

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN D. MEYER, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

UNITED MICROELECTRONICS
CORPORATION, SHAN-CHIEH CHIEN,
JASON WANG, PO-WEN YEN, and
CHITUNG LIU,

Defendants.

No. 19-cv-02304-VM

CLASS ACTION

**DECLARATION OF GREGORY M. NESPOLE IN SUPPORT OF
(i) LEAD PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND PLAN OF ALLOCATION, AND (ii) LEAD COUNSEL’S MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND EXPENSES AND INCENTIVE
AWARD TO LEAD PLAINTIFF**

I, Gregory M. Nespole, hereby declare as follows:

1. I am a partner of the law firm of Levi & Korsinsky, LLP (“**Levi & Korsinsky**” or “**Lead Counsel**”), attorneys for Lead Plaintiff Mark Nelson (“**Lead Plaintiff**”) in the above-captioned securities class action (“**Action**”). I am admitted to practice before this Court and have personal knowledge of the various matters set forth herein based on my day-to-day participation in the prosecution and settlement of this Action.

2. I submit this Declaration in support of (i) Lead Plaintiff’s motion for Final Approval of Class Action Settlement and Plan of Allocation, and (ii) Lead Counsel’s motion for an Award of Attorneys’ Fees and Expenses and Incentive Award to Lead Plaintiff. Both motions have the full support of Lead Plaintiff as set forth in the accompanying Declaration of Mark Nelson. A compendium of unreported “slip opinions” cited in these motions is attached hereto in alphabetical order as **Exhibit A**.

3. Unless otherwise defined, capitalized terms in this Declaration have the same meaning as in the Stipulation of Settlement dated June 30, 2020 and filed on July 27, 2020 (ECF 55-1, the “**Stipulation**”). I respectfully refer the Court to my previous Declaration in Support of Lead Plaintiff’s Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement dated and filed on July 27, 2020 (ECF 55), which I affirm and incorporate by reference.

Preliminary Statement

4. The proposed Settlement now before the Court provides for the full resolution of the federal securities fraud claims against United Microelectronics Corporation (“**UMC**” or the “**Company**”) and Shan-Chieh Chien, Jason Wang, Po-Wen Yen, and Chitung Liu (the “**Individual Defendants**,” and together with UMC, the “**Defendants**”) in this Action, in exchange for a cash payment of \$3,000,000. As detailed herein, Lead Plaintiff and Lead Counsel respectfully submit that the Settlement represents a favorable result for the Settlement Class in light of the significant risks of continuing to litigate this Action.

5. Lead Plaintiff and Lead Counsel are well informed of the strengths and weaknesses of the claims and the defenses to the claims. In choosing to settle, Lead Plaintiff and Lead Counsel took into consideration the substantial risks associated with advancing the claims alleged in the Action, as well as the duration and complexity of the legal proceedings that remained ahead. As discussed in detail below, had the Settlement not been reached, there were considerable barriers to a greater recovery, or any recovery at all.

6. Specifically, Defendants would have likely argued that Lead Plaintiff failed to state a claim under Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder. Defendants likely would have argued that Lead Plaintiff did not allege with particularity that the Individual Defendants had contemporaneous knowledge demonstrating the falsity of the statements at issue, *i.e.*, scienter; that Lead Plaintiff would be unable to

demonstrate loss causation; and the market for the Company's American Depositary Shares ("ADSs") was inefficient because they traded mostly in Asia and sparingly in the United States.

7. Even if Lead Plaintiff overcame these substantial hurdles on a motion to dismiss, prosecuting this Action through discovery would have been unusually challenging, expensive and time consuming because most, if not all, of the relevant witnesses, documents and other evidence are in Taiwan and mainland China. There are well known difficulties in compelling testimony and cooperation from witnesses in those countries. Discovery would have been further complicated because Lead Plaintiff likely would have required discovery from individuals who were under indictment both in the United States and Taiwan, thus implicating their Fifth Amendment rights against self-incrimination in the United States and exposing them to the possibility of civil liability. Given the complexity and sophistication of the subject matter, proving the existence and amount of damages would have required a costly and inherently unpredictable battle of the experts addressing intellectual property questions surrounding DRAM (dynamic random access memory) development and what is considered proprietary versus open source technology. Accordingly, in the absence of a settlement, there was a very real risk that the Settlement Class could have recovered nothing or an amount significantly less than the negotiated Settlement of \$3 million.

8. In addition to seeking approval of the Settlement, Lead Plaintiff seeks approval of the proposed Plan of Allocation governing the calculation of claims and the distribution of the Settlement proceeds. As discussed below, the proposed Plan of Allocation was developed with the assistance of Lead Counsel's financial consultant and the claims administrator, and provides for the distribution of the Net Settlement Fund to Settlement Class members who submit Proof of Claim forms that are approved for payment based on a function of (i) when a Settlement Class

Member purchased the Company's ADSs, and (ii) the daily per share amount of artificial inflation in the price of the Company's ADSs.

9. With respect to the Fee and Expense Application, as discussed in the accompanying Memorandum of Law in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Expenses and Incentive Award to Lead Plaintiff (the "**Fee Brief**"), the requested fee of 30% of the Settlement Fund would be fair both to the Settlement Class and to Lead Counsel, and warrants the Court's approval. This fee request is on par with fee percentages frequently awarded in this type of action and, under the facts of this case, is justified in light of the benefits that Lead Counsel conferred on the Settlement Class, the risks it undertook, the quality of the representation, the nature and extent of the legal services provided, and the fact that Lead Counsel pursued the case at its sole financial risk. Lead Counsel also seeks \$22,300.51 in litigation expenses incurred in connection with its work, as well as a \$5,000 incentive award to Lead Plaintiff in recognition of his significant assistance in prosecuting the Action.

History of the Action

10. On March 14, 2019, Kevin D. Myer filed a securities class action complaint against UMC and certain of its current and former officers and/or directors, on behalf of himself and all persons or entities who purchased or otherwise acquired UMC ADSs between October 28, 2015 and November 1, 2018, inclusive (the "**Class Period**"). The Action, which was assigned to the Honorable Victor Marrero, alleged violations of 15 U.S.C. §§ 78j(b) and 78t(a) ("**Section 10(b)**" and "**Section 20(a)**," respectively) of the Securities Exchange Act of 1934 and 17 C.F.R. §240.10b-5 promulgated thereunder. (ECF No. 1).

11. On March 14, 2019, pursuant to the Private Securities Litigation Reform Act of 1995, counsel for plaintiff Meyer published notice on *Globe Newswire* informing other potential class members of their right to move for appointment as lead plaintiff for the putative Class.

12. On May 13, 2019, Mark Nelson moved to be appointed lead plaintiff and moved for his attorneys, Levi & Korsinsky, to be appointed lead counsel. (ECF No. 12). On May 23, 2019, the Court appointed Mr. Nelson as Lead Plaintiff and Levi & Korsinsky as Lead Counsel (ECF No. 19).

13. From May 23, 2019 to September 27, 2019, Lead Plaintiff, through counsel, diligently investigated the claims, defenses, and underlying events and transactions that are the subject of the Action. This process included analyzing, among other things, publicly filed documents and records, investigative reports, and news stories; and reviewing and corroborating the allegations and developments. In particular, Lead Counsel reviewed, further researched, and took steps to corroborate the information and averments in (a) *United States v. United Microelectronics Corporation, et al.*, No. 18-cr-0465-MMC (N.D. Cal.) (the “**DOJ Criminal Action**”); (b) *United States v. United Microelectronics Corporation, et al.*, No. 3:18-cv-6643-MMC (N.D. Cal.), (c) filings in the Courts of Taiwan, including the Indictment Decision of Taiwan District Prosecutors Office, Case Nos. 106-Zhen-Tzu No. 11035, 4520, 5612, & 5613; and (d) *Micron Technology, Inc. v. United Microelectronics Corporation, et al.*, No. 3:17-cv-6932-MMC (N.D. Cal.). In addition, Lead Counsel consulted with certain experts regarding issues of market efficiency and damages suffered by Lead Plaintiff and the Class resulting from the claims in the Action.

14. Lead Counsel conducted considerable research into the semiconductor industry. That investigation included understanding how RAM (random access memory), a well-known type

of memory so-called because of its ability to access any location in memory with roughly the same time delay, operates in laptops, computers and other devices. Lead Counsel further studied DRAM, a specific type of RAM that allows for higher densities at a lower cost. Lead Counsel also discussed these subjects with Lead Plaintiff, who has relevant professional experience in the field. With that, Lead Counsel learned and investigated how DRAM is often at the center of alleged trade secret violations and subject to highly complex patent litigation. Lead Counsel spent substantial time studying how a DRAM cell is composed of only two components – a transistor and capacitor – and that there was a very fine line between intellectual property theft and building out on open source data when discussing capacitor evolution. Simply stated, Lead Counsel knew from the outset of the litigation that Defendants were going to argue (and they did) that there was no theft of proprietary intellectual property but rather that Defendants permissively built on and advanced open source data to manufacture their own chip. Lead Counsel needed to be sufficiently familiar with the concepts to address these defenses.

15. On September 27, 2019, based on an extensive investigation and discussions with Lead Plaintiff and Lead Counsel, Lead Plaintiff filed a 120-page Amended Complaint alleging claims pursuant to §§ 10(b) and 20(a) of the Exchange Act and SEC Rule 10b-5 promulgated thereunder, against the Defendants. (ECF No. 42).

16. On October 23, 2019, Defendants requested a pre-motion conference to address their anticipated motion to stay the Action pending resolution of the DOJ Criminal Action. (ECF No. 45). On October 30, 2019, the Court denied Defendants' request for a stay. (ECF No. 47).

The Settlement

17. Beginning before the filing of the Amended Complaint and after it was filed, the Parties participated in vigorous arm's-length negotiations concerning whether an early stage

resolution was possible considering the risks perceived by both sides. Lead Counsel and Defendants' Counsel discussed the procedural posture of the Action, forthcoming pleadings, and the Parties' initial positions concerning the merits and strength of the allegations and potential defenses. During the months that followed, counsel for the Parties continued to undertake meaningful discussions of their views of the merits, strength, and risks concerning this Action.

18. Defendants' Counsel and Lead Counsel thereafter explored the possibility of resolving the Action through mediation and in December 2019, the Parties, through their counsel, agreed to retain Jed Melnick, Esq. of JAMS (the "**Mediator**") to help facilitate settlement discussions. In aid of the mediation process, the parties exchanged detailed mediation statements that included preliminary damages calculations.

19. On February 10, 2020, after a full day of intensive negotiations, the Parties agreed to accept, in principle, the Mediator's recommendation to settle all claims in the Action for \$3 million subject to the execution of a customary stipulation and agreement of settlement and related papers and contingent on certain Confirmatory Discovery (defined below).

20. Following the parties' entry into the agreement in principle on February 10, 2020, the Parties negotiated the Stipulation. The Stipulation, which sets forth the final terms and conditions of the Settlement, includes, among other things, a release of all claims asserted against Defendants in the Action in return for a cash payment by Defendants in the amount of \$3 million into a Settlement Fund for the benefit of the Settlement Class. The Stipulation was subject to the satisfactory completion of confirmatory discovery.

21. Following the parties' entry into the Stipulation, UMC provided Lead Plaintiff and Lead Counsel with documents previously produced by UMC in connection with litigation commenced by non-party Micron Technology, Inc., ("**Micron**") including motions to dismiss and

jurisdictional discovery (the “**Confirmatory Discovery**”). Lead Counsel having reviewed the Confirmatory Discovery and apprised Lead Plaintiff of its contents, Lead Counsel and Lead Plaintiff believe that such production constitutes sufficient discovery to evaluate the fairness, reasonableness and adequacy of the Settlement.

22. In light of the significant risks of proceeding with further litigation, including the risks that Defendants could be successful in dismissing the action premised on damages, causation and market efficiency issues, uncertainty surrounding the collection of a judgment, and having reviewed the Confirmatory Discovery, Lead Plaintiff and Lead Counsel determined that the proposed Settlement represents the best possible result for the Settlement Class. Accordingly, Lead Plaintiff moved for preliminary approval of the contemplated Settlement on July 27, 2020 (ECF 53 – 56) and the Court subsequently issued its Order for Hearing and Notice Directing: (A) Issuance of Notice of Proposed Class Action Settlement; and (B) Setting Date for Final Settlement Fairness Hearing (ECF 57, the “**Preliminary Approval Order**”).

23. Following entry of the Preliminary Approval Order, on October 28, 2020 it was announced by the U.S. Department of Justice that the Company pleaded guilty in the DOJ Criminal Action to one count of trade secret theft. As part of the plea agreement, the Company will pay a \$60 million fine and be subject to a three-year term of non-supervised probation. The DOJ agreed to dismiss the related civil case against the Company. According to news reports, the Company maintains that it was unaware of and did not authorize actions taken by the individual defendants in the DOJ Criminal Action.

24. The docket to Micron’s above-referenced civil suit against UMC in the United States District Court for the Northern District of California reflects that the case remains stayed

and that there have been no material developments subsequent to entry of the Preliminary Approval Order in this case.

Risks of Continued Litigation

25. Based on their experience and close knowledge of the facts of the case and law governing the claims, Lead Counsel determined that settlement at this juncture is in the best interests of the Settlement Class. As described herein, at the time the Settlement was reached, there were sizable risks facing Lead Plaintiff with respect to pleading and establishing liability, loss causation, market efficiency and damages. Further, there were significant concerns relating to the complexity of the debate inherent in a securities action, rendering explanation to a potential jury difficult. Given the fact that the Company was under indictment in the United States and Taiwan and a defendant in a multi-billion theft of trade secrets case commenced by Micron, Lead Plaintiff had well founded concerns about the Company's long-term ability to satisfy a potential judgment after years of protracted litigation.

A. Risks Related to Liability

26. Lead Plaintiff anticipated that in any motion to dismiss, and during continued litigation, Defendants would have strenuously maintained, among other things, that: (i) Lead Plaintiff did not plead scienter with particularity or plead particularized allegations that the Individual Defendants had contemporaneous knowledge of the falsity of the statements at issue, which results in no knowledge being imputed to the Company; (ii) Lead Plaintiff did not plead that any of the Individual Defendants personally benefitted from the alleged fraud, such as by selling their own shares at a profit; and (iii) Lead Plaintiff did not plead any actionable misstatement or omission because the alleged misstatements are protected statements of corporate puffery and optimism. If Defendants were successful on any of these grounds, the case could have been

dismissed outright or the claims ultimately presented to a jury could have been substantially narrowed. Lengthy appeals, even if Lead Plaintiff were to have prevailed after summary judgment and trial, could have ensued, with no certainty of any recovery for the Settlement Class.

B. Risks Concerning Loss Causation, Damages, and Market Efficiency

27. Even if Lead Plaintiff overcame the above risks at a motion to dismiss stage, Lead Plaintiff faced serious risks in ultimately proving loss causation and damages at trial. Indeed, if Lead Plaintiff did not meet his burden to establish causation by a preponderance of evidence, then the class would have recovered nothing. As to loss causation, Lead Plaintiff anticipates that Defendants would have argued that the material allegation in the 2018 federal indictment of the Company (that UMC stole trade secrets from Micron to develop DRAM) was previously disclosed in Micron's suit against the Company and a previous indictment of the Company in Taiwan over a year earlier. Defendants would have also likely argued that any damages to the Class were *de minimis*, because, among other things, the price of the Company's ADSs actually increased after the 2018 federal indictment was made public and that any decrease in the price of the Company's ADSs was attributable to factors unrelated to the allegations in the Amended Complaint, such as unprecedented international trade tensions between China and the United States. Defendants also would have likely argued that any damages would have been even further limited by issues of market efficiency since news affecting the prices of the ADSs that is released in Asia would not reach the United States until many hours (and in some instances days) later. If these arguments prevailed, recoverable damages would likely have been substantially reduced.

28. Issues surrounding market efficiency, namely whether UMC ADSs traded within the United States in an efficient market, presented a notably substantial hurdle. Defendants were likely to argue that the Class could not avail itself of the "fraud-on-the-market" theory to establish

reliance at the motion to dismiss stage or at class certification. This argument presented real risks because, as stated above, there was market price evidence that the trading patterns of UMC ADSs were at times inconsistent with the public information released concerning the Company's legal problems and earnings. This may have been a function of the time delay between news being released in Asia and then being reflected in the market price of UMC ADSs at a subsequent time. For example, news released at 4:00 pm on Friday in Taiwan would be seen at 3:00 am in New York. Accordingly, given translation issues and that analysts covering UMC with access to members of senior management were in both the US and Asia, that information would likely not be fully understood until sometime the following Monday – after UMC had already traded in Asia earlier that day. Indeed, the fact that the trading price of UMC ADSs in Asia increased on news of the indictment would render the question of reliance highly problematic were this Action not settled.

29. As the case continued, the Parties' respective damages experts would strongly disagree with each other's assumptions and their respective methodologies, especially with respect to availability of the fraud-on-the-market presumption. The risk that the Court or a jury would credit Defendants' expert's anticipated damages positions over those of Lead Plaintiff would have considerable consequences in terms of the amount of recovery for the Settlement Class, even assuming liability were proven. More importantly, the protracted litigation necessary to overcome Defendants' arguments on the motion to dismiss, class certification, summary judgment, and trial would be extremely costly and would have depleted available insurance policy coverage.

