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IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

DECLARATION OF SERENA P. HALLOWELL IN SUPPORT OF (I) PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND (II) PLAINTIFF'S COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND PAYMENT OF EXPENSES

I, SERENA P. HALLOWELL, declare as follows, under penalty of perjury:

1. I am a partner of the law firm of Labaton Sucharow LLP ("Labaton Sucharow" or "Class Counsel").[1] Labaton Sucharow serves as counsel for Plaintiff the Public Employees' Retirement System of Mississippi ("Mississippi PERS" or "Plaintiff"), and the proposed Settlement Class in the Action. I have been actively involved throughout the prosecution and resolution of the Action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my close supervision of all material aspects of the Action.

2. I submit this declaration in support of Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses. The motions have the full support of Plaintiff. *See* Declaration of Jacqueline H. Ray on behalf of Mississippi PERS, attached hereto as Exhibit 1.[2]

I. PRELIMINARY STATEMENT

3. Following extensive, arm's-length negotiations, a formal mediation process, and continued discussions facilitated by the Hon. Layn R. Phillips (Ret.), Plaintiff has agreed to settle all claims asserted in the Action against Defendants[3] or that could have been asserted arising out

[1] All capitalized terms not otherwise defined herein have the same meaning as that set forth in the Stipulation and Agreement of Settlement, dated as of June 27, 2019 (the "Stipulation"), previously filed with the Court as Exhibit 1 to Plaintiff's Unopposed Motion for (I) Preliminary Approval of Settlement, (II) Certification of the Settlement Class, and (III) Approval of Notice to the Settlement Class, dated June 28, 2019.

[2] Citations to "Exhibit" or "Ex.___" herein refer to exhibits to this Declaration. For clarity, exhibits that themselves have attached exhibits will be referenced as "Ex. __-__." The first 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.

[3] "Defendants" are Endo International plc. ("Endo" or "the Company"), Rajiv Kanishka Liyanaarchchie De Silva, Suketu P. Upadhyay, Daniel A. Rudio, Roger H. Kimmel, Shane M. Cooke, John J. Delucca, Arthur J. Higgins, Nancy J. Hutson, Michael Hyatt, William P. Montague, Jill D. Smith, William F. Spengler (collectively, the "Individual Defendants" and with Endo, the "Endo Defendants"); and Goldman Sachs & Co. LLC (named as Goldman, Sachs

(. . . continued)

of the Company's secondary public offering of common stock that occurred on or about June 5, 2015 ("Released Claims") against the Released Defendant Parties, in exchange for the payment of $50,000,000 (the "Settlement Amount"), for the benefit of the Settlement Class.

4. The Action has been vigorously and efficiently litigated for more than two years - from its commencement in February 2017 through the execution of the Stipulation. The Settlement was achieved only after Plaintiff's Counsel, as detailed herein: (i) conducted a thorough investigation concerning the allegedly fraudulent misrepresentations and omissions made by Defendants in connection with the Company's June 5, 2015 Offering, including gathering and analyzing information about the market for Endo's generic and hydrocodone-based medicines, Endo's acquisition of DAVA pharmaceuticals, and the Company's sales practices; (ii) prepared and filed a detailed amended class action complaint; (iii) overcame a removal challenge that included litigation in the U.S. District Court for the Eastern District of Pennsylvania (the "District Court"); (iv) opposed a motion to stay the action in light of the Supreme Court's anticipated decision in *Cyan, Inc. v. Beaver County Employees' Retirement Fund*; (v) researched and drafted an opposition to Defendants' comprehensive preliminary objections to the amended complaint, which were overruled by the Court; (vi) moved for class certification; (vii) engaged in extensive and diligent fact discovery, including analyzing approximately 130,000 pages of documents produced by Defendants and third parties; (viii) consulted with experts on damages and causation issues; and (ix) engaged in settlement discussions under the guidance of a highly regarded and experienced mediator. At the time the

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& Co.), J.P. Morgan Securities LLC, Barclays Capital Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, Citigroup Global Markets Inc. (named as Citigroup Global Markets, LLC), Morgan Stanley & Co. LLC, SunTrust Robinson Humphrey, Inc., TD Securities (USA) LLC, and MUFG Securities Americas Inc. (f/k/a Mitsubishi UFJ Securities (USA) Inc.) (collectively, the "Underwriter Defendants," and with the Endo Defendants, the "Defendants").

Settlement was reached, Plaintiff's Counsel had a deep understanding of the strengths and weaknesses of the claims and defenses in the Action.

5. As discussed below, according to Plaintiff's consulting loss causation and damages expert, aggregate damages in the Action were estimated to be approximately $257 million, assuming Plaintiff was able to establish liability and factoring in Defendants' negative causation arguments. The $50 million Settlement, therefore, represents a recovery of approximately 19% of Plaintiff's expert's estimated reasonable damages—an excellent recovery that is well within the range of reasonableness, particularly in light of the countervailing legal and factual arguments tenaciously pursued by Defendants and attendant litigation risks. *See also* Memorandum of Law in Support of Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation ("Approval Brief") at 12-13. Based on extensive research, it is Class Counsel's belief that the Settlement is the largest class action settlement obtained in any court pursuant to the Securities Act of 1933 (the "Securities Act") for allegedly misleading offering documents in a secondary public offering.

6. In deciding to settle, Plaintiff and Plaintiff's Counsel took into consideration the significant risks associated with advancing the claims alleged in the Action, as well as the duration and complexity of the legal proceedings, including continued briefing on class certification, summary judgment motions, and trial, which remained ahead. The Settlement was achieved in the face of staunch opposition by Defendants who would have continued to raise serious arguments concerning, among other things, materiality, traceability of the class's shares to the Offering, negative causation, and damages. In the absence of a settlement, there was a real risk that the Settlement Class could have recovered an amount significantly less than the negotiated Settlement.

7. In addition to seeking approval of the Settlement, Plaintiff seeks approval of the proposed plan for allocating the proceeds of the Settlement among eligible claimants (the "Plan of Allocation"). As discussed in further detail below and in Plaintiff's Approval Brief, the proposed Plan was developed by Plaintiff's consulting damages expert, and provides for the fair and equitable distribution of the Net Settlement Fund to Settlement Class Members who submit Claim Forms that are approved for payment.

8. With respect to Plaintiff's Counsel's Fee and Expense Application, the requested fee of 16% of the Settlement Fund is eminently fair to the Settlement Class, and warrants the Court's approval. This fee request is well within the range of fee percentages frequently awarded in this type of action.[4] Plaintiff's Counsel also seek litigation expenses totaling $251,825.17, plus an award to Plaintiff, commensurate with the time it dedicated to the case, in the amount of $21,602.50.

II. SUMMARY OF PLAINTIFF'S CLAIMS

9. As set forth in the Amended Complaint, Endo develops, manufactures, and distributes pharmaceutical products and devices worldwide. The Action arises out of Defendants' allegedly false and misleading representations and omissions made in the offering documents issued in connection with Defendants' secondary public offering of approximately 27,627,628 shares of Endo common stock on June 5, 2015, pursuant to the June 2, 2015 Form S-3 Registration Statement (File No. 333-204657) Prospectus, and applicable Prospectus Supplements issued in connection with the Offering, and any documents incorporated by reference therein, such as Endo's 2014 annual report, filed with the SEC on Form 10-K on

[4] Plaintiff's Counsel is comprised of Class Counsel Labaton Sucharow LLP and Liaison Counsel Goldman Scarlato & Penny, P.C.

March 2, 2015 and Endo's quarterly report for the first quarter of 2015 on Form 10-Q filed on May 11, 2015 (the "Offering Documents").

10. As alleged in the Amended Complaint, the Offering Documents contained misstatements or omissions concerning: (i) the negative effects on Endo's business caused by the federal government's "upscheduling" of hydrocodone-containing products from being a less restricted Schedule III controlled substance to a more restricted Schedule II controlled substance; (ii) the poor performance of products acquired by Endo in its acquisition of DAVA Pharmaceuticals; (iii) declining demand for Endo's generic products; and (iv) the alleged use of unsustainable business practices to meet sales numbers in order to mitigate the underlying problems in the Company's generics business. The Amended Complaint alleges that these misrepresentations caused the Settlement Class to suffer losses. The complaint asserts claims for violations of Sections 11 (against all Defendants), 12(a)(2) (against all Defendants), and 15 (against the Endo Defendants) of the Securities Act.

III. RELEVANT PROCEDURAL HISTORY

A. Complaint for Violation of the Securities Act of 1933

11. The Action was commenced on February 28, 2017, by the filing of a securities class action complaint in the Court of Common Pleas of Chester County, Pennsylvania (the "Court"), on behalf of certain investors in Endo, captioned *Public Employees' Retirement System of Mississippi v. Endo International, plc, et al*, alleging violations of Sections 11, 12(a)(2), and 15 of the Securities Act for alleged misstatements and omissions in the Offering.

12. The complaint was brought against Endo, the Individual Defendants, and the Underwriter Defendants.

13. As alleged in the complaint, and the subsequently filed Amended Complaint, the Offering Documents allegedly contained untrue statements of material fact, and/or omitted facts

necessary to make the statements not misleading, regarding the Company's sales of products obtained in the acquisition of DAVA pharmaceuticals, sales of hydrocodone-containing products, and the Company's alleged use of "trade loading" to mask sales problems at Qualitest, its generic medicines subsidiary. Over the course of multiple public statements in early 2016, the Company allegedly revealed the problems facing Endo and, allegedly in response, Endo's share price fell in a series of drops. ¶¶76-92.[5]

14. More specifically, the Amended Complaint alleges that on February 29, 2016, the Company issued a press release announcing disappointing financial results for the fourth quarter of 2015, which the Company attributed to "increased pricing pressure due to increased competition" in the Company's portfolio of pain medications and at Qualitest. ¶77. The Company also hosted a conference call to discuss the results with investors. ¶¶78-82. The Amended Complaint alleged that, in response to this news, on February 29, 2016, the price of Endo stock declined from $52.94 per share to $41.81 per share. ¶83.

15. The Amended Complaint also alleged that on March 17, 2016, at the Barclays Global Healthcare Conference, the Company announced weaker than expected revenue guidance for the first quarter of 2016 and acknowledged continued problems at Qualitest. ¶86. In response to this news, the price of Endo stock declined from $33.91 per share to $30.03 per share. ¶87.

16. The Amended Complaint also alleged that the full scope of the false and misleading nature of Endo's Registration Statement was finally revealed on May 5, 2016, when Endo issued a press release after the market closed announcing disappointing financial results for

[5] All citations to "¶" are to the Amended Complaint, unless otherwise noted.

the first quarter of 2016, and revised its revenue guidance downward. ¶¶88-91. In response to this news, the price of Endo stock dropped from $26.59 per share to $16.17 per share. ¶92.

B. Defendants' Notice of Removal

17. On March 31, 2017, Endo and the Individual Defendants filed a notice of removal to the District Court.

18. On May 1, 2017, Plaintiff filed a motion in the District Court to remand the Action, arguing, in a matter of first impression in the District Court, that the Securities Act forbids the removal of cases brought in state court asserting claims under the Securities Act. Defendants filed an opposition to Plaintiff's motion to remand on May 15, 2017, and Plaintiff filed a reply on May 22, 2017. On August 28, 2017, the District Court granted Plaintiff's motion to remand the Action back to this Court.

19. On October 9, 2017, Defendants moved this Court for a partial stay of the case while the U.S. Supreme Court decided *Cyan, Inc. v. Beaver County Employees Retirement Fund*, No. 15-1439, concerning, *inter alia*, whether state courts have concurrent jurisdiction to hear claims arising solely under the Securities Act, and for a stay of discovery through the disposition of preliminary objections to Plaintiff's complaint. Plaintiff filed a memorandum in opposition to Defendants' motion for a partial stay of the case and a stay of discovery on October 25, 2017. Plaintiff filed an answer to Defendants' motion for stays on October 26, 2017.

20. On October 16, 2017, Plaintiff filed the Amended Complaint.

21. On November 1, 2017, the Court granted Defendants' motion for a partial stay of the case and for a stay of discovery through disposition of the preliminary objections to the Amended Complaint.

C. Defendants' Preliminary Objections to the Amended Complaint

22. On December 8, 2017, Defendants filed their preliminary objections to Plaintiff's Amended Complaint. As an initial matter, Defendants preserved their argument that the Securities Litigation Uniform Standards Act of 1998 ("SLUSA") divested state courts of subject matter jurisdiction over class actions alleging claims under the Securities Act. Defendants also argued that Plaintiff could not "trace" its purchases of Endo common stock to the Offering and therefore did not have standing to assert claims under Section 11 and 12(a)(2) of the Securities Act.

23. Defendants also argued that Plaintiff had not alleged facts sufficient to state a claim under the Securities Act because the Amended Complaint did not sufficiently allege that any statements or omissions made by Defendants were false. Defendants further argued that the statements alleged to be false were "puffery"—too indefinite to be material to Plaintiff.

24. Plaintiff filed its opposition to Defendants' preliminary objections on January 26, 2018. Plaintiff argued, as an initial matter, that state courts retain subject matter jurisdiction over Securities Act claims. Regarding Defendants' standing arguments, Plaintiff argued that it provided the essential factual allegation that Mississippi PERS purchased shares of Endo common stock issued in or traceable to the Offering, and had therefore sufficiently pled standing under Sections 11 and 12(a)(2). Plaintiff also argued that the Amended Complaint alleged actionable, materially false and misleading statements and omissions.

25. On February 15, 2018, Defendants filed a reply in further support of their preliminary objections, reiterating their arguments and addressing Plaintiff's opposition papers.

D. The Court's Order Lifting the Stay and Order on Defendants' Preliminary Objections

26. On March 28, 2018, the Court ordered that the stay of proceedings be lifted in light of the Supreme Court's ruling in *Cyan, Inc. v. Beaver County Employees Ret. Fund, et al.,* 138 S. Ct. 1061 (1998) that state courts retain concurrent jurisdiction over class actions asserting claims under the Securities Act, but did not lift the stay of discovery pending a ruling on Defendants' preliminary objections. On April 9, 2018, the Court overruled Defendants' preliminary objections to Plaintiff's Amended Complaint, thereby lifting the stay on discovery and discovery proceeded.

27. On May 25, 2018, Defendants filed their answers to the Amended Complaint and New Matter setting forth their defenses. On June 14, 2018, Plaintiff filed its omnibus preliminary objections to Defendants' answers and New Matter. On July 20, 2018, the Defendants filed their answers to Plaintiff's omnibus preliminary objections and an omnibus memorandum of law in opposition to Plaintiff's preliminary objections. On August 2, 2018, the Court overruled Plaintiff's preliminary objections. On August 22, 2018, Plaintiff filed replies to Defendants' New Matter.

E. Plaintiff's Motion for Class Certification

28. On April 20, 2018, Mississippi PERS moved for certification of the class, for appointment as Class Representative, and for the appointment of Labaton Sucharow LLP as Class Counsel and Goldman Scarlato & Penny, P.C. as Liaison Counsel. In connection with this motion, a representative of Plaintiff, George Neville, submitted a declaration, describing the efforts Plaintiff had undertaken on behalf of the proposed class. On November 14, 2018, the Parties submitted an amended case management order that extended the time for Defendants to respond to Plaintiff's class certification motion to provide time for the Parties to mediate the

claims. The Parties reached a settlement prior to Defendants' filing their opposition to Plaintiff's motion.

IV. PLAINTIFF'S INVESTIGATION AND DISCOVERY

29. From mid-2016 through the agreement in principle to settle, Plaintiff's Counsel conducted a comprehensive investigation into the facts, circumstances and claims asserted in the Action. This investigation included, among other things, a review and analysis of: (i) press releases, news articles, and other public statements issued by or about Endo and the Defendants; (ii) research reports issued by financial analysts concerning the Company and its business; (iii) documents filed publicly with the SEC; (iv) news articles, media reports and other publications concerning Endo and the pharmaceutical industry; (v) pleadings filed in other pending litigations naming certain of the Defendants as defendants or nominal defendants; and (vi) other publicly available information and data concerning the Company and its securities. Plaintiff's Counsel thoroughly reviewed and analyzed the Offering Documents and reviewed all available research reports issued by financial analysts concerning the Company's business and operations, as well as transcripts of conference calls hosted by Endo and its executives during which analysts asked relevant questions concerning the Company's operations. These reports and conference calls provided invaluable insight into the market's awareness of key trends impacting the Company and the confidence placed on the Company's performance. Plaintiff's Counsel also consulted with experts on loss causation, damages, and insurance issues.

30. Plaintiff's Counsel's investigation, conducted by and through attorneys and in-house investigators at Labaton Sucharow, also included the identification of 109 former employees of the Company with potentially relevant knowledge, of whom 84 were contacted and 19 were interviewed on a confidential basis.

31. On June 26, 2018, the Parties submitted a proposed Case Management Order setting forth a schedule for document discovery, class certification, other fact discovery, merits expert discovery, and dispositive motions.

32. On July 23, 2018, the Parties entered into a stipulated Confidentiality Agreement and Protective Order governing the exchange of discovery and treatment of confidential information in the Action. The Court granted the stipulation and entered the Protective Order on August 6, 2018.

33. Thereafter, the Parties negotiated the scope of electronic discovery pursuant to Rule 26.1(c)(1)-(2) and the Parties' ESI discovery obligations. The negotiations included the exchange of proposed search terms and custodians and multiple rounds of negotiations over the relevancy and burden of the information sought by the Parties. Plaintiff reached agreement as to the relevant search terms and custodians with the Endo Defendants on August 24, 2018.

34. On July 9, 2018, the Endo Defendants responded to Plaintiff's First Set of Interrogatories. On July 23, 2018, Plaintiff responded to Defendants' First Set of Interrogatories.

35. The Endo Defendants served a production of documents pursuant to the negotiated search terms and custodians on August 31, 2018. On October 10, 2018, Plaintiff served on Defendants a production of documents pursuant to the negotiated search terms and custodians. Following these productions, the Parties continued to meet and confer regarding the sufficiency of the productions and scope of discovery.

36. Following these discussions, and in conjunction with the Parties' reaching an agreement to mediate Plaintiff's claims, the Endo Defendants agreed to make an additional supplemental production of documents to Plaintiff in December 2018.

37. The Parties also negotiated for the production of documents from third parties, including: (i) Jefferies LLC, which produced 521 pages of documents; (ii) the Depository Trust & Clearing Corporation ("DTCC"), which produced 8,218 pages of documents; (iii) Amerisource Bergen, which produced 147 pages of documents; (iv) Houlihan, which produced 67 pages of documents; (v) McKinsey, which produced 252 pages of documents, and (vi) Oppenheimer, which produced 776 pages of documents.

38. In total, Plaintiff's Counsel analyzed more than 130,000 pages of documents produced by Defendants and third-parties, and produced a total of approximately 11,342 pages of documents to Defendants.

V. SETTLEMENT NEGOTIATIONS

39. In November 2018, the Parties engaged the Hon. Layn Phillips (Ret.) (the "Mediator"), a well-respected and experienced mediator, and former federal judge and U.S. Attorney, to assist them in exploring a potential negotiated resolution of the claims in the Action.

40. On February 4, 2019, counsel for Plaintiff, the Endo Defendants, and counsel and representatives from several other litigations involving the Endo Defendants, participated in a full-day mediation session in New York, NY with the Mediator in an attempt to reach settlements. A representative of Mississippi PERS also attended the mediation session.

41. The overall settlement process was complicated by the pendency of the multiple other litigations against some or all of the Defendants in the Action, raising complex and interwoven issues related to competing claims and available sources of recovery.

42. A settlement of the Action was not reached at the mediation.

43. Following the mediation, the Mediator continued his efforts to facilitate discussions in order to achieve a resolution of the Action. The Parties ultimately reached an agreement-in-principle to settle the Action on March 11, 2019. The Parties thereafter negotiated

the terms of the Stipulation, which was executed on June 27, 2019 and filed with the Court on June 28, 2019.

44. On June 28, 2019, Plaintiff moved for preliminary approval of the Settlement. On July 2, 2019, the Court entered the Preliminary Approval Order, authorizing that notice of the Settlement be sent to Settlement Class Members and scheduling the Settlement Hearing for October 21, 2019, to consider whether to grant final approval to the Settlement.

VI. RISKS FACED BY PLAINTIFF IN THE ACTION

45. Based on their experience and close knowledge of the facts and applicable laws and defenses, Plaintiff's Counsel and Plaintiff have determined that settlement is in the best interests of the Settlement Class. As described herein, at the time the Settlement was reached, there were sizable risks facing Plaintiff with respect to establishing both liability and damages.

46. Surviving a challenge to a pleading is no guarantee of ultimate success. In agreeing to settle, Plaintiff and Plaintiff's Counsel weighed, among other things, the substantial and certain cash benefit to the Settlement Class against: (i) the difficulties involved in proving materiality, falsity, and damages; (ii) the difficulties in overcoming Defendants' negative causation defenses; (iii) the difficulties and challenges involved in certifying a litigation class, and the delays involved in the inevitable appeals of certification; (iv) the fact that, even if Plaintiff prevailed at summary judgment and trial, any monetary recovery could have been less than the Settlement Amount; and (v) the delays that would follow even a favorable final judgment, including appeals.

A. Risks Concerning Liability

47. In order for Plaintiff to prevail on its Section 11, 12(a)(2), and 15 claims at summary judgment and at trial, Plaintiff would have to marshal evidence and prove that the Offering Documents contained a material omission or misrepresentation. Defendants would of

course argue, as they have throughout the litigation, that the Offering Documents did not contain materially false or misleading statements or omissions.

48. As to the trade loading allegations, Defendants would have argued and presented evidence to show that Qualitest's sales patterns were the result of legitimate business reasons rather than trade loading. For example, Defendants would have argued that any end-of-quarter increases in sales were driven by demand from Qualitest's customers. Defendants would have also argued that any discounts that Qualitest offered to encourage end-of-quarter sales were strategic responses to business or market developments, such as the seasonality of certain products, or the desire of Qualitest to sell products at a favorable rate in anticipation of pricing pressure in the future. In response, Plaintiff would have sought to present evidence demonstrating that Defendants intended the end of quarter sales to cover up lower revenues in Qualitest's portfolio of generic medicines so that Endo could meet publicly announced revenue guidance.

49. Defendants would have also challenged Plaintiff's allegations that Endo had misled investors about Qualitest's inability to meet sales goals in the portfolio of products it acquired with DAVA pharmaceuticals, by arguing, for example, that the Registration Statement did not contain any actionable statements about the DAVA acquisition. Defendants would also have argued that to the extent the Registration Statement did contain statements about DAVA, they were not false or misleading, because at the time of the Offering, it was not clear to Defendants that any inability of DAVA products to meet internal sales goals would have a material impact on the performance of Endo as a whole. In response, Plaintiff would have sought to show through testimony and document discovery that Defendants were aware of

material shortfalls in DAVA sales well before the Offering, and knew or should have known those shortfalls would continue.

50. Defendants would have also challenged Plaintiff's allegations that the Registration Statement misled investors about the effect of the government's decision to upschedule hydrocodone-containing products from Schedule III to Schedule II of controlled substances. Defendants would have argued, for example, that the Registration Statement explicitly warned investors that government regulations could impact sales of hydrocodone-containing products. Defendants would have also argued that investors could not show that they reasonably relied on any alleged omissions in the Registration Statement because the upscheduling of hydrocodone was widely reported and anticipated to decrease sales of hydrocodone-containing products prior to the Offering. In response, Plaintiff would have sought to show that the drop in hydrocodone sales came sooner, and was steeper, than Defendant had informed investors.

51. Defendants would have also argued that, to the extent they did not disclose the issues alleged in the Amended Complaint, they had no duty to disclose them. Defendants would have argued and sought to present evidence that Plaintiff could not establish that the "trends" alleged in the Amended Complaint had materialized at the time of the Offering, such that they should have been disclosed pursuant to Item 303 or any other legal doctrine. Even if Plaintiff did establish that the trends existed at the time of the Offering, Defendants would likely argue that at the time of the Offering, any shortfalls in sales were not sufficiently lengthy to constitute a trend under Item 303. While Plaintiff would be prepared to counter Defendants' arguments and evidence by asserting, for example, that Item 303 turns on the quantitative aspect of the alleged

undisclosed trend, not on the qualitative length of the trend, there is no guarantee that the Court, at summary judgment, or a jury would find in favor of Plaintiff on this issue.

52. Defendants would also likely argue that Plaintiff could not establish Defendants' actual knowledge of the purported trends, arguing that Plaintiff would not be able to put forth evidence demonstrating that Defendants had actual knowledge of the alleged negative trends. Defendants would also likely seek to establish that at the time of the Offering, Defendants did not reasonably expect that the issues alleged in the Amended Complaint would have a material impact on the Company's net sales, revenues, or income, as required under Item 303. Among other things, Defendants would likely put forth evidence that they expected the trends to be temporary or part of seasonal demand fluctuations and expected to make up any shortfalls in other product categories in future quarters.

53. Though Plaintiff believes it had strong counter-arguments to Defendants' potential defenses, there is no guarantee that the Court, at summary judgment, or a jury would find in favor of Plaintiff on these issues. Also, even if Plaintiff succeeded in proving all elements of its claims at trial and had obtained a jury verdict, Defendants would almost certainly appeal. An appeal not only would have renewed all the risks faced by Plaintiff and the Settlement Class, as Defendants would undoubtedly reassert all their arguments summarized above, but also would engender significant additional delay and costs before Settlement Class Members could receive any recovery from this case.

B. Risks Related to Negative Causation and Damages

54. Although the Securities Act provides a statutory formula for damages, Defendants would have continued to raise and press a "negative causation" defense, arguing that the alleged materially misleading statements in the Offering Documents did not cause a substantial portion

of the damages Plaintiff claimed, because most of the declines in the stock prices after the Offering were not caused by the alleged omissions.

55. Endo allegedly revealed the sales problems facing its hydrocodone products and the Qualitest portfolio, and the negative impact they had on the Company's finances, on February 29, 2016, March 17, 2016, and May 5, 2016. Following these three announcements, the Amended Complaint alleges that the Company's stock price dropped substantially.

56. As an initial matter, Defendants would likely argue that Plaintiff cannot recover for the decline that took place between the June 5, 2015 Offering and the February 29, 2016 price drop because there was no alleged corrective disclosure prior to the February 2016 disclosure. Defendants would also argue that Plaintiff cannot recover the full amount of the decline that occurred following the February 29, 2016 allegedly corrective disclosure because the full drop in price was only partly due to the alleged sales misses in the Company's hydrocodone-containing products and the Qualitest portfolio.

57. Defendants would also argue that Plaintiff cannot recover any damages for any decline in Endo's share price after February 29, 2016 because, to the extent that any material information regarding sales of Qualitest products or hydrocodone-containing products was omitted from the Offering Documents, that negative information was fully revealed by the February 29, 2016 disclosure, if not before. Thus, Defendants would have contended that the March 17, 2016, and May 5, 2016 alleged corrective disclosures were not actionable, and that any decline in Endo's share price on those dates could not have been caused by the disclosures of allegedly undisclosed problems at the time of the Offering.

58. Defendants would also argue that even if the March and May 2016 disclosures disclosed new information or were otherwise actionable, Plaintiff could not recover the full value

of the decline in Endo's share price that followed those disclosures, because, as with the February 29, 2016 disclosure, the Company's results and reduced guidance, in part, were due to problems that were not alleged in the Amended Complaint. For example, Defendants would argue that on March 17, 2016 Endo attributed the decline in sales to market-wide pressures that eroded the price of generics faster than Endo expected, and that Endo reduced guidance in May 2016 when those issues continued. Defendants would argue that the market was reacting, at least in part, to those unrelated developments, rather than any alleged disclosures of formerly undisclosed problems present at the time of the Offering.

59. Defendants would also likely have argued that the trading pattern of Endo's shares provided evidence that many purchasers in the Offering sold their shares in the days following the Offering—or "flipped" them—without incurring any losses. Defendants would have argued that on the first day of the Offering, June 5, 2015, over 15 million shares traded on the stock exchange, whereas, in the month before the Offering, on average approximately 2.3 million shares traded on the exchange per day. Defendants would argue that the unusually high volume of trading likely represented Offering shares being sold immediately into the aftermarket by investors who purchased in the Offering. Because Endo's share price on June 5, 2015 was at or around the Offering price of $83.25, those initial purchasers theoretically sold their shares without any loss, or even at a profit. Defendants would argue that these investors did not incur any damages on shares flipped on June 5, 2015, and would have sought to adjust the class-wide damages analysis to remove such shares.

60. Plaintiff's consulting loss causation and damages expert analyzed Defendants' negative causation arguments and estimated that if the arguments were successful, aggregate damages would be approximately $257 million. This calculation also assumes liability was

established with respect to all claims. The Settlement, therefore, recovers approximately 19% of these damages. Factoring in Defendants' "flipping" argument, were it successful, damages could be further reduced to approximately $146 million. The Settlement recovers 34% of this potential damages estimate.

61. Though Plaintiff believes that Defendants' arguments take too narrow a view of the connection between the allegations and the price declines, and that Defendants would be unable to meet their burden of proving that factors other than the allegedly omitted and misstated information caused the price declines, there was no certainty that Plaintiff would prevail. As the case proceeded, the Parties' respective damages experts would strongly disagree with each other's assumptions and their respective methodologies, presenting contradictory and complex information to the jury for a determination. The risk that the jury, or the Court, would credit Defendants' damages position over that of Plaintiff had considerable consequences in terms of the amount of recovery for the Settlement Class, even assuming liability were proven.

C. Risks Concerning Traceability of Shares

62. Defendants would also undoubtedly argue that Plaintiff would not be able to prove that shares traded during the relevant period were actually traceable to the Offering pursuant to Section 11. Defendants would argue that, under Section 11, a purchaser may recover only for damages related to shares bought pursuant to the challenged registration statement and not related to shares from an earlier offering that were purchased in an aftermarket—for example, on a stock exchange. Defendants would have argued that Plaintiff would be unable to show that *any* share that was not purchased in the Offering itself originated in the Offering. Defendants would point out that at the time of the Offering, millions of Endo shares were already being traded in the market, and therefore Plaintiff could not demonstrate with certainty that a share purchased in the aftermarket was from the Offering, and not one of the millions of other

shares. Defendants would also argue that many institutional investors that were allocated shares in the Offering already owned Endo stock and continued to buy non-Offering shares in June 2015 in the aftermarket. The Offering shares would therefore be commingled with non-Offering shares in those investors' accounts, further complicating any attempt to trace the shares that were allocated to them back to the Offering.

63. While Plaintiff believes that traceability could be established, particularly given the evidence developed to date, there is no certainty as to how the Court, at summary judgment, or a jury would come out on this issue.

VII. PLAINTIFF'S COMPLIANCE WITH PRELIMINARY APPROVAL ORDER AND REACTION OF THE SETTLEMENT CLASS TO DATE

64. Pursuant to the Preliminary Approval Order, the Court appointed A.B. Data, Ltd. ("A.B. Data") as the Claims Administrator for the Settlement and instructed A.B. Data to disseminate copies of the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses and Proof of Claim (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.

65. The Notice, attached as Exhibit A to the Declaration of Adam D. Walter Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion and Objections ("Mailing Declaration"), *see* Exhibit 2 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) 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; (iii) the manner for submitting a Claim Form in order to be eligible for a payment from the

net proceeds of the Settlement; and (iv) the terms of the proposed Plan of Allocation for distributing the proceeds of the Settlement. The Notice also informs Settlement Class Members of Plaintiff's Counsel's intention to apply for an award of attorneys' fees in an amount not to exceed 16% of the Settlement Fund and for payment of litigation expenses in an amount not to exceed $400,000.

66. As detailed in the Mailing Declaration, on July 17, 2019, the Claims Administrator began mailing 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. 2 at ¶¶2-9. In total, to date, the Claims Administrator has mailed 35,418 Notice Packets to potential nominees and Settlement Class Members by first-class mail, postage prepaid. *Id.* at ¶9. To disseminate the Notice, the Claims Administrator obtained the names and addresses of potential Settlement Class Members using information provided by Defendants' transfer agent, banks, brokers and other nominees whose clients may be Settlement Class Members. *Id.* at ¶¶3-7.

67. On July 31, 2019, A.B. Data caused the Summary Notice to be published in *The Wall Street Journal* and to be transmitted over the *PR Newswire* for dissemination across the internet. *Id*. at ¶10 and Exhibits B and C attached thereto.

68. A.B. Data also maintains and posts information regarding the Settlement on a dedicated website established for the Action, www.EndoInternationalSecuritiesSettlement.com, to provide Settlement Class Members with information, including downloadable copies of the Notice Packet and the Stipulation. *Id*. at ¶12.

69. 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, or the

Fee and Expense Application, or to request exclusion from the Settlement Class is September 30, 2019. To date, no objections have been filed and the Claims Administrator has received no requests for exclusion. *Id*. at ¶¶13-14.

70. Plaintiff will address any objections and requests for exclusion in its reply papers, which are due to be filed with the Court on October 14, 2019.

VIII. PLAN OF ALLOCATION FOR DISTRIBUTING SETTLEMENT PROCEEDS TO ELIGIBLE CLAIMANTS

71. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all members of the Settlement Class who want to participate in the distribution of the Net Settlement Fund (*i.e.*, the Settlement Fund less any (a) Taxes, (b) Notice and Administrative Costs, (c) litigation expenses as awarded by the Court, and (d) attorneys' fees awarded by the Court) must submit valid Claim Forms no later than November 14, 2019. As set forth in the Notice, the Net Settlement Fund will be distributed among members of the Settlement Class who submit eligible claims according to the Plan of Allocation approved by the Court.

72. The proposed Plan of Allocation for the Net Settlement Fund was developed in consultation with Plaintiff's loss causation and damages expert. Plaintiff's Counsel believes that the Plan of Allocation provides a fair and reasonable method to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses allegedly as a result of the asserted violations of federal securities laws. The Plan of Allocation is set forth in full at pages 9 to 11 of the Notice. *See* Ex. 2-A. The Plan is intended to be generally consistent with an assessment of damages that Plaintiff and Plaintiff's Counsel believe were recoverable in the Action under the Securities Act.

73. 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 general, the Recognized Loss Amounts calculated under the Plan are based principally on the statutory formula for damages under Section 11(e) of the Securities Act, 15 U.S.C. §77k(e). Using the Plan of Allocation, the Claims Administrator will calculate a Recognized Loss Amount for each purchase of Endo common stock issued in or traceable to the Offering that is listed in the Claim Form and for which adequate documentation is provided. Purchases will be considered issued in or traceable to the Offering if the shares were purchased or acquired during the period from June 5, 2015 through June 10, 2015 and (i) at the Offering price of $83.25 and/or (ii) directly from an Underwriter Defendant.

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

75. In sum, the Plan of Allocation was designed to equitably allocate the Net Settlement Fund among eligible Settlement Class Members. Accordingly, Plaintiff and Plaintiff's Counsel respectfully submit that the Plan of Allocation is fair and reasonable and should be approved by the Court.

IX. PLAINTIFF'S COUNSEL'S FEE AND EXPENSE APPLICATION

76. For its efforts on behalf of the Settlement Class, Plaintiff's Counsel is applying for compensation from the Settlement Fund on a percentage basis. As explained in Plaintiff's Counsel's Fee and Expense Application, consistent with the Notice to the Settlement Class, Plaintiff's Counsel seek a fee award of 16% of the Settlement Fund. Plaintiff's Counsel also request payment of litigation expenses incurred in connection with the prosecution of the Action in the amount of $251,825.17, plus accrued interest at the same rate as is earned by the Settlement Fund, and an award of $21,602.50 to Mississippi PERS in connection with its representation of the class. Plaintiff's Counsel submit that, for the reasons discussed below and in the accompanying memorandum of law, such awards would be reasonable and appropriate under the circumstances before the Court.

A. Plaintiff Supports the Fee and Expense Application

77. Plaintiff Mississippi PERS is a governmental defined-benefit pension plan qualified under Section 40l(a) of the Internal Revenue Code for the benefit of current and retired employees of the State of Mississippi. Mississippi PERS is responsible for the retirement income of employees of the State, including current and retired employees of the state, public school districts, municipalities, counties, community colleges, state universities and other public entities, such as libraries and water districts. Ex. 1 at ¶3.

78. Plaintiff has evaluated and fully supports the Fee and Expense Application. *See* Ex. 1 at ¶¶7-8. In coming to this conclusion, Plaintiff—which was substantially involved in the prosecution of the Action and negotiation of the Settlement—considered the recovery obtained as well as Plaintiff's Counsel's effort in obtaining the recovery. *See id.* The fee request is also consistent with the pre-settlement fee agreement between Plaintiff and Plaintiff's Counsel.

B. The Time and Labor of Plaintiff's Counsel

79. The work undertaken by Plaintiff's Counsel to investigate and prosecute this case and arriving at the present Settlement has been time-consuming and challenging. As more fully set forth above, the Action settled only after counsel overcame multiple legal and factual challenges. Among other efforts, Plaintiff's Counsel conducted a comprehensive investigation into the class's claims; researched and prepared an Amended Complaint; overcame a removal challenge; briefed thorough oppositions and answers to Defendants' preliminary objections and answers to the Amended Complaint; obtained and analyzed more than approximately 130,000 pages of documents from Defendants and third parties; and engaged in a hard-fought settlement process with experienced defense counsel and an experienced Mediator.

80. At all times throughout the pendency of the Action, Plaintiff's 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, by the most efficient means necessary.

81. Attached hereto are declarations from Plaintiff's Counsel, which are submitted in support of the Fee and Expense Application. *See* Declaration of Serena P. Hallowell on Behalf of Labaton Sucharow LLP (attached as Exhibit 3 hereto), and Declaration of Mark S. Goldman on Behalf of Goldman Scarlato & Penny, P.C. (attached as Exhibit 4 hereto).

82. Included with these declarations are schedules that summarize the time of each firm, as well as the expenses incurred by category (the "Fee and Expense Schedules").[6] The attached declarations and the Fee and Expense Schedules report the amount of time spent by each attorney and professional support staff employed by Plaintiff's Counsel and the "lodestar" calculations, *i.e.*, their hours multiplied by their hourly rates. *See* Exs. 3 and 4. As explained in each declaration, they were prepared from daily time records regularly prepared and maintained by the respective firms.

83. The hourly rates of Plaintiff's Counsel here range from $725 to $975 for partners, $675 to $750 for of counsels, and $335 to $625 for associates and other attorneys. *See* Exs. 3-A and 4-A. It is respectfully submitted that the hourly rates for the attorneys and professional support staff included in these schedules are reasonable and customary. Exhibit 6, attached hereto, is a table of hourly rates for defense firms compiled by Labaton Sucharow from fee applications submitted by such firms nationwide in bankruptcy proceedings in 2018. The analysis shows that across all types of attorneys, Plaintiff's Counsel's rates here are consistent with, or lower than, the firms surveyed.

[6] Attached hereto as Exhibit 5 is a summary table of the lodestars and expenses of Plaintiff's Counsel.

84. Plaintiff's Counsel have collectively expended approximately 7,504.30 hours in the prosecution and investigation of the Action. *See* Ex. 5. The resulting collective lodestar is $3,659,960.00. *Id*. Pursuant to a lodestar "cross-check," the requested fee of 16% of the Settlement Amount ($8,000,000) results in a "multiplier" of 2.19 on the lodestar, which does not include any time that will necessarily be spent from this date forward administering the Settlement, preparing for and attending the Settlement Hearing, and assisting class members.

C. The Risks and Unique Complexities of Contingent Class Action Litigation

85. This Action presented substantial challenges from the outset of the case. The specific risks Plaintiff faced in proving Defendants' liability and damages under the Securities Act are detailed 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 was undertaken on a contingent basis.

86. From the outset, Plaintiff's 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, Plaintiff's Counsel was obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable costs that a case such as this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Plaintiff's Counsel received no compensation during the litigation but have incurred more than 7,504 hours of time for a total lodestar of $3,659,960.00 and have incurred $251,825.17 in expenses in prosecuting the Action for the benefit of the Settlement Class.

87. Plaintiff's Counsel also bore the risk that no recovery would be achieved (or that a judgment could not be collected, in whole or in part). Even with the most vigorous and competent of efforts, success in contingent fee litigation, such as this, is never assured. Plaintiff's 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.

88. Plaintiff's 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.

89. The many appellate decisions affirming summary judgments and directed verdicts for defendants show that surviving a request for dismissal is not a guarantee of recovery. *See, e.g.*, *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).

90. Successfully opposing a motion for summary judgment is also not a guarantee that plaintiffs will prevail at trial. Indeed, 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), litigated by

Labaton Sucharow, or substantially lost as to the main case, such as *In re Clarent Corp. Securities Litigation*, Case No. C-01-3361 CRB, slip op. (N.D. Cal. Feb. 16, 2005).

91. Even plaintiffs who succeed at trial may find their verdict overturned on appeal. *See, e.g.*, *Glickenhaus & 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)); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiffs' jury verdict for securities fraud); *Robbins v. Koger Props., Inc*., 116 F.3d 1441 (11th Cir. 1997) (reversing $81 million jury verdict and dismissing case with prejudice); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation). 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) (trial court tossing unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals (2010 WL 5927988 (9th Cir. June 23, 2010)) 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*, 131 S. Ct. 1602 (2011)).

92. Losses such as those described above are exceedingly expensive for plaintiff's counsel to bear. The fees that are awarded in successful cases are used to cover enormous overhead expenses incurred during the course of litigations and are taxed by federal, state, and local authorities.

93. Courts have repeatedly held that it is in the public interest to have experienced and able counsel enforce the securities laws and regulations pertaining to the duties of officers and directors of public companies. Vigorous private enforcement of the federal securities laws and state corporation laws can only occur if private plaintiffs can obtain some parity in representation with that available to large corporate defendants. If this important public policy is to be carried out, courts should award fees that will adequately compensate private Plaintiff's Counsel, taking into account the enormous risks undertaken with a clear view of the economics of a securities class action.

D. The Skill Required and Quality of the Work

94. Plaintiff's Counsel Labaton Sucharow is among the most experienced and skilled securities litigation law firms in the field. The expertise and experience of its attorneys are described in Exhibit 3, annexed hereto.

95. Labaton Sucharow has been approved by courts to serve as lead counsel in numerous securities class actions throughout the United States. Here, Labaton Sucharow attorneys have devoted considerable time and effort to this case, thereby greatly benefiting the outcome by bringing to bear many years of collective experience. For example, Labaton has served as lead counsel in a number of 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 Countrywide Sec. Litig.*, No. 07-5295 (C.D. Cal.) (representing the New York State and New York City Pension Funds and reaching settlements of more than $600 million); *In re Schering-Plough Corp. / ENHANCE Securities Litigation*, Civil Action No. 08-397 (DMC) (JAD) (D.N.J.) (representing Massachusetts Pension Reserves Investment Management Board and reaching a settlement of $473 million). *See* Ex. 3-C.

96. Since its founding in 2005, the attorneys of Conshohocken-based Goldman Scarlato & Penny, P.C. have successfully represented investors, small businesses, pension funds and individual consumers in class action litigation throughout the country and right here in Pennsylvania. The Firm has fought for individuals whose most sensitive and private data was compromised in *In re Anthem, Inc. Data Breach Litigation* ($115 million settlement on behalf of healthcare patients), and *In re Target Corporation Customer Data Security Breach Litig.* ($10 million settlement fund on behalf of consumers). It has fought to enforce the nation's antitrust laws and ensure a level competitive playing field in cases such as *In re Air Cargo Antitrust Litigation* (settlements of over $1 billion), *In re Vitamins Antitrust Litigation* (settlements of over $1.7 billion*), In re Brand Name Prescription Drugs Antitrust Litigation* (settlements of approximately $700 million), and *Logue v. West Penn Multi-Listing Service* ($2.75 million settlement on behalf of consumers), and it successfully challenged businesses that misrepresented their products to consumers in *Mirakay v. Dakota Growers Pasta Co*. (settlement valued at over $23 million). In addition, the Firm has fought to protect investors and enforce the nation's securities laws in cases such as *In re Broadcom Securities Litigation* (settlement of $150 million), and *AOL Time Warner Securities Litigation*, (settlement of over $2.5 billion for investors). *See* Ex. 4-C.

E. Request for Litigation Expenses

97. Plaintiff's Counsel seek payment of $251,825.17 from the Settlement Fund for litigation expenses reasonably and necessarily incurred in connection with commencing and prosecuting the claims against Defendants. The Notice informed the Settlement Class that Plaintiff's Counsel would apply for payment of litigation expenses of no more than $400,000, plus interest at the same rate earned by the Settlement Fund. *See* Ex. 2-A at 2, 7. The amounts requested herein are well below this cap.

98. As set forth in the Fee and Expense Schedules, Plaintiff's Counsel have incurred a total of $251,825.17 in litigation expenses in connection with the prosecution of the Action. *See* Exs. 3-B, 4-B; *see also* Ex. 5. 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 the expenses incurred. These expenses are set forth in detail in Plaintiff's Counsel's declarations, which identify the specific category of expense—*e.g.*, online/computer research, experts' fees, travel costs, costs related to mediation, duplicating, telephone, fax and postage expenses.

99. A significant component of Plaintiff's Counsel's expenses is the cost of their consulting experts, which totals $95,014.35 or approximately 38% of total expenses. The services of damages and loss causation experts were necessary for preparing estimates of damages, analyzing causation issues, and assisting with the preparation of the Plan of Allocation. Plaintiff's Counsel also consulted with an expert about issues related to insurance.

100. Of the total amount of expenses, $81,002.38, or approximately 32% of total expenses, was expended on litigation support services to host the electronic documents produced by Defendants and third-parties, and to produce Plaintiff's records to Defendants.

101. Computerized research totals $32,673.51. These are the charges for computerized factual and legal research services, including PACER, Westlaw, LexisNexis Risk Solutions and LexisNexis. These services allowed counsel to perform media searches on the Company, obtain analysts' reports and financial data for the Company, and conduct legal research.

102. Plaintiff's Counsel also incurred costs related to travel and working late hours, such as working meals, lodging, and transportation, which total $12,515.60. The travel costs related to meetings with potential witnesses and meetings with Mississippi PERS, and estimated

costs for representatives of Labaton Sucharow and Mississippi PERS to attend the final Settlement Hearing.

103. Plaintiff's Counsel also paid $14,688.75 in mediation fees assessed by the Mediator in this matter.

104. The other expenses for which Plaintiff's 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 facsimile charges, filing fees, and postage and delivery expenses.

105. All of the litigation expenses incurred, which total $251,825.17, were necessary to the successful prosecution and resolution of the claims against Defendants.

106. In view of the complex nature of the Action, the expenses incurred were reasonable and necessary to pursue the interests of the class. Accordingly, Plaintiff's Counsel respectfully submit that the expenses incurred by Plaintiff's Counsel should be paid in full from the Settlement Fund.

X. AN AWARD TO PLAINTIFF IS FAIR AND REASONABLE

107. Additionally, Plaintiff seeks an award in the amount of $21,602.50, which is commensurate with the time it dedicated to prosecuting the action on behalf of the class. The amount of time and effort devoted to this Action by Mississippi PERS is detailed in the accompanying Declaration of Jaqueline H. Ray on Behalf of Mississippi PERS, attached hereto as Exhibit 1.

108. As discussed in Plaintiff's Counsel's application and in Plaintiff's supporting declaration, Mississippi PERS has been committed to pursuing the class's claims since it became involved in the litigation. As a large institutional investor, Mississippi PERS has actively and effectively fulfilled its obligations, complying with all of the many demands placed upon it

during the litigation, and providing valuable assistance to Plaintiff's Counsel. For instance, Mississippi PERS engaged in discovery efforts in order to respond to Defendants' discovery requests. A representative of Mississippi PERS also attended the mediation session in February 2019. Ex. 1 at ¶5. These efforts required employees of Mississippi PERS to dedicate time, totaling approximately 80 hours, and resources to the Action that they would have otherwise devoted to their regular duties.

XI. THE REACTION OF THE SETTLEMENT CLASS TO THE FEE AND EXPENSE APPLICATION

109. As mentioned above, consistent with the Preliminary Approval Order, a total of 35,418 Notices have been mailed to potential Settlement Class Members advising them that Plaintiff's Counsel would seek an award of attorneys' fees not to exceed 16% of the Settlement Fund, and payment of expenses in an amount not greater than $400,000. *See* Ex. 2-A at 2, 7. Additionally, the Summary Notice was published in *The Wall Street Journal* and transmitted over the *PR Newswire*. Ex. 2. at ¶10. The Notice and the Stipulation have also been available on the settlement website maintained by the Claims Administrator and Plaintiff's Counsel's website. *Id.* at ¶12.[7] While the deadline set by the Court for Settlement Class Members to object to the requested fees and expenses has not yet passed, to date no objections have been filed. Plaintiff's Counsel will respond to any objections received in its reply papers, which are due October 14, 2019.

[7] Plaintiff's Counsel's Fee and Expense Application will also be posted on the Settlement website.

XII. MISCELLANEOUS EXHIBITS

110. Attached hereto as Exhibit 7 is a true and correct copy of Stefan Boettrich & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review* (NERA Jan. 29, 2019).

111. Attached hereto as Exhibit 8 is a true and correct copy of Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 262 (2010).

112. Attached hereto as Exhibit 9 is a true and correct copy of Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical Legal Stud. 811, 835 (2010).

113. Attached hereto as Exhibit 10 is a compendium of unreported cases, in alphabetical order, cited in the accompanying Fee and Expense Application.

XIII. CONCLUSION

114. 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, Plaintiff and Plaintiff's 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, as described above and in the accompanying memorandum of law, Plaintiff's Counsel respectfully submit that a fee in the amount of 16% of the Settlement Fund be awarded, that litigation expenses in the amount of $251,825.17 be paid, and that the Plaintiff be awarded $21,602.50.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 16, 2019.

SERENA P. HALLOWELL

Exhibit 1

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Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

DECLARATION OF JACQUELINE H. RAY ON BEHALF OF MISSISSIPPI PERS IN SUPPORT OF MOTION FOR APPROVAL OF CLASS ACTION SETTLEMENT AND APPLICATION FOR ATTORNEYS' FEES AND EXPENSES

I, Jacqueline H. Ray, declare as follows, under penalty of perjury:

1. I respectfully submit this declaration, on behalf of the Public Employees' Retirement System of Mississippi ("Plaintiff" or "Mississippi PERS"), in support of Plaintiff's motion for approval of the proposed settlement of the above-captioned class action (the "Action") and the application for an award of attorneys' fees and expenses, including an award to Mississippi PERS commensurate with the time it dedicated to this litigation.[1]

2. I am a Special Assistant Attorney General in the Office of the Attorney General of the State of Mississippi ("OAG"), legal counsel to Mississippi PERS, and am authorized to make this declaration on behalf of Mississippi PERS. I and my former colleague George W. Neville have been the primary people directly involved in monitoring and overseeing the prosecution of the Action, as well as the negotiations leading to the Settlement. The matters testified to herein are based on my personal knowledge and/or discussions with outside counsel, Labaton Sucharow LLP, and with other members of the Office of the Attorney General and Mississippi PERS' employees.

3. Mississippi PERS is a governmental defined-benefit pension plan qualified under Section 40l(a) of the Internal Revenue Code for the benefit of current and retired employees of the State of Mississippi. Mississippi PERS is responsible for the retirement income of employees of the State, including current and retired employees of the state, public school districts, municipalities, counties, community colleges, state universities and other public entities, such as libraries and water districts.

[1] All capitalized terms that are not defined herein have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated June 27, 2019 (the "Stipulation"), previously filed with the Court.

Mississippi PERS' Oversight of the Litigation on Behalf of the Settlement Class

4. From the outset of the litigation, Mississippi PERS, an institutional investor, has been committed to vigorously prosecuting this case and to maximizing the recovery for the proposed class. Further, Mississippi PERS has understood that, as a class representative, it owed a fiduciary duty to all members of the proposed class to provide fair and adequate representation and worked with counsel to prosecute the case vigorously, consistent with good faith and meritorious advocacy.

5. On behalf of Mississippi PERS, I, as well as my colleagues at the OAG and Mississippi PERS, have monitored the progress of this litigation and the prosecution of the litigation by counsel. My office has received, reviewed, and responded to periodic updates and other correspondence from counsel regarding the case. We have also participated in discussions with counsel regarding litigation strategy and significant developments in the litigation. We worked with counsel to respond to discovery requests. We reviewed pleadings and other material documents throughout the case. Mr. Neville also attended the mediation session that preceded the proposed Settlement.

Mississippi PERS Endorses Approval of the Settlement

6. Based on its involvement throughout the prosecution and resolution of the Action, Mississippi PERS believes that the proposed Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class. Mississippi PERS believes that the proposed Settlement represents an excellent recovery for the Settlement Class, and it endorses approval of the Settlement by the Court.

Mississippi PERS Supports Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses

7. Mississippi PERS also believes that Plaintiff's Counsel's request for an award of attorneys' fees in the amount of 16% of the Settlement Fund is fair and reasonable. Mississippi PERS has evaluated Plaintiff's Counsel's fee request in light of the efficient work performed, the risks and challenges in the litigation, as well as the recovery obtained for the Settlement Class. Mississippi PERS understands that Plaintiff's Counsel will also devote additional time in the future to administering the Settlement. Mississippi PERS further believes that the litigation expenses requested by counsel are reasonable, and represent the costs and expenses that were necessary for the successful prosecution and resolution of this case. Based on the foregoing, Mississippi PERS fully supports Plaintiff's Counsel's motion for attorneys' fees and payment of litigation expenses.

8. In connection with Plaintiff's Counsel's request for litigation expenses, Mississippi PERS seeks reimbursement for the time that it dedicated to the representation of the proposed class, which was time that ordinarily would have been dedicated to the work of Mississippi PERS and the OAG.

9. My primary responsibility at the OAG involves work on outside litigation to recover monies for state agencies that the OAG represents. As discussed above, I, and others from my office, participated in the prosecution of the Action. Below is a table listing the OAG personnel who contributed to the litigation, together with a conservative estimate of the time that they spent and their effective hourly rates (which are based on the annual salaries of the respective personnel):

Personnel	Hours	Rate	Total
Jacqueline H. Ray – Special Asst. Attorney General	9.7	$250	$2,425.00
George W. Neville – Special Asst. Attorney General	55.5	$275	$15,262.50
Donald Kilgore – Chief of Staff, OAG	6.8	$300	$2,040.00
Geoffrey Morgan – Chief of Staff, OAG	1.0	$300	$300.00
S. Martin Millette – Special Asst. Attorney General	7.0	$225	$1,575.00
TOTALS	**80.0**		**$21,602.50**

10. Accordingly, Mississippi PERS seeks a total of $21,602.50 for the 80 hours it dedicated to representing the proposed class throughout the litigation.

