any way,  
13 the Court retains jurisdiction over: (a) implementation and enforcement of the  
14 Agreement pursuant to further order of the Court until the final judgment  
15 contemplated hereby has become effective and each and every act agreed to  
16 be performed by the Parties shall have been performed pursuant to the  
17 Agreement; (b) any other action necessary to conclude this Settlement and to  
18 implement the terms of the Agreement; and (c) the construction and  
19 interpretation of the Agreement.

20 This Final Approval Order is not a finding or determination of any  
21 wrongdoing by Farmers, which maintains that its conduct complied at all times  
22 with applicable laws and regulations. The Final Approval Order likewise is  
23 not a finding or determination of the validity or certifiability for litigation of  
24 any claims that have been, or could have been, asserted in the Action. This  
25 Final Approval Order, the Settlement or any such communications shall not be  
26 offered or received in evidence in any action or proceeding, or be used in any  
27 way as an admission or concession or evidence of any liability or wrongdoing  
28 of any nature or that Plaintiffs, any Settlement Class Member, or any other

1 person has suffered any damage; *provided, however*, that the Settlement, this  
2 Final Approval Order and the Judgment to be entered hereon may be filed in  
3 any action by Farmers or Settlement Class Members seeking to enforce the  
4 Settlement or the Judgment by injunctive or other relief, or to assert defenses  
5 including, but not limited to, res judicata, collateral estoppel, release, good  
6 faith settlement, or any theory of claim preclusion or issue preclusion or similar  
7 defense or counterclaim.

8 This Court hereby directs entry of this Final Judgment based upon the  
9 Court's finding that there is no just reason for delay of enforcement or appeal  
10 of this Final Judgment.

11 IT IS SO ORDERED.

12  
13 Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Maren Nelson

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# EXHIBIT 3

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid-Century Insurance Company (collectively “Farmers”) violated California law by using price optimization (a method of setting prices that takes into account an individual’s or class of consumers’ willingness to pay a higher price for a product relative to other individuals or classes) when pricing its automobile insurance in California. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED? Farmers’ records indicate that you are a Settlement Class Member.** The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

If you believe that you are in the Settlement Class, but have not received notice of the Settlement, you may call the toll free number, 1-XXX-XXX-XXXX, write the Settlement Administrator at Farmers PO Settlement, PO Box XXXX, Portland, OR 97XXX-XXXX, or send an e-mail to info@FarmersPOSettlement.com.

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to make payments (via check or policy credit) to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, expenses, costs of Settlement Administration, and Service Awards. All Class Members will receive an equal payment amount. If the Settlement is approved, payments will *automatically* be made to Settlement Class Members identified in Farmers’ records. If you received this notice by email or mail, you do not need to do anything to receive a payment.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2019**. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit. If you stay in the Settlement, you may object to it by **Month Day, 2019**. The Detailed Notice available at the website or by calling the toll-free number below includes information on how to exclude yourself or object. The Court will hold a hearing on **Month Day, 2019** to consider whether to approve the Settlement and a request by Class Counsel for attorneys’ fees of up to 33% of the Settlement Amount plus Class Counsel’s costs and expenses and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement, call the Settlement Administrator toll free or visit the settlement website.

Farmers Settlement Administrator  
PO Box XXXX  
Portland, OR 97XXX-XXXX

**If You Had a Farmers  
Insurance Exchange or  
Mid-Century Insurance  
Company Auto Policy in  
California between August  
18, 2015 and March 31,  
2017 and had been insured  
by those companies for 9  
or more years, You May Be  
Eligible for a Payment from  
a Class Action Settlement.**

<<BARCODE>>

<<NAME LINE 1>>

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# EXHIBIT 4

**If You Had a Farmers Insurance Exchange or Mid-Century Insurance Company Auto Policy in California at any time between August 18, 2015 and March 31, 2017 and had been insured by those companies for 9 or more years, You May Be Eligible for a Payment from a Class Action Settlement.**

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid-Century Insurance Company (collectively “Farmers”) violated California law by using price optimization (a method of setting prices that takes into account an individual’s or class of consumers’ willingness to pay a higher price for a product relative to other individuals or classes) when pricing its automobile insurance in California. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED?** Farmers’ records indicate that you are a Settlement Class Member. The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

If you believe that you are in the Settlement Class, but have not received notice of the Settlement, you may call the toll free number, 1-XXX-XXX-XXXX, write the Settlement Administrator at Farmers PO Settlement, PO Box XXXX, Portland, OR 97XXX-XXXX, or send an e-mail to [info@FarmersPOSettlement.com](mailto:info@FarmersPOSettlement.com).

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to make payments (via check or policy credit) to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, expenses, costs of Settlement Administration, and Service Awards. All Class Members will receive an equal payment amount. If the Settlement is approved, payments will *automatically* be made to Settlement Class Members identified in Farmers’ records. If you received this notice by email or mail, you do not need to do anything to receive a payment.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2019**. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit. If you stay in the Settlement, you may object to it by **Month Day, 2019**. See the [Detailed Notice](#) for more information on how to exclude yourself or object. The Court will hold a hearing on **Month Day, 2019** to consider whether to approve the Settlement and a request by Class Counsel for attorneys’ fees of up to 33% of the Settlement Amount plus Class Counsel’s costs and expenses, and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement, visit the [settlement website](#).

# EXHIBIT 5

# If You Had a Farmers Insurance Exchange or Mid-Century Insurance Company Auto Policy in California at any time between August 18, 2015 and March 31, 2017 and had been insured by those companies for 9 or more years, You May Be Eligible for a Payment from a Class Action Settlement.

*The Superior Court for the State of California, County of Los Angeles (“the Court”) authorized this Notice. This is not a solicitation from a lawyer. This is not a legal action against you and you are not required to take any action to receive benefits that may be approved.*

- A \$15,000,000 settlement has been reached in a class action case known as *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, County of Los Angeles, Case No. BC 57948 (“Action”). The Plaintiffs filed a class action complaint alleging five causes of action pertaining to the alleged use by Farmers Insurance Exchange and Mid-Century Insurance Company of price optimization/elasticity of demand (a method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor in California in violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. (“UCL”) and the California Insurance Code, and as unjust enrichment. Farmers denies Plaintiffs’ allegations and denies that it did anything wrong. The Court has not decided who is right.
- A settlement of this lawsuit (“Settlement”) has been negotiated which, if approved by the Court, may entitle you to an automatic payment. By entering into the Settlement, Farmers has not admitted the truth or validity of any of the claims against it. Your rights and options under the Settlement—and the deadlines to exercise them—are explained below.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>EXCLUDE YOURSELF</b>	Get no benefits from the settlement. This is the only option that allows you to start or remain part of any other lawsuit against Farmers about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you do not like the settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.
<b>DO NOTHING</b>	If you received a notice by email or in the mail about this settlement, a policy credit or check payment will automatically be issued to you for the amount you are eligible to receive. You will give up your rights to sue Farmers about the legal claims in this case.

- These rights and options—and the deadlines to exercise them—are explained in this notice.

- The Court presiding over this case still has to decide whether to approve the settlement. If it does, and after any appeals are resolved, benefits will be distributed to those who qualify. Please be patient as this process sometimes takes a long time.

## WHAT THIS NOTICE CONTAINS

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2. What is this lawsuit about?
3. Why is this a class action?
4. Why is there a settlement?

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6. What if I am not sure whether I am included in the settlement?

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### **IF YOU DO NOTHING..... PAGE 8**

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### **GETTING MORE INFORMATION ..... PAGE 8**

21. How do I get more information?

## BASIC INFORMATION

### 1. Why is this notice being provided?

A Court authorized this notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement. This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

Judge Maren Nelson of the Superior Court of California, County of Los Angeles is overseeing this class action. The settlement resolves the case known as *Harris, et al. v. Farmers Insurance Exchange, et al.*, Case No. BC 57948.

The persons who sued are called “Plaintiffs,” and the companies sued, Farmers Insurance Exchange and Mid-Century Insurance Company, are called collectively “Farmers” or “Defendants.”

### 2. What is this lawsuit about?

In California, as in other states, drivers are required to maintain auto insurance. Auto insurance companies are not permitted to determine auto insurance premiums based on what the market will bear, but instead must determine premiums based on those rating factors that the Insurance Commissioner has approved as having a substantial relationship to the risk of loss. This case was brought as a class action complaint alleging that Farmers engaged in violations of the Unfair Competition Law – Commission of Unfair Business Act or Practice Cal. Bus. & Prof. Code § 17200 et seq., Unjust Enrichment and Violation of Cal. Ins. Code § 1861.10, and claims that Defendants improperly used price optimization/elasticity of demand (a policyholders’ or class of policyholders’ willingness to tolerate a price increase as a compared to other policyholders or other classes of policyholders) as a factor in calculating premiums in California. This notice is just a summary of the allegations. The complaint in the lawsuit is posted at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) and contains all of the allegations. Farmers denies these allegations; however, in order to avoid the expense, inconvenience, and distraction of continued litigation, they have agreed to the Settlement described herein.

### 3. Why is this a class action?

In a class action, one or more people called Settlement Class Representatives (in this case Roger Harris, Duane Brown, and Brian Lindsey) sue on behalf of people who have similar claims. All of these people are a “Settlement Class” or “Settlement Class Members.” One court resolves the issues for all class members, except for those who timely exclude themselves from the class.

### 4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to settle this case to avoid the cost and risk of a trial. The proposed settlement does not mean that any law was broken or that the Defendants did anything wrong. Defendants deny all legal claims in this case. Plaintiffs and their lawyers think that in light of litigation uncertainties and the lengthy delay that would result from a trial and possible appeal, the proposed settlement is in the best interest of the Settlement Class Members.

## WHO IS IN THE SETTLEMENT

To see if you will be affected by the settlement or if you can get a payment from it, you first have to determine if you are a Settlement Class Member.

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

If you received notice of the Settlement by email or by mail then Farmers' records show you may be a member of the Settlement Class. But even if you did not receive a notice, you may still be a member of the Settlement Class.

The Proposed "Settlement Class" is composed of:

All California Policy Holders of Defendants Farmers Insurance Exchange ("FIE") and Mid-Century Insurance Company ("Mid-Century") who: (1) had 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

Excluded from the Settlement Class are (a) officers, directors, and employees of any member of the Farmers Insurance Group of Companies ; (b) the judge overseeing the proposed settlement and the judge's immediate family and (c) all Policy Holders who make a timely election to be excluded.

## 6. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the settlement, visit the settlement website at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or call the toll free number, 1-XXX-XXX-XXXX. You may also write with questions to Farmers PO Settlement, PO Box XXXX, Portland, OR 97XXX-XXXX, or send an e-mail to [info@FarmersPOSettlement.com](mailto:info@FarmersPOSettlement.com).

## THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

If the settlement is approved and becomes final, it will provide benefits to Settlement Class Members.

## 7. What does the settlement provide?

Farmers will pay a total of \$15 million (via policy credits or paper checks) to satisfy all obligations incurred under the settlement, including payments to eligible Settlement Class Members; Class Counsel's attorneys' fees, costs, and expenses; Settlement Administration costs; and Service Awards. All Class Members will receive an equal payment amount.

Settlement Class Members who are "Renewing Current Policy Holders" will receive a credit at the time of renewal of their Policies. "Non-Renewing Current Policy Holders" and those Settlement Class Members who are no longer Policyholders will receive their Settlement Class Member Payment by paper check.

"Renewing Current Policy Holders" means, "a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who renews his or her Policy within six months after the Payment Date."

"Non-Renewing Current Policyholders" means, "a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who declines to renew his or her Policy within six months after the Payment Date."

"Policy" means, "any private passenger auto insurance policy maintained by Farmers in the state of California."

"Effective Date" means, "the day following: (A) the entry by the Court of the Final Order and Judgment: (i) affirming certification of the Settlement Class; (ii) finding the Settlement Agreement to be fair, adequate and reasonable; (iii) finding that the Notice to the Class of the Settlement Agreement was fair, adequate and reasonable; (iv) resolving any and all objections to the fairness and reasonableness of the Settlement Agreement, if any; (v) dismissing the Settlement Class Members' Released Claims with prejudice against Released Persons with each Party to bear its own costs; and (B) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought; or the day following the date all appellate courts with jurisdiction affirm the Final Judgment and Order with no possibility of further appellate review existing; and (C) the Insurance Commissioner's dismissal of the Department Proceeding (CDI File No. NC-2017-00003) investigating the allegations of the class action complaint (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur).

"Payment Date" means the date occurring after the Effective Date on which the Court orders the payment of the Settlement Class Member Payments to begin..

Details on all of the settlement benefits are in the Settlement Agreement, which is available at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).

## HOW TO RECEIVE A PAYMENT

### 8. How can I receive a payment if the settlement is approved?

If you received a notice by email or in the mail telling you that you are Settlement Class Member, you will receive an automatic payment or policy credit once the Settlement is approved by the Court and the Effective Date passes, provided you are eligible for a payment and you have not requested exclusion from the settlement (see —"Excluding Yourself From The Settlement" below).

If you did not receive a notice by email or in the mail and believe you are a Settlement Class Member, please contact the Settlement Administrator at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or by calling 1-XXX-XXX-XXXX.

### 9. When will I receive my payment?

Payments and policy credits will be made after the Effective Date, which comes after Court grants "final approval" to the settlement and after any appeals are resolved (see "The Court's Final Approval Hearing" below). It is uncertain when the Court will decide to approve or disapprove the proposed settlement and whether any appeals will be filed. Please be patient.

### 10. What claims am I releasing to receive a settlement payment?

If the settlement becomes final, Settlement Class Members who do not timely request exclusion from the settlement will be releasing Farmers from all of the claims described and identified in section XII of the Settlement Agreement. This means you will no longer be able to sue Farmers regarding any of the claims described in the Settlement Agreement.

The Settlement Agreement is available at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com). The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in the section "The Lawyers Representing You" for free or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to participate in this proposed settlement and you want to keep the right to sue Farmers about the legal issues in this case, then you must take steps to opt out of the settlement. This is called asking to be excluded from, or sometimes called "opting out" of, the Settlement Class.

### 11. If I exclude myself, can I get anything from this settlement?

No. If you exclude yourself, you may not apply for any benefits under the settlement and you cannot object to the proposed settlement. If you ask to be excluded, however, you will retain any right you have to sue or be part of a different lawsuit against the Defendants in the future. You will not be bound by anything that happens in this lawsuit.

### 12. If I do not exclude myself, can I sue later?

No, not over the issues raised in this case.

### 13. How do I get out of the settlement?

If you wish to exclude yourself from the Settlement Class, you must send a letter to the Settlement Administrator identifying:

- (1) the name and case number of this lawsuit (*Harris, et al. v. Farmers Insurance Exchange, et al. Superior Court of California, County of Los Angeles, Case No. BC 57948*);
- (2) your full name, current address, and telephone number;
- (3) a statement that you wish to exclude yourself from the Settlement Class; and
- (4) your signature.

To be effective you must submit the above information to the following address **postmarked no later than Month Day, 2019**:

Farmers PO Settlement Administrator:  
P.O. Box \_\_\_\_\_  
Portland, OR 97208-5053

This is a firm deadline for requesting exclusion from the proposed settlement. You cannot ask to be excluded on the phone, by email, or at the website.

## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in the case?

The Court approved the law firms of Mehri & Skalet PLLC, Tycko & Zavareei LLP and Berger Montague, P.C., as Class Counsel to represent the Settlement Class. You will not be charged separately for these lawyers. If you wish to be represented by your own lawyer in this case, you may hire one at your own expense.

### 15. How will the lawyers be paid?

Class Counsel will apply to the Court for an award of attorneys' fees of up to \$4,950,000 plus costs and expenses for investigating the facts, litigating the cases, and negotiating the Settlement. To date, Class Counsel have not received any payment for their services in conducting this Litigation on behalf of the Settlement Class Representatives and the Settlement Class, nor have Class Counsel been reimbursed for their costs and expenses to date in this case. Class Counsel will also request the Court to award a service award of \$5,000 to each of the three Settlement Class Representatives in recognition of their service to the Settlement Class. The amount of the fees, expenses and service award will be determined by the Court. Class Counsel's contact information is as follows:

MEHRI & SKALET PLLC  
Cyrus Mehri, Esq.  
Jay Angoff, Esq.  
1250 Connecticut Ave. NW  
Suite 300  
Washington, DC 20036

TYCKO & ZAVAREEI LLP  
Andrea Gold, Esq.  
1828 L Street Northwest  
Suite 1000  
Washington, DC 20036

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103

## OBJECTING TO THE SETTLEMENT

### 16. How do I tell the Court if I do not like the settlement?

You can object to the settlement if you do not like some part of it. You must state the reasons you think the Court should not approve the settlement. To object, send a letter (as instructed below) saying that you object to the proposed settlement. You must include:

- a. the case name and case number of this Litigation (*Harris, et al. v. Farmers Insurance Exchange, et al. Superior Court of California, County of Los Angeles, Case No. BC 57948*);
- b. your full name, current address, and phone number;
- c. an explanation of the basis upon which you claim to be a Settlement Class member;
- d. all grounds for the objection, accompanied by any legal support for the objection known to you or your counsel;
- e. the number of times in which you have objected to a class action settlement within the past five years, and a copy of any orders related to or ruling upon your prior objections that were issued by the trial and appellate courts in each listed case;
- f. the identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- g. a copy of any orders related to or ruling upon your counsel's law firms in connection with prior objections that were issued by a trial or appellate court in each listed case in which your counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
- h. any and all agreements that relate to the current objection or the process of objecting—whether written or oral—between you or your counsel and any other person or entity;
- i. the identity of all counsel (if any) representing you who will appear at the Final Approval Hearing;
- j. a statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing;
- k. a list of all persons who will be called to testify (subject to Court approval) at the Final Approval Hearing in support of your objection; and
- l. your signature.

Mail the objection to each of the following addresses so that it is postmarked no later than **Month Day, 2019**. This is a firm deadline. Objections postmarked after this date will not be recognized.

COURT	CLASS COUNSEL	DEFENDANT'S COUNSEL
Clerk of Court _____	TYCKO & ZAVAREEI LLP Andrea Gold, Esq. 1828 L Street, N.W., Suite 1000 Washington, D.C. 20036	HINSHAW & CULBERTSON LLP James C. Castle 633 West 5th Street 47th Floor Los Angeles, CA 90071-2043

### 17. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object to the settlement and you will not be eligible to apply for any benefits under the settlement because the case no longer affects you.

## THE COURT'S FINAL APPROVAL HEARING

### 18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing at x:xx x.m. on **Month Day, 2019**, at the Superior Court of California, County of Los Angeles, \_\_\_\_\_. At the Final Approval Hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for attorneys' fees, costs and expenses, and Service Awards. If there are objections received by the deadline, the Court may consider them. After the Final Approval Hearing, the Court will

decide whether to approve the settlement and how much to award in attorneys' fees, costs and expenses, as well as Service Awards.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is recommended that you periodically check [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or call the toll-free number for updated information.

### 19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Final Approval Hearing to talk about it. As long as you mailed your written objection on time, the Court may consider it. You may also pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

## IF YOU DO NOTHING

### 20. What happens if I do nothing?

If you are a Settlement Class Member and received a notice by email or in the mail telling you that you will receive an automatic payment or policy credit, you do not need to do anything in order to receive your payment or policy credit (provided the Court approves the Settlement). If you *did not* receive a notice by email or in the mail telling you that you will receive an automatic payment or policy credit and do nothing, you *will not* get a payment or policy credit from this settlement. In addition, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant about the claims in this case, ever again.

## GETTING MORE INFORMATION

### 21. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement which is available at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com). You also may write with questions to Farmers PO Settlement, PO Box XXXX, Portland, OR 97XXX-XXXX, or send an e-mail to [info@FarmersPOSettlement.com](mailto:info@FarmersPOSettlement.com).

# EXHIBIT 6

## Harris Publication Notice

### **If You Had a Farmers Insurance Exchange or Mid-Century Insurance Company Auto Policy in California at any time between August 18, 2015 and March 31, 2017, and had been insured by those companies for 9 or more years, You May Be Eligible for a Payment from a Class Action Settlement.**

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid-Century Insurance Company (“Farmers”) violated California law by using price optimization (a method of setting prices that takes into account an individual’s or class’s of consumers’ willingness to pay a higher price for a product relative to other individuals or classes) when pricing its automobile insurance in California. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED?** The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

If you believe that you are in the Settlement Class, but have not received notice of the Settlement, you may call the toll free number, 1-XXX-XXX-XXXX, write the Settlement Administrator at Farmers PO Settlement, PO Box XXXX, Portland, OR 97XXX-XXXX, or send an e-mail to [info@FarmersPOSettlement.com](mailto:info@FarmersPOSettlement.com).

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to make payments (via check or policy credit) to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, expenses, costs of Settlement Administration, and Service Awards. All Class Members will receive an equal payment amount. If the Settlement is approved, payments will *automatically* be made to Settlement Class Members identified in Farmers’ records. If you did not receive a notice by mail or in your email and believe you should be included, visit the website or call the toll-free number below.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2019**. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit. If you stay in the Settlement, you may object to it by **Month Day, 2019**. The Detailed Notice available at the website or by calling the toll-free number below includes information on how to exclude yourself or object. The Court will hold a hearing on **Month Day, 2019** to consider whether to approve the Settlement and a request by Class Counsel for attorneys’ fees of up to \_\_\_ of the Settlement Fund plus Class Counsel’s costs and expenses, and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement, call the Claims Administrator toll free or visit the settlement website.

[www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)

1-XXX-XXX-XXXX

# EXHIBIT 7

## **Introduction**

The rates Farmers Insurance Exchange and Mid-Century Insurance Company (collectively “Farmers”) charge for auto insurance have always been subject to approval by the California Department of Insurance (the “CDI” or “Department”). In the last few years—long after the CDI had approved Farmers’ system of calculating rates—the Department began studying computer programs used by some insurers that enabled them to quote or charge policy holders rates that, in part, were influenced by elasticity of demand or their willingness to pay a higher price. Farmers states, and the Department has verified, that Farmers has never used a specific computer program for this purpose.

However, in determining California auto insurance premiums, Farmers has traditionally considered various characteristics of the individual driver, including the length of time the driver has been insured with Farmers. The Plaintiffs in this case have argued that in considering an insured’s tenure with Farmers in connection with rate setting, Farmers has also considered price optimization/elasticity of demand (a.k.a., any method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor in violation of California law. Farmers disagrees with Plaintiffs’ argument, denies that it engaged in price optimization or any wrongful conduct, and has only charged premiums reviewed by the CDI and approved by the Commissioner of Insurance. Nevertheless, in the interests of resolving this dispute Farmers has now filed and the California Department of Insurance has approved a new rating system that does not consider an insured’s tenure with Farmers in determining his or her premium. In addition, Farmers hereby agrees to the following:

## **Injunctive Relief**

1. Farmers will not use any form of price optimization software or program, nor in any way consider price optimization/elasticity of demand in connection with, or in the development of, California private passenger auto rates or class plans, unless and until such time as such practices are explicitly authorized under California law or by the California Department of Insurance.
2. Farmers will not initiate a challenge, in any way, to the Commissioner's 2/18/15 Notice re price optimization (“the Notice”) or the Commissioner's legal authority to regulate the use of price optimization software or the consideration of price optimization/elasticity of demand or price sensitivity in connection with, or in the development of, rates and class plans for California private passenger auto. However, if accused of price optimization or the allegedly improper consideration of price optimization/elasticity of demand, Farmers reserves the right to defend itself against any such accusation and does not waive any argument it may make in defense of such a claim, including that the Notice was unlawful or the Commissioner lacked the legal authority to regulate the use of price optimization software or the consideration of price optimization/elasticity of demand.

# EXHIBIT 8

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 SCHONBRUN SEFLOW  
4 HARRIS & HOFFMAN LLP  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 *Attorneys for Plaintiffs and the Proposed Settlement Class*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE  
14 BROWN, AND BRIAN  
15 LINDSEY,

16 Plaintiffs,

17 v.

18 FARMERS INSURANCE  
19 EXCHANGE AND MID  
20 CENTURY INSURANCE  
21 COMPANY,

22 Defendants.

Case No.: BC579498

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

**Complaint filed: April 22, 2015  
Trial Date: TBD**

23  
24  
25  
26  
27  
28  
Case No.: BC579498

1 MEHRI & SKALET PLLC  
2 Cyrus Mehri, Esq.  
3 Jay Angoff, Esq.  
4 1250 Connecticut Ave. NW  
5 Suite 300  
6 Washington, DC 20036

7 TYCKO & ZAVAREEI LLP  
8 Andrea Gold, Esq.  
9 1828 L Street Northwest  
10 Suite 1000  
11 Washington, DC 20036

12 BERGER MONTAGUE, P.C.  
13 Peter Kahana, Esq.  
14 Jeff Osterwise, Esq.  
15 1818 Market Street, Suite 3600  
16 Philadelphia, PA 19103

17 **THIS MATTER HAVING** come before this Court for an Order  
18 preliminarily certifying a Settlement Class and preliminarily approving a  
19 settlement (“Preliminary Approval Order”) between Plaintiffs Roger Harris,  
20 Duane Brown, and Brian Lindsey, individually and on behalf of the proposed  
21 Class, and Defendants Farmers Insurance Exchange and Mid Century  
22 Insurance Company (collectively, “Defendants” or “Farmers”), and this Court  
23 having reviewed the Settlement Agreement and attachments thereto, executed  
24 by the parties, and submitted to the Court with the Motion for Preliminary  
25 Approval of Class Action Settlement;

26 **IT IS HEREBY ORDERED** as follows:

- 27 1. This Preliminary Approval Order incorporates the Settlement Agreement,  
28 and the terms used herein shall have the meanings and/or definitions given  
to them in the Settlement Agreement, as submitted to the Court with the  
Motion for Preliminary Approval of Class Action Settlement.
2. For purposes of the Settlement, and conditioned upon the Settlement

1 receiving final approval following the Final Approval Hearing, this Court  
2 hereby conditionally certifies a Settlement Class, defined as follows and  
3 subject to the stated exclusions below:

4 a. The Settlement Class includes all Policy Holders of Defendants  
5 Farmers Insurance Exchange (“FIE”) and Mid Century Insurance  
6 Company (“Mid-Century”) who: (1) had 9 or more years of  
7 tenure/persistency as a FIE and/or Mid-Century policyholder as  
8 of August 18, 2015 or who reached 9 or more years of  
9 tenure/persistency as a FIE and/or Mid-Century policyholder on  
10 or before March 31, 2017, and (2) were FIE and/or Mid-Century  
11 policyholders of Defendants at any time during the period  
12 extending from August 18, 2015 through March 31, 2017.

13 b. Excluded from the Settlement Class are (a) officers, directors, and  
14 employees of any member of the Farmers Insurance Group of  
15 Companies; (b) the judge overseeing the proposed settlement and  
16 the judge’s immediate family; and (c) all Policy Holders who  
17 make a timely election to be excluded.

18 3. The Court finds that, for purposes of Settlement: (a) the number of  
19 Settlement Class Members is so numerous that joinder is impracticable; (b)  
20 there are questions of law and fact common to the Settlement Class  
21 Members; (c) the claims of the Class Representatives are typical of the  
22 claims of the Settlement Class Members; (d) the Class Representatives are  
23 adequate representatives for the Settlement Class, and has retained  
24 experienced Class Counsel; (e) the questions of law and fact common to  
25 the Settlement Class Members predominate over any questions affecting  
26 any individual Class Member; and (f) a class action is superior to the other  
27 available methods for the fair and efficient adjudication of the controversy.

28 4. For purposes of Settlement only, the Court finds and determines that

1 Plaintiffs Duane Brown, Roger Harris, and Brian Lindsey will fairly and  
2 adequately represent the interests of the Class in enforcing their rights in  
3 the Action, and appoints them as Class Representatives.

4 5. For purposes of the Settlement only, the Court appoints as Class Counsel  
5 the law firms of Mehri & Skalet PLLC, Tycko & Zavareei LLP, and Berger  
6 & Montague P.C.

7 6. Epiq Systems, Inc. is appointed as Settlement Administrator. The  
8 Settlement Administrator shall abide by the terms and conditions of the  
9 Settlement Agreement that pertain to the Settlement Administrator.

10 7. The Settlement, on the terms and conditions stated in the Settlement  
11 Agreement, is preliminarily approved by this Court as being fair,  
12 reasonable and adequate, free of collusion or indicia of unfairness, and  
13 within the range of possible final judicial approval.

14 8. A Final Approval Hearing shall be held on \_\_\_\_\_, 2020 at \_\_\_\_\_  
15 a.m./p.m. before the Honorable Hon. Maren Nelson. in Department 17 of  
16 the Superior Court of the State of California, County of Los Angeles,  
17 located at the Spring Street Courthouse, 312 North Spring Street, Los  
18 Angeles, CA 90012, to consider: (a) the fairness, reasonableness and  
19 adequacy of the proposed Settlement; (b) any objections made by  
20 Settlement Class Members to the proposed Settlement; (c) whether the  
21 Settlement should be finally approved by this Court; (d) the Fee  
22 Application; (e) the Service Award Application; and (f) such other matters  
23 as this Court may deem proper and necessary.

24 9. The Motion for Final Approval shall be served and filed no later than 45  
25 days before the Final Approval Hearing.

26 10. Class Counsel are also to file and serve the Fee Application and Service  
27 Award Application no later than 45 days before the Final Approval  
28 Hearing. The Fee Application and Service Award Application will be

1 heard concurrently with the Final Approval Hearing.

2 11. The proposed forms of Notice are attached to the Settlement Agreement as  
3 Exhibits \_\_ and \_\_, and are hereby approved for the purpose of notifying  
4 the Settlement Class Members as to the proposed Settlement, the Final  
5 Approval Hearing, and the rights of the Settlement Class Members, and it  
6 shall be sent to the Settlement Class Members substantially in the form  
7 approved. The costs of giving notice to the Settlement Class Members will  
8 be paid from the Settlement Amount.

9 12. The Court directs the Settlement Administrator to cause a copy of the  
10 Notice to be sent to all persons identified in the list of Settlement Class  
11 Members outlined in paragraph 71 of the Settlement Agreement, which  
12 Farmers shall provide to the Settlement Administrator no later than fourteen  
13 (14) calendar days after the date of the entry of this Preliminary Approval  
14 Order. The Notice Program is to be made by email, first class United States  
15 mail, postage prepaid, and publication, as outlined in paragraphs 70-75 of  
16 the Settlement Agreement. The Notice Program is to be completed within  
17 sixty (60) calendar days before the Final Approval Hearing.

18 13. Ten days prior to the Final Approval Hearing, Plaintiffs or the Settlement  
19 Administrator shall provide a declaration to the Court attesting to the  
20 measures undertaken to provide Notice to the Settlement Class Members.

21 14. The Notice to the Settlement Class, as set forth in Exhibits \_\_ and \_\_ to the  
22 Settlement Agreement, and approved by this Preliminary Approval Order,  
23 is the best notice practicable, and is reasonably calculated, under the  
24 circumstances, to apprise the Settlement Class Members of the pendency  
25 of the Action and their right to participate in, object to, or exclude  
26 themselves from the Settlement. This Court further finds that the Notice is  
27 due and sufficient notice of the Final Approval Hearing, the Settlement, the  
28 Fee Application and Service Award Application, and other matters set forth

1       therein, and that the Notice fully satisfies California Rules of Court and due  
2       process of law, to all persons entitled thereto.

3       15. Settlement Class Members may object to the settlement in writing and/or  
4       by appearing at the Fairness Hearing. To object to the settlement, the  
5       objection must set forth the name of the Action; the objector's full name,  
6       address and telephone number; an explanation of the basis upon which the  
7       objector claims to be a Settlement Class member; all grounds for the  
8       objection, accompanied by any legal support for the objection known to the  
9       objector or objector's counsel; the number of times in which the objector  
10      has objected to a class action settlement within the five years preceding the  
11      date that the objector files the objection, the caption of each case in which  
12      the objector has made such objection, and a copy of any orders related to  
13      or ruling upon the objector's prior objections that were issued by the trial  
14      and appellate courts in each listed case; the identity of all counsel who  
15      represent the objector, including any former or current counsel who may be  
16      entitled to compensation for any reason related to the objection to the  
17      Settlement or fee application; a copy of any orders related to or ruling upon  
18      objector's counsel's or objector's counsel's law firm's in connection with  
19      prior objections that were issued by a trial or appellate court in each listed  
20      case in which the objector's counsel and/or counsel's law firm have  
21      objected to a class action settlement within the preceding 5 years; any and  
22      all agreements that relate to the objection or the process of objecting—  
23      whether written or oral—between objector or objector's counsel and any  
24      other person or entity; the identity of all counsel (if any) representing the  
25      objector who will appear at the Final Approval Hearing; a list of all persons  
26      who will be called to testify at the Final Approval Hearing in support of the  
27      objection; a statement confirming whether the objector intends to  
28      personally appear and/or testify at the Final Approval Hearing; and the

1 objector's signature (an attorney's signature is not sufficient).

2 16. Class Counsel and/or Farmers may conduct limited discovery on any  
3 objector consistent with the California Code of Civil Procedure.

4 17. Settlement Class members may elect to exclude themselves or "opt-out"  
5 from the Settlement Agreement. In the event a Class Member wishes to be  
6 excluded from the Settlement and not to be bound by this Agreement, that  
7 person must, prior to the culmination of the Opt-Out Period, sign and mail  
8 a notice of intention to opt-out of the Settlement to the Settlement  
9 Administrator. The notice must be postmarked on or before the end of the  
10 Opt-Out Period and must include the Policy Holder's name, address, and  
11 telephone number, the last four digits of the Policy Holder's Policy number,  
12 and a clear request that the individual would like to "opt-out," be  
13 "excluded," by use of those or other words clearly indicating a desire to no  
14 longer participate in the Settlement. Any Settlement Class member who  
15 timely and properly requests exclusion in compliance with these  
16 requirements will not be included in the Settlement Class, will not have any  
17 rights under the Settlement, will not be entitled to receive a Settlement  
18 Class Member Payment, and will not be bound by the Settlement  
19 Agreement or the Final Approval Order. Class Members who fail to submit  
20 a valid and timely opt-out request shall be bound by all terms of the  
21 Settlement Agreement and the Final Approval Order, regardless of whether  
22 they have requested to be opted-out from the Settlement. If a Policy has  
23 more than one Policy Holder, and if one Policy Holder excludes himself or  
24 herself from the Settlement Class, then all account holders on that Policy  
25 shall be deemed to have opted out of the Settlement with respect to that  
26 Policy and no Policy Holder shall be entitled to a payment under the  
27 Settlement.

28 18. Any Settlement Class member who submits a timely opt-out request may

1 not object to the Settlement and shall be deemed to have waived any rights  
2 or benefits under the Settlement Agreement.

3 19. All pretrial proceedings in this action are stayed and suspended until further  
4 order of this Court, except such actions as may be necessary to implement  
5 the Settlement Agreement and this Preliminary Approval Order.

6 20. In the event that (a) this Court does not finally approve the Settlement as  
7 provided in the Settlement Agreement; (b) this Court does not enter the  
8 Final Approval Order as provided in all material respects and substantial  
9 form set forth in the Settlement Agreement; or (c) the Settlement does not  
10 become final for any other reason, the Settlement Agreement shall be null  
11 and void and any order or judgment entered by this Court in furtherance of  
12 the Settlement shall be vacated *nunc pro tunc*. In such a case, the Parties  
13 shall proceed in all respects as if the Settlement Agreement had not been  
14 executed and the Parties shall in no way be prejudiced in proceeding with  
15 or defending this litigation, the conditional class certification effected  
16 herein will be null and void, and Farmers shall have the right to object to  
17 certification of the Settlement Class or any other class at any future time.

18 21. For the benefit of the Settlement Class and to protect this Court's  
19 jurisdiction, this Court retains continuing jurisdiction over the Settlement  
20 proceedings to ensure the effectuation thereof in accordance with the  
21 Settlement preliminarily approved herein and the related orders of this  
22 Court.

23 22. The parties are directed to carry out their obligations under the Settlement  
24 Agreement.

25 23. Class Counsel shall serve a copy of this Preliminary Approval Order on all  
26 named parties or their counsel within seven (7) days of receipt.

27 Summary of Applicable Dates  
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1	1.	Preliminary Order Served on Parties (w/in 7 days of receipt of Preliminary Approval Order (PAO))	
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5	2.	Notice Program to be Completed by Settlement Administrator (60 days prior to Final Approval Hearing)	
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9	3.	Deadline to Object or Opt-Out (30 days prior to Final Approval Hearing)	
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12	4.	Fee Application and Service Award Application to be filed (45 days prior to Final Approval Hearing)	
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16	5.	Motion for Final Approval to be filed (45 days prior to Final Approval Hearing)	
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19	6.	Settlement Administrator Declaration (10 days prior to Final Approval Hearing)	
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22	7.	Responses to Objections and Reply in Support of Final Approval and Award of Fees, Costs, and Service Awards (7 days before Final Approval Hearing)	
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26	8.	Final Approval Hearing	
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**It is SO ORDERED.**

Dated: \_\_\_\_\_

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The Honorable Maren Nelson

# EXHIBIT 9

## **Renewal Insert-Farmers Insurance Exchange**

In determining California auto insurance premiums, Farmers Insurance Exchange (“Farmers”) has traditionally considered the risk characteristics of individual drivers. In 2015, three Farmers policyholders filed a class action complaint alleging that Farmers also improperly considered a non-risk-based characteristic - the willingness of the individual policyholder to pay a higher price - in calculating premiums. Farmers disagrees with that allegation and denies that it engaged in any wrongful conduct. Nevertheless, in the interests of resolving this dispute, Farmers agreed to a settlement in the amount of \$15,000,000, including all attorneys’ fees, costs of administration, and service fees. That settlement has been approved by the Superior Court of the State of California. To reduce the costs of administering that settlement, Farmers will apply premium credits to current Farmers policyholders. Specifically, current Farmers policyholders who (1) had 9 or more years of tenure with Farmers as of August 18, 2015 or who reached 9 or more years of tenure with Farmers on or before March 31, 2017, and (2) were Farmers policyholders at any time during the period from August 18, 2015 through March 31, 2017, will each be credited \$\_\_\_\_. You are one of those policyholders. If you choose to renew your Farmers policy, Farmers will credit this amount to your renewal premium, i.e., Farmers will reduce your renewal premium by this amount. However, you need not renew your Farmers policy in order to receive the benefits of the settlement. If you choose not to renew your policy with Farmers, you will receive a paper check for the same amount ( \$ \_\_ ) from the Settlement Administrator.

## **Renewal Insert-Mid Century Insurance Company**

In determining California auto insurance premiums, Mid Century Insurance Company (“Mid Century”) has traditionally considered the risk characteristics of individual drivers. In 2015, three Mid Century policyholders filed a class action complaint alleging that Mid Century also improperly considered a non-risk-based characteristic - the willingness of the individual policyholder to pay a higher price - in calculating premiums. Mid Century disagrees with that allegation and denies that it engaged in any wrongful conduct. Nevertheless, in the interests of resolving this dispute, Mid Century agreed to a settlement in the amount of \$15,000,000, including all attorneys’ fees, costs of administration, and service fees. That settlement has been approved by the Superior Court of the State of California. To reduce the costs of administering that settlement, Mid Century will apply premium credits to current Mid Century policyholders. Specifically, current Mid Century policyholders who (1) had 9 or more years of tenure with Mid Century as of August 18, 2015 or who reached 9 or more years of tenure with Mid Century on or before March 31, 2017, and (2) were Mid Century policyholders at any time during the period from August 18, 2015 through March 31, 2017, will each be credited \$ \_\_\_. You are one of those policyholders. If you choose to renew your Mid Century policy, Mid Century will credit this amount to your renewal premium, i.e., Mid Century will reduce your renewal premium by this amount. However, you need not renew your Mid Century policy in order to receive the benefits of the settlement. If you choose not to renew your policy with Mid Century, you will receive a paper check for the same amount ( \$ \_\_\_ ) from the Settlement Administrator.

