

EX. 52

11/19/2012	63	Chief Judge Mark L. Wolf: ELECTRONIC ORDER entered. ORDER consolidating cases for pre-trial purposes. Associated Cases: 1:11-cv-10230-MLW, 1:11-cv-12049-MLW, 1:12-cv-11698-MLW (MacDonald, Gail) (Entered: 11/20/2012)
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EX. 53

Exhibit 5

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly	)	Case No. 11-cv-10230 MLW
situated,	)	Case No. 11-cv-12049 MLW
	)	Case No. 12-cv-11698 MLW
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	
_____)	

DECLARATION OF JONATHAN B. MARKS

I, Jonathan B. Marks, declare as follows pursuant to 28 U.S.C. § 1746:

1. I am Jonathan B. Marks, a Mediator and Arbitrator at MARKSADR, LLC, in Bethesda, Maryland.

2. I received my B.A. *Cum Laude* from Harvard College in 1966 and my J.D. *Cum Laude* from Harvard Law School in 1972. At Harvard Law School, I was an editor and then President of the Harvard Law Review.

3. I began my legal career as an Assistant United States Attorney for the District of Columbia. Following this, I was an Associate and Partner and Munger, Tolles & Olson in Los Angeles. My practice primarily involved corporate and commercial litigation. I left private practice in 1979 to serve as Counsel and Associate Director for Planning and Evaluation for the Peace Corps, and then as General Counsel of the United States International Development Cooperation Agency.

4. In 1981, I co-founded and served as Chairman of Endispute, Incorporated, which provided mediation, arbitration and other dispute resolution services. In August, 1994, Endispute merged with Judicial Arbitration and Mediation Services to form J·A·M·S/Endispute. I served as Vice-Chairman of the Board of Directors of J·A·M·S/Endispute and Chairman of the firm's Executive Committee, which oversaw professional practice issues, until September, 1999, when I formed MARKSADR, LLC. I devote all my professional time to serving as a mediator and arbitrator.

5. I have extensive experience in mediation, arbitration and other dispute resolution assistance in litigation or pre-litigation disputes arising out of, for example, disputes involving the sale and acquisition of businesses; commercial activities; all aspects of construction; professional malpractice; securities disputes; consumer and other class actions; ERISA-related disputes; claims against officers and directors of financial institutions and other corporations; insurance coverage; environmental claims; government contract claims; and high stakes personal injury and product liability claims and lawsuits.

6. On August 2, 2012, I was retained by the Parties in the above-captioned consolidated action (the "Action") to act as mediator in an attempt by the Parties to reach a resolution of the Action. It is my understanding that my retention followed an Order of the Court directing the Parties to discuss the possibility of settlement and mediation.

7. The mediation process was confidential, but all Parties have authorized me to inform the Court of the matters presented in this Declaration. I make this Declaration based on personal knowledge and am competent to testify to the matters set out herein.

8. The purpose of the mediation was to work with the Parties to explore whether they could reach a settlement of this matter, based on a joint and separate evaluation of the risks and costs each side faced in continued litigation.

9. On August 7, 2012, I conducted a conference call with the Parties to obtain a general overview of the Action, including the identity and background of Parties, status of the litigation, principal claims and defenses, and nature and status of any previous attempts at resolution.

10. On August 15, 2012, I was provided pre-existing materials jointly agreed to by the Parties, including the operative complaint and motion to dismiss briefing, oral argument transcript, and Order on the motion to dismiss.

11. On September 6, 2012, I conducted a half-day, in-person pre-mediation session in New York City, attended by attorneys and client representatives for the Defendant.

12. On September 13, 2012, I conducted a half-day, in-person pre-mediation session in New York City, attended by numerous attorneys for Plaintiffs.

13. On October 9, 2012, I conducted a full-day, in-person pre-mediation session in New York City, attended by lead counsel for both sides.

14. On October 23-25, 2012, I conducted an in-person mediation in Boston, attended by numerous attorneys and Party representatives.

15. It is my understanding that on November 15, 2012, the Parties attended a status conference before the Court and proposed a mediation and discovery plan by which the Parties would continue to explore resolution of the Action through mediation before me, that the Parties would exchange documents and information in furtherance of these

efforts, and that I would be called upon to facilitate these exchanges and, if necessary, to resolve any disputes between the Parties. It is my further understanding that the Court generally endorsed this mediation and discovery plan.

16. Thereafter, I conducted 14 additional in-person mediation sessions in Boston, New York City, and Washington, D.C., some of which were *ex parte* and some were joint. The dates of these sessions were January 24, 2013; July 9, 2013; September 17, 2013; November 13, 2013; March 4, 2014; May 9, 2014; January 5, 2015; February 4, 2015; February 26, 2015; April 30, 2015; June 2, 2015; June 9, 2015; June 26, 2015; and June 30, 2015. Party representatives attended several of these mediation sessions.

17. During the course of the mediation, and between mediation sessions, I conducted numerous, often lengthy, telephone calls with counsel for the Parties to better understand the perspectives of the Parties and to try to gauge the distance between the Parties' respective positions, in an effort to resolve the Action. Additionally, I was involved in hundreds of e-mail exchanges.

18. Ultimately, the formal mediation sessions and follow-up mediated telephonic negotiations resulted in an agreement-in-principle to a monetary settlement of \$300 million on June 30, 2015. The agreement-in-principle was subject to State Street's final resolution of investigations by governmental authorities, specifically the U.S. Department of Labor ("DOL"), U.S. Department of Justice ("DOJ"), and U.S. Securities and Exchange Commission ("SEC").

19. The mediation session on June 30, 2015 included participation by representatives of DOL. DOL's presence added an additional layer of complexity to the negotiations.

20. The June 30, 2015 session included negotiations, in which the DOL representatives participated, concerning the amount of settlement recovery that would be allocated to ERISA claimants. These discussions resulted in an agreement to allocate \$60 million of the class settlement recovery to ERISA claimants.

21. The agreement-in-principle to a total class settlement of \$300 million was reached before the agreement to allocate \$60 million of the settlement recovery to ERISA claimants was reached.

22. After June 30, 2015, other details of the settlement were worked out by counsel without my involvement.

23. The settlement effort at the mediation sessions and in follow-up interactions between and after the sessions, included extensive exchanges of views on the merits and difficult arm's-length negotiations, in which each side worked to persuade the other to modify positions based on reevaluation of risks faced if the case did not settle.

24. These extensive exchanges of views included presentations by both sides on certain class certification, liability and damages issues, as well as a detailed presentation by a cost accounting expert engaged by the Defendant.

25. The terms of the settlement represented a compromise of the Parties' initial positions, but in my view these compromises were the product of the Parties' assessment of the perceived relative strengths and weaknesses of their positions, and the risks inherent in continued litigation and the defendants' desire to reach finality with respect to their ongoing negotiations with the government regulators as well.

26. The settlement reached by the Parties is consistent with the judgments I reached about the strengths and weaknesses of the Parties' cases.

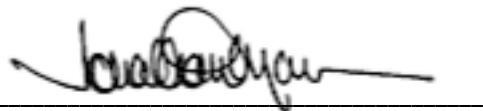
27. In my view, counsel for each Party were effective advocates for their clients and effective participants in the effort to reach a settlement that fairly valued the risks and opportunities of each Party in the litigation.

28. Further, it was clear to me throughout the entire mediation process that each of the Parties was represented by experienced and competent counsel, willing, if necessary, to litigate the matter to conclusion.

29. I observed nothing that suggested any collusion or other untoward behavior on the part of counsel for any Party. In fact, it was apparent that this was not the case.

30. I respectfully suggest that the Parties and their counsel should be commended for the professionalism and tenacity with which they approached the mediation process and ultimately reached the settlement, under circumstances that were protracted and often challenging. The mediation process here appears to have saved both sides substantial litigation costs and avoided unnecessary judicial intervention.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct. Executed on September 13, 2016.



Jonathan B. Marks

EX. 54

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 11-cv-10230 MLW

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ARKANSAS TEACHER RETIREMENT SYSTEM,
et al.,

Plaintiffs,

-against-

STATE STREET BANK AND TRUST COMPANY,
Defendant.

- - - - -x

JAMS
Reference No. 1345000011

- - - - -x

In Re: STATE STREET ATTORNEYS' FEES

- - - - -x

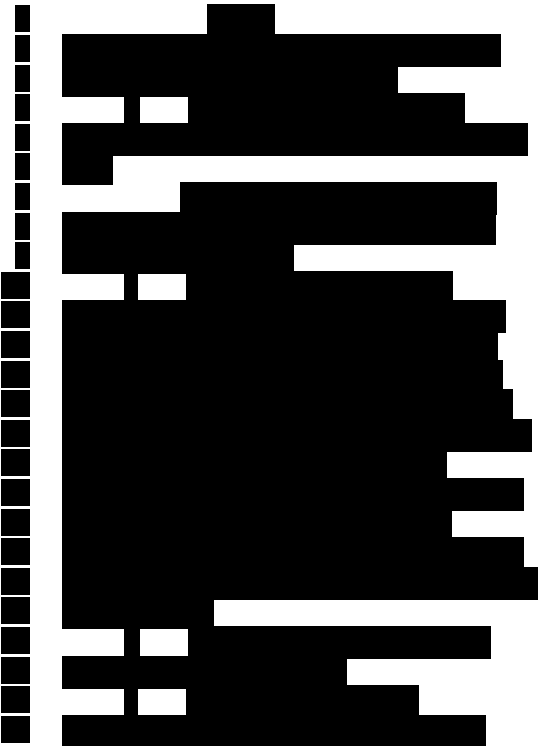
June 16, 2017
3:41 p.m.

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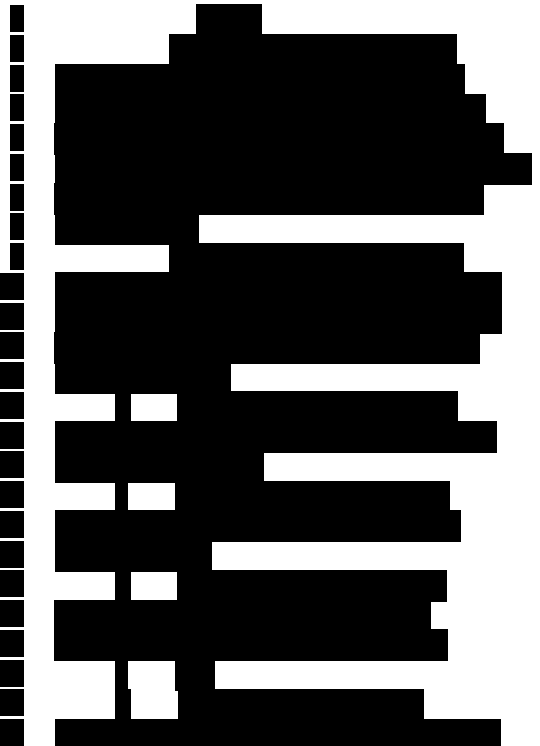
SPECIAL MASTER HON. GERALD ROSEN
United States District Court, Retired

Deposition of MICHAEL ROGERS, taken by
Counsel to the Special Master, held at the
offices of JAMS, 620 Eighth Avenue, New York,
New York, before Helen Mitchell, a Registered
Professional Reporter and Notary Public.

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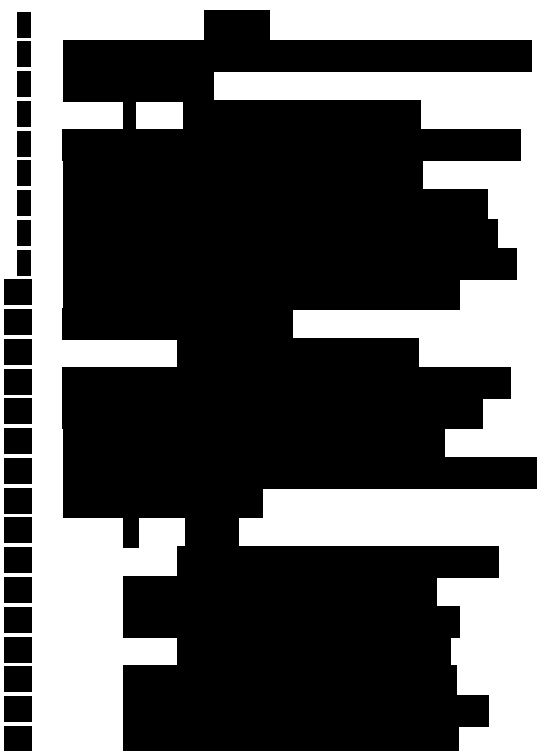
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1 Rogers
2 were you involved in assigning specific staff
3 attorneys to the State Street review?
4 A As you may have -- you've
5 spoken to other people. I mean, there were sort
6 of -- there were two waves to it.
7 I mean, back in around 2013,
8 very early on, we constructed a smaller team; I
9 think it was Todd plus four other staff
10 attorneys.
11 I don't remember specifically,
12 but I have a general sense that I vetted resumes
13 and what I would call canvassing internally. I
14 mean, it's hard for me to remember precisely
15 when I did this, I just know I do it in all my
16 cases. When we create a team of staff
17 attorneys, I'll sometimes look at resumes, I'll
18 ask people like Todd, or Todd's similar
19 colleague --
20 THE WITNESS: I mean, Judge,
21 you visited the 23rd floor, so you know
22 what I'm talking about.
23 A There's other people who have
24 analogous roles to Todd that I've worked with,
25 and I'll send them an e-mail, and I'll say,

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1 Rogers
2 "Here's Joe Blow's resume. What do you think of
3 Joe Blow?" And they'll say, "Oh, you know, he's
4 really hard working but, you know, maybe he's
5 not as good at X," or, "Oh, that person really
6 has a good financial background."
7 I don't remember specifically
8 doing that in January of '13, but I always do
9 that, so I have a recollection of me and David,
10 to some degree, sort of pulling together that
11 team.
12 Q Let me ask you this: When you
13 vetted resumes, as you just described, were
14 there particular experiences or backgrounds that
15 you looked for for this case?
16 A For this case?
17 Yeah. I mean, in most of my
18 cases I would look for actual federal securities
19 experience. In this case I would have been
20 looking for complex litigation, certainly
21 financial industry for sure.
22 I mean, it took me a while --
23 I'll admit, it took me a while to figure out
24 what a pip and a basis point and all these
25 spreads, and today -- I mean, I know it well

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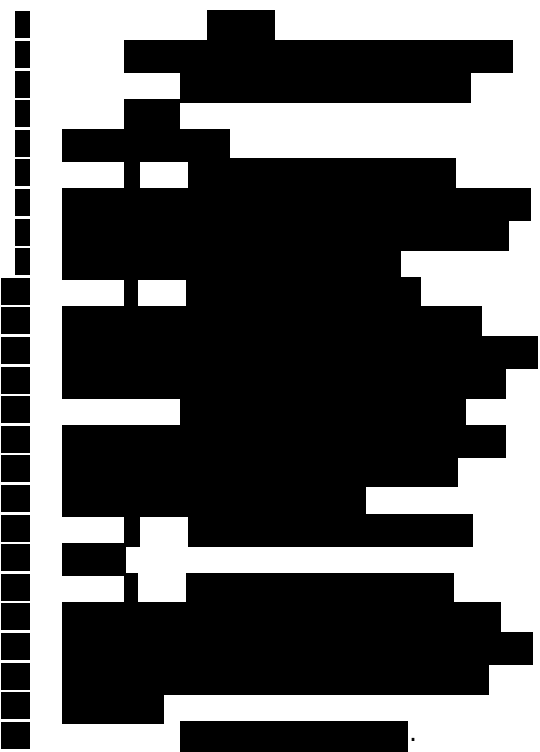
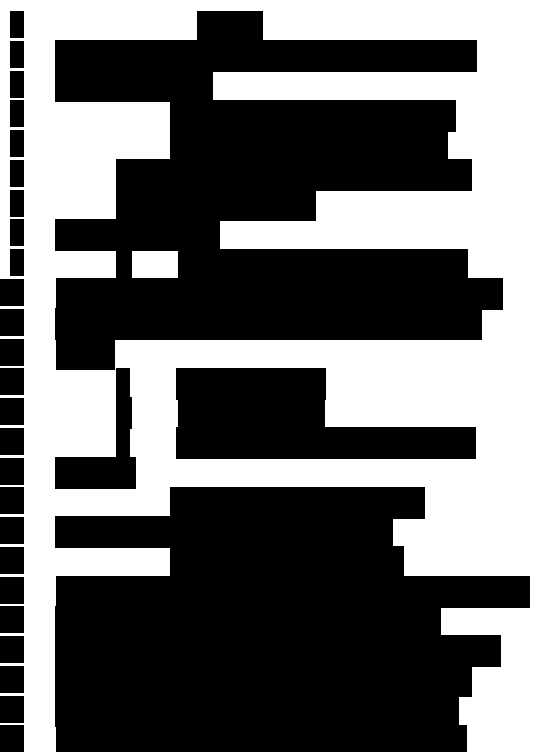



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1 Rogers
2 now, embarrassingly so, but at the time it took
3 a while.
4 So, yeah, anybody who had
5 banking, mutual fund, certainly currency
6 trading, or experience legally on what I would
7 call a financial industry case.
8 I can't remember specifically
9 today, but that's something that I looked at at
10 the time, yes.
11 Q Do you recall ever seeing the
12 resume of David Alper, an individual who
13 actually worked in the FX world and on Wall
14 Street for many years?
15 A I know Dave Alper, and I can
16 picture his face as I sit here today. I don't
17 know whether I ever remember reading his resume,
18 but I certainly know who Dave Alper is.
19 Q Is that because he worked in
20 the State Street case?
21 A I know him because he worked on
22 the Goldman Sachs case and the Virginia case and
23 the State Street case.
24 Q How would you describe his
25 background or his institutional knowledge as

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<p style="text-align: right;">62</p> 	<p style="text-align: right;">64</p> 
<p style="text-align: right;">63</p> <p>1 Rogers 2 It generally involves giving 3 them an opportunity before the meeting to review 4 some kind of a binder that would most likely 5 contain the complaint and other relevant 6 pleadings, especially important underlying 7 documents. At which point probably me -- 8 because I like to talk more than David does -- 9 I'll stand up and I'll start to explain all the 10 highlights of the case that are important to me, 11 and I'll ask whether they have any questions. 12 And someone like David would always ask a 13 question. 14 So it was sort of a, you know, 15 conference room sit-around, you know, "Here's 16 the highlights, here's the theory," and then try 17 to create a dialogue out of it. 18 And then periodically we would 19 either, A, ask them to put together a hot doc 20 binder in service of creating a presentation for 21 one of the mediation meetings, or we would just 22 have a periodic "Let's get an update where 23 things are at." And that would involve just 24 like it sounds like; they would come upstairs, 25 each -- each, you know, staff attorney would</p>	<p style="text-align: right;">65</p> 

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[REDACTED]

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1 Rogers

2 facts was the FX overcharge, but it was a 10b

3 case in that when State Street revealed the

4 California case, their stock price went down,

5 and, thus, a 10b case was brought.

6 Those were documents that no

7 one had seen on our side, either Dan and Loeff

8 or Mike and Thornton, nor certainly Labaton.

9 And I remember there was an ongoing effort to

10 ask Bill Paine to produce those, and he -- I

11 don't remember the details, but we -- we didn't

12 get them right away.

13 And at some point -- it pretty

14 much dovetails with that time -- there was a

15 time period where it came clear that the obvious

16 sticking point, whether we were going to

17 continue negotiating or not, was Bill's ongoing

18 negotiations with the three regulators.

19 Now, the sides had vetted out

20 the legal theories pretty well, we knew where

21 they stood and they knew where we stood, and my

22 best recollection is he decided to eventually

23 turn over the Hill docs, probably because it was

24 a way to sort of keep the process going.

25 So, at any rate, we got the

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[REDACTED]

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1 Rogers

2 Hill docs, and there were a lot of them. I

3 don't remember the exact number, I think it

4 might have been 14 million pages. It could have

5 been more, I don't recall.

6 And that's the long answer to

7 why there was a bit of a ramp-up in January, was

8 that that's when the Hill docs -- I don't know

9 when we got them; that's when they were loaded

10 for review on Catalyst, was in January or

11 February, somewhere around there, of '15. And

12 it just became clear that, A, because there were

13 a lot of pages that we collectively wanted to

14 get through, and, B, that unlike the California

15 docs, both Thornton and Loeff, along with

16 Labaton, were quite anxious to get eyes on them,

17 so that's why we set up that larger, more

18 omnibus review.

19 Q Was there also discussion

20 around January of 2015 of allocating some

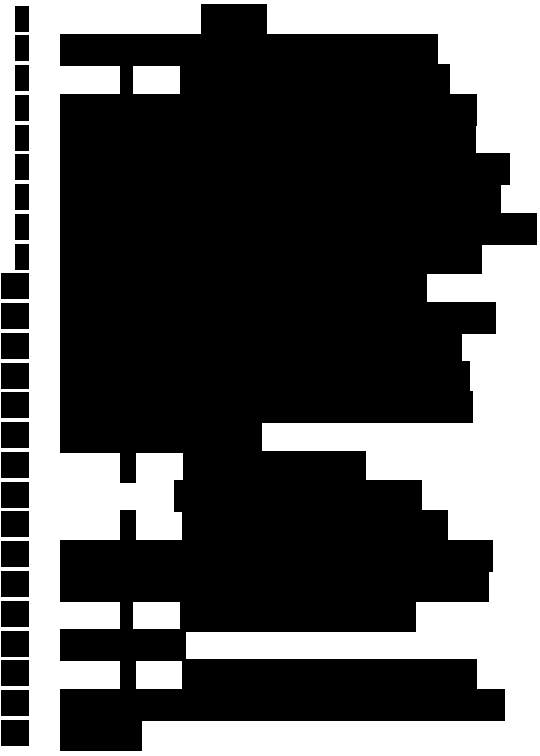
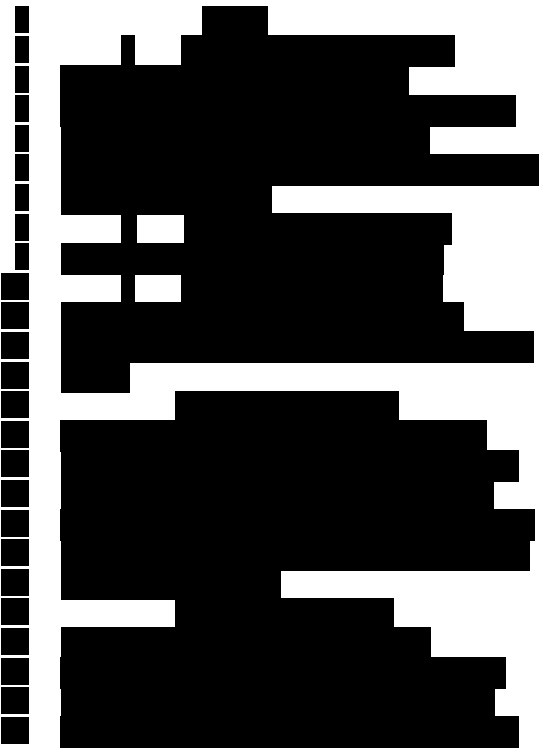
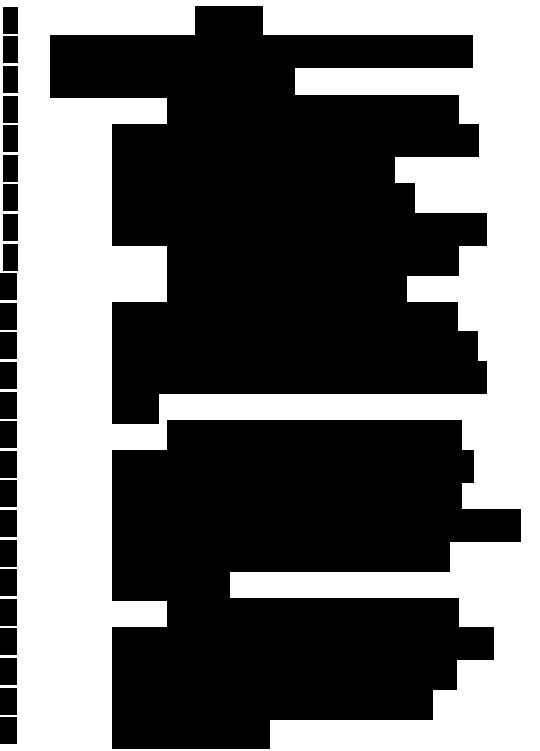
21 Labaton attorneys to the Thornton payroll?

22 A I think it's the opposite. I

23 don't remember Labaton attorneys ever being

24 allocated.

25 Q And when I say "attorneys" I'm

<p style="text-align: right;">70</p> 	<p style="text-align: right;">72</p> <p>1 Rogers</p> <p>2 in play.</p> <p>3 Q And were the Labaton attorneys</p> <p>4 for whom Thornton paid the costs supervised the</p> <p>5 same way as the other Labaton staff attorneys?</p> <p>6 A 100 percent.</p> <p>7 Q And were they given relatively</p> <p>8 the same type of work as the Labaton attorneys?</p> <p>9 A They weren't given relatively</p> <p>10 the same work, they were given the same work.</p> <p>11 Q Were you aware at the time, in</p> <p>12 early 2015, who was being allocated to</p> <p>13 Thornton's payroll and who was on Labaton's</p> <p>14 payroll?</p> <p>15 A I don't know about early 2015.</p> <p>16 I know that at some point during 2015, in a</p> <p>17 purely administrative manner, I would see lists</p> <p>18 of who was allocated to which firm, which,</p> <p>19 frankly, I barely gave more than an eyeball's</p> <p>20 look at.</p> <p>21 So I can't say that I ever</p> <p>22 personally learned -- and even when I saw the</p> <p>23 list, it didn't have any effect because they</p> <p>24 were -- they were under Todd's management and my</p> <p>25 management, they were responsible to Todd's</p>
<p style="text-align: right;">71</p> 	<p style="text-align: right;">73</p> 

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1 Rogers
 2 A I'm sorry, whether they
 3 would -- they would do it on their fee petition?
 4 Q Yes, whether Thornton would
 5 file the names of the staff attorneys for whom
 6 they paid on their own petition.
 7 A I assumed they were going to
 8 get paid for.
 9 Q And when you say "they," you
 10 mean Thornton would get paid?
 11 A Yes.
 12 Q What was the basis for that
 13 assumption?
 14 A They were paying for it
 15 up-front, I assume they wanted to get paid on
 16 the back end.
 17 JUDGE ROSEN: So this raises an
 18 issue, which is there were two ways to
 19 ensure that Thornton got paid on the
 20 back end. One way was to do it the way
 21 it was done here, allocating titularly
 22 staff attorneys or agency attorneys to
 23 Thornton, having them invoice for
 24 those, and then permitting them, if
 25 there was a successful result, to claim

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1 Rogers
 2 then after that I -- whether I even opened them
 3 or looked, I don't -- it didn't mean anything to
 4 me. As I said before, we had 15 or whatever, at
 5 this point 21, attorneys that Todd was managing
 6 in a substantive nature. You know, we had
 7 people like Cindy and Danette, who I assumed
 8 were handling the accounting issues. It wasn't
 9 in my purview. I didn't really care, to be
 10 honest.
 11 Q Would it have been Cindy and
 12 Danette who really kept track of the individual
 13 allocations throughout this time period?
 14 A I don't know.
 15 Q But it wouldn't have fallen to
 16 you?
 17 A It did not.
 18 Q And did you have an
 19 understanding during this time period about what
 20 the implications were of that cost sharing? In
 21 other words, whether Thornton was going to claim
 22 those staff attorneys on their fee petition?
 23 A I certainly assumed they would.
 24 Q And why did you make that
 25 assumption?

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1 Rogers
 2 We're trying to -- if it had
 3 been done the other way, Mike, none of
 4 us might be here today.
 5 THE WITNESS: The other way
 6 meaning we would just kind of --
 7 JUDGE ROSEN: Meaning, simply,
 8 these were Labaton's people, they were
 9 Lieff's people. Labaton and Lieff
 10 wanted somebody to share the costs.
 11 They could have billed Thornton for
 12 them -- just simply billed them for
 13 them and got reimbursed for a pro rata
 14 share of some sort -- and then at the
 15 end, if there was a successful
 16 resolution, then Thornton got its
 17 allocated share, which reflected what
 18 they might have gotten if they had
 19 billed themselves.
 20 If it had been done that way,
 21 rather than through the device of
 22 actually allocating lawyers to them and
 23 having them put those lawyers on as if
 24 they were their lawyers on a fee
 25 petition of their own, we might not be

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1 Rogers
 2 knowledge of that.
 3 BY MS. MCEVOY:
 4 Q Let me ask you this: Have you
 5 ever worked on another case where you had a cost
 6 sharing agreement similar to the one with
 7 Thornton in State Street?
 8 A Um-hum, yes
 9 Q And in those instances did the
 10 firm who bore the cost of the Labaton staff
 11 attorneys include those attorneys on their fee
 12 petition?
 13 A I've seen it done both ways. I
 14 think it's more common to do what Judge Rosen's
 15 referring to as the latter, you know, sort of
 16 the, you know, one big omnibus fee petition and
 17 then kind of dole it out in the end. But, you
 18 know, I've occasionally seen it done, earlier in
 19 my career, the way that it was done here
 20 Q And in those instances were you
 21 made aware prior to the fee petition that the
 22 firm paying the costs of those staff attorneys
 23 was going to include those staff attorneys?
 24 A Too much -- you're talking
 25 about the ones where it was done by a separate

97

1 Rogers
 2 petition?
 3 Q Yes
 4 A I was an associate, fairly
 5 junior in both cases, I wasn't privy to business
 6 discussions.
 7 Q Prior to November 2016, had you
 8 ever heard the name Michael Bradley in
 9 connection with the State Street review?
 10 A I mean, whether he was one of
 11 the names on those spreadsheets that I
 12 mentioned, I have no idea, but I don't --
 13 Q But that had no significance to
 14 you?
 15 A If I saw him on one of those,
 16 no, none.
 17 Q Were you aware at any point
 18 prior to November 2016 that Thornton had made an
 19 arrangement with a non-Thornton attorney to
 20 review documents in the State Street case?
 21 A I'm not sure I know that now.
 22 I certainly didn't know it before November, no.
 23 Q As far as you know, Thornton
 24 was using Thornton's own attorneys and the ones
 25 Labaton and Lieff allocated to it?

EX. 55

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 11-cv-10230 MLW

- - - - -x
ARKANSAS TEACHER RETIREMENT SYSTEM,
et al.,

Plaintiffs,

-against-

STATE STREET BANK AND TRUST COMPANY,
Defendant.

- - - - -x

JAMS
Reference No. 1345000011

- - - - -x

In Re: STATE STREET ATTORNEYS' FEES

- - - - -x

June 16, 2017
1:35 p.m.

B e f o r e :

SPECIAL MASTER HON. GERALD ROSEN
United States District Court, Retired

Deposition of KIRTI DUGAR, taken by
Counsel to the Special Master, held at the
offices of JAMS, 620 Eighth Avenue, New York,
New York, before Helen Mitchell, a Registered
Professional Reporter and Notary Public.

<p style="text-align: right;">82</p> <p>[REDACTED]</p>	<p style="text-align: right;">84</p> <p>[REDACTED]</p>
<p style="text-align: right;">83</p> <p>[REDACTED]</p>	<p style="text-align: right;">85</p> <p>1 Dugar</p> <p>2 updates or e-mail updates?</p> <p>3 A In the -- up to 2013-'14 it was</p> <p>4 a quantity thing, number of documents reviewed.</p> <p>5 Q Let's skip gears to 2015.</p> <p>6 You mentioned that up until</p> <p>7 that point, that there was a certain pace to the</p> <p>8 document review.</p> <p>9 What changed in early 2015?</p> <p>10 A Counsel made an evaluation how</p> <p>11 much was left to do, and they wanted to get it</p> <p>12 done, completed. That was their objective. I</p> <p>13 did not ask why, who, why, when. They asked,</p> <p>14 they wanted it done, I gave them numbers, they</p> <p>15 came up with the plan to get it done, so I was</p> <p>16 just executing their wishes.</p> <p>17 Q And which counsel was involved</p> <p>18 in the push to get the document review done, if</p> <p>19 you can recall?</p> <p>20 A All three law firms. So it</p> <p>21 would be Dan Chiplock, Mike Lesser, Mike Rogers,</p> <p>22 I believe.</p> <p>23 Q And at this time did you come</p> <p>24 to learn about an agreement with the Thornton</p> <p>25 Law Firm to share costs of certain Lief</p>

22 (Pages 82 to 85)

86

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 25 [REDACTED]

88

1 Dugar
 2 from -- staff attorneys from other cases in
 3 Lief Cabraser who likewise were available --
 4 couple of those. So I had a team of ten or 15
 5 staff attorneys who were available to be
 6 reallocated to another case for review work
 7 should we have it.
 8 So State Street was a clear
 9 candidate, so I moved them all over here to
 10 review the State, got them the training and the
 11 assignment.
 12 So when that ten or 15
 13 attorneys were available, some of these were
 14 allocated -- quote-unquote the word
 15 "allocated" -- to the Thornton Naumes firm.
 16 Q Were you involved at all in the
 17 decision of which staff attorneys were allocated
 18 to Thornton?
 19 A I believe I worked with
 20 Mr. Chiplock, Dan Chiplock, to determine that.
 21 Q And how did you and
 22 Mr. Chiplock determine that?
 23 A Two of the attorneys were new
 24 hires, and that was -- well, I was not here, I
 25 was actually in a vacation at the time. Two of

87

1 Dugar
 2 reviewers and allocate that work to them. And I
 3 was reviewing Thornton Naumes folders, for
 4 example, the assignments of them.
 5 So I was asked to see who was
 6 available that we could transfer to that work.
 7 What cost and non-cost or anything like that is
 8 not something that at that time Mr. Chiplock
 9 would have discussed with me, that this is what
 10 we need to do. Essentially, as time developed,
 11 later on I learned what he wanted to do, and I
 12 helped getting that done.
 13 Q And how did you go about
 14 finding available staff attorneys to fulfill
 15 Mr. Chiplock's request?
 16 A So the staff attorney
 17 availability was as follows:
 18 As fate would have it, the BoNY
 19 Mellon case was just settled, or had settled, so
 20 we had a team of staff attorneys that were
 21 working on the BoNY Mellon case -- there was ten
 22 or 12 of them -- who were available to be
 23 transitioned to another case work. So in the
 24 first step I transitioned all of them to the
 25 State Street case, and there were a few others

89

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102

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6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

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19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

104

1 Dugar

2 I do know that all the Thornton

3 Naumes documents were reviewed. I have a record

4 of tracking that. So Thornton Naumes was

5 assigned approximately 250,000 documents, like

6 each of the firms. It's pretty much a practical

7 and equal divvy, and I can tell you for sure

8 they were reviewed and coded.

9 JUDGE ROSEN: But you didn't

10 sort of ever check in on Michael

11 Bradley to look at his work, his

12 coding, whether he was making attorney

13 notes properly?

14 THE WITNESS: I did not.

15 JUDGE ROSEN: Do you know if

16 anybody did?

17 THE WITNESS: I have no idea.

18 I don't -- typically, the

19 Thornton firm, if they wanted something

20 queried, like a deep-end thing like

21 that with Catalyst, they would ask me.

22 So I don't recall receiving such a

23 request. And neither from the Labaton

24 firm, for that matter.

25 MR. HEIMANN: I've got about

103

1 Dugar

2 understood that another, fifth, reviewer was

3 coming on.

4 Q Did you form an opinion one way

5 or another whether he was a member of the firm

6 or an outside person?

7 A None whatsoever.

8 Q Were you ever -- after this

9 e-mail in March -- excuse me -- yes,

10 March 2013 -- were you ever asked about Michael

11 Bradley's work or access to Catalyst again?

12 A I think there's a follow-up

13 e-mail with this user account. It was not --

14 there were some issues, technical issues logging

15 in, so two weeks later I asked Catalyst to

16 recreate an account. And beyond that, after

17 that, nothing at all. Not to me anyway.

18 Q Did you ever review the coding

19 or number of documents associated with Michael

20 Bradley?

21 A Again, you know, the folders

22 are created at the firm level, and then who they

23 got assigned to, other than the folks that I was

24 assigning to, I had no idea who was getting

25 assigned what.

105

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2 [REDACTED]

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4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

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9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

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16 [REDACTED]

17 [REDACTED]

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19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

114

1 Dugar
 2 sense I've been helping Dan Chiplock --
 3 JUDGE ROSEN: I'm talking back
 4 in the November 8 through 12 time
 5 period.
 6 THE WITNESS: I was not
 7 involved with the fee petition at all.
 8 JUDGE ROSEN: No. No, no, no.
 9 Once the double counting error was
 10 discovered, did you work with Dan to
 11 figure out how it happened?
 12 THE WITNESS: We were wracking
 13 our brain to figure out that answer,
 14 and I think the only thing I could come
 15 up with, it was just network oversight,
 16 there was nothing intentional about it.
 17 It's a small amount of time --
 18 it's not in the global scheme of
 19 things. Not to say it doesn't have
 20 value, it has value. It was just -- in
 21 fact, if you go by intention -- to my
 22 mind, I'm speaking for myself and
 23 behalf of my firm -- you know, we
 24 clearly, with Jon Zol and Chris Jordan,
 25 if you look at it, I have instructions

116

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 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

115

1 Dugar
 2 to them that "Make sure in your time
 3 entry you enter for, you know, review
 4 of TNN folders." So the intention was
 5 always to transfer.
 6 The only thing is that in this
 7 whole -- all the structures and
 8 everything we have, Chris Jordan and
 9 Jon Zol were entering time in our
 10 system, or their time was getting
 11 entered in our system. So in this
 12 particular -- and then they were
 13 getting invoiced. So the time entry
 14 would maintain there because that's the
 15 source of the generation of an invoice,
 16 but it just -- you know, when you're
 17 doing the fee petition, putting all
 18 things together, I am not involved, and
 19 usually never involved in that process.
 20 It just got lost. It is just -- what
 21 do you just call -- inadvertent honest
 22 mistake. That's really what it is.
 23 Our intention always was -- I
 24 knew it at the time, and whether if I
 25 had been involved with the fee petition

117

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EX. 56

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JAMS, Inc.

Reference No. 1345000011

-----x

In Re State Street Attorneys Fees

-----x

June 5, 2017

1:42 p.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of TODD KUSSIN,
taken by Counsel to the Special Master,
held at JAMS, Inc., 620 Eighth Avenue, New
York, New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629858

Page 6
[REDACTED]

Page 8
1 KUSSIN
2 where you went to college and law school.
3 A. So I went to Cornell
4 University, I graduated in 1997 and and I
5 went to Hofstra University Law School and
6 I graduated in 2002.
7 After graduating Hofstra, I
8 worked at Clifford Chance in New York
9 from -- summer associate in 2001 and then
10 after graduating in 2002 I worked there
11 until mid 2005, and then I began work at
12 Milberg Weiss in New York and I worked
13 there until 2009, and then I started
14 working as staff attorney at Labaton,
15 worked on a case there and then -- it was
16 from June 2009 until April 2010, and then
17 I spent about, I am not sure of the exact
18 amount, but about a year at Bernstein
19 Litowitz as a staff attorney and then I
20 was called back at Labaton to work on a
21 specific matter, again as staff attorney,
22 but this time just myself and one
23 associate, we worked on the complaint that
24 later on -- first, we worked on that
25 complaint, when the work on that was done,

Page 7
[REDACTED]

Page 9
1 KUSSIN
2 [REDACTED]

Page 14
[Redacted text]

Page 16
[Redacted text]

Page 15
[Redacted text]

Page 17
1 KUSSIN
2 expanded, correct?
3 A. Yes.
4 Q. And the same process followed
5 for hiring the additional --
6 A. It was a little different,
7 because I am not sure, we had -- the five
8 of them were there, it eventually by
9 January 2015, when we had to ramp up, we
10 had to ramp up the staff and by that time
11 only one of the five were still there.
12 We added on I think ten or 12
13 in January 2015, but it was a little
14 different.
15 I knew two of them from
16 Goldman, that case, they had been
17 transferred to another case, they needed a
18 ramp-up and they were ready to come back
19 to State Street.
20 The others, David Alper had
21 worked on Goldman and then knowing his
22 background and background in finance and
23 foreign exchange, I jumped at the chance
24 to have him be on State Street with me.
25 JUDGE ROSEN: Did you have a

Page 70

1 KUSSIN
2 page numbers and quality of work?
3 A. Right, I didn't think much of
4 that.
5 Q. Earlier we talked about how you
6 went from five staff attorneys being
7 onboard to a much bigger number.
8 Was that in the spring of 2015?
9 A. Yes -- no, January.
10 Q. And what prompted that influx
11 of new staff attorneys?
12 A. [REDACTED]

[REDACTED]

Page 72

[REDACTED]

Page 71

[REDACTED]

Page 73

[REDACTED]

[REDACTED]

1 KUSSIN
 2 THE WITNESS: No.
 3 JUDGE ROSEN: Ever review any
 4 of his documents?
 5 THE WITNESS: No.
 6 JUDGE ROSEN: Ever see any of
 7 his hot documents?
 8 THE WITNESS: No.
 9 MR. SINNOTT: Ever heard his
 10 name?
 11 THE WITNESS: Only since I have
 12 been preparing.
 13 MR. STOCKER: I would just
 14 caution you not to divulge privileged
 15 information.
 16 (Continued on next page.)
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1 KUSSIN
 2 MS. LUKEY: No questions.
 3 MR. HEIMANN: No questions.
 4 EXAMINATION BY
 5 MR. KELLY:
 6 Q. With respect to this cost
 7 sharing, that wasn't something you were
 8 part of deciding?
 9 A. Not at all.
 10 Q. You weren't privy to those
 11 discussions?
 12 A. No.
 13 Q. So you don't know what was
 14 behind those?
 15 A. Not at all.
 16 Q. The fact that some of the staff
 17 attorneys were attributed to one firm and
 18 not the other, it wouldn't affect your
 19 analysis either way, would it?
 20 A. No.
 21 MR. KELLY: Nothing further.
 22 JUDGE ROSEN: Bill asked you
 23 earlier about Michael Bradley.
 24 Just to tie it up, did you ever
 25 work with him?

[REDACTED]

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EX. 57

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,
on behalf of itself and all others similarly situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

No. 11-cv-10230 MLW

ARNOLD HENRIQUEZ, MICHAEL T. COHN, WILLIAM R.
TAYLOR, RICHARD A. SUTHERLAND, and those similarly
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY, STATE
STREET GLOBAL MARKETS, LLC and DOES 1-20,

Defendants.

No. 11-cv-12049 MLW

THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND
PROFIT SHARING PLAN, on behalf of itself, and JAMES
PEHOUSHEK-STANGELAND, and all others similarly
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

No. 12-cv-11698 MLW

**LIEFF CABRASER HEIMANN & BERNSTEIN LLP'S RESPONSES TO
SPECIAL MASTER HONORABLE GERALD E. ROSEN'S (RET.)
FIRST SET OF INTERROGATORIES DUE ON JUNE 1, 2017**

In accordance with the Federal Rules of Civil Procedure, Lief Cabraser Heimann & Bernstein, LLP (“LCHB” or the “Firm”) hereby responds to Special Master Honorable Gerald E. Rosen’s (Ret.) First Set of Interrogatories (the “Interrogatories”), propounded on LCHB on May 18, 2017, as revised on May 23, 2017, and due on June 1, 2017.

GENERAL OBJECTIONS

LCHB makes the following general objections, which are incorporated by reference into each Interrogatory response, whether or not a specific further objection is made with respect to a specific Interrogatory. Each Interrogatory response incorporates, is subject to, and does not waive the general objections.

1. LCHB objects to the Interrogatories and Instructions to the extent they seek information protected by the attorney-client privilege, the attorney work product doctrine, or otherwise is privileged, protected or exempt from discovery.
2. LCHB objects to the Interrogatories and Instructions to the extent they purport to impose obligations that differ from or exceed those imposed by the Federal Rules of Civil Procedure, particularly Rule 33, and by any court decisions interpreting those Rules.
3. LCHB objects to the Interrogatories and Instructions to the extent they seek information beyond the scope of, or not relevant to, the Courts’ February 6, 2017 Memorandum and Order in the above-referenced cases.
4. In responding to the Interrogatories, LCHB has made reasonable efforts to respond based on its understanding and interpretation of each Interrogatory. If the Special Master subsequently asserts a reasonable interpretation of an Interrogatory which differs from that of LCHB, LCHB reserves the right to supplement its responses.

5. LCHB will make all reasonable efforts to respond to the Interrogatories on or before the dates specified in the Special Master's May 23, 2017 revised Interrogatories. LCHB, however, reserves the right to supplement its responses should it require additional time, and/or should responsive information be discovered following the designated dates for the responses.

6. LCHB objects to Definition No. 1 and Instruction B, to the extent they seek Interrogatory responses from any source other than the law firm, its partners, associates, of counsel, employees and contractors. LCHB has no "affiliates," and no "agents" or "representatives" that are or would be in the possession of responsive information.

RESPONSES TO THE INTERROGATORIES

INTERROGATORY NO. 1:

Describe each of the Law Firm's practice area(s), including areas of specialty, special services offered, the total number of attorneys and staff, and a brief description of any representative matters.

RESPONSE TO INTERROGATORY NO. 1:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it is vague and overbroad in that it provides no time-frame for the information sought. LCHB further objects to this Interrogatory on the grounds that it is overbroad and seeks information that is not relevant to the subject matter of this proceeding. Subject to and without waiving those objections, LCHB responds as follows.

LCHB represents plaintiffs in class, group and individual civil litigation in federal and state courts throughout the country in the following practice areas: securities and financial fraud; antitrust; consumer fraud; data privacy; employment discrimination; whistleblower/False Claim Act; medical device and pharmaceutical mass torts; environmental mass torts; personal injury;

non-personal injury product defect; and, civil and human rights. Attached hereto as Exhibit A is a “description of ... representative matters.”

As of the date of these Responses, LCHB has 81 attorneys (including 28 Staff Attorneys), 43 document review lawyers working for the Firm via agencies, and 134 staff members (including paralegals, financial analysts, administrative assistants, receptionists, word processors, and employees in the Firm’s information technology, library services, human resources, accounting, records, calendaring/conflicts, marketing and office/facilities services departments).

Steven E. Fineman, LCHB’s Managing Partner, has knowledge of the information provided in this Response. Numerous Firm attorneys and staff have knowledge of some of the information provided in this Response.

INTERROGATORY NO. 3:

Describe in detail the Firm’s involvement in the California Action and in the BNY Mellon Action and how that involvement assisted the Firm in the SST Litigation.

RESPONSE TO INTERROGATORY NO. 3:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

The Firm’s involvement in investigating custodial foreign currency exchange (“FX”) overcharges dates back to 2008, when it was approached by counsel for the relator (or whistleblower) in a proposed false claims (or *qui tam*) case against State Street. The Firm (and, for a time, Lief Global, which was headed by current Of Counsel Robert L. Lief) worked with Thornton and other counsel for the relator to develop and file *qui tam* cases under seal against State Street in California and other states. In connection with this, the Firm helped draft and edit an amended complaint on behalf of several California county or municipal funds based on a

lengthy disclosure statement filed with the California Attorney General (“California AG”) outlining the alleged custodial FX scheme carried out by State Street. This is the same scheme that formed the basis for the SST Litigation filed more than two years later.

The California AG intervened in the *qui tam* lawsuit in October 2009, making the FX scheme public. The attendant publicity caused a number of custodial clients to question whether they had been overcharged on FX trades in a similar manner. The questions were not restricted to State Street; BNY Mellon faced similar allegations in *qui tam* lawsuits that were unsealed in Virginia and Florida in early 2011.

In July 2011, LCHB filed, with co-counsel, a class action suit against BNY Mellon in the United States District Court for the Northern District of California on behalf of custodial customers of BNY Mellon who were overcharged on FX trades executed indirectly, or pursuant to “standing instructions.” That complaint was subsequently amended and BNY Mellon’s motion to dismiss was denied in February 2012. The case was put on an aggressive schedule by Judge William Alsup, resulting in Plaintiff filing its opening brief on class certification by April 2012. In the meantime, Plaintiff and BNY Mellon took or defended more than a dozen depositions and produced and reviewed a substantial number of documents. Shortly after Plaintiff filed its class certification motion, however, the case was transferred to Judge Lawrence Kaplan in the Southern District of New York and consolidated with several other customer, ERISA, and securities fraud cases all alleging the same underlying facts about BNY Mellon’s custodial FX practices. These cases (now part of a multidistrict litigation, or “MDL”) were in turn coordinated for discovery purposes with a later-filed civil suit brought by the United States Department of Justice (“DOJ”) against BNY Mellon. A similarly later-filed separate suit

brought by the New York State Attorney General (“NYAG”) in New York state court was also coordinated with the MDL and the DOJ’s action.

Once before Judge Kaplan, LCHB was appointed co-lead counsel for the proposed class of custodial customers affected by the FX scheme. In addition, the Firm (specifically Elizabeth Cabraser) was appointed to the three-member Executive Committee overseeing all plaintiffs in the MDL. Between 2012 and early 2015, BNY Mellon aggressively defended the actions, taking 57 depositions of plaintiffs, absent class members, or third parties, and filing counterclaims against the named customer plaintiffs and absent class members. Plaintiffs in the MDL and the DOJ took more than 50 depositions of BNY Mellon. BNY Mellon produced more than 20 million pages of documents. LCHB, working closely with its co-counsel and the DOJ, reviewed these documents with the aid of 13 Staff Attorneys who later (in most cases¹) went on to work on the SST Litigation. These Staff Attorneys individually averaged nearly 2,200 hours doing discovery work in the BNY Mellon Action. In addition to reviewing and coding documents, the Staff Attorneys prepared highly detailed witness kits and memos to assist the lead attorneys in preparing for depositions. In most cases the documents used in the depositions were hand-picked by the Staff Attorneys. The Staff Attorney efforts were summarized in a declaration submitted by Prof. John C. Coffee of Columbia Law School (being produced with these answers), who noted the fact that private customer counsel (including LCHB) did most of the work and bore most of the expense in achieving the successful global resolution of that case not

¹ Four of the thirteen Staff Attorneys who worked on both the BNY Mellon Action and SST Litigation did at least some work in the SST Litigation before discovery in the BNY Mellon Action was concluded. These were Kelly Gralewski, Joshua Bloomfield, Leah Nutting, and Scott Miloro. Of these four individuals, Ms. Gralewski did the fewest number of hours of discovery work in the BNY Mellon Action (just over 300), and was the only one not to work on the SST Litigation after 2014. The other three individuals did well over 2,000 or 3,000 hours of work (each) in the BNY Mellon Action, and worked on the SST Litigation both before and after 2014.

just for the benefit of the customer classes but also the DOJ, NYAG, and the United States Department of Labor (“DOL”) (which did not file a case).

The Firm’s experience in the BNY Mellon Action greatly informed the Firm’s understanding of both the challenges to and likelihood of success of the claims asserted in the SST Litigation, and the nature and extent of discovery likely to be necessary both to successfully certify a class and prevail at trial. The BNY Mellon Action was a vivid demonstration of how intense and extensive a process the litigation would be should State Street adopt a similarly aggressive defensive posture [REDACTED]

[REDACTED]. Perhaps most importantly, however, the fact that the Firm was able to achieve a successful outcome in the BNY Mellon Action after withstanding (along with co-counsel) an extraordinarily aggressive defense was the most important tipping point in the mediation with State Street. The BNY Mellon Action demonstrated to State Street that at least two of the firms they were facing (LCHB and Thornton) had been through the gauntlet of counterclaims and third party discovery in a custodial FX case, which almost certainly cost BNY Mellon more than \$100 million in defense costs, and still achieved a highly successful settlement for the class while becoming experts in custodial FX in the process. In short, the Firm had developed into an even more formidable adversary to State Street than when the SST Litigation began. Only after the BNY Mellon Action was settled and preliminary approval papers were filed did the mediation with State Street [REDACTED]

[REDACTED]. The DOJ, SEC and DOL, for their part, also all used the global resolution of the BNY Mellon Action as the yardstick for achieving global resolution of their potential claims against State Street.

Daniel P. Chiplock, LCHB Partner has the most extensive knowledge of the information provided in this Response. Robert L. Lieff, LCHB Of Counsel, Richard M. Heimann, LCHB Partner, Steven E. Fineman, LCHB Managing Partner, and Lexi Hazam, LCHB Partner, each have some knowledge of some of the information provided in this Response.

INTERROGATORY NO. 5:

Explain how and when the Law Firm became involved in the SST Litigation, including any conversations between and among the Firm and ARTRS, the Plaintiffs' Law Firms, and/or the ERISA firms.

RESPONSE TO INTERROGATORY NO. 5:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

The Firm had no conversations with ARTRS or the ERISA firms before becoming involved in the SST Litigation. Prior to the initiation of the SST Litigation, the Firm worked with Thornton on the California Action and the investigation of possible claims by other State Street custodial customers. Based on the Firm's prior working relationship with Thornton and the Firm's expertise and institutional knowledge concerning custodial FX pricing practices, the Firm was invited to participate in the SST Litigation by Thornton and Labaton after ARTRS (who was Labaton's client) elected to proceed with the filing of a class action against State Street.

Daniel P. Chiplock, LCHB Partner and Robert L. Lieff, LCHB Of Counsel have the most knowledge of the information provided in this Response. Richard M. Heimann, LCHB Partner, and Steven E. Fineman, LCHB Managing Partner each have some knowledge of some of the information provided in this Response.

INTERROGATORY NO. 6:

Describe the role played by the Law Firm in filing the substantive claims alleged in the SST Litigation, including the filing of the Complaint (Docket #1) and/or the Amended Complaint (Docket #10), a description of any legal or factual research performed, consultations with State Street, legal drafting and/or review of pleadings.

RESPONSE TO INTERROGATORY NO. 6:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory to the extent it seeks attorney work product. LCHB further objects to this Interrogatory on the grounds that it is vague, overbroad, and seeks information not relevant to the subject matter of this proceeding. Subject to and without waiving those objections, LCHB responds as follows:

The Firm worked closely from the outset with the other Plaintiffs' Law Firms in, among other things, (a) researching potential causes of action against State Street for overcharging custodial customers on FX trades, (b) drafting both the Complaint and Amended Complaint, (c) briefing Plaintiff's opposition to Defendants' motion to dismiss (with particular responsibility for (i) countering Defendants' statutes of limitations arguments and (ii) supporting Plaintiff's claims under M.G.L. ch. 93A), and (d) researching and drafting memoranda on the viability of class certification (particularly as applied to M.G.L. ch. 93A). The Firm was principally responsible for developing the M.G.L. ch. 93A theory of liability in the SST Litigation, which was particularly valuable since it allowed for double or treble damages (plus prejudgment interest) and (as directed against a Massachusetts-based company and conduct) provided a potentially more readily-certifiable class claim for State Street custodial customers from across the country. During the mediation, the Firm took the lead in researching and presenting on the viability of

class certification under M.G.L. ch. 93A in particular, as well as the availability of double or treble damages and the elements and standards of proof necessary to achieve those results.

Daniel P. Chiplock, LCHB Partner has the most extensive knowledge of the information provided in this Response. Michael J. Miami, LCHB Partner also has some knowledge of the information provided in this Response.

INTERROGATORY NO. 8:

Describe the Firm's theory of damages, including an estimate of total damages to the customer and/or ERISA classes, whether this theory changed throughout the course of the SST Litigation, and if so, what factors affected the Firm's theory and total calculation of estimated damages.

RESPONSE TO INTERROGATORY NO. 8:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory to the extent it seeks attorney work product. LCHB further objects to this Interrogatory on the grounds that it is vague, overbroad, and seeks information not relevant to the subject matter of this proceeding. Subject to and without waiving those objections, LCHB responds as follows:

Plaintiff's basic theory of damages remained fairly consistent throughout the SST Litigation, and consisted essentially of the difference between the prices on FX trades that State Street readily obtained and charged in a competitive marketplace for its custodial customers when dealing with them in a negotiated context, and the prices that State Street actually charged to those same customers when performing comparable trades (involving the same currencies) on an "indirect" or non-negotiated context. The same basic theory of damages underlay the BNY Mellon Action. Even independent of discovery from State Street, analyses that used the average

(or mid-rate) exchange price of the day for major currencies such as USD to British Sterling, Euros, Australian Dollars, or Japanese Yen showed that the “spreads” taken by custodial banks (such as State Street or BNY Mellon) could increase from 2-4 basis points (on a direct, negotiated basis) to 12-20 basis points or more when the trades were done on an indirect or non-negotiated basis. Spreads taken on indirect FX trades for non-major currencies could be even greater, often more than 60 basis points, although the total volume of such trades tended to be smaller than for the major currencies.

Information exchanged during the mediation from State Street confirmed that the spreads taken by State Street on indirect, non-negotiated trades were indeed many multiples of those taken in a direct, negotiated context.² In sum, State Street applied fixed markups or markdowns, measured by basis points, to its SSH³ and AIR⁴ indirect FX trades during the class period alleged. The application of the fixed spreads was limited in two circumstances. First, State Street would “net” all of an investment manager’s (“IM’s”) SSH trades in a given currency prior to execution, reducing the amount of currency traded, and, therefore, the total markup or markdown applied to the IM’s clients’ trades. Second, for SSH trades, the fixed spread markups and markdowns were limited by the high or low of the range of the day. Thus, if the difference between the starting point of the indirect pricing process and the high or low of the day was less than the fixed spread, State Street only applied a markup or markdown to the extent of the high

² See ¶¶ 121-125 of the Declaration of Lawrence A. Sucharow in Support of (A) Plaintiffs’ Assented-to Motion for Final Approval of Proposed Class Settlement and Plan of Allocation and Final Certification of Settlement Class and (B) Lead Counsel’s Motion for an Award of Attorneys’ Fees, Payment of Litigation Expenses, and Payment of Service Awards to Plaintiffs [ECF No. 104].

³ “SSH” refers to Securities Settlement and Handling, meaning purchases and sales of foreign securities.

⁴ “AIR” refers to Automated Income Repatriation, meaning dividend and income payments on foreign securities.

or low rate and not beyond. State Street referred to the spread achieved on indirect FX trades after the application of such “netting” and “capping” as the “effective” spread. Plaintiffs’ Counsel began with the dollar volume of SSH indirect FX trades for each year for 1998 through 2009. The average effective markup across all currency pairs for SSH trades for 2009 was a narrow basis point range. Plaintiffs’ Counsel multiplied the sum total of SSH volume for 1998-2009 by the high end of State Street’s stated range of effective markups, to estimate damages on SSH trades at approximately \$1.177 billion. Plaintiffs’ Counsel then took the dollar volume of AIR indirect FX trades for each year for 1998 through 2009. The volume is a small fraction of the SSH volume. Plaintiffs’ Counsel multiplied the annual AIR volume for 1998-2009 by the known markups for each year to estimate damages on AIR trades at approximately \$314.49 million.

Based on this information, the total estimated losses to the U.S.-based customer class for the wrongful acts alleged in the SST Litigation were nearly \$1.5 billion, before the doubling or trebling (and prejudgment interest) that may have been possible should the class have prevailed on its M.G.L. ch. 93A claim at trial. The total volume of affected trades attributable to ERISA plans (and thus losses potentially actionable under ERISA) was estimated to be anywhere between 9 and 15% of the total.

Daniel P. Chiplock, LCHB Partner, has the most knowledge of the information provided in this Response. Kirti Dugar, Litigation Support, has knowledge of some of the information provided in this Response.

INTERROGATORY NO. 9:

Identify and describe all risk factors you considered prior to getting involved in the SST Litigation, including any “bad facts,” meritorious defenses and/or unsettled legal issues, or other circumstances that affected the potential outcome and total damages recoverable in the case.

RESPONSE TO INTERROGATORY NO. 9:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory to the extent it seeks attorney work product. LCHB further objects to this Interrogatory on the grounds that it is vague, overbroad, and seeks information not relevant to the subject matter of this proceeding. Subject to and without waiving those objections, LCHB responds as follows:

Some of the risk factors considered prior to getting involved in the SST Litigation included (a) whether or not a custodial bank such as State Street properly could be considered a fiduciary to a custodial customer when offering an elective or courtesy service such as indirect FX trading, where the custodian was acting as a principal on such trades; (b) whether the fact that some custodial customers who engaged in direct/negotiated FX trading while also utilizing indirect FX trading by State Street could undermine Plaintiff’s essential theory of the case (in other words, if indirect trading was believed to incur “no charge,” why would any putative class member go to the trouble of trading directly with State Street, which took more time and effort?); (c) whether a multi-state class of custodial customers could be certified under the causes of action alleged, particularly a single state’s consumer protection law such as M.G.L. ch. 93A; (d) whether statutes of limitation posed risks, given that it was possible to detect adverse FX pricing patterns in one’s trades provided one was inspired to look (i.e., by comparing prices achieved to the daily range on the applicable trading days, and consistently comparing them to the mid-rates

of each day); (e) the general reluctance of custodial customers to be in an adverse litigation posture with respect to their custodian; (f) the threat that State Street could turn the tables and file contractual counterclaims and take aggressive discovery of plaintiffs, multiple class members and/or their investment advisors and consultants in an attempt to shift the blame for class member losses (which is precisely what BNY Mellon did); and (g) whether custodial customers of State Street fit the profile of “persons” or businesses that were “engaged in trade or commerce” as contemplated under M.G.L. ch. 93A sections 9 or 11, respectively (the latter of which may require a higher burden of proof).

Daniel P. Chiplock, LCHB Partner has the most extensive knowledge of the information provided in this Response. Richard M. Heimann, LCHB Partner, and Steven E. Fineman, LCHB Managing Partner, each have some knowledge of some of the information provided in this Response.

INTERROGATORY NO. 18:

Describe in detail the nature and the scope of the SST Document Review, including the total number of pages and/or size of the productions, the nature and date of each document production(s) received from State Street, all other document production(s) received in connection with the Litigation, and a general description of the information contained in each production.

RESPONSE TO INTERROGATORY NO. 18:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it is vague and overbroad. Subject to and without waiving those objections, LCHB responds as follows:

State Street’s productions largely took place between December 2012 and November/December 2013. The initial production (in December 2012) of more than 300 CDs

and a hard drive consisted principally of materials gathered and produced by State Street in the California Action, and totaled more than 260,000 documents. The latter productions (bringing the total number of documents to be reviewed in the database to more than 750,000 (including 84,000 native Excel files), and more than 9 million pages or 500 gigabytes) included documents produced by State Street in *Hill v. State Street Corporation*, No. 09-cv-12146-GAO (D. Mass.) (a securities fraud lawsuit filed in the wake of the disclosure of the California Action which contained overlapping allegations of unfair or deceptive custodial FX pricing practices by State Street), in addition to ERISA client contracts and RFP responses. The productions contained, among other things, internal and external email correspondence, custodial contracts and fee schedules, marketing materials, internal compliance and training manuals, investment manager guides, internal and external presentations, analyst reports, customer surveys, codes of conduct, competitive analyses, draft RFP responses, and FX revenue/profit and loss reports.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 19:

Describe in detail how the Law Firm conducted the SST Document Review, including how it selected and/or staffed Staff Attorneys, a description of all training binders/protocols or search terms used for Document Review, and a brief description of the tasks assigned to Staff Attorneys and any other individuals who participated, and how those tasks furthered the Firm's overall litigation strategy.

RESPONSE TO INTERROGATORY NO. 19:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory to the extent it seeks attorney work product. LCHB further objects to this

Interrogatory on the grounds that it is vague, overbroad, and duplicative of Interrogatory Nos. 18, 20, 22, 28-30, and 33. Subject to and without waiving those objections, LCHB responds as follows:

The Firm refers to and incorporates its responses to Interrogatory Nos. 18, 20, 22, 28-30, and 33. In addition, the Firm responds that LCHB Staff Attorneys were selected in large part from the pool of Staff Attorneys who had worked previously or simultaneously on the BNY Mellon Action and acquired substantial relevant experience concerning custodial FX trading in general, indirect (or “standing instructions) vs. direct/negotiated FX pricing, and custodial FX marketing. These Staff Attorneys included Tanya Ashur, Joshua Bloomfield, James Gilyard, Kelly Gralewski⁵, Christopher Jordan, Jason Kim, James Leggett, Andrew McClelland, Scott Miloro, Leah Nutting, Marissa Oh, Virginia Weiss, and Jonathan Zaul. These Staff Attorneys averaged nearly 2,200 hours of work in the BNY Mellon Action (which had a discovery cut-off of January 2015), during which time they helped the lead attorneys prosecuting that case (including Mr. Chiplock) to prepare for and defend scores of depositions. Three other LCHB Staff Attorneys did not have prior or related experience from the BNY Mellon Action—these were Elizabeth Brehm, Jade Butman, and Coleen Liebmann. Two other Staff Attorneys—Ann Ten Eyck and Rachel Wintterle—were hired in March 2015 from an agency that was paid directly by Thornton. The purpose of the work performed by the Staff Attorneys—first by reviewing and coding all documents assigned to them and then by preparing detailed discursive memos on a number of topics of special concern to the litigation—was to synthesize and present the information produced by State Street in as useful a manner as possible so as to prepare the lead attorneys in the case for the next phase of the litigation (follow-up targeted discovery,

⁵ See FN 1, *supra*.

depositions, and class certification) in the event the mediation ended without the case being resolved.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have the most knowledge of the information provided in this Response.

INTERROGATORY NO. 20:

Describe how the Law Firm utilized the Catalyst database, including all persons who had access to the database, any electronic and/or technical training provided to those individuals, and a description of the information maintained in the Catalyst database during the course of the SST Document Review.

RESPONSE TO INTERROGATORY NO. 20:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it is overbroad to the extent it seeks information about those who accessed the database at the direction of Thornton or Labaton. LCHB further objects to the extent this Interrogatory is duplicative of Document Request No. 1 and Interrogatory No. 18. Subject to and without waiving those objections, LCHB responds as follows:

All Staff Attorneys had access to the Catalyst database, as did Kirti Dugar and Litigation Support Staff which included Anthony Grant and former Firm employees Willow Ashlynn and Erwin Ocampo. Online technical training on the database was provided by Kirti Dugar in conjunction with staff at Catalyst. The information maintained in the Catalyst database consisted of material produced by State Street in the SST Litigation, including documents and data previously produced by State Street in the California Action and other litigation brought against State Street. The productions contained, among other things, internal and external email correspondence, custodial contracts and fee schedules, marketing materials, internal compliance

and training manuals, investment manager guides, internal and external presentations, analyst reports, customer surveys, codes of conduct, competitive analyses, draft RFP responses, and FX revenue/profit and loss reports.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 21:

Describe in detail all documents destroyed and/or deleted from the Catalyst database, including the date, and explain why each document was deleted/destroyed.

RESPONSE TO INTERROGATORY NO. 21:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it lacks foundation. LCHB further objects on the grounds that this Interrogatory is overbroad to the extent it seeks information about the actions of those who accessed the database at the direction of Thornton or Labaton. Subject to and without waiving those objections, LCHB responds as follows:

We do not believe that any documents were destroyed or deleted from the Catalyst database. The Catalyst repository was taken offline and the service provided by Catalyst ceased after an agreement in principle to resolve the SST Litigation was reached. However, the underlying document database was saved and shipped to the Firm on an external hard drive that can be restored on other platforms, including Concordance or Relativity.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 22:

Identify and describe any training the Firm provided to Staff Attorneys relating to the substantive allegations in the SST Litigation/SST Document Review, including addressing all legal issues, key witnesses, theories of liability, damages, and critical topics raised in the case.

RESPONSE TO INTERROGATORY NO. 22:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

Staff Attorneys were instructed to review relevant pleadings in the SST Litigation, including the Amended Class Action Complaint and Plaintiff's Memorandum of Law in Opposition to Defendants' to Dismiss [ECF No. 22], as well as a Document Review Coding Fields Quick Reference Guide, in which issue codes were listed and followed by a brief description of their relevance to the case. In addition to these materials, the emails communicating assignments of proposed topics for the factual, legal, and/or discursive memoranda prepared by Staff Attorneys (discussed further below in response to Interrogatory No. 30) contained descriptions, context and/or explanations for the topics assigned. Staff Attorneys also received periodic emailed descriptions or guidance on issues of specific interest to the litigation and document review from Mr. Dugar or the lead attorneys on the SST Litigation.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 26:

Identify any other individuals who worked on the SST Document review who were not Staff Attorneys and explain their affiliation with the Law Firm, their employment status, and how they were compensated for their time.

RESPONSE TO INTERROGATORY NO. 26:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it is overbroad to the extent it seeks information about those who accessed the database at the direction of Thornton or Labaton. LCHB further objects to the extent this Interrogatory on the grounds that how any LCHB employee was “compensated for their time” is not relevant to the subject matter of this proceeding. Subject to and without waiving those objections, LCHB responds as follows:

Kirti Dugar, Litigation Support Manager and the firm’s chief financial analyst, was the on-site supervisor of document review in San Francisco. Mr. Dugar is employed full-time by the Firm and is paid a salary. Apart from providing oversight or responding to questions by Staff Attorneys (as Mr. Chiplock and, to a lesser extent, Mr. Diamand did) or providing technical or logistical support (as did members of our Litigation Support department), no other Law Firm employees worked on the SST Document review.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 28:

Explain how the Firm supervised and/or performed quality control of the work performed by the Staff Attorneys and others who participated in the SST Document Review, including the name, title, and tasks performed by any supervising individual.

RESPONSE TO INTERROGATORY NO. 28:

LCHB incorporates the general objections stated above. LCHB further objects to this Interrogatory on the grounds that it is overbroad to the extent it seeks information about those

who performed “work” in the SST Litigation at the direction of Thornton or Labaton. Subject to and without waiving those objections, LCHB responds as follows:

For the most part, Kirti Dugar, the Firm’s chief financial analyst and head of the Firm’s Litigation Support department in San Francisco, supervised the Staff Attorneys on a day-to-day basis. As necessary, Mr. Dugar consulted with the lead attorneys on the case (principally, Mr. Chiplock) as to Staff Attorney work assignments, issues of specific concern and emphasis for the litigation (and therefore the document review), and specific coding questions as they arose. Mr. Dugar was also the Firm’s chief internal expert on currency exchange trading throughout both this litigation and the BNYM litigation, having performed estimated damage analyses for several potential clients and class-members himself. Mr. Dugar has over 25 years of experience trading derivatives in financial instruments, equity indices and commodities, including particularly foreign exchange futures and options traded on the Chicago Mercantile Exchange. Mr. Dugar was a key member of the team (led by Richard Heimann, a named partner in our San Francisco office) that analyzed potential claims that could be asserted by the [REDACTED] [REDACTED] against State Street. As a result of that analysis and presentation [REDACTED], which included a detailed Powerpoint presentation by Mr. Dugar on possible damages, [REDACTED] achieved a pre-filing settlement with State Street worth roughly 100% of their estimated losses from State Street’s FX trading practices. The Firm received no acknowledgement or payment for this.

In addition to Mr. Dugar, Nicholas Diamand, a partner in our New York office, and Mr. Chiplock performed some supervision of Staff Attorneys who worked remotely or in the New York area. Mr. Diamand’s emphasis was on timekeeping and ensuring that Thornton received accurate and timely records of work performed by Staff Attorneys whose hours were Thornton’s

financial responsibility. Quality control of the work performed by Staff Attorneys was done by way of periodic review by the lead attorneys at the Plaintiffs' Law Firms of "hot documents" as identified by the Staff Attorneys, as well as secondary review of such documents by Staff Attorneys with prior extensive experience in the BNY Mellon Action.

Daniel P. Chiplock, LCHB Partner, Nick Diamand, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 29:

Explain in detail the job responsibilities and tasks performed by the Staff Attorneys assigned to the SST Document Review, including those Staff Attorneys allocated to Thornton, including but not limited to, coding, deposition preparation, creation of witness kits and similar work.

RESPONSE TO INTERROGATORY NO. 29:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

The Staff Attorneys' job responsibilities and tasks consisted entirely of detailed document review and issue analysis in the case. This included subjective reviewing and coding of all documents produced by State Street for six degrees of relevance and/or strength or weakness in support of Plaintiff's theory of the case. In addition to coding for relevance, Staff Attorneys also identified specific issues and subject matters touched on by each of the documents so that they could be sorted and searched by subject matter or issue at a later date. Where necessary, Staff Attorneys had the ability to enter attorney notes to explain or clarify the decision behind a coding determination. There were more than 30 different issue or document-type codes available for assignment by Staff Attorneys to the documents they reviewed. The initial review

of State Street's documents was largely completed by the end of April 2015, after which the Firm's Staff Attorneys were tasked with preparing detailed memoranda on approximately 18 (out of more than 50) selected themes, issues or witnesses to be further developed in depositions and follow-up discovery. Each memo contained hyperlinks to supporting documents from State Street's production, with some memos exceeding 100 pages.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 30:

Describe the process for assigning and reviewing factual, legal, and/or discursive memoranda prepared by Staff Attorneys, including how such memoranda were relevant to, used as part of the SST Litigation, and/or shared among counsel.

RESPONSE TO INTERROGATORY NO. 30:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

The proposed topics for the factual, legal, and/or discursive memoranda prepared by Staff Attorneys were assigned to the Staff Attorneys beginning in April 2015 as the initial review was nearing completion. The proposed topics (of which there were ultimately more than 50) were developed principally by Michael Lesser of the Thornton Law Firm, and were divided up and assigned via email to the Staff Attorneys at each Plaintiffs' Law Firm. The purpose of the memos was to synthesize the state of the firms' knowledge as to key issues concerning liability and proof based strictly on State Street's own documents at the time, and to lay the groundwork for the next phase of discovery—i.e., further document requests, interrogatories, depositions, and requests for admission—in the event mediation ended without resolution of the case. The

memos were circulated to the lead attorneys at each firm on a rolling basis after they were completed. Had the mediation ended without resolution of the case, the memos would have formed the principal repository of knowledge for the lead attorneys as they geared up for the next phase of the litigation.

Daniel P. Chiplock, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 33:

Explain the origin of the cost-sharing agreement with Thornton through which the Firm agreed to allocate the costs associated with a certain number of Staff Attorneys to Thornton, including the names and descriptions of all other matters in which the Firm entered into a similar arrangement (whether or not documented) to share costs with other firms, prior to or after the SST Litigation.

RESPONSE TO INTERROGATORY NO. 33:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

The Firm agreed, based on a telephonic request made in January 2015 by Garrett Bradley of the Thornton Law Firm to Mr. Chiplock, to either host or share financial responsibility for several Staff Attorneys based on Mr. Bradley's description of Thornton's physical space and facilities as being too limited to host a sufficient number of Staff Attorneys. The Firm's agreement to do this was based on and consistent with the general understanding by Thornton, Labaton, and the Firm throughout the litigation that the firms would strive to share the costs of the litigation equitably.

In re Lithium Ion Batteries Antitrust Litigation, No. 4:13-md-02420-YGR (N.D. Cal.),

between September 2014 and February 2016, LCHB hosted in its New York office a Staff Attorney paid by another law firm. That Staff Attorney had previously worked for LCHB reviewing and translating documents from Japanese to English. In the *Batteries Antitrust* case that Staff Attorney was paid by the other firm, reported to the other firm, and helped prepare that firm's lawyers for depositions concerning the documents the Staff Attorney was reviewing and translating.

Daniel P. Chiplock, LCHB Partner, Steven E. Fineman, LCHB Partner, and Kirti Dugar, Litigation Support, have knowledge of the information provided in this Response.

INTERROGATORY NO. 34:

Describe the Firm's understanding, in or about early 2015, as to how Thornton would account for the allocation/sharing of costs for certain of the Firm's Staff Attorneys in its Fee Petition, including the Firm's understanding as to which firm was responsible for reporting the total number of hours worked by those Staff Attorneys on its Fee Petition and/or Lodestar calculation.

RESPONSE TO INTERROGATORY NO. 34:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

In or about early 2015, it was the Firm's understanding that Thornton would include in its lodestar total (to be reported in any Fee Petition submitted by Thornton) any hours worked by Staff Attorneys for which Thornton had borne financial responsibility.

Daniel P. Chiplock, LCHB Partner, has the most knowledge of the information provided in this Response.

INTERROGATORY NO. 38:

Describe in detail the process through which the Law Firm invoiced or otherwise sought reimbursement from Thornton for costs of those Staff Attorneys allocated to Thornton as part of the SST Litigation/Document Review.

RESPONSE TO INTERROGATORY NO. 38:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

Invoices for work performed by Staff Attorneys Zaul and Jordan between February 9 and April 10 or 13, 2015 were prepared by the Firm's Accounting Department and emailed by Mr. Diamand of our Firm to Evan Hoffman at the Thornton Law Firm on April 24, 2015. These communications have been produced to the Special Master.

Daniel P. Chiplock, LCHB Partner and Nick Diamand, LCHB Partner, have knowledge of the information provided in this Response, as do staff in the Firm's Accounting Department in San Francisco.

INTERROGATORY NO. 39:

Explain the Firm's process for removing time reported by Staff Attorneys allocated to Thornton for whom Thornton reimbursed the Firm, from the Firm's Fee Petition, including the role of the Firm's Accounting Department, and explain why time reported by Christopher Jordan and Jonathan Zaul for reviewing Thornton folders 2/9/15 to 4/14/15 was not removed from the Firm's timekeeping records.

RESPONSE TO INTERROGATORY NO. 39:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

Shortly after discovering the inadvertent inclusion of time reported by Staff Attorneys Zaul and Jordan in LCHB's lodestar total and Fee Petition for work performed between February 9 and April 10 or 13, 2015, Mr. Chiplock instructed the Firm's Accounting Department to remove all such time from LCHB's time records. This instruction was given in November 2016, shortly after the error was discovered and the November 10, 2016 corrective letter was submitted to the Court. This error appears to have been due to miscommunication in the February – May 2015 timeframe between and among the lead attorney on the case (Mr. Chiplock), the partner tasked with ensuring that time was correctly reported and invoiced to Thornton (Mr. Diamand), the person overseeing Staff Attorneys on a day-to-day basis (Mr. Dugar), the Firm's Accounting Department, and the Firm's Human Resources Department. Although great care was taken to ensure both that Thornton was accurately invoiced for this time and that Thornton received contemporaneous reports of this time (with multiple communications exchanged on these topics), the Accounting Department apparently did not receive a direct instruction from any of the individuals listed above to remove this time from the Firm's timekeeping records once the Accounting Department had received payment from Thornton. This was a pure oversight and not intentional.

When reviewing the Firm's detailed lodestar report prior to submitting the Fee Petition (which took place more than a year later), Mr. Chiplock was under the mistaken belief that any Staff Attorney time for which Thornton was financially responsible was not included in the Firm's timekeeping records. The simple fact that a time entry may have indicated review of "Thornton Naumes folders," or something similar, was not by itself indicative of the need to eliminate that time from the Firm's timekeeping records prior to submitting the Fee Petition

because some of that work, which was done in 2015, was not ultimately paid for by Thornton, and some Staff Attorneys were shifted between firms.

Daniel P. Chiplock, LCHB Partner has the most knowledge of the information provided in this Response.

INTERROGATORY NO. 40:

Explain the Firm's process for removing time reported by Staff Attorneys allocated to Thornton for whom Thornton paid directly through a third-party staffing agency from the Firm's Fee Petition, including the role of the Firm's Accounting Department, and explain why time reported by Staff Attorneys Ann Ten Eyck and Rachel Winterle for work performed from March through June 2015, was not removed from the Firm's timekeeping records.

RESPONSE TO INTERROGATORY NO. 40:

LCHB incorporates the general objections stated above. Subject to and without waiving those objections, LCHB responds as follows:

Staff Attorneys Andrew McClelland and Virginia Weiss were paid through an outside agency for their work on the SST Litigation. During the February to mid-April 2015 timeframe, that agency was paid directly by Thornton for the work done by these two attorneys. The corresponding time for these two attorneys during that period was accordingly not entered into the Firm's timekeeping records in the first place, and was instead included in Thornton's timekeeping records. Mr. McClelland left his employment with LCHB and Thornton on or about March 27, 2015 to take a position at another firm. LCHB took back financial responsibility from Thornton for Ms. Weiss' hours on April 21, 2015, after which her time entries were included in LCHB's timekeeping records. In short, the Firm understands Mr. McClelland and Ms. Weiss' time entries to have been appropriately allocated between LCHB and Thornton, without

duplication. There was thus no need to remove any of their time entries from the Firm's timekeeping records.

Shortly after discovering the inadvertent inclusion of time reported by Staff Attorneys Wintterle and Ten Eyck for work performed from March through June 2015 in LCHB's lodestar total and Fee Petition, Mr. Chiplock instructed the Firm's Accounting Department to remove all such time from LCHB's time records. This instruction was given in November 2016, shortly after the error was discovered and the November 10, 2016 corrective letter was submitted to the Court. The Firm believes that Ms. Wintterle's and Ms. Ten Eyck's time was inadvertently included in LCHB's time reports in the first place due to an error in their initial training, which may have been made possible by the unfortunate simultaneous absence of several key people in our San Francisco office when Ms. Wintterle and Ms. Ten Eyck commenced work. In our investigation, the Firm concluded that while working in the Firm's offices, Ms. Wintterle and Ten Eyck regularly submitted their time reports directly to the Firm's Word Processing department for entry into the Firm's timekeeping system. While this would have been ordinary practice for Staff Attorneys employed or contracted by the Firm, Ms. Wintterle and Ten Eyck should have been instructed not to do so. The apparent fact that they were not so instructed appears to be due to an honest mistake on the part of whoever trained them on Firm timekeeping policies when they commenced work in our San Francisco office in March 2015. At that time, our regular San Francisco-based Human Resources Department staffer in charge of Staff Attorney hiring and training (Thony You) was out on maternity leave, and our regular time entry staffer (Christine Dunev) was on a leave of absence. Mr. Dugar, who had the most day-to-day interaction with Staff Attorneys in our San Francisco office, was also out for several weeks in March 2015 visiting relatives in India. Ms. Wintterle and Ms. Ten Eyck accordingly may have

been trained on timekeeping protocols by someone in the Firm's Information Technology ("IT") department who lacked specific knowledge of their status as outside attorneys being paid for by Thornton. In short, due to personnel issues, Ms. Ten Eyck and Ms. Winterle do not appear to have received the same timekeeping training that Mr. McClelland and Ms. Weiss received earlier that year (and whose time, as described above, was correctly allocated).

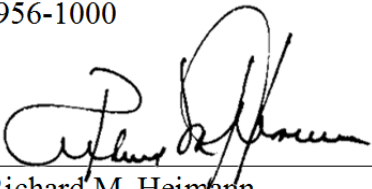
When reviewing the Firm's detailed lodestar report prior to submitting the Fee Petition (which took place more than a year after the document review ended), Mr. Chiplock was under the mistaken belief that any Staff Attorney time for which Thornton was financially responsible was not included in the Firm's timekeeping records. The simple fact that a time entry may have indicated review of "Thornton Naumes folders," or something similar, was not by itself indicative of the need to eliminate that time from the Firm's timekeeping records prior to submitting the Fee Petition because some of that work, which was done in 2015, was not ultimately paid for by Thornton, and some Staff Attorneys were shifted between firms.

Daniel P. Chiplock, LCHB Partner, and Kirti Digar, Litigation Support have knowledge of the information provided in this Response.

Dated: June 1, 2017

Respectfully submitted,

Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
415-956-1000

By: 
Richard M. Heimann
Attorney for Lieff Cabraser Heimann &
Bernstein, LLP

EX. 58

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 11-cv-10230 MLW

-----x

ARKANSAS TEACHER RETIREMENT SYSTEM,
et al.,

Plaintiffs,

-against-

STATE STREET BANK AND TRUST COMPANY,
Defendant.

-----x

JAMS
Reference No. 1345000011

-----x

In Re: STATE STREET ATTORNEYS' FEES

-----x

July 17, 2017
11:13 a.m.

B e f o r e :

SPECIAL MASTER HON. GERALD ROSEN
United States District Court, Retired
Deposition of DAVID GOLDSMITH, taken
by Counsel to the Special Master, held at
the offices of JAMS, 620 Eighth Avenue, New
York, New York, before Jessica Taft, a
Registered Professional Reporter and Notary
Public.

Page 10

[REDACTED]

Page 12

[REDACTED]

Page 11

[REDACTED]

4 A So I spend really most of my time
 5 on class action matters, mostly securities
 6 class action matters. Most of those cases
 7 are securities fraud under the Security
 8 Exchange Act or the Securities Act. So
 9 these are 10(b)(5) and Section 11 cases.
 10 I've also had experience in
 11 individual fraud matters on behalf of large
 12 institutional investors. In particular, I
 13 was one of the partners in the group, in the
 14 firm's RMBS practice group. And so for a
 15 number of years I handled a large series of
 16 cases which were in New York State Supreme
 17 Court, which were common law fraud
 18 litigations based on the issuance and sale
 19 of residential mortgage-backed securities.
 20 Early in my time at Labaton, to
 21 answer your question completely, I worked on
 22 cases that were in Delaware Chancery Court,
 23 but I no longer work on Delaware cases
 24 today. But really mostly securities class
 25 actions is my practice area.

Page 13

[REDACTED]

Page 14

1 D. GOLDSMITH
2 settled for when we actually achieved the
3 settlement agreement in principle. I did
4 have a lot of involvement in the
5 documentation of the settlement and
6 submission of papers relating to the
7 settlement.
8 Q Did you have any involvement in
9 overseeing document review in the case, in
10 this case?
11 A I would say formally, yes, but
12 fairly, in a fairly attenuated basis. I
13 mean it was really Mike Rogers, one of my
14 partners, who was closer to supervising the
15 staff attorney review on a day-to-day basis.
16 But I certainly was involved in that. And
17 in particular I attended and led one of the
18 larger training sessions that we had with
19 staff attorneys who were hired for purposes
20 of the review.
21 Q Did you receive regular or
22 intermittent reports either from Mike Rogers
23 or from Todd Kussin or others with respect
24 to the document review?
25 A Yes, I did.

Page 16

[REDACTED]

Page 15

[REDACTED]

Page 17

[REDACTED]

Page 22

[REDACTED]

Page 24

1 D. GOLDSMITH
2 heavily involved in drafting that complaint
3 and researching claims in the complaint. I
4 was also involved in meetings whereby we
5 would learn the subject matter, learn
6 something about the industry, and
7 investigate the claims involved.
8 I had no role in the preparation
9 and filing of the initial complaint in
10 February.
11 Q With respect to the investigation
12 that you just referred to, what steps did
13 Labaton take to investigate potential claims
14 against State Street?
15 A Well, we did a number of things.
16 One thing that comes to mind is we had at
17 least one, there might have been two
18 meetings with a consulting expert from a
19 firm called FX Transparency in Framingham,
20 Massachusetts. The man from FX
21 Transparency, his name was James McGeehan.
22 He came into our office, he spent probably
23 four hours in our office with us. I
24 remember that Thornton representatives and
25 Lief Cabraser representatives were in our

Page 23

[REDACTED]

Page 25

1 D. GOLDSMITH
2 offices as well, and he basically taught us
3 about FX and indirect FX trading. This was
4 not an area that at least I knew anything
5 about at the time I was asked to work on the
6 case.
7 And so there was a good amount of
8 education that needed to be had. This is a
9 sort of little known corner of the financial
10 services world. And so we learned a lot
11 from Jimmy -- he went by Jimmy -- about FX
12 and that was part of the investigation.
13 Another part of the investigation
14 was finding whatever public information we
15 could relating to the case that would
16 include not only the complaint and
17 intervention, but also what we called IM
18 guides or investment manager guides. These
19 were State Street publications that were
20 important for the case and which were
21 referenced in the complaint.
22 Another -- I should have
23 mentioned this earlier. Another very
24 important part was the analysis that Jimmy
25 did of Arkansas' trades. So we supplied

Page 26
[Redacted text block]

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1 D. GOLDSMITH
2 So I don't think we had the Bank of New York
3 complaint to look to at the time.
4 So that is one of the reasons why
5 this was, I wouldn't call it a blank slate
6 but it was a gray slate.
7 Q Were there any other legal issues
8 that you thought were novel or risky in this
9 case beyond the ones that you have mentioned
10 such as class certification or things of
11 that nature?
12 A Yes. Class certification was a
13 very substantial issue in the case. Again,
14 class certification is somewhat of a known
15 entity in our federal securities cases. I
16 mean there is bells and whistles and there's
17 recent Supreme Court cases that have changed
18 things a bit, but class cert was a question
19 here. You know, we did not bring the breach
20 of contract claim as a class claim because
21 we thought that that would not be a claim
22 that would be susceptible to class
23 certification, but the other claims we did.
24 But there was a real question as
25 to whether you could certify a nationwide

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1 D. GOLDSMITH
2 individual claim or a class claim. We had
3 to make a decision about whether we would
4 assert the negligent misrepresentation and
5 whether that would be a class claim. And we
6 also had to make a decision -- I recall this
7 being, it was a bit of debate about this,
8 about whether we would assert a breach of
9 fiduciary duty claim and whether that would
10 be a class or individual claim.
11 In my experience when we write
12 complaints in our federal securities cases,
13 most of those decisions are pretty settled
14 about what kind of claims you have and
15 whether they are class claims or not. It is
16 pretty, pretty much known at our firm how
17 this gets ordered.
18 In this case, we, this was new
19 territory in many ways because custody banks
20 are almost never sued. And this was
21 something different and predated the Bank of
22 New York case in many respects procedurally.
23 In fact, I believe the initial
24 complaint, I believe, was filed before the
25 Bank of New York litigation was commenced.

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1 D. GOLDSMITH
2 class on the Massachusetts 93(a) claim, for
3 example, same for the other claims, the
4 fiduciary duty claim and the negligent
5 misrep claim. For one thing, the custodial
6 contracts that each custodial client had
7 with State Street were not identical.
8 State Street negotiated all of
9 these contracts individually, we learned.
10 And so that is certainly a defense that
11 State Street would have raised.
12 There were many other litigation
13 risks that we identified even after we get,
14 got past the motion to dismiss. I mean one
15 thing that comes to mind is that in I think
16 it was July 2013, there was a case called
17 Louisiana Municipals, one of the Louisiana
18 pension funds, against the JP Morgan
19 custodial bank here in New York before Judge
20 Cote. Judge Cote dismissed the whole case.
21 That case was premised on the New
22 York consumer protection statute, which is
23 an analog to the Massachusetts protection
24 statute. The statutes are not identical,
25 but they are fairly analogous and Judge Cote

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1 D. GOLDSMITH
2 position and so we proceeded jointly in
3 terms of the mediation.
4 In fact, I think it was -- sorry,
5 I think it was Larry who invited ERISA
6 counsel to become involved in the mediation
7 originally.
8 Q You weren't concerned about ERISA
9 preemption or anything along those lines?
10 A That is an issue that did come
11 up. So we did not assert an ERISA claim in
12 our complaint, but we did allege a class
13 which was broad enough to encompass ERISA
14 governed assets.
15 So I know that some counsel -- it
16 might have been Dan Chiplock of Lieff
17 Cabraser -- had mentioned some issues about
18 possible ERISA preemption sort of on a, you
19 know, handful of times. And I took that
20 concern as a real one and responded to it.
21 I don't think I mentioned it in the first
22 instance.
23 Q Now, David, you said that you
24 took an active role in the amended
25 complaint.

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[REDACTED]

Page 43

[REDACTED]

Page 45

[REDACTED]

Page 46

[REDACTED]

Page 48

1 D. GOLDSMITH
2 Were other related issues such as
3 fiduciary relationships or things of that
4 nature of concern to you, or were there any
5 discussions either with ERISA counsel or
6 among the big three firms?
7 A I think the best way to answer
8 your question is I felt personally that our
9 case was stronger than theirs in many ways.
10 We had gotten past a motion to dismiss; the
11 ERISA cases had not. I had read the, you
12 know, State Street motions to dismiss that
13 were filed in the ERISA cases. And whereas
14 I am not an ERISA specialist, I thought they
15 had some decent argument, so I don't know
16 whether those complaints would have
17 survived.
18 And based largely on our efforts
19 they were able to settle their cases without
20 having those allegations tested.
21 I thought that our consumer
22 protection claims were strong based on the
23 nature of 93(a). We felt there was a strong
24 claim.
25 I think there might have been

Page 47

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Page 49

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Page 62
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Page 64
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Page 63
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Page 65
1 D. GOLDSMITH
2 MR. SINNOTT: Well, thank you
3 for your patience as we all engaged in
4 this discussion.
5 MS. LUKEY: Probably all poorly
6 informed with the probable exception
7 of Elizabeth.
8 THE WITNESS: I feel like I am
9 in good company.
10 BY MR. SINNOTT:
11 Q Are you aware, David, that the
12 ERISA counsel were using a different
13 database than the big three?
14 A Not specifically. I am aware
15 that they were not affirmatively included in
16 the big three's database.
17 Q Why was that?
18 A There is no particular reason for
19 it. You know, we and Thornton and Lieff, we
20 made efforts to request information from
21 State Street in a manner that was not under
22 the formal federal rules of civil procedure
23 but in an information exchange rubric and
24 they produced a lot of documents to us and
25 we loaded the documents and reviewed them.

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1 D. GOLDSMITH
 2 I don't think we viewed our
 3 mandate with discovery as being joint with
 4 the ERISA plaintiffs necessarily. The cases
 5 were consolidated, but they were different
 6 claims on behalf of classes that may have
 7 overlapped but which were not the same.
 8 Q But weren't they part of the same
 9 mediation sessions?
 10 A They were. They were. And we
 11 never got a request from ERISA counsel to
 12 provide database information or to provide
 13 documents to them or to include them in
 14 certain document productions or the like.
 15 So it just really isn't an issue that came
 16 up very much.
 17 Q Did that surprise you?
 18 MS. LUKEY: I am sorry, did
 19 what?
 20 Q That they weren't asked, that you
 21 weren't asked for documents by the ERISA
 22 firms?
 23 A I don't have a very clear
 24 recollection of, about that. There may have
 25 been a time where I thought to myself what

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[REDACTED]

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1 D. GOLDSMITH
 2 are the ERISA folks doing in terms of
 3 documents. But it wouldn't have been more
 4 than a thought to myself. I did not reach
 5 out and commence any dialogue on that
 6 subject.
 7 Q Were you familiar with any
 8 confidentiality agreements or protective
 9 orders that might have affected that dynamic
 10 of, you know, separate but equal or, you
 11 know, documents not going to ERISA?
 12 A Not in particular. We certainly
 13 had a protective order in the case, which
 14 was signed off on by Judge Wolf.
 15 To the extent that that
 16 protective order impacted the ERISA
 17 counsel's ability to receive or review
 18 documents, I don't, I just don't recall that
 19 today, but it is possible that the order may
 20 speak to that issue.
 21 MS. McEVOY: In addition to
 22 that order, if I could ask a quick
 23 follow-up, were there also
 24 confidentiality agreements between the
 25 Arkansas group and State Street on one

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Page 74

[REDACTED]

Page 76

1 D. GOLDSMITH
 [REDACTED]

Page 75

[REDACTED]

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1 D. GOLDSMITH
 2 a reasonable amount of time. I think there
 3 was a concern that if we just had the
 4 current people review the Hill production,
 5 it would take forever, basically.
 6 Q Sure. It was an issue of
 7 capacity?
 8 A Yes.
 9 Q Can I assume that you can't just
 10 take new hires cold and put them into
 11 document review, that it requires training
 12 and supervision?
 13 A It does.
 14 Q Did you come up with a plan for
 15 that?
 16 A Yes. I mean we had, we had
 17 manuals relating to the Relativity or the
 18 Catalyst database in terms of the technical
 19 aspects of how to profile the documents. I
 20 think those were provided by Lief Cabraser
 21 because the database was actually, it was
 22 actually housed at Lief Cabraser.
 23 We also had kind of a substantive
 24 manual or substantive materials introducing
 25 the new hires to the case and talking about

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[REDACTED]

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1 D. GOLDSMITH
2 Bradley must be his brother.
3 That, what I subsequently came to
4 realize is that on November 1st, 2016, the
5 day before the fairness hearing, the day
6 before the settlement and fee hearing, there
7 was an e-mail from Garrett to Nicole Zeiss,
8 which Nicole Zeiss forwarded to me, where
9 Garrett asked, "Nicole how many hours did my
10 brother work on this case?" And then there
11 were some communications relating to that.
12 That was really the first time
13 that I ever knew that Garrett's brother had
14 any involvement in the case whatsoever.
15 Q You are referring, among other
16 things, to in response to Garrett's message,
17 how many hours did my brother put in on
18 State Street, how much was his rate,
19 Nicole's response, "Who is your brother?"
20 A Correct.
21 Q Do you recall a May 20, 2014
22 e-mail from Mike Lesser to you where he's
23 looking for document review hours excluding
24 his, and he mentions Mike Bradley, and then
25 parentheses attorney; Andrea Carruth,

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1 D. GOLDSMITH
2 think those were also divvied up between the
3 two firms to some degree.
4 So, I think there was some
5 confidence generally going forward that we
6 weren't duplicating subject matter or
7 stepping on each other's toes.
8 Q Let me shift gears here.
9 Did you know that Michael Bradley
10 was involved in document review?
11 A Not during the course of the
12 document review, no.
13 Q When did you first learn that
14 Michael was involved in document review?
15 A So let me answer the question in
16 a slightly convoluted way.
17 When you interviewed me on April
18 the 4th, I told you the first I ever heard
19 the name Michael Bradley was when Garrett
20 Bradley mentioned to me on November 8th that
21 his brother was -- that questions were being
22 raised about his brother by the Boston
23 Globe.
24 Then on November 8th I then
25 looked into it and realized, oh, Michael

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[REDACTED]

Page 114

[REDACTED]

Page 116

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Page 115

1 D. GOLDSMITH
[REDACTED]

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1 D. GOLDSMITH
2 A Which declaration? Ours?
3 Q In the fee petition.
4 A It was -- so our firm was lead
5 counsel, and it was our firm's
6 responsibility to report our own hours, our
7 own firm's hours accurately, and I think
8 it's fair to say that it was our firm's
9 responsibility to detect and correct errors
10 to the extent that we could find them in the
11 other firm's fee declarations.
12 Q And at Labaton as lead counsel,
13 whose responsibility was that?
14 A I mean that review was delegated
15 to Nicole Zeiss, but I also considered that
16 partly my responsibility because I was
17 getting the entire set of papers filed and I
18 considered myself to have responsibility for
19 the settlement fee papers as a whole.
20 JUDGE ROSEN: So would it be
21 accurate to say that between you and
22 Nicole, it was, your shared
23 responsibility to have ensured that
24 the fee petition and the declaration
25 were accurate?

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[REDACTED]

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1 D. GOLDSMITH

2 A No.

3 Q So you have no involvement in

4 that process?

5 A Correct.

6 Q Do you know if the firm adjusts

7 its rate depending on the venue of a case?

8 A I believe we do not.

9 Q Let me get to what I am sure is a

10 few days that you would like to forget and

11 that would be early October of 2016. I am

12 sorry. What did I say, December? You knew

13 exactly what I meant, early November of

14 2016. And ask you how you first learned of

15 there being a problem?

16 A I received a call from Garrett

17 Bradley on Tuesday, November 8th, that he

18 had received a communication from the Boston

19 Globe that the Boston Globe had reviewed our

20 fee submissions and noticed that certain of

21 the staff attorneys appeared on both the

22 Thornton lodestar report and Labaton

23 lodestar report with exactly the same number

24 of hours down to a decimal point.

25 Q Did Garrett say why they should

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[REDACTED]

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1 D. GOLDSMITH

2 have been just on the Thornton report?

3 A No. Garrett made no, he had no,

4 nothing to say about -- he knew that there

5 was a problem. He had nothing to say about

6 why or how it should have been.

7 Q What were the next steps that you

8 took after that conversation?

9 A He did say one thing, I am sorry,

10 just to be complete. He said that the

11 Boston Globe also made a comment about

12 rates. And he said about the Thornton

13 rates, that these are our rates. Sorry to

14 interrupt you.

15 Q No, that is helpful.

16 A He also said -- I am not sure if

17 this was part of your question, but he also

18 alluded to "my brother," he said something

19 to the effect of the Globe is giving me

20 grief about my brother. That is where I

21 really learned for the first time that his

22 brother was involved in this case.

23 JUDGE ROSEN: Was this

24 also the first time that you learned

25 that Thornton had claimed on its fee

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[REDACTED]

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1 D. GOLDSMITH
 2 I did have a call subsequently
 3 with Mike Lesser and Kevin Hoffman and I
 4 think Nicole Zeiss joined me for that call.
 5 We were trying to figure out what was going
 6 on, and I have a vague recollection of Evan
 7 Hoffman saying something to the effect of,
 8 you know, we just put the people on based on
 9 the names that were given to us. And I
 10 said, well, what the heck is that all about?
 11 And I didn't get a very clear answer.
 12 Q Did anyone claim or reference an
 13 agreement of any kind between Labaton and
 14 Thornton?
 15 A No.
 16 Q What were the next steps that you
 17 took, David?
 18 A So I had lots of meetings and
 19 lots of conversations with people in the
 20 firm, so many that it would be difficult to
 21 catalog all of them.
 22 But I talked a lot at this point
 23 actually with Joel Bernstein who was a
 24 senior partner of the firm. At that point
 25 he was on the executive committee. His

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[REDACTED]

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1 D. GOLDSMITH
 2 office was down the hall. We work very
 3 closely together, so I sort of turn to him
 4 naturally as a member of the executive
 5 committee to liaise with regarding this
 6 major issue.
 7 The reason I spoke to him
 8 and not Larry was Larry happened to be out
 9 of town on a vacation and it was difficult
 10 to reach.
 11 I spoke with Mike Stocker. I am
 12 not saying what I said, but I did speak with
 13 him. Certainly Nicole Zeiss and I were
 14 talking a lot. I spoke with Howard
 15 Goldberg. I spoke with Danette McKenzie, I
 16 spoke with Todd Kussin. And I basically led
 17 an effort to determine internally what the
 18 double counting was and how we could correct
 19 it and disclose the problem to the court.
 20 In my mind, the speed, subject to
 21 accuracy, was of paramount importance. I
 22 was concerned that Judge Wolf had signed off
 23 on a fee order that was based in part on
 24 information that was not entirely accurate.
 25 And we wanted to correct that.

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1 D. GOLDSMITH
 2 lower, say 415, Thornton's rate across
 3 the board would have been 425?
 4 THE WITNESS: Yes.
 5 JUDGE ROSEN: Were there any
 6 staff attorneys that were double
 7 counted on the Labaton side that those
 8 rates would normally have been higher
 9 and were in fact higher on the Labaton
 10 fee petition than the Thornton rates?
 11 Did you find any of those?
 12 THE WITNESS: So to my
 13 recollection, for all of the 17 staff
 14 attorneys who were listed on both the
 15 Thornton and Iodestar, Labaton
 16 Iodestar reports, the rate on the
 17 Thornton Iodestar report was higher
 18 than the rate on the Labaton Iodestar
 19 report.
 20 JUDGE ROSEN: For all 17?
 21 THE WITNESS: Yes, sir, that is
 22 my recollection.
 23 JUDGE ROSEN: And Michael
 24 Bradley was sui generis because he was
 25 not an overlap.

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1 D. GOLDSMITH
 2 THE WITNESS: Correct. Our
 3 rates, to be clear, differed among
 4 staff attorneys based on their level
 5 of experience. Thornton applied a
 6 uniform rate.
 7 JUDGE ROSEN: Did you ever
 8 discover where they got the 425 for all?
 9 THE WITNESS: No.
 10 MR. HEIMANN: But we know the
 11 answer to that, Judge. I can give it
 12 to you if you want. We've had
 13 testimony about it.
 14 JUDGE ROSEN: Okay, I am sure
 15 we got it.
 16 BY MR. SINNOTT:
 17 Q So you said earlier, David, that
 18 when you first heard this you said we got to
 19 communicate this to Judge Wolf. So was that
 20 done?
 21 A Yes.
 22 Q How was it done?
 23 A It was done by letter on
 24 November 10th, 2016.
 25 Q Did you draft the letter?

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1 D. GOLDSMITH
 2 A I did.
 3 Q Who else participated in the
 4 drafting of the letter?
 5 A So I was the draftsperson. I did
 6 receive comments from a fairly large number
 7 of people over that compressed period of
 8 time from both inside my firm and from the
 9 Thornton and Lieff firms. I also circulated
 10 the letter to the ERISA firms, and I do
 11 recall receiving comments from some of them
 12 as well.
 13 Q Were there any significant
 14 disagreements with respect to the contents
 15 of the letter?
 16 A The only two subjects that I
 17 would characterize that way are when I wrote
 18 the letter, I said that we received an
 19 inquiry from the Boston Globe, and Garrett
 20 did not want to disclose that the media
 21 organization was the Boston Globe. He just
 22 wanted to say media organization. We ended
 23 up just saying media organization.
 24 Q Was there also a request from --
 25 A And there was another, I am

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1 D. GOLDSMITH
 2 sorry, just to complete my answer.
 3 I do recall there was some
 4 disagreement about what exactly would be
 5 said with regard to the ERISA counsel's part
 6 in this. I had written a footnote saying I
 7 think pretty candidly that the Iodestar
 8 reports of the ERISA counsel appear
 9 unaffected. I can recall receiving some
 10 comments that tried to expand on that and,
 11 you know, kind of distanced the ERISA
 12 counsel from us, and there was some
 13 massaging of that.
 14 Q Okay. That's what I was about to
 15 ask you, so thank you.
 16 A Sure.
 17 Q What was your objective in
 18 drafting this letter?
 19 A The objective was to disclose
 20 candidly and quickly to Judge Wolf that
 21 there were inaccuracies in our papers and to
 22 invite the court to make whatever orders or
 23 directions he saw fit.
 24 It was also to resolve any
 25 potential ambiguity in how one would

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[REDACTED]

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1 D. GOLDSMITH
 2 an issue with you?
 3 THE WITNESS: No, sir.
 4 JUDGE ROSEN: That was your
 5 discussion in the original draft that
 6 was circulated, not somebody else's
 7 suggestion to put that in?
 8 THE WITNESS: It was definitely
 9 not the suggestion of another firm.
 10 My recollection is that it was my
 11 suggestion to make that presentation.
 12 BY MR. SINNOTT:
 13 Q David, let me show you a couple
 14 items that the firm has provided to us and
 15 these are Bates numbers -- I am sorry, these
 16 are from Thornton Law Firm, Thornton Law
 17 Firm-SST-012243, 2244 and 2246. And the
 18 first item appears to be an e-mail from you
 19 with the balance of the pages attached, the
 20 letter attached. But in the cover e-mail
 21 you say: "Attached please find a draft
 22 letter setting out our plan with regard to
 23 the November 10th letter we filed with the
 24 court and future distribution of fees and
 25 expenses. Please let us know if you have

Page 151

[REDACTED]

Page 153

1 D. GOLDSMITH
 2 any comments or concerns. We would like to
 3 circulate a final version and collect
 4 signatures. This is dated Monday,
 5 November 21, 2016, so 11 days after your
 6 letter to the court went out.
 7 And then looking at the letter
 8 which appears to be the final version or at
 9 least it has a subsequent date of
 10 November 21st, it's a letter to all counsel
 11 including ERISA counsel. And in that
 12 letter, you reference the inquiry from the
 13 Boston Globe and your letter to the court.
 14 And then you indicate that in
 15 that, near the bottom of that first page of
 16 the letter: "Because the fee was determined
 17 based on the percentage-of-fund method, and
 18 the overstatement of the lodestar resulted
 19 only in a modest increase in the multiplier
 20 cross-check, we argued that the fee was
 21 fully supportable on the court's stated
 22 rationale and that no changes were required.
 23 "Further, the letter offered our
 24 apology for the errors, and indicated that
 25 we were available to respond it any

Page 154

1 D. GOLDSMITH
 2 questions or concerns the court may have."
 3 You then indicated that, "The fee
 4 order and the court's order and final
 5 judgment became final on December 2nd, and
 6 the settlement will become effective shortly
 7 thereafter on December 7, 2016. Because
 8 there were no objections to the settlement
 9 or requested fees, no class member has
 10 standing to appeal the fee order or
 11 judgment."
 12 You indicate that the court had
 13 not acted on the letter and if it did not by
 14 December 7th: "We will begin the process of
 15 withdrawing the approved fees, expenses and
 16 service awards from the lead counsel escrow
 17 account for prompt distribution to your
 18 firms."
 19 And then in the next paragraph
 20 you indicate: "It is possible, however,
 21 that the court will respond adversely to the
 22 letter and ultimately reduce the fee award.
 23 This could occur after the fees, expenses
 24 and service awards have been distributed to
 25 your respective firms and to the other ERISA

Page 156

[REDACTED]

Page 155

1 D. GOLDSMITH
 2 counsel."
 3 And then most importantly, in the
 4 next to the last paragraph you say:
 5 "Accordingly, before we distribute your
 6 shares of the fees, expenses and service
 7 awards, we will require an undertaking,
 8 evidenced by your signature below,
 9 concerning your agreement to refund to us
 10 within five business days for redeposit into
 11 the lead counsel escrow account, your pro
 12 rata share of any court-ordered reduction of
 13 fees, expenses and/or service awards."
 14 What prompted this letter and in
 15 your own words can you tell us what the
 16 significance of this letter is?
 17 A So this is a letter that I wrote
 18 basically at Larry Sucharow's direction.
 19 There came a point in time after we sent the
 20 November 10th letter where we thought it was
 21 possible that we would be able legitimately
 22 to take down our court awarded fees and
 23 expenses and to distribute them among
 24 co-counsel, so to get paid in the case.
 25 But we recognize that this letter

Page 157

[REDACTED]

Page 158

1 D. GOLDSMITH
 2 to deal with the issue at hand. But
 3 also to distribute the fees and
 4 expenses pursuant to the settlement
 5 agreement.
 6 JUDGE ROSEN: But that doesn't
 7 really answer the question I asked
 8 which was: Was it fair to -- the
 9 ERISA folks, as near as we can tell,
 10 had nothing to do with this. They
 11 didn't have this cost-sharing
 12 agreement. They weren't allocated
 13 staff attorneys. They weren't part of
 14 your fee petition.
 15 Was it fair to ask the ERISA
 16 attorneys to share on a pro rata basis
 17 any court ordered reduction of fees,
 18 expenses or service awards?
 19 THE WITNESS: I mean, all I
 20 can say about that was we wanted to
 21 protect ourselves to the extent
 22 possible. We didn't know what Judge
 23 Wolf would do with our letter. We
 24 didn't know exactly what had happened
 25 at that point. And we thought that

Page 159

1 D. GOLDSMITH
 2 the best way to deal with this would
 3 be to gather signatures from
 4 everybody, even if perhaps they
 5 apparently weren't involved in the
 6 double counting, that if there was a
 7 reduction that applied to them, that
 8 they would return the money.
 9 So if I understand Your Honor's
 10 question, I suppose that if there
 11 were, if there was a determination
 12 that expressly applied only to some
 13 firms, then I guess this letter would
 14 bring up some questions about how that
 15 would be handled.
 16 JUDGE ROSEN: You got some
 17 push-back from the ERISA firms on
 18 that?
 19 THE WITNESS: The only
 20 push-back we got was from Brian
 21 McTigue. We got a lot of push-back
 22 from Brian McTigue. We didn't get any
 23 push-back to my recollection from Lynn
 24 Sarko or Carl Kravitz.
 25 BY MR. SINNOTT:

Page 160

1 D. GOLDSMITH
 2 Q Did they sign off on the letter?
 3 A Ultimately, everyone signed off
 4 on the letter. But we basically to my
 5 recollection, we got everybody's signature
 6 within a couple days. Then we had to wait
 7 weeks to get Brian McTigue's signature.
 8 JUDGE ROSEN: It sort of
 9 became a non-issue, right, because as
 10 I -- was there ever an allocation of
 11 distribution of the fees and expenses?
 12 THE WITNESS: Yes. I mean the
 13 counsel received their -- counsel
 14 received their fees and their expenses
 15 in this case consistent with our
 16 internal fee division agreements.
 17 JUDGE ROSEN: But was this
 18 agreement itself ever implemented?
 19 THE WITNESS: No, sir.
 20 JUDGE ROSEN: I misstated it,
 21 but that is what I meant.
 22 BY MR. SINNOTT:
 23 Q Were you aware during your
 24 association with Garrett on this case that
 25 for at least a portion of the time he was of

Page 161

[REDACTED]

EX. 59

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JAMS, Inc.

Reference No. 1345000011

-----x

In Re State Street Attorneys Fees

-----x

June 6, 2017

2:00 p.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of JONATHAN ZAUL,
taken by Counsel to the Special Master,
held at JAMS, Inc., 620 Eighth Avenue, New
York, New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629875

Page 6

1
 2 MR. SINNOTT: Can I confirm
 3 there is no one else on the line.
 4 (No response.)
 5 JONATHAN ZAUL,
 6 having first been duly sworn by a Notary
 7 Public of the State of New York, was
 8 examined and testified as follows:
 9 EXAMINATION BY
 10 MR. SINNOTT:
 11 Q. Jon, my understanding is that
 12 you are an attorney, is that correct?
 13 A. Yes.
 14 Q. And that you graduated from
 15 University of California, Berkeley in
 16 2004, and University of San Francisco
 17 School of Law in 2009, is that correct?
 18 A. Yes.
 19 Q. Since your graduation in 2009
 20 from University of San Francisco School of
 21 Law, tell us about your legal career.
 22 A. I spent a little bit over a
 23 year working for California Superior Court
 24 trial judge Julie Tan and I worked on both
 25 civil and criminal matters as well as in

Page 8

[REDACTED]

Page 7

1 ZAUL
 2 the juvenile delinquency court.
 3 After that I started my own
 4 practice where I primarily worked on
 5 telecom commercial leases, helping to
 6 build their cell site infrastructure.
 7 I also worked on some
 8 landlord/tenant issues.
 9 Q. Is that firm still in
 10 existence?
 11 A. I ran it under my name as a
 12 sole proprietor and I'm not practicing
 13 actively.
 14 Q. When did that stop being an
 15 active concern?
 16 A. As best I can recall, it has
 17 been years, I would say my work for that
 18 firm tapered off during the time that I
 19 transitioned to working as a staff
 20 attorney for Leiff Cabraser.
 21 Q. Was that in 2012?
 22 A. Yes.
 23 Q. When you were hired as a staff
 24 attorney by Leiff Cabraser, was it to work
 25 on a particular case or for general

Page 9

[REDACTED]

Page 14
[Redacted text]

Page 16
[Redacted text]

Page 15
1 ZAUL
2 communicated at times with Nick Diamand
3 and Daniel Chiplock.
4 Q. Did you work out of an office
5 or did you work remotely?
6 A. There was a point -- there
7 were times that I worked in the office and
8 also times I worked remotely and there was
9 a point during which I transitioned to
10 fully remote work.
11 Q. During the State Street case,
12 were you going through those different
13 stages or were you strictly office,
14 strictly remote, for that five- to
15 six-month period?
16 A. To the best of my recollection,
17 I was strictly remote.
18 But my office arrangement, I
19 don't recall clearly when I transitioned
20 fully to remote work, whether it happened
21 during The Bank of New York Mellon case or
22 State Street.
23 Q. When you were working in the
24 office, is that the San Francisco office?
25 A. Yes.

Page 17
[Redacted text]

Page 22

1 ZAUL
2 State Street and its custodian had a
3 fiduciary duty towards its custodial
4 clients and there was an understanding of
5 fees that they charged, most of these were
6 fixed fees, maybe a schedule of ancillary
7 fees, and as far as I can recall, it was
8 not disclosed that there would be fees
9 charged for foreign exchange transactions
10 and deceptive practices surrounded the FX
11 trading and that would occur when
12 custodian clients needed to purchase or
13 sell foreign securities through their own
14 accord or through their investment
15 manager.
16 They would have the option to
17 have standing instructions with the
18 custodian to execute those trades or they
19 might have elected to directly negotiate
20 those foreign exchange transactions and
21 the fraud or deceptive practices had to do
22 with the standing instructions that were
23 in place, because it was not disclosed to
24 their clients that a profit was being made
25 from executing those standing

Page 23

1 ZAUL
2 instructions.
3 Q. Deceptive practices, lack of
4 transparency is part of those deceptive
5 practices?
6 A. Right.
7 Q. During the course of your
8 document review over those five or six
9 months, did you identify any hot
10 documents?
11 A. I don't recall whether I did; I
12 would say that it typically would be
13 likely, I generally do identify hot
14 documents, I believe that I have in every
15 review I have worked on.
16 I don't recall specifically,
17 other than the research memo that we were
18 tasked to work on.
19 Clearly the issues that we were
20 assigned to research would reference
21 documents that were at least highly
22 relevant, I don't know exactly what level,
23 it could be nuance levels of relevance,
24 whether it would be appropriate or helpful
25 to support a motion or for a deposition,

Page 24

1 ZAUL
2 something definitely needed to be included
3 as a trial exhibit.
4 Q. How many memoranda were you
5 assigned to draft?
6 A. This is where I am not sure,
7 because I know I was assigned memos for
8 Bank of New York Mellon, but I clearly
9 recall having worked on at least one.
10 Q. Do you know what the subject
11 matter was for that memorandum?
[REDACTED]

Page 25

1 ZAUL
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 Q. Did you ever receive any
7 feedback on your document review work from
8 anyone at Lieff?
9 A. I believe that I received more
10 feedback in the Bank of New York Mellon
11 case and by the time we started working on
12 State Street, I don't know if it was as
13 applicable or as necessary to receive
14 frequent feedback.
15 Q. Did you ever receive any
16 feedback on the number of documents you
17 would review or whether you needed to
18 review more or anything like that?
19 A. No, I don't recall receiving
20 any feedback about that.
21 To my best recollection, Kirti
22 would be monitoring the process, because
23 we did receive at least one e-mail
24 informing us how we should allocate our
25 work, just checking in with us the status

Page 38

1 ZAUL
2 this?
3 Q. Yes.
4 A. No, not at all.
5 Q. I'm taking you back to 2015.
6 A. Sure.
7 Q. Did you ever communicate with
8 any other attorney other than from Loeff
9 or Labaton or Thornton Law Firm, such as
10 Evan Hoffman, about the State Street case?
11 A. No.
12 Q. Did you ever speak with any
13 class representatives or plaintiffs in the
14 case?
15 A. No.
16 Q. How much an hour do you make?
17 A. Well, I'm salaried now, so I
18 don't know exactly.
19 Q. What's your salary?
20 A. Last year I believe, not
21 including a bonus, [REDACTED]
23 Q. When you were brought onboard,
24 it was on an hourly rate, correct?
25 A. Yes.

Page 40

[REDACTED]

Page 39

1 ZAUL
2 Q. What was that hourly rate?
3 A. I started at \$40 an hour.
4 JUDGE ROSEN: Jonathan, when
5 you said [REDACTED] is that plus
6 benefits?
7 THE WITNESS: That doesn't
8 include benefits.
9 JUDGE ROSEN: Do you get
10 benefits?
11 THE WITNESS: Yes.
12 JUDGE ROSEN: So [REDACTED]
13 [REDACTED] plus benefits?
14 THE WITNESS: Yes.
15 JUDGE ROSEN: When you started,
16 you were at 40?
17 THE WITNESS: I started at 40;
18 I believe while I was working on State
19 Street or prior to that time I received a
20 raise to \$50 an hour.
21 Q. Were you aware as to back then
22 what the firm was billing you out at
23 during the State Street case?
24 A. No.
25 Q. Are you aware of it now?

Page 41

[REDACTED]

EX. 60

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JAMS, Inc.

Reference No. 1345000011

-----x

In Re State Street Attorneys Fees

-----x

June 5, 2017

12:00 p.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of DAVID H. ALPER,
taken by Counsel to the Special Master,
held at JAMS, Inc., 620 Eighth Avenue, New
York, New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629858

1
 [Redacted text block]

[Redacted text block]

1
 [Redacted text block]

1 ALPER
 2 of questions about your background, but if
 3 you could just tell us about your
 4 education and your legal experience prior
 5 to coming to Labaton.
 6 A. Sure.
 7 I was born and raised in New
 8 York, I went to high school at Horace Man,
 9 attended Tulane University and upon
 10 graduation I went to the University of
 11 District of Columbia Law School and
 12 obtained my law degree and proceeded to
 13 sit for the New York and New Jersey bars.
 14 I passed them both, upon which
 15 time I was seeking employment, I guess a
 16 number of years ago, I accepted a
 17 situation on Wall Street as opposed to
 18 going into law.
 19 Q. Tell us about your experience
 20 on Wall Street in the financial services
 21 industry.
 22 A. Sure.
 23 I guess when I entered -- I
 24 guess when I joined Wall Street, people
 25 can't really get their arms around the

Page 10

1 ALPER
 2 fact that interest rates were about 17 or
 3 18 percent and there was a huge burgeoning
 4 field called Treasury bond brokering and a
 5 couple of my very, very close friends
 6 graduated from their respective colleges
 7 and entered pretty high-powered training
 8 positions, one at Salomon Brothers, one at
 9 Banker's Trust, and one of them basically
 10 reached out to me and said if law is not
 11 doing it for you, do you want to come try
 12 covering us.
 13 So I ended up joining a firm
 14 that was somewhat akin to Cantor
 15 Fitzgerald, it was not Cantor, but it was
 16 an interdealer bond broker, basically IDB,
 17 and what we did was we crossed
 18 transactions between primary dealers in
 19 the Treasury market.
 20 So basically the entire yield
 21 curve going from Treasury bills on up to
 22 30-year bonds were basically brokered, we
 23 were basically a dealer's broker, we were
 24 in business because the various traders
 25 were supposedly not allowed to know who

Page 11

1 ALPER
 2 was on the other end of the transaction.
 3 Q. How long did you work there?
 4 A. I was in that industry I guess
 5 from 1987 until I guess 2007.
 6 Q. While you were in that
 7 industry, did you have experience with
 8 foreign exchange transactions?
 9 A. I had a little experience in
 10 foreign exchange transactions, but after
 11 the entire credit crisis, my business kind
 12 of dried up a little.
 13 One of these trader friends of
 14 mine ended up running a hedge fund desk, a
 15 macro desk, at [REDACTED],
 16 and they were in dire need of additional
 17 middle office assistance, not only
 18 clearing these Treasury trades, but more
 19 importantly clearing FX trades.
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 JUDGE ROSEN: They had a what?
 24 THE WITNESS: [REDACTED]
 25 [REDACTED]

Page 12

1 ALPER
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 At the time it was only one
 9 person doing it and I said, you know, I
 10 have a law degree, I think I can manage
 11 this.
 12 So for the next year and change
 13 I ended up specifically in the foreign
 14 exchange middle office clearing area of
 15 [REDACTED].
 16 Q. How long did you do that for?
 17 A. I guess about a year.
 18 Q. Then what did you do?
 19 A. Then I went to [REDACTED] for
 20 about seven months, didn't enjoy selling
 21 insurance, and I gravitated towards
 22 doing -- I kept my law degree and
 23 everything active and I recognized the
 24 fact that there was I guess an ongoing
 25 need for people who had finance background

Page 13

1 ALPER
 2 but also a legal and bar degree doing
 3 document, e-discovery.
 4 Q. That's when you came to
 5 Labaton?
 6 A. Correct.
 7 Q. What year did you join Labaton?
 8 A. Oh, gosh, I don't have my
 9 resume in front of me.
 10 Unfortunately, a lot of these
 11 positions are kind of femoral, I don't
 12 have the exact date on hand, but I do know
 13 that I have been at Labaton, this was my
 14 fourth stint with them.
 15 If I had my resume in front of
 16 me, I would be glad to give you, I didn't
 17 bring it with me.
 18 Q. I'm just looking for rough time
 19 frames.
 20 Putting aside the current case,
 21 the instant case, were there other
 22 occasions when your background in foreign
 23 exchange proved useful to Labaton?
 24 A. Not necessarily Labaton, but to
 25 other e-discovery situations it came in

Page 62

1 ALPER
2 saying, in addition, today I basically --
3 today I was researching and writing a
4 preliminary memo discussing [REDACTED]
5 in the State Street -- the ARTS versus
6 State Street case matter.
7 Q. Did Labaton give you any
8 training in time entry?
9 A. You know, it wasn't really that
10 difficult; it was just basically, as I
11 said, you click on that -- you click on
12 that icon on your desktop, Rainmaker came
13 up, you put your time in, and you also
14 would put your time down as you walked
15 into the office manually --
16 JUDGE ROSEN: You mean you
17 clocked in?
18 THE WITNESS: Well, it was a
19 binder with everyone's name on it, Dave
20 Alper, 8:38, you know, lunch at 1:05, you
21 know, back from lunch at, you know, 1:35,
22 out at 7:42.
23 Q. Were you ever aware of a
24 cost-sharing arrangement with Thornton Law
25 Firm?

Page 64

[REDACTED]

Page 63

[REDACTED]

Page 65

[REDACTED]

EX. 61

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JAMS, Inc.

Reference No. 1345000011

-----x

In Re State Street Attorneys Fees

-----x

June 6, 2017

9:28 a.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of MARISSA OH, taken
by Counsel to the Special Master, held at
JAMS, Inc., 620 Eighth Avenue, New York,
New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629875

Page 6

[REDACTED]

Page 8

1 OH

2 2004.

3 After that I was an associate

4 at Orrick, Herrington & Sutcliffe for

5 about three years, took some time off

6 after that and then started working as a

7 staff attorney at various firms in San

8 Francisco.

9 Q. During your initial time as an

10 associate for three years and your tenure

11 as a staff attorney at various firms, was

12 there any particular area of focus in your

13 work?

14 A. When I was an associate at a

15 law firm, I did employment discrimination

16 cases and I did some securities litigation

17 work as well.

18 Q. How about as a staff attorney

19 after that?

20 A. As a staff attorney, I've done

21 quite a bit of securities litigation

22 cases, but I've also done a little bit of

23 everything else, products liability, mass

24 torts, all sorts of miscellaneous.

25 Q. Did you do any foreign exchange

Page 7

[REDACTED]

Page 9

[REDACTED]

Page 10

1 OH
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

Page 12

1 OH
2 A. [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
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17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

Page 11

1 OH
2 Mellon case, did you work on any other
3 cases simultaneously?
4 A. No.
5 Q. Approximately when did you
6 start working on the State Street case?
7 A. As I remember, it was around
8 January of 2015.
9 Q. When you were brought into the
10 Mellon case, was it in the same capacity
11 as you had been hired to work as a staff
12 attorney?
13 A. Yes.
14 Q. What was your compensation at
15 that time?
16 A. I think it was \$40 an hour.
17 Q. Is that the rate that you were
18 hired at?
19 A. Yes.
20 Q. Or the amount that you were
21 hired at?
22 A. Yes.
23 Q. Were you aware for either case
24 as to what the firm billed you at, what
25 that amount was?

Page 13

1 OH
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

Page 18

[REDACTED]

Page 20

[REDACTED]

Page 19

[REDACTED]

Page 21

1 OH

2 Q. Was your job to look for a

3 whole bunch of areas of focus or topics or

4 were you assigned particular issues or an

5 issue?

6 A. I looked at the documents that

7 were assigned to me and then put them into

8 categories based on what issues were

9 raised in the documents.

10 Q. How many issues or areas were

11 you presented with?

12 A. Just the protoco.

13 Q. The whole list?

14 A. Yes, a couple of dozen.

15 Q. 27 perhaps?

16 A. Yes.

17 Q. At any time during those five

18 months, were you asked to focus on

19 particular issues for review?

20 A. Towards the end I did a memo

21 based on one issue.

22 Q. What was that issue?

23 A. [REDACTED]

Page 38
[Redacted text]

Page 40
[Redacted text]

Page 39
[Redacted text]

Page 41
1 OH
2 Q. And you receive benefits?
3 A. Like 401(k), that kind.
4 Q. Healthcare?
5 A. No, not healthcare.
6 I mean, I opted out because I
7 get health insurance through my husband.
8 JUDGE ROSEN: What year did you
9 graduate from Stanford?
10 THE WITNESS: 2004.
11 JUDGE ROSEN: Is that when
12 Tiger Woods was there?
13 THE WITNESS: No, he was there
14 earlier and he was an undergrad so he
15 would have been playing frisbee on the
16 lawn when we were doing work.
17 (Continued on next page.)
18
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EX. 62

ATTORNEY-CLIENT PRIVILEGE – ATTORNEY WORK PRODUCT

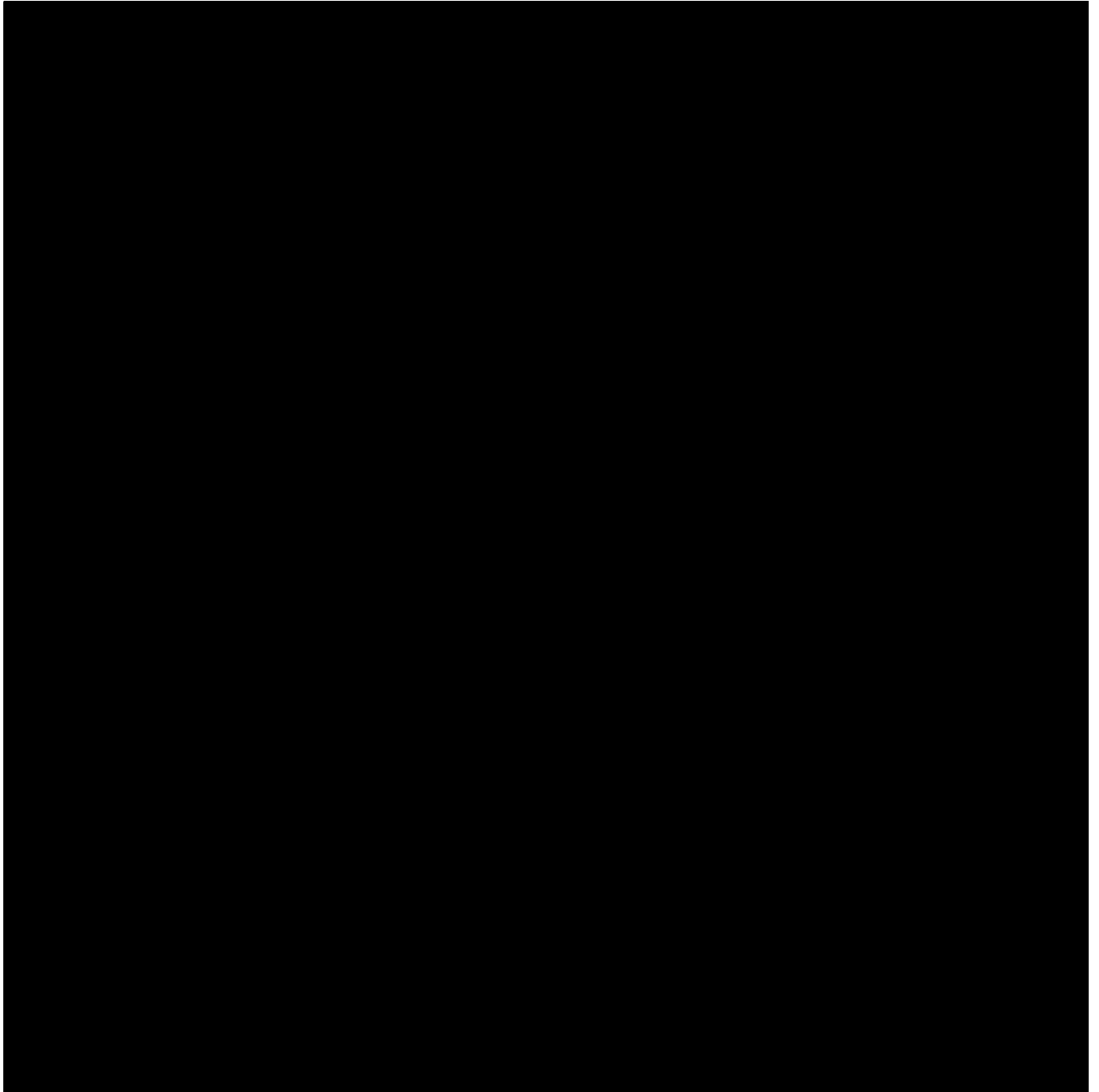
MEMORANDUM

From: Maritza Bolano,

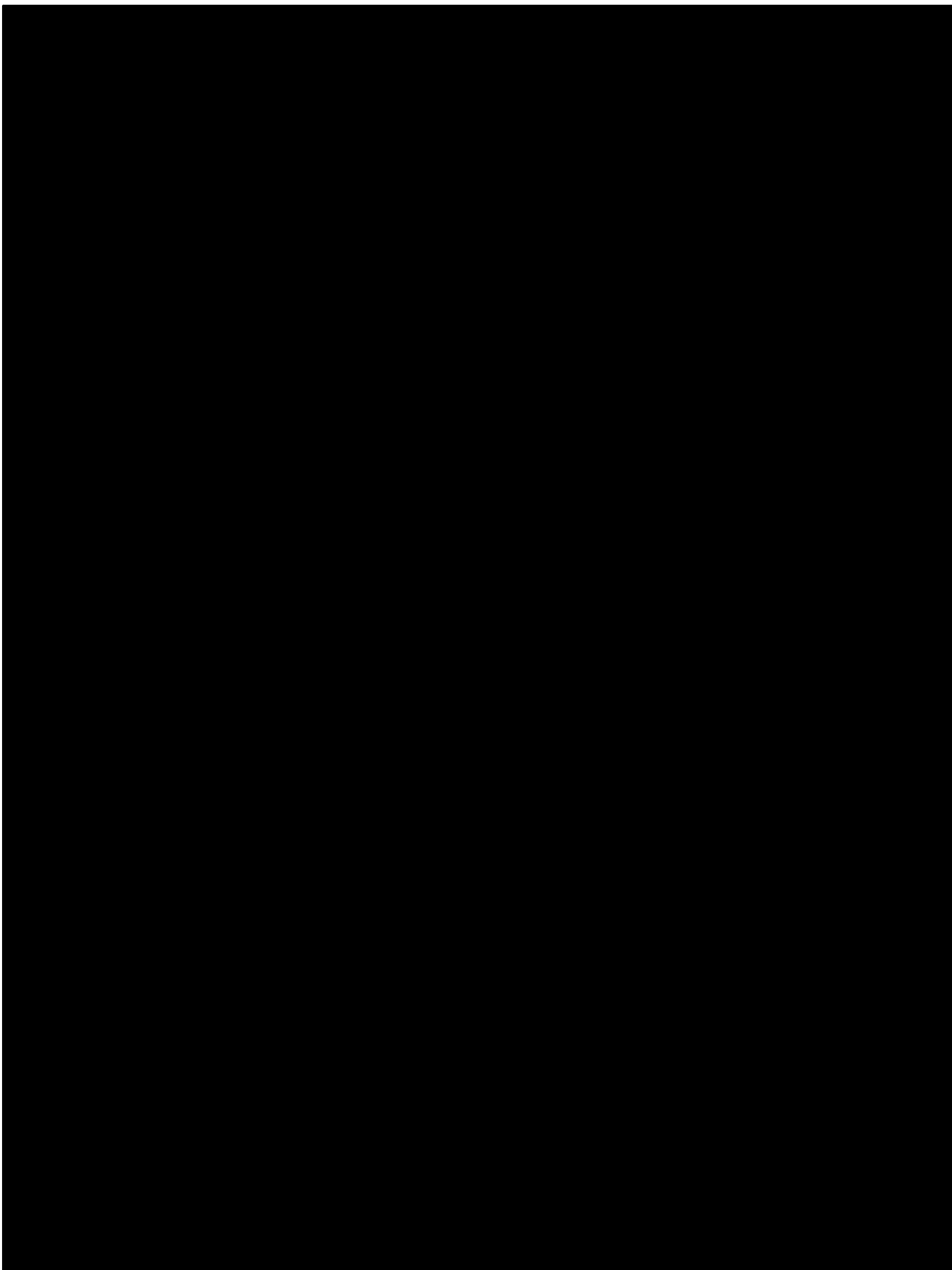
To: Files

CC: Todd S. Kussin

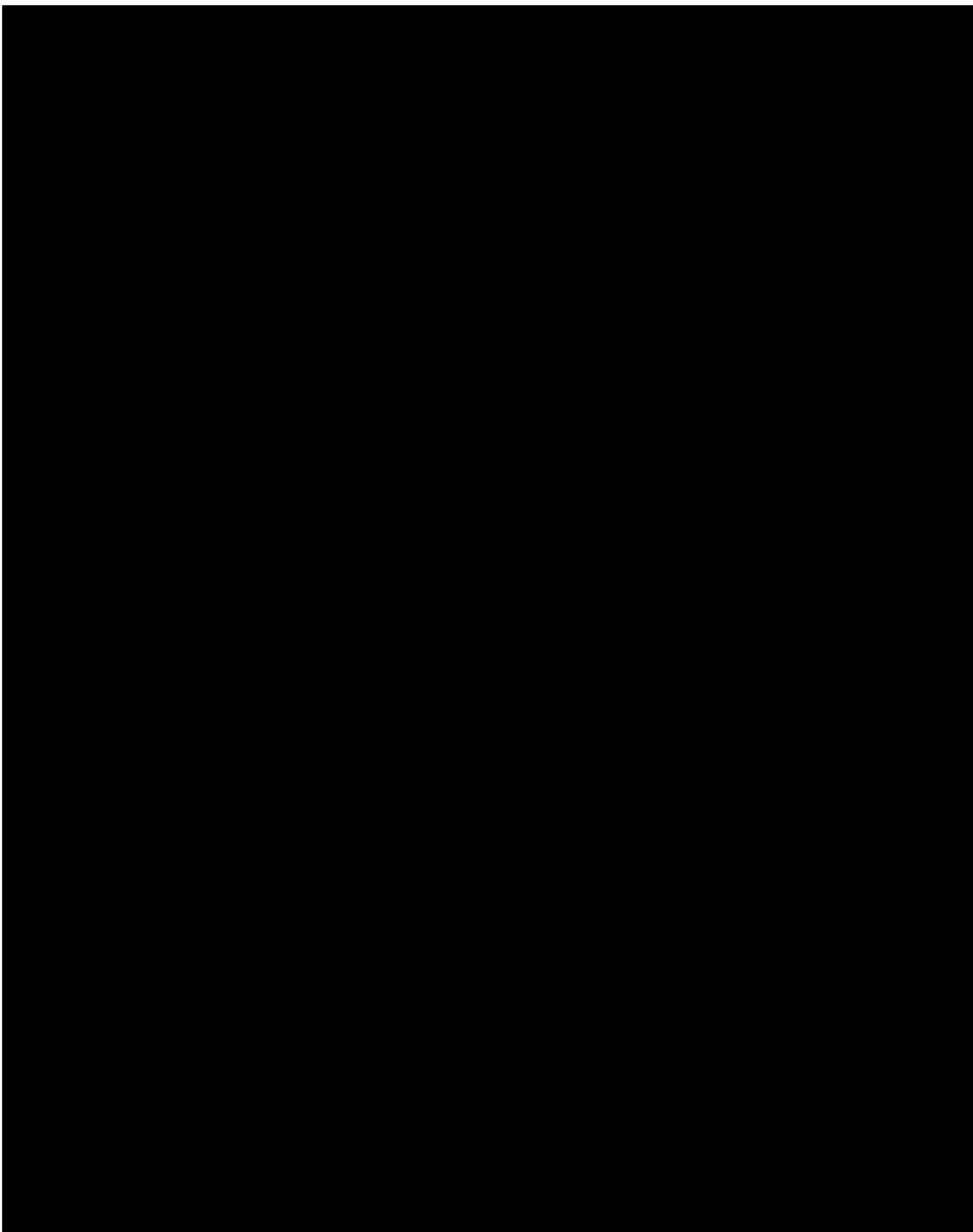
Re: Contracts/RFPs Topic - ATRS vs. State Street Class Action, No. 11-CV-10230 (MLW)



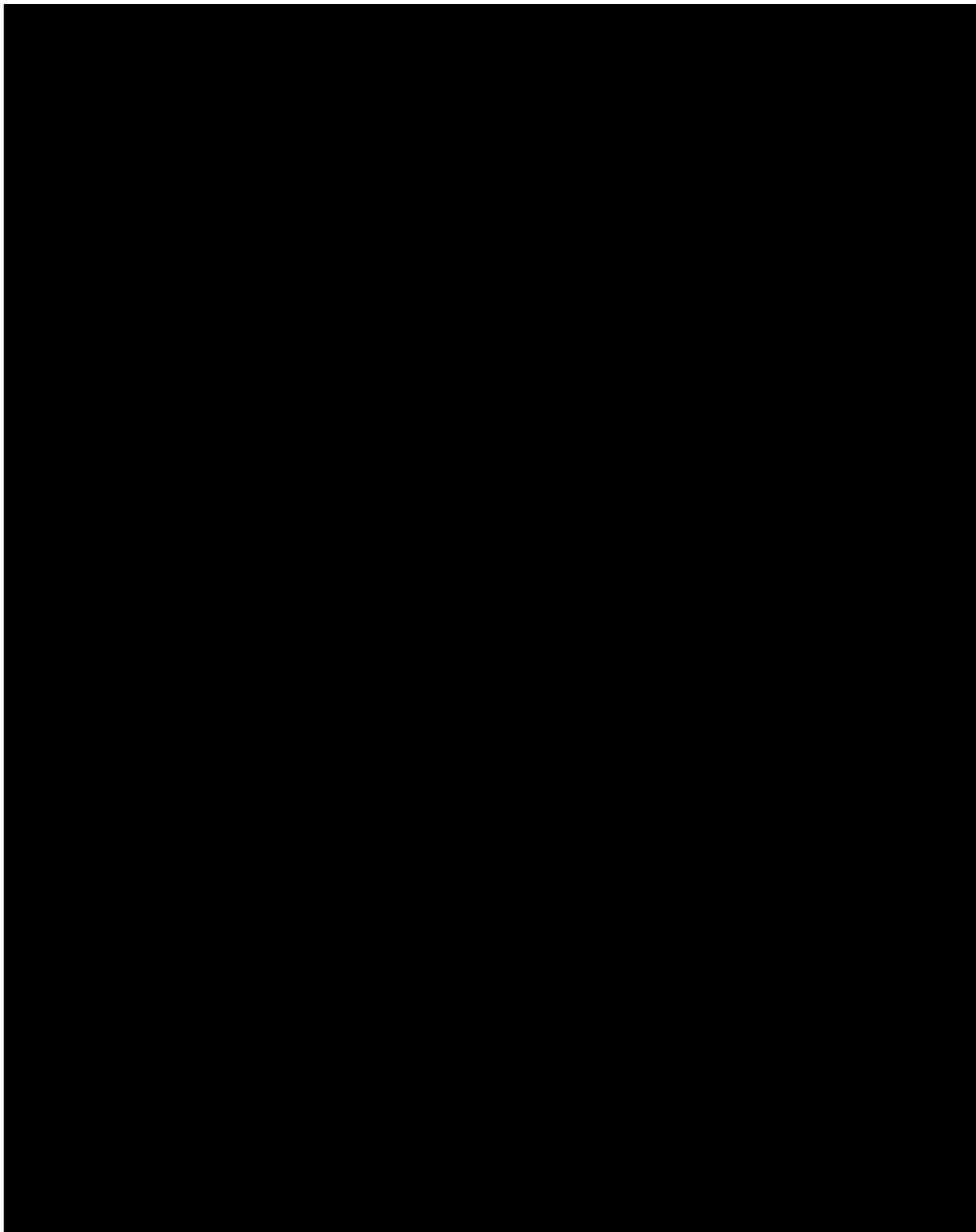
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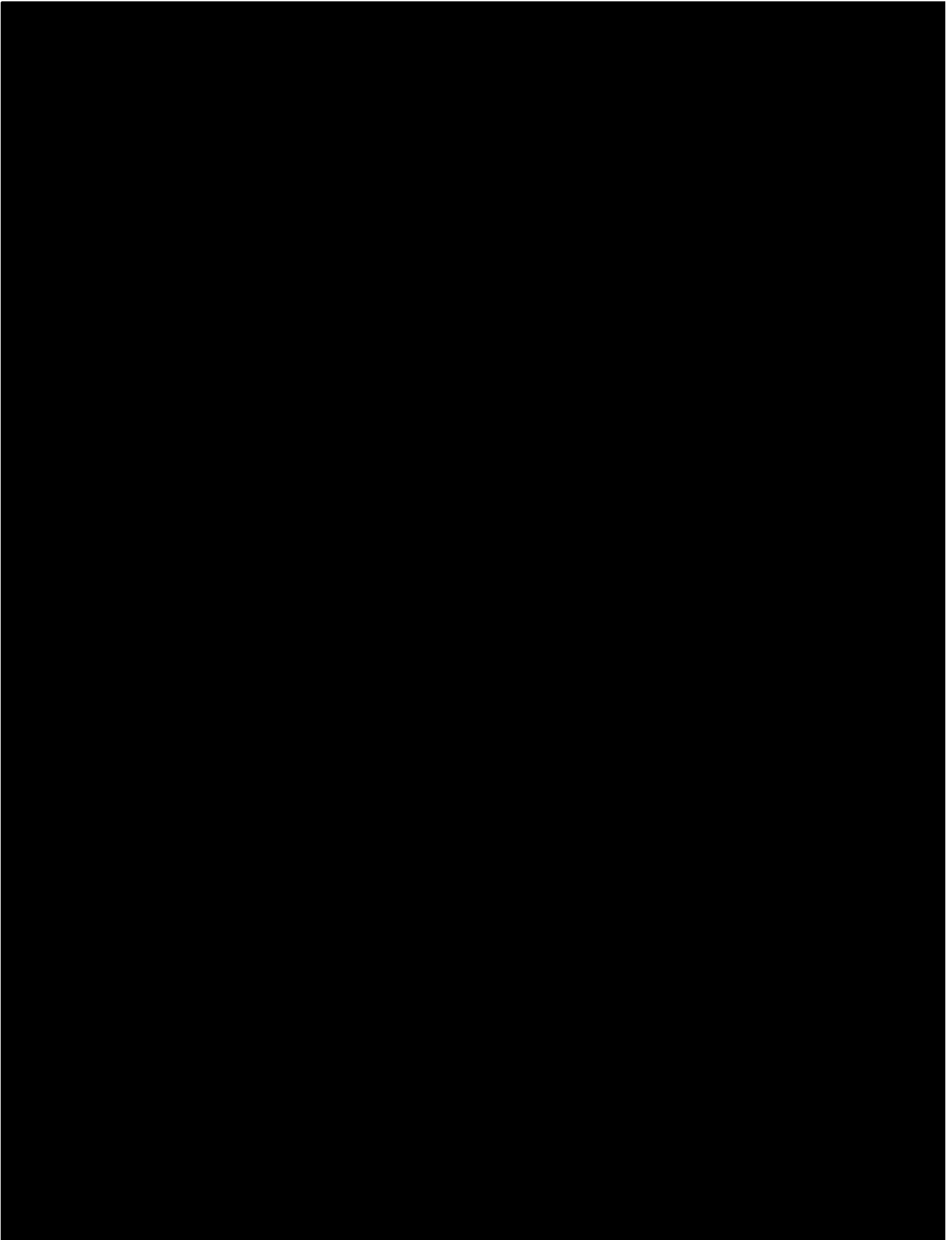
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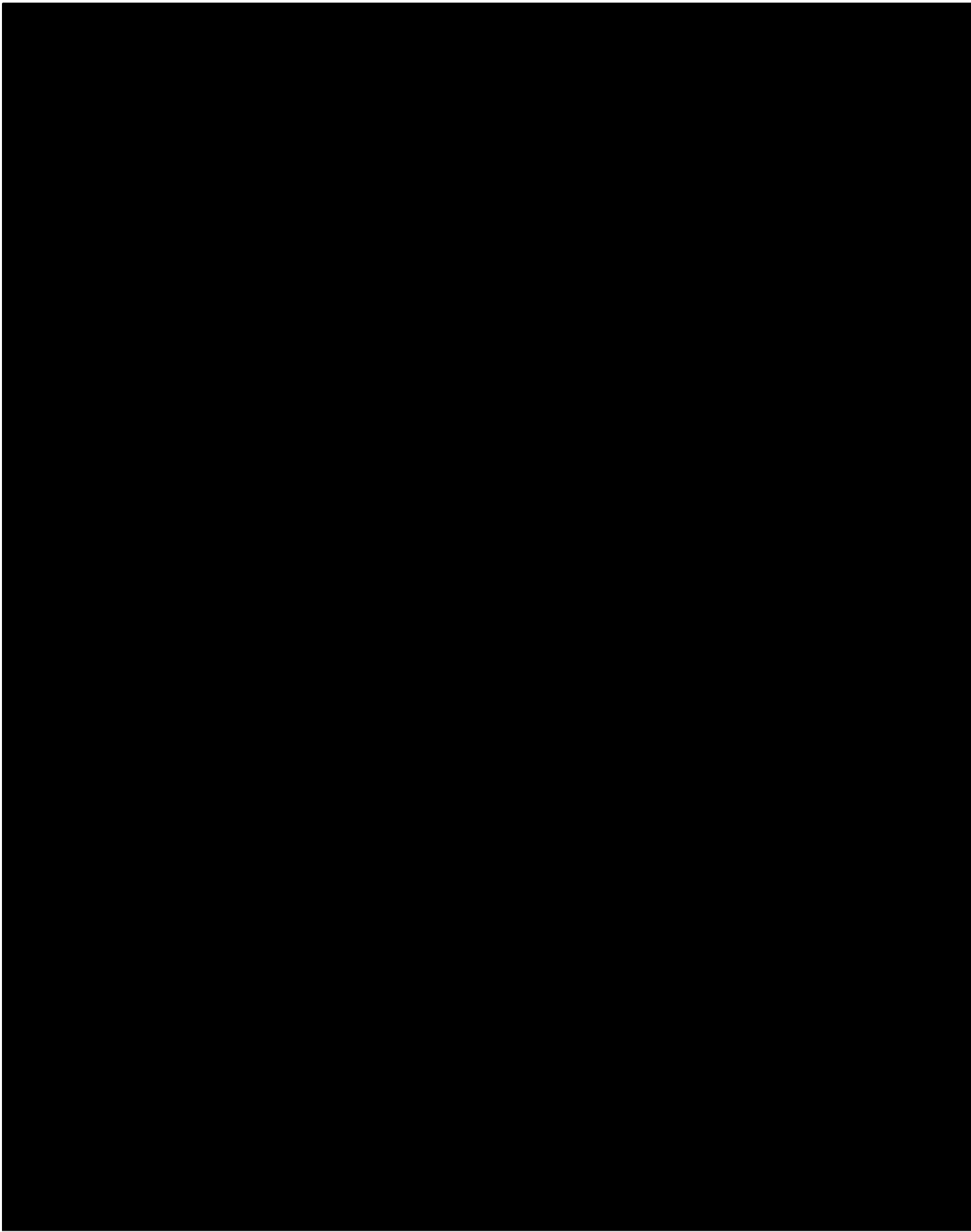
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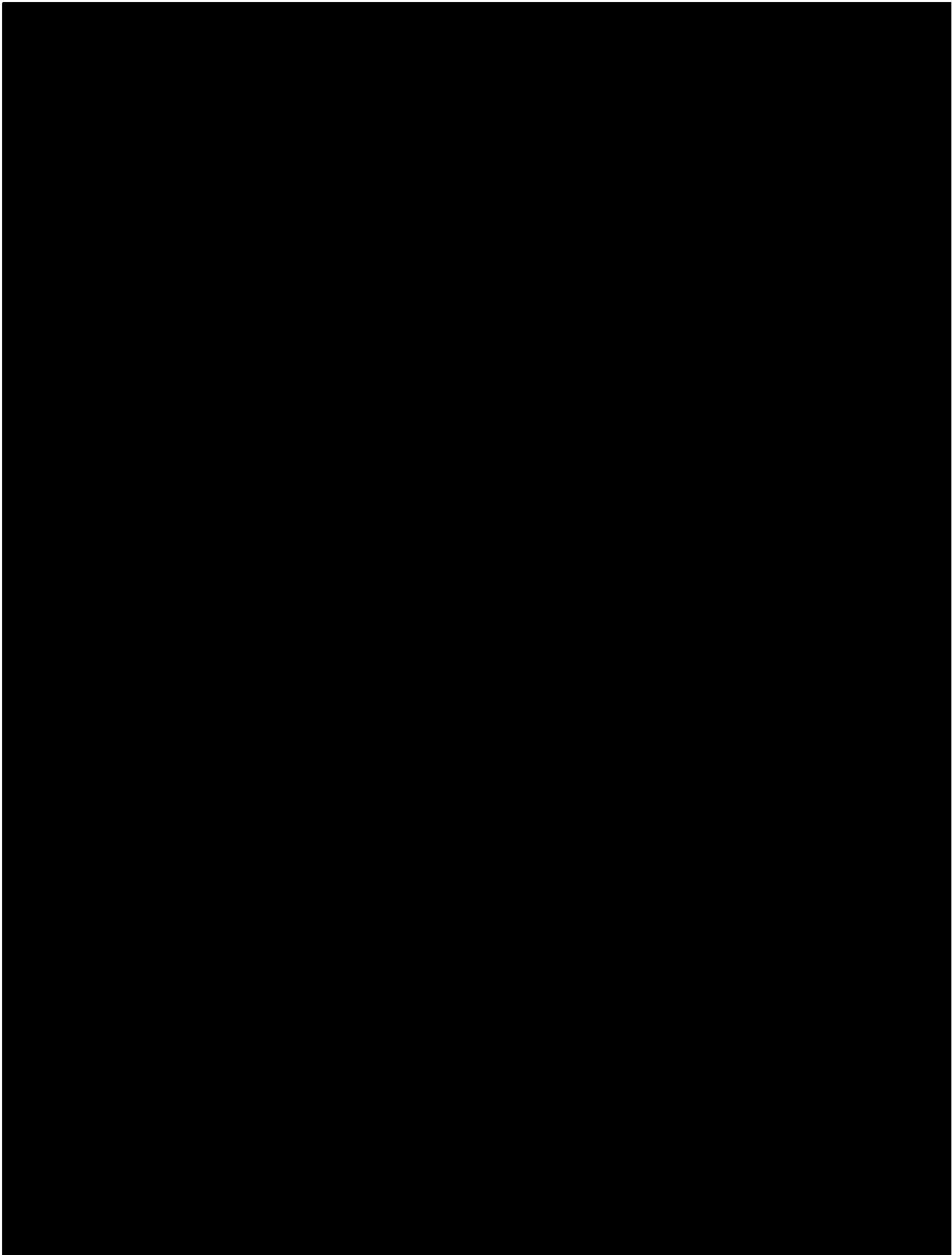
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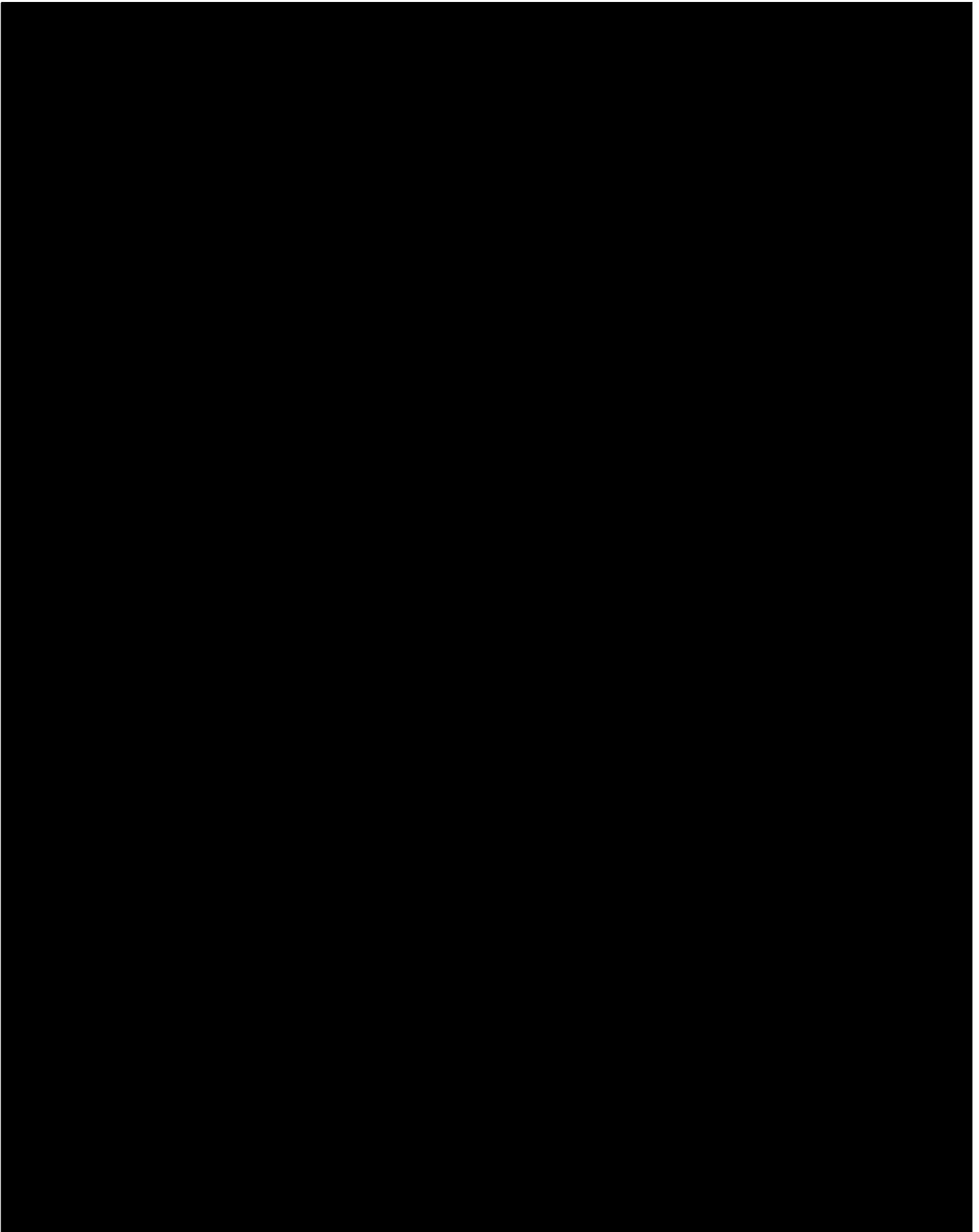
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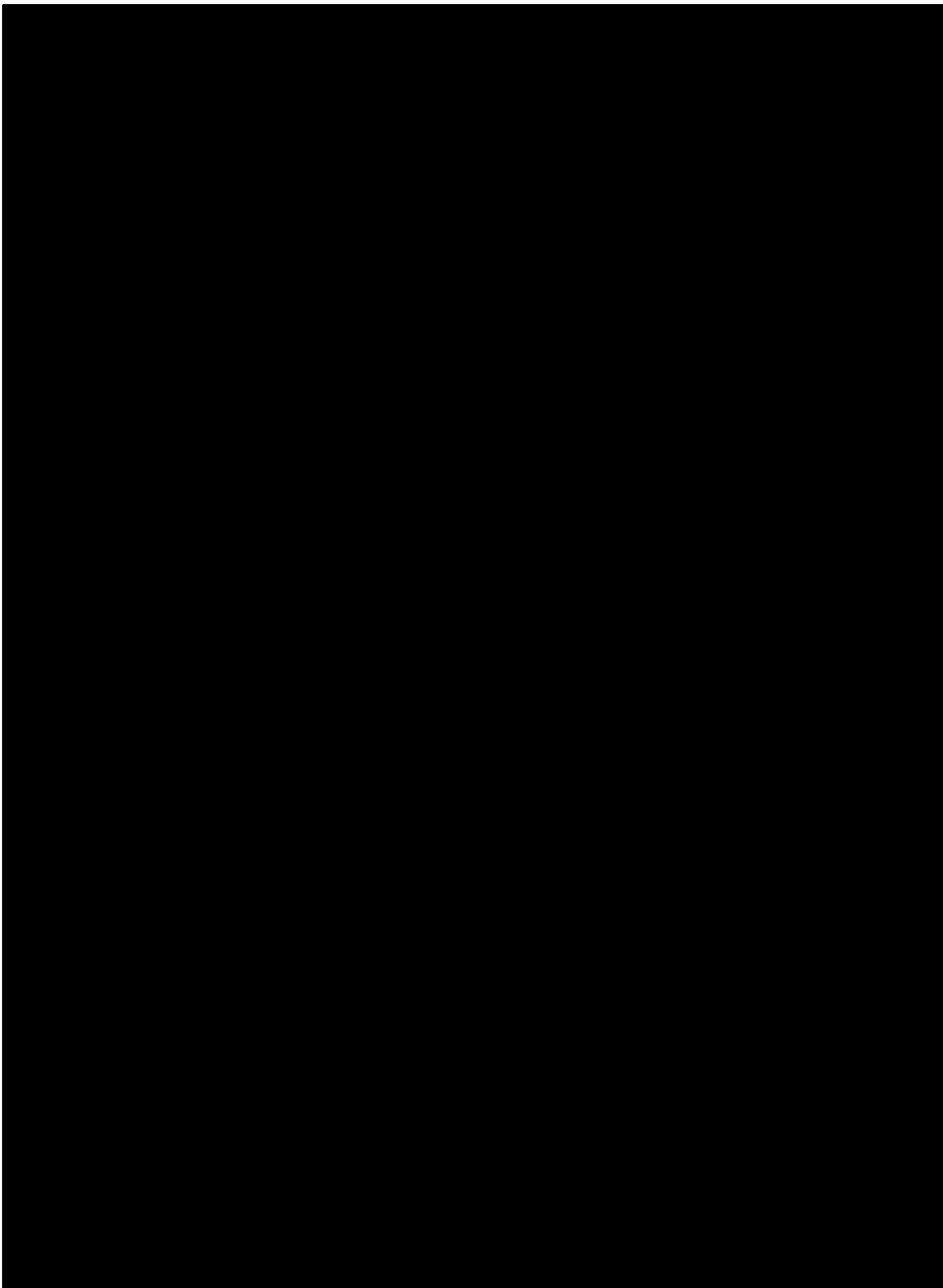
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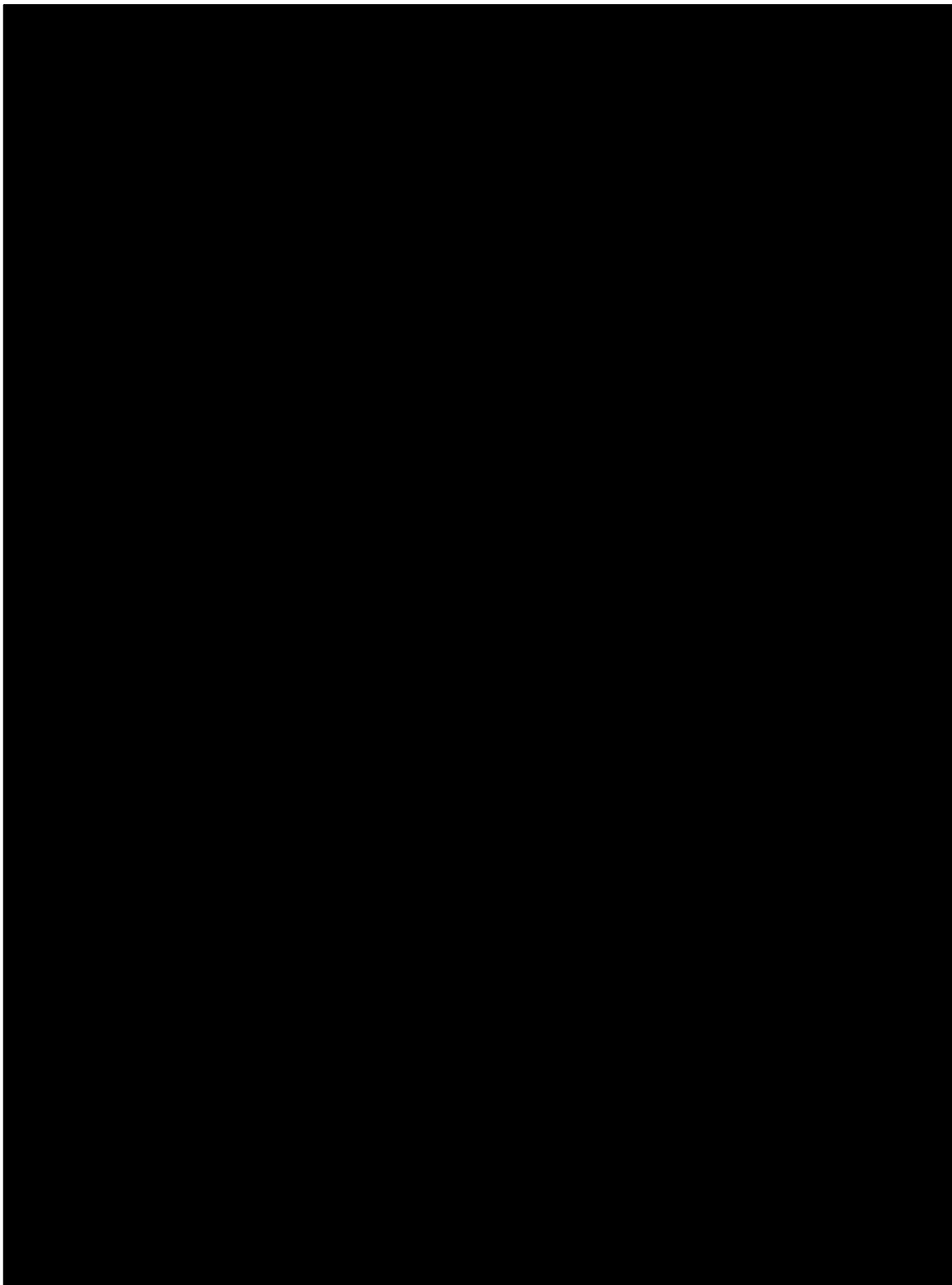
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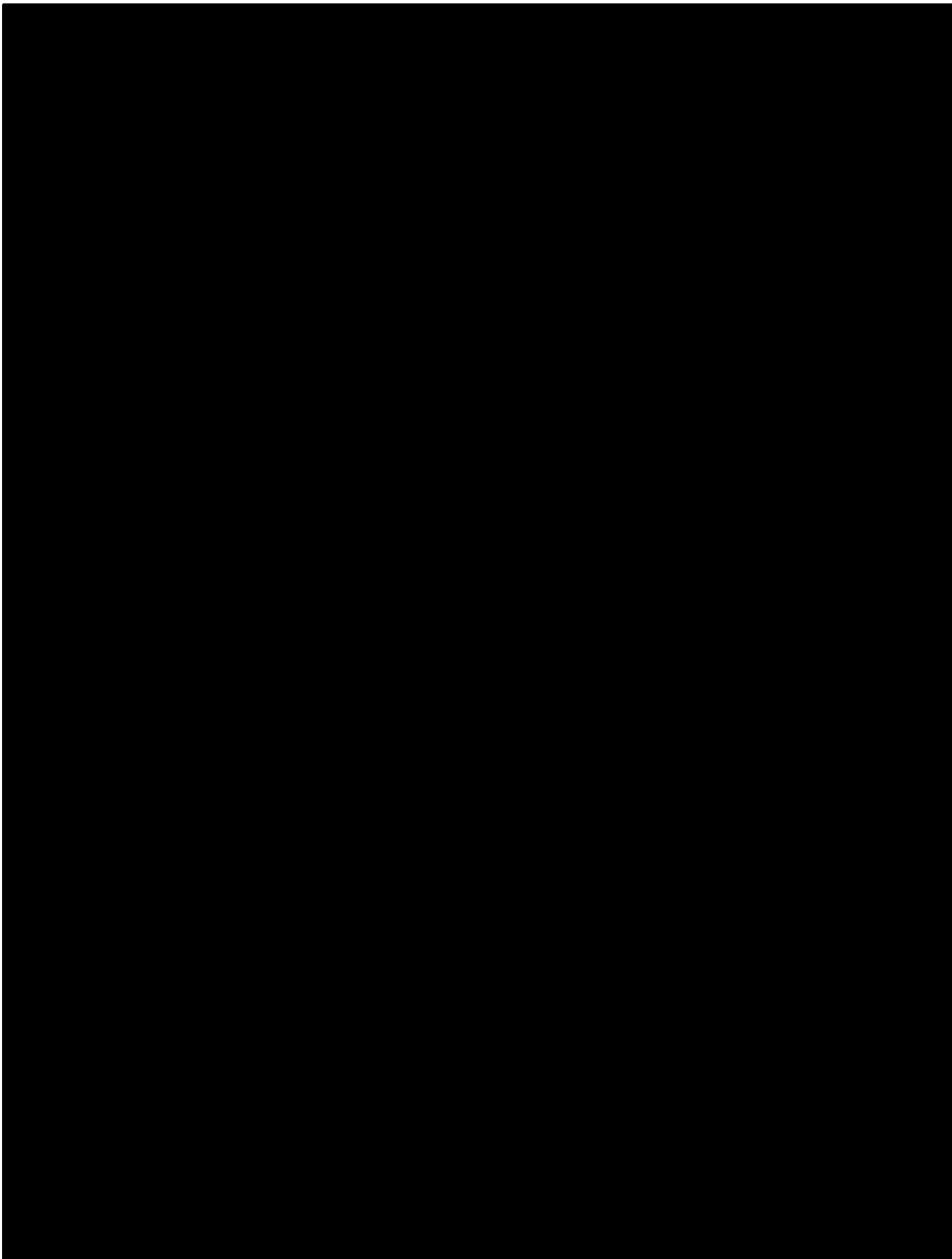
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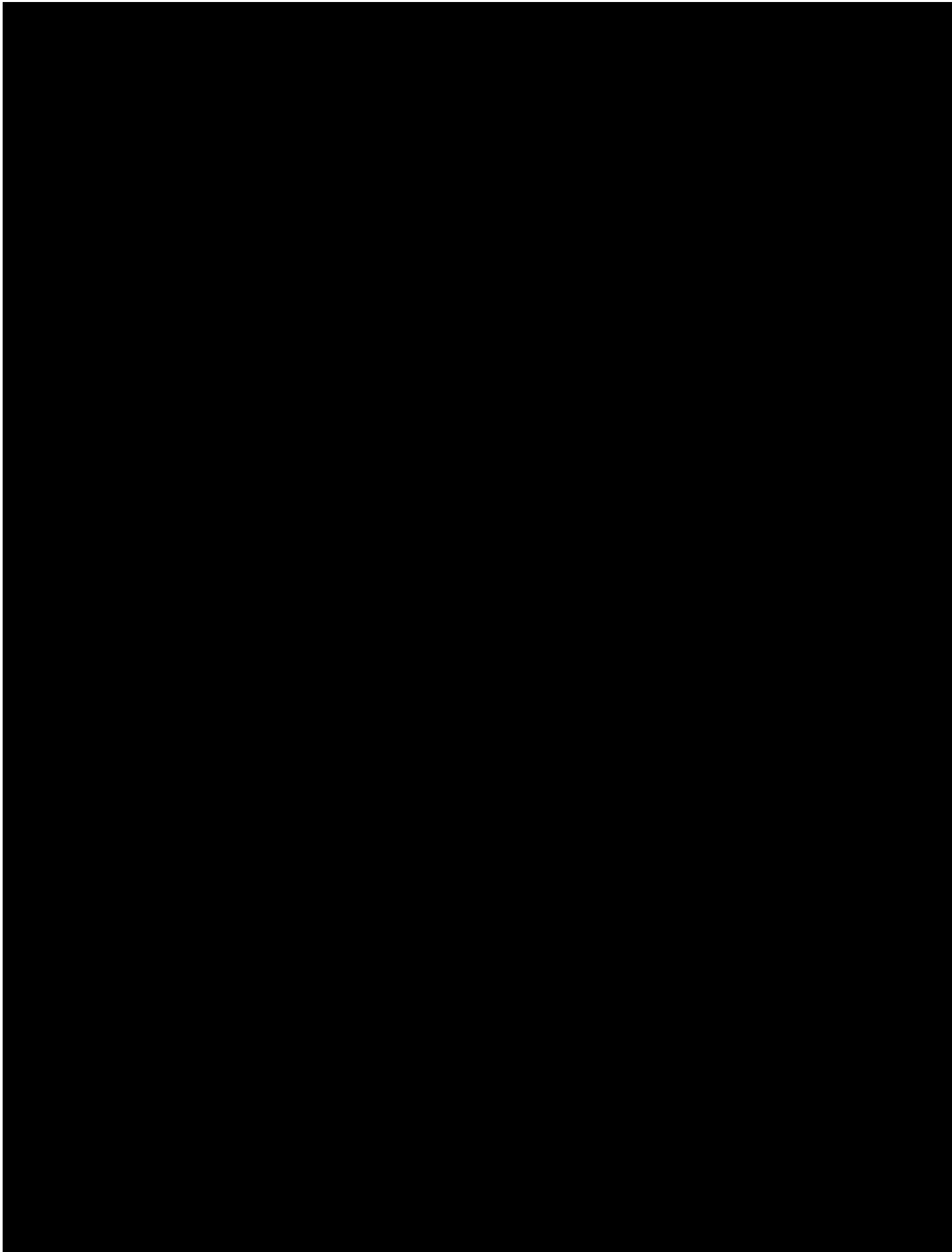
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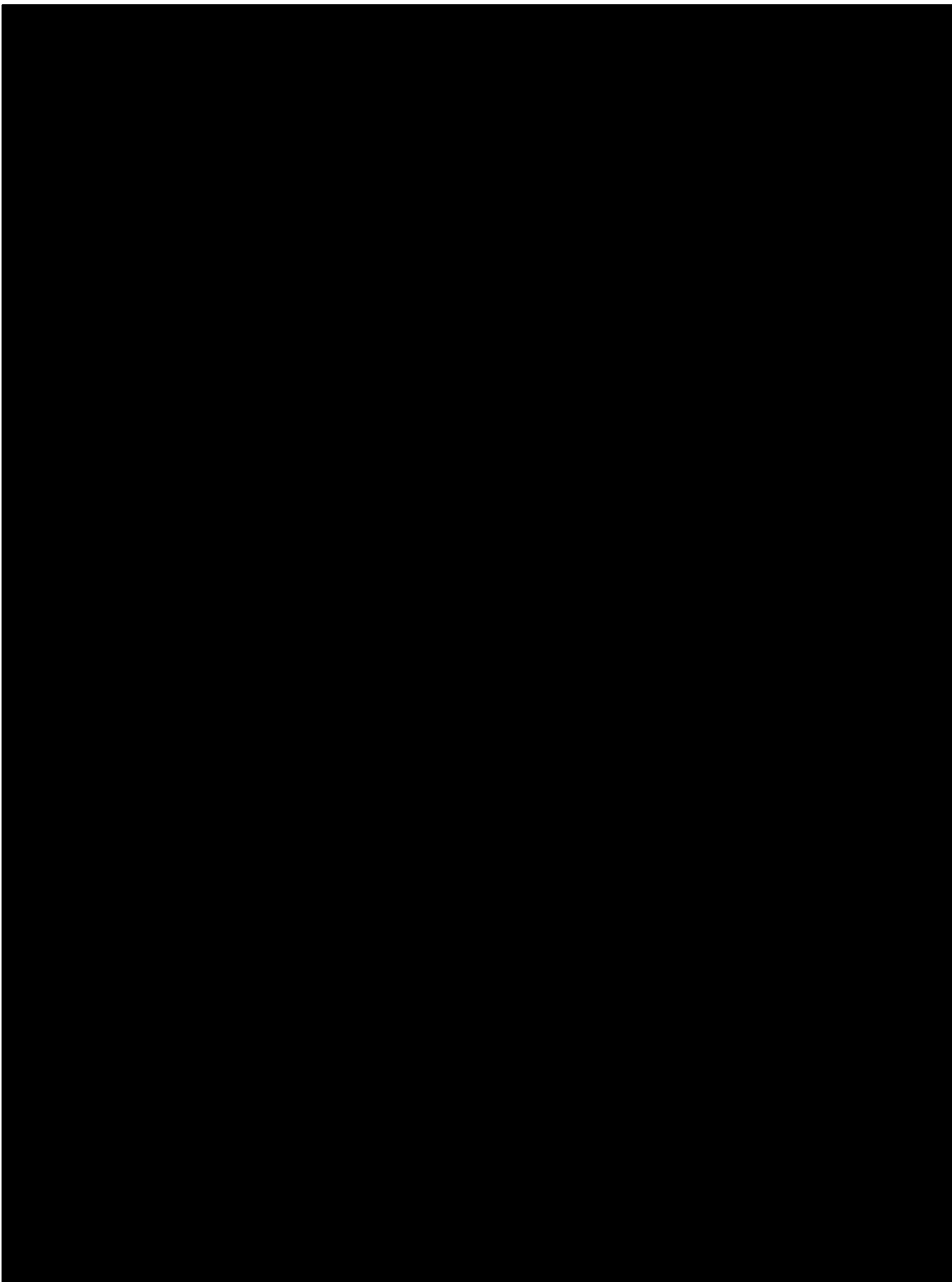
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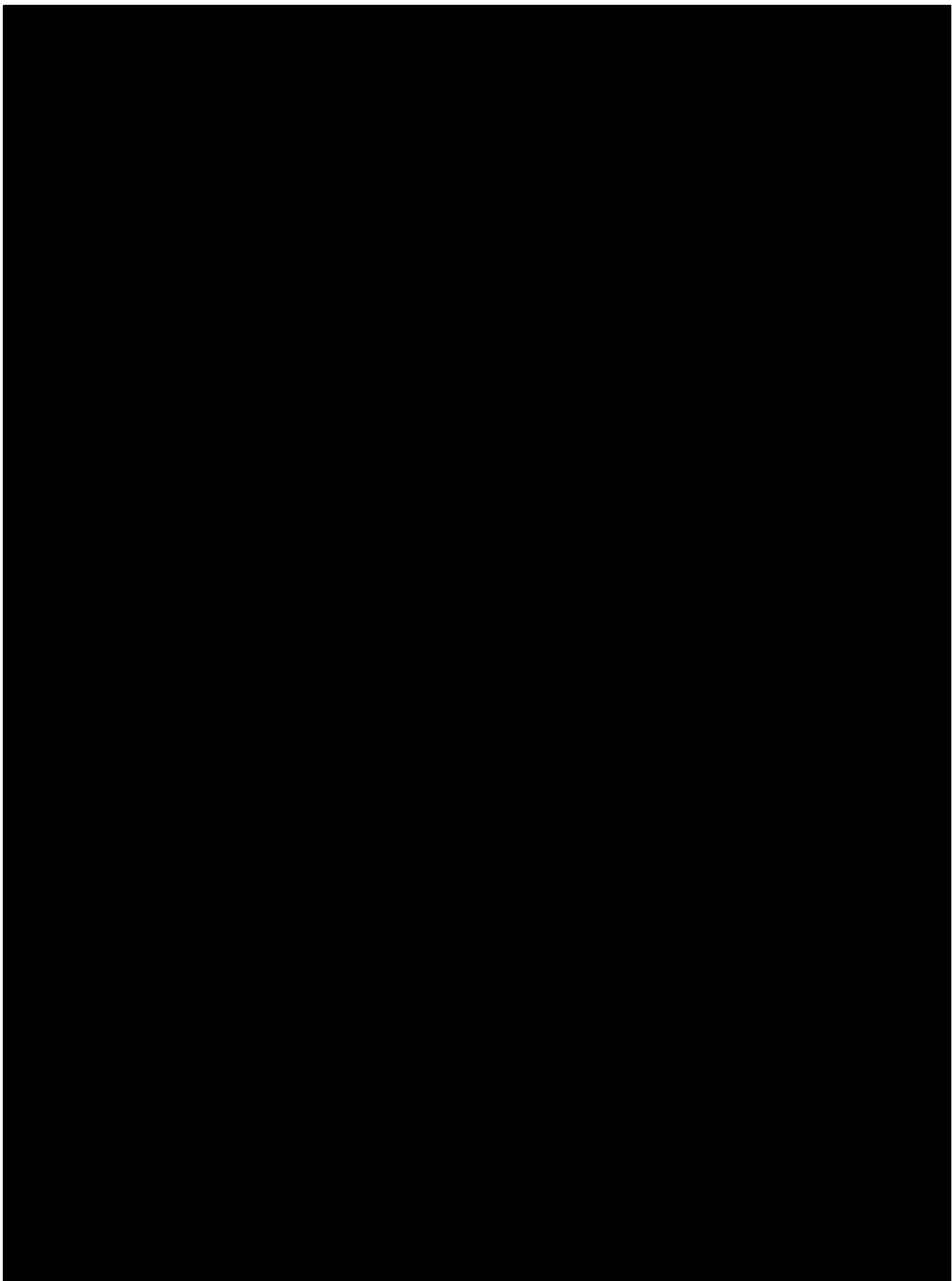
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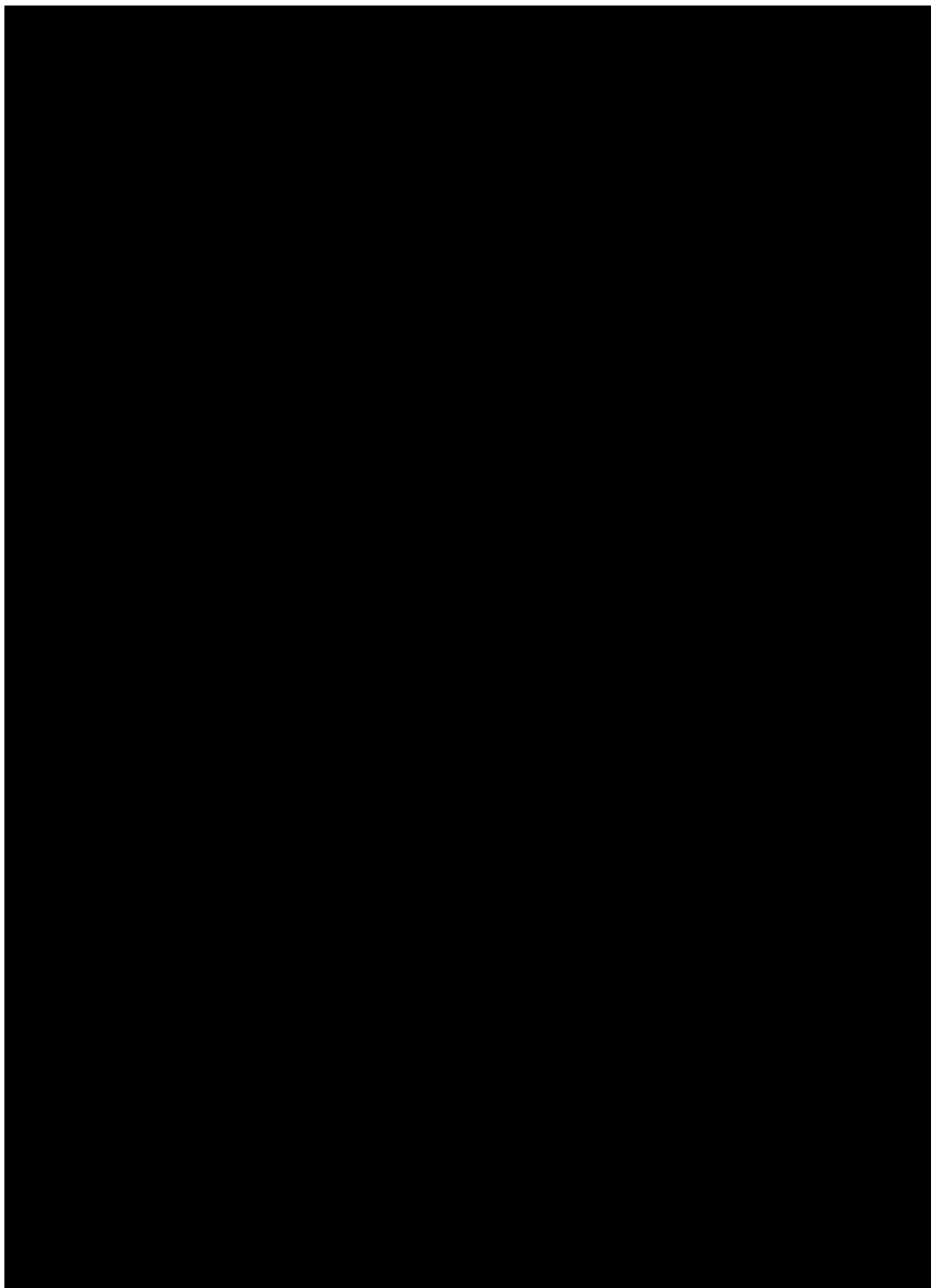
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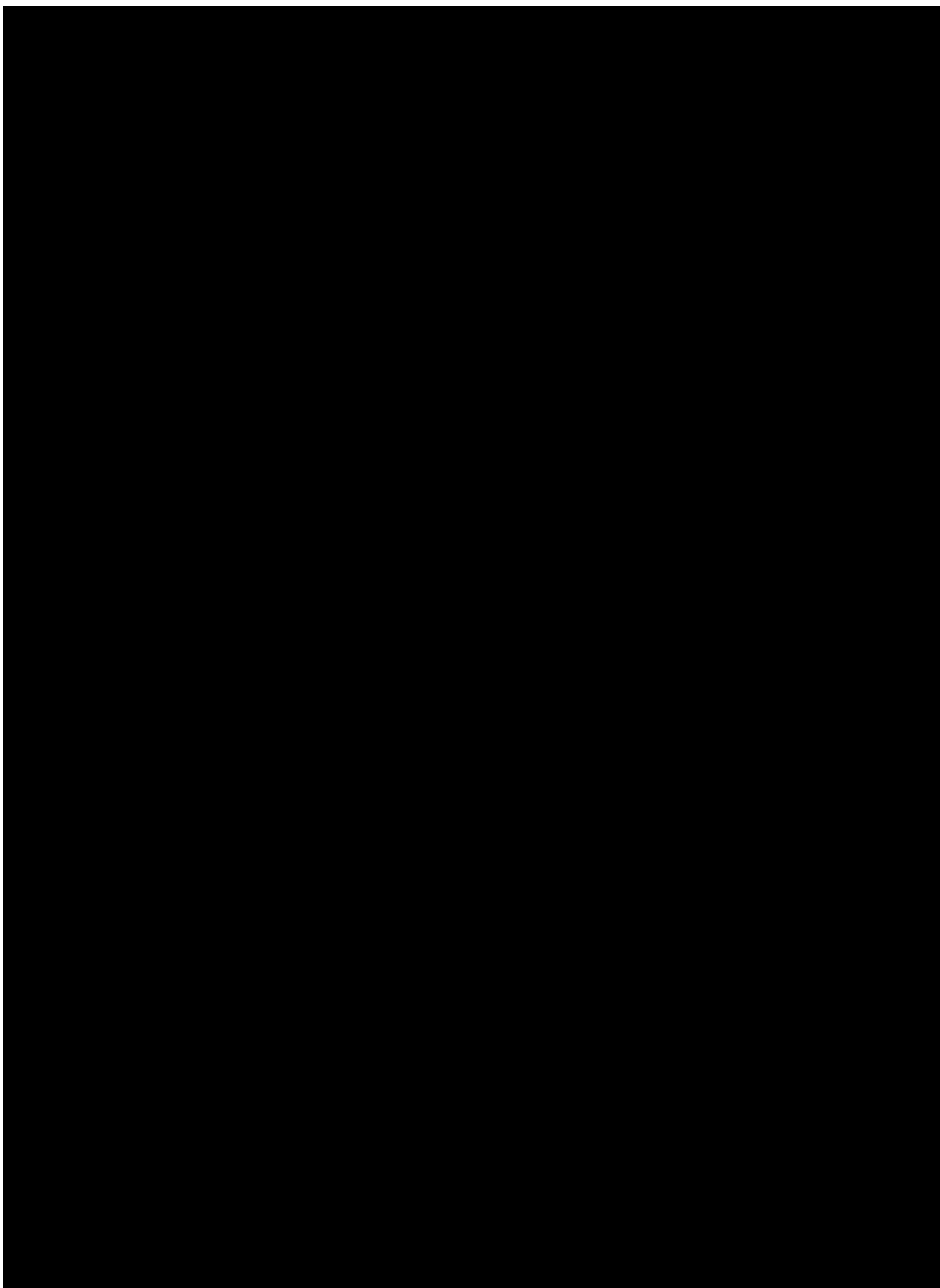
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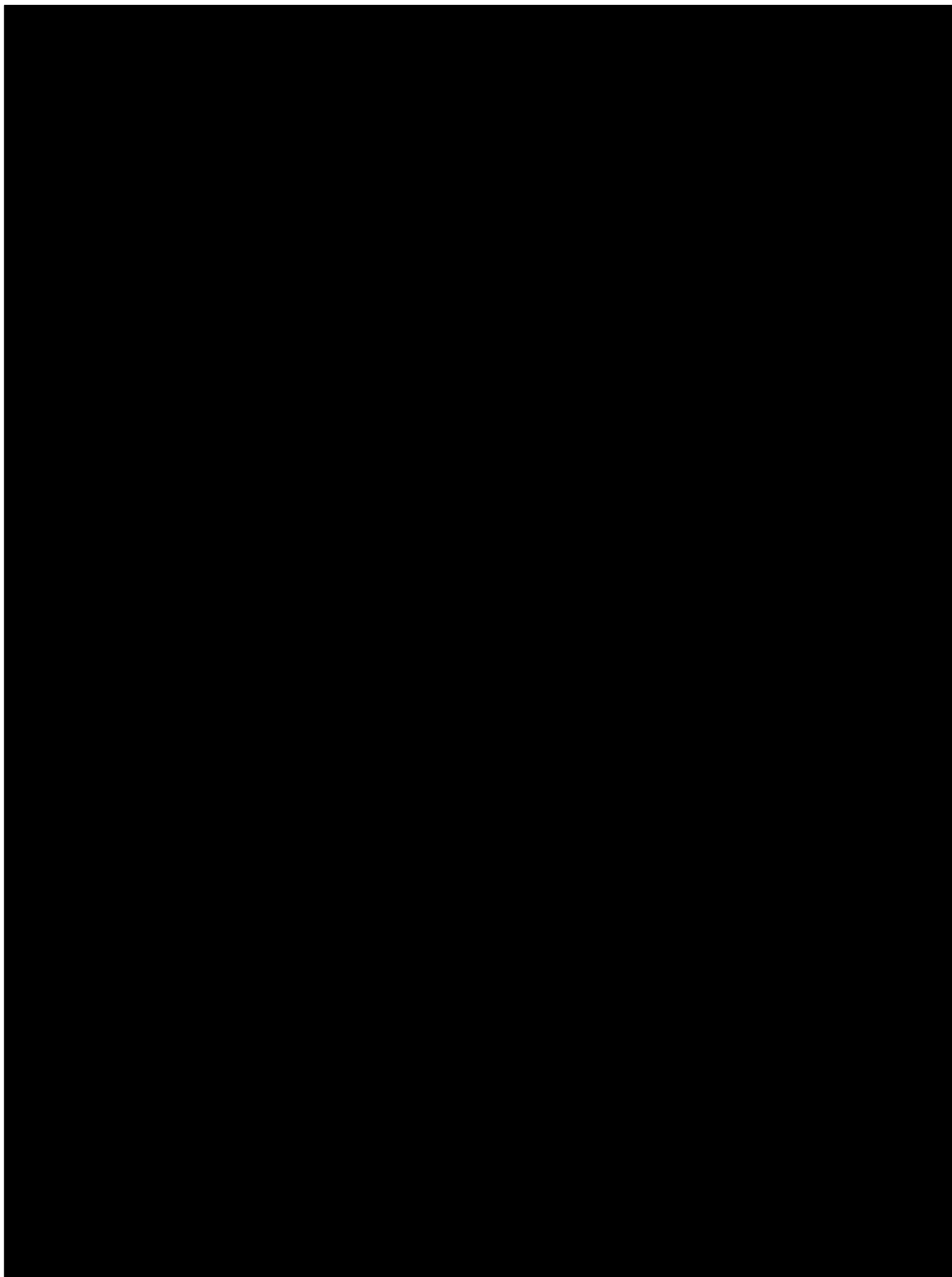
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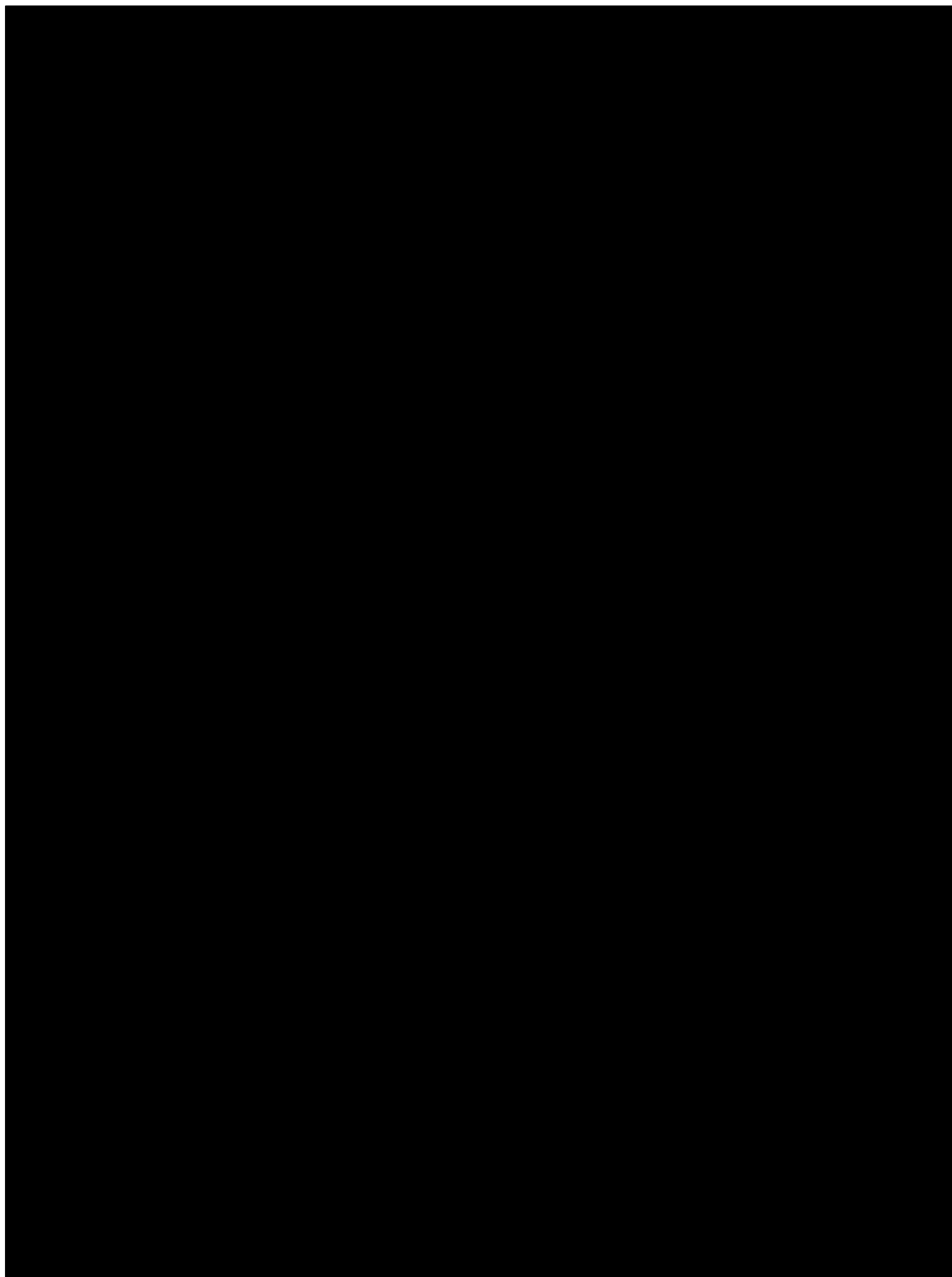
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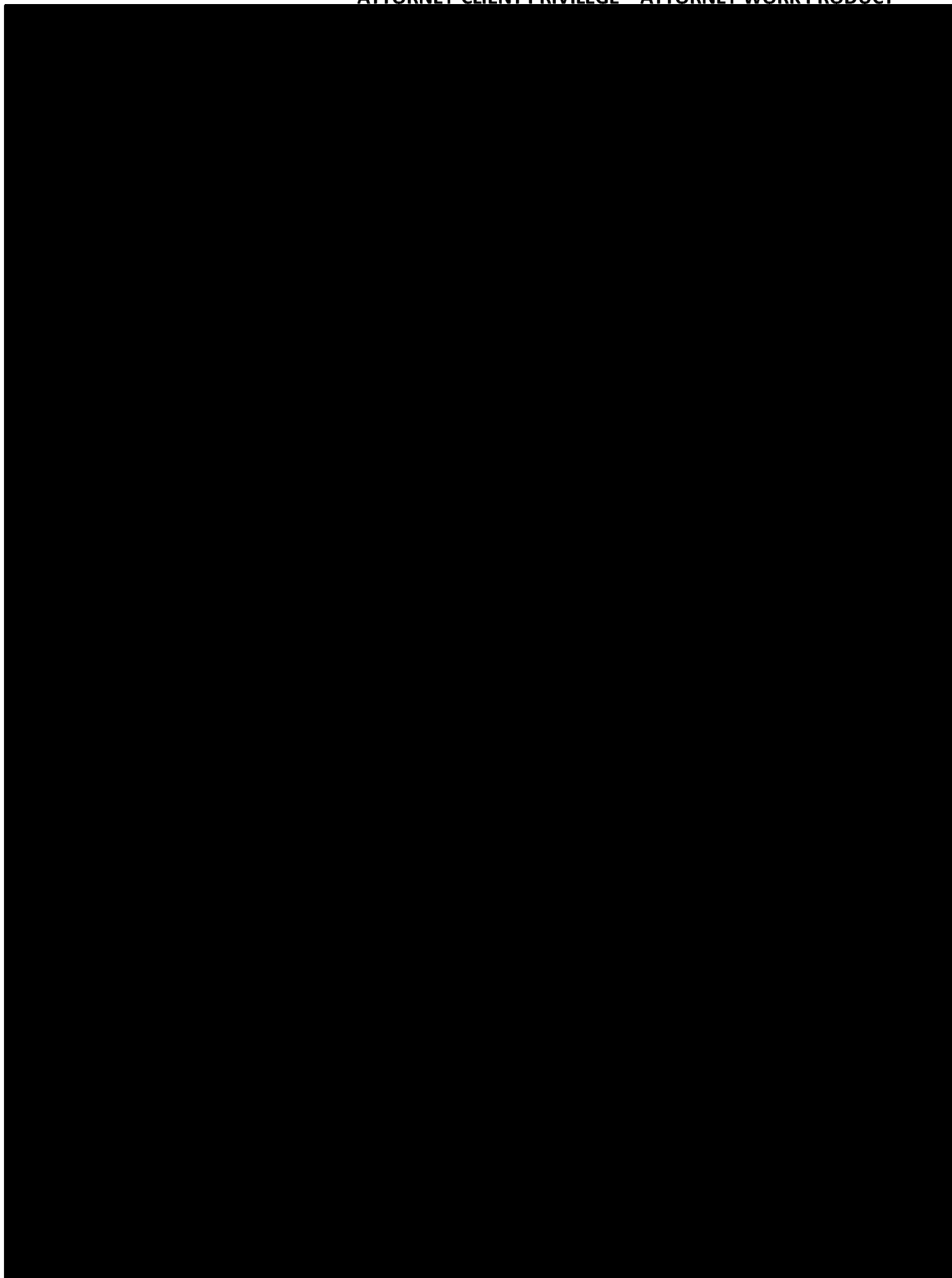
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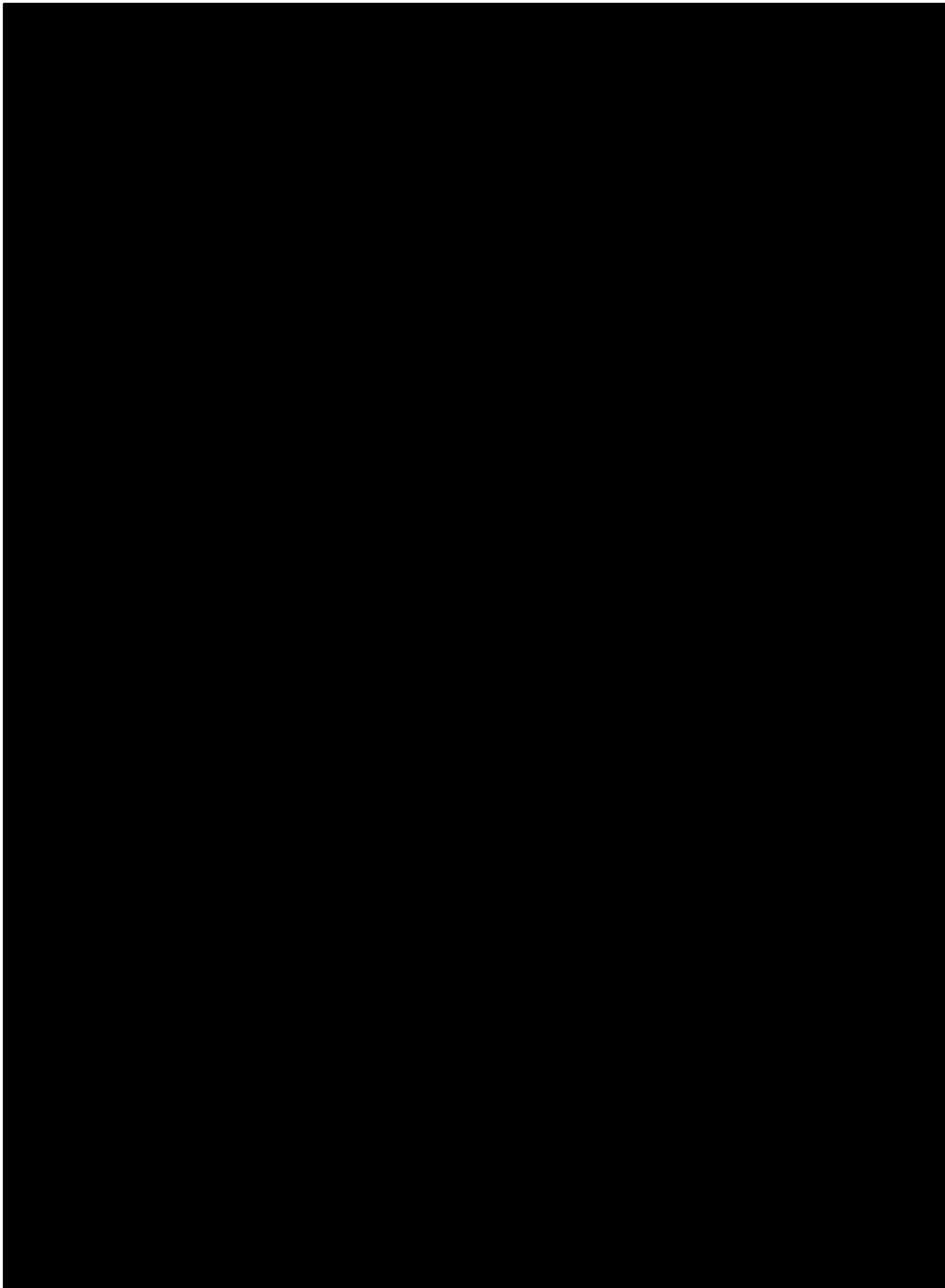
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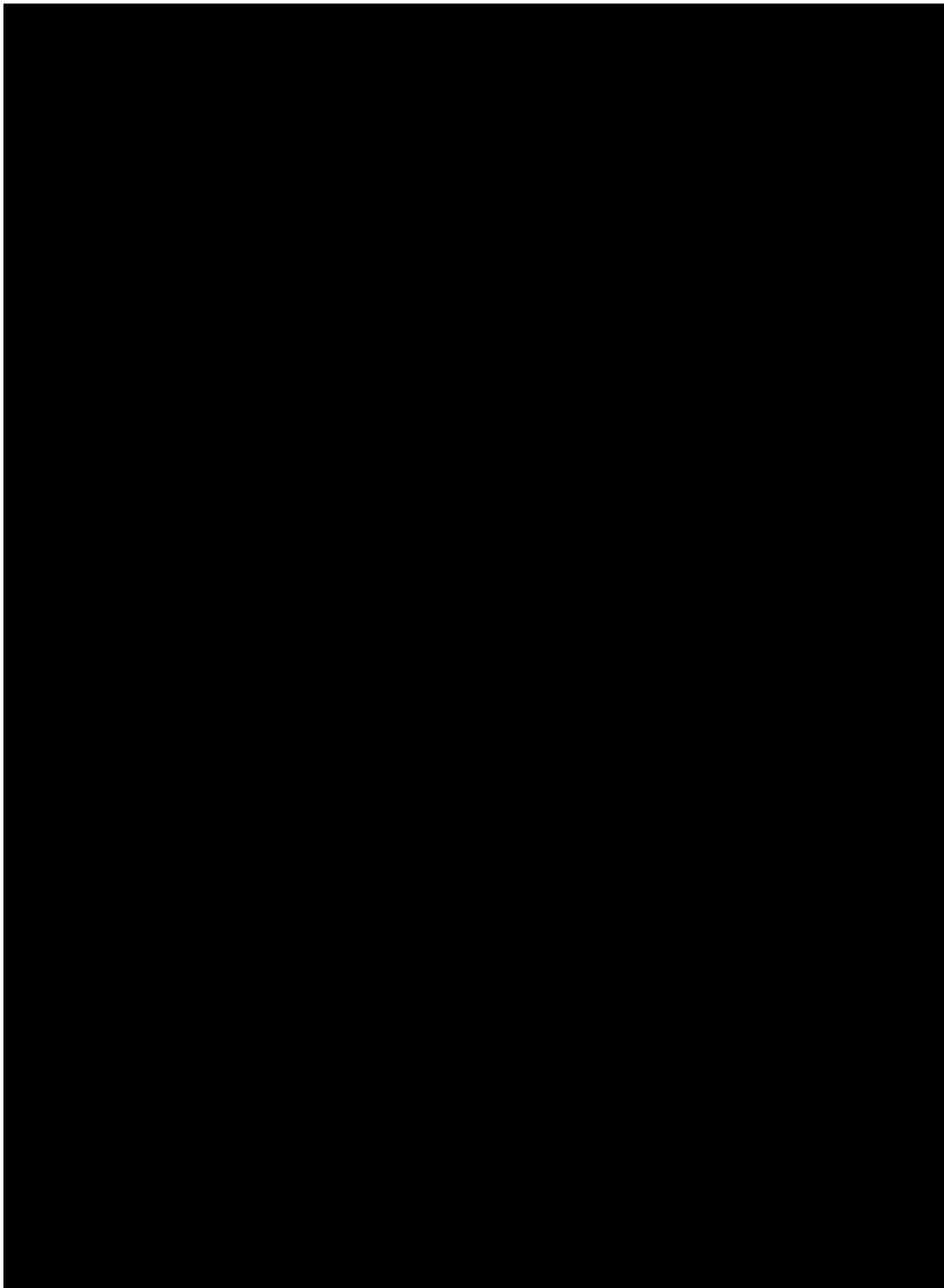
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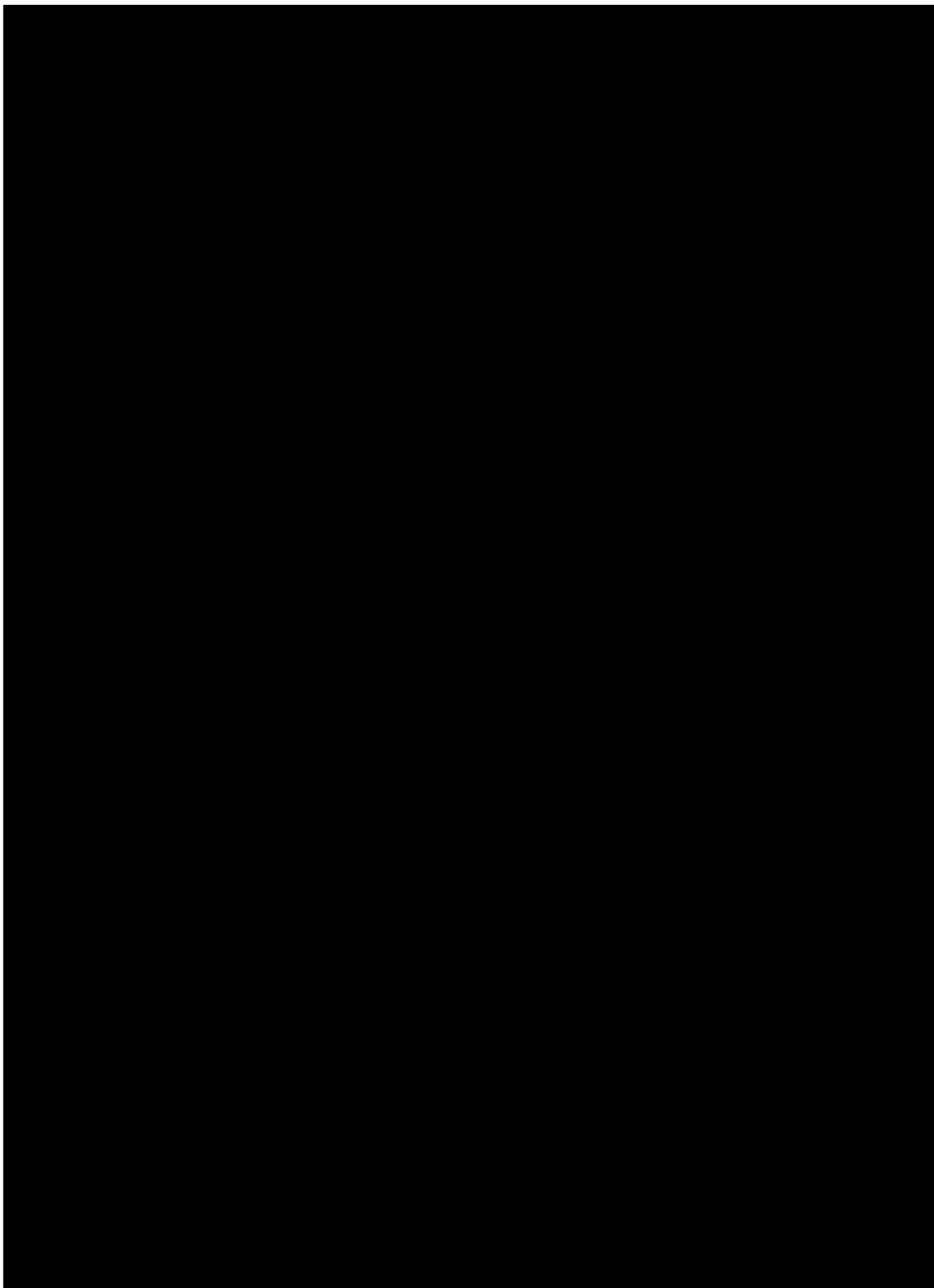
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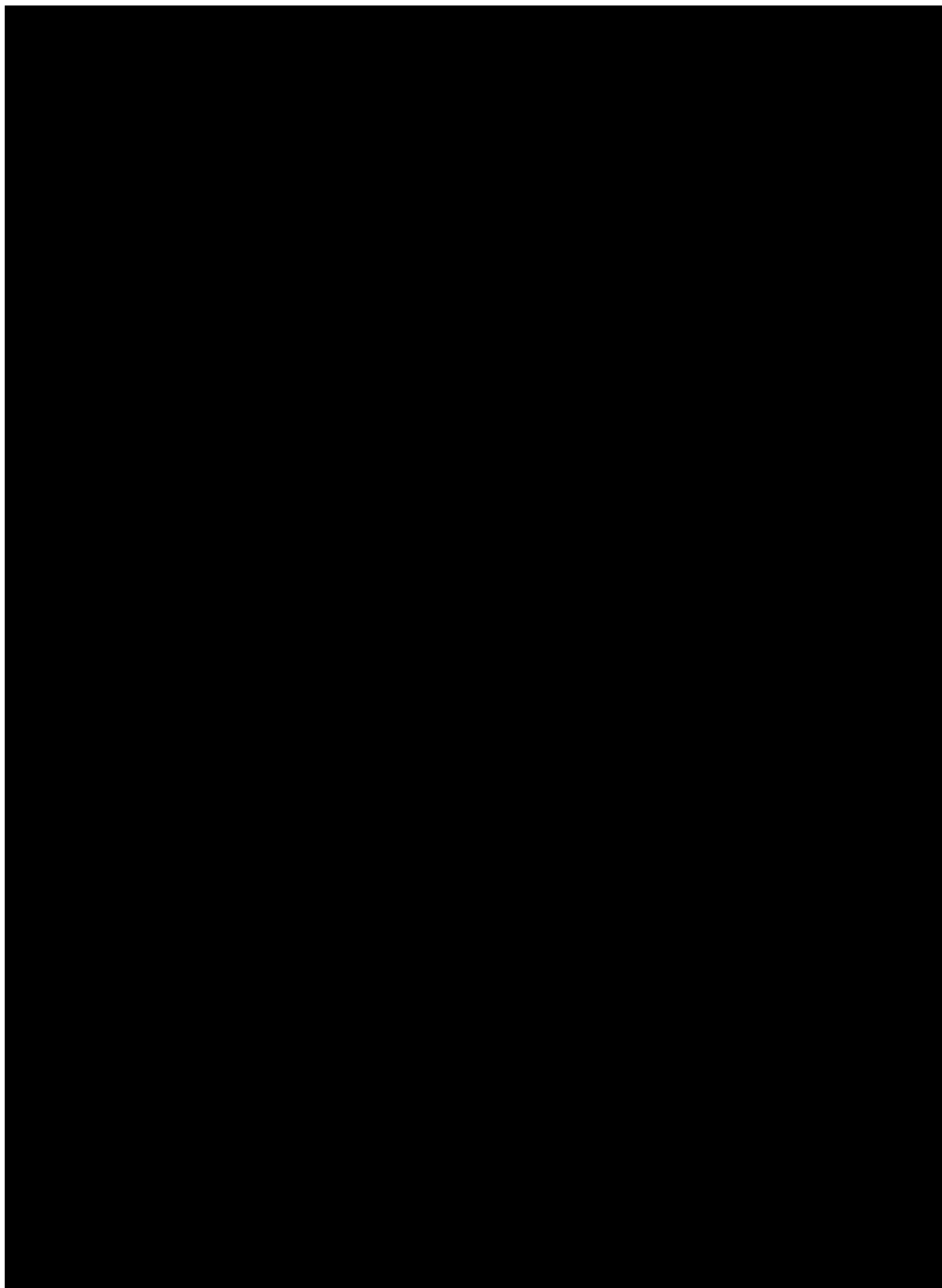
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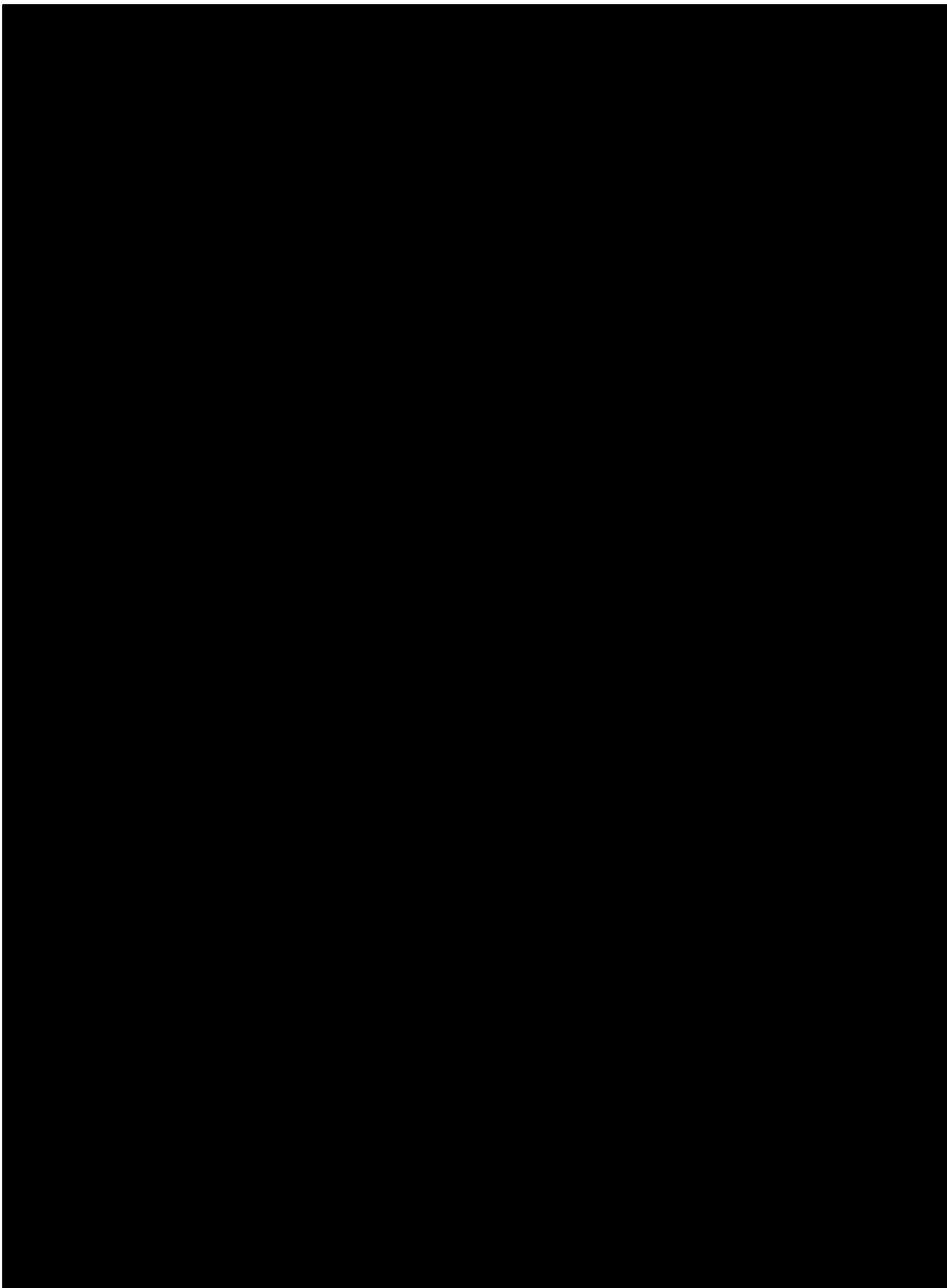
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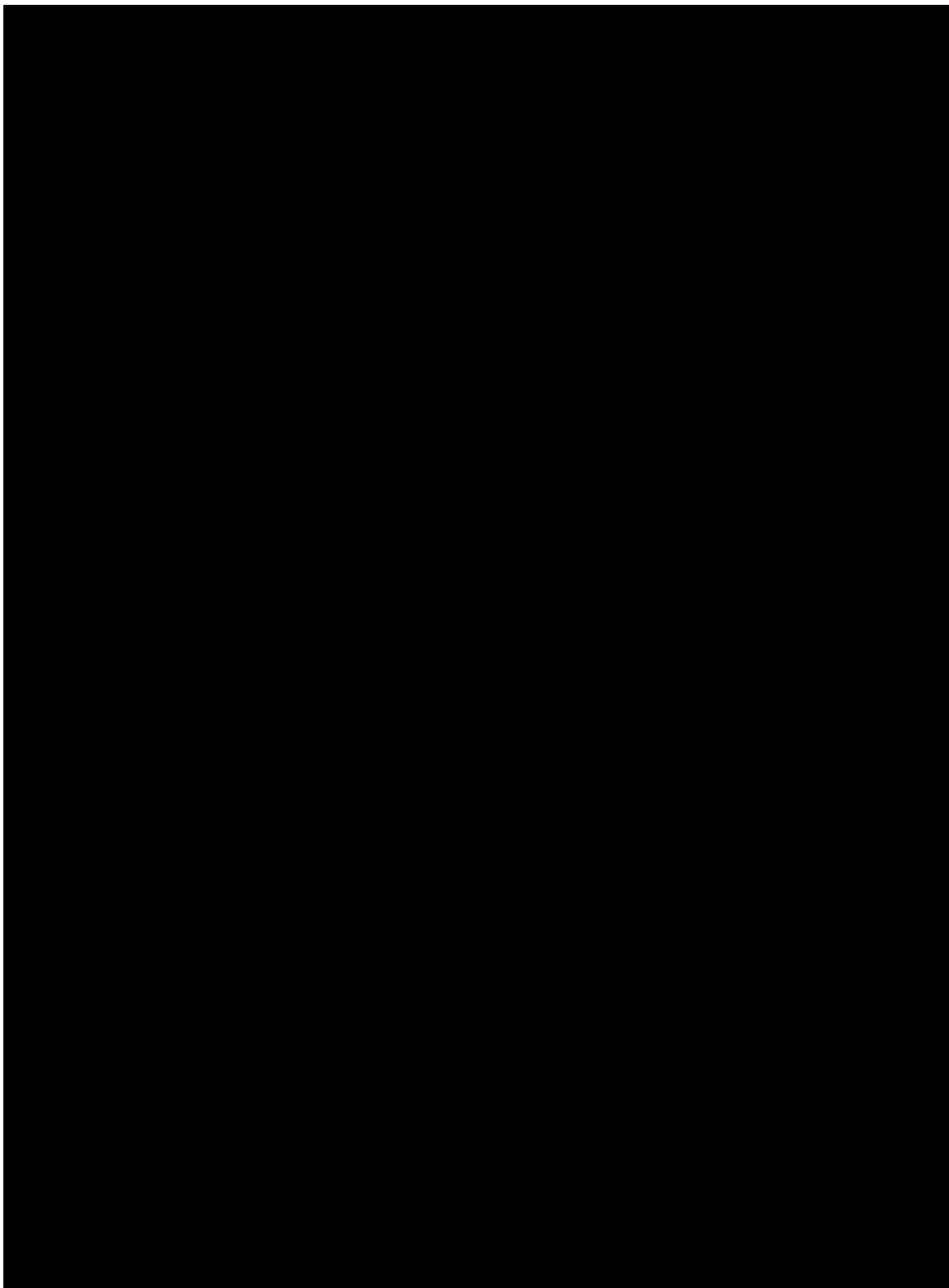
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EX. 63

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JAMS, Inc.

