

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**JOINT DECLARATION OF ANDREW J. ENTWISTLE AND DAVID R. STICKNEY IN  
SUPPORT OF (I) LEAD PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENTS AND PLAN OF ALLOCATION AND (II) LEAD COUNSEL'S  
MOTION FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF  
LITIGATION EXPENSES**

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**EXHIBIT LIST**

Ex. #	DESCRIPTION
1	Declaration of Layn R. Phillips in Support of Motion for Final Approval of Class Action Settlements (“Phillips Decl.”)
2	Declaration of Alexander Villanova Regarding: (A) Mailing of Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date (“Villanova Decl.”)
3	Declaration of Michael L. Hartzmark, Ph.D. Regarding Plan of Allocation (“Hartzmark Decl.”)
4	Summary of Plaintiffs’ Counsel’s Lodestar and Expenses
4A	Declaration of Andrew J. Entwistle in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Entwistle & Cappucci LLP
4B	Declaration of David R. Stickney in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Bernstein Litowitz Berger & Grossmann LLP
4C	Declaration of Johnston de F. Whitman, Jr. in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Kessler Topaz Meltzer & Check, LLP
4D	Declaration of Christopher Moriarty in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Motley Rice LLC
4E	Declaration of Robert D. Klausner in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Klausner, Kaufman, Jensen & Levinson
4F	Declaration of Frank B. Burney in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Martin & Drought, P.C.



4G	Declaration of Michael S. Etkin in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Lowenstein Sandler LLP
4H	Declaration of Thomas R. Ajamie in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, Filed on Behalf of Ajamie LLP
5	Schedule of Expenses by Category for all Plaintiffs’ Counsel and Litigation Fund

We, ANDREW J. ENTWISTLE and DAVID R. STICKNEY, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I, Andrew J. Entwistle, am a partner of the law firm of Entwistle & Cappucci LLP (“E&C”), counsel for Lead Plaintiffs and Class Representatives GAMCO Global Gold, Natural Resources & Income Trust, GAMCO Natural Resources, Gold & Income Trust (the “GAMCO Funds”) and Court-appointed Lead Counsel for the certified Class in this class action (the “Action”).<sup>1</sup> I have personal knowledge of the matters set forth herein based upon my close supervision of and active participation in the Action.

2. I, David R. Stickney, am a partner at the law firm of Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”), counsel for Class Representatives St. Lucie County Fire District Firefighters’ Pension Trust Fund (“St. Lucie”) and Fire and Police Retiree Health Care Fund, San Antonio (“San Antonio”) and Court-appointed Lead Counsel for the certified Class in this class action. I have personal knowledge of the matters set forth herein based upon my close supervision of and active participation in the Action.

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<sup>1</sup> Unless otherwise defined, all capitalized terms herein have the same meaning set forth in the (i) Stipulation and Agreement of Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC, dated October 9, 2018 (the “Sponsor/GS&Co. Stipulation”) (ECF No. 334-1); (ii) Stipulation and Agreement of Settlement Among the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Debtors, dated October 11, 2018 (the “Cobalt Stipulation”) (ECF No. 337-1); and/or (iii) Stipulation and Agreement of Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC, dated November 28, 2018 (the “Underwriter Stipulation”) (ECF No. 352-1) (collectively, the “Stipulations”). Citations to “Ex. \_\_\_” herein refer to exhibits to this declaration.

3. We respectfully submit this Joint Declaration in support of (i) Lead Plaintiffs' Motion for Final Approval of Class Action Settlements and Plan of Allocation ("Final Approval Motion"), and (ii) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Fee and Expense Motion").

4. This Court, having overseen this proceeding for four years, is familiar with the underlying claims and defenses in the Action and the factual and legal issues surrounding the collapse of Cobalt. Accordingly, this declaration does not seek to detail each and every event that occurred during the litigation. Rather, it provides highlights of the events leading to the Settlements and the basis upon which Lead Plaintiffs and Lead Counsel recommend its approval.

5. This Joint Declaration sets forth: (i) the nature of the claims asserted against the defendants; (ii) the procedural background of the Action; (iii) the negotiations that led to the respective Settlements with the Cobalt Defendants,<sup>2</sup> Sponsor Defendants,<sup>3</sup> and the Underwriter Defendants<sup>4</sup> (collectively, "Defendants" and together with Plaintiffs, the

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<sup>2</sup> The Cobalt Defendants are defined as (i) Cobalt International Energy, Inc. ("Cobalt" or "Company") and its Debtor Affiliates; and (ii) individual defendants Joseph Bryant, James W. Farnsworth, John P. Wilkerson, Jack E. Golden, Jon A. Marshall, Myles W. Scoggins, William P. Utt, and Martin H. Young, Jr. (the "Cobalt Individual Defendants").

<sup>3</sup> The Sponsor Defendants are defined as (i) The Goldman Sachs Group, Inc., Riverstone Holdings LLC, FRC Founders Corporation, ACM Ltd., and The Carlyle Group, L.P.; and (ii) Peter R. Coneway, Henry Cornell, Michael G. France, N. John Lancaster, Scott L. Lebovitz, Kenneth W. Moore, J. Hardy Murchison, Kenneth A. Pontarelli, and D. Jeff van Steenberg (the "Sponsor Designee Defendants").

<sup>4</sup> The Underwriter Defendants are defined as Goldman Sachs & Co. ("GS&Co."), Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Tudor, Pickering, Holt & Co. Securities, Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, UBS Securities LLC, Howard Weil Incorporated, Stifel, Nicolaus & Company, Incorporated, Capital One Southcoast, Inc., and Lazard Capital Markets LLC.

“Parties”); (iv) the mechanics of the proposed Plan of Allocation for distribution of the Net Settlement Fund to Settlement Class Members; and (v) the basis for Lead Counsel’s request for attorneys’ fees and expenses. This Joint Declaration demonstrates that the Settlements, Plan of Allocation, and application for attorneys’ fees and expenses are fair, reasonable, and adequate and should be approved by the Court.

6. The Settlements will resolve all claims asserted in the Action against Defendants on behalf of the Class previously certified by the Court. The certified Class is:

All persons and entities who purchased or otherwise acquired Cobalt securities between March 1, 2011 and November 3, 2014, inclusive, and were damaged thereby. Included within the Class are all persons and entities who purchased shares of Cobalt common stock on the open market and/or pursuant or traceable to the registered public offerings on or about (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Also included within the Class are all persons and entities who purchased Cobalt convertible senior notes on the open market and/or pursuant or traceable to registered public offerings on or about (i) December 12, 2012; and (ii) May 8, 2014.<sup>5</sup>

ECF No. 244. For purposes of the Settlements, Defendants have agreed to certification of a Settlement Class that is identical in scope to the certified Class. The Court preliminarily approved the Settlements by Orders entered on November 2, 2018 (ECF Nos. 346, 347) and November 29, 2018 (ECF No. 354).

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<sup>5</sup> Excluded from the Class are Defendants, the officers and directors of the Defendants during the Class Period (the “Excluded Officers and Directors”); members of the immediate families of the individual Defendants and of the Excluded Officers and Directors; any entity in which any Defendant, any Excluded Officer or Director, or any of their respective immediate family members has, and/or had during the Class Period, a controlling interest; Defendants’ liability insurance carriers; any affiliates, parents, or subsidiaries of the corporate Defendants; all corporate Defendants’ plans that are covered by ERISA; and the legal representatives, heirs, agents, affiliates, successors-in-interest or assigns of any excluded person or entity, in their respective capacity as such.

## I. INTRODUCTION

7. Plaintiffs have succeeded in obtaining a significant recovery for the Class after four years of vigorously contested litigation. The Settlements provide for a guaranteed \$173.8 million in cash, with a potential additional recovery of up to \$161.5 million from ongoing litigation by the Cobalt Defendants against their insurance carriers (collectively, the “Settlement Amount”). The \$173.8 million recovered to date in the Settlements consists of the following amounts from the respective Defendant groups: (i) \$146.8 million from the Sponsor Defendants, Sponsor Designee Defendants, and GS&Co.; (ii) \$22.75 million from the Underwriter Defendants other than GS&Co.; and (iii) \$4.2 million from the Cobalt Defendants.

8. The monies have been deposited for the benefit of the Class and are earning interest. The Settlements benefit each member of the Class by conferring a guaranteed and immediate benefit while avoiding the substantial risks and expense of continued litigation, including the risk of recovering less than the settlement amounts after substantial delay or of no recovery at all.

9. The Settlements were reached only after extensive litigation efforts by Plaintiffs and comprehensive negotiations between Lead Counsel and counsel for Defendants with the assistance of former United States District Court Judge Layn R. Phillips, a well-respected and experienced mediator.

10. At the time the Settlements were reached, Plaintiffs had a clear understanding of the strengths and weaknesses of the asserted claims given the thorough prosecution of the case by Plaintiffs’ Counsel. Plaintiffs’ Counsel conducted extensive fact and expert

discovery in support of their claims. As detailed below, this discovery included, among other things: (i) the review and analysis of more than 1.3 million pages of documents produced by Plaintiffs, Defendants and non-parties; (ii) depositions of 31 witnesses, including Cobalt's CEO and additional executives, due diligence providers, investment bankers at the Underwriter Defendants, the Sponsor Defendants' board designees and Defendants' proffered expert on market efficiency and price impact; (iii) review and analysis of documents obtained from 31 subpoenas to non-parties; and (iv) written discovery, including interrogatories and requests for admission.

11. In addition, Plaintiffs consulted extensively with experts concerning the oil and gas industry, the Foreign Corrupt Practices Act ("FCPA"), and the issues of market efficiency and Class-wide damages for Cobalt Securities sold during the Class Period. The Parties also exchanged detailed expert reports on issues pertaining to class certification. Additionally, Plaintiffs' experts worked on reports addressing the materiality of Defendants' alleged misstatements, the oil content of certain Cobalt wells in Angola, and the Underwriter Defendants' due diligence for the registered Cobalt stock and note offerings during the Class Period (the "Cobalt Securities Offerings").

12. While Plaintiffs and Plaintiffs' Counsel were confident in the strength of the asserted claims, the Class faced the possibility of a much smaller recovery or no recovery at all had the Action proceeded to summary judgment or trial. As discussed more fully below, the substantial litigation risks included challenges to (i) establishing Defendants' liability under the federal securities laws for their alleged misstatements and insider trading; (ii) proving loss causation, Class-wide reliance on the alleged misstatements, and

the Class-wide measure of damages; (iii) overcoming Defendants' separate appeals disputing the Court's certification of the Class; and (iv) recovering on any favorable judgment in light of Cobalt's bankruptcy. The Settlements represent an outstanding recovery for the Class considering these risks and Plaintiffs' thorough appreciation of the strengths and weaknesses of the asserted claims.

13. For these reasons, and for the additional reasons set forth below, we respectfully submit that the Settlements and Plan of Allocation are fair, reasonable, and adequate and warrant final approval under Federal Rule of Civil Procedure 23(e). Moreover, for the reasons detailed below, we respectfully submit that Plaintiffs' Counsel's request for attorneys' fees and reimbursement of litigation expenses is also fair and reasonable and should be approved.

## **II. HISTORY OF THE ACTION**

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

14. Plaintiffs St. Lucie and San Antonio filed the initial complaint in the Action on November 30, 2014. A related action was filed in this Court on December 5, 2014.

15. On February 2, 2015, four applicants, including the GAMCO Funds, moved to be appointed as lead plaintiffs and their counsel be appointed as lead counsel in the consolidated action. ECF Nos. 18, 22, 25, 29. These movants further requested that the two related actions be consolidated.

16. On February 19, 2015, the GAMCO Funds filed a Stipulation and Proposed Order notifying the Court that the competing lead plaintiff movants had agreed to withdraw

their applications in support of the GAMCO Funds' motion. ECF No. 53. The Stipulation requested appointment of the GAMCO Funds as Lead Plaintiffs and approval of their selection of E&C and BLB&G as Lead Counsel.

17. On March 3, 2015, the Court consolidated the two putative class actions into the above-captioned Action, appointed the GAMCO Funds as Lead Plaintiffs, and appointed E&C and BLB&G as Lead Counsel for the putative class and Ajamie LLP as liaison counsel. ECF Nos. 67-68.

**B. The Investigation and Filing of the Complaint**

18. After appointment as Lead Counsel, E&C and BLB&G, with the assistance of other Plaintiffs' Counsel, conducted a thorough pre-complaint investigation and analysis of the facts supporting the claims asserted against Defendants. This investigation included a review and analysis of: (i) Cobalt's public filings with the Securities and Exchange Commission (the "SEC"); (ii) research reports by securities and financial analysts; (iii) transcripts of Cobalt's conference calls with analysts and investors; (iv) presentations, press releases, and reports; (v) news and media reports concerning the Company and other facts related to the Action; (vi) data reflecting the pricing of Cobalt securities; and (vii) additional material from the public domain concerning the Company. In addition, Lead Counsel identified, located, and interviewed dozens of former Cobalt employees and other witnesses around the globe – some of whom were interviewed in Portuguese – concerning the claims asserted and consulted extensively with experts concerning the oil and gas industry and the FCPA.



19. On May 1, 2015, Plaintiffs filed the 132-page Consolidated Amended Class Action Complaint against Defendants (“Amended Complaint”). ECF No. 72. The Amended Complaint asserted claims under (i) Section 11 of the Securities Act of 1933 (the “Securities Act”) against Cobalt, the Underwriter Defendants, the Sponsor Designee Defendants, and certain of the Cobalt Individual Defendants; (ii) Section 12(a)(2) of the Securities Act against the Underwriter Defendants; (iii) Section 15 of the Securities Act against the Sponsor Defendants, GS&Co., the Sponsor Designee Defendants, and the Cobalt Individual Defendants; (iv) Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) against Cobalt and certain of the Cobalt Individual Defendants; and (v) Section 20(a) of the Exchange Act against certain of the Cobalt Individual Defendants.

20. The Amended Complaint sought damages on behalf of a putative class of investors in Cobalt Securities during the period from March 1, 2011 through November 3, 2014, inclusive (the “Class Period”).

21. The Amended Complaint alleged that Cobalt and certain of the Cobalt Individual Defendants made material misrepresentations and omissions during the Class Period concerning the Company’s business operations in Angola. These alleged misstatements were made in Cobalt’s SEC filings and its executives’ other public statements during the Class Period. Plaintiffs allege that these Defendants misrepresented that Cobalt’s Angolan business partners, Nazaki Oil & Gáz, S.A. (“Nazaki”) and Alper Oil Ltd. (“Alper”), were not owned by Angolan government officials when they had evidence to the contrary. Plaintiffs also assert that these Defendants made material misstatements and omissions concerning the oil content of Cobalt’s Lontra and Loengo wells in Angola.

22. In addition, Plaintiffs alleged that the Sponsor Defendants violated federal securities law as control persons of Cobalt when the Company made the alleged materially false and misleading statements regarding its Angolan partners and oil wells during the Class Period.

23. Plaintiffs further alleged that Cobalt and the Underwriter Defendants sold Cobalt stock and notes in the Cobalt Securities Offerings through offering materials containing material misstatements and omissions about the ownership of Nazaki and Alper, as well as the oil content of the Company's Lontra and Loengo wells.

24. The Amended Complaint alleged that the truth about Cobalt's Angolan partnerships and the oil content of its Lontra and Loengo wells was revealed in a series of partial disclosures that corrected the alleged Class Period misrepresentations and omissions. Specifically, on April 15, 2012, the *Financial Times* revealed that certain high-ranking Angolan government officials admitted they were the true owners of Nazaki. On December 1, 2013, Cobalt disclosed that its Lontra well contained significant amounts of natural gas, to which Cobalt had no rights.

25. In addition, the Amended Complaint alleged that on August 5, 2014, a *Bloomberg* report disclosed that (i) the SEC had issued a Wells Notice concerning Cobalt's Angolan operations, and (ii) an Angolan research center for which Cobalt paid millions in purported "social payments" did not exist. Finally, on November 4, 2014, Cobalt issued a press release announcing that its Loengo well was a "dry hole" that needed to be "plugged and abandoned." All of these corrective disclosures are alleged to have caused a substantial portion of Cobalt's stock price decline during the Class Period.

**C. Defendants' Motions to Dismiss**

26. On June 30, 2015, the Cobalt Defendants, Sponsor Defendants, and Underwriter Defendants each moved to dismiss the Amended Complaint. ECF Nos. 81-83. Their motions totaled 116 pages, including 81 exhibits and appendices. In their motion, the Cobalt Defendants argued that Plaintiffs failed to plead facts demonstrating the falsity of the alleged misstatements regarding Cobalt's Angolan partners and oil wells, the scienter of certain Cobalt Individual Defendants, and loss causation for the alleged misstatements and omissions. The Cobalt Defendants also argued that Plaintiffs failed to plead any actionable misstatements under the Securities Act in connection with the Cobalt Securities Offerings.

27. In their motion, the Underwriter Defendants argued that Plaintiffs failed to plead actionable misstatements under the Securities Act, that the statute of repose barred Securities Act claims based on Cobalt's February 2012 common stock offering, that the statute of limitations barred Securities Act claims based on the Nazaki allegations, and that Plaintiffs lacked standing to assert claims under Section 12(a)(2) of the Securities Act. The Sponsor Defendants additionally argued in their motion that Plaintiffs failed to plead a control person claim under the Securities Act given the purported absence of facts demonstrating the Sponsor Defendants' day-to-day control over Cobalt's business operations.

28. Plaintiffs opposed each of these motions to dismiss on August 31, 2015 (ECF Nos. 88-90), and Defendants replied in further support of their respective motions to dismiss on September 29, 2015 (ECF Nos. 95-98).

29. On January 19, 2016, the Court largely denied Defendants' multiple motions to dismiss the Amended Complaint (the "Motion to Dismiss Order"). ECF No. 108. The Court found, among other things, that Plaintiffs adequately pled claims for relief under the Exchange Act and Securities Act, that Plaintiffs had standing to assert Securities Act claims on all five Cobalt Securities Offerings at issue, and that the Securities Act claims were not time-barred under the relevant statutes of limitation or repose.

**D. Defendants' Motion to Certify Motion to Dismiss Order for Interlocutory Appeal**

30. On February 3, 2016, the Cobalt Defendants, Sponsor Designee Defendants and Underwriter Defendants filed separate motions seeking interlocutory appeal of the Motion to Dismiss Order pursuant to 28 U.S.C. § 1292(b). ECF Nos. 117-120. In their motion, the Cobalt Defendants argued for appellate review on grounds that the Court should have assessed whether the witnesses cited in the Amended Complaint had personal knowledge of their allegations concerning Cobalt. Meanwhile, in their motion seeking interlocutory appeal, the Sponsor Defendants argued for appellate review on grounds that the Amended Complaint did not adequately allege a control person claim under the Securities Act. The Underwriter Defendants also sought interlocutory appellate review, arguing that the statute of repose barred a Securities Act claim based on the February 2012 Cobalt common stock offering because no Plaintiff had standing to assert such a claim.

31. Plaintiffs opposed these interlocutory appeal motions on February 24, 2016 (ECF No. 121), and Defendants replied on March 2, 2016 (ECF Nos. 122-124).

32. The Court denied the interlocutory appeal motions on March 14, 2016. (ECF No. 125). In so doing, the Court adopted Plaintiffs' argument that there was no basis for an interlocutory appeal of the Motion to Dismiss Order under the requirements of 28 U.S.C. § 1292(b).

33. Defendants answered the Amended Complaint on March 25, 2016. ECF Nos. 126-129. Defendants denied liability and every one of the essential factual allegations in this case.

**E. Plaintiffs Conduct Extensive Discovery**

34. After Defendants answered the Amended Complaint, Plaintiffs engaged in extensive discovery under the schedule set by the Court. As discussed more fully below, this discovery included (i) document discovery; (ii) written interrogatories and requests for admission; (iii) depositions of Parties and non-parties; and (iv) discovery disputes presented to the Court for resolution.

35. The Court held a pretrial conference on April 12, 2016, during which a discovery schedule was set. On March 25, 2016, Defendants made their initial disclosures under Rule 26 of the Federal Rules of Civil Procedure. These initial disclosures identified, among other things, individuals likely to have discoverable information, documents that might be used to support Defendants' claims or defenses, and applicable insurance agreements that might be used to satisfy any judgment against Defendants.

**1. Document Discovery**

**a. Defendant Document Discovery**

36. Document discovery in this Action commenced in February 2016 when Plaintiffs prepared and served their first set of document requests on the Cobalt Defendants and Sponsor Designee Defendants. These requests sought documents concerning a comprehensive range of issues, including information on Cobalt's Angolan partners, communications with relevant Angolan government officials, Cobalt Board minutes, and reports on the Lontra and Loengo wells.

37. Following Plaintiffs' review of these initial document productions, Plaintiffs served a second set of targeted document requests on the Cobalt Defendants (and the Sponsor Designee Defendants) on June 13, 2016. These requests sought additional documents concerning the ownership of Cobalt's Angolan partners, Cobalt's due diligence relating to its Angolan business activities, and the Lontra and Loengo wells, among other subjects.

38. Plaintiffs also served separate sets of document requests on the Sponsor Defendants and Sponsor Designee Defendants on February 26, 2016 and May 20, 2016, respectively. Among other subjects, these requests sought documents concerning Defendants' exercise of control over Cobalt and their receipt of confidential, non-public information on Cobalt's business activities in Angola.

39. In addition, Plaintiffs served document requests on the Underwriter Defendants on March 1, 2016. These requests sought documents on, among other subjects, the Underwriter Defendants' due diligence for the Cobalt Securities Offerings, their analyst

and research reports on Cobalt, and their communications and solicitations with investors concerning the Cobalt Securities Offerings.

40. Defendants' objections, responses, and answers to Plaintiffs' document requests gave rise to numerous discovery disputes and meet-and-confer sessions. Following these meet-and-confers, Lead Counsel and counsel for Defendants engaged in numerous written and telephonic communications addressing a wide range of discovery disputes and issues, including the appropriate scope of the document productions, the relevance of the requested materials, and privilege assertions over numerous withheld documents. Through their extensive meet-and-confers, counsel successfully resolved many discovery disputes, including the relevant time periods for the respective productions, the appropriate custodians and search terms for each Defendant group, and the production of documents from the related SEC investigation of Cobalt. While the Parties did reach an impasse on several discovery-related issues that had to be raised with the Court (*see infra* Section II.E.4), their negotiated compromises eliminated the need to do so for most discovery disputes.

41. In response to Plaintiffs' requests for production, Defendants collectively produced approximately 1.2 million pages of documents. Plaintiffs' Counsel dedicated extensive resources and technology to organize, review, and analyze the materials produced by Defendants. All documents produced in the Action, including documents produced by non-parties (*see infra* Section II.E.1.b) were placed in an electronic database known as Documatrix to facilitate a review process that was cost and time-efficient. This database allowed Plaintiffs' Counsel to search for documents through Boolean-type

searches, as well as conduct searches by author and/or recipient, type of document, date, and Bates number. The database gave Plaintiffs' Counsel the ability to efficiently search, cull and organize "hot" documents for use in relevant proof outlines and witness-specific folders to prepare for depositions and trial.

**b. Non-Party Document Discovery**

42. Plaintiffs also served document subpoenas on relevant non-parties that possessed key information concerning Cobalt's Angolan partners and oil wells. These non-parties included (i) Cobalt's outside counsel at Vinson & Elkins LLP ("V&E"), and O'Melveny & Myers LLP ("O'Melveny") that participated in Cobalt's due diligence efforts in Angola; (ii) the investigatory firms Control Risks Group ("CRG"), Navigant Consulting ("Navigant"), and the Risk Advisory Group ("Risk Advisory") that were hired by Cobalt to conduct due diligence on its Angolan partners; (iii) Cobalt's consultant on Angolan operations, John Kennedy; (iv) Cobalt's public relations firm Edelman; (v) former Cobalt executives Samuel Gillespie, Van Whitfield, and Michael Drennon; and (vi) Schlumberger Limited, which conducted seismic data analysis on Cobalt's Angolan wells.

43. These discovery requests were also subject to multiple meet-and-confers between Lead Counsel and counsel for the non-parties. Following these meet-and-confers, the non-parties collectively produced 127,800 pages of responsive documents that were reviewed and analyzed by Lead Counsel. The documents obtained through Plaintiffs' subpoenas to these non-parties were critical to the successful prosecution of the case and Plaintiffs' significant recovery for the Settlement Class.



44. As noted above, in order to effectively and efficiently review and analyze the voluminous documents from multiple sources, Lead Counsel used a sophisticated electronic database to host and manage their document productions. Lead Counsel, with the assistance of Plaintiffs' Counsel, reviewed and analyzed the documents with the aim of preparing for fact witness depositions, expert discovery, summary judgment motions and trial.

## **2. Interrogatories and Requests for Admission**

45. Plaintiffs further supported their claims by serving and insisting upon Defendants' meaningful responses to written interrogatories and requests for admissions. On May 27, 2016, Plaintiffs served the Cobalt Defendants with a set of interrogatories seeking detailed information concerning their due diligence on Nazaki and Alper, including any meetings with these entities or payments to or from their representatives. The interrogatories also requested the identification of any oil and gas tests performed on Cobalt's Lontra and Loengo wells in Angola, among other subjects. The Cobalt Defendants' responses to these interrogatories helped Plaintiffs' Counsel identify documents and other information that supported Plaintiffs' claims.

46. In October and November 2017, Plaintiffs also served interrogatories and requests for admission on the Sponsor Defendants and Underwriter Defendants. The Underwriter Defendants' responses to the interrogatories and requests for admission assisted Plaintiffs and their counsel in identifying the asserted bases for their affirmative defenses to the Securities Act claims, including their "due diligence" defense for the Cobalt Securities Offerings.

47. In September 2018, Plaintiffs responded to myriad contention interrogatories and requests for admission by the Underwriter Defendants. These detailed responses required Plaintiffs to identify all facts elicited during discovery demonstrating the falsity of the alleged misstatements and omissions made in connection with the Cobalt Securities Offerings. Plaintiffs prepared similarly detailed responses to contention interrogatories served by the Sponsor Defendants, although the claims against these Defendants settled before Plaintiffs' responses were due. The process of responding to these comprehensive written discovery requests helped Plaintiffs and Lead Counsel assess the overall strengths and weaknesses of their claims.