# **EXHIBIT 2**



# Firm Resume

**Mehri & Skalet, PLLC**  
**1250 Connecticut Ave., NW, Suite 300**  
**Washington, DC 20036**  
**Tel: (202) 822-5100**  
**Fax: (202) 822-4997**  
**[www.findjustice.com](http://www.findjustice.com)**

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## OUR BACKGROUND AND COMMITMENT

*Mehri & Skalet PLLC* (M&S) believes that powerful institutions and corporations are not above the law. This belief inspires our work and informs our practice. Whether the target is deceptive sales practices or unfair employment practices, M&S uses the legal system to correct the imbalance of power that often favors big business over private citizens.

In cases ranging in focus from consumer protection to civil rights to corporate fraud, we are tenacious, creative and public-spirited in our approach to legal work. We do high impact cases with high integrity, and have a track record for getting far-reaching results. We prove every day that the law can be used to achieve fairness and justice.

M&S is a law firm with seasoned attorneys who fight complex cases on behalf of employees, consumers, investors, whistleblowers, citizen groups and small businesses. M&S attorneys bring together decades of front-line experience in litigation and issue advocacy and build upon strong ties with public interest, consumer, labor, whistleblower and civil rights organizations. M&S combines superior legal work and advocacy to serve our clients.

Our search for justice for our clients takes us to federal and state courts across the country, where we primarily litigate civil and consumer rights class actions; cases involving corporate abuse in insurance, financing and other areas; whistleblower suits alleging fraud on behalf of the government; as well as individual cases with a public interest impact.

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## PRACTICE AREAS

### Civil Rights

Mehri & Skalet, PLLC, has represented employees in individual and class action discrimination cases filed across the United States. Currently the firm is actively investigating, litigating or participating in settlement talks in numerous matters involving employment discrimination. Mehri & Skalet also prosecutes cases regarding racial bias against consumers in the market place.

Using federal and state anti-discrimination laws, Mehri & Skalet represents individuals fighting unlawful discrimination that adversely impacts their employment, business, or financial circumstances. While M&S maintains a broad-based practice, many of our cases fit into these general categories of discrimination:

- “glass ceiling” and discrimination in promotions and advancement
- discrimination in pay, and distribution of business opportunities
- discrimination by employers in testing and other selection procedures
- discrimination in contract formation and financial endeavors
- sexual harassment

### Partnerships with the Non-Profit Community

M&S has forged creative partnerships with key civil rights organizations to address inequities in the workplace:

#### *The Madison Avenue Project*

The Madison Avenue Project was formed by the NAACP and M&S to reverse the widespread, entrenched discrimination against African American professionals employed in the advertising industry. For more than forty years, the advertising industry has been investigated and charged by government agencies for discriminatory employment practices which resulted in a deficiency of African American new hires and promotions. The industry has fallen far short in adequately addressing these disparities. The Madison Avenue Project seeks to redress the historical discrimination against African American advertising professionals and to create systematic changes in

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the culture, policies, and practices of the advertising agencies to promote diversity and equality.

**The Women on Wall Street Project**

On April 6, 2004, the National Council of Women's Organizations asked M&S to coordinate an investigation of eight financial services companies that would be called the Women on Wall Street Project. The NCWO asked our firm to investigate because it had heard from women in many of these companies. Their stories indicate that many of America's top financial services companies are rife with gender discrimination, ranging from pay inequity and glass ceiling issues to sexual harassment. Since 2004, we have been receiving intake calls from employees at several financial sector companies, and we, in collaboration with experienced co-counsel, are investigating allegations of gender discrimination.

**Key Civil Rights Cases**

A sample of current and past civil rights cases prosecuted by M&S lawyers includes:

\* **Brown v. Medicis Pharmaceutical Corp.**

M&S and co-counsel represent a proposed class of over 200 women who have reached a settlement with Medicis that has been preliminarily approved by the United States District Court for the District of Columbia. The class alleges that Medicis' top executive created a sexually hostile environment for the women in its sales force and discriminated against them in pay and promotions. Under the settlement, Medicis, which was acquired by Valeant Pharmaceuticals International after the events at issue in the case, has agreed to pay a total of about \$7.1 million, an average of over \$30,000 per class member, and to provide comprehensive programmatic relief. More information about the settlement can be found at [www.medicisgendersettlement.com](http://www.medicisgendersettlement.com).

\* **White v. Lynch**

M&S represents a certified class of over 400 women alleging that the Federal Bureau of Prisons permitted the inmates at its largest correctional complex to create a

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hostile work environment over many years toward female employees. The women allege that many managers were hostile toward their presence in the workforce and that the Agency did not adopt reasonable measures to prevent or deter the virtually incessant harassment. Discovery has been completed in this case before an EEOC Administrative Judge, and M&S anticipates that cross-motions for summary judgment will be filed in the Spring of 2016, with a trial of any liability issues not resolved by summary judgment to occur later in 2016.

**\* Wal-Mart Pregnancy Discrimination**

M&S represents a putative class of female Wal-Mart employees who allege that the company's policies discriminate against pregnant workers and that the company systemically fails to provide pregnant workers the same types of workplace accommodations available to others. The matter is currently filed in the U.S. District Court in Southern Illinois.

**\* Roberts v. Texaco**

Six plaintiffs filed Roberts v. Texaco as a class action in 1994, alleging that the company discriminated against African-American employees by failing to promote and adequately compensate them in relation to Caucasian employees. Each of the six plaintiffs hit a glass ceiling when they tried to advance to management. In addition, in an industry that was known to be behind in diversity, Texaco's minority representation was significantly lower than others in the oil industry. Discovery revealed that African Americans were significantly under-represented in higher levels of management. The investigation also revealed that Texaco maintained a secret list of "high potential" employees and no African Americans were on that list. The case was settled in 1996 for what was the largest sum ever allowed in a race discrimination case, \$176.1 million. In addition to damages, the settlement called for pay raises for about 1,400 black employees as well as systemic programmatic relief.

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\* **Ingram v. The Coca-Cola Company**

Four named plaintiffs represented a class of 2,200 current and former salaried, African-American employees of Coca-Cola in this class action filed April 1999 in the Northern District of Georgia. The case involved race discrimination in promotions, compensation and evaluations. The plaintiffs alleged a substantial difference in pay between African-American and white employees; a “glass ceiling” that kept African-Americans from advancing past entry-level management positions; “glass walls” that channeled African-Americans to management in areas like human resources and away from power centers such as marketing and finance; and senior management knowledge of these problems since 1995 and a failure to remedy them.

On June 7, 2001, the Court approved a final Settlement Agreement, valued at \$192.5 million and designed to ensure dramatic reform of Coca-Cola's employment practices. A court-appointed task force chaired by Alexis Herman, former Secretary of Labor, issued several annual task force reports highlighting the progress Coca-Cola made in complying with the Settlement Agreement.

\* **Robinson v. Ford Motor Company**

M&S and the Equal Employment Opportunity Commission (“EEOC”) each filed a lawsuit on December 27, 2004, challenging Ford's procedures for selecting apprentices nationwide. These suits alleged that, since 1997, Ford had discriminated against African-Americans on the basis of race in selecting apprentices. The two cases were consolidated in the Southern District of Ohio.

A Settlement Agreement was approved by Judge S. Arthur Spiegel on June 15, 2005. Judge Spiegel said “The settlement provides substantial monetary and non-monetary benefits to the class... as well as extensive systemic relief. The new testing procedures benefitted not only the class members, but potentially also all employees and future employees of Ford.” The EEOC held a Commissioners’ meeting that focused on this settlement and removing bias in testing procedures on May 16, 2007. A companion case, Love v. Automotive Components Holdings, LLC et al. received final approval on December 20, 2007.

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\* **Augst-Johnson v. Morgan Stanley & Co., Inc.**

On June 22, 2006, M&S filed a lawsuit against Morgan Stanley on behalf of female financial advisors. The complaint alleged that Morgan Stanley engaged in systematic gender discrimination against women financial advisors with respect to compensation, account assignments, partnership participation, promotions, training and mentoring and other terms and conditions of employment, all in violation of Title VII of the Civil Rights Act of 1964, as amended. On October 26, 2007, the U.S. District Court of the District of Columbia approved a class action settlement with Morgan Stanley and the class of approximately 2,700 women Financial Advisors and Registered Financial Advisor Trainees employed at Morgan Stanley.

The five-year settlement included a lump sum payment by Morgan Stanley of \$46 million and significant programmatic relief. The parties estimate that, in addition to the Settlement Fund, the changes called for in the programmatic relief will increase the earnings of women financial advisors by at least \$16 million over five years and the diversity efforts by the Company over five years will cost an additional \$7.5 million. The parties jointly selected an independent diversity monitor to oversee the settlement and two outside experts to develop non-discriminatory human resource policies and procedures.

\* **Amochaev v. Smith Barney**

On March 31, 2005, plaintiffs in Northern California filed a nationwide class-action lawsuit on behalf of female Financial Advisors who alleged that Smith Barney discriminated against them in account distribution, business leads, referral business, partnership opportunities, and sales support. On August 13, 2008, U.S. District Judge Phyllis Hamilton granted final approval to a settlement of this gender discrimination case against Smith Barney. The settlement provides significant programmatic relief, including an independent diversity monitor, as well as over \$33 million to the class.

\* **Maxey v. ALCOA**

On February 14, 2002, five named plaintiffs representing a class of hourly African-American and Hispanic Cleveland Works employees of ALCOA, Inc., filed a class action lawsuit in the Northern District of Ohio. The case involved allegations that

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ALCOA's system of selecting apprentices at ALCOA'S Cleveland Works Facility discriminated on the basis of race and national origin. In 2003 the parties reached an innovative settlement, which the Court approved. The settlement called for the creation of a new testing procedure created by a jointly selected independent expert, the selection of new apprentices from the class, and a \$500,000 Educational Foundation to benefit the Black and Hispanic communities in Cleveland. The Settlement also provides monetary relief of \$10,000 in compensatory damages to each class member who took the apprenticeship selection test since February 14, 1996, and did not enter an apprenticeship program.

\* **Carter v. Wells Fargo Advisors**

In 2009, as part of our Women on Wall Street Project, M&S along with co-counsel filed a class action lawsuit against Wachovia Securities, LLC, alleging that the company engaged in systemic gender discrimination against its female financial advisors. In December 2010, the parties reached a proposed class settlement that includes a \$32 million fund from which awards, fees and costs will be paid. The settlement also requires the company to make significant changes to its internal policies that affect the distribution of business opportunities, including the appointment of an independent monitor and a jointly selected expert. In June 2011, the Court approved the settlement.

\* **Norfleet v. John Hancock Life Insurance Company**

On July 7, 2004, M&S, along with co-counsel, initiated a ground-breaking class action lawsuit against John Hancock Life Insurance for its company-wide policy prohibiting the sale of life insurance to African-Americans in the early to mid-20th century. The lawsuit also confronted John Hancock's practice of offering African-Americans substandard and seriously inferior life insurance products when it did sell insurance to African-Americans. The named Plaintiff is an African-American woman whose mother had purchased life insurance policies from John Hancock in 1940s and 1950s. The Court granted the Plaintiff's motion for class certification in September of 2007.

The parties reached a settlement in 2009, which created a \$24 million fund to pay claims to the class plus fees and costs. There is also a large *cy pres* component of

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approximately \$15 million, which is being distributed to organizations that benefit African-American communities by a court-appointed committee.

### **Whistleblower Protection**

Whistleblowers serve as society's "canaries in the coal mine," alerting the public to fraud, waste, abuse, and criminal activity. M&S recognizes the critical role whistleblowers can play in: protecting public funds, ensuring the safety of food and drugs, protecting the environment, exposing securities laws violations, and in disclosing problems in many other sectors of the economy.

M&S attorneys are involved in investigating and litigating cases under the Federal False Claims Act involving frauds perpetrated against the Government concerning subsidized housing, defense, office equipment and supplies, health care, and federal grants.

Similarly, M&S attorneys assist whistleblowers in filing tips with the Securities and Exchange Commission, Internal Revenue Service, Commodity Futures Trading Commission, U.S. Attorney General, Federal Deposit Insurance Corporation, and Treasury Department concerning violations of standards maintained by those agencies. Successful prosecutions based on this information may result in a whistleblower award.

The firm represents whistleblowers who have been subjected to retaliation in violation of any of the twenty-four major federal whistleblower protection provisions. M&S also litigates cases under the state equivalents of those federal laws.

### **Workers' Rights**

Wage and hour laws exist to protect employees, who are often dependent upon their employers for financial security, from being exploited in the workplace. Similar to victims of discrimination, employees who have been denied wages or benefits are often unaware of how to enforce their rights. At M&S, we use our understanding of the law to ensure that workers receive the wages and benefits they have earned. The federal Fair Labor Standards Act (FLSA) requires that employers pay minimum wage for hours worked each week and pay overtime to all non-exempt workers, generally after forty hours a week. Many salaried or commissioned workers may be considered

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non-exempt under federal law. In addition, numerous states provide greater worker protections than federal law, such as reimbursement of most expenses, paid meal and rest periods, and higher minimum wage.

M&S represents a class of about 25,000 federal employees who were required to work during the partial government shutdown in October 2013 but were not paid on their regularly scheduled paydays by the government. They allege that they were not timely paid minimum wage and, to the extent that they were required to work overtime, were not timely paid overtime wages either. The Court of Federal Claims has ruled that the government did indeed violate the FLSA, but has not yet decided whether the class is entitled to liquidated damages.

The firm also litigates wage and hour cases against private employers. For example, the firm is currently litigating a case against MetLife on behalf of employees who were misclassified as independent contractors and denied them overtime pay. In 2008, M&S, along with co-counsel, filed suit on behalf of a putative class of Bank of America mortgage loan officers who were misclassified as exempt from the FLSA and thereby were improperly denied reimbursement of expenses, in violation of California law. In September 2010, the Court approved the class action settlement, which provided for payment of more than \$8 million to class members.

### **Real Estate/ Housing/Lending**

Guided by the expertise of M&S principal Steve Skalet, who has over 35 years of litigation and transactional experience in real estate and financial fraud, M&S represents clients in cases involving real estate, lending and debt collection practices, and defective construction materials.

In the class action context, the firm handles cases under the Equal Credit Opportunity Act, Truth in Lending Act, Fair Debt Collection Practices Act, Real Estate Settlement Procedures Act and other federal and state consumer protection statutes.

#### **\* Reverse Mortgages: *Bennett v. Donovan and Plunkett v. Castro***

M&S represented plaintiffs in a series of cases in federal court in the District of Columbia that resulted in three landmark reforms in the federal reverse mortgage

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program: (1) HUD revised the program in 2015 to allow surviving spouses of borrowers to obtain protection from foreclosure; (2) HUD rewrote its model mortgages in 2014 to protect spouses from foreclosure; and (3) HUD withdrew illegal “guidance” it had issued in 2008 that prevented borrowers from selling their homes to spouses or family members at fair market value.

Congress enacted the Home Equity Conversion Mortgage (HECM) program almost 30 years ago. Its purpose is to allow elderly borrowers to access the equity in their homes, while protecting them from displacement by predatory lenders. An explicit statutory protection in federal law is that spouses of reverse mortgage borrowers should be treated as “homeowners,” even if they are not listed as borrowers on the mortgage. It also allows them to sell their property at or slightly under its appraised value to a spouse or family member, so that the family will not lose its home if housing values drop. Borrowers pay for these protections through required contributions to a federal insurance program. Congress did not want elderly individuals facing foreclosure at the worst possible moment in their lives: right after they lose a spouse.

Due to HUD’s failure to protect spouses in its regulations, this is exactly what happened. M&S and AARP Foundation Litigation sued the U.S. Department of Housing and Urban Development (HUD) in 2011 on behalf of three individuals, all of whom faced foreclosure soon after they lost their spouses. HUD immediately withdrew its illegal guidance restricting the borrower’s right to sell the property. The Court of Appeals for the D.C. Circuit ruled in 2013 that Plaintiffs had standing to challenge HUD’s illegal regulations, and also opined that HUD’s regulations were illegal. Soon afterward, a federal district court ruled that HUD’s regulations were illegal, and remanded the matter to HUD to fashion a remedy. Beginning with mortgages issued in August 2014, all surviving spouses in the reverse mortgage program will be eligible for protection from foreclosure. In June 2015, HUD announced a program allowing surviving spouses to stay in their homes by having the ir reverse mortgages assigned to HUD.

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Based on HUD's own estimates, this case will benefit thousands and likely tens of thousands of current borrowers and their families, and all future borrowers in the program.

**\*Amerisave Mortgage Corporation**

In 2011, M&S, along with co-counsel, filed a class action lawsuit in the California Superior Court for San Francisco County against Amerisave Mortgage Corporation for violating the Truth in Lending Act through their deceptive advertising practices in the selling of residential mortgages. The suit alleges that Amerisave promises customers they can quickly request a "lock-in" of low advertised online rates, requires the consumer to pay for a property appraisal prior to the rate being locked-in, and then allows the lock in period to expire, locking the customer into the agreement at a higher rate. In 2013, the case was settled for \$3.1 million, which was distributed to class members to compensate them for a portion of the improper fees they paid.

**\* Twin Towers Tenant Association v. Capitol Park Associates**

M&S also advocates for tenants' rights. We have been lead counsel in a series of cases in the District of Columbia fighting to protect and preserve tenants' rights of first refusal whenever a residential apartment building is sold. We assist tenant associations in purchasing their buildings establishing condominium or cooperatives. Where appropriate, we seek innovative ways to preserve affordable housing. Determined to keep the project as long-term affordable housing, we worked with community representatives, real estate financiers, and federal regulators to help the Tenants' Association implement a unique long-term solution. Not only did M&S help save the homes of more than 800 people, it secured their futures by empowering them with eventual ownership of the properties.

**\* Metropolitan Money Store**

*Mehri & Skalet* represented numerous homeowners who had been stripped of hundreds of thousands of dollars of home equity through a mortgage rescue scam that lured individuals facing potential foreclosure to "temporarily" sign away the deeds to their homes with a promise of redemption after their credit improved through credit counseling. This practice allowed scam artists to gain access to home equity which was

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then stolen from the homeowner. The *Washington Lawyers' Committee on Civil Rights and Urban Affairs* referred the clients to *Mehri & Skalet*, which provided *pro bono* representation to these victims of fraud. In 2009, we successfully resolved the cases to protect the homeowners.

M&S also handles both individual and class action product liability cases, with an emphasis on defective construction materials, such as defective water pipes (polybutylene pipe), defective exterior siding products (artificial stucco, siding or roofing), and fire retardant plywood (FRT Plywood). Each of these products were foisted on an unsuspecting public by manufacturers who refused to voluntarily take responsibility for their defective products, which caused enormous economic and health problems.

### **Consumer Protection**

The strength and integrity of our practice benefits from our attorneys' strong ties to premier consumer advocate organizations, such as the Center for Auto Safety, the Center for Science in the Public Interest and Public Citizen.

Mehri & Skalet remains true to its roots in the U.S. consumer movement. In each class action we investigate or file, we never lose sight of the ultimate beneficiaries of our work – the consuming public.

M&S attorneys investigate and litigate all types of consumer and small business protection issues, including:

- Automotive and other consumer product defects and recalls
- Enforcing the Affordable Care Act
- Excessive or unjustified insurance rates
- Antitrust, unfair pricing and deceptive billing practices
- Predatory lending, credit and insurance schemes
- Consumer and small business on-line and support services
- Fraud or unfair practices in real estate, banking and finance
- Medical, pharmaceutical and healthcare-related fraud



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M&S is litigating or has settled a number of consumer class actions. These include:

\* **Hunter v. MedStar Georgetown University Hospital et al.**

M&S represents consumers in a proposed class action alleging that two D.C. hospitals overcharge their patients for copies of their own medical records. Hospitals and other care providers received millions of federal tax dollars to convert to electronic medical recordkeeping systems, in order to make medical care more cost-efficient and accessible for patients. Yet defendants continue charging the same high per-page rates for electronic records that they charged for paper records that had to be manually copied.

In 2015, plaintiffs won a motion to remand the case to D.C. Superior Court. The case is in its early stages.

\* **Worth v. CVS**

M&S is co-counsel with Center for Science in the Public Interest on behalf of two consumers in a proposed class action filed in federal court in the Eastern District of New York, alleging that CVS falsely markets its “Algal-900 DHA” product to improve memory. Plaintiffs allege that the study CVS relies on for its claim was conducted by the in-house scientists for another supplements company, which withdrew its own product from the market after the Federal Trade Commission warned that the study did not support its memory claims. In addition, Plaintiffs allege that larger and more rigorous studies have consistently found no effect of DHA supplements on memory.

\* **In re Apple MagSafe Adapter Litigation**

M&S served as co-lead class counsel on behalf of millions of consumers, alleging that Apple’s “MagSafe” adapter, which powered its laptop computers, was defectively designed and would prematurely fray and fail to work. In 2015, a California federal court approved a settlement providing up to 100% cash refunds for adapters that failed in the first year of use, and a percentage of the purchase cost for adapters that failed up to three years after purchase. In addition, Apple provided a free, redesigned adapters for anyone who presented one at an Apple store.

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**\* Schaffer v. Hewlett Packard Company**

This lawsuit alleged that certain models of the HP Pavilion desktop computer contained a defective motherboard that caused the computers to suffer performance problems such as “hanging, freezing and locking.” HP denied these allegations and admitted no wrongdoing. M&S negotiated a settlement with HP that provided class members with a direct monetary payment, reimbursement of out-of-pocket expenses, and/or a discount certificate. A federal judge in Michigan approved the settlement in 2006.

**\* Niewinski, et al. v. Resurrection Health Care Corporation**

On September 16, 2004, M&S filed a lawsuit in Illinois state court on behalf of uninsured patients against Resurrection Health Care Corporation (Resurrection), a not-for-profit health care system that includes nine hospitals in the Chicago metropolitan area. The suit alleged that Resurrection charged uninsured patients substantially more than patients covered by insurance, and failed to provide poor patients with an adequate opportunity to apply for financial assistance to pay their bills. Plaintiffs further alleged that in addition to price-gouging the uninsured and reducing its charitable expenditures, Resurrection employed unjust methods of collecting overdue bills, harassing even the poorest patients with collection lawsuits and garnishing their wages. In January 2009, the court approved a settlement in which Resurrection agreed to recalculate patients’ bills and give refunds to class members totaling as much as \$3 million, as well as giving a 25 percent discount to uninsured patients.

**\* Lazo v. Mercury Marine**

In the fall of 2004, M&S successfully settled this class action lawsuit against Mercury Marine for excessive problems with their 2000-2004 2.5L and 3.0L OptiMax Engines. The problem was generated from the powerhead and/or direct fuel injection system, which at times caused engines to cut off or freeze. Pursuant to the settlement, all members of the class were given an extended warranty and/or a rebate on Mercury or QuickSilver Products.

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**\* Car Dealership Overcharges**

Some new car dealers overcharge their customers for legitimate fees or add bogus charges when they lease a car. M&S has been named class counsel in several class actions in New Jersey charging car dealers with consumer fraud for such overcharges. Many of these cases have recently settled, tens of thousands of Class Members each receiving certificates redeemable for both cash and credit.

**\* Telephone Service Overcharges**

M&S brought several cases concerning overcharges and deceptive practices against local, long distance, and cell phone service providers. M&S settled a class action against Verizon New Jersey, Inc. for failing to implement a small business discount. Verizon overcharged Class Members by \$1.01 per month for between one to four auxiliary phone lines. Under the terms of the settlement, Class Members will receive a payment or credit of \$1.65 for each such overcharge. M&S also brought a successful class action against Verizon-New Jersey for charging customers for inoperable services. The case also resulted in a substantial settlement.

**\* Ford Focus Brake Defects**

In 2002, M&S filed a class action against Ford Motor Company alleging defects in the front braking system of the 2000 and 2001 Ford Focus. M&S represented plaintiffs who alleged that the braking system contains a systemic defect that caused the front brake pads and rotors to wear out prematurely, forcing unsuspecting owners to spend hundreds of dollars in repairs and maintenance on a recurring basis. In December 2005, M&S, together with co-counsel, filed a motion to certify a class of all persons who purchased or leased one of these vehicles in the State of California. The motion contained multiple reports from experts, hundreds of pages of documents and depositions, and statements from clients. The Los Angeles County Superior Court certified a proposed class in 2006. In July 2008, the court granted final approval of a settlement that provided full cash reimbursement for qualifying parts and labor for all California owners and lessees who experienced premature front brake wear, including reimbursement for brake pads and rotors.

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**\* Mitsubishi Galant Brake Defects**

M&S settled a class action in 2004 against Mitsubishi for a defect in the brake system of the 1999 Mitsubishi Galant. The defect caused extremely premature wear on the rotors and brake pads grossly in excess of normal use. Plaintiffs raised claims of breach of warranty and consumer fraud. Mitsubishi denied all claims. The parties reached a settlement where Class Members received either an inspection and repair of the brake problem, a reimbursement of all out-of-pocket expenses of brake and/or rotor repairs, or a service voucher.

**\* Apple Computer**

M&S filed and settled a class action against Apple Computer, Inc. that obtained relief for a nationwide class of buyers who unwittingly purchased an Apple wireless networking product that was incompatible with America Online (“AOL”). The settlement secures out-of-pocket damages of \$45 for each class member and changes to Apple's notice and packaging practices related to this product. The settlement was approved in 2002.

**\* Bridgestone-Firestone, Inc.**

In August 2000, M&S filed suit against Bridgestone-Firestone, Inc. in the first weeks of the company's massive tire recall effort. *Farkas v. Bridgestone-Firestone* sought to enjoin Firestone from discontinuing its policy of reimbursing customers for the cost of non-Firestone replacement tires. The restraining order obtained in *Farkas* was enforceable against Firestone on a nationwide basis and immediately produced a dramatic reversal in company policy. As a result, hundreds of thousands of Firestone customers retained the ability to replace their defective tires with tires from another manufacturer, and then seek reimbursement from Firestone -- thus speeding the efficient removal of millions of unsafe tires from our nation's roads.

**Antitrust and Commodities Manipulation**

Vigorous enforcement of antitrust laws is essential to a free and fair marketplace. The Supreme Court has made clear that private antitrust lawsuits are an

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important part of antitrust enforcement, in *Hawaii v. Standard Oil Co. of Cal.*, 405 U.S. 251, 262 (1972).

Every violation of the antitrust laws is a blow to the free-enterprise system envisaged by Congress. Congress encourages private attorney general enforcement of antitrust laws. It is in the spirit of a “private attorney general” that M&S prosecutes antitrust class action litigation: to combat and deter anticompetitive practices, and to give wronged consumers and businesses a remedy for illegal behavior in the marketplace.

M&S attorneys have served as counsel in antitrust class actions, including in cases challenging monopolization by brand-name drugmakers, who thwart competition by generics, and price-fixing in the market for air freight services and auto wire harnesses. M&S also has experience in class actions under the Commodity Exchange Act, 7 U.S.C. § 1. This statute provides a private right of action to futures traders who were harmed by manipulative activity.

**\* ATM Antitrust Litigation**

M&S, along with Quinn Emmanuel and Hagens Berman, represents consumers in a proposed antitrust class action, alleging that they have paid inflated “access fees” in connection with ATM withdrawals. Plaintiffs allege that Visa and MasterCard, who own the predominant ATM networks over which withdrawals are processed, contractually forbid ATMs from charging higher access fees for transactions processed over Visa and MasterCard’s networks, even though those networks pay the lowest “interchange” rates to ATM owners. The result of this illegal price-fixing agreement is that ATMs must raise their prices across the board, so consumers pay more.

In 2015, Plaintiffs received an excellent ruling in the Court of Appeals for the D.C. Circuit, stating that Plaintiffs had stated a claim for relief under federal antitrust law, and remanding the matter for further proceedings. 797 F.3d 1057 (D.C. Cir. 2015).

**Investor Protection**

Corporate fraud at some of the nation's leading corporations has harmed countless institutional and individual investors. Scores of hardworking Americans

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have suffered losses in their pension funds, retirement accounts, college and general savings accounts as a result of fraudulent conduct. We believe that investors deserve zealous representation in their fight for a return of those assets. M&S represents institutional investors concerned about securities fraud and corporate governance, as well as 401(k) beneficiaries enforcing ERISA.

Founding partner Cyrus Mehri has represented shareholders in securities class actions for many years. His experience includes recovering assets for those involved in the elaborate scandals involving junk bonds committed by Ivan Boesky and Michael Milken in the 1980's, as well as savings and loan institutions. In addition, Mr. Mehri served as class counsel in *Florin v. NationsBank* in 1993, which restored \$16 million to a pension plan that was bilked by company insiders at Simmons Mattress Company. And in 1991, *In re Bolar Pharmaceutical Co.* he helped to return over \$25 million to defrauded shareholders. Mr. Mehri was also the principal attorney in *Roosevelt v. E. I. Dupont de Nemours and Co.*, which established the right for shareholders to go to federal court to require corporations to include proxy resolutions. M&S helped prosecute a securities fraud case against AOL Time Warner – one of the largest such cases in U.S. history, it settled for \$2.4 billion. M&S's ERISA cases involve Visteon, Avaya and National City.

Mr. Mehri also co-authored a series of articles on securities enforcement and corporate governance including *Labor & Corporate Governance* articles entitled "Stock Option Equity: Building Democracy While Building Wealth" (November 2002), and "The Latest Retreat by the SEC" (February 2003). Mr. Mehri also co-authored an article in *The Journal of Investment Compliance* (Winter 2002/2003) entitled "Slipping Back to Business as Usual, Six Months After the Passage of Sarbanes-Oxley". Mr. Mehri co-authored a letter to the SEC regarding diversity in Board appointments.

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## ATTORNEY BIOGRAPHIES

### Cyrus Mehri

Cyrus Mehri is a founding partner of the law firm Mehri & Skalet, PLLC.

The business press has long followed Mr. Mehri's work. The New York Times stated, "Mr. Mehri's vision for corporate America involves sweeping change, not the piece meal kind." Fast Company says "He is something of a one-man army in the battle against business as usual . . . [H]is impact - both in terms of penalties and remedies - is undeniable." In 2001, he was named by Regardie's Power magazine as one of "Washington's Ten Most Feared Lawyers" and in 2003, by Workforce magazine as "Corporate America's Scariest Opponent."

Mr. Mehri served as Class Counsel in the two largest race discrimination class actions in history: *Roberts v. Texaco Inc.* which settled in 1997 for \$176 million and *Ingram v. The Coca-Cola Company*, which settled in 2001 for \$192.5 million. Both settlements include historic programmatic relief, featuring independent Task Forces with sweeping powers to reform key human resources practices such as pay, promotions and evaluations.

Trial Lawyers for Public Justice named Mr. Mehri a finalist for "Trial Lawyer of the Year" in 1997 and 2001 for his work on the Texaco and Coca-Cola matters respectively.

In September of 2008, Mr. Mehri testified before the Senate Judiciary Committee alongside Supreme Court litigant Lilly Ledbetter. Mr. Mehri's testimony called for diversifying the pool of potential judicial nominations not just in terms of race and gender but also in terms of life and work experience.

In October of 2008, Mr. Mehri co-authored a paper called "21st Century Tools for Advancing Equal Opportunity: Recommendations for the Next Administration." This paper was released by the American Constitution Society along with papers by several other authors including Senator Ted Kennedy and Former Attorney General Janet Reno.

On April 6, 2004, Mr. Mehri, along with Martha Burk and the National Council of Women's Organizations announced a project called "Women on Wall Street." The project focuses on gender discrimination in financial institutions.

In 2007, Mehri & Skalet announced a \$46 million settlement with Morgan Stanley on behalf of female financial consultants. In 2008, the firm announced a comparable \$33 million settlement with Smith Barney. Both are settlements that have sweeping

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reforms that will fundamentally change the allocation of business opportunities at these brokerage houses.

Mr. Mehri served as lead counsel in *Robinson v. Ford Motor Company*. The settlement created a record 279 highly-coveted apprenticeship positions for African American employees as well as payment of \$10 million. In a May 2007 EEOC Commissioners meeting, Mr. Mehri and others testified about this settlement's significance on testing procedures in the workplace.

On September 30, 2002, Mr. Mehri and Johnnie L. Cochran, Jr. released the report, *Black Coaches in the National Football League: Superior Performance, Inferior Opportunities*. The report became the catalyst for the NFL's creation of a Workplace Diversity Committee and the adoption of a comprehensive diversity program. The NFL now has a record number of African American head coaches. Mr. Mehri serves as counsel for the Fritz Pollard Alliance, an affinity group for minority coaches, front office and scouting personnel in the NFL.

Mr. Mehri represents institutional investors concerned about securities fraud and corporate governance. Mr. Mehri has a long history of representing defrauded investors, pensioners and consumers, as well as small businesses subjected to price-fixing, in other class actions. For example, in 1993 *Florin v. Nations Bank* restored \$16 million to a pension plan that was bilked by company insiders at Simmons Mattress Company. In 1991, *In re Bolar Pharmaceutical Co.* returned over \$25 million to defrauded shareholders. Mr. Mehri serves as co-lead counsel in numerous consumer class actions. Mr. Mehri helped to prosecute one of the largest securities cases in history, a \$2.5 billion settlement with AOL Time Warner.

Mr. Mehri co-authored a series of articles on securities enforcement and corporate governance including Labor & Corporate Governance articles entitled "Stock Option Equity: Building Democracy While Building Wealth" (November 2002) and "The Latest Retreat by the SEC" (February 2003). Mr. Mehri also co-authored an article in *The Journal of Investment Compliance* (Winter 2002/2003) entitled "Slipping Back to Business As Usual, Six Months After the Passage of Sarbanes-Oxley."

He is also the co-author of the article: "One Nation, Indivisible: The Use of Diversity Report Cards to Promote Transparency, Accountability, and Workplace Fairness"; *Fordham Journal of Corporate and Financial Law*, 9, 99-152 (with Andrea Giampetro-Meyer & Michael B. Runnels).

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For the 2008 National Employment Law Association Convention, Mr. Mehri co-authored a paper, "A 'Toolbox' for Innovative Title VII Settlement Agreements."

Mr. Mehri graduated from Cornell Law School in 1988, where he served as Articles Editor for the Cornell International Law Journal. After law school, he clerked for the Honorable John T. Nixon, U.S. District Judge for the Middle District of Tennessee. Mr. Mehri has received the Outstanding Youth Alumnus Award from Hartwick College and the Alumni Award from Wooster School in Danbury, Connecticut "for becoming a beacon of good, positively affecting the lives of many." Most recently, Mr. Mehri was asked to give the 2009 Commencement Speech at Hartwick College and the Founder's Day Speech at Wooster School.

The Pigskin Club of Washington, DC granted Mr. Mehri, the prestigious "Award of Excellence."

In March 2003, the Detroit City Council passed a testimonial resolution honoring Mr. Mehri and wishing him "continued success in changing the fabric of America."

In 2007, Mr. Mehri was given the "Distinguished Visitor" Award by the Miami-Dade County Office of the Mayor and Board of County Commissioners at the Fritz Pollard Alliance's Second Annual Salute to Excellence Program.

Mr. Mehri is a frequent guest on radio and TV and is guest columnist for Diversity, Inc.

### **Steven A. Skalet**

Steven A. Skalet is a principal and managing partner in the firm of Mehri & Skalet, PLLC. Mr. Skalet is involved in all aspects of the firm's litigation practice--especially in the areas of consumer and financial fraud--and continues his real estate and finance practice. Mr. Skalet has over 35 years of litigation and transactional experience in real estate, consumer fraud, bank fraud and class action litigation.

Mr. Skalet began his career with the Washington, D.C. firm of Melrod, Redman & Gartlan, where he worked on a number of American Civil Liberties Union cases, including a case granting women the right to employment with the U.S. Park Service as park police.

Mr. Skalet has had a varied litigation practice before state and federal courts throughout his career. From 1995 until the formation of M&S, Mr. Skalet practiced with Kass & Skalet, PLLC, a well-known real estate, litigation, complex business and consumer protection firm. Prior to that, he and another lawyer formed a practice that focused on real estate and litigation, including consumer class actions under the Truth-

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in-Lending and Equal Credit Opportunity acts. That firm grew to approximately 23 lawyers in 3 jurisdictions and, when it split up in 1995, was known as Kass, Skalet, Segan, Spevack & Van Grack, PLLC.

In 2001, Mr. Skalet and Cyrus Mehri started the firm of Mehri & Skalet, PLLC, concentrating in complex litigation and class actions. The firm has developed a varied and successful litigation practice in state and federal courts. Since its inception Mr. Skalet has been lead counsel or co-lead counsel in successful class action cases against Dell, Inc., Mercury Marine, Hewlett Packard, Sony, Ford, Verizon, Mitsubishi, Morgan Stanley, and many other companies.

Mr. Skalet has been an advisor to the Federal Reserve Board on credit and banking matters. He has served on the Montgomery County Advisory Committee reviewing the wholesale simplification of the Montgomery County Code. He also served on the District of Columbia Bar Committee responsible for drafting form commercial leases and the Montgomery County Board of Realtors committee responsible for drafting residential real estate contracts.

Mr. Skalet has actively participated in Community Associations Institute activities and was Chair of the District of Columbia Legislative Action Committee for many years. In 1999, and again in 2001, he was awarded the Public Advocate Award for his work on District of Columbia legislation. He is a frequent speaker and has authored numerous articles pertaining to real estate and community associations.

Mr. Skalet graduated from the University of Pennsylvania School of Law in 1971 and the University of Rochester in 1968. He lives in Bethesda, Maryland with his wife, Linda, and has two grown sons.

**Jay Angoff**

Jay Angoff, who served as the first director of Affordable Care Act implementation at HHS and as Missouri Insurance Commissioner, is a partner at Mehri & Skalet. He heads the firm's insurance practice. Among the cases in which he has obtained refunds for consumers overcharged by insurers are *Landers v. Interinsurance Exchange of the Automobile Club* (LA County, Cal., \$24 million settlement), *Clutts v. Allstate* (Madison County, Ill., \$6 million settlement), and *Foundation for Taxpayer and Consumer Rights v. GEICO* (LA County, Cal., settlement valued at up to \$12 million.) He currently represents consumers challenging the practice of price optimization--charging policyholders based on their willingness to tolerate a price increase, rather than on the risk they present--by major auto insurers.



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Mr. Angoff has also represented and advised state insurance departments in connection with proposed mergers and restructurings, including the Maryland, Pennsylvania, and Montana Departments and, currently, the Missouri Department. He also represents and advises both for-profit and non-profit organizations on ACA- and other insurance-related matters. In one such matter, on behalf of the St. Louis Effort for AIDS, he successfully challenged a Missouri statute which limited the ability of ACA-authorized consumer assistance organizations to help consumers obtain health insurance. In another, on behalf of the Consumers Council of Missouri, he successfully challenged HHS's refusal to make rate justifications public--so that consumers could comment on them, and regulators could consider them in ruling on the proposed increases--until after the increases took effect. After the lawsuit was filed, HHS agreed to make such justifications public.

At HHS Mr. Angoff's responsibilities included developing the new regulations governing the individual and small group markets, including the Patient's Bill of Rights, Medical Loss Ratio rule and Rate Review rule; implementing the Rate Review, Consumer Assistance and Exchange grant programs; and establishing the Early Retiree Reinsurance Program and Preexisting Condition Insurance Plan. Mr. Angoff also served at HHS as the Senior Advisor to the Secretary and as the HHS Regional Director for Region VII, headquartered in Kansas City.

