

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF CAROL C. VILLEGAS IN SUPPORT OF  
(I) LEAD PLAINTIFF'S MOTION FOR APPROVAL OF CLASS ACTION  
SETTLEMENT AND PLAN OF ALLOCATION AND (II) LEAD COUNSEL'S  
MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
PAYMENT OF LITIGATION EXPENSES**

I, CAROL C. VILLEGAS, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Labaton Sucharow LLP (“Labaton Sucharow”). Labaton Sucharow serves as Court-appointed Lead Counsel for Lead Plaintiff Utah Retirement Systems (“URS” or “Lead Plaintiff”), and all other members of the proposed Settlement Class.<sup>1</sup> I have been actively involved in prosecuting and resolving the above-captioned class action (the “Action”) since my firm’s appointment, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my supervision and participation in all material aspects of the Action.

2. I submit this declaration in support of Lead Plaintiff’s motion for approval of the proposed Settlement and the proposed plan for allocating the proceeds of the Settlement (the “Plan of Allocation”). I also submit this declaration in support of Lead Counsel’s motion, on behalf of all Plaintiffs’ Counsel, for an award of attorneys’ fees in the amount of 27% of the Settlement Fund, payment of litigation expenses in the amount of \$184,192.69, and payment in the amount of \$10,000.00, pursuant to 15 U.S.C. §78u-4(a)(4), for Lead Plaintiff’s costs and expenses related to its representation of the class.<sup>2</sup> Both motions have the full support of Lead Plaintiff. *See* Declaration of Kevin Catlett on Behalf of Utah Retirement Systems, dated October 31, 2019, attached hereto as Exhibit 1.<sup>3</sup>

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<sup>1</sup> All capitalized terms used herein that are not otherwise defined shall have the meanings provided in the Stipulation of Settlement, dated as of August 29, 2019 (the “Settlement Agreement,” ECF No. 146-1).

<sup>2</sup> Plaintiffs’ Counsel are Lead Counsel Labaton Sucharow; Liaison Counsel Wexler Wallace LLP; and Spector, Roseman & Kodroff, PC. Any fee allocations among Plaintiffs’ Counsel will in no way increase the fees that are deducted from the Settlement Fund, and no other attorneys will share the awarded attorneys’ fees.

<sup>3</sup> Citations to “Exhibit” or “Ex. \_\_\_” herein refer to exhibits to this Declaration. For clarity, citations to exhibits that have attached exhibits will be referenced as “Ex. \_\_\_-\_\_\_.” The first

3. The proposed Settlement before the Court provides for the resolution of all claims in the Action, and related claims, in exchange for a cash payment of \$27,500,000. As detailed herein, Lead Plaintiff and Lead Counsel respectfully submit that the Settlement represents a very favorable result for the Settlement Class and should be finally approved by the Court.

4. This case has been vigorously litigated from its commencement in May 2016 through the execution of the Settlement Agreement. The Settlement was achieved only after Plaintiffs' Counsel, *inter alia*, as detailed herein: (i) conducted a thorough and wide-ranging investigation concerning the alleged misrepresentations made by Defendants, which included a review and analysis of publicly available information concerning Defendants, interviews with 68 confidential witnesses, who were either former DeVry employees or other persons with relevant knowledge, a review of hundreds of documents obtained from government agencies through the Freedom of Information Act ("FOIA"), and consultation with an expert on loss causation and damages issues; (ii) prepared and filed three detailed amended class action complaints for violations of the federal securities laws; (iii) researched and drafted oppositions to Defendants' comprehensive motions to dismiss the Second and Third Amended Complaints; (iv) analyzed approximately 74,000 pages of core documents from Defendants in connection with the mediation; and (v) engaged in two rounds of extensive mediation efforts overseen by a highly regarded mediator, the Hon. Layn R. Phillips (Ret.) ("Judge Phillips"), which included the preparation of mediation briefs and extensive subsequent negotiations.

5. Through their efforts, Lead Plaintiff and Lead Counsel were well-informed about the strengths and weaknesses of the claims and defenses in the Action. As discussed in further

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numerical reference is to the designation of the entire exhibit attached hereto and the second alphabetical reference is to the exhibit designation within the exhibit itself.

detail below, the Settlement was achieved in the face of vigorous opposition by Defendants who would have, had the Settlement not been reached, continued to raise numerous defenses that could have significantly reduced the class's recovery or eliminated it altogether.

6. For example, Defendants would have continued to challenge the material falsity of the alleged misstatements made during the Settlement Class Period, the allegations that each Defendant acted with the requisite scienter, and the allegations that there was reliance upon the alleged misstatements, among other challenges. Additionally, Defendants would have likely argued that classwide damages were much lower than Lead Plaintiff calculated, on the grounds that the alleged disclosures on January 27, 2016 of the Federal Trade Commission ("FTC") and the U.S. Department of Education ("DoE") actions against the Company were not actually corrective of any misleading statement. Issues relating to loss causation and damages, including whether it is proper to calculate damages based on the stock price declines on both January 27 and January 28, 2016, would likely have come down to an inherently unpredictable and hotly disputed "battle of the experts."

7. As discussed in further detail below, according to Lead Plaintiff's consulting damages expert, maximum aggregate damages in the Action are estimated to be approximately \$230 million, assuming that Lead Plaintiff would be able to prove damages based on the alleged corrective disclosures and price declines on both January 27 and 28, and that it would not need to disaggregate, or parse out, any confounding non-fraud related information from the alleged price declines. The \$27.5 million Settlement, therefore, represents a recovery of approximately 12% of Lead Counsel's expert's estimated damages—a very favorable recovery that is well within the range of reasonableness, particularly in light of the attendant litigation risks. If the Court found it appropriate to only include the stock price decline on January 27, 2016 in a damages

calculation, or that non-fraud related information needed to be disaggregated from the price declines, damages would have decreased. In fact, Lead Plaintiff's damages expert estimated that damages for the January 27, 2016 stock drop alone would be approximately \$186 million.<sup>4</sup> Under this scenario, the recovery provided by the Settlement would represent approximately 17% of damages. *See also* Memorandum of Law in Support of Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation, §I.B.1.

8. To put the recovery into perspective, the \$27.5 million settlement is above the median settlement amount of \$8.6 million for securities class actions between 1996 and 2017, is higher than the median recovery in 2018 of \$11.3 million, and is higher than the \$5.5 million median recovery in 2014-18 in cases that settled after a motion to dismiss was decided, but before the filing of a class certification motion. *See* Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Securities Class Action Settlements – 2018 Review and Analysis*, at 1, 13 (Cornerstone Research 2019), Ex. 2 hereto.

9. In addition to seeking approval of the proposed Settlement, Lead Plaintiff also seeks approval of the proposed Plan of Allocation governing the calculation of claims and the distribution of settlement proceeds. As discussed in further detail below, the proposed Plan was developed with the assistance of the Lead Counsel's consulting damages expert and provides for the distribution of the Net Settlement Fund to Settlement Class Members who submit eligible Claim Forms on a *pro rata* basis based on their losses attributable to the alleged fraud.

10. With respect to the Fee and Expense Application, as discussed in the Memorandum of Law in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and

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<sup>4</sup> As discussed below, if gains accrued during the class period on pre-class period purchases were netted and removed, as would likely have been urged by Defendants, these damages estimates would have been further reduced.

Payment of Litigation Expenses (“Fee Memorandum”), the requested fee of 27% of the Settlement Fund and expenses would be fair both to the Settlement Class and to Plaintiffs’ Counsel, and warrants the Court’s approval. The fee request is within the range of fee percentages frequently awarded in this type of action and, under the particular facts of this case, is justified in light of the substantial benefit that Plaintiffs’ Counsel conferred on the Settlement Class, the risks they undertook, the quality of their representation, the nature and extent of the legal services, and the fact that Plaintiffs’ Counsel pursued the case at their financial risk.

11. For all of the reasons set forth herein, including the very favorable result obtained and the obstacles to a greater recovery, I respectfully submit that the Settlement and Plan of Allocation are “fair, reasonable, and adequate” in all respects, and that the Court should approve them pursuant to Federal Rule of Civil Procedure Rule 23(e). For similar reasons, and for the additional reasons set forth below, I respectfully submit that Lead Counsel’s request for attorneys’ fees and payment of Litigation Expenses, which includes the requested PSLRA award to the Lead Plaintiff, are also fair and reasonable, and should be approved.

## **I. FACTUAL BACKGROUND**

12. The Action was brought against Adtalem Global Education Inc. f/k/a DeVry Education Group, Inc. (the “Company,” or “DeVry”) and four of its officers, Daniel Hamburger (President and CEO), Richard M. Gunst (CFO), Patrick J. Unzicker (Vice President and CAO), and Timothy Wiggins (Senior Vice President and CFO) (collectively, the “Individual Defendants,” and together with DeVry, the “Defendants”) for violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§78j(b), 78t(a), and Rule 10b-5 promulgated thereunder.

13. As set forth in the operative Complaint, the Company provided educational services globally through a number of subsidiaries, including DeVry University—one of the

largest postsecondary educational institutions in the United States with undergraduate and graduate degrees offered on campus and online. Through its five colleges, DeVry University offered programs in healthcare, business, technology, accounting, and finance. Complaint at ¶3. Lead Plaintiff alleges that DeVry and the Individual Defendants made false and misleading statements to investors about the job placement and salary outcomes achieved by students after graduation. Specifically, Lead Plaintiff alleges that over a five year period—from August 26, 2011 through January 27, 2016—Defendants repeatedly claimed that 90% of students obtained jobs in their field of study within six months of graduation making salaries of around \$40,000 (referred to herein as the “90% Representation”). These metrics were allegedly critical to DeVry’s investors who viewed superior outcomes as a sign of DeVry’s financial health and stability. *Id.* at 1.

14. The Complaint alleges that contrary to the robust post-graduate outcomes Defendants claimed, Defendants were in fact manipulating and inflating DeVry University’s employment and compensation statistics and allegedly concealing the truth from investors. The Complaint alleges these metrics were false because DeVry maintained a corporate policy of both artificially excluding (or “waiving”) students from the statistic who should have been counted, and artificially including students in the statistic who should not have been counted. *Id.* Lead Plaintiff alleges that Defendants’ conduct led the FTC and DoE to investigate and file lawsuits against it, which allegedly revealed to investors that the 90% Representation was false or materially misleading.<sup>5</sup> *Id.* at ¶233.

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<sup>5</sup> As alleged in the Complaint, four separate government agencies the FTC, DoE, New York Attorney General’s Office (“NY AG”), and the Massachusetts Attorney General’s Office (“Massachusetts AG”) ultimately concluded that DeVry’s employment outcomes were false.

15. The alleged truth about DeVry's graduate employment and salary statistics allegedly came to light on January 27, 2016, when the FTC and DoE separately announced that they had taken action against the Company. The FTC filed a lawsuit against DeVry for allegedly engaging in deceptive marketing practices by purposefully misrepresenting the benefits of obtaining a degree from DeVry University. According to the FTC, DeVry falsely touted, among other things, that 90% of DeVry University students from a specific year who were actively seeking employment did not in fact obtain new jobs in their field of study within six months of graduation. *Id.* at ¶¶234-35.

16. Also on January 27, 2016, the DoE publicly issued a Notice of Intent to Limit to DeVry, which explained the DoE's intention to impose limitations on DeVry's participation in programs authorized under Title IV of the Higher Education Act of 1965 and to prevent the Company from making certain statements in advertisements about its schools. The DoE specifically stated, among other things, that the Company was unable to substantiate its repeated advertisement that since 1975, 90% of DeVry graduates were employed in their field of study within six months of graduation, because the Company did not maintain the necessary graduate-by-graduate records to substantiate that claim. *Id.* at ¶236.

17. On January 27, 2016, DeVry's common stock price fell and continued to fall on January 28, 2016, allegedly causing damages to the class.

## **II. PROCEDURAL HISTORY**

### **A. Commencement of the Action and Appointment of Lead Plaintiff and Lead Counsel**

18. In May 2016, an initial securities class action complaint was filed in the United States District Court for the Northern District of Illinois (the "Court") on behalf of investors in DeVry. ECF No. 1. Pursuant to Section 21D(a)(3) of the Exchange Act, 15 U.S.C. §78u-

4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), on August 24, 2016, the Court entered an Order appointing URS as Lead Plaintiff. ECF No. 37. By the same Order, the Court approved Lead Plaintiff’s selection of Spector Roseman Kodroff & Willis, P.C. (now known as Spector Roseman Kodroff, P.C.) as lead counsel for the class. *Id.*

19. On August 17, 2017, Lead Plaintiff moved to change its selection of counsel to Labaton Sucharow LLP (ECF No. 68), and on August 21, 2017, the Court granted Lead Plaintiff’s motion and appointed Labaton Sucharow as Lead Counsel (ECF No. 78).

**B. The Amended Class Action Complaint and Second Amended Class Action Complaint**

20. Lead Plaintiff filed the Amended Class Action Complaint on November 8, 2016, asserting claims under Sections 10(b) and 20(a) of the Exchange Act. ECF No. 43. The Amended Class Action Complaint was based on an investigation that included a review and analysis of: (i) public filings with the United States Securities and Exchange Commission (the “SEC”); (ii) research reports by securities and financial analysts; (iii) transcripts of DeVry’s earnings conference calls; (iv) publicly available presentations by DeVry; (v) DeVry’s press releases and media reports; (vi) economic analyses of the movement and pricing data associated with DeVry’s common stock; (vii) consultations with consultants and experts; and (viii) information obtained from 7 former employees.

21. On December 23, 2016, shortly after the Amended Class Action Complaint was filed, Lead Plaintiff filed a Second Amended Complaint (ECF No. 51), which added allegations regarding a settlement that DeVry had entered into with the FTC in a related false advertising lawsuit.

**C. Defendants' Motion to Dismiss the Second Amended Complaint**

22. On January 27, 2017, Defendants moved to dismiss the Second Amended Complaint. ECF No. 58. Lead Plaintiff submitted its opposition on March 28, 2017 (ECF No. 61) and Defendants filed a reply brief on April 27, 2017 (ECF No. 64). Defendants' motion cited dozens of cases and raised numerous legal issues aimed at undermining Lead Plaintiff's claims and allegations.

**D. The Court Grants Defendants' Motion to Dismiss the Second Amended Complaint with Leave to Amend**

23. On December 6, 2017, the Court issued a Memorandum Opinion and Order dismissing the Second Amended Complaint without prejudice and with leave to amend. *See Pension Trust Fund for Operating Eng'rs v. DeVry Educ. Grp, Inc.*, No. 16 C 5198, 2017 WL 6039926 (N.D. Ill. Dec. 6, 2017). In particular, the Court found that although Lead Plaintiff had sufficiently alleged that Defendants made materially false statements, it had not sufficiently alleged that they acted with scienter. *Id.* at \*12-15.

**E. Third Amended Complaint**

24. On January 19, 2018, Lead Plaintiff filed the operative, Third Amended Class Action Complaint for Violations of the Federal Securities Laws (the "Complaint"). ECF No. 84. In addition to the review and analysis of DeVry's public filings with the SEC and the other sources listed above in paragraph 20, the Complaint contained new allegations based on Lead Counsel's review and analysis of: (i) 13 new confidential witness accounts; (ii) hundreds of documents produced to Lead Plaintiff by the DoE and FTC pursuant to FOIA requests; and (iii) information concerning DeVry's settlements with the NY AG and the Massachusetts AG. *Id.* at ¶¶ 34, 271, 393.

25. The Complaint further alleged, among other things, that DeVry's chief source of revenue during the Settlement Class Period was the tuition it collected from students enrolled in its schools. However, many of its schools, including DeVry University, operated in highly fragmented markets and were subject to fierce competition with not only other for-profit postsecondary schools, but also state institutions, community colleges, and independent universities, among others. Complaint at ¶5. To compete in this environment and drive student growth at DeVry University, Defendants allegedly conducted a sustained marketing effort through television, radio, print, and internet channels focusing on the 90% Representation. *Id.* at ¶6. The Complaint alleged that the 90% Representation was consistently conveyed to investors and was relied upon by analysts in valuing the Company. The Complaint also alleged that four government agencies, the FTC, DoE, NY AG, and the Massachusetts AG concluded that DeVry's stated employment outcomes were materially misleading because DeVry maintained a corporate policy of artificially excluding (or waiving) students from the statistic who should have been counted, and artificially including others who should not have been counted. *Id.* at 1.

26. The 13 new confidential witness accounts included allegations from former employees of DeVry and its constituent schools, in various locations across the country, the most serious of which came from a confidential witness identified as "CW8," who allegedly worked on a survey project with the goal of collecting statistical data, including placement data, from schools within DeVry. CW8 alleged that he analyzed data and found that DeVry did not have data to back up the 90% Representation. The Complaint alleges that CW8 reported his findings to a DeVry in-house attorney.

27. The Complaint also contained allegations based on documents produced by the DoE through FOIA allegedly showing, *inter alia*, internal communications bolstering the

inference that the Defendants acted with knowledge that the Company’s messaging was false and misleading. The Complaint similarly incorporated documents produced by the FTC through FOIA allegedly showing that that the “executive officers” of DeVry—defined to include DeVry’s “Chief Executive Officer,” (Defendant Hamburger) and “Chief Financial Officer,” (Defendant Wiggins) among others—were designated as custodians who had agreed to produce documents to the FTC on a range of topics including: “emails. . . which relate[d] to completion rates, job placement rates, [and] students[?] pre-graduation or post-graduation income amounts;” documents concerning “minimum placement rates” reported to government agencies; and “issues raised by consumer complaints.” *Id.* at ¶396. Lead Plaintiff alleged in the Complaint that these and other documents added to the inference that the Defendants knew about the alleged fraudulent conduct in violation of the Exchange Act.

**F. Defendants’ Motion to Dismiss the Third Amended Complaint**

28. On March 30, 2018, Defendants filed a motion to dismiss the Complaint. ECF No. 91.

29. Defendants argued that the Complaint still failed to establish: (i) a strong inference of scienter; (ii) materiality; and (iii) loss causation.

30. With respect to scienter, Defendants argued, in particular, that the Complaint failed to allege direct evidence demonstrating that Defendants actually knew that the 90% Representation was false. The new CW allegations were substantially similar to those the Court had already dismissed as insufficient, and none of the new CW allegations provided direct evidence of the Individual Defendants’ knowledge nor did they have first-hand knowledge of graduate outcome data or access to nationwide employment statistics. Regarding the FTC, DoE, and NY AG investigations and settlements, Defendants argued that the Court had previously concluded that the substance of the regulators’ allegations “are not enough to ‘state with

particularity facts giving rise to a strong inference’ of scienter.” Defendants argued that the FOIA documents failed to support a strong inference of scienter, stating, among other things, that they are lawsuit arguments, not facts, and they did not indicate that the Individual Defendants ever received or saw the communications at issue. Defendants claimed that the internal correspondence from the FTC added nothing because the FTC decided to bring a false advertising case, and did not include a claim for intentional fraud. Defendants also argued that the Massachusetts AG settlement added nothing to Lead Plaintiff’s scienter allegations because it came long after the class period had ended, citing *DeVry*, 2017 WL 6039926, at \*11.

31. Defendants also argued that the Complaint failed to allege material falsity, arguing that the Complaint did not allege which statements Lead Plaintiff was challenging and why. Specifically, Defendants argued that the Complaint did not make clear which disclosures were alleged to be false and why and that many of the excerpts did not relate to DeVry at all or concern any specific DeVry employment statistic. Instead, they were replete with vague and immaterial puffery.

32. Defendants also argued that the FTC and DoE allegations did not demonstrate falsity because they were not sufficiently corroborated by the CW allegations. Regarding the 90% Representation, Defendants argued that even if Lead Plaintiff could borrow the FTC’s allegation that the number of students was significantly less than 90%, the Complaint still fails to plead falsity with particularity. Defendants also argued that the vast majority of the challenged practices were disclosed to investors.

33. With respect to loss causation, Defendants argued that the Complaint failed to show causation between the purported “corrective disclosure” on January 27, 2016 and the

alleged losses to the class. In particular, Defendants argued that the disclosure of the FTC and DoE actions did not correct any previously disclosed information or reveal any truth.

**G. Lead Plaintiff's Brief in Opposition to Defendants' Motion to Dismiss the Third Amended Complaint**

34. On May 24, 2018, Lead Plaintiff filed its opposition to Defendants' motion to dismiss. ECF No. 96. Regarding Defendants' scienter arguments, Lead Plaintiff argued that the allegations in the Complaint combined with those previously pled, presented a strong inference of scienter, and that the government investigations supported scienter. Among other things, Lead Plaintiff argued that the evidence developed by the FTC should be considered, and that courts regularly consider evidence uncovered in separate proceedings to determine whether the PSLRA's heightened pleading standard has been satisfied; and that evidence from Defendants' files cannot be ignored merely because it was uncovered in a separate lawsuit. Lead Plaintiff also argued that the confidential witness allegations support scienter and that Defendants had improperly attacked the credibility of certain witnesses.

35. Regarding falsity, Lead Plaintiff argued that the Court already determined that the 90% Representation was plausibly false or misleading, and since Defendants did not come forward with reasons to re-examine the issue, the Court should not deviate from its prior ruling.

36. Regarding loss causation, Lead Plaintiff argued that the FTC and DoE announcements on January 27 disclosed that DeVry's employment statistics had been manipulated on a grand scale and revealed new information to the market about Defendants' fraud sufficient to show loss causation.

**H. Court's Order on Defendants' Motion to Dismiss the Third Amended Complaint**

37. On December 20, 2018, the Court entered an Order denying Defendants' Motion to Dismiss the Third Amended Complaint. *See Pension Tr. Fund for Operating Eng'rs v. DeVry Educ. Grp., Inc.*, No. 16 C 5198, 2018 WL 6714326, at \*1 (N.D. Ill. Dec. 20, 2018).

38. The Court noted that the Complaint made the same allegations as the Second Amended Complaint, but included additional allegations based on (i) newly obtained documents via FOIA that shed new light on the various government investigations into DeVry and (ii) accounts of thirteen new confidential witnesses who worked for DeVry or one of its constituent schools in various locations across the country. *Id.* at \*1.

39. The Court reasoned, “[t]hese additional allegations, considered together and in combination with all the other allegations of the Third Amended Complaint, alter the alleged picture with respect to scienter in two important ways. First, they tend to show with a degree of particularity that there is evidence that the problems with DeVry's use of the 90% Statement, as described by the FTC in the Central District of California action, were broad in scope and magnitude, not limited to a relatively few cases of misclassification in California.” *Id.* at \*3. And, second, “the additional allegations strengthen the inference that evidence of the risk of falsity of the 90% Statement penetrated to defendants, at the top of the DeVry corporate hierarchy.” *Id.*

40. In particular, the Court relied upon allegations from CW 8 who, after analyzing employment data from DeVry's schools, concluded that “the 90 percent statistic that DeVry provided to its shareholders was highly inflated.” *Id.* at \*3.

41. The Court held: “Taking a holistic look at all the allegations, the Court concludes that the new allegations so strengthen the inference of scienter that it is ‘at least as compelling as

any opposing inference of nonfraudulent intent.” *Id.* at \*4. “In sum, the allegations give rise to a strong inference that defendants had notice of a serious risk of such a problem, in which case defendants ‘cannot ignore the facts and plead ignorance of the risk.’” *Id.* at \*5 (quoting *Ross v. Career Ed. Corp.*, No. 12 C 276, 2012 WL 5363431, at \*9 (N.D. Ill. Oct. 30, 2012)). The Court went on to say, “[w]hile it may be that, based on these allegations, ‘this is not a strong case of securities fraud,’ *Washtenaw [Cty. Empls. Ret. Sys. v. Avid Tech., Inc.]*, 28 F. Supp. 3d [93] at 115 [(D. Mass. 2014)], the allegations are strong enough to survive defendants’ motion to dismiss for failure to state a claim.” *Id.* at \*6.

42. The Court also held that Lead Plaintiff sufficiently pled loss causation. *Id.* at \*5.

43. On February 8, 2019, Defendants filed their Answers to the Complaint and asserted various affirmative defenses. ECF No. 121.

### **III. DISCOVERY**

44. Following the Court’s December 20, 2018 order, the PSLRA discovery stay was lifted and Lead Plaintiff promptly propounded discovery requests. Thereafter, the Parties engaged in a meet and confer process regarding the production of documents in connection with pre-mediation discovery. In total, Defendants produced approximately 74,000 pages of documents.

#### **A. Initial Disclosures**

45. The Parties exchanged initial disclosures on February 22, 2019.

#### **B. Discovery Requests**

46. Lead Plaintiff served its first set of document requests on Defendants on March 1, 2019. Defendants served their first set of document requests on Lead Plaintiff on March 1, 2019. Defendants also served their first set of interrogatories on Lead Plaintiff on March 1, 2019.

47. Lead Plaintiff served its responses and objections to Defendants document requests and interrogatories on April 1, 2019, and Defendants submitted their responses and objections to Lead Plaintiff's document requests on April 1, 2019.

48. Defendants began producing documents in connection with early efforts to mediate the Action on August 29, 2018 and continued making productions through May 2019.

49. Defendants produced approximately 74,000 pages of documents. Among the types of documents Defendants produced in response to Lead Plaintiff's requests were documents and communications related to, among other things: (i) DeVry's post-graduate employment records; (ii) career services policies and practices; (iii) career services training materials; (iv) advertising materials; and (v) DoE regulations.

50. To facilitate a cost and time-efficient document review process, all of the documents were placed in an electronic database that was maintained at a secure facility on servers that were administered by Precision Discovery. A platform called Relativity was used to organize the data. A team of six experienced staff attorneys, employed by Labaton Sucharow, reviewed and analyzed the production. These staff attorneys also conducted targeted searches and were later involved in Lead Counsel's preparation for the mediations.

### **C. FOIA Requests**

51. In August and September 2017, pursuant to FOIA, Lead Plaintiff requested documents from the FTC, the NY AG's Office, the Massachusetts AG's Office, and the DoE. In response to these requests, the DoE initially produced 2,035 pages of documents, followed by a second production of documents in April, 2019. In September 2018, the FTC produced 87 pages of documents. The Massachusetts AG produced 109 pages. In total, 2,330 pages of documents were produced to Lead Plaintiff through FOIA requests.

**D. Third-Party Discovery**

52. In the Spring of 2019, Lead Plaintiff prepared third-party subpoenas to Credit Suisse USA (which published relevant analyst reports concerning DeVry), Deloitte USA (DeVry's auditor), Leo Burnett, Inc. (DeVry's advertising agency), Payscale (a third-party vendor), the FTC and the DoE. Lead Plaintiff ultimately decided not to serve these subpoenas in advance of the final mediation session in May 2019, but was prepared to proceed with service had the mediation been unsuccessful.

**IV. SETTLEMENT NEGOTIATIONS**

53. On September 20, 2018, the Parties participated in a full-day mediation session in California before Judge Phillips in an attempt to achieve a negotiated resolution of the claims in the Action. Prior to the mediation session, the Parties exchanged detailed mediation statements discussing their respective views of the claims, defenses, and alleged damages, together with numerous exhibits. A settlement, however, was not reached at this time.

54. Following the Court's December 20, 2018 Order denying Defendants' Motion to Dismiss the Third Amended Complaint, the Parties agreed to participate in a second mediation session. In advance of this mediation session, Defendants agreed to provide a production of core documents to Lead Plaintiff. The mediation was also preceded by the exchange of additional briefing with the mediator.

55. The second mediation session was held on May 22, 2019 in New York City before Judge Phillips. Following extensive arm's-length mediation negotiations with the assistance of Judge Phillips, a settlement in principle was reached and the Parties executed a Term Sheet that day. The Parties subsequently negotiated the terms of the Settlement Agreement, which was executed on August 29, 2019 and filed with the Court the following day. ECF No. 146-1.

56. On August 30, 2019 Lead Plaintiff moved for preliminary approval of the Settlement. ECF No. 144. On September 5, 2019, the Court entered the Preliminary Approval Order (ECF No. 149), which preliminarily certified the Settlement Class for purposes of the Settlement only, authorized the dissemination of notice of the Settlement to Settlement Class Members, and scheduled the Final Approval Hearing for December 6, 2019 to consider whether to grant final approval to the Settlement.

**V. COMPLIANCE WITH PRELIMINARY APPROVAL ORDER AND REACTION OF THE SETTLEMENT CLASS TO DATE**

57. Pursuant to the Preliminary Approval Order, the Court appointed KCC LLC (“KCC”) as Claims Administrator for the Settlement and instructed KCC to disseminate copies of the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys’ Fees and Expenses and Claim Form (collectively the “Notice Packet”) by mail and to publish the Summary Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys’ Fees and Expenses in *The Wall Street Journal*.

58. The Notice, attached as Exhibit A to the Declaration of Lance Cavallo (“Mailing Decl.” or “Mailing Declaration”) (Exhibit 3 hereto), provides 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; (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 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 27% of the Settlement Fund and for payment of expenses in an amount not to exceed \$225,000.

59. As detailed in the Mailing Declaration, KCC mailed Notice Packets to potential Settlement Class Members as well as banks, brokerage firms, and other third-party nominees whose clients may be Settlement Class Members. Ex. 3 at ¶¶2-7. In total, as of October 31, 2019, KCC has mailed 65,217 Notice Packets to potential nominees and Settlement Class Members by first-class mail, postage prepaid. *Id.* at ¶7. To disseminate the Notice, KCC obtained the names and addresses of potential Settlement Class Members from listings provided by the Company's transfer agent and from banks, brokers, and other nominees. *Id.* at ¶¶3-6.

60. On September 27, 2019, KCC caused the Summary Notice to be published in *The Wall Street Journal* and to be transmitted over *PR Newswire*. *Id.* at ¶8 and Exhibit B thereto.

61. KCC also maintains and posts information regarding the Settlement on a dedicated website established for the Settlement, [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), to provide Settlement Class Members with information concerning the Settlement, as well as downloadable copies of the Notice Packet and the Stipulation. *Id.* at ¶10. The Notice Packet and relevant documents have also been posted on my firm's website, [www.labaton.com](http://www.labaton.com).

62. Pursuant to the terms 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 November 15, 2019. To date, no objections to the Settlement, Plan of Allocation, or the Fee and Expense Application have been received, and no requests for exclusion have been received. *Id.* at ¶11. Should any objections or requests for exclusion be received, they will be addressed in Lead Plaintiff's reply papers, which are due to be filed with the Court on November 27, 2019.

## **VI. RISKS FACED BY LEAD PLAINTIFF IN THE ACTION**

63. To establish a claim under the Exchange Act, a plaintiff must prove: (i) the defendant made a material misrepresentation or omission; (ii) with scienter; (iii) in connection with the purchase or sale of a security; (iv) that the plaintiff relied on the material misstatement; (v) economic loss; and (vi) loss causation. Based on publicly available information, information obtained through counsel's investigation, and the fact discovery conducted in the Action, Lead Counsel believes that it would be able to adduce substantial evidence to support Lead Plaintiff's claims. However, Lead Counsel also realizes that Lead Plaintiff and the Settlement Class faced considerable risks and challenges in continuing to litigate. Lead Plaintiff and Lead Counsel carefully considered these risks during the months leading up to the Settlement and throughout the settlement discussions with Defendants.

### **A. Risks in Proving Scienter**

64. Although the Court found, in connection with the motion to dismiss the Complaint, that the allegations of the Complaint gave rise to a strong inference that Defendants had knowledge of serious reasons to fear that the 90% Representation was based on unreliable data, Defendants would undoubtedly argue at summary judgment and at trial that they did not act with scienter, which is generally the most difficult element of a securities fraud claim for a plaintiff to prove. In this case, Defendants have advanced numerous scienter arguments, and would continue to advance such arguments, that pose significant hurdles to Lead Plaintiff's ability to prove that Defendants acted with an intent to commit securities fraud.

65. For instance, Defendants would likely argue that Lead Plaintiff could not point to any evidence to prove that the Individual Defendants knew that the representations regarding DeVry's employment statistics were false or misleading, or that they intentionally acted in a manner that they knew would violate applicable law. Specifically, Defendants would argue that

the CEO, Daniel Hamburger, was never directly informed about concerns raised within the Company about employment metrics. To counter such arguments and evidence, Lead Plaintiff would point to reports and circumstantial evidence that it believed tended to show that Hamburger and the other Individual Defendants learned of concerns raised internally about the statistics. Lead Plaintiff would also highlight internal documents, like DeVry's training manuals, that it believes show that the manipulation of DeVry University's employment metrics was a practice underlying the Company's statistical methodologies.

66. Similarly, Defendants would likely argue that any problems with DeVry's employment statistics were isolated to specific campuses and did not permeate the organization, such that the Defendants should have been aware that the alleged statements were false or misleading. In response, Lead Plaintiff believes it could have presented evidence that Defendants had access to information and reports showing exactly how the 90% Representation was calculated using inflated numbers. Lead Plaintiff further believes it could have further pointed to training materials detailing the practices DeVry employed to justify the 90% Representation.

67. Defendants would also have argued that DeVry's methodology for calculating employment statistics was justified because no written national standard existed. Lead Plaintiff planned to present expert testimony that it believes would rebut this notion and show that DeVry's methodology was so unreasonable and a deviation from industry standards that it was fraudulent.

68. How the issues surrounding Defendants' scienter, or lack thereof, ultimately would have been determined by the Court at summary judgment or by the jury if the Action proceeded to trial was far from certain.

**B. Risks in Proving Material Falsity of Alleged Misstatements**

69. At the summary judgment phase of the case and at trial, Defendants would likely argue that Lead Plaintiff could not prove that the alleged misstatements are actionable. Among other things, Defendants would likely argue that the employment statistics were not false and misleading when made because there are no clear national standards governing the reporting of employment statistics and, therefore, DeVry's methodology was reasonable and the statements were truthful. Defendants would also likely seek to put forth evidence that the Company formulated its methodology in compliance with DoE regulations.

70. Defendants would also argue that DeVry's methodology was sufficiently disclosed to investors in SEC filings.

71. It was far from clear how the Court at summary judgment, or a jury at trial, would decide such issues.

**C. Risks Related to Loss Causation and Damages**

72. Assuming that Lead Plaintiff overcame the above risks and successfully established liability, it still faced serious risks in proving loss causation and damages. Although Lead Plaintiff prevailed on the issue of alleging loss causation in connection with Defendants' motion to dismiss the Complaint, there is no way to know how Lead Plaintiff would fare in anticipated summary judgment motions or at trial, where these issues would be the subject of complex "battles of the experts." There was a significant risk, absent settlement, that the Court may not find triable issues of fact concerning whether the allegedly corrective disclosures caused Lead Plaintiff to incur economic losses.

73. Defendants would likely argue in continued litigation that Lead Plaintiff could not be able to prove loss causation through stock price drops associated with the alleged corrective disclosures because the alleged disclosures were not "corrective." Defendants would argue, for

example, as they had in the motion to dismiss the Complaint, that the January 27, 2016 disclosures by the FTC and DoE did not reveal any truth or correct any misstatement; rather they merely publicized the regulators' allegations that DeVry could not substantiate the 90% Representation. If the Court or a jury were to find that the alleged corrective disclosures identified in the Complaint were not actionable, the Settlement Class would recover nothing.

74. Defendants would have likely further argued that Lead Plaintiff bears the burden of proof in “disaggregating” the impact of “confounding,” non-fraud related information from the price impact of the alleged disclosures. Defendants would have likely argued that disaggregating cannot be done with any scientific accuracy, and that even if it could, it would substantially reduce damages here.

75. As mentioned above, Lead Counsel's consulting damages expert has estimated, assuming liability is established and assuming that price impact would not need to be disaggregated, maximum class-wide damages of approximately \$230 million (and approximately \$196 million if gains accrued during the class period on pre-class period purchases are netted and removed).<sup>6</sup> If the price decline on January 28, 2016 was found to not be recoverable, damages would decrease to approximately \$186 million (and \$158 million with pre-class period gains netted). The Settlement, therefore, reflects a recovery of approximately 12% to 17% of Lead Plaintiff's possible damages.

76. Of course, in order to recover any damages at trial, Lead Plaintiff would have to prevail at many stages in the litigation—namely, the motion for class certification and then, summary judgment and trial. At each of these stages, there would be significant risks attendant

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<sup>6</sup> If confounding non-fraud related information had to be analyzed and removed from the price declines, these damages figures would be reduced.

to the continued prosecution of the Action, and no guarantee that further litigation would have resulted in a higher recovery, or any recovery at all. Finally, even if Lead Plaintiff prevailed at each of these stages, it would need to prevail in the appeals that would inevitably follow.

77. Based on all the factors summarized above, Lead Plaintiff and Lead Counsel respectfully submit that it was in the best interest of the Settlement Class to accept the certain and substantial benefit conferred by the Settlement, instead of incurring the significant risk that the Settlement Class could recover a lesser amount, or nothing at all, after several additional years of arduous litigation.

**VII. THE PLAN OF ALLOCATION FOR DISTRIBUTION OF NET SETTLEMENT FUND**

78. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all Settlement Class Members who wish to participate in the distribution of the proceeds from the Settlement must submit a valid Claim Form, including all required information, no later than November 29, 2019. As provided in the Notice, after deduction of Court-awarded Attorneys' Fees and Expenses, Notice and Administration Expenses, 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.

79. The proposed Plan of Allocation, which is set forth in full in the Notice (Ex. 3-A at 10-16), was designed to achieve an equitable and rational distribution of the Net Settlement Fund using the measure of damages under the Exchange Act. Lead Counsel developed the Plan of Allocation in close consultation with its damages expert and believes that the plan provides a fair and reasonable method to equitably distribute the Net Settlement Fund among Authorized Claimants.

80. The Plan of Allocation provides for distribution of the Net Settlement Fund among Authorized Claimants on a *pro rata* basis based on “Recognized Loss” formulas tied to liability and damages. In developing the Plan of Allocation, Lead Plaintiff’s damages expert considered the amount of artificial inflation present in DeVry’s common stock and call options (or deflation in the prices of DeVry put options) throughout the Settlement Class Period that was purportedly caused by the alleged fraud. This analysis entailed studying the price declines associated with DeVry’s allegedly corrective disclosures, adjusted to eliminate the effects attributable to general market or industry conditions. In this respect, inflation tables were created as part of the Plan of Allocation and reported in the Notice. The tables will be utilized by the Claims Administrator in calculating Recognized Loss Amounts for Authorized Claimants.

81. Pursuant to the Plan of Allocation, a “Recognized Loss Amount” will be calculated by the Claims Administrator for each purchase of DeVry common stock and call options and each sale of DeVry put options during the Settlement Class Period, as listed in the Claim Form, and for which adequate documentation is provided. The Claims Administrator will determine each Authorized Claimant’s *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant’s total Recognized Claim compared to the aggregate Recognized Claims of all Authorized Claimants. Calculation of Recognized Claims will depend upon several factors, including when a claimant purchased shares during the Settlement Class Period and whether these shares were sold during the Settlement Class Period and, if so, when.

82. To date, there have been no objections to the Plan of Allocation.

83. In sum, the proposed Plan of Allocation, developed in consultation with Lead Plaintiff’s damages expert, was designed to fairly and rationally allocate the Net Settlement Fund

among claimants. Accordingly, Lead Counsel respectfully submits that the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved.

**VIII. LEAD COUNSEL’S APPLICATION FOR ATTORNEYS’ FEES AND EXPENSES IS REASONABLE**

**A. Consideration of Relevant Factors Justifies an Award of a 27% Fee**

84. Consistent with the Notice to the Settlement Class, Lead Counsel, on behalf of itself and all Plaintiffs’ Counsel, seeks a fee award of 27% of the Settlement Fund, which will include accrued interest. Lead Counsel also requests payment of expenses in connection with the prosecution of the Action from the Settlement Fund in the amount of \$184,192.69, plus \$10,000.00 to reimburse Lead Plaintiff, pursuant to the PSLRA. Lead Counsel submits that, for the reasons discussed below and in the accompanying Fee Memorandum, such awards would be reasonable and appropriate under the circumstances before the Court.

**1. Lead Plaintiff Supports the Fee and Expense Application**

85. Lead Plaintiff URS is a public pension system that provides retirement benefits to Utah’s public employees, including those of the State of Utah, its local governments, school districts, and higher education institutions. As of December 31, 2018, URS managed approximately \$31 billion in assets for the benefit of its members and their beneficiaries. Ex. 1 at ¶1.

86. Lead Plaintiff has evaluated and fully supports the Fee and Expense Application. Ex. 1 at ¶7. In coming to this conclusion, Lead Plaintiff—which was substantially involved in the prosecution of the Action and negotiation of the Settlement—considered the work performed, the risks and challenges in the litigation, as well as the recovery obtained for the class. *Id.* The fee request is also consistent with the fee agreement between Lead Counsel and URS, which was entered into before the Settlement was reached.

## 2. The Time and Labor of Plaintiffs' Counsel

87. The investigation, prosecution, and settlement of the claims asserted in the Action required extensive efforts on the part of counsel, given the complexity of the legal and factual issues raised by Lead Plaintiff's claims and the vigorous defense mounted by Defendants. The many tasks undertaken by Plaintiffs' Counsel in this case are detailed above (*see, e.g.*, ¶¶18-56).

88. As also set forth above, the Action was vigorously prosecuted by the Parties and settled only after counsel overcame multiple legal and factual challenges, including two motions to dismiss. Among other efforts, counsel conducted a comprehensive investigation into Lead Plaintiff's claims; researched and prepared three detailed complaints; briefed two thorough oppositions to Defendants' two motions to dismiss the complaints; engaged in discovery efforts that resulted in obtaining approximately 74,000 pages of documents from Defendants and approximately 2,330 pages of documents in response to FOIA requests; and engaged in a hard-fought settlement process with experienced defense counsel.

89. At all times throughout the pendency of the Action, Plaintiffs' 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.

90. Attached hereto are declarations from Plaintiffs' Counsel, which are submitted in support of the request for an award of attorneys' fees and payment of litigation expenses. *See* Declaration of Carol C. Villegas on Behalf of Labaton Sucharow LLP (Ex. 4), Declaration of Eugene A. Spector on Behalf of Spector, Roseman & Kodroff, PC (Ex. 5), and Declaration of Mark R. Miller on Behalf of Wexler Wallace LLP (Ex. 6).

91. Included with these declarations are schedules that summarize the time of each firm, as well as each firm's litigation expenses by category (the "Fee and Expense Schedules").<sup>7</sup> The attached declarations and the Fee and Expense Schedules report the amount of time spent by Plaintiffs' Counsel's attorneys and professional support staff and the "lodestar" calculations, *i.e.*, their hours multiplied by their hourly rates. As explained in each declaration, they were prepared from daily time records regularly prepared and maintained by the respective firms, which are available at the request of the Court.

92. The hourly rates of Plaintiffs' Counsel here range from \$585 to \$975 for partners, \$675 for of counsels, and \$335 to \$625 for staff attorneys and associates. *See* Exs. 4-6. It is respectfully submitted that the hourly rates for attorneys and professional support staff included in these schedules are reasonable and customary within the securities class action bar, nationwide and in Illinois, and with respect to other professionals of comparable skill, experience, and reputation. Exhibit 8, attached hereto, is a table of hourly rates for defense firms compiled by Labaton Sucharow from fee applications submitted by such firms in bankruptcy proceedings in 2018. The analysis shows that across all types of attorneys, Plaintiffs' Counsel's rates are consistent with, or lower than, the firms surveyed.

93. Plaintiffs' Counsel have collectively expended 6,612.15 hours prosecuting the Action. *See* Exs. 4-7. The resulting collective lodestar is \$3,486,985.50. *Id.* The requested fee of 27% of the Settlement Fund (\$7,425,000, plus interest at the same rate as is earned by the Settlement Fund) results in a lodestar "multiplier" of 2.1 on the lodestar. Courts within the

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<sup>7</sup> Attached hereto as Exhibit 7 is a summary table of the lodestars and expenses of Plaintiffs' Counsel.

Seventh Circuit have found multipliers of up to 4.0 to be reasonable. *See* Fee Memorandum §I.D.

### **3. Novelty and Difficulty of Questions Presented**

94. Courts within the Seventh Circuit have acknowledged that litigating securities class actions is difficult. *See* Fee Memorandum §I.C.2.

95. This Action presented substantial challenges from the outset of the case. The specific risks Lead Plaintiff faced in proving Defendants' liability and damages are detailed in paragraphs 63 to 77, above. These case-specific risks are in addition to the more typical risks accompanying securities class action litigation, such as the fact that this Action is governed by stringent PSLRA requirements and case law interpreting the federal securities laws and was undertaken on a contingent basis.

### **4. The Skill Required and Quality of the Work**

96. Plaintiffs' Counsel are each highly experienced and skilled litigation law firms.

97. The expertise and experience of Lead Counsel Labaton Sucharow's attorneys are described in Exhibit 4-C, annexed hereto. Since the passage of the PSLRA, Labaton Sucharow has been approved by courts to serve as lead counsel in numerous securities class actions throughout the United States, and in several high profile matters: *In re Am. Int'l Grp., Inc. Sec. Litig.*, No. 04-8141 (S.D.N.Y.) (representing the Ohio Public Employees Retirement System, State Teachers Retirement System of Ohio, and Ohio Police & Fire Pension Fund and reaching settlements of \$1 billion); *In re HealthSouth Corp. Sec. Litig.*, No. 03-1500 (N.D. Ala.) (representing the State of Michigan Retirement System, New Mexico State Investment Council, and the New Mexico Educational Retirement Board and securing settlements of more than \$600 million); and *In re Schering-Plough Corp. / ENHANCE Sec. Litig.*, Civil Action No. 08-397

(DMC) (JAD) (D.N.J.) (representing Massachusetts Pension Reserves Investment Management Board and reaching a settlement of \$473 million).

98. The expertise and experience of Spector Roseman and Liaison Counsel are described in Exhibits 5 - C and 6 - C, annexed hereto.

#### **5. The Contingent Nature of the Fee**

99. From the outset, Plaintiffs' 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, Plaintiffs' Counsel were 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 (and this case has been no different), the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Plaintiffs' Counsel received no compensation during the course of the Action but have dedicated more than 6,600 hours of time for a total lodestar of \$3,486,985.50 and have incurred \$184,192.69 in expenses to prosecute the Action for the benefit of the Settlement Class.

100. Plaintiffs' Counsel also bore the risk that no recovery would be achieved. Even with the most vigorous and competent of efforts, success in contingent-fee litigation, such as this, is never assured. Plaintiffs' Counsel know 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.

101. Plaintiffs' Counsel are aware of many hard-fought lawsuits where, because of the discovery of facts unknown when the case was commenced, or 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.

102. Federal Circuit court cases include numerous opinions affirming dismissals with prejudice in securities cases. The many appellate decisions affirming summary judgments and directed verdicts for defendants show that surviving a motion to dismiss is not a guarantee of recovery. *See, e.g., In re Oracle Corp. Sec. Litig.*, 627 F.3d 376 (9th Cir. 2010); *In re Silicon Graphics Sec. Litig.*, 183 F.3d 970 (9th Cir. 1999); *Phillips v. Scientific-Atlanta, Inc.*, 489 F. App'x. 339 (11th Cir. 2012); *In re Smith & Wesson Holding Corp. Sec. Litig.*, 669 F.3d 68 (1st Cir. 2012); *McCabe v. Ernst & Young, LLP*, 494 F.3d 418 (3d Cir. 2007); *In re Digi Int'l Inc. Sec. Litig.*, 14 F. App'x. 714 (8th Cir. 2001); *Geffon v. Micrion Corp.*, 249 F.3d 29 (1st Cir. 2001).

103. 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, such as *In re JDS Uniphase Securities Litigation*, Case No. C-02-1486 CW (EDL), slip op. (N.D. Cal. Nov. 27, 2007) (tried by Labaton Sucharow), or substantially lost, such as *In re Clarent Corp. Securities Litigation*, Case No. C-01-3361 CRB, slip op. (N.D. Cal. Feb. 16, 2005).

104. Even plaintiffs who succeed at trial may find their verdict overturned by a post-trial motion for a directed verdict or on appeal. *See, e.g., In re BankAtlantic Bancorp, Inc.*, No. 07-cv-61542 (S.D. Fla. 2010) (in case tried by Labaton Sucharow, after plaintiffs' jury verdict, court granted defendants' motion for judgment as a matter of law on loss causation grounds),

*aff'd*, 688 F. 3d 713 (11th Cir. 2012) (trial court erred, but defendants entitled to judgment as matter of law on lack of loss causation); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiffs' jury verdict for securities fraud); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation); *Glickenhau & Co., et al. v. Household Int'l, Inc., et al.*, 787 F.3d 408 (7th Cir. 2015) (reversing and remanding jury verdict of \$2.46 billion after 13 years of litigation on loss causation grounds and error in jury instruction under *Janus Capital Grp, Inc. v. First Derivative Traders*, 131 S.Ct. 2296 (2011)); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441 (11th Cir. 1997) (reversing \$81 million jury verdict and dismissing case with prejudice). And, the path to maintaining a favorable jury verdict can be arduous and time consuming. *See, e.g., In re Apollo Grp., Inc. Sec. Litig.*, Case No. CV-04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, No. 08-16971, 2010 WL 5927988 (9th Cir. June 23, 2010) (case litigated for seven years; trial court rejecting unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals) and judgment re-entered (*id.*) after denial by the Supreme Court of the United States of defendants' Petition for Writ of Certiorari (*Apollo Grp. Inc. v. Police Annuity and Benefit Fund*, 562 U.S. 1270 (2011)).

105. As discussed in greater detail above, this case was fraught with significant risk factors concerning liability and damages. Lead Plaintiff's success was by no means assured. Defendants disputed, among other things, whether Lead Plaintiff could establish scienter and would no doubt contend, as the case proceeded to trial, that even if liability existed, the amount of damages was substantially lower than Lead Plaintiff alleged. Were this Settlement not achieved, and even if Lead Plaintiff prevailed at trial, Lead Plaintiff and Plaintiffs' Counsel faced potentially years of costly and risky trial and appellate litigation against Defendants, with

ultimate success far from certain and the prospect of no recovery significant. Lead Counsel respectfully submits that based upon the considerable risk factors present, this case involved a very substantial contingency risk to counsel.

**6. The Amount Involved and the Results Obtained**

106. Here, the \$27,500,000 Settlement is a very favorable result, particularly when considered in view of the substantial risks and obstacles to recovery if the Action were to continue through a decision on class certification, summary judgment, trial, and through likely post-trial motions and appeals.

107. This recovery was the result of very thorough and creative prosecutorial and investigative efforts, contentious and complicated motion practice, and arduous settlement negotiations. As a result of this Settlement, thousands of Settlement Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery in the absence of a settlement.

**B. Request for Litigation Expenses**

108. Lead Counsel also seeks payment from the Settlement Fund in the amount of \$184,192.69 for litigation expenses reasonably and necessarily incurred by Plaintiffs' Counsel in connection with commencing and prosecuting the claims against Defendants.

109. From the beginning of the case, Plaintiffs' Counsel were aware that they might not recover any of their expenses and, at the very least, would not recover anything until the Action was successfully resolved. Thus, Plaintiffs' Counsel were motivated to take steps to manage expenses without jeopardizing the vigorous and efficient prosecution of the case.

110. As set forth in the Fee and Expense Schedules and the Summary Table of Lodestars and Expenses, Plaintiffs' Counsel's litigation expenses in connection with the prosecution of the Action total \$184,192.69. *See* Exs. 4-7. As attested to, these expenses are

reflected on the books and records maintained by each firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of counsel's expenses. Plaintiffs' Counsel's declarations also identify the specific category of expense incurred—*e.g.*, expert and consultant fees, mediation fees, travel costs, costs related to production and storage of electronic discovery, online/computer research, and duplicating.

111. Of the total amount of expenses, \$69,362.03, or approximately 38% of the total, was expended on experts in the fields of damages and loss causation, and outside investigators. These experts and consultants were valuable for the development and analysis of the claims and quantifying potential damages. Exs. 4-B, 5-B.

112. \$8,259.25, or approximately 5% of total expenses, was expended on litigation support services, which were incurred to host the electronic documents produced by Defendants. Ex. 4-B.

113. Plaintiffs' Counsel were required to work late hours and travel in connection with this Action and incurred costs related to working meals, lodging, and transportation, which total \$27,389.14 or approximately 15% of aggregate expenses. The travel involved appearances before the Court, attending the mediations, and trips related to the investigation. Any first-class airfare was reduced to economy rates. Exs. 4-B to 6-B.

114. Additionally, Lead Counsel paid \$37,750.00 (or approximately 21% of total expenses) in mediation fees assessed by the mediator in this matter. Ex. 4-B.

115. Computerized research totals \$22,932.31 (or 13% of total expenses). These are the charges for factual and legal research services, including LexisNexis, Westlaw, Thomson,

and PACER. These services allowed counsel to perform media searches on DeVry, obtain analysts' reports and financial data for DeVry, and conduct legal research. Exs. 4-B to 6-B.

116. The other expenses for which Plaintiffs' Counsel seek payment are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, duplicating costs, long distance telephone and conference call charges, filing fees, and postage and delivery expenses.

**IX. REIMBURSEMENT OF LEAD PLAINTIFF'S EXPENSES IS FAIR AND REASONABLE**

117. Additionally, pursuant to 15 U.S.C. §78u-4(a)(4), Lead Plaintiff URS seeks reimbursement of its reasonable costs and expenses (including lost wages) incurred in connection with its work representing the class in the amount of \$10,000.00. The amount of time and effort devoted to this Action by URS is detailed in the accompanying Declaration of Kevin Catlett on Behalf of URS, attached hereto as Exhibit 1.

118. Lead Counsel respectfully submits that the amount requested by Lead Plaintiff is consistent with Congress's intent, as expressed in the PSLRA, of encouraging institutional investors to take an active role in commencing and supervising private securities litigation.

119. As discussed in the Fee Memorandum and in Lead Plaintiff's supporting declaration, Lead Plaintiff has been committed to pursuing the class's claims since it became involved in the litigation in 2016. As a large institutional investor, Lead Plaintiff has actively and effectively fulfilled its obligations, complying with all of the demands placed upon it during the litigation, and providing valuable assistance to Lead Counsel. For instance, Lead Plaintiff assisted with responses to discovery requests, reviewed court filings, and consulted with counsel. Ex. 1 at ¶5. In addition, URS's Investment Counsel traveled to attend both mediation sessions in

September 2018 and May 2019. Ex. 1 at ¶5. These efforts required Lead Plaintiff to dedicate time and resources to the Action that it would have otherwise devoted to its regular duties.

120. Lead Plaintiff dedicated at least 100 hours to litigation efforts. *See* Ex. 1 at ¶¶8-9.

121. The efforts expended by Lead Plaintiff during the course of the Action are the types of activities courts have found to support requests for reimbursement.

**X. THE REACTION OF THE SETTLEMENT CLASS TO THE FEE AND EXPENSE APPLICATION**

122. As mentioned above, consistent with the Preliminary Approval Order, a total of 65,217 Notices have been mailed to potential Settlement Class Members advising them that Lead Counsel would seek an award of attorneys' fees not to exceed 27% of the Settlement Fund, and payment of expenses in an amount not greater than \$225,000. *See* Ex. 3 at ¶7. Additionally, the Summary Notice was published in *The Wall Street Journal*, and disseminated over *PR Newswire*. *Id.* at ¶8. The Notice and the Settlement Agreement have also been available on the settlement website maintained by the Claims Administrator. *Id.* at ¶10.<sup>8</sup> While the November 15 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. Lead Counsel will respond to any objections received in their reply papers, which are due on November 27, 2019.

**XI. MISCELLANEOUS EXHIBITS**

123. Attached hereto as Exhibit 9 is a compendium of unreported cases, in alphabetical order, cited in the accompanying Fee Memorandum.

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<sup>8</sup> Lead Plaintiff'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.

## **XII. CONCLUSION**

124. In view of the significant recovery to 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, and adequate and that the proposed Plan of Allocation should likewise be approved as fair, reasonable, and adequate. In view of the significant recovery in the face of substantial risks, the quality of work performed, the contingent nature of the fee, and the standing and experience of Plaintiffs' Counsel, as described above and in the accompanying memorandum of law, Lead Counsel respectfully submits that a fee in the amount of 27% of the Settlement Fund be awarded and that expenses be paid in full.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 1st day of November, 2019.

*/s/ Carol C. Villegas*  
\_\_\_\_\_  
CAROL C. VILLEGAS

**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2019, I caused the foregoing document to be electronically filed, using the Court's CM/ECF system, which will cause the document to be sent electronically to the registered participants as identified on the attached Electronic Mail Notice List.

*/s/Carol C. Villegas*  
CAROL C. VILLEGAS

**Mailing Information for a Case 1:16-cv-05198**

*Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc. et al.*

**Electronic Mail Notice List**

The following are those who are currently on the list to receive e-mail notices for this case.

- **Theodore J. Hawkins**  
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### **Manual Notice List**

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing).

- (No manual recipients)

# **Exhibit 1**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF KEVIN CATLETT ON BEHALF OF UTAH RETIREMENT  
SYSTEMS IN SUPPORT OF MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND MOTION FOR  
ATTORNEYS' FEES AND PAYMENT OF LITIGATION EXPENSES**

I, Kevin Catlett, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am Investment Counsel to the Utah Retirement Systems (“URS”), the Court-appointed Lead Plaintiff in the above-captioned securities class action (the “Action”).<sup>1</sup> URS is a public pension system that has been providing retirement benefits to Utah’s public employees, including those of the State of Utah, its local governments, school districts, and higher education institutions since 1963. As of December 31, 2018, URS managed approximately \$31 billion in assets for the benefit of its members and their beneficiaries.

2. I respectfully submit this declaration in support of (a) approval of the proposed

---

<sup>1</sup> All capitalized terms used herein, unless otherwise defined, have the same meanings as set forth in the Stipulation of Settlement (the “Settlement Agreement”), dated as of August 29, 2019.

class action settlement and plan of allocation and (b) Lead Counsel's motion for an award of attorneys' fees and litigation expenses, which includes URS's application for reimbursement of its costs and expenses pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA").

3. I have personal knowledge of the matters related to URS's application and of the other matters set forth in this declaration, as I, or others working with URS, have been directly involved in monitoring and overseeing the prosecution of the Action, and I could and would testify competently thereto.

**Work Performed by URS on Behalf of the Settlement Class**

4. URS understands that the PSLRA was intended to encourage institutional investors with large losses to seek to manage and direct securities fraud class actions. URS is a large, sophisticated institutional investor that committed itself to vigorously prosecuting this litigation, through trial if necessary. In seeking appointment as a lead plaintiff in the case, URS understood its fiduciary duties to serve the interests of the class by participating in the management and prosecution of the case.

5. Since URS's appointment as Lead Plaintiff on August 24, 2016, URS has monitored and been engaged in all material aspects of the prosecution and resolution of this litigation. Among other things, URS worked with outside counsel to gather information relating to the Action, in connection with initial discovery disclosures and responding to Defendants' document requests and interrogatories. URS met with counsel and communicated with them on a regular basis to discuss the status of the case and counsel's strategy for the prosecution, and eventual settlement, of the case. URS reviewed pleadings, motions, and other material documents filed throughout the case. I also attended both mediation sessions, which involved traveling to Newport Beach, CA and New York, NY.