Conclusion

11. In conclusion, Mississippi PERS was closely involved throughout the prosecution and settlement of the claims in the Action and strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents an excellent recovery for the Settlement Class. Mississippi PERS further supports Plaintiff's Counsel's attorneys' fee and expense request, in light of the work performed, the recovery obtained for the Settlement Class, and the attendant litigation risks.

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

Executed this 10th day of September, 2019.

Jacqueline H. Ray

Special Assistant Attorney General in the Office of the Attorney General of the State of Mississippi on behalf of the Public Employees' Retirement System of Mississippi

Exhibit 2

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Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

DECLARATION OF ADAM D. WALTER REGARDING: (A) MAILING OF THE NOTICE AND CLAIM FORM; (B) PUBLICATION OF THE SUMMARY NOTICE; AND (C) REPORT ON REQUESTS FOR EXCLUSION AND OBJECTIONS

I, Adam D. Walter, declare as follows:

1. I am a Senior Project Manager of A.B. Data, Ltd.'s Class Action Administration Division ("A.B. Data"), whose Corporate Office is located in Milwaukee, Wisconsin. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement (the "Preliminary Approval Order"), dated July 1, 2019, A.B. Data was authorized to act as the Claims Administrator in connection with the Settlement in the above-captioned action. I am

over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

MAILING OF THE NOTICE AND PROOF OF CLAIM

2. Pursuant to the Preliminary Approval Order, as discussed below, A.B. Data mailed 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 form (the "Proof of Claim" 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. On July 11, 2019, A.B. Data received an email from Class Counsel that showed that Cede & Co. was the only holder of record of Endo's June 5, 2015 secondary public offering of 27,627,628 shares of Endo common stock at $83.25 per share (the "Offering"). Cede & Co. is the nominee name for The Depository Trust Company ("DTC"), a clearing house that is the largest security depository and post-trade financial services company in the world and which holds shares in its name for banks, brokers, and institutions in order to expedite the sale and transfer of stock. On July 17, 2019, A.B. Data caused the Notice Packet to be mailed to Cede & Co.

4. As in most class actions of this nature, the majority of potential Settlement Class Members are beneficial purchasers whose securities are held in "street name" by nominees –*i.e.*, the securities are purchased by brokerage firms, banks, institutions and other third-party nominees in the name of the nominee, on behalf of the beneficial purchasers. The names and addresses of these beneficial purchasers are known only to the nominees. A.B. Data maintains a proprietary database with names and addresses of the largest and most common banks, brokers, and other nominees. Our database includes the Underwriter Defendants in this matter. On July

17, 2019, A.B. Data caused Notice Packets to be mailed to the 5,019 mailing records contained in the A.B. Data record holder mailing database.

5. On July 18, 2019, A.B. Data also submitted the Notice to the Depository Trust Company to post on their Legal Notice System, which offers DTC member banks and brokers access to a comprehensive library of notices concerning DTC-eligible securities.

6. The Preliminary Approval Order and Notice required that nominees who purchased or otherwise acquired Endo publicly traded common stock in the Offering for the beneficial interest of a person or entity other than themselves, within ten (10) calendar days of receipt of the Notice, either: (a) provide A.B. Data with the name and last known address of each person or entity for whom or which they purchased or otherwise acquired Endo common stock in the Offering; or (b) request additional copies of the Notice Packet from A.B. Data and within ten (10) days of receipt of the Notice Packet, mail it directly to all the beneficial owners of Endo common stock in the Offering. *See* Notice on page 11.

7. As of the date of this Declaration, A.B. Data has received an additional 10,014 names and addresses of potential Settlement Class Members from individuals or brokerage firms, banks, institutions and other nominees. A.B. Data has also received requests from brokers and other nominee holders for 19,730 Notice Packets, which the brokers and nominees are required to mail to their customers. All such mailing requests have been, and will continue to be, responded to by A.B. Data in a timely manner.

8. As of the date of this Declaration, 743 Notice Packets were returned by the United States Postal Service to A.B. Data as undeliverable as addressed ("UAA"). Of those returned UAA, 368 had forwarding addresses and were promptly re-mailed to the updated address. The remaining 375 UAAs were processed through TransUnion to obtain an updated address. Of

these, 286 new addresses were obtained and A.B. Data promptly re-mailed to these potential Settlement Class Members.

9. As of the date of this Declaration, a total of 35,418 Notice Packets have been mailed to potential Settlement Class Members and their nominees.

PUBLICATION OF THE SUMMARY NOTICE

10. In accordance with Paragraph 11 of the Preliminary Approval Order, A.B. Data caused the Summary Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses (the "Summary Notice") to be published in *The Wall Street Journal* and transmitted over *PR Newswire* on July 31, 2019. Proof of this publication of the Summary Notice is attached hereto as Exhibits B and C, respectively.

TELEPHONE HOTLINE

11. On or about July 17, 2019, a case-specific toll-free phone number, 877-307-6170, was established with an Interactive Voice Response system and live operators. An automated attendant answers all calls initially and presents callers with a series of choices to respond to basic questions. If callers need further help, they have the option to be transferred to an operator during business hours. From July 17, 2019 through the date of this Declaration, A.B. Data received 632 telephone calls.

WEBSITE

12. A.B. Data has also established a case-specific website, www.EndoInternationalSecuritiesSettlement.com, which provides general information regarding the case and its current status; downloadable copies of the Notice, Proof of Claim, and other court documents, including the Stipulation and Agreement of Settlement; and online claim submission capability. The settlement website is accessible 24 hours a day, 7 days a week.

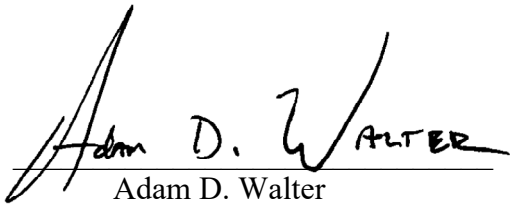
REPORT ON EXCLUSIONS AND OBJECTIONS

13. The Notice informed potential Settlement Class Members that written requests for exclusion are to be mailed to *Mississippi PERS v. Endo International*, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217 such that they are received no later than September 30, 2019. A.B. Data has been monitoring all mail delivered to the post office box. As of the date of this Declaration, A.B. Data has received no requests for exclusion.

14. According to the Notice, Settlement Class Members seeking to object to the Settlement, the proposed Plan of Allocation of the Net Settlement Fund, and/or Class Counsel's Fee and Expense Application are required to submit their objection in writing such that the request is received by the Parties and filed with the Court no later than September 30, 2019. As of the date of this Declaration, A.B. Data has not received any stray objections.

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

Executed this 12th day of September, 2019.



Adam D. Walter

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF
CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

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

If you purchased or otherwise acquired the publicly traded common stock of Endo International plc ("Endo" or the "Company") issued in or traceable to the Company's June 5, 2015 secondary offering of common stock, you may be entitled to a payment from a class action settlement.

A 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"),[1] 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) Class Counsel's application for attorneys' fees and expenses. 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 $50 million 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. This is an average recovery of approximately $1.80 per allegedly damaged share, before these deductions.
- The Settlement resolves claims by plaintiff Public Employees' Retirement System of Mississippi ("Plaintiff" or "Mississippi PERS") that have been asserted on behalf of the Settlement Class (defined below) against the Company; Rajiv Kanishka Liyanaarchchie De Silva, Suketu P. Upadhyay, Daniel A. Rudio, Roger H. Kimmel, Shane M. Cooke, John J. Delucca, Arthur J. Higgins, Nancy J. Hutson, Ph.D, Michael Hyatt, William P. Montague, Jill D. Smith, William F. Spengler (collectively, the "Individual Defendants" and with Endo, the "Endo Defendants"); and Goldman Sachs & Co. LLC (named herein as Goldman, Sachs & Co.), J.P. Morgan Securities LLC, Barclays Capital Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, Citigroup Global Markets Inc. (named herein as Citigroup Global Markets, LLC), Morgan Stanley & Co. LLC, SunTrust Robinson Humphrey, Inc., TD Securities (USA) LLC, and MUFG Securities Americas Inc. (f/k/a Mitsubishi UFJ Securities (USA) Inc.) (collectively, the "Underwriter Defendants," and with the Endo Defendants, 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.

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.

[1] The terms of the Settlement are in the Stipulation and Agreement of Settlement, dated June 27, 2019 (the "Stipulation"), which can be viewed at www.EndoInternationalSecuritiesSettlement.com. All capitalized terms not defined in this Notice have the same meanings as defined in the Stipulation.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY NOVEMBER 14, 2019	The only way to get a payment. *See* Question 8 below for details.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SEPTEMBER 30, 2019	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.
OBJECT BY SEPTEMBER 30, 2019	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or Class 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.
GO TO A HEARING ON OCTOBER 21, 2019 AND FILE A NOTICE OF INTENTION TO APPEAR BY SEPTEMBER 30, 2019	Ask to speak in Court at the Settlement Hearing about the Settlement. *See* Question 18 below for details.
DO NOTHING	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, Plaintiff, on behalf of the Settlement Class, has agreed to settle the Action in exchange for a payment of $50,000,000 in cash (the "Settlement Amount"), which will be deposited into an interest-bearing Escrow Account (the "Settlement Fund"). Based on Plaintiff's consulting damages expert's estimate of the number of shares of Endo 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 $1.80 per allegedly damaged share. If the Court approves Class Counsel's Fee and Expense Application (discussed below), the average recovery would be approximately $1.50 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; and (iii) whether and when the Settlement Class Member sold Endo common stock. *See* the Plan of Allocation beginning on page 9 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 Plaintiff were to prevail on each claim alleged. The issues on which the Parties disagree include, for example: (i) whether the registration statement issued in connection with the Offering (defined below) contained untrue statements of material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) the extent to which external factors, such as general market, economic and industry conditions, influenced the trading prices of Endo common stock at various times; (iii) whether certain Defendants conducted reasonable "due diligence" in connection with the Offering; and (iv) whether 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 Plaintiff and the Settlement Class have suffered any loss attributable to Defendants' actions or omissions. While Plaintiff believes it has meritorious claims, it recognizes that there are significant obstacles in the way to recovery.

Statement of Attorneys' Fees and Expenses Sought

4. Class Counsel, on behalf of all Plaintiff's Counsel, will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 16% of the Settlement Fund, which includes any accrued interest. Class Counsel will also apply for payment of litigation expenses incurred by Plaintiff's Counsel in prosecuting the Action in an amount not to exceed $400,000, plus accrued interest, which may include a service award for the reasonable costs and expenses of Plaintiff related to its representation of the Settlement Class. If the Court approves Class 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 $0.30 per allegedly damaged share of Endo common stock. A copy of the Fee and Expense Application will be posted on www.EndoInternationalSecuritiesSettlement.com after it has been filed with the Court.

Reasons for the Settlement

5. For 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 Amended Complaint; 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 reasons for entering into the Settlement are to end the burden, expense, uncertainty, and risk of further litigation.

Identification of Attorneys' Representatives

7. Plaintiff and the Settlement Class are represented by Class Counsel, Serena P. Hallowell, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, (888) 219-6877, www.labaton.com, settlementquestions@labaton.com.

8. Further information regarding the Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator: *Mississippi PERS v. Endo International,* c/o A.B. Data, Ltd., P.O. Box 173043, Milwaukee, WI 53217, (877) 307-6170, www.EndoInternationalSecuritiesSettlement.com; or Class 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 otherwise acquired Endo publicly traded common stock pursuant or traceable to the Company's June 5, 2015 secondary public offering of 27,627,628 shares of Endo common stock at $83.25 per share (the "Offering"). **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 Court of Common Pleas of Chester County, Pennsylvania, and the case is known as *Public Employees' Retirement System of Mississippi v. Endo International plc, et al.*, No. 2017-02081-MJ (the "Action"). The Action is assigned to the Honorable Edward Griffith.

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

12. Endo develops, manufactures, and distributes pharmaceutical products and devices worldwide. Plaintiff's claims arise from allegedly material misstatements and omissions made by Defendants in the offering documents issued in connection with Defendants' secondary public offering of approximately 27,627,628 shares of Endo common stock on June 5, 2015, pursuant to the June 2, 2015 Form S-3 Registration Statement (File No. 333-204657) and Prospectus, the Prospectus Supplement filed June 3, 2015, the June 4, 2015 Prospectus Supplement issued in connection with the Offering, and any documents incorporated by reference therein (the "Offering Documents"). Plaintiff alleges that the Offering Documents failed to disclose declining demand for Endo's generic products, and that personnel in its generic division had resorted to unsustainable business practices to meet sales numbers. When Defendants allegedly revealed the existence of these negative trends and the impact they had on Endo's finances, the Company's stock price fell well below the Offering price.

13. On February 28, 2017, Plaintiff filed a securities class action complaint in the Court of Common Pleas of Chester County, Pennsylvania, on behalf of investors in the Offering, captioned *Public Employees' Retirement System of Mississippi v. Endo International plc, et al*., No. 2017-02081-MJ. The complaint alleged violations of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 ("Securities Act") for alleged misstatements and omissions in the Offering Documents filed in connection with the Offering.

14. On March 31, 2017, Defendants filed a notice of removal in the U.S. District Court for the Eastern District of Pennsylvania (the "District Court") on the ground that the Securities Litigation Uniform Standards Act ("SLUSA"), 15 U.S.C. § 77v(a), established exclusive federal jurisdiction over certain class action lawsuits bringing claims under the Securities Act, including this lawsuit, and authorized such cases to be removed to federal court.

15. On May 1, 2017, Plaintiff filed a motion to remand the case back to the Court. On August 28, 2017, Judge Diamond of the District Court granted Plaintiff's motion to remand this case to the Court, for lack of subject-matter jurisdiction.

16. Plaintiff filed its Amended Class Action Complaint on October 16, 2017 (the "Amended Complaint"). On December 8, 2017, Defendants filed their preliminary objections to Plaintiff's Amended Complaint. On April 9, 2018, the Court overruled Defendants' preliminary objections to Plaintiff's Amended Complaint, lifting the prior stay on discovery and discovery proceeded. On May 25, 2018, Defendants filed their answers to the Amended Complaint and new matter setting forth their defenses. On June 14, 2018, Plaintiff filed its preliminary objections to Defendants' new matter. On August 2, 2018, the Court overruled Plaintiff's preliminary objections to Defendants' new matter. On August 22, 2018, Plaintiff replied to Defendants' new matter.

17. On July 27, 2018, Plaintiff filed its motion to certify the class, appoint itself as class representative, and appoint Labaton Sucharow LLP as class counsel. The motion was pending when the Parties agreed to settle the Action.

18. Plaintiff, through its counsel, has conducted a thorough investigation of the claims, defenses, and underlying events and transactions that are the subject of the Action. This process has included reviewing and analyzing: (i) documents filed publicly by the Company with the U.S. Securities and Exchange Commission ("SEC"); (ii) publicly available information, including press releases, news articles, and other 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; (v) pleadings filed in other pending litigations naming certain of the Defendants as defendants or nominal defendants; (vi) interviews of former employees; (vii) over 130,000 pages of documents, including emails of the Individual Defendants, produced by Defendants and third parties; and (viii) the applicable law governing the claims and potential defenses. Plaintiff's Counsel also consulted with experts on valuation, damages, and causation issues.

19. In the fall of 2018, the Parties agreed to mediate the case. Plaintiff and Defendants engaged the Hon. Layn R. Phillips (Ret.), a well-respected and experienced mediator, to assist them in exploring a potential negotiated resolution of the claims against Defendants. On February 4, 2019, counsel for Plaintiff and Defendants met with Judge Phillips in an attempt to reach a settlement. The mediation involved an extended effort to settle the claims and was preceded by the exchange of mediation statements. While these discussions narrowed the differences between Plaintiff and Defendants, they did not result in a resolution of the Action. Thereafter, through continued arm's-length efforts by the Parties and with the assistance of the Mediator, Plaintiff and Defendants ultimately reached an agreement in principle to settle the claims against all Defendants on March 11, 2019.

3. Why is this a class action?

20. In a class action, one or more persons or entities (in this case, 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. In this Action, the Court has appointed Mississippi PERS to serve as Class Representative, for purposes of the Settlement, and has appointed Labaton Sucharow LLP to serve as Class Counsel, for purposes of the Settlement.

4. What are the reasons for the Settlement?

21. The Court did not finally decide in favor of Plaintiff or Defendants. Instead, both sides agreed to a settlement. Plaintiff and Class 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 raise at summary judgment and trial) countering Plaintiff's allegations that the Offering Documents failed to disclose material adverse trends and uncertainties allegedly known to Defendants at the time of the Offering. Defendants also maintained that Plaintiff would be unable to establish the traceability of shares back to the Offering and that recoverable damages were significantly less than that estimated by Plaintiff's consulting damages expert, to the extent they could be established at all. 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 Plaintiff and the Settlement Class. Plaintiff and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

22. Defendants have denied and continue to deny each and every one of the claims alleged by Plaintiff in the Action, including all claims in the Amended 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?

23. 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 individuals and entities that purchased or otherwise acquired Endo's publicly traded common stock issued in or traceable to the Company's June 5, 2015 Offering of 27,627,628 shares.***

2017-02081-MJ

24. You are a Settlement Class Member only if you purchased or acquired Endo publicly traded common stock issued in or traceable to the Offering, which occurred on June 5, 2015. For purposes of the Settlement, purchases/acquisitions will be considered issued in or traceable to the Offering if and only if the shares were purchased or acquired during the period from June 5, 2015 through June 10, 2015 and (i) at the Offering price of $83.25 and/or (ii) directly from an Underwriter Defendant. Claimants must provide adequate documentation of these conditions. 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?

25. 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 officers and directors of Endo International plc and of the Underwriter Defendants, at all relevant times; (iii) members of the immediate families of the Individual Defendants and of the excluded officers and directors; (iv) any entity in which Endo has or had a controlling interest; (v) any entity in which an Underwriter Defendant has a majority ownership interest; and (vi) the legal representatives, heirs, successors or assigns of any of the foregoing, in their capacities as such. Notwithstanding the preceding sentence, any investment company, pooled investment fund, or separately managed account, including, but not limited to, mutual fund families, exchange-traded funds, employee benefit plans, trust companies for retirement accounts, fund of funds and hedge funds, in which any Underwriter Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor but of which any Underwriter Defendant or any of its respective affiliates is not a majority owner or does not hold a majority beneficial interest, shall not be deemed an excluded person or entity.

26. 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?

27. In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties (*see* Question 10 below), Defendants have agreed to cause a $50 million cash payment to be made, 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?

28. 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 dedicated to the Settlement: www.EndoInternationalSecuritiesSettlement.com, or from Class Counsel's website: www.labaton.com. You can also request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at (877) 307-6170.

29. Please read the instructions contained 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 listed in the Claim Form or submit it online at www.EndoInternationalSecuritiesSettlement.com. Claim Forms must be **postmarked (if mailed) or received no later than November 14, 2019.**

9. When will I receive my payment?

30. The Court will hold a Settlement Hearing on **October 21, 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?

31. 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 release all "Released Claims" against the "Released Defendant Parties."

(a) **"Released Claims"** means any and all manner of actions, suits, claims, demands, rights, liabilities, damages, costs, duties, controversies, obligations, debts, sums of money, contracts, agreements, promises, losses, judgments, allegations, arguments, causes of action, restitution, rescission, interest, attorneys' fees, expert or consulting fees, expenses, matters, and issues known or Unknown (as defined below), contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, direct or derivative, class or individual in nature, apparent or unapparent, whether concealed or hidden, and causes of action of every nature and description, including both known claims and Unknown Claims (as defined below), whether based on federal, state, local, foreign, statutory, administrative, or common law or any other law, rule, or regulation, at law or in equity, whether held directly, representatively, or derivatively, that have been or that might have been asserted against any of the Released Defendant Parties arising out of, relating to, based upon, or in connection with the purchase, other acquisition, sale, other

disposition, or holding of Endo's publicly traded common stock acquired in or traceable to Endo's June 5, 2015 Offering, including all claims that were asserted or could have been asserted in this Action. For the avoidance of doubt, this release shall not release claims other than the Released Claims, including to the extent such other claims are asserted in *SEB Investment Management, AB et al. v. Endo International plc*, Civ. No. 2:17-cv-03711-TJS (E.D. Pa) and any other pending case, as well as claims relating to the enforcement of the Settlement.

(b) **"Released Defendant Parties"** means Defendants, Defendants' Counsel, and each of their respective past or present subsidiaries, parents, affiliates, principals, the successors and predecessors and assigns in interest of any of them, joint venturers, officers, directors, shareholders, underwriters, trustees, partners, members, agents, fiduciaries, contractors, employees, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants or auditors, financial or investment advisors or consultants, banks or investment bankers, personal or legal representatives, estates, heirs, related or affiliated entities, any entity in which a Defendant has a controlling interest, any member of an Individual Defendant's immediate family, or any trust of which any Individual Defendant is a settlor or which is for the benefit of any Defendant and/or member(s) of his or her family, and each of the heirs, executors, administrators, trustees, predecessors, successors, and assigns of the foregoing.

(c) "**Unknown Claims**" means any and all Released Claims that Plaintiff or any other Settlement Class Member 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 Released Defendants' 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 Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiff and Defendants shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternative Judgment 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.**

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

32. 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, whether favorable or unfavorable, will apply to you and legally bind you.

33. Upon the "Effective Date," Defendants will also provide a release of any claims against 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

34. 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 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?

35. 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 *Mississippi PERS v. Endo International, plc, et al.*, No. 2017-02081." You cannot exclude yourself by telephone or e-mail. Each request for exclusion must also: (i) state the name, address, telephone number, and e-mail address of the person or entity requesting exclusion; (ii) state the date(s), price(s), and number(s) of shares of all purchases and acquisitions of Endo common stock pursuant and/or traceable to the Offering, and provide documentation of the purchases/acquisitions to show they were part of the Offering; and (iii) be signed by the Person requesting exclusion or an authorized representative. Only members of the Settlement Class can request exclusion. A request for exclusion must be mailed so that it is **received no later than September 30, 2019** at:

36. This information is needed to determine whether you are a member of the Settlement Class. **Remember, you are only a Settlement Class Member if you bought shares in the Offering.** 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?

37. No. If you are a member of the Settlement Class, unless you properly exclude yourself, you will give up any rights to sue Defendants and the other Released Defendant Parties for any and all Released Claims. 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 **September 30, 2019.**

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

38. 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?

39. Labaton Sucharow LLP is Class Counsel in the Action and Goldman, Scarlato & Penny, P.C. ("Goldman Scarlato") is Liaison Counsel – together they are Plaintiff's Counsel. Plaintiff's Counsel represent 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?

40. Plaintiff's Counsel have been prosecuting the Action on a contingent basis and have not been paid for any of their work. Class Counsel, on behalf of itself and Liaison Counsel Goldman Scarlato, will seek an attorneys' fee award of no more than 16% of the Settlement Fund, which will include accrued interest. Class Counsel has agreed to share the awarded attorneys' fees with Goldman Scarlato, and payment to them will in no way increase the fees that are deducted from the Settlement Fund. Class Counsel will also seek payment of litigation expenses incurred by Plaintiff's Counsel in the prosecution of this Action of no more than $400,000, plus accrued interest, which may include an application for a service award to Plaintiff for the reasonable costs and expenses related to Plaintiff's representation of the Settlement Class. 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?

41. 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 Class 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.

42. 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 "*Mississippi PERS v. Endo International, plc, et al.,* No. 2017-02081." The objection must also: (i) state the name, address, telephone number, and e-mail 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; (iii) explain whether your objection applies only to you, a subset of the Settlement Class, or the entire Settlement Class; and (iv) state the date(s), price(s), and number(s) of shares of all purchases and acquisitions of Endo common stock pursuant and/or traceable to the Offering, and provide documentation of the purchases/acquisitions to show they were part of the Offering. Unless otherwise ordered 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 be forever foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, and/or Class

Counsel's Fee and Expense Application. Your objection must be filed with the Court at the address below **no later than September 30, 2019 and** be mailed or delivered to the following counsel so that it is **received no later than September 30, 2019:**

Court	**Class Counsel**	**Defendants' Counsel Representative**
Chester County Justice Center **Office of the Prothonotary** Court of Common Pleas 201 W. Market Street Suite 1425 West Chester, PA 19380	**Labaton Sucharow LLP** Serena P. Hallowell, Esq. 140 Broadway New York, NY 10005	**Latham & Watkins LLP** Jeff G. Hammel, Esq. 885 Third Avenue New York, NY 10022

43. You do not need to attend the Settlement 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 Settlement 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 Settlement Hearing.

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

44. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Class 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 SETTLEMENT HEARING

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

45. The Court will hold the Settlement Hearing on **October 21, 2019 at 1:30 p.m.**, at the Court of Common Pleas of the Chester County Justice Center, Pennsylvania, Courtroom 11, 201 W. Market Street, West Chester, PA 19380.

46. At this hearing, the Honorable Edward Griffith 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 Class 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.

47. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Settlement Class Members. If you want to attend the hearing, you should check with Class Counsel or visit the settlement website, www.EndoInternationalSecuritiesSettlement.com, beforehand to be sure that the hearing date and/or time has not changed.

19. Do I have to come to the Settlement Hearing?

48. No. Class 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 September 30, 2019**.

20. May I speak at the Settlement Hearing?

49. If you are a member of the Settlement Class, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must, **no later than September 30, 2019**, submit a statement to the Court, Class Counsel, and Defendants' Counsel that you, or your attorney, intend to appear in "*Mississippi PERS v. Endo International, plc, et al.*, No. 2017-02081." Persons who intend to present evidence at the Settlement 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 Settlement Hearing. You may not speak at the Settlement Hearing if you exclude yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Settlement 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?

50. 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. 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, you must exclude yourself from the Settlement Class (*see* Question 11 above).

GETTING MORE INFORMATION

22. Are there more details about the Settlement?

51. This Notice summarizes the proposed Settlement. More details are contained in the Stipulation. You may review the Stipulation filed with the Court or other documents in the case during business hours at the Chester County Justice Center, Office of the Prothonotary, Court of Common Pleas, 201 W. Market Street, Suite 1425, West Chester, PA 19380.

52. You can also get a copy of the Stipulation, and other documents related to the Settlement, as well as additional information about the Settlement by visiting the website dedicated to the Settlement, www.EndoInternationalSecuritiesSettlement.com, or the website of Class Counsel, www.labaton.com. You may also call the Claims Administrator toll free at (877) 307-6170 or write to the Claims Administrator at *Mississippi PERS v. Endo International,* c/o A.B. Data, Ltd., P.O. Box 173043, Milwaukee, WI 53217. **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?

53. The Plan of Allocation (the "Plan of Allocation" or "Plan") set forth below is the plan that is being proposed by Plaintiff and Class 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 of Allocation will be posted on the Settlement website at: www.EndoInternationalSecuritiesSettlement.com and at www.labaton.com.

54. The Settlement Amount 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.

55. 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 violations of the Securities Act asserted in the Action. To design this Plan, Class Counsel has conferred with Plaintiff's consulting damages expert. This Plan is intended to be generally consistent with an assessment of, among other things, the damages that Plaintiff and Class Counsel believe were recoverable in the Action.

56. 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. An individual Settlement Class Member's recovery will depend on, for example: (i) the total number and value of claims submitted; (ii) whether the claimant purchased or acquired Endo publicly traded common stock in the Offering; and (iii) whether and when the claimant sold his, her, or its shares of common stock. 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.

57. 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.

58. Section 11 of the Securities Act serves as the basis for the calculation of the Recognized Loss Amounts under the Plan of Allocation. Section 11 of the Securities Act provides a statutory formula for the calculation of damages. The formulas stated below, which were developed by Plaintiff's consulting damages expert, generally track the statutory formula.

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. Plaintiff, Class 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 Endo common stock in the Offering will first be matched on a First In/First Out ("FIFO") basis, as set forth below.

61. The Claims Administrator will calculate a "Recognized Loss Amount" as set forth below for each purchase of Endo common stock in the Offering 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. Purchases/acquisitions of shares will be considered issued in or traceable to the Offering if and only if the shares were purchased or acquired during the period from June 5, 2015 through June 10, 2015 and (i) at the Offering price of $83.25 and/or (ii) directly from an Underwriter Defendant. Claimants must provide adequate documentation of these conditions. Purchases/acquisitions not traceable to the Offering are not eligible for a recovery.

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

64. **For each share of Endo publicly traded common stock purchased or otherwise acquired in the Offering on June 5, 2015 and:**

A. Sold before the opening of trading on February 28, 2017,[2] the Recognized Loss Amount for each such share shall be the purchase/acquisition price (not to exceed the issue price at the Offering of $83.25) ***minus*** the sale price.

B. Sold after the opening of trading on February 28, 2017, through the close of trading on November 13, 2018,[3] the Recognized Loss Amount for each such share shall be the purchase/acquisition price (not to exceed the issue price at the Offering of $83.25) ***minus*** the sale price (not to be less than $13.65, the closing share price on February 28, 2017).

C. Retained through the close of trading on November 13, 2018, the Recognized Loss Amount for each such share shall be the purchase/acquisition price (not to exceed the issue price at the Offering of $83.25) ***minus*** $13.65, the closing share price on February 28, 2017.

ADDITIONAL PROVISIONS

65. Purchases or acquisitions and sales of Endo publicly traded common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement," "payment," or "sale" date. The receipt or grant by gift, inheritance or operation of law of Endo publicly traded common stock purchased or acquired in the Offering shall not be deemed a purchase, acquisition, or sale of such shares 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 shares unless: (i) the donor or decedent purchased or otherwise acquired such shares in the Offering; (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 shares; and (iii) it is specifically so provided in the instrument of gift or assignment.

66. 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.

67. In the event that a claimant has an opening short position in Endo publicly traded common stock at opening of trading on June 5, 2015, the earliest purchase or acquisitions shall be matched against such opening short position in accordance with the FIFO matching described above and any portion of such purchase or acquisition that covers such short sales will not be entitled to recovery. In the event that a claimant newly establishes a short position on or after June 5, 2015, the earliest subsequent purchase or acquisition shall be matched against such short position on a FIFO basis and will not be entitled to a recovery.

68. Endo publicly traded common stock is the only security eligible for recovery under the Plan of Allocation. With respect to Endo publicly traded common stock purchased or sold through the exercise of an option, the purchase/sale date of the Endo publicly traded common stock is the exercise date of the option and the purchase/sale price is the exercise price of the option.

69. 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.

70. 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.

71. 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. Any balance that still remains in the Net Settlement Fund after re-distribution(s), which is not feasible or economical to reallocate, after payment of outstanding Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, shall be donated as follows: 50% of the unclaimed balance to the Pennsylvania Interest on Lawyers Trust Account Board and

[2] For purposes of the statutory calculations, February 28, 2017, the date of filing of the initial complaint in the Action, is the date of suit.

[3] For purposes of the statutory calculations, November 13, 2018 is the proxy date for the date of judgment because after November 13, 2018, the price of Endo publicly traded common stock has never traded above $13.65, the closing price on February 28, 2017.

50% of the unclaimed balance to the Mississippi Council on Economic Education, a private, non-profit, non-sectarian 501(c)(3) organization, or as otherwise approved by the Court.

72. Payment pursuant to the Plan of Allocation or such other plan as may be approved by the Court shall be conclusive against all claimants. No person shall have any claim against Plaintiff, Class Counsel, their damages expert, Claims Administrator, or other agent designated by Class Counsel, arising from determinations or distributions to claimants made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Plaintiff, Defendants, their respective counsel, and all other Released 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.

73. Each claimant is deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its claim.

SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES

74. If you purchased or otherwise acquired Endo publicly traded common stock in the Offering 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 Endo common stock in the Offering; 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. 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 expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those 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:

Mississippi PERS v. Endo International
c/o A.B. Data, Ltd.
P.O. Box 173043
Milwaukee, WI 53217

Dated: July 17, 2019

BY ORDER OF THE COURT OF COMMON PLEAS
OF CHESTER COUNTY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

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 *Public Employees' Retirement System of Mississippi v. Endo International plc, et al.,* No. 2017-02081-MJ (the "Action"), you must complete and, on page 6 below, sign this Proof of Claim and Release form ("Claim Form"). If you fail to submit a timely and properly addressed (as set forth 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.

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 NO LATER THAN NOVEMBER 14, 2019 ONLINE AT WWW.ENDOINTERNATIONALSECURITIESSETTLEMENT.COM OR, IF MAILED, BE POSTMARKED OR RECEIVED NO LATER THAN NOVEMBER 14, 2019, ADDRESSED AS FOLLOWS**:

Mississippi PERS v. Endo International
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173043
Milwaukee, WI 53217
www.EndoInternationalSecuritiesSettlement.com

If you are NOT a member of the Settlement Class (as defined in the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses ("Notice"), which accompanies this Claim Form) DO NOT submit a Claim Form.

4. If you are a member of the Settlement Class and you have not timely requested exclusion in response to the Notice, 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.

B. CLAIMANT IDENTIFICATION

1. If you purchased or otherwise acquired the publicly traded common stock of Endo International plc issued in or traceable to the Company's June 5, 2015 Offering and held the stock in your name, you are the beneficial purchaser as well as the record purchaser. If, however, you purchased or acquired the common stock of Endo in the Offering through a third party, such as a brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

2. For purposes of the Settlement, purchases/acquisitions will be considered issued in or traceable to the Offering if and only if the shares were purchased or acquired during the period from June 5, 2015 through June 10, 2015 and were purchased or acquired (i) at the Offering price of $83.25 and/or (ii) directly from an Underwriter Defendant. Claimants must provide adequate documentation of these conditions.

3. Use Part I of this form entitled "Claimant Identification" to identify each beneficial purchaser or acquirer of Endo common stock in the Offering that forms 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).

4. All joint purchasers must sign this claim. 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 Part II of this form entitled "Schedule of Transactions in the Offering" to supply all required details of your transaction(s). 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. On the schedules, provide all of the requested information with respect to all of your purchases or acquisitions and all of your sales of Endo common stock from June 5, 2015 through November 13, 2018, inclusive, which were issued in or traceable to the Offering, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to all of the shares of Endo common stock you held at the close of trading on November 13, 2018. Failure to report all such transactions may result in the rejection of your claim.

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

4. Copies of broker confirmations or other documentation of your transactions in the Offering 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 Endo common stock.

5. **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. If you wish to file your claim electronically, you must contact the Claims Administrator at (877) 307-6170 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.

PART I – CLAIMANT INFORMATION

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above. Complete names of all persons and entities must be provided.

Beneficial Owner's Name

First Name

Last Name

Joint Beneficial Owner's Name (*if applicable*)

First Name

Last Name

If this claim is submitted for an IRA, and if you would like any check that you MAY be eligible to receive made payable to the IRA, please include "IRA" in the "Last Name" box above (*e.g.*, Jones IRA).

Entity Name (if the Beneficial Owner is not an individual)

Name of Representative, if applicable (*executor, administrator, trustee, c/o, etc.*), if different from Beneficial Owner

Last 4 digits of Social Security Number or Taxpayer Identification Number

Street Address

City **State/Province** **Zip Code**

Foreign Postal Code (if applicable) **Foreign Country (if applicable)**

Telephone Number (Day) **Telephone Number (Evening)**

Email Address (email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this claim):

Type of Beneficial Owner:

Specify one of the following:

☐	**Individual(s)**	☐	**Corporation**	☐	**UGMA Custodian**
☐	**IRA**	☐	**Partnership**	☐	**Estate**
☐	**Trust**	☐	**Other (describe)** _____		

PART II – SCHEDULE OF TRANSACTIONS IN THE OFFERING

1. HOLDINGS AS OF JUNE 5, 2015 – State the total number of shares of Endo common stock held as of the opening of trading on June 5, 2015. (Must be documented.) If none, write "zero" or "0." _____	Confirm Proof of Position Enclosed ○

2. PURCHASES/ACQUISITIONS FROM JUNE 5, 2015 THROUGH NOVEMBER 13, 2018.[1] – Separately list each and every purchase/acquisition of Endo common stock from after the opening of trading on June 5, 2015 through and including the close of trading on November 13, 2018.[1] (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/ Acquired	Purchase/ Acquisition Price Per Share	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)	Confirm Proof of Purchase/ Acquistion Enclosed
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○

3. SALES FROM JUNE 5, 2015 THROUGH NOVEMBER 13, 2018 – Separately list each and every sale/disposition of Endo common stock from after the opening of trading on June 5, 2015 through and including the close of trading on November 13, 2018. (Must be documented.)	**IF NONE, CHECK HERE** ○

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions, and fees)	Confirm Proof of Sale Enclosed
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○
/ /		$	$	○

4. HOLDINGS AS OF NOVEMBER 13, 2018 – State the total number of shares of Endo common stock held as of the close of trading on November 13, 2018. (Must be documented.) If none, write "zero" or "0." _____	Confirm Proof of Position Enclosed ○

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THIS PAGE AND CHECK THIS BOX ☐

INCLUDE THE BENEFICIAL OWNER'S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER/TAXPAYER IDENTIFICATION NUMBER ON EACH PAGE.

[1] Only purchases or acquisitions in the Offering are eligible for a recovery, however your purchases from June 5, 2015 (the date of the Offering) through November 13, 2018 (the proxy date of judgment) are needed in order to balance and calculate your claim.

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

A. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim and Release under the terms of the Stipulation and Agreement of Settlement, dated June 27, 2019 (the "Stipulation") described in the Notice. I (We) also submit to the jurisdiction of the Court of Common Pleas of Chester County, PA with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim (including transactions in other Endo securities) if requested to do so. I (We) have not submitted any other claim in the Action covering the same purchases or sales of Endo common stock and know of no other person having done so on my (our) behalf.

B. RELEASE AND ACKNOWLEDGEMENT

1. Upon the occurrence of the Court's approval of the Settlement, as detailed in the accompanying Notice, I (we) agree and acknowledge that my (our) signature(s) below shall effect and constitute a full and complete release and discharge by me (us) and my (our) successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such (or, if I am (we are) submitting this Proof of Claim and Release Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such) of each of the "Released Defendant Parties" of all "Released Claims," as those terms are defined in the Stipulation.

2. Upon the occurrence of the Court's approval of the Settlement, as detailed in the accompanying Notice, I (we) agree and acknowledge that my (our) signature(s) below shall effect and constitute an agreement by me (us) and my (our) successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such (or, if I am (we are) submitting this Proof of Claim and Release Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such) to permanently refrain from prosecuting or attempting to prosecute any Released Claims against any of the Released Defendant Parties.

3. I (We) acknowledge that the inclusion of "Unknown Claims" in the definition of "Released Claims" set forth in the Stipulation was separately bargained for and is a material element of the Settlement of which this release is a part.

4. 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.

5. I (We) hereby warrant and represent that I (we) have included the information requested about all of my (our) transactions in Endo common stock 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.

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

Executed this _____ day of _____, in _____, _____.
(Month / Year) (City) (State/Country)

_____ _____
Signature of Claimant Signature of Joint Claimant, if any

_____ _____
Print Name of Claimant Print Name of Joint Claimant, if any

_____
(Capacity of person(s) signing, *e.g.*, Beneficial Purchaser, Executor or Administrator)

REMINDER CHECKLIST

1. Please sign the above release and acknowledgement.
2. If this claim is being made on behalf of Joint Claimants, then both must sign.
3. Remember to attach copies of supporting documentation, if available.
4. **Do not send** originals of certificates.
5. Keep a copy of your Claim Form and all supporting documentation for your records.
6. If you desire an acknowledgment of receipt of your Claim Form, please send it Certified Mail, Return Receipt Requested.
7. If you move, please send your new address to:

   Mississippi PERS v. Endo International
   Claims Administrator
   c/o A.B. Data, Ltd.
   P.O. Box 173043
   Milwaukee, WI 53217
   info@EndoInternationalSecuritiesSettlement.com
   (877) 307-6170

8. **Do not use red pen or highlighter** on the Claim Form or supporting documentation.

EXHIBIT B

NEW HIGHS AND LOWS

WSJ.com/newhighs

The following explanations apply to the New York Stock Exchange, NYSE Arca, NYSE American and Nasdaq Stock Market stocks that hit a new 52-week intraday high or low in the latest session. **% CHG**-Daily percentage change from the previous trading session.

Tuesday, July 30, 2019

Highs

Stock	Sym	52-Wk Hi/Lo	% Chg
ABMIndustries	ABM	42.46	1.2
AGBAAcqnRt	AGBAR	1.16	20.0
AGCO	AGCO	80.64	5.0
ANI Pham	ANIP	85.84	0.8
AT&T Nts 2066	TBB	26.79	1.0
AT&T Nts 2067	TBC	27.20	0.9
AT&T	T	34.64	-0.5
AXIS CapPfdE	AXSpE	25.50	-0.3
AXIS CapPfdD	AXSpD	25.55	...
AcaciaComms	ACIA	66.44	0.6
AcastiPharma	ACST	2.95	8.2
AddusHomeCare	ADUS	82.39	0.5
Afya	AFYA	28.90	...
Agilysys	AGYS	24.24	2.5
AgnicoEagle	AEM	54.63	-0.3
AirProducts	APD	232.47	0.3
AlabamaPwrPfdA	ALPpQ	26.79	-0.8
AlgonquinPwrNt	AQNA	27.46	0.5
AlgonquinNt2079	AQNB	26.77	-0.1
AllstateDeb	ALLpB	26.72	-0.2
Alteryx	AYX	123.06	-0.3
Ambev	ABEV	5.45	-1.5
AmFinDeb2055	AFGH	26.63	0.4
AmHomes4RentPfdG	AMHpG	27.27	0.5
AmHomes4RentPfdH	AMHpH	27.40	-0.4
AIG5.85%PfdA	AIGpA	27.14	0.9
AmerStWater	AWR	77.69	0.5
AmkorTech	AMKR	9.79	19.6
AnnalyCapPfdI	NLYpI	25.70	0.1
ArchCapital	ACGL	39.86	3.5
ArchCapitalPfdF	ACGLO	25.62	0.2
ArcturusTherap	ARCT	14.49	12.5
AresCapital	ARCC	18.74	2.6
AresMgmt	ARES	29.51	1.2
ArmadaHofflerPfA	AHHpA	26.83	1.3
AspenInsPfd	AHLpC	27.78	-0.7
AssetMarkFin	AMK	28.61	1.3
AssurantPfdD	AIZP	118.13	1.1
Assurant	AIZ	114.92	1.0
AssurGrMunNt	AGOpE	27.19	0.1
AstaFunding	ASFI	7.70	1.1
AtmosEnergy	ATO	109.96	...
AudioCodes	AUDC	19.74	-0.3
AvonProducts	AVP	4.17	4.0
Azul	AZUL	42.31	-0.4
B.RileyNts2024	RILYO	25.68	0.9
Ball	BLL	72.93	0.7
BankofAmPfdGG	BACpB	27.17	-0.1
BankofAmPfdHH	BACpK	26.85	0.3
BankofAmPfdKK	BACpM	25.92	...
Berkley	WRB	70.86	0.6
BlackKnight	BKI	64.06	0.1
Brady	BRC	51.96	0.8
BrighthouseDeb58	BHFAL	27.33	1.2
BrighthousePfdA	BHFAP	27.16	0.3
BrixmorProp	BRX	18.75	2.0
BrunswickNts2049	BCpB	26.60	0.4
CAI IntlPfdA	CAIpA	26.24	0.2
CMS Energy	CMS	59.54	-1.0
CMSEnerDeb78	CMSA	26.69	0.4
CMSEnerNts2078	CMSC	27.68	0.8
Carlisle	CSL	144.81	0.2
CarlylePfdA	TCGP	25.14	...
Catalent	CTLT	58.38	2.9
CenturyLinkNts	CTBB	24.59	0.6
SchwabPfdD	SCHWpD	27.13	-0.3
Chegg	CHGG	48.22	8.9
Chemed	CHE	402.44	1.6
CheniereEnerPtrs	CQP	47.21	-2.8
ChurchillDowns	CHDN	123.05	1.1
CitizensFinPfdD	CFGpD	27.38	0.4
ClarivateAnalyWt	CCC.WS	5.50	1.9
ClarivateAnaly	CCC	16.65	0.3
CogentComm	CCOI	63.98	-0.3
ColgatePalm	CL	76.41	-1.1
CommandCtr	CCNI	6.99	7.0
ConnecticutWater	CTWS	70.50	0.6
ConstructionPtrs	ROAD	15.57	0.7
Cowen7.35%Nts	COWNZ	26.30	0.6
CowenNts2033	COWNL	26.44	0.6
CrowdStrike	CRWD	96.19	7.8
Cushman&Wkfd	CWK	20.25	0.4
CypressSemi	CY	23.05	0.1
DTE EnergyDeb77	DTW	26.54	0.3
DigitalRealtyPfJ	DLRpJ	25.60	0.4
DigitalTurbine	APPS	5.76	3.3
DukeEnerDeb73	DUKH	25.68	...
DukeRealty	DRE	33.83	0.6
elfBeauty	ELF	17.35	0.9
EPR PropPfdG	EPRpG	25.74	-0.3
EVO Payments	EVOP	31.93	-1.5
EXACT Sci	EXAS	123.99	0.3
EaglePointPfdA	ECCA	26.15	0.6
EastGroup	EGP	122.24	0.4
Ecolab	ECL	209.24	2.5
8x8	EGHT	26.67	2.8
ElbitSystems	ESLT	161.54	0.4
EldoradoGold	EGO	8.18	1.6
EnphaseEnergy	ENPH	21.70	2.1
EntergyBds66	EAI	26.14	0.4
EntergyBds52	EAB	27.25	1.6
EntergyLA Bd	ELU	25.60	0.4
EntergyLA Bds66	ELC	25.89	0.3
EntergyNOLA Bds	ENJ	25.66	1.0
EquityResdntl	EQR	80.62	-0.1
EssexProp	ESS	310.54	-0.4
EsteeLauder	EL	194.74	-1.6
Everbridge	EVBG	103.58	1.7
ExlService	EXLS	68.81	2.5
Exponent	EXPO	69.20	0.5
ExtraSpaceSt	EXR	112.82	0.4
FirstCapital	FCAP	56.21	1.2
FirstIndRlty	FR	38.70	1.0
FirstInternetNt29	INBKZ	26.20	0.8
FirstUnited	FUNC	21.35	1.1
FirstEnergy	FE	44.75	...
FlowersFoods	FLO	24.09	-0.1
FordMotor6.2%Nt	FpB	26.93	0.3
Franco-Nevada	FNV	90.78	-0.5
FranklinCovey	FC	38.38	2.7
G Willi-Food	WILC	11.02	6.5
GabelliDivPfdH	GDVpH	25.85	...
GabelliEqPfdD	GABpD	26.34	0.9
GeorgiaPwrNt77	GPJA	26.24	0.2
GigCapital2	GIX	9.88	0.6
GladstoneNts2023	GLADD	28.66	1.1
GladstoneCommPfA	GOODP	27.43	-0.4
GlobalWaterRscs	GWRS	12.75	2.9
GoresMetrop	GMHI	10.88	2.9
GreatElmNts24	GECCN	25.09	-0.2
HallmarkFin	HALL	15.32	2.1
HarmonyGold	HMY	2.66	1.9
Hasbro	HAS	126.87	-1.3
Hawkins	HWKN	45.52	3.0
HealthCatalyst	HCAT	44.00	4.7
HelenofTroy	HELE	153.80	-1.4
Hershey	HSY	153.90	...
HoeghLNG PfdA	HMLPpA	26.79	...
Hologic	HOLX	51.57	2.2
HudsonPacProp	HPP	35.81	0.3
Impinj	PI	40.24	13.0
IndepRealty	IRT	12.43	1.1
Insulet	PODD	126.71	0.6
IntelligentSys	INS	49.50	5.3
InvestorsRE PfdC	IRETpC	25.94	1.3
InvRlEst	IRET	64.55	1.2
Invitae	NVTA	27.21	5.5
iStar	STAR	13.12	2.2
J&JSnackFoods	JJSF	188.11	13.4
JPMorganPfdDD	JPMpD	27.69	1.2
JPMChasePfdEE	JPMpC	27.74	1.2
KB Home	KBH	27.65	2.4
KellyServices A	KELYA	28.19	0.2
KimcoRealty	KIM	19.38	2.3
KimcoRealtyPfdL	KIMpL	24.86	-0.2
KimcoRealtyPfdM	KIMpM	25.09	0.2
Knowles	KN	20.66	1.9
LeggMasonNts	LMHB	25.75	0.8
Leidos	LDOS	84.97	1.3
LongevityAcqn	LOAC	10.20	-0.1
MAG Silver	MAG	12.36	3.8
MI Homes	MHO	35.97	1.6
ManTechIntl	MANT	69.20	0.6
MartinMarietta	MLM	246.48	10.0
Matson	MATX	42.12	3.4
MaverixMetals	MMX	5.27	3.9
McCormick	MKC	163.70	-0.7
McGrathRent	MGRC	67.37	2.8
Medpace	MEDP	80.38	17.6
Medtronic	MDT	103.87	0.5
MesaLab	MLAB	268.47	8.0
ModelN	MODN	22.09	0.6
MonarchCasino	MCRI	48.71	...
MonroeCapNts23	MRCCL	25.54	1.4
MorganStanleyPfd1	MSpI	28.11	...
NRC Wt	NRCG.WS	1.99	1.0
NanoStringTech	NSTG	33.31	1.9
NatlHealthcare	NHC	88.01	1.8
NebulaAcquisition	NEBUU	10.50	0.2
NewFrontierWt	NFC.WS	1.42	38.4
NewFrontier	NFC.U	10.76	2.5
NewFrontier	NFC	10.25	0.5
NYTimes A	NYT	36.09	1.6
NextEraEnDebK	NEEpK	27.17	0.3
NextEraEnDebN	NEEpN	26.97	0.5
NicoletBankshares	NCBS	66.16	2.3
Novocure	NVCR	83.49	1.6
OdonateTherap	ODT	39.90	0.2
OfficePropNts46	OPINI	26.20	1.2
OneMain	OMF	42.16	17.6
OrionEnergySys	OESX	3.39	2.6
OritaniFinancial	ORIT	18.15	1.4
OrmatTech	ORA	65.63	1.4
OsiskoGoldRoyal	OR	12.43	0.7
OtterTail	OTTR	53.86	0.5
PSBusParksPfdW	PSBpW	25.36	-0.3
Palomar	PLMR	29.00	5.2
ParPacific	PARR	22.88	1.5
PatternEnergy	PEGI	24.34	1.5
PebblebrookPfdF	PEBpF	25.78	...
PebblebrookPfdD	PEBpD	26.95	0.9
PebblebrookPfdC	PEBpC	26.00	0.4
PennyMacFin	PFSI	24.58	0.2
PennyMacMtgPfA	PMTpA	26.64	0.8
PennyMacPfdB	PMTpB	26.47	1.1
PeoplesFinSvcs	PFIS	48.35	3.0
PerformanceFood	PFGC	43.92	0.6
PowerREIT	PW	10.16	-8.0
Procter&Gamble	PG	121.76	3.8
ProSightGlobal	PROS	17.23	2.4
PublicStoragePfD	PSApD	25.60	-0.5
PublicStoragePfG	PSApG	26.10	-0.6
QwestNts2057	CTDD	25.29	0.6
RPM	RPM	68.49	0.5
Rambus	RMBS	13.16	-0.2
RedViolet	RDVT	17.50	6.4
RegalwdGlbEner	RWGE	10.29	0.3
RegionsFinPfdC	RFpC	26.80	0.1
RepublicSvcs	RSG	90.60	-0.7
ResearchFrontiers	REFR	3.74	0.8
RetailValue	RVI	37.49	1.6
RevenHousingREIT	RVEN	6.01	-6.5
RingCentral	RNG	146.38	11.1
RoyalGold	RGLD	121.06	0.2
RubiconProject	RUBI	7.81	1.6
RubiconTech	RBCN	9.52	5.4
SBA Comm	SBAC	249.05	4.8
SITECtrsPfdA	SITCpA	26.61	1.0
SITECtrsPfdK	SITCpK	26.07	0.2
SSR Mining	SSRM	16.78	1.9
SafetyInsurance	SAFT	100.78	1.3
Sanfilippo	JBSS	87.96	2.4
SaulCentersPfdD	BFSpD	25.41	0.8
SempraEnNts79	SREA	26.07	0.2
SherwinWilliams	SHW	516.43	1.0
Sibanye-Stillwater	SBGL	5.42	-0.7
SilvercorpMetals	SVM	3.30	2.5
SilverCrestMetals	SILV	5.65	3.4
Smith&Nephew	SNN	45.55	-1.0
SmithMicro	SMSI	6.43	13.9
SouthernNt2016A	SOJB	26.57	0.8
SouthernNts77	SOJC	26.46	0.2
St.Joe	JOE	19.30	1.5
SterlingBncpPfdA	STLpA	28.35	0.9
StifelFinlPfdA	SFpA	27.44	1.3
StifelFinlPfdB	SFpB	27.11	0.9
StifelFinancial	SF	61.55	1.8
SummitHotelPfdD	INNpD	27.18	-0.5
Sunoco	SUN	34.09	-0.6
TCF Fin PfdC	TCFpD	26.04	0.4
TeleNav	TNAV	9.48	1.4
TerraFormPower	TERP	15.59	1.0
Tiptree	TIPT	6.99	3.3
TitanMachinery	TITN	21.81	1.8
TuscanIIUn	THCAU	10.13	0.1
UDR	UDR	47.15	0.1
US PhysTherapy	USPH	131.02	1.5
Unifirst	UNF	198.30	1.6
UniversalHealth	UHT	93.27	2.3
ValleyNatlPfdB	VLYPO	26.22	-0.5
VaronisSystems	VRNS	80.00	2.8
VolitionRX	VNRX	4.49	4.4
VulcanMatls	VMC	140.72	3.1
WEC Energy	WEC	87.93	-1.0
W.P.Carey	WPC	87.07	0.5
WashingtonFederal	WAFD	36.90	1.5
WheatonPrecMet	WPM	27.66	0.1
WorkhorseGroup	WKHS	4.60	7.4
WyndhamDest	WYND	49.11	3.8
Ziopharm	ZIOP	6.62	9.8
ZimmerBiomet	ZBH	136.72	1.6