### **3. Deposition Discovery**

48. In addition to written and document discovery, Plaintiffs deposed a total of 19 fact witnesses involved in Cobalt's Angolan partnerships and oil wells. These included depositions of the Cobalt Executive Defendants Joseph Bryant (former CEO), John Wilkirson (former CFO), and James Farnsworth (former Chief Exploration Officer), each of whom had substantial involvement in the matters at issue in the Action. Plaintiffs also deposed non-party former Cobalt executives Samuel Gillespie (former General Counsel), Van Whitfield (former Chief Operating Officer), and Michael Drennon (former Angola manager).

49. Lead Counsel also deposed numerous current and former Cobalt Board members who were involved in the Company's core business operations and decision-making. Among other Cobalt witnesses, Lead Counsel deposed Board member Defendants N. John Lancaster, Kenneth Moore, J. Hardy Murchison, and William Utt.

50. Lead Counsel also took the depositions of representatives of Cobalt's outside law firms and investigative firms that were retained to conduct due diligence on the Company's Angolan partners. This included deposing three representatives from V&E and O'Melveny, as well as representatives from each of Cobalt's due diligence firms CRG, Navigant, and Risk Advisory.

51. Plaintiffs' Counsel also deposed representatives from each of the lead Underwriters on the Cobalt Securities Offerings, including Underwriter Defendants (i) Citigroup Global Markets Inc., (ii) Morgan Stanley & Co. LLC, and (iii) RBC Capital Markets, LLC. These depositions were conducted pursuant to Rule 30(b)(6) deposition notices, which contained detailed notices aimed at obtaining testimony to support Plaintiffs' claims.

52. Each of these depositions required extensive preparation by Plaintiffs' Counsel, including a thorough review and analysis of relevant witness-specific documents, drafting detailed deposition outlines, and compiling comprehensive exhibit binders. The testimony obtained through these depositions was valuable in enabling Plaintiffs and counsel to develop the evidentiary record and understand the strengths and weaknesses of Plaintiffs' claims.

#### **4. Discovery Disputes**

53. Although Plaintiffs' Counsel made significant efforts to reduce discovery disputes, the Parties reached several impasses during the course of fact discovery that necessitated the Court's intervention. Plaintiffs presented four such discovery-related disputes to the Court, as summarized below.

54. On August 10, 2016, Plaintiffs filed a letter with the Court concerning a discovery dispute with the Cobalt Defendants. The letter sought a ruling on the Cobalt Defendants' refusal to produce crucial documents from V&E, O'Melveny, Navigant, and CRG (the "Due Diligence Providers") concerning their investigations into Cobalt's Angolan partners (*i.e.*, Nazaki and Alper). The Cobalt Defendants withheld production of such documents on grounds that they were duplicative of prior productions, were not in their custody and control, and/or were purportedly privileged. Plaintiffs' detailed discovery letter brief demonstrated that such materials were in fact within Cobalt's control and were neither duplicative nor privileged.

55. After considerable back-and-forth, the Parties were ultimately able to reach a compromise prior to the August 2016 Court hearing on this discovery dispute. The Cobalt Defendants agreed to produce previously-gathered responsive documents from Navigant and CRG, and to conduct a narrowed search of the central files of V&E and O'Melveny for responsive materials. The documents produced as a result of Lead Counsel's efforts were critical to Plaintiffs' successful prosecution of their claims and significant recovery.

56. On October 24, 2016, Plaintiffs filed a letter with the Court to raise another discovery dispute for which the Parties could not reach agreement. Specifically, Plaintiffs contested the Cobalt Defendants' continued assertion of privilege over numerous additional documents concerning the purported due diligence on Nazaki and Alper conducted by Cobalt's outside counsel. Plaintiffs argued that documents concerning Cobalt's factual investigation into the ownership of Nazaki and Alper were not protected

by the attorney-client or work product privilege. Plaintiffs also asserted that any such privilege had been waived because the Cobalt Defendants had already produced similar materials, and had put such investigatory information at issue through their public statements and their *de facto* assertion of an “advice of counsel” defense.

57. On November 16, 2016, Plaintiffs filed another letter with the Court to address a separate discovery dispute. This dispute concerned the scope of the Cobalt Defendants’ searches of the Due Diligence Providers’ files that had been agreed upon in August 2016 (*i.e.*, the appropriate date restrictions and search terms to apply). Plaintiffs and the Cobalt Defendants requested that the Court address this dispute at a discovery hearing, as well as the dispute set forth in Plaintiffs’ October 24, 2016 letter.

58. The Court held a discovery hearing on these issues on December 2, 2016. After the Parties’ extensive presentation of the above discovery disputes, the Court concluded the hearing by ordering the production of, among other things, all advice of counsel documents concerning (i) the ownership of Nazaki and Alper, (ii) Cobalt’s compliance with the FCPA given its partnership with these entities, and (iii) the misrepresentations alleged in the Amended Complaint.

59. On April 13, 2017, Plaintiffs filed a letter with the Court to address another critical discovery dispute for Court resolution. The dispute concerned the Cobalt Defendants’ production of heavily redacted documents crucial to Plaintiffs’ claims, including important minutes and materials from Cobalt Board of Director meetings during the Class Period. After the exchange of detailed letters between Lead Counsel and counsel for the Cobalt Defendants, the Court held a discovery hearing on April 26, 2017. At this

hearing, the Court ordered the production of unredacted Board minutes and materials concerning many of the subjects at issue in the Action.

60. Taken together, the discovery disputes presented to the Court resulted in the production of documents that further supported Plaintiffs' claims. Each of these disputes was presented through detailed letter briefs citing to specific materials in the record and relevant legal authority on the issues. This process helped to advance the Action by providing Plaintiffs access to discovery material that supported the asserted claims.

**F. Plaintiffs' Motion to Amend the Complaint to Add a Section 20A Claim Based on the Discovery Record**

61. On January 30, 2017, Plaintiffs sought leave to file an amended complaint adding a new claim against the Sponsor Defendants based on factual discovery obtained in the Action to that date. ECF No. 191. Specifically, Plaintiffs obtained information in discovery that supported allegations that the Sponsor Defendants sold significant quantities of Cobalt securities during the Class Period while in possession of material, non-public information concerning (i) the ownership of Nazaki by Angolan government officials and (ii) the lack of oil in Cobalt's Loengo well.

62. On March 10, 2017, the Court entered an Order granting Plaintiffs leave to amend after considering briefing on the issue by Plaintiffs and the Sponsor Defendants. ECF No. 199. Then, on March 15, 2017, Plaintiffs filed the Second Consolidated Amended Class Action Complaint ("Second Amended Complaint" or "Operative Complaint"). ECF No. 200. The Second Amended Complaint added an insider trading claim under Section 20A of the Exchange Act (15 U.S.C. § 78t-1(a)) against the Sponsor Defendants.

**G. The Sponsor Defendants' Motion to Dismiss the Section 20A Insider Trading Claim**

63. The Sponsor Defendants moved to dismiss the Section 20A claim on April 14, 2017. ECF No. 216. Among other arguments, the Sponsor Defendants asserted that the Second Amended Complaint failed to plead facts demonstrating a violation of Section 10(b) of the Exchange Act. They contended that a violation of Section 10(b) was a necessary predicate to the Section 20A insider trading claim, and that Plaintiffs had failed to allege facts establishing the Sponsor Defendants' scienter. They further asserted that Plaintiffs engaged in impermissible group pleading because the Second Amended Complaint did not contain individualized allegations for each Sponsor Defendant. In addition, the Sponsor Defendants argued that Plaintiffs did not allege contemporaneous purchases with Goldman Sachs' alleged insider sales as is required under Section 20A.

64. Plaintiffs filed a detailed opposition brief and supporting declaration on May 15, 2017. ECF No. 238. In response to the Sponsor Defendants' arguments, Plaintiffs asserted that a distinct violation of Section 10(b) of the Exchange Act was not a necessary predicate to pleading a viable insider trading claim under Section 20A. Plaintiffs also pointed to specific facts in the discovery record establishing that each Sponsor Defendant had received material, nonpublic information concerning Nazaki and the Loengo well through their Cobalt Board designees (*i.e.*, the Sponsor Designee Defendants), thereby pleading scienter. Moreover, Plaintiffs demonstrated that the Second Amended Complaint did not rely on group pleading, as it specified (i) each insider sale by entity name and shares sold, (ii) each Sponsor Designee Defendant who received material inside information, and

(iii) the exact nonpublic material and information received. The opposition brief also argued that purchases of Cobalt stock by Plaintiff Universal Investment Gesellschaft mbH (“Universal”) were contemporaneous with The Goldman Sachs Group, Inc.’s insider sales.

65. On June 15, 2017, the Court entered an Order denying the motion to dismiss of all Sponsor Defendants, with the exception of The Carlyle Group, L.P. ECF No. 243. The Carlyle Group, L.P. remained, however, as a Defendant on the control person claim brought under Section 15 of the Securities Act.

66. On July 17, 2017, the Sponsor Defendants, except for The Carlyle Group, L.P., answered the Second Amended Complaint, denying liability and the essential factual allegations therein. ECF No. 255.

#### **H. Plaintiffs’ Motion for Class Certification**

67. On November 2, 2016, Plaintiffs moved to certify this case as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure. ECF Nos. 163-166. Defendants filed an opposition to class certification on March 22, 2017 (ECF Nos. 205-207), and Plaintiffs replied on May 26, 2017 (ECF No. 239).

68. As part of this briefing, the Parties each submitted detailed expert reports in support of their respective positions on class certification. Plaintiffs designated and served expert reports from Dr. Michael Hartzmark on the issues of (i) market efficiency for the Cobalt stock and notes traded during the Class Period, (ii) the common methodology for calculating Class-wide damages for all Class Members, and (iii) the price impact on Cobalt stock and notes in response to the alleged corrective disclosures. Dr. Hartzmark’s opinions



on market efficiency were based on a detailed event study concerning the movement of Cobalt's stock and note prices in response to new market information.

69. Defendants served an expert report by Lucy Allen that responded to Dr. Hartzmark's report. Ms. Allen did not contest that Cobalt's stock traded in an efficient market, but contended that Dr. Hartzmark had not demonstrated market efficiency for the Cobalt notes. She also found no "price impact" for Cobalt's stock and bonds in response to the alleged corrective disclosures. Dr. Hartzmark submitted a detailed rebuttal report on these points that was filed as an exhibit to Plaintiffs' class certification reply brief.

70. Both Dr. Hartzmark and Ms. Allen were deposed following the submission of their expert reports. These depositions required significant preparation by Lead Counsel to address the technical methodologies and findings of both experts.

71. Defendants also propounded significant discovery on Plaintiffs in connection with class certification. This included detailed document requests served on each Plaintiff and their outside investment managers concerning their Class Period investments in Cobalt securities. In total, Plaintiffs produced 131,900 pages of documents in response to Defendants' class certification document requests.

72. Additionally, Defendants served deposition notices and subpoenas on Plaintiffs and their outside investment managers to address class certification issues. In total, Defendants took ten Rule 30(b)(6) depositions of Plaintiffs' representatives and investment managers. The representative from Universal traveled from Frankfurt, Germany to New York City to attend his deposition. In addition, the representative from

Plaintiff Sjunde AP-Fonden (“AP7”) traveled from Stockholm, Sweden to New York City for his deposition.

73. In opposition to class certification, Defendants argued that certification was not warranted because, among other things, (i) Defendants had rebutted the Class-wide presumption of reliance for the Section 10(b) claim by demonstrating a lack of price impact when the corrective disclosures were made; (ii) Plaintiffs were not entitled to a Class-wide presumption of reliance for the Section 10(b) claim based on the Cobalt note offerings because the notes did not trade in an efficient market; (iii) individualized issues concerning each Class Member’s tracing of Cobalt stock purchases to the allegedly false offering materials and the location of their Cobalt note purchases (*i.e.*, foreign or domestic) predominated over common issues; (iv) the statute of repose barred most of the Securities Act claims; and (v) there was no typical or adequate class representative for purchasers of the Cobalt notes.

74. After considering the voluminous briefing submitted by the Parties, the Court granted Plaintiffs’ class certification motion on June 15, 2017 (the “Class Certification Order”). ECF No. 244. The Court found the standards under Rules 23(a) and 23(b)(3) were satisfied and certified the Class of Cobalt investors in common stock and notes, appointed Plaintiffs as Class Representatives, and appointed Lead Counsel as Class Counsel.

**I. Defendants' Petition for Interlocutory Appeal of the Class Certification Order**

75. On June 30, 2017, Defendants filed a petition in the United States Court of Appeals for the Fifth Circuit pursuant to Federal Rule of Civil Procedure 23(f), seeking an interlocutory appeal of the Court's Class Certification Order. In seeking an interlocutory appeal, Defendants argued that the Court erred in granting class certification because it purportedly failed to consider (i) whether the alleged corrective disclosures actually corrected Defendants' alleged misstatements, and (ii) whether the need for Class Members to trace their Cobalt stock purchases to the challenged registration statements defeats the "predominance" requirement of Rule 23.

76. Plaintiff filed a response to the Rule 23(f) petition on July 10, 2017, arguing that the Court had fully addressed and rejected Defendants' assertions in its Class Certification Order. The Court of Appeals ultimately granted Defendants' petition on August 4, 2017.

**J. Defendants' Motion for Reconsideration of Class Certification Order**

77. While the Rule 23(f) petition was pending, Defendants filed a motion to reconsider the Court's Class Certification Order on July 13, 2017. ECF No. 251. The reconsideration motion argued that no class could be certified for Securities Act claims brought on the February 2012 Cobalt common stock offering because the statute of repose barred such claims. Defendants also asserted that no Securities Act class could be certified because the statute of repose expired before the Court issued its Class Certification Order. In support of this argument, Defendants cited a recent Supreme Court decision, *California*

*Public Employees' Retirement System v. ANZ Securities, Inc.*, 137 S. Ct. 2042 (2017) (“*CalPERS*”) holding that the Securities Act statute of repose is not subject to *American Pipe* tolling. In addition, Defendants argued that individualized issues on the location of Class Members’ transactions in Cobalt notes (*i.e.*, foreign vs. domestic) predominated over any common questions.

78. Plaintiffs filed an opposition to the reconsideration motion on August 3, 2017. ECF No. 256. Plaintiffs argued there was no basis for reconsideration because (i) the Court already found that the Securities Act claim on the February 2012 common stock offering was timely, (ii) the *CalPERS* decision did not bar the certification of timely filed class actions (as opposed to untimely opt-out claims), and (iii) the Court already considered and rejected the assertion that individual inquiries on the location of Class Members’ note purchases would predominate over common issues for the Class.

79. On August 23, 2017, the Court denied Defendants’ reconsideration motion. ECF No. 273. The Court found that reconsideration was unwarranted because (i) the *CalPERS* decision did not bar certification of the timely filed Action on statute of repose grounds, and (ii) individualized issues concerning the location of Class Members’ Cobalt note purchases did predominate over common Class-wide issues.

**K. Defendants’ Motions to Stay the Proceedings**

80. Defendants made two separate motions to stay the proceedings in this Action. First, Defendants moved before this Court on July 13, 2017 to stay discovery pending the Fifth Circuit’s ruling on the Rule 23(f) petition. ECF No. 252. After full briefing on this motion, the Court denied the request to stay discovery on August 23, 2017. ECF No. 273.

81. Following the Fifth Circuit's grant of the Rule 23(f) petition, Defendants again sought to stay the Action pending resolution of their appeal on the Class Certification Order. This motion was fully briefed before the Fifth Circuit on September 12, 2017. After extensive briefing, on September 15, 2017, the Fifth Circuit denied Defendants' motion to stay the Action in this Court.

**L. Defendants' Interlocutory Appeal of Class Certification**

82. Defendants additionally filed two separate briefs appealing the Class Certification Order. On October 10, 2017, the Cobalt Defendants and Sponsor Defendants filed a joint opening brief in the Fifth Circuit. The Underwriter Defendants also filed a separate brief appealing class certification on the same date. These appeals asserted many of the same arguments raised in Defendants' Rule 23(f) petition and reconsideration motion.

83. The appeal by the Cobalt Defendants and Sponsor Defendants focused on the issue of Rule 23 predominance for the Section 10(b) claim. Specifically, they challenged the Court's determination that Defendants had failed to rebut the Section 10(b) Class-wide presumption of reliance through evidence demonstrating an absence of price impact in response to the alleged corrective disclosures. These Defendants argued that the Court erred in refusing to consider whether these disclosures actually corrected the alleged misstatements when it assessed price impact and Rule 23 predominance.

84. The Underwriter Defendants appealed the Class Certification Order on separate grounds. They argued that the Court erred in certifying a class for Securities Act claims because the predominance of Class-wide issues had not been established on these

claims as required under Rule 23. The Underwriter Defendants contended that predominance was defeated given individualized inquiries into (i) the tracing of each Class Member's stock purchases to the challenged Cobalt registration statements, and (ii) the location of Cobalt note transactions (*i.e.*, foreign vs. domestic). The Underwriter Defendants also asserted that the Court erred in certifying the Securities Act class because the statute of repose had expired for all unnamed Class Members under the *CalPERS* decision.

85. Plaintiffs filed two opposition briefs on November 9, 2017. In response to the Cobalt/Sponsor Defendants' appeal, Plaintiffs argued that the Court was not required to assess the "correctiveness" of the alleged disclosures to determine price impact. On the Underwriter Defendants' appeal, Plaintiffs argued that the Court properly determined that (i) tracing of common stock purchases was a merits issue not to be decided at class certification, (ii) any inquiries on the location of Class Members' note purchases did not predominate over common issues, and (iii) the *CalPERS* decision did not bar certification of the timely filed class Action.

86. The Appeals were fully briefed on December 1, 2017. Plaintiffs reached settlements with the Cobalt and Sponsor Defendants while their appeals were pending. *See infra* Section II.P. Because Plaintiffs had not yet reached a settlement with the Underwriter Defendants, oral argument was held on their appeal on October 1, 2018.

**M. Defendant Cobalt's Bankruptcy and the Bankruptcy Proceedings**

87. On December 14, 2017, Cobalt filed a voluntary petition for relief under Chapter 11 of the United States Code, 11 U.S.C. §§ 101-1532, in the United States

Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). *See In re Cobalt International Energy, Inc.*, Case No. 4:17-bk-36709 (Bankr. S.D. Tex.).

88. Cobalt also filed an adversary complaint in the Bankruptcy Court on December 14, 2017, seeking to extend the automatic stay of proceedings under 11 U.S.C. § 362(a) to Plaintiffs’ claims against the Cobalt Individual Defendants, Sponsor Defendants, Sponsor Designee Defendants, and Underwriter Defendants.

89. Pursuant to the bankruptcy, the Court stayed all claims against Cobalt, as well as all case deadlines in the Action on December 15, 2017. On December 18, 2017, the Fifth Circuit Court of Appeals also stayed Defendants’ appeals of the Class Certification Order pending disposition of Cobalt’s bankruptcy proceedings. Then, given Cobalt’s bankruptcy, the Parties agreed on January 4, 2018, to a temporary stay of proceedings in the Action until April 21, 2018, and an order to that effect was entered in the Bankruptcy Court.

90. In the bankruptcy proceedings, Lead Counsel, with the assistance of bankruptcy counsel engaged on behalf of the Class, successfully litigated the preservation of the claims against Cobalt to the extent of available insurance proceeds. The preservation of these claims was reflected in Cobalt’s bankruptcy plan approved by the Bankruptcy Court on April 4, 2018 (the “Cobalt Bankruptcy Plan”).

91. After the bankruptcy stay was lifted, the Parties filed a joint proposed docket control order with this Court on May 17, 2018, which included a revised schedule for the Action. The Court entered the revised schedule on May 22, 2018 (ECF No. 315), and the

Parties continued to conduct fact discovery and prepare for the expert discovery phase of the case.

**N. Continuous Work with Experts and Consultants**

92. During the course of the Action, Plaintiffs retained several experts and consultants on a range of issues relevant to the claims. These experts and consultants were engaged to address (i) technical issues concerning Cobalt's Lontra and Loengo wells, (ii) liability under the FCPA, (iii) the Underwriter Defendants' due diligence in connection with Cobalt's Securities Offerings, and (iv) issues of market efficiency, materiality, and Class-wide damages for the Cobalt Securities sold during the Class Period.

93. Plaintiffs devoted considerable time and effort working with these experts and consultants on their designated subjects, including analyzing documents produced by Defendants and testimony obtained through fact depositions. As noted above, Dr. Hartzmark submitted two detailed expert reports with voluminous supporting exhibits in support of class certification. He also worked on an expert report addressing the materiality of Defendants' alleged misstatements and the measure of Class-wide damages for the Section 10(b) claims and Securities Act claims. Plaintiffs' other experts consulted and prepared reports concerning the oil content of the Lontra and Loengo wells, and the Underwriter Defendants' due diligence for the Cobalt Securities Offerings.

**O. Mediation with Phillips ADR**

94. The Parties engaged in various efforts to settle the Action during the course of the case. This included a formal in-person mediation session in New York on October 3, 2017 with former United States District Judge Layn R. Phillips. In advance of this full-



day mediation, the Parties exchanged detailed mediation statements with supporting exhibits referencing key documents and information obtained during discovery.

95. Although the Parties were unable to settle the Action at this mediation session, they continued to negotiate with the assistance of Judge Phillips over the course of the next several months.

**P. The Parties Reach Agreement to Resolve the Litigation**

96. In June 2018, Plaintiffs and the Sponsor Defendants, Sponsor Designee Defendants, and GS&Co. reached an agreement in principle to settle the claims asserted in the Action against those Defendants for a total of \$146,850,000 in cash (the “Sponsor/GS&Co. Settlement”). The Sponsor/GS&Co. Stipulation was executed by these parties on October 9, 2018.

97. On September 14, 2018, Plaintiffs and the Cobalt Defendants reached an agreement in principle to settle the claims asserted in the Action against these Defendants and executed a term sheet detailing the main components of the settlement. These claims were settled for up to \$220,000,000, payable from the proceeds of Cobalt’s Directors & Officers liability insurance (the “D&O Policies”) preserved through the Cobalt Bankruptcy Plan (the “Cobalt Settlement”). The projected proceeds of insurance available to fund the Cobalt Settlement include (i) at least \$4,200,000 existing from settlements with carriers of the D&O policies, and (ii) future recoveries of up to \$161,500,000 from ongoing litigation by the Cobalt Defendants against the insurance carriers that issued the D&O Policies. The Cobalt Stipulation was executed by these parties on October 11, 2018.

98. On October 12, 2018, Plaintiffs filed motions and related submissions seeking preliminary approval of both the Sponsor/GS&Co. Settlement and the Cobalt Settlement. ECF Nos. 332-337.

99. On November 2, 2018, the Court granted preliminary approval of the Sponsor/GS&Co. Settlement and the Cobalt Settlement. ECF Nos. 346-347.

100. On October 25, 2018, shortly after the oral argument before the Fifth Circuit, Plaintiffs and the Underwriter Defendants (other than GS&Co.) reached an agreement in principle to settle the claims asserted in the Action against these Defendants for a total of \$22,750,000 in cash (the “Underwriter Settlement”). The Underwriter Stipulation was executed by these parties on November 28, 2018. Plaintiffs filed a motion and related submissions seeking preliminary approval of the Underwriter Settlement on this same date.

101. On November 29, 2018, the Court granted preliminary approval of the Underwriter Settlement. ECF No. 354. The Court set a hearing for final approval of all three Settlements for February 13, 2019.

102. Each of the Plaintiffs/Class Representatives (*i.e.*, the GAMCO Funds, St. Lucie, San Antonio, Universal, and AP7) supports the Settlements as being fair, reasonable, and adequate and in the best interest of the Class. They agree that the Settlements represent a favorable recovery for the Class, particularly given the multiple risks in continuing to litigate the Action as detailed below.

### **III. RISKS OF CONTINUED LITIGATION**

103. Based on the substantial discovery efforts outlined above, Plaintiffs’ Counsel have significant evidence supporting Plaintiffs’ claims and were prepared to proceed to

summary judgment and trial. However, Plaintiffs' Counsel realize that Plaintiffs face considerable risks in pursuing the Action through these stages. Certain of the most significant litigation risks are outlined below. Plaintiffs and their counsel carefully considered each of these risks in reaching the Settlements.

**A. Risks Concerning Liability**

104. Plaintiffs and their counsel faced significant challenges and defenses on each element of the claims asserted against Defendants. Defendants vigorously disputed their liability for the alleged fraudulent misstatements and omissions during the Class Period, their alleged trading on material nonpublic information, and the issuance of Cobalt securities pursuant to the allegedly false registration statements and prospectuses.

105. The Cobalt Defendants would undoubtedly argue at summary judgment and trial that they made no false statements or omissions in violation of Section 10(b) of the Exchange Act. They have consistently asserted that they never misrepresented or omitted information regarding the ownership of Nazaki and Alper by Angolan government officials. Moreover, they have argued that there can be no liability for these alleged misstatements because neither the SEC nor the United States Department of Justice ("DOJ") pursued claims against the Cobalt Defendants for FCPA violations premised on Nazaki's ownership.

106. The Cobalt Defendants also challenged the falsity of the alleged misstatements and omissions concerning the oil content of the Lontra and Loengo wells. They contended that these alleged misstatements are not actionable because they amount to mere puffery and are protected by the PSLRA's safe harbor for forward-looking

statements. Defendants also asserted that Cobalt fully disclosed the results of its well tests and analyses on Lontra and Loengo, and adequately informed investors of the risk that the wells may not contain oil.

107. The Underwriter Defendants and Sponsor Defendants also contested the falsity of the alleged misrepresentations concerning Cobalt's Angolan partners and oil wells. In addition, the Underwriter Defendants asserted that the declines in Cobalt's stock and note prices were not caused by the alleged misstatements (*i.e.*, the "negative causation" defense), and that they conducted adequate due diligence on Cobalt prior to each offering (*i.e.*, the "due diligence" defense). A ruling or verdict in favor of the Underwriter Defendants or Sponsor Defendants would eviscerate the Securities Act claims, and possibly the Section 20A claim given Defendants' assertion that a fraudulent statement in violation of Section 10(b) is a necessary predicate to a viable insider trading claim. In addition, a finding for Defendants on falsity would eliminate any liability for the control person claims brought under Section 20(a) of the Exchange Act and Section 15 of the Securities Act, since both require a primary violation based on false or misleading statements.