C. Risks in Maintaining Class Certification

30. Although class certification had not yet been briefed in this case, and class certification is sought at this juncture for the purposes of settlement only, Defendants would

undoubtedly have raised vigorous challenges to class certification, and such disputes could well devolve into yet another battle of the experts. Additionally, class certification can be reviewed and modified at any time by the Court before final judgment. Although Lead Counsel believes there are strong grounds for certifying a litigation class, discussed in the Memorandum of Law in Support of Lead Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement (ECF 56) at Point II, the Settlement avoids any uncertainty with respect to class certification and risks of maintaining certification of the Settlement Class through trial and on appeal. Specifically, class certification faced the reliance and causation defenses discussed herein.

**Lead Plaintiff's Compliance with Preliminary Approval Order
and Reaction of the Settlement Class to Date**

31. Pursuant to the Preliminary Approval Order, the Court approved the appointment of Analytics Consulting, LLC ("**Analytics Consulting**") as Claims Administrator in the Action and instructed Analytics Consulting to disseminate copies of the Notice and Proof of Claim by first class mail; to publish the Postcard Notice on a national wire service; and to post the Stipulation, Notice, Postcard Notice and Proof of Claim form on the Claim Administrator's website.

32. The Notice and Postcard Notice (respectively attached to the Stipulation as Exhibits A-1 and A-2 thereto, *see* ECF 55-1) provide potential Settlement Class members with information about the terms of the Settlement and contains, among other things: (i) a description of the Action and the Settlement; (ii) the terms of the proposed Plan of Allocation for calculating claims; (iii) an explanation of Settlement Class members' right to participate in the Settlement; (iv) an explanation of Settlement Class members' rights to object to the Settlement, the Plan of Allocation, and/or the Fee and Expense Application, or exclude themselves from the Settlement Class; and (v) the manner for submitting a Proof of Claim form in order to be eligible for a payment from the net proceeds

of the Settlement. The Notice also informs Settlement Class members of Lead Counsel's intention to apply for an award of attorneys' fees in an amount not to exceed 30% of the Settlement Fund and for payment of litigation expenses in an amount not to exceed \$75,000. The Notice also informs the Settlement Class that Lead Plaintiff may seek an award for his time and expenses incurred in representing the Class (*i.e.*, an incentive award).

33. As set forth in the accompanying Declaration of Kari L. Schmidt Regarding Class Notice and Report on Requests for Exclusion Received (the "**Schmidt Decl.**"), Analytics Consulting has complied with its obligations pursuant to the Preliminary Approval Order by mailing the Notice and Proof of Claim to the Company's stockholders of record as well as persons identified by the Company's transfer agent as well as banks, brokerage firms and other third party nominees as possible Settlement Class members. Schmidt Decl. ¶¶ 3-9. As set forth in the Schmidt Decl. ¶¶ 9-10, as of December 1, 2020, Analytics Consulting has mailed these materials to 18,275 potential Settlement Class members and published the Postcard Notice via PR Newswire, a national wire service. Analytics Consulting also maintains and posts information regarding the Settlement on its website, www.umcsecuritieslitigation.com, to provide Settlement Class members with information concerning the Settlement, as well as downloadable copies of the Notice, Proof of Claim, the Stipulation, among other important documents. *Id.* ¶ 11.

34. Pursuant to ¶¶ 11-12 of the Preliminary Approval Order, the deadline for Settlement Class members to submit objections to the Settlement, the Plan of Allocation, and/or the Fee and Expense Application, or to request exclusion from the Settlement Class is December 16, 2020. As set forth in the Schmidt Decl. at ¶¶ 13-14, no requests for exclusion and no objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application have been received. Should

any objections or requests for exclusion be received, Lead Counsel will address them in reply papers.

The Plan of Allocation for Distribution of Settlement Payments

35. Pursuant to ¶ 10(a) of the Preliminary Approval Order, and as set forth in the Notice, all Settlement Class members who wish to participate in the distribution of the Net Settlement Fund must submit a valid Proof of Claim form, including all required information, postmarked no later than January 8, 2021. As provided in the Notice, after deduction of Court-awarded attorneys' fees and expenses, notice and administration costs, and all applicable taxes, the balance of the Settlement Fund (the "**Net Settlement Fund**") will be distributed according to the plan of allocation approved by the Court (the "**Plan of Allocation**").

36. The proposed Plan of Allocation, which is set forth in full in the Notice (Exhibit A-1 to the Stipulation, ECF 55-1), was designed to achieve an equitable and rational distribution of the Net Settlement Fund. Lead Counsel developed the Plan of Allocation with the assistance of its financial consultant and the Claims Administrator and believes that the plan provides a fair and reasonable method to equitably distribute the Net Settlement Fund among Authorized Claimants.

37. The Plan of Allocation provides for distribution of the Net Settlement Fund among Authorized Claimants based on a function of (i) when a Settlement Class member purchased and/or sold the Company's ADSs, (ii) whether the ADSs were held through or sold during the statutory 90-day look-back period, *see* 15 U.S.C. § 78u-4(e) (providing methodology for limiting damages in securities fraud actions), and (iii) the per share amount of artificial inflation in the price of the Company's ADSs. Purchases of the Company's ADSs fall into four periods corresponding to the dates of the alleged fraudulent statements. Within each period, Authorized Claimants are treated on a *pro rata* basis based on their Recognized Claim, as such term is defined in the Notice,

calculated according to the formulas in the Plan of Allocation, which are consistent with Lead Plaintiff's theory of liability and alleged damages. These formulas consider the amount of alleged artificial inflation in the prices of the Company's ADSs, as estimated by Lead Counsel's financial consultant and the Claims Administrator.

38. Claimants will be eligible for a payment based on when they purchased or otherwise acquired, held, or sold their ADSs. The Court-approved Claims Administrator, under Lead Counsel's direction, will calculate claimants' Recognized Claim using the transactional information provided in their Proof of Claim forms. Claims may be submitted to the Claims Administrator through the mail or online using the settlement website. Neither the Parties nor the Claims Administrator independently have claimants' transactional information. Lead Plaintiff's losses will be calculated in the same manner.

39. Once the Claims Administrator has processed all submitted claims and provided claimants with an opportunity to cure deficiencies or challenge rejection determinations, payment distributions will be made to eligible Authorized Claimants using checks. After an initial distribution, if there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of distribution of the Settlement Fund, the Claims Administrator will, if logistically feasible and economically justifiable, make a further distribution of such balance among Authorized Claimants in an equitable fashion. After any reallocation, or if a reallocation is not undertaken, any balance that remains in the Settlement Fund shall be donated to The Legal Aid Society of New York, a non-sectarian, §501(c)(3) non-profit organization.

40. There have been no objections to the Plan of Allocation to date. Schmidt Decl. ¶ 13.

41. In sum, the proposed Plan of Allocation, developed in consultation with Lead

Counsel's financial consultant and the Claims Administrator,, was designed to fairly and rationally allocate the Net Settlement Fund among Authorized Claimants. Accordingly, Lead Counsel respectfully submits that the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved.

Lead Counsel's Application for Attorneys' Fees and Expenses

42. Consistent with the Notice to the Settlement Class, Lead Counsel, on behalf of itself, seeks a fee award of 30% of the Settlement Fund, or \$900,000. No other attorneys will share the awarded attorneys' fees. Lead Counsel also requests payment of litigation expenses in connection with the prosecution of the Action from the Settlement Fund in the amount of \$22,300.51. Lead Counsel submits that, for the reasons discussed below and in the accompanying Fee Brief, such awards would be reasonable and appropriate under the circumstances before the Court.

A. Lead Plaintiff Supports the Fee and Expense Application

43. As set forth in the accompanying Declaration of Mark Nelson, Lead Plaintiff has evaluated and fully supports the fee and expense application. In coming to this conclusion, Lead Plaintiff – who was involved throughout the prosecution of the Action and negotiation of the Settlement – considered the recovery obtained as well as Lead Counsel's efficient prosecution of the claims to obtain a favorable recovery. *Id.*

B. The Time and Labor of Lead Counsel

44. The investigation, prosecution, and settlement of the claims asserted in the Action required diligent efforts on the part of Lead Counsel. The many tasks undertaken by Lead Counsel in this case are detailed above.

45. Among other efforts, Lead Counsel conducted a comprehensive investigation in connection with the preparation of the Amended Complaint and engaged in a vigorous settlement

process with experienced defense counsel. At all times throughout the pendency of the Action, Lead Counsel's efforts were driven and focused on advancing the litigation to bring about the most successful outcome for the Settlement Class, whether through settlement or trial.

46. The following table summarizes Lead Counsel's time records. The table reports the amount of time spent by Lead Plaintiff's attorneys and professional support staff and the "lodestar" calculations, *i.e.*, their hours multiplied by their current hourly rates. These figures were prepared from daily time records regularly prepared and maintained by Lead Counsel, which are available at the request of the Court, and reflect time from inception of this action through and including briefing the motion for preliminary approval, and excluding time spent on the motion for final approval, the fee application, responding to any objections, preparing for and appearing at the final Settlement Fairness Hearing, and other miscellaneous tasks subsequent to the briefing of the motion for preliminary approval:

Name	Status	Hourly Rate	Hours	Lodestar
Joseph Levi	Partner	\$ 1,050.00	28.50	\$ 29,925.00
Gregory Nespole	Partner	\$ 1,000.00	227.90	\$ 227,900.00
Shannon Hopkins	Partner	\$ 1,000.00	4.25	\$ 4,250.00
Daniel Tepper	Partner	\$ 975.00	51.70	\$ 50,407.50
Christopher Kupka	Associate	\$ 650.00	271.50	\$ 176,475.00
Mark Levine	Associate	\$ 450.00	5.40	\$ 2,430.00
Zac Gazzard	Paralegal	\$ 375.00	4.75	\$ 1,781.25
Karolina Campbell	Law Clerk	\$ 350.00	8.25	\$ 2,887.50
Alex Pun	Paralegal	\$ 325.00	23.00	\$ 7,475.00
Samantha Halliday	Paralegal	\$ 325.00	2.25	\$ 731.25
Jenn Tash	Paralegal	\$ 325.00	4.35	\$ 1,413.75
Anu Akinwunmi	Law Clerk	\$ 300.00	17.00	\$ 5,100.00
		TOTAL:	650.20	\$ 510,776.25

47. The hourly rates of Lead Counsel here range from \$975-1,050 for partners, \$450-650 for associates, and \$300-375 for law clerks and professional staff. I respectfully submit that

the hourly rates for attorneys and professional support staff included in this table are reasonable and customary within the securities class action bar.

48. Lead Counsel has all together expended over 650 hours prosecuting the Action. The resulting collective lodestar is \$510,776.25. The requested fee of 30% of the Settlement Fund (\$900,000) results in a modest 1.76 multiplier.

C. The Standing and Expertise of Lead Counsel

49. The experience and expertise of Levi & Korsinsky's attorneys is described in the firm resume attached as **Exhibit B** hereto. As set forth therein, the firm has served as lead counsel in a number of high-profile matters and is highly experienced and skilled in securities litigation.

D. Standing and Caliber of Opposing Counsel

50. The quality of the work performed by Lead Counsel in attaining the Settlement should also be evaluated in light of the quality of opposing counsel. Here, Defendants were represented by Herrick, Feinstein LLP and Lazare Potter Giacovas & Moyle LLP. These firms are highly skilled and experienced securities attorneys with significant resources. In the face of this knowledgeable and formidable defense, Lead Counsel was nonetheless able to develop a case that was sufficiently strong to persuade Defendants to settle on terms that are favorable to the Settlement Class.

E. The Contingency Risk Faced by Lead Counsel

51. From the outset, Lead Counsel understood that they were embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require. In undertaking that responsibility, Lead Counsel was obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable costs that a case such as this requires. With an average time of several years for these cases to conclude, the

financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Lead Counsel received no compensation during the course of the Action, but incurred more than 650 hours of time for a total lodestar of \$510,776.25 and specifically incurred \$22,300.51 in out-of-pocket expenses in prosecuting the Action for the benefit of the Settlement Class.

52. Lead Counsel knows from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint or win at trial, or to convince sophisticated defendants to engage in serious settlement negotiations at meaningful levels. Lead Counsel is aware of many hard-fought lawsuits where, because of the discovery of facts unknown when the case was commenced, changes in the law during the pendency of the case, or a decision of a judge or jury following a trial on the merits, excellent professional efforts of members of the plaintiffs' bar produced no fee for counsel.

53. For example, in a theoretical motion to dismiss, federal circuit court cases include numerous opinions affirming dismissals with prejudice in securities cases. The many appellate decisions affirming summary judgments dismissals show that even surviving a motion to dismiss is not a guarantee of recovery. Successfully opposing a motion for summary judgment is also not a guarantee that plaintiffs will prevail at trial. While only a few securities class actions have been tried before a jury, several have been lost in their entirety. Even plaintiffs who succeed at trial may find their verdict overturned by a post-trial motion for a directed verdict or on appeal. And the path to maintaining a favorable jury verdict can be arduous and time consuming.

54. As discussed in greater detail above, Lead Plaintiff's success was by no means assured. Defendants would have disputed whether Lead Plaintiff could establish scienter, damages and loss causation. In addition, Defendants would no doubt have contended, as the case proceeded

to summary judgment, that even if liability existed, the amount of damages was substantially lower than Lead Plaintiff alleged; indeed, Lead Plaintiff's financial consultant estimated that maximum damages to the Class could be as low as \$15 million. Were this Settlement not achieved, Lead Plaintiff and Lead Counsel faced potentially years of costly and risky trial and appellate litigation against Defendants, with ultimate success far from certain and the significant prospect of no recovery. Further, prolonged litigation would likely quickly result in the wasting of insurance coverage for the claims.

F. Request for Litigation Expenses

55. Lead Counsel seeks payment from the Settlement Fund of litigation expenses reasonably and necessarily incurred in connection with commencing and prosecuting the claims against Defendants.

56. From the beginning of the case, Lead Counsel was aware that it might not recover any of its expenses, and, at the very least, would not recover anything until the Action was successfully resolved. Thus, Lead Counsel was motivated to take steps to manage expenses without jeopardizing the vigorous and efficient prosecution of the case.

57. The following summary table prepared from Lead Counsel's expense vouchers, check records and other reliable source materials reflects that Lead Counsel's litigation expenses in connection with the prosecution of the Action totaled \$22,300.51, excluding routine overhead expenses such as photocopying and telephone calls:

Category	Total Amount
Mediation Fees	\$10,379.50
Meals	\$216.74
Postage Fees	\$19.13
Research Fees	\$11,685.14
TOTAL:	\$22,300.51

58. Of the total amount of expenses, \$10,379.50 or approximately 46% was expended on the Mediator's services which lead to the Parties' agreeing to the proposed Settlement. The other expenses for which Lead Counsel seeks payment are the types of expenses that are necessarily incurred in securities class action litigation, principally electronic research (\$11,685.14 or approximately 52%).

G. The Reaction of the Settlement Class to the Fee and Expense Application

59. As mentioned above, consistent with the Preliminary Approval Order, a total of 18,325 Notices have been mailed to potential Settlement Class members, in addition to the publication of the Notice on the Claim Administrator's website. Schmidt Decl. ¶¶ 9, 11. Consistent with the Preliminary Approval Order, the Postcard Notice has been published on a national news wire. *Id.* ¶ 10. These materials inform potential Settlement Class members that Lead Counsel would seek an award of attorneys' fees not to exceed 30% of the Settlement Fund, and payment of expenses in an amount of approximately \$75,000, and that Lead Plaintiff may seek an award for his time and expenses incurred in representing the Class (*i.e.*, an incentive award).¹ While the deadline set by the Court for Settlement Class members to object to the requested fees and expenses has not yet passed, to date no objections have been received, and no class members have opted out. *Id.* ¶¶ 13-14. Lead Counsel will respond to any objections received in reply papers.

Conclusion

60. In view of the favorable recovery for the Settlement Class and the substantial risks of this litigation, as described above and in the accompanying memorandum of law, Lead Plaintiff and Lead Counsel respectfully submit that the Settlement should be approved as fair, reasonable,

¹ Lead Counsel's motion for approval of the Settlement and Lead Counsel's motion for an award of attorneys' fees and expenses will also be posted on the Settlement website.

and adequate and that the proposed Plan of Allocation should likewise be approved as fair, reasonable, and adequate. In view of the recovery in the face of substantial risks, the quality of work performed, the contingent nature of the fee, and the standing and experience of Lead Counsel, as described above and in the accompanying memorandum of law, Lead Counsel respectfully submit that a fee in the amount of 30% of the Settlement Fund should be awarded and that litigation expenses in the amount of \$22,300.51 be reimbursed in full. In light of Lead Plaintiff's significant assistance in the prosecution of this Action, I respectfully submit that a \$5,000 incentive award should be approved.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of December 2020 in New Rochelle, New York.