Lows

Stock	Sym	52-Wk Hi/Lo	% Chg
AU Optronics	AUO	2.59	-1.1
AbeonaTherap	ABEO	2.86	-0.7
Ability	ABIL	0.63	-8.0
AbraxisPetrol	AXAS	0.81	0.1
AlimeraSciences	ALIM	0.61	-28.1
AltisourceAsset	AAMC	9.29	-9.0
AnchianoTherap	ANCN	3.06	-5.8
AnteroResources	AR	3.95	12.4
AquestiveTherap	AQST	3.42	-2.2
ArcadiaBiosci	RKDA	2.17	-7.7
ArmstrongFlooring	AFI	8.14	1.0
AscenaRetail	ASNA	0.41	-1.4
AssemblyBiosci	ASMB	11.79	3.7
AtlasFinancial	AFH	0.38	9.0
aTyrPharma	LIFE	3.16	4.0
BasicEnergySvcs	BAS	1.51	7.7
BiglariA	BH.A	457.00	0.4
BioMarinPharm	BMRN	78.81	1.5
BionanoGenom	BNGO	2.28	-11.2
BioTelemetry	BEAT	43.38	1.2
BlackStoneMin	BSM	14.80	0.4
BlueHatInt	BHAT	3.90	-7.9
BoingoWireless	WIFI	15.18	-5.6
BridgelineDigital	BLIN	1.88	-3.5
Briggs&Stratton	BGG	9.30	1.2
CONSOL Energy	CEIX	21.33	0.8
CallonPetrol	CPE	4.67	6.5
CamberEnergy	CEI	0.82	-16.6
CapitolInvtIV	CIC.U	9.10	-0.4
Cars.com	CARS	19.01	0.1
CastorMaritime	CTRM	3.10	-14.3
ChampionsOncology	CSBR	6.40	-0.2
Changyou.com	CYOU	7.77	-1.1
Chanticleer	BURG	0.71	-7.5
ChinaGreenAg	CGA	4.08	-0.7
ChinaMobile	CHL	42.82	-1.0
ChinaPetrol	SNP	64.15	-0.3
ChinaSXTPharm	SXTC	2.49	-0.8
ChinaUnicom	CHU	9.82	-1.2
ClearChannelOutdr	CCO	3.24	-4.4
CommVaultSystems	CVLT	44.40	-11.1
comScore	SCOR	3.10	0.6
ConturaEnergy	CTRA	35.31	-1.8
DuluthHoldings	DLTH	11.97	-3.8
DynagasLNG	DLNG	1.34	3.1
EdisonNation	EDNT	1.81	-2.0
ElPolloLoco	LOCO	9.79	-1.4
EndoIntl	ENDP	2.97	5.6
Equillium	EQ	4.25	-1.2
Equinor	EQNR	17.65	-0.2
EquitransMdstm	ETRN	16.90	-4.4
EvolutionPetrol	EPM	5.83	5.4
FTS Intl	FTSI	3.65	5.7
FiestaRestaurant	FRGI	9.83	-2.4
ForesightEnergy	FELP	0.40	-6.0
ForumEnergyTech	FET	2.18	13.4
FourSeasonsEduc	FEDU	1.66	-6.9
Francesca's	FRAN	2.95	-1.6
GCPAppliedTechs	GCP	21.61	1.6
GTT Comm	GTT	11.92	-3.4
GameStop	GME	3.90	-2.2
GlobusMaritime	GLBS	2.01	-2.9
GoodrichPetrol	GDP	10.51	1.5
GraniteConstr	GVA	32.34	-17.9
GreenPlains	GPRE	9.49	4.4
HabitRestaurants	HABT	9.32	1.4
HighPointRscs	HPR	1.15	10.0
HighwayHldgs	HIHO	2.00	-3.1
Hillenbrand	HI	33.52	1.6
HornbeckOffshore	HOS	0.58	22.8
Hudson	HUD	12.20	2.9
Immutep	IMMP	1.48	...
InnovateBio	INNT	1.04	-0.9
IntecPharma	NTEC	0.42	-2.0
IntercorpFinSvcs	IFS	41.30	-0.7
IntersectENT	XENT	19.48	1.6
iPicEnt	IPIC	0.92	-8.3
Iridex	IRIX	3.48	2.9
IturanLocation	ITRN	28.82	-2.9
JackintheBox	JACK	72.15	-2.4
JaggedPeakEner	JAG	6.65	7.2
JumiaTech	JMIA	17.51	-6.4
KLX Energy	KLXE	15.00	2.1
KiniksaPharm	KNSA	10.76	1.8
LG Display	LPL	6.22	-6.0
LSC Comm	LKSD	1.14	-15.6
Leaf	LEAF	6.13	-0.2
LigandPharm	LGND	94.04	-11.4
LilisEnergy	LLEX	0.34	0.6
LiquidMedia	YVR	1.50	-2.4
LumberLiqu	LL	8.78	-7.5
MOGU	MOGU	2.47	0.4
MaidenHldg6.7%PfdD	MHpD	3.67	-3.4
Manning&Napier	MN	1.48	-2.6
MarinSoftware	MRIN	2.01	-1.9
McDermottIntl	MDR	5.80	-35.3
Methanex	MEOH	38.94	1.3
Michaels	MIK	6.84	-3.7
MidstatesPetrol	MPO	4.22	5.8
MiragenTherap	MGEN	1.91	2.0
MontageRscs	MR	2.99	10.4
MyovantSciences	MYOV	6.60	-0.1
NektarTherap	NKTR	28.13	...
NexGenEnergy	NXE	1.29	3.0
NineEnergy	NINE	11.86	2.9
NorthernOil&Gas	NOG	1.43	10.7
Nuvectra	NVTR	1.95	7.0
Nxt-ID	NXTD	0.46	-0.6
ObsEva	OBSV	8.83	-3.2
OnTrackInnov	OTIV	0.35	...
PTC	PTC	68.58	-2.0
ParingaResources	PNRL	2.92	-7.0
PenneyJC	JCP	0.72	5.4
PetroChina	PTR	53.09	-0.6
Phunware	PHUN	1.61	-0.6
Potbelly	PBPB	3.97	-0.2
QEP Resources	QEP	4.61	7.6
RPC	RES	5.43	9.9
RR Donnelley	RRD	1.68	7.1
RangeResources	RRC	4.57	16.5
Ranpak	PACK	6.52	-5.3
Realogy	RLGY	4.88	5.4
RegalwdGlbEnWt	RWGE.WS	0.78	-8.2
ReneSola	SOL	1.04	1.9
RepublicFirstBncp	FRBK	4.38	-2.0
RhythmPharm	RYTM	18.00	-4.2
RingEnergy	REI	2.26	7.8
SINOPEC	SHI	35.19	-0.6
SITO Mobile	SITO	0.62	...
SeadrillPartners	SDLP	2.20	0.7
SequansComms	SQNS	0.67	1.2
SequentialBrands	SQBG	0.43	1.7
Sohu.com	SOHU	12.31	-2.0
SparkNetworks	LOV	7.52	-2.2
SpiritAirlines	SAVE	41.58	-0.4
Strattec	STRT	19.99	-0.4
SundanceEnergy	SNDE	1.42	-2.0
SuperiorEnergy	SPN	0.54	6.1
SuperiorIndsIntl	SUP	2.42	0.4
Synlogic	SYBX	5.44	-3.3
Systemax	SYX	18.49	-1.3
TraconPharm	TCON	0.42	-13.9
TallgrassEnergy	TGE	19.01	-3.2
Tantech	TANH	1.40	-1.4
TataMotors	TTM	9.59	-2.5
Tenneco	TEN	8.58	1.4
TimkenSteel	TMST	6.61	1.5
TItanIntl	TWI	3.53	1.4
TonixPharm	TNXP	0.48	0.9
TownSports	CLUB	1.47	4.4
Transocean	RIG	5.26	11.4
TreviTherap	TRVI	5.56	-5.6
TrovaGene	TROV	1.75	1.1
TrueBlue	TBI	18.62	-13.2
TutorPerini	TPC	12.54	1.6
TwinDisc	TWIN	12.40	-0.4
TwinRiver	TRWH	25.23	-0.9
UBS Group	UBS	11.19	-1.0
USA Truck	USAK	7.97	2.1
USWellServicesA	USWS	2.95	-7.3
UniqueFabricating	UFAB	2.42	1.5
Unit	UNT	5.81	6.1
USComdtyIndxFd	USCI	36.01	-0.2
US12mthNtlGas	UNL	8.64	0.7
UnivInsurance	UVE	24.89	0.2
VermilionEnergy	VET	16.67	3.0
Verso	VRS	16.24	2.4
VistaOutdoor	VSTO	6.75	2.0
WAVE LifeSci	WVE	18.93	5.7
Watford	WTRE	19.03	-15.0
XeneticBiosci	XBIO	2.25	5.0
XpresSpa	XSPA	1.10	4.5
YumaEnergy	YUMA	1.31	5.4
Zafgen	ZFGN	0.85	-3.5

Dividend Changes

Dividend announcements from July 30.

Company	Symbol	Yld %	Amount New/Old	Frq	Payable / Record
Increased					
Kimbell Royalty Partners	KRP	10.2	.39 /.37	Q	Aug12 /Aug05
Leidos Holdings	LDOS	1.5	.34 /.32	Q	Sep30 /Sep16
Resources Connection	RECN	3.0	.14 /.13	Q	Sep19 /Aug22
Zions Bancorp	ZION	3.0	.34 /.30	Q	Aug22 /Aug15
Initial					
Tectonic Finl 9% Pfd. B	TECTP	8.4	.2275		Aug15 /Aug05
Stocks					
SPS Commerce	SPSC		2:1		/Aug23
Foreign					
AstraZeneca ADR	AZN	3.1	.45	SA	Sep09 /Aug09
Banco Santander Pfd. 6	SANpB	4.4	.25556	Q	Sep05 /Aug21
Grupo Aval Acciones ADR	AVAL	4.4	.02943	M	Aug09 /Jul31

KEY: A: annual; M: monthly; Q: quarterly; r: revised; SA: semiannual; S2:1: stock split and ratio; SO: spin-off.

EXHIBIT C

Labaton Sucharow LLP Announces a Notice of Pendency of Class Action and Proposed Settlement in Public Employees' Retirement System v. Endo International plc, et al.

NEWS PROVIDED BY
Labaton Sucharow LLP →
Jul 31, 2019, 11:45 ET

NEW YORK, July 31, 2019 /PRNewswire/ --

IN THE COURT OF COMMON PLEAS OF
CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

2017-02081-MJ

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

To: All individuals and entities **that purchased or otherwise acquired the publicly traded common stock of Endo International plc ("Endo" or the "Company") issued in or traceable to Endo's June 5, 2015 offering of 27,627,628 shares.**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the Court of Common Pleas of Chester County, Pennsylvania, that Plaintiff Public Employees' Retirement System of Mississippi, on behalf of itself and the proposed Settlement Class,[1] and the Company and the other defendants in the Action, have reached a proposed settlement of the above-captioned action (the "Action") in the amount of $50,000,000 that, if approved, will resolve the Action in its entirety (the "Settlement").

A hearing will be held before the Honorable Edward Griffith at the Court of Common Pleas of the Chester County Justice Center, Pennsylvania, Courtroom 11, 201 W. Market Street, West Chester, PA 19380, at 1:30 p.m. on October 21 2019 (the "Settlement 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 in the Stipulation and Agreement of Settlement, dated June 27, 2019; (iii) approve the proposed Plan of Allocation for distribution of the Net Settlement Fund; and (iv) approve Class Counsel's Fee and Expense Application. The Court may change the date of the Settlement Hearing without providing another notice. You do NOT need to attend the Settlement 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 and Proof of Claim

and Release form ("Claim Form"), you may obtain copies of these documents by visiting the website dedicated to the Settlement, www.EndoInternationalSecuritiesSettlement.com, or by contacting the Claims Administrator at:

Mississippi PERS v. Endo International
c/o A.B. Data, Ltd.
P.O. Box 173043
Milwaukee, WI 53217

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

Serena Hallowell, Esq.
LABATON SUCHAROW LLP
140 Broadway
New York, NY 10005
www.labaton.com
settlementquestions@labaton.com
(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 ***postmarked or submitted online no later than November 14, 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 September 30, 2019.*** If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action, 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 Class Counsel's Fee and Expense Application 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 September 30, 2019***.

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

DATED: July 31, 2019	BY ORDER OF THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

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[1] All terms not defined herein shall have the definition assigned to them in the Stipulation and Agreement of Settlement, dated June 27, 2019.

SOURCE Labaton Sucharow LLP

Related Links

http://www.labaton.com

Exhibit 3

GOLDMAN SCARLATO & PENNY, P.C.
Mark S. Goldman (PA Atty. No. 48049)
Eight Tower Bridge, Suite 1025
161 Washington Street
Conshohocken, PA 19428
Tel: (484) 342-0700
Email: goldman@lawgsp.com

LABATON SUCHAROW LLP
Serena P. Hallowell, Esq.
Thomas W. Watson, Esq.
140 Broadway
New York, NY 10005
Tel: (212) 907-0700
Email: shallowell@labaton.com
twatson@labaton.com

Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

DECLARATION OF SERENA P. HALLOWELL ON BEHALF OF LABATON SUCHAROW LLP IN SUPPORT OF APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, SERENA P. HALLOWELL, declare as follows, under penalty of perjury:

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 August 30, 2019 (the "Time Period").

2. My firm, which served as lead counsel in the Action, was involved in all aspects of the litigation, as explained in detail in the accompanying Declaration of Serena P. Hallowell in

Support of (I) Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and (II) Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses, filed 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 6,822.8. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is $3,197,672.50.

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 $247,697.69 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. The following is additional information regarding certain of these expenses:

(a) Filing, Witness and Other Fees: $3,142.00. These expenses have been paid to clerks of court and an attorney service firm in connection with the service of subpoenas.

(b) Work-Related Transportation, Hotels & Meals: $12,515.60. In connection with the prosecution of this case, the firm has paid for work-related transportation expenses, meals, and travel expenses related to, among other things, meetings with potential witnesses and meetings with Mississippi PERS. This category also includes $3,600.00 in estimated travel costs for representatives of Labaton Sucharow and Mississippi PERS to attend the final Settlement Hearing. If less than this amount is incurred, only the actual amount incurred will be deducted from the Settlement Fund. If more than $3,600.00 is incurred, $3,600.00 will be the cap and only that amount will be deducted from the Settlement Fund.

(c) Experts/Consultants: $95,014.35.

(i) $90,601.00 – fees charged by Plaintiff's consulting damages experts in connection with analyzing aggregate damages and negative causation issues.

(ii) $4,413.35– fees charged by Plaintiff's consulting insurance expert.

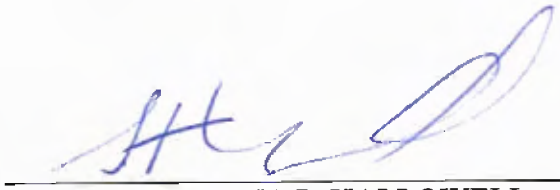
(d) Online Legal and Financial Research: $30,716.61. These expenses relate to the usage of electronic databases, such as PACER, Westlaw, LexisNexis Risk Solutions and LexisNexis. These databases were used to obtain access to financial data, factual information, and legal research.

(e) Litigation Support: $81,002.38. These expenses relate to the costs of maintaining and accessing the electronic documents produced by Defendants in discovery and to produce Plaintiff's records to Defendants.

(f) Mediation Fees: $14,688.75. These expenses relate to the fees assessed by Phillips ADR Enterprises, P.C. in connection with the mediated settlement negotiations that lead to the Settlement.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of September, 2019.



SERENA P. HALLOWELL

Exhibit A

Mississippi PERS v. Endo International

Case No. 2017-02081-MJ

EXHIBIT A

LODESTAR REPORT

FIRM: LABATON SUCHAROW LLP
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2019

PROFESSIONAL	STATUS	HOURLY RATE	HOURS	LODESTAR
Gardner, J.	P	$975	102.9	$100,327.50
Zeiss, N.	P	$900	70.4	$63,360.00
Belfi, E.	P	$900	49.8	$44,820.00
Hallowell, S.	P	$875	264.8	$231,700.00
Avan, R.	OC	$750	10.8	$8,100.00
Rhodes, C.	OC	$675	198.6	$134,055.00
Rosenberg, E.	OC	$675	15.8	$10,665.00
Cividini, D.	A	$625	164.4	$102,750.00
Jessee, S.	A	$575	31.6	$18,170.00
Yamada, R.	A	$500	68.9	$34,450.00
Watson, T.	A	$475	1,387.3	$658,967.50
Gottlieb, E.	A	$475	29.5	$14,012.50
Menkova, A.	A	$400	691.8	$276,720.00
Pumo, D.	SA	$435	1,393.5	$606,172.50
Whitfield, L.	SA	$410	1,288.6	$528,326.00
Schulman, B.	SA	$335	319.7	$107,099.50
Tse, V.	RA	$305	7.5	$2,287.50
O'Neill, G.	RA	$175	54.5	$9,537.50
Pontrelli, J.	I	$495	91.7	$45,391.50
Greenbaum, A.	I	$455	109.4	$49,777.00
Crowley, M.	I	$435	7.3	$3,175.50
Wroblewski, R.	I	$425	22.5	$9,562.50
Clark, J.	I	$400	26.3	$10,520.00
Malonzo, F.	PL	$340	76.7	$26,078.00
Auer, S.	PL	$325	156.8	$50,960.00
Schneider, P.	PL	$325	32.6	$10,595.00
Jordan, E.	PL	$325	25.7	$8,352.50
Carpio, A.	PL	$325	21.6	$7,020.00

PROFESSIONAL	STATUS	HOURLY RATE	HOURS	LODESTAR
Gutierrez, K.	PL	$325	18.3	$5,947.50
Boria, C.	PL	$325	14.6	$4,745.00
Molloy, M.	PL	$325	14.1	$4,582.50
Redman, S.	PL	$325	7.0	$2,275.00
Pontrelli, J.J.	PL	$150	47.8	$7,170.00
TOTALS			**6,822.8**	**$3,197,672.50**

Partner (P)
Of Counsel (OC)
Associate (A)
Staff Attorney (SA)
Research Analyst (RA)
Investigator (I)
Paralegal (PL)

Exhibit B

Mississippi PERS v. Endo International

Case No. 2017-02081-MJ

EXHIBIT B

EXPENSE REPORT

FIRM: LABATON SUCHAROW LLP
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2019

CATEGORY		TOTAL AMOUNT
Duplicating		$ 9,980.60
Postage / Overnight Delivery Services		$ 282.10
Long Distance Telephone / Fax/ Conference Calls		$ 355.30
Court / Witness / Service Fees		$ 3,142.00
Computer Research Fees		$ 30,716.61
Litigation Support		$ 81,002.38
Expert / Consultant Fees		$ 95,014.35
Loss Causation and Damages	$ 90,601.00	
Insurance Issues	$ 4,413.35	
Mediation Fees		$14,688.75
Work-Related Transportation / Meals / Lodging[1]		$12,515.60
TOTAL		**$247,697.69**

[1] $3,600.00 in estimated travel costs related to attendance 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 $3,600.00 is incurred, $3,600.00 will be the cap and only that amount will be deducted from the Settlement Fund.

Exhibit C

Labaton Sucharow

MORE THAN 50 YEARS OF ADVOCACY

Firm Resume

Securities Class Action Litigation

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

www.labaton.com

2017-02081-MJ

Labaton Sucharow

Table of Contents

Labaton Sucharow

About the Firm

Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs' firms in the United States. We have recovered more than $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 for more information about our Firm.

Labaton Sucharow

Securities Class Action Litigation

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 200 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 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.

- ***Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc.*, No. 16-cv-5198 (N.D. Ill.)**

  Labaton Sucharow represents Utah Retirement Systems in this securities class action alleging that DeVry Education Group made false and misleading statements about employment and salary statistics for DeVry University Graduates.

- ***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.

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.

Labaton Sucharow

Our Clients

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

- Arkansas Teacher Retirement System
- Baltimore County Retirement System
- Boston Retirement System
- California 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

Labaton Sucharow

Awards and Accolades

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

Chambers & Partners USA

Leading Plaintiffs Securities Litigation Firm (2009-2019)

> "effective and greatly respected…a bench of partners who are highly esteemed by competitors and adversaries alike"

The Legal 500

Leading Plaintiffs Securities Litigation Firm and also recognized in Antitrust (2010-2019) 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.'"

Benchmark Litigation

Recommended in Securities Litigation Nationwide and in New York State (2012-2019); and Noted for Corporate Governance and Shareholder Rights Litigation in the Delaware Court of Chancery (2016-2019), Top 10 Plaintiffs Firm in the United States (2017-2019)

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

Law360

Most Feared Plaintiffs Firm (2013-2015); 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"

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

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

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.

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.

Labaton Sucharow

Securities Litigation Attorneys

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
David J. Schwartz
Irina Vasilchenko
Carol C. Villegas
Ned Weinberger
Mark S. Willis
Nicole M. Zeiss

Detailed biographies of the team's qualifications and accomplishments follow.

Christopher J. Keller, Chairman
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.

Lawrence A. Sucharow, Chairman Emeritus
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 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.

Eric J. Belfi, Partner
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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.

Michael P. Canty, Partner
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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.

Marisa N. DeMato, Partner
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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 a $9.5 million settlement with Castlight Health, Inc. for securities violations in connection with the company's initial public offering. 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 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.

Thomas A. Dubbs, Partner
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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.

Christine M. Fox, Partner
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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, Qurate Retail, AT&T, and Avon.

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 I*n 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.

Jonathan Gardner, Partner
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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. J

onathan 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.

David J. Goldsmith, Partner
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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.

Louis Gottlieb, Partner
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Louis Gottlieb focuses on representing institutional and individual investors in complex securities and consumer class action cases. He has played a key role in some of the most high-profile securities class actions in recent history, securing significant recoveries for plaintiffs and ensuring essential corporate governance reforms to protect future investors, consumers, and the general public.

Lou was integral in prosecuting *In re American International Group, Inc. Securities Litigation* (settlements totaling more than $1 billion) and *In re 2008 Fannie Mae Securities Litigation* ($170 million settlement pending final approval). He also helped lead major class action cases against the company and related defendants in *In re Satyam Computer Services, Ltd. Securities Litigation* ($150.5 million settlement). He has led successful litigation teams in securities fraud class action litigations against Metromedia Fiber Networks and Pricesmart, 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
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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* 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 *Benchmark Litigation* and *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.

Thomas G. Hoffman, Jr., Partner
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Thomas G. Hoffman, Jr. focuses on representing institutional investors in complex securities actions.

Thomas was instrumental in securing a $1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered $170 million for investors in *In re 2008 Fannie Mae Securities Litigation*. Currently, Thomas is prosecuting cases against BP 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.

James W. Johnson, Partner
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 and acting as the Firm's Hiring Partner. He also serves as the Firm's Executive Partner overseeing firmwide issues.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions including: *In re Bear Stearns Companies, Inc. Securities Litigation* ($275 million settlement with Bear Stearns Companies, plus a $19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Corp. Securities Litigation* ($671 million settlement); *Eastwood Enterprises LLC v. Farha et al.* (WellCare Securities Litigation) ($200 million settlement); *In re 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.

Edward Labaton, Partner
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.

Christopher J. McDonald, Partner
cmcdonald@labaton.com

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 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.

Michael H. Rogers, Partner
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.*; *Public Employees' Retirement System of Mississippi v. Sprouts Farmers Markets, Inc.*; *Vancouver Asset Alumni Holdings, Inc. v. Daimler AG;* and *In re Virtus Investment Partners, Inc. Securities Litigation*.

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.

Ira A. Schochet, Partner
ischochet@labaton.com

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.

David J. Schwartz, Partner
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 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 to *Benchmark Litigation*'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.

Irina Vasilchenko, Partner
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.

Carol C. Villegas, Partner
cvillegas@labaton.com

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 DeVry Education Group, Skechers, U.S.A., Inc., Shanda Games, Prothena Corp., 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 Rising 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.

Ned Weinberger, Partner
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 Rising 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.

Mark S. Willis, Partner
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.

Nicole M. Zeiss, Partner
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.

Exhibit 4

GOLDMAN SCARLATO & PENNY, P.C.
Mark S. Goldman (PA Atty. No. 48049)
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Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. ENDO INTERNATIONAL PLC, et al., Defendants.	CIVIL ACTION Case No. 2017-02081-MJ

DECLARATION OF MARK S. GOLDMAN ON BEHALF OF GOLDMAN SCARLATO & PENNY, P.C. IN SUPPORT OF APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, MARK S. GOLDMAN, declare as follows, under penalty of perjury:

1. I am a partner of the law firm of Goldman Scarlato & Penny, 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 August 30, 2019 (the "Time Period").

2. My firm, which served as local counsel in the Action, was involved in all aspects of the litigation, as explained in detail in the accompanying Declaration of Serena P. Hallowell in

Support of (I) Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and (II) Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses ("Hallowell Declaration"). In particular, we assisted with finalizing and serving the complaint, filing and serving all motions and pleadings, drafting and editing the Amended Complaint, participating in case strategy meetings, drafting responses to preliminary objections and New Matter, drafting and serving discovery and third party discovery, researching and drafting class certification arguments, participating in meet and confer discovery conferences with defendants, reviewing and editing mediation briefs, and providing advice to Lead Counsel regarding customary Pennsylvania practices and procedures.

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 our 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 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 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 681.5. The total lodestar amount for reported attorney time based on the firm's current rates is $462,287.50.

6. The hourly rates for the attorneys of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by Courts in securities and other 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 $4,127.48 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 12th day of September, 2019.

MARK S. GOLDMAN

Exhibit A

Mississippi PERS v. Endo International

Case No. 2017-02081-MJ

EXHIBIT A

LODESTAR REPORT

FIRM: GOLDMAN SCARLATO & PENNY, P.C.
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2019

PROFESSIONAL	STATUS	HOURLY RATE	HOURS	LODESTAR
Mark S. Goldman	P	$ 725	554.3	$401,867.50
Douglas Bench	A	$ 475	127.2	$60,420.00
TOTALS			**681.5**	**$462,287.50**

Partner (P)
Associate (A)

Exhibit B

Mississippi PERS v. Endo International

Case No. 2017-02081-MJ

EXHIBIT B

EXPENSE REPORT

FIRM: GOLDMAN SCARLATO & PENNY, P.C.
REPORTING PERIOD: INCEPTION THROUGH AUGUST 30, 2019

CATEGORY	TOTAL AMOUNT
Duplicating	$358.20
Postage / Overnight Delivery Services	$386.13
Court Filing Fees	$1,426.25
Computer Research Fees	$1,956.90
TOTAL	**$4,127.48**

Exhibit C

EXHIBIT C

GOLDMAN SCARLATO & PENNY, P.C.
Eight Tower Bridge, Suite 1025
161 Washington Street
Conshohocken, PA 19428
(484) 342-0700

GOLDMAN SCARLATO & PENNY, P.C. is a Pennsylvania-based class action law firm. Our lawyers have dedicated their careers to vindicating the rights of ordinary people victimized by corporate misconduct, securities fraud, deceptive consumer practices, or who have suffered harm as a result of defective medical devices and dangerous drugs. We level the playing field for our clients by combining their voices with hundreds or thousands of others, and provide top-flight legal representation that matches the skill and expertise of the nation's largest defense law firms. Goldman Scarlato & Penny, P.C. prosecutes securities fraud, antitrust, and consumer fraud class actions, investor arbitrations, sexual assault cases, as well as mass actions on behalf of those injured by defective medical devices and dangerous drugs throughout the United States. The Firm's lawyers have recovered hundreds of millions of dollars on behalf of their clients.

The Firm has played prominent roles in numerous noteworthy and ground-breaking cases. Just by way of example, the Firm has fought for individuals whose most sensitive and private data was compromised in *In re Anthem, Inc. Data Breach Litigation* ($115 million settlement on behalf of healthcare patients), and *In re Target Corporation Customer Data Security Breach Litig.* ($10 million settlement fund on behalf of consumers). It has fought to enforce the nation's antitrust laws and ensure a level competitive playing field in cases such as *In re Air Cargo Antitrust Litigation* (settlements of over $1 billion), *In re Vitamins Antitrust*

Litigation (settlements of over $1.7 billion), *In re Brand Name Prescription Drugs Antitrust Litigation* (settlements of approximately $700 million), and *Logue v. West Penn Multi-Listing Service* ($2.75 million settlement on behalf of consumers), and it successfully challenged businesses that misrepresented their products to consumers in *Mirakay v. Dakota Growers Pasta Co.* (settlement valued at over $23 million). In addition, the Firm has fought to protect investors and enforce the nation's securities laws in cases such as *In re Broadcom Securities Litigation* (settlement of $150 million), and *AOL Time Warner Securities Litigation*, (settlement of over $2.5 billion for investors). The Firm has also played important roles in difficult and cutting-edge cases involving issues important to the public in cases such as *In Re NHL Concussion Litigation* (D. Minn. 2014) (alleging league failed to protect players from known risks of concussions).

MARK S. GOLDMAN. Since 1986, Mark Goldman has concentrated his practice in many different types of complex litigation, including cases involving violations of the federal securities and antitrust laws and state consumer protection statutes. Mr. Goldman 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. 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,* Case No. 06-MD-1775 (E.D.N.Y. 2016), *In re Vitamins Antitrust Litigation,* MDL No. 1285 (D.D.C. 1999), *In re NASDAQ Antitrust Litigation,* Case No. 94-cv-3996 (S.D.N.Y. 1994), and *In re Brand Name Prescription Drugs Antitrust Litigation,* Case No. 94-c-897 (N.D. Ill. 1994). Mr. Goldman currently represents 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, 15-cv-222 (N.D. Ala. 2015), *In re Anthem, Inc. Data Breach Litigation*, Case No. 15-MD-02617-LHK (N.D. Cal. 2015), *In re Intuit Data Litigation*, 15-cv-1778 (N.D. Cal. 2015), and *In re Medical Informatics Engineering, Inc. Customer Data Security Breach Litigation,* MDL No. (N.D. Ind. 2015). 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,* Master File No. 2:14-cv-00033 (D. Utah 2014), *In Re: Spectrum Pharmaceuticals, Inc. Securities Litigation*, Case No. 2:13-cv-00433 (D. Nev. 2013), and *In re Omnivision Technologies, Inc. Litigation*, Case No.: 5:11-cv-05235 (N.D. Cal. 2011). 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 earned his undergraduate degree from the Pennsylvania State University in 1981 and his law degree from the University of Kansas School of Law in 1986. He is a member of the Pennsylvania bar.

PAUL J. SCARLATO. Paul Scarlato has concentrated his practice on the litigation of complex class actions since 1989. He has litigated numerous cases under the securities, consumer, antitrust and common law involving companies in a broad range of industries, and has litigated many cases involving financial and accounting fraud.

In securities fraud cases, Mr. Scarlato was one of three lead attorneys for the class in *Kaufman v. Motorola, Inc.,* a securities fraud class action that settled just weeks before trial, and along with Mr. Weinstein of his predecessor firm, was lead counsel in *Seidman v. American Mobile Systems, Inc.,* (E.D. Pa.), a securities class action that resulted in a settlement for the plaintiff class again on the eve of trail. Mr. Scarlato served as co-lead counsel in *In re: Corel Corporation*

Securities Litigation (E.D. Pa.). Mr. Scarlato is currently one of the lead lawyers in *Leibovic v. United Shore Financial Services; Afzal v. BMW of North America, LLC*, and *Yao Yi Liu v. Wilmington Trust Company.* He serves on the plaintiffs' Executive Committee in *Vikram Bhatia, D.D.S. v. 3M Company*, Case No. 16-cv-01304 (D. Minn.), and is counsel in *In re Platinum and Palladium Antitrust Litigation,* Case No. 14-cv-09391 (S.D.N.Y), *In re Treasury Securities Auction Antitrust Litigation*, Case No. 15-md-02673 (S.D.N.Y.), and *In re Liquid Aluminum Sulfate Antitrust Litigation*, Case No. 15-7827 (D.N.J.).

Mr. Scarlato graduated from Moravian College in 1983 with a degree in accounting, and received his Juris Doctor degree from the Widener University School of Law in 1986. Mr. Scarlato served as law clerk to the Honorable Nelson Diaz, of the Court of Common Pleas of Philadelphia County, and thereafter as law clerk to the Honorable James T. McDermott, Justice of the Pennsylvania Supreme Court. After his clerkships, and prior to becoming a litigator, Mr. Scarlato was a member of the tax department of a major accounting firm where he provided a broad range of accounting services to large business clients in a variety of industries.

Mr. Scarlato is a member of the bars of the Commonwealth of Pennsylvania and the State of New Jersey, and those of various federal district and circuit courts.

BRIAN D. PENNY. Since joining the Firm in 2002, Mr. Penny has focused his practice on class action litigation principally in the areas of antitrust, consumer protection and securities fraud litigation. He was lead counsel in *Mirakay v. Dakota Growers Pasta Co.* (D.N.J. 2013) (alleging false and misleading advertising of pasta products and resulting in a settlement valued at over $23 million); *Logue v. West Penn Multi-Listing Service* (W.D. Pa. 2010) (alleging price-fixing among brokers and multi-listing service and resulting in $2.75 million settlement); *Allan v. Realcomp II* (E.D. Mich. 2010) (alleging price-fixing among brokers and multi-listing service

and resulting in a $3.25 million settlement); *Boland v. Columbia Multi-Listing Service* (D.S.C. 2009) (alleging price-fixing among brokers and multi-listing service and resulting in a $1 million settlement); and *Robertson v. Hilton-Head Multi-Listing Service* (D.S.C. 2009) (alleging price-fixing among brokers and multi-listing service).

Mr. Penny is currently serving on the executive committees in *In Re NHL Concussion Litigation* (D. Minn. 2014) (alleging league failed to protect players from known risks of concussions), and *In re: Community Health Systems, Inc., Customer Security Data Breach Litigation* (N.D. Ala. 2015) (alleging damages caused by data breach of health care records). He is on the Third Party Discovery Committee in *In re Disposable Contact Lenses Antitrust Litigation*, 15-md-2626 (M.D. Fla.), and is actively engaged as class counsel in *In re: Clobetasol Cases*, 16-CB-27240 (E.D. Pa. 2017) and *In re Lidocaine-Prilocaine*, 16-LD-27242 (E.D. Pa. 2017) where he leads the EPP discovery team in those cases, *In re Broiler Chicken Antitrust Litigation*, 1:16-cv-08637 (N.D. Ill. 2016); and *Bhatia v. 3M Company*, 16-cv-1304 (D. Minn. 2016); *In re Epipen Marketing, Sales Practices and Antitrust Litigation*, 2:17-md-2785 (D. Kan. 2016).

Mr. Penny has also prosecuted numerous securities fraud class actions over the course of his career. He was a key member of the plaintiffs' teams that prosecuted *In re Broadcom Securities Litigation*, which resulted in a settlement of $150 million for the class, and *AOL Time Warner Securities Litigation*, which resulted in a settlement of over $2.5 billion for investors. Mr. Penny was also one of the lead attorneys representing the classes in a number of securities fraud actions arising out of stock option backdating, including, *In re Monster Worldwide, Inc. Securities Litigation* ($47.5 million settlement), *In re Mercury Interactive Securities Litigation* ($117.5 million settlement), *In re SafeNet, Inc. Securities Litigation* ($25 million settlement),

Ramsey v. MRV Communications et al. ($10 million settlement), and *In re Semtech Securities Litigation* ($20 million settlement).

Mr. Penny received his Bachelor of Arts degree from Davidson College, Davidson, North Carolina, in 1997 and earned his Juris Doctor degree from Pennsylvania State University in 2000. After graduating from law school, Mr. Penny served as law clerk to the Honorable John T.J. Kelly, Jr., Senior Judge of the Superior Court of Pennsylvania. He has been named a Super Lawyer or Rising Star each year since 2010. In 2015, Mr. Penny was one of four finalists for the American Antitrust Institute's Enforcement Award for Outstanding Antitrust Litigation Achievement by a Young Lawyer for his work on *Allen, et al. v. Realcomp Ltd., et al.*

ALAN L. ROSCA. Alan focuses his legal practice on complex financial and commercial matters, particularly in the areas of securities litigation, investment fraud, and international investment disputes. He often represents institutional and individual investors in disputes with financial industry members arising out of investment fraud or misconduct. He prosecutes claims on behalf of investors through class actions in state or federal courts, and FINRA arbitrations. He also practices in the areas of wage-and-hour and other labor-related disputes, whistleblower matters, and antitrust cases, with a focus on market manipulation.

Alan has been a lecturer and adjunct professor of Securities Regulation at Cleveland-Marshall College of Law, Cleveland State University since 2012.

Alan has served as co-lead counsel, or is currently involved in a leading role, in class actions on behalf of investors who lost money as a result of alleged investment fraud or Ponzi schemes, as well as in other class action matters arising out of wage-and-hour or business disputes, including *Hanson v. Berthel Fisher & Company Financial Services, Inc., et al.* (N.D. Iowa 2013) (a securities class action on behalf of investors in an allegedly fraudulent real estate

investment program that raised approximately $26 million from investors, predicated upon the role played by the program's underwriter); *Carol Prock v. Thompson National Properties, LLC, et al.* (C.D. Cal. 2013) (a securities class action on behalf of investors in an allegedly fraudulent real estate investment program that raised approximately $17 million from the investing public, against the program's sponsors and promoters); *Yao-Yi Liu et al. v. Wilmington Trust Company* (W.D.N.Y. 2014) (a class action lawsuit on behalf of investors of a $145 million fraudulent scheme, alleging that the defendant trustee and custodian bank breached its duties as an escrow agent and aided the perpetrators of the scheme); *Spaude v. Mysyk* (N.D. Ohio 2015) (a securities class action on behalf of investors in a $55 million allegedly fraudulent oil-and-gas investment scheme, against the alleged perpetrators of the scheme and the law firm that assisted the scheme); *Jennifer Roth v. Life Time Fitness, Inc.* (D. Minn. 2015) (a wage-and-hour class action on behalf of fitness instructors seeking unpaid wages for work that was required by defendants); *Aleem v. Pearce & Durick* (D. North Dakota 2015) (a securities class action on behalf of investors in a $65 million fraudulent investment scheme, alleging that the defendants violated their fiduciary duties to the investors and assisted in the scheme's securities violations by serving as escrow agents for the investors' investments and offering materially false opinions to the investors regarding their investments in the scheme); *Strong v. Safe Auto Insurance Group, Inc. et al.* (S.D. Ohio 2016) (a wage-and-hour class action on behalf of employees of defendants seeking unpaid wages for work that was required by defendants); *Hay v. United Development Funding IV et al.* (N.D. Texas 2016) (a securities class action on behalf of investors in a $625 million allegedly Ponzi-like real estate investment scheme, against entities including the scheme, its principals and affiliated entities, as well as the alleged scheme's underwriter and auditor); *Fastrich v. Continental General Insurance Company* (D. Neb. 2016) (a class action on behalf of

insurance agents affiliated with defendants, arising out of the alleged non-payment of certain fees and commissions owed to such agents); *Elliott v. Bank of Oklahoma* (D.N.J. 2016) (a class action on behalf of investors in a $198 million allegedly fraudulent investment scheme perpetrated through a series of municipal bond offerings, against the trustee bank for the bond offerings and the underwriters of some of the offerings); *Ezeude v. PayPal Holdings, Inc.* et al. (N.D. Cal. 2017) (a class action lawsuit arising out of a $207 million allegedly fraudulent Internet investment scheme that victimized over 162,000 investors worldwide, alleging that defendants, who acted as payment processors for the scheme, facilitated and assisted the perpetration of the scheme).

Alan received his Juris Doctor degree summa cum laude from Cleveland-Marshall College of Law in May 2008. While in law school he served as a Managing Editor of the Cleveland State Law Review, received the Dean's (full) scholarship for the entire Juris Doctor program, was on the Dean's List, and won the "Best Oralist" award in the Jessup Moot Court competition, Pacific Region. He passed the Ohio Bar exam in top 1%, with the highest grade in the state to the multi-state (federal law) section.

He is licensed to practice law in the Ohio state and federal courts, and in other federal courts nationwide. He has been selected to the 2017 and 2018 Ohio Super Lawyers Rising Star list. He is a member of the Public Investors Arbitration Bar Association, the Cleveland Metropolitan Bar Association, where he served as the Chair of the Unlicensed Practice of Law Committee, and the Cleveland Diplomatic Corps. He also holds a Master of Business Administration degree from Baldwin-Wallace College, Ohio. He is a speaker on Ponzi schemes, investment fraud, cryptocurrencies, and attorney professionalism.

MELISSA FRY HAGUE

Melissa Hague has dedicated her career to the successful and diligent prosecution of complex mass tort cases. She is an advocate for consumer rights and victims injured as a result of defective medical devices and pharmaceutical drugs. She was recently appointed by Judge Saylor of the US District Court of Massachusetts to serve on the Plaintiffs' Steering Committee in In Re: Zofran (Ondansetron) Products Liability Litigation, MDL 2657 on behalf of children born with birth defects as a result of in utero exposure to the drug Zofran.

Melissa has represented hundreds of clients who have suffered debilitating injuries caused by metal-on-metal hip implants, knee implants as well as transvaginal mesh implants. As a zealous advocate for her clients, Melissa has developed an intricate level of industry knowledge in this area of the law relating to the failure to properly design and test medical devices. Her mass tort litigation experience includes:

In Re Ethicon, Inc., Pelvic Repair System Products Liability Litigation, MDL 2327

In re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation, MDL 2197

In re: DePuy Orthopedics, Inc., Pinnacle Hip Implant Products Liability Litigation, MDL 2244

In re: Biomet M2A Magnum Hip Implant Products Liability Litigation, MDL 2391

In re: Stryker Rejuvenate & ABG II Hip Implant Litigation, Ber-L-936-13

In re: Zimmer NexGen Knee Implant Products Liability Litigation, MDL 2272

In re: Human Tissue Products Liability Litigation, MDL 1763

Among her early successes, Melissa was an integral part to the successful resolution of the *In re: Human Tissue Products Liability Litigation.* Melissa successfully represented individual victims who received cadaver bone and tissue that was infected and not properly screened. As part of that litigation, Ms. Hague also represented dozens of families in lawsuits against funeral homes for the mutilation and illegal harvesting of body parts from their deceased loved ones. For her efforts, Melissa was featured with partner Larry Cohan of Anapol Weiss in national news media regarding the Human Tissue litigation.

Melissa currently serves on the Executive Committee for the American Association for Justice (AAJ) as well as the Board of Governors. She is the Immediate Past Chair of the New Lawyers Division for AAJ, she is the current Chair of AAJ's Marketing and Practice Development Committee and was recognized by the President of AAJ for her Distinguished Service in 2017. She is also a supporter of EndDD.org where she speaks to high school students in her community as well as other communities about the dangers of distracted driving.

Melissa has been named a Rising Star in Pennsylvania Super Lawyers® since 2013. She was also selected for the state of New Jersey as The National Trial Lawyers: Top 40 Under 40 members, an elite group of the top attorneys under the age of 40 who have demonstrated excellence in their field.

DOUGLAS J. BENCH, JR. Mr. Bench earned his Bachelor of Arts degree from the University of Pittsburgh and his Juris Doctor from Cornell Law School. Prior to joining the Firm in 2012, Mr. Bench served as a Death Penalty Law Clerk for the U.S. District Court in the Western District of Pennsylvania from 2010-2012. He was in private practice from 2008-2010 in Johnstown, Pennsylvania, and taught undergraduate macro and micro economics at the University of Pittsburgh, Johnstown campus, from 2006-2008.

As a result of his economics background, Mr. Bench is naturally interested in antitrust violations, consumer fraud, and the market inefficiencies these violations engender. Mr. Bench primarily focuses on antitrust and consumer class actions. Representative cases include: *Kaufman v. CVS Caremark Corp.*, (D. R.I. 2014) (alleging consumer protection violations); *Weintraub v. Pharmavite*, (C.D. Cal. 2014) (same); *Mirakay v. Dakota Growers Pasta Co., Inc.* (D. N.J. 2013) (alleging unfair trade practices and false advertising); *In re Nexium (Esomeprazole) Antitrust Litigation* (D. Mass. 2012) (alleging generic suppression claims on behalf of end-payors); *In re Ductile Iron Pipe Fittings (DIPF) Direct Purchaser Antitrust Litigation* (D.N.J. 2012) (alleging price fixing in the market for DIPF); *Allan v. Realcomp II* (E.D. Mich. 2010) (alleging antitrust violations) ($3.25M settlement pending approval); *Boland v. Columbia Multi-Listing Service* (D.S.C. 2009) (antitrust) ($1M settlement); *Robertson v. Hilton-Head Multi-Listing Service* (D.S.C. 2009) (antitrust) (settled on claims-paid basis).

Mr. Bench has authored the following law review articles: Douglas J. Bench, *Collateral Review of Career Offender Sentences: The Case for* Coram Nobis, 45 U. MICH. J. L. REFORM 155 (2011); Douglas J. Bench, *What Constitutes a Violent Felony After* Begay?, 67 J. MO. B. 209 (2011).

Exhibit 5

Public Employees' Retirement System of Mississippi v. Endo International plc
No. 2017-02081-MJ

SUMMARY OF LODESTARS AND EXPENSES

FIRM	HOURS	LODESTAR	EXPENSES
Labaton Sucharow LLP	6,822.80	$3,197,672.50	$247,697.69
Goldman Scarlato & Penny, P.C.	681.50	$462,287.50	$4,127.48
TOTALS	**7,504.30**	**$3,659,960.00**	**$251,825.17**

Exhibit 6

		Count	Low	25th Percentile	Median	75th Percentile	High
			Rate (%Δ)	Rate (%Δ)	Rate (%Δ)	Rate (%Δ)	Rate (%Δ)
Partners							
All Partners	**2018**	**519**	**$734 (+13%)**	**$1,045 (+5%)**	**$1,150 (+5%)**	**$1,364 (+3%)**	**$1,725 (+13%)**
	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	$995	$1,180
Sr. Partners	**2018**	**366**	**$759 (+17%)**	**$1,075 (+8%)**	**$1,250 (+11%)**	**$1,450 (+9%)**	**$1,725 (+13%)**
	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
Mid-Level Partners	**2018**	**64**	**$750 (+15%)**	**$1,045 (+16%)**	**$1,110 (+9%)**	**$1,191 (+11%)**	**$1,480 (+14%)**
	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
Jr. Partners	**2018**	**89**	**$734 (+13%)**	**$1,015 (+13%)**	**$1,055 (+8%)**	**$1,120 (+8%)**	**$1,375 (+26%)**
	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%)	$825 (+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

		Count	Low Rate (%Δ)	25th Percentile Rate (%Δ)	Median Rate (%Δ)	75th Percentile Rate (%Δ)	High Rate (%Δ)
Of Counsel	**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
Associates							
All Associates	**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
Sr. Associates	**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	$650	$735	$825
Mid-Level Associates	**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
Jr. Associates	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

Partners

	Count	Low	25th Percentile	Median	75th Percentile	High
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	$980	$1,025	$1,125	$1,500
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	$1,500
6) Willkie Farr & Gallagher LLP	15	$1,025	$1,275	$1,400	$1,500	$1,500
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	$1,395
12) Paul Hastings LLP	14	$1,050	$1,131	$1,188	$1,250	$1,395
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	$1,163	$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

	Count	Low	25th Percentile	Median	75th Percentile	High
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) Willkie 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	$835	$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, Slate, 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	$850
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	$595	$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

	Count	Low	25th Percentile	Median	75th Percentile	High
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, Slate, 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 7

NERA
ECONOMIC CONSULTING

29 January 2019

Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth
Average Case Size Surges to Record High
Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh

Insight in Economics™

2017-02081-MJ

Foreword

I am excited to share NERA's *Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review* with you. This year's edition builds on work carried out over numerous years by many members of NERA's Securities and Finance Practice. In this year's report, we continue our analyses of trends in filings and settlements and present new analyses, such as how post-class-period stock price movements relate to voluntary dismissals. While space does not permit us to present all the analyses the authors have undertaken while working on this year's edition, or to provide details on the statistical analysis of settlement amounts, we hope you will contact us if you want to learn more about our work related to securities litigation. On behalf of NERA's Securities and Finance Practice, I thank you for taking the time to review our work and hope you find it informative.

Dr. David Tabak
Managing Director

2017-02081-MJ

Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth
Average Case Size Surges to Record High
Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh[1]

29 January 2019

Introduction and Summary[2]

In 2018, the pace of securities class action filings was the highest since the aftermath of the 2000 dot-com crash, with 441 new cases. While merger objections constituted about half the total, filing growth of such cases slowed versus 2017, indicating that the explosion in filings sparked by the *Trulia* decision may have run its course.[3] Filings alleging violations of Rule 10b-5, Section 11, and/or Section 12 of the Securities Act of 1933 ("Securities Act") were roughly unchanged compared to 2017, but accelerated over the second half of the year, with the fourth quarter being one of the busiest on record.

The steady pace of new securities class actions masked fundamental changes in filing characteristics. Aggregate NERA-defined Investor Losses, a measure of total case size, came to a record $939 billion, nearly four times the preceding five-year average. Even excluding substantial litigation against General Electric (GE), aggregate Investor Losses doubled versus 2017. Most growth in Investor Losses stemmed from cases alleging issues with accounting, earnings, or firm performance, contrasting with prior years when most growth was tied to regulatory allegations. Filings against technology firms jumped nearly 70% from 2017, primarily due to cases alleging accounting issues or missed earnings guidance.

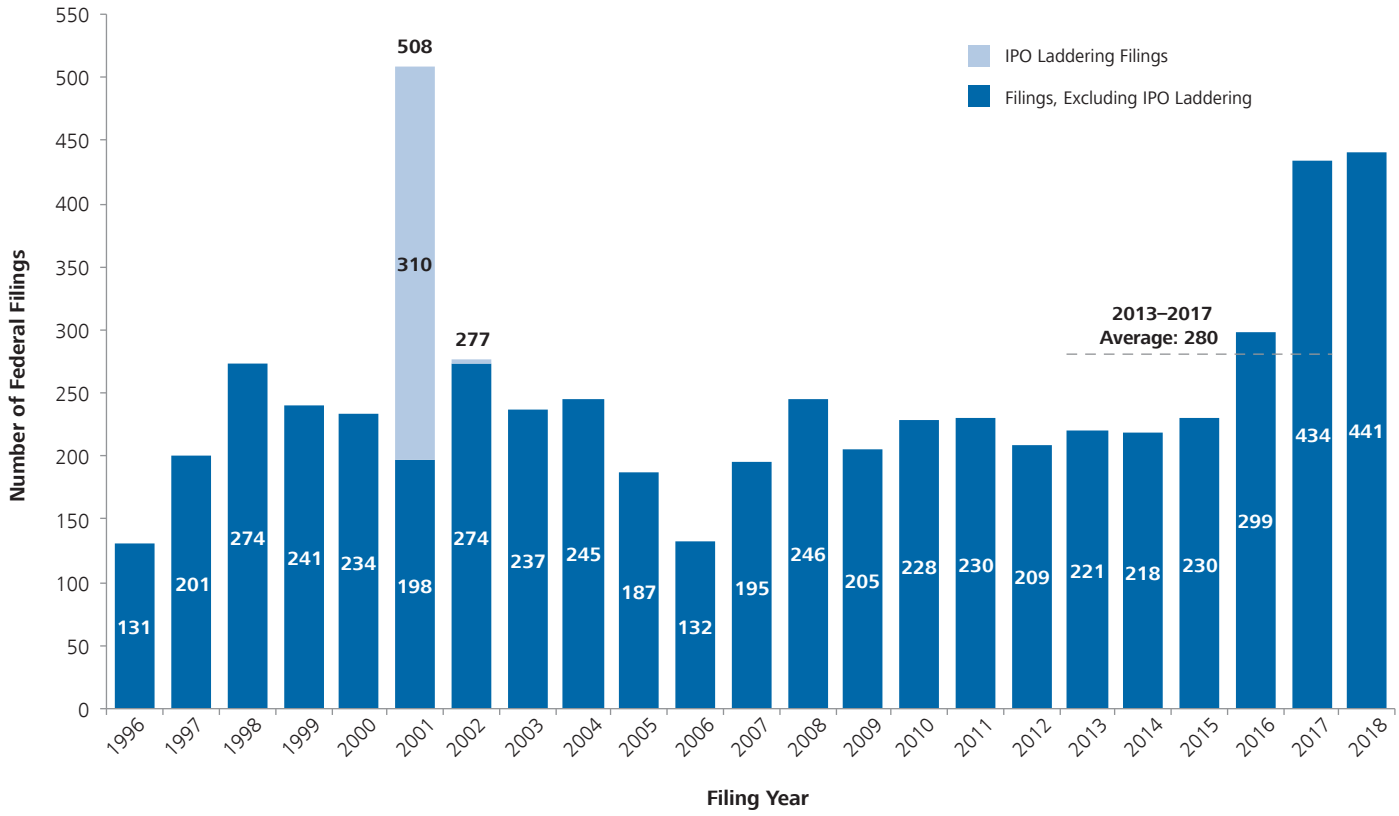
The average settlement value rebounded from the 2017 near-record low, mostly due to the $3 billion settlement against Petróleo Brasileiro S.A.—Petrobras. The median settlement nearly doubled, primarily due to higher settlements of many moderately sized cases. Despite a rebound in settlement values in 2018, the number of settlements remained low, with dismissals outnumbering settlements more than two-to-one. An adverse number of cases were voluntarily dismissed, which can partially be explained by positive returns of targeted securities during the PSLRA bounce-back periods. The robust rate of case resolutions has not kept up with the record filing rate, driving pending litigation up more than 6%.

Trends in Filings

Number of Cases Filed

There were 441 federal securities class actions filed in 2018, the fourth consecutive year of growth (see Figure 1). The filing rate was the highest since passage of the PSLRA, with the exception of 2001 when new IPO laddering cases dominated federal dockets. The dramatic year-over-year growth seen in each of the past few years resulted in a near doubling of filings since 2015, but growth moderated considerably in 2018 to 1.6%. The 2018 filing rate is well above the post-PSLRA average of approximately 253 cases per year, and solidifies a departure from the generally stable filing rate in the years following the 2008 financial crisis.