108. The Cobalt Defendants and Sponsor Defendants also contended that there is no evidence that the alleged misstatements were made with scienter. They argued that Defendants sincerely believed in the accuracy of the statements regarding the ownership of the Angolan partners and Cobalt's compliance with the FCPA given the Company's extensive due diligence and the legal advice it received from V&E and O'Melveny.

109. These Defendants have similarly argued that there is no evidence of scienter for the alleged Lontra and Loengo misstatements. The Cobalt Defendants argued that they genuinely viewed both wells to have great oil potential based on pre-drill estimates, and that they disclosed any specific well risks they were aware of. A finding for Defendants on scienter would eliminate any liability on the fraud-based Exchange Act claims (*i.e.*, Sections 10(b) and 20(a)) and possibly the insider trading claim under Section 20A.

110. Although Plaintiffs believe the evidence strongly supports both falsity and scienter, there is a risk that the Court or a jury could find otherwise for some or all of the alleged misstatements. The Settlements represent a significant recovery for the Class given the liability risks posed by continued litigation.

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

111. Plaintiffs also recognized the risk of proving loss causation for the alleged misstatements and omissions. As previewed in their class certification opposition, Defendants would argue that Cobalt's stock price declines were caused by factors other than the corrective disclosures identified in the Second Amended Complaint.

112. Defendants' expert at class certification asserted that none of the alleged corrective disclosures had an impact on the price of Cobalt's stock or notes. Specifically, their expert opined that the April 15, 2012 *Financial Times* article revealed no new information to the market about the ownership of Nazaki by Angolan government officials. The expert also opined that the *Financial Times* article was not actually corrective of any misstatements because Defendants' alleged misstatements only concerned Cobalt's FCPA compliance, and not the ownership of Nazaki.

113. Defendants and their expert also vigorously argued that the August 5, 2014 announcement of the SEC Wells Notice did not provide any new information to the market. They asserted that the negative market reaction to this announcement was due to the revelation of a formal SEC investigation, not the disclosure of previously concealed facts about Nazaki's owners. Moreover, as Defendants repeatedly noted, the SEC and DOJ ultimately dropped their investigations without bringing charges or a lawsuit.

114. Similarly, Defendants asserted that the December 1, 2013 announcement that Lontra contained more gas than pre-drill estimates was not corrective of any prior misstatement. They argued that, because Cobalt warned of such a risk throughout the Class Period, the Lontra press release revealed no omitted facts about the well. Defendants attributed the decline in Cobalt's stock price after the Lontra announcement to a normal market reaction to negative company news. Defendants and their expert made the same argument with respect to the November 4, 2014 announcement that Loengo was a dry hole, *i.e.*, it purportedly did not correct any previously omitted fact about the well given Cobalt's ample warning of drilling risks.

115. In addition, Defendants vigorously challenged Plaintiffs and Dr. Hartzmark's theory of damages for the Section 20A insider trading claim asserted against the Sponsor Defendants. There was no guarantee that the Court or jury would adopt Plaintiffs' damages methodology for the Section 20A claim, thereby raising an additional risk to Class-wide recovery.

116. Plaintiffs and their expert, Dr. Hartzmark, had strong responses to each of Defendants' loss causation and damages arguments. Nonetheless, if the Court at summary

judgment or a jury at trial were to accept any of Defendants' loss causation or damage arguments, the Class's potential recovery would be significantly diminished.

**C. Risks Related to the Bankrupt Primary Defendant**

117. As the primary Defendant in the Action, Cobalt's bankruptcy posed additional risks to a meaningful recovery for the Class. Cobalt, as a bankrupt entity, had no ability to pay any significant monetary damages obtained against it at trial. Accordingly, even if Plaintiffs were successful in proving their claims against Cobalt, such claims were likely to be discharged in bankruptcy through Cobalt's Chapter 11 cases.

118. In addition, none of the Cobalt Individual Defendants has personal assets adequate to pay a judgment that is even a fraction of Class-wide damages. Their significant Cobalt stock holdings are also worthless given the Company's bankruptcy. Meanwhile, a jury may have assigned to Cobalt most or all of the fault for the alleged misrepresentations, thereby reducing or eliminating the liability of the other Defendants.

119. Particularly given the Company's illiquidity and the inability of the Cobalt Individual Defendants to make Plaintiffs and the Class whole, Plaintiffs and Lead Counsel submit that the Settlements (including an amount ranging from \$4.2 million to \$165.7 million from Cobalt and the Cobalt Individual Defendants) represents an outstanding recovery.

**D. Risks Related to the Pending Appeal**

120. As noted above, Defendants appealed the Court's Class Certification Order on a number of grounds, which posed additional risks to Class recovery. Defendants asserted that the Court erred in finding Plaintiffs are entitled to a Class-wide presumption

of reliance for the Section 10(b) claim. If Defendants prevailed on this issue before the Fifth Circuit, certification of the Class could be jeopardized.

121. Moreover, Defendants appealed the Court's Class Certification Order on the grounds that no Section 11 class can be certified because it is impossible to trace share purchases to the Cobalt common stock offerings. Defendants also contend that no Section 11 class should be certified for the Cobalt note offerings because of individualized issues concerning the location of note purchases (*i.e.*, foreign vs. domestic). In addition, Defendants asserted that the statute of repose bars Securities Act claims based on the Cobalt Securities Offerings.

122. While Plaintiffs are confident that the Class was properly certified, the Class's claims could be significantly curtailed or even foreclosed if Defendants prevailed on any of these issues on appeal.

#### **IV. NOTICE TO THE CLASS**

123. The Court's November 2 and 29, 2018 Orders Preliminarily Approving the Settlements and Providing for Notice (collectively, the "Preliminary Approval Orders") directed that the Notice and Claim Form be disseminated to the Settlement Class. The Preliminary Approval Orders also set a January 23, 2019 deadline for Settlement Class Members to request exclusion from the Settlement Class or to submit objections, if any, to the Settlements, the Plan of Allocation and/or the Fee and Expense Application.

124. Pursuant to the Preliminary Approval Orders, the Court appointed Epiq Class Action & Mass Tort Solutions, Inc. ("Epiq" or the "Claims Administrator") to supervise and administer the notice procedure in connection with the proposed Settlements and the



processing of claims. Lead Counsel instructed Epiq to begin disseminating copies of the Notice and the Claim Form by mail and to publish the Summary Notice. The Notice contains a description of the Action and the claims asserted, the Settlements, and the proposed Plan of Allocation. The Notice further describes Plaintiffs' Counsel's intent to apply for an award of attorneys' fees in an amount up to 25% of the Settlement Funds and for reimbursement of Litigation Expenses in an amount up to \$5 million. The Notice additionally notifies the Settlement Class Members of their rights to participate in the Settlements, object to the Settlements, or exclude themselves from the Settlement Class.

125. To disseminate the Notice, Epiq obtained information from Cobalt and from certain banks, brokers and other nominees regarding the names and addresses of potential Settlement Class Members. *See* Declaration of Alexander Villanova Regarding (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date ("Villanova Decl."), attached hereto as Exhibit 2, at ¶¶ 3-7. On December 4, 2018, Epiq began mailing copies of the Notice and Claim Form (together, the "Notice Packet") by first-class mail to potential Settlement Class Members and nominee owners. *See* Villanova Decl. at ¶¶ 3-5. By January 7, 2019, Epiq disseminated a total of 85,122 Notice Packets by first-class mail to potential Settlement Class Members and nominees. *Id.* ¶ 8.

126. Plaintiffs' Counsel also caused Epiq to publish a Summary Notice in *The Wall Street Journal* and over the *PR Newswire* in accordance with the Preliminary Approval Orders. *Id.* ¶ 9. The Summary Notice further advised potential members of the Settlement Class of the Settlements, including their rights to participate in, exclude

themselves from, or object to the Settlements. In addition, Plaintiffs' Counsel caused Epiq to establish a dedicated settlement website, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), which provides potential Settlement Class Members with information concerning the Settlements and access to downloadable copies of the Notice and Claim Form, as well as copies of the Stipulations, Preliminary Approval Orders and Operative Complaint. *See Villanova Decl.* ¶ 13. Finally, Lead Counsel also made copies of the Notice and Claim Form available on their own websites, [www.entwistle-law.com](http://www.entwistle-law.com) and [www.blbglaw.com](http://www.blbglaw.com).

127. The deadline for Settlement Class Members to file objections, if any, to the Settlements, the Plan of Allocation and/or the Fee and Expense Application, or to request exclusion from the Settlement Class, is January 23, 2019. To date, no objections to any of the Settlements, the Plan of Allocation, or Lead Counsel's Fee and Expense Application have been received. Nor have any requests for exclusion been received. *See Villanova Decl.* ¶ 14.<sup>6</sup>

## **V. ALLOCATION OF THE PROCEEDS OF THE SETTLEMENTS**

128. The proceeds of the Settlements, after deducting of all Taxes, Tax Expenses, Notice and Administration Costs, and attorneys' fees and Litigation Expenses awarded by the Court (the "Net Settlement Fund"), will be distributed to eligible Settlement Class Members according to a plan of allocation approved by the Court.

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<sup>6</sup> Plaintiffs' Counsel will file reply papers on or before February 6, 2019, seven calendar days before the Settlement Hearing, that will address any requests for exclusion or objections that may be received.

129. Plaintiffs' proposed plan of allocation (the "Plan of Allocation" or "Plan") is set forth in the Notice mailed to potential Settlement Class Members. Plaintiffs' Counsel developed the Plan of Allocation in consultation with Plaintiffs' damages expert, Michael L. Hartzmark. *See* Declaration of Michael L. Hartzmark, Ph.D. Regarding Plan of Allocation ("Hartzmark Decl."), attached hereto as Exhibit 3, at ¶¶ 5-7. The Plan of Allocation creates a framework for equitable distribution of the Net Settlement Fund among Settlement Class Members who suffered economic losses as a result of Defendants' alleged violations of the federal securities laws. Plaintiffs and their Counsel believe that the proposed Plan provides a fair and reasonable method to equitably distribute the Net Settlement Fund to Settlement Class Members who submit valid Claim Forms ("Authorized Claimants").

130. The Plan is consistent with allocation methods approved by courts in this Circuit, as well as Dr. Hartzmark's previously-submitted expert report in support of class certification. The Plan divides the Settlement Funds obtained in the Sponsor/GS&Co., Cobalt and Underwriter Settlements into the following three separate pools based on the nature of claims asserted:

a. The Group 1 Fund is intended to compensate Settlement Class Members who purchased Cobalt Securities during the Class Period at prices that Plaintiffs allege were artificially inflated as a result of material misstatements or omissions in violation of Section 10(b) of the Exchange Act, and who incurred losses when the alleged misstatements or omissions were revealed and the price of Cobalt Securities declined. The Settlement Funds for Group 1 total in excess of \$14,200,000 and consist of: (i) 100% of

the Cobalt Settlement Fund, including the \$4,200,000 in the Cobalt Settlement Existing Proceeds and any additional recoveries in the insurance coverage litigation; plus (ii) \$10 million from the Sponsor/GS&Co. Settlement Amount.

b. The Group 2 Fund is intended to compensate Settlement Class Members who purchased Cobalt common stock contemporaneously with sales in Cobalt common stock by the Sponsor Defendants, who were alleged to have sold the stock while in possession of material, adverse, non-public information about Cobalt's business in violation of Section 20A of the Exchange Act. The Settlement Funds for Group 2 total \$125 million and consist of funds from the Sponsor/GS&Co. Settlement.

c. The Group 3 Fund is intended to compensate Settlement Class Members who purchased Cobalt Securities in or traceable to a public offering of one of those securities during the Class Period as to which claims under Sections 11, 12(a)(2), and 15 of the Securities Act had been asserted. The Settlement Funds for Group 3 total \$34.6 million and consist of: (i) \$11.85 million of the Sponsor/GS&Co. Settlement Amount; and (ii) \$22.75 million of the Underwriter Settlement Amount.<sup>7</sup>

131. Each of the Settlement Funds will be distributed *pro rata* to eligible Settlement Class Members based on their Recognized Loss Amount related to that fund. Recognized Losses will be calculated based on (i) the type and number of Cobalt Securities purchased/acquired, (ii) when the securities were purchased/acquired, (iii) whether the securities were held or sold, and (iv) if sold, the date and price at which they were sold.

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<sup>7</sup> Court-approved attorneys' fees, Litigation Expenses, Notice and Administration Costs and Taxes will be deducted from the three funds proportionally with the size of each of the funds.

Distribution Amounts are capped by the Claimant's market loss on all of his, her or its purchases or acquisitions of Cobalt Securities during the Class Period. Thus, if the Claimant had a market gain with respect to these transactions, the Claimant is not eligible for payment. Likewise, if a Claimant suffered an overall market loss with respect to his, her or its purchases or acquisitions of Cobalt Securities during the Class Period, but that market loss was less than the Distribution Amount calculated, the Distribution Amount is limited to the amount of the actual market loss.

132. Group 1 Recognized Loss Amounts for purchases and acquisitions of Cobalt common stock, 2019 Notes and 2024 Notes during the Class Period will be calculated based on the difference between the amount of estimated alleged artificial inflation at the time of purchase and the time of sale. Dr. Hartzmark measured the amount of estimated inflation in each of the Cobalt Securities during the Class Period in accordance with a well-accepted event study methodology. *See* Hartzmark Decl. ¶¶ 13-16. In calculating the estimated artificial inflation caused by Defendants' alleged misrepresentations and omissions, Dr. Hartzmark (i) considered price changes in Cobalt Securities in reaction to the alleged corrective disclosures that revealed the previously-undisclosed information to investors about Cobalt and its Angolan partners and wells; and (ii) adjusted for changes in Cobalt securities that were attributable to market or industry forces independent of the alleged fraud. For Cobalt Securities sold before the first corrective disclosure date (or purchased *and* sold between two consecutive corrective disclosure dates), there are no Group 1 Recognized Loss Amounts because any losses on sales of these securities did not result from disclosure of the alleged fraud. *Id.* ¶ 17. Consistent with the PSLRA, the Plan

of Allocation also limits the Group 1 Recognized Loss Amount to the difference between (i) the actual purchase price of the Cobalt Security; and (ii) the sales price or, if sold during the 90-day period after the Class Period, the average closing price between November 4, 2014 and the date of sale, or if still held on January 30, 2015, the average closing price during the 90-day period after the Class Period. *Id.* ¶ 18 & n.2.

133. Group 2 Recognized Loss Amounts for purchases or acquisitions of Cobalt common stock will be calculated based on the difference in artificial inflation on the date of purchase and the artificial inflation on the date of sale. *See* Hartzmark Decl. ¶ 20. Only claimants who purchased common stock in one of the Class Period offerings in which one or more of the Sponsor Defendants were alleged to have sold common stock or in the seven-day period following one of those offerings will have a Group 2 Recognized Loss Amount, to reflect the legal requirement for the Section 20A claims that the purchases have occurred “contemporaneously” with defendants’ sales. *Id.* ¶ 21.

134. Group 3 Recognized Loss Amounts for Cobalt Securities purchased in or traceable to a public offering during the Class Period will be calculated based on the statutory damage formula applicable to claims under Section 11 of the Securities Act, 15 U.S.C. § 77k. *See* Hartzmark Decl. ¶¶ 22-23.

135. Plaintiffs and their Counsel believe that the Plan of Allocation fairly and equitably allocates the proceeds of the Net Settlement Fund among Settlement Class Members based on the claims asserted and the losses suffered on transactions in Cobalt Securities attributable to the conduct alleged in the Action.

## **VI. THE APPLICATION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

136. In addition to seeking final approval of the Settlements and the Plan of Allocation, Plaintiffs' Counsel are applying to the Court for an award of attorneys' fees of 25% of the current \$173.8 million amount of the Settlement Fund, including any interest earned (*i.e.*, \$43.45 million), and of any further recovery from the Settlement with the Debtor and the Cobalt Defendants that may be obtained through the coverage litigation (the "Fee Application"). Plaintiffs' Counsel also request payment for expenses incurred by them in connection with the prosecution of the Action from the Settlement Funds in the amount of \$1,972,357.01 and payment of an aggregate of \$56,977.00 in reimbursement for costs and expenses incurred by Plaintiffs directly related to their representation of the Settlement Class.

137. The legal authorities supporting the requested fee and expenses are set forth in Plaintiffs' Counsel's Fee Memorandum. The primary factual bases for the requested fee and expenses are summarized below.

### **A. The Fee Application**

138. Plaintiffs' Counsel are applying for a fee award to be paid from the Settlement Funds on a percentage basis for their efforts on behalf of the Settlement Class. As set forth in the accompanying Fee Memorandum, the percentage method is the standard and appropriate method of fee recovery because it aligns the lawyers' interest in being paid a fair fee with the interest of the Settlement Class in achieving the maximum recovery in the shortest amount of time required under the circumstances. The percentage method has

been consistently endorsed as appropriate by the U.S. Supreme Court and the Fifth Circuit Court of Appeals for securities class actions of this nature.

139. Based on the results achieved, the extent and quality of the work performed, the significant risks of the litigation, and the fully contingent nature of the representation, Plaintiffs' Counsel have requested a fee award of 25% of the current Settlement Funds and of any further recovery from the settlement with the Debtor and the Cobalt Defendants through the coverage litigation, which Plaintiffs and their Counsel believe is fair, reasonable, and consistent with the percentages awarded in class actions in this District and Circuit for comparable settlements.

**1. Plaintiffs Have Authorized and Support the Fee Application**

140. The Plaintiffs are all sophisticated institutional investors that played an active role in supervising and participating in the prosecution and settlement of the Action and were approved by the Court to serve as Class Representatives. Each of the Plaintiffs has endorsed the requested attorneys' fee as fair and reasonable in light of the results achieved, the work counsel performed, and the risks of the litigation. The requested 25% fee percentage is also consistent with the 25% fee percentage negotiated and agreed to by Lead Plaintiffs.

**2. The Work and Experience of Counsel**

141. Attached hereto as Exhibit 4 are declarations from Plaintiffs' Counsel in support of their request for attorneys' fees and reimbursement of litigation expenses. The first page of Exhibit 4 contains a summary chart of the hours expended and lodestar amounts for Plaintiffs' Counsel, as well as a summary of the litigation expenses incurred.



Included within each supporting declaration is a schedule summarizing the hours and lodestar of each firm from the inception of the case through December 31, 2018, a summary of the principal tasks performed by each attorney at that firm, a summary of the Litigation Expenses incurred by that firm, and a firm resume. As set forth in Plaintiffs' Counsel's declarations, the information concerning each firm's lodestar was prepared from daily time records regularly prepared and maintained by each of the Plaintiffs' Counsel firms, and no time expended in preparing the application for fees and expenses has been included. For personnel who are no longer employed by Plaintiffs' Counsel, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment.

142. As set forth in Exhibit 4, over the past four years of litigation, Plaintiffs' Counsel collectively expended a total of 59,831.10 hours in the investigation, prosecution and resolution of the Action. Plaintiffs' Counsel's aggregate lodestar (*i.e.*, the number of hours worked multiplied by the attorneys' hourly rates) is \$36,061,893.25. The requested fee of 25% of the current Settlement Funds (*i.e.*, \$43,450,000, plus interest accrued at the same rate as the Settlement Funds) represents a multiplier of approximately 1.2 of Plaintiffs' Counsel's lodestar and, even assuming resolution of the coverage dispute without any further expenditure of time by Plaintiffs' Counsel, additional fees equal to 25% of additional recoveries would bring the lodestar multiplier to between 1.2 and 2.3. As discussed in further detail in the Fee Memorandum, the requested existing multiplier and potential multiplier are well within the range of multipliers typically awarded in comparable securities class actions involving significant contingency fee risk in this Circuit and elsewhere.

143. Plaintiffs' Counsel are leaders in the specialized area of securities litigation. The attorneys who led the prosecution of this case have prosecuted securities claims throughout their careers, have overseen numerous litigations, and have recovered billions of dollars on behalf of investors over the course of decades. Informed by this experience, they developed and implemented strategies to overcome myriad obstacles raised by Defendants. We firmly believe that Plaintiffs' Counsel's depth of skill and experience, including their experience throughout the country successfully prosecuting securities class actions, allowed Plaintiffs and the Settlement Class to achieve a result that might not have been achieved by less skillful or experienced counsel.

144. As demonstrated by the firm résumés attached to Exhibits 4A and 4B, Lead Counsel are among the most experienced and skilled law firms in the securities litigation field, with a long and successful track record representing investors in cases of this kind. E&C and BLB&G possess extensive experience litigating securities class actions and have successfully prosecuted numerous securities fraud class actions on behalf of injured investors in courts across the country. They each have taken complex cases like this to trial, and are among the few firms with experience doing so on behalf of plaintiffs in securities actions. We believe that Lead Counsel's willingness and ability to take complex cases to trial added valuable leverage in the settlement negotiations.

145. The time and labor expended by Lead Counsel and the other Plaintiffs' Counsel in pursuing the Action and achieving the Settlements strongly support the reasonableness of the requested fee. The work Plaintiffs' Counsel undertook in investigating and prosecuting this case and achieving the Settlements has been time-

consuming and challenging. The time expended was necessary to achieve a successful result in the prosecution of the Action.

146. The many tasks undertaken by Lead Counsel and other Plaintiffs' Counsel in this case are detailed above (¶¶ 14-101). These tasks included, among other things:

i) conducting a comprehensive factual investigation of the claims at issue in the Action, which included, among other things, a review of all relevant public information, research of the applicable law, and identifying, locating, and interviewing dozens of witnesses around the globe, including in Angola and the United Kingdom;

ii) preparing the detailed Amended Complaint based on Plaintiffs' Counsel's factual investigation, as well as the subsequent Operative Complaint based on documents produced during fact discovery that supported a claim under Section 20A of the Exchange Act;

iii) overcoming Defendants' three motions to dismiss the Amended Complaint and, following entry of the Court's Memorandum and Order denying in part and granting in part the motions to dismiss, overcoming Defendants' motions for an interlocutory appeal;

iv) conducting extensive discovery, including preparing and serving document requests and interrogatories on Defendants and issuing numerous subpoenas to non-parties, including Cobalt's investigative firms, law firms, and former employees; participating in extensive correspondence and numerous meet-and-confers between the Parties concerning search terms, the scope of document requests and other discovery disputes; reviewing and analyzing over 1.3 million pages of documents;

preparing and arguing motions on disputed discovery issues; and conducting 20 depositions of key expert and fact witnesses, including of the Executive Defendants, Sponsor Designee Defendants and the Underwriter Defendants;

v) preparing and filing a comprehensive brief in support of Plaintiffs' motion for class certification, which included an expert report submitted by Dr. Hartzmark regarding market efficiency and Class-wide damages methodologies;

vi) defending nearly a dozen class certification depositions, including the depositions of Plaintiffs' representatives, investment advisors, and class certification expert;

vii) opposing Defendants' Rule 23(f) petition for an interlocutory appeal of the order certifying the Class and, when the petition was granted, briefing and arguing in opposition to Defendants' interlocutory appeal seeking to overturn the certification of the Class;

viii) consulting throughout the litigation with experts on the FCPA, the oil and gas industry, and damages and loss causation;

ix) litigating issues raised by Cobalt's December 2017 bankruptcy, including contested issues surrounding the duration of the stay of this Action and to preserve claims against Cobalt to the extent of available insurance proceeds; and

x) exchanging detailed mediation statements and participating in a mediation session and extensive settlement negotiations with various sets of Settling Defendants with the assistance of the mediator, retired Judge Phillips.

147. As Lead Counsel, we personally devoted substantial time to this case and oversaw the case on a daily basis. In addition, other experienced attorneys at our respective firms undertook particular tasks appropriate to their levels of expertise, skill and experience, and more junior attorneys and paralegals worked on matters appropriate to their experience levels. Throughout the litigation, Lead Counsel maintained an appropriate level of staffing that avoided unnecessary duplication of effort and ensured the efficient prosecution of this litigation.

### **3. The Standing and Caliber of Defendants' Counsel**

148. The quality of the work performed by Plaintiffs' Counsel in attaining the Settlements may also be evaluated in light of the quality of the opposition. Here, the Sponsor Defendants were represented by Wachtell, Lipton, Rosen & Katz and Williams & Connolly LLP, two of the country's most prestigious and experienced defense firms, who vigorously represented their clients in the Action. The Cobalt Defendants were represented by Baker Botts LLP and Greenberg Traurig, LLP, two other distinguished defense firms, who vigorously defended the Action as to their clients. Finally, the Underwriter Defendants were represented by Skadden, Arps, Slate, Meagher & Flom, LLP, yet another of the country's largest corporate defense firms. In the face of this experienced, formidable, and well-financed opposition, Plaintiffs' Counsel were nonetheless able to substantially defeat Defendants' motions to dismiss, obtain certification of the Class, successfully conduct substantial discovery, and persuade Defendants to settle the case on terms favorable to the Settlement Class.

**4. The Risks of Litigation and the Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Cases**

149. This prosecution was undertaken by Plaintiffs' Counsel entirely on a contingent-fee basis, and there was a real possibility that Plaintiffs' Counsel would have received little or no compensation for their years of work in this matter. The risks assumed by Plaintiffs' Counsel in bringing these claims to a successful resolution included, among other things: (i) risks that the Operative Complaint would have been dismissed for failure to meet the PSLRA's exacting pleading requirements for federal securities fraud actions; (ii) risks that the Court would not certify the proposed Class; (iii) risks that the Fifth Circuit would, after granting Defendants' interlocutory appeal, reverse the Court's Class Certification Order; (iv) risks that the Court would dispose some or all of Plaintiffs' claims at summary judgment; (v) risks that Plaintiffs' Counsel would be unable to obtain a unanimous jury verdict that Defendants were liable for the full extent of the claimed damages; and (vi) risks that Defendants would prevail on any post-trial appeals to the Fifth Circuit. If Plaintiffs' Counsel were unable to overcome any of these substantial hurdles to recovery for the Class, Plaintiffs' Counsel would have received little or no compensation for their four years of prosecuting the Action. Indeed, despite the most vigorous and competent of efforts, success in contingent-fee litigation like this Action is never assured.