/s/ Gregory M. Nespole
Gregory M. Nespole

Exhibit A

Compendium of Unreported Cases

Klugmann v. Am. Capital Ltd.,
No. 09-cv-00005-PJM, slip op. (D. Md. June 12, 2012).....Tab 1

In re LaBranche Sec. Litig.,
No. 03-cv-8201, slip op. (S.D.N.Y. Jan. 22, 2009).....Tab 2

Public Pension Grp. v. KV Pharm. Co.,
No. 08-cv-1859 (CEJ), slip op. (E.D.Mo. Apr. 23, 2014).....Tab 3

Schnall v. Annuity & Life Re (Holdings), Ltd.,
No. 02-cv-2133, slip op. (D. Conn. Jan. 21, 2005).....Tab 4

Tab 1

FILED
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AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
msb DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

WARD KLUGMANN, Individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

AMERICAN CAPITAL LTD., MALON
WILKUS, JOHN R. ERICKSON,
IRA WAGNER, SAMUEL A. FLAX, and
RICHARD E. KONZMANN,

Defendants.

Civil Action No. 8:09-CV-00005-PJM

**FINAL JUDGMENT AND ORDER CERTIFYING SETTLEMENT CLASS,
APPROVING CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION,
AWARDING ATTORNEYS' FEES AND EXPENSES, APPROVING
REIMBURSEMENT OF PLAINTIFFS' EXPENSES AND DISMISSING ACTION
WITH PREJUDICE**

This matter came on for hearing on June 7, 2012, upon the motion of Plaintiffs for approval of the Settlement set forth in the Stipulation of Settlement, dated as of February 9, 2012 (the "Settlement Stipulation"). Due and adequate notice having been given to the Settlement Class as required by the Court's Preliminary Approval Order, dated February 22, 2012, and the Amendment to Order, dated March 14, 2012 (collectively, the "Preliminary Approval Order"), and the Court having considered the Settlement Stipulation, all papers filed and proceedings had herein, and all comments received regarding the proposed Settlement, the proposed Plan of Allocation, Plaintiffs' Counsel's

application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation, and having reviewed the entire record in the Litigation and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Except as otherwise specifically set forth herein, the Court, for purposes of this Final Judgment and Order (the "Judgment"), adopts all defined terms set forth in the Settlement Stipulation and incorporates the terms of the Settlement Stipulation by reference herein.

2. The Court has jurisdiction over the subject matter of the above-captioned Litigation (the "Litigation"), Plaintiffs, the other Settlement Class Members, and Defendants.

3. The Court finds that the forms and methods for dissemination of the Notice of Pendency and Proposed Settlement of Class Action and Settlement Hearing, Proof of Claim and Release (the "Notice"), and publication of the Summary Notice of Proposed Settlement of Class Action and Settlement Hearing, as provided for in the Preliminary Approval Order, constituted the best notice practicable under the circumstances to apprise all Persons within the definition of the Settlement Class of the pendency of the Litigation and their rights in it, the terms of the proposed Settlement of the Litigation, of the proposed Plan of Allocation, of Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of expenses, Plaintiffs' application for reimbursement for their time and expenses, and afforded Settlement Class Members with an opportunity to present their

objections, if any, to the Settlement Stipulation, and fully met the requirements of Rule 23(c) and (e) of the Federal Rules of Civil Procedure, the requirements of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(7), federal law, due process, the United States Constitution, and any other applicable law.

4. The Court finds that all Persons within the definition of the Settlement Class have been adequately provided with an opportunity to object to the proposed Settlement, the proposed Plan of Allocation, Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation or to request exclusion from the Settlement Class by executing a written request for exclusion in conformance with the procedures and deadlines set forth in the Preliminary Approval Order, and that no objections to the proposed Settlement, Plaintiffs' counsel's application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation have been submitted, and those Persons who requested exclusion from the Settlement Class are listed in Exhibit 1 to this Judgment and are hereby excluded from the Settlement Class.

5. With respect to the Settlement Class, this Court finds and concludes that, for purposes of the Settlement only, the prerequisites of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law or fact common to the Settlement Class; (c) the claims of

Plaintiffs are typical of the claims of the Settlement Class they seeks to represent; (d) Plaintiffs will fairly and adequately represent the interests of the Settlement Class and retained counsel experienced in the prosecution of securities and class action claims; (e) the questions of law or fact common to the Settlement Class Members predominate over any questions affecting only individual Settlement Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, and, for the purposes of this Settlement, and hereby:

(a) certifies a Settlement Class consisting of all Persons who purchased the publicly-traded common stock of ACAS between October 31, 2007 and November 7, 2008, inclusive. Excluded from the Settlement Class are Defendants, members of Defendants' immediate families, any entity in which any Defendant has a controlling interest, and the legal representatives, heirs, successors or assigns of any such excluded persons (all solely in their capacity as such and not otherwise). Also excluded from the Settlement Class are those Persons who have made Requests for Exclusion and who are listed on Exhibit 1 hereto;

(b) appoints and certifies Plaintiffs Charles E. Mendinhall, Ron Miller, Joseph J. Saville, Kent Nixon and Nina van Dyke as representatives of the Settlement Class; and

(c) finds, pursuant to Rules 23(g)(1) and (4) of the Federal Rules of Civil Procedure, that Court-appointed Co-Lead Counsel, Izard Nobel LLP ("Izard Nobel") and Brower Piven, A Professional Corporation ("Brower Piven") (collectively "Plaintiffs' Counsel"), have represented, and will continue to

represent the interests of the Settlement Class fairly and adequately, and therefore appoints Izard Nobel and Brower Piven as counsel for the Settlement Class.

6. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement set forth in the Settlement Stipulation and finds that said Settlement is, in all respects, fair, reasonable, and adequate to, and is in the best interests of, Plaintiffs and each Settlement Class Member based on: (a) the Settlement resulting from arm's-length negotiations between able and experienced counsel representing the interests of Plaintiffs and the Settlement Class Members, and the Defendants, following development of the facts in the Litigation; (b) the amount of the recovery for Settlement Class Members being well within the range of fairness given the strengths and weaknesses of the claims and defenses thereto and the likely amount of damages that could be recovered absent the Settlement assuming complete success by Plaintiffs on the merits for themselves and all Settlement Class Members; (c) the risks of non-recovery and/or recovery of a lesser amount than is represented through the Settlement by continued litigation through all pre-trial, trial and appellate procedures; (d) the recommendation of experienced counsel for Plaintiffs and Defendants; and (e) after due and proper notice to Settlement Class Members of the Settlement and the terms of the Settlement Stipulation, the lack of any objection from any Settlement Class Member to the Settlement or any aspect thereof, and, accordingly, the Settlement embodied in the Settlement Stipulation is hereby approved in all respects and the Parties to the Settlement Stipulation are directed to perform and consummate the Settlement in accordance with its terms and provisions of the Settlement Stipulation and this Judgment.

7. The Released Claims are dismissed with prejudice as to the Settlement Class Members as against the Released Persons, with the Parties are to bear their own costs except as otherwise provided in the Settlement Stipulation or this Judgment, and by operation of this Judgment and under the terms of the Settlement Stipulation and the releases therein, it is intended to preclude, and shall preclude, Plaintiffs and all other Settlement Class Members from filing or pursuing the Released Claims.

8. Upon the Effective Date, each Settlement Class Member shall be deemed to have, and by operation of this Judgment to have, fully, finally, and forever released, relinquished and discharged the Released Claims against the Released Persons whether or not such Settlement Class Member executes and delivers the Proof of Claim and Release and whether or not the Claims Administrator and Plaintiffs' Counsel accept the Settlement Class Member's Proof of Claim and Release. Such release shall be binding upon each Settlement Class Member and upon any Person acting, or purporting to act, on behalf of Settlement Class Members (but solely in their capacity as a Person acting or purporting to act on behalf of a Settlement Class Member and not in the Person's individual capacity or otherwise).

9. Upon the Effective Date, each of the Defendants and Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished and discharged all claims against each of the Settlement Class Members and all Plaintiffs' Counsel, arising out of, relating to, or in connection with the institution and/or prosecution of the Litigation, and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and

forever released, relinquished and discharged all claims against Defendants, Released Persons, and Defendants' Counsel arising out of, relating to, or in connection with the defense of the Litigation, in each case except as expressly provided in the Settlement Stipulation or to enforce the terms of the Settlement Stipulation.

10. All Settlement Class Members are permanently barred and enjoined from instituting, prosecuting, participating in, continuing, maintaining, or asserting, in any capacity, any action or proceeding that asserts any of the Released Claims.

11. Only those Settlement Class Members who submit complete, valid and, except as otherwise set forth in the Settlement Stipulation or allowed by this Court, timely, Proofs of Claim and Release forms shall be entitled to participate in the Settlement and receive a distribution from the Net Settlement Fund.

12. Neither the Settlement Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Stipulation or the Settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons, or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal.

13. Any Released Person may file the Settlement Stipulation and/or this Judgment from this Litigation in any other action that may be brought against them by any of the Settlement Class Members or any other Released Person in order to support 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, and any Party to the Settlement Stipulation, counsel for any Party to the Settlement Stipulation, any Settlement Class Member, or counsel for any Settlement Class Members may file the Settlement Stipulation in any proceeding brought to enforce any of its terms or provisions.

14. Those Persons who have requested exclusion from the Settlement Class listed in Exhibit 1 hereto shall not be bound by this Judgment, the release of Released Claims against the Released Parties and/or the releases set forth herein, in the Settlement Stipulation and/or in the Proof of Claim and Release. Pursuant to Rule 23(c)(3) of the Federal Rule of Civil Procedure, all Persons who fall within the definition of Settlement Class Members who have not requested exclusion from the Settlement Class are thus Settlement Class Members and are bound by this Judgment and by the terms of the Settlement Stipulation

15. This Court hereby overrules the one objection received to the Plan of Allocation that complains that no proceeds of the Settlement will be distributed to Persons for Shares not purchased during the Class Period but only held during the Class Period on the grounds that, as a matter of law, there is no standing for claims in this litigation based on holding Shares during the Class Period in this Litigation, and approves the Plan of Allocation as set forth in the Notice as fair, reasonable, and equitable, and directs Plaintiffs' Counsel to proceed, through the Court-appointed Claims Administrator, The Garden City Group, Inc. ("GCG"), with the processing of Proof of Claim and Release forms and the administration of the Settlement pursuant to the terms of the Plan of

Allocation and, upon completion of the claims processing procedure, to present to this Court a proposed final distribution order for the distribution of the Net Settlement Fund to Settlement Class Members, as provided in the Settlement Stipulation and Plan of Allocation.

16. Plaintiffs' Counsel are hereby awarded thirty-three and one-third (33 1/3 %) percent of the Settlement Fund, plus \$219,689.48 in reimbursement of litigation expenses. The amounts shall be paid to Plaintiffs' Counsel from the Settlement Fund with interest from the date of entry of this Judgment to the date of payment at the same rate of interest that earned by the Settlement Fund. The Court finds the amount of attorneys' fees awarded herein is fair and reasonable based on: (a) the work performed and costs incurred by Plaintiffs' Counsel; (b) the complexity of the case; (c) the risks undertaken by Plaintiffs' Counsel and the contingent nature of their employment; (d) the quality of the work performed by Plaintiffs' Counsel in this Litigation and their standing and experience in prosecuting similar class action securities litigation; (e) awards to plaintiffs' counsel in other, similar litigation; (f) the benefits achieved for Settlement Class Members through the Settlement; and (g) the absence of any objection from any Settlement Class Members to either the application for an award of attorneys' fees or reimbursement of expenses to Plaintiffs' Counsel. The Court further finds that the expenses that Plaintiffs' Counsel's request reimbursed were reasonably and necessarily incurred by Plaintiffs' Counsel in the prosecution of the Litigation and in obtaining the results achieved for the Settlement Class.

17. Plaintiffs' Counsel may apply, from time to time, for any expenses incurred by them in connection with the administration of the Settlement and distribution of the Net Settlement Fund to Settlement Class Members

18. The Court finds that the requests submitted by Plaintiffs for payment for their time and expenses in litigating this case on behalf of the Settlement Class are reasonable and adequately documented, and accordingly awards \$2,070 to Plaintiff Kent Nixon, \$4,625 to Plaintiff Joseph Saville, \$5,000 to Plaintiff Ron Miller, \$5,000 for Plaintiff Nina van Dyke, and \$3,750 to Charles E. Mendinhall. At the request of Plaintiffs' Counsel, in the interests of preserving the corpus of the Net Settlement Fund, the aforementioned reimbursements awarded to the Plaintiffs shall be paid to them by Plaintiffs' Counsel from this Court's award of attorneys' fees to Plaintiffs' Counsel.

19. The Court finds that the Claims Administrator, GCG, has incurred costs and expenses to date in providing notice to the settlement Class as directed by the Preliminary Approval Order and administering the Settlement of \$307,394.09, which the Court finds reasonable and commercially competitive, and hereby approves interim payment of that amount from the Settlement Fund.

18. All payments of attorneys' fees and reimbursement of expenses to Plaintiffs, Plaintiffs' Counsel and/or the Claims Administrator shall be made from the Settlement Fund, and the Released Persons shall have no liability or responsibility for the payment of any such attorneys' fees or expenses except as expressly provided in the Settlement Stipulation.

19. Any objection, order, or appeal from, or appellate modification of, the

portions of this Judgment approving the Plan of Allocation, Plaintiffs' Counsel's award of attorneys' fees and/or reimbursement of litigation expenses, the awards to the Plaintiffs and/or the interim payment of the costs of notice to the Settlement Class and administration of the Settlement incurred to date shall in no way disturb or affect the finality of the approval of the notice to the Settlement Class, the certification of the Settlement Class, or the Settlement as set forth in the Settlement Stipulation under this Judgment, and shall be considered separate from this Judgment.

20. The Court finds that Plaintiffs and Defendants, and their respective counsel, have, at all times during the course of the Litigation, complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure. The Court finds that the amount paid and the other terms of the Settlement were negotiated at arm's length and 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 and under the supervision of a mediator.

21. Without affecting the finality of this Judgment in any way, the Court hereby reserves and retains exclusive and continuing jurisdiction over the Parties and the Settlement Class Members for all matters relating to the Litigation, the Settlement, and the Settlement Stipulation, including, but not limited to: (a) the administration, interpretation, effectuation or enforcement of the Settlement Stipulation and this Judgment; (b) implementation and enforcement of any awards from the Settlement Fund or Net Settlement Fund; (c) interpretation of the Plan of Allocation and disposition of the Settlement Fund or Net Settlement Fund; (d) determining applications for payment of

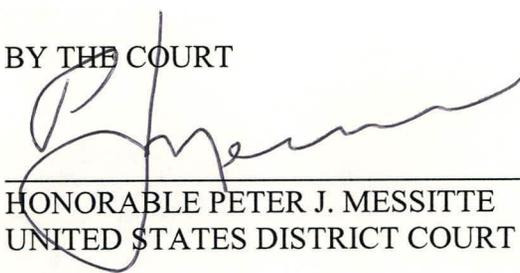
expenses incurred by Plaintiffs' Counsel in connection with administration and distribution of the Settlement Fund and Net Settlement Fund; (e) payment of taxes by the Settlement Fund; and (f) any other matters related to finalizing the Settlement and distributions from the Settlement, the Settlement Fund and/or the Net Settlement Fund.

22. In the event that the Settlement does not become Final or the Effective Date does not occur, (i) this Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*, (ii) the Litigation shall proceed as set forth in the Settlement Stipulation, and (iii) no Party may assert that another Party is estopped (whether equitably, judicially, or collaterally) from taking any position regarding any substantive or procedural issue in the Litigation by virtue of anything in the Settlement Stipulation, having entered into the Settlement Stipulation, or having done anything in connection with or related to the Settlement. For the purposes of this paragraph, the Parties shall include Settlement Class Members.

23. It is expressly determined, within the meaning of Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay, and the Clerk of this Court is hereby directed to enter this Judgment forthwith.

Signed this 11 day of June, 2012.

BY THE COURT



HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT COURT JUDGE

Tab 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED
JAN 08 2008
JUDGE SWEET CHAMBERS

COURTESY COPY

In re LABRANCHE SECURITIES
LITIGATION

x
: Civil Action No. 03-CV-8201(RWS)

: CLASS ACTION

This Document Relates To:

ALL ACTIONS.

: [~~PROPOSED~~] ORDER AWARDING LEAD
: PLAINTIFFS' COUNSEL'S ATTORNEYS'
: FEES AND EXPENSES AND
: REIMBURSEMENT OF LEAD
x
: PLAINTIFFS' TIME AND EXPENSES

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/22/09

This matter having come before the Court on January 21, 2009, on the motion of Lead Plaintiffs' Counsel for an award of attorneys' fees and expenses incurred in the Litigation, the Court, having considered all papers filed and proceedings conducted herein, having found the Settlement of this action to be fair, reasonable and adequate and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation of Settlement dated September 18, 2008 (the "Stipulation"), and filed with the Court.
2. This Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all members of the Class who have not timely and validly requested exclusion.
3. The Court hereby awards Lead Plaintiffs' Counsel attorneys' fees of 30% of the Settlement Fund, plus interest thereon as defined in the Stipulation, plus litigation expenses in the amount of \$145,612.93, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method.
4. The fees and expenses shall be allocated among all counsel representing the Class in a manner which, in Lead Plaintiffs' Counsel's good-faith judgment, reflects each such counsel's contribution to the institution, prosecution and resolution of the Litigation.
5. The awarded attorneys' fees and expenses and interest earned thereon shall immediately be paid to Lead Plaintiffs' Counsel subject to the terms, conditions and obligations of the Stipulation, and in particular ¶21 thereof which terms, conditions and obligations are incorporated herein.