Between 1993 and 1998 Mr. Angoff served as Director of the Missouri Department of Insurance. There he became one of the first Insurance Commissioners to order a traditionally non-profit Blue Cross plan to establish a healthcare foundation with the full value of its assets. He also helped implement an Exchange for state workers, which reduced their health insurance rates by up to 45%. And he established a competitive bidding process for workers compensation insurers that reduced workers comp rates by 24%. He also oversaw and accelerated the run-off of the Transit Casualty and Mission insolvencies, two of the largest and longest-running insurer insolvencies in the nation.

Prior to coming to Missouri, Mr. Angoff served as Deputy Insurance Commissioner of New Jersey and Special Assistant to the Governor for Health Insurance Policy. In those positions, he helped draft and implement New Jersey's individual and small group reform laws.

Mr. Angoff began his career as an antitrust lawyer with the Federal Trade Commission. He also served as a staff attorney for Congress Watch, a public interest

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lobbying organization, as counsel to the National Insurance Consumer Organization, and as Vice-President for Strategic Planning for Quotesmith.com (now insure.com), an internet quotation service and insurance broker. He has written for The New York Times, The Washington Post, and The Wall Street Journal, among other publications, and he is a frequent commentator on MSNBC and FOX News. He is a member of the District of Columbia, Missouri, New Jersey, and U.S. Supreme Court bars, and is a graduate of Oberlin College and Vanderbilt Law School.

**Ellen Eardley**

Ellen Eardley is a partner at M&S and a member of the management team. She practices civil rights and employment discrimination law. Ms. Eardley was formerly the Assistant Vice Chancellor for Civil Rights & Title IX at the University of Missouri, where she became the university's first Title IX administrator. She served on both the Chancellor's and Provost's staffs and was responsible for addressing discrimination and sexual violence on a campus of more than 60,000 people.

Ms. Eardley also founded the University's first institutional equity office, creating a central place to address all forms of discrimination and sexual violence. During her tenure, Kevin McDonald, vice chancellor for inclusion, diversity and equity, credited her with "building a team of highly qualified equity professionals, increasing transparency through annual reports of allegations of discrimination and sexual violence, improving key equity-related university policies, and co-chairing the MU Sexual and Intimate Partner Violence Task Force."

Before taking on her role at MU, Ms. Eardley practiced law at M&S for eight years, where she was a Partner. She also taught Sex Discrimination Law at American University's Washington College of Law during this time.

Ms. Eardley is building a Title IX practice at M&S, using her Title IX expertise to collaborate with non-profits working to end sexual violence in the nation's schools and universities. She serves as a consultant to businesses working to enhance their inclusion, diversity, and equity practices.

**Richard Condit**

Richard Condit became "of counsel" to Mehri & Skalet in 2015 and joined the firm as a partner in 2016. He heads the firm's Whistleblower Law practice, including cases involving whistleblower retaliation, disclosures to the SEC and other federal agencies, and false claims or fraud against the government or its contractors. Mr. Condit has over 25 years of experience working with whistleblowers of diverse



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backgrounds in a wide variety of industries, representing lawyers, doctors, bank executives, firefighters, social workers, police officers, engineers, and laborers. The subject matter of the issues raised by whistleblowers Mr. Condit has worked with are equally diverse, covering such problems as fraud against the government, nuclear safety, environmental protection, bank fraud, food safety, mortgage fraud, securities law or regulatory violations, public transit safety, and many others.

Prior to joining the firm, Mr. Condit worked at the Government Accountability Project (GAP) for eight years (1987-1995) before rejoining the organization in 2007. In his first stint at GAP, Mr. Condit helped develop the organization's environmental whistleblower and citizen enforcement programs. After returning to GAP in 2007, Mr. Condit served as Senior Counsel, leading the organization's in-house litigation of whistleblower and open government cases.

Mr. Condit has also spent time in Colorado as the Legal/Toxics Director of the Land and Water Fund of the Rockies (now Western Resource Advocates), and more than five years as Counsel to the Chemical Weapons Working Group (CWWG), which led an international effort to require the U.S. Army to safely dispose of stockpiled chemical warfare agents. As General Counsel for Public Employees for Environmental Responsibility (PEER), Mr. Condit led the group's whistleblower litigation efforts.

Mr. Condit is an adjunct faculty member of the University of the District of Columbia David A. Clarke School of Law. For the past seven years, he has taught Whistleblower Law and Practice in the classroom and through the school's highly regarded clinical program.

A licensed attorney in the District of Columbia, Mr. Condit is also admitted to practice before the U.S. Supreme Court, U.S. District Courts for the District of Columbia, District of Colorado, and Southern District of Indiana. He has appeared before U.S. Courts of Appeal in numerous circuits. Mr. Condit regularly practices before the U.S. Department of Labor and has presented whistleblower cases to the U.S. Office of Special Counsel and U.S. Merit Systems Protection Board. He has also been permitted to practice pro hac vice before other federal and state courts and agencies.

Mr. Condit graduated with a Bachelor of Science from the New Jersey Institute of Technology (1980), and received his Juris Doctorate from the Antioch School of Law (1986).

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### **Cleveland Lawrence III**

Cleveland Lawrence III is Of Counsel at M&S. He is an expert on False Claims Act, whistleblower, fraud, and compliance issues, and has been a thought leader in the qui tam community for more than a decade. From 2008 to 2016, Cleveland led the Taxpayers Against Fraud Education Fund (TAFEF) and its sister organization, Taxpayers Against Fraud – first as Director of Legal Education and later as Co-Executive Director. In those capacities, he regularly met with whistleblowers, federal and state government officials, private attorneys, and the public to combat fraud against federal and state funds. He also served as editor in-chief of TAFEF’s law journal, the False Claims Act & Qui Tam Quarterly Review, and managed annual national seminars on the IRS, SEC, and CFTC whistleblower programs. After leaving TAFEF, Cleveland returned to private practice and spent two years as the Whistleblower Director for the Sanford Heisler Sharp law firm.

Throughout his distinguished career, Cleveland has worked with the highest levels of all three branches of Government to shape whistleblower law and policy. He has partnered with high-ranking officials from the U.S. Department of Justice to coordinate the nation’s largest annual False Claims Act conference. In addition to arguing before federal district and circuit courts on behalf of his own whistleblower clients, Cleveland has authored and filed numerous amicus curiae briefs on behalf of TAFEF in federal and state courts across the country – including the United States Supreme Court. He has also testified before Congress and state legislatures regarding FCA and whistleblower-related legislation; prepared draft legislation; and authored multiple comment letters to federal agencies implementing Dodd-Frank and other whistleblower reward programs.

Cleveland is a respected voice on fraud and whistleblower issues and frequently speaks at conferences and other educational events; to compliance officers; to law students; and to the media. He received a B.A. from Georgetown University and he graduated, with honors, from The George Washington University Law School, where he was a member of the Public Contracts Law Journal.

### **Michael Lieder**

Michael Lieder became “of counsel” to M&S in 2012. Since then he has worked primarily on employment discrimination and FLSA class action litigation for the firm.

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Michael's work includes *Onward and Upward after Wal-Mart v. Dukes*," co-authored with M&S's Cyrus Mehri, on successfully pursuing employment justice in the wake of *Wal-Mart v. Dukes*".

For the previous 21 years, Mr. Lieder was of counsel, a partner, and a member of Sprenger + Lang, PLLC. At that firm, he generally served as lead counsel or in another leading role in employment discrimination, ERISA, wage and hour, and consumer class action litigation, including the following prominent cases:

- *In re TV Writers Cases*, No. 268836 et al. (Cal. Sup. Ct. (Los Angeles Cty.) 2011) (age discrimination class action);
- *Whitaker v. 3M Co.*, (Minn. Sup. Ct. (Ramsey Cty.) 2011) (age discrimination class action);
- *Seraphin v. SBC Internet Servs., Inc.*, No. CV 09-131-S-REB (D. Idaho 2011) (consumer class action);
- *Jarvoise v. RAND Corp.*, No. 1:96-CV-2680 (D.D.C. 2007) (gender discrimination class action);
- *Carlson v. C.H. Robinson Worldwide, Inc.*, No. CV-02-3780 (D. Minn. 2006) (gender discrimination class action);
- *Lucich v. New York Life Ins. Co.*, No. 01-1747 (S.D.N.Y. 2004) (ERISA pension benefits class action);
- *Franklin v. First Union Corp.*, Nos. 3:99cv344 and 610 (E.D. Va. 2001) (ERISA breach of fiduciary duty class action);
- *Thornton v. National Railroad Passenger Corp.*, No. 98-890 (D.D.C. 2000) (race discrimination class action);
- *McLaurin v. National Railroad Passenger Corp.*, No. 98-2019 (D.D.C. 1999) (race discrimination class action);
- *Hyman v. First Union Corporation*, No. 94-1043 (D.D.C. 1997) (age discrimination collective action);
- *Burns v. Control Data Corporation*, No. M.D. 4-96-41 (D. Minn. 1997) (age discrimination collective action);
- *In Re: Maytag Corporation/Dixie Narco Plant Closing Litigation*, No. 92-C-417 (Jefferson County, West Virginia Circuit Court 1995) (breach of contract and fraud class action); and
- *In re Pepco Employment Litigation*, No. 86-0603 (D.D.C. 1993) (race discrimination class action).

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The settlements in many of the cases required comprehensive injunctive relief in addition to substantial payments to the class members. In the majority of these cases, Mr. Lieder worked closely with co-counsel from other firms.

During his time at Sprenger + Lang, Mr. Lieder became well known in the class action employment bar. In the last seven years alone, he has written papers and spoken at seminars and webinars concerning certification of employment discrimination class actions, the impact of *Dukes* on certification of employment discrimination class actions, statistical evidence in employment discrimination cases, mediation of employment discrimination cases, the Age Discrimination in Employment Act, Rule 23(f) review of class action certification decisions, ERISA litigation, and wage-and-hour litigation. He also has authored several amicus briefs to the Supreme Court and Courts of Appeal. In 2007, he was named one of "500 Leading Plaintiffs' Lawyers in America" by Lawdragon magazine, and in 2013, he was selected as a "Super Lawyer."

Mr. Lieder brought with him to Mehri & Skalet several cases initiated while he was at Sprenger & Lang, including a breach-of-contract, ERISA and age discrimination case against Allstate Insurance Company on behalf of over 6,200 insurance agents (if the class is certified) and two cases raising cutting edge consumer law issues. In addition, Mehri & Skalet quickly is integrating Mr. Lieder into its employment class action litigation practice.

Before beginning work at Sprenger + Lang in 1991, Mr. Lieder graduated magna cum laude from Georgetown University Law Center, where he was a Notes and Comments editor on the Georgetown Law Journal, worked for six years as an associate at the Madison, Wisconsin office of Foley & Lardner LLP, and served as a visiting assistant professor for a year at the University of Toledo College of Law.

Mr. Lieder is also an accomplished author with wide-ranging interests. He co-authored a book, *Wild Justice: The People of Geronimo vs. the United States*, published by Random House in 1997, which was favorably reviewed by the New York Times and the Washington Post, among other leading publications.

In April 2013, Mr. Lieder co-authored an article about successfully pursuing employment justice in the wake of Wal-Mart v. Dukes, which significantly heightened requirements for class actions. The article, "Onward and Upward after Wal-Mart v. Dukes," was co-authored with M&S's Cyrus Mehri.

Mr. Lieder also wrote or co-authored five pieces published in various law journals:

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- Class Actions Under ERISA, 10 Employee Rights & Employment Policy J. 665 (2006);
  - Navajo Dispute Resolution and Promissory Obligations: Continuity & Change in the Largest Native American Nation, 18 Amer. Ind. L. Rev. 1 (1992);
  - Constructing a New Action for Negligent Infliction of Economic Loss: Building on Cardozo & Coase, 66 Wash. L. Rev. 937 (1991);
  - Religious Pluralism and Education in Historical Perspective: A Critique of the Supreme Court's Establishment Clause Jurisprudence, 22 Wake Forest L. Rev. 813 (1987); and
  - Adjudication of Indian Water Rights Under the McCarran Amendment: Two Courts Are Better Than One, 71 Geo. L.J. 1023 (1983).

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Mr. Lieder has a wonderful wife and son who help to keep him enthusiastic and energetic about his life and legal career.

**Judge U.W. Clemon**

Retired U.S. District Judge U.W. Clemon (Chief Judge N.D. Alabama), joined Mehri & Skalet as Of Counsel on January 1, 2017. Judge Clemon was Alabama's first black federal judge, serving as the Chief Judge of the Northern District of Alabama from 1999-2006. Joining M&S gives him a chance to return to his roots in civil rights and other public spirited and complex litigation.

Judge Clemon served as the trial judge during Lilly Ledbetter's successful trial against Goodyear. The Supreme Court created new legal standards and reversed Ms. Ledbetter's trial victory. In her dissent, Justice Ginsberg called on Congress to act to restore the law and the legal principles consistent with Judge Clemon's trial decisions. The Lilly Ledbetter bill became the first law that President Obama signed into law as President. Ms. Ledbetter has this to say about Judge Clemon: "There is no finer person or jurist than Judge U.W. Clemon. As the presiding judge, he managed my trial exactly how it should have been. He was fair to both sides. But for him, I may never have had my day in court and may never have had the opportunity to make history to change the law for the better for all Americans."

Judge Clemon serves on the plaintiffs' Steering Committee in perhaps the largest antitrust case in the nation, BlueCross Antitrust. Judge Clemon is also frequently deployed as a mediator, arbitrator or court-appointed Special Master including serving as Special Master in a historic M&S case, *Norflet v. John Hancock*.

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As a student activist at Miles College, Judge Clemon confronted the infamous Eugene “Bull” Connor over Birmingham’s segregation ordinances in 1962, and marched with Dr. Martin Luther King in the following year. In 1968 he graduated from Columbia Law School, where he began a life-long relationship with the NAACP Legal Defense & Educational Fund, Inc.

Before his judicial appointment, Judge Clemon was a civil rights lawyer. He sued Coach Paul Bear Bryant in 1969 to desegregate the University of Alabama’s football team, and has represented many plaintiffs in employment cases. He was the first African American elected to the Alabama State Senate since Reconstruction and served respectively as chairman of the Rules and Judiciary Committees.

He confronted Governor George C. Wallace on many race-related issues. After nearly thirty years of service, Judge Clemon retired from the federal bench in 2009.

**Ezra Bronstein**

Ezra Bronstein is an experienced attorney dedicated to the protection of whistleblowers, consumers, and employees. Ezra’s practice focuses primarily on representing whistleblowers in all types of matters including bringing qui tam lawsuits under the False Claims Act, submitting whistleblower tips under the Securities and Exchange Commission’s whistleblower bounty program, and obtaining compensation for illegal workplace retaliation against whistleblowers. In addition, Ezra represents consumers and workers in class actions targeting predatory and discriminatory business practices.

Prior to joining M&S, Ezra directed a federal agency’s Whistleblower Office, lead investigations of public corruption, and participated in prosecutions of complex white-collar crimes. Ezra was also responsible for assessing regulatory compliance and internal controls of Fannie Mae, Freddie Mac, Federal Home Loan Banks, and the Federal Housing Finance Agency, and recommending improvements in public reports to Congress.

Ezra serves as a board member and legal advisor to Geder Avos, a non- profit organization dedicated to the preservation of historic cemeteries and graves in Eastern and Central Europe.

Ezra graduated from The George Washington University Law School in 2012 where he was a Presidential Merit Scholar. While in law school, Ezra completed legal internships at the U.S. Securities and Exchange Commission and at a publicly traded company. Prior to attending law school, Ezra volunteered as a community organizer

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and teacher in communities in Johannesburg and Pretoria, South Africa, and was ordained as a rabbi.

Ezra is a member of the New York Bar and, pending his admission to the D.C. Bar, is being supervised by a licensed D.C. Bar member.

**Lauren Nussbaum** Lauren Nussbaum joined Mehri & Skalet in 2018 as an Associate Attorney. Prior to joining Mehri & Skalet, Ms. Nussbaum served as a law clerk for the Honorable Reggie B. Walton of the United States District Court for the District of Columbia and for the Honorable Patrick L. Woodward of the Court of Special Appeals of Maryland.

Ms. Nussbaum graduated *summa cum laude* from American University Washington College of Law in 2014, where she was a Public Interest/Public Service Scholar, an editor of the *Administrative Law Review*, and a student attorney for the Disability Rights Law Clinic. Prior to attending law school, Ms. Nussbaum received her Master of Arts in Latin American Studies from Tulane University and her Bachelor of Arts in Spanish from Barnard College.

Ms. Nussbaum is a member of the Maryland and District of Columbia Bars, and is admitted to practice before the United States District Court for the District of Columbia.

**N. Jeremi Duru**

N. Jeremi Duru, a Professor of Law at American University's Washington College of Law, serves as "of counsel" to Mehri & Skalet. Before entering academia, Professor Duru was an associate at Mehri & Skalet, where he represented plaintiffs' interests in employment discrimination and other civil rights matters.

Much of Professor Duru's work involved challenges to discriminatory employment practices in professional athletics. In recognition of this work, the National Bar Association honored Professor Duru with its 2005 Entertainment and Sports Lawyer of the Year award. Professor Duru has lectured and written extensively on sports law and employment law topics and, among other publications, is co-author of *Sports Law and Regulation: Cases, Materials, and Problems* (3d ed.) (Wolters Kluwer) and author of *Advancing the Ball: Race, Reformation, and the Quest for Equal Coaching Opportunity in the NFL* (Oxford University Press).

After receiving his undergraduate education at Brown University, Professor Duru completed a joint-degree program at Harvard University, receiving a Master's degree in Public Policy from the John F. Kennedy School of Government and a Juris

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Doctorate from Harvard Law School. He then served as a law clerk to the Honorable Damon J. Keith of the United States Court of Appeals for the Sixth Circuit.

# **EXHIBIT 3**

## **TYCKO & ZAVAREEI LLP**

### **HISTORY**

Our firm was founded in 2002, when Jonathan Tycko and Hassan Zavareei left the large national firm at which they both worked to start a new kind of practice. Since then, a wide range of clients have trusted us with their most difficult problems. Those clients include individuals fighting for their rights, tenants' associations battling to preserve decent and affordable housing, consumers seeking redress for unfair business practices, whistleblowers exposing fraud and corruption, and non-profit entities and businesses facing difficult litigation.

Our practice is focused in a few select areas: consumer class action litigation, employment litigation, appellate litigation, whistleblower *qui tam* litigation, intellectual property litigation, First Amendment litigation, and business litigation.

### **EXPERIENCE**

Our firm's practice focuses on complex litigation. This includes representation of plaintiffs in class action litigation. Since the founding of our firm, we have been plaintiff's counsel in dozens of separate lawsuits brought as class actions. In addition to this work on class actions, our practice also involves representing businesses in unfair competition and antitrust litigation, representing employees in employment litigation, and representing whistleblowers in *qui tam* litigation brought under the False Claims Act and other similar whistleblower statutes.

### **PRACTICE AREAS**

#### **CONSUMER CLASS ACTIONS**

Our attorneys have a wealth of experience litigating consumer and other types of class actions. We primarily represent consumers who have been the victims of corporate wrongdoing. Our attorneys bring a unique perspective to such litigation because each of our partners trained at major national law firms where they obtained experience representing corporate defendants in such cases. This unique perspective enables us to anticipate and successfully counter the strategies commonly employed by corporate counsel defending class action litigation.

In addition, because class actions present such high-stakes litigation for corporate defendants, our ability to skillfully oppose motions to dismiss the case at an early stage of the litigation before the class has a chance to have a judge or jury consider the merits of its claims is critical to obtaining relief for our clients. Our attorneys have successfully obtained class certification, the most critical step in winning a class action, and obtained approval of class action settlements with common funds collectively amounting to over \$250 million.

## EMPLOYMENT LITIGATION

Our attorneys have substantial experience representing employees and employers in employment disputes. In most of the employment litigation that we handle, however, we represent groups of plaintiffs who are challenging systemic unlawful employment practices. For instance we successfully represented seven women in their claims of systemic discrimination and sexual harassment by Hooters restaurants in West Virginia, and we represented a group of women seeking class treatment of their allegations of sexual discrimination by Ruth's Chris.

## APPELLATE

Our attorneys have substantial experience in analyzing, briefing and arguing appeals. We have handled appeals in courts around the country, including the U.S. Supreme Court, the U.S. Circuit Courts, and the District of Columbia Court of Appeals.

## QUI TAM AND FALSE CLAIMS ACT

Our firm represents whistleblowers who courageously expose fraud by government contractors, healthcare providers, and other companies doing business with the government through litigation under the False Claims Act. We also represent whistleblowers who expose tax fraud through the IRS Whistleblower Office program, whistleblowers who expose violations of the securities laws through the SEC Whistleblower Office program, and banking industry whistleblowers through the Department of Justice's FIRREA program.

## INTELLECTUAL PROPERTY

Our attorneys have substantial experience litigating cutting-edge intellectual property cases in state and federal courts. Proper handling of intellectual property controversies requires substantive knowledge of the relevant body of law, together with strong litigation experience and skill. We bring these elements together to effectively represent our clients in complex trademark and copyright lawsuits.

We have litigated copyright infringement cases on behalf of corporations and associations, including submitting an amicus brief on behalf of three technology companies in the United States Supreme Court on Internet file sharing in the *MGM, et al. v. Grokster, et al.* case. We have also counseled clients on copyright matters, and written and presented on important copyright issues, such as the intersection of technology, copyright and the First Amendment. The firm briefed and argued an appeal to the Fifth Circuit Court of Appeals on a novel issue of law in a dispute over the competing trademark rights of two test preparation companies operating in the same markets, using the same trade name.

## FIRST AMENDMENT

Partner Hassan Zavareei represented the plaintiff in one of the most important cases of media defamation handled recently by the courts, namely, the case brought by Dr. Steven Hatfill

against Condé Nast Publications (the publisher of Vanity Fair magazine) and Reader's Digest for articles that falsely accused Dr. Hatfill of perpetrating the Anthrax murders that occurred in the fall of 2001.

Further, our firm has represented a number of employees who have fought back against former employers for defamatory statements. Our lawyers have obtained very substantial settlements on behalf of our clients. Also, our firm has represented businesses seeking to protect their hard-earned reputations against such defamation by their competitors.

Our attorneys also have experience in other types of First Amendment litigation. For example, partner Jonathan Tycko represented a consortium of media clients in a series of lawsuits to gain access to the sealed proceedings in the Independent Counsel investigation of and impeachment proceedings against President Bill Clinton. And partner Hassan Zavareei successfully challenged a district court injunction that violated our client's First Amendment guarantees to free speech and rights to petition the government.

## BUSINESS DISPUTES

We represent businesses, large and small, in their most significant business disputes. Indeed, prior to the founding of Tycko & Zavareei LLP, our partners spent many years at a large law firm specialized in representing business interests. We have represented some of the largest, publicly-traded corporations in the world, but also have represented small and medium size businesses.

**JONATHAN K. TYCKO**  
PARTNER

Jonathan K. Tycko, a graduate of The Johns Hopkins University and Columbia Law School, has been recognized by both peers and clients as among the best litigators and most effective qui tam attorneys in Washington, D.C. Mr. Tycko has represented clients in numerous qui tam whistleblower cases, in areas including Medicare fraud, government contracts fraud, and tax fraud. In addition, with the 2010 passage of the Dodd-Frank Act, Mr. Tycko's practice expanded into representation of whistleblowers in the areas of securities and commodities fraud, and violations of the Foreign Corrupt Practices Act.

Mr. Tycko focuses his practice on civil litigation, with special concentrations in whistleblower cases, consumer class actions, unfair competition litigation, employment litigation and housing litigation. He has extensive trial and appellate experience in courts around the country, and has represented a wide range of clients, including individual whistleblowers, Fortune 500 companies, privately-held business, and non-profit associations.

Prior to founding Tycko & Zavareei LLP in 2002, Mr. Tycko was with Gibson, Dunn & Crutcher LLP, one of the nation's top law firms. He received his law degree in 1992 from Columbia University Law School, where he was a Stone Scholar, and earned a B.A. degree, with honors, in 1989 from The Johns Hopkins University. After graduating from law school, Mr. Tycko served for two years as law clerk to Judge Alexander Harvey, II, of the United States District Court for the District of Maryland.

In addition to his private practice, Mr. Tycko is an active participant in other law-related activities. Mr. Tycko has taught as an Adjunct Professor at the George Washington University Law School. He serves as a certified arbitrator for FINRA, the Financial Industry Regulatory Authority. He is a former member and chairperson of the Rules of Professional Conduct Review Committee of the District of Columbia Bar, and he is a member of The Counsellors, a society comprised of select members of the District of Columbia bench and bar.

In addition, Mr. Tycko has handled many pro bono cases in the area of human rights law, including representation of political refugees seeking asylum, and preparation of amicus briefs on behalf of the Lawyers Committee for Human Rights (now known as Human Rights First) and other organizations and individuals in various appellate matters, including matters before the Supreme Court.

Mr. Tycko is admitted to practice before the courts of the District of Columbia, Maryland and New York, as well as before numerous federal courts, including the Supreme Court, the Circuit Courts for the D.C. Circuit, Third Circuit, Fourth Circuit, Fifth Circuit, Seventh Circuit, Ninth Circuit, Eleventh Circuit and Federal Circuit, the District Courts for the District of Columbia and District of Maryland, the Southern District of New York, the Northern District of New York, the Western District of New York, and the Court of Federal Claims.

When he is not engaged in professional matters, Mr. Tycko enjoys coaching his daughters' basketball teams, fishing for blues off the Delaware coast, cheering on the Nationals, and reading books on physics and astronomy.

**HASSAN A. ZAVAREEI**  
**PARTNER**

Hassan Zavareei graduated cum laude from Duke University in 1990, with degrees in Comparative Area Studies and Russian. Upon graduation from Duke, Mr. Zavareei worked as a Russian-speaking flight attendant for Delta Air Lines for two years. He later earned his law degree from the University of California, Berkeley School of Law in 1995, where he graduated as a member of the Order of the Coif. After graduation from Berkeley, Mr. Zavareei joined the Washington, D.C. office of Gibson, Dunn & Crutcher LLP. In April of 2002, Mr. Zavareei founded Tycko & Zavareei LLP with his partner, Jonathan Tycko.

Mr. Zavareei has handled numerous trials in state and federal courts across the nation in a wide range of practice areas. In his most recent jury trial, Mr. Zavareei prevailed on behalf of his client after a four-month trial in the Los Angeles Superior Court. That jury verdict came after years of hard-fought litigation, including an award of almost \$2 million in sanctions against the opposing party due to revelations of discovery misconduct uncovered through electronic discovery.

Although he is a general litigator, Mr. Zavareei devotes most of his practice to class action litigation. While at Gibson Dunn, Mr. Zavareei managed the defense of a nationwide class action brought against a major insurance carrier. In recent years, Mr. Zavareei's class action practice has focused on the representation of plaintiffs in consumer fraud cases, primarily relating to the financial services industry. For instance, Mr. Zavareei was class counsel in over a dozen cases against banks across the country regarding their practices of charging unlawful overdraft fees for debit card transactions. Those cases have returned hundreds of millions of dollars to consumers. Mr. Zavareei also served as Lead Counsel in Multi-District Litigation against a financial services company that provided debit cards to college students. That case also resulted in the return of millions of dollars to consumers. He is currently lead counsel or co-lead counsel in numerous class actions and putative class actions.

In his civil rights practice, Mr. Zavareei has represented individuals, groups of employees, and tenant associations in employment and fair housing litigation. Mr. Zavareei has obtained substantial judgments and settlements for his civil rights clients.

As a general litigator, Mr. Zavareei has been involved in numerous high-profile cases. For example, Mr. Zavareei represented Christian Laettner pro bono in a successful battle with investors and rogue business partners to stabilize Mr. Laettner's historic development of downtown Durham, North Carolina. Mr. Zavareei also represented Dr. Steven Hatfill, who was wrongfully accused by the media and the FBI of perpetrating the Anthrax attacks of 2001. Mr. Zavareei successfully represented Dr. Hatfill in defamation litigation against Vanity Fair and The Reader's Digest.

Mr. Zavareei is an accomplished appellate lawyer, having argued cases before the D.C. Circuit, the Fifth Circuit, the Fourth Circuit, and the Ohio Court of Appeals.

Mr. Zavareei has also testified before the Judiciary Committee of the House of Representatives and the Advisory Committee of Civil Procedure. He speaks frequently at continuing education events on a wide range of topics, including ethics, class action practice, and attorneys' fee jurisprudence.

Mr. Zavareei is married to Dr. Natalie Zavareei and has three daughters, Hayden, Jordan and Isabella. He is a member of the Executive Committee of Board of Directors of Public Justice and is the President of Hayden's Journey of Inspiration, a non-profit that provides housing to families of pediatric stem cell transplant recipients.

Mr. Zavareei is admitted to the Bar of the District of Columbia, Bar of the State of California, the Bar of the State of Maryland, the District of Columbia Court of Appeals, the Maryland Court of Appeals, and the Supreme Court of the United States.

**ANDREA R. GOLD**  
PARTNER

Andrea Gold, a two-time graduate of the University of Michigan, has spent her legal career advocating for consumers, employees, and whistleblowers. Ms. Gold has deftly litigated numerous complex cases, including through trial. Her extensive litigation experience benefits the firm's clients in both national class action cases as well as in qui tam whistleblower litigation.

She has served as trial counsel in two lengthy jury trials. First, she was second-chair in a four month civil jury trial in state court in California. She more recently served as second-chair in a multi-week jury trial in Maryland.

In her class action practice, Ms. Gold has successfully defended dispositive motions, navigated complex discovery, worked closely with leading experts, and obtained contested class certification. Her class action cases have involved, amongst other things, unlawful bank fees, product defects, violations of the Telephone Consumer Protection Act, and deceptive advertising and sales practices. Ms. Gold's tireless efforts have resulted in millions of dollars in recovery for consumers.

Ms. Gold also has significant civil rights experience. She has represented individuals and groups of employees in employment litigation, obtaining substantial recoveries for employees who have faced discrimination, harassment, and other wrongful conduct. In addition, Ms. Gold has appellate experience in both state and federal court.

Prior to joining Tycko & Zavareei, Ms. Gold was a Skadden fellow. The Skadden Fellowship Foundation was created by Skadden, Arps, Slate, Meagher & Flom LLP, one of the nation's top law firms, to support the work of new attorneys at public interest organizations around the country. The Skadden Fellowship Foundation receives hundreds of applications each year, but only a very small number of Skadden fellows are selected. Ms. Gold was awarded this prestigious fellowship in 2004 and, for two years, she represented survivors of domestic violence in family law and employment matters. Ms. Gold also provided legal counsel to clients, members of the legal community, and social service providers regarding the Illinois Victim's Safety and Security Act (VESSA), a state law protecting survivors of abuse from employment discrimination and providing for unpaid leave.

Ms. Gold earned her law degree from the University of Michigan Law School, where she was an associate editor of the Journal of Law Reform, co-President of the Law Students for Reproductive Choice, and a student attorney at the Family Law Project clinical program. Ms. Gold graduated with high distinction from the University of Michigan Ross School of Business in 2001, concentrating her studies in Finance and Marketing.

Ms. Gold is admitted to practice before the courts of the District of Columbia, Illinois, and Maryland, as well as numerous federal courts including the U.S. District Court for the District of Columbia, the U.S. District Court for the District of Maryland, and the U.S. Court of Appeals for the District of Columbia Circuit.

**ANNA C. HAAC**  
**PARTNER**

Anna C. Haac is a Partner in Tycko & Zavareei's Washington, D.C. office. She focuses her practice on consumer protection class actions and whistleblower litigation. Her prior experience at Covington & Burling LLP, one of the nation's most prestigious defense-side law firms, gives her a unique advantage when representing plaintiffs against large companies in complex cases. Since arriving at Tycko & Zavareei, Ms. Haac has represented consumers in a wide range of practice areas, including product liability, false labeling, deceptive and unfair trade practices, and predatory financial practices. Her whistleblower practice involves claims for fraud on federal and state governments across an equally broad spectrum of industries, including health care fraud, customs fraud, and government contracting fraud.

Ms. Haac has helped secure multimillion dollar relief on behalf of the classes and whistleblowers she represents. In addition, she has been instrumental in securing key appellate victories, including a recent landmark decision by the U.S. Court of Appeals for the Third Circuit, which held as a matter of first impression that the evasion of customs duties for failing to mark imported goods with their foreign country of origin gives rise to a claim under the False Claims Act. Ms. Haac also serves as the D.C. Co-Chair of the National Association of Consumer Advocates and as Co-Chair of the Antitrust and Consumer Law Section Steering Committee of the D.C. Bar.

Ms. Haac earned her law degree cum laude from the University of Michigan Law School in 2006 and went on to clerk for the Honorable Catherine C. Blake of the United States District Court for the District of Maryland. Prior to law school, Ms. Haac graduated with a B.A. in political science with highest distinction from the Honors Program at the University of North Carolina at Chapel Hill.

Ms. Haac is a member of the District of Columbia and Maryland state bars. She is also admitted to the United States Court of Appeals for the Second, Third, and Fourth Circuits and the United States District Courts for the District of Columbia, District of Maryland, and the Eastern District of Michigan.

**ANNICK M. PERSINGER**  
**PARTNER**

Annick M. Persinger graduated magna cum laude as a member of the Order of the Coif from the University of California, Hastings College of the Law in 2010. While in law school, Ms. Persinger served as a member of Hastings Women's Law Journal, and authored two published articles. In 2008, Ms. Persinger received an award for Best Oral Argument in the first year moot court competition. In 2007, Ms. Persinger graduated cum laude from the University of California, San Diego with a B.A. in Sociology, and minors in Law & Society and Psychology.

Prior to joining Tycko & Zavareei LLP, Ms. Persinger was a litigation associate at Bursor & Fisher, P.A., a prestigious consumer class action firm. During her time at Bursor & Fisher, Ms. Persinger represented classes of purchasers of homeopathic products, mislabeled food products, mislabeled toothpaste products, and purchasers of large appliances that were mislabeled as Energy Star qualified. While working at Bursor & Fisher, Ms. Persinger developed cases for filing, drafted countless successful briefs in support of class certification, and defeated numerous motions to dismiss and motions for summary judgment. Ms. Persinger also routinely appeared in court, and regularly deposed and defended witnesses.

Following law school, Ms. Persinger also worked as a legal research attorney for Judge John E. Munter in Complex Litigation at the San Francisco Superior Court.

Since joining Tycko & Zavareei in 2017, Ms. Persinger has focused her practice on consumer class actions and other complex litigation.

Ms. Persinger has served as an elected board member of the Bay Area Lawyers for Individual Freedom (BALIF) since 2017. The BALIF Board named Ms. Persinger Co-Chair of BALIF in 2018.

Ms. Persinger is admitted to the State Bar of California and the bars of the United States District Courts for the Northern District of California, Central District of California, Eastern District of California, and Southern District of California.

**KRISTEN L. SAGAFI**  
**PARTNER**

Kristen Law Sagafi is a 2002 graduate of the University of California, Berkeley School of Law, where she served as articles editor for Ecology Law Quarterly and a student law clerk to the Hopi Appellate Court in Keams Canyon, Arizona. After graduating from law school, Ms. Sagafi joined the San Francisco office of Lieff Cabraser Heimann & Bernstein, LLP, one of the nation's premier class action firms, where she represented plaintiffs' in consumer fraud and defective products cases for more than a decade. During her tenure at Lieff Cabraser, Ms. Sagafi gained local and national recognition for her results on behalf of her consumer clients.

For example, in 2007, Ms. Sagafi and her colleagues at Lieff Cabraser were included in The National Law Journal's Plaintiffs' Hot List for their outstanding success in Grays Harbor Adventist Christian School v. Carrier Corp. The case resulted in a settlement worth \$300 million for consumers who had purchased certain Carrier furnaces that were allegedly made with inferior materials that caused them to fail prematurely. Ms. Sagafi and her team were also selected as finalists for the Public Justice Trial Lawyer of the Year award in 2014 for their ground-breaking case against California's most powerful hospital chain, Sutter Health, for overcharges related to anesthesia services. The case resulted in a record \$46 million penalty and industry-wide review of anesthesia billing.

Ms. Sagafi was recognized as a "Rising Star for Northern California" by Super Lawyers every year between 2009 and 2014, and has been named as a "Super Lawyer" each year since 2015. In 2012, she was identified as one of 50 California lawyers "On the Fast Track" by The Recorder. In addition, The San Francisco Business Times named Ms. Sagafi as one of the Top 40 Under 40 Professionals in the San Francisco Bay Area for 2014.

Ms. Sagafi focuses her practice on consumer fraud cases, including matters involving false advertising and unfair competition. In 2014, Ms. Sagafi drafted and advanced a bill to strengthen the protections afforded to consumers under California's Consumers Legal Remedies Act, an effort that included presenting testimony to the California State Senate Judiciary Committee.

Beyond her consumer protection practice, Ms. Sagafi brings her legal expertise to a number of volunteer activities. She has received more than 40 hours of accredited mediation training and has served as a volunteer mediator at Contra Costa Superior Court, successfully mediating small claims and landlord-tenant cases.

In addition, Ms. Sagafi is a regular guest lecturer on class action law at UC Berkeley, and has lectured on law firm management at UC Hastings. She has served as a moot court coach for Thurgood Marshall High School, and since 2010, she has been co-chair of the Berkeley Consumer Law Alumni Group.

From 2012-2015, Ms. Sagafi sat on the Board of the Justice and Diversity Center of the Bar Association of San Francisco, which advances fairness and equality by providing pro bono legal services to low-income people and educational programs that foster diversity in the legal profession. Ms. Sagafi has also served on the Board of Governors of California Women

Lawyers, where she was a member of the executive committee and co-chair of the membership committee. Ms. Sagafi is a past President of the Board of Directors of About-Face, a San Francisco nonprofit dedicated to equipping girls and young women with the tools to resist negative messages in the media, particularly as they relate to beauty and body image.

When she is not pursuing her legal interests, Ms. Sagafi enjoys exploring Northern California with her husband and young son.

**SABITA J. SONEJI**  
PARTNER

Sabita J. Soneji is a Partner in Tycko & Zavareei's Oakland office. She focuses her practice on consumer protection class actions and whistleblower litigation. Ms. Soneji has extensive experience in litigation and legal policy at both the federal and state level and a passion for fighting consumer fraud.

Ms. Soneji began that work during her time with the United States Department of Justice, as Senior Counsel to the Assistant Attorney General. In that role, she oversaw civil and criminal prosecution of various forms of financial fraud that arose in the wake of the 2008 recession. For that work, Ms. Soneji partnered with other federal agencies, state attorneys' general, and consumer advocacy groups. Beyond that affirmative work, Ms. Soneji worked to defend various federal programs, including the Affordable Care Act in nationwide litigation.

Ms. Soneji has extensive civil litigation experience from her four years with international law firm Baker Botts LLP, her work as an Assistant United States Attorney in the Northern District of California, and her most recent work as Deputy County Counsel for Santa Clara County, handling civil litigation on behalf of the County including regulatory, civil rights, and employment matters. She has successfully argued motions and conducted trials in both state and federal court and negotiated settlements in complex multi-party disputes.