150. From the outset, Plaintiffs' Counsel understood that they were embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require. In undertaking that responsibility, Plaintiffs' Counsel ensured that sufficient resources were dedicated to

the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable litigation costs that a case like 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, Plaintiffs' Counsel received no compensation during the course of the Action and have collectively incurred over \$1.9 million in Litigation Expenses in prosecuting the Action for the benefit of the Settlement Class.

151. As courts have recognized, 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. Congress has likewise recognized, through the passage of the PSLRA, that vigorous private enforcement of the federal securities laws can only occur if private investors, particularly institutional investors, take an active role in securities litigations and are represented by first-rate counsel that are adequately compensated for their work and for bearing the risks of prosecuting claims on a purely contingent-fee basis.

**B. The Application for Reimbursement of Plaintiffs' Counsel's Litigation Expenses**

152. Plaintiffs' Counsel also seek reimbursement from the Settlement Fund of \$1,972,357.01 in Litigation Expenses that were reasonably incurred by Plaintiffs' Counsel in connection with investigating, commencing, litigating, and settling the claims asserted in the Action. As discussed more fully below, these expenses consist primarily of fees paid

to experts and consultants, for document management costs, on-line research, and mediation costs.

153. From the outset of the case, Plaintiffs' Counsel were aware that they might not recover any of their expenses, and, even in the event of a recovery, would not recover any of their out-of-pocket expenditures until the Action might be successfully resolved. Plaintiffs' Counsel also understood that, even assuming that the case was ultimately successful, reimbursement for expenses would not compensate them for the lost use of the funds advanced to prosecute the Action. Plaintiffs' Counsel ensured that appropriate steps were taken to avoid incurring unnecessary expenses and to minimize costs without compromising the vigorous and efficient prosecution of the case.

154. As shown in Exhibit 4 to this Joint Declaration, Plaintiffs' Counsel have incurred a total of \$1,972,357.01 in unreimbursed Litigation Expenses in prosecuting the Action. The expenses are summarized in Exhibit 5, which was prepared based on the declarations submitted by each firm and identifies each category of expense, *e.g.*, expert fees, on-line research, out-of-town travel, mediation fees, photocopying, and postage expenses, and the amount incurred for each category. These expense items are billed separately by Plaintiffs' Counsel and are not duplicated in Plaintiffs' Counsel's billing rates.

155. Of the total amount of expenses, \$956,754.16, or approximately 49%, was incurred for the retention of consulting and testifying experts. Plaintiffs' Counsel consulted with experts concerning the oil and gas industry and the FCPA. These experts were integral in Plaintiffs' pre-suit investigation, review of the documentary record, and assistance in



advance of depositions. Plaintiffs' Counsel also consulted with Dr. Hartzmark, an expert in the fields of market efficiency, loss causation, and damages, in connection with Plaintiffs' class certification motion, negotiation of the Settlements, and the preparation of the Plan of Allocation for the proceeds of the Settlements.

156. The Litigation Expenses also included fees charged by third-party providers (*e.g.*, Westlaw and Lexis) for necessary on-line legal and factual research. Such resources were necessary to research the law pertaining to the claims asserted in the Action, oppose Defendants' motions to dismiss and appeals, move for class certification, and brief other motions in the case. The total charges for on-line legal and factual research amount to \$266,755.07, or approximately 13.5% of the total amount of expenses.

157. Plaintiffs' Counsel also incurred expenses totaling \$88,123.50 for mediation fees, or approximately 4.5% of the total expenses.

158. In addition, Plaintiffs' Counsel incurred charges of \$159,170.25 for document management and litigation support costs, including the costs of their electronic-discovery vendor, which provided data-storage services for the discovery documents produced in electronic form. The electronic-discovery vendor's platform also provided tools for electronically searching, reviewing, and analyzing the documents.

159. The other expenses for which Plaintiffs' Counsel seek reimbursement 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, court fees, copying costs, long-distance telephone charges, and out-of-town travel costs. All of the Litigation Expenses

incurred by Plaintiffs' Counsel were reasonable and necessary to the successful litigation of the Action.

**C. Application for Plaintiffs' Costs and Expenses**

160. In accordance with the PSLRA, 15 U.S.C. § 78u-4(a)(4), Plaintiffs also seek reimbursement of reasonable costs and expenses incurred directly in connection with their representation of the Settlement Class. Employees of the Plaintiffs devoted time and effort to participating in and supervising the Action, including communicating with Plaintiffs' Counsel, reviewing pleadings, producing documents and reviewing discovery responses, preparing for and sitting for depositions, and overseeing settlement discussions. The time dedicated to the Action by employees of Plaintiffs to supervising the Action on behalf of the Class was time that these employees could not devote to their normal duties for Plaintiffs and thus represented a reimbursable cost to these entities under the PSLRA. In total, we are requesting that Plaintiffs be reimbursed \$56,977 in reasonable costs and expenses directly in connection with their representation of the Settlement Class.

161. Lead Plaintiffs the GAMCO Funds incurred time and expenses in prosecuting this case on behalf of the Class and seek reimbursement pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(4). Through the active and continuous involvement of David Goldman, General Counsel of GAMCO Asset Management, Inc., the GAMCO Funds supervised and monitored the progress of the Action and actively participated in its prosecution and settlement. Specifically, GAMCO has informed us that Mr. Goldman spent 125 hours working exclusively on this litigation for the benefit of the Class. This work included (i) consulting with counsel on the initial investigation into the allegations in

the Amended Complaint; (ii) reviewing the Amended Complaint, Operative Complaint, and significant court filings; (iii) monthly monitoring of the Action, including in-person and telephonic meetings with counsel; (iv) directing the collection of discoverable materials for production by the GAMCO Funds; (v) preparing for and providing deposition testimony in connection with class certification; and (vi) discussions with counsel on settlement negotiations. Vincent Roche, Portfolio Manager for the GAMCO Funds, spent 22 hours working exclusively on this litigation for the benefit of the Class. This work included (i) the collection of discoverable materials for production by the GAMCO Funds; and (ii) preparing for and providing deposition testimony in connection with class certification. In addition, Matthew Adelhardt, Director of Technology for GAMCO, spent 12 hours conducting searches for discoverable materials. In sum, the GAMCO Funds seek reimbursement of \$25,000 for 159 hours spent working exclusively on this litigation for the benefit of the Class.

162. St. Lucie County Fire District Firefighters' Pension Trust Fund, through the active and continuous involvement of its Chairman, the Administrator, and others, supervised and monitored the progress of this litigation and actively participated in its prosecution and settlement. Fire Chief Nate Spera spent time and incurred expenses in prosecuting this case on behalf of the Class, for which St. Lucie seeks reimbursement pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(4). Specifically, St. Lucie has informed us that Mr. Spera spent 25 hours working exclusively on this litigation for the benefit of the Class. The work has included, among other things, communicating with counsel, reviewing and gathering documents in response to document requests, and preparing for

and providing deposition testimony. In sum, St. Lucie seeks reimbursement of \$1,977 for 25 hours spent working exclusively on this litigation for the benefit of the Class.

163. Plaintiff AP7 likewise seeks reimbursement in connection with its representation of the Class in this Action. Through the active and continuous involvement of AP7's Chief Executive Officer, Richard A. Gröttheim, and AP7's Head of Administration at the time, Svante Linder, AP7 supervised and monitored the progress of the Action and actively participated in its prosecution and ultimate resolution. Specifically, AP7 has informed us that throughout the course of the Action, Mr. Gröttheim spent 73.5 hours and Mr. Linder spent 4 hours working exclusively on this litigation for the benefit of the Class. This work included (i) consulting with its counsel, Kessler Topaz Meltzer & Check, LLP ("KTMC"), on the initial investigation into Plaintiffs' allegations; (ii) regularly communicating with counsel by email, telephone, written communication and in-person meetings regarding the posture and progress of the case, significant developments in the Action and case strategy; (iii) reviewing, with the assistance of AP7's Swedish external counsel, the Amended Complaint, Operative Complaint, and significant court filings and orders; (iv) directing and supervising AP7's collection and production of discoverable materials and written responses to documents requests and interrogatories; and (v) consulting with counsel, KTMC, on settlement negotiations. In addition, Mr. Gröttheim devoted substantial time preparing for his deposition in connection with class certification, which was taken on January 18, 2017 in New York, New York and required his travel to and from Stockholm, Sweden and the United States. In sum, AP7 seeks

reimbursement of \$15,000 for the 77.5 hours its representatives spent working exclusively on this litigation for the benefit of the Class.

164. Universal has informed us that Universal, through the active and continuous involvement of its internal legal counsel, led by Frank Schroeder and Michael Eyben, supervised and monitored the progress of this litigation and actively participated in its prosecution and settlement. Numerous Universal employees spent time and incurred expenses in prosecuting this case on behalf of the Class. Specifically, members of Universal's legal/compliance department, including Mr. Eyben, Mr. Schroeder, Janet Zirlewagen, Kristina Bailey, and Eliana Cabaco, spent 114.75 hours working exclusively on this litigation for the benefit of the Class, including reviewing and gathering documents in response to document requests, and preparing for and providing deposition testimony. In addition, employees of Universal's Executive Department, including Bernd Vorbeck, spent 4.0 hours overseeing the case; members of Universal's IT department and others spent 19.80 hours searching for and collecting electronic documents; and Universal's fund managers, Udo Kloss, Christian Burzin, Marian Sommer, and Andreas Kempter spent 18.00 hours responding to discovery requests and providing information for the deposition of Universal's corporate representative. In sum, Universal seeks reimbursement of \$15,000 for 156.55 hours spent working exclusively on this litigation for the benefit of the Class.

165. Without receiving any reimbursement or other compensation, each Plaintiff has throughout the past four years of litigation been fully committed to pursuing the interests of the Settlement Class. Each Plaintiff has actively and effectively complied with

all of the many demands that arose during the litigation and settlement of this Action and provided valuable assistance to Plaintiffs' Counsel. Plaintiffs' efforts are precisely the types of activities that courts have found to support reimbursement to class representatives, and fully support Plaintiffs' request for reimbursement.

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

166. To date, no Settlement Class Member has objected to the attorneys' fees requested or the maximum amount of expenses disclosed in the Notice. Meanwhile, the fee application does not exceed the maximum amount set forth in the Notice, and the expense application is below the \$5,000,000 that Settlement Class Members were notified could be sought.

**VII. CONCLUSION**

167. For all the reasons discussed above, Plaintiffs and Lead Counsel respectfully submit that the Settlements and the Plan of Allocation should be approved as fair, reasonable, and adequate. Lead Counsel further submit that the requested fee in the amount of 25% of the Settlement Funds should be approved as fair and reasonable, and the request for reimbursement of Litigation Expenses in the total amount of \$2,029,334.01 (including Plaintiffs' costs and expenses) should also be approved.

We declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on January 9, 2019

  
\_\_\_\_\_  
Andrew J. Entwistle

  
\_\_\_\_\_  
David R. Stickney

# **EXHIBIT 1**



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF LAYN R. PHILLIPS IN SUPPORT OF MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENTS**

I, LAYN R. PHILLIPS, declare:

1. I am a former District Judge with the U.S. District Court for the Western District of Oklahoma. I am the Chief Executive Officer of Phillips ADR, where I specialize in alternative dispute resolution. I am a member of the bars of Oklahoma, Texas, California and the District of Columbia, as well as the U.S. Courts of Appeal for the Ninth, Tenth and Federal Circuits.

2. A considerable amount of my professional time is devoted to serving as a mediator and arbitrator for complex cases like this one. I have over twenty years of dispute resolution experience, including conducting thousands of mediations and settlement conferences in all types of complex class actions, securities fraud actions and shareholder derivative actions. Without in any way waiving the mediation privilege, I make this declaration based on personal knowledge and am competent to testify as to the matters set forth herein.

3. In 2017, I was selected collectively by the parties to this litigation to serve as mediator to explore potential settlement. In my capacity as the independent mediator, I presided over extensive negotiations among the parties, including a formal in-person mediation session on October 3, 2017 in New York City involving counsel for all parties to the litigation. In advance of the full-day mediation, the parties submitted detailed mediation statements with supporting exhibits referencing key documents and information obtained during discovery.

4. Although the parties were unable to settle the action at the in-person mediation session, they continued periodically to negotiate with my assistance over the remainder of the litigation, including, in particular, countless telephonic communications between me and the respective parties to the Sponsor/GS&Co. and Underwriter Settlements over a several-month period in 2018 preceding these settlements.

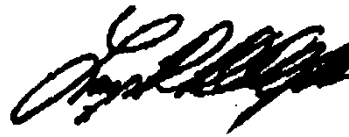
5. From the materials submitted by the parties and the numerous discussions over the course of the formal and informal mediation sessions, I am familiar with the factual and legal issues involved in this action and the important documents in the litigation. I am also familiar with the process by which the parties arrived at the Settlements. I believe that at the time the Settlements were reached, the parties had a clear understanding of the strengths and weaknesses of their respective litigation positions and negotiated the Settlements vigorously, in good faith, and with a belief that the process was fair and reasonable.

6. Based on my first-hand observations, I am pleased to represent to the Court that the Settlements were the product of hard-fought, arms'-length negotiations by skilled,

experienced and effective counsel. In my opinion the Settlements are fair and reflect a reasonable recovery for the investor class under the circumstances, and are a fair and reasonable compromise of the claims in the action.

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

Executed on January 8, 2019, at Newport Beach, California.

A handwritten signature in black ink, appearing to read 'Layn R. Phillips', written in a cursive style.

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**LAYN R. PHILLIPS**  
Former United States District Court  
Judge

# **EXHIBIT 2**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

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

I, ALEXANDER VILLANOVA, hereby declare as follows:

1. I am a Senior Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”).<sup>1</sup> Pursuant to the Court’s November 2, 2018 Order Preliminarily Approving Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC and Providing for Notice (ECF No. 347), November 2, 2018 Order Preliminarily Approving Settlement with the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Debtors and Providing for Notice (ECF No. 346), and November 29, 2018 Order Preliminarily Approving Settlement Between Plaintiffs and Underwriter Defendants Other

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC, dated October 9, 2018 (ECF No. 334-1); the Stipulation and Agreement of Settlement Among the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Acting Solely as Plan Administrator on Behalf of the Cobalt Debtors, dated October 11, 2018 (ECF No. 337-1); and the Stipulation and Agreement of Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC, dated November 28, 2018 (ECF No. 352-1) (collectively, the “Stipulations”).

Than Goldman Sachs & Co. LLC and Providing for Notice (ECF No. 354) (collectively, the “Preliminary Approval Orders”), Epiq was authorized to act as the Claims Administrator in connection with the Settlements of the above-captioned action. The following statements are based on my personal knowledge and information provided by other Epiq employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

**DISSEMINATION OF THE NOTICE PACKET**

2. Pursuant to the Preliminary Approval Orders, Epiq mailed the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”) and the Proof of Claim and Release Form (the “Claim Form”) (collectively, the Notice and Claim Form are referred to as the “Notice Packet”), to potential Settlement Class Members. A copy of the Notice Packet is attached hereto as Exhibit A.

3. On November 5, 2018, Epiq received a file from Lead Counsel containing the names and addresses of 211 potential Class Members that had been received from counsel for Cobalt. Epiq formatted the Notice Packet, and caused it to be printed, personalized with the name and address of each potential Settlement Class Member, posted for first-class mail, postage prepaid, and mailed to these 211 potential Settlement Class Members on December 4, 2018.

4. As in most class actions of this nature, the large majority of potential Settlement Class Members are beneficial purchasers whose securities are held in “street

name” – *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. Epiq maintains and updates an internal list of the largest and most common banks, brokers and other nominees. At the time of the initial mailing, Epiq’s internal broker list contained 1,335 mailing records. On December 4, 2018, Epiq caused additional Notice Packets to be mailed to the 1,335 mailing records contained in its internal broker list.

5. In total, 1,546 copies of the Notice Packet were mailed to potential Settlement Class Members and nominees by first-class mail on December 4, 2018.

6. The Notice directed that any persons or entities that purchased or otherwise acquired Cobalt Securities during the Class Period for the beneficial interest of a person or organization other than themselves to either: (a) provide to Epiq the names and addresses of such beneficial owners no later than ten (10) business days after such nominees’ receipt of the Notice; or (b) request additional copies of the Notice Packet for such beneficial owners from Epiq no later than ten (10) business days after receipt of the Notice, and send a copy of the Notice Packet to such beneficial owners, no later than seven (7) calendar days after such nominees’ receipt of the additional copies of the Notice Packet.

7. Through January 7, 2019, Epiq mailed an additional 10,776 Notice Packets to potential members of the Settlement Class whose names and addresses were received from individuals, entities, or nominees requesting that Notice Packets be mailed to such persons, and mailed another 72,800 Notice Packets to nominees who requested Notice Packets to forward to their customers. Each of the requests was responded to in a timely manner, and Epiq will continue to timely respond to any additional requests received.

8. As of January 7, 2019, an aggregate of 85,122 Notice Packets have been disseminated to potential Settlement Class Members and nominees by first-class mail.

**PUBLICATION OF THE SUMMARY NOTICE**

9. Pursuant to the Preliminary Approval Orders, Epiq caused the Summary Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Summary Notice") to be published once in *The Wall Street Journal* and to be transmitted over the *PR Newswire* on December 18, 2018. Attached as Exhibit B is a Confirmation of Publication attesting to the publication of the Summary Notice in *The Wall Street Journal* and a screen shot attesting to the transmittal of the Summary Notice over the *PR Newswire*.

**CALL CENTER SERVICES**

10. Epiq reserved a toll-free phone number for the Settlement, (877) 440-0638, which was set forth in the Notice, the Claim Form, the Summary Notice, and on the website established for the Settlements.

11. The toll-free number connects callers with an Interactive Voice Recording ("IVR"). The IVR provides callers with pre-recorded information, including a brief summary about the Action and the option to request a copy of the Notice Packet. The toll-free telephone line with pre-recorded information is available 24 hours a day, 7 days a week. Epiq made the IVR available on December 4, 2018, the same date Epiq began mailing the Notice Packets.



12. In addition, Monday through Friday from 6:00 a.m. to 6:00 p.m. Pacific Time (excluding official holidays), callers are able to speak to a live operator regarding the status of the Action and/or obtain answers to questions they may have about communications they receive from Epiq. During other hours, callers may leave a message for an agent to call them back.

### **SETTLEMENT WEBSITE**

13. Epiq established and is maintaining a website dedicated to this Action and the Settlements ([www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com)) to provide additional information to Settlement Class Members. Users of the website can download copies of the Notice, the Claim Form, the Stipulations, and the Preliminary Approval Orders, among other relevant documents. The website address was set forth in the Notice, the Summary Notice, and on the Claim Form. The website was operational beginning on December 4, 2018, and is accessible 24 hours a day, 7 days a week. Epiq will continue operating, maintaining and, as appropriate, updating the website until the conclusion of this administration.

### **REQUESTS FOR EXCLUSION RECEIVED TO DATE**

14. The Notice informed potential members of the Settlement Class that requests for exclusion from the Settlement Class are to be mailed or otherwise delivered to *In re Cobalt International Energy, Inc. Securities Litigation*, EXCLUSIONS, c/o Epiq, P.O. Box 4109, Portland, OR 97208, such that they are received by Epiq no later than January 23, 2019. The Notice also set forth the information that must be included in each request for exclusion. Epiq has been monitoring all mail delivered to that Post Office Box. Through January 7 2019, Epiq has not received any requests for exclusion. Epiq will submit a

supplemental declaration after the January 23, 2019 deadline for requesting exclusion that will address any and all of the requests for exclusion received.

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

Executed on January 8, 2019, at Beaverton, Oregon.

A handwritten signature in black ink, appearing to read 'a Villanova', written over a horizontal line.

Alexander Villanova

# **Exhibit A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENTS;  
(II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD  
OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

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

**PLEASE READ THIS NOTICE CAREFULLY.** This Notice explains important rights you may have, including the possible receipt of cash from one or more of three settlements in the above class action that, if approved by the Court, will resolve all claims. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.

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Questions? Visit [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com) or call 1-877-440-0638

**NOTICE OF CLASS ACTION, SETTLEMENT TERMS,  
AND IDENTITY OF SETTLING PARTIES**

**NOTICE OF PENDENCY OF CLASS ACTION:** Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”) pending in the United States District Court for the Southern District of Texas (the “Court”) if, during the period from March 1, 2011 through November 3, 2014, inclusive (the “Class Period”), you purchased or otherwise acquired the common stock of Cobalt International Energy, Inc. (“Cobalt”), Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, “Cobalt Securities”), and were damaged thereby.<sup>1</sup>

**NOTICE OF SETTLEMENT:** Please also be advised that the Court-appointed lead plaintiffs GAMCO Global Gold, Natural Resources & Income Trust and GAMCO Natural Resources, Gold & Income Trust (together, the “GAMCO Funds” or “Lead Plaintiffs”), and additional named plaintiffs St. Lucie County Fire District Firefighters’ Pension Trust Fund, Fire and Police Retiree Health Care Fund, San Antonio, Sjunde AP-Fonden, and Universal Investment Gesellschaft m.b.H. (collectively, with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (as defined in ¶ 28 below), have reached three separate proposed settlements (the “Settlements”) with the different defendant groups (collectively, the “Settling Defendants”) which, if approved by the Court, will resolve all claims asserted by Plaintiffs in the Action on behalf of the Settlement Class against the Settling Defendants.

The three Settlements that will resolve all claims in the Action include:

- (A) A settlement for \$146,850,000 in cash (the “*Sponsor/GS&Co. Settlement*”) with the private equity sponsors who invested in Cobalt prior to its initial public offering and sold certain Cobalt Securities during the Class Period (the “Sponsor Defendants”), certain individuals designated to the Cobalt board of directors by the Sponsor Defendants (the “Sponsor Designee Defendants”), and Goldman Sachs & Co. LLC (f/k/a Goldman, Sachs & Co.) (“GS&Co.”), which underwrote certain Cobalt Securities offerings during the Class Period (the Sponsor Defendants, Sponsor Designee Defendants and GS&Co., collectively are the “Sponsor/GS&Co. Settling Defendants”);
- (B) A settlement for \$22,750,000 in cash (the “*Underwriter Settlement*”) with the underwriters (other than GS&Co.) that underwrote certain Cobalt Securities offerings during the Class Period (the “Underwriter Settling Defendants”); and
- (C) A settlement for \$220,000,000 (the “*Cobalt Settlement*”) with Cobalt and certain of its former officers and directors (the “Cobalt Individual Defendants”) (together, the “Cobalt Settling Defendants”), that is payable exclusively from the proceeds of Directors & Officers liability insurance (the “D&O Policies”) preserved through the Cobalt Bankruptcy Plan. The projected proceeds of insurance available to fund this settlement include (a) at least \$4,200,000 existing from settlements with carriers (“Cobalt Settlement Existing Proceeds”) and (b) future recoveries of up to \$161,500,000 (or more if a court should find the carriers acted in a manner giving rise to a finding of insurance bad faith) from ongoing litigation by the Cobalt Settling Defendants against insurance carriers that issued the D&O Policies on their behalf (together with the Cobalt Settlement Existing Proceeds, the “Cobalt Settlement Fund”). The Cobalt Settlement Fund will be between \$4,200,000 and \$165,700,000. This is because the Cobalt Settling Defendants’ insurance carriers are disputing coverage under the D&O Policies. Litigation of the coverage disputes may reduce available insurance proceeds to fund the Cobalt Settlement Fund. Available insurance proceeds are also reduced by: (i) prior settlements with certain insurance carriers that funded the Cobalt Settlement Existing Proceeds, and (ii) claims settled in connection with the creditors in the Debtors’ Chapter 11 cases which will further reduce insurance proceeds available to fund the Cobalt Settlement Fund to approximately \$161,500,000. Those amounts may be increased by claims of bad faith against the carriers. While Lead Counsel believe strongly in the Cobalt Settling Defendants’ position in the insurance coverage dispute, the outcome of the coverage dispute is uncertain and it could materially impact the amount of insurance proceeds available to fund the Cobalt Settlement Fund.

<sup>1</sup> Any capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in one or more of the (i) Stipulation and Agreement of Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC, dated October 9, 2018 (the “Sponsor/GS&Co. Stipulation”); (ii) Stipulation and Agreement of Settlement Among the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Debtors, dated October 11, 2018 (the “Cobalt Stipulation”); and (iii) Stipulation and Agreement of Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC, dated November 28, 2018 (the “Underwriter Stipulation”) (collectively, the “Stipulations”), each of which is available at [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com). This Notice provides only a summary of the Settlements. If there is any discrepancy between terms set forth in this Notice and in the Stipulations, the Stipulations govern.

The identity of Defendants participating in the respective Settlements are:

- (A) The **Sponsor/GS&Co. Settling Defendants** are: (i) The Goldman Sachs Group, Inc., Riverstone Holdings LLC, FRC Founders Corporation (f/k/a First Reserve Corporation), ACM Ltd. (f/k/a KERN Partners Ltd.), and The Carlyle Group, L.P. (the Sponsor Defendants); (ii) Peter R. Coneway, Henry Cornell, Michael G. France, N. John Lancaster, Scott L. Lebovitz, Kenneth W. Moore, J. Hardy Murchison, Kenneth A. Pontarelli, and D. Jeff van Steenbergen (the Sponsor Designee Defendants); and (iii) GS&Co.
- (B) The **Underwriter Settling Defendants** are Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Tudor, Pickering, Holt & Co. Securities, Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, UBS Securities LLC, Howard Weil Incorporated, Stifel, Nicolaus & Company, Incorporated, Capital One Southcoast, Inc., and Lazard Capital Markets LLC;
- (C) The **Cobalt Settling Defendants** are (i) Cobalt, (ii) its Debtor affiliates in the Debtors' Chapter 11 cases, by and through Nader Tavakoli, solely in his capacity as Lead Member and Chairman of the Plan Administrator Committee of Cobalt International Energy, Inc., et al. (the "Plan Administrator"); (iii) Cobalt Individual Defendants Joseph Bryant, James W. Farnsworth, Jack E. Golden, Jon A. Marshall, Myles W. Scoggins, William P. Utt, John P. Wilkison, and Martin H. Young, Jr (the "Cobalt Individual Defendants"); and (iv) any Sponsor Designee Defendant that has provided written notice to Lead Counsel prior to the Effective Date of the Settlement.