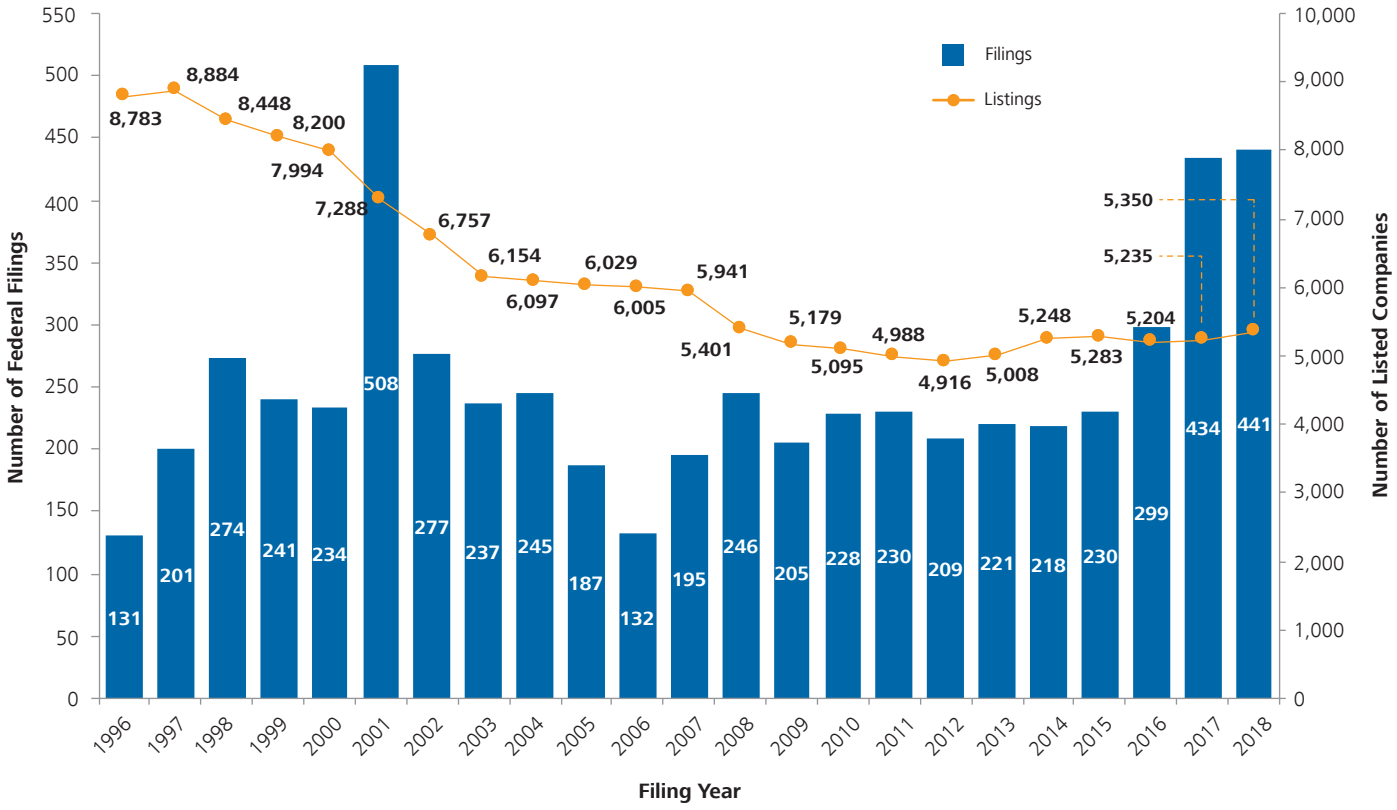
Figure 1. **Federal Filings**
January 1996–December 2018



As of November 2018, there were 5,350 companies listed on the major US securities exchanges (see Figure 2). The 441 federal securities class action suits filed in 2018 involved approximately 8.2% of publicly listed companies. The overall risk of litigation to listed firms has increased substantially since early in the decade, when only about 4.0% of public companies listed on US exchanges were subject to a securities class action.

Broadly, the chance of a publicly listed company being subject to securities litigation depends on the number of filings relative to the number of listed companies. While the number of listed companies has increased by 7% over the last five years, the longer-term trend is toward fewer listings. Since the passage of the PSLRA in 1995, the number of listings on major US exchanges has steadily declined by about 3,000, or nearly 40%. Recent research attributed this decline to fewer new listings and an increase in delistings, mostly through mergers and acquisitions.[4]

Figure 2. **Federal Filings and Number of Companies Listed in the United States**
January 1996–December 2018



Note: Listed companies include those listed on the NYSE and Nasdaq. Listings data from 2016 through 2018 were obtained from World Federation of Exchanges (WFE). The 2018 listings data is as of November 2018. Data for prior years was obtained from Meridian Securities Markets and WFE.

Despite the long-term drop in the number of listed companies, the average number of securities class action filings has *increased* from 216 per year over the first five years after the PSLRA to about 324 per year over the past five years. The long-term trend toward fewer listed companies coupled with more class actions implies that the average probability of a listed firm being subject to such litigation has increased from about 2.6% after passage of the PSLRA to 3.7% over the past five years, and 8.0% over the past two years.

Recently, the rising average risk of class action litigation was driven by dramatic growth in merger-objection cases that, prior to 2016, were mostly filed in various state courts. Since then, state court rulings have driven such litigation onto federal dockets. Hence the increase in the typical firm's litigation risk might be less than indicated above, since 1) the risk of merger-objection litigation is specific to firms planning or engaged in M&A activity and 2) many merger-objection cases would otherwise have been filed in state courts.

The average probability of a firm being targeted by what is often regarded as a "Standard" securities class action—one that alleges violations of Rule 10b-5, Section 11, and/or Section 12—was only 4.0% in 2018, albeit higher than the average probability of about 2.6% following the PSLRA and 3.5% between 2013 and 2017.

Filings by Type

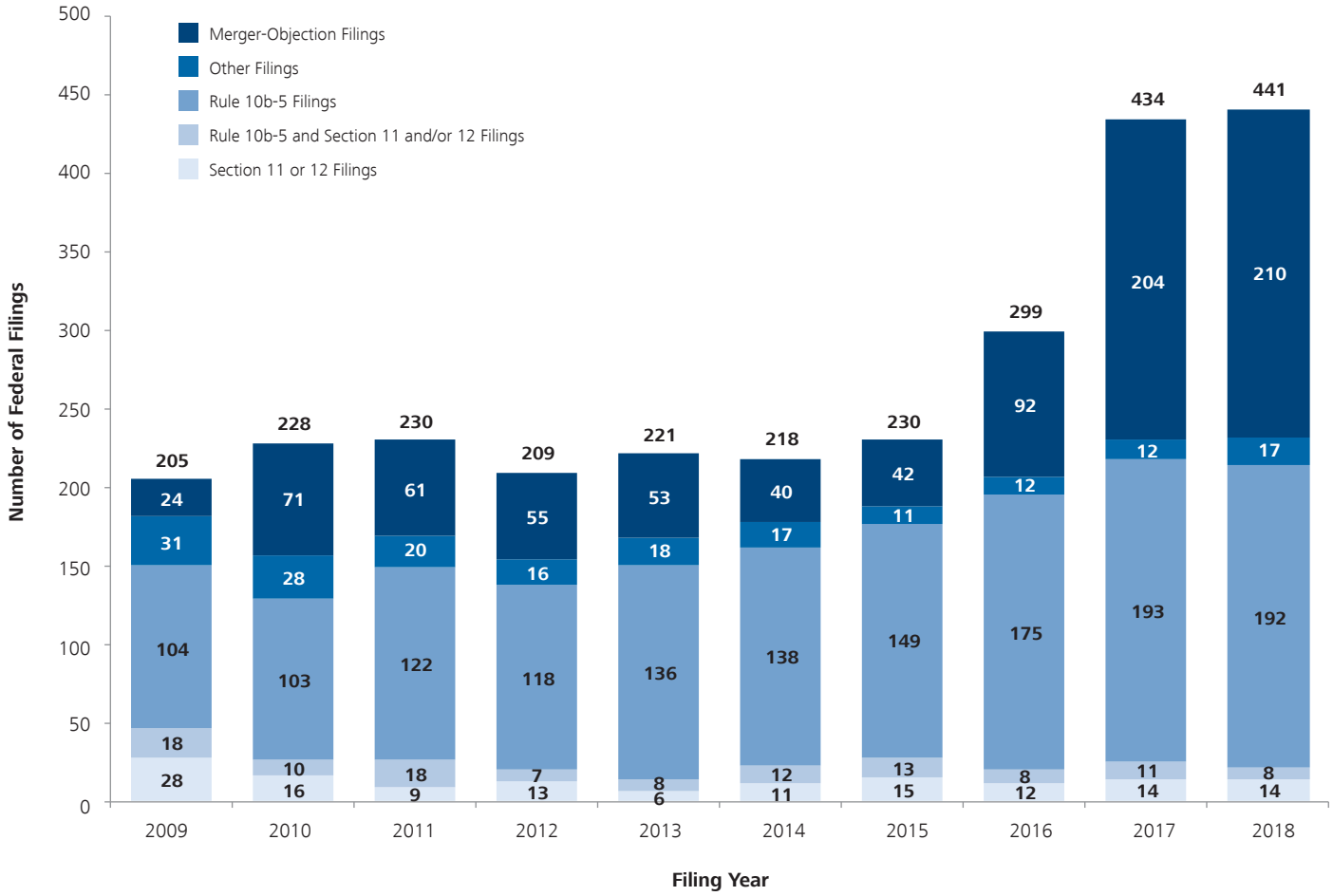
In 2018, the 441 securities class action filings were about evenly split between Standard securities class actions and merger objections, roughly matching the number seen in 2017 (see Figure 3). There were 214 Standard securities cases filed, down slightly from 2017. Prior to 2018, Standard filings grew for five consecutive years, the longest expansion on record, and by over 50% since 2013. Despite the slowdown in 2018, monthly filing growth over the second half of the year was robust, and capped by 64 filings in the fourth quarter, one of the busiest quarters on record.

Despite the 210 merger-objection filings in 2018 making up about half of all filings, yearly filing growth of such cases slowed to almost zero, as the number of filings roughly matched the level seen in 2017. The tepid filing growth implies that the rapid growth following various state-level decisions limiting "disclosure-only" settlements (including the *Trulia* decision) has likely run its course.[5] Rather, the stagnant growth in federal merger-objection filings was likely driven by relatively stagnant M&A activity.[6]

Although aggregate merger-objection filings (including those at the state level) may correspond with the rate of mergers and acquisitions, such deal activity does not appear to have historically been the primary driver of federal merger-objection filings over multiple years. The number of federal merger-objection filings generally fell between 2010 and 2015, despite increased M&A activity. The higher filing counts in 2016 and 2017 likely stemmed from trends in the choice of jurisdiction rather than trends in deal volume.[5]

Besides Standard and merger-objection cases, a variety of other filings rounded out 2018. Several filings alleged fraudulent initial coin and cryptocurrency offerings, manipulation of derivatives (e.g., VIX products and metals futures), and breaches of fiduciary duty (including client-broker disputes involving churning and improper asset allocation).

Figure 3. **Federal Filings by Type**
January 2009–December 2018



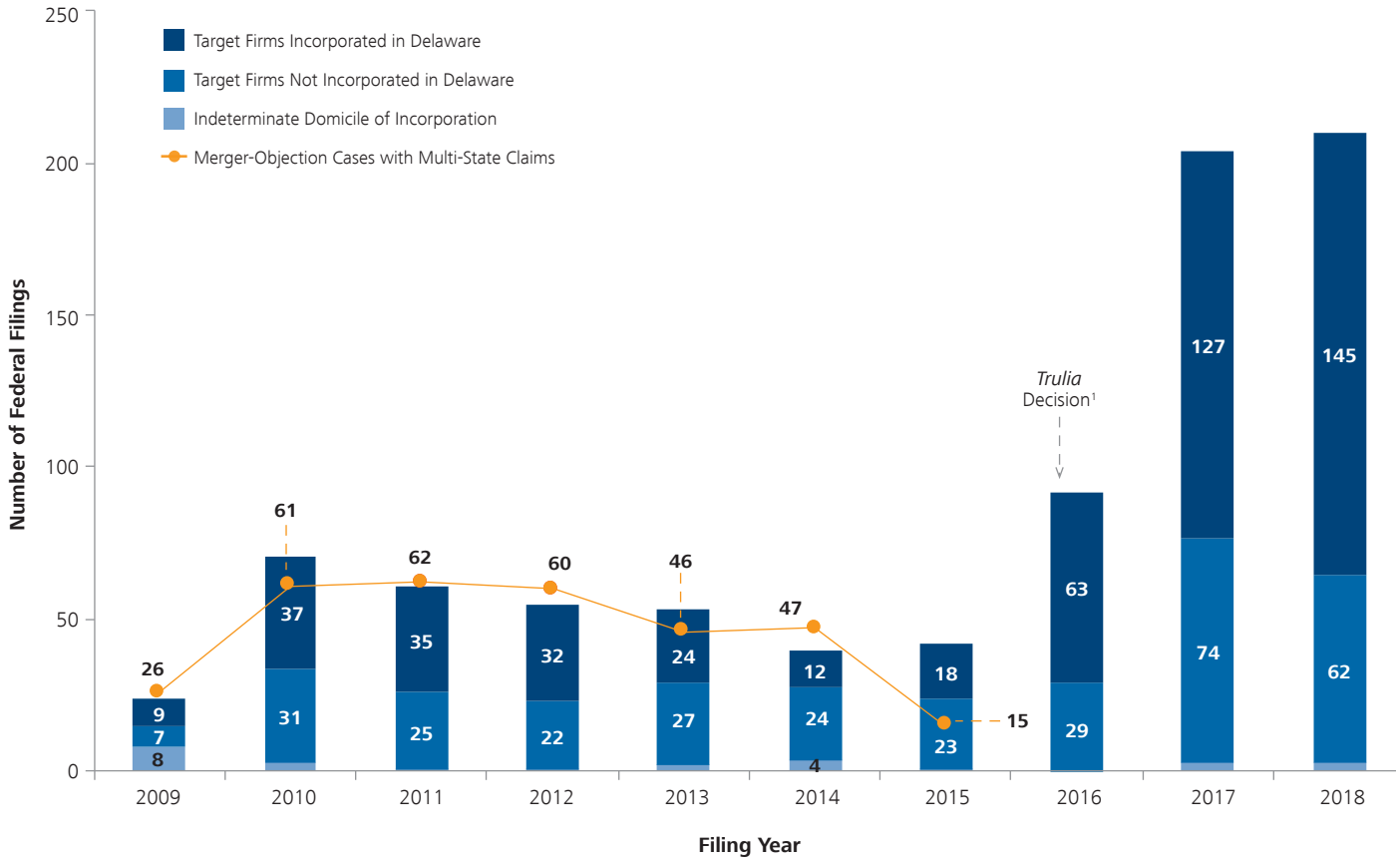
Merger-Objection Filings

In 2018, federal merger-objection filings were relatively unchanged versus 2017 (see Figure 4). Growth in federal merger-objection filings in 2016 and 2017 largely followed various state court rulings barring disclosure-only settlements, the most notable being the 22 January 2016 *Trulia* decision in the Delaware Court of Chancery.[7] Research suggested that such state court decisions would simply drive merger objections to alternative jurisdictions, such as federal courts.[8] This has largely been borne out thus far.

The dramatic slowdown in merger-objection filings growth implies that plaintiff forum selection is less of a growth factor; in 2018 and going forward, merger and acquisition activity will likely be the primary driver of federal merger-objection litigation. This assumes, however, that corporations don't increasingly adopt forum selection bylaws, and that federal courts don't increasingly follow the Delaware Court of Chancery's lead on rejecting disclosure-only settlements.[9] For instance, after the Seventh Circuit ruled strongly against a disclosure-only settlement in *In re: Walgreen Co. Stockholder Litigation*, the proportion of merger objections filed in that circuit fell by more than 60% the following year.[10]

Federal merger-objection filings typically allege a violation of Section 14(a), 14(d), and/or 14(e) of the Securities Exchange Act of 1934, and/or a breach of fiduciary duty by managers of a firm being acquired. Such filings are frequently voluntarily dismissed.

Figure 4. **Federal Merger-Objection Cases and Merger-Objection Cases with Multi-State Claims**
January 2009–December 2018



Notes: Counts of merger-objection cases with multi-state claims based on data obtained from Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016. Data on multi-state claims unavailable for 2016–2018. State of incorporation obtained from the Securities and Exchange Commission.
[1] *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

Filings Targeting Foreign Companies

Foreign companies with securities listed on US exchanges have been disproportionately targeted in Standard securities class actions since 2010 (see Figure 5).[11] In 2018, foreign companies were targeted in about 25% fewer cases than in 2017, and in only about 20% of complaints, just above the share of listings. This contrasts with persistent growth in foreign firm exposure to securities litigation over the preceding four years.

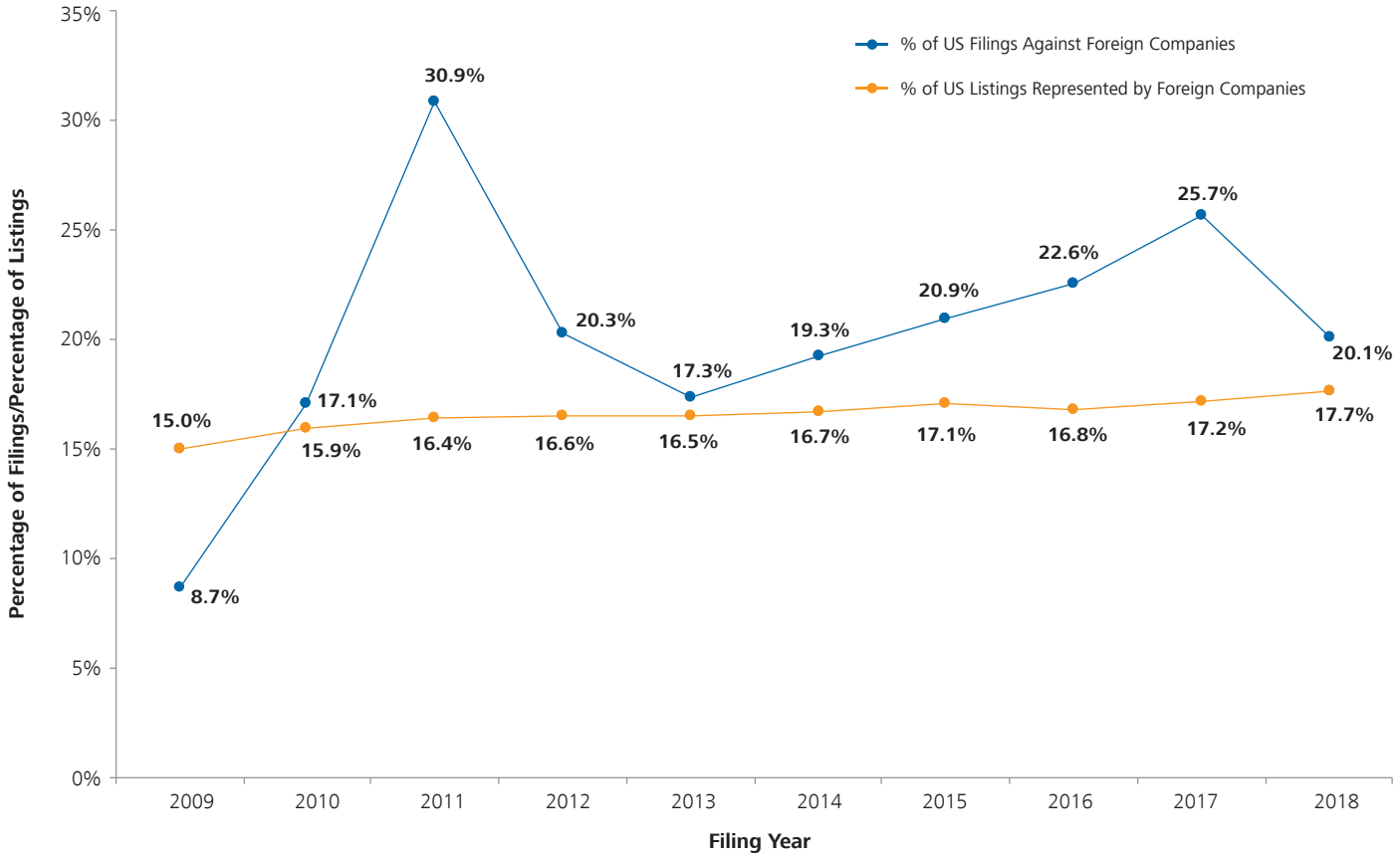
The reversion in claims against foreign firms mirrors a wider slowdown in filings with regulatory allegations. Over the last few years, growth in regulatory filings explained much of the growth in foreign filings, with 50% to 80% of new foreign cases including such allegations. That trend has reversed; in 2018, 75% of the drop in foreign filings stemmed from fewer claims related to regulation.

The slowdown in foreign regulatory filings can also be tied to fewer complaints in 2018 alleging similar regulatory violations, which adversely targeted foreign firms and particularly those domiciled in Europe. For instance, in 2017 there were multiple filings related to pharmaceutical price fixing, emissions defeat devices, and financing schemes by Kalani Investments Limited.

Filings against foreign companies spanned several economic sectors, led by a considerable jump against firms in the Electronic Technology and Technology Services sector (accounting issues were most common). Filings against foreign companies in the Health Technology and Services sector dropped by half. In past years, such filings usually claimed regulatory violations; none did in 2018.

In 2011, a record 31% of filings targeted foreign companies, mostly due to a surge in litigation against Chinese companies, which was mainly related to a proliferation in so-called "reverse mergers" years earlier. A reverse merger is a merger in which a private company merges with a publicly traded company listed in the US, thereby enabling access to US capital markets without going through the process of obtaining a new listing.

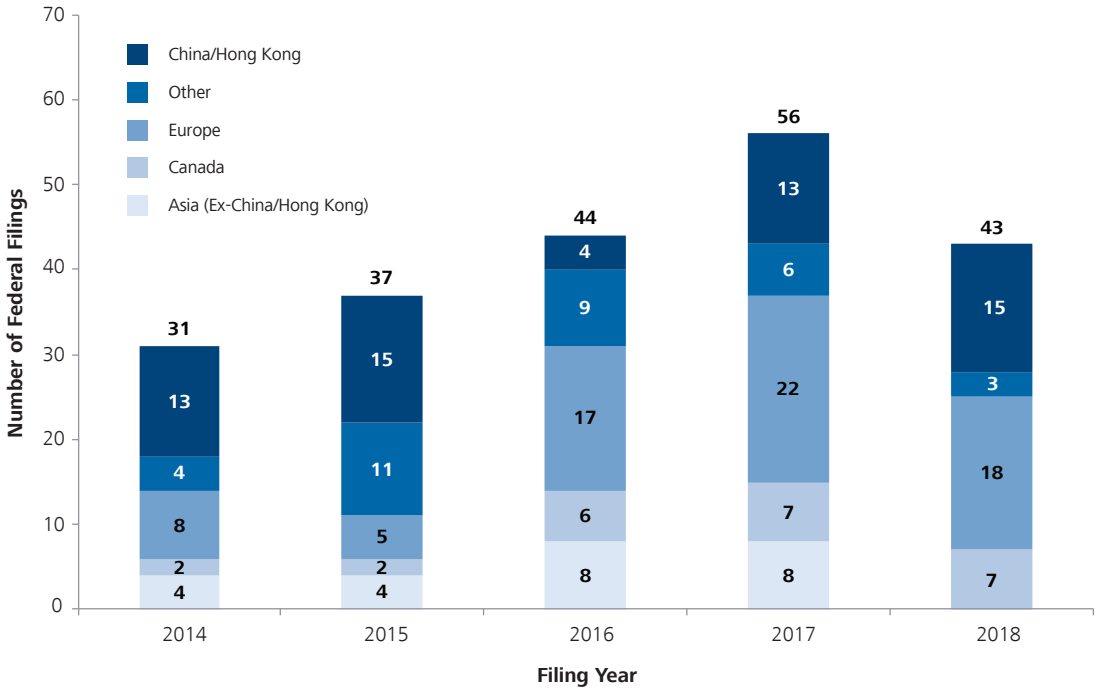
Figure 5. **Foreign Companies: Share of Filings and Share of Companies Listed on US Exchanges**
Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
January 2009–December 2018



Note: Foreign issuer status determined based on location of principal executive offices.

Internationally, only Chinese firms listed on US exchanges were subject to more securities class actions in 2018 than in 2017 (see Figure 6). Filings against European firms slowed, partially due to fewer regulatory filings. There were zero filings against Israeli companies, despite an increase in listings and litigation against such companies in previous years.

Figure 6. **Filings Against Foreign Companies**
Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12 by Region
January 2014–December 2018



Note: Foreign issuer status determined based on location of principal executive offices.

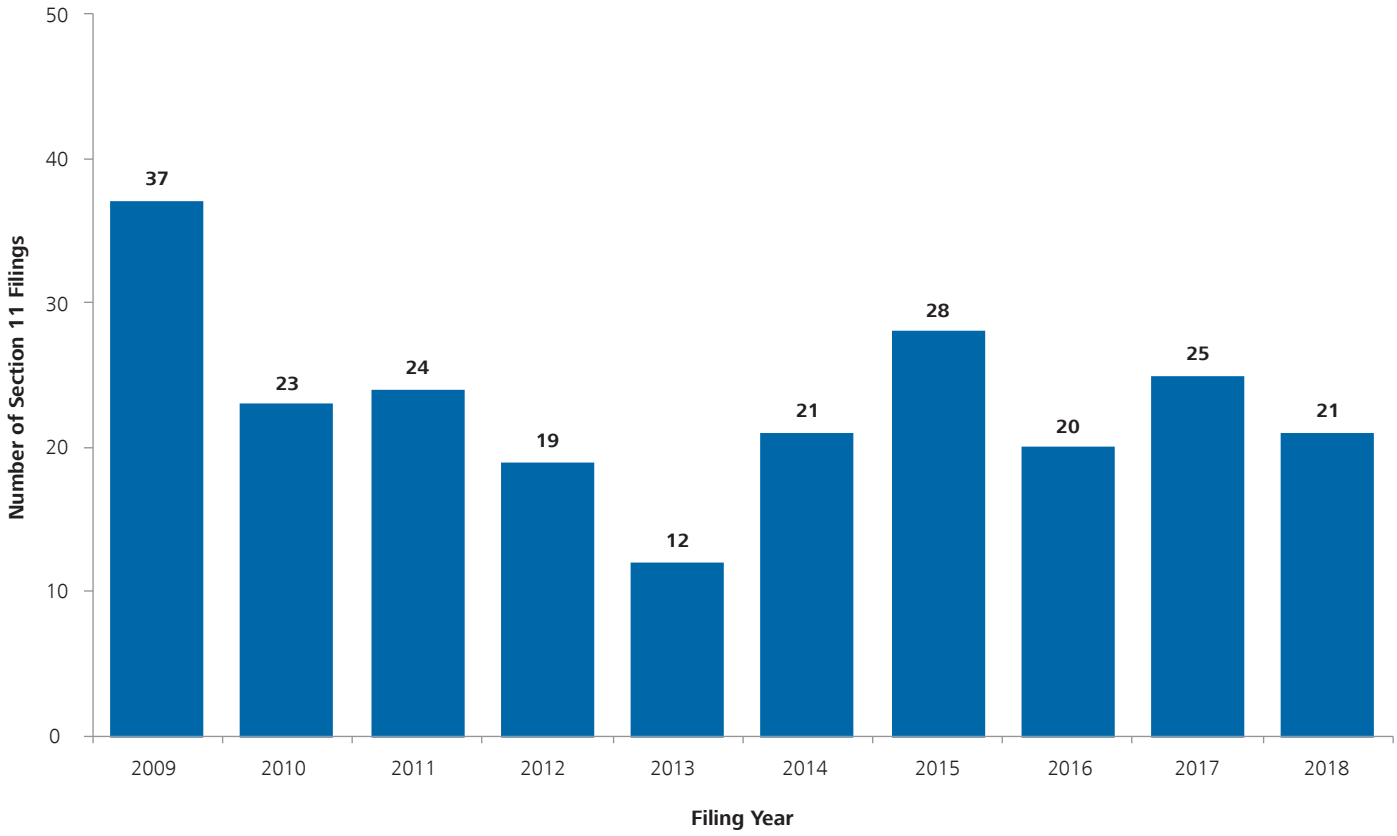
Section 11 Filings

There were 21 federal filings alleging violations of Section 11 in 2018, which approximates the five-year average (see Figure 7).

On 20 March 2018, the US Supreme Court ruled in *Cyan, Inc. v. Beaver County Employees Retirement Fund* that state courts have jurisdiction over class actions with claims brought under the Securities Act.[12] The ruling allows plaintiffs to litigate Section 11 claims in state courts, including plaintiff-friendly California state courts.

The full effect of the *Cyan* decision on federal filing trends remains to be seen, but of the 21 Section 11 filings in 2018, 14% involved firms headquartered in California, down from a quarter in 2016 (prior to the US Supreme Court granting certiorari). Of the three California firms, at least two have stated in filings with the SEC that claims under the Securities Act must only be brought in federal courts.[12]

Figure 7. **Section 11 Filings**
January 2009–December 2018



Aggregate NERA-Defined Investor Losses

In addition to the number of cases filed, we also consider the total potential size of these cases using a metric we label "NERA-defined Investor Losses."

NERA's Investor Losses variable is a proxy for the aggregate amount that investors lost from buying the defendant's stock, rather than investing in the broader market during the alleged class period. Note that the Investor Losses variable is not a measure of damages because any stock that underperforms the S&P 500 would have Investor Losses over the period of underperformance; rather, it is a rough proxy for the relative size of investors' potential claims. Historically, Investor Losses have been a powerful predictor of settlement size. Investor Losses can explain more than half of the variance in the settlement values in our database.

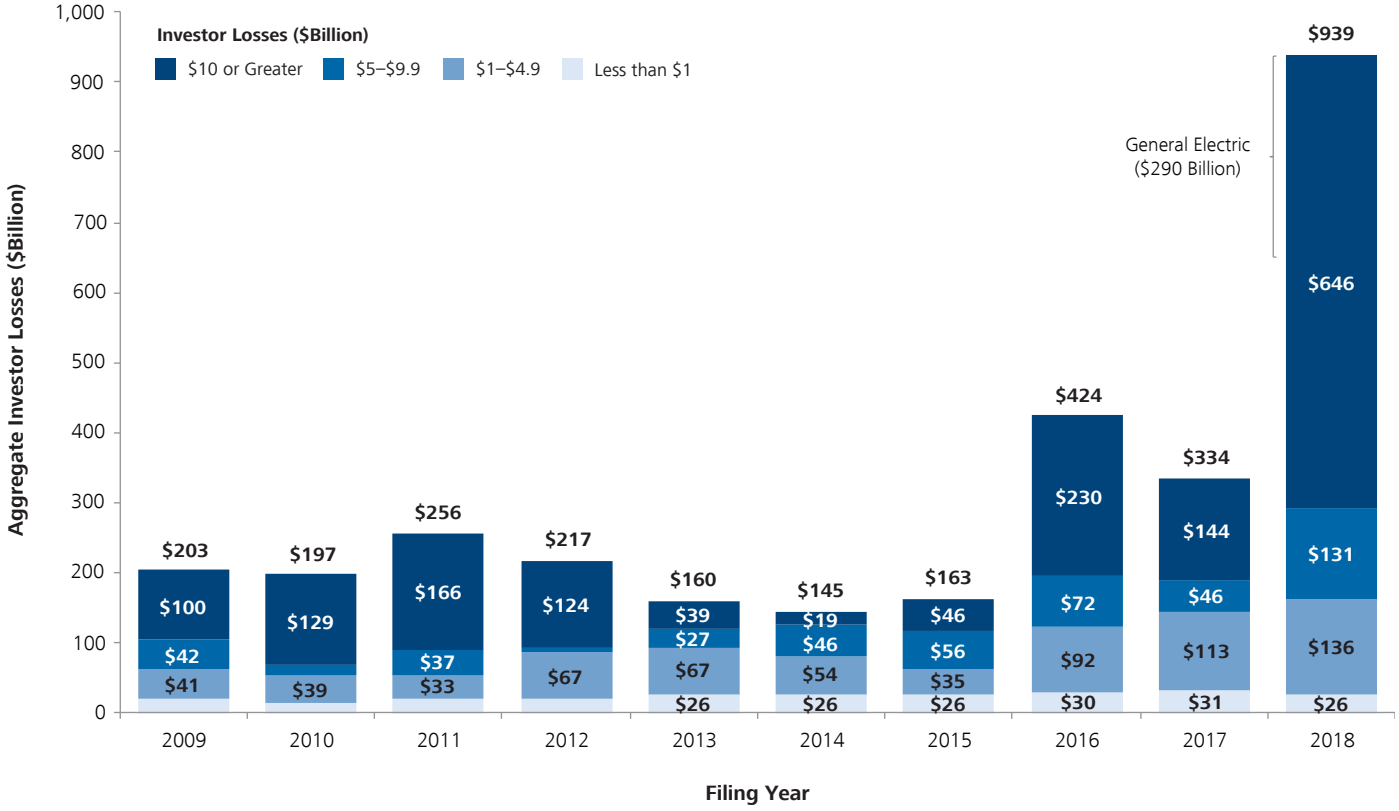
We do not compute NERA-defined Investor Losses for all cases included in this publication. For instance, class actions in which only bonds and not common stock are alleged to have been damaged are not included. The largest excluded groups are IPO laddering cases and merger-objection cases.

Despite a relatively constant rate of Standard filings in 2018, the size of those filings (as measured by NERA-defined Investor Losses) surged to nearly $1 trillion (see Figure 8). Total Investor Losses were dominated by litigation against GE, equal to about 45% of Investor Losses from all other cases combined, an especially impressive metric given the record aggregate case size.

NERA-defined Investor losses in 2018 totaled $939 billion, more than double that of any prior year and nearly four times the preceding five-year average of $245 billion. The total size of filings in all but the smallest strata grew, led by cases with more than $10 billion in Investor Losses. Coupled with the relatively stable overall filing rate, this suggests a systematic shift toward larger filings. In 2018, there were a record number of filings in each of the three largest strata, while only 88 cases had Investor Losses less than $1 billion, a record low.

Once again, there were several very large filings alleging regulatory violations, including a stock drop case against Johnson & Johnson related to claims of allegedly carcinogenic talcum powder, and a data privacy case against Facebook. Besides cases alleging regulatory violations, other very large cases included a filing against NVIDIA regarding excess inventory of GPUs (used for cryptocurrency mining) and large drug development cases against Bristol-Myers Squibb and Celgene.

Figure 8. **Aggregate NERA-Defined Investor Losses**
Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
January 2009–December 2018



Over the past couple of years, growth in aggregate Investor Losses was concentrated in filings alleging regulatory violations, a substantial number of which were also *event-driven* securities cases (i.e., stock drop cases stemming from a specific event or occurrence). Between 2015 and 2017, growth in the total size of regulatory cases was due to an increased filing rate (from 31 to 57 cases) and higher median Investor Losses (from $308 million to $811 million).

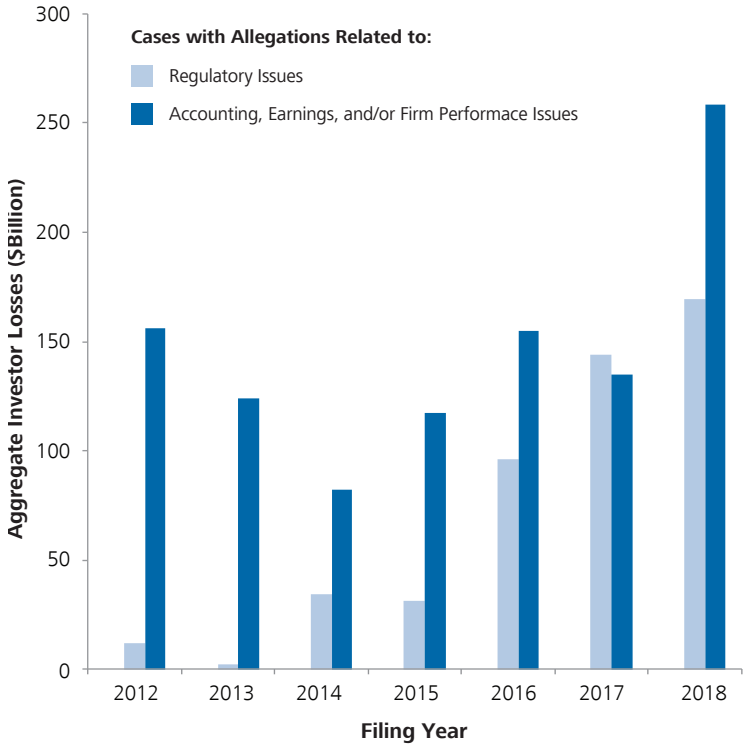
In 2018, regulatory cases were again large (half had Investor Losses greater than $4 billion), but the vast majority of total Investor Losses stemmed from what have historically been more typical securities cases, namely those that allege accounting issues, misleading earnings guidance, and/or firm performance issues.[14] This was led by litigation related to accounting issues at GE. Excluding GE, aggregate Investor Losses of such cases nearly doubled to a record $258 billion (see Figure 9).

Growth in the total size of cases alleging accounting, earnings, and/or performance issues primarily stems from growth in individual case size, as opposed to more filings. The median case with such allegations had more than $650 million in Investor Losses, about twice the average of $322 million over the preceding five years.

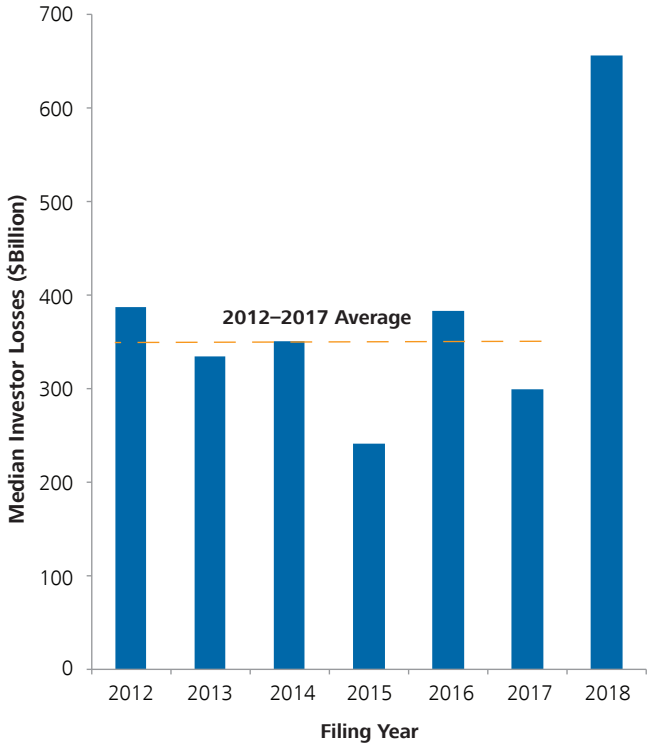
Details of the size of cases with specific types of allegations are discussed in the *Allegations* section below.

Figure 9. **NERA-Defined Investor Losses**
Filings Alleging Accounting Issues, Missed Earnings Guidance, and/or Misleading Future Performance
Excludes 2018 GE Filings

Aggregate NERA-Defined Investor Losses
January 2012–December 2018



Median NERA-Defined Investor Losses
January 2012–December 2018



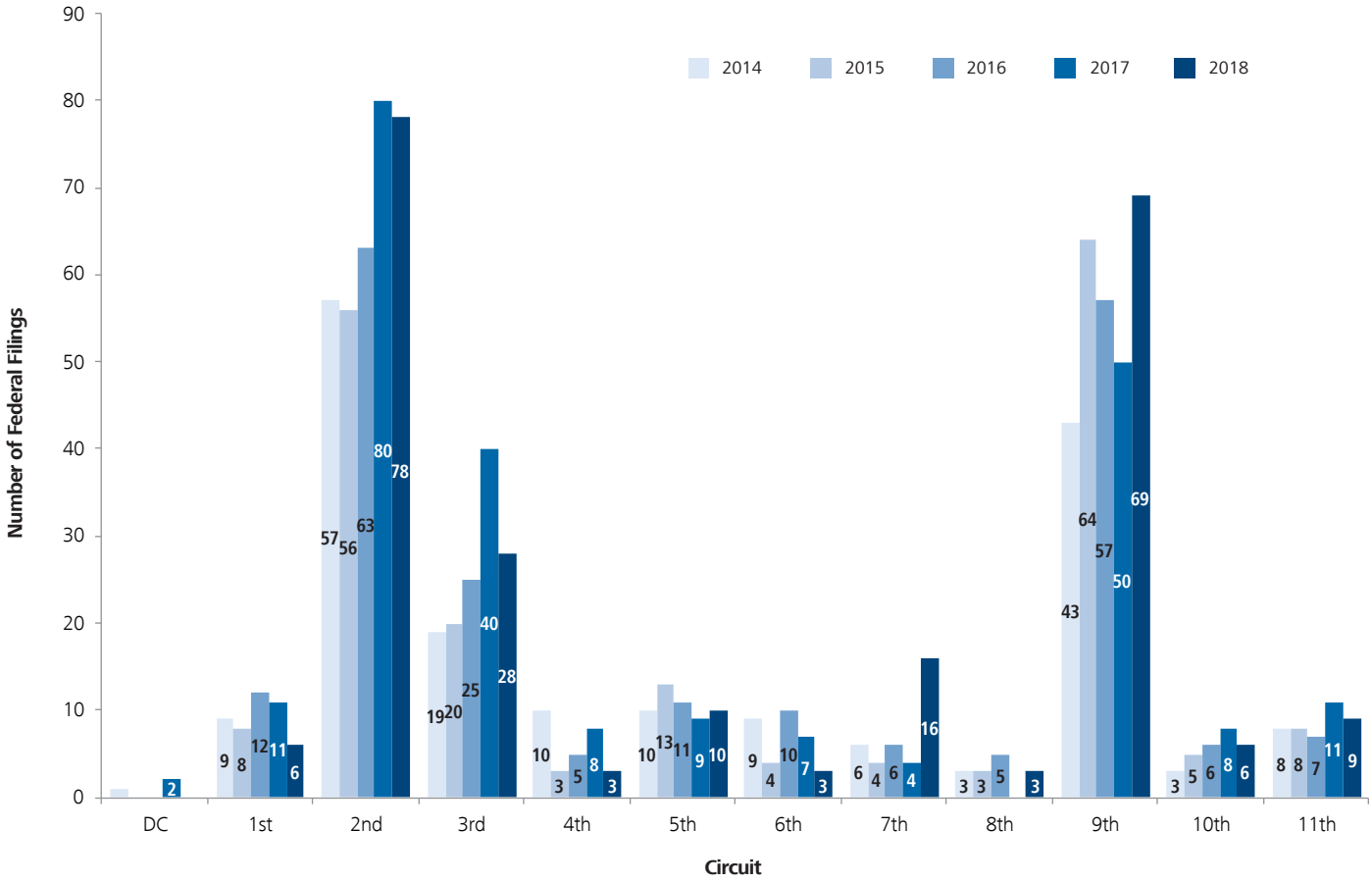
Note: Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.

Filings by Circuit

Filings in 2018 (excluding merger objections) were again concentrated in the Second and Ninth Circuits. The concentration of filings in these circuits has increased in 2018, during which they received 64% of filings, up from an average of 57% over the prior two years (see Figure 10). While the Second Circuit received the most filings, the most growth was in the Ninth Circuit, which includes Silicon Valley, mostly due to more litigation against firms in the Electronic Technology and Technology Services sector.

Merger-objection filings, not included in Figure 10, have become increasingly active in the Third Circuit, which includes Delaware. The Third Circuit received 82 merger-objection cases in 2018, double the number in 2017 and more than an eightfold increase over 2016. Nearly four-in-ten merger-objection cases were filed in the Third Circuit, twice the concentration of 2017 and coming amidst only a slight increase in the percentage of target firms incorporated in Delaware (see Figure 4). This corresponds with a decline in filings in every other circuit except the Second Circuit, where filings increased from 15 to 26.

Figure 10. **Federal Filings by Circuit and Year**
Excludes Merger Objections
January 2014–December 2018

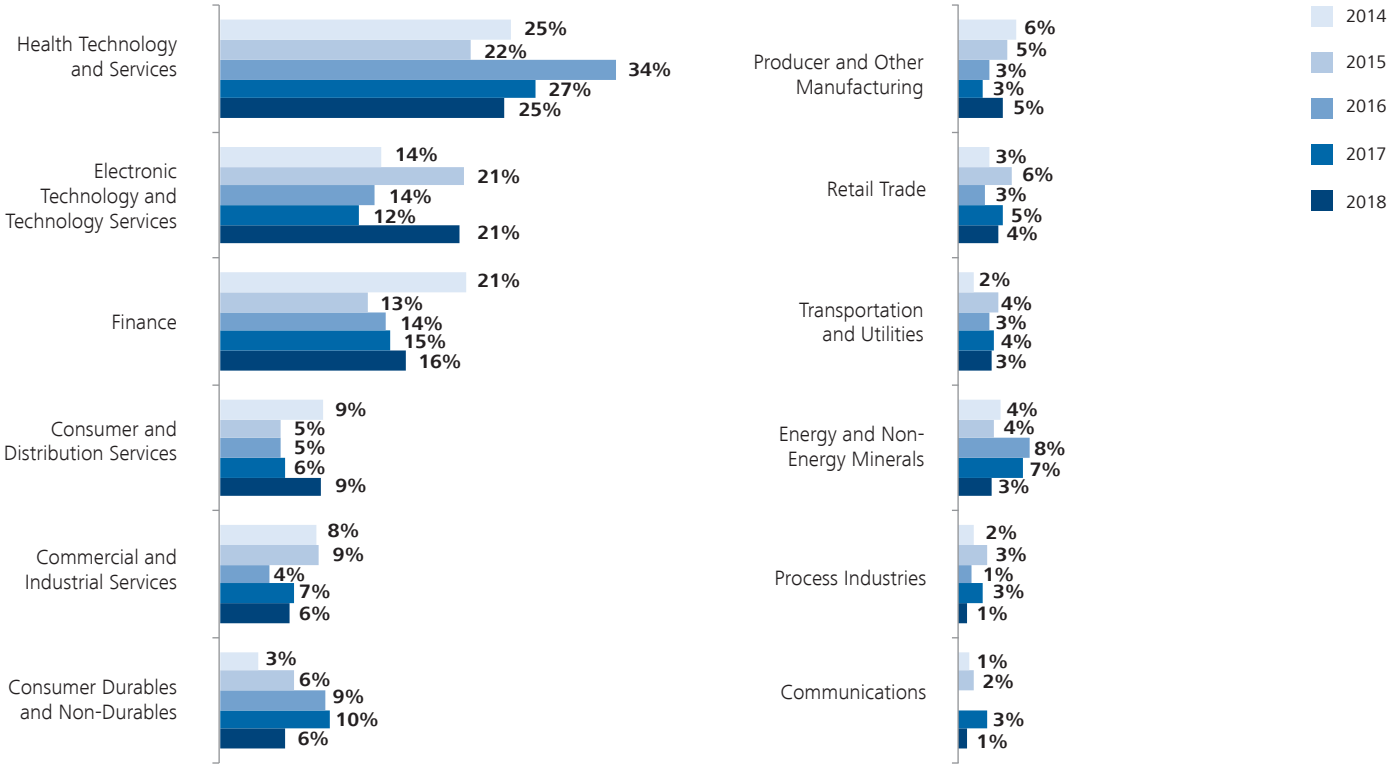


Filings by Sector

In 2018, filing counts were highest in the three historically dominant sectors, which include firms involved in health care, technology, and financial services (see Figure 11). The share of filings in these sectors increased to 62% in 2018 from about 54% in 2017, primarily due to a surge in filings against firms in the technology sector. Despite the drop in the percentage of health care companies targeted, the percentage of targeted firms in the Drugs industry (SIC 283) was nearly unchanged from 2017.

Firms in technological industries were especially at risk of securities class actions alleging accounting issues, misleading earnings guidance, or firm performance issues.[15] The industry with the highest percentage of constituent companies targeted with such allegations was the Computer and Office Equipment industry (SIC 357), with more than 9% of listed companies subject to litigation. This was followed by the Electronic Components and Accessories industry (SIC 367), with 6% of firms targeted. In the Drugs industry (SIC 283), 5% of firms were targeted with a filing with such claims (mostly related to misleading announcements regarding future performance).

Figure 11. **Percentage of Filings by Sector and Year**
Excludes Merger Objections
January 2014–December 2018



Note: This analysis is based on the FactSet Research Systems, Inc. economic sector classification. Some of the FactSet economic sectors are combined for presentation.

Allegations

In contrast with growth observed in recent years, filings with regulatory claims (i.e., those alleging a failure to disclose a regulatory issue) slowed to 41 in 2018 from 57 in 2017, a drop from 26% of Standard cases to 19% (see Figure 12). While fewer regulatory cases were filed, the median case size grew fourfold to over $4 billion (as measured by NERA-defined Investor Losses). The slowdown in regulatory filings was partially offset by more allegations of accounting issues and missed earnings guidance, which grew 8% and 13%, respectively.

While the size of filed cases (as measured by NERA-defined Investor Losses) grew in each allegation category, those alleging accounting issues and missed earnings guidance were especially large and more frequently targeted technology firms. The median size of accounting claims exceeded $600 million in 2018 (a level not seen since 2008), with filings over the second half of the year being especially large. Firms in the technology sector had the most accounting claims, making up 29% of the total (up from 21% in 2017). Moreover, more than one-in-three filings against firms in the technology sector alleged accounting issues.

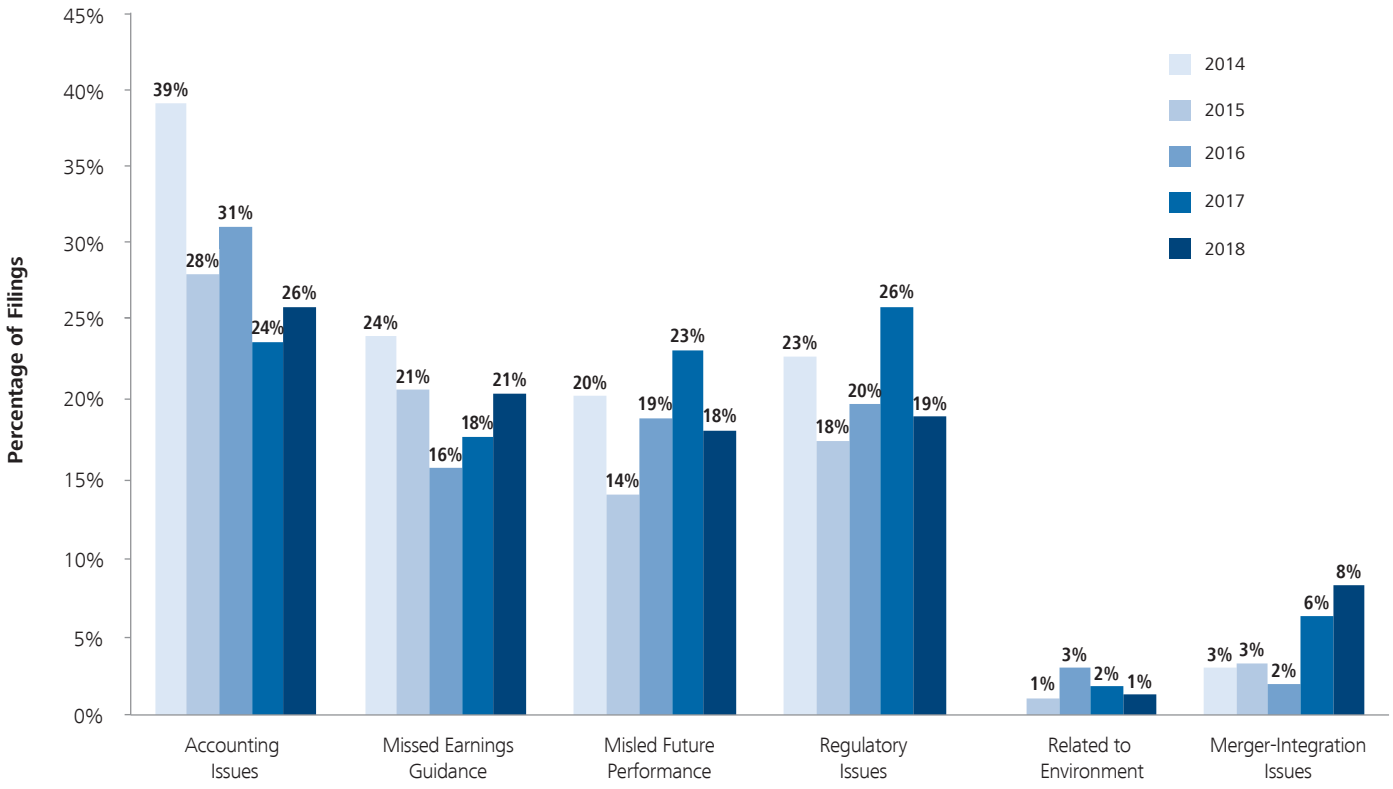
Filings claiming missed earnings guidance grew for the second straight year. Although the percentage of filings alleging missed guidance roughly matched that of 2015, the median case size (as measured by Investor Losses) was three times larger in 2018 than in 2015. Filings against firms in the technology sector with missed earnings guidance claims grew 70% since 2017 and constituted the largest share of such claims (at 27%).

In 2018, 8% of filings included merger integration allegations (i.e., claims of misrepresentations by a firm involved in a merger or acquisition). The substantial increase in litigation in 2017 corresponded with a 14% increase in announced M&A deals with US targets.[16] However, in 2018, despite a 12% slowdown in announced deal activity over the first three quarters, the number of federal merger integration filings rose.[17] The largest merger integration filing related to the failed Tribune Media/ Sinclair merger, making up 20% of total Investor Losses.

As in prior years, most allegations related to misleading firm performance in 2018 were against firms in the health care sector. Within health care, firms in the Drugs industry (SIC 283) were subject to two-in-three filings.

Most complaints include a wide variety of allegations, not all of which are depicted here. Due to multiple types of allegations in complaints, the same case may be included in multiple categories.