Early in her career, Ms. Soneji clerked for the Honorable Gladys Kessler on the United States District Court for the District of Columbia for three years, during which she assisted the judge in overseeing the largest civil case in American history, *United States v. Phillip Morris, et al.*, a civil RICO case brought against major tobacco manufacturers for fraud in the marketing, sale, and design of cigarettes. The opinion in that case – which is over 1600 pages — paved the way for Congress to authorize FDA regulation of cigarettes.

Ms. Soneji is a graduate of the University of Houston, *summa cum laude*, with degrees in Math and Political Science, and Georgetown University Law Center, *magna cum laude*. After college and before law school, she spent two years living and working in Japan.

In her spare time, Ms. Soneji teaches for National Institute for Trial Advocacy (NITA), coaches a moot court team at Berkeley Law School, and volunteers at a local food bank.

**KATERINE M. AIZPURU**  
ASSOCIATE

Katherine M. Aizpuru graduated *cum laude* from Harvard Law School in 2014. While in law school, Ms. Aizpuru held positions as Executive Submissions Editor of the *Harvard Journal of Law & Gender* and as a Board Member of Law Students for Reproductive Justice. Ms. Aizpuru graduated with High Honors from Swarthmore College in 2010 with a B.A. in Political Science and a minor in Chinese Language and Literature. She is a member of Phi Beta Kappa.

Ms. Aizpuru joined Tycko & Zavareei in 2017. Prior to joining the firm, Ms. Aizpuru clerked for the Honorable Theodore D. Chuang on the United States District Court for the District of Maryland and the Honorable Catharine F. Easterly on the District of Columbia Court of Appeals. Ms. Aizpuru has practiced law in the Washington, D.C. office of a large international law firm, where she worked on administrative proceedings and civil litigation matters, including several *qui tam* lawsuits. While at that firm, Ms. Aizpuru was recognized for her *pro bono* work on behalf of a domestic violence survivor, a client seeking Social Security disability benefits, and an international nonprofit organization.

While attending Harvard Law School, Ms. Aizpuru worked as a student attorney at the Family Law and Domestic Violence Clinic, where she successfully represented a client in a bench trial and helped secure restraining orders against abusive partners for numerous others. She successfully represented an incarcerated client in a prison disciplinary hearing through the Prison Legal Assistance Program. Ms. Aizpuru interned at the Center for Reproductive Rights and Cambridge & Somerville Legal Services. She also co-produced the Harvard Law School Drama Society's annual Parody performance. Prior to law school, Ms. Aizpuru represented the United States as a Student Ambassador in the USA Pavilion at the 2010 World Expo in Shanghai, People's Republic of China.

Ms. Aizpuru is a member of the District of Columbia, Massachusetts, and New York state bars. She is also admitted to practice before the United States Court of Appeals for the Fourth Circuit and the United States District Court for the District of Maryland.

**MAREN I. CHRISTENSEN**  
ASSOCIATE

Maren I. Christensen joined Tycko & Zavareei in 2019. Prior to joining the firm, Ms. Christensen practiced law in the New York office of a large international firm. While at that firm, she worked on wide ranging civil litigation, international arbitration, and government enforcement investigations, as well as pro bono immigration matters. Ms. Christensen served for three years as a law clerk for the Honorable Martha Vazquez on the United States District Court for the District of New Mexico. She also previously worked as an associate at a boutique litigation firm in Oakland, where she served as plaintiffs' counsel in employment law matters and *qui tam* lawsuits.

Ms. Christensen graduated from Berkeley Law, with distinction, in 2013, and from the University of Chicago, with honors, in 2006. While in law school, Ms. Christensen was Editor in Chief of the Berkeley Journal of International Law and a student advocate with the International Refugee Assistance Project (IRAP). She also served as a teaching and research assistant and was a summer law clerk at the United States Attorney's Office, Civil Division, in San Jose, California.

Earlier in her career, Ms. Christensen was an Accredited Representative at the National Immigrant Justice Center in Chicago. She also earned a masters degree in international law and conflict resolution from The Fletcher School at Tufts University. Her research on building rule of law in Afghanistan was published in the Berkeley Journal of Middle Eastern & Islamic Law.

Ms. Christensen is admitted to practice in California, New York, and the United States District Court for the Central District of California. She is fluent in Spanish.

**SARAH C. KOHLHOFER**  
ASSOCIATE

Sarah C. Kohlhofer is a trial attorney who joined Tycko & Zavareei in 2019. A former prosecutor with both the United States Attorney's Office for the District of Columbia and the Office of the Attorney General for the District of Columbia, Mrs. Kohlhofer has tried to verdict over 30 cases. Mrs. Kohlhofer also served for three years as a law clerk for the Honorable Barbara J. Rothstein on the United States District Court for the District of Columbia.

Mrs. Kohlhofer graduated from Boston College Law School, which awarded her the Frederic N. Halström prize for most outstanding performance in a national advocacy competition. During law school, Mrs. Kohlhofer worked for Northeast Legal Aid (formerly Neighborhood Legal Services), pursuing several class action lawsuits against major banks and mortgage servicers that had breached the terms of the U.S. Department of Treasury's Home Affordable Modification Program. Mrs. Kohlhofer also worked as a student attorney for the Massachusetts Office of the Attorney General and the Suffolk County District Attorney, where she argued before the Massachusetts Appeals Court.

Earlier in her career, Mrs. Kohlhofer worked on the staff of U.S. Congresswoman Gabrielle Giffords. Mrs. Kohlhofer earned her B.A., Phi Beta Kappa and with high honors, from the College of Wooster. She was awarded the school's top prize for a senior thesis relating to women's, gender, and sexuality studies.

Mrs. Kohlhofer is admitted to practice in the District of Columbia and the Commonwealth of Massachusetts.

**MATTHEW W. LANAHAN**  
ASSOCIATE

Matthew W. Lanahan graduated cum laude from the University of Michigan Law School in 2014. While in law school, Mr. Lanahan was a contributing editor of the Michigan Law Review. Mr. Lanahan graduated summa cum laude, honors baccalaureate from Virginia Polytechnic Institute and State University with a BA in English and minors in History and Pop Culture. Mr. Lanahan is a member of Phi Beta Kappa.

Mr. Lanahan joined Tycko & Zavareei in 2019. Prior to joining Tycko & Zavareei, Mr. Lanahan practiced law in the Washington, D.C. office of a large international law firm. During his time at that large international law firm, Mr. Lanahan's practice included work on large class actions, products liability matters, securities enforcement, false claims act matters, and complex commercial litigations. Mr. Lanahan also maintained a pro bono practice focused on large civil rights matters and landlord-tenant cases.

During law school, Mr. Lanahan participated in the federal appellate litigation clinic. Mr. Lanahan also interned for the Federal Defender's office in Detroit. Mr. Lanahan is a member of the District of Columbia and Virginia state bars.

**V CHAI OLIVER PRENTICE**  
ASSOCIATE

V Chai Oliver Prentice graduated from Yale Law School in 2015 and joined Tycko & Zavareei in 2019. Prior to joining the firm, Mr. Prentice clerked for the Honorable Marsha S. Berzon on the United States Court of Appeals for the Ninth Circuit. Mr. Prentice also previously worked as an associate at a boutique litigation firm in San Francisco. At that firm, he served as plaintiffs' counsel in complex civil litigation matters with an emphasis on consumer protection and antitrust class actions. Mr. Prentice also worked on several *qui tam* lawsuits. Prior to that, Mr. Prentice served as the Rockefeller Brothers Fund Fellow in Nonprofit Law at the Vera Institute of Justice.

While in law school, Mr. Prentice served as an articles editor and managing editor of the Yale Human Rights and Development Law Journal. He also represented veterans in federal court class actions and administrative appeals as a law student intern at the Jerome N. Frank Legal Services Organization. Mr. Prentice also was a filmmaker for Yale's Visual Law Project and a teaching assistant and writing instructor for Yale College.

Mr. Prentice graduated *summa cum laude* from the George Washington University in 2009 with a B.A. in International Affairs and minors in Sociocultural Anthropology and German Language and Literature. He also earned an M.A. in Environmental Management from the Freie Universitaet Berlin. Mr. Prentice is a member of Phi Beta Kappa.

Mr. Prentice is admitted to the State Bar of California and the bars of the United States District Courts for the Northern District of California, Central District of California, and Southern District of California, and the United States Court of Appeals for the Ninth Circuit.

**DAVID W. LAWLER**  
OF COUNSEL

David Lawler received his law degree from Creighton University School of law in 1997. Mr. Lawler graduated from the University of California, Berkeley in 1989 with a degree in Political Science.

Mr. Lawler joined Tycko & Zavareei LLP in January 2012. He has over fifteen years of commercial litigation experience, including an expertise in eDiscovery and complex case management. At the firm Mr. Lawler has worked extensively on overdraft fee litigation and *In re Automotive Parts Antitrust litigation*.

Before joining Tycko & Zavareei LLP, Mr. Lawler was an attorney in the litigation departments at McKenna & Cuneo LLP and Swidler Berlin Shereff Friedman LLP.

Among Mr. Lawler's accomplishments include the co-drafting of appellate briefs which resulted in reversal and remand of lower court decision, US Court of Appeals for the Fourth Circuit.

Mr. Lawler is a member of the District of Columbia Bar, as well as numerous federal courts.

# **EXHIBIT 4**



1818 Market Street | Suite 3600 | Philadelphia, PA 19103

[info@bm.net](mailto:info@bm.net)

[bergermontague.com](http://bergermontague.com)

800-424-6690

## About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal*, which recognizes a select group of law firms each year that have done “exemplary, cutting-edge work on the plaintiffs’ side,” has selected Berger Montague in 12 out of 14 years (2003-05, 2007-13, 2015-16) for its “Hot List” of top plaintiffs’ oriented litigation firms in the United States. In 2018 and 2019, the *National Law Journal* recognized Berger Montague as “Elite Trial Lawyers” after reviewing more than 300 submissions for this award. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2019 “Best Law Firm” by *U.S. News - Best Lawyers*.

Currently, the firm consists of 68 lawyers; 23 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

## History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm’s complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for

plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

## Practice Areas and Case Profiles

### Antitrust

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 45 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), the *Brand Name Prescription Drug* price-fixing case (settlement of more than \$700 million), the *State of Connecticut Tobacco Litigation* (settlement of \$3.6 billion), the *Graphite Electrodes Antitrust Litigation* (settlement of more than \$134 million), and the *High-Fructose Corn Syrup Litigation* (\$531 million).

Once again, Berger Montague has been selected by *Chambers and Partners* for its 2019 *Chambers USA* Guide as one of Pennsylvania's top antitrust firms. *Chambers USA 2019* states that Berger Montague's antitrust practice group is "a preeminent force in the Pennsylvania antitrust market, offering expert counsel to clients from a broad range of industries."

The *Legal 500*, a guide to worldwide legal services providers, ranked Berger Montague as a Top-Tier Law Firm for Antitrust: Civil Litigation/Class Actions: Plaintiff in the United States in its 2019 guide and states that Berger Montague's antitrust department "has acted as lead counsel or co-lead counsel in antitrust cases of the utmost complexity and significance since its inception in 1970."

- Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:*** Berger Montague served as co-lead counsel for a national class including millions of merchants in the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* against Visa, MasterCard and several of the largest banks in the U.S. (e.g., Chase, Bank of America and Citi). The lawsuit alleged that merchants paid excessive fees to accept Visa and MasterCard cards because the payment cards, individually and together with their respective member banks, violated the antitrust laws. The challenged conduct included, *inter alia*, the collective fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees. The lawsuit further alleged that defendants maintained their conspiracy even after both Visa and MasterCard changed their corporate forms from joint ventures owned by member banks to publicly-owned corporations following commencement of this litigation. On September 18, 2018, after thirteen years of hard-fought litigation, Visa and MasterCard agreed to pay as much as approximately \$6.26 billion, but no less than approximately \$5.56 billion, to settle the case. This result is the largest-ever class action settlement of an antitrust case. The settlement received preliminary approval on January 24, 2019.
- In re Domestic Drywall Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the U.S. and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." Berger Montague represented a class of direct purchasers of drywall from defendants for the period from January 1, 2012 to January 31, 2013. USG Corporation and United States Gypsum Company (collectively, "USG"), New NGC, Inc., Lafarge North America Inc., Eagle Materials, Inc., American Gypsum Company LLC, TIN Inc. d/b/a Temple-Inland Inc., and PABCO Building Products, LLC were named as defendants in this action. On August 20, 2015, the district court granted final approval of two settlements—one with USG and the other with TIN Inc.—totaling \$44.5 million. On December 8, 2016, the district court granted final approval of a \$21.2 million settlement with Lafarge North America, Inc. On February 18, 2016, the district court denied the motions for summary judgment filed by American Gypsum Company, New NGC, Inc., Lafarge North America, Inc., and PABCO Building Products. On August 23, 2017, the district court granted direct purchaser plaintiffs' motion for class certification. On January 29, 2018, the district court granted preliminary approval of a joint settlement with the remaining defendants, New NGC, Inc., Eagle Materials, Inc., American Gypsum Company LLC, and PABCO Building Products, LLC, for \$125 million. The settlement received final approval on July 17, 2018, bringing the total amount of settlements for the class to \$190.7 million.
- In re Currency Conversion Fee Antitrust Litigation:*** Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution

of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. A subsequent settlement with American Express increased the settlement amount to \$386 million. (MDL No. 1409 (S.D.N.Y)).

- ***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.:*** Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long-haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."
- ***Ross, et al. v. Bank of America (USA) N.A., et al.:*** Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. In June 2009, the National Arbitration Forum (or "NAF") was added as a defendant. Berger Montague also reached a settlement with NAF. Under that agreement, NAF ceased administering arbitration proceedings involving business cards for a period of three and one-half (3.5) years, which relief is in addition to the requirements of a Consent Judgment with the State of Minnesota, entered into by the NAF on July 24, 2009.
- ***In re High Fructose Corn Syrup Antitrust Litigation:*** Berger Montague was one of three co-lead counsel in this nationwide class action alleging a conspiracy to allocate volumes and customers and to price-fix among five producers of high fructose corn syrup. After nine years of litigation, including four appeals, the case was settled on the eve of trial for \$531 million. (MDL. No. 1087, Master File No. 95-1477 (C.D. Ill.)).

- ***In re Linerboard Antitrust Litigation:*** Berger Montague was one of a small group of court-appointed executive committee members who led this nationwide class action against producers of linerboard. The complaint alleged that the defendants conspired to reduce production of linerboard in order to increase the price of linerboard and corrugated boxes made therefrom. At the close of discovery, the case was settled for more than \$200 million. (98 Civ. 5055 and 99-1341 (E.D. Pa.)).
- ***Johnson, et al. v AzHHA, et al.:*** Berger Montague was co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved \$24 million in settlements on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).
- ***In re Graphite Electrodes Antitrust Litigation:*** Berger Montague was one of the four co-lead counsel in a nationwide class action price-fixing case. The case settled for in excess of \$134 million and over 100% of claimed damages. (02 Civ. 99-482 (E.D. Pa.)).
- ***In re Catfish Antitrust Litig. Action:*** The firm was co-trial counsel in this action which settled with the last defendant a week before trial, for total settlements approximating \$27 million. (No. 2:92CV073-D-O, MDL No. 928 (N.D. Miss.)).
- ***In re Carbon Dioxide Antitrust Litigation:*** The firm was co-trial counsel in this antitrust class action which settled with the last defendant days prior to trial, for total settlements approximating \$53 million, plus injunctive relief. (MDL No. 940 (M.D. Fla.)).
- ***In re Infant Formula Antitrust Litigation:*** The firm served as co-lead counsel in an antitrust class action where settlement was achieved two days prior to trial, bringing the total settlement proceeds to \$125 million. (MDL No. 878 (N.D. Fla.)).
- ***Red Eagle Resources Corp., Inc., v. Baker Hughes, Inc.:*** The firm was a member of the plaintiffs' executive committee in this antitrust class action which yielded a settlement of \$52.5 million. (C.A. No. H-91-627 (S.D. Tex.)).
- ***In re Corrugated Container Antitrust Litigation:*** The firm, led by H. Laddie Montague, was co-trial counsel in an antitrust class action which yielded a settlement of \$366 million, plus interest, following trial. (MDL No. 310 (S.D. Tex.)).
- ***Bogosian v. Gulf Oil Corp.:*** With Berger Montague as sole lead counsel, this landmark action on behalf of a national class of more than 100,000 gasoline dealers against 13 major oil companies led to settlements of over \$35 million plus equitable relief on the eve of trial. (No. 71-1137 (E.D. Pa.)).
- ***In re Master Key Antitrust Litigation:*** The firm served as co-lead counsel in an antitrust class action that yielded a settlement of \$21 million during trial. (MDL No. 45 (D. Conn.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over \$1 billion in settlements in such cases over the past decade, including:

- ***King Drug Co. v. Cephalon, Inc.:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of generic versions of the prescription drug Provigil (modafinil). After nine years of hard-fought litigation, the court approved a \$512 million partial settlement, the largest settlement ever for a case alleging delayed generic competition. (Case No. 2:06-cv-01797 (E.D. Pa.)). The case is continuing against one defendant.
- ***In re Asacol Antitrust Litigation:*** The firm served as class counsel for direct purchasers of Asacol HS and Delzicol that alleged that defendants participated in a scheme to block generic competition for the ulcerative colitis drug Asacol. The case settled for \$15 million. (Case No. 15-cv-12730-DJC (D. Mass.)).
- ***In re Celebrex (Celecoxib) Antitrust Litigation:*** The firm represented a class of direct purchasers of brand and generic Celebrex (celecoxib) in an action alleging that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case settled for \$94 million. (Case No. 14-cv-00361 (E.D. VA.)).
- ***In re K-Dur Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class in this long-running antitrust litigation. Berger Montague litigated the case before the Court of Appeals and won a precedent-setting victory, and continued the fight before the Supreme Court. On remand, the case settled for \$60.2 million. (Case No. 01-1652 (D.N.J.)).
- ***In re Aggrenox Antitrust Litigation:*** Berger Montague represented a class of direct purchasers of Aggrenox in an action alleging that defendants delayed the availability of less expensive generic Aggrenox through, inter alia, unlawful reverse payment agreements. The case settled for \$146 million. (Case No. 14-02516 (D. Conn.)).
- ***In re Solodyn Antitrust Litigation:*** Berger Montague serves as co-lead counsel representing a class of direct purchasers of brand and generic Solodyn (extended-release minocycline hydrochloride tablets) alleging that defendants entered into agreements not to compete in the market for extended-release minocycline hydrochloride tablets in violation of the Sherman Act. The case settled for a total of more than \$76 million. (Case No. 14-MD-2503-DJC (D. Mass.)).
- ***In re Prandin Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel and recovered \$19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10-cv-12141 (E.D. Mich.)).

- ***Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.:*** Berger Montague was appointed as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case settled for \$15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).
- ***In re Neurontin Antitrust Litigation:*** Berger Montague served as part of a small group of firms challenging the maintenance of a monopoly relating to the pain medication Neurontin. The case settled for \$190 million. (Case No. 02-1830 (D.N.J.)).
- ***In re Skelaxin Antitrust Litigation:*** Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for \$73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).
- ***In re Wellbutrin XL Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of \$37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. (Case No. 08-cv-2431 (E.D. Pa.)).
- ***Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.:*** Berger Montague, appointed as co-lead counsel, prosecuted this case on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for \$17.25 million. (Case No. 07-142 (D. Del.)).
- ***In re Oxycontin Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for \$16 million. (Case No. 1:04-md-01603 (S.D.N.Y.)).
- ***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).
- ***In re Nifedipine Antitrust Litigation:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of generic versions of the anti-hypertension drug Adalat (nifedipine). After eight years of hard-fought litigation, the court approved a total of \$35 million in settlements. (Case No. 1:03-223 (D.D.C.)).
- ***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a

fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).

- ***In re Terazosin Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that Abbott Laboratories was paying its competitors to refrain from introducing less expensive generic versions of Hytrin. The case settled for \$74.5 million. (Case No. 99-MDL-1317 (S.D. Fla.)).
- ***In re Remeron Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Remeron. The case settled for \$75 million. (2:02-CV-02007-FSH (D. N.J.)).
- ***In re Tricor Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).
- ***In re Relafen Antitrust Litigation:*** Berger Montague was one of a small group of firms who prepared for the trial of this nationwide class action against GlaxoSmithKline, which was alleged to have used fraudulently-procured patents to block competitors from marketing less-expensive generic versions of its popular nonsteroidal anti-inflammatory drug, Relafen (nabumetone). Just before trial, the case was settled for \$175 million. (No. 01-12239-WGY (D. Mass.)).
- ***In re Cardizem CD Antitrust Litigation:*** Berger Montague served on the executive committee of firms appointed to represent the class of direct purchasers of Cardizem CD. The suit charged that Aventis (the brand-name drug manufacturer of Cardizem CD) entered into an illegal agreement to pay Andrx (the maker of a generic substitute to Cardizem CD) millions of dollars to delay the entry of the less expensive generic product. On November 26, 2002, the district court approved a final settlement against both defendants for \$110 million. (No. 99-MD-1278, MDL No. 1278 (E.D. Mich.)).
- ***In re Buspirone Antitrust Litigation:*** The firm served on the court-appointed steering committee in this class action, representing a class of primarily pharmaceutical wholesalers and resellers. The Buspirone class action alleged that pharmaceutical manufacturer BMS engaged in a pattern of illegal conduct surrounding its popular anti-anxiety medication, Buspar, by paying a competitor to refrain from marketing a generic version of Buspar, improperly listing a patent with the FDA, and wrongfully prosecuting patent infringement actions against generic competitors to Buspar. On April 11, 2003, the Court approved a \$220 million settlement. (MDL No. 1410 (S.D.N.Y.)).

- ***North Shore Hematology-Oncology Assoc., Inc. v. Bristol-Myers Squibb Co.***: The firm was one of several prosecuting an action complaining of Bristol Myers's use of invalid patents to block competitors from marketing more affordable generic versions of its life-saving cancer drug, Platinol (cisplatin). The case settled for \$50 million. (No. 1:04CV248 (EGS) (D.D.C.)).

### Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- ***Erie Power Technologies, Inc. v. Aalborg Industries A/S, et al.***: Berger Montague represented a trustee in bankruptcy against officers and directors and the former corporate parent and obtained a very favorable confidential settlement. (No. 04-282E (W.D. Pa.)).
- ***Moglia v. Harris et al.***: Berger Montague represented a liquidating trustee against the officers of U.S. Aggregates, Inc. and obtained a settlement of \$4 million. (No. C 04 2663 (CW) (N.D. Cal.)).
- ***Gray v. Gessow et al.***: The firm represented a litigation trust and brought two actions, one against the officers and directors of Sunterra Inc. an insolvent company, and the second against Sunterra's accountants, Arthur Andersen and obtained an aggregate settlement of \$4.5 million. (Case No. MJG 02-CV-1853 (D. Md.) and No. 6:02-CV-633-ORL-28JGG (M.D. Fla.)).
- ***Fitz, Inc. v. Ralph Wilson Plastics Co.***: The firm served as sole lead counsel and obtained, after 7 years of litigation, in 2000 a settlement whereby fabricator class members could obtain full recoveries for their losses resulting from defendants' defective contact adhesives. (No. 1-94-CV-06017 (D.N.J.)).
- ***Provident American Corp. and Provident Indemnity Life Insurance Company v. The Loewen Group Inc. and Loewen Group International Inc.***: Berger Montague settled this individual claim, alleging a 10-year oral contract (despite six subsequent writings attempting to reduce terms to writing, each with materially different terms added, all of which were not signed), for a combined payment in cash and stock of the defendant, of \$30 Million. (No. 92-1964 (E.D. Pa.)).
- ***Marilou Whitney (Estate of Cornelius Vanderbilt Whitney) v. Turner/Time Warner***: Berger Montague settled this individual claim for a confidential amount, seeking interpretation of the distribution agreement for the movie, *Gone with the Wind* and

undistributed profits for the years 1993-1997, with forward changes in accounting and distribution.

- ***American Hotel Holdings Co., et. al v. Ocean Hospitalities, Inc., et. al.:*** Berger Montague defended against a claim for approximately \$16 million and imposition of a constructive trust, arising out of the purchase of the Latham Hotel in Philadelphia. Berger Montague settled the case for less than the cost of the trial that was avoided. (June Term, 1997, No. 2144 (Pa. Ct. Com. Pl., Phila. Cty.))
- ***Creative Dimensions and Management, Inc. v. Thomas Group, Inc.:*** Berger Montague defended this case against a claim for \$30 million for breach of contract. The jury rendered a verdict in favor of Berger Montague's client on the claim (i.e., \$0), and a verdict for the full amount of Berger Montague's client on the counterclaim against the plaintiff. (No. 96-6318 (E.D. Pa.)).
- ***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.:*** Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).
- ***Forbes v. GMH:*** Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

### **Commodities & Financial Instruments**

Berger Montague ranks among the country's preeminent firms for managing and trying complex Commodities & Financial Instruments related cases on behalf of individuals and as class actions. The Firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

- ***In re Peregrine Financial Group Customer Litigation:*** Berger Montague served as co-lead counsel in a class action which helped deliver settlements worth more than \$75 million on behalf of former customers of Peregrine Financial Group, Inc., in litigation against U.S. Bank, N.A., and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse in July 2012. The lawsuit alleges that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use. (No. 1:12-cv-5546)
- ***In re MF Global Holdings Ltd. Investment Litigation:*** Berger Montague is one of two co-lead counsel that represented thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the former major global commodities brokerage firm MF Global. Berger Montague reached a variety of

settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that collectively helped to return approximately \$1.6 billion to the class. Ultimately, class members received more than 100% of the funds allegedly misappropriated by MF Global even after all fees and expenses. (No. 11-cv-07866 (S.D.N.Y.)).

- ***In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation:*** Berger Montague is one of two co-lead counsel representing traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).
- ***In re Libor-Based Financial Instruments Antitrust Litigation:*** Berger Montague represents investors who transacted in Eurodollar futures contracts and options on futures contracts on the Chicago Mercantile Exchange (“CME”) between August 2007 and May 2010. The lawsuit alleges that the defendant banks knowingly and intentionally understated their true borrowing costs. By doing so, the defendant banks caused Libor to be calculated or suppressed at artificially low rates. The defendants’ alleged manipulation of Libor allowed their banks to pay artificially low interest rates to purchasers of Libor-based financial instruments thereby harming investors in futures, swaps, and other Libor-based derivative products. On February 28, 2018, the Court denied Plaintiff’s motion for class certification. That decision is on appeal which is pending. (No. 1:11-md-02262-NRB (S.D.N.Y.)).
- ***Brown, et al. v. Kinross Gold, U.S.A., et al.:*** Berger Montague was one of two co-lead counsel in this action alleging that a leading gold mining company illegally forced out preferred shareholders. The action resulted in a settlement of \$29.25 million in cash and \$6.5 million in other consideration (approximately 100% of damages and accrued dividends after fees and costs). (No. 02-cv-00605 (D.N.V.)).

### **Consumer Protection**

Berger Montague’s Consumer Protection Group protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.

- ***In re Public Records Fair Credit Reporting Act Litigation:*** Berger Montague is class counsel in three class action settlements involving how the big three credit bureaus, Experian, TransUnion, and Equifax, report public records, including tax liens and civil judgments. The settlements provide groundbreaking injunctive relief valued at over \$100 billion and provide streamlined a streamlined process for consumers to receive uncapped monetary payments for claims related to inaccurate reporting of public records.

- ***In re: CertainTeed Fiber Cement Siding Litigation***, MDL No. 2270 (E.D. Pa.). The firm, as one of two Co-Lead Counsel firms obtained a settlement of more than \$103 million in this multidistrict products liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class.
- ***Countrywide Predatory Lending Enforcement Action***: Berger Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.
- ***In re Experian Data Breach Litigation***: Berger Montague served on the Executive Committee of this class action lawsuit that arose from a 2015 data breach at Experian in which computer hackers stole personal information including Social Security numbers and other sensitive personal information for approximately 15 million consumers. The settlement is valued at over \$170 million. It consisted of \$22 million for a non-reversionary cash Settlement Fund; \$11.7 million for Experian's remedial measures implemented in connection with the lawsuit; and two years of free credit monitoring and identity theft insurance. The aggregate value of credit monitoring claimed by class members during the claims submission process exceeded \$138 million, based on a \$19.99 per month retail value of the service.
- ***In re Pet Foods Product Liability Litigation***: The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for \$24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).
- ***In re TJX Companies Retail Security Breach Litigation***: The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).
- ***In Re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation***: The firm served on the Executive Committee of this multidistrict litigation and obtained a

settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. (No. 4:09-MD-2046 (S.D. Tex. 2009)).

- ***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).
- ***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation:*** The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).
- ***Vadino, et al. v. American Home Products Corporation, et al.:*** The firm filed a class complaint different from that filed by any other of the filing firms in the New Jersey State Court "Fen Phen" class action, and the class sought in the firm's complaint was ultimately certified. It was the only case anywhere in the country to include a claim for medical monitoring. In the midst of trial, the New Jersey case was folded into a national settlement which occurred as the trial was ongoing, and which was structured to include a medical monitoring component worth in excess of \$1 billion. (Case Code No. 240 (N.J. Super. Ct.)).
- ***Parker v. American Isuzu Motors, Inc.:*** The firm served as sole lead counsel and obtained a settlement whereby class members recovered up to \$500 each for economic damages resulting from accidents caused by faulty brakes. (Sept. Term 2003, No. 3476 (Pa. Ct. Com. Pl., Phila. Cty.)).
- ***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).
- ***Burgo v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class against premises on defendants' defective tires that were prone to bubbles and bulges. Counsel completed extensive discovery and class certification briefing. A settlement was reached while the decision on class certification was pending. The settlement consisted of remedies

including total or partial reimbursement for snow tires, free inspection/replacement of tires for those who experienced sidewall bubbles, blisters, or bulges, and remedies for those class members who incurred other costs related to the tires' defects. (Docket No. HUD-L-2392-01 (N.J. Sup. Ct. 2001)).

- ***Crawford v. Philadelphia Hotel Operating Co.***: The firm served as co-lead counsel and obtained a settlement whereby persons who contracted food poisoning at a business convention recovered \$1,500 each. (March Term, 2004, No. 000070 (Pa. Ct. Com. Pl., Phila. Cty.)).
- ***Block v. McDonald's Corporation***: The firm served as co-lead counsel and obtained a settlement of \$12.5 million with McDonald's stemming from its failure to disclose the use of beef fat in its french fries. (No. 01-CH-9137 (Ill. Cir. Ct., Cook Cty.)).

### **Corporate Governance and Shareholder Rights**

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

- ***Emil Rossdeutscher and Dennis Kelly v. Viacom***: The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).
- ***Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.***: The firm, as lead counsel, obtained a settlement resulting in a fund of \$8.25 million for the class.

### **Employee Benefits & ERISA**

Berger Montague represents employees who have claims under the federal Employee Retirement Income Security Act. We litigate cases on behalf of employees whose 401(k) and pension investments have suffered losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers and retirees, and also gained favorable changes to their retirement plans.

- ***In re Unisys Corp. Retiree Medical Benefits***: The firm, as co-lead counsel, handled the presentation of over 70 witnesses, 30 depositions, and over 700 trial exhibits in this action that has resulted in partial settlements in 1990 of over \$110 million for retirees whose health benefits were terminated. (MDL No. 969 (E.D. Pa.)).
- ***Local 56 U.F.C.W. v. Campbell Soup Co.***: The firm represented a class of retired Campbell Soup employees in an ERISA class action to preserve and restore retiree

medical benefits. A settlement yielded benefits to the class valued at \$114.5 million. (No. 93-MC-276 (SSB) (D.N.J.)).

- ***Rose v. Cooney***: No. 5:92-CV-208 (D. Conn.) The firm, acting as lead counsel, obtained more than \$29 million in cash and payment guarantees from Xerox Corporation to resolve claims of breach of fiduciary duty for plan investments in interest contracts issued by Executive Life Insurance Company.
- ***In re Masters, Mates & Pilots Pension Plan and IRAP Litig.***: No. 85 Civ. 9545 (VLB) (S.D.N.Y) The firm, as co-lead counsel, participated in lengthy litigation with the U.S. Department of Labor to recover losses to retirement plans resulting from imprudent and prohibited investments; settlements in excess of \$20 million, which fully recovered lost principal, were obtained to resolve claims of fiduciary breaches in selecting and monitoring investment managers and investments.
- ***In re Lucent Technologies, Inc. ERISA Litigation***: No. 01-CV-3491 (D.N.J.) The firm served as co-lead counsel in this class action on behalf of participants and beneficiaries of the Lucent defined contribution plans who invested in Lucent stock, and secured a settlement providing injunctive relief and for the payment of \$69 million.
- ***Diebold v. Northern Trust Investments, N.A.***: 1:09-cv-01934 (N.D. Ill.) As co-lead counsel in this ERISA breach of fiduciary duty case, the firm secured a \$36 million settlement on behalf of participants in retirement plans who participated in Northern Trust's securities lending program. Plaintiffs alleged that defendants breached their ERISA fiduciary duties by failing to manage properly two collateral pools that held cash collateral received from the securities lending program. The settlement represented a recovery of more than 25% of alleged class member losses.
- ***In re SPX Corporation ERISA Litigation***: No. 3:04-cv-192 (W.D.N.C.) The firm recovered 90% of the estimated losses 401(k) plan participants who invested in the SPX stock fund claimed they suffered as a result of defendants' breaches of their ERISA fiduciary duties caused them.
- ***In re Nortel Networks ERISA Litigation***: Civil Action No. 01-cv-1855 (MD Tenn.) The firm represented a class of former workers of the bankrupt telecommunications company of mismanaging their employee stock fund in violation of their fiduciary duties. The case settled for \$21.5 million.
- ***Glass Dimensions, Inc. v. State Street Bank & Trust Co.***: 1:10-cv-10588-DPW (D. Mass). The firm served as co-lead counsel in this ERISA case that alleged that defendants breached their fiduciary duties to the retirement plans it managed by taking unreasonable compensation for managing the securities lending program in which the plans participated. After the court certified a class of the plans that participated in the securities lending

program at issue, the case settled for \$10 million on behalf of 1,500 retirement plans that invested in defendants' collective investment funds.

- ***In re Eastman Kodak ERISA Litigation:*** Master File No. 6:12-cv-06051-DGL (W.D.N.Y.) The firm served as class counsel in this ERISA breach of fiduciary duty class action which alleged that defendants breached their fiduciary duties to Kodak retirement plan participants by allowing plan investments in Kodak common stock. The case settled for \$9.7 million.
- ***Lequita Dennard v. Transamerica Corp. et al.:*** Civil Action No. 1:15-cv-00030-EJM (N.D. Iowa). The firm served as counsel to plan participants who alleged that they suffered losses when plan fiduciaries failed to act solely in participants' interests, as ERISA requires, when they selected, removed and monitored plan investment options. The case settled for structural changes to the plan and \$3.8 million monetary payment to the class.

### **Employment & Unpaid Wages**

The Berger Montague Employment & Unpaid Wages group works tirelessly to safeguard the rights of employees, and devote all of their energies to helping our firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

- ***Jantz v. Social Security Administration:*** The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities (“TDEs”) alleged that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million. EEOC No. 531-2006-00276X (2015).
- ***Ciamillo v. Baker Hughes, Incorporated:*** The firm served as lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).
- ***Employees Committed for Justice v. Eastman Kodak Company:*** The firm served as co-lead counsel and obtained a settlement of \$21.4 million on behalf of a nationwide class of African American employees of Kodak alleging a pattern and practice of racial discrimination (pending final approval). A significant opinion issued in the case is *Employees Committed For Justice v. Eastman Kodak Co.*, 407 F. Supp. 2d 423 (W.D.N.Y. 2005) (denying Kodak’s motion to dismiss). No. 6:04-cv-06098 (W.D.N.Y.).
- ***Salcido v. Cargill Meat Solutions Corp.:*** The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).
- ***Miller v. Hygrade Food Products, Inc.:*** The firm served as lead counsel and obtained a settlement of \$3.5 million on behalf of a group of African American employees of Sara Lee Foods Corp. to resolve charges of racial discrimination and retaliation at its Ball Park Franks plant. (No. 99-1087 (E.D. Pa.)).
- ***Chabrier v. Wilmington Finance, Inc.:*** The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant’s motion to decertify the class). (No. 06-4176 (E.D. Pa.)).
- ***Bonnette v. Rochester Gas & Electric Co.:*** The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile

work environment. (No. 07-6635 (W.D.N.Y.)).

- **Confidential.** The firm served as lead counsel and obtained a settlement of \$6 million on behalf of a group of African American employees of a Fortune 100 company to resolve claims of racial discrimination, as well as injunctive relief which included significant changes to the Company's employment practices (settled out of court while charges of discrimination were pending with the U.S. Equal Employment Opportunity Commission).

## Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016 Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by The National Law Journal.

- **Cook v. Rockwell International Corporation:** In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium or other toxins from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their "long and hard-fought" victory against "formidable corporate and government defendants." (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.
- **In re Exxon Valdez Oil Spill Litigation:** On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs' discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 "Trial Lawyer of the Year Award" given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).
- **In re Ashland Oil Spill Litigation:** The firm led by Harold Berger served as co-lead counsel and obtained a \$30 million settlement for damages resulting from a very large oil spill. (Master File No. M-14670 (W.D. Pa.)).

- ***State of Connecticut Tobacco Litigation:*** Berger Montague was one of three firms to represent the State of Connecticut in a separate action in state court against the tobacco companies. The case was litigated separate from the coordinated nationwide actions. Although eventually Connecticut joined the national settlement, its counsel's contributions were recognized by being awarded the fifth largest award among the states from the fifty states' Strategic Contribution Fund.
- ***In re School Asbestos Litigation:*** As co-lead counsel, the firm successfully litigated a case in which a nationwide class of elementary and secondary schools and school districts suffering property damage as a result of asbestos in their buildings were provided relief. Pursuant to an approved settlement, the class received in excess of \$70 million in cash and \$145 million in discounts toward replacement building materials. (No. 83-0268 (E.D. Pa.)).
- ***Drayton v. Pilgrim's Pride Corp.:*** The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).
- ***In re SEPTA 30th Street Subway/Elevated Crash Class Action:*** Berger Montague represented a class of 220 persons asserting injury in a subway crash. Despite a statutory cap of \$1 million on damages recovery from the public carrier, and despite a finding of sole fault of the public carrier in the investigation by the National Highway Transit Safety Administration, Berger Montague was able to recover an aggregate of \$3.03 million for the class. (1990 Master File No. 0001 (Pa. Ct. Com. Pls., Phila. Cty.)).
- ***In re Three Mile Island Litigation:*** As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).
- ***In Re Louisville Explosions Litigation:*** This case was one of the earliest examples of a class action trial of an environmental class action. It redressed damage to private property owners and employees resulting from a February 13, 1981 sewer explosion which was one of the largest explosion mishaps in U.S. history. In February, 1984 the matter went to trial, and after the plaintiffs' case and the denial of motions for direct verdict the litigation settled for net payments to the class members of 100% to 300% or more of direct monetary damages, depending on their zone's distance from the streets that

exploded. Claimants lined up near the claims office for blocks to file claims. Mr. Davidoff was lead counsel and lead trial counsel. (No. CV 81-0080, W.D. Ky.).