**If you have any questions about this Notice, any of the Settlements, or your eligibility to participate in the Settlements, please DO NOT contact the Court, Cobalt, the other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (see ¶ 59 below).**

## GENERAL INFORMATION

1. **Description of the Action and the Settlement Class:** This Notice relates to the proposed Settlements in the pending securities class action brought by Plaintiffs on behalf of investors alleging that the Settling Defendants violated the federal securities laws by, among other things, making false and misleading statements regarding Cobalt's business partners and oil wells in Angola, selling Cobalt Securities during the Class Period through false and misleading statements in offering materials, and/or selling Cobalt common stock during the Class Period while in possession of material non-public information about Cobalt's Angolan operations. A more detailed description of the Action and the claims asserted against the Settling Defendants is set forth in ¶¶ 11-27 below. The proposed Settlements, if approved by the Court, will settle the claims of the Settlement Class, as defined in ¶ 28 below, against all Settling Defendants and bring the Action to a close; unless any Settling Defendant terminates or withdraws from any of the Settlements (thus becoming "Non-Settling Defendants") under certain provisions in the Stipulations. Each of the three proposed Settlements stands alone and none is contingent on the Court's approval of the other Settlements.

2. **Statement of the Settlement Class's Recovery:** Subject to Court approval, Plaintiffs, on behalf of themselves and the other members of the Settlement Class, have agreed to settle with the: (i) Sponsor/GS&Co. Settling Defendants in exchange for a payment of \$146,850,000 in cash; (ii) Underwriter Settling Defendants in exchange for a payment of \$22,750,000 in cash; and (iii) Cobalt Settling Defendants in exchange for \$220,000,000, payable exclusively from insurance proceeds, including an upfront payment of at least \$4,200,000 in cash in addition to a potential subsequent recovery of up to \$161,500,000 in ongoing litigation with the Cobalt Settling Defendants' liability insurance carriers. These recoveries collectively totaling between \$173,800,000 and \$335,300,000 constitute the "Settlement Amount." The Net Settlement Fund (i.e., the Settlement Amount, plus any and all interest earned thereon (the "Settlement Fund") less (a) any Taxes, (b) any Notice and Administration Costs, (c) any Litigation Expenses awarded by the Court, and (d) any attorneys' fees awarded by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among members of the Settlement Class. The proposed plan of allocation (the "Plan of Allocation") is set forth in Appendix A on pages 16-25 below.

3. **Estimate of Average Amount of Recovery Per Share or Note:** Based on Plaintiffs' damages expert's estimates of the number of Cobalt Securities purchased during the Class Period that may have been affected by the conduct at issue in the Action and assuming that all Settlements are approved and 100% of Settlement Class Members elect to participate in the Settlements, the estimated average recovery is as follows (before the deduction of any Court-approved fees, expenses and costs from the Settlement Fund as described herein):<sup>2</sup>

- (a) The estimated average recovery per share of Cobalt common stock is \$0.93 if the share has a claim under Section 20A of the Securities Exchange Act of 1934 (the "Exchange Act"), *plus* \$0.03 to \$0.36 if the share has a claim under Section 10(b) of the Exchange Act, *plus* \$0.17 if the share has a claim under Section 11 of the Securities Act of 1933 (the "Securities Act"). Thus, assuming, 100% participation, a class member that purchased common shares giving rise to claims under Sections 20A and 10(b) of the Exchange Act and Section 11 of the Securities Act would be estimated to receive between \$1.13 and \$1.46 per share;
- (b) The estimated average recovery per Cobalt 2.625% Convertible Senior Note due 2019 is \$0.49 to \$6.09 if the note has a claim under Section 10(b) of the Exchange Act, *plus* \$2.33 if the note has a claim under Section 11 of the Securities Act. Thus, assuming, 100% participation, a class member that purchased Cobalt 2.625% Convertible Senior Notes giving rise to claims under Section 10(b) of the Exchange Act and Section 11 of the Securities Act would be estimated to receive between \$2.82 and \$8.42 per note; and
- (c) The estimated average recovery per Cobalt 3.125% Convertible Senior Note due 2024 is \$0.53 to \$6.54 if the note has a claim under Section 10(b) of the Exchange Act, *plus* \$2.96 if the note has a claim under Section 11 of the Securities Act. Thus, assuming, 100% participation, a class member that purchased Cobalt 3.125% Convertible Senior Notes giving rise to claims under Section 10(b) of the Exchange Act and Section 11 of the Securities Act would be estimated to receive between \$3.49 and \$9.50 per note.

**Settlement Class Members should note, however, that the foregoing average recovery per share or note is only an estimate.** Some Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, which Cobalt Securities they purchased, when and at what prices they purchased/acquired or sold their Cobalt Securities, whether they purchased the Cobalt Securities in an offering or on the open market, and the total Recognized Claims of the valid Claim Forms submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth herein (see pages 16–25 below) or such other plan of allocation as may be ordered by the Court.

4. **Statement of Potential Outcome of Case and Potential Damages:** Plaintiffs and the Sponsor/GS&Co. Settling Defendants, Underwriter Settling Defendants, and Cobalt Settling Defendants (collectively, the "Settling Parties") do not agree on the average amount of damages per share or note that would be recoverable if Plaintiffs were to prevail on the claims asserted against the Settling Defendants in the Action. Among other things, the Settling Defendants do not agree with Plaintiffs' assertions that: (i) they violated the federal securities laws; (ii) they made false or misleading statements or engaged in insider trading; or (iii) damages were suffered by members of the Settlement Class as a result of the Settling Defendants' alleged conduct.

5. **Attorneys' Fees and Expenses:** Plaintiffs' Counsel, which have been prosecuting the Action on a wholly contingent basis since its inception in 2014, have not received any payment of attorneys' fees for their representation of the Settlement Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court-appointed Lead Counsel, Entwistle & Cappucci LLP and Bernstein Litowitz Berger & Grossmann LLP, will apply to the Court for an award of attorneys' fees for all Plaintiffs' Counsel in an amount not to exceed 25% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution and resolution of the claims against the Defendants, in an amount not to exceed \$5,000,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Settlement Class. Any 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. If the Court approves Lead Counsel's fee and expense application and all of the Settlements, the estimated average cost for these fees and expenses would be:

- (a) \$0.25 to \$0.26 per share of Cobalt common stock if the share has a claim under Section 20A of the Exchange Act, *plus* \$0.01 to \$0.09 per share if the share has a claim under Section 10(b) of the Exchange Act, *plus* \$0.04 to \$0.05 per share if the share has a claim under Section 11 of the Securities Act;
- (b) \$0.14 to \$1.61 per Cobalt 2.625% Convertible Senior Note due 2019 if the note has a claim under Section 10(b) of the Exchange Act, *plus* \$0.62 to \$0.65 per note if the note has a claim under Section 11 of the Securities Act; and

<sup>2</sup> The estimated recovery per common share or per note is given as a range for shares and notes with Section 10(b) claims against the Cobalt Settling Defendants because of the range of potential cash recoveries under the Cobalt Settlement.



- (c) \$0.15 to \$1.73 per Cobalt 3.125% Convertible Senior Note due 2024 if the note has a claim under Section 10(b) of the Exchange Act, *plus* \$0.78 to \$0.82 per note if the note has a claim under Section 11 of the Securities Act.

6. **Identification of Attorneys' Representatives:** The Settlement Class is represented by Andrew J. Entwistle, Esq. of Entwistle & Cappucci LLP, 299 Park Avenue, 20<sup>th</sup> Floor, New York, NY 10171, (212) 894-7200, aentwistle@entwistle-law.com; and David R. Stickney, Esq. of Bernstein Litowitz Berger & Grossmann LLP, 12481 High Bluff Drive, Suite 300, San Diego, CA 92130-3582, 1-800-380-8496, settlements@blbgllaw.com.

7. **Reasons for the Settlements:** Plaintiffs' principal reason for entering into the Settlements is the substantial cash benefits for the Settlement Class without the risk or the delays inherent in further litigation against the Settling Defendants. First and foremost, Cobalt filed for bankruptcy protection in December 2017, foreclosing any possibility of recovery against Cobalt beyond the insurance proceeds preserved by Class Counsel in the Cobalt Bankruptcy—which proceeds will be part of the Cobalt Settlement Fund. Moreover, the substantial cash benefits provided under the proposed Settlements must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after contested motions, a trial of the Action against the Settling Defendants, and likely appeals that would follow a trial, a process that could be expected to last several years. The Settling Defendants deny all allegations of wrongdoing or liability whatsoever and are entering into the Settlements solely to eliminate the uncertainty, burden, and expense of further protracted litigation.

### YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENTS:

<p><b>SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN APRIL 4, 2019. ONLY ONE CLAIM FORM NEEDS TO BE SUBMITTED. THE SINGLE CLAIM FORM COVERS ALL CLAIMS YOU MAY HAVE IN ALL THREE SETTLEMENTS.</b></p>	<p>This is the only way to be eligible to receive a payment from the proceeds of the Settlements. If you are a Settlement Class Member and you remain in the Settlement Class, you will be bound by the Settlements as approved by the Court and you will give up any Released Plaintiffs' Claims (defined in ¶ 35 below) that you have against the Settling Defendants and the other Settling Defendants' Releasees (defined in ¶ 36 below), so it is in your interest to submit a Claim Form.</p>
<p><b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN JANUARY 23, 2019.</b></p>	<p>If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that allows you ever to be part of any other lawsuit against any of the Settling Defendants or the other Settling Defendants' Releasees concerning the Released Plaintiffs' Claims. <i>Please note, however, if you decide to exclude yourself from the Settlement Class, you may be time-barred from asserting certain claims against the Settling Defendants by a statute of repose.</i></p>
<p><b>OBJECT TO THE SETTLEMENTS BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN JANUARY 23, 2019.</b></p>	<p>If you do not like one or more of the Settlements, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement or Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlements, the Plan of Allocation or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.</p>
<p><b>GO TO A HEARING ON FEBRUARY 13, 2019 AT 10:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN JANUARY 23, 2019.</b></p>	<p>Filing a written objection and notice of intention to appear by January 23, 2019 allows you to speak in Court, at the discretion of the Court, about the fairness of one or more of the Settlements, the Plan of Allocation, and/or the request for attorneys' fees and expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.</p>
<p><b>DO NOTHING.</b></p>	<p>If you are a member of the Settlement Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlements and you will be bound by any judgments or orders entered by the Court in the Action.</p>

Questions? Visit [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com) or call 1-877-440-0638



## WHY DID I GET THIS NOTICE?

8. The Court directed that this Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 during the Class Period (from March 1, 2011 through November 3, 2014, inclusive). The Court has directed us to send you this Notice because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the Settlements. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement Class if you wish to so do. It is also being sent to inform you of the terms of the Settlements and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlements (the “Settlement Hearing”). See ¶¶ 50-51 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlements.

## WHAT IS THIS CASE ABOUT?

11. Cobalt – which filed for bankruptcy protection in December 2017 – is a Houston-based oil and gas exploration company focused principally on off-shore drilling in Angola and the Gulf of Mexico. This is a securities class action that alleges, among other things, that during the Class Period and in the offering materials for the offerings of Cobalt Securities that occurred during the Class Period, certain Settling Defendants mislead investors about Cobalt’s operations in Angola, including concerning its business partners in Angola and the quality of its oil wells in that country. The action further alleges that the Sponsor Defendants violated insider trading law by selling Cobalt common stock while in possession of material non-public information about Cobalt’s Angolan operations. The action further alleges that investors in Cobalt Securities suffered economic harm when the truth about the nature of Cobalt’s Angolan business partners and the quality of the oil wells was revealed through a series of disclosures.

12. Beginning on or about November 30, 2014, multiple putative securities class action complaints were filed in the Court by purchasers of Cobalt Securities. On March 3, 2015, the Court consolidated all similar putative class actions into the Action, appointed the GAMCO Funds as Lead Plaintiffs in the Action, and approved Lead Plaintiffs’ selection of the law firms of Entwistle & Cappucci LLP and Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel, and Ajamie LLP as Liaison Counsel for the putative class.

13. On May 1, 2015, Plaintiffs filed the Consolidated Amended Class Action Complaint (the “Amended Complaint”). The Amended Complaint asserted (a) claims under Section 11 of the Securities Act against Cobalt, the Underwriter Defendants,<sup>3</sup> the Sponsor Designee Defendants, and certain of the Cobalt Individual Defendants; (b) claims under Section 12(a)(2) of the Securities Act against the Underwriter Defendants; (c) claims under Section 15 of the Securities Act against the Sponsor Defendants, GS&Co., the Sponsor Designee Defendants, and the Cobalt Individual Defendants; (d) claims under Section 10(b) of the Exchange Act and Securities and Exchange Commission (“SEC”) Rule 10b-5 promulgated thereunder, against Cobalt and certain of the Cobalt Individual Defendants; and (e) claims under Section 20(a) of the Exchange Act against certain of the Cobalt Individual Defendants. The Amended Complaint sought damages on behalf of a putative class of investors in Cobalt Securities during the Class Period.

14. On June 30, 2015, the Settling Defendants filed motions to dismiss the Amended Complaint. Following full briefing on the motions, on January 19, 2016, the Court entered a Memorandum and Order denying in part and granting in part the Settling Defendants’ motions to dismiss the Amended Complaint. The Court further denied the Settling Defendants’ interlocutory appeal motions on March 14, 2016, and the Settling Defendants answered the Amended Complaint on March 25, 2016, denying liability and the essential factual allegations therein.

<sup>3</sup> The “Underwriter Defendants” are the Underwriter Settling Defendants and GS&Co.

15. Discovery in the Action commenced in February 2016. Through the date the agreement to settle with the Settling Defendants was reached, discovery included, among other things: (i) the review and analysis of more than 1.3 million pages of documents produced by Plaintiffs, Defendants and third parties; and (ii) the depositions of 10 Plaintiff representatives in connection with class certification, and 19 fact depositions of key witnesses (including certain of the Cobalt Individual Defendants, Sponsor Designee Defendants and Underwriter Settling Defendants). The Settling Parties also served 31 subpoenas on non-parties, served and responded to interrogatories, and exchanged numerous letters concerning discovery issues. In addition, Plaintiffs deposed Defendants' expert on class certification, and consulted with experts retained by Class Counsel concerning the oil and gas industry, the Foreign Corrupt Practices Act, and the issues of market efficiency and class-wide damages for Cobalt Securities sold during the Class Period. The parties also exchanged detailed expert reports on issues pertaining to class certification.

16. On November 2, 2016, Plaintiffs moved to certify the Action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure. On March 22, 2017, the Settling Defendants filed their papers in opposition to the motion for class certification; and on May 26, 2017, Plaintiffs filed their reply papers on that motion. On June 15, 2017, the Court entered its Memorandum and Order granting Plaintiffs' motion for class certification, in which the Court certified the Action to proceed as a class action (on behalf of a class of purchasers of Cobalt Securities during the Class Period), appointed Plaintiffs as class representatives for that class, and appointed Lead Counsel as class counsel.

17. On January 30, 2017, Plaintiffs filed a motion for leave to file a second amended complaint to add a claim under Section 20A of the Exchange Act against the Sponsor Defendants, alleging that the Sponsor Defendants sold Cobalt common stock during the Class Period while in possession of material non-public information about Cobalt's business. On March 10, 2017, following briefing of this motion, the Court entered its Order granting Plaintiffs' motion for leave to amend.

18. On March 15, 2017, Plaintiffs filed their Second Consolidated Amended Class Action Complaint (the "Operative Complaint"). On April 14, 2017, the Sponsor Defendants filed motions to dismiss the newly-added claim under Section 20A of the Exchange Act. Following full briefing on the motion, on June 15, 2017, the Court entered its Memorandum and Order granting the motion to dismiss of The Carlyle Group, L.P., and denying the motion to dismiss of the other Sponsor Defendants. On July 17, 2017, the Sponsor Defendants, except for The Carlyle Group, L.P., answered the Operative Complaint, denying liability and the essential factual allegations therein.

19. On June 30, 2017, the Settling Defendants filed a petition in the United States Court of Appeals for the Fifth Circuit (the "Court of Appeals") pursuant to Federal Rule of Civil Procedure 23(f), seeking permission to take an interlocutory appeal of the Court's Class Certification Order. On August 4, 2017, the Court of Appeals granted the Settling Defendants' petition. At the time the last of the Settlements was reached, the appeal of the Court's class certification order had been fully briefed and argued, and the Court of Appeals had stayed the appeal as to all the Settling Defendants pending the outcome of motions to approve certain of the settlements. If the Settlements are approved, they will moot the Settling Defendants' appeal.

20. On December 14, 2017, Cobalt and certain of its affiliated entities filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101–1532, in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"). Cobalt's Chapter 11 cases are captioned *In re Cobalt International Energy, Inc.*, Case No. 4:17–bk–36709 (Bankr. S.D. Tex.).

21. On January 4, 2018, Plaintiffs and the Settling Defendants agreed to stay all proceedings in the Action until April 21, 2018, in light of Cobalt's bankruptcy, and an order to that effect was entered in the Bankruptcy Court on that date. Class Counsel later successfully litigated the preservation of the claims against Cobalt to the extent of available insurance proceeds which was reflected in the Plan approved on April 5, 2018. On May 22, 2018, after the expiration of the bankruptcy stay, the Court entered a revised Docket Control Order, establishing forthcoming deadlines in the case.

22. On October 9, 2018, after extensive arm's-length negotiations facilitated by former United States District Judge Layn R. Phillips, acting as mediator, Plaintiffs and the Sponsor/GS&Co. Settling Defendants entered into the Sponsor/GS&Co. Stipulation, which sets forth the terms and conditions of the Sponsor/GS&Co. Settlement. The Sponsor/GS&Co. Stipulation can be viewed at [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com).

23. On October 11, 2018, after extensive arm's-length negotiations with the assistance of former United States District Court Judge Layn Phillips acting as mediator pre-bankruptcy and directly with counsel for the Cobalt Settling Defendants and the Debtors post-bankruptcy, Plaintiffs and the Cobalt Settling Defendants entered into the Cobalt Stipulation, which sets forth the terms and conditions of the Cobalt Settlement. The Cobalt Stipulation can be viewed at [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com).

24. On November 2, 2018, following submissions and a hearing, the Court granted Plaintiffs' motion for preliminary approval of the Sponsor/GS&Co. and Cobalt Settlements, authorized this Notice to be disseminated to potential Settlement Class Members, and scheduled the Settlement Hearing for February 13, 2019 at 10:00 a.m. to consider whether to grant final approval to those Settlements.

25. On October 25, 2018 the Plaintiffs and Underwriter Settling Defendant's reached an agreement in principle to settle the claims against them which agreement was discussed with the Court at the November 2, 2018 hearing. Subsequently, on November 28, 2018, after extensive arm's-length negotiations also facilitated by Judge Phillips acting as mediator, Plaintiffs and the Underwriter Settling Defendants entered into the Underwriter Stipulation, which sets forth the terms and conditions of the Underwriter Settlement. The Underwriter Stipulation can be viewed at [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com). On November 29, 2018, the Court granted Plaintiffs' motion for preliminary approval of the Underwriter Settlement, authorized this Notice, and added the Underwriter Settlement to the matters to be considered in the Settlement Hearing.

26. Based upon their investigation, prosecution, and settlement of the case, Plaintiffs and Lead Counsel have concluded that the terms and conditions of the Stipulations are fair, reasonable, and adequate to Plaintiffs and the Settlement Class, and in their best interests.

27. The Settling Defendants are entering into the Stipulations solely to eliminate the uncertainty, risk, burden, and expense of further protracted litigation. Each of the Settling Defendants denies any wrongdoing.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENTS?  
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

28. If you are a member of the Settlement Class, you are subject to the terms of the Settlements, unless you timely request to be excluded. The "Settlement Class" consists of:

all persons and entities who purchased or otherwise acquired Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, "Cobalt Securities") between March 1, 2011 and November 3, 2014, inclusive, and were damaged thereby. Included within the Settlement Class are all persons and entities who purchased or otherwise acquired shares of Cobalt common stock on the open market and/or pursuant or traceable to the registered public offerings on or about (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Also included within the Settlement Class are all persons and entities who purchased or otherwise acquired Cobalt convertible senior notes on the open market and/or pursuant or traceable to registered public offerings on or about (i) December 12, 2012; and (ii) May 8, 2014.

Excluded from the Settlement Class are Defendants; the officers and directors of Defendants during the Class Period (the "Excluded Officers and Directors"); members of the Immediate Family of the Individual Defendants and of the Excluded Officers and Directors; any entity in which any Defendant, any Excluded Officer or Director, or any of their respective Immediate Family Members has, and/or had during the Class Period, a controlling interest; the Defendants' liability insurance carriers; any affiliates, parents, or subsidiaries of the corporate Defendants; all corporate Defendants' plans that are covered by ERISA; and the legal representatives, heirs, agents, affiliates, successors-in-interest or assigns of any excluded person or entity, in their respective capacity as such.<sup>4</sup> Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a request for exclusion from the Settlement Class in accordance with the requirements set forth in this Notice. See "What if I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself," page 11 below.

**RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENTS.**

**IF YOU ARE A SETTLEMENT CLASS MEMBER AND YOU WISH TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENTS, YOU ARE REQUIRED TO SUBMIT THE CLAIM FORM THAT IS BEING DISTRIBUTED WITH THIS NOTICE AND THE REQUIRED SUPPORTING DOCUMENTATION AS SET FORTH THEREIN POSTMARKED NO LATER THAN APRIL 4, 2019.**

<sup>4</sup> In addition any Investment Vehicle shall not be deemed an excluded person or entity by definition. An "Investment Vehicle" means any investment company or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds, and hedge funds, in which any of the Sponsor/GS&Co. Settling Defendants or Underwriter Settling Defendants have, has, or may have a direct or indirect interest, or as to which any of their respective affiliates may act as an investment advisor but of which any of the Sponsor/GS&Co. Settling Defendants, Underwriter Settling Defendants or any of their respective affiliates is not a majority owner or does not hold a majority beneficial interest. This definition of Investment Vehicle does not bring into the Settlement Class any of the Sponsor/GS&Co. Settling Defendants or Underwriter Settling Defendants themselves or any of the Sponsor Affiliated Funds (defined in footnote 6 below).

## WHAT ARE PLAINTIFFS' REASONS FOR THE SETTLEMENTS?

29. Plaintiffs and Lead Counsel believe that the claims asserted against the Settling Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the Settling Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Such risks include the potential challenges associated with proving that there were material misstatements and omissions in Cobalt's public statements and the public securities offering documents at issue, and that the Sponsor Defendants had sold Cobalt stock while in possession of material non-public information. There were also risks related to damages, including establishing how many members of the Settlement Class purchased Cobalt shares "contemporaneously" with the Sponsor Defendants' sales and how many members of the Settlement Class can "trace" their purchases to an offering. Plaintiffs would have to prevail at several stages – motions for summary judgment, trial, and if they prevailed on those, on the appeals that were likely to follow. In addition, the Cobalt bankruptcy seriously limited the sources of recovery in this proceeding, and it created a number of other challenges to a successful prosecution of claims against the remaining defendants. Thus, there were very significant risks attendant to the continued prosecution of the claims against the Settling Defendants.

30. In light of these risks, the amount of the Settlements, and the certainty of recovery to the Settlement Class, Plaintiffs and Lead Counsel believe that the proposed Settlements are fair, reasonable, and adequate, and in the best interests of the Settlement Class. Plaintiffs and Lead Counsel believe that the Settlements provide a substantial benefit to the Settlement Class, namely at least \$173,800,000 in cash (less the various deductions described in this Notice) and potential additional recoveries of \$161,500,000 from the Cobalt Settlement, as compared to the risk that the claims in the Action against the Settling Defendants might produce a smaller, or no recovery, after summary judgment, trial, and appeals.

31. The Settling Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever. The Settling Defendants have agreed to the Settlements solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlements may not be construed as an admission of any wrongdoing by the Settling Defendants.

## WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENTS?

32. If there were no Settlements and Plaintiffs failed to establish any essential legal or factual element of their claims against the Settling Defendants, neither Plaintiffs nor the other members of the Settlement Class would recover anything. Also, if the Settling Defendants were successful in proving any of their defenses, either at summary judgment, at trial, or on appeal, the Settlement Class could recover substantially less from the Settling Defendants than the amount provided in the Settlements, or nothing at all.

## HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENTS?

33. If you are a Settlement Class Member, you are represented by Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlements?," below.

34. If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class,<sup>5</sup> you will be bound by any orders issued by the Court relating to the Settlements. If one or more of the Settlements are approved, the Court will enter one or more judgments (the "Judgments"). The Judgments will dismiss with prejudice the claims against the respective Settling Defendants involved in each settlement and will provide that, upon the Effective Date of the respective Settlements (and, for the Cobalt Settlement, the latter of the Effective Date and the final termination of all D&O Coverage Litigation involving the Insurers or D&O Liability Insurance Policies), Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim (as defined in ¶ 35 below) against the Settling Defendants and the other Settling Defendants' Releasees (as defined in ¶ 36 below) for that Settlement, and will forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of those Settling Defendants' Releasees.

<sup>5</sup> If you are a Settlement Class Member and do not wish to remain a class member, you may exclude yourself from the Settlement Class with respect to one or more of the Settlements by following the instructions in the section entitled, "What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?," below.



35. “Released Plaintiffs’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that were or could have been asserted in any forum that relate to, arise out of, or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Operative Complaint or in any of the Prior Complaints and that relate to the purchase, acquisition, sale, or holding of Cobalt Securities during the Class Period. Released Plaintiffs’ Claims do not include: (i) any claims asserted, or that may be asserted, against any Non-Settling Defendants who terminate or withdraw from any of the Settlements under the provisions in the Stipulations; (ii) any claims of any person or entity who or that submits a request for exclusion from the Settlement Class that is accepted by the Court; and (iii) any claims relating to the enforcement of the Settlement.