Figure 12. **Allegations**
Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
January 2014–December 2018

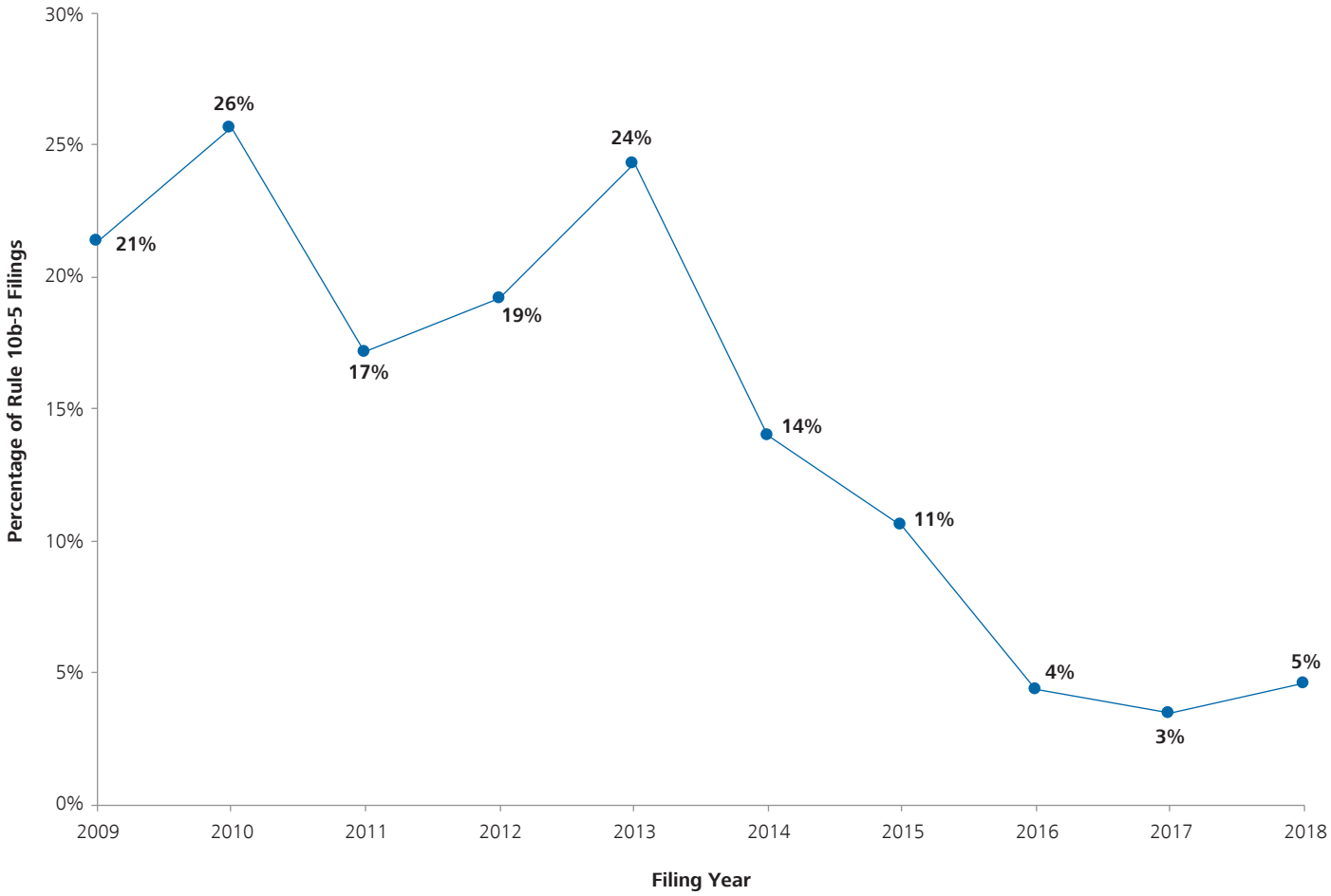


Alleged Insider Sales

Historically, Rule 10b-5 class action complaints have frequently alleged insider sales by directors and officers, usually as part of a scienter argument. Since 2013, in the wake of a multiyear crackdown on insider trading by prosecutors, the percentage of 10b-5 class actions that alleged insider sales has decreased nearly every year (see Figure 13).[18] This trend also corresponds with increased corporate adoption of 10b5-1 trading plans, allowing insiders to plan share sales while purportedly not in possession of material non-public information.[19]

Cases alleging insider sales were more common in the aftermath of the financial crisis, when a quarter of filings included insider trading claims. In 2005, half of class actions filed included such claims.

Figure 13. **Percentage of Rule 10b-5 Filings Alleging Insider Sales by Filing Year**
January 2009–December 2018



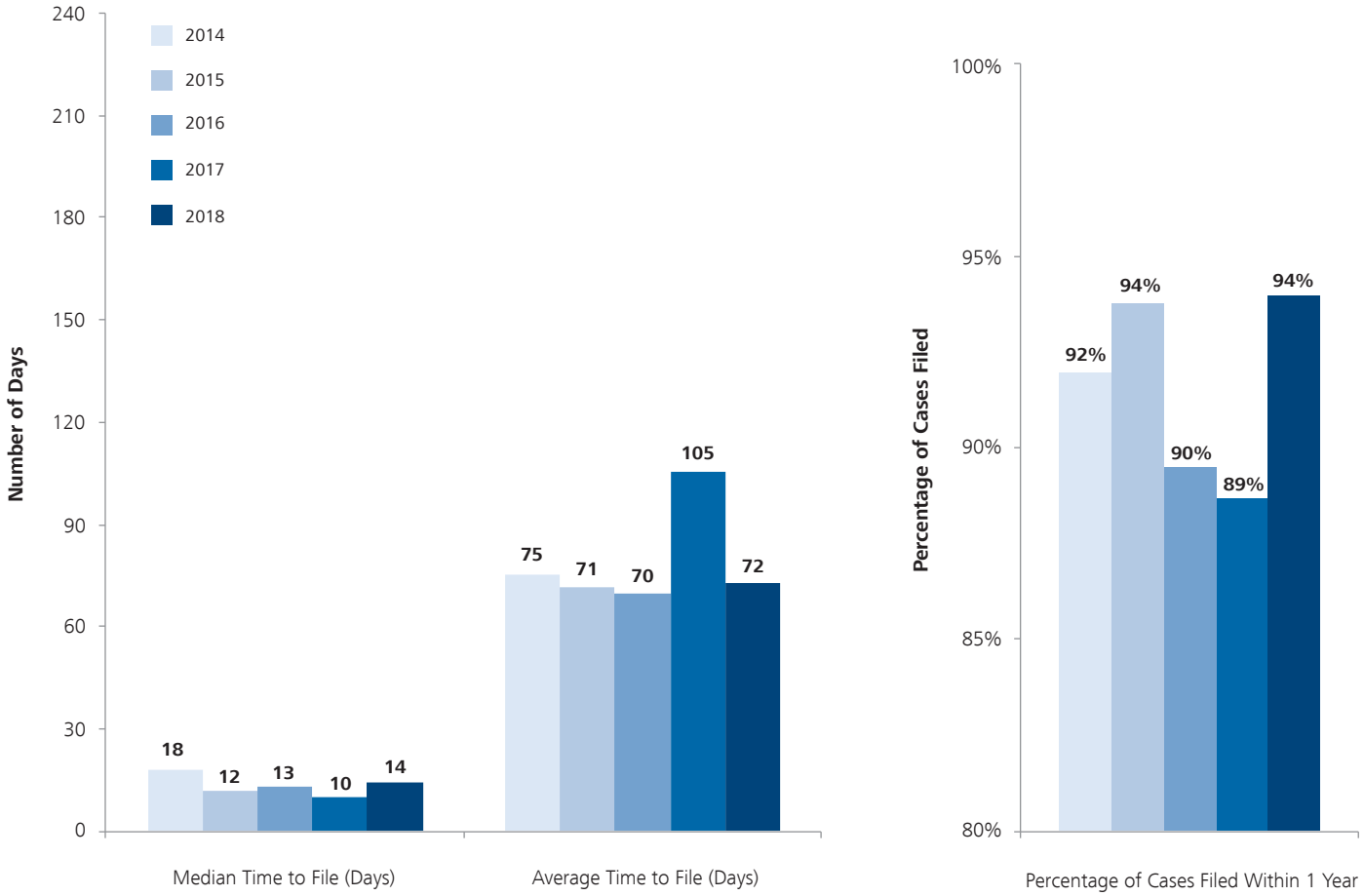
Time to File

The term "time to file" denotes the time that has elapsed between the end of the alleged class period and the filing date of the first complaint. Figure 14 illustrates how the median time and average time to file Rule 10b-5 cases (in days) have changed over the past five years.

The median time to file fell by about half over the last decade, to 14 days in 2018, indicating that it took 14 days or less to file a complaint in 50% of cases. Since the beginning of the decade, there has been a lower frequency of cases with long periods between the point when an alleged fraud was revealed and the filing of a related claim. The average time to file has followed a similar trajectory, but in 2017 was affected by 10 cases with very long filing delays. In 2017, one case against Rio Tinto, regarding the valuation of mining assets in Mozambique, took more than 4.5 years to file and boosted the average time to file by nearly 9%.[20]

Despite the small minority of cases with very long times to file, the data generally point toward a lower incidence of cases with long periods between revelations of alleged fraud and the date a related claim is filed.

Figure 14. **Time to File Rule 10b-5 Cases from End of Alleged Class Period to File Date**
January 2014–December 2018



Note: This analysis excludes cases where the alleged class period could not be unambiguously determined.

Analysis of Motions

NERA's statistical analysis has found robust relationships between settlement amounts and the stage of the litigation at which settlements occur. We track filings and decisions on three types of motions: motion to dismiss, motion for class certification, and motion for summary judgment. For this analysis, we include securities class actions in which purchasers of common stock are part of the class and in which a violation of Rule 10b-5, Section 11, and/or Section 12 is alleged (i.e., Standard cases).

As shown in the figures below, we record the status of any motion as of the resolution of the case. For example, a motion to dismiss that had been granted but was later denied on appeal is recorded as denied.

Motions for summary judgment were filed by defendants in 7.1%, and by plaintiffs in only 1.9%, of the securities class actions filed and resolved over the 2000–2018 period, among those we tracked.[21]

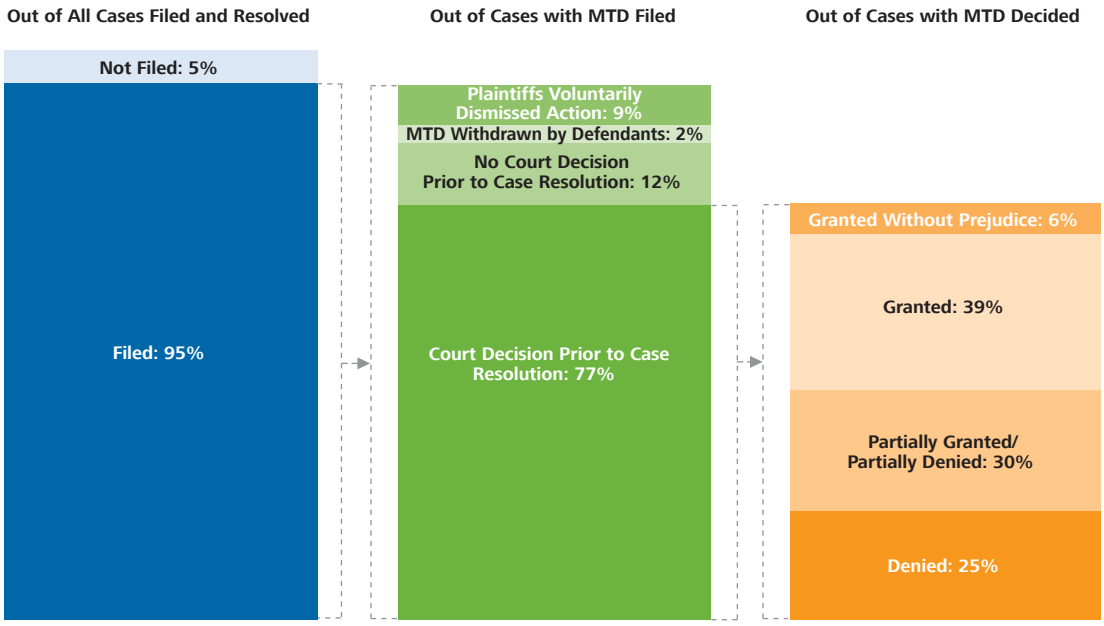
Outcomes of motions to dismiss and motions for class certification are discussed below.

Motion to Dismiss

A motion to dismiss was filed in 95% of the securities class actions tracked. However, the court reached a decision on only 77% of the motions filed. In the remaining 23% of cases, either the case resolved before a decision was reached, plaintiffs voluntarily dismissed the action, or the motion to dismiss was withdrawn by defendants (see Figure 15).

Out of the motions to dismiss for which a court decision was reached, the following three outcomes classify all of the decisions: granted with or without prejudice (45%), granted in part and denied in part (30%), and denied (25%).

Figure 15. **Filing and Resolutions of Motions to Dismiss**
Cases Filed and Resolved January 2000–December 2018



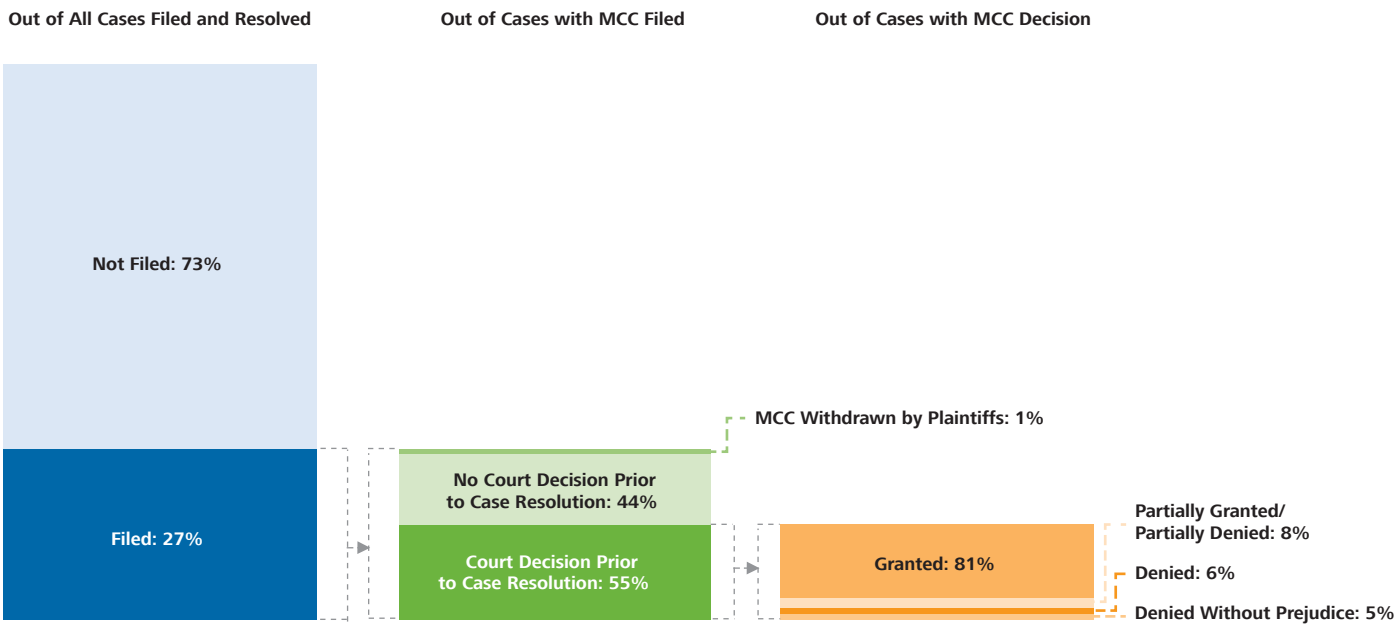
Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO laddering cases.

Motion for Class Certification

Most cases were settled or dismissed before a motion for class certification was filed: 73% of cases fell into this category. Of the remaining 27% (in which a motion for class certification was filed), the court reached a decision in only 55% of cases. Overall, only 15% of the securities class actions filed (or 55% of the 27%) reached a decision on the motion for class certification (see Figure 16).

According to our data, 89% of the motions for class certification that were decided were granted partially or in full.

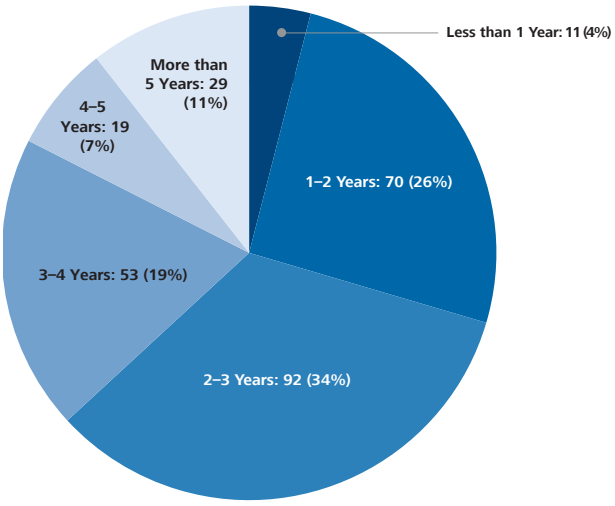
Figure 16. **Filing and Resolutions of Motions for Class Certification**
Cases Filed and Resolved January 2000–December 2018



Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO laddering cases.

Approximately 64% of the decisions handed down on motions for class certification were reached within three years of the complaint's original filing date (see Figure 17). The median time was about 2.5 years.

·igure 1 /. **Time from First Complaint Filing to Class Certification Decision**
Cases Filed and Resolved January 2000–December 2018



lote: Includes cases in which holders of common stock are part of the class and a 10b-5 or Rule 10b-5, Section 11, and/or Section 12 is alleged.
xcludes IPO laddering cases.

Trends in Case Resolutions

Number of Cases Settled or Dismissed

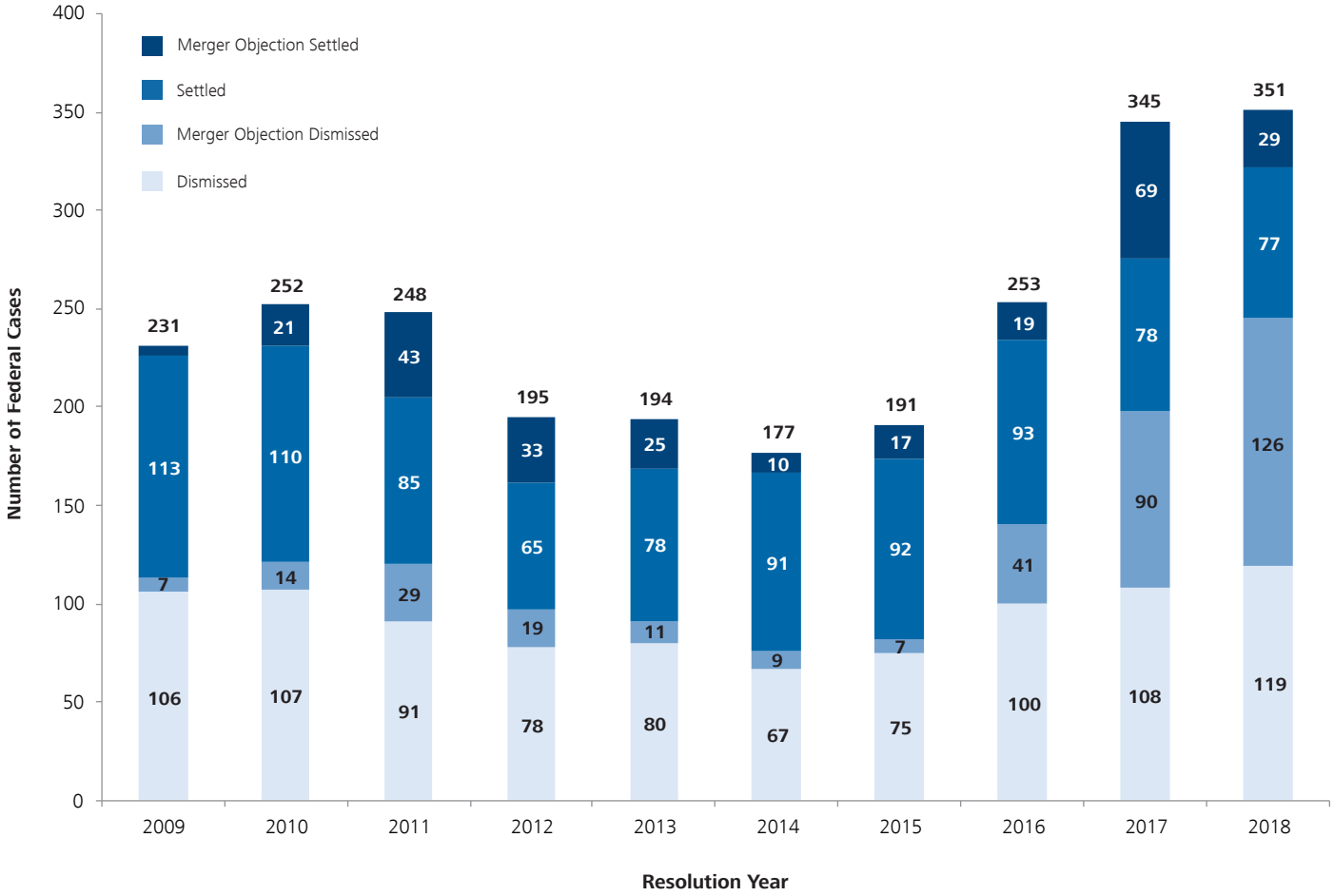
In total, 351 securities class actions were resolved in 2018, the second consecutive year in which a record number of cases concluded (see Figure 18). Resolution numbers were once again dominated by a record number of dismissals, which outnumbered settlements two-to-one for the first time.

Of the 351 resolutions, slightly less than half were resolutions of merger-objection cases (most of which were voluntarily dismissed). The uptick in resolutions over the last few years is largely due to the surge of federal merger-objection cases in the wake of the *Trulia* decision in early 2016.[22] Prior to *Trulia*, only about 13% of resolutions concerned merger-objection litigation. Merger objections had an outsized impact on resolution statistics: despite making up only about 33% of all active cases, they constituted 44% of resolutions.[23]

In 2018, 196 resolutions were of "Standard" securities class actions—those alleging violations of Rule 10b-5, Section 11, and/or Section 12. Standard settlement and dismissal counts closely matched those of 2017, and again more cases were dismissed than settled.

For the second consecutive year, an inordinate number of Standard cases were dismissed within a year of filing, most of which were voluntary dismissals. As shown in Figure 31, the decision to voluntarily dismiss litigation may change with the size of estimated damages to the class. For instance, plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases during the PSLRA bounce-back period.

Figure 18. **Number of Resolved Cases: Dismissed or Settled**
January 2009–December 2018



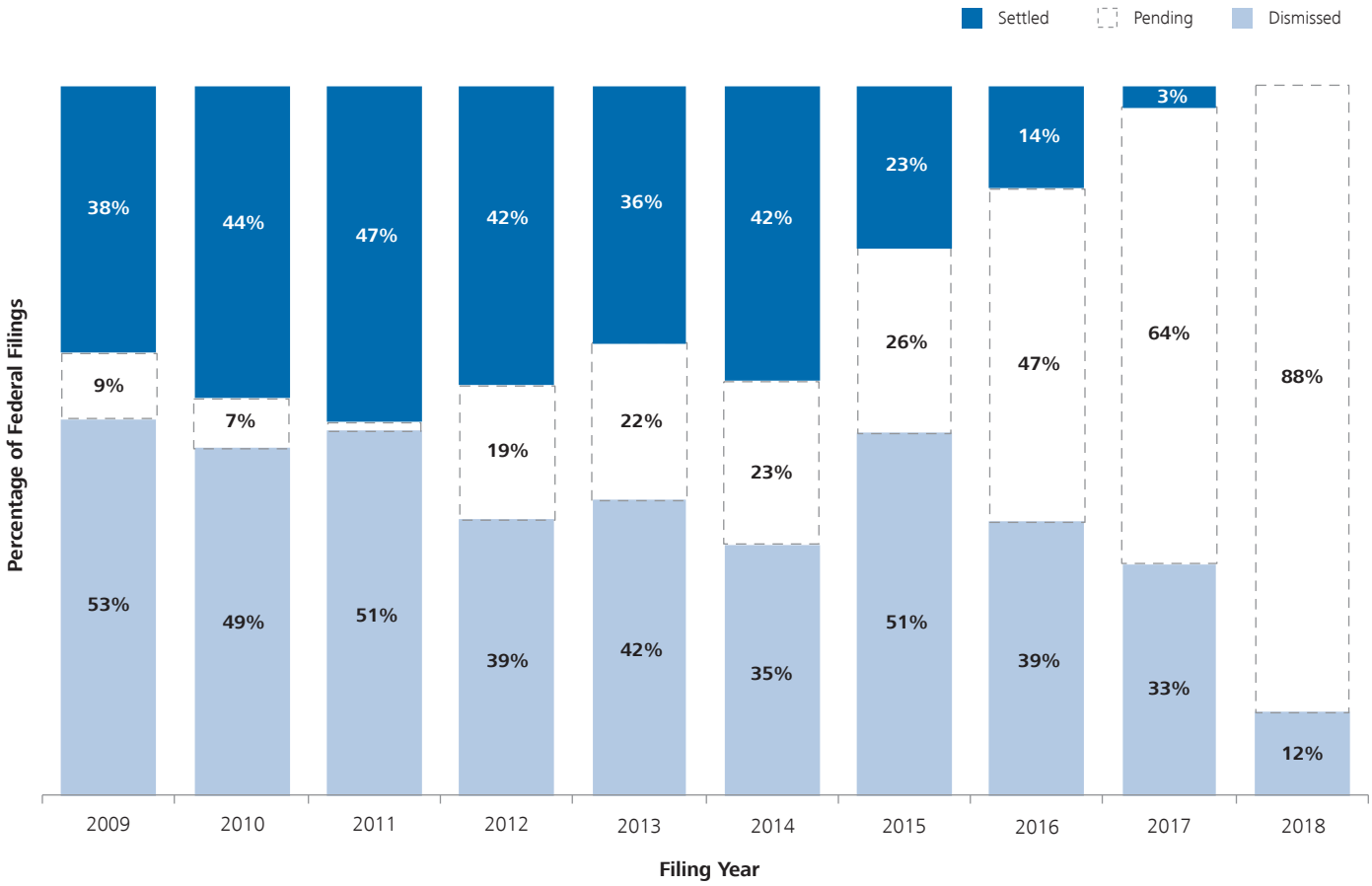
Case Status by Year

Figure 19 shows the current resolution status of cases by filing year. Each percentage represents the current resolution status of cases filed in each year as a proportion of all cases filed in that year. Merger-objection cases are excluded, as are verdicts.

Historically, more cases settled than were dismissed. However, the rate of case dismissal has steadily increased. While only about a third of cases filed between 2000 and 2002 were dismissed, in 2015, the most recent year with substantial resolution data, at least half of filed cases were dismissed.[24]

While dismissal rates have been climbing since 2000, the ultimate dismissal rate for cases filed in more recent years is less certain. On one hand, the dismissal rate may increase further, as there are more pending cases awaiting resolution. On the other hand, it may decrease because recent dismissals have more potential than older ones to be appealed or re-filed, and cases that were recently dismissed without prejudice may ultimately result in settlements.

Figure 19. **Status of Cases as Percentage of Federal Filings by Filing Year**
Excludes Merger Objections and Verdicts
January 2009–December 2018



Note: Dismissals may include dismissals without prejudice and dismissals under appeal.

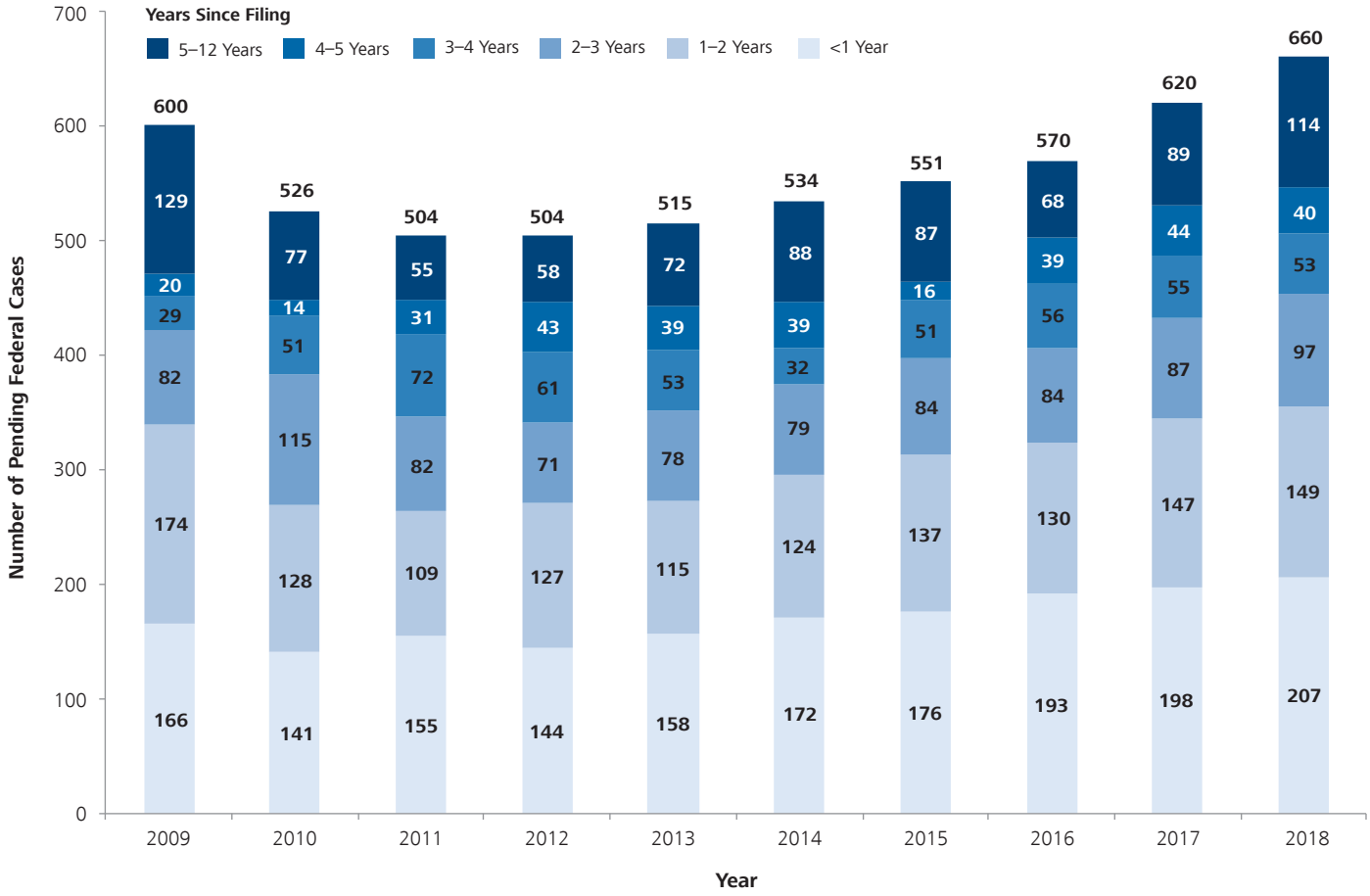
Number of Cases Pending

The number of Standard securities class actions pending in the federal system has steadily increased from a post-PSLRA low of 504 in 2012 (see Figure 20).[25] Since then, pending case counts have increased between 2% and 9% annually. In 2018, the number of pending Standard cases on federal dockets increased to 660, up 6% from 2017 and 31% from 2012.

Generally, since cases are either pending or resolved, a change in filing rate or a lengthening of the time to case resolution potentially contributes to changes in the number of cases pending. If the number of new filings is constant, the change in the number of pending cases can be indicative of whether the time to case resolution is generally shortening or lengthening.

About 50% of the long-term growth in pending litigation can be explained by recent filing growth (filed over the past two years), the vast majority of which is simply due to more cases being filed that have yet to be resolved. Delayed resolution of older filings (i.e., cases filed before 2017) explains the other 50% or so of growth in pending litigation since 2011. More old cases on federal dockets has driven the median age of pending cases up 14% since 2015 to about 1.9 years, the highest since 2010.[26]

Figure 20. **Number of Pending Federal Cases**
Excludes Merger Objections
January 2009–December 2018



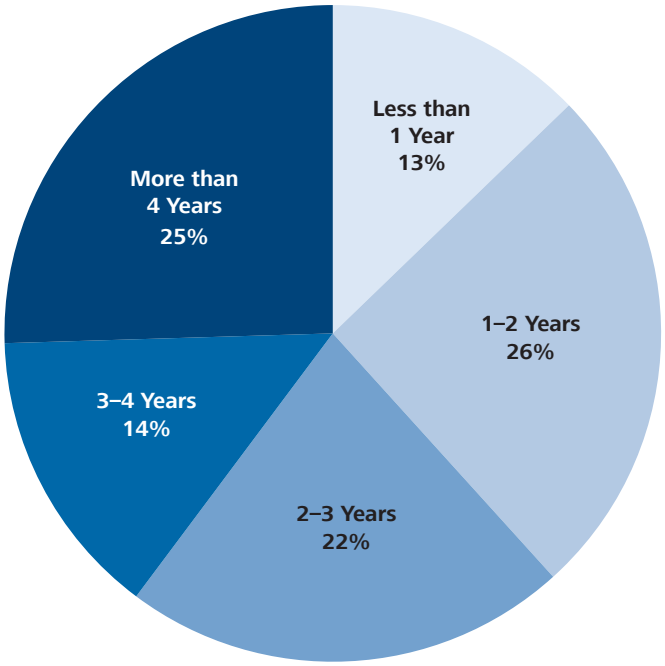
Note: The figure excludes, in each year, cases that had been filed more than 12 years earlier. Years since filing are end-of-year calculations. The figure also excludes IPO laddering cases. The 12-year limit ensure that all pending cases were filed post-PSLRA.

Time to Resolution

The term "time to resolution" denotes the time between the filing of the first complaint and resolution (whether through settlement or dismissal). Figure 21 illustrates the time to resolution for all securities class actions filed between 2001 and 2014, and shows that about 39% of cases are resolved within two years of initial filing and about 61% are resolved within three years.[27]

The median time to resolution for cases filed in 2016 (the last year with sufficient resolution data) was 2.3 years, similar to the range over the preceding five years. Over the past decade, the median time to resolution declined by more than 10%, primarily due to an increase in the dismissal rate (dismissals are generally resolved faster than settlements).

Figure 21. **Time from First Complaint Filing to Resolution**
Cases Filed January 2001–December 2014



Trends in Settlements

We present several settlement metrics to highlight attributes of cases that settled in 2018 and to compare them with cases settled in past years. We discuss two ways of measuring average settlement amounts and calculate the median settlement amount. Each calculation excludes merger-objection cases and cases that settle with no cash payment to the class, as settlements of such cases may obscure trends in what have historically been more typical cases.

In 2018, the average settlement rebounded to $69 million from a near-record low in 2017, largely due to the $3 billion settlement involving Petróleo Brasileiro S.A.—Petrobras, the fifth-highest settlement ever. Even excluding Petrobras (the only settlement of the year exceeding $1 billion), the average settlement exceeded $30 million, which is about average in the post-PSLRA era (after adjusting for inflation). The median settlement in 2018 was more than twice that of 2017, primarily due to higher settlements of many moderately sized cases and, generally, fewer very small settlements.

The upswing in 2018 settlement metrics may be a prelude to higher settlements in the future. Aggregate NERA-defined Investor Losses of pending cases, a factor that has historically been significantly correlated with settlement amounts, increased for the third consecutive year and currently exceeds $1.4 trillion (or $1.1 trillion excluding 2018 litigation against GE). Excluding GE, average Investor Losses of pending Standard cases have also increased for the third consecutive year to $2.4 billion, but have receded from a 10-year high of $3.8 billion in 2011.

To illustrate how many cases settled over various ranges in 2017 compared with prior years, we provide a distribution of settlements over the past five years. We also tabulated the 10 largest settlements of the year.

Average and Median Settlement Amounts

The average settlement exceeded $69 million in 2018, somewhat less than three times the $25 million average settlement in 2017 (see Figure 22). Infrequent large settlements, such as the 2018 Petrobras settlement, are generally responsible for the wide variability in average settlements over the past decade. Similar spikes to the one observed this year were also seen in 2010, 2013, and 2016, each primarily stemming from mega-settlements.

Figure 22. **Average Settlement Value**
Excludes Merger Objections and Settlements for $0 to the Class
January 2009–December 2018

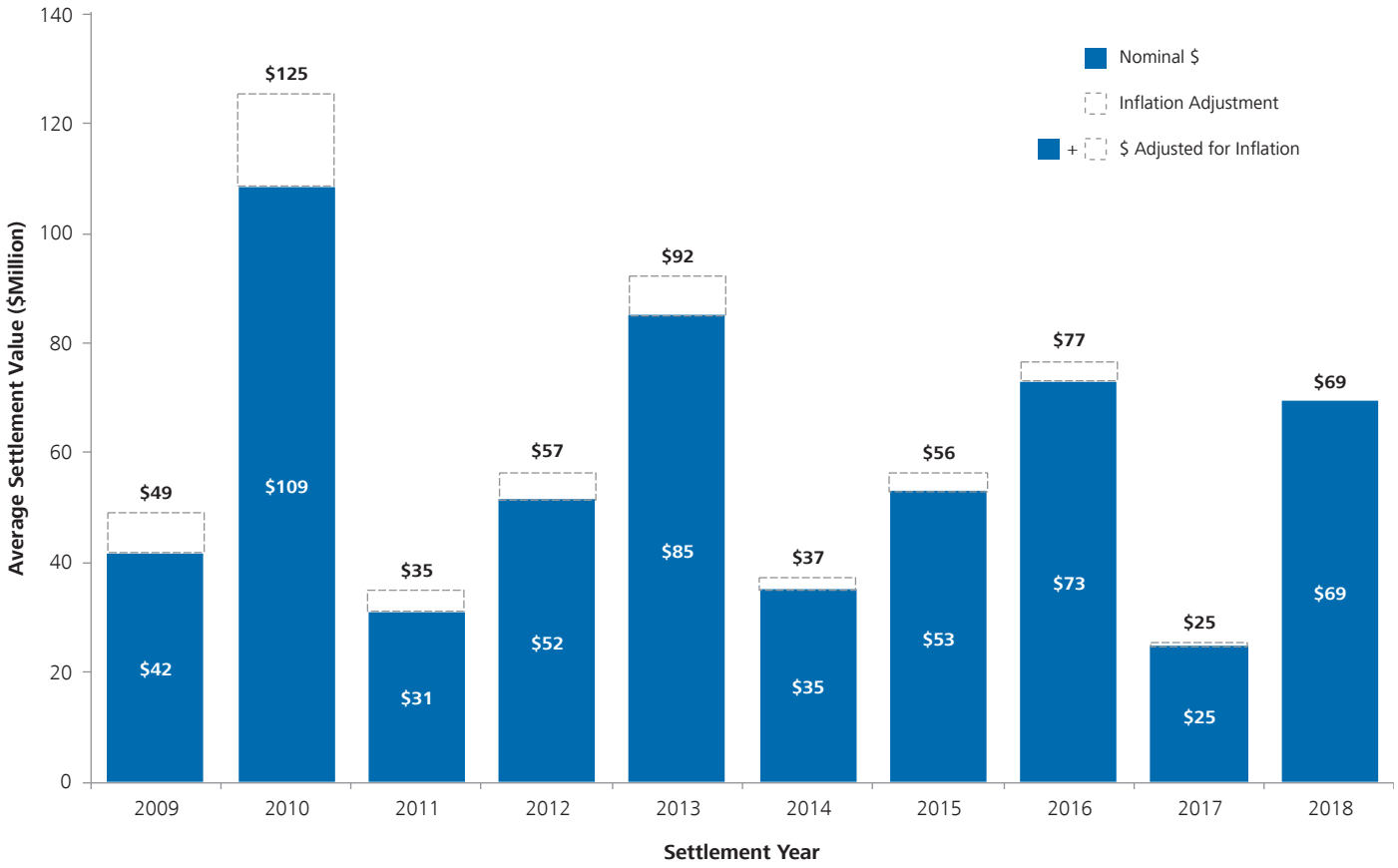
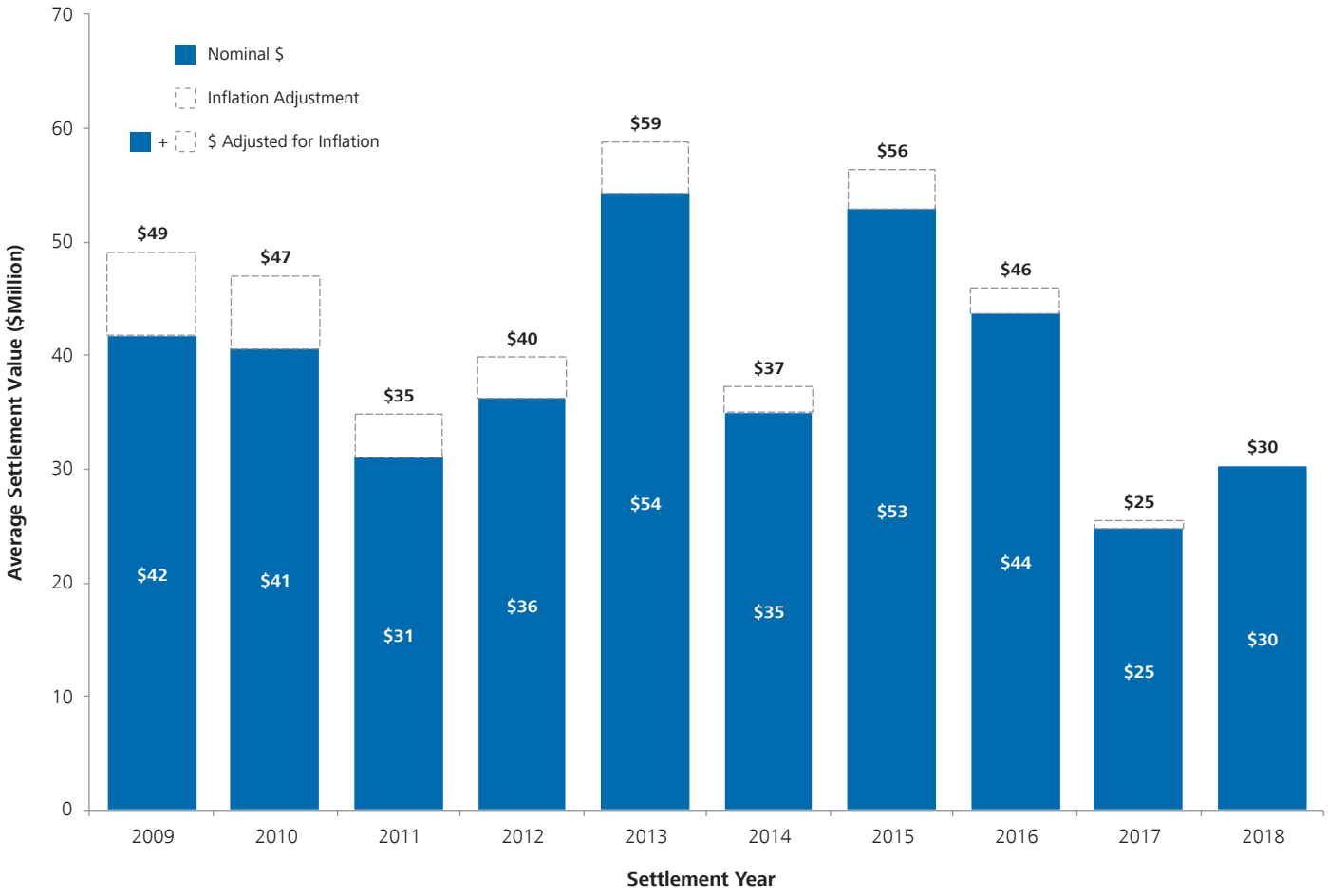


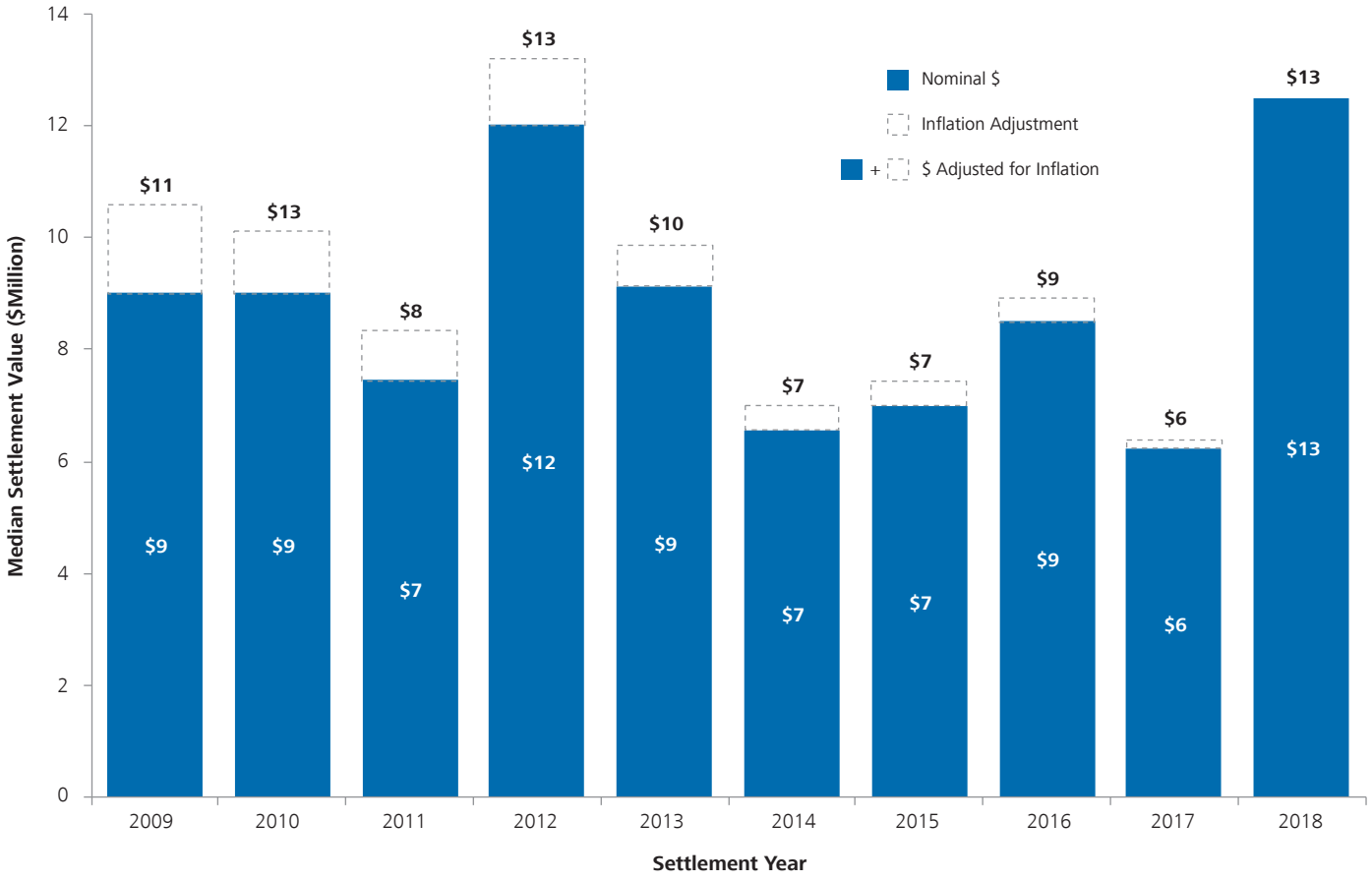
Figure 23 illustrates that, excluding settlements over $1 billion, the average settlement rebounded from the record low seen in 2017 to $30 million. Despite this rebound, and setting aside the $3 billion Petrobras settlement, the 2018 average settlement remained below average compared to the past decade. The metric would have roughly matched the near-record low seen in 2017 but for the $480 million Wells Fargo settlement that was finalized in mid-December 2018.

Figure 23. **Average Settlement Value**
Excludes Settlements over $1 Billion, Merger Objections, and Settlements for $0 to the Class
January 2009–December 2018



The 2018 median settlement was a near-record $13 million. This was driven primarily by relatively high settlements of moderately sized cases (as measured by NERA-defined Investor Losses). Cases of moderate size not only made up the bulk of settlements in 2018 but also had a median ratio of settlement to Investor Losses more than 50% higher than in past years. Moreover, unlike 2017, there were generally few very small settlements.

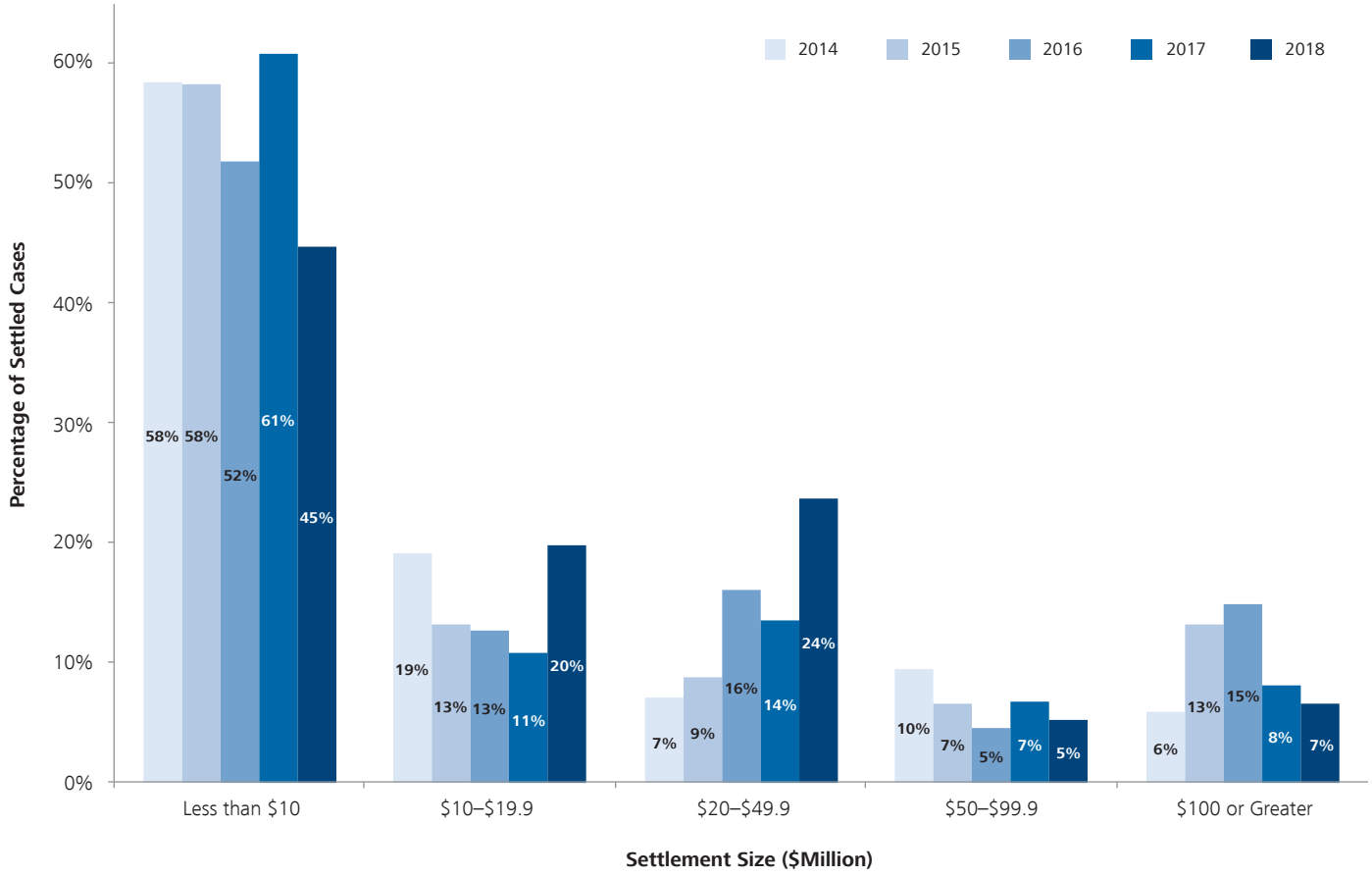
Figure 24. **Median Settlement Value**
Excludes Settlements over $1 Billion, Merger Objections, and Settlements for $0 to the Class
January 2009–December 2018



Distribution of Settlement Amounts

The relatively high settlements of moderately sized cases in 2018 are also captured in the distribution of settlement values (see Figure 25). In 2018, fewer than 45% of settlements were for less than $10 million (the lowest rate since 2010), which stands in stark contrast with 2017, when more than 60% of settlements were in the smallest strata (the highest rate since 2011).

Figure 25. **Distribution of Settlement Values**
Excludes Merger Objections and Settlements for $0 to the Class
January 2014–December 2018



The 10 Largest Settlements of Securities Class Actions of 2018

The 10 largest securities class action settlements of 2018 are shown in Table 1. The two largest settlements, against Petrobras and Wells Fargo & Company, are among many large regulatory cases filed in recent years. Three of the 10 largest settlements involved defendants in the Finance sector. Overall, these 10 cases accounted for about $4.4 billion in settlement value, a near-record 84% of the $5.3 billion in aggregate settlements.

Despite the size of the Petrobras settlement, it is not even half the size of the second-largest settlement since passage of the PSLRA, WorldCom, Inc., at $6.2 billion (see Table 2).