Reference No. 1345000011

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In Re State Street Attorneys Fees

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June 5, 2017

9:16 a.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of EVAN HOFFMAN,
taken by Counsel to the Special Master,
held at JAMS, Inc., 620 Eighth Avenue, New
York, New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629858

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1 HOFFMAN
2 potentially tens or even hundreds of
3 thousands of dollars on a single trade as
4 a result of State Street sort of either
5 waiting to see what the market did or
6 adding sort of an undisclosed markup to
7 the trade.
8 Again, basis points seem like
9 small numbers, but when they are applied
10 to trades of hundreds of thousands and in
11 some cases million dollar trades, they can
12 add up, and because these are public
13 pension funds and private pension funds,
14 it is a lot of money that can be lost.
15 JUDGE ROSEN: And in your view,
16 plaintiff's view, was that process
17 immediately transparent to customers?
18 THE WITNESS: No.
19 BY MR. SINNOTT:
20 Q. What was the total amount of
21 damages that was alleged or found out
22 during the course of the litigation?
23 A. Well, I think each side had a
24 different view and it was a sticing point
25 of mediation.

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1 HOFFMAN
2 It all depended on what the
3 markup was in relation to what the initial
4 trade should have been and so the only way
5 to get that information, and what we
6 eventually obtained in discovery, informal
7 discovery, was taking the volume of all of
8 the trades and multiplying it by whatever
9 spread the parties could try and agree on
10 was the actual markup.
11 And that gave you -- and it
12 had to be for a certain number of years
13 because not all the clients were part of
14 the ten-year class period necessarily.
15 It is in the hundreds of
16 millions of dollars, I think plaintiff
17 reasonably believed it was probably close
18 to a billion, State Street believed, I
19 don't know, I think they said something
20 like 50 million, and that was part of the
21 negotiation process, was trying to find a
22 number.
23 Q. So pretty wide range there, 50
24 million to a billion or more?
25 A. Yes.

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1 HOFFMAN
[Redacted text]

Page 25

1 HOFFMAN
[Redacted text]

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1 HOFFMAN
2 staff attorneys to Thornton?
3 THE WITNESS: No, nothing.
4 JUDGE ROSEN: Was Mike Lesser?
5 THE WITNESS: Probably not,
6 Garrett Bradley and Mike Thornton.
7 BY MR. SINNOTT:
8 Q. What was your understanding,
9 counsel, as far as the rates that would be
10 billed for the staff attorneys that were
11 shared?
12 A. My understanding was that for
13 attorneys who Thornton was financially
14 responsible for, they would be included on
15 whatever the ultimate fee petition that
16 Thornton would submit.
17 JUDGE ROSEN: At what rate, did
18 you have an understanding of the rates?
19 THE WITNESS: At the beginning,
20 no.
21 JUDGE ROSEN: For these staff
22 attorneys?
23 THE WITNESS: At the beginning,
24 no.
25 JUDGE ROSEN: Later?

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[REDACTED]

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1 HOFFMAN
2 THE WITNESS: Yes.
3 JUDGE ROSEN: And what was the
4 range?
5 THE WITNESS: It was suggested
6 by Dan Chiplock of Lief and Mike Rogers
7 of Labaton, that we should use for
8 purposes of fee petition rates that had
9 been approved by Judge Kaplan in the
10 Mellon case for the reviewers, which was
11 \$425 an hour and that was what was put in
12 on Thornton's end.
13 Q. Is that what the other firms
14 put in?
15 A. Well, I subsequently have come
16 to learn that it was not, but as far as we
17 knew at the time, that's what everyone was
18 going to be putting in.
19 JUDGE ROSEN: And did you know
20 what rate Thornton was actually being
21 charged by Labaton and Lief for the staff
22 attorneys?
23 THE WITNESS: What rates?
24 JUDGE ROSEN: What hourly rate?
25 THE WITNESS: Not necessarily.

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1 HOFFMAN
2 THE WITNESS: No, sorry, there
3 were two third-party contracting staffing
4 agencies.
5 JUDGE ROSEN: And how many of
6 those, how many of the staff attorneys
7 that were allocated to Thornton were
8 subject to this contractual arrangement?
9 THE WITNESS: I think three and
10 for a time four.
11 There was one staffing agency
12 called Hire Counsel and one staffing
13 agency was called Special Counsel.
14 JUDGE ROSEN: Hire as in
15 H-I-R-E or H-I-G-H-E-R?
16 THE WITNESS: H-I-R-E.
17 JUDGE ROSEN: Were there also
18 staff attorneys from Lief that were
19 allocated to Thornton that actually worked
20 for directly Lief?
21 THE WITNESS: Yes, there was a
22 brief period of time when the relationship
23 in terms of sharing staff attorneys first
24 started that I believe the two members,
25 two attorneys at Lief were sort of, yes,

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1 HOFFMAN
 2 directly reporting their hours to Lieff,
 3 who would then submit a bill to us.
 4 That didn't go on for maybe
 5 more than a month or two.
 6 JUDGE ROSEN: With respect to
 7 what we'll call the contract attorneys,
 8 Thornton was paying Hire and the other one
 9 directly on invoice basis?
 10 THE WITNESS: Yes.
 11 JUDGE ROSEN: Do you remember
 12 what the hourly rates were for those?
 13 THE WITNESS: I want to say
 14 somewhere between 50 and 80 an hour.
 15 JUDGE ROSEN: Were those
 16 attorneys also billed at \$425 an hour in
 17 the fee petition?
 18 THE WITNESS: For Thornton they
 19 were, yes.
 20 BY MR. SINNOTT:
 21 Q. With respect to Labaton, how
 22 were their attorneys assigned to Thornton
 23 Law Firm?
 24 A. I don't know.
 25 Q. You weren't part of that?

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1 HOFFMAN
 2 A. No, I received an e-mail one
 3 day that said these are your people and I
 4 made sure to just know who they were and
 5 that when it ultimately came time to
 6 prepare the hours, to seek the information
 7 from those people.
 8 JUDGE ROSEN: I'm curious,
 9 Mr. Hoffman, did you ever actually
 10 physically work with these attorneys,
 11 either the contract attorneys or the
 12 allocated attorneys from Lieff and
 13 Labaton, physically work with them, meet
 14 them, get to know them, talk to them?
 15 THE WITNESS: No.
 16 I never met them, to my
 17 knowledge; it is possible I did in one of
 18 our meetings at Labaton, I just can't
 19 remember.
 20 There would be maybe a few
 21 times I would respond by e-mail to a
 22 question, but, no, my understanding is
 23 that because they were housed at Lieff and
 24 Labaton, that there were respective people
 25 there who were in charge of coordinating

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1 HOFFMAN
 2 what it is they were doing on a daily
 3 basis because they were physically there,
 4 it would have been a lot easier.
 5 JUDGE ROSEN: Exactly my next
 6 question; were you involved in supervising
 7 and directing the substantive work of
 8 these attorneys?
 9 THE WITNESS: No.
 10 With the exception of when the
 11 sort of topic-specific memoranda targeted
 12 sort of search review project came along,
 13 that was really an effort of Mike Lesser,
 14 members from the other firms, too, Dan
 15 Chiplock and Mike Roger from Labaton and
 16 to a lesser degree myself, had input into
 17 sort of writing these memos of specific
 18 topics we wanted addressed.
 19 So with that exception, no, I
 20 would not have really a supervisory
 21 capacity.
 22 BY MR. SINNOTT:
 23 Q. Aside from yourself, counsel,
 24 did Thornton Law Firm have any input in
 25 selecting who these staff attorneys were?

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1 HOFFMAN
 2 A. No.
 3 Q. Did it have any input in the
 4 numbers of ratio from one firm to the
 5 next?
 6 A. No, although I do know that
 7 there was an agreement as to how many we
 8 would have, but I was not involved in
 9 that.
 10 Q. Do you recall when it was that
 11 you and Mike Lesser participated in this
 12 process, the memoranda with respect to key
 13 topics and things of that nature?
 14 A. I want to say spring of 2015,
 15 that's as close as I can get, I can't give
 16 you an exact date.
 17 Q. Who made the final decision on
 18 what the topics would be?
 19 A. It would primarily have been
 20 Mike Lesser because he had just such a
 21 body of knowledge at this point.
 22 But it would have been
 23 discussed between Mike Rogers, Mike
 24 Lesser, Dan Chiplock over at Lieff, to a
 25 lesser degree maybe David Goldsmith at

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[REDACTED]

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1 HOFFMAN
2 [REDACTED]
[REDACTED]

Page 67

[REDACTED]

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1 HOFFMAN
2 A. Yes, generally we would just
3 get the memo which would address whether
4 or not they were able to find something
5 supportive of what it was we asked them to
6 do
7 Q. Would it be fair to say your
8 contact with these staff attorneys was
9 providing some general memoranda and
10 information to guide their searches and on
11 some rare occasions responding to requests
12 for information from them?
13 A. From Thornton's role, yes,
14 that's fair.
15 Q. Did you have any supervisory
16 responsibilities over the staff attorneys,
17 that you can recall?
18 A. No, other than for the staff
19 attorneys who were contracted out through
20 the third-party staff agencies, I along
21 with my office manager would have to
22 approve their timesheets at the end of
23 every week, so take a look at their hours
24 and approve it, I think that happened
25 every Friday.

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1 HOFFMAN
2 In that sense I suppose, yes.
3 JUDGE ROSEN: What were you
4 looking for when you reviewed their hours?
5 THE WITNESS: Well, seeing that
6 the hours were done, how many hours; that
7 was about it, making sure that -- yeah.
8 JUDGE ROSEN: How could you
9 tell, though, that the work was actually
10 performed if you weren't day-to-day
11 supervising them?
12 THE WITNESS: I guess there is
13 no way I could, but because they were
14 being physically housed, it wasn't like
15 they were, you know, at an off-site
16 warehouse.
17 I knew they were literally in
18 the building with people at Lieff and
19 Labaton who were in charge of making sure
20 that the work was getting done.
21 JUDGE ROSEN: The time entries
22 for some of the staff attorneys are pretty
23 cryptic, document review, that sort of
24 thing.
25 Was that your memory of, when

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[REDACTED]

Page 71

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Page 73

[REDACTED]

Page 90
[Redacted text]

Page 92
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Page 91
[Redacted text]

Page 93
1 HOFFMAN
2 Q. Let me ask you this then.
3 In other cases, to your
4 knowledge --
5 JUDGE ROSEN: One more
6 question, I'm sorry.
7 Off the record.
8 (Discussion off the record.)
9 BY MR. SINNOTT:
10 Q. Let's move into the fee
11 declaration.
12 Could you describe what your
13 role was in that process.
14 A. So we received from Labaton,
15 from a partner there named Nicole Zeiss, a
16 sort of model fee declaration that was
17 sent around in advance of submitting the
18 total fee declaration and it had a bunch
19 of text in it and it was like those
20 fill-in-the-blank, whatever that game is,
21 but it was sort of put your information
22 here.
23 JUDGE ROSEN: Not Hang Man.
24 THE WITNESS: Not Hang Man, no.
25 A. Put your information here, so

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1 HOFFMAN
2 there was a section on fill in what your
3 hours are, fill in what your expenses are,
4 fill in what your lodestar is, fill in
5 what your specific contributions were to
6 the case, and the rest of the language was
7 sort of, it was called a model fee
8 declaration.
9 And so that's what we did, he
10 put in all the hours that we had kept
11 track of, I along with our accounting
12 department and Anasthasia put in the
13 expenses and then mostly Mike Lesser and
14 then Garrett Bradley, Mike Thornton and
15 myself all reviewed the sort of narrative
16 about the firm's contribution, which I
17 believe mostly Mike Lesser drafted.
18 And then it was sent back to
19 Labaton for their review and maybe an edit
20 or two and that was the last we saw of it
21 until it was submitted on ECF for the
22 final, when it was actually given to the
23 judge.
24 JUDGE ROSEN: You never saw
25 Labaton's fees or Lief's fees in the

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[REDACTED]

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1 HOFFMAN
2 declaration?
3 THE WITNESS: Correct.
4 JUDGE ROSEN: In the actual fee
5 declaration, did you ever see their fees?
6 THE WITNESS: No, not until it
7 was already filed.
8 JUDGE ROSEN: Not until it was
9 filed?
10 THE WITNESS: Correct.
11 JUDGE ROSEN: Did you in any
12 way attempt to edit or change the
13 narrative in the fee declaration?
14 THE WITNESS: So let me just be
15 clear.
16 The document that I'm talking
17 about is the sort of, whatever it is, I'm
18 talking about the affidavit, so, yes,
19 there was a spot where we were instructed
20 to add what our firm-specific
21 contributions would have been, because it
22 was a fee declaration on behalf of our
23 firm.
24 As to the overall package of
25 whatever the declaration, maybe it was

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[REDACTED]

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1 HOFFMAN
2 what do you call it, fee applications and
3 hours were for the other firms.
4 But we worked with Labaton and
5 Lieff as they were going through their own
6 internal records and accounting department
7 and billing stuff trying to figure out
8 where the problem was and it was
9 ultimately reported to us that Labaton
10 said there had been some sort of
11 miscommunication between their accounting
12 department and I think probably Nicole,
13 who was in charge of preparing the fee
14 petition, as to who was assigned to what
15 firm and we got a pretty similar
16 explanation from Lieff too that there had
17 been mistakes in terms of people being
18 counted for whatever reason and it wasn't
19 noted that -- by either the reviewers or
20 people in charge of the reviewers, as to
21 who it was they were working for.
22 But it took a couple of days
23 for I think everyone to figure out what
24 happened.
25 Q. Is this something that would

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Page 103

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Page 105

[REDACTED]

Page 106

[REDACTED]

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1 HOFFMAN
2 regular basis, I think usually at the end
3 of the week it would be a summary of his
4 daily breakdown of hours, sometimes it
5 would be every two weeks, but it would
6 include in that e-mail every day how many
7 hours he worked.
8 JUDGE ROSEN: Was there a
9 narrative on each entry or was it just a
10 summary, on Tuesday I worked eight hours
11 and did document review?
12 THE WITNESS: That was pretty
13 much what it was, yeah, I worked this many
14 hours doing document review.
15 JUDGE ROSEN: But it wasn't
16 like the other staff attorneys were doing
17 day, time, specific task?
18 THE WITNESS: I am not really
19 sure.
20 My recollection is most of the
21 staff attorneys had general narrative
22 about doing document review, however that
23 was phrased.
24 JUDGE ROSEN: But they did
25 daily times, they kept daily times?

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1 HOFFMAN
2 this case.
3 A. I was informed at some point
4 that he was being brought on to do some
5 document review for us on a contingency
6 basis and I think Garrett made the
7 introduction, it was either by phone or
8 e-mail or both.
9 We were introduced, I think he
10 was given a summary at some point of the
11 case that was either prepared by us or may
12 have been the version prepared by Labaton
13 or Lieff to give to their document
14 reviewers.
15 I know he was certainly given
16 the complaints, he was set up, we had to
17 put him in contact with Kirti at Lieff and
18 the Catalyst people to get him credentials
19 to work on the database so he could review
20 the documents.
21 I remember having a call with
22 him to sort of go over the general issues,
23 what it is we were looking for.
24 Then we established a procedure
25 where he would send me his hours on a

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1 HOFFMAN
2 THE WITNESS: He kept daily
3 time, too; it would just be e-mailed to me
4 at the end of the week.
5 So instead of sending an e-mail
6 every single day, and that's how I would
7 get it from Special Counsel or Hire
8 Counsel, a weekly summary, but within that
9 weekly summary sent once a week would be a
10 breakdown of the hours worked on a daily
11 basis.
12 JUDGE ROSEN: Did Michael break
13 down his on a daily basis?
14 THE WITNESS: Yes, his hours
15 were broken down on a daily basis to the
16 exact minute.
17 And there would be, just to
18 head back, I remember a few occasions
19 where I had a conversation with him, he
20 would call and say, hey, one in particular
21 I remember, he was finding a lot of trade
22 tickets and was trying to figure out
23 whether that was something we were
24 interested in, so I remember having a
25 conversation with him.

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1 HOFFMAN
2 I think ultimately the answer
3 was no, because they were not actually
4 involved with standing instruction trades
5 and there was no real relevance.
6 And that's generally how the
7 relationship went.
8 Sometimes there were technical
9 problems; I remember one time his password
10 stopped working so we had to get him back
11 in contact with the Catalyst people and
12 reset his password and that's sort of how
13 it proceeded.
14 JUDGE ROSEN: Did he receive
15 overview training?
16 THE WITNESS: He must have
17 received the Catalyst training, yes.
18 JUDGE ROSEN: I don't mean the
19 Catalyst training; I mean the overview of
20 the case, training and how to look for
21 documents?
22 THE WITNESS: That's what I am
23 trying to remember; I know we certainly
24 sent him the complaint and I think we sent
25 him the materials that were provided to

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[REDACTED]

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1 HOFFMAN
2 the other firm, I can't recall.
3 BY MR. SINNOTT:
4 Q. Were you his supervisor or did
5 you oversee his work?
6 A. I wouldn't say so, no; I sort
7 of collected his hours and would answer
8 any questions he had about either the
9 capabilities of the system or documents
10 that he was inquiring about their
11 relevance.
12 JUDGE ROSEN: So when he would
13 find documents -- first of all, did he
14 find documents?
15 THE WITNESS: Again, there were
16 times where there were questions that he
17 would ask about whether these were
18 relevant or not or he would send an e-mail
19 saying I am not really finding anything
20 good necessarily.
21 JUDGE ROSEN: But did he find
22 documents, hot documents, cold documents,
23 warm documents?
24 THE WITNESS: Again, to the
25 extent they would have been tagged within

Page 113

[REDACTED]

EX. 64

From: Michael Lesser
Sent: Wednesday, March 11, 2015 1:44 PM
To: Garrett Bradley
Cc: Michael Thornton; Evan Hoffman
Subject: Re: State street

He's looking into it.

On Mar 11, 2015, at 12:53 PM, Garrett Bradley <GBradley@tenlaw.com> wrote:

Ask Rodgers

From: Michael Lesser
Sent: Wednesday, March 11, 2015 12:43 PM
To: Garrett Bradley
Cc: Michael Thornton; Evan Hoffman
Subject: RE: State street

The invoice and email date are 2/6. The invoice shows billing through 2/28. Did they bill for time before it was incurred?

From: Garrett Bradley
Sent: Wednesday, March 11, 2015 12:42 PM
To: Michael Lesser
Cc: Michael Thornton; Evan Hoffman
Subject: Re: State street

double count for what?

Garrett

On Mar 11, 2015, at 11:54 AM, Michael Lesser <MLesser@tenlaw.com> wrote:

Garrett: Just following up on the doc review recordkeeping. The attached invoice is dated 2/6/2015 (and was sent by e-mail on 2/6 as well) but includes billables through 2/28. Can you ask them to confirm whether these hours were billed for 2/6 – 2/28? I don't want us to double-count anything.

Thanks,

M

From: Garrett Bradley
Sent: Friday, February 06, 2015 3:48 PM
To: Michael Thornton
Cc: Michael Lesser
Subject: Fwd: State street

First month bill. I have not heard a thing from Chiplock on how he is doing....He has not been playing nice in the sand box lately. I emailed him yesterday asking for a call with Belfi to discuss this. No response.

This is the best way to jack up the loadstar though.

Garrett

Begin forwarded message:

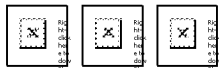
From: "Ng, Cindy" <CNg@labaton.com>
Date: February 6, 2015 at 3:44:56 PM EST
To: "Garrett J. Bradley" <gbradley@tenlaw.com>
Cc: Anastasia Maranian <AMaranian@tenlaw.com>, "Stroock, Naomi" <nstroock@labaton.com>, "Politano, Ray" <rpolitano@labaton.com>
Subject: RE: State street

Garrett,

Attached is the invoice regarding State Street document review.



Cindy Ng | Senior Accountant
140 Broadway, New York, New York 10005
T: (212) 907-0657 | F: (212) 883-7556
E: cng@labaton.com | W: www.labaton.com



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<State Street - 1020347 (Feb 2015).pdf>

EX. 65

Message

From: Ng, Cindy [CNg@labaton.com]
Sent: 4/9/2015 3:49:35 PM
To: Garrett J. Bradley [gbradley@tenlaw.com]
CC: 'Anastasia Maranian' [AMaranian@tenlaw.com]; Stroock, Naomi [nstroock@labaton.com]; Politano, Ray [rpolitano@labaton.com]
Subject: RE: State street
Attachments: State Stree - 1020423 (April 2015).pdf

Garrett,

Attached is the April invoice regarding State Street document review.

**Labaton
Sucharow**

Cindy Ng | Senior Accountant

140 Broadway, New York, New York 10005

T: (212) 907-0657 | F: (212) 883-7556

E: cng@labaton.com | W: www.labaton.com



Labaton Sucharow

Mr. Garrett Bradley
Thornton Law Firm LLP
100 Summer Street, 30th Floor
Boston, MA 02110

April 9, 2015
ID: 016576.0001
Invoice # 1020423

RE: State Street Corporation-Class Action

For Document Reviewer Services Rendered from April 1, 2015 through April 30, 2015.

Total Hours	Rates	Amount
1600.00	\$50.00	\$80,000.00
Adjustment - March 2015 (150.0 Hours)		\$ 7,500.00
	Invoice Amount	\$87,500.00
	Past Due Invoice#1020393 - 03/09/2015	\$45,710.00
	Total Amount Due	<u>\$133,210.00</u>

Please make checks payable to Labaton Sucharow LLP

Expenses and disbursements, if any, recorded after date
of statement will appear on a later statement
Tax Identification Number 13-1987846

EX. 66

Exhibit 16

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)
)
Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

**DECLARATION OF GARRETT J. BRADLEY, ESQ. ON BEHALF OF
THORNTON LAW FIRM, LLP IN SUPPORT OF LEAD COUNSEL'S MOTION FOR
AN AWARD OF ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

Garrett J. Bradley, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am the Managing Partner of Thornton Law Firm, LLP. (“TLF”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from inception through August 30, 2016 (the “Time Period”)

2. My firm is Liaison Counsel for Plaintiff Arkansas Teachers Retirement System (“ARTRS”) and the proposed Class. TLF substantially contributed to the prosecution of this Action and performed work on behalf of and for the benefit of the Class. TLF has been actively involved in the prosecution of this Action since its inception. Prior to this case being filed in this Court, TLF and others investigated and evaluated ARTRS’s and the putative Class's claims and damages. For instance, TLF, along with Lead Counsel and George Hopkins, Executive Director of ARTRS, met in Chicago with representatives of Ennis Knupp, a consultant engaged by ARTRS to oversee its investment managers, to discuss FX issues and potential claims against State Street. TLF participated in the drafting of the initial and amended complaints, participated in the briefing of the opposition to the motion to dismiss, and contributed to and attended all of the mediation sessions with the mediator, Jonathan Marks, and the Defendants. TLF participated extensively in offensive document discovery relating to issues of liability and damages. TLF also worked closely with the non-testifying consulting expert, FX Transparency, retained in the Action. Apart from the ARTRS action, TLF served as lead counsel representing multiple relators in false claims act cases involving standing instruction FX. TLF brought the first cases made public relating to the standing instruction FX schemes in 2008 and has been involved in foreign exchange litigation against custodial banks continually since that time.

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions.

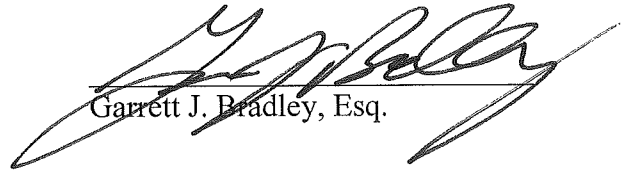
5. The total number of hours expended on this litigation by my firm during the Time Period is 15,302.5 hours. The total lodestar for my firm for those hours is \$7,460,139.

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

7. As detailed in Exhibit B, my firm has incurred a total of \$295,315.50 in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
September 14, 2016.



Garrett J. Bradley, Esq.

Exhibit A

EXHIBIT A**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****LODESTAR REPORT****FIRM: THORNTON LAW FIRM, LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

PROFESSIONAL	STATUS*	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Michael P. Thornton	P	\$850	585.9	\$498,015
Garrett J. Bradley	P	\$800	734.9	\$587,920
Michael A. Lesser	P	\$700	1,433.8	\$1,003,660
Evan R. Hoffman	P	\$535	1,110.2	\$593,957
Jotham Kinder	A	\$450	328.3	\$147,735
Virginia Weiss	SA	\$425	454.00	\$192,950
Ann Ten Eyck	SA	\$425	514.60	\$218,450
Jonathan Zaul	SA	\$425	327.00	\$138,975
Michael Bradley	SA	\$500	406.40	\$203,200
Chris Jordan	SA	\$425	288.00	\$122,400
Andrew McClelland	SA	\$425	358.50	\$152,362
Rachel Winterle	SA	\$425	552.80	\$234,940
David Alper	SA	\$425	959.30	\$407,702
Stephen Dolben	SA	\$425	420.90	\$178,882
Debra Fouchong	SA	\$425	914.80	\$388,790

Dorothy Hong	SA	\$425	521.10	\$221,467
Aron Rosenbaum	SA	\$425	540.90	\$229,882
Comfort Orji	SA	\$425	644.20	\$273,785
Albert Powell	SA	\$425	678.00	\$288,160
Jason Saad	SA	\$425	480.70	\$204,297
Roger Yamada	SA	\$425	147.10	\$62,517
Ebone Bishop	SA	\$425	464.70	\$197,497
Nicole Cameron	SA	\$425	132.00	\$56,100
Mashariki Daniels	SA	\$425	562.10	\$238,892
Jacqueline Grant	SA	\$425	415.80	\$176,715
Anuj Vaidya	SA	\$425	442.70	\$188,147
Betsy Schulman	SA	\$425	274.00	\$116,450
Ian Herrick	SA	\$425	18.20	\$7,735
David Packman	SA	\$425	20.10	\$8,542
Andrea Caruth	PL	\$210	571.50	\$120,015
TOTAL			15,302.5	\$7,460,139

Partner (P)
Of Counsel (OC)
Associate (A)
Staff Attorney (SA)

Paralegal (PL)
Investigator (I)
Research Analyst (RA)

Exhibit B

EXHIBIT B

STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

EXPENSE REPORT

FIRM: THORNTON LAW FIRM, LLP
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016

EXPENSE	TOTAL AMOUNT
Experts/Consultants	\$104,434.47
Work-Related Transportation/Meals/Lodging	\$85,631.03
Litigation Fund Contribution	\$98,000.00
Online Legal & Financial Research	\$7,250.00
TOTAL	\$295,315.50

Exhibit C

EXHIBIT C

THORNTON LAW FIRM, LLP

THORNTON LAW FIRM, LLP was founded in 1978, and was in the forefront of the battle to bring justice to asbestos victims in New England. It has since grown to be the largest plaintiffs' personal injury firm in New England. In addition to representing more than 10,000 workers and their families injured by dangerous products and toxic materials, the firm handles complex fraud litigation, including class actions involving violations of federal securities, consumer-protection and whistleblower laws in federal and state courts throughout the country.

The firm's efforts have focused on cutting edge litigation involving public health and corporate misconduct. For example, Thornton Law Firm, LLP led a team of lawyers representing the Commonwealth of Massachusetts in a landmark lawsuit against the Tobacco industry that resulted in a settlement which will pay Massachusetts hundreds of millions of dollars each year for over two decades (*Commonwealth of Massachusetts v. Philip Morris Inc., et al.*, C.A. No. 95-7378). In addition, the firm represents other states and municipalities against the lead industry, children with birth defects caused by chemical exposure, owners of property damaged by toxic waste, and individuals killed or injured in work related incidents.

Thornton Law Firm, LLP has also been active in class action litigation involving medical monitoring for tobacco users, insurance fraud, securities litigation on behalf of public authorities, credit card data security, automotive design, and litigation on behalf of public and private pension funds against the banking industry. Thornton Law Firm, LLP is active in supporting pioneering medical research to treat and cure environmentally caused cancer, and in promoting legislation to protect workers and their legal rights.

Among other matters, Thornton Law Firm, LLP has served as Liaison Counsel in: *Arkansas Teacher Retirement System v. State Street Corporation et al.*, C.A. No. 1:11-cv-10230(MLW)(D. Mass.); Liaison Counsel in: *IN RE: BIOGEN INC. SECURITIES LITIGATION*, No. 1:15-cv-13189(FDS)(D. Mass.); Plaintiff and Class Counsel in: *Donovan v. PM USA, Inc.*, C.A. 06-12234 (DJC)(D. Mass.); Class Counsel in: *Composite Company, Inc. v. American International Group, Inc.*, et al., C.A. No. 13-10491 (FDS)(D. Mass.); Co-Counsel for Lead Plaintiff in: *McGrath v. Monro Muffler Brake, Inc.*, 11-cv-40088(TSH) (D. Mass.); Local Counsel for Lead Plaintiff Steamship Trade Association-International Longshoremen's Association Pension Fund in: *IN RE AMERICAN TOWER CORPORATION SECURITIES LITIGATION*, No. 06-CV-10933 (MLW)(D. Mass.); Counsel for Consolidated Plaintiff in: *IN RE TJX COMPANIES RETAIL SECURITY BREACH LITIGATION*, C.A. No. 1:07-10162(WGY)(D. Mass.); Class Counsel in: *International Union of Operating Engineers, Stationary Engineers Local 39 Pension Trust Fund v. The Bank of New York Mellon Corporation, et al.*, C.A. No. 12 Civ. 3067 (LAK) (S.D.N.Y.)(*IN RE: BANK OF NEW YORK MELLON CORPORATION FOREIGN TRANSACTIONS LITIGATION*, 12-MDL-2335 (LAK)(S.D.N.Y.)); Class Counsel in: *Thrift Development Corporation v. American International Group, Inc., et al.*, C.A. No. 8:12-cv-00861(MGL)(D. S.C.); Counsel in: *IN RE: ARIAD PHARMACEUTICALS, INC. SECURITIES LITIGATION*, No. 1:13-cv-12544 (WGY)(D. Mass.); and Class counsel in: *Cashman v. Travelers Indemnity Company, et al.*, C.A. No. 02-2056-H (Mass. Sup. Ct.).

THE FIRM'S ATTORNEYS APPEARING IN THIS MATTER

MICHAEL P. THORNTON Michael Thornton is the Chairman and co-founder of Thornton Law Firm, LLP. A nationally recognized expert on toxic tort litigation, Mr. Thornton graduated from Dartmouth College and Vanderbilt Law School. In the 1970's he successfully undertook the representation of a number of shipyard and construction workers who had developed asbestos-related diseases. Over the years, the firm has grown to become the largest firm in the Northeast representing victims of asbestos and other toxic materials.

Mr. Thornton practices in the areas of class actions, Attorney General litigation, benzene, toxic substance and occupational disease claims, birth defects linked to chemicals, childhood lead poisoning, construction and jobsite accidents, Mesothelioma and asbestos claims, pharmaceutical drug and medical device litigation, product liability and personal injury, toxic tort and environmental litigation, wage and hour, and whistleblower litigation.

During the past decade, Mr. Thornton has lead the firm to support many charitable causes; the most visible and important project involves cancer research. Mr. Thornton was approached by clinicians and researchers at Brigham and Women's Hospital who were interested in studying mesothelioma, a then untreatable and invariably fatal form of asbestos related cancer. After making a multiyear commitment from his own firm, Mr. Thornton helped to recruit several other donors. The program, now in its seventh year, has made groundbreaking strides in cancer research generally, and has helped to revolutionize the treatment of mesothelioma, leading to longer survival and better quality of life for victims of this disease.

Mr. Thornton also responded to a call to help establish a place for the families of mesothelioma victims to stay, as the financial impact of staying in hotels can be devastating. The Thornton House was opened in 2008 and houses up to nine families at a time.

Mr. Thornton is a member of the Massachusetts, New Hampshire, and Maine bars. He has published a number of articles on legal subjects and has lectured at the Harvard School of Public Health, Harvard Medical School, and Yale Law School.

GARRETT J. BRADLEY Mr. Bradley is a graduate of Boston College and Boston College Law School and is the Managing Partner of Thornton Law Firm, LLP. Prior to joining Thornton Law Firm, LLP, Mr. Bradley worked as an Assistant District Attorney in the Plymouth County D.A.'s office. Mr. Bradley practices in the areas of class actions, construction and jobsite accidents, mesothelioma and asbestos claims, and workers compensation. Mr. Bradley is a member of the Massachusetts and the New York Bar.

MICHAEL A. LESSER Mr. Lesser is a Partner in the Firm, joining as an associate in 1995. He heads the firm's False Claims Act / Whistleblower litigation section, representing individuals that report fraud on the Federal and State governments. While practicing in traditional areas of False Claims litigation, including Medicare and Medicaid fraud, Mr. Lesser also handles False Claims Act litigation involving finance and bank fraud. During his time at Thornton Law Firm, LLP, Mr. Lesser has represented clients in all of the firm's practice areas,

including victims of exposure to asbestos, glycol ethers, and lead. Mr. Lesser was also part of the firm's litigation team that represented the Commonwealth of Massachusetts in its claims against the tobacco industry. Mr. Lesser was appointed Special Assistant Attorney General representing the Commonwealth from 1996 through 1999 for this purpose.

EVAN R. HOFFMAN Mr. Hoffman is a Partner at Thornton Law Firm, LLP, joining as an associate in 2010, after previously clerking for the Firm beginning in 2008. Mr. Hoffman's practice areas include qui tam, class action litigation, complex financial fraud, asbestos and mesothelioma claims, and birth defects. Since joining Thornton Law Firm, LLP, Mr. Hoffman has represented whistleblowers and pension funds asserting claims in state and federal courts throughout the country against several large global custodial banks for foreign exchange fraud, recovering hundreds of millions of dollars for affected clients as a result. Mr. Hoffman also represents individuals making claims under the SEC's Dodd-Frank and the DOJ's FIRREA whistleblowing statutes. A graduate of American University and Suffolk University Law School, Mr. Hoffman is admitted to the Massachusetts Bar and the United States District Court for the District of Massachusetts.

JOTHAM C. KINDER Mr. Kinder is an associate at Thornton Law Firm, LLP and joined the Firm in 2011. He practices in the Firm's birth defects, qui tam, false claims, and whistleblower areas, as well as workers compensation and asbestos and mesothelioma claims. Mr. Kinder is a graduate of the Royal Holloway College at the University of London and of Northeastern University Law School. He is a member of the Massachusetts and New York Bar.

EX. 67

Michael Bradley

1

JAMS, INC.

Volume: 1

Pages: 1-76

Ref. No. 1345000011

Exhibits: 0

In Re: STATE STREET ATTORNEYS FEES

Before: SPECIAL MASTER HONORABLE GERALD ROSEN,
UNITED STATES DISTRICT COURT, RETIRED

Date: June 19, 2017

Time: 9:38-10:59 a.m.

Deposition of MICHAEL G. BRADLEY,
taken by counsel to the Special Master held at JAMS,
Inc., One Beacon Street, Boston, Massachusetts
before Cynthia Stutz, CPR, Notary Public of the
Commonwealth of Massachusetts.

Page 10

1 November 10th, 2016 letter from David Goldsmith,
2 Esq. of Labaton Sucharow to the Court; (c), the
3 accuracy and reliability of the representations made
4 by the parties requesting service awards; (d), the
5 reasonableness of the amounts of attorneys' fees,
6 expenses and service awards previously ordered and
7 whether any or all of them should be reduced; (e),
8 whether any misconduct occurred in connection with
9 such awards, and if so; (f), whether it should be
10 sanctioned. So that is why we're here.

11 **DIRECT EXAMINATION**
12 **BY MR. SINNOTT:**
13 Q. Good morning, Mr. Bradley.
14 A. **Good morning.**
15 Q. Could we start off by --
16 **MR. FULLER:** Bill, can I just make
17 one observation on the record?
18 **MR. SINOTT:** Absolutely.
19 **MR. FULLER:** On behalf of Mr.
20 Bradley, since he's not a party. He's here to
21 answer all questions. I just want to preserve all
22 of his rights as a non-party and assert that he's
23 not waiving any of them under the Court's order for
24 any future orders the Court might issue or for any

Page 11

1 other reason. I just wanted to state that. Thank
2 you.
3 **MR. SINOTT:** Thank you. That
4 statement is reflected in the record.
5 Q. Mr. Bradley, could you tell us about your
6 background, beginning with your education?
7 A. **So I graduated UMass Boston, then Suffolk**
8 **Law School, graduated 2004, but walked in 2005.**
9 **From there I worked for Norfolk County District**
10 **Attorneys office for several years, two years**
11 **roughly and change, and then after that time I**
12 **worked from the Norfolk District Attorney's office,**
13 **opened up my own practice for just a bit. And then**
14 **I actually got a job with the Department of Work**
15 **Force Development -- excuse me, Labor and Work Force**
16 **Development, specifically the Underground Economy**
17 **Task Force, which was situated within the Division**
18 **of Industrial Accidents.**
19 Q. Was that a Commonwealth of Massachusetts
20 entity?
21 A. **It was.**
22 Q. And how long did you work for the
23 Underground Economy Task Force?
24 A. **I'd say approximately two years.**

Page 12

1 Q. And what year did that terminate or come
2 to an end?
3 A. **So the DA's office was '5 to '7. That was**
4 **about '8 to '10, maybe beginning --**
5 **MR. FULLER:** Are you saying 2005?
6 A. **Yeah, 2005 to 2007 was the District**
7 **Attorney's office. And then early 2008, I would**
8 **say, to late 2010 or very, very early 2011, at which**
9 **time I went into back into the solo practice.**
10 Q. Okay.
11 A. **Until now.**
12 Q. And beginning in 2011 in solo practice and
13 in your previous tenure in solo practice, can you
14 tell us about your practice areas and the type of
15 work that you have performed?
16 A. **For the vast majority of the work I do is**
17 **criminal defense work. I do private work,**
18 **obviously. I'm also a member of the Norfolk County**
19 **Bar Advocate Program, which if you're familiar with,**
20 **I can expand on that, if you like.**
21 Q. Yes.
22 A. **So the Norfolk County Bar Advocate Program**
23 **is a program where it's under the Committee of**
24 **Public Counsel Services where private practitioners**

Page 13

1 **like myself participate in bar advocate work. That**
2 **work is capped at \$53 an hour. So that, in**
3 **conjunction with other work, private clients, along**
4 **with some limited personal injury work, some limited**
5 **labor employment work, depending on, you know, what**
6 **the case may be.**
7 Q. And the personal injury work that you do,
8 is that on a contingent basis, a flat fee, or an
9 hourly rate?
10 A. **A contingent basis.**
11 Q. And the labor work that you do?
12 A. **That is also on a contingent basis. The**
13 **labor work I have done is primarily within the Mass.**
14 **Commission Against Discrimination, so it's**
15 **contingent.**
16 Q. And could you tell us what the
17 arrangements are, typically, in your personal injury
18 and labor work as far as how your fee is determined
19 on a contingent basis?
20 A. **It's roughly one-third of the total**
21 **expected to recover judgment, minus any fees or**
22 **costs associated with it. And, you know, that's**
23 **essentially it.**
24 Q. And is that regardless of whether a case

Page 14

1 goes to trial or not?
2 **A. That is. If there's any judgment or any**
3 **recovery, excuse me, any recovery or settlement,**
4 **it's one-third of the total.**
5 **THE SPECIAL MASTER:** Michael, let me
6 ask you. You said that it's a third minus any costs
7 or expenses?
8 **THE WITNESS:** Right.
9 **THE SPECIAL MASTER:** Aren't the
10 costs or expenses taken off the top, and then you
11 get a third of the actual award?
12 **THE WITNESS:** That's accurate,
13 Judge. That is actually the way it would be
14 calculated. Thank you.
15 Q. And, Michael, what's the largest fee prior
16 to the State Street case that you have received
17 during your legal career?
18 **A. I think the largest fee I charged for one**
19 **client was \$10,000 on one case.**
20 Q. And what case was that?
21 **A. The case was an OUI, multiple. If I could**
22 **just --**
23 **MR. FULLER:** Just for the record,
24 client confidentiality concerns under Rule 1.6,

Page 15

1 Bill, you notice in our production we redacted the
2 names of clients. He hasn't undertaken to track
3 down all his clients to get permission. I assume
4 that's okay. He doesn't have to name the clients.
5 **MR. SINNOTT:** No, I'm not looking
6 for the names of the clients. I'm just looking for
7 the description of the case and the fees.
8 **A. The case, that one, I believe, was an OUI,**
9 **third and subsequent.**
10 Q. What year was that?
11 **A. Let me see. That was roughly 2012, 2013.**
12 **I don't -- I'd have to look it up.**
13 **MR. FULLER:** Just do your best.
14 **A. Roughly 2012 to '13.**
15 Q. And was that case part of your Norfolk Bar
16 Advocate work, or was that a privately acquired and
17 retained case?
18 **A. That was a private case.**
19 Q. And besides that 2012 multiple OUI case,
20 what was the, another large judgment or fee that you
21 received?
22 **A. Some of the other fees range from \$5,000**
23 **to \$7,500, depending on the case and the nature of**
24 **the case. Some of the cases, again, are OUI-related**

Page 16

1 **cases. Some of them are domestic violence cases.**
2 **THE SPECIAL MASTER:** Were these flat
3 fees or hourly?
4 **THE WITNESS:** Those are flat fees,
5 Judge, yes.
6 **THE SPECIAL MASTER:** Flat fees.
7 Q. Michael, aside from your bar advocate/CPCS
8 work, is any of your criminal work on an hourly
9 basis?
10 **A. There's really not for the flat rate**
11 **case -- With criminal defense work, no. I do have a**
12 **limited number of cases that -- I'm trying to**
13 **figure. I know I did one in April that's related to**
14 **a criminal case, but it was a civil motion to seal.**
15 **MR. FULLER:** Can you be clear about
16 what year you're talking about?
17 **A. So April of this year. It's related to a**
18 **criminal case, but it was motion to seal the**
19 **criminal record, so technically, a civil matter.**
20 Q. And did you an hourly in that case?
21 **A. I did.**
22 Q. And what was your hourly rate in that
23 case?
24 **A. \$500 an hour.**

Page 17

1 Q. And did you receive \$500 for each hour you
2 worked?
3 **A. I did.**
4 Q. What was the total number of hours in
5 that, if you recall?
6 **A. Just a little over three hours. I charged**
7 **\$1,500 even.**
8 Q. Now, notwithstanding the \$500 per hour,
9 was there an agreement with the client as to a cap
10 or a limit on the total amount of the fee?
11 **A. There was an estimate. I estimated that**
12 **it would be roughly three hours and I told him I'd**
13 **try any best to stick with it, and ended up doing**
14 **so.**
15 Q. Okay. Now, in any of your other private
16 cases as part of your engagement agreement with your
17 clients have you provided an hourly rate
18 notwithstanding a flat fee being ultimately arrived
19 at?
20 **A. So some, there are some probate cases that**
21 **I've worked on in the past. I would say some in**
22 **2011 to '12 range that I charged \$250 an hour.**
23 **Beyond that, there was a case from, I believe, '12**
24 **to '13, 2012 to 2013 that I charged \$450 an hour.**

Page 18

1 Q. Okay. And that was the one probate case
2 that you have referred to previously?
3 **A. That's correct.**
4 Q. Was that a will contest?
5 **A. That was a will contest, oral contract to**
6 **make a will.**
7 Q. Okay. And in that case where you charged
8 \$450 in the probate case how many total hours did
9 you work on that case?
10 **A. So I received approximately \$87,000 total,**
11 **so I could break it down.**
12 **MR. FULLER:** So he asked you how
13 many hours you worked, if you can.
14 **A. I can just break it down. 87,000 minus**
15 **450. I don't have to do the math on it.**
16 **MR. FULLER:** I don't think he wants
17 you to do the math. It's not a math test.
18 Q. A total of \$87,000 in that case?
19 **A. Yes.**
20 Q. And have you had other cases, Michael,
21 where, for whatever reason, notwithstanding a flat
22 fee being negotiated with a client, that you ended
23 up seeking an hourly rate?
24 **A. I did some work for probate clients**

Page 19

1 referred through the Thornton Law Firm on, they were
2 voluntary petition for administration cases. They
3 were flat at \$300 an hour, excuse me \$300 per the
4 case. The voluntary petition is about 45 to an hour
5 of work. It's a two-page document.
6 **THE SPECIAL MASTER:** Michael, can I
7 go back to the probate case that you did?
8 **THE WITNESS:** Sure.
9 **THE SPECIAL MASTER:** '12 and '13 at
10 \$450 an hour, \$87,000. Was all of that based on
11 your hourly rate or was some portion of it a flat
12 fee?
13 **THE WITNESS:** It was all based on
14 the hourly rate, Judge.
15 **THE SPECIAL MASTER:** Okay.
16 Q. And in addition to the petition that you
17 were just describing, were there other criminal
18 cases or probate cases where, notwithstanding an
19 agreement as to a flat fee, where you ended up
20 charging an hourly fee?
21 **A. There's very few hourly cases, but I can**
22 **tell you I did a divorce, I would say in the same**
23 **time frame, 2011 to 2012, at \$250 an hourly rate and**
24 **I think one other probate case at \$250 an hour.**

Page 20

1 **Most of them are flat rate.**
2 Q. What year was that flat rate that you
3 described?
4 **A. I would say it's in that range, 2011 to**
5 **2012.**
6 Q. Have you had any cases where, for whatever
7 reason, you and a client had a falling out or there
8 was an agreement that you would not take the case to
9 resolution and you ended up either seeking an hourly
10 rate or a client suggesting an hourly rate?
11 **A. No.**
12 Q. So let me talk about the Norfolk Bar
13 Advocate work you indicate that it was capped at \$53
14 an hour. Could you explain that?
15 **A. So the Norfolk Bar Advocate work is,**
16 **again, you can obtain \$53 an hour as of, I want to**
17 **say this fiscal year as of July. Prior to that it**
18 **was \$50 an hour. So you're able to charge for the**
19 **hours actually worked for various amounts of cases,**
20 **you know. You take a duty day or an assignment day**
21 **in court. You pick up whatever cases that are on**
22 **that day and you stay until the end and you bill the**
23 **court for whatever cases or work completed.**
24 Q. Is this in district court or superior

Page 21

1 court?
2 **A. District court.**
3 Q. And describe, if you would, the range of
4 the types of cases that you might do as part of your
5 bar advocate work.
6 **A. I'd say the range of cases comes from**
7 **minor infractions, such as driving without a**
8 **license, driving with a suspended license, to**
9 **serious felonies, including assault and battery,**
10 **dangerous weapon, deadly weapon, things of that**
11 **nature.**
12 Q. Okay. And is there a cap as to how much
13 you can bill for a particular day or week or month?
14 **A. On any particular day you can not bill**
15 **over eight hours a day on that. On the cap**
16 **annually, I believe, prior to the July 1 increase**
17 **was \$82,500 total. I believe it's now \$87,500 total**
18 **annually.**
19 Q. All right. Have you ever, prior to the
20 State Street case, worked in the area of securities
21 fraud?
22 **A. No.**
23 Q. Have you ever worked on any foreign
24 exchange cases?

Page 22

1 A. No.
2 Q. And the Underground Economy Task Force
3 that you described, was that to investigate
4 financial fraud?
5 A. Amongst other things.
6 Q. Describe what you were involved in in the
7 Underground Economy Task Force.
8 A. So the Underground Economy Task Force was
9 created by the Governor's Patrick's office at the
10 time designed to create a interagency cooperation
11 with other state agencies to locate the underground
12 economy or the black market economy. People in this
13 economy don't pay taxes. They don't pay -- They
14 don't pay unemployment benefits. They don't pay
15 insurance benefits. They seek to improperly pay
16 their workers, whether it's under the table or not
17 paying them fair wages. The purpose is to classify
18 them as independent contractors, for example, so
19 that they don't have to pay them benefits and things
20 of that nature.
21 When they do that, I would say the,
22 you know, the good actors or the good businesses
23 that really make it impossible for them to compete,
24 because they're not paying their fair share of the

Page 24

[REDACTED]

Page 23

1 work.
2 Q. And were you an investigator or were you a
3 litigator or a combination of those? What was your
4 role with respect to the Underground Economy Task
5 Force?
6 A. I was the executive director, and that
7 meant that I was responsible to coordinate the
8 interagency effort and to report results annually.
9 Q. And did you personally do any
10 investigation?
11 A. To describe it, the investigative work was
12 done together. I would say any work was done by a
13 particular agency, but with cooperation from other
14 agencies. To be specific, we sat in a room like
15 this once a week with all the agencies that were
16 involved. We got complaints from people, from
17 consumers, from businesses, from tip lines. We
18 tried to figure out what agency had the best
19 authority to act under a given, a particular set of
20 circumstances. And then we collaboratively
21 determined what course of action should be taken.
22 So I did not specifically
23 investigate any cases, but I did get to participate
24 with other agencies that did.

Page 25

1 Q. Okay.
2 MR. FULLER: When you're talking
3 about a database, are you talking about a document
4 review platform?
5 MR. SINNOTT: I am, yeah.
6 Q. So is it fair to say that State Street was
7 your first contact with an electronic platform or
8 database?
9 A. That's fair to say.
10 Q. Now, since the State Street case --
11 THE SPECIAL MASTER: Let me just tie
12 up a loose end here. On the task force, you were
13 the executive director?
14 THE WITNESS: That's correct.
15 THE SPECIAL MASTER: Did the task
16 force issue some sort of a report?
17 THE WITNESS: It did -- Not to cut
18 you off, Judge.
19 THE SPECIAL MASTER: No.
20 Recommending legislation, executive action? What
21 was the work product?
22 THE WITNESS: It delivered an annual
23 report, which was required. The annual report did
24 make, not only highlighted what we were able to

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1 recover collectively as a group, but it also
2 recommended changes in future goals, I would say.
3 I'm not sure legislation is in there, Judge, but
4 goals for the future. One of the goals personally
5 was to create legislation that gives more authority
6 to act.
7 **THE SPECIAL MASTER:** And you say it
8 highlighted the recoveries?
9 **THE WITNESS:** In the first year I
10 believe approximately \$4 million was recovered
11 throughout all agencies that were involved.
12 Q. Okay. Let me move forward, Mike, to the
13 State Street case. When was the first discussion of
14 your participating in that case with the Thornton
15 law firm?
16 **A. So I received a call from Garrett Bradley,**
17 **approximately mid to late February 2013. During**
18 **that time -- You want the substance of that**
19 **conversation?**
20 Q. Please.
21 **A. So during that conversation he indicated**
22 **that based on my background and experience, he felt**
23 **it something that I would be suited for. At that**
24 **time we discussed the State Street case.**

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1 Q. And Garrett is your brother?
2 **A. That's correct.**
3 Q. And what's Garrett's position with the
4 Thornton Law Firm?
5 **A. He's a partner.**
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

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1 **case against State Street, that the case required**
2 **the review of thousands upon thousands of documents,**
3 **and that based on my background, specifically that**
4 **in the District Attorney's office and the**
5 **Underground Economy Task Force, that I would be**
6 **suited for the document review process.**
7 Q. And what was it about your prior
8 experience that would make you suitable for this
9 process?
10 **A. Well, I think that most of the criminal**
11 **cases, not only from the prosecution side, but also**
12 **from the investigative side from the Underground**
13 **Economy Task Force, that it's fraud detection and**
14 **impropriety by employers and I'd say unfair labor**
15 **practices is something that I felt I was suited for,**
16 **to do it.**
17 Q. And did you and Garrett discuss during
18 this mid February 2013 initial discussion the terms
19 or rate of payment for you?
20 **A. So at the initial conversation he**
21 **explained to me that the case would be a contingent**
22 **based case, meaning I would never recover unless**
23 **they recovered. He asked me what I felt was a fair**
24 **rate, and I asked him for a \$500 an hour rate, that**

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1 **I specified that I'd recently gotten as much as \$450**
2 **an hour in the preceding year up front. I did ask**
3 **him that, again, based on the fact that I knew that**
4 **I could potentially work on this for a long time and**
5 **receive nothing.**
6 Q. And what did Garrett tell you with respect
7 to the case that you would be investigating?
8 **A. He told me, I would say, the highlights of**
9 **the case, but he did refer me to Attorney Mike**
10 **Lesser to go over the details.**
11 **THE SPECIAL MASTER:** You were not
12 affiliated in any way at this time with Thornton?
13 **THE WITNESS:** Not at this time, not
14 ever. I'm just someone who does work occasionally.
15 In the past, I mean, I've referred a case and
16 received a referral fee for it.
17 **THE SPECIAL MASTER:** I was going to
18 ask you, is this the first time you had worked on a
19 Thornton case, actually worked on, as opposed to
20 just referred?
21 **THE WITNESS:** I would say that's
22 accurate, Judge.
23 Q. Was the \$500 per hour rate agreed upon
24 during this conversation with you and Garrett or was

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1 it up in the air?
2 **A. It was agreed upon. I asked for the rate**
3 **and he said it was reasonable. He agreed it was**
4 **reasonable, I should say.**
5 Q. And this was, as you said, in mid February
6 of 2013. When did you actually begin working on the
7 case?
8 **A. I'd say mid March of the same year.**
9 Q. And when you began in March of the same
10 year what type of work were you doing?
11 **A. The work was document review specifically**
12 **within the Catalyst database.**
13 Q. All right. Let me show you something,
14 Mike, and it was provided by the Thornton Law Firm,
15 and for the record the Bates stamp number is
16 TLF-SST-012554.
17 (Document handed to the witness.)
18 Q. If I could ask you to take a look at that.
19 And as you can see, reading from the bottom, there's
20 an e-mail, those last three lines there that says on
21 January 8th, 2015 at 9:55 p.m. Garrett Bradley
22 wrote: What rate are we using for my brother's time
23 in SST? And what do you understand SST to be?
24 **A. State Street. It's an abbreviation I**

Page 32

[REDACTED]

Page 31

[REDACTED]

Page 33

[REDACTED]

1 log in, how to navigate the database, how to find
 2 specific, I would say, beginning number of documents
 3 and then within that, there was a subset of
 4 documents that I was to begin with and then go from
 5 there.
 6 Q. Okay. And were you comfortable with the
 7 database?
 8 A. After talking with him on phone I was
 9 comfortable with it. It was fairly easy to
 10 navigate.
 11 Q. All right. And tell us about what that
 12 database allowed you to do with respect to the
 13 documents.
 14 A. So the document itself, just as previously
 15 mentioned, you'd log in, you'd go to a specific
 16 section, and then within that section there was a
 17 subset of thousands of documents. So I started with
 18 document to document appear on the screen, and on
 19 the right side of the screen was the code
 20 information. You know, you'd read the document and
 21 then code it for whatever you felt was appropriate.
 22 Q. And what was the coding information that
 23 you referred to? What did that consist of?
 24 A. So just to be clear, it's been roughly two

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

Page 40

[REDACTED]

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1 attorney's notes column or something?
2 **THE WITNESS:** There was. If you
3 wanted to make a notation on the right-hand side
4 under, say if it was a FX trade, you could make a
5 notation under there if you wanted to and then save
6 it and the note would have been saved.
7 **THE SPECIAL MASTER:** Okay. Did you
8 make notes on documents?
9 **THE WITNESS:** I believe I did. I
10 just, you know, it's tough for me to remember which
11 document or what note I made. I'm hoping that you
12 have the information from the Catalyst database to
13 confirm.
14 **THE SPECIAL MASTER:** Were you asked
15 to call out any particularly relevant documents and
16 bring them to Mr. Hoffman's attention, Mr. Lesser's
17 attention?
18 **THE WITNESS:** It wasn't to their
19 attention. If you felt that you had a hot document,
20 there was a section Hot Document, you could check
21 that.
22 **THE SPECIAL MASTER:** That's what I
23 was getting at earlier when I didn't want to suggest
24 to you, but when I was asking you about categories

Page 41

[REDACTED]

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1 Attorney Hoffman.
2 **THE SPECIAL MASTER:** You never saw a
3 binder?
4 **THE WITNESS:** I didn't get a binder,
5 Judge, no.
6 Q. Mike, you said a minute ago that there was
7 also, in addition to the Hot Doc and other relevancy
8 standards, that there was an adverse standard. Did
9 you flag anything or identify anything as being
10 adverse to the case?
11 **A. I didn't see anything that I recall that**
12 **was adverse to the complaint.**
13 Q. What would be adverse to the complaint?
14 **A. I would say accurate and complete**
15 **information about what the trade was and how much**
16 **money they paid for it, I guess you would say, or**
17 **what the exact rate was. I never saw any exact rate**
18 **information. All I saw was the low rate of the day,**
19 **the high rate of the day and the mid range. And**
20 **those documents were few and far between, as well.**
21 Q. And were you ever assigned, beyond your
22 document review functions, with research or drafting
23 of legal memoranda?
24 **A. No.**

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1 Q. And were you ever brought into the process
2 of by Thornton Law of strategizing in this case as
3 far as legal steps to be taken?
4 **A. I was not.**
5 Q. Were you aware of any of the weaknesses or
6 potential problems with the plaintiff's case?
7 **A. I was not.**
8 Q. So your function was strictly as a
9 document reviewer?
10 **A. That's correct.**
11 **THE SPECIAL MASTER:** I want to go
12 back. You said there was a column for attorney
13 notes when you would find a relevant document.
14 **THE WITNESS:** There was a section at
15 the bottom of the right-hand column and it was just
16 a box. It was a text box and you could make
17 comments in that box and it would have been attached
18 to the document itself.
19 **THE SPECIAL MASTER:** So did you do
20 that? Did you make comments? Did you call out
21 relevant documents and talk about why they were
22 relevant?
23 **THE WITNESS:** I made some comments,
24 but not a lot. And trying to remember, I think the

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1 only ones I made comments on, again, were where I
2 found rate information or the low to mid to high
3 rate of the day. I felt it was directly relevant to
4 the complaints and I think I said something to the
5 effect of, Relevant to complaint. It was a short
6 sentence or phrase.
7 Q. So you commenced your work in the spring
8 of 2013, correct?
9 **A. That's right.**
10 Q. And when did you complete your document
11 review work?
12 **A. I was notified about June of 2015 to stop,**
13 **stop doing doc review.**
14 Q. So a little bit over two years?
15 **A. That's right.**
16 Q. How many cases or documents -- Strike
17 that.
18 How many documents did you flag, if
19 you can estimate, over the course of those two plus
20 years as being highly relevant?
21 **A. I didn't find a lot of highly relevant**
22 **documents. It's tough to put a number on it, being**
23 **so far away. So I would say a handful of highly**
24 **relevant documents that I clicked Hot Doc on.**

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1 Q. How many documents would you estimate you
2 reviewed during the course of those two plus years?
3 **A. It's impossible to tell. There was a lot.**
4 **Almost impossible. I didn't keep a running tally,**
5 **so I don't have an estimate for you.**
6 Q. And who was supervising your work?
7 **A. I was told that the work would be largely**
8 **independent and that if I had questions or concerns,**
9 **to consult with Attorney Evan Hoffman, which I did.**
10 Q. And on how many occasions did you consult
11 with Evan?
12 **A. I'd say approximately six, seven occasions**
13 **I e-mailed him with questions or concerns about the**
14 **database or the Catalyst database itself. And he**
15 **responded fairly promptly with, you know, with a**
16 **response, with a solution.**
17 **To give you an example, one of the**
18 **documents kept coming up in native format. Couldn't**
19 **figure out how to see it. I believe I said**
20 **something to the effect of, What do you wanted me to**
21 **do with this thing? Do you want me to check it**
22 **reviewed? I believe he called me and said there was**
23 **a tab on the screen to convert the document so I**
24 **could actually view it and clearly, just move on.**

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1 Q. Aside from problems with the database or
2 the platform such as the formatting issue that you
3 just described, on how many occasions did you and
4 Evan talk about a substantive issue that had come to
5 your attention in the documents?
6 **A. I don't think I talked to him a lot about**
7 **that at all. I just coded the documents and kept**
8 **moving through them.**
9 Q. And beyond coding the documents, I believe
10 earlier you mentioned that the platform allowed for
11 you to do attorney's notes, is that correct?
12 **A. Yes.**
13 Q. And what does that mean?
14 **A. I could put some notations on a particular**
15 **document if I felt the need to.**
16 Q. Okay. And what types of things were you
17 encouraged to put on the documents?
18 **A. I wasn't encouraged specifically to put**
19 **anything. If you felt the need to make some notes**
20 **to specify what you were talking about.**
21 Q. And did you do that on any documents?
22 **A. I did on some documents, but not a lot.**
23 Q. Can you estimate on how many you made an
24 attorney's note?

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1 **A. It's, it's so long ago, it's very**
2 **difficult for me to estimate. I would say not a**
3 **lot.**
4 Q. When you say not a lot, a handful?
5 **A. I'd say a handful.**
6 Q. And did you ever receive any feedback on
7 that handful of documents that you'd made an
8 attorney's note on?
9 **A. I did not.**
10 Q. And did anyone ever contact you from
11 within the firm or from outside of the firm with a
12 question on anything that you had submitted?
13 **A. No.**
14 Q. Mike, tell us, what was your schedule in
15 document review?
16 **A. So what I tried to do is hit a certain**
17 **amount weekly. For me I tried to hit ten or more**
18 **hours weekly. It didn't turn out like that. Some**
19 **days I was able to do some document review, which**
20 **was a couple hours, some days none at all.**
21 Q. On an average week -- I understand that
22 this fluctuated, but on an average week did you in
23 fact do ten hours a week?
24 **A. No. Some weeks I didn't hit the ten at**

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1 **all. And other weeks I hit it or exceeded it**
2 **slightly.**
3 Q. And what time of day would you typically
4 work on the State Street case?
5 **A. So my specific memory is that I used to do**
6 **whatever I was doing in the morning, then come back**
7 **in the afternoon or evening when I was in my office**
8 **and I would work on the State Street documents.**
9 Q. All right. So you did it from your
10 office?
11 **A. That's right.**
12 Q. Not from Thornton Law spaces?
13 **A. No.**
14 Q. And is it fair to say that you did the
15 document review around your private practice?
16 **A. Yes, that's fair to say.**
17 Q. When you had available time?
18 **A. Yes.**
19 Q. Were you ever involved in discussions with
20 Evan or Mike Lesser or Garrett or Mike Thornton
21 about the mediation that was going on in 2015?
22 **A. I wasn't involved in it. I did question**
23 **periodically how's it going or something to that**
24 **effect of what's going on with State Street, just to**

Page 53

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

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1 the work product of other Thornton attorneys?
2 **A. I did not.**
3 Q. Did you ever see work product of any
4 Labaton or Lieff Cabraser attorneys?
5 **A. No.**
6 Q. After your --
7 **MR. FULLER:** Bill, I'm sorry. Can
8 you clarify what you mean by work product?
9 **MR. SINOTT:** Document review.
10 **MR. FULLER:** Documents that had been
11 tagged by another --
12 **MR. SINOTT:** Yes.
13 **THE SPECIAL MASTER:** Or memos.
14 **MR. FULLER:** Okay.
15 **A. Not to both.**
16 Q. Okay. And after your initial training on
17 Catalyst and on coding in the spring of 2013, over
18 the next two plus years did you ever receive any
19 updates or direction on specific things that you
20 should be looking for?
21 **A. No, I did not.**
22 Q. So the only information you received as to
23 what you should be looking for was at its inception?
24 **A. That's correct.**

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[REDACTED]

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1 Q. And did you ever have any communication
2 with attorneys from Labaton or Lieff Cabraser?
3 **A. No.**
4 Q. Did you ever speak with ERISA counsel?
5 **A. No.**
6 Q. Were you aware of ERISA counsel being
7 involved in the case?
8 **A. Only because there was a category for it**
9 **on the document review.**
10 Q. Okay. But you didn't have any contact
11 with any of those attorneys?
12 **A. No.**
13 Q. And how did you record your time spent
14 reviewing?
15 **A. I took handwritten notes on a piece of**
16 **paper, similar to this. I put the date on the left**
17 **side and I put the start date and the finish date.**
18 **I tried to be as accurate as possible.**
19 **I feel it's important to say that I**
20 **made a real effort to do only the time that I**
21 **actually spent reviewing documents, because as**
22 **stated, I was in my office. If I began the document**
23 **review and a client came in to speak with me, I**
24 **would stop the document review and I tried to log it**

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[REDACTED]

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1 potentially proceeding, he asked me what information
2 that I would like to give, and I basically gave my
3 background and history to them.
4 **THE SPECIAL MASTER:** Did you give
5 that to the journalist, as well, Estes?
6 **THE WITNESS:** No. I knew that they
7 were in contact with Miss Estes and if they wanted
8 it, they could make it available.
9 Q. When you and Garrett first discussed this
10 case, Mike, was there any discussion either in your
11 prompting or at Garrett's about doing document
12 review, but not doing it on a contingent basis?
13 **A. No. He was very, very clear that this had**
14 **to be done on a contingent basis and that was the**
15 **only avenue.**
16 Q. And have you been paid anything on this
17 case to date?
18 **A. I did. I got paid the total of, I**
19 **believe, \$204,000, roughly.**
20 Q. And when did you receive that payment or
21 payments?
22 **A. I received that, I think, the last week of**
23 **December 2016.**
24 **THE SPECIAL MASTER:** The 204,000,

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[REDACTED]

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1 does that represent the \$500 an hour?
2 **THE WITNESS:** Yes, it does.
3 **THE SPECIAL MASTER:** And how many
4 hours, if you can do the math?
5 **THE WITNESS:** I believe it was about
6 406 hours, roughly.
7 Q. Mike, in that case where you billed \$450
8 per hour and I believe you described it as a probate
9 case involving a will, how did you get that client
10 or how was that client referred to you?
11 **A. The client contacted me directly,**
12 **explained the nature of the case, basically,**
13 **explained that he had become a party to the case.**
14 **He was the administrator of the estate and could no**
15 **longer, obviously, represent himself and needed**
16 **counsel.**
17 Q. Okay. And at what point did you agree
18 upon the \$450?
19 **A. It's in the first or second conversation,**
20 **which took place, I want to say, roughly mid summer**
21 **2011. I don't know exactly. I have to look. But I**
22 **believe I started work on that case in the mid to**
23 **the end of the summer of 2011.**
24 Q. And that was memorialized in a fee letter?

Page 73

[REDACTED]

EX. 68

From: Michael Lesser
Sent: Monday, June 29, 2015 6:26 PM
To: Chiplock, Daniel P.
Cc: Evan Hoffman
Subject: STT Hours

Dan: Since case inception, Thornton has the following:

- Thornton doc review external (Thornton reviewers working Lieff + Labaton paid by Thornton) = 8,889.25
- Thornton doc review internal = 1,262.5
- Mike Lesser: 1243.2
- Evan Hoffman: 827.6
- Mike Thornton: 502.1
- Garrett Bradley: ---

Garrett is still working on this time, but this should be enough to give you the flavor; we do not have a large crew of folks (like Labaton and Lieff) behind these numbers, so this is mostly it for us. Of course, as we complete the detailed task coding and whatnot - we are still scrubbing and clarifying our records and these numbers may alter – but not too much, I expect. I never received Iodestar from the ERISA firms. I thought I had sent you the Labaton stuff, but will send again in a minute. They have 29,000.

M

Michael A. Lesser, Esq.
Thornton Law Firm LLP
100 Summer St., 30th Floor
Boston, MA 02110
617-720-1333
800-431-4600
mlesser@tenlaw.com

EX. 69

Message

From: Chiplock, Daniel P. [/O=LCHB/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DCHIPLOCK]
Sent: 3/9/2015 10:00:34 PM
To: Lewis, Michele [/O=LCHB/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=MLEWIS]
CC: Diamand, Nicholas [/O=LCHB/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=NDIAMAND]; Dugar, Kirti [/O=LCHB/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=KDUGAR]
Subject: Re: 2 Contract Attorneys for HLF

P.s. Remember that whoever we choose, Thornton Law Firm is paying for them via the same arrangement we have for Jon Zaul and Chris Jordan. Thx.

Sent from my iPhone

On Mar 9, 2015, at 5:33 PM, Lewis, Michele <MLewis@lchb.com> wrote:

Any interest in either one of these folks for State Street? We had them cleared for HLF but no longer need them for that case.

Best,

<image001.gif>

Michele Lewis
Director of Human Resources
mlewis@lchb.com
t 415.956.1000
f 415.956.1008

Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
www.lieffcabraser.com

From: Lewis, Michele
Sent: Monday, March 09, 2015 2:09 PM
To: Marcus Miller (mmiller@hirecounsel.com)
Cc: 'Brian Hartstein'
Subject: FW: 2 Contract Attorneys for HLF

Are these two still available? We had looked at them for another case but only need one now for another securities matter. Wanted to check with you before submitting the resumes to the partner. Thanks much.

Best,

<image001.gif>

Michele Lewis
Director of Human Resources
mlewis@lchb.com
t 415.956.1000
f 415.956.1008

Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
www.lieffcabraser.com

<Winterle, Rachel - Lieff Conflicts Check.docx>

<Winterle, Rachel.docx>

<Ten Eyck, Ann.docx>

<Ten Eyck, Ann - Lieff Conflicts Check.docx>

EX. 70

From: Lynn Sarko
To: Lynn Sarko; 'Lieff, Robert L.'
CC: 'rlieff@lieff.com'; Lynn Sarko; Laura Gerber
Sent: 8/30/2013 1:22:50 PM
Subject: RE: State Street
Attachments: FeeAgreement083013.docx

Robert

I have signoff from the ERISA counsel on the fee division between the ERISA and Consumer counsel that we discussed this morning. Attached is a draft agreement that reflects the 91%/9% split.

I have received approval from the other ERISA counsel.

Regards,

Lynn

Lynn L. Sarko
Keller Rohrback LLP
206-224-7552

On Aug 28, 2013, at 2:31 PM, "Lieff, Robert L." <RLIEFF@lchb.com<mailto:RLIEFF@lchb.com>> wrote:

Lynn,

We are waiting to receive from you a draft agreement between ERISA and Consumer plaintiffs. Can we have it this week? We are drafting a settlement agreement for all plaintiffs including ERISA and defendants. Thanks.

Robert

<image001.gif>

Robert L. Lieff
Of Counsel
rlieff@lchb.com<mailto:rlieff@lchb.com>
t 415.956.1000
f 415.956.1008
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
www.lieffcabraser.com<http://www.lieffcabraser.com>

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**AGREEMENT BETWEEN COUNSEL
FOR CONSUMER AND ERISA PLAINTIFFS
REGARDING DIVISION OF ATTORNEYS' FEES**

This Agreement Between Counsel For Consumer And ERISA Plaintiffs Regarding Division Of Attorneys' Fees (the "Agreement") is made and entered into by and between: Labaton Sucharow LLP, Thornton & Naumes, LLP, and Lieff Cabraser Heimann & Bernstein, LLP (collectively, "Counsel for Consumer Plaintiffs"), on the one hand, and McTigue Law LLP, Zuckerman Spaeder LLP, Beins, Axelrod, P.C., Richardson, Patrick, Westbrook & Brickman, and Keller Rohrback L.L.P. (collectively, Counsel for ERISA Plaintiffs), on the other hand (the "Parties"). This Agreement shall be effective as of _____, 2013.

RECITALS

WHEREAS, Counsel for Consumer Plaintiffs have filed the lawsuit captioned *Arkansas Teacher Retirement System vs. State Street Corporation, et. al., No. 11-cv-10230 MLW* ("ARTRS"), in the United States District Court for the District of Massachusetts, alleging on behalf of their client, the Arkansas Teacher Retirement System ("ARTRS"), and a putative class of all institutional investors in foreign securities, including public and private pension funds, ERISA-qualified plans, mutual funds, endowment funds and investment manager funds, for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis alleging state law claims against State Street Corporation, State Street Bank and Trust Company, and others, but no claims under ERISA.

1. WHEREAS, Counsel for ERISA Plaintiffs have filed two lawsuits captioned *Arnold Henriquez, et. al., vs. State Street Bank and Trust Company,, et. al., No. 11-cv-12049 MLW* ("Henriquez"), and *Andover Companies, et. al., vs. State Street Bank and Trust Company, No. 12-cv-11698 MLW* ("Andover"), in the United States District Court for the District of

Massachusetts, alleging on behalf of their clients, Arnold Henriquez (as a participant and beneficiary of the Waste Management Retirement Savings Plan), Michael T. Cohn (as a participant and beneficiary of the Citigroup 401(k) Plan), William R. Taylor and Richard A. Sutherland (each as participants and beneficiaries of the Retirement Plan of Johnson & Johnson), Alan Kober as a Trustee of The Andover Companies' Savings and Profit Sharing Plan, and James Pehoushek-Stangeland, as a participant and beneficiary of The Boeing Company Voluntary Investment Plan), and putative classes of private (ERISA) pension plans for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis, alleging breaches of federal ERISA law against State Street Bank and Trust Company, and others, but none of the other state law claims alleged by ARTRS.

WHEREAS, the *ARTRS*, *Andover* and *Henriquez* cases are all pending before the same judge and are being mediated and litigated together and the Parties believe that it is in the best interests of their respective clients and the putative classes that they are seeking to represent that, where appropriate and consistent with their obligations to advocate for their respective clients, they work cooperatively in the litigation against State Street Corporation and the other defendants, and further, that agreeing to a division of attorneys' fees, as set forth below, is in the best interests of their respective clients.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Parties agree that any attorneys' fee agreed, awarded and/or approved by the Court in connection with the *ARTRS*, *Andover* or *Henriquez* cases, whether the

product of settlement or litigated resolution of the cases, shall be divided 91 % to Counsel for Consumer Plaintiffs and 9 % to Counsel for ERISA Plaintiffs (the “Division of Fees”).

2. The Parties agree that the Division of Fees shall apply whether the attorneys’ fees agreed, awarded and/or approved by the Court is a single sum for all claims and cases or otherwise.
3. The Parties agree that they will each remain responsible for representing the interests of their respective clients and that nothing herein limits in any way their obligations to represent and exercise independent judgment on behalf of their respective clients.
4. The Parties agree that the terms of this Agreement may be disclosed to the Court, if any of them believes it appropriate to do so.
5. The Parties represent that they have disclosed and explained this Agreement to their respective clients and that their clients have consented to the Division of Fees and other terms herein.
6. This Agreement does not impact or change the Parties’ rights and ability to seek the reimbursement of litigation expenses; nor does it contain any agreement on the sharing of expenses.
7. This Agreement is governed by the substantive law of the Commonwealth of Massachusetts.

EX. 71

From: Chiplock, Daniel P.
To: Lynn Sarko; Laura Gerber
CC: Isucharow@labaton.com; Rogers, Michael H. (MRogers@labaton.com); 'Michael Thornton';
dgoldsmith@labaton.com; Michael Lesser; Lief, Robert L.
Sent: 9/11/2013 12:23:26 PM
Subject: FW: State Street - Fee agreement
Attachments: LCHB_iManage_1129455_2.DOCX

Lynn/Laura (corrected):

Attached are redlines to the proposed fee agreement you circulated. Let us know if you have additional comments or care to discuss.

Thanks,

Dan

**Lieff
Cabrer
Heimann &
Bernstein**
Attorneys at Law

Daniel P. Chiplock
dchiplock@lchb.com
t 212.355.9500
f 212.355.9592
Lieff Cabrer Heimann & Bernstein, LLP
250 Hudson Street, 8th Floor
New York, NY 10013
www.lieffcabrer.com

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**AGREEMENT BETWEEN COUNSEL
FOR CONSUMER AND ERISA PLAINTIFFS
REGARDING DIVISION OF ATTORNEYS' FEES**

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RECITALS

WHEREAS, Counsel for Consumer Plaintiffs have filed the lawsuit captioned *Arkansas Teacher Retirement System vs. State Street Corporation, et. al., No. 11-cv-10230 MLW* ("*ARTRS*"), in the United States District Court for the District of Massachusetts, alleging state and common law claims against State Street Corporation, State Street Bank and Trust Company, and others, on behalf of their client, the Arkansas Teacher Retirement System ("*ARTRS*"), and a putative class of all institutional investors in foreign securities, including public and private pension funds, ERISA-qualified plans, mutual funds, endowment funds and investment manager funds, for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis ~~alleging state law claims against State Street Corporation, State Street Bank and Trust Company, and others, but no claims under ERISA.~~

4. WHEREAS, Counsel for ERISA Plaintiffs have filed two lawsuits captioned *Arnold Henriquez, et. al., vs. State Street Bank and Trust Company,, et. al., No. 11-cv-*

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12049 MLW (“*Henriquez*”), and *Andover Companies, et. al., vs. State Street Bank and Trust Company*, No. 12-cv-11698 MLW (“*Andover*”), in the United States District Court for the District of Massachusetts, alleging on behalf of their clients, Arnold Henriquez (as a participant and beneficiary of the Waste Management Retirement Savings Plan), Michael T. Cohn (as a participant and beneficiary of the Citigroup 401(k) Plan), William R. Taylor and Richard A. Sutherland (each as participants and beneficiaries of the Retirement Plan of Johnson & Johnson), Alan Kober as a Trustee of The Andover Companies’ Savings and Profit Sharing Plan, and James Pehoushek-Stangeland, as a participant and beneficiary of The Boeing Company Voluntary Investment Plan), and putative classes of private (ERISA) pension plans for which State Street served as the custodial bank and executed FX trades on an “indirect,” “standing-instruction,” or “non-negotiated” basis, alleging breaches of federal ERISA law against State Street Bank and Trust Company, and others, but none of the other state or common law claims alleged by ARTRS.

WHEREAS, the *ARTRS*, *Andover* and *Henriquez* cases are all pending before the same judge and are being mediated and litigated together and the Parties believe that it is in the best interests of their respective clients and the putative classes that they are seeking to represent that, where appropriate and consistent with their obligations to advocate for their respective clients, they work cooperatively in the litigation against State Street Corporation and the other defendants, and further, that agreeing to a division of attorneys’ fees, as set forth below, is in the best interests of their respective clients.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Parties agree that any attorneys' fee agreed to, awarded and/or approved by the Court in connection with ~~the~~any collective or joint resolution of the ARTRS, Andover and/or Henriquez cases, ~~whether the product of settlement or litigated resolution of the cases,~~ shall be divided 91 % to Counsel for Consumer Plaintiffs and 9 % to Counsel for ERISA Plaintiffs (the "Division of Fees").
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6. This Agreement does not impact or change the Parties' rights and ability to seek the reimbursement of litigation expenses; nor does it contain any agreement on the sharing of expenses.

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7. This Agreement is governed by the substantive law of the Commonwealth of Massachusetts.

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EX. 72

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WHEREAS, the *ARTRS*, *Andover* and *Henriquez* cases are all pending before the same judge and are being mediated and litigated together and the Parties believe that it is in the best interests of their respective clients and the putative classes that they are seeking to represent that, where appropriate and consistent with their obligations to advocate for their respective clients, they work cooperatively in the litigation against State Street Corporation and the other defendants, and further, that agreeing to a division of attorneys' fees, as set forth below, is in the best interests of their respective clients.

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EX. 73

From: Cate Brewer
To: Laura Gerber
Sent: 12/10/2013 9:35:28 AM
Subject: SSFX
Attachments: FEEAGREEMENT082913.docx; FeeAgreement083013.docx



FeeAgreement083013.docx



FEEAGREEMENT082913.docx

Cate R. Brewer
Legal Assistant/Paralegal
to Gretchen Cappio, Laura Gerber and Harry Williams

Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Phone: (206) 623-1900
Fax: (206) 623-3384
Email: cbrewer@kellerrohrback.com

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Labaton Sucharow LLP, Thornton & Naumes, LLP, [] and Lief Cabraser Heimann & Bernstein,

LLP, [] (collectively, "Counsel for Consumer Plaintiffs"), on the one hand, and McTigue Law

LLP, Zuckerman Spaeder LLP, Beins, Axelrod, P.C., Richardson, Patrick, Westbrook &

Brickman, and and Keller Rohrback Law Offices L.L.P. (collectively, Counsel for ERISA

Plaintiffs), on the other hand (the "Parties"). This Agreement shall be effective as of _____,

2013.

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RECITALS

WHEREAS, Counsel for Consumer Plaintiffs have filed the lawsuit captioned *Arkansas Teacher Retirement System vs. State Street Corporation, et. al., No. 11-cv-10230 MLW*

("ARTRS"), in the United States District Court for the District of Massachusetts, alleging on

behalf of their client, the Arkansas Teacher Retirement System ("ARTRS"), and a putative class

of all institutional investors in foreign securities, including public and private pension funds,

ERISA-qualified plans, mutual funds, endowment funds and investment manager funds, for

which State Street served as the custodial bank and executed FX trades on an "indirect,"

"standing-instruction," or "non-negotiated" basis alleging public and private (ERISA) pension

plans federal and state law claims against State Street Corporation, State Street Bank and Trust

Company, and others and others, but no claims under ERISA.

1. _____ WHEREAS, Counsel for ERISA Plaintiffs have filed two lawsuits captioned

Arnold Henriquez, et. al. vs. State Street Bank and Trust, et. al., No. 11-cv-12049 MLW

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("Henriquez"), and Andover Companies, et. al., vs. State Street Bank and Trust Company, No. 12-cv-11698 MLW ("Andover"), and Arnold Henriquez, et. al.-vs. State Street Bank and Trust, et. al., No. 11-cv-12049 MLW ("Henriquez"), in the United States District Court for the District of Massachusetts, alleging on behalf of their clients, the Andover Companies and Arnold Henriquez (as a participant and beneficiary of the Waste Management Retirement Savings Plan), Michael T. Cohn (as a participant and beneficiary of the Citigroup 401(k) Plan), William R. Taylor and Richard A. Sutherland (each as participants and beneficiaries of the Retirement Plan of Johnson & Johnson), Alan Kober as a Trustee of The Andover Companies' Savings and Profit Sharing Plan, and James Pehoushek-Stangeland, as a participant and beneficiary of The Boeing Company Voluntary Investment Plan), and putative classes of private (ERISA) pension plans for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis, claims under alleging breaches of federal ERISA law ERISA against State Street Corporation Bank and Trust Company, and others, but none of the other federal and state law -claims alleged by ARTRS.

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WHEREAS, the *ARTRS*, *Andover* and *Henriquez* cases are all pending before the same judge and are being mediated and litigated together and the Parties believe that it is in the best interests of their respective clients and the putative classes that they are seeking to represent that, where appropriate and consistent with their obligations to advocate for their respective clients, they work cooperatively in the litigation against State Street Corporation and the other defendants, and further, that agreeing to a division of attorneys' fees, as set forth below, is in the best interests of their respective clients.

~~WHEREAS, State Street Corporation and the other defendants have produced data, on a confidential basis, in the mediation of the *ARTRS*, *Andover* and *Henriquez* cases regarding volume of FX trading by public and ERISA pension plans.~~

NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Parties agree that any attorneys' fee agreed, awarded and/or approved by the Court in connection with the *ARTRS*, *Andover* and *Henriquez* cases, whether the product of settlement or litigated resolution of the cases, shall be divided ___ % to Counsel for Consumer Plaintiffs and ___ % to Counsel for ERISA Plaintiffs (the "Division of Fees").

~~2. The Parties agree that the Division of Fees shall apply whether the attorneys' fees agreed, awarded and/or approved by the Court is a single sum for all claims and cases or otherwise.~~

2.

~~3. Notwithstanding Paragraphs 1 and 2 above, the Division of Fees does not apply in the event that there is no recovery in the *ARTRS* case or if there is no recovery in both the *Andover Company* and *Henriquez* cases. [CSK Comment: this is a difficult issue. If *ARTRS* loses, we win, and the division applies, then *ARTRS* counsel gets virtually the entire fee. On the other hand, if it went the other way, then we get shut out. On balance, I think we want this provision, but it is definitely not perfect either way.]~~

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~~4. The Parties agree that the Division of Fees is consistent with the relative volume of FX trading by ERISA and non-ERISA plans as reflected in the data produced by State Street and the prospects of recovery on the various claims alleged, and is therefore reasonable and appropriate.~~

5. The Parties agree that they will each remain responsible for representing the interests of their respective clients and that nothing herein limits in any way their obligations to represent and exercise independent judgment on behalf of their respective clients.

~~3.~~

~~6. The Parties agree that the terms of this Agreement may be disclosed to the Court, if any of them believes it appropriate to do so.~~

~~4.~~

7. The Parties represent that they have disclosed and explained this Agreement to their respective clients and that their clients have consented to the Division of Fees and other terms herein.

~~5.~~

8. This Agreement does not impact or change the Parties' rights and ability to seek the reimbursement of litigation expenses; nor does it contain any agreement on the sharing of expenses.

~~6.~~

~~9.7.~~ This Agreement is governed by the substantive law of the Commonwealth of Massachusetts.

EX. 74

**AGREEMENT BETWEEN COUNSEL
FOR CONSUMER AND ERISA PLAINTIFFS
REGARDING DIVISION OF ATTORNEYS' FEES**

This Agreement Between Counsel For Consumer And ERISA Plaintiffs Regarding Division Of Attorneys' Fees (the "Agreement") is made and entered into by and between: Labaton Sucharow LLP, Thornton & Naumes, LLP, and Lieff Cabraser Heimann & Bernstein, LLP (collectively, "Counsel for Consumer Plaintiffs"), on the one hand, and McTigue Law LLP, Zuckerman Spaeder LLP, Beins, Axelrod, P.C., Richardson, Patrick, Westbrook & Brickman, and Keller Rohrback L.L.P. (collectively, "Counsel for ERISA Plaintiffs"), on the other hand (the "Parties"). This Agreement shall be effective as of December 11, 2013.

RECITALS

WHEREAS, Counsel for Consumer Plaintiffs have filed the lawsuit captioned *Arkansas Teacher Retirement System vs. State Street Corporation, et. al., No. 11-cv-10230 MLW* ("ARTRS"), in the United States District Court for the District of Massachusetts, alleging state and common law claims against State Street Corporation, State Street Bank and Trust Company, and others, on behalf of their client, the Arkansas Teacher Retirement System ("ARTRS"), and a putative class of all institutional investors in foreign securities, including public and private pension funds, ERISA-qualified plans, mutual funds, endowment funds and investment manager funds, for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis.

WHEREAS, Counsel for ERISA Plaintiffs have filed two lawsuits captioned *Arnold Henriquez, et. al., vs. State Street Bank and Trust Company,, et. al., No. 11-cv-12049 MLW* ("Henriquez"), and *Andover Companies, et. al., vs. State Street Bank and Trust Company, No. 12-cv-11698 MLW* ("Andover"), in the United States District Court for the District of

Massachusetts, alleging on behalf of their clients, Arnold Henriquez (as a participant and beneficiary of the Waste Management Retirement Savings Plan), Michael T. Cohn (as a participant and beneficiary of the Citigroup 401(k) Plan), William R. Taylor and Richard A. Sutherland (each as participants and beneficiaries of the Retirement Plan of Johnson & Johnson), Alan Kober as a Trustee of The Andover Companies' Savings and Profit Sharing Plan, and James Pehoushek-Stangeland, as a participant and beneficiary of The Boeing Company Voluntary Investment Plan), and putative classes of private (ERISA) pension plans for which State Street served as the custodial bank and executed FX trades on an "indirect," "standing-instruction," or "non-negotiated" basis, alleging breaches of federal ERISA law against State Street Bank and Trust Company, and others, but none of the other state or common law claims alleged by ARTRS.

WHEREAS, the *ARTRS*, *Andover* and *Henriquez* cases are all pending before the same judge and are being mediated and litigated together and the Parties believe that it is in the best interests of their respective clients and the putative classes that they are seeking to represent that, where appropriate and consistent with their obligations to advocate for their respective clients, they work cooperatively in the litigation against State Street Corporation and the other defendants, and further, that agreeing to a division of attorneys' fees, as set forth below, is in the best interests of their respective clients.


NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Parties agree that any attorneys' fee agreed to, awarded and/or approved by the Court in connection with any collective or joint resolution of the *ARTRS*, *Andover*

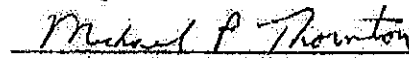
and Henriquez cases shall be divided 91 % to Counsel for Consumer Plaintiffs and 9% to Counsel for ERISA Plaintiffs (the "Division of Fees").

2. The Parties agree that the Division of Fees shall apply whether the attorneys' fees agreed, awarded and/or approved by the Court is a single sum for all claims and cases or otherwise.
3. The Parties agree that they will each remain responsible for representing the interests of their respective clients and that nothing herein limits in any way their obligations to represent and exercise independent judgment on behalf of their respective clients.
4. The Parties agree that the terms of this Agreement may be disclosed to the Court, if any of them believes it appropriate to do so.
5. The Parties represent that they have disclosed and explained this Agreement to their respective clients and that their clients have consented to the Division of Fees and other terms herein.
6. This Agreement does not impact or change the Parties' rights and ability to seek the reimbursement of litigation expenses; nor does it contain any agreement on the sharing of expenses.
7. This Agreement is governed by the substantive law of the Commonwealth of Massachusetts.
8. This Agreement may be signed in counterpart, and faxed or emailed signatures will have the force of original signatures.

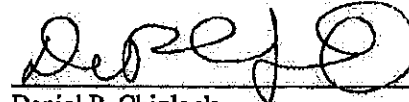
DATED: 12/11/13


Lawrence A. Sucharow
Labaton Sucharow LLP

DATED: 12/11/13


Michael P. Thornton
Thornton & Naumes, LLP

DATED: 12/11/13


Daniel P. Chiplock
Lieff Cabraser Heimann & Bernstein, LLP

DATED: _____

J. Brian McTigue
McTigue Law LLP

DATED: _____

Carl S. Kravitz
Zuckerman Spaeder, LLP

DATED: _____

Jonathan G. Axelrod
Beins, Axelrod, P.C.

DATED: _____

Michael J. Brickman
Richardson, Patrick, Westbrook & Brickman
LLC

DATED: _____

Lynn Lincoln Sarko
Keller Rohrback L.L.P.

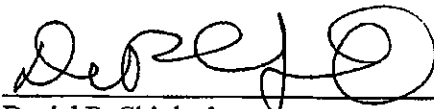
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Labaton Sucharow LLP

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Michael P. Thornton
Thornton & Naumes, LLP

DATED: 12/11/13



Daniel P. Chiplock
Lieff Cabraser Heimann & Bernstein, LLP

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J. Brian McTigue
McTigue Law LLP

DATED: _____

Carl S. Kravitz
Zuckerman Spaeder, LLP

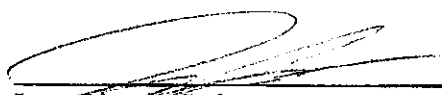
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Jonathan G. Axelrod
Beins, Axelrod, P.C.

DATED: _____

Michael J. Brickman
Richardson, Patrick, Westbrook & Brickman
LLC

DATED: 12/11/13



Lynn Lincoln Sarko
Keller Rohrback L.L.P.

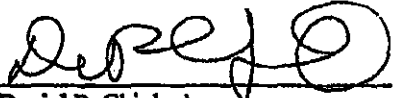
DATED: _____

Lawrence A. Sucharow
Labaton Sucharow LLP

DATED: _____


Michael P. Thornton
Thornton & Naumes, LLP

DATED: 12/11/13



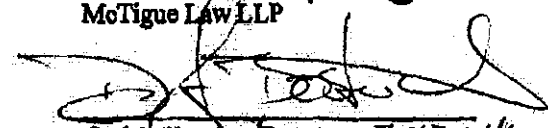
Daniel P. Chiplock
Lieff Cabraser Heimann & Bernstein, LLP

DATED: _____



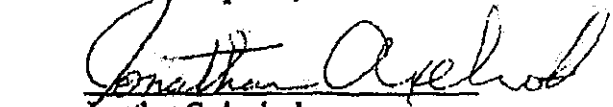
J. Brian McTigue
McTigue Law LLP

DATED: _____



Carl S. Kravitz/Dwight Bostwick
Zuckerman Spaeder, LLP

DATED: 12/13/13



Jonathan G. Axelrod
Beins, Axelrod, P.C.

DATED: _____

Michael J. Brickman
Richardson, Patrick, Westbrook & Brickman
LLC

DATED: _____

Lynn Lincoln Sarko
Keller Rohrback L.L.P.

EX. 75

EXECUTION COPY

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly situated,	)	No. 11-cv-10230 MLW
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)	
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,	)	No. 11-cv-12049 MLW
and those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
STATE STREET GLOBAL MARKETS, LLC and)	
DOES 1-20,)	
)	
Defendants.)	

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	
AND PROFIT SHARING PLAN, on behalf of itself, and	)	No. 12-cv-11698 MLW
JAMES PEHOUSHEK STANGELAND, and all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

STIPULATION AND AGREEMENT OF SETTLEMENT

EXECUTION COPY

This Stipulation and Agreement of Settlement, dated as of July 26, 2016 (the “Settlement Agreement” or the “Class Settlement”), is made and entered into by and among (i) the Plaintiffs (defined below), on behalf of themselves and each Settlement Class Member (defined below), by and through their undersigned counsel, and (ii) State Street Bank and Trust Company (the “Settling Defendant” or “SSBT”), by and through its undersigned counsel, and is submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure.

The Class Settlement is intended by the Parties (defined below) to fully, finally, and forever compromise, settle, release, resolve, discharge, and dismiss with prejudice the Class Actions (defined below), all Released Class Claims (defined below), and all Released Prosecution Claims (defined below) as against all Released Parties (defined below), upon and subject to the terms and conditions stated in this Settlement Agreement, and Final approval of the Court.

WHEREAS:

A. All terms with initial capitalization used in this Settlement Agreement, and in any exhibits attached hereto and made a part hereof, shall have the meanings ascribed to them in Paragraph 1 below or as otherwise defined herein, except that any term with initial capitalization only defined in an exhibit shall have the meaning provided in that exhibit.

B. On February 10, 2011, Plaintiff Arkansas Teacher Retirement System (“ARTRS”) commenced the ARTRS Action by filing a class action complaint against State Street Corporation, SSBT, and State Street Global Markets, LLC (“SSGM LLC”) in the United States District Court for the District of Massachusetts (the “Court”). The complaint asserted, *inter alia*, deceptive acts and practices in violation of the Massachusetts Consumer Protection Act, Mass.

Gen. L. ch. 93A (“Chapter 93A”) and breaches of the duty of loyalty by SSBT and SSGM LLC to their custodial customers.

C. On April 15, 2011, ARTRS filed an amended class action complaint in the ARTRS Action, asserting class claims under Chapter 93A, adding class claims for breach of duty of trust and negligent misrepresentation under Massachusetts law, and adding an individual claim for breach of contract under Arkansas law.

D. On June 3, 2011, State Street Corporation, SSBT, and SSGM LLC moved to dismiss the amended class action complaint in the ARTRS Action. The motion to dismiss was fully briefed as of January 12, 2012.

E. On November 18, 2011, Plaintiff Arnold Henriquez, on behalf of the Waste Management Retirement Savings Plan and its participants and beneficiaries, filed a class action complaint in the Court against SSBT, SSGM LLC, and unnamed individuals designated as Does 1-20. The complaint asserted claims of engaging in self-interested prohibited transactions under Section 406 of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1106, breach of duties of prudence and loyalty under Section 404 of ERISA, 29 U.S.C. § 1104, and breach of co-fiduciary under Section 405 of ERISA, 29 U.S.C. § 1105.

F. On February 24, 2012, Plaintiff Henriquez filed an amended class action complaint in the Henriquez Action, adding Michael T. Cohn (on behalf of the Citigroup 401(k) Plan) and William R. Taylor and Richard A. Sutherland (on behalf the Retirement Plan of Johnson & Johnson).

G. The complaints in the Class Actions allege generally that defendants charged custody and trust customers of SSBT unfair and excessive rates and spreads in connection with Indirect FX Transactions (defined below) between January 1, 1998 and December 31, 2009.

H. On April 9, 2012, SSBT and SSGM LLC moved to dismiss the amended class action complaint in the Henriquez Action.

I. On May 8, 2012, the Court heard oral argument on defendants' motion to dismiss in the ARTRS Action. By order issued from the bench dated the same day, the Court denied the motion in its entirety with regard to the claims against SSBT, but granted the motion with respect to the claims against State Street Corporation. By agreement of the parties, the claims against SSGM LLC were dismissed without prejudice. The Court also instructed the parties and their counsel to meet to discuss the possibility of settlement and, if not, whether they would agree to engage in mediation.

J. On July 13, 2012, ARTRS and SSBT submitted a Joint Status Report informing the Court that the parties agreed to engage in mediation with a mediator to be agreed upon.

K. By Joint Status Report filed with the Court on August 17, 2012, ARTRS and SSBT informed the Court that they had agreed on a private mediator and that a mediation had been scheduled.

L. On September 12, 2012, Plaintiff Alan Kober (on behalf of The Andover Companies Employees Savings and Profit Sharing Plan) and James Pehoushek-Stangeland (as a participant and beneficiary of The Boeing Company Voluntary Investment Plan) filed an initial complaint against SSBT and SSGM LLC in this Court. The complaint asserted claims for breach of duties of prudence and loyalty under Section 404 of ERISA, 29 U.S.C. § 1104, prohibited transactions under Section 406 of ERISA, 29 U.S.C. § 1106.

M. On October 18, 2012, plaintiffs in the Andover Action filed an amended class action complaint and also filed a Notice of Voluntary Dismissal of defendant SSGM LLC from the action pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).

N. On November 16, 2012, the Parties in the Class Actions filed a Stipulation, Joint Motion, and Proposed Order for the Production and Exchange of Confidential Information, which the Court entered on November 20, 2012. Pursuant to the order, the Class Actions were consolidated for pre-trial purposes. Additionally, the order provided that the Parties could engage in formal document discovery until December 1, 2013. The Class Actions were stayed in all other respects until December 1, 2013 and certain motions, including the motion to dismiss in the Henriquez Action, were withdrawn.

O. At the Parties' request, the stay was subsequently extended by the Court to June 1, 2014 and further extended to December 31, 2014. The orders extended the stay of all proceedings other than discovery, while the Parties pursued mediation.

P. Between October 2012 and June 2015, the Parties engaged in sixteen (16) in-person mediation sessions facilitated by Jonathan B. Marks, Esq. of MarksADR, LLC, an experienced, neutral mediator, in Boston, New York City, and Washington, D.C. Several of the mediation sessions were attended by the Executive Director of ARTRS and/or the Chief Legal Officer of State Street Corporation. In addition, the Parties met without the mediator on at least one occasion, conducted several video teleconferences, and had numerous arm's-length discussions among themselves. On October 23 and October 24, 2012, during an in-person mediation session, the Parties agreed on a framework for exchanging formal document discovery, informal material to facilitate the mediation process, and managing the Class Actions.

Q. Pursuant to this agreement, the Parties exchanged more than nine million pages of relevant documents. SSBT also provided a significant amount of data and other information relevant to liability, class certification and damages issues, and Plaintiffs and SSBT each made multiple, detailed presentations during the mediation process concerning such issues.

R. On June 30, 2015, after additional extensive arm's-length negotiations, on multiple occasions, in person and by exchange of proposals, Plaintiffs and SSBT reached an agreement in principle to settle the Class Actions, which was memorialized in a Term Sheet dated September 11, 2015.

S. SSBT anticipates reaching a separate settlement with the United States Securities and Exchange Commission ("SEC") concerning Indirect FX (defined below) (the "SEC Settlement"). The allocation to Registered Investment Companies (defined below) in the Plan of Allocation in the Class Settlement will also satisfy a condition of the SEC Settlement.

T. SSBT has reached a separate settlement with the United States Department of Labor ("DOL") concerning Indirect FX (the "DOL Settlement"). The allocation to ERISA Plans (defined below) in the Plan of Allocation in the Class Settlement will also satisfy a condition of the DOL Settlement.

U. SSBT has reached a separate settlement with the United States Department of Justice ("DOJ") concerning Indirect FX (the "DOJ Settlement").

V. Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Class Actions have merit and the evidence developed supports the claims asserted. Plaintiffs and Plaintiffs' Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Class Actions against SSBT through trials and appeals. Plaintiffs and Plaintiffs' Counsel also have taken into account the uncertain outcome and risks in the Class Actions, as well as the difficulties, delays, and risks inherent in any complex action such as the Class Actions. Plaintiffs and Plaintiffs' Counsel also are mindful of the inherent problems of proof of, and the possible defenses to, the claims alleged in the Class Actions. Plaintiffs and Plaintiffs' Counsel believe that the Class Settlement set forth in this Settlement

Agreement confers substantial monetary benefits upon the Settlement Class. Based on their evaluation, Plaintiffs and Plaintiffs' Counsel have determined that the Class Settlement set forth in this Settlement Agreement is in the best interest of Plaintiffs and the other Settlement Class Members.

W. SSBT has denied and continues to deny any fault, liability, or wrongdoing of any kind and that the evidence developed supports in any way the claims asserted. SSBT also has denied and continues to deny each and all of the claims and contentions alleged by Plaintiffs on behalf of the Settlement Class. SSBT further has denied and continues to deny that Plaintiffs or any member of the Settlement Class were harmed or suffered any loss as a result of any of the conduct alleged in the Class Actions.

X. SSBT is entering into the Class Settlement to eliminate the burden, expense, inconvenience, uncertainty, distraction, and risk of further litigation; the length of continued proceedings necessary to defend the Class Action through trial and any appeals; and to avoid continued litigation; therefore it believes that it is desirable that the Class Action and any other current or future potential actions brought by Class Members that relate in any way to the allegations raised by the Plaintiffs be settled upon the terms and conditions set forth herein, in order to avoid the further expense and burden of protracted litigation.

Y. This Settlement Agreement, whether or not consummated, any proceedings relating to any settlement of the Class Actions, or any of the terms of any settlement of the Class Actions, whether or not consummated, shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of SSBT with respect to any claim of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in any defense that SSBT has or could have asserted in the Class Actions.

NOW THEREFORE, without any admission or concession whatsoever on the part of Plaintiffs or any Settlement Class Member regarding any lack of merit of the claims in the Class Actions, and without any admission or concession whatsoever on the part of SSBT of any liability or wrongdoing or lack of merit of their defenses in the Class Actions, it is hereby **STIPULATED AND AGREED**, by and among the Parties, through their respective attorneys, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and other conditions set forth herein, in consideration of the benefits flowing to the Parties from the Class Settlement, that the Class Actions, all Released Class Claims, and all Released Prosecution Claims shall be fully, finally, and forever compromised, settled, released, resolved, discharged, and dismissed with prejudice against the Released Parties, upon and subject to the following terms and conditions:

I. DEFINITIONS

1. As used in this Settlement Agreement, the following terms shall have the meanings specified below:

(a) “Alternative Judgment” means a form of final judgment that may be entered by the Court in a form other than the form of the Order and Final Judgment provided for in this Settlement Agreement, and which is acceptable to each Party.

(b) “Andover Action” is the class action styled as *The Andover Companies Employee Savings and Profit Sharing Plan, et al. v. State Street Bank and Trust Company*, No. 12-cv-11698 MLW (D. Mass.).

(c) “ARTRS Action” is the class action styled as *Arkansas Teacher Retirement System v. State Street Bank and Trust Company*, No. 11-cv-10230 MLW (D. Mass.).

(d) “Authorized Claimant” means a Settlement Class Member whose claim for payment from the Settlement is accepted by the Court.

(e) “Claims Administrator” means the firm retained by Lead Counsel on behalf of the Settlement Class and acceptable to SSBT, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Class Settlement.

(f) “Class Actions” mean the ARTRS Action, the Andover Action, and the Henriquez Action.

(g) “Class Escrow Account” means the separate escrow account designated and agreed upon by Lead Counsel and SSBT at a national banking institution into which the Class Settlement Amount will be deposited for the benefit of the Settlement Class.

(h) “Class Period” means the period from January 2, 1998 through December 31, 2009, inclusive.

(i) “Class Settlement” means this Stipulation and Agreement of Settlement and the settlement contained herein.

(j) “Class Settlement Amount” means Three Hundred Million United States Dollars (\$300,000,000.00), paid by or on behalf of SSBT in connection with this Settlement Agreement.

(k) “Class Settlement Fund” means the Class Settlement Amount, plus any interest earned thereon.

(l) “Compliant Distribution Order” means a Distribution Order providing for, at a minimum, a distribution of funds to Settlement Class Members that are Registered Investment Companies solely in accordance with a Compliant Plan of Allocation within one (1) year of the Judgment or Alternative Judgment becoming Final.

(m) “Compliant Plan of Allocation” means a Plan of Allocation that achieves, and contains sufficient flexibility to permit, among other things, the allocation of the Class Settlement Fund such that (i) the allocation of settlement funds to the ERISA Plans, together with Group Trusts insofar as they are eligible to participate in the ERISA Settlement Allocation (defined below), on a gross basis, shall be no less than Sixty Million Dollars (\$60,000,000.00) (the “ERISA Settlement Allocation”), and (ii) the allocation of settlement funds to Registered Investment Companies, on a gross basis, shall be sufficient to permit on a net basis distribution of the Registered Investment Company Minimum Distribution to Registered Investment Companies.

(n) “Defendants” means State Street Corporation, SSBT, State Street Global Markets, LLC, and Does 1-20.

(o) “Defendants’ Counsel” means the law firm of Wilmer Cutler Pickering Hale and Dorr LLP.

(p) “Direct FX Methods” mean the methods for submitting, processing, aggregating and/or executing foreign exchange transactions in which the counterparty or its investment manager approves the exchange rate, or a spread from a benchmark, before execution of the trade (including StreetFX Methods and methods used with respect to any other method of execution offered by State Street that are not Indirect FX Methods).

(q) “Direct FX Transactions/Trading” means foreign exchange transactions executed with SSBT or SSBT’s subcustodians using Direct FX Methods, including all StreetFX Transactions.

(r) “Distribution Order” means the order or orders entered by the Court authorizing and directing that the Net Class Settlement Fund be distributed to Authorized Claimants.

(s) “DOJ Settlement” means the settlement reached between the DOJ and SSBT concerning Indirect FX.

(t) “DOL Settlement” means the settlement reached between the DOL and SSBT concerning Indirect FX.

(u) “Effective Date” means the latest date when all of the conditions set forth in Paragraph 55 below have occurred.

(v) “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

(w) “ERISA Plans” means the employee benefit plans as defined in 29 U.S.C. Section 1002(3) (also referred to as Section 3(3) of ERISA), that are subject to Part 4 of Subtitle B of Title I of ERISA (including master trusts with respect to multiple such plans within the meaning of Department of Labor Regulation Section 2520.103-1(e)), and that were custody or trust customers of SSBT during any part of the Class Period.

(x) “Escrow Accounts” means the Class Escrow Account and the Lead Counsel Escrow Account.

(y) “Escrow Agent” means the national banking institution holding the Escrow Accounts, which shall receive, hold, invest, and disburse the Escrow Accounts, pursuant to the terms of this Settlement Agreement.

(z) “Final,” with respect to a court order, means the later of: (i) if there is an appeal from a court order, the date of final affirmance on appeal and the expiration of the time

for any further judicial review whether by appeal, reconsideration or a petition for a writ of certiorari and, if certiorari is granted, the date of final affirmance of the order following review pursuant to the grant; or (ii) the date of final dismissal of any appeal from the order or the final dismissal of any proceeding on certiorari to review the order; or (iii) the expiration of the time for the filing or noticing of any appeal or petition for certiorari from the order (or, if the date for taking an appeal or seeking review of the order shall be extended beyond this time by order of the issuing court, by operation of law or otherwise, or if such extension is requested, the date of expiration of any extension if any appeal or review is not sought). However, any appeal or proceeding seeking subsequent judicial review pertaining solely to matters that would not prevent immediate distribution to Registered Investment Companies of at least the Registered Investment Company Minimum Distribution or distributions to the ERISA Plans (e.g., an appeal directed only to the amount of attorneys' fees and/or expenses to be paid to Plaintiffs' counsel), shall not in any way delay or affect the time set forth above for the Judgment (or Alternative Judgment) or other order, or otherwise preclude the Judgment (or Alternative Judgment) or other order, from becoming Final.

(aa) "Final Approval Hearing" or "Settlement Hearing" means the hearing set by the Court under Rule 23(e) of the Federal Rules of Civil Procedure to consider final approval of the Class Settlement.

(bb) "Group Trust(s)" means group trusts that are exempt from tax pursuant to Internal Revenue Service Revenue Ruling 81-100, as amended, that were custody or trust customers of SSBT during any part of the Class Period.

(cc) "Henriquez Action" means the action styled as *Henriquez, et al. v. State Street Bank and Trust Company, et al.*, No. 11-cv-12049 MLW (D. Mass.).

(dd) “Indirect FX” means Indirect FX Methods and Indirect FX Transactions/Trading.

(ee) “Indirect FX Methods” means the methods at any time for submitting, processing, pricing, aggregating, netting, and/or executing foreign exchange transaction requests pursuant to instructions from custody or trust customers of SSBT (or their investment managers) instructing SSBT or SSBT’s subcustodians to execute such transactions at rates or spreads, which rates or spreads prior to December 2009 were not widely disclosed to the customers or investment managers prior to execution, including, but not limited to, the methods of executing foreign exchange transactions that are or were at any time known as Indirect FX, standing instruction foreign exchange, custody FX, Automatic Income Repatriation, Automated Dividend and Interest Income Repatriation Service, or Security Settlements and Holdings Foreign Exchange Service or Hourly Pricing Foreign Exchange Service.

(ff) “Indirect FX Transactions/Trading” means foreign exchange transactions executed with SSBT or SSBT’s subcustodians at any time using Indirect FX Methods, including all foreign exchange transactions submitted using Indirect Methods. A transaction submitted or processed using an Indirect Method is an Indirect FX Transaction regardless of whether the rate at which the transaction was executed differed from the rates at which other transactions submitted using Indirect Methods were executed.

(gg) “Lead Counsel” means the law firm of Labaton Sucharow LLP.

(hh) “Lead Counsel Escrow Account” means the separate escrow account at a national banking institution designated and agreed upon by Lead Counsel and SSBT into which the attorneys’ fees, Litigation Expenses, and Service Awards approved by the Court will be deposited for the benefit of Plaintiffs’ counsel and the Plaintiffs.

(ii) “Liaison Counsel” means Thornton Law Firm LLP.

(jj) “Litigation Expenses” means the reasonable costs and expenses incurred by counsel for Plaintiffs in connection with commencing and prosecuting the Class Actions for which Plaintiffs’ counsel intend to apply to the Court for payment from the Class Settlement Fund.

(kk) “Net Class Settlement Fund” means the Class Settlement Fund less: (i) Taxes and Tax Expenses; (ii) Notice and Administration Expenses; (iii) any attorneys’ fees, Service Awards, and Litigation Expenses awarded by the Court; and (iv) any other fees and expenses approved by the Court.

(ll) “Notice” means the Notice of Pendency of Class Actions, Proposed Class Settlement, Settlement Hearing, Plan of Allocation, and any Motion for Attorneys’ Fees, Litigation Expenses, and Service Awards (substantially in the form attached hereto as Exhibit A-1), which is to be sent to members of the Settlement Class.

(mm) “Notice and Administration Expenses” means the costs, fees, and expenses that are incurred in connection with providing notice to the Settlement Class, in connection with the Escrow Accounts, in connection with administering the Class Settlement, and in providing notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

(nn) “Order and Final Judgment” or “Judgment” means the order of final judgment to be entered in the Class Actions, substantially in the form annexed hereto as Exhibit B.

(oo) “Parties” means (i) Plaintiffs on behalf of themselves and each Settlement Class Member and (ii) Settling Defendant SSBT.

(pp) “Person” means any individual, corporation (including all divisions and subsidiaries), general or limited partnership, association, joint stock company, joint venture, limited liability company, professional corporation, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, or any other business or legal entity, as well as each of their spouses, domestic partners, heirs, predecessors, successors, representatives, agents, trustees, estates, administrators, executors, or assigns.

(qq) “Plaintiffs” means named plaintiffs ARTRS, Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies Employees Savings and Profit Sharing Plan, and James Pehoushek-Stangeland.

(rr) “Plaintiffs’ Counsel” means Labaton Sucharow LLP, Thornton Law Firm LLP, Lieff Cabraser Heimann & Bernstein, LLP, Keller Rohrback LLP, McTigue Law LLP, and Zuckerman Spaeder LLP.

(ss) “Plan of Allocation” means the proposed plan for allocating the Net Class Settlement Fund to Settlement Class Members, which, subject to approval of the Court, shall be substantially in the form described in the Notice.

(tt) “Preliminary Approval Order” means the order (substantially in the form annexed hereto as Exhibit A) to be entered by the Court, preliminarily approving the Class Settlement, approving dissemination of the Notice and Publication Notice, and scheduling the Final Approval Hearing.

(uu) “Publication Notice” or “Summary Notice” means the notice, substantially in the form annexed hereto as Exhibit A-2, to be published as set forth in the Preliminary Approval Order.

(vv) “Rate Comparisons” means comparison of rates at which foreign exchange transactions were executed with rates of any other foreign exchange transaction or transactions (whether executed by SSBT, a subcustodian, or a party unrelated to SSBT), including comparison of rates of Indirect FX Transactions or Direct FX Transactions with rates of any other Indirect FX Transactions, Direct FX Transactions, indicative rate, market rate or benchmark rate.

(ww) “Registered Investment Company(ies)” means a mutual fund, closed-end fund, unit investment trust or other entity that is registered with the SEC as an investment company under the Investment Company Act.

(xx) “Registered Investment Company Minimum Distribution” means \$92,369,416.51.

(yy) “Released Class Claims” means any and all claims, demands, losses, costs, interest, penalties, fees, attorneys’ fees, expenses, rights, rights of recovery, causes of action, duties, obligations, judgments, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every nature and description, including Unknown Claims, whether known or unknown, direct, representative, class, individual or indirect, asserted or unasserted, matured or unmatured, accrued or unaccrued, foreseen or unforeseen, disclosed or undisclosed, contingent or fixed or vested, accrued or not accrued, at law or equity, whether arising under federal, state, local, foreign, statutory, common, administrative or any other law, statute, rule or regulation that any Releasing Plaintiff: (i) asserted in the Class Actions; (ii) could have asserted in the Class Actions or any other action or in any forum, that arise from or out of, relate to, or are in connection with the claims, allegations, transactions, alleged or actual prohibited transactions or breaches of duty (including fiduciary duty), facts, events, acts,

disclosures, matters or occurrences, statements, representations or omissions or failures to act involved, described, set forth, or referred to in the complaints filed in the Class Actions or that arise from or out of, relate to, or are in connection with Indirect FX Methods, Indirect FX Transactions/Trading, StreetFX Methods, StreetFX Transactions, or Rate Comparisons; and (iii) asserted or could assert that arise from or out of, relate to, or are in connection with the defense or settlement of the Class Actions, except for claims relating to enforcement of the Settlement.

(zz) “Released Defendant Parties” means SSBT and Defendants; their past, present and future parents, subsidiaries, divisions, and affiliates; the respective past and present officers, directors, trustees, employees, agents, trustees, managers, servants, accountants, auditors, underwriters, financial and investment advisors, consultants, representatives, insurers, co-insurers and reinsurers of each of them; and the heirs, successors and assigns of the foregoing.

(aaa) “Released Parties” means the Released Defendant Parties and the Released Plaintiff Parties.

(bbb) “Released Plaintiff Parties” means Plaintiffs and each and every Settlement Class Member and their respective past, present, and future heirs, executors, administrators, trustees, predecessors, successors, and assigns.

(ccc) “Released Prosecution Claims” means all claims and causes of action of every nature and description, including Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims in the Class Actions, except for claims relating to interpretation or enforcement of the terms of the Class Settlement.

(ddd) “Releasing Plaintiff(s)” means each and every Plaintiff and each and every Settlement Class Member.

(eee) “SEC Settlement” means the settlement between the SEC and SSBT concerning Indirect FX.

(fff) “Service Awards” refers to the funds awarded out of the Class Settlement Fund, in addition to whatever monies Plaintiffs may receive pursuant to the Plan of Allocation, to compensate Plaintiffs for the effort and time spent by them in connection with the prosecution of the Class Actions, as supported by adequate written documentation of such effort and time.

(ggg) “Settlement Agreement” means this Stipulation and Agreement of Settlement.

(hhh) “Settlement Class” means all custody and trust customers of SSBT (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT’s records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive. Excluded from the Settlement Class are: Defendants; California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS), and the State of Washington Investment Board; the predecessors and affiliates of the foregoing, or any entity in which they have a controlling interest; and the officers, directors, legal representatives, heirs, successors, subsidiaries and/or assigns of any such excluded individual or entity in their capacities as such. Also excluded from the Settlement Class is any Person who submits a timely and valid request for exclusion from the Settlement Class in accordance with the requirements set forth in the Notice. For the avoidance of doubt, it is agreed that this definition of the “Settlement Class” is intended to supersede the class definitions in the complaints in the Class Actions.

(iii) “Settlement Class Member” means any Person that is a member of the Settlement Class.

(jjj) “Settling Defendant” means SSBT.

(kkk) “SSGM LLC” means State Street Global Markets, LLC.

(lll) “StreetFX Methods” means the methods for submitting, processing, aggregating and/or executing foreign exchange transactions which were or ultimately became known as StreetFX methods.

(mmm) “StreetFX Transactions” means foreign exchange transactions submitted at any time to SSBT using StreetFX Methods.

(nnn) “Taxes” means any taxes due and payable with respect to the income earned by the Class Settlement Fund, including any interest or penalties thereon.

(ooo) “Tax Expenses” means any expenses and costs incurred in connection with the payment of Taxes (including, without limitation, expenses of tax attorneys, accountants, and other advisors and expenses relating to the filing or failure to file all necessary or advisable tax returns).

(ppp) “Unknown Claims” means any and all Released Class Claims, which one or more Releasing Plaintiffs does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any Released Prosecution Claims that SSBT or any other Released Defendant Party does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known to him, her, or it might have affected his, her, or its decision(s) with respect to the Class Settlement. With respect to any and all Released Class Claims and Released Prosecution Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiffs and SSBT shall expressly, and each Releasing

Plaintiff and SSBT shall be deemed to have, and by operation of the Judgment or any Alternative Judgment shall have, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or principle of common law that is, or is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Releasing Plaintiffs, SSBT, or the other Released Defendant Parties may hereafter discover facts, legal theories, or authorities in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Class Claims and the Released Prosecution Claims, but Plaintiffs and SSBT shall expressly, fully, finally, and forever settle and release, and each other Releasing Plaintiff and each other Released Defendant Party shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment or any Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Class Claims and Released Prosecution Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Parties acknowledge, and each other Releasing Plaintiff and Released Defendant Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Class Claims and Released Prosecution Claims was separately bargained for and was a key and material element of the Class Settlement.

II. CERTIFICATION OF SETTLEMENT CLASS

2. Solely for purposes of the Class Settlement, the Parties stipulate and agree to: (i) certification of the Settlement Class pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure; (ii) appointment of Plaintiffs as the representatives for the Settlement Class; and (iii) appointment of Lead Counsel as counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

3. In the event the Class Settlement is terminated, pursuant to the terms of this Settlement Agreement, certification of the Settlement Class shall be nullified and voided, the Class Actions shall proceed as though the Settlement Class had never been certified, and none of the Parties or any other Person shall suggest in the Class Actions that any inference of any kind should be drawn from the Settlement Class proposed in the Class Settlement.

III. RELEASE OF CLAIMS

4. By operation of this Settlement Agreement and the Judgment or Alternative Judgment, as of the Effective Date, the Releasing Plaintiffs, and their respective past, present, and future heirs, executors, administrators, trustees, predecessors, successors, and assigns: (i) shall release and shall be deemed by operation of law and this Settlement Agreement to have irrevocably, absolutely, and unconditionally fully, finally, and forever waived, released, discharged, and dismissed, with prejudice and on the merits, each and every one of the Released Class Claims against each and every one of the Released Defendant Parties, (ii) shall have and be deemed to have covenanted not to sue, directly or indirectly any Released Defendant Party with respect to any and all of the Released Class Claims; and (iii) shall forever be barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, intervening in, participating in (as a class member or otherwise) (except as a witness compelled by subpoena or court order), or receiving any benefits or other relief, from any action, suit, cause of action,

arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative capacity, that maintains or prosecutes any or all such Released Class Claims against each and every one of the Released Defendant Parties.

5. All Releasing Plaintiffs, and their respective past, present, and future heirs, executors, administrators, trustees, predecessors, successors, and assigns, shall be bound by the terms of the releases, covenants not to sue, and injunctions set forth in this Settlement Agreement whether or not they obtain a recovery from the Class Settlement or seek, or actually receive, a distribution from the Class Settlement.

6. By operation of the Judgment or Alternative Judgment, as of the Effective Date, SSBT, on behalf of itself, the Released Defendant Parties, and each of their respective heirs, executors, administrators, trustees, predecessors, successors, and assigns, shall be deemed by operation of law to have fully, finally, and forever released, waived, discharged, and dismissed, with prejudice and on the merits, each and every one of the Released Prosecution Claims against each and every one of the Released Plaintiff Parties and their respective attorneys, and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any or all such Released Prosecution Claims against each and every one of the Released Plaintiff Parties and their respective attorneys.

7. Notwithstanding any of the foregoing, none of the Parties releases any claims relating to the enforcement of the Class Settlement, and SSBT does not release any claims relating to insurance coverage.

8. The releases and waivers contained in this Section were separately bargained for and are essential elements of this Settlement Agreement and the Class Settlement.

IV. THE SETTLEMENT CONSIDERATION

9. The Class Settlement Amount is to be paid by or on behalf of SSBT. In consideration of the terms of the Class Settlement, SSBT shall cause the Class Settlement Amount to be deposited into the Class Escrow Account no more than ten (10) calendar days after entry of the Preliminary Order by the Court.

10. Any and all direct settlements that SSBT has reached or may in the future reach with Settlement Class Members shall not change the Class Settlement Amount.

11. Within five (5) business days after signing this Settlement Agreement, Lead Counsel shall provide Defendants' Counsel with wiring instructions and a Form W-9 for the Class Settlement Fund, and any other documents reasonably required by the Settling Defendant to process the funding of the Class Settlement Amount.

12. Other than the obligation of SSBT to pay or cause to be paid the Class Settlement Amount into the Class Escrow Account as provided for in Paragraph 9 above or to pay or cause to be paid the amount provided for in Paragraph 14, neither SSBT nor any other Released Defendant Party shall have any obligation to make any other payment to the Settlement Class pursuant to this Settlement Agreement. Any interest earned on the Class Settlement Amount shall be for the benefit of the Settlement Class.

V. USE OF THE SETTLEMENT FUND

13. The Class Settlement Fund shall be used to pay: (i) Taxes and Tax Expenses; (ii) Notice and Administration Expenses; (iii) any attorneys' fees, Litigation Expenses, and Service Awards awarded by the Court; (iv) any other fees, costs, or expenses approved by the Court; and (v) the claims of Authorized Claimants. The Net Class Settlement Fund shall be distributed to Authorized Claimants as provided below and in the Plan of Allocation approved by the Court. All costs and expenses incurred by or on behalf of Plaintiffs and the other members of the

Settlement Class shall be paid from the Class Settlement Fund, as approved by the Court or provided for in this Settlement Agreement. Other than as specified below in Paragraph 14, neither SSBT nor or any other Released Defendant Party shall bear any further or additional responsibility to the Settlement Class or their counsel for any fees, costs or expenses beyond payment of the Class Settlement Amount.

14. After (i) the Judgment or Alternative Judgment becomes Final, (ii) the Court has approved the Plan of Allocation and the order approving the Plan of Allocation becomes Final, and (ii) entry by the Court of a Distribution Order and the Distribution Order becomes Final, the Net Class Settlement Fund will be distributed to Authorized Claimants in accordance with the terms of such Distribution Order and the Plan of Allocation approved by the Court. The Parties and their counsel shall use their best efforts (including by means of causing the distribution to be made in more than one phase, if necessary) to cause at least the Registered Investment Company Minimum Distribution to be distributed to Authorized Claimants who are Registered Investment Companies, pursuant to the Plan of Allocation and consistent with the SEC Settlement, within one (1) year of the date upon which the Judgment or Alternative Judgment becomes Final. If fees, costs, or expenses are necessarily incurred by the Claims Administrator at the request of SSBT in order to expedite the distribution to Registered Investment Companies, they shall be paid or caused to be paid by SSBT and not by the Class Settlement Fund.

15. Except as provided herein or pursuant to orders of the Court, the Net Class Settlement Fund shall remain in the Class Escrow Account prior to distribution. All funds held by the Escrow Agent for the Class Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Settlement Agreement and/or further order

of the Court. The Escrow Agent for the Class Settlement Fund shall invest any funds in the Escrow Accounts in instruments backed by the full faith and credit of the United States Government (or a mutual fund invested solely in such instruments), or deposit some or all of the funds in non-interest-bearing transaction account(s) that are fully insured by the Federal Deposit Insurance Corporation (“FDIC”) in amounts that are up to the limit of FDIC insurance. All risks related to the investments of the Class Settlement Fund shall be borne by the Class Settlement Fund.

16. The Parties agree that the Class Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1, and that Lead Counsel, as administrator of the Class Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Class Settlement Fund. Such returns shall be consistent with this Paragraph and in all events shall reflect that all Taxes on the income earned on the Class Settlement Fund and Tax Expenses shall be paid out of the Class Settlement Fund as provided by Paragraph 17 below. Lead Counsel shall also be solely responsible for causing payment to be made from the Class Settlement Fund of any Taxes and Tax Expenses owed with respect to the Class Settlement Fund. Upon written request, SSBT will provide to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e). Lead Counsel, as administrator of the Class Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this Paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into

existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

17. All Taxes (including any interest or penalties) and Tax Expenses shall be considered to be a cost of administration of the Class Settlement and shall be paid out of the Class Settlement Fund. SSBT and the other Released Defendant Parties shall not have any liability or responsibility for any such Taxes or Tax Expenses. Lead Counsel, or its agents, shall timely and properly file all information and other tax returns necessary or advisable with respect to the Class Settlement Fund and the distributions and payments therefrom, including, without limitation, the tax returns described in Treasury Regulation § 1.468B-2(k), and, to the extent applicable, Treasury Regulation § 1.468B-2(1). Such returns shall be consistent with the terms hereof and in all events shall reflect that all such Taxes (including any interest or penalties) on the income earned by the Class Settlement Fund shall be paid out of the Class Settlement Fund, subject to the limitations set forth in this Paragraph. Lead Counsel, or its agents, shall also timely pay Taxes and Tax Expenses, subject to the' limitations set forth in this Paragraph, out of the Class Settlement Fund; and are authorized to withdraw, without prior order of the Court, from the Class Settlement Fund amounts necessary to pay Taxes and Tax Expenses. The Parties agree to cooperate with each other, and their tax attorneys and accountants, to the extent reasonably necessary to carry out the terms of this Settlement Agreement. SSBT and the Released Defendant Parties shall have no responsibility or liability for the acts or omissions of Lead Counsel or its agents, as described herein.

18. The Class Settlement is not a claims-made settlement. As of the Effective Date, neither SSBT nor any other Person who paid any portion of the funds into the Class Settlement Fund shall have any right to the return of the Class Settlement Fund or any portion thereof

irrespective of the collective amount of losses of Settlement Class Members, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants. Additionally, irrespective of whether the Effective Date has occurred, neither SSBT nor any other Person who paid any portion of the funds into the Class Settlement Fund shall have any right to return from any Settlement Class Members of any portion of the Net Class Settlement Fund that has been actually distributed in accordance with this Settlement Agreement.

VI. ATTORNEYS' FEES AND LITIGATION EXPENSES

19. Lead Counsel, on behalf of Plaintiffs' counsel, may apply to the Court for an award, from the Class Settlement Fund, of attorneys' fees, Litigation Expenses, and Service Awards based upon the Class Settlement Amount, not to exceed \$76,400,000. Attorneys' fees, Litigation Expenses, and Service Awards, as awarded by the Court, shall be paid from the Class Escrow Account to the Lead Counsel Escrow Account immediately upon award by the Court, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Class Settlement or any part thereof. Plaintiffs' Counsel represent that (a) should an appellate court reverse the Judgment or Alternative Judgment by Final non-appealable order, or should the Class Settlement be terminated or canceled pursuant to the terms of this Settlement Agreement, then Plaintiffs' counsel severally shall be obligated to repay any such attorneys' fees and Litigation Expenses received by Plaintiffs' counsel and all such Service Awards received by Plaintiffs, along with interest at the Class Escrow Account rate of interest, to the Lead Counsel Escrow Account, which promptly shall be returned to SSBT in accordance with instructions provided by Defendants' Counsel to Lead Counsel; and (b) should the attorneys' fees and expense awards be reduced by the Court or on appeal by a Final non-appealable order, then Plaintiffs' counsel severally shall be obligated to repay any such attorneys' fees and Litigation Expenses received by Plaintiffs' counsel and all such Service

Awards received by Plaintiffs in excess of those that are ultimately approved by Final non-appealable order, along with interest at the Class Escrow Account rate of interest, to the Lead Counsel Escrow Account, which promptly shall be returned to the Class Escrow Account. Plaintiffs' counsel shall make the appropriate refund or repayment in full no later than fourteen (14) business days after receiving from Defendants' Counsel or from a court of appropriate jurisdiction notice of any such reduction of the award of attorneys' fees, Litigation Expenses, and/or Service Awards by Final non-appealable order or notice of the termination of the Class Settlement. The procedure for and the allowance or disallowance by the Court of any application for an award of attorneys' fees, Litigation Expenses, and/or Service Awards are matters separate and apart from the proposed Class Settlement between the Parties and they are not necessary terms to this Settlement Agreement or conditions of this Settlement Agreement, the Class Settlement, or the releases provided herein. Plaintiffs and Plaintiffs' Counsel may not cancel or terminate the Settlement Agreement based on the Court's ruling or any appellate court's ruling with respect to attorneys' fees, Service Awards, and/or Litigation Expenses. Any appeal relating to an award of attorneys' fees, Service Awards, and/or Litigation Expenses will not affect the finality of the Class Settlement, the Judgment, the Alternative Judgment, or the releases provided herein.

20. The prevailing party in any action to collect any amount due under Paragraph 19 shall be entitled to recover interest and all costs of collection, including reasonable attorneys' fees.

21. Unless otherwise ordered by the Court, and subject to the provisions of the Lead Counsel Escrow Account, Lead Counsel will in good faith promptly distribute any award of attorneys' fees and/or payment of Litigation Expenses among Plaintiffs' counsel. Of the

attorneys' fees awarded by the Court, if any, 9% in the aggregate (the "ERISA Counsel Fee") shall be distributed to counsel for plaintiffs and/or the class in the Andover and Henriquez Actions ("ERISA Counsel"), in full satisfaction of ERISA Counsel's interests in any attorneys' fees awarded by the Court. Of the attorneys' fees awarded by the Court, if any, 91% in the aggregate (the "Customer Counsel Fee") shall be distributed to counsel for plaintiff and/or the class in the ARTRS Action ("Customer Counsel"), in full satisfaction of Customer Counsel's interests in any attorneys' fees awarded by the Court. If Customer Counsel disagree about the amount of the fee to be distributed amongst Customer Counsel by Lead Counsel, they shall mediate their dispute with Jonathan B. Marks, Esq. and, if unsuccessful, present the dispute to the Court for a determination. Settling Defendant and the Released Defendant Parties shall have no responsibility for, and no liability with respect to, the attorneys' fees, Litigation Expenses, and/or Service Awards that the Court may award in the Class Actions or the allocation of the attorneys' fees and/or Litigation Expenses between or among ERISA Counsel and Customer Counsel in connection with the Class Actions or any other Person who may assert some claim thereto.

VII. MINIMUM REQUIREMENTS OF PLAN OF ALLOCATION AND DISTRIBUTION ORDER

22. This Class Settlement is expressly conditioned upon any and all distributions of the Net Class Settlement Fund to Settlement Class Members occurring only pursuant to a Compliant Plan of Allocation and a distribution of funds to Settlement Class Members that are Registered Investment Companies occurring only pursuant to a Compliant Distribution Order. Absent provision by SSBT of an express written waiver specifically referring to and waiving the conditions of this paragraph, under no circumstances shall any distributions of the Net Class Settlement Fund to Settlement Class Members occur other than in accordance with a Compliant

Plan of Allocation and under no circumstances shall any distribution of funds to Settlement Class Members that are Registered Investment Companies occur other than in accordance with a Compliant Distribution Order.

23. If the Plan of Allocation approved by the Court, and which becomes Final, is not a Compliant Plan of Allocation, notwithstanding anything to the contrary in this Settlement Agreement, SSBT shall have the right to terminate this Settlement Agreement in accordance with Section XIV. If the proposed Plan of Allocation submitted to the Court is a Compliant Plan of Allocation, then SSBT shall support the proposed Plan of Allocation and shall not object to it. If the Distribution Order entered by the Court to approve a distribution to Settlement Class Members that are Registered Investment Companies, and which becomes Final, is not a Compliant Distribution Order, notwithstanding anything to the contrary in this Settlement Agreement, SSBT shall have the right to terminate this Settlement Agreement in accordance with Section XIV.

24. Except with respect to the amount of Plaintiffs' counsel's attorneys' fees chargeable to the ERISA Plans, as provided for below, the amount of the Class Settlement Fund allocated to the ERISA Plans and Registered Investment Companies and other Settlement Class Members shall be increased or decreased, as the case may be, by their proportional share (using the allocations set forth in the Plan of Allocation compared to the Class Settlement Amount) of any interest, costs (including Notice and Administration Expenses), Litigation Expenses, Service Awards, Taxes and Tax Expenses, and attorneys' fees of Plaintiffs' counsel, obtained or paid pursuant to permission of the Court. However: (i) the cost of any ERISA Independent Fiduciary shall be borne solely by SSBT and shall not be paid out of the Class Settlement Amount; and (ii)

no more than Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00) in attorneys' fees shall be paid out of the ERISA Settlement Allocation.¹

25. Except as provided in this Section VII and Paragraph 33 below, SSBT and the Released Defendant Parties shall have no responsibility or liability whatsoever for allocation of the Class Settlement Fund or Net Class Settlement Fund and SSBT shall not otherwise object to the Plan of Allocation proposed by Plaintiffs.

26. Except as provided in this Section VII, the allocation of the Net Class Settlement Fund among Authorized Claimants is a matter separate and apart from the proposed Class Settlement between the Parties and any decision by the Court concerning provisions of the Plan of Allocation, other than those set forth in this Section VII, shall not affect the validity or finality of the proposed Class Settlement. Plaintiffs and Plaintiffs' Counsel may not cancel or terminate the Class Settlement (or this Settlement Agreement) based on this Court's or any appellate court's ruling with respect to provisions in the Plan of Allocation (other than those instituting the requirements of this Section VII), attorneys' fees, Litigation Expenses, or Service Awards.

27. There shall be no distribution of any of the Class Settlement Fund to any Settlement Class Member until the Plan of Allocation is approved and such order of approval is Final.

VIII. ADMINISTRATION EXPENSES

28. Except as otherwise provided herein, the Class Settlement Fund shall remain in escrow pending: (i) final approval of the Class Settlement by the Court, (ii) the expiration of all rights of appeal of the Judgment or Alternative Judgment; (iii) the Final denial of any and all appeals or objections or collateral attacks or challenges to the Class Settlement; (iv) the order

¹ If the Settlement Class seeks and/or the Court awards attorneys' fees at a rate which would, if applied to the \$60,000,000 ERISA Settlement Allocation, result in a fee of less than \$10,900,000, then such lower rate and resulting fee at that rate shall apply to the ERISA Settlement Allocation.

approving the proposed Plan of Allocation becoming Final; and (v) a Compliant Distribution Order becoming Final.

29. Notwithstanding the fact that the Effective Date has not yet occurred, Lead Counsel may pay from the Class Settlement Fund, without further approval from SSBT or further order of the Court, all reasonable Notice and Administration Expenses actually incurred. Such costs and expenses shall include, without limitation, the actual costs of publication, printing and mailing the Notice to potential members of the Settlement Class, the administrative expenses incurred and fees charged in connection with providing notice and calculating claims, and the fees, if any, related to the Escrow Accounts and the investment of the Class Settlement Fund.

30. In the event the Effective Date for any reason does not occur, Notice and Administration Expenses paid or incurred shall not be returned or repaid to SSBT or any other Person that caused payments to be made into the Class Settlement Fund.

IX. ADMINISTRATION OF THE SETTLEMENT

31. The Claims Administrator, subject to the supervision, direction, and approval of Lead Counsel and the Court, shall administer and calculate the claims due to Settlement Class Members, oversee distribution of the Net Class Settlement Fund, and perform all claims administration procedures necessary or appropriate in connection therewith. Except as otherwise provided herein, Settling Defendant and the Released Defendant Parties shall have no liability, obligation, or responsibility for the Notice, Summary Notice, administration or processing of claims in the Class Settlement, or disbursement of the Net Class Settlement Fund, including without limitation, final determinations as to the amounts of claims, distributions of the Net Class Settlement Fund, or any losses incurred by the Class Settlement Fund or the Claims Administrator. Settling Defendant and the Released Defendant Parties shall not review, contest, or object to any claim.

32. The Claims Administrator shall administer the Class Settlement according to this Settlement Agreement and the Plan of Allocation approved by the Court. The proposed Plan of Allocation is included in the Notice, annexed hereto as Exhibit A-1.

33. Lead Counsel shall be responsible for supervising the administration of the Class Settlement and disbursement of the Net Class Settlement Fund. Settling Defendant and its counsel shall cooperate with and provide the Claims Administrator and Plaintiffs' Counsel with (i) information sufficient to provide notice to the Settlement Class, and (ii) information about the U.S. dollar-equivalent volume of Indirect FX Transactions executed by Settlement Class Members sufficient to allow Plaintiffs' Counsel to develop the proposed Plan of Allocation, to administer the Plan of Allocation, to calculate claims, and to resolve any disputed claims. Settling Defendant and its counsel shall also make their best efforts to respond fully and promptly to inquiries and requests from Plaintiffs' Counsel and/or the Claims Administrator concerning Settling Defendant's FX trading and sales margin data as necessary. Defendants and the Released Defendant Parties, except as otherwise specified herein, shall have no liability, obligation, or responsibility for the administration of the Class Settlement or disbursement of the Net Class Settlement Fund.

34. Each Settlement Class Member, absent exclusion from the Settlement Class, shall be deemed to have submitted to the jurisdiction of the Court with respect to its claim, including, but not limited to, the releases provided for in the Judgment or any Alternative Judgment. No discovery shall be allowed on the merits of the Class Actions or the Class Settlement in connection with the processing of claims.

35. All proceedings with respect to the administration, processing, and determination of claims and the determination of all controversies relating thereto, including disputed questions

of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court, but shall not in any event delay or affect the finality of the Judgment or Alternative Judgment.

X. DISTRIBUTION OF NET CLASS SETTLEMENT FUND

36. Lead Counsel will apply to the Court, with reasonable notice to Settling Defendant, for a Compliant Distribution Order, *inter alia*: (i) approving, at minimum, the Claims Administrator's administrative determinations concerning the claims to be paid to Settlement Class Members that are Registered Investment Companies; (ii) approving payment from the Class Settlement Fund of any outstanding administration fees and expenses associated with the administration of the Class Settlement; and (iii) if the Judgment or Alternative Judgment have become Final and the order approving the proposed Plan of Allocation has become Final, directing, at minimum, payment to Authorized Claimants that are Registered Investment Companies. To the extent necessary, Lead Counsel will also apply to the Court, with reasonable notice to Settling Defendant, for a Distribution Order, *inter alia*: (i) approving the Claims Administrator's administrative determinations concerning other claims to be paid; (ii) approving payment from the Class Settlement Fund of any outstanding administration fees and expenses associated with the administration of the Class Settlement; and (iii) if the Judgment or Alternative Judgment have become Final and the order approving the proposed Plan of Allocation has become Final, directing payment of the Net Class Settlement Fund to Authorized Claimants that are not Registered Investment Companies.

37. The Claims Administrator shall notify, in a timely fashion and in writing, all Settlement Class Members of the amount of their Recognized Claims prior to any motion seeking approval of a distribution to them. The notification shall indicate that a Settlement Class Member has the right to dispute the amount of its Recognized Claim, if the claimant so desires

and complies with the requirements set forth in the notification. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel shall thereafter present the dispute for review by the Court.

38. If subpoenaed by the DOL, prior to the motion for a Distribution Order being made, SSBT and/or the Claims Administrator shall provide the DOL with the names, addresses, and payment amounts of ERISA Plans and eligible Group Trusts that will be receiving distributions pursuant to the motion, as well as actual payment amounts after the distribution is conducted. However, when providing the requested information, SSBT and/or the Claims Administrator shall designate it “Confidential” and request that it be treated as exempt from disclosure under the Freedom of Information Act, or any other applicable regulation or law. The DOL shall protect the information to the extent permitted by law and in accordance with the DOL’s regulations. All communications pursuant to this paragraph to and from the DOL shall also be provided, by the Parties hereto, contemporaneously to Plaintiffs’ Counsel and Defendants’ Counsel, as the case may be.

39. Payment from the Net Class Settlement Fund pursuant to the Distribution Order shall be final and conclusive against any and all Settlement Class Members. All Settlement Class Members shall be bound by all of the terms of this Settlement Agreement and the Class Settlement, including the terms of the Judgment or any Alternative Judgment and the releases provided for therein, and will be permanently barred and enjoined from bringing any action against any and all Released Defendant Parties concerning any and all of the Released Class Claims.

40. If any portion of the Net Class Settlement Fund remains after at least six (6) months following initial distribution, Lead Counsel shall, if feasible and economical after

payment of Notice and Administration Expenses, if any, Taxes and Tax Expenses, redistribute such balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion until it is no longer economically feasible to do so. Any balance which still remains in the Net Class Settlement Fund after redistribution(s) and after payment of Notice and Administration Expenses, if any, Taxes and Tax Expenses, shall be contributed to one or more nonsectarian, not-for-profit, 501(c)(3) organizations serving the public interest approved by the Court. The proposed recipients shall be independent of Plaintiffs' Counsel so that Plaintiffs' Counsel do not derive a direct or indirect benefit from the selection of such organization as the recipient of a charitable contribution.

XI. REQUESTS FOR EXCLUSION

41. The Notice shall provide that a request for exclusion from the Settlement Class by a Settlement Class Member shall be provided to the Claims Administrator and shall include the following information: (i) the name of the Person that entered into one or more custody or trust agreements with SSBT and is requesting exclusion; (ii) the Person's address; (iii) the Person's telephone number; (iv) the Person's e-mail address; (v) the approximate date(s) of the agreement(s) referenced in (i) above; (vi) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (vii) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above; (viii) a signed statement that the Person wishes to be excluded from the Settlement Class in the Class Actions; and (ix) identification (including by case name, court name, and docket number) of all legal actions and claims (if any) that the Person requesting exclusion has brought against any of the Defendants relating to Indirect FX. A request for exclusion shall not be invalid for failing to include the foregoing (i) - (vii) if the Settling Defendant determines that it has sufficient information to determine that such

Person is a Settlement Class Member and provides that information promptly to Lead Counsel. Unless otherwise ordered by the Court, any Settlement Class Member who does not submit a timely and valid request for exclusion as provided by this Paragraph shall be bound by the Class Settlement. Plaintiffs shall request that the deadline for receiving requests for exclusion be twenty-one (21) calendar days prior to the Final Approval Hearing.

42. The Claims Administrator shall scan and send electronic copies of all requests for exclusion in .pdf format (or such other format as shall be agreed) to Defendants' Counsel and to Plaintiffs' Counsel not more than two (2) business days after the Claims Administrator receives such a request, and in any event at least seven (7) calendar days prior to the Final Approval Hearing. Within two (2) business days of receipt of an exclusion request from the Claims Administrator, Defendants' Counsel shall report to Plaintiffs' Counsel the requester's volume of Indirect FX Transactions conducted during the Class Period. Upon receipt of any invalid requests for exclusion, Lead Counsel shall within two (2) business days request the supplemental information set forth above in Paragraph 41 from Defendants' Counsel. As part of the motion papers in support of the Class Settlement, Lead Counsel will cause a list of all Persons who have requested exclusion from the Settlement Class to be provided to the Court and counsel for the Parties, and shall cause to be certified that all requests for exclusion received by the Claims Administrator have been copied and provided to the Defendants' Counsel.

43. Settlement Class Members who exclude themselves from the Settlement Class shall not be eligible to receive any payment from the Net Class Settlement Fund.

XII. MOTION FOR PRELIMINARY APPROVAL ORDER

44. Lead Counsel shall file the Settlement Agreement with the Court within two (2) business days after its execution. No later than five (5) calendar days after the Settlement Agreement is filed with the Court, Plaintiffs, by and through Lead Counsel, shall move for the

Court's approval of the Preliminary Approval Order, which shall be substantially in the form annexed hereto as Exhibit A. The Preliminary Approval Order, will, *inter alia*, set the date for a Final Approval Hearing and prescribe the method for giving notice of the Class Settlement to the Settlement Class.

45. SSBT shall provide Plaintiffs' Counsel and the Claims Administrator with information, in electronic searchable form, sufficient to provide Notice to the Settlement Class (including readily available known addresses and contact information for Settlement Class Members), within five (5) business days after execution of the Settlement Agreement. SSBT shall also be available to Plaintiffs' Counsel and the Claims Administrator for follow-up inquiries concerning changes of address or Settlement Class Member identity.

46. SSBT shall be responsible for the preparation of notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 ("CAFA"), which may at State Street's option be served by the Claims Administrator under the direction of Defendants' Counsel. Nothing in this Settlement Agreement shall prevent SSBT from complying with CAFA.

XIII. MOTION FOR ENTRY OF FINAL JUDGMENT

47. The Class Settlement is expressly conditioned upon, among other things, the entry of a Judgment substantially in the form annexed hereto as Exhibit B or an Alternative Judgment. Plaintiffs, by and through Lead Counsel, shall move for entry of the Judgment, including, among other things, the releases described herein.

XIV. WAIVER OR TERMINATION

48. Plaintiffs or SSBT shall have the right to terminate the Class Settlement in its entirety by providing written notice of their election to do so ("Termination Notice"), through counsel, to counsel for all other Parties hereto, within fourteen (14) calendar days of: (i) the Court's refusal to enter the Preliminary Approval Order in any material respect; (ii) the Court's

refusal to enter the Judgment in any material respect or an Alternative Judgment acceptable to the Parties with respect to the Class Settlement; (iii) the date upon which the Judgment or Alternative Judgment is vacated, modified, or reversed in any material respect by a Final order of the United States Court of Appeals or the Supreme Court of the United States; or (iv) SSBT's failure to fund the Class Settlement Amount. Settling Defendant may also terminate the Class Settlement in its entirety pursuant to Paragraph 23 above and Paragraphs 48 - 50 below. In the event the Class Settlement is terminated, the provisions of Paragraphs 53 - 54 and 56 shall survive termination. For the avoidance of doubt, Plaintiffs shall not have the right to terminate the Class Settlement due to any decision, ruling, or order regarding an application for attorneys' fees, Litigation Expenses, the Plan of Allocation (other than provisions implementing Section VII above), or Service Awards.

49. In addition to the foregoing, SSBT shall have the right to terminate the Class Settlement in the event the Settlement Class Termination Threshold (defined below) has been reached.

(a) Simultaneously herewith, Plaintiffs, by and through Lead Counsel, and SSBT, are executing a confidential Supplemental Agreement Regarding Requests for Exclusion (the "Supplemental Agreement"). The Supplemental Agreement sets forth certain conditions under which SSBT shall have the sole option to withdraw from the Class Settlement and render this Settlement Agreement null and void in the event that requests for exclusion from the Settlement Class exceed certain agreed-upon criteria ("Settlement Class Termination Threshold"). The Parties shall maintain the confidentiality of the Supplemental Agreement as stated therein, unless otherwise required by law or regulation, and the Supplemental Agreement

shall not be filed with the Court, but may be examined *in camera*, if so requested by the Court (unless otherwise ordered by the Court or required by court rule).

(b) In the event of a termination of this Class Settlement pursuant to the Supplemental Agreement, this Settlement Agreement shall become null and void and of no further force and effect, with the exception of the provisions of Paragraphs 53 - 54 and 56 which shall continue to apply.

50. SSBT shall also have the option and right in its sole discretion, prior to the distribution of funds pursuant to a Compliant Distribution Order, to terminate the Class Settlement if: (i) the DOJ Settlement or the DOL Settlement has not become final and effective, and/or (ii) SSBT reasonably believes that the SEC Settlement will not become final and effective. For the avoidance of doubt, SSBT shall have no right to terminate the Class Settlement after the distribution of funds pursuant to a Compliant Distribution Order.

51. If, before the Settlement becomes Final, any Defendant files for protection under the Bankruptcy Code or any similar law or a trustee, receiver, conservator, or other fiduciary is appointed under Bankruptcy, or any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money or any portion thereof to the Class Settlement Fund by or on behalf of such Defendant to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Class Settlement Fund by others, then, at the election of Plaintiffs, the Parties shall jointly move the Court to vacate and set aside the release given and the Judgment or Alternative Judgment entered in favor of that Defendant and that Defendant and Plaintiffs and the members of the Settlement Class shall be restored to their

litigation positions as of June 29, 2015. All releases and the Judgment or Alternative Judgment as to other Defendants shall remain unaffected.

(a) SSBT warrants that, as to the payments made or to be made by or on behalf of it at the time of entering into this Settlement Agreement and at the time of such payments pursuant to the terms above, it was not insolvent, nor will the payment required to be made by or on behalf of it render it insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including but not limited to Sections 101 and 547 thereof. This representation is made by SSBT and not by its counsel.

52. If an option to withdraw from and terminate this Settlement Agreement and Class Settlement arises under any of the Paragraphs 23, 48-50 above, neither SSBT nor Plaintiffs will be required for any reason or under any circumstance to exercise that option.

53. Except as otherwise provided herein, in the event the Class Settlement is terminated in its entirety, the Class Settlement will be without prejudice, and none of its terms shall be effective or enforceable, except as specifically provided herein. Plaintiffs and SSBT shall be deemed to have reverted to their respective status in the Class Actions as of June 29, 2015, and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Settlement Agreement and any related orders had not been entered. In such event, the fact and terms of the Term Sheet, this Settlement Agreement, or any aspect of the negotiations leading to this Settlement Agreement, shall not be admissible in this or other litigation and shall not be used by Plaintiffs against SSBT or any Released Defendant Party or by SSBT against Plaintiffs or any Released Plaintiff Party in any court filings, depositions, at trial, or otherwise.

54. In the event the Class Settlement is terminated in its entirety, or if the Effective Date is barred from occurring, pursuant to the provisions above, any portion of the Class

Settlement Amount paid by or on behalf of SSBT, including any funds disbursed in payment of attorneys' fees, Service Awards, and/or Litigation Expenses, together with any interest earnings or appreciation thereon, less any Taxes and Tax Expenses paid or due with respect to such income, and less Notice and Administration Expenses actually and reasonably incurred and paid or payable from the Class Settlement Fund, shall be returned to SSBT within fourteen (14) business days after written notification of such event in accordance with instructions provided by Defendants' Counsel to Lead Counsel. At the request of Defendants' Counsel, the Escrow Agent or its designees shall apply for any tax refund owed on the amounts in the Escrow Accounts and pay the proceeds, after any deduction of any fees or expenses incurred in connection with such application(s), of such refund to the Person(s) that made the deposits or as otherwise directed.

XV. EFFECTIVE DATE OF SETTLEMENT

55. The Effective Date of the Class Settlement shall be the first date when all of the following shall have occurred:

- (a) entry of the Preliminary Approval Order;
- (b) the Class Settlement Amount has been paid consistent with Paragraph 9 above;
- (c) approval by the Court of the Class Settlement following notice to the Settlement Class and a hearing in accordance with Rule 23 of the Federal Rules of Civil Procedure;
- (d) entry of the Judgment, substantially in the form annexed hereto as Exhibit B, or entry of any Alternative Judgment;
- (e) the Judgment or any Alternative Judgment has become Final;
- (f) the DOJ Settlement and DOL Settlement are final and effective pursuant to their respective terms;

(g) SSBT has submitted to the SEC an Offer of Settlement, which SSBT will do within two (2) business days of the Judgment or any Alternative Judgement becoming Final; and

(h) an order approving a Compliant Plan of Allocation has been entered and become Final.

XVI. NO ADMISSION OF WRONGDOING

56. Except as provided in Paragraph 57 below, this Settlement Agreement, whether or not consummated, and any negotiations, proceedings, or agreements relating to this Settlement Agreement, the Class Settlement, and any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be offered or received against the Parties and their counsel for any purpose, and in particular:

(a) do not constitute, and shall not be offered or received against Defendants as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by Defendants with respect to the truth of any fact alleged by Plaintiffs or any other Settlement Class Member or the validity of any claim that has been or could have been asserted in the Class Actions or in any litigation, including but not limited to the Released Class Claims, or of any liability, damages, negligence, fault, or wrongdoing of Defendants;

(b) do not constitute, and shall not be offered or received against Defendants as evidence of a presumption, concession, or admission of any fault, misstatement, or omission with respect to any statement or written document approved or made by Defendants, or against the Plaintiffs, or any other member of the Settlement Class as evidence of any infirmity in the claims or defenses that have been or could have been asserted in the Class Actions;

(c) do not constitute, and shall not be offered or received against Defendants, Plaintiffs, or any other member of the Settlement Class, or their respective counsel, as evidence

of a presumption, concession, or admission with respect to any liability, damages, negligence, fault, infirmity, or wrongdoing, or in any way referred to for any other reason against Defendants, Plaintiffs, other members of the Settlement Class, or their respective counsel, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement Agreement;

(d) do not constitute, and shall not be construed against Defendants, Plaintiffs, any other members of the Settlement Class, or their respective counsel as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) do not constitute, and shall not be construed as or received in evidence as an admission, concession, or presumption against Plaintiffs, any other Settlement Class Member, or their respective counsel, that any of their claims are without merit or infirm, that a class should not be certified, or that damages recoverable under the complaints filed in the Class Actions would not have exceeded the Class Settlement Amount.

57. The Parties may file or refer to this Settlement Agreement, the Judgment or any Alternative Judgment to (i) effectuate the liability protection granted thereunder, including, without limitation, to support injunctive relief, or a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, or (ii) effectuate the liability protections granted them under any applicable insurance policies. The Parties may file this Settlement Agreement and/or the Judgment or any Alternative Judgment in any action that may be brought to enforce the terms of this Settlement Agreement and/or the

Judgment or any Alternative Judgment. All Parties submit to the jurisdiction of the Court for purpose of implementing and enforcing the Class Settlement.

XVII. MISCELLANEOUS PROVISIONS

58. In accordance with paragraph 16 of the Stipulated Protective Order concerning the disclosure of confidential information filed by the parties on November 16, 2012, within sixty (60) days after the later of the Effective Date or the SEC Settlement becoming final and effective, all documents, material or other information designated as “confidential” supplied by any party and all copies thereof shall, at the election of the receiving party, be returned to counsel for that party or such materials shall be destroyed, with written certification of such destruction to be provided to the party that produced such materials, within sixty (60) days after final conclusion of the Class Action and any appeals therefrom; provided, however, that the parties and their counsel may retain copies of pleadings, discovery responses, court filings, transcripts, exhibits, notes and memoranda and work product embodying Confidential Information.

59. The Parties agree that no Party was or is a “prevailing party” in the Class Actions.

60. The Class Settlement is not subject to confirmatory discovery.

61. All of the exhibits attached to this Settlement Agreement and the Supplemental Agreement are material and integral parts hereof and are fully incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Settlement Agreement and the terms of any exhibit attached hereto, the terms of this Settlement Agreement shall prevail.

62. This Settlement Agreement, along with the Supplemental Agreement, may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by

counsel for all of the Parties (or their successors-in-interest) materially and adversely affected by any such modification, amendment, or waiver.

63. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

64. The Parties agree that the terms of the Class Settlement were negotiated at arm's-length, in good faith by the Parties, and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel. Moreover, the Class Settlement is intended to be a final and complete resolution of the Parties' disputes in the Class Actions. The Parties further agree that each has complied fully with Rule 11 of the Federal Rules of Civil Procedure in connection with the commencement, maintenance, prosecution, defense, and settlement of the Class Actions. Accordingly, the Parties agree not to assert any claim under Rule 11, or any similar law, rule, or regulation, that the Class Actions were brought or defended in bad faith or without a reasonable basis.

65. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

66. This Settlement Agreement and its exhibits and the Supplemental Agreement constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its exhibits and the Supplemental Agreement, other than the representations, warranties, and covenants contained and memorialized in such documents.

67. This Settlement Agreement may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature

transmitted via e-mail. All executed counterparts and each of them shall be deemed to be one and the same instrument.

68. The Parties and their respective counsel of record agree that they will use their best efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

69. Each counsel signing this Settlement Agreement represents that such counsel has authority to sign this Settlement Agreement on behalf of Plaintiffs or SSBT, as the case may be, and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Settlement Agreement to effectuate its terms.

70. By entering into the Class Settlement, Plaintiffs represent and warrant that they have not assigned, hypothecated, conveyed, transferred, or otherwise granted or given any interest in the Released Class Claims, or any of them, to any other Person.

71. By entering into the Class Settlement, the Settling Defendant represents and warrants that it has not assigned, hypothecated, conveyed, transferred, or otherwise granted or given any interest in the Released Prosecution Claims, or any of them, to any other Person.

72. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto, including any and all Released Parties and any corporation, partnership, or other entity into or with which any Party may merge, consolidate, or reorganize.

73. If any Party is required to give notice to the other Parties under this Settlement Agreement, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery, e-mail, facsimile, or in person to each of the signatories below.

74. The administration, consummation, and enforcement of the Class Settlement as embodied in this Settlement Agreement shall be under the authority of the Court, and the Parties

intend that the Court retain jurisdiction for the purpose of, *inter alia*, entering orders, providing for awards of attorneys' fees, Service Awards, and payment of Litigation Expenses, and enforcing the terms of this Settlement Agreement and the Class Settlement.

75. The construction, interpretation, operation, effect, and validity of this Settlement Agreement and all documents necessary to effectuate it shall be governed by the internal laws of the Commonwealth of Massachusetts without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

76. This Settlement Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Settlement Agreement.

IN WITNESS THEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys, as of July 26, 2016.

By: 

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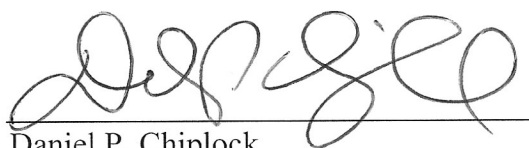
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Employees Savings and Profit Sharing
Plan, Alan Kober, and James Pehoushek-
Stangeland, and as Counsel for ERISA
Plaintiffs*

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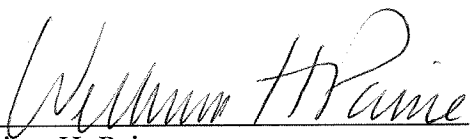
For Plaintiffs Arnold Henriquez, Michael T. Cohn, William R. Taylor, and Richard A. Sutherland and as Counsel for ERISA Plaintiffs

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By: _____


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Telephone: (617) 526-6000

For State Street Bank and Trust Company

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly situated,	)	No. 11-cv-10230 MLW
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)	
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,	)	No. 11-cv-12049 MLW
and those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
STATE STREET GLOBAL MARKETS, LLC and)	
DOES 1-20,)	
)	
Defendants.)	

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	
AND PROFIT SHARING PLAN, on behalf of itself, and	)	No. 12-cv-11698 MLW
JAMES PEHOUSHEK STANGELAND, and all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT, APPROVING FORM AND MANNER OF NOTICE, AND SETTING
DATE FOR HEARING ON FINAL APPROVAL OF SETTLEMENT**

WHEREAS, as of July 26 , 2016, (i) plaintiffs Arkansas Teacher Retirement System, Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies Employees Savings and Profit Sharing Plan and James Pehoushek-Stangel (collectively, “Plaintiffs”), on behalf of themselves and each Settlement Class Member by and through their counsel, and (ii) State Street Bank and Trust Company (the “Settling Defendant” or “SSBT”), by and through its counsel, entered into a Stipulation and Agreement of Settlement (the “Settlement Agreement”) in the above-titled actions (the “Class Actions”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions of the proposed settlement of the claims alleged in the Class Actions on the merits and with prejudice (the “Class Settlement”); and

WHEREAS, the Court has reviewed and considered the Settlement Agreement and the accompanying exhibits; and

WHEREAS, the Parties to the Settlement Agreement have consented to the entry of this order; and

WHEREAS, all capitalized terms used in this Order that are not otherwise defined herein have the meanings defined in the Settlement Agreement;

NOW, THEREFORE, IT IS HEREBY ORDERED, this _____ day of _____, 2016 that:

1. The Court has reviewed the Settlement Agreement and preliminarily finds the Class Settlement set forth therein to be fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

2. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, the Court hereby certifies, for the purposes of the Settlement only, the Settlement Class of: All

custody and trust customers of State Street Bank and Trust Company (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT's records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive. Excluded from the Settlement Class are: Defendants; California Public Employees' Retirement System (CalPERS), California State Teachers' Retirement System (CalSTRS), and the State of Washington Investment Board; the predecessors and affiliates of the foregoing, or any entity in which they have a controlling interest; and the officers, directors, legal representatives, heirs, successors, subsidiaries and/or assigns of any such excluded individual or entity in their capacities as such. Also excluded from the Settlement Class are any Settlement Class Members who properly exclude themselves by submitting a valid and timely request for exclusion in accordance with the requirements set forth below and in the Notice.

3. The Court finds and concludes that the prerequisites of class action certification under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedures have been satisfied for the Settlement Class defined herein and for the purposes of the Class Settlement only, in that:

- (a) the members of the Settlement Class are so numerous that joinder of all Settlement Class Members is impracticable;
- (b) there are questions of law and fact common to the Settlement Class Members;
- (c) the claims of Plaintiffs are typical of the Settlement Class's claims;
- (d) Plaintiffs and Counsel for the Settlement Class have fairly and adequately represented and protected the interests of the Settlement Class;

(e) the questions of law and fact common to Settlement Class Members predominate over any individual questions; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering that the claims of Settlement Class Members in the Class Actions are substantially similar and would, if tried, involve substantially identical proofs and may therefore be efficiently litigated and resolved on an aggregate basis as a class action; the amounts of the claims of many of the Settlement Class Members are too small to justify the expense of individual actions; and it does not appear that there is significant interest among Settlement Class Members in individually controlling the litigation of their claims.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Class Settlement only, Plaintiffs are certified as Class Representatives for the Settlement Class. The law firm of Labaton Sucharow LLP is appointed Lead Counsel for the Settlement Class, the law firm of Thornton Law Firm LLP is appointed Liaison Counsel for the Settlement Class, and the law firm of Lief Cabraser Heimann & Bernstein LLP is appointed additional Counsel for the Settlement Class.

5. A hearing (the “Final Approval Hearing”) pursuant to Rule 23(e) of the Federal Rules of Civil Procedure is hereby scheduled to be held before the Court on _____, 2016, at __:____ __.m. for the following purposes:

(a) to determine whether the proposed Class Settlement is fair, reasonable and adequate, and should be approved by the Court;

(b) to determine whether the proposed Final Order and Judgment (“Judgment”) as provided under the Settlement Agreement should be entered, and to determine

whether the release by the Settlement Class of the Released Class Claims, as set forth in the Settlement Agreement, should be provided to the Released Defendant Parties;

(c) to determine, for purposes of the Class Settlement only, whether the Settlement Class should be finally certified; whether Plaintiffs should be finally certified as Class Representative for the Settlement Class; whether the law firm of Labaton Sucharow LLP should be finally appointed as Lead Counsel for the Settlement Class; whether the law firm of Thornton Law Firm LLP should be finally appointed as Liaison Counsel for the Settlement Class; and whether the law firm of Lief Cabraser Heimann & Bernstein LLP should be finally appointed as additional Counsel for the Settlement Class.

(d) to determine whether the proposed Plan of Allocation for the proceeds of the Class Settlement is fair and reasonable and should be approved by the Court;

(e) to consider Lead Counsel's application, on behalf of ERISA Counsel and Customer Counsel, for an award of attorneys' fees, Litigation Expenses, and Service Awards to Plaintiffs; and

(f) to rule upon such other matters as the Court may deem appropriate.

6. The Court reserves the right to approve the Class Settlement with or without modification and with or without further notice to the Settlement Class of any kind. The Court further reserves the right to enter the Judgment approving the Class Settlement regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or expenses. The Court may also adjourn the Final Approval Hearing or modify any of the dates herein for good cause shown and without further notice to members of the Settlement Class.

7. The Court approves the form, substance and requirements of the Notice of Pendency of Class Actions, Proposed Settlement, Settlement Hearing, Plan of Allocation, and

any Motion for Attorneys' Fees, Litigation Expenses, and Service Awards (the "Notice"), substantially in the form annexed hereto as Exhibit 1.

8. The Court approves the retention of A.B. Data, Ltd. as the Claims Administrator. The Claims Administrator shall cause the Notice, substantially in the form annexed hereto, to be mailed, by first-class mail, postage prepaid, on or before ten (10) business days after entry of this Preliminary Approval Order ("Notice Date"), to all Settlement Class Members who can be identified with reasonable effort. SSBT, to the extent it has not already done so, shall use its best efforts to obtain and provide to Lead Counsel, or the Claims Administrator, information in electronic searchable form containing the names and addresses of Settlement Class Members no later than five (5) business days after entry of this Preliminary Approval Order.

9. The Court approves the form of the Summary Notice of Pendency of Class Actions, Proposed Settlement, Settlement Hearing, Plan of Allocation, and any Motion for Attorneys' Fees, Litigation Expenses, and Service Awards ("Publication Notice"), substantially in the form annexed hereto as Exhibit 2, and directs that Lead Counsel shall cause the Publication Notice to be published in *The Wall Street Journal* and be transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date.

10. Lead Counsel shall, at or before the Final Approval Hearing, file with the Court proof of mailing of the Notice and publication of the Publication Notice.

11. As set forth in the Notice, Settlement Class Members that are Group Trusts shall submit certifications in compliance with the requirements set forth in the Notice to the Claims Administrator postmarked no later than 120 calendar days after the Notice Date. Such deadline may be further extended by Court order or by Lead Counsel in its discretion. Each certification shall be deemed to have been submitted when postmarked (if properly addressed and mailed by

first-class or overnight U.S. mail, postage prepaid) provided such certification is actually received prior to the motion for an order of the Court approving distribution of the Net Class Settlement Fund. Any certification submitted in any other manner shall be deemed to have been submitted when it was actually received at the address designated in the Notice.

12. The form and content of the notice program described herein, and the methods set forth herein of notifying the Settlement Class of the Class Settlement and its terms and conditions, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States (including the Due Process Clause), the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all other applicable laws and rules, constitute the best notice practicable under the circumstances, and shall constitute due, adequate, and sufficient notice to all persons and entities entitled thereto.

13. Any Settlement Class Member may enter an appearance in the Class Actions, at his, her or its own expense, individually or through counsel of his, her or its own choice. If any Settlement Class Member does not enter an appearance, he, she or it will be represented by Lead Counsel.

14. Settlement Class Members shall be bound by all orders, determinations and judgments in these Class Actions concerning the Class Settlement, whether favorable or unfavorable, unless such Persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. A putative Settlement Class Member wishing to make such an exclusion request shall mail the request in written form by first-class mail to the address designated in the Notice for such exclusions, such that it is received no later than twenty-one (21) calendar days prior to the Final Approval Hearing. Such request for exclusion must include the following information: (i) the name of the Person that entered into one or more custody or

trust agreements with SSBT and is requesting exclusion; (ii) the Person's address; (iii) the Person's telephone number; (iv) the Person's e-mail address; (v) the approximate date(s) of the agreement(s) referenced in (i) above; (vi) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (vii) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above; (viii) a signed statement that the Person wishes to be excluded from the Settlement Class in the Class Actions; and (ix) identification (including by case name, court name, and docket number) of all legal actions and claims (if any) that the Person requesting exclusion has brought against any of the Defendants relating to Indirect FX. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court, provided, however, that a request for exclusion shall not be invalid for failing to include the foregoing (i) - (vii) if the Settling Defendant determines that it has sufficient information to determine that such Person is a Settlement Class Member and provides that information promptly to Lead Counsel.

15. Settlement Class Members requesting exclusion from the Settlement Class shall not be eligible to receive any payment out of the Net Class Settlement Fund, as described in the Settlement Agreement and Notice.

16. The Court will consider any Settlement Class Member's objection to the Class Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees or expenses only if such Settlement Class Member has served by hand or by mail his, her or its written objection and supporting papers, such that they are received on or before twenty-one (21) calendar days before the Final Approval Hearing, upon Lead Counsel: Lawrence A. Sucharow,

Labaton Sucharow LLP, 140 Broadway, New York, NY 10005 (who will immediately copy all Plaintiffs' Counsel); and Defendant's Counsel: William H. Paine, Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, MA 02109 and has filed said objections and supporting papers with the Clerk of the Court, United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. Any Settlement Class Member who does not make his, her, or its objection in the manner provided for in the Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to any aspect of the Class Settlement, to the Plan of Allocation, or to the request for attorneys' fees and expenses, unless otherwise ordered by the Court, but shall otherwise be bound by the Judgment to be entered and the releases to be given. Attendance at the hearing is not necessary, however, persons wishing to be heard orally in opposition to the approval of the Class Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses are required to indicate in their written objection their intention to appear at the hearing. Persons who intend to object to the Class Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses and desire to present evidence at the Final Approval Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Final Approval Hearing. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

17. Pending final determination of whether the Class Settlement should be approved, all proceedings in these Class Actions (other than those necessary to effectuate the Settlement) are stayed and Plaintiffs, all Settlement Class Members, and each of them, and anyone who acts

or purports to act on their behalf, shall not institute, commence or prosecute any action which asserts Released Class Claims against the Released Defendant Parties.

18. As provided in the Settlement Agreement, prior to the Effective Date, Lead Counsel may pay the Claims Administrator the reasonable fees and costs associated with giving notice to the Settlement Class and the administration of the Class Settlement out of the Class Settlement Fund without further approval from Defendants and without further order of the Court.

19. All papers in support of the Class Settlement, Plan of Allocation, and Lead Counsel's request, on behalf of ERISA Counsel and Customer Counsel, for an award of attorneys' fees and expenses shall be filed with the Court and served on or before thirty-five (35) calendar days prior to the date set herein for the Final Approval Hearing. If reply papers are necessary, they are to be filed with the Court and served no later than seven (7) calendar days prior to the Final Approval Hearing.

20. The passage of title and ownership of the Class Settlement Fund to the Escrow Agent in accordance with the terms and obligations of the Settlement Agreement is approved. No person who is not a Settlement Class Member or Plaintiffs' Counsel shall have any right to any portion of, or to any distribution of, the Net Class Settlement Fund unless otherwise ordered by the Court or otherwise provided in the Settlement Agreement.

21. All funds held in escrow shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court until such time as such funds shall be disbursed pursuant to the Settlement Agreement and/or further order of the Court.

22. Except as otherwise provided in the Settlement Agreement, neither Defendants nor their counsel shall have any responsibility for the Plan of Allocation or any application for

attorney's fees or expenses submitted by Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, or Plaintiffs, and such matters shall be considered separately from the fairness, reasonableness and adequacy of the Class Settlement.

23. If the Class Settlement fails to become effective as defined in the Settlement Agreement or is terminated, then, in any such event, the Settlement Agreement, including any amendment(s) thereof, except as expressly provided in the Settlement Agreement, and this Preliminary Approval Order shall be null and void, of no further force or effect, and without prejudice to any Party, and may not be introduced as evidence or used in any actions or proceedings by any person or entity against the Parties, and the Parties shall be deemed to have reverted to their respective litigation positions in the Class Actions as of June 29, 2015.

24. The Court retains exclusive jurisdiction over the Class Actions to consider all further matters arising out of or connected with the Class Settlement.

Dated: _____, 2016

HON. MARK L. WOLF
UNITED STATES DISTRICT JUDGE

Exhibit A-1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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ARKANSAS TEACHER RETIREMENT SYSTEM, et al. v.)	No. 11-cv-10230 MLW
STATE STREET BANK AND TRUST COMPANY)	
)	
ARNOLD HENRIQUEZ, et al. v. STATE STREET BANK	)	No. 11-cv-12049 MLW
AND TRUST COMPANY, et al.)	
)	
THE ANDOVER COMPANIES EMPLOYEE SAVINGS	)	No. 12-cv-11698 MLW
AND PROFIT SHARING PLAN, et al. v. STATE STREET)	
BANK AND TRUST COMPANY)	
<hr/>)	

NOTICE OF PENDENCY OF CLASS ACTIONS, PROPOSED CLASS SETTLEMENT, SETTLEMENT HEARING, PLAN OF ALLOCATION, AND ANY MOTION FOR ATTORNEYS’ FEES, LITIGATION EXPENSES, AND SERVICE AWARDS

A U.S. Federal Court authorized this Notice. This is not a solicitation from a lawyer.

You Are Receiving this Notice Because Available Information Indicates that You Are a Member of the Settlement Class Defined Below. If this Is Incorrect, Please Contact the Claims Administrator and Lead Counsel Immediately.

This notice (“Notice”) is being sent to advise you of the pendency of the above-captioned class action lawsuits (collectively, the “Class Actions”) and the proposed settlement of the Class Actions for \$300,000,000 (the “Class Settlement Amount”) on the terms discussed below (the “Class Settlement”).¹ The Class Settlement resolves claims arising from the alleged unfair and deceptive practice of State Street Bank and Trust Company (“SSBT”) of charging custody and trust customers of SSBT excessive rates and spreads in connection with certain foreign exchange transactions known as “Indirect FX Transactions”² during the period from January 2, 1998 through December 31, 2009, inclusive (the “Class Period”), in violation of SSBT’s statutory, contractual, and fiduciary obligations. The Class Actions sought to recover losses on behalf of SSBT’s custodial clients based on this alleged unfair and deceptive practice. If approved, the Class Settlement will resolve all claims asserted in the Class Actions.

¹ All capitalized terms used in this Notice that are not otherwise defined herein have the meanings provided in the Stipulation and Agreement of Settlement, dated as of July 26, 2016 (the “Settlement Agreement”). The Settlement Agreement is available on the website for this Settlement, www.StateStreetIndirectFXClassSettlement.com.

² “Indirect FX Transactions/Trading” means Foreign exchange transactions executed with SSBT or SSBT’s subcustodians at any time using Indirect FX Methods, including all foreign exchange transactions submitted using Indirect Methods. A transaction submitted or processed using an Indirect Method is an Indirect FX Transaction regardless whether the rate at which the transaction was executed differed from the rates at which other transactions submitted using Indirect Methods were executed. Settlement Agreement ¶ 1(ff).

The Class Settlement is entered into by and among (i) plaintiffs Arkansas Teacher Retirement System (“ARTRS”), Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies Employees Savings and Profit Sharing Plan, and James Pehoushek-Stangel (collectively, “Plaintiffs”), on behalf of themselves and each Settlement Class Member, by and through their counsel, and (ii) State Street Bank and Trust Company (the “Settling Defendant” or “SSBT”). Plaintiffs and SSBT are referred to collectively herein as the “Parties.”

The Honorable Mark L. Wolf of the United States District Court for the District of Massachusetts (“Court”) is presiding over the Class Actions. Judge Wolf has provisionally certified the proposed Settlement Class (as defined below) for purposes of settlement only, has directed that this Notice be mailed to members of the Settlement Class, and has scheduled a Final Approval Hearing (“Final Approval Hearing” or “Settlement Hearing”) at which the Court will consider Plaintiffs’ motion for final approval of the Class Settlement and approval of the proposed plan for allocating the settlement proceeds to the Settlement Class (“Plan of Allocation”), and Lead Counsel’s motion, on behalf of ERISA Counsel and Customer Counsel, for an award of attorneys’ fees, payment of Litigation Expenses, and payment of any Service Awards for Plaintiffs. **The Final Approval Hearing will be held on _____, 2016, at _____m. in Courtroom 10 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210.** The Class Settlement will become effective once it reaches its “Effective Date,” which is after the opportunity to appeal the Court’s Judgment has expired or, if there are any appeals, approval of the Class Settlement is upheld; after the Court approves the proposed Plan of Allocation and the order has become Final; and certain other conditions are met.

Additional information regarding the Class Settlement and this Notice may be obtained by contacting the Claims Administrator: *State Street Indirect FX Trading Class Action*, c/o A.B. Data, Ltd., P.O. Box 173000, Milwaukee, WI 53217, 877-240-3540, info@StateStreetIndirectFXClassSettlement.com, www.StateStreetIndirectFXClassSettlement.com; or Lead Counsel: Labaton Sucharow LLP, (888) 219-6877, www.labaton.com, settlementquestions@labaton.com.

DO NOT CALL THE COURT WITH QUESTIONS ABOUT THE CLASS SETTLEMENT.

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE CLASS SETTLEMENT	
<p>YOU DO NOT NEED TO TAKE ANY ACTION TO PARTICIPATE IN THE CLASS SETTLEMENT AND RECEIVE A PAYMENT</p> <p>(If you represent a Group Trust,³ see page ___ below.)</p>	<p>If the Class Settlement is approved and you are a member of the Settlement Class, you do not need to take any action to receive a payment. You will be bound by the settlement, unless you take steps to exclude yourself as explained below, and you cannot bring or be part of any other lawsuit or arbitration against Defendants or any of the other Released Defendant Parties based on any Released Class Claim.</p> <p>Your portion of the Net Class Settlement Fund will be calculated</p>

³ “Group Trusts” are group trusts that are exempt from tax pursuant to Internal Revenue Service Revenue Ruling 81-100, as amended, that were custody or trust customers of SSBT during any part of the Class Period. See Settlement Agreement ¶ 1(bb).

	<p>as part of the administration of the Class Settlement. An explanation of the manner in which payments to Settlement Class Members will be determined is set forth in the Plan of Allocation, below. However, Group Trusts, which may include plans or assets governed by ERISA, need to provide certain information so that their recovery can be properly determined. SSBT has agreed to undertake reasonable efforts to provide the information necessary to determine each Settlement Class Member’s portion of the Net Class Settlement Fund. See the Plan of Allocation in the answer to Question 7 below for important information.</p>
<p>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION (WHICH MUST BE RECEIVED NO LATER THAN _____, 2016)</p>	<p>If you do not wish to be a member of the Settlement Class, you <i>must</i> exclude yourself (as described below in Question 10). If you exclude yourself, you <i>will not</i> receive any payment from the Class Settlement. You cannot bring or be part of any other lawsuit or arbitration against Defendants or any of the other Released Defendant Parties based on any Released Class Claim unless you exclude yourself from the Settlement Class.</p>
<p>OBJECT TO THE CLASS SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION (WHICH MUST BE RECEIVED NO LATER THAN _____, 2016)</p>	<p>If you wish to object to any part of the Class Settlement, the Plan of Allocation, or the requests for attorneys’ fees, Litigation Expenses, and/or Service Awards, and do not exclude yourself from the Settlement Class, you can write to the Court and counsel and explain what you do not agree with.</p>
<p>ATTEND THE FINAL APPROVAL HEARING (_____, 2016 AT _____ .m.)</p>	<p>If you have submitted a written objection to the Court and counsel and notice to appear, as explained below, you may (but do not have to) attend the hearing and speak to the Court about your objection.</p>

Please note: The Court has the authority to change any of the above deadlines, for good cause shown.

SUMMARY OF THE CLASS SETTLEMENT

As described in more detail below, and in the complaints filed with the Court, the Class Actions allege that Plaintiffs (or the plans they represent) and/or their investment managers entered into agreements authorizing Defendants to engage in Indirect FX Transactions with their custodial accounts under certain circumstances. Plaintiffs alleged that SSBT priced Indirect FX Transactions in a manner advantageous to Defendants and disadvantageous to Plaintiffs, near or outside the high and low of the daily range of interbank rates, contrary to SSBT’s contractual obligations and representations and Defendants’ fiduciary and statutory responsibilities. Copies of the operative complaints in the Class Actions are available at www.StateStreetIndirectFXClassSettlement.com.

Pursuant to the Settlement Agreement, a Class Settlement Fund consisting of \$300 million in cash, plus any accrued interest, has been established, in exchange for the Settlement Class’s release of the Released Class Claims (defined below). Payment by or on behalf of SSBT of the \$300 million Class Settlement Amount, and

the allocations discussed below in the Plan of Allocation, will also satisfy conditions in two separate settlements with federal government agencies.⁴ SSBT anticipates reaching a settlement with the U.S. Securities and Exchange Commission (“SEC”) concerning Indirect FX that relates to Settlement Class Members that are Registered Investment Companies (the “SEC Settlement”).⁵ SSBT has also reached a settlement with the U.S. Department of Labor (“DOL”) concerning Indirect FX that relates to Settlement Class Members that are ERISA Plans (the “DOL Settlement”).⁶

Based on information provided by SSBT, the average gross recovery for a class member from the Class Settlement is approximately \$200,000 before the deduction of Court-approved fees and expenses. A Settlement Class Member’s actual “Recognized Claim” will be calculated in accordance with the Plan of Allocation, explained below, and will depend on, among other things, the Settlement Class Member’s volume of Indirect FX Transactions, and whether or not the Settlement Class Member is an ERISA Plan, a Group Trust, a Registered Investment Company, or none of these. A Settlement Class Member’s payment will be a portion of the Net Class Settlement Fund, which consists of the Class Settlement Fund, less fees and expenses associated with providing notice to the Settlement Class and administering the Class Settlement (“Notice and Administration Expenses”), Taxes and Tax Expenses, Court-approved attorneys’ fees, Litigation Expenses, and any Service Awards to Plaintiffs for the effort and time spent by them in connection with the prosecution of the Class Actions. (See Questions 6 and 7 below for details about the Plan of Allocation).

The Settlement Class is defined as follows:

All custody and trust customers of SSBT (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT’s records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive.

Please Note: There are exceptions to being included in the Settlement Class. A description of those Persons excluded by definition from the Settlement Class is provided below in Question 5.

As with any litigation, the Parties face an uncertain outcome if the Class Actions do not settle and litigation continues. Absent the Class Settlement, orders and appeals on class certification, summary judgment and a trial could result in a judgment or verdict greater or less than the recovery under the Class Settlement, or no recovery at all. Throughout the Class Actions, the Plaintiffs and Defendants have disagreed on both liability and damages, and they do not agree on the amount that would be recoverable even if the Plaintiffs were to prevail at trial. Defendants, among other things: (1) have denied the material allegations of the complaints; (2) have

⁴ SSBT has separately reached a settlement with the U.S. Department of Justice (“DOJ”) concerning Indirect FX (the “DOJ Settlement”). The DOJ Settlement requires SSBT to pay money to the federal government.

⁵ “Registered Investment Company(ies)” means a mutual fund, closed-end fund, unit investment trust or other entity that is registered with the SEC as an investment company under the Investment Company Act. Settlement Agreement ¶ 1(w).

⁶ “ERISA Plans” means the employee benefit plans as defined in 29 U.S.C. § 1002(3) (also referred to as Section 3(3) of ERISA), that are subject to Part 4 of Subtitle B of Title I of ERISA (including master trusts with respect to multiple such plans within the meaning of Department of Labor Regulation § 2520.103-1(e)), and that were custody or trust customers of SSBT during any part of the Class Period. Settlement Agreement ¶ 1(w).

denied any wrongdoing or liability whatsoever; (3) have contested the propriety of class certification; (4) believe that they acted at all times reasonably and prudently, in full compliance with their contractual obligations, and in accordance with applicable law; and (5) would assert certain other defenses if this Class Settlement is not consummated. SSBT is entering into the Class Settlement solely to avoid the cost, disruption, and uncertainty of continued litigation. The Parties have taken into account the uncertainty and risks inherent in these litigations, particularly their complex natures, and have concluded that it is desirable that the Class Actions be fully and finally settled on the terms and conditions set forth in the Class Settlement.

Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, will apply to the Court for an order awarding attorneys’ fees in an amount not to exceed \$74,541,250⁷ and payment of Litigation Expenses in an amount not to exceed \$1,750,000.00, plus interest earned on these amounts. Plaintiffs will share in the allocation of the money paid to members of the Settlement Class on the same basis and to the same extent as all other members of the Settlement Class, except that, in addition thereto, Plaintiffs may apply to the Court for Service Awards of up to \$85,000.00 in the aggregate. Any Service Awards granted to Plaintiffs by the Court will be payable from the Class Settlement Fund, and will compensate Plaintiffs for their effort and time spent in connection with the prosecution of the Class Actions.

BASIC INFORMATION

1. Why did I receive this Notice?

You received this Notice because records provided by SSBT indicate that during the Class Period you were a domestic custody customer of SSBT that executed one or more Indirect FX Transactions during the Class Period. The Court has directed that this Notice be sent to you. If the Court approves the Class Settlement, and it becomes effective, the Released Defendant Parties and Released Plaintiff Parties will be released from all Released Class Claims and Released Prosecution Claims, respectively, as explained below. In exchange, the Net Class Settlement Fund will be distributed to Settlement Class Members according to the Court-approved Plan of Allocation.

This Notice explains the Class Actions, the Class Settlement, your legal rights, what benefits are available, who is eligible for them, and how you will receive your portion of the Net Class Settlement Fund. The Final Approval Hearing will be held on _____, 2016 at _____.m., before the Hon. Mark L. Wolf in the United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, Courtroom 10, 1 Courthouse Way, Boston, Massachusetts 02210, to determine:

- whether the Class Settlement should be approved as fair, reasonable, and adequate;
- whether the complaints should be dismissed with prejudice pursuant to the terms of the Class Settlement;
- whether the proposed Plan of Allocation for the proceeds of the Class Settlement should be approved; and

⁷ No more than \$10,900,000.00 of the attorneys’ fees will be paid out of the allocation of the Class Settlement Fund to class members that are ERISA Plans or eligible Group Trusts, as explained below in the Plan of Allocation.

- whether the applications for attorneys' fees, payment of Litigation Expenses, and payment of Service Awards to Plaintiffs should be approved.