6. The Court hereby awards the sum of \$5,000 to each of the Lead Plaintiffs pursuant to 15 U.S.C. §77z-1(a)(4) of the Private Securities Litigation Reform Act of 1995.

SO ORDERED:



THE HONORABLE ROBERT W. SWEET
UNITED STATES DISTRICT JUDGE

1-21-09

Tab 3

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

<hr/>		X
PUBLIC PENSION GROUP, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Cause No. 4:08-cv-1859 (CEJ)
	:	
KV PHARMACEUTICAL COMPANY, et al.,	:	
	:	
Defendant.	:	
<hr/>		X

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

THIS MATTER having come before the Court on April 23, 2014 for a hearing to determine, among other things, whether and in what amount to award Lead Counsel in the above-captioned securities class action attorneys' fees and litigation expenses. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing, substantially in the form approved by the Court, was mailed to all reasonably identified Class Members; and that a summary notice of the hearing, substantially in the form approved by the Court, was published in *Investor's Business Daily* and transmitted over *PR Newswire*; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Court has jurisdiction over the subject matter of this Action and over all parties to the Action, including all Class Members and the claims administrator, A.B. Data Ltd.
2. All capitalized terms used herein have the meanings as set forth and defined in the Stipulation and Agreement of Settlement, dated as of December 20, 2013 (the "Stipulation").

3. Notice of Lead Counsel's motion for attorneys' fees and payment of expenses was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the motion for attorneys' fees and expenses met the requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Lead Counsel is hereby awarded attorneys' fees in the amount of \$3,840,000 plus interest at the same rate earned by the Settlement Fund (or 30% of the Settlement Fund) and payment of litigation expenses in the amount of \$488,531.75, plus interest, which sums the Court finds to be fair and reasonable.

5. The award of attorneys' fees and expenses may be paid to Lead Counsel from the Settlement Fund immediately upon entry of this Order, subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

6. In making the award to Lead Counsel of attorneys' fees and litigation expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a common fund of \$12.8 million in cash and that numerous Class Members who submit acceptable proofs of claim will benefit from the Settlement created by the efforts of Lead Counsel;

(b) The requested attorneys' fees and payment of litigation expenses have been reviewed and approved as fair and reasonable by Lead Plaintiffs, Norfolk County Retirement System and the State-Boston Retirement System, two sophisticated institutional

investors that have been directly involved in the prosecution and resolution of the Action and have a substantial interest in ensuring that any fees paid to Lead Counsel are duly earned and not excessive;

(c) Notice was disseminated to putative Class Members stating that Lead Counsel would be moving for attorneys' fees in an amount not to exceed 30% of the Settlement Fund, plus interest, and payment of expenses incurred in connection with the prosecution of this Action in an amount not to exceed \$750,000, plus interest, and no Class Member has filed an objection to the fees and expenses requested by Lead Counsel;

(d) The Action presented substantial risks and uncertainties and would involve lengthy proceedings whose resolution would be uncertain, especially in light of the Company's bankruptcy;

(e) The Action involved complex factual and legal issues, including technical and scientific subject matter;

(f) Lead Counsel is an experienced law firm in the area of securities class action and conducted the litigation and achieved the Settlement with skillful and diligent advocacy;

(g) Lead Counsel has devoted more than 4,200 hours, with a lodestar value of \$2,346,367.25 to achieve the Settlement;

(h) The amount of attorneys' fees awarded and litigation expenses paid from the Settlement Fund are fair and reasonable and consistent with awards in similar cases; and

(i) Public policy favors granting Lead Counsel's fee and expense request.

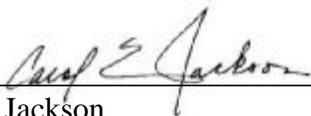
7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fee and expense application shall in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

8. Exclusive jurisdiction is hereby retained over the subject matter of this Action and over all parties to the Action, including the administration and distribution of the Net Settlement Fund to Class Members.

9. In the event that the Settlement is terminated or does not become final or the Effective Date does not occur in accordance with the terms of the Stipulation, this order shall be rendered null and void to the extent provided by the Stipulation and shall be vacated in accordance with the Stipulation.

IT IS SO ORDERED.

Dated: April 23, 2014



Carol E. Jackson
UNITED STATES DISTRICT JUDGE

Tab 4

FILED

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

2005 JAN 21 P 4:13

SHERRY SCHNALL, Individually and On)
Behalf of All Others Similarly Situated,)

Plaintiffs,)

v.)

ANNUITY AND LIFE RE (HOLDINGS),)
LTD., XL CAPITAL, LTD., LAWRENCE S.)
DOYLE, FREDERICK S. HAMMER, JOHN)
F. BURKE, WILLIAM W. ATKIN, BRIAN)
O'HARA, AND MICHAEL P. ESPOSITO, JR.,)

Defendants.)

U.S. DISTRICT COURT
NEW HAVEN, CT

Civil Action No. 02 CV 2133 (EBB)

ORDER AND FINAL JUDGMENT

On the 21st day of January, 2005, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Partial Settlement dated August 24, 2004 (the "Stipulation") are fair, reasonable and adequate for the settlement of all claims asserted by the Class against the Settling Defendants in the Complaint now pending in this Court under the above caption, including the release of the Settling Defendants and the Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Complaint on the merits and with prejudice in favor of the Settling Defendants only and as against all persons or entities who are members of the Class herein who have not requested exclusion therefrom; (3) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the members of the Class; and (4) whether and in what amount to award Plaintiffs' Counsel fees and reimbursement of expenses. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was

mailed to all persons or entities reasonably identifiable, who purchased the common stock of Annuity and Life Re (Holdings), Ltd. (“ANR”) during the period between March 15, 2000 and November 19, 2002, inclusive (the “Class Period”), except those persons or entities excluded from the definition of the Class, as shown by the records of ANR’s transfer agent, at the respective addresses set forth in such records, and that a summary notice of the hearing substantially in the form approved by the Court was published in the international edition of The Wall Street Journal and the international edition of Financial Times pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiffs, all Class Members, and the Settling Defendants.
2. The Court finds that the prerequisites for a class action under Federal Rules of Civil Procedure 23 (a) and (b)(3) have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Class Representatives are typical of the claims of the Class they seek to represent; (d) the Class Representatives have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure this Court hereby finally certifies this Action, for purposes of this Settlement only, as a class action on behalf of all persons who purchased the common stock of Annuity and Life Re (Holdings), Ltd. ("ANR") during the period between March 15, 2000 and November 19, 2002, inclusive, and were damaged thereby. Excluded from the Class are the Settling Defendants, the officers and directors of ANR and XL Capital at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest. For purposes of this Settlement, the term "controlling interest" shall include any interest of 10% or more of the common stock of any entity. Also excluded from the Class are the persons and/or entities who requested exclusion from the Class as listed on Exhibit 1 annexed hereto.

4. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

5. The Settlement is approved as fair, reasonable and adequate, and the Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

6. The Complaint, which the Court finds was filed on a good faith basis in accordance with the PSLRA and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed with prejudice and without costs, except as provided in the Stipulation, as against the Settling Defendants only.

7. Members of the Class and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on United States federal, state, local, statutory or common law or the laws of Bermuda or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and Unknown Claims, (i) that have been asserted in this Action by the Class Members or any of them against any of the Released Parties, or (ii) that could have been asserted in any forum by the Class Members or any of them against any of the Released Parties which arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint and relate to the purchase of shares of the common stock of Annuity and Life Re (Holdings) Ltd. ("ANR") during the Class Period (the "Settled Claims") against any and all of the Settling Defendants, their past or present subsidiaries, parents, successors and predecessors, and all of the aforementioned entities' officers, directors, agents, employees, attorneys, advisors, insurers, and investment advisors, and any person, firm, trust, corporation, officer, director or other individual or entity in which any Settling Defendant has a controlling interest or which is related to or

affiliated with any of the Settling Defendants, and the legal representatives, heirs, successors in interest or assigns of the Settling Defendants (the "Released Parties"). "Released Parties" does not include KPMG in Bermuda ("KPMG Bermuda") and KPMG LLP USA ("KPMG USA") (collectively, "KPMG") or its partners, principals, employees, agents and affiliates. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment. "Settled Claims" does not include any claims against KPMG or its partners, principals, employees, agents and affiliates.

8. "Unknown Claims" means any and all Settled Claims which any Lead Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants' Claims which any Settling Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Settled Claims and Settled Defendants' Claims, the parties stipulate and agree that upon the Effective Date, the Lead Plaintiffs and the Settling Defendants shall expressly waive, and each Class Member shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or Bermuda, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

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

Lead Plaintiffs and Settling Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Settled Claims and Settled Defendants’ Claims was separately bargained for and was a key element of the Settlement.

9. The Settling Defendants and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all claims, rights or causes of action or liabilities whatsoever, whether based on United States federal, state, local, statutory or common law or the laws of Bermuda or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Settling Defendants or any of them or the successors and assigns of any of them against any of the Lead Plaintiffs, Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement) (the “Settled Defendants’ Claims”) against any of the Lead Plaintiffs, Class Members or their attorneys. The Settled Defendants’ Claims of all the Released Parties are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

10. Pursuant to the PSLRA, the Released Parties are hereby discharged from all claims for contribution or equitable indemnity, by any person or entity, whether arising under United States federal, state, local, statutory or common law or the laws of Bermuda or any other law, based upon, arising out of, relating to, or in connection with the claims of the Class or any Class Member in the Action (including the KPMG Action, which has been consolidated into the Action). Accordingly, to the maximum extent permissible under the PSLRA, the Court hereby

bars and enjoins all such claims for contribution or equitable indemnity: (a) by any person or entity against any Released Party; and (b) by any Released Party against any person or entity other than a person or entity whose liability to the Class has been extinguished pursuant to the Stipulation and Agreement of Partial Settlement and this Order and Final Judgment. Pursuant to 15 U.S.C. § 78u-4(f)(7)(B), if there is a final verdict or judgment against any other Defendant in the Action, the verdict or judgment shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of the Settling Defendants; or (b) the amount paid pursuant to this Settlement by the Settling Defendants.

11. Neither this Order and Final Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against the Settling Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Settling Defendants with respect to the truth of any fact alleged by any of the plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Settling Defendants;

(b) offered or received against the Settling Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Settling Defendant;

(c) offered or received against the Settling Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or

wrongdoing, or in any way referred to for any other reason as against any of the Settling Defendants, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court, Settling Defendants may refer to it to effectuate the liability protection granted them hereunder;

(d) construed against the Settling Defendants 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; or

(e) construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or any of the Class Members that any of their claims are without merit, or that any defenses asserted by the Settling Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Gross Settlement Fund.

12. The Plan of Allocation is approved as fair and reasonable, and Plaintiffs' Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions.

13. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

14. Plaintiffs' Counsel are hereby awarded one-third (33⅓%) of the Gross Settlement Fund in fees, which sum the Court finds to be fair and reasonable, and \$191,705.37 in reimbursement of expenses, which expenses shall be paid to Plaintiffs' Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of

payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiffs' Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

15. Lead Plaintiff Midstream Investments Ltd. is hereby awarded \$3,150. Such award is for reimbursement of this Lead Plaintiff's reasonable costs and expenses (including lost wages) directly related to its representation of the Class.

16. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Settlement Fund, the Court has considered and found that:

(a) the settlement has created a fund of \$16.5 million in cash that is already on deposit, plus interest thereon and that numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlement created by Plaintiffs' Counsel;

(b) 16,700 copies of the Notice were disseminated to putative Class Members indicating that Plaintiffs' Counsel were moving for attorneys' fees not to exceed one-third (33⅓%) of the Gross Settlement Fund and for reimbursement of expenses in the approximate amount of \$250,000 (including approximately \$10,000 for the costs and expenses of the Lead Plaintiffs directly relating to their representation of the Class) and no objections were filed against the terms of the proposed Settlement or the ceiling on the fees and expenses requested by Plaintiffs' Counsel contained in the Notice;

(c) Plaintiffs' Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The action involves complex factual and legal issues and was actively prosecuted over two years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(e) Had Plaintiffs' Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiffs and the Class may have recovered less or nothing from the Settling Defendants;

(f) Plaintiffs' Counsel have devoted over 5,473 hours, with a lodestar value of \$1,862,701.25, to achieve the Settlement; and

(g) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are consistent with awards in similar cases.

17. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Class.

18. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. This Action has been pending since the first of the constituent actions were filed in 2002. The Settlement Stipulation resolves all of the claims asserted by the Class against the Settling Defendants, and pursuant to the above bar orders bars any claims for contribution or equitable indemnity, by or against the Settling Defendants. The claims asserted against the

Settling Defendants and now settled raise issues that are separable from the remaining claims of Plaintiffs and the Class against KPMG. Permitting the immediate appeal, if taken, of this Order and Final Judgment does not result in any duplication of review by an appellate court, because if an appellate court were to vacate the Stipulation, then the parties may reasonably continue their prosecution or defense of the claims while this Court continues to preside over other related claims, without a waste of time or judicial resources. If this Order and Final Judgment were not immediately appealable, once an appeal were ripe after the conclusion of the entire coordinated litigation, and if the appellate court vacated this Order and Final Judgment, then this Court would face re-trying the entire litigation as to the Settling Defendants, wasting judicial resources.

20. By reason of the finding in the previous paragraph, 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 pursuant to Rule 54 (b) of the Federal Rules of Civil Procedure. The Action is not dismissed in respect of claims against any person or entity other than the Settling Defendants.

Dated: New Haven, Connecticut

Jan. 21, 2005


Honorable Ellen Bree Burns
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

List of Persons and Entities Excluded from the Class in Schnall, et al. v. Annuity and Life Re (Holdings). Ltd., et al., Civil Action No. 02 CV 2133 (EBB)

The following persons and entities, and only the following persons and entities, have properly excluded themselves from the Class:

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ABOUT THE FIRM

Levi & Korsinsky, LLP is a national law firm with decades of combined experience litigating complex securities, class, and consumer actions in state and federal courts throughout the country. Our main office is located in New York City and we also maintain offices in Connecticut, California, and Washington, D.C.

We represent the interests of aggrieved shareholders in class action and derivative litigation through the vigorous prosecution of corporations that have committed securities fraud and boards of directors who have breached their fiduciary duties. We have served as Lead and Co-Lead Counsel in many precedent-setting litigations, recovered millions of dollars for shareholders via securities fraud lawsuits, and obtained fair value, multi-billion-dollar settlements in merger transactions.

We also represent clients in high-stakes consumer class actions against some of the largest corporations in America. Our legal team has a long and successful track record of litigating high-stakes, resource-intensive cases and consistently achieving results for our clients.

Our attorneys are highly skilled and experienced in the field of securities class action litigation. They bring a vast breadth of knowledge and skill to the table and, as a result, are frequently appointed Lead Counsel in complex shareholder and consumer litigations in various jurisdictions. We are able to allocate substantial resources to each case, reviewing public documents, interviewing witnesses, and consulting with experts concerning issues particular to each case. Our attorneys are supported by exceptionally qualified professionals including financial experts, investigators, and administrative staff, as well as cutting-edge technology and e-discovery systems. Consequently, we are able to quickly mobilize and produce excellent litigation results. Our ability to try cases, and win them, results in substantially better recoveries than our peers.

We do not shy away from uphill battles – indeed, we routinely take on complex and challenging cases, and we prosecute them with integrity, determination, and professionalism.

“...a model for how [the] great legal profession should conduct itself.”

Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*,
Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

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PRACTICE AREAS

Securities Fraud Class Actions

According to Lex Machina's second annual Securities Litigation Report, Levi & Korsinsky was named the Top Securities Firm for the period of January 2017 and June 30, 2018, with 266 lawsuits filed during that period. Law360.com dubbed the Firm one of the "busiest securities firms" in what is "on track to be one of the busiest [years] for federal securities litigation." Our firm has been appointed Lead Counsel in a significant number of class actions filed in both federal and state courts across the country.

In **Scheller v. Nutanix Inc.**, 19-cv-01651-WHO (N.D. Cal. Jul. 10, 2019) defendants' motion to dismiss was denied, and the case is now in discovery.

In **In re Tesla Inc. Securities Litigation**, 18-cv-04865-EMC (N.D. Cal), the firm is sole Lead Counsel representing the class of Tesla investors who were injured as a result of Elon Musk's "funding secured" tweet of August 7, 2018. The case has survived defendants' motion to dismiss and is now in discovery. It is set for trial in March 2022. Damages are estimated as exceeding \$2 billion.

In **In re U.S. Steel Consolidated Cases**, 17-559-CB (W.D. Pa.) the firm is sole Lead Counsel representing U.S. Steel investors who were harmed by U.S. Steel's misrepresentations regarding the maintenance of its manufacturing facilities. Defendants' motion to dismiss has been denied and the class of investors certified by the District Court. The class action case is now in discovery. Damages are estimated as exceeding \$1 billion.

In **Ford v. TD Ameritrade Holding Corporation**, 14-cv-396 (D. Neb.), the Firm was appointed Lead Counsel representing customers harmed by securities fraud scheme that has netted TD Ameritrade well over a billion dollars at their expense since the beginning of the class period at the cost of the execution quality of their orders. After defeating a motion to dismiss, we achieved certification of the class using cutting edge data analysis techniques to precisely measure damages incurred by the millions of class members.