**URS Endorses Approval of the Settlement**

6. Based on its involvement throughout the prosecution and resolution of the Action, URS believes that the proposed Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class. URS believes that the proposed Settlement represents a very favorable recovery, particularly in light of the substantial risks of continuing to litigate the Action, and it endorses approval of the Settlement by the Court.

**URS Supports Lead Counsel's Motion for an Award of Attorneys' Fees and Payment of Litigation Expenses**

7. URS also believes that Lead Counsel's request for an award of attorneys' fees in the amount of 27% of the Settlement Fund is fair and reasonable. URS has evaluated Lead Counsel's fee request in light of the work performed, the risks and challenges in the litigation, as well as the recovery obtained for the Settlement Class. The fee request is consistent with the fee agreement between Lead Counsel and URS, which was entered into before the Settlement was reached. URS understands that Lead Counsel will also devote additional time in the future to administering the Settlement, without seeking additional compensation. URS further believes that the litigation expenses requested are reasonable, and represent the costs and expenses that were necessary for the successful prosecution and resolution of this case. Based on the foregoing, and consistent with its obligation to obtain the best result at the most efficient cost on behalf of the class, URS fully supports Lead Counsel's motion for attorneys' fees and payment of litigation expenses.

8. In addition, URS understands that reimbursement of a lead plaintiff's reasonable costs and expenses, including lost wages, is authorized under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4). Consequently, in connection with Lead Counsel's request for payment of litigation expenses, URS seeks reimbursement in the amount of \$10,000.00,

which represents the cost, based on a reasonable effective rate of \$100.00 an hour, of the approximately 100 hours that URS devoted to supervising and participating in the litigation.

9. I communicated regularly with URS's outside counsel about the litigation and a potential negotiated resolution of the Action, traveled to and attended the two mediations, reviewed court filings, and assisted with responses to discovery requests. This was time that I otherwise would have spent handling the regular business of URS.

**Conclusion**

10. In conclusion, URS endorses the Settlement as fair, reasonable, and adequate, and believes it represents a very favorable recovery for the Settlement Class in light of the significant risks of continued litigation. URS further supports Lead Counsel's attorneys' fee and litigation expense request and believes that it represents fair and reasonable compensation for counsel in light of the work performed, the recovery obtained for the Settlement Class, and the attendant litigation risks. Finally, URS requests reimbursement for its costs in the amount of \$10,000.00. Accordingly, URS respectfully requests that the Court approve the motion for final approval of the proposed Settlement and the motion for an award of attorneys' fees and payment of litigation expenses.

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

Executed this 31st day of October, 2019.

  
\_\_\_\_\_  
KEVIN CATLETT

# **Exhibit 2**

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

# Securities Class Action Settlements

2018 Review and Analysis

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The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

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Analyses in this report are based on 1,775 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2018. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

# Highlights

Propelled by mega settlements of \$100 million or higher, total settlement dollars rose to just above \$5 billion in 2018. This was the third-highest total in the prior 10 years. An increase in midsized settlements between \$10 million and \$50 million also contributed to the increased total value of settlements.

- There were 78 securities class action settlements approved in 2018—only slightly fewer than the number of settlements approved in 2017. [\(page 1\)](#)
- Total settlement dollars increased substantially over the 2017 near-historic low to just over \$5 billion, which was 50 percent higher than the average for the prior nine years. [\(page 3\)](#)
- There were five mega settlements (settlements equal to or greater than \$100 million) in 2018. [\(page 4\)](#)
- Compared to the historically low levels in 2017, in 2018 the average settlement amount more than tripled to \$64.9 million, while the median settlement amount (representing the typical case) more than doubled to \$11.3 million. [\(page 1\)](#)
- For 2018 cases with Rule 10b-5 claims, when compared to 2017 results, average “simplified tiered damages” rose 45 percent to \$687 million, while median “simplified tiered damages” rose 88 percent to \$250 million. [\(page 5\)](#)
- The median settlement as a percentage of “simplified tiered damages” in 2018 was 6.0 percent—higher than the median of 5.1 percent over the prior nine years. [\(page 6\)](#)
- Compared to defendant firms involved in cases settled in 2017, defendant firms in 2018 settlements were roughly 50 percent larger, as measured by median total assets. [\(page 5\)](#)
- During 2014–2018, the median settlement for cases that settled before a ruling on a motion for class certification was \$12.6 million, compared to \$18.0 million for cases that settled after such a ruling. [\(page 13\)](#)
- Among 2018 settled cases, the average time to reach a ruling on a motion for class certification was 4.8 years. [\(page 13\)](#)

**Figure 1: Settlement Statistics**

(Dollars in millions)

	1996–2017	2017	2018
Number of Settlements	1,697	81	78
Total	\$96,982.2	\$1,511.1	\$5,064.3
Minimum	\$0.2	\$0.5	\$0.4
Median	\$8.6	\$5.1	\$11.3
Average	\$57.1	\$18.7	\$64.9
Maximum	\$9,008.9	\$215.1	\$3,000.0

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Figure 1 includes all post-Reform Act settlements. Settlements during 1996–2017 include 13 cases each exceeding \$1 billion—adjusted for inflation, these settlements drive up the average settlement amount.

# Author Commentary

## 2018 Findings

In this section we provide our perspective on the increase in the 2018 median settlement amount, both in dollars and as a percentage of our simplified proxy for plaintiff-style damages.

While there are important determinants of settlement amounts that we are unable to observe, such as case merits, we collect and analyze publicly available data in an effort to represent underlying constructs relevant to settlement determination. These determinants include the strength of the case, potential damages alleged by plaintiffs, resources available to fund the settlement from named defendants and/or their insurers, as well as other factors that may affect the settlement negotiation process.

Over the years, we have identified a number of factors that are associated with higher settlement amounts. The results in 2018 are unusual in that settlement amounts increased—even as a percentage of our simplified damages proxy—despite a decrease in certain factors typically associated with larger settlements.

For example, relative to both the previous year (2017) and the previous nine years (2009–2017), fewer cases settled in 2018 involved accounting allegations. Similarly, settlements also involved fewer public pension plan lead plaintiffs. These findings raise the question: what did cause the increase in settlement amounts in 2018?

One interesting finding in 2018 is that more than 14 percent of settled cases involved an accompanying criminal action—the highest proportion over the last 10 years. Cases associated with a criminal action generally settle for higher amounts.

However, the answer appears to relate primarily to the potential resources available to fund the settlement. Specifically, we study issuer defendant total assets as a proxy for both the resources available directly from the defendant, as well as potential Directors and Officers (D&O) insurance coverage. In 2018, defendant firms in settled cases were 50 percent larger than in 2017, and over 20 percent larger than over the prior five years. Similarly, both the proportions of settlements involving delisted firms, as well as bankrupt firms, were the lowest over the last decade. Taken together, this suggests that economic factors played an important role in the increase in settlement size in 2018.

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*What is striking in 2018 is the dramatic increase in average and median settlement amounts despite a drop in a number of factors typically associated with higher settlements.*

*Dr. Laura E. Simmons  
Senior Advisor  
Cornerstone Research*

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## Recent Developments

Recent data on case filings can provide insights into potential settlement trends. Specifically, record levels of market capitalization losses reported for case filings in 2018 may suggest that large settlements will persist in upcoming years. See Cornerstone Research's *Securities Class Action Filings—2018 Year in Review*.<sup>1</sup>

In addition, the emergence of event-driven securities case filings over the last couple of years has been widely discussed. These cases have been described as driven by adverse events such as “an explosion, a crash, [or] a mass torts episode.”<sup>2</sup> Some authors have associated such cases with more rapid filings and the entrance of certain plaintiff law firms lacking connections to institutional investors.<sup>3</sup> Accordingly, we have investigated the development of trends related to these suits for case settlements in 2018.

We observe that, overall, settlement amounts, our simplified damages proxy, and defendant assets are all lower for cases in which the law firms associated with event-driven litigation serve as lead counsel. In addition, consistent with expectations, cases in which they serve as lead counsel are less likely to involve institutional investors as lead plaintiffs.

Given that securities cases take, on average, just over three-and-a-half years to resolve, such cases may have a greater impact on future settlement trends, and we will continue to investigate effects related to event-driven litigation in subsequent reports.

—Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons

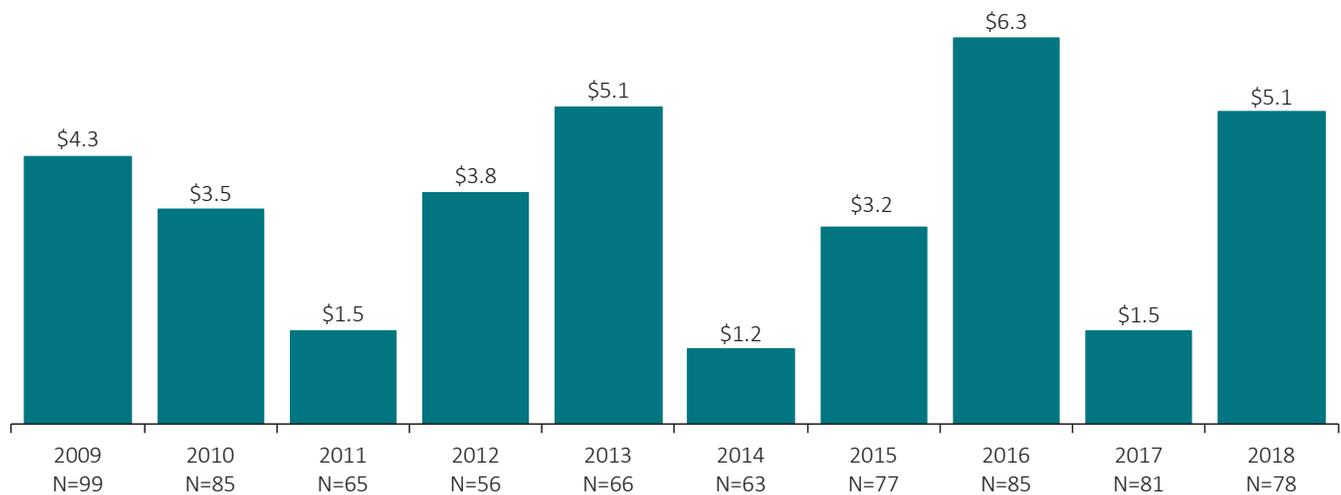
# Total Settlement Dollars

- The total value of settlements approved by courts in 2018 was just over \$5 billion—more than three times the total amount approved in 2017.
- The average settlement amount in 2018 was nearly \$65 million, considerably higher than the \$18.7 million average in 2017 and 44 percent higher than the average for the prior nine years.
- In addition, the 2018 median settlement of \$11.3 million was more than double the 2017 median, indicating larger 2018 settlements overall.
- The larger settlement amounts in 2018 were accompanied by higher levels in our proxy for plaintiff-style damages. (See page 5 for a discussion of damages estimates.)

*2018 total settlement dollars surpassed the prior nine-year average annual total by 50 percent.*

Figure 2: Total Settlement Dollars  
2009–2018

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

# Settlement Size

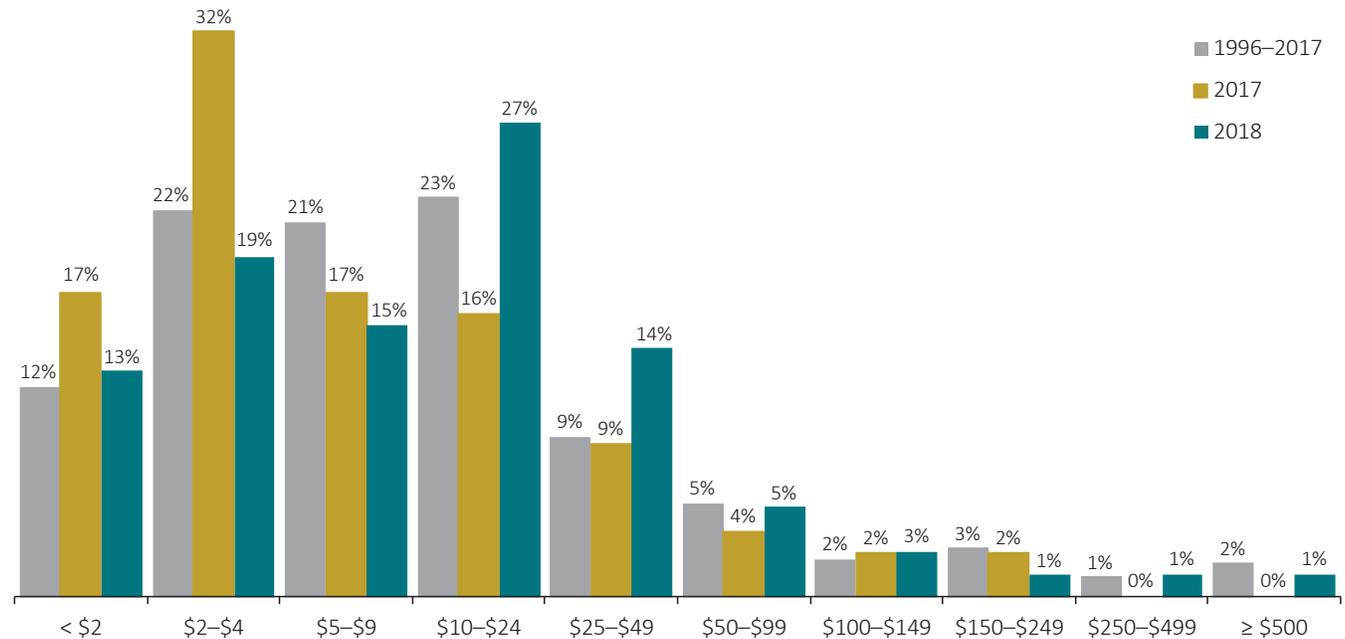
- There were five mega settlements in 2018, with settlements ranging from \$110 million to \$3 billion.

*32 cases settled for between \$10 million and \$49 million in 2018, representing an approximate 60 percent increase over 2017.*

- The median and average settlement amounts in 2018 were 31 percent and 14 percent higher than the median and average, respectively, for all prior post-Reform Act settlements.
- Contributing to the increase in median and average settlement amounts, the number of small settlements (amounts less than \$5 million) declined by nearly 40 percent, from 40 cases in 2017 to 25 in 2018.

Figure 3: Distribution of Post-Reform Act Settlements 1996–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Percentages may not sum to 100 percent due to rounding.

# Damages Estimates

## Rule 10b-5 Claims: “Simplified Tiered Damages”

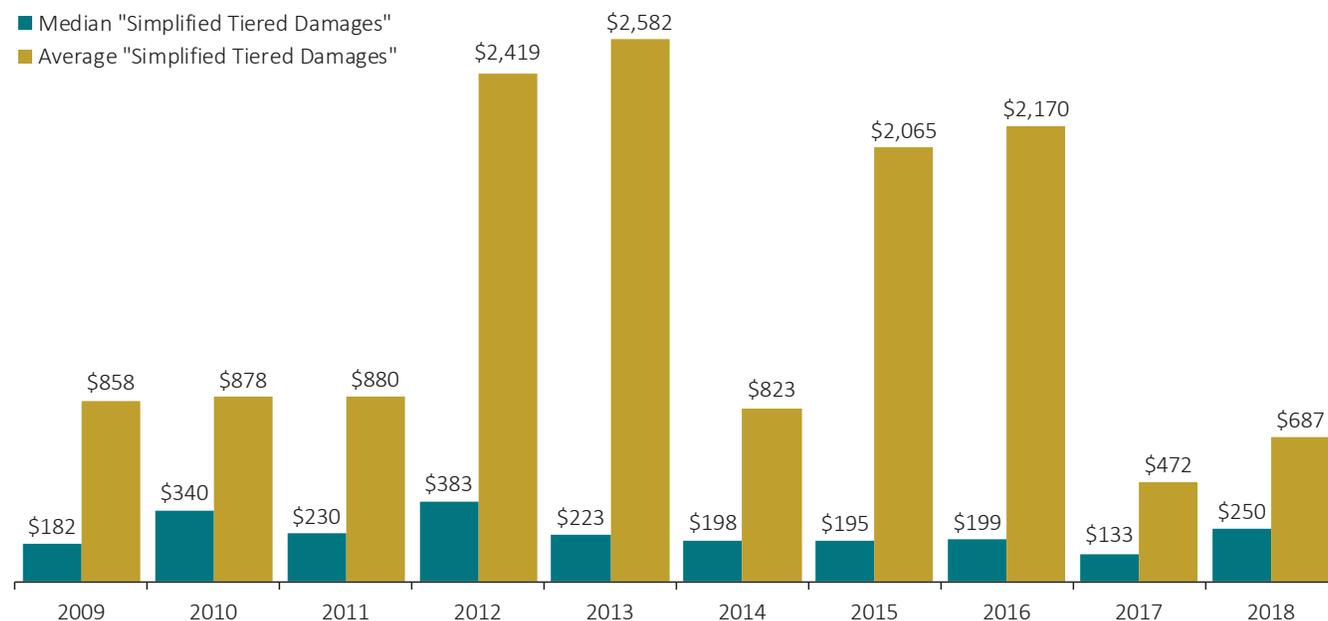
“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.<sup>4</sup> Cornerstone Research’s prediction model finds this measure to be the most important factor in predicting settlement amounts.<sup>5</sup> However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

*Median “simplified tiered damages” increased 88 percent from 2017.*

- “Simplified tiered damages” is correlated with stock market volatility at the time of a case filing. The rise in median and average “simplified tiered damages” in 2018 is consistent with increased stock market volatility in 2015 and 2016, when more than half of cases that settled in 2018 were filed.
- “Simplified tiered damages” is also generally correlated with the length of the class period. For cases settled in 2018, the median class period length was over 13 percent longer than the median in 2017.
- Higher “simplified tiered damages” are generally associated with larger issuer defendants (measured by total assets or market capitalization of the issuer). In 2018, the median issuer defendant total assets of \$829 million was almost 50 percent larger than for cases settled in 2017.

Figure 4: Median and Average “Simplified Tiered Damages” 2009–2018

(Dollars in millions)



Note: “Simplified tiered damages” are adjusted for inflation based on class period end dates. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

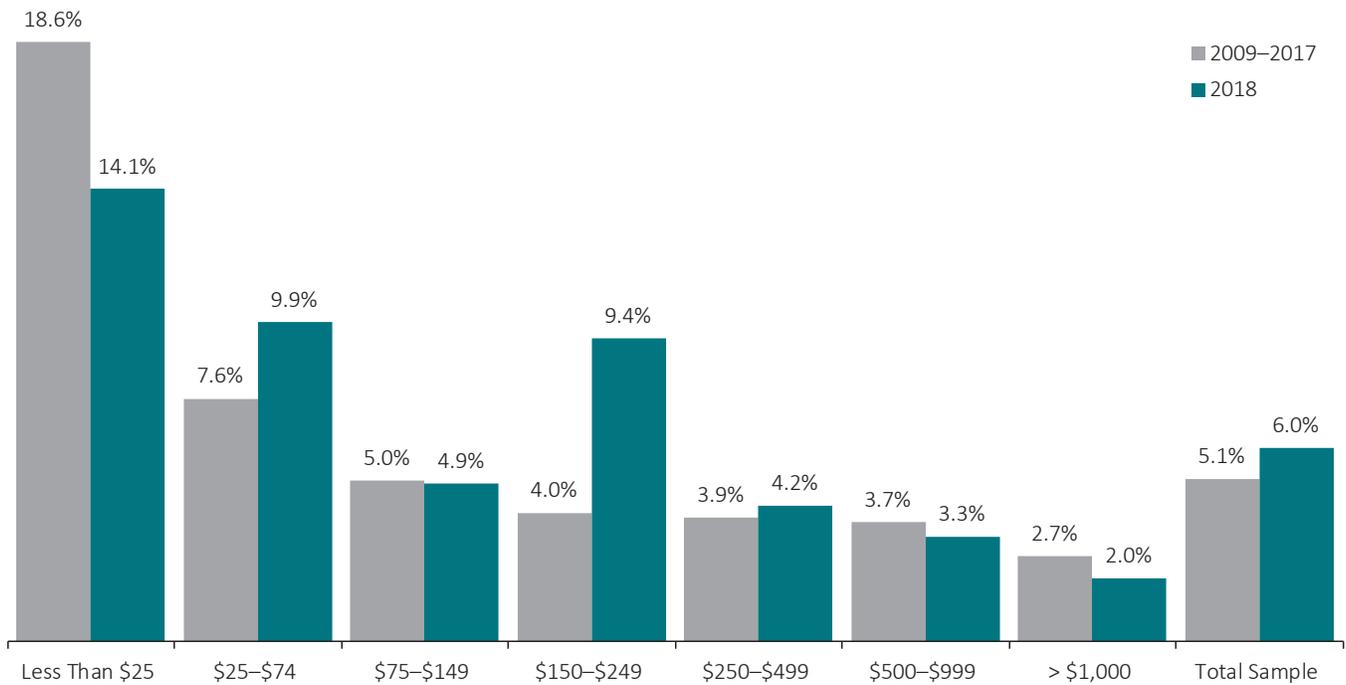
- Larger cases (cases with higher levels of the proxy for shareholder losses) typically settle for a smaller percentage of “simplified tiered damages.”
- The median settlement as a percentage of “simplified tiered damages” increased to 6.0 percent in 2018, compared to a median of 5.1 percent for the prior nine years.
- For the smallest cases (measured by “simplified tiered damages”), the median settlement as a percentage of “simplified tiered damages” decreased by more than 50 percent, from 29 percent in 2017 to 14 percent in 2018.

*The median settlement as a percentage of “simplified tiered damages” increased for the third consecutive year.*

- As observed over the last decade, smaller cases typically settle more quickly. Cases with less than \$25 million in “simplified tiered damages” settled within 2.9 years on average, compared to 4.5 years for cases with “simplified tiered damages” of greater than \$500 million.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges 2009–2018

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

### '33 Act Claims: "Simplified Statutory Damages"

- For cases involving only Section 11 and/or Section 12(a)(2) claims ('33 Act claims), shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as "simplified statutory damages."<sup>6</sup> Only the offered shares are assumed to be eligible for damages.
- "Simplified statutory damages" are typically smaller than "simplified tiered damages," reflecting differences in the methodologies used to estimate alleged inflation per share, as well as differences in the shares eligible to be damaged (i.e., only offered shares are included).
- In 2018, among settlements involving only '33 Act claims, the median time to settlement was 2.3 years, compared to slightly more than three years for cases involving only Rule 10b-5 claims.
- Median settlement amounts are substantially higher for cases involving both '33 Act claims and Rule 10b-5 allegations than for those with only Rule 10b-5 claims.

-----  
*Eight cases involving only '33 Act claims settled in 2018.*  
 -----

Figure 6: Settlements by Nature of Claims  
 2009–2018

(Dollars in millions)

	Number of Settlements	Median Settlement	Median "Simplified Statutory Damages"	Median Settlement as a Percentage of "Simplified Statutory Damages"
Section 11 and/or Section 12(a)(2) Only	76	\$5.2	\$107.8	8.0%

	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	127	\$14.8	\$339.6	5.8%
Rule 10b-5 Only	537	\$8.2	\$203.9	4.6%

Note: Settlement dollars and damages are adjusted for inflation; 2018 dollar equivalent figures are used. Damages are adjusted for inflation based on class period end dates.

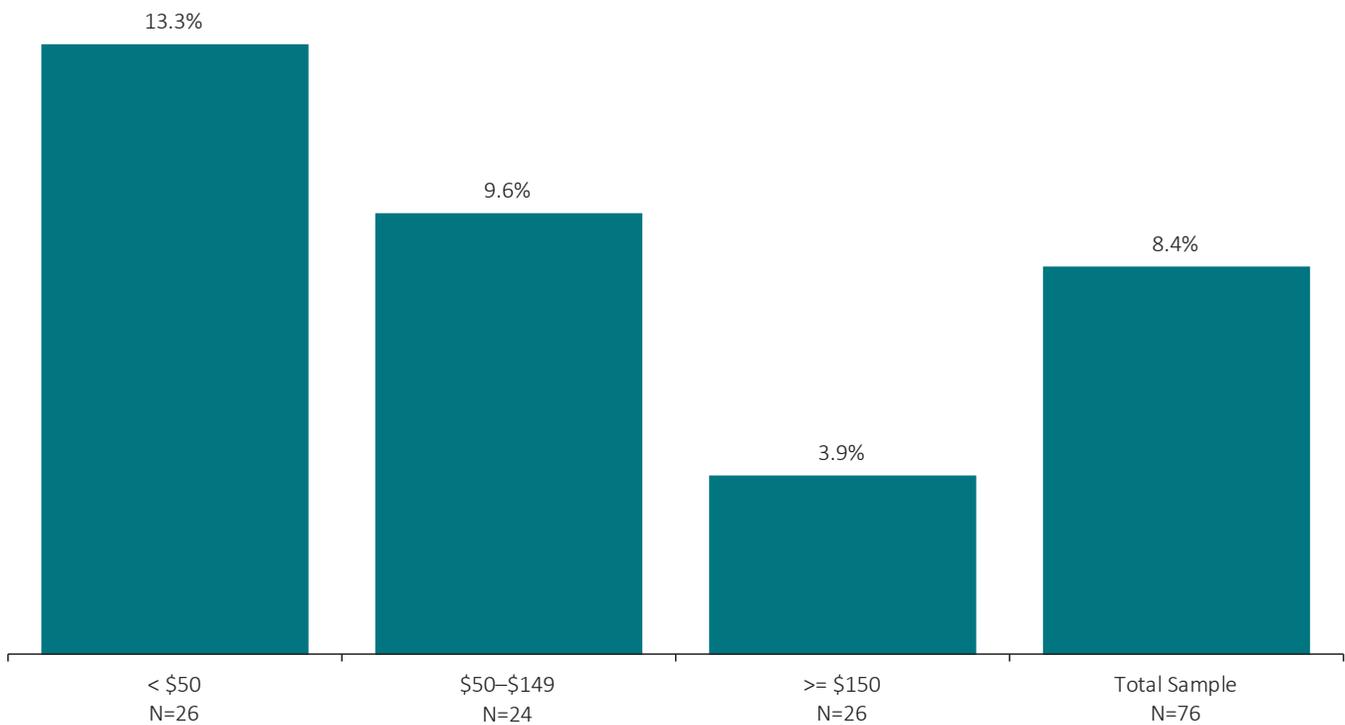
- Similar to cases with Rule 10b-5 claims, settlements as a percentage of “simplified statutory damages” for cases with only ’33 Act claims are smaller for cases that have larger estimated damages.
- Since 2009, 85 percent of settled cases with only ’33 Act claims had a named underwriter defendant.
- Over the period 2009–2018, the average settlement as a percentage of “simplified statutory damages” for cases with a named underwriter defendant was 13.2 percent, compared to 5.9 percent for cases without a named underwriter defendant.

50 percent of cases with only ’33 Act claims settled in 2018 were heard in state courts.

- As discussed in *Securities Class Action Filings—2018 Year in Review*, stand-alone ’33 Act claim case filings were 45 percent higher in 2018 than the average over the prior five years. These cases will likely reach resolution within the next two to three years and may contribute to an increase in the number of ’33 Act claim settlements during those years.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges 2009–2018

(Dollars in millions)



Note: N refers to the number of observations.

# Analysis of Settlement Characteristics

## Accounting Allegations

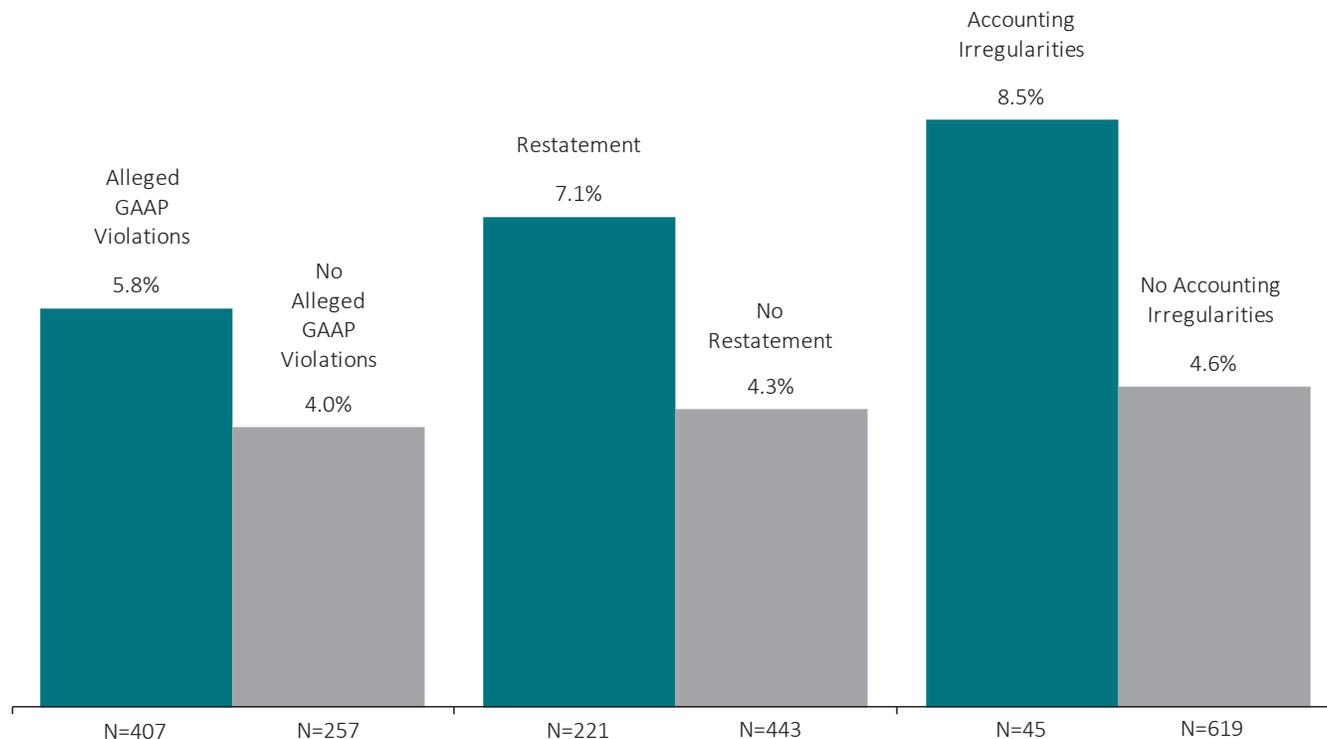
This analysis examines three types of accounting issues among settled cases involving Rule 10b-5 claims: (1) alleged Generally Accepted Accounting Principles (GAAP) violations, (2) restatements, and (3) reported accounting irregularities.<sup>7</sup> For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.<sup>8</sup>

- The proportion of settled cases alleging GAAP violations in 2018 was 45 percent, continuing a four-year decline from a high of 67 percent in 2014.
- Settled cases with restatements are generally associated with higher settlements as a percentage of “simplified tiered damages” compared to cases without restatements. In 2018, the median settlement as a percentage of “simplified tiered damages” was 11.3 percent for cases with restatements, but 5.1 percent for cases without restatements.

- Among cases settled in 2018 with accounting-related allegations, approximately 10 percent involved a named auditor codefendant, essentially unchanged from 2017 (10.2 percent). However, these proportions were significantly lower than the average of 21.9 percent over the prior eight years.
- The infrequency of reported accounting irregularities among settled cases averaged less than 2 percent from 2015 to 2018, compared to almost 10 percent from 2009 to 2014.

*The infrequency of reported accounting irregularities among settled cases continued for the fourth straight year.*

Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and Accounting Allegations 2009–2018



Note: N refers to the number of observations.

## Institutional Investors

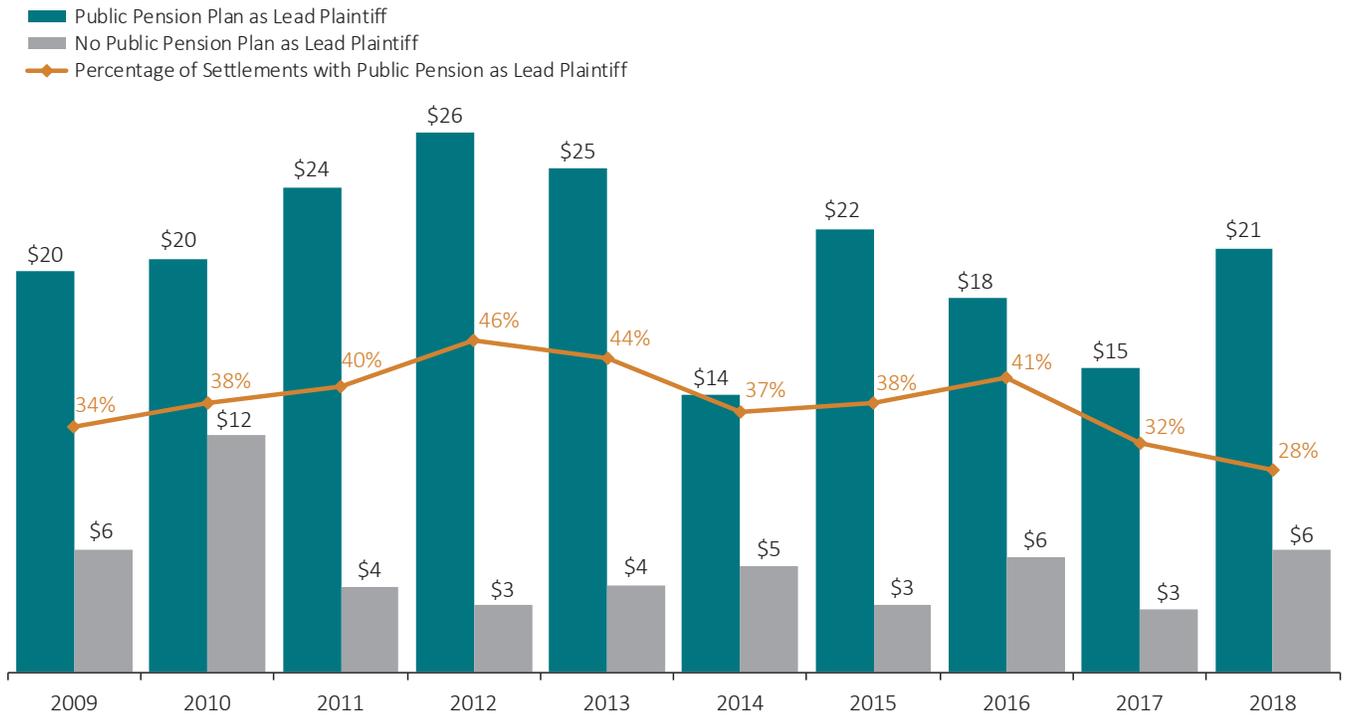
- Institutional investors, including public pension plans (a subset of institutional investors), tend to be involved in larger cases, that is, cases with higher “simplified tiered damages.”
- Median “simplified tiered damages” for cases involving a public pension as a lead plaintiff in 2018 were \$689 million compared to \$213 million for cases without a public pension as a lead plaintiff.
- While public pensions historically have tended to be involved in cases with accounting-related allegations (i.e., alleged GAAP violations, restatements, and accounting irregularities), this was not true in 2018.

*The proportion of 2018 settlements with a public pension plan as lead plaintiff was at its lowest level in the last decade.*

- In 2018, median total assets for issuer defendants in cases involving an institutional investor as a lead plaintiff were \$1.6 billion compared to \$328 million for cases without institutional investor involvement.

**Figure 9: Median Settlement Dollars and Public Pension Plans 2009–2018**

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

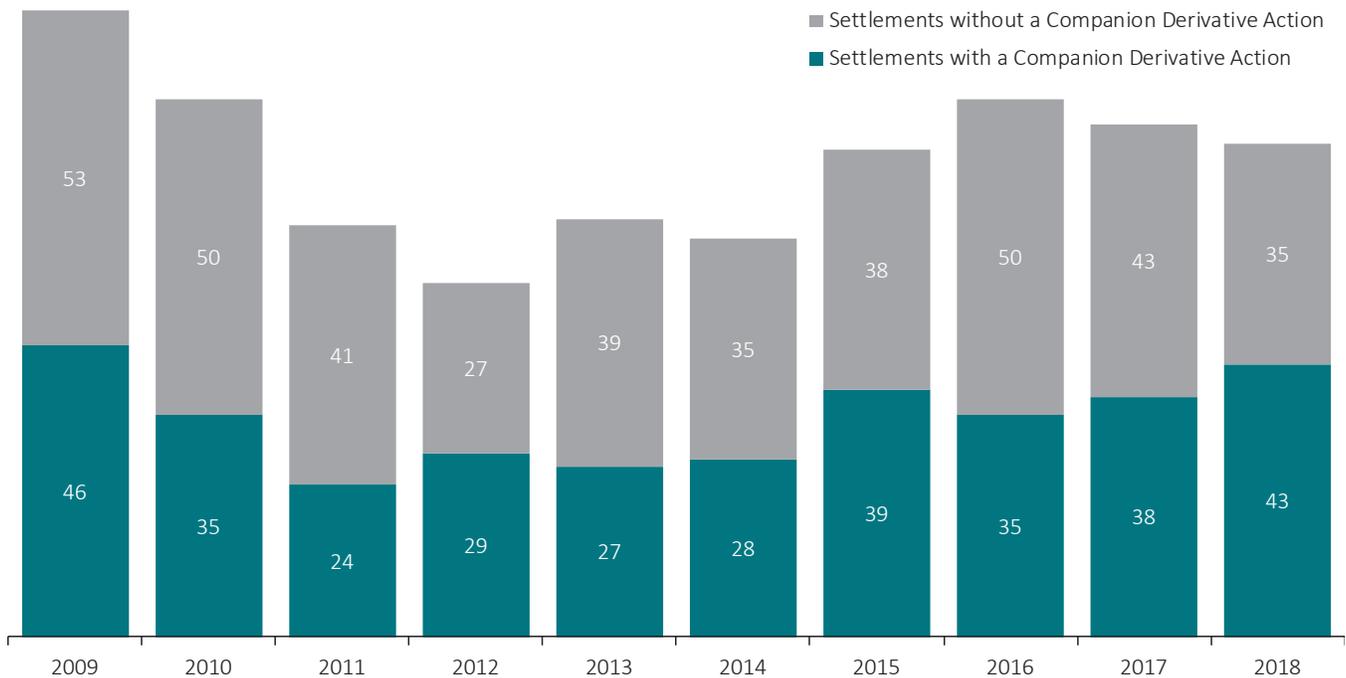
## Derivative Actions

Derivative cases accompanying securities class actions are more frequently filed when corresponding securities class actions are relatively large or involve a financial restatement or public pension plan lead plaintiff.

*The percentage of settled cases with a public pension plan lead plaintiff that also involved an accompanying derivative action reached 77 percent in 2018, its highest level in the last 10 years.*

- The increase in the proportion of settled cases involving an accompanying derivative action is consistent with both the larger cases (measured by “simplified tiered damages”) and the larger settlement amounts observed in 2018.
  - The median “simplified tiered damages” for cases with companion derivative actions was \$480 million, compared to \$47 million for cases without accompanying derivative actions.
  - The median settlement amount for cases with companion derivative actions was \$18 million, compared to \$5 million for cases without accompanying derivative actions.

Figure 10: Frequency of Derivative Actions  
 2009–2018



## Corresponding SEC Actions

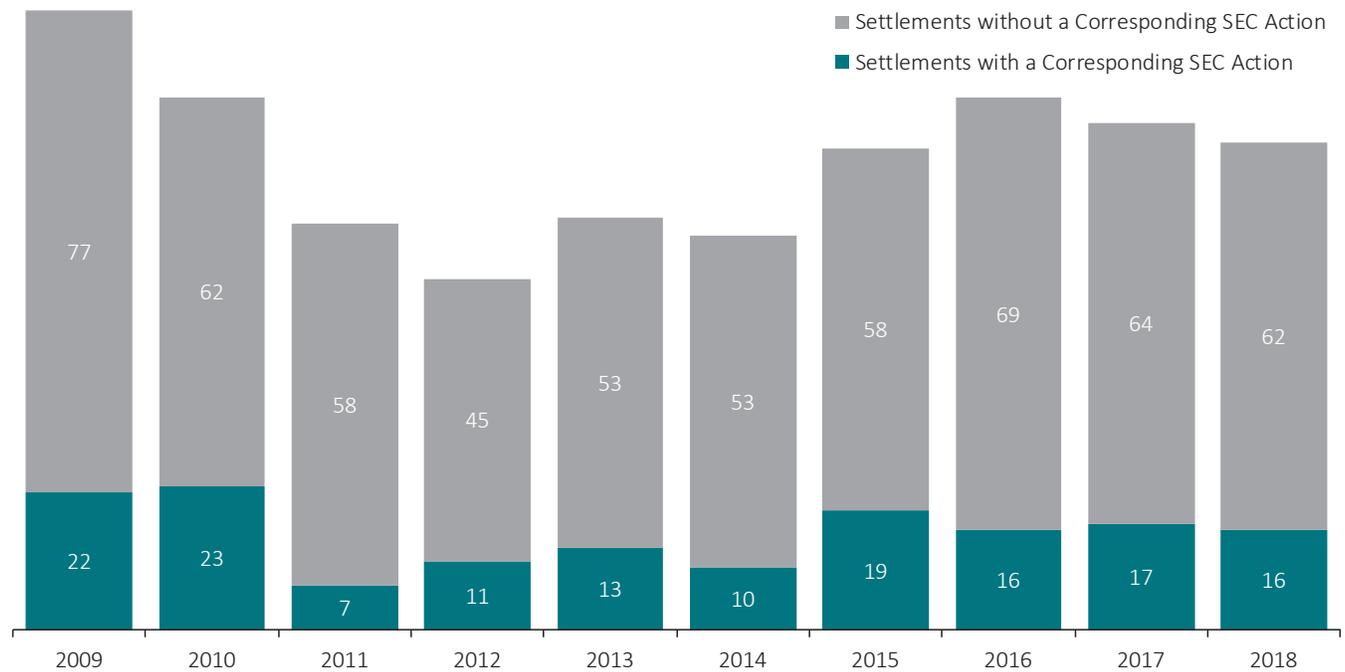
Cases with a corresponding Securities and Exchange Commission (SEC) action related to the allegations are typically associated with significantly higher settlement amounts and higher settlements as a percentage of “simplified tiered damages.”<sup>9</sup>

- The number of settled securities class actions with corresponding SEC actions has remained relatively stable over the last four years.
- Cases with corresponding SEC actions tend to involve larger issuer defendants. For cases settled during 2009–2018, the median total assets of issuer defendant firms at the time of settlement were \$946 million for cases with corresponding SEC actions, compared to \$653 million for cases without a corresponding SEC action.

- Corresponding SEC actions are also frequently associated with distressed firms. For purposes of this research, a distressed firm has either declared bankruptcy or been delisted from a major U.S. exchange prior to settlement.

*At 54 percent, 2018 had one of the highest rates of SEC actions among distressed firms in the past decade.*

Figure 11: Frequency of SEC Actions  
 2009–2018



# Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),<sup>10</sup> we have analyzed settlements in relation to the stage in the litigation process at the time of settlement, expanding on the stages analyzed in our prior reports.

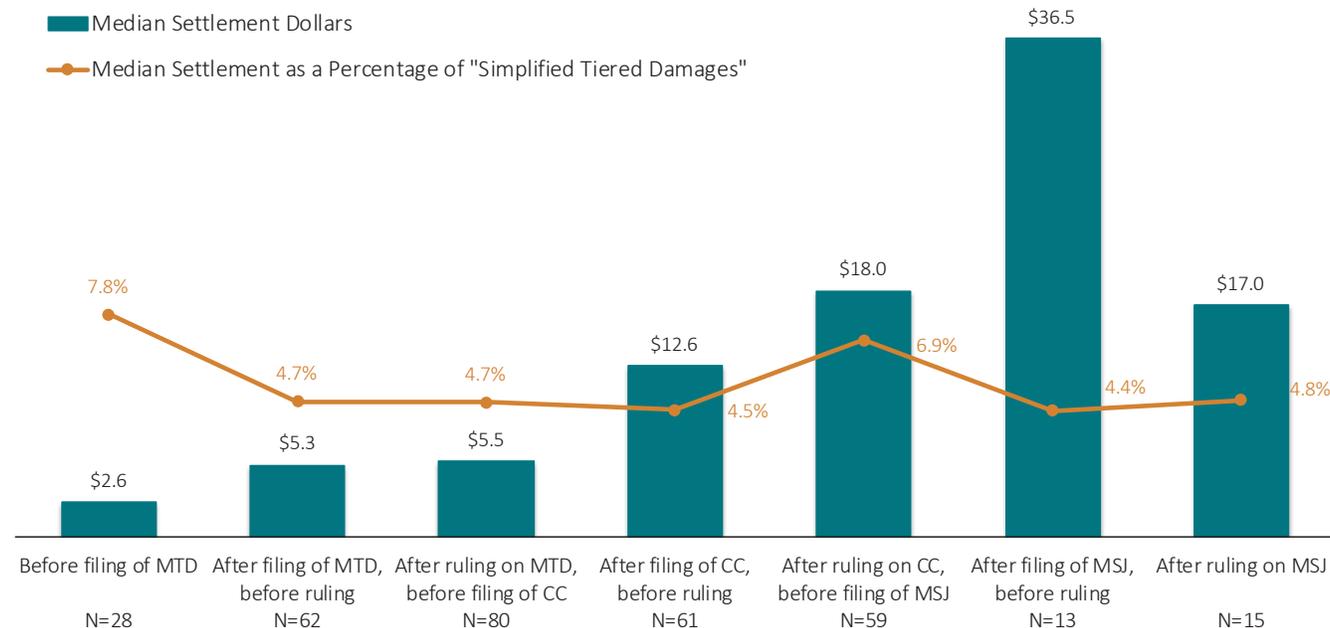
- In 2018, cases settled after a motion to dismiss was filed but prior to a ruling had a median settlement of \$7.9 million, significantly lower than for cases settled at later stages.
- In addition, among 2018 settlements, median total assets at the time of settlement were almost 100 percent larger for cases settled after a ruling on a motion to dismiss than for cases settled at earlier stages.

*The average time to reach a ruling on a motion for class certification among settlements in 2018 was 4.8 years.*

- In the five-year period from 2014 to 2018, the median settlement for cases settled after a motion for class certification was filed but prior to a ruling was \$12.6 million, compared to \$18 million for cases settled after a ruling.
- Over the same period, the median “simplified tiered damages” for cases settled after a filing of a motion for summary judgment was over four times the median for cases settled prior to such a motion being filed. This contributed to higher settlement amounts but lower settlements as a percentage of “simplified tiered damages” for cases settled at this stage.

Figure 12: Median Settlement Dollars and Resolution Stage at Time of Settlement 2014–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

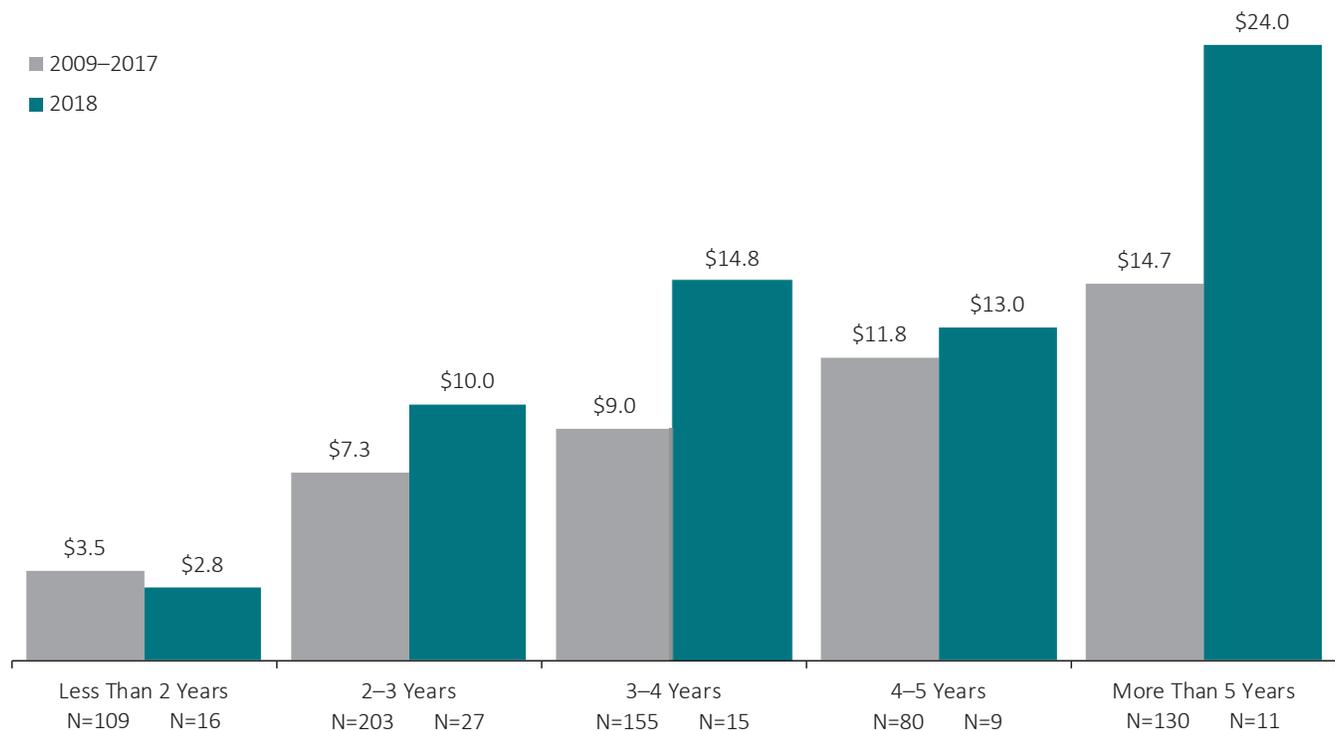
# Time to Settlement and Case Complexity

- In 2018, 21 percent of cases settled within two years of filing, 12 percent higher than the prior five-year average.
- Cases that settle quickly tend to be smaller (measured by “simplified tiered damages” or total assets of the issuer defendant). Rule 10b-5 cases settled in less than two years in 2018 had median “simplified tiered damages” of \$67 million, compared to a median of \$319 million for settlements that took more than two years to be resolved.
- While, on average, settled cases in 2018 reached resolution more quickly than in prior years, almost 15 percent of cases took more than five years to settle in 2018 and settled for substantially higher amounts. Over 80 percent of these cases had accompanying derivative actions, and median assets of the defendant firms were more than twice as large as in other cases.
- For the period 2013–2018, cases settled within two years of filing had higher attorney fees as a percentage of the settlement fund than cases that took longer to settle.<sup>11</sup>

*The average time from filing to settlement in 2018 was 3.3 years.*

Figure 13: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2009–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

# Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain security case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It is also helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

## Determinants of Settlement Outcomes

Based on the research sample of post-Reform Act cases that settled through December 2018, the factors that were important determinants of settlement amounts included the following:

- “Simplified tiered damages”
- Maximum Dollar Loss (MDL)—market capitalization change from its peak to post-disclosure value
- Most recently reported total assets of the issuer defendant firm
- A measure of how long the issuer defendant has been a public company
- Number of entries on the lead case docket
- The year in which the settlement occurred
- Whether a restatement of financials related to the alleged class period was announced
- Whether there was a corresponding SEC action and/or criminal indictments/charges against the issuer, other defendants, or related parties

- Whether an outside auditor or underwriter was named as a codefendant
- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether a public pension was a lead plaintiff
- Whether the plaintiffs alleged that securities other than common stock were damaged

Regression analyses show that settlements were higher when “simplified tiered damages,” MDL, issuer defendant asset size, the length of time the company has been public, or the number of docket entries were larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving financial restatements, a corresponding SEC action, a public pension involved as lead plaintiff, a third party such as an outside auditor or underwriter was named as a codefendant, or securities other than common stock were alleged to be damaged.

Settlements were lower if the settlement occurred in 2012 or later, or if the issuer was distressed.

Almost 75 percent of the variation in settlement amounts can be explained by the factors discussed above.

## Research Sample

- The database used in this report contains cases alleging fraudulent inflation in the price of a corporation's common stock (i.e., excluding cases with alleged classes of only bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent depression in price and merger and acquisition (M&A) cases).
- The sample is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 1,775 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2018. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).<sup>12</sup>
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.<sup>13</sup> Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.<sup>14</sup>

## Data Sources

In addition to SCAS, data sources include Dow Jones Factiva, Bloomberg, the Center for Research in Security Prices (CRSP) at University of Chicago Booth School of Business, Standard & Poor's Compustat, court filings and dockets, SEC registrant filings, SEC litigation releases and administrative proceedings, LexisNexis, and public press.

# Endnotes

- <sup>1</sup> See *Securities Class Action Filings—2018 Year in Review*, Cornerstone Research (2019), <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2018-Year-in-Review.pdf>
- <sup>2</sup> See John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- <sup>3</sup> See Kevin LaCroix, “Scrutinizing Event-Driven Securities Litigation,” D&O Diary, March 27, 2018, <https://www.dandodiary.com/2018/03/articles/securities-litigation/scrutinizing-event-driven-securities-litigation/>; John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- <sup>4</sup> The “simplified tiered damages” approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the “true value” of the stock during the alleged class period (or “value line”). This proxy for damages uses an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant’s common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.
- <sup>5</sup> See Laarni T. Bulan et al., *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017), <https://www.cornerstone.com/Publications/Research/Estimating-Damages-in-Settlement-Outcome-Modeling.pdf>.
- <sup>6</sup> The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to “simplified tiered damages,” the estimation of “simplified statutory damages” makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity. Shares subject to a lock-up period are not added to the float for purposes of this calculation.
- <sup>7</sup> The three categories of accounting issues analyzed in this report are: (1) GAAP violations—cases with allegations involving Generally Accepted Accounting Principles (GAAP); (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.
- <sup>8</sup> See *Accounting Class Action Filings and Settlements*, Cornerstone Research (2018), <https://www.cornerstone.com/Publications/Reports/2017-Accounting-Class-Action-Filings-and-Settlements.pdf>. Update forthcoming in April 2019.
- <sup>9</sup> It could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on [www.sec.gov](http://www.sec.gov).
- <sup>10</sup> Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice (DOJ). The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at <https://sla.law.stanford.edu/>.
- <sup>11</sup> Data provided by SSLA.
- <sup>12</sup> Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>.
- <sup>13</sup> Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- <sup>14</sup> This categorization is based on the timing of the settlement approval. If a new partial settlement equals or exceeds 50 percent of the then-current settlement fund amount, the entirety of the settlement amount is recategorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50 percent of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

# Appendices

## Appendix 1: Settlement Percentiles

(Dollars in millions)

	Average	10th	25th	Median	75th	90th
2018	\$64.9	\$1.5	\$3.6	\$11.3	\$24.8	\$52.1
2017	\$18.7	\$1.5	\$2.6	\$5.1	\$15.4	\$35.3
2016	\$73.8	\$2.0	\$4.4	\$8.9	\$34.5	\$152.7
2015	\$41.7	\$1.4	\$2.3	\$6.9	\$17.2	\$99.6
2014	\$19.3	\$1.8	\$3.0	\$6.4	\$14.0	\$53.0
2013	\$77.9	\$2.0	\$3.2	\$7.0	\$23.9	\$88.9
2012	\$67.0	\$1.3	\$2.9	\$10.3	\$38.8	\$125.8
2011	\$23.4	\$2.1	\$2.8	\$6.4	\$20.1	\$46.6
2010	\$41.1	\$2.3	\$4.9	\$13.0	\$28.8	\$91.7
2009	\$43.9	\$2.8	\$4.5	\$9.4	\$23.4	\$77.7
1996–2018	\$45.4	\$1.7	\$3.6	\$8.6	\$21.9	\$75.1

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

## Appendix 2: Select Industry Sectors 2009–2018

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Financial	111	\$21.7	\$452.8	4.8%
Technology	108	\$9.2	\$217.9	5.1%
Pharmaceuticals	91	\$8.7	\$251.5	3.9%
Telecommunications	41	\$8.6	\$220.3	4.5%
Retail	38	\$6.6	\$189.6	4.3%
Healthcare	20	\$8.2	\$136.0	6.4%

Note: Settlement dollars and “simplified tiered damages” are adjusted for inflation; 2018 dollar equivalent figures are used. “Simplified tiered damages” are calculated only for cases involving Rule 10b-5 claims.