36. “Settling Defendants’ Releasees” means (i) the Settling Defendants; (ii) the current and former parents, affiliates, subsidiaries, successors, predecessors, assigns, and assignees of each of the Settling Defendants (including, with respect to the Sponsor/GS&Co. Settling Defendants, the Sponsor Affiliated Funds<sup>6</sup>); (iii) the current and former officers, directors, agents, employees, attorneys, advisors, and insurers of each of the foregoing in (i) and (ii), in their capacities as such; and (iv) the members of the Immediate Family of the Sponsor Designee Defendants and Cobalt Individual Defendants. Notwithstanding the foregoing, the Settling Defendants’ Releasees do not include any of the Non-Settling Defendants, or Cobalt’s or the Underwriting Settling Defendants’ liability insurance carriers, in their capacities as such.

37. “Unknown Claims” means any Released Plaintiffs’ Claims (as defined in ¶ 35 above) which Plaintiffs 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 such claims, and any Released Settling Defendants’ Claims (as defined in ¶ 39 below) which any Settling Defendant does not know or suspect to exist in his or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision as to any of the Settlements. As to any and all Released Claims, the Settling Parties stipulate and agree that, upon the respective Effective Dates of the Settlements, Plaintiffs and the Settling Defendants for that Settlement shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

Plaintiffs and the Settling Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of each of the Settlements.

38. The respective Judgments will also provide that, upon the Effective Date of the respective Settlements (and, for the Cobalt Settlement, the later of the Effective Date and the final termination of all D&O Coverage Litigation involving the Insurers or D&O Liability Insurance Policies), the Settling Defendants for that Settlement, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Settling Defendants’ Claim (as defined in ¶ 39 below) against Plaintiffs and the other Plaintiffs’ Releasees (as defined in ¶ 40 below), and will forever be barred and enjoined from prosecuting any or all of the Released Settling Defendants’ Claims against any of the Plaintiffs’ Releasees.

39. “Released Settling Defendants’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against the Settling Defendants. Released Settling Defendants’ Claims do not include: (i) any claims against any person or entity who or that submits a request for exclusion from the Settlement Class that is accepted by the Court; and (ii) any claims relating to the enforcement of the Settlements.

40. “Plaintiffs’ Releasees” means (i) Plaintiffs, their respective attorneys, and all other Settlement Class Members; (ii) the current and former parents, affiliates, subsidiaries, successors, predecessors, assigns, and assignees of each of the foregoing in (i); and (iii) the current and former officers, directors, agents, employees, attorneys, and advisors of the each of the foregoing in (i) and (ii), in their capacities as such.

<sup>6</sup> The Sponsor Affiliated Funds means GS Capital Partners V Fund, L.P.; GS Capital Partners V Offshore Fund, L.P.; GS Capital Partners V Institutional, L.P.; GS Capital Partners V GmbH & Co. KG; GS Capital Partners VI Fund, L.P.; GS Capital Partners VI Offshore Fund, L.P.; GS Capital Partners VI Parallel, L.P.; GS Capital Partners VI GmbH & Co. KG; Riverstone Energy Coinvestment III, L.P.; Carlyle Energy Coinvestment III, L.P.; C/R Energy III Cobalt Partnership, L.P.; Carlyle/Riverstone Global Energy and Power Fund III, L.P.; C/R Energy Coinvestment II, L.P.; C/R Cobalt Investment Partnership, L.P.; First Reserve Fund XI, L.P.; FR XI Onshore AIV L.P.; and KERN Cobalt Co-Invest Partners AP LP.

## WHAT DO I NEED TO DO TO PARTICIPATE IN THE SETTLEMENTS?

41. To be eligible for a payment from the Settlement Fund, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation **postmarked no later than April 4, 2019**. A Claim Form is included with this Notice, or you may obtain one from the website maintained by the Claims Administrator for the Settlements, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at 1-877-440-0638. Please retain all records of your ownership of and transactions in Cobalt Securities, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

## HOW MUCH WILL MY PAYMENT FROM THE SETTLEMENTS BE?

42. At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlements.

43. The proceeds of the Settlements will be distributed in accordance with a plan of allocation that is approved by the Court. The amounts to be distributed to individual Settlement Class Members will depend on a variety of factors, including: the number of other Settlement Class Members who submit valid Claim Forms; the number and type of Cobalt Securities the claimant purchased during the Class Period, the prices and dates of those purchases, whether the Cobalt Securities were purchased in an offering or on the open market; and the prices and dates of any sales of such Cobalt Securities.

44. The proposed Plan of Allocation, which is subject to Court approval, appears on pages 16–25 of this Notice. Please review the Plan of Allocation carefully.

## WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

45. Plaintiffs' Counsel have not received any payment for their services in pursuing claims against the Settling Defendants on behalf of the Settlement Class, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlements, Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiffs' Counsel in an amount not to exceed 25% of the Settlement Fund. At the same time, Lead Counsel also intend to apply for reimbursement of Litigation Expenses in an amount not to exceed \$5,000,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Settlement Class. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

## WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS? HOW DO I EXCLUDE MYSELF?

46. Each Settlement Class Member will be bound by the determinations, orders, and judgments in this Action relating to the Settlements, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to *In re Cobalt International Energy, Inc. Securities Litigation*, EXCLUSIONS, c/o Epiq, P.O. Box 4109, Portland, OR 97208-4109. The exclusion request must be **received** no later than **January 23, 2019**. You will not be able to exclude yourself from the Settlement Class after that date. You may elect to exclude yourself from the Settlement Class with respect to one or more of the proposed Settlements. Each Request for Exclusion must (a) state the name, address, and telephone number of the person or entity requesting exclusion, and in the case of entities, the name and telephone number of the appropriate contact person; (b) state that such person or entity "requests exclusion" from one or more of the Settlements in *In re Cobalt International Energy, Inc. Securities Litigation*, Lead Case No. 4:14-cv-3428 (NFA), and identify the Settlement(s) from which he, she or it requests exclusion;<sup>7</sup> (c) state the number of shares of Cobalt common stock and/or the face value of Cobalt 2.625% Convertible Senior Notes due 2019 and/or Cobalt 3.125% Convertible Senior Notes due 2024 that the person or entity requesting exclusion purchased/acquired and/or sold during the Class Period (*i.e.*, from March 1, 2011 through November 3, 2014, inclusive), including the number of shares of Cobalt common stock purchased in or traceable to the registered public offerings on or about February 23, 2012, January 16, 2013, and May 8, 2013 and/or the face

<sup>7</sup> If the Request for Exclusion does not specify the Settlement(s) to which it applies, it will be treated as a Request for Exclusion from the Settlement Class with respect to all three Settlements.

value of Cobalt convertible senior notes purchased in or traceable to the registered public offerings on or about December 12, 2012 and May 8, 2014 that the person or entity requesting exclusion purchased/acquired and/or sold during the Class Period, as well as the dates, number of shares/face value, and prices of each such purchase/acquisition and sale; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

47. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Plaintiffs' Claim against any of the Settling Defendants' Releasees. Excluding yourself from the Settlement Class is the only option that allows you to be part of any other lawsuit against any of the Settling Defendants or the other Settling Defendants' Releasees concerning the Released Plaintiffs' Claims.

**PLEASE NOTE, HOWEVER, THAT IF YOU DECIDE TO EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS, YOU MAY BE TIME-BARRED FROM ASSERTING CERTAIN CLAIMS AGAINST THE SETTLING DEFENDANTS BY APPLICABLE STATUTES OF LIMITATIONS AND STATUTES OF REPOSE.**

**DURING THE COURSE OF LITIGATION OF THE ACTION, THE SETTLING DEFENDANTS HAVE RAISED THE STATUTES OF LIMITATIONS AND STATUTES OF REPOSE ISSUES AND HAVE ADVISED THAT THEY INTEND TO ASSERT THEM AGAINST ANY CLASS MEMBER THAT SEEKS EXCLUSION FROM THE SETTLEMENT CLASS AND THEN ATTEMPTS TO PURSUE THEIR OWN CLAIMS, THEREBY CREATING THE LIKELIHOOD THAT SUCH INVESTOR'S INDIVIDUALLY ASSERTED CLAIMS WOULD BE PRECLUDED IN WHOLE OR IN PART.**

48. If you exclude yourself from the Settlement Class, you will not be able to request a payment from the Settlement(s) from which you requested exclusion, and you cannot object to those Settlement(s). You will not be bound by anything that happens in this lawsuit with respect to the Settling Defendants for the Settlement(s) from which you requested exclusion, and you may be able to sue those Settling Defendants on your own in the future. Excluding yourself from the Settlement Class with respect to one Settlement will not automatically exclude you from the other Settlements unless you specify that you request exclusion from those Settlements. However, if the Request for Exclusion you submit does not specify the Settlement(s) to which it applies, it will be treated as a Request for Exclusion from the Settlement Class with respect to all three Settlements.

49. The Settling Defendants have the right to terminate the respective Settlements if valid requests for exclusion are received from persons and entities entitled to be members of the Settlement Class in an amount that exceeds amounts agreed to by Plaintiffs and the Settling Defendants.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENTS? DO I HAVE TO COME TO THE HEARING? HOW DO I OBJECT? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENTS?**

50. Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a class member does not attend the hearing. Settlement Class Members can participate in the Settlements without attending the Settlement Hearing. **Please Note:** The date and time of the Settlement Hearing may change without further written notice to the Settlement Class. You should monitor the Court's docket and the website maintained by the Claims Administrator, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), before making plans to attend the Settlement Hearing. You may also confirm the date and time of the Settlement Hearing by contacting Lead Counsel.

51. The Settlement Hearing will be held on **February 13, 2019 at 10:00 a.m.**, before the Honorable Nancy F. Atlas at the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Street, Houston, TX 77002. The Court reserves the right to approve the Settlements, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, and/or any other matter related to the Settlements at or after the Settlement Hearing without further notice to the members of the Settlement Class.

52. Any Settlement Class Member who or which does not request exclusion may object to one or more of the Settlements, the proposed Plan of Allocation, or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Southern District of Texas at the address set forth below on or before **January 23, 2019**. The proposed

Plan of Allocation, which is subject to Court approval, is appears at pages 16–25 of this Notice. Please review the Plan of Allocation carefully. You must also mail the papers to Lead Counsel and to the Settling Defendants’ Counsel who represent the Settling Defendants in the Settlement(s) to which you object at the addresses set forth below so that the papers are *received* on or before **January 23, 2019**.

**Clerk’s Office**

U.S. District Court  
Southern District of Texas  
United States Courthouse  
515 Rusk Street  
Houston, TX 77002

**Lead Counsel**

**Entwistle & Cappucci LLP**  
Andrew J. Entwistle, Esq.  
c/o Entwistle & Cappucci LLP  
299 Park Avenue, 20<sup>th</sup> Floor  
New York, NY 10171

**Sponsor/GS&Co.**  
**Settling Defendants’ Counsel**

**Wachtell, Lipton, Rosen & Katz  
LLP**  
George T. Conway III, Esq.  
51 West 52<sup>nd</sup> Street  
New York, NY 10019

or

**Williams & Connolly LLP**  
Robert A. Van Kirk, Esq.  
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Washington, D.C. 20005

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53. Any objection: (a) must state the name, address, and telephone number of the person or entity objecting and must be signed by the objector; (b) must 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 the Settlement Class Member wishes to bring to the Court’s attention; and (c) must include documents sufficient to prove membership in the Settlement Class, including the number of shares of Cobalt common stock and/or the face value of Cobalt 2.625% Convertible Senior Notes due 2019 and/or Cobalt 3.125% Convertible Senior Notes due 2024 that the objecting Settlement Class Member purchased/acquired and/or sold during the Class Period (*i.e.*, from March 1, 2011 through November 3, 2014, inclusive), as well as the dates, number of shares/face value, and prices of each such purchase/acquisition and sale. You may not object to the Settlements, the Plan of Allocation, or Lead Counsel’s motion for attorneys’ fees and reimbursement of Litigation Expenses if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

Questions? Visit [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com) or call 1-877-440-0638



54. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise.

55. If you wish to be heard orally at the hearing, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and Representative Settling Defendants' Counsel at the addresses set forth in ¶ 52 above so that the notice is *received* on or before **January 23, 2019**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

56. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Settling Defendants' Counsel at the addresses set forth in ¶ 52 above so that the notice is *received* on or before **January 23, 2019**.

**57. Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the Settlements, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.**

#### WHAT IF I BOUGHT COBALT SECURITIES ON SOMEONE ELSE'S BEHALF?

58. If during the period from March 1, 2011 through November 3, 2014, inclusive (the "Class Period"), you purchased or otherwise acquired Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 for the beneficial interest of persons or organizations other than yourself, you must either (a) within ten (10) business days of receipt of this Notice, request from the Claims Administrator sufficient copies of the Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notices forward them to all such beneficial owners; or (b) within ten (10) business days of receipt of this Notice, provide a list of the names and addresses of all such beneficial owners to *In re Cobalt International Energy, Inc. Securities Litigation*, c/o Epiq, P.O. Box 4109, Portland, OR 97208-4109. If you choose the first option, you must send a statement to the Claims Administrator confirming that the mailing was made and **you must retain your mailing records for use in connection with any further notices that may be provided in the Action**. If you choose the second option, the Claims Administrator will send a copy of the Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice may also be obtained from the website maintained by the Claims Administrator, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), by calling the Claims Administrator toll-free at 1-877-440-0638, or by emailing the Claims Administrator at [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com).

**CAN I SEE THE COURT FILE?  
WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?**

59. This Notice contains only a summary of the terms of the proposed Settlements. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulations, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Street, Houston, TX 77002. Additionally, copies of the Stipulations and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com).

**Requests for the Notice or to be added to the mailing list for future notices in the Action should be made to:**

*In Cobalt International Energy, Inc.  
Securities Litigation  
c/o Epiq  
P.O. Box 4109  
Portland, OR 97208-4109  
1-877-440-0638  
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**Inquiries, other than requests for the Notice, should be made to Lead Counsel:**

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**DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, DEFENDANTS OR THEIR COUNSEL REGARDING THIS NOTICE.**

Dated: December 4, 2018

By Order of the Court  
United States District Court  
Southern District of Texas

**APPENDIX A:  
PROPOSED PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND**

**I. GENERAL ISSUES**

60. The Sponsor/GS&Co. Settlement, Underwriter Settlement and Cobalt Settlement apply to Class Members who purchased or otherwise acquired Cobalt Securities during the Class Period from March 1, 2011 through November 3, 2014, inclusive. The Cobalt Securities are Cobalt's: (i) Common Stock, (ii) 2.625% Convertible Senior Notes due 2019, issued in December 2012 (the "2019 Notes"), and (iii) 3.125% Convertible Senior Notes due 2024, issued in May 2014 (the "2024 Notes"). **ONLY ONE CLAIM FORM NEEDS TO BE SUBMITTED. THE SINGLE CLAIM FORM YOU SUBMIT WILL COVER ALL CLAIMS YOU HAVE IN ALL THREE SETTLEMENTS.**

**61. This Plan of Allocation applies to all three settlements:**

- (i) The Sponsor/GS&Co. Settlement, in which the Sponsor/GS&Co. Settling Defendants have agreed to pay \$146,850,000 in cash (the "Sponsor/GS&Co. Settlement Amount");
- (ii) The Underwriter Settlement, in which the Underwriter Settling Defendants have agreed to pay \$22,750,000 in cash (the "Underwriter Settlement Amount"); and
- (iii) The Cobalt Settlement, in which the Cobalt Settling Defendants have agreed to settle for \$220,000,000, that is payable exclusively from (a) at least \$4,200,000 in existing proceeds (the "Cobalt Settlement Existing Proceeds"), and (b) future recoveries of up to \$161.5 million (or more in the case of insurance bad faith) in proceeds related to insurance policies that currently are (or are likely to become) the subject of ongoing litigation by the Cobalt Settling Defendants against insurance carriers that issued directors and officers liability policies on their behalf (together with the Cobalt Settlement Existing Proceeds, the "Cobalt Settlement Fund").

62. This Plan of Allocation will also govern future settlements or recoveries in the insurance coverage litigation related to the D&O Policies covering Cobalt and the Cobalt Individual Defendants, and any future settlements or recoveries from any Non-Settling Defendant (*i.e.*, any Defendant who fails to pay its portion of any settlement and/or elects not to participate under the terms of the Stipulations governing the respective Settlements).

63. The: (i) Sponsor/GS&Co. Settling Defendants have agreed to pay the Sponsor/GS&Co. Settlement Amount; (ii) Underwriter Settling Defendants have agreed to pay the Underwriter Settlement Amount; and (iii) Cobalt Settling Defendants have agreed to pay the Cobalt Settlement Fund, each to be deposited into an escrow account for the benefit of Class Members who suffered losses from purchases of Cobalt Securities during the Class Period. The Sponsor/GS&Co. Settlement Amount, Underwriter Settlement Amount and Cobalt Settlement Fund and interest earned thereon while they are held in escrow from time to time before distribution, are referred to herein as the "Settlement Fund." If one or more of the Sponsor/GS&Co., Underwriter and Cobalt Settlements are approved by the Court and the Effective Date of one or more Settlement occurs, the Settlement Fund resulting from the approved Settlement(s), less all Taxes, Tax Expenses, Notice and Administration Costs, and attorneys' fees and Litigation Expenses awarded by the Court (the "Net Settlement Fund"), shall be distributed to Class Members who submit valid Claim Forms ("Authorized Claimants"), in accordance with this proposed Plan of Allocation or such other plan of allocation as the Court may approve.

64. The Plan of Allocation has been prepared by Plaintiffs, and reflects: (i) the allegations in the Complaint that the Settling Defendants committed various violations of the federal securities laws; and (ii) analyses by Plaintiffs' expert on damages to create a framework for equitable distribution of the Net Settlement Fund among Class Members who suffered economic losses as a result of the Settling Defendants' alleged violations of the federal securities laws.

65. The Plan of Allocation is not a formal damage analysis. The calculations made pursuant to the Plan of Allocation are not intended to estimate the amounts Class Members might have recovered after a trial. Nor are the calculations intended to estimate the amounts that will be paid to Authorized Claimants pursuant to the Settlements. 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 allocations of the available settlement funds among Authorized Claimants.

66. At this time, it is not possible to make any determination as to how much individual Class Members may receive from the Settlements. Your share of the Net Settlement Fund will depend on the number of valid and acceptable Claim Forms submitted by members of the Class and how many securities those forms represent relative to the Net Settlement Fund; which type of securities you purchased, how many securities you purchased, when you purchased them, and the purchase price; what securities law violations by the Settling Defendants relate to your securities; whether you held or sold those securities; the date on which you sold those securities; and the price at which you sold them, among other factors.

67. Any payment to an Authorized Claimant that would amount to less than \$10.00 does not meet the minimum threshold set for distributions and no payments will be made to such Claimants.

68. The Net Settlement Fund will not be distributed unless and until the Court has approved one or more of the Settlements and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

69. Approval of the Settlements is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlements, if approved.

70. Unless the Court otherwise orders, any Class Member who fails to submit a Claim Form postmarked on or before April 4, 2019 shall be fully and forever barred from receiving payments pursuant to the Settlements but will in all other respects remain a Class Member and be subject to the provisions of the respective Stipulations governing the Settlements, including the terms of any Judgments entered and the releases given. This means that each Class Member releases the Released Plaintiffs' Claims (as defined in ¶ 35 of the foregoing Notice) against the Settling Defendants' Releasees (as defined in ¶ 36 of the foregoing Notice) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Plaintiffs' Claims against any of the Settling Defendants' Releasees whether or not such Class Member submits a Claim Form.

71. Participants in and beneficiaries of any employee benefit plan covered by ERISA that is affiliated with one of the corporate Settling Defendants ("ERISA Plan") should NOT include any information relating to their transactions in Cobalt Securities held through the ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY those Cobalt Securities that they purchased outside of the ERISA Plan.

72. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Class Member.

73. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

74. Only Class Members or persons authorized to submit a claim on their behalf will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Class by definition or that exclude themselves from all Settlement Classes pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms. Persons or entities that exclude themselves from one or more of the Settlements (but fewer than all of them), will not be eligible for any payment from the funds resulting from the Settlement(s) from which they excluded themselves.

75. Defendants shall not have any liability, obligation, or responsibility for the administration of the Settlements, the disbursement of the Net Settlement Fund, or the plan of allocation.

## II. ALLOCATION OF SETTLEMENTS AMOUNTS INTO SEPARATE FUNDS

76. The Net Settlement Fund for the currently proposed Sponsor/GS&Co., Underwriter and Cobalt Settlements, to extent they are approved, together with all future settlements and other recoveries in the Action, if any, from any of the Non-Settling Defendants, if any, less all Court-approved attorneys' fees, taxes, and expenses on those settlements and recoveries, will be divided into three (3) separate funds for purposes of making allocations to Authorized Claimants (Class Members who submit eligible Claim Forms). The division into these three funds is based on the identity of the Settling Defendants contributing to each settlement or recovery and the types of claims asserted against each group of Settling Defendants.

- a. The **Group 1 Fund** is intended to compensate Class Members who (i) purchased Cobalt common stock, 2019 Notes, and/or 2024 Notes during the Class Period at prices that Plaintiffs allege were artificially inflated as a result of material misstatements or omissions that certain Settling Defendants made recklessly or with intent to defraud in violation of Section 10(b) of the Exchange Act, and (ii) were injured when the alleged misstatements or omissions were revealed and the price of Cobalt Securities declined.
- b. The **Group 2 Fund** is intended to compensate Class Members who purchased Cobalt common stock during the Class Period contemporaneously with sales in Cobalt common stock by the Sponsor Defendants, who were alleged to have sold the stock while in possession of material, adverse, non-public information about Cobalt's business in violation of Section 20A of the Exchange Act.
- c. The **Group 3 Fund** is intended to compensate Class Members who purchased Cobalt Common Stock, 2019 Notes, and/or 2024 Notes in or traceable to a public offering of one of those securities during the Class Period. These Class Members had asserted claims under Sections 11, 12(a)(2) and/or 15 of the Securities Act based on alleged misrepresentations and material omissions in the offering documents for the offerings of these securities.

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77. The Net Settlement Fund for the current Settlements will be allocated as follows:

- a. At least \$14.2 million, consisting of: (i) at least \$4,200,000 in Cobalt Settlement Existing Proceeds; (ii) \$10.0 million from the Sponsor/GS&Co. Settlement Amount; and (iii) 100% of any additional future recoveries in the insurance coverage litigation, less all Court-approved attorneys' fees, taxes, and expenses on those settlements and recoveries, will be allocated to the **Group 1 Fund**;
- b. \$125.0 million of the Sponsor/GS&Co. Settlement Amount, less all applicable Court-approved attorneys' fees, taxes, and expenses on that amount, will be allocated to the **Group 2 Fund**;
- c. \$34.6 million, consisting of: (i) \$11.85 million of the Sponsor/GS&Co. Settlement Amount; and (ii) the entire \$22.75 million of the Underwriter Settlement Amount, less all Court-approved attorneys' fees, taxes, and expenses on those settlements and recoveries, will be allocated to the **Group 3 Fund**; and
- d. All Court-approved attorneys' fees, Litigation Expenses, Taxes, and Notice and Administration Costs for the Sponsor/GS&Co., Underwriter and Cobalt Settlements will be deducted proportionally based on the relative size of the three funds.

78. Any future settlements or recoveries from any Non-Settling Defendant, less all Court-approved attorneys' fees, taxes, and expenses on those settlements and recoveries, will be allocated based on which fund the settlements or recoveries would be allocated above based on the identity of the Non-Settling Defendant(s).

79. Depending on which Cobalt Securities a Class Member purchased and when, a Class Member may be eligible for recovery from more than one fund based on the same purchase. As detailed below, each separate purchase of one of the Cobalt Securities may result in either a **Group 1 Recognized Loss**, **Group 2 Recognized Loss**, or **Group 3 Recognized Loss**, or more than one of those types of Recognized Losses. So, by way of example only, a class member that purchased a share of stock on a covered offering and contemporaneously with sales by the Sponsors during the Class Period would recover its *pro rata* share of the Group 1 Fund plus its *pro rata* share of the Group 2 Fund plus its *pro rata* share of the Group 3 Fund. The three separate funds will be allocated on a *pro rata* basis based on each Authorized Claimant's Recognized Loss applicable to that specific fund compared to the total Recognized Losses applicable to that specific fund for all Authorized Claimants. In the unlikely event all Recognized Losses in a given Group Fund are fully satisfied, the proceeds remaining in such Fund will be divided between the remaining Group Funds in proportion to the unreimbursed Recognized Losses remaining for each such Fund.

### III. CALCULATION OF RECOGNIZED LOSSES

80. In all of the calculations below, the "purchase price" or "sale price" shall be the trade price exclusive of any commissions, taxes or fees. If the Cobalt Security was acquired in exchange for consideration, the "purchase price" shall also mean the acquisition price. If a Recognized Loss calculates to a negative number or zero under any of the formulas below, the Recognized Loss for that purchase will be zero.

#### A. Cobalt Common Stock

81. **PLEASE NOTE:** Depending on when you purchased or acquired your shares of Cobalt common stock, more than one of the following paragraphs (§§ 82 to 88) may apply to your claim.

82. **Purchases of Cobalt Common Stock from March 1, 2011 through November 3, 2014:** For each share of Cobalt Common Stock purchased or otherwise acquired for consideration from March 1, 2011 through November 3, 2014, inclusive, and:

- a. sold prior to April 16, 2012, the **Group 1 Recognized Loss** is \$0;
- b. sold from April 16, 2012 through November 3, 2014, the **Group 1 Recognized Loss** is *the lesser of*: (i) the artificial inflation per share on the date of purchase as stated in Table A minus the artificial inflation per share on the date of sale as stated in Table A; or (ii) the purchase price *minus* the sale price;
- c. sold from November 4, 2014 through January 30, 2015, the **Group 1 Recognized Loss** is *the least of*: (i) the amount of artificial inflation per share on the date of purchase as stated in Table A; (ii) the purchase price *minus* the average closing price between November 4, 2014 and the date of sale as stated in Table B; or (iii) the purchase price *minus* the sale price; or
- d. held as of the close of trading on January 30, 2015, the **Group 1 Recognized Loss** is *the lesser of*: (i) the artificial inflation per share on the date of purchase as stated in Table A; or (ii) the purchase price per share *minus* \$9.06.