In **Rougier v. Applied Optoelectronics, Inc.**, 17-cv-2399 (S.D. Tex.) the Firm is sole Lead Counsel and has prevailed on a Motion to Dismiss and Motion for Class Certification. The court granted preliminary approval of the proposed settlement on August 25, 2020.

In **In re Avon Products Inc. Securities Litigation**, 1:19-cv-01420-MKV (S.D.N.Y.) the Firm is Lead Counsel and prevailed on a motion to dismiss. A preliminary settlement in this class action case is pending.

In **In re Restoration Robotics, Inc. Sec. Litig.**, 5:18-cv-03712-EJD (N.D. Cal. 2018), the Firm is sole Lead Counsel and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

In **Stein v. U.S. Xpress Enterprises, Inc., et al.**, 1:19-cv-98-HSM (E.D. Tenn. Jul. 18, 2020) the Firm is Co-Lead Counsel and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

We have also been appointed Lead or Co-Lead Counsel in the following securities class actions:

- **Snyder v. Baozun Inc.**, 1:19-cv-11290-ALC (S.D.N.Y. Sept. 8, 2020)
- **In re eHealth Inc. Sec. Litig.**, 20-cv-02395-JST (N.D.Cal. Jun. 24, 2020)
- **Mehdi v. Karyopharm Therapeutics Inc.**, 19-cv-11972-NMG (D. Mass. Apr. 29, 2020)
- **Brown v. Opera Ltd.**, 20-cv-00674-JGK (S.D.N.Y. Apr. 17, 2020)
- **In re Dropbox Sec. Litig.**, 19-cv—06348-BLF (N.D.Cal. Jan. 16, 2020)

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- **Chen v. Yunji Inc.**, 19-cv-6403-LDH-SMG (E.D.N.Y. Feb. 3, 2020)
- **Zhang v. Valaris plc**, 19-cv-7816-NRB (S.D.N.Y. Dec. 23, 2019)
- **In re Sundial Growers Inc. Sec. Litig.**, 19-cv-08913-ALC (S.D.N.Y. Dec. 20, 2019)
- **Costanzo v. DXC Technology Co.**, 19-cv-05794-BLF (N.D.Cal. Nov. 20, 2019)
- **Ferraro Family Foundation, Inc. et al., v. Corcept Therapeutics Incorporated**, 19-cv-1372-LHK (N.D.Cal. Oct. 7, 2019)
- **Roberts v. Bloom Energy Corp.**, 19-cv-02935-HSG (N.D.Cal. Sept. 3, 2019)
- **Luo v. Sogou Inc.**, 1:19-cv-00230-JPO (S.D.N.Y. Apr. 2, 2019)
- **Jakobsen v. Aphria Inc.**, 18-cv-11376-GBD (S.D.N.Y. Mar. 27, 2019)
- **Chew v. MoneyGram International, Inc.**, 1:18-cv-07537 (E.D. Ill. Feb. 12, 2019)
- **Johnson v. Costco Wholesale Corp.**, 18-cv-01611-TSZ (W.D.Wash. Jan. 30, 2019)
- **Tung v. Dycom Industries, Inc.**, 9:18-cv-81448-RLR (S.D. Fla. Jan. 11, 2019)
- **Guyer v. MGT Capital Investments, Inc.**, 1:18-cv-09228-LAP (S.D.N.Y. Jan. 9, 2019)
- **In re Adient plc Sec. Litig.**, 1:18-CV-09116 (S.D.N.Y. Dec. 21, 2018)
- **In re Tesla Inc. Sec. Litig.**, 3:18-cv-04865-EMC (N.D. Cal. Nov. 27, 2018)
- **In re Helios and Matheson Analytics, Inc. Sec. Litig.**, 1:18-cv-06965-JGK (S.D.N.Y. Nov. 16, 2018)
- **In re Prothena Corp. plc Sec. Litig.**, 1:18-cv-06425 (S.D.N.Y. Oct. 31, 2018)
- **Pierrelouis v. Gogo Inc.**, 18-cv-04473 (N.D. Ill. Oct. 10, 2018)
- **Balestra v. Cloud With Me Ltd.**, 2:18-cv-00804-LPL (W.D. Pa. Oct. 18, 2018)
- **Pierrelouis v. Gogo Inc.**, 1:18-cv-04473 (N.D. Ill. Oct. 10, 2018)
- **In re Restoration Robotics, Inc. Sec. Litig.**, 5:18-cv-03712-EJD (N.D. Cal. Oct. 2, 2018)
- **Richmond v. Mercury Systems, Inc.**, 1:18-cv-11434-IT (D. Mass. Sept. 27, 2018)
- **Balestra v. Giga Watt, Inc.**, 2:18-cv-00103-SMJ (E.D. Wash. June 28, 2018)
- **Chandler v. Ulta Beauty, Inc.**, 1:18-cv-01577 (N.D. Ill. June 26, 2018)
- **In re Longfin Corp. Sec. Litig.**, 1:18-cv-2933 (S.D.N.Y. June 25, 2018)
- **Chahal v. Credit Suisse Group AG**, 1:18-cv-02268-AT (S.D.N.Y. June 21, 2018)
- **In re Bitconnect Sec. Litig.**, 9:18-cv-80086-DMM (S.D. Fla. June 19, 2018)
- **In re Aqua Metals Sec. Litig.**, 4:17-cv-07142-HSG (N.D. Cal. May 23, 2018)
- **Davy v. Paragon Coin, Inc.**, 4:18-cv-00671-JSW (N.D. Cal. May 10, 2018)
- **Rensel v. Centra Tech, Inc.**, 17-cv-24500-JLK (S.D. Fla. Apr. 11, 2018)
- **Cullinan v. Cemtrex, Inc.**, 2:17-cv-01067 (E.D.N.Y. Mar. 3, 2018)
- **Emerson v. Genoea Biosciences, Inc.**, 1:17-cv-12137 (D. Mass. Feb. 2, 2018)
- **In re Navient Corporation Sec. Litig.**, 1:17-cv-08373-RBK-AMD (D.N.J. Feb. 2, 2018)
- **Huang v. Depomed, Inc.**, 3:17-cv-04830-JST (N.D. Cal. Dec. 8, 2017)
- **In re Regulus Therapeutics Inc. Sec. Litig.**, 3:17-cv-00182-BTM-RBB (D. Mass. Oct. 26, 2017)
- **Murphy III v. JBS S.A.**, 1:17-cv-03084-ILG-RER (E.D.N.Y. Oct. 10, 2017)
- **Goldsmith v. Weibo Corporation**, 2:17-cv-04728-SRC-CLW (D.N.J. Sept. 28, 2017)
- **Hinshaw v. Neurotrope, Inc.**, 1:17-cv-03718-LGS (S.D.N.Y. Aug. 10, 2017)

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- **Ohren v. Amyris, Inc.**, 3:17-cv-002210-WHO (N.D. Cal. Aug. 8, 2017)
- **Beezley v. Fenix Parts, Inc.**, 2:17-cv-00233 (D.N.J. June 28, 2017)
- **M & M Hart Living Trust v. Global Eagle Entertainment, Inc.**, 2:17-cv-01479 (C.D. Cal. June 26, 2017)
- **Maurer v. Argos Therapeutics, Inc.**, 1:17-cv-00216 (M.D.N.C. June 23, 2017)
- **Ruedelstei v. U.S. Concrete, Inc.**, 4:17-cv-266 (N.D. Tex. June 22, 2017)
- **In re Aratana Therapeutics, Inc. Sec. Litig.**, 1:17-cv-880 (S.D.N.Y. June 6, 2017)
- **In re Insys Therapeutics, Inc.**, 1:17-cv-1954 (S.D.N.Y. May 31, 2017)
- **Clevlen v. Anthera Pharmaceuticals, Inc.**, 3:17-cv-00715 (N.D. Cal. May 18, 2017)
- **In re Agile Therapeutics, Inc. Sec. Litig.**, 3:17-cv-00119-AET-LHG (D.N.J. May 15, 2017)
- **Roper v. SITO Mobile Ltd.**, 2:17-cv-01106-ES-MAH (D.N.J. May 8, 2017)
- **In re Illumina, Inc. Sec. Litig.**, 3:16-cv-03044-L-KSC (S.D. Cal. Mar. 30, 2017)
- **Michael Gregory v ProNAi**, 1:16-cv-08703-PAE (Mass. Sup. Ct. Feb. 1, 2017)
- **In re PTC Therapeutics, Inc.**, 2:16-cv-01224-KM-MAH (D.N.J. Nov. 14, 2016)
- **Wilbush v. Ambac Financial Group, Inc.**, Civ. No. 1:16-cv-05076 RMB (S.D.N.Y. Oct. 11, 2016)
- **The TransEnterix Investor Group v. TransEnterix, Inc.**, 5:16-cv-00313-D (E.D.N.C. Aug. 30, 2016)
- **Gormley v. magicJack VocalTec Ltd.**, 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)
- **Azar v. Blount Int'l Inc.**, Civ. No. 3:16-cv-00483-SI (D. Or. July 1, 2016)
- **Plumley v. Sempra Energy**, 3:16-cv-00512-BEN-RBB (S.D. Cal. June 6, 2016)
- **Francisco v. Abengoa, S.A.**, 1:15-cv-06279-ER (S.D.N.Y. May 24, 2016)
- **Harrington v. Tetrphase Pharmaceuticals, Inc.**, Civ. No. 1:16-cv-10133-LTS (D. Mass. May 13, 2016)
- **De Vito v. Liquid Holdings Group, Inc.**, 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)
- **In re OvaScience Inc. Stockholder Litig.**, C.A. No. 15-3087-BLS2 (Mass. Super. Ct. Apr. 2, 2016)
- **Ford v. Natural Health Trends Corp.**, 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)
- **Levin v. Resource Capital Corp.**, 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)
- **Martin v. Altisource Residential Corp.**, 1:15-cv-00024 (D.V.I. Oct. 7, 2015)
- **Paggos v. Resonant, Inc.**, 2:15-cv-01970 SJO (VBKx) (C.D. Cal. Aug. 7, 2015)
- **Fragala v. 500.com Ltd.**, 2:15-cv-01463-MMM (C.D. Cal. July 7, 2015)
- **Stevens v. Quiksilver Inc.**, 8:15-cv-00516-JVS-JCGx. (C.D. Cal. June 26, 2015)
- **In re Ocean Power Technologies, Inc. Sec. Litig.**, 14-3799 (FLW) (LHG) (D.N.J. Mar. 17, 2015)
- **In re Energy Recovery Inc. Sec. Litig.**, 3:15-cv-00265 (N.D. Cal. Jan. 20, 2015)
- **Klein v. TD Ameritrade Holding Corp.**, 3:14-cv-05738 (D. Neb. Dec. 2, 2014)
- **In re China Commercial Credit Sec. Litig.**, 1:15-cv-00557 (ALC) (D.N.J. Oct. 31, 2014)
- **In re Violin Memory, Inc. Sec. Litig.**, 4:13-cv-05486-YGR (N.D. Cal. Feb. 26, 2014)
- **Berry v. Kior, Inc.**, 4:13-cv-02443 (S.D. Tex. Nov. 25, 2013)
- **In re OCZ Technology Group, Inc. Sec. Litig.**, 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- **In re Digital Domain Media Group, Inc. Sec. Litig.**, 12-CIV-14333 (JEM) (S.D. Fla. Sept. 20, 2012)

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Derivative, Corporate Governance & Executive Compensation

We protect shareholders by enforcing the obligations of corporate fiduciaries. We are a leader in achieving important corporate governance reforms for the benefit of shareholders. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct and taking remedial action for the benefit of shareholders. In situations where a company's board responds to a demand by commencing its own investigation, we frequently work with the board's counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We also have successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through long-lasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation, recapturing assets for the benefit of companies and their shareholders. In addition, we have secured corporate governance changes to ensure that executive compensation is consistent with shareholder-approved compensation plans, company performance, and federal securities laws.

In ***In re Google Inc. Class C Shareholder Litigation***, C.A. No. 7469-CS (Del. Ch.), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to existing shareholders harmed by the transaction as well as providing enhanced board scrutiny of the Google founders' ability to transfer stock. Ultimately, Google's shareholders received payments of \$522 million and total net benefits estimated as exceeding \$3 billion.

In ***In re Activision, Inc. Shareholder Derivative Litigation***, No. 06-cv-04771-MRP (JTLX) (C.D. Cal.), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than \$24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

In ***Pfeiffer v. Toll*** (Toll Brothers Derivative Litigation), C.A. No. 4140-VCL (Del. Ch.), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning \$16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In ***Rux v. Meyer***, C.A. No. 11577-CB (Del. Ch.), we challenged the re-purchase by Sirius XM of its stock from its controlling stockholder, Liberty Media, at an inflated, above-market price. After defeating a motion to dismiss and discovery, we obtained a settlement where SiriusXM recovered \$8.25 million, a substantial percentage of its over-payment.

In ***In re EZCorp Inc. Consulting Agreement Derivative Litig.***, C.A. 9962-VCL, (Del. Ch.), we challenged lucrative consulting agreements between EZCorp and its controlling stockholders. After surviving multiple motions to dismiss, we obtained a settlement where EZCorp was repaid \$6.5 million it had paid in consulting fees, or approximately 33% of the total at issue and the consulting agreements were discontinued.

In ***Scherer v. Lu***, (Diodes Incorporated), No. 13-358-GMS, 2014 U.S. Dist. LEXIS 196440 (D. Del.), we secured the cancellation of \$4.9 million worth of stock options granted to the company's CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fully-informed vote on the adoption of a new compensation plan at the company's annual meeting.

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In **MacCormack v. Groupon, Inc.**, C.A. No. 13-940-GMS (D. Del.), we caused the cancellation of \$2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In **Edwards v. Benson**, (Headwaters Incorporated), (D. Utah), we caused the cancellation of \$3.2 million worth of stock appreciation rights granted to the company's CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In **Pfeiffer v. Begley**, (DeVry, Inc.), (Cir. Ct. DuPage Cty., Ill.), we secured the cancellation of \$2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In **Basch v. Healy** (D. Del.), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In **Kleba v. Dees**, C.A. 3-1-13 (Tenn. Cir. Ct. Knox Cty.), we recovered approximately \$9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.

In **Lopez v. Nudelman**, (CTI BioPharma Corp.), 14-2-18941-9 SEA (Wash. Super. Ct. King Cnty.), we recovered approximately \$3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

In **In re i2 Technologies, Inc. Shareholder Litigation**, C.A. No. 4003-CC (Del. Ch.), as Counsel for the Lead Plaintiff, we challenged the fairness of certain asset sales made by the company and secured a \$4 million recovery.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, 8:06cv777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a \$2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)**, C.A. No. 10-cv-1063-PD (D. Del.), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

In **In re Cincinnati Bell, Inc., Derivative Litigation**, Case No. A1105305 (Ohio, Hamilton Cty.), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In **Woodford v. Mizel (M.D.C. Holdings, Inc.)**, 1:2011cv00879 (D. Del.), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.

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Mergers & Acquisitions

We have achieved an impressive record in obtaining injunctive relief for shareholders and are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, where we strive to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, we served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

In ***In re CNX Gas Corp. Shareholder Litigation***, 4 A.3d 397 (Del. Ch. 2010), as Plaintiffs' Executive Committee Counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over \$42.7 million for the company's shareholders.

In ***Chen v. Howard-Anderson***, C.A. No 5878-VCL (Del. Ch. 2010), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading. Post-closing, we took the case to trial and recovered an additional \$35 million for the shareholders.

In ***In re Sauer-Danfoss Stockholder Litig.***, C.A. No. 8396 (Del. Ch.), as one of plaintiffs' co-lead counsel, we recovered a \$10 million common fund settlement in connection with a controlling stockholder merger transaction.

In ***In re Yongye International, Inc. Shareholders' Litigation***, Consolidated Case No.: A-12-670468-B (District Court, Clark County, Nevada), as one of plaintiffs' co-lead counsel, we recovered a \$6 million common fund settlement in connection with a management-led buyout of minority stockholders in a China-based company incorporated under Nevada law.

In ***In re Great Wolf Resorts, Inc. Shareholder Litigation***, C.A. No. 7328-VCN (Del. Ch. 2012), we achieved tremendous results for shareholders, including partial responsibility for a \$93 million (57%) increase in merger consideration and the waiver of several "don't-ask-don't-waive" standstill agreements that were restricting certain potential bidders from making a topping bid for the company.

In ***In re Talecris Biotherapeutics Holdings Shareholder Litigation***, C.A. No. 5614-VCL (Del. Ch. 2010), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company's stock and providing shareholders with appraisal rights.

In ***In re Minerva Group LP v. Mod-Pac Corp.***, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty. 2013), we obtained a settlement in which defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share, representing a recovery of \$2.4 million for shareholders.

In ***Stephen J. Dannis v. J.D. Nichols***, C.A. No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty. 2014), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from \$7.50 to \$9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of \$7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS's controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action

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alleged that Nichols' proposed transaction grossly undervalued NTS's units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel's tenacious efforts the transaction was resurrected and improved.