**Appendix 3: Settlements by Federal Circuit Court  
 2009–2018**

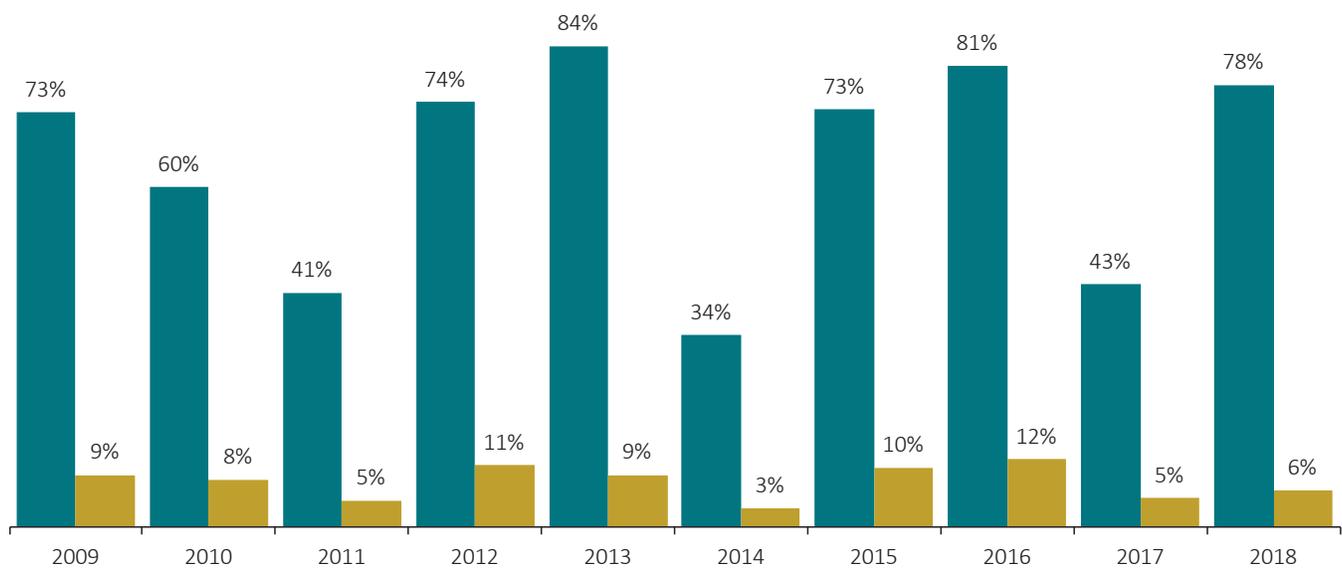
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	24	\$7.1	3.4%
Second	177	\$11.4	4.7%
Third	61	\$7.0	4.6%
Fourth	26	\$12.5	3.2%
Fifth	35	\$8.9	4.5%
Sixth	33	\$13.0	7.4%
Seventh	37	\$10.3	4.4%
Eighth	14	\$11.7	5.9%
Ninth	196	\$8.3	5.1%
Tenth	19	\$8.8	4.8%
Eleventh	36	\$7.2	5.7%
DC	4	\$23.0	2.2%

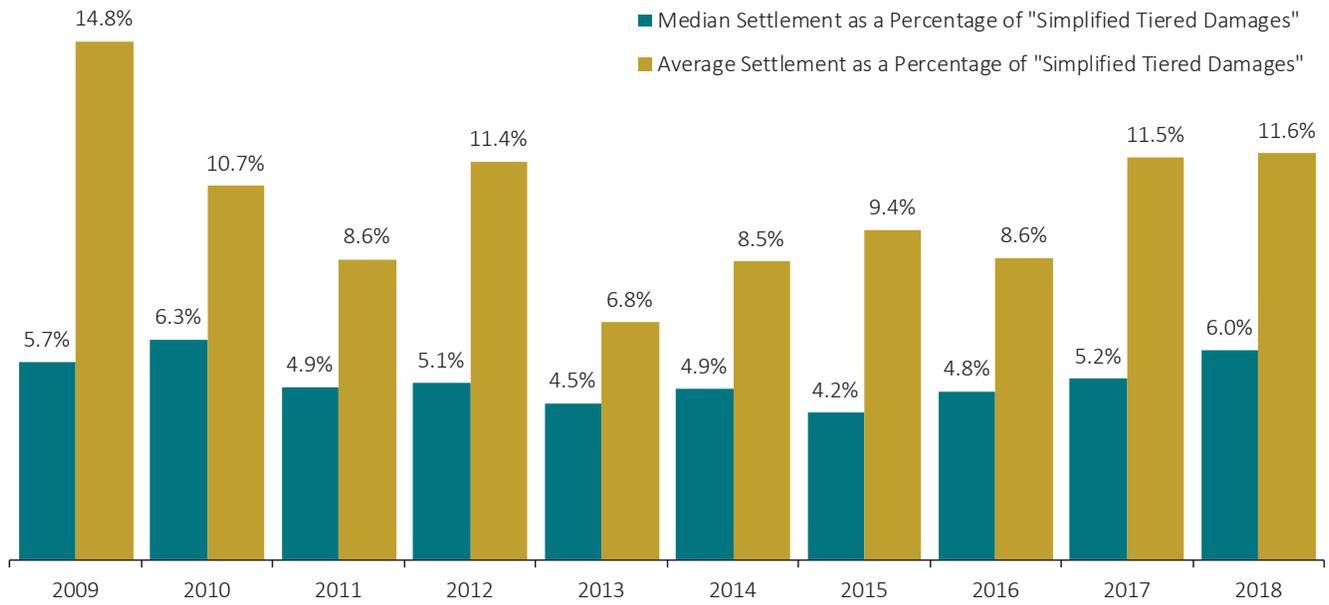
Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

**Appendix 4: Mega Settlements  
 2009–2018**

- Total Mega Settlement Dollars as a Percentage of All Settlement Dollars
- Number of Mega Settlements as a Percentage of All Settlements



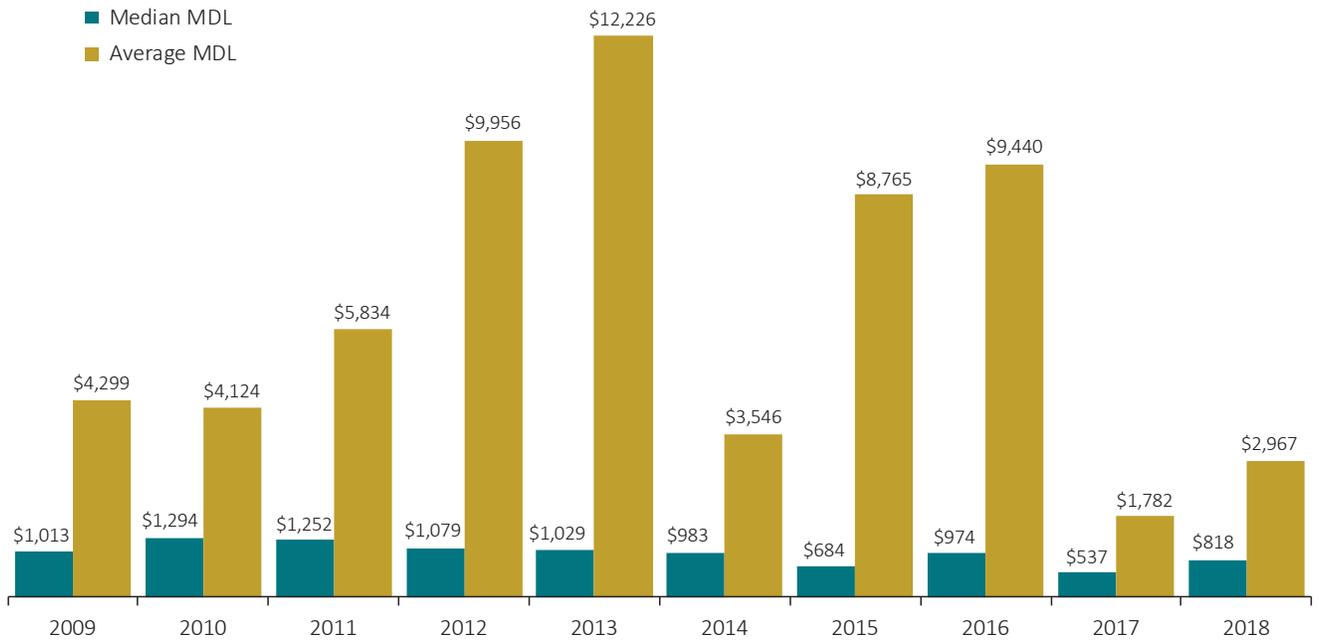
Appendix 5: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”  
 2009–2018



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

Appendix 6: Median and Average Maximum Dollar Loss (MDL)  
 2009–2018

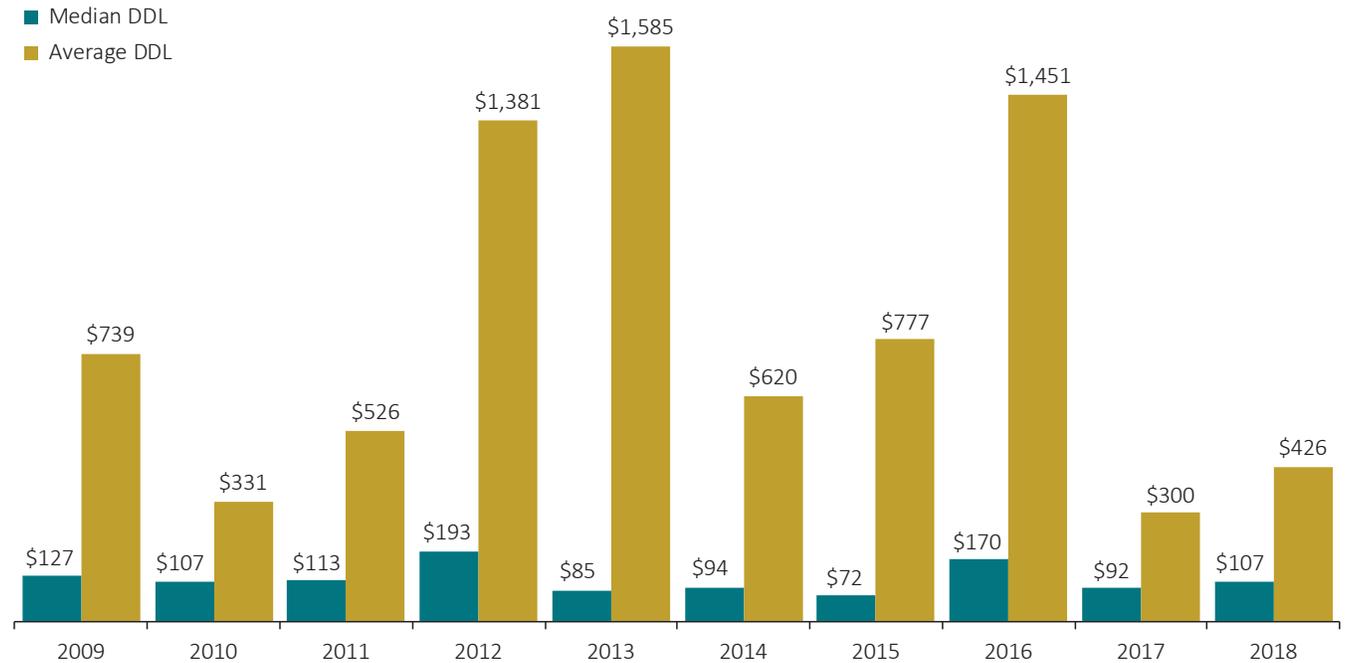
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates. MDL is the dollar value change in the defendant firm’s market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

**Appendix 7: Median and Average Disclosure Dollar Loss (DDL)  
 2009–2018**

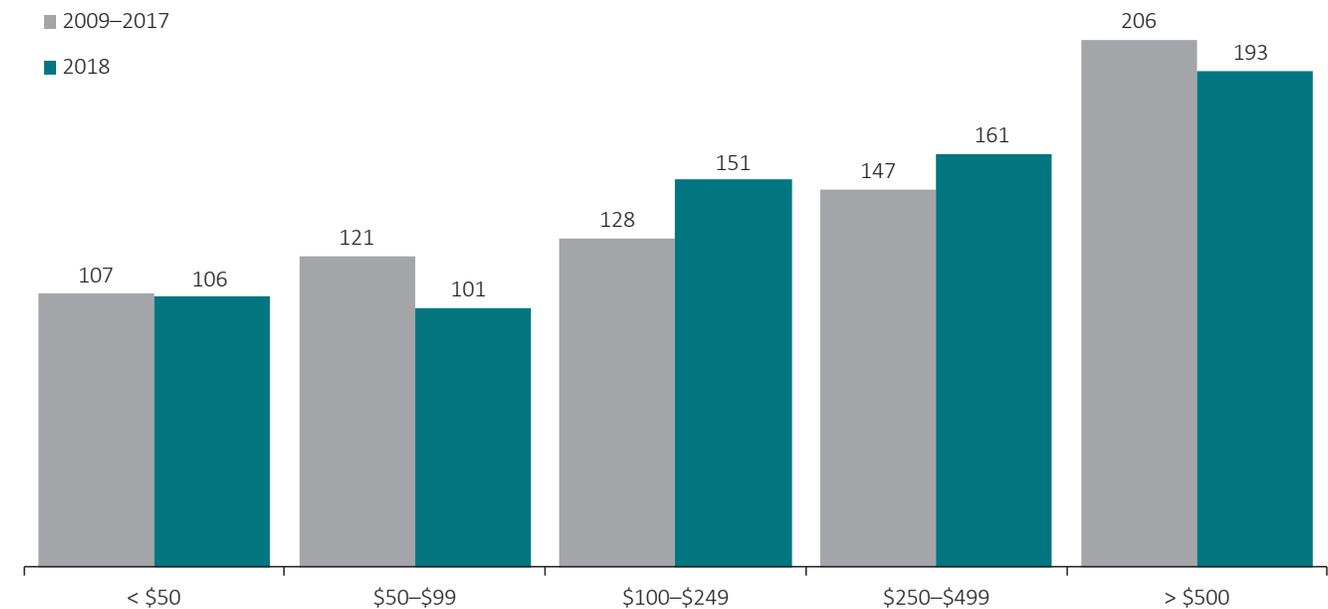
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates. DDL is the dollar value change in the defendant firm’s market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging ‘33 Act claims only.

**Appendix 8: Median Docket Entries by “Simplified Tiered Damages” Range  
 2009–2018**

(Dollars in millions)



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

# About the Authors

## **Laarni T. Bulan**

Ph.D., Columbia University; M.Phil., Columbia University; B.S., University of the Philippines

Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities damages and class certification issues, insider trading, merger valuation, risk management, market manipulation and trading behavior, and real estate markets. She has also consulted on cases related to financial institutions and the credit crisis, municipal bond mutual funds, asset-backed commercial paper conduits, credit default swaps, foreign exchange, and securities clearing and settlement. Dr. Bulan has published several academic articles in peer-reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

## **Ellen M. Ryan**

M.B.A., American Graduate School of International Management; B.A., Saint Mary's College

Ellen Ryan is a director in Cornerstone Research's Boston office, where she works in the securities practice. Ms. Ryan has consulted on economic and financial issues in a variety of cases, including securities class actions, financial institution breach of contract matters, and antitrust litigation. She also has worked with testifying witnesses in corporate governance and breach of fiduciary duty matters. Prior to joining Cornerstone Research, Ms. Ryan worked for Salomon Brothers in New York and Tokyo. Currently she focuses on post-Reform Act settlement research as well as general practice area business and research.

## **Laura E. Simmons**

Ph.D., University of North Carolina at Chapel Hill; M.B.A., University of Houston; B.B.A., University of Texas at Austin

Laura Simmons is a senior advisor with Cornerstone Research. She is a certified public accountant and has more than 25 years of experience in accounting practice and economic and financial consulting. Dr. Simmons has focused on damages and liability issues in securities litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. She has served as a testifying expert in cases involving accounting analyses, securities case damages, research on securities lawsuits, and other issues involving empirical analyses.

Dr. Simmons's research on pre- and post-Reform Act securities litigation settlements has been published in a number of reports and is frequently cited in the public press and legal journals. She has spoken at various conferences and appeared as a guest on CNBC addressing the topic of securities case settlements. She has also published in academic journals, with recent research focusing on the intersection of accounting and litigation. Dr. Simmons was previously an accounting faculty member at the Mason School of Business at the College of William & Mary. From 1986 to 1991, she was an accountant with Price Waterhouse.

The authors acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research.

Many publications quote, cite, or reproduce data, charts, or tables from Cornerstone Research reports. The authors request that you reference Cornerstone Research in any reprint, quotation, or citation of the charts, tables, or data reported in this study.

Please direct any questions and requests for additional information to the settlement database administrator at [settlement.database@cornerstone.com](mailto:settlement.database@cornerstone.com).

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617.927.3000

**Chicago**

312.345.7300

**London**

+44.20.3655.0900

**Los Angeles**

213.553.2500

**New York**

212.605.5000

**San Francisco**

415.229.8100

**Silicon Valley**

650.853.1660

**Washington**

202.912.8900

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



# **Exhibit 3**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF LANCE CAVALLO REGARDING  
(A) MAILING OF THE NOTICE AND CLAIM FORM;  
(B) PUBLICATION OF SUMMARY NOTICE; AND  
(C) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE**

I, Lance Cavallo, declare and state as follows:

1. I am a Senior Project Manager of Class Actions at KCC LLC (“KCC”). Pursuant to the Court’s September 5, 2019 Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement (the “Preliminary Approval Order”), the Court approved the retention of KCC as Claims Administrator in connection with the proposed Settlement of the above-captioned Action.<sup>1</sup> I have personal knowledge of the matters stated herein and, if called upon, could and would testify thereto.

**MAILING OF THE NOTICE AND CLAIM FORM**

2. Pursuant to the Preliminary Approval Order, KCC is responsible for disseminating the Notice of Pendency of Class Action, Proposed Settlement, and Motion For Attorneys’ Fees and Expenses (the “Notice”) and the Proof of Claim and Release (the “Claim

---

<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement, dated August 29, 2019 (the “Settlement Agreement”).

Form” and, collectively with the Notice, the “Notice Packet”) to potential Settlement Class Members. A copy of the Notice Packet is attached hereto as Exhibit A.

3. In accordance with the Settlement Agreement and Preliminary Approval Order, KCC received from Computershare, the transfer agent for the Company, a list containing the names and addresses of 244 persons or entities who purchased DeVry common stock during the period from August 26, 2011 through and including January 27, 2016 (the “Settlement Class Period”). On September 13, 2019, KCC disseminated Notice Packets by first-class mail to the 244 potential Settlement Class Members contained on this list.

4. As in most class actions of this nature, a large majority of potential Settlement Class Members are beneficial purchasers whose securities were held in “street name” – *i.e.*, the securities were purchased by brokerage firms, banks, institutions and other third-party nominees in the name of the nominee, on behalf of the beneficial purchasers. KCC maintains a proprietary database with the names and addresses of the largest and most common U.S. banks, brokerage firms, and nominees, including national and regional offices of certain nominees (the “Nominee Database”). KCC’s Nominee Database is updated from time to time as new nominees are identified, and others merge or cease to exist. At the time of the initial mailing, the Nominee Database contained 961 mailing records. On September 13, 2019, KCC caused Notice Packets to be mailed to the 961 mailing records contained in KCC’s Nominee Database.

5. The Notice directed those who purchased or otherwise acquired publicly traded common stock and/or exchange-traded call options, and/or sold put options of DeVry during the Settlement Class Period, for the beneficial interest of persons or organizations other than themselves, to provide KCC with the name and last known address of each person or entity for whom the nominee executed such transactions. KCC then caused the Notice Packet to be mailed promptly to said beneficial owners. Alternatively, nominees may request additional copies of the Notice Packet from KCC, in which case the nominees are required to promptly mail the Notice Packet directly to the persons for whom the transactions were made.

6. Following the initial mailing, through October 30, 2019, KCC has received an additional 27,602 unique names and addresses of potential Settlement Class Members from individuals or nominees requesting that a Notice Packet be mailed to such persons or entities. Additionally, KCC has received requests from nominees for an additional 36,410 unaddressed Notice Packets to be forwarded by the nominees to their customers. All such requests have been honored in a timely manner, and KCC will continue to disseminate Notice Packets upon receipt of any additional requests and/or upon receipt of updated addresses.

7. As a result of the efforts described above, as of October 30, 2019, KCC has mailed a total of 65,217 Notice Packets to potential Settlement Class Members and nominees.

#### **PUBLICATION OF THE SUMMARY NOTICE**

8. Pursuant to the Preliminary Approval Order, on September 27, 2019, KCC caused the Summary Notice to be published in the *Wall Street Journal* and to be transmitted over *PR Newswire*. Attached hereto as Exhibit B are confirmations of publication and transmittal.

#### **TELEPHONE HOTLINE**

9. KCC established and continues to maintain a toll-free telephone number (1-888-810-9152) for potential Settlement Class Members to call and obtain information about the Settlement, request a Notice Packet, and/or seek assistance from an operator during regular business hours. The telephone hotline became operational on September 13, 2019.

#### **SETTLEMENT WEBSITE**

10. To further assist potential Settlement Class Members, KCC, in coordination with Lead Counsel, designed, implemented and currently maintains a website, [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), dedicated to the Settlement (the "Settlement Website"). The address for the Settlement Website is set forth in the Notice, Claim Form and Summary Notice. The Settlement Website became operational on September 13, 2019, and is accessible 24 hours a day, 7 days a week. The Settlement Website lists the exclusion, objection, and claim submission deadlines, as well as the date and time of the Court's Final Approval Hearing. In addition, the Settlement Website contains links to copies of the Stipulation, the Preliminary Approval Order,

and the Notice Packet, all of which can be downloaded by potential Settlement Class Members. The Settlement Website also contains detailed instructions for entities that wish to submit claims electronically. KCC will continue operating, maintaining and, as appropriate, updating the Settlement Website until the conclusion of the administration.

**REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE**

11. The Notice informs potential Settlement Class Members that requests for exclusion from the Settlement Class must be addressed to DeVry Securities Settlement, c/o KCC Class Action Services, P.O. Box 43041, Providence, RI 02940-3041, such that they are received no later than November 15, 2019. The Notice also sets forth the information that must be included in each request for exclusion. As of October 30, 2019, KCC can confirm that it has not received any exclusion requests. KCC will submit a supplemental declaration after the November 15, 2019 deadline for requesting exclusion, which will report on any exclusion requests received.

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

Executed in New York, New York on October 31, 2019.

  
\_\_\_\_\_  
Lance Cavallo

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST, PATRICK J.  
UNZICKER, AND TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-cv-05198

Hon. Mary M. Rowland

**NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT,  
AND MOTION FOR ATTORNEYS' FEES AND EXPENSES**

If you purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) ("DeVry Equity Securities") during the period from August 26, 2011 through January 27, 2016, inclusive, (the "Settlement Class Period") and were allegedly damaged thereby, you may be entitled to a payment from a class action settlement.

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

- The purpose of this Notice is to inform you of the pendency of this securities class action (the "Action"), the proposed settlement of the Action (the "Settlement"),<sup>1</sup> and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") should be approved; and (iii) Lead Counsel's application for Attorneys' Fees and Expenses (the "Fee and Expense Application"). This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class.
- If approved by the Court, the Settlement will create a \$27,500,000 cash fund, plus earned interest, for the benefit of eligible Settlement Class Members, after the deduction of Attorneys' Fees and Expenses awarded by the Court, Notice and Administration Expenses, and Taxes.
- The Settlement resolves claims by Court-appointed Lead Plaintiff Utah Retirement Systems ("URS" or "Lead Plaintiff") that have been asserted on behalf of the Settlement Class (defined below) against Adtalem Global Education Inc. f/k/a DeVry Education Group, Inc. ("Adtalem," the "Company," or "DeVry"), Daniel Hamburger, Richard M. Gunst, Patrick J. Unzicker, and Timothy J. Wiggins (collectively, the "Defendants"). It avoids the costs and risks of continuing the litigation; pays money to eligible investors; and releases the Released Defendant Parties (defined below) from liability.
- The Action and Settlement involve the time period when the Company was known as DeVry Education Group. During this time, the Company's common stock traded under the ticker "DV." On or about May 24, 2017, the Company changed its name to Adtalem and its common stock began to trade under the ticker "ATGE." Accordingly, your account information may refer to DV before May 2017, but ATGE after May 2017.

**If you are a Settlement Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.**

<sup>1</sup> The terms of the Settlement are in the Stipulation of Settlement, dated August 29, 2019 (the "Settlement Agreement"), which can be viewed at [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com) and [www.labatton.com](http://www.labatton.com). All capitalized terms not defined in this Notice have the same meanings as defined in the Settlement Agreement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>SUBMIT A CLAIM FORM BY NOVEMBER 29, 2019</b>	The <u>only</u> way to get a payment. See Question 8 below for details.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY NOVEMBER 15, 2019</b>	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against Defendants and/or the other Released Defendant Parties concerning the Released Claims. See Question 11 below for details.
<b>OBJECT BY NOVEMBER 15, 2019</b>	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or Lead Counsel's Fee and Expense Application. If you object, you will still be a member of the Settlement Class. See Question 16 below for details.
<b>GO TO A HEARING ON DECEMBER 6, 2019 AND FILE A NOTICE OF INTENTION TO APPEAR BY NOVEMBER 15, 2019</b>	Ask to speak in Court at the Final Approval Hearing about the Settlement. See Question 18 below for details.
<b>DO NOTHING</b>	Get no payment. Give up rights.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Settlement Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

### SUMMARY OF THE NOTICE

#### Statement of the Settlement Class's Recovery

1. Subject to Court approval, Lead Plaintiff, on behalf of the Settlement Class, has agreed to settle the Action in exchange for a payment of \$27,500,000 in cash (the "Settlement Payment"), which will be deposited into an interest-bearing Escrow Account (the "Settlement Fund"). Based on Lead Plaintiff's damages expert's estimate of the number of shares of DeVry publicly-traded common stock eligible to participate in the Settlement, and assuming that all investors eligible to participate in the Settlement do so, it is estimated that the average recovery, before deduction of any Court-approved fees and expenses, such as attorneys' fees, litigation expenses, Taxes, and Notice and Administration Expenses, would be approximately \$0.40 per allegedly damaged share.<sup>2</sup> If the Court approves Lead Counsel's Fee and Expense Application (discussed below), the average recovery would be approximately \$0.29 per allegedly damaged share. **These average recovery amounts are only estimates and Settlement Class Members may recover more or less than these estimated amounts.** A Settlement Class Member's actual recovery will depend on, for example: (i) the total number of claims submitted; (ii) the amount of the Net Settlement Fund; (iii) when the Settlement Class Member purchased or acquired DeVry Equity Securities during the Settlement Class Period; and (iv) whether and when the Settlement Class Member sold DeVry Equity Securities. See the Plan of Allocation beginning on page 10 for information on the calculation of your Recognized Claim.

#### Statement of Potential Outcome of Case if the Action Continued to Be Litigated

2. The Parties disagree about both liability and damages and do not agree about the amount of damages that would be recoverable if Lead Plaintiff were to prevail on each claim alleged. The issues on which the Parties disagree include, for example: (i) whether Defendants made any statements or omitted any facts that were materially false or misleading, or otherwise actionable under the federal securities laws; (ii) whether any such allegedly materially false or misleading statements or omissions were made with the required level of intent or recklessness; (iii) the amounts by which the prices of DeVry Equity Securities were allegedly artificially inflated (or deflated in the case of put options), if at all, during the Settlement Class Period, and the extent to which factors such as general market, economic and industry conditions influenced the trading prices of the securities; and (iv) whether Settlement Class Members suffered any damages.

3. Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Action, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Lead Plaintiff and the Settlement Class have suffered any loss attributable to Defendants' actions or omissions. While Lead Plaintiff believes it has meritorious claims, it recognizes that there are significant obstacles in the way of recovery.

#### Statement of Attorneys' Fees and Expenses Sought

4. Lead Counsel, on behalf of itself and all Plaintiffs' Counsel, will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 27% of the Settlement Fund, which includes any accrued interest. Lead Counsel will also apply for payment of litigation expenses incurred by Plaintiffs' Counsel in prosecuting the Action in an amount not to exceed \$225,000, plus accrued interest, which may include an application

<sup>2</sup> An allegedly damaged share might have been traded, and potentially damaged, more than once during the Settlement Class Period, and the average recovery indicated above represents the estimated average recovery for each share that allegedly incurred damages.

pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”) for the reasonable costs and expenses (including lost wages) of Lead Plaintiff directly related to its litigation efforts. If the Court approves Lead Counsel’s Fee and Expense Application in full, the average amount of fees and expenses, assuming claims are filed for all shares eligible to participate in the Settlement, will be approximately \$0.11 per allegedly damaged share. A copy of the Fee and Expense Application will be posted on [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com) and [www.labaton.com](http://www.labaton.com) after it has been filed with the Court.

### **Reasons for the Settlement**

5. For Lead Plaintiff, the principal reason for the Settlement is the guaranteed cash benefit to the Settlement Class. This benefit must be compared to the uncertainty of being able to prove the allegations in the Complaint; maintaining certification of the class through trial; the risk that the Court may grant some or all of the anticipated summary judgment motions to be filed by Defendants; the uncertainty of a greater recovery after a trial and appeals; the risks of litigation, especially in complex actions like this; as well as the difficulties and delays inherent in such litigation (including any trial and appeals).

6. For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that Settlement Class Members were damaged, the principal reason for entering into the Settlement is to end the burden, expense, uncertainty, and risk of further litigation.

### **Identification of Attorneys’ Representatives**

7. Lead Plaintiff and the Settlement Class are represented by Lead Counsel, Carol C. Villegas, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, 1-888-219-6877, [www.labaton.com](http://www.labaton.com), [settlementquestions@labaton.com](mailto:settlementquestions@labaton.com).

8. Further information regarding this Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator: KCC Class Action Services, 1-888-810-9152, [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com); or Lead Counsel.

**Please Do Not Call the Court with Questions About the Settlement.**

### **BASIC INFORMATION**

#### **1. Why did I get this Notice?**

9. You or someone in your family may have purchased or acquired DeVry Equity Securities during the period from August 26, 2011 through January 27, 2016, inclusive. **Receipt of this Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. If you wish to be eligible for a payment, you are required to submit the Claim Form that is being distributed with this Notice. See Question 8 below.**

10. The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

11. The Court in charge of the Action is the United States District Court for the Northern District of Illinois, and the case is known as *Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*, No. 1:16-cv-05198. The Action is assigned to the Honorable Mary M. Rowland, United States District Judge.

#### **2. What is this case about and what has happened so far?**

12. During the Settlement Class Period, the Company, then known as DeVry Education Group, Inc., provided educational services through DeVry University and several subsidiaries. DeVry was one of the largest postsecondary educational institutions in the United States and, according to Lead Plaintiff, a core asset of the Company during the Settlement Class Period. In general, the Complaint alleges that, during the Settlement Class Period, Defendants made a number of materially false and misleading statements and omissions regarding the job placement and salary outcomes achieved by DeVry’s students after graduation. These metrics were allegedly critical to DeVry’s investors who viewed superior outcomes as a sign of DeVry’s financial health and stability. The Complaint further alleges that when the truth regarding the Company’s education metrics was allegedly disclosed to the market, the price of DeVry publicly-traded common stock declined, causing damages to the proposed class.

13. On May 13, 2016, a putative federal securities class action complaint entitled *Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*, (No. 1:16-cv-05198) was filed in the Court on behalf of investors in DeVry common stock. On August 24, 2016, pursuant to the PSLRA, the Court issued an order appointing URS as Lead Plaintiff and approving its selection of counsel, Spector, Roseman & Kodroff, PC.

14. URS filed an Amended Class Action Complaint on November 8, 2016. The Amended Complaint alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder by the U.S. Securities and Exchange Commission (“SEC”) on behalf of a class of all purchasers of DeVry’s publicly-traded common stock between August 26, 2011 and January 27, 2016, inclusive. URS filed a Second Amended Complaint shortly thereafter, on December 23, 2016. The Second Amended Complaint added, among other things, allegations regarding a settlement that DeVry entered into with the Federal Trade Commission (“FTC”) in a related false advertising lawsuit.

15. On January 27, 2017, Defendants filed a motion to dismiss the Second Amended Complaint. Defendants' motion was fully briefed on April 27, 2017.

16. On August 21, 2017, the Court granted Lead Plaintiff's motion to change its selection of counsel and appointed Labaton Sucharow LLP as Lead Counsel.

17. On December 6, 2017, the Court issued an Order dismissing the Second Amended Complaint without prejudice and with leave to amend.

18. The operative complaint in the Action is the Third Amended Class Action Complaint (the "Complaint"), filed on January 29, 2018. The Complaint alleges violations of Sections 10(b) and 20(a) of the Exchange Act, and Rule 10b-5 promulgated thereunder, on behalf of a class of all purchasers of DeVry publicly-traded common stock during the Settlement Class Period.

19. On March 30, 2018, Defendants filed a motion to dismiss the Complaint, which the Court denied on December 20, 2018.

20. Lead Plaintiff, through counsel, has conducted a thorough investigation relating to the claims, defenses, and underlying events and transactions that are the subject of the Action, as set forth below. This process has included reviewing and analyzing: (i) documents filed publicly by the Company with the SEC; (ii) publicly available information, including press releases, news articles, financial information, and public statements issued by or concerning the Company and the Defendants; (iii) research reports issued by financial analysts concerning the Company; (iv) other publicly available information and data concerning the Company; and (v) the applicable law governing the claims and potential defenses. Lead Counsel also contacted 199 former DeVry employees and other persons with relevant knowledge and interviewed 68 of them. In addition, Lead Counsel sent Freedom of Information Act ("FOIA") requests to four separate government entities that investigated DeVry, including the FTC and the U.S. Department of Education ("DOE"). Finally, Lead Plaintiff engaged a well-respected economist to review Lead Plaintiff's claims and conduct an analysis of damages.

21. In an effort to explore the possibility for a negotiated resolution of the claims in the Action, the Parties engaged the Honorable Layn R. Phillips (Ret.) of Phillips ADR, a well-respected and highly experienced mediator. On September 20, 2018, the Parties participated in a mediation before Judge Phillips. The mediation involved an extended effort to settle the claims and was preceded by the exchange of mediation statements and documents; however, a settlement was not reached at that time. Thereafter, following the Court's decision denying Defendants' motion to dismiss, the Parties conferred about the possibility of a second mediation before Judge Phillips and subsequently agreed in principle to hold a second mediation session. Defendants agreed to provide a production of core documents to Lead Plaintiff concerning the claims in advance of the Parties' mediation, and Defendants produced approximately 74,000 pages to Lead Plaintiff. On May 22, 2019, the Parties conducted a second mediation session before Judge Phillips and, after extensive arm's-length negotiations with the assistance of Judge Phillips, the Parties reached a settlement in principle and executed a settlement term sheet on May 22, 2019.

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

22. In a class action, one or more persons or entities (in this case, the Lead Plaintiff), sue on behalf of people and entities who have similar claims. Together, these people and entities are a "class," and each is a "class member." Class actions allow the adjudication of many individuals' similar claims that might be too small economically to bring as individual actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or "opt out," from the class.

### **4. What are the reasons for the Settlement?**

23. The Court did not decide in favor of Lead Plaintiff or Defendants. Instead, both sides agreed to a settlement. Lead Plaintiff and Lead Counsel believe that the claims asserted in the Action have merit. They recognize, however, the expense and length of continued proceedings needed to pursue the claims through trial and appeals, as well as the difficulties in establishing liability. For example, Defendants have raised a number of arguments and defenses (which they would likely raise at summary judgment and trial) countering Lead Plaintiff's allegations, such as that Defendants properly informed investors about DeVry's educational results and that Lead Plaintiff would be unable to establish that Defendants acted with the required level of intent. Defendants also maintain that recoverable damages, to the extent there were any, were less than those alleged by Lead Plaintiff. In the absence of a settlement, the Parties would present factual and expert testimony on each of these issues, and there is a risk that the Court or jury would resolve these issues unfavorably against Lead Plaintiff and the Settlement Class. Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

24. Defendants have denied and continue to deny each and every one of the claims alleged by Lead Plaintiff in the Action, including all claims in the Complaint. Nonetheless, Defendants have concluded that continuation of the Action would be protracted and expensive, and have taken into account the uncertainty and risks inherent in any litigation, especially a complex case like this Action, and believe that the Settlement is in the best interests of Defendants.

## WHO IS IN THE SETTLEMENT

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

25. The Court directed, for the purposes of the proposed Settlement, that everyone who fits the following description is a Settlement Class Member and subject to the Settlement unless they are an excluded person (see Question 6 below) or take steps to exclude themselves from the Settlement Class (see Question 11 below):

***All persons and entities who purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) during the period from August 26, 2011 through January 27, 2016, inclusive, and were allegedly damaged thereby.***

26. If one of your mutual funds purchased DeVry Equity Securities during the Settlement Class Period, that does not make you a Settlement Class Member, although your mutual fund may be. You are a Settlement Class Member only if you individually purchased or acquired DeVry Equity Securities during the Settlement Class Period. Check your investment records or contact your broker to see if you have any eligible purchases or acquisitions.

### 6. Are there exceptions to being included?

27. Yes. There are some individuals and entities who are excluded from the Settlement Class by definition. Excluded from the Settlement Class are: (i) Defendants; (ii) the Company's affiliates and subsidiaries, including the Company's employee retirement and/or benefit plan(s) and their participants or beneficiaries, to the extent they made purchases through such plan(s); (iii) the officers and directors of the Company and its subsidiaries and affiliates during the Settlement Class Period; (iv) members of the immediate family of any excluded person; (v) any entity in which any excluded person or entity has or had a controlling interest; and (vi) the heirs, successors, and assigns of any excluded person or entity. Also excluded from the Settlement Class is anyone who timely and validly seeks exclusion from the Settlement Class in accordance with the procedures described in Question 11 below.

## THE SETTLEMENT BENEFITS

### 7. What does the Settlement provide?

28. In exchange for the Settlement and the Releases of the Released Defendant Parties (see Question 10 below), Defendants have agreed to cause \$27,500,000 to be paid into an Escrow Account, which, along with any interest earned, will be distributed after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), to Settlement Class Members who send in valid and timely Claim Forms.

### 8. How can I receive a payment?

29. To qualify for a payment from the Net Settlement Fund, you must submit a timely and valid Claim Form. A Claim Form is included with this Notice. You may also obtain one from the website for the Settlement: [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), or from Lead Counsel's website: [www.labaton.com](http://www.labaton.com). You can also request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at 1-888-810-9152.

30. Please read the instructions in the Claim Form carefully. Fill out the Claim Form, include all the documents the form requests, sign it, and either mail it to the Claims Administrator using the address in the Claim Form or submit it online at [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com). Claim Forms must be **postmarked (if mailed) or submitted electronically no later than November 29, 2019.**

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

31. The Court will hold a Final Approval Hearing on **December 6, 2019** to decide, among other things, whether to finally approve the Settlement. Even if the Court approves the Settlement, there may be appeals which can take time to resolve, perhaps more than a year. It also takes a long time for all of the Claim Forms to be accurately reviewed and processed. Please be patient.

### 10. What am I giving up to receive a payment and by staying in the Settlement Class?

32. If you are a Settlement Class Member and do not timely and validly exclude yourself from the Settlement Class, you will remain in the Settlement Class and that means that, upon the "Effective Date" of the Settlement, you will forever release and be barred from commencing: all "Released Claims" against the "Released Defendant Parties" (see definitions below); all Released Claims against the Released Defendant Parties that otherwise would have been barred by *res judicata* had the Action been fully litigated to a final judgment; and all Unknown Claims. These Releases are described in full in the Settlement Agreement and proposed Final Judgment and Order Approving Settlement, which are available at [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), [www.labaton.com](http://www.labaton.com), or by contacting the Claims Administrator or Lead Counsel.

"Released Claims" means any and all Claims and causes of action of every nature and description, whether known Claims or Unknown Claims, debts, disputes, demands, rights, actions or causes of action, liabilities, damages

(whether compensatory, consequential, special, punitive, exemplary or otherwise), losses, obligations, sums of money due, judgments, suits, amounts, matters, issues and charges of any kind whatsoever (including, but not limited to, any claims for interest, attorneys' fees, expert or consulting fees, and any other costs, expenses, amounts, or liabilities whatsoever), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether individual or class in nature, whether arising under federal, state, or foreign statutory or common law, or any other law, rule, or regulation, that Lead Plaintiff or any other member of the Settlement Class: (i) asserted in any complaint filed in this Action; or (ii) could have asserted now or in the future in any forum that arise out of or are based upon the facts, allegations, transactions, claims, matters, events, disclosures, non-disclosures, occurrences, representations, statements, acts, omissions, or failures to act involved, set forth, or referred to in any complaint filed in this Action and that relate to the purchase of DeVry Equity Securities during the Settlement Class Period (the "Factual Predicates of the Action"), or (iii) that otherwise would have been barred by *res judicata* had this Action been fully litigated to a final judgment. Without limiting the generality of the foregoing, Released Claims include any Claims, known or Unknown, arising out of or relating to both the Factual Predicates of the Action and any of the following:

(a) any and all of the acts, failures to act, omissions, misrepresentations, facts, events, matters, transactions, statements, occurrences, or oral or written statements or representations that have been, could have been, or could be directly or indirectly alleged, embraced, complained of, asserted, described, set forth or otherwise referred to in the Action;

(b) the contents of any and all filings with, or any other records furnished to, the U.S. Securities and Exchange Commission ("SEC"), the U.S. Department of Education ("DOE"), the U.S. Federal Trade Commission ("FTC"), and any other federal or state agency or authority relating to or regarding the Company and/or DeVry Equity Securities;

(c) any publication, dissemination, adjustment, revision or restatement of financial information of the Company, whether or not in connection with the SEC, the DOE, the FTC, or any other government agency or authority;

(d) any disclosure, representation or statement of any sort (oral or written) made by any of the Released Defendant Parties during the Settlement Class Period to any Person or entity, or to the public at large regarding, without limitation, the Company's business, its financial condition, its operational results and/or its financial or operational prospects, including, without limitation, any press releases and/or press reports, earnings calls, memoranda (whether internally or externally circulated), advertisements, and presentations to analysts, creditors, rating agencies, banks or other lenders, investment bankers, broker dealers, investment advisors, investment companies, bond holders, the Company's employees, potential and actual vendors or customers, potential and actual students, potential and actual investors and/or shareholders;

(e) any disclosure, advertisement, representation, or statement of any sort (oral or written) made by any of the Released Defendant Parties concerning the Company during the Settlement Class Period to any Person;

(f) any internal and/or external accounting memoranda, reports or opinions prepared by the Company or any of the Released Defendant Parties during the Settlement Class Period, including, without limitation, any such memoranda, reports or opinions on which any Settlement Class Member allegedly relied during the Settlement Class Period in purchasing, selling, exchanging, acquiring, disposing of, transferring, or making any other Investment Decision regarding a DeVry Equity Security;

(g) the Company's record-keeping during, or that relates in any way to any of the transactions or other events occurring in, the Settlement Class Period;

(h) any financial statement, audited or unaudited, and any report or opinion on any financial statement relating to the Company that was prepared or issued by the Company or any of the Released Defendant Parties during, or that relates in any way to, the Settlement Class Period, or on which any Settlement Class Member allegedly or actually relied during the Settlement Class Period in purchasing, selling, exchanging, acquiring, disposing of, transferring, or making any other Investment Decision involving, a DeVry Equity Security;

(i) any statements or omissions by any of the Released Defendant Parties as to quarterly or annual results of the Company during the Settlement Class Period, including, without limitation, statements or omissions in connection with earnings releases or during calls and/or meetings with one or more analysts or investors, and statements or omissions regarding the Company's financial condition, performance, or operations;

(j) any internal accounting controls or internal audits of the Company during, or that may relate in any way to, the Settlement Class Period;

(k) any purchases, sales, exchanges, acquisitions, disposals, retentions, transfers or other trading (including, without limitation, collar and hedge transactions) or any other Investment Decision involving the Company made by any of the Released Defendant Parties, any profits made or losses avoided in connection with a transaction involving the Company's Securities during the Settlement Class Period by any of the Released Defendant Parties, or any acts taken by any of the Released Defendant Parties to finance or pay for any such transactions, including, but not limited to, any personal profit, remuneration or advantage received by any of the

Released Defendant Parties in connection with a transaction involving the Company's Securities to which he, she or it was allegedly not legally entitled;

(l) any of the Company's accounting practices or procedures, including any disclosure and disclosure obligations relating thereto, during the Settlement Class Period; and

(m) the Released Defendant Party's (i) status as a director, officer, or employee of the Company or (ii) acts or omissions in his or her capacity as a director, officer, or employee of the Company.

**"Released Defendant Party"** means each and every one of, and **"Released Defendant Parties"** means all of, the following: the Defendants, and, as applicable, each of their past, present and future parents, majority shareholders, subsidiaries, affiliates, joint venturers, directors, officers, employees, members, partners, principals, agents (acting in their capacity as agents), attorneys, advisors, trustees, administrators, fiduciaries, consultants, representatives, accountants and auditors, respective estates, heirs, executors, agents, trusts, trustees, administrators, assigns, insurers (including their respective businesses, affiliates, subsidiaries, parents and affiliated corporations, divisions, predecessors, shareholders, partners, joint venturers, principals, insurers, reinsurers, successors and assigns and their respective past, present and future employees, officers, directors, attorneys, accountants, auditors, agents and representative, if any) and reinsurers as well as any other individual or entity in which any Defendants have or had a controlling interest or which is or was related to or affiliated with any Defendant, and the current, former and future legal representatives, heirs, successors-in-interest, or assigns of any Defendant.

**"Unknown Claims"** means any and all Released Claims that Lead Plaintiff, any other Settlement Class Member, or Releasing Plaintiff Party does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any and all Claims that any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to object to the terms of the Settlement or to exclude himself, herself, or itself from the Settlement Class. With respect to any and all Releases, the Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Defendants shall expressly, and each Settlement Class Member (in addition to Lead Plaintiff) and Releasing Plaintiff Party shall be deemed to have, and by operation of the Final Judgment and Order Approving Settlement shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or foreign law, 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 that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Lead Plaintiff, all Settlement Class Members, Releasing Plaintiff Parties, or Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows, suspects, or believes to be true with respect to the Action, and the Releases, but Lead Plaintiff and Defendants shall expressly, fully, finally, and forever settle and release, and each Releasing Plaintiff Party shall be deemed to have fully, finally, and forever settled and released, and upon the Effective Date and by operation of the Final Judgment and Order Approving Settlement or shall have settled and released, fully, finally, and forever, any and all Released Claims and the Defendants' released Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Lead Plaintiff and Defendants acknowledge, and all Releasing Plaintiff Parties by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of the Releases was separately bargained for and was a material element of the Settlement.

33. The "Effective Date" will occur when an Order entered by the Court approving the Settlement becomes Final and is not subject to appeal. If you remain a member of the Settlement Class, all of the Court's orders about the Settlement, whether favorable or unfavorable, will apply to you and legally bind you.

34. Upon the "Effective Date," Defendants will also provide a release of any claims against Lead Plaintiff and the Settlement Class arising out of or related to the institution, prosecution, or settlement of the claims in the Action.

#### **EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS**

35. If you want to keep any right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Releases and Released Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or "opting out." **Please note:** If you decide to exclude yourself, there is a risk that any lawsuit you may file to pursue claims alleged in the Action may be dismissed, including because the suit is not filed within the applicable time periods required for filing suit.

#### **11. How do I exclude myself from the Settlement Class?**

36. To exclude yourself from the Settlement Class, you must mail a signed letter stating that you request to be "excluded from the Settlement Class in *Pension Trust Fund for Operating Engineers v. DeVry Education Group, et al.*, No. 1:16-cv-05198 (N.D. Ill.)." You cannot exclude yourself by telephone or email. Each request for exclusion must also: (i) state the name, address, email, and telephone number of the person or entity requesting exclusion; (ii) state the

number of shares of DeVry publicly-traded common stock and/or option contracts the person or entity purchased, acquired, and sold during the Settlement Class Period, as well as the dates and prices of each such purchase, acquisition and sale; and (iii) be signed by the Person requesting exclusion or an authorized representative. A request for exclusion must be submitted so that it is **received no later than November 15, 2019** to:

DeVry Securities Settlement  
c/o KCC Class Action Services  
P.O. Box 43041  
Providence, RI 02940-3041  
1-888-810-9152

37. This information is needed to determine whether you are a member of the Settlement Class. Your exclusion request must comply with these requirements in order to be valid. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement Class Member. However, if you submit a valid exclusion request, you will not be legally bound by anything that happens in the Action, and you may be able to sue (or continue to sue) Defendants and the other Released Defendant Parties in the future.

**12. If I do not exclude myself, can I sue Defendants and the other Released Defendant Parties for the same thing later?**

38. No. Unless you properly exclude yourself, you will give up any rights to sue Defendants and the other Released Defendant Parties for any and all Releases in the Settlement Agreement. If you have a pending lawsuit against any of the Released Defendant Parties, **speak to your lawyer in that case immediately**. You must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **November 15, 2019**.

**13. If I exclude myself, can I get money from the proposed Settlement?**

39. No, only Settlement Class Members are eligible to recover money from the Settlement.

**THE LAWYERS REPRESENTING YOU**

**14. Do I have a lawyer in this case?**

40. Labaton Sucharow LLP is Lead Counsel in the Action and represents all Settlement Class Members. You will not be separately charged for these lawyers. The Court will determine the amount of Attorneys' Fees and Expenses, which will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

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

41. Lead Counsel has been prosecuting the Action on a contingent basis and has not been paid for any of its work. Lead Counsel will apply to the Court, on behalf of itself and all other Plaintiffs' Counsel, for an award of attorneys' fees of no more than 27% of the Settlement Fund, which will include any accrued interest. Plaintiffs' Counsel are Lead Counsel; Spector, Roseman & Kodroff, PC; and Wexler Wallace LLP. Any fee allocations among Plaintiffs' Counsel will in no way increase the fees that are deducted from the Settlement Fund, and no other attorneys will share the awarded attorneys' fees. Lead Counsel will also seek payment of litigation expenses incurred by Plaintiffs' Counsel in the prosecution and settlement of the Action of no more than \$225,000, plus accrued interest, which may include an application in accordance with the PSLRA for the reasonable costs and expenses (including lost wages) of Lead Plaintiff directly related to its representation of the Settlement Class. As explained above, any Attorneys' Fees and Expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

**OBJECTING TO THE SETTLEMENT, THE PLAN OF ALLOCATION, OR THE FEE AND EXPENSE APPLICATION**

**16. How do I tell the Court that I do not like something about the proposed Settlement?**

42. If you are a Settlement Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation of the Net Settlement Fund, and/or Lead Counsel's Fee and Expense Application. You may write to the Court about why you think the Court should not approve any or all of the Settlement terms or related relief. If you would like the Court to consider your views, you must file a proper objection within the deadline, and according to the following procedures.

43. To object, you must send a signed letter stating that you object to the proposed Settlement, the Plan of Allocation, and/or the Fee and Expense Application in "*Pension Trust Fund for Operating Engineers v. DeVry Education Group, et al.*, No. 1:16-cv-05198 (N.D. Ill.)." Your objection must state why you are objecting and whether your objection applies only to you, a subset of the Settlement Class, or the entire Settlement Class. The objection must also: (i) state the name, address, telephone number, and email address of the objector and must be signed by the objector; (ii) contain a statement of the Settlement Class Member's objection or objections and the specific reasons for each

objection, including any legal and evidentiary support (including witnesses) the Settlement Class Member wishes to bring to the Court's attention; and (iii) include information sufficient to prove the objector's membership in the Settlement Class, including the number of shares of DeVry publicly-traded common stock and/or option contracts purchased, acquired, and sold during the Settlement Class Period, as well as the dates and prices of each such purchase, acquisition, and sale. Unless otherwise allowed by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will not be able to make any objections to the proposed Settlement, the Plan of Allocation, and/or Lead Counsel's Fee and Expense Application. Your objection must be filed with the Court **no later than November 15, 2019** and be mailed or delivered to the following counsel so that it is **received no later than November 15, 2019**:

<u>Court</u>	<u>Lead Counsel</u>	<u>Defendants' Counsel Representative</u>
<b>Clerk of the Court</b> United States District Court Northern District of Illinois 219 S. Dearborn Street Chicago, IL 60604	<b>Labaton Sucharow LLP</b> Carol C. Villegas, Esq. 140 Broadway New York, NY 10005	<b>Steptoe &amp; Johnson LLP</b> Philip S. Khinda, Esq. 1330 Connecticut Avenue NW Washington, DC 20036

44. You do not need to attend the Final Approval Hearing to have your written objection considered by the Court. However, any Settlement Class Member who has complied with the procedures described in this Question 16 and below in Question 20 may appear at the Final Approval Hearing and be heard, to the extent allowed by the Court. An objector may appear in person or arrange, at his, her, or its own expense, for a lawyer to represent him, her, or it at the Final Approval Hearing.

**17. What is the difference between objecting and seeking exclusion?**

45. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Lead Counsel's Fee and Expense Application. You can still recover money from the Settlement. You can object *only* if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself from the Settlement Class, you have no basis to object because the Settlement and the Action no longer affect you.

**THE FINAL APPROVAL HEARING**

**18. When and where will the Court decide whether to approve the proposed Settlement?**

46. The Court will hold the Final Approval Hearing on **December 6, 2019 at 9:30 a.m.**, in Courtroom 1225 at the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn, Chicago, Illinois 60604.

47. At this hearing, the Court will consider whether: (i) the Settlement is fair, reasonable, adequate, and should be approved; (ii) the Plan of Allocation is fair and reasonable, and should be approved; and (iii) the application of Lead Counsel for an award of attorneys' fees and payment of litigation expenses is reasonable and should be approved. The Court will take into consideration any written objections filed in accordance with the instructions in Question 16 above. We do not know how long it will take the Court to make these decisions.

48. You should be aware that the Court may change the date and time of the Final Approval Hearing without another notice being sent to Settlement Class Members. If you want to attend the hearing, you should check with Lead Counsel or visit the websites [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com) or [www.labaton.com](http://www.labaton.com), beforehand to be sure that the hearing date and/or time has not changed.

**19. Do I have to come to the Final Approval Hearing?**

49. No. Lead Counsel will answer any questions the Court may have. But, you are welcome to attend at your own expense. If you submit a valid and timely objection, the Court will consider it and you do not have to come to Court to discuss it. You may have your own lawyer attend (at your own expense), but it is not required. If you do hire your own lawyer, he or she must file and serve a Notice of Appearance in the manner described in the answer to Question 20 below **no later than November 15, 2019**.

**20. May I speak at the Final Approval Hearing?**

50. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must, **no later than November 15, 2019**, submit a statement that you, or your attorney, intend to appear in "*Pension Trust Fund for Operating Engineers v. DeVry Education Group, et al.*, No. 1:16-cv-05198 (N.D. Ill.)." Persons who intend to present evidence at the Final Approval Hearing must also include in their objections (prepared and submitted in accordance with the answer to Question 16 above) the identities of any witnesses they may wish to call to testify and any exhibits they intend to introduce into evidence at the Final Approval Hearing. You may not speak at the Final Approval Hearing if you exclude yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Final Approval Hearing in accordance with the procedures described in this Question 20 and Question 16 above.

## IF YOU DO NOTHING

### 21. What happens if I do nothing at all?

51. If you do nothing and you are a member of the Settlement Class, you will receive no money from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims and Releases. To share in the Net Settlement Fund, you must submit a Claim Form (see Question 8 above). To start, continue, or be a part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims and Releases, you must exclude yourself from the Settlement Class (see Question 11 above).

## GETTING MORE INFORMATION

### 22. Are there more details about the Settlement?

52. This Notice summarizes the proposed Settlement. More details are contained in the Settlement Agreement. You may review the Settlement Agreement filed with the Court or other documents in the case during business hours at the Office of the Clerk of the United States District Court, Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604. Subscribers to PACER, a fee-based service, can also view the papers filed publicly in the Action through the Court's online Case Management/Electronic Case Files System at <https://www.pacer.gov>.

53. You can also get a copy of the Settlement Agreement, and other documents related to the Settlement, as well as additional information about the Settlement by visiting the Settlement website, [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), or the website of Lead Counsel, [www.labaton.com](http://www.labaton.com). You may also call the Claims Administrator toll-free at 1-888-810-9152 or write to the Claims Administrator at *DeVry Securities Settlement*, c/o KCC Class Action Services, P.O. Box 43041, Providence, RI 02940-3041. **Please do not call the Court with questions about the Settlement.**

## PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND

### 23. How will my claim be calculated?

54. The Plan of Allocation (the "Plan of Allocation" or "Plan") set forth below is the plan that is being proposed by Lead Plaintiff and Lead Counsel to the Court for approval. The Court may approve this Plan of Allocation or modify it without additional notice to the Settlement Class. Any order modifying the Plan will be posted on the Settlement website at: [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com) and at [www.labaton.com](http://www.labaton.com).

55. The Settlement Payment and the interest it earns is the "Settlement Fund." The Settlement Fund, after deduction of Court-approved Attorneys' Fees and Expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court is the "Net Settlement Fund." The Net Settlement Fund will be distributed to members of the Settlement Class who timely submit valid Claim Forms that show a Recognized Claim according to the Plan of Allocation approved by the Court.

56. The objective of this Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses allegedly as a result of the asserted violations of the federal securities laws during the Settlement Class Period (August 26, 2011 through January 27, 2016). In this case, Lead Plaintiff alleges that Defendants issued false statements and omitted material facts during the Settlement Class Period that allegedly artificially inflated the price of DeVry publicly-traded common stock. It is alleged that corrective information released to the market on January 27, 2016 (at 12:01 p.m. EST) and January 28, 2016 impacted the market price of DeVry common stock in a statistically significant manner and removed the alleged artificial inflation from the share price on January 27, 2016 (after 12:01 p.m. EST) through January 28, 2016. Accordingly, in order to have a compensable loss in this Settlement, the DeVry Equity Securities must have been purchased or otherwise acquired during the Settlement Class Period and held through at least one of the alleged corrective disclosures. To design this Plan, Lead Counsel has conferred with Lead Plaintiff's damages expert. This Plan is intended to be generally consistent with an assessment of, among other things, the damages that Lead Plaintiff and Lead Counsel believe were recoverable in the Action pursuant to the Exchange Act.

57. The Plan of Allocation, however, is not a formal damages analysis and the calculations made pursuant to the Plan are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund. An individual Settlement Class Member's recovery will depend on, for example: (i) the total number and value of claims submitted; (ii) when the claimant purchased or acquired DeVry Equity Securities; and (iii) whether and when the claimant sold his, her, or its Equity Securities.

58. Because the Net Settlement Fund is less than the total losses alleged to be suffered by Settlement Class Members, the formulas described below for calculating Recognized Losses are not intended to estimate the amount that will actually be paid to Authorized Claimants. Rather, these formulas provide the basis on which the Net Settlement Fund will be distributed among Authorized Claimants on a *pro rata* basis. An Authorized Claimant's "Recognized Claim" shall be the amount used to calculate the Authorized Claimant's *pro rata* share of the Net Settlement Fund. The *pro rata*

share shall be the Authorized Claimant's Recognized Claim divided by the total of the Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

59. Defendants, their respective counsel, and all other Released Defendant Parties will have no responsibility or liability for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. Lead Plaintiff, Lead Counsel, and anyone acting on their behalf, likewise will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

#### **CALCULATION OF RECOGNIZED LOSS AMOUNTS**

60. For purposes of determining whether a claimant has a Recognized Claim, purchases, acquisitions, and sales of DeVry Equity Securities will first be matched on a First In/First Out ("FIFO") basis. If a Settlement Class Member has more than one purchase/acquisition or sale of any eligible DeVry Equity Security during the Settlement Class Period, all purchases/acquisitions and sales of the like security shall be matched on a FIFO basis. With respect to DeVry's common stock and call options, Settlement Class Period sales will be matched first against any holdings at the beginning of the Settlement Class Period and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Settlement Class Period. For DeVry's put options, Settlement Class Period purchases will be matched first to close-out positions open at the beginning of the Settlement Class Period, and then against put options sold (written) during the Settlement Class Period in chronological order.

61. The Claims Administrator will calculate a "Recognized Loss Amount," as set forth below, for each purchase of DeVry publicly-traded common stock and call options and each sale of DeVry put options during the Settlement Class Period (August 26, 2011 through January 27, 2016) that is listed in the Claim Form and for which adequate documentation is provided. To the extent that the calculation of a claimant's Recognized Loss Amount results in a negative number, that number shall be set to zero.

62. The sum of a claimant's Recognized Loss Amounts will be the claimant's "Recognized Claim."

#### **COMMON STOCK CALCULATIONS**

63. For each share of DeVry common stock purchased or otherwise acquired during the Settlement Class Period and sold before the close of trading on April 25, 2016, an "Out of Pocket Loss" will be calculated. Out of Pocket Loss is defined as the purchase price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions). To the extent that the calculation of the Out of Pocket Loss results in a negative number, that number shall be set to zero.

64. **For each share of DeVry publicly-traded common stock purchased or acquired from August 26, 2011 through and including January 27, 2016 prior to 12:01 p.m. EST<sup>3</sup> and:**

- A. Sold prior to 12:01 p.m. EST on January 27, 2016, the Recognized Loss Amount for each such share shall be zero.
- B. Sold after the release of corrective information on January 27, 2016 (at 12:01 p.m. EST) and before the opening of trading on January 28, 2016, the Recognized Loss Amount for each such share shall be **the least of**:
  1. \$2.77; or
  2. the actual purchase/acquisition price of each such share **minus** the average closing price from January 27, 2016, up to the date of sale as set forth in **Table 1** below; or
  3. the Out of Pocket Loss.
- C. Sold after market open on January 28, 2016 and before the close of trading on April 25, 2016, the Recognized Loss Amount for each such share shall be **the least of**:
  1. \$3.44; or
  2. the actual purchase/acquisition price of each such share **minus** the average closing price from January 27, 2016, up to the date of sale as set forth in **Table 1** below; or
  3. the Out of Pocket Loss.