The issuance of this Notice is not an expression of the Court's opinion of the merits of any claim in the Class Actions, and the Court has not decided whether to approve the Class Settlement. If the Court approves the Class Settlement, payment to Settlement Class Members will be made after all related appeals, if any, are favorably resolved and the regulatory settlements have become final. Please be patient.

2. What are the Class Actions about? What has happened so far?

The Class Actions were commenced in 2011 and 2012 by the filing of three class action complaints. In the Class Actions, Plaintiffs allege, among other things, that Defendants charged custody and trust customers of SSBT excessive rates and spreads in connection with Indirect FX Transactions between January 2, 1998 and December 31, 2009. Plaintiffs allege that by employing this unfair and deceptive practice, Defendants earned higher spreads on Indirect FX Transactions than they should have. Further, Plaintiffs allege that Defendants failed to disclose this pricing and that this nondisclosure constituted a breach of an alleged fiduciary duty, a violation of various state unfair and deceptive trade practice statutes, and, with respect to the ERISA Funds, violations of ERISA, 29 U.S.C. § 1106 for engaging in self-interested prohibited transactions, violations of ERISA, 29 U.S.C. § 1104 for breaching duties of prudence and loyalty, and violations of ERISA, and causing the plans to engage in party in interest prohibited transactions in violation of ERISA, 29 U.S.C. § 1105 for breaches of co-fiduciary obligations.

Defendants have denied Plaintiffs' allegations. If the Class Actions were to continue, Defendants would raise numerous defenses to liability, including without limitation:

- Defendants acted in accordance with the custody and trust and Indirect FX agreements and did not breach them.
- Defendants either did not owe fiduciary duties or did not breach fiduciary duties owed to certain Settlement Class Members based on state law and the plain language of the agreements that governed Defendants' custodial obligations.
- Defendants made no actionable misrepresentations or omissions, and did not violate any state unfair and deceptive trade practices statutes.
- All of the FX transactions executed with ERISA customers satisfy statutory or regulatory exemptions for FX transactions.
- Plaintiffs and the Settlement Class knew, or should have known, that Defendants were engaged in the Indirect FX pricing practice alleged in the Complaints.
- Plaintiffs and the Settlement Class were not damaged by Defendants' conduct and received the benefit of the bargain for the services that were provided.

On June 3, 2011, Defendants State Street Corporation, SSBT, and SSGM LLC moved to dismiss the amended class action complaint in the ARTRS Action. The motion to dismiss was fully briefed as of February 28, 2012. On April 9, 2012, SSBT and SSGM LLC moved to dismiss the amended class action complaint in the Henriquez Action.

On May 8, 2012, the Court heard oral argument on Defendants' motion to dismiss the ARTRS Action. By order issued from the bench dated the same day, the Court denied the motion in its entirety with regard to the claims against SSBT, but granted the motion with respect to the claims against State Street Corporation. By agreement of the parties, the claims against SSGM LLC were dismissed without prejudice.

On November 16, 2012, the Parties in the Class Actions filed a Stipulation, Joint Motion, and Proposed Order for the Production and Exchange of Confidential Information, which the Court entered on November 20, 2012. Pursuant to the order, the Class Actions were consolidated for pre-trial purposes. Additionally, the order provided that the Parties could engage in formal document discovery until December 1, 2013. The Class Actions were stayed in all other respects until December 1, 2013 and certain motions were withdrawn. At the Parties' request, the stay of proceedings, other than discovery, was subsequently extended by orders of the Court, while the Parties pursued mediation.

The Class Settlement is the product of protracted, arm's-length negotiations between Plaintiffs' Counsel and Defendants' Counsel, facilitated by a nationally recognized mediator with substantial experience mediating complex litigations of this type. Between October 2012 and June 2015, the Parties engaged in sixteen (16) in-person mediation sessions in Boston, New York City, and Washington, D.C. In addition, the Parties met without the mediator and had numerous arm's-length discussions among themselves.

Pursuant to agreements concerning the exchange of formal document discovery, informal material to facilitate the mediation process, and managing the Class Actions, the Parties exchanged more than nine million pages of relevant documents. SSBT also provided a significant amount of data and other information relevant to liability, class certification and damages issues, and Plaintiffs and SSBT each made multiple, detailed presentations (including a presentation by an accounting expert) during the mediation process concerning such issues.

On June 30, 2015, Plaintiffs and SSBT reached an agreement-in-principle to settle the Class Actions, which was memorialized in a term sheet on September 11, 2015, and the Settlement Agreement, dated July 26, 2016.

3. Why is this case a class action?

In a class action, one or more individuals or entities, referred to as "Plaintiffs," sue on behalf of others who have similar claims. All of the Persons on whose behalf Plaintiffs in the Class Actions are suing are members of the "class" referred to in this Notice, and are "Settlement Class Members" or "members of the Settlement Class." Bringing a case as a class action allows the adjudication of many similar claims that might be economically too small to bring individually. One court resolves the issues for all class members, except for those who exclude themselves from the class. The Court will decide whether to finally certify the Settlement Class at the Final Approval Hearing.

4. How do I know whether I am part of the Settlement Class?

The Court has provisionally certified the following Settlement Class:

All custody and trust customers of SSBT (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT's records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its

subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive.

The “Settlement Class” does not include: Defendants; California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS), and the State of Washington Investment Board; the predecessors and affiliates of the foregoing, or any entity in which they have a controlling interest; and the officers, directors, legal representatives, heirs, successors, subsidiaries and/or assigns of any such excluded individual or entity in their capacities as such. For the avoidance of doubt, the Parties have agreed that this definition of the “Settlement Class” is intended to supersede the class definitions in the complaints in the Class Actions.

The “Settlement Class” also does not include any Person who submits a timely and valid request for exclusion meeting the requirements in this Notice (see Question 10 below).

If you are not sure whether you are included, you can ask for assistance. You can call 877-240-3540 or visit www.StateStreetIndirectFXClassSettlement.com for more information.

5. Why is there a Class Settlement?

The Court did not finally decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement. Plaintiffs and Plaintiffs’ Counsel believe that the claims asserted in the Class Actions have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue the claims through trial and appeals, as well as the difficulties in establishing liability. They have considered the uncertain outcome and the risk of any litigation, especially in complex lawsuits like this one, as well as the unique risks here. Defendants have raised a number of arguments and defenses (which they would raise at summary judgment and trial) that could limit or result in the dismissal of the claims and a reduction in any recovery. In the absence of a Settlement, the Parties would present factual and expert testimony on such issues, and there is considerable risk that the Court or jury would resolve the inevitable “battle of the experts” against Plaintiffs and the Settlement Class.

As stated above, the Class Settlement is the product of extensive arm’s-length negotiations between Plaintiffs’ Counsel and Defendants’ Counsel, all of whom are very experienced with respect to complex litigation of this type. The Class Settlement provides substantial benefits now as compared to the risk that a similar or smaller recovery would be achieved after trial and appeals, years in the future, or that no recovery would be achieved at all. In light of the amount of the Class Settlement and the immediate recovery to the Settlement Class, Plaintiffs and Plaintiffs’ Counsel believe that the proposed Class Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class.

6. What does the Class Settlement provide?

In exchange for the Class Settlement and the release of the Released Class Claims (defined below) against the Released Defendant Parties (defined below), SSBT agreed to create a \$300,000,000 cash fund. The \$300,000,000, plus any interest that accrues on this amount, will be distributed to the Settlement Class after costs, expenses and fees are deducted, as described herein. The Class Settlement provides for cash payments to Settlement Class Members who do not exclude themselves from the Settlement Class, as explained in the Plan of Allocation in Question __ below.

The description of the Class Settlement in this Notice is only a summary. The complete terms are set forth in the Settlement Agreement (including its exhibits), which may be obtained at the Class Settlement website, www.StateStreetIndirectFXClassSettlement.com, or Lead Counsel’s website, www.labaton.com.

7. What am I giving up to get a payment and by staying in the Settlement Class?

Unless you exclude yourself, you will stay in the Settlement Class, which means that upon the “Effective Date” of the Class Settlement, you will release all “Released Class Claims” (as defined below) against the “Released Defendant Parties” (as defined below) and be subject to a covenant not to sue and a permanent injunction against prosecuting Released Class Claims against Released Defendant Parties.

“Released Class Claims” means any and all claims, demands, losses, costs, interest, penalties, fees, attorneys’ fees, expenses, rights, rights of recovery, causes of action, duties, obligations, judgments, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every nature and description, including Unknown Claims, whether known or unknown, direct, representative, class, individual or indirect, asserted or unasserted, matured or unmatured, accrued or unaccrued, foreseen or unforeseen, disclosed or undisclosed, contingent or fixed or vested, accrued or not accrued, at law or equity, whether arising under federal, state, local, foreign, statutory, common, administrative or any other law, statute, rule or regulation that any Releasing Plaintiff: (i) asserted in the Class Actions; (ii) could have asserted in the Class Actions or any other action or in any forum, that arise from or out of, relate to, or are in connection with the claims, allegations, transactions, alleged or actual prohibited transactions or breaches of duty (including fiduciary duty), facts, events, acts, disclosures, matters or occurrences, statements, representations or omissions or failures to act involved, described, set forth, or referred to in the complaints filed in the Class Actions or that arise from or out of, relate to, or are in connection with Indirect FX Methods, Indirect FX Transactions/Trading, StreetFX Methods, StreetFX Transactions, or Rate Comparisons; and (iii) asserted or could assert that arise from or out of, relate to, or are in connection with the defense or settlement of the Class Actions, except for claims relating to enforcement of the Settlement.

“Released Defendant Parties” means SSBT and Defendants; their past, present and future parents, subsidiaries, divisions, and affiliates; the respective past and present officers, directors, trustees, employees, agents, trustees, managers, servants, accountants, auditors, underwriters, financial and investment advisors, consultants, representatives, insurers, co-insurers and reinsurers of each of them; and the heirs, successors and assigns of the foregoing.

“Unknown Claims” means any and all Released Class Claims, which one or more Releasing Plaintiffs does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any Released Prosecution Claims that SSBT or any other Released Defendant Party does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known to him, her, or it might have affected his, her, or its decision(s) with respect to the Class Settlement. With respect to any and all Released Class Claims and Released Prosecution Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiffs and SSBT shall expressly, and each Releasing Plaintiff and SSBT shall be deemed to have, and by operation of the Judgment or any Alternative Judgment shall have, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or principle of common law that is, or is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Releasing Plaintiffs, SSBT, or the other Released Defendant Parties may hereafter discover facts, legal theories, or authorities in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Class Claims and the Released Prosecution Claims, but Plaintiffs and SSBT shall expressly, fully, finally, and forever settle and release, and each other Releasing Plaintiff and each other Released Defendant Party shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment or any Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Class Claims and Released Prosecution Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Parties acknowledge, and each other Releasing Plaintiff and Released Defendant Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Class Claims and Released Prosecution Claims was separately bargained for and was a key and material element of the Class Settlement.

The “Effective Date” will occur when, among other things, an Order by the Court approving the Class Settlement becomes Final and is not subject to appeal and when an Order by the Court approving the proposed Plan of Allocation becomes Final and is not subject to appeal, as set out more fully in the Settlement Agreement on file with the Court and available at www.StateStreetIndirectFXClassSettlement.com or www.labaton.com.

If you remain a member of the Settlement Class, all of the Court’s orders about the Class Settlement in the Class Actions will apply to you and legally bind you.

7. What will be my share of the Net Class Settlement Fund? How can I get my portion of the recovery?

At the Final Approval Hearing, Lead Counsel will request the Court approve the Plan of Allocation set forth below. The Plan of Allocation describes the manner by which the Net Class Settlement Fund will be allocated among Settlement Class Members. Assuming you do not exclude yourself from the Settlement Class pursuant to Question ___ below, you do not need to take any further action to receive your portion of the recovery. However, as explained on page ___ below, if you represent a Group Trust, you must provide a certification in order to receive a portion of the ERISA Settlement Allocation, rather than a portion of the balance of the Net Class Settlement Fund.

You are not responsible for calculating the amount you may be entitled to receive under the Class Settlement. This calculation will be done by the Claims Administrator as part of the implementation of the Class Settlement, and will be based on reasonably available information obtained from SSBT. You will be notified of your calculated recovery after the Class Settlement is approved and prior to Lead Counsel’s motion to the Court requesting approval of a distribution of the Class Settlement proceeds.

PLAN OF ALLOCATION

This Plan of Allocation describes steps that the Claims Administrator will take in order to allocate funds in connection with the Class Settlement, including determining distribution amounts. The Court may approve this Plan of Allocation or modify it without additional notice to the Settlement Class. Any order modifying the Plan of Allocation will be posted on the settlement website at: www.StateStreetIndirectFXClassSettlement.com and at www.labaton.com. Distributions in the manner set forth herein will be deemed conclusive against all

claimants. Each Settlement Class Member is deemed to have submitted to the jurisdiction of the United States District Court for the District of Massachusetts with respect to his, her, or its recovery from the Class Settlement.

Distributions to Authorized Claimants will be based on Recognized Claims (defined below). It is important to understand that the Recognized Claims under this Plan of Allocation are not provable damages but rather are amounts derived from a fair and reasonable methodology (described below) to evaluate each Settlement Class Member’s relative stake in the Class Settlement.

The defined terms used herein relate to this Plan of Allocation, and not necessarily to other agreements executed by SSBT or its affiliates with third parties, including governmental agencies, in connection with the Class Settlement. Capitalized terms that are not otherwise defined herein have the same meaning as set forth in the Settlement Agreement.

A. THE ALLOCATION OF SETTLEMENT PROCEEDS

The Net Class Settlement Fund, which shall consist of Three Hundred Million U.S. Dollars (\$300,000,000), plus any accrued interest, minus all costs and expenses incurred with respect to the fund, including Taxes and Tax Expenses, Notice and Administration Expenses, attorneys’ fees, Litigation Expenses, and Service Awards paid from the Class Settlement Fund with the permission of the Court, will be distributed to eligible Settlement Class Members.

After approval by the Court of the Class Settlement, the Class Settlement Fund shall be allocated as set forth below for the benefit of Settlement Class Members.

The ERISA Settlement Allocation (which shall be the source of distributions to ERISA Plans and certain Group Trusts, as set forth below) shall be at least Sixty Million Dollars (\$60,000,000) of the Class Settlement Fund (twenty percent of the Class Settlement Fund), plus twenty percent (20%) of any interest accrued on the Class Settlement Fund, minus twenty percent (20%) of any Taxes and Tax Expenses, Notice and Administration Expenses, Service Awards, and Litigation Expenses, and minus attorneys’ fees, if awarded by the Court, in an amount not to exceed Ten Million Nine Hundred Thousand Dollars (\$10,900,000).⁸ The ERISA Settlement Allocation was negotiated directly between Customer Counsel, ERISA Counsel, and representatives of the DOL and, in light of the fiduciary and other claims available under ERISA laws, provides a premium per dollar of Indirect FX Trading Volume for ERISA Plans and eligible Group Trusts in comparison to the allocations to other Settlement Class Members.

The balance of the Class Settlement Fund will be allocated in proportion to the Indirect FX Trading Volume of class members that are not ERISA Plans or eligible Group Trusts (as explained below), specifically to class members that are Registered Investment Companies (“RICs”) and class members that are non-ERISA public pension funds, private entities, and other customers (“Public and Other”).

After allocation of the ERISA Settlement Allocation, based on information supplied by SSBT, the “RIC Settlement Allocation” will be approximately \$142,000,000, on a gross basis before the addition of a proportional amount of any accrued interest and the deduction of proportional attorneys’ fees, Litigation Expenses, Service Awards, Notice and Administration Expenses, Taxes and Tax Expenses, and the “Public and

⁸ If the Settlement Class seeks and/or the Court awards attorneys’ fees at a rate which would, if applied to the \$60,000,000 ERISA Settlement Allocation, result in a fee of less than \$10,900,000, then such lower rate and resulting fee at that rate shall apply to the ERISA Settlement Allocation.

Other Settlement Allocation” will be approximately \$98,000,000, on a gross basis before interest and the deductions above. These allocations will be adjusted to the extent Indirect FX Trading Volume of Group Trusts is applied to the ERISA Settlement Allocation, as described below.

The Parties have relied on Indirect FX Trading Volume information provided by State Street to develop this Plan of Allocation. The ERISA Settlement Allocation and payment of the Registered Investment Company Minimum Distribution are essential conditions of the Class Settlement, which may be terminated by the Settling Defendant if the minimum allocations set forth in this Plan are not made. The amount of the ERISA Settlement Allocation has been set based on the Indirect FX Trading Volume information provided, including information concerning the total amount of Indirect FX Trading Volume executed during the Class Period by ERISA Plans and Group Trusts. As part of the settlement administration process described below, the Claims Administrator will request information from Group Trusts concerning their ERISA Volume (explained below) during the Class Period.

In light of the fact that the amount of ERISA assets within Group Trusts is currently undetermined, the Parties, with input from the DOL, have agreed that the Plan of Allocation will be modified in the event that the total amount of Group Trusts’ ERISA Volume is in excess of 2/3 of the total amount of Group Trusts’ Indirect FX Trading Volume, as reported by State Street on July 25, 2016. In that event, the Claims Administrator will use the Indirect FX Trading Volume equal to such excess volume to calculate the net payment amount that would be due with respect to such volume if paid from the Public and Other Settlement Allocation, and will transfer half of that amount to the ERISA Settlement Allocation from each of the RIC Settlement Allocation and the Public and Other Settlement Allocation. (Accordingly, no such modification will be made if actual Group Trusts’ ERISA Volume is 2/3 or less of the reported Group Trusts’ Indirect FX Trading Volume.)

In the event that the actual total percentage of Indirect FX Trading Volume executed by ERISA Plans and Group Trust exceeds 15.25% of the overall Indirect FX Trading Volume for the Settlement as reported on July 25, 2016, the Claims Administrator will provide notice of the total such percentage to Plaintiffs’ Counsel, State Street, and the DOL, and Plaintiffs’ Counsel may apply to the Court for modification of this Plan of Allocation, without further notice to the Settlement Class. If the DOL wishes to be heard by the Court on a modification of the Plan of Allocation for this reason, regardless of whether Plaintiffs’ Counsel seeks modification, neither State Street nor Plaintiffs’ Counsel will object to the DOL’s standing to do so.

B. ALLOCATION AMONG SETTLEMENT CLASS MEMBERS

For each Settlement Class Member, the Claims Administrator shall determine that Settlement Class Member’s Indirect FX Trading Volume(s) (in U.S. Dollars) during the Class Period, calculate that Settlement Class Member’s Recognized Claim, and use those calculations to distribute the Settlement Allocations as set forth herein.

To facilitate this procedure, SSBT has provided the Claims Administrator with: (i) the total Indirect FX Trading Volume (in U.S. Dollars) for each Settlement Class Member during the Class Period; (ii) information concerning whether each Settlement Class Member was an ERISA Plan during the Class Period; (iii) information concerning whether each Settlement Class Member was a Registered Investment Company during the Class Period; and (iv) information concerning whether each Settlement Class Member was a group trust that is exempt from tax pursuant to Internal Revenue Service Revenue Ruling 81-100 (“Group Trust”) during the Class Period.

1. Determination of Indirect FX Trading Volumes

The Claims Administrator shall divide each Settlement Class Member's total Indirect FX Trading Volume (in U.S. Dollars) during the Class Period into three parts: (i) Registered Investment Company Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("RIC Volume"); (ii) ERISA Plan Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("ERISA Volume"); and (iii) their remaining Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("Public and Other Volume"). The division shall be determined as follows.

a) Registered Investment Company Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was a Registered Investment Company during the Class Period, the RIC Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's ERISA Volume and Public and Other Volume shall be zero.

b) ERISA Plan Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was solely an ERISA Plan (not including Group Trusts) during the Class Period, the ERISA Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's RIC Volume and Public and Other Volume shall be zero.

c) Group Trust Settlement Class Members

SSBT has notified Plaintiffs' Counsel that fifty-five (55) Settlement Class Members represent Group Trusts. For each such Settlement Class Member identified as a Group Trust, ***a letter concerning the Settlement Class Member's identification as a Group Trust accompanies this Notice.*** The Indirect FX Trading Volume during the Class Period (in U.S. Dollars) for Settlement Class Members that are Group Trusts will be categorized pursuant to the following requirements in this subsection.

Each Group Trust shall provide the Claims Administrator with a certification that reports the average proportion of the Group Trust's SSBT custodied assets that were held by an ERISA Plan or Plans during the Class Period and/or the average volume of Indirect FX Trades made by the ERISA Plan(s) during the Class Period, and identifies by name each ERISA Plan within the Group Trust. If a Group Trust does not have the foregoing information for each year of the Class Period, but has a reasonable belief that ERISA assets were held by the Group Trust during those years, the years for which data is available should be reported and the results will be averaged by applying the average proportion of the years with known ERISA assets and/or Indirect FX Trading Volume to the years with unknown ERISA assets and/or Indirect FX Trading Volume.

The certification must be signed by a plan fiduciary or administrator and state that he, she, or it certifies that the information contained within the certification is accurate based on reasonably available information. The certification must be mailed or delivered so that it is **postmarked or received no later than _____, 2016**, to:

State Street Indirect FX Trading Class Action
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173000
Milwaukee, WI 53217

Upon request from the Claims Administrator, a Group Trust must promptly provide sufficient information to explain and confirm the certification in order to remain eligible for a share of the ERISA Settlement Allocation as set forth herein.

Using the information provided through the certification process, a Group Trust's ERISA Volume shall equal the volume of Indirect FX Trades made by the ERISA Plan(s) in the Group Trust or, if the information concerning the volume of Indirect FX Trades is insufficient, the proportion of assets that were held by the ERISA Plan(s) in a particular Group Trust. Any Indirect FX Trading Volume of a Group Trust that is not categorized by the Claims Administrator as ERISA Volume shall be categorized as Public and Other Volume. In all instances, the RIC Volume of a Settlement Class Member that is a Group Trust shall be zero.

If a Group Trust does not provide a certification by _____, 2016, it shall be treated for purposes of an allocation as if it held no ERISA Plan assets and it shall not be entitled to a recovery from the ERISA Settlement Allocation. Instead, its Public and Other Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. In that instance, the Settlement Class Member's RIC Volume and ERISA Volume shall be zero.

However, in instances where a Group Trust is known by the Parties to have ERISA assets based on previous consultations with the U.S. Department of Labor, but a certification is not submitted or the Group Trust does not provide a certification by _____, 2016, then the trust's ERISA Volume may be calculated utilizing a methodology at Plaintiffs' Counsel's discretion based on discussions with the U.S. Department of Labor or with the Group Trust in response to any informal inquiry from the Claims Administrator or Plaintiffs' Counsel.

Group Trust Settlement Class Members who claim and receive distributions from the ERISA Settlement Allocation must distribute the ERISA Settlement Allocation only to the ERISA Plans identified in the certification submitted to the Claims Administrator and in the same proportion as set forth in the certification. Such distributions are subject to confirmation by the U.S. Department of Labor and/or Plaintiffs' Counsel.

d) Public and Other Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was not an ERISA Plan, Group Trust, or Registered Investment Company during the Class Period, the Public and Other Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's ERISA Volume and RIC Volume shall be zero.

2. Methodology for Calculation of Recognized Claims

After calculating the ERISA Volume, RIC Volume, and Public and Other Volume for each Settlement Class Member, the Claims Administrator will sum the ERISA Volumes for the Settlement Class in order to derive the classwide ERISA Volume, will sum the RIC Volume for the Settlement Class, in order to derive the classwide RIC Volume, and will sum the Public and Other Volume for the Settlement Class, in order to derive the classwide Public and Other Volume.

A Settlement Class Member's ERISA Recognized Claim equals that class member's ERISA Volume, divided by the classwide ERISA Volume, multiplied by the amount of the ERISA Settlement Allocation. The result of these calculations will be that a Settlement Class Member having no ERISA Volume will have an ERISA Recognized Claim of zero.

A Settlement Class Member's RIC Recognized Claim equals that class member's RIC Volume, divided by the classwide RIC Volume, multiplied by the amount of the RIC Settlement Allocation. The result of these

calculations will be that a Settlement Class Member having no RIC Volume will have a RIC Recognized Claim of zero.

A Settlement Class Member's Public and Other Recognized Claim equals that class member's Public and Other Volume, divided by the classwide Public and Other Volume, multiplied by the amount of the Public and Other Settlement Allocation. The result of these calculations will be that a Settlement Class Member having no Public and Other Volume will have a Public and Other Recognized Claim of zero.

Settlement Class Members shall receive distributions from the ERISA Settlement Allocation on a *pro rata* basis based on their ERISA Recognized Claim amounts, distributions from the RIC Settlement Allocation on a *pro rata* basis based on their RIC Recognized Claim amounts, and distributions from the Public and Other Settlement Allocation on a *pro rata* basis based on their Public and Other Recognized Claim amounts.

A Settlement Class Member's total Recognized Claim equals the sum of that Settlement Class member's ERISA Recognized Claim, RIC Recognized Claim, and/or Public and Other Recognized Claim.

C. Distribution of Net Class Settlement Fund

Prior to the Effective Date, the Net Class Settlement Fund shall remain in an interest-bearing escrow account, except as otherwise provided in the Settlement Agreement. After the Class Settlement reaches its Effective Date, distributions to eligible Settlement Class Members will be made after Settlement Class Members have been notified of their ERISA Recognized Claim, RIC Recognized Claim, and Public and Other Recognized Claim amounts, and the Court has approved the Claims Administrator's determinations.

The Parties will use best efforts to seek Court approval to authorize an initial distribution of the Net Class Settlement Fund, including the RIC Settlement Allocation, within one year following the Effective Date of the Class Settlement. If a judgment is entered in the Class Action approving the Class Settlement, but an appeal is taken relating solely to approval of the requested attorneys' fees, Litigation Expenses, and/or Service Awards, Plaintiffs' Counsel will, subject to Court approval, proceed with an initial distribution of the Net Class Settlement Fund, including the RIC Settlement Allocation.

The Net Class Settlement Fund will be allocated among Class Members whose pro-rated distributions would be \$10.00 or greater, given the fees and expenses associated with printing and mailing payments. If the prorated distribution to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

Defendants, their counsel, and all other Released Defendant Parties will have no liability whatsoever for the investment of the Class Settlement Fund, the distribution, or the payment of any claim consistent with the Settlement Agreement and the Court-approved Plan of Allocation. Plaintiffs and Plaintiffs' Counsel likewise will have no liability for their reasonable efforts to execute, administer, and distribute funds consistent with the Settlement Agreement and the Court-approved Plan of Allocation.

After initial distribution(s) of the Net Class Settlement Fund, if there is any balance remaining (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of prior distribution of the Net Class Settlement Fund, Lead Counsel shall, if feasible and economical, redistribute such balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion until it is no longer economically feasible to do so. Any balance that still remains in the Net Class Settlement Fund after redistribution(s) that is not feasible or economical to reallocate, after payment of Notice and

Administration Expenses, Taxes and Tax Expenses, and any other fees and costs approved by the Court, shall be contributed to one or more nonsectarian, not-for-profit, 501(c)(3) organizations serving the public interest approved by the Court.

9. When will I receive a payment?

Payment is conditioned on several matters, including the Court's approval of the Class Settlement (and the Judgment becoming Final), approval of the proposed Plan of Allocation (and that order becoming Final), approval of a distribution, and the DOL, and DOJ Settlements becoming final according to their terms. (They do not require court approval.) It is anticipated that at least a partial distribution will be made within one year of _____. However, a full distribution could take more than a year. Interest accrued on the Class Settlement Fund will be included in the amount allocated and paid to Settlement Class Members.

The Class Settlement may be terminated on several grounds, including if the Court does not approve the Class Settlement or the proposed Plan of Allocation. If the Class Settlement is terminated, there will be no distribution and the Class Actions will proceed as if the Class Settlement had not been reached.

10. Can I exclude myself from the Settlement Class?

If you do not want a payment from this Class Settlement, but you want to keep any right you may have to sue or continue to sue the Defendants and other Released Defendant Parties on your own about the Released Class Claims, then you must take steps to exclude yourself from the Settlement Class. This is called "opting out" of the class. Please note: SSBT may withdraw from and terminate the Class Settlement if Settlement Class Members who have a certain amount of Indirect FX Transactions exclude themselves from the Settlement Class, or a certain number of Settlement Class Members request exclusion.

To exclude yourself from the Settlement Class, you must send a signed letter by mail stating that you request to be "excluded from the Settlement Class in the *State Street Indirect FX Trading Class Action*, No. 11-CV-10230 (D. Mass.)." Your letter must include the following information: (i) the name of the Person that entered into one or more custody or trust agreements with SSBT and is requesting exclusion; (ii) the Person's address; (iii) the Person's telephone number; (iv) the Person's e-mail address; (v) the approximate date(s) of the agreement(s) referenced in (i) above; (vi) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (vii) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above; and (viii) identification (including by case name, court name, and docket number) of all legal actions and claims (if any) that the Person requesting exclusion has brought against any of the Defendants relating to Indirect FX.

You must mail your exclusion request so that it is **received no later than** _____, **2016**, to:

State Street Indirect FX Trading Class Action
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173000
Milwaukee, WI 53217

You cannot exclude yourself by telephone or by e-mail. Your exclusion request must comply with these requirements in order to be valid, provided, however, that a request for exclusion shall not be invalid for failing to include the foregoing (i) - (vii) if SSBT determines it has sufficient information to determine that such Person is a Settlement Class Member and provides that information promptly to Lead Counsel.

If you request to be excluded in accordance with these requirements, you will not get any payment from the Net Class Settlement Fund, and you cannot object to the Class Settlement. However, you will not be legally bound by anything that happens in the Class Actions, and you may be able to sue Defendants and the other Released Defendant Parties in the future.

11. Do I have a lawyer in this case? How will the lawyers be paid?

Labaton Sucharow LLP has been appointed Lead Counsel for the Settlement Class. Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, will apply to the Court for an award of attorneys' fees and payment of Litigation Expenses incurred during the prosecution and resolution of the Class Actions. The application for attorneys' fees will not exceed \$74,541,250 (plus any accrued interest), which represents 25% of the \$300,000,000 Class Settlement Fund, after first deducting Court-awarded Litigation Expenses (that will not exceed \$1,750,000.00) and Court-awarded Service Awards for the seven Plaintiffs (that will not exceed \$85,000.00 in the aggregate). You will not be charged directly by Plaintiffs' counsel. However, if you want to be represented by your own lawyer, you may hire one at your own expense.

The written applications for attorneys' fees, Litigation Expenses, and Service Awards of Plaintiffs will be filed with the Court by _____, 2016, and the Court will consider these applications at the Final Approval Hearing. A copy of the applications will be available at www.StateStreetIndirectFXClassSettlement.com and www.labaton.com or by requesting a copy from Lead Counsel.

To date, none of the Plaintiffs' attorneys have received any payment for their services in prosecuting the Class Actions on behalf of the Settlement Class, nor have counsel been paid for their substantial expenses incurred in connection with litigating the Class Actions. The fee requested by Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, would compensate counsel for their efforts in achieving the Class Settlement for the benefit of the Settlement Class and for their risk in undertaking this representation on a contingency basis. The Court will determine the actual amounts of any awards.

By following the procedures described in the answer to Question 13 below, you can tell the Court if you do not agree with the fees and expenses the attorneys and Plaintiffs intend to seek.

OBJECTIONS

13. How do I tell the Court if I do not like the Class Settlement, the Plan of Allocation, or something about the requests for attorneys' fees and expenses?

Any Settlement Class Member may appear at the Final Approval Hearing and explain why it thinks the Class Settlement should not be approved as fair, reasonable and adequate, why a judgment should not be entered, why the proposed Plan of Allocation should not be approved, why the attorneys' fees and expenses of Plaintiffs' counsel should not be awarded, in whole or in part, or why Plaintiffs should not be awarded Service Awards, in whole or in part. However, no Settlement Class Member shall be heard or entitled to contest these matters unless such Settlement Class Member has filed a written objection with the Court and served it on counsel.

To object, you must send a written statement saying that you object to the Class Settlement, the Plan of Allocation, the attorneys’ fee request, expenses, and/or the Service Awards in *State Street Indirect FX Trading Class Action*, No. 11-CV-10230 (D. Mass.). Be sure to include your name, address, telephone number, e-mail address, signature, and a full explanation of all reasons why you object. You must also include the following information in order to confirm your membership in the Settlement Class: (i) the name of the Person that entered into one or more custody or trust agreements with SSBT and is objecting; (ii) the approximate date(s) of the agreement(s) referenced in (i) above; (iii) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (iv) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above.

If you cannot provide any of the information required under (i) - (iv), you may still object if you provide a written statement certifying that have undertaken best efforts to provide the missing information and your membership in the Settlement Class can otherwise be confirmed by the Parties.

Your written objection must be filed with the Court, and received by counsel listed below by no later than _____, 2016:

File with the Clerk of the Court:

Clerk of the Court
 United States District Court for the District of Massachusetts
 John Joseph Moakley United States Courthouse
 1 Courthouse Way
 Boston, Massachusetts 02210

Serve copies of all such papers by mail to each of the following:

Lead Counsel	Defendants’ Counsel
Lawrence A. Sucharow, Esq. Labaton Sucharow LLP 140 Broadway New York, NY 10005	William H. Paine, Esq. Wilmer Cutler Pickering Hale and Dorr LLP 60 State Street Boston, MA 02109

Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Class Settlement and the applications for attorneys’ fees, Litigation Expenses, and any Service Awards.

THE COURT’S FINAL APPROVAL HEARING

14. When and where will the Court decide whether to approve the Class Settlement?

The Court will hold a Final Approval Hearing at _____.m. on _____, 2016, before the Hon. Mark L. Wolf, at the United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, Courtroom 10, 1 Courthouse Way, Boston, Massachusetts 02210.

At the hearing, the Court will consider whether the Class Settlement is fair, reasonable and adequate. The Court will also consider any motions for attorneys' fees, expenses of Plaintiffs and Plaintiffs' Counsel, and Service Awards for Plaintiffs, as well as for approval of the proposed Plan of Allocation. If there are timely and valid objections, the Court will consider them. We do not know how long decisions on the motions will take.

15. Do I have to come to the hearing?

Lead Counsel will answer any questions that the Court may have about the Class Settlement and related relief at the Final Approval Hearing. You are not required to attend but are welcome to come at your own expense. If you send an objection, you do not have to come to Court to discuss it. As long as you filed your written objection on time, it will be before the Court when the Court considers whether to approve the Class Settlement, the Plan of Allocation, and/or the fee and expense requests. You may also have your own lawyer attend the Final Approval Hearing at your expense, but such attendance is not mandatory.

16. May I speak at the hearing?

If you are a Settlement Class Member and you have filed a timely objection, if you wish to speak, present evidence or present testimony at the Final Approval Hearing, you must state in your objection your intention to appear, and must identify any witnesses you intend to call or evidence you intend to present.

The Final Approval Hearing may be rescheduled by the Court without further notice to the Settlement Class. If you wish to attend the Final Approval Hearing, you should confirm the date and time with Lead Counsel.

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing and the Class Settlement is approved, you will be bound by the terms of the Class Settlement, will be deemed to have released all Released Class Claims against all of the Released Defendant Parties, and will receive your *pro rata* payment as described in Questions 6 and 7 above.

GETTING MORE INFORMATION

18. How do I get more information?

This Notice summarizes the proposed Class Settlement. Full details of the Class Settlement are set forth in the Settlement Agreement. Copies of the Settlement Agreement, as well as other litigation and settlement-related documents, may also be viewed at www.StateStreetIndirectFXClassSettlement.com and www.labaton.com.

You may also contact Lead Counsel at the contact information listed above, or the Claims Administrator toll-free at 877-240-3540.

Dated: _____, 2016

BY ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF MASSACHUSETTS

Exhibit A-2

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

<i>ARKANSAS TEACHER RETIREMENT SYSTEM, et al. v. STATE STREET BANK AND TRUST COMPANY</i>	)	No. 11-cv-10230 MLW
)	
)	
<i>ARNOLD HENRIQUEZ, et al. v. STATE STREET BANK AND TRUST COMPANY, et al.</i>	)	No. 11-cv-12049 MLW
)	
)	
<i>THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND PROFIT SHARING PLAN, et al. v. STATE STREET BANK AND TRUST COMPANY</i>	)	No. 12-cv-11698 MLW
)	
)	

SUMMARY NOTICE OF PENDENCY OF CLASS ACTIONS, PROPOSED SETTLEMENT, SETTLEMENT HEARING, PLAN OF ALLOCATION, AND ANY MOTION FOR ATTORNEYS’ FEES, LITIGATION EXPENSES, AND SERVICE AWARDS

TO: ALL CUSTODY AND TRUST CUSTOMERS OF STATE STREET BANK AND TRUST COMPANY (“SSBT”) (INCLUDING CUSTOMERS FOR WHICH SSBT SERVED AS DIRECTED TRUSTEE, ERISA PLANS, AND GROUP TRUSTS), REFLECTED IN SSBT’S RECORDS AS HAVING A UNITED STATES TAX ADDRESS AT ANY TIME DURING THE PERIOD FROM JANUARY 2, 1998 THROUGH DECEMBER 31, 2009, INCLUSIVE, AND THAT EXECUTED ONE OR MORE INDIRECT FX TRANSACTIONS WITH SSBT AND/OR ITS SUBCUSTODIANS DURING THE PERIOD FROM JANUARY 2, 1998 THROUGH DECEMBER 31, 2009, INCLUSIVE (THE “SETTLEMENT CLASS”)

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of Massachusetts, that Plaintiffs Arkansas Teacher Retirement System, Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies Employees Savings and Profit Sharing Plan, and James Pehoushek-Stangel (collectively, “Plaintiffs”), on behalf of themselves and each Settlement Class Member, by and through their counsel, and State Street Bank and Trust Company have reached a proposed settlement of the above-captioned actions (the “Class

Actions”) in the amount of \$300,000,000 in cash (the “Class Settlement Amount”) that, if approved by the Court, will resolve the Class Actions in their entirety (the “Class Settlement”).

A hearing will be held before the Honorable Mark L. Wolf of the United States District Court for the District of Massachusetts, Eastern Division in Courtroom 10 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 at __:___ .m. on _____, 2016 to, among other things, determine whether: (1) the proposed Class Settlement should be approved by the Court as fair, reasonable, and adequate; (2) the Class Actions should be dismissed with prejudice as set forth in the Stipulation and Agreement of Settlement, dated as of July 26, 2016; (3) the proposed Plan of Allocation for distribution of the Class Settlement Amount, and any accrued interest, less Court-awarded attorneys’ fees, Litigation Expenses, Service Awards, Notice and Administration Expenses, Taxes, Tax Expenses and any other costs, fees, or expenses approved by the Court (the “Net Class Settlement Fund”) should be approved as fair and reasonable; and (4) Lead Counsel’s application, on behalf of ERISA Counsel and Customer Counsel, for an award of attorneys’ fees and payment of Litigation Expenses and Service Awards should be approved. The Court may change the date and/or time of the Final Approval Hearing without providing another notice. You do NOT need to attend the hearing in order to receive a distribution from the Net Class Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO SHARE IN THE NET CLASS SETTLEMENT FUND. If you have not yet received the full mailed Notice of Pendency of Class Actions, Proposed Class Settlement, Settlement Hearing, Plan of Allocation, and any Motion for Attorneys’ Fees, Litigation

Expenses, and Service Awards (the “Notice”), you may obtain a copy by contacting the Claims Administrator or visiting the settlement website:

State Street Indirect FX Trading Class Action
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173000
Milwaukee, WI 53217
877-240-3540
www.StateStreetIndirectFXClassSettlement.com
info@StateStreetIndirectFXClassSettlement.com

Inquiries may also be made to Lead Counsel:

LABATON SUCHAROW LLP
Lawrence A. Sucharow, Esq.
140 Broadway
New York, NY 10005
Tel: (888) 219-6877
www.labaton.com
settlementquestions@labaton.com

Settlement Class Members do not need to submit a claim form in order to be eligible to share in the distribution of the Net Class Settlement Fund. Your recovery will be calculated by the Claims Administrator as part of the implementation of the Class Settlement, and will be based on information obtained from SSBT. However, as explained in the Notice, if you represent a Group Trust, you must provide a certification *postmarked or received on or before* _____, **2016** in order to receive a portion of the ERISA Settlement Allocation, rather than a portion of the balance of the Net Class Settlement Fund.

To exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions in the Notice such that it is *received on or before* _____, **2016**. If you are a Settlement Class Member and do not exclude yourself from the Settlement Class, you will be bound by all judgments and orders entered in the Class Actions.

Any objection to the proposed Class Settlement, Plan of Allocation, and/or application for attorneys' fees and payment of Litigation Expenses and/or Service Awards must be filed with the Court in accordance with the instructions in the Notice such that it is *received on or before* _____, **2016**. If you submit an objection, you have the right, but are not required, to attend the Final Approval Hearing; if you wish to speak at the Final Approval Hearing, you must include in your written objection a statement that you intend to appear and speak at the Final Approval Hearing.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANTS REGARDING THIS NOTICE.

Dated: _____, 2016

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)
 on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW
)
 Plaintiffs,)
)
 v.)
)
 STATE STREET BANK AND TRUST COMPANY,)
)
 Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
 WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
 and those similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 STATE STREET BANK AND TRUST COMPANY,)
 STATE STREET GLOBAL MARKETS, LLC and)
 DOES 1-20,)
)
 Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
 AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
 JAMES PEHOUSHEK STANGELAND, and all others)
 similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 STATE STREET BANK AND TRUST COMPANY,)
)
 Defendant.)

[PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, (i) plaintiffs Arkansas Teacher Retirement System, Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies

Employees Savings and Profit Sharing Plan and James Pehoushek-Stangel (collectively “Plaintiffs”), on behalf of themselves and each Settlement Class Member by and through their counsel, and (ii) State Street Bank and Trust Company (the “Settling Defendant” or “SSBT”), by and through its counsel, entered into a Stipulation and Agreement of Settlement, dated as of _____, 2016 (the “Settlement Agreement”), in the above-captioned cases (the “Class Actions”);

WHEREAS, pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement (the “Preliminary Approval Order”), entered _____, 2016, the Court scheduled a hearing for _____, 2016 at _____ .m. to, among other things, determine (i) whether the proposed Class Settlement is fair, reasonable, and adequate, and should be finally approved by the Court, and (ii) whether the Order and Final Judgment, as provided for under the Settlement Agreement, should be entered;

WHEREAS, the Court ordered that the Notice of Pendency of Class Actions, Proposed Settlement, Settlement Hearing, Plan of Allocation, and any Motion for Attorneys’ Fees, Litigation Expenses, and Service Awards (the “Notice”), substantially in the form annexed to the Preliminary Approval Order as Exhibit A-1, be sent by first-class mail, postage prepaid, on or before ten (10) business days after the entry of the Preliminary Approval Order (“Notice Date”) to all potential Settlement Class Members who could be identified through reasonable effort, and that a summary of the Notice (the “Publication Notice”), substantially in the form annexed to the Preliminary Approval Order as Exhibit A-2, be published in the national edition of *The Wall Street Journal* and over *PR Newswire* within fourteen (14) calendar days of the Notice Date;

WHEREAS, the Notice and Publication Notice advised Settlement Class Members of the date, time, place, and purpose of the Final Approval Hearing. The Notice further advised that any objections to the proposed Class Settlement were required to be filed with the Court by no later than _____, 2016, and mailed to counsel for the Parties such that they were received by no later than _____, 2016;

WHEREAS, Plaintiffs and Lead Counsel complied with the provisions of the Preliminary Approval Order as to the distribution, mailing, and publication of the Notice and Publication Notice;

WHEREAS, on _____, 2016, Plaintiffs moved for final approval of the proposed Class Settlement, and the Final Approval Hearing was duly held before this Court on _____, 2016, at which time all interested Persons were afforded the opportunity to be heard; and

WHEREAS, the Court has duly considered Plaintiffs' motion, the affidavits, declarations, and memoranda of law submitted in support thereof, the Settlement Agreement, all of the submissions and arguments presented with respect to the proposed Class Settlement, and the record in the Class Actions.

NOW, THEREFORE, after due deliberation, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. **Incorporation of Settlement Documents**. This Order and Final Judgment hereby incorporates and makes a part hereof: (i) the Settlement Agreement filed with the Court on _____, 2016; and (ii) the exhibits attached to the Settlement Agreement, including the Notice and Publication Notice, filed with the Court on _____, 2016.

2. **Definitions.** Any term with initial capitalization that is not defined in this Order and Final Judgment shall have the meaning provided in the Settlement Agreement.

3. **Jurisdiction.** The Court has jurisdiction to enter this Order and Final Judgment. The Court has jurisdiction over the subject matter of the Class Actions and over all parties to the Class Actions, including all Settlement Class Members.

4. **Certification of the Settlement Class.** Solely for the purpose of effectuating the Class Settlement, the Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, a Settlement Class defined as:

All custody and trust customers of State Street Bank and Trust Company (“SSBT”) (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT’s records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive. Excluded from the Settlement Class are: Defendants; California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS), and the State of Washington Investment Board; the predecessors and affiliates of the foregoing, or any entity in which they have a controlling interest; and the officers, directors, legal representatives, heirs, successors, subsidiaries and/or assigns of any such excluded individual or entity in their capacities as such. Also excluded from the Settlement Class is any Person who submits a timely and valid request for exclusion from the Settlement Class in accordance with the requirements set forth in the Notice.

5. **Settlement Class Representatives and Class Counsel.** Solely for purposes of effectuating the Class Settlement, the Court hereby affirms its designations in the Preliminary Approval Order of Plaintiffs as representatives of the Settlement Class, Labaton Sucharow LLP as Lead Counsel for the Settlement Class, Thornton Law Firm LLP as Liaison Counsel for the Settlement Class, and Lieff Cabraser Heimann & Bernstein LLP as additional Counsel for the Settlement Class, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

6. **Notice.** The Court finds that the distribution, mailing, and publication of the Notice and Publication Notice to putative Settlement Class Members: (i) constituted the best notice practicable under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the Class Settlement, the effect of the Class Settlement (including the releases therein), and their right to exclude themselves from the Settlement Class or object to any aspect of the Class Settlement (and appear at the Final Approval Hearing), this Order and Final Judgment, the Plan of Allocation, and/or Lead Counsel's motion, on behalf of ERISA Counsel and Customer Counsel, for attorneys' fees, payment of Litigation Expenses, and any Service Awards; (iii) constituted due and sufficient notice of the Class Settlement to all Persons entitled to receive such; and (iv) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States (including the Due Process Clause), the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all other applicable laws and rules.

7. **Objections.** [The Court has considered each of the objections to the Class Settlement submitted pursuant to Rule 23(e)(5) of the Federal Rules of Civil Procedure. The Court finds and concludes that each of the objections is without merit, and they are hereby overruled.]

8. **Final Settlement Approval and Dismissal of Claims.** In light of the benefits to the Settlement Class, the complexity, expense, and possible duration of further litigation against the Defendants, the risks of establishing liability and damages, and the costs of continued litigation, the Court hereby fully and finally approves the Class Settlement as set forth in the Settlement Agreement in all respects, and finds that the Class Settlement is in all respects fair, reasonable, and adequate, and in the best interests of Plaintiffs and other Settlement Class

Members. The Court further finds that the Class Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of Plaintiffs, the Settlement Class, and the Defendants. The Class Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

9. Upon the Effective Date, the following actions are each hereby dismissed in their entirety, with prejudice: (a) *Arkansas Teacher Retirement System v. State Street Bank and Trust Company*, No. 11-cv-10230 MLW (D. Mass.); (b) *Arnold Henriquez, et al. v. State Street Bank and Trust Company, et al.*, No. 11-cv-12049 MLW (D. Mass.); and (c) *The Andover Companies Employee Savings and Profit Sharing Plan, et al. v. State Street Bank and Trust Company*, No. 12-cv-11698 MLW (D. Mass.).

10. **Releases.** Upon the Effective Date, the Releasing Plaintiffs, and their respective past, present, and future heirs, executors, administrators, trustees, predecessors, successors, and assigns: (i) shall release and shall be deemed by operation of law and this Order and Final Judgment to have irrevocably, absolutely, and unconditionally fully, finally, and forever waived, released, discharged, and dismissed, with prejudice and on the merits, each and every one of the Released Class Claims against each and every one of the Released Defendant Parties, (ii) shall have and be deemed to have covenanted not to sue, directly or indirectly any Released Defendant Party with respect to any and all of the Released Class Claims; and (iii) shall forever be barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, intervening in, participating in (as a class member or otherwise) (except as a witness compelled by subpoena or court order), or receiving any benefits or other relief, from any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative

capacity, that maintains or prosecutes any or all such Released Class Claims against each and every one of the Released Defendant Parties. All Releasing Plaintiffs, and their respective past, present, and future heirs, executors, administrators, trustees, predecessors, successors, and assigns, shall be bound by the terms of the releases, covenants not to sue, and injunctions set forth in this Order and Final Judgment whether or not they obtain a recovery from the Class Settlement or seek, or actually receive, a distribution from the Class Settlement.

11. Upon the Effective Date, SSBT, on behalf of itself, the Released Defendant Parties, and each of their respective heirs, executors, administrators, trustees, predecessors, successors, and assigns, shall be deemed by operation of law to have fully, finally, and forever released, waived, discharged, and dismissed, with prejudice and on the merits, each and every one of the Released Prosecution Claims against each and every one of the Released Plaintiff Parties and their respective attorneys, and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any or all such Released Prosecution Claims against each and every one of the Released Plaintiff Parties and their respective attorneys.

12. Notwithstanding Paragraphs 10-11 above, nothing in this Order and Final Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Settlement Agreement or this Order and Final Judgment, or any action by SSBT relating to insurance coverage.

13. Nothing in this Order and Final Judgment shall prevent any Person that timely submitted a valid request for exclusion from the Settlement Class, listed on Exhibit A annexed hereto, from commencing, prosecuting, or asserting any Released Class Claim against any Released Defendant Party. If any such Person commences, prosecutes, or asserts any Released

Class Claim against any Released Defendant Party, nothing in this Order and Final Judgment shall prevent the Released Defendant Parties from asserting any claim of any kind against such Person, including any Released Prosecution Claim, or from seeking contribution or indemnity from any Person, other than any Released Plaintiff Party, with respect to the claim of the Person who is excluded from the Settlement Class pursuant to a timely and valid request for exclusion.

14. **Rule 11 Finding.** The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the commencement, maintenance, prosecution, defense, and settlement of the Class Actions.

15. **Binding Effect of Order and Final Judgment.** Each Plaintiff and Settlement Class Member, and each of their respective heirs, executors, administrators, trustees, predecessors, successors, and assigns, is bound by this Order and Final Judgment, including, without limitation, the releases contained herein, regardless of whether such Settlement Class Member (i) receives the Notice, (ii) obtains a recovery from the Class Settlement Fund, or (iii) objects to the Class Settlement, this Order and Final Judgment, the Plan of Allocation, and/or Lead Counsel's motion, on behalf of ERISA Counsel and Customer Counsel, for attorneys' fees, payment of Litigation Expenses, and any Service Awards. The Persons listed in Exhibit A annexed hereto are excluded from the Settlement Class, pursuant to their valid and timely requests for exclusion, and are not bound by the terms of the Settlement Agreement or this Order and Final Judgment.

16. **Use of this Order and Final Judgment.** Except as set forth in the Settlement Agreement and in Paragraph 17 below, this Order and Final Judgment and the Settlement Agreement, whether or not consummated, and any negotiations, proceedings, or agreements

relating to the Settlement Agreement, the Class Settlement, and any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be offered or received against the Parties and their counsel for any purpose, and in particular:

(a) do not constitute, and shall not be offered or received against Defendants as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by Defendants with respect to the truth of any fact alleged by Plaintiffs or any other Settlement Class Member or the validity of any claim that has been or could have been asserted in the Class Actions or in any litigation, including but not limited to the Released Class Claims, or of any liability, damages, negligence, fault, or wrongdoing of Defendants;

(b) do not constitute, and shall not be offered or received against Defendants as evidence of a presumption, concession, or admission of any fault, misstatement, or omission with respect to any statement or written document approved or made by Defendants, or against the Plaintiffs, or any other member of the Settlement Class as evidence of any infirmity in the claims or defenses that have been or could have been asserted in the Class Actions;

(c) do not constitute, and shall not be offered or received against Defendants, Plaintiffs, or any other member of the Settlement Class, or their respective counsel, as evidence of a presumption, concession, or admission with respect to any liability, damages, negligence, fault, infirmity, or wrongdoing, or in any way referred to for any other reason against Defendants, Plaintiffs, other members of the Settlement Class, or their respective counsel, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement Agreement;

(d) do not constitute, and shall not be construed against Defendants, Plaintiffs, any other members of the Settlement Class, or their respective counsel as an admission or

concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) do not constitute, and shall not be construed as or received in evidence as an admission, concession, or presumption against Plaintiffs, any other Settlement Class Member, or their respective counsel, that any of their claims are without merit or infirm, that a class should not be certified, or that damages recoverable under the complaints filed in the Class Actions would not have exceeded the Class Settlement Amount.

17. The Released Parties may file or refer to the Settlement Agreement and/or this Order and Final Judgment to (i) effectuate the liability protection granted thereunder, including, without limitation, to support injunctive relief, or a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim; or (ii) effectuate the liability protections granted them under any applicable insurance policies. The Released Parties may file or refer to the Settlement Agreement and/or this Order and Final Judgment in any action that may be brought to enforce the terms of the Settlement Agreement and/or this Order and Final Judgment. All Released Parties submit to the jurisdiction of this Court for purposes of implementing and enforcing the Class Settlement.

18. **Retention of Jurisdiction.** The Court reserves and retains jurisdiction, without affecting in any way the finality of this Order and Final Judgment, over: (i) implementation and enforcement of the Class Settlement; (ii) the allowance, disallowance, or adjustment, on equitable grounds, of any Settlement Class Member's right to recover under the Settlement Agreement, and any award or distribution from the Class Settlement Fund; (iii) disposition of the Class Settlement Fund; (iv) the hearing and determination of Lead Counsel's motion, on behalf

of ERISA Counsel and Customer Counsel, for attorneys' fees, payment of Litigation Expenses, and any Service Awards; (v) the hearing and determination of any motions to approve the Plan of Allocation or the Distribution Order; (vi) enforcement and administration of this Order and Final Judgment; (vii) enforcement and administration of the Settlement Agreement, including the injunctions and releases in connection therewith; and (viii) other matters related or ancillary to the foregoing.

19. **Termination.** In the event the Class Settlement is terminated in its entirety or does not become effective in accordance with the terms of the Settlement Agreement, the Settlement Agreement, except as otherwise provided therein, including any amendment(s) thereto, and this Order and Final Judgment, including but not limited to the certification of the Settlement Class provided in Paragraph 4 above, shall be null and void and of no further force or effect, and may not be introduced as evidence or referred to in any action or proceeding by any Person, and Plaintiffs and the Defendants shall be restored to their respective positions in the Class Actions as of June 29, 2015, and, except as otherwise expressly provided, Plaintiffs and the Defendants shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered, and the balance of the Settlement Fund including interest accrued thereon, less any Notice and Administration Costs paid or incurred and less any Taxes and Tax Expenses paid, incurred, or owing, shall be refunded to SSBT.

20. **Plan of Allocation.** A separate order shall be entered regarding the proposed Plan of Allocation. Such order shall not disturb or affect any of the terms of this Order and Final Judgment.

21. **Attorneys' Fees, Litigation Expenses, and/or Service Awards.** A separate order shall be entered regarding Lead Counsel's motion, on behalf of ERISA Counsel and

Customer Counsel, for attorneys' fees, payment of Litigation Expenses, and any Service Awards as allowed by the Court. Such order shall not disturb or affect any of the terms of this Order and Final Judgment.

22. **Administration of the Class Settlement.** Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

23. **Consummation of the Class Settlement.** The Parties are hereby directed to consummate the Settlement Agreement and to perform its terms.

24. **Entry of Final Judgment.** There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed.

Dated: _____, 2016

HON. MARK L. WOLF
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Certificate of Service

I certify that on July 26, 2016, I caused the foregoing Stipulation and Agreement of Settlement, with exhibits, to be filed through the ECF system in the above-captioned actions, and accordingly to be served electronically upon all registered participants identified on the Notices of Electronic Filing.

/s/ David J. Goldsmith
David J. Goldsmith

EX. 76

From: Lynn Sarko <lsarko@KellerRohrback.com>
Sent: Wednesday, November 23, 2016 10:22 AM
To: Kravitz, Carl S. <ckravitz@zuckerman.com>
Subject: Fwd: SST - ERISA Fee and Expense Allocations
Attach: image009.jpg; ATT00001.htm; image010.jpg; ATT00002.htm; image011.jpg; ATT00003.htm; image012.jpg; ATT00004.htm; SST - Fee and Expense Allocation for ERISA Actions (1668269_1).DOC; ATT00005.htm

So I spoke with the Labaton folks yesterday. They didn't want to put it in the formal letter but agreed to send us an email putting the numbers in and confirming the 10 percent. Here it is

Lynn

Sent from my iPhone

Begin forwarded message:

From: "Zciss, Nicole" <NZciss@labaton.com<mailto:NZciss@labaton.com>>
Date: November 23, 2016 at 7:17:24 AM PST
To: Lynn Sarko <lsarko@kellerrohrback.com<mailto:lsarko@kellerrohrback.com>>, 'David Copley' <dcopley@KellerRohrback.com<mailto:dcopley@KellerRohrback.com>>, 'Brian McTigue' <bmcTigue@mctiguelaw.com<mailto:bmcTigue@mctiguelaw.com>>, "Kravitz, Carl S." <ckravitz@zuckerman.com<mailto:ckravitz@zuckerman.com>>
Cc: "Sucharow, Lawrence" <L.Sucharow@labaton.com<mailto:L.Sucharow@labaton.com>>, "Goldsmith, David" <dgoldsmith@labaton.com<mailto:dgoldsmith@labaton.com>>

Subject: SST - ERISA Fee and Expense Allocations

Dear all,

Attached and below are tables showing the ERISA fee and expense allocations. Please let us know if you have any questions or changes. Thanks

FEES AND LITIGATION EXPENSES:

Total Fee Awarded: \$74,541,250.00, plus accrued interest to be calculated
ERISA Fee Allocation 10%: \$7,454,125.00,[1] plus accrued interest to be calculated
Total ERISA Expenses Awarded: \$431,613.31, without interest

FEE ALLOCATION

Firm

Fee

Keller Rohrback LLP

\$2,484,708.33

McTigue Law LLP

\$2,484,708.34

Zuckerman Spaeder LLP

\$2,484,708.33

TOTAL

\$7,454,125.00

EXPENSE ALLOCATION

Firm

Expenses

Keller Rohrback LLP, on behalf of itself and
-Hutchings Barsamian Mandelcorn LLP

\$342,270.63

\$496.00

McTigue Law LLP, on behalf of itself and
- Beins Axelrod PC
- Richardson Patrick Westbrook & Brickman LLC
- Feinberg Campbell & Zack PC

\$41,412.90

\$1,306.83

\$7,456.66

\$0.00

Zuckerman Spaeder LLP

\$38,670.29

TOTAL

\$431,613.31

1 Although the fee agreement with ERISA Counsel provides for a 9% allocation from the awarded fee, counsel in the ARTRS Action have determined to increase the allocation to 10% in light of the excellent work and contribution of ERISA Counsel.

https://urldefense.proofpoint.com/v2/url?u=http-3A-labaton.com_d=DgIFAg&e=kWwxgxBGq8MXL6t_SovivO&r=EFKDOsqQzO6nTYTa8RwS5Q9M2lcSqI2v4EMjMy0k2eA&m=LIDDE2W.oq6rIH24vdfZGejInAzDuuCcFG00L4lzkwl&s=fEywAfJB3Bc44abxskTbAGK3ooX9Okbd8Z85QHKGadA&e=>

EX. 77

From: Kravitz, Carl S. <csk1@zuckerman.com>
Sent: Wednesday, November 23, 2016 2:56 PM
To: Brian McTigue <bmctigue@mctiguelaw.com>
Subject: Fwd: SST - ERISA Fee and Expense Allocations
Attach: image009.jpg; ATT00001.htm; image010.jpg; ATT00002.htm; image011.jpg; ATT00003.htm; image012.jpg; ATT00004.htm; SST - Fee and Expense Allocation for ERISA Actions (1668269_1).DOC; ATT00005.htm

At least we got the numbers up a bit!!

Sent from my iPhone

Begin forwarded message:

From: "Zeiss, Nicole" <NZeiss@labaton.com>
Date: November 23, 2016 at 10:17:24 AM EST
To: Lynn Sarko <lsarko@kellerrohrback.com>, 'David Copley' <dcopley@KellerRohrback.com>, 'Brian McTigue' <bmctigue@mctiguelaw.com>, "Kravitz, Carl S." <ckravitz@zuckerman.com>
Cc: "Sucharow, Lawrence" <LSucharow@labaton.com>, "Goldsmith, David" <dgoldsmith@labaton.com>
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McTigue Law LLP	\$2,484,708.34
Zuckerman Spaeder LLP	\$2,484,708.33
TOTAL	\$7,454,125.00

EXPENSE ALLOCATION

Firm	Expenses
Keller Rohrback LLP, on behalf of itself and -Hutchings Barsamian Mandelcorn LLP	\$342,270.63 \$496.00

McTigue Law LLP, on behalf of itself and - Beins Axelrod PC - Richardson Patrick Westbrook & Brickman LLC - Feinberg Campbell & Zack PC	\$41,412.90 \$1,306.83 \$7,456.66 \$0.00
Zuckerman Spaeder LLP	\$38,670.29
TOTAL	\$431,613.31

1 Although the fee agreement with ERISA Counsel provides for a 9% allocation from the awarded fee, counsel in the ARTRS Action have determined to increase the allocation to 10% in light of the excellent work and contribution of ERISA Counsel.

EX. 78

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT)	
SYSTEM, on behalf of itself and)	
all others similarly situated,)	
)	
Plaintiffs,)	
)	
v.	)	Civil Action
	)	No. 11-CV-10230-MLW
)	
STATE STREET CORPORATION,)	
STATE STREET BANK AND TRUST)	
COMPANY and STATE STREET GLOBAL)	
MARKETS, LLC,)	
)	
Defendants.)	
)	

BEFORE THE HONORABLE MARK L. WOLF
UNITED STATES DISTRICT JUDGE

HEARING

November 2, 2016
2:05 p.m.

John J. Moakley United States Courthouse
Courtroom No. 10
One Courthouse Way
Boston, Massachusetts 02210

Kelly Mortellite, RMR, CRR
Official Court Reporter
John J. Moakley United States Courthouse
One Courthouse Way, Room 5200
Boston, Massachusetts 02210
mortellite@gmail.com

1 APPEARANCES:

2 On behalf of Plaintiffs:

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15 On behalf of Defendants:

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P R O C E E D I N G S

THE CLERK: All rise for the Honorable Court. This is Civil Action No. 11-10230, *Arkansas Teacher Retirement System v. State Street Corporation, et al.* You may be seated.

THE COURT: Good afternoon. Would counsel please identify themselves for the Court and for the record.

MR. GOLDSMITH: Good afternoon, Your Honor. David Goldsmith, Labaton Sucharow, for plaintiffs and the settlement class.

MS. ZEISS: Good afternoon. Nicole Zeiss for plaintiffs and the settlement class, from Labaton Sucharow.

MR. CHIPLOCK: Good afternoon, Your Honor. Daniel Chiplock from Lief Cabraser Heimann & Bernstein also here for plaintiffs and the proposed class.

MR. PAINE: Bill Paine, Dan Halston and Tim Perla, all from Wilmer Hale for the defendant.

MR. KRAVITZ: Carl Kravitz. I'm one of the ERISA counsel.

THE COURT: Counsel for the ERISA plaintiffs?

MR. KRAVITZ: Yes, just in case something arises.

THE COURT: Following the August 8, 2016 hearing I issued an order preliminarily approving the certification of this as a class action and the proposed settlement as sufficiently fair, adequate and reasonable to be sent to the class members.

1 That notice was sent. I've been informed that no
2 objections have been filed, nor have any class members opted
3 out. The order established today, November 2, as the date for
4 hearing on the motion for class certification and final
5 approval of the settlement for a decision on the amount of the
6 attorneys' fees to be awarded if the settlement is approved, a
7 decision on the amount of expenses to be awarded and for a
8 decision as whether service awards ought to be made.

9 Are there any other items that ought to be on the
10 agenda for today?

11 MR. GOLDSMITH: The only other item I believe would be
12 a very minor one, Your Honor, which would simply be to finalize
13 class certification for settlement purposes.

14 THE COURT: I think --

15 MR. CHIPLOCK: If Your Honor didn't mention that.

16 THE COURT: I intended to say that.

17 MR. CHIPLOCK: Okay.

18 THE COURT: All right. So I think with regard to
19 class certification, I went into some detail on August 8. As
20 far as I know, nothing has changed. It appears to me that for
21 the reasons I stated on August 8, class certification is
22 appropriate. But do you want to be heard briefly on that?

23 MR. GOLDSMITH: Thank you, Your Honor.

24 All I would say with regard to class certification is
25 to echo Your Honor. I mean, Your Honor did put detailed

1 findings on the record during the hearing we had on August 8.
2 Nothing has happened since to cast any doubt on those findings.
3 There were no objections, as Your Honor noted, to class
4 certification or anything else, and so we would suggest that to
5 finalize class certification in order to implement the
6 settlement, should it be approved, would be proper.

7 THE COURT: All right. Does the defendant want to be
8 heard on this?

9 MR. PAINE: No thanks, Your Honor.

10 THE COURT: All right. Well, I think I'll address
11 that after I hear from you on whether the settlement is fair,
12 reasonable and adequate, since I believe essentially the
13 agreement, the class certification was conditioned on the
14 settlement being approved. I've studied the excellent
15 submissions which were and are, among other things, responsive
16 to the questions that I raised in August. It's my tentative
17 view that the settlement is fair, reasonable and adequate. But
18 I would like to get orally the parties' positions on that.

19 MR. GOLDSMITH: Well, thank you, Your Honor.

20 We are very pleased this afternoon to present for Your
21 Honor's consideration this proposed \$300 million cash
22 settlement. As Your Honor indicated, notice has gone out. We
23 have proven that for the initial and supplemental declarations.
24 And so now the Court has to assess whether, in its discretion,
25 whether the settlement is real, fair, reasonable and adequate

1 in view of the risks, costs and duration of continued
2 litigation.

3 That standard of course allows for a range of
4 permissible settlements, and the Court knows that there is a
5 strong judicial policy that favors the settling of complex
6 class action litigation such as this. There's also a
7 presumption in this circuit, which Your Honor has recognized
8 most recently in the *Disability Law Center* case, that a
9 settlement is reasonable when you have, one, arm's length
10 negotiations between the parties; and two, sufficient informal
11 or formal discovery so that the Court can be assured that the
12 plaintiffs entered into the settlement on a reasonably informed
13 basis.

14 THE COURT: And negotiation between capable
15 experienced counsel.

16 MR. GOLDSMITH: As well as sophisticated counsel.
17 That's actually not -- that's not written into the standard as
18 we've read into the cases, but I certainly agree that should be
19 a component. We certainly have both of them here or all three
20 of them here.

21 THE COURT: Hold on just one second.

22 Actually I wrote that. It's in *Berenson V. Faneuil*
23 *Hall Marketplace*, 671, F. Supp. 819, D. Mass. 1987, page 822.

24 "Whereas here a proposed class settlement has been reached
25 after meaningful discovery and after arm's length negotiation

1 conducted by capable counsel, it is presumptively fair."

2 MR GOLDSMITH: Well --

3 THE COURT: It was a long time ago.

4 MR. CHIPLOCK: It's like that scene in Annie Hall.

5 THE COURT: You're asking me to give you \$74 million
6 in attorneys' fees. You don't read my cases?

7 MR. GOLDSMITH: I have read Your Honor's case and we
8 cite it in our brief, and I've read *Disability Law Center* as
9 well and quoted that. I stand corrected on that, Your Honor.

10 THE COURT: I probably said the same thing in that
11 case, but I don't remember. It wasn't my first one.

12 MR. GOLDSMITH: Right. I was actually referring to
13 the First Circuit on that, so I was unclear on that, Your
14 Honor.

15 THE COURT: Well, *Disability Law Center* I didn't echo
16 what I had said in 1987, apparently. Go ahead.

17 MR. GOLDSMITH: Thank you. So regardless, I would
18 suggest that we do have those prerequisites for the presumption
19 here as we show in our omnibus declaration and in the separate
20 declaration of Jonathan Marks, the mediator, which is Exhibit
21 5.

22 The parties attended 14 separate mediation sessions
23 with Mr. Marks before finally reaching the agreement in
24 principle in this case in mid 2015. We exchanged voluminous
25 documents and data, which included nine million pages of State

1 Street documents that plaintiffs' counsel reviewed and
2 analyzed. We had various presentations that went back and
3 forth from time to time between the parties during the
4 mediation sessions. This discovery and information exchange
5 insured, Your Honor, that we were very well informed about the
6 strengths and weaknesses of the claims and the defenses when we
7 agreed to the settlement.

8 And what's very important here is that this approach
9 we had of mediation and document discovery and information
10 exchange was very carefully worked out among the parties, and
11 it was presented to Your Honor for approval during a lobby
12 conference that we had in November of 2012. And it was
13 approved by Your Honor as a way to approach these cases in a
14 focused and efficient way to explore settlement while insuring
15 a flow of information but also to attempt to save costs and to
16 avoid unnecessary disruption of party resources, third party
17 resources, and judicial resources.

18 So we took a different resolution approach here. And
19 my recollection was that it was an approach that Your Honor
20 found to be commendable. And fortunately, the approach
21 ultimately was successful. So with that presumption
22 established, I think the question before the Court is are there
23 any circumstances here that would suggest that the settlement
24 is not fair and adequate and reasonable. I would suggest the
25 answer is no. This settlement is the largest ever to our

1 research in a Chapter 93A class action. The next largest that
2 we're aware of in Massachusetts is a \$25 million settlement
3 approved by Judge Saylor in the *Reebok* case, and there's also a
4 \$20 million settlement that was in state court.

5 So this case, Your Honor, is more than ten times
6 larger. There is a case called *Warfarin*, which is cited in our
7 brief, which was larger, about \$45 million, but that's a little
8 different because in that case they proceeded under all of the
9 consumer protection laws of all 50 states, so it's not really a
10 Chapter 93A case, although they cite it.

11 This settlement, Your Honor, is the third largest ever
12 filed in a Federal Court within the First Circuit, if you
13 exclude securities class actions which tend to be very large.
14 So you have the *Tyco* securities class action which was up in
15 New Hampshire. That was something like \$3 billion.

16 THE COURT: That was a securities class action?

17 MR. GOLDSMITH: That was a securities fraud.

18 THE COURT: I thought you were excluding that.

19 MR. GOLDSMITH: I am just explaining the structure so
20 Your Honor can the perspective. So there was the *Tyco* case,
21 which was \$3 billion. Then there was *Raytheon* securities class
22 action which was in this district which was \$460 million. Then
23 after that there's a trio of cases, the *Neurontin* case, which
24 is one of those drug marketing cases, which was 325, then
25 another one of those drug marketing cases also in this court

1 called *First DataBank*, which was 350, so actually bigger. Then
2 there's this case. So you have a trio of cases in the 300s,
3 and this falls right in there. This is one of the largest
4 class action cases filed in the First Circuit.

5 So that's a broad generalization of why this is a big
6 settlement. But to get more case-specific, one of the most
7 important factors of course is how big is the settlement as
8 compared to the maximum potential recovery at trial. Your
9 Honor had asked me this question in one of our prior hearings:
10 How did we do? We peg that percentage at 20 percent. So a
11 very pie-in-the-sky damages figure that we put together is
12 approximately \$1.5 billion.

13 THE COURT: Mr. Paine is going to want to order this
14 transcript, although you're the lawyer, you're not the expert
15 witness. You say "pie in the sky."

16 MR. GOLDSMITH: Right. If we were to achieve every
17 claim, and that's an outer limit. I mean, Mr. Paine --

18 THE COURT: Every claim your experts are to be
19 believed --

20 MR. GOLDSMITH: Correct. Mr. Paine has a very, very
21 different view of damages, and that's a very important fact for
22 this proceeding. But even so, \$300 million gives you 20
23 percent. That's a very robust percentage, we would suggest.
24 That's well within, if not above, what courts routinely find to
25 be reasonable. And importantly, that percentage, Your Honor,

1 is comparable to the percentage of the recovery that was
2 achieved in the *Bank of New York Mellon FX* case, which was very
3 similar to this case in the Southern District of New York.

4 THE COURT: "FX" meaning foreign exchange?

5 MR. GOLDSMITH: Yes. I'm sorry. FX, foreign
6 exchange. So as I mentioned in the prior hearing, there was a
7 case against Bank of New York Mellon, which was one of State
8 Street's major competitors that's very similar to this case.
9 But that proceeded in Federal Court in New York. And
10 Mr. Chiplock was one of the lead counsel in that case. I was
11 not involved in that case.

12 THE COURT: And he hasn't retired yet?

13 MR. CHIPLOCK: I haven't, Your Honor.

14 MR. GOLDSMITH: Maybe next year.

15 The percentage there was about 24 percent on a
16 comparable class recovery of about \$330 million. And the judge
17 there -- this was Judge Kaplan -- had little trouble approving
18 that settlement as fair, reasonable and adequate. So I think
19 the settlement falls right in line.

20 But referring to Your Honor's comment about State
21 Street's view of damages, I think that's really important. So
22 State Street, at Your Honor's directive, put a memorandum in,
23 and they view damages at zero. And even assuming liability,
24 Mr. Paine made an assertion that damages could maybe be \$50
25 million, maybe.

1 So taking Mr. Paine at his word, if a jury -- assuming
2 a finding of liability, which of course is not assured -- could
3 rationally impose damages of \$50 million, then I would suggest
4 that the fairness of a \$300 million settlement is almost
5 self-evident.

6 So I mentioned litigation risk. So litigation risk on
7 liability also supports the settlement, Your Honor. And we
8 discuss this at some length in our brief and in our omnibus
9 declaration. But again, I want to point to State Street's
10 brief, which I think is really very helpful on this point as
11 well. So they put together a summary of the defenses that they
12 might mount. It's no way -- I'm not suggesting it's their full
13 panoply of defenses or trial memorandum, but there's a cogent
14 list of their contentions.

15 Now, I don't agree with their individual contentions
16 saying that our theory doesn't make sense and things of that
17 nature, but I think it makes very clear that the ruling that
18 Your Honor gave us on the motions to dismiss in no way
19 guarantees success on summary judgment and it in no way
20 guarantees success at trial. There were thorny factual issues
21 here, thorny legal issues. There is a somewhat arcane fuzzy
22 area. Custodians don't get sued very often. And I think one
23 cannot deny that State Street had, you know, legitimate
24 defenses that they can marshal.

25 And there was one comment that Your Honor made during

1 the hearing on the motion to dismiss that I think is worth
2 pointing out. When Your Honor raised the question of why, why
3 would a custody client do direct FX trades if the custody
4 client thought that the indirect trades, those are the trades
5 that are at issue in this case, were free. And Your Honor had
6 asked that question I believe during the hearing on the motion
7 to dismiss. And we have answers to that question, and we would
8 offer answers to that question if the case were to go further,
9 you know, into litigation.

10 But that's an issue that we would have to grapple
11 with. That is an issue that Your Honor would have to grapple
12 with. If the case were to go into summary judgment, that's an
13 issue that a jury would have to grapple with. So I think there
14 is certainly litigation risk that supports a settlement at this
15 magnitude. And the settlement was not handed to us, Your
16 Honor. This was not piggyback regulation. There are multiple
17 regulators that have some involvement in the matter as we've
18 discussed with Your Honor before.

19 THE COURT: Department of Justice, Department of
20 Labor, Securities and Exchange Commission?

21 MR. GOLDSMITH: Yes, sir. And the interrelationship
22 is discussed in State Street's memorandum, and Your Honor had
23 directed that that question be answered. But those regulators
24 came on the scene later. This is not an instance where they
25 plowed the road with findings and then we showed up with a

1 complaint that recounted those findings. We plowed the road.

2 And this case similarly was developed and started
3 actually before the Bank of New York case was up and running.
4 Even though that case was settled and that settlement was
5 approved some months ago, the timeline which we recount in our
6 papers shows that this case actually got started first.

7 Just one more note. I mean, Your Honor mentioned or
8 noted that there are no objections, there are no opt-outs. I
9 would suggest that that may have a particular relevance here
10 simply because we do have a class of institutional investors.
11 There are cases that suggest that when you don't have
12 institutional objectors, that may carry some more weight --

13 THE COURT: Investors.

14 MR. GOLDSMITH: I'm sorry. The class here is made up
15 of institutional investors. There are cases that say -- and we
16 cite them in our reply brief, that say when the response of the
17 class has no objections by institutional investors, the Court
18 may wish to give that more weight than when most of the class
19 is individual investors.

20 THE COURT: I agree with that proposition.

21 MR. GOLDSMITH: So the fact there are no objections
22 and no opt-outs is of perhaps some additional significance.

23 That's my presentation on the settlement, Your Honor.

24 THE COURT: I am interested in hearing from State
25 Street on some of the relevant factors. The written submission

1 was helpful, but if there are some things that you'd like to
2 reiterate or amplify, emphasize, it would be helpful to me.

3 MR. PAINE: I think that our perspective on this case
4 is that we had a thorny and difficult problem that was going to
5 be hard for just about anybody who is not a custody banker to
6 understand. State Street is an unusual bank. Indirect FX is
7 an unusual business. And the world in which they conduct this
8 business is inhabited by very sophisticated people in
9 institutions who we believe understand very well what's going
10 on inside that business. But external observers, whether it's
11 a jury or a plaintiff or a Court or a regulator, has had a lot
12 of trouble understanding the details of this very complicated
13 business.

14 And as a result, we had not just litigation but
15 threatened litigation from a whole bunch of regulators, all of
16 whom have tremendous power to do harm to State Street and its
17 business. So we had a big problem. And one of the big players
18 in terms of the resolution, the problem is, Your Honor -- and
19 you said to everybody in this room or most everybody in this
20 room you really ought to figure out a way to resolve this that
21 doesn't involve, you know, extensive litigation proceedings.
22 And we did.

23 THE COURT: Litigation with your valued clients.

24 MR. PAINE: And even if it wasn't litigation with them
25 directly, we viewed -- we watched the Bank of New York case

1 where they did it the old-fashioned way, and they did 100
2 depositions, and they subpoenaed dozens of their clients, and
3 their clients were not happy. These are clients that -- our
4 clients are -- some of these relationships go back decades.
5 The bank wants those relationships to continue for decades.
6 And it's really only every five or ten years that people are
7 considering whether they want to change their custodian. And
8 so it's a giant business risk to pick fights with the people
9 that you need the evidence from.

10 THE COURT: I don't remember what I said to encourage
11 you to go through a process to settle it, but I wouldn't be
12 surprised if I pointed that out because it's something
13 particularly important in this case.

14 MR. PAINE: It was a good observation you made. It's
15 one we took to heart. It's one that everyone took to heart.
16 The honest truth is that if the plaintiffs' lawyers and the
17 lead plaintiff as a group were not mature enough and if we
18 weren't patient enough and if you weren't patient enough to
19 allow this thing to unfold in the way that it did, we would
20 have spent \$100 million on defense costs to present a very
21 complicated issue to you for summary judgment, and then we
22 would -- you know, we would have either won or lost that
23 motion. But if we lost, it would have been another \$50 million
24 associated with that exercise.

25 So the case was too big, too complicated, too many

1 adversaries for us to be comfortable just doing it the
2 old-fashioned way. So we did it the way that you suggested. I
3 think that everyone -- there were a lot of frustrations on
4 everyone's part. The production and review of nine million
5 documents is not trivial. The extensive back and forth
6 intermediated by Mr. Marks about the merits of the case was not
7 comfortable.

8 But at the end of the day, the litigation timeline
9 formed up with the regulatory timeline, and we were able to
10 accomplish, at great expense, the objective that we had, which
11 was to resolve this case once and for all at the same time with
12 respect to everybody.

13 THE COURT: When you say, "once and for all with
14 respect to everybody," just so I think it's clear on this
15 record, your settlement with the Department of Labor, with
16 regard to ERISA claims and your settlement with regard to the
17 Securities and Exchange Commission is contingent upon the
18 approval of this settlement by me. Is that right?

19 MR. PAINE: That's correct. That was a key term that
20 we were unwavering on. We were not willing to resolve these
21 cases except as one big bundle, and that caused a lot of
22 difficulty because -- it caused a lot of difficulty for
23 everyone. And I was sort of at the hub of this multi-spoked
24 negotiation, and every change by every party involved iterating
25 through all of the parties.

1 So I really do -- you know, it's not my mode to spend
2 a lot of time complementing my adversaries, but this is a
3 situation where State Street was unwilling to pay money like
4 this on any other basis than what's presented to you today, and
5 it required extreme effort and patience on behalf of everyone
6 involved to get to the point where that pool of assets could be
7 made available. We think it's fair. We think it's beyond
8 fair. And we commend it to Your Honor.

9 THE COURT: Okay. Well, I'm going to address this
10 only briefly because I don't think either the question of class
11 certification or the question of whether the settlement is
12 fair, reasonable and adequate is a close question. I think the
13 answer to both is yes. I'm relying substantially on the
14 excellent submissions. I'm relying on what was said today,
15 which I won't reiterate completely, but the following:

16 I went through the requirements for class
17 certification carefully in detail on August 8, 2016. Those
18 factual findings which were then preliminary are reflected in
19 the transcript. I don't think it's necessary or worthwhile to
20 reiterate them. But the requirements for class certification
21 are fully met.

22 In addition, I also find that the settlement of \$300
23 million is fair, reasonable and adequate, again essentially for
24 the reasons stated on August 8, 2016 and the additional facts
25 that no class member has objected, no class member has opted

1 out. This is a situation in which each of the class members
2 is a sophisticated -- well, is an institutional investor, I
3 infer, a sophisticated party and the fact that there is
4 unanimous agreement among the class members that the settlement
5 is, from their perspective, fair, reasonable and adequate is an
6 important and somewhat unusual fact.

7 It's also important and unusual in my experience that
8 this is a settlement that regulatory agencies, expert
9 regulatory agencies, particularly the Department of Labor and
10 the Securities and Exchange Commission, want to see approved by
11 making their -- settlement of their claims or potential claims
12 against State Street contingent on the approval of this
13 settlement. They're communicating to me that from their
14 perspective, having responsibilities to the public and
15 experience and expertise, this settlement is fair, reasonable
16 and adequate.

17 It was negotiated by experienced, capable counsel
18 after substantial discovery, including nine million documents.
19 It results from arduous arm's length negotiations, as I
20 understand it, 19 mediation sessions with a very experienced
21 and expert mediator. So it's presumptively valid. The class
22 members -- well, there are essentially two subclasses as I
23 understand it, but within those classes the class members are
24 each treated equally. And the settlement provides a
25 substantial amount of money, \$300 million, which is not as much

1 as the plaintiffs would advocate if they got this case to a
2 jury, but it's considerably more than defendants believe could
3 properly be awarded even if the plaintiffs prevailed. And
4 whether the plaintiffs would prevail in this case is inherently
5 uncertain.

6 This is a complicated area. State Street has
7 defenses. I'm not in a position to make an informed prediction
8 concerning how the case would come out if it were tried, but I
9 can say it's uncertain whether it would survive a motion for
10 summary judgment. It's uncertain how it would come out, and
11 it's uncertain how much in damages would be awarded if the
12 plaintiffs ultimately prevailed.

13 So for all of these reasons and others, essentially in
14 the submissions, I find this is fair, reasonable and adequate.

15 And implicit in that is a finding that State Street
16 had essentially valid reasons to settle. This is not a
17 situation where the defendant agreed to pay something that will
18 assure the plaintiff significant -- let me confirm one thing we
19 haven't discussed. Were the attorneys' fees -- the attorneys'
20 fees come out of a common fund, but were the attorneys' fees
21 discussed with the defendant before the \$300 million figure was
22 reached?

23 MR. PAINE: No.

24 MR. GOLDSMITH: No, Your Honor.

25 MR. PAINE: No.

1 THE COURT: I probably asked you that before. That's
2 my understanding. There's nothing collusive about this. This
3 has been genuine arm's length negotiations between experienced,
4 capable counsel who each vigorously represented their clients'
5 interest. So I've approved the settlement.

6 Is there anything you feel I didn't say that I should
7 have?

8 MR. GOLDSMITH: One, I suppose, question, Your Honor,
9 did you want to hear any particular discussion of the terms of
10 plan of allocation? Your Honor mentioned --

11 THE COURT: Last time --

12 MR. GOLDSMITH: I don't know -- just for completeness.
13 I wasn't sure.

14 THE COURT: Why don't you remind me of the terms of
15 allocation.

16 MR. GOLDSMITH: Sure. We've discussed it before, Your
17 Honor. I didn't want there to be something that was left out
18 that Your Honor wanted to hear. We discussed it briefly.
19 There's a plan of allocation here. There's three, I suppose
20 you could call them segments. The funds will be divided among
21 the ERISA plans and the eligible group trusts. Group trusts
22 are the class members where they have certain assets that are
23 ERISA-governed and certain aspects that are not. So the ERISA
24 portion of group trusts are part of the ERISA settlement
25 allocation.

1 Then you have the registered investment companies or
2 mutual funds. They have a portion. And then you have what we
3 call public and other, which is basically everybody else. That
4 includes our client, Arkansas Teacher, and they have a portion.

5 Essentially we used a volume-based calculation to
6 figure out how much everybody gets. And that's largely how we
7 will be divvying up the money from the net settlement fund
8 after fees and expenses and the like are taken out. We'll be
9 sending letters -- we have sent letters to the group trust
10 class members asking them to tell us about the proportion of
11 ERISA and non-ERISA so that we can get intelligence from them
12 so that we can figure all that out. We have sufficient data
13 that State Street has provided us so that we can do the
14 calculations. I just wanted to have that explained to Your
15 Honor.

16 THE COURT: Thank you. I'm persuaded that the plan of
17 allocation is fair. And again, this is a complex area, but the
18 class members are institutional investors, I infer
19 sophisticated investors, and if they thought the plan of
20 allocation was inequitable, I expect I would have heard from
21 somebody.

22 So now with regard to requests for attorneys' fees.
23 The plaintiff's counsel requests \$74,541,250 in fees,
24 \$1,257,699.94 in expenses, and accrued interest on whatever sum
25 I award. I do think it's appropriate in this case to use the

1 percentage of the common fund approach in determining the
2 amount of attorneys' fees that should be awarded.

3 Again, I've studied the submission, but I'm interested
4 in hearing your argument.

5 MR. GOLDSMITH: Thank you very much, Your Honor.

6 So as Your Honor said, the fee of approximately 74 and
7 a half million dollars, that's about 24.85 of the gross
8 settlement fund. The way we calculated that, Your Honor, is we
9 took the \$300 million gross settlement fund. We deducted the
10 \$1.75 million expense figure, which was the maximum number in
11 the notice. So we told class members in the notice that we
12 would seek no more than \$1.75 million in expenses. And then we
13 deducted the \$85,000 in service awards that we would be
14 seeking.

15 We took that number, and then we divided it by four,
16 25 percent of that. And that's how we came to the actual
17 figure in fees that we're seeking here. And so the fees,
18 expenses combined is about 25.27 percent of the gross
19 settlement fund.

20 THE COURT: My calculation came to the same number.

21 MR. GOLDSMITH: Okay. I just wanted the Court to see
22 how we --

23 THE COURT: Because usually I do combine them.

24 MR. GOLDSMITH: I'm aware of that, yeah. So 25.27,
25 and then when you add on the service awards that we've

1 requested, if the Court were to award those, that pushes that
2 up a little bit to 25.3 percent. So it's a little above 25
3 percent.

4 So my argument, Your Honor, first of all, is that a
5 fee just below 25 percent we think falls right in line with the
6 fees that the courts in this circuit generally award in class
7 action settlements. There are a lot of cases, you know, in
8 class action settlements, large and small, where 25 percent
9 fees approximately have been awarded. I mean, in the *Bezdek*
10 case, which is a 2015 case before Judge Woodlock, that's also a
11 Chapter 93A case, Judge Woodlock went so far as to say that 25
12 percent is the now benchmark fee in this circuit. I don't know
13 if it's really a benchmark like you have in the Ninth Circuit,
14 but that's what His Honor said. And it does seem to be maybe a
15 vibrating benchmark of sorts.

16 THE COURT: Well, I studied this pretty closely after
17 I became a judge in 1985. And in the *Berenson* case I discussed
18 it and I appointed a distinguished lawyer to help me. But
19 basically I understood as a guideline 20 to 30 percent was an
20 appropriate range to consider, so 25 percent is in the middle
21 of the range. It actually seemed to me that I've been creeping
22 up lately or at least some of my colleagues have been awarding
23 more than 30 percent in certain cases where of course the
24 adversary process is not working. But I've tended to stay in
25 that 20 to 30 percent range.

1 MR. GOLDSMITH: So one thing we presented in our
2 brief, Your Honor, to get a little bit more to the point, is we
3 compared the fee that we're requesting here with the fees in
4 every class action settlement in the First Circuit of \$100
5 million or more. There are some cases that refer to class
6 action settlements of \$100 million or more as mega fund
7 settlements. So we took all of those settlements in courts
8 within the First Circuit. There are eight of them. And we put
9 them together. There's a chart on page 7 of our brief and lays
10 them out. I would suggest that this fee falls in the middle
11 and looks fairly reasonable compared to the others.

12 And we have some explanation as to the percentages
13 that are below, and we talk about those in our brief. I mean,
14 the *Tyco* case, for example, that was 14.5 percent, but that was
15 also a \$3 billion recovery. So that's different. I mean, the
16 *Raytheon* case, which was the \$460 million securities case, that
17 was 9 percent. That's also a lot different because the
18 plaintiff in that case was the New York State Common Retirement
19 Fund, and I know too from personal experience that the New York
20 State Common Retirement Fund can be very demanding with
21 attorneys' fees. And there was an affidavit that was filed in
22 that case that required counsel not to seek more than that
23 percentage. We actually filed that affidavit. So I think the
24 fee there was a function of that. *First DataBank* -- I'm sorry.

25 THE COURT: That was part of a fee agreement or just

1 the position of the client after the case was settled?

2 MR. GOLDSMITH: I didn't hear your whole question.

3 THE COURT: Was that part of a fee agreement that
4 counsel wouldn't seek more than 10 percent?

5 MR. GOLDSMITH: In *Raytheon*?

6 THE COURT: In the case you were just describing.

7 MR. GOLDSMITH: Yes. In *Raytheon*, what happened was,
8 I think there was a fee agreement that was -- at the beginning
9 of that case, I think that there was a fee grid that that
10 client and that counsel, which was not my firm, had agreed to
11 and it resulted based on the recovery in that fee.

12 THE COURT: And your fee agreement in this case
13 provided what at the outset?

14 MR. GOLDSMITH: It provided -- well, it's certainly
15 consistent with the fee that we're seeking here.

16 THE COURT: Well, it was a contingent fee agreement,
17 right?

18 MR. GOLDSMITH: It was a contingent fee agreement, of
19 course.

20 THE COURT: Did it have a cap?

21 MR. GOLDSMITH: I believe it was capped at 25 percent,
22 and we are seeking a fee that's slightly below.

23 THE COURT: And it permitted expenses about 25
24 percent?

25 MR. GOLDSMITH: Yes -- no, no. The fee was -- it

1 permitted a fee of 25 percent of expenses that go below. I
2 mean, Mr. Hopkins' affidavit --

3 THE COURT: Expenses that would go above?

4 MR. GOLDSMITH: I'm sorry. Would go above. I
5 misspoke, Your Honor. Our affidavit from your client,
6 Mr. Hopkins, which was Exhibit 1, does support the fees and
7 expenses that we're seeking. So the *First DataBank* case, which
8 had a 20 percent fee, what happened there actually was, counsel
9 were seeking a 25 percent fee, but that would have resulted in
10 a multiplier and lodestar multiplier of something like 10. And
11 the judge there, I believe it was Judge Saris, found that that
12 was a bit too rich, so she reduced the fee to 20 percent, but
13 that still gave a lodestar multiplier of about 8.

14 So I think that's a little bit different. In the
15 *Lernout and Hauspie* case, in all candor, we couldn't find a
16 record on that. I don't know why 20 percent was awarded there
17 instead of something higher or something lower. I don't know
18 the answer to that.

19 So one important point of the fee, again mentioning
20 the *Bank of New York* case, is that Mr. Chiplock and his
21 colleagues sought a 25 percent fee on a \$335 million class
22 recovery and received that amount from Judge Kaplan in New
23 York.

24 THE COURT: They were piggybacking on your work.

25 MR. GOLDSMITH: No, they were not. Hardly.

1 THE COURT: I thought you said you went first.

2 MR. GOLDSMITH: We went first but they came close
3 behind. I would not call them piggybacking on our work. They
4 were marching through the desert. And the fee that we're
5 seeking here is slightly below. And we would suggest that the
6 results achieved, what we've done here in terms of the work
7 would support the fee as well, including the work that Your
8 Honor had mentioned on the record in indicating Your Honor's
9 approval of the settlement.

10 One thing I'd like to mention is I'd like to point to
11 State Street's brief for a moment. State Street of course
12 takes no position on our fee. There's no reason for them to.
13 They don't have any interest in whatever fee the Court seeks
14 fit to award, but I think some of the assertions are relevant
15 actually to the fee, because if State Street's brief is to be
16 taken at face value, we produced a \$300 million settlement, and
17 we're giving class members a windfall -- I think that's a word
18 that they use -- after bringing a case that doesn't make any
19 sense and that has no damages at all. So I think, you know, a
20 fee of some substance would be in order for that, frankly.

21 THE COURT: Do you think 74 million is of some
22 substance?

23 MR. GOLDSMITH: It is.

24 THE COURT: It's a number with a lot of substance to
25 somebody who works for \$200,000 a year, but go ahead.

1 MR. GOLDSMITH: True, sir, true.

2 The bank -- I think Mr. Paine alluded to this. They
3 settled to avoid defense costs. Okay. I think they settled in
4 part to avoid inconvenience and business interruption, all
5 legitimate. And they settled in part to close down the
6 regulatory actions, all the legitimate reasons to settle. \$300
7 million is more, I think, than what the defense costs would
8 have been here. I don't know that for a fact, but I would
9 think so. And \$300 million is a lot more than the portion of
10 the settlement that is being used in part to satisfy certain
11 regulatory agencies.

12 So as we've discussed, \$60 million will be used to
13 satisfy the Department of Labor, and there's also \$92 million
14 which is part of the financial terms between State Street and
15 the SEC. Adding those up, that's about \$152 million. That's
16 only about half of the size of the settlement. So I think you
17 can see very clearly that there's real value here that counsel
18 produced alone, and we think, Your Honor, that that justifies
19 the fee that we are respectfully seeking.

20 One thing I also would note is that the *Bezdek* case,
21 which I mentioned, which was decided by Judge Woodlock, which
22 is a Chapter 93A case, you had a similar path here in terms of
23 the degree of work, the mediations, coupled with discovery and
24 so on, where you had a settlement that preceded summary
25 judgment, you know, and you had a certain amount of discovery

1 but you didn't have 100 depositions and the like. You had a 25
2 percent fee awarded by Judge Woodlock there.

3 Now, there was an objection filed in that action, Your
4 Honor. There was an objection filed to the fee, and the
5 objection stated that the plaintiffs' counsel didn't do enough
6 work to justify a 25 percent fee. And Judge Woodlock overruled
7 that objection. Judge Woodlock found that there was more than
8 enough work done in terms of the work to produce the
9 settlement, the work that was done in negotiating the
10 settlement, the work that was done in discovery, the work that
11 was done in investigation and motion practice and so forth.

12 And the First Circuit, in an opinion by Judge Lynch,
13 affirmed that finding and I think had little trouble affirming
14 the finding that Judge Woodlock was well within his discretion
15 in overruling the objection to the 25 percent fee, so I would
16 commend that authority to Your Honor as well.

17 THE COURT: Okay.

18 MR. GOLDSMITH: Finally, Your Honor, there was one
19 other matter I did want to note on the fee, if I may, which is
20 that many courts apply a lodestar crosscheck. It's not
21 required.

22 THE COURT: And I do that.

23 MR. GOLDSMITH: But I'd be remiss if I didn't mention
24 it. Here the multiplier that this fee would yield would be
25 1.8, which we think is pretty low under the circumstances. The

1 review of the nine million documents and other work that was
2 associated with that took a lot of hours, and so that is one of
3 the reasons why the lodestar is large here, even though we
4 didn't take 100 depositions. So the multiplier we think
5 compares favorably with or is frankly a lot lower than the
6 other cases.

7 THE COURT: The total of the lodestar is --

8 MR. GOLDSMITH: Approximately \$41.3 million.

9 THE COURT: And is it correct that your fee agreement
10 was a contingent fee agreement so if you didn't settle this
11 case or prevail at trial, you would have received nothing?

12 MR. GOLDSMITH: Correct.

13 THE COURT: All right.

14 MR. GOLDSMITH: Thank you, Your Honor.

15 THE COURT: Do you want to speak briefly to the
16 expenses?

17 MR. GOLDSMITH: Thank you, Your Honor. Yeah, I'll
18 speak briefly to that and the service awards, if I may.

19 THE COURT: Yes.

20 MR. GOLDSMITH: So the expenses, I believe Your Honor
21 quoted the figure, it's approximately \$1.25 million. We would
22 submit that these expenses were reasonably and necessarily
23 incurred in connection with the cases. We've documented those
24 in the various firm-specific declarations, which are Exhibits
25 15 to 23 of our omnibus declaration. And there's a master

1 chart which is Exhibit 24 if Your Honor wanted to see
2 everything on one page.

3 There's a number of principle categories that are
4 predominant with the expert fees, the mediation fees were high,
5 travel expenses, legal research expenses, document hosting fees
6 and the like. We think that these are expenses that are
7 generally approved by courts. It's a relatively small
8 percentage of the gross settlement. It's less than one half of
9 one percent. The notice, as I indicated, advised that expenses
10 would be no more than 1.75 million. This is a lot less, and
11 there's been no objections.

12 THE COURT: And I think Mr. Paine said that -- I don't
13 think he said what the defendants' fees were to date, but he
14 did say if this continued to summary judgment, it would be
15 about 100 million and, you know, if it went beyond that,
16 another 50 million. So frequently, usually courts don't have
17 that information, but I think that's another check. Okay.

18 MR. GOLDSMITH: There's no question, Your Honor, that
19 if this case had gone through full discovery and if we had
20 settled on the courthouse steps -- let's say we settled on the
21 courthouse steps for \$300 million. More money would have come
22 out of the gross settlement, assuming court approval, than is
23 coming out today in terms of expenses. So the settlement is
24 more valuable today to class members than it would be then, and
25 also it's today and not a year from now or however long it

1 would have taken. So there's that.

2 THE COURT: All right.

3 MR. GOLDSMITH: And just very briefly on the requested
4 service awards. What we are seeking is \$25,000 for Arkansas
5 and \$10,000 for each of the six ERISA plaintiffs, which total
6 \$85,000. This is a case in which incentive awards can be
7 approved by courts. And the *Bezdek* case and the *Lupron* case
8 and *Neurontin* case all have granted incentive awards to the
9 plaintiffs in approving the settlement in the course of
10 approving fees.

11 This is different than a securities fraud case, Your
12 Honor, where there are statutory limitations on incentive
13 awards to plaintiff. In a 93A case the Court has discretion to
14 do so. In fact, Chapter 93A itself reflects a policy that
15 favors the bringing of class actions. So I would suggest that
16 would be appropriate here.

17 Arkansas we think took a lot of risk in suing its own
18 custodian to bring a case like this. Arkansas, if it's not
19 clear, remains a client of -- custody client of State Street.
20 And, you know, it wasn't easy for Arkansas to step forward and
21 to do this. And Arkansas spent a lot of time and effort in
22 acting in this case. And Mr. Hopkins was here for the motion
23 to dismiss hearing and for the conference we had thereafter.
24 He attended a number of the mediation sessions, not just one or
25 two. He actually spoke with the representative of -- the State

1 Street executive who was there, and he had involvement in the
2 case. And they also produced documents and so forth.

3 And the ERISA plaintiffs also discharged their duties
4 as well, and we have affidavits from each of them. You'll find
5 that as Exhibit 1 and Exhibits 7 to 12 that would support that,
6 so we would respectfully submit that the service awards should
7 be approved.

8 THE COURT: And they're content -- well, they haven't
9 objected, but are they content with you getting \$74 million and
10 them getting, for their services, 25,000 for Arkansas Teachers
11 and 10,000 for the rest?

12 MR. GOLDSMITH: Yes, because without the lawyers doing
13 the legal work, there wouldn't be any service awards. And
14 their declarations support all of the requests that are before
15 you, Your Honor.

16 THE COURT: In my experience, service awards are a
17 relatively recent but now common phenomenon. But the
18 plaintiffs are supposed to be controlling the lawyers. This
19 isn't a PLSRA case, but I think the concept applies. Service
20 awards seem modest compared to legal fees, but that's okay
21 because it leaves more for the class members. All right.

22 Well, when you cite *Bezdek* or several of Judge Saris'
23 decisions, you almost make me wish that I could write you a
24 long elegant decision, too, but I've got other things to write
25 and you'd be waiting. I think you'd probably prefer to get on

1 with getting \$300 million for the class and \$74 million for
2 yourselves.

3 So again, I'll decide this orally. The transcript
4 will be the record of the decision, and I'm relying heavily on
5 the submissions and what's been said today and speaking
6 shorthand to some extent. I do find that requests for
7 attorneys' fees of \$74,541,250 is reasonable. I find that
8 \$1,257,697.94 in expenses is reasonable. I'm awarding accrued
9 interest on each of those sums. I also find that a service
10 award to each of the named plaintiffs is appropriate, \$25,000
11 to Arkansas Teachers and \$10,000 to each of the so-called ERISA
12 plaintiffs. I have used the percentage of common fund method.
13 I've used the reasonable lodestar to check on that. I've also
14 considered the awards in comparable cases. The \$74,500,000
15 plus is about -- well, is 24.48 percent of the settlement fund.
16 Adding in the litigation expenses brings it to 25.27 percent of
17 the settlement fund. Adding the service awards makes it a
18 little higher. This is in the 20 to 30 percent range usually
19 awarded by me in class action common fund cases and in many
20 cases with settlements in the First Circuit and in many cases
21 where the settlements are a \$250 million to \$500 million range.

22 Given the high number that roughly 25 percent award
23 comes to, I've considered whether some reduction is --
24 reduction from the request, something below \$25,000 is most
25 appropriate. I find that it is not.

1 The amount awarded is about 1.8 times the lodestar.
2 The lodestar is about \$41 million. This is reasonable. In
3 this case the plaintiffs' lawyers took on a contingent basis a
4 novel, risky case. The result at the outset was uncertain, and
5 it remained, until there was a settlement, uncertain.

6 The plaintiffs' counsel were required to develop a
7 novel case. This is not a situation where they piggybacked on
8 the work of a public agency that had made certain findings.
9 They were required to be pioneers to a certain extent. They
10 were required to engage in substantial discovery that included
11 production of nine million documents. They engaged in arduous
12 arm's length negotiation that included 19 mediation sessions.
13 They had to stand up on behalf of the class to experienced,
14 able, energetic, formidable adversaries. They did that. And
15 as I said, they generated a fair and reasonable return for the
16 class, \$300 million.

17 The litigation expenses of \$1,257,697.94 are also
18 reasonable. Service awards have become increasingly common.
19 They provide an incentive to name plaintiffs to participate
20 actively in the litigation in exchange for reimbursement for
21 their pursuit on behalf of the overall class, as Judge Woodlock
22 wrote in *Bezdek*, 79 F. Supp. 3d at 352. And I think that's a
23 positive thing, to have sophisticated institutional investors
24 who are capable of being true partners with their lawyers and
25 directing the litigation and making decisions. So I find

1 \$25,000 to Arkansas Teachers and \$10,000 to each of the six
2 ERISA plaintiffs to be fully justified in the circumstances of
3 this case.

4 So I believe I've decided everything I need to decide.
5 Is that correct?

6 MR. GOLDSMITH: Yes, Your Honor. Thank you. Thank
7 you very much indeed. If it would assist the Court, we have
8 orders that we can hand up.

9 THE COURT: I have them. You filled in the blanks?

10 MR. GOLDSMITH: I did on the off-chance that Your
11 Honor --

12 THE COURT: Okay. I didn't. You were evidently more
13 certain about how this was going to come out than I was.

14 MR. GOLDSMITH: Well, a man can dream.

15 THE COURT: So these, I take it, are the same as the
16 orders that I reviewed, correct?

17 MR. GOLDSMITH: Yes, sir, yes.

18 THE COURT: Except the blanks are filled in?

19 MR. GOLDSMITH: Yes. Those are the orders we filed
20 with our reply brief, to be clear.

21 THE COURT: Right. I'm just striking out where it
22 says "Proposed" before "Order" on the first page of each of
23 these. How many orders should I sign?

24 MR. GOLDSMITH: There are three, Your Honor.

25 THE COURT: It says there's going to be a separate

1 order on attorneys' fees. Which order has your attorneys'
2 fees?

3 MR. GOLDSMITH: I'm sorry. There's one.

4 THE COURT: Just a second.

5 Okay. There were three. All right. I've signed the
6 three orders. If you wait a while, Mr. Hohler will give you
7 copies of them even before docketing them.

8 MR. GOLDSMITH: Thank you.

9 THE COURT: Mr. Chiplock will take you all out to
10 dinner now that he's got two of these, everybody on the
11 plaintiffs' side.

12 I commend you. This was a challenging case. You
13 worked exceptionally hard to settle it. It's taken five and a
14 half years I think. But I think it's maybe a good model for
15 certain other cases because I do think it was in the
16 enlightened self-interests of the defendant to try to settle
17 with its clients and valued clients and get a global resolution
18 with the regulators and took a lot of hard work by the named
19 plaintiffs and plaintiffs' counsel to get to a mutually
20 acceptable point. So I commend you for doing that.

21 Court is in recess.

22 (Adjourned, 3:15 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Kelly Mortellite, Registered Merit Reporter and Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of November, 2016.

/s/ Kelly Mortellite

Kelly Mortellite, RMR, CRR

Official Court Reporter

EX. 79

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 11-cv-10230 MLW

- - - - -x
ARKANSAS TEACHER RETIREMENT SYSTEM,
et al.,

Plaintiffs,

-against-

STATE STREET BANK AND TRUST COMPANY,

Defendant.

- - - - -x

JAMS
Reference No. 1345000011

- - - - -x

In Re: STATE STREET ATTORNEYS' FEES

- - - - -x

June 14, 2017
2:05 p.m.

B e f o r e :

SPECIAL MASTER HON. GERALD ROSEN
United States District Court (Retired)

Deposition of NICOLE ZEISS, taken by
Counsel to the Special Master, held at the
offices of JAMS, 620 Eighth Avenue, New York,
New York, before Helen Mitchell, a Registered
Professional Reporter and Notary Public.

Page 10

1 Zeiss
 2 and some labor law.
 3 What I really wanted to do was
 4 public interest work, and I left Gaynor & Bass I
 5 think in about '98 or '99, and went to MFY Legal
 6 Services, also here in the city, where I
 7 represented mentally ill clients in a broad
 8 scope of civil litigation matters, trusts and
 9 estates, housing, benefits; anything that came
 10 up for them. They just -- to qualify for my
 11 services, they just needed to have a mental
 12 illness and be poor.
 13 And I left there right after
 14 September 11th to become an associate at
 15 Labaton, which at the time was called Goodkind
 16 Labaton Rudolph & Sucharow.
 17 Q And tell us what you've done at
 18 Labaton since joining in 2001.
 19 A So I was, I don't know, a
 20 litigation associate in the securities practice
 21 when I joined, so worked on -- I think at the
 22 start I worked mainly on one of our bigger cases
 23 at the time, against Bristol-Myers Squibb, so
 24 just litigating securities fraud cases. And
 25 then, in about 2008, maybe 2009, the firm made a

Page 11

1 Zeiss
 2 decision to have somebody focus on documenting
 3 and negotiating the firm's settlements, so I
 4 became the settlement counsel. So I then took
 5 over all the securities/class action
 6 settlements.
 7 So prior to that, the
 8 litigation team, when their case settled they
 9 would handle the settlement. Other firms had,
 10 you know, a team that would specialize in the
 11 settlements, and eventually Labaton decided to
 12 use that model.
 13 Q That's your full-time position,
 14 is the settlement counsel?
 15 A Yes. So I stopped litigating
 16 the merits of the cases and switched to
 17 settlements in about 2008.
 18 Q And you continue to do that?
 19 A I continue to do that.
 20 Q Was that your role in the State
 21 Street litigation?
 22 A Yes, it was.
 23 Q Could you tell us, in your
 24 capacity as settlement counsel, what your
 25 contributions were to the State Street case?

Page 12

[REDACTED]

Page 13

1 Zeiss
 2 THE WITNESS: Yeah.
 3 BY MR. SINNOTT:
 4 Q Do you remember when that was,
 5 Nicole?
 6 A Yes, I was on vacation --
 7 Q So it stands out in your mind.
 8 A -- it was July 2015.
 9 Q Okay.
 10 A So I got involved at the term
 11 sheet. We then -- so my role and my team -- I'm
 12 the head of a team, and I have an associate and
 13 a paralegal. So we drafted the -- and the term
 14 sheet took quite a while. So while we were
 15 doing that, we were also working on the
 16 settlement agreement, and drafting the exhibits
 17 for the settlement agreement, so the preliminary
 18 approval order, the judgment, the long form
 19 notice, the summary notice. Here there was no
 20 claim form, so we didn't have to do that. There
 21 was a lot of attention to the plan of
 22 allocation, I was involved in that.
 23 So negotiating -- you know,
 24 first making sure internally, you know, we had
 25 what we wanted, and then negotiating with Wilmer

Page 14
[Redacted text]

Page 16
1 Zeiss
2 and fees, which is Larry's kind of omnibus
3 declaration that has all the exhibits attached
4 to it. And Labaton also did the fee brief, but
5 I did, you know, the first draft, the framework
6 of Larry's big dec, and then David took it over,
7 and --
8 JUDGE ROSEN: David Goldsmith?
9 THE WITNESS: David Goldsmith.
10 A And I -- I also -- so as part
11 of the big dec, some of the exhibits are what I
12 call -- what we call -- the small fee
13 declarations, so the individual firm fee and
14 expense declarations. So I drafted the model
15 for that, and circulated it to everybody, and
16 worked with them on completing that. And got
17 all that filed September 15th. And then there
18 was the argument.
19 David Goldsmith did the
20 argument -- sometimes I do it, but here, you
21 know, it was his -- his case, and...
22 Q Were you present for it?
23 A Yes.
24 So I think that summarizes my
25 involvement in this case, and then typically the

Page 15
1 Zeiss
2 It might have been David Goldsmith. Maybe I did
3 a draft and then he -- he continued with it.
4 So, I mean, my typical role
5 would be to do the preliminary approval motion,
6 get the submission to the court, and then
7 there's a preliminary approval hearing usually,
8 sometimes there isn't, work with the
9 administrator to get the notice out the door,
10 and then --
11 JUDGE ROSEN: Were you involved
12 in the selection of the claims
13 administrator?
14 THE WITNESS: Yes. I think
15 we -- I think we all knew we wanted to
16 use AB Data. It wasn't a big,
17 drawn-out process.
18 A Then you switch gears to, you
19 know, reacting to any objections that come in,
20 and preparing the final approval motion and the
21 fee motion, and submitting that.
22 So I -- here, the Lieff firm
23 had the laboring oar on the approval brief. I
24 did -- and then Labaton was tasked with what we
25 call the big declaration in support of approval

Page 17
[Redacted text]

Page 18

[REDACTED]

Page 20

1 Zeiss

2 had he heard about it separately?

3 MR. STOCKER: Sorry, Your

4 Honor, what is "it"?

5 JUDGE ROSEN: It is the

6 possibility of a double counting.

7 THE WITNESS: Oh, it was -- my

8 impression was that it was definitely

9 the first time that he -- he heard that

10 there were potentially the same

11 timekeepers on two lodestar reports

12 with potentially overlapping time.

13 JUDGE ROSEN: I just want to go

14 back.

15 So you prepared the fee

16 petitions and the decs -- I mean, the

17 drafts anyway --

18 THE WITNESS: I prepared the

19 template.

20 JUDGE ROSEN: The template,

21 yes.

22 THE WITNESS: And Labaton's

23 individual firm dec, yeah.

24 JUDGE ROSEN: And then you

25 reviewed them, did you review all of

Page 19

[REDACTED]

Page 21

1 Zeiss

2 the firm's -- did you review all of the

3 firms' fee petitions?

4 THE WITNESS: So I sent out the

5 template to all the firms, and asked

6 them to complete the templates and send

7 me drafts.

8 Eventually everybody sent me a

9 draft back, and I -- in general I

10 reviewed each of them. There was kind

11 of a -- each one had an individual,

12 more detail than usual, narrative of

13 what each firm's role was, which we

14 wanted here because there were so many

15 different firms in different roles.

16 So I reviewed that, and asked

17 David, I believe -- Goldsmith -- to

18 make sure that comported with his

19 recollection of what everybody did.

20 I reviewed the lodestar

21 exhibits for form, to make sure

22 everybody was reporting --

23 JUDGE ROSEN: The lodestar

24 exhibits, you're referring to the

25 actual listing of hours and --

Page 22

1 Zeiss
 2 THE WITNESS: Yes.
 3 JUDGE ROSEN: -- rates?
 4 THE WITNESS: Yeah, I think
 5 they're -- it's Exhibit A, I think, to
 6 each declaration.
 7 JUDGE ROSEN: Yes.
 8 THE WITNESS: It's a table
 9 listing all the timekeepers, their
 10 rates, their lodestar.
 11 So the first thing was to get
 12 everybody on the same page to make sure
 13 they're actually giving -- reporting
 14 all -- reporting all the information we
 15 needed.
 16 So sometimes firms forget to
 17 put in hourly rates, sometimes the
 18 formatting is, you know, off, and hard
 19 for somebody to follow.
 20 So reviewing for form to make
 21 sure all the information was actually
 22 there, that's really all I can do
 23 because I don't have people's time
 24 records. It's not the practice to
 25 exchange time records, but, you know,

Page 23

1 Zeiss
 2 sometimes if there's a timekeeper that
 3 says, you know, .2 hours, we just have
 4 sort of a practice where we like to cut
 5 that, so I might ask, you know, "Can
 6 you just report timekeepers with five
 7 hours?"
 8 So that's pretty much what I do
 9 on the lodestar tables.
 10 JUDGE ROSEN: On the lodestar,
 11 you got the lodestar fees from all of
 12 the firms --
 13 THE WITNESS: Yes.
 14 JUDGE ROSEN: -- and did you
 15 review those -- you said, for form?
 16 THE WITNESS: Yeah.
 17 JUDGE ROSEN: Okay.
 18 Were you surprised to see a
 19 lodestar fee from Thornton?
 20 THE WITNESS: No.
 21 JUDGE ROSEN: Did you look at
 22 the names of the people who were listed
 23 on the Thornton?
 24 THE WITNESS: I don't think so.
 25 I mean, I'm sure I read them, but...

Page 24

1 Zeiss
 2 JUDGE ROSEN: None of those
 3 rang a bell that these were -- some of
 4 them, anyway -- were staff attorneys
 5 employed by Labaton?
 6 THE WITNESS: No.
 7 Unfortunately, no.
 8 JUDGE ROSEN: And you didn't
 9 know anything -- at the time you were
 10 doing this, you didn't know anything
 11 about an allocation agreement -- I use
 12 the word "agreement" advisedly, but
 13 some allocation arrangement whereby
 14 Thornton would be putting in time in
 15 its fee petition for staff attorneys
 16 who were actually working for Labaton?
 17 You didn't know anything about
 18 that at the time?
 19 THE WITNESS: No, I didn't know
 20 anything about that.
 21 And from my perspective -- you
 22 know, the lodestar reports are reports
 23 of each firm's personnel based on their
 24 own time records. I mean, it would
 25 never occur to me that one firm could

Page 25

1 Zeiss
 2 be reporting personnel from Labaton.
 3 Like, I -- I wouldn't -- I wouldn't
 4 think to look for it.
 5 BY MR. SINNOTT:
 6 Q Was anyone from Labaton that
 7 was involved on the operational side of things,
 8 particularly the use of the staff attorneys for
 9 document review, communicating with you about
 10 the hours that were being presented?
 11 A I'm not -- I'm sorry, could you
 12 restate it?
 13 Q Who did you talk to with
 14 respect to the hours, if anyone?
 15 A For the Labaton lodestar?
 16 Q Yes.
 17 A Howard Goldberg, who is in our
 18 accounting department.
 19 So he sends me Labaton's time
 20 entries in Excel, and I review them -- you know,
 21 I take out people with less than five hours, I
 22 review them to see if there's anything that, you
 23 know, we should cut, anybody sticks out, you
 24 know, like this has been misapplied to State
 25 Street, somebody who has a typo with a client

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1 Zeiss
2 matter number, this person didn't work on the
3 case, they should be cut.
4 So he gives me the data for our
5 time, and then, you know, I make my cuts, and
6 then he prepares the actual table, our final
7 table.
8 Q And did Howard say anything to
9 you about Thornton law firm cost sharing
10 agreement with Labaton?
11 A No. No, he didn't.
12 Q Did anyone else, David or
13 anyone --
14 A No.
15 Q -- tell you that there were
16 attorneys -- there were Labaton attorneys that
17 were designated as Thornton staff attorneys?
18 A No.
19 Q In addition to Howard and
20 David, who else did you speak to with respect to
21 the compilation of hours?
22 A I don't think anybody.
23 Q And do you still have the
24 original spreadsheet of Labaton that you used in
25 putting this together?

Page 27

[Redacted text]

Page 28

[Redacted text]

Page 29

[Redacted text]

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1 Zeiss
 2 No. I mean, to the extent
 3 there was feedback, I would say people want --
 4 you know, in the description of what each firm
 5 did, you know, like, Thornton wanted to make
 6 sure we were okay with the description. It was
 7 their language, so it's not really that they
 8 were giving me feedback.
 9 Q Okay.
 10 A Feedback...
 11 (Pause)
 12 A No. I mean, people just did
 13 it, filled it in, sent it in.
 14 Q And specifically on that term,
 15 "reasonable rates charged" --
 16 A Yeah.
 17 Q -- no one provided any feedback
 18 or pushback on that?
 19 A No, I don't recall that. No.
 20 JUDGE ROSEN: Some of the firms
 21 did have different language.
 22 THE WITNESS: Some of the firms
 23 did change the language. But we didn't
 24 talk about it.
 25 JUDGE ROSEN: You didn't talk

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1 Zeiss
 2 about it?
 3 THE WITNESS: No. I felt like
 4 each --
 5 JUDGE ROSEN: Did you notice
 6 it?
 7 THE WITNESS: I can't -- I
 8 noticed it after the fact. I can't
 9 remember if I noticed it in September,
 10 I probably did, but to me, each firm --
 11 it's their firm dec. If they --
 12 everybody has their own kind of
 13 standard language, and if that's what
 14 they wanted to do, then...
 15 JUDGE ROSEN: And where did the
 16 language that you used in the forms
 17 that you sent out, where did it first
 18 come from, if you know, if you
 19 remember?
 20 THE WITNESS: That's in my
 21 model.
 22 JUDGE ROSEN: That's in your
 23 model, I know --
 24 THE WITNESS: No, no, it's in
 25 the model on the system that I use to

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1 Zeiss
 2 do these templates.
 3 JUDGE ROSEN: But what I meant
 4 was where did it originally come from,
 5 if you know.
 6 THE WITNESS: I don't know.
 7 Somewhere over the course of
 8 the last eight years.
 9 JUDGE ROSEN: Do you think you
 10 originated the language, or did it come
 11 from another fee petition that Labaton
 12 had been using before you were
 13 involved? Or do you know?
 14 THE WITNESS: Probably the
 15 latter, because I've definitely seen it
 16 in other firms' fee petitions. Totally
 17 unrelated to...
 18 JUDGE ROSEN: Maybe we should
 19 quote the language exactly, just so the
 20 record's clear. I think we all know
 21 what it says, but just have Nicole
 22 identify the language, because Judge
 23 Wolf is obviously focused on it.
 24 MR. SINNOTT: As are we.
 25 JUDGE ROSEN: As are we.

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
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 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

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1 Zeiss
 2 billed for comparable work in other
 3 jurisdictions?
 4 A Definitely comparable work in
 5 the community. Not all judges are focused on
 6 location. Some are more focused on the
 7 community for the legal services. So I would --
 8 what's the -- it's not location community, it's
 9 your -- you know, your counterparts doing the
 10 same kind of work that you do. They might
 11 acknowledge that a firm is nationwide, and so
 12 they're not going to have local jurisdiction
 13 rates. So it depends on the judge.
 14 Q Would it be fair to say that in
 15 setting a fee, that you would not be looking to
 16 where a case has been filed? Is that correct?
 17 Or would you?
 18 A I'm sorry, can you say it
 19 again?
 20 Q Let me just look at this case
 21 here.
 22 You applied a New York rate to
 23 the case -- or the firm's typical rate?
 24 A Yes.
 25 Q Was there any attempt made to

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[REDACTED]

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1 Zeiss
 2 A Yes.
 3 Q And you and David exchanged
 4 responses. If you could just take a look at
 5 that (handing).
 6 (Pause)
 7 A Yes.
 8 Q Is it fair to say that you're
 9 assuming that M. Bradley is a staff attorney at
 10 Labaton?
 11 MS. LUKEY: I think that may be
 12 David who is raising that as a
 13 possibility, rather than Nicole.
 14 MR. SINNOTT: Okay.
 15 Q Did you know who Michael
 16 Bradley was before this?
 17 A No. That's why I said to
 18 David, "Do you have any idea what he's talking
 19 about?"
 20 Yeah, so I did not know who
 21 Michael Bradley was.
 22 Q And in fact, I've got Thornton
 23 Bates 012762, in which you sent a message to
 24 Garrett saying, "Who is your brother?"
 25 Do you recall that?

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1 Zeiss
 2 A Yeah.
 3 Q In response to his question
 4 "How many hours did my brother put on" -- "put
 5 in on State Street, and how much was his rate?"
 6 So I'll just (handing) show you
 7 that.
 8 A Yeah, I remember that.
 9 Q The final in that sequence,
 10 05361 -- and this was provided by your firm --
 11 there's a conversation in which -- in response
 12 to Garrett asking you, "How many hours did my
 13 brother put in on State Street, and how much was
 14 his rate," you contact David and you ask, "Do
 15 you have any idea what he is talking about?"
 16 Did you realize that was really
 17 his brother, or did you think he was speaking in
 18 a lawyerly or figurative term?
 19 A I was very confused. I'd --
 20 JUDGE ROSEN: You'd never --
 21 A I didn't know why he was asking
 22 me about his brother.
 23 JUDGE ROSEN: You had never
 24 heard his name before?
 25 THE WITNESS: No. Not before

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1 Zeiss
2 I think that's it.
3 Q Okay.
4 Given that you did not consider
5 it your role to challenge the rates or hours
6 expended by other firms in their preparation of
7 fee petitions, and given that you had no
8 knowledge of any allocation having been agreed
9 to in this case, was there any reason for you to
10 put fee petitions or small decs side by side and
11 compare the entries?
12 A No, I don't think so.
13 Q Was there any respect in your
14 handling of preparation of the fee petition
15 materials in this case that you felt that you
16 did not follow your regular and usual
17 established practices?
18 A I don't remember the lead-in to
19 the question.
20 No, I followed my standard
21 practices.
22 MS. LUKEY: Anything further?
23 MR. STOCKER: I just have a
24 couple quick ones.
25

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[REDACTED]

Page 87

[REDACTED]

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[REDACTED]

EX. 80

Chris Keller

1

Volume: 1

Pages: 1-271

JAMS

Reference No. 1345000011/C.A. No. 11-10230-MLW
-----X

In Re: STATE STREET ATTORNEYS FEES

-----X

BEFORE: Special Master Honorable GERALD ROSEN,
United States District Court, Retired

DEPOSITION of CHRIS KELLER, taken before
Sadie L. Herbert, a RPR and Notary Public of
States of New York and New Jersey on October 13,
2017, from 10:20 a.m. to 4:03 p.m.

Page 18

[REDACTED]

Page 20

[REDACTED]

Page 19

[REDACTED]

Page 21

1 Chris, but what was the -- the purpose of that
2 trip to Little Rock, were you by yourself, was
3 Eric with you --
4 **A. Oh, no, I wouldn't have been by myself,**
5 **Eric would have been with me, this was a very --**
6 **this was -- this was introductory.**
7 Q. Okay.
8 **A. We were -- we were just beginning, sort**
9 **of, what we would consider to be the education**
10 **process, so we would meet with people and we**
11 **would have to walk them through what we do, what**
12 **we do is --**
13 Q. And what was your objective, what were
14 you looking for in these introductions?
15 **A. I mean, ultimately, the ultimate goal**
16 **was we wanted to be able to get in front of the**
17 **right people to talk about our firm and our**
18 **business.**
19 **THE SPECIAL MASTER:** And that would
20 include institutional --
21 **THE WITNESS:** Yeah, institutional
22 investors, sure.
23 **BY MR. SINNOTT:**
24 Q. Okay. And on this particular trip, you

Page 22

[REDACTED]

Page 24

1 A. No, it would have been -- it would have
2 been in -- in the spring, early spring is, I
3 think, how -- how it worked out, like in March
4 or April, as I recall.
5 Q. And what was the event in -- did you
6 say Miami?
7 A. Yes.
8 Q. What was the event in Miami that
9 brought you and Mr. Chargois together?
10 A. There was -- I don't know who came up
11 with the idea, either Eric or myself, to bring
12 together the people that we're working with,
13 mostly lawyers, but we -- we had extended
14 invitations to non-lawyers as well, and the
15 point was to just get people down there, in a
16 comfortable setting and -- and relax and -- and
17 have, you know, sort of a, for lack of a better
18 word, have a captive audience for a couple of
19 days, so we can talk about, not obsessively, but
20 talk about what we do. Because what we do is --
21 takes -- takes a while for people to -- to
22 really sort of understand it to the point where
23 it can be useful to them.
24 Q. Okay.

Page 23

[REDACTED]

Page 25

[REDACTED]

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1 you typically meet him in the company of other
 2 Labaton attorneys or by yourself?
 3 **A. I don't think I ever met with George by**
 4 **myself, it was always in the company of other**
 5 **lawyers.**
 6 Q. Okay. And do you remember who those
 7 lawyers were?
 8 **A. If Eric was in town, it certainly would**
 9 **have been Eric. It could have been with the**
 10 **lawyers in the firm working on those cases,**
 11 **whichever cases they were, probably John**
 12 **Gardner, who was -- who was running, internally,**
 13 **a bunch of cases that we had -- where Arkansas**
 14 **was the lead plaintiff.**
 15 Q. Okay. And the significance of Arkansas
 16 being lead plaintiff included, did it not, that
 17 Damon Chargois would receive compensation of
 18 some kind; correct?
 19 **A. We had an understanding with -- with**
 20 **Damon's firm that they would receive a**
 21 **percentage of the fee associated with our**
 22 **representation of the Arkansas Teachers**
 23 **Retirement System, yes, that's true, that's**
 24 **correct.**

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1 Q. How did that agreement come about,
 2 Chris?
 3 **A. So, you know, just a little background,**
 4 **because I think this could be helpful. So we**
 5 **had a very, sort of, good, productive**
 6 **relationship with the Thornton Law Firm and --**
 7 **where, you know, we would -- we would jointly**
 8 **get retained by, you know, funds in the**
 9 **Northeast area, which was their sort of area**
 10 **of -- they had lots of relationships within the**
 11 **area. And we, you know, had an understanding**
 12 **they would get, sort of, let's say, up to**
 13 **20 percent. And the understanding was that, it**
 14 **was going to be somewhat of a, I call it, a**
 15 **turnkey, but I'm using a -- what I mean is we**
 16 **didn't have to do any heavy lifting up in the --**
 17 **up in the area, because there's a lot -- I mean,**
 18 **we're a national firm. Think about this, so we**
 19 **have over 200 pension fund clients, we may have**
 20 **one within driving distance of our office, okay.**
 21 **So we maintain a national practice and -- but**
 22 **without offices all over the nation. So it's**
 23 **very important, any time that we can leverage**
 24 **others who -- who are ready and willing and able**

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1 **to do the heavy lifting locally, we're happy to**
 2 **sort of let that happen, and, of course, pension**
 3 **funds feel much more comfortable with people**
 4 **they know or people who are close by or were**
 5 **introduced through someone they know, so we made**
 6 **that a -- a -- this is how Labaton was going to**
 7 **build more business.**
 8 **I think we -- my -- my -- what I**
 9 **remember is Eric telling me, oh, this guy,**
 10 **Damon, boy, he -- he knows everybody, between**
 11 **him and Tim, they know everyone in Houston and**
 12 **Arkansas, you know, so I had hopes that -- that**
 13 **that could become another relationship like a**
 14 **Thornton relationship. So I -- I was willing to**
 15 **do the same sort of arrangement with Damon,**
 16 **which I think was up to 20 percent on whatever**
 17 **clients are -- are generated, with the**
 18 **understanding that they would do all the heavy**
 19 **lifting because --**
 20 **THE SPECIAL MASTER:** Heavy lifting
 21 in the litigation side of it,
 22 substantive litigation side or client
 23 development side?
 24 **THE WITNESS:** More on the client

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1 development side, but, you know, Damon
 2 touted himself to be quite an effective
 3 lawyer, trial lawyer and, you know,
 4 indicated he's ready, willing and able
 5 to do whatever we need him to do in
 6 these cases and that's why he got
 7 the -- what -- in -- you know, from
 8 a -- from an economic perspective,
 9 that's why he had a premium, up to
 10 20 percent, because market, if there is
 11 such a thing as a market for a referral
 12 within our industry, it's more like 10
 13 percent, maybe up to 15, but 20 implies
 14 a very high expectation as to the
 15 amount of involvement they're going to
 16 have in interactions with the client,
 17 from, you know, going to present,
 18 right, a lot of times, you want a case
 19 done, you have to fly in, you've got to
 20 present to the board, you know, so all
 21 of these things are very
 22 time-consuming, you know, helping get
 23 the documents together for production
 24 when they're a plaintiff, in discovery,

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1 all sorts of things pop up from time to
2 time, could you imagine --
3 **THE SPECIAL MASTER:** So in what
4 you're describing, there's an overlap
5 between what would be traditional and,
6 I think, thought of as a local counsel
7 relationship, in which somebody like
8 Damon interfaces with the client
9 substantively, as well as on a
10 client-building relationship basis.
11 **THE WITNESS:** Yes.
12 **THE SPECIAL MASTER:** So --
13 **THE WITNESS:** That -- that was what
14 was envisioned.
15 **THE SPECIAL MASTER:** So you
16 envisioned Damon, initially, as being
17 not only a bird dog for clients --
18 **THE WITNESS:** Correct.
19 **THE SPECIAL MASTER:** -- but also
20 doing substantive local counsel work.
21 **THE WITNESS:** That's correct.
22 **BY MR. SINNOTT:**
23 Q. Is that what happened, in the course of
24 Damon's relationship with the firm?

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[REDACTED]

Page 47

[REDACTED]

Page 49

[REDACTED]

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1 close relationship. The -- the general
2 counsel in writing says, go work with
3 them, if you want to. You know, it
4 is -- this is an easy one, right. It's
5 an easy one. This isn't like, oh,
6 well, there's this person, he hasn't
7 been approved, but I want to work with
8 him and -- it doesn't make any sense to
9 anybody, to be honest with you. It
10 doesn't make sense to me.
11 **THE SPECIAL MASTER:** That -- what
12 doesn't make sense to you?
13 **THE WITNESS:** That -- that -- that
14 he wouldn't have come to -- that George
15 Hopkins would not have come to know
16 this information about -- of our
17 obligation that we had, even if it was
18 merely to complain, because the
19 obligation that we had, I was not happy
20 with it, personally.
21 **THE SPECIAL MASTER:** From the
22 beginning or as it developed?
23 **THE WITNESS:** No, not from the
24 beginning, from the beginning, I had,

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1 you know, very high hopes that it was
2 going to, you know, result in, you
3 know, many clients in that area of the
4 country and Damon and his firm were
5 going to be, you know, very much in the
6 way that the Thornton firm was, you
7 know, roll up his sleeves, get
8 involved, handle the clients, do all of
9 that and, you know, of course, you
10 know, I'm busy in -- in my role in the
11 firm and, you know, in getting new
12 matters investigated and off the
13 ground, so I didn't really have a
14 chance to feel my displeasure,
15 probably, until we had to write the
16 first check, and then -- well, but it
17 was very small, so my displeasure
18 was --
19 **THE SPECIAL MASTER:** Was small.
20 **THE WITNESS:** -- was small. But as
21 the checks grew -- or actually, as I
22 saw on the horizon, the potential for a
23 very large one and I -- you know, I got
24 very exasperated, internally and

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1 basically, this is completely and
2 utterly unfair this amount that we're
3 paying for him, because this is a rate
4 that would be paid for someone who's
5 doing a lot of work, including --
6 **THE SPECIAL MASTER:** A traditional
7 local counsel?
8 **THE WITNESS:** Yeah, someone who was
9 really involved.
10 **BY MR. SINNOTT:**
11 Q. So, Chris, you were unhappy with this
12 deal?
13 A. Yes.
14 Q. You know George Hopkins?
15 A. Yes.
16 Q. You've worked with him, you know the
17 type of person he is.
18 Did you really think that George
19 Hopkins would be happy with a deal like this?
20 A. I don't think George -- there's --
21 George is a very -- he's a very interesting guy.
22 There are certain things that one would expect
23 him to care about that he cares not a whit
24 about. And then there are things that one would

Page 69

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
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20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 70

[REDACTED]

Page 72

1 going to argue against, you know,
2 clients being made aware of, you know,
3 referral relationships. I'm not going
4 to argue against that.
5 **MR. SINNOTT:** We're not asking you
6 to argue against that.
7 **THE SPECIAL MASTER:** We're not
8 arguing.
9 **BY MR. SINNOTT:**
10 Q. We're asking you to embrace that
11 responsibility.
12 Are you willing to do that?
13 **A. I -- I think --**
14 **MS. LUKEY:** Objection.
15 **A. I think the -- the rules, you have to**
16 **follow the applicable rules as they relate to**
17 **referral fees. Whatever they are, they are.**
18 Q. But it's not just a rule, Chris, it's
19 the responsibility of -- as part of an
20 attorney-client relationship, isn't it?
21 **A. You know, I don't know. You know, you**
22 **can envision scenarios where, you know, we had**
23 **maybe -- we -- let's say we resolved a -- a**
24 **departure of a lawyer, and he says, I'm going**

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1 **THE WITNESS:** I don't know what you
2 mean.
3 **THE SPECIAL MASTER:** All right.
4 Let me ask it more directly.
5 **THE WITNESS:** Okay.
6 **THE SPECIAL MASTER:** George is an
7 institutional client.
8 **THE WITNESS:** Correct.
9 **THE SPECIAL MASTER:** Not simply an
10 institutional client, but a public
11 institution, with, as we've discussed,
12 public obligations to oversight, to
13 government oversight, involved in very
14 large cases. Wouldn't lead counsel in
15 these cases want the client to know
16 every aspect of the financial
17 relationships that are arising out of
18 the client relationship and isn't there
19 an obligation to tell the client? I
20 mean, maybe the client says, you know
21 what, that's your business, but just
22 simply so that the firm is on record as
23 informing the client.
24 **THE WITNESS:** Yeah, I -- I'm not

Page 73

[REDACTED]

Page 74

[REDACTED]

Page 76

[REDACTED]

Page 75

[REDACTED]

Page 77

1 **these things, so...**
2 Q. And you have no affirmative evidence of
3 any kind that Eric, you, Larry Sucharow or
4 anyone else at the firm ever informed Mr. Doane
5 or Mr. Hopkins of this ongoing obligation to
6 Damon Chargois, do you?
7 **A. I cannot speak on behalf of anyone**
8 **other than myself.**
9 Q. So the answer is, no, I don't have any
10 evidence to that extent?
11 **A. I -- well, no, I -- yeah, I -- I -- I**
12 **didn't. I didn't speak to him, you know, I**
13 **wasn't client-facing. The client -- the client,**
14 **you know, development, is a very kind of a**
15 **siloed thing within the firm. They -- they --**
16 **they operate, you know, a lot on the road,**
17 **amongst themselves, you know, I couldn't keep up**
18 **with it really if I tried, you know, so, no, I**
19 **didn't --**
20 **THE SPECIAL MASTER:** I want to pick
21 up on this, because something
22 throughout the course of this case has
23 struck us and that is -- as different
24 and that is the very siloed, as you

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[REDACTED]

Page 80

[REDACTED]

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1 compartmentalized roles and we've seen
2 this reflected in a number of the
3 issues in this case, the double
4 counting, for example.
5 Do you think that is a good way to
6 run a law firm that has as -- as
7 prominent as Labaton is and in your
8 areas of practice is always in the hunt
9 in these enormously important and huge
10 cases for lead counsel, is that a good
11 way to run a law firm?
12 **MS. LUKEY:** Objection.
13 **THE WITNESS:** You could -- you
14 could -- you could be sitting around a
15 table in my executive committee
16 meetings and we'd be having these very
17 same -- same questions over the years,
18 which is, you know, an effort to
19 modernize, an effort to, you know, work
20 efficiently. One of the things about
21 our practice that is fairly unique,
22 although, nothing can be fairly unique,
23 right, it's either unique or it's not,
24 each -- each aspect of our practice

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[REDACTED]

Page 94

[REDACTED]

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1 MS. LUKEY: Was that his? I'm
2 sorry.
3 A. I -- I don't think I -- I don't think I
4 ever did that.
5 Q. All right. Do you remember saying
6 words to the effect of that the Court doesn't
7 need to know about Chargois?
8 A. No.
9 MS. LUKEY: Objection.
10 Q. So your testimony is that you've never
11 had discussions with anyone at Labaton about
12 concealing or not disclosing the obligation to
13 Damon Chargois and his firm?
14 A. That's correct.
15 Q. And that includes ERISA?
16 A. I never had any conversations regarding
17 disclosure of Damon's referral obligation with
18 anyone, period.
19 Q. Okay. Let me just ask you to take a
20 look at the -- and I believe you both have a
21 copy of this, the amended responses to the
22 supplemental interrogatories.
23 MS. LUKEY: Is that in the stack,
24 Bill?

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1 Mr. Doane?
2 A. No.
3 Q. Did Eric ever ask you whether he should
4 inform Hopkins of the Chargois relationship?
5 A. No.
6 Q. Did anyone else at the firm ever
7 discuss either with you or that you were aware
8 of, whether Hopkins or his organization should
9 be informed of the Chargois relationship?
10 A. Never came up.
11 Q. Did anyone ever discuss with you
12 whether or not other entities, such as the ERISA
13 attorneys or the Court, should not be told about
14 the obligation to Damon Chargois?
15 A. Not -- I mean, I -- I've seen some, you
16 know, documents and testimony on that issue, but
17 I was never involved in that aspect of the case.
18 Q. So no one ever discussed that with you?
19 A. No.
20 Q. So when you -- and we'll get to that
21 email after we finish our overview, but when you
22 made a statement in an email that Chargois'
23 agreement should not be in the fee petition,
24 were you doing that on your own?

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[REDACTED]

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1 for which they are -- they do it
2 themselves.
3 **THE SPECIAL MASTER:** You don't have
4 to sign off on those?
5 **THE WITNESS:** That's correct.
6 And -- and, you know, so I would say
7 the majority of them cross my desk
8 and -- and flow through me.
9 **THE SPECIAL MASTER:** Certainly
10 State Street did?
11 **THE WITNESS:** At the outset, it
12 did, yes.
13 **BY MR. SINNOTT:**
14 Q. Did Garrett Bradley have a referring
15 relationship with Labaton?
16 **A. No, I mean, I -- I never considered him**
17 **to be a referring lawyer.**
18 Q. Looking at this --
19 **THE SPECIAL MASTER:** He didn't have
20 an agreement that -- I'm not talking
21 about State Street now, but Garrett
22 Bradley didn't have a referral
23 agreement, not necessarily like
24 Chargois', but a relationship in which

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1 he would get a percentage of cases?
2 **MS. LUKEY:** He personally?
3 **THE SPECIAL MASTER:** No.
4 **THE WITNESS:** No.
5 **THE SPECIAL MASTER:** With the law
6 firm, the law firm.
7 **THE WITNESS:** Thornton, we had a
8 relationship, they would get up to
9 20 percent, but I -- you know, I guess
10 I don't -- the -- the -- the monikers,
11 I don't know how much they really
12 matter. In my mind, I would have
13 called him something different, I would
14 have called him our local counsel.
15 **THE SPECIAL MASTER:** Garrett?
16 **THE WITNESS:** The Thornton firm,
17 because he was local to all the clients
18 and he acted in a very substantive
19 capacity in almost every case he was
20 involved in. So I wouldn't -- I could
21 have probably -- I could have probably,
22 I could have, in an email, called it a
23 referral fee we owed Thornton & Naumes,
24 but, you know, so we had a relationship

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1 with them where they would receive up
2 to 20 percent of a case in which their
3 client they introduced us to was in the
4 case and they would -- they would do
5 everything.
6 **BY MR. SINNOTT:**
7 Q. Did they typically enter an appearance
8 in those cases?
9 **A. No.**
10 Q. But notwithstanding the lack of an
11 appearance, you say that they would do
12 everything, what would they do?
13 **A. Oh, everything from a client**
14 **perspective. They would update the clients,**
15 **they would sometimes present to the boards, you**
16 **know, when the boards wanted updates.**
17 **THE SPECIAL MASTER:** So they would
18 liaise with the clients.
19 **THE WITNESS:** Yeah, in a heavy
20 capacity, they would do the
21 hand-holding on document production,
22 which is -- you know, that in and of
23 itself is -- you know, entitles them to
24 whatever they get, I mean, it's a

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1 tough --
2 **THE SPECIAL MASTER:** Yeah, but that
3 would be reflected on a time -- or
4 should be reflected on a time sheet,
5 which was then, at the end of the case,
6 filed with the Court in the form of a
7 lodestar petition, no?
8 **THE WITNESS:** We -- we -- we didn't
9 really --
10 **MS. GERBER:** Laura Gerber.
11 **MR. SINNOTT:** Hello, Laura.
12 **THE WITNESS:** We -- we weren't
13 seeking separate compensation for their
14 time, so we didn't submit it.
15 **BY MR. SINNOTT:**
16 Q. All right. And, Chris, looking at the
17 remaining cases on this list, Beckman Coulter,
18 Colonial BancGroup and In Re Capacitors
19 Antitrust Litigation, are you familiar with
20 Mr. Chargois' role in those cases?
21 **A. All -- all but Capacitors.**
22 Q. All right. Tell us about Beckman
23 Coulter, what was his role?
24 **A. I think it would have been -- I mean,**

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[REDACTED]

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1 Q. Who negotiated that agreement with
 2 Mr. Chargois?
 3 **A. It was partially negotiated by myself**
 4 **and, you know, as I -- as we had discussed**
 5 **earlier, at some point, I'm sure I had a**
 6 **discussion with Damon, Damon and Tim, maybe, I**
 7 **don't remember, where we -- we agreed it would**
 8 **be up to 20 percent and -- and, you know,**
 9 **referenced, you know, how things were working at**
 10 **the time with the Thornton firm and what we**
 11 **expected and what we hoped for and that he was**
 12 **getting the premium, you know, participation**
 13 **for, you know, what was expected to be -- I**
 14 **mean, you know, with all due respect to -- to**
 15 **Arkansas and that area of the country, it's not**
 16 **easy to get to, and, you know, you go in -- you**
 17 **go in for a 15-minute meeting, it could take you**
 18 **three days of travel, so they understood that**
 19 **our expectation was that they were going to be**
 20 **doing the hand-holding and I remember making**
 21 **this very --**
 22 **THE SPECIAL MASTER:** I'm sorry,
 23 they would be doing --
 24 **THE WITNESS:** The hand-holding.

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1 Chargois had no relationship.
 2 **THE WITNESS:** Oh, by that time,
 3 yeah, sure, of course. But I'm saying,
 4 in the beginning, you go to them
 5 because they have that relationship.
 6 **BY MR. SINNOTT:**
 7 Q. All right. So you said you thought in
 8 Colonial, he had a role, do you recall anything
 9 in particular that -- that he did in that case?
 10 **A. No.**
 11 Q. Do you know if he entered an appearance
 12 in that case?
 13 **A. No.**
 14 Q. And you say you're not familiar with
 15 the In Re Capacitors case?
 16 **A. Correct.**
 17 Q. Okay. Is that an Arkansas case, to
 18 your knowledge?
 19 **A. I don't know.**
 20 Q. So at some point, Chris, there was an
 21 agreement to pay Mr. Chargois and/or his firm a
 22 fee for every case in which Arkansas was lead
 23 plaintiff; correct?
 24 **A. That is correct.**

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1 **THE SPECIAL MASTER:** Hand-holding.
 2 **A. And I -- and I remember making that**
 3 **very same presentation when we were talking**
 4 **about why they would be getting the premium, the**
 5 **most we've ever agreed to, up to 20 percent,**
 6 **and -- because of that.**
 7 Q. Okay. So you recall a specific
 8 conversation in which you told them that part of
 9 the agreement was that they would be doing the
 10 hand-holding or how did you describe that to
 11 them?
 12 **A. I -- in -- basically in -- in**
 13 **referencing the existing relationship with**
 14 **the -- with the Thornton firm, that the Thornton**
 15 **firm was, you know, close to them and would go**
 16 **to meetings and, you know, would -- would get**
 17 **documents signed, sometimes, you know, clients,**
 18 **you know, let a document sit on the desk for**
 19 **three or four days and you need that signed and**
 20 **you don't want to hound them again, you know,**
 21 **you'll -- you'll get your -- your local firm to**
 22 **call up or walk over and get it done.**
 23 **Do I remember where that happened, when**
 24 **that happened, what day? No. But I do remember**

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1 conveying that -- that notion because I wouldn't
2 have agreed to -- to up to 20 percent without
3 that, because I -- we don't agree to that in
4 other -- any other referral situation we may
5 have.
6 Q. At what point did you stop requiring
7 that hand-holding on the part of Chargois and
8 his firm?
9 A. Well, you know, again, this is -- once
10 we were retained, you know, I go back to my
11 knitting, I have not a lot to do with anything
12 until fees are coming in, so I'm not paying
13 attention to anything that's going on as it
14 relates to that client. And as I testified
15 earlier, I came to know that they weren't
16 involved anymore in connection with an unrelated
17 conversation I was having probably with Eric
18 regarding, you know, maybe getting the Chargois
19 and his firm to do something in Arkansas and he
20 says, oh, well, George only deals with me, he
21 doesn't want to deal with -- with other people,
22 something like that, something to that effect.
23 Where I said, so -- I said, so they're out,
24 they're not doing anything. He said, yeah, or

Page 115

1 [REDACTED]
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24 [REDACTED]

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1 the fees at the same time that the Chargois firm
2 would have interest in fees in the same matter,
3 did they know that, yes.
4 Q. Well, let me ask you this, was there a
5 protocol that your referring attorney should not
6 be contacted by Thornton or by other firms, that
7 they had to go through you?
8 A. No. I mean, you know, referring
9 relationships, depending on who they are and who
10 the client is, can be very sensitive, you don't
11 want that information out there in the public
12 domain, because if it is, I can assure you that
13 our competitors would be calling them up and
14 taking them out to lunch next week.
15 Q. But in this particular case, that was
16 not a concern?
17 A. In Beckman?
18 Q. No, in the Arkansas cases or in the
19 Colonial case, specifically?
20 A. I -- I don't know if it was a concern
21 or not.
22 Q. When the State Street case came around,
23 was it a concern?
24 A. In other words, who -- who was -- I --

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[REDACTED]

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1 Q. And why is that?
2 **A. Well, there's -- there's proprietary**
3 **sort of relationship information. Again, that's**
4 **one aspect.**
5 Q. What is that -- what do you mean by
6 that?
7 **A. If -- if we put his name on these**
8 **papers, that means our competitors know that**
9 **that firm has relationships with these clients**
10 **and that means they'll be calling them up trying**
11 **to poach them as local counsel.**
12 Q. But what's to stop them from doing that
13 when anybody lists those clients?
14 **A. If they're on there, you can. I -- I**
15 **think most firms leave those names off.**
16 Q. Did Thornton Law Firm ask to be left
17 off or was this a decision by Labaton?
18 **A. And we knew -- and we knew we weren't**
19 **submitting a fee affidavit, so we weren't**
20 **getting paid on their time, so we just didn't**
21 **have them on our papers.**
22 Q. But Thornton Law Firm did receive money
23 for this case?
24 **A. A payment for their service as local**

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1 names and contact information, it's indicated
2 that Labaton and its attorneys are lead counsel
3 for the class and attorneys for Bristol County
4 Retirement System and Plymouth County Retirement
5 System.
6 Are those Massachusetts entities?
7 **A. I -- I know Plymouth, I know Plymouth**
8 **is, I think Bristol is.**
9 Q. Okay. Were these brought into the case
10 by Thornton Law Firm?
11 **A. These would have been clients with**
12 **which the Thornton Law Firm was acting as the**
13 **new local counsel.**
14 Q. And was Garrett Bradley Thornton's
15 person in the -- in the case, or do you recall?
16 **A. Yeah, I mean -- we often work through**
17 **Garrett and if Garrett had an assistant, in**
18 **terms of getting -- communicating with the**
19 **client and producing documents, et cetera.**
20 Q. All right. Can you tell me why Garrett
21 didn't enter an appearance in this case?
22 **A. It was our practice, we did not have**
23 **Garrett's firm as a -- enter appearance in our**
24 **cases.**

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1 **counsel, yes.**
2 Q. All right. Even though no one entered
3 an appearance?
4 **A. That's correct.**
5 Q. Don't you think that's incongruous that
6 an attorney or a firm is local counsel, but
7 doesn't enter an appearance?
8 **A. I don't.**
9 Q. You don't think that's a prerequisite
10 to status as local counsel?
11 **A. No.**
12 **THE SPECIAL MASTER:** There are two,
13 maybe, variations on local counsel, one
14 is a local counsel, and many courts
15 have local rules on this, which -- who
16 are required to file an appearance and
17 interface with the Court, if necessary.
18 And the other local counsel is local
19 counsel who is local to the client and
20 serves the client and does the
21 hand-holding you described.
22 **THE WITNESS:** That's correct.
23 **THE SPECIAL MASTER:** So which would
24 this be?

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1 **THE WITNESS:** This was the
2 hand-holding.
3 **THE SPECIAL MASTER:** Even though
4 they're billing hours?
5 **THE WITNESS:** They're not billing.
6 **THE SPECIAL MASTER:** Oh, I'm sorry,
7 I thought they were doing substantive
8 work and billing hours.
9 **THE WITNESS:** They're not billing.
10 They were doing substantive work,
11 though.
12 **THE SPECIAL MASTER:** So they're
13 doing substantive work on the case, but
14 not billing hours?
15 **THE WITNESS:** Correct.
16 **BY MR. SINNOTT:**
17 Q. How much money did the Thornton Law
18 Firm receive in the HCC case?
19 **A. I don't know.**
20 Q. Can I assume that a fee petition was
21 submitted in this case?
22 **A. Sure.**
23 Q. Was Thornton Law Firm and the amount
24 that was being paid to the firm and/or to

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1 Garrett Bradley referenced in that fee petition?
2 **A. We -- we never paid money to Garrett**
3 **Bradley directly, we paid money only to**
4 **Thornton.**
5 **We would not have included any**
6 **description of our obligations to the Thornton**
7 **firm in our fee applications.**
8 Q. Even though you considered them to be
9 local counsel and they did substantive work in
10 the case?
11 **A. Well, it -- you -- without splitting**
12 **hairs on names, okay, they were not local**
13 **counsel to the Court. This is an instance where**
14 **they were local counsel to the client. So you**
15 **can look at that more as referral counsel and,**
16 **no, we would not put a referring attorney on our**
17 **fee application.**
18 Q. Is that a common practice at Labaton?
19 **MS. LUKEY:** Is which?
20 **MR. SINNOTT:** To --
21 **MS. LUKEY:** Not putting referring
22 attorneys as -- on the fee petition?
23 **MR. SINNOTT:** Yes.
24 **MS. LUKEY:** Okay.

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1 **A. I -- it's -- I don't -- I'm not in**
2 **charge of the settlement process, that would be**
3 **a question probably better for Nicole, I can't**
4 **tell you who goes on and who doesn't, but to the**
5 **cases that I am familiar with where the Thornton**
6 **firm were involved, I don't think they generally**
7 **went on papers.**
8 Q. All right. Well, let me ask you as a
9 litigator, is it a common practice that counsel
10 who are actively participating in a case don't
11 file an appearance?
12 **A. I think it really comes down to --**
13 **if -- you know, we're taking a hypothetical**
14 **case. Anyone who's going to appear before the**
15 **Court has to be on the papers and has to be pro**
16 **hac'ed, but it was never the intention that they**
17 **appear in court, so there's no appearance ever**
18 **filed.**
19 **THE SPECIAL MASTER:** But they're
20 working on the case.
21 **THE WITNESS:** But they're not
22 billing.
23 **THE SPECIAL MASTER:** You don't see
24 how that could create problems, put

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1 yourself in the judge's position.
2 Suppose you've got a judge who has
3 friends or even relatives at this firm,
4 just theoretically, or other interests
5 in the firm, the firm is working on the
6 case, the judge doesn't know it, you
7 don't think that's a problem?
8 **THE WITNESS:** From what
9 perspective?
10 **MR. SINNOTT:** From a conflict of
11 interest perspective.
12 **THE SPECIAL MASTER:** From a
13 conflict of interest perspective.
14 **MS. LUKEY:** The judge wouldn't know
15 about them.
16 **THE SPECIAL MASTER:** Others could
17 find out, raise the issue, blow the
18 case up, the case has to get
19 transferred away from the judge in mid
20 case, I think you're playing with fire
21 here, that's my opinion.
22 **THE WITNESS:** I -- I don't know if
23 it's -- I mean, look, there is -- you
24 know, there is -- I'm sure that we went

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1 and undertook, you know, conflict
2 checks, I'm sure they did their own
3 conflict checks in any matter they were
4 involved in, we did our conflict
5 checks, so it would have popped up. I
6 don't see what the -- I don't see what
7 the -- how that really -- if they
8 instead, you know, sort of appeared on
9 a signature block, three -- you know,
10 three -- three firms down. It seems
11 more like window dressing.
12 **THE SPECIAL MASTER:** You've got a
13 different view of this than I do, from
14 a judge's perspective.
15 **BY MR. SINNOTT:**
16 Q. Chris, who's responsible if Thornton
17 Law Firm screws up on this case?
18 **A. Well, they -- clearly, that's our --**
19 **that's our responsibility. We're working at the**
20 **direction of lead counsel. If we -- if we asked**
21 **them to --**
22 **THE SPECIAL MASTER:** Is your
23 carrier advised that they're working on
24 this and they screw up?

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1 **THE WITNESS:** I have no idea what
2 our carrier is advised of.
3 **THE SPECIAL MASTER:** I think you're
4 playing with fire with this kind of
5 stuff, it's not a good practice, from
6 all sorts of perspectives.
7 **THE WITNESS:** Well, I mean, you
8 know --
9 **THE SPECIAL MASTER:** Go ahead.
10 Good luck with it.
11 **MR. SINNOTT:** You were about to say
12 something?
13 **THE WITNESS:** No, I mean, look --
14 **MR. SINNOTT:** Joan hasn't kicked
15 you under the table.
16 **A. She hasn't kicked me. You know, look**
17 **we're not -- you know, we're not, what's that,**
18 **the foolish consistency being the hobgoblin of**
19 **little minds, we're -- we're open to learning**
20 **from, you know, things that don't go well, and,**
21 **you know, you have to sit back and say, you**
22 **know, what can we do, what can we do in the**
23 **future that -- that ensures this is never going**
24 **to happen again. You know, it' s-- it's in our**

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1 **interests and our clients' interests that, you**
2 **know, things be done in a way that protects**
3 **everyone and -- and -- and so that's what we're**
4 **going to do.**
5 Q. Chris, aside from the Chargois referred
6 relationship and aside from Thornton's role in
7 HCC, how many other cases are you aware of where
8 the -- where Labaton has had silent partners
9 like this that don't enter an appearance but are
10 ostensibly representing a party?
11 **A. In other words, if we have a referral**
12 **relationship, let's say?**
13 Q. Or a relationship like this, where, as
14 I understand it, from you, the Thornton Law Firm
15 was --
16 **A. Right.**
17 Q. -- was actually doing things?
18 **A. I -- I just -- I just don't know the**
19 **answer to that question. I mean, is it -- you**
20 **know, is it, you know, five or ten, I just -- I**
21 **don't know. Is it zero? Nicole would know who**
22 **goes on those papers and who doesn't.**
23 Q. What's the purpose of filing an
24 appearance?

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1 **A. If you're going to appear before the**
2 **Court.**
3 **THE SPECIAL MASTER:** Whoa, whoa,
4 whoa.
5 **THE WITNESS:** In my -- in my
6 estimation.
7 **THE SPECIAL MASTER:** How do you
8 define, "appear before the Court"?
9 **THE WITNESS:** If you are going to
10 sign documents or otherwise subject
11 yourself through jurisdiction of the
12 Court.
13 **THE SPECIAL MASTER:** So under your
14 view, a law firm could be working
15 totally quietly, doing all the work,
16 substantive work, you have another firm
17 that has appeared in front of the
18 Court, fronting for that law firm,
19 using that law firm's work and not
20 advising the Court of that?
21 **THE WITNESS:** Well, I mean, I
22 think -- I think there's a continuum.
23 You know, if you're having some -- if
24 you're having someone sort of draft --

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1 draft briefs, I don't know, could
2 you -- could you outsource that, that's
3 a good question, I don't know. Let's
4 say, could you -- you know, as -- I
5 mean, you see these firms popping up
6 now, where they're -- they're virtual
7 and, you know, they -- all their work
8 comes in, gets farmed out to another
9 firm, that firm never goes on papers,
10 comes back, they sign their name to it.
11 I don't know. I don't know what the
12 law is on that.
13 **MS. LUKEY:** That's an interesting
14 question, because the outsourcing firms
15 that are out there now.
16 **THE WITNESS:** They're all over the
17 place.
18 **MS. LUKEY:** Very interesting.
19 **THE SPECIAL MASTER:** I don't know.
20 **BY MR. SINNOTT:**
21 Q. You know, a cynic might say, and I'm
22 certainly not one, that keeping Thornton's role
23 in this case under the radar might have
24 something to do with the public position of

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[REDACTED]

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1 Garrett Bradley as a state senator in
2 Massachusetts.
3 Were there ever any discussions that
4 you're aware of, not necessarily you
5 participating in them, but you being aware of or
6 listening in on, where there was a discussion
7 about keeping Garrett's role as a finder or as a
8 referrer or --
9 **A. That's a new term you just introduced.**
10 Q. Yes, we can make up all sorts of words,
11 but hopefully, you get my gist.
12 -- as being involved in the case on the
13 down-low? Were there any discussions like that,
14 that you were aware of?
15 **A. Specific to that narrow issue, no.**
16 **Specific to, you know, did we want all of our**
17 **competitors to start chasing down the Thornton**
18 **Law Firm the next day, that, as I've said**
19 **before, was definitely on my mind.**
20 **THE SPECIAL MASTER:** But you knew
21 that Garrett was disabled from
22 participating in certain kinds of
23 cases, at least in Massachusetts.
24 **THE WITNESS:** Very limited number

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[REDACTED]

15 [REDACTED] t's

[REDACTED]

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[REDACTED]

Page 228

[REDACTED]

Page 227

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
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18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

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1 **A. It was 20 percent of our fees, our net**
2 **fees, so I'm -- I -- I don't know how the**
3 **calculations were performed here, but Damon**
4 **probably got 150 off the top and then Garrett**
5 **got 20 percent of everything left over.**
6 **Q. I'm not asking how the math was done,**
7 **I'm asking, how was the number 20 percent**
8 **arrived at?**
9 **A. Oh, we had -- it was up to 20 percent,**
10 **that was the deal, and Garrett and I would talk.**
11 **Q. All right. Now, that was the deal, did**
12 **you negotiate that deal?**
13 **A. Oh, gosh, I don't know. I mean, that**
14 **was an overarching deal, I don't know if it was**
15 **in place before I got involved in that**
16 **relationship or after.**
17 **Q. Okay. But do you -- you don't know how**
18 **the 20 percent amount was arrived at?**
19 **A. It's very possible that I -- I, you**
20 **know, was negotiating that. It -- it could have**
21 **been something that was discussed before I got**
22 **involved. I just don't remember, I don't have**
23 **any specific recollection.**
24 **Q. Was there a written agreement with**

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1 Thornton Law Firm and/or Garrett for that
2 amount?
3 **A. Not that I'm aware of.**
4 Q. Was that an amount that was used in any
5 prior or subsequent cases with Thornton Law
6 Firm?
7 **A. The 20 percent?**
8 Q. Yes.
9 **A. Up to. Sure.**
10 Q. And was it ever reduced to a written
11 agreement?
12 **A. I don't believe so.**
13 Q. And 20 percent is also what you
14 negotiated with Damon Chargois; correct?
15 **A. That's correct.**
16 Q. Is that a standard amount for --
17 **A. No.**
18 Q. -- an attorney?
19 **A. Sorry.**
20 **As I testified earlier, it was the**
21 **maximum that we were willing to pay to a firm**
22 **that was acting as referral counsel, but then**
23 **doing all of these things necessary local to the**
24 **client that was of real value to the firm so it**

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1 **didn't have to undertake that significant**
2 **legwork associated with local, by "local"**
3 **meaning near to the client, matters, whether it**
4 **was making a brief presentation, getting**
5 **signatures, holding their hand through some**
6 **document production issue that arose, you know,**
7 **suddenly, that kind of thing.**
8 Q. All right. Did -- I believe you
9 testified that Thornton did not bill in this
10 case; correct?
11 **A. That's correct, they did not submit**
12 **time as part of their fee application.**
13 Q. So how did you arrive at 20 percent?
14 **A. It's a -- it's a discussion, you know,**
15 **was the case profitable to us, if it wasn't,**
16 **we'd come down off 20 percent, so it was -- it**
17 **was like that.**
18 **I think in the beginning, and this was**
19 **one of the first few cases, I think we tried to**
20 **stay pretty close to 20 percent. As time went**
21 **on, you know, it just seemed a little rich**
22 **and --**
23 **THE SPECIAL MASTER: Did it have**
24 **anything to do with how much**

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1 substantive work the Thornton firm
2 actually put into the case?
3 **THE WITNESS: I mean, that -- that**
4 **wasn't irrelevant, you know, it wasn't**
5 **irrelevant. You know, if there was a**
6 **case in -- that was heavy plaintiffs**
7 **discovery, you know, it would be**
8 **considered. It was sort of a -- it was**
9 **sort of an equitable, you know, back**
10 **and forth, and we had a very good**
11 **rapport with them, and, you know,**
12 **sometimes they, you know, pushed a**
13 **little more and we would be okay, and**
14 **sometimes we pushed a little more and**
15 **they would be okay, and -- and, you**
16 **know, we actually used to talk about**
17 **how wonderful the relationship was**
18 **between the firms because, you know, we**
19 **would -- we would all be reasonable**
20 **people.**
21 **BY MR. SINNOTT:**
22 Q. How did you know what work they were
23 doing?
24 **A. I wouldn't know everything, that's for**

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1 **sure. But, you know, we all maintained, you**
2 **know, sort of open lines of communication. I**
3 **mean, I was on the phone with, at that time, you**
4 **know, Garrett almost daily, because we had so**
5 **many cases together, and so we could be on the**
6 **phone talking about one case, and he could say,**
7 **oh, gosh, you know, we got killed in this other**
8 **case you got me, there's three plaintiff's depositions**
9 **coming up, I've got deposition prep all week on this,**
10 **you know, and he would -- you know, you better**
11 **not cut me or something like that. I mean,**
12 **that's the kind of rapport we had.**
13 Q. Were you taking it on faith as far as
14 what they said they were doing for you?
15 **A. Yes.**
16 Q. Okay. Because you didn't have any way
17 of checking?
18 **A. I mean, I could have, but I probably**
19 **wouldn't.**
20 Q. Did Chargois know that Thornton Law
21 Firm was doing work in this case?
22 **A. Well, if you're asking me did Chargois**
23 **know that Garrett was the referral attorney,**
24 **let's say, for that case or doing that function?**

EX. 81

Exhibit C

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

<hr/>	ARKANSAS TEACHER RETIREMENT SYSTEM, et al. v.)	No. 11-cv-10230 MLW
	STATE STREET BANK AND TRUST COMPANY)	
)	
	ARNOLD HENRIQUEZ, et al. v. STATE STREET BANK)	No. 11-cv-12049 MLW
	AND TRUST COMPANY, et al.)	
)	
	THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	No. 12-cv-11698 MLW
	AND PROFIT SHARING PLAN, et al. v. STATE STREET)	
	BANK AND TRUST COMPANY)	
<hr/>)	

NOTICE OF PENDENCY OF CLASS ACTIONS, PROPOSED CLASS SETTLEMENT, SETTLEMENT HEARING, PLAN OF ALLOCATION, AND ANY MOTION FOR ATTORNEYS’ FEES, LITIGATION EXPENSES, AND SERVICE AWARDS

A U.S. Federal Court authorized this Notice. This is not a solicitation from a lawyer.

You Are Receiving this Notice Because Available Information Indicates that You Are a Member of the Settlement Class Defined Below. If this Is Incorrect, Please Contact the Claims Administrator and Lead Counsel Immediately.

This notice (“Notice”) is being sent to advise you of the pendency of the above-captioned class action lawsuits (collectively, the “Class Actions”) and the proposed settlement of the Class Actions for \$300,000,000 (the “Class Settlement Amount”) on the terms discussed below (the “Class Settlement”).¹ The Class Settlement resolves claims arising from the alleged unfair and deceptive practice of State Street Bank and Trust Company (“SSBT”) of charging custody and trust customers of SSBT excessive rates and spreads in connection with certain foreign exchange transactions known as “Indirect FX Transactions”² during the period from January 2, 1998 through December 31, 2009, inclusive (the “Class Period”), in violation of SSBT’s statutory, contractual, and fiduciary obligations. The Class Actions sought to recover losses on behalf of SSBT’s custodial clients based on this alleged unfair and deceptive practice. If approved, the Class Settlement will resolve all claims asserted in the Class Actions.

The Class Settlement is entered into by and among (i) plaintiffs Arkansas Teacher Retirement System (“ARTRS”), Arnold Henriquez, Michael T. Cohn, William R. Taylor, Richard A. Sutherland, The Andover Companies Employees Savings and Profit Sharing Plan, and James Pehoushek-Stangeland (collectively,

¹ All capitalized terms used in this Notice that are not otherwise defined herein have the meanings provided in the Stipulation and Agreement of Settlement, dated as of July 26, 2016 (the “Settlement Agreement”). The Settlement Agreement is available on the website for this Settlement, www.StateStreetIndirectFXClassSettlement.com.

² “Indirect FX Transactions/Trading” means Foreign exchange transactions executed with SSBT or SSBT’s subcustodians at any time using Indirect FX Methods, including all foreign exchange transactions submitted using Indirect Methods. A transaction submitted or processed using an Indirect Method is an Indirect FX Transaction regardless whether the rate at which the transaction was executed differed from the rates at which other transactions submitted using Indirect Methods were executed. Settlement Agreement ¶ 1(ff).

“Plaintiffs”), on behalf of themselves and each Settlement Class Member, by and through their counsel, and (ii) State Street Bank and Trust Company (the “Settling Defendant” or “SSBT”). Plaintiffs and SSBT are referred to collectively herein as the “Parties.”

The Honorable Mark L. Wolf of the United States District Court for the District of Massachusetts (“Court”) is presiding over the Class Actions. Judge Wolf has provisionally certified the proposed Settlement Class (as defined below) for purposes of settlement only, has directed that this Notice be mailed to members of the Settlement Class, and has scheduled a Final Approval Hearing (“Final Approval Hearing” or “Settlement Hearing”) at which the Court will consider Plaintiffs’ motion for final approval of the Class Settlement and approval of the proposed plan for allocating the settlement proceeds to the Settlement Class (“Plan of Allocation”), and Lead Counsel’s motion, on behalf of ERISA Counsel and Customer Counsel, for an award of attorneys’ fees, payment of Litigation Expenses, and payment of any Service Awards for Plaintiffs. **The Final Approval Hearing will be held on November 2, 2016, at 2:00 p.m. in Courtroom 10 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210.** The Class Settlement will become effective once it reaches its “Effective Date,” which is after the opportunity to appeal the Court’s Judgment has expired or, if there are any appeals, approval of the Class Settlement is upheld; after the Court approves the proposed Plan of Allocation and the order has become Final; and certain other conditions are met.

Additional information regarding the Class Settlement and this Notice may be obtained by contacting the Claims Administrator: *State Street Indirect FX Trading Class Action*, c/o A.B. Data, Ltd., P.O. Box 173000, Milwaukee, WI 53217, 877-240-3540, info@StateStreetIndirectFXClassSettlement.com, www.StateStreetIndirectFXClassSettlement.com; or Lead Counsel: Labaton Sucharow LLP, (888) 219-6877, www.labaton.com, settlementquestions@labaton.com.

DO NOT CALL THE COURT WITH QUESTIONS ABOUT THE CLASS SETTLEMENT.

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE CLASS SETTLEMENT	
<p>YOU DO NOT NEED TO TAKE ANY ACTION TO PARTICIPATE IN THE CLASS SETTLEMENT AND RECEIVE A PAYMENT</p> <p>(If you represent a Group Trust,³ see page ___ below.)</p>	<p>If the Class Settlement is approved and you are a member of the Settlement Class, you do not need to take any action to receive a payment. You will be bound by the settlement, unless you take steps to exclude yourself as explained below, and you cannot bring or be part of any other lawsuit or arbitration against Defendants or any of the other Released Defendant Parties based on any Released Class Claim.</p> <p>Your portion of the Net Class Settlement Fund will be calculated as part of the administration of the Class Settlement. An explanation of the manner in which payments to Settlement Class Members will be determined is set forth in the Plan of Allocation,</p>

³ “Group Trusts” are group trusts that are exempt from tax pursuant to Internal Revenue Service Revenue Ruling 81-100, as amended, that were custody or trust customers of SSBT during any part of the Class Period. See Settlement Agreement ¶ 1(bb).

	<p>below. However, Group Trusts, which may include plans or assets governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), need to provide certain information so that their recovery can be properly determined. SSBT has agreed to undertake reasonable efforts to provide the information necessary to determine each Settlement Class Member’s portion of the Net Class Settlement Fund. See the Plan of Allocation in the answer to Question 8 below for important information.</p>
<p>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION (WHICH MUST BE RECEIVED NO LATER THAN OCTOBER 7, 2016)</p>	<p>If you do not wish to be a member of the Settlement Class, you <i>must</i> exclude yourself (as described below in Question 10). If you exclude yourself, you <i>will not</i> receive any payment from the Class Settlement. You cannot bring or be part of any other lawsuit or arbitration against Defendants or any of the other Released Defendant Parties based on any Released Class Claim unless you exclude yourself from the Settlement Class.</p>
<p>OBJECT TO THE CLASS SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION (WHICH MUST BE RECEIVED NO LATER THAN OCTOBER 7, 2016)</p>	<p>If you wish to object to any part of the Class Settlement, the Plan of Allocation, or the requests for attorneys’ fees, Litigation Expenses, and/or Service Awards, and do not exclude yourself from the Settlement Class, you can write to the Court and counsel and explain what you do not agree with.</p>
<p>ATTEND THE FINAL APPROVAL HEARING (NOVEMBER 2, 2016 AT 2:00 p.m.)</p>	<p>If you have submitted a written objection to the Court and counsel and notice to appear, as explained below, you may (but do not have to) attend the hearing and speak to the Court about your objection.</p>

Please note: The Court has the authority to change any of the above deadlines, for good cause shown.

SUMMARY OF THE CLASS SETTLEMENT

As described in more detail below, and in the complaints filed with the Court, the Class Actions allege that Plaintiffs (or the plans they represent) and/or their investment managers entered into agreements authorizing Defendants to engage in Indirect FX Transactions with their custodial accounts under certain circumstances. Plaintiffs alleged that SSBT priced Indirect FX Transactions in a manner advantageous to Defendants and disadvantageous to Plaintiffs, near or outside the high and low of the daily range of interbank rates, contrary to SSBT’s contractual obligations and representations and Defendants’ fiduciary and statutory responsibilities. Copies of the operative complaints in the Class Actions are available at www.StateStreetIndirectFXClassSettlement.com.

Pursuant to the Settlement Agreement, a Class Settlement Fund consisting of \$300 million in cash, plus any accrued interest, has been established, in exchange for the Settlement Class’s release of the Released Class Claims (defined below). Payment by or on behalf of SSBT of the \$300 million Class Settlement Amount, and the allocations discussed below in the Plan of Allocation, will also satisfy conditions in two separate settlements

with federal government agencies.⁴ SSBT anticipates reaching a settlement with the U.S. Securities and Exchange Commission (“SEC”) concerning Indirect FX that relates to Settlement Class Members that are Registered Investment Companies (the “SEC Settlement”).⁵ SSBT has also reached a settlement with the U.S. Department of Labor (“DOL”) concerning Indirect FX that relates to Settlement Class Members that are ERISA Plans (the “DOL Settlement”).⁶

Based on information provided by SSBT, the average gross recovery for a class member from the Class Settlement is approximately \$200,000 before the deduction of Court-approved fees and expenses. A Settlement Class Member’s actual “Recognized Claim” will be calculated in accordance with the Plan of Allocation, explained below, and will depend on, among other things, the Settlement Class Member’s volume of Indirect FX Transactions, and whether or not the Settlement Class Member is an ERISA Plan, a Group Trust, a Registered Investment Company, or none of these. A Settlement Class Member’s payment will be a portion of the Net Class Settlement Fund, which consists of the Class Settlement Fund, less fees and expenses associated with providing notice to the Settlement Class and administering the Class Settlement (“Notice and Administration Expenses”), Taxes and Tax Expenses, Court-approved attorneys’ fees, Litigation Expenses, and any Service Awards to Plaintiffs for the effort and time spent by them in connection with the prosecution of the Class Actions. (See Questions 6 and 8 below for details about the Plan of Allocation).

The Settlement Class is defined as follows:

All custody and trust customers of SSBT (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT’s records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive.

Please Note: There are exceptions to being included in the Settlement Class. A description of those Persons excluded by definition from the Settlement Class is provided below in Question 5.

As with any litigation, the Parties face an uncertain outcome if the Class Actions do not settle and litigation continues. Absent the Class Settlement, orders and appeals on class certification, summary judgment and a trial could result in a judgment or verdict greater or less than the recovery under the Class Settlement, or no recovery at all. Throughout the Class Actions, the Plaintiffs and Defendants have disagreed on both liability and damages, and they do not agree on the amount that would be recoverable even if the Plaintiffs were to prevail at trial. Defendants, among other things: (1) have denied the material allegations of the complaints; (2) have denied any wrongdoing or liability whatsoever; (3) have contested the propriety of class certification; (4)

⁴ SSBT has separately reached a settlement with the U.S. Department of Justice (“DOJ”) concerning Indirect FX (the “DOJ Settlement”). The DOJ Settlement requires SSBT to pay money to the federal government.

⁵ “Registered Investment Company(ies)” means a mutual fund, closed-end fund, unit investment trust or other entity that is registered with the SEC as an investment company under the Investment Company Act. Settlement Agreement ¶ 1(w).

⁶ “ERISA Plans” means the employee benefit plans as defined in 29 U.S.C. § 1002(3) (also referred to as Section 3(3) of ERISA), that are subject to Part 4 of Subtitle B of Title I of ERISA (including master trusts with respect to multiple such plans within the meaning of Department of Labor Regulation § 2520.103-1(e)), and that were custody or trust customers of SSBT during any part of the Class Period. Settlement Agreement ¶ 1(w).

believe that they acted at all times reasonably and prudently, in full compliance with their contractual obligations, and in accordance with applicable law; and (5) would assert certain other defenses if this Class Settlement is not consummated. SSBT is entering into the Class Settlement solely to avoid the cost, disruption, and uncertainty of continued litigation. The Parties have taken into account the uncertainty and risks inherent in these litigations, particularly their complex natures, and have concluded that it is desirable that the Class Actions be fully and finally settled on the terms and conditions set forth in the Class Settlement.

Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, will apply to the Court for an order awarding attorneys' fees in an amount not to exceed \$74,541,250.00 and payment of Litigation Expenses in an amount not to exceed \$1,750,000.00, plus interest earned on these amounts. As explained further in the Plan of Allocation set forth in Question 8 below, no more than \$10,900,000.00 of the attorneys' fees awarded will be paid out of the ERISA Settlement Allocation (as defined below). The remainder of attorneys' fees awarded will be paid out from the RIC Settlement Allocation and the Public and Other Settlement Allocation (both as defined below). If the Court awards attorneys' fees at an overall percentage rate of more than 18.17%, the RIC Settlement Allocation and the Public and Other Settlement Allocation will each bear fees at a higher percentage rate than the ERISA Settlement Allocation. If the Court awards attorneys' fees at an overall percentage rate of 18.17% or less, the three Settlement Allocations (ERISA, RIC, and Public and Other) will each bear fees at the same rate.

Plaintiffs will share in the allocation of the money paid to members of the Settlement Class on the same basis and to the same extent as all other members of the Settlement Class, except that, in addition thereto, Plaintiffs may apply to the Court for Service Awards of up to \$85,000.00 in the aggregate. Any Service Awards granted to Plaintiffs by the Court will be payable from the Class Settlement Fund, and will compensate Plaintiffs for their effort and time spent in connection with the prosecution of the Class Actions.

BASIC INFORMATION

1. Why did I receive this Notice?

You received this Notice because records provided by SSBT indicate that during the Class Period you were a domestic custody customer of SSBT that executed one or more Indirect FX Transactions during the Class Period. The Court has directed that this Notice be sent to you. If the Court approves the Class Settlement, and it becomes effective, the Released Defendant Parties and Released Plaintiff Parties will be released from all Released Class Claims and Released Prosecution Claims, respectively, as explained below. In exchange, the Net Class Settlement Fund will be distributed to Settlement Class Members according to the Court-approved Plan of Allocation.

This Notice explains the Class Actions, the Class Settlement, your legal rights, what benefits are available, who is eligible for them, and how you will receive your portion of the Net Class Settlement Fund. The Final Approval Hearing will be held on November 2, 2016 at 2:00 p.m., before the Hon. Mark L. Wolf in the United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, Courtroom 10, 1 Courthouse Way, Boston, Massachusetts 02210, to determine:

- whether the Class Settlement should be approved as fair, reasonable, and adequate;
- whether the complaints should be dismissed with prejudice pursuant to the terms of the Class Settlement;

- whether the proposed Plan of Allocation for the proceeds of the Class Settlement should be approved; and
- whether the applications for attorneys' fees, payment of Litigation Expenses, and payment of Service Awards to Plaintiffs should be approved.

The issuance of this Notice is not an expression of the Court's opinion of the merits of any claim in the Class Actions, and the Court has not decided whether to approve the Class Settlement. If the Court approves the Class Settlement, payment to Settlement Class Members will be made after all related appeals, if any, are favorably resolved and the regulatory settlements have become final. Please be patient.

2. What are the Class Actions about? What has happened so far?

The Class Actions were commenced in 2011 and 2012 by the filing of three class action complaints. In the Class Actions, Plaintiffs allege, among other things, that Defendants charged custody and trust customers of SSBT excessive rates and spreads in connection with Indirect FX Transactions between January 2, 1998 and December 31, 2009. Plaintiffs allege that by employing this unfair and deceptive practice, Defendants earned higher spreads on Indirect FX Transactions than they should have. Further, Plaintiffs allege that Defendants failed to disclose this pricing. Plaintiffs assert that this alleged unfair and deceptive practice and nondisclosure thereof constituted violations of the Massachusetts Consumer Protection Act, Mass. Gen. Laws Ch. 93A, §§ 2, 9 and 11 ("Chapter 93A"), breach of an alleged fiduciary duty, and negligent misrepresentation, and, with respect to the ERISA Funds, violations of ERISA, 29 U.S.C. § 1106, for engaging in self-interested prohibited transactions and by causing the plans to engage in party in interest prohibited transactions, violations of ERISA, 29 U.S.C. § 1104, for breaching duties of prudence and loyalty, and pursuant to ERISA, 29 U.S.C. § 1105, liability for breaches of co-fiduciary obligations.

Defendants have denied Plaintiffs' allegations. If the Class Actions were to continue, Defendants would raise numerous defenses to liability, including without limitation:

- Defendants acted in accordance with the custody and trust and Indirect FX agreements and did not breach them.
- Defendants either did not owe fiduciary duties or did not breach fiduciary duties owed to certain Settlement Class Members based on state law and the plain language of the agreements that governed Defendants' custodial obligations.
- Defendants made no actionable misrepresentations or omissions, and did not engage in any Chapter 93A violations.
- All of the FX transactions executed with ERISA customers satisfy statutory or regulatory exemptions for FX transactions.
- Plaintiffs and the Settlement Class knew, or should have known, that Defendants were engaged in the Indirect FX pricing practice alleged in the Complaints.
- Plaintiffs and the Settlement Class were not damaged by Defendants' conduct and received the benefit of the bargain for the services that were provided.

On June 3, 2011, Defendants State Street Corporation, SSBT, and SSGM LLC moved to dismiss the amended class action complaint in the ARTRS Action. The motion to dismiss was fully briefed as of February 28, 2012. On April 9, 2012, SSBT and SSGM LLC moved to dismiss the amended class action complaint in the Henriquez Action.

On May 8, 2012, the Court heard oral argument on Defendants' motion to dismiss the ARTRS Action. By order issued from the bench dated the same day, the Court denied the motion in its entirety with regard to the claims against SSBT, but granted the motion with respect to the claims against State Street Corporation. By agreement of the parties, the claims against SSGM LLC were dismissed without prejudice.

On November 16, 2012, the Parties in the Class Actions filed a Stipulation, Joint Motion, and Proposed Order for the Production and Exchange of Confidential Information, which the Court entered on November 20, 2012. Pursuant to the order, the Class Actions were consolidated for pre-trial purposes. Additionally, the order provided that the Parties could engage in formal document discovery until December 1, 2013. The Class Actions were stayed in all other respects until December 1, 2013 and certain motions were withdrawn. At the Parties' request, the stay of proceedings, other than discovery, was subsequently extended by orders of the Court, while the Parties pursued mediation.

The Class Settlement is the product of protracted, arm's-length negotiations between Plaintiffs' Counsel and Defendants' Counsel, facilitated by a nationally recognized mediator with substantial experience mediating complex litigations of this type. Between October 2012 and June 2015, the Parties engaged in sixteen (16) in-person mediation sessions in Boston, New York City, and Washington, D.C. In addition, the Parties met without the mediator and had numerous arm's-length discussions among themselves.

Pursuant to agreements concerning the exchange of formal document discovery, informal material to facilitate the mediation process, and managing the Class Actions, the Parties exchanged more than nine million pages of relevant documents. SSBT also provided a significant amount of data and other information relevant to liability, class certification and damages issues, and Plaintiffs and SSBT each made multiple, detailed presentations (including a presentation by an accounting expert) during the mediation process concerning such issues.

On June 30, 2015, Plaintiffs and SSBT reached an agreement-in-principle to settle the Class Actions, which was memorialized in a term sheet on September 11, 2015, and the Settlement Agreement, dated July 26, 2016.

3. Why is this case a class action?

In a class action, one or more individuals or entities, referred to as "Plaintiffs," sue on behalf of others who have similar claims. All of the Persons on whose behalf Plaintiffs in the Class Actions are suing are members of the "class" referred to in this Notice, and are "Settlement Class Members" or "members of the Settlement Class." Bringing a case as a class action allows the adjudication of many similar claims that might be economically too small to bring individually. One court resolves the issues for all class members, except for those who exclude themselves from the class. The Court will decide whether to finally certify the Settlement Class at the Final Approval Hearing.

4. How do I know whether I am part of the Settlement Class?

The Court has provisionally certified the following Settlement Class:

All custody and trust customers of SSBT (including customers for which SSBT served as directed trustee, ERISA Plans, and Group Trusts), reflected in SSBT’s records as having a United States tax address at any time during the period from January 2, 1998 through December 31, 2009, inclusive, and that executed one or more Indirect FX Transactions with SSBT and/or its subcustodians during the period from January 2, 1998 through December 31, 2009, inclusive.

The “Settlement Class” does not include: Defendants; California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS), and the State of Washington Investment Board; the predecessors and affiliates of the foregoing, or any entity in which they have a controlling interest; and the officers, directors, legal representatives, heirs, successors, subsidiaries and/or assigns of any such excluded individual or entity in their capacities as such. For the avoidance of doubt, the Parties have agreed that this definition of the “Settlement Class” is intended to supersede the class definitions in the complaints in the Class Actions.

The “Settlement Class” also does not include any Person who submits a timely and valid request for exclusion meeting the requirements in this Notice (see Question 10 below).

If you are not sure whether you are included, you can ask for assistance. You can call 877-240-3540 or visit www.StateStreetIndirectFXClassSettlement.com for more information.

5. Why is there a Class Settlement?

The Court did not finally decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement. Plaintiffs and Plaintiffs’ Counsel believe that the claims asserted in the Class Actions have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue the claims through trial and appeals, as well as the difficulties in establishing liability. They have considered the uncertain outcome and the risk of any litigation, especially in complex lawsuits like this one, as well as the unique risks here. Defendants have raised a number of arguments and defenses (which they would raise at summary judgment and trial) that could limit or result in the dismissal of the claims and a reduction in any recovery. In the absence of a Settlement, the Parties would present factual and expert testimony on such issues, and there is considerable risk that the Court or jury would resolve the inevitable “battle of the experts” against Plaintiffs and the Settlement Class.

As stated above, the Class Settlement is the product of extensive arm’s-length negotiations between Plaintiffs’ Counsel and Defendants’ Counsel, all of whom are very experienced with respect to complex litigation of this type. The Class Settlement provides substantial benefits now as compared to the risk that a similar or smaller recovery would be achieved after trial and appeals, years in the future, or that no recovery would be achieved at all. In light of the amount of the Class Settlement and the immediate recovery to the Settlement Class, Plaintiffs and Plaintiffs’ Counsel believe that the proposed Class Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class.

6. What does the Class Settlement provide?

In exchange for the Class Settlement and the release of the Released Class Claims (defined below) against the Released Defendant Parties (defined below), SSBT agreed to create a \$300,000,000 cash fund. The \$300,000,000, plus any interest that accrues on this amount, will be distributed to the Settlement Class after

costs, expenses and fees are deducted, as described herein. The Class Settlement provides for cash payments to Settlement Class Members who do not exclude themselves from the Settlement Class, as explained in the Plan of Allocation in Question 8 below.

The description of the Class Settlement in this Notice is only a summary. The complete terms are set forth in the Settlement Agreement (including its exhibits), which may be obtained at the Class Settlement website, www.StateStreetIndirectFXClassSettlement.com, or Lead Counsel’s website, www.labaton.com.

7. What am I giving up to get a payment and by staying in the Settlement Class?

Unless you exclude yourself, you will stay in the Settlement Class, which means that upon the “Effective Date” of the Class Settlement, you will release all “Released Class Claims” (as defined below) against the “Released Defendant Parties” (as defined below) and be subject to a covenant not to sue and a permanent injunction against prosecuting Released Class Claims against Released Defendant Parties.

“Released Class Claims” means any and all claims, demands, losses, costs, interest, penalties, fees, attorneys’ fees, expenses, rights, rights of recovery, causes of action, duties, obligations, judgments, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every nature and description, including Unknown Claims, whether known or unknown, direct, representative, class, individual or indirect, asserted or unasserted, matured or unmatured, accrued or unaccrued, foreseen or unforeseen, disclosed or undisclosed, contingent or fixed or vested, accrued or not accrued, at law or equity, whether arising under federal, state, local, foreign, statutory, common, administrative or any other law, statute, rule or regulation that any Releasing Plaintiff: (i) asserted in the Class Actions; (ii) could have asserted in the Class Actions or any other action or in any forum, that arise from or out of, relate to, or are in connection with the claims, allegations, transactions, alleged or actual prohibited transactions or breaches of duty (including fiduciary duty), facts, events, acts, disclosures, matters or occurrences, statements, representations or omissions or failures to act involved, described, set forth, or referred to in the complaints filed in the Class Actions or that arise from or out of, relate to, or are in connection with Indirect FX Methods, Indirect FX Transactions/Trading, StreetFX Methods, StreetFX Transactions, or Rate Comparisons; and (iii) asserted or could assert that arise from or out of, relate to, or are in connection with the defense or settlement of the Class Actions, except for claims relating to enforcement of the Settlement.

“Released Defendant Parties” means SSBT and Defendants; their past, present and future parents, subsidiaries, divisions, and affiliates; the respective past and present officers, directors, trustees, employees, agents, trustees, managers, servants, accountants, auditors, underwriters, financial and investment advisors, consultants, representatives, insurers, co-insurers and reinsurers of each of them; and the heirs, successors and assigns of the foregoing.

“Unknown Claims” means any and all Released Class Claims, which one or more Releasing Plaintiffs does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any Released Prosecution Claims that SSBT or any other Released Defendant Party does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known to him, her, or it might have affected his, her, or its decision(s) with respect to the Class Settlement. With respect to any and all Released Class Claims and Released Prosecution Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiffs and SSBT shall expressly, and each Releasing Plaintiff and SSBT shall be deemed to have, and by operation of the Judgment or any Alternative Judgment shall have, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or principle of common law that is, or is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Releasing Plaintiffs, SSBT, or the other Released Defendant Parties may hereafter discover facts, legal theories, or authorities in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Class Claims and the Released Prosecution Claims, but Plaintiffs and SSBT shall expressly, fully, finally, and forever settle and release, and each other Releasing Plaintiff and each other Released Defendant Party shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment or any Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Class Claims and Released Prosecution Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Parties acknowledge, and each other Releasing Plaintiff and Released Defendant Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Class Claims and Released Prosecution Claims was separately bargained for and was a key and material element of the Class Settlement.

The “Effective Date” will occur when, among other things, an Order by the Court approving the Class Settlement becomes Final and is not subject to appeal and when an Order by the Court approving the proposed Plan of Allocation becomes Final and is not subject to appeal, as set out more fully in the Settlement Agreement on file with the Court and available at www.StateStreetIndirectFXClassSettlement.com or www.labaton.com.

If you remain a member of the Settlement Class, all of the Court’s orders about the Class Settlement in the Class Actions will apply to you and legally bind you.

8. What will be my share of the Net Class Settlement Fund? How can I get my portion of the recovery?

At the Final Approval Hearing, Lead Counsel will request the Court approve the Plan of Allocation set forth below. The Plan of Allocation describes the manner by which the Net Class Settlement Fund will be allocated among Settlement Class Members. Assuming you do not exclude yourself from the Settlement Class pursuant to Question 10 below, you do not need to take any further action to receive your portion of the recovery. However, as explained on page ___ below, if you represent a Group Trust, you must provide a certification in order to receive a portion of the ERISA Settlement Allocation, rather than a portion of the balance of the Net Class Settlement Fund.

You are not responsible for calculating the amount you may be entitled to receive under the Class Settlement. This calculation will be done by the Claims Administrator as part of the implementation of the Class Settlement, and will be based on reasonably available information obtained from SSBT. You will be notified of your calculated recovery after the Class Settlement is approved and prior to Lead Counsel’s motion to the Court requesting approval of a distribution of the Class Settlement proceeds.

PLAN OF ALLOCATION

This Plan of Allocation describes steps that the Claims Administrator will take in order to allocate funds in connection with the Class Settlement, including determining distribution amounts. The Court may approve this Plan of Allocation or modify it without additional notice to the Settlement Class. Any order modifying the Plan of Allocation will be posted on the settlement website at: www.StateStreetIndirectFXClassSettlement.com and at www.labaton.com. Distributions in the manner set forth herein will be deemed conclusive against all claimants. Each Settlement Class Member is deemed to have submitted to the jurisdiction of the United States

District Court for the District of Massachusetts with respect to his, her, or its recovery from the Class Settlement.

Distributions to Authorized Claimants will be based on Recognized Claims (defined below). It is important to understand that the Recognized Claims under this Plan of Allocation are not provable damages but rather are amounts derived from a fair and reasonable methodology (described below) to evaluate each Settlement Class Member's relative stake in the Class Settlement.

The defined terms used herein relate to this Plan of Allocation, and not necessarily to other agreements executed by SSBT or its affiliates with third parties, including governmental agencies, in connection with the Class Settlement. Capitalized terms that are not otherwise defined herein have the same meaning as set forth in the Settlement Agreement.

A. THE ALLOCATION OF SETTLEMENT PROCEEDS

The Net Class Settlement Fund, which shall consist of Three Hundred Million U.S. Dollars (\$300,000,000.00), plus any accrued interest, minus all costs and expenses incurred with respect to the fund, including Taxes and Tax Expenses, Notice and Administration Expenses, attorneys' fees, Litigation Expenses, and Service Awards paid from the Class Settlement Fund with the permission of the Court, will be distributed to eligible Settlement Class Members.

After approval by the Court of the Class Settlement, the Class Settlement Fund shall be allocated as set forth below for the benefit of Settlement Class Members.

The ERISA Settlement Allocation (which shall be the source of distributions to ERISA Plans and certain Group Trusts, as set forth below) shall be at least Sixty Million Dollars (\$60,000,000.00) of the Class Settlement Fund (twenty percent of the Class Settlement Fund), plus twenty percent (20%) of any interest accrued on the Class Settlement Fund, minus twenty percent (20%) of any Taxes and Tax Expenses, Notice and Administration Expenses, Service Awards, and Litigation Expenses, and minus attorneys' fees, if awarded by the Court, in an amount not to exceed Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00).

The remainder of attorneys' fees will be paid out from the RIC Settlement Allocation and the Public and Other Settlement Allocation (both defined below). Because no more than \$10,900,000 in fees can be paid out from the ERISA Settlement Allocation, if the Court awards fees at an overall percentage rate of more than 18.17%, then the RIC Settlement Allocation and the Public and Other Settlement Allocation will bear fees at a higher percentage rate than the ERISA Settlement Allocation. For example, if the Court awards the total amount of fees that Lead Counsel intends to request, the RIC Settlement Allocation and the Public and Other Settlement Allocation will each bear fees at a higher percentage rate (26.52%) than the ERISA Settlement Allocation (18.17%). If the Court awards fees at an overall percentage rate of 18.17% or less, the three Settlement Allocations (ERISA, RIC, and Public and Other) will each bear fees at the same percentage rate.

The ERISA Settlement Allocation was negotiated directly among Lead Counsel, ERISA Counsel, and representatives of the DOL. The ERISA Settlement Allocation, even without the \$10,900,000 cap on attorneys' fees described above, provides a premium per dollar of Indirect FX Trading Volume for ERISA Plans and eligible Group Trusts in comparison to the allocations to other Settlement Class Members. The precise size of the premium is not known at this time because the amount of ERISA assets within Group Trusts is currently undetermined, as is the amount of attorneys' fees the Court may award. The premium recognizes the relative strength of the fiduciary duty and other claims available to ERISA Plans and eligible Group Trusts under the federal ERISA laws, as ERISA Counsel and the DOL have contended and as described in Question 2 above. The \$10,900,000 cap on attorneys' fees was agreed-to by Lead Counsel and ERISA Counsel separately with the

DOL after the Class Settlement Amount was agreed-to by the Parties. The ERISA Settlement Allocation of \$60,000,000 and the \$10,900,000 cap on attorneys' fees were final, essential conditions for the DOL's support of the Settlement and the conclusion of its own investigation of SSBT. These conditions must be met for the Settlement to be concluded.

The balance of the Class Settlement Fund will be allocated in proportion to the Indirect FX Trading Volume of class members that are not ERISA Plans or eligible Group Trusts (as explained below), specifically to class members that are Registered Investment Companies ("RICs") and class members that are non-ERISA public pension funds, private entities, and other customers ("Public and Other").

After allocation of the ERISA Settlement Allocation, based on information supplied by SSBT, the "RIC Settlement Allocation" will be approximately \$142,000,000, on a gross basis before the addition of a proportional amount of any accrued interest and the deduction of proportional attorneys' fees, Litigation Expenses, Service Awards, Notice and Administration Expenses, Taxes and Tax Expenses, and the "Public and Other Settlement Allocation" will be approximately \$98,000,000, on a gross basis before interest and the deductions above. These allocations will be adjusted to the extent Indirect FX Trading Volume of Group Trusts is applied to the ERISA Settlement Allocation, as described below.

The Parties have relied on Indirect FX Trading Volume information provided by State Street to develop this Plan of Allocation. The ERISA Settlement Allocation and payment of the Registered Investment Company Minimum Distribution are essential conditions of the Class Settlement, which may be terminated by the Settling Defendant if the minimum allocations set forth in this Plan are not made. The amount of the ERISA Settlement Allocation has been set based on the Indirect FX Trading Volume information provided, including information concerning the total amount of Indirect FX Trading Volume executed during the Class Period by ERISA Plans and Group Trusts. As part of the settlement administration process described below, the Claims Administrator will request information from Group Trusts concerning their ERISA Volume (explained below) during the Class Period.

In light of the fact that the amount of ERISA assets within Group Trusts is currently undetermined, the Parties, with input from the DOL, have agreed that the Plan of Allocation will be modified in the event that the total amount of Group Trusts' ERISA Volume is in excess of 2/3 of the total amount of Group Trusts' Indirect FX Trading Volume, as reported by State Street on July 25, 2016. In that event, the Claims Administrator will use the Indirect FX Trading Volume equal to such excess volume to calculate the net payment amount that would be due with respect to such volume if paid from the Public and Other Settlement Allocation, and will transfer half of that amount to the ERISA Settlement Allocation from each of the RIC Settlement Allocation and the Public and Other Settlement Allocation. (Accordingly, no such modification will be made if actual Group Trusts' ERISA Volume is 2/3 or less of the reported Group Trusts' Indirect FX Trading Volume.)

In the event that the actual total percentage of Indirect FX Trading Volume executed by ERISA Plans and Group Trust exceeds 15.25% of the overall Indirect FX Trading Volume for the Settlement as reported on July 25, 2016, the Claims Administrator will provide notice of the total such percentage to Plaintiffs' Counsel, State Street, and the DOL, and Plaintiffs' Counsel may apply to the Court for modification of this Plan of Allocation, without further notice to the Settlement Class. If the DOL wishes to be heard by the Court on a modification of the Plan of Allocation for this reason, regardless of whether Plaintiffs' Counsel seeks modification, neither State Street nor Plaintiffs' Counsel will object to the DOL's standing to do so.

B. ALLOCATION AMONG SETTLEMENT CLASS MEMBERS

For each Settlement Class Member, the Claims Administrator shall determine that Settlement Class Member's Indirect FX Trading Volume(s) (in U.S. Dollars) during the Class Period, calculate that Settlement Class Member's Recognized Claim, and use those calculations to distribute the Settlement Allocations as set forth herein.

To facilitate this procedure, SSBT has provided the Claims Administrator with: (i) the total Indirect FX Trading Volume (in U.S. Dollars) for each Settlement Class Member during the Class Period; (ii) information concerning whether each Settlement Class Member was an ERISA Plan during the Class Period; (iii) information concerning whether each Settlement Class Member was a Registered Investment Company during the Class Period; and (iv) information concerning whether each Settlement Class Member was a group trust that is exempt from tax pursuant to Internal Revenue Service Revenue Ruling 81-100 ("Group Trust") during the Class Period.

1. Determination of Indirect FX Trading Volumes

The Claims Administrator shall divide each Settlement Class Member's total Indirect FX Trading Volume (in U.S. Dollars) during the Class Period into three parts: (i) Registered Investment Company Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("RIC Volume"); (ii) ERISA Plan Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("ERISA Volume"); and (iii) their remaining Indirect FX Trading Volume (in U.S. Dollars) during the Class Period ("Public and Other Volume"). The division shall be determined as follows.

a) Registered Investment Company Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was a Registered Investment Company during the Class Period, the RIC Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's ERISA Volume and Public and Other Volume shall be zero.

b) ERISA Plan Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was solely an ERISA Plan (not including Group Trusts) during the Class Period, the ERISA Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's RIC Volume and Public and Other Volume shall be zero.

c) Group Trust Settlement Class Members

SSBT has notified Plaintiffs' Counsel that fifty-five (55) Settlement Class Members represent Group Trusts. For each such Settlement Class Member identified as a Group Trust, *a letter concerning the Settlement Class Member's identification as a Group Trust accompanies this Notice*. The Indirect FX Trading Volume during the Class Period (in U.S. Dollars) for Settlement Class Members that are Group Trusts will be categorized pursuant to the following requirements in this subsection.

Each Group Trust shall provide the Claims Administrator with a certification that reports the average proportion of the Group Trust's SSBT custodied assets that were held by an ERISA Plan or Plans during the Class Period and/or the average volume of Indirect FX Trades made by the ERISA Plan(s) during the Class Period, and identifies by name each ERISA Plan within the Group Trust. If a Group Trust does not have the foregoing information for each year of the Class Period, but has a reasonable belief that ERISA assets were held by the Group Trust during those years, the years for which data is available should be reported and the results will be

averaged by applying the average proportion of the years with known ERISA assets and/or Indirect FX Trading Volume to the years with unknown ERISA assets and/or Indirect FX Trading Volume.

The certification must be signed by a plan fiduciary or administrator and state that he, she, or it certifies that the information contained within the certification is accurate based on reasonably available information. The certification must be mailed or delivered so that it is **postmarked or received no later than December 20, 2016**, to:

State Street Indirect FX Trading Class Action
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173000
Milwaukee, WI 53217

Upon request from the Claims Administrator, a Group Trust must promptly provide sufficient information to explain and confirm the certification in order to remain eligible for a share of the ERISA Settlement Allocation as set forth herein.

Using the information provided through the certification process, a Group Trust's ERISA Volume shall equal the volume of Indirect FX Trades made by the ERISA Plan(s) in the Group Trust or, if the information concerning the volume of Indirect FX Trades is insufficient, the proportion of assets that were held by the ERISA Plan(s) in a particular Group Trust. Any Indirect FX Trading Volume of a Group Trust that is not categorized by the Claims Administrator as ERISA Volume shall be categorized as Public and Other Volume. In all instances, the RIC Volume of a Settlement Class Member that is a Group Trust shall be zero.

If a Group Trust does not provide a certification by December 20, 2016, it shall be treated for purposes of an allocation as if it held no ERISA Plan assets and it shall not be entitled to a recovery from the ERISA Settlement Allocation. Instead, its Public and Other Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. In that instance, the Settlement Class Member's RIC Volume and ERISA Volume shall be zero.

However, in instances where a Group Trust is known by the Parties to have ERISA assets based on previous consultations with the U.S. Department of Labor, but a certification is not submitted or the Group Trust does not provide a certification by December 20, 2016, then the trust's ERISA Volume may be calculated utilizing a methodology at Plaintiffs' Counsel's discretion based on discussions with the U.S. Department of Labor or with the Group Trust in response to any informal inquiry from the Claims Administrator or Plaintiffs' Counsel.