In **Dias v. Purches**, C.A. No. 7199-VCG (Del. Ch. 2012), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders' motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In **Forgo v. Health Grades, Inc.**, C.A. No. 5716-VCS (Del. Ch. 2010), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required under *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a "Fort Howard" release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In **In re Pamrapo Bancorp Shareholder Litigation**, Docket C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), we defeated defendants' motion to dismiss shareholders' class action claims for money damages arising from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. We then survived a motion for summary judgment, ultimately securing a settlement recovering \$1.95 million for the Class plus the Class's legal fees and expenses up to \$1 million (representing an increase in consideration of 15-23% for the members of the Class). The case.

In **In re Complete Genomics, Inc. Shareholder Litigation**, C.A. No. 7888-VCL (Del. Ch. 2012), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a "don't-ask-don't-waive" standstill agreement.

In **In re Integrated Silicon Solution, Inc. Stockholder Litigation**, Lead Case No. 115CV279142 (Super. Ct. Santa Clara, CA 2015), we won an injunction requiring corrective disclosures concerning "don't-ask-don't-waive" standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from \$19.25 to \$23 per share, a bump of almost 25 percent.

In **In re Bluegreen Corp. Shareholder Litigation**, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of \$36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

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Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, unfair or deceptive business practices, antitrust violations, and privacy right violations.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enable us to fight for consumers who have been aggrieved by deceptive and unfair business practices and who purchased defective products, including automobiles, appliances, electronic goods, and other consumer products. The Firm also represents consumers in cases involving data breaches and privacy right violations. The Firm's attorneys have received a number of leadership appointments in consumer class action cases, including multidistrict litigation ("MDL"). Recently, Law.com identified the Firm as one of the top firms with MDL leadership appointments in the article titled, "There Are New Faces Leading MDLs. And They Aren't All Men" (July 6, 2020). Representative settled and ongoing cases include:

In *NV Security, Inc. v. Fluke Networks*, Case No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

In Re: *Apple Inc. Device Performance Litig.*, Case No. 5:18-md-02827-EJD (N.D. Cal.): Plaintiffs' Executive Committee Counsel in proposed nationwide class action alleging that Apple purposefully throttled iPhone; Apple has agreed to pay up to \$500 million in cash (proposed settlement pending).

In Re: *Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig.*, Case No. 3:18-md-02828 (D. Or.): Co-Lead Interim Class Counsel in proposed nationwide class action alleging that Intel manufactured and sold defective central processing units that allowed unauthorized access to consumer stored confidential information.

In Re: *ZF-TRW Airbag Control Units Products Liability Litig.*, Case No. 2:19-mi-02905-JAK-FFM (C.D. Cal.): Plaintiffs' Steering Committee Counsel in proposed nationwide class action alleging that defendant auto manufacturers sold vehicles with defective airbags.

In Re: *EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.*, Case No. 17-md-02785 (D. Kan.): Plaintiffs' Executive Committee Counsel in action alleging that Mylan and Pfizer violated antitrust laws and committed other violations relating to the sale of EpiPens. Nationwide class and multi-state classes certified.

Sung, et al. v. Schurman Retail Group, Case No. 17-cv-02760-LB (N.D. Cal.): Co-Lead Class Counsel in nationwide class action alleging unauthorized disclosure of employee financial information; obtained final approval of nationwide class action settlement providing credit monitoring and identity theft restoration services through 2022 and cash payments of up to \$400.

Scott, et al. v. JPMorgan Chase Bank, N.A., Case No. 1:17-cv-00249 (D.D.C.): Co-Lead Class Counsel in nationwide class action settlement of claims alleging improper fees deducted from payments awarded to jurors; 100% direct refund of improper fees collected.

In Re: *Citrix Data Breach Litig.*, Case No. 19-cv-61350-RKA (S.D. Fla.): Interim Class Counsel in action alleging company failed to implement reasonable security measures to protect employee financial information; common fund settlement of \$2.25 million pending.

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NV Security, Inc. v. Fluke Networks, Case No. CV05-4217 GW (SSx) (C.D. Cal. 2005): Settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery; benefits included free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

Bustos v. Vonage America, Inc., Case No. 06 Civ. 2308 (HAA) (D.N.J. 2006): Common fund settlement of \$1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

Masterson v. Canon U.S.A., Case No. BC340740 (Cal. Super. Ct. L.A. Cty. 2006): Settlement providing refunds to Cannon SD camera purchasers for certain broken LCD repair charges and important changes to the product warranty.

“The quality of the representation... has been extremely high, not just in terms of the favorable outcome in terms of the substance of the settlement, but in terms of the diligence and the hard work that has gone into producing that outcome.”

The Honorable Joseph F. Bianco, in *Landes v. Sony Mobile Communications*,
17-cv-02264-JFB-SIL (E.D.N.Y. Dec. 1, 2017)

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OUR ATTORNEYS

Managing Partners

Eduard Korsinsky

For more than 20 years Eduard Korsinsky has represented clients in securities cases, derivative actions, consumer fraud, and complex commercial matters. He has been named a New York "Super Lawyer" by Thomson Reuters and is recognized as one of the country's leading practitioners in class and derivative matters. Mr. Korsinsky also has served as an editor of the American Bar Association's Securities Litigation Section's newsletter and is a member of the American Bar Association's Derivative Suits Subcommittee.

Cases which he has litigated include:

- ***E-Trade Financial Corp. Sec. Litig.***, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery
- ***In re Activision, Inc. S'holder Derivative Litig.***, No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered \$24 million in excess compensation
- ***Corinthian Colleges, Inc., S'holder Derivative Litig.***, SACV-06-0777-AHS (C.D. Cal. 2009), obtained repricing of executive stock options providing more than \$2 million in benefits to the company
- ***Pfeiffer v. Toll***, C.A. No. 4140-VCL (Del. Ch. 2010), \$16.25 million in insider trading profits recovered
- ***In re Net2Phone, Inc. S'holder Litig.***, Case No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from \$1.70 per share to \$2.05 per share
- ***In re Pamrapo Bancorp S'holder Litig.***, C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, defeated motion for summary judgment, and obtained an increase in consideration of between 15-23% for the members of the Class
- ***In re Google Inc. Class C S'holder Litig.***, C.A. No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to \$8 billion in losses stemming from trading discounts expected to affect the new stock
- ***Woodford v. M.D.C. Holdings, Inc.***, 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation
- ***i2 Technologies, Inc. S'holder Litig.***, C.A. No. 4003-CC (Del. Ch. 2008), \$4 million recovered, challenging fairness of certain asset sales made by the company
- ***Pfeiffer v. Alpert (Beazer Homes)***, C.A. No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
- ***In re NCS Healthcare, Inc. Sec. Litig.***, C.A. CA 19786, (Del. Ch. 2002), case settled for approximately \$100 million
- ***Paraschos v. YBM Magnex Int'l, Inc.***, No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for \$85 million Canadian

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Education

- New York University School of Law, LL.M. Master of Law(s) Taxation (1997)
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S., Accounting, *summa cum laude* (1992)

Admissions

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)
- United States Court of Appeals for the Sixth Circuit (2013)

Publications

- Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

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Joseph E. Levi

Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the attorneys achieved success on behalf of the former shareholders of Occam Networks, Inc. in litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy statement by which the shareholders were solicited to vote. See **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch. Jan. 24, 2011). Vigorous litigation efforts continued to trial, recovering \$35 million for the shareholders.

Another victory for Mr. Levi and the attorneys was in litigation challenging the acquisition of Health Grades, Inc. by affiliates of Vestar Capital Partners, L.P., where it was successfully demonstrated to the Delaware Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required by **Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.**, 506 A.2d 173 (Del. 1986). See **Weigard v. Hicks**, No. 5732-VCS (Del. Ch. Sept. 3, 2010). This ruling was used to reach a favorable settlement in which defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applaud[ed]" the litigation team for their preparation and the extraordinary high-quality of the briefing. He and the attorneys also played a prominent role in the matter of **In re CNX Gas Corp. Shareholders Litigation**, C.A. No. 5377-VCL (Del. Ch. 2010), in which plaintiffs recovered a common fund of over \$42.7 million for stockholders.

Education

- Brooklyn Law School, J.D., *magna cum laude* (1995)
- Polytechnic University, B.S., *summa cum laude* (1984); M.S. (1986)

Admissions

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)

"[The court] appreciated very much the quality of the argument..., the obvious preparation that went into it, and the ability of counsel..."

Vice Chancellor Sam Glasscock, III in *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. Apr. 5, 2012)

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Partners

Nicholas I. Porritt

Nicholas Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in ***In re Google Inc. Class C Shareholder Litigation***, C.A. No. 7469-CS (Del. Ch.) that resulted in a payment of \$522 million to shareholders and overall benefit of over \$3 billion to Google's minority shareholders. He was one of the lead counsel in ***Chen v. Howard-Anderson***, No. 5878-VCL (Del. Ch.) that settled during trial resulting in a \$35 million payment to the former shareholders of Occam Networks, Inc., one of the largest quasi-appraisal recoveries for shareholders. Amongst other cases, he is currently lead counsel in ***In re Tesla, Inc. Securities Litigation***, No. 3:18-cv-04865-EMC (N.D. Cal.), representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018 as well as lead counsel in ***Ford v. TD Ameritrade Holding Corp.***, No. 14-cv-396 (D. Neb.), representing TD Ameritrade customers harmed by its improper routing of their orders. Both cases involve over \$1 billion in estimated damages.

Some of Mr. Porritt's recent cases include:

- ***In re Bridgestone Inv. Corp.***, 789 Fed. App'x 13 (9th Cir. 2019)
- ***Zaghian v. Farrell***, 675 Fed. Appx. 718, (9th Cir. 2017)
- ***SEC v. Cuban***, 620 F.3d 551 (5th Cir. 2010)
- ***Cozzarelli v. Inspire Pharmaceuticals, Inc.***, 549 F.3d 618 (4th Cir. 2008)
- ***Teachers' Retirement System of Louisiana v. Hunter***, 477 F.3d 162 (4th Cir. 2007)
- ***In re Tesla, Inc. Sec. Litig.***, 2020 WL 1873441 (N.D. Cal. Apr. 15, 2020)
- ***In re Navient Corp. Sec. Litig.***, 2019 WL 7288881 (D.N.J. Dec. 30, 2019)
- ***In re Clovis Oncology, Inc. Deriv. Litig.***, 2019 WL 4850188 (Del. Ch. Oct. 1, 2019)
- ***Martin v. Altisource Residential Corp.***, 2019 WL 2762923 (D.V.I. July 2, 2019)
- ***Klein v. TD Ameritrade Holding Corp.***, 327 F.R.D. 283 (D. Neb. 2018)
- ***Beezley v. Fenix Parts, Inc.***, 2018 WL 3454490 (N.D. Ill. July 13, 2018)
- ***In re PTC Therapeutics Sec. Litig.***, 2017 WL 3705801 (D.N.J. Aug. 28, 2017)
- ***Gormley v. magicJack VocalTec Ltd.***, 220 F. Supp. 3d 510 (S.D.N.Y. 2016)
- ***Carlton v. Cannon***, 184 F. Supp. 3d 428 (S.D. Tex. 2016)
- ***Zola v. TD Ameritrade, Inc.***, 172 F. Supp. 3d 1055 (D. Neb. 2016)
- ***In re Energy Recovery Sec. Litig.***, 2016 WL 324150 (N.D. Cal. Jan. 27, 2016)
- ***In re EZCorp Inc. Consulting Agreement Deriv. Litig.***, 2016 WL 301245 (Del. Ch. Jan. 25, 2016)
- ***In re Violin Memory Sec. Litig.***, 2014 WL 5525946 (N.D. Cal. Oct. 31, 2014)
- ***Garnitschnig v. Horovitz***, 48 F. Supp. 3d 820 (D. Md. 2014)
- ***In Re Aphria, Inc. Securities Litigation***, 2020 WL 5819548 (S.D.N.Y. 2020)

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Mr. Porritt was selected by Lawdragon as one of the 500 leading plaintiff lawyers in financial litigation and was selected to the 2020 DC Super Lawyers list published by Thomson Reuters.

Mr. Porritt speaks frequently on current topics relating to securities laws and derivative actions, including presentations on behalf of the Council for Institutional Investors, Nasdaq, and the Practising Law Institute. He currently serves as co-chair of the American Bar Association Sub-Committee on Derivative Actions.

Before joining the Firm, Mr. Porritt practiced as a partner at Akin Gump Strauss Hauer & Feld LLP and prior to that was a partner at Wilson Sonsini Goodrich & Rosati PC. Mr. Porritt formerly practiced as a Barrister and Solicitor in Wellington, New Zealand and is a Solicitor of the Senior Courts of England & Wales.

Education

- University of Chicago Law School, J.D., With Honors (1996)
- University of Chicago Law School, LL.M. (1993)
- Victoria University of Wellington, LL.B. (Hons.), With First Class Honors, Senior Scholarship (1990)

Admissions

- New York (1997)
- District of Columbia (1998)
- United States District Court for the District of Columbia (1999)
- United States District Court for the Southern District of New York (2004)
- United States Court of Appeals for the Fourth Circuit (2004)
- United States Court of Appeals for the District of Columbia Circuit (2006)
- United States Supreme Court (2006)
- United States District Court for the District of Maryland (2007)
- United States District Court for the Eastern District of New York (2012)
- United States Court of Appeals for the Second Circuit (2014)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States District Court for the District of Colorado (2015)
- United States Court of Appeals for the Tenth Circuit (2016)
- United States Court of Appeals for the Eleventh Circuit (2017)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2019)

Publications

- "Current Trends in Securities Litigation: How Companies and Counsel Should Respond," *Inside the Minds Recent Developments in Securities Law* (Aspatore Press 2010)

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Rosemary M. Rivas

The Firm's Consumer Litigation Group is led by Rosemary M. Rivas, who manages the Firm's San Francisco office. She has dedicated her legal career to representing consumers in complex, class action litigation in various areas including defective products and automobiles, data breach and privacy rights, false and misleading advertising, and unfair business practices, among others. Ms. Rivas has been influential in recovering millions of dollars and changes to corporate practices on behalf of consumers. In a highly competitive application process, Judge Charles R. Breyer appointed Ms. Rivas to the Plaintiffs' Steering Committee in ***In re: Volkswagen "Clean Diesel" MDL***, Case No. 15-MDL-2672-CRB (JSC), which resulted in unprecedented settlements exceeding \$15 billion dollars.

Currently, Ms. Rivas is Co-Lead Counsel in the action titled ***Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig.***, Case No. 3:18-md-02828-SI, involving allegations that Intel sold CPUs that were defective and allowed unauthorized access to confidential information. Ms. Rivas is also currently a member of the Plaintiffs' Steering Committee in the action titled ***In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.***, Case No. 2:17-md-02785 (D. Kan.) involving unlawful monopoly claims in the market for epinephrine injection pens.

Ms. Rivas' work has resulted in important monetary and injunctive settlements in a number of class action cases, such as:

- ***Sung v. Schuman Fine Papers***, Case No. 17-cv-02760 (N.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement of claims for unauthorized disclosure of W2s; eligible class members could recover up to \$500 and implementation of training and changes to practices for the protection of employee personal and financial information
- ***Scott v. JPMorgan Chase Bank, N.A.***, Case No. 1:17-cv-00249 (D.D.C.) (Co-Lead Class Counsel): nationwide class action settlement of claims alleging improper fees to payments awarded to jurors; 100% direct refund of improper fees collected
- ***Lilly v. ConAgra Foods***, 743 F.3d 662 (9th Cir. 2014) (Class Counsel): claims that food manufacturer violated food regulations by failing to list total sodium on salt of sunflower seeds product were not preempted by federal law; class action injunctive relief settlement for change in product labels
- ***Petersen v. CJ America, Inc.***, Case No. 3:14-cv-02570 (S.D. Cal.) (Co-Lead Class Counsel): nationwide class action involving false advertising claims; \$1.5 million common fund and changes to product labeling
- ***Lilly v. Jamba Juice***, Case No. 13-cv-02998 (N.D. Cal.) (Co-Lead Class Counsel): class action injunctive relief settlement; change in product labels
- ***In re Carrier IQ, Inc., Consumer Privacy Litig.***, Case No. 3:12-md-02330 (N.D. Cal.) (Executive Committee): nationwide class action settlement involving data privacy; \$9 million settlement and changes to corporate practices
- ***Pappas v. Naked Juice***, Case No. 2:11-cv-08276 (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement for \$9 million and changes to the company's testing procedures and product labels
- ***Garcia v. Allergan, Inc.***, Case No. 09-cv-7088 PSG (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement of false advertising and unfair business practice claims; \$7.75 million settlement and changes to the company's training procedures

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- **Rodriguez v. West Publishing Corp.**, 563 F.3d 948 (9th Cir. 2009): nationwide class action settlement of antitrust claims in bar review market; \$49 million and dissolution of allegedly illegal market allocation agreement
- **Lima v. Gateway**, Case No. SACV-09-1366 (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action involving defective monitor; \$195 cash refund for each monitor purchased

She has also been instrumental in obtaining favorable appellate decisions on behalf of consumers in the areas of false advertising, federal preemption, and arbitration, such as:

- **Lilly v. ConAgra Foods, Inc.**, 743 F.3d 662 (9th Cir. 2014)
- **In re Sony PS3 "Other OS" Litig.**, 551 Fed. App. 916 (9th Cir. 2014)
- **Probst v. Superior Court (Health Net of California)**, 2012 Cal. LEXIS 4476 (Ct. Appeal, 1st Dist., May 9, 2012)

Ms. Rivas is a recipient of the 2018 California Lawyer Attorney of the Year (CLAY) Award. The CLAY award was presented to her by the Daily Journal for her work in the Volkswagen litigation. The CLAY awards are given annually to outstanding California practitioners "whose extraordinary work and cases had a major impact on the law."