### **Insurance Fraud**

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

- ***Spencer v. Hartford Financial Services Group, Inc.***: The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer v. Hartford Financial Services Group, Inc.*, Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.
- ***Nationwide Mutual Insurance Company v. O'Dell***: The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

### **Predatory Lending and Borrowers' Rights**

Berger Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger Montague has successfully obtained multi-million dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

- ***Coonan v. Citibank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Citibank and its affiliates in the United States District Court for the Northern District of New York concerning alleged kickbacks Citibank received in connection with its force-placed insurance programs. The firm obtained a settlement of \$122 million on behalf of a class of hundreds of thousands of borrowers.
- ***Arnett v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the District of Oregon concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$31 million on behalf of a class of hundreds of thousands of borrowers.
- ***Clements v. JPMorgan Chase Bank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against JPMorgan Chase and its affiliates in the United States District Court for the Northern District of California concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$22,125,000 on behalf of a class of thousands of borrowers.
- ***Holmes v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the Western District of North Carolina concerning alleged kickbacks received in connection with its force-placed wind insurance program. The firm obtained a settlement of \$5.05 million on behalf of a class of thousands of borrowers.

### **Securities & Investor Protection**

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

- ***In re Merrill Lynch Securities Litigation***: Berger Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).

- ***In re Sotheby's Holding, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant. (No. 00-cv-1041 (DLC) (S.D.N.Y.)).
- ***In re: Oppenheimer Rochester Funds Group Securities Litigation:*** The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).
- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).
- ***Ginsburg v. Philadelphia Stock Exchange, Inc., et al.:*** The firm represented certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery and obtained a settlement valued in excess of \$99 million settlement. (C.A. No. 2202-CC (Del. Ch.)).
- ***In re Sepracor Inc. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$52.5 million for the benefit of bond and stock purchaser classes. (No. 02-cv-12235-MEL (D. Mass.)).
- ***In re CIGNA Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.)).
- ***In re Fleming Companies, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.)).
- ***In re Xcel Energy Inc. Securities, Derivative & "ERISA" Litigation:*** The firm, as co-lead counsel in the **securities** actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).
- ***In re NetBank, Inc. Securities Litigation:*** The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5 million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

- ***Brown v. Kinross Gold U.S.A. Inc.:*** The firm represented lead plaintiffs as co-lead counsel and obtained \$29.25 million cash settlement and an additional \$6,528,371 in dividends for a gross settlement value of \$35,778,371. (No. 02-cv-0605 (D. Nev.)) All class members recovered 100% of their damages after fees and expenses.
- ***In re Campbell Soup Co. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$35 million for the benefit of the class. (No. 00-cv-152 (JEI) (D.N.J.)).
- ***In re Premiere Technologies, Inc. Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement of over \$20 million in combination of cash and common stock. (No.1:98-cv-1804-JOF (N.D. Ga.)).
- ***In re PSINet, Inc., Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$17.83 million on behalf of investors. (No. 00-cv-1850-A (E.D. Va.)).
- ***In re Safety-Kleen Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement in the amount of \$45 million against Safety-Kleen's outside accounting firm and certain of the Company's officers and directors. The final settlement was obtained 2 business days before the trial was to commence. (No. 3:00-cv-736-17 (D.S.C.)).
- ***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.:*** The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).
- ***In re Rite Aid Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349 (E.D. Pa.)).
- ***In re Sunbeam Inc. Securities Litigation:*** As co-lead counsel and designated lead trial counsel (by Mr. Davidoff), the firm obtained a settlement on behalf of investors of \$142 million in the action against Sunbeam's outside accounting firm and Sunbeam's officers. (No. 98-cv-8258 (S.D. Fla.)).
- ***In re Waste Management, Inc. Securities Litigation:*** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)).
- ***In re IKON Office Solutions Inc. Securities Litigation:*** The firm, serving as both co-lead and liaison counsel, obtained a cash settlement of \$111 million in an action on behalf of investors against IKON and certain of its officers. (MDL Dkt. No. 1318 (E.D. Pa.)).
- ***In re Melridge Securities Litigation:*** The firm served as lead counsel and co-lead trial counsel for a class of purchasers of Melridge common stock and convertible debentures.

A four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million, and judgment was entered on RICO claims against certain defendants for \$239 million. The court approved settlements totaling \$57.5 million. (No. 87-cv-1426 FR (D. Ore.)).

- ***Aldridge v. A.T. Cross Corp.***: The firm represented a class of investors in a securities fraud class action against A.T. Cross, and won a significant victory in the U.S. Court of Appeals for the First Circuit when that Court reversed the dismissal of the complaint and lessened the pleading standard for such cases in the First Circuit, holding that it would not require plaintiffs in a shareholder suit to submit proof of financial restatement in order to prove revenue inflation. See *Aldridge v. A.T. Cross Corp.*, 284 F.3d 72 (1st Cir. 2002). The case ultimately settled for \$1.5 million. (C.A. No. 00-203 ML (D.R.I.)).
- ***Silver v. UICI***: The firm, as co-lead counsel, obtained a settlement resulting in a fund of \$16 million for the class. (No. 3:99-cv-2860-L (N.D. Tex.)).
- ***In re Alcatel Alsthom Securities Litigation***: The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).
- ***Walco Investments, Inc. et al. v. Kenneth Thenen, et al. (Premium Sales)***: The firm, as a member of the plaintiffs' steering committee, obtained settlements of \$141 million for investors victimized by a Ponzi scheme. Reported at: 881 F. Supp. 1576 (S.D. Fla. 1995); 168 F.R.D. 315 (S.D. Fla. 1996); 947 F. Supp. 491 (S.D. Fla. 1996)).
- ***In re The Drexel Burnham Lambert Group, Inc.***: The firm was appointed co-counsel for a mandatory non-opt-out class consisting of all claimants who had filed billions of dollars in securities litigation-related proofs of claim against The Drexel Burnham Lambert Group, Inc. and/or its subsidiaries. Settlements in excess of \$2.0 billion were approved in August 1991 and became effective upon consummation of Drexel's Plan of Reorganization on April 30, 1992. (No. 90-cv-6954 (MP), Chapter 11, Case No. 90 B 10421 (FGC), Jointly Administered, reported at, *inter alia*, 960 F.2d 285 (2d Cir. 1992), *cert. dismissed*, 506 U.S. 1088 (1993) ("Drexel I") and 995 F.2d 1138 (2d Cir. 1993) ("Drexel II")).
- ***In re Michael Milken and Associates Securities Litigation***: As court-appointed liaison counsel, the firm was one of four lead counsel who structured the \$1.3 billion "global" settlement of all claims pending against Michael R. Milken, over 200 present and former officers and directors of Drexel Burnham Lambert, and more than 350 Drexel/Milken-related entities. (MDL Dkt. No. 924, M21-62-MP (S.D.N.Y.)).
- ***RJR Nabisco Securities Litigation***: The firm represented individuals who sold RJR Nabisco securities prior to the announcement of a corporate change of control. This securities case settled for \$72 million. (No. 88-cv-7905 MBM (S.D.N.Y.)).

- **Qwest Securities Action:** The firm represented New Jersey in an opt-out case against Qwest and certain officers, which was settled for \$45 million. (C.A. No. L-3838-02 (Superior Court New Jersey, Law Division)).

#### **Whistleblower, *Qui Tam*, and False Claims Act**

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$1.1 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than \$100 million in rewards. Berger Montague's time-tested approach in Whistleblower/*Qui Tam* representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

## Judicial Praise for Berger Montague Attorneys

Berger Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

### Antitrust

From **Judge Brian M. Cogan**, of the U.S. District Court of the Eastern District of New York:

"This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

Transcript of June 24, 2019 Fairness Hearing, *In re Dental Supplies Antitrust Litigation*, No. 16-cv-696 (E.D.N.Y.).

From **Judge Michael M. Baylson**, of the U.S. District Court of the Eastern District of Pennsylvania:

"[C]ounsel...for direct action plaintiffs have done an outstanding job here with representing the class, and I thought your briefing was always very on point. I thought the presentation of the very contentious issues on the class action motion was very well done, it was very well briefed, it was well argued."

Transcript of the June 28, 2018 Hearing in *In re Domestic Drywall Antitrust Litigation*, No. MD-13-2437 at 11:6-11.

From **Judge Madeline Cox Arleo**, of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

"I just want to thank you for an outstanding presentation. I don't say that lightly . . . it's not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don't see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you've shown for each other, the respect you've shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don't fight, good lawyers advocate. And I really appreciate that more than I can express."

Transcript of the September 9 to 11, 2015 Daubert Hearing in *Castro v. Sanofi Pasteur*, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

“Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression.”

\* \* \*

“Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues .... The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.”

*In re Currency Conversion Fee Antitrust Litigation*, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg**, of the United States District court for the District of New Jersey:

“[W]e sitting here don’t always get to see such fine lawyering, and it’s really wonderful for me both to have tough issues and smart lawyers ... I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, ... On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do.”

*In re Remeron Antitrust Litig.*, Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again.”

*In Re Linerboard Antitrust Litig.*, 2004 WL 1221350, at \*5-\*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

“[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel....[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]”

***In re Cardizem CD Antitrust Litig.***, MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras**, of the U.S. District Court for the Northern District of Illinois:

“The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . . There is no question that the results achieved by class counsel were extraordinary [.]”

Regarding the work of Berger Montague in achieving more than \$700 million in settlements with some of the defendants in ***In Re Brand Name Prescription Drugs Antitrust Litigation***, 2000 U.S. Dist. LEXIS 1734, at \*3-\*6 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte**, of the U.S. District Court for the District of Maryland:

“The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs’ counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded.”

Settlement Approval Hearing, Oct. 28, 1994, in ***Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.***, CA No. PJM-92-3624 (D. Md.).

From **Judge Donald W. Van Artsdalen**, of the U.S. District Court for the Eastern District of Pennsylvania:

“As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs’ counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and

suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure.”

***Bogosian v. Gulf Oil Corp.***, 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:

Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result.

***In re Art Materials Antitrust Litigation***, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

From **Judge Joseph Blumenfeld**, of the U.S. District Court for the District of Connecticut:

“The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions.”

***In re Master Key Antitrust Litigation***, 1977 U.S. Dist. LEXIS 12948, at \*35 (Nov. 4, 1977).

### **Securities & Investor Protection**

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

Court stated that lead counsel had made “very full and well-crafted” and “excellent submissions”; that there was a “very fine job done by plaintiffs’ counsel in this case”; and that this was “surely a very good result under all the facts and circumstances.”

***In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation***, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:

“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

*In re CIGNA Corp. Sec. Litig.*, 2007 U.S. Dist. LEXIS 51089, at \*17-\*18 (E.D. Pa. July 13, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett... [A]nd the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

*In re U.S. Bioscience Secs. Litig.*, No. 92-0678 (E.D. Pa. April 4, 1994).

From **Judge Wayne Andersen** of the U.S. District Court for the Northern District of Illinois:

“[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here...I would say this has been the best representation that I have seen.”

*In re: Waste Management, Inc. Secs. Litig.*, No. 97-C 7709 (N.D. Ill. 1999).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

“All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that’s a testimony – Mr. Valihura correctly says that’s what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.”

*Ginsburg v. Philadelphia Stock Exchange, Inc.*, No. 2202 (Del. Ch., Oct. 22, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel

first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

“Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here.”

***In re Rite Aid Corp. Securities Litigation***, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

“In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.”

\* \* \*

“Throughout the course of their representation, the attorneys at Berger Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.”

***In Re Melridge, Inc. Securities Litigation***, No. CV 87-1426-FR (D. Ore. April 15, 1996).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

“[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action... These counsel have also acted vigorously in their clients’ interests...”

\* \* \*

“The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The

submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines.”

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in *In re Ikon Office Solutions, Inc. Securities Litigation*, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:

“In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger Montague....”

\* \* \*

“Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich.”

Commenting in *In re Revco Securities Litigation*, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

### **Civil/Human Rights Cases**

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

“We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers.”

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

### **Insurance Litigation**

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

Noting the “very significant risk in pursuing this action” given its uniqueness in that “there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants.” Further, “the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel’s outstanding work in this case and substantial effort over five years, no member of the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result.”

Regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in *Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, in the Order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

### **Customer/Broker Arbitrations**

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

About the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in *Steinman v. LMP Hedge Fund, et al.*, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

### **Other**

From **Stephen M. Feiler, Ph.D.**, Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA *on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania*:

“On behalf of the Supreme Court of Pennsylvania and AOPC’s Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years.”

About the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

## **Founding Partner**

### **David Berger - 1912-2007**

David Berger was the founder and the Chairman of Berger Montague. He received his A.B. *cum laude* in 1932 and his LL.B. *cum laude* in 1936, both from the University of Pennsylvania. He was a member of The Order of the Coif and was an editor of the *University of Pennsylvania Law Review*. He had a distinguished scholastic career including being Assistant to Professor Francis H. Bohlen and Dr. William Draper Lewis, Director of the American Law Institute, participating in the drafting of the first Restatement of Torts. He also served as a Special Assistant Dean of the University of Pennsylvania Law School. He was a member of the Board of Overseers of the Law School and Associate Trustee of the University of Pennsylvania. In honor of his many contributions, the Law School established the David Berger Chair of Law for the Improvement of the Administration of Justice.

David Berger was a law clerk for the Pennsylvania Supreme Court. He served as a deputy assistant to Director of Enemy Alien Identification Program of the United States Justice Department during World War II.

Thereafter he was appointed Lt.j.g. in the U.S. Naval Reserve and he served in the South Pacific aboard three aircraft carriers during World War II. He was a survivor of the sinking of the U.S.S. Hornet in the Battle of Santa Cruz, October 26, 1942. After the sinking of the Hornet, Admiral Halsey appointed him a member of his personal staff when the Admiral became Commander of the South Pacific. Mr. Berger was ultimately promoted to Commander. He was awarded the Silver Star and Presidential Unit Citation.

After World War II, he was a law clerk in the United States Court of Appeals. The United States Supreme Court appointed David Berger a member of the committee to draft the Federal Rules of Evidence, the basic evidentiary rules employed in federal courts throughout the United States. David Berger was a fellow of the American College of Trial Lawyers, the International Society of Barristers, and the International Academy of Trial Lawyers, of which he was a former Dean. He was a Life Member of the Judicial Conference of the Third Circuit and the American Law Institute.

A former Chancellor (President) of the Philadelphia Bar Association, he served on numerous committees of the American Bar Association and was a lecturer and author on various legal subjects, particularly in the areas of antitrust, securities litigation, and evidence.

David Berger served as a member of President John F. Kennedy's committee which designed high speed rail lines between Washington and Boston. He drafted and activated legislation in the Congress of the United States which resulted in the use of federal funds to assure the continuance

of freight and passenger lines throughout the United States. When the merger of the Pennsylvania Railroad and the New York Central Railroad, which created the Penn Central Transportation Company, crashed into Chapter 11, David Berger was counsel for Penn Central and a proponent of its reorganization. Through this work, Mr. Berger ensured the survival of the major railroads in the Northeastern section of the United States including Penn Central, New Jersey Central, and others.

Mr. Berger's private practice included clients in London, Paris, Dusseldorf, as well as in Philadelphia, Washington, New York City, Florida, and other parts of the United States. David Berger instituted the first class action in the antitrust field, and for over 30 years he and the Berger firm were lead counsel and/or co-lead counsel in countless class actions brought to successful conclusions, including antitrust, securities, toxic tort and other cases. He served as one of the chief counsel in the litigation surrounding the demise of Drexel Burnham Lambert, in which over \$2.6 billion was recovered for various violations of the securities laws during the 1980s. The recoveries benefitted such federal entities as the FDIC and RTC, as well as thousands of victimized investors.

In addition, Mr. Berger was principal counsel in a case regarding the Three Mile Island accident near Harrisburg, Pennsylvania, achieving the first legal recovery of millions of dollars for economic harm caused by the nation's most serious nuclear accident. As part of the award in the case, David Berger established a committee of internationally renowned scientists to determine the effects on human beings of emissions of low level radiation.

In addition, as lead counsel in *In re Asbestos School Litigation*, he brought about settlement of this long and vigorously fought action spanning over 13 years for an amount in excess of \$200 million.

David Berger was active in Democratic politics. President Clinton appointed David Berger a member of the United States Holocaust Memorial Council, in which capacity he served from 1994-2004. In addition to his having served for seven years as the chief legal officer of Philadelphia, he was a candidate for District Attorney of Philadelphia, and was a Carter delegate in the Convention which nominated President Carter.

Over his lengthy career David Berger was prominent in a great many philanthropic and charitable enterprises some of which are as follows: He was the Chairman of the David Berger Foundation and a long time honorary member of the National Commission of the Anti-Defamation League. He was on the Board of the Jewish Federation of Philadelphia and, at his last place of residence, Palm Beach, as Honorary Chairman of the American Heart Association, Trustee of the American Cancer Society, a member of the Board of Directors of the American Red Cross, and active in the Jewish Federation of Palm Beach County.

David Berger's principal hobby was tennis, a sport in which he competed for over 60 years. He was a member of the Board of Directors of the International Tennis Hall of Fame and other related organizations for assisting young people in tennis on a world-wide basis.

## Firm Chair

### Eric L. Cramer – Chairman

Mr. Cramer is Firm Chairman and Co-Chair of the Firm's antitrust department. He has a national practice in the field of complex litigation, primarily in the area of antitrust class actions. He is currently co-lead counsel in multiple significant antitrust class actions across the country in a variety of industries and is responsible for winning numerous significant settlements for his clients totaling well over \$2 billion. Most recently, he has focused on representing workers claiming that anticompetitive practices have suppressed their pay, including cases on behalf of mixed-martial-arts fighters and chicken growers.

In 2018, he was named Philadelphia antitrust “Lawyer of the Year” by *Best Lawyers*, and in 2017, he won the American Antitrust Institute’s Antitrust Enforcement Award for Outstanding Antitrust Litigation Achievement in Private Law Practice for his work in *Castro v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.). He has also identified as a top tier antitrust lawyer by *Chambers & Partners* in Pennsylvania and nationally. *Chambers* observed that Mr. Cramer is “really a tremendous advocate in the courtroom, with a very good mind and presence.” He has been highlighted annually since 2011 by *The Legal 500* as one of the country’s top lawyers in the field of complex antitrust litigation, and repeatedly deemed one of the “Best Lawyers in America,” including in 2018. In 2014 and 2018, Mr. Cramer was selected by *Philadelphia Magazine* as one of the top 100 lawyers in Philadelphia.

Mr. Cramer is also a frequent speaker at antitrust and litigation related conferences. He was the only Plaintiffs’ lawyer selected to serve on the American Bar Association’s Antitrust Section Transition Report Task Force delivered to the incoming Obama Administration in 2012. He is a Senior Fellow and Vice President of the Board of Directors of the American Antitrust Institute; a past President of COSAL (Committee to Support the Antitrust Laws), a leading industry group; a member of the Advisory Board of the Institute of Consumer Antitrust Studies of the Loyola University Chicago School of Law; and a member of the Board of Directors of Public Justice, a national public interest law firm.

He has written widely in the fields of class certification and antitrust law. Among other writings, Mr. Cramer has co-authored *Antitrust, Class Certification, and the Politics of Procedure*, 17 *George Mason Law Review* 4 (2010), which was cited by both the First Circuit in *In re Nexium Antitrust Litig.*, 777 F.3d 9, 27 (1st Cir. 2015), quoting Davis & Cramer, 17 *Geo. Mason L. Rev.* 969, 984-85 (2010), and the Third Circuit in *Behrend v. Comcast Corp.*, 655 F.3d 182, 200, n.10 (3d Cir. 2011), *rev’d on other grounds*, 133 S. Ct. 1426 (2013). He has also co-written a number of other pieces, including: *Of Vulnerable Monopolists?: Questionable Innovation in the Standard for Class Certification in Antitrust Cases*, 41 *Rutgers Law Journal* 355 (2009-2010); *A Questionable New Standard for Class Certification in Antitrust Cases*, published in the ABA’s *Antitrust Magazine*, Vol. 26, No. 1 (Fall 2011); a Chapter of American Antitrust Institute’s *Private International Enforcement Handbook* (2010), entitled “*Who May Pursue a Private Claim?*”; and, a chapter of the American Bar Association’s *Pharmaceutical Industry Handbook* (July 2009), entitled “*Assessing Market Power in the Prescription Pharmaceutical Industry.*”

Mr. Cramer is a *summa cum laude* graduate of Princeton University (1989), where he was elected to *Phi Beta Kappa*. He graduated *cum laude* from Harvard Law School with a J.D. in 1993.

## Managing Shareholders

### **Sherrie R. Savett – Chair *Emeritus* & Managing Shareholder**

Sherrie R. Savett, Chair *Emeritus* of the Firm, Chair of the Securities Litigation Department and *Qui Tam*/False Claims Act Department, and member of the Firm’s Management Committee, has practiced in the areas of securities litigation and class actions since 1975.

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

- ***In re Alcatel Alsthom Securities Litigation:*** The Firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.));
- ***In re CIGNA Corp. Securities Litigation:*** The Firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.));
- ***In re Fleming Companies, Inc. Securities Litigation:*** The Firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.));
- ***In re KLA Tencor Securities Litigation:*** The Firm, as a member of Plaintiffs’ Counsel’s Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.));
- ***Medaphis/Deloitte & Touche*** (class settlement of \$96.5 million) (No. 1:96-CV-2088-FMH (N.D. GA));
- ***In re Rite Aid Corp. Securities Litigation:*** The Firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid’s outside accounting firm and certain of the company’s former officers. (No. 99-cv-1349) (E.D. Pa.);
- ***In re Sotheby’s Holding, Inc. Securities Litigation:*** The Firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant (No. 00-cv-1041 (DLC) (S.D.N.Y.));
- ***In re Waste Management, Inc. Securities Litigation:*** In 1999, the Firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash, which included a settlement against Waste Management’s outside accountants. (No. 97-cv-7709 (N.D. Ill.)); and
- ***In re Xcel Inc. Securities, Derivative & “ERISA” Litigation:*** The Firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under § 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir. 1996).

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993).

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants' motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

Additionally, Ms. Savett has become increasingly well-known in the area of consumer litigation, achieving a groundbreaking \$24 million settlement in 2008 in the *Menu Foods* case brought by pet owners against manufacturers of allegedly contaminated pet food. (*In re Pet Food Products Liability Litigation*, MDL Docket No. 1850 (D.N.J. 2007)). In the data breach area, she was co-lead counsel in *In re TJX Retail Securities Breach Litigation*, MDL Docket No. 1838 (D.Mass), the first very large data breach case where hackers stole personal information from 45 million consumers. The settlement, which became the template for future data breach cases, consisted of providing identity theft insurance to those whose social security or driver's license numbers were stolen, a cash fund for actual damages and time spent mitigating the situation, and injunctive relief.

In the past decade, she has also actively worked in the False Claims Act arena. She was part of the team that litigated over more than a decade and settled the Average Wholesale Price *qui tam* cases, which collectively settled for more than \$1 billion.

Ms. Savett speaks and writes frequently on securities litigation, consumer class actions and False Claims Act litigation. She has lectured at the University of Pennsylvania Law School, the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions and on False Claims Act Litigation. She is frequently invited to present and serve as a panelist in American Bar Association, American Law Institute/American Bar Association and Practising Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI's Securities Litigation and Enforcement Institute annually from 1995 to 2010. She has also spoken at major institutional investor and insurance industry conferences, and DRI – the Voice of the Defense Bar. In February 2009, she was a member of a six-person panel who presented an analysis of the current state of securities litigation before more than 1,000 underwriters and

insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009, as well as the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Most recently, in April 2019, she spoke as a panelist at PLI's Securities Litigation 2019: From Investigation to Trial program. Her panel was titled "Commencement of a Civil Action: Filing the Complaint, Preparing the Motion to Dismiss, Coordinating Multiple Securities Litigation Actions." Ms. Savett also co-authored an article for the program that was published in PLI's *Corporate Law and Practice Court Handbook Series*. The article is titled "After the Fall—A Plaintiff's Perspective."

In 2015 and 2016, she served as a panelist in American Law Institute programs held in New York City called "Securities and Shareholder Litigation: Cutting-Edge Developments, Planning and Strategy." Ms. Savett also spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled "The Good, The Bad, and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs." The other program focused on consumer class actions in the real estate area and was entitled "The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure."

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

Ms. Savett has written numerous articles on securities and complex litigation issues in professional publications, including:

- "After the Fall – A Plaintiff's Perspective," with Phyllis M. Parker, *PLI Corporate Law and Practice Course Handbook Series No. B-2475*, pg. 73-105, April 2019
- "Plaintiffs' Vision of Securities Litigation: Current Trends and Strategies," 1762 *PLL* October 2009
- "Primary Liability of 'Secondary' Actors Under the PSLRA," I *Securities Litigation Report*, (Glasser) November 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," 1442 *PLI/Corp.* 13, September – October 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SJ084 ALI-ABA 399, May 13-14, 2004
- "The 'Indispensable Tool' of Shareholder Suits," *Directors & Boards*, Vol. 28, February 18, 2004
- "Plaintiffs Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case," 679 *PLI*, August 2002

- “Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley From a Plaintiffs Perspective,” 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003
- “Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective,” SG091 ALI-ABA, May 2-3, 2002
- “Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective,” SF86 ALI-ABA 1023, May 10, 2001
- “Greetings From the Plaintiffs’ Class Action Bar: We’ll be Watching,” SE082 ALI-ABA739, May 11, 2000
- “Preventing Financial Fraud,” B0-00E3 *PLJB0-00E3* April – May 1999
- “Shareholders Class Actions in the Post Reform Act Era,” SD79 ALI-ABA 893, April 30, 1999
- “What to Plead and How to Plead the Defendant’s State of Mind in a Federal Securities Class Action,” with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998
- “The Merits Matter Most: Observations on a Changing Landscape Under the Private Securities Litigation Reform Act of 1995,” 39 *Arizona Law Review* 525, 1997
- “Everything David Needs to Know to Battle Goliath,” ABA Tort & Insurance Practice Section, *The Brief*, Vol. 20, No.3, Spring 1991
- “The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy,” *PLIH4-0528*, September 1, 1987
- “Prosecution of Derivative Actions: A Plaintiffs Perspective,” *PLIH4-5003*, September 1, 1986

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

In 2019, *The Legal Intelligencer* named Ms. Savett a "Distinguished Leader," and in 2018 she was named to the *Philadelphia Business Journal's* 2018 Best of the Bar: Philadelphia's Top Lawyers.

*The Legal Intelligencer* and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005, 2007-2013, and 2015-2016, Berger Montague was named to the *National Law Journal's* “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” The Firm is on the *National Law Journal's* “Hall of Fame,” and Ms. Savett’s achievements were mentioned in many of these awards.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and/or a “Pennsylvania Super Lawyer” from 2004 through 2018 by *Philadelphia Magazine* after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500

Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly*, which stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.” In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

Unquestionably, it is because of Ms. Savett, who for decades has been in the top leadership of the Firm, that the Firm has a remarkably high proportion of women lawyers and shareholders. At this time, 23 of the Firm’s 66 lawyers (34.8%) are women, and 11 of the Firm’s 33 shareholders (33.3%) are women. This percentage of women shareholders far exceeds the 23.4% of representation of women among partners in 45 American cities, and far exceeds the 19.8% of women among partners in Philadelphia law firms, according to the National Association of Law Placement.

Ms. Savett has aggressively sought to hire women, without regard to age or whether they are “right out of law school.” Several of the women who have children are able to continue working at the Firm because Ms. Savett has instituted a policy of flexible work time and fosters an atmosphere of cooperation, teamwork and mutual respect. As a result, the women attorneys stay on and have long and productive careers while still maintaining a balanced life. Ms. Savett has a personal understanding of the challenges and satisfactions that women experience in practicing law while raising a family. Ms. Savett has three children and five grandchildren. One of her daughters and her daughter-in-law are lawyers.

Ms. Savett has taught those around her more than good lawyering. She places great emphasis in her own life on devotion to family, community service and involvement in charitable organizations. She teaches others by her example and her obvious interest in their efforts and achievements.

Ms. Savett is a well-known leader of the Philadelphia legal, business, cultural and Jewish community. She is an exemplary citizen who spends endless hours of her after-work time helping others in the community.

From 2011 – 2014, Ms. Savett served as President and Board Chair of the Jewish Federation of Greater Philadelphia (JFGP), a community of over 215,000 Jewish people. She is only the third woman to serve as the President, the top lay leader of the Federation, in the 117 years of its existence.

Ms. Savett also serves on the Board of the National Liberty Museum, The National Museum of American Jewish History, and the local and national boards of American Associates of Ben Gurion University of the Negev. She had as Chairperson of the Southeastern Pennsylvania State of Israel Bonds Campaign and has served as a member of the National Cabinet of State of Israel Bonds. In 2005, Ms. Savett received The Spirit of Jerusalem Medallion, the State of Israel Bonds’ highest honor.

Ms. Savett has used her positions of leadership in the community to identify and help promote women as volunteer leaders. Ms. Savett has selected a few worthy causes to which she tirelessly dedicates herself. According to leaders of The Jewish Federation of Greater Philadelphia, Ms. Savett is viewed by many woman in the philanthropic world as a role model.

Ms. Savett earned her J.D. from the University of Pennsylvania Law School and a B.A. *summa cum laude* from the University of Pennsylvania. She is a member of Phi Beta Kappa.

Ms. Savett has three married children, three grandsons, and two granddaughters. She enjoys tennis, biking, physical training, travel, and collecting art, especially glass and sculpture.

### **Merrill G. Davidoff – Chair *Emeritus* & Managing Shareholder**

Merrill G. Davidoff is Chairman *Emeritus* and a Managing Shareholder, in addition to his continuing work as Co-Chairman of the Antitrust Department with Mr. Montague and Chairman of the Environmental Group. Mr. Davidoff has litigated and tried a wide range of antitrust, commodities, securities and environmental class actions.

In *In re Currency Conversion Fee Antitrust Litigation*, MDL No. 1409, Mr. Davidoff was co-lead counsel in class actions that resulted in settlements of \$386 million.

In a long-running environmental class action on behalf of property owners whose land was contaminated by plutonium from a neighboring nuclear weapons facility (Rocky Flats near Denver, Colorado), Mr. Davidoff served as lead counsel and lead trial counsel in a 2005-2006 trial that resulted in a \$554 million jury verdict, third largest of 2006. In 2009 the Rocky Flats trial team, led by Mr. Davidoff, received the prestigious Public Justice Award for "Trial Lawyer of the Year." A 2010 decision by the 10th Circuit Court of Appeals reversed the judgment that had been won in the district court, but Berger Montague persevered and sought entry of judgment under alternative state law grounds. After losing this battle in the district court, plaintiffs appealed to the 10th Circuit again, and, after an appeal argued by Mr. Davidoff, the Court of Appeals (by then-judge, now Justice, Neil Gorsuch) reversed and held that plaintiffs could proceed on state law nuisance grounds. Just before competing petitions for certiorari were to be decided by the Supreme Court, a settlement of \$375 million was announced in May 2016. The settlement received final approval on April 28, 2017.

Mr. Davidoff also concentrates his practice in representation for commodities futures and options traders as well as derivatives matters. He was co-lead counsel for the customer class in *In re MF Global Holdings Limited Investment Litigation*, which settled for well over a billion dollars and resulted in the recovery and return of 100% of lost customer funds after MF Global's October 31, 2011 collapse.

Mr. Davidoff has represented diverse clients, including many companies, sports organizations, trading firms and governmental entities. In the *Qwest* securities litigation, Mr. Davidoff represented New Jersey, securing a \$45 million "opt-out" settlement, and also represented New Jersey in "opt-out" litigation against the former public accounting firm for Lehman Brothers Inc.

Mr. Davidoff served as co-lead and trial counsel for a plaintiff class in the first mass tort class action trial in a federal court which resulted in a precedent-setting settlement for class members, *In re Louisville Explosions Litigation*. In the Canadian Radio-Television and Telecommunications Commission ("CRTC") Decisions (Challenge Communications, Ltd. v. Bell Canada), Mr. Davidoff was lead counsel for Applicant (plaintiff) in three evidentiary hearings before the CRTC. The hearings resulted in the first precedent-breaking Bell Canada's monopoly over the telecommunications equipment which was connected to its telephone network. He was lead counsel in the *Revco Securities Litigation*, an innovative "junk bond" class action, which settled for \$36 million. Mr. Davidoff was lead plaintiffs' counsel and lead trial counsel in *In re Melridge Securities Litigation* tried to jury verdicts for \$88 million (securities fraud) and \$240 million (RICO). He was co-lead counsel for the class in *In re Graphite Electrodes Antitrust Litigation*, an international price-fixing case which yielded settlements ranging from 18% to 32% of the plaintiffs' and class' purchases from the defendants (aggregate settlements totaled \$134 million). He was one of co-lead counsel in the *Ikon Securities Litigation*, in which a settlement of \$111 million was obtained. He was co-lead counsel and designated lead trial counsel in the *In Re Sunbeam Securities Litigation*, where settlements of \$142 million were reached. One of his areas of concentration is representation in commodities futures and options matters, and expertise in derivatives. He has represented market-makers on the Philadelphia Stock Exchange, where he owned a member firm in the 1990s, as well as broker-dealers and market-makers on other exchanges.

#### **H. Laddie Montague Jr. - Chair *Emeritus* & Managing Shareholder**

H. Laddie Montague Jr. is a member of the Firm's Executive Committee, having joined the Firm's predecessor David Berger, P.A., at its inception in 1970. Mr. Montague was Chairman of the Firm from 2003 to 2016. Mr. Montague is now Chairman *Emeritus* and a Managing Shareholder, in addition to his continuing work as Co-Chairman of the Firm's Antitrust Department.

In addition to being one of the courtroom trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague has served as lead or co-lead counsel in many class actions, including, among others, *High Fructose Corn Syrup Antitrust Litigation* (2006), *In re Infant Formula Antitrust Litigation* (1993) and *Bogosian v. Gulf Oil Corp.* (1984), a nationwide class action against thirteen major oil companies. Mr. Montague was co-lead counsel for the State of Connecticut in its litigation against the tobacco industry. He is currently co-lead counsel in several pending class actions. In addition to the *Exxon Valdez Oil Spill Litigation*, he has tried several complex and protracted cases to the jury, including three class actions: *In re Master Key Antitrust Litigation* (1977), *In re Corrugated Container Antitrust Litigation* (1980) and *In re Brand Name Prescription Drugs Antitrust Litigation*, M.D.L. (1997-1998). For his work as trial counsel in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague shared the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award.

Mr. Montague has been repeatedly singled out by *Chambers USA: America's Leading Lawyers for Business* as one of the top antitrust attorneys in the Commonwealth of Pennsylvania. He is lauded for his stewardship of the Firm's antitrust department, referred to as "the dean of the Bar," stating that his peers in the legal profession hold him in the "highest regard," and explicitly praised

for, among other things, his “fair minded[ness].” He also is or has been listed in *Lawdragon*, *An International Who’s Who of Competition Lawyers*, and *The Legal 500: United States (Litigation)*. He has repeatedly been selected by *Philadelphia Magazine* as one of the top 100 lawyers in Pennsylvania. Mr. Montague has also been one of the only two inductees in the American Antitrust Institute's inaugural Private Antitrust Enforcement Hall of Fame.

He has been invited and made a presentation at the Organization for Economic Cooperation and Development (Paris, 2006); the European Commission and International Bar Association Seminar (Brussels, 2007); the Canadian Bar Association, Competition Section (Ottawa, 2008); and the 2010 Competition Law & Policy Forum (Ontario).

Mr. Montague is a graduate of the University of Pennsylvania (B.A. 1960) and the Dickinson School of Law (L.L.B. 1963), where he was a member of the Board of Editors of the Dickinson Law Review. He is the former Chairman of the Board of Trustees of the Dickinson School of Law of Penn State University and current Chairman of the Dickinson Law Association.

### **Daniel Berger – Managing Shareholder**

Daniel Berger graduated with honors from Princeton University and Columbia Law School, where he was a Harlan Fiske Stone academic scholar. He is a senior member and Managing Shareholder. Over the last two decades, he has been involved in complicated commercial litigation including class action securities, antitrust, consumer protection and bankruptcy cases. In addition, he has prosecuted important environmental, mass tort and civil rights cases during this period. He has led the Firm's practice involving improprieties in the marketing of prescription drugs and the abuse of marketing exclusivities in the pharmaceutical industry, including handling landmark cases involving the suppression of generic competition in the pharmaceutical industry. For this work, he has been recognized by the *Law 360* publication as a "titan" of the plaintiffs' Bar ("Titan of the Plaintiffs Bar: Daniel Berger" *Law 360*, September 23, 2014).

In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities. He also leads the firm's representation of states and other public bodies and agencies.

Mr. Berger has frequently represented public institutional investors in securities litigation, including representing the state pension funds of Pennsylvania, Ohio and New Jersey in both individual and class action litigation. He also represents Pennsylvania and New Jersey on important environmental litigation involving contamination of groundwater by gasoline manufacturers and marketers.

Mr. Berger has a background in the study of economics, having done graduate level work in applied microeconomics and macroeconomic theory, the business cycle, and economic history. He has published law review articles in the *Yale Law Journal*, the *Duke University Journal of Law and Contemporary Problems*, the *University of San Francisco Law Review* and the *New York Law School Law Review*. Mr. Berger is also an author and journalist who has been published in *The Nation* magazine, reviewed books for *The Philadelphia Inquirer* and authored a number of political

blogs, including in *The Huffington Post* and the Roosevelt Institute's *New Deal 2.0*. He has also appeared on MSNBC as a political commentator.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy, and the Philadelphia Cultural Fund, which was responsible for all City grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which the NEA makes grants. Mr. Berger also serves on the board of the Wilma Theater, Philadelphia's pre-eminent theater for new plays and playwrights.

### **Shanon J. Carson – Managing Shareholder**

Shanon J. Carson is a Managing Shareholder of the Firm. He Co-Chairs the Employment & Unpaid Wages, Consumer Protection, Defective Products, and Defective Drugs and Medical Devices Departments and is a member of the Firm's Commercial Litigation, Employee Benefits & ERISA, Environment & Public Health, Insurance Fraud, Predatory Lending and Borrowers' Rights, and Technology, Privacy & Data Breach Departments.

Mr. Carson has achieved the highest peer-review rating, "AV," in Martindale-Hubbell, and has received honors and awards from numerous publications. In 2009, Mr. Carson was selected as one of 30 "Lawyers on the Fast Track" in Pennsylvania under the age of 40. In both 2015 and 2016, Mr. Carson was selected as one of the top 100 lawyers in Pennsylvania, as reported by Thomson Reuters. In 2018, Mr. Carson was named to the *Philadelphia Business Journal's* "2018 Best of the Bar: Philadelphia's Top Lawyers."

Mr. Carson is often retained to represent plaintiffs in employment cases, wage and hour cases for minimum wage violations and unpaid overtime, ERISA cases, consumer cases, insurance cases, construction cases, automobile defect cases, defective drug and medical device cases, product liability cases, breach of contract cases, invasion of privacy cases, false advertising cases, excessive fee cases, and cases involving the violation of state and federal statutes. Mr. Carson represents plaintiffs in all types of litigation including class actions, collective actions, multiple plaintiff litigations, and single plaintiff litigation. Mr. Carson is regularly appointed by federal courts to serve as lead counsel and on executive committees in class actions and mass torts.

Mr. Carson is frequently asked to speak at continuing legal education seminars and other engagements and is active in nonprofit and professional organizations. Mr. Carson currently serves on the Board of Directors of the Philadelphia Trial Lawyers Association (PTLA) and as a Co-Chair of the PTLA Class Action/Mass Tort Committee. Mr. Carson is also a member of the American Association for Justice, the American Bar Foundation, Litigation Counsel of America, the National Trial Lawyers - Top 100, and the Pennsylvania Association for Justice.

While attending the Dickinson School of Law of the Pennsylvania State University, Mr. Carson was senior editor of the Dickinson Law Review and clerked for a U.S. District Court Judge. Mr.

Carson currently serves on the Board of Trustees of the Dickinson School of Law of the Pennsylvania State University.