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<sup>3</sup> For purposes of this Plan of Allocation, the Claims Administrator will assume that any shares purchased/acquired or sold on January 27, 2016 at any price less than \$23.15 per share occurred after the allegedly corrective information was released to the market at 12:01 p.m. EST, and that any shares purchased/acquired or sold on January 27, 2016 at any price equal to or greater than \$23.15 per share occurred before the release of the allegedly corrective information at 12:01 p.m. EST.

D. Held as of the close of trading on April 25, 2016, the Recognized Loss Amount for each such share shall be **the lesser of:**

1. \$3.44; or
2. the actual purchase/acquisition price of each such share **minus** \$18.32.<sup>4</sup>

65. **For each share of DeVry publicly-traded common stock purchased or acquired on January 27, 2016 after 12:01 p.m. EST, when allegedly corrective information was released to the market, the Recognized Loss Amount for each such share shall be zero.**

#### **EXCHANGE-TRADED CALL AND PUT OPTIONS CALCULATIONS**

66. Exchange-traded options are traded in units called “contracts,” which entitle the holder to buy (in the case of a call option) or sell (in the case of a put option) 100 shares of the underlying security, which in this case is DeVry common stock. Throughout this Plan of Allocation, all price quotations of exchange-traded options are per share of the underlying security (*i.e.*, 1/100 of a contract).

67. Each option contract specifies a strike price and an expiration date. Contracts with the same strike price and expiration date are referred to as a “series.” Under the Plan of Allocation, the dollar artificial inflation per share (*i.e.*, 1/100 of a contract) for each series of DeVry call options and the dollar artificial deflation per share (*i.e.*, 1/100 of a contract) for each series of DeVry put options has been calculated by Lead Plaintiff’s damages expert.

68. Table 2 sets forth the dollar artificial inflation per share in DeVry call options during the Settlement Class Period. Table 3 sets forth the dollar artificial deflation per share in DeVry put options during the Settlement Class Period. Tables 2 and 3 list the only series of DeVry options that expired on or after January 27, 2016 – the date of the first alleged corrective disclosure.

69. Transactions in DeVry options that expired before January 27, 2016 have a Recognized Loss Amount of zero under the Plan of Allocation.

70. For each DeVry call option purchased or otherwise acquired during the Settlement Class Period and closed (through sale, exercise, or expiration) before the close of trading on January 28, 2016, and for each DeVry put option sold (written) during the Settlement Class Period and closed (through purchase, exercise, or expiration) before the close of trading on January 28, 2016, an “Out of Pocket Loss” will be calculated. For DeVry call options closed through sale, the Out of Pocket Loss is the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions). For DeVry call options closed through exercise or expiration, the Out of Pocket Loss is the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the value per option on the date of exercise or expiration.<sup>5</sup> For DeVry put options closed through purchase, the Out of Pocket Loss is the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions). For DeVry put options closed through exercise or expiration, the Out of Pocket Loss is the value per option on the date of exercise or expiration minus the sale price (excluding all fees, taxes, and commissions).<sup>6</sup> To the extent that the calculation of the Out of Pocket Loss results in a negative number, that number shall be set to zero.

71. **For each DeVry exchange-traded call option purchased or acquired from August 26, 2011 through and including January 27, 2016 prior to 12:01 p.m. EST and:**

- A. Closed (through sale, exercise, or expiration) prior to 12:01 p.m. EST on January 27, 2016, the Recognized Loss Amount for each such share shall be zero.
- B. Closed (through sale, exercise, or expiration) after the release of corrective information on January 27, 2016 (at 12:01 p.m. EST) and before the close of trading on January 28, 2016, the Recognized Loss Amount for each such share shall be **the lesser of:**
  1. the dollar artificial inflation applicable to each such share on the date of close as set forth in **Table 2**; or
  2. the Out of Pocket Loss.

<sup>4</sup> Pursuant to Section 21D(e)(1) of the Exchange Act, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market.” Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of DeVry common stock during the “90-day look-back period,” January 27, 2016 through April 25, 2016. The mean (average) closing price for DeVry common stock during this 90-day look-back period was \$18.32.

<sup>5</sup> The “value” of the call option on the date of exercise or expiration shall be the closing price of DeVry common stock on the date of exercise or expiration minus the strike price of the option. If this number is less than zero, the value of the call option is zero.

<sup>6</sup> The “value” of the put option on the date of exercise or expiration shall be the strike price of the option minus the closing price of DeVry common stock on the date of exercise or expiration. If this number is less than zero, the value of the put option is zero.

C. Open as of the close of trading on January 28, 2016, the Recognized Loss Amount for each such share shall be **the lesser of:**

1. the dollar artificial inflation applicable to each such share on January 28, 2016 as set forth in **Table 2** below; or
2. the actual purchase/acquisition price of each such share **minus** the closing price on January 28, 2016 (*i.e.*, the "Holding Price") as set forth in **Table 2** below.

72. **For each DeVry exchange-traded call option purchased or acquired on January 27, 2016 after 12:01 p.m. EST, when allegedly corrective information was released to the market, the Recognized Loss Amount for each such share shall be zero.**

73. **For each DeVry exchange-traded put option sold (written) from August 26, 2011 through and including January 27, 2016 prior to 12:01 p.m. EST and:**

- A. Closed (through purchase, exercise, or expiration) prior to 12:01 p.m. EST on January 27, 2016, the Recognized Loss Amount for each such share shall be zero.
- B. Closed (through purchase, exercise, or expiration) after the release of corrective information on January 27, 2016 (at 12:01 p.m. EST) and before the close of trading on January 28, 2016, the Recognized Loss Amount for each such share shall be **the lesser of:**
  1. the dollar artificial deflation applicable to each such share on the date of close as set forth in **Table 3**; or
  2. the Out of Pocket Loss.
- C. Open as of the close of trading on January 28, 2016, the Recognized Loss Amount for each such share shall be **the lesser of:**
  1. the dollar artificial deflation applicable to each such share on January 28, 2016 as set forth in **Table 3** below; or
  2. the closing price on January 28, 2016 (*i.e.*, the "Holding Price") as set forth in **Table 3** below **minus** the sale (writing) price.

74. **For each DeVry exchange-traded put option sold (written) on January 27, 2016 after 12:01 p.m. EST, when allegedly corrective information was released to the market, the Recognized Loss Amount for each such share shall be zero.**

75. **Maximum Recovery for Options:** The Settlement proceeds available for DeVry call options purchased during the Settlement Class Period and DeVry put options sold (written) during the Settlement Class Period shall be limited to a total amount equal to 0.50% of the Net Settlement Fund.

**TABLE 1**

**DeVry Common Stock Closing Price and Average Closing Price  
January 27, 2016 – April 25, 2016**

Date	Closing Price	Average Closing Price between January 27, 2016 and Date Shown	Date	Closing Price	Average Closing Price between January 27, 2016 and Date Shown
1/27/2016	\$20.09	\$20.09	3/11/2016	\$21.38	\$18.82
1/28/2016	\$19.37	\$19.73	3/14/2016	\$20.67	\$18.88
1/29/2016	\$19.90	\$19.79	3/15/2016	\$18.58	\$18.87
2/1/2016	\$19.14	\$19.63	3/16/2016	\$18.66	\$18.86
2/2/2016	\$18.08	\$19.32	3/17/2016	\$19.38	\$18.88
2/3/2016	\$19.84	\$19.40	3/18/2016	\$19.40	\$18.89
2/4/2016	\$19.06	\$19.35	3/21/2016	\$19.44	\$18.91
2/5/2016	\$17.03	\$19.06	3/22/2016	\$18.79	\$18.90
2/8/2016	\$17.96	\$18.94	3/23/2016	\$18.14	\$18.88
2/9/2016	\$17.14	\$18.76	3/24/2016	\$18.25	\$18.87
2/10/2016	\$17.10	\$18.61	3/28/2016	\$18.15	\$18.85
2/11/2016	\$16.92	\$18.47	3/29/2016	\$18.41	\$18.84
2/12/2016	\$16.74	\$18.34	3/30/2016	\$17.22	\$18.80
2/16/2016	\$17.92	\$18.31	3/31/2016	\$17.27	\$18.77
2/17/2016	\$18.14	\$18.30	4/1/2016	\$17.30	\$18.74

Date	Closing Price	Average Closing Price between January 27, 2016 and Date Shown	Date	Closing Price	Average Closing Price between January 27, 2016 and Date Shown
2/18/2016	\$18.44	\$18.30	4/4/2016	\$17.22	\$18.71
2/19/2016	\$17.93	\$18.28	4/5/2016	\$16.83	\$18.67
2/22/2016	\$18.10	\$18.27	4/6/2016	\$16.90	\$18.63
2/23/2016	\$17.83	\$18.25	4/7/2016	\$16.74	\$18.59
2/24/2016	\$18.12	\$18.24	4/8/2016	\$16.81	\$18.56
2/25/2016	\$18.10	\$18.24	4/11/2016	\$16.84	\$18.53
2/26/2016	\$18.37	\$18.24	4/12/2016	\$16.93	\$18.50
2/29/2016	\$18.26	\$18.24	4/13/2016	\$17.43	\$18.48
3/1/2016	\$18.91	\$18.27	4/14/2016	\$17.10	\$18.45
3/2/2016	\$18.66	\$18.29	4/15/2016	\$17.32	\$18.43
3/3/2016	\$19.64	\$18.34	4/18/2016	\$17.58	\$18.42
3/4/2016	\$19.62	\$18.39	4/19/2016	\$17.73	\$18.40
3/7/2016	\$21.25	\$18.49	4/20/2016	\$17.14	\$18.38
3/8/2016	\$21.14	\$18.58	4/21/2016	\$17.17	\$18.36
3/9/2016	\$21.16	\$18.67	4/22/2016	\$17.04	\$18.34
3/10/2016	\$20.97	\$18.74	4/25/2016	\$16.92	\$18.32

**TABLE 2****DeVry Call Option Artificial Inflation per Share and Holding Prices**

Expiration Date	Strike Price	Artificial Inflation if Closed on January 27, 2016 (after 12:01 p.m. EST)	Artificial Inflation if Closed or Held on January 28, 2016	Holding Price
2/19/2016	\$17.50	\$2.50	\$2.97	\$2.60
2/19/2016	\$20.00	\$1.90	\$2.32	\$1.15
2/19/2016	\$22.50	\$1.14	\$1.37	\$0.45
2/19/2016	\$25.00	\$0.57	\$0.64	\$0.10
2/19/2016	\$30.00	\$0.00	\$0.19	\$0.03
2/19/2016	\$35.00	\$0.00	\$0.30	\$0.20
2/19/2016	\$40.00	\$0.00	\$0.42	\$0.10
3/18/2016	\$22.50	\$1.04	\$1.42	\$0.65
3/18/2016	\$25.00	\$0.55	\$0.71	\$0.25
3/18/2016	\$30.00	\$0.04	\$0.08	\$0.08
5/20/2016	\$17.50	\$2.31	\$2.55	\$3.60
5/20/2016	\$22.50	\$1.20	\$1.59	\$1.25
5/20/2016	\$25.00	\$0.89	\$1.10	\$0.65
5/20/2016	\$30.00	\$0.21	\$0.37	\$0.18
5/20/2016	\$35.00	\$0.00	\$0.02	\$0.13
5/20/2016	\$40.00	\$0.00	\$0.37	\$0.25
8/19/2016	\$22.50	\$1.27	\$1.58	\$1.85
8/19/2016	\$30.00	\$0.36	\$0.55	\$0.43

**TABLE 3****DeVry Put Option Artificial Deflation per Share and Holding Prices**

Expiration Date	Strike Price	Artificial Deflation if Closed on January 27, 2016 (after 12:01 p.m. EST)	Artificial Deflation if Closed or Held on January 28, 2016	Holding Price
2/19/2016	\$17.50	\$0.47	\$0.57	\$0.83
2/19/2016	\$20.00	\$0.87	\$1.20	\$1.85

Expiration Date	Strike Price	Artificial Deflation if Closed on January 27, 2016 (after 12:01 p.m. EST)	Artificial Deflation if Closed or Held on January 28, 2016	Holding Price
2/19/2016	\$22.50	\$1.56	\$2.14	\$3.65
2/19/2016	\$25.00	\$2.41	\$2.46	\$5.45
2/19/2016	\$30.00	\$2.66	\$2.66	\$10.05
2/19/2016	\$35.00	\$2.66	\$2.66	\$15.05
2/19/2016	\$40.00	\$3.00	\$3.00	\$19.90
3/18/2016	\$20.00	\$1.14	\$1.23	\$2.15
3/18/2016	\$22.50	\$1.97	\$2.02	\$3.85
3/18/2016	\$25.00	\$2.56	\$2.66	\$5.90
5/20/2016	\$15.00	\$0.34	\$0.46	\$0.95
5/20/2016	\$17.50	\$0.95	\$0.95	\$1.78
5/20/2016	\$20.00	\$1.29	\$1.34	\$2.95
5/20/2016	\$22.50	\$1.92	\$1.92	\$4.55
5/20/2016	\$25.00	\$2.13	\$2.45	\$6.40
5/20/2016	\$30.00	\$2.85	\$2.85	\$10.45
8/19/2016	\$15.00	\$0.82	\$0.82	\$1.43
8/19/2016	\$17.50	\$1.08	\$1.08	\$2.28
8/19/2016	\$20.00	\$1.46	\$1.46	\$3.55
8/19/2016	\$22.50	\$1.97	\$1.97	\$5.15

#### **ADDITIONAL PROVISIONS**

76. Publicly-traded DeVry common stock, exchange-traded call options, and exchange-traded put options are the only securities eligible for recovery under the Plan of Allocation.<sup>7</sup> With respect to DeVry common stock purchased or sold through the exercise of an option, the purchase/sale date of the DeVry common stock is the exercise date of the option and the purchase/sale price is the exercise price of the option.

77. Purchases or acquisitions and sales of DeVry Equity Securities shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of DeVry Equity Securities during the Settlement Class Period shall not be deemed a purchase or acquisition of such securities for the calculation of a claimant’s Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such securities unless: (i) the donor or decedent purchased or otherwise acquired such securities during the Settlement Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such securities; and (iii) it is specifically so provided in the instrument of gift or assignment.

78. In accordance with the Plan of Allocation, the Recognized Loss Amount on any portion of a purchase or acquisition that matches against (or “covers”) a “short sale” is zero. The Recognized Loss Amount on a “short sale” that is not covered by a purchase or acquisition is also zero. In the event that a claimant has an opening short position in DeVry common stock at the start of the Settlement Class Period, the earliest Settlement Class Period purchases or acquisitions shall be matched against such opening short position in accordance with the FIFO matching described above and any portion of such purchases or acquisition that covers such short sales will not be entitled to recovery. In the event that a claimant newly establishes a short position during the Settlement Class Period, the earliest subsequent Settlement Class Period purchase or acquisition shall be matched against such short position on a FIFO basis and will not be entitled to a recovery.

79. If a claimant has “written” DeVry call options, thereby having a short position in the call options, the date of covering such a written position is deemed to be the date of purchase or acquisition of the call option. The date on which the call option was written is deemed to be the date of sale of the call option. In accordance with the Plan of Allocation, the earliest Settlement Class Period purchases or acquisitions shall be matched against such short positions in accordance with the FIFO matching described above, and any portion of such purchases or acquisitions that cover such short positions will not be entitled to recovery.

<sup>7</sup> As mentioned above, the Action and Settlement involve the time period when the Company was known as DeVry Education Group. During this time, the Company’s common stock traded under the ticker “DV.” On or about May 24, 2017, the Company changed its name to Adtalem and its common stock began to trade under the ticker “ATGE.” Accordingly, your account information may refer to DV before May 2017, but ATGE after May 2017.

80. If a claimant has purchased or acquired DeVry put options, thereby having a long position in the put options, the date of purchase/acquisition is deemed to be the date of purchase/acquisition of the put option. The date on which the put option was sold, exercised, or expired is deemed to be the date of sale of the put option. In accordance with the Plan of Allocation, the earliest sales or dispositions of like put options during the Settlement Class Period shall be matched against such long positions in accordance with the FIFO matching described above and any portion of the sales that cover such long positions shall not be entitled to a recovery.

81. The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and a distribution will not be made to that Authorized Claimant.

82. Payment according to this Plan of Allocation will be deemed conclusive against all Authorized Claimants. Recognized Claims will be calculated as defined herein by the Claims Administrator and cannot be less than zero.

83. Distributions will be made to eligible Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. 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 initial distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible and economical after payment of Notice and Administration Expenses, Taxes, and Attorneys' Fees and Expenses, if any, redistribute such balance among Authorized Claimants who have cashed their initial checks, in an equitable and economic fashion. Once it is no longer feasible or economical to make further distributions, any balance that still remains in the Net Settlement Fund after redistribution(s) and after payment of outstanding Notice and Administration Expenses, Taxes, and Attorneys' Fees and Expenses, if any, shall be contributed to the Council of Institutional Investors, or such other non-profit and non-sectarian organization(s) approved by the Court.

84. Payment pursuant to the Plan of Allocation or such other plan as may be approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Plaintiffs' Counsel, their damages expert, Claims Administrator, or other agent designated by Lead Counsel, arising from determinations or distributions to claimants made substantially in accordance with the Settlement Agreement, the Plan of Allocation approved by the Court, or further orders of the Court. Lead Plaintiff, Defendants, their respective counsel, and all other Released Defendant Parties shall have no responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation or the determination, administration, calculation, or payment of any Claim Form or non-performance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund or any losses incurred in connection therewith.

85. Each claimant is deemed to have submitted to the jurisdiction of the United States District Court for the Northern District of Illinois with respect to his, her, or its claim.

**SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES**

86. If you purchased or acquired DeVry common stock and/or exchange-traded put or call options (NYSE: ATGE or DV) during the Settlement Class Period for the beneficial interest of a person or entity other than yourself, the Court has directed that **WITHIN TEN (10) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER:** (a) provide to the Claims Administrator the name and last known address of each person or entity for whom or which you purchased or acquired DeVry Equity Securities during the Settlement Class Period; or (b) request additional copies of this Notice and the Claim Form from the Claims Administrator, which will be provided to you free of charge, and **WITHIN TEN (10) CALENDAR DAYS** of receipt, mail the Notice and Claim Form directly to all the beneficial owners of those securities. Nominees shall also provide email addresses for all such beneficial owners to the Claims Administrator, to the extent they are available. If you choose to follow procedure (b), the Court has also directed that, upon making that mailing, **YOU MUST SEND A STATEMENT** to the Claims Administrator confirming that the mailing was made as directed and keep a record of the names and mailing addresses used. You are entitled to reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses actually incurred in connection with the foregoing. Expenses will be paid upon request and submission of appropriate supporting documentation and timely compliance with the above directives. All communications concerning the foregoing should be addressed to the Claims Administrator:

*DeVry Securities Settlement*  
c/o KCC Class Action Services  
P.O. Box 43041  
Providence, RI 02940-3041  
1-888-810-9152

Dated: September 13, 2019

BY ORDER OF THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST, PATRICK J.  
UNZICKER, AND TIMOTHY J. WIGGINS,  
Defendants.

Case No. 1:16-cv-05198

Hon. Mary M. Rowland

**PROOF OF CLAIM AND RELEASE**

**A. GENERAL INSTRUCTIONS**

1. To recover as a member of the Settlement Class based on your claims in the action entitled *Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*, No. 1:16-cv-05198 (N.D. Ill.) (the "Action"), you must complete and, on page 9 below, sign this Proof of Claim and Release form ("Claim Form"). If you fail to submit a timely and properly addressed (as explained in paragraph 3 below) Claim Form, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement.<sup>1</sup>
2. Submission of this Claim Form, however, does not assure that you will share in the proceeds of the Settlement of the Action.
3. **THIS CLAIM FORM MUST BE SUBMITTED ONLINE AT [WWW.DEVRYSECURITIESSETTLEMENT.COM](http://WWW.DEVRYSECURITIESSETTLEMENT.COM) NO LATER THAN NOVEMBER 29, 2019 OR, IF MAILED, BE POSTMARKED NO LATER THAN NOVEMBER 29, 2019, ADDRESSED AS FOLLOWS:**

*DeVry Securities Settlement*  
c/o KCC Class Action Services  
P.O. Box 43041  
Providence, RI 02940-3041  
[www.DevrySecuritiesSettlement.com](http://www.DevrySecuritiesSettlement.com)

4. If you are a member of the Settlement Class and you do not timely request exclusion in response to the Notice dated September 13, 2019, you are bound by the terms of any judgment entered in the Action, including the releases provided therein, **WHETHER OR NOT YOU SUBMIT A CLAIM FORM OR RECEIVE A PAYMENT.**
5. If you are dissatisfied with the Claims Administrator's determination of your claim, you may ask the Court, which retains jurisdiction over all Settlement Class Members and the claims administration process, to decide the issue by submitting a written request for court review to the Claims Administrator.

**B. CLAIMANT IDENTIFICATION**

1. If you purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) ("DeVry Equity Securities") during the period from August 26, 2011 through January 27, 2016, inclusive (the "Settlement Class Period") and held the securities in your name, you are the beneficial purchaser as well as the record purchaser. If, however, you purchased or otherwise acquired DeVry Equity Securities during the Settlement Class Period through a third party, such as a brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

<sup>1</sup> The terms of the Settlement are in the Stipulation of Settlement, dated August 29, 2019 (the "Settlement Agreement"), which can be viewed at [www.DevrySecuritiesSettlement.com](http://www.DevrySecuritiesSettlement.com) and [www.labaton.com](http://www.labaton.com). All capitalized terms not defined in this Claim Form have the same meanings as defined in the Settlement Agreement.

2. Use Part I of this form entitled "Claimant Identification" to identify each beneficial purchaser or acquirer of DeVry Equity Securities that form the basis of this claim, as well as the purchaser or acquirer of record if different. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S).**

3. All joint purchasers must sign this claim form. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

### **C. IDENTIFICATION OF TRANSACTIONS**

1. Use Parts II - IV of this form to supply all required details of your transaction(s) in DeVry Equity Securities. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. The Action and Settlement involve the time period when the Company was known as DeVry Education Group. During this time, the Company's common stock traded under the ticker "DV." On or about May 24, 2017, the Company changed its name to Adtalem and its common stock began to trade under the ticker "ATGE." Accordingly, your account information may refer to DV before May 2017, but ATGE after May 2017.

3. On the schedules, provide all of the requested information with respect to: (i) all of your holdings of DeVry Equity Securities as of the beginning of trading on August 26, 2011; (ii) all of your purchases, acquisitions, and sales of DeVry Equity Securities during the time periods below; and (iii) all of your holdings in DeVry Equity Securities as of the close of trading on April 25, 2016, whether such purchases, acquisitions, sales or transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

4. The date of covering a "short sale" is deemed to be the date of purchase of DeVry common stock. The date of a "short sale" is deemed to be the date of sale.

5. Copies of broker confirmations or other documentation of your transactions in DeVry Equity Securities must be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. **THE PARTIES DO NOT HAVE INFORMATION ABOUT YOUR TRANSACTIONS IN DEVRY EQUITY SECURITIES.**

6. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All claimants **MUST** submit a manually signed paper Claim Form, whether or not they also submit electronic copies, **no later than November 29, 2019**. If you wish to file your claim electronically, you must contact the Claims Administrator at [Info@DeVrySecuritiesSettlement.com](mailto:Info@DeVrySecuritiesSettlement.com) to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

Official  
Office  
Use  
Only



Must Be Postmarked or Received  
No Later than November 29, 2019

**DEO**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION  
*Pension Trust Fund for Operating Engineers v.  
DeVry Education Group, Inc., et al.*  
Case No. 1:16-cv-05198 (N.D. Ill.)

**PROOF OF CLAIM AND RELEASE**

Please Type or Print in the Boxes Below

Do NOT use Red Ink, Pencil, or Staples

**PART I: CLAIMANT IDENTIFICATION**

Last Name (Beneficial Owner)										M.I.		First Name (Beneficial Owner)									
Last Name (Co-Beneficial Owner)										M.I.		First Name (Co-Beneficial Owner)									
Company Name (Beneficial Owner - If Claimant is not an Individual) or Custodian Name if an IRA															(specify)						
Trustee/Asset Manager/Nominee/Record Owner's Name (If Different from Beneficial Owner Listed Above)																					
Account#/Fund# (Not Necessary for Individual Filers)																					

Last Four Digits of Social Security Number										Taxpayer Identification Number									
or																			
Telephone Number (Primary Daytime)										Telephone Number (Alternate)									
E-mail Address																			

Mailing Address																			
Mailing Address																			
City										State					Zip Code				
Foreign Province										Foreign Postal Code					Foreign Country Name/Abbreviation				

FOR CLAIMS PROCESSING ONLY	OB	CB	<input type="radio"/> ATP <input type="radio"/> KE <input type="radio"/> ICI	<input type="radio"/> BE <input type="radio"/> DR <input type="radio"/> EM	<input type="radio"/> FL <input type="radio"/> ME <input type="radio"/> ND	<input type="radio"/> OP <input type="radio"/> RE <input type="radio"/> SH	MM / DD / YYYY	FOR CLAIMS PROCESSING ONLY
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PART II. SCHEDULE OF TRANSACTIONS IN DEVRY PUBLICLY TRADED COMMON STOCK

1. **HOLDINGS AS OF OPENING OF TRADING ON AUGUST 26, 2011** – State the total number of shares of DeVry common stock held as of the opening of trading on August 26, 2011. (Must be documented.) If none, write “zero” or “0.”

2. **PURCHASES/ACQUISITIONS FROM AUGUST 26, 2011 THROUGH JANUARY 27, 2016.** – Separately list each and every purchase/acquisition of DeVry common stock from after the opening of trading on August 26, 2011 through and including the close of trading on January 27, 2016. (Must be documented.)

PURCHASES

	Date of Purchase (List Chronologically)	Number of Shares Purchased	Purchase Price Per Share	Total Purchase Price (excluding taxes, commissions and fees). Please round off to the nearest whole dollar
	M M / D D / Y Y			
1.	/ /		\$ .	\$ .00
2.	/ /		\$ .	\$ .00
3.	/ /		\$ .	\$ .00
4.	/ /		\$ .	\$ .00

3. **PURCHASES/ACQUISITIONS FROM JANUARY 28, 2016 THROUGH APRIL 25, 2016** – State the total number of shares of DeVry common stock purchased/acquired from after the opening of trading on January 28, 2016 through and including the close of trading on April 25, 2016.<sup>2</sup> (Must be documented.) If none, write “zero” or “0.”

4. **SALES FROM AUGUST 26, 2011 THROUGH APRIL 25, 2016** – Separately list each and every sale/disposition of DeVry common stock from after the opening of trading on August 26, 2011 through and including the close of trading on April 25, 2016. (Must be documented.)

SALES

	Date of Sale (List Chronologically)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions and fees). Please round off to the nearest whole dollar
	M M / D D / Y Y			
1.	/ /		\$ .	\$ .00
2.	/ /		\$ .	\$ .00
3.	/ /		\$ .	\$ .00
4.	/ /		\$ .	\$ .00

5. **ENDING HOLDINGS** – State the total number of shares of DeVry common stock held as of the close of trading on April 25, 2016. (Must be documented.) If none, write “zero” or “0.”

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, PLEASE PHOTOCOPY THIS PAGE,  
WRITE YOUR NAME ON THE COPY AND FILL THIS CIRCLE:

IF YOU DO NOT FILL IN THIS CIRCLE THESE ADDITIONAL PAGES MAY NOT BE REVIEWED.  
YOU MUST READ AND SIGN THE RELEASE ON PAGE 9. FAILURE TO SIGN THE RELEASE  
MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

<sup>2</sup> **Please note:** Information requested with respect to your transactions in DeVry Equity Securities from after the opening of trading on January 28, 2016 through and including the close of trading on April 25, 2016 is needed in order to balance your claim; purchases during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Claim pursuant to the Plan of Allocation.







**PART IV. TRANSACTIONS IN DEVRY EXCHANGE-TRADED PUT OPTIONS**

1. **HOLDINGS AS OF OPENING OF TRADING ON AUGUST 26, 2011** – State the total number of put option contracts held as of the opening of trading on August 26, 2011. (Must be documented.) If none, write “zero” or “0.”

Strike Price of Put Option Contract	Number of Put Option Contracts Held	Expiration Date of Put Option Contract (MM/YY)

2. **SALES (WRITING OF PUT OPTIONS) FROM AUGUST 26, 2011 THROUGH JANUARY 27, 2016** – Separately list each and every sale (writing) of put option contracts from after the opening of trading on August 26, 2011 through and including the close of trading on January 27, 2016. (Must be documented.)

Date of Sale (List Chronologically) (MM/DD/YY)	Strike Price of Put Option Contract	Number of Put Option Contracts Sold	Sale Price Per Put Option Contract	Total Sale Price (excluding taxes, commissions and fees)	Insert “A” if Assigned. Insert “X” if Expired	Expiration Date of Put Option Contract (MM/YY)

YOU MUST READ AND SIGN THE RELEASE ON PAGE 9. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST PHOTOCOPY THIS PAGE AND FILL THIS CIRCLE:





PART V. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

**YOU MUST READ AND SIGN THE RELEASE BELOW. FAILURE TO SIGN MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.**

1. I (We) submit this Proof of Claim and Release under the terms of the Stipulation of Settlement, dated August 29, 2019 described in the accompanying Notice, which I have read. I (We) also submit to the jurisdiction of the United States District Court for the Northern District of Illinois, with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the Releases provided for in the Settlement.

2. I (We) agree to furnish additional information to the Claims Administrator to support this claim (including transactions in other DeVry securities) if requested to do so. I (We) agree to be subject to discovery with respect to the validity and/or amount of my (our) claim and agree that no discovery shall be allowed on the merits of the Action or Settlement in connection with processing of my (our) claim.

3. I (We) consent to summary disposition by the Court, without any right of appeal or review by an appellate court, with respect to the validity and/or amount of, or any other dispute regarding, my (our) claim.

4. I (We) have not submitted any other claim in the Settlement covering the same purchases or sales of DeVry Equity Securities during the Settlement Class Period and know of no other person having done so on my (our) behalf.

5. I (We) acknowledge that I am (we are) members of the Settlement Class and bound by and subject to the terms of any judgment that may be entered in connection with the Settlement. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, and discharge from the Released Claims and the Releases each and all of the Released Defendant Parties, all as defined in the accompanying Notice and the Stipulation of Settlement (Sections I.B. and VI.A.). This release shall be of no force or effect unless and until the Court approves the Settlement and the Settlement becomes effective on the Effective Date (as defined in the Stipulation).

6. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

7. I (We) hereby warrant and represent that I (we) have included the information requested about all of my (our) transactions in DeVry Equity Securities that are the subject of this claim, as well as the opening and closing positions in such securities held by me (us) on the dates requested in this Claim Form.

8. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code. (Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

I (We) declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on and with this Claim Form by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_  
(Month/Year) (City/State/Country)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
(Type or print name of Claimant)

\_\_\_\_\_  
Signature of Joint Claimant, if any

\_\_\_\_\_  
(Type or print name of Joint Claimant, if any)

\_\_\_\_\_  
Signature of person signing on behalf of Claimant

\_\_\_\_\_  
(Type or print name of person signing on behalf of Claimant)

\_\_\_\_\_  
Capacity of person signing on behalf of Claimant, if other than an individual (e.g., Administrator, Executor, Trustee, President, Custodian, Power of Attorney, etc.)



**REMINDER CHECKLIST:**

1. Please sign this Claim Form.
2. DO NOT HIGHLIGHT THE CLAIM FORM OR YOUR SUPPORTING DOCUMENTATION.
3. Attach only copies of supporting documentation as these documents will not be returned to you.
4. Keep a copy of your Claim Form for your records.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. **Your claim is not deemed submitted until you receive an acknowledgment postcard.** If you do not receive an acknowledgment postcard within 60 days, please email the Claims Administrator at [Info@DeVrySecuritiesSettlement.com](mailto:Info@DeVrySecuritiesSettlement.com) or call toll-free at 1-888-810-9152.
6. If you move after submitting this Claim Form, please notify the Claims Administrator of the change in your address, otherwise you may not receive additional notices or payment.



# Exhibit B

BUSINESS NEWS

Carriers Seek Newark Expansion as Southwest Departs

By ALISON SIDER

Southwest Airlines Co.'s retreat from Newark Liberty International Airport has set off a turf war at one of the U.S.'s most congested airports.

Southwest plans to stop flying from Newark in November after struggling to turn a profit there and cutting capacity nationwide to offset the grounding of its Boeing Co. 737 MAX fleet.

Competitors including Spirit Airlines Inc. are hoping to take up the slack Southwest is creating. JetBlue Airways Corp. said it is also eyeing the openings, while United Airlines Holdings Inc. doesn't want authorities to approve new flights at times when the airport is over capacity.

The Transportation Department and Federal Aviation Administration are evaluating whether to let another carrier

add more flights or keep the schedule open to ease the strain on the airport. That illustrates the balance regulators must strike between encouraging competition, which can lead to lower fares, and risking congestion that can snarl airline operations and cause delays and cancellations.

A Spirit spokesman said Southwest's departure is a rare chance to expand at a crowded hub where Spirit currently has 14 daily flights. "Spirit is very interested in growing its modest operation in Newark," he said.

Southwest has offered up to 20 daily departures from Newark, many in the afternoon and evening when the airport gets busy.

JetBlue said it is tracking the potential redistribution of Southwest's flight times at Newark. "Access to gates and slots at constrained airports is one of the most pressing issues facing smaller airlines like JetBlue," a spokesman



EDUARDO MUNOZ/REUTERS

Spirit and JetBlue are among the airlines looking to add capacity at the airport.

said. But United—which operates 70% of the flights at Newark, according to data provider OAG—sees Southwest's exit as a chance to ease overcrowding

at what has become one of the most delay-prone airports in the U.S.

Just 67% of flights to Newark arrived on time last year, the worst rate of any major

U.S. airport and a deterioration from 75% in 2016, according to the Transportation Department. The airport's backlog ripples out when people miss connections.

A United spokesman said the airline is in touch with federal officials working on Newark's congestion problems. A spokeswoman for the Transportation Department said it and the FAA are considering requests they have received to use capacity that Southwest is giving up at Newark.

The Port Authority of New York and New Jersey, which operates Newark airport, said it is working with airlines to reduce delays but also wants to maintain consumer choice and ensure there are affordable options. "Limiting competition is not the solution to reducing congestion at Newark," a spokeswoman said.

The FAA caps flights, and airlines submit schedule requests for approval. It has lowered the limit on the number of arriving and departing flights at Newark to 79 an hour from 81, but the actual number exceeds that cap during parts of the day because of delays and other factors.

Delta Buys Stake In Latam Airlines, Besting American

By ALISON SIDER

Delta Air Lines Inc. is taking a stake in South America's biggest airline, winning out over rival American Airlines Group Inc., which had also sought to work through that carrier to deepen its presence in Latin America.

Delta said Thursday that it intends to buy a 20% stake in Chile-based Latam Airlines Group SA for \$1.9 billion in cash and newly issued debt. That would be Delta's biggest investment since merging with Northwest Airlines over a decade ago.

"This is the biggest region of the world that we had an open space," Delta's Chief Executive Ed Bastian said in an interview. "This largely completes the map."

The new partnership spells the end of a three-year effort by American Airlines to deepen cooperation with Latam.

Chilean antitrust regulators initially approved joint business agreements between Latam, American and the parent company of British Airways and Iberia, but the country's Supreme Court rejected the arrangement in May. American said the ruling would have reduced the benefits of the partnership by ex-

cluding Chile.

"We understand Latam's decision to partner with a U.S. carrier that isn't burdened by the ruling," American said.

The new tie-up leaves American without a partner in Latin America as its competitors pair off in the fast-growing region for air travel. United Airlines Holdings Inc. is pursuing a joint business agreement with Colombian carrier Avianca Holdings in conjunction with Copa Holdings SA of Panama.

Latam Airlines has significant operations in Argentina, Brazil, Chile, Colombia, Ecuador and Peru, serving 143 destinations in all.

Mr. Bastian said that network hardly overlaps with Delta's existing routes, giving him confidence regulators will approve the investment. The partnership would make Delta the largest carrier of passengers between the U.S. and South America, he said. Delta said the airlines expect to receive approval for the deal in one to two years.

In addition to its equity stake in Latam, Delta will also buy some of Latam's planes: four Airbus SE A350s already in Latam's fleet with commitments to buy 10 more. Delta will also gain representation on Latam's board.



The Chinese state shipping company's oil-transport division suspended stock trading in Hong Kong. A Cosco container ship.

Cosco Unit Takes a Hit From Iran Oil Sanctions

By COSTAS PARIS

Chinese state shipping behemoth Cosco Shipping Holdings Co. halted trading of shares in its oil-transport unit as it tries to contain the fallout from the U.S. blacklisting of its tankers for allegedly moving illicit Iranian oil.

Cosco Shipping Energy Transportation said in a filing with the Hong Kong Stock Exchange on Thursday that its shares won't trade pending an announcement.

People with knowledge of the issue said the unit, which runs a fleet of 120 tankers including 44 very large crude carriers, is looking for ways to contain damage that includes canceled oil-transport bookings.

"This is bringing them out of business in terms of VLCCs

shipping crude from the U.S. to the Far Eastern destinations," said Peter Sand, chief shipping analyst at Bimco, a trade industry body. "It's not their biggest trade, but the implications can be bigger, as oil traders and importers may shy away from doing business with them, fearing U.S. punitive action."

The Trump administration on Wednesday blacklisted several Chinese companies including two Cosco units—Cosco Shipping Tanker (Dalian) Co. and Cosco Shipping Tanker (Dalian) Seaman & Ship Management Co.—in actions that affect more than four dozen vessels.

Cosco is the world's biggest shipping operator in terms of fleet and capacity.

—Joanne Chiu contributed to this article.

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CLASS ACTION

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

PENSION TRUST FUND FOR OPERATING ENGINEERS, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. DEVRY EDUCATION GROUP, INC., DANIEL HAMBURGER, RICHARD M. GUNST, PATRICK J. UNZICKER, AND TIMOTHY J. WIGGINS, Defendants.

Case No. 1:16-cv-05198 Hon. Mary M. Rowland

SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

TO: All persons and entities who purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) during the period from August 26, 2011 through January 27, 2016, inclusive (the "Settlement Class Period") and were allegedly damaged thereby (the "Settlement Class").

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of Illinois, that Lead Plaintiff Utah Retirement Systems, on behalf of itself and the proposed Settlement Class, and Defendants Adialem Global Education Inc. f/k/a DeVry Education Group, Inc., Daniel Hamburger, Richard M. Gunst, Patrick J. Unzicker, and Timothy J. Wiggins (collectively "Defendants"), have reached a proposed settlement of the above-captioned action (the "Action") in the amount of \$27,500,000 that, if approved, will resolve the Action in its entirety (the "Settlement").

A hearing will be held before the Honorable Mary M. Rowland of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois 60604, in Courtroom 1225, at 9:30 a.m. on December 6, 2019 (the "Final Approval Hearing"), to, among other things, determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable, and adequate; (ii) dismiss the Action with prejudice as provided for in the Stipulation of Settlement, dated August 29, 2019; (iii) approve the proposed Plan of Allocation for distribution of the Net Settlement Fund; and (iv) approve Lead Counsel's application for an award of Attorneys' Fees and Expenses. The Court may change the date of the Final Approval Hearing without providing another notice. You do NOT need to attend the Final Approval Hearing to receive a distribution from the Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT. If you have not yet received a Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release Form (the "Claim Form"), you may obtain copies of these documents by visiting the website for the Settlement, www.DevVySecuritiesSettlement.com, or by contacting the Claims Administrator at:

DeVry Securities Settlement c/o KCC Class Action Services P.O. Box 43041 Providence, RI 02940-3041 1-888-810-9152 info@DeVySecuritiesSettlement.com

Inquiries, other than requests for the Notice/Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

Carol C. Villegas, Esq. LABATON SUCHAROW LLP 140 Broadway New York, NY 10005 www.labaton.com settlementquestions@labaton.com 1-888-219-6877

If you are a Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form to the Claims Administrator that is postmarked or submitted electronically no later than November 29, 2019. If you are a Settlement Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court in the Action, whether favorable or unfavorable.

If you are a Settlement Class Member and wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is received no later than November 29, 2019. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court about the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's request for Attorneys' Fees and Expenses must be filed with the Court and mailed to counsel for the Parties in accordance with the instructions in the Notice, such that they are filed and received no later than November 15, 2019.

PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE

DATED: September 27, 2019

BY ORDER OF THE COURT UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS

BANKRUPTCIES

UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK Chapter 11, Case No. 19-12226 (SCC) (Jointly Administered) Debtors: STEARNS HOLDINGS, LLC, et al., Debtors.

NOTICE OF DEADLINES FOR SUBMITTING PROOFS OF CLAIM AND REQUESTS FOR PAYMENT UNDER BANKRUPTCY CODE SECTION 503(b)(9) AGAINST THE DEBTORS PLEASE TAKE NOTICE THAT on September 25, 2019, the Court entered an order approving the Debtors' Motion for Entry of an Order (i) Establishing Deadlines for (a) Submitting Proofs of Claim and (b) Requests for Payment under Bankruptcy Code Section 503(b)(9), (ii) Approving the Form and Manner for Submitting such Proofs of Claim and Requests for Payment, and (iii) Approving Notice Thereof (Docket No. 347) (the "Bar Date Order") in the above captioned cases. A copy of the Bar Date Order can be accessed at the Debtors' restructuring website, https://cases.primeclerk.com/stearns/Home-Index.

Foreign Creditors Bar Date (including applicable to 503(b)(9) claims). All Claimants with foreign addresses holding or wishing to assert a Claim must submit proof of such Claim so as to be actually received by Prime Clerk by October 18, 2019 at 4:00 p.m. (Prevailing Eastern Time) (the "General Bar Date"). Requests for payment under Bankruptcy Code section 503(b)(9) must also be submitted so as to be actually received by Prime Clerk by the General Bar Date.

Governmental Bar Date (including applicable to 503(b)(9) claims). All governmental units holding or wishing to assert a Claim must submit proof of such Claim so as to be actually received by Prime Clerk by January 6, 2020 at 4:00 p.m. (Prevailing Eastern Time) (the "Governmental Bar Date").

Amended Schedules Bar Date. In the event the Debtors amend or supplement their schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules and Statements") to reduce, delete, change the classification of, or add a Claim, the Debtors shall give notice of any such amendment or supplement to the Claimants affected thereby, and such holders shall be afforded the later of (a) thirty (30) days from the date on which such notice is given or (b) until the General Bar Date, the Foreign Creditors Bar Date, or the Governmental Bar Date, as applicable, to submit a proof of claim ("Proof of Claim") so as to be actually received by Prime Clerk LLC ("Prime Clerk"), the Debtor's claims and noticing agent, on or before certain dates (the "Bar Dates"). Set forth below are the Bar Dates:

Rejection Bar Date. Claimants must file a Proof of Claim arising from a Debtor's rejection of any executory contract or unexpired lease by the later of the General Bar Date or the Foreign Creditors Bar Date, as applicable, or 4:00 p.m. (Prevailing Eastern Time) on the date that is thirty (30) days after the entry of the relevant rejection order by the Court (the "Rejection Bar Date").

Filing a Proof of Claim. All Proofs of Claim must be submitted so as to be actually received no later than 4:00 p.m. (Prevailing Eastern Time) on the applicable Bar Date at the following address: IF FILED BY MAIL OR DELIVERED BY HAND: Stearns Holdings, LLC, Claims Processing Center, c/o Prime Clerk LLC, 850 Third Avenue, Suite 412, Brooklyn, NY 11232, T: (644) 234-1461; IF FILED ELECTRONICALLY: https://cases.primeclerk.com/stearns/EPOC-Index.

PROOFS OF CLAIM SUBMITTED BY FAX OR E-MAIL WILL NOT BE ACCEPTED. Contents of Proofs of Claim. Each Proof of Claim must: (i) be written in English; (ii) include a Claim amount denominated in United States dollars; (iii) conform substantially with the Proof of Claim Form provided by the Debtors or Official Bankruptcy Form 410; (iv) state a Claim against a Debtor; (v) be signed by the Claimant or, if the Claimant is not an individual, by an authorized agent of the Claimant; and (vi) include supporting documentation (or, if such documentation is voluminous, include a summary of such documentation) or an explanation as to why such documentation is not available.

Consequences of Failing to Timely Submit Your Proof of Claim. Any claimant who is required, but fails, to submit a Proof of Claim in accordance with the Bar Date Order on or before the applicable Bar Date shall be forever barred, estopped, and enjoined from asserting such Claim against the Debtors, their property, or their estates (or filing a Proof of Claim with respect thereto), and the Debtors, their property, and their estates shall be forever discharged from any and all indebtedness or liability with respect to such Claim, and such holder shall not be permitted to participate in any distribution on account of such Claim.

Reservation of Rights. Nothing contained in this notice is intended to or should be construed as a waiver of the Debtors' rights to: (a) dispute, or assert offsets or defenses against, any filed Claim or any Claim listed or reflected in the Schedules and Statements as to the nature, amount, liability, or classification thereof; (b) subsequently designate any Schedules Claim as disputed, contingent, or unliquidated; and (c) otherwise amend the Schedules and Statements.

Additional Information. If you have any questions regarding the claims process or if you wish to obtain a copy of the Bar Date Order (which contains a more detailed description of the requirements for filing proofs of claim), a proof of claim form, or related documents, you may do so by: (a) contacting Prime Clerk at (844) 234-1461, or (b) visiting the Debtors' restructuring website at https://cases.primeclerk.com/stearns/Home-Index. Please note that Prime Clerk cannot advise you how to file, or whether you should file, a Proof of Claim.

The Debtors and the last four digits of their taxpayer identification numbers are: Stearns Holdings, LLC (8219); Stearns Co-Issuer Inc. (7096); Stearns Lending, LLC (1773); Stearns Ventures, LLC (2386); Protos Acquisition LLC (4941); bSNAP, LLC (2498); and Private Mortgage Advisors, LLC (7493). The address of Protos Acquisition LLC is 345 Park Avenue, New York, NY 10154. The address of the other Debtors is c/o Stearns Lending, LLC, 750 East Highway, 121 Bypass, Suite 150, Lewisville, TX 75067.

AUCTIONS

real estate auction



Former Bank Building Public Inspection 11-2pm Fri Sep 27

SELLS WITHOUT RESERVE FORT MYERS, FL • 15620 Summerlin Road Single story building with 4,568+/- sq on 1.63+/- ac lot. Formerly a bank branch.

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Prefer Not to Wait for the Auction? Submit a Pre-Auction Offer! 800.801.8003 williamsauction.com/Surplus

FL JEFFREY ASHBY RE LIC 3421110; WILLIAMS & WILLIAMS MKTG SVCS, INC. RE LIC 1032049. 5% BUYER'S PREMIUM.

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Owner of large well known successful nationwide transportation association is approaching retirement. Started in 1989, based in NV, 100% internet business run. Has two divisions with combined avg sales of over \$1,000,000 per year. Has extra revenue stream from several service providers. Excellent opportunity for insurance brokerage to expand its insurance liability and cargo areas. Additional details available to prospective buyers who establish their identity and financial credentials.

Please email a detailed inquiry with background details including principals name and industry background along with contact phone number & email. Principals only. Send email inquiry/response to: info@ntassoc.com

BUSINESS OPPORTUNITIES

THE FARM AGENCY

Invest in a stable, finite resource that yields an annual cash rent - farmland! Investment opportunities available in North Dakota and Minnesota. Diversify your portfolio and become stewards of the land. Investments can range in price and acreage to fit your portfolio. In-house farm management 1031 Exchange facilitation available. More additional information see: www.thefarmagency.com info@thefarmagency.com

BOUTIQUE WINERY/VINEYARD

Well-known boutique winery and successful tasting room located in Santa Barbara Co. is available for discerning buyer. Located on popular wine trail. Includes small acreage with several varieties. Additional details available to prospective buyers who establish their identity and financial credentials.

Please email a detailed inquiry with background details including principal's name and wine industry background along with contact phone number & email. Principals only - NO Broker/Agent Solicitations Email inquiry to sbwineryinquiries@gmail.com

REDUCE INCOME TAXES

Tax Deductions Available Through Conservation Easements 256-680-3360 1-855-TAX-CUT-0 www.conservationeasements.net Conservation Easement Advisors, LLC

PUBLIC NOTICES

Socialist Republic of Vietnam

Discount Bonds Due 2028

Notice is hereby given that the Rate of Interest has been fixed at 2.875% and that the interest payable on the relevant Interest Payment Date 12 March 2020 against Coupon No. 44 in respect of US\$1,000 nominal of the Bonds will be US\$14.53.

Citibank Agency & Trust 23 September 2019



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# Proposed Settlement of DeVry Education Group, Inc. Securities Litigation Announced by Labaton Sucharow LLP

NEWS PROVIDED BY  
**Labaton Sucharow LLP** →  
Sep 27, 2019, 08:00 ET

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NEW YORK, Sept. 27, 2019 /PRNewswire/ --

## UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

PENSION TRUST FUND FOR OPERATING ENGINEERS, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. DEVRY EDUCATION GROUP, INC., DANIEL HAMBURGER, RICHARD M. GUNST, PATRICK J. UNZICKER, AND TIMOTHY J. WIGGINS, Defendants.	Case No. 1:18-cv-05198 Hon. Mary M. Rowland
--	--

### SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

To: All persons and entities who purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) during the period from August 26, 2011 through January 27, 2016, inclusive (the "Settlement Class Period") and were allegedly damaged thereby (the "Settlement Class").

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of Illinois, that Lead Plaintiff Utah Retirement Systems, on behalf of itself and the proposed Settlement Class, and Defendants Adtalem Global Education Inc. f/k/a DeVry Education Group, Inc., Daniel Hamburger, Richard M. Gunst, Patrick J. Unzicker, and Timothy J. Wiggins (collectively "Defendants"), have reached a proposed settlement of the above-captioned action (the "Action") in the amount of \$27,500,000 that, if approved, will resolve the Action in its entirety (the "Settlement").

A hearing will be held before the Honorable Mary M. Rowland of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois 60604, in Courtroom 1225, at 9:30 a.m. on December 6, 2019 (the "Final Approval Hearing") to, among other things, determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable, and adequate; (ii) dismiss the Action with prejudice as provided for in the Stipulation of Settlement, dated August 29, 2019;<sup>1</sup> (iii) approve the proposed Plan of Allocation for distribution of the Net Settlement Fund; and (iv) approve Lead Counsel's application for an award of Attorneys' Fees and Expenses. The Court may change the date of the Final Approval Hearing without providing another notice. You do NOT need to attend the Final Approval Hearing to receive a distribution from the Net Settlement Fund.

**IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT.** If you have not yet received a Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release form (the "Claim Form"), you may obtain copies of these documents by visiting the website for the Settlement, [www.DeVrySecuritiesSettlement.com](http://www.DeVrySecuritiesSettlement.com), or by contacting the Claims Administrator at:

*DeVry Securities Settlement*  
c/o KCC Class Action Services  
P.O. Box 43041  
Providence, RI 02940-3041  
1-888-810-9152  
[info@DeVrySecuritiesSettlement.com](mailto:info@DeVrySecuritiesSettlement.com)

Inquiries, other than requests for the Notice/Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

Carol C. Villegas, Esq.  
**LABATON SUCHAROW LLP**  
140 Broadway  
New York, NY 10005  
[www.labaton.com](http://www.labaton.com)  
[settlementquestions@labaton.com](mailto:settlementquestions@labaton.com)  
1-888-219-6877

If you are a Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form to the Claims Administrator that is **postmarked or submitted electronically no later than November 29, 2019**. If you are a Settlement Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court in the Action, whether favorable or unfavorable.

If you are a Settlement Class Member and wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is **received no later than November 15, 2019**. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court about the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's request for Attorneys' Fees and Expenses must be filed with the Court and mailed to counsel for the Parties in accordance with the instructions in the Notice, such that they are **filed and received no later than November 15, 2019**.

### PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE

DATED: September 27, 2019 BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

<sup>1</sup> All capitalized terms that are not defined have the same meaning as that set forth in the Stipulation of Settlement.

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# Proposed Settlement of DeVry Education Group, Inc. Securities Litigation Announced by Labaton Sucharow LLP

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# **Exhibit 4**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF CAROL C. VILLEGAS ON BEHALF OF  
LABATON SUCHAROW LLP IN SUPPORT OF APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, CAROL C. VILLEGAS, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Labaton Sucharow LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action (the "Action") from inception through October 15, 2019 (the "Time Period").

2. Since its appointment as Lead Counsel in the Action, my firm has been involved in all aspects of the litigation, as detailed in the Declaration of Carol C. Villegas in Support of (I) Lead Plaintiff's Motion for Approval of Class Action Settlement and Plan of Allocation and (II) Lead Counsel's Motion for an Award of Attorneys' Fees and Payment of Litigation Expenses, submitted herewith.

3. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of

business. These records (and backup documentation where necessary) were reviewed by others at my firm, under my direction, to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. The review also confirmed that the firm's guidelines and policies regarding expenses were followed. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

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

5. The total number of hours spent on this Action reported by my firm during the Time Period is 5,115.90. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is \$2,554,505.50.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by Courts in other securities class action litigations. My firm's lodestar figures are based upon the firm's hourly

rates, which do not include any expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$157,042.19 in expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 1st day of November, 2019.

  
CAROL C. VILLEGAS

**Exhibit A**

***Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.***  
No. 01:16-cv-05198 (N.D. Ill.)

**EXHIBIT A**

**LODESTAR REPORT**

FIRM: LABATON SUCHAROW LLP

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 15, 2019

<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>HOURLY RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
Gardner, J.	P	\$975	159.30	\$155,317.50
Willis, M. <sup>1</sup>	P	\$975	131.10	\$127,822.50
Zeiss, N.	P	\$900	96.60	\$86,940.00
Stocker, M.	P	\$900	12.80	\$11,520.00
Villegas, C.	P	\$875	321.60	\$281,400.00
Rosenberg, E.	OC	\$675	83.30	\$56,227.50
Cividini, D.	A	\$625	73.20	\$45,750.00
Jessee, S.	A	\$575	7.70	\$4,427.50
Hawkins, T.	A	\$525	1,316.10	\$690,952.50
Mooney, C.	A	\$465	32.50	\$15,112.50
Coquin, A.	A	\$450	44.00	\$19,800.00
Pham, G.	A	\$440	7.30	\$3,212.00
Accordino, W.	A	\$375	301.40	\$113,025.00
McGoey, A.	SA	\$435	332.30	\$144,550.50
Gill, C.	SA	\$410	56.20	\$23,042.00
Drapkin, A.	SA	\$380	168.70	\$64,106.00
Patrikios, P.	SA	\$360	350.90	\$126,324.00
Blanco, E.	SA	\$350	244.50	\$85,575.00
Haque, N.	SA	\$335	328.40	\$110,014.00
Schervish, W.	DMI	\$550	7.40	\$4,070.00
Rodriguez, D.	RA	\$315	8.50	\$2,677.50
Tse, V.	RA	\$305	15.70	\$4,788.50
Rivera, E.	RA	\$275	6.50	\$1,787.50
Pontrelli, J.	I	\$495	8.00	\$3,960.00
Greenbaum, A.	I	\$455	258.60	\$117,663.00
Wroblewski, R.	I	\$425	142.50	\$60,562.50
Clark, J.	I	\$400	130.80	\$52,320.00
Lindquist, S.	I	\$275	30.10	\$8,277.50
Yellin, M.	I	\$150	20.10	\$3,015.00

---

<sup>1</sup> Mr. Willis was formerly a partner at Spector Roseman Kodroff, P.C. He joined Labaton Sucharow in 2017.

<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>HOURLY RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
DeRosa, M.	LC	\$275	54.70	\$15,042.50
Farrell, C.	LC	\$275	51.30	\$14,107.50
Malonzo, F.	PL	\$340	141.20	\$48,008.00
Donlon, N.	PL	\$340	5.00	\$1,700.00
Carpio, A.	PL	\$325	94.70	\$30,777.50
Boria, C.	PL	\$325	27.40	\$8,905.00
Gutierrez, K.	PL	\$325	14.80	\$4,810.00
Schneider, P.	PL	\$325	6.90	\$2,242.50
Pina, E.	PL	\$325	6.30	\$2,047.50
Pontrelli, J.J.	PL	\$150	17.50	\$2,625.00
<b>TOTAL</b>			<b>5,115.90</b>	<b>\$2,554,505.50</b>

Partner	(P)	Staff Attorney	(SA)	Investigator	(I)
Of Counsel	(OC)	Director of Market Intelligence	(DMI)	Law Clerk	(LC)
Associate	(A)	Research Analyst	(RA)	Paralegal	(PL)

**Exhibit B**

***Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.***  
No. 01:16-cv-05198 (N.D. Ill.)

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: LABATON SUCHAROW LLP

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 15, 2019

CATEGORY		TOTAL AMOUNT
Duplicating		\$13,859.00
Postage / Overnight Delivery Services		\$1,322.99
Long Distance Telephone / Fax/ Conference Calls		\$654.13
Court / Witness / Service Fees		\$300.00
Electronic Research Fees		\$12,968.90
Electronic Document Management/Litigation Support		\$8,259.25
Expert / Consultant Fees		\$54,978.78
Damages/Loss Causation	\$36,788.78	
Outside Investigators	\$18,190.00	
Mediation Fees		\$37,750.00
Work-Related Transportation / Meals / Lodging <sup>2</sup>		\$26,949.14
<b>TOTAL</b>		<b>\$157,042.19</b>

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<sup>2</sup> \$2,750.00 in estimated travel costs related to appearing at the final Settlement Hearing has been included. If less than this amount is incurred, only the actual amount incurred will be deducted from the Settlement Fund. If more than \$2,750.00 is incurred, \$2,750.00 will be the cap and only that amount will be deducted from the Settlement Fund.

## **Exhibit C**



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# Firm Resume

## Securities Class Action Litigation

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New York, NY | Wilmington, DE | Washington, D.C.

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



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## About the Firm

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Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs' firms in the United States. We have recovered more than \$12 billion and secured corporate governance reforms on behalf of the nation's largest institutional investors, including public pension and Taft-Hartley funds, hedge funds, investment banks, and other financial institutions. These recoveries include more than \$1 billion in *In re American International Group, Inc. Securities Litigation*, \$671 million in *In re HealthSouth Securities Litigation*, \$624 million in *In re Countrywide Financial Corporation Securities Litigation*, and \$473 million in *In re Schering-Plough/ENHANCE Securities Litigation*.

As a leader in the field of complex litigation, the Firm has successfully conducted class, mass, and derivative actions in the following areas: securities; antitrust; financial products and services; corporate governance and shareholder rights; mergers and acquisitions; derivative; REITs and limited partnerships; consumer protection; and whistleblower representation.