In 2019 Ms. Rivas was selected as a Super Lawyer. From 2009-2011, Ms. Rivas was selected as a Rising Star by Law & Politics Magazine, which recognizes the best lawyers 40 years old or under or in practice for 10 years or less. In 2015, Bay Area Legal Aid presented her with the Guardian of Justice award, for her work achievements in the law and her role in helping direct cy près funds to ensure equal access to the civil justice system. As a recognized leader in consumer class actions, Ms. Rivas is regularly invited to speak at conferences concerning class action litigation, including the following:

- *Class Action Law Forum 2020 – Review of Key Class Action Decisions*, March 2020 (Western Alliance Bank in collaboration with University of San Diego School of Law)
- *Nationwide Settlement Classes – The Impact of the Hyundai/Kia Litigation*, 2018 (National Consumer Law Center's Consumer Rights Litigation Conference and Class Action Symposium)
- *One Class Action Or 50? Choice of Law Considerations as Potential Impediment to Nationwide Class Action Settlements*, 2018 (5th Annual Western Regional CLE Program on Class Actions and Mass Torts)
- *The Right Approach to Effective Claims*, 2018 (Beard Group - Class Action Money & Ethics)
- *False Advertising Class Actions: A Practitioner's Guide to Class Certification, Damages and Trial*, 2017 (The Bar Association of San Francisco)
- *Section 17200: The Fertility of Man's Invention*, 2016 (The Bar Association of San Francisco)
- *Food Labeling and False Advertising Class Actions*, 2015 (The Bar Association of San Francisco)
- *Data Privacy Law 101: U.S. Data Privacy and Security Laws 2015* (The Bar Association of San Francisco)
- *Effective Consumer Privacy Enforcement*, 2011 (Berkeley Law and The Samuelson Law, Technology & Public Policy Clinic)
- *Class Actions: New Developments & Approaches for Strategic Response*, 2013 (American Bar Association)

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Previously, Ms. Rivas served as a Board Member and Diversity Director of the Barristers Club of the San Francisco Bar Association. Ms. Rivas is fluent in Spanish.

Education

- University of California, Hastings College of Law, J.D. (2000)
- San Francisco State University, B.A., Political Science (1997)

Admissions

- United States Court of Appeals for the Ninth Circuit (2001)
- United States District Court for the Northern District of California (2001)
- United States District Court for the Central District of California (2002)
- United States District Court for the Eastern District of California (2005)
- United States District Court for the Southern District of California (2005)

Donald J. Enright

During his 24 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder M&A and securities fraud class action litigation. He has been named as one of the leading financial litigators in the nation by Lawdragon, as a Washington, DC "Super Lawyer" by Thomson Reuters, and as one of the city's "Top Lawyers" by *Washingtonian* magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- ***Nathenson v. Zonagen, Inc.***, 267 F. 3d 400, 413 (5th Cir. 2001)
- ***SEC v. Butler***, 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- ***Belizan v. Hershon***, 434 F. 3d 579 (D.C. Cir. 2006)

Most recently, in ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, Mr. Enright served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

Similarly, as Co-Lead Counsel in ***In re Bluegreen Corp. Shareholder Litigation***, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders. Also, in ***In re CNX Gas Corp. Shareholders Litigation***, C.A. No. 53377-VCL (Del. Ch. 2010), in which Levi & Korsinsky served upon plaintiffs' Executive Committee, Mr. Enright helped obtain the recovery of a common fund of over \$42.7 million for stockholders.

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Mr. Enright has also played a leadership role in numerous securities and shareholder class actions from inception to conclusion. Most recently, he has served as lead counsel in several cryptocurrency-related securities class actions. His leadership has produced multi-million-dollar recoveries in shareholder class actions involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.
- Manugistics Group, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won preliminary injunctions or other injunctive relief in the cases of:

- ***In re Portec Rail Products, Inc. S'holder Litig.***, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- ***In re Craftmade International, Inc. S'holder Litig.***, C.A. No. 6950-VCL (Del. Ch. 2011)
- ***Dias v. Purches***, C.A. No. 7199-VCG (Del. Ch. 2012)
- ***In re Complete Genomics, Inc. S'holder Litig.***, C.A. No. 7888-VCL (Del. Ch. 2012)
- ***In re Integrated Silicon Solution, Inc. Stockholder Litig.***, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of ***In re Great Wolf Resorts, Inc. Shareholder Litigation***, C.A. No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a \$93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements that were precluding certain potential bidders from making a topping bid for the company.

Similarly, Mr. Enright served as Co-Lead Counsel in the case of ***Berger v. Life Sciences Research, Inc.***, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from \$7.50 to \$8.50 per share, representing additional consideration for shareholders of approximately \$11.5 million.

Mr. Enright also served as Co-Lead Counsel in ***Minerva Group, LP v. Keane***, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.) and obtained a settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share.

The courts have consistently recognized and praised the quality of Mr. Enright's work. In ***In re Interbank Funding Corp. Securities Litigation*** (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case."

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Similarly, in ***Freeland v. Iridium World Communications***, LTD, (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright had done “an outstanding job” in connection with the recovery of \$43.1 million for the shareholder class.

And, in the matter of ***Osieczanek v. Thomas Properties Group***, C.A. No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Chancery Court of Delaware observed that “it’s always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position,” and that Mr. Enright’s prosecution of a merger case was “wholesome” and served as “a model of . . . plaintiffs’ litigation in the merger arena.”

Education

- George Washington University School of Law, J.D. (1996), where he was a Member Editor of The George Washington University Journal of International Law and Economics from 1994 to 1996
- Drew University, B.A., Political Science and Economics, *cum laude* (1993)

Admissions

- Maryland (1996)
- New Jersey (1996)
- United States District Court for the District of Maryland (1997)
- United States District Court for the District of New Jersey (1997)
- District of Columbia (1999)
- United States Court of Appeals for the Fourth Circuit (1999)
- United States Court of Appeals for the Fifth Circuit (1999)
- United States District Court for the District of Columbia (1999)
- United States Court of Appeals for the District of Columbia (2004)
- United States Court of Appeals for the Second Circuit (2005)
- United States Court of Appeals for the Third Circuit (2006)
- United States District Court for the District of Colorado (2017)

Publications

- “SEC Enforcement Actions and Investigations in Private and Public Offerings,” Securities: Public and Private Offerings, Second Edition, West Publishing 2007
- “Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?” J. Tax’n & Reg. Fin. Inst. September/October 2007, Page 5

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Shannon L. Hopkins

Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than a decade Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million dollar settlements on behalf of shareholders, including:

- ***In re Force Protection, Inc. S'holder Litig.***, C.A. No. A-11-651336-B (D. Nev. 2015), \$11 million shareholder recovery
- ***Craig Telke v. New Frontier Media, Inc.***, C.A. No. 1:12-cv-02941-JLK (D. Co. 2015), \$2.25 million shareholder recovery
- ***Shona Investments v. Callisto Pharmaceuticals, Inc.***, C.A. No. 652783/2012 (NY Sup. Ct. 2015), shareholder recovery of \$2.5 million and increase in exchange ratio from 0.1700 to 0.1799
- ***E-Trade Financial Corp. S'holder Litig.***, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery for the shareholder class
- ***In re Cogent, Inc. S'holder Litig.***, C.A. No. 5780-VCP (Del. Ch. 2010), \$1.9 million shareholder recovery and corrective disclosures relating to the Merger
- ***In re CMS Energy Sec. Litig.***, Civil No. 02 CV 72004 (GCS) (E.D. Mich. Sept. 6, 2007), \$200 million recovery
- ***In re Sears, Roebuck and Co. Sec. Litig.***, No. 02-cv-07527 (N.D. Ill. Jan. 8, 2007), \$200 million recovery
- ***In re El Paso Electric Co. Sec. Litig.***, C.A. No. 3:03-cv-00004-DB (W.D. Tex. Sept. 15, 2005), \$10 million recovery
- ***In re Novastar Fin. Sec. Litig.***, 4:04-cv-00330-ODS (W.D. Mo. Apr. 14, 2009), \$7.25 million recovery

The quality of Ms. Hopkin's work has been noted by courts. In ***In re Health Grades, Inc. Shareholder Litigation***, C.A. No. 5716-VCS (Del. Ch. 2010), where Ms. Hopkins was significantly involved with the briefing of the preliminary injunction motion, then Vice Chancellor Strine "applaud[ed]" Co-Lead Counsel for their preparation and the extraordinary high-quality of the briefing.

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

Education

- Suffolk University Law School, J.D., *magna cum laude* (2003), where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
- Bryant University, B.S.B.A., Accounting and Finance, *cum laude* (1995), where she was elected to the Beta Gamma Sigma Honor Society

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Admissions

- Massachusetts (2003)
- United States District Court for the District of Massachusetts (2004)
- New York (2004)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the District of Colorado (2004)
- United States Court of Appeals for the First Circuit (2008)
- United States Court of Appeals for the Third Circuit (2010)
- Connecticut (2013)

Publications

- "Cybercrime Convention: A Positive Beginning to a Long Road Ahead," 2 J. High Tech. L. 101 (2003)

In appointing the Firm Lead Counsel, the Honorable Gary Allen Feess noted our "significant prior experience in securities litigation and complex class actions."

Zaghian v. THQ, Inc., 2:12-cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)

Gregory Mark Nespole

Gregory Mark Nespole is a Partner of the Firm, having been previously a member of the management committee of one of the oldest firms in New York, as well as chair of that firm's investor protection practice. He specializes in complex class actions, derivative actions, and transactional litigation representing institutional investors such as public and labor pension funds, labor health and welfare benefit funds, and private institutions. Prior to practicing law, Mr. Nespole was a strategist on an arbitrage desk and an associate in a major international investment bank where he worked on structuring private placements and conducting transactional due diligence.

For over twenty years, Mr. Nespole has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million-dollar settlements on behalf of shareholders, including:

- Served as co-chair of a Madoff Related Litigation Task Force that recovered over several hundred million dollars for wronged investors;
- Obtained a \$90 million award on behalf of a publicly listed company against a global bank arising out of fraudulently marketed auction rated securities;
- Successfully obtained multi-million-dollar securities litigation recoveries and/or corporate governance reforms from Cablevision, JP Morgan, American Pharmaceutical Partners, Sepracor, and MBIA, among many others.

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Mr. Nespole's peers have elected him a "Super Lawyer" in the class action field annually since 2009. He is active in his community as a youth sports coach.

Education

- Brooklyn Law School, J.D. (1993)
- Bates College, B.A. (1989)

Admissions

- New York (1994)
- United States District Court for the Southern District of New York (1994)
- United States District Court for the Eastern District of New York (1994)
- United States Court of Appeals for the Second Circuit (1994)
- United States Court of Appeals for the Fourth Circuit (1994)
- United States Court of Appeals for the Fifth Circuit (1994)
- United States District Court for the Northern District of New York (2018)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2020)

Daniel Tepper

Daniel Tepper is a Partner of the Firm with extensive experience in shareholder derivative suits, class actions and complex commercial litigation. Before he joined Levi & Korsinsky, Mr. Tepper was a partner in one of the oldest law firms in New York. He is an active member of the CPLR Committee of the New York State Bar Association and was an early member of its Electronic Discovery Committee. Mr. Tepper was selected as a New York "Super Lawyer" in 2016 – 2019.

Some of the notable matters where Mr. Tepper had a leading role include:

- ***Siegmund v. Bian***, Case No. 16-62506 (S.D. Fla.), achieving an estimated recovery of \$29.93 per share on behalf of a class of public shareholders of Linkwell Corp. who were forced to sell their stock at \$0.88 per share.
- ***In re Platinum-Beechwood Litigation***, Case No. 18-06658 (S.D.N.Y.), achieved dismissal on behalf of an individual investor in Platinum Partners-affiliated investment fund.
- ***Lakatamia Shipping Co. Ltd. v. Nobu Su***, Index No. 654860/2016 (Sup. Ct., N.Y. Co. 2016), achieved dismissal on suit attempting to domesticate a \$40 million UK judgment in New York State.
- ***Zelouf Int'l Corp. v. Zelouf***, 45 Misc.3d 1205(A) (Sup.Ct. N.Y. Co., 2014), representing the plaintiff in an appraisal proceeding triggered by freeze-out merger of closely-held corporation. Achieved a \$10 million verdict after eleven day trial, with the Court rejecting a discount for lack of marketability.
- ***Sacher v. Beacon Assocs. Mgmt. Corp.***, 114 A.D.3d 655 (2d Dep't 2014), affirming denial of defendants' motion to dismiss shareholder derivative suit by Madoff feeder fund against fund's auditor for accounting malpractice.

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- ***In re Belzberg***, 95 A.D.3d 713 (1st Dep't 2012), compelling a non-signatory to arbitrate brokerage agreement dispute arising under doctrine of direct benefits estoppel.
- ***Estate of DeLeo***, Case No. 353758/A (Surrog. Ct., Nassau Co. 2011), achieving a full plaintiff's verdict after a seven day trial which restored a multi-million dollar family business to its rightful owner.
- ***CMIA Partners Equity Ltd. v. O'Neill***, 2010 NY Slip Op 52068(U) (Sup. Ct. N.Y. Co., 2010). Representing the independent directors of a Cayman Islands investment fund, won a dismissal on the pleadings in the first New York state case examining shareholder derivative suits under Cayman Islands law.
- ***Hecht v. Andover Assocs. Mgmt. Corp.***, 27 Misc 3d 1202(A) (Sup. Ct. Nassau Co., 2010), aff'd, 114 A.D.3d 638 (2d Dep't 2014). Participated in a \$213 million global settlement in the first Madoff-related feeder fund in the country to defeat a motion to dismiss.

Education

- New York University School of Law (JD, 2000)
- The University of Texas at Austin (BA with Honors, 1997), National Merit Scholar

Admissions

- Massachusetts (retired)
- New York (2002)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Western District of New York (2019)

Elizabeth K. Tripodi

Elizabeth K. Tripodi focuses her practice on shareholder M&A litigation, representing shareholders of public companies impacted by mergers, acquisitions, tender offers, and other change-in-control transactions. Ms. Tripodi has been named as a Washington, DC "Super Lawyer" and was selected as a "Rising Star" by Thomson Reuters for several consecutive years.

Ms. Tripodi has played a lead role in obtaining monetary recoveries for shareholders in M&A litigation:

- ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.
- ***In re Bluegreen Corp. S'holder Litig.***, Case No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders
- ***In re Cybex International S'holder Litig.***, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of \$1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger
- ***In re Great Wolf Resorts, Inc. S'holder Litig.***, C.A. No. 7328-VCN (Del. Ch. 2012), where there was a

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\$93 million (57%) increase in merger consideration

- **Minerva Group, LP v. Keane**, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

- **In re Portec Rail Products, Inc. S'holder Litig.**, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig.**, C.A. No. 6950-VCL (Del. Ch. 2011)
- **Dias v. Purches**, C.A. No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig.**, C.A. No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: *Rudolph v. UTStarcom* (stock option backdating litigation obtaining a \$9.5 million settlement); *Grecian v. Meade Instruments* (stock option backdating litigation obtaining a \$3.5 million settlement).

Education

- American University Washington College of Law, *cum laude* (2006), where she served as Editor in Chief of the Business Law Brief, was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
- Davidson College, B.A., Art History (2000)

Admissions

- Virginia (2006)
- District of Columbia (2008)
- United States District Court for the Eastern District of Virginia (2006)
- United States District Court for the District of Columbia (2010)

Adam M. Apton

Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters has selected Mr. Apton to the Super Lawyers Washington, DC "Rising Stars" list every year since 2016, a distinction given to only the top 2.5% of lawyers.

Mr. Apton's past representations and successes include:

- **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (lead counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)
- **In re Navient Corp. Securities Litigation**, 17-8373 (RBK/AMD) (D.N.J.) (lead counsel in class action against leading provider of student loans for alleged false and misleading statements about

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compliance with consumer protection laws)

- ***In re Prothena Corporation Plc Securities Litigation***, 1:18-cv-06425-ALC (S.D.N.Y.) (\$15.75 million settlement fund against international drug company for false statements about development of lead biopharmaceutical product)
- ***Martin v. Altisource Residential Corporation, et al.***, 15-00024 (AET) (GWC) (D.V.I.) (\$15.5 million settlement fund against residential mortgage company for false statements about compliance with consumer regulations and corporate governance protocols)
- ***Levin v. Resource Capital Corp., et al.***, 1:15-cv-07081-LLS (S.D.N.Y.) (\$9.5 million settlement in class action over fraudulent statements about toxic mezzanine loan assets)
- ***Rux v. Meyer (Sirius XM Holdings Inc.)***, No. 11577 (Del. Ch.) (recovery of \$8.25 million against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.)