**83. Purchases of Cobalt Common Stock in the February 23, 2012 Offering or from February 24, 2012 through March 1, 2012:** For every share of Cobalt Common Stock purchased within the seven-day period following the February 23, 2012 Offering (*i.e.*, in the offering or from February 24, 2012 through March 1, 2012), and

- a. sold prior to April 16, 2012, the **Group 2 Recognized Loss** is \$0;
- b. sold from April 16, 2012 through December 1, 2013, the **Group 2 Recognized Loss** is \$1.62 per share;
- c. sold on December 2, 2013, the **Group 2 Recognized Loss** is \$5.30 per share;
- d. sold from December 3, 2013 through August 4, 2014, the **Group 2 Recognized Loss** is \$6.28 per share;
- e. sold from August 5, 2014 through November 3, 2014, the **Group 2 Recognized Loss** is \$7.71 per share; or
- f. still held as of the close of trading on November 3, 2014, the **Group 2 Recognized Loss** is \$8.61 per share.

**84. Purchases of Cobalt Common Stock in the January 16, 2013 Offering or from January 16, 2013 through January 22, 2013:** For every share of Cobalt Common Stock purchased within the seven-day period following the January 16, 2013 Offering (*i.e.*, in the offering or from January 16, 2013 through January 22, 2013), and

- a. sold prior to December 2, 2013, the **Group 2 Recognized Loss** is \$0;
- b. sold on December 2, 2013, the **Group 2 Recognized Loss** is \$3.68;
- c. sold from December 3, 2013 through August 4, 2014, the **Group 2 Recognized Loss** is \$4.66 per share;
- d. sold from August 5, 2014 through November 3, 2014, the **Group 2 Recognized Loss** is \$6.09 per share; or
- e. still held as of the close of trading on November 3, 2014, the **Group 2 Recognized Loss** is \$6.99 per share.

**85. Purchases of Cobalt Common Stock in the May 8, 2013 Offering or from May 8, 2013 through May 14, 2013:** For every share of Cobalt Common Stock purchased within the seven-day period following the May 8, 2013 Offering (*i.e.*, in the offering or from May 8, 2013 through May 14, 2013), and

- a. sold prior to December 2, 2013, the **Group 2 Recognized Loss** is \$0;
- b. sold on December 2, 2013, the **Group 2 Recognized Loss** is \$3.68;
- c. sold from December 2, 2013 through August 4, 2014, the **Group 2 Recognized Loss** is \$4.66 per share;
- d. sold from August 5, 2014 through November 3, 2014, the **Group 2 Recognized Loss** is \$6.09 per share; or
- e. still held as of the close of trading on November 3, 2014, the **Group 2 Recognized Loss** is \$6.99 per share.

**86. Purchases of Cobalt Common Stock In or Traceable to the February 2012 Offering:** For each share of Cobalt common stock either (a) purchased in the February 23, 2012 Offering, or (b) purchased after February 23, 2012 and for which the claimant provides records documenting those shares were issued pursuant to the February 23, 2012 Offering, and:

- a. sold prior to the close of trading on November 30, 2014, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$28.00) *minus* the sale price per share;
- b. sold from December 1, 2014 through October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$28.00) *minus* the greater of (i) sale price per share or (ii) \$9.00 (the closing price on the date the lawsuit was filed);
- c. held as of the close of trading on October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$28.00) *minus* \$9.00 (the closing price on the date the lawsuit was filed).

87. **Purchases of Cobalt Common Stock In or Traceable to the January 2013 Offering:** For each share of Cobalt common stock either (a) purchased in the January 16, 2013 Offering, or (b) purchased after January 16, 2013 and for which the claimant provides records documenting those shares were issued pursuant to the January 16, 2013 Offering, and:

- a. sold prior to the close of trading on November 30, 2014, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$25.15) *minus* the sale price per share;
- b. sold from December 1, 2014 through October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$25.15) *minus* the greater of (i) sale price per share or (ii) \$9.00 (the closing price on the date the lawsuit was filed);
- c. held as of the close of trading on October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$25.15) *less* \$9.00 (the closing price on the date the lawsuit was filed).

88. **Purchases of Cobalt Common Stock In or Traceable to the May 2013 Offering:** For each share of Cobalt Common Stock either (a) purchased in the May 8, 2013 Offering, or (b) purchased after May 8, 2013 and for which the claimant provides records documenting those shares were issued pursuant to the May 8, 2013 Offering, and:

- a. sold prior to the close of trading on November 30, 2014, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$26.62) *less* the sale price per share;
- b. sold from December 1, 2014 through October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$26.62) *minus* the greater of (i) sale price per share or (ii) \$9.00 (the closing price on the date the lawsuit was filed);
- c. held as of the close of trading on October 11, 2018, the **Group 3 Recognized Loss** is the purchase price per share (not to exceed \$26.62) *minus* \$9.00 (the closing price on the date the lawsuit was filed).

89. **Effect of June 2017 Reverse Stock Split on Calculations:** Cobalt common stock had a 1-for-15 reverse stock split on June 19, 2017. All per-share prices for Cobalt common stock used in this Plan of Allocation are based on unadjusted values prior to the June 2017 split.

**B. Cobalt 2.625% Convertible Senior Notes due 2019, issued in December 2012 (the “2019 Notes”)**

90. For each \$100 face value of 2019 Notes purchased or otherwise acquired for consideration from the date of the offering of 2019 Notes in December 2012 (including in that offering) through November 3, 2014, inclusive, and:

- a. sold prior to December 2, 2013,
  - (1) the **Group 1 Recognized Loss** is \$0, and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* the sale price;
- b. sold from December 2, 2013 through November 3, 2014,
  - (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the artificial inflation per \$100 face value on the date of purchase as stated in Table A *minus* the amount of artificial inflation per \$100 face value on the date of sale as stated in Table A; or (ii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* the sales price;
- c. sold from November 4, 2014 through November 30, 2014,
  - (1) the **Group 1 Recognized Loss** is *the least of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; (ii) the purchase price *minus* the average closing price between November 4, 2014 and the date of sale as stated in Table B below; or (iii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* the sale price;

- d. sold from December 1, 2014 through January 30, 2015,
- (1) the **Group 1 Recognized Loss** is *the least of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; (ii) the purchase price *minus* the average closing price between November 4, 2014 and the date of sale as stated in Table B below; or (iii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* the greater of (i) sale price or (ii) \$69.67 (the price on the date the lawsuit was filed);
- e. sold from January 31, 2015 through October 11, 2018,
- (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; or (ii) the purchase price *minus* \$64.82; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* the greater of (i) sale price or (ii) \$69.67 (the price on the date the lawsuit was filed);
- f. held as of the close of trading on October 11, 2018,
- (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; or (ii) the purchase price *minus* \$64.82; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$99.25) *minus* \$69.67 (the price on the date the lawsuit was filed);
- g. Any Debt Exchange of 2019 Notes before October 11, 2018 will be treated as sales in the formulas above. The relevant “sales price” will be the TRACE price reported by Bloomberg as of the date of the Debt Exchange. Therefore, for Debt Exchanges occurring on December 6, 2016, January 30, 2017 and April 24, 2017, per \$100 par value the “sales prices” shall be \$44.88, \$38.50, and \$38.00, respectively.
- h. No **Group 2 Recognized Loss** will be calculated for any purchases of 2019 Notes.

**C. Cobalt 3.125% Convertible Senior Notes due 2024,  
issued in May 2014 (the “2024 Notes”)**

91. For each \$100 face value of 2024 Notes purchased or otherwise acquired for consideration from the date of the offering of 2024 Notes in May 2014 (including in that offering) through November 3, 2014, inclusive, and:

- a. sold prior to August 5, 2014,
- (1) the **Group 1 Recognized Loss** is \$0, and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* the sale price;
- b. sold from August 5, 2014 through November 3, 2014,
- (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the artificial inflation per \$100 face value on the date of purchase as stated in Table A *minus* \$3.16; or (ii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* the sale price;
- c. sold from November 4, 2014 through November 30, 2014,
- (1) the **Group 1 Recognized Loss** is *the least of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; (ii) the purchase price *minus* the average closing price between November 4, 2014 and the date of sale as stated in Table B below; or (iii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* the sale price;



- d. sold from December 1, 2014 through January 30, 2015,
- (1) the **Group 1 Recognized Loss** is *the least of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; (ii) the purchase price *minus* the average closing price between November 4, 2014 and the date of sale as stated in Table B below; or (iii) the purchase price *minus* the sale price; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* the greater of (i) sale price or (ii) \$74.66 (the price on the date the lawsuit was filed);
- e. sold from January 31, 2015 through October 11, 2018,
- (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; or (ii) the purchase price *minus* \$68.87; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* the greater of (i) sale price or (ii) \$74.66 (the price on the date the lawsuit was filed);
- f. held as of the close of trading on October 11, 2018,
- (1) the **Group 1 Recognized Loss** is *the lesser of*: (i) the amount of artificial inflation per \$100 face value on the date of purchase as stated in Table A; or (ii) the purchase price *minus* \$68.87; and
  - (2) the **Group 3 Recognized Loss** is the purchase price (not to exceed \$100) *minus* \$74.66 (the price on the date the lawsuit was filed);
- g. Any Debt Exchange of 2024 Notes before October 11, 2018 will be treated as sales in the formulas above. The relevant “sales price” will be the TRACE price reported by Bloomberg as of the date of the Debt Exchange. Therefore, for Debt Exchanges occurring on December 6, 2016, January 30, 2017, April 24, 2017, and May 18, 2017, per \$100 par value the “sales prices” shall be \$34.95, \$25.25, \$28.38, and \$29.13, respectively.
- h. No **Group 2 Recognized Loss** will be calculated for any purchases of 2024 Notes.

### ADDITIONAL PROVISIONS

92. **FIFO Matching:** All purchases/acquisitions and sales of Cobalt Securities in the Class Period shall be matched on a First-In-First-Out (“FIFO”) basis with like securities. Sales of Cobalt Common Stock during the Class Period and any time thereafter will be matched first against any holdings of Cobalt Common Stock at the beginning of the Class Period, and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period. Sales of 2019 Notes or 2024 Notes during the Class Period and any time thereafter will be matched against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisitions made during the Class Period.

93. **Purchase/Sale Dates:** A purchase/acquisition or sale of Cobalt Securities shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, devise or inheritance of a Cobalt Security during the Class Period shall not be deemed to be a purchase, acquisition or sale of a Cobalt Security for the calculation of an Authorized Claimant’s Recognized Loss amounts, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/sale of the Cobalt Security unless (i) the donor or decedent purchased the security during the Class Period; (ii) the instrument of gift or assignment specifically provides that it is intended to transfer such rights; and (iii) no Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to those share or notes.

94. **Short Sales:** The date of covering a “short sale” is deemed to be the date of purchase or acquisition of Cobalt Common Stock. The date of a “short sale” is deemed to be the date of sale of Cobalt Common Stock. Under the Plan of Allocation, however, the Recognized Loss Amount on all “short sales” is zero. In the event that there is an opening short position in Cobalt Common Stock, the earliest Class Period purchases of Cobalt Common Stock shall be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered.

95. **Common Stock Purchased/Sold Through the Exercise of Options:** Option contracts are not securities eligible to participate in the Settlement. With respect to Cobalt Common Stock purchased or sold through the exercise of an option, the purchase/sale date of the Cobalt Common Stock is the exercise date of the option and the purchase/sale price of the Cobalt Common Stock is the exercise price of the option.

96. **Determination of Distribution Amount:** The total funds available for distribution in this Action as a result of all settlements or other recoveries in the Action (the “Total Net Settlement Fund”) will be allocated on a *pro rata* basis based on each Authorized Claimant’s proportional share of each of the three allocation funds – the **Group 1 Fund**, **Group 2 Fund**, and **Group 3 Fund**, discussed above in ¶¶ 76-79. Specifically, each Authorized Claimant’s Distribution Amount will be *the sum of*:

- a. the Authorized Claimant’s *pro rata* share of the **Group 1 Fund** based on his, her, or its **Group 1 Recognized Losses** (*i.e.*, the sum of all of that Authorized Claimant’s **Group 1 Recognized Losses** for all purchases of Cobalt Securities during the Class Period divided by the total of **Group 1 Recognized Losses** of all Authorized Claimants, multiplied by the total amount in the **Group 1 Fund**);
- b. the Authorized Claimant’s *pro rata* share of the **Group 2 Fund** based on his, her, or its **Group 2 Recognized Losses** (*i.e.*, the sum of all of that Authorized Claimant’s **Group 2 Recognized Losses** for all eligible purchases of Cobalt common stock during the Class Period divided by the total of **Group 2 Recognized Losses** of all Authorized Claimants, multiplied by the total amount in the **Group 2 Fund**); *and*
- c. the Authorized Claimant’s *pro rata* share of the **Group 3 Fund** based on his, her, or its **Group 3 Recognized Losses** (*i.e.*, the sum of all of that Authorized Claimant’s **Group 3 Recognized Losses** for all eligible purchases of Cobalt Securities during the Class Period divided by the total of **Group 3 Recognized Losses** of all Authorized Claimants, multiplied by the total amount in the **Group 3 Fund**);

97. **Distribution Amount Capped by Market Loss.** To the extent that a Claimant had a market gain with respect to all of his, her, or its purchases or acquisitions of Cobalt common stock, 2019 Notes or 2024 Notes during the Class Period, that Claimant will not be eligible for any payment under the Plan of Allocation (their Distribution Amount will be set at \$0 notwithstanding the calculations under ¶ 96). Such Claimants will in any event be bound by the Settlement. To the extent that a Claimant suffered an overall market loss with respect to his, her, or its purchases or acquisitions of Cobalt common stock, 2019 Notes, or 2024 Notes during the Class Period, but that market loss was less than the Distribution Amount calculated under ¶ 96 above, then the Claimant’s Distribution Amount shall be limited to the amount of the actual market loss and the Claimant’s Recognized Loss with respect to each fund will be reduced proportionally.

98. For purposes of determining whether a Claimant had a market gain with respect to his, her, or its purchases/acquisitions of Cobalt Common Stock, 2019 Notes, or 2024 Notes during the Class Period or suffered a market loss, the Claims Administrator shall determine the difference between (i) the Total Purchase Amount<sup>8</sup> and (ii) the sum of the Total Sales Proceeds<sup>9</sup> and Total Holding Value.<sup>10</sup> This difference will be deemed a Claimant’s market gain or loss with respect to his, her, or its overall purchases/acquisitions of Cobalt Common Stock, 2019 Notes, or 2024 Notes during the Class Period.

99. If an Authorized Claimant’s Distribution Amount calculates to less than \$10.00, no distribution will be made to that Authorized Claimant. Those funds will be included in the distribution to other Authorized Claimants.

100. If the total amount available for distribution in any of the three allocation funds exceeds the total Recognized Losses for all Authorized Claimants with respect to that fund, then after payment of the full Recognized Loss amounts applicable to that fund, any remaining amounts will be reallocated to the other two funds in proportion to the relative amount of the unpaid Recognized Losses of the other two funds. As an example, based on purely hypothetical numbers, if the total amount available for distribution in each fund was \$100 million, Group 1 Recognized Losses were \$500 million, Group 2 Recognized Losses were \$200 million, and Group 3 Recognized Losses were \$80 million, then the \$20 million in the Group 3 Fund in excess of Group 3 Recognized Losses would be reallocated on a 4:1 basis among the Group 1 Fund and the Group 2 Fund, with \$16 million reallocated to the Group 1 Fund and \$4 million reallocated to the Group 2 Fund.

<sup>8</sup> The “Total Purchase Amount” is the total amount the Claimant paid (excluding commissions and other charges) for Cobalt common stock, 2019 Notes or 2024 Notes purchased or acquired during the Class Period.

<sup>9</sup> The Claims Administrator shall match any sales of Cobalt common stock during the Class Period, first against the Claimant’s opening position in Cobalt common stock (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding commissions and other charges) for sales of Cobalt common stock, 2019 Notes or 2024 Notes during the Class Period shall be the “Total Sales Proceeds.”

<sup>10</sup> When calculating Total Holding Value, the Claims Administrator shall ascribe a holding value of \$10.07 per share of Cobalt common stock, \$68.50 per \$100 par value of 2019 Notes, and \$70.76 per \$100 par value of 2024 Notes purchased or acquired during the Class Period and still held as of the close of trading on November 3, 2014.

101. If any funds remain in the Total Net Settlement Fund after the initial distribution of recoveries in the Action because of uncashed distributions or other reasons, then, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants cash their distribution checks, any balance remaining in the Total Net Settlement Fund nine months after the distribution of such funds shall be redistributed to Authorized Claimants who have cashed their initial distribution and who would receive at least \$10 from such redistribution, after payment of any unpaid costs or fees incurred in administering the funds, including for such redistribution. Additional redistributions to Authorized Claimants who have cashed their prior distribution checks and who would receive at least \$10 on such additional redistributions, subject to the conditions previously noted, may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional redistribution, after the deduction of any additional fees and expenses that would be incurred with respect to such redistributions, is cost-effective. At such time as it is determined that the redistribution of funds remaining in the Total Net Settlement Fund is not cost-effective, the remaining balance of the Total Net Settlement Fund shall be contributed to non-sectarian, not-for-profit 501(c)(3) organizations recommended by Lead Counsel and approved by the Court.

102. Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Counsel, Liaison Counsel for Plaintiffs, Settling Defendants and their respective counsel or any of the other Released Defendant Parties, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulations, the plan of allocation approved by the Court, or further Orders of the Court. Plaintiffs, Settling Defendants and their respective counsel, and all other Settling Defendants' Releasees shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, the Total Net Settlement Fund, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

103. The Plan of Allocation set forth herein is the plan that is being proposed by Plaintiffs and Lead Counsel to the Court for approval. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding a modification of the Plan of Allocation will be posted on the settlement website, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com).

**TABLE A**

**Estimated Artificial Inflation in Cobalt Securities During the Class Period**

<b>Transaction Date</b>	<b><u>Cobalt</u></b>	<b><u>2019 Notes</u></b>	<b><u>2024 Notes</u></b>
	<b><u>Common Stock</u></b>		
	<b>Artificial Inflation Per Share</b>	<b>Artificial Inflation Per \$100 Par Value</b>	<b>Artificial Inflation Per \$100 Par Value</b>
March 1, 2011–April 15, 2012	\$8.61		
April 16, 2012–December 1, 2013	\$6.99	\$11.94	
December 2, 2013	\$3.31	\$6.30	
December 3, 2013–August 4, 2014	\$2.33	\$4.10	\$9.10
August 5, 2014–November 3, 2014	\$0.90	\$1.88	\$3.16
November 4, 2014 and after	\$0.00	\$0.00	\$0.00

TABLE B

## Average Closing Price from November 4, 2014 Through the Date Listed per Share of Cobalt Common Stock and \$100 Par Value of 2019 Notes and 2024 Notes

Average Closing Price from 11/4/2014 Through Date Listed				Average Closing Price from 11/4/2014 Through Date Listed			
Date	Common Stock	2019 Notes (\$100 par value)	2024 Notes (\$100 par value)	Date	Common Stock	2019 Notes (\$100 par value)	2024 Notes (\$100 par value)
11/4/2014	\$10.07	\$68.50	\$70.76	12/17/2014	\$9.47	\$66.17	\$69.86
11/5/2014	\$10.29	\$68.87	\$71.95	12/18/2014	\$9.45	\$66.07	\$69.74
11/6/2014	\$10.40	\$68.77	\$72.42	12/19/2014	\$9.44	\$65.99	\$69.74
11/7/2014	\$10.54	\$69.30	\$73.40	12/22/2014	\$9.43	\$65.87	\$69.74
11/10/2014	\$10.47	\$69.46	\$73.60	12/23/2014	\$9.42	\$65.76	\$69.74
11/11/2014	\$10.48	\$69.50	\$73.60	12/24/2014	\$9.40	\$65.63	\$69.74
11/12/2014	\$10.46	\$69.60	\$73.89	12/26/2014	\$9.39	\$65.53	\$69.74
11/13/2014	\$10.39	\$69.59	\$73.68	12/29/2014	\$9.38	\$65.46	\$69.74
11/14/2014	\$10.38	\$69.55	\$73.59	12/30/2014	\$9.36	\$65.35	\$69.65
11/17/2014	\$10.32	\$69.51	\$73.59	12/31/2014	\$9.35	\$65.24	\$69.65
11/18/2014	\$10.29	\$69.50	\$73.42	1/2/2015	\$9.34	\$65.19	\$69.65
11/19/2014	\$10.28	\$69.58	\$73.42	1/5/2015	\$9.32	\$65.11	\$69.65
11/20/2014	\$10.33	\$69.67	\$73.42	1/6/2015	\$9.30	\$65.01	\$69.65
11/21/2014	\$10.39	\$69.82	\$73.83	1/7/2015	\$9.28	\$64.96	\$69.48
11/24/2014	\$10.43	\$69.95	\$74.15	1/8/2015	\$9.26	\$64.91	\$69.38
11/25/2014	\$10.45	\$70.02	\$74.30	1/9/2015	\$9.25	\$64.87	\$69.30
11/26/2014	\$10.43	\$70.02	\$74.32	1/12/2015	\$9.23	\$64.82	\$69.08
11/28/2014	\$10.36	\$70.00	\$74.32	1/13/2015	\$9.20	\$64.77	\$69.08
12/1/2014	\$10.28	\$69.68	\$73.69	1/14/2015	\$9.19	\$64.72	\$68.96
12/2/2014	\$10.21	\$69.40	\$73.23	1/15/2015	\$9.16	\$64.70	\$68.89
12/3/2014	\$10.16	\$69.17	\$73.02	1/16/2015	\$9.14	\$64.70	\$68.84
12/4/2014	\$10.10	\$68.89	\$72.71	1/20/2015	\$9.12	\$64.67	\$68.75
12/5/2014	\$10.03	\$68.60	\$72.41	1/21/2015	\$9.10	\$64.66	\$68.72
12/8/2014	\$9.93	\$68.25	\$71.90	1/22/2015	\$9.09	\$64.67	\$68.70
12/9/2014	\$9.86	\$67.91	\$71.48	1/23/2015	\$9.08	\$64.67	\$68.70
12/10/2014	\$9.78	\$67.57	\$71.09	1/26/2015	\$9.07	\$64.68	\$68.70
12/11/2014	\$9.70	\$67.26	\$70.71	1/27/2015	\$9.06	\$64.70	\$68.70
12/12/2014	\$9.63	\$66.96	\$70.33	1/28/2015	\$9.06	\$64.74	\$68.75
12/15/2014	\$9.56	\$66.61	\$70.33	1/29/2015	\$9.06	\$64.78	\$68.81
12/16/2014	\$9.50	\$66.37	\$70.02	1/30/2015	\$9.06	\$64.82	\$68.87

*In re Cobalt International Energy, Inc. Securities Litigation*  
c/o Epiq  
P.O. Box 4109  
Portland, OR 97208-4109

Toll-Free Number: 1-877-440-0638  
Email: [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com)  
Website: [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com)

**PROOF OF CLAIM AND RELEASE FORM**

To be eligible to receive a share of the Net Settlement Funds in connection with the Settlements of this Action, you must complete and sign this Proof of Claim and Release Form (“Claim Form”) and mail it by first-class mail to the above address, **postmarked no later than April 4, 2019.**

Failure to submit your Claim Form by the date specified will subject your claim to rejection and may preclude you from being eligible to receive any money in connection with the Settlements.

**Do not mail or deliver your Claim Form to the Court, the parties to the Action, or their counsel.**

**SUBMIT YOUR CLAIM FORM ONLY TO THE CLAIMS ADMINISTRATOR  
AT THE ADDRESS SET FORTH ABOVE.**

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**PART I – GENERAL INSTRUCTIONS**

1. It is important that you completely read and understand the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice") including the Proposed Plan of Allocation included in the Notice. The Notice describes the proposed Settlements, how members of the Settlement Class are affected by the Settlements, and the manner in which the Net Settlement Funds will be distributed if one or more of the Settlements and the Plan of Allocation are approved by the Court. The Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Notice, including the terms of the releases described therein and provided for herein.

2. This Claim Form is directed to all persons and entities who purchased or otherwise acquired Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, "Cobalt Securities") between March 1, 2011 and November 3, 2014, inclusive (the "Class Period"), and were damaged thereby. Included within the Settlement Class are all persons and entities who purchased or otherwise acquired shares of Cobalt common stock on the open market and/or pursuant or traceable to the registered public offerings on or about (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Also included within the Settlement Class are all persons and entities who purchased or otherwise acquired Cobalt convertible senior notes on the open market and/or pursuant or traceable to registered public offerings on or about (i) December 12, 2012; and (ii) May 8, 2014. Certain persons and entities are excluded from the Settlement Class by definition as set forth in Paragraph 28 of the Notice.

3. **Submission of this Claim Form does not guarantee that you will share in the proceeds of one or more Settlements. The distribution of the Net Settlement Funds will be governed by the Plan of Allocation set forth in the Notice that accompanies this Claim Form, if it is approved by the Court, or by such other plan of allocation as the Court approves.**

4. Use the Schedule of Transactions in Part III of this Claim Form to supply all required details of your transaction(s) (including free transfers and deliveries) in and holdings of Cobalt Securities. On this schedule, please provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of Cobalt Securities, whether such transactions resulted in a profit or a loss. **Failure to report all transaction and holding information during the requested time periods may result in the rejection of your claim.**

5. **Please note:** Only Cobalt Securities purchased or acquired during the Class Period (*i.e.*, from March 1, 2011 through November 3, 2014, inclusive), are eligible under the Settlements. However, your sales of Cobalt Securities from November 4, 2014 through October 11, 2018 may be used for purposes of calculating your recognized loss under the Plan of Allocation. Therefore, in order for the Claims Administrator to be able to balance your claim, the requested information on purchases and acquisitions during that time period must also be provided. **Failure to report all transaction and holding information during the requested time periods may result in the rejection of your claim.**

6. You are required to submit genuine and sufficient documentation for all of your transactions in and holdings of Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and Cobalt 3.125% Convertible Senior Notes due 2024 set forth in the Schedule of Transactions in Part III of this Claim Form. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Parties and the Claims Administrator do not independently have information about your investments in the Cobalt Securities. **IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OF THE DOCUMENTS OR EQUIVALENT DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator. Also, do not highlight any portion of the Claim Form or any supporting documents.**

7. **Traceability of Cobalt Common Stock to a Public Offering in the Class Period.** Public offerings of Cobalt common stock occurred during the Class Period on or about (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Claimants who purchased shares of Cobalt common stock directly in one of these offerings or who purchased shares "traceable" to one of the offerings (as opposed to generally on the open market) may be entitled to additional compensation under the Plan of Allocation. If you purchased Cobalt common stock after these offerings but believe that your shares are specifically traceable to shares of common stock issued in one of the offerings, you must submit documents with your Claim Form showing that the specific shares you purchased were shares issued in the offering. For example, acceptable documents might show that the person you purchased the shares from had previously purchased those shares in the offering.