Along with securing newsworthy recoveries, the Firm has a track record for successfully prosecuting complex cases from discovery to trial to verdict. In court, as *Law360* has noted, our attorneys are known for "fighting defendants tooth and nail." Our appellate experience includes winning appeals that increased settlement value for clients, and securing a landmark 2013 U.S. Supreme Court victory benefitting all investors by reducing barriers to the certification of securities class action cases.

Our Firm is equipped to deliver results with a robust infrastructure of more than 60 full-time attorneys, a dynamic professional staff, and innovative technological resources. Labaton Sucharow attorneys are skilled in every stage of business litigation and have challenged corporations from every sector of the financial markets. Our professional staff includes paralegals, financial analysts, e-discovery specialists, a certified public accountant, a certified fraud examiner, and a forensic accountant. With seven investigators, including former members of federal and state law enforcement, we have one of the largest in-house investigative teams in the securities bar. Managed by a law enforcement veteran who spent 12 years with the FBI, our internal investigative group provides us with information that is often key to the success of our cases.

Outside of the courtroom, the Firm is known for its leadership and participation in investor protection organizations, such as the Council for Institutional Investors, World Federation of Investors, National Association of Shareholder and Consumer Attorneys, as well as serving as a patron of the John L. Weinberg Center for Corporate Governance of the University of Delaware. The Firm shares these groups' commitment to a market that operates with greater transparency, fairness, and accountability.

Labaton Sucharow has been consistently ranked as a top-tier firm in leading industry publications such as *Chambers & Partners USA*, *The Legal 500*, and *Benchmark Litigation*. For the past decade, the Firm was listed on *The National Law Journal's* Plaintiffs' Hot List and was inducted to the Hall of Fame for successive honors. The Firm has also been featured as one of *Law360's* Most Feared Plaintiffs Firms and Class Action and Securities Law Practice Groups of the Year.

Visit [www.labaton.com](http://www.labaton.com) for more information about our Firm.

## Securities Class Action Litigation

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Labaton Sucharow is a leader in securities litigation and a trusted advisor to more than 300 institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995 (PSLRA), the Firm has recovered more than \$9 billion in the aggregate for injured investors through securities class actions prosecuted throughout the United States and against numerous public corporations and other corporate wrongdoers.

These notable recoveries would not be possible without our exhaustive case evaluation process. The Firm has developed a proprietary system for portfolio monitoring and reporting on domestic and international securities litigation, and currently provides these services to more than 300 institutional investors, which manage collective assets of more than \$2 trillion. The Firm's in-house licensed investigators also gather crucial details to support our cases, whereas other firms rely on outside vendors, or conduct no confidential investigation at all.

As a result of our thorough case evaluation process, our securities litigators can focus solely on cases with strong merits. The benefits of our selective approach are reflected in the low dismissal rate of the securities cases we pursue, which is well below the industry average. Over the past decade, we have successfully prosecuted headline-making class actions against AIG, Countrywide, Fannie Mae, and Bear Stearns, among others.

### Notable Successes

Labaton Sucharow has achieved notable successes in financial and securities class actions on behalf of investors, including the following:

- ***In re American International Group, Inc. Securities Litigation, No. 04-cv-8141 (S.D.N.Y.)***

In one of the most complex and challenging securities cases in history, Labaton Sucharow secured more than \$1 billion in recoveries on behalf of lead plaintiff Ohio Public Employees' Retirement System in a case arising from allegations of bid rigging and accounting fraud. To achieve this remarkable recovery, the Firm took over 100 depositions and briefed 22 motions to dismiss. The settlement entailed a \$725 million settlement with American International Group (AIG), \$97.5 million settlement with AIG's auditors, \$115 million settlement with former AIG officers and related defendants, and an additional \$72 million settlement with General Reinsurance Corporation, which was approved by the Second Circuit on September 11, 2013.

- ***In re Countrywide Financial Corp. Securities Litigation, No. 07-cv-05295 (C.D. Cal.)***

Labaton Sucharow, as lead counsel for the New York State Common Retirement Fund and the five New York City public pension funds, sued one of the nation's largest issuers of mortgage loans for credit risk misrepresentations. The Firm's focused investigation and discovery efforts uncovered incriminating evidence that led to a \$624 million settlement for investors. On February 25, 2011, the court granted final approval to the settlement, which is one of the top 20 securities class action settlements in the history of the PSLRA.

- ***In re HealthSouth Corp. Securities Litigation, No. 03-cv-01500 (N.D. Ala.)***

Labaton Sucharow served as co-lead counsel to New Mexico State Investment Council in a case stemming from one of the largest frauds ever perpetrated in the healthcare industry. Recovering \$671 million for the class, the settlement is one of the top 15 securities class action settlements of all

time. In early 2006, lead plaintiffs negotiated a settlement of \$445 million with defendant HealthSouth. On June 12, 2009, the court also granted final approval to a \$109 million settlement with defendant Ernst & Young LLP. In addition, on July 26, 2010, the court granted final approval to a \$117 million partial settlement with the remaining principal defendants in the case, UBS AG, UBS Warburg LLC, Howard Capek, Benjamin Lorello, and William McGahan.

- ***In re Schering-Plough/ENHANCE Securities Litigation, No. 08-cv-00397 (D. N.J.)***

As co-lead counsel, Labaton Sucharow obtained a \$473 million settlement on behalf of co-lead plaintiff Massachusetts Pension Reserves Investment Management Board. After five years of litigation, and three weeks before trial, the settlement was approved on October 1, 2013. This recovery is one of the largest securities fraud class action settlements against a pharmaceutical company. The Special Masters' Report noted, "**the outstanding result achieved for the class is the direct product of outstanding skill and perseverance by Co-Lead Counsel...no one else...could have produced the result here—no government agency or corporate litigant to lead the charge and the Settlement Fund is the product solely of the efforts of Plaintiffs' Counsel.**"

- ***In re Waste Management, Inc. Securities Litigation, No. H-99-2183 (S.D. Tex.)***

In 2002, the court approved an extraordinary settlement that provided for recovery of \$457 million in cash, plus an array of far-reaching corporate governance measures. Labaton Sucharow represented lead plaintiff Connecticut Retirement Plans and Trust Funds. At that time, this settlement was the largest common fund settlement of a securities action achieved in any court within the Fifth Circuit and the third largest achieved in any federal court in the nation. Judge Harmon noted, among other things, that Labaton Sucharow "**obtained an outstanding result by virtue of the quality of the work and vigorous representation of the class.**"

- ***In re General Motors Corp. Securities Litigation, No. 06-cv-1749 (E.D. Mich.)***

As co-lead counsel in a case against automotive giant, General Motors (GM), and Deloitte & Touche LLP (Deloitte), its auditor, Labaton Sucharow obtained a settlement of \$303 million—one of the largest settlements ever secured in the early stages of a securities fraud case. Lead plaintiff Deka Investment GmbH alleged that GM, its officers, and its outside auditor overstated GM's income by billions of dollars, and GM's operating cash flows by tens of billions of dollars, through a series of accounting manipulations. The final settlement, approved on July 21, 2008, consisted of a cash payment of \$277 million by GM and \$26 million in cash from Deloitte.

- ***Arkansas Teacher Retirement System v. State Street Corp., No. 11-cv-10230 (D. Mass)***

Labaton Sucharow served as lead counsel for the plaintiff Arkansas Teacher Retirement System (ATRS) in this securities class action against Boston-based financial services company, State Street Corporation (State Street). On November 2, 2016, the court granted final approval of the \$300 million settlement with State Street. The plaintiffs claimed that State Street, as custodian bank to a number of public pension funds, including ATRS, was responsible for foreign exchange (FX) trading in connection with its clients global trading. Over a period of many years, State Street systematically overcharged those pension fund clients, including Arkansas, for those FX trades.

- ***Wyatt v. El Paso Corp., No. H-02-2717 (S.D. Tex.)***

Labaton Sucharow secured a \$285 million class action settlement against the El Paso Corporation on behalf of co-lead plaintiff, an individual. The case involved a securities fraud stemming from the company's inflated earnings statements, which cost shareholders hundreds of millions of dollars during a four-year span. On March 6, 2007, the court approved the settlement and also commended the

efficiency with which the case had been prosecuted, particularly in light of the complexity of the allegations and the legal issues.

- ***In re Bear Stearns Cos., Inc. Securities, Derivative & ERISA Litigation, No. 08-cv-2793 (S.D.N.Y.)***

Labaton Sucharow served as co-lead counsel, representing lead plaintiff, the State of Michigan Retirement Systems, and the class. The action alleged that Bear Stearns and certain officers and directors made misstatements and omissions in connection with Bear Stearns' financial condition, including losses in the value of its mortgage-backed assets and Bear Stearns' risk profile and liquidity. The action further claimed that Bear Stearns' outside auditor, Deloitte & Touche LLP, made misstatements and omissions in connection with its audits of Bear Stearns' financial statements for fiscal years 2006 and 2007. Our prosecution of this action required us to develop a detailed understanding of the arcane world of packaging and selling subprime mortgages. Our complaint has been called a "tutorial" for plaintiffs and defendants alike in this fast-evolving area. After surviving motions to dismiss, on November 9, 2012, the court granted final approval to settlements with the Bear Stearns defendants for \$275 million and with Deloitte for \$19.9 million.

- ***In re Massey Energy Co. Securities Litigation, No. 10-CV-00689 (S.D. W.Va.)***

As co-lead counsel representing the Commonwealth of Massachusetts Pension Reserves Investment Trust, Labaton Sucharow achieved a \$265 million all-cash settlement in a case arising from one of the most notorious mining disasters in U.S. history. On June 4, 2014, the settlement was reached with Alpha Natural Resources, Massey's parent company. Investors alleged that Massey falsely told investors it had embarked on safety improvement initiatives and presented a new corporate image following a deadly fire at one of its coal mines in 2006. After another devastating explosion which killed 29 miners in 2010, Massey's market capitalization dropped by more than \$3 billion. Judge Irene C. Berger noted that "**Class counsel has done an expert job of representing all of the class members to reach an excellent resolution and maximize recovery for the class.**"

- ***Eastwood Enterprises, LLC v. Farha (WellCare Securities Litigation), No. 07-cv-1940 (M.D. Fla.)***

On behalf of The New Mexico State Investment Council and the Public Employees Retirement Association of New Mexico, Labaton Sucharow served as co-lead counsel and negotiated a \$200 million settlement over allegations that WellCare Health Plans, Inc., a Florida-based managed healthcare service provider, disguised its profitability by overcharging state Medicaid programs. Under the terms of the settlement approved by the court on May 4, 2011, WellCare agreed to pay an additional \$25 million in cash if, at any time in the next three years, WellCare was acquired or otherwise experienced a change in control at a share price of \$30 or more after adjustments for dilution or stock splits.

- ***In re Bristol-Myers Squibb Securities Litigation, No. 00-cv-1990 (D.N.J.)***

Labaton Sucharow served as lead counsel representing the lead plaintiff, union-owned LongView Collective Investment Fund of the Amalgamated Bank, against drug company Bristol-Myers Squibb (BMS). Lead plaintiff claimed that the company's press release touting its new blood pressure medication, Vanlev, left out critical information, other results from the clinical trials indicated that Vanlev appeared to have life-threatening side effects. The FDA expressed serious concerns about these side effects, and BMS released a statement that it was withdrawing the drug's FDA application, resulting in the company's stock price falling and losing nearly 30 percent of its value in a single day. After a five year battle, we won relief on two critical fronts. First, we secured a \$185 million recovery for shareholders, and second, we negotiated major reforms to the company's drug development

process that will have a significant impact on consumers and medical professionals across the globe. Due to our advocacy, BMS must now disclose the results of clinical studies on all of its drugs marketed in any country.

- ***In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.)***

As co-lead counsel representing co-lead plaintiff Boston Retirement System, Labaton Sucharow secured a \$170 million settlement on March 3, 2015 with Fannie Mae. Lead plaintiffs alleged that Fannie Mae and certain of its current and former senior officers violated federal securities laws, by making false and misleading statements concerning the company's internal controls and risk management with respect to Alt-A and subprime mortgages. Lead plaintiffs also alleged that defendants made misstatements with respect to Fannie Mae's core capital, deferred tax assets, other-than-temporary losses, and loss reserves. This settlement is a significant feat, particularly following the unfavorable result in a similar case for investors of Fannie Mae's sibling company, Freddie Mac. Labaton Sucharow successfully argued that investors' losses were caused by Fannie Mae's misrepresentations and poor risk management, rather than by the financial crisis.

- ***In re Broadcom Corp. Class Action Litigation, No. 06-cv-05036 (C.D. Cal.)***

Labaton Sucharow served as lead counsel on behalf of lead plaintiff New Mexico State Investment Council in a case stemming from Broadcom Corp.'s \$2.2 billion restatement of its historic financial statements for 1998 - 2005. In August 2010, the court granted final approval of a \$160.5 million settlement with Broadcom and two individual defendants to resolve this matter, the second largest up-front cash settlement ever recovered from a company accused of options backdating. Following a Ninth Circuit ruling confirming that outside auditors are subject to the same pleading standards as all other defendants, the district court denied Broadcom's auditor Ernst & Young's motion to dismiss on the ground of loss causation. This ruling is a major victory for the class and a landmark decision by the court—the first of its kind in a case arising from stock-options backdating. In October 2012, the court approved a \$13 million settlement with Ernst & Young.

- ***In re Satyam Computer Services Ltd. Securities Litigation, No. 09-md-2027 (S.D.N.Y.)***

Satyam, referred to as "India's Enron," engaged in one of the most egregious frauds on record. In a case that rivals the Enron and Bernie Madoff scandals, the Firm represented lead plaintiff UK-based Mineworkers' Pension Scheme, which alleged that Satyam Computer Services Ltd., related entities, its auditors, and certain directors and officers made materially false and misleading statements to the investing public about the company's earnings and assets, artificially inflating the price of Satyam securities. On September 13, 2011, the court granted final approval to a settlement with Satyam of \$125 million and a settlement with the company's auditor, PricewaterhouseCoopers, in the amount of \$25.5 million. Judge Barbara S. Jones commended lead counsel during the final approval hearing noting that the "**...quality of representation which I found to be very high...**"

- ***In re Mercury Interactive Corp. Securities Litigation, No. 05-cv-3395 (N.D. Cal.)***

Labaton Sucharow served as co-lead counsel on behalf of co-lead plaintiff Steamship Trade Association/International Longshoremen's Association Pension Fund, which alleged Mercury backdated option grants used to compensate employees and officers of the company. Mercury's former CEO, CFO, and General Counsel actively participated in and benefited from the options backdating scheme, which came at the expense of the company's shareholders and the investing public. On September 25, 2008, the court granted final approval of the \$117.5 million settlement.

- ***In re Oppenheimer Champion Fund Securities Fraud Class Actions, No. 09-cv-525 (D. Colo.) and In re Core Bond Fund, No. 09-cv-1186 (D. Colo.)***

Labaton Sucharow served as lead counsel and represented individuals and the proposed class in two related securities class actions brought against OppenheimerFunds, Inc., among others, and certain officers and trustees of two funds—Oppenheimer Core Bond Fund and Oppenheimer Champion Income Fund. The lawsuits alleged that the investment policies followed by the funds resulted in investor losses when the funds suffered drops in net asset value although the funds were presented as safe and conservative investments to consumers. In May 2011, the Firm achieved settlements amounting to \$100 million: \$52.5 million in *In re Oppenheimer Champion Fund Securities Fraud Class Actions*, and a \$47.5 million settlement in *In re Core Bond Fund*.

- ***In re Computer Sciences Corporation Securities Litigation, No. 11-cv-610 (E.D. Va.)***

As lead counsel representing Ontario Teachers' Pension Plan Board, Labaton Sucharow secured a \$97.5 million settlement in this "rocket docket" case involving accounting fraud. The settlement was the third largest all cash recovery in a securities class action in the Fourth Circuit and the second largest all cash recovery in such a case in the Eastern District of Virginia. The plaintiffs alleged that IT consulting and outsourcing company Computer Sciences Corporation (CSC) fraudulently inflated its stock price by misrepresenting and omitting the truth about the state of its most visible contract and the state of its internal controls. In particular, the plaintiffs alleged that CSC assured the market that it was performing on a \$5.4 billion contract with the UK National Health Services when CSC internally knew that it could not deliver on the contract, departed from the terms of the contract, and as a result, was not properly accounting for the contract. Judge T.S. Ellis, III stated, "**I have no doubt—that the work product I saw was always of the highest quality for both sides.**"

## Lead Counsel Appointments in Ongoing Litigation

Labaton Sucharow's institutional investor clients are regularly chosen by federal judges to serve as lead plaintiffs in prominent securities litigations brought under the PSLRA. Dozens of public pension funds and union funds have selected Labaton Sucharow to represent them in federal securities class actions and advise them as securities litigation/investigation counsel. Our recent notable lead and co-lead counsel appointments include the following:

- ***In re AT&T/DirectTV Now Securities Litigation, No. 19-cv-2892 (S.D.N.Y.)***

Labaton Sucharow represents Steamfitters Local 449 Pension Plan in this securities class action against AT&T and multiple executives and directors of the company alleging wide-ranging fraud, abusive sales tactics, and misleading statements to the market concerning its streaming service, DirecTV Now.

- ***In re PG&E Corporation Securities Litigation, No. 18-cv-03509 (N.D. Cal.)***

Labaton Sucharow represents the Public Employees Retirement Association of New Mexico in a securities class action lawsuit against PG&E related to wildfires that devastated Northern California in 2017.

- ***In re SCANA Corporation Securities Litigation, No. 17-cv-2616 (D.S.C.)***

Labaton Sucharow represents the West Virginia Investment Management Board against SCANA Corporation and certain of the company's senior executives in this securities class action alleging false and misleading statements about the construction of two new nuclear power plants.

- **Murphy v. Precision Castparts Corp., No. 16-cv-00521 (D. Or.)**

Labaton Sucharow represents Oklahoma Firefighters Pension and Retirement System in this securities class action against Precision Castparts Corp., an aviation parts manufacturing conglomerate that produces complex metal parts primarily marketed to industrial and aerospace customers.

- **In re Goldman Sachs Group, Inc. Securities Litigation, No. 10-cv-03461 (S.D.N.Y.)**

Labaton Sucharow represents Arkansas Teacher Retirement System in this high-profile litigation based on the scandals involving Goldman Sachs' sales of the Abacus CDO.

## Innovative Legal Strategy

Bringing successful litigation against corporate behemoths during a time of financial turmoil presents many challenges, but Labaton Sucharow has kept pace with the evolving financial markets and with corporate wrongdoer's novel approaches to committing fraud.

Our Firm's innovative litigation strategies on behalf of clients include the following:

- **Mortgage-Related Litigation**

In *In re Countrywide Financial Corporation Securities Litigation*, No. 07-cv-5295 (C.D. Cal.), our client's claims involved complex and data-intensive arguments relating to the mortgage securitization process and the market for residential mortgage-backed securities (RMBS) in the United States. To prove that defendants made false and misleading statements concerning Countrywide's business as an issuer of residential mortgages, Labaton Sucharow utilized both in-house and external expert analysis. This included state-of-the-art statistical analysis of loan level data associated with the creditworthiness of individual mortgage loans. The Firm recovered \$624 million on behalf of investors.

Building on its experience in this area, the Firm has pursued claims on behalf of individual purchasers of RMBS against a variety of investment banks for misrepresentations in the offering documents associated with individual RMBS deals.

- **Options Backdating**

In 2005, Labaton Sucharow took a pioneering role in identifying options-backdating practices as both damaging to investors and susceptible to securities fraud claims, bringing a case, *In re Mercury Interactive Securities Litigation*, No. 05-cv-3395 (N.D. Cal.), that spawned many other plaintiff recoveries.

Leveraging its experience, the Firm went on to secure other significant options backdating settlements, in, for example, *In re Broadcom Corp. Class Action Litigation*, No. 06-cv-5036 (C.D. Cal.), and in *In re Take-Two Interactive Securities Litigation*, No. 06-cv-0803 (S.D.N.Y.). Moreover, in *Take-Two*, Labaton Sucharow was able to prompt the SEC to reverse its initial position and agree to distribute a disgorgement fund to investors, including class members. The SEC had originally planned for the fund to be distributed to the U.S. Treasury. As a result, investors received a very significant percentage of their recoverable damages.

- **Foreign Exchange Transactions Litigation**

The Firm has pursued or is pursuing claims for state pension funds against BNY Mellon and State Street Bank, the two largest custodian banks in the world. For more than a decade, these banks failed

to disclose that they were overcharging their custodial clients for foreign exchange transactions. Given the number of individual transactions this practice affected, the damages caused to our clients and the class were significant. Our claims, involving complex statistical analysis, as well as *qui tam* jurisprudence, were filed ahead of major actions by federal and state authorities related to similar allegations commenced in 2011. Our team favorably resolved the BNY Mellon matter in 2012. The case against State Street Bank resulted in a \$300 million recovery.

## Appellate Advocacy and Trial Experience

When it is in the best interest of our clients, Labaton Sucharow repeatedly has demonstrated our willingness and ability to litigate these complex cases all the way to trial, a skill unmatched by many firms in the plaintiffs bar.

Labaton Sucharow is one of the few firms in the plaintiffs securities bar to have prevailed in a case before the U.S. Supreme Court. In *Amgen Inc. v. Connecticut Retirement Plans and Trust Funds*, 568 U.S. 455 (2013), the Firm persuaded the court to reject efforts to thwart the certification of a class of investors seeking monetary damages in a securities class action. This represents a significant victory for all plaintiffs in securities class actions.

In *In re Real Estate Associates Limited Partnership Litigation*, Labaton Sucharow's advocacy significantly increased the settlement value for shareholders. The defendants were unwilling to settle for an amount the Firm and its clients viewed as fair, which led to a six-week trial. The Firm and co-counsel ultimately obtained a landmark \$184 million jury verdict. The jury supported the plaintiffs' position that the defendants knowingly violated the federal securities laws, and that the general partner had breached his fiduciary duties to shareholders. The \$184 million award was one of the largest jury verdicts returned in any PSLRA action and one in which the class, consisting of 18,000 investors, recovered 100 percent of their damages.

## Our Clients

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Labaton Sucharow represents and advises the following institutional investor clients, among others:

- Arkansas Teacher Retirement System
- Baltimore County Retirement System
- Boston Retirement System
- California State Teachers' Retirement System
- Chicago Teachers' Pension Fund
- City of New Orleans Employees' Retirement System
- Connecticut Retirement Plans & Trust Funds
- Division of Investment of the New Jersey Department of the Treasury
- Genesee County Employees' Retirement System
- Illinois Municipal Retirement Fund
- Indiana Public Retirement System
- Los Angeles City Employees' Retirement System
- Macomb County Employees Retirement System
- Metropolitan Atlanta Rapid Transit Authority
- Michigan Retirement Systems
- New York State Common Retirement Fund
- Norfolk County Retirement System
- Office of the Ohio Attorney General and several of its Retirement Systems
- Oklahoma Firefighters Pension and Retirement System
- Plymouth County Retirement System
- Office of the New Mexico Attorney General and several of its Retirement Systems
- Public Employees' Retirement System of Mississippi
- Public Employee Retirement System of Idaho
- Rhode Island State Investment Commission
- Santa Barbara County Employees' Retirement System
- State of Oregon Public Employees' Retirement System
- State of Wisconsin Investment Board
- Utah Retirement Systems
- Virginia Retirement System
- West Virginia Investment Management Board

## Awards and Accolades

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Industry publications and peer rankings consistently recognize the Firm as a respected leader in securities litigation.

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### Chambers & Partners USA

Leading Plaintiffs Securities Litigation Firm (2009-2019)

“effective and greatly respected...a bench of partners who are highly esteemed by competitors and adversaries alike”

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### The Legal 500

Leading Plaintiffs Securities Litigation Firm and also recognized in Antitrust (2010-2019) and M&A Litigation (2013, 2015-2019)

“'Superb' and 'at the top of its game.' The Firm's team of 'hard-working lawyers, who push themselves to thoroughly investigate the facts' and conduct 'very diligent research.'”

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### Benchmark Litigation

Recommended in Securities Litigation Nationwide and in New York State (2012-2020); and Noted for Corporate Governance and Shareholder Rights Litigation in the Delaware Court of Chancery (2016-2020), Top 10 Plaintiffs Firm in the United States (2017-2020)

“clearly living up to its stated mission 'reputation matters'...consistently earning mention as a respected litigation-focused firm fighting for the rights of institutional investors”

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### Law360

Most Feared Plaintiffs Firm (2013-2015); Class Action Practice Group of the Year (2012 and 2014-2018); and Securities Practice Group of the Year (2018)

“known for thoroughly investigating claims and conducting due diligence before filing suit, and for fighting defendants tooth and nail in court”

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### The National Law Journal

Winner of the Elite Trial Lawyers Award in Securities Law (2015, 2019), Hall of Fame Honoree, and Top Plaintiffs' Firm on the annual Hot List (2006-2016)

“definitely at the top of their field on the plaintiffs' side”

## Community Involvement

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To demonstrate our deep commitment to the community, Labaton Sucharow has devoted significant resources to pro bono legal work and public and community service.

### Firm Commitments

#### Immigration Justice Campaign

Labaton Sucharow has partnered with the Immigration Justice Campaign to represent immigrants in their asylum proceedings.

#### Brooklyn Law School Securities Arbitration Clinic

Labaton Sucharow partnered with Brooklyn Law School to establish a securities arbitration clinic. The program, which ran for five years, assisted defrauded individual investors who could not otherwise afford to pay for legal counsel and provided students with real-world experience in securities arbitration and litigation. Former Partners Mark S. Arisohn and Joel H. Bernstein led the program as adjunct professors.

#### Change for Kids

Labaton Sucharow supports Change for Kids (CFK) as a Strategic Partner of P.S. 182 in East Harlem. One school at a time, CFK rallies communities to provide a broad range of essential educational opportunities at under-resourced public elementary schools. By creating inspiring learning environments at our partner schools, CFK enables students to discover their unique strengths and develop the confidence to achieve.

#### The Lawyers' Committee for Civil Rights Under Law Edward Labaton, Member, Board of Directors

The Firm is a long-time supporter of The Lawyers' Committee for Civil Rights Under Law, a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy. The Lawyers' Committee involves the private bar in providing legal services to address racial discrimination.

Labaton Sucharow attorneys have contributed on the federal level to U.S. Supreme Court nominee analyses (analyzing nominees for their views on such topics as ethnic equality, corporate diversity, and gender discrimination) and national voters' rights initiatives.

#### Sidney Hillman Foundation

Labaton Sucharow supports the Sidney Hillman Foundation. Created in honor of the first president of the Amalgamated Clothing Workers of America, Sidney Hillman, the foundation supports investigative and progressive journalism by awarding monthly and yearly prizes. Partner Thomas A. Dubbs is frequently invited to present these awards.

## Individual Attorney Commitments

Labaton Sucharow attorneys give of themselves in many ways, both by volunteering and in leadership positions in charitable organizations. A few of the awards our attorneys have received or organizations they are involved in are:

- Awarded “Champion of Justice” by the Alliance for Justice, a national nonprofit association of over 100 organizations which represent a broad array of groups “committed to progressive values and the creation of an equitable, just, and free society.”
- Pro bono representation of mentally ill tenants facing eviction, appointed as guardian ad litem in several housing court actions.
- Recipient of a Volunteer and Leadership Award from a tenants' advocacy organization for work defending the rights of city residents and preserving their fundamental sense of public safety and home.
- Board Member of the Ovarian Cancer Research Fund—the largest private funding agency of its kind supporting research into a method of early detection and, ultimately, a cure for ovarian cancer.

Our attorneys have also contributed to or continue to volunteer with the following charitable organizations, among others:

- American Heart Association
- Big Brothers/Big Sisters of New York City
- Boys and Girls Club of America
- Carter Burden Center for the Aging
- City Harvest
- City Meals-on-Wheels
- Coalition for the Homeless
- Cycle for Survival
- Cystic Fibrosis Foundation
- Dana Farber Cancer Institute
- Food Bank for New York City
- Fresh Air Fund
- Habitat for Humanity
- Lawyers Committee for Civil Rights
- Legal Aid Society
- Mentoring USA
- National Lung Cancer Partnership
- National MS Society
- National Parkinson Foundation
- New York Cares
- New York Common Pantry
- Peggy Browning Fund
- Sanctuary for Families
- Sandy Hook School Support Fund
- Save the Children
- Special Olympics
- Toys for Tots
- Williams Syndrome Association

## Commitment to Diversity

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Recognizing that business does not always offer equal opportunities for advancement and collaboration to women, Labaton Sucharow launched its Women's Networking and Mentoring Initiative in 2007.

Led by Firm partners and co-chairs Serena P. Hallowell and Carol C. Villegas, the Women's Initiative reflects our commitment to the advancement of women professionals. The goal of the Initiative is to bring professional women together to collectively advance women's influence in business. Each event showcases a successful woman role model as a guest speaker. We actively discuss our respective business initiatives and hear the guest speaker's strategies for success. Labaton Sucharow mentors young women inside and outside of the firm and promotes their professional achievements. The Firm also is a member of the National Association of Women Lawyers (NAWL). For more information regarding Labaton Sucharow's Women's Initiative, please visit [www.labaton.com/en/about/women/Womens-Initiative.cfm](http://www.labaton.com/en/about/women/Womens-Initiative.cfm).

Further demonstrating our commitment to diversity in the legal profession and within our Firm, in 2006, we established the Labaton Sucharow Minority Scholarship and Internship. The annual award—a grant and a summer associate position—is presented to a first-year minority student who is enrolled at a metropolitan New York law school and who has demonstrated academic excellence, community commitment, and personal integrity.

Labaton Sucharow has also instituted a diversity internship which brings two Hunter College students to work at the Firm each summer. These interns rotate through various departments, shadowing Firm partners and getting a feel for the inner workings of the Firm.

## Securities Litigation Attorneys

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Our team of securities class action litigators includes:

### Partners

Christopher J. Keller (Chairman)  
Lawrence A. Sucharow (Chairman Emeritus)  
Eric J. Belfi  
Michael P. Canty  
Marisa N. DeMato  
Thomas A. Dubbs  
Christine M. Fox  
Jonathan Gardner  
David J. Goldsmith  
Louis Gottlieb  
Serena P. Hallowell  
Thomas G. Hoffman, Jr.  
James W. Johnson  
Edward Labaton  
Christopher J. McDonald  
Michael H. Rogers  
Ira A. Schochet  
Lara Goldstone  
Francis P. McConville

James McGovern  
Domenico Minerva  
Corban S. Rhodes  
Elizabeth Rosenberg  
David J. Schwartz  
Irina Vasilchenko  
Carol C. Villegas  
Ned Weinberger  
Mark S. Willis  
Nicole M. Zeiss

### Of Counsel

Rachel A. Avan  
Mark Bogen  
Joseph H. Einstein  
John J. Esmay  
Derrick Farrell  
Alfred L. Fatale III  
Mark Goldman

Detailed biographies of the team's qualifications and accomplishments follow.

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#### **Christopher J. Keller, Chairman** [ckeller@labaton.com](mailto:ckeller@labaton.com)

Christopher J. Keller focuses on complex securities litigation. His clients are institutional investors, including some of the world's largest public and private pension funds with tens of billions of dollars under management.

Described by *The Legal 500* as a "sharp and tenacious advocate" who "has his pulse on the trends," Chris has been instrumental in the Firm's appointments as lead counsel in some of the largest securities matters arising out of the financial crisis, such as actions against Countrywide (\$624 million settlement), Bear Stearns (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor), Fannie Mae (\$170 million settlement), and Goldman Sachs.

Chris has also been integral in the prosecution of traditional fraud cases such as *In re Schering-Plough Corporation / ENHANCE Securities Litigation*; *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; as well as *In re Satyam Computer Services, Ltd. Securities Litigation*, where the Firm obtained a settlement of more than

\$150 million. Chris was also a principal litigator on the trial team of *In re Real Estate Associates Limited Partnership Litigation*. The six-week jury trial resulted in a \$184 million plaintiffs' verdict, one of the largest jury verdicts since the passage of the Private Securities Litigation Reform Act.

In addition to his active caseload, Chris holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. In response to the evolving needs of clients, Chris also established, and currently leads, the Case Development Group, which is composed of attorneys, in-house investigators, financial analysts, and forensic accountants. The group is responsible for evaluating clients' financial losses and analyzing their potential legal claims both in and outside of the U.S. and tracking trends that are of potential concern to investors.

Educating institutional investors is a significant element of Chris' advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

He is a member of several professional groups, including the New York State Bar Association and the New York County Lawyers' Association. In 2017, he was elected to the New York City Bar Fund Board of Directors. The City Bar Fund is the nonprofit 501(c)(3) arm of the New York City Bar Association aimed at engaging and supporting the legal profession in advancing social justice."

He is admitted to practice in the States of New York and Ohio, as well as before the Supreme Court of the United States, and the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Wisconsin, and the District of Colorado.

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**Lawrence A. Sucharow, Chairman Emeritus**  
[lsucharow@labaton.com](mailto:lsucharow@labaton.com)

With more than four decades of experience, Lawrence A. Sucharow is an internationally recognized trial lawyer and a leader of the class action bar. Under his guidance, the Firm has grown into and earned its position as one of the top plaintiffs securities and antitrust class action firms in the world. As Chairman Emeritus, Larry focuses on counseling the Firm's large institutional clients, developing creative and compelling strategies to advance and protect clients' interests, and the prosecution and resolution of many of the Firm's leading cases.

Over the course of his career, Larry has prosecuted hundreds of cases and the Firm has recovered billions in groundbreaking securities, antitrust, business transaction, product liability, and other class actions. In fact, a landmark case tried in 2002—*In re Real Estate Associates Limited Partnership Litigation*—was the very first securities action successfully tried to a jury verdict following the enactment of the Private Securities Litigation Reform Act (PSLRA). Experience such as this has made Larry uniquely qualified to evaluate and successfully prosecute class actions.

Other representative matters include: *In re CNL Resorts, Inc. Securities Litigation* (\$225 million settlement); *In re Paine Webber Incorporated Limited Partnerships Litigation* (\$200 million settlement); *In re Prudential Securities Incorporated Limited Partnerships Litigation* (\$110 million partial settlement); *In re Prudential Bache Energy Income Partnerships Securities Litigation* (\$91 million settlement) and *Shea v. New York Life Insurance Company* (over \$92 million settlement).

Larry's consumer protection experience includes leading the national litigation against the tobacco companies in *Castano v. American Tobacco Co.*, as well as litigating *In re Imprelis Herbicide Marketing, Sales Practices and Products Liability Litigation*. Currently, he plays a key role in *In re Takata Airbag Products Liability Litigation* and a nationwide consumer class action against Volkswagen Group of America, Inc., arising out of the wide-scale fraud concerning Volkswagen's "Clean Diesel" vehicles. Larry further conceptualized the establishment of two Dutch foundations, or "Stichtingen" to pursue settlement of claims against Volkswagen on behalf of injured car owners and investors in Europe.

In recognition of his career accomplishments and standing in the securities bar at the Bar, Larry was selected by *Law360* as one the 10 Most Admired Securities Attorneys in the United States and as a Titan of the Plaintiffs Bar. Further, he is one of a small handful of plaintiffs' securities lawyers in the United States recognized by *Chambers & Partners USA*, *The Legal 500*, *Benchmark Litigation*, and *Lawdragon 500* for his successes in securities litigation. Referred to as a "legend" by his peers in *Benchmark Litigation*, *Chambers* describes him as an "an immensely respected plaintiff advocate" and a "renowned figure in the securities plaintiff world...[that] has handled some of the most high-profile litigation in this field." According to *The Legal 500*, clients characterize Larry as a "a strong and passionate advocate with a desire to win." In addition, Brooklyn Law School honored Larry with the 2012 Alumni of the Year Award for his notable achievements in the field.

In 2018, Larry was appointed to serve on Brooklyn Law School's Board of Trustees. He has served a two-year term as President of the National Association of Shareholder and Consumer Attorneys, a membership organization of approximately 100 law firms that practice complex civil litigation including class actions. A longtime supporter of the Federal Bar Council, Larry serves as a trustee of the Federal Bar Council Foundation. He is a member of the Federal Bar Council's Committee on Second Circuit Courts, and the Federal Courts Committee of the New York County Lawyers' Association. He is also a member of the Securities Law Committee of the New Jersey State Bar Association and was the Founding Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association, a position he held from 1988-1994. In addition, Larry serves on the Advocacy Committee of the World Federation of Investors Corporation, a worldwide umbrella organization of national shareholder associations. In 2019, Larry was honored with the National Law Journal's Elite Trial Lawyers Lifetime Achievement Award. In May 2013, Larry was elected Vice Chair of the International Financial Litigation Network, a network of law firms from 15 countries seeking international solutions to cross-border financial problems.

Larry is admitted to practice in the States of New York, New Jersey, and Arizona as well as before the Supreme Court of the United States, the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Southern and Eastern Districts of New York, and the District of New Jersey.

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**Eric J. Belfi, Partner**  
[ebelfi@labaton.com](mailto:ebelfi@labaton.com)

Representing many of the world's leading pension funds and other institutional investors, Eric J. Belfi is an accomplished litigator with experience in a broad range of commercial matters. Eric focuses on domestic and international securities and shareholder litigation, as well as direct actions on behalf of governmental entities. He serves as a member of the Firm's Executive Committee.

As an integral member of the Firm's Case Development Group, Eric has brought numerous high-profile domestic securities cases that resulted from the credit crisis, including the prosecution against Goldman Sachs. In *In re Goldman Sachs Group, Inc. Securities Litigation*, he played a significant role in the investigation and drafting of the operative complaint. Eric was also actively involved in securing a combined settlement of \$18.4 million in *In re Colonial BancGroup, Inc. Securities Litigation*, regarding material misstatements and omissions in SEC filings by Colonial BancGroup and certain underwriters.

Along with his domestic securities litigation practice, Eric leads the Firm's Non-U.S. Securities Litigation Practice, which is dedicated exclusively to analyzing potential claims in non-U.S. jurisdictions and advising on the risk and benefits of litigation in those forums. The practice, one of the first of its kind, also serves as liaison counsel to institutional investors in such cases, where appropriate. Currently, Eric represents nearly 30 institutional investors in over a dozen non-U.S. cases against companies including SNC-Lavalin Group Inc. in Canada, Vivendi Universal, S.A. in France, OZ Minerals Ltd. in Australia, Lloyds Banking Group in the UK, and Olympus Corporation in Japan.

Eric's international experience also includes securing settlements on behalf of non-U.S. clients including the UK-based Mineworkers' Pension Scheme in *In re Satyam Computer Securities Services Ltd. Securities Litigation*, an action related to one of the largest securities fraud in India which resulted in \$150.5 million in

collective settlements. Representing two of Europe's leading pension funds, Deka Investment GmbH and Deka International S.A., Luxembourg, in *In re General Motors Corp. Securities Litigation*, Eric was integral in securing a \$303 million settlement in a case regarding multiple accounting manipulations and overstatements by General Motors.

Additionally, Eric oversees the Financial Products and Services Litigation Practice, focusing on individual actions against malfeasant investment bankers, including cases against custodial banks that allegedly committed deceptive practices relating to certain foreign currency transactions. Most recently, he served as lead counsel to Arkansas Teacher Retirement System in a class action against State Street Corporation and certain affiliated entities alleging misleading actions in connection with foreign currency exchange trades, which resulted in a \$300 million recovery. He has also represented the Commonwealth of Virginia in its False Claims Act case against Bank of New York Mellon, Inc.

Eric's M&A and derivative experience includes noteworthy cases such as *In re Medco Health Solutions Inc. Shareholders Litigation*, in which he was integrally involved in the negotiation of the settlement that included a significant reduction in the termination fee.

Eric's prior experience included serving as an Assistant Attorney General for the State of New York and as an Assistant District Attorney for the County of Westchester. As a prosecutor, Eric investigated and prosecuted white-collar criminal cases, including many securities law violations. He presented hundreds of cases to the grand jury and obtained numerous felony convictions after jury trials.

Eric is a member of the National Association of Public Pension Attorneys (NAPPA) Securities Litigation Working Group. He has spoken on the topics of shareholder litigation and U.S.-style class actions in European countries and has discussed socially responsible investments for public pension funds.

Eric is admitted to practice in the State of New York, as well as before the United States Court of Appeals for the Tenth Circuit, and the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Michigan, the District of Colorado, the District of Nebraska, and the Eastern District of Wisconsin.

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**Michael P. Canty, Partner**  
[mcanty@labaton.com](mailto:mcanty@labaton.com)

Michael P. Canty prosecutes complex fraud cases on behalf of institutional investors and consumers. Upon joining Labaton, Michael successfully prosecuted a number of high profile securities matters involving technology companies including cases against AMD, a multi-national semiconductor company and Ubiquiti Networks, Inc., a global software company. In both cases Michael played a pivotal role in securing favorable settlements for investors. Recommended by *The Legal 500* in the field of securities litigation, Michael also is an accomplished litigator with more than a decade of trial experience in matters relating to national security, white collar crime, and cybercrime. He currently serves as General Counsel to the Firm.

Prior to joining Labaton Sucharow, Michael was a federal prosecutor in the United States Attorney's Office for the Eastern District of New York, where he served as the Deputy Chief of the Office's General Crimes Section. Michael also served in the Office's National Security and Cybercrimes Section. During his time as lead prosecutor, Michael investigated and prosecuted complex and high-profile white collar, national security, and cybercrime offenses. He also served as an Assistant District Attorney for the Nassau County District Attorney's Office, where he handled complex state criminal offenses and served in the Office's Homicide Unit.

Michael has extensive trial experience both from his days as a prosecutor in New York City for the United States Department of Justice and during his six years as an Assistant District Attorney. He served as trial counsel in more than 35 matters, many of which related to violent crime, white collar and terrorism related offenses. He played a pivotal role in *United States v. Abid Naseer*, where he prosecuted and convicted an al-Qaeda operative who conspired to carry out attacks in the United States and Europe. Michael also led the

investigation in *United States v. Marcos Alonso Zea*, a case in which he successfully prosecuted a citizen for attempting to join a terrorist organization in the Arabian Peninsula and for providing material support intended for planned attacks.

Michael also has a depth of experience investigating and prosecuting cases involving the distribution of prescription opioids. In January 2012, Michael was assigned to the U.S. Attorney's Office Prescription Drug Initiative to mount a comprehensive response to what the United States Department of Health and Human Services' Center for Disease Control and Prevention has called an epidemic increase in the abuse of so-called opioid analgesics. As a member of the initiative, in *United States v. Conway* and *United States v. Deslouches* Michael successfully prosecuted medical professionals who were illegally prescribing opioids. In *United States v. Moss et al.* he was responsible for dismantling one of the largest oxycodone rings operating in the New York metropolitan area at the time. In addition to prosecuting these cases, Michael spoke regularly to the community on the dangers of opioid abuse as part of the Office's community outreach.

Additionally, Michael has extensive experience in investigating and prosecuting data breach cases

Before becoming a prosecutor, Michael worked as a Congressional Staff Member for the United States House of Representatives. He primarily served as a liaison between the Majority Leader's Office and the Government Reform and Oversight Committee. During his time with the House of Representatives, Michael managed congressional oversight of the United States Postal Service and reviewed and analyzed counter-narcotics legislation as it related to national security matters.

Michael is admitted to practice in the State of New York as well as before the United States Courts of Appeals for the Second Circuit, and the United States District Court for the Eastern District of New York.

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**Marisa N. DeMato, Partner**  
[mdemato@labaton.com](mailto:mdemato@labaton.com)

With more than 15 years of securities litigation experience, Marisa N. DeMato advises leading pension funds and other institutional investors in the United States and Canada on issues related to corporate fraud in the U.S. securities markets and represents them in complex civil actions. Her work focuses on counseling clients on best practices in corporate governance of publicly traded companies and advising institutional investors on monitoring the well-being of their investments. Marisa also advises and counsels municipalities and health plans on issues related to U.S. antitrust law and potential violations.

Recently, Marisa represented Seattle City Employees' Retirement System and helped reach a \$90 million derivative settlement and historic corporate governance changes with Twenty-First Century Fox, Inc., regarding allegations surrounding workplace harassment incidents at Fox News. Marisa also represented the Oklahoma Firefighters Pension and Retirement System in securing an \$11 million settlement with Rent-A-Center, Inc. to resolve claims that the company made false and misleading statements regarding its point of sale information management system. She also served as legal adviser to the West Palm Beach Police Pension Fund in *In re Walgreen Co. Derivative Litigation*, which secured significant corporate governance reforms and required Walgreens to extend its Drug Enforcement Agency commitments as part of the settlement related to the company's violation of the U.S. Controlled Substances Act.

Prior to joining Labaton Sucharow, Marisa worked for a nationally recognized securities litigation firm and devoted a substantial portion of her time to litigating securities fraud, derivative, mergers and acquisitions, and consumer fraud. Over the course of those eight years she represented numerous pension funds, municipalities, and individual investors throughout the United States and was an integral member of the legal teams that helped secure multimillion dollar settlements, including *In re Managed Care Litigation* (\$135 million recovery); *Cornwell v. Credit Suisse Group* (\$70 million recovery); *Michael v. SFBC International, Inc.* (\$28.5 million recovery); *Ross v. Career Education Corporation* (\$27.5 million recovery); and *Village of Dolton v. Taser International Inc.* (\$20 million recovery).

Marisa has spoken on shareholder litigation-related matters, frequently lecturing on topics pertaining to securities fraud litigation, fiduciary responsibility, and corporate governance issues. Most recently, she testified before the Texas House of Representatives Pensions Committee to address the changing legal landscape public pensions have faced since the Supreme Court's Morrison decision and highlighted the best practices for non-U.S. investment recovery. During the 2008 financial crisis, Marisa spoke widely on the subprime mortgage crisis and its disastrous effect on the pension fund community at regional and national conferences, and addressed the crisis' global implications and related fraud to institutional investors internationally in Italy, France, and the United Kingdom. Marisa has also presented on issues pertaining to the federal regulatory response to the 2008 crisis, including implications of the Dodd-Frank legislation and the national debate on executive compensation and proxy access for shareholders.

Marisa is an active member of the National Association of Public Pension Attorneys (NAPPA) and the National Association of Securities Professionals (NASP). She is also a member of the Federal Bar Council, an organization of lawyers dedicated to promoting excellence in federal practice and fellowship among federal practitioners.

Marisa has also become one of the leading advocates for institutional investing in women and minority-owned investment firms. In 2018, she served as co-chair of the Firm's first annual Women's Initiative forum focusing on institutional investing in women and minority-owned investment firms. Marisa was instrumental in the development and execution of the programming for the inaugural event, which featured two all-female panels, and was praised by attendees for offering an insightful discussion on how pension funds and other institutional investors can provide opportunities for women and minority-owned firms.

In the spring of 2006, Marisa was selected over 250,000 applicants to appear on the sixth season of *The Apprentice*, which aired on January 7, 2007, on NBC. As a result of her role on *The Apprentice*, Marisa has appeared in numerous news media outlets, such as *The Wall Street Journal*, *People* magazine, and various national legal journals.

Marisa is admitted to practice in the State of Florida and the District of Columbia as well as before the United States District Courts for the Northern, Middle, and Southern Districts of Florida.

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**Thomas A. Dubbs, Partner**  
[tdubbs@labaton.com](mailto:tdubbs@labaton.com)

Thomas A. Dubbs focuses on the representation of institutional investors in domestic and multinational securities cases. Recognized as a leading securities class action attorney, Tom has been named as a top litigator by *Chambers & Partners* for nine consecutive years.

Tom has served or is currently serving as lead or co-lead counsel in some of the most important federal securities class actions in recent years, including those against American International Group, Goldman Sachs, the Bear Stearns Companies, Facebook, Fannie Mae, Broadcom, and WellCare. Tom has also played an integral role in securing significant settlements in several high-profile cases including: *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion); *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (over \$200 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Broadcom Corp. Securities Litigation* (\$160.5 million settlement with Broadcom, plus \$13 million settlement with Ernst & Young LLP, Broadcom's outside auditor); *In re St. Paul Travelers Securities Litigation* (\$144.5 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement).

Representing an affiliate of the Amalgamated Bank, the largest labor-owned bank in the United States, a team led by Tom successfully litigated a class action against Bristol-Myers Squibb, which resulted in a settlement of

\$185 million as well as major corporate governance reforms. He has argued before the United States Supreme Court and has argued 10 appeals dealing with securities or commodities issues before the United States Courts of Appeals.

Due to his reputation in securities law, Tom frequently lectures to institutional investors and other groups such as the Government Finance Officers Association, the National Conference on Public Employee Retirement Systems, and the Council of Institutional Investors. He is a prolific author of articles related to his field, and he recently penned "Textualism and Transnational Securities Law: A Reappraisal of Justice Scalia's Analysis in *Morrison v. National Australia Bank*," *Southwestern Journal of International Law* (2014). He has also written several columns in UK-wide publications regarding securities class action and corporate governance.

Prior to joining Labaton Sucharow, Tom was Senior Vice President & Senior Litigation Counsel for Kidder, Peabody & Co. Incorporated, where he represented the company in many class actions, including the First Executive and Orange County litigation and was first chair in many securities trials. Before joining Kidder, Tom was head of the litigation department at Hall, McNicol, Hamilton & Clark, where he was the principal partner representing Thomson McKinnon Securities Inc. in many matters, including the Petro Lewis and Baldwin-United class actions.

In addition to his *Chambers & Partners* recognition, Tom was named a Leading Lawyer by *The Legal 500*, and inducted into its Hall of Fame, an honor presented to only three other plaintiffs securities litigation lawyers "who have received constant praise by their clients for continued excellence." *Law360* also named him an "MVP of the Year" for distinction in class action litigation in 2012 and 2015, and he has been recognized by *The National Law Journal*, *Lawdragon 500*, and *Benchmark Litigation* as a Securities Litigation Star. Tom has received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory.

Tom serves as a FINRA Arbitrator and is an Advisory Board Member for the Institute for Transnational Arbitration. He is a member of the New York State Bar Association, the Association of the Bar of the City of New York, the American Law Institute, and he is a Patron of the American Society of International Law. He was previously a member of the Members Consultative Group for the Principles of the Law of Aggregate Litigation and the Department of State Advisory Committee on Private International Law. Tom also serves on the Board of Directors for The Sidney Hillman Foundation.

Tom is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Fourth, Ninth, and Eleventh Circuits, and the United States District Court for the Southern District of New York.

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**Christine M. Fox, Partner**  
[cfox@labaton.com](mailto:cfox@labaton.com)

With more than 20 years of securities litigation experience, Christine M. Fox prosecutes complex securities fraud cases on behalf of institutional investors. Christine is actively involved in litigating matters against Molina Healthcare, Hain Celestial, Avon, Adient, AT&T, and Apple.

Christine has played a pivotal role in securing favorable settle for investors in class actions against Barrick Gold Corporation, one of the largest gold mining companies in the world (\$140 million recovery); CVS Caremark, the nation's largest pharmacy retail chain (\$48 million recovery); Nu Skin Enterprises, a multilevel marketing company (\$47 million recovery); and Genworth Financial, Inc. (\$20 million recovery).

Prior to joining the Firm, Christine worked at a national litigation firm focusing on securities, antitrust, and consumer litigation in state and federal courts. She played a significant role in securing class action recoveries in a number of high-profile securities cases, including *In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation* (\$475 million recovery); *In re Informix Corp. Securities Litigation* (\$136.5 million recovery); *In re Alcatel Alsthom Securities Litigation* (\$75 million recovery); and *In re Ambac Financial Group, Inc. Securities Litigation* (\$33 million recovery).

Christine received her J.D. from the University of Michigan Law School and her B.A. from Cornell University. She is a member of the American Bar Association, the New York State Bar Association, and the Puerto Rican Bar Association. Christine is actively involved in Labaton Sucharow's pro bono immigration program and recently reunited a father and child separated at the border. She is currently working on their asylum application.

Christine is conversant in Spanish.

Christine is admitted to the practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

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**Jonathan Gardner, Partner**  
[jgardner@labaton.com](mailto:jgardner@labaton.com)

Jonathan Gardner serves as Head of Litigation for the Firm. With more than 28 years of experience, Jonathan oversees all of the Firm's litigation matters, including prosecuting complex securities fraud cases on behalf of institutional investors. He has played an integral role in securing some of the largest class action recoveries against corporate offenders since the global financial crisis.

A *Benchmark Litigation* "Star" acknowledged by his peers as "engaged and strategic," Jonathan was also named an MVP by *Law360* for securing hard-earned successes in high-stakes litigation and complex global matters. Recently, he led the Firm's team in the investigation and prosecution of *In re Barrick Gold Securities Litigation*, which resulted in a \$140 million recovery. Jonathan has also served as the lead attorney in several cases resulting in significant recoveries for injured class members, including: *In re Hewlett-Packard Company Securities Litigation*, resulting in a \$57 million recovery; *Public Employees' Retirement System of Mississippi v. Endo International PLC*, resulting in \$50 million recovery; *Medoff v. CVS Caremark Corporation*, resulting in a \$48 million recovery; *In re Nu Skin Enterprises, Inc., Securities Litigation*, resulting in a \$47 million recovery; *In re Intuitive Surgical Securities Litigation*, resulting in a \$42.5 million recovery; *In re Carter's Inc. Securities Litigation*, resulting in a \$23.3 million recovery against Carter's and certain of its officers as well as PricewaterhouseCoopers, its auditing firm; *In re Aeropostale Inc. Securities Litigation*, resulting in a \$15 million recovery; *In re Lender Processing Services Inc.*, involving claims of fraudulent mortgage processing which resulted in a \$13.1 million recovery; and *In re K-12, Inc. Securities Litigation*, resulting in a \$6.75 million recovery.

Recommended and described by *The Legal 500* as having the "ability to master the nuances of securities class actions," Jonathan has led the Firm's representation of investors in many recent high-profile cases including *Rubin v. MF Global Ltd.*, which involved allegations of material misstatements and omissions in a Registration Statement and Prospectus issued in connection with MF Global's IPO in 2007. In November 2011, the case resulted in a recovery of \$90 million for investors. Jonathan also represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements exceeding \$600 million against Lehman Brothers' former officers and directors, Lehman's former public accounting firm as well the banks that underwrote Lehman Brothers' offerings. In representing lead plaintiff Massachusetts Bricklayers and Masons Trust Funds in an action against Deutsche Bank, Jonathan secured a \$32.5 million recovery for a class of investors injured by the bank's conduct in connection with certain residential mortgage-backed securities.

Jonathan has also been responsible for prosecuting several of the Firm's options backdating cases, including *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement); *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement); *In re Semtech Securities Litigation* (\$20 million settlement); and *In re MRV Communications, Inc. Securities Litigation* (\$10 million settlement). He also was instrumental in *In re Mercury Interactive Corp. Securities Litigation*, which settled for \$117.5 million, one of the largest settlements or judgments in a securities fraud litigation based on options backdating. Jonathan also represented the Successor Liquidating Trustee of Lipper Convertibles, a convertible bond hedge fund, in actions against the fund's former independent auditor and a member of the fund's general partner as well as numerous former

limited partners who received excess distributions. He successfully recovered over \$5.2 million for the Successor Liquidating Trustee from the limited partners and \$29.9 million from the former auditor.

He is a member of the Federal Bar Council, New York State Bar Association, and the Association of the Bar of the City of New York.

Jonathan is admitted to practice in the State of New York as well as before the United States Court of Appeals for the First, Sixth, Ninth, and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, and the Eastern District of Wisconsin.

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**David J. Goldsmith, Partner**  
[dgoldsmith@labaton.com](mailto:dgoldsmith@labaton.com)

David J. Goldsmith has nearly 20 years of experience representing public and private institutional investors in a variety of securities and class action litigations. He has twice been recommended by *The Legal 500* as part of the Firm's recognition as a top-tier plaintiffs firm in securities class action litigation.

A principal litigator at the Firm, David is responsible for the Firm's appellate practice, and has briefed and argued multiple appeals in the federal Courts of Appeals. He is presently litigating appeals in the Second, Third, and Ninth Circuits in significant securities class actions brought against *Petróleo Brasileiro S.A. — Petrobras*, *StoneMor Partners*, *Molina Healthcare, Inc.*, and *United Technologies Corp.* In the Supreme Court of the United States, David recently acted as co-counsel for AARP and AARP Foundation as *amici curiae* in *China Agritech, Inc. v. Resh*, 138 S. Ct. 1800 (2018), and as co-counsel for a group of federal jurisdiction and securities law scholars as *amici curiae* in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 138 S. Ct. 1061 (2018).

As a trial lawyer, David was an integral member of the team representing the Arkansas Teacher Retirement System in a significant action alleging unfair and deceptive practices by State Street Bank in connection with foreign currency exchange trades executed for its custodial clients. The resulting \$300 million settlement is the largest class action settlement ever reached under the Massachusetts consumer protection statute, and one of the largest class action settlements reached in the First Circuit. David also represented the New York State Common Retirement Fund and New York City pension funds as lead plaintiffs in the landmark *In re Countrywide Financial Corp. Securities Litigation*, which settled for \$624 million. He has successfully represented state and county pension funds in class actions in California state court arising from the IPOs of technology companies, and recovered tens of millions of dollars for a large German bank and a major Irish special-purpose vehicle in individual actions alleging fraud in connection with the sale of residential mortgage-backed securities. David's representation of a hedge fund and individual investors as lead plaintiffs in an action concerning the well-publicized collapse of four Regions Morgan Keegan mutual funds led to a \$62 million settlement.

David regularly advises the Genesee County (Michigan) Employees' Retirement Commission with respect to potential securities, shareholder, and antitrust claims, and represents the System in a major action charging a conspiracy by some of the world's largest banks to manipulate the U.S. Dollar ISDAfix benchmark interest rate. This case was featured in Law360's selection of the Firm as a Class Action Group of the Year for 2017.

In 2016, David participated in a panel moderated by Prof. Arthur Miller at the 22nd Annual Symposium of the Institute for Law and Economic Policy, discussing changes in Rule 23 since the 1966 Amendments. David is an active member of several professional organizations, including The National Association of Shareholder & Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice complex civil litigation including class actions, the American Association for Justice, New York State Bar Association, and the Association of the Bar of the City of New York.

During law school, David was Managing Editor of the *Cardozo Arts & Entertainment Law Journal* and served as a judicial intern to the Honorable Michael B. Mukasey, then a United States District Judge for the Southern District of New York.

For many years, David has been a member of AmorArtis, a renowned choral organization with a diverse repertoire.

He is admitted to practice in the States of New York and New Jersey as well as before the United States Courts of Appeals for the First, Second, Fourth, Fifth, Eighth, and Ninth Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, the District of New Jersey, the District of Colorado, and the Western District of Michigan.

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**Louis Gottlieb, Partner**  
**lgottlieb@labaton.com**

Louis Gottlieb focuses on representing institutional and individual investors in complex securities and consumer class action cases. He has played a key role in some of the most high-profile securities class actions in recent history, securing significant recoveries for plaintiffs and ensuring essential corporate governance reforms to protect future investors, consumers, and the general public.

Lou was integral in prosecuting *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion) and *In re 2008 Fannie Mae Securities Litigation* (\$170 million settlement pending final approval). He also helped lead major class action cases against the company and related defendants in *In re Satyam Computer Services, Ltd. Securities Litigation* (\$150.5 million settlement). He has led successful litigation teams in securities fraud class action litigations against Metromedia Fiber Networks and Pricemart, as well as consumer class actions against various life insurance companies.