### **Todd S. Collins – Managing Shareholder**

Todd S. Collins is a graduate of the University of Pennsylvania (B.A. 1973) and the University of Pennsylvania Law School (J.D. 1978), where he won the 1978 Henry C. Laughlin Prize for Legal Ethics. He is a member of the Pennsylvania and Delaware Bars. Since joining the Firm in 1982, following litigation and corporate experience in Wilmington, Delaware, and Philadelphia, he has concentrated on complex class litigation, including cases on behalf of securities purchasers, shareholders, trust beneficiaries, and retirement plan participants and beneficiaries.

Mr. Collins has served as lead counsel or co-lead counsel in numerous cases that have achieved significant benefits on behalf of the Class. These cases include: *In re AMF Bowling Securities Litigation* (S.D.N.Y.) (\$20 million recovery, principally against investment banks, where defendants asserted that Class suffered no damages); *In re Aero Systems, Inc. Securities Litigation* (S.D. Fla.) (settlement equal to 90 percent or more of Class members' estimated damages); *Price v. Wilmington Trust Co.* (Del. Ch.) (in litigation against bank trustee for breach of fiduciary duty, settlement equal to 70% of the losses of the Class of trust beneficiaries); *In re Telematics International, Inc. Securities Litigation* (S.D. Fla.) (settlements achieved, after extensive litigation, following 11th Circuit reversal of dismissal below); *In re Ex-Cell-O Securities Litigation* (E.D. Mich.); *In re Sequoia Systems, Inc.* (D. Mass.); *In re Sapiens International, Inc. Securities Litigation* (S.D.N.Y.); *In re Datastream Securities Litigation* (D.S.C.); *Copland v. Tolson* (Pa. Common Pleas) (on eve of trial, in case against corporate principals for breach of fiduciary duty, settlement reached that represented 65% or more of claimants' losses, with settlement funded entirely from individual defendants' personal funds); and *In re IKON Office Solutions, Inc. Securities Litigation* (E.D. Pa.). In *IKON*, where Mr. Collins was co-lead counsel as well as the chief spokesman for plaintiffs and the Class before the Court, plaintiffs' counsel created a fund of \$111 million for the benefit of the Class.

In addition, Mr. Collins has served as lead or co-lead counsel in several of the leading cases asserting the ERISA rights of 401(k) plan participants. Mr. Collins has served as co-lead counsel in *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.); *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.); *In re SPX Corporation ERISA Litigation* (W.D. N.C.); and *King v. Wal-Mart Stores, Inc.* (D. Nev.). In *Lucent*, Mr. Collins and his team achieved a settlement consisting of \$69 million for the benefit of plan participants, as well as substantial injunctive relief with respect to the operation of the 401(k) plans.

Mr. Collins is at the forefront of litigation designed to achieve meaningful corporate governance reform. Recently, he brought to a successful conclusion two landmark cases in which corporate therapeutics are at the core of the relief obtained. In *Oorbeek v. FPL Group, Inc.* (S.D. Fla.), a corporate derivative action brought on behalf of the shareholders of FPL Group, plaintiffs challenged excessive "change of control" payments made to top executives. In the settlement, plaintiffs recovered not only a substantial cash amount but also a range of improvements in FPL's corporate governance structure intended to promote the independence of the outside directors.

Similarly, in *Ashworth Securities Litigation* (S.D. Cal.), a Section 10(b) fraud case, in which Mr. Collins was co-lead counsel, plaintiffs again have been successful in recovering millions of dollars and also securing important governance changes. In this case, the changes focused on strengthening the accounting function and improving revenue recognition practices.

In corporate acquisition cases, Mr. Collins has served as co-lead counsel in cases such as *In re Portec Rail Products, Inc. Shareholders Litig.* (C.P. Allegheny County, Pennsylvania) (tender offer enjoined), *Silberman v. USANA Health Sciences, Inc. et al.* (D. Utah) (offer enjoined on plaintiffs' motion).

### **Michael C. Dell'Angelo – Managing Shareholder**

Michael Dell'Angelo is a Managing Shareholder in the Antitrust, Commercial Litigation, Commodities & Financial Instruments, and Securities & Investor Protection practice groups. He serves as co-lead counsel in a variety of complex antitrust cases, including *Le, et al. v. Zuffa, LLC*, No. 15-1045 (D. Nev.) (alleging the Ultimate Fighting Championship (“UFC”) obtained illegal monopoly power of the market for Mixed Martial Arts promotions and suppressed the compensation of MMA fighters).

Mr. Dell'Angelo is responsible for winning numerous significant settlements for his clients and class members. Most recently, as co-lead counsel, Mr. Dell'Angelo recently helped to reach settlements totaling more than \$190 million in the multidistrict litigation *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437 (E.D. Pa.). There, in granting final approval to the last settlement, the court observed about Mr. Dell'Angelo and his colleagues that “Plaintiffs’ counsel are experienced antitrust lawyers who have been working in this field of law for many years and have brought with them a sophisticated and highly professional approach to gathering persuasive evidence on the topic of price-fixing.” *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, at \*18 (E.D. Pa. July 17, 2018). “[I]t bears repeating,” the court emphasized, “that the result attained is directly attributable to having highly skilled and experienced lawyers represent the class in these cases.” *Id.*

Mr. Dell'Angelo also serves as co-lead counsel or class counsel in numerous cases alleging price-fixing or other wrongdoing affecting a variety of financial instruments, including *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litig.*, 1:14-MD-2548-VEC (S.D.N.Y.); *In re Platinum and Palladium Antitrust Litig.*, No. 14-cv-09391-GHW (S.D.N.Y.); *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.); *In re Libor-Based Financial Instruments Antitrust Litig.*, No. 11-md-2262 (S.D.N.Y.); *Alaska Elec. Pension Fund, et al. v. Bank of Am. Corp., et al.*, No. 14 Civ. 7126-JMF (S.D.N.Y.); *In re Crude Oil Commodity Futures Litig.*, No. 11-cv-3600 (S.D.N.Y.); and *In re London Silver Fixing, Ltd. Antitrust Litig.*, No. 14-md-2573 (S.D.N.Y.).

*The National Law Journal* recently featured Mr. Dell'Angelo in its profile of Berger Montague for a special annual report entitled “Plaintiffs’ Hot List.” *The National Law Journal's* Hot List identifies the top plaintiff practices in the country. The Hot List profile focused on Mr. Dell'Angelo's role in the MF Global litigation (*In re MF Global Holding Ltd. Inv. Litig.*, No. 12-MD-2338-VM (S.D.N.Y.)).

In *MF Global*, Mr. Dell'Angelo represented former commodity account holders seeking to recover approximately \$1.6 billion of secured customer funds after the highly publicized collapse of MF Global, a major commodities brokerage. At the outset of this high-risk litigation, the odds appeared grim: MF Global had declared bankruptcy, leaving the corporate officers, a bank, and a commodity exchange as the only prospect for the recovery of class's misappropriated funds. Nonetheless, four years later, a result few would have believed possible was achieved. Through a series of settlements, the former commodity account holders recovered more than 100 percent of their missing funds, totaling over \$1.6 billion.

Mr. Dell'Angelo has been recognized consistently as a Pennsylvania Super Lawyer, a distinction conferred upon him annually since 2007. He is regularly invited to speak at Continuing Legal Education (CLE) and other seminars and conferences, both locally and abroad. In response to his recent CLE, "How to Deal with the Rambo Litigator," Mr. Dell'Angelo was singled out as "One of the best CLE speakers [attendees] have had the pleasure to see."

### **David F. Sorensen – Managing Shareholder**

David Sorensen is a Managing Shareholder and Co-Chair of the Firm's antitrust department. He graduated from Duke University (A.B. 1983) and Yale Law School (J.D. 1989), and clerked for the Hon. Norma L. Shapiro (E.D. Pa.). He concentrates his practice on antitrust and environmental class actions.

Mr. Sorensen co-trieed *Cook v. Rockwell Int'l Corp.*, No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Mr. Sorensen played a major role in the Firm's representation of the State of Connecticut in *State of Connecticut v. Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion (excluding interest) from certain manufacturers of tobacco products. And he served as co-lead class counsel in *Johnson v. AZHHA, et al.*, No. 07-1292 (D. Ariz.), representing a class of temporary nursing personnel who had been underpaid because of an alleged conspiracy among Arizona hospitals. The case settled for \$24 million.

Mr. Sorensen also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including

*King Drug Co. v. Cephalon, Inc.*, (E.D. Pa.) (\$512 million partial settlement - largest ever for a case alleging delayed generic competition); *In re: Aggrenox Antitrust Litigation* (\$146 million settlement); *In re: K-Dur Antitrust Litigation* (\$60.2 million); *In re: Prandin Direct Purchaser Antitrust Litigation* (\$19 million); *In re: Doryx Antitrust Litigation* (\$15 million); *In re: Skelaxin Antitrust Litigation* (\$73 million); *In re: Wellbutrin XL Antitrust Litigation* (\$37.50 million); *In re: Oxycontin Antitrust Litigation* (\$16 million); *In re: DDAVP Direct Purchaser Antitrust Litigation* (\$20.25 million settlement following precedent-setting victory in the Second Circuit, which Mr. Sorensen argued, see 585 F.3d 677 (2d Cir. 2009)); *In re: Nifedipine Antitrust Litigation* (\$35 million); *In re: Terazosin Hydrochloride Antitrust Litigation*, MDL 1317 (S.D. Fla.) (\$74.5 million); and *In re: Remeron Antitrust Litigation* (\$75 million). Mr. Sorensen is serving as co-lead counsel or on the executive committee of numerous similar, pending cases.

In 2017, the American Antitrust Institute presented its Antitrust Enforcement Award to Mr. Sorensen and others for their work on the *K-Dur* case.

## **Shareholders**

### **Glen L. Abramson – Shareholder**

Glen L. Abramson is a Shareholder in the Philadelphia office. He concentrates his practice on complex consumer protection, product defects, and financial services litigation, and representing public and private institutional investors in securities fraud class actions and commercial litigation.

Mr. Abramson has served as co-lead counsel in numerous successful consumer protection and securities fraud class actions, including:

*Casey v. Citibank, N.A.*, No. 5:12-cv-00820 (N.D.N.Y.). As Co-Lead Counsel, Mr. Abramson obtained a settlement valued at \$110 million in this consolidated class action on behalf of nationwide classes of borrowers whose mortgage loans were serviced by Citibank or CitiMortgage and who were force-placed with hazard, flood or wind insurance.

*In re Oppenheimer Rochester Funds Group Securities Litigation*, No. 09-md-02063-JLK-KMT (D. Colo.). As Co-Lead Counsel, Mr. Abramson represented shareholders in Oppenheimer municipal bond funds in connection with losses suffered during the financial crisis of 2008. The case settled in 2014 for \$89.5 million.

*In re Tremont, Securities Law, State Law, and Insurance Litig.*, No. 1:08-cv-11117-TPG. Mr. Abramson represented insurance policyholders who lost money in connection with the Madoff Ponzi scheme. The combined cases were settled for more than \$100 million.

*In re Mutual Fund Investment Litig.*, No. 04-md-15861-CCB. As Co-Lead Counsel, Mr. Abramson represented shareholders of various mutual fund families who lost money as the result of market timing in mutual funds. Mr. Abramson was lead counsel for Scudder/Deutsche Bank mutual fund shareholders and helped orchestrate combined settlements of more than \$14 million.

*In re Fleming Companies, Inc. Sec. Litig.*, No. 03-md-1530 (E.D. Tex.). As Co-Lead Counsel, Mr. Abramson represented shareholders of Fleming Companies, Inc. in connection with losses suffered as a result of securities fraud by Fleming and its auditors and underwriters. The case resulted in a \$93.5 million settlement.

Prior to joining Berger Montague, Mr. Abramson practiced at Dechert LLP in Philadelphia, where he handled complex commercial litigation, product liability, intellectual property, and civil rights disputes. While at Dechert, Mr. Abramson co-chaired a civil rights trial in federal court that led to a six-figure verdict. Mr. Abramson also spent three years as a professional equities trader.

Mr. Abramson is a graduate of Cornell University (B.A. *with distinction* 1993) and Harvard Law School (*cum laude* 1996). He is a past member of the Harvard Legal Aid Bureau and is a member of Cornell University's Phi Beta Kappa honors society.

### **Gary E. Cantor – Shareholder**

Gary E. Cantor is a Shareholder in the Philadelphia office. He concentrates his practice on securities and commercial litigation and derivatives valuations.

Mr. Cantor served as co-lead counsel in *Steiner v. Phillips, et al. (Southmark Securities)*, Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), (class settlement of \$82.5 million), and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB), (class settlement involving 119 separate limited partnerships resulting in cash settlement, oversight of partnership governance and debt restructuring (with as much as \$100 million in wrap mortgage reductions)). Mr. Cantor also represented plaintiffs in numerous commodity cases.

In recent years, Mr. Cantor played a leadership role in *In re Oppenheimer Rochester Funds Group Securities Litigation* (\$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc.), No. 09-md-02063-JLK (D. Col.); *In re KLA-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.) (\$65 million class settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement.); *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.) (\$70 million class settlement). He was also actively involved in the *Merrill Lynch Securities Litigation* (class settlement of \$475 million) and *Waste Management Securities Litigation* (class settlement of \$220 million).

For over 20 years, Mr. Cantor also has concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's cases involving stocks, bonds, derivatives, and commodities. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor was a member of the Moot Court Board at University of Pennsylvania Law School where he authored a comment on computer-generated evidence in the University of Pennsylvania

Law Review. He graduated from Rutgers College with the highest distinction in economics and was a member of Phi Beta Kappa.

### **Joy P. Clairmont – Shareholder**

Joy Clairmont is a Shareholder in the Whistleblower, *Qui Tam* & False Claims Act Group, which has recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Ms. Clairmont also has experience practicing in the area of securities fraud litigation.

Ms. Clairmont has been investigating and litigating whistleblower cases for over fifteen years and has successfully represented whistleblower clients in federal and state courts throughout the United States. On behalf of her whistleblower clients, Ms. Clairmont has pursued fraud cases involving a diverse array of companies: behavioral health facilities, a national retail pharmacy chain, a research institution, pharmaceutical manufacturers, skilled nursing facilities, a national dental chain, mortgage lenders, hospitals and medical device manufacturers.

Most notably, Ms. Clairmont has participated in several significant and groundbreaking cases involving fraudulent drug pricing:

***United States ex rel. Streck v. AstraZeneca, LP, et al., C.A. No. 08-5135 (E.D. Pa.):*** a Medicaid rebate fraud case which settled in 2015 for a total of \$55.5 million against three pharmaceutical manufacturers, AstraZeneca, Cephalon, and Biogen. The case alleged that the defendants did not properly account for millions of dollars of payments to wholesalers for drug distribution and other services. As a result, the defendants underpaid the government in rebates owed under the Medicaid Drug Rebate Program.

***United States ex rel. Kieff and LaCorte v. Wyeth and Pfizer, Inc., Nos. 03-12366 and 06-11724-DPW (D. Mass.):*** a Medicaid rebate fraud case involving Wyeth's acid-reflux drug, Protonix, which settled for \$784.6 million in April 2016.

**"AWP" Cases:** a series of cases in federal and state courts against many of the largest pharmaceutical manufacturers, including Bristol-Myers Squibb, Boehringer Ingelheim, and GlaxoSmithKline, for defrauding the government through false and inflated price reports for their drugs, which resulted in more than \$2 billion in recoveries for the government.

Earlier in her career, Ms. Clairmont gained experience litigating securities fraud class actions including, most notably, *In Re Sunbeam Securities Litigation*, a class action which led to the recovery of over \$142 million for the class of plaintiffs in 2002.

Ms. Clairmont graduated in 1995 with a B.A. *cum laude* from George Washington University and in 1998 with a J.D. from George Washington University Law School.

### **Caitlin Goldwater Coslett – Shareholder**

Caitlin Coslett concentrates her practice on complex litigation, including antitrust, environmental, and mass tort litigation. Since joining the Firm, she has worked on a variety of matters, including *Cook v. Rockwell International Corp.* (mass tort), and antitrust class actions such as *CRT Antitrust Litigation*, *In re Domestic Drywall Antitrust Litigation*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, *Steel Antitrust Litigation*, and *In re Urethane [Polyether Polyols] Antitrust Litigation*.

Ms. Coslett also represents classes of direct purchasers of pharmaceutical drugs who allege that pharmaceutical manufacturers have violated the federal antitrust laws by wrongfully keeping less expensive generic drugs off the market, including in *In re Lidoderm Antitrust Litigation*, *In re Skelaxin (Metaxalone) Antitrust Litigation*, and *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*.

Ms. Coslett graduated *magna cum laude* from Haverford College with a B.S. in mathematics and economics and graduated cum laude from the New York University School of Law. At NYU School of Law, Ms. Coslett was a Lederman/Milbank Fellow in Law and Economics and an articles selection editor for the NYU Review of Law and Social Change. Ms. Coslett was formerly one of the top 75 rated female chess players in the U.S.

### **Andrew C. Curley – Shareholder**

Andrew C. Curley is a Shareholder in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Curley served as Co-Lead Class Counsel on behalf of a class of independent truck stops and other retail merchants in *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, Case No. 07-1078 (E.D. Pa.). The *Marchbanks* litigation settled in January 2014 for \$130 million and significant prospective relief in the form of, among other things, meaningful and enforceable commitments by the largest over-the-road trucker fleet card issuer in the United States to modify or not to enforce those portions of its merchant services agreements that plaintiffs challenged as anticompetitive, and that an expert economist has determined to be worth an additional \$260 million to \$491 million (bringing the total value of the settlement to between \$390 and \$621 million).

Mr. Curley is also involved in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Those cases include: *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (\$76 million settlements); and *In re Aggrenox Antitrust Litig.*, No. 3:14-md-02516 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-MD-2343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litig.*, No. 08-2431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Opana ER Antitrust Litig.*, No. 14-cv-10150 (N.D. Ill.) and *In re Niaspan Antitrust Litig.*, No. 12-MD-2460 (E.D. Pa.).

Prior to joining the Firm, Mr. Curley practiced in the litigation department of a large Philadelphia law firm where he represented clients in a variety of industries in complex commercial litigation in both state and federal court.

### **Lawrence Deutsch – Shareholder**

Mr. Deutsch has been involved in numerous major shareholder class action cases. He served as lead counsel in the Delaware Chancery Court on behalf of shareholders in a corporate governance litigation concerning the rights and valuation of their shareholdings. Defendants in the case were the Philadelphia Stock Exchange, the Exchange's Board of Trustees, and six major Wall Street investment firms. The case settled for \$99 million and also included significant corporate governance provisions. Chancellor Chandler, when approving the settlement allocation and fee awards on July 2, 2008, complimented counsel's effort and results, stating, "Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class." The Chancellor had previously described the intensity of the litigation when he had approved the settlement, "All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong like they have gone at it in this case."

Mr. Deutsch was one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al.* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768) resulting in an \$8 million judgment against the directors and officers of the company for breach of fiduciary duty.

Over his 25 years working in securities litigation, Mr. Deutsch has been a lead attorney on many substantial matters. Mr. Deutsch served as one of lead counsel in the *In Re Sunbeam Securities Litigation* class action concerning "Chainsaw" Al Dunlap (recovery of over \$142 million for the class in 2002). As counsel on behalf of the City of Philadelphia he served on the Executive Committee for the securities litigation regarding *Frank A. Dusek, et al. v. Mattel Inc., et al.* (recovery of \$122 million for the class in 2006).

Mr. Deutsch served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide *Mutual Funds Market Timing* cases. Mr. Deutsch served on the Plaintiffs' Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to "market time" and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

Mr. Deutsch has been court-appointed Lead or a primary attorney in numerous complex litigation cases: *NECA-IBEW Pension Trust Fund, et al. v. Precision Castparts Corp., et al.* (Civil Case No. 3:16-cv-01756-YY); *Fox et al. v. Prime Group Realty Trust, et al.* United States District Court Northern District of Illinois (Civil Case No. 1:12-cv-09350) (\$8.25 million settlement pending); served as court-appointed lead counsel in *In Re Inergy LP Unitholder Litigation* (Del. Ch. No. 5816-VCP ) (\$8 million settlement).

Mr. Deutsch served on a team of lead counsel in *In Re: Certain Teed Fiber Cement Siding Litigation*, E.D.Pa. MDL NO. 11-2270 (\$103.9 million settlement); *Tim George v. Uponor, Inc., et al.*, United States District Court, District of Minnesota, Case No. 12-CV-249 (ADM/JJK) (\$21 million settlement); *Batista, et al. v. Nissan North America, Inc.*, United States District Court, Southern District of Florida, Miami Division, Case No 1;14-cv-24728 (settlement valued at \$65,335,970.00).

In addition to his litigation work, Mr. Deutsch has been a member of the Firm's Executive Committee and also manages the Firm's paralegals. He has also regularly represented indigent parties through the Bar Association's VIP Program, including the Bar's highly acclaimed representation of homeowners facing mortgage foreclosure.

Prior to joining the Firm, Mr. Deutsch served in the Peace Corps from 1973-1976, serving in Costa Rica, the Dominican Republic, and Belize. He then worked for ten years at the United States General Services Administration.

Mr. Deutsch is a graduate of Boston University (B.A. 1973), George Washington University's School of Government and Business Administration (M.S.A. 1979), and Temple University's School of Law (J.D. 1985). He became a member of the Pennsylvania Bar in 1986 and the New Jersey Bar in 1987. He has also been admitted to practice in Eastern District of Pennsylvania, the First Circuit Court of Appeals, the Second Circuit Court of Appeals, the Third Circuit Court of Appeals, the Fourth Circuit Court of Appeals, Eleventh Circuit Court of Appeals and the U.S. Court of Federal Claims as well as various jurisdictions across the country for specific cases.

#### **E. Michelle Drake – Shareholder**

E. Michelle Drake is a Shareholder in the Firm's Minneapolis office. With career settlements and verdicts valued at more than \$150 million, Michelle has had great success at a young age and in a wide variety of cases.

Michelle focuses her practice primarily on consumer protection, improper credit reporting, and financial services class actions. Michelle is empathetic towards her clients and unyielding in her desire to win. Possessing a rare combination of an elite academic pedigree and real-world trial skills, Michelle has successfully gone toe-to-toe with some of the world's most powerful companies.

Michelle helped achieve one of the largest class action settlements in a case involving improper mortgage servicing practices associated with force-placed insurance, resulting in a settlement valued at \$110 million for a nationwide class of borrowers who were improperly force-placed with overpriced insurance. Michelle also served as liaison counsel and part of the Plaintiffs' Steering Committee on behalf of consumers harmed in the Target data breach, a case she helped successfully resolve on behalf of over ninety million consumers whose data was affected by the breach. In 2015, Michelle resolved a federal class action on behalf of a group of adult entertainers in New York for \$15 million. Most recently, Michelle has been successful in litigating numerous cases protecting consumers' federal privacy rights under the Fair Credit Reporting Act, securing

settlements valued at over \$10 million on behalf of tens of thousands of consumers harmed by improper background checks and inaccurate credit reports in the last two years alone.

Michelle was admitted to the bar in 2001 and has since served as lead class counsel in over fifty class and collective actions alleging violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Fair Labor Standards Act, various states' unfair and deceptive trade practices acts, breach of contract and numerous other pro-consumer and pro-employee causes of action.

Michelle serves on the Board of the National Association of Consumer Advocates, is a member of the Partner's Council of the National Consumer Law Center, and is an At-Large Council Member for the Consumer Litigation Section for the Minnesota State Bar Association. She was named as a Super Lawyer in 2013-2018 and was named as a Rising Star prior to that. Michelle was also appointed to the Federal Practice Committee in 2010 by the United States District Court for the District of Minnesota. She has been quoted in the New York Times and the National Law Journal, and her cases were named as "Lawsuits of the Year" by Minnesota Law & Politics in both 2008 and 2009.

Michelle began her practice of law by defending high stakes criminal cases as a public defender in Atlanta. Michelle has never lost her desire to litigate on the side of the "little guy."

#### **Candice J. Enders – Shareholder**

Candice J. Enders is a Shareholder in the Antitrust practice group. She concentrates her practice in complex antitrust litigation.

Her significant involvements include *In re Microcrystalline Cellulose Antitrust Litigation* (E.D. Pa.) (\$50 million settlement achieved shortly before trial); *In re Methyl Methacrylate (MMA) Antitrust Litigation* (E.D. Pa.) (\$15.1 million settlement); *In re Chocolate Confectionary Antitrust Litigation*; *In re TFT LCD (Flat Panel) Antitrust Litigation* (N.D. Cal.); and *In re Cathode Ray Tube (CRT) Antitrust Litigation* (N.D. Cal.).

While in law school, Ms. Enders served as a senior editor on the Journal of Labor and Employment Law, volunteered as a legal advocate at the Custody and Support Assistance Clinic, and interned at Philadelphia City Council.

#### **Michael T. Fantini – Shareholder**

Michael T. Fantini is a Shareholder in the Consumer Protection and Commercial Litigation practice groups. Mr. Fantini concentrates his practice on consumer class action litigation.

Mr. Fantini has considerable experience in notable consumer cases such as: *In re TJX Companies Retail Security Breach Litigation*, Master Docket No. 07-10162 (D. Mass) (class action brought on behalf of persons whose personal and financial data were compromised in the largest computer theft of personal data in history - settled for various benefits valued at over \$200 million); *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grade 7-*

12 *Litigation*, MDL No. 1643 (E.D. La. 2006) (settlement of \$11.1 million on behalf of persons who were incorrectly scored on a teachers' licensing exam); *Block v. McDonald's Corporation*, No: 01CH9137 (Cir. Ct. Of Cook County, Ill.) (settlement of \$12.5 million where McDonald's failed to disclose beef fat in french fries); *Fitz, Inc. v. Ralph Wilson Plastics Co.*, No. 1-94-CV-06017 (D. N.J.) (claims-made settlement whereby fabricators fully recovered their losses resulting from defective contact adhesives); *Parker v. American Isuzu Motors, Inc.*; No: 3476 (CCP, Philadelphia County) (claims-made settlement whereby class members recovered \$500 each for their economic damages caused by faulty brakes); *Crawford v. Philadelphia Hotel Operating Co.*, No: 04030070 (CCP Phila. Cty. 2005) (claims-made settlement whereby persons with food poisoning recovered \$1,500 each); *Melfi v. The Coca-Cola Company* (settlement reached in case involving alleged misleading advertising of Enviga drink); *Vaughn v. L.A. Fitness International LLC*, No. 10-cv-2326 (E.D. Pa.) (claims made settlement in class action relating to failure to cancel gym memberships and improper billing); *In re Chickie's & Pete's Wage and Hour Litigation*, Master File No. 12-cv-6820 (E.D. Pa.) (settled class action relating to failure to pay proper wage and overtime under FLSA).

Notable security fraud cases in which Mr. Fantini was principally involved include: *In re PSINet Securities Litigation*, No: 00-1850-A (E.D. Va.) (settlement in excess of \$17 million); *Ahearn v. Credit Suisse First Boston, LLC*, No: 03-10956 (D. Mass.) (settlement of \$8 million); and *In re Nesco Securities Litigation*, 4:01-CV-0827 (N.D. Okla.).

Mr. Fantini has represented the City of Chicago in an action against certain online travel companies, such as Expedia, Hotels.com, and others, for their alleged failure to pay hotel taxes. He also represented the City of Philadelphia in a similar matter.

Prior to joining the Firm, Mr. Fantini was a litigation associate with Dechert LLP. At George Washington University Law School, he was a member of the Moot Court Board. In 2017 and 2018, Mr. Fantini was named a Pennsylvania Super Lawyer by Thomson Reuters.

### **Benjamin Galdston – Shareholder**

Benjamin Galdston is a Shareholder in the Antitrust, Commercial Litigation, Commodities & Financial Instruments and Securities & Investor Protection practice groups. He manages the Firm's San Diego office and has specialized in complex securities fraud and other class actions, corporate governance matters, opt-out litigation and consumer cases for more than 18 years.

Among the nation's top litigators, Mr. Galdston has represented prominent public pension funds, municipalities, Taft Hartley funds, and asset managers and secured billions of dollars and extensive corporate reforms for injured investors. He has presented arguments in federal district and appellate courts and state courts across the country. Formerly a partner with another national plaintiffs' firm, Mr. Galdston recently secured a landmark pro-investor ruling from the Ninth Circuit in *In re Quality Systems, Inc. Securities Litigation* limiting PSLRA safe harbor protections for mixed statements involving forward-looking projections and current factual assertions. He has served as lead or co-lead counsel in numerous historic securities fraud class actions, including *In re McKesson HBOC Securities Litigation*, the largest securities fraud class action in the Ninth

Circuit; *In re Lehman Brothers Holdings, Inc.*, which recovered more than \$735 million for shareholders of the defunct brokerage firm; *In re Citigroup Bond Litigation*, a \$730 million recovery; *In re Wachovia Corp. Securities Litigation*, a \$627 million recovery; *In re Washington Mutual Securities Litigation*, the largest securities class action recovery in the Western District of Washington; *In re Maxim Integrated Products, Inc. Securities Litigation*, the largest stock option backdating recovery in the Ninth Circuit; and *In re New Century*, a \$125 million recovery. Mr. Galdston has been at the forefront in successfully pursuing novel legal claims on behalf of institutional investors in individual direct actions, as well, including *In re EMAC Securities Litigation*, a direct action arising from a private offering of asset-backed securities and *In re AXA Rosenberg Investor Litigation*, which asserted claims under the Investment Advisers Act of 1940 and resulted in a \$65 million recovery.

Mr. Galdston frequently speaks and publishes on topics relating to securities regulation, class actions, corporate governance, investor advocacy and consumer protection. Most recently, he was a guest speaker at the American Bar Association winter conference and published an article titled "Shareholder Litigation for Waste of Corporate Assets in Internal FCPA Investigations" in *The Review of Securities & Commodities Regulation*.

#### **Ruthanne Gordon – Chief Administrative Officer & Shareholder**

Ms. Gordon is a Shareholder in the Antitrust practice group and serves as the Firm's Chief Administrative Officer. In the last few years alone, Ms. Gordon has served as one of the lead lawyers in antitrust class actions resulting in recoveries of hundreds of millions of dollars for the class members she has represented.

Ms. Gordon has played a lead role in litigation involving a wide range of industries, including the credit card industry, chemical products industries, the real estate industry, the computer industry, the public utility industry, the environmental services industry, the tobacco industry, the biotechnology industry and the healthcare industry, among others.

In addition, she represented a class of Pennsylvania inmates in a federal civil rights class action, resulting in the establishment of a statewide treatment program for Pennsylvania inmates suffering from post-traumatic stress disorder as a result of their service in the Vietnam war.

Ms. Gordon has argued issues of the first impression before the Second Circuit Court of Appeals, in *Ross v. American Express Company* (concerning standing to invoke the interlocutory appeal provision of Section 16 of the Federal Arbitration Act, in a case alleging a horizontal price-fixing conspiracy) and before the New Jersey Supreme Court, in *In re PSE&G Derivative Litigation* (concerning the standard for excusal of demand in a duty of care case).

As a member of the Antitrust Law Section of the American Bar Association, Ms. Gordon has served as a panelist at the American Bar Association's Antitrust Law Spring Meeting, where she addressed the key issues that arise in the prosecution and defense of an antitrust class action lawsuit.

### **Peter R. Kahana – Shareholder**

Peter R. Kahana is a Shareholder in the Insurance and Antitrust practice groups. He concentrates his practice in complex civil and class action litigation involving relief for insurance policyholders and consumers of other types of products or services who have been victimized by fraudulent conduct and unfair business practices.

Significant class cases vindicating the rights of insurance policyholders or consumers in which Mr. Kahana was appointed as co-class counsel have included: settlement in 2012 for \$90 million of breach of fiduciary duty and negligence claims (certified for trial in 2009) on behalf of a class of former policyholder-members of Anthem Insurance Companies, Inc. ("Anthem") alleging the class was paid insufficient cash compensation in connection with Anthem's conversion from a mutual insurance company to a publicly-owned stock insurance company (a process known as "demutualization") (*Ormond v. Anthem, Inc., et al.*, USDC, S.D. Ind., Case No. 1:05-cv-01908 (S.D. Ind. 2012)); settlement in 2010 for \$72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against The Hartford and its affiliates on behalf of a class of personal injury and workers compensation claimants for the Hartford's alleged deceptive business practices in settling these injury claims for Hartford insureds with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); settlement in 2009 for \$75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia automobile policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37); and, settlement in 2004 for \$20 million on behalf of a class of cancer victims alleging that their insurer refused to pay for health insurance benefits for chemotherapy and radiation treatment (*Bergonzi v. CSO, USDC, D.S.D.*, Case No. C2-4096). For his efforts in regard to the Bergonzi matter, Mr. Kahana was named as the recipient of the American Association for Justice's Steven J. Sharp Public Service Award, which is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policymakers and the public about the importance of consumers' rights.

Mr. Kahana has also played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* (\$723 million settlement), *In re Ashland Oil Spill Litigation* (\$30 million settlement), and *In re Exxon Valdez* (\$287 million compensatory damage award and \$507.5 million punitive damage award). In connection with his work as a member of the trial team that prosecuted *In re The Exxon Valdez*, Mr. Kahana was selected in 1995 to share the Trial Lawyer of the Year Award by the Public Justice Foundation.

### **Michael J. Kane – Shareholder**

Michael J. Kane, a Shareholder of the Firm, is a graduate of Rutgers University and Ohio Northern University School of Law, with distinction, where he was a member of the Law Review. Mr. Kane is admitted to practice in Pennsylvania and various federal courts.

Mr. Kane joined the antitrust practice in 2005. Prior to joining the Firm, Mr. Kane was affiliated with Mager, White & Goldstein, LLP where he represented clients in complex commercial litigation involving alleged unlawful business practices including: violations of federal and state antitrust and securities laws, breach of contract and other unfair and deceptive trade practices. Mr. Kane has extensive experience working with experts on economic issues in antitrust cases, including impact and damages. Mr. Kane has served in prominent roles in high profile antitrust, securities, and unfair trade practice cases filed in courts around the country.

Currently, Mr. Kane is one of the lead attorneys actively litigating and participating in all aspects of the *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) alleging, *inter alia*, that certain of Visa and MasterCard rules, including anti-steering restraints and default interchange fees, working in tandem have caused artificially inflated interchange fees paid by Merchants on credit and debit card transactions. After over a decade of litigation, a settlement of as much as \$6.24 billion and no less than \$5.54 billion was preliminary approved in January 2019. He is also one of the lead counsel in *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.) alleging a conspiracy among horizontal competitors to fix the prices of foreign currencies and certain foreign currency instruments to recover damages caused by defendants on behalf of plaintiffs and members of a proposed class of indirect purchasers of FX instruments from defendants.

Mr. Kane was also one of the lead lawyers in *Castro v. Sanofi Pasteur, Inc.*, No. 2:11-cv-07178-JMV-MAH (D.N.J.), a certified class action of over 26,000 physician practices, other healthcare providers, and vaccine distributors direct purchasers, alleging that defendant Sanofi engaged in anticompetitive conduct to maintain its monopoly in the market for MCV4 vaccines resulting in artificially inflated prices for Sanofi's MCV4 vaccine Menactra and the MCV4 vaccine Menveo. In October 2017 the court granted final approval the \$61.5 million settlement.

Mr. Kane also had a leading role in *Ross v. American Express Company* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied). In the related matter *Ross v. Bank of America* (S.D.N.Y.) involving claims that the defendant banks and American Express unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions, Mr. Kane was one of the primary trial counsel in the five week bench trial. Mr. Kane also has had a prominent role in several antitrust cases against pharmaceutical companies challenging so-called pay for delay agreements wherein the brand drug company allegedly seeks to delay competition from generic equivalents to the brand drug through payments by the brand drug company to the generic drug company. Mr. Kane served as co-lead counsel in *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct., Middlesex Cty.), in which plaintiffs alleged that as a result of Microsoft Corporation's

anticompetitive practices, Massachusetts consumers paid more than they should have for Microsoft's operating systems and software. The case was settled for \$34 million. Other cases in which Mr. Kane has had a prominent role include: *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.) (settlement for \$336 million and injunctive relief); *In re Nasdaq Market Makers Antitrust Litig.* (S.D.N.Y.); *In re Compact Disc Antitrust Litig.* (C.D. Cal.); *In re WorldCom, Inc. Securities Litig.* (S.D.N.Y.); *In re Lucent Technologies, Inc. Securities Litig.* (D.N.J.); *City Closets LLC v. Self Storage Assoc., Inc.* (S.D.N.Y.); *Rolite, Inc. v. Wheelabrator Environmental Sys. Inc.*, (E.D. Pa.); and *Amin v. Warren Hospital* (N.J. Super.).

### **Jon J. Lambiras – Shareholder**

Jon J. Lambiras, Esq., CPA, CFE is a Shareholder in the Securities and Consumer Protection practice groups. Since joining the Firm in 2003, he has practiced primarily in the areas of securities fraud, consumer fraud, and data breach class actions.

In the Securities group, he concentrates on class action and opt-out litigation involving accounting fraud and financial misrepresentations made to investors. In the Consumer Protection group, he concentrates on unfair business practices and data breach litigation involving the theft of personal information by computer hackers. He has also litigated Antitrust pay-for-delay matters involving drug manufacturers wrongly keeping generic drugs off the market.

Jon's clients are plaintiffs such as individual investors, institutional investors, and consumers. He strives to provide a smooth, comfortable litigation experience for his clients. He welcomes inquiries from potential clients and referring counsel regarding new matters. Fees in his cases are generally earned on a contingent basis, meaning clients do not pay out-of-pocket attorneys' fees.

Jon is an attorney, Certified Public Accountant, and Certified Fraud Examiner. Prior to law school, he practiced accounting for four years as a financial statement auditor, including with a Big-Four accounting firm.

Jon has obtained the highest peer review rating, "AV Preeminent," in Martindale-Hubbell for his legal abilities and ethical standards. Also, for several years from 2012 to the present, he was selected for inclusion in "Pennsylvania Super Lawyers" or "Rising Stars," an honor conferred on less than 5% of attorneys in Pennsylvania.

Jon has published numerous articles and lectured on various class action topics, as summarized below. He has also commented on class action issues for publications such as The Washington Post and The Legal Intelligencer, among others. The cases on which he worked have collectively settled for hundreds of millions of dollars.

While in law school, Jon was a Lead Articles Editor for the Pepperdine Law Review.

Jon's speaking engagements include the following:

- "Securities Fraud Class Actions: A Primer for Certified Fraud Examiners," 2018, presented to the Association of Certified Fraud Examiners

- "Securities Fraud Class Actions: A Bird's Eye View," 2017, presented to the Delaware County Bar Association
- "Securities Fraud Class Actions: A Bird's Eye View for Attorney-CPAs," 2017, presented to the Philadelphia Chapter of the American Association of Attorney-CPAs
- "How the CFO Landed in Prison: The Nuts & Bolts of His Fraud," 2012, presented to the Phila. Chap. of the Am. Assoc. of Attorney-CPAs
- "State of the Cyber Nation Address," 2011, presented at HB Litigation/NetDiligence Cyber Risk & Privacy Forum
- "Data Breach Class Actions Involving Theft of Personal Information," 2009, presented to the Phila. Chap. of the Am. Assoc. of Attorney-CPAs
- "Class Actions Involving Estate Planning, Financial Planning, Trusts, and Income Tax," 2009, presented to the Phila. Chap. of the Am. Assoc. of Attorney-CPAs
- "Securities Fraud Class Actions: Comparing and Contrasting the Plaintiffs' and Defendants' View," 2007, presented to the Phila. Chap. of the Am. Assoc. of Attorney-CPAs
- "Securities Fraud Class Actions: A Primer for the Attorney-CPA," 2006-08, presented to the Phila. Chap. of the Am. Assoc. of Attorney-CPAs

#### **Eric Lechtzin – Shareholder**

Eric Lechtzin is a Shareholder in the Firm's Securities, Consumer Protection, ERISA and Employment & Unpaid Wages Litigation practice groups.