Table 1. **Top 10 2018 Securities Class Action Settlements**

Ranking	Case Name	Total Settlement Value ($Million)	Plaintiffs' Attorneys' Fees and Expenses Value ($Million)
1	Petróleo Brasileiro S.A.—Petrobras (2014)	$3,000.0	$205.0
2	Wells Fargo & Company (2016)	$480.0	$96.4
3	Allergan, Inc.	$290.0	$71.0
4	Wilmington Trust Corporation	$210.0	$66.3
5	LendingClub Corporation	$125.0	$16.8
6	Yahoo! Inc. (2017)	$80.0	$14.8
7	SunEdison, Inc.	$73.9	$19.0
8	Marvell Technology Group Ltd. (2015)	$72.5	$14.1
9	3D Systems Corporation	$50.0	$15.5
10	Medtronic, Inc. (2013)	$43.0	$8.6
	Total	**$4,424.4**	**$527.4**

Table 2. **Top 10 Securities Class Action Settlements**
As of 31 December 2018

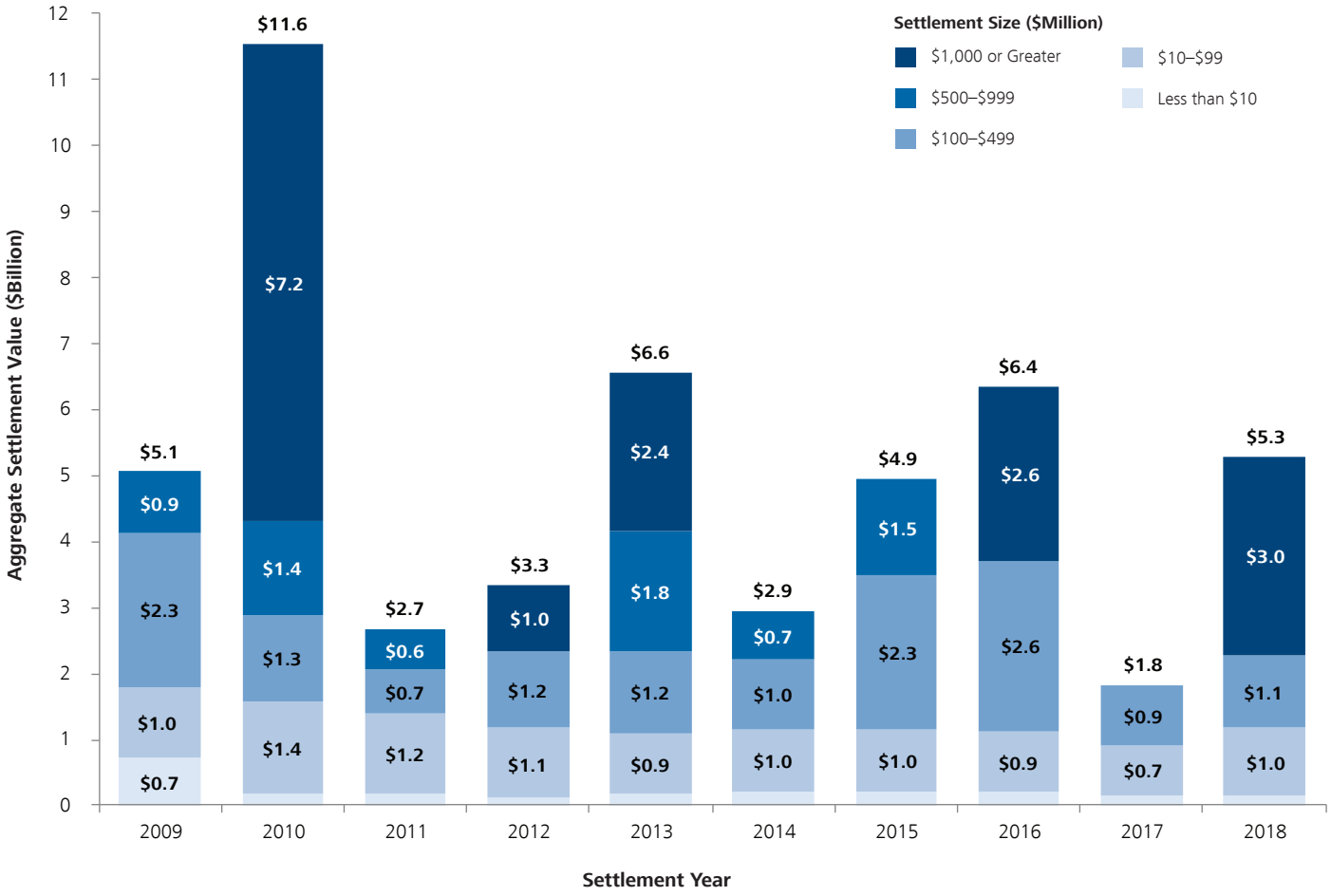
Ranking	Defendant	Settlement Year(s)	Total Settlement Value ($Million)	Codefendant Settlements		Plaintiffs' Attorneys' Fees and Expenses Value ($Million)
				Financial Institutions Value ($Million)	Accounting Firms Value ($Million)	
1	ENRON Corp.	2003–2010	$7,242	$6,903	$73	$798
2	WorldCom, Inc.	2004–2005	$6,196	$6,004	$103	$530
3	Cendant Corp.	2000	$3,692	$342	$467	$324
4	Tyco International, Ltd.	2007	$3,200	No codefendant	$225	$493
5	Petróleo Brasileiro S.A.—Petrobras	2018	$3,000	$0	$50	$205
6	AOL Time Warner Inc.	2006	$2,650	No codefendant	$100	$151
7	Bank of America Corp.	2013	$2,425	No codefendant	No codefendant	$177
8	Household International, Inc.	2006–2016	$1,577	Dimissed	Dismissed	$427
9	Nortel Networks (I)	2006	$1,143	No codefendant	$0	$94
10	Royal Ahold, NV	2006	$1,100	$0	$0	$170
	Total		**$32,224**	**$13,249**	**$1,017**	**$3,368**

Aggregate Settlements

We use the term "aggregate settlements" to denote the total amount of money to be paid to settle litigation by (non-dismissed) defendants based on the court-approved settlements during a year.

Aggregate settlements rebounded to nearly $5.3 billion in 2018, more than double the 2017 total (see Figure 26). More than 80% of the growth stems from the $3.0 billion Petrobras settlement. Excluding Petrobras and Wells Fargo, aggregate settlements are near the 2017 record low, reflecting a persistent slowdown in overall settlement activity.

Figure 26. **Aggregate Settlement Value by Settlement Size**
January 2009–December 2018



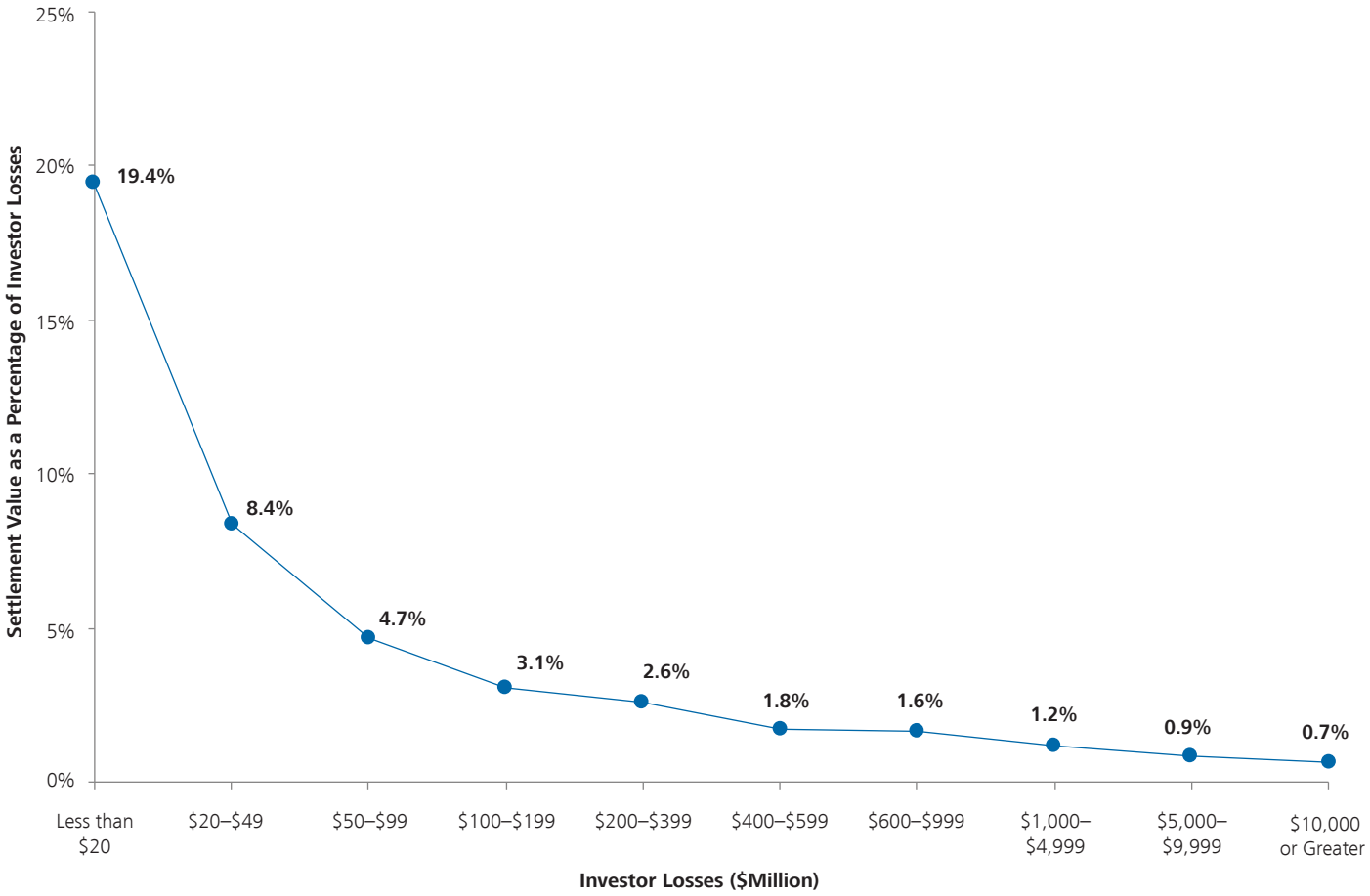
NERA-Defined Investor Losses vs. Settlements

As noted above, our proxy for case size, NERA-defined Investor Losses, is a measure of the aggregate amount investors lost from buying the defendant's stock rather than investing in the broader market during the alleged class period.

In general, settlement size grows as NERA-defined Investor Losses grow, but the relationship is not linear. Based on our analysis of data from 1996 to 2018, settlement size grows less than proportionately with Investor Losses. In particular, small cases typically settle for a higher fraction of Investor Losses (i.e., more cents on the dollar) than larger cases. For example, the ratio of settlement to Investor Loss for the median case was 19.4% for cases with Investor Losses of less than $20 million, while it was 0.7% for cases with Investor Losses over $10 billion (see Figure 27).

Our findings about the ratio of settlement amount to NERA-defined Investor Losses should not be interpreted as the share of damages recovered in settlement, but rather as the recovery compared to a rough measure of the "size" of the case. Notably, the percentages given here apply *only* to NERA-defined Investor Losses. Using a different definition of investor losses would result in a different ratio. Also, the use of the ratio alone to forecast the likely settlement amount would be inferior to a proper all-encompassing analysis of the various characteristics shown to impact settlement amounts, as discussed in the section *Explaining Settlement Values*.

Figure 27. **Median of Settlement Value as a Percentage of NERA-Defined Investor Losses by Level of Investor Losses**
Excludes Settlements for $0 to the Class
January 1996–December 2018

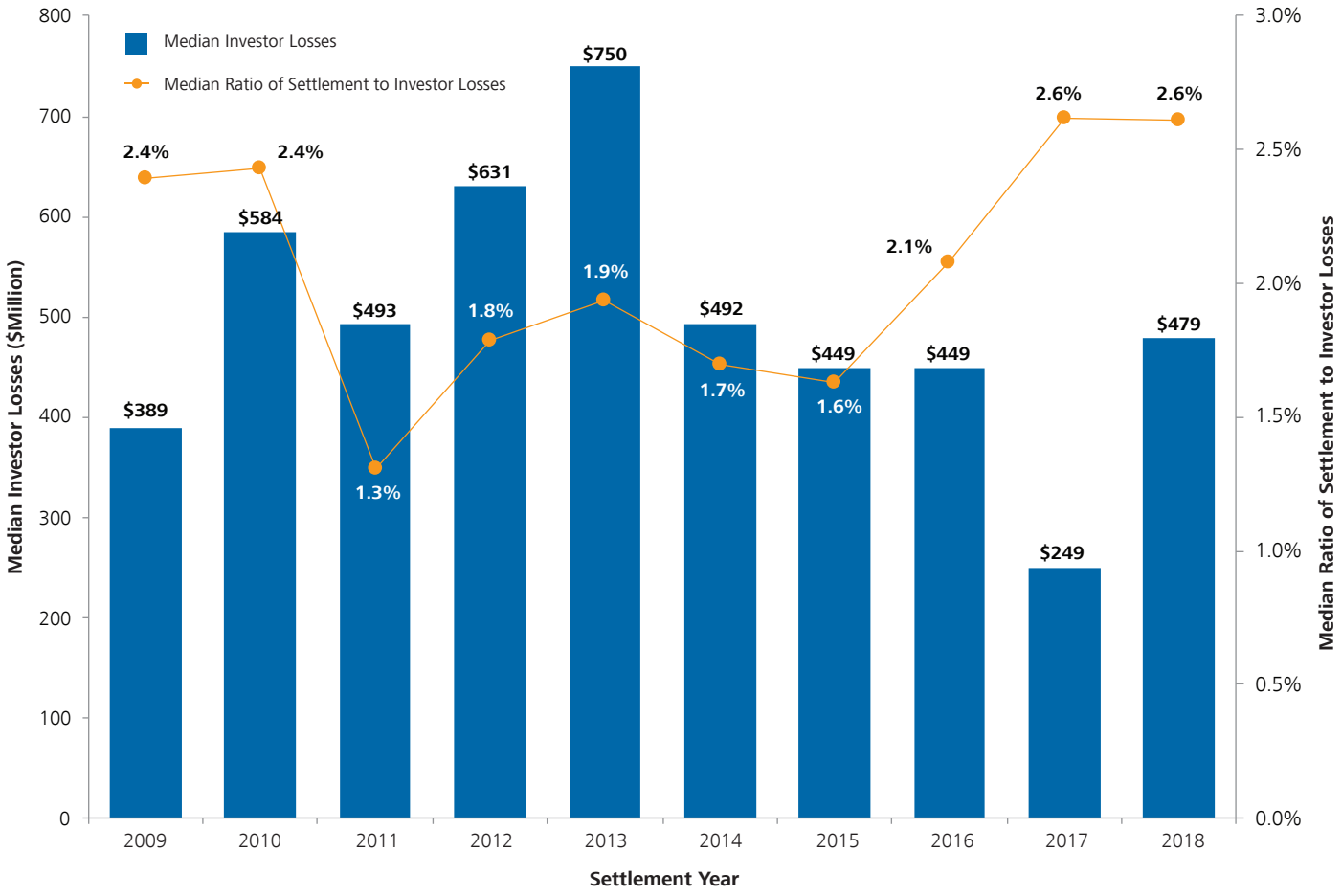


Median NERA-Defined Investor Losses over Time

Prior to 2014, median NERA-defined Investor Losses for settled cases had been on an upward trajectory since the passage of the PSLRA. As described above, the median ratio of settlement size to Investor Losses generally decreases as Investor Losses increase. Over time, the increase in median Investor Losses coincided with a decreasing trend in the median ratio of settlement to Investor Losses. Of course, there are also year-to-year fluctuations.

As shown in Figure 28, the median ratio of settlements to NERA-defined Investor Losses was 2.6% in 2018. This was the third consecutive year of at least a short-term reversal of a long-term downtrend of the ratio between passage of the PSLRA and 2015.

Figure 28. **Median NERA-Defined Investor Losses and Median Ratio of Settlement to Investor Losses by Settlement Year**
January 2009–December 2018



Explaining Settlement Amounts

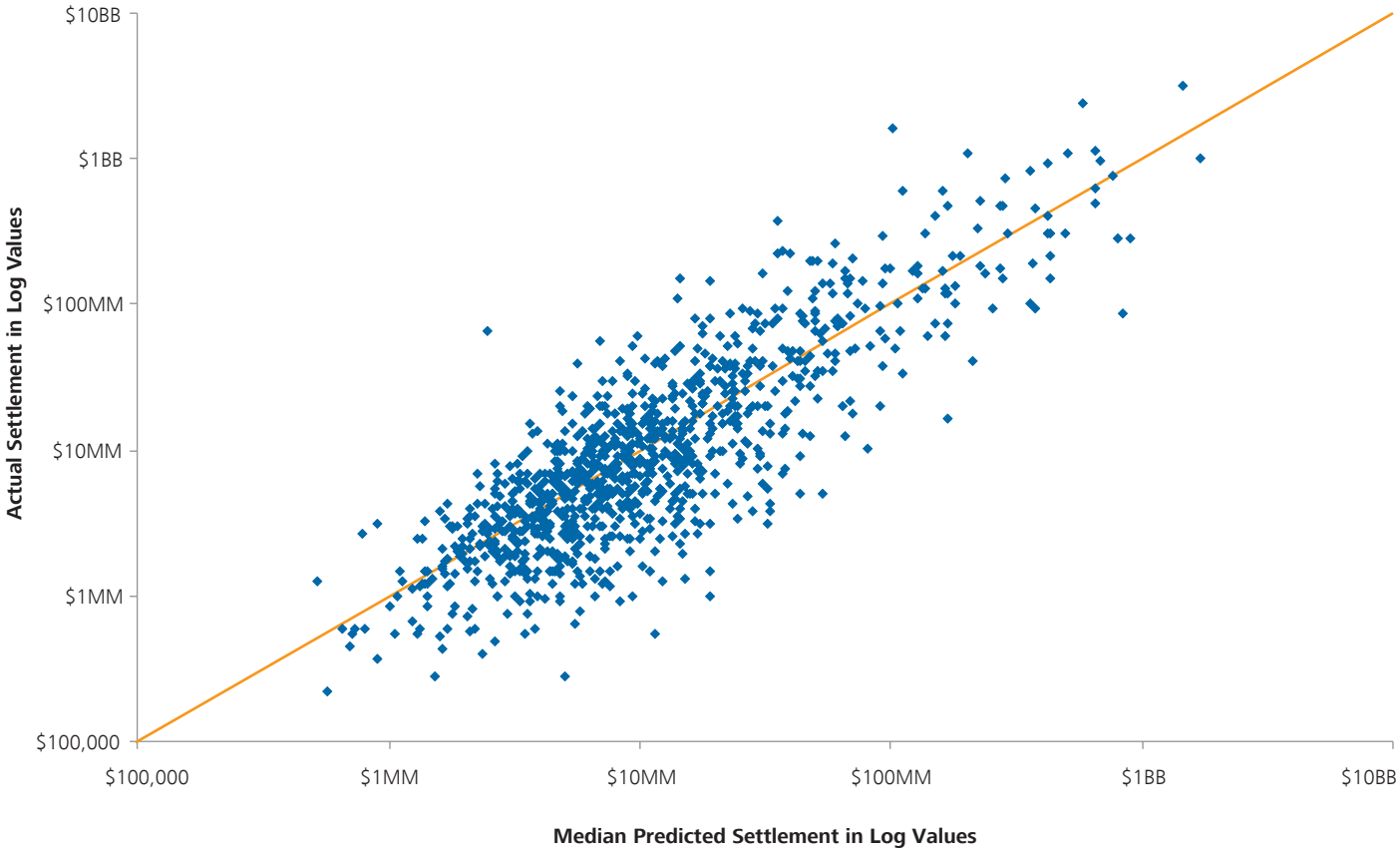
The historical relationship between case attributes and other case- and industry-specific factors can be used to measure the factors correlated with settlement amounts. NERA has examined settlements in more than 1,000 securities class actions and identified key drivers of settlement amounts, many of which have been summarized in this report.

Generally, we find that the following factors have historically been significantly correlated with settlements:

- NERA-defined Investor Losses (a proxy for the size of the case);
- The market capitalization of the issuer;
- Types of securities alleged to have been affected by the fraud;
- Variables that serve as a proxy for the "merit" of plaintiffs' allegations (such as whether the company has already been sanctioned by a governmental or regulatory agency or paid a fine in connection with the allegations);
- Admitted accounting irregularities or restated financial statements;
- The existence of a parallel derivative litigation; and
- An institution or public pension fund as lead plaintiff.

Together, these characteristics and others explain most of the variation in settlement amounts, as illustrated in Figure 29.[28]

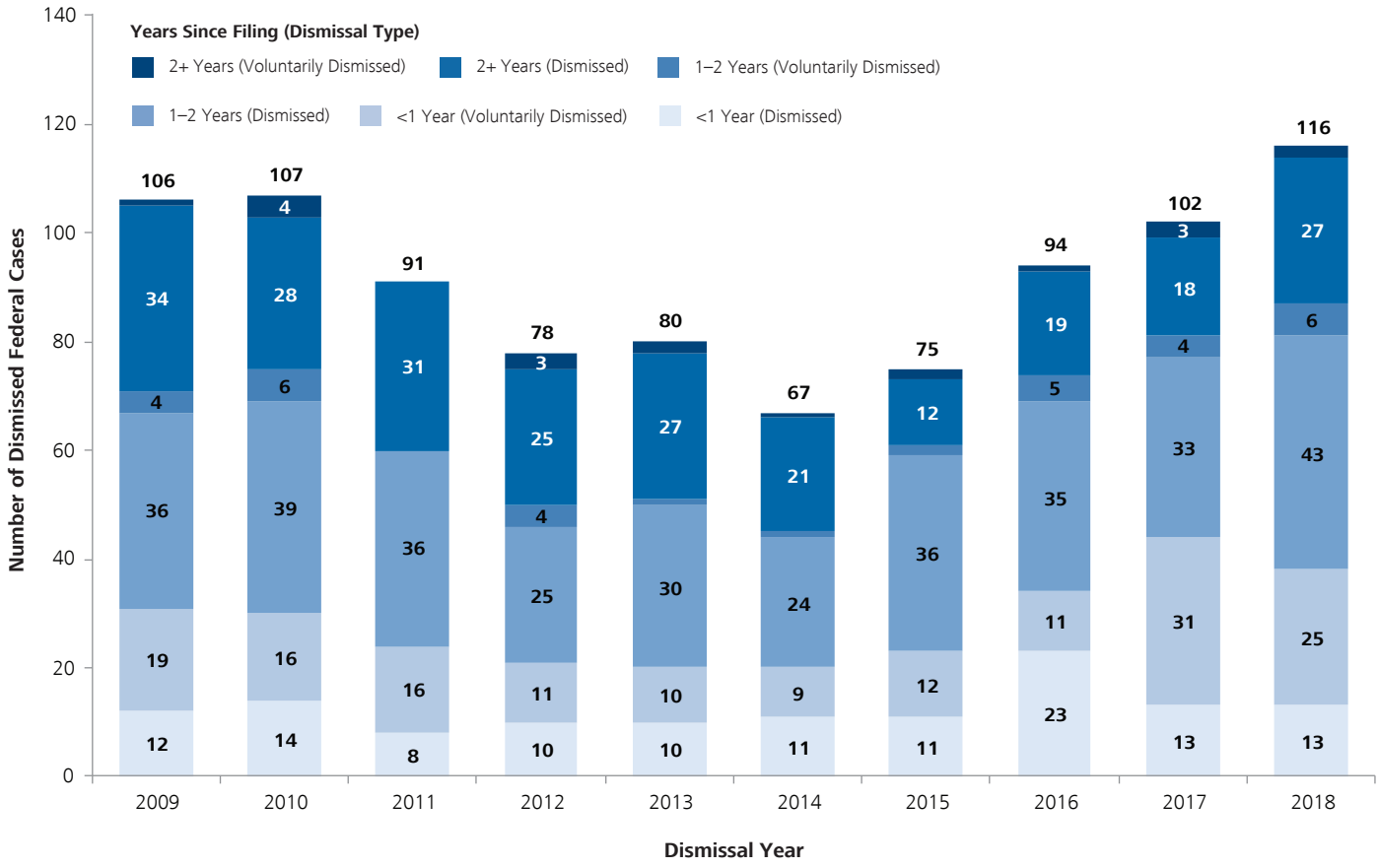
Figure 29. **Predicted vs. Actual Settlements**



Trends in Dismissals

The elevated rate of case dismissal persisted in 2018 (excluding merger objections), with more than 100 dismissals for the second consecutive year (see Figure 30). This partially stems from more cases being filed over the past couple of years, as 75% of dismissals are of cases less than two years old. Additionally, there were 25 voluntary dismissals within a year of filing, an elevated rate for the second year in a row.

Figure 30. **Number of Dismissed Cases by Case Age**
Excludes Merger Objections
January 2009–December 2018



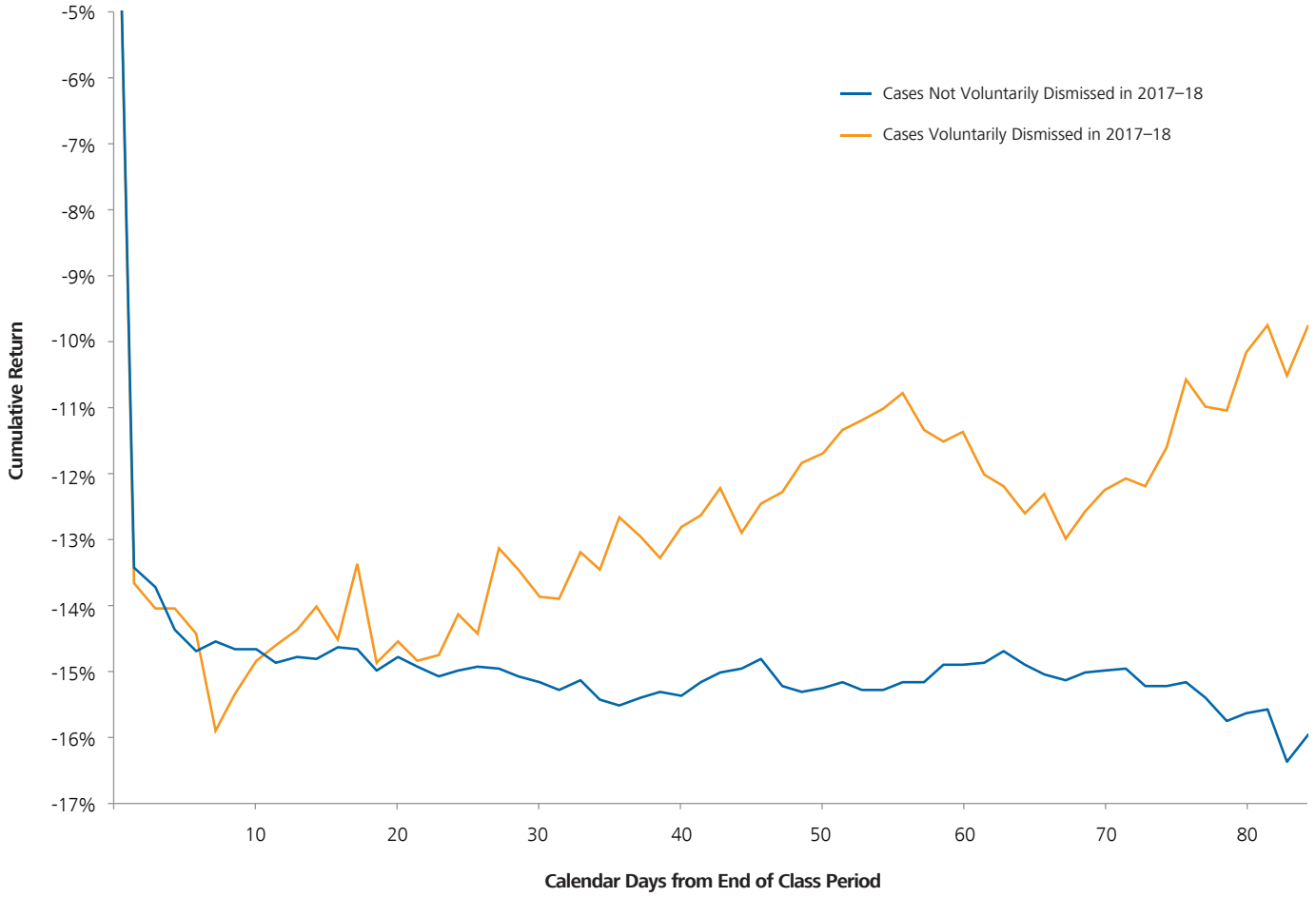
In 2018, about 12% of Standard cases were filed and resolved within the same calendar year, the second-highest rate in at least a decade (after 2017). By the end of the year, 8% of cases were voluntarily dismissed (down from 11% in 2017, but double the 2012–2016 average). Plaintiffs' voluntary dismissal of a case may be a result of perceived case weakness or changes in financial incentives. Recent research also documented forum selection by plaintiffs as a driver of voluntary dismissal without prejudice.[29]

The incentive for plaintiffs (and/or their counsel) to proceed with litigation may change with estimated damages to the class and expected recoveries since filing. For instance, the PSLRA 90-day bounce-back provision caps the award of damages to plaintiffs by the difference between the purchase price of a security and the mean trading price of the security during the 90-day period beginning on the date of the alleged corrective disclosure.

Since most securities class actions are filed well before the end of the bounce-back period (see Figure 14 for time-to-file metrics), plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases. As shown in Figure 31, in 2017 and 2018, the 90-day return of securities underlying cases voluntarily dismissed was about seven percentage points greater, on average, than securities underlying cases not voluntarily dismissed.[30]

The rate of voluntary dismissals was not particularly concentrated in terms of jurisdiction or the specific allegations we track.

Figure 31. **Average PSLRA Bounce-Back Period Returns of Voluntary Dismissals**
Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, or Section 12
January 2017–December 2018



Note: To control for the impact of outliers on the average of each group, for each day the most extreme 5% of cumulative returns are dropped. Observations on the three final trading days of the bounce-back period for each category are dropped due to incomplete return data.

Trends in Attorneys' Fees

Plaintiffs' Attorneys' Fees and Expenses

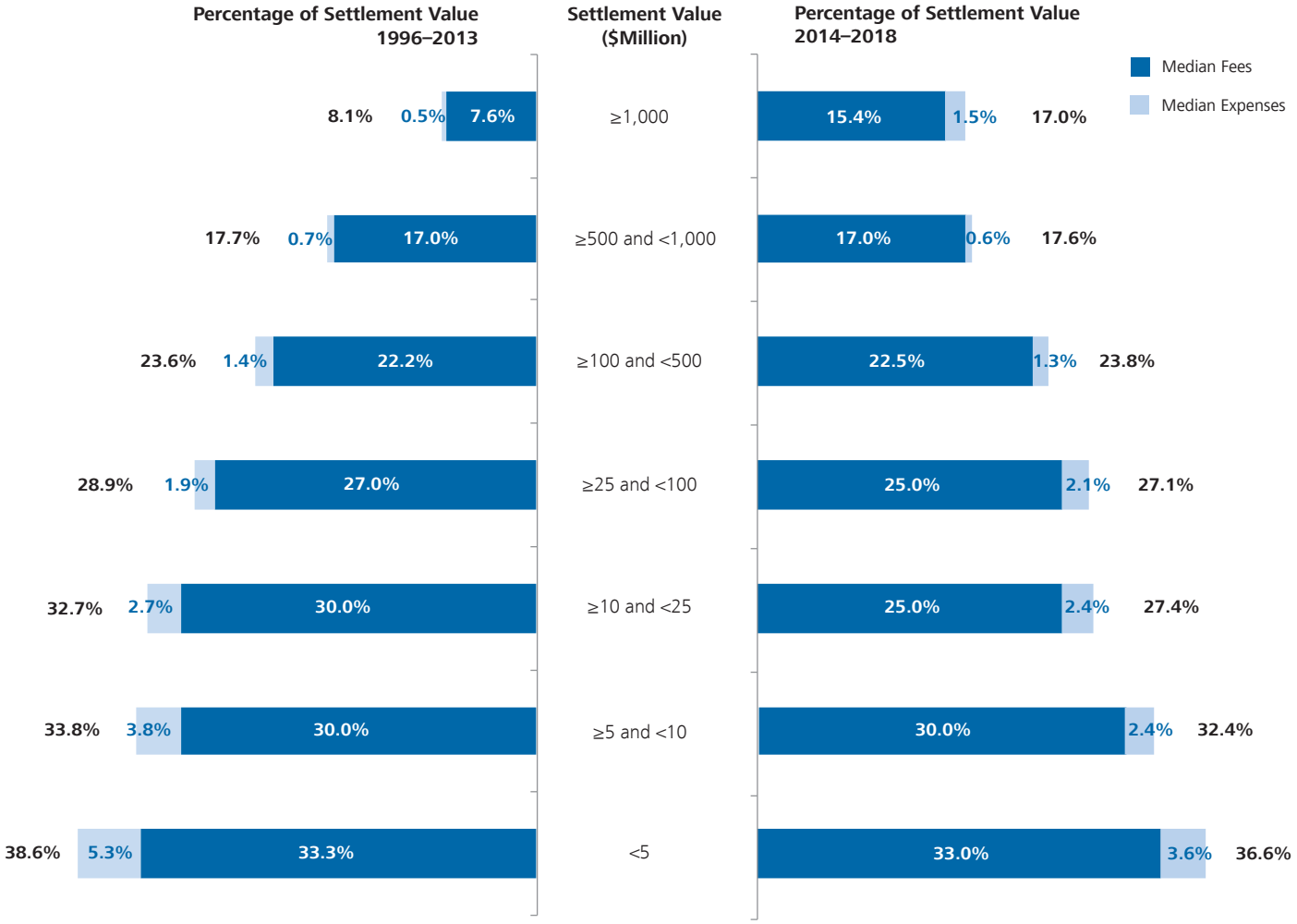
Usually, plaintiffs' attorneys' remuneration is determined as a fraction of any settlement amount in the form of fees, plus expenses. Figure 32 depicts plaintiffs' attorneys' fees and expenses as a proportion of settlement values over ranges of settlement amounts. The data shown in this figure excludes settlements for merger-objection cases and cases with no cash payment to the class.

A strong pattern is evident in Figure 32; typically, fees grow with settlement size, but less than proportionally (i.e., the fee percentage shrinks as the settlement size grows).

To illustrate that the fee percentage typically shrinks as settlement size grows, we grouped settlements by settlement value and reported the median fee percentage for each group. While fees are stable at around 30% of settlement values for settlements below $10 million, this percentage declines as settlement size increases.

We also observe that fee percentages have been decreasing over time, except for fees awarded on very large settlements. For settlements above $1 billion, fee rates have increased.

Figure 32. **Median of Plaintiffs' Attorneys' Fees and Expenses by Size of Settlement**
Excludes Merger Objections and Settlements for $0 to the Class



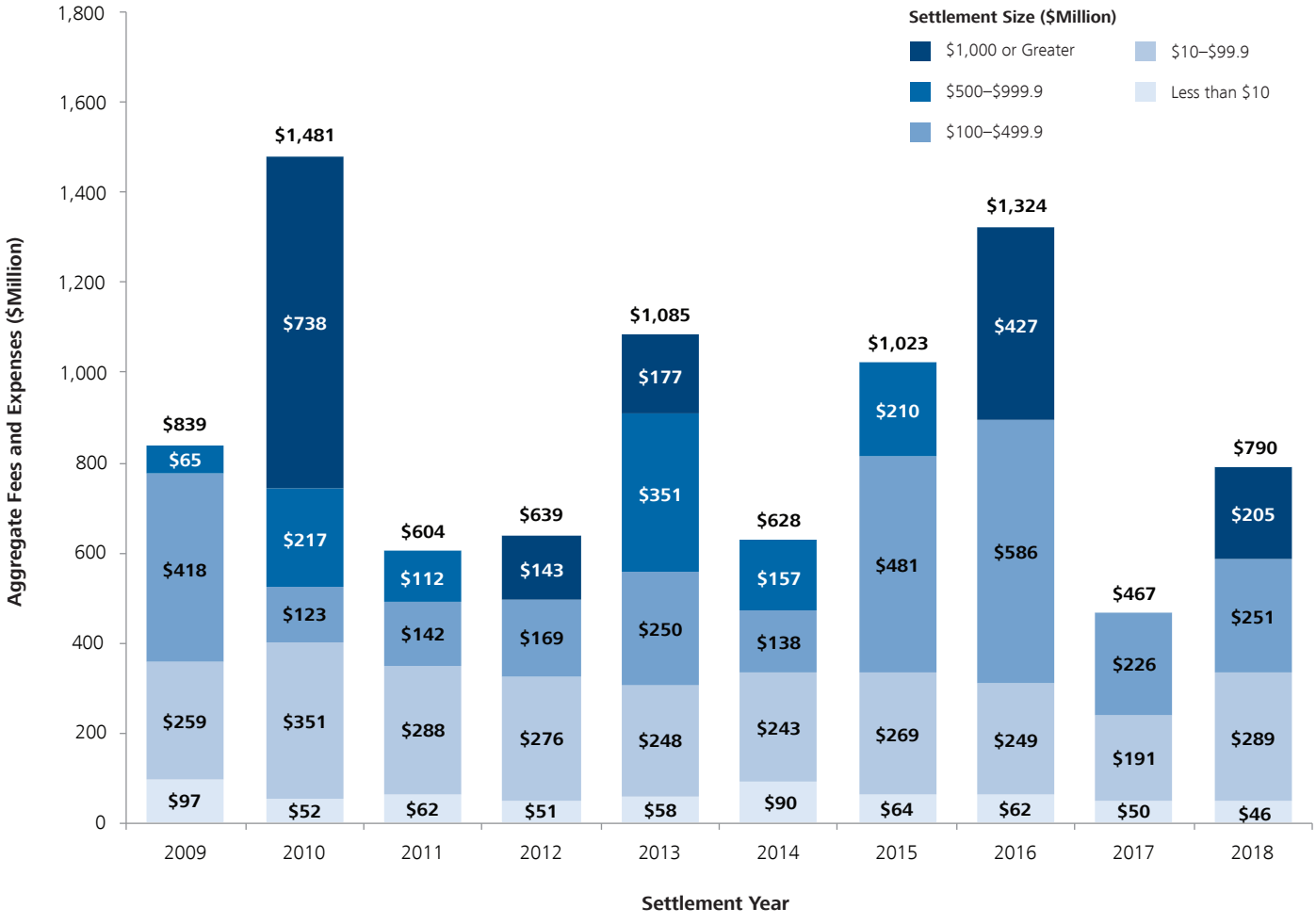
Aggregate Plaintiffs' Attorneys' Fees and Expenses

Aggregate plaintiffs' attorneys' fees and expenses are the sum of all fees and expenses received by plaintiffs' attorneys for all securities class actions that receive judicial approval in a given year.

In 2018, aggregate plaintiffs' attorneys' fees and expenses were $790 million, about 70% higher than in 2017 (see Figure 33). The increase in fees partially reflects the rebound in settlements, but fees grew substantially less than the near-tripling of aggregate settlements. This is partially due to the outsized impact of the $3 billion Petrobras settlement, one of several mega-settlements that historically generates lower fees as a percentage of settlement value.

Note that Figure 33 differs from the other figures in this section because the aggregate includes fees and expenses that plaintiffs' attorneys receive for settlements in which no cash payment was made to the class.

Figure 33. **Aggregate Plaintiffs' Attorneys' Fees and Expenses by Settlement Size**
January 2009–December 2018



Notes

[1] This edition of NERA's report on recent trends in securities class action litigation expands on previous work by our colleagues Lucy Allen, Dr. Vinita Juneja, Dr. Denise Neumann Martin, Dr. Jordan Milev, Robert Patton, Dr. Stephanie Plancich, and others. The authors also thank Dr. Milev for helpful comments on this edition. These individuals receive credit for improving this paper; all errors and omissions are ours.

[2] Data for this report are collected from multiple sources, including Institutional Shareholder Services Inc., complaints, case dockets, Dow Jones Factiva, Bloomberg Finance L.P., FactSet Research Systems, Inc., Nasdaq, Inc., Intercontinental Exchange, Inc., US Securities and Exchange Commission (SEC) filings, and public press reports.

[3] *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

[4] Craig Doidge, G. Andrew Karolyi, and René M. Stulz, "The U.S. Listing Gap," National Bureau of Economic Research Working Paper No. 21181, May 2015.

[5] *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

[6] For M&A statistics, see "Mergers & Acquisitions Review: First Nine Months 2018," Thomson Reuters, October 2018, available at http://dmi.thomsonreuters.com/Content/Files/3Q2018_MA_Legal_Advisor_Review.pdf.

[7] *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

[8] Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016.

[9] Warren S. de Wied, "Delaware Forum Selection Bylaws After Trulia," Harvard Law School Forum on Corporate Governance and Financial Regulation, 25 February 2016.

[10] *In re: Walgreen Co. Stockholder Litigation*, No. 15-3799 (7th Cir. Aug. 10, 2016).

[11] Federal securities class actions that allege violations of Rule 10b-5, Section 11, and/or Section 12 have historically dominated federal securities class action dockets and often been referred to as "Standard" cases.

[12] *Cyan, Inc. v. Beaver County Employees Retirement Fund*, Supreme Court No. 15-1439.

[13] See Restoration Robotics Inc. SEC Form 8-K, filed 17 October 2017, and Snap, Inc. SEC Form S-1, filed 2 February 2017.

[14] Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.

[15] Industries with fewer than 25 firms listed on US exchanges are dropped.

[16] For M&A statistics, see "Mergers & Acquisitions Review, Full Year 2017," Thomson Reuters, December 2017.

[17] For M&A statistics, see "Mergers & Acquisitions Review, First Nine Months 2018," Thomson Reuters, October 2018.

[18] "SAC to pay $1.8 billion to settle insider trading charges," Chicago Tribune, 4 November 2013, available at https://www.chicagotribune.com/business/ct-xpm-2013-11-04-chi-sac-to-pay-18-billion-to-settle-insider-trading-charges-20131104-story.html.

[19] Filings indicate that most firms in the SP 500 have adopted 10b5-1 plans as of 2014. See "Balancing Act: Trends in 10b5-1 Adoption and Oversight Article," Morgan Stanley, 2019.

[20] This case was filed after the SEC filed a complaint, more than four years after the end of the proposed class period, which plaintiffs in the class action state first revealed the alleged fraud.

[21] Outcomes of the motions for summary judgment are available from NERA but are not shown in this report.

[22] *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

[23] Active cases equals the sum of pending cases at the beginning of 2018 plus those filed during the year.

[24] Nearly 90% of cases filed before 2012 have been resolved, providing evidence of longer-term trends about dismissal and settlement rates. Data since then is inconclusive given pending litigation.

[25] We only consider pending litigation filed after the PSLRA.

[26] These metrics exclude merger objections.

[27] Each of the metrics in the *Time to Resolution* sub-section exclude IPO laddering cases and merger-objection cases because the former usually take much longer to resolve and the latter are usually much shorter to resolve.

[28] The axes are in logarithmic scale, and the two largest settlements are excluded from this figure.

[29] Commentary regarding a 2017 ruling in the Southern District of New York indicated that "[p]laintiffs in [*Cheung v. Bristol-Myers Squibb*] had originally filed their lawsuits in a federal district court, but after the federal district court issued a ruling that was unfavorable for the plaintiffs, the plaintiffs voluntarily dismissed their lawsuits without prejudice and then refiled them in Delaware state court." See Colin E. Wrabley and Joshua T. Newborn, "Getting Your Company's Case Removed to Federal Court When Sued in Your 'Home' State," *The Legal Intelligencer*, 19 December 2017. The case referred to is *Cheung v. Bristol-Myers Squibb*, Case No. 17cv6223(DLC), (S.D.N.Y. Oct. 12, 2017).

[30] To control for the impact of outliers on the average of each group, for each day the most extreme 5% of daily cumulative returns are dropped. Observations on the three final days of the bounce-back period for each category are dropped due to incomplete return data.

About NERA

NERA Economic Consulting (**www.nera.com**) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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Exhibit 8

JOURNAL OF EMPIRICAL LEGAL STUDIES

Journal of Empirical Legal Studies
Volume 7, Issue 2, 248–281, June 2010

Attorney Fees and Expenses in Class Action Settlements: 1993–2008

*Theodore Eisenberg and Geoffrey P. Miller**

We report on a comprehensive database of 18 years of available opinions (1993–2008, inclusive) on settlements in class action and shareholder derivative cases in state and federal courts. An earlier study, covering 1993–2002, revealed a remarkable relationship between attorney fees and class recovery size: regardless of the methodology for calculating fees ostensibly employed by the courts, the class recovery size was the overwhelmingly important determinant of the fee. The present study, which nearly doubles the number of cases in the database, confirms that relationship. Fees display the same relationship to class recoveries in both data sets and neither fees nor recoveries materially increased over time. Although the size of the class recovery dwarfs other influences, significant associations exist between the fee amount and both the fee method used and the riskiness of the case. We found no robust evidence of significant differences between federal and state courts. The strong association between fee and class recovery persists in cases with recoveries of $100 million or more, as do the significant associations between fee level and fee method and risk. Fees were not significantly affected by the existence of a settlement class, the presence of objectors, or opt outs from the class. Courts granted the requested fee in over 70 percent of the cases, with the Second Circuit granting the requested amount least often. In cases denying the requested fee, the mean fee was 68 percent of the requested amount. Fees and costs exhibit scale effects with the percent of each decreasing as the class recovery amount increased. Costs are strongly associated with hours expended on the case.

I. Introduction and Background

Class actions and their close cousins, shareholder derivative lawsuits, are vital mechanisms by which the legal system copes with mass harms—similar injuries to a large number of people. Long a feature of the U.S. landscape, class actions have recently begun to spread across the world.[1]

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We have from time to time acted as expert witnesses or consultants on the issue of attorney fees in class action cases. We thank participants at the International Conference on Empirical Legal Studies, Tel Aviv University and Kevin Clermont for comments, and Thomas P. Eisenberg, Nicholas Germain, and Erica Miller for excellent research assistance.

[1]See, e.g., Samuel Issacharoff & Geoffrey Miller, Will Aggregate Litigation Come to Europe? 62 Vanderbilt L. Rev. 179 (2009).

A crucial issue for all class and derivative litigation is the matter of compensating counsel. Unless class counsel are adequately compensated, class and derivative litigation will be undersupplied in the legal market. On the other hand, if class action attorneys are overcompensated they may bring too many of these lawsuits and receive an excessive share of the settlement value in cases that are brought.

In normal litigation the attorney compensation can be set by private agreement between lawyer and client, but private agreement does not work in the case of class action and derivative litigation: in these contexts there is no client capable of negotiating with the attorney. In class actions, the clients are disorganized and, prior to notice of certification, usually do not even know that a lawsuit has been filed on their behalf. Except perhaps in the case of private securities litigation, the representative plaintiff cannot effectively negotiate with the attorneys over fees and costs: he or she has only a minority stake in the matter (in consumer cases, often a miniscule one), is often unsophisticated, and may be strongly influenced by the attorney's advice. In derivative cases, the ostensible client—the corporation—is usually managed by defendants in the lawsuits and therefore is unwilling to pay any fee to incentivize an attorney to bring the lawsuit. In both settings, therefore, the court must independently determine the appropriate attorney fee award.

Where can the court look for information on this question? No private stakeholder is a reliable source of information. The class attorneys' suggested fee is not impartial since, at the time of the settlement, their interest is to seek the largest possible award. Nor can the court rely on the defendant's recommendations. Settlement agreements often contain "clear-sailing" clauses under which defendants agree not to object to a fee request up to a certain amount. However, clear-sailing agreements are of little value when the defendant is not paying the fee—indeed, it is not clear that the defendant has any "skin in the game" when the fee will be paid out of the class recovery. Even when the defendant does pay the fee—as in the typical consumer class action—the clear-sailing agreement has limited probative value unless the parties have deferred fee negotiations until after achieving a definite agreement on the merits. Otherwise, there is reason for concern that the defendant may have agreed to pay class counsel a premium in exchange for reductions in the amount going to the class. The reaction of the class to the settlement and proposed fee is also not a reliable guide. Empirical research suggests that the vast majority of class members are rationally indifferent to class action settlements; their failure to opt out of a settlement does not indicate approval of the proposed fee.[2] Nor can the court rely on objectors to the settlement. Few objectors appear at class action fairness hearings,[3] and those who show up may not object to the fee. Even if objectors do complain about the fee, they have only a small amount at stake and thus lack the incentive to thoroughly research the fee question.

Lacking reliable guidance from class counsel, the defendant, class members, or objectors, the judge has no alternative but to make an independent investigation. Where, however, should the judge look for information pertinent to the task of setting fees? Among

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[2]See Theodore Eisenberg & Geoffrey Miller, The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues, 57 Vanderbilt L. Rev. 1529 (2004).

[3]Id.

the factors that judges typically examine in setting fees, the most important is probably that of "awards in similar cases."[4] Precedents of fees awarded by other courts should, in theory, be relatively reliable guides because the prior courts were presumably exercising the requisite rigorous scrutiny and judicial independence when they set the fees, and because class counsel will have presumably considered the relevant case law in calculating whether to take on the litigation in the case at bar. But even this approach is not problem-free. In the typical class action settlement, the fee is taken from the common fund generated on behalf of the class. No party, in this case, has the right incentives to vigorously research the precedents running contrary to counsel's fee request. Unless the judge does his or her own research, he or she may not have access to unbiased information about fees in similar cases.

The present empirical study is intended to assist courts in the task of fee setting—and counsel in the task of identifying appropriate fees to request—by supplying an account of compensation practices in courts across the country, studied over an extended period of time, and conducted in an academic setting outside the fires of litigation. The information provided in this article is the best data on "awards in similar cases" from cases with available opinions. If used effectively, our study may be of material assistance in further rationalizing the compensation of class counsel.

We find, regardless of the methodology for calculating fees ostensibly employed by the courts, that the overwhelmingly important determinant of the fee is simply the size of the recovery obtained by the class. Fees display the same relationship to class recoveries in data sets spanning both 1993 to 2002 and 2003 to 2008. Neither fees nor recoveries materially increased over time. Although the size of the class recovery dwarfs other influences, significant associations exist between the fee amount and both the fee method used and the riskiness of the case. We found no robust evidence of significant differences between federal and state courts. The strong association between fee and class recovery persists in cases with recoveries of $100 million or more, as do the significant associations between fee level and fee method and risk.

Courts granted the requested fee in over 70 percent of the cases, with courts in the Second Circuit granting the requested amount least often. In cases in which the requested fee was not awarded, the mean fee was 68 percent of the requested amount. Costs are modest, with both means and median costs comprising less than 3 percent of the class recovery. Fees and costs both exhibit scale effects, with the percent of each decreasing as the class recovery amount increased. Costs are strongly associated with hours expended on the case. Fees were not significantly affected by the existence of a settlement class, the presence of objectors, or opt outs from the class.

Section II of this article describes the data gathering and coding. Section III presents the relation between fee amount and class recovery and fee percent and class recovery over time, and by locale (including state and federal courts), and by case category. It also explores the relation between the fee and risk, settlement class, and the presence of opt outs and objectors. Section IV assesses the relation between the fee and the method used to compute

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[4]See, e.g., Thompson v. Connick, 553 F.3d 836 (5th Cir. 2008); Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000); Spell v. McDaniel, 824 F.2d 1380, 1402 n.18 (4th Cir. 1987).

the fee, as well as the pattern of multipliers used in connection with lodestar fees. Section V reports on the pattern of costs and expenses. Section VI presents multivariate results that confirm our core findings. Section VII discusses the results and Section VIII concludes.

II. Methodology

The results reported here were gathered in two segments. The first segment covered cases reported from 1993 to 2002 and its results are reported in previous work.[5] That study also described the motivation for the variables used in this study. The basis for believing that the variables studied might relate to fee awards is reasonably self-evident and need not be repeated here.

As previously reported, we searched in the WESTLAW™ "AllCases" database using the search "settlement & 'class action' & attorney! w/2 fee! & date(=[1993–2002])". This search's results were checked against a search of the LEXIS™ "Mega" database using equivalent search terms. We also compiled lists of citations in the cases found by these search requests and included any additional cases meeting the basic search criteria. We further checked the list against the CCH™ Federal Securities and Trade Regulation Reporters. Once cases had been identified by this method, we sometimes gathered additional information about case characteristics from other sources—for example, information on the Internet or docket entries in the U.S. Courts PACER system. The second segment covered the period 2003 to 2008, inclusive. We replicated the WESTLAW search (expanded to include the term "derivative" to make doubly sure we picked up all derivative settlements) and checked the results, in many cases, against information available on the Internet or in PACER.

The present study focuses solely on common fund cases and does not assess cases in which a court applied a statutory fee-shifting statute to assess fees. Our searches and exclusion criteria yielded recovery and fee information for a total sample of 689 common fund cases. Relatively more cases come from the later period (301 cases for six years from 2003 to 2008 compared with 388 cases for the preceding 10 years). This was principally due to the significantly expanded coverage of the PACER system in the later period, and also to our inclusion of cases in which fee-shifting statutes could have been applied but the fee was not determined by formally applying the fee-shifting statute.

We used the following conventions for coding in both searches. If the court stated a range of value (e.g., for the amount of class recovery), we used the midpoint. If there was no better estimate available but a maximum recovery value could be ascertained, we used the maximum possible recovery. If the court estimated the relief at "over" or "more than" a sum, the sum that was the minimum was used. Where the settlement amount included post- or prejudgment interest, we included that in the amount of the settlement. We collected only the number of attorney hours, thus excluding, where possible, the (usually minor) hours reported for paralegals or law clerks.

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[5]For our prior empirical study of class action attorney fees, see Theodore Eisenberg & Geoffrey P. Miller, Attorney Fees in Class Action Settlements: An Empirical Study, 1 J. Empirical Legal Stud. 27 (2004).

To code the court's fee calculation method, we tracked whether the court engaged in a lodestar calculation and, if so, the purity of the lodestar approach. This generated the following fee method categories: (1) percentage method cases in which no lodestar calculation exists, (2) cases in which both the lodestar calculation and the percentage approach were used (usually with the lodestar being employed as a "cross-check" on the percentage fee), and (3) pure lodestar cases in which the lodestar method was the exclusive method used. If the lodestar amount was not specified, but could be estimated with reasonable accuracy, we included it. We used plaintiffs' own estimates of their lodestar only when these estimates were not contested by the court. In some cases, the court simply reported a fee without explaining its methodology; these we recorded as missing or as "negotiated" if the approved fee was the one negotiated by the parties.