In the Firm's representation of the Connecticut Retirement Plans and Trust Funds in *In re Waste Management, Inc. Securities Litigation*, Lou's efforts were essential in securing a \$457 million settlement. The settlement also included important corporate governance enhancements, including an agreement by management to support a campaign to obtain shareholder approval of a resolution to declassify its board of directors, and a resolution to encourage and safeguard whistleblowers among the company's employees. Acting on behalf of New York City pension funds in *In re Orbital Sciences Corporation Securities Litigation*, Lou helped negotiate the implementation of measures concerning the review of financial results, the composition, role and responsibilities of the Company's Audit and Finance committee, and the adoption of a Board resolution providing guidelines regarding senior executives' exercise and sale of vested stock options.

Lou was a leading member of the team in the *Napp Technologies Litigation* that won substantial recoveries for families and firefighters injured in a chemical plant explosion. Lou has had a major role in national product liability actions against the manufacturers of orthopedic bone screws and atrial pacemakers, and in consumer fraud actions in the national litigation against tobacco companies.

A well-respected litigator, Lou has made presentations on punitive damages at Federal Bar Association meetings and has spoken on securities class actions for institutional investors.

Lou brings a depth of experience to his practice from both within and outside of the legal sphere. He graduated first in his class from St. John's School of Law. Prior to joining Labaton Sucharow, he clerked for the Honorable Leonard B. Wexler of the Eastern District of New York, and he worked as an associate at Skadden Arps Slate Meagher & Flom LLP.

Lou is admitted to practice in the States of New York and Connecticut as well as before the United States Courts of Appeals for the Fifth and Seventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

**Serena P. Hallowell, Partner**  
[shallowell@labaton.com](mailto:shallowell@labaton.com)

Serena P. Hallowell leads the Direct Action Litigation Practice and focuses on complex litigation, prosecuting securities fraud cases on behalf of some of the world's largest institutional investors, including pension funds, hedge funds, mutual funds, asset managers, and other large institutional investors. Serena also regularly advises and/or represents institutional investors who are seeking counsel on evaluating recovery opportunities in connection with fraud-related conduct. In addition to her active caseload, Serena serves as Co-Chair of the Firm's Women's Networking and Mentoring Initiative and is actively involved in the Firm's summer associate and lateral hiring programs.

Recently, Serena was recognized as a "Trailblazer" by *The National Law Journal*, a Future Star by *Benchmark Litigation*, and as one of the leading lawyers in America by *Lawdragon*. She has also been recommended by *The Legal 500* in securities litigation, and named a Rising Star by *Law360*.

Currently she is prosecuting cases against Valeant Pharmaceuticals and Endo International, among others. Recently, in Endo, the parties have announced an agreement in principle to settle the matter. Also, in Valeant, Serena leads a team that won a significant motion in the District of New Jersey, when the court sustained claims arising under the NJ RICO Act in direct actions filed against Valeant.

Serena was part of a highly skilled team that reached a \$140 million settlement against one of the world's largest gold mining companies in *In re Barrick Gold Securities Litigation*. Playing a principal role in prosecuting *In re Computer Sciences Corporation Securities Litigation* in a "rocket docket" jurisdiction, she helped secure a settlement of \$97.5 million on behalf of lead plaintiff Ontario Teachers' Pension Plan Board, the third largest all cash settlement in the Fourth Circuit at the time. She was also instrumental in securing a \$48 million recovery in *Medoff v. CVS Caremark Corporation*, as well as a \$41.5 million settlement in *In re NII Holdings, Inc. Securities Litigation*. Serena also has broad appellate and trial experience.

Serena received a J.D. from Boston University School of Law, where she served as the Note Editor for the *Journal of Science & Technology Law*. She earned a B.A. in Political Science from Occidental College.

Serena is a member of the New York City Bar Association, where she serves on the Securities Litigation Committee, the Federal Bar Council, the South Asian Bar Association, the National Association of Public Pension Attorneys (NAPPA), and the National Association of Women Lawyers (NAWL). Her pro bono work includes representing immigrant detainees in removal proceedings for the American Immigrant Representation Project and devoting time to the Securities Arbitration Clinic at Brooklyn Law School.

She is conversational in Urdu/Hindi.

Serena is admitted to practice in the State of New York, as well as before the United States Courts of Appeals for the First, Ninth, and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

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**Thomas G. Hoffman, Jr., Partner**  
[thoffman@labaton.com](mailto:thoffman@labaton.com)

Thomas G. Hoffman, Jr. focuses on representing institutional investors in complex securities actions.

Thomas was instrumental in securing a \$1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered \$170 million for investors in *In re 2008 Fannie Mae Securities Litigation*. Currently, Thomas is prosecuting cases against BP and Allstate.

Thomas received a J.D. from UCLA School of Law, where he was Editor-in-Chief of the *UCLA Entertainment Law Review*, and he served as a Moot Court Executive Board Member. In addition, he was a judicial extern to the Honorable William J. Rea, United States District Court for the Central District of California. Thomas earned a B.F.A., with honors, from New York University.

Thomas is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York.

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**James W. Johnson, Partner**  
[jjohnson@labaton.com](mailto:jjohnson@labaton.com)

James W. Johnson focuses on complex securities fraud cases. In representing investors who have been victimized by securities fraud and breaches of fiduciary responsibility, Jim's advocacy has resulted in record recoveries for wronged investors. Currently, he is prosecuting high-profile cases against financial industry leader Goldman Sachs in *In re Goldman Sachs Group, Inc., Securities Litigation*, and SCANA, an energy-based holding company, in *In re SCANA Securities Litigation*. In addition to his active caseload, Jim holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. He also serves as the Firm's Executive Partner overseeing firmwide issues.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions including: *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Corp. Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (\$200 million settlement); *In re Bristol Myers Squibb Co. Securities Litigation* (\$185 million settlement), in which the court also approved significant corporate governance reforms and recognized plaintiff's counsel as "extremely skilled and efficient"; *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re National Health Laboratories, Inc. Securities Litigation*, which resulted in a recovery of \$80 million in the federal action and a related state court derivative action; and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement).

In *County of Suffolk v. Long Island Lighting Co.*, Jim represented the plaintiff in a RICO class action, securing a jury verdict after a two-month trial that resulted in a \$400 million settlement. The Second Circuit quoted the trial judge, Honorable Jack B. Weinstein, as stating "counsel [has] done a superb job [and] tried this case as well as I have ever seen any case tried." On behalf of the Chugach Native Americans, he also assisted in prosecuting environmental damage claims resulting from the Exxon Valdez oil spill.

Jim is a member of the American Bar Association and the Association of the Bar of the City of New York, where he served on the Federal Courts Committee, and he is a Fellow in the Litigation Council of America.

Jim has received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the States of New York and Illinois as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Fourth, Fifth, Seventh, and Eleventh Circuits, and the United States District Courts for the Southern, Eastern, and Northern Districts of New York, and the Northern District of Illinois.

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**Edward Labaton, Partner**  
[elabaton@labaton.com](mailto:elabaton@labaton.com)

An accomplished trial lawyer and partner with the Firm, Edward Labaton has devoted 50 years of practice to representing a full range of clients in class action and complex litigation matters in state and federal court. He is the recipient of the Alliance for Justice's 2015 Champion of Justice Award, given to outstanding individuals whose life and work exemplifies the principle of equal justice.

Ed has played a leading role as plaintiffs' class counsel in a number of successfully prosecuted, high-profile cases, involving companies such as PepsiCo, Dun & Bradstreet, Financial Corporation of America, ZZZZ Best, Revlon, GAF Co., American Brands, Petro Lewis and Jim Walter, as well as several Big Eight (now Four) accounting firms. He has also argued appeals in state and federal courts, achieving results with important precedential value.

Ed has been President of the Institute for Law and Economic Policy (ILEP) since its founding in 1996. Each year, ILEP co-sponsors at least one symposium with a major law school dealing with issues relating to the civil justice system. In 2010, he was appointed to the newly formed Advisory Board of George Washington University's Center for Law, Economics, & Finance (C-LEAF), a think tank within the Law School, for the study and debate of major issues in economic and financial law confronting the United States and the globe. Ed is an Honorary Lifetime Member of the Lawyers' Committee for Civil Rights under Law, a member of the American Law Institute, and a life member of the ABA Foundation. In addition, he has served on the Executive Committee and has been an officer of the Ovarian Cancer Research Fund since its inception in 1996.

Ed is the past Chairman of the Federal Courts Committee of the New York County Lawyers Association, and was a member of the Board of Directors of that organization. He is an active member of the Association of the Bar of the City of New York, where he was Chair of the Senior Lawyers' Committee and served on its Task Force on the Role of Lawyers in Corporate Governance. He has also served on its Federal Courts, Federal Legislation, Securities Regulation, International Human Rights, and Corporation Law Committees. He also served as Chair of the Legal Referral Service Committee, a joint committee of the New York County Lawyers' Association and the Association of the Bar of the City of New York. He has been an active member of the American Bar Association, the Federal Bar Council, and the New York State Bar Association, where he has served as a member of the House of Delegates.

For more than 30 years, he has lectured on many topics including federal civil litigation, securities litigation, and corporate governance.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, and the Central District of Illinois.

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**Christopher J. McDonald, Partner**  
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Christopher J. McDonald works with both the Firm's Antitrust & Competition Litigation Practice and its Securities Litigation Practice.

In the antitrust field, Chris is currently litigating *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, in which the Firm has been appointed to the End-Payor Plaintiffs Steering Committee, *In re Treasury Securities Auction Antitrust Litigation*, in which the Firm serves as interim co-lead counsel, and *In re Platinum and Palladium Antitrust Litigation*, in which the Firm serves as co-lead counsel. Chris was also co-lead counsel in *In re TriCor Indirect Purchaser Antitrust Litigation*, obtaining a \$65.7 million settlement on behalf of the plaintiff class. He has been recommended in Antitrust Litigation Class Action by *The Legal 500*.

Chris' securities practice has developed a focus on life sciences industries; his cases often involve claims against pharmaceutical, biotechnology, or medical device companies. Most recently, Chris served as lead counsel in *In re Amgen Inc. Securities Litigation*, a case against global biotechnology company Amgen and certain of its former executives, resulting in a \$95 million settlement. He also served as co-lead counsel in *In re Schering-Plough Corporation / ENHANCE Securities Litigation*, which resulted in a \$473 million settlement, one of the largest securities class action settlements ever against a pharmaceutical company and among the largest recoveries ever in a securities class action that did not involve a financial restatement. He was also an integral part of the team that successfully litigated *In re Bristol-Myers Squibb Securities Litigation*, where

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Labaton Sucharow secured a \$185 million settlement, as well as significant corporate governance reforms, on behalf of Bristol-Myers Squibb shareholders.

Chris began his legal career at Patterson, Belknap, Webb & Tyler LLP, where he gained extensive trial experience in areas ranging from employment contract disputes to false advertising claims. Later, as a senior attorney with a telecommunications company, Chris advocated before regulatory agencies on a variety of complex legal, economic, and public policy issues.

During his time at Fordham University School of Law, Chris was a member of the Law Review. He is currently a member of the New York State Bar Association, its Antitrust Law Section, and the Section's Cartel and Criminal Practice Committee. He is also a member of the New York City Bar Association.

Chris is admitted to practice in the State of New York and the United States Supreme Court. He is also admitted before the United States Courts of Appeals for the Second, Fourth, Third, Ninth, and Federal Circuit, as well as the United States District Courts for the Southern and Eastern Districts of New York, and the Western District of Michigan.

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**Michael H. Rogers, Partner**  
[mrogers@labaton.com](mailto:mrogers@labaton.com)

Michael H. Rogers focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Currently, Mike is actively involved in prosecuting *In re Goldman Sachs, Inc. Securities Litigation*; *3226701 Canada, Inc. v. Qualcomm, Inc.*; *In re SCANA Securities Litigation*, *Murphy v. Precision Castparts Corp.*; and *Vancouver Asset Alumni Holdings, Inc. v. Daimler AG*.

Since joining Labaton Sucharow, Mike has been a member of the lead counsel teams in federal class actions against Countrywide Financial Corp. (\$624 million settlement), HealthSouth Corp. (\$671 million settlement), State Street (\$300 million settlement), Mercury Interactive Corp. (\$117.5 million settlement), and Computer Sciences Corp. (\$97.5 million settlement).

Prior to joining Labaton Sucharow, Mike was an attorney at Kasowitz, Benson, Torres & Friedman LLP, where he practiced securities and antitrust litigation, representing international banking institutions bringing federal securities and other claims against major banks, auditing firms, ratings agencies and individuals in complex multidistrict litigation. He also represented an international chemical shipping firm in arbitration of antitrust and other claims against conspirator ship owners.

Mike began his career as an attorney at Sullivan & Cromwell, where he was part of Microsoft's defense team in the remedies phase of the Department of Justice antitrust action against the company.

Mike received a J.D., *magna cum laude*, from the Benjamin N. Cardozo School of Law, Yeshiva University, where he was a member of the *Cardozo Law Review*. He earned a B.A., *magna cum laude*, in Literature-Writing from Columbia University.

Mike is proficient in Spanish.

He is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Second and Ninth Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

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**Ira A. Schochet, Partner**  
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A seasoned litigator with three decades of experience, Ira A. Schochet focuses on class actions involving securities fraud. Ira has played a lead role in securing multimillion dollar recoveries in high-profile cases such as

those against Countrywide Financial Corporation (\$624 million), Weatherford International Ltd (\$120 million), Massey Energy Company (\$265 million), Caterpillar Inc. (\$23 million), Autoliv Inc. (\$22.5 million), and Fifth Street Financial Corp. (\$14 million).

A longtime leader in the securities class action bar, Ira represented one of the first institutional investors acting as a lead plaintiff in a post-Private Securities Litigation Reform Act case and ultimately obtained one of the first rulings interpreting the statute's intent provision in a manner favorable to investors in *STI Classic Funds, et al. v. Bollinger Industries, Inc.* His efforts are regularly recognized by the courts, including in *Kamarasy v. Coopers & Lybrand*, where the court remarked on "the superior quality of the representation provided to the class." In approving the settlement he achieved in *In re InterMune Securities Litigation*, the court complimented Ira's ability to secure a significant recovery for the class in a very efficient manner, shielding the class from prolonged litigation and substantial risk.

Ira has also played a key role in groundbreaking cases in the field of merger and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, he achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an unprecedented provision of direct payments to stockholders by means of a special dividend. In another first-of-its-kind case, Ira was featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work in *In re El Paso Corporation Shareholder Litigation*. The action alleged breach of fiduciary duties in connection with a merger transaction, including specific reference to wrongdoing by a conflicted financial advisory consultant, and resulted in a \$110 million recovery for a class of shareholders and a waiver by the consultant of its fee.

From 2009-2011, Ira served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice class action and complex civil litigation. During this time, he represented the plaintiffs' securities bar in meetings with members of Congress, the Administration, and the SEC.

From 1996 through 2012, Ira served as Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association. During his tenure, he has served on the Executive Committee of the Section and authored important papers on issues relating to class action procedure including revisions proposed by both houses of Congress and the Advisory Committee on Civil Procedure of the United States Judicial Conference. Examples include: "Proposed Changes in Federal Class Action Procedure"; "Opting Out On Opting In," and "The Interstate Class Action Jurisdiction Act of 1999."

He also has lectured extensively on securities litigation at continuing legal education seminars. He has also been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Second, Fifth, Ninth, and Tenth Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, the Central District of Illinois, the Northern District of Texas, and the Western District of Michigan.

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**David J. Schwartz, Partner**  
[dschwartz@labaton.com](mailto:dschwartz@labaton.com)

David J. Schwartz's practice focuses on event driven and special situation litigation using legal strategies to enhance clients' investment return.

His extensive experience includes prosecuting as well as defending against securities and corporate governance actions for an array of institutional clients including hedge funds, merger arbitrage investors, pension funds, mutual funds, and asset management companies. He played a pivotal role in several securities class action cases, including against real estate service provider Altisource Portfolio Solutions, where he helped achieve a \$32 million cash settlement, and investment management firm Virtus Investment Partners, which

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resulted in a \$22 million settlement. David has also done substantial work in mergers and acquisitions appraisal litigation, and direct action/opt-out litigation.

David was recently named a Future Star by *Benchmark Litigation* and to *Benchmark's "40 & Under Hot List,"* which recognizes him as one the nation's most accomplished partners age 40 years and under.

David obtained his J.D. from Fordham University School of Law, where he served on the *Urban Law Journal*. He received his B.A. in economics, with honors, from the University of Chicago.

David is admitted to practice in the State of New York as well as before the United States District Court for the Southern District of New York.

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**Irina Vasilchenko, Partner**  
[ivasilchenko@labaton.com](mailto:ivasilchenko@labaton.com)

Irina Vasilchenko focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

Currently, Irina is actively involved in prosecuting *In re Goldman Sachs Group, Inc. Securities Litigation*, *In re SCANA Corporation Securities Litigation*, *In re Acuity Brands, Inc. Securities Litigation*, and *Vancouver Alumni Asset Holdings, Inc. v. Daimler AG*. Since joining Labaton Sucharow, she has been part of the Firm's teams in *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); and *In re Hewlett-Packard Company Securities Litigation* (\$57 million settlement).

Prior to joining Labaton Sucharow, Irina was an associate in the general litigation practice group at Ropes & Gray LLP, where she focused on securities litigation.

Irina maintains a commitment to pro bono legal service including, most recently, representing an indigent defendant in a criminal appeal case before the New York First Appellate Division, in association with the Office of the Appellate Defender. As part of this representation, she argued the appeal before the First Department panel. Irina is a member of the New York City Bar Association's Women in the Courts Task Force. She also leads Labaton Sucharow's Associate Training Program.

Irina received a J.D., *magna cum laude*, from Boston University School of Law, where she was an editor of the *Boston University Law Review* and was the G. Joseph Tauro Distinguished Scholar (2005), the Paul L. Liacos Distinguished Scholar (2006), and the Edward F. Hennessey Scholar (2007). Irina earned a B.A. in Comparative Literature with Distinction, *summa cum laude* and Phi Beta Kappa, from Yale University.

She is fluent in Russian and proficient in Spanish.

Irina is admitted to practice in the State of New York and the State of Massachusetts as well as before the United States District Courts for the Southern and Eastern Districts of New York.

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**Carol C. Villegas, Partner**  
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Carol C. Villegas Carol C. Villegas focuses on prosecuting complex securities fraud cases on behalf of institutional investors. Leading one of the Firm's litigation teams, she currently oversees litigation against AT&T, Marriott, Nielsen Holdings, Skechers, U.S.A., Inc., Shanda Games, and Danske Bank. In addition to her litigation responsibilities, Carol holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee and serving as Co-Chair of the Firm's Women's Networking and Mentoring Initiative and as the Firm's Chief Compliance Officer.

Carol's skillful handling of discovery work, her development of innovative case theories in complex cases, and her adept ability during oral argument earned her recent accolades from the New York Law Journal as a Top Woman in Law. She has also been recognized as a Future Star by *Benchmark Litigation* and a Next Generation Lawyer by *The Legal 500*, where clients praised her for helping them "better understand the process and how to value a case."

Carol played a pivotal role in securing favorable settlements for investors from AMD, a multi-national semiconductor company, Liquidity Services, an online auction marketplace, Aeropostale, a leader in the international retail apparel industry, ViroPharma Inc., a biopharmaceutical company, and Vocera, a healthcare communications provider. She also recently helped revive a securities class action against LifeLock after arguing an appeal before the Ninth Circuit. A true advocate for her clients, Carol's argument in the case against Vocera resulted in a ruling from the bench, denying defendants' motion to dismiss in that case.

Prior to joining Labaton Sucharow, Carol served as the Assistant District Attorney in the Supreme Court Bureau for the Richmond County District Attorney's office, where she took several cases to trial. She began her career as an associate at King & Spalding LLP, where she worked as a federal litigator.

Carol received a J.D. from New York University School of Law, and she was the recipient of The Irving H. Jurow Achievement Award for the Study of Law and selected to receive the Association of the Bar of the City of New York Minority Fellowship. Carol served as the Staff Editor, and later the Notes Editor, of the *Environmental Law Journal*. She earned a B.A., with honors, in English and Politics from New York University.

Carol is a member of the National Association of Public Pension Attorneys (NAPPA), the National Association of Women Lawyers (NAWL), the Hispanic National Bar Association, the Association of the Bar of the City of New York, and a member of the Executive Council for the New York State Bar Association's Committee on Women in the Law.

She is fluent in Spanish.

She is admitted to practice in the State of New York, as well as before the United States Court of Appeals for the First, Second, Ninth, Tenth, and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, the District of Colorado, and the Eastern District of Wisconsin.

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**Ned Weinberger, Partner**  
[nweinberger@labaton.com](mailto:nweinberger@labaton.com)

Ned Weinberger is Chair of the Firm's Corporate Governance and Shareholder Rights Litigation Practice. An experienced advocate of shareholder rights, Ned focuses on representing investors in corporate governance and transactional matters, including class action and derivative litigation. Ned was recognized by *Chambers & Partners USA* in the Delaware Court of Chancery and was named "Up and Coming," noting his impressive range of practice areas. He was also recently named a "Leading Lawyer" by *The Legal 500* and a Future Star by *Benchmark Litigation*.

Ned is currently prosecuting, among other matters, *In re Straight Path Communications Inc. Consolidated Stockholder Litigation*, which alleges breaches of fiduciary duty by the controlling stockholder of Straight Path Communications, Howard Jonas, in connection with the company's proposed sale to Verizon Communications Inc. He recently led a class and derivative action on behalf of stockholders of Providence Service Corporation—*Haverhill Retirement System v. Kerley*—that challenged an acquisition financing arrangement involving Providence's board chairman and his hedge fund. The case settled for \$10 million.

Ned was part of a team that achieved a \$12 million recovery on behalf of stockholders of ArthroCare Corporation in a case alleging breaches of fiduciary duty by the ArthroCare board of directors and other defendants in connection with Smith & Nephew, Inc.'s acquisition of ArthroCare. Other recent successes on behalf of stockholders include *In re Vaalco Energy Inc. Consolidated Stockholder Litigation*, which resulted in

the invalidation of charter and bylaw provisions that interfered with stockholders' fundamental right to remove directors without cause.

Prior to joining Labaton Sucharow, Ned was a litigation associate at Grant & Eisenhofer P.A. where he gained substantial experience in all aspects of investor protection, including representing shareholders in matters relating to securities fraud, mergers and acquisitions, and alternative entities. Representative of Ned's experience in the Delaware Court of Chancery is *In re Barnes & Noble Stockholders Derivative Litigation*, in which Ned assisted in obtaining approximately \$29 million in settlements on behalf of Barnes & Noble investors. Ned was also part of the litigation team in *In re Clear Channel Outdoor Holdings, Inc. Shareholder Litigation*, the settlement of which provided numerous benefits for Clear Channel Outdoor Holdings and its shareholders, including, among other things, a \$200 million cash dividend to the company's shareholders.

Ned received his J.D. from the Louis D. Brandeis School of Law at the University of Louisville where he served on the *Journal of Law and Education*. He earned his B.A. in English Literature, *cum laude*, at Miami University.

Ned is admitted to practice in the States of Delaware, Pennsylvania, and New York as well as before the United States District Court for the District of Delaware.

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**Mark S. Willis, Partner**  
[mwillis@labaton.com](mailto:mwillis@labaton.com)

With nearly three decades of experience, Mark S. Willis' practice focuses on domestic and international securities litigation. Mark advises leading pension funds, investment managers, and other institutional investors from around the world on their legal remedies when impacted by securities fraud and corporate governance breaches. Mark represents clients in U.S. litigation and maintains a significant practice advising clients of their legal rights abroad to pursue securities-related claims. He has been recognized in securities litigation by *The Legal 500*.

Mark represents institutions from the United Kingdom, Spain, the Netherlands, Denmark, Germany, Belgium, Canada, Japan, and the United States in a novel lawsuit in Texas against BP plc to salvage claims that were dismissed from the U.S. class action because the claimants' BP shares were purchased abroad (thus running afoul of the Supreme Court's *Morrison* rule that precludes a U.S. legal remedy for such shares). These previously dismissed claims have now been sustained and are being pursued under English law in a Texas federal court.

Mark also represents the Utah Retirement Systems in a shareholder action against the DeVry Education Group, and he represented the Arkansas Public Employees Retirement System in a shareholder action against The Bancorp (which settled for \$17.5 million), and Caisse de dépôt et placement du Québec, one of Canada's largest institutional investors, in a U.S. shareholder class action against Liquidity Services (which settled for \$17 million).

In the *Converium* class action, Mark represented a Greek institution in a nearly four-year battle that eventually became the first U.S. class action settled on two continents. This trans-Atlantic result saw part of the \$145 million recovery approved by a federal court in New York, and the rest by the Amsterdam Court of Appeal. The Dutch portion was resolved using the Netherlands then newly enacted Act on Collective Settlement of Mass Claims. In doing so, the Dutch Court issued a landmark decision that substantially broadened its jurisdictional reach, extending jurisdiction for the first time to a scenario in which the claims were not brought under Dutch law, the alleged wrongdoing took place outside the Netherlands, and none of the potentially liable parties were domiciled in the Netherlands.

In the corporate governance arena, Mark has represented both U.S. and overseas investors. In a shareholder derivative action against Abbott Laboratories' directors, he charged the defendants with mismanagement and fiduciary breaches for causing or allowing the company to engage in a 10-year off-label marketing scheme, which had resulted in a \$1.6 billion payment pursuant to a Justice Department investigation—at the time the

second largest in history for a pharmaceutical company. In the derivative action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act, as well as the restructuring of a board committee and enhancing the role of the Lead Director. In the *Parmalat* case, known as the “Enron of Europe” due to the size and scope of the fraud, Mark represented a group of European institutions and eventually recovered nearly \$100 million and negotiated governance reforms with two large European banks who, as part of the settlement, agreed to endorse their future adherence to key corporate governance principles designed to advance investor protection and to minimize the likelihood of future deceptive transactions. Securing governance reforms from a defendant that was not an issuer was a first at that time in a shareholder fraud class action.

Mark has also represented clients in opt-out actions. In one, brought on behalf of the Utah Retirement Systems, Mark negotiated a settlement that was nearly four times more than what its client would have received had it participated in the class action.

On non-U.S. actions Mark has advised clients, and represented their interests as liaison counsel, in more than 30 cases against companies such as Volkswagen, Olympus, the Royal Bank of Scotland, the Lloyds Banking Group, and Petrobras, and in jurisdictions ranging from the UK to Japan to Australia to Brazil to Germany.

Mark has written on corporate, securities, and investor protection issues—often with an international focus—in industry publications such as *International Law News*, *Professional Investor*, *European Lawyer*, and *Investment & Pensions Europe*. He has also authored several chapters in international law treatises on European corporate law and on the listing and subsequent disclosure obligations for issuers listing on European stock exchanges. He also speaks at conferences and at client forums on investor protection through the U.S. federal securities laws, corporate governance measures, and the impact on shareholders of non-U.S. investor remedies.

He is admitted to practice in the State of Massachusetts and the District of Columbia, as well as the U.S. District Court for the District of Columbia.

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**Nicole M. Zeiss, Partner**  
[nzeiss@labaton.com](mailto:nzeiss@labaton.com)

A litigator with nearly two decades of experience, Nicole M. Zeiss leads the Settlement Group at Labaton Sucharow, analyzing the fairness and adequacy of the procedures used in class action settlements. Her practice focuses on negotiating and documenting complex class action settlements and obtaining the required court approval of the settlements, notice procedures, and payments of attorneys' fees.

Over the past decade, Nicole was actively involved in finalizing settlements with Massey Energy Company (\$265 million), Fannie Mae (\$170 million), and Schering-Plough (\$473 million), among many others.

Nicole was part of the Labaton Sucharow team that successfully litigated the \$185 million settlement in *In re Bristol-Myers Squibb Securities Litigation*, and she played a significant role in *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement). Nicole also litigated on behalf of investors who have been damaged by fraud in the telecommunications, hedge fund, and banking industries.

Prior to joining Labaton Sucharow, Nicole practiced in the area of poverty law at MFY Legal Services. She also worked at Gaynor & Bass practicing general complex civil litigation, particularly representing the rights of freelance writers seeking copyright enforcement.

Nicole maintains a commitment to pro bono legal services by continuing to assist mentally ill clients in a variety of matters—from eviction proceedings to trust administration.

She received a J.D. from the Benjamin N. Cardozo School of Law, Yeshiva University and earned a B.A. in Philosophy from Barnard College. Nicole is a member of the Association of the Bar of the City of New York.

She is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Second and Ninth Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, and the District of Colorado.

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**Rachel A. Avan, Of Counsel**  
ravan@labaton.com

Rachel A. Avan prosecutes complex securities fraud cases on behalf of institutional investors. She focuses on advising institutional investor clients regarding fraud-related losses on securities, and on the investigation and development of U.S. and non-U.S. securities fraud class, group, and individual actions. Rachel manages the Firm's Non-U.S. Securities Litigation Practice, which is dedicated to analyzing the merits, risks, and benefits of potential claims outside the United States. She has played a key role in ensuring that the Firm's clients receive substantial recoveries through non-U.S. securities litigation. In addition to her litigation responsibilities, Rachel serves as the Firm's Compliance Officer.

In evaluating new and potential matters, Rachel draws on her extensive experience as a securities litigator. She was an active member of the team prosecuting the securities fraud class action against Satyam Computer Services, Inc., in *In re Satyam Computer Services Ltd. Securities Litigation*, dubbed "India's Enron." That case achieved a \$150.5 million settlement for investors from the company and its auditors. She also had an instrumental part in the pleadings in a number of class actions including, *In re Barrick Gold Securities Litigation* (\$140 million settlement); *Freedman v. Nu Skin Enterprises, Inc.* (\$47 million recovery); and *Iron Workers District Council of New England Pension Fund v. NII Holdings, Inc.* (\$41.5 million recovery).

Rachel has spearheaded the filing of more than 75 motions for lead plaintiff appointment in U.S. securities class actions including, *In re Facebook, Inc. IPO Securities & Derivative Litigation*; *In re Computer Sciences Corporation Securities Litigation*; *In re Petrobras Securities Litigation*; *In re Spectrum Pharmaceuticals, Inc. Securities Litigation*; *Weston v. RCS Capital Corporation*; and *Cummins v. Virtus Investment Partners Inc.*

In addition to her securities class action litigation experience, Rachel also played a role in prosecuting several of the Firm's derivative matters, including *In re Barnes & Noble Stockholder Derivative Litigation*; *In re Coca-Cola Enterprises Inc. Shareholders Litigation*; and *In re The Student Loan Corporation Litigation*.

Rachel brings to the Firm valuable insight into corporate matters, having served as an associate at a corporate law firm, where she counseled domestic and international public companies regarding compliance with federal and state securities laws. Her analysis of corporate securities filings is also informed by her previous work assisting with the preparation of responses to inquiries by the U.S. Securities and Exchange Commission and the Financial Industry Regulatory Authority.

Before attending Benjamin N. Cardozo School of Law, Rachel enjoyed a career in editing for a Boston-based publishing company. She also earned a Master of Arts in English and American Literature from Boston University.

Since 2015, Rachel has been recognized as a New York Metro "Rising Star" in securities litigation by *Super Lawyers*, a Thomson Reuters publication.

She is proficient in Hebrew.

Rachel is admitted to practice in the States of New York and Connecticut as well as before the United States District Court for the Southern District of New York.

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**Mark Bogen, Of Counsel**  
[mbogen@labaton.com](mailto:mbogen@labaton.com)

Mark Bogen advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. His work focuses on securities, antitrust, and consumer class action litigation, representing Taft-Hartley and public pension funds across the country.

Among his many efforts to protect his clients' interests and maximize shareholder value, Mark recently helped bring claims against and secure a settlement with Abbott Laboratories' directors, whereby the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Mark has written weekly legal columns for the *Sun-Sentinel*, one of the largest daily newspapers circulated in Florida. He has been legal counsel to the American Association of Professional Athletes, an association of over 4,000 retired professional athletes. He has also served as an Assistant State Attorney and as a Special Assistant to the State Attorney's Office in the State of Florida.

Mark obtained his J.D. from Loyola University School of Law. He received his B.A. in Political Science from the University of Illinois.

He is admitted to practice in the States of Illinois and Florida.

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**Joseph H. Einstein, Of Counsel**  
[jeinstein@labaton.com](mailto:jeinstein@labaton.com)

A seasoned litigator, Joseph H. Einstein represents clients in complex corporate disputes, employment matters, and general commercial litigation. He has litigated major cases in the state and federal courts and has argued many appeals, including appearing before the United States Supreme Court.

His experience encompasses extensive work in the computer software field including licensing and consulting agreements. Joe also counsels and advises business entities in a broad variety of transactions.

Joe serves as an official mediator for the United States District Court for the Southern District of New York. He is an arbitrator for the American Arbitration Association and FINRA. Joe is a former member of the New York State Bar Association Committee on Civil Practice Law and Rules and the Council on Judicial Administration of the Association of the Bar of the City of New York. He currently is a member of the Arbitration Committee of the Association of the Bar of the City of New York.

During Joe's time at New York University School of Law, he was a Pomeroy and Hirschman Foundation Scholar, and served as an Associate Editor of the *Law Review*.

Joe has been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

He is admitted to practice in the State of New York as well as before the Supreme Court of the United States, the United States Courts of Appeals for the First and Second Circuits, and the United States District Courts for the Southern and Eastern Districts of New York.

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**John J. Esmay, Of Counsel**  
[jesmay@labaton.com](mailto:jesmay@labaton.com)

John J. Esmay focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

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Prior to joining Labaton Sucharow, John was an associate at a white collar defense firm where he assisted in all aspects of complex litigation including securities fraud, banking regulation violations, and other regulatory matters. John successfully defended a disciplinary hearing brought by the Financial Industry Regulatory Authority's (FINRA) enforcement division for allegations of insider trading and securities fraud. John helped reach a successful conclusion of a criminal prosecution of a trader for one of the nation's largest financial institutions involved in a major bid-rigging scheme. He was also instrumental in clearing charges and settling a regulatory matter against a healthcare provider brought by the New York State Office of the Attorney General.

Prior to his white collar defense experience, John was an associate at Hogan Lovells US LLP and litigated many large complex civil matters including securities fraud cases, antitrust violations, and intellectual property disputes.

John also previously worked as a judicial clerk for the Honorable William H. Pauley III in the Southern District of New York. He received his J.D., *magna cum laude*, from Brooklyn Law School and his B.S. from Pomona College.

John is admitted to practice in the State of New York.

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**Derrick Farrell, Of Counsel**  
[dfarrell@labaton.com](mailto:dfarrell@labaton.com)

Derrick Farrell focuses on representing shareholders in appraisal, class, and derivative actions. He has substantial trial experience as both a petitioner and a respondent on a number of high profile matters, including: *In re Appraisal of Ancestry.com, Inc.*, C.A. No. 8173-VCG, *IQ Holdings, Inc. v. Am. Commercial Lines Inc.*, Case No. 6369-VCL, and *In re Cogent, Inc. S'holder Litig.*, C.A. No. 5780-VCP. He has also argued before the Delaware Supreme Court on multiple occasions.

Prior to joining Labaton Sucharow, Derrick started his career as an associate at Latham & Watkins LLP, where he gained substantial insight into the inner workings of corporate boards and the role of investment bankers in a sale process. He has guest lectured at Harvard University and co-authored numerous articles including articles published by the Harvard Law School Forum on Corporate Governance and Financial Regulation and PLI.

Derrick graduated from Texas A&M University (B.S., Biomedical Science) and the Georgetown University Law Center (J.D. cum laude). At Georgetown Mr. Farrell served as an advocate and coach to the Barrister's Council (Moot Court Team) and was Magister of Phi Delta Phi. Following his graduation Derrick clerked for the Honorable Donald F. Parsons, Jr., Vice Chancellor, Court of Chancery of the State of Delaware.

Derrick is licensed to practice law in the States of Delaware and Massachusetts and is admitted to practice before the U.S. District Court for the District of Delaware.

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**Alfred L. Fatale III, Of Counsel**  
[afatale@labaton.com](mailto:afatale@labaton.com)

Alfred L. Fatale III focuses on prosecuting complex securities fraud cases on behalf of institutional and individual investors.

Alfred represents investors in cases related to the protection of the financial markets in trial and appellate courts throughout the country. In particular, he is leading the firm's efforts in litigating securities claims against several companies in state courts following the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver County Employees Retirement Fund*. This includes prosecuting *In re ADT Inc. Shareholder Litigation*, a case alleging that the offering documents for ADT's \$1.47 billion IPO misrepresented the competition the company was facing from do-it-yourself home security products.

He recently secured an \$11 million settlement for investors in *In re CPI Card Group Inc., Securities Litigation*, a class action brought by an individual retail investor against a debit and credit card manufacturer that allegedly misrepresented demand for its products prior to the company's IPO.

Alfred is also actively involved in *Murphy v. Precision Castparts Corp.*, a case against a major aerospace parts manufacturer that allegedly misled investors about its market share and demand for its products, and *Boston Retirement System v. Alexion Pharmaceuticals Inc.*, a class action arising from the company's conduct in connection with sales of Soliris – a drug that costs between \$500,000 and \$700,000 a year.

Prior to joining Labaton Sucharow, Alfred was an associate at Fried, Frank, Harris, Shriver & Jacobson LLP, where he advised and represented financial institutions, investors, officers, and directors in a broad range of complex disputes and litigations including cases involving violations of federal securities law and business torts.

Alfred earned his J.D. from Cornell Law School, where he was a member of the *Cornell Law Review*, as well as the Moot Court Board. He also served as a judicial extern under the Honorable Robert C. Mulvey. He received his B.A., *summa cum laude*, from Montclair State University.

Alfred is an active member of the American Bar Association, Federal Bar Council, New York State Bar Association, New York County Bar Association, and New York City Bar Association.

Alfred is admitted to practice in the State of New York as well as before the United States Court of Appeals for the Second Circuit, and the United States District Courts for the Southern and Eastern Districts of New York.

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**Mark Goldman, Of Counsel**  
[mgoldman@labaton.com](mailto:mgoldman@labaton.com)

Mark S. Goldman has 30 years of experience in commercial litigation, primarily litigating class actions involving securities fraud, consumer fraud, and violations of federal and state antitrust laws.

Mr. Goldman has extensive experience in data protection and consumer litigation, including representing numerous victims of identity theft seeking to hold accountable companies that failed to protect the safety of private data maintained on their networks, including *In re Community Health Systems, Inc. Customer Data Security Breach Litigation*, No. 15-cv-222 (N.D. Ala.), *In re Anthem, Inc. Data Breach Litigation*, No. 15-md-02617 (N.D. Cal.), *In re Intuit Data Litigation*, No. 15-cv-1778 (N.D. Cal.), and *In re Medical Informatics Engineering, Inc. Customer Data Security Breach Litigation*, MDL No. 2667 (N.D. Ind.).

In the antitrust field, Mr. Goldman litigated several cases that led to recoveries exceeding \$1 billion each, for the benefit of the consumers and small businesses he represented, including *In re Air Cargo Antitrust Litigation*, No. 06-md-1775 (E.D.N.Y.), *In re Vitamins Antitrust Litigation*, MDL No. 1285 (D.D.C.), *In re NASDAQ Antitrust Litigation*, No. 94-cv-3996 (S.D.N.Y.), and *In re Brand Name Prescription Drugs Antitrust Litigation*, No. 94-c-897 (N.D. Ill.).

In the area of securities litigation, Mr. Goldman played a prominent role in class actions brought under the antifraud provisions of the Securities Exchange Act of 1934, including *In re Nuskin Enterprises, Inc. Securities Litigation*, No. 14-cv-0033 (D. Utah), *In re Spectrum Pharmaceuticals, Inc. Securities Litigation*, No. 13-cv-0433 (D. Nev.), and *In re OmniVision Technologies, Inc. Securities Litigation*, No. 11-cv-05235 (N.D. Cal.).

Mr. Goldman also prosecuted a number of insider trading cases brought against company insiders who, in violation of Section 16(b) of the Securities Exchange Act of 1934, engaged in short swing trading. Mr. Goldman has also served as co-lead counsel in a number of class actions brought against life insurance companies, challenging the manner in which premiums are charged during the first year of coverage.

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Mr. Goldman is a member of the Philadelphia Bar Association. Mr. Goldman has been awarded an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

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**Lara Goldstone, Of Counsel**  
[lgoldstone@labaton.com](mailto:lgoldstone@labaton.com)

Lara Goldstone advises pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets. Before joining Labaton Sucharow, Lara worked as a legal intern in the Larimer County District Attorney's Office and the Jefferson County District Attorney's Office.

Prior to her legal career, Lara worked at Industrial Labs where she worked closely with Federal Drug Administration standards and regulations. In addition, she was a teacher in Irvine, California.

Lara received a J.D. from University of Denver Sturm College of Law, where she was a judge of The Providence Foundation of Law & Leadership Mock Trial and a competitor of the Daniel S. Hoffman Trial Advocacy Competition. She earned a B.A. from The George Washington University where she was a recipient of a Presidential Scholarship for academic excellence.

Lara is admitted to practice in the State of Colorado.

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**Francis P. McConville, Of Counsel**  
[fmccconville@labaton.com](mailto:fmccconville@labaton.com)

Francis P. McConville focuses on prosecuting complex securities fraud cases on behalf of institutional investor clients. As a lead member of the Firm's Case Development Group, he focuses on the identification, investigation, and development of potential actions to recover investment losses resulting from violations of the federal securities laws and various actions to vindicate shareholder rights in response to corporate and fiduciary misconduct.

Most recently, Francis has played a key role in filing several matters on behalf of the Firm including, *In re PG&E Corporation Securities Litigation*; *In re SCANA Corporation Securities Litigation*; *Steamfitters Local 449 Pension Plan v. Skechers U.S.A., Inc.*; and *In re Nielsen Holdings PLC Securities Litigation*.

Prior to joining Labaton Sucharow, Francis was a litigation associate at a national law firm primarily focused on securities and consumer class action litigation. Francis has represented institutional and individual clients in federal and state court across the country in class action securities litigation and shareholder disputes, along with a variety of commercial litigation matters. He assisted in the prosecution of several matters, including *Kiken v. Lumber Liquidators Holdings, Inc.* (\$42 million recovery); *Hayes v. MagnaChip Semiconductor Corp.* (\$23.5 million recovery); and *In re Galena Biopharma, Inc. Securities Litigation* (\$20 million recovery).

Francis received his J.D. from New York Law School, *magna cum laude*, where he served as Associate Managing Editor of the *New York Law School Law Review*, worked in the Urban Law Clinic, named a John Marshall Harlan Scholar, and received a Public Service Certificate. He earned his B.A. from the University of Notre Dame.

He is admitted to practice in the State of New York as well as in the United States District Courts for the Southern and Eastern Districts of New York, the District of Colorado, and the Eastern District of Michigan.

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**James McGovern, Of Counsel**  
[jmcgovern@labaton.com](mailto:jmcgovern@labaton.com)

James McGovern advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. His work focuses primarily on securities litigation and

corporate governance, representing Taft-Hartley, public pension funds, and other institutional investors across the country in domestic securities actions. He also advises clients as to their potential claims tied to securities-related actions in foreign jurisdictions.

James has worked on a number of large securities class action matters, including *In re Worldcom, Inc. Securities Litigation*, the second-largest securities class action settlement since the passage of the PSLRA (\$6.1 billion recovery); *In re Parmalat Securities Litigation* (\$90 million recovery); *In re American Home Mortgage Securities Litigation* (amount of the opt-out client's recovery is confidential); *In re The Bancorp Inc. Securities Litigation* (\$17.5 million recovery); *In re Pozen Securities Litigation* (\$11.2 million recovery); *In re Cabletron Systems, Inc. Securities Litigation* (\$10.5 million settlement); and *In re UICI Securities Litigation* (\$6.5 million recovery).

In the corporate governance arena, James helped bring claims against Abbott Laboratories' directors, on account of their mismanagement and breach of fiduciary duties for allowing the company to engage in a 10-year off-label marketing scheme. Upon settlement of this action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Following the unprecedented takeover of Fannie Mae and Freddie Mac by the federal government in 2008, James was retained by a group of individual and institutional investors to seek recovery of the massive losses they had incurred when the value of their shares in these companies was essentially destroyed. He brought and continues to litigate a complex takings class action against the federal government for depriving Fannie Mae and Freddie Mac shareholders of their property interests in violation of the Fifth Amendment of the U.S. Constitution, and causing damages in the tens of billions of dollars.

James also has addressed members of several public pension associations, including the Texas Association of Public Employee Retirement Systems and the Michigan Association of Public Employee Retirement Systems, where he discussed how institutional investors could guard their assets against the risks of corporate fraud and poor corporate governance.

Prior to focusing his practice on plaintiffs' securities litigation, James was an attorney at Latham & Watkins where he worked on complex litigation and FIFRA arbitrations, as well as matters relating to corporate bankruptcy and project finance. At that time, he co-authored two articles on issues related to bankruptcy filings: *Special Issues In Partnership and Limited Liability Company Bankruptcies* and *When Things Go Bad: The Ramifications of a Bankruptcy Filing*.

James earned his J.D., *magna cum laude*, from Georgetown University Law Center. He received his B.A. and M.B.A. from American University, where he was awarded a Presidential Scholarship and graduated with high honors.

He is admitted to practice in the State of Vermont and the District of Columbia.

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**Domenico Minerva, Of Counsel**  
[dminerva@labaton.com](mailto:dminerva@labaton.com)

Domenico "Nico" Minerva advises leading pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets. A former financial advisor, his work focuses on securities, antitrust, and consumer class action litigation and shareholder derivative litigation, representing Taft-Hartley and public pension funds across the country.

Nico's extensive experience litigating securities cases includes those against global securities systems company Tyco and co-defendant PricewaterhouseCoopers (*In re Tyco International Ltd., Securities Litigation*), which resulted in a \$3.2 billion settlement, achieving the largest single defendant settlement in post-PSLRA history. He also has counseled companies and institutional investors on corporate governance reform.

Nico has also done substantial work in antitrust class actions in pay-for-delay or "product hopping" cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, including *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Limited Co.*, *In re Lidoderm Antitrust Litigation*, *In re Solodyn (MinocyclineHydrochloride) Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Aggrenox Antitrust Litigation*, and *Sergeants Benevolent Association Health & Welfare Fund et al. v. Actavis PLC et al.* In an anticompetitive antitrust matter, *The Infirmary LLC vs. National Football League Inc et al.*, Nico played a part in challenging an exclusivity agreement between the NFL and DirectTV over the service's "NFL Sunday Ticket" package, and he litigated on behalf of indirect purchasers of potatoes in a case alleging that growers conspired to control and suppress the nation's potato supply *In re Fresh and Process Potatoes Antitrust Litigation*.

On behalf of consumers, Nico represented a plaintiff in *In Re ConAgra Foods Inc.* over its claims that Wesson-brand vegetable oils are 100 percent natural.

An accomplished speaker, Nico has given numerous presentations to investors on a variety of topics of interest regarding corporate fraud, wrongdoing, and waste. He is also an active member of the National Association of Public Pension Plan Attorneys (NAPPA).

Nico obtained his J.D. from Tulane University Law School, where he also completed a two-year externship with the Honorable Kurt D. Engelhardt of the United States District Court for the Eastern District of Louisiana. He earned his B.S. in Business Administration from the University of Florida.

Nico is admitted to practice in the States of New York and Delaware, as well as the United States District Courts for the Eastern and Southern Districts of New York.

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**Corban S. Rhodes, Of Counsel**  
[crhodes@labaton.com](mailto:crhodes@labaton.com)

Corban S. Rhodes focuses on prosecuting complex securities fraud cases on behalf of institutional investors, as well as consumer data privacy litigation.

Currently, Corban represents shareholders litigating fraud-based claims against TerraVia (formerly Solazyme) and Alexion Pharmaceuticals. He has successfully litigated dozens of cases against most of the largest Wall Street banks in connection with their underwriting and securitization of mortgage-backed securities leading up to the financial crisis.

Recognized as a "Rising Star" in Consumer Protection Law by *Law360*, Corban is also pursuing a number of matters involving consumer data privacy, including cases of intentional misuse or misappropriation of consumer data, and cases of negligence or other malfeasance leading to data breaches, including *In re Facebook Biometric Information Privacy Litigation* and *Schwartz v. Yahoo Inc.*

Before joining Labaton Sucharow, Corban was an associate at Sidley Austin LLP where he practiced complex commercial litigation and securities regulation and served as the lead associate on behalf of large financial institutions in several investigations by regulatory and enforcement agencies related to the financial crisis.

In 2008, Corban received a Thurgood Marshall Award for his pro bono representation on a habeas petition of a capital punishment sentence. He also later co-authored "Parmalat Judge: Fraud by Former Executives of Bankrupt Company Bars Trustee's Claims Against Auditors," published by the American Bar Association.

Corban received a J.D., *cum laude*, from Fordham University School of Law, where he received the 2007 Lawrence J. McKay Advocacy Award for excellence in oral advocacy and was a board member of the Fordham Moot Court team. He earned his B.A., *magna cum laude*, in History from Boston College.

Corban serves on the Securities Litigation Committee of the New York City Bar Association. Additionally, *Super Lawyers*, a Thomson Reuters publication, recognized Corban as a New York Metro "Rising Star," noting his experience and contribution to the securities litigation field.

Corban is admitted to practice in the State of New York, as well as before the United States Court of Appeals for the Second Circuit and the United States District Courts for Southern District of New York and the Central District of California.

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**Elizabeth Rosenberg, Of Counsel**  
[erosenberg@labaton.com](mailto:erosenberg@labaton.com)

Elizabeth Rosenberg focuses on prosecuting complex securities fraud cases on behalf of institutional investors, with a focus on obtaining court approval of class action settlements, notice procedures, and payment of attorneys' fees.

Prior to joining Labaton Sucharow, Elizabeth was an associate at Whatley Drake & Kallas LLP, where she litigated securities and consumer fraud class actions. Elizabeth began her career as an associate at Milberg LLP where she practiced securities litigation and was also involved in the pro bono representation of individuals seeking to obtain relief from the World Trade Center Victims' Compensation Fund.

Elizabeth received her J.D. from Brooklyn Law School. She obtained her B.A. in Psychology from the University of Michigan.

Elizabeth is admitted to practice in the State of New York and the District Courts for the Southern and Eastern Districts of New York.

# **Exhibit 5**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF EUGENE A. SPECTOR ON BEHALF OF  
SPECTOR ROSEMAN & KODROFF, P.C. IN SUPPORT OF APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, EUGENE A. SPECTOR, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a shareholder of the law firm of Spector, Roseman & Kodroff, P.C. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action (the "Action") from inception through October 15, 2019 (the "Time Period").

2. My firm, which served as the original Court-appointed Lead Counsel in the Action, researched and prepared the first amended Complaint, conducted a comprehensive investigation into the Class' claims including interviewing confidential witnesses, and briefed the opposition to Defendants' motion to dismiss the amended complaint.

3. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. I reviewed these records (and backup documentation where necessary) to confirm both

the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. My review also confirmed that the firm's guidelines and policies regarding expenses were followed. As a result of this review, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

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

5. The total number of hours spent on this Action reported by my firm during the Time Period is 1428.75. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is \$ 888,647.50.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by Courts in other securities class action litigations. My firm's lodestar figures are based upon the firm's hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$ 27,049.99 in expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 31st day of October, 2019.



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EUGENE A. SPECTOR

**Exhibit A**

**EXHIBIT A**

Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc. et al.

Spector Roseman &amp; Kodroff, P.C.

Reported Hours and Historical Lodestar

Inception through October 15, 2019

NAME	TOTAL HOURS	HISTORICAL HOURLY RATE	LODESTAR
A. Abramowitz (P)	20.25	\$750	\$15,187.50
A. Dodemaide (A)	345.75	\$450	\$155,587.50
D. Felderman (P)	16.0	\$695	\$11,120.00
D. Mirarchi (P)	656.0	\$585	\$383,760.00
E. Spector (P)	.20	\$925	\$185.00
A. Iozzo (PL)	1.0	\$175	\$175.00
D. Shay (PL)	.5	\$150	\$75.00
C. Briglia (PL)	24.25	\$250	\$6,062.50
G. DeMarshall (PL)	15.5	\$260	\$4,030.00
R. Roseman (P)	317.55	\$900	\$285,795.00
M. Willis (P)	31.75	\$840	\$26,670.00

TOTAL	1428.75		\$888,647.50
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- (P) Partner  
(OC) Of Counsel  
(A) Associate  
(LC) Law Clerk  
(PL) Paralegal

**Exhibit B**

**EXHIBIT B**

Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc. et al.

**Spector Roseman & Kodroff, P.C.**

Reported Expenses Incurred

Inception through October 15, 2019

**EXPENSE REPORT**

<b>CATEGORY</b>	<b>AMOUNT INCURRED</b>
Duplicating	\$1,754.00
Postage/Overnight Delivery Services	\$317.44
Long Distance Telephone/Fax/Conference Calls	\$84.00
Court/Witness/Service Fees	\$200.00
Court Transcripts	
Computer Research Fees	\$9,871.30
Document Management/Litigation Support	
Expert/Consultant Fees	\$14,383.25
Mediation Fees	
Work-Related Transportation/Meals/ Lodging	\$440.00
<b>TOTAL:</b>	<b>\$27,049.99</b>

**Exhibit C**

## SPECTOR ROSEMAN & KODROFF

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ATTORNEYS AT LAW  
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### FIRM BIOGRAPHY

Spector Roseman & Kodroff, P.C. is a highly successful law firm with a nationwide practice that focuses on class actions and complex litigation, including securities, antitrust, consumer protection, and commercial claims. The firm is active in major litigation in state and federal courts throughout the country and internationally. The firm's reputation for excellence has been recognized by numerous courts which have appointed the firm as lead counsel in prominent class actions. As a result of the firm's efforts, defrauded consumers and shareholders have recovered billions of dollars in damages and implemented important corporate governance reforms. The firm is rated "AV" by Martindale-Hubbell, its highest rating for competence and integrity.

Judges throughout the country have recognized the Firm's contributions in class action cases:

- "Lead class counsel - Jeffrey Corrigan and the other lawyers from Spector Roseman & Kodroff, P.C. - performed brilliantly in this exceptionally difficult case." *In re OSB Antitrust Litigation*, Master File No. 06-CV-00826 (PSD) (E.D. Pa. Dec. 9, 2008)
- "[Class counsel] did a wonderful job here for the class and were in all respects totally professional and totally prepared. I wish I had counsel this good in front of me in every case." *In re Parmalat Securities Litigation*, No. 04 Civ. 0030 (LAK) (S.D.N.Y.) (approval hearing March 2, 2009)
- "I think perhaps the most important for the class is the recovery, and I think the recovery has been significant and very favorable to the class given my understanding of the risks in the litigation. And so perhaps that's always the starting point for judging and assessing the quality of representation. The class I think was well represented, in that it got a very significant recovery in the circumstances". *In re SCOR Holding (Switzerland) AG Litigation*, No. 04 Civ. 07897 (MBM) (S.D.N.Y.) (formerly known as Converium Holdings)
- "[O]utstanding work [of counsel] ... was done under awful time constraints" and the "efforts here were exemplary...under lousy time constraints." *In re Atheros Communications, Inc. Shareholder Litigation*, C.A. No. 6124-VCN (Del. Ch.)

- “Plaintiffs’ counsel have been excellent in this complex, hard-fought litigation and innovative in its notice program and efforts to find class members.” *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, C.A. 05-11148 (D. Mass. Aug. 3, 2009)
- “Here, Plaintiffs’ counsel are highly experienced in complex antitrust litigation, as evidenced by the attorney biographies filed with the Court. . . . They have obtained a significant settlement for the Class despite the complexity and difficulties of this case.” *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, C.A. No. 03-4578 (E.D. Pa. May 19, 2005)
- “Counsel are among the most experienced lawyers the national bar has to offer in the prosecution and defense of significant class actions.” *In re Lupron Marketing and Sales Practices Litigation*, 345 F. Supp. 2d 135, 137-38 (D. Mass. 2004)
- “[T]he class attorneys in this case have worked with enthusiasm and have been creative in their attempt to compensate as many members of the consumer class as possible. . . . This Court has consistently noted the exceptional efforts of class counsel.” *In re Relafen Antitrust Litigation*, 231 F.R.D. 52, 80 (D. Mass. 2005)

#### **Securities/Corporate Governance Litigation**

SRK’s securities practice group has actively managed important class actions involving securities fraud, winning not only significant damages but also important corporate governance reforms. Some of the Firm’s most notable cases include:

- *In re Abbott Labs-Depakote Shareholder Derivative Litigation*, Case No.: 1:11-cv-08114 (VMK) (N.D.Ill.). As the lead counsel, SRK negotiated cutting-edge corporate reforms including new legal and regulatory compliance responsibilities at both the board and management levels, a clawback policy which goes well beyond the requirements under the Dodd-Frank Act of 2010, a change of the “tone at the top” to foster a culture of legal and regulatory compliance, “flow of information” protocols, and other significant reforms designed to address oversight deficiencies that resulted in Abbott having to pay \$1.6 billion in criminal and civil penalties due to the illegal marketing and sale of its Depakote drug (the second largest penalties ever paid for off-label marketing at that time).
- *In re Lehman Brothers Holdings, Inc. Equity/Debt Securities Litigation*, No. 08-cv-5523 (S.D.N.Y.). SRK was one of the firms prosecuting the U.S. action against Lehman Brothers arising from a massive fraud pertaining to the credit market meltdown. In this securities class action, SRK represents one of the lead plaintiffs, the Northern Ireland Local Government Officers’ Superannuation Committee (“NILGOSC”). The case settled for over \$600 million.

- *In re Parmalat Securities Litigation*, No. 04 Civ. 0030 (LAK) (S.D.N.Y.). SRK was one of the co-lead counsel for the lead plaintiffs, who are European institutional bond holders, in this widely-known case, often called the “Enron of Europe.” This is a massive worldwide securities fraud action involving the collapse of an international dairy conglomerate, in which major financial institutions and accounting firms created schemes to materially overstate Parmalat’s revenue, income, and assets, and understate its considerable and expanding debt. The case has been heavily litigated for five years, resulting in settlements of \$98 million.

In addition, settlements with certain accounting firms provided that these defendants confirm their endorsement of specific corporate governance principles of behavior designed to advance investor protection and to minimize the likelihood of future deceptive transactions. This is the first time in a Section 10(b) case that shareholders were able to negotiate corporate governance measures from a defendant other than the issuer.