Group Trust Settlement Class Members who claim and receive distributions from the ERISA Settlement Allocation must distribute the ERISA Settlement Allocation only to the ERISA Plans identified in the certification submitted to the Claims Administrator and in the same proportion as set forth in the certification. Such distributions are subject to confirmation by the U.S. Department of Labor and/or Plaintiffs' Counsel.

d) Public and Other Settlement Class Members

For each Settlement Class Member that, based on the records supplied by SSBT, was not an ERISA Plan, Group Trust, or Registered Investment Company during the Class Period, the Public and Other Volume shall equal that Settlement Class Member's total Indirect FX Trading Volume during the Class Period. The Settlement Class Member's ERISA Volume and RIC Volume shall be zero.

2. Methodology for Calculation of Recognized Claims

After calculating the ERISA Volume, RIC Volume, and Public and Other Volume for each Settlement Class Member, the Claims Administrator will sum the ERISA Volumes for the Settlement Class in order to derive the classwide ERISA Volume, will sum the RIC Volume for the Settlement Class, in order to derive the classwide RIC Volume, and will sum the Public and Other Volume for the Settlement Class, in order to derive the classwide Public and Other Volume.

A Settlement Class Member's ERISA Recognized Claim equals that class member's ERISA Volume, divided by the classwide ERISA Volume, multiplied by the amount of the ERISA Settlement Allocation. The result of these calculations will be that a Settlement Class Member having no ERISA Volume will have an ERISA Recognized Claim of zero.

A Settlement Class Member's RIC Recognized Claim equals that class member's RIC Volume, divided by the classwide RIC Volume, multiplied by the amount of the RIC Settlement Allocation. The result of these calculations will be that a Settlement Class Member having no RIC Volume will have a RIC Recognized Claim of zero.

A Settlement Class Member's Public and Other Recognized Claim equals that class member's Public and Other Volume, divided by the classwide Public and Other Volume, multiplied by the amount of the Public and Other Settlement Allocation. The result of these calculations will be that a Settlement Class Member having no Public and Other Volume will have a Public and Other Recognized Claim of zero.

Settlement Class Members shall receive distributions from the ERISA Settlement Allocation on a *pro rata* basis based on their ERISA Recognized Claim amounts, distributions from the RIC Settlement Allocation on a *pro rata* basis based on their RIC Recognized Claim amounts, and distributions from the Public and Other Settlement Allocation on a *pro rata* basis based on their Public and Other Recognized Claim amounts.

A Settlement Class Member's total Recognized Claim equals the sum of that Settlement Class member's ERISA Recognized Claim, RIC Recognized Claim, and/or Public and Other Recognized Claim.

C. DISTRIBUTION OF NET CLASS SETTLEMENT FUND

Prior to the Effective Date, the Net Class Settlement Fund shall remain in an interest-bearing escrow account, except as otherwise provided in the Settlement Agreement. After the Class Settlement reaches its Effective Date, distributions to eligible Settlement Class Members will be made after Settlement Class Members have been notified of their ERISA Recognized Claim, RIC Recognized Claim, and Public and Other Recognized Claim amounts, and the Court has approved the Claims Administrator's determinations.

The Parties will use best efforts to seek Court approval to authorize an initial distribution of the Net Class Settlement Fund, including the RIC Settlement Allocation, within one year following the Effective Date of the Class Settlement. If a judgment is entered in the Class Action approving the Class Settlement, but an appeal is taken relating solely to approval of the requested attorneys' fees, Litigation Expenses, and/or Service Awards, Plaintiffs' Counsel will, subject to Court approval, proceed with an initial distribution of the Net Class Settlement Fund, including the RIC Settlement Allocation.

The Net Class Settlement Fund will be allocated among Class Members whose pro-rated distributions would be \$10.00 or greater, given the fees and expenses associated with printing and mailing payments. If the prorated distribution to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

Defendants, their counsel, and all other Released Defendant Parties will have no liability whatsoever for the investment of the Class Settlement Fund, the distribution, or the payment of any claim consistent with the Settlement Agreement and the Court-approved Plan of Allocation. Plaintiffs and Plaintiffs’ Counsel likewise will have no liability for their reasonable efforts to execute, administer, and distribute funds consistent with the Settlement Agreement and the Court-approved Plan of Allocation.

After initial distribution(s) of the Net Class Settlement Fund, if there is any balance remaining (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of prior distribution of the Net Class Settlement Fund, Lead Counsel shall, if feasible and economical, redistribute such balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion until it is no longer economically feasible to do so. Any balance that still remains in the Net Class Settlement Fund after redistribution(s) that is not feasible or economical to reallocate, after payment of Notice and Administration Expenses, Taxes and Tax Expenses, and any other fees and costs approved by the Court, shall be contributed to one or more nonsectarian, not-for-profit, 501(c)(3) organizations serving the public interest approved by the Court.

9. When will I receive a payment?

Payment is conditioned on several matters, including the Court’s approval of the Class Settlement (and the Judgment becoming Final), approval of the proposed Plan of Allocation (and that order becoming Final), approval of a distribution, and the DOL, and DOJ Settlements becoming final according to their terms. (They do not require court approval.) It is anticipated that at least a partial distribution will be made within one year of the Effective Date of the Class Settlement. However, a full distribution could take more than a year. Interest accrued on the Class Settlement Fund will be included in the amount allocated and paid to Settlement Class Members.

The Class Settlement may be terminated on several grounds, including if the Court does not approve the Class Settlement or the proposed Plan of Allocation. If the Class Settlement is terminated, there will be no distribution and the Class Actions will proceed as if the Class Settlement had not been reached.

10. Can I exclude myself from the Settlement Class?

If you do not want a payment from this Class Settlement, but you want to keep any right you may have to sue or continue to sue the Defendants and other Released Defendant Parties on your own about the Released Class Claims, then you must take steps to exclude yourself from the Settlement Class. This is called “opting out” of the class. Please note: SSBT may withdraw from and terminate the Class Settlement if Settlement Class Members who have a certain amount of Indirect FX Transactions exclude themselves from the Settlement Class, or a certain number of Settlement Class Members request exclusion.

To exclude yourself from the Settlement Class, you must send a signed letter by mail stating that you request to be “excluded from the Settlement Class in the *State Street Indirect FX Trading Class Action*, No. 11-CV-10230 (D. Mass.)” Your letter must include the following information: (i) the name of the Person that entered into one or more custody or trust agreements with SSBT and is requesting exclusion; (ii) the Person’s address; (iii) the Person’s telephone number; (iv) the Person’s e-mail address; (v) the approximate date(s) of the agreement(s) referenced in (i) above; (vi) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (vii) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above; and

(viii) identification (including by case name, court name, and docket number) of all legal actions and claims (if any) that the Person requesting exclusion has brought against any of the Defendants relating to Indirect FX.

You must mail your exclusion request so that it is **received no later than October 7, 2016**, to:

State Street Indirect FX Trading Class Action
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173000
Milwaukee, WI 53217

You cannot exclude yourself by telephone or by e-mail. Your exclusion request must comply with these requirements in order to be valid, provided, however, that a request for exclusion shall not be invalid for failing to include the foregoing (i) - (vii) if SSBT determines it has sufficient information to determine that such Person is a Settlement Class Member and provides that information promptly to Lead Counsel.

If you request to be excluded in accordance with these requirements, you will not get any payment from the Net Class Settlement Fund, and you cannot object to the Class Settlement. However, you will not be legally bound by anything that happens in the Class Actions, and you may be able to sue Defendants and the other Released Defendant Parties in the future.

11. Do I have a lawyer in this case? How will the lawyers be paid?

Labaton Sucharow LLP has been appointed Lead Counsel for the Settlement Class. Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, will apply to the Court for an award of attorneys' fees and payment of Litigation Expenses incurred during the prosecution and resolution of the Class Actions. The application for attorneys' fees will not exceed \$74,541,250 (plus any accrued interest), which represents 25% of the \$300,000,000 Class Settlement Fund, after first deducting Court-awarded Litigation Expenses (that will not exceed \$1,750,000.00) and Court-awarded Service Awards for the seven Plaintiffs (that will not exceed \$85,000.00 in the aggregate). You will not be charged directly by Plaintiffs' counsel. However, if you want to be represented by your own lawyer, you may hire one at your own expense.

The written applications for attorneys' fees, Litigation Expenses, and Service Awards of Plaintiffs will be filed with the Court by September 15, 2016, and the Court will consider these applications at the Final Approval Hearing. A copy of the applications will be available at www.StateStreetIndirectFXClassSettlement.com and www.labaton.com or by requesting a copy from Lead Counsel.

To date, none of the Plaintiffs' attorneys have received any payment for their services in prosecuting the Class Actions on behalf of the Settlement Class, nor have counsel been paid for their substantial expenses incurred in connection with litigating the Class Actions. The fee requested by Lead Counsel, on behalf of ERISA Counsel and Customer Counsel, would compensate counsel for their efforts in achieving the Class Settlement for the benefit of the Settlement Class and for their risk in undertaking this representation on a contingency basis. The Court will determine the actual amounts of any awards.

By following the procedures described in the answer to Question 12 below, you can tell the Court if you do not agree with the fees and expenses the attorneys and Plaintiffs intend to seek.

OBJECTIONS

12. How do I tell the Court if I do not like the Class Settlement, the Plan of Allocation, or something about the requests for attorneys’ fees and expenses?

Any Settlement Class Member may appear at the Final Approval Hearing and explain why it thinks the Class Settlement should not be approved as fair, reasonable and adequate, why a judgment should not be entered, why the proposed Plan of Allocation should not be approved, why the attorneys’ fees and expenses of Plaintiffs’ counsel should not be awarded, in whole or in part, or why Plaintiffs should not be awarded Service Awards, in whole or in part. However, no Settlement Class Member shall be heard or entitled to contest these matters unless such Settlement Class Member has filed a written objection with the Court and served it on counsel.

To object, you must send a written statement saying that you object to the Class Settlement, the Plan of Allocation, the attorneys’ fee request, expenses, and/or the Service Awards in *State Street Indirect FX Trading Class Action*, No. 11-CV-10230 (D. Mass.). Be sure to include your name, address, telephone number, e-mail address, signature, and a full explanation of all reasons why you object. You must also include the following information in order to confirm your membership in the Settlement Class: (i) the name of the Person that entered into one or more custody or trust agreements with SSBT and is objecting; (ii) the approximate date(s) of the agreement(s) referenced in (i) above; (iii) the SSBT entity that was the counterparty to the agreement(s) referenced in (i) above; (iv) a list of all current and former accounts, including both the name and account number of such accounts, that held foreign (non-U.S.) assets and were related to the agreement(s) referenced in (i) above.

If you cannot provide any of the information required under (i) - (iv), you may still object if you provide a written statement certifying that have undertaken best efforts to provide the missing information and your membership in the Settlement Class can otherwise be confirmed by the Parties.

Your written objection must be filed with the Court, and received by counsel listed below by no later than October 7, 2016:

File with the Clerk of the Court:

Clerk of the Court
 United States District Court for the District of Massachusetts
 John Joseph Moakley United States Courthouse
 1 Courthouse Way
 Boston, Massachusetts 02210

Serve copies of all such papers by mail to each of the following:

Lead Counsel	Defendants’ Counsel
Lawrence A. Sucharow, Esq. Labaton Sucharow LLP 140 Broadway New York, NY 10005	William H. Paine, Esq. Wilmer Cutler Pickering Hale and Dorr LLP 60 State Street Boston, MA 02109

Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Class Settlement and the applications for attorneys' fees, Litigation Expenses, and any Service Awards.

THE COURT'S FINAL APPROVAL HEARING

13. When and where will the Court decide whether to approve the Class Settlement?

The Court will hold a Final Approval Hearing at 2:00 p.m. on November 2, 2016, before the Hon. Mark L. Wolf, at the United States District Court for the District of Massachusetts, John Joseph Moakley United States Courthouse, Courtroom 10, 1 Courthouse Way, Boston, Massachusetts 02210.

At the hearing, the Court will consider whether the Class Settlement is fair, reasonable and adequate. The Court will also consider any motions for attorneys' fees, expenses of Plaintiffs and Plaintiffs' Counsel, and Service Awards for Plaintiffs, as well as for approval of the proposed Plan of Allocation. If there are timely and valid objections, the Court will consider them. We do not know how long decisions on the motions will take.

14. Do I have to come to the hearing?

Lead Counsel will answer any questions that the Court may have about the Class Settlement and related relief at the Final Approval Hearing. You are not required to attend but are welcome to come at your own expense. If you send an objection, you do not have to come to Court to discuss it. As long as you filed your written objection on time, it will be before the Court when the Court considers whether to approve the Class Settlement, the Plan of Allocation, and/or the fee and expense requests. You may also have your own lawyer attend the Final Approval Hearing at your expense, but such attendance is not mandatory.

15. May I speak at the hearing?

If you are a Settlement Class Member and you have filed a timely objection, if you wish to speak, present evidence or present testimony at the Final Approval Hearing, you must state in your objection your intention to appear, and must identify any witnesses you intend to call or evidence you intend to present.

The Final Approval Hearing may be rescheduled by the Court without further notice to the Settlement Class. If you wish to attend the Final Approval Hearing, you should confirm the date and time with Lead Counsel.

IF YOU DO NOTHING

16. What happens if I do nothing at all?

If you do nothing and the Class Settlement is approved, you will be bound by the terms of the Class Settlement, will be deemed to have released all Released Class Claims against all of the Released Defendant Parties, and will receive your *pro rata* payment as described in Questions 7 and 8 above.

GETTING MORE INFORMATION

17. How do I get more information?

This Notice summarizes the proposed Class Settlement. Full details of the Class Settlement are set forth in the Settlement Agreement. Copies of the Settlement Agreement, as well as other litigation and settlement-related documents, may also be viewed at www.StateStreetIndirectFXClassSettlement.com and www.labaton.com.

You may also contact Lead Counsel at the contact information listed above, or the Claims Administrator toll-free at 877-240-3540.

Dated: August ____, 2016

BY ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF MASSACHUSETTS

EX. 82

Christopher J. Keller
Partner
212 907 0853 direct
212 883 7053 fax
email ckeller@labaton.com

May 4, 2011

VIA ELECTRONIC MAIL

Michael P. Thornton, Esq. (MThornton@tenlaw.com)
Garrett J. Bradley, Esq. (GBradley@tenlaw.com)
Thornton & Naumes LLP
100 Summer Street, 30th Floor
Boston, MA 02110

Steven E. Fineman, Esq. (sfineman@lchb.com)
Daniel P. Chiplock, Esq. (dchiplock@lchb.com)
Lieff Cabraser Heimann & Bernstein, LLP
250 Hudson Street, 8th Floor
New York, NY 10013-1413

Richard M. Heimann, Esq. (rheimann@lchb.com)
Lexi J. Hazam, Esq. (lhazam@lchb.com)
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339

Re: *Arkansas Teacher Retirement System v. State Street Corporation*
Civil Action No. 11-cv-10230-MLW (D. Mass.)

Dear Counsel:

I am pleased we were able to come to terms and will be working together in this matter. I have outlined below the terms of the agreement we have reached.

Arkansas Teacher Retirement System (“Arkansas Teacher”) will be represented in the action by Labaton Sucharow LLP (“Labaton Sucharow”) as Lead Counsel, and Thornton & Naumes LLP (“Thornton & Naumes”) and Lieff Cabraser Heimann & Bernstein, LLP (“Lieff Cabraser”) will serve as additional counsel for Arkansas Teacher in this action.

Arkansas Teacher has made an application to the Court for appointment of its selection of Labaton Sucharow as Interim Lead Counsel. In the event that the Court appoints Labaton Sucharow as interim Lead Counsel and subsequently as Lead Counsel, we agree as follows:

May 4, 2011
Page 2

We agree that our firms will act in good faith to divide the work so that each of the firms performs at least 20% of the work and each will receive at least 20% of the fees awarded in this matter. The remaining 40% of the fees awarded shall be allocated in good faith at the conclusion of the case based on each firms' actual time spent on this matter..

There is an "off the top" obligation to referring counsel of 6% of the fees awarded. In addition, we agree to exchange on a quarterly basis our then current lodestar reports showing quarterly and aggregate billings in this matter.

We also agree that any dispute arising under this agreement or in this case may not be litigated in court and that all such disputes or claims shall be resolved, upon election of any party, through binding arbitration conducted pursuant to the applicable rules of the American Arbitration Association in any jurisdiction in which any of the firms reside.

Please sign below indicating your agreement to these terms.

Very truly yours,

Christopher Keller, Esq.

Accepted and agreed by:

Thornton & Naumes LLP

Michael P. Thornton, Esq.

Date: _____

Lieff Cabraser Heimann & Bernstein, LLP

May 4, 2011
Page 3

Steven E. Fineman, Esq.

Date: _____

EX. 83

Christopher Keller

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Volume: 2

Pages: 272-574

JAMS

Reference No. 1345000011/C.A. No. 11-10230-MLW

In Re: STATE STREET ATTORNEYS FEES

BEFORE: Special Master Honorable Gerald Rosen,
United States District Court, Retired

DEPOSITION of CHRISTOPHER J. KELLER
October 25, 2017, 10:17 a.m.-5:25 p.m.

JAMS

One Beacon Street
Boston, Massachusetts

Court Reporter: Paulette Cook, RPR/RMR

Jones & Fuller Reporting
617-451-8900 603-669-7922

1 limitation on this?

2 THE WITNESS: You know, it depends on
3 how you read that sentence.

4 THE SPECIAL MASTER: Do you really read
5 this as permissive of the arrangement that you
6 ultimately had?

7 THE WITNESS: I can't say that that was
8 specifically contemplated that they would be a, you
9 know, referral attorney. I can -- you know, in
10 terms of reading this language, what she's saying is
11 work with that firm. And, you know, Christa Clark
12 isn't here. I don't know who Tamara Henderson is.
13 She's copied.

14 I don't know what was in her head, but I
15 can probably read this and say she anticipated that
16 we would be working with Chargois & Herron --

17 THE SPECIAL MASTER: Perhaps on a local
18 counsel basis.

19 THE WITNESS: Yeah. -- in a more
20 involved way which is, frankly, how I expected that
21 relationship to evolve.

22 THE SPECIAL MASTER: Yeah, I think you
23 testified to that the last time.

24 THE WITNESS: Yeah, given the closeness

[REDACTED]

[REDACTED]

[REDACTED]

Page 313

[REDACTED]

Page 315

1 that you had made to the April 7th draft that had
2 been sent to you on April 9.
3 **A. Okay. Well my -- you know, when I first**
4 **received the draft, I recall saying to myself, you**
5 **know -- I was busy when I first asked him to take**
6 **that first crack at it, and I realized I probably**
7 **had made a mistake in the sense that, you know,**
8 **power of the pen, opening draft, and, you know,**
9 **didn't want to completely rewrite it. So I left as**
10 **much intact as I could.**
11 **Turning to some of the changes, I went**
12 **with the -- what I considered to be sort of a core**
13 **term which goes to when you have multiple clients**
14 **participating in the same action as a joint lead**
15 **plaintiff, you may have multiple peripheral**
16 **obligations or multiple obligations; and if you have**
17 **-- let's just assume it's 20 percent. If you have a**
18 **20 percent fee deal with one firm and a 20 percent**
19 **fee deal with another firm, Labaton's not going to**
20 **be out 40 percent.**
21 **And what I've explained is that Labaton**
22 **would be out a maximum of 20 percent and that there**
23 **would be an allocation of the 20 percent amongst the**
24 **various firms that may be referring clients.**

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[REDACTED]

Page 316

1 Q. So the 20 percent was not hard and fast?
2 **A. Correct.**
3 Q. It was situational depending on how many
4 other lead --
5 **A. That's correct.**
6 Q. -- plaintiffs there were --
7 **A. Yes.**
8 Q. -- and how much recovery --
9 **A. And what their losses were --**
10 Q. -- there was.
11 **A. I mean it would still be percentage-wise.**
12 **It really wasn't based on the recovery. It was,**
13 **rather, based on the contributory losses of the lead**
14 **plaintiffs.**
15 **So if you had -- and, by the way, this**
16 **scenario really gets at cases filed pursuant to the**
17 **PSLRA which is The Reform Act of 1995 and because**
18 **there you had the term of the PSLRA is the plaintiff**
19 **-- the movant that moves for lead plaintiff with the**
20 **largest financial interest in the case will be**
21 **appointed as lead plaintiff.**
22 **So, therefore, the touchtone is the**
23 **largest financial interest. So we use that as a**
24 **method to then allocate or to at least make a motion**

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[Redacted text block]

Page 323
1 split?
2 **THE WITNESS:** There is nothing in this
3 agreement that requires them to perform work in
4 order to receive the benefits.
5 **THE SPECIAL MASTER:** So why would it be
6 in their economic interest to perform work, expend
7 resources, whether dollars or hours, to accomplish
8 what they can accomplish under this agreement
9 without doing anything?
10 **THE WITNESS:** That's a great question.
11 And the answer is that we can -- we look back with
12 hindsight, and our hindsight is 20/20. George
13 Hopkins comes on board, and Eric develops a
14 wonderful rapport with him. Turns out to be a
15 rapport that is, you know, unique and special.
16 But that's one of 200 clients we have.
17 Let's go back and put ourselves in that time and
18 place.
19 We wouldn't have been able to get their
20 attention -- most clients' attention. We wouldn't
21 be able to get meetings were it not for the local
22 lawyer.
23 So when I say what was in their economic
24 best interest, their economic best interest is to

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[Redacted text block]

Page 324
[Redacted text block]

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1 **A. It's Labaton sensitive --**
2 Q. Okay.
3 **A. -- just to be specific.**
4 Q. But you're doing this in the capacity of
5 informing a valued client as to a potential case?
6 **A. Yes, we are doing that in connection with**
7 **advising them about a case. That is correct.**
8 Q. All right. And, Chris, look at the
9 addressees. Do you see BCC, colon, in the top
10 there?
11 **A. Yes.**
12 Q. And who does it say after BCC?
13 **A. Tim Herron.**
14 Q. All right. And you know BCC to be a blind
15 copy, correct?
16 **A. That's correct.**
17 Q. So the message to include the information
18 provided by two confidential witnesses went to
19 George Hopkins, but a blind copy was sent to Tim
20 Herron, correct?
21 **A. It appears to be.**
22 Q. And I know you're not an addressee, but let
23 me ask you, just as I did in the previous session,
24 why was a blind copy sent to an attorney that had

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[REDACTED]

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1 not entered an appearance in the case or was not
2 actively involved in the case?
3 **A. I believe Tim Herron was blind copied to**
4 **keep Tim in the loop.**
5 **If I can anticipate your next question,**
6 **it would be why blind copy on something else, and I**
7 **believe my prior testimony was, you know, I would**
8 **have forwarded that information. I would have gone**
9 **into my sent folder and pulled up that e-mail and**
10 **forwarded the information.**
11 **Eric chose to BCC, and that was his**
12 **practice which is not my practice.**
13 Q. Would it appear to you that Mr. Herron was
14 BCC'd in order to conceal his identity from
15 Mr. Hopkins?
16 **A. Again, you know, it doesn't make sense to**
17 **me. I still haven't figured out why. This was --**
18 **this was not something that needed to be concealed.**
19 **You know, it's a rare situation where you have**
20 **express authority from a general counsel to work**
21 **with a firm and affiliate with them and then feel**
22 **the need to conceal it.**
23 **So if I'm sitting here looking at this,**
24 **I'd say, well, there's probably some other reason**

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[REDACTED]

Page 357
[Redacted text block]

Page 359
[Redacted text block]

Page 358
1 Can you -- and I know you're not an
2 addressee once again, but can you tell me why this
3 would be -- this e-mail thread strictly to George
4 Hopkins would be forwarded to Damon and Tim as --
5 without George being referenced or CC'd on that
6 message?
7 **A. Well, this is probably how he should have**
8 **done the others which is forwarded an e-mail.**
9 **THE SPECIAL MASTER:** But the effect is
10 the same --
11 **THE WITNESS:** Well, to give them --
12 **THE SPECIAL MASTER:** -- which is to keep
13 George out of the loop. Or I should say not keep
14 George out of the loop but to not --
15 **THE WITNESS:** I'm certainly not going
16 to --
17 **THE SPECIAL MASTER:** -- but not reveal
18 Chargois and Herron to George. The effect is the
19 same.
20 **THE WITNESS:** I believe what Eric was
21 trying to do here was to keep Tim and Damon in the
22 loop. I think Eric was trying to honor the
23 obligation that we had to that firm. That's why I
24 think he did that.

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[Redacted text block]

Page 413

[REDACTED]

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1 dated May 4, 2011 it's addressed to Michael
2 Thornton, Garrett Bradley of Thornton and Steven
3 Fineman and Dan Chiplock of Lief and also Richard
4 Heimann and Lexi Hazam of Lief.
5 And in that letter, which is unsigned
6 and appeared to be a draft, you write: "Dear
7 counsel, I'm pleased we were able to come to terms
8 that we will be working together in this matter.
9 I've outlined below the terms of the matter we have
10 reached.
11 Arkansas will be represented in the
12 action by Labaton as lead counsel, and Thornton &
13 Naumes and Lief Cabraser will serve as additional
14 counsel for Arkansas Teacher. Arkansas Teachers
15 made an application to the Court for appointment of
16 its selection by Labaton Sucharow as interim lead
17 counsel. In the event that the Court appoints
18 Labaton Sucharow as interim lead counsel and
19 subsequently as lead counsel, we agree as follows."
20 And on page 2 it says, "We agree that
21 our firms will act in good faith to divide the work
22 so that each of the firms performs at least 20
23 percent of the work, and each will receive at least
24 20 percent of the fees awarded in this matter.

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1 **A. Yes.**
2 Q. You're new to the world of investment
3 outside of being a lawyer, and you look forward to
4 more of this --
5 **A. Not more of that.**
6 Q. -- missed the Florida conference, but hope
7 to see you soon and enjoy some drinks and good
8 times.
9 So full of optimism at this time --
10 **A. Yes.**
11 Q. -- about the ERA nightclub venture.
12 And then we'll get to the bad news --
13 **A. Later on I'm assuming.**
14 Q. -- subsequently, but let me direct your
15 attention to what you should have next there which
16 is a cover e-mail followed by a three-page
17 agreement.
18 And the designation for this is
19 TLF-SST-033910 through 913. Once again, there's a
20 cover message and a three-page document.
21 And you send this to Garrett on Monday,
22 May 23, 2011 at 6:36 p.m., and you -- you ask
23 Garrett what do you think of this.
24 And in this message -- in this e-mail

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1 The remaining 40 percent of the fees
2 awarded shall be allocated in good faith at the
3 conclusion of the case based on each firm's actual
4 time spent on this matter. There is an off-the-top
5 obligation to referring counsel of 6 percent of the
6 fees awarded.
7 In addition, we agree to exchange on a
8 quarterly basis our then-current lodestar reports
9 showing quarterly and aggregate billings in this
10 matter. We also agree that any dispute arising
11 under this agreement or in this case may not be
12 litigated in court, and that all such disputes or
13 claims shall be resolved upon election of any party
14 through binding arbitration conducted pursuant to
15 the applicable rules of the American Arbitration
16 Association and any jurisdiction in which any of the
17 firms reside. Please sign below indicating your
18 agreement to these terms."
19 Now was this version of the letter
20 signed, Chris, do you know?
21 **A. I don't.**
22 Q. Okay. And you sent this message, at least
23 with respect to what we have before us, strictly to
24 Garrett Bradley. Why was that?

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1 **A. I wanted to get his thoughts.**
2 Q. Okay. And were you getting his thoughts
3 before you got the thoughts from --
4 **TELECON VOICE MESSAGE:** The following
5 participant has entered the conference: Brian
6 McTigue.
7 Q. Were you getting his thoughts before those
8 of Lieff Cabraser?
9 **A. Well, I don't know if I was getting thoughts**
10 **from the other firms. It was intended to be**
11 **confirmatory.**
12 **So basically I'm sending him the same**
13 **understanding that, you know, he's -- he's on this,**
14 **and he's, you know, a principal of the Thornton firm**
15 **and said basically does this comport your**
16 **understanding as to what the essential terms of the**
17 **deal are to get his --**
18 Q. Okay.
19 **A. -- his thoughts.**
20 Q. And had you had a previous discussion with
21 Garrett about the terms of the deal?
22 **A. Yes.**
23 Q. All right. And you discussed the 20/20/20
24 so-called?

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1 **A. With Garrett. With -- with Mike Thornton.**
2 **With Bob Lieff.**
3 Q. Okay. And who at Labaton had you discussed
4 it with?
5 **A. Who knew about the 20/20/20? Probably --**
6 **Eric would have. Larry would have. For sure.**
7 **Others may have come to know that was the deal, but**
8 **I don't know.**
9 Q. Okay. Did you preview this letter with
10 Larry or anyone else at Labaton?
11 **A. I don't know.**
12 Q. All right. Would that have been standard
13 practice before a message went out to other firms?
14 **A. Not necessarily.**
15 Q. All right. So you had the authority and
16 autonomy to draft a letter and send it out on your
17 own?
18 **A. Yes.**
19 Q. All right. And when on the second page,
20 Chris, you say there is an off-the-top obligation to
21 referring counsel of 6 percent in the fees awarded,
22 where did that number come from?
23 **A. It's a good question.**
24 **Um, I think it's a guess, and since this**

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1 **is -- again, this is confirmatory -- I think in the**
2 **discussions that we had we explained to them what**
3 **our obligation was which was 20 percent of our fee.**
4 **And then we used some math to sort of extrapolate**
5 **what that could be, and then we just backed into**
6 **that number.**
7 **So a third of the case would have gotten**
8 **us -- if 20 percent of a third is 6 point something**
9 **so we probably just went with 6 percent.**
10 Q. Okay. But you don't reference the 5 percent
11 that you and Damon and Eric had been talking about
12 for some time, correct?
13 **A. Hmm -- I think your timing's way off.**
14 Q. Okay. So --
15 **A. So this -- this agreement is 2011.**
16 Q. Yep.
17 **A. The 5 percent, well, I don't think was**
18 **negotiated until 2016.**
19 Q. Well -- all right.
20 So this is a step down --
21 **A. Very early this is --**
22 Q. -- from the 20 percent rather that you had
23 discussed with Damon previously?
24 **A. When you say a "step down," a derivative of**

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1 **that 20 percent.**
2 Q. Okay.
3 **A. In other words, I -- the 6 percent here**
4 **(indicating) off the top, if you do a third, a**
5 **third, a third --**
6 Q. Yep?
7 **A. -- you multiply that times three, you get to**
8 **about 18 percent. So that's how we got the 6 off**
9 **the top.**
10 Q. Okay.
11 **A. Does that make any sense?**
12 Q. It does, but let me ask you this: Had you
13 spoken to Damon about this?
14 **A. No.**
15 Q. All right. Did you think it was important
16 to speak to him in light of your previous
17 agreements?
18 **A. No.**
19 Q. Why not?
20 **A. Our obligation to Damon was going to be the**
21 **subject of negotiation. It was going to be what it**
22 **was.**
23 Q. All right. But hadn't you already laid out
24 certain numbers that had been accepted by both

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[REDACTED]

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1 -- let me see if you recall it.
2 Eric writes to George. George, we've
3 been following the trial -- and this is July 24,
4 2013 at 11:06 a.m., LBS 017825 and 826.
5 And Eric in writing to George is talking
6 about the Goldman case. The subject is the -- is
7 simply Goldman. And he seems to be forwarding
8 testimony during that trial to your client,
9 Mr. Hopkins.
10 Do you remember seeing this document
11 before?
12 **A. No.**
13 **Q.** All right. And you would agree that in this
14 message to George Hopkins that Damon Chargois is
15 blind copied, correct?
16 **A. I would. You know, I -- I'm just going to**
17 **take this opportunity to make an observation. I**
18 **mean you've showed me now a number of documents in**
19 **which I'm not a recipient, and they have George as**
20 **the recipient with a copy to Damon.**
21 **I just -- if I can only put myself in**
22 **Eric's shoes for a moment 'cause I think it's**
23 **important to sort of understand how I think he**
24 **viewed this. One was an update to the client, and**

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[REDACTED]

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1 **the other was an update to the referrer. I think he**
2 **viewed them as separate things.**
3 **Q.** Okay. All right, Chris.
4 If we could look at the next document
5 which is dated July 30, 2013 at 8:22 p.m., and this
6 is LBS 031502 and 503.
7 There's a message at the bottom of the
8 first page from Attorney Gardner to you, and Nicole,
9 Ray, Naomi and Eric are copied on it. It's the K12
10 fee allocation. And Mr. Gardner talks about fee
11 request being approved.
12 I don't think we need to get into those
13 things, but you wrote to Eric -- and you CC'd
14 Mr. Gardner subsequently -- yeah, less than an hour
15 later, and you said, "Eric, I thought we were going
16 to talk with Damon about maybe lowering that 20
17 percent number."
18 And Eric responds, "We can but did not
19 yet."
20 So with respect to Damon, is it fair to
21 say that he still thinks that he's receiving 20
22 percent, correct?
23 **A. I would say at that time he still believes**
24 **that, correct.**

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[REDACTED]

Page 467

1 A. [REDACTED]

[REDACTED]

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1 Q. Yeah. In that top message from Mr. Gardner
2 to Cindy and you and Eric and Nicole and Naomi are
3 copied, he says, "These allocations stay the same,
4 except we need to pay \$200,000 to Damon Chargois as
5 a referral. That \$200,000 comes out of our portion.
6 So our allocation becomes 1,250,000. Do we still
7 need a W-9 from anyone?
8 I'm attaching the wiring instructions
9 for the referral fee payment. Can I get the Goldman
10 Scarlato check tomorrow, please?"
11 Was Mr. Gardner, based on your
12 recollection, concerned about the amount that was
13 being paid to Damon, or was he just simply making a
14 bookkeeping notation here as to how much?
15 A. **That looks like bookkeeping.**
16 Q. Okay. So there's no significance in it
17 beyond what we're reading here, as far as you know?
18 A. **Yeah, as far as I know.**
19 Q. On the next document dated July 31, 2013 --
20 and this is LBS 022769 through 774 -- more about the
21 K12 allocation, but in the top message, Chris, just
22 to kind of cut to the heart of this, Cindy sends
23 something to Mr. Gardner, and you're copied on this
24 along with Eric, Naomi --

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1 [REDACTED]

[REDACTED]

EX. 84

From: Chiplock, Daniel P. <DCHIPLOCK@lchb.com>
Sent: Friday, August 28, 2015 7:04 PM
To: Sucharow, Lawrence
Cc: Garrett J. Bradley; Michael Thornton; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

Not to be difficult, but I don't see how that matters. It would seem that the respective lodestars, contributions, etc. are not terribly divergent. And not a skeptical judge, as far as we can tell. A very different situation, in other words, from BNYM (which I know doesn't involve you, Larry, but seems to be coloring this discussion).

On Aug 28, 2015, at 6:27 PM, Sucharow, Lawrence <LSucharow@labaton.com<mailto:LSucharow@labaton.com>> wrote:

For one thing, we will know the actual fees awarded by the court.

Sent from my iPhone

On Aug 28, 2015, at 2:21 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>> wrote:

I guess I don't understand the reluctance to square up the percentages. What don't we understand about the firm's respective contributions that we will understand better 3-4 months from now?

From: Garrett Bradley [mailto:GBradley@tenlaw.com]
Sent: Friday, August 28, 2015 2:11 PM
To: Chiplock, Daniel P.
Cc: Sucharow, Lawrence; Michael Thornton; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

I see no need for that at this time. It can even be done after final approval.

Garrett

On Aug 28, 2015, at 2:00 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>> wrote: Those were the contours as I understood them, yes – after costs, 20% of the fee to be allocated to each of the three firms, with the remaining 40% to be allocated based on contributions to the outcome. I don't think anyone would dispute that Labaton as lead counsel should get more of that 40% than the other two firms. But it may be beneficial to figure out what the breakdown is going to be and get it down in writing now.

From: Sucharow, Lawrence [mailto:LSucharow@labaton.com]
Sent: Friday, August 28, 2015 1:50 PM
To: Chiplock, Daniel P.
Cc: Garrett J. Bradley; Michael Thornton; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

Dan, agreement among our three firms it's that after payment of all of the council I was three firms show each receive 20% with the 40% balance to be determined at a later date. If this is the understanding you are referring to but I can't confirm it. Please advise.

Sent from my iPhone

On Aug 28, 2015, at 1:39 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>> wrote:
Mike, Garrett – Hope you're well – please see below. If we can figure this out early next week that may help speed the process.

Thanks,

Dan

From: Chiplock, Daniel P.
Sent: Friday, August 28, 2015 1:33 PM
To: 'Sucharow, Lawrence'
Cc: Zeiss, Nicole; Lieff, Robert L.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

The purpose of my email was just to get your reaction, Larry, since these are your drafts. Thank you for responding quickly, and for giving me your reaction. I would love to include them so we can move forward promptly. I'll re-send.

From: Sucharow, Lawrence [mailto:LSucharow@labaton.com]
Sent: Friday, August 28, 2015 1:28 PM
To: Chiplock, Daniel P.
Cc: Zeiss, Nicole; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

I don't know why you left the Thornton firm off this email since they are party to any understanding we have and are therefore he sensual to any memorialization of that understanding. If you more willing to resend your email and include them, we can see if there is any disagreement as to what our understanding is/was.

Larry

Sent from my iPhone

On Aug 28, 2015, at 1:10 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>> wrote:
Larry and Nicole:

Attached are my redlines to the preliminary approval order and final judgment. These edits are consistent with the Court's January 2012 order concerning leadership structure.

I'm emailing just you (and copying Bob) so as to try not to make a big thing over this, but I do think it's appropriate to memorialize what the fee allocation amongst customer class counsel is going to be (consistent with the understanding that the firms have been operating under for a couple years now) before we proceed much further. I think we'd be willing to support Lead Counsel having final authority over fee and expense allocations, etc., for purposes of the settlement stip, and thus present a united front against a perpetual troublemaker like McTigue—which should be in everyone's interest--provided we had some basic written comfort ourselves. I don't think it's too early for that, given the interest in seeing the funds come in this year.

Thanks,

Dan

From: Zeiss, Nicole [mailto:NZeiss@labaton.com]
Sent: Friday, August 28, 2015 9:53 AM

To: Chiplock, Daniel P.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Thank you!

<image001.jpg><<http://labaton.com/>>
Nicole M. Zeiss | Partner
140 Broadway, New York, New York 10005
T: (212) 907-0867 | F: (212) 883-7067
E: nzeiss@labaton.com<<mailto:nzeiss@labaton.com>> | W: www.labaton.com<<http://www.labaton.com/>>

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<image003.gif><<https://twitter.com/LabatonSucharow>> <image004.gif><<https://www.facebook.com/pages/Labaton-Sucharow-LLP/443111702425065>>

From: Chiplock, Daniel P. [<mailto:DCHIPLOCK@lchb.com>]
Sent: Friday, August 28, 2015 9:29 AM
To: Sucharow, Lawrence
Cc: Zeiss, Nicole; Lynn Sarko; rlieff@lieff.com<<mailto:rlieff@lieff.com>>; Michael Thornton; Garrett J. Bradley; Michael Lesser; Evan Hoffman; Kravitz, Carl S.; Brian McTigue; Rogers, Michael H.; Goldsmith, David
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

OK, sounds good. I will also get you whatever edits I have to the settlement docs by noon.

From: Sucharow, Lawrence [<mailto:LSucharow@labaton.com>]
Sent: Friday, August 28, 2015 9:28 AM
To: Chiplock, Daniel P.
Cc: Zeiss, Nicole; Lynn Sarko; rlieff@lieff.com<<mailto:rlieff@lieff.com>>; Michael Thornton; Garrett J. Bradley; Michael Lesser; Evan Hoffman; Kravitz, Carl S.; Brian McTigue; Rogers, Michael H.; Goldsmith, David
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

I am speaking to Paine today at around 10 AM to both report to him and get his update.
I'll report back and advise whether we should send the revised term sheet. I expect we should but let's hold off for another hour.

Sent from my iPhone

On Aug 28, 2015, at 9:19 AM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com<<mailto:DCHIPLOCK@lchb.com>>> wrote:
This looks OK to me, thanks. I'm happy to send it (after you've done the other redline) to Paine, if you like. Or someone else can, no matter.

From: Zeiss, Nicole [<mailto:NZeiss@labaton.com>]
Sent: Thursday, August 27, 2015 3:27 PM
To: Lynn Sarko; 'rlieff@lieff.com<<mailto:rlieff@lieff.com>>'; Chiplock, Daniel P.; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'
Cc: Rogers, Michael H.; Sucharow, Lawrence; Goldsmith, David

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Dear all,

We've had some additional exchanges about the term sheet and, specifically, para 8(n). I believe the attached draft resolves those issues and that there is consensus that the attached accurately reflects the basic DOL fee deal. If you disagree, please let us know asap.

When someone wants to send this to Paine, or the DOL, I will need a run a different redline for them.

Thanks

<image001.jpg><<http://labaton.com/>>

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<image003.jpg><<https://twitter.com/LabatonSucharow>> <image004.jpg><<https://www.facebook.com/pages/Labaton-Sucharow-LLP/443111702425065>>

From: Zeiss, Nicole

Sent: Wednesday, August 26, 2015 5:09 PM

To: Sucharow, Lawrence; Lynn Sarko; Goldsmith, David; 'rlieff@lieff.com'<<mailto:rlieff@lieff.com>>; Daniel P. Chiplock; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'

Cc: Rogers, Michael H.

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Attached is the term sheet showing the changes discussed below, plus one additional change to para 8(n) that might help.

Thanks

<image005.jpg><<http://labaton.com/>>

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E: nzeiss@labaton.com<<mailto:nzeiss@labaton.com>> | W: www.labaton.com<<http://www.labaton.com/>>

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<image007.jpg><https://twitter.com/LabatonSucharow> <image008.jpg><https://www.facebook.com/pages/Labaton-Sucharow-LLP/443111702425065>

From: Sucharow, Lawrence
Sent: Wednesday, August 26, 2015 4:34 PM
To: Lynn Sarko; Goldsmith, David; 'rlieff@lieff.com<mailto:rlieff@lieff.com>'; Daniel P. Chiplock; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'
Cc: Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Then we can probably forget my proposed changes.

From: Lynn Sarko [mailto:lsarko@KellerRohrback.com]
Sent: Wednesday, August 26, 2015 4:26 PM
To: Sucharow, Lawrence; Goldsmith, David; 'rlieff@lieff.com<mailto:rlieff@lieff.com>'; Daniel P. Chiplock; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'
Cc: Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Sure. If it works for them – its fine with me

Lynn Lincoln Sarko
Managing Partner

Keller Rohrback L.L.P.
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Seattle, WA 98101

Phone: (206) 623-1900
Fax: (206) 623-3384
E-mail: lsarko@kellerrohrback.com<mailto:lsarko@kellerrohrback.com>

From: Sucharow, Lawrence [mailto:LSucharow@labaton.com]
Sent: Wednesday, August 26, 2015 1:25 PM
To: Lynn Sarko <lsarko@KellerRohrback.com<mailto:lsarko@KellerRohrback.com>>; Goldsmith, David <dgoldsmith@labaton.com<mailto:dgoldsmith@labaton.com>>; 'rlieff@lieff.com<mailto:rlieff@lieff.com>' <rlieff@lieff.com<mailto:rlieff@lieff.com>>; Daniel P. Chiplock <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>>; Michael Thornton <MThornton@tenlaw.com<mailto:MThornton@tenlaw.com>>; Garrett J. Bradley <gbradley@tenlaw.com<mailto:gbradley@tenlaw.com>>; Michael Lesser <MLesser@tenlaw.com<mailto:MLesser@tenlaw.com>>; 'Evan Hoffman' <EHoffman@tenlaw.com<mailto:EHoffman@tenlaw.com>>; 'Kravitz, Carl S.' <ckravitz@zuckerman.com<mailto:ckravitz@zuckerman.com>>; 'Brian McTigue' <bmctigue@mctiguelaw.com<mailto:bmctigue@mctiguelaw.com>>
Cc: Zeiss, Nicole <NZeiss@labaton.com<mailto:NZeiss@labaton.com>>; Rogers, Michael H. <MRogers@labaton.com<mailto:MRogers@labaton.com>>
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

Can we leave para 8(n) the general way it is and protect the DOL through the express provision of para 12 limiting fees charged to ERISA allocation to \$10.9 million?

From: Lynn Sarko [mailto:lsarko@KellerRohrback.com]
Sent: Wednesday, August 26, 2015 3:42 PM
To: Goldsmith, David; 'rlieff@lieff.com<mailto:rlieff@lieff.com>'; Daniel P. Chiplock; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'
Cc: Sucharow, Lawrence; Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

David

Thanks for sending this. Sorry, I had misunderstood what you were saying on our call earlier today.

Two things:

1. I do think the language you proposed for paragraph 12 works—but just change it to \$10.9 million.
2. On paragraph 8(n)- the problem is the word “fees”—since the DOL has given us a hard number for ERISA fees—that won't be going up or down. So—question—can we get rid of the word “fees” in this paragraph—does it still work?

What do you think??

Lynn

Lynn Lincoln Sarko
Managing Partner

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E-mail: lsarko@kellerrohrback.com<mailto:lsarko@kellerrohrback.com>

From: Goldsmith, David [mailto:dgoldsmith@labaton.com]
Sent: Wednesday, August 19, 2015 2:59 PM
To: 'rlieff@lieff.com<mailto:rlieff@lieff.com>' <rlieff@lieff.com<mailto:rlieff@lieff.com>>; Daniel P. Chiplock <DCHIPLOCK@lchb.com<mailto:DCHIPLOCK@lchb.com>>; Michael Thornton <MThornton@tenlaw.com<mailto:MThornton@tenlaw.com>>; Garrett J. Bradley <gbradley@tenlaw.com<mailto:gbradley@tenlaw.com>>; Michael Lesser <MLesser@tenlaw.com<mailto:MLesser@tenlaw.com>>; 'Evan Hoffman' <EHoffman@tenlaw.com<mailto:EHoffman@tenlaw.com>>; Lynn Sarko <lsarko@KellerRohrback.com<mailto:lsarko@KellerRohrback.com>>; 'Kravitz, Carl S.' <ckravitz@zuckerman.com<mailto:ckravitz@zuckerman.com>>; 'Brian McTigue' <bmctigue@mctiguelaw.com<mailto:bmctigue@mctiguelaw.com>>
Cc: Sucharow, Lawrence <LSucharow@labaton.com<mailto:LSucharow@labaton.com>>; Zeiss, Nicole <NZeiss@labaton.com<mailto:NZeiss@labaton.com>>; Rogers, Michael H. <MRogers@labaton.com<mailto:MRogers@labaton.com>>
Subject: SST--Proposed Revision to Term Sheet for DOL Deal

All: The below reflects our proposed revisions to the Term Sheet (in red boldface) to reflect the imminent deal with the DOL on fees and expenses as certain of us discussed this morning (DOL has advised that they want the deal memorialized in the Term Sheet). Please comment. Thanks.

8(n). Plan of Allocation. . . . The amount allocated to the ERISA Plans and Investment Companies and other Settlement Class Members shall be increased or decreased by their proportional share (with respect to the Class Settlement Amount) of any interest, costs (including costs of notice and administration), expenses (including taxes), and fees and expenses of Plaintiffs' Counsel obtained or paid pursuant to permission of the Court. However, notice and administration expenses attributable solely to the claims of Class Members categorized as Group Trusts shall be paid solely out of the ERISA allocation, and the cost of any ERISA Independent Fiduciary shall be borne solely by SSBT and shall not be paid out of the Class Settlement Amount.

12. Plaintiffs' Counsel's Attorneys' Fees and Expenses. Plaintiffs' Counsel's attorneys' fees and expenses, as awarded by the Court, shall be paid from the Class Escrow Account immediately upon award by the Court into an escrow account governed by an escrow agreement between Interim Lead Counsel, SSBT and a bank or other institution agreed upon by SSBT and Interim Lead Counsel (the "Interim Lead Counsel Escrow Account"), notwithstanding any appeals of the Settlement or the fee and expense award. Plaintiffs' Counsel shall may apply for their fees and expenses and any service awards for Plaintiffs against the entire Class Settlement Amount, but in no event shall more than Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00) in fees be paid out of the \$60 million portion of the Class Settlement Amount allocated to ERISA Plans, as referenced in Paragraph 8(n) above. In the event that the Effective Date does not occur or SSBT promptly provides written notice representing in good faith that the Effective Date has not and cannot occur due to developments with the DOJ Settlement, DOL Settlement, and/or SEC Settlement and explaining the grounds for the notice, Plaintiffs' Counsel severally shall be obliged to pay to SSBT all amounts paid to them from the Interim Lead Counsel Escrow Account within fourteen (14) business days. The prevailing party in any action to collect any amount due under this paragraph shall be entitled to recover interest and all of its costs of collection, including attorneys' fees. Should the fee and expense award be reduced by the Court or on appeal, all such fees and expenses received by Plaintiffs' Counsel in excess of those that are ultimately approved shall be repaid to the Class Escrow Account, along with interest at the Class Escrow Account rate of interest.

<image005.jpg><<http://www.labaton.com/>>

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EX. 85

Garrett Bradley

1

Volume: 1

Pages: 1-171

JAMS

Reference No. 1345000011

In Re: STATE STREET ATTORNEYS FEES

BEFORE: Special Master Honorable Gerald Rosen,
United States District Court, Retired

DEPOSITION of GARRETT J. BRADLEY
September 14, 2017, 2:02-5:18 p.m.

JAMS

One Beacon Street
Boston, Massachusetts

Court Reporter: Paulette Cook, RPR/RMR

Jones & Fuller Reporting
617-451-8900 603-669-7922

Page 14

[REDACTED]

Page 16

[REDACTED]

Page 15

[REDACTED]

Page 17

1 meetings?
2 **A. In Boston, yes.**
3 Q. Okay. And tell us about those.
4 **A. I think we discussed this in the last**
5 **deposition. We went to State Street as George**
6 **wanted to lay the facts as we had presented them to**
7 **him out to State Street.**
8 Q. Yep?
9 **A. And we had a meeting with some officials**
10 **there.**
11 Q. Let me direct your attention, Garrett, to
12 the packet of materials in front of you. I'd like
13 you to find a document from July 17, 2008 from
14 Christopher Keller to Ira Schochet, Nicole Zeiss and
15 Ray Politano.
16 **A. Do you know where it is in the packet?**
17 Q. I think it's about two-thirds of the way
18 down.
19 **MR. KELLY:** Does the face page say July
20 17?
21 **MR. SINNOTT:** The face page is -- says
22 7/17. The Bates number in the right-hand corner --
23 lower right-hand corner is LBS 032283.
24 **MR. KELLY:** LBS 2283?

Page 18
[Redacted text]

Page 20
[Redacted text]

Page 19
[Redacted text]

Page 21
1 were to tell you that Mr. Chargois was local counsel
2 in that matter, would it be fair to say that the law
3 firm would have -- your law firm would have worked
4 with him in all probability?
5 **A. No, I wouldn't agree with that. In this**
6 **situation we don't necessarily would have had**
7 **contact with him. We may have, but that's not**
8 **always the case in these matters. And I don't**
9 **remember a specific involvement with him directly on**
10 **this case.**
11 Q. How were you able to -- strike that.
12 Is Bristol County Retirement System the
13 client?
14 **A. It is.**
15 Q. How were you able to bring them in as a
16 client?
17 **A. I don't remember specifically, but I'm sure**
18 **we contacted the administrator at some point, went**
19 **down and had a meeting, explained the services, and**
20 **at some point they signed an agreement.**
21 Q. Now I know that you are a public official,
22 correct?
23 **A. Then? Yes.**
24 Q. At that time. You're not now.

Page 22

1 Were there any prohibitions on your
2 dealing with state retirement systems?
3 **A. Well, that's not a state retirement system.**
4 Q. That's not?
5 **A. No. That's a county retirement system.**
6 Q. Isn't it part of the same system?
7 **A. No, it's not.**
8 Q. It's not?
9 **A. No.**
10 Q. So your bar of prohibition was strictly on
11 PRIM or state systems?
12 **A. State or quasi-state entities. There's a**
13 **specific rulings allowing legislators to worth with**
14 **county city and municipal funds and has been since**
15 **the mid eighties.**
16 Q. So you were able to bring in this contact
17 Bristol County and introduce them to the Labaton
18 firm?
19 **A. I brought somebody from the Labaton firm at**
20 **some point I suspect to Bristol County to make a**
21 **presentation.**
22 Q. Okay.
23 **A. I don't remember specifically when.**
24 Q. And they were the client; they were the

Page 24

[REDACTED]

Page 23

[REDACTED]

Page 25

[REDACTED]

Page 38

1 What was the services that your firm
 2 provided for the fee of \$238,000 as best you
 3 remember?
 4 **A. As best as I remember here today, it would**
 5 **have been approaching the client about the case,**
 6 **advocating to do the case, the pluses and minuses,**
 7 **getting the clients to sign the paperwork, getting**
 8 **them to approve the complaint after I reviewed it**
 9 **and then whatever else moved on from there.**
 10 **If this went into discovery, we would**
 11 **have been involved in discovery issues, etcetera.**
 12 Q. All right. And, once again, you did not
 13 enter an appearance to the best of your
 14 recollection?
 15 **A. No.**
 16 Q. All right. And do you have any recollection
 17 looking at this as to interaction with Chargois &
 18 Herron during this case?
 19 **A. I don't know Herron. I don't recall ever**
 20 **meeting him or talking with him. And I don't recall**
 21 **ever talking with or meeting with Damon in this**
 22 **particular case.**
 23 Q. But at this point did you know Damon or had
 24 you yet to meet him at the industry meeting?

Page 40

[REDACTED]

Page 39

[REDACTED]

Page 41

[REDACTED]

Page 42

[REDACTED]

Page 44

1 discussions with co-counsel with respect to the
2 share that Damon Chargois would get as referring
3 attorney in this case?
4 **A. Yes. I was very concerned about it.**
5 Q. Okay. Why don't you tell us about that,
6 Garrett?
7 **A. I believe as early as -- just prior to or**
8 **right around the time of filing in 2011, I raised**
9 **with Chris how are we going to deal with your**
10 **obligation to Damon 'cause I was very concerned that**
11 **he would try to apply for 20 percent of this entire**
12 **case.**
13 **And I asked them to deal with it.**
14 Q. Hm hm?
15 **A. Nothing seemed to happen for a while.**
16 **THE SPECIAL MASTER:** By this "entire
17 case," you mean the attorneys' fee in the entire
18 case, 20 percent?
19 **THE WITNESS:** My understanding of his
20 agreement was that since Arkansas was the only
21 client in here, he would be entitled to 20 percent,
22 and I wanted to shrink that as fast as possible.
23 **BY MR. SINNOTT:**
24 Q. And why did you think that it needed to be

Page 43

1 Q. Were there discussions contemporaneous with
2 this e-mail or this letter about Chargois and what
3 he would receive for the State Street case?
4 **A. I don't recall at this time when we started**
5 **talking about him.**
6 **THE SPECIAL MASTER:** Was there any other
7 referring counsel on the State Street case?
8 **THE WITNESS:** Not that I'm aware of.
9 **THE SPECIAL MASTER:** So it's likely that
10 this --
11 **THE WITNESS:** I don't know, judge.
12 **MR. KELLY:** I'm sorry. The question was
13 likely that it was Chargois or likely there's
14 another counsel?
15 **THE SPECIAL MASTER:** Likely that it was
16 Mr. Chargois.
17 **THE WITNESS:** Yeah, I don't know, judge.
18 **THE SPECIAL MASTER:** Did you ever hear
19 any reference to any other referring counsel?
20 **THE WITNESS:** I did not.
21 **BY MR. SINNOTT:**
22 Q. Well, at some point, whether it was
23 contemporaneous with this particular e-mail and this
24 particular unsigned letter, did you engage in

Page 45

1 shrunk?
2 **A. I didn't even know what his role was, but**
3 **this was a different type of case, and there were**
4 **multiple firms involved -- experienced firms,**
5 **skilled firms, and I wanted to make sure that we**
6 **shrunk that as soon as possible.**
7 Q. All right. What did you understand when you
8 first started talking about this with co-counsel
9 that Chargois' role would be in the case?
10 **A. I thought his role was similar to ours; that**
11 **he did substantive work, corresponded with the**
12 **client, dealt with the client, got authority.**
13 **That's what I thought his role was.**
14 Q. Okay. At what point did you realize that
15 that wasn't the case?
16 **A. When this investigation began a couple weeks**
17 **ago.**
18 **THE SPECIAL MASTER:** You didn't know
19 that he was doing no work on the case whatsoever?
20 **THE WITNESS:** I did not, judge.
21 **THE SPECIAL MASTER:** Did you ever
22 discuss that with anybody from Labaton what their
23 arrangement was with Mr. Chargois?
24 **THE WITNESS:** I knew he had a 20 percent

Page 46
[Redacted text block]

Page 48
[Redacted text block]

Page 47
1 **THE WITNESS:** I thought that was his
2 role.
3 **THE SPECIAL MASTER:** Did you know that
4 the agreement went back to the initial retention of
5 Labaton and how that retention was facilitated by
6 Mr. Chargois?
7 **THE WITNESS:** I don't know the details
8 of that, judge.
9 **THE SPECIAL MASTER:** You don't now or
10 you didn't then?
11 **THE WITNESS:** I didn't then, and I -- I
12 know a little bit more now, but I didn't know the
13 specifics back then of how the relationship came to
14 be.
15 **THE SPECIAL MASTER:** Did you never ask
16 Eric Belfi or Chris Keller what the details of the
17 relationship was, how the relationship began and
18 what Mr. Chargois' role was to be?
19 **THE WITNESS:** I don't recall any
20 substantive conversations beyond the economics, the
21 20 percent.
22 **THE SPECIAL MASTER:** So when you say you
23 believed that he was interfacing with the client
24 back in Arkansas, did you believe he was effectively

Page 49
[Redacted text block]

Page 114

1 **THE SPECIAL MASTER:** Okay.
2 **BY MR. SINNOTT:**
3 Q. All right. Garrett, let me direct your
4 attention to another August 6th message, this one
5 from 9:01 a.m. from you to Bob Lief and Mike
6 Thornton.
7 **MR. KELLY:** Hold on. August 6th?
8 **MR. SINNOTT:** Yes.
9 **THE WITNESS:** I got it.
10 **MR. KELLY:** Hold on. Hold on.
11 **MR. SINNOTT:** Okay.
12 **MR. KELLY:** Why are they always at the
13 bottom, huh?
14 **THE WITNESS:** I think it's at the top,
15 Brian. (Indicating). Is it 4 -- does it end 617?
16 **MR. SINNOTT:** Yes, it is.
17 **MR. KELLY:** I'll share.
18 **MR. SINNOTT:** You got it?
19 **THE SPECIAL MASTER:** Yep.
20 Q. This is a message from you.
21 **MR. SINNOTT:** And, Madam Court Reporter,
22 it's TLF-SST-040617, 040618.
23 Q. And in this message to Lief and Thornton,
24 you say, "Bob, I was thinking about our call this

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1 morning yesterday while working out, and I thought
2 it might be helpful to put things in writing so
3 everyone can see what we at Thornton are thinking.
4 As I have said before we start being equal in State
5 Street, we need to be on an even par in both cases."
6 What are the two cases you're talking
7 about there?
8 **A. It would be Mellon and State Street. The**
9 **two cases brought to Lief Cabraser or Bob Lief I**
10 **should say.**
11 Q. "What I mean by that is even though you had
12 no client, jurisdiction or concept, Mike Thornton
13 went and fought for you and Lief, the entity, by
14 using his influence with Labaton to get you 20
15 percent of State Street. As I said yesterday, who
16 was looking out for his interest in Mellon? Where
17 was the corresponding deal?
18 There was discussion of the same deal
19 when we were in California, but Hausfield, who you
20 brought in, did not sign, and then we got sent to
21 the MDL. Then you brought in Ohio for leverage in
22 the MDL, and Mike asked you what our fee interests
23 were. I know because I was pressing him on it. He
24 told me you said we are in it together. Let's put

Page 116

1 some numbers behind what I am saying."
2 So am I correct, Garrett, that at the
3 time that you wrote this the BNY Mellon case was
4 still alive?
5 **A. I believe the settlement was the next month,**
6 **September.**
7 Q. And then you go on to say, "Because of
8 Mike's advocacy, and only Mike's advocacy, you have
9 a minimum in State Street. We both know what that
10 number is will be subject to many factors; but even
11 in a low scenario of 60-million-dollar fee, it could
12 break down as follows: 60-million-dollar fee, 5.4
13 million to ERISA, 3 million to Arkansas local. That
14 leaves 51.6 million.
15 For the sake of argument, let's say
16 Labaton sticks with the we want half, that leaves
17 25.8 million. Under the deal we each get 20 percent
18 of the 51.6 which is 10.32 million each which equals
19 24.640 million leaving a balance of 5.16 million."
20 And, by the way, what did you think the
21 Arkansas local was doing in this particular case?
22 **A. This is the State Street case I'm**
23 **referencing here.**
24 Q. Oh, you're not talking about the BNY case

Page 117

1 here?
2 **A. No, I'm not.**
3 Q. All right. So the 60 million dollars is the
4 low number that you're throwing out there that could
5 happen in State Street?
6 **A. It was a scenario although obviously a year**
7 **before settlement -- before final settlement.**
8 Q. Great. Thank you for that clarification.
9 "Your position is you want to give us 10
10 percent of Mellon but an equal split of the residual
11 in discussion with Labaton of coming off their,
12 quote/unquote, we want half. In Mellon you have 20
13 million dollars in lodestar, and you want to get 30
14 million. So we would get 2 to 3 million plus our
15 lodestar in Mellon only to give it back to you in
16 State Street by splitting the residual balance of
17 \$5,160,000 50/50? Would you agree to this under
18 these circumstances?
19 Here is how I propose we get to par: We
20 fought for you to get at least \$10,320,000 in State
21 Street, and here is how I believe you should
22 reciprocate. Our lodestar of 1.5 million to 2.5
23 million depending on judge, 20 percent of Lief fee,
24 4 million to 6 million depending on judge. If you

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1 similar people.
2 Misunderstanding by Mr. Loeff's comments
3 to Mike Thornton over time. I think you take -- as
4 I said, your negotiations and your experience in one
5 and deal with it in another. And that's what I'm
6 laying out here.
7 **THE SPECIAL MASTER:** You're actually
8 asking for a reciprocation, aren't you?
9 **THE WITNESS:** In this case Loeff
10 Cabraser, which I understood when I had a meeting
11 with Steve Fineman and Dan Chiplock, were clearly
12 calling the shots. We had an understanding, we
13 thought, of how we were going to be -- our work and
14 value was going to be treated in Mellon.
15 When I met with them, they were clearly
16 the people calling the shots, not Bob Loeff, which I
17 wasn't aware of, and caused some frustration.
18 So all's I was trying to do was then
19 apply that same standard that they applied for us of
20 work and value in State Street. I don't think it's
21 inappropriate.
22 **THE SPECIAL MASTER:** Do you agree that
23 this e-mail can be read to look like you're
24 attempting to leverage your position in one case and

Page 123

1 your position in another case?
2 **THE WITNESS:** I think people can read
3 this e-mail many different ways. I'm just
4 explaining as the person who wrote it what we were
5 trying to do. And we ended up working it out.
6 This is the negotiations that happen,
7 judge, in cases.
8 And in the Mellon case our friends at
9 Loeff Cabraser did end up supporting us in our
10 lodestar application for a higher multiplier because
11 of our work. And Dan Chiplock pointed out that
12 there was work we were offered to do but that we
13 didn't staff up appropriately because of the
14 miscommunication from Mr. Loeff.
15 Dan and I had a heated discussion over
16 that on this time period. Dan ended up being right
17 as I checked into it. There was work to be done,
18 and we didn't do it. That's the frustration coming
19 out here.
20 **THE SPECIAL MASTER:** I want to read the
21 next two sentences. "Our lodestar 1.5 million to
22 2.5 million depending on judge, 20 percent of Loeff
23 fee, 4 million to 6 million depending on judge. If
24 you get Kessler to cover some of that is your

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1 business."
2 That's referring to Mellon, correct?
3 **THE WITNESS:** Correct.
4 **THE SPECIAL MASTER:** What we have or
5 likely will get total from relator cases
6 one-and-a-half to two-and-a-half million gives us
7 between 7 million and 9-and-a-half million. Right?
8 **THE WITNESS:** I think it said
9 one-and-a-half to two million, judge. Not to
10 quibble.
11 **THE SPECIAL MASTER:** I'm sorry. One and
12 a half to two million, yep.
13 Gives us between 7 million and
14 9-and-a-half million. Correct?
15 **THE WITNESS:** Correct.
16 **THE SPECIAL MASTER:** And that's
17 referring to the BNY Mellon case and -- and the
18 relator case?
19 **THE WITNESS:** Yes. It was our
20 understanding from Bob Loeff that we were going to
21 be getting a percentage. That turned out to be
22 incorrect.
23 **THE SPECIAL MASTER:** Okay. The next
24 sentence says, "This gets us close enough to par

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1 with your \$10,320,000 in State Street."
2 You don't see the relation between those
3 cases that you're making in this e-mail?
4 **THE WITNESS:** I'm not saying I'm not
5 making a relation to the cases, judge.
6 I'm trying to give you the background on
7 how we got to this point and the fact that we're
8 having discussions about fees that would be awarded
9 and how to fairly distribute those between our
10 co-counsel.
11 **THE SPECIAL MASTER:** In light of what
12 people are getting in a different case?
13 **THE WITNESS:** Loeff Cabraser is in that
14 case with us.
15 **THE SPECIAL MASTER:** A different case.
16 **THE WITNESS:** A different case.
17 **BY MR. SINNOTT:**
18 Q. Let me ask you, Garrett, to take a look at
19 an e-mail from August 30, 2015 at 12:50 p.m.
20 And --
21 **THE WITNESS:** What'd you say?
22 **MR. KELLY:** Hold on. We got to find it.
23 **MR. SINNOTT:** Yeah.
24 Q. August 30, 2015 at 12:50 p.m --

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[REDACTED]

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1 two-and-a-half hours a week in this case over the
2 life of it. So it's not a heavy burden.
3 I may have waited a few days and got on
4 an airplane and thought about what I was doing in
5 the last week, but it was contemporaneous with when
6 things were taking place.
7 **THE SPECIAL MASTER:** And then in what
8 format did you record that time?
9 **THE WITNESS:** If I was reading -- I like
10 to feel the paper. So if I was reading, I'd jot it
11 down on paper. I'd jot it down long hand.
12 Different ways.
13 I'd stick in the file until the master
14 spreadsheet was put together by Evan. I gave it to
15 my assistant, and she uploaded it to that. We
16 turned over whatever I have left from it, of the
17 backup to the backup.
18 **BY MR. SINNOTT:**
19 Q. Did you attend the fairness hearing before
20 Judge Wolf?
21 A. **You mean the final hearing?**
22 Q. No, the fairness hearing November 2nd.
23 A. **The final, yes.**
24 Q. Was there a discussion in strategy

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1 Q. And how do you do it at the Thornton Law
2 Firm? Is there an electronic program?
3 A. **We don't keep our time like other firms keep
4 their time as we're a majority plaintiffs' firm.
5 Contingent firm. We do keep our time on matters
6 that we obviously need to keep our time on.
7 I understand there to be a software
8 that's not functional. I don't believe it was used
9 by anybody in this case. It wasn't used by me.
10 The way I kept time on this matter would
11 be I'd write on -- if I was reading a document, I'd
12 write on the document and stick it in the file. I'd
13 also jot down time long hand on pieces of paper.
14 There's -- obviously, many people in the
15 firm were on this case, and Evan as the junior
16 lawyer would track some time if we were all doing
17 something; and, if need be, if there was something
18 specific like a mediation, it maybe tracked by
19 calendar or e-mail.
20 **MR. SINNOTT:** Okay.
21 **THE SPECIAL MASTER:** Did you keep your
22 time -- in whatever way you kept it in whatever
23 format did you keep it contemporaneously or --
24 **THE WITNESS:** Yes. I averaged two,**

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1 discussion of any kind in preparation for that
2 hearing?
3 A. **I don't remember talking to anybody. I
4 think David Goldsmith presented. I don't remember
5 any specific conversations.**
6 Q. Did you enter an appearance at that hearing,
7 or did you sit in the gallery?
8 A. **I think Mike -- Mike -- we wanted Mike to
9 sit at counsel table, Mike Thornton. This was
10 something he really developed. That's where he sat.
11 I was in the gallery.**
12 Q. Was there any discussion, Garrett, leading
13 up to that about the issue of whether Damon
14 Chargois' role in this case should be revealed to
15 the Court?
16 A. **It was -- it was never discussed.**
17 Q. And do you remember discussing other things
18 with the -- with David or with other attorneys?
19 A. **I don't. I wasn't taking a leadership role
20 at that hearing.**
21 Q. All right. So David was the point man on
22 that?
23 A. **Yes.**
24 Q. All right. And who else was there?

EX. 86

From: Sucharow, Lawrence <LSucharow@labaton.com>
Sent: Friday, August 28, 2015 1:40 PM
To: Daniel P. Chiplock
Cc: Garrett J. Bradley; Michael Thornton; Robert L. Lieff
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

Also, I believe that there are other cases and other agreements which are influencing people's desire to either reach agreement now or later.

I don't have a dog in the hunt and don't want to be drawn into it.

I apologize for any mistakes but I am not in a place where I can edit my emails so I'm just dictating them I'm hoping that spell correct doesn't fuck me up too much.&

Sent from my iPhone

On Aug 28, 2015, at 2:21 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com>wrote:

I guess I don't understand the reluctance to square up the percentages.& What don't we understand about the firm's respective contributions that we will understand better 3-4 months from now?

&

From: Garrett Bradley [<mailto:GBradley@tenlaw.com>]
Sent: Friday, August 28, 2015 2:11 PM
To: Chiplock, Daniel P.
Cc: Sucharow, Lawrence; Michael Thornton; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

&

I see no need for that at this time. & It can even be done after final approval.

Garrett

On Aug 28, 2015, at 2:00 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com>wrote:

Those were the contours as I understood them, yes – after costs, 20% of the fee to be allocated to each of the three firms, with the remaining 40% to be allocated based on contributions to the outcome.& I don't think anyone would dispute that Labaton as lead counsel should get more of that 40% than the other two firms.& But it may be beneficial to figure out what the breakdown is going to be and get it down in writing now.

&

From: Sucharow, Lawrence [<mailto:LSucharow@labaton.com>]
Sent: Friday, August 28, 2015 1:50 PM
To: Chiplock, Daniel P.
Cc: Garrett J. Bradley; Michael Thornton; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

&

Dan, agreement among our three firms it's that after payment of all of the council I was three firms show each receive 20% with the 40% balance to be determined at a later

date. If this is the understanding you are referring to but I can't confirm it. Please advise.

Sent from my iPhone

On Aug 28, 2015, at 1:39 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com>wrote:

Mike, Garrett – Hope you're well – please see below. & If we can figure this out early next week that may help speed the process.

Thanks,
&
Dan
&

From: Chiplock, Daniel P.
Sent: Friday, August 28, 2015 1:33 PM
To: 'Sucharow, Lawrence'
Cc: Zeiss, Nicole; Lieff, Robert L.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal
&

The purpose of my email was just to get your reaction, Larry, since these are your drafts. & Thank you for responding quickly, and for giving me your reaction. & I would love to include them so we can move forward promptly. & I'll re-send. &
&

From: Sucharow, Lawrence [<mailto:LSucharow@labaton.com>]
Sent: Friday, August 28, 2015 1:28 PM
To: Chiplock, Daniel P.
Cc: Zeiss, Nicole; Lieff, Robert L.
Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal
&

I don't know why you left the Thornton firm off this email since they are party to any understanding we have and are therefore he sensual to any memorialization of that understanding. & If you more willing to resend your email and include them, we can see if there is any disagreement as to what our understanding is/was.

Larry

Sent from my iPhone

On Aug 28, 2015, at 1:10 PM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com>wrote:

Larry and Nicole:

&

Attached are my redlines to the preliminary approval order and final judgment. & These edits are consistent with the Court's January 2012 order concerning leadership structure. &

&

I'm emailing just you (and copying Bob) so as to try not to make a big thing over this, but I do think it's appropriate to memorialize what the fee allocation amongst customer class counsel is going to be

(consistent with the understanding that the firms have been operating under for a couple years now) before we proceed much further. & I think we'd be willing to support Lead Counsel having final authority over fee and expense allocations, etc., for purposes of the settlement stip, and thus present a united front against a perpetual troublemaker like McTigue—which should be in everyone's interest--provided we had some basic written comfort ourselves. & I don't think it's too early for that, given the interest in seeing the funds come in this year.

&

Thanks,

Dan

&

From: Zeiss, Nicole [<mailto:NZeiss@labaton.com>]

Sent: Friday, August 28, 2015 9:53 AM

To: Chiplock, Daniel P.

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

&

Thank you!

&

&

&

&

&

&

&

&<image001.jpg>

Nicole M. Zeiss | Partner

140 Broadway, New York, New York 10005

T: (212) 907-0867 | & F: (212) 883-7067

E: nzeiss@labaton.com | & W: www.labaton.com

&

&<image002.gif>& &<image003.gif>& &<image004.gif>

&

From: Chiplock, Daniel P.

[<mailto:DCHIPLOCK@lchb.com>]

Sent: Friday, August 28, 2015 9:29 AM

To: Sucharow, Lawrence

Cc: Zeiss, Nicole; Lynn Sarko; rlieff@lieff.com; Michael Thornton; Garrett J. Bradley; Michael Lesser; Evan Hoffman; Kravitz, Carl S.; Brian McTigue; Rogers, Michael H.; Goldsmith, David

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

&

OK, sounds good. & I will also get you whatever edits I have to the settlement docs by noon.

&

From: Sucharow, Lawrence

[<mailto:LSucharow@labaton.com>]

Sent: Friday, August 28, 2015 9:28 AM

To: Chiplock, Daniel P.

Cc: Zeiss, Nicole; Lynn Sarko; rlieff@lieff.com; Michael Thornton; Garrett J. Bradley; Michael Lesser; Evan Hoffman; Kravitz, Carl S.; Brian McTigue; Rogers, Michael H.; Goldsmith, David

Subject: Re: SST--Proposed Revision to Term Sheet for DOL Deal

&

I am speaking to Paine today at around 10 AM to both report to him and get his update.

I'll report back and advise whether we should send the revised term sheet. I expect we should but let's hold off for another hour.

Sent from my iPhone

On Aug 28, 2015, at 9:19 AM, Chiplock, Daniel P. &<DCHIPLOCK@lchb.com&>wrote:

This looks OK to me, thanks.& I'm happy to send it (after you've done the other redline) to Paine, if you like.& Or someone else can, no matter.

&

From: Zeiss, Nicole
[<mailto:NZeiss@labaton.com>]

Sent: Thursday, August 27, 2015 3:27 PM

To: Lynn Sarko; 'rlieff@lieff.com'; Chiplock, Daniel P.; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'

Cc: Rogers, Michael H.; Sucharow, Lawrence; Goldsmith, David

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

&

Dear all,

&

We've had some additional exchanges about the term sheet and, specifically, para 8(n).& I believe the attached draft resolves those issues and that there is consensus that the attached accurately reflects the basic DOL fee deal.& If you disagree, please let us know asap.

&

When someone wants to send this to Paine, or the DOL, I will need a run a different redline for them.

&

Thanks

&
&
&
&
&
&
&

&<image001.jpg&>

Nicole M. Zeiss | Partner

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10005

T: (212) 907-0867 |& F: (212) 883-7067

E: nzeiss@labaton.com |& W:

www.labaton.com

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>& &<image004.jpg&>

&

.....
From: Zeiss, Nicole

Sent: Wednesday, August 26, 2015
5:09 PM

To: Sucharow, Lawrence; Lynn Sarko;
Goldsmith, David; 'rlieff@lieff.com';
Daniel P. Chiplock; Michael Thornton;
Garrett J. Bradley; Michael Lesser; 'Evan
Hoffman'; 'Kravitz, Carl S.'; 'Brian
McTigue'

Cc: Rogers, Michael H.

Subject: RE: SST--Proposed Revision to
Term Sheet for DOL Deal

&

Attached is the term sheet showing the
changes discussed below, plus one
additional change to para 8(n) that
might help.

&

Thanks

&

&

&

&

&

&

&

&<image005.jpg&>

Nicole M. Zeiss | Partner

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E: nzeiss@labaton.com |& W:

www.labaton.com

&<image006.jpg&>& &<image007.jpg&
>& &<image008.jpg&>

&

From: Sucharow, Lawrence
Sent: Wednesday, August 26, 2015
4:34 PM
To: Lynn Sarko; Goldsmith, David;
'rlieff@lieff.com'; Daniel P. Chiplock;
Michael Thornton; Garrett J. Bradley;
Michael Lesser; 'Evan Hoffman'; 'Kravitz,
Carl S.'; 'Brian McTigue'
Cc: Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to
Term Sheet for DOL Deal

&
Then we can probably forget my
proposed changes.
&

From: Lynn Sarko
[<mailto:lsarko@KellerRohrback.com>]
Sent: Wednesday, August 26, 2015
4:26 PM
To: Sucharow, Lawrence; Goldsmith,
David; 'rlieff@lieff.com'; Daniel P.
Chiplock; Michael Thornton; Garrett J.
Bradley; Michael Lesser; 'Evan
Hoffman'; 'Kravitz, Carl S.'; 'Brian
McTigue'
Cc: Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to
Term Sheet for DOL Deal

&
Sure.& & If it works for them – its fine
with me
&

Lynn Lincoln Sarko
Managing Partner
&
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Phone: (206) 623-1900
Fax: (206) 623-3384
E-mail: lsarko@kellerrohrback.com
&

From: Sucharow, Lawrence
[<mailto:LSucharow@labaton.com>]
Sent: Wednesday, August 26, 2015 1:25
PM
To: Lynn Sarko
&<lsarko@KellerRohrback.com>;
Goldsmith, David
&<dgoldsmith@labaton.com>;
'rlieff@lieff.com' &<rlieff@lieff.com>;
Daniel P. Chiplock
&<DCHIPLOCK@lchb.com>; Michael
Thornton
&<MThornton@tenlaw.com>; Garrett
J. Bradley &<gbradley@tenlaw.com>;

Michael Lesser
&<MLesser@tenlaw.com>; 'Evan Hoffman'
&<EHoffman@tenlaw.com>; 'Kravitz, Carl S.' &<ckravitz@zuckerman.com>;
'Brian McTigue'
&<bmctigue@mctiguelaw.com>
Cc: Zeiss, Nicole
&<NZeiss@labaton.com>; Rogers, Michael H.
&<MRogers@labaton.com>

Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal
&

Can we leave para 8(n) the general way it is and protect the DOL through the express provision of para 12 limiting fees charged to ERISA allocation to \$10.9 million?
&

From: Lynn Sarko
[mailto:lsarko@KellerRohrback.com]
Sent: Wednesday, August 26, 2015 3:42 PM
To: Goldsmith, David; 'rlieff@lieff.com'; Daniel P. Chiplock; Michael Thornton; Garrett J. Bradley; Michael Lesser; 'Evan Hoffman'; 'Kravitz, Carl S.'; 'Brian McTigue'
Cc: Sucharow, Lawrence; Zeiss, Nicole; Rogers, Michael H.
Subject: RE: SST--Proposed Revision to Term Sheet for DOL Deal

&
David
Thanks for sending this.& Sorry, I had misunderstood what you were saying on our call earlier today.
&
Two things:
&
1.& I do think the language you proposed for paragraph 12 works—but just change it to \$10.9 million.
2. On paragraph 8(n)- the problem is the word “fees”—since the DOL has given us a hard number for ERISA fees—that won’t be going up or down.& & So—question—can we get rid of the word “fees” in this paragraph—does it still work?
&
What do you think??

&
Lynn
&
Lynn Lincoln Sarko
Managing Partner
&
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Phone: (206) 623-1900
Fax: (206) 623-3384
E-mail: lsarko@kellerrohrback.com
&

.....
From: Goldsmith, David
[\[mailto:dgoldsmith@labaton.com\]](mailto:dgoldsmith@labaton.com)
Sent: Wednesday, August 19, 2015 2:59 PM
To: 'rlieff@lieff.com'
&<rlieff@lieff.com>; Daniel P.
Chiplock &<DCHIPLOCK@lchb.com>;
Michael Thornton
&<MThornton@tenlaw.com>; Garrett
J. Bradley &<gbradley@tenlaw.com>;
Michael Lesser
&<MLesser@tenlaw.com>; 'Evan
Hoffman'
&<EHoffman@tenlaw.com>; Lynn
Sarko
&<lsarko@KellerRohrback.com>;
'Kravitz, Carl S.'
&<ckravitz@zuckerman.com>; 'Brian
McTigue'
&<bmctigue@mctiguelaw.com>
Cc: Sucharow, Lawrence
&<LSucharow@labaton.com>; Zeiss,
Nicole &<NZeiss@labaton.com>;
Rogers, Michael H.
&<MRogers@labaton.com>
Subject: SST--Proposed Revision to
Term Sheet for DOL Deal
&

All:& The below reflects our proposed
revisions to the Term Sheet (in **red
boldface**) to reflect the imminent deal
with the DOL on fees and expenses as
certain of us discussed this morning
(DOL has advised that they want the
deal memorialized in the Term
Sheet).& Please comment.& Thanks.
&
&

8(n).& & & & & & **Plan of
Allocation.** & . . . The amount allocated
to the ERISA Plans and Investment

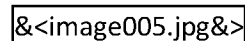
Companies and other Settlement Class Members shall be increased or decreased by their proportional share (with respect to the Class Settlement Amount) of any interest, costs (including costs of notice and administration), expenses (including taxes), and fees and expenses of Plaintiffs' Counsel obtained or paid pursuant to permission of the Court. **However, notice and administration expenses attributable solely to the claims of Class Members categorized as Group Trusts shall be paid solely out of the ERISA allocation, and the cost of any ERISA Independent Fiduciary shall be borne solely by SSBT and shall not be paid out of the Class Settlement Amount.**

&

12. **Plaintiff s' Counsel's Attorneys' Fees and Expenses.** Plaintiffs' Counsel's attorneys' fees and expenses, as awarded by the Court, shall be paid from the Class Escrow Account immediately upon award by the Court into an escrow account governed by an escrow agreement between Interim Lead Counsel, SSBT and a bank or other institution agreed upon by SSBT and Interim Lead Counsel (the "Interim Lead Counsel Escrow Account"), notwithstanding any appeals of the Settlement or the fee and expense award. Plaintiffs' Counsel ~~shall~~ **may** apply for their fees and expenses and any service awards for Plaintiffs against the entire Class Settlement Amount, **but in no event shall more than Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00) in fees be paid out of the \$60 million portion of the Class Settlement Amount allocated to ERISA Plans, as referenced in Paragraph 8(n) above.** & In the event that the Effective Date does not occur or SSBT promptly provides written notice representing in good faith that the Effective Date has not and cannot occur due to developments with the DOJ Settlement, DOL Settlement,

and/or SEC Settlement and explaining the grounds for the notice, Plaintiffs' Counsel severally shall be obliged to pay to SSBT all amounts paid to them from the Interim Lead Counsel Escrow Account within fourteen (14) business days.& The prevailing party in any action to collect any amount due under this paragraph shall be entitled to recover interest and all of its costs of collection, including attorneys' fees.& Should the fee and expense award be reduced by the Court or on appeal, all such fees and expenses received by Plaintiffs' Counsel in excess of those that are ultimately approved shall be repaid to the Class Escrow Account, along with interest at the Class Escrow Account rate of interest.

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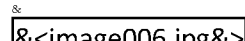
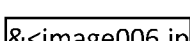

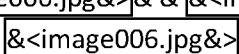
David J. Goldsmith | Partner

140 Broadway, New York, New York
10005

T: (212) 907-0879 | F: (212) 883-7079

E: dgoldsmith@labaton.com | & W:

www.labaton.com

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EX. 87

From: Michael Lesser
Sent: Sunday, August 30, 2015 1:05 PM
To: Evan Hoffman
Subject: Fwd: State Street

Begin forwarded message:

From: "Chiplock, Daniel P." <DCHIPLOCK@lchb.com>
Date: August 30, 2015 at 12:49:38 PM EDT
To: 'Michael Thornton' <MThornton@tenlaw.com>, Garrett Bradley <GBradley@tenlaw.com>
Cc: "Lieff, Robert L." <RLIEFF@lchb.com>, "rlieff@lieff.com" <rlieff@lieff.com>, Michael Lesser <MLesser@tenlaw.com>
Subject: RE: State Street

Excellent and I would expect and anticipate nothing less, Mike. I just know what some of our colleagues can do when presented with an easy target in order to hold up the process, and we don't want to do that. Thanks.

-----Original Message-----

From: Michael Thornton [<mailto:MThornton@tenlaw.com>]
Sent: Sunday, August 30, 2015 12:45 PM
To: Chiplock, Daniel P.; Garrett Bradley
Cc: Lieff, Robert L.; rlieff@lieff.com; Michael Lesser
Subject: Re: State Street

Thank you for the tip Dan. I did say something like that on the call, but preceded it by saying it was a guess and that I would have to ask Mike Lesser for the actual figure at that point which of course is not complete as with the other firms. I appreciate your concern and I guess I can only assure you that it generally our policy to truthful and accurate hour claims.

Original Message
From: Chiplock, Daniel P.
Sent: Sunday, August 30, 2015 12:24 PM
To: Garrett Bradley
Cc: Lieff, Robert L.; Michael Thornton; rlieff@lieff.com
Subject: RE: State Street

No problem. It may be tomorrow since I have to go back to archives.

In the meantime, while we're on the subject of credibility, I want to point out that we need to be consistent and credible with our lodestar reporting in State Street. We are gathering final lodestar reports now, but I heard third-hand that Mike recently said on a call (that I wasn't on) that Thornton Law Firm was showing \$14 million. That number does not comport with the hours Mike Lesser told me for Thornton as of June 29 (around 12,750), which make more sense given

what we know about the work that was done. I am hopeful Mike T. simply misspoke or was guessing when he said \$14 million and that we are not going to suddenly see an additional 12,000 hours mysteriously appear on Thornton Law Firm's behalf. I would expect that you would object if LCHB or Labaton tried something like that, and ERISA counsel certainly will (and tie up this process as long as possible) if they suspect anything remotely amiss on that front. Let's not make problems for ourselves that we don't need. Also recognize that your reviewers were all housed outside of your firm and their respective overhead and facilities expenses were paid for by others, which we were happy to do as a courtesy. Thanks.

-----Original Message-----

From: Garrett Bradley [<mailto:GBradley@tenlaw.com>]
Sent: Sunday, August 30, 2015 10:43 AM
To: Chiplock, Daniel P.
Cc: Lieff, Robert L.; Michael Thornton; rlieff@lieff.com
Subject: Re: State Street

That would be helpful thank you.

Garrett

On Aug 30, 2015, at 10:30 AM, Chiplock, Daniel P. <DCHIPLOCK@lchb.com> wrote:

I don't look past that point, Garrett. But you need to also recognize that you are only in the BNYM class case because of us.

I guess I'll gather the emails etc concerning the assignments that were given to your firm. As if that's going to change your position.

Sent from my iPhone

On Aug 30, 2015, at 10:19 AM, Garrett Bradley
<GBradley@tenlaw.com<<mailto:GBradley@tenlaw.com>>> wrote:

Dan,

Thanks for the email. I think we will have to agree to disagree as you keep looking past the fact that but for Mike Thornton you would not be in the state street case just like Labaton is not in BONY.

Can you clarify what you mean by we did not "get the work done" as you indicated. That has never been specified and really should be to be deemed credible. Thanks.

Garrett

On Aug 30, 2015, at 9:04 AM, Chiplock, Daniel P.

<DCHIPLOCK@lchb.com<<mailto:DCHIPLOCK@lchb.com>>> wrote:

Garrett,

Thanks for your email and I actually think it's useful so that Mike and Bob can participate in this.

This idea of "protection" in BNYM is where I think we keep talking past each other. The bottom line is that LCHB is the least protected of all in that case. This is the fact that has kept me up at night for 2.5 years while we've continued pouring lodestar into that case (because we had to). We invested the most in order to try to get a class certified there and to sufficiently man 110 depositions, defend counterclaims, etc., but if Judge Kaplan takes a negative view of the value of document review/analysis (our arguments to the contrary notwithstanding), then LCHB will get hit the hardest. You are totally shielded from this because you didn't invest in document review. In other words, LCHB has a real risk of actually losing money in BNYM. You have virtually no risk of that. If Thornton is not treated "fairly" in BNYM by the Court it will be because nobody (least of all LCHB) was treated "fairly." It's not clear to me what it is you expect in that circumstance.

The \$10 million in State Street that you mention below also does not make up for LCHB's investment in that case. And we've certainly contributed our share to the result in State Street, having litigated BNYM (thus substantially increasing the value of State Street) and developed the ch. 93A theory (the most readily certifiable claim in State Street, and by far the most valuable).

Dan

From: Garrett Bradley [<mailto:GBradley@tenlaw.com>]

Sent: Friday, August 28, 2015 3:01 PM

To: Chiplock, Daniel P.

Cc: Lieff, Robert L.; Michael Thornton;
rlieff@lieff.com<<mailto:rlieff@lieff.com>>

Subject: Re: State Street

Dan,

I tried to call you but you are out. I think these things are best discussed rather than emailed so please call my cell when you can 6174134892 as I do not have yours.

However a few points. I do not dismiss your efforts in Mellon but your guaranteed percentage was established years prior to a Mellon result. What I am pointing out is the inequities of our different positions. In Mellon, when we had created that case by developing the fx case all that we got was some work that resulted in \$1.5 million in time. Also please elaborate on your statement that "the work was not getting done".

Now contrast that to state street where you had no client and no concept (and Mellon was years from setting) and Mike Thornton demands that you get a floor of 20% which is probably worth about \$10 million.

You must agree you are in a much better position in state street than we are in Mellon. As I have said to Bob, we are only looking for a fair outcome in these matters. I think you would agree we have protected you better in state street than we are protected in Mellon. Once we have an idea of what our Mellon number looks like then we can discuss how to approach the balance of the 40% with Labaton .

Garrett

On Aug 28, 2015, at 2:34 PM, Chiplock, Daniel P.
<DCHIPLOCK@lchb.com<<mailto:DCHIPLOCK@lchb.com>>> wrote:

Garrett,

I know you didn't really mean to diminish LCHB's role in creating the result in BNY Mellon, at extraordinary risk to itself, which in turn doubled the value of State Street. You need to know that we advocated for you guys too, getting you a role in the BNYM class case (and pushing back against several co-counsel in the process) when you weren't actually owed one. I also gave your firm more assignments than others at the outset in BNYM, until it became clear that the work simply wasn't getting done. In other words, we've each tried to look out for the other in the past. This has been far from a one-way street.

As you know, Judge Kaplan controls everyone's fate in BNYM and LCHB has the most risk before him, having invested the most. We asked for a multiplier for your firm that is much larger than anyone else's, and I really, truly hope that he grants that request.

Thanks,

Dan

From: Garrett Bradley [<mailto:GBradley@tenlaw.com>]

Sent: Friday, August 28, 2015 2:18 PM

To: Lieff, Robert L.

Cc: Michael Thornton; Chiplock, Daniel P.;
rlieff@lieff.com<<mailto:rlieff@lieff.com>>

Subject: Re: State Street

Bob,

I am driving but took a quick look at your email and pulled over to type this. I think you are misunderstood. I have not agreed that it would be equitable to split the balance of the forty percent the way you described below. What I have said is that may be a fair approach depending on the outcome of our fee in the Mellon matter. If we are treated fairly there, then we will do all we can to treat you fairly in the state street matter. As I have said before, because of Mike Thornton's advocacy, you are guaranteed at least 20% of the State Street case in which you have no client and did not develop the concept. Yet, we have no corresponding protection in the Mellon matter. Happy to discuss further at any time.

Garrett

On Aug 28, 2015, at 2:05 PM, Lieff, Robert L.
<RLIEFF@lchb.com<<mailto:RLIEFF@lchb.com>>> wrote:

Garrett,

I called and suggested that we have a meeting together with the Labaton people to talk about putting in writing an understanding of the fee division in this case.

You, Mike and I have discussed the State Street fee division and have focused on the existing verbal understanding that was reached on November 9, 2010, with Chris Keller. We agreed that among the three firms we will each have a 20% interest in the fee with the balance to be divided later. Of course, we also have to factor in the 9% that ERISA counsel get pursuant to written agreement and a provision for Arkansas local counsel.

You and I have agreed that it would be equitable to divide the balance of the fee with Labaton getting 50% and each of our firms 25%. This would result in a fee division as follows:

Labaton 33.0 (20 + 13)

Thornton 26.5 (20 + 6.5)

Lieff Cabraser 26.5 (20 + 6.5)

ERISA 9.0

Arkansas Local 5.0

100.0%

If we put the above into an agreement among the three firms, that would certainly provide protection for everyone.

Bob

<image001.gif>

Robert L. Lieff

Of Counsel

rlieff@lchb.com<<mailto:rlieff@lchb.com>>

t 415.956.1000

f 415.956.1008

Lieff Cabraser Heimann & Bernstein, LLP

275 Battery Street, 29th Floor

San Francisco, CA 94111-3339

www.lieffcabraser.com<<http://www.lieffcabraser.com>>

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EX. 88

Exhibit 15

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly situated,	)	No. 11-cv-10230 MLW
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)	
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,	)	No. 11-cv-12049 MLW
and those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
STATE STREET GLOBAL MARKETS, LLC and)	
DOES 1-20,)	
)	
Defendants.)	

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	
AND PROFIT SHARING PLAN, on behalf of itself, and	)	No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

**DECLARATION OF LAWRENCE A. SUCHAROW ON BEHALF
OF LABATON SUCHAROW LLP IN SUPPORT OF LEAD COUNSEL'S
MOTION FOR AN AWARD OF ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

LAWRENCE A. SUCHAROW declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a member and Chairman of the law firm of Labaton Sucharow LLP (“Labaton Sucharow”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from inception through August 30, 2016 (the “Time Period”).¹

2. My Firm is counsel for Plaintiff Arkansas Teacher Retirement System (“ARTRS”) and Court-appointed Lead Counsel for the Settlement Class (“Lead Counsel”). My Firm led the investigation and prosecution of the *ARTRS* Action on behalf of ARTRS and the Class alleged in the Amended Class Action Complaint. After this Court substantially denied State Street’s motion to dismiss that Complaint, I led the Court-endorsed mediation and discovery process that resulted in the proposed Settlement of the consolidated Class Actions.

3. I approached these particular Class Actions with the firm belief that a practical, “business-like” approach to resolving them—assuming State Street’s cooperation—would ultimately produce an excellent Settlement while controlling litigation costs and saving party, third-party, and judicial resources. Thus, I advocated for a litigation strategy focused on mediation and targeted discovery and informational exchanges, which was implemented with the Court’s approval.

4. Over a period of years, including 16 in-person mediation sessions and countless other communications, I steered the Plaintiffs through a complex and challenging mediation

¹ Capitalized terms that are not otherwise defined herein have the same meanings as those set forth in the Stipulation and Agreement of Settlement, dated July 26, 2016.

process, negotiating not only with State Street but at times with counsel for the ERISA Plaintiffs and representatives of the U.S. Department of Labor.

5. During the mediation and discovery process, my Firm nonetheless continued to work to prepare for (and to be prepared for) litigation, including contested discovery, depositions, and motion practice, in the event the mediation process broke down.

6. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

7. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions.

8. The total number of hours expended on this litigation by my firm during the Time Period is 38,680.4 hours. The total lodestar for my firm for those hours is \$17,368,905.50.

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

10. As detailed in Exhibit B, my firm has incurred a total of \$258,824.60 in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books

and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

11. My firm was also responsible for maintaining a joint litigation fund on behalf of my firm, the Thornton Law Firm LLP, and Lieff Cabraser Heimann & Bernstein, LLP (the “Litigation Fund”) in order to monitor the major expenses incurred in the ARTRS Action and to facilitate their payment. The expenses incurred by the Litigation Fund are reported in Exhibit C, attached hereto. The Litigation Fund has received contributions (*i.e.*, deposits) totaling \$319,000.00 from counsel and has incurred a total of \$319,670.38 in expenses in connection with the prosecution of the ARTRS Action. Accordingly, there is an unpaid and outstanding balance of \$670.38, which has been added to my firm’s expense report so that, upon Court approval, these expenses can be paid.

12. The expenditures from the Litigation Fund are separately reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

13. With respect to the standing of my firm, attached hereto as Exhibit D is a brief biography of my firm as well as biographies of the firm’s partners, senior counsel and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
September 15, 2016.



LAWRENCE A. SUCHAROW

Exhibit A

EXHIBIT A**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****LODESTAR REPORT****FIRM: LABATON SUCHAROW LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

PROFESSIONAL	STATUS	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Sucharow, L.	P	\$985.00	801.4	\$789,379.00
Bernstein, J.	P	\$985.00	129.7	\$127,754.50
Keller, C.	P	\$950.00	182.5	\$173,375.00
Schochet, I.	P	\$950.00	33.0	\$31,350.00
Gardner, J.	P	\$925.00	63.8	\$59,015.00
Belfi, E.	P	\$875.00	669.5	\$585,812.50
Zeiss, N.	P	\$850.00	361.2	\$307,020.00
Goldsmith, D.	P	\$825.00	1,310.7	\$1,081,327.50
Rogers, M.	P	\$800.00	1,578.4	\$1,262,720.00
Scarlato, P.	OC	\$775.00	466.8	\$361,770.00
Wierzbowski, E.	A	\$725.00	104.1	\$75,472.50
Martin, C.	A	\$590.00	320.0	\$188,800.00
Sundel, S.	A	\$500.00	111.5	\$55,750.00
Mann, F.	A	\$460.00	53.5	\$24,610.00
Sack, D.	A	\$380.00	16.7	\$6,346.00
Hector, N.	A	\$340.00	47.6	\$16,184.00
Kaplan, B.	SA	\$440.00	535.8	\$235,752.00
Greene, T.	SA	\$435.00	1,118.2	\$486,417.00
Flanigan, M.	SA	\$435.00	382.2	\$166,257.00
George, L.	SA	\$435.00	269.1	\$117,058.50
Fouchong, D.	SA	\$425.00	1,133.9	\$481,907.50
Alper, D.	SA	\$425.00	957.8	\$407,065.00
Hong, D.	SA	\$425.00	519.6	\$220,830.00
Pospischil, D.	SA	\$410.00	3,765.4	\$1,543,814.00
Watson, J.	SA	\$410.00	1,054.0	\$432,140.00
Bolano, M.	SA	\$410.00	858.7	\$352,067.00
Powell, A.	SA	\$410.00	678.0	\$277,980.00

PROFESSIONAL	STATUS	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Rosenbaum, A.	SA	\$410.00	545.6	\$223,696.00
Kaiafas, G.	SA	\$410.00	323.7	\$132,717.00
Hirsh, J.	SA	\$410.00	135.4	\$55,514.00
Kussin, T.	SA	\$390.00	1,245.5	\$485,745.00
Griffin, J.	SA	\$390.00	803.2	\$313,248.00
Tierney, A.	SA	\$390.00	150.2	\$58,578.00
Abrahams, V.	SA	\$390.00	81.5	\$31,785.00
Orji, C.	SA	\$375.00	646.2	\$242,325.00
Grant, J.	SA	\$360.00	1,142.9	\$411,444.00
Gianturco, D.	SA	\$360.00	1,073.8	\$386,568.00
Kirsh, Z.	SA	\$360.00	1,036.9	\$373,284.00
Pietrofesa, C.	SA	\$360.00	968.2	\$348,552.00
Herrick, I.	SA	\$360.00	660.3	\$237,708.00
Packman, D.	SA	\$360.00	499.7	\$179,892.00
Dolben, S.	SA	\$360.00	198.8	\$71,568.00
Perez, O.	SA	\$335.00	3,628.9	\$1,215,681.50
Bernadin, F.	SA	\$335.00	2,804.7	\$939,574.50
Vaidya, A.	SA	\$335.00	1,056.4	\$353,894.00
Cameron, N.	SA	\$335.00	613.4	\$205,489.00
Bishop, E.	SA	\$335.00	582.4	\$195,104.00
Daniels, M.	SA	\$335.00	562.1	\$188,303.50
Shrem, E.	SA	\$335.00	555.2	\$185,992.00
Saad, J.	SA	\$335.00	480.7	\$161,034.50
Schulman, B.	SA	\$335.00	274.0	\$91,790.00
Yamada, R.	SA	\$335.00	184.0	\$61,640.00
Ching, N.	RA	\$405.00	45.5	\$18,427.50
Capuozzo, C.	RA	\$325.00	15.7	\$5,102.50
Ahn, E.	RA	\$325.00	12.1	\$3,932.50
Bertuglia, P.	RA	\$295.00	46.0	\$13,570.00
Chianelli, T.	RA	\$295.00	17.7	\$5,221.50
Pontrelli, J.	I	\$495.00	113.3	\$56,083.50
Greenbaum, A.	I	\$455.00	181.4	\$82,537.00
Gumeny, A.	I	\$440.00	51.8	\$22,792.00
Polk, T.	I	\$430.00	12.2	\$5,246.00
Wroblewski, R.	I	\$425.00	50.5	\$21,462.50
Warner, R.	I	\$365.00	33.6	\$12,264.00
Malonzo, F.	PL	\$340.00	8.9	\$3,026.00

PROFESSIONAL	STATUS	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Auer, S.	PL	\$325.00	145.0	\$47,125.00
Viczian, R.	PL	\$325.00	89.9	\$29,217.50
Mundo, S.	PL	\$325.00	18.9	\$6,142.50
Boria, C.	PL	\$325.00	8.3	\$2,697.50
Mehringer, L.	PL	\$325.00	4.5	\$1,462.50
Krasner, S.	PL	\$295.00	10.6	\$3,127.00
Chan, C.	PL	\$275.00	37.7	\$10,367.50
TOTAL			38,680.4	\$17,368,905.50

Partner (P)
 Of Counsel (OC)
 Associate (A)
 Staff Attorney (SA)
 Research Analyst (RA)
 Investigator (I)
 Paralegal (PL)

Exhibit B

EXHIBIT B***STATE STREET INDIRECT FX TRADING CLASS ACTION***
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)**EXPENSE REPORT****FIRM: LABATON SUCHAROW LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

EXPENSE	TOTAL AMOUNT
Duplicating	\$14,457.03
Long-Distance Telephone / Fax / Conference Calls	\$2,071.94
Filing / Service / Witness Fees	\$300.00
Court Hearing & Deposition Transcripts	\$89.10
Online Legal & Financial Research	\$14,262.28
Overnight Delivery Services	\$581.02
Expert – FX Transparency, LLC	\$34,124.82
Work-Related Transportation/Meals/Lodging*	\$69,268.03
Litigation Fund Contribution	\$123,000.00
Outstanding Litigation Expense Fund Costs	\$670.38
TOTAL	\$258,824.60

* \$1,800 in estimated travel costs has been included for two representatives of Labaton Sucharow to attend the final approval hearing. If less than \$1,800 is incurred, the actual amount incurred will be deducted from the Settlement Fund, assuming Court-approval. If more than \$1,800 is incurred, \$1,800 will be the cap and only that amount will be deducted from the Settlement Fund.

Exhibit C

EXHIBIT C**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****LITIGATION FUND**

<i>DEPOSITS:</i>	<i>TOTALS</i>
Labaton Sucharow LLP	\$123,000.00
Lieff Cabraser Heimann & Bernstein, LLP	\$98,000.00
Thornton Law Firm LLP	\$98,000.00
<i>TOTAL DEPOSITS</i>	<i>\$319,000.00</i>
<i>EXPENSES INCURRED BY THE LITIGATION FUND:</i>	
Experts - FX Transparency, LLC	\$2,000.00
Court Reporting Services	\$248.05
Mediation - MarksADR, LLC	\$109,049.98
Litigation Support/Electronic Discovery	\$208,372.35
Catalyst Repository Systems, Inc.	\$198,838.68
Precision Discovery, LLC	\$9,533.67
<i>TOTAL EXPENSES OF LITIGATION FUND</i>	<i>\$319,670.38</i>
<i>BALANCE REMAINING IN LITIGATION FUND</i>	<i>(\$670.38)</i>

Exhibit D



Firm Resume

Securities Class Action Litigation



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About the Firm

Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs firms in the United States. We have recovered more than \$10 billion and secured corporate governance reforms on behalf of the nation's largest institutional investors, including public pension and Taft-Hartley funds, hedge funds, investment banks, and other financial institutions. These recoveries include more than \$1 billion in *In re American International Group, Inc. Securities Litigation*, \$671 million in *In re HealthSouth Securities Litigation*, \$624 million in *In re Countrywide Financial Corporation Securities Litigation*, and \$473 million in *In re Schering-Plough/ENHANCE Securities Litigation*.

As a leader in the field of complex litigation, the Firm has successfully conducted class, mass, and derivative actions in the following areas: securities; antitrust; financial products and services; corporate governance and shareholder rights; mergers and acquisitions; derivative; REITs and limited partnerships; consumer protection; and whistleblower representation.

Along with securing newsworthy recoveries, the Firm has a track record for successfully prosecuting complex cases from discovery to trial to verdict. In court, as *Law360* has noted, our attorneys are known for "fighting defendants tooth and nail." Our appellate experience includes winning appeals that increased settlement value for clients, and securing a landmark 2013 U.S. Supreme Court victory benefitting all investors by reducing barriers to the certification of securities class action cases.

Our Firm is equipped to deliver results with a robust infrastructure of more than 60 full-time attorneys, a dynamic professional staff, and innovative technological resources. Labaton Sucharow attorneys are skilled in every stage of business litigation and have challenged corporations from every sector of the financial markets. Our professional staff includes paralegals, financial analysts, e-discovery specialists, a certified public accountant, a certified fraud examiner, and a forensic accountant. With seven investigators, including former members of federal and state law enforcement, we have one of the largest in-house investigative teams in the securities bar. Managed by a law enforcement veteran who spent 12 years with the FBI, our internal investigative group provides us with information that is often key to the success of our cases.

Outside of the courtroom, the Firm is known for its leadership and participation in investor protection organizations, such as the Council for Institutional Investors, World Federation of Investors, National Association of Shareholder and Consumer Attorneys, as well as serving as a patron of the John L. Weinberg Center for Corporate Governance of the University of Delaware. The Firm shares these groups' commitment to a market that operates with greater transparency, fairness, and accountability.

Labaton Sucharow has been consistently ranked as a top-tier firm in leading industry publications such as *Chambers & Partners USA*, *The Legal 500*, and *Benchmark Litigation*. For the past decade, the Firm was listed on *The National Law Journal's* Plaintiffs' Hot List and was inducted to the Hall of Fame for successive honors. The Firm has also been featured as one of *Law360's* Most Feared Plaintiffs Firms and Class Action Practice Groups of the Year.

Visit www.labaton.com for more information about our Firm.

Securities Class Action Litigation

Labaton Sucharow is a leader in securities litigation and a trusted advisor to more than 200 institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995 (PSLRA), the Firm has recovered more than \$8 billion in the aggregate for injured investors through securities class actions prosecuted throughout the United States and against numerous public corporations and other corporate wrongdoers.

These notable recoveries would not be possible without our exhaustive case evaluation process. The Firm has developed a proprietary system for portfolio monitoring and reporting on domestic and international securities litigation, and currently provides these services to more than 160 institutional investors, which manage collective assets of more than \$2 trillion. The Firm's in-house licensed investigators also gather crucial details to support our cases, whereas other firms rely on outside vendors, or conduct no confidential investigation at all.

As a result of our thorough case evaluation process, our securities litigators can focus solely on cases with strong merits. The benefits of our selective approach are reflected in the low dismissal rate of the securities cases we pursue, which is well below the industry average. In the last five years alone, we have successfully prosecuted headline-making class actions against AIG, Countrywide, Fannie Mae, and Bear Stearns, among others.

Notable Successes

Labaton Sucharow has achieved notable successes in major securities litigations on behalf of investors, including the following:

- ***In re American International Group, Inc. Securities Litigation, No. 04-cv-8141, (S.D.N.Y.)***

In one of the most complex and challenging securities cases in history, Labaton Sucharow secured more than \$1 billion in recoveries on behalf of lead plaintiff Ohio Public Employees' Retirement System in a case arising from allegations of bid rigging and accounting fraud. To achieve this remarkable recovery, the Firm took over 100 depositions and briefed 22 motions to dismiss. The settlement entailed a \$725 million settlement with American International Group (AIG), \$97.5 million settlement with AIG's auditors, \$115 million settlement with former AIG officers and related defendants, and an additional \$72 million settlement with General Reinsurance Corporation, which was approved by the Second Circuit on September 11, 2013.

- ***In re Countrywide Financial Corp. Securities Litigation, No. 07-cv-05295 (C.D. Cal.)***

Labaton Sucharow, as lead counsel for the New York State Common Retirement Fund and the five New York City public pension funds, sued one of the nation's largest issuers of mortgage loans for credit risk misrepresentations. The Firm's focused investigation and discovery efforts uncovered incriminating evidence that led to a \$624 million settlement for investors. On February 25, 2011, the court granted final approval to the settlement, which is one of the top 20 securities class action settlements in the history of the PSLRA.

- ***In re HealthSouth Corp. Securities Litigation, No. 03-cv-01500 (N.D. Ala.)***

Labaton Sucharow served as co-lead counsel to New Mexico State Investment Council in a case stemming from one of the largest frauds ever perpetrated in the healthcare industry. Recovering \$671 million for the class, the settlement is one of the top 15 securities class action settlements of all time. In

early 2006, lead plaintiffs negotiated a settlement of \$445 million with defendant HealthSouth. On June 12, 2009, the court also granted final approval to a \$109 million settlement with defendant Ernst & Young LLP. In addition, on July 26, 2010, the court granted final approval to a \$117 million partial settlement with the remaining principal defendants in the case, UBS AG, UBS Warburg LLC, Howard Capek, Benjamin Lorello, and William McGahan.

- ***In re Schering-Plough/ENHANCE Securities Litigation, No. 08-cv-00397 (D. N.J.)***

As co-lead counsel, Labaton Sucharow obtained a \$473 million settlement on behalf of co-lead plaintiff Massachusetts Pension Reserves Investment Management Board. After five years of litigation, and three weeks before trial, the settlement was approved on October 1, 2013. This recovery is one of the largest securities fraud class action settlements against a pharmaceutical company. The Special Masters' Report noted, "**the outstanding result achieved for the class is the direct product of outstanding skill and perseverance by Co-Lead Counsel...no one else...could have produced the result here—no government agency or corporate litigant to lead the charge and the Settlement Fund is the product solely of the efforts of Plaintiffs' Counsel.**"

- ***In re Waste Management, Inc. Securities Litigation, No. H-99-2183 (S.D. Tex.)***

In 2002, the court approved an extraordinary settlement that provided for recovery of \$457 million in cash, plus an array of far-reaching corporate governance measures. Labaton Sucharow represented lead plaintiff Connecticut Retirement Plans and Trust Funds. At that time, this settlement was the largest common fund settlement of a securities action achieved in any court within the Fifth Circuit and the third largest achieved in any federal court in the nation. Judge Harmon noted, among other things, that Labaton Sucharow "**obtained an outstanding result by virtue of the quality of the work and vigorous representation of the class.**"

- ***In re General Motors Corp. Securities Litigation, No. 06-cv-1749, (E.D. Mich.)***

As co-lead counsel in a case against automotive giant, General Motors (GM), and Deloitte & Touche LLP (Deloitte), its auditor, Labaton Sucharow obtained a settlement of \$303 million—one of the largest settlements ever secured in the early stages of a securities fraud case. Lead plaintiff Deka Investment GmbH alleged that GM, its officers, and its outside auditor overstated GM's income by billions of dollars, and GM's operating cash flows by tens of billions of dollars, through a series of accounting manipulations. The final settlement, approved on July 21, 2008, consisted of a cash payment of \$277 million by GM and \$26 million in cash from Deloitte.

- ***Arkansas Teacher Retirement System v. State Street Corp., No. 11-cv-10230 (D. Mass)***

Labaton Sucharow served as lead counsel for the plaintiff Arkansas Teacher Retirement System (ATRS) in this securities class action against Boston-based financial services company, State Street Corporation (State Street). On August 8, 2016, the court preliminarily approved a \$300 million settlement with State Street. The plaintiffs claimed that State Street, as custodian bank to a number of public pension funds, including ATRS, was responsible for foreign exchange (FX) trading in connection with its clients global trading. Over a period of many years, State Street systematically overcharged those pension fund clients, including Arkansas, for those FX trades.

- ***Wyatt v. El Paso Corp., No. H-02-2717 (S.D. Tex.)***

Labaton Sucharow secured a \$285 million class action settlement against the El Paso Corporation on behalf of co-lead plaintiff, an individual. The case involved a securities fraud stemming from the company's inflated earnings statements, which cost shareholders hundreds of millions of dollars during a four-year span. On March 6, 2007, the court approved the settlement and also commended the

efficiency with which the case had been prosecuted, particularly in light of the complexity of the allegations and the legal issues.

- ***In re Massey Energy Co. Securities Litigation, No. 10-CV-00689 (S.D. W.Va.)***

As co-lead counsel representing the Commonwealth of Massachusetts Pension Reserves Investment Trust, Labaton Sucharow achieved a \$265 million all-cash settlement in a case arising from one of the most notorious mining disasters in U.S. history. On June 4, 2014, the settlement was reached with Alpha Natural Resources, Massey's parent company. Investors alleged that Massey falsely told investors it had embarked on safety improvement initiatives and presented a new corporate image following a deadly fire at one of its coal mines in 2006. After another devastating explosion which killed 29 miners in 2010, Massey's market capitalization dropped by more than \$3 billion. Judge Irene C. Berger noted that "**Class counsel has done an expert job of representing all of the class members to reach an excellent resolution and maximize recovery for the class.**"

- ***Eastwood Enterprises, LLC v. Farha (WellCare Securities Litigation), No. 07-cv-1940 (M.D. Fla.)***

On behalf of The New Mexico State Investment Council and the Public Employees Retirement Association of New Mexico, Labaton Sucharow served as co-lead counsel and negotiated a \$200 million settlement over allegations that WellCare Health Plans, Inc., a Florida-based managed healthcare service provider, disguised its profitability by overcharging state Medicaid programs. Under the terms of the settlement approved by the court on May 4, 2011, WellCare agreed to pay an additional \$25 million in cash if, at any time in the next three years, WellCare was acquired or otherwise experienced a change in control at a share price of \$30 or more after adjustments for dilution or stock splits.

- ***In re Bristol-Myers Squibb Securities Litigation, No. 00-cv-1990 (D.N.J.)***

Labaton Sucharow served as lead counsel representing the lead plaintiff, union-owned LongView Collective Investment Fund of the Amalgamated Bank, against drug company Bristol-Myers Squibb (BMS). Lead plaintiff claimed that the company's press release touting its new blood pressure medication, Vanlev, left out critical information, other results from the clinical trials indicated that Vanlev appeared to have life-threatening side effects. The FDA expressed serious concerns about these side effects, and BMS released a statement that it was withdrawing the drug's FDA application, resulting in the company's stock price falling and losing nearly 30 percent of its value in a single day. After a five year battle, we won relief on two critical fronts. First, we secured a \$185 million recovery for shareholders, and second, we negotiated major reforms to the company's drug development process that will have a significant impact on consumers and medical professionals across the globe. Due to our advocacy, BMS must now disclose the results of clinical studies on all of its drugs marketed in any country.

- ***In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.)***

As co-lead counsel representing co-lead plaintiff Boston Retirement System, Labaton Sucharow secured a \$170 million settlement on March 3, 2015 with Fannie Mae. Lead plaintiffs alleged that Fannie Mae and certain of its current and former senior officers violated federal securities laws, by making false and misleading statements concerning the company's internal controls and risk management with respect to Alt-A and subprime mortgages. Lead plaintiffs also alleged that defendants made misstatements with respect to Fannie Mae's core capital, deferred tax assets, other-than-temporary losses, and loss reserves. This settlement is a significant feat, particularly following the unfavorable result in a similar case for investors of Fannie Mae's sibling company, Freddie Mac.

Labaton Sucharow successfully argued that investors' losses were caused by Fannie Mae's misrepresentations and poor risk management, rather than by the financial crisis.

- ***In re Broadcom Corp. Class Action Litigation, No. 06-cv-05036 (C.D. Cal.)***

Labaton Sucharow served as lead counsel on behalf of lead plaintiff New Mexico State Investment Council in a case stemming from Broadcom Corp.'s \$2.2 billion restatement of its historic financial statements for 1998 - 2005. In August 2010, the court granted final approval of a \$160.5 million settlement with Broadcom and two individual defendants to resolve this matter, the second largest up-front cash settlement ever recovered from a company accused of options backdating. Following a Ninth Circuit ruling confirming that outside auditors are subject to the same pleading standards as all other defendants, the district court denied Broadcom's auditor Ernst & Young's motion to dismiss on the ground of loss causation. This ruling is a major victory for the class and a landmark decision by the court—the first of its kind in a case arising from stock-options backdating. In October 2012, the court approved a \$13 million settlement with Ernst & Young.

- ***In re Satyam Computer Services Ltd. Securities Litigation, No. 09-md-2027 (S.D.N.Y.)***

Satyam, referred to as "India's Enron," engaged in one of the most egregious frauds on record. In a case that rivals the Enron and Bernie Madoff scandals, the Firm represented lead plaintiff UK-based Mineworkers' Pension Scheme, which alleged that Satyam Computer Services Ltd., related entities, its auditors, and certain directors and officers made materially false and misleading statements to the investing public about the company's earnings and assets, artificially inflating the price of Satyam securities. On September 13, 2011, the court granted final approval to a settlement with Satyam of \$125 million and a settlement with the company's auditor, PricewaterhouseCoopers, in the amount of \$25.5 million. Judge Barbara S. Jones commended lead counsel during the final approval hearing noting that the "...**quality of representation which I found to be very high...**"

- ***In re Mercury Interactive Corp. Securities Litigation, No. 05-cv-3395 (N.D. Cal.)***

Labaton Sucharow served as co-lead counsel on behalf of co-lead plaintiff Steamship Trade Association/International Longshoremen's Association Pension Fund, which alleged Mercury backdated option grants used to compensate employees and officers of the company. Mercury's former CEO, CFO, and General Counsel actively participated in and benefited from the options backdating scheme, which came at the expense of the company's shareholders and the investing public. On September 25, 2008, the court granted final approval of the \$117.5 million settlement.

- ***In re Oppenheimer Champion Fund Securities Fraud Class Actions, No. 09-cv-525 (D. Colo.) and In re Core Bond Fund, No. 09-cv-1186 (D. Colo.)***

Labaton Sucharow served as lead counsel and represented individuals and the proposed class in two related securities class actions brought against OppenheimerFunds, Inc., among others, and certain officers and trustees of two funds—Oppenheimer Core Bond Fund and Oppenheimer Champion Income Fund. The lawsuits alleged that the investment policies followed by the funds resulted in investor losses when the funds suffered drops in net asset value although the funds were presented as safe and conservative investments to consumers. In May 2011, the Firm achieved settlements amounting to \$100 million: \$52.5 million in *In re Oppenheimer Champion Fund Securities Fraud Class Actions*, and a \$47.5 million settlement in *In re Core Bond Fund*.

- ***In re Computer Sciences Corporation Securities Litigation, No. 11-cv-610 (E.D. Va.)***

As lead counsel representing Ontario Teachers' Pension Plan Board, Labaton Sucharow secured a \$97.5 million settlement in this "rocket docket" case involving accounting fraud. The settlement was

the third largest all cash recovery in a securities class action in the Fourth Circuit and the second largest all cash recovery in such a case in the Eastern District of Virginia. The plaintiffs alleged that IT consulting and outsourcing company Computer Sciences Corporation (CSC) fraudulently inflated its stock price by misrepresenting and omitting the truth about the state of its most visible contract and the state of its internal controls. In particular, the plaintiffs alleged that CSC assured the market that it was performing on a \$5.4 billion contract with the UK National Health Services when CSC internally knew that it could not deliver on the contract, departed from the terms of the contract, and as a result, was not properly accounting for the contract. Judge T.S. Ellis, III stated, **"I have no doubt—that the work product I saw was always of the highest quality for both sides."**

Lead Counsel Appointments in Ongoing Litigation

Labaton Sucharow's institutional investor clients are regularly chosen by federal judges to serve as lead plaintiffs in prominent securities litigations brought under the PSLRA. Dozens of public pension funds and union funds have selected Labaton Sucharow to represent them in federal securities class actions and advise them as securities litigation/investigation counsel. Our recent notable lead and co-lead counsel appointments include the following:

- ***In re Goldman Sachs Group, Inc. Securities Litigation, No. 10-cv-03461 (S.D.N.Y)***

Labaton Sucharow represents Arkansas Teacher Retirement System in this high-profile litigation based on the scandals involving Goldman Sachs' sales of the Abacus CDO.

- ***In re Facebook, Inc., IPO Securities and Derivative Litigation, No. 12-md-02389 (S.D.N.Y.)***

Labaton Sucharow represents North Carolina Department of State Treasurer and Arkansas Teacher Retirement System in this securities class action that involves one of the largest initial public offerings for a technology company.

- ***3226701 Canada Inc. v. Qualcomm, Inc., No. 15-cv-2678 (S.D. Cal.)***

Labaton Sucharow represents The Public Employees Retirement System of Mississippi in this securities class action against a leader in 3G and next-generation mobile technologies.

- ***Plumbers and Steamfitters Local 137 Pension Fund v. American Express Co., No. 15-cv-05999 (S.D.N.Y.)***

Labaton Sucharow represents Pipefitters Union Local 537 Pension Fund in this class action against one of the country's largest credit card lenders to reveal the company's hidden cost of losing its Costco partnership.

- ***Avila v. LifeLock, Inc., No. 15-cv-01398 (D. Ariz.)***

Labaton Sucharow represents Oklahoma Firefighters Pension and Retirement System in the securities class action against LifeLock, Inc., an identity theft protection company, alleging major security flaws.

- ***In re Intuitive Surgical Securities Litigation, No. 13-cv-01920 (N.D. Cal.)***

Labaton Sucharow represents the Employees' Retirement System of the State of Hawaii in this securities class action alleging violations of securities fraud laws by concealing FDA regulations violations and a dangerous defect in the company's primary product, the da Vinci Surgical System.

- ***In re KBR, Inc. Securities Litigation, No. 14-cv-01287 (S.D. Tex.)***

Labaton Sucharow represents the IBEW Local No. 58 / SMC NECA Funds in this securities class action alleging misrepresentation of certain Canadian construction contracts.

Innovative Legal Strategy

Bringing successful litigation against corporate behemoths during a time of financial turmoil presents many challenges, but Labaton Sucharow has kept pace with the evolving financial markets and with corporate wrongdoer's novel approaches to committing fraud.

Our Firm's innovative litigation strategies on behalf of clients include the following:

- ***Mortgage-Related Litigation***

In *In re Countrywide Financial Corporation Securities Litigation*, No. 07-cv-5295 (C.D. Cal.), our client's claims involved complex and data-intensive arguments relating to the mortgage securitization process and the market for residential mortgage-backed securities (RMBS) in the United States. To prove that defendants made false and misleading statements concerning Countrywide's business as an issuer of residential mortgages, Labaton Sucharow utilized both in-house and external expert analysis. This included state-of-the-art statistical analysis of loan level data associated with the creditworthiness of individual mortgage loans. The Firm recovered \$624 million on behalf of investors.

Building on its experience in this area, the Firm has pursued claims on behalf of individual purchasers of RMBS against a variety of investment banks for misrepresentations in the offering documents associated with individual RMBS deals.

- ***Options Backdating***

In 2005, Labaton Sucharow took a pioneering role in identifying options-backdating practices as both damaging to investors and susceptible to securities fraud claims, bringing a case, *In re Mercury Interactive Securities Litigation*, No. 05-cv-3395 (N.D. Cal.), that spawned many other plaintiff recoveries.

Leveraging its experience, the Firm went on to secure other significant options backdating settlements, in, for example, *In re Broadcom Corp. Class Action Litigation*, No. 06-cv-5036 (C.D. Cal.), and in *In re Take-Two Interactive Securities Litigation*, No. 06-cv-0803 (S.D.N.Y.). Moreover, in *Take-Two*, Labaton Sucharow was able to prompt the SEC to reverse its initial position and agree to distribute a disgorgement fund to investors, including class members. The SEC had originally planned for the fund to be distributed to the U.S. Treasury. As a result, investors received a very significant percentage of their recoverable damages.

- ***Foreign Exchange Transactions Litigation***

The Firm has pursued or is pursuing claims for state pension funds against BNY Mellon and State Street Bank, the two largest custodian banks in the world. For more than a decade, these banks failed to disclose that they were overcharging their custodial clients for foreign exchange transactions. Given the number of individual transactions this practice affected, the damages caused to our clients and the class were significant. Our claims, involving complex statistical analysis, as well as *qui tam* jurisprudence, were filed ahead of major actions by federal and state authorities related to similar allegations commenced in 2011. Our team favorably resolved the BNY Mellon matter in 2012. The case against State Street Bank is still ongoing.

Appellate Advocacy and Trial Experience

When it is in the best interest of our clients, Labaton Sucharow repeatedly has demonstrated our willingness and ability to litigate these complex cases all the way to trial, a skill unmatched by many firms in the plaintiffs bar.

Labaton Sucharow is one of the few firms in the plaintiffs securities bar to have prevailed in a case before the U.S. Supreme Court. In *Amgen v. Connecticut Retirement Plans & Trust Funds*, 133 S. Ct. 1184 (Feb. 27, 2013), the Firm persuaded the court to reject efforts to thwart the certification of a class of investors seeking monetary damages in a securities class action. This represents a significant victory for all plaintiffs in securities class actions.

In *In re Real Estate Associates Limited Partnership Litigation*, Labaton Sucharow's advocacy significantly increased the settlement value for shareholders. The defendants were unwilling to settle for an amount the Firm and its clients viewed as fair, which led to a six-week trial. The Firm and co-counsel ultimately obtained a landmark \$184 million jury verdict. The jury supported the plaintiffs' position that the defendants knowingly violated the federal securities laws, and that the general partner had breached his fiduciary duties to shareholders. The \$184 million award was one of the largest jury verdicts returned in any PSLRA action and one in which the class, consisting of 18,000 investors, recovered 100 percent of their damages.

Our Clients

Labaton Sucharow represents and advises the following institutional investor clients, among others:

- Arkansas Teacher Retirement System
- Baltimore County Retirement System
- Boston Retirement System
- California Public Employees' Retirement System
- California State Teachers' Retirement System
- City of New Orleans Employees' Retirement System
- Connecticut Retirement Plans & Trust Funds
- Division of Investment of the New Jersey Department of the Treasury
- Genesee County Employees' Retirement System
- Illinois Municipal Retirement Fund
- Teachers' Retirement System of Louisiana
- Macomb County Employees Retirement System
- Metropolitan Atlanta Rapid Transit Authority
- Michigan Retirement Systems
- Mississippi Public Employees' Retirement System
- New York City Pension Funds
- New York State Common Retirement Fund
- Norfolk County Retirement System
- Office of the Ohio Attorney General and several of its Retirement Systems
- Oklahoma Firefighters Pension and Retirement System
- Plymouth County Retirement System
- Office of the New Mexico Attorney General and several of its Retirement Systems
- Public Employee Retirement System of Idaho
- Rhode Island State Investment Commission
- San Francisco Employees' Retirement System
- Santa Barbara County Employees' Retirement System
- State of Oregon Public Employees' Retirement System
- State of Wisconsin Investment Board
- Virginia Retirement System

Awards and Accolades

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

Chambers & Partners USA

Leading Plaintiffs Securities Litigation Firm (2009-2016)

“effective and greatly respected...a bench of partners who are highly esteemed by competitors and adversaries alike”

The Legal 500

Leading Plaintiffs Securities Litigation Firm and also recognized in Antitrust (2010-2016) and M&A Litigation (2013, 2015-2016)

“'Superb' and 'at the top of its game.' The Firm's team of 'hard-working lawyers, who push themselves to thoroughly investigate the facts' and conduct 'very diligent research.'”

Benchmark Litigation

Highly Recommended, top recognition, in Securities and Antitrust Litigation (2012-2016)

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

Law360

Most Feared Plaintiffs Firm (2013-2015) and Class Action Practice Group of the Year (2012 and 2014-2015)

“known for thoroughly investigating claims and conducting due diligence before filing suit, and for fighting defendants tooth and nail in court”

The National Law Journal

Winner of the Elite Trial Lawyers Award in Securities Law (2015), Hall of Fame Honoree, and Top Plaintiffs' Firm on the annual Hot List (2006-2016)

“definitely at the top of their field on the plaintiffs' side”

Community Involvement

To demonstrate our deep commitment to the community, Labaton Sucharow devotes significant resources to pro bono legal work and public and community service.

Firm Commitments

Brooklyn Law School Securities Arbitration Clinic

Mark S. Arisohn, Adjunct Professor and Joel H. Bernstein, Adjunct Professor

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

Change for Kids

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

The Lawyers' Committee for Civil Rights Under Law

Edward Labaton, Member, Board of Directors

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

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

Sidney Hillman Foundation

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

Individual Attorney Commitments

Labaton Sucharow attorneys have served in a variety of pro bono and community service capacities:

- Pro bono representation of mentally ill tenants facing eviction, appointed as Guardian *ad litem* in several housing court actions.
- Recipient of a Volunteer and Leadership Award from a tenants' advocacy organization for work defending the rights of city residents and preserving their fundamental sense of public safety and home.
- Board Member of the Ovarian Cancer Research Fund—the largest private funding agency of its kind supporting research into a method of early detection and, ultimately, a cure for ovarian cancer.
- Director of the BARKA Foundation, which provides fresh water to villages in Burkina Faso.
- Founder of the Lillian C. Spencer Fund—a charitable organization that provides scholarships to underprivileged American children and emergency dental care to refugee children in Guatemala.

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

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

Commitment to Diversity

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

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

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

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

Securities Litigation Attorneys

Our team of securities class action litigators includes:

Partners

Lawrence A. Sucharow (Chairman)

Martis Alex

Mark S. Arisohn

Christine S. Azar

Eric J. Belfi

Joel H. Bernstein

Thomas A. Dubbs

Jonathan Gardner

David J. Goldsmith

Louis Gottlieb

Serena Hallowell

Thomas G. Hoffman, Jr.

James W. Johnson

Christopher J. Keller

Edward Labaton

Christopher J. McDonald

Michael H. Rogers

Ira A. Schochet

Michael W. Stocker

Carol C. Villegas

Ned Weinberger

Nicole M. Zeiss

Of Counsel

Garrett J. Bradley

Marisa N. DeMato

Joseph H. Einstein

Christine M. Fox

Mark Goldman

Lara GoldstoneDomenico Minerva

Barry M. Okun

Senior Counsel

Richard T. Joffe

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

Lawrence A. Sucharow, Chairman lsucharow@labaton.com

With nearly four decades of experience, the Firm's Chairman, Lawrence A. Sucharow is an internationally recognized trial lawyer and a leader of the class action bar. Under his guidance, the Firm has grown into and earned its position as one of the top plaintiffs securities and antitrust class action firms in the world. As Chairman, Larry focuses on counseling the Firm's large institutional clients, developing creative and compelling strategies to advance and protect clients' interests, and the prosecution and resolution of many of the Firm's leading cases.

Over the course of his career, Larry has prosecuted hundreds of cases and the Firm has recovered billions in groundbreaking securities, antitrust, business transaction, product liability, and other class actions. In fact, a landmark case tried in 2002—*In re Real Estate Associates Limited Partnership Litigation*—was the very first securities action successfully tried to a jury verdict following the enactment of the Private Securities Litigation Reform Act (PSLRA). Experience such as this has made Larry uniquely qualified to evaluate and successfully prosecute class actions.

Other representative matters include: *In re CNL Resorts, Inc. Securities Litigation* (\$225 million settlement); *In re Paine Webber Incorporated Limited Partnerships Litigation* (\$200 million settlement); *In re Prudential Securities Incorporated Limited Partnerships Litigation* (\$110 million partial settlement); *In re Prudential Bache Energy Income Partnerships Securities Litigation* (\$91 million settlement) and *Shea v. New York Life Insurance Company* (over \$92 million settlement).

Larry's consumer protection experience includes leading the national litigation against the tobacco companies in *Castano v. American Tobacco Co.*, as well as litigating *In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation*. Currently, he plays a key role in *In re Takata Airbag Products Liability Litigation* and a nationwide consumer class action against Volkswagen Group of America, Inc., arising out of the wide-scale fraud concerning Volkswagen's "Clean Diesel" vehicles. Larry further conceptualized the establishment of two Dutch foundations, or "Stichtingen" to pursue settlement of claims against Volkswagen on behalf of injured car owners and investors in Europe.

In recognition of his career accomplishments and standing in the securities bar at the Bar, Larry was selected by *Law360* as one the 10 Most Admired Securities Attorneys in the United States and as a Titan of the Plaintiffs Bar. Further, he is one of a small handful of plaintiffs' securities lawyers in the United States independently selected by each of *Chambers & Partners USA*, *The Legal 500*, *Benchmark Litigation*, and *Lawdragon 500* for their respective highest rankings. Referred to as a "legend" by his peers in *Benchmark Litigation*, *Chambers* describes him as an "an immensely respected plaintiff advocate" and a "renowned figure in the securities plaintiff world...[that] has handled some of the most high-profile litigation in this field." According to *The Legal 500*, clients characterize Larry as a "a strong and passionate advocate with a desire to win." In addition, Brooklyn Law School honored Larry with the 2012 Alumni of the Year Award for his notable achievements in the field.

Larry has served a two-year term as President of the National Association of Shareholder and Consumer Attorneys, a membership organization of approximately 100 law firms that practice complex civil litigation including class actions. A longtime supporter of the Federal Bar Council, Larry serves as a trustee of the Federal Bar Council Foundation. He is a member of the Federal Bar Council's Committee on Second Circuit Courts, and the Federal Courts Committee of the New York County Lawyers' Association. He is also a member of the Securities Law Committee of the New Jersey State Bar Association and was the Founding Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association, a position he held from 1988-1994. In addition, Larry serves on the Advocacy Committee of the World Federation of Investors Corporation, a worldwide umbrella organization of national shareholder associations. In May 2013, Larry was elected Vice Chair of the International Financial Litigation Network, a network of law firms from 15 countries seeking international solutions to cross-border financial problems.

Larry is admitted to practice in the States of New York, New Jersey, and Arizona, as well as before the Supreme Court of the United States, the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Southern and Eastern Districts of New York, and the District of New Jersey.

Martis Alex, Partner
malex@labaton.com

Martis Alex prosecutes complex litigation on behalf of consumers as well as domestic and international institutional investors. She has extensive experience litigating mass tort and class action cases nationwide, specifically in the areas of consumer fraud, products liability, and securities fraud. She has successfully represented consumers and investors in cases that achieved cumulative recoveries of hundreds of millions of dollars for plaintiffs.

Named one of *Benchmark Litigation's* Top 250 Women in Litigation, Martis is an elected member of the Firm's Executive Committee and chairs the Firm's Consumer Protection Practice as well as the Women's Initiative. Martis is also an Executive Council member of Ellevest, a global professional network dedicated to advancing women's leadership across industries.

Martis leads the Firm's team litigating the consumer class action against auto manufacturers over keyless ignition carbon monoxide deaths, as well as the first nationwide consumer class action concerning defective Takata-made airbags.

Martis was a court-appointed member of the Plaintiffs' Steering Committees in national product liability actions against the manufacturers of orthopedic bone screws (*In re Orthopedic Bone Screw Products Liability Litigation*), atrial pacemakers (*In re Telectronics Pacing Systems, Inc. Accufix Atrial "J" Leads Product Liability Litigation*), latex gloves (*In re Latex Gloves Products Liability Litigation*), and suppliers of defective auto paint (*In re Ford Motor Company Vehicle Paint*). She played a leadership role in the national litigation against the tobacco companies (*Castano v. American Tobacco Co.*) and in the prosecution of the national breast implant litigation (*In re Silicone Gel Breast Implant Products Liability Litigation*).

In her securities practice, Martis represents several foreign financial institutions seeking recoveries of more than a billion dollars in losses in their RMBS investments.

Martis played a key role in litigating *In re American International Group, Inc. Securities Litigation*, recovering more than \$1 billion in settlements for investors. She was an integral part of the team that successfully litigated *In re Bristol-Myers Squibb Securities Litigation*, which resulted in a \$185 million settlement for investors and secured meaningful corporate governance reforms that will affect future consumers and investors alike.

Martis acted as Lead Trial Counsel and Chair of the Executive Committee in the *Zenith Laboratories Securities Litigation*, a federal securities fraud class action which settled during trial and achieved a significant recovery for investors. In addition, she served as co-lead counsel in several securities class actions that attained substantial awards for investors, including *Cadence Design Securities Litigation*, *Halsey Drug Securities Litigation*, *Slavin v. Morgan Stanley*, *Lubliner v. Maxtor Corp.*, and *Baden v. Northwestern Steel and Wire*.

Martis began her career as a trial lawyer with the Sacramento, California District Attorney's Office, where she tried over 30 cases to verdict. She has spoken on various legal topics at national conferences and is a recipient of the American College of Trial Lawyers' Award for Excellence in Advocacy.

Martis founded the Lillian C. Spencer Fund, a charitable organization that provides scholarships to underprivileged American children and emergency dental care to refugee children in Guatemala. She is a Director of the BARKA Foundation, which provides fresh water to villages in Burkina Faso, West Africa, and she contributes to her local community through her work with Coalition for the Homeless and New York Cares.

Martis is admitted to practice in the States of California and New York as well as before the Supreme Court of the United States, the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Western District of Washington, the Southern, Eastern and Western Districts of New York, and the Central District of California.

Mark S. Arisohn, Partner
marisohn@labaton.com

Mark S. Arisohn focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Mark is an accomplished litigator, with nearly 40 years of extensive trial experience in jury and non-jury matters in the state and federal courts nationwide. He has also argued in the New York Court of Appeals, the United States Court of Appeals for the Second Circuit and appeared before the United States Supreme Court in the landmark insider trading case of *Chiarella v. United States*.

Mark's wide-ranging practice has included prosecuting and defending individuals and corporations in cases involving securities fraud, mail and wire fraud, bank fraud, and RICO violations. He has represented public officials, individuals, and companies in the construction and securities industries as well as professionals accused of regulatory offenses and professional misconduct. He also has appeared as trial counsel for both

plaintiffs and defendants in civil fraud matters and corporate and commercial matters, including shareholder litigation, business torts, unfair competition, and misappropriation of trade secrets.

Mark is one of the few litigators in the plaintiffs' bar to have tried two securities fraud class action cases to a jury verdict.

Mark is an active member of the Association of the Bar of the City of New York and has served on its Judiciary Committee, the Committee on Criminal Courts, Law and Procedure, the Committee on Superior Courts, and the Committee on Professional Discipline. He serves as a mediator for the Complaint Mediation Panel of the Association of the Bar of the City of New York where he mediates attorney client disputes and as a hearing officer for the New York State Commission on Judicial Conduct where he presides over misconduct cases brought against judges.

Mark also co-leads Labaton Sucharow's Securities Arbitration pro bono project in conjunction with Brooklyn Law School where he serves as an adjunct professor. Mark, together with Labaton Sucharow associates and Brooklyn Law School students, represents aggrieved and defrauded individual investors who cannot otherwise afford to pay for legal counsel in financial industry arbitration matters against investment advisors and stockbrokers.

Mark was named to the recommended list in the field of Securities Litigation by *The Legal 500* and recognized by Benchmark Litigation as a Securities Litigation Star. He has also received a rating of AV Preeminent from publishers of the Martindale-Hubbell directory.

Mark is admitted to practice in the State of New York and the District of Columbia as well as before the Supreme Court of the United States, the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Southern, Eastern and Northern Districts of New York, the Northern District of Texas, and the Northern District of California.

Christine S. Azar, Partner
cazar@labaton.com

Christine S. Azar is the Chair of the Firm's Corporate Governance and Shareholder Rights Litigation Practice. A longtime advocate of shareholder rights, Christine prosecutes complex derivative and transactional litigation in the Delaware Court of Chancery and throughout the United States.

In recognition of her accomplishments, Christine was most recently named one of the "25 Most Influential Women in Securities Law" by *Law360*. *Chambers & Partners USA* ranked her as a Leading Lawyer in Delaware, noting she is "well known for her knowledge of complex shareholder claims as well as M&A and other transactional work." *Chambers'* sources also defined her as "terrific," noting, "when it comes to Delaware law and corporate governance matters, Christine's advice and guidance is gold." In addition to her *Chambers* recognition, Christine was named a Leading Lawyer by *The Legal 500* who described her as "smart, pragmatic and level-headed—a dedicated advocate who gets things done." She was also featured on *The National Law Journal's* Plaintiffs' Hot List, named a Securities Litigation Star in Delaware by *Benchmark Litigation*, and one of *Benchmark's* Top 250 Women in Litigation for three consecutive years.

Christine's caseload represents some of the most sophisticated litigation in her field. Currently, she is representing California State Teachers' Retirement System as co-lead counsel in *In re Wal-Mart Derivative Litigation*. The suit alleges that Wal-Mart's board of directors and management breached their fiduciary duties owed to shareholders and the company as well as violated the company's own corporate governance guidelines, anti-corruption policy, and statement of ethics.

Christine has worked on some of the most groundbreaking cases in the field of M&A and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, she achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an

unprecedented provision of direct payments to stockholders by means of a special dividend. As co-lead counsel in *In re El Paso Corporation Shareholder Litigation*, which shareholders alleged that acquisition of El Paso by Kinder Morgan, Inc. was improperly influenced by conflicted financial advisors and management, Christine helped secure a \$110 million settlement. Acting as co-lead counsel in *In re J.Crew Shareholder Litigation*, Christine helped secure a settlement that increased the payment to J.Crew's shareholders by \$16 million following an allegedly flawed going-private transaction. Christine also assisted in obtaining \$29 million in settlements on behalf of Barnes & Noble investors in *In re Barnes & Noble Stockholders Derivative Litigation* which alleged breaches of fiduciary duties by the Barnes & Noble management and board of directors. In *In re The Student Loan Corporation*, Christine was part of the team that successfully protected the minority shareholders in connection with a complex web of proposed transactions that ran contrary to shareholders' interest by securing a recovery of nearly \$10 million for shareholders.

Acting as co-lead counsel in *In re RehabCare Group, Inc. Shareholders Litigation*, Christine was part of the team that structured a settlement that included a cash payment to shareholders as well as key deal reforms such as enhanced disclosures and an amended merger agreement. Representing shareholders in *In re Compellent Technologies, Inc. Shareholder Litigation*, regarding the proposed acquisition of Compellent Technologies Inc. by Dell, Inc., Christine was integral in negotiating a settlement that included key deal improvements including elimination of the "poison pill" and standstill agreement with potential future bidders as well as a reduction of the termination fee amount. In *In re Walgreen Co. Derivative Litigation*, Christine negotiated significant corporate governance reforms on behalf of West Palm Beach Police Pension Fund and the Police Retirement System of St. Louis, requiring Walgreens to extend its Drug Enforcement Agency commitments in this derivative action related to the company's Controlled Substances Act violation.

In addition to her active legal practice, Christine serves as a Volunteer Guardian Ad Litem in the Office of the Child Advocate. In this capacity, she has represented children in foster care in the state of Delaware to ensure the protection of their legal rights. Christine is also a member of the Advisory Committee of the Weinberg Center for Corporate Governance of the University of Delaware.

Christine is admitted to practice in the States of Delaware, New Jersey, and Pennsylvania as well as before the United States Court of Appeals for the Third Circuit and the United States District Courts for the District of Delaware, the District of New Jersey, and the Eastern District of Pennsylvania.

Eric J. Belfi, Partner
ebelfi@labaton.com

Representing many of the world's leading pension funds and other institutional investors, Eric J. Belfi is an accomplished litigator with experience in a broad range of commercial matters. Eric focuses on domestic and international securities and shareholder litigation. He serves as a member of the Firm's Executive Committee.

As an integral member of the Firm's Case Evaluation group, Eric has brought numerous high-profile domestic securities cases that resulted from the credit crisis, including the prosecution against Goldman Sachs. In *In re Goldman Sachs Group, Inc. Securities Litigation*, he played a significant role in the investigation and drafting of the operative complaint. Eric was also actively involved in securing a combined settlement of \$18.4 million in *In re Colonial BancGroup, Inc. Securities Litigation*, regarding material misstatements and omissions in SEC filings by Colonial BancGroup and certain underwriters.

Along with his domestic securities litigation practice, Eric leads the Firm's Non-U.S. Securities Litigation Practice, which is dedicated exclusively to analyzing potential claims in non-U.S. jurisdictions and advising on the risk and benefits of litigation in those forums. The practice, one of the first of its kind, also serves as liaison counsel to institutional investors in such cases, where appropriate. Currently, Eric represents nearly 30 institutional investors in over a dozen non-U.S. cases against companies including SNC-Lavalin Group Inc. in Canada, Vivendi Universal, S.A. in France, OZ Minerals Ltd. in Australia, Lloyds Banking Group in the UK, and Olympus Corporation in Japan.

Eric's international experience also includes securing settlements on behalf of non-U.S. clients including the UK-based Mineworkers' Pension Scheme in *In re Satyam Computer Securities Services Ltd. Securities Litigation*, an action related to one of the largest securities fraud in India which resulted in \$150.5 million in collective settlements. Representing two of Europe's leading pension funds, Deka Investment GmbH and Deka International S.A., Luxembourg, in *In re General Motors Corp. Securities Litigation*, Eric was integral in securing a \$303 million settlement in a case regarding multiple accounting manipulations and overstatements by General Motors.

Additionally, Eric oversees the Financial Products & Services Litigation Practice, focusing on individual actions against malfeasant investment bankers, including cases against custodial banks that allegedly committed deceptive practices relating to certain foreign currency transactions. He currently serves as lead counsel to Arkansas Teacher Retirement System in a class action against the State Street Corporation and certain affiliated entities, and he has represented the Commonwealth of Virginia in its False Claims Act case against Bank of New York Mellon, Inc.

Eric's M&A and derivative experience includes noteworthy cases such as *In re Medco Health Solutions Inc. Shareholders Litigation*, in which he was integrally involved in the negotiation of the settlement that included a significant reduction in the termination fee.

Eric's prior experience included serving as an Assistant Attorney General for the State of New York and as an Assistant District Attorney for the County of Westchester. As a prosecutor, Eric investigated and prosecuted white-collar criminal cases, including many securities law violations. He presented hundreds of cases to the grand jury and obtained numerous felony convictions after jury trials.

Eric is a frequent speaker on the topic of shareholder litigation and U.S.-style class actions in European countries. He also has spoken on socially responsible investments for public pension funds.

Eric is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Michigan, the District of Colorado, the District of Nebraska, and the Eastern District of Wisconsin.

Joel H. Bernstein, Partner
jbernstein@labaton.com

With nearly four decades of experience in complex litigation, Joel H. Bernstein's practice focuses on the protection of victimized individuals. Joel advises large public and labor pension funds, banks, mutual funds, insurance companies, hedge funds, and other institutional and individual investors with respect to securities-related litigation in the federal and state courts, as well as in arbitration proceedings before the NYSE, FINRA, and other self-regulatory organizations. His experience in the area of representing plaintiffs in complex litigation has resulted in the recovery of more than a billion dollars in damages to wronged class members.

For several years Joel led the Firm's Residential Mortgage-Backed Securities team, a group of more than 20 legal professionals representing large domestic and foreign institutional investors in 75 individual litigations involving billions of dollars lost in fraudulently marketed investments at the center of the subprime crisis and has successfully recovered hundreds of millions of dollars on their behalf thus far. He also currently serves as lead counsel in class actions, including *In re NII Holdings, Inc. Securities Litigation*, *Norfolk County Retirement System v. Solazyme, Inc.*, and *In re Facebook Biometric Information Privacy Litigation*.

Joel recently led the team that secured a \$265 million all-cash settlement for a class of investors in *In re Massey Energy Co. Securities Litigation*, a matter that stemmed from the 2010 mining disaster at the company's Upper Big Branch coal mine. Joel also led the team that achieved a \$120 million recovery with one of the largest global providers of products and services for the oil and gas industry, Weatherford International in 2015. As lead counsel for one of the most prototypical cases arising from the financial crisis, *In re Countrywide*

Corporation Securities Litigation, he obtained a settlement of \$624 million for co-lead plaintiffs, New York State Common Retirement Fund and the New York City Pension Funds.

In the past, Joel has played a central role in numerous high profile cases, including *In re Paine Webber Incorporated Limited Partnerships Litigation* (\$200 million settlement); *In re Prudential Securities Incorporated Limited Partnerships Litigation* (\$130 million settlement); *In re Prudential Bache Energy Income Partnerships Securities Litigation* (\$91 million settlement); *Shea v. New York Life Insurance Company* (\$92 million settlement); and *Saunders et al. v. Gardner* (\$10 million—the largest punitive damage award in the history of NASD Arbitration at that time). In addition, Joel was instrumental in securing a \$117.5 million settlement in *In re Mercury Interactive Securities Litigation*, the largest settlement at the time in a securities fraud litigation based upon options backdating. He also has litigated cases which arose out of deceptive practices by custodial banks relating to certain foreign currency transactions.

Joel has been recommended by *The Legal 500* in the field of Securities Litigation, where he was described by sources as a “formidable adversary,” and by *Benchmark Litigation* as a Securities Litigation Star. He was also featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work on *In re Countrywide Financial Corporation Securities Litigation*. Joel has received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory.

In addition to his active legal practice, Joel co-leads Labaton Sucharow’s Securities Arbitration pro bono project in collaboration with Brooklyn Law School where he serves as an adjunct professor. Together with Labaton Sucharow partner Mark Arisohn, firm associates, and Brooklyn Law School students, he represents aggrieved and defrauded individual investors who cannot otherwise afford to pay for legal counsel in financial industry arbitration matters against investment advisors and stockbrokers.

As a recognized leader in his field, Joel is frequently sought out by the press to comment on legal matters and has also authored numerous articles and lectured on related issues. He is a member of the American Bar Association, the Association of the Bar of the City of New York, the New York County Lawyers’ Association, and the Public Investors Arbitration Bar Association (PIABA).

He is admitted to practice in the State of New York as well as before the United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, and Ninth Circuits and the United States District Courts for the Southern and Eastern Districts of New York.

Thomas A. Dubbs, Partner
tdubbs@labaton.com

Thomas A. Dubbs focuses on the representation of institutional investors in domestic and multinational securities cases. Recognized as a leading securities class action attorney, Tom has been named as a top litigator by *Chambers & Partners* for seven consecutive years.

Tom has served or is currently serving as lead or co-lead counsel in some of the most important federal securities class actions in recent years, including those against American International Group, Goldman Sachs, the Bear Stearns Companies, Facebook, Fannie Mae, Broadcom, and WellCare. Tom has also played an integral role in securing significant settlements in several high-profile cases including: *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion); *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (over \$200 million settlement); *In re 2008 Fannie Mae Securities Litigation* (\$170 million settlement pending final court approval); *In re Broadcom Corp. Securities Litigation* (\$160.5 million settlement with Broadcom, plus \$13 million settlement with Ernst & Young LLP, Broadcom's outside auditor); *In re St. Paul Travelers Securities Litigation* (\$144.5 million settlement); and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement).

Representing an affiliate of the Amalgamated Bank, the largest labor-owned bank in the United States, a team led by Tom successfully litigated a class action against Bristol-Myers Squibb, which resulted in a settlement of \$185 million as well as major corporate governance reforms. He has argued before the United States Supreme Court and has argued 10 appeals dealing with securities or commodities issues before the United States Courts of Appeals.

Due to his reputation in securities law, Tom frequently lectures to institutional investors and other groups such as the Government Finance Officers Association, the National Conference on Public Employee Retirement Systems, and the Council of Institutional Investors. He is a prolific author of articles related to his field, and he recently penned "Textualism and Transnational Securities Law: A Reappraisal of Justice Scalia's Analysis in *Morrison v. National Australia Bank*," *Southwestern Journal of International Law* (2014). He has also written several columns in UK-wide publications regarding securities class action and corporate governance.

Prior to joining Labaton Sucharow, Tom was Senior Vice President & Senior Litigation Counsel for Kidder, Peabody & Co. Incorporated, where he represented the company in many class actions, including the First Executive and Orange County litigation and was first chair in many securities trials. Before joining Kidder, Tom was head of the litigation department at Hall, McNicol, Hamilton & Clark, where he was the principal partner representing Thomson McKinnon Securities Inc. in many matters, including the Petro Lewis and Baldwin-United class actions.

In addition to his *Chambers & Partners* recognition, Tom was named a Leading Lawyer by *The Legal 500*, an honor presented to only eight U.S. plaintiffs' securities attorneys. *Law360* also named him an "MVP of the Year" for distinction in class action litigation in 2012 and 2015, and he has been recognized by *The National Law Journal*, *Lawdragon 500*, and *Benchmark Litigation* as a Securities Litigation Star. Tom has received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory.

Tom serves as a FINRA Arbitrator and is an Advisory Board Member for the Institute for Transnational Arbitration. He is a member of the New York State Bar Association, the Association of the Bar of the City of New York, the American Law Institute, and he is a Patron of the American Society of International Law. He was previously a member of the Members Consultative Group for the Principles of the Law of Aggregate Litigation and the Department of State Advisory Committee on Private International Law. Tom also serves on the Board of Directors for The Sidney Hillman Foundation.

Tom is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Ninth and Eleventh Circuits, and the United States District Court for the Southern District of New York.

Jonathan Gardner, Partner
jgardner@labaton.com

Jonathan Gardner's practice focuses on prosecuting complex securities fraud cases on behalf of institutional investors. An experienced litigator, he has played an integral role in securing some of the largest class action recoveries against corporate offenders since the onset of the global financial crisis.

Most recently, Jonathan was the lead attorney in several matters that resulted in significant recoveries for injured class members, including: *In re Hewlett-Packard Company Securities Litigation*, resulting in a \$57 million recovery; *Medoff v. CVS Caremark Corporation*, resulting in a \$48 million recovery; *In re Nu Skin Enterprises, Inc., Securities Litigation*, resulting in a \$47 million recovery; *In re Carter's Inc. Securities Litigation* resulting in a \$23.3 million recovery against Carter's and certain of its officers as well as PricewaterhouseCoopers, its auditing firm; *In re Aeropostale Inc. Securities Litigation*, resulting in a \$15 million recovery; *In re Lender Processing Services Inc.*, involving claims of fraudulent mortgage processing which resulted in a \$13.1 million recovery; and *In re K-12, Inc. Securities Litigation*, resulting in a \$6.75 million recovery.

Recommended and described by *The Legal 500* as having the "ability to master the nuances of securities class actions," Jonathan has led the Firm's representation of investors in many recent high-profile cases including *Rubin v. MF Global Ltd.*, which involved allegations of material misstatements and omissions in a Registration Statement and Prospectus issued in connection with MF Global's IPO in 2007. In November 2011, the case resulted in a recovery of \$90 million for investors. Jonathan also represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements totaling exceeding \$600 million against Lehman Brothers' former officers and directors, Lehman's former public accounting firm as well as the banks that underwrote Lehman Brothers' offerings. In representing lead plaintiff Massachusetts Bricklayers and Masons Trust Funds in an action against Deutsche Bank, Jonathan secured a \$32.5 million dollar recovery for a class of investors injured by the Bank's conduct in connection with certain residential mortgage-backed securities.

Jonathan has also been responsible for prosecuting several of the Firm's options backdating cases, including *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement); *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement); *In re Semtech Securities Litigation* (\$20 million settlement); and *In re MRV Communications, Inc. Securities Litigation* (\$10 million settlement). He also was instrumental in *In re Mercury Interactive Corp. Securities Litigation*, which settled for \$117.5 million, one of the largest settlements or judgments in a securities fraud litigation based upon options backdating.

Jonathan also represented the Successor Liquidating Trustee of Lipper Convertibles, a convertible bond hedge fund, in actions against the fund's former independent auditor and a member of the fund's general partner as well as numerous former limited partners who received excess distributions. He successfully recovered over \$5.2 million for the Successor Liquidating Trustee from the limited partners and \$29.9 million from the former auditor.

He is a member of the Federal Bar Council, New York State Bar Association, and the Association of the Bar of the City of New York.

Jonathan is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Ninth and Eleventh Circuits and the United States District Courts for the Southern and Eastern Districts of New York, and the Eastern District of Wisconsin.

David J. Goldsmith, Partner
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David J. Goldsmith has more than 15 years of experience representing public and private institutional investors in a wide variety of securities and class action litigations. In recent years, David's work has directly led to record recoveries against corporate offenders in some of the most complex and high-profile securities class actions.

David has also been designated as "recommended" by *The Legal 500* as part of the Firm's recognition as a top-tier plaintiffs' firm in securities class action litigation.

David was an integral member of the team representing the New York State Common Retirement Fund and New York City pension funds as lead plaintiffs in *In re Countrywide Financial Corporation Securities Litigation*, which settled for \$624 million. David successfully represented these clients in an appeal brought by Countrywide's 401(k) plan in the Ninth Circuit concerning complex settlement allocation issues. David also represented a hedge fund and individual investors as lead plaintiffs in an action concerning the well-publicized collapse of four Regions Morgan Keegan closed-end investment companies, in which the court approved a \$62 million settlement.

Current matters include representation of a state pension fund in a class action alleging deceptive acts and practices by State Street Bank in connection with foreign currency exchange trades executed for its custodial clients; representations of state and county pension funds in securities class actions arising from the initial

public offerings of Model N, Inc. and A10 Networks, Inc.; representations of a large German banking institution and a significant Irish special-purpose vehicle in actions alleging fraud in connection with residential mortgage-backed securities; and representation of a state pension fund in a securities class action against Neustar, Inc. concerning the bidding and selection process for its key contract.

David has regularly represented the Genesee County (Michigan) Employees' Retirement System in securities and shareholder matters, including settled actions against CBeyond, Compellent Technologies, Merck, Spectranetics, and Transaction Systems Architects.

During law school, David was Managing Editor of the *Cardozo Arts & Entertainment Law Journal* and served as a judicial intern to the Honorable Michael B. Mukasey, then a United States District Judge for the Southern District of New York.

For many years, David has been a member of AmorArtis, a renowned choral organization with a diverse repertoire.

Louis Gottlieb, Partner
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Louis Gottlieb focuses on representing institutional and individual investors in complex securities and consumer class action cases. He has played a key role in some of the most high-profile securities class actions in recent history, securing significant recoveries for plaintiffs and ensuring essential corporate governance reforms to protect future investors, consumers, and the general public.

Lou was integral in prosecuting *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion) and *In re 2008 Fannie Mae Securities Litigation* (\$170 million settlement pending final approval). He also helped lead major class action cases against the company and related defendants in *In re Satyam Computer Services, Ltd. Securities Litigation* (\$150.5 million settlement). He has led successful litigation teams in securities fraud class action litigations against Metromedia Fiber Networks and Pricemart, as well as consumer class actions against various life insurance companies.

In the Firm's representation of the Connecticut Retirement Plans and Trust Funds in *In re Waste Management, Inc. Securities Litigation*, Lou's efforts were essential in securing a \$457 million settlement. The settlement also included important corporate governance enhancements, including an agreement by management to support a campaign to obtain shareholder approval of a resolution to declassify its board of directors, and a resolution to encourage and safeguard whistleblowers among the company's employees. Acting on behalf of New York City pension funds in *In re Orbital Sciences Corporation Securities Litigation*, Lou helped negotiate the implementation of measures concerning the review of financial results, the composition, role and responsibilities of the Company's Audit and Finance committee, and the adoption of a Board resolution providing guidelines regarding senior executives' exercise and sale of vested stock options.

Lou was a leading member of the team in the *Napp Technologies Litigation* that won substantial recoveries for families and firefighters injured in a chemical plant explosion. Lou has had a major role in national product liability actions against the manufacturers of orthopedic bone screws and atrial pacemakers, and in consumer fraud actions in the national litigation against tobacco companies.

A well-respected litigator, Lou has made presentations on punitive damages at Federal Bar Association meetings and has spoken on securities class actions for institutional investors.

Lou brings a depth of experience to his practice from both within and outside of the legal sphere. He graduated first in his class from St. John's School of Law. Prior to joining Labaton Sucharow, he clerked for the Honorable Leonard B. Wexler of the Eastern District of New York, and he worked as an associate at Skadden Arps Slate Meagher & Flom LLP.

Lou is admitted to practice in the States of New York and Connecticut as well as before the United States Courts of Appeals for the Fifth and Seventh Circuits and the United States District Courts for the Southern and Eastern Districts of New York.

Serena Hallowell, Partner
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Serena Hallowell focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Currently, she is actively prosecuting *In re Intuitive Surgical Securities Litigation* and *In re Barrick Gold Securities Litigation*.

Recently, Serena was named as a 2016 Class Action Rising Star by *Law360* and recommended by *The Legal 500* in the field of Securities Litigation. Playing a principal role in prosecuting *In re Computer Sciences Corporation Securities Litigation* (CSC) in a "rocket docket" jurisdiction, she helped secure a settlement of \$97.5 million on behalf of lead plaintiff Ontario Teachers' Pension Plan Board, the third largest all cash settlement in the Fourth Circuit. She was also instrumental in securing a \$48 million recovery in *Medoff v. CVS Caremark Corporation*, as well as a \$41.5 million settlement in *In re NII Holdings, Inc. Securities Litigation*.

Serena also has broad appellate and trial experience. Most recently, Serena participated in the successful appeal of the CVS matter before the U.S. Court of Appeals for the First Circuit, and she is currently participating in an appeal pending before the U.S. Court of Appeals for the Tenth Circuit. In addition, she has previously played a key role in securing a favorable jury verdict in one of the few securities fraud class action suits to proceed to trial.

Prior to joining Labaton Sucharow, Serena was an attorney at Ohrenstein & Brown LLP, where she participated in various federal and state commercial litigation matters. During her time there, she also defended financial companies in regulatory proceedings and assisted in high profile coverage litigation matters in connection with mutual funds trading investigations.

Serena received a J.D. from Boston University School of Law, where she served as the Note Editor for the *Journal of Science & Technology Law*. She earned a B.A. in Political Science from Occidental College.

Serena is a member of the Association of the Bar of the City of New York, the Federal Bar Council, and the National Association of Women Lawyers (NAWL), where she serves on the Women's Initiatives Leadership Boot Camp Planning Committee. She also devotes time to pro bono work with the Securities Arbitration Clinic at Brooklyn Law School and is a member of the Firm's Women's Initiative.

She is conversational in Urdu/Hindi.

She is admitted to practice in the State of New York as well as before the United States Court of Appeals for the First and Eleventh Circuits and the United States District Courts for the Southern and Eastern Districts of New York.

Thomas G. Hoffman, Jr., Partner
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Thomas G. Hoffman, Jr. focuses on representing institutional investors in complex securities actions.

Thomas was instrumental in securing a \$1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered \$170 million for investors in *In re 2008 Fannie Mae Securities Litigation*. Currently, Thomas is prosecuting cases against BP, Facebook, and American Express.

Thomas received a J.D. from UCLA School of Law, where he was Editor-in-Chief of the *UCLA Entertainment Law Review*, and he served as a Moot Court Executive Board Member. In addition, he was a judicial extern to the Honorable William J. Rea, United States District Court for the Central District of California. Thomas earned a B.F.A., with honors, from New York University.

Thomas is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

James W. Johnson, Partner
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James W. Johnson focuses on complex securities fraud cases. In representing investors who have been victimized by securities fraud and breaches of fiduciary responsibility, Jim's advocacy has resulted in record recoveries for wronged investors. Currently, he is prosecuting high-profile cases against financial industry leader Goldman Sachs in *In re Goldman Sachs Group, Inc., Securities Litigation*, and the world's most popular social network, in *In re Facebook, Inc., IPO Securities and Derivative Litigation*. In addition to his active caseload, Jim holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee and acting as the Firm's Hiring Partner. He also serves as the Firm's Executive Partner overseeing firmwide issues.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions including: *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Corp. Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (\$200 million settlement); *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement); *In re Bristol Myers Squibb Co. Securities Litigation* (\$185 million settlement), in which the court also approved significant corporate governance reforms and recognized plaintiff's counsel as "extremely skilled and efficient"; and *In re National Health Laboratories, Inc., Securities Litigation*, which resulted in a recovery of \$80 million in the federal action and a related state court derivative action.

In *County of Suffolk v. Long Island Lighting Co.*, Jim represented the plaintiff in a RICO class action, securing a jury verdict after a two-month trial that resulted in a \$400 million settlement. The Second Circuit quoted the trial judge, Honorable Jack B. Weinstein, as stating "counsel [has] done a superb job [and] tried this case as well as I have ever seen any case tried." On behalf of the Chugach Native Americans, he also assisted in prosecuting environmental damage claims resulting from the Exxon Valdez oil spill.

Jim is a member of the American Bar Association and the Association of the Bar of the City of New York, where he served on the Federal Courts Committee, and he is a Fellow in the Litigation Council of America.

Jim has received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the States of New York and Illinois as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Fourth, Fifth, Seventh and Eleventh Circuits, and the United States District Courts for the Southern, Eastern and Northern Districts of New York, and the Northern District of Illinois.

Christopher J. Keller, Partner
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Christopher J. Keller focuses on complex securities litigation. His clients are institutional investors, including some of the world's largest public and private pension funds with tens of billions of dollars under management.

Described by *The Legal 500* as a "sharp and tenacious advocate" who "has his pulse on the trends," Chris has been instrumental in the Firm's appointments as lead counsel in some of the largest securities matters arising

out of the financial crisis, such as actions against Countrywide (\$624 million settlement), Bear Stearns (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor), Fannie Mae (\$170 million settlement), and Goldman Sachs.

Chris has also been integral in the prosecution of traditional fraud cases such as *In re Schering-Plough Corporation / ENHANCE Securities Litigation*; *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; as well as *In re Satyam Computer Services, Ltd. Securities Litigation*, where the Firm obtained a settlement of more than \$150 million. Chris was also a principal litigator on the trial team of *In re Real Estate Associates Limited Partnership Litigation*. The six-week jury trial resulted in a \$184 million plaintiffs' verdict, one of the largest jury verdicts since the passage of the Private Securities Litigation Reform Act.

In addition to his active caseload, Chris holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. In response to the evolving needs of clients, Chris also established, and currently leads, the Case Evaluation Group, which is comprised of attorneys, in-house investigators, financial analysts, and forensic accountants. The group is responsible for evaluating clients' financial losses and analyzing their potential legal claims both in and outside of the U.S. and tracking trends that are of potential concern to investors.

Educating institutional investors is a significant element of Chris' advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

He is a member of several professional groups, including the New York State Bar Association and the New York County Lawyers' Association.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States and the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Wisconsin, and the District of Colorado.

Edward Labaton, Partner
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An accomplished trial lawyer and partner with the Firm, Edward Labaton has devoted 50 years of practice to representing a full range of clients in class action and complex litigation matters in state and federal court. He is the recipient of the Alliance for Justice's 2015 Champion of Justice Award, given to outstanding individuals whose life and work exemplifies the principle of equal justice.

Ed has played a leading role as plaintiffs' class counsel in a number of successfully prosecuted, high-profile cases, involving companies such as PepsiCo, Dun & Bradstreet, Financial Corporation of America, ZZZZ Best, Revlon, GAF Co., American Brands, Petro Lewis and Jim Walter, as well as several Big Eight (now Four) accounting firms. He has also argued appeals in state and federal courts, achieving results with important precedential value.

Ed has been President of the Institute for Law and Economic Policy (ILEP) since its founding in 1996. Each year, ILEP co-sponsors at least one symposium with a major law school dealing with issues relating to the civil justice system. In 2010, he was appointed to the newly formed Advisory Board of George Washington University's Center for Law, Economics, & Finance (C-LEAF), a think tank within the Law School, for the study and debate of major issues in economic and financial law confronting the United States and the globe. Ed is an Honorary Lifetime Member of the Lawyers' Committee for Civil Rights under Law, a member of the American Law Institute, and a life member of the ABA Foundation. In addition, he has served on the Executive Committee and has been an officer of the Ovarian Cancer Research Fund since its inception in 1996.

Ed is the past Chairman of the Federal Courts Committee of the New York County Lawyers Association, and was a member of the Board of Directors of that organization. He is an active member of the Association of the Bar of the City of New York, where he was Chair of the Senior Lawyers' Committee and served on its Task Force on the Role of Lawyers in Corporate Governance. He has also served on its Federal Courts, Federal Legislation, Securities Regulation, International Human Rights, and Corporation Law Committees. He also served as Chair of the Legal Referral Service Committee, a joint committee of the New York County Lawyers' Association and the Association of the Bar of the City of New York. He has been an active member of the American Bar Association, the Federal Bar Council, and the New York State Bar Association, where he has served as a member of the House of Delegates.

For more than 30 years, he has lectured on many topics including federal civil litigation, securities litigation, and corporate governance.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, and the Central District of Illinois.

Christopher J. McDonald, Partner
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Christopher J. McDonald focuses on prosecuting complex securities fraud cases. Chris also works with the Firm's Antitrust & Competition Litigation Practice, representing businesses, associations, and individuals injured by anticompetitive activities and unfair business practices.

In the securities field, Chris is currently lead counsel in *In re Amgen Inc. Securities Litigation*. Most recently, he was co-lead counsel in *In re Schering-Plough Corporation / ENHANCE Securities Litigation*, which resulted in a \$473 million settlement, one of the largest securities class action settlements ever against a pharmaceutical company and among the ten largest recoveries ever in a securities class action that did not involve a financial reinstatement. He was also an integral part of the team that successfully litigated *In re Bristol-Myers Squibb Securities Litigation*, where Labaton Sucharow secured a \$185 million settlement, as well as significant corporate governance reforms, on behalf of Bristol-Myers shareholders.

In the antitrust field, Chris was most recently co-lead counsel in *In re TriCor Indirect Purchaser Antitrust Litigation*, obtaining a \$65.7 million settlement on behalf of the class.

Chris began his legal career at Patterson, Belknap, Webb & Tyler LLP, where he gained extensive trial experience in areas ranging from employment contract disputes to false advertising claims. Later, as a senior attorney with a telecommunications company, Chris advocated before government regulatory agencies on a variety of complex legal, economic, and public policy issues. Since joining Labaton Sucharow, Chris' practice has developed a focus on life sciences industries; his cases often involve pharmaceutical, biotechnology, or medical device companies accused of wrongdoing.

During his time at Fordham University School of Law, Chris was a member of the *Law Review*. He is currently a member of the New York State Bar Association and the Association of the Bar of the City of New York.

Chris is admitted to practice in the State of New York as well as before the United States Courts of Appeals for the Second, Third, Ninth, and Federal Circuits and the United States District Courts for the Southern and Eastern Districts of New York, and the Western District of Michigan.

Michael H. Rogers, Partner
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Michael H. Rogers focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Currently, Mike is actively involved in prosecuting *In re Goldman Sachs, Inc. Securities Litigation*; *Arkansas Teacher Retirement System v. State Street Corp*; *3226701 Canada, Inc. v. Qualcomm, Inc.*; *Public Employees' Retirement System of Mississippi v. Sprouts Farmers Markets, Inc.*; and *In re Virtus Investment Partners, Inc. Securities Litigation*.

Since joining Labaton Sucharow, Mike has been a member of the lead or co-lead counsel teams in federal securities class actions against Countrywide Financial Corp. (\$624 million settlement), HealthSouth Corp. (\$671 million settlement), Mercury Interactive Corp. (\$117.5 million settlement), and Computer Sciences Corp. (\$97.5 million settlement).

Prior to joining Labaton Sucharow, Mike was an attorney at Kasowitz, Benson, Torres & Friedman LLP, where he practiced securities and antitrust litigation, representing international banking institutions bringing federal securities and other claims against major banks, auditing firms, ratings agencies and individuals in complex multidistrict litigation. He also represented an international chemical shipping firm in arbitration of antitrust and other claims against conspirator ship owners.

Mike began his career as an attorney at Sullivan & Cromwell, where he was part of Microsoft's defense team in the remedies phase of the Department of Justice antitrust action against the company.

Mike received a J.D., *magna cum laude*, from the Benjamin N. Cardozo School of Law, Yeshiva University, where he was a member of the *Cardozo Law Review*. He earned a B.A., *magna cum laude*, in Literature-Writing from Columbia University.

Mike is proficient in Spanish.

He is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

Ira A. Schochet, Partner
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A seasoned litigator with three decades of experience, Ira A. Schochet focuses on class actions involving securities fraud. Ira has played a lead role in securing multimillion dollar recoveries and major corporate governance reforms in high-profile cases such as those against Countrywide Financial, Boeing, Massey Energy, Caterpillar, Spectrum Information Technologies, InterMune, and Amkor Technology.

A longtime leader in the securities class action bar, Ira represented one of the first institutional investors acting as a lead plaintiff in a post-Private Securities Litigation Reform Act case and ultimately obtained one of the first rulings interpreting the statute's intent provision in a manner favorable to investors. His efforts are regularly recognized by the courts, including in *Kamarasy v. Coopers & Lybrand*, where the court remarked on "the superior quality of the representation provided to the class." Further, in approving the settlement he achieved in the *InterMune* litigation, the court complimented Ira's ability to secure a significant recovery for the class in a very efficient manner, shielding the class from prolonged litigation and substantial risk.

Ira has also played a key role in groundbreaking cases in the field of merger and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, he achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an unprecedented provision of direct payments to stockholders by means of a special dividend. In another first-of-its-kind case, Ira was featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work in *In re El Paso Corporation Shareholder Litigation*. The action alleged breach of fiduciary duties in connection with a merger

transaction, including specific reference to wrongdoing by a conflicted financial advisory consultant, and resulted in a \$110 million recovery for a class of shareholders and a waiver by the consultant of its fee.

From 2009-2011, Ira served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice class action and complex civil litigation. During this time, he represented the plaintiffs' securities bar in meetings with members of Congress, the Administration, and the SEC.

From 1996 through 2012, Ira served as Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association. During his tenure, he has served on the Executive Committee of the Section and authored important papers on issues relating to class action procedure including revisions proposed by both houses of Congress and the Advisory Committee on Civil Procedure of the United States Judicial Conference. Examples include: "Proposed Changes in Federal Class Action Procedure," "Opting Out On Opting In," and "The Interstate Class Action Jurisdiction Act of 1999."

He also has lectured extensively on securities litigation at continuing legal education seminars. He has also been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Second, Fifth and Ninth Circuits and the United States District Courts for the Southern and Eastern Districts of New York, the Central District of Illinois, the Northern District of Texas, and the Western District of Michigan.

Michael W. Stocker, Partner
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As General Counsel to the Firm and a lead strategist on Labaton Sucharow's Case Evaluation Team, Michael W. Stocker is integral to the Firm's investigating and prosecuting securities, antitrust, and consumer class actions.

Mike represents institutional investors in a broad range of class action litigation, corporate governance, and securities matters. In one of the most significant securities class actions of the decade, Mike played an instrumental part of the team that took on American International Group, Inc. and 21 other defendants. The Firm negotiated a recovery of more than \$1 billion. He was also key in litigating *In re Bear Stearns Companies, Inc. Securities Litigation*, where the Firm secured a \$275 million settlement with Bear Stearns, plus a \$19.9 million settlement with the company's outside auditor, Deloitte & Touche LLP.

In a case against one of the world's largest pharmaceutical companies, *In re Abbott Laboratories Norvir Antitrust Litigation*, Mike played a leadership role in litigating a landmark action arising at the intersection of antitrust and intellectual property law. The novel settlement in the case created a multimillion dollar fund to benefit nonprofit organizations serving individuals with HIV. In recognition of his work on *Norvir*, *The National Law Journal* named the Firm to the prestigious Plaintiffs' Hot List, and he received the 2010 Courage Award from the AIDS Resource Center of Wisconsin. Mike has also been recognized by *The Legal 500* in the field of Securities, M&A, and Antitrust Litigation and was named a Securities Litigation Star by *Benchmark Litigation*.

Earlier in his career, Mike served as a senior staff attorney with the United States Court of Appeals for the Ninth Circuit and completed a legal externship with federal Judge Phyllis J. Hamilton, currently sitting in the U.S. District Court for the Northern District of California. He earned a B.A. from the University of California, Berkeley, a Master of Criminology from the University of Sydney, and a J.D. from University of California's Hastings College of the Law.

He is an active member of the National Association of Public Pension Plan Attorneys (NAPPA), the New York State Bar Association, and the Association of the Bar of the City of New York. Since 2013, Mike has served on

Law360's Securities Editorial Advisory Board, advising on timely and interesting topics warranting media coverage. For two consecutive years (2015-2016), the Council of Institutional Investors has appointed Mike to the Markets Advisory Council, which provides input on legal, financial reporting, and investment market trends. In 2016, he was elected as a member of The American Law Institute, the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law.

In addition to his litigation practice, Mike mentors youth through participation in Mentoring USA. The program seeks to empower young people with the guidance, skills, and resources necessary to maximize their full potential.

He is admitted to practice in the States of California and New York as well as before the United States Courts of Appeals for the Second, Eighth and Ninth Circuits and the United States District Courts for the Northern and Central Districts of California and the Southern and Eastern Districts of New York.

Carol C. Villegas, Partner
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Carol C. Villegas focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Currently, she is litigating cases against Intuitive Surgical and Advanced Micro Devices, where she also serves as the lead discovery attorney.

Carol played a pivotal role in securing favorable settlements for investors from Aeropostale, a leader in the international retail apparel industry, ViroPharma Inc., a biopharmaceutical company, and Vocera, a healthcare communications provider. A true advocate for her clients, Carol's most recent argument in the case against Vocera resulted in a ruling from the bench, denying defendants' motion to dismiss in that case. Carol works on developing innovative case theories in complex cases, and particularly those cases involving complex regulatory schemes.

Prior to joining Labaton Sucharow, Carol served as the Assistant District Attorney in the Supreme Court Bureau for the Richmond County District Attorney's office. During her tenure at the District Attorney's office, Carol took several cases to trial. She began her career as an associate at King & Spalding LLP where she worked as a federal litigator in the Intellectual Property practice group.

Carol received a J.D. from New York University School of Law, and she was the recipient of The Irving H. Jurow Achievement Award for the Study of Law and selected to receive the Association of the Bar of the City of New York Minority Fellowship. Carol served as the Staff Editor, and later the Notes Editor, of the *Environmental Law Journal*. She earned a B.A., with honors, in English and Politics from New York University.

Carol is a member of the Association of the Bar of the City of New York and a member of the Executive Council for the New York State Bar Association's Committee on Women in the Law. She also devotes time to pro bono work with the Securities Arbitration Clinic at Brooklyn Law School and is a member of the Firm's Women's Initiative.

She is fluent in Spanish.

Carol is admitted to practice in the States of New York and New Jersey as well as before the United States Courts of Appeals for the Tenth and Eleventh Circuits and the United States District Courts for the Southern and Eastern Districts of New York, the District of New Jersey, the District of Colorado, and the Eastern District of Wisconsin.

Ned Weinberger, Partner
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Ned Weinberger focuses on representing investors in corporate governance and transactional matters, including class action and derivative litigation. Ned was recognized by *Chambers & Partners USA* in the Delaware Court of Chancery and was previously named an "Associate to Watch," noting his impressive range of practice areas.

Recently, Ned was part of a team that achieved a \$12 million recovery on behalf of stockholders of ArthroCare Corporation in a case alleging breaches of fiduciary duty by the ArthroCare board of directors and other defendants in connection with Smith & Nephew, Inc. acquisition of ArthroCare.

Prior to joining Labaton Sucharow, Ned was a litigation associate at Grant & Eisenhofer P.A. where he gained substantial experience in all aspects of investor protection, including representing shareholders in matters relating to securities fraud, mergers and acquisitions, and alternative entities. Representative of Ned's experience in the Delaware Court of Chancery is *In re Barnes & Noble Stockholders Derivative Litigation*, in which Ned assisted in obtaining approximately \$29 million in settlements on behalf of Barnes & Noble investors. Ned was also part of the litigation team in *In re Clear Channel Outdoor Holdings, Inc. Shareholder Litigation*, the settlement of which provided numerous benefits for Clear Channel Outdoor Holdings and its shareholders, including, among other things, a \$200 million cash dividend to the company's shareholders.

Ned received his J.D. from the Louis D. Brandeis School of Law at the University of Louisville where he served on the *Journal of Law and Education*. He earned his B.A. in English Literature, *cum laude*, at Miami University.

Ned is admitted to practice in the States of Delaware, Pennsylvania, and New York as well as before the United States District Court for the District of Delaware.

Nicole M. Zeiss, Partner
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A litigator with nearly two decades of experience, Nicole M. Zeiss leads the Settlement Group at Labaton Sucharow, analyzing the fairness and adequacy of the procedures used in class action settlements. Her practice includes negotiating and documenting complex class action settlements and obtaining the required court approval of the settlements, notice procedures, and payments of attorneys' fees.

Over the past year, Nicole was actively involved in finalizing settlements with Massey Energy Company (\$265 million), Fannie Mae (\$170 million), and Hewlett-Packard Company (\$57 million), among others.

Nicole was part of the Labaton Sucharow team that successfully litigated the \$185 million settlement in *In re Bristol-Myers Squibb Securities Litigation*, and she played a significant role in *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement). Nicole also litigated on behalf of investors who have been damaged by fraud in the telecommunications, hedge fund, and banking industries.

Prior to joining Labaton Sucharow, Nicole practiced in the area of poverty law at MFY Legal Services. She also worked at Gaynor & Bass practicing general complex civil litigation, particularly representing the rights of freelance writers seeking copyright enforcement.

Nicole maintains a commitment to pro bono legal services by continuing to assist mentally ill clients in a variety of matters—from eviction proceedings to trust administration.

She received a J.D. from the Benjamin N. Cardozo School of Law, Yeshiva University, and earned a B.A. in Philosophy from Barnard College.

Nicole is a member of the Association of the Bar of the City of New York.

She is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

Garrett J. Bradley, Of Counsel

gbradley@labaton.com

With more than 20 years of experience, Garrett J. Bradley focuses on representing leading pension funds and other institutional investors. Garrett has experience in a broad range of commercial matters, including securities, antitrust and competition, consumer protection, and mass tort litigation.

Prior to Garrett's career in private practice, he worked as an Assistant District Attorney in the Plymouth County District Attorney's office.

Garrett is a member of the Public Justice Foundation and the Million Dollar Advocates Forum, an exclusive group of trial lawyers who have secured multimillion dollar verdicts for clients.

Garrett is admitted to practice in the States of New York and Massachusetts, the United States Court of Appeals for the First Circuit, and the United States District Court of Massachusetts.

Marisa N. DeMato, Of Counsel

mdemato@labaton.com

Marisa N. DeMato advises leading pension funds and other institutional investors in the United States and Canada on issues related to corporate fraud in the U.S. securities markets. Her work focuses on complex securities class actions, counseling clients on best practices in the corporate governance of publicly traded companies, and advising foundations and endowment funds on monitoring the well-being of their investments. Marisa also advises municipalities and health plans on issues related to U.S. antitrust law and potential violations.

Marisa recently served as legal adviser to the West Palm Beach Police Pension Fund in *In re Walgreen Co. Derivative Litigation*, which obtained significant corporate governance reforms and required Walgreens to extend its Drug Enforcement Agency commitments as part of the settlement related to the company's Controlled Substances Act violation.

Prior to joining Labaton Sucharow, Marisa devoted a substantial portion of her time litigating securities fraud, derivative, mergers and acquisitions, consumer fraud, and qui tam actions. During her eight years as a litigator, Marisa was an integral member of the legal teams that helped secure multimillion dollar settlements on behalf of aggrieved investors and defrauded consumers.

Marisa has been invited to speak on shareholder litigation-related matters, frequently lecturing on topics pertaining to securities fraud litigation, fiduciary responsibility, and corporate governance issues. Most recently, she testified before the Texas House of Representatives Pensions Committee to address the changing legal landscape public pensions have faced since the Supreme Court's *Morrison* decision and highlighted the best practices for non-U.S. investment recovery. During the 2008 financial crisis, Marisa spoke widely on the subprime mortgage crisis and its disastrous effect on the pension fund community at regional and national conferences, and addressed the crisis' global implications and related fraud to institutional investors internationally in Italy, France, and the United Kingdom. Marisa has also presented on issues pertaining to the federal regulatory response to the 2008 crisis, including implications of the Dodd-Frank legislation and the national debate on executive compensation and proxy access for shareholders.

In the spring of 2006, Marisa was selected over 250,000 applicants to appear on the sixth season of *The Apprentice*, which aired on January 7, 2007, on NBC. As a result of her role on *The Apprentice*, Marisa has appeared in numerous news media outlets, such as *The Wall Street Journal*, *People* magazine, and various national legal journals.

Marisa is admitted to practice in the State of Florida and the District of Columbia as well as before the United States District Courts for the Northern, Middle, and Southern Districts of Florida.

Joseph H. Einstein, Of Counsel
jeinstein@labaton.com

A seasoned litigator, Joseph H. Einstein represents clients in complex corporate disputes, employment matters, and general commercial litigation. He has litigated major cases in the state and federal courts and has argued many appeals, including appearing before the United States Supreme Court.

His experience encompasses extensive work in the computer software field including licensing and consulting agreements. Joe also counsels and advises business entities in a broad variety of transactions.

Joe serves as an official mediator for the United States District Court for the Southern District of New York. He is an arbitrator for the American Arbitration Association and FINRA. Joe is a former member of the New York State Bar Association Committee on Civil Practice Law and Rules and the Council on Judicial Administration of the Association of the Bar of the City of New York. He currently is a member of the Arbitration Committee of the Association of the Bar of the City of New York.

During Joe's time at New York University School of Law, he was a Pomeroy and Hirschman Foundation Scholar, and served as an Associate Editor of the *Law Review*.

Joe has been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the First and Second Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

Christine M. Fox, Of Counsel
cfox@labaton.com

Christine M. Fox focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Currently, Christine is actively involved in prosecuting cases against Nu Skin Enterprises, Inc., Conn's, Inc., Intuitive Surgical, and Horizon Pharma.

Prior to joining Labaton Sucharow, Christine worked at a national litigation firm focusing on securities, antitrust, and consumer litigation in state and federal courts.

Christine received her J.D. from the University of Michigan Law School and her B.A. from Cornell University. She is a member of the American Bar Association, the New York State Bar Association, and the Puerto Rican Bar Association.

Christine is conversant in Spanish.

Christine is admitted to the practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

Mark Goldman, Of Counsel
mgoldman@labaton.com

Mark S. Goldman has 30 years of experience in commercial litigation, primarily litigating class actions involving securities fraud, consumer fraud, and violations of federal and state antitrust laws.

Mark is currently prosecuting securities fraud claims on behalf of institutional and individual investors against the manufacturer of communications systems used by hospitals that allegedly misrepresented the impact of the ACA and budget sequestration of the company's sales, and a multi-layer marketing company that allegedly misled investors about its business structure in China. Mark is also participating in litigation brought against international air cargo carriers charged with conspiring to fix fuel and security surcharges, and domestic manufacturers of various auto parts charged with price-fixing.

Mark successfully litigated a number of consumer fraud cases brought against insurance companies challenging the manner in which they calculated life insurance premiums. He also prosecuted a number of insider trading cases brought against company insiders who, in violation of Section 16(b) of the Securities Exchange Act, engaged in short swing trading. In addition, Mark participated in the prosecution of *In re AOL Time Warner Securities Litigation*, a massive securities fraud case that settled for \$2.5 billion.

He is admitted to the state of Pennsylvania, the Third, Ninth, and Eleventh Circuits of the U.S. Court of Appeals, the Eastern District of Pennsylvania, the District of Colorado, and the Eastern District of Wisconsin.

Lara Goldstone, Of Counsel
lgoldstone@labaton.com

Lara Goldstone advises pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets. Before joining Labaton Sucharow, Lara worked as a legal intern in the Larimer County District Attorney's Office and the Jefferson County District Attorney's Office.

Prior to her legal career, Lara worked at Industrial Labs where she worked closely with Federal Drug Administration standards and regulations. In addition, she was a teacher in Irvine, California.

Lara received a J.D. from University of Denver Sturm College of Law, where she was a judge of The Providence Foundation of Law & Leadership Mock Trial and a competitor of the Daniel S. Hoffman Trial Advocacy Competition. She earned a B.A. from The George Washington University where she was a recipient of a Presidential Scholarship for academic excellence. She earned a B.A. from The George Washington University where she was a recipient of a Presidential Scholarship for academic excellence.

Lara is admitted to practice in the State of Colorado.

Domenico Minerva, Of Counsel
dminerva@labaton.com

Domenico "Nico" Minerva advises leading pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets. A former financial advisor, his work focuses on securities, antitrust, and consumer class action litigation and shareholder derivative litigation, representing Taft-Hartley and public pension funds across the country.

Nico's extensive experience litigating securities cases includes those against global securities systems company Tyco and co-defendant PricewaterhouseCoopers (*In re Tyco International Ltd., Securities Litigation*), which resulted in a \$3.2 billion settlement, achieving the largest single defendant settlement in post-PSLRA history. He also has counseled companies and institutional investors on corporate governance reform.

Nico has also done substantial work in antitrust class actions in pay-for-delay or "product hopping" cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, including *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Limited Co.*, *In re Lidoderm Antitrust Litigation*, *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Aggrenox Antitrust Litigation*, and *Sergeants Benevolent Association Health & Welfare Fund et al. v. Actavis PLC et al.* In an anticompetitive antitrust matter, *The Infirmary LLC vs. National Football League Inc et al.*, Nico played a part in challenging an exclusivity agreement between the NFL and

DirectTV over the service's "NFL Sunday Ticket" package, and he litigated on behalf of indirect purchasers of potatoes in a case alleging that growers conspired to control and suppress the nation's potato supply *In re Fresh and Process Potatoes Antitrust Litigation*.

On behalf of consumers, Nico represented a plaintiff in *In Re ConAgra Foods Inc.* over its claims that Wesson-brand vegetable oils are 100 percent natural.

An accomplished speaker, Nico has given numerous presentations to investors on a variety of topics of interest regarding corporate fraud, wrongdoing, and waste. He is also an active member of the National Association of Public Pension Plan Attorneys (NAPPA).

Nico obtained his J.D. from Tulane University Law School, where he also completed a two-year externship with the Honorable Kurt D. Engelhardt of the United States District Court for the Eastern District of Louisiana. He earned his B.S. in Business Administration from the University of Florida.

Nico is admitted to practice in the state courts of New York and Delaware, as well as the United States District Courts for the Eastern and Southern Districts of New York.

Barry M. Okun, Of Counsel
bokun@labaton.com

Barry M. Okun is a seasoned trial and appellate lawyer with more than 30 years of experience in a broad range of commercial litigation. Currently, Barry is actively involved in prosecuting *In re Goldman Sachs Group, Inc. Securities Litigation*. Most recently, he was part of the Labaton Sucharow team that recovered more than \$1 billion in the eight-year litigation against American International Group, Inc. Barry also played a key role representing the Successor Liquidating Trustee of Lipper Convertibles LP and Lipper Fixed Income Fund LP, failed hedge funds, in actions against the Fund's former auditors, overdrawn limited partners, and management team. He helped recover \$5.2 million from overdrawn limited partners and \$30 million from the Fund's former auditors.

Barry has litigated several leading commercial law cases, including the first case in which the United States Supreme Court ruled on issues relating to products liability. He has argued appeals before the United States Court of Appeals for the Second and Seventh Circuits and the Appellate Divisions of three out of the four judicial departments in New York State. Barry has appeared in numerous trial courts throughout the country.

He received a J.D., *cum laude*, from Boston University School of Law, where he was the Articles Editor of the *Law Review*. Barry earned a B.A., with a citation for academic distinction, in History from the State University of New York at Binghamton.

Barry has received an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the First, Second, Seventh and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

Richard T. Joffe, Senior Counsel
rjoffe@labaton.com

Richard Joffe's practice focuses on class action litigation, including securities fraud, antitrust, and consumer fraud cases. Since joining the Firm, Rich has represented such varied clients as institutional purchasers of corporate bonds, Wisconsin dairy farmers, and consumers who alleged they were defrauded when they purchased annuities. He played a key role in shareholders obtaining a \$303 million settlement of securities claims against General Motors and its outside auditor.

Prior to joining Labaton Sucharow, Rich was an associate at Gibson, Dunn & Crutcher LLP, where he played a key role in obtaining a dismissal of claims against Merrill Lynch & Co. and a dozen other of America's largest investment banks and brokerage firms, who, in *Friedman v. Salomon/Smith Barney, Inc.*, were alleged to have conspired to fix the prices of initial public offerings.

Rich also worked as an associate at Fried, Frank, Harris, Shriver & Jacobson where, among other things, in a case handled pro bono, he obtained a successful settlement for several older women who alleged they were victims of age and sex discrimination when they were selected for termination by New York City's Health and Hospitals Corporation during a city-wide reduction in force.

Long before becoming a lawyer, Rich was a founding member of the internationally famous rock and roll group, Sha Na Na.

He is admitted to practice in the State of New York as well as before the United States Courts of Appeals for the Second, Third, Ninth and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

EX. 89

Exhibit 17

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly situated,	)	No. 11-cv-10230 MLW
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)	
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,	)	No. 11-cv-12049 MLW
and those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
STATE STREET GLOBAL MARKETS, LLC and)	
DOES 1-20,)	
)	
Defendants.)	

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	
AND PROFIT SHARING PLAN, on behalf of itself, and	)	No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	

**DECLARATION OF DANIEL P. CHIPLOCK ON BEHALF OF
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP IN SUPPORT OF LEAD
COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

Daniel P. Chiplock, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am a partner with the law firm of Lief Cabraser Heimann & Bernstein, LLP (“Lief Cabraser”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from inception through August 31, 2016 (the “Time Period”).

2. Since the outset of this action, my firm has served as additional counsel for Plaintiff Arkansas Teachers Retirement System (“ARTRS”) and the proposed class in the first-filed class action (Case No. 11-cv-10230). These roles were first memorialized by order of the Court dated January 12, 2012. [Dkt. No. 28].

3. As described in the accompanying papers filed in support of both final approval of the proposed Settlement of the Class Actions and Plaintiffs’ counsel’s requested fee award, Lief Cabraser has been involved since 2008 in investigating and pursuing claims of alleged deceptive practices and overcharges by custodial banks related to the foreign currency exchange (“FX”) products and services offered by such banks to their custodial customers. More than two years before the Class Actions were filed, Lief Cabraser, along with co-counsel the Thornton Law Firm LLP (“TLF”), was counsel of record in *qui tam* lawsuits originally filed under seal in California (the “California Action”), as well as other states, against State Street Bank & Trust Co. (“State Street”). The California Action ultimately was unsealed in October 2009 by the intervention of the Attorney General for the State of California. Before that point and afterwards, Lief Cabraser investigated possible claims to be brought on a class basis for the benefit of custodial customers who would not otherwise benefit from any unsealed *qui tam* lawsuits. Based on its institutional knowledge and expertise in the area, Lief Cabraser was

eventually associated in to the customer class lawsuit being investigated by Labaton Sucharow LLP (“Labaton”) on behalf of ARTRS. Lieff Cabraser was listed as counsel on the first-filed Complaint in this Action, and has worked side-by-side with Labaton and TLF, starting in the months leading up to the filing of that Complaint and continuing through the present. Specific tasks performed by Lieff Cabraser during the more than six years of investigation, litigation, and mediation of this Action are too numerous to list *seriatim*, but broadly speaking, included but were not limited to the following:

- Factual investigation, including researching and reconstructing thousands of FX price movements for major currencies during fixed time periods prior to 2009 for several large institutional customers of State Street;
- Researching and drafting proposed class claims for inclusion in the Complaint, including (specifically) claims under M.G.L. ch. 93A;
- Briefing Defendants’ motion to dismiss, with specific responsibility for defending Plaintiffs’ M.G.L. ch. 93A claims and opposing Defendants’ statute of limitations defense;
- Preparing for and attending Court hearings, including the hearing on Defendants’ motion to dismiss;
- Preparing for and attending every mediation session held in this Action, in addition to countless phone calls between and among Plaintiffs’ counsel, Defense counsel, government regulators, and/or State Street’s counsel; in-person meetings between and amongst the same; and strategy sessions amongst Plaintiffs’ counsel;
- Drafting discovery and information requests to State Street;
- Researching and arguing the merits of class certification in the context of mediation discussions;
- Analyzing State Street’s recorded margins on indirect FX trades throughout the proposed class period, sorted by customer “bucket,” including total volumes attributable to registered investment companies (“RICs”), ERISA plans, and public pension plans;
- Reviewing and closely analyzing, along with co-counsel, more than 9 million pages of documents and data produced by State Street, in preparation for deposition discovery and trial;
- Drafting, along with co-counsel, the term sheet and eventual settlement documentation (including proposed Notices) related to the \$300 million class Settlement;
- Negotiating, along with co-counsel, any additional terms of the global settlement required thereafter by any government regulator (including the United States Department of Labor (“DoL”)); and
- Briefing preliminary and final approval of the Settlement.

4. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request. Additionally, any personnel who billed fewer than 5 hours in the litigation have not been included in my firm's total.

5. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions.

6. The total number of hours expended on this litigation by my firm during the Time Period, with the adjustment(s) referenced above, is 20,458.50 hours. The total lodestar for my firm for those hours is \$9,800,487.50.

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

8. As detailed in Exhibit B, my firm has incurred a total of \$271,944.53 in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 14, 2016.



Daniel P. Chiplock

Exhibit A

EXHIBIT A**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****LODESTAR REPORT****FIRM: Lief Cabraser Heimann & Bernstein, LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

PROFESSIONAL	STATUS	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
ELIZABETH CABRASER	(P)	1,000.00	29.50	\$ 29,500.00
RICHARD HEIMANN	(P)	1,000.00	22.60	22,600.00
STEVEN FINEMAN	(P)	875.00	72.20	63,175.00
DAVID STELLINGS	(P)	825.00	8.10	6,682.50
DANIEL CHIPLOCK	(P)	675.00	1,357.90	916,582.50
NICHOLAS DIAMAND	(P)	625.00	32.30	20,187.50
LEXI HAZAM	(P)	650.00	53.30	34,645.00
JOY KRUSE	(P)	825.00	174.40	143,880.00
MICHAEL MIARMI	(P)	575.00	239.50	137,712.50
DANIEL SELTZ	(P)	605.00	6.50	3,932.50
JENNIFER GROSS	(A)	425.00	7.90	3,357.50
DANIEL LEATHERS	(A)	435.00	20.90	9,091.50
TANYA ASHUR	(SA)	415.00	843.50	350,052.50
JOSHUA BLOOMFIELD	(SA)	515.00	2,033.20	1,047,098.00
ELIZABETH BREHM	(SA)	415.00	1,682.90	698,403.50
JADE BUTMAN	(SA)	515.00	24.00	12,360.00
JAMES GILYARD	(SA)	415.00	882.00	366,030.00
KELLY GRALEWSKI	(SA)	415.00	1,478.90	613,743.50
CHRISTOPHER JORDAN	(SA)	415.00	899.40	373,251.00
JASON KIM	(SA)	415.00	904.00	375,160.00
JAMES LEGGETT	(SA)	415.00	893.00	370,595.00
COLEEN LIEBMANN	(SA)	415.00	24.00	9,960.00
ANDREW MCCLELLAND	(SA)	415.00	58.00	24,070.00
SCOTT MIORO	(SA)	415.00	658.80	273,402.00
LEAH NUTTING	(SA)	415.00	1,940.10	805,141.50
MARISSA OH	(SA)	515.00	800.30	412,154.50
PETER ROOS	(SA)	415.00	780.00	323,700.00
RYAN STURTEVANT	(SA)	415.00	796.00	330,340.00
ANN L. TEN EYCK	(SA)	515.00	490.70	252,710.50
VIRGINIA WEISS	(SA)	415.00	473.50	196,502.50
RACHEL WINTTERLE	(SA)	515.00	580.60	299,009.00
JONATHAN ZAUL	(SA)	415.00	822.20	341,213.00
NEHA GUPTA	(LC)	330.00	44.10	14,553.00
MELISSA MATHENY	(PL)	270.00	12.80	3,456.00

PROFESSIONAL	STATUS	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
ROBERT LIEFF	(OC)	1,000.00	665.90	665,900.00
LYDIA LEE	(OC)	475.00	36.50	17,337.50
WILLOW ASHLYNN	(RA)	360.00	76.70	27,612.00
MARGIE CALANGIAN	(RA)	360.00	6.10	2,196.00
ROBERT DE MARIA	(RA)	335.00	30.00	10,050.00
KIRTI DUGAR	(RA)	450.00	290.50	130,725.00
ANTHONY GRANT	(RA)	360.00	25.00	9,000.00
ARRA KHARARJIAN	(RA)	270.00	116.90	31,563.00
MAJOR MUGRAGE	(RA)	320.00	17.40	5,568.00
RENEE MUKHERJI	(RA)	310.00	8.40	2,604.00
ANIL NAMBIAR	(RA)	360.00	38.00	13,680.00
TOTAL			20458.50	\$9,800,487.50

Partner (P)	Law Clerk (LC)
Of Counsel (OC)	Paralegal (PL)
Associate (A)	Investigator (I)
Staff Attorney (SA)	Research Analyst/Litigation Support (RA)

Exhibit B

EXHIBIT B***STATE STREET INDIRECT FX TRADING CLASS ACTION***
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)**EXPENSE REPORT****FIRM: Lief Cabraser Heimann & Bernstein, LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 31, 2016**

EXPENSE	TOTAL AMOUNT
Duplicating / Printing	\$8,514.00
Long-Distance Telephone / Fax / Conference Calls	\$1,247.56
Filing / Service / Witness Fees	\$0
Court Hearing & Deposition Transcripts	\$84.60
Online Legal & Financial Research	\$17,605.25
Overnight Delivery/Messenger Services	\$93.80
Experts/Consultants/Professional Fees	\$26,358.58
Litigation Support/Electronic Database	\$14,054.11
Work-Related Transportation/Meals/Lodging	\$95,999.30
Litigation Fund Contribution	\$98,000.00
Mediation Expenses	\$9,987.33
TOTAL	\$271,944.53

Exhibit C

Lieff Cabraser Heimann & Bernstein

Attorneys at Law

275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

250 Hudson Street, 8th Floor
New York, NY 10013-1413
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150 Fourth Avenue North, Suite 1650
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Facsimile: 615.313.9965

2101 Fourth Avenue
Suite 1900
Seattle, WA 98121-2315
Telephone: 206.739.9059

Email: mail@lchb.com
Website: www.lieffcabraser.com

FIRM PROFILE:

Lieff Cabraser Heimann & Bernstein, LLP, is a seventy-attorney, AV-rated law firm founded in 1972 with offices in San Francisco, New York, Nashville, and Seattle. We have a diversified practice, successfully representing plaintiffs in the fields of personal injury and mass torts, securities and financial fraud, employment discrimination and unlawful employment practices, product defect, consumer protection, antitrust and intellectual property, environmental and toxic exposures, False Claims Act, digital privacy and data security, and human rights. Our clients include individuals, classes or groups of persons, businesses, and public and private entities.

Lieff Cabraser has served as Court-appointed Plaintiffs' Lead or Class Counsel in state and federal coordinated, multi-district, and complex litigation throughout the United States. With co-counsel, we have represented clients across the globe in cases filed in American courts.

Lieff Cabraser is among the largest firms in the United States that only represent plaintiffs. Described by *The American Lawyer* as "one of the nation's premier plaintiffs' firms," Lieff Cabraser enjoys a national reputation for professional integrity and the successful prosecution of our clients' claims. We possess sophisticated legal skills and the financial resources necessary for the handling of large, complex cases, and for litigating against some of the nation's largest corporations. We take great pride in the leadership roles our firm plays in

many of this country's major cases, including those resulting in landmark decisions and precedent-setting rulings.

Lieff Cabraser has litigated and resolved thousands of individual lawsuits and hundreds of class and group actions, including some of the most important civil cases in the United States over the past four decades. We have assisted our clients in recovering over \$98 billion in verdicts and settlements. Twenty-five cases were resolved for over \$1 billion; another 42 have resulted in verdicts or settlements at or in excess of \$100 million.