The coding of variables related to fee shifting was somewhat subtle. Many class action cases are brought under numerous claims for relief, some of which authorize the court to award fees to the prevailing plaintiff or prevailing party. When these cases settle, the courts often set fees without reference to the fee-shifting statute. Even when fee-shifting statutes are potentially available, the fee is often awarded out of the class recovery. Our "fee-shifting" variable codes whether the fee *could* have been calculated under a fee-shifting statute had the case progressed to a litigated judgment, regardless of whether the court actually invoked the fee-shifting statute as a basis for awarding the fee. For the later cases (2003–2008), we kept track of whether the court had actually used the fee-shifting statute as a basis for awarding the fee. In that period, a fee-shifting statute was available in 177 cases but was used as the basis for awarding the fee in only 21 cases, 11.9 percent. We included as common fund cases the 156 cases in which fee-shifting statutes were available but were not used. Preliminary regression models indicated no significant difference in fee awards between these cases and "purer" common fund cases.

For many other variables, coding was reasonably straightforward. In employment discrimination and civil rights cases, two prominent categories of fee-shifting statute cases, the amount of the relief to the class, as expected, often was difficult to quantify because an important element of relief in such cases was often injunctive. For civil rights cases involving only injunctive relief, the cost to the defendant was used as a measure of the value of the relief for the class when this was available. In some fee-shifting cases, the court awarded attorney fees but it was impossible to estimate the amount of class damages. These fee and recovery coding conventions led to usable values for the fee amount and the client recovery, two of our core variables, in the 689 cases studied here.

We also coded cases for risk. Where the court addressed the question of risk, we coded according to our best estimate of the court's evaluation. In many cases, however, the court did not explicitly address the risk of the litigation. Coding therefore depended on assuming that risk was not prominent in cases in which courts did not mention it. We divided the cases into three risk categories. If nothing was said about risk or if the court's discussion suggested a normal degree of risk, the case was coded as being medium risk. If the court affirmatively indicated the existence of substantial risk, or if exceptional risk was evident from the facts or procedural history of the case, we coded the case as having high risk. If the court indicated or the facts otherwise suggested that the case was very likely to generate a substantial recovery for the class at the time it was brought (e.g., if the case grew

out of a prior government prosecution that had resulted in fines or convictions), we coded the case as low risk.

As in our earlier work, two caveats about using published opinions are in order. First, our data include only opinions that were published in some readily available form. Obviously, therefore, we have not included the full universe of cases in our data set. Although published opinions are not necessarily representative of the universe of all cases, they can lead to important insights. For judges seeking to inform their fee decisions with knowledge of other cases, published opinions are the prime source of data. Further, the present study expands on the published opinion data by delving into unpublished materials available on PACER when these could supply information missing from the published case reports.

A second caveat about the published opinion data is that this methodology overweights federal cases. Opinions of state trial court judges are published less frequently than opinions of federal district courts; and since fee awards are typically reported in the court of first instance, we found many more federal than state opinions responsive to our search request. Further, the PACER system allowed us to "dig" for more information in the case of federal opinions. There is no state analog to PACER, and therefore we could only rarely discover information about fees and related issues when a state opinion on a class action or derivative case failed to report the necessary data.

III. Bivariate Results: Fee Amount and Fee Percent

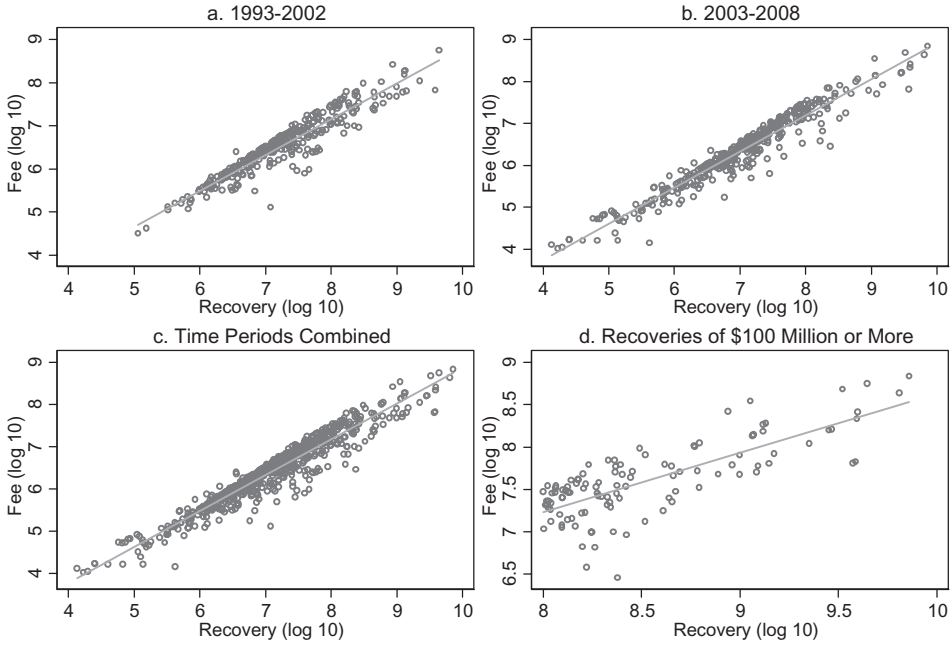
We first examine bivariate results—that is, the relation between either the fee amount or the fee percent and one of the other variables coded in our data. We outline the persistent regular relationship between fees and recovery in both data sets (1993–2002 and 2003–2008). We then examine the pattern of fees across other dimensions such as time, locale, case category, risk, settlement class status, and the presence of opt outs and objectors. All amounts are in 2008 inflation-adjusted dollars.

A. The Persistent Relation Between Fee and Recovery

The relation between fee amount and class recovery has remained consistent over time. Figure 1 shows scatterplots of the fee amount and class recovery for each of the two time periods (Figures 1a and 1b), for the time periods combined (Figure 1c), and for cases with recoveries greater than or equal to $100 million (Figure 1d). The scales have been transformed into log10 units to address the bunching of cases at the lower end of the recovery scale that would occur in a linear dollar scale. Units of log10 can easily be interpreted because the log10 scale is simply based on powers of 10 (e.g., a value of 9 on a log10 scale is equal to $1 billion, or one followed by nine zeros).

Figures 1a and 1b show that the pattern is virtually unchanged over time. The associations between fee and recovery are striking and large. The linear correlation between fee and recovery exceeds 0.94 for each time period and the slope of the relationships appears constant for the two time periods. In a regression model with a dummy

Figure 1: Fees as a function of recovery.



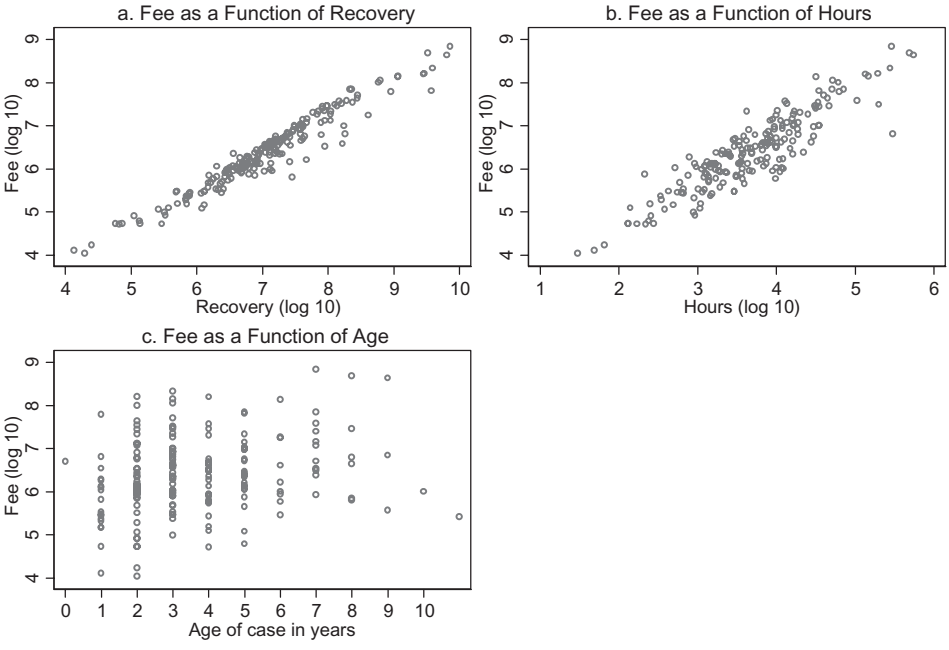
variable for time period and an interaction term consisting of the product of the time period dummy variable and the class recovery size, one cannot reject the hypothesis that the dummy variable and the interaction term coefficients are jointly zero, thus confirming the consistency of the pattern. The relation between fees and class recoveries is also observed when the data are combined, as shown in Figure 1c. In both the separate and combined data sets, the size of the class recovery swamps all other influences on the size of the fee, as shown in regression models in Section VI of this article.[6] Figure 1d, which is limited to large cases, also shows a strong linear relation between fee and recovery. For these 109 cases, the linear correlation coefficient is 0.77 ($p < 0.0001$). The decreased slope for the high end of case recoveries is consistent with the scaling effect discussed in Section III.B.4 of this article.

Figure 2 further supports the primacy of the recovery as the explanation for the fee award. For ease of comparison, Figure 2a reproduces the combined time period data from Figure 1c. Figures 2b and 2c show that neither the hours claimed nor the age of a case are as strongly associated with the fee amount as is the class recovery amount.

With six additional years of data, we can extend our prior analysis of the pattern of fees and class recoveries over time. One notable earlier finding was the absence of

[6]Figure 1b shows the later time period with more low-recovery cases (less than $100,000). This is likely attributable to our inclusion in the non-fee-shifting sample cases in which a fee-shifting statute existed but was not used, as well as to the information about smaller cases now available on PACER See Section II.

Figure 2: Fee as a function of recovery, hours, and age, 2003–2008.



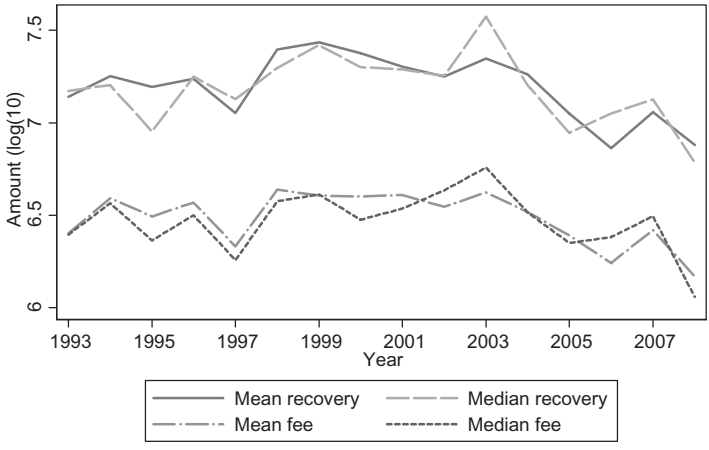
increases in class recoveries or fees over time,[7] a finding that heartened opponents of attempts to reform the class action system via the Class Action Fairness Act of 2005 (CAFA)[8] and prompted a response from a noted Yale Law School professor.[9] The newer data reveal that the level of both class recoveries and attorney fees has not varied substantially over time. As Figure 3 shows, these amounts have shown no distinct time trend for most of 16 years. Inflation-adjusted recoveries and fees through 2007 were at levels not significantly different from levels in 1993 and in fact are lower in inflation-adjusted dollars. In 2008, a noticeable drop in mean and median recoveries and fees occurred. The difference in class recovery medians between 2008 and all earlier years combined is statistically significant at $p = 0.002$, and the difference in fees between 2008 and earlier years is significant at $p = 0.0003$. The difference in the median ratio of fee to recovery (ratio of the logs) did not significantly differ between 2008 and earlier years

[7]Eisenberg & Miller, supra note 5.

[8]Class Action Fairness Act, Pub. L. No. 109-2, 119 Stat. 4 (2005). See 149 Cong. Rec. S1299902 (Oct. 22, 2003) (remarks of Senator Feingold); 151 Cong. Rec. S1086-02 (Feb. 8, 2005) (remarks of Senator Feingold).

[9]George L. Priest, What We Know and What We Don't Know About Modern Class Actions: A Review of the Eisenberg-Miller Study (Feb. 2005, Manhattan Inst.).

Figure 3: Class recovery and attorney fee over time, mean and median.



Sources: Westlaw, LexisNexis, PACER.

($p = 0.517$).[10] We therefore do not view the changes in 2008 as necessarily indicating anything significant about longer-term fee patterns.

B. Locales, Case Categories, and Other Factors

Table 1 shows the distribution of cases by locale. It combines all 25 federal appellate opinions into one category, "Appeal," and all 75 state cases into one category, "State." Federal district court cases dominate the sample, accounting for approximately 85 percent of the cases. The federal class action cases cluster by districts. The Southern District of New York accounted for 103 of 589 federal district court cases, and the Eastern District of Pennsylvania accounted for 70 such cases. They are the only two districts to account for 10 percent or more of the federal trial court portion of the sample and together accounted for 25 percent of all cases in the sample. Two other districts accounted for more than 5 percent of the federal court portion of the sample: the Northern District of California had 47 cases

[10]This pattern of average and median fees in more recent years may be partly due to the increase in smaller cases that we were able to code by accessing the PACER database and to inclusion in the later period of cases in which fee-shifting statutes were theoretically available but not used to set the fee. We investigated whether a changing mix of cases explained the pattern by separately assessing, for the two time periods, cases with recoveries greater than or equal to $5 million and recoveries less than $5 million. For both recovery size groups, the difference in recovery across the two time periods was not statistically significantly different. The difference over time in medians for cases with recoveries greater than or equal to $5 million was significant at $p = 0.590$; for cases with recoveries less than $5 million, the difference in medians was significant at $p = 0.749$. But the smaller cases were more prevalent in the later period. Cases with recoveries of less than $5 million comprised 33 percent of the later period cases compared to 24 percent of the earlier period cases, a difference statistically significant at $p = 0.022$. Thus the decreasing recovery amount over time is attributable to a different mix of cases in our sample, and not to differences in treatment of similar cases over time. Thus, throughout more than a decade of civil litigation reform efforts based on claims of increasing awards and fees, the pattern in available opinions, which tend to include the largest cases, has not significantly changed.

Table 1: Frequency of Class Action Fee Opinions, by Court, 1993–2008

Locale	N	*% of Cases*
Other	161	23.37
SDNY	103	14.95
State	75	10.89
EDPA	70	10.16
NDCA	47	6.82
DNJ	35	5.08
NDIL	29	4.21
EDNY	26	3.77
APPEAL	25	3.63
DDC	18	2.61
EDMI	17	2.47
DMN	16	2.32
EDLA	13	1.89
MDFL	12	1.74
EDCA	12	1.74
CDCA	10	1.45
DMA	10	1.45
SDCA	10	1.45
Total	689	100.00

Sources: Westlaw, LexisNexis, PACER.

and the District of New Jersey 35 cases. The Northern District of Illinois had just under 5 percent of the federal district cases. Together, these five districts accounted for over 50 percent of the federal district court opinions.

These results suggest that class action litigation in the federal system is heavily concentrated in a few jurisdictions. Of the 94 federal district courts, nearly half of all class actions in our data set occurred in five courts. Even adjusting for population (the popular class action districts also tend to be ones with large populations), the concentration ratio remains striking. We take this as evidence that certain jurisdictions offer advantages for class action litigation, either in the form of experienced judges who can handle these cases in a fair and expeditious manner, faster dockets, a sense on the part of plaintiffs' attorneys that the courts in these districts are reasonably well-inclined toward class action litigation, or a concentration of class action attorneys specializing in the practice.

We also investigated whether different federal courts appear to specialize in different types of cases. Table 2 shows the breakdown of the four largest case types, plus the residual case type, "Other," in the federal district courts with the largest number of class action settlements in our data (those listed in Table 1). For each case category, one column shows the percent of cases in each district and a second column shows the number of cases. For example, the Southern District of New York accounted for 70 of 253 securities cases, 28 percent of that category. Thus, the Southern District of New York tends to dominate securities class actions, whereas the Eastern District of Pennsylvania is the leader in antitrust

Table 2: Class Action Case Categories by Locale, 1993–2008

	Antitrust		*Consumer*		*Employment*		*Securities*		*Other*		*Total*	
District	%	N	%	N	%	N	%	N	%	N	%	N
Other	16	10	35	34	30	15	21	52	38	49	27	160
SDNY	7	4	1	1	10	5	28	70	18	23	18	103
EDPA	20	12	14	13	2	1	14	36	6	8	12	70
NDCA	7	4	7	7	14	7	8	19	8	10	8	47
DNJ	8	5	7	7	2	1	6	15	5	7	6	35
NDIL	10	6	7	7	4	2	5	12	2	2	5	29
EDNY	5	3	7	7	2	1	6	14	1	1	4	26
DDC	16	10	1	1	0	0	1	2	4	5	3	18
EDMI	3	2	0	0	0	0	2	6	7	9	3	17
DMN	5	3	3	3	4	2	2	6	2	2	3	16
EDLA	0	0	3	3	4	2	2	4	3	4	2	13
EDCA	0	0	2	2	16	8	0	0	2	2	2	12
MDFL	2	1	2	2	2	1	3	7	1	1	2	12
CDCA	0	0	2	2	6	3	1	3	2	2	2	10
DMA	2	1	5	5	0	0	1	2	2	2	2	10
SDCA	0	0	2	2	4	2	2	5	1	1	2	10
Total	100	61	100	96	100	50	100	253	100	128	100	588

NOTE: Table includes only federal district court cases.
SOURCES: Westlaw, LexisNexis, PACER.

and consumer cases. The Northern and Eastern Districts of California are the leaders in employment cases. Table 2 shows that the SDNY's dominance is almost completely attributable to its large role in securities cases.

1. Fees Across Locales

Table 3 shows summary statistics about fees and recoveries by locale. The mean fee to recovery ratio was 0.23, or 23 percent of the class award, but this percent varies by recovery size, as shown in Figure 5 and Table 7. The mean fee was $12.8 million and the median was $2.3 million. The mean class recovery was $116.0 million and the median was $12.5 million.

Some bankruptcy case fee studies[11] and other studies of case outcomes show notable interdistrict variation. Like these studies, we find significant variation across federal districts. For the 16 federal districts with at least 10 cases with necessary information in the

[11]See Lynn M. LoPucki & Joseph W. Doherty, The Determinants of Professional Fees in Large Bankruptcy Reorganization Cases, 1 J. Empirical Legal Stud. 111, 114, 136 (2004) (showing significant fee request reduction variation across Delaware and the Southern District of New York); Stephen J. Lubben, Corporate Reorganization and Professional Fees, 82 Am. Bankr. L.J. 82 (2008) (showing some significant Delaware and Southern District of New York effects). But see Lynn M. LoPucki & Joseph W. Doherty, Professional Overcharging in Large Bankruptcy Reorganization Cases, 5 J. Empirical Legal Stud. 983, 1010 (2008) (tbl. 5, showing insignificant Delaware and Southern District of New York effects).

Table 3: Fee and Class Recoveries, by Locale, 1993–2008

	Mean Ratio	*Median Ratio*	*Mean Fee*	*Median Fee*	*Mean Gross Recovery*	*Median Gross Recovery*	*Number of Cases*
APPEAL	0.19	0.20	5.89	2.15	57.86	13.37	25
CDCA	0.25	0.25	3.93	2.75	16.30	19.90	10
DDC	0.22	0.22	16.69	2.14	134.79	13.00	18
DMA	0.16	0.15	11.50	7.00	118.55	81.00	10
DMN	0.25	0.27	8.77	4.75	40.99	14.25	16
DNJ	0.21	0.22	32.26	7.80	503.42	36.88	35
EDCA	0.26	0.25	0.40	0.12	3.26	0.54	12
EDLA	0.26	0.23	7.79	1.77	43.53	8.61	13
EDMI	0.22	0.20	6.56	1.34	34.80	11.75	17
EDNY	0.32	0.25	11.33	2.38	142.42	9.03	26
EDPA	0.28	0.29	12.66	1.51	75.79	6.88	70
MDFL	0.21	0.21	3.64	2.66	18.23	14.87	12
NDCA	0.26	0.25	4.44	2.00	24.06	9.25	47
NDIL	0.24	0.24	12.14	2.75	51.45	12.50	29
Other	0.24	0.25	20.47	3.25	154.98	16.38	161
SDCA	0.26	0.25	4.66	1.14	63.12	4.90	10
SDNY	0.22	0.22	11.54	2.13	127.97	12.85	103
State	0.20	0.20	5.94	2.00	61.61	12.32	75
Total	0.23	0.24	12.84	2.33	116.01	12.50	689

NOTE: Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

sample (including "Other" as a district), a test of the hypothesis that the median ratio of fee to class recovery does not differ significantly can be rejected, with a Mann-Whitney test yielding a significance level of $p = 0.014$. Given the strong association between fee and class recovery, we explored these initial interdistrict differences by accounting for recovery level and case category in regression models. The district dummy variables were collectively statistically significant ($p = 0.035$), indicating that when the size of class recoveries and case categories are accounted for, one can reject the hypothesis of no statistically significant interdistrict differences. Table 3's first two numerical columns suggest that interdistrict differences can be nontrivial but are not dramatic. With one exception, the District of Massachusetts, the median ratio always ranges from 0.20 to 0.29.

In federal courts, attorney fee doctrine is dictated at the circuit court level if the appeals court has issued an opinion on point (the Supreme Court has never offered definitive guidance on this issue). The Ninth Circuit has a 25 percent benchmark fee in common fund cases but allows departures based on individual case factors,[12] and the Eleventh Circuit has indicated that its district courts view 25 percent as a benchmark.[13]

[12]E.g., Torrisi v. Tucson Elec. Power Co., 8 F.3d 1370, 1376 (9th Cir. 1993).

[13]Camden I Condo. Ass'n v. Dunkle, 946 F.2d 768, 775 (11th Cir. 1991).

Table 4: Fee and Class Recoveries, by Federal Circuit, 1993–2008

Circuit	*Mean Ratio*	*Median Ratio*	*Mean Fee*	*Median Fee*	*Mean Gross Recovery*	*Median Gross Recovery*	*Number of Cases*
1st	0.20	0.20	31.83	3.50	227.41	19.32	21
2nd	0.23	0.24	10.58	2.13	119.06	11.63	145
3rd	0.26	0.26	17.38	3.00	193.50	13.38	120
4th	0.20	0.21	29.27	1.89	320.07	13.55	8
5th	0.24	0.23	42.39	2.63	368.34	15.65	26
6th	0.23	0.23	10.42	3.33	94.65	15.50	42
7th	0.26	0.24	8.79	2.15	38.37	10.07	42
8th	0.25	0.30	11.21	4.18	68.35	14.70	29
9th	0.25	0.25	4.53	1.80	32.97	9.50	101
10th	0.22	0.23	12.46	7.42	63.96	32.00	22
11th	0.21	0.22	17.35	4.22	87.09	26.85	34
DC	0.21	0.22	15.17	1.94	122.04	11.00	20
Total	0.24	0.25	13.74	2.40	123.12	12.50	610

NOTE: Three Federal Circuit cases and all state court cases are omitted. Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

The Eleventh and D.C. Circuits mandate the percentage methodexclusively, while other circuits allow percentage or lodestar methods.[14] The Second Circuit's *Goldberger* decision rejected the use of benchmarks and mandated a fact-specific inquiry.[15]

Table 4 explores intercircuit variation, showing summary statistics about fees and recoveries by circuit, and excludes state court cases. The median and mean fee to recovery ratios were 0.24 and 0.25, respectively. In regression models of the ratio, circuit dummy variables were not collectively statistically significant ($p = 0.124$), indicating that when the size of class recoveries and case categories are accounted for, one cannot reject the hypothesis of no statistically significant intercircuit differences. We also explored differences between particular circuits and all other circuits based on announced benchmarks and methods. In regression models using dummy variables for individual circuits, and controlling for case category and recovery size, none of the individual circuit effects were statistically significant. Nor were differences within the Second Circuit significantly different pre- and post-*Goldberger*.[16]

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[14]Swedish Hosp. Corp. v. Shalala, 1 F.3d 1261, 1271 (D.C. Cir. 1993); Camden I Condo. Ass'n v. Dunkle, 946 F.2d 768, 774 (11th Cir. 1991).

[15]Goldberger v. Integrated Res., Inc., 209 F.3d 43 (2d Cir. 2000).

[16]Nor was the variance in fee percent significantly different between the Ninth or Eleventh Circuits and other circuits. For a more in-depth exploration of the effect (or lack of effect) of the *Goldberger* decision, see Theodore Eisenberg, Geoffrey Miller & Michael Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions After *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U. J. Law & Policy 5 (2009).

2. State-Federal Differences

We hypothesized that the fee percent would tend to be higher in class actions in state court than in federal court.[17] Beliefs in differences in how federal and state courts process class actions were cited as reasons for enactment of CAFA.[18] The Congress that enacted CAFA intended to route interstate class actions to federal court, "with the expressed intent of defeating the plaintiffs' bar's manipulation of state courts."[19] President George W. Bush declared that it "marks a critical step toward ending the lawsuit culture in our country."[20] Empirical support for CAFA was almost entirely lacking, however, with both Federal Judicial Center (FJC) research[21] and our own prior work[22] suggesting little in the way of significant state-federal defferences.

Table 3 shows that the mean fee to class recovery ratio for state court cases was 0.20, lower than the overall mean ratio of 0.24. Regression models of the fee (log 10) or the ratio (of logs) as a function of the case category and the class recovery size indicate that the federal-state difference was sometimes statistically significant in the direction suggested by Table 3—namely, that state courts award lower percentage fees.[23] The direction of the effect is surprising if one believes federal courts are less receptive to class actions than are state courts. A lower fee to recovery ratio suggests somewhat less encouragement of class action activity by state courts compared to federal courts.

3. Case Categories

Table 5 summarizes fees, recoveries, and their ratios by case categories. Mean fees ranged from 11 percent of the class recovery in tax cases to 27 percent in employment cases. In the

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[17]Eisenberg & Miller, supra note 5.

[18]Pub. L. No. 109-2, 119 Stat. 4 (2005) (codified in scattered sections of 28 U.S.C.). See generally Kevin M. Clermont & Theodore Eisenberg, CAFA Judicata: A Tale of Waste and Politics, 156 U. Pa. L. Rev. 1553 (2008); Georgene M. Vairo, Class Action Fairness Act of 2005 (2005).

[19]Clermont & Eisenberg, supra note 18, at 1554–55.

[20]Remarks on Signing the Class Action Fairness Act of 2005, 41 Weekly Comp. Pres. Doc. 265, 265 (Feb. 18, 2005); see also Edward A. Purcell, Jr., The Class Action Fairness Act in Perspective: The Old and the New in Federal Jurisdictional Reform, 156 U. Pa. L. Rev. 1823 (2008) (stressing partisan support for CAFA).

[21]Thomas E. Willging & Shannon R. Wheatman, Attorney Choice of Forum in Class Action Litigation: What Difference Does it Make? 81 Notre Dame L. Rev. 591, 645, 652–54 (2006) (finding insignificant differences in state court and federal court treatment of class actions, and observing that "[a]ttorney perceptions of judicial predispositions toward their clients' interests show little or no relationship to the judicial rulings in the surveyed [state and federal class action] cases"). See also Section VII.

[22]Eisenberg & Miller, supra note 5.

[23]The state court effect was significant in multilevel models with a random intercept for case category. The effect was insignificant in models with dummy variables for case category.

Table 5: Fee and Class Recoveries, by Case Category, 1993–2008

	Mean Ratio	*Median Ratio*	*Mean Fee*	*Median Fee*	*Mean Gross Recovery*	*Median Gross Recovery*	*Number of Cases*
Antitrust	0.22	0.23	21.02	9.15	163.48	39.36	71
Civil rights	0.24	0.23	4.10	1.52	16.53	7.48	18
Consumer	0.25	0.20	10.04	1.70	128.42	9.33	125
Corporate	0.21	0.19	3.35	1.12	16.51	9.86	30
Employment	0.27	0.25	2.43	0.75	12.28	3.00	55
ERISA	0.23	0.25	6.61	3.46	29.54	14.00	43
Securities	0.23	0.25	14.78	2.52	141.96	12.50	268
Tax refund/tax	0.11	0.06	12.96	5.50	188.01	60.07	8
Tort	0.21	0.20	30.15	6.33	254.60	25.86	29
Other	0.23	0.25	13.59	2.00	61.86	10.75	42
Total	0.23	0.24	12.84	2.33	116.01	12.50	689

NOTE: Dollar amounts are in millions of 2008 dollars.
SOURCES: Westlaw, LexisNexis, PACER.

Table 6: Frequency of Case Categories, by Time Period

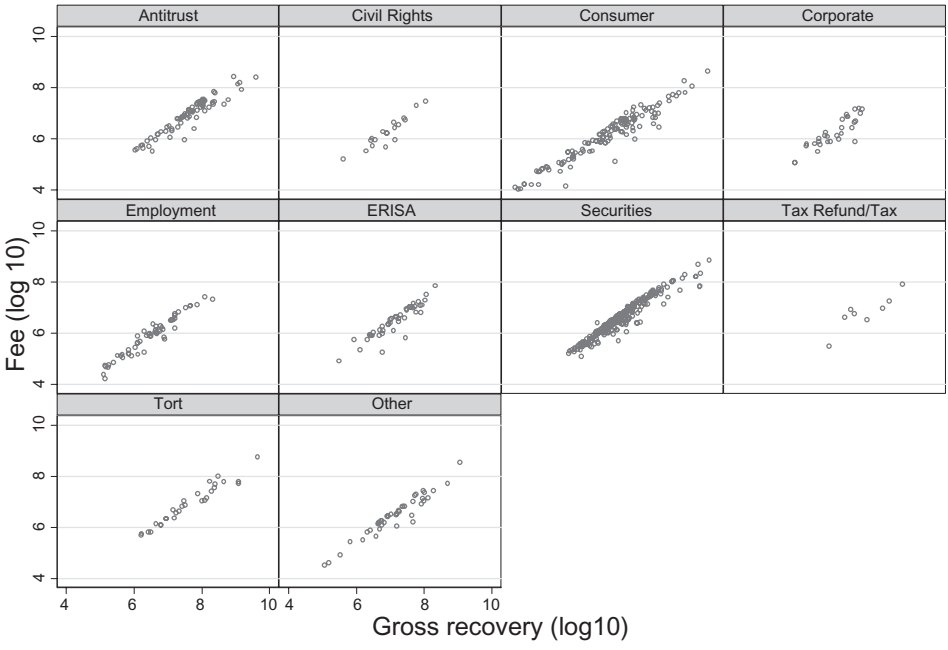
	Non-Fee-Shifting Cases			
	1993–2002		*2003–2008*	
	N	*% of Cases in Period*	N	*% of Cases in Period*
Antitrust	36	11.9	35	9.1
Civil rights	2	0.7	16	4.2
Consumer	52	17.2	73	18.9
Corporate	15	5.0	15	3.9
Employment	7	2.3	48	12.4
ERISA	7	2.3	36	9.3
Securities	142	46.9	126	32.6
Tax refund/tax	6	2.0	2	0.5
Tort	17	5.6	12	3.1
Other	19	6.3	23	6.0
Total	303	100	386	100

SOURCES: Westlaw, LexisNexis, PACER.

larger case categories, fees ranged from 21 percent to 27 percent of recoveries. A test of the hypothesis that the median ratio of fees to recoveries is the same across case categories can be rejected at $p < 0.022$, if one includes the small civil rights and tax categories. But the effect becomes statistically insignificant if one excludes the two smallest categories ($p = 0.222$).

The case category makeup of the samples varied over time. Table 6 shows the case category breakdown for the time period of our prior study and the years 2003 to 2008, added for purposes of this study. In each time period, securities cases were the dominant case category, but they declined as a proportion of the sample in the later time period. This

Figure 4: Fee and recovery by case category, 1993–2008.



Sources: Westlaw, LexisNexis, PACER.

is due to the increase in the proportion of civil rights, employment, and ERISA cases, which likely increased because of the change in coding, discussed above, to allow inclusion with common fund cases, cases subject to a fee-shifting statute but in which the fee was not determined pursuant to the statute, as well as to increased availability of information through the PACER database.

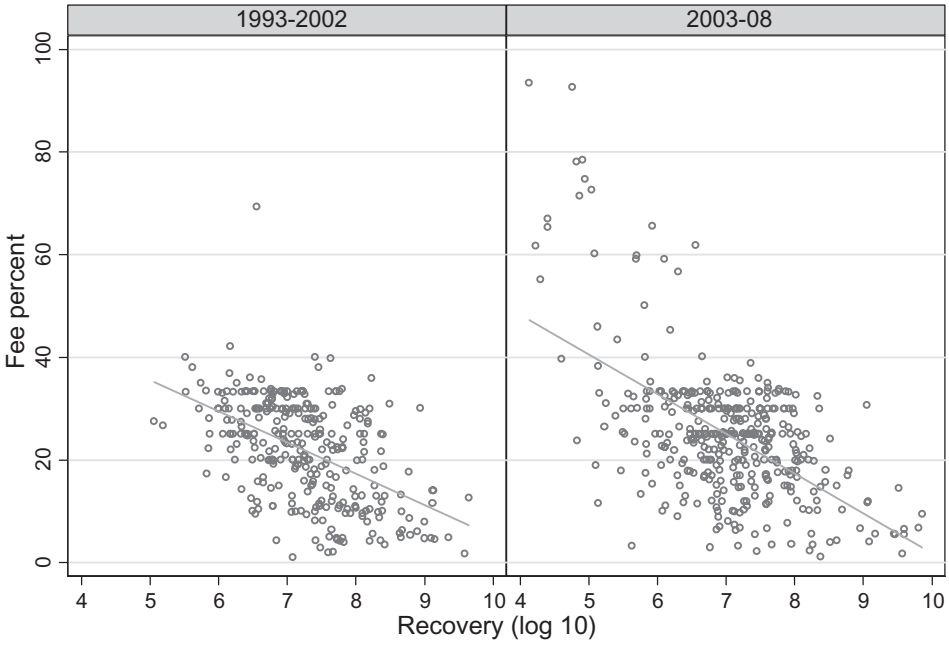
Figure 4 explores whether the core relation between fee amount and class recovery varies by case category. It shows that relation through separate scatterplots for 10 case categories. The consistency of the pattern across category is striking. Every category shows the same basic relation between fee and recovery.

4. Scaling Effect

The existence of a scaling effect—the fee percent decreases as class recovery increases—is central to justifying aggregate litigation such as class actions. Plaintiffs' ability to aggregate into classes that reduce the percentage of recovery devoted to fees should be a hallmark of a well-functioning class action system.[24] As Figure 5 shows, a substantial scaling effect existed

[24]Eisenberg & Miller, supra note 5.

Figure 5: Fee as a percent of recovery for two time periods.



Sources: Westlaw, LexisNexis, PACER.

in the 2003–2008 period, as well as in the earlier 1993–2002 period. The linear correlation coefficient for 2003–2008 was −0.57 and for 1993–2002 was −0.50, both statistically significant at $p < 0.0001$. The lines in the figure show the best-fitting regression line for each data subset.

Table 7 presents additional information about the scale effect. For purposes of this table, we divided the range of class recoveries into deciles of about 69 cases each. Table 7's first column shows the bounds on the deciles, starting with the lowest decile of class recoveries. Thus the table's first numerical row includes cases with class recoveries in the first decile, those recoveries less than or equal to $1.1 million. The table's last row includes cases in the highest decile, those with recoveries greater than $175.5 million. The table's columns show, within each decile range, the mean, median, and standard deviation of the fee percent for the row decile. Thus, for the 69 cases with class recoveries of less than $1.1 million, the mean fee percent award was 37.9 percent in 69 cases, the median fee percent award was 32.3 percent, and the standard deviation was 19.6 percent. Although there is some fluctuation in the scale effect trend across the middle deciles, the overall trend is clear, with the highest decile having less than one-third of the median and mean percentage fee of the lowest decile.

Table 7: Mean, Median, and Standard Deviation of Fee Percent, Controlling for Class Recovery Amount, 1993–2008

Range of Class Recovery (Millions) Decile	*Mean*	*Median*	SD	N
Recovery <= 1.1	37.9	32.3	19.6	69
Recovery > 1.1 <= 2.8	27.1	26.4	9.1	69
Recovery > 2.8 <= 5.3	26.4	25.0	9.8	69
Recovery > 5.3 <= 8.7	22.8	22.1	8.4	69
Recovery > 8.7 <= 14.3	23.8	25.0	8.1	69
Recovery > 14.3 <= 22.8	22.7	23.5	7.5	69
Recovery > 22.8 <= 38.3	22.1	24.9	8.7	68
Recovery > 38.3 <= 69.6	20.5	21.9	10.0	70
Recovery > 69.6 <= 175.5	19.4	19.9	8.4	69
Recovery > 175.5	12.0	10.2	7.9	68

SOURCES: Westlaw, LexisNexis, PACER.

Table 8: Fee Percent, by Risk Level

	High Risk		*Low/Medium Risk*	
	N	*Fee %*	N	*Fee %*
Antitrust	9	20.1	62	22.2
Civil rights	4	29.3	13	23.2
Consumer	14	31.3	110	24.7
Corporate	4	23.4	26	20.8
Employment	4	35.1	51	26.2
ERISA	5	24.6	38	23.2
Securities	45	26.4	217	22.7
Tax refund/tax	—	—	8	10.8
Tort	8	25.1	21	19.0
Other	13	22.1	29	23.9
Total	106	26.1	575	23.1

SOURCES: Westlaw, LexisNexis, PACER.

5. Risk

Standards applied to attorney fees uniformly indicate that greater risk warrants an increased fee.[25] Table 8 reports, by case category, the mean fee percent separately for high risk and other cases. It confirms that courts systematically reward risk. For every case category except antitrust and "other," mean fee percents were higher in high-risk cases than in other cases. The difference within a case category between high-risk cases and other cases

[25]E.g., Goldberger v. Integrated Res., Inc., 209 F.3d 43, 50 (2d Cir. 2000).

Table 9: Fee Percent and Settlement Classes, Opt Outs, Objectors

	Period 2003–2008	
	N	*Fee %*
A. Settlement Class Status		
Settlement class	208	24.4%
Not a settlement class	160	25.4%
B. Presence of Objectors		
Any objector	142	23.4%
No objector	123	28.6%
C. Number of Opt Outs		
No opt outs	28	34.6%
One opt out	20	37.2%
>One opt out	116	23.6%

Sources: Westlaw, LexisNexis, PACER.

was statistically significant only for the large securities category (t test significance level, $p = 0.006$).

6. Settlement Classes, Opt Outs, and Objectors

Table 9 reports the relation between the fee percent and three class action case characteristics: settlement class status (Panel A),[26] whether any objection was filed (Panel B), and the number of class members opting out of the class (Panel C). We collected useful data on these issues only for the later time period (2003–2008). No significant difference in fee percent for settlement class cases compared to nonsettlement class cases emerged. There were significant differences in the fee percent for cases with and without objectors. Cases with objectors tended to have lower fee percents than cases without objectors. Cases with more than one opting-out class member tended to have lower fee percents than cases with zero or one opting-out class member. But, in regression models that supplement those reported in Table 17, the objector and opt-out variables were found not to be significant once one controlled for recovery size.

IV. Bivariate Results: Fee Methods and Multipliers

The dominant method used to calculate fees in class actions has evolved from considering multiple factors[27] to the dominance of two other methods, the lodestar and percentage

[26]A settlement class is a case in which a class was certified for settlement purposes only.

[27]The factors include the time and labor required, the customary fee, whether the fee is fixed or contingent, the amount involved and the results obtained, the experience, reputation, and ability of the attorneys, awards in similar

Table 10: Frequency of Method Used, by Time Period

	1993–2002		*2003–2008*	
	N	*% of Cases in Period*	N	*% of Cases in Period*
Lodestar	38	13.6	37	9.6
Percent	158	56.4	146	37.8
Both (usually % with LS check)	68	24.3	165	42.8
Other	16	5.7	38	9.8
Total	280	100	386	100

NOTE: LS = lodestar method.
SOURCES: Westlaw, LexisNexis, PACER.

methods. Under the lodestar method, courts multiply the reasonable number of hours expended by counsel by a reasonable hourly rate and then adjust the product for various factors.[28] Under the percentage method, the court multiplies the amount recovered on behalf of the class by a percentage factor. Some courts adopt a blended approach that checks the percentage method for reasonableness against a lodestar calculation.[29] We explore here the rates at which courts use the fee calculation methods, the relation between those methods and fees, the rates at which courts granted requested fees, and the use of multipliers in cases using the lodestar method.

A. Lodestar

1. Frequency of Use of Lodestar Versus Percent

Table 10 reports the rate of use of competing methods of computing a fee award. One result is the decline in the use of the lodestar method. From 1993 to 2002, 13.6 percent of cases used a pure lodestar method. From 2003 to 2008, only 9.6 percent of cases used the lodestar method, a notable but not statistically significant reduction ($p = 0.136$). This is likely due to the relatively few cases using the lodestar method exclusively.

Table 10 also suggests a reduction in use of the pure percent method, from 56.4 percent to 37.8 percent, but this understates the dominance of the percent method. For the 1993 to 2002 period, we coded which method was primary and which was used as a check. In non-fee-shifting cases in this period, 61 cases used the percent method with a lodestar

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cases, the nature and length of the professional relationship with the client, the time limitations imposed by the client or the circumstances, the preclusion of other employment by the attorney due to acceptance of the case, the novelty and difficulty of the questions, the skill needed to perform the legal services, and the "undesirability" of the case. The leading precedent outlining this multifactor approach is Johnson v. Georgia Highway Express, 488 F.2d 714, 717–19 (5th Cir. 1974).

[28]E.g., Gisbrecht v. Barnhart, 535 U.S. 789 (2002). See Charles Silver, Unloading the Lodestar: Toward a New Fee Award Procedure, 70 Tex. L. Rev. 865 (1992); Charles Silver, Due Process and the Lodestar Method: You Can't Get There from Here, 74 Tulane L. Rev. 1809 (2000).

[29]See notes 12–15 supra for circuit level case law addressing the fee method to be used.

Figure 6: Pure lodestar use over time.

check compared with three cases that used the lodestar method with the percent method as a check. The 68 cases shown as using "both" methods in the earlier period included an additional four cases that used both methods without indicating which was dominant. So cases coded as using "both" methods were almost always percent method cases with a lodestar check. We used less detailed coding of the method in the second period. If a case used both methods, we simply coded it as "both." Nevertheless, it is reasonable to assume that the "both" cases in the second period are similar to those in the earlier period and are dominated by the percent method with the lodestar as a check. So our best estimate is that the percent method is the overwhelmingly dominant method of computing fees, either as the sole method or as the primary method with the lodestar as a check. Figure 6 shows the rate of pure lodestar use over time, with a separate line for the large subset of securities class actions. Figure 1's strong linear correlation between fee and recovery supports this assessment as a lodestar-dominated system would likely show a less strong association between fee and class recovery.

Table 11 limits the sample to federal cases and shows the fee method used broken down by circuit. As suggested by Table 10, the use of the percent method, combined with the use of the percent method with a lodestar check, dominates. Table 11 shows that this is the pattern in every circuit, regardless of formal fee method doctrine. The lodestar method peaks at 21 percent of cases in the Sixth Circuit and only the Second Circuit combines nontrivial lodestar use with a substantial number of cases. The table slightly overstates the more recent federal rate of lodestar use, which totaled only 9 percent in cases from 2003 to 2008.

Table 11: Fee Method by Circuit, Federal Cases, 1993–2008

	Lodestar		*Percent*		*Both*		*Other*		*Total*	
Circuit	%	N	%	N	%	N	%	N	%	N
1st	5	1	60	12	35	7	0	0	100	20
2nd	19	26	37	51	40	55	5	7	100	139
3rd	5	6	37	43	56	65	3	3	100	117
4th	13	1	50	4	38	3	0	0	100	8
5th	20	5	40	10	36	9	4	1	100	25
6th	21	8	62	24	13	5	5	2	100	39
7th	10	4	61	25	17	7	12	5	100	41
8th	0	0	59	17	34	10	7	2	100	29
9th	9	9	48	48	30	30	13	13	100	100
10th	9	2	41	9	45	10	5	1	100	22
11th	3	1	52	17	36	12	9	3	100	33
D.C.	0	0	50	10	35	7	15	3	100	20
Federal Circuit	0	0	100	3	0	0	0	0	100	3
Total	11	63	46	273	37	220	7	40	100	596

SOURCES: Westlaw, LexisNexis, PACER.

Table 12: Fee Percent by Method Used, by Time Period

	1993–2002		*2003–2008*	
	N	*Mean Fee % of Recovery*	N	*Mean Fee % of Recovery*
Lodestar	38	17.2	37	31.6
Percent	158	23.4	146	25.3
Both (usually % with LS check)	68	22.9	165	21.9
Other	16	11.4	38	28.7
Total	280	21.7	386	24.8

NOTE: LS = lodestar method.

SOURCES: Westlaw, LexisNexis, PACER.

2. Is Use of the Lodestar Method Associated with Lower Fee Awards?

Table 12 explores the relation between fee method and fee percent. Although the table's first row suggests a substantial increase in fee percents in lodestar cases over time, the higher fee percents in recent lodestar cases are an artifact of case category. Consumer cases comprise 37 percent of the lodestar category and the difference between percent and lodestar methods vanishes if one excludes consumer cases. The consumer case category percent of cases changed for the two periods in our sample. Consumer cases were 59.5 percent of the lodestar cases in the later period compared to 15.8 percent of the lodestar cases in the earlier period. The lodestar method was used at a higher rate, 23.0 percent, in consumer cases than in any case category other than the small tax category. These high-percent consumer cases (see Table 8) are the source of the change in mean lodestar fee percents over time. The increased prominence of consumer cases in the later period

sample is likely attributable to our including as common fund cases those in which a fee-shifting statute was theoretically available but was not in fact used. In regression models, reported below (see Table 18), the percent and "both" fee methods have positive and statistically significant coefficients compared to the lodestar method once case category is controlled for.

For the period 2003 to 2008, we coded the hours worked by attorneys in cases with opinions reporting that information. The lower lodestar awards appear to be a consequence of fewer hours worked, or at least fewer hours claimed in court filings. Fewer hours were worked, on average, in lodestar method cases than in other cases and fewer hours were worked in consumer cases than in any other case category. As in regressions of the fee amount, regression of hours worked that controlled for fee method, case category, and circuit yielded coefficients for the percent and "both" method dummy variables that are statistically significant and positive compared to lodestar cases.

B. Fee Grant Rates

Fee requests were generally granted in the amount requested, with 72.5 percent of requests granted in full, as shown in Table 13's last row (Panel A). Our data for the rate of grants is limited to the 2003 to 2008 period because requested amounts were not recorded for the earlier time period. Table 13 shows that strong intercircuit differences ($p = 0.012$, excluding the two Federal Circuit cases) in the grant rate existed, with the Second Circuit granting the requested amount statistically significantly less often than the Third Circuit or the Ninth Circuit. These intercircuit differences remain significant in logistic regression models that control for case category and recovery amount, and in models that exclude securities cases. The table also shows that state courts tended to grant award requests at a lower rate than federal courts. The difference between federal and state grant rates was only statistically significant at $p = 0.148$.

Fee requests were not granted in full in 100 of 363 cases. In those cases, the mean fee grant was 68 percent of the request and the median was 74 percent. The mean grant of 61 percent in state court cases was lower than the 69 percent in federal court cases and the median of 66 percent in state court cases was also lower than the median of 75 percent in federal court cases. However, only nine of the 100 cases with less than full grants were state court cases.

Table 13, Panel B, shows the rate at which requested fees were granted in relation to the range of class of recovery, using the same decile ranges as Table 7. It shows a declining grant rate as the class recovery increases. The grant rate for the lowest recovery decile was 83 percent compared to 56 percent for the highest recovery decile. We interpret this as indicating that judges tend to scrutinize fee requests in large cases more closely than they do for smaller cases. Panel C shows the grant rate in relation to the percent of class recovery requested as fees. Instead of using class recovery deciles, it uses deciles of the percent of recovery requested, which range from the lowest decile of requests up to 11.8 percent of the recovery to the highest decile of requests over 35.7 percent. It shows a trend of decreasing grant rates as the percent of the recovery requested increased. Attorneys requesting the lowest percents received requested amounts

Table 13: Rates at Which Requested Fees Were Given, 2003–2008

A. By Locale

Locale	*Proportion of Fee Requests Granted in the Amount Requested*	N
1st	0.70	10
2nd	0.54	74
3rd	0.83	64
4th	0.60	5
5th	0.69	13
6th	0.79	24
7th	0.79	14
8th	0.83	18
9th	0.83	72
10th	0.77	13
11th	0.64	22
D.C.	0.80	10
Federal Circuit	0.50	2
State court	0.59	22
Total	0.72	363

B. By Range of Class Recovery (Millions)

Range of Class Recovery (Millions) Decile	*Rate Granted*	N
Recovery <= 1.1	0.83	52
Recovery > 1.1 <= 2.8	0.75	36
Recovery > 2.8 <= 5.3	0.82	38
Recovery > 5.3 <= 8.7	0.67	33
Recovery > 8.7 <= 14.3	0.77	35
Recovery > 14.3 <= 22.8	0.68	34
Recovery > 22.8 <= 38.3	0.76	33
Recovery > 38.3 <= 69.6	0.68	34
Recovery > 69.6 <= 175.5	0.67	36
Recovery > 175.5	0.56	32

C. By Range of Class Recovery Percent Requested Decile

	Rate Granted	N
Percent of recovery requested <= 11.8%	0.81	36
Percent of recovery requested > 11.8% <= 17.8%	0.86	36
Percent of recovery requested > 17.8% <= 21.9%	0.62	37
Percent of recovery requested > 21.9% <= 25%	0.76	75
Percent of recovery requested > 25.0% <= 30.0%	0.72	72
Percent of recovery requested > 30.0% <= 33.3%	0.71	35
Percent of recovery requested > 33.3% <= 35.7%	0.67	36
Percent of recovery requested > 35.7%	0.61	36

NOTE: In Panel C, the number of observations in the fourth and fifth rows reflects the bunching of fee requests at 25 percent and 30 percent. They each occupy approximately two deciles of fee requests.

SOURCES: Westlaw, LexisNexis, PACER.

Table 14: Mean Multiplier by Circuit and Case Category

	Mean Multiplier	N
A. Circuit		
1st	2.10	15
2nd	1.58	97
3rd	2.01	87
4th	2.43	7
5th	2.07	15
6th	1.97	22
7th	1.85	16
8th	2.30	14
9th	1.54	50
10th	1.91	14
11th	1.19	19
D.C.	2.23	11
Federal	1.54	1
Total	1.81	368
B. Case Category		
Antitrust	2.24	38
Civil rights	1.99	11
Consumer	1.82	60
Corporate	1.94	7
Employment	1.24	21
ERISA	1.58	29
Securities	1.75	177
Tort	1.83	11
Other	2.35	14
Total	1.81	368

SOURCES: Westlaw, LexisNexis, PACER.

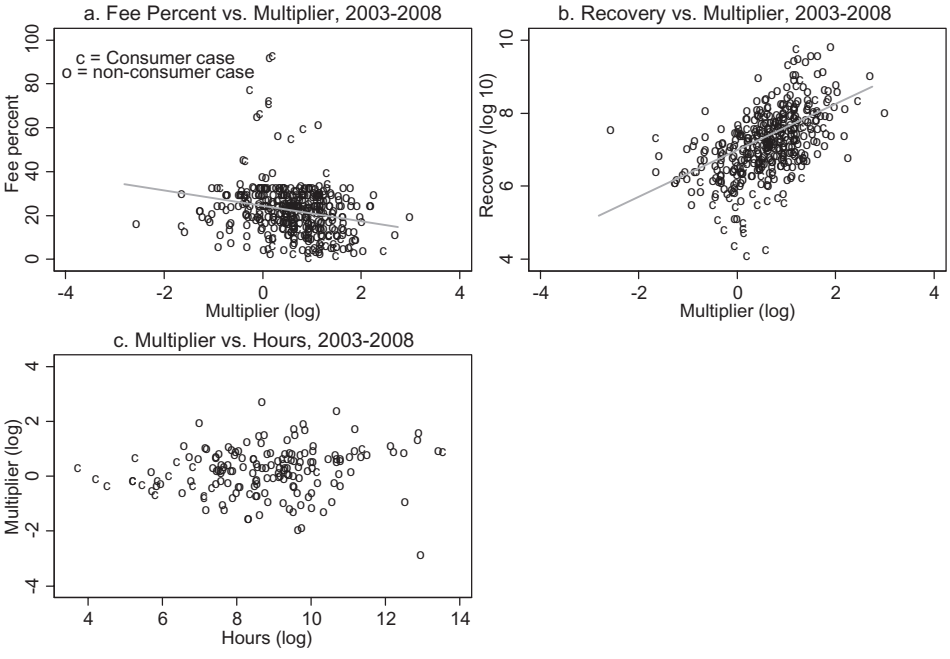
in 81 percent of cases compared to 61 percent for attorneys requesting the highest percents. This result suggests that attorneys who make more modest fee requests have a greater chance of having their requests granted.

We explored the effects of the class recovery amount, percent of recovery requested, circuit, and type of case in logistic regression models in which whether the requested fee was granted was a dichotomous dependent variable. The class recovery amount and the percent of recovery requested were highly statistically significant (each $p < 0.001$), the circuit dummy variables were jointly significant at $p = 0.005$, and the case type dummy variables were not statistically significant ($p = 0.262$).

C. Multipliers

Courts often check the percentage-based attorney fee against the lodestar award. If the percentage fee grossly exceeds the lodestar amount, the fee may be deemed excessive, and the courts can adjust the fee downward to a more reasonable range. Table 14 reports, for

Figure 7: Relation between multipliers and fee percent, recovery, and hours, 2003–2008.



Sources: Westlaw, LexisNexis, PACER.

federal cases, the mean multiplier applied by circuit and by case category. The sample is limited to those cases that reported a multiplier that was not equal to 1.

The mean multiplier ranged from 1.19 in the Eleventh Circuit to 2.43 in the Fourth Circuit. Across case categories, the mean multiplier ranged from 2.35 in "other" to 1.24 in employment cases. But, in regression models of the multiplier (log) as a function of circuits and case categories, neither the dummy variables for circuits nor for case categories were collectively significant. We therefore cannot reject the hypotheses that multipliers are similar across circuits and case categories.