- *In re SCOR Holding (Switzerland) AG Litigation*, No. 04 Civ. 07897 (MBM) (S.D.N.Y.) (formerly known as *Converium Holdings*). In the *Converium* U.S. class action, SRK was one of the co-lead counsel representing a European institutional investor which served as one of the lead plaintiffs in that action. The Firm negotiated a \$145 million recovery for a global class of investors, which involved settling the action on two continents – *the first trans-Atlantic resolution to a securities class action*. Part of the settlement, on behalf of foreign investors, was approved in the Netherlands under the then newly enacted Act on Collective Statement of Mass Claims. What is particularly noteworthy about the *Converium* litigation is that the Amsterdam Court of Appeal, in a landmark decision, ruled that it had jurisdiction to declare the two international settlements of that action binding. What makes the *Converium* decision groundbreaking is that, in addition to showing its willingness to provide an effective forum for European and other investors to settle their claims on a pan-European or even global basis, the Amsterdam Court of Appeal substantially broadened its jurisdictional reach – to the benefit of investors in this case and in future actions. The Dutch Court secured jurisdiction even though the claims were not brought under Dutch law, the alleged wrongdoing took place outside the Netherlands, and none of the potentially liable parties and only a limited number of the potential claimants are domiciled in the Netherlands. The decision means that European Union Member States, as well as Switzerland, Iceland and Norway, must recognize it, under the Brussels I Regulation and the Lugano Convention. Without the approval of the settlements by the Amsterdam Court of Appeal, common stock holders of *Converium*, who were excluded from the U.S. action, would not have been able to recover a portion of their losses.
- *Utah Retirement Systems v. Strauss*, No. 09-cv-3221 (E.D.N.Y.). SRK served as counsel in an individual (opt-out) action brought on behalf of the Utah Retirement Systems relating to the scandal at American Home Mortgage – one of the

companies involved in the subprime market meltdown. This action alleged violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934, as well as various state laws. Although the monetary terms of the settlement are confidential, SRK was able to negotiate an amount that was nearly four times more than what the Utah Retirement Systems would have received had it participated in the class action.

- *In re Laidlaw, Inc. Bondholders Securities Litigation*, No. 3-00-2518-17 (D.S.C.). SRK was a member of the Executive Committee in this complex accounting case which resulted in a settlement of \$42,875,000.
- *In re Abbott Laboratories, Inc. Derivative Shareholder Litigation*, C.A. No. 99-C 07246 (N.D. Ill.) (Abbott I). SRK was co-lead counsel for plaintiffs. The case was dismissed twice but reversed on appeal, and settled in 2004 for substantial corporate governance reforms funded by \$27 million from directors. The ABA's *Securities Litigation Journal* called the Seventh Circuit's opinion the second most important decision in 2003.
- *Felzen v. Andreas (Archer Daniels Midland Co. Derivative Litigation)*, C.A. No. 95-2279 (C.D. Ill.). As co-lead counsel, SRK negotiated broad corporate governance changes in the company's board structure including strengthening the independence of the board of directors, creating corporate governance and regulatory oversight committees, requiring that the audit committee be composed of a majority of outside directors, and establishing a \$8 million fund for educational seminars for directors and the retention of independent outside counsel for the oversight committees.

The Firm is in the forefront of advising and representing foreign institutional investors in U.S. class actions and in group actions in Europe, Australia and Japan. During the past 14 years, SRK has been working with and representing various European investors and conducting educational seminars on securities class actions, as well as speaking at international shareholder and corporate governance conferences. The Firm is currently counsel to numerous large European entities.

### **Pharmaceutical Marketing Litigation**

Since 2001, the Firm has been at the vanguard of identifying and pursuing healthcare reforms. It has developed an extensive practice in representing consumers and third-party payors in class actions against pharmaceutical companies over the unlawfully high pricing of prescription drugs. These cases have proceeded in state and federal courts on a variety of legal theories, including state and federal antitrust law, state consumer protection statutes, common law claims of unjust enrichment, and the federal RICO statute.

As part of their work in this area, the Firm's attorneys have formally and informally

consulted with the Attorneys General of a number of states who have been actively involved in drug and health care litigation. The Attorney General of Connecticut chose SRK in a competitive bidding process to help lead the state's pharmaceutical litigation involving use of the Average Wholesale Price. The Firm's clients also include large employee benefit plans as well as individual consumers.

Some of the Firm's important pharmaceutical cases include the following:

- SRK, as co-lead counsel, devised the legal theory for claims against most major pharmaceutical companies for using the Average Wholesale Price to inflate the price paid by consumers and third-party payors for prescription and doctor-administered drugs. The larger AWP case, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.), was tried in part to the court in November-December 2006. On June 21, 2007, the judge issued a 183-page opinion largely finding for plaintiffs, and requesting additional evidence on damages. Moreover, plaintiffs have reached settlements in amounts exceeding \$230 million. SRK was co-lead counsel for the class.
- *In re Lupron Marketing and Sales Practices Litigation*, MDL No. 1430 (D. Mass.). SRK, as co-lead counsel, negotiated a settlement of \$150 million for purchasers of the cancer drug Lupron.
- *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, C.A. 05-11148 (D. Mass.) and *District 37 Health and Securities Fund v. Medi-Span*, C.A. No. 07-10988 (D. Mass.). SRK was co-lead counsel for a group of third-party payors who pay for prescription drugs at prices based on the AWP. The complaints allege that First DataBank and Medispan, two of the largest publishers of AWP, fraudulently published inflated AWP prices for thousands of drugs. The claims against McKesson settled for \$350 million. In addition, the settlement requires First DataBank and Medispan to lower the AWP price they publish for hundreds of drugs (by reducing the formulaic ratio they use to calculate AWP); and to eventually cease publishing AWP prices. Plaintiffs' experts conservatively estimate that the savings from this settlement will be in the hundreds of millions of dollars.
- *Stop & Shop Supermarket Co. v. Smithkline Beecham Corp.* C.A. 03-4578 (E.D. Pa.). SRK was co-lead counsel on behalf of direct purchasers of the drug Paxil. The complaint alleged that the drug company misled the U.S. Patent and Trademark Office in obtaining the patents protecting Paxil and then used the patents to prevent lower-cost, generic versions of the drug from coming to market. A settlement of \$100 million was approved by the court.
- *In re TriCor Indirect Purchaser Antitrust Litigation*, C.A. No. 05-360 (D. Del.). SRK was co-lead counsel for indirect purchasers in prosecuting state antitrust and

consumer protection claims against Abbott Laboratories and Labatoires Fournier for suppressing competition from generic versions of TriCor. The indirect purchaser case settled for \$65.7 million to the class plus a substantial settlement for opt-out insurers.

- *In re Relafen Antitrust Litigation*, C.A. No. 01-12239 (D. Mass.). SRK was co-lead counsel for indirect purchasers in prosecuting state antitrust and consumer protection claims against GlaxoSmithKline for suppressing competition from generic versions of its drug Relafen by fraudulently obtaining a patent on the compound. The indirect purchaser settlement for \$75 million was approved by the court (the overall settlement for all plaintiffs exceeded \$400 million).
- *Vista Healthplan, Inc. v. Cephalon, Inc.*, CA No. 06-1833 (E.D. Pa.) and *In re Effexor XR Antitrust Litigation*, CA No. 11-5479 (D.N.J.). SRK is serving as co-lead counsel in on-going litigation over pay-for-delay settlements involving the drugs Provigil and Effexor XR. The firm represented end -payors (consumers and healthplans) who were denied the chance to buy cheaper generic alternatives because of manipulation of the patent challenge and generic drug approval system by the brand name companies and some generic manufacturers.
- *In re Niaspan Antitrust Litigation* MDL No. 2460 (E.D. Pa) and *In re Suboxone Antitrust Litigation* MDL No. 2445(E.D. Pa). SRK was appointed to serve as Liaison Counsel for a purported class of end payors for the drugs Niaspan and Suboxone. In each case, the complaint alleges that the end payors were overcharged by defendants' illegal efforts to keep generic versions off the market which caused the class to pay supra competitive monopolistic prices.

### **Antitrust Litigation**

SRK's antitrust practice group regularly oversees important antitrust cases. Among the Firm's most significant cases are:

- *In re Automotive Parts Antitrust Litigation, MDL 12-2311 (E.D. Mich.)*. SRK has been appointed Interim Co-Lead Counsel for Direct Purchaser Plaintiffs for all product cases filed (currently 16 different cases with more to follow). These massive price-fixing class actions are being brought on behalf of direct purchasers who were overcharged for various kinds of automotive parts, including wire harness products, heater control panels, instrument panel clusters, fuel senders, occupant safety restraint system products, bearings, air conditioning systems, starters, windshield wiper systems, windshield washer systems, spark plugs, oxygen sensors, fuel injection systems, alternators, ignition coils, and power window motors. All cases are pending before Judge Marianne Battani in the United States District Court for the Eastern District of Michigan in Detroit. SRK and its Interim Co-Lead Counsel on behalf of the Direct Purchaser Plaintiffs have defeated

motions to dismiss filed to date in all product cases. Direct Purchaser Plaintiffs have reached settlements with four defendants totaling approximately \$53 million.

- *In re Domestic Drywall Antitrust Litigation*, MDL 12-2437 (E.D. Pa.). SRK has been appointed as Co-Lead Counsel for plaintiffs in this nation-wide price fixing class action.
- *In re Blood Reagents Antitrust Litigation*, MDL 09-2081 (E.D. Pa.). SRK was appointed sole Lead Counsel in this nation-wide, price-fixing class action. In January 2012, Spector Roseman negotiated a \$22 million settlement with one defendant, and Judge DuBois certified plaintiffs' class in August 2012 (which was upheld on appeal). The case is set for trial in early 2017.
- *McDonough, et al., v. Toys R Us, et al.* (E.D. Pa.) (Brody, J.). SRK is Co-Lead Counsel for six sub-classes of Babies "R" Us' customers, a rare case involving resale price maintenance in which a purchaser class was certified. A settlement of \$35.5 million was achieved on behalf of the sub-classes.
- *In re Linerboard Antitrust Litigation*, MDL No. 1261 (E.D. Pa.). SRK was appointed co-lead counsel for plaintiffs in this price-fixing antitrust action which settled for total of \$202 million, the largest antitrust settlement ever in Third Circuit.
- *In re OSB Antitrust Litigation*, Master File No. 06-CV-00826 (PSD) (E.D. Pa.). SRK was lead counsel for a nationwide class of direct purchasers, which settled for \$120 million.
- *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (W.D. Pa.). SRK was co-lead counsel for plaintiffs in this price fixing/market allocation antitrust action which settled for \$120 million.
- *In re DRAM Antitrust Litigation*, MDL No. 1486 (N.D. Cal.). SRK was a member of the executive committee in this action against all major manufacturers of "dynamic random access memory" ("DRAM"), alleging that defendants conspired to fix the prices they charged for DRAM in the United States and throughout the world. The case settled with all defendants for more than \$300 million.
- *In re Vitamins Antitrust Litigation*, Misc. No. 99-0197 (D. D.C.). SRK was a member of the executive committee and co-chair of the discovery committee for plaintiffs in this price-fixing antitrust action which settled for \$300 million.

## Privacy Litigation

SRK is also litigation numerous cases relating to privacy.

- *In re Google Inc. Street View Electronic Communications Litigation* (N.D. Cal.). SRK was appointed Co-Lead Counsel for plaintiffs in this action. Google used its "Street View" vehicles to access wireless internet networks located in the United States and more than thirty countries around the world. Google's Street View vehicles traveled through cities and towns and collected data sent and received over the wireless networks they encountered, including all or part of e-mails, passwords, videos, audio files, and documents, as well as network names and router information. This data was captured and stored without the knowledge or authorization of class members. Plaintiffs allege that Google's conduct violated Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Electronic Communications Privacy Act of 1986, 18 U.S.C. § 2511, *et seq.*, also known as the Wiretap Act. The District Court denied Google's motion to dismiss and Court of Appeals for the Ninth Circuit affirmed the denial of Google's motion to dismiss. The panel held that Google's data collection could be a violation of the Wiretap Act because Wi-Fi communications are "electronic communications" that are not "readily accessible to the general public." The Court rejected Google's argument that Wi-Fi communications are "radio communication" and its contention that this permitted Google to freely intercept them so long as they are not encrypted. Google is seeking Supreme Court review.
- *In Re: Heartland Payment Systems Inc. Customer Data Security Breach* MDL No. 2046 (S.D. TX). SRK represents banks in a class action after Heartland disclosed on January 20, 2009 that it had been the victim of a security breach within its processing system in 2008. The data stolen included the digital information encoded onto the magnetic stripe built into the backs of credit and debit cards; with that data, thieves can fashion counterfeit credit cards by imprinting the same stolen information onto fabricated cards.
- *In re: Target Corporation Customer Data Breach* MDL No. 14-2522 (D. Minn). SRK represents banks in a class-action lawsuit against Target claiming the retail giant ignored warnings from as early as 2007 that the company's point-of-sale (POS) system was vulnerable to attack, a move that put more than 40 million credit and debit card records at risk and compromised the personal information of up to an additional 70 million customers after Target's systems were penetrated by attackers from on or about November 27, 2013 through December 15, 2013.

## PARTNERS

**EUGENE A. SPECTOR**, founding partner, has extensive experience in complex litigation, and has represented both plaintiffs and defendants in antitrust and securities. Mr. Spector has handled many high profile cases, including such antitrust class actions as *In re Linerboard Antitrust Litigation*, MDL No. 1261 (E.D. Pa.), in which he was co-lead counsel and which settled for more than \$200 million, the largest antitrust case settlement ever in the Eastern District of Pennsylvania, where Judge Dubois stated: “The Court has repeatedly stated that the lawyering in this case at every stage was superb ....” 2004 WL 1221350, \*6 (E.D. Pa. June 2, 2004). Mr. Spector was also co-lead counsel in *In re Relafen Antitrust Litigation*, No. 01-12239 (D. Mass.), in which a settlement of \$75 million was obtained for the class, which Judge Young described as “the result of a great deal of very fine lawyering.” Mr. Spector has been involved in securities class action litigation including *Rosenthal v. Dean Witter*, which resulted in a landmark decision by the Colorado Supreme Court that recognized, for the first time, that securities fraud could be proved without reliance being alleged. This precedent-setting case was important because under state securities law the reliance element sometimes proved difficult, especially when large numbers of people were involved in a class action suit.

Mr. Spector is currently serving as sole lead counsel in *In Re Blood Reagents Antitrust Litigation*, MDL No. 02081 (E.D. Pa.); as co-lead counsel in such antitrust cases as *In re Domestic Drywall Antitrust Litigation*, MDL No. 2437 (E.D. Pa.); *In Re Automotive Parts Antitrust Litigation*, MDL No. 2311 (E.D. Mich.); *McDonough, et al. v. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, 2:06-cv-00242-AB (E.D. Pa.); *Elliott, et al. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, 2:09-cv-06151-AB (E.D. Pa.); as a member of the direct purchaser Plaintiff's Executive Committee in *In Re Fresh and Process Potatoes Antitrust Litigation*, MDL No. 2186 (D.Id.), as a member of the Steering Committee for all Plaintiffs in *In re Online DVD Rental Antitrust Litigation*, MDL No. 2029 (N.D. Cal.), and as a member of the trial team in *In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL No. 1869 (D.D.C.).

Mr. Spector has served as lead or co-lead counsel for plaintiffs in numerous cases with successful results, such as:

- *In re Linerboard Antitrust Litigation*, MDL No. 1261 (E.D. Pa.) (settled for \$202 million, the largest antitrust settlement ever in the Third Circuit)
- *In re Relafen Antitrust Litigation*, C.A. No. 01-12239 (D. Mass.) (a drug marketing case that settled for \$75 million for indirect purchasers)
- *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (W.D. Pa.) (a price-fixing/market allocation antitrust action that settled for \$120 million)
- *In re Mercedes Benz Antitrust Litigation, No. 99-4311* (D.N.J.) (a price-fixing class action against Mercedes-Benz U.S.A. and its New York tri-state area dealers in which a \$17.5 million settlement was obtained for the class)

- *Cohen v. MacAndrews & Forbes Group, Inc.*, No. 7390 (Del. Ch.) (a class action on behalf of shareholders challenging a going-private transaction under Delaware corporate law in which a benefit in excess of \$11 million was obtained for the class)

Mr. Spector has also served as lead counsel or co-lead counsel in a number of other securities fraud class action cases and shareholder derivative actions: *Shanno v. Magee Industrial Enterprises, Inc.*, No. 79-2038 (E.D. Pa.) (trial counsel for defendants); *In re U.S. Healthcare Securities Litigation*, No. 88-559 (E.D. Pa.) (trial counsel); *PNB Mortgage and Realty Trust by Richardson v. Philadelphia National Bank*, No. 82-5023 (E.D. Pa.); *Swanick v. Felton*, No. 91-1350 (E.D. Pa.); *In re Surgical Laser Technologies, Inc. Securities Litigation*, No. 91-CV-2478 (E.D. Pa.); *Tolan v. Adler*, No. C-90-20710-WAI (PVT) (N.D. Cal.); *Rosenthal v. Dean Witter, Reynolds, Inc.*, No. 91-F-591 (D. Colo.); *Soenen v. American Dental Laser, Inc.*, No. 92 CV 71917 DT (E.D. Mich.); *In re Sunrise Technologies Securities Litigation*, Master File No. C-92-0948-THE (N.D. Cal.); *The Berwyn Fund v. Kline*, No. 4671-S-1991 (Dauphin Cty. C.C.P.); *In re Pacific Enterprises Securities Litigation*, Master File No. CV-92-0841-JSL (C.D. Cal.); *In re New America High Income Fund Securities Litigation*, Master File No. 90-10782-MA (D. Mass.); and *In re RasterOps Corp. Securities Litigation*, No. C-92-20349-RMW (EAI) (N.D. Cal. 1992).

Further, Mr. Spector has actively participated as plaintiffs' counsel in national class action antitrust cases, including *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, No. M-02-1486 PJH (N.D. Cal.) (executive committee); *In re Vitamins Antitrust Litigation*, Misc. No. 99-0197 (TFH) (D.D.C.) (Chair of the discovery committee); *In re Neurontin Antitrust Litigation*, MDL No. 1479 (D. N.J.) (executive committee); *Ryan-House v. GlaxoSmithKline, plc*, No. 02-CV-442 (ED Va.) (co-chair class certification committee); *In re Bulk [Extruded] Graphite Products Antitrust Litigation*, Master File No. 02-CV-06030 (D. N.J.) (chair of experts committee); *In re Publication Paper Antitrust Litigation*, No. 04-MD-1631 (D. Conn.); *In re Polyester Staple Antitrust Litigation*, No. 03-CV-1576 (W.D.N.C.); *Chlorine & Caustic Soda Antitrust Litigation*, No. 86-5428 (E.D. Pa.); *In re Brand Name Prescription Drug Antitrust Litigation*, MDL No. 997 (N.D. Ill.); *Polypropylene Carpet Antitrust Litigation*, MDL No. 1075 (N.D. Ga.); *NASDAQ Market Markers Antitrust Litigation*, MDL No. 1023 (S.D.N.Y.); *Potash Antitrust Litigation*, MDL No. 981 (D. Minn.); *Commercial Tissue Products Antitrust Litigation*, MDL No. 1189 (N.D. Fla.); *High Fructose Corn Syrup Antitrust Litigation*, MDL No. 1087 (C.D. Ill.).

In 2002, Mr. Spector obtained a jury verdict of \$4.5 million in *Heiser v. SEPTA*, No. 3167 July Term 1999 (Phila. C.C.P.), an employment class action.

Mr. Spector is admitted to practice in the Commonwealth of Pennsylvania; the United States Supreme Court; the United States Courts of Appeals for the First, Third, Fifth, Sixth, Ninth, Tenth, and Eleventh Circuits; and the United States District Court for the Eastern District of Pennsylvania and the Eastern District of Michigan. He is a graduate of Temple University (B.A. 1965) and an honors graduate of Temple University School of Law (J.D. 1970), where he was an editor of the *Temple Law Quarterly*. He served as law clerk to the Honorable Herbert B. Cohen and the Honorable Alexander F. Barbieri, Justices of the Pennsylvania Supreme Court (1970-71).

Mr. Spector has written a number of articles over the years which appeared in the *National Law Journal*, the *Legal Intelligencer*, and other trade and legal publications; and he has appeared on CNBC to discuss securities fraud. He is a member of the American, Federal, Pennsylvania and Philadelphia Bar Associations; the American Bar Association's Antitrust and Litigation Sections and the Securities Law Sub-Committee of the Litigation Section; and the Federal Courts Committee of the Philadelphia Bar Association. Mr. Spector has been appointed to the Advisory Board of the American Antitrust Institute and has been named as a leading U.S. plaintiffs' antitrust lawyer by Who's Who Legal Competition 2014, published by the Global Competition Review. Mr. Spector also has been appointed to serve on the Board of Visitors of the James E. Beasley School of Law of Temple University. He is A-V rated by Martindale-Hubbell and has been named by Law & Politics to its list of Pennsylvania "Superlawyers."

**ROBERT M. ROSEMAN**, founding partner of SRK, chairs the Firm's international and domestic securities practice. His practice focuses on investor protection issues, including the enforcement of the federal securities laws and state laws involving fiduciary duties of directors and officers, and under the laws in the various jurisdictions in Europe where group actions can be brought. An important component of his practice involves protecting U.S. and European investors in European proceedings. In that role, he works with U.S. and European institutional investors on investor protection and corporate governance matters.

Most notable example of Mr. Roseman's role is Co-Lead Counsel is in the *Converium/SCOR* action, where he prosecuted the first US securities class action settled on two continents (for a collective \$145 million). The European portion of this settlement is being adjudicated before the Court of Appeal in Amsterdam using the Dutch Act on the Collective Settlements of Mass Damage Claims. Importantly, Mr. Roseman's international expertise helped secure a key decision from the Dutch Court of Appeal in this case that will likely make it easier in the future for U.S. and European investors to claim monies recovered from actions brought in the Netherlands.

Mr. Roseman represented European institutions and was co-lead counsel in the landmark *In re Parmalat Securities Litigation* action, the largest fraud in European corporate history that is frequently referred to as Europe's Enron, which settled for \$96.5 million. There, Mr. Roseman devised a unique legal theory against the bankrupt Parmalat which used Italian bankruptcy law to secure funds not normally available to investors. He also extracted corporate governance endorsements from defendants other than the issuer - a first in a US-based investor action.

Among other notable cases, Mr. Roseman represented Brussels-based KBC Asset Management in *In re Royal Dutch/Shell Securities Litigation* and Brussels-based Fortis Investments in *In re Chicago Bridge and Iron Securities Litigation*. He represented the Northern Ireland Local Government Officers' Superannuation Committee, a UK institution, that is one of the lead plaintiffs in the US investor action involving Lehman Brothers and was co-lead counsel *In re Atheros Communications Shareholder Litigation*, in which he obtained a preliminary injunction of a merger where inadequate information about the transaction had been disclosed to shareholders.

Mr. Roseman has been at the vanguard of using securities class actions and derivative suits to implement corporate governance changes at U.S. and European companies to help them operate more effectively and reduce the likelihood that wrongdoing will occur in the future. He litigated as lead counsel against the directors of Abbott Labs (involving off label marketing of Depakote) in which the company agreed for a four year period to implement cutting-edge, bespoke reforms addressing allegations of illegal conduct which are designed to prevent it from occurring in the future. As co-lead counsel Mr. Roseman litigated against the directors of Archer Daniels Midland Company in which the corporation agreed to implement significant reforms which, at that time, were "state of the art" corporate governance measures designed to strengthen the independence of the board of directors. Mr. Roseman also litigated against the directors of Abbott Laboratories (*Abbott I*) and settled the case for numerous corporate governance changes governing the way in which the board of directors addresses regulatory matters. The Seventh Circuit's landmark decision in this case was named second among the top ten securities law decisions of 2003 by the American Bar Association's *Securities Litigation Journal*.

Mr. Roseman has written extensively on securities and investor protection issues, including *Global Markets, Global Fraud: What We Can Learn from Europe's Enron*, *Investment and Pensions Europe* (May 2006 supp.); *Cost-Effective Monitoring of Corporate Fraud: Reducing the Time Necessary to Stay Informed*, *Investment and Pensions Europe* (June 2006 supp.); and *A Trans-Atlantic Trend*, *Professional Investor* (May 2005). He also appeared in a roundtable discussion in *Global Pensions* (October 2006 supp.).

Mr. Roseman has been a frequent speaker at numerous U.S. and international conferences on the issues of investor protection through litigation and engagement and the importance of using corporate governance measures as part of settlements to ensure that Board of Directors act in the best interest of the Company and its shareholders. In addition to speaking at numerous conferences in the U.S., Mr. Roseman appeared as an invited speaker at institutional investor conferences held in London, Paris, Munich, Milan, Barcelona, Brussels, Paris, Frankfurt and Dublin and the Annual Conference of the International Corporate Governance Network in Amsterdam in 2004 and Paris in 2011.

Mr. Roseman obtained his J.D. in 1982 from Temple University School of Law and earned his B.S. *cum laude* in political science from the State University of New York in 1978. He is admitted to practice in Pennsylvania and New York, as well as the United States District Courts for the Eastern District of Pennsylvania and Central District of Illinois, the U.S. Courts of Appeals for the Third and Seventh Circuits, United States Court of Federal Claims, and United States Supreme Court. He is a member of the Philadelphia, Pennsylvania, New York State and Federal Bar Associations.

Mr. Roseman recently served or is currently serving as lead or co-lead counsel in numerous major cases, including:

- *Pension Trust Fund for Operating Engineers v. DeVry Education Group*, No. 16-cv-05198 (N.D.Ill.)
- *In re The Bancorp, Inc. Securities Litigation*, No. 14 Civ. 0952 (GMS) (D. Del.)

- *In re Abbott-Depakote Shareholder Derivative Litigation*, Case No. 1:11-cv-08114 (N.D. Ill.)
- *In re Lehman Brothers Holdings, Inc. Equity/Debt Securities Litigation*, 1:09-mdl-0217-LAK-GWG (S.D.N.Y.)
- *In re Life Partners Holdings, Inc. Derivative Litigation*, C.A. No. 2:11-CV-00043-AM (W.D. Tex.)
- *In re Atheros Communications, Inc. Shareholder Litigation*, Consolidated C.A. No. 6124-CVN (Del. Ch. Ct)
- *In re SCOR Holding (Switzerland) AG Litigation*, No. 04 Civ. 07897 (MBM) (S.D.N.Y.) (settled for \$145 million)
- *In re Parmalat Securities Litigation*, No. 04 Civ. 0030 (LAK) (S.D.N.Y.) (settled for \$98 million)
- *In re PSINet, Inc. Securities Litigation*, Civ. No. 00-1850-A (E.D. Va.) (settled for \$17,833,000 on the eve of trial)
- *Welmon v. Chicago Bridge & Iron Co. N.V.*, No. 06 Civ. 1283 (S.D.N.Y.)

Mr. Roseman is admitted to practice in the Commonwealth of Pennsylvania and the State of New York; the United States Supreme Court; the United States Court of Federal Claims; the United States Court of Appeals for the Third and Seventh Circuits; and the United States District Courts for the Eastern District of Pennsylvania and the Central District of Illinois. He is also a member of the Philadelphia, Pennsylvania, New York State, and Federal Bar Associations. He has lectured extensively throughout Europe on the role of private litigation in enforcing U.S. securities laws. He earned a B.S. degree with honors in political science from the State University of New York in 1978, and a J.D. degree in 1982 from Temple University School of Law. He is AV-rated by Martindale-Hubbell and has been named by Law & Politics to its list of Pennsylvania "Superlawyers."

**JEFFREY L. KODROFF** concentrates his practice in healthcare antitrust, securities and consumer litigation. He was among the first attorneys to represent clients in class action litigation against national health maintenance organizations. (*Tulino v. U.S. Healthcare, Inc.*, No. 95-CV-4176 (E.D. Pa.)). He also filed the first class action complaint against the manufacturers of the cancer drug Lupron relating to the illegal marketing practices and use of the published Average Wholesale Price. Mr. Kodroff was co-lead counsel in *In re Lupron Marketing and Sales Practices Litigation*, MDL No. 1430 (D. Mass.), which settled for \$150 million. Mr. Kodroff was also co-lead counsel in a consolidated national class action against many of the largest pharmaceutical companies in the world, including GlaxoSmithKline, BMS, J&J, Schering-Plough and

AstraZeneca, for their illegal marketing and use of a false Average Wholesale Price. See *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.) (settlement over \$300 million.)

He has also served as lead or co-lead counsel in other substantial pharmaceutical marketing cases, including *New England Carpenters Health Benefits Fund v. First Databank, Inc. and McKesson Corp.*, C.A. 05-11148 (D. Mass.); and *District 37 Health and Securities Fund v. Medi-Span*, C.A. No. 07-10988 (D. Mass. 2007). This litigation massive class action was against pharmaceutical wholesaling giant McKesson Corporation (“McKesson”) and pharmaceutical pricing publishers First DataBank, Inc. (“FDB”) and Medi-Span. The case addressed an unlawful 5% mark-up in the Average Wholesale Prices (“AWPs”) of various drugs, causing consumers and third party payors to overpay for pharmaceuticals. The case settled for \$350 million plus an agreement to roll back AWP’s by 5% thereby saving the Class and others hundreds of millions of dollars.

Mr. Kodroff has also been very active in litigation against brand named pharmaceutical companies in their attempts to keep generic drugs from entering the market.

Mr. Kodroff has served or is serving as co-lead counsel in numerous major cases, including:

- *In re OSB Antitrust Litigation*, Master File No. 06-CV-00826 (E.D. Pa., Judge Paul S. Diamond) (settled for \$120 million)
- *Stop & Shop Supermarket Co. v. Smithkline Beecham Corp.* C.A. 03-4578 (E.D. Pa., Judge Padova) (settled for \$150 million)
- *In re Express Scripts, Inc., PBM Litigation*, Master Case No. 05-md-01672-SNL (E.D. Mo.)
- *In re Lovenox Antitrust Litigation*, Case No. CV05-5598 (C.D. Cal.)
- *In re DDAVP Indirect Purchaser Antitrust Litigation*, Case No. 05 Civ. 2237 (S.D.N.Y.)
- *Man-U Service Contract Trust, et al. v. Wyeth, Inc. (Effexor Antitrust Litigation)* Civil Action No. 3:11-cv-05661 (D.N.J.)
- *In re: Merck Mumps Vaccine Antitrust Litigation*, Master File No. 2:12-cv-03555 (E.D. Pa., Judge C. Darnell Jones, II)
- *Vista Healthplan Inc. v. Cephalon, Inc., et al.*, Case No. 2:06-cv-1833 (E.D. Pa., Judge Mitchell S. Goldberg) (Provigil)

Mr. Kodroff has served as lead or co-lead counsel in many class action securities fraud cases, including *In re Unisys Corporation Securities Litigation*, No. 99-CV-5333 (E.D. Pa.); *In re Dreyfus Aggressive Growth Mutual Fund Litigation*, No. 98 Civ. 4318 (HB) (S.D.N.Y.); *Kalodner v. Michaels Stores, Inc.*, No. 3:95-CV-1903-R (N.D. Tex.); *In re Valuevision International, Inc. Securities Litigation*, Master File No. 94-CV-2838 (E.D. Pa.); *In re GTECH Holdings Corp. Securities Litigation*, Master File No. 94-0294 (D.R.I.); *In re Surgical Laser Technologies, Inc. Securities Litigation*, No. 91-CV-2478 (E.D. Pa.); and *The Berwyn Fund v. Kline*, No. 4671-S-1991 (Dauphin Cty. C.C.P.).

He has also served as lead or co-lead counsel in many consumer class actions including the current case *In re Google Inc. Street View Electronic Communications Litigation*, Case No. C 10-md-02184 JW (N.D. Cal.), which arise out of Google's interception of electronic communications by its Street View vehicles. Other consumer class actions in which Mr. Kodroff has served as lead or co-lead counsel include: *Kaufman v. Comcast Cablevision of Phila., Inc.*, No. 9712-3756 (Phila. C.C.P.); *LaChance v. Harrington*, No. 94-CV-4383 (E.D. Pa.); *Smith v. Recordex*, No. 5152, June Term 1991 (Phila. Cty. C.C.P.); *Guerrier v. Advest Inc.*, C.A. No. 90-709 (D. N.J.); and *Pache v. Wallace*, C.A. No. 93-5164 (E.D. Pa.).

Mr. Kodroff has served as a Continuing Legal Education presenter on class actions and health care issues as well as making presentations at conferences including the NCPERS Health Care Symposium and the Pennsylvania Public Employees Retirement System Conference.

He also serves on the advisory board for the Bureau of National Affairs Class Action Litigation Report. Mr. Kodroff also appeared with one of his clients before the U.S. House of Representatives, Subcommittee on Housing and Community Opportunity, Committee on Banking and Financial Services on the issue of predatory lending.

Mr. Kodroff is admitted to practice in the Commonwealth of Pennsylvania and the United States District Courts for the Middle and Eastern Districts of Pennsylvania. He is a member of the Pennsylvania, Philadelphia and American Bar Associations. A graduate of LaSalle University, where he earned his undergraduate degree in finance (magna cum laude, 1986), Mr. Kodroff received his law degree from Temple University School of Law (1989). He is a resident of Dresher, Pennsylvania. Mr. Kodroff is AV-rated by Martindale-Hubbell.

**JEFFREY J. CORRIGAN** joined SRK in 2000 as a partner to help direct the Firm's complex antitrust litigation. From 1990 until 2000, he was a Trial Attorney with the U.S. Department of Justice in the New York office of the Antitrust Division.

Mr. Corrigan has extensive experience investigating and prosecuting complex antitrust and other white collar criminal cases. He was lead counsel on numerous federal grand jury investigations and has significant federal trial experience as well. His cases include *United States v. Tobacco Valley Sanitation*, Cr. H-90-4 (D. Conn. 1991); and *United States v. Singleton*, Crim. No. 94-10066 (D. Mass. 1995). He was nominated by the Antitrust Division in 1999 for the Attorney General's Distinguished Service Award for his lead role on a major case involving bid-

rigging at state courthouses in Queens and Brooklyn in New York City, which resulted in 49 guilty pleas. *United States v. Abrishamian*, No. 98 CR 826 (E.D.N.Y. 1998). Mr. Corrigan also played a major part in *United States v. Canstar Sports USA, Inc.*, C.A. No. 93-7 (D. Vt. 1993), a complex civil antitrust case.

Mr. Corrigan is currently serving as sole Liaison and Interim Lead Class Counsel in *In re Blood Reagents Antitrust Litigation*, MDL 09-2081 (E.D. Pa.), a nation-wide, price-fixing class action into the market for blood reagents, which are used for testing blood. Mr. Corrigan is also currently serving as Interim Co-Lead Counsel for direct purchaser plaintiffs in *In re Domestic Drywall Antitrust Litigation*, MDL 12-2437 (E.D. Pa.), a nation-wide price fixing class action.

He has been co-lead counsel in *In re OSB Antitrust Litigation*, Master File No. 06-CV-00826 (PSD) (E.D. Pa.), where a nationwide class of direct purchasers settled for \$120 million; and *In re Mercedes-Benz Antitrust Litigation*, Master File No. 99-4311 (D. N.J.) (settled for \$17.5 million). He was also active in *In re Linerboard Antitrust Litigation*, C.A. No. 98-5055 (E.D. Pa.), which settled for \$202 million; *In re Buspirone Antitrust Litigation*, MDL Docket No.1413 (S.D.N.Y.) which in 2003 settled for \$670 million for all plaintiff groups; and *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (W.D. Pa.), which settled for \$120 million.

Mr. Corrigan is a 1985 graduate of The State University of New York at Stony Brook, where he earned his B.A. in economics. He received his J.D. in 1990 from Fordham University School of Law, where he was a member of the Moot Court Board. Mr. Corrigan is admitted to practice in the states of New York and New Jersey, and in the United States Court of Appeals for the Third Circuit and the D.C. Circuit; and the United States District Courts for the District of New Jersey, Southern District of New York and the Eastern District of New York.

**JOHN MACORETTA** represents both individuals and businesses in a wide variety of litigation and, occasionally, transactional matters. He currently represents consumers and healthcare payors in several cases alleging that brand name pharmaceutical companies illegally kept generic drug competitors off the market. Mr. Macoretta is also involved in electronic privacy litigation, including the *In re Google Streetview Electronic Communications Litigation*, No. 10-md-02184 (N.D. Cal.) where he is a co-lead counsel representing consumers whose private wi-fi communications were intercepted. Mr. Macoretta also represents investors in stock-broker arbitration and class-action securities fraud litigation.

He has been involved in a number of significant cases, including *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.) (where he acted as one of the trial counsel); *In re Lupron Marketing and Sales Practices Litigation*, MDL No. 1430 (D. Mass.); *In re Unisys Corporation Securities Litigation*, No. 99-CV-5333 (E.D. Pa.); *Masters v. Wilhelmina Model Agency, Inc.*, No. 02 Civ. 4911 (S.D.N.Y.); *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, C.A. No. M-02-1486 PJH (N.D. Cal.).

Mr. Macoretta graduated with honors from the University of Texas Law School in 1990 and received his undergraduate degree *cum laude* from LaSalle University in 1986. He is admitted to practice in the Commonwealth of Pennsylvania and the State of New Jersey; the United

States Court of Appeals for the First, Third and Ninth Circuits; and the United States District Courts in the District of New Jersey, the Eastern District of Michigan and the Middle and Eastern Districts of Pennsylvania. In addition to being a member of the Philadelphia Bar Association, Mr. Macoretta also serves as an arbitrator in the Philadelphia Court of Common Pleas and the US District Court. Mr. Macoretta also serves as a *pro bono* attorney representing Philadelphia residents whose homes are facing foreclosure.

**WILLIAM G. CALDES** is a partner in the Antitrust Practice Group. He has a national practice representing plaintiffs in antitrust class actions for over twenty years. He has represented both individual and corporate clients in class actions across the United States. Mr. Caldes has been involved in some of the largest Antitrust cases ever litigated, including *In re NASDAQ Market-Makers Antitrust Litigation*, MDL No. 1023 (S.D.N.Y.) which was the first antitrust case to have settlements in excess of one billion dollars to most recently being co-lead counsel in *In re Automotive Parts Antitrust Litigation*, MDL No. 2311 (E.D. Mich.), regarded as one of the largest antitrust cases to be litigated to date.

Mr. Caldes also represents several unions and their members in litigation against the pharmaceutical industry for various types of antitrust and consumer violations on behalf of the union's pension funds. He is currently involved in *In Re Niaspan Antitrust Litigation* MDL No. 2460 (E.D.Pa.); *In re Loestrin 24 FE Antitrust Litigation*, MDL No. 2472 (D.R.I.); *In Re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D.Ca.); and *In re Aggrenox Antitrust Litigation*, MDL No. 2516 (D.Conn.). Among other cases in which Mr. Caldes has participated are *McDonough, et al. v. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, No. 2:06-cv-00242-AB (E.D. Pa.); *Elliott, et al. v. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, No. 2:09-cv-06151-AB (E.D. Pa.); *In re Online DVD Rental Antitrust Litigation*, MDL No. 2029 (N.D. Cal.); *In re Processed Eggs Antitrust Litigation*, MDL No. 2002 (E.D. Pa.); *In re Air Cargo Shipping Services Antitrust Litigation*, MDL No. 1775 (E.D.N.Y.); *In Re: Municipal Derivatives Antitrust Litigation*, No. 1:08-md-01950-VM (S.D.N.Y.); *In Re Optical Disk Drive Products Antitrust Litigation*, No. 3:10-ms-02143-RS (N.D. Cal.); *In Re Aftermarket Filters Antitrust Litigation*, No. 1:08-cv-04883 (N.D. Ill.); *In re McKesson HBOC, Inc. Securities Litigation*, Master File No. 99-CV-20743 (N.D. Cal.); *In re K-Dur Antitrust Litigation*, MDL No. 1419 (D.N.J.); *In re Relafen Antitrust Litigation*, C.A. No. 01-12222 (D. Mass); *In re Buspirone Antitrust Litigation*, MDL No. 1413 (S.D.N.Y.); *In re Linerboard Antitrust Litigation*, C.A.No.98-5055 (E.D. Pa.); *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, No.M-02-1486 PJH (N.D. Cal.); *In re Baycol Products Litigation*, No. 1431 (D. Minn.); and *In re Vitamins Antitrust Litigation*, Misc. No. 99-0197(TFH) (D.D.C.).

Mr. Caldes is a 1986 graduate of the University of Delaware, where he earned a B.A. with a double major in Economics and Political Science. He received his J.D. in 1994 from Rutgers School of Law at Camden, and then served as law clerk to the Honorable Rushton H. Ridgway of the New Jersey Superior Court, Cumberland County. Mr. Caldes is admitted to practice in the Commonwealth of Pennsylvania, the State of New Jersey, the United States District Court for the District of New Jersey, the United States District Court for Eastern District of Pennsylvania and the United States Court of Appeals for the 3rd Circuit.

**JEFFREY L. SPECTOR** graduated from the University of Pennsylvania in 2000 with a B.S. in Economics and concentrations in Marketing and Legal Studies. He received his J.D. degree from Temple University in 2007. Prior to attending law school, Mr. Spector worked for the William Morris Agency in New York as a part of its prestigious Agent Training Program.

Mr. Spector is currently participating in *In Re Blood Reagents Antitrust Litigation*, No. 2:09-md-02081-JD (E.D. Pa.); *In re Domestic Drywall Antitrust Litigation*, No. 13-md-2437 (E.D. Pa.); *McDonough, et al. v. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, No. 2:06-cv-00242-AB (E.D. Pa.); *Elliott, et al. v. Toys "R" Us, Inc. d/b/a Babies "R" Us, et al.*, No. 2:09-cv-06151-AB (E.D. Pa.); and *In Re Automotive Parts Antitrust Litigation*, No. 2:12-md-02311 (E.D. Mich.).

Mr. Spector is admitted to practice law in Pennsylvania, New Jersey, and the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey, and the United States Court of Appeals for the 3rd Circuit. He is currently a member of the American and Philadelphia Bar Associations.

#### ASSOCIATES

**DIANA J. ZINSER** focuses her practice on consumer protection and healthcare litigation. She is involved in a number of cases including *In re Merck Mumps Vaccine Antitrust Litigation*, No. 2:12-cv-03555 (E.D. Pa.); *In re Niaspan Antitrust Litigation*, No. 2:13-md-2460 (E.D. Pa.); *In re Suboxone Antitrust Litigation*, (E.D. Pa.), and *Vista Healthplan, Inc. v. Cephalon, Inc. et al.*, C.A. No. 2:06-cv-01833 (E.D. Pa.). Prior to joining SRK, Ms. Zinser was an attorney with the law firm Kessler Topaz Meltzer & Check, LLC, where she was involved with antitrust and complex consumer litigation.

Ms. Zinser graduated *cum laude* from Saint Joseph's University in 2003 with a B.A. in Political Science and a minor in Economics, where she was a member of the Phi Beta Kappa, Pi Sigma Alpha, and Omicron Delta Epsilon Honor Societies. She earned her J.D. from Temple University Beasley School of Law in 2006. While attending law school, she received a summer fellowship from the Peggy Browning Fund and worked as a legal intern for Sheet Metal Workers Local Union No. 19. Ms. Zinser is admitted to practice law in Pennsylvania and the United States District Court for the Eastern District of Pennsylvania.

#### OF COUNSEL

**RACHEL E. KOPP** focuses her practice in antitrust litigation. She is involved in a number of significant cases, including *In re Domestic Drywall Antitrust Litigation*, No. 13-md-2437 (E.D. Pa.); *In Re Automotive Parts Antitrust Litigation*, No. 2:12-md-02311 (E.D. Mich.); *In Re Blood Reagents Antitrust Litigation*, No. 2:09-md-02081-JD (E.D. Pa.); *In Re: American Express Anti-Steering Rules Antitrust Litigation*, MDL 2221 (E.D.N.Y.); and *In Re Municipal Derivatives Antitrust Litigation*, MDL No. 1950 (S.D.N.Y.). She has also previously been heavily involved in the following securities cases: *In re Parmalat Securities Litigation*, No. 04 Civ. 0030 (LAK) (S.D.N.Y.); *In Re Converium Holding AG Securities Litigation*, No. 04 Civ. 7897 (DLC)

(S.D.N.Y.); *Welmon v. Chicago Bridge & Iron Co. N.V.*, No. 06 Civ. 01283 (JES) (S.D.N.Y.); and *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.).

Ms. Kopp has also been actively involved in the Philadelphia and American Philadelphia Bar Associations. Most recently, Ms. Kopp finished serving a three-year term on the Philadelphia Bar Association Board of Governors. Ms. Kopp has also served as the American Bar Association Young Lawyers Division (ABA YLD) liaison to the ABA Standing Committee on Membership; the Membership Director of the ABA YLD, which is comprised of approximately 150,000 young lawyers worldwide; and the ABA YLD's Administrative Director. In recognition of her service to the ABA YLD, Ms. Kopp has received Star of the Year awards at several ABA Annual Meetings.

Ms. Kopp earned her Juris Doctor degree from Villanova University Law School, where she received a Public Interest Summer Fellowship, to serve as a legal intern at New York Volunteer Lawyers for the Arts and VH1 *Save The Music*. She received a B.A. in Government and Politics from the University of Maryland, where she concentrated in languages and studied abroad in Florence, Italy. Ms. Kopp is admitted to practice in Pennsylvania and New Jersey, as well as in the U.S. Court of Appeals for the Third Circuit and the U.S. District Court for the Eastern District of Pennsylvania.

**MARY ANN GEPPERT** graduated *cum laude* from St. Joseph's University in 2000, with a B.S. degree in Finance. She received her Juris Doctor degree from the Widener University School of Law in 2003, where she served as the Articles Editor of the Widener Law Symposium Journal. She also was a legal intern for the Honorable James J. Fitzgerald of the Philadelphia Court of Common Pleas.

Among the cases in which Ms. Geppert has participated are *In re Google Inc. Street View Electronic Communications Litigation*, C.A. No. 5:10-md-02184 (N.D. Cal.); *Vista Healthplan, Inc. v. Cephalon, Inc. et al.*, C.A. No. 2:06-cv-01833 (E.D. Pa.); and *In re Merck Mumps Vaccine Antitrust Litigation*, C.A. No. 2:12-cv-03555 (E.D. Pa.).

Ms. Geppert is currently admitted to practice law in Pennsylvania, New Jersey, the United States District Court for the Eastern District of Pennsylvania, and the United States District Court for the District of New Jersey. Ms. Geppert was named as a Pennsylvania Rising Star by *Philadelphia Magazine* in 2010 and 2013.

# **Exhibit 6**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PENSION TRUST FUND FOR OPERATING  
ENGINEERS, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

DEVRY EDUCATION GROUP, INC., DANIEL  
HAMBURGER, RICHARD M. GUNST,  
PATRICK J. UNZICKER, AND  
TIMOTHY J. WIGGINS,

Defendants.

Case No. 1:16-CV-05198

Hon. Mary M. Rowland

**DECLARATION OF MARK R. MILLER ON BEHALF OF  
WEXLER WALLACE LLP IN SUPPORT OF APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, MARK R. MILLER, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Wexler Wallace LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action (the "Action") from inception through October 15, 2019 (the "Time Period").

2. My firm, which served as Liaison Class Counsel in the Action, was involved in various aspects of the litigation, such as drafting and/or revising motions and pleadings, appearing in court for case management conferences and to argue motions, participating in communications with the Court, and assisting Lead Counsel on issues of litigation and procedural strategy.

3. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. These records (and backup documentation where necessary) were reviewed to confirm

both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. The review also confirmed that the firm's guidelines and policies regarding expenses were followed. As a result of this review, reductions were made to time in the exercise of billing judgment. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

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

5. The total number of hours spent on this Action reported by my firm during the Time Period is 67.50. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is \$43,832.50.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by Courts in other securities class action litigations. My firm's lodestar figures are based upon the firm's hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$100.51 in expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of October, 2019.



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Mark R. Miller

**Exhibit A**

*Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*  
 No. 01:16-cv-05198 (N.D. Ill.)

**EXHIBIT A**

**LODESTAR REPORT**

FIRM: Wexler Wallace LLP

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 15, 2019

<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>HOURLY RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
Mark R. Miller	P	750.00	47.10	\$ 35,325.00
Bethany Turke	P	750.00	0.20	\$ 150.00
Amy E Keller	A	485.00	10.90	\$ 5,286.50
Adam Prom	A	340.00	7.90	\$ 2,686.00
Ashtin Otto	PL	275.00	1.40	\$ 385.00
<b>TOTAL</b>			<b>67.5</b>	<b>\$ 43,832.50</b>

Partner	(P)	Staff Attorney	(SA)
Of Counsel	(OC)	Investigator	(I)
Associate	(A)	Paralegal	(PL)

**Exhibit B**

*Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*  
No. 01:16-cv-05198 (N.D. Ill.)

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: Wexler Wallace LLP

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 15, 2019

<b>CATEGORY</b>		<b>TOTAL AMOUNT</b>
Long Distance Telephone / Fax/ Conference Calls		\$8.40
Computer Research Fees		\$92.11
<b>TOTAL</b>		<b>\$100.51</b>

**Exhibit C**

*Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*  
No. 01:16-cv-05198 (N.D. Ill.)

**EXHIBIT C**

**WEXLER WALLACE FIRM RESUME**

# FIRM RESUME

**WEXLER WALLACE** LLP

55 W. Monroe St. Suite 3300 // Chicago, IL 60603

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# The Firm

## WHO WE ARE.

Wexler Wallace LLP is nationally recognized as a leading firm in complex class action and multidistrict litigation, from investigation to trial and appeals, within the following legal areas:

- // Antitrust
- // Business and Commercial Litigation
- // Consumer Protection
- // Government Representation
- // Healthcare Litigation
- // Mass Torts
- // Securities and Corporate Governance
- // Whistleblower and False Claims

## WE WORK FOR ALL.

At Wexler Wallace, we rely on the justice system to hold the powerful accountable for conduct that harms others. We are dedicated to protecting the rights and interests of all and, in this pursuit, represent shareholders, consumers, pension plans, institutional investors, businesses, governments, and organizations from all over the world. We act with the utmost integrity in our determination to achieve the most meaningful relief for our clients.

## WE GET RESULTS.

Wexler Wallace is frequently retained by clients to pursue high-stakes litigation – often against some of the largest corporations represented by the most renowned law firms in the country. We regularly are asked by co-counsel to work with them and their clients on cases of wide-ranging importance. Through this work, we have helped shape the law and continue to pave the way for future successes for those aggrieved by fraud, antitrust violations, unfair competition, and other types of unlawful conduct.

## OUR WORK IS RECOGNIZED.

Wexler Wallace attorneys have been recognized by their peers as well as by legal organizations for their outstanding level of service and commitment to the firm's cases and clients. Partners Ken Wexler and Ed Wallace each have an **AV Preeminent** rating from Martindale-Hubbell – the highest peer review rating. Ken has been named an **Illinois Super Lawyer** since 2008, Ed was named a Super Lawyer in 2014 and 2015, and other attorneys have been named Rising Stars.

Wexler Wallace was named a highly recommended Illinois litigation firm in the 2012 inaugural edition of **Benchmark Plaintiff**, with both partners named local litigation stars. The firm and its named partners have received the same honors every year since.

"Despite a small roster of attorneys, (Wexler Wallace LLP) regularly goes toe-to-toe with some of the largest companies and corporations in the world."

*Benchmark Plaintiff, 2012*

"I admire very much the work that you have done in this case, and you have taught me something. I think I'm more knowledgeable and a better judge because I've had contact with you. And thank you very much."

Hon. G. Patrick Murphy, *Clancy-Gernon Funeral Homes, Inc. v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, No. 09 Civ. 1008 (S.D. Ill.)

"I wanted to express appreciation again to class counsel for taking this case. I believe these are the kind of cases Federal Courts should do and are appropriate for class resolution."

Hon. Patti B. Saris, *In re Pharmaceutical Industry Average Wholesale Price Litig.*, MDL No. 1456, No. 01-cv-12257-PBS (D. Mass.) (final settlement hearing, with defendant GlaxoSmithKline, July 19, 2007)

"[T]his multiplier is justified by the risk of non-recovery in this case and the need to reward counsel for their significant achievement on behalf of the End-Payor Class . . . End-Payor Plaintiffs' counsel are highly experienced in complex antitrust class action litigation . . . they have obtained a significant settlement for the Class despite the complexity and difficulties of this case."

Hon. John R. Padova, *Nichols v. SmithKline Beecham Corp.*, No. 00 Civ. 6222, 2005 U.S. Dist. LEXIS 7061, at \*71-72, 79 (E.D. Pa. Apr. 22, 2005)

# Leadership Positions

Wexler Wallace is frequently appointed as lead counsel and to plaintiff steering committees in complex, high-stakes litigation. Some of those appointments include:

CASE	COURT	APPOINTMENT
In re Comcast Corp. Set-Top Cable Television Box Antitrust Litigation, No: 2:09-MD-02034	E.D. Pa	Co-Lead Counsel
Coordinated Essure® Litigation	TBD	Plaintiffs' Executive Committee
Woloszyn v. General Mills Inc., No: 0:16-cv-02869	D. Minn.	Plaintiffs' Executive Committee
In re Broiler Chicken Antitrust Litigation No. 16-cv-8637	N.D. Ill.	Liaison Class Counsel
Gibson v. The Quaker Oats Co., No. 1:16-cv-04853	N.D.Ill.	Interim Liaison Class Counsel
Edward Shapiro and Pacific Holistic Dental, INC., v. 3M Company, No. 0:16-cv-02606	D. Minn.	Plaintiffs' Executive Committee
Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al., No. 16-cv-05198	N.D.Ill.	Interim Liaison Class Counsel
United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund, et. al. v. Allergan, PLC No.: 15-cv-12731	D.C. Mass.	Co-Lead Counsel
Lynch v. Motorola Mobility LLC et al., No. 1:16-cv-04524	N.D. Ill.	Interim Co-Lead Class Counsel
In re Windsor Wood Clad Window Products Liability Litigation, MDL No. 2688	E.D. Wis.	Plaintiffs' Steering Committee
In re VTech Data Breach Litigation, No. 1:15-cv-10889	N.D. Ill	Interim Liaison Class Counsel
In re Nexium (Esomeprazole) Antitrust Litig., 12-md-02409	D. Mass.	Co-Lead Counsel
In re: Fluidmaster, Inc., Water Connector Components Prods. Liab. Litig	N.D. Ill.	Interim Liaison Class Counsel
In re Actos End-Payor Antitrust Litigation, Case No. 13-cv-09244	S.D.N.Y.	Interim Co-Lead Counsel

CASE	COURT	APPOINTMENT
Underwood v. I.F.F.A. Servs., No. 09-390-GPM; Clancy-Gernon Funeral Homes, Inc. v. Merrill Lynch, Pierce, Fenner & Smith, Inc., No. 09-1008-GPM; Pettett Funeral Home, Ltd. v. Merrill Lynch, Pierce, Fenner & Smith, Inc., No. 10-1000-GPM	S.D. Ill.	Lead Settlement Class Counsel
Celebrex Antitrust Litigation No: 14-cv-0395	E.D. Va	Interim Co-Lead Class Counsel
In re Suboxone Antitrust Litigation, MDL 2445	E.D. Pa.	Interim Co-Lead Class Counsel
In re Niaspan Antitrust Litigation, Case No. 13-md-02460	E.D. Pa.	Interim Co-Lead Counsel
In re Kugel Mesh Hernia Patch Products Liability Litigation, MDL No. 1842	D.R.I	Plaintiffs' Steering Committee
Levine v. American Psychological Association, Inc., Case No. 10-cv-01780	D.D.C.	Co-Lead Class Counsel
Roberts v. Electrolux Home Products Inc., Case No. 12-cv-1644	C.D. Cal	Co-Lead Class Counsel
In re Skelaxin (Metaxalone) Antitrust Litigation, MDL No. 2343	E.D. Tenn.	Plaintiffs' Executive Committee
In re Effexor XR Antitrust Litigation, Case No. 11-cv-05661	D.N.J.	Plaintiffs' Executive Committee
In re Flonase Antitrust Litigation, Case No. 08-cv-3301	E.D. Pa.	Plaintiffs' Executive Committee
In re Prograf Antitrust Litigation, Case No. 11-cv-11870	D. Mass.	Plaintiffs' Executive Committee
In re Lipitor Antitrust Litigation, MDL No. 2332	D.N.J	Interim Co-Lead Class Counsel
Gomez v. PNC Bank, National Association No. 1:12-cv-1274	N.D. Ill.	Lead Class Counsel
In re Wellbutrin XL Indirect Purchaser Antitrust Litigation, Case No. 2:08-CV-02433-MAM	E.D. Pa.	Co-Lead Class Counsel
Carter v. Allstate Ins. Co., Case No. 02-CH-16092	Cir. Ct. Ill. – Cook County	Co-Lead Counsel
In re Webloyalty.com, Inc. Marketing and Sales Practices Litigation No.: MDL No. 1820	D. Mass.	Co-Lead Counsel

CASE	COURT	APPOINTMENT
In re C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation (MDL No. 2187); In re American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation (MDL No. 2325); In re Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation (MDL No. 2326); In re Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation (MDL No. 2327)	Multiple MDL Cases	Plaintiffs' Steering Committee
Levie v. Sears Roebuck & Co. et al, No. 1:04-cv-7643	N.D.Ill.	Liaison Class Counsel
In re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation, MDL No. 1726	D. Minn.	Plaintiffs' Steering Committee
In re Pet Foods Products Liability Litigation, MDL No. 1850	D.N.J.	Co-Lead Counsel
New England Carpenters Health Benefits Fund v. First Databank, Case No. 1:05-CV-11148	D. Mass.	Co-Lead Class Counsel
In re BP Products North America, MDL No. 1801	N.D. Ill.	Co-Lead Class Counsel
In re Hypodermic Products Antitrust Litigation No.: MDL No. 1730	D.N.J.	Co-Lead Class Counsel
In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1456	D. Mass.	Co-Lead Counsel
Nichols v. SmithKline Beecham Corp., Case No. 2:00-CV-06222-JP	E.D. Pa.	Co-Lead Class Counsel
Virginia M. Damon Trust v. Mackinac Financial Corp., f/k/a North Country Financial Corp., Case No. 2:03-CV-0135	W.D. Mich.	Co-Lead Counsel
Stephen A. Ellerbrake and John E. Casey v. Campbell-Hausfeld et al. No.: 01-L-540	Cir. Ct. Ill. – St. Clair County	Co-Lead Counsel

## Successes

Since its founding in 2000, Wexler Wallace has achieved millions of dollars in settlements and savings for its clients and consumers. In cases in which the firm has served as Co-Lead Counsel, it has recovered over a billion dollars for its clients. Listed below are some of the firm's representative settlements and verdicts.