The National Law Journal has recognized Lieff Cabraser as one of the nation's top plaintiffs' law firms for fourteen years, including for 2016, and we are a member of its Plaintiffs' Hot List Hall of Fame. In compiling the list, *The National Law Journal* examines recent verdicts and settlements and looks for firms "representing the best qualities of the plaintiffs' bar and that demonstrated unusual dedication and creativity." In 2014, *The National Law Journal* further recognized Lieff Cabraser as one of the 50 Leading Plaintiffs Firms in America.

U.S. News and Best Lawyers have selected Lieff Cabraser as a national "Law Firm of the Year" each year the publications have given this award to law firms. For 2011, 2012, 2014, and 2015, we were recognized in the category of Mass Torts Litigation/Class Actions – Plaintiffs. For 2013, the publications selected our firm as the nation's premier plaintiffs' law firm in the category of Employment Law – Individuals. For 2016, we were again recognized in the category of Mass Torts Litigation/Class Actions – Plaintiffs. Only one law firm in each practice area receives the "Law Firm of the Year" designation.

In 2016, *Law360* selected Lieff Cabraser as one of the Top 50 Law Firms Nationwide for Litigation. This "Litigation Powerhouse" distinction was further extended to include our firm as the first among five elite "Small(er) But Mighty" litigation heavyweights with fewer than 200 attorneys, victorious in case after case "against some of the largest and strongest defense law firms in the world." The publication separately noted that our firm "persists as a formidable agency of change, producing world class legal work against some of the most powerful corporate players in the world today."

CASE PROFILES:

I. Personal Injury and Products Liability Litigation

A. Current Cases

1. ***In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation***, MDL No. 2151 (C.D. Cal.). Lieff Cabraser serves as Co-Lead Counsel for the plaintiffs in the Toyota injury cases in federal court representing individuals injured, and families of loved ones who died, in Toyota unintended acceleration accidents. The complaints charge that Toyota took no action despite years of complaints that its vehicles accelerated suddenly and could not be stopped by proper application of the brake pedal. The complaints further allege that Toyota breached its duty to manufacture and sell safe

automobiles by failing to incorporate a brake override system and other readily available safeguards that could have prevented unintended acceleration.

In December 2013, Toyota announced its intention to begin to settle the cases. In 2014, Lief Cabraser played a key role in turning Toyota's intention into a reality through assisting in the creation of an innovative resolution process that has settled scores of cases in streamlined, individual conferences. The settlements are confidential. Before Toyota agreed to settle the litigation, plaintiffs' counsel overcame significant hurdles in the challenging litigation. In addition to defeating Toyota's motion to dismiss the litigation, Lief Cabraser and co-counsel demonstrated that the highly-publicized government studies that denied unintended acceleration, or attributed it to mechanical flaws and driver error, were flawed and erroneous.

2. ***Individual General Motors Ignition Switch Defect Injury Lawsuits.*** Lief Cabraser represents over 100 persons injured nationwide, and families of loved ones who died, in accidents involving GM vehicles sold with a defective ignition switch. Without warning, the defect can cause the car's engine and electrical system to shut off, disabling the air bags. For over a decade GM was aware of this defect and failed to inform government safety regulators and public. The defect has been has been implicated in the deaths of over 300 people in crashes where the front air bags did not deploy. On August 15, 2014, U.S. District Court Judge Jesse M. Furman appointed Elizabeth J. Cabraser as Co-Lead Plaintiffs' Counsel in the GM ignition switch litigation in federal court.

3. ***Injury and Death Lawsuits Involving Wrongful Driver Conduct and Defective Tires, Transmissions, Cars and/or Vehicle Parts (Seat Belts, Roof Crush, Defective seats, and Other Defects).*** Lief Cabraser has an active practice prosecuting claims for clients injured, or the families of loved ones who have died, by wrongful driver conduct and by unsafe and defective vehicles, tires, restraint systems, seats, and other automotive equipment. We also represent clients in actions involving fatalities and serious injuries from tire and transmission failures as well as rollover accidents (and defective roofs, belts, seat back and other parts) as well as defective transmissions and/or shifter gates that cause vehicles to self-shift from park or false park into reverse. Our attorneys have received awards and recognition from California Lawyer magazine (Lawyer of the Year Award), the Consumer Attorneys of California, and the San Francisco Trial Lawyers Association for their dedication to their clients and outstanding success in vehicle injury cases.

4. ***In re Engle Cases***, No. 3:09-cv-10000-J-32 JBT (M.D. Fl.). Lieff Cabraser represents Florida smokers, and the spouses and families of loved ones who died, in litigation against the tobacco companies for their 50-year conspiracy to conceal the hazards of smoking and the addictive nature of cigarettes.

On February 25th, 2015, a settlement was announced of more than 400 Florida smoker lawsuits against the major cigarette companies Philip Morris USA Inc., R.J. Reynolds Tobacco Company, and Lorillard Tobacco Company. As a part of the settlement, the companies will collectively pay \$100 million to injured smokers or their families.

Lieff Cabraser attorneys tried over 20 cases in Florida federal court against the tobacco industry on behalf of individual smokers or their estates, and with co-counsel obtained over \$105 million in judgments for our clients. Two of the jury verdicts Lieff Cabraser attorneys obtained in the litigation were ranked by *The National Law Journal* as among the Top 100 Verdicts of 2014.

5. ***In re Takata Airbag Litigation***, MDL No. 2599 (S.D. Fl.). Lieff Cabraser serves on the Plaintiffs' Steering Committee in the national litigation against Takata Corporation. Nearly 34 million vehicles, mostly manufactured prior to 2009, have been recalled worldwide due to defective and dangerous airbags manufactured by Japanese-based Takata Corporation. This is the largest automotive recall in U.S. history. At least six deaths and more than 100 injuries have been linked to the airbag defect. The recalled Takata airbags contain a propellant that may cause the airbag to explode upon impact in an accident, shooting out metal debris from the casing towards drivers and passengers. The complaints charge that the company knew of defects in its airbags a decade ago, after conducting secret tests of the products that showed dangerous flaws. Rather than alert federal safety regulators to these risks, Takata allegedly ordered its engineers to delete the test data.
6. ***Stryker Metal Hip Implant Litigation***. Lieff Cabraser represents over 60 hip replacement patients nationwide who received the recalled Stryker Rejuvenate and ABG II modular hip implant systems. Wendy Fleishman serves on the Plaintiffs' Lead Counsel Committee of the multidistrict litigation cases. These patients have suffered tissue damage and have high metal particle levels in their blood stream. For many patients, the Stryker hip implant failed necessitating painful revision surgery to extract and replace the artificial hip.

On November 3, 2014, a settlement was announced in the litigation against Stryker Corporation for the recall of its Rejuvenate and ABG II artificial hip implants. Under the settlement, Stryker will provide a base payment of \$300,000 to patients that received the Rejuvenate or ABG II

hip systems and underwent revision surgery by November 3, 2014, to remove and replace the devices. Stryker's liability is not capped. It is expected that the total amount of payments under the settlement will far exceed \$1 billion dollars. Payments under the settlement program are projected for disbursement at the end of 2015.

7. ***In re Actos (Pioglitazone) Products Liability Litigation***, MDL No. 2299. Lieff Cabraser represents 90 diabetes patients who developed bladder cancer after exposure to the prescription drug pioglitazone, sold as Actos by Japan-based Takeda Pharmaceutical Company and its American marketing partner, Eli Lilly.

Lieff Cabraser is a member of the Plaintiffs' Steering Committee in the Actos MDL. In 2014, Lieff Cabraser served on the trial team in the case of *Allen v. Takeda*, working closely with lead trial counsel in federal court in Louisiana. The jury awarded \$9 billion in punitive damages, finding that Takeda and Lilly failed to adequately warn about the bladder cancer risks of Actos and had acted with wanton and reckless disregard for patient safety. The trial judge reduced the punitive damage award but upheld the jury's findings of misconduct, and ruled that a multiplier of 25 to 1 for punitive damages was justified.

In April 2015, Takeda agreed to settle all bladder cancer claims brought by Type 2 diabetes patients who took Actos prior to December 1, 2011 and who were diagnosed with bladder cancer on or before April 28, 2015 and were represented by counsel by May 1, 2015. The settlement amount is \$2.4 billion. Average payments of about \$250,000 per person will be increased for more severe injuries.

8. ***Fen-Phen ("Diet Drugs") Litigation***. Since the recall was announced in 1997, Lieff Cabraser has represented individuals who suffered injuries from the "Fen-Phen" diet drugs fenfluramine (sold as Pondimin) and/or dexfenfluramine (sold as Redux). We served as counsel for the plaintiff who filed the first nationwide class action lawsuit against the diet drug manufacturers alleging that they had failed to adequately warn physicians and consumers of the risks associated with the drugs. In *In re Diet Drugs (Phentermine / Fenfluramine / Dexfenfluramine) Products Liability Litigation*, MDL No. 1203 (E.D. Pa.), the Court appointed Elizabeth J. Cabraser to the Plaintiffs' Management Committee which organized and directed the Fen-Phen diet drugs litigation in federal court. In August 2000, the Court approved a \$4.75 billion settlement offering both medical monitoring relief for persons exposed to the drug and compensation for persons with qualifying damage. We represented over 2,000 persons that suffered valvular heart disease, pulmonary hypertension or other problems (such as needing echocardiogram screening for damage) due to and/or

following exposure to Fen-Phen and obtained more than \$350 million in total for clients in individual cases and/or claims. We continue to represent persons who suffered valvular heart disease due to Fen-Phen and received compensation under the Diet Drugs Settlement who now require heart valve surgery. These persons may be eligible to submit a new claim and receive additional compensation under the settlement.

9. ***DePuy Metal Hip Implants Litigation.*** Lieff Cabraser represents nearly 200 patients nationwide who received the ASR XL Acetabular and ASR Hip Resurfacing systems manufactured by DePuy Orthopedics, a unit of Johnson & Johnson. In 2010, DePuy Orthopedics announced the recall of its all-metal ASR hip implants, which were implanted in approximately 40,000 U.S. patients from 2006 through August 2010. The complaints allege that DePuy Orthopedics was aware its ASR hip implants were failing at a high rate, yet continued to manufacture and sell the device. In January 2011, in *In re DePuy Orthopaedics, Inc. ASR Hip Implant Products*, MDL No. 2197, the Court overseeing all DePuy recall lawsuits in federal court appointed Lieff Cabraser attorney Wendy R. Fleishman to the Plaintiffs' Steering Committee for the organization and coordination of the litigation. In July 2011, in the coordinated proceedings in California state court, the Court appointed Lieff Cabraser attorney Robert J. Nelson to serve on the Plaintiffs' Steering Committee. In 2013, Johnson & Johnson announced its agreement to pay at least \$2.5 billion to resolve thousands of defective DePuy ASR hip implant lawsuits. Under the settlement, J&J offers to pay a base award of \$250,000 to U.S. citizens and residents who are more than 180 days from their hip replacement surgery, and prior to August 31, 2013, had to undergo revision surgery to remove and replace their faulty DePuy hip ASR XL or ASR resurfacing hip. The \$250,000 base award payment will be adjusted upward or downward depending on medical factors specific to each patient. We also represent nearly 100 patients whose DePuy Pinnacle artificial hip with the metal insert, called the Ultamet metal liner, has prematurely failed.
10. ***Mirena Litigation.*** A widely-used, plastic intrauterine device (IUD) that releases a hormone into the uterus to prevent pregnancy, Mirena is manufactured by Bayer Healthcare Pharmaceuticals. Lieff Cabraser represents patients who have suffered serious injuries linked to the IUD. These injuries include uterine perforation (the IUD tears through the cervix or the wall of the uterus), ectopic pregnancy (when the embryo implants outside the uterine cavity), pelvic infections and pelvic inflammatory disease, and thrombosis (blood clots).
11. ***Birth Defects Litigation.*** Lieff Cabraser represents children and their parents who have suffered birth defects as a result of problematic pregnancies and improper medical care, improper prenatal genetic

screening, ingestion by the mother of prescription drugs during pregnancy which had devastating effects on their babies. These birth defects range from heart defects, physical malformations, and severe brain damage associated with complex emotional and developmental delays. Taking of antidepressants during pregnancy has been linked to multiple types of birth defects, neonatal abstinence syndrome from experiencing withdrawal of the drug, and persistent pulmonary hypertension of the newborn (PPHN).

12. ***Vaginal Surgical Mesh Litigation.*** Lief Cabraser represents more than 300 women nationwide who have been seriously injured as a result of polypropylene vaginal surgical mesh implantation as a treatment for pelvic organ prolapse or stress urinary incontinence. Manufactured by Johnson & Johnson, Boston Scientific, AMS, Bard, Caldera, Coloplast, and others, these products have been linked to serious side effects including erosion into the vaginal wall or other organs, infection, internal organ damage, and urinary problems. As of early 2016, we are in all phases of litigation and settlement on these cases.
13. ***Xarelto Litigation.*** We represent patients prescribed Xarelto sold in the U.S. by Janssen Pharmaceuticals, a subsidiary of Johnson & Johnson. The complaints charge that Xarelto, approved to prevent blood clots, is a dangerous and defective drug because it triggers in certain patients uncontrolled bleeding and other life-threatening complications. Unlike Coumadin, an anti-clotting drug approved over 50 years ago, the concentration of Xarelto in a patient's blood cannot be reversed in the case of overdose or other serious complications. If a Xarelto patient has an emergency bleeding event -- such as from a severe injury or major brain or GI tract bleeding -- the results can be fatal.
14. ***Benicar Litigation.*** We represent patients prescribed the high blood pressure medication Benicar who have experienced chronic diarrhea with substantial weight loss, severe gastrointestinal problems, and the life-threatening conditions of sprue-like enteropathy and villous atrophy in litigation against Japan-based Daiichi Sankyo, Benicar's manufacturer, and Forest Laboratories, which marketed Benicar in the U.S.

The complaints allege that Benicar was insufficiently tested and not accompanied by adequate instructions and warnings to apprise consumers of the full risks and side effects associated with its use. Plaintiffs recently filed motions to compel defense to produce additional discovery. The judge ruled with plaintiffs in the fall of 2015, and discovery is ongoing.

15. ***Risperdal Litigation.*** In 2013, Johnson & Johnson and its subsidiary Janssen Pharmaceuticals, the manufacture of the antipsychotic prescription drugs Risperdal and Invega, entered into a \$2.2 billion

settlement with the U.S. Department of Justice for over promoting the drugs. The government alleged that J&J and Janssen knew Risperdal triggered the production of prolactin, a hormone that stimulates breast development (gynecomastia) and milk production.

We represent parents whose sons developed abnormally large breasts while prescribed Risperdal and Invega in lawsuits charging that Risperdal is a defective and dangerous prescription drug and seeking monetary damages for the mental anguish and physical injuries the young men suffered. As of 2016, we are still filing new Risperdal cases in federal court in the Central District of California.

16. ***Power Morcellators Litigation.*** We represent women who underwent a hysterectomy (the removal of the uterus) or myomectomy (the removal of uterine fibroids) in which a laparoscopic power morcellator was used. In November 2014, the FDA warned surgeons that they should avoid the use of laparoscopic power morcellators for removing uterine tissue in the vast majority of cases due to the risk of the devices spreading unsuspected cancer. Based on current data, the FDA estimates that 1 in 350 women undergoing hysterectomy or myomectomy for the treatment of fibroids have an unsuspected uterine sarcoma, a type of uterine cancer that includes leiomyosarcoma.

17. ***In re New England Compounding Pharmacy Inc. Products Liability Litigation,*** MDL No. 2419. Lief Cabraser represents patients injured or killed by a nationwide fungal meningitis outbreak in 2012. More than 14,000 patients across the U.S. were injected with a contaminated medication that caused the outbreak. The New England Compounding Center ("NECC") in Framingham, Massachusetts, manufactured and sold the drug – an epidural steroid treatment designed to relieve back pain. The contaminated steroid was sold to patients at a number of pain clinics. Nearly 800 patients developed fungal meningitis, and more than 70 patients died.

Lief Cabraser is a member of the Plaintiffs' Steering Committee in the multi-district litigation, and our attorneys act as federal-state liaison counsel. In May 2015, the U.S. Bankruptcy Court approved a \$200 million partial settlement for victims of the outbreak. Bellwether trials against remaining defendants have been set for 2016. Lief Cabraser is expected to play a lead role in the bellwether trials.

18. ***Yaz and Yasmin Litigation.*** Lief Cabraser represents women prescribed Yasmin and Yaz oral contraceptives who suffered blood clots, deep vein thrombosis, strokes, and heart attacks, as well as the families of loved ones who died suddenly while taking these medications. The complaints allege that Bayer, the manufacturer of Yaz and Yasmin, failed to adequately warn patients and physicians of the increased risk of serious

adverse effects from Yasmin and Yaz. The complaints also charge that these oral contraceptives posed a greater risk of serious side effects than other widely available birth control drugs.

B. Successes

1. ***Multi-State Tobacco Litigation.*** Loeff Cabraser represented the Attorneys General of Massachusetts, Louisiana and Illinois, several additional states, and 21 cities and counties in California, in litigation against Philip Morris, R.J. Reynolds and other cigarette manufacturers. The suits were part of the landmark \$206 billion settlement announced in November 1998 between the tobacco industry and the states' attorneys general. The states, cities and counties sought both to recover the public costs of treating smoking-related diseases and require the tobacco industry to undertake extensive modifications of its marketing and promotion activities in order to reduce teenage smoking. In California alone, Loeff Cabraser's clients were awarded an estimated \$12.5 billion to be paid through 2025.
2. ***In re Vioxx Products Liability Litigation,*** MDL No. 1657 (E.D. La.). Loeff Cabraser represented patients who suffered heart attacks or strokes, and the families of loved ones who died, after having been prescribed the arthritis and pain medication Vioxx. In individual personal injury lawsuits against Merck, the manufacturer of Vioxx, our clients allege that Merck falsely promoted the safety of Vioxx and failed to disclose the full range of the drug's dangerous side effects. In April 2005, in the federal multidistrict litigation, the Court appointed Elizabeth J. Cabraser to the Plaintiffs' Steering Committee, which has the responsibility of conducting all pretrial discovery of Vioxx cases in federal court and pursuing all settlement options with Merck. In August 2006, Loeff Cabraser was co-counsel in *Barnett v. Merck*, which was tried in the federal court in New Orleans. Loeff Cabraser attorneys Don Arbitblit and Jennifer Gross participated in the trial, working closely with attorneys Mark Robinson and Andy Birchfield. The jury reached a verdict in favor of Mr. Barnett, finding that Vioxx caused his heart attack, and that Merck's conduct justified an award of punitive damages. In November 2007, Merck announced it had entered into an agreement with the executive committee of the Plaintiffs' Steering Committee as well as representatives of plaintiffs' counsel in state coordinated proceedings. Merck paid \$4.85 billion into a settlement fund for qualifying claims.
3. ***In re Silicone Gel Breast Implants Products Liability Litigation,*** MDL No. 926 (N.D. Ala.). Loeff Cabraser served on the Plaintiffs' Steering Committee and was one of five members of the negotiating committee which achieved a \$4.25 billion global settlement with certain defendants of the action. This was renegotiated in 1995, and

is referred to as the Revised Settlement Program (“RSP”). Over 100,000 recipients have received initial payments, reimbursement for the explanation expenses and/or long term benefits.

4. ***Sulzer Hip and Knee Prosthesis Liability Litigation.*** In December 2000, Sulzer Orthopedics, Inc., announced the recall of approximately 30,000 units of its Inter-Op Acetabular Shell Hip Implant, followed in May 2001 with a notification of failures of its Natural Knee II Tibial Baseplate Knee Implant. In coordinated litigation in California state court, *In re Hip Replacement Cases*, JCCP 4165, Lieff Cabraser served as Court-appointed Plaintiffs’ Liaison Counsel and Co-Lead Counsel. In the federal litigation, *In re Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation*, MDL No. 1410, Lieff Cabraser played a significant role in negotiating a revised global settlement of the litigation valued at more than \$1 billion. The revised settlement, approved by the Court in May 2002, provided patients with defective implants almost twice the cash payment as under an initial settlement. On behalf of our clients, Lieff Cabraser objected to the initial settlement.

5. ***In re Bextra/Celebrex Marketing Sales Practices and Products Liability Litigation***, MDL No. 1699 (N.D. Cal.). Lieff Cabraser served as Plaintiffs’ Liaison Counsel and Elizabeth J. Cabraser chaired the Plaintiffs’ Steering Committee (PSC) charged with overseeing all personal injury and consumer litigation in federal courts nationwide arising out of the sale and marketing of the COX-2 inhibitors Bextra and Celebrex, manufactured by Pfizer, Inc. and its predecessor companies Pharmacia Corporation and G.D. Searle, Inc.

Under the global resolution of the multidistrict tort and consumer litigation announced in October 2008, Pfizer paid over \$800 million to claimants, including over \$750 million to resolve death and injury claims.

In a report adopted by the Court on common benefit work performed by the PSC, the Special Master stated:

[L]eading counsel from both sides, and the attorneys from the PSC who actively participated in this litigation, demonstrated the utmost skill and professionalism in dealing with numerous complex legal and factual issues. The briefing presented to the Special Master, and also to the Court, and the development of evidence by both sides was exemplary. The Special Master particularly wishes to recognize that leading counsel for both sides worked extremely hard to minimize disputes, and when they arose, to make sure that they were raised with a minimum of rancor and a maximum of candor before the Special Master and Court.

6. ***In re Guidant Implantable Defibrillators Products Liability Litigation***, MDL No. 1708. Lief Cabraser serves on the Plaintiffs' Lead Counsel Committee in litigation in federal court arising out of the recall of Guidant cardiac defibrillators implanted in patients because of potential malfunctions in the devices. At the time of the recall, Guidant admitted it was aware of 43 reports of device failures, and two patient deaths. Guidant subsequently acknowledged that the actual rate of failure may be higher than the reported rate and that the number of associated deaths may be underreported since implantable cardio-defibrillators are not routinely evaluated after death. In January 2008, the parties reached a global settlement of the action. Guidant's settlements of defibrillator-related claims will total \$240 million.

7. ***In re Copley Pharmaceutical, Inc., "Albuterol" Products Liability Litigation***, MDL No. 1013 (D. Wyo.). Lief Cabraser served on the Plaintiffs' Steering Committee in a class action lawsuit against Copley Pharmaceutical, which manufactured Albuterol, a bronchodilator prescription pharmaceutical. Albuterol was the subject of a nationwide recall in January 1994 after a microorganism was found to have contaminated the solution, allegedly causing numerous injuries including bronchial infections, pneumonia, respiratory distress and, in some cases, death. In October 1994, the District Court certified a nationwide class on liability issues. *In re Copley Pharmaceutical*, 161 F.R.D. 456 (D. Wyo. 1995). In November 1995, the District Court approved a \$150 million settlement of the litigation.

8. ***In re Teletronics Pacing Systems Inc., Accufix Atrial "J" Leads Products Liability Litigation***, MDL No. 1057 (S.D. Ohio). Lief Cabraser served on the Court-appointed Plaintiffs' Steering Committee in a nationwide products liability action alleging that defendants placed into the stream of commerce defective pacemaker leads. In April 1997, the District Court re-certified a nationwide class of "J" Lead implantees with subclasses for the claims of medical monitoring, negligence and strict product liability. A summary jury trial, utilizing jury instructions and interrogatories designed by Lief Cabraser, occurred in February 1998. A partial settlement was approved thereafter by the District Court but reversed by the Court of Appeals. In March 2001, the District Court approved a renewed settlement that included a \$58 million fund to satisfy all past, present and future claims by patients for their medical care, injuries, or damages arising from the lead.

9. ***Mraz v. DaimlerChrysler***, No. BC 332487 (Cal. Supr. Ct.). In March 2007, the jury returned a \$54.4 million verdict, including \$50 million in punitive damages, against DaimlerChrysler for intentionally failing to cure a known defect in millions of its vehicles that led to the death of Richard Mraz, a young father. Mr. Mraz suffered fatal head injuries when

the 1992 Dodge Dakota pickup truck he had been driving at his work site ran him over after he exited the vehicle believing it was in park. The jury found that a defect in the Dodge Dakota's automatic transmission, called a park-to-reverse defect, played a substantial factor in Mr. Mraz's death and that DaimlerChrysler was negligent in the design of the vehicle for failing to warn of the defect and then for failing to adequately recall or retrofit the vehicle.

For their outstanding service to their clients in Mraz and advancing the rights of all persons injured by defective products, Lieff Cabraser partners Robert J. Nelson, the lead trial counsel, received the 2008 California Lawyer of the Year (CLAY) Award in the field of personal injury law, and were also selected as finalists for attorney of the year by the Consumer Attorneys of California and the San Francisco Trial Lawyers Association.

In March 2008, a Louisiana-state jury found DaimlerChrysler liable for the death of infant Collin Guillot and injuries to his parents Juli and August Guillot and their then 3-year-old daughter, Madison. The jury returned a unanimous verdict of \$5,080,000 in compensatory damages. The jury found that a defect in the Jeep Grand Cherokee's transmission, called a park-to-reverse defect, played a substantial factor in Collin Guillot's death and the severe injuries suffered by Mr. and Mrs. Guillot and their daughter. Lieff Cabraser served as co-counsel in the trial.

10. ***Craft v. Vanderbilt University***, Civ. No. 3-94-0090 (M.D. Tenn.). Lieff Cabraser served as Lead Counsel of a certified class of over 800 pregnant women and their children who were intentionally fed radioactive iron isotopes without consent while receiving prenatal care at the Vanderbilt University hospital as part of a study on iron absorption during pregnancy. The women were not informed of the nature and risks of the study. Instead, they were told that the solution they were fed was a "vitamin cocktail." In the 1960's, Vanderbilt conducted a follow-up study to determine the health effects of the plaintiffs' prior radiation exposure. Throughout the follow-up study, Vanderbilt concealed from plaintiffs the fact that they had been involuntarily exposed to radiation, and that the purpose of the follow-up study was to determine whether there had been an increased rate of childhood cancers among those exposed *in utero*. Vanderbilt also did not inform plaintiffs of the results of the follow-up study, which revealed a disproportionately high incidence of cancers among the children born to the women fed the radioactive iron.

The facts surrounding the administration of radioactive iron to the pregnant women and their children in utero only came to light as a result of U.S. Energy Secretary Hazel O'Leary's 1993 disclosures of government-sponsored human radiation experimentation during the Cold War. Defendants' attempts to dismiss the claims and decertify the class were

unsuccessful. 18 F. Supp.2d 786 (M.D. Tenn. 1998). The case was settled in July 1998 for a total of \$10.3 million and a formal apology from Vanderbilt.

11. ***Simply Thick Litigation.*** Loeff Cabraser represented parents whose infants died or suffered gave injuries linked to Simply Thick, a thickening agent for adults that was promoted to parents, caregivers, and health professional for use by infants to assist with swallowing. The individual lawsuits alleged that Simply Thick when fed to infants caused necrotizing enterocolitis (NEC), a life-threatening condition characterized by the inflammation and death of intestinal tissue. In 2014, the litigation was resolved on confidential terms.
12. ***Medtronic Infuse Litigation.*** Loeff Cabraser represented patients who suffered serious injuries from the off-label use of the Infuse bone graft, manufactured by Medtronic Inc. The FDA approved Infuse for only one type of spine surgery, the anterior lumbar fusion. Many patients, however, received an off-label use of Infuse and were never informed of the off-label nature of the surgery. Serious complications associated with Infuse included uncontrolled bone growth and chronic pain from nerve injuries. In 2014, the litigation was settled on confidential terms.
13. ***Wright Medical Hip Litigation.*** The Profemur-Z system manufactured by Wright Medical Technology consisted of three separate components: a femoral head, a modular neck, and a femoral stem. Prior to 2009, Profemur-Z hip system included a titanium modular neck adapter and stem which was implanted in 10,000 patients. Loeff Cabraser represented patients whose Profemur-Z hip implant fractured, requiring a revision surgery. In 2013 and 2014, the litigation was resolved on confidential terms.
14. ***In re Zimmer Durom Cup Product Liability Litigation,*** MDL No. 2158. Loeff Cabraser served as Co-Liaison Counsel for patients nationwide injured by the defective Durom Cup manufactured by Zimmer Holdings. First sold in the U.S. in 2006, Zimmer marketed its ‘metal-on-metal’ Durom Cup implant as providing a greater range of motion and less wear than traditional hip replacement components. In July 2008, Zimmer announced the suspension of Durom sales. The complaints charged that the Durom cup was defective and led to the premature failure of the implant. In 2011 and 2012, the patients represented by Loeff Cabraser settled their cases with Zimmer on favorable, confidential terms.
15. ***Luisi v. Medtronic,*** No. 07 CV 4250 (D. Minn.). Loeff Cabraser represented over seven hundred heart patients nationwide who were implanted with recalled Sprint Fidelis defibrillator leads manufactured by Medtronic Inc. Plaintiffs charge that Medtronic has misrepresented the safety of the Sprint Fidelis leads and a defect in the device triggered their

receiving massive, unnecessary electrical shocks. A settlement of the litigation was announced in October 2010.

16. ***Blood Factor VIII And Factor IX Litigation.*** Working with counsel in Asia, Europe, Central and South America and the Middle East, Lieff Cabraser represented over 1,500 hemophiliacs worldwide, or their survivors and estates, who contracted HIV and/or Hepatitis C (HCV), and Americans with hemophilia who contracted HCV, from contaminated and defective blood factor products produced by American pharmaceutical companies. In 2004, Lieff Cabraser was appointed Plaintiffs' Lead Counsel of the "second generation" Blood Factor MDL litigation presided over by Judge Grady in the Northern District of Illinois. The case was resolved through a global settlement signed in 2009.
17. ***In Re Yamaha Motor Corp. Rhino ATV Products Liability Litigation,*** MDL No. 2016 (W.D. Ky.) Lieff Cabraser served as Plaintiffs' Lead Counsel in the litigation in federal court and Co-Lead Counsel in coordinated California state court litigation arising out of serious injuries and deaths in rollover accidents involving the Yamaha Rhino. The complaints charged that the Yamaha Rhino contained numerous design flaws, including the failure to equip the vehicles with side doors, which resulted in repeated broken or crushed legs, ankles or feet for riders. Plaintiffs alleged also that the Yamaha Rhino was unstable due to a narrow track width and high center of gravity leading to rollover accidents that killed and/or injured scores of persons across the nation. On behalf of victims and families of victims and along with the Center for Auto Safety, and the San Francisco Trauma Foundation, Lieff Cabraser advocated for numerous safety changes to the Rhino in reports submitted to the U.S. Consumer Product Safety Commission (CPSC). On March 31, 2009, the CPSC, in cooperation with Yamaha Motor Corp. U.S.A., announced a free repair program for all Rhino 450, 660, and 700 models to improve safety, including the addition of spacers and removal of a rear only anti-sway bar.
18. ***Advanced Medical Optics Complete MoisturePlus Litigation.*** Lieff Cabraser represented consumers nationwide in personal injury lawsuits filed against Advanced Medical Optics arising out of the May 2007 recall of AMO's Complete MoisturePlus Multi-Purpose Contact Lens Solution. The product was recalled due to reports of a link between a rare, but serious eye infection, *Acanthamoeba keratitis*, caused by a parasite and use of AMO's contact lens solution. Though AMO promoted Complete MoisturePlus Multi-Purpose as "effective against the introduction of common ocular microorganisms," the complaints charged that AMO's lens solution was ineffective and vastly inferior to other multipurpose solutions on the market. In many cases, patients were forced to undergo painful corneal transplant surgery to save their vision

and some have lost all or part of their vision permanently. The patients represented by Lief Cabraser resolved their cases with AMO on favorable, confidential terms.

19. ***Gol Airlines Flight 1907 Amazon Crash.*** Lief Cabraser served as Plaintiffs' Liaison Counsel and represents over twenty families whose loved ones died in the Gol Airlines Flight 1907 crash. On September 29, 2006, a brand-new Boeing 737-800 operated by Brazilian air carrier Gol plunged into the Amazon jungle after colliding with a smaller plane owned by the American company ExcelAire Service, Inc. None of the 149 passengers and six crew members on board the Gol flight survived the accident.

The complaint charged that the pilots of the ExcelAire jet were flying at an incorrect altitude at the time of the collision, failed to operate the jet's transponder and radio equipment properly, and failed to maintain communication with Brazilian air traffic control in violation of international civil aviation standards. If the pilots of the ExcelAire aircraft had followed these standards, the complaint charged that the collision would not have occurred.

At the time of the collision, the ExcelAire aircraft's transponder, manufactured by Honeywell, was not functioning. A transponder transmits a plane's altitude and operates its automatic anti-collision system. The complaint charged that Honeywell shares responsibility for the tragedy because it defectively designed the transponder on the ExcelAire jet, and failed to warn of dangers resulting from foreseeable uses of the transponder. The cases settled after they were sent to Brazil for prosecution.

20. ***Comair CRJ-100 Commuter Flight Crash in Lexington, Kentucky.*** A Bombardier CRJ-100 commuter plane operated by Comair, Inc., a subsidiary of Delta Air Lines, crashed on August 27, 2006 shortly after takeoff at Blue Grass Airport in Lexington, Kentucky, killing 47 passengers and two crew members. The aircraft attempted to take off from the wrong runway. The families represented by Lief Cabraser obtained substantial economic recoveries in a settlement of the case.
21. ***In re ReNu With MoistureLoc Contact Lens Solution Products Liability Litigation,*** MDL No. 1785 (D. S.C.). Lief Cabraser served on the Plaintiffs' Executive Committee in federal court litigation arising out of Bausch & Lomb's 2006 recall of its ReNu with MoistureLoc contact lens solution. Consumers who developed *Fusarium keratitis*, a rare and dangerous fungal eye infection, as well as other serious eye infections, alleged the lens solution was defective. Some consumers were forced to undergo painful corneal transplant surgery to save their vision; others lost

all or part of their vision permanently. The litigation was resolved under favorable, confidential settlements with Bausch & Lomb.

22. ***Helios Airways Flight 522 Athens, Greece Crash.*** On August 14, 2005, a Boeing 737 operating as Helios Airways flight 522 crashed north of Athens, Greece, resulting in the deaths of all passengers and crew. The aircraft was heading from Larnaca, Cyprus to Athens International Airport when ground controllers lost contact with the pilots, who had radioed in to report problems with the air conditioning system. Press reports about the official investigation indicate that a single switch for the pressurization system on the plane was not properly set by the pilots, and eventually both were rendered unconscious, along with most of the passengers and cabin crew.

Lieff Cabraser represented the families of several victims, and filed complaints alleging that a series of design defects in the Boeing 737-300 contributed to the pilots' failure to understand the nature of the problems they were facing. Foremost among those defects was a confusing pressurization warning "horn" which uses the same sound that alerts pilots to improper takeoff and landing configurations. The families represented by Lieff Cabraser obtained substantial economic recoveries in a settlement of the case.

23. ***Legend Single Engine "Turbine Legend" Kit Plane Crash.*** On November 19, 2005, a single engine "Turbine Legend" kit plane operated by its owner crashed shortly after takeoff from a private airstrip in Tucson, Arizona, killing both the owner/pilot and a passenger. Witnesses report that the aircraft left the narrow runway during the takeoff roll and although the pilot managed to get the plane airborne, it rolled to the left and crashed.

Lieff Cabraser investigated the liability of the pilot and others, including the manufacturer of the kit and the operator of the airport from which the plane took off. The runway was 16 feet narrower than the minimum width recommended by the Federal Aviation Administration. Lieff Cabraser represented the widow of the passenger, and the case was settled on favorable, confidential terms.

24. ***Manhattan Tourist Helicopter Crash.*** On June 14, 2005, a Bell 206 helicopter operated by Helicopter Flight Services, Inc. fell into the East River shortly after taking off for a tourist flight over New York City. The pilot and six passengers were immersed upside-down in the water as the helicopter overturned. Lieff Cabraser represented a passenger on the helicopter and the case was settled on favorable, confidential terms.

25. ***U.S. Army Blackhawk Helicopter Tower Collision.*** Lieff Cabraser represented the family of a pilot who died in the November 29, 2004

crash of a U.S. Army Black Hawk Helicopter. The Black Hawk was flying during the early morning hours at an altitude of approximately 500 feet when it hit cables supporting a 1,700 foot-tall television tower, and subsequently crashed 30 miles south of Waco, Texas, killing both pilots and five passengers, all in active Army service. The tower warning lights required by government regulations were inoperative. The case was resolved through a successful, confidential settlement.

26. ***Air Algeria Boeing 737 Crash.*** Together with French co-counsel, Loeff Cabraser represented the families of several passengers who died in the March 6, 2003 crash of a Boeing 737 airplane operated by Air Algeria. The aircraft crashed soon after takeoff from the Algerian city of Tamanrasset, after one of the engines failed. All but one of the 97 passengers were killed, along with six crew members. The families represented by Loeff Cabraser obtained economic recoveries in a settlement of the case.
27. ***In re Baycol Products Litigation,*** MDL No. 1431 (D. Minn.). Baycol was one of a group of drugs called statins, intended to reduce cholesterol. In August 2001, Bayer A.G. and Bayer Corporation, the manufacturers of Baycol, withdrew the drug from the worldwide market based upon reports that Baycol was associated with serious side effects and linked to the deaths of over 100 patients worldwide. In the federal multidistrict litigation, Loeff Cabraser served as a member of the Plaintiffs' Steering Committee (PSC) and the Executive Committee of the PSC. In addition, Loeff Cabraser represented approximately 200 Baycol patients who suffered injuries or family members of patients who died allegedly as a result of ingesting Baycol. In these cases, our clients reached confidential favorable settlements with Bayer.
28. ***United Airlines Boeing 747 Disaster.*** Loeff Cabraser served as Plaintiffs' Liaison Counsel on behalf of the passengers and families of passengers injured and killed in the United Airlines Boeing 747 cargo door catastrophe near Honolulu, Hawaii on February 24, 1989. Loeff Cabraser organized the litigation of the case, which included claims brought against United Airlines and The Boeing Company.

Among our work, we developed a statistical system for settling the passengers' and families' damages claims with certain defendants, and coordinated the prosecution of successful individual damages trials for wrongful death against the non-settling defendants.

29. ***Aeroflot-Russian International Airlines Airbus Disaster.*** Loeff Cabraser represented the families of passengers who were on Aeroflot-Russian International Airlines Flight SU593 that crashed in Siberia on March 23, 1994. The plane was en route from Moscow to Hong Kong. All passengers on board died.

According to a transcript of the cockpit voice recorder, the pilot's two children entered the cockpit during the flight and took turns flying the plane. The autopilot apparently was inadvertently turned off during this time, and the pilot was unable to remove his son from the captain's seat in time to avert the plane's fatal dive.

Lieff Cabraser, alongside French co-counsel, filed suit in France, where Airbus, the plane's manufacturer, was headquartered. The families Lieff Cabraser represented obtained substantial economic recoveries in settlement of the action.

30. ***Lockheed F-104 Fighter Crashes.*** In the late 1960s and extending into the early 1970s, the United States sold F-104 Star Fighter jets to the German Air Force that were manufactured by Lockheed Aircraft Corporation in California. Although the F-104 Star Fighter was designed for high-altitude fighter combat, it was used in Germany and other European countries for low-level bombing and attack training missions.

Consequently, the aircraft had an extremely high crash rate, with over 300 pilots killed. Commencing in 1971, the law firm of Belli Ashe Ellison Choulos & Lieff filed hundreds of lawsuits for wrongful death and other claims on behalf of the widows and surviving children of the pilots.

Robert Lieff continued to prosecute the cases after the formation of our firm. In 1974, the lawsuits were settled with Lockheed on terms favorable to the plaintiffs. This litigation helped establish the principle that citizens of foreign countries could assert claims in United States courts and obtain substantial recoveries against an American manufacturer, based upon airplane accidents or crashes occurring outside the United States.

II. Securities and Financial Fraud

A. Current Cases

1. ***Houston Municipal Employees Pension System v. BofI Holding, Inc., et al.***, No. 3:15-cv-02324-GPC-KSC (S.D. Cal.). Lieff Cabraser serves as lead counsel for court-appointed lead plaintiff, Houston Municipal Employees Pension System (“HMEPS”), in this securities fraud class action against BofI Holding, Inc. and certain of its senior officers. HMEPS filed a consolidated amended class action complaint in April 2016 that charges defendants with issuing materially false and misleading statements and failing to disclose material adverse facts about BofI’s business, operations, prospects and performance. A hearing on defendants’ motion to dismiss is scheduled for September 2016.

2. ***Lord Abbett Affiliated Fund, Inc., et al. v. Navient Corporation, et al.***, No. 1:16-cv-112-GMS (D. Del.). Loeff Cabraser serves as lead counsel for the court-appointed lead plaintiff, a group of Lord Abbett funds, in this securities fraud class action arising under the PSLRA against Navient, certain of Navient’s senior officers and directors, and the underwriters of certain of Navient’s public debt offerings. The consolidated actions allege that defendants misrepresented or failed to disclose that (i) Navient’s loan-servicing practices violated applicable federal regulations and jeopardized a contingency collection contract with the U.S. Department of Education (“DOE”); (ii) the Company had an increased number of higher-risk borrowers who were not repaying their loans and Navient failed to properly account for this increased risk of loss in its reported financial results; (iii) Navient’s operating structure was inefficient as a result of its spin-off from Sallie Mae; and (iv) a significant portion of the Company’s low-rate credit facilities were at risk of being reduced or eliminated. A consolidated amended class action complaint is scheduled to be filed in September 2016.

3. ***Normand, et al. v. Bank of New York Mellon Corp.***, No. 1:16-cv-00212-LAK-JLC (S.D.N.Y.). Loeff Cabraser, together with co-counsel, represents a proposed class of holders of American Depositary Receipts (“ADRs”) (negotiable U.S. securities representing ownership of publicly traded shares in a non-U.S. corporation), for which BNY Mellon served as the depositary bank. Plaintiffs allege that under the contractual agreements underlying the ADRs, BNY Mellon was responsible for “promptly” converting cash distributions (such as dividends) received for ADRs into U.S. dollars for the benefit of ADR holders, and was required to act without bad faith. Plaintiffs allege that, instead, when doing the ADR cash conversions, BNY Mellon used the range of exchange rates available during the trading session in a manner that was unfavorable for ADR holders, and in doing so, improperly skimmed profits from distributions owed and payable to the class.

4. ***Arkansas Teacher Retirement System v. State Street Corp.***, No. 11cv10230 (MLW) (D. Mass.). Loeff Cabraser is co-counsel for a proposed nationwide class of institutional custodial customers of State Street, including public pension funds and ERISA plans, who allege that defendants deceptively charged class members on FX trades done in connection with the purchase and sale of foreign securities.

Similar to the action against BNY Mellon described below, the complaint charges that between 1999 and 2009, State Street consistently incorporated hidden and excessive mark-ups or mark-downs relative to the actual FX rates applicable at the times of the trades conducted for State Street’s custodial FX clients. State Street allegedly kept for itself, as an unlawful profit, the “spread” between the prices for foreign currency

available to it in the FX marketplace and the rates it charged to its customers.

Plaintiffs seek recovery under Massachusetts' Consumer Protection Law and common law tort and contract theories. In May 2012, the Court denied State Street's motion to dismiss in all substantive respects. Since that time, the parties have been engaged in mediation and discovery. Loeff Cabraser is also actively involved in counseling other state pension and ERISA funds with respect to their potential exposure to FX manipulation by custodial service providers.

5. ***In re Facebook, Inc. IPO Securities And Derivative Litigation***, MDL No. 12-2389 (RWS) (S.D.N.Y.). Loeff Cabraser is counsel for two individual investor class representatives in the securities class litigation arising under the Private Securities Litigation Reform Act of 1995 (the "PSLRA") concerning Facebook's initial public offering in May 2012. In December 2013, the court denied defendants' motions to dismiss plaintiffs' consolidated class action complaint. The parties subsequently engaged in discovery and briefing.

In December, 2015, the court granted the investors' motion for class certification. The litigation is ongoing.

6. ***Janus Overseas Fund, et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.***, No. 1:15-cv-10086-JSR (S.D.N.Y.); ***Dodge & Cox Global Stock Fund, et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.***, No. 1:15-cv-10111-JSR (S.D.N.Y.). Loeff Cabraser represents several funds managed by Janus and several funds managed by Dodge & Cox in individual securities cases arising from the massive fraud at Petrobras, a state-run semi-public energy and oil-production company headquartered in Rio de Janeiro, Brazil. Plaintiffs seek recovery under the federal securities laws for damages they suffered on transactions in Petrobras securities during the period December 29, 2010 through July 28, 2015 due to a pervasive and long-running scheme of bribery and corruption at Petrobras.

Plaintiffs allege that beginning around 2005 and continuing through the relevant period, the Company engaged in a scheme whereby contractors paid bribes to Petrobras executives and others in exchange for the award of lucrative oil and gas construction contracts. Some of the bribes were passed on to Brazilian politicians and political parties. The Company then paid the contractors inflated amounts under the contracts in order to repay them for the bribes. When the fraud was finally revealed beginning in May 2014, it sent shockwaves through the Brazilian government and economy, and caused Petrobras's market capitalization to plummet. Authorities estimate the scheme has diverted up to, or more than, \$28 billion from the Company's coffers.

Lieff Cabraser's cases are part of consolidated proceedings before Judge Jed S. Rakoff in the Southern District of New York. The cases are in the discovery phase, with trial set for September 2016.

7. ***The Charles Schwab Corp. v. BNP Paribas Sec. Corp.***, No. CGC-10-501610 (Cal. Super. Ct.); ***The Charles Schwab Corp. v. J.P. Morgan Sec., Inc.***, No. CGC-10-503206 (Cal. Super. Ct.); ***The Charles Schwab Corp. v. J.P. Morgan Sec., Inc.***, No. CGC-10-503207 (Cal. Super. Ct.); and ***The Charles Schwab Corp. v. Banc of America Sec. LLC***, No. CGC-10-501151 (Cal. Super. Ct.). Lieff Cabraser, along with co-counsel, represents Charles Schwab in four separate individual securities actions against certain issuers and sellers of mortgage-backed securities ("MBS") for materially misrepresenting the quality of the loans underlying the securities in violation of California state law. Charles Schwab Bank, N.A., a subsidiary of Charles Schwab, suffered significant damages by purchasing the securities in reliance on defendants' misstatements.

The court largely overruled defendants' demurrers in January 2012. Settlements have been reached with certain defendants for confidential amounts. Trials against remaining defendants Morgan Stanley & Co. Inc. and UBS Securities, LLC are scheduled for July 2016 and February 2017, respectively. Motions for summary judgment by defendant Goldman, Sachs & Co. are currently being briefed.

8. ***Honeywell International Inc. Defined Contribution Plans Master Savings Trust. v. Merck & Co.***, No. 14-cv 2523-SRC-CLW (S.D.N.Y.); ***Janus Balanced Fund v. Merck & Co.***, No. 14-cv-3019-SRC-CLW (S.D.N.Y.); ***Lord Abbett Affiliated Fund v. Merck & Co.***, No. 14-cv-2027-SRC-CLW (S.D.N.Y.); ***Nuveen Dividend Value Fund (f/k/a Nuveen Equity Income Fund), on its own behalf and as successor in interest to Nuveen Large Cap Value Fund (f/k/a First American Large Cap Value Fund) v. Merck & Co.***, No. 14-cv-1709-SRC-CLW (S.D.N.Y.). Lieff Cabraser represents Lord Abbett, Janus, and Nuveen funds and Honeywell trusts in separate, individual actions against Merck and certain of its officers for allegedly misrepresenting and omitting material information about the adverse cardiovascular effects of Merck's pharmaceutical drug Vioxx. The complaints charge defendants with violations of the Exchange Act. Fact discovery in the cases has been completed and the parties are preparing for trial in 2016.

B. Successes

1. ***In re First Capital Holdings Corp. Financial Products Securities Litigation***, MDL No. 901 (C.D. Cal.). Lieff Cabraser served as Co-Lead Counsel in a class action brought to recover damages

sustained by policyholders of First Capital Life Insurance Company and Fidelity Bankers Life Insurance Company policyholders resulting from the insurance companies' allegedly fraudulent or reckless investment and financial practices, and the manipulation of the companies' financial statements. This policyholder settlement generated over \$1 billion in restored life insurance policies. The settlement was approved by both federal and state courts in parallel proceedings and then affirmed by the Ninth Circuit on appeal.

2. ***In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litigation***, Case No. MD-12-2335-LAK (S.D.N.Y.). Lieff Cabraser served as co-lead class counsel for a proposed nationwide class of institutional custodial customers of The Bank of New York Mellon Corporation ("BNY Mellon"). The litigation stemmed from alleged deceptive overcharges imposed by BNY Mellon on foreign currency exchanges (FX) that were done in connection with custodial customers' purchases or sales of foreign securities. Plaintiffs alleged that for more than a decade, BNY Mellon consistently charged its custodial customers hidden and excessive mark-ups on exchange rates for FX trades done pursuant to "standing instructions," using "range of the day" pricing, rather than the rates readily available when the trades were actually executed.

In addition to serving as co-lead counsel for a nationwide class of affected custodial customers, which included public pension funds, ERISA funds, and other public and private institutions, Lieff Cabraser was one of three firms on Plaintiffs' Executive Committee tasked with managing all activities on the plaintiffs' side in the multidistrict consolidated litigation. Prior to the cases being transferred and consolidated in the Southern District of New York, Lieff Cabraser defeated, in its entirety, BNY Mellon's motion to dismiss claims brought on behalf of ERISA and other funds under California's and New York's consumer protection laws.

The firm's clients and class representatives in the consolidated litigation included the Ohio Police & Fire Pension Fund, the School Employees Retirement System of Ohio, and the International Union of Operating Engineers, Stationary Engineers Local 39 Pension Trust Fund.

In March 2015, a global resolution of the private and governmental enforcement actions against BNY Mellon was announced, in which \$504 million will be paid back to BNY Mellon customers (\$335 million of which is directly attributable to the class litigation).

On September 24, 2015, U.S. District Court Judge Lewis A. Kaplan granted final approval to the settlement. Commenting on the work of plaintiffs' counsel, Judge Kaplan stated, "This really was an extraordinary case in which plaintiff's counsel performed, at no small risk, an

extraordinary service. They did a wonderful job in this case, and I've seen a lot of wonderful lawyers over the years. This was a great performance. They were fought tooth and nail at every step of the road. It undoubtedly vastly expanded the costs of the case, but it's an adversary system, and sometimes you meet adversaries who are heavily armed and well financed, and if you're going to win, you have to fight them and it costs money. This was an outrageous wrong committed by the Bank of New York Mellon, and plaintiffs' counsel deserve a world of credit for taking it on, for running the risk, for financing it and doing a great job. ”

3. ***In re Broadcom Corporation Derivative Litigation***, No. CV 06-3252-R (C.D. Cal.). Lief Cabraser served as Court-appointed Lead Counsel in a shareholders derivative action arising out of stock options backdating in Broadcom securities. The complaint alleged that defendants intentionally manipulated their stock option grant dates between 1998 and 2003 at the expense of Broadcom and Broadcom shareholders. By making it seem as if stock option grants occurred on dates when Broadcom stock was trading at a comparatively low per share price, stock option grant recipients were able to exercise their stock option grants at exercise prices that were lower than the fair market value of Broadcom stock on the day the options were actually granted. In December 2009, U.S. District Judge Manuel L. Real granted final approval to a partial settlement in which Broadcom Corporation's insurance carriers paid \$118 million to Broadcom. The settlement released certain individual director and officer defendants covered by Broadcom's directors' and officers' policy.

Plaintiffs' counsel continued to pursue claims against William J. Ruehle, Broadcom's former Chief Financial Officer, Henry T. Nicholas, III, Broadcom's co-founder and former Chief Executive Officer, and Henry Samuelli, Broadcom's co-founder and former Chief Technology Officer. In May 2011, the Court approved a settlement with these defendants. The settlement provided substantial consideration to Broadcom, consisting of the receipt of cash and cancelled options from Dr. Nicholas and Dr. Samuelli totaling \$53 million in value, plus the release of a claim by Mr. Ruehle, which sought damages in excess of \$26 million.

Coupled with the earlier \$118 million partial settlement, the total recovery in the derivative action was \$197 million, which constitutes the third-largest settlement ever in a derivative action involving stock options backdating.

4. ***In re Scorpion Technologies Securities Litigation I***, No. C-93-20333-EAI (N.D. Cal.); ***Dietrich v. Bauer***, No. C-95-7051-RWS (S.D.N.Y.); ***Claghorn v. Edsaco***, No. 98-3039-SI (N.D. Cal.). Lief Cabraser served as Lead Counsel in class action suits arising out of an

alleged fraudulent scheme by Scorpion Technologies, Inc., certain of its officers, accountants, underwriters and business affiliates to inflate the company's earnings through reporting fictitious sales. In Scorpion I, the Court found plaintiffs had presented sufficient evidence of liability under Federal securities acts against the accounting firm Grant Thornton for the case to proceed to trial. In re Scorpion Techs., 1996 U.S. Dist. LEXIS 22294 (N.D. Cal. Mar. 27, 1996). In 1988, the Court approved a \$5.5 million settlement with Grant Thornton. In 2000, the Court approved a \$950,000 settlement with Credit Suisse First Boston Corporation. In April 2002, a federal jury in San Francisco, California returned a \$170.7 million verdict against Edsaco Ltd. The jury found that Edsaco aided Scorpion in setting up phony European companies as part of a scheme in which Scorpion reported fictitious sales of its software to these companies, thereby inflating its earnings. Included in the jury verdict, one of the largest verdicts in the U.S. in 2002, was \$165 million in punitive damages. Richard M. Heimann conducted the trial for plaintiffs.

On June 14, 2002, U.S. District Court Judge Susan Illston commented on Lief Cabraser's representation: "[C]ounsel for the plaintiffs did a very good job in a very tough situation of achieving an excellent recovery for the class here. You were opposed by extremely capable lawyers. It was an uphill battle. There were some complicated questions, and then there was the tricky issue of actually collecting anything in the end. I think based on the efforts that were made here that it was an excellent result for the class. . . [T]he recovery that was achieved for the class in this second trial is remarkable, almost a hundred percent."

5. ***In re Diamond Foods, Inc., Securities Litigation***, No. 11-cv-05386-WHA (N.D. Cal.). Lief Cabraser served as local counsel for Lead Plaintiff Public Employees' Retirement System of Mississippi ("MissPERS") and the class of investors it represented in this securities class action lawsuit arising under the PSLRA. The complaint charged Diamond Foods and certain senior executives of the company with violations of the Exchange Act for knowingly understating the cost of walnuts Diamond Foods purchased in order to inflate the price of Diamond Foods' common stock. In January 2014, the Court granted final approval of a settlement of the action requiring Diamond Foods to pay \$11 million in cash and issue 4.45 million common shares worth \$116.3 million on the date of final approval based on the stock's closing price on that date.
6. ***Merrill Lynch Fundamental Growth Fund and Merrill Lynch Global Value Fund v. McKesson HBOC***, No. 02-405792 (Cal. Supr. Ct.). Lief Cabraser served as counsel for two Merrill Lynch sponsored mutual funds in a private lawsuit alleging that a massive accounting fraud occurred at HBOC & Company ("HBOC") before and following its 1999

acquisition by McKesson Corporation (“McKesson”). The funds charged that defendants, including the former CFO of McKesson HBOC, the name McKesson adopted after acquiring HBOC, artificially inflated the price of securities in McKesson HBOC, through misrepresentations and omissions concerning the financial condition of HBOC, resulting in approximately \$135 million in losses for plaintiffs. In a significant discovery ruling in 2004, the California Court of Appeal held that defendants waived the attorney-client and work product privileges in regard to an audit committee report and interview memoranda prepared in anticipation of shareholder lawsuits by disclosing the information to the U.S. Attorney and SEC. *McKesson HBOC, Inc. v. Supr. Court*, 115 Cal. App. 4th 1229 (2004). Lief Cabraser’s clients recovered approximately \$145 million, representing nearly 104% of damages suffered by the funds. This amount was approximately \$115-120 million more than the Merrill Lynch funds would have recovered had they participated in the federal class action settlement.

7. ***Informix/Illustra Securities Litigation***, No. C-97-1289-CRB (N.D. Cal.). Lief Cabraser represented Richard H. Williams, the former Chief Executive Officer and President of Illustra Information Technologies, Inc. (“Illustra”), and a class of Illustra shareholders in a class action suit on behalf of all former Illustra securities holders who tendered their Illustra preferred or common stock, stock warrants or stock options in exchange for securities of Informix Corporation (“Informix”) in connection with Informix’s 1996 purchase of Illustra. Pursuant to that acquisition, Illustra stockholders received Informix securities representing approximately 10% of the value of the combined company. The complaint alleged claims for common law fraud and violations of Federal securities law arising out of the acquisition. In October 1999, U.S. District Judge Charles E. Breyer approved a global settlement of the litigation for \$136 million, constituting one of the largest settlements ever involving a high technology company alleged to have committed securities fraud. Our clients, the Illustra shareholders, received approximately 30% of the net settlement fund.

8. ***In re Qwest Communications International Securities and “ERISA” Litigation (No. II)***, No. 06-cv-17880-REB-PAC (MDL No. 1788) (D. Colo.). Lief Cabraser represented the New York State Common Retirement Fund, Fire and Police Pension Association of Colorado, Denver Employees’ Retirement Plan, San Francisco Employees’ Retirement System, and over thirty BlackRock managed mutual funds in individual securities fraud actions (“opt out” cases) against Qwest Communications International, Inc., Philip F. Anschutz, former co-chairman of the Qwest board of directors, and other senior executives at Qwest. In each action, the plaintiffs charged defendants with massively overstating Qwest’s publicly-reported growth, revenues, earnings, and

earnings per share from 1999 through 2002. The cases were filed in the wake of a \$400 million settlement of a securities fraud class action against Qwest that was announced in early 2006. The cases brought by Lief Cabraser's clients settled in October 2007 for recoveries totaling more than \$85 million, or more than 13 times what the clients would have received had they remained in the class.

9. ***In re AXA Rosenberg Investor Litigation***, No. CV 11-00536 JSW (N.D. Cal). Lief Cabraser served as Co-Lead Counsel for a class of institutional investors, ERISA-covered plans, and other investors in quantitative funds managed by AXA Rosenberg Group, LLC and its affiliates ("AXA"). Plaintiffs alleged that AXA breached its fiduciary duties and violated ERISA by failing to discover a material computer error that existed in its system for years, and then failing to remedy it for months after its eventual discovery in 2009. By the time AXA disclosed the error in 2010, investors had suffered losses and paid substantial investment management fees to AXA. After briefing motions to dismiss and working with experts to analyze data obtained from AXA relating to the impact of the error, we reached a \$65 million settlement with AXA that the Court approved in April 2012.
10. ***In re National Century Financial Enterprises, Inc. Investment Litigation***, MDL No. 1565 (S.D. Ohio). Lief Cabraser served as outside counsel for the New York City Employees' Retirement System, Teachers' Retirement System for the City of New York, New York City Police Pension Fund, and New York City Fire Department Pension Fund in this multidistrict litigation arising from fraud in connection with NCFE's issuance of notes backed by healthcare receivables. The New York City Pension Funds recovered more than 70% of their \$89 million in losses, primarily through settlements achieved in the federal litigation and another NCFE-matter brought on their behalf by Lief Cabraser.
11. ***BlackRock Global Allocation Fund v. Tyco International Ltd., et al.***, No. 2:08-cv-519 (D. N.J.); ***Nuveen Balanced Municipal and Stock Fund v. Tyco International Ltd., et al.***, No. 2:08-cv-518 (D. N.J.). Lief Cabraser represented multiple funds of the investment firms BlackRock Inc. and Nuveen Asset Management in separate, direct securities fraud actions against Tyco International Ltd., Tyco Electronics Ltd., Covidien Ltd, Covidien (U.S.), L. Dennis Kozlowski, Mark H. Swartz, and Frank E. Walsh, Jr. Plaintiffs alleged that defendants engaged in a massive criminal enterprise that combined the theft of corporate assets with fraudulent accounting entries that concealed Tyco's financial condition from investors. As a result, plaintiffs purchased Tyco common stock and other Tyco securities at artificially inflated prices and suffered losses upon disclosures revealing Tyco's true financial condition and defendants' misconduct. In 2009, the parties settled the claims against

the corporate defendants (Tyco International Ltd., Tyco Electronics Ltd., Covidien Ltd., and Covidien (U.S.)). The litigation concluded in 2010. The total settlement proceeds paid by all defendants were in excess of \$57 million.

12. ***Kofuku Bank and Namihaya Bank v. Republic New York Securities Corp.***, No. 00 CIV 3298 (S.D.N.Y.); and *Kita Hyogo Shinyo-Kumiai v. Republic New York Securities Corp.*, No. 00 CIV 4114 (S.D.N.Y.). Loeff Cabraser represented Kofuku Bank, Namihaya Bank and Kita Hyogo Shinyo-Kumiai (a credit union) in individual lawsuits against, among others, Martin A. Armstrong and HSBC, Inc., the successor-in-interest to Republic New York Corporation, Republic New York Bank and Republic New York Securities Corporation for alleged violations of federal securities and racketeering laws. Through a group of interconnected companies owned and controlled by Armstrong—the Princeton Companies—Armstrong and the Republic Companies promoted and sold promissory notes, known as the “Princeton Notes,” to more than eighty of the largest companies and financial institutions in Japan. Loeff Cabraser’s lawsuits, as well as the lawsuits of dozens of other Princeton Note investors, alleged that the Princeton and Republic Companies made fraudulent misrepresentations and non-disclosures in connection with the promotion and sale of Princeton Notes, and that investors’ monies were commingled and misused to the benefit of Armstrong, the Princeton Companies and the Republic Companies. In December 2001, the claims of our clients and those of the other Princeton Note investors were settled. As part of the settlement, our clients recovered more than \$50 million, which represented 100% of the value of their principal investments less money they received in interest or other payments.
13. ***Alaska State Department of Revenue v. America Online***, No. 1JU-04-503 (Alaska Supr. Ct.). In December 2006, a \$50 million settlement was reached in a securities fraud action brought by the Alaska State Department of Revenue, Alaska State Pension Investment Board and Alaska Permanent Fund Corporation against defendants America Online, Inc. (“AOL”), Time Warner Inc. (formerly known as AOL Time Warner (“AOLTW”)), Historic TW Inc. When the action was filed, the Alaska Attorney General estimated total losses at \$70 million. The recovery on behalf of Alaska was approximately 50 times what the state would have received as a member of the class in the federal securities class action settlement. The lawsuit, filed in 2004 in Alaska State Court, alleged that defendants misrepresented advertising revenues and growth of AOL and AOLTW along with the number of AOL subscribers, which artificially inflated the stock price of AOL and AOLTW to the detriment of Alaska State funds.

The Alaska Department of Law retained Lieff Cabraser to lead the litigation efforts under its direction. “We appreciate the diligence and expertise of our counsel in achieving an outstanding resolution of the case,” said Mark Morones, spokesperson for the Department of Law, following announcement of the settlement.

14. ***Allocco v. Gardner***, No. GIC 806450 (Cal. Supr. Ct.). Lieff Cabraser represented Lawrence L. Garlick, the co-founder and former Chief Executive Officer of Remedy Corporation and 24 other former senior executives and directors of Remedy Corporation in a private (non-class) securities fraud lawsuit against Stephen P. Gardner, the former Chief Executive Officer of Peregrine Systems, Inc., John J. Moores, Peregrine’s former Chairman of the Board, Matthew C. Gless, Peregrine’s former Chief Financial Officer, Peregrine’s accounting firm Arthur Andersen and certain entities that entered into fraudulent transactions with Peregrine. The lawsuit, filed in California state court, arose out of Peregrine’s August 2001 acquisition of Remedy. Plaintiffs charged that they were induced to exchange their Remedy stock for Peregrine stock on the basis of false and misleading representations made by defendants. Within months of the Remedy acquisition, Peregrine began to reveal to the public that it had grossly overstated its revenue during the years 2000-2002, and eventually restated more than \$500 million in revenues.

After successfully defeating demurrers brought by defendants, including third parties who were customers of Peregrine who aided and abetted Peregrine’s accounting fraud under California common law, plaintiffs reached a series of settlements. The settling defendants included Arthur Andersen, all of the director defendants, three officer defendants and the third party customer defendants KPMG, British Telecom, Fujitsu, Software Spectrum and Bindview. The total amount received in settlements was approximately \$45 million.

15. ***In re Cablevision Systems Corp. Shareholder Derivative Litigation***, No. 06-cv-4130-DGT-AKT (E.D.N.Y.). Lieff Cabraser served as Co-Lead Counsel in a shareholders’ derivative action against the board of directors and numerous officers of Cablevision. The suit alleged that defendants intentionally manipulated stock option grant dates to Cablevision employees between 1997 and 2002 in order to enrich certain officer and director defendants at the expense of Cablevision and Cablevision shareholders. According to the complaint, Defendants made it appear as if stock options were granted earlier than they actually were in order to maximize the value of the grants. In September 2008, the Court granted final approval to a \$34.4 million settlement of the action. Over \$24 million of the settlement was contributed directly by individual defendants who either received backdated options or participated in the backdating activity.

16. ***In re Media Vision Technology Securities Litigation***, No. CV-94-1015 (N.D. Cal.). Lief Cabraser served as Co-Lead Counsel in a class action lawsuit which alleged that certain Media Vision's officers, outside directors, accountants and underwriters engaged in a fraudulent scheme to inflate the company's earnings and issued false and misleading public statements about the company's finances, earnings and profits. By 1998, the Court had approved several partial settlements with many of Media Vision's officers and directors, accountants and underwriters which totaled \$31 million. The settlement proceeds have been distributed to eligible class members. The evidence that Lief Cabraser developed in the civil case led prosecutors to commence an investigation and ultimately file criminal charges against Media Vision's former Chief Executive Officer and Chief Financial Officer. The civil action against Media Vision's CEO and CFO was stayed pending the criminal proceedings against them. In the criminal proceedings, the CEO pled guilty on several counts, and the CFO was convicted at trial. In October 2003, the Court granted Plaintiffs' motions for summary judgment and entered a judgment in favor of the class against the two defendants in the amount of \$188 million.

17. ***In re California Micro Devices Securities Litigation***, No. C-94-2817-VRW (N.D. Cal.). Lief Cabraser served as Liaison Counsel for the Colorado Public Employees' Retirement Association and the California State Teachers' Retirement System, and the class they represented. Prior to 2001, the Court approved \$19 million in settlements. In May 2001, the Court approved an additional settlement of \$12 million, which, combined with the earlier settlements, provided class members an almost complete return on their losses. The settlement with the company included multi-million dollar contributions by the former Chairman of the Board and Chief Executive Officer.

Commenting in 2001 on Lief Cabraser's work in Cal Micro Devices, U.S. District Court Judge Vaughn R. Walker stated, "It is highly unusual for a class action in the securities area to recover anywhere close to the percentage of loss that has been recovered here, and counsel and the lead plaintiffs have done an admirable job in bringing about this most satisfactory conclusion of the litigation." One year later, in a related proceeding and in response to the statement that the class had received nearly a 100% recovery, Judge Walker observed, "That's pretty remarkable. In these cases, 25 cents on the dollar is considered to be a magnificent recovery, and this is [almost] a hundred percent."

18. ***In re Network Associates, Inc. Securities Litigation***, No. C-99-1729-WHA (N.D. Cal.). Following a competitive bidding process, the Court appointed Lief Cabraser as Lead Counsel for the Lead Plaintiff and the class of investors. The complaint alleged that Network Associates

improperly accounted for acquisitions in order to inflate its stock price. In May 2001, the Court granted approval to a \$30 million settlement.

In reviewing the *Network Associates* settlement, U.S. District Court Judge William H. Alsup observed, “[T]he class was well served at a good price by excellent counsel . . . We have class counsel who’s one of the foremost law firms in the country in both securities law and class actions. And they have a very excellent reputation for the conduct of these kinds of cases . . .”

19. ***In re FPI/Agretech Securities Litigation***, MDL No. 763 (D. Haw., Real, J.). We served as Lead Class Counsel for investors defrauded in a “Ponzi-like” limited partnership investment scheme. The Court approved \$15 million in partial, pretrial settlements. At trial, the jury returned a \$24 million verdict, which included \$10 million in punitive damages, against non-settling defendant Arthur Young & Co. for its knowing complicity and active and substantial assistance in the marketing and sale of the worthless limited partnership offerings. The Appellate Court affirmed the compensatory damages award and remanded the case for a retrial on punitive damages. In 1994, the Court approved a \$17 million settlement with Ernst & Young, the successor to Arthur Young & Co.
20. ***Nguyen v. FundAmerica***, No. C-90-2090 MHP (N.D. Cal., Patel, J.), 1990 Fed. Sec. L. Rep. (CCH) ¶¶ 95,497, 95,498 (N.D. Cal. 1990). Loeff Cabraser served as Plaintiffs’ Class Counsel in this securities/RICO/tort action seeking an injunction against alleged unfair “pyramid” marketing practices and compensation to participants. The District Court certified a nationwide class for injunctive relief and damages on a mandatory basis and enjoined fraudulent overseas transfers of assets. The Bankruptcy Court permitted class proof of claims. Loeff Cabraser obtained dual District Court and Bankruptcy Court approval of settlements distributing over \$13 million in FundAmerica assets to class members.
21. ***In re Brooks Automation, Inc. Securities Litigation***, No. 06 CA 11068 (D. Mass.). Loeff Cabraser served as Court-Appointed Lead Counsel for Lead Plaintiff the Los Angeles County Employees Retirement Association and co-plaintiff Sacramento County Employees’ Retirement System in a class action lawsuit on behalf of purchasers of Brooks Automation securities. Plaintiffs charged that Brooks Automation, its senior corporate officers and directors violated federal securities laws by backdating company stock options over a six-year period, and failed to disclose the scheme in publicly filed financial statements. Subsequent to Loeff Cabraser’s filing of a consolidated amended complaint in this action, both the Securities and Exchange Commission and the United States Department of Justice filed complaints against the Company’s former

C.E.O., Robert Therrien, related to the same alleged practices. In October 2008, the Court approved a \$7.75 million settlement of the action.

22. ***In re A-Power Energy Generation Systems, Ltd. Securities Litigation***, No. 2:11-ml-2302-GW- (CWx) (C.D. Cal.). Loeff Cabraser served as Court-appointed Lead Counsel for Lead Plaintiff in this securities class action that charged defendants with materially misrepresenting A-Power Energy Generation Systems, Ltd.'s financial results and business prospects in violation of the antifraud provisions of the Securities Exchange Act of 1934. The Court approved a \$3.675 million settlement in August 2013.
23. ***The Regents of the University of California v. American International Group***, No. 1:14-cv-01270-LTS-DCF (S.D.N.Y.). Loeff Cabraser represented The Regents of the University of California in this individual action against American International Group, Inc. ("AIG") and certain of its officers and directors for misrepresenting and omitting material information about AIG's financial condition and the extent of its exposure to the subprime mortgage market. The complaint charged defendants with violations of the Exchange Act, as well as common law fraud and unjust enrichment. The litigation settled in 2015.
24. ***Biotechnology Value Fund, L.P. v. Celera Corp.***, 3:13-cv-03248-WHA (N.D. Cal.). Loeff Cabraser represented a group of affiliated funds investing in biotechnology companies in this individual action arising from misconduct in connection with Quest Diagnostics Inc.'s 2011 acquisition of Celera Corporation. Celera, Celera's individual directors, and Credit Suisse were charged with violations of Sections 14(e) and 20(a) of the Exchange Act and breach of fiduciary duty. In February 2014, the Court denied in large part defendants' motion to dismiss the second amended complaint. In September 2014, the plaintiffs settled with Credit Suisse for a confidential amount. After the completion of fact and expert discovery, and prior to a ruling on defendants' motion for summary judgment, the plaintiffs settled with the Celera defendants in January 2015 for a confidential amount.
25. ***Bank of America-Merrill Lynch Merger Securities Cases***. In two cases -- *DiNapoli, et al. v. Bank of America Corp.*, No. 10 CV 5563 (S.D. N.Y.) and *Schwab S&P 500 Index Fund, et al. v. Bank of America Corp., et al.*, No. 11-cv- 07779 PKC (S.D. N.Y.). -- Loeff Cabraser sought recovery on a direct, non-class basis for losses that a number of public pension funds and mutual funds incurred as a result of Bank of America's alleged misrepresentations and concealment of material facts in connection with its acquisition of Merrill Lynch & Co., Inc. Loeff Cabraser represented the New York State Common Retirement Fund, the New York State Teachers' Retirement System, the Public Employees' Retirement Association of

Colorado, and fourteen mutual funds managed by Charles Schwab Investment Management. Both cases settled in 2013 on confidential terms favorable for our clients.

26. ***Albert v. Alex. Brown Management Services; Baker v. Alex. Brown Management Services*** (Del. Ch. Ct.). In May 2004, on behalf of investors in two investment funds controlled, managed and operated by Deutsche Bank and advised by DC Investment Partners, Lieff Cabraser filed lawsuits for alleged fraudulent conduct that resulted in an aggregate loss of hundreds of millions of dollars. The suits named as defendants Deutsche Bank and its subsidiaries Alex. Brown Management Services and Deutsche Bank Securities, members of the funds' management committee, as well as DC Investments Partners and two of its principals. Among the plaintiff-investors were 70 high net worth individuals. In the fall of 2006, the cases settled by confidential agreement.

III. Employment Discrimination and Unfair Employment Practices

A. Current Cases

1. ***Chen-Oster v. Goldman Sachs***, No. 10-6950 (S.D.N.Y.). Lieff Cabraser serves as Co-Lead Counsel for plaintiffs in a gender discrimination class action lawsuit against Goldman Sachs. The complaint alleges that Goldman Sachs has engaged in systemic and pervasive discrimination against its female professional employees in violation of Title VII of the Civil Rights Act of 1964 and the New York City Human Rights Law. The complaint charges that, among other things, Goldman Sachs pays its female professionals less than similarly situated males, disproportionately promotes men over equally or more qualified women, and offers better business opportunities and professional support to its male professionals. In 2012, the Court denied defendant's motion to strike class allegations. On March 10, 2015, Magistrate Judge James C. Francis IV issued a recommendation against certifying the class. Review of the Magistrate Judge's recommendation to deny plaintiffs' motion for class certification is pending before U.S. District Court Judge Analisa Torres.
2. ***Moussouris v. Microsoft Corp.***, No. 15-cv-01483 (W.D. Wash.). Lieff Cabraser and co-counsel represent a former female Microsoft technical professional in a gender discrimination class action lawsuit on behalf of herself and all current and former female technical professionals employed by Microsoft in the U.S. since September 16, 2009. The complaint alleges that Microsoft has engaged in systemic and pervasive discrimination against female employees in technical and engineering roles with respect to performance evaluations, pay, promotions, and other terms and conditions of employment. The unchecked gender bias that pervades Microsoft's corporate culture has resulted in female technical

professionals receiving less compensation than similar men, the promotion of men over equally or more qualified women, and less favorable performance evaluation of female technical professionals compared to male peers. Microsoft's continuing policy, pattern, and practice of sex discrimination against female technical employees, the complaint alleges, violates federal and state laws, including Title VII of the Civil Rights Act of 1964 and the Washington Law Against Discrimination.

3. ***Benedict v. Hewlett-Packard Company***, No. C13-0119 (N.D. Cal.). Lief Cabraser represents former Hewlett-Packard ("HP") technical support employees who filed a nationwide class action lawsuit charging that HP failed to pay them and other former and current technical support employees for all overtime hours worked in violation of the federal Fair Labor Standards Act ("FLSA") and state law. The complaint charges that HP has a common practice of misclassifying its technical support workers as exempt and refusing to pay them overtime. On February 13, 2014, the Court granted plaintiffs' motion for conditional certification of a FLSA overtime action.

4. ***Kassman v. KPMG, LLP***, Case No. 11-03743 (S.D.N.Y.). Lief Cabraser serves as Co-Lead Counsel for plaintiffs in a gender discrimination class and collective action lawsuit alleging that KPMG has engaged in systemic and pervasive discrimination against its female Client Service and Support Professionals in pay and promotion, discrimination based on pregnancy, and chronic failure to properly investigate and resolve complaints of discrimination and harassment. The complaint alleges violations of the Equal Pay Act, Title VII of the Civil Rights Act of 1964, the New York Executive Law § 296, and the New York City Administrative Code § 8-107. For purposes of the Equal Pay Act claim, plaintiffs represent a conditionally-certified collective of over 1,300 female Client Service and Support Professionals who have opted in to the lawsuit. In addition to bringing the Title VII and New York statutory claims on their own behalf, plaintiffs seek to represent a class of current and former exempt female Client Service and Support Professionals, including Associates, Senior Associates, Managers, Senior Managers, and Managing Directors in KPMG's Tax and Advisory functions.

5. ***Zaborowski v. MHN Government Services***, No. 12-CV-05109-SI (N.D. Cal.) Lief Cabraser represents current and former Military and Family Life Consultants ("MFLCs") in a class action lawsuit against MHN Government Services, Inc., ("MHN") and Managed Health Network, Inc., seeking overtime pay under the federal Fair Labor Standards Act and state laws. The complaint charges that MHN has misclassified the MFLCs as independent contractors and as "exempt" from overtime and failed to pay them overtime pay for hours worked over 40 per week. In April 2013,

the Court denied MHN's motion to compel arbitration and granted plaintiff's motion for conditional certification of a FLSA collective action. In December 2014, the U.S. Court of Appeals for the Ninth Circuit upheld the district court's determination that the arbitration clause in MHN's employee contract was procedurally and substantively unconscionable. MHN appealed to the United States Supreme Court.

MHN did not contest that its agreement had several unconscionable components; instead, it asked the Supreme Court to sever the unconscionable terms of its arbitration agreement and nonetheless send the MFLCs' claims to arbitration. The Supreme Court granted MHN's petition for certiorari on October 1, 2015, and was scheduled to hear the case in the 2016 spring term in *MHN Gov't Servs., Inc. v. Zaborowski*, No. 14-1458. While the matter was pending before the Supreme Court, a \$15 million settlement of the litigation was reached on behalf of 2,808 Class Members who worked for MHN MFLCs. The final approval hearing will take place in March 2016.

6. ***Tatum v. R.J. Reynolds Tobacco Company***, No. 1:02-cv-00373-NCT (M.D. N.C.). Lief Cabraser serves as Co-Lead Trial Counsel in this class action on behalf of over 3,500 employees of R.J. Reynolds Tobacco Company ("RJR") brought under the Employment Retirement Income Security Act. Plaintiffs allege that RJR breached its duty of prudence in administering the employee 401(k) retirement plan when it liquidated two funds held by the plan on an arbitrary timeline without conducting a thorough investigation, thereby causing a substantial loss to the plan. The 6-week bench trial occurred in January-February 2010 and December 2010, and post-trial briefing concluded in February 2011.

In February 2013, the District Court issued a decision in favor of RJR. The District Court found that RJR breached its fiduciary duty of procedural prudence but concluded that a reasonable and prudent fiduciary could have made the same decision as RJR made. Plaintiffs appealed. In August 2014, the U.S. Court of Appeals for the Fourth Circuit affirmed the holding that RJR breached its duty of procedural prudence and therefore bore the burden of proof as to causation. The Court of Appeals found that the District Court failed to apply the correct legal standard in assessing RJR's liability, reversed the judgment in favor of RJR, and remanded the case to the District Court for further proceedings.

RJR sought review by the U.S. Supreme Court of the appellate court's fiduciary duty standard. On June 29, 2015, the Court denied RJR's petition for a writ of certiorari. Following a new liability verdict from the District Court, the matter has not yet been resolved.

7. ***Strauch v. Computer Sciences Corporation***, No. 2:14-cv-00956 (D. Conn.). In 2005, Computer Sciences Corporation (“CSC”) settled for \$24 million a nationwide class and collective action lawsuit alleging that CSC misclassified thousands of its information technology support workers as exempt from overtime pay in violation of in violation of the federal Fair Labor Standards Act (“FLSA”) and state law. Notwithstanding that settlement, a complaint filed on behalf of current and former CSC IT worker in 2014 by Lief Cabraser and co-counsel alleges that CSC misclassifies many information technology support workers as exempt even though they perform primarily nonexempt work. Plaintiffs are current and former CSC System Administrators assigned the primary duty of the installation, maintenance, and/or support of computer software and/or hardware for CSC clients. On June 9, 2015, the Court granted plaintiffs’ motion for conditional certification of a FLSA collective action.
8. ***Senne v. Major League Baseball***, No. 14-cv-00608 (N.D. Cal.). Lief Cabraser represents current and former Minor League Baseball players employed under uniform player contracts in a class and collective action seeking unpaid overtime and minimum wages under the Fair Labor Standards Act and state laws. The complaint alleges that Major League Baseball (“MLB”), the MLB franchises, and other defendants paid minor league players a uniform monthly fixed salary that, in light of the hours worked, amounts to less than the minimum wage and an unlawful denial of overtime pay.
9. ***Jang v. E.I. Du Pont De Nemours & Co.***, No. 15-03719-NC (N.D. Cal.). Lief Cabraser represents certain former DuPont employees in a breach of contract action alleging that DuPont unlawfully terminated employees’ unvested stock options. DuPont’s standard stock option award contract states that unvested options will continue to vest in accordance with their vesting schedule. In practice, however, DuPont unilaterally cancelled unvested stock options one year from employees’ termination, regardless of whether the options had vested.

The complaint was filed on August 15, 2015. DuPont filed a motion to dismiss the complaint, which was granted by United States Magistrate Judge Nathanael Cousins on November 19, 2015. Plaintiffs have appealed the decision to the Ninth Circuit Court of Appeals.

B. Successes

1. ***Butler v. Home Depot***, No. C94-4335 SI (N.D. Cal.). Lief Cabraser and co-counsel represented a class of approximately 25,000 female employees and applicants for employment with Home Depot’s West Coast Division who alleged gender discrimination in connection with hiring, promotions, pay, job assignment, and other terms and conditions of employment. The class was certified in January 1995. In January 1998,

the Court approved a \$87.5 million settlement of the action that included comprehensive injunctive relief over the term of a five-year Consent Decree. Under the terms of the settlement, Home Depot modified its hiring, promotion, and compensation practices to ensure that interested and qualified women were hired for, and promoted to, sales and management positions.

On January 14, 1998, U.S. District Judge Susan Illston commented that the settlement provides “a very significant monetary payment to the class members for which I think they should be grateful to their counsel. . . . Even more significant is the injunctive relief that’s provided for . . .” By 2003, the injunctive relief had created thousands of new job opportunities in sales and management positions at Home Depot, generating the equivalent of over approximately \$100 million per year in wages for female employees.

In 2002, Judge Illston stated that the injunctive relief has been a “win/win . . . for everyone, because . . . the way the Decree has been implemented has been very successful and it is good for the company as well as the company’s employees.”

2. ***Rosenburg v. IBM***, No. C 06-0430 PJH (N.D. Cal.). In July 2007, the Court granted final approval to a \$65 million settlement of a class action suit by current and former technical support workers for IBM seeking unpaid overtime. The settlement constitutes a record amount in litigation seeking overtime compensation for employees in the computer industry. Plaintiffs alleged that IBM illegally misclassified its employees who install or maintain computer hardware or software as “exempt” from the overtime pay requirements of federal and state labor laws.
3. ***Satchell v. FedEx Express***, No. C 03-2659 SI; C 03-2878 SI (N.D. Cal.). In 2007, the Court granted final approval to a \$54.9 million settlement of the race discrimination class action lawsuit by African American and Latino employees of FedEx Express. The settlement requires FedEx to reform its promotion, discipline, and pay practices. Under the settlement, FedEx will implement multiple steps to promote equal employment opportunities, including making its performance evaluation process less discretionary, discarding use of the “Basic Skills Test” as a prerequisite to promotion into certain desirable positions, and changing employment policies to demonstrate that its revised practices do not continue to foster racial discrimination. The settlement, covering 20,000 hourly employees and operations managers who have worked in the western region of FedEx Express since October 1999, was approved by the Court in August 2007.
4. ***Gonzalez v. Abercrombie & Fitch Stores***, No. C03-2817 SI (N.D. Cal.). In April 2005, the Court approved a settlement, valued at

approximately \$50 million, which requires the retail clothing giant Abercrombie & Fitch to provide monetary benefits of \$40 million to the class of Latino, African American, Asian American and female applicants and employees who charged the company with discrimination. The settlement included a six-year period of injunctive relief requiring the company to institute a wide range of policies and programs to promote diversity among its workforce and to prevent discrimination based on race or gender. Lief Cabraser served as Lead Class Counsel and prosecuted the case with a number of co-counsel firms, including the Mexican American Legal Defense and Education Fund, the Asian Pacific American Legal Center and the NAACP Legal Defense and Educational Fund, Inc.

5. ***Giles v. Allstate***, JCCP Nos. 2984 and 2985. Lief Cabraser represented a class of Allstate insurance agents seeking reimbursement of out-of-pocket costs. The action settled for approximately \$40 million.
6. ***Calibuso v. Bank of America Corporation, Merrill Lynch & Co.***, No. CV10-1413 (E.D. N.Y.). Lief Cabraser served as Co-Lead Counsel for female Financial Advisors who alleged that Bank of America and Merrill Lynch engaged in a pattern and practice of gender discrimination with respect to business opportunities and compensation. The complaint charged that these violations were systemic, based upon company-wide policies and practices. In December 2013, the Court approved a \$39 million settlement. The settlement included three years of programmatic relief, overseen by an independent monitor, regarding teaming and partnership agreements, business generation, account distributions, manager evaluations, promotions, training, and complaint processing and procedures, among other things. An independent consultant also conducted an internal study of the bank's Financial Advisors' teaming practices.
7. ***Frank v. United Airlines***, No. C-92-0692 MJJ (N.D. Cal.). Lief Cabraser and co-counsel obtained a \$36.5 million settlement in February 2004 for a class of female flight attendants who were required to weigh less than comparable male flight attendants. Former U.S. District Court Judge Charles B. Renfrew (ret.), who served as a mediator in the case, stated, "As a participant in the settlement negotiations, I am familiar with and know the reputation, experience and skills of lawyers involved. They are dedicated, hardworking and able counsel who have represented their clients very effectively." U.S. District Judge Martin J. Jenkins, in granting final approval to the settlement, found "that the results achieved here could be nothing less than described as exceptional," and that the settlement "was obtained through the efforts of outstanding counsel."
8. ***Barnett v. Wal-Mart***, No. 01-2-24553-SNKT (Wash.). The Court approved in July 2009 a settlement valued at up to \$35 million on behalf

of workers in Washington State who alleged they were deprived of meal and rest breaks and forced to work off-the-clock at Wal-Mart stores and Sam's Clubs. In addition to monetary relief, the settlement provided injunctive relief benefiting all employees. Wal-Mart was required to undertake measures to prevent wage and hour violations at its 50 stores and clubs in Washington, measures that included the use of new technologies and compliance tools.

Plaintiffs filed their complaint in 2001. Three years later, the Court certified a class of approximately 40,000 current and former Wal-Mart employees. The eight years of litigation were intense and adversarial. Wal-Mart, currently the world's third largest corporation, vigorously denied liability and spared no expense in defending itself.

This lawsuit and similar actions filed against Wal-Mart across America served to reform the pay procedures and employment practices for Wal-Mart's 1.4 million employees nationwide. In a press release announcing the Court's approval of the settlement, Wal-Mart spokesperson Daphne Moore stated, "This lawsuit was filed years ago and the allegations are not representative of the company we are today." Lief Cabraser served as Court-appointed Co-Lead Class Counsel.

9. ***Amochaev. v. Citigroup Global Markets, d/b/a Smith Barney***, No. C 05-1298 PJH (N.D. Cal.). In August 2008, the Court approved a \$33 million settlement for the 2,411 members of the Settlement Class in a gender discrimination case against Smith Barney. Lief Cabraser represented Female Financial Advisors who charged that Smith Barney, the retail brokerage unit of Citigroup, discriminated against them in account distributions, business leads, referral business, partnership opportunities, and other terms of employment. In addition to the monetary compensation, the settlement included comprehensive injunctive relief for four years designed to increase business opportunities and promote equality in compensation for female brokers.
10. ***Vedachalam v. Tata Consultancy Services***, C 06-0963 CW (N.D. Cal.). Lief Cabraser served as Co-Lead Counsel for 12,700 foreign nationals sent by the Indian conglomerate Tata to work in the U.S. After 7 years of hard-fought litigation, the District Court in July 2013 granted final approval to a \$29.75 million settlement. The complaint charged that Tata breached the contracts of its non-U.S.-citizen employees by requiring them to sign over their federal and state tax refund checks to Tata, and by failing to pay its non-U.S.-citizen employees the monies promised to those employees before they came to the United States. In 2007 and again in 2008, the District Court denied Tata's motions to compel arbitration of Plaintiffs' claims in India. The Court held that no arbitration agreement existed because the documents purportedly requiring arbitration in India

applied one set of rules to the Plaintiffs and another set to Tata. In 2009, the Ninth Circuit Court of Appeals affirmed this decision. In July 2011, the District Court denied in part Tata's motion for summary judgment, allowing Plaintiffs' legal claims for breach of contract and certain violations of California wage laws to go forward. In 2012, the District Court found that the plaintiffs satisfied the legal requirements for a class action and certified two classes.

11. ***Giannetto v. Computer Sciences Corporation***, No. 03-CV-8201 (C.D. Cal.). In one of the largest overtime pay dispute settlements ever in the information technology industry, the Court approved a \$24 million settlement with Computer Sciences Corporation in 2005. Plaintiffs charged that the global conglomerate had a common practice of refusing to pay overtime compensation to its technical support workers involved in the installation and maintenance of computer hardware and software in violation of the Fair Labor Standards Act, California's Unfair Competition Law, and the wage and hour laws of 13 states.
12. ***Curtis-Bauer v. Morgan Stanley & Co.***, Case No. C-06-3903 (TEH). In October 2008, the Court approved a \$16 million settlement in the class action against Morgan Stanley. The complaint charged that Morgan Stanley discriminated against African-American and Latino Financial Advisors and Registered Financial Advisor Trainees in the Global Wealth Management Group of Morgan Stanley in compensation and business opportunities. The settlement included comprehensive injunctive relief regarding account distributions, partnership arrangements, branch manager promotions, hiring, retention, diversity training, and complaint processing, among other things. The settlement also provided for the appointment of an independent Diversity Monitor and an independent Industrial Psychologist to effectuate the terms of the agreement.
13. ***Church v. Consolidated Freightways***, No. C90-2290 DLJ (N.D. Cal.). Lief Cabraser was the Lead Court-appointed Class Counsel in this class action on behalf of the exempt employees of Emery Air Freight, a freight forwarding company acquired by Consolidated Freightways in 1989. On behalf of the employee class, Lief Cabraser prosecuted claims for violation of the Employee Retirement Income Security Act, the securities laws, and the Age Discrimination in Employment Act. The case settled in 1993 for \$13.5 million.
14. ***Gerlach v. Wells Fargo & Co.***, No. C 05-0585 CW (N.D. Cal.). In January 2007, the Court granted final approval to a \$12.8 million settlement of a class action suit by current and former business systems employees of Wells Fargo seeking unpaid overtime. Plaintiffs alleged that Wells Fargo illegally misclassified those employees, who maintained and updated Wells Fargo's business tools according to others' instructions, as

“exempt” from the overtime pay requirements of federal and state labor laws.

15. ***Buccellato v. AT&T Operations***, No. C10-00463-LHK (N.D. Cal.). Lief Cabraser represented a group of current and former AT&T technical support workers who alleged that AT&T misclassified them as exempt and failed to pay them for all overtime hours worked, in violation of federal and state overtime pay laws. In June 2011, the Court approved a \$12.5 million collective and class action settlement.
16. ***Buttram v. UPS***, No. C-97-01590 MJJ (N.D. Cal.). Lief Cabraser and several co-counsel represented a class of approximately 14,000 African-American part-time hourly employees of UPS’s Pacific and Northwest Regions alleging race discrimination in promotions and job advancement. In 1999, the Court approved a \$12.14 million settlement of the action. Under the injunctive relief portion of the settlement, Class Counsel monitored the promotions of African-American part-time hourly employees to part-time supervisor and full-time package car drivers.
17. ***Goddard, et al. v. Longs Drug Stores Corporation, et al.***, No. RG04141291 (Cal. Supr. Ct.). Store managers and assistant store managers of Longs Drugs charged that the company misclassified them as exempt from overtime wages. Managers regularly worked in excess of 8 hours per day and 40 hours per week without compensation for their overtime hours. Following mediation, in 2005, Longs Drugs agreed to settle the claims for a total of \$11 million. Over 1,000 current and former Longs Drugs managers and assistant managers were eligible for compensation under the settlement, over 98% of the class submitted claims.
18. ***Trotter v. Perdue Farms***, No. C 99-893-RRM (JJF) (MPT) (D. Del.). Lief Cabraser represented a class of chicken processing employees of Perdue Farms, Inc., one of the nation’s largest poultry processors, for wage and hour violations. The suit challenged Perdue’s failure to compensate its assembly line employees for putting on, taking off, and cleaning protective and sanitary equipment in violation of the Fair Labor Standards Act, various state wage and hour laws, and the Employee Retirement Income Security Act. Under a settlement approved by the Court in 2002, Perdue paid \$10 million for wages lost by its chicken processing employees and attorneys’ fees and costs. The settlement was in addition to a \$10 million settlement of a suit brought by the Department of Labor in the wake of Lief Cabraser’s lawsuit.
19. ***Gottlieb v. SBC Communications***, No. CV-00-04139 AHM (MANx) (C.D. Cal.). With co-counsel, Lief Cabraser represented current and former employees of SBC and Pacific Telesis Group (“PTG”) who participated in AirTouch Stock Funds, which were at one time part of

PTG's salaried and non-salaried savings plans. After acquiring PTG, SBC sold AirTouch, which PTG had owned, and caused the AirTouch Stock Funds that were included in the PTG employees' savings plans to be liquidated. Plaintiffs alleged that in eliminating the AirTouch Stock Funds, and in allegedly failing to adequately communicate with employees about the liquidation, SBC breached its duties to 401k plan participants under the Employee Retirement Income Security Act. In 2002, the Court granted final approval to a \$10 million settlement.

20. ***Ellis v. Costco Wholesale Corp.***, No. 04-03341-EMC (N.D. Cal.). Loeff Cabraser served as Co-Lead Counsel for current and former female employees who charged that Costco discriminated against women in promotion to management positions. In January 2007, the Court certified a class consisting of over 750 current and former female Costco employees nationwide who were denied promotion to General Manager or Assistant Manager since January 3, 2002. Costco appealed. In September 2011, the U.S. Court of Appeals for the Ninth Circuit remanded the case to the District Court to make class certification findings consistent with the U.S. Supreme Court's ruling in *Wal-Mart v. Dukes*, 131 S.Ct. 2541 (2011). In September 2012, U.S. District Court Judge Edward M. Chen granted plaintiffs' motion for class certification and certified two classes of over 1,250 current and former female Costco employees, one for injunctive relief and the other for monetary relief. On May 27, 2014, the Court approved an \$8 million settlement.
21. ***In Re Farmers Insurance Exchange Claims Representatives' Overtime Pay Litigation***, MDL No. 1439 (D. Ore.). Loeff Cabraser and co-counsel represented claims representatives of Farmers' Insurance Exchange seeking unpaid overtime. Loeff Cabraser won a liability phase trial on a classwide basis, and then litigated damages on an individual basis before a special master. The judgment was partially upheld on appeal. In August 2010, the Court approved an \$8 million settlement.
22. ***Zuckman v. Allied Group***, No. 02-5800 SI (N.D. Cal.). In September 2004, the Court approved a settlement with Allied Group and Nationwide Mutual Insurance Company of \$8 million plus Allied/Nationwide's share of payroll taxes on amounts treated as wages, providing plaintiffs a 100% recovery on their claims. Plaintiffs, claims representatives of Allied / Nationwide, alleged that the company misclassified them as exempt employees and failed to pay them and other claims representatives in California overtime wages for hours they worked in excess of eight hours or forty hours per week. In approving the settlement, U.S. District Court Judge Susan Illston commended counsel for their "really good lawyering" and stated that they did "a splendid job on this" case.

23. ***Thomas v. California State Automobile Association***, No. CH217752 (Cal. Supr. Ct.). With co-counsel, Lief Cabraser represented 1,200 current and former field claims adjusters who worked for the California State Automobile Association (“CSAA”). Plaintiffs alleged that CSAA improperly classified their employees as exempt, therefore denying them overtime pay for overtime worked. In May 2002, the Court approved an \$8 million settlement of the case.
24. ***Higazi v. Cadence Design Systems***, No. C 07-2813 JW (N.D. Cal.). In July 2008, the Court granted final approval to a \$7.664 million settlement of a class action suit by current and former technical support workers for Cadence seeking unpaid overtime. Plaintiffs alleged that Cadence illegally misclassified its employees who install, maintain, or support computer hardware or software as “exempt” from the overtime pay requirements of federal and state labor laws.
25. ***Sandoval v. Mountain Center, Inc., et al.***, No. 03CC00280 (Cal. Supr. Ct.). Cable installers in California charged that defendants owed them overtime wages, as well as damages for missed meal and rest breaks and reimbursement for expenses incurred on the job. In 2005, the Court approved a \$7.2 million settlement of the litigation, which was distributed to the cable installers who submitted claims.
26. ***Lewis v. Wells Fargo***, No. 08-cv-2670 CW (N.D. Cal.). Lief Cabraser served as Lead Counsel on behalf of approximately 330 I/T workers who alleged that Wells Fargo had a common practice of misclassifying them as exempt and failing to pay them for all overtime hours worked in violation of federal and state overtime pay laws. In April 2011, the Court granted collective action certification of the FLSA claims and approved a \$6.72 million settlement of the action.
27. ***Kahn v. Denny’s***, No. BC177254 (Cal. Supr. Ct.). Lief Cabraser brought a lawsuit alleging that Denny’s failed to pay overtime wages to its General Managers and Managers who worked at company-owned restaurants in California. The Court approved a \$4 million settlement of the case in 2000.
28. ***Wynne v. McCormick & Schmick’s Seafood Restaurants***, No. C 06-3153 CW (N.D. Cal.). In August 2008, the Court granted final approval to a settlement valued at \$2.1 million, including substantial injunctive relief, for a class of African American restaurant-level hourly employees. The consent decree created hiring benchmarks to increase the number of African Americans employed in front of the house jobs (*e.g.*, server, bartender, host/hostess, waiter/waitress, and cocktail server), a registration of interest program to minimize discrimination in promotions, improved complaint procedures, and monitoring and enforcement mechanisms.

29. ***Sherrill v. Premera Blue Cross***, No. 2:10-cv-00590-TSZ (W.D. Wash.). In April 2010, a technical worker at Premera Blue Cross filed a lawsuit against Premera seeking overtime pay from its misclassification of technical support workers as exempt. In June 2011, the Court approved a collective and class action settlement of \$1.45 million.
30. ***Holloway v. Best Buy***, No. C05-5056 PJH (N.D. Cal.). Lieff Cabraser, with co-counsel, represented a class of current employees of Best Buy that alleged Best Buy stores nationwide discriminated against women, African Americans, and Latinos. The complaint charged that these employees were assigned to less desirable positions and denied promotions, and that class members who attained managerial positions were paid less than white males. In November 2011, the Court approved a settlement of the class action in which Best Buy agreed to changes to its personnel policies and procedures that will enhance the equal employment opportunities of the tens of thousands of women, African Americans, and Latinos employed by Best Buy nationwide.
31. ***Lyon v. TMP Worldwide***, No. 993096 (Cal. Supr. Ct.). Lieff Cabraser served as Class Counsel for a class of certain non-supervisory employees in an advertising firm. The settlement, approved in 2000, provided almost a 100% recovery to class members. The suit alleged that TMP failed to pay overtime wages to these employees.
32. ***Lusardi v. McHugh, Secretary of the Army***, No. 0120133395 (U.S. EEOC). Lieff Cabraser and the Transgender Law Center represent Tamara Lusardi, a transgender civilian software specialist employed by the U.S. Army. In a groundbreaking decision in April 2015, the Equal Employment Opportunity Commission reversed a lower agency decision and held that the employer subjected Lusardi to disparate treatment and harassment based on sex in violation of Title VII of the Civil Rights Act of 1964 when (1) the employer restricted her from using the common female restroom (consistent with her gender identity) and (2) a team leader intentionally and repeatedly referred to her by male pronouns and made hostile remarks about her transition and gender.

Lieff Cabraser attorneys have had experience representing employees in additional cases, including cases involving race, gender, sexual orientation, gender identity, and age discrimination; False Claims Act (whistleblower) claims; breach of contract claims; unpaid wages or exempt misclassification (wage/hour) claims; pension plan abuses under ERISA; and other violations of the law. For example, as described in the Antitrust section of this resume, Lieff Cabraser serves as plaintiffs' Co-Lead Counsel in a class action charging that Adobe Systems Inc., Apple Inc., Google Inc., and Intel Corporation violated antitrust laws by conspiring to suppress the wages of certain salaried employees.

Lieff Cabraser is currently investigating charges of discrimination, wage/hour violations, and wage suppression claims against several companies. In addition, our attorneys frequently write amicus briefs on cutting-edge legal issues involving employment law.

In 2015, *The Recorder* named Lieff Cabraser's employment group as a Litigation Department of the Year in the category of California Labor and Employment Law. The Litigation Department of the Year awards recognize "California litigation practices that deliver standout results on their clients' most critical matters." *The Recorder* editors consider the degree of difficulty, dollar value and importance of each matter to the client; the depth and breadth of the practice; and the use of innovative approaches.

U.S. News and Best Lawyers selected Lieff Cabraser as a 2013 national "Law Firm of the Year" in the category of Employment Law – Individuals. *U.S. News* and Best Lawyers ranked firms nationally in 80 different practice areas based on extensive client feedback and evaluations from 70,000 lawyers nationwide. Only one law firm in the U.S. in each practice area receives the "Law Firm of the Year" designation.

Benchmark Plaintiff, a guide to the nation's leading plaintiffs' firms, has given Lieff Cabraser's employment practice group a Tier 1 national ranking, its highest rating. *The Legal 500* guide to the U.S. legal profession has recognized Lieff Cabraser as having one of the leading plaintiffs' employment practices in the nation for the past four years.

Kelly M. Dermody chairs the firm's employment practice group and leads the firm's employment cases. She also serves as Managing Partner of Lieff Cabraser's San Francisco office.

In 2015, the College of Labor and Employment Lawyers named Ms. Dermody a Fellow. Nomination to the College is by ones colleagues only, and recognizes those lawyers who have demonstrated sustained and exceptional services to their clients, bar, bench, and public, and the highest level of character, integrity, professional expertise, and leadership.

The Daily Journal has selected Ms. Dermody as one of the top 100 attorneys in California (2012-2015), top 75 labor and employment lawyers in California (2011-2015), and top 100 women litigators in California (2007, 2010, 2012-2015). She has been named a Northern California "Super Lawyer" every year since 2004, including being named a "Top 10 Lawyer" in 2014.

Since 2010, Ms. Dermody has annually been recognized by her peers for inclusion in *The Best Lawyers in America* in the fields of Employment Law – Individuals and Litigation – Labor and Employment. In 2014, she was named "Lawyer of the Year" by Best Lawyers in the category of Employment Law – Individuals in San Francisco. In 2007, *California Lawyer* magazine awarded Ms. Dermody its prestigious California Lawyer Attorney of the Year (CLAY) Award.

IV. Consumer Protection

A. Current Cases

1. ***In re Checking Account Overdraft Litigation***, MDL No. 2036 (S.D. Fl.). Lieff Cabraser serves on the Plaintiffs' Executive Committee ("PEC") in Multi-District Litigation against 35 banks, including Bank of America, Chase, Citizens, PNC, Union Bank, and U.S. Bank. The complaints alleged that the banks entered debit card transactions from the "largest to

the smallest” to draw down available balances more rapidly and maximize overdraft fees. In March 2010, the Court denied defendants’ motions to dismiss the complaints. The Court has approved nearly \$1 billion in settlements with the banks.

In November 2011, the Court granted final approval to a \$410 million settlement of the case against Bank of America. Lief Cabraser was the lead plaintiffs’ law firm on the PEC that prosecuted the case against Bank of America. In approving the settlement with Bank of America, U.S. District Court Judge James Lawrence King stated, “This is a marvelous result for the members of the class.” Judge King added, “[B]ut for the high level of dedication, ability and massive and incredible hard work by the Class attorneys . . . I do not believe the Class would have ever seen . . . a penny.”

In September 2012, the Court granted final approval to a \$35 million of the case against Union Bank. In approving the settlement, Judge King again complimented plaintiffs’ counsel for their outstanding work and effort in resolving the case: “The description of plaintiffs’ counsel, which is a necessary part of the settlement, is, if anything, understated. In my observation of the diligence and professional activity, it’s superb. I know of no other class action case anywhere in the country in the last couple of decades that’s been handled as efficiently as this one has, which is a tribute to the lawyers.”

2. ***Hansell v. TracFone Wireless***, No. 13-cv-3440-EMC (N.D. Cal.); ***Blaqmoor v. TracFone Wireless***, No. 13-cv-05295-EMC (N.D. Cal.); ***Gandhi v. TracFone Wireless***, No. 13-cv-05296-EMC (N.D. Cal.). In January 2015, Michael W. Sobol, the chair of Lief Cabraser’s consumer protection practice group, announced that consumers nationwide who purchased service plans with “unlimited data” from TracFone Wireless, Inc., were eligible to receive payments under a \$40 million settlement of a series of class action lawsuits. One of the nation’s largest wireless carriers, TracFone uses the brands Straight Talk, Net10, Telcel America, and Simple Mobile to sell mobile phones with prepaid wireless plans at Walmart and other retail stores nationwide. The class action alleged that TracFone falsely advertised its wireless mobile phone plans as providing “unlimited data,” while actually maintaining monthly data usage limits that were not disclosed to customers. It further alleged that TracFone regularly throttled (*i.e.* significantly reduces the speed of) or terminated customers’ data plans pursuant to the secret limits. Approved by the Court in July 2015, the settlement permanently enjoins TracFone from making any advertisement or other representation about amount of data its cell phone plans offer without disclosing clearly and conspicuously all material restrictions on the amount and speed of the data plan. Further, TracFone and its brands may not state in their advertisements and

marketing materials that any plan provides “unlimited data” unless there is also clear, prominent, and adjoining disclosure of any applicable throttling caps or limits. The litigation is notable in part because, following two years of litigation by class counsel, the Federal Trade Commission joined the litigation and filed a Consent Order with TracFone in the same federal court where the class action litigation is pending. All compensation to consumers will be provided through the class action settlement.

3. ***Dover v. British Airways***, Case No. 1:12-cv-05567 (E.D.N.Y.). Loeff Cabraser represents participants in British Airways’ (“BA”) frequent flyer program, known as the Executive Club, in a breach of contract class action lawsuit. BA imposes a very high “fuel surcharge,” often in excess of \$500, on Executive Club reward tickets. Plaintiffs allege that the “fuel surcharge” is not based upon the price of fuel, and that it therefore violates the terms of the contract.
4. ***Telephone Consumer Protection Act Litigation***. Loeff Cabraser serves as a leader in nationwide Telephone Consumer Protection Act (“TCPA”) class actions challenging abusing and harassing automated calls. Based on Loeff Cabraser’s experience and expertise in these cases, Judge Amy J. St. Eve appointed Loeff Cabraser as lead counsel in consolidated TCPA class actions against State Farm. ***Smith v. State Farm Mut. Auto. Ins. Co.***, 301 F.R.D. 284 (N.D. Ill. 2014). Loeff Cabraser also maintains leadership roles in ongoing nationwide class actions against American Express (***Ossola v. American Express Co., et al.***, Case No. 1:13-CV-4836 (N.D. Ill)), DirectTV (***Brown v. DirectTV LLC***, Case No. 2:13-cv-01170-DMG-E (C.D. Cal.)), National Grid (***Jenkins v. National Grid USA, et al.***, Case No. 2:15-cv-01219-JS-GRB (E.D.N.Y.)), and several other companies that make automated debt-collection or telemarketing calls.
5. ***Moore v. Verizon Communications***, No. 09-cv-01823-SBA (N.D. Cal.); ***Nwabueze v. AT&T***, No. 09-cv-1529 SI (N.D. Cal.); ***Terry v. Pacific Bell Telephone Co.***, No. RG 09 488326 (Alameda County Sup. Ct.). Loeff Cabraser, with co-counsel, represents nationwide classes of landline telephone customers subjected to the deceptive business practice known as “cramming.” In this practice, a telephone company bills customers for unauthorized third-party charges assessed by billing aggregators on behalf of third-party providers. A U.S. Senate committee has estimated that Verizon, AT&T, and Qwest place 300 million such charges on customer bills each year (amounting to \$2 billion in charges), many of which are unauthorized. Various sources estimate that 90-99% of third-party charges are unauthorized. Both Courts have granted preliminary approval of settlements that allow customers to receive 100% refunds for all unauthorized charges from 2005 to the present, plus

extensive injunctive relief to prevent cramming in the future. The Nwabueze and Terry cases are ongoing.

6. ***James v. UMG Recordings, Inc.***, No. CV-11-1613 (N.D. Cal); ***Zombie v. UMG Recordings, Inc.***, No. CV-11-2431 (N.D. Cal). Lieff Cabraser and its co-counsel represent music recording artists in a proposed class action against Universal Music Group. Plaintiffs allege that Universal failed to pay the recording artists full royalty income earned from customers' purchases of digitally downloaded music from vendors such as Apple iTunes. The complaint alleges that Universal licenses plaintiffs' music to digital download providers, but in its accounting of the royalties plaintiffs have earned, treats such licenses as "records sold" because royalty rate for "records sold" is lower than the royalty rate for licenses. Plaintiffs legal claims include breach of contract and violation of California unfair competition laws. In November 2011 the Court denied defendant's motion to dismiss plaintiffs' unfair competition law claims.

7. ***White v. Experian Information Solutions***, No. 05-CV-1070 DOC (C.D. Cal.). In 2005, plaintiffs filed nationwide class action lawsuits on behalf of 750,000 claimants against the nation's three largest repositories of consumer credit information, Experian Information Solutions, Inc., Trans Union, LLC, and Equifax Information Services, LLC. The complaints charged that defendants violated the Fair Credit Reporting Act ("FCRA") by recklessly failing to follow reasonable procedures to ensure the accurate reporting of debts discharged in bankruptcy and by refusing to adequately investigate consumer disputes regarding the status of discharged accounts. In April 2008, the District Court approved a partial settlement of the action that established an historic injunction. This settlement required defendants comply with detailed procedures for the retroactive correction and updating of consumers' credit file information concerning discharged debt (affecting one million consumers who had filed for bankruptcy dating back to 2003), as well as new procedures to ensure that debts subject to future discharge orders will be similarly treated. As noted by the District Court, "Prior to the injunctive relief order entered in the instant case, however, no verdict or reported decision had ever required Defendants to implement procedures to cross-check data between their furnishers and their public record providers." In 2011, the District Court approved a \$45 million settlement of the class claims for monetary relief. In April 2013, the Court of Appeals for the Ninth Circuit reversed the order approving the monetary settlement and remanded the case for further proceedings.

8. ***Healy v. Chesapeake Appalachia***, No. 1:10cv00023 (W.D. Va.); ***Hale v. CNX Gas***, No. 1:10cv00059 (W.D. Va.); ***Estate of Holman v. Noble Energy***, No. 03 CV 9 (Dist. Ct., Co.); ***Droegemueller v.***

Petroleum Development Corporation, No. 07 CV 2508 JLK (D. Co.); ***Anderson v. Merit Energy Co.***, No. 07 CV 00916 LTB (D. Co.); ***Holman v. Petro-Canada Resources (USA)***, No. 07 CV 416 (Dist. Ct., Co.). Lieff Cabraser serves as Co-Lead Counsel in several cases pending in federal court in Virginia, in which plaintiffs allege that certain natural gas companies improperly underpaid gas royalties to the owners of the gas. In one case that recently settled, the plaintiffs recovered approximately 95% of the damages they suffered. Lieff Cabraser also achieved settlements on behalf of natural gas royalty owners in five other class actions outside Virginia. Those settlements -- in which class members recovered between 70% and 100% of their damages, excluding interest -- were valued at more than \$160 million.

9. ***Adkins v. Morgan Stanley***, No. 12 CV 7667 (S.D.N.Y.). Five African-American residents from Detroit, Michigan, joined by Michigan Legal Services, have brought a class action lawsuit against Morgan Stanley for discrimination in violation of the Fair Housing Act and other civil rights laws. The plaintiffs charge that Morgan Stanley actively ensured the proliferation of high-cost mortgage loans with specific risk factors in order to bundle and sell mortgage-backed securities to investors. The lawsuit is the first to seek to hold a bank in the secondary market accountable for the adverse racial impact of such policies and conduct. Plaintiffs seek certification of the case as a class action for as many as 6,000 African-Americans homeowners in the Detroit area who may have suffered similar discrimination. Lieff Cabraser serves as plaintiffs' counsel with the American Civil Liberties Union, the ACLU of Michigan, and the National Consumer Law Center.
10. ***Williamson v. McAfee, Inc.***, No. 14-cv-00158-EJD (N.D. Cal.). This nationwide class action alleges that McAfee falsely represents the prices of its computer anti-virus software to customers enrolled in its "auto-renewal" program. Plaintiff alleges that McAfee's fraudulent pricing scheme operates on two levels: First, McAfee offers *non*-auto-renewal subscriptions at stated "discounts" from a "regular" sales price; however, the stated discounts are false because McAfee does not ever sell subscriptions at the stated "regular" price to *non*-auto-renewal customers. Second, plaintiffs allege that McAfee charges the auto-renewal customers the amount of the false "regular" sales price, claiming it to be the "current" regular price even though it does not sell subscriptions at that price to any other customer. Plaintiffs allege that McAfee's false reference price scheme violates California's and New York's unfair competition and false advertising laws.
11. ***Marcus A. Roberts et al. v. AT&T Mobility LLC***, No. 3:15-cv-3418 (N.D. Cal.). Lieff Cabraser represents consumers in a proposed class action lawsuit against AT&T claiming that AT&T falsely advertised that its

"unlimited" mobile phone plans provide "unlimited" data, while purposefully failing to disclose that it regularly "throttles" (*i.e.*, intentionally slows) customers' data speed once they reach certain data usage thresholds. The lawsuit also challenges AT&T's attempts to force consumers into non-class arbitration, claiming that AT&T's arbitration clause in its Wireless Customer Agreement violates consumers' fundamental constitutional First Amendment right to petition courts for a redress of grievances.

B. Successes

1. ***Gutierrez v. Wells Fargo Bank***, No. C 07-05923 WHA (N.D. Cal.). Following a two week bench class action trial, U.S. District Court Judge William Alsup in August 2010 issued a 90-page opinion holding that Wells Fargo violated California law by improperly and illegally assessing overdraft fees on its California customers and ordered \$203 million in restitution to the certified class. Instead of posting each transaction chronologically, the evidence presented at trial showed that Wells Fargo deducted the largest charges first, drawing down available balances more rapidly and triggering a higher volume of overdraft fees.

Wells Fargo appealed. In December 2012, the Appellate Court issued an opinion upholding and reversing portions of Judge Alsup's order, and remanded the case to the District Court for further proceedings. In May 2013, Judge Alsup reinstated the \$203 million judgment against Wells Fargo and imposed post-judgment interest bringing the total award to nearly \$250 million. On October 29, 2014, the Appellate Court affirmed the Judge Alsup's order reinstating the judgment.

For his outstanding work as Lead Trial Counsel and the significance of the case, *California Lawyer* magazine recognized Richard M. Heimann with a California Lawyer Attorney of the Year (CLAY) Award. In addition, the Consumer Attorneys of California selected Mr. Heimann and Michael W. Sobol as Finalists for the Consumer Attorney of the Year Award for their success in the case.

In reviewing counsel's request for attorneys' fees, Judge Alsup stated on May 21, 2015: "Lief, Cabraser, on the other hand, entered as class counsel and pulled victory from the jaws of defeat. They bravely confronted several obstacles including the possibility of claim preclusion based on a class release entered in state court (by other counsel), federal preemption, hard-fought dispositive motions, and voluminous discovery. They rescued the case [counsel that originally filed] had botched and secured a full recovery of \$203 million in restitution plus injunctive relief. Notably, Attorney Richard Heimann's trial performance ranks as one of the best this judge has seen in sixteen years on the bench. Lief, Cabraser then twice defended the class on appeal. At oral argument on the

present motion, in addition to the cash restitution, Wells Fargo acknowledged that since 2010, its posting practices changed nationwide, in part, because of the injunction. Accordingly, this order allows a multiplier of 5.5 mainly on account of the fine results achieved on behalf of the class, the risk of non-payment they accepted, the superior quality of their efforts, and the delay in payment.”

2. ***Kline v. The Progressive Corporation***, Circuit No. 02-L-6 (Circuit Court of the First Judicial Circuit, Johnson County, Illinois). Lieff Cabraser served as settlement class counsel in a nationwide consumer class action challenging Progressive Corporation’s private passenger automobile insurance sales practices. Plaintiffs alleged that the Progressive Corporation wrongfully concealed from class members the availability of lower priced insurance for which they qualified. In 2002, the Court approved a settlement valued at approximately \$450 million, which included both cash and equitable relief. The claims program, implemented upon a nationwide mail and publication notice program, was completed in 2003.

3. ***Catholic Healthcare West Cases***, JCCP No. 4453 (Cal. Supr. Ct.). Plaintiff alleged that Catholic Healthcare West (“CHW”) charged uninsured patients excessive fees for treatment and services, at rates far higher than the rates charged to patients with private insurance or on Medicare. In January 2007, the Court approved a settlement that provides discounts, refunds and other benefits for CHW patients valued at \$423 million. The settlement requires that CHW lower its charges and end price discrimination against all uninsured patients, maintain generous charity case policies allowing low-income and uninsured patients to receive free or heavily discounted care, and protect uninsured patients from unfair collections practices. Lieff Cabraser served as Lead Counsel in the coordinated action.

4. ***In re Neurontin Marketing and Sales Practices Litigation***, No. 04-CV-10739-PBS (D. Mass.). Lieff Cabraser served on the Plaintiffs’ Steering Committee in multidistrict litigation arising out of the sale and marketing of the prescription drug Neurontin, manufactured by Parke-Davis, a division of Warner-Lambert Company, which was later acquired by Pfizer, Inc. Lieff Cabraser served as co-counsel to Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals (“Kaiser”) in Kaiser’s trial against Pfizer in the litigation. On March 25, 2010, a federal court jury determined that Pfizer violated a federal antiracketeering law by promoting its drug Neurontin for unapproved uses and found Pfizer must pay Kaiser damages up to \$142 million. At trial, Kaiser presented evidence that Pfizer knowingly marketed Neurontin for unapproved uses without proof that it was effective. Kaiser said it was misled into believing neuropathic pain, migraines, and bipolar disorder were among the

conditions that could be treated effectively with Neurontin, which was approved by the FDA as an adjunctive therapy to treat epilepsy and later for post-herpetic neuralgia, a specific type of neuropathic pain. In November 2010, the Court issued Findings of Fact and Conclusions of Law on Kaiser's claims arising under the California Unfair Competition Law, finding Pfizer liable and ordering that it pay restitution to Kaiser of approximately \$95 million. In April 2013, the First Circuit Court of Appeals affirmed both the jury's and the District Court's verdicts. In November 2014, the Court approved a \$325 million settlement on behalf of a nationwide class of third party payors.

5. ***Sutter Health Uninsured Pricing Cases***, JCCP No. 4388 (Cal. Supr. Ct.). Plaintiffs alleged that they and a Class of uninsured patients treated at Sutter hospitals were charged substantially more than patients with private or public insurance, and many times above the cost of providing their treatment. In December 2006, the Court granted final approval to a comprehensive and groundbreaking settlement of the action. As part of the settlement, Class members were entitled to make a claim for refunds or deductions of between 25% to 45% from their prior hospital bills, at an estimated total value of \$276 million. For a three year period, Sutter agreed to provide discounted pricing policies for uninsureds. In addition, Sutter agreed to maintain more compassionate collections policies that will protect uninsureds who fall behind in their payments. Lieff Cabraser served as Lead Counsel in the coordinated action.
6. ***Citigroup Loan Cases***, JCCP No. 4197 (San Francisco Supr. Ct., Cal.). In 2003, the Court approved a settlement that provided approximately \$240 million in relief to former Associates' customers across America. Prior to its acquisition in November 2000, Associates First Financial, referred to as The Associates, was one of the nation's largest "subprime" lenders. Lieff Cabraser represented former customers of The Associates charging that the company added unwanted and unnecessary insurance products onto mortgage loans and engaged in improper loan refinancing practices. Lieff Cabraser served as nationwide Plaintiffs' Co-Liaison Counsel.
7. ***Telephone Consumer Protection Act Litigation***. Lieff Cabraser has spearheaded a series of groundbreaking class actions under the Telephone Consumer Protection Act ("TCPA"), which prohibits abusive telephone practices by lenders and marketers, and places strict limits on the use of autodialers to call or send texts to cell phones. The settlements in these cases have collectively put a stop to millions of harassing calls by debt collectors and others and resulted in the recovery by consumers across America of over \$200 million.

In 2012, Lief Cabraser achieved a \$24.15 million class settlement with Sallie Mae – the then-largest settlement in the history of the TCPA. See **Arthur v. Sallie Mae, Inc.**, No. C10-0198 JLR, 2012 U.S. Dist. LEXIS 132413 (W.D. Wash. Sept. 17, 2012). In subsequent cases, Lief Cabraser and co-counsel eclipsed this record, including a \$32,083,905 settlement with Bank of America (**Duke v. Bank of America**, No. 5:12-cv-04009-EJD (N.D. Cal.)), a \$39,975,000 settlement with HSBC (**Wilkins v. HSBC Bank Nev., N.A.**, Case No. 14-cv-190 (N.D. Ill.)), and a \$75,455,098.74 settlement with Capital One (**In re Capital One Telephone Consumer Protection Act Litigation**, Master Docket No. 1:12-cv-10064 (N.D. Ill.)). In the **HSBC** matter, Judge James F. Holderman commented on “the excellent work” and “professionalism” of Lief Cabraser and its co-counsel. Lief Cabraser’s nine class settlements in TCPA cases have collectively resulted in the recovery by consumers of over \$200 million.

8. **Thompson v. WFS Financial**, No. 3-02-0570 (M.D. Tenn.); **Pakeman v. American Honda Finance Corporation**, No. 3-02-0490 (M.D. Tenn.); **Herra v. Toyota Motor Credit Corporation**, No. CGC 03-419 230 (San Francisco Supr. Ct.). Lief Cabraser with co-counsel litigated against several of the largest automobile finance companies in the country to compensate victims of—and stop future instances of—racial discrimination in the setting of interest rates in automobile finance contracts. The litigation led to substantial changes in the way Toyota Motor Credit Corporation (“TMCC”), American Honda Finance Corporation (“American Honda”) and WFS Financial, Inc. sell automobile finance contracts, limiting the discrimination that can occur. In approving the settlement in *Thompson v. WFS Financial*, the Court recognized the “innovative” and “remarkable settlement” achieved on behalf of the nationwide class. In 2006 in *Herra v. Toyota Motor Credit Corporation*, the Court granted final approval to a nationwide class action settlement on behalf of all African-American and Hispanic customers of TMCC who entered into retail installment contracts that were assigned to TMCC from 1999 to 2006. The monetary benefit to the class was estimated to be between \$159-\$174 million.
9. **In re John Muir Uninsured Healthcare Cases**, JCCP No. 4494 (Cal. Supr. Ct.). Lief Cabraser represented nearly 53,000 uninsured patients who received care at John Muir hospitals and outpatient centers and were charged inflated prices and then subject to overly aggressive collection practices when they failed to pay. In November 2008, the Court approved a final settlement of the *John Muir* litigation. John Muir agreed to provide refunds or bill adjustments of 40-50% to uninsured patients who received medical care at John Muir over a six year period, bringing their charges to the level of patients with private insurance, at a value of \$115 million. No claims were required. Every class member

received a refund or bill adjustment. Furthermore, John Muir was required to (1) maintain charity care policies to give substantial discounts—up to 100%—to low income, uninsured patients who meet certain income requirements; (2) maintain an Uninsured Patient Discount Policy to give discounts to all uninsured patients, regardless of income, so that they pay rates no greater than those paid by patients with private insurance; (3) enhance communications to uninsured patients so they are better advised about John Muir’s pricing discounts, financial assistance, and financial counseling services; and (4) limit the practices for collecting payments from uninsured patients.

10. ***Providian Credit Card Cases***, JCCP No. 4085 (San Francisco Supr. Ct.). Lief Cabraser served as Co-Lead Counsel for a certified national Settlement Class of Providian credit cardholders who alleged that Providian had engaged in widespread misconduct by charging cardholders unlawful, excessive interest and late charges, and by promoting and selling to cardholders “add-on products” promising illusory benefits and services. In November 2001, the Court granted final approval to a \$105 million settlement of the case, which also required Providian to implement substantial changes in its business practices. The \$105 million settlement, combined with an earlier settlement by Providian with Federal and state agencies, represents the largest settlement ever by a U.S. credit card company in a consumer protection case.

11. ***In re Chase Bank USA, N.A. “Check Loan” Contract Litigation***, MDL No. 2032 (N.D. Cal.). Lief Cabraser served as Plaintiffs’ Liaison Counsel and on the Plaintiffs’ Executive Committee in Multi-District Litigation (“MDL”) charging that Chase Bank violated the implied covenant of good faith and fair dealing by unilaterally modifying the terms of fixed rate loans. The MDL was established in 2009 to coordinate more than two dozen cases that were filed in the wake of the conduct at issue. The nationwide, certified class consisted of more than 1 million Chase cardholders who, in 2008 and 2009, had their monthly minimum payment requirements unilaterally increased by Chase by more than 150%. Plaintiffs alleged that Chase made this change, in part, to induce cardholders to give up their promised fixed APRs in order to avoid the unprecedented minimum payment hike. In November 2012, the Court approved a \$100 million settlement of the case.

12. ***In re Synthroid Marketing Litigation***, MDL No. 1182 (N.D. Ill.). Lief Cabraser served as Co-Lead Counsel for the purchasers of the thyroid medication Synthroid in litigation against Knoll Pharmaceutical, the manufacturer of Synthroid. The lawsuits charged that Knoll misled physicians and patients into keeping patients on Synthroid despite knowing that less costly, but equally effective drugs, were available. In

2000, the District Court gave final approval to a \$87.4 million settlement with Knoll and its parent company, BASF Corporation, on behalf of a class of all consumers who purchased Synthroid at any time from 1990 to 1999. In 2001, the Court of Appeals upheld the order approving the settlement and remanded the case for further proceedings. 264 F.3d 712 (7th Cir. 2001). The settlement proceeds were distributed in 2003.

13. ***R.M. Galicia v. Franklin; Franklin v. Scripps Health***, No. IC 859468 (San Diego Supr. Ct., Cal.). Loeff Cabraser served as Lead Class Counsel in a certified class action lawsuit on behalf of 60,750 uninsured patients who alleged that the Scripps Health hospital system imposed excessive fees and charges for medical treatment. The class action originated in July 2006, when uninsured patient Phillip Franklin filed a class action cross-complaint against Scripps Health after Scripps sued Mr. Franklin through a collection agency. Mr. Franklin alleged that he, like all other uninsured patients of Scripps Health, was charged unreasonable and unconscionable rates for his medical treatment. In June 2008, the Court granted final approval to a settlement of the action which includes refunds or discounts of 35% off of medical bills, collectively worth \$73 million. The settlement also required Scripps Health to modify its pricing and collections practices by (1) following an Uninsured Patient Discount Policy, which includes automatic discounts from billed charges for Hospital Services; (2) following a Charity Care Policy, which provides uninsured patients who meet certain income tests with discounts on Health Services up to 100% free care, and provides for charity discounts under other special circumstances; (3) informing uninsured patients about the availability and terms of the above financial assistance policies; and (4) restricting certain collections practices and actively monitoring outside collection agents.
14. ***In re Lawn Mower Engine Horsepower Marketing and Sales Practices Litigation***, MDL No. 1999 (E.D. Wi.). Loeff Cabraser served as co-counsel for consumers who alleged manufacturers of certain gasoline-powered lawn mowers misrepresented, and significantly overstated, the horsepower of the product. As the price for lawn mowers is linked to the horsepower of the engine -- the higher the horsepower, the more expensive the lawn mower -- defendants' alleged misconduct caused consumers to purchase expensive lawn mowers that provided lower horsepower than advertised. In August 2010, the Court approved a \$65 million settlement of the action.
15. ***Strugano v. Nextel Communications***, No. BC 288359 (Los Angeles Supr. Ct). In May 2006, the Los Angeles Superior Court granted final approval to a class action settlement on behalf of all California customers of Nextel from January 1, 1999 through December 31, 2002, for compensation for the harm caused by Nextel's alleged unilateral

(1) addition of a \$1.15 monthly service fee and/or (2) change from second-by-second billing to minute-by-minute billing, which caused “overage” charges (i.e., for exceeding their allotted cellular plan minutes). The total benefit conferred by the Settlement directly to Class Members was between approximately \$13.5 million and \$55.5 million, depending on which benefit Class Members selected.

16. ***Curry v. Fairbanks Capital Corporation***, No. 03-10895-DPW (D. Mass.). In 2004, the Court approved a \$55 million settlement of a class action lawsuit against Fairbanks Capital Corporation arising out of charges against Fairbanks of misconduct in servicing its customers’ mortgage loans. The settlement also required substantial changes in Fairbanks’ business practices and established a default resolution program to limit the imposition of fees and foreclosure proceedings against Fairbanks’ customers. Lief Cabraser served as nationwide Co-Lead Counsel for the homeowners.
17. ***Payment Protection Credit Card Litigation***. Lief Cabraser represented consumers in litigation in federal court against some of the nation’s largest credit card issuers, challenging the imposition of charges for so-called “payment protection” or “credit protection” programs. The complaints charged that the credit card companies imposed payment protection without the consent of the consumer and/or deceptively marketed the service, and further that the credit card companies unfairly administered their payment protection programs to the detriment of consumers. In 2012 and 2013, the Courts approved monetary settlements with HSBC (\$23.5 million), Bank of America (\$20 million), and Discover (\$10 million) that also required changes in the marketing and sale of payment protection to consumers.
18. ***California Title Insurance Industry Litigation***. Lief Cabraser, in coordination with parallel litigation brought by the Attorney General, reached settlements in 2003 and 2004 with the leading title insurance companies in California, resulting in historic industry-wide changes to the practice of providing escrow services in real estate closings. The settlements brought a total of \$50 million in restitution to California consumers, including cash payments. In the lawsuits, plaintiffs alleged, among other things, that the title companies received interest payments on customer escrow funds that were never reimbursed to their customers. The defendant companies include Lawyers’ Title, Commonwealth Land Title, Stewart Title of California, First American Title, Fidelity National Title, and Chicago Title.
19. ***Vytorin/Zetia Marketing, Sales Practices & Products Liability Litigation***, MDL No. 1938 (D. N.J.). Lief Cabraser served on the Executive Committee of the Plaintiffs’ Steering Committee representing

plaintiffs alleging that Merck/Schering-Plough Pharmaceuticals falsely marketed anti-cholesterol drugs Vytorin and Zetia as being more effective than other anti-cholesterol drugs. Plaintiffs further alleged that Merck/Schering-Plough Pharmaceuticals sold Vytorin and Zetia at higher prices than other anti-cholesterol medication when they were no more effective than other drugs. In 2010, the Court approved a \$41.5 million settlement for consumers who bought Vytorin or Zetia between November 2002 and February 2010.

20. ***Morris v. AT&T Wireless Services***, No. C-04-1997-MJP (W.D. Wash.). Lief Cabraser served as class counsel for a nationwide settlement class of cell phone customers subjected to an end-of-billing cycle cancellation policy implemented by AT&T Wireless in 2003 and alleged to have breached customers' service agreements. In May 2006, the New Jersey Superior Court granted final approval to a class settlement that guarantees delivery to the class of \$40 million in benefits. Class members received cash-equivalent calling cards automatically, and had the option of redeeming them for cash. Lief Cabraser had been prosecuting the class claims in the Western District of Washington when a settlement in New Jersey state court was announced. Lief Cabraser objected to that settlement as inadequate because it would have only provided \$1.5 million in benefits without a cash option, and the Court agreed, declining to approve it. Thereafter, Lief Cabraser negotiated the new settlement providing \$40 million to the class, and the settlement was approved.
21. ***Berger v. Property I.D. Corporation***, No. CV 05-5373-GHK (C.D. Cal.). In January 2009, the Court granted final approval to a \$39.4 million settlement with several of the nation's largest real estate brokerages, including companies doing business as Coldwell Banker, Century 21, and ERA Real Estate, and California franchisors for RE/MAX and Prudential California Realty, in an action under the Real Estate Settlement Procedures Act on behalf of California home sellers. Plaintiffs charged that the brokers and Property I.D. Corporation set up straw companies as a way to disguise kickbacks for referring their California clients' natural hazard disclosure report business to Property I.D. (the report is required to sell a home in California). Under the settlement, hundreds of thousands of California home sellers were eligible to receive a full refund of the cost of their report, typically about \$100.
22. ***In re Tri-State Crematory Litigation***, MDL No. 1467 (N.D. Ga.). In March 2004, Lief Cabraser delivered opening statements and began testimony in a class action by families whose loved ones were improperly cremated and desecrated by Tri-State Crematory in Noble, Georgia. The families also asserted claims against the funeral homes that delivered the decedents to Tri-State Crematory for failing to ensure that the crematory

performed cremations in the manner required under the law and by human decency. One week into trial, settlements with the remaining funeral home defendants were reached and brought the settlement total to approximately \$37 million. Trial on the class members' claims against the operators of crematory began in August 2004. Soon thereafter, these defendants entered into a \$80 million settlement with plaintiffs. As part of the settlement, all buildings on the Tri-State property were razed. The property will remain in a trust so that it will be preserved in peace and dignity as a secluded memorial to those whose remains were mistreated, and to prevent crematory operations or other inappropriate activities from ever taking place there. Earlier in the litigation, the Court granted plaintiffs' motion for class certification in a published order. 215 F.R.D. 660 (2003).

23. ***In re American Family Enterprises***, MDL No. 1235 (D. N.J.). Lief Cabraser served as Co-Lead Counsel for a nationwide class of persons who received any sweepstakes materials sent under the name "American Family Publishers." The class action lawsuit alleged that defendants deceived consumers into purchasing magazine subscriptions and merchandise in the belief that such purchases were necessary to win an American Family Publishers' sweepstakes prize or enhanced their chances of winning a sweepstakes prize. In September 2000, the Court granted final approval of a \$33 million settlement of the class action. In April 2001, over 63,000 class members received refunds averaging over \$500 each, representing 92% of their eligible purchases. In addition, American Family Publishers agreed to make significant changes to the way it conducts the sweepstakes.
24. ***Walsh v. Kindred Healthcare Inc.***, No. 3:11-cv-00050 (N.D. Cal.). Lief Cabraser and co-counsel represented a class of 54,000 current and former residents, and families of residents, of skilled nursing care facilities in a class action against Kindred Healthcare for failing to adequately staff its nursing facilities in California. Since January 1, 2000, skilled nursing facilities in California have been required to provide at least 3.2 hours of direct nursing hours per patient day (NHPPD), which represented the minimum staffing required for patients at skilled nursing facilities.

The complaint alleged a pervasive and intentional failure by Kindred Healthcare to comply with California's required minimum standard for qualified nurse staffing at its facilities. Understaffing is uniformly viewed as one of the primary causes of the inadequate care and often unsafe conditions in skilled nursing facilities. Studies have repeatedly shown a direct correlation between inadequate skilled nursing care and serious health problems, including a greater likelihood of falls, pressure sores, significant weight loss, incontinence, and premature death. The

complaint further charged that Kindred Healthcare collected millions of dollars in payments from residents and their family members, under the false pretense that it was in compliance with California staffing laws and would continue to do so.

In December 2013, the Court approved a \$8.25 million settlement which included cash payments to class members and an injunction requiring Kindred Healthcare to consistently utilize staffing practices which would ensure they complied with applicable California law. The injunction, subject to a third party monitor, was valued at between \$6 to \$20 million.

25. ***Cincotta v. California Emergency Physicians Medical Group***, No. 07359096 (Cal. Supr. Ct.). Lief Cabraser served as class counsel for nearly 100,000 uninsured patients that alleged they were charged excessive and unfair rates for emergency room service across 55 hospitals throughout California. The settlement, approved on October 31, 2008, provided complete debt elimination, 100% cancellation of the bill, to uninsured patients treated by California Emergency Physicians Medical Group during the 4-year class period. These benefits were valued at \$27 million. No claims were required, so all of these bills were cancelled. In addition, the settlement required California Emergency Physicians Medical Group prospectively to (1) maintain certain discount policies for all charity care patients; (2) inform patients of the available discounts by enhanced communications; and (3) limit significantly the type of collections practices available for collecting from charity care patients.
26. ***In re Ameriquist Mortgage Co. Mortgage Lending Practices Litigation***, MDL No. 1715. Lief Cabraser served as Co-Lead Counsel for borrowers who alleged that Ameriquist engaged in a predatory lending scheme based on the sale of loans with illegal and undisclosed fees and terms. In August 2010, the Court approved a \$22 million settlement.
27. ***ING Bank Rate Renew Cases***, Case No. 11-154-LPS (D. Del.). Lief Cabraser represented borrowers in class action lawsuits charging that ING Direct breached its promise to allow them to refinance their mortgages for a flat fee. From October 2005 through April 2009, ING promoted a \$500 or \$750 flat-rate refinancing fee called "Rate Renew" as a benefit of choosing ING for mortgages over competitors. Beginning in May 2009, however, ING began charging a higher fee of a full monthly mortgage payment for refinancing using "Rate Renew," despite ING's earlier and lower advertised price. As a result, the complaint alleged that many borrowers paid more to refinance their loans using "Rate Renew" than they should have, or were denied the opportunity to refinance their loan even though the borrowers met the terms and conditions of ING's original "Rate Renew" offer. In August 2012, the Court certified a class of consumers in ten states who purchased or retained an ING mortgage from

October 2005 through April 2009. A second case on behalf of California consumers was filed in December 2012. In October 2014, the Court approved a \$20.35 million nationwide settlement of the litigation. The settlement provided an average payment of \$175 to the nearly 100,000 class members, transmitted to their accounts automatically and without any need to file a claim form.

28. ***Yarrington v. Solvay Pharmaceuticals***, No. 09-CV-2261 (D. Minn.). In March 2010, the Court granted final approval to a \$16.5 million settlement with Solvay Pharmaceuticals, one of the country's leading pharmaceutical companies. Lief Cabraser served as Co-Lead Counsel, representing a class of persons who purchased Estratest—a hormone replacement drug. The class action lawsuit alleged that Solvay deceptively marketed and advertised Estratest as an FDA-approved drug when in fact Estratest was not FDA-approved for any use. Under the settlement, consumers obtained partial refunds for up to 30% of the purchase price paid of Estratest. In addition, \$8.9 million of the settlement was allocated to fund programs and activities devoted to promoting women's health and well-being at health organizations, medical schools, and charities throughout the nation.

29. ***Reverse Mortgage Cases***, JCCP No. 4061 (San Mateo County Supr. Ct., Cal.). Transamerica Corporation, through its subsidiary Transamerica Homefirst, Inc., sold "reverse mortgages" marketed under the trade name "Lifetime." The Lifetime reverse mortgages were sold exclusively to seniors, *i.e.*, persons 65 years or older. Lief Cabraser, with co-counsel, filed suit on behalf of seniors alleging that the terms of the reverse mortgages were unfair, and that borrowers were misled as to the loan terms, including the existence and amount of certain charges and fees. In 2003, the Court granted final approval to an \$8 million settlement of the action.

30. ***Brazil v. Dell***, No. C-07-01700 RMW (N.D. Cal.). Lief Cabraser served as Class Counsel representing a certified class of online consumers in California who purchased certain Dell computers based on the advertisement of an instant-off (or "slash-through") discount. The complaint challenged Dell's pervasive use of "slash-through" reference prices in its online marketing. Plaintiffs alleged that these "slash-through" reference prices were interpreted by consumers as representing Dell's former or regular sales prices, and that such reference prices (and corresponding representations of "savings") were false because Dell rarely, if ever, sold its products at such prices. In October 2011, the Court approved a settlement that provided a \$50 payment to each class member who submitted a timely and valid claim. In addition, in response to the lawsuit, Dell changed its methodology for consumer online advertising, eliminating the use of "slash-through" reference prices.

31. ***Hepting v. AT&T Corp.***, Case No. C-06-0672-VRW (N.D. Cal.). Plaintiffs alleged that AT&T collaborated with the National Security Agency in a massive warrantless surveillance program that illegally tracked the domestic and foreign communications and communications records of millions of Americans in violation of the U.S. Constitution, Electronic Communications Privacy Act, and other statutes. The case was filed on January 2006. The U.S. government quickly intervened and sought dismissal of the case. By the Spring of 2006, over 50 other lawsuits were filed against various telecommunications companies, in response to a *USA Today* article confirming the surveillance of communications and communications records. The cases were combined into a multi-district litigation proceeding entitled *In re National Security Agency Telecommunications Record Litigation*, MDL No. 06-1791. In June of 2006, the District Court rejected both the government's attempt to dismiss the case on the grounds of the state secret privilege and AT&T's arguments in favor of dismissal. The government and AT&T appealed the decision and the U.S. Court of Appeals for the Ninth Circuit heard argument one year later. No decision was issued. In July 2008, Congress granted the government and AT&T "retroactive immunity" for liability for their wiretapping program under amendments to the Foreign Intelligence Surveillance Act that were drafted in response to this litigation. Signed into law by President Bush in 2008, the amendments effectively terminated the litigation. Lief Cabraser played a leading role in the litigation working closely with co-counsel from the Electronic Frontier Foundation.
32. ***In Re Apple and AT&T iPad Unlimited Data Plan Litigation***, No. 5:10-cv-02553 RMW (N.D. Ca.). Lief Cabraser served as class counsel in an action against Apple and AT&T charging that Apple and AT&T misrepresented that consumers purchasing an iPad with 3G capability could choose an unlimited data plan for a fixed monthly rate and switch in and out of the unlimited plan on a monthly basis as they wished. Less than six weeks after its introduction to the U.S. market, AT&T and Apple discontinued their unlimited data plan for any iPad 3G customers not currently enrolled and prohibited current unlimited data plan customers from switching back and forth from a less expensive, limited data plan. In March 2014, Apple agreed to compensate all class members \$40 and approximately 60,000 claims were paid. In addition, sub-class members who had not yet entered into an agreement with AT&T were offered a data plan.

V. Economic Injury Product Defects

A. Current Cases

1. ***Front-Loading Washer Products Liability Litigation***. Lief Cabraser represents consumers in multiple states who have filed separate

class action lawsuits against Whirlpool, Sears and LG Corporations. The complaints charge that certain front-loading automatic washers manufactured by these companies are defectively designed and that the design defects create foul odors from mold and mildew that permeate washing machines and customers' homes. Many class members have spent money for repairs and on other purported remedies. As the complaints allege, none of these remedies eliminates the problem.

2. ***In Re General Motors LLC Ignition Switch Litigation***, 14-MD-2543 (JMF); 14-MC-2434 (JMF). Lief Cabraser represents proposed nationwide classes of GM vehicle owners and lessees whose cars include defective ignition switches in litigation focusing on economic loss claims. On August 15, 2014, U.S. District Court Judge Jesse M. Furman appointed Elizabeth J. Cabraser as Co-Lead Plaintiffs' Counsel in the litigation, which seeks compensation on behalf of consumers who purchased or leased GM vehicles containing a defective ignition switch, over 500,000 of which have now been recalled. The consumer complaints allege that the ignition switches in these vehicles share a common, uniform, and defective design. As a result, these cars are of a lesser quality than GM represented, and class members overpaid for the cars. Further, GM's public disclosure of the ignition switch defect has caused the value of these cars to materially diminish. The complaints seek monetary relief for the diminished value of the class members' cars.
3. ***Honda Window Defective Window Litigation***. Case No. 2:21-cv-01142-SVW-PLA (C.D. CA). Lief Cabraser represents consumers in a class action lawsuit filed against Honda Motor Company, Inc. for manufacturing and selling vehicles with allegedly defective window regulator mechanisms. Windows in these vehicles allegedly can, without warning, drop into the door frame and break or become permanently stuck in the fully-open position.

The experience of one Honda Element owner, as set forth in the complaint, exemplifies the problem: The driver's side window in his vehicle slid down suddenly while he was driving on a smooth road. A few months later, the window on the passenger side of the vehicle also slid down into the door and would not move back up. The owner incurred more than \$300 in repair costs, which Honda refused to pay for. Discovery in the action is ongoing.

4. ***In re Chinese-Manufactured Drywall Products Liability Litigation***, No. 10-30568 (E.D. La.). Lief Cabraser with co-counsel represents a proposed class of builders who suffered economic losses as a result of the presence of Chinese-manufactured drywall in homes and other buildings they constructed. From 2005 to 2008, hundreds-of-millions of square feet of gypsum wallboard manufactured in China were

exported to the U.S., primarily to the Gulf Coast states, and installed in newly-constructed and reconstructed properties. After installation of this drywall, owners and occupants of the properties began noticing unusual odors, blackening of silver and copper items and components, and the failure of appliances, including microwaves, refrigerators, and air-conditioning units. Some residents of the affected homes also experienced health problems, such as skin and eye irritation, respiratory issues, and headaches.

Lieff Cabraser's client, Mitchell Company, Inc., was the first to perfect service on Chinese defendant Taishan Gypsum Co. Ltd. ("TG"), and thereafter secured a default judgment against TG. Lieff Cabraser participated in briefing that led to the District Court's denial of TG's motion to dismiss the class action complaint for lack of personal jurisdiction. On May 21, 2014, the U.S. Court of Appeals for the Fifth Circuit affirmed the District Court's default judgment against TG, finding jurisdiction based on ties of the company and its agent with state distributors. 753 F.3d 521 (5th Cir. 2014).

B. Successes

1. ***In re Mercedes-Benz Tele-Aid Contract Litigation***, MDL No. 1914 (D. N.J.). Lieff Cabraser represented owners and lessees of Mercedes-Benz cars and SUVs equipped with the Tele-Aid system, an emergency response system which links subscribers to road-side assistance operators by using a combination of global positioning and cellular technology. In 2002, the Federal Communications Commission issued a rule, effective 2008, eliminating the requirement that wireless phone carriers provide analog-based networks. The Tele-Aid system offered by Mercedes-Benz relied on analog signals. Plaintiffs charged that Mercedes-Benz committed fraud in promoting and selling the Tele-Aid system without disclosing to buyers of certain model years that the Tele-Aid system as installed would become obsolete in 2008.

In an April 2009 published order, the Court certified a nationwide class of all persons or entities in the U.S. who purchased or leased a Mercedes-Benz vehicle equipped with an analog-only Tele Aid system after August 8, 2002, and (1) subscribed to Tele Aid service until being informed that such service would be discontinued at the end of 2007, or (2) purchased an upgrade to digital equipment. In September 2011, the Court approved a settlement that provided class members between a \$650 check or a \$750 to \$1,300 certificate toward the purchase or lease of new Mercedes-Benz vehicle, depending upon whether or not they paid for an upgrade of the analog Tele Aid system and whether they still owned their vehicle. In approving the settlement, U.S. District Court Judge Dickinson R. Debevoise stated, "I want to thank counsel for the . . . very effective

and good work It was carried out with vigor, integrity and aggressiveness with never going beyond the maxims of the Court.”

2. ***McLennan v. LG Electronics USA***, No. 2:10-cv-03604 (D. N.J.). Lief Cabraser represented consumers who alleged several LG refrigerator models had a faulty design that caused the interior lights to remain on even when the refrigerator doors were closed (identified as the “light issue”), resulting in overheating and food spoilage. In March 2012, the Court granted final approval to a settlement of the nationwide class action lawsuit. The settlement provides that LG reimburse class members for all out-of-pocket costs (parts and labor) to repair the light issue prior to the mailing of the class notice and extends the warranty with respect to the light issue for 10 years from the date of the original retail purchase of the refrigerator. The extended warranty covers in-home refrigerator repair performed by LG and, in some cases, the cost of a replacement refrigerator. In approving the settlement, U.S. District Court Judge William J. Martini stated, “The Settlement in this case provides for both the complete reimbursement of out-of-pocket expenses for repairs fixing the Light Issue, as well as a warranty for ten years from the date of refrigerator purchase. It would be hard to imagine a better recovery for the Class had the litigation gone to trial. Because Class members will essentially receive all of the relief to which they would have been entitled after a successful trial, this factor weighs heavily in favor of settlement.”
3. ***Grays Harbor Adventist Christian School v. Carrier Corporation***, No. 05-05437 (W.D. Wash.). In April 2008, the Court approved a nationwide settlement for current and past owners of high-efficiency furnaces manufactured and sold by Carrier Corporation and equipped with polypropylene-laminated condensing heat exchangers (“CHXs”). Carrier sold the furnaces under the Carrier, Bryant, Day & Night and Payne brand-names. Plaintiffs alleged that starting in 1989 Carrier began manufacturing and selling high efficiency condensing furnaces manufactured with a secondary CHX made of inferior materials. Plaintiffs alleged that as a result, the CHXs, which Carrier warranted and consumers expected to last for 20 years, failed prematurely. The settlement provides an enhanced 20-year warranty of free service and free parts for consumers whose furnaces have not yet failed. The settlement also offers a cash reimbursement for consumers who already paid to repair or replace the CHX in their high-efficiency Carrier furnaces.

An estimated three million or more consumers in the U.S. and Canada purchased the furnaces covered under the settlement. Plaintiffs valued the settlement to consumers at over \$300 million based upon the combined value of the cash reimbursement and the estimated cost of an enhanced warranty of this nature.

4. ***Carideo v. Dell***, No. Co6-1772 JLR (W.D. Wash.). Lieff Cabraser represented consumers who owned Dell Inspiron notebook computer model numbers 1150, 5100, or 5160. The class action lawsuit complaint charged that the notebooks suffered premature failure of their cooling system, power supply system, and/or motherboards. In December 2010, the Court approved a settlement which provided class members that paid Dell for certain repairs to their Inspiron notebook computer a reimbursement of all or a portion of the cost of the repairs.
5. ***Cartwright v. Viking Industries***, No. 2:07-cv-2159 FCD (E.D. Cal.) Lieff Cabraser represented California homeowners in a class action lawsuit which alleged that over one million Series 3000 windows produced and distributed by Viking between 1989 and 1999 were defective. The plaintiffs charged that the windows were not watertight and allowed for water to penetrate the surrounding sheetrock, drywall, paint or wallpaper. Under the terms of a settlement approved by the Court in August 2010, all class members who submitted valid claims were entitled to receive as much as \$500 per affected property.
6. ***Pelletz v. Advanced Environmental Recycling Technologies*** (W.D. Wash.). Lieff Cabraser served as Co-Lead Counsel in a case alleging that ChoiceDek decking materials, manufactured by AERT, developed persistent and untreatable mold spotting throughout their surface. In a published opinion in January 2009, the Court approved a settlement that provided affected consumers with free and discounted deck treatments, mold inhibitor applications, and product replacement and reimbursement.
7. ***Create-A-Card v. Intuit***, No. Co7-6452 WHA (N.D. Cal.). Lieff Cabraser, with co-counsel, represented business users of QuickBooks Pro for accounting that lost their QuickBooks data and other files due to faulty software code sent by Intuit, the producer of QuickBooks. In September 2009, the Court granted final approval to a settlement that provided all class members who filed a valid claim with a free software upgrade and compensation for certain data-recovery costs. Commenting on the settlement and the work of Lieff Cabraser on September 17, 2009, U.S. District Court Judge William H. Alsup stated, “I want to come back to something that I observed in this case firsthand for a long time now. I think you’ve done an excellent job in the case as class counsel and the class has been well represented having you and your firm in the case.”
8. ***Weekend Warrior Trailer Cases***, JCCP No. 4455 (Cal. Supr. Ct.). Lieff Cabraser, with co-counsel, represented owners of Weekend Warrior trailers manufactured between 1998 and 2006 that were equipped with frames manufactured, assembled, or supplied by Zieman Manufacturing Company. The trailers, commonly referred to as “toy haulers,” were used

to transport outdoor recreational equipment such as motorcycles and all-terrain vehicles. Plaintiffs charged that Weekend Warrior and Zieman knew of design and performance problems, including bent frames, detached siding, and warped forward cargo areas, with the trailers, and concealed the defects from consumers. In February 2008, the Court approved a \$5.5 million settlement of the action that provided for the repair and/or reimbursement of the trailers. In approving the settlement, California Superior Court Judge Thierry P. Colaw stated that class counsel were “some of the best” and “there was an overwhelming positive reaction to the settlement” among class members.

9. ***Lundell v. Dell***, No. C05-03970 (N.D. Cal.). Lief Cabraser served as Lead Class Counsel for consumers who experienced power problems with the Dell Inspiron 5150 notebook. In December 2006, the Court granted final approval to a settlement of the class action which extended the one-year limited warranty on the notebook for a set of repairs related to the power system. In addition, class members that paid Dell or a third party for repair of the power system of their notebook were entitled to a 100% cash refund from Dell.

10. ***Kan v. Toshiba American Information Systems***, No. BC327273 (Los Angeles Super. Ct.). Lief Cabraser served as Co-Lead Counsel for a class of all end-user persons or entities who purchased or otherwise acquired in the United States, for their own use and not for resale, a new Toshiba Satellite Pro 6100 Series notebook. Consumers alleged a series of defects were present in the notebook. In 2006, the Court approved a settlement that extended the warranty for all Satellite Pro 6100 notebooks, provided cash compensation for certain repairs, and reimbursed class members for certain out-of-warranty repair expenses.

11. ***Foothill/DeAnza Community College District v. Northwest Pipe Company***, No. C-00-20749 (N.D. Cal.). In June 2004, the Court approved the creation of a settlement fund of up to \$14.5 million for property owners nationwide with Poz-Lok fire sprinkler piping that fails. Since 1990, Poz-Lok pipes and pipe fittings were sold in the U.S. as part of fire suppression systems for use in residential and commercial buildings. After leaks in Poz-Lok pipes caused damage to its DeAnza Campus Center building, Foothill/DeAnza Community College District in California retained Lief Cabraser to file a class action lawsuit against the manufacturers of Poz-Lok. The college district charged that Poz-Lok pipe had manufacturing and design defects that resulted in the premature corrosion and failure of the product. Under the settlement, owners whose Poz-Lok pipes are leaking today, or over the next 15 years, may file a claim for compensation.

12. ***Toshiba Laptop Screen Flicker Settlement.*** Lieff Cabraser negotiated a settlement with Toshiba America Information Systems, Inc. (“TAIS”) to provide relief for owners of certain Toshiba Satellite 1800 Series, Satellite Pro 4600 and Tecra 8100 personal notebook computers whose screens flickered, dimmed or went blank due to an issue with the FL Inverter Board component. In 2004 under the terms of the Settlement, owners of affected computers who paid to have the FL Inverter issue repaired by either TAIS or an authorized TAIS service provider recovered the cost of that repair, up to \$300 for the Satellite 1800 Series and the Satellite Pro 4600 personal computers, or \$400 for the Tecra 8100 personal computers. TAIS also agreed to extend the affected computers’ warranties for the FL Inverter issue by 18 months.
13. ***McManus v. Fleetwood Enterprises, Inc.,*** No. SA-99-CA-464-FB (W.D. Tex.). Lieff Cabraser served as Class Counsel on behalf of original owners of 1994-2000 model year Fleetwood Class A and Class C motor homes. In 2003, the Court approved a settlement that resolved lawsuits pending in Texas and California about braking while towing with 1994 Fleetwood Class A and Class C motor homes. The lawsuits alleged that Fleetwood misrepresented the towing capabilities of new motor homes it sold, and claimed that Fleetwood should have told buyers that a supplemental braking system is needed to stop safely while towing heavy items, such as a vehicle or trailer. The settlement paid \$250 to people who bought a supplemental braking system for Fleetwood motor homes that they bought new. Earlier, the appellate court found that common questions predominated under purchasers’ breach of implied warranty of merchantability claim. 320 F.3d 545 (5th Cir. 2003).
14. ***Richison v. American Cemwood Corp.,*** No. 005532 (San Joaquin Supr. Ct., Cal.). Lieff Cabraser served as Co-Lead Class Counsel for an estimated nationwide class of 30,000 owners of homes and other structures on which defective Cemwood Shakes were installed. In November 2003, the Court granted final approval to a \$75 million Phase 2 settlement in the American Cemwood roofing shakes national class action litigation. This amount was in addition to a \$65 million partial settlement approved by the Court in May 2000, and brought the litigation to a conclusion.
15. ***ABS Pipe Litigation,*** JCCP No. 3126 (Contra Costa County Supr. Ct., Cal.). Lieff Cabraser served as Lead Class Counsel on behalf of property owners whose ABS plumbing pipe was allegedly defective and caused property damage by leaking. Six separate class actions were filed in California against five different ABS pipe manufacturers, numerous developers of homes containing the ABS pipe, as well as the resin supplier and the entity charged with ensuring the integrity of the product.

Between 1998 and 2001, we achieved 12 separate settlements in the class actions and related individual lawsuits for approximately \$78 million.

Commenting on the work of Lief Cabraser and co-counsel in the case, California Superior Court (now appellate) Judge Mark B. Simons stated on May 14, 1998: “The attorneys who were involved in the resolution of the case certainly entered the case with impressive reputations and did nothing in the course of their work on this case to diminish these reputations, but underlined, in my opinion, how well deserved those reputations are.”

16. ***Williams v. Weyerhaeuser***, No. 995787 (San Francisco Supr. Ct.). Lief Cabraser served as Class Counsel on behalf of a nationwide class of hundreds of thousands or millions of owners of homes and other structures with defective Weyerhaeuser hardboard siding. A California-wide class was certified for all purposes in February 1999, and withstood writ review by both the California Court of Appeals and Supreme Court of California. In 2000, the Court granted final approval to a nationwide settlement of the case which provides class members with compensation for their damaged siding, based on the cost of replacing or, in some instances, repairing, damaged siding. The settlement has no cap, and requires Weyerhaeuser to pay all timely, qualified claims over a nine year period. The claims program is underway and paying claims.
17. ***Naef v. Masonite***, No. CV-94-4033 (Mobile County Circuit Ct., Ala.). Lief Cabraser served as Co-Lead Class Counsel on behalf of a nationwide Class of an estimated 4 million homeowners with allegedly defective hardboard siding manufactured and sold by Masonite Corporation, a subsidiary of International Paper, installed on their homes. The Court certified the class in November 1995, and the Alabama Supreme Court twice denied extraordinary writs seeking to decertify the Class, including in *Ex Parte Masonite*, 681 So. 2d 1068 (Ala. 1996). A month-long jury trial in 1996 established the factual predicate that Masonite hardboard siding was defective under the laws of most states. The case settled on the eve of a second class-wide trial, and in 1998, the Court approved a settlement. Under a claims program established by the settlement that ran through 2008, class members with failing Masonite hardboard siding installed and incorporated in their property between January 1, 1980 and January 15, 1998 were entitled to make claims, have their homes evaluated by independent inspectors, and receive cash payments for damaged siding. Combined with settlements involving other alleged defective home building products sold by Masonite, the total cash paid to homeowners exceeded \$1 billion.
18. ***In re General Motors Corp. Pick-Up Fuel Tank Products Liability Litigation***, MDL No. 961 (E.D. Pa.). Lief Cabraser served as

Court-appointed Co-Lead Counsel representing a class of 4.7 million plaintiffs who owned 1973-1987 GM C/K pickup trucks with allegedly defective gas tanks. The Consolidated Complaint asserted claims under the Lanham Act, the Magnuson-Moss Act, state consumer protection statutes, and common law. In 1995, the Third Circuit vacated the District Court settlement approval order and remanded the matter to the District Court for further proceedings. In July 1996, a new nationwide class action was certified for purposes of an enhanced settlement program valued at a minimum of \$600 million, plus funding for independent fuel system safety research projects. The Court granted final approval of the settlement in November 1996.

19. ***In re Louisiana-Pacific Inner-Seal Siding Litigation***, No. C-95-879-JO (D. Ore.). Loeff Cabraser served as Co-Lead Class Counsel on behalf of a nationwide class of homeowners with defective exterior siding on their homes. Plaintiffs asserted claims for breach of warranty, fraud, negligence, and violation of consumer protection statutes. In 1996, U.S. District Judge Robert E. Jones entered an Order, Final Judgment and Decree granting final approval to a nationwide settlement requiring Louisiana-Pacific to provide funding up to \$475 million to pay for inspection of homes and repair and replacement of failing siding over the next seven years.
20. ***In re Intel Pentium Processor Litigation***, No. CV 745729 (Santa Clara Supr. Ct., Cal.). Loeff Cabraser served as one of two Court-appointed Co-Lead Class Counsel, and negotiated a settlement, approved by the Court in June 1995, involving both injunctive relief and damages having an economic value of approximately \$1 billion.
21. ***Cox v. Shell***, No. 18,844 (Obion County Chancery Ct., Tenn.). Loeff Cabraser served as Class Counsel on behalf of a nationwide class of approximately 6 million owners of property equipped with defective polybutylene plumbing systems and yard service lines. In November 1995, the Court approved a settlement involving an initial commitment by Defendants of \$950 million in compensation for past and future expenses incurred as a result of pipe leaks, and to provide replacement pipes to eligible claimants. The deadline for filing claims expired in 2009.
22. ***Hanlon v. Chrysler Corp.***, No. C-95-2010-CAL (N.D. Cal.). In 1995, the District Court approved a \$200+ million settlement enforcing Chrysler's comprehensive minivan rear latch replacement program, and to correct alleged safety problems with Chrysler's pre-1995 designs. As part of the settlement, Chrysler agreed to replace the rear latches with redesigned latches. The settlement was affirmed on appeal by the Ninth Circuit in *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (1998).

23. **Gross v. Mobil**, No. C 95-1237-SI (N.D. Cal.). Lieff Cabraser served as Plaintiffs' Class Counsel in this nationwide action involving an estimated 2,500 aircraft engine owners whose engines were affected by Mobil AV-1, an aircraft engine oil. Plaintiffs alleged claims for strict liability, negligence, misrepresentation, violation of consumer protection statutes, and for injunctive relief. Plaintiffs obtained a preliminary injunction requiring Defendant Mobil Corporation to provide notice to all potential class members of the risks associated with past use of Defendants' aircraft engine oil. In addition, Plaintiffs negotiated a proposed Settlement, granted final approval by the Court in November 1995, valued at over \$12.5 million, under which all Class Members were eligible to participate in an engine inspection and repair program, and receive compensation for past repairs and for the loss of use of their aircraft associated with damage caused by Mobil AV-1.

VI. Antitrust/Trade Regulation/Intellectual Property

A. Current Cases

1. **In re High-Tech Employee Antitrust Litigation**, No. 11 CV 2509 (N.D. Cal.). Lieff Cabraser serves as Co-Lead Class Counsel in a consolidated class action charging that Adobe Systems Inc., Apple Inc., Google Inc., Intel Corporation, Intuit Inc., Lucasfilm Ltd., and Pixar violated antitrust laws by conspiring to suppress the pay of technical, creative, and other salaried employees. The complaint alleges that the conspiracy among defendants restricted recruiting of each other's employees. On October 24, 2013, U.S. District Court Judge Lucy H. Koh certified a class of approximately 64,000 persons who worked in Defendants' technical, creative, and/or research and development jobs from 2005-2009. On September 2, 2015, the Court approved a \$415 million settlement with Apple, Google, Intel, and Adobe. Earlier, on May 15, 2014, the Court approved partial settlements totaling \$20 million resolving claims against Intuit, Lucasfilm, and Pixar.
2. **Charles Schwab Bank, N.A. v. Bank of America Corp.**, No. 11 CV 6411 (N.D. Cal.). Lieff Cabraser serves as counsel for The Charles Schwab Corporation, its affiliates Charles Schwab Bank, N.A., and Charles Schwab & Co., Inc., which manages the investments of the Charles Schwab Bank, N.A. (collectively "Schwab"), and several series of The Charles Schwab Family of Funds, Schwab Investments, Charles Schwab Worldwide Funds plc ("Schwab Fund Series"), and the Bay Area Toll Authority ("BATA") in individual lawsuits against Bank of America Corporation, Credit Suisse Group AG, J.P. Morgan Chase & Co., Citibank, Inc., and additional banks for allegedly manipulating the London Interbank Offered Rate ("LIBOR").

The complaints allege that beginning in 2007, the defendants conspired to understate their true costs of borrowing, causing the calculation of

LIBOR to be set artificially low. As a result, Schwab, the Schwab Fund Series, and BATA received less than their rightful rates of return on their LIBOR-based investments. The complaints assert claims under federal antitrust laws, the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), and the statutory and common law of California. The actions were transferred to the Southern District of New York for consolidated or coordinated proceedings with the LIBOR multidistrict litigation pending there. The MDL is proceeding.

3. ***Cipro Cases I and II***, JCCP Nos. 4154 and 4220 (Cal. Supr. Ct.). Lief Cabraser represents California consumers and third party payors in a class action lawsuit filed in California state court charging that Bayer Corporation, Barr Laboratories, and other generic prescription drug manufacturers conspired to restrain competition in the sale of Bayer's blockbuster antibiotic drug Ciprofloxacin, sold as Cipro. Between 1997 and 2003, Bayer paid its would-be generic drug competitors nearly \$400 million to refrain from selling more affordable versions of Cipro. As a result, consumers were forced to pay inflated prices for the drug -- frequently prescribed to treat urinary tract, prostate, abdominal, and other infections.

The Trial Court granted defendants' motion for summary judgment, which the Appellate Court affirmed in October 2011. Plaintiffs sought review before the California Supreme Court and were successful. Following briefing, the case was stayed pending the U.S. Supreme Court's decision in *FTC v. Actavis*. After the U.S. Supreme Court in *Actavis* overturned the Appellate Court's ruling that pay-for-delay deals in the pharmaceutical industry are generally legal, plaintiffs and Bayer entered into settlement negotiations. In November 2013, the Trial Court approved a \$74 million settlement with Bayer.

On May 7, 2015, the California Supreme Court reversed the grant of summary judgment to Defendants and resoundingly endorsed the rights of consumers to challenge pharmaceutical pay-for-delay settlements under California competition law. The Court held that "[p]arties illegally restrain trade when they privately agree to substitute consensual monopoly in place of potential competition."

For their above-noted work on the *Cipro* matter, Lief Cabraser attorney Eric B. Fastiff, Brendan P. Glackin, and Dean M. Harvey were recognized by *California Lawyer* and the *Daily Journal* with the 2016 California Lawyer of the Year Award.

4. ***In re Lithium-Ion Batteries Antitrust Litigation***, MDL No. 2420. Lief Cabraser serves as Interim Co-Lead Indirect Purchaser Counsel representing consumers in a class action filed against LG, GS Yuasa, NEC, Sony, Sanyo, Panasonic, Hitachi, LG Chem, Samsung, Toshiba, and Sanyo

for allegedly conspiring to fix and raise the prices of lithium-ion rechargeable batteries in violation of U.S. antitrust law from 2002 to 2011. The defendants are the world's leading manufacturers of lithium-ion rechargeable batteries, which provide power for a wide variety of consumer electronic products. As a result of the defendants' alleged anticompetitive and unlawful conduct, consumers across America paid artificially inflated prices for lithium-ion rechargeable batteries.

5. ***In re Capacitors Antitrust Litigation***, No. 3:14-cv-03264 (N.D. Cal.). Lieff Cabraser is a member of the plaintiffs' steering committee representing indirect purchases in an antitrust class action lawsuit filed against the world's largest manufacturers of capacitors. The complaint charges that the defendants conspired to unlawfully fix and raise the prices in the U.S. for electrolytic and film capacitors. The defendants include Panasonic Corp., Elna Co. Ltd., Hitachi Chemical Co., Ltd., Nistuko Electronics Corp., NEC Tokin Corp., SANYO Electric Co., Ltd., Matsuo Electric Co., Nippon Chemi-con Corp., Nichicon Corp., Rubycon Corp., Taitso Corp., and Toshin Kogyo Co., Ltd. Lieff Cabraser has played a central role in discovery efforts, and assisted in opposing Defendants' motions to dismiss and in opposing Defendants' motions for summary judgment. The case is currently still in fact discovery.

6. ***In re Disposable Contact Lens Antitrust Litigation***, MDL No. 2626 (M.D. Fla.). Lieff Cabraser represents consumers who purchased disposable contact lenses manufactured by Alcon Laboratories, Inc., Johnson & Johnson Vision Care, Inc., Bausch + Lomb, and Cooper Vision, Inc. The complaint challenges under federal and state antitrust laws the use by contact lens manufacturers of minimum resale price maintenance agreements with independent eye care professionals (including optometrists and ophthalmologists) and wholesalers. These agreements, the complaint alleges, operate to raise retail prices and eliminate price competition and discounts on contact lenses, including from "big box" retail stores, discount buying clubs, and online retailers. As a result, the consumers across America have paid artificially inflated prices for contact lenses.

7. ***Jackson v. American Airlines***, No. 3:15-cv-03520 (N.D. Cal.). Lieff Cabraser represents consumers in a class action lawsuit against the four largest U.S. airline carriers: American Airlines Group, Inc., Delta Air Lines, Inc., Southwest Airlines Co., and United Airlines, Inc. These airlines that collectively account for over 80 percent of all domestic airline travel. The complaint alleges that for years the airlines have colluded to restrain capacity, eliminate competition in the market, and increase the price of domestic airline airfares in violation of U.S. antitrust law. The proposed class consists of all persons and entities who purchased domestic airline tickets directly from one or more defendants from July 2,

2011 to the present. The case was assigned recently to Federal Judge Colleen Kollar-Kotelly in District Court in Washington, D.C., and the first case management conference should be held soon. In February 2016, Judge Kollar-Kotelly appointed Elizabeth Cabraser to the three-member Plaintiffs' Executive Committee overseeing the multidistrict airline price-fixing litigation.

8. ***Seaman v. Duke University***, No. 1:15-cv-00462 (M.D. N.C.). Lieff Cabraser represents Danielle M. Seaman, M.D., in a class action lawsuit against Duke University; Duke University Health System; and Dr. William L. Roper, M.D., M.P.H., in his official capacity as Dean and Vice-Chancellor of Medical Affairs for University of North Carolina at Chapel Hill School of Medicine, and Chief Executive Officer of the University of North Carolina Health Care System. The complaint charges that the defendants entered into an express, secret agreement not to hire or attempt to hire certain medical facility faculty and staff that they each employed. The lawsuit seeks to recover damages and obtain injunctive relief, including treble damages, for defendants' alleged violations of federal and North Carolina antitrust law.

On February 12, 2016, U.S. District Court Judge Catherine Eagles denied defendants' motions to dismiss the case on a variety of grounds, including a denial of state action immunity to antitrust liability. The Court rejected Defendants' argument that they should be exempt from the nation's antitrust laws because Dr. Roper, an alleged co-conspirator, is an administrator of a state university and health system.

9. ***In re Municipal Derivatives Litigation***, MDL No. 1950 (S.D.N.Y.). Lieff Cabraser represents the City of Oakland, the County of Alameda, City of Fresno, Fresno County Financing Authority, and East Bay Delta Housing and Finance Agency in a class action lawsuit brought on behalf of themselves and other California entities that purchased guaranteed investment contracts, swaps, and other municipal derivatives products from Bank of America, N.A., JP Morgan Chase & Co., Piper Jaffray & Co., Societe Generale SA, UBS AG, and other banks, brokers and financial institutions. The complaint charges that Defendants conspired to give cities, counties, school districts, and other governmental agencies artificially low bids for guaranteed investment contracts, swaps, and other municipal derivatives products, which are used by public entities to earn interest on bond proceeds.

The complaint charges that Defendants met secretly to discuss prices, customers, and markets of municipal derivatives sold in the U.S. and elsewhere; intentionally created the false appearance of competition by engaging in sham auctions in which the results were pre-determined or agreed not to bid on contracts; and covertly shared their unjust profits

with losing bidders to maintain the conspiracy. Most of the Defendants in this case settled in 2015. Further prosecution claims continue with others.

B. Successes

1. ***Natural Gas Antitrust Cases***, JCCP Nos. 4221, 4224, 4226 & 4228 (Cal. Supr. Ct.). In 2003, the Court approved a landmark of \$1.1 billion settlement in class action litigation against El Paso Natural Gas Co. for manipulating the market for natural gas pipeline transmission capacity into California. Lief Cabraser served as Plaintiffs' Co-Lead Counsel and Co-Liaison Counsel in the *Natural Gas Antitrust Cases I-IV*.

In June 2007, the Court granted final approval to a \$67.39 million settlement of a series of class action lawsuits brought by California business and residential consumers of natural gas against a group of natural gas suppliers, Reliant Energy Services, Inc., Duke Energy Trading and Marketing LLC, CMS Energy Resources Management Company, and Aquila Merchant Services, Inc.

Plaintiffs charged defendants with manipulating the price of natural gas in California during the California energy crisis of 2000-2001 by a variety of means, including falsely reporting the prices and quantities of natural gas transactions to trade publications, which compiled daily and monthly natural gas price indices; prearranged wash trading; and, in the case of Reliant, "churning" on the Enron Online electronic trading platform, which was facilitated by a secret netting agreement between Reliant and Enron.

The 2007 settlement followed a settlement reached in 2006 for \$92 million partial settlement with Coral Energy Resources, L.P.; Dynege Inc. and affiliates; EnCana Corporation; WD Energy Services, Inc.; and The Williams Companies, Inc. and affiliates.

2. ***Wholesale Electricity Antitrust Cases I & II***, JCCP Nos. 4204 & 4205 (Cal. Supr. Ct.). Lief Cabraser served as Co-Lead Counsel in the private class action litigation against Duke Energy Trading & Marketing, Reliant Energy, and The Williams Companies for claims that the companies manipulated California's wholesale electricity markets during the California energy crisis of 2000-2001. Extending the landmark victories for California residential and business consumers of electricity, in September 2004, plaintiffs reached a \$206 million settlement with Duke Energy Trading & Marketing, and in August 2005, plaintiffs reached a \$460 million settlement with Reliant Energy, settling claims that the companies manipulated California's wholesale electricity markets during the California energy crisis of 2000-01. Lief Cabraser earlier entered into a settlement for over \$400 million with The Williams Companies.

3. ***In re Brand Name Prescription Drugs***, MDL No. 997 (N.D. Ill.). Loeff Cabraser served as Class Counsel for a class of tens of thousands of retail pharmacies against the leading pharmaceutical manufacturers and wholesalers of brand name prescription drugs for alleged price-fixing from 1989 to 1995 in violation of the federal antitrust laws. Plaintiffs charged that defendants engaged in price discrimination against retail pharmacies by denying them discounts provided to hospitals, health maintenance organizations, and nursing homes. In 1996 and 1998, the Court approved settlements with certain manufacturers totaling \$723 million.
4. ***Microsoft Private Antitrust Litigation***. Representing businesses and consumers, Loeff Cabraser prosecuted multiple private antitrust cases against Microsoft Corporation in state courts across the country, including Florida, New York, North Carolina, and Tennessee. Plaintiffs alleged that Microsoft had engaged in anticompetitive conduct, violated state deceptive and unfair business practices statutes, and overcharged businesses and consumers for Windows operating system software and for certain software applications, including Microsoft Word and Microsoft Office. In August 2006, the New York Supreme Court granted final approval to a settlement that made available up to \$350 million in benefits for New York businesses and consumers. In August 2004, the Court in the North Carolina action granted final approval to a settlement valued at over \$89 million. In June 2004, the Court in the Tennessee action granted final approval to a \$64 million settlement. In November 2003, in the Florida Microsoft litigation, the Court granted final approval to a \$202 million settlement, one of the largest antitrust settlements in Florida history. Loeff Cabraser served as Co-Lead Counsel in the New York, North Carolina and Tennessee cases, and held leadership roles in the Florida case.
5. ***In re TFT-LCD (Flat Panel) Antitrust Litigation***, MDL No. 1827 (N.D. Cal.). Loeff Cabraser served as Court-appointed Co-Lead Counsel for direct purchasers in litigation against the world's leading manufacturers of Thin Film Transistor Liquid Crystal Displays. TFT-LCDs are used in flat-panel televisions as well as computer monitors, laptop computers, mobile phones, personal digital assistants, and other devices. Plaintiffs charged that defendants conspired to raise and fix the prices of TFT-LCD panels and certain products containing those panels for over a decade, resulting in overcharges to purchasers of those panels and products. In March 2010, the Court certified two nationwide classes of persons and entities that directly purchased TFT-LCDs from January 1, 1999 through December 31, 2006, one class of panel purchasers, and one class of buyers of laptop computers, computer monitors, and televisions that contained TFT-LCDs. Over the course of the litigation, the classes reached settlements with all defendants except Toshiba. The case against

Toshiba proceeded to trial. In July 2012, the jury found that Toshiba participated in the price-fixing conspiracy. The case was subsequently settled, bringing the total settlements in the litigation to over \$470 million. For his outstanding work in the precedent-setting litigation, California Lawyer recognized Richard M. Heimann with a 2013 California Lawyer of the Year award.

6. ***Sullivan v. DB Investments***, No. 04-02819 (D. N.J.). Lief Cabraser served as Class Counsel for consumers who purchased diamonds from 1994 through March 31, 2006, in a class action lawsuit against the De Beers group of companies. Plaintiffs charged that De Beers conspired to monopolize the sale of rough diamonds in the U.S. In May 2008, the District Court approved a \$295 million settlement for purchasers of diamonds and diamond jewelry, including \$130 million to consumers. The settlement also barred De Beers from continuing its illegal business practices and required De Beers to submit to the jurisdiction of the Court to enforce the settlement. In December 2011, the Third Circuit Court of Appeals affirmed the District Court's order approving the settlement. 667 F.3d 273 (3rd Cir. 2011).

For sixty years, De Beers has flouted U.S. antitrust laws. In 1999, De Beers' Chairman Nicholas Oppenheimer stated that De Beers "likes to think of itself as the world's . . . longest-running monopoly. [We seek] to manage the diamond market, to control supply, to manage prices and to act collusively with our partners in the business." The hard-fought litigation spanned several years and nations. Despite the tremendous resources available to the U.S. Department of Justice and state attorney generals, it was only through the determination of plaintiffs' counsel that De Beers was finally brought to justice and the rights of consumers were vindicated. Lief Cabraser attorneys played key roles in negotiating the settlement and defending it on appeal. Discussing the DeBeers case, The National Law Journal noted that Lief Cabraser was "among the plaintiffs' firms that weren't afraid to take on one of the business world's great white whales."

7. ***In re Linerboard Antitrust Litigation***, MDL No. 1261 (E.D. Pa.). Lief Cabraser served as Class Counsel on behalf of a class of direct purchasers of linerboard. The Court approved a settlement totaling \$202 million.
8. ***Azizian v. Federated Department Stores***, No. 3:03 CV 03359 SBA (N.D. Cal.). In March 2005, the Court granted final approval to a settlement that Lief Cabraser and co-counsel reached with numerous department store cosmetics manufacturers and retailers. The settlement was valued at \$175 million and included significant injunctive relief, for the benefit of a nationwide class of consumers of department store

cosmetics. The complaint alleged the manufacturers and retailers violated antitrust law by engaging in anticompetitive practices to prevent discounting of department store cosmetics.

9. ***Haley Paint Co. v. E.I. Dupont De Nemours and Co. et al.***, No. 10-cv-00318-RDB (D. Md.). Lief Cabraser served as Co-Lead Counsel for direct purchasers of titanium dioxide in a nationwide class action lawsuit against Defendants E.I. Dupont De Nemours and Co., Huntsman International LLC, Kronos Worldwide Inc., and Cristal Global (fka Millennium Inorganic Chemicals, Inc.), alleging these corporations participated in a global cartel to fix the price of titanium dioxide. Titanium dioxide, a dry chemical powder, is the world's most widely used pigment for providing whiteness and brightness in paints, paper, plastics, and other products. Plaintiffs charged that defendants coordinated increases in the prices for titanium dioxide despite declining demand, decreasing raw material costs, and industry overcapacity.

Unlike some antitrust class actions, Plaintiffs proceeded without the benefit of any government investigation or proceeding. Plaintiffs overcame attacks on the pleadings, discovery obstacles, a rigorous class certification process that required two full rounds of briefing and expert analysis, and multiple summary judgment motions. In August 2012, the Court certified the class. Plaintiffs prepared fully for trial and achieved a settlement with the final defendant on the last business day before trial. In December 2013, the Court approved a series of settlements with defendants totaling \$163 million.

10. ***Pharmaceutical Cases I, II, and III***, JCCP Nos. 2969, 2971 & 2972 (Cal. Supr. Ct.). Lief Cabraser served as Co-Lead Counsel and Co-Liaison Counsel representing a certified class of indirect purchasers (consumers) on claims against the major pharmaceutical manufacturers for violations of the Cartwright Act and the Unfair Competition Act. The class alleged that defendants unlawfully fixed discriminatory prices on prescription drugs to retail pharmacists in comparison with the prices charged to certain favored purchasers, including HMOs and mail order houses. In April 1999, the Court approved a settlement providing \$148 million in free, brand-name prescription drugs to health agencies that served California's poor and uninsured. In October 2001, the Court approved a settlement with the remaining defendants in the case, which provided an additional \$23 million in free, brand-name prescription drugs to these agencies.
11. ***In re Lupron Marketing and Sales Practices Litigation***, MDL No. 1430 (D. Mass.). In May 2005, the Court granted final approval to a settlement of a class action lawsuit by patients, insurance companies and health and welfare benefit plans that paid for Lupron, a prescription drug

used to treat prostate cancer, endometriosis and precocious puberty. The settlement requires the defendants, Abbott Laboratories, Takeda Pharmaceutical Company Limited, and TAP Pharmaceuticals, to pay \$150 million, inclusive of costs and fees, to persons or entities who paid for Lupron from January 1, 1985 through March 31, 2005. Plaintiffs charged that the defendants conspired to overstate the drug's average wholesale price ("AWP"), which resulted in plaintiffs paying more for Lupron than they should have paid. Lieff Cabraser served as Co-Lead Plaintiffs' Counsel.

12. ***Marchbanks Truck Service v. Comdata Network***, No. 07-cv-01078 (E.D. Pa.). In July 2014, the Court approved a \$130 million settlement of a class action brought by truck stops and other retail fueling facilities that paid percentage-based transaction fees to Comdata on proprietary card transactions using Comdata's over-the-road fleet card. The complaint challenged arrangements among Comdata, its parent company Ceridian LLC, and three national truck stop chains: defendants TravelCenters of America LLC and its wholly owned subsidiaries, Pilot Travel Centers LLC and its predecessor Pilot Corporation, and Love's Travel Stops & Country Stores, Inc. The alleged anticompetitive conduct insulated Comdata from competition, enhanced its market power, and led to independent truck stops' paying artificially inflated transaction fees. In addition to the \$130 million payment, the settlement required Comdata to change certain business practices that will promote competition among payment cards used by over-the-road fleets and truckers and lead to lower merchant fees for the independent truck stops. Lieff Cabraser served as Co-Lead Class Counsel in the litigation.
13. ***California Vitamins Cases***, JCCP No. 4076 (Cal. Supr. Ct.). Lieff Cabraser served as Co-Liaison Counsel and Co-Chairman of the Plaintiffs' Executive Committee on behalf of a class of California indirect vitamin purchasers in every level of the chain of distribution. In January 2002, the Court granted final approval of a \$96 million settlement with certain vitamin manufacturers in a class action alleging that these and other manufacturers engaged in price fixing of particular vitamins. In December 2006, the Court granted final approval to over \$8.8 million in additional settlements.
14. ***In re Buspirone Antitrust Litigation***, MDL No. 1413 (S.D. N.Y.). In November 2003, Lieff Cabraser obtained a \$90 million cash settlement for individual consumers, consumer organizations, and third party payers that purchased BuSpar, a drug prescribed to alleviate symptoms of anxiety. Plaintiffs alleged that Bristol-Myers Squibb Co. (BMS), Danbury Pharmacal, Inc., Watson Pharmaceuticals, Inc. and Watson Pharma, Inc. entered into an unlawful agreement in restraint of trade under which BMS paid a potential generic manufacturer of BuSpar to drop its

challenge to BMS' patent and refrain from entering the market. Lief Cabraser served as Plaintiffs' Co-Lead Counsel.

15. ***In re Travel Agency Commission Antitrust Litigation***, MDL No. 1058 (D. Minn.). Lief Cabraser served as Co-Lead Counsel for a certified class of U.S. travel agents on claims against the major U.S. air carriers, who allegedly violated the federal antitrust laws by fixing the commissions paid to travel agents. In 1997, the Court approved an \$82 million settlement.
16. ***In re Commercial Explosives Antitrust Litigation***, MDL No. 1093 (D. Utah). Lief Cabraser served as Class Counsel on behalf of direct purchasers of explosives used in mining operations. In 1998, the Court approved a \$77 million settlement of the litigation.
17. ***In re Toys 'R' Us Antitrust Litigation***, MDL No. 1211 (E.D. N.Y.). Lief Cabraser served as Co-Lead Counsel representing a class of direct purchasers (consumers) who alleged that Toys 'R' Us conspired with the major toy manufacturers to boycott certain discount retailers in order to restrict competition and inflate toy prices. In February 2000, the Court approved a settlement of cash and product of over \$56 million.
18. ***Meijer v. Abbott Laboratories***, Case No. C 07-5985 CW (N.D. Cal.). Lief Cabraser served as co-counsel for the group of retailers charging that Abbott Laboratories monopolized the market for AIDS medicines used in conjunction with Abbott's prescription drug Norvir. These drugs, known as Protease Inhibitors, have enabled patients with HIV to fight off the disease and live longer. In January 2011, the Court denied Abbott's motion for summary judgment on plaintiffs' monopolization claim. Trial commenced in February 2011. After opening statements and the presentation of four witnesses and evidence to the jury, plaintiffs and Abbott Laboratories entered into a \$52 million settlement. The Court granted final approval to the settlement in August 2011.
19. ***In re Carpet Antitrust Litigation***, MDL No. 1075 (N.D. Ga.). Lief Cabraser served as Class Counsel and a member of the trial team for a class of direct purchasers of twenty-ounce level loop polypropylene carpet. Plaintiffs, distributors of polypropylene carpet, alleged that Defendants, seven manufacturers of polypropylene carpet, conspired to fix the prices of polypropylene carpet by agreeing to eliminate discounts and charge inflated prices on the carpet. In 2001, the Court approved a \$50 million settlement of the case.
20. ***In re High Pressure Laminates Antitrust Litigation***, MDL No. 1368 (S.D. N.Y.). Lief Cabraser served as Trial Counsel on behalf of a class of direct purchasers of high pressure laminates. The case in 2006 was tried to a jury verdict. The case settled for over \$40 million.

21. ***Schwartz v. National Football League***, No. 97-CV-5184 (E.D. Pa.). Loeff Cabraser served as counsel for individuals who purchased the “NFL Sunday Ticket” package of private satellite transmissions in litigation against the National Football League for allegedly violating the Sherman Act by limiting the distribution of television broadcasts of NFL games by satellite transmission to one package. In August 2001, the Court approved of a class action settlement that included: (1) the requirement that defendants provide an additional weekly satellite television package known as Single Sunday Ticket for the 2001 NFL football season, under certain circumstances for one more season, and at the defendants’ discretion thereafter; (2) a \$7.5 million settlement fund to be distributed to class members; (3) merchandise coupons entitling class members to discounts at the NFL’s Internet store which the parties value at approximately \$3 million; and (4) \$2.3 million to pay for administering the settlement fund and notifying class members.
22. ***In re Lasik/PRK Antitrust Litigation***, No. CV 772894 (Cal. Supr. Ct.). Loeff Cabraser served as a member of Plaintiffs’ Executive Committee in class actions brought on behalf of persons who underwent Lasik/PRK eye surgery. Plaintiffs alleged that defendants, the manufacturers of the laser system used for the laser vision correction surgery, manipulated fees charged to ophthalmologists and others who performed the surgery, and that the overcharges were passed onto consumers who paid for laser vision correction surgery. In December 2001, the Court approved a \$12.5 million settlement of the litigation.
23. ***In the Matter of the Arbitration between CopyTele and AU Optronics***, Case No. 50 117 T 009883 13 (Internat’l Centre for Dispute Resolution). Loeff Cabraser successfully represented CopyTele, Inc. in a commercial dispute involving intellectual property. In 2011, CopyTele entered into an agreement with AU Optronics (“AUO”) under which both companies would jointly develop two groups of products incorporating CopyTele’s patented display technologies. CopyTele charged that AUO never had any intention of jointly developing the CopyTele technologies, and instead used the agreements to fraudulently obtain and transfer licenses of CopyTele’s patented technologies. The case required the review of thousands of pages of documents in Chinese and in English culminating in a two week arbitration hearing. In December 2014, after the hearing, the parties resolved the matter, with CopyTele receiving \$9 million.
24. ***Quantegy Recording Solutions, LLC, et al. v. Toda Kogyo Corp., et al.***, No. C-02-1611 (PJH). In August 2006 and January 2009, the Court approved the final settlements in antitrust litigation against manufacturers, producers, and distributors of magnetic iron oxide (“MIO”). MIO is used in the manufacture of audiotape, videotape, and

data storage tape. Plaintiffs alleged that defendants violated federal antitrust laws by conspiring to fix, maintain, and stabilize the prices and to allocate the worldwide markets for MIO from 1991 to October 12, 2005. The value of all settlements reached in the litigation was \$6.35 million. Lieff Cabraser served as Plaintiffs' Co-Lead Counsel.

25. ***In re Static Random Access Memory (SRAM) Antitrust Litigation***, MDL No. 1819 (N.D. Cal.). Plaintiffs allege that from November 1, 1996 through December 31, 2006, the defendant manufacturers conspired to fix and maintain artificially high prices for SRAM, a type of memory used in many products, including smartphones and computers. Lieff Cabraser served as one of three members of the Steering Committee for consumers and other indirect purchasers of SRAM. In February 2008, U.S. District Court Judge Claudia Wilken denied most aspects of defendants' motions to dismiss plaintiffs' complaints. In November 2009, the Court certified a nationwide class seeking injunctive relief and twenty-seven state classes seeking damages. In 2010, the Court granted final approval of a first set of settlements. In October 2011, the Court granted final approval of settlements with the remaining defendants.
26. ***Carbon Fiber Cases I, II, III***, JCCP Nos. 4212, 4216 & 4222 (Cal. Supr. Ct.). Lieff Cabraser served as Co-Liaison Counsel on behalf of indirect purchasers of carbon fiber. Plaintiffs alleged that defendants illegally conspired to raise prices of carbon fiber. Settlements have been reached with all of the defendants.
27. ***Methionine Cases I and II***, JCCP Nos. 4090 & 4096 (Cal. Supr. Ct.). Lieff Cabraser served as Co-Lead Counsel on behalf of indirect purchasers of methionine, an amino acid used primarily as a poultry and swine feed additive to enhance growth and production. Plaintiffs alleged that the companies illegally conspired to raise methionine prices to super-competitive levels. The case settled.
28. ***McIntosh v. Monsanto***, No. 4:01CV65RSW (E.D. Mo.). Lieff Cabraser served as Co-Lead Counsel in a class action lawsuit against Monsanto Company and others alleging that a conspiracy to fix prices on genetically modified Roundup Ready soybean seeds and Yieldgard corn seeds. The case settled.
29. ***Tortola Restaurants v. Minnesota Mining and Manufacturing***, No. 314281 (Cal. Supr. Ct.). Lieff Cabraser served as Co-Lead Counsel on behalf of indirect purchasers of Scotch-brand invisible and transparent tape. Plaintiffs alleged that defendant 3M conspired with certain retailers to monopolize the sale of Scotch-brand tape in California. The case was resolved as part of a nationwide settlement that Lieff Cabraser negotiated, along with co-counsel.

30. ***In re Compact Disc Antitrust Litigation***, MDL No. 1216 (C.D. Cal.). Loeff Cabraser served as Co-Lead Counsel for the direct purchasers of compact discs on claims that the producers fixed the price of CDs in violation of the federal antitrust laws.
31. ***In re Electrical Carbon Products Antitrust Litigation***, MDL No. 1514 (D.N.J.). Loeff Cabraser represented the City and County of San Francisco and a class of direct purchasers of carbon brushes and carbon collectors on claims that producers fixed the price of carbon brushes and carbon collectors in violation of the Sherman Act.

VII. Environmental and Toxic Exposures

A. Current Cases

1. ***In Re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico***, MDL No. 2179 (E.D. La.). Loeff Cabraser serves on the Court-appointed Plaintiffs’ Steering Committee (“PSC”) and with co-counsel represents fishermen, property owners, business owners, wage earners, and other harmed parties in class action litigation against BP, Transocean, Halliburton, and other defendants involved in the Deepwater Horizon oil rig blowout and resulting oil spill in the Gulf of Mexico on April 20, 2010. The Master Complaints allege that the defendants were insouciant in addressing the operations of the well and the oil rig, ignored warning signs of the impending disaster, and failed to employ and/or follow proper safety measures, worker safety laws, and environmental protection laws in favor of cost-cutting measures.

In 2012, the Court approved two class action settlements that will fully compensate hundreds of thousands of victims of the tragedy. The settlements resolve the majority of private economic loss, property damage, and medical injury claims stemming from the Deepwater Horizon Oil Spill, and hold BP fully accountable to individuals and businesses harmed by the spill. Under the settlements, there is no dollar limit on the amount BP will pay. In 2014, the U.S. Supreme Court denied review of BP's challenge to its own class action settlement. Approval of that settlement is now final, and has so far delivered over \$6.3 billion to compensate claimants' losses. The medical settlement is also final, and an additional \$1 billion settlement has been reached with defendant Halliburton.

2. ***Andrews, et al. v. Plains All American Pipeline, et al.***, No. 2:15-cv-04113-PSG-JEM (C.D. Cal.). Loeff Cabraser serves as one of two court-appointed interim Co-Lead Class Counsel in this environmental torts action arising from a toxic oil spill in Santa Barbara County, California in May 2015. Loeff Cabraser represents homeowners whose properties have been harmed and have diminished in value as a result of the oil spill, local

businesses, fishermen, wage earners, and other harmed parties in class action litigation against Plains All American Pipeline and other defendants involved in the oil spill. The Consolidated Second Amended Complaint alleges that defendants did not follow basic safety protocols when they installed the pipeline, failed to properly monitor and maintain the pipeline, ignored clear signs that the pipeline was corroded and in danger of bursting, and failed to promptly respond to the oil spill when the inevitable rupture occurred.

To date, Judge Philip S. Gutierrez has denied Plains' motion to dismiss, denied Plains' motion to stay the action pending resolution of the claims process mandated by the Federal Oil Pollution Act, and has granted Plaintiffs' motion for an injunction invalidating releases that Plains has obtained from putative class members that failed to inform them of their rights to long-term relief through the class case.

B. Successes

1. ***In re Exxon Valdez Oil Spill Litigation***, No. 3:89-cv-0095 HRH (D. Al.). The *Exxon Valdez* ran aground on March 24, 1989, spilling 11 million gallons of oil into Prince William Sound. Lief Cabraser served as one of the Court-appointed Plaintiffs' Class Counsel. The class consisted of fisherman and others whose livelihoods were gravely affected by the disaster. In addition, Lief Cabraser served on the Class Trial Team that tried the case before a jury in federal court in 1994. The jury returned an award of \$5 billion in punitive damages.

In 2001, the Ninth Circuit Court of Appeals ruled that the original \$5 billion punitive damages verdict was excessive. In 2002, U.S. District Court Judge H. Russell Holland reinstated the award at \$4 billion. Judge Holland stated that, "Exxon officials knew that carrying huge volumes of crude oil through Prince William sound was a dangerous business, yet they knowingly permitted a relapsed alcoholic to direct the operation of the *Exxon Valdez* through Prince William Sound." In 2003, the Ninth Circuit again directed Judge Holland to reconsider the punitive damages award under United States Supreme Court punitive damages guidelines. In January 2004, Judge Holland issued his order finding that Supreme Court authority did not change the Court's earlier analysis.

In December 2006, the Ninth Circuit Court of Appeals issued its ruling, setting the punitive damages award at \$2.5 billion. Subsequently, the U.S. Supreme Court further reduced the punitive damages award to \$507.5 million, an amount equal to the compensatory damages. With interest, the total award to the plaintiff class was \$977 million.

2. ***In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation***, MDL No. 2284 (E.D. Pa.). Lief

Cabraser served as Co-Lead Counsel for homeowners, golf course companies and other property owners in a nationwide class action lawsuit against E.I. du Pont de Nemours & Company (“DuPont”), charging that its herbicide Imprelis caused widespread death among trees and other non-targeted vegetation across the country. DuPont marketed Imprelis as an environmentally friendly alternative to the commonly used 2,4-D herbicide. Just weeks after Imprelis' introduction to the market in late 2010, however, complaints of tree damage began to surface. Property owners reported curling needles, severe browning, and dieback in trees near turf that had been treated with Imprelis. In August 2011, the U.S. Environmental Protection Agency banned the sale of Imprelis.

The complaint charged that DuPont failed to disclose the risks Imprelis posed to trees, even when applied as directed, and failed to provide instructions for the safe application of Imprelis. In response to the litigation, DuPont created a process for property owners to submit claims for damages. Approximately \$400 million was paid to approximately 25,000 claimants. In October 2013, the Court approved a settlement of the class action that substantially enhanced the DuPont claims process, including by adding an extended warranty, a more limited release of claims, the right to appeal the denial of claim by DuPont to an independent arborist, and publication of DuPont’s tree payment schedule.

3. ***In re GCC Richmond Works Cases***, JCCP No. 2906 (Cal. Supr. Ct.). Lief Cabraser served as Co-Liaison Counsel and Lead Class Counsel in coordinated litigation arising out of the release on July 26, 1993, of a massive toxic sulfuric acid cloud which injured an estimated 50,000 residents of Richmond, California. The Coordination Trial Court granted final approval to a \$180 million class settlement for exposed residents.
4. ***In re Unocal Refinery Litigation***, No. C 94-04141 (Cal. Supr. Ct.). Lief Cabraser served as one of two Co-Lead Class Counsel and on the Plaintiffs’ Steering Committee in this action against Union Oil Company of California (“Unocal”) arising from a series of toxic releases from Unocal’s San Francisco refinery in Rodeo, California. The action was settled in 1997 on behalf of approximately 10,000 individuals for \$80 million.
5. ***West v. G&H Seed Co., et al.***, No. 99-C-4984-A (La. State Ct.). With co-counsel, Lief Cabraser represented a certified class of 1,500 Louisiana crawfish farmers who charged in a lawsuit that Fipronil, an insecticide sold under the trade name ICON, damaged their pond-grown crawfish crops. In Louisiana, rice and crawfish are often farmed together, either in the same pond or in close proximity to one another.

After its introduction to the market in 1999, ICON was used extensively in Louisiana to kill water weevils that attacked rice plants. The lawsuit

alleged that ICON also had a devastating effect on crawfish harvests with some farmers losing their entire crawfish crop. In 2004, the Court approved a \$45 million settlement with Bayer CropScience, which during the litigation purchased Aventis CropScience, the original manufacturer of ICON. The settlement was reached after the parties had presented nearly a month's worth of evidence at trial and were on the verge of making closing arguments to the jury.

6. ***Kingston, Tennessee TVA Coal Ash Spill Litigation***, No. 3:09-cv-09 (E.D. Tenn.). Lief Cabraser represented hundreds of property owners and businesses harmed by the largest coal ash spill in U.S. history. On December 22, 2008, more than a billion gallons of coal ash slurry spilled when a dike burst on a retention pond at the Kingston Fossil Plant operated by the Tennessee Valley Authority (TVA) in Roane County, Tennessee. A wall of coal ash slurry traveled across the Emory River, polluting the river and nearby waterways, and covering nearly 300 acres with toxic sludge, including 12 homes and damaging hundreds of properties. In March 2010, the Court denied in large part TVA's motion to dismiss the litigation. In the Fall of 2011, the Court conducted a four week bench trial on the question of whether TVA was liable for releasing the coal ash into the river system. The issue of damages was reserved for later proceedings. In August 2012, the Court found in favor of plaintiffs on their claims of negligence, trespass, and private nuisance. In August 2014, the case came to a conclusion with TVA's payment of \$27.8 million to settle the litigation.

7. ***In re Sacramento River Spill Cases I and II***, JCCP Nos. 2617 & 2620 (Cal. Supr. Ct.). On July 14, 1991, a Southern Pacific train tanker car derailed in northern California, spilling 19,000 gallons of a toxic pesticide, metam sodium, into the Sacramento River near the town of Dunsmuir at a site along the rail lines known as the Cantara Loop. The metam sodium mixed thoroughly with the river water and had a devastating effect on the river and surrounding ecosystem. Within a week, every fish, 1.1 million in total, and all other aquatic life in a 45-mile stretch of the Sacramento River was killed. In addition, many residents living along the river became ill with symptoms that included headaches, shortness of breath, and vomiting. The spill considered the worst inland ecological disaster in California history.

Lief Cabraser served as Court-appointed Plaintiffs' Liaison Counsel and Lead Class Counsel, and chaired the Plaintiffs' Litigation Committee in coordinated proceedings that included all of the lawsuits arising out of this toxic spill. Settlement proceeds of approximately \$16 million were distributed pursuant to Court approval of a plan of allocation to four certified plaintiff classes: personal injury, business loss, property damage/diminution, and evacuation.

8. ***Kentucky Coal Sludge Litigation***, No. 00-CI-00245 (Cmmw. Ky.). On October 11, 2000, near Inez, Kentucky, a coal waste storage facility ruptured, spilling 1.25 million tons of coal sludge (a wet mixture produced by the treatment and cleaning of coal) into waterways in the region and contaminating hundreds of properties. This was one of the worst environmental disasters in the Southeastern United States. With co-counsel, Lief Cabraser represented over 400 clients in property damage claims, including claims for diminution in the value of their homes and properties. In April 2003, the parties reached a confidential settlement agreement on favorable terms to the plaintiffs.
9. ***Toms River Childhood Cancer Incidents***, No. L-10445-01 MT (Sup. Ct. NJ). With co-counsel, Lief Cabraser represented 69 families in Toms River, New Jersey, each with a child having cancer, that claimed the cancers were caused by environmental contamination in the Toms River area. Commencing in 1998, the parties—the 69 families, Ciba Specialty Chemicals, Union Carbide and United Water Resources, Inc., a water distributor in the area—participated in an unique alternative dispute resolution process, which lead to a fair and efficient consideration of the factual and scientific issues in the matter. In December 2001, under the supervision of a mediator, a confidential settlement favorable to the families was reached.

VIII. False Claims Act

A. Current Cases

Lief Cabraser represents whistleblowers in a wide range of False Claims Act cases, including Medicare kickback and healthcare fraud, defense contractor fraud, and securities and financial fraud. We have more than a dozen whistleblower cases currently under seal and investigation in federal and state jurisdictions across the U.S. For that reason, we do not list all of our current False Claims Act and qui tam cases in our resume.