Education

- New York Law School, J.D., *cum laude* (2009), where he served as Articles Editor of the *New York Law School Law Review* and interned for the New York State Supreme Court, Commercial Division
- University of Minnesota, B.A., Entrepreneurial Management & Psychology, With Distinction (2006)

Admissions

- New York (2010)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Eastern District of New York (2010)
- District of Columbia (2013)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States Court of Appeals for the Second Circuit (2016)
- United States Court of Appeals for the Third Circuit (2016)
- California (2017)
- United States District Court for the Northern District of California (2017)
- United States District Court for the Central District of California (2017)
- United States District Court for the Southern District of California (2017)

Publications

- "Pleading Section 11 Liability for Secondary Offerings" *American Bar Association: Practice Points* (Jan. 4, 2017)
- "Second Circuit Rules in *Indiana Public Retirement System v. SAIC, Inc.*" *American Bar Association: Practice Points* (Apr. 4, 2016)
- "Second Circuit Applies Omnicare to Statements of Opinion in *Sanofi*" *American Bar Association: Practice Points* (Mar. 30, 2016)
- "Second Circuit Rules in *Acticon AG v. China North*" *American Bar Association: Practice Points*

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(Sept. 14, 2015)

Of Counsel

Andrew E. Lencyk

Andrew E. Lencyk is Of Counsel to the Firm. Prior to joining the Firm, Mr. Lencyk was a partner in an established boutique firm in New York specializing in securities litigation. He was graduated *magna cum laude* from Fordham College, New York, with a B.A. in Economics and History, where he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law, where he was a member of the Fordham Urban Law Journal. He was named to the 2013, 2014, 2015, 2016, 2017, 2018 and 2019 Super Lawyers®, New York Metro Edition.

Mr. Lencyk has co-authored the following articles for the Practising Law Institute's Accountants' Liability Handbooks:

- *Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein*
- *An Accountant's Duty to Disclose Internal Control Weaknesses*
- *Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts*
- *Pleading Motions under the Private Securities Litigation Reform Act of 1995*
- *Discovery Issues in Cases Involving Auditors* (co-authored and appeared in the 2002 PLI Handbook on Accountants' Liability After Enron.)

In addition, he co-authored the following article for the Association of the Bar of the City of New York, Corporate & Securities Law Updates:

- *Safe Harbor Provisions for Forward-Looking Statements* (co-authored and published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000)

Cases in which Mr. Lencyk actively represented plaintiffs include:

- ***Kirkland et al. v. WideOpenWest, Inc.***, Index No. 653248/2018 (Sup. Ct, NY County) (substantially denying defendants' motion to dismiss Section 11 and 12(a)(2) claims)
- ***In re Community Psychiatric Centers Securities Litigation***, SA CV-91-533-AHS (Eex) (C.D. Cal.) and *McGann v. Ernst & Young*, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of \$54.5 million against company and its outside auditors)
- ***In re Danskin Securities Litigation***, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.);
- ***In re JWP Securities Litigation***, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.) (class recovery of approximately \$36 million)
- ***In re Porta Systems Securities Litigation***, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.);
- ***In re Leslie Fay Cos. Securities Litigation***, No. 92 Civ. 8036 (S.D.N.Y.)((\$35 million recovery)
- ***Berke v. Presstek, Inc.***, Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H.) (\$22 million recovery)
- ***In re Micro Focus Securities Litigation***, No. C-01-01352-SBA-WDB (N.D. Cal.)
- ***Dusek v. Mattel, Inc., et al.***, CV99-10864 MRP (C.D. Cal.) (\$122 million global settlement)
- ***In re Sonus Networks, Inc. Securities Litigation-II***, No. 06-CV-10040 (MLW) (D. Mass.)

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- ***In re AIG ERISA Litigation***, No. 04 Civ. 9387 (JES) (S.D.N.Y.) (\$24.2 million recovery)
- ***In re Mutual Funds Investment Litigation***, MDL No. 1586 (D. Md.)
- ***In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner***, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.)
- ***In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter***, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.)
- ***In re AIG ERISA Litigation II***, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) (\$40 million recovery); and
- ***Flynn v. Sientra, Inc.***, CV-15-07548 SJO (RAOX) (C.D. Cal.) (\$10.9 million recovery) (co-lead counsel) Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include:
- ***Pub. Empls' Ref. Sys. of Miss. v. TreeHouse Foods***, 2018 U.S. Dist. LEXIS 22717 (N.D. Ill. Feb. 12, 2018) (denying defendants' motion to dismiss in its entirety)
- ***Flynn v. Sientra, Inc.***, 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016) (denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), *motion for reconsideration denied*, slip op. (C.D. Cal. Aug 12, 2016)
- ***In re Principal U.S. Property Account ERISA Litigation***, 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss)
- ***In re AIG ERISA Litigation II***, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011) (denying in substantial part defendants' motions to dismiss), *renewed motion to dismiss denied*, slip op. (S.D.N.Y. June 26, 2014)
- ***In re Mutual Funds Investment Litigation***, 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), *In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner*, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and *In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter*, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md. June 27, 2008) (same)
- ***In re AIG ERISA Litigation***, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety)
- ***Dusek v. Mattel, Inc., et al.***, CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety)
- ***In re Micro Focus Sec. Litig.***, Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint);
- ***Zuckerman v. FoxMeyer Health Corp.***, 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995)
- ***In re U.S. Liquids Securities Litigation***, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims)
- ***Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc., et al.***, Case No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety)

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- **Berke v. Presstek, Inc.**, Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss)
- **Chalverus v. Pegasystems, Inc.**, 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss);
- **Danis v. USN Communications, Inc.**, 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to dismiss)
- **In re JWP Inc. Securities Litigation**, 928 F. Supp. 1239 (S.D.N.Y. 1996) (denying defendants' motion for summary judgment);
- **In re Danskin Securities Litigation**, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y. Feb. 23, 1994) (denying corporate and underwriter defendants' motions to dismiss in all respects)
- **In re UCAR International Inc., Securities Litigation**, No. 3:98cv600 (JBA) (D. Conn.) (Case settled during pendency of defendants' motion to dismiss).

Education:

- Fordham University School of Law, J.D. (1992)
- Fordham College, B.A. *magna cum laude*, 1988)

Admissions

- New York (1993)
- Connecticut (1992)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States Court of Appeals for the Second Circuit (2015)

Kristina Mentone

Kristina Mentone is Of Counsel at the Firm. She is a seasoned litigator with more than 15 years of experience in complex securities litigation. Ms. Mentone previously represented investors in residential mortgage backed securities, helping to recover several billions of dollars of damages for her clients. She has represented both plaintiffs and defendants in complex class actions and has represented major financial institutions in high-stakes regulatory investigations.

Education

- Fordham University School of Law, J.D., *cum laude*, Order of the Coif (2003)
- New York University, B.A., *cum laude* (1999)

Admissions

- New York (2004)
- United States District Court for the Southern District of New York (2005)
- United States District Court for the Eastern District of New York (2009)

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Sebastian Tornatore

Sebastian Tornatore is Of Counsel in the Connecticut office of Levi & Korsinsky, LLP with a focus on representing individual and institutional plaintiffs in federal securities fraud class actions and related shareholder matters.

Since joining the firm in 2013, Sebastian has assisted in the recovery of millions of dollars for the benefit of shareholder classes, including:

- ***In re EndoChoice Holdings, Inc. Sec. Litig.***, C.A. No. 2016-cv-277772 (Fulton Cty. Ga.) (\$8.5 million settlement in action stemming from defendant corporation's IPO)
- ***Forman v. Meridian Bioscience Inc.***, C.A. No. 1:17-cv-00774 (S.D. Ohio) (settlement of \$2.1 million in securities fraud action)
- ***In re: Comverge Inc. S'holders Litig.***, C.A. No. 7368 (Del. Ch.) (settlement of \$5.9 million in action arising from takeover)

Sebastian is currently litigating a variety of class actions throughout the country, including:

- ***Ford v. TD Ameritrade***, C.A. No. 8:14-cv-396 (D. Neb.) (defeated motion to dismiss in best execution case stemming from TD Ameritrade's order routing practices)
- ***In re Restoration Robotics, Inc. Sec. Litig.***, C.A. No. 5:18-cv-03712-EJD (N.D. Cal.) (defeated defendants' motion to dismiss in part and litigating an action on behalf of a certified class of investors in defendant company's IPO)
- ***Kirkland et al. v. WideOpenWest, Inc.***, Index No. 653248/2018 (Sup. Ct, NY County) (defeated defendants' motion to dismiss in part on behalf of a proposed class of investors in defendant company's IPO)
- ***Stein v. U.S. Xpress Enterprises, Inc.***, C.A. No. 1:19-cv-00098 (E.D. Tenn.) (defeated defendants' motion to dismiss in part on behalf of a proposed class of investors in defendant company's IPO)

Prior to joining the firm, Sebastian worked for the Connecticut Judicial System, where he gained significant experience assisting various state judges.

Education

- University of Connecticut School of Law, J.D. (2012)
- Boston College, B.A., Political Science (2008)

Admissions

- Connecticut (2012)
- Massachusetts (2012)
- New York (2014)
- United States District Court for the District of Connecticut (2014)
- United States District Court for the Southern District of New York (2016)
- United States District Court for the District of Massachusetts (2016)
- United States District Court for the Eastern District of New York (2018)

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Associates

Stephanie A. Bartone

Stephanie A. Bartone practices in all areas of the firm, with a focus on securities fraud litigation. Prior to joining the firm, Ms. Bartone worked for the Connecticut Judicial System where she assisted state court judges in civil and family matters. Ms. Bartone also previously worked for a firm specializing in civil litigation and criminal defense at the state and federal level. While attending The University of Connecticut School of Law, Ms. Bartone was the Symposium Editor of the *Connecticut Law Review*.

Education

- The University of Connecticut School of Law, J.D. (2012)
- The University of New Hampshire, B.A. *summa cum laude* (2008) Psychology and Justice Studies

Admissions

- Connecticut (2012)
- Massachusetts (2012)
- United States District Court for the District of Colorado (2013)
- United States District Court for the District of Connecticut (2015)
- United States District Court for the District of Massachusetts (2016)
- United States Court of Appeals for the Third Circuit (2020)

Jordan A. Cafritz

Jordan Cafritz is an Associate with the Firm's Washington, D.C. office. While attending law school at American University he was an active member of the American University Business Law Review and worked as a Rule 16 attorney in the Criminal Justice Defense Clinic. After graduating from law school, Mr. Cafritz clerked for the Honorable Paul W. Grimm in the U.S. District Court for the District of Maryland.

Education

- American University Washington College of Law, J.D. (2014)
- University of Wisconsin-Madison, B.A., Economics & History (2010)

Admissions

- Maryland (2014)
- District of Columbia (2018)

“I think you’ve done a superb job and I really appreciate the way this case was handled.”

The Honorable Ronald B. Rubin in *Teoh v. Ferrantino*, C.A. No. 356627
(Cir. Ct. for Montgomery Cnty., MD 2012)

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Michael Keating

Michael Keating is an Associate with the Firm's Stamford office focusing on federal securities litigation. Mr. Keating previously interned with the Division of Enforcement for the Securities and Exchange Commission while attending law school.

Education:

- University of Connecticut School of Law, J.D. (2019)
- University of Connecticut, B.A Psychology (2014)

Admissions:

- Connecticut
-

Vice Chancellor Sam Glasscock, III said “it’s always a pleasure to have counsel who are articulate and exuberant...” and referred to our approach to merger litigation as “wholesome” and “a model of... plaintiffs’ litigation in the merger arena.”

Ocieczanek v. Thomas Properties Group, C.A. No. 9029-VCG (Del. Ch. May 15, 2014)

Alexander Krot

Education

- The George Washington University, B.B.A., Finance and International Business (2003)
- American University Washington College of Law, J.D. (2010)
- Georgetown University Law Center, LL.M., Securities and Financial Regulation, With Distinction (2011)
- American University, Kogod School of Business, M.B.A. (2012)

Admissions

- Maryland (2011)
 - District of Columbia (2014)
 - United States District Court for the District of Colorado (2015)
 - United States Court of Appeals for the Tenth Circuit (2016)
 - United States District Court for the Eastern District of Wisconsin (2017)
 - United States Court of Appeals for the Third Circuit (2018)
-

Then Vice Chancellor Leo E. Strine, Jr. praised the Firms’ “exceedingly measured and logical” argument

Forgo v. Health Grades, Inc., C.A. No. 5716-VCS (Del. Ch. Sept. 3, 2010)

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Courtney E. Maccarone

Courtney E. Maccarone focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, Ms. Maccarone was an associate at a boutique firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. Maccarone served as the Executive Symposium Editor of the *Brooklyn Journal of International Law* and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the *Brooklyn Journal of International Law*.

Ms. Maccarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm. Ms. Maccarone has been recognized as a Super Lawyer "Rising Star" for the New York Metro area for the past seven consecutive years.

Education

- Brooklyn Law School, J.D., *magna cum laude* (2011), where she served as the Executive Symposium Editor of the *Brooklyn Journal of International Law* and was a member of the Moot Court Honor Society
- New York University, B.A., *magna cum laude* (2008)

Admissions

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

Publications

- "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights," published in the Spring 2011 edition of the *Brooklyn Journal of International Law*

Rosanne L. Mah

Rosanne L. Mah is an Associate in Levi & Korsinsky, LLP's San Francisco office. She represents consumers in complex class action litigation involving deceptive or misleading practices, false advertising, and data/privacy issues.

Education

- University of San Francisco, School of Law, J.D. (2005)
- University of California at Santa Cruz, B.A., Politics and Environmental Studies (1995)

Admissions

- United States District Court for the Northern District of California (2007)
- United States District Court for the Eastern District of California (2007)
- United States District Court for the Central District of California (2017)

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Adam C. McCall

Adam C. McCall is an Associate with the Firm. Prior to joining Levi & Korsinsky, Mr. McCall was a Summer Analyst at Moelis & Company and an intern at Fortress Investment Group. While attending the Georgetown University Law Center, he was an extern at the Securities and Exchange Commission's Division of Corporate Finance.

Education

- Georgetown University Law Center, LL.M., Securities and Financial Regulation (2015)
- California Western School of Law, J.D., *cum laude* (2013)
- Santa Clara University, Certificate of Advanced Accounting Proficiency (2010)
- University of Southern California, B.A., Economics (2008)

Admissions

- California (2014)
- United States District Court for the Central District of California (2015)
- United States District Court for the Eastern District of California (2015)
- United States District Court for the Northern District of California (2015)
- United States District Court for the Southern District of California (2015)
- United States Court of Appeals for the Ninth Circuit (2016)
- District of Columbia (2017)

Melissa Muller

Melissa Muller is an Associate with the Firm's New York Office focusing on federal securities litigation. Ms. Muller previously worked as a paralegal for the New York office while attending law school.

Education

- New York Law School, J.D., Dean's Scholar Award, member of the Dean's Leadership Council (2018)
- John Jay College of Criminal Justice, B.A. (2013), *magna cum laude*

Admissions

- New York (2019)
- United States District Court for the Southern District of New York (2020)

Zachary Ness

Mr. Ness is an Associate with the Firm in the Washington, D.C. office, where he focuses his practice on financial litigation, including class action litigation relating to corporate governance, securities, cryptocurrencies, and initial coin offerings. During law school, he was an honors intern for the Trading and Markets Division of the U.S. Securities and Exchange Commission, where he practiced in the offices of Trading Practices and Market Supervision. In addition, he was a judicial intern for the Superior Court of the District of Columbia, and a research assistant tasked with examining modern constitutional privacy law issues.

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Education

- Georgetown University Law Center, J.D. (2019)
- Rutgers University (New Brunswick) (2016), *summa cum laude*

Admissions

- District of Columbia (2020)

Publications

- "A Fighting Chance: Ensuring Choice of Representation," 31 GEO. J. LEGAL ETHICS 781 (2018)

Gregory M. Potrepka

Gregory M. Potrepka is an Associate in Levi & Korsinsky's Connecticut office. Mr. Potrepka is an experienced lawyer having litigated cases in State, Federal, and Tribal courts, at both the trial and appellate levels. While in law school, Mr. Potrepka clerked in the Civil Division of the United States Attorney's Office for the District of Columbia.

Education

- University of Connecticut School of Law, J.D. (2015)
- University of Connecticut Department of Public Policy, M.P.A. (2015)
- University of Connecticut, B.A., Political Science (2010)

Admissions

- Connecticut (2015)
- Mashantucket Pequot Tribal Court (2015)
- United States District Court for the District of Connecticut (2016)
- United States District Court for the Southern District of New York (2018)
- United States District Court for the Eastern District of New York (2018)
- United States Court of Appeals for the Third Circuit (2020)

Andrew Rocco

Andrew Rocco is an Associate with the Firm in the Connecticut office. As a law student, he interned for the Office of the Attorney General for the State of Connecticut in the Employment Rights Department and served as the Editor-in-Chief of the Quinnipiac Probate Law Journal.

Education

- Quinnipiac University School of Law, J.D., *summa cum laude* (2017)
- Champlain College, B.A., Legal Studies, *summa cum laude* (2014)

Admissions

- Connecticut

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Brian Stewart

Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

Education

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S., Economics and Mathematics (2008)

Admissions

- Maryland (2012)
- District of Columbia (2014)