## SIGNIFICANT RECOVERIES AND VERDICTS

CASE	COURT	RECOVERY
<i>Glenn Burton, JR. v. American Cyanamid CO., et al.</i> – Case No. 07-cv-0303; <i>Ravon Owens v. American Cyanamid CO., et al.</i> – Case No. 07-cv-0441; <i>Cesar Sifuentes v. American Cyanamid Co., et al.</i> – Case No. 10-cv-0075	E.D. Wis.	\$6M (jury verdict)
<i>Barbara Kaiser et al v. Ethicon, Inc. et al., Case Number 2:17-cv-00114</i>	N.D. Ind.	\$35M (jury verdict)  The jury awarded \$10M in injury compensation, as well as \$25M in punitive damages.
<i>Jammal, et al. v. American Family Insurance, Case No.: 13-cv-00437</i>	N.D. Oh	Unanimous advisory jury verdict; Formal ruling and damages proceeding pending
<i>Huskey v. Ethicon, Case No. 12-cv-0521</i>	S.D.W. Va.	\$3.27M (jury verdict)
<i>Roberts v. Electrolux Home Products, Inc., Case No. 12-cv-01644</i>	C.D. Cal.	Settlement valued at more than \$35.5M
<i>In re Hypodermic Products Antitrust Litigation, MDL No. 1730</i>	D.N.J.	\$22M
<i>New England Carpenters Health Benefits Fund v. First Databank, Case No. 05-cv-11148</i>	D. Mass	\$350M settlement with McKesson; \$2.7M with FDB and Medispan
<i>In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1456</i>	D. Mass.	Multiple settlements totaling more than \$350M
<i>In re Guidant Defibrillators Products Liability Litigation, MDL No. 1708</i>	D. Minn.	\$195M

CASE	COURT	RECOVERY
<i>Underwood v. I.F.F.A. Servs.</i> , No. 09-390-GPM; <i>Clancy-Gernon Funeral Homes, Inc. v. Merrill Lynch, Pierce, Fenner &amp; Smith, Inc.</i> , No. 09-1008-GPM; <i>Pettett Funeral Home, Ltd. v. Merrill Lynch, Pierce, Fenner &amp; Smith, Inc.</i> , No. 10-1000-GPM	S.D. Ill.	\$41.15M
<i>In re Flonase Antitrust Litigation</i> , Case No. 08-cv-3301	E.D. Pa.	\$46M
<i>In re OSB Antitrust Litigation</i> , Case No. 06-cv-00826	E.D. Pa.	\$120M
<i>In re Air Cargo Shipping Services Antitrust Litigation</i> , MDL No. 1775	E.D.N.Y.	\$85M
<i>In re Pet Food Products Liability Litigation</i> , MDL No. 1850	D.N.J.	\$24M
<i>In re Webloyalty.com, Inc. Marketing and Sales Practices Litigation</i> , MDL No. 1820	D. Mass.	Allowed customers to recover up to 100% of unauthorized charges
<i>In re BP Prods. North America, Inc. Antitrust Litigation</i> , MDL No. 1801	N.D. Ill.	\$15.25M
<i>In re Medtronic Inc. Implantable Defibrillator Products Liability Litigation</i> , MDL No. 1726	D. Minn.	\$75M
<i>Wington v. CB Richard Ellis, Inc.</i> , Case No. 02-cv-6832	N.D. Ill.	A favorable settlement that made available monetary relief for eligible claimants, as well as a charitable contribution to the Commercial Real Estate Women Network
<i>In re Pressure Sensitive Labelstock Antitrust Litigation</i> , MDL No. 1556	E.D. Pa.	\$46.5M
<i>In re Synthroid Marketing Litigation</i> , MDL No. 1182	N.D. Ill.	\$87.4M
<i>Vista Healthplan, Inc. v. Bristol-Myers Squibb Co.</i> , Case No. 01-cv-01295	D.D.C.	\$135M settlement
<i>Nichols v. Smithkline Beecham Corp.</i> ("Paxil"), Case No. 00-cv-6222	E.D. Pa.	\$65M



# Practice Areas

Wexler Wallace is a nationally-recognized leader in complex class action and multidistrict litigation, with a commitment to excellence and achieving meaningful relief for its clients. The firm's diverse litigation practice spans the areas of antitrust, business and commercial litigation, consumer fraud litigation, government representation, healthcare litigation, mass torts, securities and corporate governance, and whistleblower and false claims litigation.

## ANTITRUST

Unfortunately, individuals and businesses sometimes violate the rules of our market-based system, imposing artificially inflated prices on market participants. Conduct prohibited by state and federal antitrust laws can take the form of illegally-maintained monopolies, price fixing, the improper exchange of competitive information, patent abuses, and other forms of unfair competition.

Wexler Wallace is a leader in private antitrust enforcement, litigating a wide variety of class action cases involving many prominent industries, including the pharmaceutical, entertainment, service rental, lumber, energy, and electronic products industries.

Representative cases in the firm's antitrust practice area include:

### ***IN RE BROILER CHICKEN ANTITRUST LITIGATION, 16-CV-8637 (N.D. ILL.)***

Wexler Wallace, along with co-counsel, filed this class action alleging that the nation's largest chicken producers (such as Tyson and Pilgrims) agreed with each other to limit the supply of broiler chickens, in order to raise the prices on chicken and chicken products. The Court appointed Wexler Wallace as Liaison Counsel on behalf of a class of restaurants (and institutions, such as prisons and nursing homes) that purchased the defendants' chicken from a wholesaler. The plaintiffs are seeking to recover damages suffered when they overpaid on purchases of the defendants' chicken. The defendants filed motions to dismiss the case, but in November of 2017 the Court denied those motions almost entirely, issuing a 92-page opinion. The parties are in the discovery phase of the case, which will last into 2019.

### ***FOREST RIVER FARMS V. MONSANTO COMPANY, NO. 4:18-CV-00181 (E.D. MO.)***

Wexler Wallace and co-counsel filed this class action case against Monsanto in February 2018, alleging that Monsanto's rollout of genetically modified seeds that are resistant to the herbicide dicamba has created a distorted and monopolized market, manipulated by and susceptible to Monsanto's domination. Genetically-modified ("GM") crops and food are often touted to farmers and the public as miracle products. But when patented GM technology so changes the economics of agriculture that farmers have no choice but to use it, thus allowing biotech companies to charge monopoly prices and unfairly control the market, it is illegal conduct as alleged in the complaint. Monsanto knew that commercializing dicamba-resistant technology would cause a spike in the use

of dicamba, and conspired, agreed, and combined with other major biotech firms to unlawfully dominate the soy and cotton seed market.

**UNITED FOOD AND COMMERCIAL WORKERS UNIONS AND EMPLOYERS MIDWEST HEALTH BENEFITS FUND, ET. AL. V. ALLERGAN, PLC NO.: 15-CV-12731 (D.C. MASS.)**

Wexler Wallace filed this case against Allergan in June 2015 on behalf of a putative class of end-payers alleging that Plaintiffs and all Asacol end-payers were harmed by defendants' conduct in engaging in an unlawful "product hop." Patients had always paid for the brand name version of Asacol. In July 2013, a generic version was planned for release on the market, but because of the defendant's withdrawal of the drug from the market, a generic version does not exist and consumers are still paying higher prices for similar brand name versions. Wexler Wallace was appointed co-lead counsel. The Hon. Judge Denise J. Casper of the United States District Court District of Massachusetts granted plaintiffs' motion for class certification and denied the defendants' motion for summary judgement. The First Circuit stayed the trial set to begin on January 22, 2018 pending the resolution of Defendants' appeal of the District Court's class certification decision.

**IN RE NEXIUM ANTITRUST LITIG., MDL NO. 2409 (D. MASS.)**

Wexler Wallace, along with co-counsel, filed this antitrust class action, alleging that defendant AstraZeneca entered into non-competition agreements with a number of generic pharmaceutical manufacturers in order to delay marketing entry of generic versions of its blockbuster drug Nexium. Starting in October 2014, Wexler Wallace participated in a six-week jury trial in the action; it was the first trial of a "reverse payment" antitrust action since the Supreme Court's *Actavis* decision. While the jury made several key findings in favor of the Plaintiffs, it ultimately returned a verdict in favor of defendants AstraZeneca and Ranbaxy. Plaintiffs have since moved for a new trial, and end-payer plaintiffs (represented by Wexler Wallace and others) have moved for injunctive relief.

**IN RE LIPITOR ANTITRUST LITIG., MDL. NO. 2332 (D.N.J.)**

Wexler Wallace filed this class action against Pfizer Inc. and Ranbaxy Pharmaceuticals Inc., among others, seeking damages and equitable relief on behalf of end-payers of Lipitor and/or its generic bioequivalents for violations of antitrust and consumer protection laws. Plaintiffs allege that, among other things, defendants fraudulently procured a patent covering Lipitor and entered into an anticompetitive settlement with Ranbaxy in order to keep generic versions of the blockbuster drug off of the market.

**NICHOLS V. SMITHKLINE BEECHAM CORP. ("PAXIL"), NO. 00-CV-6222 (E.D. PA.)**

Wexler Wallace served as co-lead counsel in this case involving alleged efforts by GlaxoSmithKline, including "sham" patent litigation, to keep generic versions of Paxil off the market. This case is believed to be one of the first, if not the first, to allege misuse of patents to delay generic competition in a pharmaceutical market brought under Section 2 of the Sherman Act (rather than Section 1). The case settled for \$65 million.

**IN RE EFFEXOR XR ANTITRUST LITIG., NO. 11-CV-5661 (D.N.J.)**

Wexler Wallace was appointed to the Indirect Purchaser Class Executive Committee in this antitrust litigation against pharmaceutical manufacturer Wyeth, Inc. regarding its antidepressant Effexor XR. The complaint alleges that Wyeth fraudulently obtained a number of method-of-use patents for Effexor XR and engaged in sham litigation against sixteen potential generic competitors in an effort to protect the Effexor XR monopoly. Plaintiffs further allege that Wyeth entered into an anticompetitive settlement with the first generic ANDA filer, Teva Pharmaceutical Industries, Ltd., and its US subsidiary Teva Pharmaceuticals USA, Inc., which delayed the entry of generic Effexor XR competitors for more than two years.

For more information about the firm's Antitrust Litigation practice, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/antitrust-litigation/>.

## **BUSINESS AND COMMERCIAL LITIGATION**

Confronting well-heeled and well-represented adversaries, Wexler Wallace attorneys represent businesses throughout the country in complex disputes ranging from breach of contract claims to business torts, including fraud, unfair competition, and breaches of fiduciary duty. The firm has represented small businesses on a contingency basis when those businesses were faced with litigating against larger adversaries that engaged in unfair and unlawful conduct.

Although Wexler Wallace attorneys are always prepared to offer zealous advocacy for the firm's clients in state or federal courts, they also have employed creative approaches to successfully handle difficult cases through alternative dispute resolution such as mediation or arbitration. The firm's willingness to extend its services in cases that other firms are unwilling or unable to handle is just another testament to its commitment to positive change.

For more information about the firm's Business and Commercial Litigation practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/business-commercial-litigation/>.

## CONSUMER PROTECTION

Wexler Wallace is a national leader in prosecuting consumer protection claims on behalf of both businesses and individuals in state and federal courts throughout the country. The firm has successfully prosecuted cases involving, but not limited to:

- // unlawful environmental dumping
- // improper Internet "lead generation" practices
- // unfair billing practices of telecommunications companies
- // mislabeling of dietary supplements
- // the sale of defective drugs and household appliances
- // unfair payment policies of health insurance companies
- // false advertising by Internet service providers
- // deceptive practices of social networking sites
- // unlawful debt reduction scams

For more information about the firm's Consumer Protection practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/consumer-protection/>.

## GOVERNMENT REPRESENTATION

Our state, local, and federal governments are often victims of the same securities and healthcare frauds that are inflicted on businesses and individuals in the private sector. The government is an insurer through Medicare or Medicaid, and therefore overpays when brand name pharmaceutical manufacturers unlawfully suppress generic competition for their drugs. Similarly, government entities are investors with respect to their treasuries and pension plans. Thus, when false and misleading statements are issued by public companies, government entities are entitled to the same securities fraud damages that are available to private investors. Governments are also owed fiduciary duties in certain circumstances, and are often parties to multi-million-dollar contracts, the breach of which can result in significant damages.

Wexler Wallace helps government entities recover the funds taken from them through the unlawful conduct of others. Ultimately, those funds belong to taxpayers, who are the intended beneficiaries of government services. Wexler Wallace believes that government officials have not only the right, but also the obligation, to try to recover these assets for their constituents.

For more information about the firm's Government Representation practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/government-representation/>.

## HEALTHCARE LITIGATION

In the wake of ever-rising healthcare costs, Wexler Wallace is at the forefront of legal action being taken nationwide to challenge wide-ranging fraudulent and unfair conduct in the healthcare industry. Wexler Wallace has prosecuted claims for:

- // reporting of fraudulent pharmaceutical prices
- // failures to recall defective health devices
- // an industry-wide conspiracy to increase the prices of over 400 brand name drugs
- // the filing of baseless lawsuits and administrative actions to delay generic drug entry
- // a pharmacy's illegal substitution of more expensive versions of generic drugs

Bringing claims under RICO, the antitrust laws, state consumer protection statutes, and more, Wexler Wallace has successfully prosecuted cases against some of the largest companies in the healthcare industry, including McKesson Corp., Becton Dickinson, AstraZeneca, GlaxoSmithKline, Abbott Laboratories, Bristol-Myers Squibb, Johnson & Johnson, and Bayer Corporation.

Wexler Wallace's case against McKesson Corp. for manipulating the reimbursement benchmark for drug purchases resulted in one of the largest, if not the largest, RICO settlements ever.

For more information about the firm's Healthcare Litigation practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/healthcare-litigation/>.

## MASS TORT LITIGATION

Wexler Wallace is a nationally-recognized leader in complex mass tort litigation involving defective drugs and medical devices that have injured hundreds or even hundreds of thousands of individuals. The firm investigates and aggressively pursues mass tort claims to promote industry-wide changes intended to benefit the public, prevent future lawsuits, and provide the maximum remedies under the law for those who have been harmed. The firm's lawyers and staff are intimately familiar with the nuances of this

complicated practice area and continually track the impact of new technological and scientific developments on mass tort litigation.

To deepen the legal team's medical knowledge and resources and to support those clients who have suffered injuries, Wexler Wallace employs a full-time registered nurse with certification as a Legal Nurse Consultant (LNC). Debbie A. Pritts, RN, LNCC has over twenty-five years of experience and works directly with the firm's clients throughout each stage of the legal process.

For more information about the firm's Mass Torts practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/mass-tort-litigation/>.

## **SECURITIES AND CORPORATE GOVERNANCE**

Over the last few years, we have learned all too well that lack of regulation and oversight can lead to corrupt corporate leadership, lack of transparency regarding the risks of significant investments, and the repeated securitization of the same bad investments.

Wexler Wallace has committed its resources to helping pension plans, governments, and others recover assets lost as a result of the weakness of mortgage-backed securities, auction rate securities, credit swaps, derivative swaps, and overextended securities lending programs. Through its membership in the National Association of State Treasurers, and its increased involvement in institutional finance and investment conferences, Wexler Wallace has catapulted itself to the forefront of this area of litigation, seeking redress and the recovery of assets lost through gross negligence and breaches of fiduciary duties by those in whom institutional investors placed their trust and confidence.

Securities litigation can often result in changes to corporate governance and policies designed to prevent future misconduct. Wexler Wallace believes the importance of this work cannot be overstated. The firm seeks to ensure that corporate officers and directors fulfill their responsibilities and provide full disclosure and transparency to those buying and selling securities, helping to ensure that our capital markets truly reflect the accurate information that should underlie every commercial transaction.

For more information about the firm's Securities and Corporate Governance practice, including summaries of representative cases, please visit the firm's website, at <http://www.wexlerwallace.com/practice-areas/securities-corp-governance/>.

## **WHISTLEBLOWER AND FALSE CLAIMS LITIGATION**

Under the Federal False Claims Act and state law counterparts, private citizens or “whistleblowers” may sue on behalf of the government for fraud committed against it. This type of fraud costs taxpayers billions of dollars each year. If a case is successful, the government may be able to recover treble damages and civil penalties for each violation and the private citizen or “relator” can receive his or her attorneys’ fees and costs, as well as a portion of the funds awarded by the court.

Wexler Wallace is committed to seeing companies and individuals held responsible for fraud against the government and to representing private citizens willing to come forward and expose fraud.

For more information about the firm’s Whistleblower and False Claims Litigation practice, including summaries of representative cases, please visit the firm’s website, at <http://www.wexlerwallace.com/practice-areas/whistleblower-false-claims-litigation/>.

# Our Professionals

Our legal team consists of professionals with a broad range of experiences and diverse backgrounds. Many of our lawyers serve as leaders in charitable institutions, teach at universities, and are members of national, state, and local bar associations. All of our professionals have earned the respect and admiration of our clients, judges, and co-counsel by the strength of their experience, diverse backgrounds, and overall commitment to excellence.

## OUR PARTNERS

The partners of Wexler Wallace have been selected 15 times as “Super Lawyers” and “Rising Stars” in Illinois. Named partners, Kenneth A. Wexler and Edward A. Wallace, are each rated AV® Preeminent™ by Martindale-Hubbell, the highest rating in legal ability and ethics a lawyer can obtain. In addition, they have been named Illinois Local Litigation Stars by Benchmark Plaintiff every year since 2012.

## OUR ASSOCIATES

Our associates hail from some of the top schools in the nation and have been recognized for outstanding academic achievement. As law students, Wexler Wallace associates served on the editorial boards of law reviews and journals, received academic honors, acted as student leaders, and participated in a variety of clinical programs to receive real-world legal experience before entering practice. Combined, our associates garnered 17 top of the class CALI awards for the highest grades in their courses and graduated with GPAs that placed them near the top of their respective law school classes.

**KENNETH A.  
WEXLER**

**MANAGER AND  
FOUNDING  
PARTNER**

Kenneth A. Wexler, the founder of the firm, is a 1980 graduate of the Georgetown University Law Center. He received a Bachelor of Arts degree in 1977, *summa cum laude*, from Washington University in St. Louis, Missouri.

For over 30 years, Ken has devoted himself to helping those whose rights have been denied, or who have been victims of the unscrupulous or fraudulent actions of others, typically more powerful persons or entities. Founder of Wexler Wallace, Ken was also a founding partner of the firm formerly known as Miller Faucher Cafferty and Wexler LLP. He began his career and was a partner in the Chicago law firm now known as Much Shelist Dennenberg Ament & Rubenstein, PC.

Ken has been in leadership positions in cases with far-ranging subject matters, including brand name manufacturer suppression of competition from generic drugs, fraudulent and deceptive product overcharges, discrimination and harassment, corporate waste and mismanagement, cost recovery for defective medical devices, false advertising, and government fraud. Ken's practice is devoted to complex class action and commercial litigation, which includes a substantial amount of health care litigation, claims brought under federal and state false claims statutes, and cases alleging violations of the securities and antitrust laws. At present, Ken is particularly focused on protecting issuers of municipal bonds, recovering losses for pension funds and other investors that were victimized by unlawful and improvident securities lending practices, and cost-recovery for victims of health care fraud, including Taft-Hartley Funds, self-insured employers, and government entities.

Ken is a member of the Chicago Bar Association, Illinois State Bar Association, Federal Bar Association, American Bar Association, Chicago Council of Lawyers, American Association for Justice, and the Illinois Trial Lawyers Association. He is admitted to the bar in Illinois and is licensed to practice before the Illinois Supreme Court, United States District Court for the Northern and Southern Districts of Illinois, the United States Court of Appeals for the First, Second, Third, Sixth, and Seventh Circuits, and the United States Court of Appeals for the District of Columbia. With so many of the firm's cases pending in jurisdictions across the country, Ken has also been admitted to practice *pro hac vice* in United States District Courts of California, Connecticut, the District of Columbia, Florida, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New Mexico, New York,

Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, and Wisconsin.

Along with bar activities, Ken is a fellow of The Roscoe Pound Institute and is a member of the American Constitution Society for Law and Policy, the Center for International Legal Studies, the National Association of State Treasurers, and the Executive Committee of the Civil Rights for the Anti-Defamation League. Ken also volunteers with the Chicago coalition for the Homeless and is a lifetime member of the 100 Club of Chicago.

**EDWARD A.  
WALLACE**  
  
**PARTNER**

Ed joined the firm in February 2000, a little over a month after its founding. Since then, he has helped lead the firm to national prominence. He became a partner of the firm in 2003 and joined Ken Wexler as an equity partner in 2006.

Ed focuses his practice on large scale multi-party complex litigation, and has been asked to serve in leadership positions in numerous high-profile cases, including recent appointments in securities litigation and mass torts. In August 2014, Ed led a trial team that achieved the first verdict involving a transvaginal sling mesh (a device used to treat stress urinary incontinence) in federal court. Wexler Wallace, along with co-counsel, tried this defective mesh product case, securing a \$3.27 million verdict for Plaintiff Jo Huskey, a 52-year-old woman who was implanted with the mesh in 2011. Ed has been critical in the development of the firm's mass tort practice, and, in the process, he has gained a national reputation for integrity, efficiency, strategic planning, understanding the relevant science, and achieving success.

Ed's hard work led to his recognition as an Illinois Super Lawyer in 2014 and 2015, an award given annually to no more than 5 percent of lawyers in the state. Ed has an AV<sup>®</sup> Preeminent™ rating by Martindale-Hubbell, the highest rating a lawyer can obtain, indicating a very high to preeminent legal ability and exceptional ethical standards. Every year since its inaugural edition in 2012, Ed also has been named an Illinois Local Litigation Star by Benchmark Plaintiff.

He is admitted to the bar in Illinois and is licensed to practice before the Illinois Supreme Court, the United States District Court for the Northern and Southern Districts of Illinois, the United States District Court for the Western District of Michigan, the United States District Court for the District of Colorado, and the United States Court of Appeals for the Third and Seventh Circuits. He also has been admitted *pro hac vice* in many courts around the country.

Ed is a member of the American Bar Association and is a former Consumer Protection Law Subcommittee Newsletter Co-Chair. He also is a member of the Chicago Bar Association, where he is a member of the Class Action Committee, the Illinois State Bar Association, the National Association of Shareholder and Consumer Attorneys, Public Justice, and the American Association for Justice ("AAJ"). Within AAJ, he belongs to the Commercial

Law Section, the Product Liability Section, and the Section on Toxic, Environmental and Pharmaceutical Torts. At the AAJ's recent annual convention, Ed was re-elected co-chair for the Kugel Mesh Litigation Group.

Ed is a 1995 graduate of DePaul University College of Law. He received a Bachelor of Arts degree in 1991 from Eastern Illinois University.

**KARA A. ELGERSMA**  
**PARTNER**

Kara A. Elgersma is a 2000 graduate of Georgetown University Law Center, with Bachelor of Arts Degrees in English and History obtained from the University of Kansas in 1997.

Kara came to Wexler Wallace from K&L Gates LLP, where she was a partner. At K&L Gates, Kara was a member of the Antitrust and Trade Regulation Department, focusing on antitrust litigation, franchising and dealership disputes, class actions and other complex commercial litigation, as well as advising clients on a variety of regulatory matters, including antitrust, FCC, and energy regulatory policies.

Kara's experience includes all aspects of complex commercial litigation. In addition, she is well-versed in arbitration, including pre-hearing case development and management, as well as the conduct of full hearings.

For six months in 2004, Kara was "on loan" to Kraft Foods Global, Inc., Northfield, Illinois, where she directly assisted the Chief Litigation Counsel for the company and handled a wide variety of litigation matters, including small and large product liability claims, general commercial litigation, civil investigative demands, business subpoenas, labor and employment litigation, and bankruptcy matters.

She is admitted to the bars of the Supreme Court of Illinois and Wisconsin, the District of Columbia Court of Appeals, the United States District Courts for the Northern District of Illinois, the District of Columbia, the District of Colorado and the Western District of Wisconsin, the United States Courts of Appeals for the Third, Fourth, Sixth, Seventh, and Tenth Circuits, and the Supreme Court of the United States.

Kara is a member of the American Bar Association, the Illinois State Bar Association, and the District of Columbia Bar Association. She was a Board Member of the Competition Law360 Advisory Board for 2009 to 2010, and she was involved as a Board Member for Girls On The Run of Northern Virginia, as well as a volunteer with Chicago Volunteer Legal Services.

**MARK R. MILLER**

**PARTNER**

Mark R. Miller received his J.D. from Loyola University Chicago School of Law in 2004 after graduating from Central Michigan University with a Bachelor of Science in History in 2001.

Over the last decade, Mark has represented both plaintiffs and defendants in all phases of complex litigation—from the investigation and filing of the complaint through discovery, motion practice, class certification, summary judgment, and trial or settlement. Since joining Wexler Wallace in 2006, his practice has included handling a wide variety of consumer protection, antitrust, securities, banking regulation, business, and contractual class action cases. In addition to his background in commercial and consumer litigation, his practice has evolved to focus on products liability mass torts; and he has recently played pivotal roles in the jury trials of several mass tort MDL cases. His work in those cases included working with experts, taking fact and expert witness depositions, participating on bellwether trial teams, and drafting much of the briefing addressing complex discovery, pre-trial, and post-trial motions. In doing so, he has enhanced the firm's reputation and developed solid relationships with judges, co-counsel, and clients alike.

Mark is admitted to the bar of the State of Illinois, the United States Court of Appeals for the First Circuit, and the United States District Courts for the Northern District of Illinois, Southern District of Illinois, and Eastern District of Michigan.

**BETHANY R. TURKE**

**PARTNER**

Bethany R. Turke joined Wexler Wallace after practicing in the New York and Chicago offices of Latham & Watkins LLP. Bethany's practice at Latham involved a wide range of civil and criminal litigation matters, including securities litigation, contract disputes, government investigations, and employment matters. She was also very active in Latham's *pro bono* practice, working tirelessly on behalf of clients facing various immigration, employment, and housing discrimination issues. Before joining Latham & Watkins, Bethany served as a law clerk to the Honorable Cheryl L. Pollak of the United States District Court for the Eastern District of New York. She received her J.D. from Harvard Law School in 2006.

Bethany is actively involved on cases in a number of Wexler Wallace's practice specialties, including the firm's antitrust, healthcare, and

consumer protection practice areas.

**JUSTIN N. BOLEY**  
**PARTNER**

Justin N. Boley's principal area of practice is complex class action litigation in antitrust matters. Since joining the firm, he has been heavily involved with virtually all of the firm's pharmaceutical antitrust cases, including, among others: In re Nexium (Esomeprazole) Antitrust Litigation, In re Welbutrin XL Antitrust Litigation; In re Prograf Antitrust Litigation, In re Lipitor Antitrust Litigation, In re Effexor Antitrust Litigation, In re Androgel Antitrust Litigation, and In re Skelaxin (Metaxalone) Antitrust Litigation. He has also worked on antitrust cases involving price-fixing in international commodities markets and manipulation of benchmark interest rates, and he has taken the lead on investigations into the cartelization of the credit derivatives market and price-fixing among online travel sites and hotels.

Justin came to the firm after attending school abroad and obtaining a Master's Degree in International Relations. During law school, Justin's focus on corporate law, finance, and complex litigation earned him numerous top-of-the-class academic honors; he was awarded CALI Awards in Antitrust, Contracts, Legal Analysis, Research, and Writing III, Commercial Arbitration, Natural Resource Law, and Legal Profession (Ethics). Justin was a member of the Public Interest Law Committee at DePaul College of Law for three years. He also worked as a member of the New Media Team in President Obama's Presidential campaign headquarters in Chicago, where he helped facilitate the online organizing efforts of grassroots groups nationwide.

Justin is admitted to the bar of the State of Illinois, Western District of Wisconsin, United State Court of Appeals, Seventh Circuit, and the United States District Court for the Northern District of Illinois.

**TIMOTHY E.  
JACKSON**

**ASSOCIATE**

Timothy E. Jackson began work at Wexler Wallace as a summer associate while in law school. Tim received his J.D. from The Ohio State University Michael E. Moritz College of Law in 2010, where he was a Managing Editor on The Ohio State Journal on Dispute Resolution. He received his M.S. in Psychology from Tulane University in 2007 and his B.S. in Psychology from Tulane in 2006. Tim's primary practice areas at Wexler Wallace are medical device litigation, product liability law and mass tort litigation.

**TYLER J. STORY**

**ASSOCIATE**

Beginning in law school, Tyler J. Story has focused his attention towards antitrust litigation. While a student at Pennsylvania State University, he held two antitrust research assistant positions: one in which he explored issues of indirect purchaser standing in state antitrust suits, the other in which he focused specifically on the application of antitrust law and economics in the pharmaceutical industry

Since joining Wexler Wallace, Tyler has been actively involved in various aspects of litigation concerning brand name manufacturer suppression of competition from generic drugs.

**LAUREN C. KAPLAN**

**ASSOCIATE**

Lauren C. Kaplan joined Wexler Wallace in the fall of 2017, where she uses her experience in medical malpractice, professional negligence, and commercial litigation to assist with the firm's numerous mass tort cases.

Lauren received a Bachelor's of Science in Public Affairs from Indiana University in 2011. Since receiving her J.D. from Chicago-Kent College of Law in 2014, Lauren has focused her career on helping clients who had been the victims of negligence, medical and professional carelessness, fraud, and similar legal disputes.

Lauren has been deeply involved with all aspects of the legal process throughout her career. From co-drafting an Illinois Supreme Court brief to sitting second chair in a negligence trial that secured a multi-million dollar jury verdict, Lauren possesses a keen legal mind and a desire to seek justice

for her clients.

**MICHELLE  
PERKOVIC**  
**ASSOCIATE**

Michelle Perkovic's tenure at Wexler Wallace began in the Summer of 2017, where she served as a law clerk while completing her legal degree. Michelle's impressive work and passion for helping clients left a lasting impression, making her a natural fit for the firm. Michelle returned to Wexler Wallace after graduating in the fall of 2018, where she lends her talents and passion to the firm's antitrust and mass tort litigation.

**DANIEL P. KELLY**  
**ASSOCIATE**

Daniel P. Kelly has been involved with numerous aspects of legal work throughout his career. From drafting and preparing documents to serving on trial teams, Daniel has a profound understanding of the role each facet plays in shaping the outcome of a case.

Daniel joined Wexler Wallace in the fall of 2018, where his thoroughness and attention to detail is utilized in document review for the firm's antitrust, business, and securities cases. Daniel's first exposure to the world of high-stakes litigation began in 2012, when he served as a member of a trial team during a seven-week, multi-count white collar federal criminal trial. Daniel worked closely with outside counsel to prepare expert witnesses for trial and created demonstrative exhibits summarizing evidence for use during opening arguments and testimony.

Daniel received a Bachelor of the Arts degree in Political Science from Southern Illinois University Carbondale in 2005 and earned his Juris Doctor from the University of Chicago Law School in 2008. Daniel has previously volunteered for the Chicago Justice Project to improve public access to criminal justice related information.

Umar Sattar is actively involved in the firm's class action, product liability, False Claims Act, and antitrust practice areas.

Umar served as a member of the trial team that achieved a \$6 million jury verdict in *Burton v. American Cyanamid, et al* in the Eastern District of

**UMAR SATTAR**  
**ASSOCIATE**

Wisconsin. There, Umar was involved in legal briefing prior to and during the trial. Umar's contributions to the case involved drafting briefing on numerous dispositive motions, drafting directed verdict arguments, and working with expert witnesses. Umar continues to be involved in the case's post-trial briefing.

Prior to joining Wexler Wallace in 2019, Umar served as a prosecutor in the Manhattan District Attorney's Office in New York City, where he tried numerous cases to verdict before judges and juries. Umar also led grand jury investigations in the areas of cybercrime, identity theft, and sex crimes.

**DEBBIE A. PRITTS**  
**LEGAL NURSE**  
**CONSULTANT**

Debbie A. Pritts, R.N., LNCC is a Registered Nurse with more than 20 years of clinical experience in Oncology, Med-Surg, Endoscopy, Ambulatory/Outpatient Care, Orthopedics, Ophthalmic Laser, Home Health and Utilization Review. She has been certified in BLS (Basic Life Support), ACLS (Advanced Cardiac Life Support) and Chemotherapy Administration. Debbie achieved the status as Legal Nurse Consultant Certified (LNCC) through the American Association of Legal Nurse Consultants (AALNC) in November 2005. LNCC certification is designated after successfully meeting the requirements through examination and experience that validate qualifications, knowledge, and practice in the field of legal nurse consulting. LNCC is the only legal nurse consulting credential recognized by American Association of Legal Nurse Consultants and accredited by the American Board of Nursing Specialties (ABNS).

Debbie has experience in Product Liability, Medical Malpractice, Personal Injury, and Workers Compensation. Debbie is a member of the American Association of Legal Nurse Consultants and the West Virginia Upper Ohio Valley Chapter of the AALNC, presently serving as the chapter's president. She has been a Member of the Board of Directors since 2005, serving as a past Treasurer and is Chair of the Website Committee. Additionally she is a founding member of the WV Bar Association, Legal Nurse Consultant Section.

She works directly with clients of Wexler Wallace, from the first time they contact the firm, through trial. Her expertise and passion for the

job has provided the firm's clients with the service they deserve.

# **Exhibit 7**

*Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc.*  
Case No. 1:16-CV-05198 (N.D. Ill.)

**SUMMARY OF LODESTARS AND EXPENSES**

<b>FIRM</b>	<b>HOURS</b>	<b>LODESTAR</b>	<b>EXPENSES</b>
Labaton Sucharow LLP	5,115.90	\$2,554,505.50	\$157,042.19
Spector Roseman Kodroff, P.C.	1,428.75	\$888,647.50	\$27,049.99
Wexler Wallace LLP	67.50	\$43,832.50	\$100.51
<b>TOTALS</b>	<b>6,612.15</b>	<b>\$3,486,985.50</b>	<b>\$184,192.69</b>

# **Exhibit 8**

	Count	Low		25th Percentile		Median		75th Percentile		High	
		Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)
<b>Partners</b>											
<b>All Partners</b>	<b>519</b>	<b>\$734</b>	<b>(+13%)</b>	<b>\$1,045</b>	<b>(+5%)</b>	<b>\$1,150</b>	<b>(+5%)</b>	<b>\$1,364</b>	<b>(+3%)</b>	<b>\$1,725</b>	<b>(+13%)</b>
2018											
2017	545	\$650	(+24%)	\$995	(+7%)	\$1,100	(+7%)	\$1,325	(+10%)	\$1,525	(+7%)
2016	245	\$525	(-22%)	\$930	(+6%)	\$1,025	(+5%)	\$1,200	(+9%)	\$1,425	(+2%)
2015	206	\$675	(+17%)	\$876	(+4%)	\$975	(+3%)	\$1,102	(+1%)	\$1,400	(+14%)
2014	185	\$575	(+0%)	\$840	(+3%)	\$950	(-3%)	\$1,095	(-0%)	\$1,225	(+6%)
2013	239	\$575	(+28%)	\$815	(+3%)	\$975	(+11%)	\$1,100	(+11%)	\$1,160	(-2%)
2012	217	\$450		\$790		\$875		\$985		\$1,180	
<b>Sr. Partners</b>	<b>366</b>	<b>\$759</b>	<b>(+17%)</b>	<b>\$1,075</b>	<b>(+8%)</b>	<b>\$1,260</b>	<b>(+11%)</b>	<b>\$1,450</b>	<b>(+9%)</b>	<b>\$1,725</b>	<b>(+13%)</b>
2018											
2017	460	\$650	(-26%)	\$1,000	(-4%)	\$1,130	(-2%)	\$1,330	(+4%)	\$1,525	(+7%)
2016	191	\$875	(+25%)	\$1,044	(+16%)	\$1,150	(+18%)	\$1,275	(+13%)	\$1,425	(+2%)
2015	141	\$700	(+22%)	\$900	(+1%)	\$975	(-2%)	\$1,125	(+0%)	\$1,400	(+14%)
2014	139	\$575	(+0%)	\$893	(+2%)	\$995	(+0%)	\$1,125	(-0%)	\$1,225	(+6%)
2013	182	\$575	(+28%)	\$875	(+7%)	\$993	(+8%)	\$1,129	(+10%)	\$1,160	(-2%)
2012	168	\$450		\$818		\$915		\$1,030		\$1,180	
<b>Mid-Level Partners</b>	<b>64</b>	<b>\$750</b>	<b>(+15%)</b>	<b>\$1,045</b>	<b>(+16%)</b>	<b>\$1,110</b>	<b>(+9%)</b>	<b>\$1,191</b>	<b>(+11%)</b>	<b>\$1,480</b>	<b>(+14%)</b>
2018											
2017	54	\$650	(-4%)	\$900	(+6%)	\$1,015	(+8%)	\$1,075	(+5%)	\$1,295	(+11%)
2016	32	\$675	(+0%)	\$850	(+0%)	\$940	(+5%)	\$1,025	(+7%)	\$1,165	(-6%)
2015	23	\$675	(+5%)	\$848	(+5%)	\$895	(+7%)	\$955	(+7%)	\$1,245	(+16%)
2014	25	\$640	(+1%)	\$810	(+8%)	\$840	(+2%)	\$895	(+4%)	\$1,075	(+5%)
2013	23	\$635	(+15%)	\$750	(+7%)	\$825	(+10%)	\$863	(+5%)	\$1,025	(-9%)
2012	27	\$550		\$700		\$750		\$818		\$1,125	
<b>Jr. Partners</b>	<b>89</b>	<b>\$734</b>	<b>(+13%)</b>	<b>\$1,015</b>	<b>(+13%)</b>	<b>\$1,055</b>	<b>(+8%)</b>	<b>\$1,120</b>	<b>(+8%)</b>	<b>\$1,375</b>	<b>(+26%)</b>
2018											
2017	28	\$650	(+24%)	\$898	(-0%)	\$980	(+4%)	\$1,035	(+6%)	\$1,095	(+4%)
2016	22	\$525	(-25%)	\$900	(+9%)	\$940	(+7%)	\$975	(+7%)	\$1,050	(+6%)
2015	23	\$700	(-7%)	\$625	(+6%)	\$880	(+12%)	\$915	(+12%)	\$995	(+2%)
2014	14	\$750	(+3%)	\$775	(+0%)	\$785	(+1%)	\$819	(-3%)	\$975	(-15%)
2013	28	\$725	(+14%)	\$774	(+7%)	\$780	(+7%)	\$846	(+7%)	\$1,150	(+5%)
2012	17	\$635		\$725		\$730		\$790		\$1,100	

Rate Distribution by Title Over Time

	Count	Low Rate (%Δ)	25th Percentile Rate (%Δ)	Median Rate (%Δ)	75th Percentile Rate (%Δ)	High Rate (%Δ)
<b>Of Counsel</b>						
2018	151	\$590 (+69%)	\$850 (+3%)	\$950 (+0%)	\$1,050 (+3%)	\$1,350 (+4%)
2017	227	\$350 (-47%)	\$825 (+6%)	\$950 (+16%)	\$1,015 (+4%)	\$1,295 (+13%)
2016	81	\$660 (+32%)	\$775 (+12%)	\$818 (+5%)	\$978 (+12%)	\$1,145 (+2%)
2015	53	\$500 (-9%)	\$695 (+7%)	\$778 (+0%)	\$875 (-1%)	\$1,125 (+10%)
2014	53	\$550 (+16%)	\$650 (-8%)	\$775 (-2%)	\$885 (+2%)	\$1,025 (-11%)
2013	67	\$475 (+6%)	\$710 (+5%)	\$790 (+5%)	\$870 (+9%)	\$1,150 (+0%)
2012	53	\$450	\$675	\$750	\$795	\$1,150
<b>Associates</b>						
<b>All Associates</b>						
2018	929	\$275 (-5%)	\$600 (+8%)	\$750 (+3%)	\$875 (+5%)	\$1,500 (+48%)
2017	956	\$290 (-17%)	\$555 (+1%)	\$725 (+7%)	\$835 (+5%)	\$1,015 (+7%)
2016	362	\$350 (+56%)	\$550 (+15%)	\$675 (+15%)	\$795 (+10%)	\$945 (+8%)
2015	320	\$225 (+10%)	\$480 (-1%)	\$585 (-4%)	\$725 (+1%)	\$875 (-3%)
2014	322	\$205 (+3%)	\$485 (+1%)	\$610 (+3%)	\$720 (+3%)	\$900 (+3%)
2013	457	\$200 (-11%)	\$480 (+7%)	\$595 (+5%)	\$700 (+9%)	\$875 (+3%)
2012	293	\$225	\$450	\$565	\$645	\$850
<b>Sr. Associates</b>						
2018	150	\$275 (-31%)	\$835 (+5%)	\$930 (+5%)	\$975 (+5%)	\$1,500 (+51%)
2017	230	\$400 (-11%)	\$795 (+10%)	\$885 (+7%)	\$930 (+5%)	\$995 (+8%)
2016	62	\$450 (+14%)	\$725 (+12%)	\$830 (+14%)	\$885 (+13%)	\$920 (+8%)
2015	53	\$395 (+32%)	\$650 (+8%)	\$730 (-2%)	\$780 (+0%)	\$850 (-6%)
2014	69	\$300 (+9%)	\$600 (+0%)	\$745 (+5%)	\$780 (+2%)	\$900 (+3%)
2013	106	\$275 (-8%)	\$600 (+4%)	\$710 (+9%)	\$765 (+4%)	\$875 (+6%)
2012	50	\$300	\$575	\$660	\$735	\$825
<b>Mid-Level Associates</b>						
2018	378	\$425 (+31%)	\$750 (+17%)	\$830 (+14%)	\$890 (+10%)	\$1,075 (+6%)
2017	400	\$325 (-13%)	\$640 (-4%)	\$725 (-1%)	\$810 (+1%)	\$1,015 (+7%)
2016	142	\$375 (+15%)	\$666 (+31%)	\$735 (+16%)	\$803 (+13%)	\$945 (+12%)
2015	104	\$325 (+5%)	\$508 (-13%)	\$635 (-5%)	\$710 (-1%)	\$845 (+4%)
2014	134	\$310 (+13%)	\$584 (+10%)	\$665 (+8%)	\$720 (+5%)	\$810 (-5%)
2013	224	\$275 (-8%)	\$530 (+12%)	\$615 (+7%)	\$685 (+6%)	\$850 (+0%)

	Count	Low		25th Percentile		Median		75th Percentile		High	
		Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)	Rate	(%Δ)
2012	125	\$300		\$475		\$575		\$645		\$850	
<b>Jr. Associates</b>											
2018	402	\$375 (+29%)		\$535 (+9%)		\$610 (+16%)		\$675 (+5%)		\$895 (+0%)	
2017	301	\$290 (-17%)		\$490 (+3%)		\$525 (-6%)		\$640 (+6%)		\$895 (+3%)	
2016	126	\$350 (+56%)		\$475 (+6%)		\$560 (+17%)		\$605 (+14%)		\$870 (+25%)	
2015	88	\$225 (-4%)		\$449 (+1%)		\$480 (+5%)		\$531 (+1%)		\$695 (-9%)	
2014	88	\$235 (-6%)		\$444 (+3%)		\$458 (+3%)		\$525 (+6%)		\$760 (-4%)	
2013	95	\$250 (+11%)		\$430 (+5%)		\$445 (-1%)		\$495 (-4%)		\$795 (+15%)	
2012	90	\$225		\$410		\$450		\$514		\$690	

	Count	Low	25th Percentile	Median	75th Percentile	High
<b>Partners</b>						
1) Kirkland & Ellis LLP	176	\$930	\$1,078	\$1,160	\$1,325	\$1,725
2) Proskauer Rose LLP	29	\$759	\$759	\$759	\$1,125	\$1,625
3) Morrison & Foerster LLP	24	\$800	\$880	\$1,025	\$1,125	\$1,600
4) Sidley Austin LLP	13	\$925	\$1,038	\$1,125	\$1,219	\$1,500
5) Weil, Gotshal & Manges LLP	62	\$950	\$1,125	\$1,245	\$1,450	\$1,600
6) Wilkie Farr & Gallagher LLP	15	\$1,025	\$1,275	\$1,400	\$1,500	\$1,600
7) Akin Gump Strauss Hauer & Feld LLP	39	\$860	\$970	\$1,070	\$1,266	\$1,475
8) Paul, Weiss, Rifkind, Wharton, & Garrison LLP	25	\$1,017	\$1,395	\$1,470	\$1,470	\$1,470
9) Milbank, Tweed, Hadley & McCloy LLP	16	\$1,030	\$1,465	\$1,465	\$1,465	\$1,465
10) Jones Day	36	\$750	\$900	\$975	\$1,050	\$1,450
11) Latham & Watkins LLP	26	\$1,030	\$1,060	\$1,250	\$1,295	\$1,385
12) Paul Hastings LLP	14	\$1,050	\$1,131	\$1,188	\$1,250	\$1,386
13) Kramer Levin Naftalis & Frankel	14	\$995	\$1,088	\$1,113	\$1,194	\$1,295
14) Skadden, Arps, Slate, Meagher, & Flom LLP	4	\$975	\$975	\$1,071	\$1,197	\$1,290
15) Quinn Emanuel Urquhart & Sullivan, LLP	5	\$734	\$855	\$1,080	\$1,188	\$1,225
16) Kasowitz Benson Torres LLP	2	\$1,050	\$1,088	\$1,125	\$1,183	\$1,200
17) O'Melveny & Myers LLP	15	\$808	\$808	\$871	\$1,016	\$1,148
18) Davis Polk & Wardwell LLP	4	\$1,001	\$1,001	\$1,001	\$1,001	\$1,001
19) Labaton Sucharow LLP	17	\$775	\$875	\$900	\$975	\$995

**Of Counsel**

1) Jones Day	4	\$590	\$875	\$990	\$1,065	\$1,350
2) Paul Hastings LLP	8	\$795	\$1,024	\$1,163	\$1,200	\$1,350
3) Kirkland & Ellis LLP	6	\$590	\$1,003	\$1,160	\$1,290	\$1,325
4) Latham & Watkins LLP	6	\$990	\$990	\$1,010	\$1,150	\$1,250
5) Sidley Austin LLP	6	\$750	\$875	\$875	\$888	\$1,200
6) Paul, Weiss, Rifkind, Wharton, & Garrison LLP	12	\$1,015	\$1,050	\$1,050	\$1,095	\$1,095
7) Akin Gump Strauss Hauer & Feld LLP	38	\$860	\$815	\$885	\$910	\$1,090
8) Morrison & Foerster LLP	12	\$700	\$850	\$880	\$938	\$1,075
9) Milbank, Tweed, Hadley & McCloy LLP	5	\$1,015	\$1,040	\$1,065	\$1,065	\$1,065
10) Skadden, Arps, Slate, Meagher, & Flom LLP	4	\$975	\$1,020	\$1,040	\$1,047	\$1,052
11) Weil, Gotshal & Manges LLP	19	\$940	\$990	\$990	\$990	\$1,050
12) Wilkie Farr & Gallagher LLP	2	\$1,015	\$1,015	\$1,015	\$1,015	\$1,015
13) Proskauer Rose LLP	2	\$759	\$867	\$975	\$975	\$975
14) Kramer Levin Naftalis & Frankel	7	\$935	\$935	\$935	\$943	\$950
15) Davis Polk & Wardwell LLP	4	\$823	\$823	\$823	\$835	\$872
16) O'Melveny & Myers LLP	16	\$646	\$692	\$706	\$740	\$808
17) Labaton Sucharow LLP	5	\$600	\$700	\$700	\$775	\$775

**Associates**

	Count	Low	25th Percentile	Median	75th Percentile	High
1) Sidley Austin LLP	32	\$495	\$675	\$793	\$860	\$1,500
2) Kirkland & Ellis LLP	231	\$465	\$675	\$770	\$875	\$1,075
3) Paul, Weiss, Rifkind, Wharton, & Garrison LLP	54	\$610	\$690	\$865	\$895	\$1,015
4) Latham & Watkins LLP	29	\$535	\$660	\$755	\$930	\$1,005
5) Weil, Gotshal & Manges LLP	230	\$395	\$575	\$750	\$875	\$1,005
6) Milbank, Tweed, Hadley & McCloy LLP	51	\$390	\$565	\$790	\$935	\$995
7) Willkie Farr & Gallagher LLP	32	\$525	\$660	\$790	\$890	\$990
8) Paul Hastings LLP	23	\$610	\$675	\$788	\$845	\$955
9) Proskauer Rose LLP	33	\$545	\$759	\$759	\$759	\$950
10) Skadden, Arps, State, Meagher, & Flom LLP	13	\$524	\$595	\$595	\$816	\$937
11) Kramer Levin Naftalis & Frankel	25	\$515	\$680	\$795	\$856	\$935
12) Morrison & Foerster LLP	50	\$275	\$525	\$600	\$765	\$875
13) Jones Day	44	\$350	\$475	\$575	\$663	\$860
14) Akin Gump Strauss Hauer & Feld LLP	45	\$495	\$590	\$645	\$725	\$835
15) Quinn Emanuel Urquhart & Sullivan, LLP	4	\$550	\$603	\$680	\$788	\$820
16) Labaton Sucharow LLP	31	\$375	\$460	\$510	\$585	\$725
17) Davis Polk & Wardwell LLP	15	\$410	\$490	\$679	\$679	\$721
18) O'Melveny & Myers LLP	16	\$412	\$489	\$623	\$625	\$650
19) Kasowitz Benson Torres LLP	2	\$380	\$410	\$440	\$470	\$500

### Paralegals

1) Akin Gump Strauss Hauer & Feld LLP	26	\$185	\$250	\$330	\$385	\$675
2) Latham & Watkins LLP	6	\$380	\$395	\$405	\$440	\$500
3) Proskauer Rose LLP	17	\$260	\$260	\$260	\$260	\$460
4) Kirkland & Ellis LLP	58	\$210	\$250	\$310	\$380	\$440
5) Paul Hastings LLP	8	\$295	\$385	\$405	\$405	\$430
6) Sidley Austin LLP	3	\$350	\$355	\$410	\$410	\$410
7) Willkie Farr & Gallagher LLP	7	\$240	\$240	\$278	\$344	\$395
8) Skadden, Arps, State, Meagher, & Flom LLP	24	\$209	\$285	\$347	\$367	\$390
9) Morrison & Foerster LLP	10	\$230	\$340	\$340	\$355	\$385
10) Kramer Levin Naftalis & Frankel	7	\$370	\$370	\$370	\$380	\$380
11) Weil, Gotshal & Manges LLP	54	\$140	\$220	\$295	\$350	\$375
12) Milbank, Tweed, Hadley & McCloy LLP	12	\$200	\$210	\$265	\$280	\$355
13) Jones Day	3	\$275	\$275	\$325	\$338	\$350
14) Paul, Weiss, Rifkind, Wharton, & Garrison LLP	23	\$280	\$300	\$350	\$350	\$350
15) Davis Polk & Wardwell LLP	3	\$343	\$343	\$343	\$343	\$343
16) Labaton Sucharow LLP	14	\$295	\$325	\$325	\$325	\$340
17) Quinn Emanuel Urquhart & Sullivan, LLP	2	\$302	\$305	\$308	\$312	\$315
18) O'Melveny & Myers LLP	2	\$204	\$232	\$259	\$287	\$315
19) Kasowitz Benson Torres LLP	3	\$175	\$223	\$270	\$273	\$275

# **Exhibit 9**

## Compendium of Unreported Cases

<i>Gupta v. Power Sol's Int'l Inc.</i> , Case No. 1:16-cv-9599 (N.D. Ill. May 13, 2019).....	1
<i>Van Noppen v. Innerworkings, Inc.</i> , No. 1:14-cv-01416, slip op. (N.D. Ill. Nov. 2, 2016) .....	2

**TAB 1**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SUMIT GUPTA, Individually and on Behalf  
of All Others Similarly Situated,

Plaintiffs,

v.

POWER SOLUTIONS INTERNATIONAL,  
INC., DANIEL P. GOREY, JAY J.  
HANSEN, ELLEN R. HOFFING,  
KENNETH LANDINI, MICHAEL P.  
LEWIS, MARY E. VOGT, and GARY S.  
WINEMASTER,

Defendants.

Case No. 1:16-cv-08253

Consolidated with:

Case No. 1:16-cv-9599

Judge: Honorable Virginia M. Kendall

**May 13, 2019 Final Approval Hearing**

**~~PROPOSED~~ ORDER AWARDING ATTORNEYS' FEES  
AND REIMBURSEMENT OF LITIGATION EXPENSES**

This matter came on for hearing on May 13, 2019 (the "Final Approval Hearing") on Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Final Approval Hearing and otherwise; and it appearing that notice of the Final Approval Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor's Business Daily* and was transmitted over the *PR Newswire* 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 Litigation Expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated January 22, 2019 (ECF No. 135-1) (the "Stipulation") and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

3. Notice of Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys' fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §§ 77z-1(a)(7), 78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of 33 1/3% of the Settlement Fund and \$81,867.58 in reimbursement of Plaintiffs' Counsel's litigation expenses (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the consolidated Action.

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

(a) The Settlement has created a fund consisting of \$8,500,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Plaintiffs' Counsel;

(b) Copies of the Postcard Notice were mailed to 12,577 potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not exceed 33.3% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed \$175,000. There were no objections to the requested attorneys' fees and Litigation Expenses;

(c) Lead Counsel has conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The Action raised a number of complex issues;

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

(f) Plaintiffs' Counsel devoted over 3,554 hours, with a lodestar value of approximately \$1,822,491 to achieve the Settlement; and

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

6. Lead Plaintiff Richard Giunta is hereby awarded \$5,000, and Plaintiff David Leibowitz is awarded \$5,000 from the Settlement Fund as reimbursement for their reasonable costs and expenses directly related to their representation of the Settlement Class.

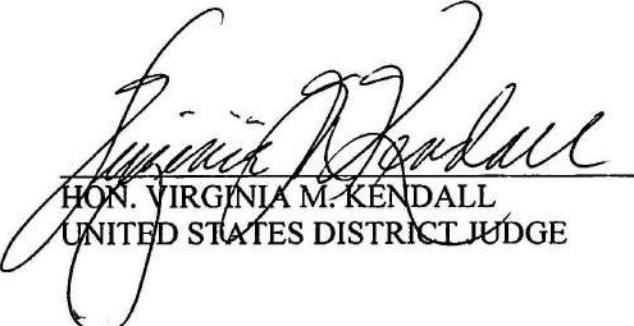
7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

8. Exclusive jurisdiction is hereby retained over the parties and Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

9. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

10. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

Dated: May 13, 2019

  
HON. VIRGINIA M. KENDALL  
UNITED STATES DISTRICT JUDGE

**TAB 2**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PETER IKAI VAN NOPPEN, Individually and On Behalf of All Others Similarly Situating,  <p style="text-align: right;">Plaintiff,</p>	)	
	)	
	)	Case No. 14 CV 1416
	)	
	)	Judge John Robert Blakey
	)	
vs.	)	
	)	CLASS ACTION
INNERWORKINGS, INC., ERIC D. BELCHER, and JOSEPH M. BUSKY,  <p style="text-align: right;">Defendants.</p>	)	
	)	

**ORDER AWARDING ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

WHEREAS:

A. As of May 11, 2016, Lead Plaintiff Plymouth County Retirement System (“Plymouth” or “Lead Plaintiff”), on behalf of itself and the Settlement Class, on the one hand, and InnerWorkings, Inc. (“InnerWorkings” or the “Company”), Eric D. Belcher and Joseph M. Busky (the “Individual Defendants” and, collectively with InnerWorkings, the “Defendants”), on the other, entered into a Stipulation and Agreement of Settlement (the “Stipulation”) in the above-titled litigation (the “Action”);

B. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, entered May 25, 2016 (the “Preliminary Approval

Order”), the Court scheduled a hearing for October 13, 2016, at 9:45 a.m. (the “Settlement Hearing”) to, among other things: (i) determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate, and should be approved by the Court; (ii) determine whether a judgment as provided for in the Stipulation should be entered; and (iii) rule on Lead Counsel’s Fee and Expense Application;

C. The Court ordered that the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys’ Fees and Expenses (the “Notice”) and a Proof of Claim and Release form (“Proof of Claim”), substantially in the forms attached to the Preliminary Approval Order as Exhibits 1 and 2, respectively, be mailed by first-class mail, postage prepaid, on or before ten (10) business days after the date of entry of the Preliminary Approval Order (“Notice Date”) to all potential Settlement Class Members who could be identified through reasonable effort, and that a Summary Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys’ Fees and Expenses (the “Summary Notice”), substantially in the form attached to the Preliminary Approval Order as Exhibit 3, be published in *Investor’s Business Daily* and transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date;

D. The Notice and the Summary Notice advised potential Settlement Class Members of the date, time, place, and purpose of the Settlement Hearing. The Notice further advised that any objections to the Fee and Expense Application,

among other things, were required to be filed with the Court and served on counsel for the Parties such that they were received by September 21, 2016;

E. The provisions of the Preliminary Approval Order as to notice were complied with;

F. On September 6, 2016, Lead Plaintiff moved for final approval of the Settlement and Lead Counsel moved for an award of fees and expenses, as set forth in the Preliminary Approval Order. The Settlement Hearing was duly held before this Court on October 13, 2016, at which time all interested Persons were afforded the opportunity to be heard; and

G. This Court has duly considered Lead Counsel's motion for an award of attorneys' fees and expenses, the affidavits, declarations, memoranda of law submitted in support thereof, the Stipulation, and all of the submissions and arguments presented with respect to the proposed Settlement;

NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Court has jurisdiction over the subject matter of this Action and over all parties to the Action, including all Settlement Class Members, counsel, and the Claims Administrator.

2. All capitalized terms used herein have the meanings set forth and defined in the Stipulation.

3. Notice of Lead Counsel's application for attorneys' fees and payment of expenses was given to all Settlement Class Members who could be identified with

reasonable effort. The form and method of notifying the Settlement Class of the application 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. The Court hereby awards Lead Counsel attorneys' fees in the amount of \$1,807,500, plus interest at the same rate earned by the Settlement Fund, which is 30% of the Settlement Fund, and payment of litigation expenses in the amount of \$124,535.43, plus interest at the same rate earned by the Settlement Fund, which sums the Court finds to be fair and reasonable.

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

6. In making this award of attorneys' fees and payment of litigation expenses to be paid from the Settlement Fund, the Court has analyzed the factors considered within the Seventh Circuit and found that:

(a) The Settlement has created a common fund of \$6,025,000 in cash and that numerous Settlement Class Members who submit acceptable Claim Forms 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 Plaintiff, a sophisticated institutional investor that was directly involved in the prosecution and resolution of the Action and which has a substantial interest in ensuring that any fees paid are duly earned and not excessive;

(c) The amount of attorneys' fees awarded are fair and reasonable and consistent with market-rates and fee awards approved in cases within the Seventh Circuit and other Circuits with similar recoveries;

(d) Lead Counsel is highly experienced in the field of securities class actions and conducted the Action and achieved the Settlement with skillful and diligent advocacy;

(e) Lead Counsel undertook the Action on a contingent basis, and has borne all the ensuing risk, including the risk of no recovery, given, among other things, the risks of succeeding in a case governed by the PSLRA and those presented by Defendants' defenses concerning scienter, loss causation, and damages;

(f) The Action involves difficult factual and legal issues and, in the absence of settlement, would involve lengthy proceedings whose resolution would be uncertain;

(g) Lead and Liaison Counsel have devoted more than 2,400 hours, with a lodestar value of \$1,542,726.00, to achieve the Settlement; and

(h) Notice was disseminated to Settlement Class Members stating that Lead Counsel would be submitting an application for attorneys' fees in an amount not to exceed 30% of the Settlement Fund, plus interest, and payment of litigation expenses incurred in connection with the prosecution of this Action in an amount not to exceed \$225,000, plus interest. No Settlement Class Members have filed an objection to the application for fees and expenses submitted by Lead Counsel.

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

8. 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.

Date: November 2, 2016

ENTERED:

  
\_\_\_\_\_  
John Robert Blakey  
United States District Judge