Mr. Lechtzin has been instrumental in helping the Firm secure leadership positions and obtain settlements in national securities fraud class actions, including *In re: Oppenheimer Rochester Funds Group Securities Litigation*, No. 09-md-02063-JLK (D. Col.) (\$89.5 million settlement); *In re Hemispherx Biopharma, Inc. Litigation*, 09-cv-5262-PD (E.D. Pa. 2010) (\$3.6 million settlement); *Beckman Coulter, Inc. Securities Litigation*, No. 8:10-cv-1327 (C.D. Cal. 2011) (\$5.5 million settlement).

Among his successful representations in the area of consumer fraud is *Silver v. Fitness Intern., LLC*, No. 10-cv-2326-MMB, 2013 WL 5429293 (E.D. Pa.), a class action against a national health club chain that resulted in substantial changes of its cancellation policies and practices.

Mr. Lechtzin is the Pennsylvania State Chair for the National Association of Consumer Advocates. He has been named a "Super Lawyer" in Pennsylvania for Class and Mass Tort Litigation, and is AV Preeminent rated by Martindale Hubble.

### **Lawrence J. Lederer – Shareholder**

Lawrence J. Lederer is a Shareholder in the Firm's Securities and Commercial Litigation practice groups. He has extensive experience representing and advising institutional investors in securities litigation. He has led the prosecution of many securities class action cases that have resulted in substantial recoveries for investors.

For example, he was co-lead counsel for the State Teachers Retirement System of Ohio which, in August 2009, obtained \$475 million in *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, Master File No. 07-cv-9633 (JSR) (DFE) (S.D.N.Y.). This securities class action involved Merrill Lynch's financial exposures to collateralized debt obligations and other financial instruments linked to subprime mortgages. It represents one of the largest recoveries ever under the Private Securities Litigation Reform Act. During a hearing on July 27, 2009, Judge Jed S. Rakoff stated that the lead plaintiff had made "very full and well-crafted" and "excellent submissions"; that there was a "very fine job done by plaintiffs' counsel in this case"; and that the attorney fees requested were "eminently reasonable" and "appropriately modest."

Mr. Lederer presently is, or recently was, also involved in many individual "opt-out" securities cases such as *Commonwealth of Pennsylvania Public School Employees' Ret. Sys. v. Citigroup, Inc.*, No. 11-2583, 2011 U.S. Dist. LEXIS 55829 (E.D. Pa. May 20, 2011); *State of New Jersey, Department of Treasury, Division of Investment v. Fuld*, 604 F.3d 816 (3d Cir. 2010); *Commonwealth of Pennsylvania Public School Employees' Ret. Sys. v. Time Warner Inc.*, Case No. 002103, July Term 2003 (Pa. Common Pleas Ct., Phila. Cty.); *In re Waste Management, Inc. Securities Litigation*, 194 F. Supp. 2d 590 (S.D. Tex. 2002); and *Kelly v. McKesson HBOC, Inc.*, C.A. No. 99C-09-265 WCC, 2002 Del. Super. LEXIS 39 (Del. Super. Jan. 17, 2002). The investor plaintiffs in each of these cases obtained recoveries significantly larger than what they would have obtained from the related class actions.

Mr. Lederer also advises and represents government entities in commercial and other matters. For example, he was part of a team of outside counsel for one state Attorney General's office in multi-state civil enforcement proceedings that resulted in landmark mortgage modifications and related relief for hundreds of thousands of borrowers nationwide against Countrywide Financial Corp. (and its parent, Bank of America Corp.) in December 2008 valued at approximately \$8.6 billion; has advised public pension funds on a wide array of corporate governance and shareholder rights issues; and has advised state government entities concerning financial practices in the structured finance sector, among other areas.

Earlier in his career, Mr. Lederer played a major role in the historic Drexel/Milken/Boesky complex of cases. See, e.g., *In re Michael R. Milken and Associates Securities Litigation*, MDL Dkt. No. 924, Master File No. M21-62 (MP), 1993 U.S. Dist. LEXIS 14242, 1993 WL 413673 (S.D.N.Y. Oct. 7, 1993) (approving approximately \$1.3 billion overall settlement with Michael R. Milken and some 500 other persons and entities); *In re Drexel Burnham Lambert Group Inc.*, 995 F.2d 1138 (2d Cir. 1993) (affirming \$1.3 billion settlement); *Presidential Life Insurance Co. v. Milken, et al.*, 946 F. Supp. 267 (S.D.N.Y. 1996) (approving \$50 million settlement against some 500 defendants); *In re Ivan F. Boesky Securities Litigation*, 948 F.2d 1358 (2d Cir. 1991) (affirming

approval of settlements totaling approximately \$29 million; subsequent class, derivative, and other settlements approved totaling in excess of \$200 million).

Also experienced on the defense side, Mr. Lederer helped obtain a pre-trial dismissal of a securities class action against DRDGold, a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007). He also helped defend an individual charged with "insider trading" in a criminal jury trial in federal court, and in parallel civil enforcement proceedings brought by the SEC. *United States v. Pileggi*, No. 97-cr-612-2, 1998 U.S. Dist. LEXIS 8068 (E.D. Pa. June 3, 1998), *aff'd*, No. 98-1811, 1999 U.S. App. LEXIS 18592 (3d Cir. July 22, 1999).

In bankruptcy litigation, Mr. Lederer helped obtain hundreds of millions of dollars for investors in the complex Chapter 11 proceedings involving Drexel Burnham Lambert, including through appeals before the United States Court of Appeals for the Second Circuit and the United States Supreme Court. See, e.g., *In re The Drexel Burnham Lambert Group, Inc.*, 130 B.R. 910 (Bankr. & S.D.N.Y. Aug. 20, 1991), *aff'd*, 960 F.2d 285 (2d Cir. 1992), *cert. denied*, 506 U.S. 1088 (1993). See also *Sapir, et al. v. Delphi Ventures, et al.*, No. 99-cv-8086-JORDAN (S.D. Fla.) (recovery of \$3.8 million following extensive bankruptcy and related proceedings).

Mr. Lederer has achieved the highest peer-review rating, "AV," in Martindale-Hubbell for legal abilities and ethical standards; has repeatedly been selected as one of Pennsylvania's "Super Lawyers" in the category of securities litigation, and has served on the editorial advisory board of *Securities Law360*. Mr. Lederer is admitted to practice law in Pennsylvania, the District of Columbia, and several federal courts. Mr. Lederer graduated from Georgetown University Law Center (LL.M. 1988), Western New England College School of Law (J.D. 1987), where he was a member of *Western New England Law Review*, and the University of Pittsburgh (B.A. 1984), where he was managing editor of *The Pitt News*, and co-captain (1983) and captain (1984) of the men's varsity tennis team.

#### **Daniel R. Miller – Shareholder**

Daniel R. Miller's practice is exclusively devoted to representing whistleblowers in state and federal False Claim Act cases, and in actions filed with the IRS, SEC, and CFTC. Mr. Miller has extensive experience litigating *qui tam* cases across the country.

Prior to joining the Firm, Mr. Miller was a Deputy Attorney General for the Delaware Department of Justice for more than 16 years. He is battle-tested, having tried more than 125 cases to jury verdict.

Over the past fifteen years, Mr. Miller has served on dozens of litigation and negotiation teams in nationwide *qui tam* cases. Collectively, those cases have returned more than \$3.5 billion to state and federal treasuries.

Whistleblower ("*Qui Tam*") cases are complex matters which often require extensive communication and coordination with the United States Department of Justice, local United States

Attorneys' Offices, all 50 state Attorneys General Offices, the Federal Bureau of Investigation, the Food and Drug Administration, the Securities and Exchange Commission, the Office of Inspector General, the Internal Revenue Service, and numerous other federal and state agencies. Now in private practice, Mr. Miller is able to provide his clients with extensive trial experience, deep insight into the personnel, structure, and function of these government entities, and a thorough understanding of the investigative sequences utilized by the prosecutors who lead these cases.

Mr. Miller is a former President of the National Association of Medicaid Fraud Control Units ("NAMFCU"), an organization whose members were responsible for securing more than 1,300 criminal convictions and returning more than \$1.3 billion to the Medicaid Program during Mr. Miller's term. As a member of NAMFCU's Global Case Committee, Mr. Miller routinely worked on large-scale fraud cases. Prior to serving as NAMFCU's President, Mr. Miller was the co-chair of NAMFCU's *Qui Tam* Subcommittee where he coordinated communications and litigation positions for all states which have enacted False Claims Acts.

From 2003 through early 2010, Mr. Miller also served as the Director of the Medicaid Fraud Control Unit in the Delaware Department of Justice. In that capacity, he coordinated the investigation and prosecution of health care provider fraud – including cases involving physician groups, pharmaceutical companies, nursing homes, and hospitals – with local, state, and federal authorities. These multi-disciplinary teams of government lawyers, investigators, and data analysts returned hundreds of millions of dollars to state and federal governments.

Prior to serving as Director of the Medicaid Fraud Unit, Mr. Miller was a Deputy Attorney General in the Criminal Division of the Delaware Department of Justice. During that time he managed a large caseload and prosecuted hundreds of violent offenders.

Before becoming a prosecutor, Mr. Miller served as a judicial clerk for Delaware Superior Court Judge Susan C. Del Pesco.

Mr. Miller graduated with honors from Temple University Law School in 1992.

#### **Ellen T. Noteware – Shareholder**

Since joining the Firm, Ms. Noteware has successfully represented investors, retirement plan participants, employees, consumers and direct purchasers of prescription drug products in a variety of class action cases. Ms. Noteware currently concentrates her practice on prosecuting antitrust class actions on behalf of direct purchasers of brand name drugs who are harmed when brand companies block cheaper generic competitors from entering the market. To date, five of her cases have resulted in substantial settlements: *In re Ovcon Antitrust Litigation*, (D.D.C.) \$22 million; *In re Tricor Direct Purchaser Antitrust Litigation*, (D. Del.) \$250 million; *In re Oxycontin Antitrust Litig.*, (S.D.N.Y.) \$16 million; *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) (Norvir) \$52 million; and *In re Metoprolol Succinate Direct Purchaser Antitrust Litigation*, (D. Del.) \$20 million.

Ms. Noteware is also extensively involved in litigation Employee Retirement Income Securities Act ("ERISA") breach of fiduciary duty class action cases. Her ERISA settlements include: *In re*

*Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.) \$21 million; *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.) \$69 million; *In re SPX Corporation ERISA Litigation* (W.D. N.C.) \$3.6 million. Ms. Noteware is currently actively litigating two ERISA cases against financial institutions who operated improper securities lending programs.

As a key member of the trial team that litigated *Cook v. Rockwell Corp.* (D. Colo.), Ms. Noteware helped secure the largest jury verdict in Colorado history and the third largest jury trial verdict nationwide in 2006 -- \$554 million on behalf of thousands of individuals who owned property near the contaminated former Rocky Flats nuclear weapons facility outside Denver, Colorado. Ms. Noteware and the rest of the trial team received the Trial Lawyer of the Year Award from the Public Justice Foundation in recognition of the efforts.

Ms. Noteware is a graduate of Cornell University (B.S. 1989) and the University of Wisconsin-Madison Law School (J.D. *cum laude* 1993) where she won the Daniel H. Grady Prize for the highest grade point average in her class, served as Managing Editor of the Law Review, and earned Order of the Coif honors. She is currently a member of the Pennsylvania and New York bars.

#### **Phyllis Maza Parker – Shareholder**

Phyllis Maza Parker, a Shareholder, concentrates her practice primarily on complex securities class action litigation, representing both individual and institutional investors. Her practice also includes commercial litigation.

Ms. Parker served on the team as co-lead counsel for the Class in *In re Xcel Energy, Inc. Securities Litigation* (D. Minn.). The case, which settled for \$80 million, was listed among the 100 largest securities class action settlements in the United States since the enactment of the 1933-1934 Securities Acts. Among other cases, she has also served as co-lead counsel in *In re Reliance Group Holdings, Inc. Securities Litigation* (\$15 million settlement); *In re The Loewen Group, Inc. Securities Litigation* (\$6 million settlement); as lead counsel in *In re Veeco Instruments Inc. Securities Litigation* (\$5.5 million settlement on the eve of trial); as co-lead counsel in *In re Nuvelo, Inc. Securities Litigation* (\$8.9 million settlement); and, most recently, as co-lead counsel in *Coady v. Perry, et al.* (IndyMac Bancorp, Inc.) (\$6.5 million settlement).

While studying for her J.D. at Temple, Ms. Parker was a member of the Temple Law Review. She published a Note on the subject of the Federal Sentencing Guidelines in the Temple Law Review, Vol. 67, No. 4, 1994, which has been cited by a court and in a law review article. After her first year of law school, Ms. Parker interned with the Honorable Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit.

Ms. Parker is fluent in Hebrew and French.

#### **Russell D. Paul – Shareholder**

Russell Paul is a Shareholder in the Securities, Consumer Protection, *Qui Tam*/Whistleblower, Corporate Governance/Shareholder Rights and Commercial Litigation practice groups. He

concentrates his practice on securities class actions and derivative suits, complex securities, and commercial litigation matters, False Claims Act suits and consumer class actions.

Mr. Paul has litigated securities class actions against Tyco International Ltd., Baxter Healthcare Corp., ALSTOM S.A., Able Laboratories, Inc., Refco Inc., Toll Brothers and the Federal National Mortgage Association (Fannie Mae). He has also litigated derivative actions in various state courts around the country, including in the Delaware Court of Chancery. He has litigated consumer protection and product defect actions in the automotive, pet food, soft drink, and home products industries. Mr. Paul has also briefed and argued several federal appeals.

In addition to securities litigation, Mr. Paul has broad corporate law experience, including mergers and acquisitions, venture capital financing, proxy contests, and general corporate matters. He began his legal career in the New York office of Skadden, Arps, Slate, Meagher & Flom.

Mr. Paul has been designated a "Pennsylvania Super Lawyer" and a "Top Attorney in Pennsylvania."

Mr. Paul graduated from the Columbia University School of Law (J.D. 1989) where he was a Harlan Fiske Stone Scholar, served on the Moot Court Review Board, was an editor of Pegasus (the law school's catalog) and interned at the United States Attorneys' Office for the Southern District of New York. He completed his undergraduate studies at the University of Pennsylvania, earning a B.S. in Economics from the Wharton School (1986) and a B.A. in History from the College of Arts and Sciences (1986). He was elected to the Beta Gamma Sigma Honors Society.

#### **Barbara A. Podell – Shareholder**

Barbara A. Podell is a Shareholder in the Securities practice group at the Firm. She concentrates her practice on securities class action litigation.

Ms. Podell graduated from the University of Pennsylvania (cum laude) and the Temple University School of Law (magna cum laude), where she was Editor-in-Chief of the Temple Law Quarterly.

Ms. Podell was one of the Firm's senior attorneys representing the Pennsylvania State Employees' Retirement System ("SERS") as the lead plaintiff in the *In re CIGNA Corp. Sec. Litig.*, No. 02-CV-8088 (E.D. Pa.), a federal securities fraud class action in which SERS moved for, and was appointed, lead plaintiff. CIGNA allegedly concealed crucial operational problems, which, once revealed, caused the company's stock price to fall precipitously. The Firm obtained a \$93 million settlement. This was a remarkable recovery because there were no accounting restatements, government investigations, typical indicators of financial fraud, or insider trading. Moreover, the case was settled on the eve of trial (22.7% of losses recovered).

Before joining the Firm, Ms. Podell was a founding member of Savett Frutkin Podell & Ryan, P.C., and before that, a shareholder at Kohn, Savett, Klein & Graf and an associate at Dechert LLP, all in Philadelphia.

### **Sarah R. Schalman-Bergen – Shareholder**

Sarah R. Schalman-Bergen is a Shareholder at the Firm. She Co-Chairs the Firm's Employment Law Department and is a member of the Firm's Antitrust, Insurance Products & Financial Services, and Lending Practices & Borrowers' Rights Departments. She is also a member of the Firm's Hiring Committee, Associate Development Committee and Pro Bono Committee.

Ms. Schalman-Bergen represents employees who are not being paid properly in class and collective action wage and hour employment cases as well as in class action discrimination cases across the country. Specifically, Ms. Schalman-Bergen has served as lead counsel in dozens of wage theft lawsuits, representing employees in a variety of industries, including at meat and poultry plants, at fast food restaurants, in the oil and gas industry, in white collar jobs and in the government.

Ms. Schalman-Bergen also serves as counsel to employees, consumers and businesses in antitrust cases, including representing the employees of several high tech companies who alleged that the companies entered into "do not poach" agreements that illegally suppressed employees' wages. Ms. Schalman-Bergen has represented homeowners whose mortgage loan servicers have force-placed extraordinarily high-priced insurance on them. She currently represents several cities in lawsuits against major banks for allegedly discriminatory practices in violation of the Fair Housing Act.

Ms. Schalman-Bergen maintains an active pro bono practice. She serves as volunteer of counsel to the AIDS Law Project of Pennsylvania. Through her role there, Ms. Schalman-Bergen litigates HIV discrimination and confidentiality cases, as well as other cases impacting the rights of people living with HIV/AIDS.

Prior to joining the Firm, Ms. Schalman-Bergen practiced in the litigation department at a large Philadelphia firm where she represented clients in a variety of industries in complex commercial litigation. During law school, Ms. Schalman-Bergen served as an executive editor for the Harvard Civil Rights-Civil Liberties Law Review.

### **Martin I. Twersky – Shareholder**

Martin I. Twersky is a Shareholder in the Antitrust Department. He has considerable experience in litigation involving a wide range of industries including oil and gas, banking, airline, waste hauling, agricultural chemicals and other regulated industries. For more than 30 years, Mr. Twersky has successfully represented numerous plaintiffs and defendants in both individual and class actions pending in state and federal courts.

Mr. Twersky has played a leading role in the following class action cases among others: *In re Linerboard Antitrust Litigation* (E.D. Pa.) (as a member of the Executive Committee, he helped obtain settlements of more than \$200 million dollars and he received specific praise from the court for co-managing the major discovery effort; see 2004 WL 1221350 at \*10); *In re Graphite Antitrust Litigation* (E.D. Pa.) (settlements of more than \$120 million dollars); *In re Catfish Antitrust Litigation* (N.D. Miss.) (as a member of the trial team he helped obtained settlements of more than

\$27 million dollars); *In re Revco Securities Litigation* (N.D. Ohio) ("Junk Bond" class action where settlements of \$36 million were reached and where he received judicial praise from Senior District Court Judge William K. Thomas for the "specialized, highly competent and effective quality of the legal services." See 1993 CCH Fed Sec. L. Rep. at Para. 97,809); *Bogosian v. Gulf Oil* (E.D. Pa.) (landmark litigation with settlements and injunctive relief on behalf of a nationwide class of gasoline dealers); and *Lease Oil Antitrust* (S.D. Tex.), where in a significant class action decision, the Fifth Circuit affirmed the granting of an injunction prohibiting settlements in related state court actions (see 200 F.3d 317 (5th Cir. 2000), cert. denied, 530 U.S. 1263). Mr. Twersky was appointed one of the co-lead counsel in *In re Abrasive Grains Antitrust Litig.* (95-cv-7574) (W.D.N.Y.).

Mr. Twersky has also played a key role in various non-class action cases, such as *Kutner Buick v. America Motors*, 848 F.2d 614 (3rd Circuit 1989) (breach of contract) (cited in the Advisory Committee Notes to the 1991 Amendment to Rule 50, Fed. R. Civ. P.), *Florham Park v. Chevron* (D.N.J. 1988) (Petroleum Marketing Act case), and *Frigitemp v. IDT Corp.*, 638 F. Supp. 916 (S.D. N.Y. 1986) and 76 B.R. 275, 1987 LEXIS 6547 (S.D. N.Y. 1987) (RICO case brought by the Trustee of Frigitemp Corp. against General Dynamics and others involving extortion of kickbacks from Frigitemp officers). Mr. Twersky also served prominently in savings-and-loan related securities and fraud litigation in federal and state courts in Florida, where the Firm represented the Resolution Trust Corporation and officers of a failed bank in complex litigation involving securities, RICO and breach of fiduciary duty claims. E.g., *Royal Palm v. Rapaport*, Civ. No. 88-8510 (S.D. Fla.) and *Rapaport v. Burgoon*, CL-89-3748 (Palm Beach County).

#### **Daniel J. Walker – Shareholder**

Dan Walker is a Shareholder of the Firm, which he rejoined in July 2017 after serving three years in the Health Care Division at the Federal Trade Commission. Mr. Walker practices in the Firm's Washington, D.C. office.

While at the Federal Trade Commission, Mr. Walker investigated and litigated antitrust matters in the health care industry. In addition to leading various nonpublic investigations in the pharmaceutical and health information technology sectors, Mr. Walker litigated *Federal Trade Commission v. AbbVie Inc., et al.*, a case alleging that a brand pharmaceutical manufacturer engaged in sham patent litigation to delay generic competition, and *Federal Trade Commission v. Cephalon Inc.*, a "pay-for-delay" lawsuit over a brand pharmaceutical manufacturer's payment to four generic competitors in return for the generics' agreement to delay entry into the market. The Cephalon case settled shortly before trial for \$1.2 billion-the largest equitable monetary relief ever secured by the Federal Trade Commission-as well as significant injunctive relief.

During his time in private practice, Mr. Walker has litigated cases on behalf of plaintiffs and defendants in many areas of law, including antitrust, financial fraud, breach of contract, bankruptcy, and intellectual property. Mr. Walker has helped recover hundreds of millions of dollars on behalf of plaintiffs, including in *In re Titanium Dioxide Antitrust Litigation* (with settlements totaling \$163.5 million for purchasers of titanium dioxide), *In re High Tech Employee Antitrust Litigation* (with settlements totaling \$435 million for workers in the high tech industry),

and *Adriana Castro, M.D., P.A., et al. v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.) (with a \$61.5 million settlement pending court approval for purchasers of pediatric vaccines). Mr. Walker was also a member of the team that recovered the funds lost by account holders during MF Global's collapse and a member of the trial team that successfully represented the Washington Mutual stockholders seeking to recover investments lost in the bankruptcy.

In addition, Mr. Walker has spoken frequently on antitrust issues, including on the intersection of antitrust and intellectual property in the health care industry.

Mr. Walker is a *magna cum laude* graduate of Amherst College and Cornell University Law School, where he was an Articles Editor for the Cornell Law Review. Before entering private practice, Mr. Walker clerked for the Honorable Richard C. Wesley of the United States Court of Appeals for the Second Circuit.

## Senior Counsel

### David A. Langer – Senior Counsel

David A. Langer is Senior Counsel in the Antitrust practice group. He concentrates his practice in complex antitrust litigation.

Mr. Langer has had a primary role in the prosecution of the following antitrust class actions: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. Visa and MasterCard cardholders; extraordinary settlement participation from class members drawing more than 10 million claimants in one of the largest consumer antitrust class actions); *Ross and Wachsmuth v. American Express Co., et al.* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied); *Ross, et al. v. Bank of America, N.A. (USA), et al.* (S.D.N.Y.) (obtained settlements with four of the nations' largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years, and a settlement with the non-bank defendant arbitration provider (NAF), who agreed to cease administering arbitration proceedings involving business cards for 3.5 years); and *In re Linerboard Antitrust Litigation* (E.D. Pa.) (helped obtain settlements of more than \$200 million dollars).

Mr. Langer was one of the trial team chairs in the 5-week consolidated bench trial of arbitration antitrust claims in *Ross v. American Express* and *Ross v. Bank of America*, where the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, commended the "extraordinary talents of Plaintiffs' counsel."

Mr. Langer has also had a primary role in appellate proceedings, obtaining relief for his clients in a number of matters, including *Ross, et al. v. American Express Co., et al.*, 547 F.3d 137 (S.D.N.Y. 2008) (precluding an alleged co-conspirator from relying on the doctrine of equitable estoppel to invoke arbitration clauses imposed by its competitor co-conspirators); *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 524 F.3d 217 (S.D.N.Y. 2008) (holding that antitrust plaintiffs

possess Article III standing to challenge the defendants' collusive imposition of arbitration clauses barring participation in class actions); *In re Pharmacy Benefit Managers Antitrust Litig.*, 700 F.3d 109 (3d Cir. 2012) (finding opposing party waived the right to compel arbitration and reversing district court).

While at Vermont Law School, Mr. Langer was Managing Editor and a member of the Vermont Law Review.

### **Hans Lodge – Senior Counsel**

Hans Lodge is a zealous advocate and is dedicated to protecting the rights of consumers in and out of court. Hans assists consumers who have been denied jobs or housing due to inaccurate criminal history information reporting in their employment/tenant background check reports. Hans also assists consumers who have been denied credit due to inaccurate information reporting in their credit reports and have suffered harm due to unlawful debt collection behavior.

Hans is an aggressive and strategic litigator who has a reputation of working tirelessly to get favorable outcomes for his clients. Hans understands how frustrating it can be trying to deal with background check companies, credit reporting agencies, credit bureaus, and debt collectors, and has a passion for helping clients navigate these areas of the law during their times of need.

Prior to joining the Firm, Hans combined his passions for fighting for the little guy and oral advocacy by representing consumers in individual and class action litigation where he held businesses, banks, background check companies, credit bureaus, and debt collectors accountable for illegal practices. As an Associate Attorney at a consumer rights law firm, Hans represented consumers who had trouble paying their bills and were abused and harassed by debt collection agencies, some of whom had their motor vehicles wrongfully repossessed, bringing numerous individual and class action claims under the Fair Debt Collection Practices Act (FDCPA).

Hans also represented consumers who had trouble obtaining credit, employment, and housing due to inaccuracies in their credit reports and background check reports, bringing numerous individual and class action claims under the Fair Credit Reporting Act (FCRA). As an Associate Attorney at a national employment and consumer protection law firm, Hans represented consumers who purchased defective products and employees misclassified as independent contractors, bringing class action claims under consumer protection statutes and the Fair Labor Standards Act (FLSA).

Hans grew up in the Twin Cities and received his Bachelor's Degree from Gustavus Adolphus College in St. Peter, Minnesota, where he double-majored in Political Science and Communication Studies and graduated with honors. His first experience resolving quasi-legal disputes began as a Student Representative on the Campus Judicial Board, where he served for three years and resolved numerous complex disputes between students and the College. His interests in sports and ethics took him to New Zealand, Australia, and Fiji, where he studied Sports Ethics.

During his time at Marquette University Law School, Hans concentrated his legal studies on civil litigation and sports law. As a second-year law student, Hans gained valuable experience working as a law clerk for the Honorable Joan F. Kessler at the Wisconsin Court of Appeals. He also served as a member of the Marquette Sports Law Review where he wrote and edited articles about legal issues impacting the sports industry.

As a member of Marquette Law's moot court team, his brief writing and oral advocacy skills earned him a regional championship and an appearance in the national competition at the New York City Bar Association. Hans was also a member of Marquette's mock trial team, finishing in third place at the regional competition at the Daley Center in Chicago, Illinois.

Mr. Lodge is admitted to practice law in the United States District Court, District of Minnesota; United States District Court, Western District of Wisconsin; and both Minnesota and Wisconsin state courts.

In addition to practicing law, Hans is an Adjunct Professor at Concordia University, St. Paul, where he teaches a sports law course in the Master of Arts in Sports Management program. He is also a professionally-trained umpire and umpires Little League, high school, college, legion, and amateur baseball throughout Minnesota. In his free time, Hans enjoys working out, long distance running, road biking, bowling, going to concerts, playing ping pong and softball, and kayaking on Lake Minnetonka.

### **Jeff Osterwise – Senior Counsel**

Jeff Osterwise is a Senior Associate in the Commercial Litigation, Consumer Protection, Defective Products, Predatory Lending and Borrowers' Rights, and Securities & Investor Protection practice groups.

Mr. Osterwise earned his J.D. from the Duke University School of Law and his B.A. from Duke University.

Mr. Osterwise has significant experience advising clients and litigating class actions on behalf of consumers damaged by the sale of defective products and by sellers' failure to fulfill their warranty obligations. He has represented clients asserting claims against manufacturers and sellers of defective automobiles, pharmaceuticals, solar panels, riding lawn tractors, and HVAC and plumbing products.

Mr. Osterwise also has fought to protect consumers from unfair business practices, including clients deceived by their auto insurance carriers and consumers improperly billed by a national health club chain.

In addition, Mr. Osterwise has represented the interests of shareholders in securities fraud and corporate governance matters. And, he represented the City of Philadelphia and the City of Chicago in separate actions against certain online travel companies for their failure to pay hotel taxes.

### **Jacob M. Polakoff –Senior Counsel**

Since joining the Firm in 2006, Mr. Polakoff has concentrated his practice on the prosecution of class actions and other complex litigation, including the representation of plaintiffs in consumer protection, securities, and commercial cases.

Mr. Polakoff currently represents homeowners throughout the country in various product liability actions concerning defective construction products, including roofing, siding, and plumbing. He served on the team of co-lead counsel in *George v. Uponor, Inc., et al.*, a class action about Uponor's high zinc yellow brass PEX plumbing fittings (\$21 million settlement).

He represented the shareholders of the Philadelphia Stock Exchange in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, in the Delaware Court of Chancery, which settled for in excess of \$99 million in addition to significant corporate governance provisions. Mr. Polakoff's experience also includes representing entrepreneurs and small businesses in actions against Fortune 500 companies.

Mr. Polakoff was selected as a Pennsylvania Super Lawyer - Rising Star in 2010 and 2013-2018, an honor conferred upon only the top 2.5% of attorneys in Pennsylvania who are 40 or younger.

Mr. Polakoff is a 2006 graduate of the joint J.D./M.B.A. program at the University of Miami, where he was the recipient of the Dean's Certificate of Achievement in Legal Research & Writing, was awarded a Graduate Assistantship and was honored with the Award for Academic Excellence in Graduate Studies.

He holds a 2002 B.S.B.A. from Boston University's School of Management, where he concentrated in finance.

Mr. Polakoff is the Judge of Election for Philadelphia's 30th Ward, 1st Division. He was also a member of the planning committee and the sponsorship sub-committee for the Justice for All 5K from its inception. The event benefited Community Legal Services of Philadelphia, which provides free legal services, in civil matters, to low-income Philadelphians.

### **Shoshana Savett – Senior Counsel**

Shoshana Savett is in the Securities, Consumer Protection and Commercial Litigation practice groups. She concentrates her practice primarily in the area of securities class action litigation.

Since joining the Firm in 2003, Ms. Savett has been involved in securities class action including: *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, relating to the Securities Action, 07-cv-9633; *Ginsburg v. Philadelphia Stock Exchange* (settlement valued at over \$99 million in action brought on behalf of a class A shareholders of the Philadelphia Stock Exchange which included breach of fiduciary allegations against the Exchange's Board of Governors in connection with strategic transactions that the Exchange announced in June and August 2005); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement approved September 6, 2007).

### **Richard Schwartz – Senior Counsel**

Richard Schwartz is Senior Counsel in the Antitrust practice group. Mr. Schwartz concentrates his practice in the area of complex antitrust litigation with a focus on representation of direct purchasers of prescription drugs.

Prior to joining the Firm, Mr. Schwartz was an attorney in the New York and Philadelphia offices of a firm where he represented plaintiffs in a variety of matters before trial and appellate courts with a focus on antitrust and shareholder class actions.

Mr. Schwartz is a member of the teams prosecuting a number of antitrust class actions on behalf of direct purchasers of prescription drugs in which the purchasers allege that generic drugs have been illegally kept off the market. Those cases include *In re Opana ER Antitrust Litigation*, No. 14-cv-10151 (N.D. Ill.); *In re Suboxone*, No. 13-MD-2445 (E.D. Pa.); *In re Solodyn*, No. 14-MD-2503 (D. Mass.) and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.).

Mr. Schwartz is admitted to practice in New York, Pennsylvania, and Illinois.

### **Daniel C. Simons – Senior Counsel**

Daniel C. Simons is Senior Counsel in the Antitrust and Consumer Protection Groups. He concentrates a significant percentage of his practice on complex antitrust litigation, with a focus on anticompetitive arrangements in the pharmaceutical industry. Mr. Simons has been at the forefront of the efforts to curb "pay-for-delay" agreements, whereby brand companies compensate generic rivals to forestall the entry of lower priced generic equivalents. His practice has led to appearances in district and appellate courts across the country.

Mr. Simons's significant representations have included:

- *In re Modafinil Antitrust Litigation*, No. 06-1797 (E.D. Pa.), in which Mr. Simons represents direct purchasers of the drug Provigil, suing the brand company for fraudulently obtaining its patents on the drug and entering into agreements with its four generic rivals to delay competition.
- *In re Androgel Antitrust Litigation*, (No. II), MDL No. 2084 (N.D. Ga.). This private antitrust suit parallels the precedent-setting *FTC v. Actavis* case, which held that pay-for-delay agreements are not immune from the antitrust laws and must be examined under the antitrust "rule of reason." 133 S. Ct. 2223 (2013). Mr. Simons was heavily involved in all aspects of appellate litigation, including the United States Supreme Court.
- *In re K-Dur Antitrust Litigation*, 686 F.3d 197 (3d Cir. 2012), where the Third Circuit held that pay-for-delay agreements are subject antitrust scrutiny, which helped to trigger the eventual review of the issue by the Supreme Court. The Court of Appeals also made notable holdings concerning class certification in delayed generic entry cases. The case has since settled for \$60.2 million.
- *In re DDAVP Direct Purchaser Antitrust Litigation*, 585 F.3d 677 (2d Cir. 2009), the first appellate decision directly addressing the issue of antitrust standing for claims relating

to fraudulently obtained patents. The case later settled on terms favorable to the direct purchaser class.

- *In re Nifedipine Antitrust Litigation*, MDL No. 1515 (D.D.C.), in which Mr. Simons was one of the principal attorneys responsible for winning certification of a class of direct purchasers of generic versions of the antihypertensive drug Adalat CC, and for successfully defending that certification before the United States Court of Appeals. *In re Nifedipine Antitrust Litigation*, 246 F.R.D. 365 (D.D.C. 2007), Rule 23(f) appeal denied, 2009 U.S. App. LEXIS 3643 (D.C. Cir. Feb. 23, 2009). The case was resolved with settlements on behalf of the class worth \$35 million.
- *In re Relafen Antitrust Litigation*, Civ. A. No. 01-12239-WGY (D. Mass.), in which Mr. Simons was a member of the team of attorneys representing a class of direct purchasers of the prescription anti-inflammatory drug Relafen. A \$175 million settlement was obtained on behalf of the class.
- *Congregation Kol Ami v. Abington Township*, Civ. A. No. 01-1919 (E.D. Pa.), in which Mr. Simons represented a non-profit in a civil rights challenge. The case presented several questions of first impression under the Federal and Pennsylvania Constitutions, the Pennsylvania Religious Freedom Restoration Act, and the Religious Land Use and Institutionalized Persons Act.

#### **Amanda R. Trask – Senior Counsel**

Amanda R. Trask is Senior Counsel in the Consumer Protection and Insurance Fraud practice groups. She concentrates her practice in the area of complex consumer litigation, prosecuting actions on behalf of consumers asserting claims against banks, insurance companies and other institutions for violations of both state and federal law, including claims under RESPA, RICO, FHA and state causes of action challenging unfair and deceptive practices.

Ms. Trask has successfully participated in litigation which resulted in multi-million dollar settlements that helped put an end to major banks' reinsurance of borrowers' private mortgage insurance in violation of RESPA, providing relief to hundreds of thousands of borrowers. Ms. Trask also contributed to litigation against major banks that helped change their force-placed insurance practices. Ms. Trask has extensive experience working with experts in the fields of economics, insurance, mortgage lending and regulatory matters.

Ms. Trask is a graduate of Bryn Mawr College and Harvard Law School.

#### **Lane L. Vines – Senior Counsel**

Lane L. Vines's practice is concentrated in the areas of securities/investor fraud, consumer and *qui tam* litigation. For more than 17 years, Mr. Vines has prosecuted both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Mr. Vines also represents consumers in class actions involving unlawful and deceptive practices, as well as relators in *qui tam*, whistleblower and False Claims Act litigations. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and numerous federal courts.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the Firm's principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

During law school, Mr. Vines was a member of the Villanova Law Review and served as a Managing Editor of *Outside Works*. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

Mr. Vines has achieved the highest peer rating, "AV Preeminent" in Martindale-Hubbell for legal abilities and ethical standards. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and several federal courts.

## **Associates and Staff Attorneys**

### **John G. Albanese – Associate**

John Albanese is an Associate in the Minneapolis office. Mr. Albanese concentrates his practice on consumer protection with a focus on Fair Credit Reporting Act violations related to criminal background checks. Mr. Albanese has also prosecuted class actions related to illegal online lending, unfair debt collection, privacy breaches, and other consumer law issues. Mr. Albanese is regularly invited to speak on consumer law and litigation issues. Mr. Albanese has obtained favorable decisions for consumers in state and federal courts all over the country. He also frequently represents consumer advocacy groups as *amici curiae* at the appellate level.

Mr. Albanese is a graduate of Columbia Law School and Georgetown University. At Columbia, he was a managing editor of the Columbia Law Review and was elected to speak at graduation by his classmates. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois.

### **Christina M. Black – Associate**

Christina M. Black is an Associate in the Philadelphia office. Prior joining Berger Montague, Ms. Black clerked for the Honorable Anne E. Thompson on the United States District Court for the District of New Jersey. She also completed a one-year legal fellowship at the National Center for Lesbian Rights, where she supported nationwide impact litigation for LGBT rights. While in law school, Ms. Black was a lead articles editor at the Stanford Law and Policy Review, participated in the Williams Institute Moot Court Competition, and interned at the San Francisco City Attorney's Office.

### **Zachary D. Caplan – Associate**

Zachary D. Caplan is an Associate in the Antitrust and Commodities practice groups.

Mr. Caplan has worked on a variety of matters resulting in substantial settlements. *E.g.*, *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, No. 07-cv-1078 (E.D. Pa.) (\$130 million settlement plus significant prospective relief); *In re Titanium Dioxide Antitrust Litigation*, No. 10-cv-318 (D. Md.) (settlements totaling \$163.5 million); *In re High Tech Employee Antitrust Litigation*, No. 11-cv-2509 (N.D. Cal.) (settlements totaling \$435 million); *Adriana Castro, M.D., P.A., et al. v. Sanofi Pasteur Inc.*, No. 11-cv-7178 (D.N.J.) (\$61.5 million settlement); *In re Celebrex Antitrust Litigation*, No. 14-cv-361 (E.D. Va.) (\$94 million settlement).

Mr. Caplan is currently involved in a number of antitrust and commodities class actions alleging manipulation of key financial benchmarks. *E.g.*, *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, No. 14-md-2548 (S.D.N.Y.); *In re Libor-Based Financial Instruments Antitrust Litigation*, No. 11-md-2262 (S.D.N.Y.); *In re Platinum and Palladium Antitrust Litigation*, No. 14-cv-9391 (S.D.N.Y.). He also works on antitrust class actions on behalf of direct purchasers of prescription drugs. *E.g.*, *In re Loestrin 24 Fe Antitrust Litigation*, No. 1:13-md-2472 (D.R.I.); *In re Opana ER Antitrust Litigation*, No. 14-cv-10151 (N.D. Ill.); *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, No. 16-md-2724 (E.D. Pa.).