1. ***United States ex rel. Matthew Cestra v. Cephalon***, No. 14-01842 (E.D. Pa.); ***United States ex rel. Bruce Boise et al. v. Cephalon***, No. 08-287 (E.D. Pa.) Lief Cabraser, with co-counsel, represents four whistleblowers bringing claims on behalf of the U.S. Government and various states under the federal and state False Claims Acts against Cephalon, Inc., a pharmaceutical company. The complaints allege that Cephalon has engaged in unlawful off-label marketing of certain of its drugs, largely through misrepresentations, kickbacks, and other unlawful or fraudulent means, causing the submission of hundreds of thousands of false claims for reimbursement to federal and state health care programs. The Boise case involves Provigil and its successor drug Nuvigil, limited-indication wakefulness drugs that are unsafe and/or not efficacious for the wide array of off-label psychiatric and neurological conditions for

which Cephalon has marketed them, according to the allegations. The Cestra case involves an expensive oncological drug called Treanda, which is approved only for second-line treatment of indolent non-Hodgkin's Lymphoma despite what the relators allege to be the company's off-label marketing of the drug for first-line treatment. Various motions are pending.

B. Successes

1. ***United States ex rel. Mary Hendow and Julie Albertson v. University of Phoenix***, No. 2:03-cv-00457-GEB-DAD (E.D. Cal.). Lief Cabraser obtained a record whistleblower settlement against the University of Phoenix that charged the university had violated the incentive compensation ban of the Higher Education Act (HEA) by providing improper incentive pay to its recruiters. The HEA prohibits colleges and universities whose students receive federal financial aid from paying their recruiters based on the number of students enrolled, which creates a risk of encouraging recruitment of unqualified students who, Congress has determined, are more likely to default on their loans. High student loan default rates not only result in wasted federal funds, but the students who receive these loans and default are burdened for years with tremendous debt without the benefit of a college degree.

The complaint alleged that the University of Phoenix defrauded the U.S. Department of Education by obtaining federal student loan and Pell Grant monies from the federal government based on false statements of compliance with HEA. In December 2009, the parties announced a \$78.5 million settlement. The settlement constitutes the second-largest settlement ever in a False Claims Act case in which the federal government declined to intervene in the action and largest settlement ever involving the Department of Education. The University of Phoenix case led to the Obama Administration passing new regulations that took away the so-called "safe harbor" provisions that for-profit universities relied on to justify their alleged recruitment misconduct. For his outstanding work as Lead Counsel and the significance of the case, *California Lawyer* magazine recognized Lief Cabraser attorney Robert J. Nelson with a California Lawyer of the Year (CLAY) Award.

2. ***State of California ex rel. Sherwin v. Office Depot***, No. BC410135 (Cal. Supr. Ct.). In February 2015, the Court approved a \$77.5 million settlement with Office Depot to settle a whistleblower lawsuit brought under the California False Claims Act. The whistleblower was a former Office Depot account manager. The City of Los Angeles, County of Santa Clara, Stockton Unified School District, and 16 additional California cities, counties, and school districts intervened in the action to assert their claims (including common-law fraud and breach of contract) against

Office Depot directly. The governmental entities purchased office supplies from Office Depot under a nationwide supply contract known as the U.S. Communities contract. Office Depot promised in the U.S. Communities contract to sell office supplies at its best governmental pricing nationwide. The complaint alleged that Office Depot repeatedly failed to give most of its California governmental customers the lowest price it was offering other governmental customers. Other pricing misconduct was also alleged.

3. ***State of California ex rel. Rockville Recovery Associates v. Multiplan***, No. 34-2010-00079432 (Sacramento Supr. Ct., Cal.). In a case that received widespread media coverage, Lief Cabraser represented whistleblower Rockville Recovery Associates in a qui tam suit for civil penalties under the California Insurance Frauds Prevention Act (“IFPA”), Cal. Insurance Code § 1871.7, against Sutter Health, one of California’s largest healthcare providers, and obtained the largest penalty ever imposed under the statute. The parties reached a \$46 million settlement that was announced in November 2013, shortly before trial was scheduled to commence.

The complaint alleged that the 26 Sutter hospitals throughout California submitted false, fraudulent, or misleading charges for anesthesia services (separate from the anesthesiologist’s fees) during operating room procedures that were already covered in the operating room bill.

After Lief Cabraser defeated Sutter Health’s demurrer and motion to compel arbitration, California Insurance Commissioner Dave Jones intervened in the litigation in May 2011. Lief Cabraser attorneys continued to serve as lead counsel, and litigated the case for over two more years. In all, plaintiffs defeated no less than 10 dispositive motions, as well as three writ petitions to the Court of Appeals.

In addition to the monetary recovery, Sutter Health agreed to a comprehensive series of billing and transparency reforms, which California Insurance Commissioner Dave Jones called “a groundbreaking step in opening up hospital billing to public scrutiny.” On the date the settlement was announced, the California Hospital Association recognized its significance by issuing a press release stating that the settlement “compels industry-wide review of anesthesia billing.” Defendant Multiplan, Inc., a large leased network Preferred Provider Organization, separately paid a \$925,000 civil penalty for its role in enabling Sutter’s alleged false billing scheme.

4. ***United States ex rel. Dye v. ATK Launch Systems***, No. 1:06-CV-39-TS (D. Utah). Lief Cabraser served as co-counsel for a whistleblower who alleged that ATK Launch Systems knowingly sold defective and potentially dangerous illumination flares to the United States military in

violation of the federal False Claims Act. The specialized flares were used in nighttime combat, covert missions, and search and rescue operations. A key design specification set by the Defense Department was that these highly flammable and dangerous items ignite only under certain conditions. The complaint alleged that the ATK flares at issue could ignite when dropped from a height of less than 10 feet – and, according to ATK’s own analysis, from as little as 11.6 inches – notwithstanding contractual specifications that they be capable of withstanding such a drop. In April 2012, the parties reached a settlement valued at \$37 million.

5. ***United States ex rel. Mauro Vosilla and Steven Rossow v. Avaya, Inc.***, No. CVO4-8763 PA JTLx (C.D. Cal.). Lieff Cabraser represented whistleblower in litigation alleging that defendants Avaya, Lucent Technologies, and AT&T violated the Federal False Claims Act and state false claims statutes. The complaint alleged that defendants charged governmental agencies for the lease, rental, and post-warranty maintenance of telephone communications systems and services that the governmental agencies no longer possessed and/or were no longer maintained by defendants. In November 2010, the parties entered into a \$21.75 million settlement of the litigation.
6. ***State of California ex rel. Associates Against FX Insider State Street Corp.***, No. 34-2008-00008457 (Sacramento Supr. Ct., Cal.) (“*State Street I*”). Lieff Cabraser served as co-counsel for the whistleblowers in this action against State Street Corporation. The Complaint alleged that State Street violated the California False Claims Act with respect to certain foreign exchange transactions it executed with two California public pension fund custodial clients. The California Attorney General intervened in the case in October 2009.

IX. Digital Privacy and Data Security

A. Current Cases

1. ***In re Google Inc. Street View Electronic Communications Litigation***, No. 3:10-md-021784-CRB (N.D. Cal.). Lieff Cabraser represents persons whose right to privacy was violated when Google intentionally equipped its Google Maps “Street View” vehicles with Wi-Fi antennas and software that collected data transmitted by those persons’ Wi-Fi networks located in their nearby homes. Google collected not only basic identifying information about individuals’ Wi-Fi networks, but also personal, private data being transmitted over their Wi-Fi networks such as emails, usernames, passwords, videos, and documents. Plaintiffs allege that Google’s actions violated the federal Wiretap Act, as amended by the Electronic Communications Privacy Act. On September 10, 2013, the Ninth Circuit Court of Appeals held that Google’s actions are not exempt from the Act.

2. ***Campbell v. Facebook***, No. 4:13-cv-05996 (N.D. Cal.). Loeff Cabraser serves as Co-Lead Counsel in a nationwide class action lawsuit alleging that Facebook intercepts certain private data in users' personal and private messages on the social network and profits by sharing that information with third parties. When a user composes a private Facebook message and includes a link (a "URL") to a third party website, Facebook allegedly scans the content of the message, follows the URL, and searches for information to profile the message-sender's web activity. This enables Facebook to datamine aspects of user data and profit from that data by sharing it with advertisers, marketers, and other data aggregators. In December 2014, the Court in large part denied Facebook's motion to dismiss. In rejecting one of Facebook's core arguments, U.S. District Court Judge Phyllis Hamilton stated: "An electronic communications service provider cannot simply adopt any revenue-generating practice and deem it 'ordinary' by its own subjective standard.
3. ***In re Carrier IQ Privacy Litigation***, MDL No. 2330 (N.D. Cal.). Loeff Cabraser represents a plaintiff in Multi-District Litigation against Samsung, LG, Motorola, HTC, and Carrier IQ alleging that smartphone manufacturers violated privacy laws by installing tracking software, called IQ Agent, on millions of cell phones and other mobile devices that use the Android operating system. Without notifying users or obtaining consent, IQ Agent tracks users' keystrokes, passwords, apps, text messages, photos, videos, and other personal information and transmits this data to cellular carriers. In a 96-page order issued in January 2015, U.S. District Court Judge Edward Chen granted in part, and denied in part, defendants' motion to dismiss. Importantly, the Court permitted the core Wiretap Act claim to proceed as well as the claims for violations of the Magnuson-Moss Warranty Act and the California Unfair Competition Law and breach of the common law duty of implied warranty.
4. ***Corona v. Sony Pictures Entertainment***, No. 2:14-CV-09660-RGK (C.D. Cal.). Loeff Cabraser serves as Plaintiffs' Co-Lead Counsel in class action litigation against Sony for failing to take reasonable measures to secure the data of its employees from hacking and other attacks. As a result, personally identifiable information of thousands of current and former Sony employees and their families was obtained and published on websites across the Internet. Among the staggering array of personally identifiable information compromised were medical records, Social Security Numbers, birth dates, personal emails, home addresses, salaries, tax information, employee evaluations, disciplinary actions, criminal background checks, severance packages, and family medical histories. The complaint charges that Sony owed a duty to take reasonable steps to secure the data of its employees from hacking. Sony allegedly breached this duty by failing to properly invest in adequate IT security, despite having already succumbed to one of the largest data breaches in history

only three years ago. In October 2015, an \$8 million settlement was reached under which Sony will reimburse employees for losses and harm.

5. ***Diaz v. Intuit***, No. 5:15-CV-01778-PSG (N.D. Cal.). Lief Cabraser represents identity theft victims in a nationwide class action lawsuit against Intuit for allegedly failing to protect consumers' data from foreseeable and preventable breaches, and by facilitating the filing of fraudulent tax returns through its TurboTax software program. The complaint alleges that Intuit failed to protect data provided by consumers who purchased TurboTax, used to file an estimated 30 million tax returns for American taxpayers every year, from easy access by hackers and other cybercriminals. The complaint further alleges that Intuit was aware of the widespread use of TurboTax exclusively for the filing of fraudulent tax returns. Yet, Intuit failed to adopt basic cyber security policies to prevent this misuse of TurboTax. As a result, fraudulent tax returns were filed in the names of the plaintiffs and thousands of other individuals across America, including persons who never purchased TurboTax.
6. ***Henson v. Turn***, No. 3:15-CV-01497 (N.D. Cal.). Lief Cabraser represents plaintiffs in class action litigation alleging that internet marketing company Turn, Inc. violates users' digital privacy by installing software tracking beacons on smartphones, tablets, and other mobile computing devices. The complaint alleges that in an effort to thwart standard privacy settings and features, Turn deploys so-called "zombie cookies" that cannot be detected or deleted, and that track smartphone activity across various browsers and applications. Turn uses the data harvested by these cookies to build robust user profiles and sell targeted and profitable advertising, all without the user's knowledge or consent. The complaint alleges that Turn's conduct violates consumer protection laws and amounts to trespass.
7. ***McDowell v. CGI Group***, No. 1:15-cv-01157-GK (D.D.C.). Lief Cabraser represents individuals in class action litigation against CGI Group, Inc. and CGI Federal, Inc. (collectively "CGI") for allegedly facilitating a data breach affecting more than 1,000 U.S. citizens. The U.S. government contracts with CGI to manage all U.S. passport application activities. Passport applicants must provide their name, date of birth, city of birth, state of birth, country of birth, social security number, sex, height, hair color, eye color, occupation, and evidence of U.S. citizenship, such as a previously issued U.S. passport, or U.S. birth certificate. Between 2010 and May 2, 2015, CGI employees allegedly stole and sold personal information of passport applicants to cybercriminals. The mass identity theft allowed cybercriminals to use stolen information to buy cell phones and computers, and to obtain lines of credit. The complaint alleges that CGI failed to fulfill its legal duty to protect customers' sensitive personal and financial information.

8. ***Fowles v. Anthem***, No. 3:15-cv-2249 (N.D. Cal.). Lief Cabraser represents individuals in a class action lawsuit against Anthem for its alleged failure to safeguard and secure the medical records and other personally identifiable information of its members. The second largest health insurer in the U.S., Anthem provides coverage for 37.5 million Americans. Anthem's customer database was allegedly attacked by international hackers on December 10, 2014. Anthem says it discovered the breach on January 27, 2015, and reported it about a week later on February 4, 2015. California customers were informed around March 18, 2015. The theft includes names, birth dates, social security numbers, billing information, and highly confidential health information. In addition, the complaint charges that Anthem was on notice about the weaknesses in its computer security defenses for at least a year before the breach occurred. According to a September 2013 audit, the U.S. Office of Personnel Management's Inspector General found vulnerabilities that could provide "a gateway for malicious virus and hacking activity that could lead to data breaches." The complaint charges that Anthem violated its duty to safeguard and protect consumers' personal information, and violated its duty to disclose the breach to consumers in a timely manner.

B. Successes

1. ***Perkins v. LinkedIn***, No. 13-CV-04303-LHK (N.D. Cal.). Lief Cabraser represented individuals who joined LinkedIn's network and, without their consent or authorization, had their names and likenesses used by LinkedIn to endorse LinkedIn's services and send repeated emails to their contacts asking that they join LinkedIn. On February 16, 2016, the Court granted final approval to a \$13 million settlement, one of the largest per-class member settlements ever in a digital privacy class action. In addition to the monetary relief, LinkedIn agreed to make significant changes to Add Connections disclosures and functionality. Specifically, LinkedIn revised disclosures to real-time permission screens presented to members using Add Connections, agreed to implement new functionality allowing LinkedIn members to manage their contacts, including viewing and deleting contacts and sending invitations, and to stop reminder emails from being sent if users have sent connection invitations inadvertently.

X. International and Human Rights Litigation

A. Successes

1. ***Holocaust Cases***. Lief Cabraser was one of the leading firms that prosecuted claims by Holocaust survivors and the heirs of Holocaust survivors and victims against banks and private manufacturers and other corporations who enslaved and/or looted the assets of Jews and other minority groups persecuted by the Nazi Regime during the Second World

War era. We serve as Settlement Class Counsel in the case against the Swiss banks that the Court approved a U.S. \$1.25 billion settlement in July 2000. Lief Cabraser donated its attorneys' fees in the Swiss Banks case, in the amount of \$1.5 million, to endow a Human Rights clinical chair at Columbia University Law School. We were also active in slave labor and property litigation against German and Austrian defendants, and Nazi-era banking litigation against French banks. In connection therewith, Lief Cabraser participated in multi-national negotiations that led to Executive Agreements establishing an additional approximately U.S. \$5 billion in funds for survivors and victims of Nazi persecution. Our website provides links to the websites of settlement and claims administrators in these cases.

Commenting on the work of Lief Cabraser and co-counsel in the litigation against private German corporations, entitled *In re Holocaust Era German Industry, Bank & Insurance Litigation* (MDL No. 1337), U.S. District Court Judge William G. Bassler stated on November 13, 2002:

Up until this litigation, as far as I can tell, perhaps with some minor exceptions, the claims of slave and forced labor fell on deaf ears. You can say what you want to say about class actions and about attorneys, but the fact of the matter is, there was no attention to this very, very large group of people by Germany, or by German industry until these cases were filed. . . . What has been accomplished here with the efforts of the plaintiffs' attorneys and defense counsel is quite incredible. . . . I want to thank counsel for the assistance in bringing us to where we are today. Cases don't get settled just by litigants. It can only be settled by competent, patient attorneys.

2. ***Cruz v. U.S., Estados Unidos Mexicanos, Wells Fargo Bank, et al.***, No. 01-0892-CRB (N.D. Cal.). Working with co-counsel, Lief Cabraser succeeded in correcting an injustice that dated back 60 years. The case was brought on behalf of Mexican workers and laborers, known as Braceros ("strong arms"), who came from Mexico to the United States pursuant to bilateral agreements from 1942 through 1946 to aid American farms and industries hurt by employee shortages during World War II in the agricultural, railroad, and other industries. As part of the Braceros program, employers held back 10% of the workers' wages, which were to be transferred via United States and Mexican banks to savings accounts for each Bracero. The Braceros were never reimbursed for the portion of their wages placed in the forced savings accounts.

Despite significant obstacles including the aging and passing away of many Braceros, statutes of limitation hurdles, and strong defenses to

claims under contract and international law, plaintiffs prevailed in a settlement in February 2009. Under the settlement, the Mexican government provided a payment to Braceros, or their surviving spouses or children, in the amount of approximately \$3,500 (USD). In approving the settlement on February 23, 2009, U.S. District Court Judge Charles Breyer stated:

I've never seen such litigation in eleven years on the bench that was more difficult than this one. It was enormously challenging. . . . It had all sorts of issues . . . that complicated it: foreign law, constitutional law, contract law, [and] statute of limitations. . . . Notwithstanding all of these issues that kept surfacing . . . over the years, the plaintiffs persisted. I actually expected, to tell you the truth, at some point that the plaintiffs would just give up because it was so hard, but they never did. They never did. And, in fact, they achieved a settlement of the case, which I find remarkable under all of these circumstances.

FIRM BIOGRAPHY:

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Lawyers, 2011-2016; "Top 50 Female Northern California Super Lawyers," *Super Lawyers*, 2005-2016; "Top 100 Northern California Super Lawyers," *Super Lawyers*, 2005-2016; "Northern California Super Lawyer," *Super Lawyers*, 2004-2015; "Recommended Lawyer," *The Legal 500* (U.S. edition, 2000-2014); "100 Most Influential Lawyers in America," *The National Law Journal*, 1997, 2000, 2006, & 2013; "Lifetime Achievement Award," American Association for Justice, 2012; "Outstanding Achievement Award," Chambers USA, 2012; "Margaret Brent Women Lawyers of Achievement Award," American Bar Association Commission on Women in the Profession, 2010; "Edward Pollock Award," Consumer Attorneys of California, 2008; "Lawdragon 500 Leading Plaintiffs' Lawyers," *Lawdragon*, Winter 2007; "50 Most Influential Women Lawyers in America," *The National Law Journal*, 1998 & 2007; "Award For Public Interest Excellence," University of San Francisco School of Law Public Interest Law Foundation, 2007; "Top 75 Women Litigators," *Daily Journal*, 2005-2006; "Lawdragon 500 Leading Litigators in America," *Lawdragon*, 2006; "Distinguished Leadership Award," Legal Community Against Violence, 2006; "Women of Achievement Award," Legal Momentum (formerly the NOW Legal Defense & Education Fund), 2006; "Top 30 Securities Litigator," *Daily Journal*, 2005; "Top 50 Women Litigators," *Daily Journal*, 2004; "Citation Award," University of California, Berkeley Boalt Hall, 2003; "Distinguished Jurisprudence Award," Anti-Defamation League, 2002; "Top 30 Women Litigators," *California Daily Journal*, 2002; "Top Ten Women Litigators," *The National Law Journal*, 2001; "Matthew O. Tobriner Public Service Award," Legal Aid Society, 2000; "California Law Business Top 100 Lawyers," *California Daily Journal*, 2000; "California Lawyer of the Year (CLAY)," *California Lawyer*, 1998; "Presidential Award of Merit," Consumer Attorneys of California, 1998; "Public Justice Achievement Award," Public Justice, 1997. *Publications & Presentations*: Editor-in-Chief, *California Class Actions Practice and Procedure*, LexisNexis (updated annually); "Punitive Damages," *Proving and Defending Damage Claims*, Chapter 8, Aspen Publishers (updated annually); "Symposium: Enforcing the Social Contract through Representative Litigation," 33 *Connecticut Law Review* 1239 (Summer 2011); "Apportioning Due Process: Preserving The Right to Affordable Justice," 87 *Denver U. L.Rev.* 437 (2010); "Due Process Pre-Empted: Stealth Preemption As a Consequence of Agency Capture" (2010); "When Worlds Collide: The Supreme Court Confronts Federal Agencies with Federalism in *Wyeth v. Levine*," 84 *Tulane L. Rev.* 1275 (2010); "Just Choose: The Jurisprudential Necessity to Select a Single Governing Law for Mass Claims Arising from Nationally Marketed Consumer Goods and Services," *Roger Williams University Law Review* (Winter 2009); "California Class Action Classics," Consumer Attorneys of California (January/February Forum 2009); Executive Editor, ABA Section of Litigation, *Survey of State Class Action Law*, 2008-2010; Coordinating Editor, ABA Section of Litigation, *Survey of State Class Action Law*, 2006-2007; "The Manageable Nationwide Class: A Choice-of-Law Legacy of *Phillips Petroleum Co. v. Shutts*," *University of Missouri- Kansas City Law Review*, Volume 74, Number 3, Spring 2006; Co-Author with Fabrice N. Vincent, "Class Actions Fairness Act of 2005," *California Litigation*, Vol. 18, No. 3 (2005); Co-Author with Joy A. Kruse, Bruce Leppla, "Selective Waiver: Recent Developments in the Ninth Circuit and California," (pts. 1 & 2), *Securities Litigation Report* (West Legalworks May & June 2005); Editor-in-Chief, *California Class Actions Practice and Procedures* (2003); "A Plaintiffs' Perspective On The Effect of State Farm v. Campbell On Punitive Damages in Mass Torts" (May 2003); Co-Author, "Decisions Interpreting California's Rules of Class Action Procedure," *Survey of State Class Action Law*, updated and re-published in *5 Newberg on Class Actions* (ABA 2001-2004); Co-Author, "Mass But Not (Necessarily) Class: Emerging Aggregation Alternatives Under the Federal Rules," *ABA*

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(April 6, 2009, Stanford, California); Consultant to the Office of Attorney General, State of New York, in connection with an industry-wide investigation and settlement concerning health insurers' use of the "Ingenix database" to determine usual and customary rates for out-of-network services, April 2008-February 2009; Stanford University Law School, Guest Lecturer for Professor Deborah Hensler's course on Complex Litigation, Foreign Claimants in U.S. Courts/U.S. Lawyers in Foreign Courts (April 16, 2008, Stanford, California); Benjamin N. Cardozo Law School, The American Constitution Society for Law & Policy, and Public Justice, Co-Organizer of conference and Master of Ceremonies for conference, Justice and the Role of Class Actions (March 28, 2008, New York, New York); Stanford University Law School and The Centre for Socio-Legal Studies, Oxford University, Conference on The Globalization of Class Actions, Panel Member, Resolution of Class and Mass Actions (December 13 and 14, 2007, Oxford, England); Editorial Board and Columnist, "Federal Practice for the State Court Practitioner," New York State Trial Lawyers Association's "Bill of Particulars," (2005-present); "Bill of Particulars, A Review of Developments in New York State Trial Law," *Federal Multidistrict Litigation Practice* (Fall 2007); "Bill of Particulars, A Review of Developments in New York State Trial Law," *Pleading a Federal Court Complaint* (Summer 2007); Stanford University Law School, Guest Lecturer for Professor Deborah Hensler's course on Complex Litigation, Foreign Claimants in U.S. Courts (April 17, 2007, Palo Alto, California); "Bill of Particulars, A Review of Developments in New York State Law," *Initiating Litigation and Electronic Filing in Federal Court* (Spring 2007); "Bill of Particulars, A Review of Developments in New York State Trial Law," Column, *Federal Court Jurisdiction: Getting to Federal Court By Choice or Removal* (Winter 2007); American Constitution Society for Law and Policy, 2006 National Convention, Panel Member, Finding the Balance: Federal Preemption of State Law (June 16, 2006, Washington, D.C.); Global Justice Forum, Presented by Lieff, Cabraser, Heimann & Bernstein, LLP — Conference Moderator and Panel Member on Securities Litigation (May 19, 2006, Paris, France); Stanford University Law School, Guest Lecturer for Professor Deborah Hensler's course on Complex Litigation, Foreign Claimants in U.S. Court (April 25, 2006, Stanford, California); Global Justice Forum, Presented by Lieff, Cabraser, Heimann & Bernstein, LLP — Conference Moderator and Speaker and Papers, The Basics of Federal Multidistrict Litigation: How Disbursed Claims are Centralized in U.S. Practice and Basic Principles of Securities Actions for Institutional Investors (May 20, 2005, London, England); New York State Trial Lawyers Institute, Federal Practice for State Practitioners, Speaker and Paper, *Federal Multidistrict Litigation Practice*, (March 30, 2005, New York, New York), published in "Bill of Particulars, A Review of Developments in New York State Trial Law" (Spring 2005); Stanford University Law School, The Stanford Center on Conflict and Negotiation, Interdisciplinary Seminar on Conflict and Dispute Resolution, Guest Lecturer, In Search of "Global Settlements": Resolving Class Actions and Mass Torts with Finality (March 16, 2004, Stanford, California); Lexis/Nexis, Mealey's Publications and Conferences Group, Wall Street Forum: Mass Tort Litigation, Co-Chair of Event (July 15, 2003, New York, New York); Northstar Conferences, The Class Action Litigation Summit, Panel Member on Class Actions in the Securities Industry, and Paper, Practical Considerations for Investors' Counsel - Getting the Case (June 27, 2003, Washington, D.C.); The Manhattan Institute, Center for Legal Policy, Forum Commentator on Presentation by John H. Beisner, Magnet Courts: If You Build Them, Claims Will Come (April 22, 2003, New York, New York); Stanford University Law School, Guest Lecturer for Professor Deborah Hensler's Courses on Complex Litigation, Selecting The Forum For a Complex Case — Strategic Choices Between Federal And State Jurisdictions, and

Alternative Dispute Resolution ADR In Mass Tort Litigation, (March 4, 2003, Stanford, California); American Bar Association, Tort and Insurance Practice Section, Emerging Issues Committee, Member of Focus Group on Emerging Issues in Tort and Insurance Practice (coordinated event with New York University Law School and University of Connecticut Law School, August 27, 2002, New York, New York); Duke University and University of Geneva, “Debates Over Group Litigation in Comparative Perspective,” Panel Member on Mass Torts and Products Liability (July 21-22, 2000, Geneva, Switzerland); *New York Law Journal*, Article, Consumer Protection Class Actions Have Important Position, Applying New York’s Statutory Scheme (November 23, 1998); Leader Publications, Litigation Strategist, “Fen-Phen,” Articles, *The Admissibility of Scientific Evidence in Fen-Phen Litigation and Daubert Developments: Something For Plaintiffs*, Defense Counsel (June 1998, New York, New York); “Consumer Protection Class Actions Have Important Position, Applying New York’s Statutory Scheme,” *New York Law Journal* (November 23, 1998); The Defense Research Institute and Trial Lawyer Association, Toxic Torts and Environmental Law Seminar, Article and Lecture, A Plaintiffs’ Counsels’ Perspective: What’s the Next Horizon? (April 30, 1998, New York, New York); Lexis/Nexis, Mealey’s Publications and Conference Group, Mealey’s Tobacco Conference: Settlement and Beyond 1998, Article and Lecture, The Expanding Litigation (February 21, 1998, Washington, D.C.); New York State Bar Association, Expert Testimony in Federal Court After Daubert and New Federal Rule 26, Article and Lecture, Breast Implant Litigation: Plaintiffs’ Perspective on the Daubert Principles (May 23, 1997, New York, New York); Plaintiff Toxic Tort Advisory Council, Lexis/Nexis, Mealey’s Publications and Conferences Group (January 2002-2005). *Member*: American Association for Justice; American Bar Association; American Constitution Society; Association of the Bar of the City of New York; Bar Association of the District of Columbia; Civil Justice Foundation (Board of Trustees, 2004-present); Fight for Justice Campaign; Human Rights First; National Association of Shareholder and Consumer Attorneys (Executive Committee, 2009-present); New York State Bar Association; New York State Trial Lawyers Association (Board of Directors, 2001-2004); New York State Trial Lawyers Association’s “Bill of Particulars” (Editorial Board and Columnist, “Federal Practice for the State Court Practitioner,” 2005-present); Plaintiff Toxic Tort Advisory Council (Lexis/Nexis, Mealey’s Publications and Conferences Group, 2002-2005); Public Justice Foundation (President, 2011-2012; Executive Committee, July 2006-present; Board of Directors, July 2002-present); Co-Chair, Major Donors/Special Gifts Committee, July 2009-present; Class Action Preservation Project Committee, July 2005-present); State Bar of California; Supreme Court Historical Society.

ROBERT J. NELSON, Admitted to practice in California, 1987; U.S. District Court, Central District of California, 1987; U.S. District Court, Northern District of California, 1988; U.S. Court of Appeals, Ninth Circuit, 1988; U.S. Court of Appeals, Sixth Circuit, 1995; District of Columbia, 1998; New York, 1999; U.S. District Court, Eastern District of New York, Southern District of New York, 2001; U.S. District Court, Eastern District of California, 2006; U.S. District Court, Northern District of Ohio; U.S. District Court, Southern District of Ohio; U.S. District Court, Middle District of Tennessee. *Education*: New York University School of Law (J.D., 1987); Order of the Coif, Articles Editor, *New York University Law Review*; Root-Tilden-Kern Scholarship Program. Cornell University (A.B., *cum laude* 1982); Member, Phi Beta Kappa; College Scholar Honors Program. London School of Economics (General Course, 1980-81): Graded First. *Prior Employment*: Judicial Clerk to Judge Stephen Reinhardt, U.S. Court of

Appeals, Ninth Circuit, 1987-88; Assistant Federal Public Defender, Northern District of California, 1988-93; Legal Research and Writing Instructor, University of California-Hastings College of the Law, 1989-91 (Part-time position). *Awards & Honors*: Selected for inclusion by peers in *The Best Lawyers in America* in fields of “Personal Injury Litigation – Plaintiffs” and “Product Liability Litigation – Plaintiffs,” 2012-2017; “California Litigation Star,” *Benchmark Litigation*, 2013-2016; “Consumer Attorney of the Year Finalist,” Consumer Attorneys of California, 2007, 2010, 2014-2015; Legal 500 recommended lawyer, *LegalEase*, 2013-Present; “Lawdragon Finalist,” *Lawdragon*, 2009-2011; “California Lawyer Attorney of the Year (CLAY)” Award, *California Lawyer*, 2008, 2010; “Northern California Super Lawyer,” *Super Lawyers*, 2004-2013; “San Francisco Trial Lawyer of the Year Finalist,” San Francisco Trial Lawyers’ Association, 2007. *Publications*: False Claims Roundtable, *California Lawyer* (January 2013); False Claims Roundtable, *California Lawyer* (April 2012); False Claims Roundtable, *California Lawyer* (June 2011); False Claims Roundtable, *California Lawyer* (June 2010); Product Liability Roundtable, *California Lawyer* (March 2010); Product Liability Roundtable, *California Lawyer* (July 2009); “Class Action Treatment of Punitive Damages Issues after *Philip Morris v. Williams*: We Can Get There from Here,” 2 *Charleston Law Review* 2 (Spring 2008) (with Elizabeth J. Cabraser); Product Liability Roundtable, *California Lawyer* (December 2007); Contributing Author, *California Class Actions Practice and Procedures* (Elizabeth J. Cabraser editor in chief, 2003); “The Importance of Privilege Logs,” *The Practical Litigator*, Vol. II, No. 2 (March 2000) (ALI-ABA Publication); “To Infer or Not to Infer a Discriminatory Purpose: Rethinking Equal Protection Doctrine,” 61 *New York University Law Review* 334 (1986). *Member*: American Association for Justice, Fight for Justice Campaign; American Bar Association; American Civil Liberties Union of Northern California; Bar Association of San Francisco; Bar of the District of Columbia; Consumer Attorneys of California; Human Rights Watch California Committee North; New York State Bar Association; RE-volv, Board Member; San Francisco Trial Lawyers Association; State Bar of California.

KELLY M. DERMODY, Admitted to practice in California (1994); U.S. Supreme Court (2013); U.S. Court of Appeals for the First Circuit (2012); U.S. Court of Appeals for the Second Circuit (2010); U.S. Court of Appeals for the Third Circuit (2001); U.S. Court of Appeals for the Fourth Circuit (2008); U.S. Court of Appeals for the Sixth Circuit (2008); U.S. Court of Appeals for the Seventh Circuit (2006); U.S. Court of Appeals for the Ninth Circuit (2007); U.S. District Court, Northern District of California (1995); U.S. District Court, Central District of California (2005); U.S. District Court, Eastern District of California (2012); U.S. District Court of Colorado (2007). *Education*: Boalt Hall School of Law, University of California, Berkeley (J.D. 1993); Moot Court Executive Board (1992-1993); Articles Editor, *Industrial Relations Law Journal/Berkeley Journal of Employment and Labor Law* (1991-1992); Harvard University (A.B. magna cum laude, 1990), Senior Class Ames Memorial Public Service Award. *Prior Employment*: Law Clerk to Chief Judge John T. Nixon, U.S. District Court, Middle District of Tennessee, 1993-1994; Adjunct Professor of Law, Golden Gate University School of Law, Employment Law (Spring 2001). *Awards & Honors*: AV Preeminent Peer Review Rated, Martindale-Hubbell; Selected for inclusion by peers in *The Best Lawyers in America* in fields of “Employment Law – Individuals” and “Litigation – Labor and Employment,” 2010-2017; “California Litigation Star,” *Benchmark Litigation*, 2013-2016; “Top 250 Women in Litigation,” *Benchmark Litigation*, 2016; Fellow, The College of Labor and Employment Lawyers, 2015; “Top 100 Attorneys in California,” *Daily Journal*, 2012-2015; “Top 75 Labor and Employment

Attorneys in California,” *Daily Journal*, 2011-2015; “Top California Women Litigators,” *Daily Journal*, 2007, 2010, 2012-2015; “500 Leading Lawyers in America,” *Lawdragon*, 2010-2015; “Northern California Super Lawyer,” *Super Lawyers*, 2004-2015; “Top 50 Women Northern California Super Lawyers,” *Super Lawyers*, 2007-2015; “Top 100 Northern California Super Lawyers,” *Super Lawyers*, 2007, 2009-2015; Distinguished Jurisprudence Award, Anti-Defamation League, 2014; “Lawyer of the Year,” *Best Lawyers*, recognized in the category of Employment Law – Individuals for San Francisco, 2014; “Top 10 Northern California Super Lawyers,” *Super Lawyers*, 2014; “Dolores Huerta Adelita Award,” California Rural Assistance, 2013; “Recommended Lawyer,” *The Legal 500* (U.S. edition, 2013); “Women of Achievement Award,” Legal Momentum (formerly the NOW Legal Defense & Education Fund), 2011; “Irish Legal 100” Finalist, *The Irish Voice*, 2010; “Florence K. Murray Award,” National Association of Women Judges, 2010 (for influencing women to pursue legal careers, opening doors for women attorneys, and advancing opportunities for women within the legal profession); “Lawdragon Finalist,” *Lawdragon*, 2007-2009; “Community Service Award,” Bay Area Lawyers for Individual Freedom, 2008; “Community Justice Award,” Centro Legal de la Raza, 2008; “Award of Merit,” Bar Association of San Francisco, 2007; “California Lawyer Attorney of the Year (CLAY) Award,” *California Lawyer*, 2007; “500 Leading Plaintiffs’ Lawyers in America,” *Lawdragon*, Winter 2007; “Trial Lawyer of the Year Finalist,” Public Justice Foundation, 2007; “Consumer Attorney of the Year” Finalist, Consumer Attorneys of California, 2006; “California’s Top 20 Lawyers Under 40,” *Daily Journal*, 2006; “Living the Dream Partner,” Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, 2005; “Top Bay Area Employment Attorney,” *The Recorder*, 2004. *Member*: American Bar Association, Labor and Employment Law Section (Governing Council, 2009-present; Co-Chair, Section Conference, 2008-2009; Vice-Chair, Section Conference, 2007-2008; Co-Chair, Committee on Equal Opportunity in the Legal Profession, 2006-2007); Bar Association of San Francisco (Board of Directors, 2005-2012; President, 2011-2012; President-Elect, 2010-2011; Treasurer, 2009-2010; Secretary, 2008-2009; Litigation Section; Executive Committee, 2002-2005); Bay Area Lawyers for Individual Freedom; Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (Board of Directors, 1998-2005; Secretary, 1999-2003; Co-Chair, 2003-2005; Member, 1997-Present); Carver Healthy Environments and Response to Trauma in Schools (Steering Committee, 2007); College of Labor and Employment Lawyers (Fellow, 2015); Consumer Attorneys of California; Equal Rights Advocates (Litigation Committee, 2000-2002); National Association of Women Judges (Independence of the Judiciary Co-Chair, 2011-2014; Resource Board, Co-Chair, 2009-2011, Member, 2005-2014); National Center for Lesbian Rights (Board of Directors, 2002-2008; Co-Chair, 2005-2006); National Employment Lawyers’ Association; Northern District of California Historical Society (Board of Directors, 2015- Present); Northern District of California Lawyer Representative to the Ninth Circuit Judicial Conference (2007-2010); Pride Law Fund (Board of Directors, 1995-2002; Secretary, 1995-1997; Chairperson, 1997-2002); Public Justice Foundation; State Bar of California.

JONATHAN D. SELBIN, Admitted to practice in California, 1994; District of Columbia, 2000; New York, 2001; U.S. Supreme Court, 2012; U.S. Court of Appeals, Second Circuit, 2016; U.S. Court of Appeals, Third Circuit, 2009; U.S. Court of Appeals, Fifth Circuit, 2002; U.S. Court of Appeals, Sixth Circuit, 2012; U.S. Court of Appeals, Ninth Circuit, 2007; U.S. Court of Appeals, Tenth Circuit, 2014; U.S. District Court, Northern District of California, 1997; U.S. District Court, Central District of California, 1995; U.S. District Court, Northern

District of Florida, 2009; U.S. District Court Northern District of Illinois, 2010; U.S. District Court, Southern District of New York, 2001; U.S. District Court, Eastern District of New York, 2008; U.S. District Court, Eastern District of Michigan, 2007; U.S. District Court, Eastern District of Wisconsin, 2013. *Education*: Harvard Law School (J.D., *magna cum laude*, 1993); University of Michigan (B.A., *summa cum laude*, 1989). *Prior Employment*: Law Clerk to Judge Marilyn Hall Patel, U.S. District Court, Northern District of California, 1993-95. *Awards & Honors*: Selected for inclusion by peers in *The Best Lawyers in America* in field of “Product Liability Litigation – Plaintiffs,” 2013-2017; Distinguished Service Award, American Association for Justice, 2016; “New York Litigation Star,” *Benchmark Litigation*, 2013-2016; “New York Super Lawyers,” *Super Lawyers*, 2006-2013; “*Lawdragon* Finalist,” *Lawdragon*, 2009. *Publications & Presentations*: On Class Actions (2009); Contributing Author, “Ninth Circuit Reshapes California Consumer-Protection Law,” American Bar Association (July 2012); Contributing Author, *California Class Actions Practice and Procedures* (Elizabeth J. Cabraser editor-in-chief, 2003); “Bashers Beware: The Continuing Constitutionality of Hate Crimes Statutes After R.A.V.,” 72 *Oregon Law Review* 157 (Spring, 1993). *Member*: American Association for Justice; American Bar Association; District of Columbia Bar Association; New York Advisory Board, Alliance for Justice; New York State Bar Association; New York State Trial Lawyers Association; State Bar of California.

MICHAEL W. SOBOL, Admitted to practice in Massachusetts, 1989; California, 1998; United States District Court, District of Massachusetts, 1990; U.S. District Court, Northern District of California, 2001; U.S. District Court, Central District of California, 2005; U.S. District Court, Eastern District of California, 2011; U.S. District Court, Southern District of California, 2010; U.S. Court of Appeals for the Ninth Circuit (2009); U.S. Court of Appeals for the Eleventh Circuit (2012). *Education*: Boston University (J.D., 1989); Hobart College (B.A., *cum laude*, 1983). *Prior Employment*: Lecturer in Law, Boston University School of Law, 1995-1997. *Awards & Honors*: Selected for inclusion by peers in *The Best Lawyers in America* in fields of “Mass Tort Litigation/Class Actions – Plaintiffs” and “Product Liability Litigation – Plaintiffs,” 2013-2017; “Super Lawyer for Northern California,” *Super Lawyers*, 2012 – 2016; California Litigation Star,” *Benchmark Litigation*, 2013-2015; “Top 100 Northern California Super Lawyers,” *Super Lawyers*, 2013; “Top 100 Attorneys in California,” *Daily Journal*, 2012-2013; “Trial Lawyer of the Year Finalist,” *Public Justice*, 2012; “Consumer Attorney of the Year Finalist,” Consumer Attorneys of California, 2011; “*Lawdragon* Finalist,” *Lawdragon*, 2009. *Publications & Presentations*: Panelist, National Consumer Law Center’s 15th Annual Consumer Rights Litigation Conference, Class Action Symposium; Panelist, Continuing Education of the Bar (C.E.B.) Seminar on Unfair Business Practices—California’s Business and Professions Code Section 17200 and Beyond; Columnist, *On Class Actions*, Association of Business Trial Lawyers, 2005 to present; *The Fall of Class Action Waivers* (2005); *The Rise of Issue Class Certification* (2006); *Proposition 64’s Unintended Consequences* (2007); *The Reach of Statutory Damages* (2008). *Member*: State Bar of California; Bar Association of San Francisco; Consumer Attorneys of California, Board of Governors, (2007-2008, 2009-2010); National Association of Consumer Advocates.

FABRICE N. VINCENT, Admitted to practice in California, 1992; U.S. District Court, Northern District of California, Central District of California, Eastern District of California, Ninth Circuit Court of Appeals, 1992. *Education*: Cornell Law School (J.D., *cum laude*, 1992);

University of California at Berkeley (B.A., 1989). *Awards & Honors*: Selected for inclusion by peers in *The Best Lawyers in America* in fields of “Mass Tort Litigation/Class Actions – Plaintiffs,” “Product Liability Litigation – Plaintiffs,” and “Personal Injury Litigation – Plaintiffs,” 2012-2017; “Super Lawyer for Northern California,” *Super Lawyers*, 2006–2014; “Outstanding Subcommittee Chair for the Class Actions & Derivative Suits,” *ABA Section of Litigation*, 2013. *Publications & Presentations*: Lead Author, *Citizen Report on Utility Terrain Vehicle (UTV) Hazards and Urgent Need to Improve Safety and Performance Standards*; and *Request for Urgent Efforts To Increase Yamaha Rhino Safety and Avoid Needless New Catastrophic Injuries, Amputations and Deaths*, Lieff Cabraser Heimann & Bernstein, LLP (2009); Co-Author with Elizabeth J. Cabraser, “Class Actions Fairness Act of 2005,” *California Litigation*, Vol. 18, No. 3 (2005); Co-Editor, *California Class Actions Practice and Procedures* (2003-06); Co-Author, “Ethics and Admissibility: Failure to Disclose Conflicts of Interest in and/or Funding of Scientific Studies and/or Data May Warrant Evidentiary Exclusions,” *Mealey’s December Emerging Drugs Reporter* (December 2002); Co-author, “The Shareholder Strikes Back: Varied Approaches to Civil Litigation Claims Are Available to Help Make Shareholders Whole,” *Mealey’s Emerging Securities Litigation Reporter* (September 2002); Co-Author, “Decisions Interpreting California’s Rules of Class Action Procedure,” *Survey of State Class Action Law* (ABA 2000-09), updated and re-published in *5 Newberg on Class Actions* (2001-09); Coordinating Editor and Co-Author of California section of the ABA State Class Action Survey (2001-06); Co-Editor-In-Chief, *Fen-Phen Litigation Strategist* (Leader Publications 1998-2000); Author of “Off-Label Drug Promotion Permitted” (Oct. 1999); Co-Author, “The Future of Prescription Drug Products Liability Litigation in a Changing Marketplace,” and “Six Courts Certify Medical Monitoring Claims for Class Treatment,” *29 Forum* 4 (Consumer Attorneys of California 1999); Co-Author, *Class Certification of Medical Monitoring Claims in Mass Tort Product Liability Litigation* (ALI-ABA Course of Study 1999); Co-Author, “How Class Proofs of Claim in Bankruptcy Can Help in Medical Monitoring Cases,” (Leader Publications 1999); Author, “AHP Loses Key California Motion In Limine,” (February 2000); Co-Author, Introduction, “Sanctioning Discovery Abuses in the Federal Court,” (LRP Publications 2000); “With Final Approval, Diet Drug Class Action Settlement Avoids Problems That Doomed Asbestos Pact,” (Leader Publications 2000); Author, “Special Master Rules Against SmithKline Beecham Privilege Log,” (November 1999). *Member*: American Association for Justice; Association of Business Trial Lawyers; State Bar of California; Bar Association of San Francisco; American Bar Association; Fight for Justice Campaign; Association of Business Trial Lawyers; Society of Automotive Engineers.

DAVID S. STELLINGS, Admitted to practice in New York, 1994; New Jersey, 1994; U.S. District Court, Southern District of New York, 1994. *Education*: New York University School of Law (J.D., 1993); Editor, *Journal of International Law and Politics*; Cornell University (B.A., *cum laude*, 1990). *Awards & Honors*: “Super Lawyer for New York Metro,” *Super Lawyers*, 2012-2014; “Trial Lawyer of the Year Finalist,” Public Justice, 2012; “Lawdragon Finalist, *Lawdragon*, 2009. *Member*: New York State Bar Association; New Jersey State Association; Bar Association of the City of New York; American Bar Association.

ERIC B. FASTIFF, Admitted to practice in California, 1996; District of Columbia, 1997; U.S. Courts of Appeals for the Third, Ninth and Federal Circuit; U.S. District Courts for the Northern, Southern, Eastern, and Central Districts of California, District of Columbia; U.S.

District Court, Eastern District of Wisconsin; U.S. Court of Federal Claims. *Education*: Cornell Law School (J.D., 1995); Editor-in-Chief, *Cornell International Law Journal*; London School of Economics (M.Sc.(Econ.), 1991); Tufts University (B.A., *cum laude, magno cum honore in thesi*, 1990). *Prior Employment*: Law Clerk to Hon. James T. Turner, U.S. Court of Federal Claims, 1995-1996; International Trade Specialist, Eastern Europe Business Information Center, U.S. Department of Commerce, 1992. *Awards & Honors*: Selected for inclusion by peers in *The Best Lawyers in America* in the field of "Litigation - Antitrust," 2013-2017; "California Litigation Star," *Benchmark Litigation*, 2013-2015; Legal 500 recommended lawyer, *LegalEase*, 2013; "Northern California Super Lawyer," *Super Lawyers*, 2010-2013; "Top 100 Layers in California," *Daily Journal*, 2013; "Top Attorneys in Business Law," *Super Lawyers Corporate Counsel Edition*, 2012; "Lawdragon Finalist," *Lawdragon*, 2009. *Publications & Presentations*: General Editor, *California Class Actions Practice and Procedures*, (2003-2009); Coordinating Editor and Co-Author of California section of the *ABA State Class Action Survey* (2003-2008); Author, "US Generic Drug Litigation Update," 1 *Journal of Generic Medicines* 212 (2004); Author, "The Proposed Hague Convention on the Recognition and Enforcement of Civil and Commercial Judgments: A Solution to Butch Reynolds's Jurisdiction and Enforcement Problems," 28 *Cornell International Law Journal* 469 (1995). *Member*: American Antitrust Institute (Advisory Board, 2012-Present); Bar Association of San Francisco; Children's Day School (Board of Trustees); District of Columbia Bar Association; *Journal of Generic Medicines* (Editorial Board Member, 2003-Present); State Bar of California; U.S. Court of Federal Claims Bar Association.

WENDY R. FLEISHMAN, Admitted to practice in New York, 1992; Pennsylvania, 1977; U.S. Supreme Court, 2000; U.S. Court of Appeals 2nd Circuit, 1998; U.S. Court of Appeals 3rd Circuit, 2010; U.S. Court of Appeals 8th Circuit, 2009; U.S. Court of Appeals 9th Circuit, 2010; U.S. District Court, District of Arizona, 2013; U.S. District Court, Western District of New York, 2012; U.S. District Court Eastern District of New York, 1999; U.S. District Court Northern District of New York, 1999; U.S. District Court Southern District of New York, 1995; U.S. District Court, Eastern District of Wisconsin, 2013; U.S. District Court, Eastern District of Pennsylvania, 1984; U.S. District Court, Western District of Pennsylvania, 2001; U.S. Court of Appeals 5th Circuit, March 5, 2014. *Education*: University of Pennsylvania (Post-Baccalaureate Pre-Med, 1982); Temple University (J.D., 1977); Sarah Lawrence College (B.A., 1974). *Prior Employment*: Skadden, Arps, Slate, Meagher & Flom LLP in New York (Counsel in the Mass Torts and Complex Litigation Department), 1993-2001; Fox, Rothschild O'Brien & Frankel (partner), 1988-93 (tried more than thirty civil, criminal, employment and jury trials, and AAA arbitrations, including toxic tort, medical malpractice and serious injury and wrongful death cases); Ballard Spahr Andrews & Ingersoll (associate), 1984-88 (tried more than thirty jury trials on behalf of the defense and the plaintiffs in civil personal injury and tort actions as well as employment—and construction—related matters); Assistant District Attorney in Philadelphia, PA, 1977-84 (in charge of and tried major homicide and sex crime cases). *Awards and Honors*: "New York Litigation Star," *Benchmark Litigation*, 2013-2016; "New York Super Lawyers," *Super Lawyers*, 2006-2016; Legal 500 recommended lawyer, *LegalEase*, 2013; AV Preeminent Peer Review Rated, Martindale-Hubbell; Officer of New York State Trial Lawyers Association, 2010-present; New York State Academy of Trial Lawyers, 2011; "Lawdragon Finalist," *Lawdragon*, 2009. *Publications & Presentations*: "Where Do You Want To Be? Don't Get Left Behind, Creating a Vision for Your Practice," Minority Caucus and Women Trial Lawyers Caucus

(July 22, 2013); Editor, Brown & Fleishman, “Proving and Defending Damage Claims: A Fifty-State Guide” (2007-2010); Co-Author with Donald Arbitblit, “The Risky Business of Off-Label Use,” *Trial* (March 2005); Co-Author, “From the Defense Perspective,” *Scientific Evidence, Chapter 6, Aspen Law Pub* (1999); Editor, *Trial Techniques Newsletter*, Tort and Insurance Practices Section, American Bar Association (1995-1996; 1993-1994); “How to Find, Understand, and Litigate Mass Torts,” NYSTLA Mass Torts Seminar (April 2009); “Ethics of Fee Agreements in Mass Torts,” AAJ Education Programs (July 2009). *Appointments*: Lead Counsel, Joint Coordinated California Litigation, *Amo Lens Solution Litigation*; Co-Liaison, *In re Zimmer Durom Cup Hip Implant Litigation*; Plaintiffs’ Steering Committee, DePuy ASR Hip Implant Litigation; Liaison, NJ Ortho Evra Patch Product Liability Litigation; Co-Liaison, NJ Reglan Mass Tort Litigation; Co-Chair, Mealey’s Drug & Medical Device Litigation Conference (2007); Executive Committee, *In re ReNu MoistureLoc Product Liability Litigation*, MDL; Discovery Chair, *In re Guidant Products Liability Litigation*; Co-Chair Science Committee, *In re Baycol MDL Litigation*; Pricing Committee, *In re Vioxx MDL Litigation*. *Member*: New York State Trial Lawyers Association (Treasurer, 2010-present; Board of Directors, 2004-Present); Association of the Bar of the City of New York (Product Liability Committee, 2007-present; Judiciary Committee, 2004-Present); American Bar Association (Annual Meeting, Torts & Insurance Practices Section, NYC, Affair Chair, 1997; Trial Techniques Committee, Torts and Insurance Practices, Chair-Elect, 1996); American Association for Justice (Board of Governors); American Association for Justice (Board of Governors, Women Trial Lawyers’ Caucus); Pennsylvania Bar Association (Committee on Legal Ethics and Professionalism, 1993-Present; Committee on Attorney Advertising, 1993-Present; Vice-Chair, Task Force on Attorney Advertising, 1991-92); State Bar of New York; Federal Bar Association; Member, Gender and Race Bias Task Force of the Second Circuit, 1994-present; Deputy Counsel, Governor Cuomo’s Screening Committee for New York State Judicial Candidates, 1993-94; New York Women’s Bar Association; New York County Lawyers; Fight for Justice Campaign; PATLA; Philadelphia Bar Association (Member of Committee on Professionalism 1991-92).

JOYA. KRUSE, Admitted to practice in Washington, D.C., 1984; California, 1989; U.S. Supreme Court, 1994; U.S. Courts of Appeals for the Federal Circuit, 1992; U.S. Court of Appeals 9th Circuit, 1989; U.S. District Court for the Central District of California, 2006; U.S. District Court for the Eastern District of California, 1989; U.S. District Court for the Northern District of California, 1989; U.S. District Court, District of Colorado, 2006; U.S. District Court of the District of Columbia, 1984; U.S. District Court, Eastern District of Wisconsin, 2001. *Education*: Harvard Law School (J.D., 1984); Wellesley College (B.A., 1977). *Prior Employment*: Assistant Federal Public Defender, Northern District of California, 1992-96; Public Defender Service, Washington D.C., 1984-89. *Awards & Honors*: “California Litigation Star,” *Benchmark Litigation*, 2016; AV Preeminent Peer Review Rated, Martindale-Hubbell; Selected for inclusion by peers in *The Best Lawyers in America* in fields of “Litigation – Securities,” 2013-2017; “*Lawdragon* Finalist,” *Lawdragon*, 2009. *Presentations & Publications*: Panelist, “Corporate Governance Litigation,” PLI Securities Litigation & Enforcement Institute, San Francisco (October 15, 2009); Co-Author with Richard M. Heimann and Sharon M. Lee, “Post-Tellabs Treatment of Confidential Witnesses in Federal Securities Litigation,” *Journal of Securities Law, Regulation, & Compliance* (Vol. 2, No. 3 June 2009); “*California Lawyer* Securities Law Roundtable” (October 2008); Co-Author with Elizabeth J. Cabraser, Bruce Leppla, “Selective Waiver: Recent Developments in the Ninth Circuit and California,” (Pts. 1 & 2), *Securities*

Litigation Report (West Legalworks May and June 2005). *Member*: Phi Beta Kappa; State Bar of California; Bar Association of San Francisco; Equal Rights Advocate (Member; Board of Directors); Northern District of California Practice Program Committee (Member; Board of Directors).

RACHEL GEMAN, Admitted to practice in New York, 1998; Southern and Eastern Districts of New York, 1999; U.S. District Court, Eastern District of Michigan, 2005; U.S. District Court of Colorado, 2007; U.S. Supreme Court, 2013. *Education*: Columbia University School of Law (J.D. 1997); Stone Scholar; Equal Justice America Fellow; Human Rights Fellow; Editor, *Columbia Journal of Law and Social Problems*; Harvard University (A.B. *cum laude* 1993). *Prior Employment*: Adjunct Professor, New York Law School; Special Advisor, United States Mission to the United Nations, 2000; Law Clerk to Judge Constance Baker Motley, U.S. District Court, Southern District of New York, 1997-98. *Awards & Honors*: AV Preeminent Peer Review Rated, Martindale-Hubbell; Selected for inclusion by peers in *The Best Lawyers in America* in field of "Employment Law – Individuals," 2012-2017; "Lawyer of the Year," *Best Lawyers*, recognized in the category of Employment Law – Individuals for San Francisco, 2014; "Super Lawyer for New York Metro," *Super Lawyers*, 2013-2014; Legal 500 recommended lawyer, *LegalEase*, 2013; "Rising Stars for New York Metro," *Super Lawyers*, a publication of Thomson Reuters, 2011; Distinguished Honor Award, United States Department of State, 2001. *Publications & Presentations*: Speaker and Moderator, "Statistics for Lawyers - Even Those Who Hate Math," National Employment Lawyers Association Annual Convention (2015); Speaker, "Gender Pay Disparities: Enforcement, Litigation, and Remedies," New York City Conference on Representing Employees (2015); Speaker, "Protecting Pay: Representing Workers With Wage and Hour Claims," National Employment Lawyers Association (2015); Speaker and Author, "What Employment Lawyers Need to Know About Non-Employment Class Actions," ABA Section of Labor and Employment Law Conference (2014); Moderator, "Dodd-Frank and Sarbanes-Oxley Whistleblower Issues," National Employment Lawyers Association/New York (2014); Author, "Whistleblower Under Pressure," *Trial Magazine* (April 2013); Panelist, "Class Certification Strategies: Dukes in the Rear View Mirror," Impact Fund Class Action Conference (2013); Author & Panelist, "Who is an Employer Under the FLSA?" National Employment Lawyers Association Conference (2013); Panelist, "Fraud and Consumer Protection: Plaintiff and Defense Strategies," Current Issues in Pharmaceutical and Medical Device Litigation, ABA Section of Litigation (2012); Participant and Moderator, "Ask the EEOC: Current Insights on Enforcement and Litigation," ABA Section of Labor and Employment Law (2011); Panelist, "Drafting Class Action Complaints," New York State Bar Association (2011); Participant and Moderator, "Ask the EEOC: Current Insights on Enforcement and Litigation," ABA Section of Labor and Employment Law (2011); *The New York Employee Advocate*, Co-Editor (2005-2009), Regular Contributor (2008-present); Moderator, "Hot Topics in Wage and Hour Class and Collective Actions," American Association for Justice Tele-Seminar (2010); Author & Panelist, "Class Action Considerations: Certification, Settlement, and More," American Conference Institute Advanced Forum (2009); Panelist, "Rights Without Remedies," American Constitutional Society National Convention, Revitalizing Our Democracy: Progress and Possibilities (2008); Panelist, Fair Measure: Toward Effective Attorney Evaluations, American Bar Association Annual Meeting (2008); Panelist, "Getting to Know You: Use and Misuse of Selection Devices for Hiring and Promotion," ABA Labor & Employment Section Annual Meeting (2008); Author, "Don't I Think I Know You Already?": Excessive Subjective Decision-

Making as an Improper Tool for Hiring and Promotion,” ABA Labor & Employment Section Annual Meeting (2008); Author & Panelist, “Ethical Issues in Representing Workers in Wage & Hour Actions,” Representing Workers in Individuals & Collective Actions under the FLSA (2007); Author & Panelist, “Evidence and Jury Instructions in FLSA Actions,” Georgetown Law Center/ACL-ABA (2007); Author & Panelist, “Crucial Events in the ‘Life’ of an FLSA Collective Action: Filing Considerations and the Two-step ‘Similarly-Situated’ Analysis,” National Employment Lawyers Association, Annual Convention (2006); Author & Panelist, “Time is Money, Except When It’s Not: Compensable Time and the FLSA,” National Employment Lawyers Association, Impact Litigation Conference (2005); Panelist, “Electronic Discovery,” Federal Judicial Center & Institute of Judicial Administration, Workshop on Employment Law for Federal Judges (2005); “Image-Based Discrimination and the BFOQ Defense,” *EEO Today: The Newsletter of the EEO Committee of the ABA’s Section of Labor and Employment Law*, Vol. 9, Issue 1 (2004); “Fair Labor Standards Act Overtime Exemptions: Proposed Regulatory Changes,” *New York State Bar Association Labor and Employment Newsletter* (2004); Chair & Panelist, “Current Topics in Fair Labor Standards Act Litigation,” Conference, Association of the Bar of the City of New York (2003); Moderator, “Workforce Without Borders,” ABA Section of Labor & Employment Law, EEOC Midwinter Meeting (2003). *Member*: American Bar Association [Labor and Employment Law Section, Standing Committee on Equal Employment Opportunity (Member, Past Employee Co-Chair, 2009-2011)]; Association of the Bar of the City of New York; National Employment Lawyers’ Association - New York Chapter (Board Member, 2005-2011); National Employment Lawyers’ Association - National; Public Justice Foundation; Taxpayers Against Fraud Education Fund.

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Honors & Awards: AV Peer Review Rated, Martindale-Hubbell; Selected for inclusion by peers in *The Best Lawyers in America* in the field of “Mass Tort Litigation/Class Actions – Plaintiffs,” 2012-2017; American Bar Foundation Fellow, 2016; “Tennessee Litigation Star,” *Benchmark Litigation*, 2013-2015; “Best of the Bar,” Nashville Business Journal, 2008-2010, 2015-2016; “Super Lawyer for Mid-South,” Super Lawyers, 2011 - 2015; “Tennessee Top 100,” *Super Lawyers*, 2015; “Rising Star for Mid-South,” Super Lawyers, 2008 - 2010; “Top 40 Under 40,” The Tennessean, 2004. *Publications & Presentations:* “Supreme Court Limits The Reach Of Alien Tort Statute In *Kiobel*,” Legal Solutions Blog, April 2013; “The Rise of Bellwether Trials,” Legal Solutions Blog, March 2013; “Amgen: The Supreme Court Refuses to Erect New Class Action Bar,” Legal Solutions Blog, March 2013; “Are International Wrongdoers Above the Law?,” *The Trial Lawyer Magazine*, January 2013; “*Kiobel v. Royal Dutch Petroleum*: Supreme Court to Decide Role of US Courts Abroad,” *ABA Journal*, January 2013. “Legislation Protects the Guilty [in Deadly Meningitis Outbreak],” *The Tennessean*, December 2012; Litigating International Torts in United States Courts, 2012 ed., Thomson Reuters/West (2012); “Successfully Suing Foreign Manufacturers,” *TRIAL Magazine*, November 2008; “Washington Regulators Versus American Juries: The United States Supreme Court Shifts the Balance in *Riegel v. Medtronic*,” *Nashville Bar Journal*, 2008; “Washington Bureaucrats Taking Over American Justice System,” *The Tennessean* (December 2007); “The End of Meaningful Punitive Damages,” *Nashville Bar Journal*, November 2001; “Is Civility Dead?” *Nashville Bar Journal*, October 2003; “The FCC: The Constitution, Censorship, and a Celebrity Breast,” *Nashville Bar Journal*, April 2005. *Member:* American Bar Foundation (Fellow, 2016); American Association for Justice (Chair, Public Education Committee, 2015); American Bar Association (Past-Chair, YLD Criminal & Juvenile Justice Committee; Tort Trial and Insurance Practice Section Professionalism Committee); First Center for the Visual Arts (Founding Member, Young Professionals Program); Harry Phillips American Inn of Court; Kappa Chapter of Kappa Sigma Fraternity Alumni Association (President); Metropolitan Nashville Arts Commission (Grant Review Panelist); Nashville Bar Association (YLD Board of Directors; Nashville Bar Association YLD Continuing Legal Education and Professional Development Director); Nashville Bar Journal (Editorial Board); Tennessee Association for Justice (Board of Directors, 2008-2011; Legislative Committee); Tennessee Bar Association (Continuing Legal Education Committee); Tennessee Trial Lawyers Association (Board of Directors); Historic Belcourt Theatre (Past Board Chair; Board of Directors); Nashville Cares (Board of Directors).

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Houston Tunnel during Texas Air Quality Study 2000,” *Atmospheric Environment*, 38, 3363-3372 (2004). *Member*: State Bar of California; Bar Association of San Francisco; Consumer Attorneys of California; American Bar Association; American Constitution Society; East Bay Community Law Center (Board Member, 2010-present); South Asian Bar Association (Board Member, 2010-present). *Languages*: Gujarati (conversational).

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DEAN M. HARVEY, Admitted to practice in California, 2007; U.S. District Court, Northern District of California, 2007; U.S. District Court, Central District of California, 2007; U.S. District Court, Eastern District of California, 2008; U.S. District Court, Southern District of California, 2008; U.S. Court of Appeals for the Fourth Circuit, 2016; U.S. Court of Appeals for the Ninth Circuit, 2008; U.S. District Court, Eastern District of Wisconsin, 2013. *Education*: Boalt Hall School of Law, University of California, Berkeley (J.D. 2006); Articles Editor, *California Law Review* (2005-2006); Assistant Editor, *Berkeley Journal of International Law* (2004); University of Minnesota, Twin Cities (B.A. *summa cum laude*, 2002). *Prior Employment*: Partner, Lief Cabraser Heimann & Bernstein, LLP (2013-Present); Associate, Lief Cabraser Heimann & Bernstein, LLP (2009-2013); Associate, Boies, Schiller & Flexner LLP (2007-2008); Law Clerk, The Honorable James V. Selna, U.S. District Court for the Central District of California (2006-2007); Law Clerk, U.S. Department of Justice, Antitrust Division, San Francisco Field Office (2006); Summer Law Intern, U.S. Department of Justice (2005); Summer Associate, Boies, Schiller & Flexner LLP (2005). *Awards & Honors*: "Super Lawyer for Northern California," *Super Lawyers*, 2013-2015; "Lawyers on the Fast Track," *The Recorder*, 2013; "Rising Star for Northern California," *Super Lawyers*, 2010-2012; "William E. Swope Antitrust Writing Prize," 2006. *Publications*: Co-Author, "Play Ball: Potential Private Rights of

Action Emerging From the FIFA Corruption Scandal,” 11 Business Torts & RICO News 1 (Summer 2015); Contributing Author, *The Class Action Fairness Act: Law and Strategy*, American Bar Association, 2013; Contributing Author, *Concurrent Antitrust Criminal and Civil Proceedings: Identifying Problems and Planning for Success*, American Bar Association (2013); Co-Editor, *California Class Actions Practice and Procedures* (2010-2013); Articles Editor, *Competition* (the Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California) (2012); Contributing Author, *ABA Annual Review of Antitrust Law Developments* (2011); *New Guidance for Standard Setting Organizations: Broadcom Corp. v. Qualcomm Inc. and In the Matter of Rambus, Inc.*, 5 *ABA Sherman Act Section 1 Newsl.* 35 (2008); *Anticompetitive Social Norms as Antitrust Violations*, 94 Calif. L. Rev. 769 (2006). *Member*: American Bar Association (Antitrust Section); Bar Association of San Francisco; San Francisco Trial Lawyers Association.

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ROGER N. HELLER, Admitted to practice in California, 2001; U.S. District Court, Northern District of California, 2001, U.S. District Court, District of Colorado, 2015, U.S. Court of Appeals for the Ninth Circuit, 2001. *Education*: Columbia University School of Law (J.D., 2001); Columbia Law Review, Senior Editor. Emory University (B.A., 1997). *Prior Employment*: Extern, Honorable Michael Dolinger, U.S. District Court, Southern District of New York, 1999; Associate, O’Melveny & Myers LLP, 2001-2005; Senior Staff Attorney, Disability Rights Advocates, 2005-2008. *Honors & Awards*: “Partners Council Rising Star,” National Consumer Law Center, 2015; “Rising Star,” *Law 360*, 2014-2015; “Northern California Super Lawyer,” *Super Lawyers*, 2013-2014; “Finalist for Consumer Attorney of the Year,” Consumer Attorneys of California, 2012-2013; “Trial Lawyer of the Year Finalist,” Public Justice, 2012; “Northern California Rising Stars,” *Super Lawyers*, 2011-2012; Harlan Fiske Stone

Scholar, 1998-2001. *Publications & Presentations*: Co-author, Fighting For Troops on the Homefront, Trial Magazine (September 2006). *Member*: American Bar Association; Bar Association of San Francisco; Consumer Attorneys of California; State Bar of California; Advisory Committee Member, Santa Venetia Community Plan.

DANIEL M. HUTCHINSON, Admitted to practice in California, 2005; U.S. District Court, Central District of California, 2012; U.S. District Court, Southern District of California, 2012; U.S. Court of Appeals for the First Circuit, 2012; U.S. Court of Appeals for the Ninth Circuit, 2006; U.S. District Court, Northern District of California, 2006; U.S. Court of Appeals for the Fourth Circuit, 2008; U.S. District Court Eastern District of Wisconsin, 2013; U.S. District, Northern District of Illinois, 2014. *Education*: Boalt Hall School of Law, University of California, Berkeley (J.D., 2005), Senior Articles Editor, *African-American Law & Policy Report*, Prosser Prizes in Constitutional Law and Employment Law; Boalt Hall Teaching & Curriculum Committee (2003-2004); University of California, Berkeley Extension (Multiple Subject Teaching Credential, 2002); Brown University (B.A., 1999), Mellon Mays Fellowship (1997-1999). *Prior Employment*: Judicial Extern to the Hon. Martin J. Jenkins, U.S. District Court, Northern District of California, 2004; Law Clerk, Lewis & Feinberg, P.C., 2003-2004; Teacher, Oakland Unified School District, 1999-2002. *Honors & Awards*: "Rising Star," Law360, 2014; "Northern California Super Lawyer," *Super Lawyers*, 2013-2014; Legal 500 recommended lawyer, *LegalEase*, 2013; "50 Lawyers on the Fast Track," *The Recorder*, 2012; "Northern California Rising Stars," *Super Lawyers*, 2009-2012. *Publications & Presentations*: Panelist, "Employment Discrimination Class Actions Post-Dukes," Consumer Attorneys of California 50th Annual Convention (2011); "Ten Points from *Dukes v. Wal-Mart Stores, Inc.*," 20(3) *CADS Report 1* (Spring 2010); Panelist, "Rethinking Pro Bono: Private Lawyers and Public Service in the 21st Century," UCLA School of Law (2008); Author and Panelist, "Pleading an Employment Discrimination Class Action" and "EEO Litigation: From Complaint to the Courthouse Steps," ABA Section of Labor and Employment Law Second Annual CLE Conference (2008); Co-Presenter, "Rule 23 Basics in Employment Cases," Strategic Conference on Employment Discrimination Class Actions (2008). *Member*: American Bar Association (Section of Labor & Employment Law Leadership Development Program, 2009 - 2010); Association of Business Trial Lawyers (Leadership Development Committee, 2008 - 2010); Bar Association of San Francisco (Vice Chair, Cybersecurity and Privacy Law Section); Consumer Attorneys of California; Lawyer's Committee for Civil Rights of the San Francisco Bay Area (Board Chair, 2015; Chair-Elect, 2014; Board Secretary, 2011 - 2013; Board of Directors, 2009 - Present); National Bar Association; National Employment Lawyers Association; State Bar of California.

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BRUCE W. LEPPLA, Admitted to practice in California, 1976; New York, 1978; Colorado, 2006; U.S. Court of Appeals Ninth Circuit, 1976; U.S. District Court Central District of California, 1976; U.S. District Court Eastern District of California, 1976; U.S. District Court Northern District of California, 1976; U.S. District Court Southern District of New York, 2015. *Education*: University of California (J.D., Boalt Hall School of Law, M.G. Reade Scholarship Award); University of California at Berkeley (M.S., Law and Economics, Quantitative Economics); Yale University (B.A., *magna cum laude*, Highest Honors in Economics). *Prior Employment*: California-licensed Real Estate Broker (2009-present); FINRA and California-licensed Registered Investment Adviser (2008-present); Chairman, Leppla Capital Management LLC (2008-present); Chairman, Susquehanna Corporation (2006-present); Partner, Lief Cabraser Heimann & Bernstein, LLP (2004-2008), Counsel (2002-2003); CEO and President, California Bankers Insurance Services Inc., 1999-2001; CEO and President, Redwood Bank (1985-1998), CFO and General Counsel (1981-1984); Brobeck, Phleger & Harrison (1980); Davis Polk & Wardwell (1976-80). *Publications*: Author or co-author of 11 different U.S. and International patents in electronic commerce and commercial product design, including “A Method for Storing and Retrieving Digital Data Transmissions,” United States Patent No. 5,659,746, issued August 19, 1997; “*Stay in the Class or Opt-Out? Institutional Investors Are Increasingly Opting-Out of Securities Class Litigation*,” Securities Litigation Report, Vol. 3, No. 8, September 2006, West LegalWorks; reprinted by permission of the author in Wall Street Lawyer, October 2006, Vol. 10, No. 10, West LegalWorks; “*Selected Waiver: Recent Developments in the Ninth Circuit and California, Part 1*,” Elizabeth J. Cabraser, Joy A. Kruse and Bruce W. Leppla; Securities Litigation Report, May 2005, Vol. I, No. 9, pp. 1, 3-7; “*Selected Waiver: Recent Developments in the Ninth Circuit and California, Part 2*,” Elizabeth J. Cabraser, Joy A. Kruse and Bruce W. Leppla; Securities Litigation Report, June 2005, Vol. I, No. 10, pp. 1, 3-9; Author, “*Securities Powers for Community Banks*,” California Bankers Association Legislative Journal (Nov. 1987). *Teaching Positions*: Lecturer, University of California at Berkeley, Haas School of Business, Real Estate Law and Finance (1993-96); Lecturer, California Bankers Association General Counsel Seminars, Lending Documentation, Financial Institutions Litigation and similar topics (1993-96). *Panel Presentations*: Union Internationale des Avocats, Spring Meeting 2010, Frankfurt, Germany, “*Recent Developments in Cross-Border Litigation*,” Union Internationale des Avocats, Winter Meeting 2010, Park City, Utah, “*Legal and Economic Aspects of Securities Class and Opt-out Litigation*,” EPI European Pension Fund Summit, Montreux, Switzerland, “*Legal and Global Economic Implications of the U.S. Subprime Lending Crisis*,” May 2, 2008; Bar Association of San Francisco, “*Impact of Spitzer’s Litigation and Attempted Reforms on the Investment Banking and Insurance Industries*,” May 19, 2005; Opal Financial Conference, National Public Fund System Legal Conference, Phoenix, AZ, “*Basic Principles of Securities Litigation*,” January 14, 2005; American Enterprise Institute, “*Betting on the Horse After the Race is Over—In Defense of Mutual Fund Litigation Related to Undisclosed After Hours Order Submission*,” September 30, 2004. *Member*: American Association for Justice; Bar Association of San Francisco, Barrister’s Club, California Bankers Association, Director, 1993 – 1999, California State Small Business Development Board, 1989 – 1997, Community Reinvestment Institute, Founding Director, 1989 – 1990, National Association of Public Pension Attorneys, New York State Bar Association, San

Francisco Chamber of Commerce, Leadership Council, 1990 – 1992, State Bar of California, Union Internationale des Avocats, Winter Corporate Governance Seminar, Seminar Chairman, 2012; University of California at Berkeley, Boalt Hall Alumni, Board of Directors, 1993 – 1996, *Wall Street Lawyer*, Member, Editorial Board, Yale University Alumni Board of Directors, Director, 2001 - 2005.

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Education: Law Center, University of Southern California (J.D., 2004); Review of Law & Women's Studies; Jessup Moot Court; Medill School of Journalism, Northwestern University (B.S.J., 2001); Stockholm University (Political Science, 1999). *Publications & Presentations:* "Stick a Toothbrush Down Your Throat: An Analysis of the Potential Liability of Pro-Eating Disorder Websites," *Texas Journal of Women & the Law* (Volume 14 Issue 2, Spring 2005); "Welcome to Law School," monthly column on www.vault.com (2001-2004). *Awards and Honors:* "New York Rising Star," Super Lawyers, 2013-2014; Wiley W. Manuel Award for Pro Bono Legal Services awarded by the State Bar of California for voluntary provision of legal services to the poor, 2005. *Member:* American Association for Justice (Co-Chair, Class Action Litigation Group, 2016); American Association for Justice (Steering Committee of the Public Education Committee); New York State Bar Association; Swedish American Bar Association; New York State Trial Lawyers Association; New York County Lawyer's Association; New York City Bar Association. *Languages:* Swedish (fluent); French (DFA1-certified in Business French); Spanish (conversational).

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Limited Scope of the Ascertainability Requirement,” American Bar Association, Section of Litigation, March 2013; Panelist, “Taking and Defending Depositions,” New York City Bar, May 20, 2009; Contributing Author, *California Class Actions Practice & Procedures* (Elizabeth J. Cabraser, Editor-in-Chief, 2008); “Remembering the War and the Atomic Bombs: New Museums, New Approaches,” in *Memory and the Impact of Political Transformation in Public Space* (Duke University Press, 2004), originally published in *Radical History Review*, Vol. 75 (1998); “Issue Advocacy in the 1998 Congressional Elections,” with Jonathan S. Krasno (Urban Institute, 2001); *Buying Time: Television Advertising in the 1998 Congressional Elections*, with Jonathan S. Krasno (Brennan Center for Justice, 2000); “Going Negative,” in *Playing Hardball*, with Kenneth Goldstein, Jonathan S. Krasno and Lee Bradford (Prentice-Hall, 2000). *Member*: American Association for Justice; State Bar of New York.

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State Class Action Survey (2012). *Awards & Honors*: "Rising Star for Northern California," Super Lawyers, 2013-2014. *Member*: Antitrust and Unfair Competition Law Section of the California State Bar; Labor and Employment Law Section of the California State Bar; Consumer Attorneys of California; National Association of Consumer Advocates.

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ROBERT L. LIEFF, Admitted to practice in California, 1966; U.S. District Court, Northern District of California and U.S. Court of Appeals, Ninth Circuit, 1969; U.S. Supreme Court, 1969; U.S. Court of Appeals, Seventh Circuit, 1972; U.S. Tax Court, 1974; U.S. District Court, District of Hawaii, 1986. *Education*: Columbia University (M.B.A., 1962; J.D., 1962); Cornell University; University of Bridgeport (B.A., 1958). *Member*, Columbia Law School Dean's Council; *Member*, Columbia Law School Board of Visitors (1992-2006); *Member*, Columbia Law School Center on Corporate Governance Advisory Board (2004). *Awards & Honors*: AV Preeminent Peer Review Rated, Martindale-Hubbell; Selected for inclusion by peers in *The Best Lawyers in America* in fields of "Mass Tort Litigation/Class Actions – Plaintiffs," 2015-2017; "Super Lawyer for Northern California," Super Lawyers, 2005 - 2009, "Lawdragon Finalist," *Lawdragon*, 2005. *Member*: Bar Association of San Francisco; State Bar of California (Member: Committee on Rules of Court, 1971-74; Special Committee on Multiple Litigation and Class Actions, 1972-73); American Bar Association (Section on Corporation, Banking and Business Law); Lawyers Club of San Francisco; San Francisco Trial Lawyers Association; California Trial Lawyers Association; Consumer Attorneys of California; Fight for Justice Campaign.

LYDIA LEE, Admitted to practice in Oklahoma 1983; U.S. District Court, Western and Eastern Districts of Oklahoma; U.S. Court of Appeals, 10th Circuit. *Education*: Oklahoma City University, School of Law (J.D., 1983); University of Central Oklahoma (B.A., 1980). *Prior Employment*: Partner, Law Office of Lydia Lee (2005-2008); Partner, Oklahoma Public Employees Retirement System (1985-2005); Associate, law firm of Howell & Webber (1983-1985). *Publications & Presentations*: "QDROs for Oklahoma's Public Pension Plans," *Oklahoma Family Law Journal*, Vol. 13, September, 1998; Co-Author, "Special Problems in Dividing Retirement for Employees of the State of Oklahoma," *OBA/FLS Practice Manual*, Chapter 27.3, 2002; Featured Guest Speaker, *Saturday Night Law*, KTOK Radio; Contributor and Editor, INFRE Course Books for CRA program. *Member*: Central Edmond Urban Development Board (2006-present); Oklahoma Bar Association (1983-present), Member OBA Women in Law Committee (2007-present); National Association of Public Pension Attorneys (1988-present), President (2002-2004), Vice-President (2001-2002), Executive Board member (1998-2004), Chair of Benefits Section, Emeritus Board member, (2004-present); Edmond Neighborhood Alliance Board of Directors (2005-present), President (2006-2007), Past President and Director (2007-present); Central Edmond Urban Development Board (2006-present); Midwest City Regional Hospital, Board of Governors (1992-1996), Served on Physician/Hospital Organization Board, Pension and Insurance Trust Committees, and Chairman of Woman's Health Committee; City of Midwest City, Planning Commission (1984-1998), Chairman (1990-1995), Vice-Chairman (1987- 1990), Served on Capital Improvement Committee, Airport Zoning Commission (Tinker AFB), and Parkland Review Board, served on Midwest City Legislative Reapportionment Committee (1991).

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MICHAEL F. DECKER, Admitted to practice in New York, 2016. *Education*: Harvard Law School (J.D. *cum laude*, 2014); Hunter College School of Education (M.S. Ed. 2011); Dean's Award for Community Leadership; Editor, *Civil Rights-Civil Liberties Law Review*; Student Attorney, Harvard Legal Aid Bureau; Columbia College (B.A. *cum laude*, 2009). *Prior Employment*: Law Clerk, Public Citizen Litigation Group; Law Clerk, American Civil Liberties Union of Connecticut; Law Clerk, National Center for Law and Economic Justice. *Member*: State Bar of New York.

WILSON DUNLAVEY, Admitted to practice in California, 2015; U.S. District Court Central District of California, 2016. *Education*: University of California, Berkeley, School of Law (J.D. 2015); Berkeley Technology Law Journal, Associate Editor; Boalt Hall Queer Caucus, Co-

Chair; Board of Advocates Moot Court Team. Humboldt University in Berlin (Ph.D., *cum laude*, Modern History, 2015; Dual M.A., *Magister Artium*, History and Philosophy, 2015); Friedrich-Naumann Foundation; Master's and Ph.D. Fellow; Queer Initiative, Director; Student Government, Executive Counsel. St. John's College (B.A., History of Math and Science, Philosophy, 2003); Faculty Toast Prize; Delegate Council. *Prior Employment*: Summer Associate, McDermott Will & Emery (2014); Law Clerk, Transgender Law Center (2014); Legal Research and Writing Teaching Assistant, First Year Skills Program, UC Berkeley School of Law (2013-2014); Judicial Extern to the Honorable William A. Alsup, U.S. District Court for the Northern District of California (2013); Legal Counselor, Berkeley Workers' Rights Clinic (2012-2013). *Member*: State Bar of California.

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"Being a Watchdog" Really Means: Removing the Attorney General from the Supervision of Charitable Trusts, *Minnesota Law Review*, 2012. *Prior Employment*: Pritzker Olsen, P.A., Attorney, 2012 – 2014. *Member*: American Association for Justice, Minnesota Association for Justice, Minnesota Women Lawyers.

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BILL WILLIAMS, JR., Admitted to practice in New York, 2015; District of Columbia, 2016. *Education*: Columbia Law School (J.D. 2014); *Columbia Law Review*; Harlan Fiske Stone Scholar. University of Notre Dame (B.A., Political Science, 2008); Dean's List;

Presidential Scholar; NAACP Image Awards, Freshman of the Year, Athlete of the Year, Senior of the Year; Student Leadership Award. *Prior Employment*: Law Clerk to the Honorable Myron H. Thompson, U.S. District Court for the Middle District of Alabama (2015-2016); Associate, Paul, Weiss, Rifkind, Wharton & Garrison, LLP (2014-2015). *Member*: State Bar of New York.

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Notice on the Firm's AV Rating: AV is a registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale-Hubbell certification procedures, standards and policies. Martindale-Hubbell is the facilitator of a peer review process that rates lawyers. Ratings reflect the confidential opinions of members of the Bar and the Judiciary. Martindale-Hubbell Ratings fall into two categories—legal ability and general ethical standards.

EX. 90

Exhibit 18

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)

Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)

Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)

Defendant.)

**DECLARATION OF LYNN SARKO ON BEHALF OF THE ANDOVER COMPANIES
EMPLOYEE SAVINGS AND PROFIT SHARING PLAN AND JAMES PEHOUSHEK-
STANGELAND IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

Lynn Sarko declares as follows, pursuant to 28 U.S.C. §1746:

1. I am the Managing Partner of the law firm Keller Rohrback L.L.P. (“Keller Rohrback”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from inception through August 30, 2016 (the “Time Period”).

2. My firm and I are counsel for plaintiffs The Andover Companies Employee Savings and Profit Sharing Plan and Mr. James Pehousek-Stangeland, who assert claims in this action under the Employee Retirement Income Security Act of 1974 (ERISA) on behalf of themselves and a putative class of similarly-situated persons (ERISA Claimants). In the course of this litigation, we have zealously represented the interests of ERISA Claimants. We worked collaboratively with other Counsel for Plaintiffs in the Class Actions in order to achieve the best possible result for our clients. We actively participated in each aspect of the Class Actions, but our most significant contribution involved the protracted mediation effort. Throughout that process, described in detail in the accompanying Declaration of Lead Counsel, I personally facilitated the complex multi-party discussions among Plaintiffs, Defendant, the Securities and Exchange Commission, the Department of Justice, and the Department of Labor.

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared

and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions.

5. The total number of hours expended on this litigation by my firm during the Time Period is 4,690.65 hours. The total lodestar for my firm for those hours is \$2,561,287.00.

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

7. As detailed in Exhibit B, my firm and our local counsel, Hutchings Barsamian, incurred a total of \$342,766.63 in expenses in connection with the prosecution of the Class Actions. Keller Rohrback expenses are documented by the firm's book and records, including expense vouchers, check records and other source materials. Exhibit B includes miscellaneous expenses incurred by our local counsel, which were reasonably incurred and are properly documented out-of-pocket costs.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a biography of my firm and the firm's attorneys.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 14, 2016.


Lynn Sarko

Exhibit A

EXHIBIT A**STATE STREET INDIRECT FX TRADING CLASS ACTION**
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)**LODESTAR REPORT****FIRM: Keller Rohrback L.L.P.****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

PROFESSIONAL	STATUS*	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Lauren Arnaud	PL	\$265	37.10	\$ 9,831.50
Laurie Ashton	OC	\$800	5.30	\$ 4,240.00
Kris Bartlett	PL	\$225	2.40	\$ 540.00
Cate Brewer	PL	\$225	29.10	\$ 6,547.50
Cindy Buser	PL	\$241	111.80	\$ 26,943.80
Michael Cady	PL	\$225	14.10	\$ 3,172.50
Chandler Clemons	PL	\$180	206.12	\$ 37,101.60
David Copley	P	\$750	94.50	\$ 70,875.00
Jason Dillman	PL	\$310	44.20	\$ 13,702.00
Sandra Douglas	PL	\$225	0.50	\$ 112.50
Ben Ellis	PL	\$195	0.60	\$ 117.00
John Evans	PL	\$230	78.40	\$ 18,032.00
Juli Farris	P	\$775	6.40	\$ 4,960.00
Eric Fierro	A	\$475	41.10	\$ 19,522.50
Alison Gaffney	A	\$400	137.60	\$ 55,040.00
Laura Gerber	P	\$685	540.25	\$ 370,071.25
Alex Gotto	PL	\$225	26.45	\$ 5,951.25
Ben Gould	PL	\$525	2.00	\$ 1,050.00
Katherine Grant	PL	\$235	15.00	\$ 3,525.00
Loretta Haley	PL	\$210	12.00	\$ 2,520.00
Kevin Hammond	PL	\$245	0.08	\$ 19.60
Alex Hancock	PL	\$150	12.00	\$ 1,800.00
Amy Hanson	A	\$525	140.20	\$ 73,605.00
Jennifer Hill	PL	\$255	8.30	\$ 2,116.50
Jason Ho	PL	\$235	207.00	\$ 48,645.00
Erin Hoffrance	PL	\$220	2.20	\$ 484.00
Susan James	PL	\$255	81.00	\$ 20,655.00
Cari Laufenberg	P	\$685	4.80	\$ 3,288.00
Beth Leland	P	\$675	2.90	\$ 1,957.50
Dan Lenentine	PL	\$255	2.75	\$ 701.25
Sara Lenentine	PL	\$260	380.80	\$ 99,008.00
Jeffrey Lewis	P	\$895	0.20	\$ 179.00
Tana Lin	P	\$700	1.60	\$ 1,120.00

Derek Loeser	P	\$835	116.10	\$ 96,943.50
Nathan Moe	PL	\$250	7.00	\$ 1,750.00
Maggie Norton	PL	\$205	12.20	\$ 2,501.00
Gretchen Obrist	P	\$550	45.00	\$ 24,750.00
Cavin Parrilla	PL	\$225	241.10	\$ 54,247.50
Lindsay Pearson	PL	\$210	3.00	\$ 630.00
David Preminger	P	\$895	2.90	\$ 2,595.50
Melanie Pugh	PL	\$200	21.70	\$ 4,340.00
Erin Riley	P	\$700	0.75	\$ 525.00
Lynn Lincoln Sarko	P	\$925	1224.70	\$ 1,132,847.50
Kelly Shenenfield	PL	\$215	1.60	\$ 344.00
Katie Sifferman	PL	\$200	7.30	\$ 1,460.00
Brian Spangler	PL	\$225	2.50	\$ 562.50
Michael Thompson	PL	\$215	20.75	\$ 4,461.25
Jennifer Tuato'o	PL	\$295	385.80	\$ 113,811.00
Havila Unrein	A	\$525	65.10	\$ 34,177.50
Graham Van Leuven	PL	\$200	11.20	\$ 2,240.00
Ben Watson	PL	\$225	0.40	\$ 90.00
Margaret Wetherald	P	\$750	178.00	\$ 133,500.00
Jonathan Whitney	PL	\$245	41.70	\$ 10,216.50
Debra Wilcher	PL	\$225	1.20	\$ 270.00
Harry Williams	A	\$525	32.60	\$ 17,115.00
Amy Williams-Derry	P	\$750	19.30	\$ 14,475.00
TOTAL			4,690.65	\$ 2,561,287.00

Partner (P)
Of Counsel (OC)
Associate (A)
Staff Attorney (SA)

Paralegal (PL)
Investigator (I)
Research Analyst (RA)

Exhibit B

EXHIBIT B**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****EXPENSE REPORT****FIRM: Keller Rohrback L.L.P.
Hutchings Barsamian Mandelcorn, LLP****REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

EXPENSE	Keller Rohrback	Hutchings Barsamian
Duplicating	\$2,087.20	\$63.00
Postage	\$287.31	
Long-Distance Telephone / Fax / Conf Calls	\$2,196.40	
Filing / Service / Witness Fees	\$78.50	\$433.00
Court Hearing & Deposition Transcripts	\$23.40	
Online Legal & Financial Research	\$15,694.30	
Mediation Services	\$11,916.14	
Experts/Consultants	\$9,591.30	
Litigation Support/Electronic Discovery	\$221,191.16	
Publication of Notice	\$435.00	
Work-Related Transportation/Meals/Lodging	\$78,411.50	
Miscellaneous	\$358.42	
FIRM TOTALS	\$342,270.63	\$496.00
COMBINED TOTAL	\$342,766.63	

Exhibit C



COMPLEX LITIGATION

ABOUT KELLER ROHRBACK



Devoted to Justice

"[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity...[Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions..."
In re WorldCom, Inc. ERISA Litigation (Cote, J.).

Keller Rohrback's lawyers excel by being prepared and persuasive. It's a simple formula that combines our strengths: outstanding writing and courtroom skill, together with unparalleled passion and integrity. We have recovered billions of dollars for our clients, and have served as lead counsel in many prominent cases, including numerous financial crisis cases against Wall Street banks and mortgage originators. Our lawyers are widely recognized as leaders in their fields who have dedicated their careers to combating corporate fraud and misconduct. We have the talent as well as the financial resources to litigate against Fortune 500 companies – and do so every day.



Who We Are

Keller Rohrback's Complex Litigation Group has a national reputation as the go-to plaintiffs' firm for large-scale, complex individual and class action cases. We represent public and private investors, businesses, governments, and individuals in a wide range of actions, including securities fraud, fiduciary breach, antitrust, whistleblower, environmental, and product liability cases. Our approach is straightforward—we represent clients who have been harmed by conduct that is wrong, and we litigate with passion and integrity to obtain the best results possible. Every case is different, but we win for the same reason: we are persuasive. When you hire us, you hire smart, creative lawyers who are skilled in court and in negotiations.

Founded in 1919, Keller Rohrback's sixty-nine attorneys and over 100 staff members are based in six offices across the country in Seattle, Oakland, Santa Barbara, Phoenix, New York, and Ronan. Over the past century, our firm has built a distinguished reputation by providing top-notch representation. We offer exceptional service and a comprehensive understanding of federal and state law nationwide. We also are well known for our abilities to collaborate with co-counsel and to work together to achieve outstanding results—essential skills in large-scale cases in which several firms represent the plaintiffs. We pride ourselves on our reputation for working smartly with opposing counsel, and we are comfortable and experienced in coordinating high-stakes cases with simultaneous state and federal government investigations. Keller Rohrback attorneys earn the respect of our colleagues and our opponents through our deft handling of the array of complex issues and obstacles our clients face.

ABOUT KELLER ROHRBACK



What We Do

Keller Rohrback's Complex Litigation Group represents plaintiffs in large-scale cases involving corporate wrongdoing. We litigate against companies that pollute, commit fraud, fix prices, and take advantage of consumers, employees, and investors. We are passionate advocates for justice. In addition, the Complex Litigation Group regularly calls on attorneys in the firm's other practice areas for expertise in areas such as bankruptcy, constitutional law, corporate transactions, financial institutions, insurance coverage, and intellectual property. Our group's access to these in-house resources distinguishes Keller Rohrback from other plaintiffs' class action firms and contributes to the firm's success. We also have a history of working with legal counsel from other countries to vigorously pursue legal remedies on behalf of clients around the globe.

We have won verdicts in state and federal courts throughout the nation and have obtained judgments and settlements on behalf of clients in excess of seven billion dollars. Courts around the country have praised our work, and we are regularly appointed lead counsel in nationally prominent class action cases. Our work has had far-reaching impacts for our clients in a variety of settings and industries, creating a better, more accountable society.

Who We Serve

We represent individuals, institutions, and government agencies. The common denominators of our clients is a desire to see justice done—and to be represented by attorneys who practice law with integrity, honesty, and devotion to serving our clients' interests.



"Despite substantial obstacles to recovery, Keller Rohrback was willing to undertake the significant risks presented by this case...Class Counsel achieved real and substantial benefits for members of the Class. [Their] extensive prior experience in complex class action securities litigation... enabled the Class to analyze and achieve this excellent result." Getty v. Harmon (SunAmerica Securities Litigation) (Dwyer, J.).

ANTITRUST AND TRADE REGULATION



ATTORNEYS

Lynn Lincoln Sarko
Raymond Farrow
Mark Griffin
Amy N.L. Hanson
Cari Campen Laufenberg
Elizabeth A. Leland
Tana Lin
Ryan McDevitt
Karin Swope

Keller Rohrback's antitrust and trade regulation practice represents Plaintiffs in state and federal courts to ensure that consumers get the benefits of free and fair competition in the marketplace. Keller Rohrback has successfully litigated cases on behalf of both consumers and businesses who have been harmed by illegal anti-competitive conduct, such as price fixing, price discrimination, misleading and deceptive marketing practices, and the monopolization and attempted monopolization of markets.

For decades, Keller Rohrback has served as lead counsel, on MDL executive committees, and in other prominent roles in large price-fixing and price discrimination cases.

REPRESENTATIVE CASES

Nurse Wage Litigation: Fleischman v. Albany Medical Center; Cason-Merenda v. Detroit Medical Center (N.D.N.Y.); (E.D. Mich.)

Keller Rohrback was Co-Lead Counsel in these long-running antitrust actions which recovered \$105 million in underpaid wages resulting from an alleged conspiracy among hospitals to set the compensation of their nurse employees in Albany, New York, and Detroit, Michigan.

Ferko v. National Ass'n For Stock Car Auto Racing, Inc., No. 02-50 (E.D. Tex.)

Keller Rohrback was Counsel for Plaintiff, a shareholder in Texas Motor Speedway (TMS), in a lawsuit that charged NASCAR with breach of contract, unlawful monopolization, and conspiring with International Speedway Corporation (ISC) to restrain trade in violation of the antitrust laws. The settlement agreement allowed TMS to purchase North Carolina Speedway from ISC and required NASCAR to sanction a Nextel Cup Series race at TMS in the future, relief that was valued at \$100.4 million.

In re Vitamins Antitrust Litigation, MDL No. 1285 (D.D.C.)

Keller Rohrback played a significant role in litigating this MDL case, one of the largest and most successful antitrust cases in history. Chief Judge Thomas Hogan certified two classes of businesses who directly purchased bulk vitamins and were overcharged as a result of a ten-year global price-fixing and market-allocation conspiracy. Recoveries for the class through settlement and verdict totaled over \$1 billion.

In re Online DVD Rental Antitrust Litigation, MDL No. 2029 (N.D. Cal.)

Keller Rohrback represented purchasers of online DVD rental services accusing Wal-Mart and Netflix of engaging in a market allocation scheme. The class achieved settlements of over \$30 million.

"The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does again." *In re Linerboard Antitrust Litigation*, MDL No. 1261, 2004 WL 1221350 *6 (E.D. Pa. June, 2 2004) (DuBois, J.).

ANTITRUST AND TRADE REGULATION



REPRESENTATIVE CASES continued

Johnson v. Arizona Hospital and Healthcare Association, No. 07-1292 (D. Ariz.)

Keller Rohrback represented agency nurses who worked at various Arizona hospitals seeking to recover the underpayment of wages resulting from a conspiracy to suppress the cost of agency nurses. The class achieved settlements of more than \$26 million.

Molecular Diagnostics v. Hoffman-La Roche, Inc., No. 04-1649 (D.D.C.)

Keller Rohrback served on the Executive Committee of this class action lawsuit on behalf of direct purchasers of thermus aquaticus DNA polymerase (Taq), an essential input to technologies used to study DNA. The lawsuit alleged that various Hoffman-La Roche entities, in concert with the Perkins Elmer Corp., fraudulently procured a patent for Taq with the intent and effect of illegally monopolizing the Taq market. The court approved a \$33 million settlement in 2008.

Daisy Mountain Fire District v. Microsoft Corp., MDL No. 1332 (D. Md.)

Keller Rohrback obtained a settlement in excess of \$4 million on behalf of a class of Arizona governmental entities that indirectly purchased operating systems and software from Microsoft for overcharges resulting from Microsoft's monopolistic practices. The settlement returned millions of dollars to local government entities at a time of severe budget crisis in the state.

Transamerican Refining Corporation v. Dravo Corp., No. 88-789 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed on behalf of all cost-plus purchasers of specialty steel pipe. Fabricators and suppliers of that pipe were sued on allegations of a nationwide price fixing conspiracy. The class, comprised mainly of owners of electric generating plants and oil refineries, achieved a settlement of more than \$49 million.

In approving a settlement, Judge Alan McDonald stated, "[T]he Court is impressed by the manner in which the issues have been addressed, the action has been initiated and resolved; and that is, of course, an accolade to the attorneys on both sides of the issue. And, of course, that is the underlying basis for the Court's approval. No one has more respect for the art of settlement than the incumbent of this bench. It is the most difficult of all undertakings by trial lawyers, and settlement always recognizes their composite judgment, oftentimes of nuances which are impossible to articulate. So given the caliber of the attorneys involved on both sides of this matter, the Court is satisfied that if it is good enough for them, it should be good enough for the Court." *In re Soft Drink Bottling Antitrust Litigation* (E.D. Wash. 1990).

APPELLATE PRACTICE



ATTORNEYS

Lynn Lincoln Sarko
 T. David Copley
 Ben Gould
 Ron Kilgard
 Cari Campen Laufenberg
 Derek Loeser
 Gretchen Obrist
 Erin Riley
 Matthew Preusch
 Karin Swope

Appeals require specialized skills and experience, and Keller Rohrback has a seasoned appellate team that includes award-winning brief writers and outstanding oral advocates. Our appellate expertise is particularly important in large cases, including complex class actions. Keller Rohrback has the experience and talent to handle any issue that arises involving interlocutory appeals and will work to ensure that any judgment or settlement is affirmed on appeal.

REPRESENTATIVE CASES

Clarke v. Baptist Memorial Healthcare Corp., --F. App'x -- (6th Cir. 2016)

Keller Rohrback overturned the district court's denial of intervention, thus allowing our clients to challenge an earlier denial of class certification.

Baker v. Microsoft Corp., 797 F.3d 607 (9th Cir. 2015)

In this proposed class action arising from a defect in Microsoft's Xbox 360, Keller Rohrback persuaded the Ninth Circuit that the trial court had erred by striking the class allegations from the complaint.

Alcantara v. Bakery & Confectionary Union, 751 F.3d 71 (2d Cir. 2014)

Keller Rohrback successfully defended the trial court's decision and judgment that the Defendants had unlawfully reduced pension benefits.

Gates v. UnitedHealth Group Inc., 561 F. App'x 73 (2d Cir. 2014)

Keller Rohrback persuaded the Second Circuit to reverse the district court's dismissal of our client's claims for medical coverage.

Wurtz v. Rawlings Co., 761 F.3d 232 (2d Cir. 2014)

Keller Rohrback submitted an amicus brief on behalf of the New York State Trial Lawyers Association in support of the appellants. The Second Circuit cited the amicus brief and adopted much of its reasoning in reversing the trial court.

Heckman v. Williamson County, 369 S.W.3d 137 (Tex. 2012)

Keller Rohrback represented a proposed class of indigent criminal Defendants who challenged the constitutionality of a number of pretrial procedures. Keller Rohrback persuaded the Texas Supreme Court to reverse the Texas Court of Appeals and allow the Plaintiffs to proceed with their claims.

Braden v. Wal-Mart Stores, Inc., 588 F.3d 585 (8th Cir. 2009)

Keller Rohrback represented a class of Wal-Mart employees who alleged that Wal-Mart's 401(k) plan charged them excessive fees. Keller Rohrback convinced the Eighth Circuit to reverse the trial court and reinstate the employees' claims.

In re Syncor ERISA Litigation, 516 F.3d 1095 (9th Cir. 2008)

Keller Rohrback represented a group of workers who alleged that their employer had violated the law by investing their retirement savings in the employer's stock. Keller Rohrback convinced the Ninth Circuit to reverse the dismissal of the trial court and reinstate the workers' claims.

BANKRUPTCY-RELATED LITIGATION



ATTORNEYS

Laurie Ashton
Gary A. Gotto
Christopher Graver

Keller Rohrback attorneys have deep and broad experience litigating in the bankruptcy courts on behalf of debtors, creditors, and creditor committees, as well as on behalf of Plaintiffs whose claims were interrupted by bankruptcy petitions. Our experience includes representing class claimants in numerous large-scale bankruptcies. These representations have involved virtually all areas of sophisticated bankruptcy practice, including: (i) pursuing relief from an automatic to litigate claims in district court; (ii) filing and opposing orders to withdraw the reference to the bankruptcy court; (iii) certifying a claimant class in bankruptcy; (iv) asserting rights to officer, director, or fiduciary insurance policies between conflicting bankruptcy claimants; (v) evaluating and negotiating proposals for debtor financing, cash collateral orders, estate sale orders and other bankruptcy

administrative matters; (vi) defending against subordination claims, and; (vii) negotiating acceptable terms of a plan of reorganization with the debtors' committee, creditors' committees, and other constituencies.

Keller Rohrback's bankruptcy attorneys also have extensive experience in a wide variety of matters involving corporate restructuring and commercial bankruptcies. Our bankruptcy clients range from tort claimants to operating entities to institutional lenders. Examples include representation of the official committee of victims of clergy sexual abuse in the Chapter 11 reorganization of a Catholic diocese, the debtors in a reorganization of fifty commercial real properties across the nation; and a national services company in the acquisition of a competitor's assets in a bankruptcy court-approved sale in the Northern District of California.

In addition to the representative cases listed below, Keller Rohrback has achieved similar results in numerous other bankruptcy proceedings involving corporations such as Global Crossing Ltd., Mirant Corp., Delphi Corp., and Fremont General Corp.

REPRESENTATIVE CASES

In re Enron Corp., No. 01-16034 (Bankr. S.D.N.Y.)

Keller Rohrback obtained stay relief to pursue litigation in the Southern District of Texas and defended against a motion to subordinate claims. Keller Rohrback achieved a settlement for the class that included the allowance of a \$364 million claim in the Enron bankruptcy.

In re WorldCom, Inc., Nos. 02 Civ. 3288(DLC), 02 Civ. 8981(DLC) (Bankr. S.D.N.Y.)

Keller Rohrback defended against a motion to subordinate claims and successfully negotiated a simultaneous resolution of claims in the bankruptcy and district courts against third parties in the total amount of \$48 million.

In re Nortel Networks, Inc., No. 09-10138(KG) (Bankr. D. Del.)

Keller Rohrback represented class claimants in simultaneous insolvency proceedings in Canada under the Companies' Creditors Arrangement Act and bankruptcy court in the District of Delaware. Keller Rohrback obtained stay relief to pursue litigation in the Middle District of Tennessee and ultimately settled class claims in Tennessee for over \$21 million.

In re Washington Mutual, Inc., No. 08-12229(MFW) (Bankr. D. Del.)

Keller Rohrback sought stay relief to pursue litigation in the Western District of Washington and pursued claims in bankruptcy court in Delaware, resulting in a simultaneous resolution of claims in the bankruptcy and district courts for \$20 million.

CONSUMER PROTECTION CLASS ACTIONS

ATTORNEYS

Lynn Lincoln Sarko
Gretchen Freeman Cappio
T. David Copley
Raymond Farrow
Eric Fierro
Laura Gerber
Meredith Gray
Mark Griffin
Amy N.L. Hanson
Khesraw (Kash) Karmand
David Ko
Cari Campen Laufenberg
Elizabeth A. Leland
Tana Lin
Ryan McDevitt
Michael Meredith
Gretchen Obrist
Mark D. Samson
Karin B. Swope
Havila C. Unrein
Amy Williams-Derry
Michael Woerner

For decades, consumers have trusted the attorneys of Keller Rohrback to protect them from harmful and unfair trade practices. Our firm is a leader in representing consumers in class action lawsuits in diverse areas, including vehicles, children's products, food contamination, drugs, mortgage modifications, identity theft, and data breaches. Keller Rohrback currently represents a wide range of consumers, such as vehicle owners and lessees, parents, environmentalists, fishermen, employees, professors, doctors, and nurses.



Through decades of hard work, ingenuity, and creativity, Keller Rohrback has achieved meaningful results for decades. These results impact not just our clients, but future consumers too; for example, homeowners now benefit from improved loan-modification practices at one of the country's biggest banks as a result of our advocacy.

Keller Rohrback attorneys are frequently featured speakers and presenters at prestigious legal education seminars on class actions, consumer protection, and data privacy.

REPRESENTATIVE CASES

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 (N.D. Cal.)

Keller Rohrback filed the first multi-Plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Our clients are consumers nationwide who allege they have been damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States and over eleven million worldwide. Keller Rohrback Managing Partner Lynn Sarko serves on the Plaintiffs' Steering Committee for this national litigation.

In re JPMorgan Chase Mortgage Modification Litigation, MDL No. 2290 (D. Mass.)

Keller Rohrback served as Co-Lead Counsel in this MDL, representing homeowners who attempted to obtain mortgage loan modifications from JPMorgan Chase and related entities. Plaintiffs alleged breach of contract and violations of consumer protection laws when Defendants failed to timely evaluate or approve mortgage modification applications of homeowners who had completed identified prerequisites. Keller Rohrback achieved a settlement for the class valued at over \$500 million.

In re Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation, MDL No. 08-1967 (W.D. Mo.)

Keller Rohrback served on the Plaintiffs' Steering Committee in this MDL on behalf of purchasers of plastic baby bottles and "sippy" cups which contained the chemical bisphenol-A (BPA). The action was favorably settled.

CONSUMER PROTECTION CLASS ACTIONS

REPRESENTATIVE CASES continued

In re Mattel, Inc., Toy Lead Paint Products Liability Litigation, MDL No. 1897 (C.D. Cal.)

Keller Rohrback served as Chair of the Executive Committee in this nationwide MDL against Mattel and Fisher-Price on behalf of purchasers of toys recalled because they were manufactured using lead paint and/or dangerous magnets. On behalf of Plaintiffs, Keller Rohrback achieved a settlement valued at approximately \$50 million.

Brotherson v. Professional Basketball Club, L.L.C., No. 07-1787 (W.D. Wash.)

Keller Rohrback represented Seattle Sonics season ticket holders who renewed their 2007–2008 season ticket packages before the team was relocated to Oklahoma City. After Plaintiffs prevailed on summary judgment, the parties negotiated a significant settlement that returned substantial sums to the class.

In re Checking Account Overdraft Litigation, No. 09-2036 (S.D. Fla.)

Keller Rohrback serves as Co-Executive Lead Counsel with regard to Defendant, Key Bank, representing consumers who allege that KeyBank violated state law by changing the order of debit card transactions to increase overdraft fees charged to customers, resulting in unlawful profits to the bank in the tens of millions of dollars. The matter is on appeal to the Eleventh Circuit.

Telephone Consumer Protection Act Cases, (King Cnty. Super. Ct., Wash.)

Keller Rohrback prosecuted numerous class actions concerning the sending of unsolicited facsimiles in violation of the Washington Telephone Consumer Protection Act, resulting in the issuance of eleven permanent injunctions and the recovery of over \$56 million on behalf of injured Plaintiffs.

Ormond v. Anthem, Inc., No. 05-1908 (S.D. Ind.)

Anthem Insurance converted from a mutual company to a stock company on November 2, 2001. More than 700,000 former members of the mutual company sued Anthem, alleging that the cash compensation they received as a result of the demutualization was inadequate. After class certification and shortly before the start of trial, Keller Rohrback and co-counsel settled the action for \$90 million.

Corona v. Sony Pictures Entertainment, Inc., No. 14-9600 (C.D. Cal.)

Keller Rohrback serves as interim Co-Lead Counsel and Liaison Counsel in this case against Sony Pictures Entertainment, Inc. on behalf of former and current Sony employees affected by the company's highly publicized data breach. Plaintiffs alleged that Sony failed to secure and protect its computer systems, servers, and databases, resulting in the release of the named Plaintiffs and other class members' personal information. Keller Rohrback obtained a significant settlement for the class in October 2015, which was approved in April 2016.

Iacovelli v. SBTickets.com, LLC, No. 15-1459 (Maricopa Cnty. Super. Ct., Ariz.)

Keller Rohrback filed a class action in Arizona state court on behalf of individuals who paid for, but did not receive, tickets to the 2014 Super Bowl (Super Bowl XLIX) from the ticket broker SBTickets. Despite purchasing tickets and receiving numerous representations that their tickets were guaranteed, SBTickets customers were told just days before the game, and in some instances, only hours before kickoff, that their ticket orders would not be fulfilled. The case was settled on favorable terms for the class notwithstanding the Defendant's insolvency and bankruptcy proceedings.

EMPLOYEE BENEFITS



ATTORNEYS

Lynn Lincoln Sarko
 Laurie Ashton
 Gretchen Freeman Cappio
 T. David Copley
 Alison Gafney
 Laura Gerber
 Matthew Gerend
 Gary Gotto
 Benjamin Gould
 Amy N. L. Hanson
 Khesraw (Kash) Karmand
 Dean N. Kawamoto
 Ron Kilgard
 David Ko
 Cari Campen Laufenberg
 Elizabeth A. Leland
 Jeffrey Lewis
 Derek Loeser
 Ian Mensher
 Gretchen Obrist
 David Preminger
 Jacob Richards
 Erin Riley
 Karin B. Swope
 Havila C. Unrein
 Amy Williams-Derry

Keller Rohrback is the preeminent firm for Employee Retirement Income Security Act of 1974 (ERISA) and other benefit class action litigation. Our firm is a pioneer of ERISA class action litigation, with over a billion dollars of pension and health benefits recovered for our clients. Keller Rohrback has played a major role in developing the law and establishing that ERISA's strict fiduciary duties apply to all investments in company-sponsored retirement plans, as well as to benefits in health and welfare plans.

Keller Rohrback is routinely appointed lead or co-lead counsel in major employee benefit class actions. Our work in this complex and rapidly developing area has been praised by our clients, our co-counsel, and federal courts. Managing a complex, large-scale employee benefit case requires knowledge of employee benefit, securities, accounting, corporate, bankruptcy, and class action law. Keller Rohrback has excelled in these cases by developing a deep understanding of ERISA and by drawing on our expertise in numerous related practice areas.

Keller Rohrback attorneys are frequently featured speakers and presenters at prestigious legal education seminars on employee benefit class actions and ERISA.

REPRESENTATIVE CASES

Whetman v. IKON Office Solutions, Inc., MDL No. 1318 (E.D. Pa.)

The wave of 401(k) company stock cases began with *Whetman v. IKON Office Solutions, Inc.* In a first-of-its-kind complaint, we alleged that company stock was an imprudent investment for IKON's 401(k) plan, that the fiduciaries of the plan failed to provide complete and accurate information concerning company stock to the participants, and that they failed to address their conflicts of interest. This case resulted in ground-breaking opinions in the ERISA 401(k) area of law on motions to dismiss, class certification, approval of securities settlements with a carve-out for ERISA claims, and approval of ERISA settlements providing a total recovery to the Plans of \$111 million. Judge Katz granted final approval of the settlement on August 9, 2002.

In re Enron Corp. ERISA Litigation, MDL No. 1446 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of Texas. After groundbreaking motions to dismiss decisions and several years of discovery, Keller Rohrback negotiated five separate settlements with different groups of Defendants, resulting in recoveries of over \$264 million for the class. Judge Melinda Harmon approved the fifth and final settlement on February 23, 2007.



EMPLOYEE BENEFITS

REPRESENTATIVE CASES continued

In re Lucent Technologies, ERISA Litigation, No. 01-3491 (D.N.J.)

Keller Rohrback served as Co-Lead Counsel in this class action brought on behalf of participants and beneficiaries of the Lucent defined contribution plans who invested in Lucent stock. A settlement providing injunctive relief and the payment of \$69 million to the plan was approved by Judge Joel Pisano on December 12, 2003.

In re WorldCom, Inc. ERISA Litigation, No. 02-4816 (S.D.N.Y.)

Keller Rohrback served as Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the WorldCom 401(k) Salary Savings Plan who invested in WorldCom stock. Settlements providing for injunctive relief and payments of over \$48 million to the plan were approved by Judge Denise Cote on October 26, 2004 and November 21, 2005.

"[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity...[Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions... [Keller Rohrback] should be appropriately rewarded as an incentive for the further protection of employees and their pension plans not only in this litigation but in all ERISA actions." *In re WorldCom, Inc. ERISA Litigation*, No. 02-4816, 2004 WL 2338151, *10 (S.D.N.Y. Oct. 18, 2004) (Cote, J.).

In re AIG ERISA Litigation, No. 04-9387 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for injunctive relief and the payment of \$25 million to the plans was approved by Judge Kevin T. Duffy on October 8, 2008.

In re AIG ERISA Litigation II, No. 08-5722 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for injunctive relief and the payment of \$40 million to the plans was approved by Judge Laura Swain on September 18, 2015.

Alvidres v. Countrywide Financial Corp., No. 07-5810 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action filed on behalf of participants and beneficiaries of the Countrywide 401(k) plan who invested in Countrywide stock. A settlement providing for injunctive relief and the payment of \$55 million to the plan was approved by Judge John F. Walter on November 16, 2009.

In re CMS Energy ERISA Litigation, No. 02-72834 (E.D. Mich.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Eastern District of Michigan on behalf of participants and beneficiaries of the CMS defined contribution plans who invested in CMS stock. A settlement providing injunctive relief and a payment of \$28 million to the plan was approved by Judge George Caram Steeh on December 27, 2004.



EMPLOYEE BENEFITS

REPRESENTATIVE CASES continued

In re Dynegy, Inc. ERISA Litigation, No. 02-3076 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of Texas on behalf of participants and beneficiaries of the Dynegy defined contribution plans who invested in Dynegy stock. A settlement providing injunctive relief and a payment of \$30.75 million to the plan was approved by Judge Sim Lake on March 5, 2004.

In re Fremont General Corporation Litigation, No. 07-2693 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action filed in the Central District of California on behalf of participants and beneficiaries of the Fremont 401(k) plan who invested in Fremont stock. A settlement providing injunctive relief and a payment of \$21 million to the plan was approved by Judge Jacqueline Nguyen on August 10, 2011.

In re Global Crossing, Ltd. ERISA Litigation, No. 02-7453 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the GX defined contribution plans who invested in GX stock. A settlement providing injunctive relief and a payment of \$79 million to the plan was approved by Judge Gerard Lynch on November 10, 2004.

In re HealthSouth Corp. ERISA Litigation, No. 03-1700 (N.D. Ala.)

Keller Rohrback served as Lead Counsel in this class action filed in the Northern District of Alabama on behalf of participants and beneficiaries of HealthSouth's retirement plans who invested in HealthSouth stock. A settlement providing injunctive relief and a payment of \$28.875 million to the plan was approved by Judge Bowdre on June 28, 2006.

In re Household International, Inc. ERISA Litigation, No. 02-7921 (N.D. Ill.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Northern District of Illinois on behalf of participants and beneficiaries of Household's retirement plans who invested in Household stock. A settlement providing injunctive relief and a payment of \$46.5 million to the plan was approved by Judge Samuel Der-Yeghiayan on November 22, 2004.

In re Merck & Co., Inc. "ERISA" Litigation, MDL No. 1658 (D.N.J.)

Keller Rohrback served on the Co-Lead Counsel Committee in this class action filed in the District of New Jersey on behalf of participants and beneficiaries of Merck's retirement plans who invested in Merck stock. A settlement providing injunctive relief and a payment of \$49.5 million to the plan was approved by Judge Stanley R. Chesler on November 29, 2011.

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, No. 07-10268 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of Merrill Lynch's defined contribution plans who invested in Merrill Lynch stock. A settlement providing injunctive relief and a payment of \$75 million to the plans was approved by Judge Jed S. Rakoff on August 21, 2009.

In re State Street Bank and Trust Co. ERISA Litigation, No. 07-8488 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Southern District of New York brought on behalf of participants and beneficiaries in the company's retirement plans. A settlement providing a payment of \$89.75 million was approved by Judge Richard J. Holwell on February 19, 2010.



EMPLOYEE BENEFITS

REPRESENTATIVE CASES continued

Overall v. Ascension Health, No. 13-11396 (E.D. Mich.)

Keller Rohrback served as Co-Lead Counsel in this lawsuit that alleged Defendants' claim that the Ascension pension plans are exempt from ERISA's protections because it is a "church plan" is improper because, among other things, Ascension Health is not a church, or a convention or association of churches, and the Ascension Pension Plans were not established by a church or a convention or association of churches. A settlement providing for equitable relief, plus payment of \$8 million to the plans was approved by Judge Avern Cohn on April 14, 2015. Keller Rohrback continues to litigate a number of similar cases throughout the country, challenging Defendants' claims that their pension plans are exempt from ERISA.

In re Washington Mutual, Inc. ERISA Litigation, No. 07-1874 (W.D. Wash.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Western District of Washington on behalf of participants and beneficiaries in the company's retirement plans who invested in Washington Mutual stock. On January 7, 2011, Judge Marsha J. Pechman granted final approval of the \$49 million settlement in the ERISA action.

In re Williams Companies ERISA Litigation, No. 02-153 (N.D. Okla.)

Keller Rohrback served as Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Northern District of Oklahoma on behalf of participants and beneficiaries in the company's retirement plans who invested in Williams stock. A settlement providing a payment \$55 million in cash, plus equitable relief, was approved by Judge Terence C. Kern on November 16, 2005.

In re Xerox Corporation ERISA Litigation, No. 02-1138 (D. Conn.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action in the District of Connecticut on behalf of participants and beneficiaries in the company's retirement plans who invested in Xerox stock. A settlement providing for equitable relief plus a payment of \$51 million to the plans was approved by Judge Alvin Thompson on April 14, 2009.

"The Court finds that [Keller Rohrback] is experienced and qualified counsel who is generally able to conduct the litigation as lead counsel on behalf of the putative class. Keller Rohrback has significant experience in ERISA litigation, serving as co-lead counsel in the Enron ERISA litigation, the Lucent ERISA litigation, and the Providian ERISA litigation, and experience in complex class action litigation in other areas of law" *In re Williams Cos. ERISA Litigation*, No. 02-153, 2002 U.S. Dist. LEXIS 27691, *8 (N.D. Okla. Oct. 28, 2002) (Holmes, J.).



EMPLOYEE BENEFITS

REPRESENTATIVE CASES continued



Fish v. Greatbanc Trust Company, No. 09-1668 (N.D. Ill.)

Keller Rohrback represents participants in the Antioch ESOP in this lawsuit filed in the Northern District of Illinois. Plaintiffs allege that Defendants breached their ERISA fiduciary duties by allowing the Antioch Company to redeem the Antioch shares of non-ESOP shareholders for more than they were worth, leaving the Antioch ESOP as the sole shareholder of a company with a greatly reduced value.

Potter v. ConvergEx, No. 13-9150 (S.D.N.Y.)

Keller Rohrback serves as Co-Counsel in this lawsuit filed in the Southern District of New York that alleges Defendants violated ERISA by “double-charging” for transition management and brokerage services. Defendants funneled trade orders to an offshore subsidiary broker located in Bermuda, which created a “spread” between the actual investment price and the reported price by adding markups/markdowns. While the reported price was confirmed with customers, the actual price was undisclosed and constituted unauthorized additional compensation.

Rader v. Bruister, No. 13-1081 (S.D. Miss.)

This case alleges breach of fiduciary duty and prohibited transactions in connection with the purchase by the Bruister Company ESOP of shares from its founder. In 2014, Keller Rohrback obtained a judgment for approximately \$6.5 million after a lengthy bench trial. Collection actions are proceeding on the existing judgment. Defendants appealed the judgment. The appeal was fully briefed and argued in 2015.

“[T]he Court expressly finds that the [Keller Rohrback] attorneys added considerable value to the prosecution of these claims through their briefing, preparation, and courtroom appearances. . . . The [Keller Rohrback] attorneys were skilled and knowledgeable in ESOP litigation . . .” *Perez v. Bruister*, 2015 WL 5712883, at *4 (S.D. Miss. 2015) (Jordan, J.)

ENVIRONMENTAL LITIGATION



ATTORNEYS

Lynn Lincoln Sarko
Gretchen Freeman Cappio
Alison Chase
Derek Loeser
Daniel Mensher
Matthew Preusch
Amy Williams-Derry
Michael Woerner

Attorneys in Keller Rohrback's Complex Litigation Group have successfully represented individuals, class members, municipalities, and nonprofit organizations in complex and critical environmental litigation. In cases involving oil spills, mishandled hazardous waste, contaminated consumer products, and industrial pollution, Keller Rohrback works to protect human health and the environment. The firm combines its unparalleled experience in consumer protection and its deep knowledge of environmental law, making Keller Rohrback a worldwide leader in litigation to safeguard our environment and the people and animals that rely on it.

REPRESENTATIVE CASES

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Litigation, No. 3:15-md-02672 (N.D. Cal.)

Keller Rohrback filed the first multi-plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Our clients are consumers nationwide who allege they have been damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States and over eleven million worldwide. Keller Rohrback's Lynn Sarko serves on the Plaintiffs' Steering Committee for this national litigation.

In re Exxon Valdez, No. 89-95 (D. Alaska)

Keller Rohrback was trial counsel representing fishermen, landowners, and businesses located in Prince William Sound in their action against Exxon to recover damages caused by the Exxon Valdez oil spill. A federal jury awarded a \$5 billion judgment in favor of Keller Rohrback clients. At the time, it was the largest punitive damages verdict in U.S. history. Additional claims against the pipeline owner were settled for \$98 million. More than twenty-five years after the tragic spill, the Exxon Valdez spill is still considered one of the most devastating human-caused environmental disasters. In addition, Keller Rohrback Managing Partner Lynn Sarko was appointed to serve as the Administrator of the Exxon and Alaska Qualified Settlement Funds.

Andrews v. Plains All American Pipeline, No. 2:15-cv-04113 (C.D. Cal.)

Keller Rohrback serves as interim co-lead counsel representing fisherman, fish processors, tour companies, and others affected by the May 2015 spill from Plains All American's Line 901 pipeline in Santa Barbara County. The oil spill contaminated pristine beaches, closed critical fishing grounds, and damaged natural resources throughout the region. Keller Rohrback seeks compensation for victims of the spill for their present and future damages and to hold Plains accountable for the harm it caused to the local economy and environment.



Photo: Mark Colman

ENVIRONMENTAL LITIGATION



REPRESENTATIVE CASES continued

Meeker v. Bullseye Glass Co., No. 16CV07002, Circuit Court of the State of Oregon, County of Multnomah

Keller Rohrback has filed the first and only complaint against Bullseye Glass company for contaminating a residential neighborhood in Portland Oregon by emitting hazardous levels of arsenic, cadmium, lead, chromium, and other toxic materials from its facility. Despite using thousands of pounds a year of dangerous heavy metals, Bullseye Glass has used no pollution control technology at all for more than four decades. Using innovative air and soil monitoring, Keller Rohrback is helping this neighborhood to protect itself and hold Bullseye accountable for the harm it has caused.

Wishtoyo Foundation v. Magic Mountain, No. 2:12-cv-05600 (C.D. Cal.)

Keller Rohrback worked with a team of environmental lawyers on behalf of Los Angeles-based clients who successfully negotiated a groundbreaking settlement with Six Flags Magic Mountain to address its stormwater pollution discharged to the Santa Clara River. The settlement significantly reduced the amount of heavy metals and other pollutants entering the Santa Clara from the amusement park by requiring the facility to install state-of-the-art technology, develop and implement a comprehensive site management plan, and fully comply with the Clean Water Act. Additional monetary payments made by Six Flags as a result of the case are being used to perform critical habitat restoration and mitigation projects along the Santa Clara River.

Mapleton Groundwater Litigation (Ruff v. Ensign-Bickford Industries, Inc.), No. 2:99-cv-120B (D. Utah)

Keller Rohrback attorneys successfully litigated a series of groundwater contamination suits against multiple international Defendants accused of releasing hazardous chemicals into the watershed over six decades. The suits were brought on behalf of individuals and their families against Defendants who owned a former explosives plant in Mapleton, Utah. The Plaintiffs alleged that improper waste



Photo: Mark Colman

disposal caused contaminants to seep into the groundwater and that the chemicals caused property damage and non-Hodgkin's lymphoma cancers affecting numerous residents. The matter involved complex scientific issues related to hydrogeology, chemical migration pathways, aquifer dynamics, clean-up methods, and contaminant degradation. The litigation resolved prior to trial after lengthy evidentiary hearings at which Plaintiffs received favorable Daubert rulings.

Clean Water Act Enforcement - General Magnaplate

In partnership with the non-profit Environmental Defense Center, one of the oldest environmental organizations in the United States, Keller Rohrback L.L.P. helped reach a final settlement with General Magnaplate California to control the significant pollutants the company discharged via stormwater into the fragile Santa Clara River. Under the settlement, General Magnaplate agreed to implement enhanced storm water management measures at its electroplating facility to ensure that storm water runoff does not contain high levels of pollutants that pose a threat to human health and the environment. These measures include installing effective treatment technology and repairing paved surfaces. In addition, General Magnaplate will contribute \$15,000 to the Rose Foundation for Communities and the Environment to be used to improve the water quality in the Santa Clara River watershed.



INTERNATIONAL LAW

ATTORNEYS

Lynn Lincoln Sarko
Laurie Ashton
Alison Chase
Juli Farris
Gary A. Gotto
Ian Mensher

Keller Rohrback has experience in international forums. Keller Rohrback clients include sovereign nations, state and local governments, sovereign Native American tribes, and quasi-governmental agencies where international agreements or other tort or statutory claims are at issue.

Keller Rohrback has been honored to represent sovereigns in litigation and arbitration matters involving governmental and business entities. The firm currently has three cases pending in the International Court of Justice and is pursuing a breach of treaty claim on behalf of a sovereign nation. Keller Rohrback is also investigating environmental contamination claims on behalf of a sovereign nation.

Keller Rohrback attorneys have represented clients in international arbitration proceedings, including International Centre for Dispute Resolution and International Chamber of Commerce arbitrations, as well as ad hoc arbitrations conducted under the United Nations Commission on International Trade Law Arbitration Rules. Domestically, these international arbitrations have given rise to related litigation in U.S. courts, including confirmation and enforcement proceedings under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.



In addition, Keller Rohrback attorneys have represented private clients with international interests in civil litigation in U.S. courts, including state and federal courts in California, New York, Illinois, and Texas. Keller Rohrback attorneys have litigated trademark claims on foreign-registered trademarks in several western European countries and have also succeeded in obtaining rulings to conduct depositions and other discovery in Russia for litigation matters pending in the U.S. federal courts. The firm has also represented claimants in insolvency proceedings in Canada, proceeding under the Companies' Creditors Arrangement Act.

Keller Rohrback is a member firm of several international organizations: the Global Justice Network, a consortium of international counsel working together and across borders for the benefit of victims; the International Financial Litigation Network

of attorneys, who handle cross-border litigation in the finance arena; and the Sovereign Wealth Fund Institute, a global organization of asset managers and service providers.

REPRESENTATIVE CASES

The Republic of the Marshall Islands v. United States of America et al., No. 14-1885 (N.D. Cal.)

Keller Rohrback currently represents the Republic of the Marshall Islands (RMI), a sovereign nation, in an action for breach of the Treaty on the Non-Proliferation of Nuclear Weapons, and in multiple similar cases pending at the International Court of Justice against the United Kingdom, India, and Pakistan. For this ground-breaking work, Keller Rohrback has been nominated by the International Peace Bureau for the 2016 Nobel Peace Prize as part of the international legal team representing the RMI, together with the RMI's former Foreign Minister, Tony deBrum, who initiated the litigation.

SECURITIES AND FINANCIAL FRAUD



ATTORNEYS

Lynn Lincoln Sarko
 Alison Chase
 Juli Farris
 Eric Fierro
 Matthew Gerend
 Gary A. Gotto
 Benjamin Gould
 Mark Griffin
 Dean N. Kawamoto
 Ron Kilgard
 David Ko
 Derek W. Loeser
 Ryan McDevitt
 Ian Mensher
 Michael W. Meredith
 Gretchen Obrist
 David S. Preminger
 Erin Riley
 Karin B. Swope
 Havila C. Unrein
 Amy Williams-Derry

Keller Rohrback enjoys a national reputation for excellence in prosecuting securities and financial fraud matters. We represent a variety of investors ranging from classes of individuals to large institutions. Many of our cases reflect recent financial scandals: we are pursuing claims against a group of international banks for rigging LIBOR; we represent investors in connection with their purchases of billions of dollars of mortgage-backed securities; and we pursued claims on behalf of employee benefit plans in connection with the Madoff Ponzi scheme. While our experience is diverse, our approach is simple and straightforward: we master the factual and legal bases for our claims with a focus on providing clear and concise explanations of the financial fraud and why our clients are entitled to recover.

REPRESENTATIVE CASES & SUCCESSES

Federal Home Loan Bank Litigation

Keller Rohrback has played a prominent role in large securities fraud and other investment cases litigated across the country involving mortgage-backed securities. Keller Rohrback has been retained by several Federal Home Loan Banks (FHLBs) to pursue securities and common law claims against dozens of issuers, underwriters, and sponsors of mortgage-backed securities. The FHLB complaints named more than 120 defendants and involved over 200 securities with a collective original face value of \$13 billion. The relief sought by the FHLBs includes rescission and damages under state blue sky laws and the federal securities laws. We have recovered hundreds of millions of dollars on behalf of our clients to date.

In re the Bank of New York Mellon (as Trustee), No. 651786/2011 (N.Y. Sup. Ct.)

Keller Rohrback was a member of the three-firm steering committee addressing significant mortgage repurchase issues that impacted institutional investors. Keller Rohrback represented certificate holders who intervened in a proposed \$8.5 billion settlement initiated by Bank of New York Mellon, as Trustee of 530 Countrywide mortgage-backed securities trusts. Our firm played a lead role in discovery and the eight-week bench trial in New York contesting the fairness of the settlement. The objection we pursued and tried was the only objection that the trial court sustained.

In re LIBOR-Based Financial Instruments Antitrust Litig., No. 11-2262 (S.D.N.Y.)

Keller Rohrback represents institutional funds pursuing antitrust claims based on the manipulation of the London Interbank Offered Rate (LIBOR) by the international panel of banks entrusted to set that rate. Multiple government investigations have revealed that certain panel banks manipulated LIBOR to mislead the markets and investors about the state of their financial health. The case is in discovery.

Diebold v. Northern Trust Investments, N.A., 09-1934 (N.D. Ill.)

Keller Rohrback was Class Counsel in this class action litigation against Northern Trust alleging that Northern Trust imprudently structured and managed its securities lending program by improperly investing cash collateral in long term debt, residential mortgage-backed securities, SIVs, and other risky and illiquid assets. On August 7, 2015, Judge Susan E. Cox approved the allocation plan for a \$36 million settlement.

SECURITIES AND FINANCIAL FRAUD



SUCCESSSES continued

Louisiana Firefighters' Retirement System v. Northern Trust Investments, N.A., No. 09-7203 (N.D. Ill.)

Keller Rohrback is Co-Lead Counsel in this securities lending litigation, a class action brought on behalf of four public retirement systems alleging that Northern Trust breached its fiduciary and contractual duties to investors when it imprudently structured and managed its securities lending program by improperly investing cash collateral in long-term debt, residential mortgage-backed securities, SIVs, and other risky and illiquid assets, rather than conservative, liquid investments. Plaintiffs allege that Northern Trust's imprudent management of the collateral pools caused Plaintiffs and other investors to suffer hundreds of millions of dollars in losses. On May 6, 2011, the Honorable Robert W. Gettleman denied in significant part Defendants' motion to dismiss. Plaintiffs also successfully defeated Defendants' third party complaint. The Court thereafter approved a partial settlement of \$24,000,000 in cash, plus interest earned thereon, which represents settlement of the indirect lending claims of settlement class members.

In re Bank of New York Mellon Corp. Forex Transactions Litigation, No. 12-2335 (S.D.N.Y.)

Keller Rohrback served as Lead ERISA Counsel in this class action against the Bank of New York Mellon arising from its undisclosed charges for Standing Instruction Foreign Currency ("SI FX") transactions. Plaintiffs allege that from January 12, 1999 to the present, Bank of New York Mellon breached its fiduciary duties by failing to prudently and loyally manage the Plan's foreign currency transactions in the best interests of the participants, failing to disclose fully the details of the relevant SI FX transactions it was undertaking on behalf of the Plans, and engaging in prohibited transactions. In March 2015, a global resolution of the private and governmental enforcement actions was announced in which \$504 million will be paid back to BNY Mellon customers—\$335 million of which is directly attributable to funds received in the class litigation.

Madoff Direct & Feeder Fund Litigation: Hartman v. Ivy Asset Management LLC, No. 09-8278 (S.D.N.Y.)

Keller Rohrback successfully litigated this direct action on behalf of the trustees of seventeen employee benefit plans damaged by the Madoff Ponzi scheme. The action alleged that Ivy Asset Management and J.P. Jeanneret Associates, Inc. breached their fiduciary duties under ERISA by causing the plans to be invested directly or indirectly in Madoff funds. Keller Rohrback obtained a settlement of over \$219 million in this case and related actions, including claims brought by the United States Secretary of Labor and the New York Attorney General.

In re IKON Office Solutions, Inc. Securities Litigation, MDL No. 1318 (E.D. Pa.)

Keller Rohrback served as Co-Lead Counsel representing the City of Philadelphia and eight other lead Plaintiffs in this certified class action alleging securities fraud. Class counsel achieved the highest securities fraud settlement at that time in the Eastern District of Pennsylvania by settling with Defendant IKON Office Solutions, Inc. for \$111 million. The settlement was listed as one of the "largest settlements in class-action securities-fraud lawsuits since Congress reformed securities litigation in 1995" by *USA Today*.

In re Apple Computer, Inc. Derivative Litigation, No. 06-4128 (N.D. Cal.)

Keller Rohrback served on the Management Committee in this federal derivative shareholder action against nominal Defendant Apple Computer, Inc. and current and former directors and officers of Apple. Plaintiffs pursued breach of fiduciary duty, unjust enrichment, and gross mismanagement claims arising from backdated stock options granted between 1993 and 2001, which diverted millions of dollars of corporate assets to Apple executives. We achieved a settlement that awarded \$14 million—one of the largest cash recoveries in a stock backdating case—and that required Apple to adopt a series of unique and industry-leading corporate enhancements.

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



LYNN LINCOLN SARKO

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PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Appeals
- Class Actions
- Constitutional Law
- Commodities and Futures Contracts
- Consumer Protection
- Data Breach
- Employment Law
- Environmental Litigation
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Institutional Investors
- Intellectual Property
- International Law
- Mass Personal Injury
- Medical Negligence
- Securities
- State and Local Government
- Whistleblower

Lynn Lincoln Sarko is a master strategist and litigator who leads Keller Rohrback's nationally recognized Complex Litigation Group. One of the nation's top attorneys in complex litigation, Lynn does not just help clients win – he helps them win what they want. Through smart, efficient strategy and tailored, creative problem solving, Lynn and his team accomplish the best outcomes while minimizing costs and maximizing value.

Lynn's diverse experience enables him to think outside the box to resolve complex cases. He regularly interacts with international business interests, representing sovereign nations and institutional clients seeking to recover investment losses caused by financial fraud and other malfeasance. He is currently involved in several matters involving complex derivatives and specialty investment products. Lynn is the driving force behind Keller Rohrback's membership with the Sovereign Wealth Fund Institute, a global organization of leading asset managers and service providers engaged in the public investor community. He represents clients with regard to regulatory investigations and issues involving state and federal supervisory agencies and has litigated actions involving several of the nation's largest accounting and investment firms.

Lynn has led the firm's securities and retirement fund practice for over 25 years and regularly serves as lead counsel in multiparty individual and class action cases involving ERISA, antitrust, securities, breach of fiduciary duty, and other investment fraud issues. Other law firms often hire him as settlement counsel in these and other complex cases because of his reputation as a skilled negotiator. His successes in this area include multimillion dollar settlements in the IKON, Anicom, Scientific-Atlanta, United Companies Financial Corp., and Apple securities fraud and derivative cases and the Enron, WorldCom, Global Crossing, Health South, Delphi, Washington Mutual, Countrywide, Lucent, Merrill Lynch, and Xerox consolidated pension and retirement plan cases.

Courts and professional organizations have honored Lynn for his work on financial, fiduciary duty, consumer and numerous other high profile public cases. After serving as trial counsel in the Exxon Valdez Oil Spill case, which resulted in a \$5 billion punitive damages verdict, Lynn was appointed by the court as Administrator for all funds recovered. He prosecuted the Microsoft civil antitrust case, Vitamin price-fixing cases, the MDL Fen/Phen Diet Drug Litigation, and notable public service lawsuits such as Erickson v. Bartell Drug Co., which established a woman's right to prescription contraceptive health coverage.

Prior to joining Keller Rohrback, Lynn was an Assistant United States Attorney for the District of Columbia, Criminal Division, an associate at the Washington, D.C. office of Arnold & Porter, and law clerk to the Honorable Jerome Farris, United States Court of Appeals for the Ninth Circuit, in Seattle. He has been the managing partner of Keller Rohrback since 1991.

Lynn appears in federal courts from coast to coast, maintaining an active national litigation practice. He regularly counsels and represents consumers, employees, and businesses who have suffered harm resulting from the improper disclosure of proprietary, personal, health, and other protected information.

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.

EDUCATION

University of Wisconsin

B.B.A., 1977

University of Wisconsin

M.B.A., 1978, *Beta Alpha Psi*

University of Wisconsin

J.D., 1981, *Order of the Coif*; Editor-in-Chief, *Wisconsin Law Review*; Salmon Dalberg Award (outstanding graduate)

BAR & COURT ADMISSIONS

1981, Wisconsin

1983, District of Columbia

1986, Washington

HONORS & AWARDS

Super Lawyers List, Washington Law & Politics, 1999-2013

Avvo Top Tax Lawyer, Washington CEO Magazine, 2008

Trial Lawyer of the Year, 1995

Salmon Dalberg Award, 1981

PROFESSIONAL & CIVIC INVOLVEMENT

American Bar Association, *Member*

Bar Association of The District of Columbia, *Member*

Federal Bar Association, *Member*

King County Bar Association, *Member*

State Bar of Wisconsin, *Member*

Trial Lawyers for Public Justice, *Member*

Washington State Bar Association, *Member*

Washington State Trial Lawyers Association, *Member*

American Association for Justice, *Member*

Social Venture Partners of Santa Barbara, Founding Partner

The Association of Trial Lawyers of America, *Member*

American Academy of Trial Counsel, *Fellow*

Editorial Board, *Washington State Securities Law Deskbook* (scheduled for publication in 2012)

SELECTED PUBLICATIONS

Thomson/West Webinar, "Stock Drop and Roll: Key Supreme Court Rulings and New Standards in ERISA 'Stock Drop' Cases," July 24, 2014

14th Annual Pension Law, Governance and Solvency Conference, 2013

Canadian Institute's 14th Annual Advanced Forum on Pension Law, Governance and Solvency, 2013

ERISA Litigation & Regulatory Compliance Congress, 2013

American Conference Institute's 6th National Forum on ERISA Litigation, 2013

25th Annual ERISA Litigation Conference, 2012

American Conference Institute's 5th National Forum on ERISA Litigation, 2012

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



LAURIE ASHTON

CONTACT INFO

3101 North Central Avenue, Suite
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Phoenix, AZ 85012

(602) 248-0088

lashton@kellerrohrback.com

PRACTICE EMPHASIS

- Business Reorganizations
- Class Action & Consumer Litigation
- Constitutional Law
- Employee Benefits and Retirement Security
- Fiduciary Breach
- International Law

EDUCATION

University of California, San Diego

B.A., 1987, Economics

Arizona State University College of Law

J.D., 1990, Order of the Coif;
Member, Arizona State Law Journal,
1988-1990; Note and Comment
Editor, *Arizona State Law Journal,*
1989-1990; Student Instructor,
Legal Research and Writing, 1989-
1990.

Laurie Ashton is Of Counsel to Keller Rohrback. Prior to becoming Of Counsel, she was a partner in the Phoenix affiliate of Keller Rohrback. Early in her career, as an Adjunct Professor, she taught semester courses in Lawyering Theory and Practice and Advanced Business Reorganizations. She also served as a law clerk for the Honorable Charles G. Case, U.S. Bankruptcy Court, for the District of Arizona for two years.

In complex litigation, Laurie was the lead attorney for Keller Rohrback in a series of successful groundwater contamination suits brought in 1996 against multiple international defendants concerning chemical releases spanning over 60 years. She was also the lead attorney for Keller Rohrback in an ERISA class action suit on behalf of over 21,000 employees who lost a material percentage of their retirement assets at the hands of fiduciaries who maintained the investment of those assets in their own declining company stock—a case that was, at its time, amongst the largest of its kind in the nation. Laurie has led or been a member of the team leading numerous high profile business reorganizations, including a case in which the Court confirmed a reorganization plan over the objection of the international life insurance company's feasibility expert, based on Laurie's cross examination.

Laurie has been active in the State Bar of Arizona where she served on the Ethics Committee for six years. She was also the coauthor of a textbook on limited liability companies and partnerships, published by West, and is AV rated by Martindale.

An important part of Laurie's international work involves the domestic and international legal implications of treaty obligations and breaches. She is lead counsel for The Republic of the Marshall Islands in its federal court treaty breach suit against the United States, and a member of the international legal team representing the Marshall Islands in three cases pending at the International Court of Justice in The Hague, against the United Kingdom, India and Pakistan. For this work, Laurie is part of the legal team that the International Peace Bureau has nominated, along with the former Foreign Minister of the Marshall Islands, for the 2016 Nobel Peace Prize.

Laurie is frequently interviewed and has been cited by Reuters, Newsweek, Fox News, Huffington Post, Slate Magazine, Radio New Zealand, Radio Australia, and others. She currently serves as a Trustee of the Santa Barbara Foundation, a member of the Human Rights Watch Committee in Santa Barbara, and as a Director of the Global Justice Center in New York, which advances human rights pursuit to various international laws, including the Geneva and Genocide Conventions, as well as customary international law.

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BAR & COURT ADMISSIONS

1990, Arizona

1999, Colorado

2007, Washington, D.C.

2013, Eastern District of Michigan

Sixth Circuit Court of Appeals

Ninth Circuit Court of Appeals

Tenth Circuit Court of Appeals

U.S. Supreme Court

Speaker, United Nations 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons; Panel, *Marshall Islands Nuclear Zero Lawsuits*

Speaker, Humanity House, The Hague, "*Legal Obligations for Nuclear Disarmament*," March 2016.

Speaker, Bertha Von-Suttner Master Class, The Peace Palace, The Hague, "*Forward Into Light, The Barbarization of the Sky*."

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member*

Colorado Bar Association, *Member*

Washington, D.C. Bar Association, *Member*

Adjunct Professor of Law, *Advanced Chapter 11*, Arizona State University, 1996

Adjunct Professor of Law, *Lawyering Theory & Practice*, Arizona State University, 1997

Committee on the Rules of Professional Conduct ("Ethics Committee"), State Bar of Arizona, *Member*, 1997-2003

Court Appointed Special Advocate, King County, 2007-2009

Santa Barbara Foundation, *Trustee*

Global Justice Center, New York, *Director*

Human Rights Watch Committee, Santa Barbara, *Member*

PUBLICATIONS & PRESENTATIONS

Author, Case Note, *Arizona Mortgage and Deed of Trust Anti-Deficiency Statutes: The Underlying Obligation on a Note Secured By Residential Real Property After Baker v. Gardner*, 21 Ariz. St. L.J. 465, 470 (1989).

Co-Author, *Arizona Legal Forms: Limited Liability Companies and Partnerships* (1996-2004).

Guest Lecturer, Harvard Law School, 1997, 1999, 2001-2002.

Guest Lecturer, Stanford Law School, 2003.

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GRETCHEN FREEMAN CAPPIO

CONTACT INFO

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gcappio@KellerRohrback.com

PRACTICE EMPHASIS

- Consumer & Data Privacy Protection
- Employee Benefits and Retirement Security
- Employment Law
- Environmental Litigation
- Financial Products and Services
- Mass Personal Injury
- Whistleblower

Twenty years ago, Gretchen Freeman Cappio was drawn to study law because she wanted to serve people in need of a strong voice in our nation's legal system. Today, Gretchen is committed to serving her clients with the integrity and passion that led her to study law in the first place.

Gretchen is a partner in the firm's nationally recognized Complex Litigation Group focusing on class action cases. She is privileged to work on behalf of a diverse group of deserving clients and only takes cases she truly believes in. Whether the case involves a family who paid a premium for a so-called environmentally-friendly car that actually spews toxins, a municipality that needs a corporation to clean up its own pollution, or hard-working fishers in need of representation against big oil, Gretchen is proud to serve her clients with integrity. Gretchen strives to be—and is humbled to have been called—a lawyer's lawyer. She takes it as a powerful compliment when those in her own profession, as well as physicians, professors, parents and environmentalists, among others, repeatedly call on her when they are in need of excellent, caring representation in the face of long odds.

Gretchen takes on litigation that makes a difference, and she has achieved meaningful results.

The cutting-edge and complex matters she has litigated include advocating on behalf of Volkswagen, Audi and Porsche consumers who unwittingly purchased and leased unlawfully polluting vehicles, in *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litig.*, No. 3:15-md-2672-CRB (N.D. Cal.). She also represented a mid-western town against a paper products company that left behind an environmental disaster and eyesore for the community. Additionally, Gretchen represented parents who discovered their children's products were contaminated and unsafe in *In re Mattel, Inc.*, No. 2:07-ML-01897 (C.D. Cal.), multidistrict litigation regarding hazardous lead-contaminated and magnetic toys. In another prominent consumer class action, her work as co-lead counsel against a major national bank led to the settlement of *In re JPMorgan Chase Mortg. Modification Litig.*, No. 1:11-md-2290 (D. Mass.), which resulted in improved home mortgage modification processes for certain homeowners nationwide.

Gretchen is a litigation leader with respect to privacy issues. She represented plaintiffs in *Krottner v. Starbucks*, where the Ninth Circuit found plaintiffs had standing to sue, holding that plaintiffs alleged a "credible threat of real and immediate harm stemming from the theft of a laptop containing their unencrypted personal data." 628 F.3d 1139, 1143 (9th Cir. 2010). In another cutting-edge privacy case, Gretchen represented plaintiffs in *Erickson v. Bartell Drug Co.*, 141 F. Supp. 2d 1266 (W.D. Wash. 2001), a class action brought on behalf of employees. *Erickson* established that an employer violated Title VII of the Civil Rights Act when its comprehensive insurance coverage plan singled out women and failed to cover certain prescriptions vital to women's health care.

Whether representing employees, municipalities, or families facing difficult circumstances, Gretchen fights for justice and has a record of success. Gretchen works tirelessly to level the playing field for her clients, giving them a powerful voice in our legal system. Among Gretchen's all-time favorite pieces of mail is a photograph of a satisfied client in a baby products case and her young son holding a homemade, hand-written sign that simply says "Thank you Mrs. Cappio."

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.

EDUCATION

Dartmouth College

B.A., *magna cum laude*, 1995, Religion, Environmental Studies Certificate, Phi Beta Kappa, Foreign Studies: 1992
Germany, 1994 Kenya

University of Washington School of Law

J.D., 1999, Executive Comments Editor, Pacific Rim Law & Policy Journal, 1998-1999

BAR & COURT ADMISSIONS

1999, Washington

2000, U.S. District Court for the Western District of Washington

2008, U.S. Court of Appeals for the Eighth Circuit

2009, U.S. Court of Appeals for the Ninth Circuit

2009, U.S. Supreme Court

2011, U.S. District Court for the Eastern District of Washington

2011, U.S. Court of Appeals for the Sixth Circuit

2015, U.S. District Court for the Eastern District of Michigan

PROFESSIONAL & CIVIC INVOLVEMENT

NextGen Advisory Board at the Emory Law Institute for Complex Litigation and Mass Claims, *Member*

The William L. Dwyer American Inn of Court, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

Washington Women Lawyers, *Member*

Washington State Trial Lawyer's Association, *Member*

American Association for Justice, *Member*

The National Trial Lawyers, *Member*

Mother Attorney Mentoring Association (MAMAS), *Member*;

Founding Board Member, 2006-2008

HONORS & AWARDS

Select to Rising Stars list in *Super Lawyers - Washington*, 2002, 2009-2012

PRESENTATIONS & PUBLICATIONS

Panelist, HarrisMartin's MDL Conference, *Settlements in Mass Tort and Class Action Litigation*, July 27, 2016.

Panelist, American Association for Justice webinar, *Dissecting the U.S. Supreme Court Decision in Spokeo, Inc. v. Robins*, May 26, 2016.

Panelist, Law Seminars International - *VW Diesel Emissions Litigation: A Case Study of the Interplay Between Government Regulatory Activity and Consumer Fraud Class Actions*, May 6, 2016.

Presenter, PLI Consumer Financial Services Institute 2016, *Data Security & Privacy Issues*, May 12, 2016.

Panelist, HarrisMartin Pharmaceutical and Environmental Mass Tort Litigation, Class Action and Data Breach Litigation, March 30, 2016.

Panelist, Bridgeport Consumer Class Action Litigation Conference, "Current State of the Law on Ascertainability and Standing," January 8, 2016.

Panelist, HarrisMartin MDL Conference Volkswagen and Pharmaceutical Update: RICO and Additional Defendants, December 2, 2015.

Panelist, Bridgeport Volkswagen Class Action & MDL Seminar – Diesel Emissions Scandal, November 23, 2015.

Panelist, HarrisMartin Volkswagen Diesel Emissions Litigation Conference: RICO and Additional Defendants, October 27, 2015.

Panelist, Law Seminars International, The Eleventh Annual Comprehensive Conference on Class Actions: "Data Breaches: Cases at the Intersection of Class Actions and Internet Technology," June 4, 2015.

Panelist, ABA Section of Dispute Resolution Meeting 17th Annual Spring Conference – Solutions in Seattle: A View From the Trenches: What's Working and What's Not Working with Mediators, April 16, 2015.

Presenter, HarrisMartin Data Breach Litigation Conference: Coming of Age: The Differences between Employee and Consumer Cases, March 25, 2015.



PRESENTATIONS & PUBLICATIONS CONT.

Presenter, Practising Law Institute, Managing Complex Litigation 2014: Class Actions; Mass Torts & MDL, October 21, 2014.

Presenter, Class Action Conference: Recent Settlement Trends in Class Actions and Multidistrict Litigation: A Detailed Look at the Process for Settling and Administering Settlements: How case law in the past several years is playing out in the courts and in ADR; best practices for designing a settlement that the courts will approve; how to administer the settlement once it is approved, June 13, 2014.

Presenter, Harris Martin's MDL Conference: Target Data Security Breach Litigation: Recent Development, Issues in Data Breach Litigation, March 26, 2014.

Presenter, Law Seminars International, Class Actions and Other Aggregate Litigation Seminar: Post-Certification Motion Issues in Class Actions, May 14, 2013.

Panelist, Chartis Security & Privacy Seminar, October 20, 2011.

Presenter, 20th Annual American Bar Association Tort Trial and Insurance Practice Section Spring CLE Meeting: Toxic Torts: Toxins In Everyday Products, April 1, 2011.

Gretchen Freeman Cappio, Erosion of Indigenous Right to Negotiate in Australia, 7 Pac. Rim L. & Pol'y J. 405 (1998).

KELLER ROHRBACK

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ALISON CHASE

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PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- International Law
- Securities

EDUCATION

Emory University

B.A., *magna cum laude*, 2000,
Political Science and Philosophy,
Phi Beta Kappa

Yale Law School

J.D., 2003; Editor, *Yale Law Journal*,
Articles Editor, *Yale Journal of
International Law*

Alison Chase is a committed legal advocate. Alison practices in Keller Rohrback's nationally recognized Complex Litigation Group. Her broad litigation experience includes white collar criminal defense, complex commercial litigation, international commercial arbitration, and international litigation. Alison's diverse experience and interests enable her to advise and guide clients through a wide variety of complex litigation.

Alison is currently part of the litigation team representing several of the Federal Home Loan Banks in mortgage-backed securities litigation. Alison also maintains an active practice in the appellate arena, representing a class of sitting judges as well as the Republic of the Marshall Islands, while also representing private entities in a wide variety of commercial litigation.

Prior to joining the firm, Alison practiced with Irell & Manella in Los Angeles and O'Melveny & Myers in San Francisco. She also served as a clerk to the Honorable J. Clifford Wallace of the U.S. Court of Appeals, Ninth Circuit and the Honorable Valerie Baker Fairbank, U.S. District Judge for the Central District of California.

At home, Alison stays busy keeping up with her three rescue dogs.

BAR & COURT ADMISSIONS

2003, California
2007, United States District Court for the Central District of California
2010, Ninth Circuit Court of Appeals
2011, Arizona
2014, United States District Court for the Northern District of California
2016, United States District Court for the Southern District of California

PROFESSIONAL & CIVIC INVOLVEMENT

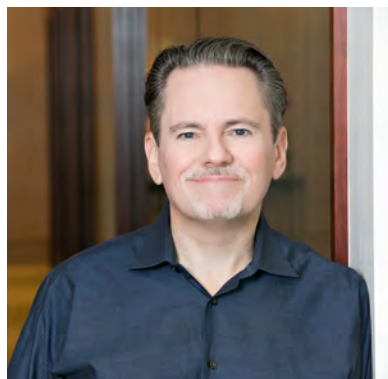
State Bar of California, *Member*
State Bar of Arizona, *Member*

AWARDS & HONORS

Finalist, Morris Tyler Moot Court
Recipient, Gherini Prize for Outstanding Paper in International Law

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T. DAVID COPLEY

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PRACTICE EMPHASIS

- Class Actions & Collective Actions
- Consumer Protection
- Employee Benefits & Retirement Security
- Employment Law
- Breach of Trust

EDUCATION

University of Iowa

B.A., with Honors and Distinction,
1981, Political Science and English,
Phi Beta Kappa, Pi Sigma Alpha

Northwestern University School of Law

J.D., 1984, Coordinating Executive
Editor, *Northwestern University Law
Review*

David Copley brings creative solutions to complicated problems. He is a member of Keller Rohrback's nationally recognized Complex Litigation Group, where his practice is focused on class action and other complex litigation. David is a skilled advocate, with extensive experience in pre-trial proceedings, jury trials, bench trials, arbitrations, and appeals. David's experience and passion bring value to collaborations with his talented Keller Rohrback co-workers and with co-counsel across the Country.

Recent significant representations include: cases against major financial institutions regarding improper fees for foreign currency exchange; ERISA violations arising from conversion of privately-held corporation to ESOP ownership; ERISA violations arising from violation of plan prohibition on reduction of certain benefits; wage and hour class action involving misclassification of financial services workers; wage and hour collective action involving misclassification of certain store managers; and representing a large institutional investor that suffered losses from misrepresentations involving mortgage-backed securities.

David is also committed to community service. He is active in local charities fighting hunger and homelessness, and he is active in the fight for Marriage Equality.

BAR & COURT ADMISSIONS

1985, Arizona

1990, Washington

2015, New York

1985, U.S. District Court for the District of Arizona

1986, U.S. District Court for the Northern District of California

1990, U.S. District Court for the Western District of Washington

1990, U.S. District Court for the Eastern District of Washington

2016, U.S. District Court for the Southern District of New York

1986, U.S. Court of Appeals for the Ninth Circuit

2007, U.S. Court of Appeals for the Eighth Circuit

2009, U.S. Court for Appeals for the Sixth Circuit

2015, U.S. Court of Appeals for the Eleventh Circuit

2015, U.S. Court of Appeals for the Fifth Circuit

2000, U.S. Supreme Court



PROFESSIONAL & CIVIC INVOLVEMENT

National Employment Lawyers Association, *Member*

Public Justice, *Member*

Washington State Association for Justice, *Member*

American Bar Association, *Member*

ABA Section of Civil Rights and Social Justice Committee,
Membership Outreach Chair

King County Bar Association, *Member*

Washington State Bar Association, *Member*

Community Lunch on Capitol Hill, *Chair*, Board of Directors
2008-2013

Northwest Harvest, Board of Directors, 2000-2009; *Chair*,
Board of Directors 2005-2007

HONORS & AWARDS

Public Justice Trial Lawyer of the Year 1995

KELLER ROHRBACK

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JULI FARRIS

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
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PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Appeals
- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- International Law
- Securities
- Whistleblower

EDUCATION

Stanford University

B.A., 1982, English

Stanford Law School

J.D., 1987, Notes Editor, *Stanford Law Review*

Juli Farris's clients count on her high quality work to meet their legal

needs. Juli practices in Keller Rohrback's nationally recognized Complex Litigation Group where her practice focuses on banking and securities litigation at the trial and appellate levels and also includes antitrust, ERISA fraud, and other areas of financial misconduct. Juli has more than 25 years of experience representing both plaintiffs and defendants in complex multiparty litigation involving allegations of securities and bank regulatory law violations, financial fraud and breach of fiduciary duty. She has represented officers and directors of active and failed financial institutions in investigations and litigation regarding bank regulatory matters. Juli divides her time between the firm's Seattle and Santa Barbara offices.

Juli served as a judicial law clerk for Judge E. Grady Jolly of the U.S. Court of Appeals, Fifth Circuit. Prior to joining Keller Rohrback in 1991, she practiced law at the Washington, D.C. office of Sidley Austin where her practice included litigation involving a wide array of subject matters.

BAR & COURT ADMISSIONS

1988, Washington

1989, California

1990, District of Columbia

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Loren Miller Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

Washington State Association for Justice, *Member*

American Bar Foundation, *Member*

Treehouse, *Chair, Board of Directors*

The National Association of Public Pension Attorneys, *Member*

Susan G. Komen, Puget Sound Affiliate, *Board Member*

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HONORS & AWARDS

Super Lawyers List, Washington Law & Politics, 2015

Selected to Rising Stars list in Super Lawyers - Washington, 1991

Recipient of Promise of One Award from the Puget Sound Affiliate of Susan G. Komen for the Cure, 2013

PUBLICATIONS & PRESENTATION

Andrew D. Freeman & Juli E. Farris, *Grassroots Impact Litigation: Mass Filing of Small Claims*, 26 U.S.F.L. Rev. 261 (1992).

Editorial Board, *Washington State Securities Law Deskbook*

REPRESENTATIVE MATTERS

Unger v. Amedisys Inc., 401 F.3d 316 (5th Cir. 2005)

Phillips v. Scientific-Atlanta, Inc., 374 F.3d 1015 (11th Cir. 2004)

In re IKON Office Solutions, Inc., 277 F.3d 658 (3rd Cir. 2002)

In re WorldCom, Inc. ERISA Litig., 354 F. Supp. 2d 423 (S.D.N.Y. 2005)

Hansen v. Ticket Track, Inc., 213 F.R.D. 412 (W.D. Wash. 2003)

In re Scientific-Atlanta, Inc. Securities Litigation, 239 F. Supp. 2d 1351 (N.D. Ga. 2002)

In re Domestic Air Transp. Antitrust Litig., 137 F.R.D. 677 (N.D. Ga. 1991)

In re Potash Antitrust Litig., 954 F. Supp. 1334 (D. Minn. 1997)

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RAYMOND FARROW

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(206) 623-1900
rfarrow@KellerRohrback.com

PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Class Actions
- Consumer Protection
- Financial Products and Services

EDUCATION

University of Manchester (England)

B.A., 1979, Economics

University of Essex (England)

M.A., 1980, Economics

Princeton University

M.A., 1984, Economics

University of Washington School of Law

J.D., 2001

Raymond Farrow understands the economics behind his clients'

cases. Ray, a member of Keller Rohrback's nationally recognized Complex Litigation Group, is a litigation attorney whose practice focuses on antitrust and consumer protection. His background as an academic economist and teacher makes him uniquely qualified to work with economic experts and to communicate statistics and economic analysis to his clients and to the Court.

Working on antitrust matters, Ray must navigate the rules and issues of varied industries, including hi-tech industries involving constantly changing software and hardware. His many years of experience, strong working relationships with other antitrust litigators, and motivation to redress genuine harms to his clients help him tackle complex issues in litigation and across the negotiating table. Most recently, Ray represented 20,000 nurses in a lawsuit that alleged a conspiracy by certain hospitals in Detroit to depress compensation levels that recovered almost \$90 million for the nurses.

Prior to law school, Ray was a member of the Economics Department faculty at Seattle University, University of Washington, and Queen's University in Canada. While in law school, he served as Articles Editor of the Washington Law Review and as an intern for the U.S. Department of Labor.

In his spare time, Ray enjoys playing soccer and skiing.

BAR & COURT ADMISSIONS

2001, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

Order of the Coif, *Member*

American Economic Association, *Member*

Washington State Trial Lawyers' Association, *Member*

American College of Trust and Estate Counsel, *Fellow*

PUBLICATIONS & PRESENTATIONS

Raymond J. Farrow, *Notes & Comments: Qualifying Immunity: Protecting State Employees' Right to Protect Their Employment Rights After Alden v. Maine*, 76 Wash. U. L. Rev. 149 (2001).

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ERIC FIERRO

CONTACT INFO

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efierro@KellerRohrback.com

PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- Consumer Protection
- eDiscovery
- Financial Products and Services
- Intellectual Property
- Mass Personal Injury
- Securities
- Whistleblower

EDUCATION

Arizona State University

B.S., 2002, Justice Studies

New England School of Law

J.D., 2006, Senior Editor, *New England Journal of International and Comparative Law*

Eric Fierro bridges the gap between technology and the law. Eric practices in Keller Rohrback's nationally recognized Complex Litigation Group and oversees the firm's legal technology group, providing electronic discovery and litigation support to colleagues and clients on a wide array of cases. Whether he is helping to preserve significant amounts of data for institutional clients or walking an individual through the data collection process to increase accuracy and maximize privacy, Eric works closely with clients to understand their needs and provide solutions.

Eric has over 15 years of experience with legal technology. While attending law school in the evening, Eric worked full-time for the U.S. Attorney's Office for the District of Massachusetts where he provided technical support for all criminal and civil units, including the healthcare fraud, securities fraud, and other white collar crime units. Eric also worked as a summer law clerk for the computer crime and intellectual property unit at the U.S. Attorney's Office. Before joining Keller Rohrback, he was a managing consultant for Huron Consulting Group, providing consultative services for complex electronic discovery and document review matters.

When not at work, Eric enjoys spending time with his family, golfing, and rebuilding off-road vehicles in his garage.

BAR & COURT ADMISSIONS

2009, Arizona

2009, U.S. District Court for the District of Arizona

PROFESSIONAL & CIVIC INVOLVEMENT

Arizona State Bar Association, *Member*

PUBLICATIONS & PRESENTATIONS

Speaker, National Business Institute, *E-Discovery Problem Solving for Paralegals*, 2008

Speaker, Arizona Paralegal Association, *Cloud Computing: In Your Practice and in Litigation*, 2009

Panelist, IPro Innovations for The Sedona Conference, *The 2015 Federal Rule Amendments: Has Anything Really Changed?* April 2016.

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



ALISON GAFFNEY

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
agaffney@kellerrohrback.com

PRACTICE EMPHASIS

- Class Actions
- Employee Benefits and Retirement Security
- Fiduciary Breach

EDUCATION

Swarthmore College

B.A., 2002, Linguistics and Languages (Spanish & Mandarin Chinese); McCabe Scholar

University of California, San Diego

M.A., 2007, Latin American Studies (International Migration)

University of Washington School of Law

J.D., 2012

Alison Gaffney leaves no stone unturned. A member of Keller Rohrback's nationally recognized Complex Litigation Group, Alison is a thorough researcher who stays on top of the latest legal developments in class action litigation. During law school, Alison represented clients in deportation proceedings through the Immigration Law Clinic and as an intern with the Northwest Immigrant Rights Project, where she continues to volunteer. She also served as a research assistant to Professor Mary D. Fan and interned with the Seattle Immigration Court. Prior to law school, Alison worked and studied in China, Cuba, England, Greece, and Guatemala.

When she is not solving problems for her clients, Alison enjoys hiking, snowboarding, and spending time with her family.

BAR & COURT ADMISSIONS

2012, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Mother Attorneys Mentoring Association of Seattle (MAMAS), *Member*

Northwest Immigrant Rights Project, *Pro Bono Attorney*

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



LAURA R. GERBER

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1201 Third Avenue, Suite 3200
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(206) 623-1900
lgerber@KellerRohrback.com

PRACTICE EMPHASIS

- Consumer Protection
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services
- Institutional Investors
- Whistleblower

EDUCATION

Goshen College

B.A., 1994, History, Economics

University of Washington School of Law

J.D., 2003

Evans School of Public Affairs, University of Washington

M.P.A., 2003

Laura R. Gerber is a strong advocate for her clients. From her early years in a whistleblower protection organization, to her current practice litigating against some of America's largest corporations, Laura has built her career as an advocate on behalf of both employees and customers of large corporations. Laura represents her clients with skill, tact and diplomacy. As a result, Laura's clients trust her to listen carefully, keep them informed, provide excellent legal advice, and to diligently pursue their interests in litigation against powerful defendants.

For over a decade, Laura has practiced in Keller Rohrback's Complex Litigation Group where she has developed a diverse practice with a focus on holding banks and other institutions accountable to their customers and employees. She has experience litigating mutual fund excessive fee cases, Ponzi scheme cases, breach of contract and breach of fiduciary duty cases, Employee Retirement Income Security Act ("ERISA") cases, and consumer protection class actions. Laura's strategic persistence in complex cases has led to impressive results with certain of her clients receiving substantial individual recoveries.

While in law school, Laura concurrently received a Master's degree in Public Administration and was a member of the Moot Court Honor Board.

BAR & COURT ADMISSIONS

2004, Washington

2006, U.S. District Court for the Eastern District of Washington

2006, U.S. District Court for the Western District of Washington

2010, U.S. District Court for the Northern District of Illinois

2013, U.S. District Court for the District of Colorado

2016, U.S. District Court for the Southern District of Illinois

2016, U.S. District Court for the Eastern District of Missouri

2016, U.S. District Court for the Northern District of Ohio

2016, U.S. District Court for the Western District of Oklahoma

2006, U.S. Court of Appeals for the Ninth Circuit Court

2014, U.S. Court of Appeals for the Sixth Circuit Court

2015, U.S. Court of Appeals for the Tenth Circuit Court

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2009, 2013.

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

PROFESSIONAL & CIVIC INVOLVEMENT

Washington Appleseed, Board of Directors, *2012-present*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

Mother Attorney Mentoring Association (MAMAS), *Member*

PUBLICATIONS & PRESENTATIONS

Speaker, American Conference Institute's 8th National Forum on ERISA Litigation, October 2014, (New Trends in Church Plan Litigation).

L. Gerber and R. Giovarelli, *Land Reform and Land Markets in Eastern Europe*, Food and Agriculture Organization of the United Nations (2005).

David Weissbrodt, Penny Parker, Laura Gerber, Muria Kruger, Joe W. (Chip) Pitts III, *A Review of the Fifty-Fourth Session of the Sub-Commission on the Promotion and Protection of Human Rights*, 21 NETH Q. HUM. RTS. 291 (2003)

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



MATTHEW GEREND

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
mgerend@KellerRohrback.com

PRACTICE EMPHASIS

- Class Action
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Securities

EDUCATION

University of Wisconsin

B.A., with distinction, 2005,
Political Science, Phi Beta Kappa

Georgetown University Law Center

J.D., *cum laude*, 2010; Executive
Articles Editor, *Georgetown Journal
on Poverty Law and Policy*

Matthew Gerend practices in the firm's nationally recognized Complex Litigation Group, representing employees and other investors in litigation to enforce securities laws and the Employee Income Retirement Security Act ("ERISA"). Matt has represented plaintiffs in federal courts across the country to redress harms stemming from breaches of fiduciary duties, investment fraud, and other misconduct that threatens employees' retirement security.

Matt became interested in the laws protecting retirement and pension benefits as a clerk with AARP Foundation Litigation, where he helped draft a number of amicus curiae briefs filed in the U.S. Supreme Court and U.S. Courts of Appeals regarding the proper interpretation and implementation of ERISA. During law school, Matt also worked as an intern with the Community Development Project at the Lawyers' Committee for Civil Rights Under Law. Matt believes that lawyers have a unique ability to effect social change, an ethic that has guided his work representing individuals and investors against those engaged in divisive and fraudulent practices.

BAR & COURT ADMISSIONS

2010, Washington
2011, U.S. District Court for the Western District of Washington
2012, U.S. Court of Appeals for the Third Circuit
2013, U.S. District Court for the Eastern District of Michigan
2014, U.S. Court of Appeals for the Sixth Circuit
2014, U.S. Court of Appeals for the Ninth Circuit
2015, U.S. Court of Appeals for the Seventh Circuit
2015, U.S. District Court for the District of Colorado

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

HONORS & AWARDS

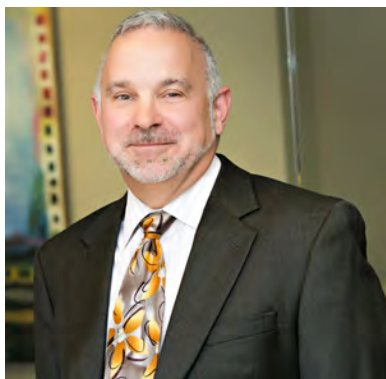
Selected to Rising Stars list in *Super Lawyers – Washington*, 2014, 2015.

PUBLICATIONS & PRESENTATIONS

Contributing Author, *Zanglein et. al., ERISA Litigation* (Bloomberg BNA 2015).
Deborah M. Austin and Matthew M. Gerend, *The Scope and Potential of Section 3 as Currently Implemented*, 19 J. Affordable Housing & Commun. Dev. L. 89 (2009).

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GARY GOTTO

CONTACT INFO

3101 North Central Avenue
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Phoenix, Arizona 85012-2600
602.230.6322
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PRACTICE EMPHASIS

- Class Actions
- Commercial Litigation
- Debtor-Creditor
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Institutional Investors
- Real Estate Securities

EDUCATION

University of Pennsylvania

B.A., *cum laude*, 1976

Arizona State University of College of Law

J.D., *summa cum laude*, 1982,
Order of the Coif

Gary Gotto's diverse experience helps him meet his clients' diverse

needs. Gary is a member of Keller Rohrback's nationally-recognized Complex Litigation Group. He has a broad range of practice experience and interests, including all aspects of corporate and real estate transactional work, securities issuance and compliance, Chapter 11 bankruptcy and workout matters, and general commercial and ERISA litigation. Gary speaks and teaches regularly on a number of topics, including an annual real estate bankruptcy case study presented at the Harvard Law School. He has practiced in Phoenix since 1982.

BAR & COURT ADMISSIONS

1982, Arizona

1982, U.S. District Court for the District of Arizona

2005, U.S. Court of Appeals for the Second Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member; Chair*, Subcommittee on Revising the Limited Partnership Act, Business Law Section, 1991

Adjunct Professor Law, Arizona State University College of Law, 1989

PUBLICATIONS & PRESENTATIONS

Co-Author, *Arizona Legal Forms: Limited Liability Companies and Partnerships* (1996-2002).

Co-Author, *Limited Liability Companies and Partnerships* (1996-1997).

Guest Lecturer, *Chapter 11 Reorganizations*, Harvard Law School, 1996-1997, 1999, 2001, 2002.

Guest Lecturer, *Chapter 11 Reorganizations*, Stanford Law School, 2003.

Speaker, National Business Institutes, *Negotiating and Drafting Acquisition Agreements in Arizona*, 1997.

Speaker, National Business Institutes, *Choice of Business Entity in Arizona*, 1996.

Speaker, National Business Institutes, *Limited Liability Companies*, 1994.

Speaker, Professional Education Systems, Inc., *Non-Corporate Business Forms*, 1994.

Speaker, State Bar of Arizona, *Limited Liability Companies*, 1994.

Speaker, National Business Institutes, *Arizona Limited Liability Company Legislation*, 199

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BENJAMIN GOULD

CONTACT INFO

1201 Third Avenue, Suite 3200
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bgould@KellerRohrback.com

PRACTICE EMPHASIS

- Appeals
- Class Actions
- Constitutional Law
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Institutional Investors

EDUCATION

Yale University

B.A., *summa cum laude*, 2002,
English, Phi Beta Kappa

Yale Law School

J.D., 2006, Editor, *Yale Law Journal*,
Editor-in-Chief, *Yale Journal of Law
and the Humanities*

Benjamin Gould makes the law work for his clients. Ben, a Seattle native, practices in Keller Rohrback's nationally recognized Complex Litigation Group. His ability to clearly and efficiently communicate factual and legal issues to his clients and courts allows him to adeptly serve the interest of clients who have been harmed by others' misconduct.

Ben has extensive experience in appellate litigation and has active appeals pending in state and federal courts throughout the nation. He has secured successful results for his clients before the U.S. Courts of Appeals for the Second, Eighth, and Ninth Circuits and numerous state appellate courts. Ben also maintains an active practice outside the appellate arena. He has represented clients in cases involving pensions, professional negligence, civil rights, and consumer-protection law, among other subjects.

Before joining the firm, Ben worked as a Legal Fellow of the ACLU Drug Law Reform Project, litigating cases related to drug policy and civil rights. He also served as a clerk to two federal appellate judges: the Honorable Betty Binns Fletcher of the U.S. Court of Appeals for the Ninth Circuit and the Honorable Diana E. Murphy of the U.S. Court of Appeals for the Eighth Circuit.

BAR & COURT ADMISSIONS

- 2007, California
- 2010, District of Columbia
- 2010, U.S. Court of Appeals for the Ninth Circuit
- 2011, Washington
- 2011, U.S. District Court for the Western District of Washington
- 2012, U.S. District Court for the Eastern District of Washington
- 2012, U.S. Court of Appeals for the Third Circuit
- 2013, U.S. Court of Appeals for the Second Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

- King County Bar Association, *Member*; Appellate Law Section
- Washington State Bar Association, *Member*
- Washington State Association for Justice, *Member*

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L A W O F F I C E S ♦ L . L . P .

PUBLICATIONS & PRESENTATIONS

Speaker on Rule 23(f) and Class Action Appeals, American Bar Association 19th Annual National Institute on Class Actions, New Orleans, LA, 2015.

A Review of Antonin Scalia and Bryan A. Garner, Reading Law (2012), in Trial News, March 2014.

Derek W. Loeser & Benjamin Gould, *Point/Counterpoint: Is Rule 23(b)(1) Still Applicable to ERISA Class Actions?*, ERISA Compliance and Enforcement Library of the Bureau of National Affairs, Inc. (May 1, 2009).

Derek W. Loeser & Benjamin Gould, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty*, *Pension & Benefits Reporter*, Bureau of National Affairs, Inc. (Sept. 1, 2009).*

Derek W. Loeser, Erin M. Riley & Benjamin Gould, *2010 ERISA Employer Stock Cases: The Good, the Bad, and the In Between-Plaintiffs' Perspective*, *Pensions & Benefits Daily*, Bureau of National Affairs, Inc. (Jan. 28, 2011).

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CHRISTOPHER GRAVER

CONTACT INFO

3101 North Central Avenue
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Phoenix, Arizona 85012-2600
602.248.0088
cgraver@KellerRohrback.com

PRACTICE EMPHASIS

- Business Litigation
- Bankruptcy and Creditors' Rights

EDUCATION

St. John's College

B.A., 1976

University of New Mexico

J.D., *magna cum laude*, 1990
Order of the Coif

Chris is a member of Keller Rohrback's Complex Litigation and Bankruptcy Groups, representing debtors, creditors, Court-appointed committees, and asset purchasers in Chapter 11 reorganization proceedings and out-of-court workouts. Chris also has wide-ranging experience in complex commercial litigation from corporate restructuring to matters of breach of fiduciary duty, commercial bankruptcy, commercial real estate, contracts, patent infringement, and environmental insurance coverage.

Together with colleagues he has represented clients as diverse as the committee of victims of clergy sexual abuse in the Chapter 11 reorganization of a Catholic diocese, a developer restructuring a portfolio of real property interests nationwide, and a national company acquiring a competitor's assets in a bankruptcy-court-approved sale in California.

A graduate of the great books liberal arts program at St. Johns' College in Santa Fe, Chris earned his law degree from the University of New Mexico Law School magna cum laude in 1990. While his practice is centered in the Southwest, Chris represents clients in federal courts coast to coast.

BAR & COURT ADMISSIONS

Arizona, 1990

United States District Court for the District of Arizona, 1990

United States Bankruptcy Appellate Panel of the Ninth Circuit

United States Court of Appeals for the Ninth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

American Bankruptcy Institute, *Member*

Arizona State Bar Association, *Member*

Maricopa County Bar Association, *Member*

PUBLICATIONS & PRESENTATIONS

"Confirming the Catholics: The Diocese of Tucson Experience, Norton Bankruptcy Law Advisor," 2005.

"Representing the Tort Claimants' Committee in the Chapter 11 Case Filed by the Roman Catholic Diocese of Tucson, prepared for the National Conference of Bankruptcy Judges," 2005.

"Decoding the Code," *AzBusiness Magazine*, 2005.

Speaker, Maricopa County Bar Association presentation, *New Bankruptcy Code: Changing the Way Creditors are Treated*, 2006.

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MEREDITH GRAY

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(206) 623-1900
mgray@KellerRohrback.com

PRACTICE EMPHASIS

- Consumer Protection
- Product Liability

EDUCATION

University of Wisconsin Law School

J.D., 2010

Council on Legal Education Opportunity

Fellow, 2007

University of Washington

B.A., 2006, Political Science, Phi Beta Kappa

Meredith Gray practices in the firm's Complex Litigation Group in the Seattle office. Her practice focuses on class actions and individual actions involving consumer protection and personal injury matters.

While in law school, Meredith was Senior Managing Editor of the Wisconsin Law Review and served as a Judicial Intern to the Honorable Barbara B. Crabb, then-Chief Judge United States District Court for the Western District of Wisconsin. Meredith was also a student attorney in the law school's Consumer Law Litigation Clinic in which she actively litigated two consumer class actions against internet payday lenders.

BAR & COURT ADMISSIONS

2014, Washington

2011, New York

2010, Wisconsin

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, Member

New York State Bar Association, Member

Wisconsin State Bar Association, Member

PUBLICATIONS & PRESENTATIONS

Comment, A Presumption without Prudence: Replacing *Moench v. Robertson* with a Prudent 'When in Doubt, Don't' Standard for ESOP and 401(k) Company Stock Fund Fiduciaries, 2010 Wis. L. Rev. 907

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MARK GRIFFIN

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Actions
- Commercial Litigation
- Consumer Protection
- Intellectual Property
- Mass Personal Injury
- Securities

EDUCATION

Marquette University

B.S., *magna cum laude*, 1983,
Economics Faculty Award

Gonzaga University School of Law

J.D., *magna cum laude*, 1986,
Thomas More Scholar

Mark Griffin has over 25 years of experience in antitrust litigation. As a member of Keller Rohrback's nationally recognized Complex Litigation Group, Mark has litigated over 80 class action cases to successful conclusions. Mark joined Keller Rohrback in 1988 after serving as a judicial law clerk for Magistrate Judge Philip K. Sweigert of the U.S. District Court for the Western District of Washington. He helped launch the firm's antitrust practice with achievements including \$49.5 million in settlements in the *Specialty Steel Pipe Antitrust Litigation*, paving the way for the firm's success in other class action litigation. Mark has been a partner at Keller Rohrback for almost 20 years, has served on the firm's Executive Committee since 2001, and has chaired the Antitrust Practice Group since 2007. Most recently, his leadership in an antitrust class action resulted in settlements totaling almost \$90 million for registered nurses employed by hospitals in Detroit, (*Cason-Merenda v. VHS Michigan, Inc.*).

Since 2004, Mark has volunteered his time as pro bono coordinator at Keller Rohrback. He serves as a member of the Board of Trustees of the Legal Foundation of Washington (LFW) and previously as a board member and officer of the Legal Aid for Washington Fund (LAW Fund). The LFW and the LAW Fund through their Campaign for Equal Justice raise charitable contributions to ensure that justice is a reality, not just for those who can afford it, but for everyone in Washington state. In 2013, the firm received the President's Award from the LFW for its work in *Jerry Cooper, Inc. v. Lifequotes of America, Inc.*, a case in which Mark helped achieve judgments totaling over \$760 million in favor of the plaintiff class. Mark also volunteers at Public Justice and has served as chair of the Consumer Protection, Antitrust & Unfair Business Practices Section of the Washington State Bar Association.

BAR & COURT ADMISSIONS

1986, Washington

2010, Arizona

1986, U. S. District Court for the Western District of Washington

1989, U. S. Court of Appeals for the Ninth Circuit

1990, U. S. District Court for the Eastern District of Washington

1993, U. S. Supreme Court

2008, U. S. Court of Appeals for the Fourth Circuit

2009, U. S. District Court for the Eastern District of Michigan

2009, U. S. District Court for the District of Columbia

2010, U. S. Court of Appeals for the Eleventh Circuit

2013, U.S. Court of Appeals for the Sixth Circuit

2014, U.S. Court of Appeals for the Tenth Circuit

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HONORS & AWARDS

AV Rating, Martindale-Hubbell, 2000-Present
President's Award, Legal Foundation of Washington, 2013
Named to Washington Super Lawyers list, 2011-2012, 2014-2016
Named a Rising Star, Super Lawyers – Washington, 2000
Thomas More Scholarship, 1983-1986
American Jurisprudence Award in Antitrust, 1986
American Jurisprudence Award in Remedies, 1986
American Jurisprudence Award in Agency and Partnerships, 1985
American Jurisprudence Award in Corporations, 1985
American Jurisprudence Award in Property, 1984
Alpha Sigma Nu (National Jesuit Honors Society) 1983
Beta Gamma Sigma (National Business Honors Society), 1982
Pi Sigma Alpha (National Political Science Honor Society), 1982
Pi Gamma Mu (International Honor Society in Social Science), 1982
Economics Faculty Award (outstanding student majoring in economics) 1983
Delta Sigma Pi Scholarship, 1979-1983

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*
Washington State Bar Association, *Member*; Executive Committee and Chair-elect of the Antitrust, Consumer Protection & Unfair Business Practices Section
American Bar Association, *Member*; Litigation and Antitrust sections
Washington State Trial Lawyer's Association, *Member*
Federal Bar Association, *Member*

PUBLICATIONS & PRESENTATIONS

"The Future of Reverse Payment Settlement Agreements after *FTC v. Actavis*," 30th Annual Antitrust, Consumer Protection and Unfair Business Practices Seminar, November 8, 2013
"Intellectual Property v. Cultural Property: From Colonization to Co-Existence," Intellectual Property Institute of Canada, September 27, 2013
Contributor, "Concurrent Antitrust Criminal and Civil Proceedings: Identifying Problems and Planning for Success," American Bar Association, 2013
"Profile/Lynn Sarko: Leading the Way," Bar Bulletin, December, 2011
"Cy Pres – News on Recent Decisions which may affect cy pres in the future," LAW Fund Executive Committee Meeting, September 15, 2011
"Current Issues in Antitrust, *Twombly* Pleading Standards" (speaking for Mark Samson), State Bar of Arizona, June 20, 2008
The New Rules for Business Litigators: Keeping Ahead of the Curve, "The New Rules in Class Action Litigation," Washington State Bar Association, November 13, 2007
Executive Editor, Washington Antitrust and Consumer Protection Handbook (2007 Supplement)
"Message from the Chair," Antitrust, Consumer Protection Unfair Business Practices Newsletter, Washington State Bar Association, Fall 2005
Program Chair, "The Essentials of Civil Settlement Strategies," Washington State Bar Association, October 8, 2003
Executive Editor, Washington Antitrust and Consumer Protection Handbook (Third Edition 2001)
Program Co-Chair, 2001 Antitrust, Consumer Protection and Unfair Business Practices Conference, Washington State Bar Association, November 9, 2001
Moderator, "How to Avoid Antitrust Actions Against Your Business Clients," Washington State Bar Association, November 6, 1998
Program Committee, "1995 and Counting: A Symposium on Practices, Procedures and Professionalism," Federal Bar Association of Western Washington, December 6, 1995
Program Committee, "Trials Viewed from the Bench: See What We See," Federal Bar Association of Western Washington, December 7, 1994

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LAW OFFICES ♦ L.L.P.

Questions of Law Column on Antitrust Law, Washington State Bar Association, 1992

Program Co-Chair, "Trial Practice Seminar," King County Bar Association, 1991

"Civil Service Protections for Police Officers," Washington State Council of Police Officers, October 12, 1989

"Contractual Liability of Companies and Individuals," International Television Association, Seattle Chapter, Legal Workshop, April 19, 1989

Note on Meier and Meier, 595 P.2d 474 (1979), 1986 Canadian-American Law Journal

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AMY N. L. HANSON

CONTACT INFO

1201 Third Avenue, Suite 3200
Seattle, WA 98101
(206) 623-1900
ahanson@kellerrohrback.com

PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Consumer & Data Privacy Protection
- Employee Benefits & Retirement Security
- Mass Personal Injury

EDUCATION

University of Minnesota

B.A., *summa cum laude*, 1995,
Economics and Political Science

University of Wisconsin Law School

J.D., 1998

Amy Hanson helps her clients work past disputes so they can refocus on personal and business goals. As a member of Keller Rohrback's nationally recognized Complex Litigation Group, Amy's practice is focused on class action and other complex litigation. Amy is a practical problem-solver who enjoys rolling up her sleeves to obtain evidence and achieve solutions. She became interested in complex litigation because she wanted to help level the playing field for hard-working people and small businesses that were similarly harmed by large businesses and groups of businesses acting together. In her more than 17 years as a litigator Amy has represented patients who experienced serious medical problems after consuming prescription drugs, small business owners who challenged alleged nationwide price fixing conspiracies, employees who challenged the prudence of allowing their employers' 401(k) plans to hold and acquire company stock and employees who challenged the reasonableness of their employers' data security practices.

Prior to joining Keller Rohrback, Amy was a Student Advocate at the University of Wisconsin Law School's Consumer Litigation Clinic and a judicial law clerk intern for Judge Deininger at the State of Wisconsin Court of Appeals. She is currently honored to serve on the Vioxx Consumer Purchase Claims Subcommittee of the Plaintiffs' Steering Committee in *In re: Vioxx Prods. Liab. Litig.*, MDL No. 1657 (E.D.La.) and the WSAJ Consumer Protection Section Deskbook Editorial Board.

BAR & COURT ADMISSIONS

1998, Wisconsin
1998, Washington
1998, U.S. District Court for the Western District of Washington
2000, U.S. District Court for the Eastern District of Washington
2003, U.S. Court of Appeals for the Ninth Circuit
2005, U.S. District Court for the Eastern District of Michigan

PROFESSIONAL & CIVIC INVOLVEMENT

American Association for Justice, *Member*
American Bar Association, *Member*
King County Bar Association, *Member*
Washington State Association for Justice, *Member*
Washington State Bar Association, *Member*

HONORS & AWARDS

Named to Washington Super Lawyers list, 2016

PUBLICATIONS & PRESENTATIONS

Co-author, *Handbook for Washington Seniors: Legal Rights and Resources*, Legal Voice (Oct. 15, 2012).

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KASH KARMAND

CONTACT INFO

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Mass Personal Injury
- Securities

EDUCATION

University of California, Riverside

B.A., *cum laude*, History and
Political Science, 2007

University of California, Hastings College of the Law

J.D., 2011

Kash Karmand focuses his practice on complex litigation matters with an emphasis on class action and multidistrict litigation. Kash practices in Keller Rohrback's Santa Barbara office and is a member of the firm's nationally recognized Complex Litigation Group.

Kash has experience handling a wide range of high-stakes disputes involving claims for breach of contract, breach of fiduciary duty, consumer fraud, employee benefits, false or misleading advertising, products liability, securities fraud, and violations of state and federal consumer protection and unfair business practices statutes. He has litigated cases in courts across the country involving a multitude of industries, including the consumer products, financial services, food and beverage, health care, and pharmaceuticals industries.

Kash is experienced in all phases of litigation, including fact and expert discovery, motions practice, trial preparation, and trial. He has significant experience researching and drafting successful motions and briefs, such as motions for class certification, motions for summary judgment, and Daubert motions.

During law school, Kash served as an extern to the Honorable Maria-Elena James in the U.S. District Court for the Northern District of California and a law clerk to California's Chief Assistant Attorney General David Chaney (ret.). He also interned in the legal department of a Fortune 200 company in San Francisco where he worked on business and employment disputes and regulatory matters.

Kash's competitive side shines in his legal practice as well as outside of work. He enjoys playing and watching sports and is a passionate fan of the Houston Rockets and Oakland Raiders.

BAR & COURT ADMISSIONS

2011, California
2013, Minnesota
2014, District of Columbia

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of California, *Member*
Los Angeles County Bar Association, *Member*
California Minority Counsel Program, *Member*
Bar of the State of Minnesota, *Member*
District of Columbia Bar, *Member*

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DEAN KAWAMOTO

CONTACT INFO

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dkawamoto@KellerRohrback.com

PRACTICE EMPHASIS

- Class Actions
- Environmental Litigation
- Financial Products & Services
- Institutional Investors
- Mortgage Put-Back Litigation
- Securities

EDUCATION

University of California at Berkeley

B.A., History and Biology, *High Distinction*, 1998

Yale Law School

J.D., 2003

University of Cambridge (UK)

LL.M., International Law, *First Class Honors*, 2007

Dean Kawamoto understands complex cases. Dean practices in the firm's nationally recognized Complex Litigation Group with a focus on financial services and securities law. His experience with complicated financial transactions, sophisticated institutional clients, and large-scale discovery makes him highly qualified to litigate high-stakes cases involving complex issues and significant damages.

Dean is currently part of the litigation team representing several of the Federal Home Loan Banks in litigation against dozens of issuers, underwriters, and sponsors of private label mortgage-backed securities worth \$13 billion. He was also part of the trial team that successfully objected to the \$8.5 billion settlement between Bank of New York Mellon and Bank of America over Countrywide's massive mortgage liabilities. The argument developed and presented by Keller Rohrback during the course of the trial was the only objection sustained to the settlement. Dean also represents institutional investors in connection with litigation over LIBOR. In addition to financial services and securities litigation, Dean has experience litigating cases involving consumer protection, product liability, environmental law, professional liability, and the First Amendment.

Prior to joining the firm, Dean practiced with Boies, Schiller & Flexner in Washington, D.C., and Munger, Tolles & Olson in Los Angeles. He also served as a clerk for the Honorable Wm. Matthew Byrne, U.S. District Judge for the Central District of California, and was previously a Professional Staff Member on the U.S. Senate Committee on Environment and Public Works and a Legislative Aide to Senator Lincoln D. Chafee of Rhode Island.

BAR & COURT ADMISSIONS

2004, California
2009, District of Columbia
2011, Washington
2004, U.S. District Court for the Central District of California
2015, U.S. District Court for the Northern District of California
2015, U.S. District Court for the Eastern District of California
2015, U.S. District Court for the Western District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*
State Bar of California, *Member*
District of Columbia Bar, *Member*
American Bar Association, *Member*

HONORS & AWARDS

Selected to Rising Stars list in Super Lawyers – Washington, 2014-2015
Recipient of the Clifford Chance C.J. Hamson Prize for thesis on class actions
John Gardner Public Service Fellow
Recipient of the Departmental Citation for Integrative Biology (awarded to the top graduate in the major)

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RON KILGARD

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PRACTICE EMPHASIS

- Appeals
- Class Action
- Constitutional Law
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services

EDUCATION

Harvard College B.A., 1973, History

Harvard Divinity School M.T.S., 1975, Old Testament

Arizona State University College of Law J.D., 1979, Editor-in Chief, *Arizona State Law Journal*, Armstrong Award (outstanding graduate)

Ron Kilgard is a seasoned lawyer who understands that yesterday's rule changes are just as important as the landmark cases decided decades ago. Ron has 35 years of experience in civil litigation. He knows that the substantive law changes slowly (at least most of the time!). However, the relevant rules and judges' individual practices change almost daily, and they vary enormously from jurisdiction to jurisdiction and judge to judge. Balancing all of this is, for Ron, one of the many challenges and pleasures of law practice.

Ron's practice is focused primarily on commercial and financial matters. For the last 15 years, he has extensively litigated pension plan class actions, involving both plans regulated by the Employee Retirement Income Security Act ("ERISA") and non-ERISA plans such as public plans and so-called "church plans." Ron helped Keller Rohrback pioneer company stock ERISA litigation in the late 1990s and early 2000s. More recently, Ron was part of the team that obtained settlements of over \$265 million (in cash) in the Enron 401(k) litigation. In 2012, Ron was selected for inclusion in Best Lawyers in America (19th ed.) for ERISA practice. Ron is currently class counsel in a case on behalf of all sitting state court, general jurisdiction, judges in Arizona, Hall v. Elected Officials' Retirement Plan.

Ron is a Phoenix native. He began law practice with Martori, Meyer, Hendricks & Victor, P.A., clerked for the Honorable Mary M. Schroeder, U. S. Court of Appeals for the Ninth Circuit and, in 1995, was one of the founders of Dalton Gotto Samson & Kilgard, P.L.C. He joined most of the Dalton Gotto lawyers in forming the Phoenix affiliate of Keller Rohrback L.L.P. in November 2002.

When not practicing law, he enjoys spending time with his wife and children and reading on the porch with his Golden Retriever.

BAR & COURT ADMISSIONS

1979, Arizona

2009, District of Columbia

2011, New York

HONORS & AWARDS

Best Lawyers in America (19th ed.) – ERISA practice.

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, Member

District of Columbia Bar, Member

New York State Bar Association, Member



PUBLICATIONS & PRESENTATIONS

Speaker, ABA Seminar, After Enron, 2006

Speaker, Chicago Bar Association, Company Stock Litigation, 2006

Speaker, West LegalWorks ERISA Litigation Conference, 2007

Speaker, National Center for Employee Ownership, *Fiduciary Implications of Company Stock Lawsuits*, 2012 and 2013

Speaker, American Conference Institute, *New Developments in Church Plan Litigation*, 2015

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DAVID KO

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PRACTICE EMPHASIS

- Class Actions
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- Employee Benefits and Retirement Security
- Securities

EDUCATION

University of Washington

B.A., 2002, History and Political Science

Seattle University School of Law

J.D., *cum laude*, 2006; National Order of Barristers

University of Washington School of Law

LL.M., 2007 Taxation

David practices in the firm's nationally recognized Complex Litigation

Group where he represents individuals, ESOPs, retirement plans, and institutional investors in federal and state courts across the country. David has experience in all phases of litigation, and focuses on cases involving investment mismanagement, consumer protection violations, breaches of fiduciary duty under ERISA, and securities violations. He has made substantial contributions to several multimillion dollar settlements, including in cases against Fremont General Corp., Intelius, Inc., Sitrick and Co., and Tharaldson Motels, Inc.

David was also part of the trial team that objected to a proposed \$8.5 billion settlement brought by the Bank of New York Mellon in an effort to resolve Bank of America's liability arising out of Countrywide's issuance of mortgage-backed securities. The arguments raised by Keller Rohrback in an eight week trial in New York Supreme Court were the only objections sustained by the Court.

Prior to joining the firm, David completed a two year clerkship for the Honorable Ricardo S. Martinez, U.S. District Judge in the Western District of Washington.

David is past President of the Korean American Bar Association of Washington, and is also a 2014 Fellow of the Washington Leadership Institute.

BAR & COURT ADMISSIONS

2006, Washington

2010, U.S. District Court for the Western District of Washington

2010, U.S. District Court for North Dakota

2011, U.S. Court of Appeals for the Ninth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Korean American Bar Association, *Board Member*

Asian American Bar Association, *Member*

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



CARI CAMPEN LAUFENBERG

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Appeals
- Class Actions
- Consumer & Data Privacy Protection
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services

EDUCATION

University of California, San Diego

B.A., 1993, Art History

University of Washington

M.A., 1998, Public Administration

University of Washington School of Law

J.D., 2003

Cari Laufenberg keeps client goals in focus. As a member of Keller Rohrback's nationally recognized Complex Litigation Group, Cari is involved in representing plaintiffs in federal courts across the United States. She represents individuals and institutions in class action litigation involving breach of fiduciary duty, identity theft and privacy, investment fraud and mismanagement, retirement plan litigation and consumer protection. Cari's background in nonprofit management and public administration makes her skilled at organizing and strategizing complex cases to achieve short-term goals and long-term successes.

Cari regularly counsels and represents consumers, employees and businesses who have suffered harm resulting from the improper disclosure of proprietary, personal, health and other protected information. She has litigated fiduciary breach issues for over 10 years and has played a key role in many of the firm's large and complex fiduciary breach cases, including a \$90 million settlement against Anthem Inc. in a case alleging fiduciary breach related to Anthem Insurance's demutualization of membership interests. Cari has also successfully litigated alleged violations of the Employee Retirement Income Security Act ("ERISA"), with multi-million dollar settlements against companies including Countrywide Financial Corp., Marsh & McLennan Companies, Inc., and Williams Companies, Inc.

Prior to joining Keller Rohrback in 2003, Cari served as a judicial extern for Judge Barbara Jacobs Rothstein of the U.S. District Court for the Western District of Washington. Cari loves living in the Pacific Northwest and enjoys spending time outdoors with her family and friends.

BAR & COURT ADMISSIONS

2003, Washington

2004, U.S. District Court for the Western District of Washington

2006, U.S. District Court for the Eastern District of Michigan

2006, U.S. Court of Appeals for the Eleventh Circuit

2011, U.S. Court of Appeals for the Seventh Circuit

2013, U.S. Court of Appeals for the Eighth Circuit

HONORS & AWARDS

Selected to Rising Starts list in *Super Lawyers - Washington*, 2008-2009, 2011

King County Washington Women Lawyers Chapter Member of the Year, 2005



PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

King County Washington Women Lawyers, *Member*;
Member of the Board of Directors (2003-2005)

Washington Women Lawyers, *Member*

William L. Dwyer Inn of Court, *Founding Student Member*
(2002-2003)

Federal Bar Association, *Member*

American Association for Justice, *Member*

Washington State Association for Justice, *Member*

Northwest Immigrant Rights Project, *Volunteer Attorney*

National Association for Public Pension Attorneys, *Member*

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ELIZABETH LELAND

CONTACT INFO

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services
- Institutional Investors
- Securities

EDUCATION

University of Washington

B.A., 1989, Business Administration with double concentration in Finance and Business Economics

University of Puget Sound School of Law

J.D., *cum laude*, 1993

Beth Leland pays attention to the details. As a longtime member of the firm's Complex Litigation Group, Beth prides herself on crafting creative arguments to plead cases in her clients' best interests. She also strives to be on the forefront of technological innovation, managing electronic discovery in complex cases to increase accuracy and efficiency in order to maximize benefits to her clients, while minimizing client discovery burdens and costs. Beth has nearly twenty years of experience litigating complex cases arising from investment fraud at both the trial and appellate levels and has also gained experience in consumer protection, mass tort, and antitrust litigation. Notable cases include mortgage-backed securities litigation on behalf of the Federal Home Loan Banks of Boston, Chicago, and Indianapolis. She has also played a key role in numerous cases resulting in multi-million dollar settlements, including against Anicom Inc., Apple, Inc., Dynegey Inc., IKON Office Solutions, Merrill Lynch & Co., United Companies Financial Corp., and Xerox Corporation.

Beth has spoken at conferences and as a guest lecturer at the Seattle University School of Law.

Before joining Keller Rohrback in 1998, Beth spent several years in general civil practice in the Seattle area. Outside of work, Beth can be found skiing, spending time with friends, or cheering on her favorite team at Husky Stadium.

BAR & COURT ADMISSIONS

1993, Washington

1994, U. S. District Court for the Western District of Washington

1998, U.S. Court of Appeals for the Ninth Circuit

2003, U.S. Court of Appeals for the Eleventh Circuit

2003, U.S. Court of Appeals for the Fifth Circuit

2005, U.S. Court of Appeals for the Seventh Circuit

2009, U.S. District Court for the Eastern District of Michigan

2010, U.S. Court of Appeals for the Fourth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*; Antitrust, Consumer Protection & Unfair Business Practices Section; Labor & Employment Section; and Litigation Sections

American Bar Association, *Member*; Antitrust and Litigation Section



PROFESSIONAL & CIVIC INVOLVEMENT (CONT)

Washington Women Lawyers, *Member*

King County Washington Women Lawyers, *Member*

University of Washington Alumni Association, *Member*

Seattle University School of Law Alumni Association, *Member*

King County Bar Association Housing Justice Project, 1999-2003, *Volunteer Attorney*

Gilda's Club, *Volunteer*

King County Bar Association, *Member*

Washington State Bar Association, *Member*; Antitrust, Consumer Protection & Unfair Business Practices, Labor & Employment, and Litigation sections

American Bar Association, *Member*; Antitrust and Litigation sections

King County Bar Association, *Member*

Washington State Bar Association, *Member*; Antitrust, Consumer Protection & Unfair

Business Practices, Labor & Employment, and Litigation sections American Bar Association, *Member*; Antitrust and Litigation sections

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JEFFREY LEWIS

CONTACT INFO

300 Lakeside Drive, Suite 1000
Oakland, California 94612
510.463.3900
jlewis@kellerrohrback.com

PRACTICE EMPHASIS

- Employee Benefits and Retirement Security
- Complex Litigation
- Employment Litigation
- Private Judge, Mediator, Special Master

EDUCATION

Yale University

B.A., 1970

University of California at Berkeley School of Law

Order of the Coif – J.D., 1975

Jeffrey Lewis has specialized in ERISA and employee benefits law since 1975. He has successfully litigated individual, group, and class action claims on behalf of hundreds of thousands of employees, retirees, and the disabled. He was a founding partner of Lewis, Feinberg, Lee & Jackson, one of the first firms in the nation to specialize in ERISA litigation on behalf of plaintiffs. Among his major successes was serving as one of appointed counsel for employees of WorldCom, Inc. in a class action which resulted in a settlement that paid more than \$47 million to participants in WorldCom's 401(k) plan. Mr. Lewis serves as a mediator both for the U.S. District Court for the Northern District of California and privately, and has served as an arbitrator and expert witness in ERISA cases. He has also advised employee groups and benefit plan fiduciaries.

In addition to his litigation and advisory activities throughout the U.S., Mr. Lewis has testified before Congressional committees regarding pension issues, serves as one of the Co-Chairs of the Senior Board of Editors of the Employee Benefits Law treatise, teaches employee benefits law at the University of California at Berkeley School of Law, and also has taught pension law courses at several other law schools.