We do, however, find significantly different multipliers used in cases in which fee-shifting statutes were available and cases in which they were not. With no statute in the background, multipliers averaged 1.96 in 161 cases with necessary data. If a fee-shifting statute was available, multipliers averaged 1.38 in 66 cases. The difference in medians was significant at $p = 0.021$.

Figure 7 shows the relation between the fee outcomes, class recovery amount, and multipliers (Figures 7a and 7b), and between multiplier and hours reported (Figure 7c).

Since a suspected fee windfall is most likely to occur when the percentage method would yield what is perceived to be too high a fee, we expect the multiplier to tend to bring high percentage fee cases into a more moderate range. We therefore predicted and found, in our prior study, a strong negative correlation between the lodestar multiplier (fee award

Table 15: Mean, Median, and Standard Deviation of Multiplier, Controlling for Class Recovery Amount, 1993–2008

Range of Class Recovery (Millions) Decile	*Mean*	*Median*	SD	N
Recovery <= 1.1	0.88	0.74	0.45	33
Recovery > 1.1 <= 2.8	0.95	0.77	0.67	40
Recovery > 2.8 <= 5.3	1.44	1.25	0.74	32
Recovery > 5.3 <= 8.7	1.59	1.25	1.32	34
Recovery > 8.7 <= 14.3	1.49	1.45	0.87	37
Recovery > 14.3 <= 22.8	1.68	1.51	0.85	38
Recovery > 22.8 <= 38.3	1.83	1.44	1.44	33
Recovery > 38.3 <= 69.6	1.98	1.75	1.00	38
Recovery > 69.6 <= 175.5	2.70	2.09	2.43	43
Recovery > 175.5	3.18	2.60	1.99	40

Sources: Westlaw, LexisNexis, PACER.

divided by the lodestar) and the percentage fee awarded.[30] A similar relation exists for 2003–2008, as shown in Figure 7a.

Higher multipliers should, in general, lead to higher recoveries, a result shown in Figure 7b. Increased multipliers do not appear to be being used a reward for hours worked. Figure 7c shows no clear positive association between mutlipliers and hours.

Table 15 presents more detailed information about the relation between class recovery and multipliers. It uses the recovery deciles reported in Table 7, but Table 15 includes fewer observations because the sample is limited to cases with multipliers not equal to 1. The table reports the mean, median, and standard deviation for each recovery decile. The pattern for the mean and median multiplier confirms that suggested by Figure 7b. As the recovery decile increases, the multiplier also tends to increase, with the multiplier in the highest recovery decile more than triple that of the multiplier in the lowest recovery decile.

V. Costs and Expenses

Costs and expenses (collectively "costs") tended to be a small percentage of the class recovery and have remained a fairly constant percentage over time. For the 232 cases from 1993 to 2002 for which cost data were available, mean costs were 2.8 percent of the recovery and median costs were 1.7 percent. For the 304 cases with necessary data from 2003 to 2008, mean costs were 2.7 percent of the recovery and median costs remained at 1.7 percent. As before, we found no evidence that the cost percent increased over time.[31]

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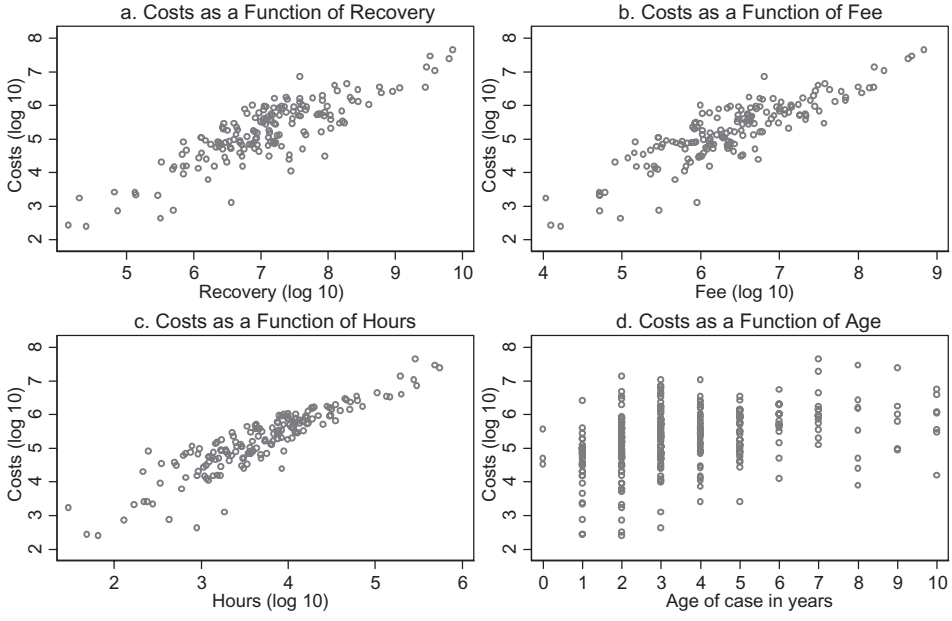
[30]Eisenberg & Miller, supra note 5.

[31]Id.

Figure 8: Costs as a function of recovery, fees, hours, and age, non-fee-shifting cases, 2003–2008.



NOTE: Cases with age greater than 10 years old are coded as 10 years old.
SOURCES: Westlaw, LexisNexis, PACER.

We further explored costs as a function of four variables: (1) the class recovery, (2) the fee, (3) the hours reported in the court's opinion, and (4) the age of the case in years. We only coded hours billed and case age beginning with the 2003 to 2008 data. Figure 8 shows the relation between costs and the four factors and limits the sample to cases in which hours were reported in opinions and costs were at least $100. All four factors are positively associated with costs. The figure also suggests that the strongest association is between costs and hours.

Table 16 shows the correlation coefficients between costs and the four factors in Figure 8. The first four numerical columns cover the period 2003–2008, for which hours data were recorded. The last two numerical columns show the correlation between costs and fee and recovery for the period 1993–2002. The correlations between costs and recovery and fee for either period do not reach the strength of association of hours and costs in the later period. The weaker correlation between costs and age may be in part a function of age being coded only in whole years and therefore providing a less continuous measure of that factor.

A regression model, not reported here, of costs as a percent of recovery controls for case category and other factors. It shows that costs, like fees, have a scale effect: their percent of recovery significantly declines as the size of the recovery increases. The cost

Table 16: Correlations Between Costs and Four Factors

	Fee (Log10)	*Recovery (Log10)*	*Hours (Log)*	*Age in Years*	*Fee (Log10)*	*Recovery (Log10)*
	Period = 2003–2008				*Period = 1993–2002*	
Correlation Coeff.	0.86	0.85	0.91	0.34	0.77	0.71
Significance	<0.0001	<0.0001	<0.0001	<0.0001	<0.0001	<0.0001
N	167	167	167	167	232	232

Sources: Westlaw, LexisNexis, PACER.

percent significantly increases with hours. In a model with both case age and hours as explanatory variables, only hours were statistically significant.

VI. Multivariate Results

Some of the above results are so strong and robust that no further analysis is needed to support their credibility. The strong correlation between fees and class recovery and the scale effect survive any reasonable analysis, are reasonably represented by Figures 1 and 5, and are confirmed in regression models reported below. Other key results consist of factors associated with the level of the fee award. These include:

1. The tendency of state courts to award a lower percent of recovery as a fee,
2. The relation between case category and fee percent,
3. The tendency of high-risk cases to receive a higher percent of the class recovery as a fee, and
4. The tendency of lodestar awards in non-fee-shifting cases to be lower than percent-method awards.

This section first explores the robustness of these results to simultaneous control for recovery level and then reports regression models.

A. The Relation Between the Fee Award and State Court Status, Risk, and the Lodestar Method

As Figure 1 and our earlier work suggest, for most explanatory variables, the size of the class recovery is the most important potential confounding factor in assessing the relation between other covariates and the fee award. From Figures 1 and 5, we know that: (1) the fee award increased with class recovery, and (2) the fee award was a declining percent of the class recovery as the class recovery increased. Regression models assessing nonrecovery covariates thus require both a dummy variable for the covariate, and an interaction term between the covariate and the class recovery. That is, the covariate may influence both the intercept and the slope of the line representing the relation between the covariate and the fee award. The use of class recovery, a dummy covariate, and an interaction term raises problems of multicollinearity in the regression model, which preliminary analysis confirmed. The problems arose even when a single covariate and interaction term were

Table 17: Influence of Locale, Risk, and Lodestar Method on Percent Fee Award, Controlling for Class Recovery Amount, 1993–2008

	Federal-State		*Risk*		*Lodestar*	
Range of Class Recovery (Millions) Decile	*Federal Case*	*State Case*	*Low-/Medium-Risk Case*	*High-Risk Case*	*Other Methods*	*Pure Lodestar*
Recovery <= 1.1	38.7	27.2	37.1	48.4	32.3	58.0
N	64	5	64	5	53	15
Recovery > 1.1 <= 2.8	26.8	30.4	26.7	29.5	26.6	33.4
N	63	6	60	9	64	5
Recovery > 2.8 <= 5.3	27.0	23.2	26.0	29.3	26.8	17.9
N	58	11	61	8	65	2
Recovery > 5.3 <= 8.7	22.7	23.2	21.8	26.8	23.3	20.5
N	61	8	55	14	54	9
Recovery > 8.7 <= 14.3	24.1	21.4	23.3	26.8	24.8	19.0
N	61	8	58	11	56	11
Recovery > 14.3 <= 22.8	23.3	15.6	22.7	23.0	23.3	16.3
N	62	6	63	6	61	6
Recovery > 22.8 <= 38.3	22.3	20.8	20.9	29.2	24.0	11.7
N	58	10	58	10	53	11
Recovery > 38.3 <= 69.6	21.2	15.7	19.9	24.6	21.6	9.8
N	61	9	62	8	61	7
Recovery > 69.6 <= 175.5	19.6	16.0	17.3	24.7	20.0	10.0
N	64	5	50	19	62	4
Recovery > 175.5	12.6	6.5	10.6	16.5	12.7	4.3
N	61	7	52	16	62	5

SOURCES: Westlaw, LexisNexis, PACER.

included in regression models, and were magnified when multiple covariates and interaction terms were used. Rather than simply report possibly questionable regression models, we first used a simpler technique to explore the possible influence of certain covariates on the fee award while simultaneously accounting for the class recovery.

Table 17 expands on Section III's tables by reporting in more detail, for non-fee-shifting cases, the relation between the fee awarded and three key covariates—state court status, risk, and use of the lodestar method—while controlling for the size of the class recovery. As was done for Tables 7, 13, and 15, we divided the range of class recoveries into deciles. Table 17's first column shows the bounds on the deciles, starting with the lowest decile of class recoveries. Each decile's statistics are reported in two rows; the first shows the fee percent and the second row shows the number of cases included in the fee percent calculation. Thus the table's first two numerical rows include cases with class recoveries in the first decile, those recoveries less than or equal to $1.1 million. The table's last two rows include cases in the highest decile, those with recoveries greater than $175.5 million. The table's second and third columns show, within each decile range, the mean fee percent award and the number of cases, divided by federal court versus state court status. Thus, for the 69 cases with class recoveries of less than $1.1 million, the mean federal case fee percent award was 38.7 percent in 64 cases and the mean state case fee percent award was 27.2

percent in five cases. The table's fourth and fifth columns show the same information, but now divided by high-risk case status versus low-/medium-risk case status. The table's sixth and seventh columns show the same information divided by use of the pure lodestar method versus use of all other methods.

With respect to federal versus state court status, the mean state case fee percent is lower than the mean federal percent for every recovery decile except the second and fourth. Thus, after controlling for class recovery size, state courts tend to award lower fees than federal courts but not overwhelmingly so. The pattern is even more consistent with respect to risk. For every recovery decile, the fee percent is higher in high-risk cases than in low-/medium-risk cases. The lodestar effect follows the same trend, with every class recovery decile except the lowest two showing a lower fee percent in pure lodestar cases than in other cases. In the low recovery deciles, of course, the lodestar method can compensate attorneys for substantial efforts that a percent fee award may not fully reflect. Section III's results for these three covariates therefore survive analysis that controls for the key potential confounder, the class recovery size.

B. Regression Models

Table 18 reports ordinary least squares regression models that confirm our core results. Model 1 shows that over 90 percent of the variance in the fee is explained by the size of the

Table 18: Regression Models of Fees

	1	*2*	*3*	*4*	*5*
	Dependent Variable = Fee (Log10)				
Gross recovery (log10)	0.850	0.850	0.846	0.833	0.827
	(74.37)**	(73.79)**	(73.32)**	(62.21)**	(61.35)**
State court case		–0.088	–0.083	–0.040	0.003
		(8.25)**	(8.15)**	(3.13)**	(0.15)
High-risk case			0.111	0.102	0.098
			(7.16)**	(6.06)**	(5.06)**
Lodestar = reference category					
Percent method				0.188	0.169
				(4.76)**	(4.22)**
Both methods				0.181	0.158
				(4.82)**	(4.15)**
Other methods				0.032	0.028
				(0.62)	(0.51)
Constant	0.374	0.382	0.395	0.331	0.440
	(4.91)**	(4.69)**	(4.92)**	(3.28)**	(3.64)**
Case category dummies	No	No	No	No	Yes
Observations	689	688	681	663	663
R^2	0.92	0.92	0.92	0.93	0.93

NOTES: Robust *t* statistics in parentheses; *significant at 5 percent; **significant at 1 percent; standard errors are clustered by locale.

SOURCES: Westlaw, LexisNexis, PACER.

recovery. None of the other models add materially to the explanatory power of this simple model. Nevertheless, it is noteworthy that the model with the largest set of explanatory variables, Model 5, shows no statistically significant difference between state and federal courts. The models also consistently confirm that fee methods other than the pure lodestar method tend to have higher fees. The models confirm the association between greater risk and increased fees.[32] In Model 5, a test of the hypothesis that the case category dummy variables are jointly equal to zero can be rejected at $p = 0.0003$. Their significance persists if one omits the two small cases categories, civil rights and tax, but the significance level increases to $p = 0.012$. The significance of the results in Table 18 persists if one limits the sample to the 106 cases with recoveries of $100 million or more but the sizes of the coefficients do change. The percent of variance explained then ranges from 72 percent to 77 percent, depending on the model.

We also tested whether the use of a lodestar "cross-check" generated a different pattern of fees than when fees were calculated according to the percentage method alone. A regression analysis not reported here does not find any statistically significant difference between fees calculated by the percentage method alone and those calculated by the percentage method with the lodestar cross-check. This result may raise questions about the utility of the lodestar cross-check, which can involve a time-consuming analysis of the reasonableness of the attorneys' hours and hourly rates.

VII. Discussion

The data support several major conclusions.

Strength of Relation and Dominance of Method. The percentage fee method is overwhelmingly the method used by courts in awarding fees in class actions. It is so widely used and so consistently employed that other information about cases adds little explanatory power to study of the fee award. The amount of the class recovery dwarfs all other effects. Even in circuits that eschew the percentage method, it appears to be the dominant de facto method used and best explains the pattern of awards. The consistent pattern may help attorneys to calibrate their fee requests and lead to courts usually approving the requested fee amount.

Scale Effect and Aggregate Litigation. The pattern of class action awards continues to exhibit a strong scale effect. Attorneys receive a smaller proportion of the recovery as the size of the recovery increases. Aggregation of claims thus appears to have produced the kind of efficiency hoped for. This characteristic of aggregate litigation should be considered when evaluating devices designed to preclude or discourage aggregate litigation or arbitration, such as prohibitions on class arbitration.[33]

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[32]Multilevel models, using random intercepts for locale and case category, do not yield materially different results.

[33]For a study suggesting possible efforts to discourage aggregate litigation, see Theodore Eisenberg, Geoffrey P. Miller & Emily Sherwin, Mandatory Arbitration for Customers But Not for Peers: A Study of Arbitration Clauses in Consumer

The Scope and Nature of Our Sample. Some perspective on the scope of our sample relative to the universe of class action cases comes from a study of class actions against insurers from 1993 through 2002. The RAND Institute for Civil Justice surveyed 269 property and casualty insurers and 207 life and health insurers, received responses from 205 companies, and obtained usable information from 199 insurers.[34] Of 564 attempted class actions, 12 percent led to a class settlement.[35] In 32 cases, the respondents provided information about the aggregate pool of funds offered to settle the case and its associated expenses. The amounts ranged from $360,000 to $150 million, with a mean fund size of $12.8 million and a median size of $2.6 million. Almost two-thirds of the cases, 62.5 percent, resulted in a common fund of less than $5 million.[36] In 48 cases, the respondents supplied information about the award to class counsel for fees and expenses. Fees and expenses ranged from $50,000 to $50,000,000, with a mean of $3.4 million and a median of $554,000.[37] The overall median fee and expense ratio from the pooled data was thus about 21 percent ($554,000 divided by $2.6 million). This compares to a pooled median fee of $2.33 million and median gross recovery of $12.5 million in our sample, as shown in Table 3, which yields a pooled ratio of 19 percent. The scaling effect, combined with our higher median gross recovery, probably helps explain the lower ratio in our sample of cases.

Aside from the RAND study's similar findings about fee levels, the study shows the small fraction of class action filings that lead to information about fees, even in the absence of being limited to available opinions. In the RAND data, 564 purported class actions led to 78 certified classes and 32 cases with available fee information. Thus, less than 15 percent of purported class actions were certified and about 6 percent led to usable fee information. If the same proportions are assumed to apply more broadly, then our 689 fee cases can be thought of as representing over 12,000 purported class action filings.

Federal-State Differences. Despite claims that CAFA was needed to redress differences in state and federal court processing of class actions, our data provide little evidence of federal-state differences. The fee per amount recovered did not systematically differ between federal and state courts, as shown in Table 17. Table 13 shows that state courts were, if anything, less likely than federal courts to grant the requested fee amount.

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and Non-Consumer Contracts, 92 Judicature 118 (Nov.–Dec. 2008); Theodore Eisenberg, Geoffrey P. Miller & Emily Sherwin, Arbitration's Summer Soldiers: An Empirical Study of Arbitration Clauses in Consumer and Nonconsumer Contracts, U. Mich J.L. Reform 871 (2008), reprinted in 4 ICFAI U.J. of Alternative Disp. Resol. 51 (2008).

[34]Nicholas M. Pace, Stephen J. Carroll, Ingo Vogelsang & Laura Zakaras, Insurance Class Actions in the United States 9–10 (2007).

[35]Id. at 47 (tbl. 3.16).

[36]Id. at 54.

[37]Id. at 55.

The absence of pro-class bias in state courts is consistent with sources cited above[38] and with additional research. In the RAND insurance study, of 564 attempted class actions, 12 percent led to a class settlement, with 12 percent of the 465 state court cases and 15 percent of the 98 federal court cases settling.[39] The modal outcome of a pretrial ruling for the defense did not significantly differ between federal and state courts.[40] The settlement rate for the cases with certified classes did not statistically significantly differ between federal and state courts.[41]

Thus, available evidence about comparative state-federal judicial performance in class actions consistently suggests no strong differences.

VIII. Conclusion

Over the course of 16 years, attorney fees in class action cases have displayed a strikingly strong linear relation to class recoveries. Significant associations also exist between the fee amount and both the fee method and the riskiness of the case. Despite CAFA's premise of differences between federal and state court treatment of class actions, our findings add to a growing body of evidence that little hard data support claims of significant state-federal differences. Core results persisted in mega-cases, those with recoveries of $100 million or more, in cases with settlement classes, and in cases with and without objectors and opt outs. Fees and costs decline as a percent of the recovery as the recovery amount increases, suggesting the efficiency of this form of aggregate litigation. In this data set that likely includes the most significant class action decisions, those that lead to an available opinion, neither fees nor recoveries materially increased over time.

We hope that the information contained in this study can be of use to courts charged with the important and sometimes daunting task of setting counsel fees in class action and derivative cases.

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[38]Text accompanying notes 18–22 supra.

[39]Pace et al., supra note 34, at 47 (tbl. 3.16).

[40]Id.

[41]Id. at 48 (tbl. 3.17). The study did not distinguish between orders certifying the case for a class trial, those certifying for settlement purposes only, and those certifying on a provisional basis only. Id. at 17. Neil Marchand reports that plaintiffs' preferences for state or federal court in Michigan class actions vary depending on the governing substantive law, with preference for state courts in cases governed by state substantive law and preference for federal courts in cases governed by federal substantive law. Neil J. Marchand, Class Action Activity in Michigan's State and Federal Courts, available at <http://ssrn.com/abstract=1334923>.

Exhibit 9

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An Empirical Study of Class Action Settlements and Their Fee Awards

*Brian T. Fitzpatrick**

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

I. Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. Prior Empirical Studies of Class Action Settlements

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

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

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

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

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

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

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

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

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

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

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

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

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

[19]Id. at 258–59.

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

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

III. Federal Class Action Settlements, 2006 and 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases,[25] (2) four reporters of class action settlements—*BNA Class Action Litigation Report*, *Mealey's Jury Verdicts and Settlements*, *Mealey's Litigation Report*, and the *Class Action World* website[26]—and (3) a list from the Administrative Office of Courts of all district court cases

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

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

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

[23]Id. at 47, 51.

[24]Id. at 61–62.

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

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

coded as class actions that terminated by settlement between 2005 and 2008.[27] I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.[28] For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a *16*-year period in both federal *and* state court. Indeed, the number of annual settlements identified in this study is *several times* the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.[29]

B. Defendant Versus Plaintiff Classes

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

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

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

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

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

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

C. Settlement Subject Areas

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

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

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

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

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

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

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

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

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court[34]) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.[35] However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.[36] This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

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

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

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

[35]Id. at 262.

[36]Id.

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

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

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

[40]521 U.S. 591 (1997).

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

E. The Age at Settlement

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

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

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

SOURCE: PACER.

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

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

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

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

F. The Location of Settlements

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

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

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

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

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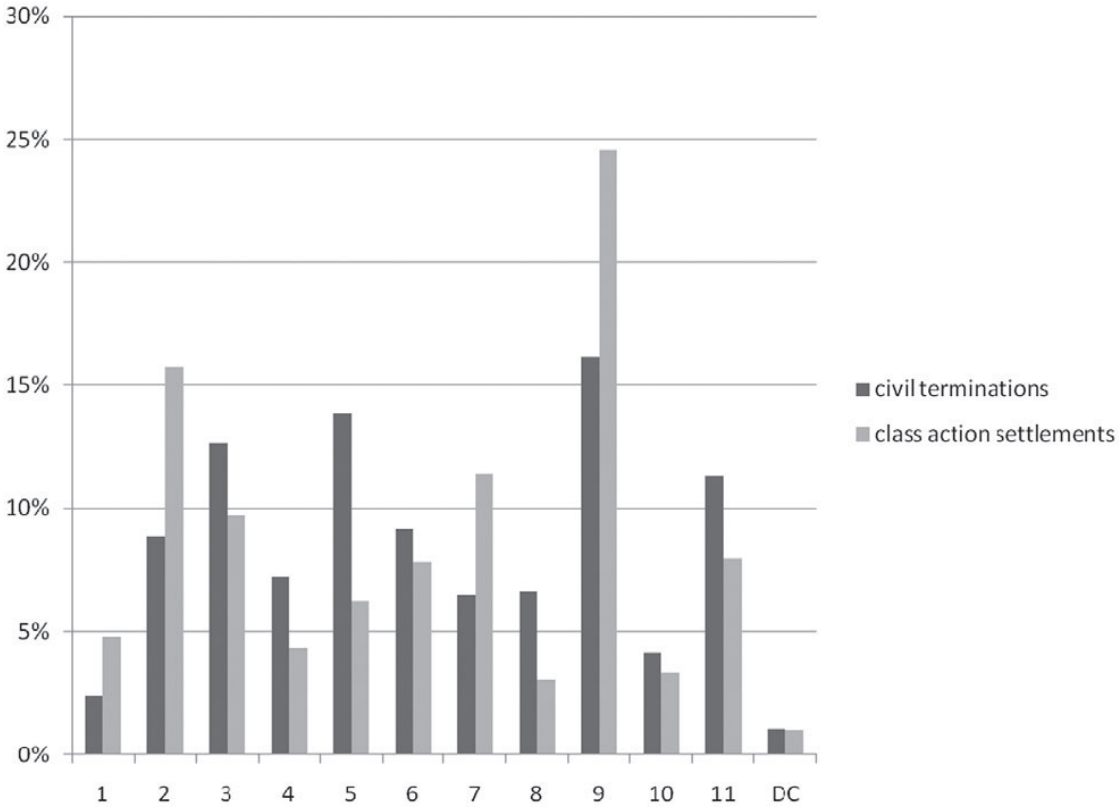
[43]See Eisenberg & Miller, supra note 15, at 59–60.

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

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

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

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



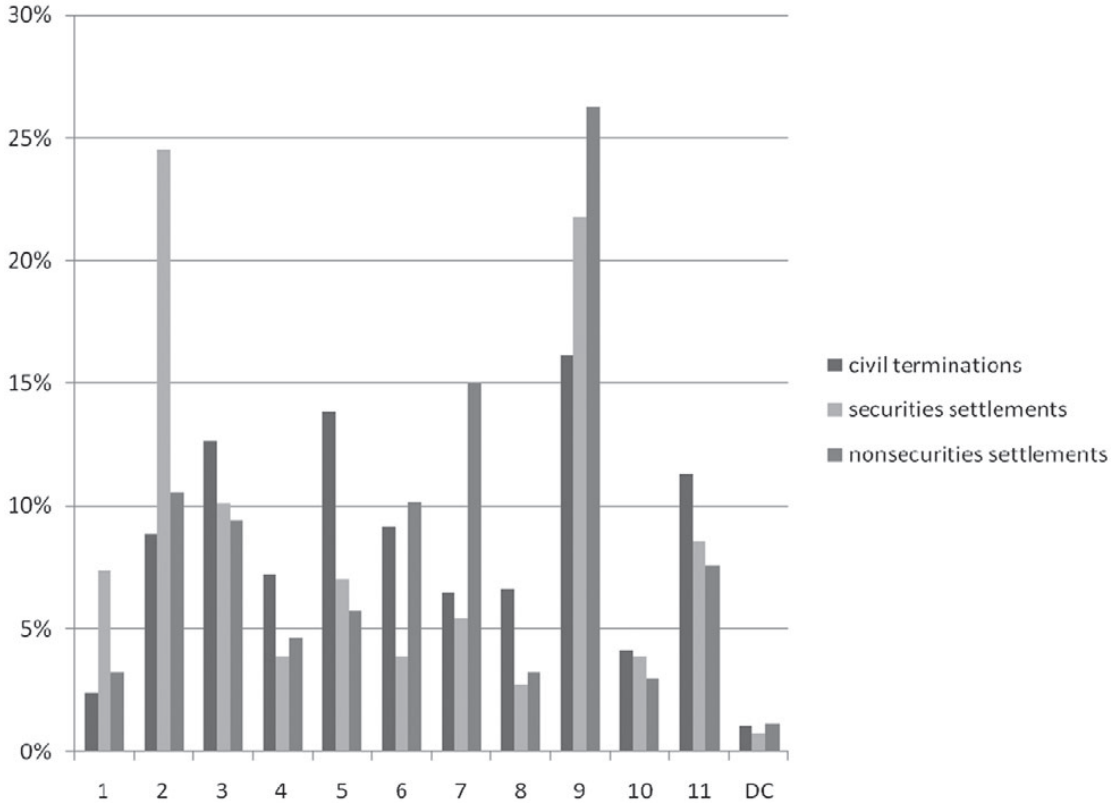
SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <http://www.uscourts.gov/stats/index.html>).

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

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

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

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



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

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

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

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

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

G. Type of Relief

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

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

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

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

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

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

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[49]See Fed. R. Civ. P. 23(b).

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

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

H. Settlement Money

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

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

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

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

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

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

includes all determinate[52] payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.[53] I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only $1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.[54]

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

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

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled $6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than $1 billion were approved in 2006.[55] Indeed, it is worth noting that the eight settlements for more than $1

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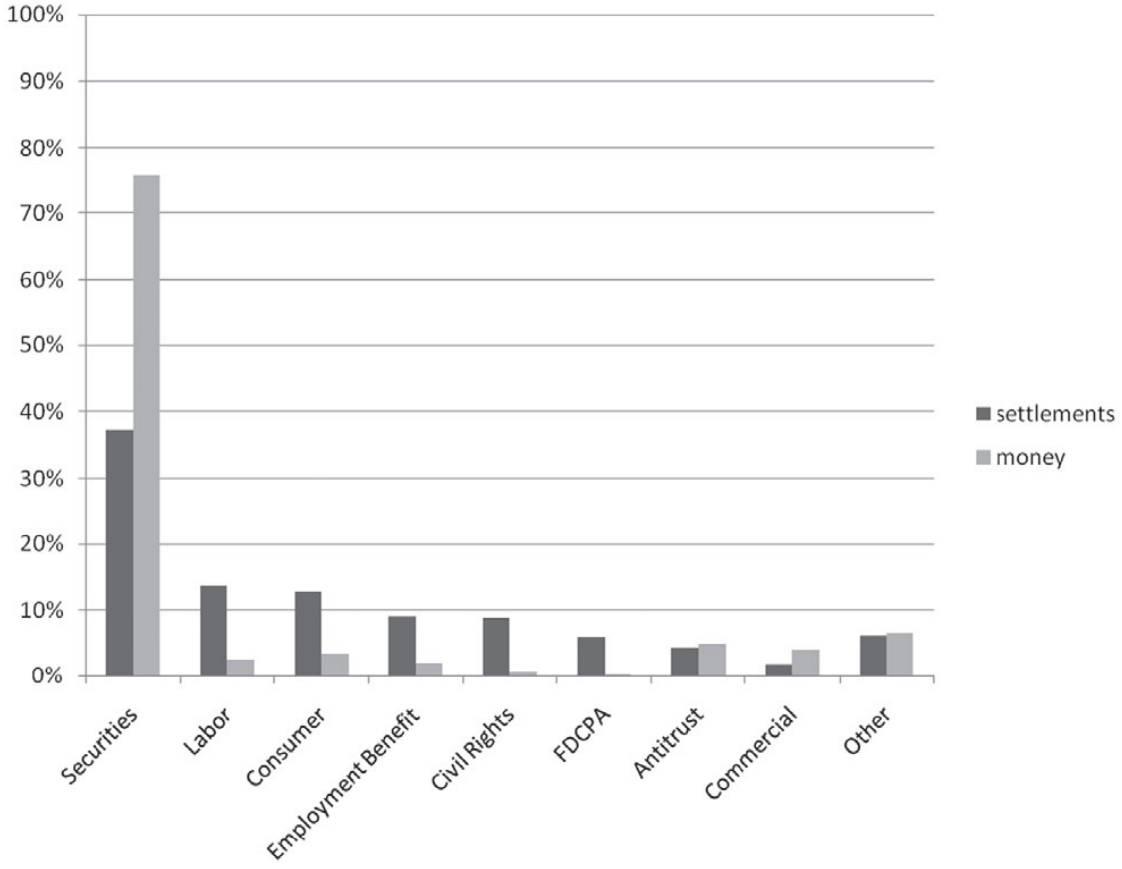
[52]For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV. Attorney Fees in Federal Class Action Settlements, 2006 and 2007

A. Total Amount of Fees and Expenses

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

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

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

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

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

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

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

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

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

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

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

B. Method of Awarding Fees

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

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

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

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

C. Variation in Fees Awarded

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

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[67]Fed. R. Civ. P. 23(h).

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

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

[70]Id. at 31–32.

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

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

that use the percentage-of-the-settlement method usually rely on a multifactor test[73] and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.[74] In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.[75] Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases.[76] Nonetheless, presumptions, of course, can be overcome and, as one court has put it, "[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case."[77] The court added: "[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility."[78] It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court's order or counsel's motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.[79]

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

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

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

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

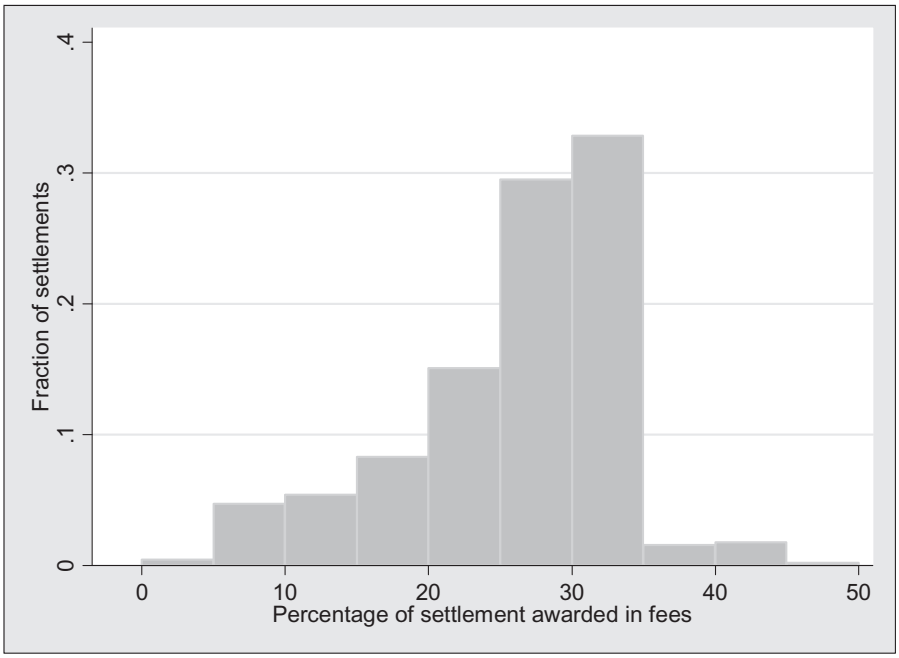
[76]See, e.g., In re Cendant Corp. Litig., 264 F.3d 201, 282 (3d Cir. 2001).

[77]*Camden I Condo. Ass'n*, 946 F.2d at 774.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

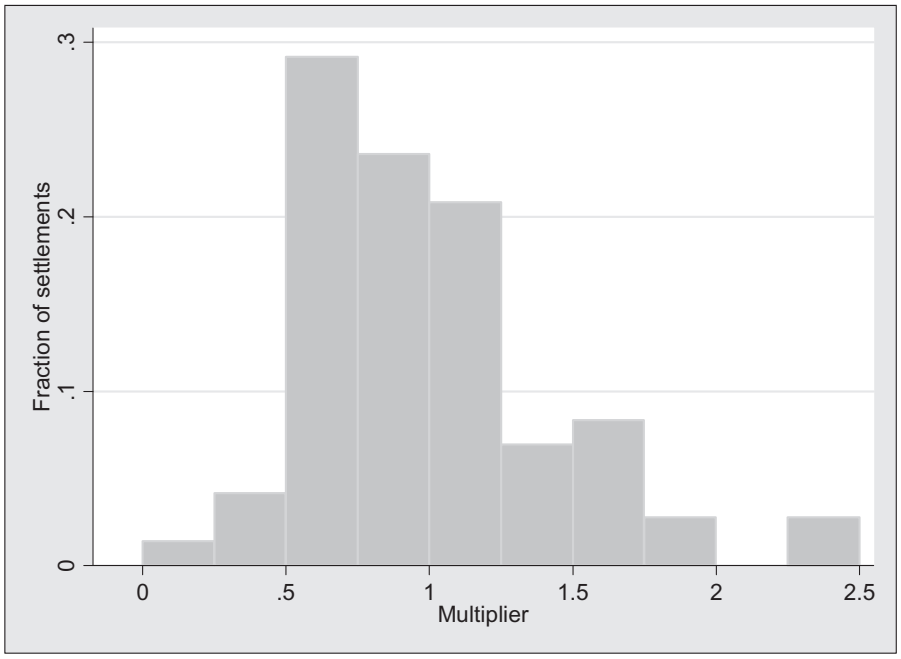
SOURCES: Westlaw, PACER, district court clerks' offices.

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

D. Factors Influencing Percentage Awards

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

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



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

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

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

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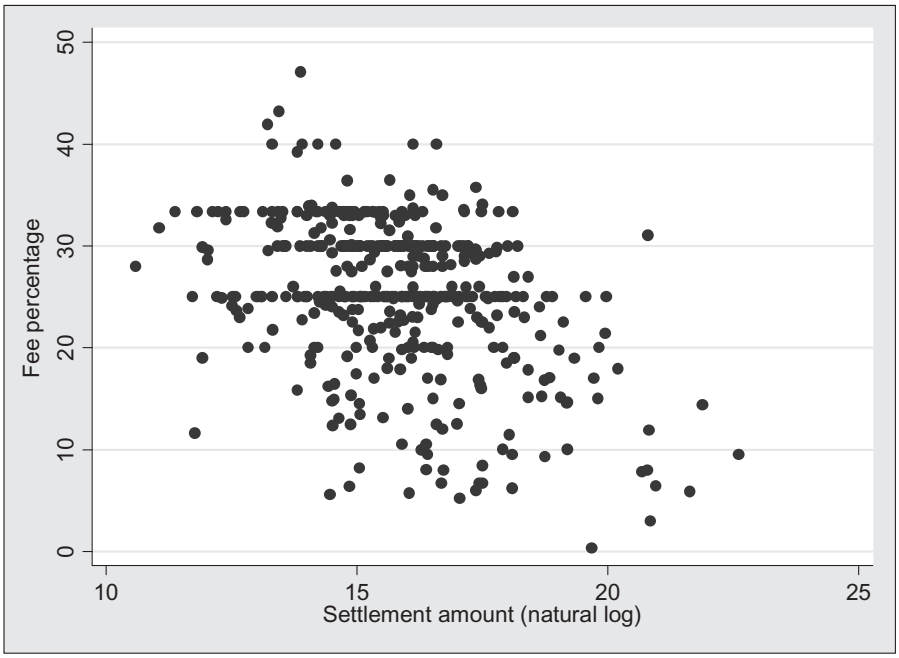
[82]See, e.g., Samuel Issacharoff, Regulating after the Fact, 56 DePaul L. Rev. 375, 377 (2007).

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[89]See Fitzpatrick, supra note 85, at 1640.

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

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

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

Table 12 *Continued*

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

NOTE: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported.
SOURCES: Westlaw, PACER, district court clerks' offices, Federal Judicial Center.

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

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

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

[92]Id. at 178–79.

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

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

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

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

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

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

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

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

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.[97] This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.[98] This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.[99]

V. Conclusion

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

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

[98]The Ninth Circuit's differences persisted.

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

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

Exhibit 10

Compendium of Unreported Cases

TAB 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Master Docket No. 09-md-02063-JLK-KMT (MDL Docket No. 2063)

IN RE: OPPENHEIMER ROCHESTER FUNDS GROUP SECURITIES LITIGATION

This document relates to: *In re California Municipal Fund*

09-cv-01484-JLK-KMT (Lowe)
09-cv-01485-JLK-KMT (Rivera)
09-cv-01486-JLK-KMT (Tackmann)
09-cv-01487-JLK-KMT (Milhem)

ORDER APPROVING MOTION FOR AWARD OF ATTORNEY FEES AND REIMBURSEMENT OF EXPENSES

THIS MATTER came before the Court for a hearing on November 6, 2017, on Plaintiff's Counsel's Motion for Award of Attorney Fees and Expenses. Lead Counsel for the Class, Sparer Law Group, Additional Class Counsel, Girard Gibbs LLP, and Liaison Counsel, the Shuman Law Firm (collectively, "Plaintiff's Counsel"), have requested: (i) an award of attorney fees in the amount of one-third of the $50,750,000 Oppenheimer California Municipal Fund settlement fund (the "Settlement Fund"); (ii) reimbursement of $3,719,586.43 in litigation expenses incurred by Plaintiff's Counsel in connection with the prosecution of this action; and (iii) reimbursement of $74,000 to Lead Plaintiff Joseph Stockwell for costs and expenses (including lost wages) directly

relating to his representation of the Class. This Court, having considered all papers filed and proceedings conducted herein, and otherwise being fully informed of the premises and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated July 10, 2017 (the "Stipulation").

2. This Court has jurisdiction to enter this Order awarding attorney fees and expenses and over the subject matter of the Complaint and all Parties to the Action, including all Class Members.

3. Plaintiff's Counsel have moved for an award of attorney fees of one-third of the Settlement Fund, plus interest as it accrues, and reimbursement of costs and expenses in the amount of $3,719,586.43, as well as reimbursement of $74,000 to Lead Plaintiff for costs and expenses (including lost wages) directly relating to his representation of the Class.

4. Notice of Plaintiff's Counsel's request for attorney fees and reimbursement of expenses was provided to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the request for attorney fees and expenses met the requirements of due process, Federal Rule of Civil Procedure 23, and Section 27 of the Securities Act of 1933, 15 U.S.C. § 77z-1(a)(7), as

amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), constituted the best notice practicable under the circumstances, and gave due and sufficient notice to all persons and entities entitled thereto.

5. Plaintiff's Counsel are entitled to a fee paid out of the common fund brought about by their efforts for the benefit of the Class. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478-79 (1980). The Supreme Court has indicated that computing fees as a percentage of a common fund recovered is an appropriate method in class action cases. *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). Because the percentage method aligns the interests of class counsel with the represented class members, "[t]he Tenth Circuit has expressed a preference for the percentage of the fund method in common fund cases." *Vaszlavik v. Storage Tech. Corp.*, No. 95-B-2525, 2000 WL 1268824, at *1 (D. Colo. Mar. 9, 2000) (citation and internal quotation marks omitted).

6. This Court concludes that the percentage of the fund method is appropriate for determining a reasonable award of attorney fees in this Action. *See Uselton v. Commercial Lovelace Motor Freight, Inc.*, 9 F.3d 849, 853 (10th Cir. 1993) (citing *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 454-56 (10th Cir. 1988)) ("[T]his court distinguished common fund cases from statutory fee cases and recognized the propriety of awarding attorney fees in the former on a percentage of the fund, rather than lodestar, basis"); *Lucken Family Ltd. P'ship, LLLP v. Ultra Res., Inc.*, No. 09-CV-01543- REB-KMT, 2010 WL 5387559, at *2 (D. Colo. Dec. 22, 2010) (recognizing the

"prevailing trend in awarding attorney fees in common fund cases is to award fees based on a percentage of the common fund obtained for the benefit of the class").

7. Plaintiff's Counsel have requested a fee award of one-third of the Settlement Fund. Such an award is consistent with prior awards within this District and in similar cases. *See, e.g., Angres v. Smallworldwide PLC*, No. 99-K-1254 (D. Colo. June 7, 2003) (Kane, J.) (awarding attorneys' fees of one-third of settlement fund); *Schwartz v. Celestial Seasonings, Inc.*, No. 95-K-1045 (D. Colo. Apr. 25, 2000) (Kane, J.) (same); *Lewis v. Wal-Mart Stores, Inc.*, No. 02-CV-0944 CVE FHM, 2006 WL 3505851, at *1 (N.D. Okla. Dec. 4, 2006) (noting that a "contingency fee of one-third is relatively standard in lawsuits that settle before trial …").

8. Accordingly, the Court hereby awards attorney fees of one-third of the Settlement Fund, plus interest as it accrues. The Court finds the fee award to be fair and reasonable based upon an application of the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), as adopted by the Tenth Circuit. Said fees shall be allocated among Plaintiff's Counsel in a manner in which Lead Counsel believe reflects each counsel's contribution to the prosecution and resolution of the Action.

9. Plaintiff's Counsel have also requested reimbursement of litigation expenses in the amount of $3,719,586.43. Having reviewed the submitted expense information, and finding the litigation expenses to be reasonable in light of the substantial

expert fees and other expenses incurred and the results obtained, the Court hereby approves the requested amount of litigation expenses and awards the reimbursement of expenses in the amount of $3,719,586.43.

10. Plaintiff's Counsel have also requested an award of $74,000 to Lead Plaintiff Joseph Stockwell for costs and expenses (including lost wages) related to his active participation in this litigation. Such a request for lost wages and expenses is reasonable under the circumstances of this Action. Accordingly, the Court hereby awards Lead Plaintiff Joseph Stockwell the amount of $74,000 in costs and expenses, to be paid from the Settlement Fund.

11. In making this award of attorney fees and expenses, the Court has analyzed the factors considered within the Tenth Circuit as set forth in *In re Mkt. Ctr. E. Retail Prop., Inc.*, 730 F.3d 1239, 1247 (10th Cir. 2013) (citing *Johnson v. Georgia Highway Express, Inc*., 488 F.2d 714 (5th Cir. 1974)). In evaluating these factors, the Court finds that:

(a) Plaintiff's Counsel have conferred a substantial benefit on the Class. The $50.75 million Settlement compares favorably to results in similar cases.

(b) Plaintiff's Counsel faced complex and challenging legal and factual issues in taking this matter on a contingent basis, including contested issues relating to the alleged misrepresentations regarding the Fund's investment objective and underlying investment strategies, loss causation, damages and Defendants' statute of limitations and

due diligence defenses, among other issues. In addition, Section 11 and Section 12(a) cases involving mutual funds are relatively rare compared to Section 10(b)-5 securities actions. As to both liability and damages, the claims and defenses in this case presented novel issues throughout this litigation, testing the boundaries of established law. Despite these challenges, Plaintiff's Counsel secured an excellent result for the Class.

(c) Plaintiff's Counsel have extensive experience litigating large, complex actions, including securities class actions like this one. The quality of Plaintiff's Counsel's work is evidenced by the substantial recovery they have secured, notwithstanding the substantial litigation risks and the skilled adversaries they faced.

(d) Plaintiff's Counsel have expended thousands of hours litigating the claims, including: (1) investigating and analyzing the claims at issue by reviewing relevant public information, and researching the applicable law; (2) preparing and filing detailed initial and consolidated complaints; (3) successfully opposing Defendants' multiple motions to dismiss; (4) successfully opposing Defendants' early motions for partial summary judgment; (5) propounding written discovery; (6) reviewing and analyzing millions of pages of documents; (7) identifying and deposing key fact witnesses and defending Plaintiff's witnesses at deposition; (8) briefing and arguing motions to compel; (9) briefing and arguing class certification, including in an initial round of briefing including the other six funds, supplemental briefing and a two-day evidentiary hearing, and twice defending class certification orders in response to

Defendants' Rule 23(f) appeals to the Tenth Circuit; (10) successfully opposing Defendants' motions for early remand; (11) retaining and consulting with experts to assess key liability and damages issues, developing expert reports, and defending the deposition of Plaintiff's experts; (12) analyzing Defendants' experts' reports and deposing Defendants' experts; (13) briefing multiple summary judgment and *Daubert* motions; (14) engaging in extensive settlement negotiations with Defendants, including the mediation briefing before Judge Layn R. Phillips (Ret.); and (15) drafting the Stipulation and related documents and managing the notice and administration process. Plaintiff's Counsel's lodestar is reported to be $19,293,688.25 based upon 35,525 hours of work through September 22, 2017. Plaintiff's Counsel anticipates additional work in relation to settlement administration tasks.

(e) Plaintiff's Counsel handled the Action on a fully contingent basis, precluding other employment, and committed substantial resources to the Action. Dedicating thousands of hours to this Action prevented Plaintiff's Counsel from accepting other legal work. *See Lucas v. Kmart Corp.*, No. 99-cv-01923-JLK-CBS, 2006 WL 2729260, at *6 (D. Colo. July 27, 2006) ("Large-scale class actions such as this case . . . necessarily require a great deal of work, and a concomitant inability to take on other cases"). Likewise, the substantial amount of money Plaintiff's Counsel advanced to fund this litigation was unavailable to them to use for other purposes.

(f) There have been no objections to the fee and expense application.

12. The attorney fees and expenses awarded to Plaintiff's Counsel shall be paid within ten (10) calendar days of entry of this Order and entry of the Final Judgment, subject to the terms, conditions and obligations of the Stipulations, which terms, conditions and obligations are incorporated herein.

13. Exclusive jurisdiction is hereby retained over the Parties and Class Members for all matters relating to the Action, including the administration, interpretation, effectuation or enforcement of the Stipulations and this Order.

14. Any appeal or any challenge affecting this Court's approval of the attorney fees and expense application shall in no way disturb or affect the finality of the Settlement.

15. In the event that the Settlement is terminated or does not become Final in accordance with the terms of the Stipulation, this Order shall be rendered null and void to the extent provided for in the Stipulation and shall be vacated in accordance with the Stipulation.

IT IS SO ORDERED.

DATED: November 6, 2017

John L. Kane

THE HONORABLE JOHN L. KANE
UNITED STATES DISTRICT JUDGE

TAB 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: SATYAM COMPUTER SERVICES LTD. SECURITIES LITIGATION	:	No.: 09-MD-2027-BSJ

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

This matter came on for hearing on September 8, 2011 (the "Settlement Hearing") on the motion of Lead Counsel to determine, among other things, whether and in what amount to award Lead Counsel in the above-captioned consolidated securities class action (the "Action") fees and reimbursement of expenses.

The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notices of the Settlement Hearing substantially in the form approved by the Court were mailed to all Class Members who or which could be identified with reasonable effort, except those persons or entities excluded from the definition of the Class, and that summary notices of the hearing substantially in the form approved by the Court were published in *The Wall Street Journal*, *Investor's Business Daily* and *The Financial Times* and transmitted over *Business Wire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order Awarding Attorneys' Fees and Expenses incorporates by reference the definitions in the Stipulations and Agreements of Settlement (the "Settlement Stipulations") and all

terms used herein shall, with respect to the respective Settlement Stipulations, have the same meanings as set forth in the applicable Settlement Stipulations.[1]

2. The Court has jurisdiction to enter this Order Awarding Attorneys' Fees and Expenses, and over the subject matter of the Action and all parties to the Action, including all Class Members.

3. Notice of Lead Counsel's application for attorneys' fees and reimbursement of expenses was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the motion for attorneys' fees and expenses constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice of the motion and satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4, et seq.) (the "PSLRA"), and all other applicable law and rules.

4. Lead Counsel are hereby awarded attorneys' fees in the amount of 17% of the total Settlement Funds, as well as 17% of any additional Settlement Funds recovered by Satyam from the PwC Entities, net of any taxes withheld from the Initial Escrow Accounts and ultimately paid pursuant to Indian tax law, and $1,027,076.94 in reimbursement of litigation expenses advanced or incurred by Lead Counsel collectively while prosecuting this Action (which expenses shall be paid from the Settlement Funds) with interest on such fees and expenses at the same rate as earned by the Settlement Funds from the dates the Settlement Funds were funded to the date of payment, which sums the Court finds to be fair and reasonable. The foregoing award of Attorneys' Fees and

[1] The Settlement Stipulations are: the Stipulation and Agreement of Settlement with Defendant Satyam Computer Services Ltd., dated February 16, 2011 (the "Satyam Stipulation") and the Stipulation and Agreement of Settlement between Lead Plaintiffs and the PwC Entities, dated April 27, 2011 (the "PwC Entities Stipulation") entered into by and among Lead Plaintiffs and the Settling Defendants (together, the "Settlement Stipulations").

Expenses shall be payable immediately in accordance with the terms set forth in ¶¶ 19 and 16, respectively of the Satyam Stipulation and the PwC Entities Stipulation. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a manner which, in the opinion of Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution and settlement of the Action.

5. Also in accordance with the terms set forth in ¶¶ 20 and 17, respectively of the Satyam Stipulation and the PwC Entities Stipulation, Lead Counsel who seek to be paid their share of the attorney fee and expense award prior to the Effective Date shall be jointly and severally obligated to make appropriate refunds or repayments of attorneys' fees and expenses and any interest thereon paid to Lead Counsel to the Settlement Funds or to the Settling Defendants who contributed the Settlement Funds in direct proportion to their contributions to the Settlement Funds, as applicable, plus accrued interest at the same net rate as is earned by the Settlement Funds, if the Settlements are terminated pursuant to the terms of the Stipulations or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or litigation expenses is reduced or reversed by final non-appealable court order.

6. Class Representative the Public Employees' Retirement System of Mississippi is awarded $14,400 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

7. Class Representative Mineworkers' Pension Scheme is awarded $98,711 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

8. Class Representative SKAGEN AS is awarded $59,000 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

9. Class Representative Sampension KP Livsforsikring A/S is awarded $21,000 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

10. Subclass Representative Brian F. Adams is awarded $2,000 as reimbursement for his costs and expenses directly relating to his services in representing the Class and Subclass.

11. A litigation fund in the amount of $1,000,000 from the Satyam Settlement Fund shall be established to fund the continued prosecution of the Action against the Non-Settling Defendants.

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

(a) The Settlements have created a total settlement amount of $150.5 million in cash that is already on deposit and has been earning interest, and that numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlements created by the efforts of Lead Counsel;

(b) The fee sought by Lead Counsel has been reviewed and approved as fair and reasonable by the Court-appointed Lead Plaintiffs, sophisticated institutional investors that were substantially involved in all aspects of the prosecution and resolution of the Action;

(c) To date, over 208,000 copies of the Notices were disseminated to putative Class Members stating that Lead Counsel were moving for attorneys' fees not to exceed 17% of proposed Settlements and reimbursement of expenses incurred in connection with the prosecution of this Action. Only one objection to the terms of the Settlement and the fees and expenses requested by Lead Counsel contained in the Notice was received, although it was untimely and not filed with the Court as required by the Preliminary Approval Orders. The objector has not proven that he is a member of the Class, nor does he have standing; even if he did, his objection has been considered and overruled;

(d) Lead Counsel have conducted the litigation and achieved the Settlements with skill, perseverance and diligent advocacy;

(e) The Action involves complex factual and legal issues and, in the absence of settlement, would involve lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(f) Had the Settlements not been achieved, there would remain a significant risk that Lead Plaintiffs and the other members of the Class may have recovered less or nothing from the Settling Defendants; and

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

13. 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 Judgments entered with respect to the Settlements.

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

15. In the event that any of the Settlements are terminated or do not become Final or the Effective Date does not occur in accordance with the terms of the applicable Settlement Stipulation(s), this Order, except for ¶ 5 above, shall be rendered null and void to the extent provided by the applicable Settlement Stipulation(s) and shall be vacated in accordance with the terms of the applicable Settlement Stipulation(s).

16. 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: New York, New York
September 13, 2011

Honorable Barbara S. Jones
UNITED STATES DISTRICT JUDGE