Mr. Caplan is a member of the committee that selects the annual winner of the American Antitrust Institute's Jerry S. Cohen Memorial Writing Award for the best antitrust scholarship. Mr. Caplan is a regular contributor to American Bar Association health care and antitrust publications and has several other published articles including on Philly.com, CNN.com, and Law360.

While in law school, Mr. Caplan was a senior editor of the University of Pennsylvania Journal of Business Law, represented clients in various civil matters as part of the Civil Practice Clinic, and interned with the United States Department of Justice Antitrust Division.

#### **Aurelia Chaudhury – Associate**

Aurelia Chaudhury is an Associate in the Antitrust Department. Prior to starting work at the Firm, Ms. Chaudhury clerked for the Honorable Judge David J. Barron on the United States Court of Appeals for the First Circuit and the Honorable Judge Denise J. Casper on the United States District Court for the District of Massachusetts. Ms. Chaudhury received her J.D. from Yale Law School, where she was an editor of the Yale Law Journal, a student director of the Mortgage Foreclosure Litigation Clinic, and a Coker Fellow. Ms. Chaudhury received a B.A. in Mathematical Economic Analysis from Rice University.

Ms. Chaudhury is admitted to practice in Pennsylvania and Massachusetts.

#### **Krysten Connon – Associate**

Ms. Connon is an Associate in the Firm's Employment & Unpaid Wages practice group. She represents employees who are not being paid properly in class and collective actions arising under the Fair Labor Standards Act and state laws.

Prior to joining the Firm, Ms. Connon practiced as a litigation associate at a large Philadelphia firm, where she represented corporate and individual clients in complex commercial litigation and

arbitration matters. Ms. Connon also worked as a Staff Attorney at Women Against Abuse, where she litigated cases originating as domestic violence matters.

Ms. Connon graduated *summa cum laude* from the Drexel University School of Law, and is a Phi Beta Kappa graduate of the University of Maryland. Following law school, Ms. Connon served as a federal judicial law clerk in the United States District Court for the District of New Jersey and the United States District Court for the District of Columbia. She co-authored the 2015 Oxford University Press book, *Living in the Crosshairs: The Untold Stories of Anti-Abortion Terrorism*, which presents the results of extensive interviews with abortion providers around the intersections of law, policy, and anti-abortion violence. Ms. Connon currently serves on the Board of Directors of Planned Parenthood Southeastern Pennsylvania.

### **Jonathan Z. DeSantis – Associate**

Jonathan Z. DeSantis is an Associate in the Firm's Philadelphia office and practices in the Firm's Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the Firm's whistleblower clients. Mr. DeSantis represents whistleblowers in litigation across the county and also actively assists in investigating and evaluating potential whistleblower claims before a lawsuit is filed.

Mr. DeSantis received a B.A. in Criminal Justice from Temple University. While at Temple, Mr. DeSantis served as Student Body Vice President and as president of his fraternity, in addition to receiving several awards for excellence in leadership. He graduated *magna cum laude* from Stetson University College of Law. During law school, Mr. DeSantis earned book awards for receiving the top grade in several classes and served as a senior associate on the Stetson Law Review. Mr. DeSantis also interned for the Atlantic Center for Capital Representation, a Philadelphia-based non-profit that provides support to attorneys representing capital defendants.

Prior to joining Berger Montague, Mr. DeSantis clerked for the Honorable Susan C. Bucklew of the United States District Court for the Middle District of Florida and then worked as a commercial litigation associate in a large corporate defense firm.

Mr. DeSantis is admitted to practice in state courts in Pennsylvania and Florida, in addition to the United States District Courts for the Northern District of Florida, Middle District of Florida, and Southern District of Florida.

### **William H. Ellerbe – Associate**

William H. Ellerbe is an Associate in the Philadelphia office and practices in the Firm's Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Ellerbe represents whistleblowers in litigation across the country and also actively assists in investigating and evaluating potential whistleblower claims before a lawsuit is filed.

Mr. Ellerbe received an A.B. in English from Princeton University. He graduated *magna cum laude* from the University of Michigan Law School and also received a certificate in Science, Technology, and Public Policy from the Ford School of Public Policy. During law school, Mr. Ellerbe was an Associate Editor of the *Michigan Telecommunications and Technology Law Review* and an active member of both the Environmental Law Society and the Native American Law Students Association.

Prior to joining the Firm, Mr. Ellerbe clerked for the Honorable Anne E. Thompson of the United States District Court for the District of New Jersey. He also worked as a white collar and commercial litigation associate at two large corporate defense firms.

Mr. Ellerbe is admitted to practice in the state courts of Pennsylvania, New Jersey, and New York, as well as the Third and Fourth Circuit Courts of Appeals and the United State District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, the Southern District of New York, and the Eastern District of New York.

#### **Joseph C. Hashmall – Associate**

Joe Hashmall, an Associate, is a member of the Firm's Consumer Protection practice group. In that practice group, Mr. Hashmall primarily focuses on consumer class actions concerning financial and credit reporting practices.

Mr. Hashmall is a graduate of the Grinnell College and the Cornell University School of Law. During law school, Mr. Hashmall served as the Executive Editor of the Cornell Legal Information Institute's Supreme Court Bulletin and as an Editor for the Cornell International Law Journal. Mr. Hashmall has also worked as law clerk for President Judge Bonnie B. Leadbetter of the Pennsylvania Commonwealth Court and for the Honorable David J. Ten Eyck of the Minnesota District Court.

#### **Daniel E. Listwa – Staff Attorney**

Daniel E. Listwa is a Staff Attorney. He has worked on a number of antitrust matters, with a focus on the suppression of generic competition by major pharmaceutical manufacturers. Before joining the Firm, Mr. Listwa clerked for the Honorable J. Brian Johnson of the Lehigh County Court of Common Pleas, and was an associate at a medical malpractice defense firm in Blue Bell, PA. While in law school, Mr. Listwa was a staff writer for the Boston College Environmental Affairs Law Review, and interned at the U.S. District Court for the Eastern District of Pennsylvania.

#### **Patrick F. Madden – Associate**

Patrick F. Madden is an Associate in the Consumer Protection, Insurance Fraud, and Predatory Lending and Borrowers' Rights practice groups. His practice principally focuses on consumer class actions concerning financial practices and insurance products.

Mr. Madden has served in key roles in multiple nationwide consumer class actions. For example, he represented homeowners whose mortgage loan servicers force-placed extraordinarily high-priced insurance on them and allegedly received a kickback from the insurer in exchange.

Collectively, Mr. Madden's force-placed insurance settlements have made more than \$175 million in recoveries available to class members.

Furthermore, Mr. Madden represents the City of Philadelphia, the City of Miami and the City of Miami Gardens in cases against financial institutions alleging the institutions issued loans to minority borrowers that were higher-priced than those issued to similarly situated white borrowers in violation of the federal Fair Housing Act and causing injuries to those cities.

He is also presently involved in the representation of a proposed class of elite mixed martial arts fighters in an antitrust lawsuit against the Ultimate Fighting Championship. *Le, et al. v. Zuffa, LLC*, No. 15-cv-1045 (D. Nev.). In addition, Mr. Madden represents a proposed class of direct purchasers of dental supplies and equipment in an antitrust lawsuit against distributors of those products. See *Dental Supplies Antitrust Litigation*.

Prior to attending law school, Mr. Madden worked at the United States Department of Labor, Office of Labor-Management Standards as an investigator during which time he investigated allegations of officer election fraud and financial crimes by union officers and employees.

While at Temple Law School, Mr. Madden was the Executive Editor of Publications for the Temple Journal of Science, Technology & Environmental Law.

#### **Neil Makhija – Associate**

Neil Makhija is an Associate in the Consumer Protection, Employment & Unpaid Wages, Environment & Public Health, Government Representation, and Predatory Lending and Borrower's Rights practice groups. He also serves as a Lecturer in Law at the University of Pennsylvania Law School.

Mr. Makhija earned his J.D. at Harvard Law School on the Horace DeYoung Lentz Scholarship, which was endowed by a 19th century Pennsylvania coal magnate. While at Harvard, he founded the HLS Homelessness Coalition, served as Senior Policy Editor on the Harvard Law & Policy Review, and worked as a fellow at the United States Attorney's Office for the Southern District of New York. Mr. Makhija earned his B.A. from Sarah Lawrence College, where he studied neuroscience and served as co-president of his class and commencement speaker.

Prior to joining the Firm, Mr. Makhija was the 2016 Democratic Nominee for the Pennsylvania House of Representatives from the 122nd House District, where he outperformed the national Democratic ticket by 14 points in the general election. He won the Pennsylvania Commonwealth Court case, *In Re: Makhija (2016)*, which under the Pennsylvania Constitution protected the rights of students and recent graduates to run for office in their home state.

Mr. Makhija has also served as an aide to Senator Kirsten Gillibrand in the U.S. Senate, the Office of Vice President Joe Biden in The White House, and the Counsel to the Mayor in New York City Hall. As the son of immigrants and a proud native of Pennsylvania, Mr. Makhija is passionate

about using the law to enfranchise underserved communities through collective action. He is an active member of the South Asian Bar Association of Philadelphia.

**Amey J. Park – Associate**

Amey J. Park is an Associate in the Firm's Philadelphia office and practices in the Firm's Consumer Protection and Commercial Litigation practice groups.

Before joining the Firm, Ms. Park was an associate in the litigation department of a large corporate defense firm. She represented corporate and individual clients in complex commercial litigation, product liability, and personal injury matters in a wide variety of industries, including financial services, insurance, trust administration, and real estate. Ms. Park also represented clients *pro bono*, serving as first-chair counsel in a federal jury trial for violations of an inmate's constitutional rights by law enforcement officers and assisting a young refugee seeking asylum in federal immigration court.

Ms. Park is admitted to practice in state courts in Pennsylvania and New Jersey; the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey; and the United States Court of Appeals for the Third Circuit.

**Alexandra Koropey Piazza – Associate**

Alexandra Koropey Piazza, an Associate, is a member of the Firm's Employment Law, Consumer Protection and Lending Practices & Borrowers' Rights practice groups. In the Employment Law practice group, Ms. Piazza primarily focuses on wage and hour class and collective actions arising under state and federal law. Ms. Piazza's work in the Consumer Protection and Lending Practices & Borrowers' Rights practice groups involves consumer class actions concerning financial practices.

Ms. Piazza is a graduate of the University of Pennsylvania and Villanova University School of Law. During law school, Ms. Piazza served as a managing editor of the Villanova Sports and Entertainment Law Journal and as president of the Labor and Employment Law Society. Ms. Piazza also interned at the United States Attorney's Office and served as a summer law clerk for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

**Josh Ripley – Associate**

Josh Ripley is an Associate in the Antitrust, Insurance Products & Financial Services, and Environmental & Mass Tort practice groups.

Mr. Ripley graduated from Harvard Law School in 2015. While in law school, Mr. Ripley participated in various clinical organizations, including the Tenant Advocacy Project, the Employment Law Clinic, and the Predatory Lending and Consumer Protection Clinic.

**Camille Fundora Rodriguez – Associate**

Ms. Rodriguez is an Associate in the Firm's Employment Law, Consumer Protection, and Lending Practices & Borrowers' Rights practice groups. Ms. Rodriguez primarily focuses on wage and hour class and collective actions arising under the Fair Labor Standards Act and state laws.

Prior to joining the Firm, Ms. Rodriguez practiced in the litigation department at a boutique Philadelphia law firm where she represented clients in a variety of personal injury, disability, and employment discrimination matters. Ms. Rodriguez is a graduate of Widener University School of Law.

Ms. Rodriguez is an active member of the Pennsylvania, Philadelphia, and Hispanic Bar Associations.

**Karissa Sauder – Associate**

Prior to joining the Firm, Karissa Sauder clerked for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

Ms. Sauder is a 2014 graduate of Harvard Law School, where she served as Managing Editor of the *Harvard Law Review*. In 2010, she graduated *summa cum laude* from Eastern Mennonite University, where she was a Yoder Scholar.

**Stacy Savett – Staff Attorney**

Stacy Savett is a Staff Attorney in the Firm's Employment & Unpaid Wages Group. She focuses on wage and hour class and collective actions arising under federal and state laws.

**Mark R. Suter – Associate**

Mark Suter is an Associate in the Philadelphia office and a member of the Firm's Antitrust practice group. He concentrates his practice in complex commercial litigation, representing a broad range of businesses, government entities, workers, and consumers in high-stakes matters throughout the country.

Mr. Suter has handled a wide variety of civil litigation both large and small in federal and state court. He primarily focuses on antitrust litigation on behalf of plaintiffs alleging anticompetitive conduct such as monopolization, price-fixing, and artificial wage suppression. Among his notable successes, Mr. Suter has represented direct purchasers in price-fixing class actions such as *In re Domestic Drywall Antitrust Litigation* (E.D. Pa.) (\$190.7 million total settlements) and *In re Capacitors Antitrust Litigation* (N.D. Cal.) (\$99.5 million in settlements to date). He currently serves as co-lead counsel in *Le, et al v. Zuffa, LLC* (D. Nev.), representing a proposed class of professional mixed martial arts fighters in antitrust litigation against the Ultimate Fighting Championship. In addition, Mr. Suter represents whistleblowers in *qui tam* or False Claims Act litigation against companies that have committed fraud against the government.

Mr. Suter also maintains an active pro bono practice, and is a member of the Firm's Pro Bono Committee.

Mr. Suter received his J.D., *magna cum laude*, Order of the Coif from Rutgers Law School, where he served as Senior Editor of the *Rutgers Law Review*. He received his B.A. in Philosophy and Political Science from McGill University.

#### **Y. Michael Twersky – Associate**

Y. Michael Twersky concentrates his practice primarily on representing plaintiffs in complex litigation, including on insurance, antitrust, and environmental matters.

In the past, Mr. Twersky has worked on a wide variety of insurance matters including an insurance case in which a Federal District Court found on Summary Judgement that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan. Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including: *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement in 2014), and *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (combined settlements in excess of \$76 million in 2018). Mr. Twersky has also represented inmates in connection with allegations that various inmate calling services charged unreasonable rates and fees in violation of the Federal Communication Act.

Currently, Mr. Twersky is litigating a number of complex class actions related to insurance products, including proposed class actions in multiple forums against a workers' compensation insurance company alleging that the company deceptively sold illegal workers' compensation programs that were not properly filed with state regulators. *E.g.*, *Shasta Linen Supply, Inc. v Applied Underwriters et al.*, No. 2:16-cv-0158 (N.D. Cal.). Mr. Twersky is also involved in a proposed class action in Federal Court brought on behalf of Alaska-enrolled Medicaid Healthcare Providers against the developers of the Alaska Medicaid Management Information System Company alleging that providers were harmed as a result of the negligent and faulty design and implementation of the MMIS system. *See South Peninsula Hospital et al v. Xerox State Healthcare, LLC*, 3:15-cv-00177 (D. Alaska). Mr. Twersky is also involved in environmental litigation on behalf of various states to recover the costs of remediation for contamination to groundwater resources.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition, Mr. Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.

#### **Nick Urban – Associate**

Nick Urban is an Associate in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Urban focuses on antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. These cases include *In re Modafinil Antitrust Litigation*, 2:06-cv-01797 (E.D. Pa.) (\$512 million

settlement with three of five defendants); *In re Aggrenox Antitrust Litigation*, 3:13-cv-01776 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litigation*, 2:08-cv-02431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Niaspan Antitrust Litigation*, 2:13-md-02460 (E.D. Pa.); *In re AndroGel Antitrust Litigation*, 3:13-cv-01776 (N.D. Ga.).

He has also devoted significant time to antitrust cases brought against the banking industry. E.g., *Ross and Wachsmuth v. American Express Co., et al.*, 04-CV-5723 (S.D.N.Y.) (\$49.5 million settlement); *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 05-CV-7116 (S.D.N.Y.) (obtained settlements with four of the nation's largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years).

While at the University of Pennsylvania Law School, Mr. Urban served as senior editor for the *Journal of Law and Social Change* and worked at several organizations dedicated to increasing the availability of quality affordable housing through impact litigation and development. Prior to attending law school, he worked as an anti-hunger advocate in the San Diego region, and also worked for the Office of the Secretary of State of California.

#### **Michaela Wallin – Associate**

Michaela Wallin is an Associate in the Antitrust and Employment Law practice groups. Ms. Wallin's work in the Antitrust group involves complex class actions, including those alleging that pharmaceutical manufacturers have wrongfully kept less expensive drugs off the market, in violation of the antitrust laws. In the Employment Law Group, Ms. Wallin focuses on wage and hour class and collective actions arising under federal and state law.

Prior to joining the Firm, Ms. Wallin served as a law clerk for the Honorable James L. Cott of the United States District Court of the Southern District of New York. She also completed an Equal Justice Works Fellowship at the ACLU Women's Rights Project, where she worked to challenge local laws that target domestic violence survivors for eviction and impede tenants' ability to call the police.

Ms. Wallin is a graduate of Columbia Law School, where she was a Harlan Fiske Stone Scholar. Ms. Wallin graduated *magna cum laude* from Bowdoin College, where she was Phi Beta Kappa and a Sarah and James Bowdoin Scholar.

#### **Of Counsel**

##### **Harold Berger – Of Counsel & Managing Shareholder *Emeritus***

Judge Berger is Of Counsel & Managing Shareholder Emeritus. He participated in many complex litigation matters, including the *Exxon Valdez Oil Spill Litigation*, No. A89-095, in which he served on the case management committee and as Co-Chair of the national discovery team. He also participated in the *Three Mile Island Litigation*, No. 79-0432 (M.D. Pa.), where he acted as liaison counsel, and in the nationwide school asbestos property damage class action, *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.), where the firm served as co-lead counsel.

A former Judge of the Court of Common Pleas of Philadelphia, he has long given his service to the legal community and the judiciary. He is also active in law and engineering alumni affairs at the University of Pennsylvania and in other philanthropic endeavors. He serves as a member of Penn's Board of Overseers and as Chair of the Friends of Penn's Biddle Law Library, having graduated from both the engineering and law schools at Penn. Judge Berger also serves on the Executive Board of Penn Law's Center for Ethics and Rule of Law. In 2017, he was the recipient of Penn Law's Inaugural Lifetime Commitment Award, which recognizes graduates "who through a lifetime of service and commitment to Penn Law have truly set a new standard of excellence."

He is past Chair of the Federal Bar Association's National Committee on the Federal and State Judiciary and past President of the Federal Bar Association's Eastern District Chapter. He is the author of numerous law review articles, has lectured extensively before bar associations and at universities, and has served as Chair of the International Conferences on Global Interdependence held at Princeton University. Judge Berger has served as Chair of the Aerospace Law Committees of the American, Federal and Inter-American Bar Associations and, in recognition of the importance and impact of his scholarly work, was elected to the International Academy of Astronautics in Paris.

As his biographies in *Who's Who in America*, *Who's Who in American Law* and *Who's Who in the World* outline, he is the recipient of numerous awards, including the Special Service Award of the Pennsylvania Conference of State Trial Judges, a Special American Bar Association Presidential Program Award and Medal, and a Special Federal Bar Association Award for distinguished service to the Federal and State Judiciary. He has been given the highest rating (AV Preeminent) for legal ability as well as the highest rating for ethical standards by Martindale-Hubbell. Judge Berger was also presented with a Lifetime Achievement Award in 2014 by *The Legal Intelligencer* in recognition of figures who have helped shape the law in Pennsylvania and who had a distinct impact on the legal profession in the Commonwealth.

He is a permanent member of the Judicial Conference of the United States Court of Appeals for the Third Circuit and has served as Chair of both the Judicial Liaison and International Law Committees of the Philadelphia Bar Association. He has also served as National Chair of the FBA's Alternate Dispute Resolution Committee.

Recipient of the Alumnus of the Year Award of the Thomas McKean Law Club of the University of Pennsylvania Law School, he was further honored by the University's School of Engineering and Applied Science by the dedication of the Harold Berger Biennial Distinguished Lecture and Award given to a technical innovator who has made a lasting contribution to the quality of our lives. He was also honored by the University by the dedication of an auditorium and lobby bearing his name and by the dedication of a student award in his name for engineering excellence.

Long active in diverse, philanthropic, charitable, community and inter-faith endeavors Judge Berger serves as a Lifetime Honorary Trustee of the Federation of Jewish Charities of Greater Philadelphia, as a Director of the National Museum of Jewish History, as a National Director of the Hebrew Immigrant Aid Society (HIAS) in its endeavors to assist refugees and indigent souls

of all faiths, as A Charter Fellow of the Foundation of the Federal Bar Association and as a member of the Hamilton Circle of the Philadelphia Bar Foundation.

Among other honors and awards, as listed above, Judge Berger was honored by the University of Pennsylvania Law School at its annual Benefactors' Dinner and is the recipient of the "Children of the American Dream" award of HIAS for his leadership in the civic, legal, academic and Jewish communities.

#### **Jonathan D. Berger – Of Counsel**

Mr. Berger concentrates his practice on the prosecution of class actions, collective actions, and multiple plaintiff litigations on behalf of employees, consumers, and shareholders.

Mr. Berger serves as counsel for several commercial hydraulic manufacturers and other companies, and is engaged in litigation, corporate, commercial, employment, and governmental regulatory compliance matters on behalf of his clients.

Mr. Berger has been involved in class actions and complex commercial litigation including the *Exxon Valdez Oil Spill Litigation*; *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.); *In re Domestic Airlines Antitrust Litigation*, 137 F.R.D. 677 (N.D. Ga. 1991); *Ford/Firestone MDL Litigation*; *Unisys ERISA Benefits Litigation*; *Commercial Explosives Antitrust Litigation*; and *Vitamins Antitrust Litigation*. Mr. Berger has also prosecuted complex multi-party litigation involving hydraulic engineered systems.

Mr. Berger has litigated wage & hour cases in federal and state courts including *Chabrier v. Wilmington Finance, Inc.*, No. 06-4176 (E.D. Pa.), in which Mr. Berger obtained a settlement of \$2.9 million on behalf of retail loan officers who worked in four offices of Wilmington Finance, Inc.; *Espinosa v. National Beef California, L.P.*, No. ECU04657 (Cal. Super. Ct.) (\$3.35 million settlement); and *Justison v. McDonalds Corp.*, No. 08-cv-448 (D. Del.) (\$2.4 million settlement on behalf of hundreds of assistant manager trainees alleging claims for unpaid overtime wages).

Currently, Mr. Berger is engaged in a variety of military defense, healthcare, and other Whistleblower, *Qui Tam* and False Claim Act cases.

Mr. Berger graduated from the University of Pennsylvania (B.S. Economics, Wharton School, 1980) and the Widener University Delaware Law School (J.D., 1985). During and after law school, Mr. Berger served as a law clerk for the Honorable Charles P. Mirarchi, Jr, Administrative Judge, Civil Division, Court of Common Pleas of Philadelphia County, PA.

#### **Robin Switzenbaum – Of Counsel**

Robin Blumenfeld Switzenbaum concentrates her practice on litigating complex civil cases, with a particular focus on real estate, securities, corporate governance (including limited partnerships and REITs), and voting control disputes. In addition to successfully resolving major securities class actions in her career, Ms. Switzenbaum has applied her plaintiffs' side expertise to

representing business sellers who have encountered difficulties in securing the value of their payouts from purchasers of their companies.

Ms. Switzenbaum currently serves as lead counsel with Lawrence Deutsch in *In re Precision Castparts Corp. Shareholder Litigation*, No. 15CV21455 (Oregon) and *Rabin v. NASDAQ*, No. 215CV0551 (E.D. Pa.), contesting market manipulation in call options on the NASDAQ PHLX. Recently, with Lawrence Lederer, she was lead counsel in *Dodona v. Goldman, Sachs, et al.*, No. 10 Civ. 7497 (VM) (DCF) (S.D.N.Y.), regarding two synthetic collateralized debt obligations sold by Goldman Sachs.

Ms. Switzenbaum served as lead counsel in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, C.A. No. 2202-CC (Del. Ch.), representing certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery. The case settled in excess of \$99 million. In another state court action, Ms. Switzenbaum represented a class of holders of a publicly traded common stock who were denied their preemptive rights, *Korman v. InKine Pharmaceutical*, Case No. 04341 (CCP, Philadelphia County). This case settled for \$9 million.

She has also successfully pursued claims on behalf of litigation trusts, bringing actions against officers, directors, and auditors of insolvent companies. Ms. Switzenbaum has also been extensively involved in litigating securities cases against financial institutions such as Wells Fargo, Merrill Lynch, Lehman Brothers, Citi, and Chase Manhattan, and against retailers such as Rite Aid, Sunbeam, and Revlon.

Prior to joining the Firm, Ms. Switzenbaum was an attorney with Saul Ewing, focusing on real estate, bankruptcy and zoning matters.

### **Susan Schneider Thomas – Of Counsel**

Susan Schneider Thomas concentrates her practice on *qui tam* litigation.

Ms. Thomas has substantial complex litigation experience. Before joining the Firm, she practiced law at two Philadelphia area firms, Schnader, Harrison, Segal & Lewis and Greenfield & Chimicles, where she was actively involved in the litigation of complex securities fraud and derivative actions.

Upon joining the Firm, Ms. Thomas concentrated her practice on complex securities and derivative actions. In 1986, she joined in establishing Zlotnick & Thomas where she was a partner with primary responsibility for the litigation of several major class actions including *Geist v. New Jersey Turnpike Authority*, C.A. No. 92-2377 (D.N.J.), a bond redemption case that settled for \$2.25 million and *Burstein v. Applied Extrusion Technologies*, C.A. No. 92-12166-PBS (D. Mass.), which settled for \$3.4 million.

Upon returning to the Firm, Ms. Thomas has had major responsibilities in many securities and consumer fraud class actions, including *In re CryoLife Securities Litigation*, C.A. No. 1:02-CV-1868 BBM (N.D.Ga.), which settled in 2005 for \$23.25 million and *In re First Alliance Mortgage*

Co., Civ. No. SACV 00-964 (C.D.Cal.), a deceptive mortgage lending action which settled for over \$80 million in cooperation with the FTC. More recently, Ms. Thomas has concentrated her practice in the area of healthcare *qui tam* litigation. As co-counsel for a team of whistleblowers, she worked extensively with the U.S. Department of Justice and various State Attorney General offices in the prosecution of False Claims Act cases against pharmaceutical manufacturers that recovered more than \$2 billion for Medicare and Medicaid programs and over \$350 million for the whistleblowers. She has investigated or is litigating False Claims Act cases involving defense contractors, off-label marketing by drug and medical device companies, federal grant fraud, upcoding and other billing issues by healthcare providers, drug pricing issues and fraud in connection with for-profit colleges and student loan programs.

### **Tyler E. Wren - Of Counsel**

Mr. Wren is a trial lawyer with over 35 years of experience in both the public and private sectors.

Mr. Wren has represented both plaintiffs and defendants in a broad spectrum of litigation matters, including class actions, environmental, civil rights, commercial disputes, personal injury, insurance coverage, election law, zoning and historical preservation matters and other government affairs. Mr. Wren routinely appears in both state and federal courts, as well as before local administrative agencies.

Following his graduation from law school, Mr. Wren served as staff attorney to the Committee of Seventy, a local civic watchdog group. Mr. Wren then spent a decade in the Philadelphia City Solicitor's Office in various positions in which his litigation and counseling skills were developed: Chief Assistant City Solicitor for Special Litigation and Appeals, Divisional Deputy City Solicitor for the Environment, Counsel to the Philadelphia Board of Ethics and Counsel to the Philadelphia Planning Commission. After leaving government employ and before joining the Firm in 2010, Mr. Wren was in private practice, including nine years with the Sprague and Sprague firm, headed by nationally recognized litigator Richard Sprague.

# **EXHIBIT 5**

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 **SCHONBRUN SEPLOW**  
4 **HARRIS & HOFFMAN LLP**  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 Attorneys for Plaintiffs

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE BROWN, AND ) Case No. BC579498  
14 BRIAN LINDSEY, )  
15 ) [Assigned to the Hon. Maren Nelson in Dept.  
16 Plaintiffs, ) 17 of Spring Street Courthouse]  
17 )  
18 vs. ) **DECLARATION OF NAMED PLAINTIFF**  
19 ) **ROGER HARRIS IN SUPPORT OF THE**  
20 FARMERS INSURANCE EXCHANGE ) **PROPOSED SETTLEMENT**  
21 AND MID CENTURY INSURANCE )  
22 COMPANY, )  
23 Defendants. )  
24 ) Date:  
25 ) Time:  
26 ) Department: 17  
27 )  
28 ) Complaint filed: April 22, 2015  
Trial Date: TBD

1 Jay Angoff, Esq.  
Cyrus Mehri, Esq.  
2 Christine H. Monahan, Esq.  
**MEHRI & SKALET PLLC**  
3 1250 Connecticut Ave. NW, Suite 300  
4 Washington, DC 20036  
5 Tel.: (202) 822-5100  
6 Fax: (202) 822-4997  
7 jay.angoff@findjustice.com  
cyrus@findjustice.com  
cmonahan@findjustice.com

8 Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
9 **BERGER MONTAGUE, P.C.**  
10 1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
11 Tel.: (215) 875-3000  
12 Fax: (215) 875-4620  
pkahana@bm.net  
13 josterwise@bm.net

14 Jonathan K. Tycko, Esq.  
Andrea Gold, Esq.  
15 **TYCKO & ZAVAREEI LLP**  
16 1828 L Street NW, Suite 1000  
Washington, DC 20036  
17 Tel.: (202) 973-0900  
18 Fax: (202) 973-0950  
jtycko@tzlegal.com  
19 agold@tzlegal.com

20 *Attorneys for Plaintiffs*  
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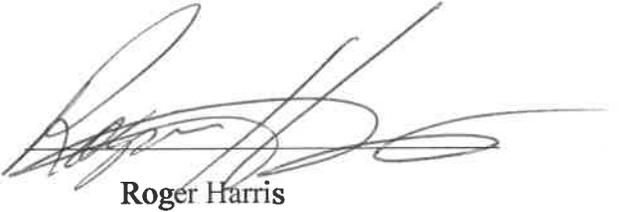
**DECLARATION OF ROGER HARRIS**

I, ROGER HARRIS, declare as follows:

1. I am a citizen of the State of California.
2. My address is 327 South Seven Street, Lompoc, CA 93436.
3. I was Defendant’s customer for approximately 25 years - until the latter half of 2018.
4. I am a named plaintiff in the above-captioned case and submit this declaration in support of the Parties’ Proposed Settlement Agreement.

- It is my understanding that a memorandum of understanding was reached in June of this year and a settlement agreement will soon be finalized.
- Plaintiffs' counsel provided me with periodic updates on the status of the settlement negotiations and the proposed settlement terms prior to entering into the memorandum of understanding.
- Based on my personal experience as a long-term customer of the Defendant and my understanding of the case, I believe the terms of the proposed settlement are fair and reasonable and avoid what I understand could be years of delay.
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED this 26th day of August, 2019, at Lompoc, Ca.



Roger Harris

# **EXHIBIT 6**

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 **SCHONBRUN SEPLow**  
4 **HARRIS & HOFFMAN LLP**  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 Attorneys for Plaintiffs

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE BROWN, AND  
14 BRIAN LINDSEY,

15 Plaintiffs,

16 vs.

17 FARMERS INSURANCE EXCHANGE  
18 AND MID CENTURY INSURANCE  
19 COMPANY,

20 Defendants.

) Case No. BC579498

) [Assigned to the Hon. Maren Nelson in Dept.  
17 of Spring Street Courthouse]

) **DECLARATION OF NAMED PLAINTIFF**  
) **DUANE BROWN IN SUPPORT OF THE**  
) **PROPOSED SETTLEMENT**

) Date:

) Time:

) Department: 17

) Complaint filed: April 22, 2015

) Trial Date: TBD

1 Jay Angoff, Esq.  
Cyrus Mehri, Esq.  
2 Christine H. Monahan, Esq.  
**MEHRI & SKALET PLLC**  
3 1250 Connecticut Ave. NW, Suite 300  
4 Washington, DC 20036  
Tel.: (202) 822-5100  
5 Fax: (202) 822-4997  
jay.angoff@findjustice.com  
6 cyrus@findjustice.com  
7 cmonahan@findjustice.com

8 Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
9 **BERGER MONTAGUE, P.C.**  
10 1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
11 Tel.: (215) 875-3000  
Fax: (215) 875-4620  
12 pkahana@bm.net  
13 josterwise@bm.net

14 Jonathan K. Tycko, Esq.  
Andrea Gold, Esq.  
15 **TYCKO & ZAVAREEI LLP**  
16 1828 L Street NW, Suite 1000  
Washington, DC 20036  
17 Tel.: (202) 973-0900  
Fax: (202) 973-0950  
18 jtycko@tzlegal.com  
19 agold@tzlegal.com

20 *Attorneys for Plaintiffs*

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**DECLARATION OF DUANE BROWN**

I, DUANE BROWN, declare as follows:

- 1. I am a citizen of the State of California.
- 2. My address is 413 North Third Street, Lompoc CA 93436.
- 3. I am Defendant's customer and have been so for approximately 22 years
- 4. I am a named plaintiff in the above-captioned case and submit this declaration in support of the Parties' Proposed Settlement Agreement.
- 5. It is my understanding that a memorandum of understanding was reached in late May-early June of this year and a settlement agreement will soon be finalized.
- 6. Plaintiffs' counsel provided me with periodic updates on the status of the settlement negotiations and the proposed settlement terms prior to entering into the memorandum of understanding.
- 7. Based on my personal experience as a long-term customer of the Defendant and my understanding of the case, I believe the terms of the proposed settlement are fair and reasonable and avoid what I understand could be years of delay.
- 8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED this 27th day of August, 2019, at Lompoc, Ca.

  
DUANE BROWN

# **EXHIBIT 7**

1 Wilmer J. Harris, SBN 150407  
2 wharris@sshhlaw.com  
3 **SCHONBRUN SEPLOW**  
4 **HARRIS & HOFFMAN LLP**  
5 715 Fremont Ave., Suite A  
6 South Pasadena, CA. 91030  
7 Telephone No.: (626) 441-4129  
8 Facsimile No.: (626) 283-5770

9 [Additional counsel on following page]

10 Attorneys for Plaintiffs

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE BROWN, AND ) Case No. BC579498  
14 BRIAN LINDSEY, )  
15 ) [Assigned to the Hon. Maren Nelson in Dept.  
16 Plaintiffs, ) 17 of Spring Street Courthouse]  
17 )  
18 vs. ) **DECLARATION OF NAMED PLAINTIFF**  
19 ) **BRIAN LINDSEY IN SUPPORT OF THE**  
20 FARMERS INSURANCE EXCHANGE ) **PROPOSED SETTLEMENT**  
21 AND MID CENTURY INSURANCE )  
22 COMPANY, )  
23 Defendants. )  
24 ) Date:  
25 ) Time:  
26 ) Department: 17  
27 )  
28 ) Complaint filed: April 22, 2015  
Trial Date: TBD

1 Jay Angoff, Esq.  
Cyrus Mehri, Esq.  
2 Christine H. Monahan, Esq.  
**MEHRI & SKALET PLLC**  
3 1250 Connecticut Ave. NW, Suite 300  
4 Washington, DC 20036  
Tel.: (202) 822-5100  
5 Fax: (202) 822-4997  
jay.angoff@findjustice.com  
6 cyrus@findjustice.com  
7 cmonahan@findjustice.com

8 Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
9 **BERGER MONTAGUE, P.C.**  
10 1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
11 Tel.: (215) 875-3000  
Fax: (215) 875-4620  
12 pkahana@bm.net  
13 josterwise@bm.net

14 Jonathan K. Tycko, Esq.  
Andrea Gold, Esq.  
15 **TYCKO & ZAVAREEI LLP**  
16 1828 L Street NW, Suite 1000  
Washington, DC 20036  
17 Tel.: (202) 973-0900  
Fax: (202) 973-0950  
18 jtycko@tzlegal.com  
19 agold@tzlegal.com

20 *Attorneys for Plaintiffs*  
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**DECLARATION OF BRIAN LINDSEY**

I, Brian Lindsey, declare as follows:

1. I am a citizen of the State of California.
2. My address is 3428 Via Cortez, Lompoc, CA 93436
3. I was Defendant's customer for approximately 10 years - until August 15, 2018.
4. I am a named plaintiff in the above-captioned case and submit this declaration in support of the Parties' Proposed Settlement Agreement.
5. It is my understanding that a memorandum of understanding was reached in June of this year and a settlement agreement will soon be finalized.
6. Plaintiffs' counsel provided me with periodic updates on the status of the settlement negotiations and the proposed settlement terms prior to entering into the memorandum of understanding.
7. Based on my personal experience as a long-term customer of the Defendant and my understanding of the case, I believe the terms of the proposed settlement are fair and reasonable and avoid what I understand could be years of delay.
8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED this 23th day of August, 2019, at Lompoc, Ca.

  
\_\_\_\_\_  
Brian Lindsey



**SERVICE LIST**

<p>1 2 Peter Kahana, Esq. pkahana@bm.net 3 Jeff Osterwise, Esq. josterwise@bm.net 4 <b>BERGER &amp; MONTAGUE, P.C.</b> 1818 Market Street, Suite 3600 5 Philadelphia, PA 19103 6 Tel.: (215) 875-3000 7 Fax: (215) 875-4613 8 9 <i>Attorneys for Plaintiffs</i></p>	<p>Richard G. De La Mora, Esq. rdelamora@mail.hinshawlaw.com James C. Castle, Esq. jcastle@mail.hinshawlaw.com <b>HINSHAW &amp; CULBERTSON, LLP</b> 633 West Fifth Street, 47<sup>th</sup> Floor Los Angeles, CA 90071 Tel.: (213) 614-7343 Fax: (213) 614-7399  <i>Attorneys for Defendants</i> Farmers Insurance Exchange and Mid Century Insurance Co.</p>
<p>10 Jonathan K. Tycko, Esq. jtycko@tzlegal.com 11 Andrea Gold, Esq. agold@tzlegal.com 12 <b>TYCKO &amp; ZAVAREEI LLP</b> 1828 L Street, NW 13 Washington, DC 20036 14 Tel.: (202) 973-0900 15 Fax: (202) 973-0950 16 <i>Attorneys for Plaintiffs</i></p>	<p>Harvey Rosenfield, Esq. harvey@consumerwatchdog.org Pamela Pressley, Esq. pam@consumerwatchdog.org <b>CONSUMER WATCHDOG</b> 6330 San Vicente Blvd, Suite 250 Los Angeles, CA 90048 Tel.: (213) 897-2000 Fax: (213) 897-5775  <i>Attorneys for Consumer Watchdog</i></p>
<p>17 Jay Angoff, Esq. jay.angoff@findjustice.com 18 Cyrus Mehri, Esq. Cyrus@findjustice.com 19 Christine Monahan, Esq. CMonahan@findjustice.com 20 <b>MEHRI &amp; SKALET PLLC</b> 1250 Conneticut Ave. NW, Suite 300 21 Washington, DC 2003 22 Tel.: (202) 822-5100 23 Fax: (202) 822-4997 24 <i>Attorneys for Plaintiffs</i></p>	<p>Laura Robbins, Esq. laura.robbs@doj.ca.gov Andrea Schoor, Esq. andrea.schoor@doj.ca.gov <b>CALIFORNIA DEPARTMENT OF JUSTICE</b> 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Tel.: (213) 897-2000 Fax: (213) 897-5775  <i>Attorneys for California Department of Insurance, Dave Jones, in his capacity as Insurance Commissioner of the State of California</i></p>