BAR & COURT ADMISSIONS

1975, California

PROFESSIONAL & CIVIC INVOLVEMENT

Elected as a charter fellow of the College of Employee Benefits Counsel, Board of Governors

American Bar Association, Member, Labor & Employment Section, Former Plaintiff Co-Chair of the Employee Benefits Committee

AC Transit Retirement Board, Chair, Board of Trustees

Goodyear Retiree Health Care Trust, Member of the Plan Committee

National Employment Lawyers Association, Member of the Amicus Committee

HONORS & AWARDS

Super Lawyers List, Super Lawyers magazine, 2005-2015

Top 100 Lawyers in Northern California, Super Lawyers magazine, 2010-2015

Top Attorney for ERISA Plaintiffs in the San Francisco Bar Area, The Recorder

Forty Top Benefits Attorneys, The National Law Journal, 1998

KELLER ROHRBACK

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PUBLICATIONS & PRESENTATIONS

Co-Chair of the Board of Senior Editors of Lewis, et al.,
Employee Benefits Law (3d ed. BNA)

Former editor of the Discrimination Claims Under ERISA
chapter of Employee Rights Litigation: Pleading and
Practice (Matthew Bender, 1991)

Frequent speaker on ERISA topics such as preemption,
fiduciary duty, and benefit claims at seminars sponsored
by the American Bar Association, the Bureau of National
Affairs, the National Employment Lawyers Association
(NELA), and other organizations.

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TANA LIN

CONTACT INFO

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Actions
- Consumer Protection
- Employment Law
- Fiduciary Breach
- Mutual Fund Excessive Fees

EDUCATION

Cornell University

A.B., *with distinction*, 1988,
Government

New York University School of Law

J.D., 1991, Root-Tilden-Snow
Scholar

Tana Lin fights hard for her clients, building cases that are legally and factually compelling. Tana has 25 years of litigation experience in civil and criminal matters in state and federal courts throughout the country. She is a member of the firm's nationally recognized Complex Litigation Group.

Tana joined Keller Rohrback in 2004 after practicing as a civil rights and criminal defense attorney. She began her legal career as a trial attorney with the Public Defender Service for the District of Columbia, the preeminent public defender office in the country, where she handled cases at the trial level and argued appellate cases before the District of Columbia Court of Appeals.

Tana then joined the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice and, subsequently, the Chicago District Office of the U.S. Equal Employment Opportunity Commission where she enforced federal discrimination laws across the country. She has investigated and prosecuted employment discrimination cases against large governmental entities such as the Louisiana State Police and private corporations such as Wal-Mart. She also served as the Litigation coordinator for the Michigan Poverty Law Program, developing statewide projects to address issues facing the underprivileged and crafting creative solutions by developing partnerships with interested stakeholders.

At Keller Rohrback, Tana has achieved significant settlements for her clients. She has won landmark victories for shareholders of mutual funds in suits alleging breaches of fiduciary duty by investment advisors in violation of the Investment Company Act. She has protected the retirement funds of employees whose employers breached their fiduciary duties in violation of the Employee Retirement Income Security Act (ERISA). Tana has also stood up for workers who had been denied their proper wages and overtime payments. Tana was recently part of the trial team representing 20,000 Detroit nurses alleging an antitrust conspiracy by healthcare providers to depress compensation levels. This extraordinary case settled on the eve of trial. In total, Tana played an essential role in recovering almost \$90 million on behalf of affected Detroit nurses.

Tana's wide ranging experience helps her quickly grasp what issues will dictate a case's outcome, and she works tirelessly to see that her clients obtain the best result available.

BAR & COURT ADMISSIONS

1991, District of Columbia

2000, Illinois

2001, Michigan

2004, Washington

HONORS & AWARDS

Named to Washington Super Lawyers list, 2012, 2014 - 2016

U.S. Department of Justice Special Achievement Award, 1997

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PROFESSIONAL & CIVIC INVOLVEMENT

ACLU of Washington: Board of Directors, 2016; *Legal Committee*, 2015-present

American Association for Justice, *Member*

American Bar Association, *Member*

Asian Bar Association of Washington, *Member*, 2006-present; *Board of Directors*, 2010-2012

Joint Asian Judicial Evaluation Committee, *Member*, 2006-2008, 2011-2013, 2015-present; *Chairperson*, 2010

King County Bar Association, *Member*

Lawyers Fostering Independence Program, *Volunteer Attorney*, 2008-present

Mother Attorneys Mentoring Association (MAMAS), *Founding Member*

National Employment Lawyers Association, *Member*

Washington State Bar Association, *Member*

Washington State Association for Justice, *Member*

Lead Trainer, Negotiation Skills Training, Committee on Regional Training, Ann Arbor, MI, Oct. 2003.

Faculty and Lecturer, Trial Advocacy Training for Legal Aid Attorneys, National Legal Aid and Defender Association, Los Angeles, CA, July 2003.

Trainer, Basic Lawyering Skills Training, Committee on Regional Training, Ann Arbor, MI, Dec. 2002.

PUBLICATIONS & PRESENTATIONS

Presenter, Women Antitrust Plaintiffs' Attorneys Networking Event, Minneapolis, MN, *How to Prepare for the Big Event: Trial (The Last 90 Days)*, Oct. 2010.

Faculty, Trial Advocacy College, National Legal Aid and Defender Association, Philadelphia, PA, July 2005.

Tana Lin, *Recovering Attorney's Fees under the Individuals With Disabilities Education Act*, West's Education Law Reporter, 180 Ed.LawRep. 1 (2003).

Civil Track Plenary Panelist, National Legal Aid and Defender Annual Conference, Seattle, WA, *Navigating the Crossroads of Change: Where Do We Go from Here?*, Nov. 2003.

Presenter, National Legal Aid and Defender Annual Conference, Seattle, WA, Holistic Advocacy for Youth: Addressing the Basic Needs of Children Through Civil, Criminal and Community Collaborations, Nov. 2003.

Presenter, National Legal Aid and Defender Annual Conference, Seattle, WA, Civil and Criminal Strategies for Protecting Clients Accused of Food Stamp Fraud, Nov. 2003.

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DEREK LOESER

CONTACT INFO

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(206) 224-7562
dloeser@KellerRohrback.com

PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Appeals
- Class Action & Consumer Litigation
- Employee Benefits & Retirement Security
- Employment Law
- Environmental Litigation
- Fiduciary Breach
- Financial Products & Services
- Institutional Investors
- Mortgage Put-Back Litigation
- Securities Fraud
- Whistleblower

Derek Loeser is a senior member of Keller Rohrback's nationally recognized Complex Litigation Group and a member of the firm's Executive Committee. He maintains a national practice prosecuting class action and large scale individual cases, including corporate fraud and misconduct, securities, Employee Retirement Income Security Act ("ERISA"), breach of fiduciary duty, and investment mismanagement cases. Derek has served as lead and co-lead counsel in large, complex cases in both state and federal courts around the country.

Derek has been a plaintiffs' attorney for over twenty years. He has a passion for taking on large corporations and holding them accountable for wrongdoing. Through all stages of litigation, including trial, he has helped recover over a billion dollars for institutions, retirement plans, retirees, employees, and consumers. Notable cases include mortgage-backed securities cases on behalf of the Federal Home Loan Banks of Chicago, Indianapolis and Boston, and ERISA class cases representing employees in cases against Enron, WorldCom, Countrywide, and Washington Mutual, among others. Many of Derek's cases have required coordinating with state and federal agencies involved in litigation that parallels cases pursued by Keller Rohrback, including states attorneys general, the Department of Justice, and the Department of Labor. In addition, Derek has extensive experience negotiating complex, multi-party settlements, and coordinating with the many parties and counsel necessary to accomplish this.

Before joining Keller Rohrback, Derek served as a law clerk for the Honorable Michael R. Hogan, U.S. District Court for the District of Oregon, and was a trial attorney in the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C., where he prosecuted individual and class action employment discrimination cases. He is a frequent speaker at national conferences on class actions, ERISA and other complex litigation topics.

EDUCATION

Middlebury College

B.A., summa cum laude, 1989, American Literature (highest department honors), Stolley-Ryan American Literature Prize, Phi Beta Kappa

University of Washington School of Law

J.D., with honors, 1994

KELLER ROHRBACK

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HONORS & AWARDS

U.S. Department of Justice Honors Program Hire, 1994

U.S. Department of Justice Award for Public Service, 1996

U.S. Department of Justice Achievement Award, 1996

Selected to Rising Stars list in Super Lawyers - Washington, 2005-2007

Selected to Super Lawyers list in Super Lawyers - Washington, 2007-2012, 2014-2015

Recipient of the 2010 Burton Award for Legal Achievement for the article, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty, Pension & Benefits Reporter*, Bureau of National Affairs, Inc. (Sept. 1, 2009).

BAR & COURT ADMISSIONS

1994, Washington

1998, U.S. District Court for the Western District of Washington

1998, U.S. District Court for the Eastern District of Washington

1998, U.S. Court of Appeals for the Ninth Circuit

2002, U.S. District Court for the Eastern District of Michigan

2004, U.S. District Court for the Northern District of Illinois

2006, U.S. Court of Appeals for the Eleventh Circuit

2013, U.S. Court of Appeals for the Second Circuit

2008, U.S. Court of Appeals for the Eighth Circuit

2010, U.S. Court of Appeals for the Fourth Circuit

2010, United States Supreme Court

2012, U.S. Court of Appeals for the Third Circuit

2014, U.S. Court of Appeals for the First Circuit

PUBLICATIONS & PRESENTATIONS

Derek W. Loeser, *The Legal, Ethical, and Practical Implications of Noncompetition Clauses: What Physicians Should Know Before They Sign*, J.L. Med. & Ethics, Vol. 31:2 (2003).

Derek W. Loeser & Benjamin B. Gould, *Point/Counterpoint: Is Rule 23(b)(1) Still Applicable to ERISA Class Actions?*, ERISA Compliance and Enforcement Library of the Bureau of National Affairs, Inc. (May 1, 2009).

Derek W. Loeser & Benjamin B. Gould, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty*, Pension & Benefits Reporter, Bureau of National Affairs, Inc. (Sept. 1, 2009).

Speaker, 22nd Annual ERISA Litigation Conference, Las Vegas, NV, Oct. 2009.

Speaker, 22nd Annual ERISA Litigation Conference, New York, NY, Nov. 2009.

Speaker, ABA Mid-Winter Meeting, San Antonio, TX, 2010.

Derek W. Loeser & Erin M. Riley, *The Case Against the Presumption of Prudence*, Pension & Benefits Daily, Bureau of National Affairs, Inc. (Sept. 10, 2010).

Derek W. Loeser, Erin M. Riley & Benjamin B. Gould, 2010 *ERISA Employer Stock Cases: The Good, the Bad, and the In Between-Plaintiffs' Perspective*, Pension & Benefits Daily, Bureau of National Affairs, Inc. (Jan. 28, 2011).

Speaker, *Post-Certification: Motion Issues in Class Actions*, Litigating Class Actions, Seattle, WA, 2012.

Speaker, *Investment Litigation: Fees & Investments in Defined Contribution Plans*, ERISA Litigation, Washington, D.C., 2012.

Speaker, *Post-Certification Motion Practice in Class Actions*, Seattle, WA, June, 2014.

Speaker, *Fiduciary Challenges in a Low Return Environment*, Seattle, WA, December, 2014.

Speaker, *Class Action & Data Breach Litigation*, Santa Barbara, CA, March, 2016.

Panelist, Law Seminars International - *VW Diesel Emissions Litigation: A Case Study of the Interplay Between Government Regulatory Activity and Consumer Fraud Class Actions*, May 6, 2016.

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RYAN MCDEVITT

CONTACT INFO

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Action & Consumer Litigation
- Consumer & Data Privacy Protection
- Financial Products & Services
- Intellectual Property
- Securities

EDUCATION

Claremont McKenna College

B.A., 2007, Government and Leadership Sequence, Departmental Honors in Government

Columbia Law School

J.D., 2010, Harlan Fiske Stone Honors Scholar

Ryan McDevitt protects market participants. Ryan is a member of Keller Rohrback's nationally recognized Complex Litigation Group. His practice focuses on ensuring fairness in the marketplace on behalf of investors, innovators, and consumers.

Ryan has experience litigating cases involving securities fraud and financial mismanagement, consumer protection and antitrust claims, intellectual property infringement, and federal labor law violations in state and federal courts across the country. He currently represents Volkswagen, Audi, and Porsche consumers in the high-profile Volkswagen "Clean Diesel" multi-district litigation; the Federal Home Loan Banks of Boston, Chicago, and Indianapolis against dozens of issuers, underwriters, and sponsors of private label mortgage-backed securities worth \$13 billion; and putative classes of mortgage borrowers in cases relating to unfair and deceptive treatment by mortgage servicers and banks during and after the financial crisis. Ryan is also involved in complex intellectual property litigation, representing the Navajo Nation in a trademark suit involving Urban Outfitters' infringement of the NAVAJO trademark.

Before joining the firm, Ryan served as a law clerk in the Antitrust Division of the Washington State Attorney General where he worked on a multistate investigation concerning an international price-fixing conspiracy as well as on local Washington antitrust matters. In law school, he served as a research assistant to June Besek, chair of the ABA Copyright Task Force.

Outside of work, Ryan enjoys skiing, backpacking, travel and soccer.

BAR & COURT ADMISSIONS

2010, Washington

2011, US District Court for the Western District of Washington

2012, US Court of Appeals for the Ninth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

American Bar Association, *Member*

Seattle Academy of Arts & Sciences, *Alumni Board President, Board of Trustees Member Ex Officio*

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



DANIEL MENSHER

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dmensher@KellerRohrback.com

PRACTICE EMPHASIS

- Class Action & Consumer Litigation
- Consumer & Data Privacy Protection
- Environmental Litigation
- Mass Personal Injury
- Personal Injury & Wrongful Death

EDUCATION

Wesleyan University

B.A., 1998, History

University of Wisconsin

M.S., 2002, Geography

Lewis & Clark Law School

J.D., *cum laude*, 2007,
Environmental Law Certificate;
Cornelius Honors Society; Articles
Editor, *Environmental Law Review*

Daniel Mensher translates thorough preparation into courtroom success.

Dan practices in Keller Rohrback's nationally recognized Complex Litigation Group with a focus on complex environmental and consumer protection litigation. He enjoys collaborating with his colleagues and clients to identify problems and find creative, convincing solutions.

Dan has litigated important environmental and consumer cases across the country in federal and state court. Before joining the firm, Dan was an environmental law professor at Lewis & Clark Law School in Portland, Oregon, where he also litigated cases involving toxic waste, water pollution, and natural resource management. He has sat on governmental advisory boards and helped to draft key environmental regulations in place today. Dan uses his passion and experience to protect our environment and the people and communities that rely on clean air, water, and products.

BAR & COURT ADMISSIONS

2007, Oregon

2014, Washington

2008, U.S. Court of Appeals for the Ninth Circuit

2008, U.S. District Court for the District of Oregon

2010, U.S. Court of Appeals for the District of Columbia

2011, U.S. District Court for the District of Wisconsin

2014, U.S. District Court for the Eastern District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Oregon State Bar Association, *Member*

Washington State Bar Association, *Member*

Earthrise Law Center, Lewis & Clark Law School, *Advisory Council Member*

Northwest Environmental Defense Center, *Board Member*



PUBLICATIONS & PRESENTATIONS

Speaker, Bridgeport Environmental Class Action Webinar, March 2016

Speaker, Harris Martin Porter Ranch Gas Leak Litigation Conference, "Testing of the Air Quality and Expert Witnesses for the Cases," 19 January 2016

Daniel P. Mensher, With Friends Like These...: The Trouble With Auer Deference, 43 *Envtl. Law Rev.* 4 (2013).

Speaker, Oregon Water Law Conference, November 7, 2013 (Addressing issues in Water Quality Trading)

Speaker, Northwest Environmental Conference and Tradeshow, December 11, 2013 (The Precautionary Principle in Environmental Law)

Speaker, RainOps Conference, 2013, Spokane, WA, Longview, WA (Clean Water Act stormwater regulation)

Presenter, Oregon State Bar Environmental and Natural Resources Committee annual Continuing Legal Education Program, 2013 (salmon issues in Oregon and the Pacific Northwest)

Speaker, Oregon State Bar brown bag CLE debate with Oregon DOJ assistant attorney general about the Supreme Court case *Decker v. NEDC*, 2012

Daniel P. Mensher, Common Law On Ice: Using Federal Nuisance Law to Address Global Warming, 37 *Envtl. Law Rev.* 2 (2007).

Chris Rycewicz and Dan Mensher, Growing State Authority Under the Clean Water Act, 22 *Nat. Resources & Env't* 2 (2007).

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



IAN MENSHER

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PRACTICE EMPHASIS

- Class Actions
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products & Services
- Institutional Investors
- Securities

EDUCATION

Wesleyan University

B.A., 2002, Romance Literatures
(French & Italian), *Phi Beta Kappa*

University of Washington

J.D., 2007, Executive Comment
Editor, Pacific Rim Law and Policy
Journal

Ian Mensher understands that different clients have different goals. Ian practices in Keller Rohrback's nationally recognized Complex Litigation Group. He represents both institutional and individual investors in cases involving financial fraud and investment mismanagement. Ian provides frank and honest guidance that is tailored to meet the specific needs of his clients.

After graduating from the University of Washington School of Law, Ian clerked for the Honorable Jerome Farris on the Ninth Circuit Court of Appeals. Ian also clerked for the Honorable Marsha J. Pechman on the U.S. District Court for the Western District of Washington. Ian's rich experience in the federal court system brings a unique and important perspective to guide the important strategic decisions in litigation.

Ian is fluent in French and Italian. He is the president of the Keller Rohrback Cycling Team and spends much of his free time racing both on the road and at the velodrome.

BAR & COURT ADMISSIONS

2007, Washington
2008, U.S. District Court for the Western District of Washington
2008, U.S. Court of Appeals for the Ninth Circuit
2013, U.S. District Court for the Eastern District of Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*
King County Bar Association, *Member*
Federal Bar Association, *Member*

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LAW OFFICES ♦ L.L.P.



MICHAEL W. MEREDITH

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PRACTICE EMPHASIS

- Complex litigation

EDUCATION

Whitman College

BA, *magna cum laude*, 2008

University of Washington School of Law

JD, with honors, 2012

Michael W. Meredith practices in Keller Rohrback L.L.P.'s section for complex litigation, and presently focuses his practice on cases arising out of the foreclosure crisis in the United States including the servicing and securitization of mortgage loans.

Michael is a graduate of the University of Washington School of Law where he graduated with honors. Before joining KR, Michael clerked at the United States District Court for the Western District of Texas, and served as a staff attorney at the Washington Supreme Court.

He also held a number faculty positions at law schools in Washington and elsewhere, where his scholarly work focused on mortgage securitization and network economies.

BAR & COURT ADMISSIONS

Washington, 2012

PROFESSIONAL & CIVIC INVOLVEMENT

Central Washington University, Adjunct Professor

Law School Preparation Institute, Lecturer

Whitman College, Adjunct Professor, *Introduction to Communication & Public Speaking*

PRESENTATIONS & PUBLICATIONS

Kevin V. Tu, Michael W. Meredith, *Rethinking Virtual Currency Regulation in the Bitcoin Age*, 90 Wash. L. Rev. 271 (2015)

Michael W. Meredith, *Four Legs to Stand on: The Unexplored Potential of Civil War Era "Qui Tam" Suits to Advance Animal Rights in the Federal Judiciary*, 4 Seattle J. Envtl. L. 187 (2014)

Mercy W. Buku, Michael W. Meredith, Safaricom and M-Pesa in Kenya: *Financial Inclusion and Financial Integrity*, 8 Wash. J.L. Tech. & Arts 375 (2013)

Michael W. Meredith, *Malaysia's World Trade Organization Challenge to the European Union's Renewable Energy Directive: An Economic Analysis*, 21 Pac. Rim L. & Pol'y J. 399 (2012)

Michael W. Meredith, *The Costs of Failed Private Regulation; Mortgage Electronic Registration Systems (MERS) as Case Study*, Law and Society Conference, Seattle, Washington (2015).

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



GRETCHEN OBRIST

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PRACTICE EMPHASIS

- Appeals
- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Whistleblower

EDUCATION

University of Nebraska - Lincoln

B.S. *with distinction*, 1999,
Women's Studies, UNL Honors
Program

University of Nebraska - Lincoln, College of Law

J.D., *with high distinction*, 2005,
Order of the Coif, Editor-in-Chief,
Nebraska Law Review, 2004-2005

Gretchen Obrist provides her clients with a clear voice in complex cases.

Gretchen is a member of Keller Rohrback's nationally recognized Complex Litigation group whose work as a dedicated advocate dates back nearly two decades to her role at a nonprofit organization focused on impact litigation. Gretchen works closely with clients to help them understand the processes of litigation and negotiation. Her hands-on approach to legal strategy helps her identify and achieve her clients' goals and right the wrongs they have experienced.

With her work as a law clerk and as a litigator, Gretchen has significant experience with a broad range of federal cases at all stages. Her nationwide practice focuses on Employee Retirement Income Security Act ("ERISA") fiduciary breach and prohibited transaction cases. Gretchen's work has helped curtail excessive and conflict-ridden fees in the multi-trillion dollar retirement savings industry and provide recourse to retirement plan participants and beneficiaries who have faced pension reductions, misrepresentations, and other unfair practices related to their retirement plan benefits. Gretchen's ERISA experience includes a successful appeal to the Eighth Circuit in *Braden v. Wal-Mart Stores, Inc.* reversing dismissal of the lead plaintiff's excessive fee case, significant contributions to cases challenging cash balance pension plan conversions by Washington Mutual and JPMorgan, and representation of the employees who lost nearly all of their ESOP savings with the collapse of Bear Stearns.

Gretchen's breadth of practice extends to consumer protection and financial fraud claims, civil rights issues, and qui tam relator representation. She has played a key role in class action and multi-district cases arising out of the collapse of the mortgage securities industry and the residential mortgage modification and foreclosure crisis, including several ERISA actions and a consumer MDL against JPMorgan Chase. Gretchen has made significant contributions to the firm's cases against other large companies, such as Procter & Gamble and Merrill Lynch.

Prior to joining Keller Rohrback, Gretchen served as a law clerk to the Honorable John C. Coughenour, U.S. District Judge for the Western District of Washington. Before obtaining her law degree, she worked at a public defender's office, the Nebraska Domestic Violence Sexual Assault Coalition, and the Nebraska Appleseed Center for Law in the Public Interest—where she recently was profiled for Nebraska Appleseed's 20th Anniversary celebration as an innovator in the organization's earliest days.

Gretchen is a Plaintiff Co-Chair of the ABA Employee Benefits Committee's Fiduciary Responsibility Subcommittee and a Chapter Editor for the ERISA treatise *Employee Benefits Law* (Jeffrey Lewis et al. eds., 3d ed. BNA 2012), whose 4th edition is forthcoming. She frequently speaks at conferences and CLEs, is quoted in pension-related publications, and has published a number of articles related to her practice areas.

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LAW OFFICES ♦ L. L. P.

BAR & COURT ADMISSIONS

2005, Washington
2007, U.S. District Court for the Western District of Washington
2008, U.S. District Court for the Eastern District of Michigan
2008, U.S. Court of Appeals for the Eighth Circuit
2010, U.S. Court of Appeals for the Ninth Circuit
2011, U.S. District Court for the Eastern District of Washington
2011, U.S. Court of Appeals for the Second Circuit
2011, U.S. Court of Appeals for the Sixth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

The William L. Dwyer American Inn of Court, *Member*
American Constitution Society, Puget Sound Lawyer Chapter, *Member*
King County Bar Association, *Member*
Washington State Bar Association, *Member*
American Bar Association, *Member*, Litigation/Labor and Employment Sections

HONORS & AWARDS

Recipient of the 2004 Robert G. Simmons Law Practice Award (first place)
Theodore C. Sorensen Fellow, 2004-2005
National Association of Women Lawyers Outstanding Law Student Award, 2005
Selected to Rising Stars list in *Super Lawyers - Washington*, 2010

PUBLICATIONS & PRESENTATIONS

Quoted in Jacklyn Wille, "Ninth Circuit Adopts Pro-Worker Pension Framework," Pension & Benefits Daily, Bloomberg BNA (Apr. 22, 2016) (www.bna.com).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Las Vegas, NV, 2016 (Will Class Actions Live After This Supreme Court Term?).

Quoted in Andrea L. Ben-Yosef, "Class Action Suits on Plan Fees Steam Ahead," Pension & Benefits Blog, Bloomberg BNA (Feb. 10, 2016) (www.bna.com).

Lynn L. Sarko, Erin M. Riley, and Gretchen S. Obrist, Brief for Law Professors as Amici Curiae in Support of the Petitioners, Tibble, et al. v. Edison International, et al., No. 13-550 (U.S. 2014).

Erin M. Riley and Gretchen S. Obrist, Contributors, "Attorneys Reflect on 40 Years of ERISA's Biggest Court Rulings" Pension & Benefits Daily, Bloomberg BNA, discussing CIGNA Corp. v. Amara, 131 S.Ct. 1866, 50 EBC 2569 (U.S. 2011) (95 PBD, 5/17/11; 38 BPR 990, 5/24/11) (BNA Sept. 9, 2014) (www.bna.com).

Erin M. Riley and Gretchen S. Obrist, "The Impact of Fifth Third Bancorp v. Dudenhofer: Finally, a Court Gets it Right!" Pension & Benefits Daily, Bloomberg BNA (154 PBD, 8/11/2014) (BNA Aug. 11, 2014) (www.bna.com).

Speaker, ABA Joint Committee on Employee Benefits – 24th Annual National Institute on ERISA Litigation, Chicago, IL, 2014 (Fiduciary Litigation: Disclosure & Investment; Ethical Considerations in ERISA Litigation).

Speaker, Western Pension & Benefits Council – 2014 Spring Seminar, Seattle, WA, 2014 (What's New in Fiduciary Litigation?).

Quoted in Jacklyn Wille, "High Court to Address Statute of Limitations for Suits Challenging Retirement Plan Fees," Pension & Benefits Daily, Bloomberg BNA (Oct. 3, 2014) (www.bna.com).

Quoted in Jacklyn Wille, "High Court Seeks Government View in Tibble; Limitations Period, Deference Level at Issue," Pension & Benefits Daily, Bloomberg BNA (Mar. 25, 2014) (www.bna.com).



PUBLICATIONS & PRESENTATIONS CONT.

Speaker, ABA Joint Committee on Employee Benefits – 23rd Annual National Institute on ERISA Litigation, Chicago, IL, 2013 (Fiduciary Litigation Part 1: Disclosure & Investment; Fiduciary Litigation Part 2: Cutting Edge Issues).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Charleston, SC, 2013 (ERISA 408(b)(2) and 404(a) Disclosures and the Ongoing Fee Litigation).

Contributing Editor and Writer, Foreclosure Manual for Judges: A Reference Guide to Foreclosure Law in Washington State, A Resource by Washington Appleseed (2013).

Gretchen S. Obrist, "Class of Plans' Actions Could Be Next Wave of ERISA Litigation, Gretchen Obrist Says," ERISA Litigation Tracker: Litigator Q&A, Bloomberg BNA (June 19, 2013) (www.bna.com).

Gretchen S. Obrist, "ERISA Fee Litigation: Overview of Developments in 2012 and What to Expect in 2013," Benefits Practitioners' Strategy Guide, Bloomberg BNA (Mar. 26, 2013) (www.bna.com).

Gretchen S. Obrist, "ERISA Fee Litigation: The Impact of New Disclosure Rules, and What's Next in Pending Cases," Pension & Benefits Daily, Bloomberg BNA (Feb. 21, 2013) (www.bna.com).

Speaker, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Savannah, GA, 2011 (Update on ERISA Fee Litigation and the Impact of the Regulations).

Gretchen S. Obrist, Note, The Nebraska Supreme Court Lets Its Probation Department Off the Hook in *Bartunek v. State*: "No Duty" as a Non-Response to Violence Against Women and Identifiable Victims, 83 Neb. L. Rev. 225 (2004).

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DAVID PREMINGER

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PRACTICE EMPHASIS

- Class Actions
- Employee Benefits & Retirement Security
- Fiduciary Breach

EDUCATION

Rutgers University

B.A., 1969, Mathematics

New York University School of Law

J.D., 1972 New York

David Preminger is a practiced advocate for employees, retirees, and beneficiaries. The resident partner in the firm's Complex Litigation Group New York office, David focuses on Employee Retirement Income Security Act ("ERISA") fiduciary breach class action cases as well as individual benefit claims. He has been litigating ERISA cases for over 40 years, since the Act's passage in 1974. David has been the lead counsel or co-counsel on numerous ERISA cases alleging misconduct in connection with the investment of retirement plan assets, including *Hartman et al. v. Ivy Asset Management et al.*, a case involving fiduciary breach related to Madoff investments that resulted in a \$219 million settlement with consolidated cases. He has been involved in ERISA cases against Bear Stearns, Merrill Lynch, Colonial BancGroup and Marsh & McLennan resulting in multi-million dollar settlements on behalf of class members. David's familiarity with the changes to and nuances of ERISA law allows him to expertly and efficiently interpret the statute and regulations and analyze issues on behalf of his clients. He has handled over 100 trials and in addition to his ERISA experience has extensive experience litigating and negotiating antitrust, real estate, civil rights, family law, and general commercial and corporate matters.

Prior to joining Keller Rohrback, David was a partner at Rosen Preminger & Bloom LLP where his successes included the *In re Masters Mates & Pilots Pension Plan* and *IRAP Litigation*. He was previously a Supervisory Trial Attorney for the Equal Employment Opportunity Commission, a Senior Attorney with Legal Services for the Elderly Poor, and a Reginald Heber Smith Fellow with Brooklyn Legal Services. He is a charter fellow of the American College of Employee Benefits Counsel, a senior editor of *Employee Benefits Law* (Bloomberg BNA), and Chair of the Board of Mabou Mines, an experimental theater company in New York City, for the past 20 years.

BAR & COURT ADMISSIONS

1973, New York

1973, U.S. District Court for the Eastern District of New York

1974, U.S. District Court for the Southern District of New York

1974, U.S. Court of Appeals for the Second Circuit

1976, United States Supreme Court

1991, U.S. District Court for the Western District of New York

1993, U.S. Court of Appeals for the Ninth Circuit

1995, U.S. District Court for the Northern District of New York

2001, U.S. Court of Appeals for the District of Columbia Circuit

2006, U.S. Court of Appeals for the Seventh Circuit

2010, U.S. Court of Appeals for the Fourth Circuit

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PROFESSIONAL & CIVIC INVOLVEMENT

The Association of the Bar of the City of New York,
Member, Committee on Employee Benefits, 1993-1996;
1996-1999; 2002-2005; Committee on Legal Problems of
the Aging, 1985-1988

New York State Bar Association, *Member*

American Bar Association, *former Co-Chair*, Fiduciary
Responsibility Subcommittee; Committee on Employee
Benefits, Labor and Employment Section; former Co-
Chair, Subcommittee on ERISA Preemption and the
Subcommittee on ERISA Reporting and Disclosure

American College of Employee Benefits Counsel, *Member
and Charter Fellow*

PUBLICATIONS & PRESENTATIONS

Mr. Preminger regularly speaks at conferences on ERISA
and employee benefits litigation and has lectured at New
York University School of Law, Saint John's University
School of Law, and Rutgers University, and has testified
before Congress on proposed amendments to ERISA and
participated in New York State Attorney General's hearings
on protection of pension benefits.

Senior Editor, Employee Benefits Law (BNA)

Preminger & Clancy, *Aspects of Federal Jurisdiction Under
Sections 301(c)(5) and 302(e) of The Taft-Hartley Act - The
"Sole and Exclusive Benefit Requirement,"* 4 Tex. S. U. L. Rev.
1 (1976).

David S. Preminger, E. Judson Jennings & John Alexander,
*What Do You Get With the Gold Watch? An Analysis of the
Employee Retirement Income Security Act of 1974.* 17 Ariz. L.
Rev. 426 (1975).

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MATTHEW PREUSCH

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PRACTICE EMPHASIS

- Consumer & Data Privacy Protection
- Environmental Law

EDUCATION

Pomona College

B.A., 2000, Politics, Philosophy, and Economics

Lewis & Clark Law School

J.D., magna cum laude, 2013, Environmental & Natural Resources Law Certificate

Matthew Preusch practices in Keller Rohrback's nationally recognized Complex Litigation Group. Before joining Keller Rohrback, Matthew served as an honors attorney in the Oregon Department of Justice's appellate and trial divisions. He was a judicial extern for the Hon. Michael W. Mosman in the District of Oregon during law school. Prior to his legal career, he spent ten years as a journalist in the Pacific Northwest, covering regional and national news for The Oregonian, The New York Times, and other publications.

BAR & COURT ADMISSIONS

2014, California

2014, U.S. District Court for the Central District of California

2014, U.S. District Court for the Eastern District of California

2014, U.S. District Court for the Northern District of California

2014, U.S. District Court for the Southern District of California

2014, U.S. Court of Appeals for the Ninth Circuit

2013, Oregon

2013, U.S. District Court for the District of Oregon

PROFESSIONAL & CIVIC INVOLVEMENT

Oregon State Bar Association, Environmental and Natural Resources Section, Case Notes Editor

Federal Bar Association, Member

PRESENTATIONS & PUBLICATIONS

Panelist, Lewis and Clark Law School, Public Interest Law Project, "Cutting-Edge Bet the Company Mega Class Action CLE" February 2016

Speaker, Harris Martin Porter Ranch Gas Leak Litigation Conference, "Remedies," 19 January 2016

Don't Say, "No Comment": How To Ethically and Effectively Talk to Reporters, Santa Barbara County Bar Association (Sep. 16, 2015)

Oregon State Bar Environmental & Natural Resources Section Case Notes (July 2015)

Matthew Preusch, Tim Weaver, Yakama Tribes' Salmon Champion, Says His Goodbyes, The Oregonian (Jan. 1, 2010).

Matthew Preusch, DEQ to Help Polluter Seek Federal Break on Mercury Emission, The Oregonian (Aug. 19, 2009).

Matthew Preusch, Amid Forests Ashes, A Debate Over Logging Profits is Burning On, The New York Times (Apr. 15, 2004)

Panelist, Bridgeport Consumer Class Action Litigation Conference, "Current State of the Law on Ascertainability and Standing," January 2016

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JACOB RICHARDS

CONTACT INFO

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PRACTICE EMPHASIS

- Employee Benefits and Retirement Security
- Complex Litigation

EDUCATION

San Francisco State University

B.A., 2007

University of California at Berkeley School of Law

Order of the Coif – J.D., 2010

Jacob Richards joined Keller Rohrback as an associate attorney in 2015.

Prior to joining the firm, he served as a law clerk to the Honorable Edward M. Chen of the United States District Court for the Northern District of California. From 2010 to 2012, he served as a law clerk for Administrative Law Judge Steven Berlin in the United States Department of Labor, where he focused on cases involving workers' compensation, wage and hour laws, and employee whistleblower protections.

Before attending law school, Mr. Richards worked for the Gay, Lesbian, Bisexual, Transgender Historical Society. He also served on the Transgender Law Center's Board of Directors from 2011 to 2012. During law school, he interned with the East Bay Community Law Center's Neighborhood Justice Clinic, where he represented homeless people charged with quality of life infractions. He also completed internships with the National Center for Lesbian Rights and the American Civil Liberties Union's LGBT & AIDS Project.

BAR & COURT ADMISSIONS

2010, California

PROFESSIONAL & CIVIC INVOLVEMENT

Transgender Law Center, Board of Directors 2011-2012 and 2014 to present
American Bar Association, Labor and Employment Section, Member
National Employment Lawyers Association (NELA), Member
Bay Area Lawyers for Individual Freedom (BALIF), the Bay Area's LGBT bar association, Member
Coalition on Homelessness Volunteer Citation Defense Attorney, Member
Spring – Summer 2011

HONORS & AWARDS

Super Lawyers List, Super Lawyers magazine, 2005-2015
Top 100 Lawyers in Northern California, Super Lawyers magazine, 2010-2015
Top Attorney for ERISA Plaintiffs in the San Francisco Bar Area, The Recorder
Forty Top Benefits Attorneys, The National Law Journal, 1998



PUBLICATIONS & PRESENTATIONS

National Employment Lawyers Association Annual Convention, Los Angeles, June 22-25, 2016, "Advocating for the Rights of LGBT Employees" (panelist) (upcoming).

Joint Committee on Employee Benefits Government Invitational, Baltimore, March 31, 2016, "Transgender Benefits – What Needs to Be Provided and Current Developments" (co-moderator) (upcoming).

Colorado Plaintiff Employment Lawyers Association, Denver, March 14, 2016, "Advocating for the Rights of LGBT Employees" (co-presenter).

Midwinter Meeting of ABA Employee Benefits Committee, Las Vegas, February 11, 2016, "ACA's Expansive Nondiscrimination Provision and Transgender Benefits" (panelist).

Transgender Law Symposium, Chicago, August 7, 2015, Employment Law Panel (panelist).

Lavender Law: The LGBT Bar Annual Conference, Chicago, August 5/6, 2015, "Transgender Health Care Exclusions, Present and Future, Lavender Law Conference" (panelist).

"Sex Discrimination and Transgender Healthcare Coverage," Employee Benefits Committee Newsletter, Summer 2015 (ABA).

Welfare Plans, Chapter 1, "ERISA Litigation" (BNA 2015, 2016) (Chapter Editor 2015, 2016 updates).

National Transgender Health Summit, Oakland, California, April 18, 2015, "Beyond the Affordable Care Act: Using Litigation and Legal Advocacy as Strategies to Advance Transgender Health Access" (panelist).

"From One to Windsor: Sixty Years of the Movement for LGBT Rights," GP Solo, November/December 2014 (ABA).

Shaking the Foundations Conference, Stanford Law School, October 18, 2014. "Advocating for LGBTQ Workplace Equality" (panelist).

Doing Justice at Plaintiff Side Firms, U.C. Berkeley School of Law, February 25, 2014 (panelist).

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ERIN RILEY

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PRACTICE EMPHASIS

- Appeals
- Class Actions
- Employee Benefits & Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Securities

EDUCATION

Gonzaga University

B.A., *cum laude*, 1992, French & History

University of Wisconsin Law School

J.D., *cum laude*, 2000, Wisconsin Law Review

Erin Riley knows that strong relationships are key in complex cases.

Erin was a summer associate at Keller Rohrback in 1999, and joined Keller Rohrback's complex litigation group in 2000.

Since the Fall of 2001, her practice has focused on representing employees and retirees in ERISA actions involving defined contribution, defined benefit, and health benefit plans. She has successfully litigated a number of ERISA breach of fiduciary duty cases including cases filed against Washington Mutual, Merrill Lynch and WorldCom. Erin has worked on ERISA-related articles and amicus briefs, and has spoken at ERISA-related conferences. She is the Plaintiffs' Co-Chair of the Civil Procedure Subcommittee for the ABA Employee Benefits Committee, and is currently a senior editor and a chapter editor of the Employee Benefits Law treatise.

She earned her J.D. from the University of Wisconsin, where she served as an editor of the Wisconsin Law Review. She received her undergraduate degree from Gonzaga University.

When not at work, Erin enjoys spending time with her family and friends.

BAR & COURT ADMISSIONS

2000, Wisconsin
2000, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

Wisconsin State Bar Association, *Member*

King County Bar Association, *Member*

Washington State Bar Association, *Member*

Civil Procedure Sub-Committee for the ABA Employee Benefits Committee, *Plaintiffs' Co-Chair*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2009

PUBLICATIONS & PRESENTATIONS

Quoted in Jacklyn Wille, "Ninth Circuit Adopts Pro-Worker Pension Framework," *Pension & Benefits Daily*, Bloomberg BNA (Apr. 22, 2016) (www.bna.com).

"*Amgen Inc. v. Harris*: What is the Status of ERISA Company Stock Cases Post-*Amgen*," ABA Employee Benefits Committee Newsletter, Spring, 2016.

Speaker, ACI ERISA Litigation, Chicago, IL, 2016 (Supreme Court Roundup).

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PUBLICATIONS & PRESENTATIONS (CONT)

Panelist, ABA Section of Labor and Employment Law, Employee Benefits Committee – Mid-Winter Meeting, Las Vegas, NV, 2016 (mock mediation).

Quoted in Andrea L. Ben-Yosef, “Class Action Suits on Plan Fees Steam Ahead,” *Pension & Benefits Blog*, Bloomberg BNA (Feb. 10, 2016) (www.bna.com).

Br. of Amicus Curiae of Pension Rights Center in Supp. of Petition, *Pundt v. Verizon Communications*, No. 15-785 (U.S. 2016).

Br. of Amicus Curiae AARP and National Employment Lawyers Association in Supp. of Pls.-Appellees, *Whitley v. BP, P.L.C.*, No. 15-20282 (5th Cir. Oct. 28, 2015).

Br. of The Pension Rights Center as Amicus Curiae in Supp. of Resp't, *Spokeo, Inc. v. Robins*, No. 13-1339 (U.S. Sept. 4, 2015).

Lynn L. Sarko, Erin M. Riley, and Gretchen S. Obrist, Brief for Law Professors as Amici Curiae in Support of the Petitioners, *Tibble, et al. v. Edison International, et al.*, No. 13-550 (U.S. 2014).

Quoted in Jacklyn Wille, “High Court to Address Statute of Limitations for Suits Challenging Retirement Plan Fees,” *Pension & Benefits Daily*, Bloomberg BNA (Oct. 3, 2014) (www.bna.com).

Speaker, Western Pension & Benefits Council – 2014 Spring Seminar, Seattle, WA, 2014 (What’s New in Fiduciary Litigation?).

Erin M. Riley and Gretchen S. Obrist, Contributors, “Attorneys Reflect on 40 Years of ERISA’s Biggest Court Rulings” *Pension & Benefits Daily*, Bloomberg BNA, discussing *CIGNA Corp. v. Amara*, 131 S.Ct. 1866, 50 EBC 2569 (U.S. 2011) (95 PBD, 5/17/11; 38 BPR 990, 5/24/11) (<http://www.bna.com>)

Erin M. Riley and Gretchen S. Obrist, “The Impact of Fifth Third Bancorp v. Dudenhoefter: Finally, a Court Gets it Right!” *Pension & Benefits Daily*, Bloomberg BNA (154 PBD, 8/11/2014) (<http://www.bna.com>).

Lynn L. Sarko and Erin M. Riley, Brief for Law Professors as Amici Curiae in Support of the Respondents, *Fifth Third Bancorp v. Dudenhoefter*, No. 12-751 (U.S. March 5, 2014).

“Erin M. Riley Explores the Pro-Plaintiff Aspects of the Citigroup Ruling”, ERISA Litigation Tracker: Litigator Q&A, Bloomberg BNA (Dec. 1, 2011). Reproduced with permission from ERISA Litigation Tracker Litigator Q & A (Dec. 5, 2011). Copyright 2011 by The Bureau of National Affairs, Inc. (800-372-1033)

Sarah H. Kimberly, Erin M. Riley, “Court Declines to Limit Damages in Neil v. Zell”, ABA Employee Benefits Committee Newsletter (Spring, 2011).

Derek W. Loeser, Erin M. Riley and Benjamin Gould, “2010 ERISA Employer Stock Cases: The Good, the Bad, and the In-Between Plaintiffs’ Perspective”, Bureau of National Affairs, Inc. (Jan. 28, 2011).

Derek W. Loeser and Erin M. Riley, “The Case Against the Presumption of Prudence”, Bureau of National Affairs, Inc. (Sept. 10, 2010).

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PRACTICE EMPHASIS

- Medical Malpractice Litigation
- Products Liability - Plaintiffs
- Personal Injury Litigation
- Commercial Litigation
- Complex Litigation

EDUCATION

Arizona State University

B.S., summa cum laude, 1976, Bio-
Ag Sciences

Washington State University College of Veterinary Medicine

D.V.M., summa cum laude, 1980

Washington State University College of Veterinary Medicine

M.S., 1983, Veterinary Anatomy

Arizona State University College of Law

J.D., summa cum laude, 1986,
Order of the Coif

As a licensed veterinarian, Mark's medical knowledge helps get

his clients the results they deserve. Given his strong medical science background, Mark's practice focuses on tort law, including medical negligence, product liability, and other significant personal injury cases. He has nearly 30 years of experience litigating medical malpractice cases with victories including the landmark Edwards verdict, a transfusion-associated AIDS case which remains one of the largest personal injury verdicts in Arizona history. Mark was born in New York, but he moved to the Phoenix area in 1959 and grew up there. He practiced from 1986 to 1995 at Meyer, Hendricks, Victor, Osborn & Maledon, becoming a member in 1992. In 1995, Mark formed Dalton Gotto Samson & Kilgard, P.L.C. ("DGSK") and was one of the members of DGSK who formed Keller Rohrback P.L.C. in 2002.

BAR & COURT ADMISSIONS

1986, Arizona

1986, U.S. District Court for the District of Arizona

1986, U.S. Court of Appeals for the Ninth Circuit

1986, U.S. Supreme Court

2008, Washington, D.C.

PROFESSIONAL & CIVIC INVOLVEMENT

Maricopa County Bar Association, *Member*

Arizona State Bar Association, *Member*

American Association for Justice, *Member*

Arizona Association for Justice, *Sustaining Member*

PUBLICATIONS & PRESENTATIONS

Speaker, National Meeting of American Veterinary Medical Law Association, Tort and regulatory issues affecting veterinarians, 1995.

Chairman, Maricopa County Bar Association Seminar on Anatomy, 1994.

Chairman, Maricopa County Bar Association Seminar on Medical Malpractice in the Ages of Disclosure.

Speaker, Arizona Trial Lawyers Association Medical Malpractice Seminar, *Use of medical literature in the courtroom*, 1996; New legal theories in medical malpractice, 1999.

Co-Chair, Arizona Trial Lawyers Association, Anatomy of Pain, 2002.

Speaker, Arizona Veterinary Medical Association, *Application of legal principles to veterinary medicine*, 1999-2003.



PUBLICATIONS & PRESENTATIONS (CONT)

Speaker Arizona Paralegal Association, Settlement conferences versus trial in medical malpractice cases, 2002; Changes and issues in Arizona's ethical rules for attorneys, 2003.

Maricopa County Bar Association, *Punitive Damages after Campbell v. State Farm*, May 2003.

Chairman, Arizona State Bar, New Ethical Rules in Arizona, Oct. 2003.

Maricopa County Bar Association, Liens Again, 2004.

Maricopa County Bar Association, Arizona Appellate Update, 2005.

Co-Chairman, Arizona Trial Lawyers Association, Liens, Jan. 2006.

Blackwell's 5-Minute Veterinary Manager, Negotiation (2006).

Chairman, Arizona Trial Lawyers Association, *Rapid Fire on Litigation Issues*, Oct. 2006.

Co-Chairman, Arizona Trial Lawyers Association, Trial Practice - Damages, 2007.

Arizona Trial Lawyers Association, Issues in FTCA Claims, 2008.

Arizona Trial Lawyers Association, *Loss of a Chance in Med Mal Cases*, 2008.

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KARIN SWOPE

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PRACTICE EMPHASIS

- Appeals
- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Employment Law
- Fiduciary Breach
- Intellectual Property Litigation
- Intellectual Property Counseling
- Securities

EDUCATION

Amherst College

B.A., magna cum laude, 1987, Phi Beta Kappa

Columbia Law School

J.D., 1993

Harlan Fiske Stone Scholar
Executive Articles Editor,
Columbia Human Rights Law
Review

Paul Bernstein Scholarship
Recipient

Karin Swope is focused on client success. As a member of the firm's nationally recognized Complex Litigation Group, Karin represents clients in intellectual property litigation and counseling, consumer protection law, ERISA law, antitrust and securities litigation, with a particular emphasis in federal court litigation. Ms. Swope has represented clients for over 20 years in proceedings before the United States Patent and Trademark Office, as well as in state and federal courts across the country. She has represented companies and sovereign nations in protecting their intellectual property rights. She has protected the retirement funds of employees whose employers had breached their fiduciary duties in violation of ERISA, in cases against Washington Mutual, State Street Bank and Regions Financial Corporation, among others. She has helped consumers fight against unfair and deceptive practices, and has helped to change consumer protection law in the process. She has also represented shareholders in complex securities litigation.

Following her graduation from Columbia Law School, Karin served as a law clerk to the Honorable John C. Coughenour in the U.S. District Court for the Western District of Washington, and as a law clerk to the Honorable Robert E. Cowen of the U.S. Court of Appeals, Third Circuit. She has been an Adjunct Professor of Intellectual Property Law at Seattle University School of Law since 2008.

BAR & COURT ADMISSIONS

1994, Washington

1997, U.S. District Court for the Western District of Washington

1997, U.S. Court of Appeals for the Ninth Circuit

2006, U.S. District Court for the Northern District of California

2006, U.S. District Court for the Central District of California

2007, U.S. Court of Appeals for the Second Circuit

2009, Western District of Tennessee

2010, U.S. Patent and Trademark Office

2010, U.S. District Court for the Middle District of Florida

2010, U.S. Court of Appeals for the Eleventh Circuit

2010, U.S. Supreme Court

2015, U.S. Court of Appeals for the Tenth Circuit

KELLER ROHRBACK

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PROFESSIONAL & CIVIC INVOLVEMENT

Adjunct Professor, Seattle University School of Law,
Intellectual Property Law

National Employment Lawyers Association, *ERISA Amicus
Committee Member and Amicus Brief Writer*

ABA Tort, Trial and Insurance Law Journal, *Associate Editor*

Washington State Bar Association, *Member*

American Bar Association, *Member*, Tort Trial & Insurance
Practice and Intellectual Property sections

King County Bar Association, *Member*, Intellectual Property
section

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*,
2006

PUBLICATIONS & PRESENTATIONS

Speaker, Federal Court Practice Bootcamp, 2011

Speaker, National Employment Lawyers Association
Annual Convention, Atlanta, GA, ERISA Hot Topics, 2008.

Co-Chair and Speaker, WSBA CLE, IP For the Rest of Us,
2007-2009.

Speaker, WSBA CLE, 11th Annual Intellectual Property
Institute, The Year in Trademark Law, 2006.

Speaker, King County Bar Association CLE, Electronic
Discovery, 2006.

Speaker, WSBA CLE, Hot Trends in Intellectual Property
Damages, 2005.

Karin B. Swope, 5K2.0 Departures: A Backdoor out of the
Federal Sentencing Guidelines, 24 Colum. Hum. Rts. L. Rev.
135 (1993).

Executive Articles Editor, Columbia Human Rights Law
Review, 1992-1993.

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.



HAVILA UNREIN

CONTACT INFO

407 Main St. SW, Ste. 3
Ronan, MT 59864
406.281.7231
hunrein@KellerRohrback.com

PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Employee Benefits and Retirement Security
- Environmental Contamination
- Fiduciary Breach
- Financial Products and Services
- Mass Personal Injury
- Securities
- Whistleblower

EDUCATION

Dartmouth College

B.A., *magna cum laude*, 2003,
Russian Area Studies

University of Washington School of Law

J.D./LL.M. (Tax), *with honors*, 2008

Havila Unrein gives her clients a voice in the legal system. Havila practices in Keller Rohrback's nationally recognized Complex Litigation Group, where she is dedicated to helping clients who have been harmed by others engaged in fraud, cutting corners, and abuses of power.

Havila made significant contributions to *Hartman et al. v. Ivy Asset Management et al.*, a case involving fiduciary breach related to Madoff investments that resulted in a \$219 million settlement with consolidated cases. She currently represents plaintiffs in multiple cases alleging violations of the Employee Retirement Income Security Act of 1974 ("ERISA") by healthcare institutions attempting to claim exempt "church plan" status under ERISA.

During law school, Havila provided tax and business advice to low-income entrepreneurs and high-tech start-ups as a student in the Entrepreneurial Law Clinic. She also served as an extern to the Honorable Stephanie Joannides of the Anchorage Superior Court. Prior to law school, Havila worked and studied abroad in Russia, Azerbaijan, and the Czech Republic.

BAR & COURT ADMISSIONS

2008, Washington
2009, U.S. District Court for the Western District of Washington
2012, Montana
2012, U.S. Court of Appeals for the Ninth Circuit
2012, U.S. District Court for the District of Montana
2013, California
2013, U.S. District Court for the District of Colorado
2013, U.S. District Court for the Central District of California
2013, U.S. District Court for the Eastern District of California
2013, U.S. District Court for the Northern District of California
2013, U.S. District Court for the Southern District of California
2014, U.S. Court of Appeals for the Sixth Circuit

PROFESSIONAL & CIVIC INVOLVEMENT

California State Bar Association, *Member*
Santa Barbara County Bar Association, *Member*
Washington State Bar Association, *Member*
King County Bar Association, *Member*
Montana State Bar Association, *Member*

KELLER ROHRBACK

LAW OFFICES ♦ L.L.P.



AMY WILLIAMS-DERRY

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Environmental Litigation
- Employee Benefits and Retirement Security
- Fiduciary Breach Financial Projects and Services
- Institutional Investors
- Securities
- Whistleblower

EDUCATION

Brown University

B.A., *with honors*, 1993 Sociology

University of Virginia School of Law

J.D., 1998; Editor in Chief, *Virginia Environmental Law Journal*, 1997-1998

Amy Williams-Derry's practice at Keller Rohrback L.L.P. combines her passion for protecting people and the environment with her talent and experience in commercial litigation, complex financial transactions, and consumer protection.

Amy is a senior member of the complex litigation group at Keller Rohrback, where she draws on her diverse background representing plaintiffs, defendants, and coordinating with federal and state governmental entities to secure the best results for her clients. Prior to law school, Amy worked on environmental and transportation issues in Washington, D.C. At the University of Virginia School of Law, Amy was the Editor-in-Chief of the Virginia Environmental Law Journal.

After practicing commercial litigation for five years with a prominent Seattle firm, Amy applied her trial, arbitration, and mediation experience to an environmental law fellowship in the non-profit sector. Working with Earthjustice, she fought for salmon, old-growth timber forests, and endangered species in litigation in state and federal courts throughout the Pacific Northwest.

Amy joined Keller Rohrback in 2005 with this wealth of experience in commercial litigation and environmental law. At Keller Rohrback, Amy has expanded her docket to include complex class actions, investor cases, and multi-defendant actions. Amy thrives on solving complex problems by looking at them from a variety of angles, and her practice has flourished at Keller Rohrback where she has played key roles in cases nationwide in ERISA, securities, complex financial transactions, consumer protection, and environmental actions on behalf of both institutions and individuals.

Amy has represented clients in proceedings involving the U.S. Department of Justice, as well as in mediation and arbitration settings, including before the National Labor Relations Board, National Association of Securities Dealers, and the New York Stock Exchange. Amy's current representative cases include Federal Home Loan Bank of Boston v. Ally Financial, Inc., et al. (D. Mass.), Federal Home Loan Bank of Chicago v. Banc of America Funding Corp., et al. (Cook Cty. Ill.), and In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation (N.D. Cal.).

BAR & COURT ADMISSIONS

1998, Washington

1998, U.S. District Court for the Western District of Washington

1998, U.S. District Court for the Eastern District of Washington

1999, U.S. Court of Appeals for the Ninth Circuit

2007, U.S. District Court for the Eastern District of Michigan

2007, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the First Circuit

2015, US Supreme Court

2015, Massachusetts

KELLER ROHRBACK

LAW OFFICES ♦ L. L. P.

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

WithinReach, *Board of Directors*, 2006-2009

The Evergreen School, *Annual Giving Co-Chair*, 2012-2013

Washington Women Lawyers, *Member*

King County Washington Women Lawyers, *Member*

The National Association of Public Pension Attorneys,
Member

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*,
2003-2009

AV[®], Peer Review Top-Rated by Martindale-Hubbell

PUBLICATIONS & PRESENTATIONS

*No Surprises After Winstar: Contractual Certainty and Habitat
Conservation Planning Under the Endangered Species Act*, 17
Va. Envtl. L.J. 357 (1998)

Presenter, American Law Institute-American Bar
Association ERISA Conference, *Employer Stock Cases and
Cash Balance Plans*, Scottsdale, AZ, 2008.

Presenter, Washington State Bar Association, Employment
Benefits CLE, *Hot Topics in ERISA Class Action Litigation*,
Seattle, WA, 2010.

Presenter, HarrisMartin MDL Conference: *Fantasy Sports,
Volkswagen, Porsche, and Pharmaceutical Litigation*, Cape
Coral, FL 2016

Presenter, HarrisMartin *Aliso Canyon Gas Leak Litigation
Conference*, Santa Barbara, CA 2016.

Presenter, HarrisMartin MDL Conference: *Environmental
Contamination Cases*, Seattle, WA 2016.

KELLER ROHRBACK

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MICHAEL WOERNER

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PRACTICE EMPHASIS

- Class Actions
- Consumer & Data Privacy Protection
- Environmental Litigation
- Mass Personal Injury
- Medical Negligence

EDUCATION

University of Puget Sound

B.S., 1982

Notre Dame Law School

J.D., 1985

Mike Woerner works for the public good. A member of Keller Rohrback's nationally recognized Complex Litigation Group since 1985, Mike focuses on class action and mass personal injury cases. He is skilled at focusing the Courts' attention on key issues in litigation and at negotiating favorable settlements to bring relief to people who have experienced physical, emotional, and financial harm from environmental contamination, dangerous pharmaceutical drugs, and other negligent acts with far-reaching consequences.

Mike was a member of the litigation team that received the 1995 Trial Lawyer of the Year Award from Trial Lawyers for Public Justice for the In re Exxon Valdez litigation resulting from the devastation of thousands of miles of fishing ground around Prince William Sound, Kodiak Island, Chignik, and Cook Inlet after the infamous oil spill. He has more recently represented hundreds of clients in multiple states at risk of heart-valve damage or primary pulmonary hypertension from fen-phen diet drugs. Mike also has experience litigating and negotiating widespread medical negligence issues and misconduct by fiduciaries charged with investing retirement plan assets. With his focus on impact litigation, Mike strives to achieve full compensation for his clients as well as to compel institutional reform and change the conduct of powerful bad actors to prevent them from causing future harm.

Outside of work, Mike enjoys traveling with his family experiencing new places and cultures, as well as staying closer to home cheering on his kids' basketball and volleyball teams.

BAR & COURT ADMISSIONS

1985, Washington

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

HONORS & AWARDS

Trial Lawyer of the Year – Trial Lawyers for Public Justice, 1995

KELLER ROHRBACK

L A W O F F I C E S ♦ L . L . P .

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EX. 91

Exhibit 19

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)
)
Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

**DECLARATION OF J. BRIAN MCTIGUE IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND INCENTIVE
AWARDS TO CERTAIN CLASS REPRESENTATIVES**

I, Brian McTigue, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am the founder and managing partner of McTigue Law LLP (“McTigue Law” or “Firm”). McTigue Law is a law firm that focuses its practice on the representation of private pension plans qualified under the Employee Retirement Income Security Act of 1974 (“ERISA”), their trustees, participants, and beneficiaries in class actions—principally involving allegations of improper investment of those ERISA plans’ assets.

2. I submit this declaration in support of Lead Settlement Counsel’s motion for an award of attorneys’ fees, payment of litigation expenses on behalf of McTigue Law, and payment of incentive awards to proposed class representatives Arnold Henriquez, Michael T. Cohn, William R. Taylor, and Richard A. Sutherland each of whom is represented by McTigue Law (“*Henriquez* Plaintiffs”). Each of the *Henriquez* Plaintiffs contributed time and attention to the prosecution of the claims in the above-captioned *Henriquez et al v. State Street Bank State Street Bank and Trust Company and State Street Global Markets LLC and Does 1-20*, No. 11-cv-12049-MLW class action (“Action” or “*Henriquez*”) from our Firm’s filing of the first ERISA Claims in 2011 through August 30, 2016 (the “Time Period”).¹

3. I personally rendered legal services and was responsible for coordinating and supervising the activity carried out by the McTigue Law attorneys and professional staff in the Action, including personally advising and counseling each of the *Henriquez* Plaintiffs.

4. McTigue Law is counsel of record, along with Zuckerman Spaeder LLP and Beins, Axelrod, PC for the *Henriquez* Plaintiffs. Two additional law firms performed work on

¹ McTigue Law and Beins Axelrod, PC originally filed the ERISA Claims in the District of Maryland, Case No.: 1:11-cv-02920-WDQ, complaint filed October 12, 2011. That complaint was withdrawn and the complaint refiled in this District, with the firm of Feinberg, Campbell & Zack, LLP serving as local counsel.

behalf of *Henriquez* Plaintiffs, Feinberg, Campbell & Zack, PC and Richardson, Patrick, Westbrook & Brickman, LLP.

5. In its capacity as counsel of record in *Henriquez*, McTigue Law contributed to this action and performed valuable work on behalf of and for the benefit of the Class.

McTigue Law's Efforts in This Litigation

6. A summary of the work McTigue Law performed and/or participated in follows.

7. The work performed by McTigue Law in *Henriquez* includes the initial representation conferences with, and drafting attorney-client agreements for the *Henriquez* Plaintiffs, who collectively represent four employee benefit plans with more than 350,000 participants and beneficiaries.

8. McTigue Law reviewed hundreds of thousands of pages of defendants' discovery, *Henriquez* Plaintiffs' own documents, and their plans' documents; produced *Henriquez* Plaintiffs' documents to defendants; researched and developed the ERISA legal theories and facts employed in the *Henriquez* complaints; and drafted those complaints. By filing the *Henriquez* complaints, McTigue Law was breaking new ground. It became the first firm in the country to file ERISA claims on behalf of clients with respect to FX transactions.

9. After the *Henriquez* action was filed in this District on November 18, 2011, the staff of McTigue Law zealously litigated its clients' claims. During the Time Period, McTigue Law's work included obtaining and analyzing each of the annual reports during the proposed Class Period for pension plans in which each *Henriquez* Plaintiff participated; reviewing *Henriquez* Plaintiffs' and defendants' documents; negotiating a protective order; developing a motion for jurisdictional discovery; preparing to oppose Defendants' motion to dismiss and persuading them that the ERISA claims would likely survive any such motion; developing and

analyzing damage estimates, both alone and in coordination with other counsel; keeping *Henriquez* Plaintiffs apprised of the litigation through emails, phone calls and meetings; attending the numerous mediation sessions; and interacting with the counsel for the U.S. Department of Labor—all of which resulted in a \$300 million settlement agreement allocating \$60 million of the \$300 hundred million to ERISA Plans and Group Trusts² holding ERISA Plan assets.

10. McTigue Law also reviewed and revised principal settlement documents, filings, and agreements, including certain agreements with proposed settlement service providers such as settlement administrators and escrow agents. McTigue Law counsel also participated in numerous telephone conferences with many other Plaintiffs Counsel.

**McTigue Law’s Efforts Specific to Proposed Class Representatives Who Are
Henriquez Plaintiffs**

11. McTigue Law represents the four *Henriquez* Plaintiffs in this Action: Arnold Henriquez, Michael T. Cohn, William R. Taylor, and Richard A. Sutherland. Plaintiff Arnold Henriquez is a participant in the Waste Management Retirement Savings Plan, an ERISA-covered plan. Plaintiff Michael T. Cohn is a participant in the Citigroup 401(k) Plan, an ERISA-covered plan. Plaintiffs William R. Taylor and Richard A. Sutherland are participants in the Retirement Plan of Johnson and Johnson, an ERISA-covered plan. Each *Henriquez* Plaintiff represented the class of ERISA plans, and each stepped forward to represent their ERISA plan and the Class, despite having no obligation to do so, after the fiduciaries of their respective plans had not stepped forward to assert the plan’s ERISA rights.

12. Each *Henriquez* Plaintiff is a participant in their respective plan. None is an official of their plan, such as a plan trustee. Each is a lay person who has undertaken

² This term is defined in the Settlement Agreement.

responsibility far beyond that required of an ordinary participant. Participants are not required by law, as trustee are, to represent their plan. However, under §502(a) of ERISA, ordinary plan participants may voluntarily, and in my view at some risk to themselves for possible adverse consequences, represent their plan.

13. *Henriquez* Plaintiffs have stepped into the role of plan representative. They have been concerned that the law be enforced, and acted not merely for themselves, but for the Class as a whole. For doing that, I recommend them, and the fruit of their efforts, to the court for approval.

14. Plaintiff Arnold Henriquez, a participant in the Waste Management Retirement Savings Plan, resides in Frederick, Maryland. Mr. Henriquez began work as a truck driver for Waste Management in 1994. Plaintiff Michael T. Cohn, a participant in the Citigroup 401(k) Plan, resides in Highland Park, Illinois. Plaintiff Cohn began contributing to what became the Citigroup 401(k) Plan in 1966 when he began working as a commodities trader for a Citigroup predecessor. Plaintiff William R. Taylor, a participant in the Retirement Plan of Johnson and Johnson, resides in Aston, Pennsylvania. Mr. Taylor started work as a heavy laborer for Johnson and Johnson chemical subsidiary on September 21, 1998. Plaintiff Richard A. Sutherland, a participant in the 401(k) Plan of Johnson and Johnson, began working as pharmaceutical salesman for Johnson and Johnson in January of 1999.

15. Collectively, the four *Henriquez* ERISA Plaintiffs Henriquez, Cohn, Taylor, and Sutherland at the request of McTigue Law searched their personal records for relevant documents. They provided more than 550, totaling more than 3,700 pages for McTigue Law's review.

16. During the course of this litigation, I and other McTigue Law counsel communicated and/or met with the *Henriquez* plaintiffs more than fifty times. I have visited several of the *Henriquez* Plaintiffs at their homes and/or workplaces to discuss and brief them on the litigation. Each has been a personally engaged and responsible named plaintiff.

17. The four Plaintiffs gave their time and attention to the Action, including reading draft and final papers filed in the litigation which McTigue Law sent to them, papers we discussed before and after filing. I was impressed with the resolution each showed in seeking to enforce ERISA and obtaining justice for ERISA participants and beneficiaries across the nation who comprise a large part of the class. The *Henriquez* Plaintiffs were the first ERISA plaintiffs and ERISA claimants in this Action. Their fortitude meant there were those who stepped forward to assert as yet unasserted ERISA claims for their plans and their plans' participants against the institutional defendants in this litigation.

18. Given their important role in this litigation, I respectfully request that the Court, besides approving the Settlement and award of Attorneys' Fees and Litigation Expenses, approve a Service Award to each of the four *Henriquez* Plaintiffs of \$10,000.

Billing and Lodestar Details

19. The schedule attached hereto as Exhibit A is a summary representing the amount of time spent by each attorney and professional support staff-member of my Firm who was involved in the prosecution of the Action, and the lodestar calculation based on my Firm's current billing rates. For personnel who are no longer employed by my Firm, the lodestar calculation is based upon the billing rates for such McTigue Law staffers in their final year of employment by the Firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my Firm, which are available at the request of the Court.

Time expended in preparing this application for fees and payment of expenses has not been included in this request.

20. The hourly rates for the attorneys and professional support staff in my Firm included in Exhibit A are the same as my Firm's regular rates otherwise charged for their services, which have been accepted in other complex class actions my firm has been involved in.

21. The total number of hours expended by McTigue Law on this Action during the Time Period is 4,914.05. The total lodestar for my Firm for those hours consists of \$2,210,831.00 in attorney time and \$414,672.75 in professional support staff time.

22. In my judgment, having litigated class actions for more than twenty years, the number of hours expended and the services performed by the attorneys and staff at McTigue Law in this action were reasonable and were expended for the benefit of the settlement class in this Action.

23. McTigue Law's lodestar figures are based on the Firm's billing rates, which do not include charges for expense items. Expense items are separately represented in Exhibit B. Such charges are neither represented nor duplicated in the Firm's billing rates.

24. As set forth in Exhibit B, McTigue Law has incurred a total of \$41,412.90 in unreimbursed expenses in connection with the prosecution of the Class Action during the Time Period. In my judgment, based on my experience, these expenses were reasonable and expended for the benefit of the settlement class in this Action.

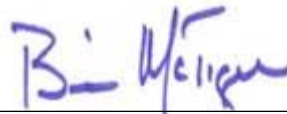
25. These expenses are reflected on the books and records of the Firm. It is the Firm's policy and practice to prepare such records from expense vouchers; checking account records; credit card statements and receipts and records; and other original source materials. Based on my management of McTigue Law's work in connection with this litigation and my review of these

records, I believe they constitute an accurate record of the expenses actually incurred by the Firm in connection with this litigation.

26. With respect to the expertise and standing of my Firm in asserting ERISA claims, attached hereto as Exhibit C is a brief history of my Firm as well as biographies of the Firm's partners.

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

Executed this 13th day of September, 2016 in Washington, DC.



J. Brian McTigue

Exhibit A

Henriquez v. State Street, et al., 11-12049
McTigue Law LLP Hours from Inception to September 6, 2016

Name	Total	Rate	Lodestar
Attorneys			
J. Brian McTigue, Esq.	1264.84	\$725.00	\$917,009.00
James Moore, Esq.	931.78	\$725.00	\$675,540.50
Regina M. Markey, Esq.	190.09	\$625.00	\$118,806.25
Brooke Edwards, Esq.	6.82	\$400.00	\$2,728.00
Bryan T. Veis, Esq.	430.16	\$550.00	\$236,588.00
Emily Peterson, Esq.	551.96	\$325.00	\$179,387.00
Joshua Erlich, Esq.	248.53	\$325.00	\$80,772.25
Attorney Total	3624.18		\$2,210,831.00
Staff			
David T. Bond, Case Manager	459.65	\$325.00	\$149,386.25
Miyuki Britton, MBA	6.41	\$325.00	\$2,083.25
Michele Chasse, Paralegal	1.49	\$325.00	\$484.25
Sarah McGuane, MBA	784.84	\$325.00	\$255,073.00
Rachel J. Kaplan, Law Clerk	3.00	\$250.00	\$750.00
Julia Cade, Paralegal	34.48	\$200.00	\$6,896.00
Staff Total	1289.87		\$414,672.75
Firm Total	4,914.05		\$2,625,503.75

Exhibit B

Henriquez v. State Street Bank & Trust
McTigue Law Expenses from Inception to September 6, 2016

Type of Expense	SSBT FX
Costs	
Courier/Messenger/Postage	\$252.94
Teleconference	\$609.87
Telephone/Fax	\$459.81
Total Costs	\$1,322.62
Services	
Consultants on FX transactions	\$7,452.50
Copies (In-House Copies at \$0.09/page)	\$3,504.58
Database: EDGAR, Thomson Westlaw, PACER	\$10,374.51
Docket Services	\$23.40
Document Retrieval	\$760.16
Filing	\$118.50
Imaging - OCR	\$253.55
Mediation	\$736.81
Total Services	\$22,233.64
Travel	
Airfare, baggage fee	\$684.20
Airfare, Train	\$5,659.80
Car Rental, Cab, Metro	\$429.56
Hotels	\$4,346.55
Meals, Breakfast	\$39.58
Meals, Dinner	\$222.03
Meals, Lunch	\$39.92
Mileage	\$37.74
Miscellaneous Travel Costs (charger, pens)	\$17.26
Parking	\$140.00
Total Travel	\$11,616.64
Third Party Counsel Advice re: Potential Class Representative	\$6,240.00
TOTAL EXPENSES	\$41,412.90

Exhibit C

MCTIGUE LAW LLP

4530 Wisconsin Ave, NW
Suite 300
Washington, DC 20016

McTigue Law LLP represents trustees and participants in traditional pension plans, 401(k) salary deferral plans, savings plans, and Employee Stock Ownership Plans (ESOPs). The firm confines itself to the litigation of complex class actions, the majority of which are brought under the federal Employee Retirement Income Security Act (ERISA). We represent and protect employees in pension plans when those plans have lost assets because the employer-fiduciaries, trustees and investment managers fail to meet their obligations under ERISA.

We are likely the first law firm, years before the Enron, WorldCom, and Global Crossing scandals, to recognize the need for lawyers focused on litigation to protect plan participants against the growing risks of imprudently-invested 401(k) plans. Participants in these plans directly bear the investment risks of plan investments.

The Finn's representative cases include the following in which the firm served as lead or co-lead class counsel and secured multimillion dollar awards for ERISA plans and participants:

- *In re Bank of New York Mellon Corp. Forex Transactions Litigation*, (S.D.N.Y.) No. 12-md-2335. This Multidistrict Litigation case involved allegations that Bank of New York Mellon systematically overcharged custodial bank clients for a type of foreign exchange transactions known as "standing instruction." McTigue Law brought ERISA class claims, and other firms brought non-ERISA claims. Acting as one of three lead settlement counsel and the only ERISA settlement counsel, McTigue Law achieved a \$335 million settlement, approximately \$70 million of which was allocated to a class of ERISA plans with more than 490,000 members.
- *Presley v. CHH, et al.*, (N.D. Cal.) No. 97-cv-04316 (SC). CHH, was the Los Angeles holding company for the Broadway, Emporium, Capwells, and Weinstocks department stores, with more than 24,000 employees in its 401(k) plan. More than half of the plan's assets were invested in CHH stock when the chain filed for bankruptcy. Nearly \$39 million was recovered for the plan from defendants.
- *In re CMS Energy ERISA Litig.*, (E.D. Mich.) No. 02-cv-72834 (GCS). This litigation, on behalf of more than 10,000 pension plan participants, involves a former Detroit-based utility. A \$28 million settlement was reached in this litigation.
- *In re McKesson HBOC, Inc. ERISA Litig.*, (N.D. Cal.) No. 00-20030 (RMW). Case on behalf of 8,000 participants filed against one of the country's largest healthcare information management companies involving plan investment in company stock. \$23 million settlement.
- *Blyler v. Agee, et al.*, (D. Idaho) No. CV-97-0332 (BLW). This litigation involved pension plans with 8,000 employees sponsored by Morrison Knudsen Corporation which declared bankruptcy in 1996. \$21 million settlement obtained.
- *Figas v. Wells Fargo & Co.* (Wells Fargo ERISA Litig.) (D. Minn.) No. 08-04546. This litigation involved allegations of breaches of ERISA fiduciary duties and prohibited

MCTIGUE LAW LLP

transactions where defendants invested retirement plan savings in proprietary mutual funds with high fees and poor performance. \$17.5 million was recovered for the plan.

- *Sherrill v. Federal Mogul Corp. Ret. Programs Committee, et al.*, (E.D. Mich.) No. 04072949. Plan sponsor bankruptcy with asbestos liability, plan with 12,000 participants. \$12.75 million settlement.
- *Koch v. Dwyer, et al.*, (S.D.N.Y.) No. 98-cv-5519 (RPP). This litigation involved JWP, Inc., a S&P 500 company that declared bankruptcy. A \$6.4 million settlement was reached in 2002 on behalf of JWP's pension plan.

Overall, the firm has prosecuted cases on behalf of hundreds of thousands of plan participants recovering more than \$220 million. Many lawsuits involved alleged fiduciary breaches with respect to a pension plan sponsored by a S&P 500 or similar company.

The firm currently litigates several other cases throughout the United States on behalf of thousands of pension plan participants who have lost retirement assets due to a trustee's or fiduciary's breach of fiduciary duty. These cases include the following ERISA actions:

- *Allen v. Bank of America Corp., Barclays PLC, Citigroup, Inc., J.P. Morgan Chase & Co., et al.* (S.D.N.Y.), No. 15-cv-4285. Alleging breaches of ERISA fiduciary duty, *inter alia*, in manipulating foreign exchange benchmark prices that affected foreign exchange transactions with ERISA plan assets. McTigue Law was appointed Interim Lead Counsel on April 12, 2016.
- *Henriquez v. State Street Bank and Trust Company et al.*, (D. Mass.), No. 1:11-cv-12049-MLW. Alleging breaches of fiduciary duty related to defendants' pricing and execution of foreign exchange transactions for ERISA plans.
- *Leber v. Citigroup*, (S.D.N.Y.) No. 07-09329. Alleging breaches of fiduciary duty where defendants invested retirement plan savings in proprietary mutual funds with high fees and poor performance.
- *In re SunTrust Banks, Inc. 401 (k) Plan Affiliated Funds ERISA Litigation* (N.D. Ga.) No. 1:11-CV-784-ODE. Alleging breaches of fiduciary duty where defendants invested retirement plan savings in proprietary mutual funds with high fees and poor performance.

The Defendants in these cases include fiduciaries and administrators of 401(k) Plans, corporate boards which appointed and failed to monitor the fiduciaries and administrators. The lawsuits allege a variety of federal pension law violations, including that fiduciaries of these pension plans failed to perform fiduciary duties to the funds and their pension plan members as required by federal law, participated in others breaches of fiduciary duty, and engaged in prohibited transactions, involving conflicts-of-interest, under federal pension law.

MCTIGUE LAW LLP

The events beginning in late 2001 and the first half of 2002, including the financial collapse and bankruptcy filings by ENRON, WorldCom, and Global Crossing confirmed the risks that participants in defined contribution pension plans are exposed to because of large portfolios of Company Stock. The nature of this risk to 401(k) plan participants was brought to the attention of the United States Department of Labor in 1997 by Mr. McTigue when he was invited to testify before the Department's pension fund Advisory Council.

PRINCIPAL ATTORNEYS

Brian McTigue

Mr. McTigue founded McTigue Law LLP. Prior to private practice, Mr. McTigue was counsel to committees of the United States House of Representatives and Senate. His legislative work included investigations and legislation pertaining to federal pension law and fund investment.

As a Senate Legal Counsel for Special Projects, Mr. McTigue was responsible 1996 for initiating the first legislative proposal to reduce the percentage of sponsoring corporation stock permitted in the portfolios of 401(k) and similar defined contribution pension plans. The bill represented the first congressional recognition of problems with the typical pension plan of the baby boom generation. Although opposed by many employers and employer groups, several of the concepts embodied in the bill became law. Since, then, Mr. McTigue has assisted congressional offices with draft legislation which would give ERISA fiduciary breach claims greater protection when companies sponsoring plans file for bankruptcy .

Mr. McTigue's congressional investigation of Michael Milken, Drexel Burnham Lambert and the junk bond market was a basis for *FDIC v. Milken, et al.*, brought by the Federal Deposit Insurance Corporation, and which settled for \$1.3 billion. McTigue's congressional investigations of the funding of pension plans with annuities issued by the Executive Life Insurance Company identified problems that later caused Executive Life to become insolvent, and led to numerous class action lawsuits, the U.S. Department of Labor alleging federal pension law violations, the Labor Department's adoption of standards for pension annuities and to the passage of the Pension Annuitants Protection Act.

Prior to his legislative work, Mr. McTigue was an investigative reporter and television news producer for ABC and NBC News. Before working in television he reported from Europe and Africa, where he covered revolution and civil war. His investigative reporting has been awarded Emmys and a George Polk Award.

Mr. McTigue is a graduate of Notre Dame and the Golden Gate University Law School, San Francisco, California. Mr. McTigue is a member of the District of Columbia Bar and the State Bar of California. He is also a member of the Bars of the United States District Courts for the District of Columbia, Northern District of California, and the Eastern District of Michigan.

Mr. McTigue is from Fort Dodge, Iowa.

MCTIGUE LAW LLP

James A. Moore

Mr. Moore is a senior litigation partner with nearly two decades of experience in class action cases in federal and state courts, including, in particular, ERISA retirement plan cases. He is quoted in news articles on cutting-edge ERISA litigation issues.

Mr. Moore has played a major role in securing multimillion dollar awards for 401(k) and pension plan participants in numerous cases, including *In re Bank of New York Mellon Corp. Forex Transactions Litigation*, No. 12-md-2335 (S.D.N.Y.); *Figas v. Wells Fargo & Co.*, No. 08-04546 (D. Minn.); *Dickerson v. Feldman* (Solutia Corp. ERISA Litig.), No. 1:04-CIV-07935 (S.D.N.Y.); *In re RCN Corp. ERISA Litig.*, No. 04-5068 (D.N.J.); *Koch v. Dwyer* (EMCOR Corp. ERISA Litig.), No. 98-CIV-5519 (S.D.N.Y.); and *Byler v. Agee* (Morrison Knudsen Corp. ERISA Litig.), No. 97-00332 (D. Idaho).

Mr. Moore is a 1994 graduate of the University of Michigan Law School, where he served as an Associate and Article editor for the *Michigan Journal of International Law*. He is admitted to practice in the District of Columbia, Pennsylvania, the United States District Court for the District of Columbia, and the U.S. Court of Appeals for the Second, Fourth, and Eleventh Circuits. He serves on the Board of Directors of the Maryland Ornithological Society, and is chair of its investment committee.

Prior to his law career, Mr. Moore earned a Ph.D. in philosophy from the University of Pittsburgh. The Pitt philosophy department has been ranked among the top five in the country. He was awarded the prestigious Mellon Pre-Doctoral Fellowship in his first year of study, and was awarded a Teaching Fellowship to teach logic and philosophy during the remainder of his studies. He earned his Bachelor of Arts from Indiana University-Bloomington, graduating Phi Beta Kappa and with honors.

Prior to joining McTigue Law LLP, Mr. Moore was an attorney with Malakoff, Doyle, & Finberg, P.C., which, together with McTigue Law LLP, pioneered the pursuit of class action suits on behalf of employees who lost retirement savings due to their pension plan fiduciary's imprudent investment in their employer's stock.

Mr. Moore's publications include "Taking Legal Action to Protect Policyholders' Ownership Rights in the Wake of the Continuing Trend Toward Insurance Company Demutualization," *ATLA Insurance Law Section Newsletter*, Fall 2000 (co-author with Ellen M. Doyle), and publications in scholarly journals including the *Harvard International Law Journal*.

MCTIGUE LAW LLP

Regina M Markey

Since beginning her law practice in 2001, Ms. Markey has concentrated on employment, employee benefit, and labor law. Beginning in 2012, her litigation has focused on class action lawsuits against Bank of New York Mellon, State Street Bank and Trust, and other major financial institutions alleging manipulation foreign currency exchange prices charged to retirement and health plans. Ms. Markey has also pursued and settled employment claims, developed a successful ERISA claim against the National Football League benefit plan, argued as a federal appellate advocate, represented a prominent environmental whistleblower who repeatedly exposed failures of the federal government to protect America's communities, advised the U.S. Congress on public safety officer benefit legislation in support of the nation's emergency responders, and was instrumental in a class action charging the U.S. Environmental Protection Agency and its former administrator with Constitutional and statutory violations following 9/ 11 terrorist attacks on behalf of New York City residents, office workers, and students. Ms. Markey is admitted to practice in the District of Columbia and Pennsylvania, before the United States Court of Appeals for the District of Columbia, the U.S. District Court for the District of Columbia, the U.S. District Court in Maryland, and the U.S. Supreme Court. Ms. Markey is a member of the District of Columbia Bar Association and the American Bar Association. She graduated from the Columbus School of Law at Catholic University of America, Washington, D.C., J.D. (1992), and earned a B.A. in Economics from the University of Connecticut where she was an active member of its Intentional Democratic Community.

Prior to private practice, for more than a decade Ms. Markey's primary professional focus was developing and advancing policies to protect ERISA and public employee pension funds, during which time she advised plans, trustees, labor officials, and financial companies on related governance and programmatic investment issues. For seven years Ms. Markey co-authored the leading labor union publication covering pension participant and investment issues, *Labor and Investments*. She analyzed domestic and foreign retirement systems and actively promoted best practices for retirement funds through strategic advice, writing and presentations.

Ms. Markey has served as the AFL-CIO Staff Retirement Plan's representative to the Council of Institutional Investors; as an observer to the National Conference of Commissioners on Uniform State Law Drafting Committee on the Public Employee Retirement Fund Act; as a founder and coordinator of the Industrial Heartland Labor Investment Forum, a grassroots consortium providing cutting edge analyses of private and public sector pension investment practices; and as an advisor in corporate shareholder accountability actions, and on the implications of the U.S. Supreme Court's *Citizens United* campaign finance decision.

Ms. Markey has spoken on retirement funds and ethics before numerous groups, including the National Coalition of Public Safety Officers; the National Association of Public Pension Attorneys; the California Public Employee Retirement System Board of Trustees; the Communications Workers of America; the Connecticut Treasurer's Stakeholders Conference; the AFL-CIO; and the Super 2000 Pension Conference in Sydney, Australia. Ms. Markey was raised in Emerson, New Jersey and Ridgefield, Connecticut as one of eleven siblings.

* * *

EX. 92

Exhibit 20

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)
)
Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

**DECLARATION OF CARL S. KRAVITZ IN SUPPORT
OF LEAD COUNSEL’S MOTION FOR AN AWARD OF
ATTORNEYS’ FEES AND PAYMENT OF EXPENSES**

Carl S. Kravitz, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am partner in the law firm of Zuckerman Spaeder LLP (“Zuckerman”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from August 28, 2012 through August 31, 2016 (the “Time Period”).

2. Zuckerman is counsel of record, with McTigue Law LLP, for plaintiffs in *Henriquez, et al. v. State Street Bank and Trust Co., et al.*, No. 11-cv-12049 MLW. My firm attended court hearings during the Time Period; performed factual and legal research and developed the claims asserted by our clients and the other Plaintiffs; reviewed and analyzed documents produced by State Street Bank; analyzed trading volume data and damages to the class and to ERISA plaintiffs; worked with an expert witness in the field of foreign exchange trading and damages; participated in the many mediation sessions in the Time Period held in Boston, New York and Washington, D.C.; worked on settlement and mediation issues outside of the in-person mediation sessions, including discussions with counsel for State Street; worked and negotiated with the Department of Labor (“DOL”) on numerous issues, including numerous phone conversations; participated in the drafting of settlement documents and court submissions regarding approval of the settlement; and worked with McTigue and Keller Rohrbach (with Zuckerman, collectively “ERISA Counsel”), Lead Counsel and other Plaintiffs’ counsel to develop the case and produce the gross settlement amount of \$300 million to the entire class and the \$60 million allocation to ERISA Plans and qualifying Group Trusts.

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys and professional support staff-members of my firm involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions and are charged to clients paying us currently by the hour.

5. The total number of hours expended on this litigation by my firm during the Time Period is 1,400.50 hours. The total lodestar for my firm for those hours is \$1,174,925.00.

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

7. As detailed in Exhibit B, my firm has incurred a total of \$38,670.29 in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and attorneys who participated in this Class Action.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 14, 2016.

Carl S. Kravitz
Carl S. Kravitz

Exhibit A

Exhibit B

EXHIBIT B

STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

EXPENSE REPORT

FIRM: Zuckerman Spaeder LLP

REPORTING PERIOD: INCEPTION THROUGH AUGUST 31, 2016

Duplicating	\$1,107.20
Long-Distance Telephone / Fax / Conference Calls	\$271.39
Messengers	\$110.40
Court Hearing & Deposition Transcripts	\$360.22
Online Legal & Financial Research	\$1,470.41
Overnight Delivery Services	\$45.88
Experts/Consultants	\$16,984.93
Litigation Support/Electronic Discovery	\$200.00
Work-Related Transportation/Meals/Lodging	\$17,986.86
Miscellaneous	\$133.00
TOTAL	\$38,670.29

Exhibit C

OUR FIRM

Zuckerman Spaeder LLP is a nationally recognized litigation firm that represents individual and institutional clients in complex, highly contested civil and criminal cases. With offices in Washington, DC; New York; Tampa; and Baltimore, our firm is involved in many of the most significant and topical litigation matters across the country.

Our clients often turn to us to resolve their most challenging legal problems. They do so in part because we count among our ranks many of the nation's most distinguished lawyers, including former federal prosecutors and public defenders as well as attorneys who have served in key roles on Capitol Hill, in federal agencies, and in state government, and who have held top positions in corporate legal departments.

The remarkable experience of our attorneys is second only to the depth of their expertise. Lawyers at Zuckerman Spaeder offer substantive knowledge that encompasses such diverse areas as FDA law, legal and professional ethics, health care fraud, bankruptcy litigation, tax controversy, intellectual property, American Indian law, executive-level employment law, and nonprofit law, among others.

Our firm thrives in those particular cases in which civil litigation and business counseling intersect with white collar investigations and issues of regulatory compliance. We frequently represent clients who are simultaneously involved in these challenging forums, sometimes in cases of national significance.

Zuckerman Spaeder was founded in Washington, DC in 1975 by a highly cohesive group of lawyers with backgrounds as Assistant U.S. Attorneys and public defenders, all devoted to exceptional client commitment. Since then, we have grown because of the recognition that our work has received and because of the addition of exceptional attorneys who share our founding values: a commitment to excellence in the service of our clients; a commitment to decency and fairness in our relationships with our adversaries; and an unqualified and overarching commitment to the full and fair administration of justice.

Zuckerman Spaeder's track record and philosophy have garnered significant recognition from the national legal community. Our firm has been named to *The National Law Journal's* "Midsize Hot List" every year since 2010, and was recognized as a finalist for "Litigation Boutique of the Year" by *The American Lawyer* in 2005 and 2009, both times the competition was held. In 2010, *U.S. News and World Report* recognized Zuckerman Spaeder as one of 27 law firms ranked in the top tier nationally for commercial litigation. Zuckerman Spaeder is also the top-listed firm for white collar criminal defense in *Best Lawyers*, with more attorneys recognized in that category than any other firm in the country.

CARL S. KRAVITZ

OVERVIEW

Carl S. Kravitz has been practicing law in Washington, DC for more than 30 years, earning recognition as a "Leading Lawyer" for business litigation and as a "Local Litigation Star." Mr. Kravitz litigates complex civil cases for both plaintiffs and defendants at the trial and appellate levels in state and federal courts across the country. He has obtained many significant recoveries for plaintiffs in individual, group, and class actions, with settlements ranging up to nearly \$400 million. Mr. Kravitz has also defended companies and executives in significant investigations and litigation. He has been chairman of Zuckerman Spaeder's litigation department for more than a decade.

Mr. Kravitz's practice covers the areas of securities fraud, consumer fraud, bad faith insurance and deceptive trade practices, insurance coverage, civil rights, antitrust, products liability, shareholder rights and corporate governance, fraudulent conveyances, mass torts, toxic torts, professional negligence, wrongful death, partnership disputes, legal ethics, qui tam/false claims act, and general commercial issues. He has represented individuals, groups, and classes challenging Fortune 500 companies, the estate of an NFL legend, wrongfully convicted prisoners, and companies in a wide variety of industries. His cases often deal with high-profile issues, such as matters relating to the financial services industry, fraud, health insurance, worker safety, and sports head injuries, to name a few.

Mr. Kravitz has also led the defense of several significant matters, including, recently, the defense of certain London Market Insurers in coverage litigation concerning lead paint liabilities and the defense of corporate executives in civil, regulatory, and criminal securities fraud investigations and litigation. In the securities arena, he recently obtained dismissals for a former Collins & Aikman executive of an indictment pending for more than a year in the Southern District of New York and in a securities fraud class action pending in the Eastern District of Michigan. He recently represented a former hedge fund analyst in a highly publicized insider-trading investigation in the Southern District of New York. He also obtained dismissals for his client in the Homestore.com and PurchasePro securities litigation cases pending in the Central District of California and the District of Nevada.



Partner

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ckravitz@zuckerman.com

Practice Focus

Antitrust
Appellate
Business Disputes
Criminal Defense
False Claims Act
Insurance
Legal Profession & Ethics
Plaintiffs & Class Action Litigation
Securities Litigation

Clerkships

Hon. Stephen Reinhardt, U.S. Court of Appeals, Ninth Circuit

Education

Columbia Law School, J.D., 1980
• Harlan Fiske Stone Scholar
Harvard University, A.B., 1977

CARL S. KRAVITZ

In addition to his more than 30 years of work in the securities area, Mr. Kravitz has represented clients in a number of white collar criminal investigations, including matters involving alleged fraud by government contractors (e.g., false claims by the contractor who converted the Kennedy Space Center from the Apollo to the Space Shuttle Program; false certifications concerning the testing missile systems in arctic conditions; false certifications concerning testing of the angle of attack transmitter for a Navy fighter; and alleged fraud in charging improper expenses to the overhead of a Navy contract), alleged antitrust violations in the soft drink industry (price fixing), and alleged tax fraud.

Mr. Kravitz has tried several cases in state and federal courts, including cases in the District of Columbia Superior Court, Virginia state court, West Virginia state court, U.S. District Courts, U.S. Bankruptcy Court, and U.S. Tax Court. He has also handled appeals in several U.S. Courts of Appeals, the Maryland Court of Appeals, the New York Appellate Division, the Virginia Supreme Court, and the West Virginia Supreme Court.

Before entering private practice, Mr. Kravitz clerked for the Hon. Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit.

Professional Highlights

- Mr. Kravitz's most recent victories for plaintiffs have been in fraud and deceptive trade practice class actions against insurance companies (settlements of \$72.5 million and in excess of \$40 million), in a securities fraud class action against a major financial services company (settlement of nearly \$400 million), in a breach of contract action against a major industrial company (settlement of \$16.2 million), in a wrongful death bad faith insurance action against a coal mine and its insurer (settlements in excess of \$13 million), in shareholder derivative litigation on behalf of national banks (settlements of \$10 million and \$9 million), and confidential settlements in actions on behalf of individuals wrongly convicted of serious crimes based on evidence fabricated by a state crime lab and in product liability action against car company for defective doors.
- Mr. Kravitz obtained a precedent setting result on behalf of the Estate of Mike Webster (the former All-Pro center for the Pittsburgh Steelers) against the NFL Pension Fund for concussion related disabilities incurred during Mr. Webster's NFL career.
- In addition to his role as chairman of the firm's litigation department, Mr. Kravitz has been a frequent faculty member at the National Institute for Trial Advocacy (NITA) and other trial practice programs, including programs at Georgetown University, the University of Virginia and UCLA law schools.

Honors

- 2007 Leading Lawyers: Top Business Litigation Attorneys, *Legal Times*
- AV® Peer Review Rated, Martindale-Hubbell
- *Benchmark Litigation*, Local Litigation Star (Washington, DC)
- *Super Lawyers* (Washington, DC)

EXPERIENCE

- \$40 Million Settlement in Class Action Against Health Insurer for Misrepresenting Scope of Coverage

CARL S. KRAVITZ

The firm served as class counsel in a suit against a health insurer and its agent for fraudulently selling limited benefit health insurance policies bundled with memberships in a physician and hospital discount network as being as good or better than major medical coverage; the policies left consumers exposed to large bills or no treatment. The case settled in 2012 for more than \$40 million in value to the class, plus significant governance changes designed to prevent a recurrence of the allegedly fraudulent sales practices.

- **\$72.4 Million Settlement in Class Action Against Insurer for Alleged Fraud in Structured Settlement Program**

The firm represented a class of people who settled personal injury cases with The Hartford Financial Services Group, Inc., where some or all of the settlement was paid with a structured settlement. The suit alleged that The Hartford had secretly skimmed 15 percent of the settlement values for itself by purchasing the structured settlement annuity from its own life insurance subsidiary. The case, which also alleged claims under RICO (predicate acts wire and mail fraud) and for common law fraud, unjust enrichment, and breach of contract, settled in 2010 for \$72.5 million.

- **\$400 Million Settlement in Class Action Against Major Financial Company for Alleged Securities Fraud Arising Out of the Financial Crisis**

The firm represented the lead plaintiff in a securities fraud class action, arising out of the financial crisis and Merrill Lynch's merger with Bank of America. The case settled for approximately \$400 million in 2010 after defeating the motion to dismiss.

- **Settlements in Civil Rights Actions on Behalf of Individuals Wrongly Convicted Based on Fabricated Evidence**

We represented two individuals who were wrongly convicted and sentenced to life imprisonment because of a fraud in the West Virginia State Police Crime Lab where blood and semen evidence was fabricated and misrepresented to the jury in their trials. After both men were released from prison, we brought civil rights actions against the state and against the state's insurer and outside counsel for covering up the fraud and prolonging the plaintiffs' incarcerations. The actions against the state each settled for approximately \$2 million. The actions against the insurer and lawyer were settled on confidential terms.

- **Shareholder Derivative Actions Resulted in Recoveries for National Banks**

The firm has prosecuted shareholder derivative actions on behalf of national banks, involving breaches of fiduciary duty by senior executives and board members, and inadequate corporate governance and internal controls. In *Tallman v. City Holding Co., et al.*, Circuit Court of Kanawha County, WVA, C.A. No. 01-C-4090, for example, the firm prosecuted a shareholder derivative action on behalf of a national bank against its officers and directors for breaches of fiduciary duty related to the bank's subprime lending. The bank's officers and directors had expanded into subprime lending outside its territorial knowledge base without adequate experience or internal controls, resulting in substantial losses to the bank. The case settled in for \$9 million.

- **\$10 Million Settlement in Shareholder Derivative Action Alleging Breaches of Fiduciary Duty In *Fleagane v. Belmont Bancorp., et al*, Circuit Court of Ohio County, WVA, C.A. No. 99-C-476)**, the firm prosecuted another shareholder derivative suit on behalf of a national bank against its officers and directors for breaches of fiduciary duty related to bank's lending to a mobile home dealer that resulted in substantial losses to the bank. The case settled for approximately \$10 million.

CARL S. KRAVITZ

- **\$400 Million Settlement for 2,000 Asbestos Victims in Fraudulent Conveyance Action**
Our attorneys represented a group of asbestos victims of the Celotex Corporation in an action against Celotex's parent and the leveraged buyout (LBO) firm that bought the parent for approximately \$2.5 billion (financed by junk bonds). The suit sought to set aside the LBO as a fraudulent conveyance on the theory that Celotex's asbestos liabilities made the parent insolvent at the time the parent transferred its assets to the LBO firm's entities. After a trial in U.S. Bankruptcy Court for the Middle District of Florida, the matter settled for nearly \$400 million.
- **Landmark Case Involving Football Head Injuries Against the NFL Pension Plan**
The firm represented the estate of NFL legend Mike Webster against the NFL pension fund. The suit involved the level of benefits due to Mr. Webster and was the first case in which the NFL acknowledged that players could be disabled because of injuries to their brains. After losing in proceedings under the collective bargaining agreement, the firm prevailed in the U.S. District Court for the District of Maryland and in the U.S. Court of Appeals for the Fourth Circuit and obtained the highest level of benefits for its client.
- **Sex Abuse Case Against the Mormon Church**
The firm is representing six families and their 13 minor children who allege that they were sexually abused by a pedophile who is currently serving a 35-75 year sentence for having abused two of the plaintiffs. The plaintiffs allege in the suit, which is pending in state court in West Virginia, that the Mormon Church through its agents violated a statutory duty to report sex abuse to the authorities and otherwise acted and failed to act in ways that allowed the abuse to occur. The church has denied the allegations and is actively defending the suit.
- **Class of ERISA Plans in Litigation Concerning Foreign Currency Transactions**
The firm is currently litigating, on behalf of a putative class of ERISA plans, against State Street Bank & Trust concerning foreign currency transactions. The case is pending in the U.S. District Court for the District of Massachusetts.
- **Union Officials in ERISA Litigation Regarding Retaliation by Political Rivals**
Mr. Kravitz, in another ERISA matter, represented a group of union officials who were retaliated against with respect to their pensions when they were defeated by their political rivals in the union. Mr. Kravitz's clients' pensions were restored.
- **Representation of Collins & Aikman Executive in Criminal, Regulatory, and Civil Securities Fraud Actions**
The firm represented a former Collins & Aikman executive in a case that involved alleged accounting improprieties concerning rebates in the auto parts industry. We obtained the dismissal of an indictment against our client that had been pending in the U.S. District Court for the Southern District of New York for 18 months, dismissal of a private securities fraud class action, dismissal of securities and fraud claims asserted by the Collins & Aikman Litigation Trust, and a resolution of the SEC's claims.
- **Representation of Former Hedge Fund Employee in Insider Trading Investigation**
The firm represented a former employee at one of the country's largest hedge funds in an investigation of insider trading conducted by the U.S. Attorney's Office for the Southern District of New York and the SEC. Although the Southern District of New York charged and prosecuted a number of individuals in this and related insider trading cases, our client was not charged criminally and ultimately disposed of the matter by agreeing to a settlement with the SEC, without admitting or denying wrongdoing.

CARL S. KRAVITZ

- **Representation of AOL-Time Warner Executive in Criminal, Regulatory, and Civil Securities Fraud Actions**

In addition to defending a criminal investigation and SEC enforcement action, the firm defended our client in a series of federal securities class actions brought on behalf of the shareholders AOL-Time Warner and the shareholders of two AOL-Time Warner business partners (alleging fraud in connection with the accounting for online advertising revenues. The class actions were either dismissed or otherwise resolved successfully as to our client.

- **Representation of Small Cigarette Manufacturer in Qui Tam Action under False Claims Act against Philip Morris USA**

The firm represents the relator in an action against Philip Morris USA for allegedly overcharging the military for cigarettes in violation of a most favored customer clause in Philip Morris' contracts with the military. The case is pending in the U.S. District Court for the District of Columbia.

- **Summary Judgment for National Law Firm in Legal Malpractice Action**

Mr. Kravitz represented a national law firm in a case alleging \$100 million of damages in connection with advice given under the Investment Company Act of 1940. We secured a victory for our client on summary judgment, and that decision was affirmed on appeal by the Maryland intermediate court of appeals, and the Maryland Court of Appeal refused to review the matter.

- **London Market Insurers in High-Stakes Coverage Litigation**

Our attorneys have defended Certain Underwriters at Lloyds of London and other London Market Insurers in coverage matters involving diethylstilbestrol (DES), asbestos, environmental clean-up, and most recently lead paint claims. Our attorneys have appeared in numerous coverage cases on behalf of these clients in state and federal courts around the country. Many of the cases have involved claims for billions of dollars of insurance coverage.

- **Represented London Market Insurers in Commercial Litigation Against Major Industrial Company**

The firm represented certain Lloyd's of London Underwriters and London Market Insurers in a suit against Dow Corning to recover insurance payments made in a 1995 insurance settlement of the company's liabilities for breast implants. At the time of the insurance settlement, it was predicted that these liabilities would total \$5 billion, but Dow Corning's total loss turned out to be materially less and its insurers were entitled to a refund of insurance payments made under the settlement. The case settled on confidential terms in 2011.

- **Summary Judgment for Space Insurance Broker**

Mr. Kravitz represented a space insurance broker in a dispute between the insured, INTELSAT, for which it had placed launch insurance for a telecommunications satellite, and its insured. INTELSAT sought nearly \$100 million coverage when the launch vehicle for one of its telecommunications satellites failed and the satellite did not reach geosynchronous orbit. After years of hard fought litigation, Mr. Kravitz obtained a summary judgment in favor of his client on the eve of trial.

- **Settlement for Television Network Against Satellite Manufacturer in Products Liability Action**

Mr. Kravitz represented a major television network in litigation filed in the U.S. District Court for the Central District of California against the manufacturer of the telecommunications satellite that beamed its programming across North America. The suit alleged that the \$120 million satellite was defectively designed and would remain on station in geosynchronous orbit for substantially less than its minimum 10-year life. Mr. Kravitz defeated the defendant's motion for

CARL S. KRAVITZ

summary judgment and the case then settled on a confidential basis before trial.

- **Antitrust Class Action Alleging Price-Fixing in Polyurethane Foam Industry**
Zuckerman Spaeder currently represents plaintiffs in an antitrust class action alleging price-fixing in the polyurethane foam industry.
- **Antitrust Class Action Against Blue Cross Blue Shield Alleging Per Se Violations**
The firm currently represents plaintiffs in an antitrust class action alleging illegal horizontal restraints of trade, whereby Blue Cross Blue Shield of America divides up the territories among the various Blues.
- **Settlements for Students and Teachers in Toxic Tort Case Against Pesticide Manufactures**
Mr. Kravitz represented a group of 65 students and teachers who suffered personal injuries from the exposure to chlorinated hydrocarbons and other dangerous pesticides that were misapplied in their middle school outside of Charleston, WV. Mr. Kravitz obtained a series of confidential settlements against a long list of defendants, any of which manufactured the defective products, and produced a substantial recovery for his clients.
- **Prevailed at Trial for Major Developer in Suit Involving the Development of Friendship Heights, Maryland**
Represented a major developer in a dispute with his partner concerning the development of the Friendship Heights section of Bethesda, MD. The case involved complex zoning questions and years of business dealings. He obtained a verdict for his client after a four-week trial in federal court in Baltimore.
- **Prevailed at Trial for Developer in Real Estate Dispute Concerning a Planned Unit Development in Loudoun County, VA**
Mr. Kravitz also represented a developer of a planned unit development in Loudoun County, VA in a dispute concerning a California entity's attempted purchase of the property. Mr. Kravitz prevailed at trial for his client and then the case settled after extensive appellate proceedings (including two appeals to the Virginia Supreme Court).
- **Favorable Settlement on Behalf of a Widow Whose Husband Was Killed in a Natural Gas Pipeline Explosion**
The firm represented the widow of gas company employee, who was killed when a leaking natural gas pipeline he had been sent to repair exploded, in a wrongful death case against the company and a contractor that had worked on the pipe in the past. We also represented the widow in a follow-on third-party bad faith action under West Virginia's Unfair Claims Settlement Practices Act against the insurance company that had provided the defense in the wrongful death action. Both cases were fiercely contested and litigated for several years before confidential settlements were reached.
- **\$12 Million Summary Judgment in Bad Faith Insurance Action for Young Man Paralyzed in Car Accident**
Mr. Kravitz represented a guest passenger who was paralyzed in a car accident in a bad faith action against the driver's insurance company. The insurance company refused to defend its insured, a Green Beret, when it learned that he had a substantial loss during the binder period. Mr. Kravitz obtained a \$12 million summary judgment on the merits in favor of his client and then secured a confidential settlement during the subsequent trial on punitive damages.
- **Favorable Settlement for Family of Man Killed in Accident Involving Defective Car Doors**
We represented the family of an individual whose death in an industrial truck accident was

CARL S. KRAVITZ

caused by defective doors on the Ford truck he was driving. The product liability and crashworthiness case was settled on confidential terms on the eve of trial. The firm developed significant evidence that was used by lawyers in multiple other cases where serious injury or death was caused by defective doors on Ford vehicles.

- **Favorable Settlement for Family of Employee Electrocuted in Coal Preparation Plant**
Mr. Kravitz represented the widow and children of a coal preparation plant employee who was electrocuted using an impact wrench attached to an improperly wired extension cord. The negligence and unsafe workplace suit was settled during trial, after the mine's chief engineer admitted under cross examination by Mr. Kravitz that his company had failed to provide the victim a reasonably safe place to work.
- **Favorable Settlement for Investor against Major Financial Services Company**
Mr. Kravitz represented a highly sophisticated investor in an NASD arbitration against a major financial services company involving churning and other frauds in connection with equity options trading. After two days of trial before the arbitrator the matter settled for a confidential amount.

AFFILIATIONS

Bar Admissions

- District of Columbia
- Massachusetts
- New York
- West Virginia

Court Admissions

- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Eastern District of Wisconsin

CARL S. KRAVITZ

Professional Affiliations

- Faculty, National Institute for Trial Advocacy (NITA)

Community Involvement

- Board of Directors, DC SCORES
- Team Leader, Voter Protection Program, Lawyers Committee for Civil Rights Under Law

DWIGHT P. BOSTWICK

OVERVIEW

Dwight P. Bostwick is the chairman of Zuckerman Spaeder's Executive Committee and Partnership Board.

Repeatedly recognized by *The Best Lawyers in America* for his success in commercial litigation and white collar defense, Dwight provides sound judgment and effective advocacy in high-stakes disputes.

In the civil arena, Dwight has successfully represented both plaintiffs and defendants in multimillion-dollar litigation involving claims for fraud, breach of contract, securities violations, and antitrust conspiracies.

In white collar crime matters, Dwight has successfully defended a range of clients in investigations and cases brought by the U.S. Department of Justice (DOJ), the Securities & Exchange Commission (SEC), the Federal Trade Commission (FTC) and other agencies. He has significant experience defending investigations involving banking, health care, and accounting fraud, as well as allegations of insider trading, foreign corrupt practices, and securities fraud.

Dwight has represented a wide variety of clients from the United States, Europe, and South America including executives, government officials, state and national associations, professional services firms, nonprofits, labor unions, and corporations in the technology, health care, financial and commercial industries.

Early in his career, Dwight served in the Department of Justice, first in the Criminal Division's Fraud Section and later in the Deputy Attorney General's Office. While at DOJ, Dwight was one of three prosecutors selected to lead the original Whitewater grand jury investigation prior to the appointment of independent counsel.

Honors

- *The Best Lawyers in America*, Commercial Litigation, White-Collar Criminal Defense
- *Super Lawyers* (Washington, DC)

EXPERIENCE

- Represents former NFL players in an appeal of the recent \$765 million settlement of the high-profile concussion related lawsuit brought in 2013 by former players against the NFL. The appeal cites the disparate treatment under the settlement of former NFL players



Chairman and Partner

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Practice Focus

Antitrust
Appellate
Business Disputes
Congressional Investigations
Criminal Defense
Financial Services
Foreign Corrupt Practices Act (FCPA)
Health Care
Internal Investigations
Plaintiffs & Class Action Litigation
Procurement Fraud
Public Integrity & Ethics
Securities Litigation

Clerkships

Hon. Manuel L. Real, U.S. District Court, Central District of California

Education

Georgetown University Law Center, J.D., 1988
Stanford University, B.A., 1983

DWIGHT P. BOSTWICK

who were diagnosed with chronic traumatic encephalopathy (CTE) before the settlement and those who will most certainly be diagnosed with CTE after the settlement.

- Represents the former Chief Accounting Officer of a multibillion-dollar real estate investment trust in parallel civil and criminal proceedings. The client has been targeted by DOJ and the SEC in an investigation of accounting and securities fraud.
- Represents a foreign national targeted in an insider trading investigation conducted by the U.S. Securities and Exchange Commission and Department of Justice.
- Represents two clients in a Foreign Corrupt Practices Act investigation conducted by the Fraud Section of the Department of Justice and the Securities and Exchange Commission arising out of the Petrobras or "Lava Jato" scandal in Brazil.
- Represented an international pharmaceutical company headquartered in Paris in a multimillion-dollar lawsuit against Abbott Laboratories alleging antitrust violations in restraint of trade in the billion-dollar-a-year heart medication market.
- Represented a national accounting firm and numerous partners in a grand jury investigation relating to alleged accounting improprieties. The client, a target of the federal criminal investigation, was not indicted and entered an agreement with the government disposing of the matter.
- Represented a national association, a state association, individual psychologists, and mental health patients in a test case asserting breach of contract and fraud claims against Blue Cross and CareFirst in connection with the marketing and implementation of a managed care plan. The clients entered a favorable settlement prior to trial.
- Represented a telecommunication entrepreneur and his company in a suit for recovery of a multimillion-dollar investment made to an Israeli company in an internet technology platform based on claims of fraud and breach of contract. The client entered a favorable settlement on the eve of trial.
- Represented an international pharmaceutical company in multimillion-dollar litigation alleging breach of contract, breach of the covenant of good faith and fair dealing, and misuse of trade secrets. The client entered into a favorable settlement following mediation and prior to trial.
- Represented a top official of the U.S. Department of the Interior in civil and criminal contempt proceedings. The client successfully avoided civil and criminal contempt findings.
- Represented the executive board of one of the nation's largest labor unions in a series of emergency trusteeships, union hearings, hearings in federal district court, and hearings before the U.S. Court of Appeals for the Seventh Circuit to help rid the labor union of organized crime influence and financial misconduct. Additionally, he was selected by the union and approved by the U.S. Department of Justice to serve as the financial compliance officer for the union's national elections in 2001, 2006, and 2011.
- Represented a publicly traded pharmaceutical company in a dispute involving one-third of the company's stock. The client prevailed in a dispute over the meaning of the term "default" in an agreement with a bank.
- Represented a target in a USAID investigation of alleged misuse of federal proceeds by the CFO of a non-governmental organization. The government ultimately declined the matter.

DWIGHT P. BOSTWICK

- Represented a federal contractor in Virginia and two senior executives in an investigation into billing fraud. The client avoided indictment.
- Represented two former attorneys in their efforts to testify to antitrust violations they observed while working for the tobacco industry. Both clients were granted immunity from all 50 states before testifying in a number of tobacco-related cases. One client was on the stand testifying when the tobacco companies agreed to the historic \$206 billion settlement with the State Attorneys General.
- Represented a subject in the Abramoff grand jury investigation. The client was granted immunity.
- Represented a subject in the Sandy Berger grand jury investigation. The client ultimately received a non-prosecution letter.
- Represented a company founded by former military officers doing business in Iraq in a grand jury investigation into allegations of illegal billing of the government and ethical breaches relating to the procurement of government contracts. The client, a target of the investigation, successfully avoided indictment.
- Represented the former medical director of a large chemical company in a grand jury investigation into alleged violations of the Toxic Substance Control Act. The client, a subject of the investigation, avoided indictment.

NEWS

Publications

- The NFL Settlement: What's the Deal?
Huffington Post
January 31, 2014

AFFILIATIONS

Bar Admissions

- District of Columbia
- Michigan (inactive)
- Pennsylvania (inactive)

Court Admissions

- U.S. Court of Appeals, District of Columbia Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Eastern District of Michigan
- D.C. Superior Court

DWIGHT P. BOSTWICK

- D.C. Court of Appeals

Professional Affiliations

- Member, American Bar Association

GRAEME W. BUSH

OVERVIEW

Named a "Visionary" by *The National Law Journal* in 2012, Graeme W. Bush focuses on complex civil litigation and white collar criminal investigations and prosecutions. Mr. Bush brings more than 30 years of experience litigating sophisticated business disputes to bear not only in representing his clients in litigation but also in providing executive-level counseling and advice to help his clients make sensible decisions about how to handle the disputes that confront them. Mr. Bush has handled litigation in a broad variety of areas for his clients, including class action and derivative cases, private securities fraud actions (for plaintiffs and defendants), U.S. Securities and Exchange Commission (SEC) enforcement actions and investigations, attorney malpractice and disciplinary proceedings, executive change in control litigation and wrongful termination, pension litigation (by and against plans and plan fiduciaries), asbestos bankruptcies, asset retrieval actions, asset forfeitures, and criminal investigations of illegal foreign payments, Medicare fraud, and public corruption.

Mr. Bush's clients have included an investment fund and its advisors, a top nationally recognized mutual fund portfolio manager of one of the nation's most successful growth funds, the top producing broker at a major Wall Street brokerage house, the CEO of a health care services organization, the CFO of a foreign company investigated for illegal foreign payments, a prominent financial markets law firm, a class of pension plans, and the executive director of a prominent charity. He has represented clients in connection with the securitization of receivables, as well as counseled them in connection with the valuation of derivative instruments.

Mr. Bush practiced for more than 21 years at Caplin & Drysdale, Chartered. He clerked for the Hon. Roszel C. Thomsen of the U.S. District Court for the District of Maryland.

Professional Highlights

- Successfully tried to jury verdict claims by Matthew Lawlor, the founder and former CEO of Online Resources Corporation, that he was entitled to more than \$5 million in change in control benefits in connection with his termination by the company.
- Retained as special litigation counsel to the Tribune Company's creditors committee to evaluate and



Partner

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Practice Focus

Bankruptcy
Business Disputes
Creditors' Rights
Criminal Defense
Executive Termination & Benefits
Foreign Corrupt Practices Act (FCPA)
Internal Investigations
Legal Profession & Ethics
Plaintiffs & Class Action Litigation
Securities Litigation

Clerkships

Hon. Roszel C. Thomsen, U.S.
District Court, District of Maryland

Education

University of Maryland School of
Law, J.D., 1976

- Order of the Coif
- Founder and President,
International Trade Law Journal

Wesleyan University, B.A., 1971

- Graduated from the College of
Letters

GRAEME W. BUSH

prosecute fraudulent conveyance and other claims to set aside and subordinate more than \$10 billion in loans that financed Sam Zell's takeover of the Tribune Company.

Languages

French

- Defended an SEC enforcement action against Michael Sassano, a former CIBC broker in charge of mutual fund trading, whom the SEC charged with fraudulent frequent trading in numerous mutual fund families on behalf of CIBC clients. The case was settled favorably on the eve of trial.

Honors

- 2012 Visionary, *The National Law Journal*
- 2004 Top Lawyers, *Washingtonian*
- *Chambers USA: America's Leading Lawyers for Business*, Litigation: General Commercial (District of Columbia)
- AV® Peer Review Rated, Martindale-Hubbell
- *Benchmark Litigation*, Local Litigation Star (Washington, DC)
- *The Best Lawyers in America*, Commercial Litigation, Bankruptcy Litigation, Regulatory Enforcement Litigation, Securities Litigation
- *Super Lawyers* (Washington, DC)

EXPERIENCE

- Represented the creditors committee of the Tribune Company as special litigation counsel engaged to investigate and prosecute fraudulent conveyance and other claims to avoid and subordinate \$10 billion in loans used to finance Sam Zell's takeover of Tribune. We worked with all constituencies to investigate, litigate and, with respect to some of defendants, settle claims, in addition to preparing a complaint that was transferred to a litigation trust for the benefit of the creditors following the confirmation of the Tribune plan of reorganization.
- Representing the founder of Online Resources Corporation, who was ousted from the company after a struggle for control with the representative of the largest outside investor and who was denied the change in control benefits to which he was entitled under a severance agreement. The jury returned a verdict for our client after a three-week trial in Virginia Circuit Court.

GRAEME W. BUSH

- Representing a former partner and senior executive of a private equity company in the limited partnership secondary market for breach of contract and misrepresentations arising from the failure of the company to provide our client a significant ownership interest in the company.
- Defending a prominent law firm and well-known attorneys against a legal malpractice action arising out of tax advice given in connection with a complicated tax-advantaged transaction and the ensuing tax litigation.
- The firm represented an equity fund established to invest in Israeli businesses, in connection with an investigation by the New York Attorney General of illegal “pay to play” payments made by its former managing member. We negotiated a favorable settlement of civil claims by the New York Attorney General against the fund, which the firm continues to represent the company in related matters.
- Represented a former portfolio manager in an SEC investigation and enforcement proceeding arising out of the New York Attorney General’s and the SEC’s omnibus investigation of market timing in the mutual fund industry. The SEC filed anti-fraud charges against our client and the case was tried for nine days before an administrative law judge (ALJ). In her decision, the ALJ adopted, in large part, Zuckerman Spaeder’s arguments and declined to impose any bar order or civil money penalties against our client.
- Secured significant victories on behalf of a former broker in two actions arising out of claims that our client facilitated fraudulent frequent trading by brokerage firm’s clients in numerous mutual fund families. First, we represented him in a successful suit and trial in Delaware to compel his former employer to advance defense costs. After we won important pre-trial rulings in the SEC enforcement action, the government agreed to settle just four days before the trial was set to start on terms that were favorable to our client.
- Defended the chief investment officer of an off-shore hedge fund in an SEC enforcement action alleging fraud violations related to market timing and late trading.
- Represented the former CFO of a European telecommunications company in connection with an internal investigation and with FCPA investigations by the DOJ and SEC. The client faced inquiries from law enforcement authorities in multiple countries regarding illegal foreign payments in a Balkan country, which required the firm to apply its experience in representing clients subject to cross-border investigations.
- Representing the CEO of a health care services organization in a grand jury investigation concerning Medicare billings for testing services that allegedly did not qualify for reimbursement because doctors were not present during the procedures as required by Medicare regulations.
- Successfully represented prominent tax lawyers in Circular 230 proceedings before the IRS arising out of tax opinion.
- Represented a Swiss corporation sued in a class action under the Alien Tort Claims Act for human rights violations allegedly committed as a result of doing business in South Africa during the era of apartheid.
- Represented the post-confirmation committee in a bankruptcy suit to recover funds on behalf of creditors from private equity investor on deepening insolvency and other theories.
- Represented a major national law firm in a federal grand jury investigation and the subsequent indictment. The charges were resolved by a deferred prosecution agreement that allowed the

GRAEME W. BUSH

- firm to continue in business without substantial harm to its innocent partners and employees.
- Represented an African cellular telephone magnate in the resolution of disputes with his U.S. and Egyptian partners and a disappointed prospective Israeli investor. The firm handled all aspects of international litigation for the client, including working with counsel in foreign jurisdictions.
- Represented the founder of a television network in connection with a dispute over the terms of an investment made by NBC.
- Represented more than 2,500 pension plans in a class action under ERISA to recover fee overcharges, concluding in a settlement of more than \$19 million on behalf of the class.
- Represented a major business law firm in connection with the investigation by the Enron examiner of certain tax transactions in which the firm rendered tax opinions.
- Represented the long-time executive director of a prominent Washington, DC-area charity in civil and criminal investigations into allegedly improper financial practices.
- Represented asbestos victims in a \$1.5 billion adversary veil-piercing proceeding against a major building materials manufacturer alleging veil-piercing and fraudulent conveyance. The case settled after a two-week trial for \$900 million, almost two-thirds of the amount alleged to be due to the asbestos creditors.

NEWS

Publications

- Letter to the ABA Commission on the Future of Legal Services Regarding Alternative Business Structures
May 2, 2016
- Boutiques Experiencing an Upside in the Downturn
National Law Journal
September 21, 2009

AFFILIATIONS

Bar Admissions

- District of Columbia
- Maryland
- New York

Court Admissions

- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, District of Maryland

GRAEME W. BUSH

- U.S. District Court, Southern District of New York

Professional Affiliations

- Member, American Bar Association
- Member, Maryland State Bar Association
- Board of Directors, Legal Aid Society of the District of Columbia

Community Involvement

- Chairman, Board of Directors, Junior Tennis Champions Program
- Former Member, Board of Directors, DC SCORES

ADAM L. FOTIADES

OVERVIEW

From SEC enforcement actions to medical marijuana drug charges, Adam L. Fotiades helps clients face down government investigators and mount a strong defense.

Adam has a wide range of experience in complex civil litigation and white collar criminal defense. He has handled government investigations and complex disputes between companies, especially in highly regulated industries, such as financial institutions and hedge funds, accounting firms, and telecom companies. He also has experience helping clients navigate sensitive FCPA investigations.

Adam maintains a robust pro bono practice, helping clients with custody issues, death row appeals, and professional liability matters.

Before joining Zuckerman Spaeder, Adam worked in the New York office of Kirkland & Ellis.

Honors

- *Super Lawyers* (Washington, DC)

EXPERIENCE

- Obtained what commentators described as an unusual and extremely favorable settlement on behalf of the former Chief Business Officer of Freddie Mac in an SEC enforcement action arising from Freddie Mac's 2006-2008 subprime loan disclosures. The resolution denied all of the remedies the SEC sought and provided for the dismissal of the SEC's claims without any restrictions that altered the client's employment, as well as allowing her to continue to deny the allegations. The case, which received substantial attention when it was brought by the SEC, was vigorously litigated for more than three years, and was resolved near the end of a lengthy discovery process.
- Represented a client who was charged with, and pled guilty to, a federal drug charge for operating a medical marijuana business in Montana. Although the client could have faced more than 11 years in prison, we persuaded the judge to sentence him to only 5 years' probation.
- Represented a global hedge fund in a legal malpractice action arising from a €400 million collateralized loan obligation transaction.



Partner

Washington, DC
202.778.1893
202.822.8106 fax
afotiades@zuckerman.com

Practice Focus

Business Disputes
Criminal Defense
Foreign Corrupt Practices Act (FCPA)
Securities Litigation

Clerkships

Hon. James C. Cacheris, U.S. District Court, Eastern District of Virginia

Education

University of Virginia School of Law, J.D., 2007

- Order of the Coif
- Articles Editor, *Virginia Law Review*

University of Pennsylvania, B.A., magna cum laude, 2002

- Hillary Conroy Prize for Best Senior Honors Thesis in World History

ADAM L. FOTIADES

- Represented a frozen yogurt franchisor in litigation alleging tortious interference with a contract.
- Represented an accounting firm in an investigation conducted by the Virginia Board of Accountancy. After an informal fact-finding conference, the board found that our client had not violated any state accounting statute or regulation and that the board would not take any further action.
- Represents federal death row inmate pro bono in post-trial proceedings.
- Helped pro bono clients obtain favorable custody and visitation orders in separate child custody disputes, thwarting attempts to hold the client in contempt and to modify the custody order in one case and defeating the plaintiff's efforts to proceed to trial by backing out of an agreed settlement.
- Defended a major internet service provider in a class action lawsuit brought by a putative class of more than 650,000 subscribers alleging violations of Title II of the Electronic Communications Privacy Act based on the alleged wrongful disclosure of the plaintiffs' internet search queries. The case ended in a settlement prior to trial.
- Defended a telecommunications company in a state court putative class action brought by more than 30,000 property owners claiming trespass, inverse condemnation, and unjust enrichment. After discovery, the court denied the plaintiffs' motion for class certification, and the ruling was affirmed on appeal.
- Represented a charitable organization in litigation against a hedge fund that was alleged to have been operating a Ponzi scheme. The client settled with one defendant and obtained a default judgment against two others.

AFFILIATIONS

Bar Admissions

- District of Columbia
- New York

Court Admissions

- U.S. District Court, District of Columbia

EX. 93

Exhibit 21

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)	
on behalf of itself and all others similarly situated,	)	No. 11-cv-10230 MLW
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	
<hr/>		
ARNOLD HENRIQUEZ, MICHAEL T. COHN,)	
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,	)	No. 11-cv-12049 MLW
and those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
STATE STREET GLOBAL MARKETS, LLC and)	
DOES 1-20,)	
)	
Defendants.)	
<hr/>		
THE ANDOVER COMPANIES EMPLOYEE SAVINGS)	
AND PROFIT SHARING PLAN, on behalf of itself, and	)	No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STATE STREET BANK AND TRUST COMPANY,)	
)	
Defendant.)	
<hr/>		

**DECLARATION OF CATHERINE M. CAMPBELL ON BEHALF OF
FEINBERG, CAMPBELL & ZACK, PC IN SUPPORT OF LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

Catherine M. Campbell, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am associated with the law firm of Feinberg, Campbell & Zack, PC (“FCZ”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) from inception through August 30, 2016 (the “Time Period”).

2. My firm has acted as local counsel for Plaintiffs in the Henriquez Action. We prepared and/or reviewed Court filings primarily in the initial phases of the litigation including but not limited to the Complaint, Pro Hac Vice Motions and the Protective Order, and participated in various conferences with other counsel.

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm’s regular rates charged for their services, which local counsel have accepted in other complex class actions.

5. The total number of hours expended on this litigation by my firm during the Time Period is 21.50 hours. The total lodestar for my firm for those hours is \$7,525.00.

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

7. My firm has not incurred any expenses related to the Class Actions.

8. With respect to the standing of my firm, attached hereto as Exhibit B is a brief biography of my firm as well as biographies of the firm's partners.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 13, 2016.



Catherine M. Campbell, Esq.

BBO # 549397

Feinberg, Campbell & Zack, PC

177 Milk Street, Suite 300

Boston, MA 02109

Phone: (617) 338-1976

Fax: (617) 338-7070

cmc@fczlaw.com

Exhibit A

EXHIBIT A

STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

LODESTAR REPORT

FIRM: Feinberg, Campbell & Zack, PC

REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016

PROFESSIONAL	STATUS*	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Campbell, C	P	\$350	21.50	\$7,525.00
TOTAL				\$7,525.00

Partner (P) Paralegal (PL)
 Of Counsel (OC) Investigator (I)
 Associate (A) Research Analyst (RA)
 Staff Attorney (SA)

Exhibit B

EXHIBIT B

STATE STREET INDIRECT FX TRADING CLASS ACTION No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

FIRM BIOGRAPHY

Feinberg, Campbell & Zack, P.C. has been committed to providing clients with the highest quality legal service in a timely and cost-effective manner for more than 25 years.

Areas of practice:

- Employee benefits law
- ERISA
- Labor law
- Medical negligence
- Personal injury
- Workers compensation

We represent working men and women and their families, as well as many unions — including several in the building trades — and their benefit funds. We represent our clients in complex ERISA and labor litigation in the federal courts and in arbitration cases. We also handle contract negotiations for many collective bargaining units.

In addition, we provide excellent personal services to those workers who have suffered injuries. Our workers compensation department is experienced in presenting cases before the Massachusetts Department of Industrial Accidents, and our personal injury litigation team is experienced in representing victims of motor vehicle accidents, construction site accidents and medical malpractice.

Michael A. Feinberg was one of the founders of this firm in 1983. Prior to that, Mr. Feinberg worked for the labor law firm of Segal & Flamm and was also a principle trial attorney for the National Labor Relations Board. He is a graduate of Boston University (B.A., 1963) and Boston College Law School (J.D., 1968). Voted one of the top labor attorneys in the country by his peers for over ten years, Mr. Feinberg is a frequent lecturer on employee benefits plans and ERISA law. He is also a past chairman of the Labor Law Section of the Massachusetts Bar Association. Well known and respected for his tenacious, imaginative approach to his practice, he serves as the legal advisor to many labor unions throughout Massachusetts and New England.

Catherine M. Campbell is a 1981 cum laude graduate of Smith College, and a 1985 graduate, cum laude, of the Hastings College of Law, University of California. She has been with the firm since 1987. Ms. Campbell is a member of the Massachusetts Bar Association, the International Foundation of Employee Benefits and the National Lawyers Guild, and is on the AFL-CIO Lawyers Coordinating Committee. Her practice mostly involves complex ERISA cases on behalf of employee pension, annuity, and health and welfare funds for local unions. She has also been extremely active in the Boston community, working closely with the Boston public schools, the Boy Scouts and Girls Scouts, and the Massachusetts Audubon Society. She is licensed to practice in Massachusetts and California.

Arthur G. Zack has been a litigation attorney since he became a member of the Massachusetts Bar in 1985. Since 1989 he has been with Feinberg, Campbell & Zack, P.C. Mr. Zack has an exceedingly broad range of trial experience that includes domestic relations, motor vehicle accidents, medical malpractice and workers compensation. In addition, as a former contractor, Mr. Zack has a unique understanding of the building trades, which affords him an advantage when representing clients injured on construction sites. Unlike many lawyers, Mr. Zack handles workers compensation cases as well, so there is no need to hire separate counsel for this aspect of a work-related injury case. He has successfully litigated many catastrophic cases involving scaffolding collapses, falls from defective ladders and serious motor vehicle accidents. Mr. Zack also represents clients permanently injured by the negligence of medical providers. Although a seasoned trial attorney, Mr. Zack, for many years, has been a leading proponent of the effectiveness of alternative dispute resolution. He is a member of the Massachusetts Bar Association, the Massachusetts Association of Trial Lawyers and the American Trial Lawyers Association.

EX. 94

Exhibit 22

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)
)

No. 11-cv-10230 MLW

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A.)
SUTHERLAND, and those similarly situated)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)
)
Defendants.)
)

No. 11-cv-12049 MLW

THE ANDOVER COMPANIES EMPLOYEE)
SAVINGS AND PROFIT SHARING PLAN,)
on behalf of itself, and JAMES PEHOUSHEK-)
STANGELAND and all others similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)
)

No. 12-cv-11698 MLW

**DECLARATION OF JONATHAN G. AXELROD ON BEHALF
OF BEINS, AXELROD, PC IN SUPPORT OF LEAD
COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'
FEES AND PAYMENT OF EXPENSES**

I, Jonathan G. Axelrod, pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. I am a shareholder in the law firm Beins, Axelrod, P.C., one of the ERISA counsel in this Action. I submit this declaration in support of Lead Counsel's motion for an award of attorneys' fees and reimbursement of expenses. Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon to testify, could and would testify competently thereto.

2. Beins, Axelrod, P.C. has offices in Washington, D.C. and Alexandria, Virginia. A copy of the Firm's resume is attached hereto as Exhibit C. The Firm focuses its practice on labor and employment law, including the representation of ERISA funds.

3. I personally rendered legal services and was responsible for coordinating and supervising the activity carried out by attorneys at Beins, Axelrod, P.C. in *Henriquez v. State Street Bank and Trust Company*, No. 11-cv-12049 MLW ("Action"). In its capacity as an ERISA Plaintiffs' Counsel in the Action, Beins, Axelrod contributed to this Action and performed work on behalf of and for the benefit of the Class.

4. I performed a range of services, including the location of Plaintiffs, the drafting and filing of the Complaint. I further participated in numerous discussions concerning litigation strategy and the filing of opposition to Defendants' Motion to Dismiss. I participated in numerous telephone conferences concerning settlement of the Action.

5. During her employment with the Firm, Regina Markey zealously litigated the Action on behalf of our clients. Her contributions included reviewing Defendants' document production to identify legally significant evidence for the unique ERISA claims, providing ERISA counsel legal analyses of the unique ERISA issues e.g. related to federal foreign currency regulatory and statutory authority, ERISA fiduciary liability, ERISA statutes of limitations, analyses of the foreign currency market, procedures, and pricing, and such as range of the day transactions, benchmarking transactions, ,ERISA remedies, identifying facts needed to develop ERISA claims, and participating in mediation.

6. Based on my work performed in this Action as well as my receipt and review of the billing records reflecting work performed by attorneys at Beins, Axelrod in this Action ("Timekeepers") as reported by the Timekeepers, I directed the preparation of the chart set forth as Exhibit A hereto. This chart (I) identifies the names and positions (i.e., titles) of the Firm's Timekeepers who undertook litigation activities in connection with the Action and who expended 10 hours or more on the Action; (ii) provides the total number of hours each Timekeeper expended in connection with work on the Action, from the time when potential claims were being investigated through August 29, 2016; (iii) provides each Timekeeper's current hourly rate, as noted in the chart; and (iv) provides the total billable amount, in dollars, of the work by each Timekeeper and the entire Firm. Timekeeper Regina Markey is no longer employed by the Firm; the hourly rate used is the billing rate during her final year of employment by the Firm in contingency cases. The Firm's billing records, which are regularly prepared from contemporaneous daily time records, are available at the request of the Court. The information concerning each Timekeeper's hours and hourly rate is not based on my personal knowledge, but on the information reported by each Timekeeper or the files

and records of Beins, Axelrod, as well as my familiarity with the work undertaken by Beins, Axelrod in this Action.

7. Time expended in preparing any papers for this motion for fees and reimbursement of expenses has not been included in this request.

8. The hourly rates charged by the Timekeepers are the Firm's regular rates for contingent cases and those generally charged to clients for their services in non-contingent/hourly matters. Based on my knowledge and experience, these rates are also within the range of rates normally and customarily charged in Washington, D.C. by attorneys of similar qualifications and experience in cases similar to this litigation, and have been approved in connection with other class action settlements. The Firm has charged, and received, an hourly rate of \$525.00 in litigation involving fiduciary breach by a former trustee and service providers. The Firm does charge a lower rate to longstanding Fund clients in non-contingency matters and to its Union clients. To serve the public interest, the Firm has also charged reduced rates to individual employees with employment discrimination claims.

9. The total number of hours expended by Beins, Axelrod on this Action, from investigation through August 29, 2016 is 387.8 hours. The total lodestar for the Firm is \$187,712.00 all for attorney time.

10. In my judgment, the number of hours expended and the services performed by the attorneys at Beins, Axelrod were reasonable and expended for the benefit of the Settlement Class in this Action.

11. Beins, Axelrod's lodestar figures are based on the Firm's billing rates, which do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in the Firm's billing rates.

12. As set forth in Exhibit B, Beins, Axelrod has incurred a total of \$1,306.83 in unreimbursed expenses in connection with this Action from December 2011 through August 2016. In my judgment, these expenses were reasonable and expended for the benefit of the Settlement Class in this Action.

13. These expenses are reflected on the books and records of the Firm. It is the Firm's policy and practice to prepare such records from expense vouchers, check records, credit card records, and other source materials. Based on my oversight of the Firm's work in connection with this litigation and my review of these records, I believe them to constitute an accurate record of the expenses actually incurred by the Firm in connection with this litigation.

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

Executed this 12th day of September 2016 in Washington, D.C.

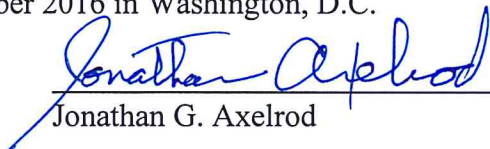

Jonathan G. Axelrod

Exhibit A

Henriquez v. State Street Bank and Trust Company, No. 11-cv-12049 MLW

FIRM: Beins Axelrod, PC
Reporting Period: Hours from Inception to August 30, 2016

LODESTAR REPORT

Attorneys	Status	Hours	Rate	Lodestar
Jonathan G. Axelrod	Shareholder	160.9	525.00	84472.5
Regina Markey	Of Counsel	226.9	455.00	103239.5
TOTAL				187712

Exhibit B

Henriquez v. State Street Bank and Trust Company, No. 11-cv-12049 MLW

FIRM NAME: Beins Axelrod, PC
 REPORTING PERIOD: INCEPTION TO August 30, 2016

Description	Cumulative Total
External Reproduction	0.00
Internal Reproduction/Printing	0.00
Court Fees (Filing costs etc.)	405.00
Court Reporters/Transcripts	0.00
Computer Research	858.79
Electronic Database	0.00
Teleconferences/Fax	0.00
Postage/Express Delivery/Messenger	4.44
Experts/Consultants	0.00
Witness/Service Fees	0.00
Meals, Hotels and Transportation	38.60
Publications	0.00
MDL Litigation Fund Contributions/Assessments	0.00
TOTAL EXPENSES	1306.83

Exhibit C

BEINS, AXELROD, P.C.
1030 15th Street, N.W. Suite 700 East
WASHINGTON, D.C. 20036

The current version of Beins, Axelrod, P.C. was established in 1996, with the merger of the labor and employee benefits practices of two longstanding and highly regarded Washington, D.C. firms. Together, the Firm's lawyers bring more than 80 years of expertise in labor, employment and employee benefits law and litigation to the service of the Firm's clients.

The Firm's clients include unions and professional associations representing federal, state, and municipal public employees, private sector unions, benefit plans, nonprofit organizations, and individual employees in matters ranging from employment discrimination to stock options and severance to benefit plan amendment and terminations. The Firm's union clients include national and international unions as well as local unions and other subordinate bodies. The Firm litigates on behalf of its clients in federal and local trial and appellate courts, and in administrative agencies including the National Labor Relations Board, the District of Columbia Public Employee Relations Board, the Federal Labor Relations Authority, the U. S. Department of Labor and other forums.

The Firm has five types of ERISA clients. For general fund clients, the Firm provides day-to-day representation and advice on matters ranging from drafting Plan Documents and securing their approval by the Internal Revenue Service to advising trustees whose actions are questioned by plan participants or by the government. The Firm has prosecuted cases involving the collection of contributions, and the collection of withdrawal liability. The Firm has defended trustees charged with fiduciary breaches and has defended funds in benefit determination cases. Second, for other fund clients, the Firm serves solely as prosecutor in collection matters against delinquent employers. Third, the Firm has represented individual Funds in the prosecution of fiduciary breaches by former trustees and service providers. Fourth, the Firm has represented individual fund participants in the prosecution of benefit claims.

Fifth, the Firm has begun to represent funds and fund participants in class action litigation against fund service providers for fiduciary breaches. The Firm is counsel of record in the following cases on behalf of ERISA plans and their participants:

Henriquez v. State Street Bank and Trust Company et al, (D. Mass), Case No. 1:11-cv-12049-MLW: Alleging breaches of fiduciary duty related to defendants' pricing and execution of foreign exchange transactions for funds invested in by plan participants.

Carver v. The Bank of New York Mellon, Case No. 12 Civ. 9248 and *Fletcher v. The Bank of New York Mellon*, Case No. 14 Civ. 5496 (S.D. N.Y.): Alleging breaches of fiduciary duty related to defendants' pricing and execution of foreign exchange transactions for funds invested in by plan participants. This case recently settled for approximately \$680 million.

Potter v. Convergenx Group LLC, Case No. 13-cv-9150 (S.D. N.Y.): Alleging breaches of fiduciary duty in brokerage services or transition management services where defendants added unauthorized and undisclosed markups and markdowns under their double-charging scheme.

Carver v. Bank of New York Mellon, Case No. 15-cv-10180 (S.D. N.Y.): Alleging breaches of fiduciary duty related to defendants' pricing and execution of American Depository Receipts (ADRs) invested in by plan participants.

Beins, Axelrod, P.C. also represents employees in class actions and individual cases alleging violations of federal and local civil rights, wage and hour, pension and other employment laws. Partner Jonathan Axelrod has served as lead counsel in the litigation and successful settlement of the following class action cases brought by employees against their employers:

Carr v. The Whitestone Group, Civil Action No. 1:09-cv-03412 (D. Md.) (breach of contract, fiduciary breach).

Brown v. Vance, Civil Action No. 1:00CV00135 (D. D.C.) (FLSA).

Abdullah v. District of Columbia, Civil Action No. 00CV01295 (D. D.C.) (FLSA).

PRINCIPAL ATTORNEYS

JONATHAN G. AXELROD

After almost three years in the Appellate Court Branch of the National Labor Relations Board litigating in the United States Court of Appeals, Mr. Axelrod became Assistant General Counsel of the Eastern Conference of Teamsters, where he represented Local Unions in litigation with employers. After six years with the Eastern Conference, in 1980 he and Hugh Beins founded what has become Beins, Axelrod, P.C. While in private practice, Mr. Axelrod has represented labor unions in numerous district and appellate court proceedings and has argued in the Supreme Court of the United States (*Plumbers v. Plumbers Local 334*, 452 U.S. 615 (1981)). He has represented Taft-Hartley funds since 1991. He has published numerous articles and presented papers on a variety of issues involving labor relations. He is the author of the Duty of Fair Representation Chapter in LABOR UNION LAW AND REGULATION, published by the American Bar Association's Section of Labor and Employment Law and BNA.

Mr. Axelrod is admitted to practice in the District of Columbia and New York State and before most of the Federal Courts of Appeals. He is admitted to practice before the District Courts for the District of Columbia, Maryland, and the Eastern District of Wisconsin.

Mr. Axelrod is a graduate of Dartmouth College (AB, 1968), Columbia Law School (JD

1971), and George Washington University Law Center (LLM (Labor Law), 1975).

H. DAVID KELLY, JR.

David Kelly has represented labor unions and Taft-Hartley funds for 38 years. Since joining Beins, Axelrod in 2001, he has specialized in employee benefits, labor and employment law, including the enforcement of statutory claims of employees under federal and various state laws, including the Employee Retirement Income Security Act (ERISA), and Title VII and the ADA, the FLSA and State analogues, as well as the representation of multiemployer and non-profit single employer employee benefit plans. Included among these is service as co-counsel in a number of class and/or collective actions to recover wages and/or benefits and for breach of fiduciary duty. He has appeared as counsel of record in more than a score of federal courts, and before state court judges and administrative officers in numerous jurisdictions as well as arbitrators in other proceedings. Mr. Kelly was chairman of the creditors committee in the Chapter 11 bankruptcy of American Carriers, in which a number of Taft-Hartley funds had withdrawal liability claims.

He is a member of numerous bar associations and has been a speaker at the American Bar Association's annual and regional conferences as well as at other national conferences where he presented papers on topics that arise in our practice areas. He was elected to serve on the Steering Committee of the D. C. Bar's Labor and Employment Section for a three-year term, and was selected to be one of its co-chairs.

Mr. Kelly is a graduate of the University of Michigan (BA 1983), Northeastern University School of Law (JD 1986), and Wayne State University Law School (LLM (Labor Law), 1997).

JUSTIN P. KEATING

Mr. Keating graduated from the State University of New York College at Fredonia (BA. 1997) and George Washington University School of Law (JD 2000). He is admitted to practice in New York, the District of Columbia, and Virginia.

Mr. Keating practices almost exclusively in traditional labor law, collective bargaining, and employee benefits. He is admitted to and has appeared in four different U.S. District Courts and has litigated pre-trial through jury trial in several others on a *pro hac vice* basis. He has arbitrated over 100 collective bargaining grievance arbitrations. He has litigated several FLSA multi-plaintiff cases. While employed by the International Brotherhood of Teamsters, he was the first assistant counsel to the union in two rounds of negotiations for the largest private sector collective bargaining agreement in the country, covering over 200,000 employees. His work on collective bargaining negotiations ranges from advice to the union on strategy, legal issues on bargaining, strike/lockout preparations, health and welfare benefits, and labor cost accounting. He has taught many legal/labor law seminars to union officials in groups ranging in size from 10 to 200.

Mr. Keating has litigated multi-employer plan withdrawal liability cases (including to bench trial) and multi-employer plan collection cases in federal courts in Virginia and Maryland.

EX. 95

Exhibit 23

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)
)
Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
STATE STREET BANK AND TRUST COMPANY,)
)
Defendant.)

**DECLARATION OF KIMBERLY KEEVERS PALMER ON BEHALF OF
RICHARDSON, PATRICK, WESTBROOK & BRICKMAN, LLC IN SUPPORT OF
LEAD COUNSEL'S MOTION FOR AN AWARD OF**

ATTORNEYS' FEES AND PAYMENT OF EXPENSES

Kimberly Keevers Palmer, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am a member of the law firm of Richardson, Patrick, Westbrook & Brickman, LLC ("RPWB, LLC"). I submit this declaration in support of Lead Counsel's motion for an award of attorneys' fees and payment of litigation expenses on behalf of all Plaintiffs' counsel who contributed to the prosecution of the claims in the above-captioned class actions (the "Class Actions") from inception through August 30, 2016 (the "Time Period").

2. My firm, RPWB, LLC, was co-counsel with McTigue Law, LLP and formerly counsel of record for Plaintiff Arnold Henriquez. Until our firm withdrew as counsel in December 2013, our firm was involved in case strategy decisions, fact research, discovery, and motion practice.

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm's current billing rates. The schedule was prepared from time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm's regular rates charged for their services, which have been accepted in other complex class actions.

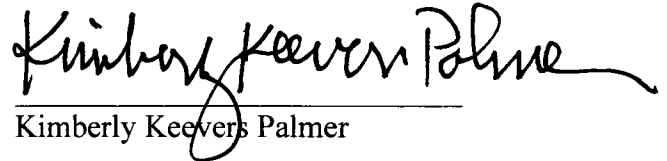
5. The total number of hours expended on this litigation by my firm during the Time Period is 257.8 hours. The total lodestar for my firm for those hours is \$137,411.

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

7. As detailed in Exhibit B, my firm has incurred a total of \$7,456.66 in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a copy of RPWB LLC's firm resume, which includes a brief biography of my firm as well as biographies of the firm's partners, associates, and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 13, 2016.



Kimberly Keever Palmer

Exhibit A

EXHIBIT A**STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)****LODESTAR REPORT****FIRM: RICHARDSON, PATRICK, WESTBROOK & BRICKMAN, LLC
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016**

PROFESSIONAL	STATUS*	HOURLY RATE	TOTAL HOURS TO DATE	TOTAL LODESTAR TO DATE
Michael J. Brickman	P	\$800	10.40	\$8,320.00
Kimberly Keevers Palmer	P	\$550	197.10	\$108,405.00
Nina Fields Britt	P	\$500	37.7	\$18,850.00
Lisa Dominick	PL	\$150	10.80	\$1,620.00
Linda Hambleton	PL	\$120	1.8	\$216.00
TOTAL			257.8	\$137,411.00

Partner (P)
Of Counsel (OC)
Associate (A)
Staff Attorney (SA)

Paralegal (PL)
Investigator (I)
Research Analyst (RA)

Exhibit B

EXHIBIT B

STATE STREET INDIRECT FX TRADING CLASS ACTION
No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

EXPENSE REPORT

FIRM: RICHARDSON, PATRICK, WESTBROOK & BRICKMAN, LLC
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016

EXPENSE	TOTAL AMOUNT
Duplicating	\$2,041.87
Filing / Service / Witness Fees	\$430.00
Online Legal & Financial Research	\$3,302.30
Work-Related Transportation/Meals/Lodging	\$1,682.49
TOTAL	\$7,456.66

Exhibit C

RPWB

RICHARDSON, PATRICK,
WESTBROOK & BRICKMAN, LLC

EXPERIENCE

RPWB ATTORNEYS

RPWB's attorneys have worked together as partners and as collaborators on some of the most significant litigation in America's history. These successes have taught our attorneys the practical skills they use each day to make sure every client receives the very best representation possible. Our collective experience touches nearly every aspect of plaintiffs' litigation and provides our clients with the kind of seasoned understanding that has built RPWB's winning reputation.

INNOVATION

OUR CLIENTS

Our clients and our co-counsel benefit from our ongoing commitment to harness the power of technology. RPWB has invested in a technological infrastructure that provides cutting-edge data management and the remote access tools to facilitate co-counsel cooperation in the day-to-day business of associated cases. RPWB also takes its technology into the courtroom with state-of-the-art presentation software to provide jurors with the very best opportunity to understand our clients' cases.

DETERMINATION

RPWB ATTORNEYS

RPWB lawyers know that making big business accountable takes a willingness to fight day after day for the rights of injured people. When RPWB takes a case, the firm and all of its resources are committed to fighting for that client. Our contract of representation is our promise to put in the work necessary to bring every case to its best possible conclusion.



MOUNT PLEASANT**JAMES C. BRADLEY**Direct #: 843.727.6603
e-mail: jbradley@rpwb.com**ELIZABETH MIDDLETON
BURKE**Direct #: 843.727.6659
e-mail: bburke@rpwb.com**AARON R. DIAS**Direct #: 843.727.6509
e-mail: adias@rpwb.com**D. CHARLES DUKES II**Direct #: 843.727.6647
e-mail: cdukes@rpwb.com**JERRY HUDSON EVANS**Direct #: 843.727.6534
e-mail: jevans@rpwb.com**NINA FIELDS BRITT**Direct #: 843.727.6542
e-mail: nfields@rpwb.com**H. BLAIR HAHN**Direct #: 843.727.6611
e-mail: bhahn@rpwb.com**GREGORY A. LOFSTEAD**Direct #: 843.727.6516
e-mail: glofstead@rpwb.com**CHRISTIAAN A. MARCUM**Direct #: 843.727.6522
e-mail: cmarcum@rpwb.com**KATIE H. MCELVEEN**Direct #: 843.727.6602
e-mail: kmcelveen@rpwb.com**MATTHEW A. NICKLES**Direct #: 843.727.6675
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e-mail: trogers@rpwb.com**A. HOYT ROWELL, III**Direct #: 843.727.6650
e-mail: hrowell@rpwb.com**T. CHRISTOPHER TUCK**Direct #: 843.727.6515
e-mail: ctuck@rpwb.com**JAMES L. WARD, JR.**Direct #: 843.727.6682
e-mail: jward@rpwb.com**EDWARD J.
WESTBROOK, JR.**Direct #: 843.727.6513
e-mail: ewestbrook@rpwb.com**ROBERT S. WOOD**Direct #: 843.727.6655
e-mail: bwood@rpwb.com**BARNWELL****J. DAVID BUTLER**Direct #: 803.541.7865
e-mail: dbutler@rpwb.com**DANIEL S. HALTIWANGER**Direct #: 803.541.7863
e-mail: dhaltiwanger@rpwb.com**CHRISTOPHER J. MOORE**Direct #: 803.541.7857
e-mail: cmoore@rpwb.com**TERRY E.****RICHARDSON, JR.**
Direct #: 803.541.7860
e-mail: trichardson@rpwb.com**BRADY R. THOMAS**Direct #: 803.541.7850
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e-mail: kwilson@rpwb.com**CHARLESTON****MICHAEL J. BRICKMAN**Direct #: 843.727.6520
e-mail: mbrickman@rpwb.com**CHARLES W. PATRICK, JR.**Direct #: 843.727.6512
e-mail: cpatrick@rpwb.com**EDWARDSVILLE****JENA L. BORDEN**Direct #: 618.307.5077
e-mail: jborden@rpwb.com**OF COUNSEL****GORDON C. RHEA**Direct #: 843.727.6656
e-mail: grhea@rpwb.com



RPWB ATTORNEYS

RPWB attorneys have extensive experience in sophisticated litigation brought locally, nationally, and internationally. The firm is focused on the representation of individuals, corporations, and governments in complex disputes across a diverse range of practice areas.

As a result of RPWB's experience and success at managing complex litigation, the firm frequently associates with other law firms to assist those attorneys in the pursuit of class actions, multidistrict litigations, or other cases with challenging and cutting-edge legal issues. RPWB possesses the resources to coordinate related litigations in multiple venues for the benefit of the firm's clients.

AREAS OF PRACTICE (AOPs):

- Abusive Tax Shelters
- Antitrust and Deceptive Trade
- Asbestos & Mesothelioma
- Asbestos Property Damage
- Burn Injuries
- Business Litigation
- Class Actions
- Consumer Lending
- Employment Litigation
- Environmental Law
- Healthcare: Drug Pricing
- Medical Malpractice and Pharmacy Liability
- Mutual Funds
- Nursing Home Abuse
- Personal Injury
- Pharmaceutical Drugs and Medical Devices
- Products and Premises Liability
- Railroad Accidents
- Securities Fraud
- Tobacco
- Truck Accidents
- Vehicle Defects/Warranty Litigation
- Whistleblower/Qui Tam
- White-Collar Criminal Defense

A TRADITION OF GIVING BACK TO THE COMMUNITY....

RPWB believes in giving back. Donating technical, financial, and human resources, RPWB is committed to fostering relationships and giving to organizations that address social and economic needs. The firm encourages all employees to make a difference by donating their time, money, and talents to nonprofit agencies to help build stronger and more sustainable communities.

MT. PLEASANT

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Mount Pleasant, SC 29464

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fax: 843.216.6509

CHARLESTON

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Charleston, SC 29402

phone: 843.727.6500
fax: 843.727.3103

BARNWELL

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Barnwell, SC 29812

P.O. Box 1368
Barnwell, SC 29812

phone: 803.541.7850
fax: 803.541.9625

EDWARDSVILLE

Mark Twain Plaza II
103 West Vandalia Street
Suite 212
Edwardsville, IL 62025

phone: 618.307.5077
fax: 618.307.5813

Please visit www.RPWB.com for complete office and attorney contact info.



PRACTICE AREAS OF RPWB

With a focus on social justice, the efforts of Richardson, Patrick, Westbrook & Brickman, LLC attorneys have led to impressive verdicts and settlements on behalf of individuals and groups across the country who have suffered undue costs or harm.

FIND THE AREA AND ATTORNEY THAT IS RIGHT FOR YOU.

RPWB's practice areas are wide-ranging, from consumer fraud to drug product liability, to resolving disputes with all types of polluters.

The firm is perhaps best known for early and ongoing legal efforts—in nearly every state—to defend those harmed by exposure to asbestos. Similarly, RPWB's attorneys played a significant role in landmark settlements against Big Tobacco.

AREAS OF PRACTICE (AOPs) AND LEGAL TEAMS

ABUSIVE TAX SHELTERS

Jerry Hudson Evans
Gordon C. Rhea

ANTITRUST AND DECEPTIVE TRADE

James C. Bradley
Michael J. Brickman
Nina Fields Britt
Matthew A. Nickles
Kimberly Keevers Palmer
A. Hoyt Rowell III
T. Christopher Tuck
James L. Ward Jr.
Robert S. Wood

ASBESTOS/MESOTHELIOMA

Jena L. Borden
Michael J. Brickman
J. David Butler
Gregory A. Lofstead
Christopher J. Moore
Karl E. Novak
Charles W. Patrick Jr.
Kenneth J. Wilson

ASBESTOS PROPERTY DAMAGE

Katie H. McElveen
James L. Ward Jr.
Edward J. Westbrook
Robert S. Wood

BUSINESS LITIGATION

Jena L. Borden
Daniel Scott Haltiwanger
Christopher J. Moore
Terry E. Richardson Jr.
A. Hoyt Rowell III
Brady R. Thomas
T. Christopher Tuck
James L. Ward Jr.

CLASS ACTION

James C. Bradley
Michael J. Brickman
Nina Fields Britt
Daniel S. Haltiwanger
Katie H. McElveen
Christopher J. Moore
Matthew A. Nickles
Kimberly Keevers Palmer

Terry E. Richardson Jr.
A. Hoyt Rowell III
Brady R. Thomas
T. Christopher Tuck
James L. Ward Jr.
Edward J. Westbrook
Robert S. Wood

CONSUMER LENDING

Katie H. McElveen
A. Hoyt Rowell III
T. Christopher Tuck
Robert S. Wood

ENVIRONMENTAL

Aaron R. Dias
Jerry Hudson Evans
Gordon C. Rhea
Edward J. Westbrook

ERISA CASH BALANCE

A. Hoyt Rowell III
T. Christopher Tuck
James L. Ward Jr.
Robert S. Wood

HEALTHCARE FRAUD:**DRUG PRICING**

A. Hoyt Rowell III
 T. Christopher Tuck
 James L. Ward Jr.
 Robert S. Wood

**MEDICAL MALPRACTICE
AND PHARMACY LIABILITY**

Michael J. Brickman
 Kimberly Keevers Palmer
 Thomas D. Rogers

MUTUAL FUNDS

James C. Bradley
 Michael J. Brickman
 Nina Fields Britt

NURSING HOME ABUSE

Daniel S. Haltiwanger
 Terry E. Richardson Jr.
 A. Hoyt Rowell III

**PHARMACEUTICAL DRUGS
AND MEDICAL DEVICES**

Michael J. Brickman
 Elizabeth Middleton Burke
 Aaron R. Dias
 D. Charles Dukes II
 Nina Fields Britt
 H. Blair Hahn
 Christiaan A. Marcum
 Misty Black O'Neal
 Kimberly Keevers Palmer
 Terry E. Richardson
 Thomas D. Rogers
 A. Hoyt Rowell III
 Brady R. Thomas

**PRODUCTS AND
PREMISES LIABILITY**

Daniel S. Haltiwanger
 Katie H. McElveen
 Christopher J. Moore
 Terry E. Richardson Jr.
 T. Christopher Tuck
 James L. Ward Jr.
 Kenneth J. Wilson

RAILROAD ACCIDENTS

J. David Butler
 Daniel S. Haltiwanger
 Terry E. Richardson Jr.

SECURITIES FRAUD

James C. Bradley
 Michael J. Brickman
 Nina Fields Britt
 Matthew A. Nickles
 Terry E. Richardson Jr.
 A. Hoyt Rowell III
 T. Christopher Tuck

TOBACCO

Michael J. Brickman
 Jerry Hudson Evans
 Nina Fields Britt
 Gregory A. Lofstead
 Charles W. Patrick Jr.

TRUCK ACCIDENTS

Daniel S. Haltiwanger
 Terry E. Richardson Jr.

**VEHICLE DEFECTS/
WARRANTY**

Daniel S. Haltiwanger
 Gordon C. Rhea
 Terry E. Richardson Jr.
 Brady R. Thomas
 T. Christopher Tuck
 James L. Ward Jr.
 Kenneth J. Wilson

**WHISTLEBLOWER/
QUI TAM**

Daniel S. Haltiwanger
 T. Christopher Tuck

**WHITE-COLLAR
CRIMINAL DEFENSE**

Gordon C. Rhea

ABUSIVE TAX SHELTERS

Lawyers at RPWB represent clients in litigation against promoters of abusive tax shelters in state and federal cases. KPMG and other major accounting firms promoted and sold a large number of tax strategies the IRS has listed as abusive tax shelters. Clients often paid substantial fees for tax strategies that were represented as legitimate and now face severe tax liabilities as a consequence. Taxpayers who were sold tax reduction schemes that turn out to be “abusive” may have a claim against the promoter who sold them the shelter.

ANTITRUST

RPWB has played a prominent role in enforcing federal and state antitrust laws designed to promote competition and, more importantly, prevent companies from engaging in activities that could lead to price fixing monopolies and increased anticompetitive practices. Under federal antitrust laws, claims for damages are generally limited to individuals or companies that purchased goods or services directly from the company or person that violated the antitrust laws. However, many states allow consumers and other indirect purchasers to sue for damages resulting from anticompetitive conduct, even though they did not purchase the goods or services directly from the company or person that violated the antitrust laws.

RPWB has represented direct and indirect purchasers of goods in numerous markets that have been the subject of price fixing or other violations of antitrust laws. Notably, RPWB was appointed co-lead counsel in the *Beach, et al. v. Atlas Van Lines, et al.* antitrust litigation. The multidistrict class action antitrust lawsuit alleged that certain household goods carriers conspired to overcharge customers for fuel surcharges paid on household goods moves. Following the court’s denial of defendants’ motions for summary judgment and granting of plaintiffs’ motion for summary judgment on several critical issues, the parties negotiated a significant settlement for the plaintiffs class.

Michael Brickman was appointed co-lead counsel in *In re Magnetic Audiotape Antitrust Litigation*, a class action involving allegations that manufacturers and distributors of magnetic audiotape conspired to fix prices in violation of the Sherman Act. The firm was instrumental in securing settlements for the plaintiffs. RPWB also served as class counsel in *eMag Solutions, LLC, et al. v. Toda Kogyo Corporations, et al.*, in which the plaintiffs alleged that certain manufacturers of magnetic iron oxide (“MIO”) violated federal antitrust law by conspiring to fix prices and allocate the worldwide markets for MIO used in the manufacture of audiotape, videotape, and data storage tape. The litigation resulted in a favorable settlement for the plaintiff class.

RPWB currently serves as co-lead counsel in *In re Delta/AirTran Baggage Fee Antitrust Litigation*, a multidistrict antitrust class action alleging that Delta Air Lines and AirTran Airways conspired to implement fees charged to passengers for checked baggage. As a result of this alleged conspiracy, these airlines have collected hundreds of millions of dollars in checked baggage fees since late 2008. The firm is also counsel in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, which involves allegations that merchants paid excessive fees to accept Visa and MasterCard because Visa and MasterCard, individually, and together with their member banks, violated federal antitrust

laws. RPWB is presently involved in *In re Blue Cross Blue Shield Antitrust Litigation*, a multidistrict class action in which plan subscribers and healthcare providers allege that Blue Cross Blue Shield Association and its member BCBS plans used licensing agreements to eliminate competition in the health insurance markets in which they operate.

ASBESTOS/MESOTHELIOMA

RPWB is well known for its continuing legal efforts in nearly every state in the U.S. to defend the rights of thousands of individuals harmed by exposure to asbestos. In the 1980s, when mesothelioma, a form of cancer caused by inhalation of asbestos fibers, was still virtually unknown to the public, our lawyers were already on the front lines driving asbestos litigation against hundreds of shipping, manufacturing, and construction-related companies.

RPWB asbestos attorneys have a long history of representing those exposed to asbestos and harmed in the work environment. With the trial expertise of our attorneys, we continue to be a leader in this area of law with some of the largest U.S. verdicts to date.

ASBESTOS: PROPERTY DAMAGE

The attorneys of RPWB have years of experience recovering damages for those who have suffered property damage resulting from the removal of asbestos from their homes or places of business. Unfortunately, asbestos was used commercially for many years after its carcinogenic traits were known. Despite knowledge about the serious health hazards of asbestos and the availability of non-hazardous substitutes, information developed through lawsuits against asbestos companies revealed that companies producing asbestos-containing products concealed and misrepresented this information. They did so while promoting, using, and profiting from the use of asbestos in their products.

By the late 1960s and early 1970s, the federal government, after public outcry over the dangers posed by the wide use of asbestos, began to implement laws and regulations governing the use, maintenance, and disposal of asbestos and asbestos products and began to require a warning on a number of products containing asbestos.

Two federal agencies have primary jurisdiction over asbestos-related issues:

- **The Occupational Health and Safety Administration (OSHA)** began regulating the permissible workplace exposures of workers in the United States in 1971. OSHA also sets out the protections that must be provided to those whose work may expose them to asbestos
- **The Environmental Protection Agency (EPA)** deals with the inspection and testing of buildings containing asbestos and the proper disposal of asbestos among other things

However, none of these laws or regulations dictate compensation for those injured by asbestos or values compensation due those whose property was damaged as a result of asbestos installation and subsequent remediation.

Asbestos companies put profits over people. Compensation for victims must be sought through the civil justice system. This is why having knowledgeable and experienced asbestos attorneys like those of RPWB's asbestos property damage team, is critical in recovering damages for the losses you incurred as a result of asbestos being removed from your premises. If you have an older home insulated with 'pour in" vermiculite insulation, you may be eligible for assistance with removal of that material that was often contaminated with asbestos in the vermiculite ore. Our asbestos property damage staff can provide details on this anticipated compensation program.

CLASS ACTIONS

Class actions involve one or more class representatives who agree to serve on behalf of themselves and other similarly situated individuals. Because class claims typically involve financial losses that are too small to bring as individual cases, state and federal statutes generally allow for such claims to be aggregated and for the class representatives to pursue relief for all class members. To that extent, class action cases provide a powerful tool for redressing systematic civil wrongs for various types of harm or loss resulting from corporate misconduct, consumer or business fraud, and discrimination.

RPWB has extensive experience in the prosecution of class action litigation across the U.S. The firm has represented and continues to represent thousands of consumers in various state and federal court class actions throughout the nation. Since the firm's inception, RPWB attorneys have assisted class members in recovering in excess of \$1 billion in settlement benefits.

CONSUMER LENDING & FAIR CREDIT REPORTING ACT LITIGATION

RPWB has been an active defender of consumer rights in the face of predatory lending and credit practices. RPWB attorneys have been appointed class counsel in numerous state and federal cases involving predatory mortgage lending. These cases led to more than \$900 million in settlement benefits for consumers. RPWB attorneys are conversant with federal and state lending laws and regulations and have managed complex federal actions and multiple state class actions against major lending and banking institutions involved in predatory lending practices.

In 2004, RPWB attorneys Hoyt Rowell and Chris Tuck, together with co-counsel, were named class counsel in the settlement of *Dundon v. U.S. Bank*, which set an extraordinary recovery to class members at more than \$26,000 per person. RPWB attorneys have also been named class counsel or participated in cases that have led to significant decisions regarding the operation of federal lending laws.

ENVIRONMENTAL

RPWB is deeply committed to fighting for a clean and healthy environment. State and territorial governments have begun exercising their rights under federal and local laws to recoup damages for loss of natural resources (Natural Resource Damage or NRD) caused by the release of hazardous substances into the environment. In addition to the costs of clean-up and remediation, NRD remedies include monetary compensation for damaged natural resources, which run the gamut from polluted surface and groundwater to the destruction of wildlife habitat.

ERISA CASH BALANCE PLAN LITIGATION

In recent years, many companies have converted defined benefit retirement plans to cash balance defined benefit plans. Under the traditional defined benefit plans, employees would obtain retirement benefits after a certain number of years of service. The benefits were typically calculated under factors that included years of participation and the employee's annual pay. A cash balance plan, by contrast, combines some attributes of a 401(k) plan and a pension plan. During the conversion to cash balance plans, some companies improperly calculated employee benefits. Our attorneys have been involved in ERISA cash balance conversion litigation to assist plan participants who have suffered an improper erosion of their retirement benefits, including class action litigation against Duke Energy that resulted in \$30 million in settlement benefits.

GENERAL BUSINESS LITIGATION

Our business litigation attorneys represent businesses and individuals in complex business tort and commercial litigation cases involving breach of contract, fraud, misrepresentation, unfair competition, and deceptive trade practices. These cases include disputes between competitors, partners, shareholders, lenders and borrowers, franchisees and franchisors, and other commercial entities. Business tort and commercial litigation cases are extremely complex and require an immense knowledge of both law and business.

RPWB attorneys not only have this knowledge, they also have the significant staff and financial resources to investigate and prepare these cases for successful resolution.

HEALTHCARE FRAUD: DRUG PRICING

Healthcare fraud is a major source of the increased cost of medical care and health insurance. We all lose when medical service and product providers, including pharmaceutical companies, defraud individuals or governments, because healthcare providers pass the costs along to their customers. Our healthcare fraud attorneys help victims protect their rights under all available federal and state laws, including the various false claims acts that allow individuals with inside information of fraud against the government to file a suit against the bad actor and share in the money recovered by the

government.

RPWB has represented numerous state and local government entities in litigation against pharmaceutical manufacturers and wholesalers, resulting in multi-million dollar settlements. RPWB has represented numerous state and local governments in suits alleging that drug wholesaler McKesson conspired to inflate the average wholesale price (AWP) of hundreds of brand-name prescription drugs causing these entities to make substantial excess payments for pharmaceuticals. RPWB has also represented numerous states in similar suits against pharmaceutical manufacturers for manipulating AWP's of brand and generic drugs.

MEDICAL MALPRACTICE AND PHARMACY LIABILITY

MEDICAL MALPRACTICE

Medical Malpractice cases are typically a result of negligent or careless action or inaction by a doctor, nurse, hospital, or other licensed medical professional or health care provider that yields consequences of permanent disability, disease, disfigurement, and death.

All hospitals and medical workers have a duty to uphold appropriate standards of care with every patient they treat. Medical Malpractice arises from a breach of that duty, and most often involves:

- Misdiagnoses
- Failure to properly treat a condition
- Faulty administration of a prescription drug
- Failure to warn patient of potential dangers

All patients have the right to receive proper and reasonable care from hospitals, doctors, and nurses. RPWB's medical malpractice attorneys know each case is unique and deserving of individual attention.

PHARMACY LIABILITY

Pharmacies and pharmacists are critical members of the medical community whom we entrust with our health and our lives. While doctors may be responsible for diagnosing a disease and prescribing treatment, it is the role of a pharmacist to ensure that the patient receives the correct type and dosage of medication.

If a pharmacist fails to properly fill a prescription, the result can be injury or even death. When a pharmacist negligently fills a prescription, he or she may be liable for the resulting injury or death. Claims for pharmacy liability generally arise when a pharmacy fails to uphold the proper standards of care when filling and dispensing prescription drugs. This can manifest in several harmful, and sometimes deadly, ways:

- Giving the wrong drug to a patient
- Filling an order in the wrong dosage amount
- Failing to acknowledge a patient's drug allergies
- Failing to recognize and prevent potential drug-drug interactions
- Failing to recognize and prevent potential drug-disease contraindications
- Failing to recognize an incorrect dosage and take steps to avoid harm to the patient
- Failing to properly counsel a patient regarding potential side-effects, risks and proper usage of a prescription medication.

The attorneys at RPWB have extensive experience taking on large, corporate pharmacies on behalf of our clients.

MUTUAL FUND LITIGATION

RPWB is dedicated to protecting mutual fund investors from fee gouging and dishonest conduct by mutual fund advisors. Millions of Americans today invest their retirement savings, college savings, and life savings in mutual funds — a \$9 trillion business. The scandals of the past few years involving late trading, market timing, and revenue sharing demonstrate that not enough is being done to protect investors.

Mutual funds are overseen by boards of directors who are supposed to be independent from the advisors who run the mutual funds and are charged with looking out for the interests of mutual fund investors. Unfortunately, these “watchdogs” often serve as nothing more than lackeys and rubber stamps for the advisors. Market timing and other publicized abuses are only a few of the many ways mutual fund investors can suffer when directors do not perform their duties and allow the advisors to take advantage of the mutual funds they manage.

PHARMACEUTICAL DRUGS AND MEDICAL DEVICES

RPWB is nationally recognized for representing individuals who have been harmed by side effects from both prescription and non-prescription drugs and medical devices. RPWB attorneys have or are currently serving on various national Plaintiffs’ Steering Committees for consolidated litigations involving the pharmaceutical drugs Chantix® and Lipitor®. The firm is currently involved in litigating Accutane®, Actos®, Lipitor®, and Yaz/Yasmin Ocella® cases across the country. RPWB attorneys formerly served on the Plaintiffs’ Steering Committee for litigation involving Baycol®, breast and jaw implants, Heparin®, Ortho Evra®, Phenylpropanolamine (PPA), ReNu®, Rezulin®, the Norplant contraceptive system and Zyprexa®.

The firm played an integral role in litigating and negotiating a \$700 million settlement with Eli Lilly in 2005 arising out of thousands of Zyprexa-related injuries. In addition, the firm successfully represented multiple states, through their respective Attorneys General, for the reimbursement of Medicaid and Medicare funds used to treat the victims of Zyprexa-related injuries.

RPWB attorneys also represent patients with defective medical implants. Some of the implant claims the firm is currently involved with include hip implants and defective transvaginal mesh. RPWB is prosecuting hip implant claims involving the DePuy ASR, DePuy Pinnacle, Stryker Rejuvenate & ABG II, Biomet MZA Magnum, Zimmer Durom, and Wright Conserve products. RPWB is also prosecuting transvaginal mesh claims involving mesh manufactured by Boston Scientific, Ethicon, American

Medical Systems, C.R. Bard, Inc., and Coloplast Corp.

PRODUCTS AND PREMISES LIABILITY

RPWB has earned a national reputation representing individuals and entities that have been harmed or suffered a loss as a result of defective products and dangerous premises. These cases typically involve catastrophic personal injury, wrongful death, and/or property damage.

RPWB has litigated class actions and individual cases involving defects in numerous products, including automobiles, aircraft, consumer appliances, machinery, and prescription drugs. Many of these cases have been designated by the courts as complex or transferred to multidistrict litigation. Our products liability attorneys have the knowledge, experience, and resources to successfully handle these cases.

RAILROAD ACCIDENTS

RPWB lawyers have experience in both railroad crossing accident and train derailment litigation, which can be very complex due to the many regulations governing railroad operation and maintenance. Negligence and liability issues are complex and often require experts in the field to conduct proper analysis and testing of engineering and human factors and rail operations. In 2005, RPWB was appointed co-lead counsel in the consolidated cases arising from the Graniteville, South Carolina train derailment and chemical spill in which nine people were killed, hundreds injured, and almost 5,500 more evacuated.

RPWB attorneys also have experience in representing injured railroad workers under the Federal Employer's Liability Act (FELA) which provides injured railroad employees an avenue to recover lost wages, medical expenses, pain and suffering, and long-term physical and financial support in the event the injured employee is unable to return to work.

SECURITIES FRAUD

RPWB is dedicated to helping investors recover losses caused by corporate fraud or securities account mismanagement. The firm has played a lead role in numerous complex, and often groundbreaking, litigation matters on behalf of stockholders and other victims injured by corporate fraud, breaches of fiduciary duty, and financial wrongdoing.

The firm has been at the forefront of protecting shareholders' investments by aggressively pursuing claims against brokerage firms for providing unfounded investment advice and for failing to disclose conflicts of interest, and claims against brokerage firms and individual brokers for fraudulent and negligent mismanagement of investor accounts. RPWB is also prominently involved in derivative cases and protecting mutual fund investors against excessive advisory fee abuses.

TOBACCO

Collectively, the attorneys at RPWB bring decades of experience in tobacco litigation to the courtroom. Several RPWB attorneys played prominent roles in the nationwide litigation that led

to a historic settlement between the Attorneys General of all 50 states and the tobacco industry to recover healthcare costs of smoking related diseases. Since coming together at RPWB, the attorneys on the tobacco team have focused on one of the most pervasive frauds perpetuated by the tobacco industry: the false marketing of “light” cigarettes.

In *Price v. Philip Morris*, RPWB attorneys helped win a landmark \$10.1 billion consumer fraud judgment against Philip Morris. This Illinois case was the first to hold a tobacco company accountable for decades of deceptive labeling of cigarettes as “light” or “lowered tar.” RPWB attorneys presented evidence that Philip Morris’ “light” brands were just as harmful, and in certain aspects, more harmful than its regular brands. Within weeks of the verdict, Philip Morris declared it was removing the phrase “Lowered Tar and Nicotine” from packages of its best-selling brand, Marlboro Lights.

For its work in *Price v. Philip Morris*, the entire RPWB tobacco team was nominated in 2003 for the Trial Lawyer of the Year Award by Trial Lawyers for Public Justice. In pursuing claims against the tobacco industry, RPWB attorneys have worked closely with the leading public health authorities and experts around the world. They bring skill, passion, and dedication to the fight against the tobacco industry for its part in creating the great public health crisis of cigarette smoking.

TRUCK ACCIDENTS

RPWB has the tractor trailer litigation experience necessary to make certain our clients’ rights are protected. Accidents involving tractor trailers – commonly called 18 wheelers – are some of the most devastating wrecks on our roadways. When a tractor trailer and a car collide, it is very likely the accident will result in death or severe injury of a passenger in the automobile. In the legal realm, tractor trailer wrecks are not treated as ordinary car accidents. Laws and regulations that apply to tractor trailers and their operators are different from those in typical car accidents. RPWB is distinctly prepared to prosecute tractor trailer lawsuits.

VEHICLE DEFECTS

RPWB has litigated dozens of cases against most of the major manufacturers of heavy trucks, automobiles, and SUVs. Our attorneys have successfully resolved claims for deaths and injuries resulting from vehicle rollovers, tire detreads, roof crushes, seat belt unbuckling, airbag injuries, and park-to-reverse transmission slips and a variety of defects leading to fuel fed fires. Our attorneys have the experience to identify vehicle defects that may have caused what otherwise appears to have been an ordinary accident. We also know the important steps that should be immediately taken to preserve evidence necessary to prove a defect case.

WHISTLEBLOWER

The False Claims Act allows people who have inside information of fraud against the government to file a suit to help stop the fraud. The purpose of the False Claims Act is to encourage private individuals – sometimes referred to as “whistleblowers” – who are aware of fraud to alert the

government and minimize the drain on taxpayers' funds. If the case is successfully resolved against the defendant, the whistleblower is entitled to up to 30 percent of the government's recovery as an award for coming forward. Moreover, the False Claims Act prohibits employers from retaliating against whistleblowers and allows whistleblowers who are retaliated against to sue for damages. RPWB attorneys have proven expertise in representing whistleblowers.

WHITE COLLAR CRIMINAL DEFENSE

Our attorneys have extensive experience representing corporations, as well as their officers and directors, in connection with investigations of potential criminal wrongdoing. Gordon Rhea, the group's lead attorney, has extensive experience as a former Assistant United States Attorney in Washington, D.C. Another member of the team has served as an Assistant Federal Public Defender.

Our white collar criminal defense attorneys have a record that demonstrates they understand the intricacies of representing clients accused of fraud, conspiracy, tax evasion, racketeering, and illegally structuring financial transactions. Our goal in defending clients accused of crimes is to avoid indictments and adverse publicity. Should an indictment occur, we wage a vigorous and tenacious defense at trial, and, if necessary, at sentencing and on appeal.

**For more information on these and other types of practice,
please visit our website at www.rpwb.com**



**RPWB ATTORNEYS HAVE BEEN APPOINTED CLASS COUNSEL
IN THE FOLLOWING REPRESENTATIVE LITIGATIONS:**

ALFORD V. MEGO MORTGAGE HOME LOAN TRUST 1997-1
CASE No. 27-CV-06-2262 (HENNEPIN Co., MN)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

BANKS V. FIRSTPLUS ASSET BACKED CERTIFICATES 1996-2
CASE No. 05-6583 (HENNEPIN Co., MN)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

BARBANTI ET AL. V. W.R. GRACE, CASE No. 01-1139 (DEL. BKRPTCY)

Ed Westbrook, Class Counsel
Katie McElveen, Class Counsel

BATES V. TENCO, 132 F.R.D. 160 (D.S.C. 1990)

Ed Westbrook, Class Counsel

BERRY V. EMPIRE FUNDING HOME LOAN OWNER TRUST 1997-1
CASE No. 27-CV-06-2263 (HENNEPIN Co., MN)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

BESS V. GERMAN AMERICAN CAPITAL CORP.
CASE No. 24-C-04-003-888 (BALTIMORE Co., MD)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

BROWN V. MARTIN MARIETTA
CASE No. 2001-CP-08-2559 (BERKELEY Co., SC)

Ed Westbrook, Lead Counsel

CATES V. U.S. BANK, CASE No. 04-6202 (HENNEPIN Co., MN)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

CENTRAL WESLEYAN COLLEGE V. W.R. GRACE & Co., 143 F.R.D.
628 (D.S.C. 1992), AFF'D, 6 F.3D 177 (4TH CIR. 1993)

Ed Westbrook, Co-Lead Counsel

CHURCH OF CHRIST AT AZALEA DRIVE V. FOREST RIVER, INC.
AND STARCRAFT BUS, CASE No. 2:11-cv-03371-PMD)

Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel
Jay Ward, Class Counsel
Robert Wood, Class Counsel

DUNDON V. U.S. BANK, CASE No. 01-CV-408-GPM (S.D. ILL.)
Chris Tuck, Class Counsel

FERRELL, ET AL., V. HORRY ELECTRIC COOPERATIVE, CASE No.
2011-CP-26-1266 (HORRY Co., SC)
Chris Tuck, Class Counsel
Jay Ward, Class Counsel

GEORGE, ET AL., V. DUKE ENERGY RETIREMENT CASH BALANCE
PLAN, ET AL.,
CASE No. 8:06-CV-373-RBH
Terry Richardson Jr., Class Counsel
Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel
Robert Wood, Class Counsel

GRAY V. GENERAL MOTORS CORP.
CASE No. 02-CP-25-294 (HAMPTON Co., SC)
Terry Richardson Jr., Class Counsel

GRAY V. THE TALKING PHONE BOOK, ET AL.,
CASE No. 8:08-CV-01833-GRA (D.S.C.)
Terry Richardson Jr., Class Counsel
Daniel S. Haltiwanger, Class Counsel
Chris Moore, Class Counsel

GUNNELLS V. FIDELITY GROUP, INC.
CASE No. 2:98-2659-23 (D.S.C.)
Michael Brickman, Class Counsel

HESS, ET AL., V. VOLKSWAGEN OF AMERICA, INC.
CASE No. CJ-05-205 (POTTAWATOMIE Co., OK), CERTIFICATION
AFF'D BY COURT OF CIVIL APPEALS, 221 P.3D 132 (OKLA., 2009)
Hoyt Rowell, Class Counsel
Chris Tuck, Class Counsel

IN RE: ASBESTOS SCHOOL LITIGATION, 789 F.2D 996 (3D CIR.
1986), CERT. DENIED, 107 S.Ct. 182 (1986)
Ed Westbrook, Plaintiffs' Executive Committee Member

IN RE: ATM FEE ANTITRUST LITIGATION
CASE No. 3:04-cv-02676 (CRB)
Michael Brickman, Class Counsel
Kimberly Keevers Palmer, Class Counsel

IN RE: COMMUNITY BANK OF NORTHERN VIRGINIA MORTGAGE
LENDING PRACTICES LITIGATION
CASE No. 2:03-CV-00425-AJS (WESTERN DISTRICT, PA)
Jay Ward, Class Counsel
Bobby Wood, Class Counsel

IN RE: DJK RESIDENTIAL, LLC.
CASE No. 08-10375, (BANKR. S.D. N.Y.)
Chris Tuck, Co-Lead Class Counsel

IN RE: GRANITEVILLE TRAIN DERAILMENT (CURTIS V. NORFOLK
SOUTHERN RAILWAY Co.)
CASE No. 1:05-115-MBS (AIKEN Co., SC)
Terry Richardson Jr., Co-Lead Class Counsel

IN RE: HOUSEHOLD GOODS MOVERS ANTITRUST LITIGATION
MDL No. 1865
CASE No. 2:07-CV-00764 (DCN)
Hoyt Rowell, Co-Lead Class Counsel
Howard Siegel, Co-Lead Class Counsel
Chris Tuck, Co-Lead Class Counsel
Robert Wood, Co-Lead Class Counsel

IN RE: MAGNETIC AUDIOTAPE ANTITRUST LITIGATION
CASE No. 99-CV-1580 (LMM) (S.D.N.Y.)
Michael Brickman, Co-Lead Class Counsel

LEWIS, ET AL. V. FLUE-CURED TOBACCO COOPERATIVE
STABILIZATION, CASE NOS. 05-CVS-188 & 05-CVS-1938,
(S. CT.) (WAKE COUNTY, NC)
Terry Richardson, Class Counsel
Jay Ward, Class Counsel

LEWIS V. SOYO GROUP, INC.
CASE No. EDCV 06-699 VAP (C.D. C.A.)
Chris Tuck, Class Counsel

MADANAT V. FIRST DATA CORP., ET AL.
CASE No. 11-CV-00364 (LDW)(ETB) (E.D.N.Y.)
Chris Tuck, Class Counsel

MASQUAT V. DAIMLERCHRYSLER CORP.
CASE No. CJ-05-106 (POTTAWATOMIE Co., OK),
CERTIFICATION AFFD AT 195 P.3D 38 (OKLA. 2008)
Chris Tuck, Class Counsel

MONTECITO ENCLAVE, ET AL. V. SUMMIT CONTRACTORS, INC., ET AL.
CASE No. 06-CP-10-1316
Blair Hahn, Lead Class Counsel

OLVERA V. NORFOLK SOUTHERN RAILWAY, Co.
CASE No. 1:06-CV-3597-MBS (D.S.C.)
Terry Richardson Jr., Co-Lead Class Counsel

PRICE V. PHILIP MORRIS INC.
CASE No. 00-L-112 (MADISON COUNTY, IL)

Jim Bradley, Class Counsel
Michael Brickman, Class Counsel
Jerry Evans, Class Counsel
Nina Fields, Class Counsel
Kim Keevers, Class Counsel
Greg Lofstead, Class Counsel

THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY,
KANSAS; THE STATE OF OKLAHOMA; THE STATE OF MONTANA;
THE CITY OF BALTIMORE, MARYLAND; THE CITY OF PANAMA CITY,
FLORIDA; ANOKA COUNTY, MINNESOTA; THE CITY OF COLUMBIA,
SOUTH CAROLINA; AND THE CITY OF GOLDSBORO, NORTH
CAROLINA. V. MCKESSON CORPORATION, ET. AL., (U.S.D. M.A.)
CASE No. 08-11349

Jay Ward, Co-Lead Counsel

SCHREINER V. PATRIARCH PARTNERS, LLC AND AMERICAN
LAFRANCE, LLC
CASE No. 02:14-CV-220-RMG (D.S.C)

James L. Ward, Jr., Class Counsel
T. Christopher Tuck, Class Counsel
Katie McElveen, Class Counsel

THOMPSON ET AL. V. STATE FARM FIRE AND CASUALTY COMPANY
CASE No. 5:14-CV-32-MTT (M.D. GA.)

Michael J. Brickman, Class Counsel
James C. Bradley, Class Counsel
Nina Fields Britt, Class Counsel
Matthew A. Nickles, Class Counsel

TOWNSEND V. GMAC-RESIDENTIAL FUNDING CORP.
CASE No. 03-L-742 (ST. CLAIR Co., IL)

Hoyt Rowell, Class Counsel

WAXLER TRANSPORTATION Co. V. TRINITY MARINE PRODUCTS INC.
CASE No. 49-741 (25TH JUD. DIST. CT. FOR THE PARISH OF
PLAQUEMINES, LA)

Jay Ward, Class Counsel
Ed Westbrook, Class Counsel

WILLIAM HOFFMAN V. AMERICAN EXPRESS TRAVEL RELATED
SERVICES Co. INC., ET AL.
CASE No. 2001-022881 (SUPERIOR COURT FOR THE STATE
OF CALIFORNIA, ALAMEDA COUNTY)

Michael Brickman, Class Counsel
Kimberly Keevers Palmer, Class Counsel



ASBESTOS PROPERTY DAMAGE

In re: State and Regents' Building Asbestos Cases, First Judicial District Court, State of Minnesota, Case Nos. 99091 & 99082

In Re: State of West Virginia Public Building Asbestos Litigation, West Virginia Circuit Court, Civil Action No. 86-C-458

The Port Authority of New York and New Jersey (formerly known as "The Port of New York Authority") and Port Authority Trans-Hudson Corporation v. Allied Corporation, et al., United States District Court, Southern District of New York, 91 Civ. 0310 (CLB) (MDF)

MCKESSON PRESCRIPTION DRUG MARK-UP

In Re: McKesson Governmental Entities Average Wholesale Price Litigation, United States District Court for the District of Massachusetts, Master File No: 1:08-cv-10843-PBS

The State of Mississippi v. McKesson Corporation, Circuit Court of Hinds County, Mississippi, Case No. 251-10-862-CIV

The State of Utah v. McKesson Corporation, United States District Court for the Northern District of California, Case No. CV-10-4743-SI

The State of Ohio v. McKesson Corporation, United States District Court for the Northern District of California, Case No. 13-CV-02000-SI

NEW JERSEY MTBE

New Jersey Department of Environmental Protection v. Hess Corp., et al., Superior Court of New Jersey, Mercer County, Docket No. L-1622-07

NEW JERSEY NRD

New Jersey Department of Environmental Protection and the Administrator of the New Jersey Spill Compensation Fund v. Honeywell International, Inc., et al., Superior Court of New Jersey, Bergen County, Docket No. L-2764-05

Ames Rubber Corp., Superior Court of New Jersey, Sussex County, Docket No. L-213-06. BASF Corp., et al., Superior Court of New Jersey, Passaic County, Docket No. L-5151-05

Charles Beseler Co., et al., Superior Court of New Jersey, Essex County, Docket No. L-3203-05

Saint-Gobain Performance Plastics Corp., et al., Superior Court of New Jersey, Passaic County, Docket No. L-1685-05

Cumberland Farms, Inc., et al., Superior Court of New Jersey, Ocean County, Docket No. L-1234-06

Givaudan Fragrances Corp., et al., Superior Court of New Jersey, Passaic County, Docket No. L-423-06

Pechter's Baking Group LLC, et al., Superior Court of New Jersey, Hudson County, Docket No. L-4971-05

Carlisle Companies, Inc., et al., Superior Court of New Jersey, Bergen County, Docket No. L-000035-06

Dixo Company, Inc., et al., Superior Court of New Jersey, Bergen County, Docket No. L-508-06

Bayer Corp., et al., Superior Court of New Jersey, Passaic County, Docket No. LI685-0

Viacom, Inc., et al., Superior Court of New Jersey, Essex County, Docket No. LI486-06

Bayer Croscience, Inc., et al., Superior Court of New Jersey, Middlesex County, Docket No. L- 005790-07

Sealy Corp., as the Successor-In-Interest to Stearns and Foster Bedding Corp., et al., Superior Court of New Jersey, Middlesex, Docket No. L-2948-06528-06

Minnesota Mining & Manufacturing Co., et al., Superior Court of New Jersey, Burlington County, Docket No. L-528-06

ONLINE TRAVEL TAX CASE

Lake County Convention & Visitors Bureau, et al. v. Hotels.com LP, et al., United States District Court for the Northern District of Indiana, Case No. 2:06cv207

PHARMACEUTICAL AVERAGE WHOLESALE PRICE

The State of Mississippi; Before the Judicial Panel on Multi-District Litigation-MDL Docket No. 1456 - In Re Pharmaceutical Industry

The State of Oklahoma; ex rel., W.A. Drew Edmondson, Attorney General of Oklahoma v. Abbott Laboratories, Inc., et al., District Court of Pottawatomie County, State of Oklahoma, Case No. CJ-2010-474

PUERTO RICO MTBE

Commonwealth of Puerto Rico and Commonwealth of Puerto Rico through the Environmental Quality Board v. Shell Oil Co., et al., United States District Court, District of Puerto Rico, Case No. 07-1505(ccc)

U.S. TOBACCO

State of Florida v. American Tobacco Co., Case No. 95-1466AH (FL)

State of Hawaii v. Brown & Williamson Tobacco Corp., Case No. 97-0441-01 (HI)

Commonwealth of Massachusetts v. Philip Morris, Inc., Case No. 95-7378-J (MA)

State of Michigan v. Philip Morris, Inc., Case No. 96-84281-CZ (MI)

State of Mississippi Tobacco Litigation, Case No. 94-1429 (MS)

State of New Jersey v. R.J. Reynolds Tobacco Co., Case No. C-254-96, (NJ)

State of Ohio v. Philip Morris, Inc., Case No. 97-C VHO5-5114 (OH)

State of Oklahoma v. R.J. Reynolds Tobacco Co., Case No. CJ-96-1499-L (H) (OK)

Commonwealth of Puerto Rico v. Brown & Williamson Tobacco Corp., Case No. 97-1910 (JAF) (D.P.R.)

State of South Carolina v. Brown & Williamson Tobacco Corp., Case No. 97-CP-40-1686 (SC)

State of Texas v. American Tobacco Co., Case No. 5:96CV91 (E.D. TX)

State of West Virginia v. American Tobacco Co., Case No. 94-C-1707 (WV)

VIRGIN ISLANDS NRD

Commissioner of the Department of Planning and Natural Resources, Robert S. Mathes, in his Capacity as Trustee for Natural Resources of the Territory of the United States Virgin Islands v. Century Alumina Co., et al., United States District Court of the Virgin Islands, Division of St. Croix, Civil Action No. 2005/62.

Commissioner of the Department of Planning and Natural Resources v. St. Croix Alumina, L.L.C., Superior Court of the Virgin Islands, Division of St. Croix, Civil No. 730/06

Commissioner of the Department of Planning and Natural Resource v. Virgin Islands Alumina Co., et al., Superior Court of the Virgin Islands, Division of St. Croix, Civil No. 2006/772

United States Virgin Islands, Department of Planning and Natural Resources v. St. Croix Renaissance Group, L.L.P., United States District Court of the Virgin Islands, Division of St. Croix, Civil Action No. 2007/0114

Government of the United States Virgin Islands; Department of Planning and Natural Resources; and Commissioner Robert S. Mathes, in his capacity as Trustee for Natural Resources of the Territory of the United States Virgin Islands v. Vulcan Materials Co., et.al., United States District Court of the Virgin Islands, Division of St. Thomas and St. John, Civil No. 2 006/170

Robert S. Mathes, Commissioner of the Virgin Islands Department of Planning and Natural Resources, in his capacity as Trustee for Natural Resources of the Territory of the United States Virgin Islands, and in his capacity as Assignee of the Claims of L'Henri, Inc. v. Vulcan Materials Co. and The Dow Chemical Co., United States District Court of the Virgin Islands, Division of St. Thomas and St. John, Civil No. 2006-229

ZYPREXA

State of Alaska v. Eli Lilly & Co., Superior Court for the State of Alaska, Third Judicial District at Anchorage, Civil Action No. 3AN-06-05630 CI

State of Idaho v. Eli Lilly & Co., Not Filed

State of Utah v. Eli Lilly & Co., Third Judicial District Court of Salt Lake County, Utah, Civil Action No. 070907357

State of West Virginia v. Eli Lilly & Co., Circuit Court of Mason County, West Virginia, Civil Action No. 06-C-3 I-N



RPWB ATTORNEYS HAVE PLAYED A LEAD ROLE IN THE FOLLOWING MULTI-DISTRICT LITIGATIONS:

AIR CRASH AT CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT

Jay Ward, Plaintiffs' Liaison Counsel

BAUSCH & LOMB CONTACT LENS SOLUTION

Blair Hahn, Lead Plaintiffs' Counsel

Tom Rogers, Chair, Plaintiffs' Science Committee

Jay Ward, Plaintiffs' Discovery Committee & Law Committee Co-Chair

BREAST IMPLANTS

Blair Hahn, Plaintiffs' Discovery Committee

CHANTIX

Blair Hahn, Plaintiffs' Executive Committee, Chair, Discovery Committee

Christiaan Marcum, Plaintiffs' Science Committee & Discovery Committee

Beth Middleton Burke, Plaintiffs' Science Committee & Discovery Committee

Tom Rogers, Plaintiffs' Discovery Committee

David Suggs, Plaintiffs' Discovery Committee

COLUMBIA HCA

Hoyt Rowell, Plaintiffs' Steering Committee & Co-Lead Plaintiffs' Counsel

COPLEY PHARMACEUTICAL CONTAMINATED ALBUTEROL

David Suggs, Plaintiffs' Steering Committee, Science Committee, Discovery Committee & Trial Counsel

DELTA AIRTRAN ANTITRUST

Jay Ward, Co-Lead Plaintiffs' Counsel

Bobby Wood, Co-Lead Plaintiffs' Counsel

DIET DRUG FEN-PHEN

David Suggs, Plaintiffs' Discovery Committee & Science Committee

EIFS STUCCO

Blair Hahn, Plaintiffs' Steering Committee

Hoyt Rowell, Plaintiffs' Steering Committee

HEPARIN

Blair Hahn, Plaintiffs' Steering Committee

HMO

Blair Hahn, Plaintiffs' Steering Committee

HOUSEHOLD GOODS MOVERS FUEL SURCHARGES

Hoyt Rowell, Co-Lead Plaintiffs' Counsel

Howard Siegel, Co-Lead Plaintiffs' Counsel

Robert Wood, Plaintiffs' Steering Committee

JAW IMPLANTS

Blair Hahn, Plaintiffs' Steering Committee & Co-Lead Plaintiffs' Counsel

LIPITOR

Blair Hahn, Lead Plaintiffs' Counsel

LOUISIANA PACIFIC

Hoyt Rowell, Plaintiffs' Steering Committee

L-TRYPTOPHAN

Tom Rogers, Plaintiffs' Steering Committee & Liaison Counsel

David Suggs, Plaintiffs' Discovery Committee

MASONITE

Blair Hahn, Plaintiffs' Steering Committee & Lead Plaintiffs' Counsel

M.I. WINDOWS

Blair Hahn, Lead Counsel, Contractor Plaintiffs' Steering Committee

Katie McElveen, Liaison Counsel, Plaintiffs' Steering Committee

MOTOR FUEL TEMPERATURE SALES PRACTICES

Michael Brickman, Plaintiffs' Steering Committee & Offensive Discovery Committee

MTBE

Hoyt Rowell, Plaintiffs' Steering Committee

NORPLANT

Tom Rogers, Plaintiffs' Steering Committee

Blair Hahn, Plaintiffs' Discovery Committee

David Suggs, Plaintiffs' Discovery Committee & Science Committee

OMNIFLOX

Tom Rogers, Plaintiffs' Steering Committee & Co-Lead Plaintiffs' Counsel

ORTHO EVRA

Tom Rogers, Plaintiffs' Steering Committee

David Suggs, Plaintiffs' Science Committee

PPA

Tom Rogers, Plaintiffs' Steering Committee

David Suggs, Co-Chair Plaintiffs' Discovery Committee & Science Committee

REZULIN

Tom Rogers, Plaintiffs' Steering Committee

TELECTRONICS

Tom Rogers, Plaintiffs' Steering Committee

WACHOVIA OPTION ARM

Hoyt Rowell, Plaintiffs' Executive Committee

ZONOLITE ATTIC INSULATION

Ed Westbrook, Plaintiffs' Steering Committee

ZYPREXA

Blair Hahn, Plaintiffs' Science Committee & Negotiating Committee

Christiaan Marcum, Plaintiffs' Science Committee & Law and Briefing Committee

Tom Rogers, Plaintiffs' Steering Committee

David Suggs, Plaintiffs' Science Committee & Discovery Committee





MEMBER
JENA L. BORDEN

AREAS OF PRACTICE

- Asbestos
- General Litigation
- Mesothelioma

ADMISSIONS

- Illinois
- Missouri
- U.S. District Court, Districts of Southern, Central, and Northern Illinois
- Not admitted in South Carolina

EDUCATION

- University of Texas School of Law, J.D., 2000
- University of Arkansas, B.A., 1996

**PROFESSIONAL
MEMBERSHIPS**

- American Association of Justice
- Illinois Trial Lawyers Association
- Madison County Bar Association

CONTACT

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E-mail: jborden@rpwb.com



MEMBER
JAMES C. BRADLEY

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Class Actions
- Mutual Funds
- Securities Fraud

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, District of Colorado
- U.S. District Court, Northern District of Florida
- U.S. Court of Federal Claims
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Supreme Court

EDUCATION

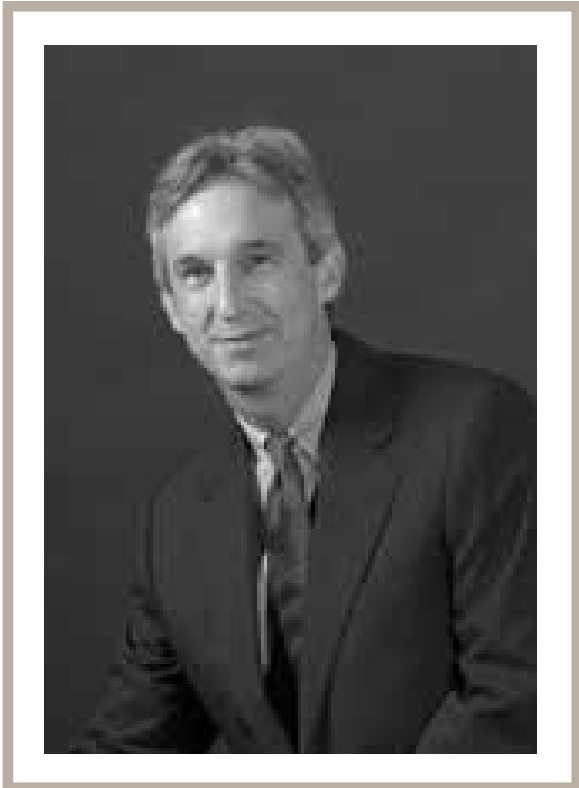
- University of South Carolina, J.D.,
magna cum laude, 1999
- Student Works Editor, South Carolina
Law Review, 1998-1999
- Dean's Medallion, May 7, 1999
- Wake Forest University, B.A.,
magna cum laude, 1990

PROFESSIONAL MEMBERSHIPS

- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

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MEMBER
MICHAEL J. BRICKMAN

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Asbestos
- Business Litigation
- Class Actions
- Medical Devices
- Medical Malpractice
- Mesothelioma
- Mutual Funds
- Pharmacy Liability
- Securities Fraud
- Tobacco

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, District of Colorado
- U.S. District Court, Eastern District of Wisconsin
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. Supreme Court

EDUCATION

- University of South Carolina, J.D.,
cum laude, 1978
- Harvard University, B.A.,
magna cum laude, 1975

PROFESSIONAL MEMBERSHIPS

- American Bar Association
- Charleston County Bar Association
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
- The American Association for Justice
- University of South Carolina
Law Review, Member, 1977–1978

CONTACT

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MEMBER ELIZABETH MIDDLETON BURKE

AREAS OF PRACTICE

- Medical Devices
- Pharmaceutical Drugs
- Personal Injury
- Medical Malpractice
- Pharmacy Liability

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D., 1997
- College of Charleston, Honors College;
B.A., English, 1994

PROFESSIONAL MEMBERSHIPS

- South Carolina Bar
- American Association for Justice
 - Membership Oversight Committee, 2008-2011
 - Convention Planning Committee, 2008-2014
 - National College of Advocacy Board of Trustees, 2005-2008
 - New Lawyers' Division,
 - Secretary, 2000-2001,
 - Communications Committee, 2003-2005
- South Carolina Association for Justice
- Southern Trial Lawyers Association (STLA)
 - Secretary, 2015
 - Board of Governors, 2013-present
- College of Charleston Alumni Association
 - Immediate Past President, 2011-2012
 - President, 2010-2011
 - President Elect, 2008-2010
 - Vice President, 2007-2008
 - Board of Directors, 2003-2006
2007 to 2012
- College of Charleston Foundation Board, Ex Officio Member, 2010-2011
- College of Charleston Friends of the Library Board, 2013-Present
- College of Charleston Honors College, Distinguished Alumni Award, 2011

CONTACT

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 E-mail: bburke@rpwb.com



MEMBER
J. DAVID BUTLER

AREAS OF PRACTICE

- Asbestos
- Class Actions
- General Litigation/Products Liability
- Mesothelioma
- Railroad Accidents

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D., 1993
- Florida State University, B.S., 1989

PROFESSIONAL MEMBERSHIPS

- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

CONTACT

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MEMBER
JERRY HUDSON EVANS

AREAS OF PRACTICE

- Abusive Tax Shelters
- Asbestos & Mesothelioma
- Natural Resource Damage
- Tobacco
- Toxic Torts

ADMISSIONS

- South Carolina
- U.S. Virgin Islands
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit

EDUCATION

- University of South Carolina, J.D.,
cum laude, 1996
- Eastman School of Music, B.M., 1981
- Indiana University, M.M., 1984

**PROFESSIONAL
MEMBERSHIPS**

- American Constitution Society
- South Carolina Association for Justice
- South Carolina Bar

CONTACT

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MEMBER
NINA FIELDS BRITT

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Class Actions
- Medical Devices
- Mutual Funds
- Securities Fraud
- Tobacco

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, District of Colorado
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Northern District of Florida
- U.S. Court of Appeals, Fourth Circuit
- U.S. Supreme Court

EDUCATION

- University of South Carolina, J.D.,
magna cum laude, 2000
- College of Charleston, B.S.,
cum laude, 1997

JOURNAL

- South Carolina Law Review, Research Editor

**PROFESSIONAL
MEMBERSHIPS**

- South Carolina Bar
- South Carolina Super Lawyers, Rising Stars, 2013

CONTACT

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MEMBER H. BLAIR HAHN

AREAS OF PRACTICE

- Construction Defects
- Medical Devices
- Pharmaceutical Drugs

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D., 1992
- North Carolina State University,
 - B.A. Economics, 1980
 - B.A. Business Management, 1980

PROFESSIONAL MEMBERSHIPS

- American Bar Association
- Association of Trial Lawyers of America
- South Carolina Association for Justice
- South Carolina Bar (Executive Council, Young Lawyers Division, 1993-1994)
- South Carolina Trial Lawyers Association
- The American Association for Justice
- The National Top Trial Lawyers 100

CONTACT

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E-mail: bhahn@rpwb.com



MEMBER
GREGORY A. LOFSTEAD

AREAS OF PRACTICE

- Asbestos
- Silicosis / Coal Workers' Pneumoconiosis
- Tobacco

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- West Virginia University, J.D., 1996
- West Virginia University, B.A.,
cum laude, 1992

PROFESSIONAL MEMBERSHIPS

- South Carolina Bar
- Trial Lawyers for Public Justice
(Finalist, Trial Lawyer of the Year, 2003)

CONTACT

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MEMBER
CHRISTIAAN A. MARCUM

AREAS OF PRACTICE

- Medical Devices
- Medical Malpractice
- Pharmaceutical Drugs
- Pharmacy Liability

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D., 1999
- College of Charleston, B.A., 1995

**PROFESSIONAL
MEMBERSHIPS**

- Charleston County Bar Association
- Martindale-Hubbell Rated: BV
- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice
- The National Trial Lawyers

CONTACT

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E-mail: cmarcum@rpwb.com



MEMBER
KARL E. NOVAK

AREAS OF PRACTICE

- Asbestos
- Benzene
- Mesothelioma

ADMISSIONS

- Michigan
- South Carolina
- Texas
- United States District Court, District of South Carolina
- United States District Court, Northern District of Ohio

EDUCATION

- Capital University, J.D., 1988
- College of Wooster, B.A., 1981

**PROFESSIONAL
MEMBERSHIPS**

- American Bar Association
- Charleston County Bar Association
- Charleston County Pro Bono Board of Directors
- Martindale-Hubbell Rated: AV
- Medical University of South Carolina, Storm Eye Institute Board of Directors (Emeritus, Chairman, 2007-2011)
- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

CONTACT

Office: Mount Pleasant, South Carolina
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Fax: 843.216.6509
E-mail: knovak@rpwb.com



MEMBER
KIMBERLY KEEVERS PALMER

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Class Actions
- Medical Devices
- Medical Malpractice
- Pharmacy Liability
- Tobacco

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

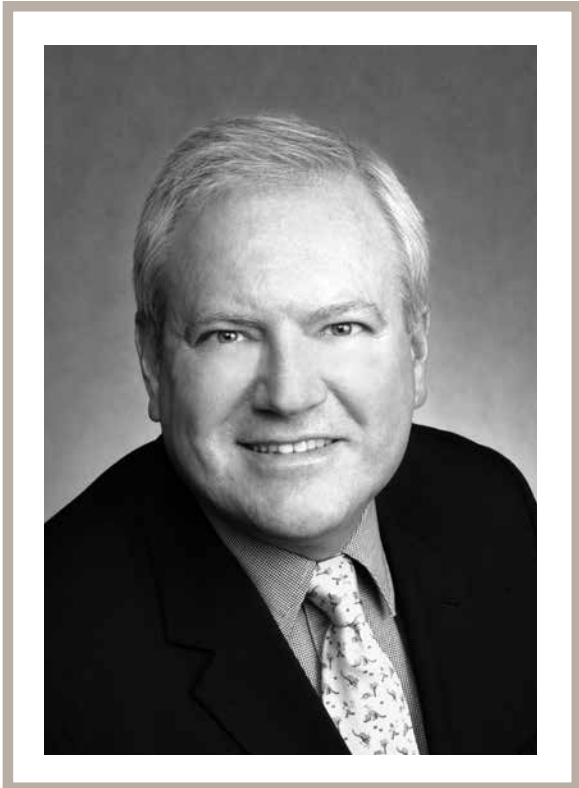
- University of South Carolina, J.D., 1993
- Calvin College, B.A., 1989

**PROFESSIONAL
MEMBERSHIPS**

- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

CONTACT

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Fax: 843.881.6183
E-mail: kkeevers@rpwb.com



MEMBER
CHARLES W. PATRICK JR.

AREAS OF PRACTICE

- Asbestos
- Class Actions
- Mesothelioma
- Products Liability
- Tobacco

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit, Fifth Circuit, Tenth Circuit and Eleventh Circuit

EDUCATION

- University of South Carolina, J.D., 1979
- Furman University, B.A.,
magna cum laude, 1976

JOURNAL

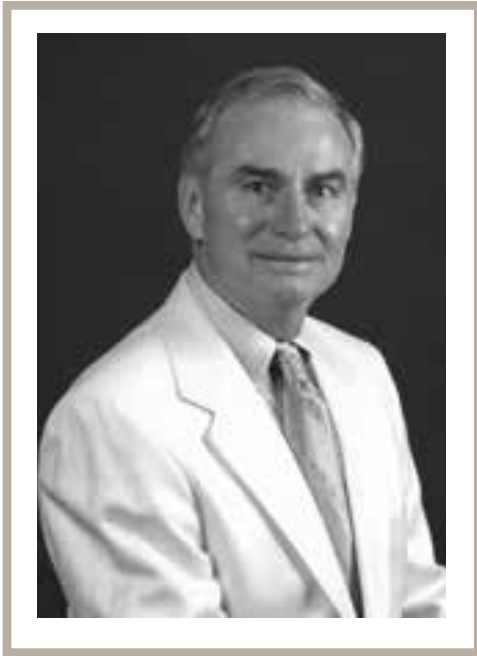
- University of South Carolina Law Review,
Member and Executive Editor

**PROFESSIONAL
MEMBERSHIPS**

- American Bar Association
- American Board of Trial Advocates
- Best Lawyers in America
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
- South Carolina Bar
- Super Lawyers
- The American Association for Justice
- Who's Who in American Law

CONTACT

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Fax: 843.727.3103
E-mail: cpatrick@rpwb.com



MEMBER TERRY E. RICHARDSON JR.

AREAS OF PRACTICE

- Business Litigation
- Burn Injuries
- Truck Accidents
- Vehicle Defects
- Class Actions
- Products Liability
- Medical Devices
- Securities Fraud
- Railroad Accidents
- Whistleblower & Qui Tam

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit
- U.S. Supreme Court

EDUCATION

- University of South Carolina, J.D., 1974
- Clemson University,
 - B.A., Economics, 1967
 - M.S., Business, 1967

JOURNAL

- South Carolina Law Review, Editor in Chief

CONTACT

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 Fax: 803.541.9625
 E-mail: trichardson@rpwb.com

PROFESSIONAL MEMBERSHIPS

- Martindale-Hubbell Rated: AV
- American College of Trial Lawyers
 - Complex Litigation Committee, 2012-2013
- Best Lawyers – Lawyer of the Year, 2013
- South Carolina Super Lawyers, The Top 25, 2014
- Compleat Lawyer Award
- Honorary Doctorate of Laws, Charleston School of Law
- South Carolina Bar
 - Chairman, Negligence, Insurance and Compensation Section, 1976-1977
- University of South Carolina Law School Association
 - Chairman 1977-1978
- South Carolina Association for Justice
 - Member, Executive Committee, 1974-1976
- The American Association for Justice
- American Board of Trial Advocates
 - President, Charleston Chapter, 2001-2002
- South Carolina Commission on Grievance, 1980-1982
- South Carolina Chairman, Trial Lawyers for Public Justice, 1990-1993
- Civil Justice Reform Act Advisory Group, US District Courts of South Carolina, 1991
- South Carolina Chief Justice's Commission on the Profession, 2004-2005
- Co-chairman of the Steering Committee for the Norfolk Southern Railroad Derailment, Aiken Circuit Court, Federal Court, South Carolina, 2005-2008
- The Nature Conservancy, SC Board of Trustees, Chairman, 2012-2013



MEMBER
THOMAS D. ROGERS

AREAS OF PRACTICE

- Medical Devices
- Medical Malpractice
- Pharmacy Liability
- Pharmaceutical Drugs

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

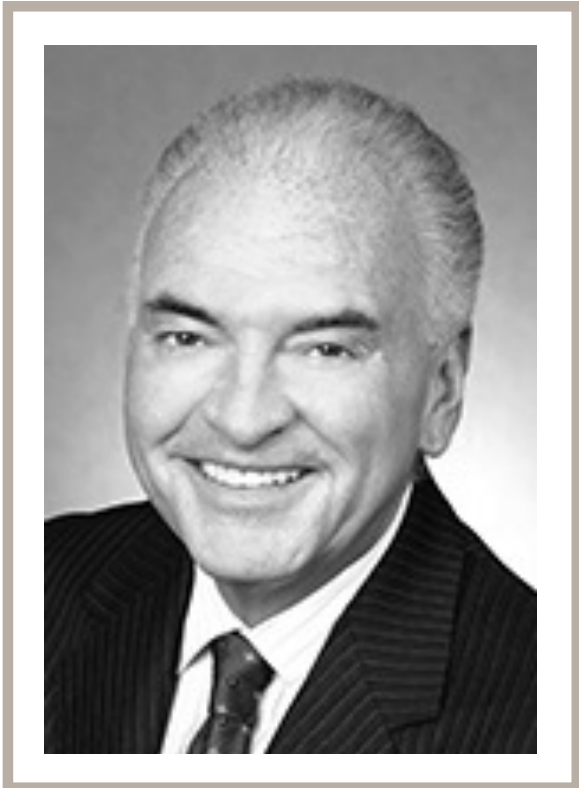
- University of South Carolina, J.D.,
magna cum laude, 1980
- University of Virginia, B.A.,
with distinction, 1975

**PROFESSIONAL
MEMBERSHIPS**

- Charleston County Bar Association
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

CONTACT

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Fax: 843.216.6509
E-mail: trogers@rpwb.com



MEMBER A. HOYT ROWELL III

AREAS OF PRACTICE

- Class Actions
- Healthcare Fraud
- Medical Devices
- Nursing Home Abuse/Neglect
- Personal Injury
- Pharmaceutical Drugs
- Predatory Lending

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina,
J.D., 1973
- University of South Carolina,
B.A., *cum laude*, 1970
- Phi Beta Kappa

JOURNAL

- University of South Carolina
Law Review, Member

PROFESSIONAL MEMBERSHIPS

- American Bar Association
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
(Past President)
- South Carolina Bar
- The American Association for Justice
- U.S. Court of Appeals, Fourth Circuit,
Judicial Conference, Member Emeritus

CONTACT

Office: Mount Pleasant, South Carolina
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Toll Free: 888.293.6883
Fax: 843.216.6509
E-mail: hrowell@rpwb.com



MEMBER T. CHRISTOPHER TUCK

AREAS OF PRACTICE

- Class Actions
- Employment Class Actions
- Healthcare Fraud
- Predatory Lending
- Securities Fraud
- Whistleblower & Qui Tam

ADMISSIONS

- South Carolina
- Wisconsin
- U.S. District Court, District of South Carolina
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Northern District of Florida
- U.S. Court of Appeals, Second, Fourth, Seventh, and Ninth Circuits

EDUCATION

- Marquette University, J.D., 1996
- University of North Carolina at Chapel Hill, B.A., 1993

JOURNAL

- Marquette Law Review, Member
- Marquette Sports Law Journal, Member

PROFESSIONAL MEMBERSHIPS

- Financial Industry Regulatory Authority, Board of Arbitrators, Member
- South Carolina Association for Justice
- South Carolina Bar
- State Bar of Wisconsin
- The American Association for Justice

CONTACT

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Fax: 843.216.6509
E-mail: ctuck@rpwb.com



MEMBER
JAMES L. WARD JR.

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Business Litigation
- Class Actions
- Consumer Lending
- Employment Litigation
- Products Liability
- Vehicle Defects

ADMISSIONS

- North Carolina
- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, Eastern District of North Carolina
- U.S. District Court, Middle District of North Carolina
- U.S. District Court, Western District of North Carolina
- U.S. Court of Appeals, Fourth Circuit

EDUCATION

- University of South Carolina, J.D., *cum laude*, 1997
- The Citadel, B.A., *magna cum laude*, 1994

JOURNAL

- South Carolina Law Review, Member

PROFESSIONAL MEMBERSHIPS

- James L. Petigru Inn of Court
- Martindale Hubbell Rated: AV
- North Carolina Bar Association
- North Carolina State Bar
- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

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MEMBER
KENNETH J. WILSON

AREAS OF PRACTICE

- Asbestos
- Mesothelioma
- Vehicle Defects

ADMISSIONS

- Florida
- Georgia
- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, Middle District of Georgia
- U.S. District Court, Southern District of Georgia
- U.S. District Court, Northern District of Florida
- Supreme Court of Georgia

EDUCATION

- Emory University, J.D., 1988
- Wake Forest University, B.A.,
cum laude, 1985

**PROFESSIONAL
MEMBERSHIPS**

- Attorneys Information Exchange Group (AIEG)
- South Carolina Bar
- State Bar of Georgia
- The Florida Bar
- South Carolina Association for Justice
- The American Association for Justice

CONTACT

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MEMBER ROBERT S. WOOD

AREAS OF PRACTICE

- Antitrust and Deceptive Trade
- Class Actions
- Employment Litigation
- Predatory Lending

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D.,
cum laude, 1999
- University of Nebraska at Omaha,
B.S., 1994

PROFESSIONAL MEMBERSHIPS

- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

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ASSOCIATE AARON R. DIAS

AREAS OF PRACTICE

- Natural Resource Damage
- Pharmaceutical Drugs
- Toxic Torts

ADMISSIONS

- South Carolina
- U.S. Court of Federal Claims
- U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina, J.D.,
cum laude, 2005
- College of Charleston, B.S. and B.A.,
cum laude, 1994

PROFESSIONAL MEMBERSHIPS

- South Carolina Bar
- The American Association for Justice

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ASSOCIATE D. CHARLES DUKES II

AREAS OF PRACTICE

- Business Litigation
- Class Actions
- Employment Litigation
- General Litigation
- Products Liability

ADMISSIONS

- 2013, South Carolina
- U.S. District Court, District of South Carolina

EDUCATION

- Charleston School of Law, J.D.
magna cum laude, 2013
- Moot Court Board
- Trial Advocacy Board
- Senior Legal Writing Teaching Fellow
- University of North Carolina
at Wilmington, B.S. Business
Administration, 2003

PROFESSIONAL MEMBERSHIPS

- Charleston County Bar Association
- South Carolina Bar

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ASSOCIATE KATIE McELVEEN

AREAS OF PRACTICE

- Business Litigation
- Class Actions
- Predatory Lending and Consumer Lending
- Products Liability

ADMISSIONS

- South Carolina
- U.S. District Court, District of Colorado
- U.S. District Court, District of South Carolina
- U.S. District Court, Northern District of Florida
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eleventh Circuit

EDUCATION

- Charleston School of Law, J.D., *cum laude* 2007
- College of Charleston, B.A., Philosophy, 2002

JOURNAL

- Federal Courts Law Review, Executive Editorial Board Member and Publications Editor

PROFESSIONAL MEMBERSHIPS

- Charleston County Bar Association
- South Carolina Association for Justice
- South Carolina Bar

CONTACT

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ASSOCIATE CHRISTOPHER J. MOORE

AREAS OF PRACTICE

- Asbestos/Mesothelioma
- Burn Injuries
- Business Litigation
- Class Actions
- Medical Devices
- Medical Malpractice
- Personal Injury
- Products Liability
- Truck Accidents
- Vehicle Defects

ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit

EDUCATION

- Charleston School of Law, J.D.,
cum laude, 2008
- North Carolina State University,
B.A., 2003

JOURNAL

- Federal Courts Law Review, Student Works Editor

PROFESSIONAL MEMBERSHIPS

- American Association for Justice
- South Carolina Association for Justice
- South Carolina Bar

CONTACT

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E-mail: cmoore@rpwb.com



ASSOCIATE

MATTHEW A. NICKLES

AREAS OF PRACTICE

- Class Actions
- Personal Injury
- Products Liability
- Medical Malpractice
- Pharmacy Liability

ADMISSIONS

- 2010, South Carolina
- 2011, U.S. District Court, District of South Carolina

EDUCATION

- University of South Carolina School of Law, J.D.,
cum laude, 2010
- Washington and Lee University, B.A., History,
magna cum laude, 2007

PROFESSIONAL MEMBERSHIPS

- South Carolina Bar

CONTACT

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ASSOCIATE MISTY BLACK O'NEAL

AREAS OF PRACTICE

- Personal Injury
- Pharmaceutical Drugs

ADMISSIONS

- 2008, South Carolina

EDUCATION

- University of South Carolina, J.D., 2007
- College of Charleston, B.A., Urban Studies,
magna cum laude, 2005

PROFESSIONAL MEMBERSHIPS

- South Carolina Bar

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OF COUNSEL DANIEL SCOTT HALTIWANGER

AREAS OF PRACTICE

- Class Actions
- Nursing Home Abuse/Neglect
- Railroad Accidents
- Truck Accidents
- Vehicle Defects

ADMISSIONS

- South Carolina

EDUCATION

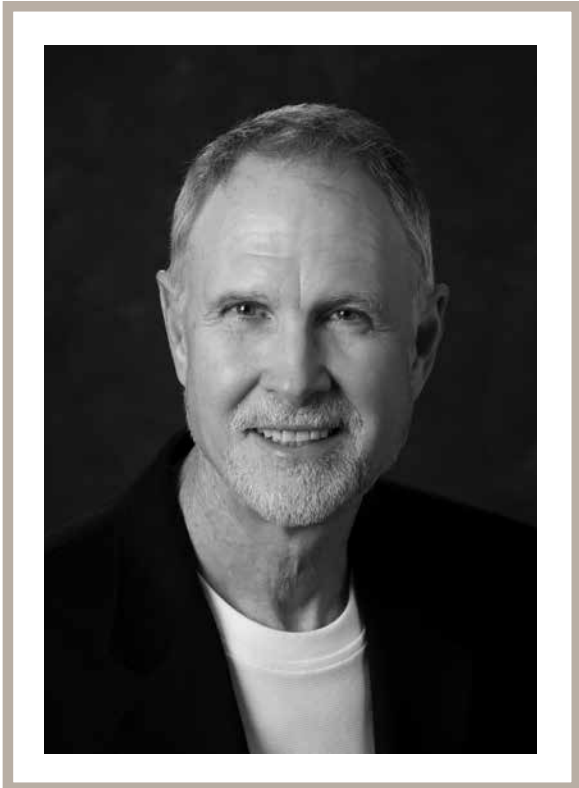
- University of South Carolina, J.D., 1998
- University of Virginia, B.A., 1995

PROFESSIONAL MEMBERSHIPS

- South Carolina Association for Justice, Board of Governors, Executive Committee
- South Carolina Bar
- South Carolina Law Review, Member, Editorial Board
- South Carolina Legal Services, Board Member
- The National Trial Lawyers Top Forty Trial Lawyers Under 40 in South Carolina

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OF COUNSEL GORDON C. RHEA

AREAS OF PRACTICE

- Abusive Tax Shelters
- Natural Resource Damage
- Toxic Torts
- Vehicle Defects
- White Collar Criminal Defense

ADMISSIONS

- California
- District of Columbia
- Virgin Islands
- U.S. Court of Appeals for the District of Columbia
- U.S. Court of Appeals, Third and Ninth Circuits
- U.S. Supreme Court
- Not admitted in South Carolina

EDUCATION

- Stanford University School of Law, J.D., 1974
- Indiana University, B.A., *summa cum laude*, 1967
- Harvard University, M.A., 1968

PROFESSIONAL MEMBERSHIPS

- Martindale Hubbell Rated: AV

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E-mail: grhea@rpwb.com



OF COUNSEL BRADY R. THOMAS

AREAS OF PRACTICE

- Burn Injury Cases
- Business Litigation
- Class Actions
- Eminent Domain
- General Litigation
- Medical Devices
- Medical Malpractice
- Personal Injury
- Products and Premises Liability
- Truck Accidents
- Vehicle Defects

ADMISSIONS

- Georgia
- South Carolina
- U.S. District Court, District of South Carolina
- U.S. District Court, Middle District of Georgia
- U.S. District Court, Northern District of Georgia
- U.S. District Court, Southern District of Georgia
- U.S. District Court, Northern District of Florida
- U.S. Court of Appeals, Eleventh Circuit

EDUCATION

- University of South Carolina School of Law, J.D.
cum laude, Order of the Coif, 2004
- Florida State University, B.S., 2000

PROFESSIONAL MEMBERSHIPS

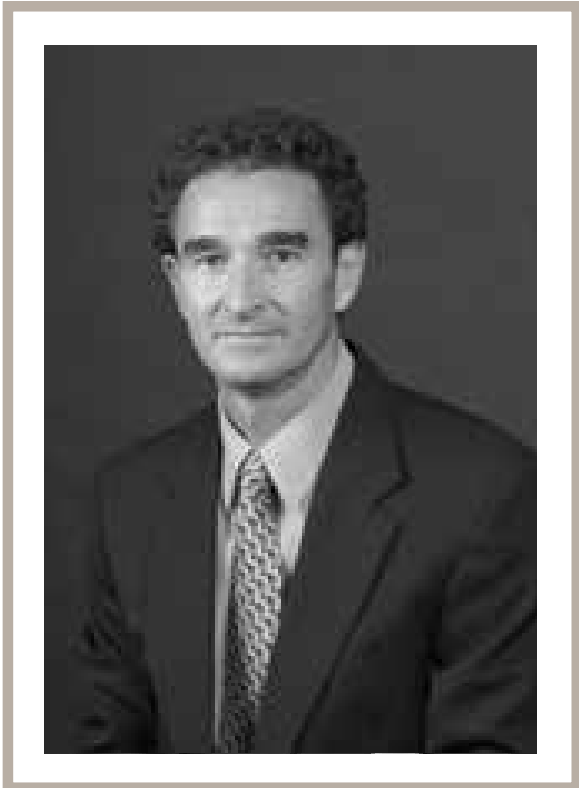
- Georgia Bar
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
- South Carolina Bar
- South Carolina Super Lawyers, Rising Star, 2014
- The National Trial Lawyers' Top 40 Trial Lawyers
Under 40 in South Carolina

PRIOR EXPERIENCE

- Lewis & Babcock, LLP, Columbia, SC, Partner

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OF COUNSEL EDWARD J. WESTBROOK

AREAS OF PRACTICE

- Asbestos Property Damage
- Class Actions
- Complex Litigation
- Natural Resource Damage
- Toxic Torts

ADMISSIONS

- South Carolina
- District of Columbia
- U.S. District Court, District of South Carolina
- U.S. District Court, District of Columbia
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. Court of Appeals, District of Columbia
- U.S. Court of Appeals, Federal Circuit
- U.S. Supreme Court

EDUCATION

- University of South Carolina, J.D.,
magna cum laude, 1976
- Stevens Institute of Technology, B.E., 1974

PROFESSIONAL MEMBERSHIPS

- American Bar Association
- Martindale-Hubbell Rated: AV
- South Carolina Association for Justice
- South Carolina Bar
- The American Association for Justice

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EX. 96

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT)	
SYSTEM, on behalf of itself)	
and all similarly situated,)	
)	
Plaintiffs,	)	Civil Action
	)	No. 11-10230-MLW
)	
vs.)	
)	
STATE STREET BANK AND TRUST)	
COMPANY,)	
)	
Defendant.)	

HEARING

BEFORE THE HONORABLE MARK L. WOLF
UNITED STATES DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
John J. Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210
March 7, 2017
10:00 a.m.

* * * *

CATHERINE A. HANDEL, RPR-CM, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210
(617) 261-0555

APPEARANCES:

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San Francisco, CA 94111-3339

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-and-

LABATON SUCHAROW LLP

By: Lawrence A. Sucharow, Esq.

140 Broadway

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-and-

THORNTON LAW FIRM LLP

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Brian T. Kelly, Esq., and

Michael P. Thornton, Esq.

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(Appearances continued on the next page.)

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2
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9 -and-

10 CHOATE HALL & STEWART LLP
11 By: Joan A. Lukey, Esq.
12 Two International Place
13 Boston, MA 02110

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15 McTIGUE LAW LLP
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18 Suite 300
19 Washington, DC 20016

20 -and-

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Boston, MA 02109

(Appearances continued on the next page.)

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APPEARANCES (Cont'd):

For the Defendant:

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BEINS, AXELROD, P.C.
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Washington, DC 20005-1503

ALSO PRESENT:

Retired Judge Gerald Rosen.

COMPETITIVE ENTERPRISE INSTITUTE
By: Theodore H. Frank, Esq.
1310 L Street NW
7th Floor
Washington, DC 20005

George Hopkins, Executive Director for Arkansas Teacher Retirement System.

Irwin Schwartz on behalf of Colorado Public Employee's Association.

Plaintiffs Arnold Henriquez, Michael T. Cohn, William R. Taylor (appearing telephonically), Richard A. Sutherland (appearing telephonically), and James Pehoushek-Stangeland (appearing telephonically).

Janet Wallace, vice-president of Andover Company and trustee of the retirement plan.

Irwin Schwartz, counsel for the Colorado Public Employee's Retirement Association.

1 P R O C E E D I N G S

2 (The following proceedings were held in open court
3 before the Honorable Mark L. Wolf, United States District Judge,
4 United States District Court, District of Massachusetts, at the
5 John J. Moakley United States Courthouse, One Courthouse Way,
6 Boston, Massachusetts, on March 7, 2017.)

7 THE DEPUTY CLERK: This is Civil Action No. 11-10230,
8 Arkansas Teacher Retirement System versus State Street
9 Corporation. Court is now in session. You may be seated.

10 THE COURT: Good morning.

11 ATTORNEYS: Good morning, your Honor.

12 THE COURT: I have an unopposed motion for admission
13 pro hac vice on behalf of Theodore Frank, and I've allowed the
14 motion to appear pro hac vice. I expect I'll hear from Mr.
15 Frank today, but allowing that motion is not a ruling on the
16 merits with regard to the request to serve as sort of a
17 permanent amicus or guardian ad litem.

18 Would the remaining counsel and others present to
19 participate with them please identify themselves for the Court
20 and for the record.

21 MR. HEIMANN: Richard Heimann, your Honor, from Lief
22 Cabraser representing Lief Cabraser here.

23 THE COURT: Okay. I had an affidavit from Mr.
24 Chiplock.

25 MR. HEIMANN: Mr. Chiplock is sitting next to me,

1 sir.

2 THE COURT: Go ahead.

3 MR. CHIPLOCK: Daniel Chiplock for Lief Cabraser.

4 THE COURT: Thank you very much.

5 MR. BRADLEY: Michael Bradley, your Honor.

6 MR. G. BRADLEY: Garrett Bradley from the Thornton
7 Law Firm, your Honor.

8 MR. KELLY: Brian Kelly on behalf of Thornton Law
9 Firm as well, your Honor.

10 MS. LUKEY: Good morning. Joan Lukey on behalf of
11 Labaton Sucharow. With me is Lawrence Sucharow at table and
12 in the jury box is George Hopkins, the executive director for
13 the Arkansas Teacher Retirement System.

14 THE COURT: Thank you.

15 MR. PAINE: Bill Paine and Dan Halston for the
16 defendant.

17 MR. AXELROD: Jonathan Axelrod --

18 THE COURT: Hold on. Stop.

19 (Pause.)

20 MR. AXELROD: Jonathan Axelrod, Beins, Axelrod.

21 THE COURT: Okay.

22 MR. McTIGUE: Brian McTigue of the McTigue Law Firm
23 representing four individual ERISA plaintiffs.

24 THE COURT: The four individuals are?

25 MR. McTIGUE: Mr. Henriquez.

1 THE COURT: Is Mr. Henriquez present?

2 (Mr. Henriquez indicating.)

3 THE COURT: Thank you.

4 MR. McTIGUE: And Mr. Michael Cohn.

5 THE COURT: Mr. Cohn.

6 MR. McTIGUE: And Mr. William Taylor, who I
7 understand is on the phone.

8 THE COURT: Mr. Taylor, are you on the phone?

9 (No response.)

10 THE COURT: Mr. Taylor?

11 (No response.)

12 THE COURT: All right. We'll check on that.

13 MR. McTIGUE: And Mr. Richard Sutherland, who I
14 understand as of ten minutes ago was not on the phone.

15 THE COURT: Hold on just one second.

16 Mr. Sutherland? Is the phone working? It's working.

17 Mr. McTigue -- well, actually, there should be a
18 third of your clients I think on the phone.

19 MR. McTIGUE: There are four clients.

20 THE COURT: James Pehoushek-Stangeland?

21 MR. McTIGUE: Pardon me?

22 THE COURT: James -- or perhaps you don't represent
23 him.

24 Hold on just one second. Let me finish that for this
25 purpose with Mr. McTigue. Okay.

1 Is Mr. Taylor on the phone?

2 (No response.)

3 THE COURT: No.

4 MR. TAYLOR: I'm here.

5 THE COURT: Mr. Taylor, are you on the phone?

6 MR. TAYLOR: Yes, I am.

7 THE COURT: Thank you very much. Okay.

8 Mr. Sutherland is not on the phone. The

9 submission --

10 MR. SUTHERLAND: Yes, he is.

11 THE COURT: Mr. Sutherland, are you on the phone now?

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: Mr. Sutherland, the submission I got
14 asking that you be allowed to participate by telephone told me
15 that you had been debilitated as a result of cancer and the
16 treatment for cancer since 2012. I think this hearing is
17 probably going to take a couple of hours and toward the end I
18 may have a question for you or two or three, but if it's
19 difficult for you even to participate by telephone, if you
20 want, I'll excuse you, and then I'll take a break and we'll
21 call you later as long as you'll be accessible when I need
22 you.

23 MR. SUTHERLAND: Okay.

24 THE COURT: Do you want to stay on the phone or would
25 you like to -- would it be healthier for you to not have to

1 listen to this even for this period of time?

2 MR. SUTHERLAND: Okay. I'll take the call. That's
3 fine.

4 THE COURT: You'll take the call later?

5 MR. SUTHERLAND: Yes.

6 THE COURT: Okay. So, are you going to go off the
7 phone now?

8 MR. SUTHERLAND: Yes.

9 THE COURT: Would that be better for you?

10 MR. SUTHERLAND: Yes, it would.

11 THE COURT: All right. Well, Mr. McTigue, you know
12 how to reach Mr. Sutherland, I take it?

13 MR. McTIGUE: Yes, I do. We've been in touch with
14 him already today.

15 THE COURT: All right. We'll give you a call later,
16 but I think it will probably be an hour, maybe even two.
17 Okay, Mr. Sutherland?

18 MR. SUTHERLAND: That is fine.

19 THE COURT: Thank you very much.

20 Who else do we have?

21 MS. CAMPBELL: Catherine Campbell from Feinberg,
22 Campbell & Zack, your Honor. I'm local counsel with McTigue
23 Law on behalf of Henriquez plaintiff.

24 THE COURT: All right. I'll tell you all, I'm
25 recovering from a sinus infection and my ears are a little

1 blocked. So, be sure to speak into the microphones loudly.

2 MR. SARKO: Good morning, your Honor. Lynn Sarko
3 from the law firm of Keller Rohrback. We have two clients,
4 one Mr. Stangeland, who is on the telephone who answered
5 before, and the second is the Andover Companies, and here in
6 the jury box is Janet Wallace, who is the vice-president of
7 Andover and a trustee of the retirement plan.

8 THE COURT: Thank you.

9 MR. KRAVITZ: Good morning. Carl Kravitz from
10 Zuckerman Spaeder. I was co-counsel in the Henriquez case and
11 one of the ERISA counsel.

12 MS. PALMER: Good morning, your Honor. Kimberly
13 Keevers Palmer, from Richardson, Patrick, Westbrook &
14 Brickman. We were formerly ERISA counsel. We withdrew in
15 December of 2013 from the Henriquez case.

16 THE COURT: Okay.

17 MR. FRANK: Theodore H. Frank, Competitive Enterprise
18 Institute.

19 THE COURT: Well, according to my scorecard,
20 everybody is present who was ordered to be present and retired
21 Judge Gerald Rosen is seated to my left in the first seat in
22 the jury box.

23 I'd like to try and ensure we have a clear common
24 sense of why we're here. It's pursuant to my February 6th,
25 2017 order. On November -- as explained in that order, on

1 November 2, 2016, I approved a class action settlement in this
2 case in the amount of \$300 million to be paid by the defendant
3 State Street Bank. The plaintiffs' attorneys in connection
4 with that requested almost \$75 million in reasonable
5 attorneys' fees and \$1,250,000 in expenses. They also
6 requested service awards to the named plaintiffs. State
7 Street has paid \$300 million, as I understand it.

8 The service awards went to the named plaintiffs who
9 represented that they actively supervised this litigation and
10 that they supported the requested fee awards.

11 As I explained in the February 6th order, like many
12 judges, I use the so-called lodestar to check the
13 reasonableness of the requested attorneys' fees, which were
14 based also on a percentage -- or primarily on a percentage of
15 the common fund. The lodestar, as a matter of law, is the
16 reasonable number of hours worked, multiplied by the
17 reasonable rates for the attorneys doing the work. The
18 reasonable rate is what private counsel in the community would
19 charge a paying client for similar services. What a
20 particular firm charges paying clients for similar services by
21 the attorney at issue is an indicator of a reasonable rate.

22 The attorneys in requesting attorneys' fees advised
23 me that the total lodestar was about \$41 million. They
24 represented that that was based on the regular rates charged
25 for the services of the attorneys involved. \$41 million as a

1 base of the \$75 million award would involve a multiplier of
2 1.8.

3 At the November 2nd hearing, when we got to
4 attorneys' fees, I note that the adversary system was not
5 operating, as is always the case when State Street committed
6 to paying \$300 million. It had no interest in how that total
7 was distributed between the class and attorneys. So, relying
8 upon on the lodestar check, I awarded the requested fees and
9 expenses finding them reasonable.

10 I also made the requested service awards of \$10,000
11 each to the named plaintiffs, except for Arkansas Teacher's,
12 which received a service award of \$25,000. That was based on
13 the representation that each of the named plaintiffs actively
14 supervised the litigation.

15 On November 10, 2016, I received a letter from David
16 Goldsmith of Labaton. It's Exhibit B to the February 6th
17 order. It informed me that about 9,000 hours worked by
18 so-called special attorneys who did primarily document review
19 double-counted in the reported total lodestar. 23 special
20 attorneys on the lodestar report were also on either Labaton
21 or Lief's reports. Thornton attributed higher rates to those
22 attorneys than the other firms.

23 I was told that the corrected lodestar would be \$37
24 million rather than \$41 million and the multiplier, therefore,
25 would be 2 rather than 1.8.

1 The letter asks that I not reduce the fee based on
2 this new information. It implicitly recognized that I have
3 the authority to do that. The letter -- Mr. Goldsmith in the
4 letter apologized and stated, "We are available to respond to
5 any questions or concerns the Court may have." The letter
6 involved no discussion of the accuracy or reliability of the
7 hourly rates attributed to each attorney.

8 On December 17, 2016, the Boston Globe published an
9 article that is Exhibit C to the February 6th order. It
10 raised questions regarding whether Michael Bradley, as
11 reported by the Thornton firm, worked 406 hours on this case
12 and had a regular rate of \$500 an hour, as reported in the fee
13 submission.

14 The article also stated that the hourly rate paid to
15 the special attorneys was \$25 to \$40. It raised questions
16 concerning whether paying clients -- raised questions for me
17 concerning whether paying clients were ever charged \$425 an
18 hour or more for the services that those special attorneys or
19 the services of other lawyers who provided similar service.

20 In the February 6th order, I identified these issues.
21 I proposed appointing retired Judge Rosen to investigate the
22 report regarding them. Although it wasn't specifically
23 mentioned in the February 6th order, I'm now contemplating --
24 inclined to include in the mandate of any special master
25 considering the propriety of the service awards as well as the

1 attorneys' fees and expenses, but in that order I gave the
2 parties an opportunity to object to the proposed other special
3 masters and to comment on this approach.

4 This hearing is -- well, I've received those
5 responses in this hearing to address the issues raised in the
6 February 6th order as I just amplified them and the issues
7 raised in the responses.

8 (Discussion off the record at the Bench.)

9 THE COURT: There's a threshold issue as to who
10 should participate in the full range of this hearing. The
11 Competitive Enterprise person of Mr. Frank has moved to file
12 an amicus brief relating to my February 6th order and to serve
13 as a guardian ad litem or amicus in future proceedings in this
14 case. The amicus brief relating to this hearing, which
15 prompted a reply -- which prompted oppositions, a reply and
16 sur-reply was filed yesterday. I've read all that.

17 So, the First Circuit wrote in *Strasser* 432 F.2nd 562
18 to 569, "The acceptance of an amicus brief is within the sound
19 discretion of the Court and that by their nature" -- "by the
20 nature of things, an amicus is not normally impartial." They
21 have a standard in other cases in my -- I found that it's
22 appropriate for me to allow the filing of that brief. As I
23 said, I've read it. The adversary system is not operating at
24 this point. It had some ideas in it that were helpful. So,
25 to that limited degree, I'm allowing the motion. That's

1 Docket No. 126. If somebody wants me to reconsider that, you
2 may, but, as I said, CEI, as I may refer to it, requests leave
3 to serve as a guardian ad litem for the class or an amicus
4 before the master and before me, although in some places it
5 suggests that giving notice to the class of these proceedings
6 might be an alternative to its participation.

7 Before I get to a general -- hearing generally on
8 this issue, I have a couple of questions or concerns. The
9 plaintiffs' counsel -- well, CEI raises an issue of whether I
10 can proceed in this matter and if it turns out to be
11 appropriate, revise the fee award, unless somebody files a
12 motion under Federal Rule of Civil Procedure 60(b) to reopen
13 matters. The view I expressed in the February 6th order is,
14 for the reasons explained, I retain jurisdiction -- retained
15 jurisdiction, still have jurisdiction to do that.

16 In Docket No. 145, Page 11, Labaton wrote in a filing
17 that all the other law firms for plaintiffs filed -- joined in
18 CCAF -- that's CEI for my purposes -- lengthy discussion
19 regarding Rule 60(b) motions and the fundamental leave for a
20 guardian to be able to seek such relief are a distraction.
21 The order and final judgment vests the Court with broad
22 continuing jurisdiction over all matters relating to fee
23 application in the disposition of the class settlement fund.
24 The order awarded attorneys' fees. It provides similarly that
25 the Court retains exclusive jurisdiction over the subject

1 matter of the class action and all parties thereto.

2 Finally, the stipulation and agreement of settlement
3 specifically provides for the repayment of funds if the fees
4 and expenses -- expense awards are reduced by the Court or on
5 appeal by a non-appealable order. There is no need for Rule
6 60(b) relief here.

7 Ms. Lukey, is that, indeed, the position of Labaton
8 and, as you understand it, the other plaintiffs' counsel?

9 MS. LUKEY: It is, your Honor. Although I believe
10 the ones who joined with us -- of course, we're the lead firm
11 and the Thornton Law Firm. The ERISA law firms did not join
12 with us in that brief, I don't think.

13 THE COURT: Well, we can get this clarified. I
14 thought they may have.

15 MS. LUKEY: They may have.

16 THE COURT: Let me just check.

17 MS. PALMER: Your Honor, Richardson, Patrick did only
18 because we were unclear as to whether or not -- given our
19 position in the case, we were unclear as to whether or not we
20 were supposed to file something, given our misunderstanding
21 with the original filing. So, we filed in support of their
22 position.

23 THE COURT: Well, I have the letter -- would you
24 please state your name.

25 MR. KRAVITZ: Yes, I certainly will. Carl Kravitz

1 from Zuckerman Spaeder, and I believe that we filed an
2 opposition to Mr. Frank's motions adopting the reasons and
3 authorities in the Labaton brief.

4 THE COURT: So, it's your position that no Rule 60(b)
5 motion is necessary?

6 MR. KRAVITZ: We're --

7 THE COURT: For me to proceed in this matter.

8 MR. KRAVITZ: We are agreeable to that. Yes, is the
9 answer to your question. That would have been shorter.

10 MR. SARKO: Your Honor, Lynn Sarko on behalf of
11 Keller Rohrback. We also joined and we agree that it's not
12 necessary.

13 MS. CAMPBELL: Your Honor, Catherine Campbell,
14 Feinberg, Campbell & Zack. I did not file an objection, nor a
15 motion to --

16 THE COURT: Is it your position that no 60(b) motion
17 is necessary for me to retain jurisdiction and to appoint a
18 master and if at the end of all this, I find it appropriate to
19 essentially order the return of some of the funds to the
20 class?

21 MS. CAMPBELL: Yes, your Honor.

22 MR. McTIGUE: I concur with my local counsel, your
23 Honor, Ms. Campbell.

24 MR. AXELROD: Jonathan Axelrod. We would concur
25 also.

1 THE COURT: Mr. Kelly?

2 MR. KELLY: Yes. Brian Kelly from the Thornton Law
3 Firm. We agree.

4 MR. HEIMANN: As do we, your Honor.

5 THE COURT: All right. I've actually -- I'm inclined
6 to -- I believe I can rely on that, but this is -- I've done a
7 little work on this issue, among many other things, and it's a
8 jurisdictional question.

9 Mr. Frank, do you want to tell me your view of this
10 Rule 60(b) issue?

11 MR. FRANK: Yes. Thank you, your Honor.

12 The problem is that while they may represent that you
13 don't need a 60(b) motion now, down the line after, should you
14 strike fees, they would tell the First Circuit that you never
15 had jurisdiction under *Coconut* because you dismissed this case
16 with prejudice, and there are many appellate cases saying that
17 once you have dismissed a class action with prejudice, no
18 matter what the settlement says, you do not actually retain
19 jurisdiction over matters like this.

20 There was a fee order on November 2nd. They can
21 always take the position that that's a final order and that
22 you can't retract it, and it's notable that they don't cite a
23 single case where a judge retaining jurisdiction over fees
24 issues a fee order and then claws some of it back.

25 THE COURT: From what I -- this is one of the reasons

1 you contend you should be allowed to essentially intervene or
2 serve as a guardian ad litem and then you would make a Rule
3 60(b) order?

4 MR. FRANK: Not necessarily us, but if there is
5 somebody representing the class, they could make the Rule
6 60(b) motion, and then they would have the standing to do it
7 and could protect the interests of the class that way.

8 THE COURT: Well, you raise an intriguing issue that
9 I hope is not going to have to be decided. I think the
10 question is a jurisdictional question.

11 The First Circuit -- there are circuits that have
12 decided that a judge can sua sponte make a Rule 60(b) motion.
13 The First Circuit has not yet decided whether I can do that.
14 There's a case, *Quincy 5 LLC vs. Harman*, 652 F.3d 116, 121,
15 but the plaintiffs could make a Rule 60(b) motion under Rule
16 60(b)(1), which allows reopening as a result of a mistake. It
17 wouldn't be any concession that any money should be ordered
18 returned at the end of all of this, but I think it would
19 eliminate this argument and possible need for somebody else to
20 represent the class.

21 MS. LUKEY: Your Honor, if you feel there is a need
22 for it, although I think with the representations on the
23 record, there would not be, we will certainly go ahead and
24 file a 60(b)(1) motion. We're making it orally in the Court
25 now and follow it up in writing, if you wish.

1 THE COURT: Does anybody object to that?

2 MR. KELLY: No objection, your Honor.

3 THE COURT: I think it just would be prudent. Okay.

4 So, I now have a Rule 60(b)(1) motion to reopen. I'm
5 going to take it under advisement. It will be memorialized,
6 let's say, March 13th, next Monday.

7 MS. LUKEY: That's fine, your Honor. Thank you.

8 THE COURT: So, I think that takes care of that.

9 MR. FRANK: That does solve that particular issue.

10 THE COURT: And it's within a reasonable period of
11 time and it's less than a year. And so, it was helpful to
12 have that raised because it is conceivable there are different
13 counsel at different stages of the litigation. All right.
14 So, that's done.

15 Then, Mr. Frank, you raise another issue that -- I
16 guess it would be helpful for me to have some clarification of
17 your position because you -- based on something you said a few
18 minutes ago. I have understood that you as the
19 personification of CEI are seeking to serve as guardian ad
20 litem or amicus before the master, but you also mentioned at
21 some point to me, I think -- and it wasn't clear to me whether
22 it was a possible alternative or in addition that I should
23 order notice to the class.

24 What exactly are you seeking? And would you explain
25 your concept and thinking with regard to the proposed notice

1 to the class?

2 MR. FRANK: Certainly. I think the class needs
3 representation here. There's a fundamental conflict of
4 interest between the current attorneys for the class and the
5 class in that their interests are absolutely opposed at this
6 point with respect to this one issue of the Rule 23(h) award.

7 For that reason and because of the importance of an
8 adversarial proceeding, there should be somebody and that can
9 be us. It can be a big law firm here that's willing to do it
10 or another alternative that would be more time consuming and
11 more expensive would be to issue notice to the class, having a
12 class member come forward, recognizing that there's now this
13 dispute and that the class needs representation, offer to be
14 the class representative with respect to this one issue, and
15 you create protections to make sure that that class
16 representative is not somehow bought off or otherwise
17 prejudices the interest of the class. That's another
18 alternative to appointing a guardian, whether that be us or
19 somebody else.

20 THE COURT: Well, notice to the class would not
21 necessarily invoke an objection or prompt anybody to come
22 forward.

23 MR. FRANK: That's correct, your Honor.

24 THE COURT: So, if there was notice to the class and
25 nobody came forward, you would still seek to participate on

1 behalf of the class?

2 MR. FRANK: I think it would be best if somebody
3 participated on behalf of the class. We're offering to do it.
4 We are offering to do it to save time, but if you want to say
5 that you're looking for it, I'm sure it would be widely
6 publicized.

7 THE COURT: The Boston Globe article was December
8 17th. My order wasn't until February 2nd. I don't mean to
9 hurt Judge Rosen's feelings, but he's not the only person I
10 talked to about possibly serving as a master in this case, and
11 I mentioned this in a footnote in the February 6th order. I
12 did speak to some people in large law firms and repeatedly was
13 told that their firms are in adversarial litigation with some
14 or all of the firms involved here. So, that probably wouldn't
15 be a promising prospect if I thought it was necessary.

16 I'll ask plaintiffs' counsel. Why would notice to a
17 class be expense, particularly in the context of \$75 million
18 fee award? It's not a huge class. About how many class
19 members are there?

20 MS. LUKEY: About 1300.

21 THE COURT: 1300?

22 MS. LUKEY: Yes. I believe the issue raised was not
23 one of expense. I think you just questioned whether it would
24 be expensive.

25 THE COURT: Well, Mr. Frank said it would be

1 expensive to do it.

2 MS. LUKEY: That isn't an issue that's been raised by
3 the plaintiffs. That's not the objection. When it's our
4 turn, we'll tell you the objections.

5 THE COURT: Thank you.

6 Well, this issue of notice to the class, as I said,
7 has engaged my attention. Why don't you speak to it, Ms.
8 Lukey.

9 MS. LUKEY: Thank you, your Honor.

10 Your Honor, there's nothing unusual, particularly in
11 a context like the fee petition that's being revisited now to
12 have an investigative procedure in place as opposed to an
13 adversarial procedure. That bifurcation exists throughout the
14 caselaw. It's recognized. It's appropriate. And there have
15 been repeated times when it's been recognized that the
16 interests of the class are, indeed, adequately protected in
17 these proceedings.

18 Quite apart from the fact that the class
19 representatives, who are all here or on the phone, have
20 expressed no objections or concerns and are available to
21 respond in that fashion to your Honor, there is the fact that
22 -- nor have they objected to their preexisting law firms.
23 That is, the firms that have been named previously in this
24 litigation.

25 But we are in a circumstance where if a notice is

1 going out, the question is notice of what? At the end of the
2 day, as a result of the special master's determinations, if
3 the Court proceeds as we believe that it will with the
4 appointment of Judge Rosen, there will either be an order that
5 says the existing award was fair and reasonable and addresses
6 the Court's other questions in your February order or there
7 will be an order that orders a clawback of some -- in some
8 fashion and what will happen with regard to the class members,
9 including those who are absent, is that they will receive a
10 larger check. So, the downside here of sending out an order
11 which could cause some confusion as to what is actually
12 occurring is that we end up --

13 THE COURT: I think if -- if you wrote a proposed
14 order that I approve, it would be comprehensible by members of
15 this class who --

16 MS. LUKEY: Sophisticated --

17 THE COURT: -- meaningful measure of institutions.

18 MS. LUKEY: Yes, I agree with that, your Honor.

19 Nonetheless, to receive an order in what would be out of the
20 ordinary sequence can invariably give rise to questions that
21 does, in fact, precipitate a delay of some 60 to 90 days and
22 perhaps more --

23 THE COURT: I'm sorry. What's the last thing you
24 said?

25 MS. LUKEY: It does, in fact, precipitate a potential

1 delay of 60 to 90 days, as the order --

2 THE COURT: It takes 60 to 90 days to give the order?

3 MS. LUKEY: No. To give them an opportunity to
4 respond, your Honor. You can address it as you wish, but that
5 would be a typical --

6 THE COURT: I could give them 30 days.

7 MS. LUKEY: You could give them 30 days.

8 At the end of that process, let's consider what the
9 alternatives are as to what happens. Perhaps you end up with
10 no one coming forward, which wouldn't be surprising under
11 these circumstances. Perhaps you end up with multiple
12 individuals coming forward saying that each of them wishes to
13 be a class rep. That complicates what is supposed to be an
14 investigative procedure before Judge Rosen.

15 So, we suggest to you it's unnecessary and that if
16 there's an order to go out, it's the end, saying what you are
17 to receive is larger than what you would have received and
18 here is the amount.

19 THE COURT: Any other plaintiffs' counsel want to
20 speak to this?

21 MR. KELLY: No, your Honor.

22 THE COURT: Okay.

23 MR. SCHWARTZ: Your Honor, may I be heard? My name
24 is Irwin Schwartz and I'm counsel for the Colorado Public
25 Employee's Retirement Association, which is --

1 THE COURT: First of all, it's been a while since
2 this has happened. All right. Say your name for the record.

3 MR. SCHWARTZ: Yes, your Honor. Irwin Schwartz on
4 behalf of the Colorado Public Employee's Retirement
5 Association, known as --

6 THE COURT: Are they part of the class?

7 MR. SCHWARTZ: I believe they are.

8 THE COURT: You believe they are or they are?

9 MR. SCHWARTZ: Well, they are. They told me they
10 are. They --

11 MS. LUKEY: Your Honor, we don't think so.

12 THE COURT: Okay. Hold on just one second.

13 Is there any objection to my hearing what Mr.
14 Schwartz has to say?

15 MS. LUKEY: Well, let me preserve the objection, that
16 I'm being told that this organization is not part of the
17 class. Therefore, we would object because there's no standing
18 to be in here to address the Court. I don't have the
19 documents in front of me to verify that, but that is the
20 understanding of plaintiffs' counsel from below.

21 THE COURT: Mr. Schwartz, why do you think Colorado
22 -- what's the name of the organization?

23 MR. SCHWARTZ: It's Colorado Public Employee's
24 Retirement Association. CPERA, as they're known.

25 THE COURT: And why do you say they're a member of

1 the class?

2 MR. SCHWARTZ: Because they've been monitoring this
3 case and have asked me to attend and observe and make one
4 statement to the Court, which I think is relevant to this
5 discussion.

6 THE COURT: Go ahead. It can be objected to after I
7 hear it, but it may be helpful.

8 MR. SCHWARTZ: It was only that the Court order that
9 the proceedings of the special master be put on ECF so that
10 members of the class can observe and, hopefully, participate
11 if they want to.

12 THE COURT: As I said, I'm having a little trouble
13 hearing. You're asking that what?

14 MR. SCHWARTZ: That the proceedings of the special
15 master be posted to ECF for this case so the class members can
16 observe and comment if permitted to do so by the special
17 master.

18 THE COURT: Well, Rule 53 -- I've never appointed a
19 master before and I've been a Judge for almost 32 years, but
20 that means I've studied Rule 53 with some care, but I study
21 everything with some care.

22 Rule 53 provides that orders of the master -- well,
23 my orders will all be on the docket and the transcript of this
24 hearing, for example, will be on the docket. That's one.

25 Two, Rule 53 provides that the master's orders are on

1 the docket. So, I'm not quite sure what "all proceedings"
2 means, though. There may be depositions, for example, taken.
3 I don't think they would be filed in the ordinary course until
4 the report recommendation is filed at the end, and you've
5 touched on something that I've been thinking about. Well, let
6 me be as transparent as possible so you can address this.

7 One, it's my tentative view that I should order that
8 notice of these developments be given to the class just so
9 they know. I looked at the short notice of preliminary
10 approval that went out to the class members, and then if they
11 -- I believe the way this worked -- and I can be corrected
12 because I may be wrong, but there was a short notice that went
13 out, and then somebody could go on the Website and get the
14 complete notice, and then they could -- I don't know if it was
15 a hyperlink or something else -- find the petitions for
16 attorneys' fees, which are voluminous. So, it would have
17 taken a class member some effort to get to the attorneys' fees
18 documents.

19 There were no objections to the attorneys' fees and I
20 noted that in finding the requests reasonable, but there might
21 have been objections if the class members had been told that
22 the \$41 million reported lodestar involved double-counting. I
23 don't even know yet if this is true. We'll get to that, but
24 some of these special attorneys, who I and class members were
25 told had a rate regularly charged to paying clients of \$450,

1 themselves were paid a tenth of that. It doesn't necessarily
2 mean some paying client wouldn't have paid \$450, but I wonder
3 about that in the current environment.

4 So, I think a notice could go out, but it seems to
5 me, Ms. Lukey, I think -- then what? And I think it would be
6 premature to answer, "Then what?" If somebody knew about
7 this, they could say, Judge, we think you ought to reduce the
8 award or they could say to the master, you know, We'd like to
9 give you a brief, but it would trigger a process in whatever
10 issues arise I think in the first instance. If they're
11 addressed to the master -- I'll give you a break. You haven't
12 had a chance to hear this, but others had. If you want to
13 speak among yourselves, I'll let you do it, but not while I'm
14 speaking because Ms. Lukey has got to listen to this. It just
15 seems to me they ought to know.

16 I came in thinking perhaps I would order the
17 preparation of a proposed order, and I've talked to you about
18 the mechanics, and I thought there were 1200 class members,
19 but 1300, it's in that order of magnitude. It would go out.
20 They might have 30 days or 45 days to comment if they're
21 requesting something, to request it, that the master would
22 begin his work before that, but if somebody wanted to be heard
23 by the master or ultimately by me on something, they would
24 know what's going on. There are several cases that talk about
25 the judge having a special fiduciary duty at this stage with

1 regard to the attorneys' fees because the adversary process
2 doesn't work, and having the questions I now have concerned
3 about whether all the members of the class have had fair
4 notice of things they might regard as material, but -- would
5 that serve your client's purposes?

6 MR. FRANK: Absolutely, your Honor. If it's of any
7 use -- I don't know if anyone brought it to your attention,
8 but there was a similar proceeding to this in the *Newmont*
9 *Mining* case in the District of Colorado. Judge Krieger
10 appointed a special master and --

11 THE COURT: What's the name of that case?

12 MR. FRANK: It was -- I think it was *UFCW Local 880*
13 *vs. Newmont Mining*. She appointed a special master who was a
14 former bankruptcy trustee when she was in bankruptcy court and
15 he did a very thorough review and --

16 THE COURT: This was after fees were awarded?

17 MR. FRANK: It was before fees --

18 THE COURT: I've appointed people to advise on awards
19 of attorneys' fees. The parties know a case called *Berenson*.
20 I haven't come across another case where the fees were awarded
21 on this issue. But, anyway, are you able to respond to my
22 tentative thinking?

23 MS. LUKEY: Your Honor, we would say this. We have
24 not come across a case in which the appointment of a special
25 master had occurred on fee issues where there's any reference

1 in the decision to a new notice being sent out and, obviously,
2 at the conclusion when the special master has rendered his
3 report and recommendations and your Honor has acted upon it,
4 then, typically, there will be some form of notice available.

5 So, I think what we're concerned about here is
6 layering a complication onto what is otherwise an
7 unobjected-to process, the appointment of a special master.

8 THE COURT: But here -- here's the concern I have.
9 Mr. Frank says that, you know, perhaps somebody would come
10 forward and want to be heard, but if there's no notice,
11 appoint me or someone else, and I think I would have some
12 difficulty finding somebody else and then -- well, frankly, I
13 don't -- I would like to assure that all of the class members
14 know of these developments and they've been publicized here in
15 Boston, but it's a big country. That's one.

16 My thought has been that I appoint a special master.
17 There would be somebody else that would conduct an independent
18 investigation. He can retain counsel, which I think might be
19 needed if it leads to retain some accounting firm to go
20 through the records, he can do that, but I haven't -- in
21 candor, I'm not inclined to -- but this is all tentative, Mr.
22 Frank, except I feel uncomfortable if there's no notice
23 because there may be -- if I don't give notice, I think there
24 might be somebody out there, including the Colorado Public
25 Employee's Pension Fund, if it's a party, to -- you know, that

1 would be interested in being heard at some point.

2 So, to me the part of the reason I've broken these
3 things down, 60(b), notice, is if I can take care of the 60(b)
4 issue and if you can persuade me I don't need to give notice,
5 in any event, it makes the arguments to appoint CEI in some
6 capacity or authorize them to participate in some capacity
7 less weighty.

8 MS. LUKEY: Your Honor, we do have other issues
9 relating to CEI which causes them to be a totally unacceptable
10 amicus or guardian.

11 THE COURT: I'm well aware of that.

12 MS. LUKEY: May I suggest this? Since we really
13 hadn't focused very specifically on this issue, if we could
14 have until perhaps Monday to brief the issue of notice and --
15 I don't know. It may be in consultation at that point if
16 there is a suggestion that if notice is in a certain format,
17 it's acceptable.

18 THE COURT: We might even take a break, and I do want
19 to hear all the argument on this. I didn't want to spend too
20 much time on this, but I think it's a pretty fundamental
21 issue, is the representation of the class because -- I'm
22 sorry. Somebody else wanted to be heard?

23 MR. HEIMANN: I was just going to ask, your Honor, to
24 give us an opportunity to talk among ourselves to respond to
25 this specific issue.

1 THE COURT: Yes. I'll tell you, I think -- it
2 occurred to me you might say, Gee, I want to think about the
3 notice issue, but if I don't resolve the notice issue today, I
4 don't think I'll be able to resolve Mr. Frank's motion today.
5 I would really like to get this all done.

6 MS. LUKEY: As would we.

7 THE COURT: Which doesn't mean it shouldn't be an
8 adequate, deliberative process.

9 MS. LUKEY: I believe --

10 THE COURT: Would this be a good time for me to break
11 so you can discuss that?

12 MR. HEIMANN: Certainly.

13 MS. LUKEY: If we could have a few moments, that
14 would be very helpful, your Honor. Ten minutes?

15 THE COURT: There's a conference room in the back
16 there to the right if you need to cram in. Take ten minutes
17 or whatever you need, but I really -- and then I will hear
18 your more general arguments on Mr. Frank, but if I can break
19 this down into bite-sized pieces, I think the argument will
20 change.

21 MS. LUKEY: Thank you, your Honor. We'll do that
22 right now.

23 THE DEPUTY CLERK: All rise for the Honorable Court.

24 (Recess taken.)

25 THE DEPUTY CLERK: All rise for the Honorable Court.

1 Court is back in session. You may be seated.

2 THE COURT: Ms. Lukey.

3 MS. LUKEY: Your Honor, it is the consensus of
4 plaintiffs' counsel that a notice, which we will provide to
5 you in draft form by Monday, would be appropriate, but we
6 request this one caveat. The class members are, of course,
7 all currently represented. Hence, we would request that there
8 be at least an oral direction to Mr. Frank, that it would be
9 inappropriate under the disciplinary rules of this unified bar
10 to solicit class members, including by social media, such as
11 his Tweeter feed, which is a process he sometimes uses. That
12 is, the order will specifically say that there has been a
13 change with some descriptive passage in it and indicate that
14 any objection is to be expressed as your Honor wishes, either
15 to you or to Judge Rosen. We can have a --

16 THE COURT: No. I think I would -- I haven't thought
17 this all the way through. I was just thinking about it a
18 little more.

19 One, notice would go out and say that -- it would
20 fairly describe what's transpired since -- on and since
21 November 2, ask whether anybody, say, within 30 days of
22 receipt of the notice wishes to file an objection to the \$75
23 million award. It would be filed with the Court. And then if
24 somebody came in and asked for something else, like we want to
25 participate in any depositions, I believe the special master

1 would address that, in the first instance, and an order will
2 be filed. I'm going to set up a process where there will be
3 seven or ten days to object to any of his orders, and rather
4 than try and anticipate all the issues, just set up what I
5 hope would be an efficient and effective process. I hadn't
6 thought about this.

7 Everybody is required to comply with the disciplinary
8 rules, and now Mr. Frank has been admitted pro hac vice. So,
9 he represents that he's familiar with the local rules, that he
10 subjected himself to the Rules of Professional Conduct of the
11 Supreme Judicial Court of Massachusetts, which were adopted by
12 the United States District Court. There are professional
13 standards as well. I don't know that I -- but, anyway -- and
14 this merges into the other issues.

15 Mr. Frank, do you want to be heard on this?

16 MR. FRANK: Yes, we would just like an opportunity to
17 respond to whatever their proposed notice is on Monday or
18 after they file it on Monday, give us a few days to
19 potentially respond to make sure it's not misleading.

20 We would also request that the notice make clear to
21 the class that pro bono representation is available. There's
22 no class member here that has more than five digits at stake
23 and they may be falsely misled into thinking that they would
24 have to pay for a lawyer to participate.

25 THE COURT: The pro bono representation is you, CEI?

1 MR. FRANK: It could be us or that contingency
2 representation is possible also.

3 The danger is that class members have no incentive to
4 spend their own money on a lawyer to do the investigation
5 that's needed, and that's why there were no objections in the
6 first place.

7 Judge Posner recognized this in *Redman vs.*
8 *RadioShack*, that there's just a fundamental problem with the
9 way Rule 23 is structured for the same reason we need class
10 representation, because the individual stakes are too small to
11 bring the litigation in the first place. The stakes are even
12 smaller once the case is settled for a fraction of the value
13 of the claim and all that's left is a fraction of that
14 fraction, litigating over the attorneys' fees.

15 MS. LUKEY: Your Honor, Mr. Frank is incorrect on the
16 size of the awards that will be going to some of the class
17 members. As your Honor previously indicated, these are almost
18 entirely sophisticated institution -- institutional investors.
19 We object -- unless this Court has allowed a motion for Mr.
20 Frank to have some role, we object to his having the
21 opportunity to comment upon the draft, and we suggest that the
22 exact terms of the draft should be as presented and ruled upon
23 by the Court, not by Mr. Frank.

24 THE COURT: I think this is a meaningful issue, but
25 I'm not going to decide whether to send notice to the class

1 until I see the notice and see the range of issues that it
2 implicates. I am inclined to do it. I will order this is a
3 reasonable period because I would like to start as quickly as
4 possible, that you file a proposed notice, as I said, that
5 brings people up-to-date as to what happened on November 2nd,
6 but also what's transpired since. So, that would be the
7 February 2nd order and whatever I decide today, and that
8 directs that objections be filed with the Clerk of the Court.
9 You can leave a blank for the date. You don't support it, but
10 you can talk to Mr. Frank, hopefully, civilly. Hopefully
11 you'll be as civil in talking to each other alone as you are
12 in my presence. I can see from the filings that this is sort
13 of an ending in a logger game, but if you gave me some
14 language that captures what he proposed -- I know you're not
15 asking for endorsing it -- I'll consider it, but I think until
16 I actually see the notice and reflect on this, I probably
17 won't be able to decide whether I should order notice and
18 whether Mr. Frank should have any role beyond today, although
19 -- okay. Is that sufficient to give you guidance as to what
20 to do by next Monday?

21 MS. LUKEY: Yes, your Honor.

22 THE COURT: I'm not deciding now whether Mr. Frank
23 can comment on it or not. If he wants, he can -- I'll be
24 coming back from out of town on Monday. So, it will be here
25 when I get here on Tuesday, if he wants to move to comment on

1 it. We'll see. Let me think about that.

2 Why don't we go to the broader issue.

3 MS. LUKEY: Just address a quick question, your
4 Honor. Do you wish that to be filed via ECF as a proposed
5 order?

6 THE COURT: Yes, as a proposed notice, and I would
7 like you to file a memo or affidavit also describing to me the
8 process for giving this notice. I view it as sort of
9 analogous to revisiting the preliminary approval, but I want
10 the whole notice to go out. I don't want a short notice.

11 MS. LUKEY: Understood.

12 THE COURT: You have to go through various steps to
13 find all the information, but basically it will be filed with
14 the Court. Copies would go to plaintiffs' counsel. There are
15 1200 or 1300 members. Give 30 or 45 days to object to them,
16 that the -- if I appoint a master or co-master at the end of
17 this, tell them they've been appointed, and I'll see if I
18 think this is feasible and worthwhile.

19 MS. LUKEY: Thank you, your Honor. Will do.

20 THE COURT: But, as I said, it relates to the more
21 general issue of whether CEI ought to be authorized to serve
22 as a guardian ad litem or amicus for events beyond today.

23 As I said, I'm appointing a master. Well, nobody
24 disputes that. The master can retain counsel and other
25 professionals. It doesn't appear to me at the moment that

1 guardians are necessary. If the master wanted to receive
2 briefs from anyone, he could invite them or accept them or
3 not, and eventually there'll be a report and recommendation,
4 and if there's another motion to file amicus brief, it can be
5 opposed if there's opposition and I can decide what to do.

6 But, at any rate, Mr. Frank, that's my tentative
7 thinking, having studied the written submission. What would
8 you like to say -- oh, I'm sorry.

9 MS. LUKEY: Do you want me to say or him?

10 THE COURT: Mr. Frank, he's moved to --

11 MS. LUKEY: Intervene.

12 THE COURT: Let him go first.

13 MR. FRANK: I think we've stated our position.

14 Again, we're concerned about the interests of plaintiffs'
15 counsel and what that notice says versus the interests of the
16 class with what that notice says. Just as it's been helpful
17 to you so far here today, I think it would also be helpful
18 with respect to the notice.

19 THE COURT: What about beyond that, though? If I
20 give the notice, are you satisfied or not?

21 MR. FRANK: I think we'll be disappointed if no class
22 member comes forward to protect the interests of the class.
23 If there's a report and recommendation, we'll probably submit
24 an amicus, whether or not there's a class member and the class
25 member has specifically retained us. Again, I think adversary

1 representation is helpful, and the Court has noted that and
2 other courts have noted that, and it's just a fundamental
3 problem with the way Rule 23 works, that the conflict of
4 interest between class counsel and the class at the Rule 23(h)
5 stage, the procedures don't really cover it.

6 THE COURT: Are you asking -- still asking that I
7 issue an order authorizing you to appear before the master?

8 MR. FRANK: I think the master will benefit from
9 adversary representation for the reasons we've previously
10 stated and, again, that can be us. That can be a
11 representative of the class. That can be a different guardian
12 ad litem besides us. My personal preference is that there's a
13 big firm that wants to do it and has more resources than we do
14 to serve as guardian ad litem. We're offering because we're
15 skeptical that a firm is willing to alienate the powerful law
16 firms here to come forward.

17 THE COURT: Do you want to respond to that?

18 MS. LUKEY: I do, your Honor.

19 First of all, if Judge Rosen needs assistance, either
20 in the form of someone to ask cross-examination questions in
21 an adversarial or quasi-adversarial model, you have given him
22 the power to do so. To the extent that Judge Rosen, who is
23 obviously very skilled and has been in the role of a judge for
24 many, many years needs help, he will be able to make that
25 determination.

1 We have suggested that Judge Layn Phillips might join
2 him. They know each other well. He's been off the bench
3 longer and he's done a number of these fee petitions and,
4 therefore, is accustomed to the evidence normally required,
5 but that, I think, is also more a question for what Judge
6 Rosen wishes to do.

7 We are before you with no objection to Judge Rosen.
8 We appreciate the opportunity to present to a special master
9 of his qualifications. If he wants help, he'll ask for help.
10 I would be very surprised if he could not himself protect the
11 interests of the class, as your Honor does as a fiduciary to
12 the class at this stage in the proceedings, but if he feels
13 the need to have someone asking the questions, for example, or
14 researching an issue and presenting a brief, he can certainly
15 do that, and that is the appropriate model once the Court has
16 made the election of investigative model, i.e., special master
17 versus adversarial model, like guardian ad litem.

18 Turning just very quickly to the issue of CEI. Your
19 Honor can already see there is a long history between CEI or
20 CCAF, the law firm of Mr. Frank that was acquired by CEI in
21 2015, and the plaintiffs' law firms in these cases. It isn't
22 a happy relationship. It is a circumstance where labels have
23 been applied on both sides. He has had some very unpleasant
24 things to say about the lawyers who are willing to take the
25 risks of bringing class actions. We're not talking coupon

1 cases here, your Honor. We're talking about law firms that
2 represent sophisticated institutional clients who often come
3 to them with these specific questions in recoveries like this
4 of \$300 million being divided among 1300 such institutional
5 investors.

6 So, I don't wish to -- I don't wish to turn it
7 adversarial in the courtroom between CEI and the plaintiffs'
8 law firms. You have seen the submissions. In the view of the
9 plaintiffs' law firms, Mr. Frank has made a bit of a hobby of
10 being a professional -- or a vocation of being a professional
11 objector in their cases. It would not be productive or
12 helpful to this process, and I respectfully suggest it would
13 not be helpful to Judge Rosen to have Mr. Frank present in
14 light of the unfortunate relationship and history that has
15 evolved.

16 THE COURT: Well, here's what I'm going to do. I
17 want to get this proposed notice and I want to think about all
18 of this further, whether I'm going to issue the notice, but
19 I'm not going to decide the motion for CCAF or CEI to
20 participate separate from the issue of notice. I'm going to
21 take it under advisement, and I'll decide it sometime after I
22 get back next week. All right?

23 MS. LUKEY: Thank you, your Honor.

24 THE COURT: All right. Let's move to the issues
25 relating to the master.

1 As I understand it, there's no dispute regarding my
2 authority to appoint the master to investigate and issue a
3 report and recommendation regarding -- on issues regarding
4 reasonable attorneys' fees, expenses, and I would say service
5 awards as well, but can I get confirmation of that? Does
6 anybody want to -- does anybody object to the appointment of a
7 master?

8 MS. LUKEY: No objection.

9 MR. KELLY: No, your Honor.

10 THE COURT: And I have this in mind. I'm sorry, Mr.
11 McTigue. You have a particular objection to Judge Rosen.
12 We'll get to that.

13 MR. McTIGUE: Very good.

14 THE COURT: Try to start broad and narrow it down.

15 Then I told you that a proposed order -- and this is
16 another issue that Mr. McTigue is interested in. The payment
17 of \$2 million to the District Court, which I hope will prove
18 to be more than necessary for the master to do his work and
19 the people he employs to help him or to pay the master,
20 co-master. That's still an open issue, but it's my
21 understanding that plaintiffs agree that I have a submission
22 by the Labaton firm saying that lead counsel is prepared to
23 deposit funds with the Clerk of Court in such sums and at such
24 times as the Court may order to be used to pay fees and
25 expenses. It says of the co-special master.

1 Are you willing to pay to the Court if ordered to do
2 it -- well, are you willing to pay to the Court \$2 million for
3 the master or if I decide it's necessary or appropriate to
4 appoint a co-master?

5 MS. LUKEY: If I'm understanding, the question is,
6 are we willing to make such payment if it's one master as
7 opposed to co-masters?

8 THE COURT: Yes.

9 MS. LUKEY: The answer to that is yes. I would
10 appreciate if it can be done on an as-needed basis. That is,
11 the master can indicate --

12 THE COURT: No. No, because -- I mean, this jumps
13 ahead on my outline a little bit.

14 MS. LUKEY: Sorry.

15 THE COURT: The Court is going to pay the master and
16 it will be comparable to Criminal Justice Act applications.
17 So, it will be paid. It will be held, as I understand it, in
18 an interest-bearing account, but it needs to be paid to the
19 Court.

20 MS. LUKEY: If the Court so orders, then the payment
21 will come in as ordered and when ordered.

22 THE COURT: What's the minimum reasonable time to
23 make the payment?

24 MS. LUKEY: May I consult with my client?

25 THE COURT: Yes.

1 (Discussion off the record.)

2 MS. LUKEY: Would five business days be acceptable
3 for putting the money in?

4 THE COURT: Very.

5 MS. LUKEY: Thank you.

6 THE COURT: That's about what I had in mind, can you
7 do it within a week. All right.

8 But Mr. McTigue raised a point. As I understand it,
9 he's saying for media purposes and eventually if anything is
10 -- if the fee award is reduced, it should come from the funds
11 that went to Labaton, Thornton and Lief and not from the
12 funds that went to ERISA counsel. Do I understand your
13 position correctly?

14 MR. McTIGUE: Yes, your Honor.

15 THE COURT: Let me actually just say for media
16 purposes; is that agreeable?

17 MS. LUKEY: No.

18 THE COURT: Okay. Then let me -- Mr. McTigue, why
19 don't you speak to your position and then I'll hear the
20 response.

21 MR. McTIGUE: I think your Honor is referring to the
22 clawback letter that I put in as an exhibit to my --

23 THE COURT: Yes. Okay. So -- I don't know if you've
24 had any discussions with Ms. Lukey about this. So, \$2 million
25 is going to come to the Court in the next week, and you should

1 explain this to me, even though I've read it, what your
2 position is with regard to any -- whether any of that money
3 should come from money attributed -- or paid to you. So, why
4 don't you go ahead.

5 MR. McTIGUE: Well, your Honor, I think our
6 submissions say everything that I would need to say again
7 here.

8 THE COURT: You can repeat it. I've got a big pile
9 of things and I was here Saturday and Sunday, yesterday. I've
10 read all of this, but there's a lot to read. So, you won't
11 insult me if you repeat.

12 MR. McTIGUE: Well, your Honor, the original letter
13 from Labaton that went to the Court that revealed the
14 circumstances regarding what appears to be double billing, et
15 cetera, had a footnote and that footnote was in there and it
16 said that the ERISA counsel are not affected by these alleged
17 double billings and, as my declaration said, my firm did not
18 know about the staff attorneys, the alleged double billing, or
19 anything related to it. We never heard of the name of a staff
20 attorney in the whole of the litigation. We were surprised.
21 We learned about it after the Globe learned about it through a
22 -- the communications that eventually resulted in the letter
23 to the Court by the Labaton firm.

24 So, we are not involved. We have never taken part in
25 the practices that will be subject to the special master's

1 investigation, and we believe that the clawback letter was
2 proffered to us in an attempt to have us share in the paying
3 that may be felt by --

4 THE COURT: The clawback letter says what?

5 MR. McTIGUE: Well, it says two things.

6 THE COURT: Let me -- there's a chronology to this.
7 So, I made an award on November 2nd and then I was sent the
8 letter on, I think, November 10th from the Labaton firm. Now
9 you're referring to something you're calling the "clawback
10 letter"?

11 MR. McTIGUE: Yes. It's a letter dated November 28th
12 in which the Labaton firm said two things to us:

13 First, they would not distribute the attorneys' fees,
14 awards and the representative plaintiffs' service awards, et
15 cetera, unless we first committed to return it if any of the
16 funds that were awarded by the Court -- had previously been
17 awarded by the Court were called back, and it seems to me that
18 the three firms that are -- whose practices are going to be
19 reviewed here will use that to cause us to pay for the paying
20 that they may have incurred for themselves.

21 Secondly, they said that they would not distribute
22 the award which you had previously ordered be distributed
23 immediately, and I don't think they have the authority to do
24 that under your Honor's order, and our position is that we
25 should not have to pay any special master's expenses and costs

1 or any award unless we are found to be liable for something by
2 the Court. In other words, I don't think the clawback letter
3 should be used by the three firms to cause us to pay sums that
4 they have to return.

5 THE COURT: You're calling yourself ERISA counsel.
6 You represented -- were there originally more than one case
7 that was consolidated?

8 MR. McTIGUE: Yes, we filed a separate action.

9 THE COURT: So, you had brought a separate -- you and
10 perhaps others brought a separate action on behalf of the
11 ERISA class?

12 MR. McTIGUE: Yes.

13 THE COURT: And that was consolidated with this case?

14 MR. McTIGUE: Subsequent to our filing.

15 THE COURT: What's that?

16 MR. McTIGUE: Subsequent to our filing.

17 THE COURT: And I think you told me in your papers
18 that your firm, at least, didn't receive a multiplier of its
19 lodestar. In fact, you only received 90 percent of your
20 lodestar?

21 MR. McTIGUE: Yes, about 91 percent.

22 THE COURT: 91. Now, I didn't expressly -- well, I
23 didn't say anything about service awards in my February 6th
24 order, but now I have -- I'm going to want the master to look
25 into the reliability of the representations made to get the

1 service award and the amounts of them, whether they were
2 reasonable. So, that wasn't addressed in your papers. How do
3 you think that should affect my thinking on the point you're
4 raising?

5 MR. McTIGUE: Well, the clawback letter proffered by
6 Labaton Sucharow expressly refers to return of services.

7 THE COURT: I'm sorry. Hold on just one second.

8 (Discussion off the record.)

9 (Pause.)

10 THE COURT: Okay. How much money did your firm get
11 of the \$75 million?

12 MR. McTIGUE: \$2.5 million.

13 THE COURT: And the service award to your clients was
14 \$10,000 each to -- how many?

15 MR. McTIGUE: Yes, and I distributed the \$2.5 million
16 among four firms.

17 THE COURT: Four firms?

18 MR. McTIGUE: Yes.

19 THE COURT: And the .91?

20 MR. McTIGUE: Every firm got .91 of their lodestar.

21 THE COURT: And then the service awards to the ERISA
22 plaintiffs totaled how much?

23 MR. McTIGUE: \$10,000 apiece, total of \$40,000.

24 THE COURT: All right. Ms. Lukey, what would you
25 like to say about this?

1 MS. LUKEY: Let me first correct a factual error on
2 the lodestar issue, which is his two co-counsel. One got a
3 factor of 1.8 and the other a factor of 2.1. The division --
4 the fee allocation agreement that was entered into early in
5 the case among all of the various firms once the consolidation
6 occurred was a percentage of fee or POF award which says the
7 ERISA group combined would take nine percent and the
8 institutional claimants for whom Labaton has been lead
9 counsel -- I guess for everybody, actually, but they would
10 take 91 percent.

11 Later Labaton suggested to its companion two firms
12 that enough work had been done -- actually, not by Mr.
13 McTigue's firm, but by all three of the firms together or four
14 firms, that they should get ten percent and without having to
15 do so, they changed the allocation to ten percent. How they
16 divided it among themselves was up to them, not up to the
17 other institutional group headed by Labaton.

18 So, if Mr. McTigue ended up with a little under the
19 lodestar, that's because of the allocation made among that
20 group. Because, as I said, the other two of which we know got
21 a 1.8 factor and a 2.8 factor.

22 Now, stepping back from that, having corrected that
23 misunderstanding, we believe this is an issue that actually
24 the Court could easily and quite properly leave to Judge Rosen
25 after he has heard all of the --

1 THE COURT: Well, there are two separate issues. One
2 is should the ERISA firms have to contribute to the \$2 million
3 being deposited to the Court and then ultimately some of that
4 will be spent, but I might find the \$75 million still is
5 reasonable. You get the balance back and -- or I might find
6 that it should be reduced and I might decide how much it
7 should be reduced for each party, but this is essentially --

8 MS. LUKEY: We can address that.

9 THE COURT: -- only the issue of whether they should
10 be required to deposit -- or contribute to the initial
11 deposit.

12 MS. LUKEY: Well, they probably should be required.
13 The answer is that the other three firms will attempt a filing
14 of the \$2 million, your Honor. We're not going to look to
15 them for the contribution to the \$2 million --

16 THE COURT: That's the only question I'm asking now.

17 MS. LUKEY: Well, then the answer is, without waiving
18 any rights or suggesting that they don't have to share if the
19 overall is reduced, we agree to take care of that portion.

20 THE COURT: Okay. And that's what I would have
21 ordered if you -- I think if you didn't agree that the \$2
22 million should come from the funds that were distributed to
23 Labaton, Thornton and Lieff, but it's without prejudice to
24 what any allocation -- the allocation of any reduction down
25 the line. I'm not addressing that. I just want to get the

1 money so we can get going.

2 MS. LUKEY: We agree.

3 THE COURT: All right. Mr. McTigue, I think that
4 addresses your immediate concern.

5 MR. McTIGUE: My immediate concern it does address.

6 THE COURT: This is how I usually work, step by step.

7 If I eventually decide, you know, 75 million was
8 indeed reasonable, any other issues are moot, although there
9 won't be 75 million left, but there still will be a lot, by
10 judges' standards.

11 MR. McTIGUE: We would like, your Honor, to remain
12 aware that if -- that the clawback letter should not -- should
13 not be used to make us pay --

14 THE COURT: You have put me on notice of that issue
15 and I'm just not addressing it now.

16 MR. McTIGUE: I understand.

17 THE COURT: Thank you. All right.

18 So, then we come to the specific issues relating to
19 former Judge Rosen, retired Judge Rosen. As I understand it,
20 all of the parties agree that Mr. Rosen at the moment is
21 eligible to be appointed as master, except Mr. McTigue based
22 on the written submission.

23 In the February 6th, 2017 order, at Pages 11 and 12,
24 I describe Judge Rosen's relationship with Elizabeth Cabraser,
25 a member of one of the law firms at issue in this case. They

1 were co-authors of a book or they each write chapters of
2 employment law, update the chapters. Exhibit D to the
3 February 6th order is the Rosen affidavit describing that
4 relationship, and I didn't discern from the papers -- written
5 submissions, that anybody asserts that Judge Rosen is actually
6 biased or prejudiced or if he were the judge in this case
7 would be disqualified under Section 455(b). I understood the
8 question was could a reasonable person question his
9 impartiality, which is an issue under Section 455(a). Is
10 anybody claiming that he would be actually biased or
11 prejudiced or subject to disqualification for any reason under
12 455(b)?

13 MS. LUKEY: No, your Honor.

14 THE COURT: If anybody takes that position, they
15 should tell me now.

16 MR. McTIGUE: Your Honor, I want to make it clear
17 that we have made no comments on 445(b) because we could find
18 none.

19 THE COURT: Because what?

20 MR. McTIGUE: We could find none.

21 THE COURT: Okay. So, the issue, as I understood it,
22 exclusively under 455(a), plaintiffs' counsel, except for Mr.
23 McTigue, agreed with Judge Rosen's view and the tentative view
24 I expressed in the February 6th order, that a reasonable
25 person could not question his impartiality, and the others,

1 other than Mr. McTigue, in any event, and waived any 455(a)
2 ground for Mr. Rosen's recusal. They could if he were a
3 judge.

4 Mr. McTigue asserts a reasonable person could
5 question Mr. Rosen's impartiality and proposed instead the
6 appointment of retired Judge James Rosenbaum. I know Judge
7 Rosenbaum. We became judges about the same time, exactly the
8 same year, but I couldn't appoint him now. He hasn't filed
9 the affidavit disclosing whether there are any grounds for his
10 recusal required by Federal Rule of Civil Procedure 53(a) that
11 I said would be required to be considered in my February 6th
12 order at Page 12, Footnote 4. So, at the moment he's not an
13 eligible candidate.

14 MR. McTIGUE: May I comment, your Honor?

15 THE COURT: Yes.

16 MR. McTIGUE: I talked with Judge Rosenbaum about
17 this subject, his affidavit, and he informed me that he had
18 encouraged Judge Rosen to join JAMS.

19 JUDGE ROSEN: We're old friends.

20 MR. McTIGUE: And that is correct. That's good to
21 hear.

22 And he said, "You do not campaign for these
23 positions. It just is not done, Brian." And he said he might
24 consider providing an affidavit or going further, if your
25 Honor was interested, but he has said very good things about

1 Judge Rosen to me, and I know Judge Rosenbaum from his serving
2 as a mediator in one of our cases and that's why I recommended
3 him. So, I am comfortable at this point with your appointing
4 Judge Rosen and I will withdraw my objection.

5 THE COURT: All right. Thank you.

6 20 years ago Mr. Kelly and I were involved in a case
7 where the government waived its objection to my participation
8 in a case and based on matters disclosed and those matters
9 were later raised as a basis for my disqualification, and I
10 found they had been waived, but I appreciate what you said,
11 but, nevertheless, I told Judge Rosen to be prepared to orally
12 explain his relationship with Ms. Cabraser and anything else,
13 and I just think it would be prudent to do that because when I
14 have a recusal -- when I have a 455 issue myself, I disclose
15 what I think should be disclosed and I ask the parties if they
16 have any questions they want to ask me. So, he's been sitting
17 there silently. I think he won't mind amplifying what he put
18 in his affidavit.

19 JUDGE ROSEN: Thank you, Judge. Thank you all.

20 I've been trying to think -- I filed the affidavit.
21 Everything that is in the affidavit in Exhibit D is exactly
22 accurate. Let me just amplify upon it just a little bit.

23 I was the lead co-author on a Rudder book. Those of
24 you who are from California may know the Rudder Practice
25 Guides. The book is Federal Employment Litigation.

1 Originally there were five co-authors, three judges and two
2 lawyers.

3 About five years ago one of the judges and one of the
4 lawyers, Judge Barbara Rothstein, and a lawyer, Kathleen
5 Vogus, decided that they had enough and wanted to come off the
6 book. As the lead co-author, I had to find replacements for
7 them. I did not know Elizabeth Cabraser. I had, I think,
8 heard her name, but I did not know her, but she came highly
9 recommended, not only by a couple of the other judges on the
10 book, but by Kathleen Vogus, who was coming -- the lawyer who
11 was coming off the book.

12 I called Liz. We talked about it. She said she was
13 interested. Coincidentally, we were going to be on a panel
14 together. I believe it was in Chicago, but it was a class
15 action panel and we agreed to talk about it there. We did
16 talk about it. She agreed to do it.

17 I want to stress this. The nature of the Rudder
18 books is that there are co-authors, judges and attorneys. The
19 Rudder Group is a publishing company, sort of a niche
20 publisher in California. It's part of the West Publishing
21 Company, which is now owned by Thomson Reuters. Each
22 co-author is effectively an independent contractor based on
23 the books I worked on.

24 I have another book in which I'm co-author with three
25 judges and a lawyer from Gibson Dunn, Federal Civil Trials and

1 Evidence. We are all independent contractors. We make our
2 own contractual arrangements with the Rudder Group. So, I've
3 had no negotiations whatsoever with Liz about her royalty
4 arrangements or anything else.

5 I have a general sense, going back to my original
6 arrangement before Liz was on the book, Rothstein was on,
7 Kathleen Vogus was on, of sort of the split, but she may have
8 cut her own deal, to be honest. I don't know that. We're all
9 basically independent contractors, and in practice the way it
10 works out, we update the book every single year. We have a
11 time slot that we have to get our updates in by and we are all
12 responsible for our own updates. We don't even review the
13 submissions of the other authors. We see them after they have
14 been edited, and then they're all sent out to each of the
15 co-authors after they've been edited by the editors at the
16 Rudder Group.

17 So, that -- with respect to the book, that is really
18 the extent of our relationship. Our income is not dependent
19 on each other and is really not influenced in that sense by
20 each other either. So, that's the book relationship. I'm
21 happy to answer any questions.

22 THE COURT: I'll ask you one, which I've asked you
23 before, because I learned it after I issued my order. Did the
24 Lieff Cabraser firm appear before you as a Judge? Did you
25 disclose this relationship with the book? And what was the

1 response of the party?

2 JUDGE ROSEN: You've anticipated me, Judge. That's
3 where I was going next.

4 THE COURT: I see.

5 JUDGE ROSEN: The Liefkabraser firm has appeared
6 before me. I had for a brief amount of time the *Volkswagen*
7 MDL that is now being handled by Judge Bryer out in
8 California. There are other lawyers here who were on that
9 case, as well as Mr. Sarko, and at that time I did disclose --
10 we had a meeting in my chambers with plaintiffs' counsel and I
11 disclosed the relationship of the book, not only to
12 plaintiffs' lawyers, but also to the book's lawyers that were
13 there as well. They found no reason to request my recusal.

14 THE COURT: Does anybody wish to ask Judge Rosen any
15 further questions?

16 JUDGE ROSEN: The only thing I would add -- and I
17 apologize to the Liefkabraser firm. I may have had other
18 cases over the years with Liefkabraser. I don't remember
19 having --

20 THE COURT: And I believe the submissions show that
21 you've had matters with Mr. Sarko as well --

22 JUDGE ROSEN: Yes.

23 THE COURT: -- in court?

24 JUDGE ROSEN: Mr. Sarko has appeared in at least two
25 large class actions, one relatively recently concluded. His

1 firm and partners of Sarko have appeared. I have high regard
2 for their lawyering skills. They've done on both -- in both
3 cases they admirably represented the class, and I've gotten to
4 know Mr. Sarko a little bit through those relationships.

5 I do want to disclose one thing. Mr. Sarko's memory
6 on this might be better than mine, but we were together at a
7 conference in Atlanta about two months ago, roughly. That's
8 about right. There was another class action conference, and
9 as I was getting ready to come off the bench, I was interested
10 in the plaintiffs' view of what the going rates were, and Mr.
11 Sarko and I and several of the other plaintiffs' lawyers that
12 were there as well as some of the defendant lawyers had
13 discussions about that. Mr. Sarko gave me his discussion --
14 his view, I should say, on what going rates were for different
15 kinds of cases. I think that describes the extent of our
16 relationship.

17 I hope no one will ask me what Mr. Sarko told me the
18 going rates should be, but I would be happy to answer that as
19 well. I will only say that in this case, my proposed rate is
20 less than the recommendations I received from Mr. Sarko and
21 other lawyers. Is that about accurate?

22 MR. SARKO: That is totally accurate, your Honor.

23 THE COURT: Okay. Is there anybody who would like to
24 ask Judge Rosen any question?

25 (No response.)

1 THE COURT: No. All right.

2 Well, now there are no objections and, I take it, Mr.
3 McTigue, like the others, waives any objection under 455(a).
4 I've applied the standards that I set out with some care in
5 2015 in *United States vs. Sampson*, 148 F.Supp.3rd, 75, at 85
6 to 88, and I considered what was the objection in advance, and
7 I agree that a reasonable person could not question Judge
8 Rosen's impartiality and the circumstances have been fully
9 disclosed.

10 So, now there's the request of -- the Labaton firm
11 proposes that former Judge Layn Phillips, who I also knew as a
12 judge, be appointed co-master with Judge Rosen. The Thornton
13 firm joins in that request. Would you like to speak to it?

14 MS. LUKEY: Just very briefly. And I recognize, your
15 Honor, that you have indicated you wish to limit the
16 communications that occur between Judge Rosen and you, but we
17 consider this to be more a procedural issue, not substantive.

18 THE COURT: Well, in fact, that's my intention, and I
19 think I probably characterized them as administrative in the
20 future, but at this point, until I issue the order, I may talk
21 to him.

22 MS. LUKEY: And we actually would encourage you to do
23 so. Our suggestion to add Judge Layn Phillips as a co-master
24 is one that we're hoping will both streamline and expedite the
25 process, but we have recommended and requested only if it's

1 acceptable to Judge Rosen.

2 The thinking behind it is because Judge Phillips has
3 been off the bench for several years now and has, I believe,
4 specialized, but at very least, on a large number of the fee
5 petition mediations or arbitrations in cases similar to this.
6 He has developed a fairly streamlined approach, knows what
7 he's looking for, the investigation, and so forth. We thought
8 that might be helpful to Judge Rosen since he has much more
9 recently come off the bench and Judge Rosen, of course, has
10 his own class action experience, while a sitting Article III
11 Judge wasn't going through the mediations, and the like.

12 So, it is our suggestion that if Judge Rosen wanted
13 to have that assistance, we would like to see that
14 appointment. He has the power to join others, we suggested,
15 as co-master and leave it to you as an Article III Judge and
16 to Judge Rosen as special master what role might be offered,
17 but our goal, frankly, because, as you can imagine, this whole
18 process has cast a bit of a shadow and caused doubt, we would
19 like to move forward as efficiently and quickly as we can.

20 THE COURT: And I appreciate you're putting it the
21 way you just put it. Your submission indicated that Layn
22 Phillips has in the past been paid by the majority of the
23 firms in the cases, correct?

24 MS. LUKEY: Correct.

25 THE COURT: And he's now serving as a mediator in a

1 class action in which Labaton, Lieff and/or Keller represent
2 the plaintiffs, right?

3 MS. LUKEY: Correct.

4 THE COURT: And his fee schedule shows he gets paid
5 up to \$43,000 a day, right?

6 MS. LUKEY: I haven't looked at it lately, but --

7 THE COURT: First day in New York, \$43,000. So, he's
8 actually being paid now, evidently, by some of the firms in
9 this case.

10 MS. LUKEY: Yes.

11 THE COURT: I'm not going to put this on Judge Rosen.
12 I'm not going to appoint Judge Phillips. I don't find that
13 two masters are necessary or appropriate. I think it could be
14 cumbersome and difficult to coordinate.

15 As I said, former Judge Phillips charges \$43,000 a
16 day. Judge Rosen is going to charge \$11,000 a day, which is
17 less than, apparently, Mr. Sarko suggested he charge. In
18 fact, I understand he's actually going to charge \$800 an hour
19 -- or he's going to charge \$800 an hour, not by the day, but
20 our review is to make sure they're reasonable. Because Mr.
21 Phillips has been paid in the past by majority of the firms in
22 the case and now, evidently, was being paid by some of them.
23 I think there would be a serious question as to whether he's
24 eligible under 455(a), but in a certain way you anticipated
25 me, and this is the flip side of Mr. Frank.

1 If Judge Rosen and Judge Phillips -- they're good
2 friends, I'm told. If he thinks that Judge Phillips has some
3 expertise and he wants an amicus brief or if you hire him as
4 an expert, he may solicit and consider what Judge Phillips has
5 to say in the way he's free to, if he wants to, get advice or
6 assistance from Mr. Frank, but that I leave up to him, but I'm
7 not going to appoint Judge Phillips. All right.

8 JUDGE ROSEN: I would only say, Judge Phillips has
9 always been available to give me advice on a range of issues
10 over the years.

11 MS. LUKEY: Thank you.

12 THE COURT: On the other hand, the master won't have
13 any ex parte communications, either. We have jurisprudence in
14 the First Circuit that says you can't consult experts without
15 disclosing it to the parties. If it turns out that occurred,
16 I will probably have to deal with it in connection with the
17 report and recommendation.

18 So, the scope of the master's work, in the February
19 6th 2017 order I said at the conclusion of his investigation
20 Judge Rosen will prepare for the Court a report and
21 recommendation concerning, one, the accuracy and reliability
22 of the representations made by plaintiffs' counsel and their
23 request for attorneys' fees and expenses, including but not
24 limited to whether counsel employed correct legal standards
25 and had a proper factual basis for what they represented to be

1 the lodestar for each firm, total lodestar.

2 Two, the reasonableness of the amount of the
3 attorneys' fees and expenses that were awarded, including
4 whether they should be reduced; and, three, whether any
5 misconduct occurred; and if so, four, whether it should be
6 sanctioned.

7 I think I would now specifically add, although it's
8 embraced by that more general language, that I would like the
9 master to investigate and advise on the accuracy and
10 reliability of the representations made in the November 10,
11 2016 letter from Labaton. That is Exhibit 8 in my February
12 6th decision. Also the service awards, the accuracy and
13 reliability of the representations that were made in awards or
14 the fact that the named plaintiffs were actively supervising
15 the lawyers in the litigation, and any possible sanctions, and
16 I don't -- I'm open-minded myself on all of this, but
17 sanctions -- there could conceivably be disciplinary sanctions
18 for any proven violation of the Rules of Professional Conduct.
19 For example, Rule 3.3(a)(1) of the Supreme Judicial Court's
20 Rules of Professional Conduct adopted by the District Court or
21 incorporated by the District Court, provide that lawyers shall
22 not knowingly make a false statement of fact or law to a
23 tribunal or fail to correct a false statement of material fact
24 or law previously made to the tribunal by a lawyer.

25 In addition, Federal Rule of Civil Procedure 11(b)(3)

1 requires the factual contentions have evidentiary support.
2 So, I regard that within -- that to be within the master's
3 mandate, and then the master is to be authorized to
4 investigate all issues relating to attorneys' fees, expenses
5 and service awards to the plaintiffs in this case.

6 Would anybody like to comment on that sort of
7 amplification on what I wrote in my February 6th order?

8 (No response.)

9 THE COURT: Apparently not.

10 Who will be -- do you know who should be the primary
11 liaison for Judge Rosen as master?

12 MS. LUKEY: Your Honor, I would assume, although we
13 haven't consulted about that, that would fall to me since
14 Labaton was lead plaintiffs' counsel.

15 THE COURT: We'll operate on that assumption, and
16 there may be discrete issues. They should deal primarily
17 directly with somebody else.

18 Then, as I said, I intend to pay -- compensate Judge
19 Rosen and individuals and organizations he employs reasonable
20 rates from the \$2 million being returned to the Court. I hope
21 that will not be needed, but if somehow it is, I'll give you
22 notice and an opportunity to be heard where it should come
23 from. I particularly have in mind that Judge Rosen can retain
24 counsel and possibly an accounting firm or others, and I will
25 monitor who is being employed and what the proposed rates are.

1 Mr. McTigue.

2 MR. McTIGUE: Your Honor, I think with respect to the
3 ERISA firms -- or at least my ERISA firm, that we should have
4 a separate channel to the special master.

5 THE COURT: Yes.

6 MR. McTIGUE: And I would offer my firm.

7 THE COURT: I think that's a valuable refinement.

8 You can talk --

9 MR. KRAVITZ: Can we discuss who --

10 THE COURT: You can discuss --

11 MR. KRAVITZ: -- liaison?

12 THE COURT: Yes, you can discuss who that should be,
13 and I'm ordering by March 13th that you tell me who will be
14 the primary liaison for the ERISA group and who for the
15 institutional group and, as I said, it's foreseeable there may
16 be discrete issues. It doesn't mean Judge Rosen can't deal
17 with everybody or anybody directly, but -- okay. There should
18 be a liaison.

19 MR. McTIGUE: Your Honor, I only offer this one
20 statement, that thus far I think we have injected in my firm
21 the adversarial-ness in the proceedings, and the
22 adversarial-ness has not been joined in, at least my comment
23 on -- my knowledge or comment on Judge Rosen has not been
24 joined in by --

25 THE COURT: This is up to all of you and, in fact,

1 you don't have to designate him, if you say you can't agree,
2 but I just have a feeling -- I'm interested in efficiency, but
3 I -- the adversary process hasn't operated up until this date,
4 and this hearing is very helpful. I do want maximum
5 information. That's how judges and masters performing a
6 judicial role get educated and make well-informed decisions.

7 But, anyway -- I'm sorry. Say your name.

8 MR. SARKO: Lynn Sarko, your Honor.

9 Your Honor, we will confer. There were two ERISA
10 cases that were consolidated. We may end up with having two
11 names instead of one, but we will come to you. We'll try to
12 agree on somebody.

13 THE COURT: That will be fine. I just wanted it to
14 be as efficient as possible, but the process I intend to use,
15 I'm going to have Judge Rosen give me his bills and the bills
16 of people he may employ ex parte under seal. I'll review them
17 and authorize them. This is the process essentially used
18 under the Criminal Justice Act, and then when it's over, I
19 expect that I'll make part of the public record the amounts
20 that were paid.

21 With regard to his powers and responsibilities,
22 they'll be to conduct an investigation, to have the full
23 authority permitted by Rule 53. That includes the power to
24 compel, take and record evidence, to require the production of
25 documents from the law firms and third parties, to interview

1 witnesses, conduct depositions and, if appropriate, hearings,
2 and to use counsel, if he wishes, to assist in the
3 investigation and litigation.

4 As I said in my February 2 order, that he attempt to
5 complete the investigation and submit a report and
6 recommendation in six months, but once you start on these
7 things, you can't be sure how long they will take, but he's
8 assured me that he can devote substantial time and give high
9 priority to this matter.

10 I want to minimize any ex parte communications with
11 me because I'll need to decide any objections to his report
12 and recommendation. So, I intend to limit ex parte
13 communications to what I call administrative matters at this
14 point, fee requests or procedural matters, if there are any.

15 It's conceivable to me there may be a substantive
16 matter that -- well, this is not -- if there's some
17 substantive matter he wants to discuss with me, communicate
18 with me ex parte. That means without the law firms knowing.
19 He'll have to file a motion and explain it. And it's also
20 conceivable to me that there may be some matters that he would
21 serve on the law firms that need to be brought to me, but
22 should be confidential with regard to the public, and there
23 can be a request to make some submissions under seal.

24 Does anybody want to comment on that sort of
25 framework?

1 (No response.)

2 THE COURT: No. Okay.

3 And then I intend to put in my order that since he's
4 performing delegated judicial functions, he should have
5 immunity to the extent I would have. He'll be required to
6 issue a report and recommendation -- well, he'll issue -- he
7 may issue orders during the course of the case. Rule 53 deals
8 with this. If a party objects or has an objection, at least
9 ordinarily it should be made to me within seven days, and I'll
10 require the master respond in seven days. I think the rule
11 gives 21 days, but it sounds too long. And then he'll file a
12 report and recommendation. It will be served on the
13 attorneys. It will be public.

14 Any objections will have to be filed within 21 days
15 pursuant to Rule 53(f)(2). I'll decide any objections to the
16 facts de novo and review the legal conclusions de novo, as
17 required by Rule 53(e)(3) and (4) respectfully --
18 respectively, and if a hearing is necessary or appropriate,
19 I'll conduct a hearing.

20 Does anybody want to be heard on that?

21 (No response.)

22 THE COURT: No.

23 Mr. Sutherland -- who is on the telephone now,
24 please?

25 MR. PEHOUSHEK-STANGELAND: This is James Pehoushek-

1 Stangeland. I'm here.

2 MR. TAYLOR: Bill Taylor is here.

3 THE COURT: Okay. We're getting close to the point
4 -- or at the point where we should try to get Mr. Sutherland,
5 but he can wait a minute on that.

6 I want to ask some questions that I hope will
7 facilitate the master's work. Are the contemporaneous
8 records, billing records, still available?

9 MS. LUKEY: They're maintained firm by firm. I can
10 answer for Labaton that they are, your Honor.

11 THE COURT: Is there anybody who doesn't have them
12 available to be produced if requested by the master? Mr.
13 Kelly?

14 MR. KELLY: We'll make them available.

15 MS. PALMER: Your Honor, because we withdrew in 2013
16 -- actually, our billing stopped in 2012. I need to check our
17 storage facility.

18 THE COURT: Say your name, please.

19 MS. PALMER: I'm sorry. Kimberly Keevers Palmer with
20 Richardson, Patrick.

21 I need to check our storage because we usually
22 destroy some records, but I believe we do have most of them,
23 but because of the time lag, we may not have all of them.
24 They have them in computer form, but some of us hand wrote
25 them on written sheets of paper and then they were transferred

1 into computer form. So, I don't know if we have the
2 handwritten part, but we have the computer part.

3 THE COURT: All right. Thank you.

4 And does anybody foresee an impediment to producing
5 documents requested by the master or responding to questions?
6 Mr. Kelly.

7 MR. KELLY: No, your Honor, not at this time. I
8 think this hearing has been helpful and I don't anticipate any
9 problems with that.

10 THE COURT: Okay. Because if there are foreseeable
11 issues that would be a problem, I'd like to know about them or
12 if they emerge, as soon as possible and see how they might be
13 resolved.

14 I have some -- evidently, in response to the -- I was
15 told in response to media inquiries, but in response to the
16 inquiries I assume the Boston Globe was making, I got the
17 November 10 letter, but are there any other corrections or
18 clarifications of anything that was represented by anybody
19 that should be made?

20 MR. KELLY: Your Honor, we don't have a final note,
21 but I know one of the issues driving the Court's opinion is a
22 concern, justifiable, that the hours worked were actually
23 accurate, and the Court in its opinion did highlight Mr.
24 Michael Bradley, and I can say that while we -- we haven't
25 done an exhaustive search of every billing record that we

1 could get, to date it actually appears that he worked more
2 hours than was submitted to the Court. So, at least with
3 respect to that, I think we can represent his hours that were
4 represented in the affidavit to the Court were actually
5 slightly below what the contemporaneous records show.

6 And just so the Court knows, the contemporaneous
7 records are in various formats, like other counsel has
8 mentioned. It's not just time sheets like a traditional firm
9 that doesn't bill on a contingency basis. So, the records
10 exist. With respect to Mr. Bradley, there's a lot of emails
11 that show the time that was submitted and --

12 THE COURT: What were you saying about the records?

13 MR. KELLY: They're in different formats. It's not a
14 time sheet at the end of the day for every billing, but the --

15 THE COURT: There's not a time sheet?

16 MR. KELLY: There's a calendar that we can see where
17 there's an eight-hour event here or there's an email back and
18 forth showing how many hours. So, it's not just one format,
19 but they are taken together contemporaneous records that we
20 believe will, in fact, verify the hours submitted.

21 And the only thing I can represent to the Court now
22 is that Michael Bradley's hours, which seem to be not the only
23 focus, of course, of the opinion, but a serious concern to the
24 Court, the hours appear to be more than was claimed.

25 THE COURT: I was going to ask Mr. Bradley this, but

1 did Mr. Bradley have an association with the Thornton firm?

2 MR. KELLY: For the purposes of this case, he did.
3 He assisted in many respects, and I think -- you know, it's
4 been, I think unfairly, suggested his rate was 53 bucks an
5 hour. That's with a state capped rate. He has various rates
6 for various matters, and I think there was, in fact, one
7 matter before this case he charged \$450 an hour. I know -- I
8 don't want to get too far into the weeds. I'm sure the
9 special master --

10 THE COURT: No. This actually is something I was
11 hoping to get some feel for myself. So, I think it's
12 appropriate. In fact, I was going to ask Mr. Bradley if
13 there's anything that he -- do you represent Michael Bradley?

14 MR. KELLY: I do not, but I have done -- as I said,
15 we've looked into this on behalf of the firm, but I don't
16 speak for him.

17 THE COURT: I was going to ask some other questions
18 before this. I asked the general questions. This is helpful.
19 Mr. Bradley, Michael Bradley?

20 MR. M. BRADLEY: Yes.

21 THE COURT: Did you see that it was represented to me
22 that you worked, I think, 406 hours in this case -- on this
23 case?

24 MR. M. BRADLEY: That's accurate, Judge.

25 THE COURT: Is that correct?

1 MR. M. BRADLEY: That's correct, Judge.

2 THE COURT: And I was also told with regard to
3 everybody who is on that Thornton list, the rate attributed to
4 them. The rate for you is \$500 an hour. Is what the firm
5 regularly charged for that lawyer? Has that been charged by
6 the Thornton firm before to paying clients?

7 MR. M. BRADLEY: Judge, not before this matter.

8 THE COURT: Not before this matter?

9 MR. M. BRADLEY: No.

10 THE COURT: Have you been charged by the Thornton
11 firm, you know, since this matter at that rate?

12 MR. M. BRADLEY: Post statement, no, Judge.

13 THE COURT: What did you do with those 406 hours,
14 generally?

15 MR. M. BRADLEY: Judge, regarding those hours, I
16 reviewed documentation that was submitted to an online
17 platform. I believe it was called Callis (phonetic). I
18 received a user name and log-in. I was able to log in and
19 view various documents from emails to request for proposals
20 over the course of years, approximately, Judge, from March of
21 2013 to June of 2015, at which time I believe tentative
22 agreements were in place, and I was told to conclude. So, I
23 did keep my notations from that. I did regularly update the
24 Thornton Law Firm as to what I was doing. I did have some
25 correspondence --

1 THE COURT: Speak into that microphone, please. As I
2 said, I'm having a little trouble with my ears.

3 MR. M. BRADLEY: I did have correspondence with
4 members of the Thornton Law Firm to update as to what my time
5 had been. In addition, Judge, in the unique platform that
6 they had, there were certain comments you can make as to the
7 relevance or irrelevance of particular documents. So, I did
8 that over the course of two years.

9 THE COURT: And is this the only matter that you
10 worked on for the Thornton Law Firm?

11 MR. M. BRADLEY: No. Judge, in previous years I
12 worked on some probate matters for the Thornton Law Firm. In
13 addition, occasionally I would get a referral for a defense
14 case out of that firm.

15 THE COURT: Do you know what the law firm charged for
16 your time, say, on a probate matter?

17 MR. M. BRADLEY: Judge, on one occasion I believe I
18 charged \$250 an hour. On another occasion I charged \$300 for
19 what accounted for probably less than an hour's worth of work
20 for a voluntary petition for administrative -- for the
21 administration of --

22 THE COURT: Were those matters that you billed
23 through the Thornton firm or were these matters that were
24 referred to you?

25 MR. M. BRADLEY: Those are matters that I billed -- I

1 had a separate agreement with the clients that were members of
2 a class action group that the Thornton Law Firm handled. In
3 addition, I had a separate fee agreement. It was understood
4 that the fee would come out of the funds that were held in
5 escrow at the Thornton Law Firm. So, essentially, the fee was
6 ultimately paid by the Thornton Law Firm with the approval of
7 the client.

8 THE COURT: Did you ever charge as much as \$500 an
9 hour for your services?

10 MR. M. BRADLEY: I charged as much as \$450 an hour
11 prior to this case, Judge, or at the same time, approximately.

12 THE COURT: And do you have records reflecting that?

13 MR. M. BRADLEY: I do have some records reflecting
14 that, Judge.

15 THE COURT: And in that 2013 to 2015 period, did you
16 work on other cases that didn't have anything to do with the
17 Thornton Law Firm?

18 MR. M. BRADLEY: Absolutely, Judge. I worked on
19 many, many criminal cases, again, Judge, in my private
20 practice. I take, as everybody knows, some cases that are
21 appointed by the Court system for a member of the Norfolk Bar
22 Advocates is capped at \$53 an hour. I also charge flat-rate
23 cases, Judge, that range in the many thousands of dollars.

24 THE COURT: And do you have daily time records for
25 the other cases on which you worked?

1 MR. M. BRADLEY: Judge, I have daily time records for
2 the cases for the Thornton group. I have some time records on
3 the \$53 an hour, the state-appointed cases. I have
4 submissions that are made in response to requests for payment
5 and those records certainly --

6 THE COURT: And if the master wants to see those
7 records in some way that takes care of any privilege, would
8 you make them available to him?

9 MR. M. BRADLEY: I would, of course, make available
10 any records that he requested.

11 THE COURT: Thank you. Let me ask this to try to get
12 a feel for this, because I'm sure you've given a lot of
13 thought to it. This question is for the -- essentially, for
14 the Thornton firm. How did the 9,000 hours get double
15 counted? Why did that happen?

16 MS. LUKEY: Your Honor, while this is still under
17 review as they attempt to figure it out, it appears in the
18 case of the special attorneys, the SA's, they were all
19 employed by Labaton. By agreement with Thornton, though,
20 Thornton was taking over a share of the costs, as was the
21 arrangement among the parties to keep the cost more or less
22 consistent with their fee allocation agreement.

23 It appears that because the system was put in place a
24 little later than the beginning of the case, there was a
25 breakdown in the communication that is supposed to occur in

1 the accounting department to reflect that even though the time
2 records were being entered into the Labaton system because
3 they were Labaton employees -- these are not agency employees.
4 They're regular attorneys who aren't on partnership track --
5 it was entered into their system and there was a
6 miscommunication or a dropped communication in which the
7 accounting department neglected to tell the partner who was in
8 charge of drafting and putting together the fee petitions.

9 So, Labaton has hourly billable rates for all of the
10 attorneys, including the SA's, and they're established and
11 reviewed each year through public filings to make sure that
12 they're consistent with the level of experience and time out
13 of school, and so forth, used in the Court system accepted
14 regularly. They are -- because Labaton ten years ago became
15 completely a contingent fee firm representing large
16 institutions, those hourly rates, which are consistent, unless
17 a special negotiation occurs with a client, appear in the fee
18 petition, but they are not changed depending on the particular
19 case. They are the standard rate for each of the attorneys.

20 THE COURT: Wait a minute.

21 MS. LUKEY: So, what happened was they ended up --

22 THE COURT: Hold on just a second, please.

23 (Pause.)

24 THE COURT: Okay. I have the declaration of Lawrence
25 Sucharow. It's Document No. 104-15. In Paragraph 7 -- let me

1 ask Mr. Sucharow. Paragraph 7 says, "The hourly rates for
2 attorneys and professional support staff in my firm, included
3 in Exhibit A, are the same as my firm's regular rates charged
4 for their services which have been accepted in other complex
5 class actions."

6 MR. SUCHAROW: That's correct, your Honor.

7 THE COURT: Would those rates attributed to the
8 lawyers ever charged to paying clients?

9 MR. SUCHAROW: We don't have paying clients, your
10 Honor. Eight years ago we broke away from a combined billable
11 and contingent firm. Most firms in our field do not have
12 billable clients. We took out -- we used to say what your
13 Honor thought had said, which was charged to billable clients.
14 We took that out. That's intended to reflect that we don't
15 have billable clients. What we do, however, is we report
16 rates to various institutions when asked what are the rates
17 for the people, because -- for example, we can take a case.
18 We can negotiate a fee up-front of 18 percent, and we would
19 say to the client, Well, what if that doesn't even cover
20 lodestar? And they would say, Well, we're prepared to support
21 a fee that would cover lodestar. What are your rates? And we
22 would have to provide rates.

23 So, we kept up the same process that we've always
24 done, which is to solicit that information which is available
25 in the industry, including defense firms, as to what they

1 charge for the same type of person, but, in essence, if the
2 rule were that you could only charge what you've charged to a
3 billable client, we would all be out of business years ago.

4 THE COURT: The rule is -- and it descends from the
5 Supreme Court, and there are a lot of -- there are several
6 Southern District cases that address this as well. The rule
7 is that the -- as I understand it, the lodestar should be
8 calculated on the rates charged for comparable lawyers
9 rendering similar services in the community, and this is my
10 present understanding. I say this because I can be educated
11 and the master can be educated, and what a firm actually
12 charges for that particular lawyer is evidence of a reasonable
13 rate. Theoretically, that's an arm's-length negotiation
14 concerning it, but, as you know, I read Paragraph 7 where you
15 say the hourly rates are the same as my firm's regular rates
16 charged for their services which have been accepted in complex
17 class action litigation.

18 MR. SUCHAROW: I would point out, your Honor --

19 THE COURT: Something other than you're explaining to
20 me now?

21 MR. SUCHAROW: I'm sorry about that. This is the
22 language we used in all the fee petitions since then, and if
23 you don't have hourly rates charged -- because in an hourly
24 practice, the only thing you can do is to try to determine
25 what other firms charge and what has been accepted.

1 THE COURT: I don't make decisions based on what's in
2 the newspapers, but, evidently, that prompted your letter,
3 which I appreciate getting.

4 MR. SUCHAROW: I'm sorry. What prompted our letter
5 was the identification of the miscalculation, what's been
6 called double counting. We don't countenance that. I'm very
7 embarrassed by it, and it would be what I used to call back in
8 the day "law office failure." I personally don't know where
9 the failure occurred. There's an investigation going on.
10 We'll have it available for the special master, but I've been
11 walled off because I signed the declaration and your Honor
12 directed me to be in court today because I might have to
13 testify.

14 THE COURT: Did Thornton actually pay some of the
15 special attorneys?

16 MR. SUCHAROW: They reimbursed Labaton monthly.

17 THE COURT: They did?

18 MR. SUCHAROW: Yes.

19 THE COURT: And it was reported that the special
20 attorneys were paid \$25 to \$50 an hour; is that right?

21 MR. SUCHAROW: I am not sure. That sounds correct.
22 We've discussed within the firm what to pay based on
23 experience.

24 I would point out, your Honor, because a lot of this
25 is blown out of context, if you take an associate at \$125,000

1 a year and expect them to bill 2200 hours, which is not
2 unusual, and they put in another 200 of pro bono work, it
3 works out to \$50 an hour.

4 So, we simply could have paid somebody -- made them
5 annualized. We have these attorneys, some of them have been
6 there 15 years. They're just not on a partnership track,
7 basically. Some of them are very experienced in accounting
8 and other things. If we have another matter that we can put
9 them on, we do. I guess our biggest error is calling them
10 staff attorneys and paying them hourly, but if they were
11 converted to paying them hourly, I should say, if they were
12 paid annually, we wouldn't be having this discussion.

13 THE COURT: Is it your understanding that what has
14 been called here "special attorneys," people who do document
15 review, as I understand, primarily exclusively are billed by
16 other firms -- and are paid in that \$25 to \$50 range are
17 billed by other firms to their paying clients at \$450 an hour?

18 MR. SUCHAROW: Only by inference. We know what other
19 class actions -- we can only get public data. So, we look at
20 other fee petitions by other firms that practice in our field
21 and see what they've put in for them. We looked at bankruptcy
22 counsel because they have to file a public petition as well.
23 Gives us a little bit of an insight into the defense firms.
24 So, I can't answer directly what they charge private clients.
25 It's only what they say they're charging private clients.

1 THE COURT: Mr. Paine, you represent the defendant in
2 this case and produced a lot of documents, right? Is that
3 correct?

4 MR. PAINE: Yes.

5 THE COURT: Did you use what -- have you read the
6 papers in this case?

7 MR. PAINE: Yes, I have.

8 THE COURT: They say -- defense counsel say they
9 employed special attorneys essentially to do document review.
10 Did you use attorneys -- special attorneys that way?

11 MR. PAINE: We used -- in this set of cases we used a
12 different model than they used. So, we used a contractor
13 model. So, our client has a preferred provider arrangement
14 with a firm that supplies temporary employees, temporary
15 lawyers, to do what we call first-level document review.
16 After which -- so, basically, to simplify it -- and it doesn't
17 do justice to their experience and the actual effort that
18 they're putting in, but they're basically taking millions and
19 millions of documents and dividing them into two piles: The
20 pile nobody is ever going to go look at again and the pile
21 that has sufficient relevance according to the way that we've
22 trained them, that they're going to be looked at again.

23 So, the special -- so, no, we didn't -- there are no
24 Wilmer Hale special attorneys that worked on this case.
25 There's a firm in town that -- they're like a personnel firm.

1 They provide space and a platform and they run these attorneys
2 in and we train them. Then the pile that gets looked at
3 further our regular tenure track attorneys look at and then we
4 do stuff with them.

5 THE COURT: Those contract lawyers, did Wilmer Hale
6 pay them?

7 MR. PAINE: They were paid directly by the client.

8 THE COURT: They're paid directly by the client?

9 MR. PAINE: Yes.

10 THE COURT: Do you know approximately what they get
11 per hour or per week or per year?

12 MR. PAINE: Yes. They get \$35 an hour.

13 THE COURT: They get what?

14 MR. PAINE: \$35 an hour.

15 THE COURT: \$35 an hour. So, the cost to your client
16 -- the cost to your client -- paying client for such services
17 was about \$35 an hour -- well, do you know what your client
18 was charged?

19 MR. PAINE: That's what the client was charged.

20 THE COURT: 35?

21 MR. PAINE: Now, they have -- they're a great big
22 company and they have a -- other people for smaller cases, and
23 less consistent relationships would pay more for the same
24 services, but if you're going to have a company that has
25 multi-million document reviews more than once, then you can

1 get a better deal.

2 THE COURT: So, basically, the client, you seem to be
3 telling me, in your experience essentially pays the actual
4 cost?

5 MR. PAINE: There's basically three ways clients can
6 do the first-level document review. They can hire somebody
7 themselves, in which case they absorb all the costs and they
8 pay whatever they pay. They can have our regular lawyers do
9 it, in which case they get charged the same as if they were
10 researching in the library, or whatever, or we have a back-
11 office facility in Dayton, Ohio that hires off-track employees
12 that are permanent employees and they can hire them.

13 THE COURT: Do you have a sense of what those Dayton
14 off-track lawyers get paid?

15 MR. PAINE: \$75 an hour.

16 THE COURT: \$75 an hour?

17 MR. PAINE: Yes.

18 THE COURT: Are clients --

19 MR. PAINE: The reason that they're in Dayton --

20 THE COURT: What do you charge --

21 MR. PAINE: Pardon me?

22 THE COURT: What are you charging paying clients for
23 them?

24 MR. PAINE: I don't know. Actually, I have no idea
25 what the Dayton lawyers are paid, but we charge our clients

1 \$75 an hour for them, and the reason that they're in Dayton is
2 everybody in Dayton makes a whole hell of a lot less money
3 than Boston.

4 THE COURT: Less expensive.

5 MR. SUCHAROW: Two comments, if I might.

6 THE COURT: Sure.

7 MR. SUCHAROW: Our special attorneys, as we're
8 calling them, perform both functions. They don't just stop at
9 segregating one big pile into two smaller piles. They also
10 assist in deposition, pulling those documents that are
11 important, educating us about what's important. We don't have
12 as big a permanent staff as Wilmer Hale, with all due respect.
13 So, we have to rely on them more, your Honor.

14 There are two methods that are available. Both have
15 been accepted by the Court. One is we can go to an agency and
16 say, Hey, you got some attorneys lying around that we can use?
17 The agency then pays them -- maybe they bill us \$50 an hour
18 and the agency pays them like \$30 an hour.

19 They're not very happy people. They're not easily
20 managed. We used to use that in the past. We found that not
21 to be acceptable. It's not producing the optimal result.
22 Just like in the future, we look to that computer technology
23 which many firms are turning to and not using special
24 attorneys as much, but right now that's the best alternative.

25 THE COURT: Let me ask Garrett Bradley, and maybe it

1 can be a little shorter, essentially, the same question.
2 Unless you're concerned that I'll listen to Mr. Kelly, but the
3 Docket No. 104-16 is the same language. It's, "The hourly
4 rates for the attorneys and professionals, support staff in my
5 firm, included in Exhibit A, are the same as my firm's regular
6 rates charged for their services which have been accepted in
7 other complex class actions," and then it showed the so-called
8 special attorney fee charged at \$425 an hour. Were those
9 attorneys employed by Thornton?

10 MR. G. BRADLEY: They were not, your Honor. The
11 affidavit that was sent by lead counsel was an affidavit
12 requested to be used by our firm and other firms. In there --

13 THE COURT: Well, you signed the affidavit.

14 MR. G. BRADLEY: I did, your Honor, and within that
15 affidavit is a listing of all the staff attorneys which are
16 not housed at our firm. The rate that we applied to those
17 individuals was the rate determined based on the *Mellon* case,
18 which we had worked on in that particular time, and the rates
19 of the staff attorneys --

20 THE COURT: Was that a class action?

21 MR. G. BRADLEY: It was, your Honor. Same theory
22 against Mellon Bank's foreign exchange, settled about a year
23 earlier. We did not house nor pay for staff attorneys in that
24 case, but our co-counsel in that matter -- in that case the
25 staff attorneys were billed at \$425 an hour, which is how that

1 got on to our --

2 THE COURT: The Court was told that was their billing
3 rate.

4 MR. G. BRADLEY: That is what the rate was that the
5 Court approved in that case.

6 THE COURT: Had you ever charged any of those
7 individuals, paying client, at \$425 an hour?

8 MR. G. BRADLEY: We don't have paying clients, your
9 Honor. The individuals that are housed in my firm that are
10 listed on the fee application, myself, Mr. Thornton, Mr.
11 Lesser, Mr. Hoffman and I believe Mr. Kinder, all worked on
12 the *Mellon* case and those are the rates that we paid that were
13 billed in that particular matter and approved by the Court.

14 The staff attorneys that were listed on there that
15 under -- Paragraph 4 in my affidavit where it states that we
16 paid them is a mistake, your Honor. Those individuals were
17 actually housed at Labaton Sucharow or Lief Cabraser. We had
18 not used those before. That paragraph, quite frankly, should
19 have been clarified by me at that time. It was not. But
20 those individuals -- those types of individuals have been
21 billed out at those rates before, but not by my firm.

22 THE COURT: And you represented that Michael Bradley
23 is your brother?

24 MR. G. BRADLEY: Yes, your Honor.

25 THE COURT: Your firm's regular rate charged for

1 Michael Bradley's services was \$500 an hour?

2 MR. G. BRADLEY: Yes. Mr. Michael Bradley, when he
3 started on the case in May of 2013 -- we are a small firm.
4 The agreement with him was he was not going to get paid as he
5 went. He would agree to get paid if we were successful at the
6 end of the case.

7 Prior to starting the case, I inquired of him what
8 his most recent billable rate is, because he had various
9 structures, including \$10,000 criminal case where the hourly
10 rate may end up, depending on the work, at \$1500 an hour. He
11 indicated to me at that time he was billing out on a state
12 case at \$450 an hour. We had a discussion at that time that
13 most likely \$500 would be appropriate since he was going to
14 carry that on his books for several years, which he did.

15 The actual billing of my firm for him previously --
16 he had worked on -- and I think he was explaining it. We have
17 a complex class action case involving asbestosis. We had one
18 that went for ten years up to the Supreme Court and came back.
19 There were many individuals that had died in that process.
20 The amount of claims to those individuals would be small,
21 \$1500, \$1200. So, to try to get people within the family to
22 go and get a voluntary prorate, we worked on an arrangement --
23 the voluntary prorate could take anywhere from a half hour to
24 45 minutes. We worked out a flat fee of \$300 an hour at that
25 point for Mr. Michael Bradley to work on those cases and then

1 he would put that as an expense in the case and then we would
2 take it out of the settlement if the people would actually go
3 and sign the release.

4 THE COURT: I'm not putting my handwriting on it. It
5 may be in the memorandum rather than the affidavit, but I was
6 told that the lawyers were billing at their current rates,
7 which I understood to mean if their rates had gone up -- the
8 rates that were charged to paying clients had gone up in those
9 several years. You're using the current rate, which the
10 jurisprudence judges, including me, have found is often
11 appropriate in making a fee award, say, in a 1983 case,
12 because somebody has had to wait to get paid, but -- this is a
13 helpful clarification and I hope this gives you a chance to
14 explain things to me.

15 MR. G. BRADLEY: It does, your Honor.

16 THE COURT: It may be beyond me. As I say, it may
17 facilitate the master's work, but I understood the
18 representations made by all the firms, that these are the
19 rates we charge our paying clients. I think the other
20 affidavit along these lines is Mr. Chiplock's.

21 MR. G. BRADLEY: If I may just finish, your Honor.
22 One point to clarify.

23 THE COURT: Sure. Go ahead, yes.

24 MR. G. BRADLEY: I think there are -- I think if -- I
25 reread all nine petitions. I believe two of the petitions

1 change the form that had come out from lead counsel and put in
2 that they charge that rate -- the particular rates to paying
3 clients, because they actually had paying clients. That is
4 not us, which is why you have the language here. And,
5 admittedly, your Honor, the language here, we should have been
6 clearer in this and that fault lies with me in that particular
7 paragraph.

8 I also want to point out one thing regarding the
9 records. We have a Master Excel spreadsheet, which we're
10 happy to turn over to Judge Rosen once he's appointed. That
11 Master Excel spreadsheet goes back to work in this case back
12 to 2008. We have backup for that information. It does go --
13 you know, it goes back to 2008. So, there may be some gaps in
14 the backup to the backup. I just want to alert the Court now
15 as we pull that information together.

16 THE COURT: You can respond, Mr. Sucharow.

17 But did you think that people were charging their --
18 well, I'll ask you first. Did you think that other firms were
19 paying similar lawyers to do similar work as much as \$450 an
20 hour?

21 MR. G. BRADLEY: Within the -- the lawyers that are
22 housed and on tenure track and actual employees were paid a
23 yearly salary, and then there was the group of attorneys that
24 were staff attorneys, which the three firms had agreed there
25 would be a cost sharing to, and my understanding was that

1 those are the rates that our three firms generally were paying
2 for those type of attorneys.

3 There was a discussion at the time as to what to use,
4 and then our firm and, I believe, the Lieff firm used the same
5 rates that were used within the *Mellon* case, but everybody
6 understood that those were the rates that were going to be
7 applied to the type of work being done by that group of
8 people.

9 THE COURT: The type of rates that were going to be
10 attributed for the purpose of making an application for
11 attorneys' fees?

12 MR. G. BRADLEY: For the work that was being done by
13 the attorneys doing the staff attorney work.

14 THE COURT: Let me ask Mr. Chiplock essentially the
15 same question. Paragraph 5, Document No. 104-17, your
16 declaration, "The hourly rates for the attorneys and
17 professional support staff in my firm, included in Exhibit A,
18 are the same as my firm's regular rates charged for their
19 services which have been accepted in other complex class
20 actions."

21 Did you ever charge attorneys on your Exhibit A at
22 that rate, at the reflected rates for paying clients -- to
23 paying clients?

24 MR. CHIPLOCK: The answer is yes, your Honor, we do
25 have some paying clients. We have had some paying clients for

1 whom we have billed out document review work done by attorneys
2 at this level. We call them staff attorneys or contract
3 attorneys, depending on the year, but we have had two or three
4 cases where we've had paying clients who have paid close to
5 market rates or the actual market rates that are listed in my
6 declaration.

7 MR. HEIMANN: If I might add, your Honor.

8 THE COURT: Okay. Say your name, please.

9 MR. HEIMANN: Richard Heimann, counsel for Lieff
10 Cabraser.

11 We meant the same thing that has been described to
12 you by the language that was in that declaration. We did not
13 intend to represent by that declaration that we had actually
14 paid -- paying clients those rates. It turns out we did in a
15 handful of cases, but like Mr. Sucharow's firm and the
16 Thornton firm, we have -- their case they have none. We have
17 only a handful of paying clients over the years. We're almost
18 entirely a contingent fee firm, very sensitive to what the
19 appropriate rates are for all levels of attorneys within the
20 firm, including the attorneys who performed the services that
21 are in question here.

22 THE COURT: When you say -- there's a large body of
23 jurisprudence on this, as I say. I just cited a couple of
24 cases -- well, I know I just cited a couple of cases beginning
25 with the Supreme Court. I have since read some of the

1 relatively recent Southern District of New York cases that
2 have raised some of these issues, but I think the
3 jurisprudence in those cases are like *Weatherford*, 2015
4 WestLaw 127847; *Citigroup*, 965 F.Supp.2d 369; another
5 *Citigroup*, 988 F.Supp.2d 371; *Beacon Associates*, 2013 WestLaw
6 2450960; *City of Pontiac*, 954 F.Supp.2d 2013.

7 I think the jurisprudence indicates that the rates --
8 the lodestar is supposed to be calculated on what lawyers are
9 charging to paying clients in the community, however it's
10 properly defined, not -- I think probably many other judges
11 made the same mistake -- well, have understood the
12 representations made the way I have for many years when we try
13 to do that lodestar reasonableness check.

14 MR. HEIMANN: Well, sir, I'm not prepared, obviously,
15 to address the specific cases that your Honor has referred to.
16 I think the jurisprudence does support the position we're
17 taking. This is a matter we'll take up with the special
18 master when we have the opportunity to present fully under the
19 full context.

20 THE COURT: What I'm trying to do both for the master
21 and for you is to let you know what my present state of mind
22 is, what my concerns are, so what emerges from this process
23 can be as helpful to me and focused and maybe as efficient as
24 possible.

25 There are representatives of each of the named

1 plaintiffs here.

2 (Pause.)

3 THE COURT: Excuse me. I've got too many pages.

4 Mr. Hopkins?

5 MR. HOPKINS: Yes, your Honor.

6 THE COURT: Mr. Hopkins, I've got your declaration.
7 It is Document No. 104-1, report of final approval and award
8 of attorneys' fees and service awards. Is there anything in
9 there, now that this has come into focus, that you think needs
10 correction, clarification or explanation?

11 MR. HOPKINS: In terms of my declaration, I don't
12 think so, your Honor.

13 THE COURT: Okay. And I've got another case with the
14 Arkansas Teacher's Retirement System next week. Maybe I'll
15 see you again. What is Arkansas Teacher's Retirement System?

16 MR. HOPKINS: Arkansas Teacher's Retirement System is
17 a system that has about 45,000 retirees. We pay about \$85
18 million a month in retirement benefits from Pocahontas,
19 Arkansas throughout every small municipality and glad spot in
20 the road. We have about 75,000 active members. We have
21 approximately \$15.5 billion in a trust fund and we provide
22 retirement benefits to all the school employees of the State
23 of Arkansas, along with educational institutions, your Honor.

24 THE COURT: And how did you come to be a plaintiff in
25 this case?

1 MR. HOPKINS: Well, in the fall of 2010, your Honor,
2 I read about State Street having some issues with California
3 retirement plans. Later in the fall I saw State Street had
4 settled a case with the State of Washington, and I started
5 trying to read all I could about it and I read all of the
6 documents. State Street is our custodial bank. I tried to
7 read documents that we had. I called our financial -- our
8 general financial consultant to ask if other of their clients
9 were -- they're not a law firm. They're financial
10 consultants. Asked if any of their other -- I'll call them
11 "clients" -- was having inquiries. And they said no. And in
12 Arkansas we believe that somebody who takes money from a
13 retired teacher, we want it back and that's sort of our
14 attitude.

15 THE COURT: Who is your lawyer in this case?

16 MR. HOPKINS: Labaton Sucharow. In Arkansas we
17 pronounce it a little differently.

18 THE COURT: My wife is from Tennessee. It sounds
19 good to me.

20 MR. HOPKINS: She'll understand me better than you do.

21 So, we have some firms that we have on general
22 availability monitor, you know, generally our security
23 systems. This was a different kind of case, and I called up
24 about three of them said, Are you all doing any research on
25 this? All of them said no. And I said, Well, I would like

1 you to. Generally, in these cases, your Honor, I get a call
2 from a law firm. In this case they got a call from me because
3 I could smell --

4 THE COURT: You say generally you get a call from the
5 law firm. What do you mean?

6 MR. HOPKINS: Well, that means often if there is a
7 new case that's out there or somebody has filed a lawsuit, you
8 know, one of the law firms or two of them will send me a thing
9 saying here's a little memo. There might be a case that you
10 have \$3 million loss, \$4 million loss, and you may be
11 interested in us looking at it for you.

12 In this case, instead of a law firm that we have
13 on -- I won't call retainer -- under contract to review cases
14 for us, if we have a loss that we may want to pursue. I
15 contacted several of our law firms. The Labaton firm was a
16 firm that agreed to look at it more in depth. So, you know, I
17 actually had a staff member go through to start producing
18 documents. I think ultimately we produced about 90,000 pages
19 of documents. A lot of them were FX kinds of information from
20 our financial --

21 THE COURT: That's helpful. We're running out of
22 time a little bit. Did you review the requests for attorneys'
23 fees in this case?

24 MR. HOPKINS: Well, I didn't review that whole
25 document. You're talking about the lodestar. That is a --

1 that's not a pay grade issue for me to look at all those
2 hundreds of pages.

3 All I'll say is all the lawyers on the East Coast do
4 a lot more than Arkansas, but I'm glad I live in Arkansas
5 instead of on the East Coast, your Honor, but I didn't look at
6 all that, but, you know, essentially, I would -- if I can say
7 this. You may not want to hear it, but I have never seen law
8 firms work as hard, and at times I wanted to apologize to the
9 Labaton firm for getting them in this case, because this
10 fellow right here, State Street, put up one heck of a fight.
11 It wasn't easy. There were times where somebody told me there
12 would be \$300 million settlement. I told them they've been
13 drinking something they shouldn't have been drinking. It was
14 hard work, patience, tenacity.

15 And I will tell you what. My hat is off to the
16 lawyers in this room and my hat is off also to you, because,
17 you know, there was no stone unturned. There was nothing that
18 should have been done that wasn't done, and all those
19 highlights that you got, you know, worked out for us to get
20 the right information, reach the right settlement, and I think
21 the class was well represented by these attorneys, and I'm
22 proud they were attorneys that I managed.

23 THE COURT: Thank you. Mr. Cohn.

24 MR. COHN: Yes, your Honor.

25 THE COURT: I see you're on a cane. You can sit

1 down.

2 MR. COHN: I'm okay right now. Thank you.

3 THE COURT: I have a declaration from you and you're
4 represented by Mr. McTigue and his firm, Document No. 104-7.
5 Is there anything in there that requires any correction or
6 clarification or explanation in your view?

7 MR. COHN: No, your Honor. I think I'm comfortable
8 with that document.

9 THE COURT: How did you come to be a plaintiff in
10 this case?

11 MR. COHN: I had met Mr. McTigue several years ago on
12 a different case and I had provided some documents to him and
13 he asked if I might have some other documents.

14 THE COURT: You met him on another case?

15 MR. COHN: Yeah. Years ago when I got sick, he had
16 helped me on a different case and --

17 THE COURT: Was that a class action or an individual
18 case?

19 MR. COHN: When I first met him, it was through my
20 individual case. My attorney in that had introduced me to Mr.
21 McTigue and this was a different --

22 THE COURT: So, you were a plaintiff in another class
23 action?

24 MR. COHN: No, it was not a class action.

25 THE COURT: What did you do to supervise this

1 litigation, the lawyers?

2 MR. COHN: Well, I communicated often with Mr.
3 McTigue or someone in his office. I had lots of documents I
4 had received that were filed and put in boxes that I had to
5 take out and go through, you know, the communications and
6 sending documents to his law firm.

7 THE COURT: What did you do before you became
8 disabled?

9 MR. COHN: I was a stock options trader with the
10 Chicago Board Options Exchange.

11 THE COURT: Thank you.

12 Mr. Henriquez, you, too.

13 MR. HENRIQUEZ: Yes, your Honor.

14 THE COURT: You are represented by Mr. McTigue; is
15 that right?

16 MR. HENRIQUEZ: I'm sorry?

17 THE COURT: Would you say your name, please, for the
18 record.

19 MR. HENRIQUEZ: Arnold Henriquez.

20 THE COURT: And, Mr. Henriquez, what did you do for a
21 living?

22 MR. HENRIQUEZ: I'm a truck driver for Waste
23 Management, sanitation job.

24 THE COURT: Sanitation?

25 MR. HENRIQUEZ: Sanitation, yes.

1 THE COURT: It's not you, it's me. My ears are not
2 working as well as they usually do.

3 How did you come to be a plaintiff in this case?

4 MR. HENRIQUEZ: It's been a while. Many years ago
5 Mr. McTigue visited my house and started asking me questions
6 about my job, and everything.

7 THE COURT: Asked you questions about what?

8 MR. HENRIQUEZ: About my job. And he asked me about
9 my pension plan or 401k. And I said, yeah, I keep all my
10 documents all the ways up to now. And he asked me if I want
11 to give it to him to review them. And I said, yeah, that's
12 fine, no problem.

13 THE COURT: And what did you do in connection with
14 this case?

15 MR. HENRIQUEZ: What did I do?

16 THE COURT: Yes.

17 MR. HENRIQUEZ: Basically just provide the documents
18 to him.

19 THE COURT: Did you review the fee petition, the
20 request for attorneys' fees?

21 MR. HENRIQUEZ: He sent me a bunch of documents.

22 THE COURT: I'm sorry. Say that again.

23 MR. HENRIQUEZ: I did not review any documents.

24 THE COURT: And, actually, I should have asked that
25 same question to Mr. Cohn. Just sit there.

1 Did you review the requests for attorneys' fees in
2 this case?

3 MR. COHN: Mr. McTigue sent me many documents and I
4 did review them, yes.

5 THE COURT: You did?

6 MR. COHN: Yes. I am not a lawyer, but I did review
7 them. So, my understanding of them, it seemed to make sense
8 to me and I was comfortable with those documents.

9 THE COURT: And, Ms. Wallace, can you say your name
10 for the record.

11 MS. WALLACE: Janet Wallace.

12 THE COURT: Is there anything in your declaration
13 that requires any correction or clarification or explanation?

14 MS. WALLACE: Not at all, your Honor.

15 THE COURT: What did you do?

16 MS. WALLACE: I'm a vice-president at a property
17 insurance company in Andover, Mass.

18 THE COURT: How did you become a plaintiff in this
19 case?

20 MS. WALLACE: My predecessor retired and I got a
21 promotion. So, Allen Colbert was really the person way back
22 when that was involved in this.

23 THE COURT: You're not personally a plaintiff. You
24 represent an Andover company?

25 MS. WALLACE: Yes.

1 THE COURT: What did you do in connection with this
2 case?

3 MS. WALLACE: I was brought up to -- encouraged by
4 prior counsel, Keller Rohrback, after Mr. Colbert retired,
5 which was around the 1st of 2014. I took over his position at
6 the company.

7 THE COURT: Did you do anything after that?

8 MS. WALLACE: I'm still -- I'm still at the company,
9 but I just would occasionally hear from Keller Rohrback about
10 what was going on, and so forth, and I am the administrator of
11 our 401(k) plan. So, I did sign off in January, February,
12 whenever the final service.

13 THE COURT: Did you review the fee petitions?

14 MS. WALLACE: I did not.

15 THE COURT: Thank you.

16 And, Mr. Stangeland, are you still on the phone?

17 MR. PEHOUSHEK-STANGELAND: Mr. Stangeland?

18 THE COURT: Yes.

19 MR. PEHOUSHEK-STANGELAND: Yes, I am.

20 THE COURT: Is there anything in your declaration
21 that needs any correction or clarification or explanation?

22 MR. PEHOUSHEK-STANGELAND: Not at this moment, no.

23 THE COURT: How did you become a plaintiff in this
24 case?

25 MR. PEHOUSHEK-STANGELAND: A friend of mine, Ben

1 Gould, is an attorney with Keller Rohrback and he informed me
2 that he was aware of the State Street case and he said that
3 there was a suspicion that it affected the 401(k) plan, and he
4 put me in touch with -- or he gave me another attorney at
5 Keller Rohrback contact information, telephone number, and I
6 contacted her.

7 THE COURT: And what did you do in connection with
8 this case?

9 MR. PEHOUSHEK-STANGELAND: I provided information on
10 my 401(k) program and reviewed documents that my attorneys at
11 Keller Rohrback had submitted to the Court.

12 THE COURT: And did you review --

13 MR. PEHOUSHEK-STANGELAND: And participated in a
14 phone call with -- oh, I forget. The other side.

15 THE COURT: Did you review the -- any of the fee
16 requests in the case?

17 MR. PEHOUSHEK-STANGELAND: I'm sorry. Did you ask if
18 I reviewed the fee request?

19 THE COURT: Yes.

20 MR. PEHOUSHEK-STANGELAND: Yes. Yes, I did.

21 THE COURT: Thank you.

22 Mr. Taylor, are you still on?

23 (No response.)

24 THE COURT: Mr. Taylor?

25 MR. TAYLOR: Hello.

1 THE COURT: Hi. Are you still on the phone?

2 MR. TAYLOR: Yes. My battery has gone dead. I can
3 hardly hear you.

4 THE COURT: Well, I'll shout and you can shout and,
5 hopefully, we'll hear each other.

6 MR. TAYLOR: It's pretty bad.

7 THE COURT: Mr. Taylor, I have your declaration.
8 It's Document No. 104-11 in this case. Is there anything in
9 there that you think needs to be corrected or clarified or
10 explained?

11 MR. TAYLOR: No. Brian explained everything to me.

12 THE COURT: Who is Brian?

13 MR. TAYLOR: Brian McTigue.

14 THE COURT: And how did you become a plaintiff in
15 this case?

16 MR. TAYLOR: He contacted me about our pension plan
17 through Johnson & Johnson and State Street Bank and I don't
18 know how long it's been, five, six years. I don't know. I
19 don't remember.

20 THE COURT: And what did you do in connection with
21 the case?

22 MR. TAYLOR: I gave him information from my
23 statements from the pension plan.

24 THE COURT: Did you do anything else?

25 MR. TAYLOR: I talked to him a lot about it. That's

1 about it. I let him take care of it.

2 THE COURT: Okay. I think the only other person I
3 intended to question was Mr. Sutherland. Based on the
4 information I have from counsel and his doctor, he's in bad
5 shape. I'll leave that for Judge Rosen. I'll leave Mr.
6 Sutherland with Judge Rosen.

7 I doubt that this is necessary, but I'm ordering that
8 the parties -- or at least the defendant State Street doesn't
9 have to if it doesn't want to, but the parties shall order the
10 transcript of the case -- of the hearing today.

11 Is there anything -- that exhausts my agenda.
12 Perhaps you, too. Is there anything else that would be
13 valuable to discuss?

14 MR. TAYLOR: Are you still talking to me?

15 THE COURT: No. No. In fact, if you want, you can
16 go off the line before your battery dies.

17 MR. TAYLOR: Thank you. My battery is really going
18 dead. Thanks a lot.

19 THE COURT: Mr. Frank, I haven't authorized you to
20 participate generally, but is there anything briefly you
21 wanted to say?

22 MR. FRANK: Very briefly, your Honor.

23 We had four sentences in our February 17th filing
24 about a previous encounter with Lieff Cabraser. They waited
25 until March 6th to file 140 pages, ostensibly responding to

1 that. It's all in our mind irrelevant ad hominem. If you
2 would like an explanation why those attacks are false, I'll be
3 happy to provide them at whatever time you feel appropriate.
4 Otherwise, I don't want to waste your time, your Honor.

5 THE COURT: Thank you. Thank you. Is that the
6 filing that was made yesterday?

7 MR. FRANK: Yes, your Honor.

8 THE COURT: I've read the sur-reply. I didn't read
9 the 140 pages.

10 MR. FRANK: The sur-reply has many false statements.

11 THE COURT: Okay. But this -- is there anything else
12 that somebody -- a party in the case thinks ought to be
13 addressed?

14 MS. LUKEY: Nothing from us, your Honor.

15 THE COURT: I will issue an order memorializing the
16 decisions, but you have the decisions. You have them orally.
17 You have some schedule to follow. I'll issue an order
18 appointing the master, and the case will proceed under his
19 direction.

20 If there are matters that need to be brought to me,
21 they should be brought to me before the report and
22 recommendation, and I'll hear from you again and probably see
23 you again. Court is in recess.

24 THE DEPUTY CLERK: All rise for the Honorable Court.

25 JUDGE ROSEN: Can I just have three minutes off the

1 record?

2 THE COURT: No, we don't do anything off the record.

3 JUDGE ROSEN: This on the record.

4 I'd like to go take three or four minutes of the
5 lawyers to talk about logistics and planning while they're all
6 here.

7 THE COURT: That's fine. Why don't you take one
8 minute with me, because I have to go somewhere. Will counsel
9 wait for Judge Rosen, please.

10 MR. HEIMANN: We will.

11 THE COURT: Court is in recess.

12 (Adjourned, 1:12 p.m.)

13

14 C E R T I F I C A T E

15 I, Catherine A. Handel, Official Court Reporter of the
16 United States District Court, do hereby certify that the
17 foregoing transcript, from Page 1 to Page 108, constitutes to the
18 best of my skill and ability a true and accurate transcription of
19 my stenotype notes taken in the matter of Civil Action No.
20 11-10230-MLW, Arkansas Teacher Retirement System versus State
21 Street Bank and Trust Company.

22

23

24 March 10, 2017
Date

/s/Catherine A. Handel
Catherine A. Handel RPR-CM, CRR

25

EX. 97

David Copley

From: Zeiss, Nicole <NZeiss@labaton.com>
Sent: Wednesday, August 31, 2016 8:57 AM
To: 'bmctigue@mctiguelaw.com'; 'Kravitz, Carl S.'; Lynn Sarko; David Copley
Cc: Sucharow, Lawrence; Goldsmith, David
Subject: State Street - model small fee dec for reporting time and expenses
Attachments: SST - model small fee declaration (1633650_1).DOC

Importance: High

Dear Brian, Lynn/David, and Carl,

Per usual, in connection with the motion seeking fees and expenses, each firm will be submitting individual firm declarations reporting its hours, lodestar, and expenses. Attached is a model for your firms to use. Within the model are some comments giving guidance about the time period, compensable time, reduction of any first class airfare etc.

Also, back when we were working on the expense cap for the notice, your firms provided me with info about expenses, but also the expenses of additional counsel: Hutchings (\$500 in expenses), Beins Axelrod (\$1,400 in expenses), Richardson Patrick (\$7,600 in expenses), Feinberg Campbell (\$1,400). Optically, however, we think it would be beneficial for us to avoid submitting a dozen small fee decs with the motion, when Judge Wolf is most familiar with your 3 firms, us, Thornton and Lieff. We would ask you to consider whether these additional counsel could forgo submitting declarations. Their expenses are minimal, but we don't know about their lodestar. Obviously, the Dec 2013 fee agreement still governs, as would whatever agreements you have with these firms. Please think about it and let us know.

Given that the motions are due Sept 15, we would appreciate seeing draft decs Friday Sept 9 (to make sure we are all consistent), then executed ones Tuesday Sept 13. Early next week, please also send me your rough lodestar so we can get an idea of the multiplier and make sure we have the right discussion in the fee brief.

Best regards,

Nicole

Labaton Sucharow

Nicole M. Zeiss | Partner
140 Broadway, New York, New York 10005
T: (212) 907-0867 | F: (212) 883-7067
E: nzeiss@labaton.com | W: www.labaton.com



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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM,)
on behalf of itself and all others similarly situated,) No. 11-cv-10230 MLW

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)

Defendant.)

ARNOLD HENRIQUEZ, MICHAEL T. COHN,)
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,) No. 11-cv-12049 MLW
and those similarly situated,)

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)
STATE STREET GLOBAL MARKETS, LLC and)
DOES 1-20,)

Defendants.)

THE ANDOVER COMPANIES EMPLOYEE SAVINGS)
AND PROFIT SHARING PLAN, on behalf of itself, and) No. 12-cv-11698 MLW
JAMES PEHOUSHEK-STANGELAND, and all others)
similarly situated,)

Plaintiffs,)

v.)

STATE STREET BANK AND TRUST COMPANY,)

Defendant.)

**DECLARATION OF [XXXXX] ON BEHALF OF
[XXXX] IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

_____, Esq., declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am [a member of] [associated with] with the law firm of [INSERT FIRM NAME] (“[ABREV. FIRM NAME]”). I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses on behalf of all Plaintiffs’ counsel who contributed to the prosecution of the claims in the above-captioned class actions (the “Class Actions”) (from inception through August 30, 2016 (the “Time Period”).

Commented [A1]: We realize that people investigated the claims before this case was filed in 2011 and 2012. A reasonable inception date should be set, which would likely do so before Oct. 2009 when the April 2008 qui tam complaint was unsealed.

2. My firm is _____ [and counsel of record for plaintiff[s] [insert name].
[Supplement to explain role in the Class Actions and give overview of work performed.]

3. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney and professional support staff-member of my firm who was involved in the prosecution of the Class Actions, and the lodestar calculation based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

Commented [A2]: In addition to not billing for fee/expense related time, you should only report lodestar that was directed at your clients in the Class Actions and the claims here, as opposed to other investigative work.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit A are the same as my firm’s regular rates charged for their services, which have been accepted in other complex class actions.

5. The total number of hours expended on this litigation by my firm during the Time Period is _____ hours. The total lodestar for my firm for those hours is \$ _____.

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

7. As detailed in Exhibit B, my firm has incurred a total of \$_____ in expenses in connection with the prosecution of the Class Actions. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed on _____, 2016.

XXXXXXXXXXXXXXXXXXXX

Commented [A]: Expenses should be vetted so that they all relate to the time period, the claims in the Class Actions, and the claims in the Class Actions. All firm class actions should be vetted to economy; working meal reimbursement (including meals with clients) should be reasonable; alcoholic drinks should not be claimed.

EXHIBIT B

STATE STREET INDIRECT FX TRADING CLASS ACTION
 No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

EXPENSE REPORT

Commented [A4]: Please delete any items that don't apply.

FIRM: [NAME]
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2016

EXPENSE	TOTAL AMOUNT
Duplicating	
Postage	
Long-Distance Telephone / Fax / Conference Calls	
Messengers	
Filing / Service / Witness Fees	
Court Hearing & Deposition Transcripts	
Online Legal & Financial Research	
Overnight Delivery Services	
Experts/Consultants	
Litigation Support/Electronic Discovery	
Work-Related Transportation/Meals/Lodging	
Litigation Fund Contribution	
Miscellaneous	
TOTAL	\$0

EX. 98

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 11-cv-10230 MLW

- - - - -x
ARKANSAS TEACHER RETIREMENT SYSTEM,
et al.,

Plaintiffs,

-against-

STATE STREET BANK AND TRUST COMPANY,
Defendant.

- - - - -x

JAMS
Reference No. 1345000011

- - - - -x

In Re: STATE STREET ATTORNEYS' FEES

- - - - -x

June 14, 2017
4:04 p.m.

B e f o r e :

SPECIAL MASTER HON. GERALD ROSEN
United States District Court (Retired)

Deposition of RAY POLITANO, taken by
Counsel to the Special Master, held at the
offices of JAMS, 620 Eighth Avenue, New York,
New York, before Helen Mitchell, a Registered
Professional Reporter and Notary Public.

Page 6
[Redacted text]

Page 8
[Redacted text]

Page 7
[Redacted text]

Page 9
1 Politano
2 Q Did you attend college?
3 A Yes. As I said, I have a
4 bachelor's degree in finance, that's at Baruch
5 College.
6 Q And did you attend any further
7 education after receiving your bachelor's?
8 A No.
9 Q And briefly describe your
10 employment history after graduating college.
11 A Oh, it's a long time ago.
12 Q Okay. In that case, let me
13 stop you and say, you're currently chief
14 operating officer of Labaton?
15 A Yes.
16 Q And have you held that position
17 previously as chief operating officer?
18 A Yes.
19 Q Could you please briefly
20 describe the other institutions for which you've
21 served as chief operating officer?
22 A I was a chief operating officer
23 for Baker McKenzie in their New York office.
24 Q Anywhere else?
25 A No.

Page 10

1 Politano
2 Q Have you held other senior
3 financial positions prior to serving in your
4 current position?
5 A Yes.
6 Q And where have you held those
7 positions?
8 A I was a controller at -- also
9 at Baker & McKenzie, and prior to that I was an
10 accounting manager at Milbank Tweed.
11 Q And as chief operating officer
12 of Labaton Sucharow, briefly describe your
13 duties.
14 A My responsibilities are to
15 maintain the review of the administrative area.
16 I'm in charge of accounting, records, marketing,
17 word processing, all the administrative
18 functions within the firm.
19 Q Specifically with accounting,
20 what processes do you oversee?
21 A Well, I'm the -- I'm
22 responsible for the entire group. I oversee the
23 preparation of the firm's financials. I oversee
24 the distributions that are made to the firm -- I
25 basically oversee most, if not all, of the cash

Page 12

[REDACTED]

Page 11

[REDACTED]

5 [REDACTED]

[REDACTED]

Page 13

[REDACTED]

Page 22

1 Politano
 2 A It was at some point during the
 3 case. I don't remember at what specific point.
 4 Q Was it early in the case,
 5 around 2012 or '13, if you recall?
 6 A I don't recall exactly when
 7 that was.
 8 Q And what specifically do you
 9 recall being conveyed to you about that
 10 arrangement?
 11 A That we needed to bill the
 12 Thornton firm for a number of staff attorneys.
 13 Q Was there any additional
 14 information provided about how those staff
 15 attorneys would be accounted for on a fee
 16 petition down the road?
 17 A No.
 18 Q Did you have any understanding
 19 of whether those staff attorneys would be
 20 reported on the firm's fee petition? "The firm"
 21 being Labaton.
 22 A The common practice was that it
 23 would be on Labaton's fee declaration, but there
 24 was no discussion at that point as to the way it
 25 would be handled.

Page 23

1 Politano
 2 Q And when you say "common
 3 practice," had you provided similar instruction
 4 to accounting to share or allocate costs of
 5 staff attorneys in previous cases?
 6 A Yes
 7 Q Approximately how many times
 8 had you been involved in those arrangements?
 9 A I'm going to estimate maybe
 10 about ten times.
 11 Q And in each of those instances,
 12 did Labaton always put those hours on Labaton's
 13 fee petition?
 14 A Ninety percent of the time.
 15 Q And then the remaining
 16 10 percent, do you recall how the hours for
 17 staff attorneys were accounted for?
 18 A They would have been on the
 19 other firm's fee petition.
 20 Q And as a mechanical process,
 21 how was that allocation to the cost sharing firm
 22 done within the accounting department at
 23 Labaton?
 24 A For that 10 percent?
 25 Q For that 10 percent.

Page 24

1 Politano
 2 A So they would put their time in
 3 directly to that other firm's database.
 4 Q So in those 10 percent cases
 5 that we've referred to, the time was never
 6 reported to Labaton?
 7 A Correct
 8 Q Did Labaton keep track of the
 9 time, if you know?
 10 A I don't know.
 11 Q And would you also have
 12 confirmed directly with the other firm that they
 13 were reporting those hours?
 14 A I would not be doing that, no.
 15 Q Do you know who at Labaton
 16 would be in charge of keeping track of staff
 17 attorney hours in the instances where another
 18 firm was reporting them on their lodestar?
 19 A Well, those -- those staff --
 20 there would be a coordinator from that other
 21 firm coordinating with the staff attorneys that
 22 were at Labaton to send those hours over there,
 23 so we were kind of separated from that.
 24 Q In the State Street case do you
 25 know if new staff attorneys were hired that had

Page 25

[REDACTED]

Page 26

1 Politano
 2 those particular staff attorneys, did any of
 3 them have any particular experience, that you're
 4 aware of, in the area of FX trading?
 5 A Again, I didn't review the
 6 resumes. I wasn't involved at that level.
 7 Q I'm going to talk specifically
 8 about invoices, and invoicing procedures in this
 9 case. And when I say "this case," I mean State
 10 Street.
 11 How were the costs of the staff
 12 attorneys that we've previously discussed
 13 allocated to Thornton? Was that done through a
 14 formal invoicing system?
 15 A Yes. I believe the process was
 16 there would be an invoice for, I'm going to say,
 17 a thousand hours, 500 hours, as a preliminary
 18 number, that would be adjusted when the actual
 19 time would be reported.
 20 Q I just want to break that down.
 21 A Sure.
 22 Q So the preliminary invoice, was
 23 that an estimated cost?
 24 A It was an estimated cost.
 25 Q And how often would those

Page 27

1 Politano
 2 preliminary invoices be sent to Thornton?
 3 A Monthly.
 4 Q And after the estimated costs,
 5 how would the firm calculate the, quote, actual
 6 cost?
 7 A It would be what the actual
 8 number of hours would be, and there would be an
 9 adjustment.
 10 Q And how was that adjustment --
 11 A Through accounting.
 12 Q Did the accounting department
 13 then send an updated invoice to Thornton?
 14 A I think it was just made up on
 15 the other invoice.
 16 Q Okay.
 17 And who within accounting
 18 determined that adjustment between actual and
 19 estimated costs?
 20 A I believe it was between Mike
 21 Rogers and Cindy Ng.
 22 Q Were you asked to approve those
 23 adjustments?
 24 A No.
 25 Q But Cindy would have likely

Page 28

1 Politano
 2 been the person in accounting who oversaw that
 3 process?
 4 A Yes.
 5 Q With regard to the invoices
 6 that were sent to Thornton, do you recall if
 7 specific staff attorneys were identified on the
 8 invoices?
 9 A No, there weren't.
 10 JUDGE ROSEN: Could I ask.
 11 At any time were specific staff
 12 attorneys allocated to Thornton for
 13 purposes of billing, or did it vary
 14 from month to month?
 15 THE WITNESS: I wasn't involved
 16 in the process at the time, but my
 17 understanding since that time is
 18 specific attorneys were allocated to
 19 Thornton.
 20 JUDGE ROSEN: And do you know
 21 how it was determined which attorneys
 22 to allocate to Thornton?
 23 THE WITNESS: I do not.
 24 MR. SINNOTT: Do you know what
 25 the reasoning was for that?

Page 29

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
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 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

Page 38

1 Politano
 2 Do you remember, say, in the
 3 end of 2015, when this annual meeting happened,
 4 who was on the committee?
 5 A Yes.
 6 Q And who was that?
 7 A Lou Gottlieb, Jonathan Gardner
 8 and Mike Stocker.
 9 Q And you mentioned, I believe,
 10 that they compiled information about current
 11 rates; is that correct?
 12 A The committee did not compile
 13 the information. The information was supplied
 14 to the committee.
 15 Q By yourself?
 16 A By -- I have a paralegal
 17 manager, who has a paralegal project putting
 18 together that information.
 19 Q And what sources does your
 20 team, the paralegal you just mentioned and
 21 others, rely on to gather that information for
 22 the billing subcommittee?
 23 A It's a number of sources. It's
 24 Westlaw, Lexis, Law 360, it's fee petitions that
 25 were filed that's available. It's quite a few

Page 39

1 Politano
 2 different sources. Bankruptcy filings.
 3 Q Are they all publicly
 4 available?
 5 A Yes.
 6 Q In this process do you identify
 7 particular firms as competitors or
 8 contemporaries that perhaps are more indicative
 9 of Labaton's practice?
 10 A Yes.
 11 Q And who, to the best you can
 12 remember, would those firms be?
 13 A So it would be Bernstein.
 14 Q Any others?
 15 A As our more direct competitor,
 16 I would say that would be the one I would think
 17 of most. There are a number of other plaintiff
 18 firms included in the report. I'm not sure if
 19 they would be at sort of the same level that we
 20 are in.
 21 Q Can you elaborate on why they
 22 wouldn't be of the same level?
 23 A Well, you mentioned sort of
 24 that -- you know, being a top plaintiff firm.
 25 Q Right.

Page 40

1 Politano
 2 A I think of Bernstein being
 3 alongside, a top plaintiff firm.
 4 Q And these other firms, what
 5 makes them, in your consideration, not at the
 6 same level as Labaton and Bernstein?
 7 A Just a -- bigger cases that had
 8 been settled, things of that nature.
 9 Q When you say "bigger" do you
 10 mean larger settlement amounts?
 11 A Yes.
 12 And that's just from my own
 13 knowledge. The report provides information for
 14 all plaintiff firms, so it doesn't segregate
 15 which ones -- you know, my opinion might be
 16 Bernstein, but it doesn't matter who they are.
 17 Q Does your team also look at
 18 defense firms in class actions?
 19 A Yes.
 20 Q Do you recall off the top of
 21 your head any defense firms that you consider at
 22 the same level as Labaton?
 23 A No.
 24 Q But you do examine those fees
 25 as well?

Page 41

1 Politano
 2 A Yes.
 3 Q Do you look only at New York,
 4 or do you look at other venues?
 5 A We look primarily in New York.
 6 When you obtain that information, you may get
 7 attorneys that may be in other cities.
 8 Q And how would you get
 9 information about other cities? Or on what
 10 occasion would you use other cities?
 11 A In a fee petition there may be
 12 an attorney that we might know resides in a
 13 different city. It's not often -- that doesn't
 14 often happen.
 15 Q You don't have any comparative
 16 jurisdictions that you look at outside of New
 17 York, in other words?
 18 A Correct.
 19 Q Do you look only at firms that
 20 do class action, or do you look at other types
 21 of firms as well?
 22 A So on the plaintiff side it's
 23 primarily class action. I mean, it's
 24 primarily -- it's primarily firms. Don't know
 25 if those firms have other areas of practice that

Page 42

1 Politano
 2 are beyond class action.
 3 Q And for our purposes on the
 4 record, does Labaton have a non-class action
 5 practice, however small it may be, currently?
 6 A Currently today, yes.
 7 Q Just a percentage, if you can
 8 estimate, what percentage of cases are hourly,
 9 as opposed to class action?
 10 A I just want to clarify.
 11 Q Sure.
 12 A So your question was does the
 13 firm have other practice groups beyond class
 14 action?
 15 Q Yes.
 16 A So, yes, we have an antitrust
 17 practice -- yes, we have a number of practices.
 18 Q And maybe let me frame it
 19 slightly differently.
 20 Does the firm take on cases
 21 that are not on a contingency basis? Do they
 22 have a practice where they have hourly clients?
 23 A We have a partner -- we have an
 24 of counsel who works on cases that are not class
 25 action cases, that are billed hourly.

Page 43

1 Politano
 2 Q And do you know what billing
 3 rate is used for those clients?
 4 A It would be the standard rates.
 5 It would be the rates that I mentioned that the
 6 committee puts together.
 7 Q And those are the same -- those
 8 rates are applied in class actions that are paid
 9 on a contingency basis, such as State Street, as
 10 well?
 11 A Correct.
 12 Q And going back to the
 13 compilation of data that you supplied to the
 14 billing rate subcommittee, do you look
 15 particularly at hourly clients, as opposed to
 16 what's charged in a class action suit, or do you
 17 not make a distinction?
 18 A I don't think we have the
 19 information to make a distinction.
 20 Q Would that be significant if
 21 you did have that information available?
 22 A I think it would be comparable.
 23 Should be comparable.
 24 Q You would expect them to be the
 25 same or similar rates, in other words?

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1 Politano
 2 A Yes.
 3 Q When that data is analyzed --
 4 in the interrogatories that the firm responded
 5 to there was a description provided that
 6 suggested part of the analysis involved the
 7 particular title that an attorney has, and that
 8 being indicative of how a rate is determined.
 9 Is that process of using a
 10 title to determine someone's rate a process that
 11 you participated in, in your work?
 12 A In putting it together?
 13 Q Correct.
 14 A I didn't put together the
 15 research, no. But that would be what would be
 16 presented from the paralegals to us.
 17 Q And did you -- kind of on a
 18 more general basis, were you involved in the
 19 decision of which actual numerical rate should
 20 be assigned to which attorney, or did that fall
 21 to other members of the committee?
 22 A That -- it was a collaborative
 23 effort. I personally didn't have any specific
 24 opinion as to what the rates would be. It was a
 25 collaborative effort. It would be a discussion.

Page 45

1 Politano
 2 Q So you would have some input,
 3 though?
 4 A Well, I would have the same
 5 analysis everybody else would. So, yeah.
 6 Q And what consideration did you
 7 give a title when you were looking at the rates?
 8 A Well, you know, when you see
 9 partner rates you know that they're within a
 10 certain range, depending on the number of years
 11 that individual's a partner, and among all the
 12 segments you'd have certain -- you would
 13 particularly see a certain range.
 14 Q Did you look specifically at
 15 staff attorneys at other firms, or contract
 16 attorneys?
 17 A Specifically, no. It was part
 18 of the process.
 19 Q And how, in that practice, did
 20 Labaton assign a rate to a staff attorney, if
 21 they didn't have a comparison at another firm?
 22 A I'm sorry, there was
 23 analysis --
 24 Q Oh, okay.
 25 A -- from other firms, other

Page 66
[Redacted text]

Page 68
[Redacted text]

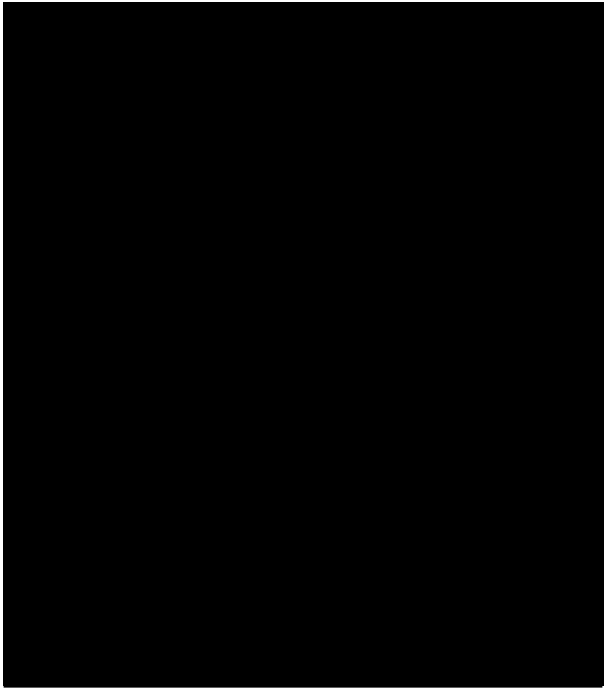
Page 67
[Redacted text]

Page 69
1 Politano
2 I may have misunderstood.
3 What I thought I heard you say
4 was something in response to a question along
5 the lines that if there was someone who should
6 have, you know, made the arrangement to record
7 time on a separate fee petition known, you would
8 have assumed it would have been someone on the
9 litigation team?
10 A Correct.
11 Q Do you recall that testimony?
12 A Yes.
13 Q So just so that we're clear, do
14 you have any reason to believe any partner at
15 Labaton did know ahead of time that Thornton was
16 going to record that time on its own separate
17 small fee petition?
18 A No.
19 Q Just another couple small
20 questions.
21 Do you know of -- first of all,
22 Garrett Bradley, in his role as of counsel, he
23 was listed on the firm's website as of counsel?
24 A Yes.
25 Q And do you know whether the

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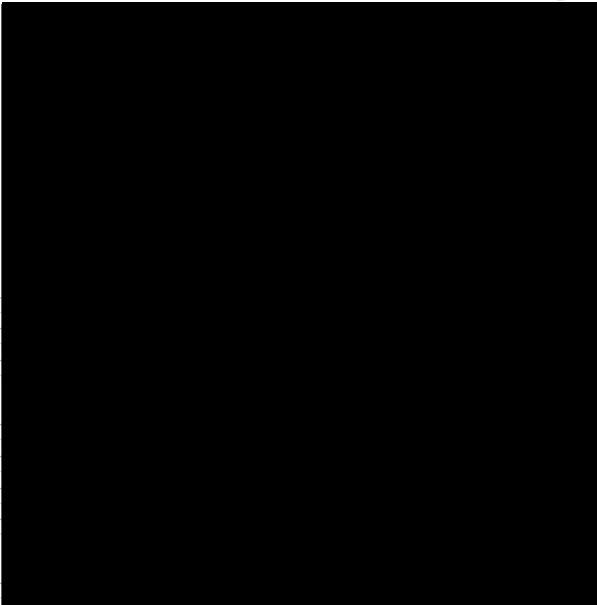
1 Politano
2 firm has of counsel relationships with other
3 attorneys as well?
4 A Other attorneys in different
5 firms?
6 Q Yes.
7 A Yes.
8 Q Like who, for example?
9 A The Philadelphia firm -- I
10 can't remember their --
11 Q Would that be Goldman Scarlato?
12 A Goldman Scarlato.
13 Q Is it your general
14 understanding, Ray, that Garrett's work as of
15 counsel was to assist Labaton in developing
16 clients?
17 A Yes.
18 MR. STOCKER: Thank you.
19 That's all I have.
20 MR. HEIMANN: No questions.
21 MS. HARLAN: No questions.
22 MS. MCEVOY: On the phone?
23 Gary, if you're still on, do
24 you have any questions?
25 MR. GOTTO: No. No questions

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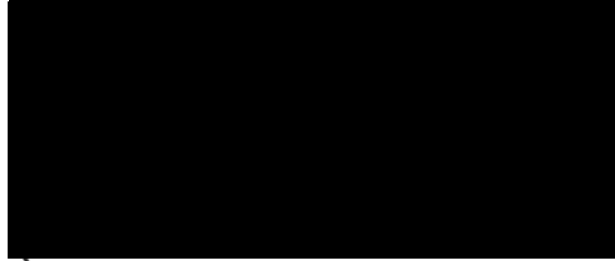
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EX. 99

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,
on behalf of itself and all others similarly situated,

No. 11-cv-10230 MLW

Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

ARNOLD HENRIQUEZ, MICHAEL T. COHN,
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,
and those similarly situated,

No. 11-cv-12049 MLW

Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,
STATE STREET GLOBAL MARKETS, LLC and
DOES 1-20,

Defendants.

THE ANDOVER COMPANIES EMPLOYEE SAVINGS
AND PROFIT SHARING PLAN, on behalf of itself, and
JAMES PEHOUSHEK-STANGELAND, and all others
similarly situated,

No. 12-cv-11698 MLW

Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

**THORNTON LAW FIRM, LLP'S JUNE 9, 2017 RESPONSES TO SPECIAL MASTER
HONORABLE GERALD E. ROSEN'S (RET.) FIRST SET OF INTERROGATORIES**

Pursuant to the March 8, 2017 Memorandum and Order of the Honorable Judge Mark Wolf (the “Order”), and the Federal Rules of Civil Procedure, Thornton Law Firm, LLP (“TLF”) hereby submits its responses to the First Set of Interrogatories of the Special Master, the Honorable Gerald E. Rosen (Retired) (“Special Master”), as revised by the Special Master’s counsel and transmitted to counsel for TLF on May 24, 2017. In those revised Interrogatories, the Special Master prioritized the Interrogatories according to a three-tiered response timeline, with responses due on June 1, 2017, June 9, 2017, and July 10, 2017. TLF has previously responded to the Special Master’s June 1, 2017 Interrogatories. The Interrogatories responded to herein are the ones the Special Master has designated as due for response on June 9, 2017.

Each of TLF’s responses and objections below incorporates the general objections submitted by TLF on May 26, 2017. In making the responses below, TLF relies on information presently known. TLF reserves its right to amend, modify, or supplement the responses herein as additional facts, documents, and/or information are discovered.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 12:

Explain the Firm’s relationship with the U.S. Attorney’s Office, including the local Boston office, and identify and describe any conversations between Thornton and the U.S. Attorneys’ Office relating to the SST Litigation.

RESPONSE TO INTERROGATORY NO. 12:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. TLF notes the Special Master’s May 24, 2017 clarification that this Interrogatory is

limited to conversations relating to the State Street Litigation. Subject to and without waiving its objections, TLF responds as follows:

At the end of May 2015, Garrett Bradley of TLF contacted Justin O'Connell of the U.S. Attorney's Office ("USAO") in Boston to request a meeting regarding the ongoing State Street Litigation. *See* TLF-SST-011171, TLF-SST-011173, TLF-SST-011175. This meeting, attended by Justin O'Connell and Rosemary Connolly on behalf of the USAO, among others, took place on June 2, 2015. *See* TLF-SST-011177. The purpose of the meeting was for TLF and the other Plaintiffs' firms to share information with the U.S. Attorney's Office regarding the status of the ongoing litigation. At the time, counsel for State Street was citing the government's involvement as a roadblock to settling the litigation. TLF, Lieff, and Labaton, each of which had representatives at the meeting, agreed that better communication would be beneficial to the case. In addition to convening the meeting, TLF participated in additional follow-up discussions with Ms. Connolly of the USAO after the meeting.

INTERROGATORY NO. 18:

Describe in detail all agreements between the Firm/Plaintiffs' Law Firms, on the one hand, and the ERISA firms, on the other, to allocate to the ERISA firms a fixed percentage of the total Fee Award rendered by the Court in the SST Litigation. As to any agreement that did not represent the final agreement for allocation of the Fee Award, explain the reason for modifying a previous agreement, including all persons involved in these discussions and their affiliation/firm.

RESPONSE TO INTERROGATORY NO. 18:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

In December 2013, Michael Thornton, Lawrence Sucharow, and Robert Liefv reached agreement with ERISA counsel that 9% of the total Fee Award should be allocated to the ERISA group. *See* TLF-SST-015649, TLF-SST-015758. Near the time of the filing of the Fee Petition in September 2016, Mr. Sucharow proposed awarding ERISA counsel an additional 1% of the fee for their efforts. Mr. Thornton and Mr. Liefv agreed with Mr. Sucharow's proposal.

INTERROGATORY NO. 27:

Explain how you determined the hourly rates charged for Liefv/Labaton Staff Attorneys for whom you shared costs, as reported in the Firm's Fee Petition.

RESPONSE TO INTERROGATORY NO. 27:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF determined the hourly rate charged for Staff Attorneys allocated to Thornton Law Firm and housed at Labaton or Liefv (\$425 per hour) based on consultation with Labaton and Liefv. Liefv indicated to TLF that it had used a rate of \$425 in the BNY Mellon Action (*In re Bank of New York Mellon Corp.*, 12-MD-02335, S.D.N.Y.). *See* TLF-SST-011263.

INTERROGATORY NO. 43:

Explain how Michael Bradley, Esq. became involved in the SST Litigation/Document Review and summarize all communications between the Firm and Michael Bradley relating to his potential involvement in the matter. Please identify all individuals who either participated in these discussions or had knowledge of Michael Bradley's involvement prior to preparing the Fee Petition.

RESPONSE TO INTERROGATORY NO. 43:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. TLF also incorporates its response to Interrogatory No. 28, submitted June 1, 2017.

Subject to and without waiving its objections, TLF responds as follows:

Attorney Michael Bradley became involved in the SST Litigation in 2013, when Garrett Bradley asked him if he was willing and able to review documents. Garrett Bradley asked Michael Bradley to participate on a contingency basis, meaning that he would not be compensated unless and until a settlement was finalized and a fee awarded to TLF. This had the effect of permitting TLF to reduce its upfront cost. Michael Bradley's background as a prosecutor and as the former head of the Massachusetts Underground Economy Task Force made him additionally qualified to potentially provide a unique perspective on the documents he reviewed. Michael Bradley had contact with the following persons at TLF regarding his work on the SST Litigation: Garrett Bradley, Michael Lesser, Evan Hoffman, and Anastasia Maranian.

INTERROGATORY NO. 44:

Explain how the Firm and Michael Bradley agreed that Michael Bradley would receive an hourly rate of \$500/hour as compensation for work he performed in the SST Litigation/Document Review. Please identify all individuals who participated in these discussions and/or had knowledge of the \$500/hour rate prior to preparing the Fee Petition.

RESPONSE TO INTERROGATORY NO. 44:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

In 2013, when Michael Bradley began performing work on the SST Document Review, Garrett Bradley asked him how much he charged per hour for his services. Michael Bradley responded that, while he did not always charge clients on an hourly basis, he had recently charged a client \$450 per hour for his services. Garrett and Michael Bradley agreed that because Michael Bradley would be performing the work on a contingent basis – *i.e.*, he would be paid only if the case resulted in the award of a fee to TLF – a slightly higher rate of \$500 per hour would likely be appropriate.

Later, when preparing TLF's support for the Fee Petition, Evan Hoffman, Michael Lesser, and Garrett Bradley discussed the hourly fee for Michael Bradley's services. Garrett Bradley reached out to Michael Bradley again to confirm the \$500 per hour rate.

INTERROGATORY NO. 45:

Identify and describe all work performed by Michael Bradley for or on behalf of the Firm, other than work performed as part of the SST Litigation, including the nature of that work, the total number of hours recorded, and the hourly rate/total compensation paid to Michael Bradley.

RESPONSE TO INTERROGATORY NO. 45:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

Michael Bradley has performed probate work for clients of the Thornton Law Firm. In August 2016, TLF paid him \$1,689.80 for probate work performed on behalf of four TLF clients, equating to \$422.45 per client. *See* TLF-SST-010704. Over the years, Mr. Bradley has also referred matters to TLF, for which he has received a one-third referral fee from TLF. These

matters include a case referred in 2010, for which he was paid \$12,000 in April 2010; and a case referred in 2012, for which he was paid a referral fee of \$6,333.33 in September 2012. *See id.*

INTERROGATORY NO. 46:

Identify and describe all communications relating to Michael Bradley's participation in the SST Litigation/Document Review from January 2009 through November 2016, including relating to compensation or the hourly billing rate that the Firm would charge for Michael Bradley's time spent on the matter.

RESPONSE TO INTERROGATORY NO. 46:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF refers to its responses to Interrogatories No. 28 and 44. TLF also refers to documents produced at the Bates range TLF-SST-000534 to TLF-SST-000611, and to documents identified in the Excel chart provided herewith as responsive to Requests for Production No. 46, 47, 48, 50, 51, and 52.

INTERROGATORY NO. 47:

Explain how the Firm supervised and/or performed quality control of the work performed by Michael Bradley in the SST Document Review, including the name, title, and nature of any supervising individual.

RESPONSE TO INTERROGATORY NO. 47:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

Like all Staff Attorneys participating in the SST Document Review, Michael Bradley reviewed documents in the Catalyst database hosted by Lieff. As custodian of the database, Lieff had the ability to track the tagging of documents in the database, including documents tagged by Michael Bradley. TLF did not have this capability to track and relied on Lieff, including asking Lieff at times to give TLF access to documents tagged as “hot” in the database. *See* TLF-SST-010865. TLF was aware that Lieff and Labaton had employees monitoring database metrics to quality control the work of the Staff Attorneys working on the SST Document Review. At Lieff, that employee was Kirti Dugar; at Labaton, that employee was Todd Kussin. In terms of supervising Michael Bradley’s time spent performing SST Document Review, Evan Hoffman of TLF was responsible for receiving Mr. Bradley’s time, and also assisted Mr. Bradley with technical and substantive issues he encountered during the review. *See, e.g.*, TLF-SST-012859, TLF-SST-012864.

INTERROGATORY NO. 49:

Explain how the Law Firm determines annual billing rates for all attorneys. Please identify and describe all factors considered and/or resources relied upon in making these determinations.

RESPONSE TO INTERROGATORY NO. 49:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF performs the majority of its work on a contingency basis, and very rarely uses annual or hourly billing rates. On those matters that require specific billing rates, the attorneys of TLF set rates that accord with the experience and seniority of each attorney or professional staff

member performing work on the matter, and with rates for similar services that are common to the industry and/or have been accepted by courts in other actions.

INTERROGATORY NO. 50:

Please explain how the process described above does or does not vary in determining billing rates charged to hourly clients and why.

RESPONSE TO INTERROGATORY NO. 50:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF incorporates its response to Interrogatory No. 49 above.

INTERROGATORY NO. 51:

Please explain how the Firm determines the hourly rates charged for Staff Attorneys employed or allocated to the Firm, Firm staff, independent contractors and/or other individuals who participate in legal matters but are not associates or partners at the Firm.

RESPONSE TO INTERROGATORY NO. 51:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF incorporates its responses to Interrogatories No. 27, 49, and 50. TLF performs the majority of its work on a contingency basis, and very rarely uses annual or hourly billing rates. When it does use such rates, whether for attorneys or non-attorney staff, those rates are based on the experience of the individual, in accordance with what is common to the industry and/or has been accepted by courts in other actions.

INTERROGATORY NO. 55:

Explain how the Firm adjusts its hourly rates to reflect the geographic region in which a matter is filed/pending. If the Firm does not adjust its rates, explain why not.

RESPONSE TO INTERROGATORY NO. 55:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF incorporates its responses to Interrogatories No. 49, 50, and 51. TLF performs the majority of its work on a contingency basis, and very rarely uses annual or hourly billing rates. When it does, it looks to rates for similar services that are common to the industry and/or have been accepted by courts in other actions (not limited to geographic region).

INTERROGATORY NO. 58:

Describe in detail how the Firm prepared its Fee Petition and identify all individuals who assisted in the preparation and the nature of their contribution(s).

RESPONSE TO INTERROGATORY NO. 58:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

In preparation for the filing of the Fee Petition, TLF received a template declaration from lead counsel, Labaton, that it understood Labaton had used in previous fee petitions submitted to federal courts. *See* TLF-SST-013552. Michael Lesser of TLF was responsible for the review and drafting of the section of the TLF declaration that addressed TLF's specific contributions to

the case. Mr. Lesser, Garrett Bradley, and Evan Hoffman reviewed the TLF declaration before submitting it to Labaton. Mr. Bradley signed the declaration (Doc. 104-16).

INTERROGATORY NO. 59:

Describe in detail any review or steps taken to scrutinize or verify the time reported by the Law Firm, including time reported by Staff Attorneys allocated to the Firm, prior to submitting the Firm's Fee Petition/Lodestar calculation. If the answer is none, explain why.

RESPONSE TO INTERROGATORY NO. 59:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

With respect to Staff Attorney time, TLF references and incorporates its response to Interrogatory No. 31, in which it describes the process by which it requested, received, and accumulated hours for Staff Attorneys, which Evan Hoffman included in the master spreadsheet containing all of TLF's hours on the SST Litigation. (TLF has previously produced the most current version of this master spreadsheet at TLF-SST-000001, and has produced and/or will produce earlier iterations of it pursuant to the Special Master's Requests for Document Production.)

With respect to time spent by other TLF timekeepers, TLF accumulated and verified the hours spent through reference to calendars and contemporaneous handwritten and emailed time records. Additionally, on some occasions, TLF received and referenced records of attorneys from Labaton and Lieff to check against its own entries.

INTERROGATORY NO. 60:

Describe what, if any, steps the Law Firm took to review, verify, or compare the Fee Petitions and/or Lodestar calculations prepared by the Plaintiffs' Firms or ERISA firms with the Firm's Fee Petition prior to filing its Fee Petition with the Court. If no action was taken, explain why not.

RESPONSE TO INTERROGATORY NO. 60:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF was responsible for the preparation of Garrett Bradley's Declaration in Support of the Fee Petition (Doc. 104-16, "Declaration of Garrett J. Bradley, Esq. on Behalf of Thornton Law Firm, LLP In Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses"). As stated in the response to Interrogatory No. 58 above, TLF created this document by modifying a template provided by Labaton, which, as lead counsel, was compiling all of the supporting documents and filing the Fee Petition. TLF did not receive and did not review a copy of the declarations prepared by other counsel detailing the hours supporting their lodestar calculations. To the best of its recollection, TLF saw these documents for the first time after Labaton filed them with the court.

INTERROGATORY NO. 61:

Identify and describe all communication the Firm had with the Plaintiffs' Law Firms and/or ERISA counsel relating to the Firm's preparation of the Fee Petition, including but not limited to preparation of the Lodestar calculation, the inclusion of the Lief and/or Labaton Staff

Attorneys for whom the Firm had paid costs, calculation of a Lodestar multiplier, and reasonableness of attorneys' fees.

RESPONSE TO INTERROGATORY NO. 61:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. TLF specifically objects to this Interrogatory, in so far as it calls on TLF to detail each and every communication, as overbroad. Subject to and without waiving its objections, TLF responds as follows:

TLF had numerous conversations with Plaintiff's counsel regarding the preparation of the Fee Petition. These discussions concerned, generally, information to be included in the fee petition, capping of applicable expenses, and use of contemporaneous or historical time rates for attorneys. Documents evidencing these communications are produced in response to RFPs 20, 21, and 35, as identified in the index accompanying TLF's production.

INTERROGATORY NO. 63:

Identify all billing entries, costs and/or expenses incurred by the Firm during the SST Litigation that the Firm did not include in its Fee Petition/Lodestar calculation, and the reasons therefor.

RESPONSE TO INTERROGATORY NO. 63:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF did not include various categories of time in its submission to the court, including at least the following:

- (1) Time spent by any individual who worked fewer than 10 hours on the matter;
- (2) Time spent by administrative assistants who worked with TLF partners on case-related matters;
- (3) Time spent discussing the SST Litigation at weekly partners' meetings over the more than eight years that transpired between when the litigation was conceived and when it was settled;
- (4) Time for certain research tasks performed by TLF attorneys relating to the litigation, including memoranda concerning fee petition and lodestar practices prepared in 2015 by a TLF attorney (Jotham Kinder). *See* TLF-SST-010742.

INTERROGATORY NO. 64:

Explain the significance of the statement made in Paragraph 4 of the Declaration of Garrett J. Bradley, Esq. On Behalf of Thornton Law Firm, LLP In Support of Lead Counsel's Motion for An Award of Attorneys' Fees and Payment of Expenses (Docket #104-16), affirming that the hourly rates included in Exhibit A to the Declaration are the Firm's "regular rates charged for their services, which have been accepted in other complex class actions." Please describe any other instances in which the Firm has submitted a Fee Petition with the same or similar language.

RESPONSE TO INTERROGATORY NO. 64:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

The language in Mr. Bradley's declaration was contained in the template declaration that TLF received from Labaton, which supplied the template to TLF in its capacity as lead counsel. As Garrett Bradley acknowledged at the hearing before the Court on March 7, 2017, the language in the declaration was not as clear as it should have been with respect to TLF. Specifically, the language concerning "regular rates . . . accepted in other complex class actions"

is inaccurate as to all of the Staff Attorneys listed in the declaration, including Michael Bradley, because TLF did not have “regular rates” for these individuals and had not submitted rates for these individuals “in other complex class actions.” Rather, TLF was aware of the rates used in another FX case in which it was involved – the BNY Mellon Action – and understood the template language “accepted in other complex class actions” to refer to that Action.

As pertains to the rates listed for other individuals in the declaration – *i.e.*, TLF’s attorneys and paralegal – the rates in the declaration are, with two exceptions, the same rates that TLF charged for its services in the BNY Mellon Action, and which were accepted by the court in that case. The two exceptions are the rate of Michael Lesser (\$650 in the BNY Mellon Action; \$700 in SST) and Evan Hoffman (\$485 in the BNY Mellon Action; \$535 in SST). In the case of Mr. Lesser, the \$50 increase reflected his particular expertise, largely obtained through his work in the BNY Mellon Action, with FX trading cases. In the case of Mr. Hoffman, he was promoted from associate to partner in between the Fee Petition filed in the BNY Mellon Action and the SST Fee Petition.

INTERROGATORY NO. 65:

Explain the significance of the above-quoted statement as it applies to Michael Bradley’s rate of \$500/hour.

RESPONSE TO INTERROGATORY NO. 65:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

As Garrett Bradley acknowledged at the hearing before the Court on March 7, 2017, this statement is not accurate as it relates to Michael Bradley because TLF has not submitted time for

him in other complex class action cases. TLF refers to its response to Interrogatory No. 64 above.

INTERROGATORY NO. 66:

Do you contend that the rates listed in the Firm's Fee Petition represent the prevailing rates in the community for similar services performed by lawyers of reasonably comparable skill, experience and reputation for each of the respective tasks performed? Why or why not?

RESPONSE TO INTERROGATORY NO. 66:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

Yes, TLF believes that the rates stated its declaration in support of the Fee Petition are comparable to prevailing rates for similar services. TLF notes that these rates were approved in other litigation, including, most saliently, the BNY Mellon Action. Additionally, TLF believes that the rates it charged are justified by factors specific to the SST litigation, including the complexity of the work completed, the years the costs were carried, and the skill of those involved.

INTERROGATORY NO. 69:

Describe when and how the Law Firm first identified duplicative billing entries reflected in the Fee Petitions submitted by Lieff and/or Labaton and describe what actions, if any, the Firm took to review, confirm and/or correct those errors.

RESPONSE TO INTERROGATORY NO. 69:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF first identified duplicative billing entries after its counsel received a media inquiry, which counsel reported to TLF, specifically to Garrett Bradley. After learning the information, Mr. Bradley went to Evan Hoffman's office and asked him to print the fee applications of Lief and Labaton. They also informed Michael Lesser. Upon review of those documents, Mr. Bradley, Mr. Hoffman, and Mr. Lesser noticed discrepancies among the filings. Mr. Bradley immediately contacted David Goldsmith and Nicole Zeiss of Labaton. In addition, Mr. Hoffman and Mr. Lesser contacted Dan Chiplock of Lief. Upon discovery of errors, Labaton undertook the writing of a letter to the court. TLF attorneys reviewed and provided suggested revisions to the letter. *See, e.g.*, TLF-SST-015640, TLF-SST-015644.

INTERROGATORY NO. 70:

Describe in detail the Law Firm's involvement in drafting the November 10, 2016 Letter, including the full names of all individuals who contributed to the Letter or underlying review in any way, internal review performed by the Firm, and all individuals outside the firm who reviewed and/or contributed to the Letter and the nature of their contribution(s).

RESPONSE TO INTERROGATORY NO. 70:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF participated in the drafting of the November 10, 2016 both at the conception/strategy stage (*i.e.*, determining how to address the issues with the Court) and the execution stage (*i.e.*, the drafting and revising of the letter). TLF has produced documents containing discussion of the November 2016 letter and drafts reflecting TLF's edits to the letter, including at TLF-SST-

015640 and TLF-SST-015644, and at the Bates ranges identified in the Excel chart provided herewith as responsive to Request for Production No. 43.

The individuals at TLF who contributed to the review of the November 10, 2016 letter are Michael Lesser, Evan Hoffman, and Garrett Bradley. Michael Thornton was also made aware of TLF's thoughts and edits concerning the letter.

INTERROGATORY NO. 71:

To the extent the Firm was involved in the drafting of the November 10, 2016 Letter, identify and describe all documents reviewed or relied upon by Firm as part of its involvement.

RESPONSE TO INTERROGATORY NO. 71:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

In reviewing and suggesting revisions to the November 10, 2016 letter, TLF relied on various documents pertaining to Staff Attorneys, including but not limited to time records and correspondence with co-counsel regarding the assignment of Staff Attorneys to TLF. TLF relied on documents received from Special Counsel and Hire Counsel, and documents received from Labaton and Lieff.

INTERROGATORY NO. 74:

Identify, in detail, any additional errors in any communications with the Court or with the Special Master, since filing of the Fee Petition(s) and explain each step or action taken to correct each error, including all documents or information consulted or relied upon in making the correction(s).

RESPONSE TO INTERROGATORY NO. 74:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

TLF refers to its response to Interrogatory No. 75 below. TLF is not aware of any additional errors in its communications with the Court or with the Special Master.

INTERROGATORY NO. 75:

Identify and explain any mistakes you have identified in the any of the Fee Petitions, the Motion for Attorneys' Fees, and/or Fee Award, not described above.

RESPONSE TO INTERROGATORY NO. 75:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. Subject to and without waiving its objections, TLF responds as follows:

In reviewing documents in conjunction with this inquiry, TLF has identified an additional error in its declaration filed September 15, 2016. Specifically, the hours listed for Staff Attorney Jonathan Zaul contain eight extra hours. This is the result of an inadvertent double entry on TLF's master spreadsheet used to create the chart in the declaration (TLF-SST-000001), which contains two entries for Mr. Zaul dated February 18, 2015, each for eight hours.

Additionally, in the course of reviewing Michael Bradley's time records, TLF has become aware that its declaration and the underlying master spreadsheet (TLF-SST-000001) included fewer hours for Michael Bradley than recorded in his contemporaneous time entries that he submitted to TLF. This equates to approximately 43 to 48 hours, based on a comparison of his records to TLF's declaration and master spreadsheet (compare TLF-SST-000534 to TLF-SST-000611 with TLF-SST-000001).

INTERROGATORY NO. 76:

Identify any other individuals, not listed above, who have knowledge of the Interrogatories and/or the SST Litigation and explain the general nature of such knowledge.

RESPONSE TO INTERROGATORY NO. 76:

TLF incorporates the general objections in its May 26, 2017 submission to the Special Master. TLF specifically objects to the phrase “have knowledge of” as vague. Without waiving its objections, TLF responds as follows:

Between these Interrogatory Responses and the Responses submitted on June 1, 2017, TLF believes it has identified the individuals at TLF who have knowledge of the Interrogatories and/or the SST Litigation. For completeness, TLF states that the following individuals at TLF had substantive involvement in the SST Litigation: Michael Thornton, Garrett Bradley, Michael Lesser, Evan Hoffman, Jotham Kinder, Andrea Caruth (former paralegal for TLF), Katherine Brendel (former paralegal for TLF), and Anastasia Maranian (TLF’s office administrator). Keith Lucca and Hadley Sweeney in TLF’s Accounting Department may have had marginal roles relating to accounting that concerned the SST Litigation. In addition, other partners at TLF were aware of the SST Litigation, but did not play any substantive role in it.

Dated: June 9, 2017

Respectfully submitted,

/s/ Brian T. Kelly
Brian T. Kelly (BBO #549566)
Emily C. Harlan (D.C. Bar No. 989267)
Eric J. Walz (BBO #687720)
NIXON PEABODY LLP
100 Summer Street

Boston, MA 02110
Telephone: (617) 345-1000
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Attorneys for the THORNTON LAW FIRM, LLP

EX. 100

Exhibit 24

STATE STREET INDIRECT FX TRADING CLASS ACTION

No. 11-cv-10230, No. 11-cv-12049, No. 12-cv-11698 MLW (D. Mass.)

**MASTER CHART OF LODESTARS, LITIGATION EXPENSES, AND
PLAINTIFFS' SERVICE AWARDS****LODESTARS AND LITIGATION EXPENSES:**

FIRM	HOURS	LODESTAR	EXPENSES
Labaton Sucharow LLP	38,680.40	\$17,368,905.50	\$258,824.60
Thornton Law Firm LLP	15,302.50	\$7,460,139.00	\$295,315.50
Lieff Cabraser Heimann & Bernstein LLP	20,458.50	\$9,800,487.50	\$271,944.53
Keller Rohrback LLP	4,690.65	\$2,561,287.00	\$342,766.63
McTigue Law LLP	4,914.05	\$2,625,503.75	\$41,412.90
Zuckerman Spaeder LLP	1,400.50	\$1,174,925.00	\$38,670.29
Richardson Patrick Westbrook & Brickman LLC	257.80	\$137,411.00	\$7,456.66
Beins Axelrod PC	387.80	\$187,712.00	\$1,306.83
Feinberg Campbell & Zack PC	21.50	\$7,525.00	\$0.00
TOTALS	86,113.70	\$41,323,895.75	\$1,257,697.94

PLAINTIFFS' SERVICE AWARD REQUESTS:

PLAINTIFF	REQUEST
Arkansas Teacher Retirement System	\$25,000
Arnold Henriquez	\$10,000
Michael T. Cohn	\$10,000
William R. Taylor	\$10,000
Richard A. Sutherland	\$10,000
The Andover Companies Employee Savings and Profit Sharing Plan	\$10,000
James Pehoushek-Stangeland	\$10,000
TOTAL	\$85,000

EX. 101

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JAMS, Inc.

Reference No. 1345000011

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In Re State Street Attorneys Fees

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June 6, 2017

12:56 p.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of CHRISTOPHER
JORDAN, taken by Counsel to the Special
Master, held at JAMS, Inc., 620 Eighth
Avenue, New York, New York, before Jineen
Pavesi, a Registered Professional
Reporter, Registered Merit Reporter,
Certified Realtime Reporter and Notary
Public of the State of New York.

Job No. CS2629875

Page 6

1
2 So that's why we're here.
3 CHRISTOPHER JORDAN,
4 having first been duly sworn by a Notary
5 Public of the State of New York, was
6 examined and testified as follows:
7 EXAMINATION BY
8 MR. SINNOTT:
9 Q. Christopher, if you could start
10 us off by telling us about your background
11 beginning with your college and law school
12 education.
13 A. Sure.
14 I went to the University of
15 North Carolina at Chapel Hill and I
16 studied English and anthropology there and
17 after that I went to Stanford Law School
18 and graduated in 2004 and I graduated in
19 2000 from the University of North
20 Carolina.
21 Q. After graduating from Stanford
22 Law School, describe, if you would, your
23 legal experience.
24 A. Sure, I worked at Debevoise &
25 Plimpton here in New York for a year,

Page 8

[REDACTED]

Page 7

1 JORDAN
2 basically doing document review type of
3 work, working in their database to
4 basically categorize the firm's documents
5 that they had for easier access for
6 associates and partners.
7 After that I worked at Dynergy
8 in Houston, Texas, I was originally
9 brought on to assist with their merger
10 with LS Power, to confirm that the merger
11 was not in any way in violation of
12 existing contracts that they had with
13 other counterparties.
14 After that I was retained to
15 help negotiate NAESB agreements, which are
16 North American Energy Standard Board
17 agreements.
18 After that I moved to Monterey,
19 California, where I worked at the District
20 Attorney's office and I worked in the
21 environmental and consumer protection
22 division and basically wrote demand
23 letters.
24 Q. How long did you work for the
25 D.A.'s office?

Page 9

[REDACTED]

[REDACTED]

[REDACTED]

1 JORDAN

2 attorney, did you acquire any other

3 specialized experience or areas of

4 expertise in document review or other

5 areas?

6 A. When I was in Houston, I did a

7 lot of oil and gas work, so I acquired a

8 good amount of expertise in the oil and

9 gas area.

10 Q. Let me direct your attention to

11 the Bank of New York Mellon case and ask

12 when did you first get involved in that?

13 A. You will have to bear with me

14 for a second as I try to remember when I

15 started.

16 (Pause.)

17 Q. Would 2014 sound right?

18 A. I think it does.

19 Q. What did you do in that case?

20 A. I did document review and there

21 were probably three -- I believe there

22 were three months -- no, I would say two

23 months probably, where I was the only

24 staff attorney reviewing RFPs and RFIs

25 specifically looking for language relating

[REDACTED]

EX. 102

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JAMS, Inc.

Reference No. 1345000011

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In Re State Street Attorneys Fees

-----x

June 5, 2017

4:02 p.m.

BEFORE:

Special Master Hon. Gerald Rosen, United
States District Court, Retired

Deposition of COMFORT ORJI,
taken by Counsel to the Special Master,
held at JAMS, Inc., 620 Eighth Avenue, New
York, New York, before Jineen Pavesi, a
Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

Job No. CS2629858

Page 6

[REDACTED]

Page 8

1 ORJI
 2 the bar, what was your first employment as
 3 an attorney?
 4 A. In-house counsel with a company
 5 called Airborne Express.
 6 Q. What years did you work for
 7 Airborne Express?
 8 A. 1998 to 2001, I think.
 9 MS. LUKEY: Is that when you
 10 were still in Nigeria?
 11 THE WITNESS: Yes.
 12 Q. After you became a member of
 13 the bar here?
 14 A. Oh, here; while I was waiting
 15 for my results after taking the bar, I
 16 worked as a contract attorney with various
 17 firms and then after I got my license, I
 18 got a job with MSD Visual as in-house
 19 attorney.
 20 Q. What year was that?
 21 A. I don't know -- 2006.
 22 Q. Until when?
 23 A. 2006.
 24 Q. So it was just in 2006?
 25 A. Yes.

Page 7

1 ORJI
 2 reasonableness of the amounts of
 3 attorneys' fees, expenses, and service
 4 awards previously ordered, and whether any
 5 or all of them should be reduced; E,
 6 whether any misconduct occurred in
 7 connection with such awards; and if so, F,
 8 whether it should be sanctioned.
 9 That's why we're here and I
 10 would like to begin, Comfort, by asking
 11 you to describe very briefly your
 12 background, including your education.
 13 A. I went to the University of
 14 Benin in Nigeria and I also went to law
 15 school there and I was admitted to the
 16 Nigerian bar in 1995.
 17 After school I worked --
 18 practiced as an attorney in Nigeria for a
 19 while as well as an in-house attorney
 20 before I came to the U.S.
 21 I came to the U.S. in 2003 and
 22 in 2004 I took the bar exam here and I got
 23 my license to practice as an attorney here
 24 in the U.S.
 25 Q. After you became a member of

Page 9

1 ORJI
 2 Q. And what was your next
 3 position?
 4 A. My next position was as a
 5 contract attorney again.
 6 Q. Who was that for?
 7 A. Paul, Weiss.
 8 Q. For who?
 9 A. Paul, Weiss.
 10 Q. What year did you leave Paul,
 11 Weiss?
 12 A. It was a short time, maybe like
 13 a year, because it was a contract attorney
 14 work that I was doing there, so it was for
 15 a few months, less than a year.
 16 Q. After Paul, Weiss, where did
 17 you go?
 18 A. I went to Cravath for a few
 19 months and then I went back to Paul,
 20 Weiss.
 21 Q. As a contract attorney?
 22 A. Yes, so it is hard for me to
 23 give you specifics.
 24 Q. What was your most recent
 25 position before Labaton?

Page 10

1 ORJI
2 A. Before Labaton was contract
3 attorney.
4 Q. For who?
5 A. Oh, Sullivan & Cromwell.
6 Q. What year did you start at
7 Labaton?
8 A. 2008.
9 Q. Have you worked continuously as
10 a staff attorney for Labaton since 2008?
11 A. I was first a contract attorney
12 and then later I became a staff attorney.
13 Q. How long were you a contract
14 attorney for Labaton?
15 A. Two years.
16 Q. Prior to the State Street case,
17 had you done document review on other
18 cases for Labaton?
19 A. Yes.
20 Q. What cases were those, do you
21 remember?
22 A. I do, but...
23 MS. LUKEY: She is concerned
24 over the privilege issue.
25 MR. STOCKER: Naming the cases

Page 12

[REDACTED]

Page 11

[REDACTED]

Page 13

[REDACTED]