8. All joint beneficial owners each must sign this Claim Form and their names must be listed in Part II of this Claim Form. The complete name(s) of the beneficial owner(s) must be entered. If you purchased Cobalt Securities during the Class Period and held the shares or notes in your name, you are the beneficial owner as well as the record owner. If you purchased Cobalt Securities during the Class Period and the shares or notes were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these shares, but the third party is the record owner. The beneficial owner(s), not the record owner, must sign this Claim Form.

9. **One Claim should be submitted for each separate legal entity.** Separate Claim Forms should be submitted for each separate legal entity (e.g., a claim from joint owners should not include separate transactions of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made solely in the individual's name). Conversely, a single Claim Form should be submitted on behalf of one legal entity including all transactions made by that entity on one Claim Form, no matter how many separate accounts that entity has (e.g., a corporation with multiple brokerage accounts should include all transactions made in all accounts on one Claim Form).

10. Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, last four digits of the Social Security Number (or taxpayer identification number), address and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Cobalt Securities; and
- (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade securities in another person's accounts.)

11. By submitting a signed Claim Form, you will be swearing that you:

- (a) own(ed) the Cobalt Securities you have listed in the Claim Form; or
- (b) are expressly authorized to act on behalf of the owner thereof.

12. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your claim and may subject you to civil liability or criminal prosecution.

13. If the Court approves one or more of the Settlements, payments to eligible Authorized Claimants pursuant to the Plan of Allocation (or such other plan of allocation as the Court approves) will be made after any appeals are resolved, and after the completion of all claims processing. The claims process will take substantial time to complete fully and fairly. Please be patient.

14. **PLEASE NOTE:** If the payment calculated for any Authorized Claimant under the Plan of Allocation is less than \$10.00, no distribution will be made to that Authorized Claimant and those funds will be distributed to other Authorized Claimants.

15. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Notice, you may contact the Claims Administrator, Epiq, at the address on the first page of this Claim Form, by email at [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com), or by toll-free phone at 877-440-0638, or you can visit the settlement website, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), where copies of the Claim Form and Notice are available for downloading.

16. **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. To obtain the **mandatory** electronic filing requirements and file layout, you may visit the settlement website at [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com) or you may email the Claims Administrator's electronic filing department at [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com). **Any file not in accordance with the required electronic filing format will be subject to rejection.** Only one claim should be submitted for each separate legal entity (see Paragraph 9 above) and the **complete** name of the beneficial owner of the securities must be entered where called for (see Paragraph 8 above). No electronic files will be considered to have been properly submitted unless the Claims Administrator issues an email to that effect. **Do not assume that your file has been received until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the Claims Administrator's electronic filing department at [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com) to inquire about your file and confirm it was received.**

**IMPORTANT: PLEASE NOTE**

**YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, CALL THE CLAIMS ADMINISTRATOR TOLL-FREE AT 1-877-440-0638.**

**PART II – CLAIMANT IDENTIFICATION**

Please complete this PART II in its entirety. 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.

Beneficial Owner's First Name	MI	Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Co-Beneficial Owner's First Name	MI	Co-Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Entity Name (if Beneficial Owner is not an individual)

Representative or Custodian Name (if different from Beneficial Owner(s) listed above)

Address 1 (street name and number)

Address 2 (apartment, unit or box number)

City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/> - <input type="text"/>

Country

Last four digits of Social Security Number or Taxpayer Identification Number

Telephone Number (home)	Telephone Number (work)
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>

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.)

Account Number (where securities were traded)<sup>1</sup>

Claimant Account Type (check appropriate box):

<input type="checkbox"/> Individual (includes joint owner accounts)	<input type="checkbox"/> Pension Plan	<input type="checkbox"/> Trust
<input type="checkbox"/> Corporation	<input type="checkbox"/> Estate	
<input type="checkbox"/> IRA/401K	<input type="checkbox"/> Other _____ (please specify)	

<sup>1</sup> If the account number is unknown, you may leave blank. If filing for more than one account for the same legal entity you may write "multiple." Please see Paragraph 9 of the General Instructions above for more information on when to file separate Claim Forms for multiple accounts.





**B. COBALT 2.625% CONVERTIBLE SENIOR NOTES DUE 2019, ISSUED IN DECEMBER 2012 (CUSIP 19075FAA4) (THE "2019 NOTES")**

**1. PURCHASES/ACQUISITIONS AT ANY TIME THROUGH NOVEMBER 3, 2014** — Separately list each and every purchase or acquisition, including free receipts, of 2019 Notes at any time from the date of their initial offering in December 2012 (including in that offering) or thereafter through the close of trading on **November 3, 2014**.

Date of Purchase/ Acquisition (List Chronologically) (MMDDYY)	Face Value Purchased/Acquired	Purchase Price per \$100 Face Value of Note	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**2. PURCHASES/ACQUISITIONS FROM NOVEMBER 4, 2014 THROUGH OCTOBER 11, 2018** — State the total face value of 2019 Notes purchased/acquired (including free receipts) from November 4, 2014 through the close of trading on October 11, 2018.<sup>3</sup> If none, write "zero" or "0."

.

**3. SALES AT ANY TIME THROUGH OCTOBER 11, 2018** — Separately list each and every sale, including free deliveries, or conversions or exchanges<sup>4</sup> of 2019 Notes at any time prior to the close of trading on October 11, 2018. (Must be documented.)

**IF NONE,  
CHECK HERE**

Date of Sale (List Chronologically) (MMDDYY)	Face Value Sold Or Converted	Sale Price per \$100 Face Value of Note	Total Sale Price (not deducting taxes, commissions, and fees)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**4. HOLDINGS AS OF OCTOBER 11, 2018** — State the face value of 2019 Notes you held as of the close of trading on October 11, 2018. (Must be documented.) If none, write "zero" or "0."

.

<sup>3</sup> **Please note:** Information requested with respect to your purchases/acquisitions of 2019 Notes from November 4, 2014 through October 11, 2018 is needed in order to balance your claim, but purchases during this period are not eligible transactions and will not be used for purposes of calculating Recognized Loss amounts under the Plan of Allocation.

<sup>4</sup> Any conversion or exchange of 2019 Notes before October 11, 2018, including a debt exchange, will be treated as a sale. The relevant "sales price" will be the TRACE price reported by Bloomberg as of the date of the conversion or exchange. For debt exchanges of 2019 Notes occurring on December 6, 2016, January 30, 2017 and April 24, 2017, the "sale price" per \$100 par value shall be \$44.88, \$38.50, and \$38.00, respectively.

**C. COBALT 3.125% CONVERTIBLE SENIOR NOTES DUE 2024, ISSUED IN MAY 2014 (CUSIP 19075FAB2) (THE “2024 NOTES”).**

**1. PURCHASES/ACQUISITIONS AT ANY TIME THROUGH NOVEMBER 3, 2014** — Separately list each and every purchase or acquisition, including free receipts, of 2024 Notes at any time from the date of their offering in May 2014 (including in that offering) or thereafter through the close of trading on **November 3, 2014**.

Date of Purchase/ Acquisition (List Chronologically) (MMDDYY)	Face Value Purchased/Acquired	Purchase Price per \$100 Face Value of Note	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**2. PURCHASES/ACQUISITIONS FROM NOVEMBER 4, 2014 THROUGH OCTOBER 11, 2018** — State the total face value of 2024 Notes purchased/acquired (including free receipts) from November 4, 2014 through the close of trading on October 11, 2018.<sup>5</sup> If none, write “zero” or “0.”

.

**3. SALES AT ANY TIME THROUGH OCTOBER 11, 2018** — Separately list each and every sale, including free deliveries, or conversions or exchanges<sup>6</sup> of 2024 Notes at any time prior to the close of trading on October 11, 2018. (Must be documented.)

**IF NONE,  
CHECK HERE**

Date of Sale (List Chronologically) (MMDDYY)	Face Value Sold Or Converted	Sale Price per \$100 Face Value of Note	Total Sale Price (not deducting taxes, commissions, and fees)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**4. HOLDINGS AS OF OCTOBER 11, 2018** — State the face value of 2024 Notes you held as of the close of trading on October 11, 2018. (Must be documented.) If none, write “zero” or “0.”

.

<sup>5</sup> **Please note:** Information requested with respect to your purchases/acquisitions of 2024 Notes from November 4, 2014 through October 11, 2018 is needed in order to balance your claim, but purchases during this period are not eligible transactions and will not be used for purposes of calculating Recognized Loss amounts under the Plan of Allocation.

<sup>6</sup> Any conversion or exchange of 2024 Notes before October 11, 2018, including a debt exchange, will be treated as a sale. The relevant “sales price” will be the TRACE price reported by Bloomberg as of the date of the conversion or exchange. For debt exchanges of 2024 Notes occurring on December 6, 2016, January 30, 2017, April 24, 2017, and May 18, 2017, the “sale price” per \$100 par value shall be \$34.95, \$25.25, \$28.38, and \$29.13, respectively.

IF YOU REQUIRE ADDITIONAL SPACE FOR THE SCHEDULES ABOVE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT. PRINT THE BENEFICIAL OWNER'S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY/TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE. IF YOU DO ATTACH EXTRA SCHEDULES, CHECK THIS BOX

**PART IV - RELEASE OF CLAIMS AND SIGNATURE**

**YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 9 OF THIS CLAIM FORM.**

I (we) hereby acknowledge that, pursuant to the terms set forth in (i) the Stipulation and Agreement of Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC dated October 9, 2018; (ii) the Stipulation and Agreement of Settlement Among Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of Cobalt Debtors, dated October 11, 2018; and (iii) the Stipulation and Agreement of Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC, dated November 28, 2018, without further action by anyone, upon the Effective Date of the respective Settlements, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, and assigns, in their capacities as such, shall be deemed to have, and by operation of law and of the applicable Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim (including Unknown Claims) against the Settling Defendants' Releasees as defined in the respective Stipulations, and shall forever be barred and enjoined from prosecuting any of the Released Plaintiffs' Claims against any of the Settling Defendants' Releasees.<sup>7</sup>

**CERTIFICATION**

By signing and submitting this Claim Form, the claimant(s) or the person(s) who represent(s) the claimant(s) agree(s) to the release above and certifies (certify) as follows:

1. that I (we) have read and understand the contents of the Notice, including the Plan of Allocation, and this Claim Form, including the releases provided for in the Settlements and the terms of the Plan of Allocation;
2. that the claimant(s) is (are) members of the Settlement Class, as defined in the Notice, and is (are) not excluded by definition from the Settlement Class as set forth in the Notice;
3. that the claimant(s) has (have) **not** submitted a request for exclusion from the Settlement Class;
4. that I (we) own(ed) the Cobalt Securities identified in the Claim Form and have not assigned the claim against the Sponsor Defendants, Sponsor Designee Defendants, Goldman Sachs & Co. LLC, the Cobalt Settling Defendants, the Underwriter Settling Defendants or any of the other Settling Defendants' Releasees (as defined in the Notice) to another, or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
5. that the claimant(s) has (have) not submitted any other claim covering the same purchases or acquisitions of Cobalt Securities and knows (know) of no other person having done so on the claimant's (claimants') behalf;
6. that the claimant(s) submit(s) to the jurisdiction of the Court with respect to claimant's (claimants') claim and for purposes of enforcing the releases set forth herein;
7. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator, or the Court may require;
8. that the claimant(s) waive(s) the right to trial by jury, to the extent it exists, agree(s) to the determination by the Court of the validity or amount of this Claim and waives any right of appeal or review with respect to such determination;
9. that I (we) acknowledge that the claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and
10. that the claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the claimant(s) is (are) exempt from backup withholding or (b) the claimant(s) has (have) not been notified by the IRS that he, she or it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the claimant(s) that he, she or it is no longer subject to backup withholding. **If the IRS has notified the claimant(s) that he, she, it or they is (are) subject to backup withholding, please strike out the language in the preceding sentence indicating that the claim is not subject to backup withholding in the certification above.**

<sup>7</sup> In the case of Cobalt, the Debtors and the Cobalt Individual Defendants, such release is not effective until the Plaintiffs execute the Settlement Release and deliver it to Cobalt, the Debtors and the Cobalt Individual Defendants following the final termination of all D&O Coverage Litigation involving the Insurers or D&O Liability Insurance Policies.

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of Claimant

Date   -   -    
MM DD YY

Print Claimant name here

Signature of joint Claimant, if any

Date   -   -    
MM DD YY

Print joint Claimant name here

*If the Claimant is other than an individual, or is not the person completing this form, the following also must be provided:*

Signature of person signing on behalf of Claimant

Date   -   -    
MM DD YY

Print name of person signing on behalf of Claimant here

Capacity of person signing on behalf of Claimant, if other than an individual, *e.g.*, executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of Claimant – see Paragraph 10 on page 3 of this Claim Form.)

**REMINDER CHECKLIST:**

1. Sign the above release and certification. If this Claim Form is being made on behalf of joint claimants, then both must sign.
2. Attach only **copies** of acceptable supporting documentation as these documents will not be returned to you.
3. Do not highlight any portion of the Claim Form or any supporting documents.
4. Keep copies of the completed Claim Form and documentation for your own records.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at 1-877-440-0638.**
6. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, you must send the Claims Administrator written notification of your new address. If you change your name, inform the Claims Administrator.
7. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the address below, by email at [info@CobaltSecuritiesLitigation.com](mailto:info@CobaltSecuritiesLitigation.com), or by toll-free phone at 1-877-440-0638 or you may visit [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com). DO NOT call Defendants or their counsel with questions regarding your claim.

**THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTMARKED NO LATER THAN APRIL 4, 2019, ADDRESSED AS FOLLOWS:**

*In re Cobalt International Energy, Inc. Securities Litigation*  
c/o Epiq  
P.O. Box 4109  
Portland, OR 97208-4109

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if a postmark date on or before April 4, 2019 is indicated on the envelope and it is mailed First-Class, and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

# **Exhibit B**

## CONFIRMATION OF PUBLICATION

**IN THE MATTER OF: *In re: Cobalt International Energy, Inc. Securities Litigation***

I, Kyle Bingham, hereby certify that

- (a) I am the Manager of Strategic Communications at Epiq Class Action & Claims Solutions, a noticing administrator, and
- (b) The Notice of which the annexed is a copy was published in the following publications on the following dates:

*12.18.18 – Wall Street Journal*

*12.18.18 – PR Newswire*

  
\_\_\_\_\_  
(Signature)

*MANAGER OF STRATEGIC COMMUNICATIONS*  
\_\_\_\_\_  
(Title)



BUSINESS & FINANCE

Regulator Says Glencore Hid Risks

By SCOTT PATTERSON

Canada's main stock-market regulator said a Glencore PLC-controlled copper-mining company hid from investors the risks associated with its reliance on Israeli businessman Dan Gertler in the Democratic Republic of Congo.

The Ontario Securities Commission said Glencore's Katanga Mining Ltd. relied upon and paid associates of Mr. Gertler to "maintain relations" with the Congolese government, including legal, tax and customs-clearing services.

The Wall Street Journal reported Sunday that Katanga and several of its executives and former directors had agreed to pay more than 30 million Canadian dollars (US\$22 million) to settle the allegations, which also include claims that the company overstated copper production over the course of several years.

The OSC said it would hold a hearing on the settlement in Toronto on Tuesday.

Glencore owns about 86% of Katanga after buying out Mr.



The Mutanda copper mine in Katanga province in the Congo. The mine is operated by Glencore.

Gertler's stake in the mining company in 2017. The OSC alleged that starting in 2010, a close associate of Mr. Gertler's was "tasked with the responsibility for engaging" with the Congolese government on Katanga's behalf.

In 2013, a unit of Katanga formalized the relationship by entering into a contract for services with De Novo Congo SPRL, a company associated

with Mr. Gertler, the OSC said. The Journal first disclosed the contract with De Novo in July.

The OSC also alleged that a unit of Katanga Mining for several years failed to disclose that it had diverted more than \$100 million in royalty and other payments from Congo's state-run mining company to a company controlled by Mr. Gertler. The payments were shifted to Mr. Gertler at the request of

the Congolese state mining company, the OSC said.

A Glencore spokesman declined to comment after the OSC news release on Monday. A spokesman for Fleurette Group, Mr. Gertler's main company in Congo, said it "has always acted appropriately and with integrity in the DRC. Nothing has ever been proven against the company or its executives in a court of law." Mr. Gertler has denied wrongdoing.

Mr. Gertler was a central figure in a \$412 million settlement between the U.S. Justice Department and Securities and Exchange Commission with New York hedge fund Och-Ziff Capital Management Group LLC. An Israeli businessman paid more than \$100 million in bribes to Congolese government officials, including Congo President Joseph Kabila, to get beneficial terms for deals in the Central African country, the Justice Department and SEC alleged. The Israeli businessman was Mr. Gertler, according to people familiar with the matter.

A year ago the U.S. Treasury Department sanctioned Mr. Gertler, alleging he traded on a friendship with Mr. Kabila to amass a fortune through "opaque and corrupt" deals on behalf of multinational companies seeking to do business in Congo.

Glencore said in July that it had received a subpoena from the Justice Department demanding records related to its compliance with American antibribery and money-laundering laws in Congo, Nigeria and Venezuela.

Venezuela Is Pressed To Pay Off 2034 Debt

By MICAH MAIDENBERG AND JULIE WERNAU

A group of investors is demanding the Venezuelan government pay off the interest and principal of a defaulted \$1.5 billion bond that won't mature until 2034, escalating the battle between bondholders and President Nicolás Maduro's administration.

The group of five investment firms owns about \$380 million worth of the sovereign debt that has been in default since January, according to S&P Global Ratings.

The default, plus the size of the firms' stake, gives the group the right to call for immediate payment, according to Mark Stancil, an attorney at Robbins, Russell, Englert, Orseck, Untereiner & Sauber who represents the investors.

The investor group is the first to demand full payment of Venezuelan debt since the country began spiraling into widespread default late last year. U.S. sanctions, a paucity of seizable assets and the abundance of creditors have made investors reticent to push for payment, which will likely touch off a complicated and costly legal battle.

A spokesman for Venezuela's Information Ministry didn't respond to calls and emails seeking comment.

—Kejal Vas. contributed to this article.

J&J Hit by Baby-Powder Safety Concerns

By JONATHAN D. ROCKOFF AND SARA RANDAZZO

Johnson & Johnson faced continued concerns on Wall Street about the threat posed by lawsuits over the safety of the company's signature baby powder.

Shares fell 2.9% Monday, after dropping 10% Friday following news reports saying J&J knew for years some of its talcum powder contained as-

bestos. The slide continued even though J&J mounted a counterattack, including taking out full-page newspaper ads.

J&J said after Monday's market close that its board had authorized the repurchase of up to \$5 billion in shares.

The plunge, which has cut J&J's market capitalization by \$50.2 billion, illustrates the risk companies take fighting litigation, rather than settling. Companies sometimes calcu-

late it is better to resolve litigation with one payout rather than face the expense and reputational damage of taking dozens of cases to trial.

J&J executives and lawyers have long insisted the signature powder is safe and asbestos-free. Settling would set a "really bad precedent when the science and facts [are] on our side," Chief Financial Officer Joseph Wolk said Monday. Any acknowledgment that

the powder isn't safe could imperil not just sales but the entire company's image, marketing experts say. The Johnson's franchise is one of the few brands to use the company's name. It rings up about \$1.5 billion in annual sales.

Several juries have ruled against the company in the 18 cases to go to trial in recent years, including a jury in St. Louis that in July awarded \$4.7 billion to 22 women and

their families who blamed ovarian-cancer cases on asbestos in the baby powder.

J&J has appealed the verdict, and other judgments against it. The company's appeals have resulted in verdicts reversed, and it has also won several trials while others ended in mistrials.

The overall record has persuaded a company that its aggressive defense is the right approach, Mr. Wolk said.

New Highs and Lows

Table with columns for Stock, Sym, Hi/Low, Chg, and various stock tickers like RYERSONHOLDING, S&P 500, etc.

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CLASS ACTION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

IN RE COBALT INTERNATIONAL ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENTS; (II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

TO: All persons and entities who, during the period between March 1, 2011 and November 3, 2014, inclusive (the "Class Period") purchased or otherwise acquired the common stock of Cobalt International Energy, Inc. ("Cobalt"), Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, "Cobalt Securities"), and were damaged thereby (the "Settlement Class").

PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of Texas, that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Settlement Class, except for certain persons and entities who are excluded from the Settlement Class by definition as set forth in the full printed Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Plaintiffs in the Action have reached three proposed settlements, that if approved, will resolve all claims in the Action against the "Settling Defendants," including:

- (A) The Private equity sponsors who invested in Cobalt prior to its initial public offering and sold certain Cobalt Securities during the Class Period, certain individuals designated to the Cobalt board of directors by the Sponsor Defendants, and a sponsor-affiliated underwriter of certain Cobalt Securities offerings during the class period for \$146,850,000 in cash (the "Sponsor/GS&Co. Settlement");
(B) The other underwriters of Cobalt Securities offerings during the class period for \$22,750,000 in cash (the "Underwriter Settlement"); and
(C) Cobalt and certain of its former officers and directors for \$220,000,000, that is payable exclusively from the proceeds of litigation to recover on liability insurance policies preserved through Cobalt's plan in bankruptcy (the "Cobalt Settlement").

The total recoveries from the Sponsor/GS&Co., Underwriter and Cobalt Settlements (the "Settlements") should total between \$173,800,000 and \$335,300,000 (the "Settlement Fund").

A hearing will be held on February 13, 2019 at 10:00 a.m., before the Honorable Nancy F. Atlas at the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Avenue, Houston, TX 77002, to determine (i) whether the proposed Settlements should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against the Settling Defendants, and the Releases specified and described in the respective Stipulation and Agreement of Settlement governing each Settlement (and in the Notice) should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses should be approved. Each of the three proposed Settlements stands alone and none is contingent on the Court's approval of the other Settlements.

If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlements, and you may be entitled to share in the Settlement Fund. If you have not yet received the Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at In re Cobalt International Energy, Inc. Securities Litigation, c/o Epic P.O. Box 4109 Portland, OR 97208-4109 877-440-0638 www.CobaltSecuritiesLitigation.com

Epic, P.O. Box 4109, Portland, OR 97208-4109, 1-877-440-0638. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, www.CobaltSecuritiesLitigation.com.

If you are a member of the Settlement Class, in order to be eligible to receive a payment under the proposed Settlements, you must submit a Claim Form postmarked no later than April 4, 2019. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlements but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Settlement Class and wish to exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is received no later than January 23, 2019, in accordance with the instructions set forth in the Notice. 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 with respect to the Settling Defendants and you will not be eligible to share in the proceeds of the Settlements.

Any objections to the proposed Settlements, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are received no later than January 23, 2019, in accordance with the instructions set forth in the Notice.

Please do not contact the Court, the Clerk's office, Cobalt, the other Settling Defendants or their counsel regarding this notice. All questions about this notice, the proposed Settlements, or your eligibility to participate in the Settlements should be directed to Lead Counsel or the Claims Administrator.

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

Andrew J. Entwistle, Esq. ENTWISTLE & CAPPUCCI LLP 299 Park Avenue, 20th Floor New York, NY 10171 (212) 894-7200 aentwistle@entwistle-law.com

David R. Stickney, Esq. BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, CA 92130-3582 1-800-380-8496 settlements@blbglaw.com

Requests for the Notice and Claim Form should be made to: In re Cobalt International Energy, Inc. Securities Litigation c/o Epic P.O. Box 4109 Portland, OR 97208-4109 877-440-0638 www.CobaltSecuritiesLitigation.com

By Order of the Court

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BUSINESS OPPORTUNITIES

LAWFIRM - Personal Injury (Midwest Location) Instant growth in a niche multi-office lucrative market. Fee RE \$20M with 30% Cash Flow. Solid Financials. \$33M Lawbiz4sale@gmail.com

BUSINESS OPPORTUNITIES

Trailer Parts Business in Oklahoma since 1983 Solid customer base, owner retiring. Financials available with signed NDA. Qualified buyers only, NO brokers. Email: pgw@wardccpas.com

Mutual Funds

Table with columns for Fund, NAV, Chg, YTD, and various mutual fund tickers like American Century Inv, Ultra, AmcPnd A, etc.



# Entwistle & Cappucci LLP and Bernstein Litowitz Berger & Grossmann LLP Announce Proposed Class Action Settlement Involving All Persons Who Purchased Cobalt International Energy, Inc. Common Stock

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NEWS PROVIDED BY

**United States District Court for the Southern District of Texas →**

08:00 ET

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HOUSTON, Dec. 18, 2018 /PRNewswire/ --

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENTS; (II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

**TO: All persons and entities who, during the period between March 1, 2011 and November 3, 2014, inclusive (the "Class Period") purchased or otherwise acquired the common stock of Cobalt International Energy, Inc. ("Cobalt"), Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, "Cobalt Securities"), and were damaged thereby (the "Settlement Class"):**

**PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of Texas, that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Settlement Class, except for certain persons and entities who are excluded from the Settlement Class by definition as set forth in the full printed Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Plaintiffs in the Action have reached three proposed Settlements that, if approved, will resolve all claims in the Action against the "Settling Defendants," including:

- (A) The Private equity sponsors who invested in Cobalt prior to its initial public offering and sold certain Cobalt Securities during the Class Period, certain individuals designated to the Cobalt board of directors by the Sponsor Defendants, and a sponsor-affiliated underwriter of certain Cobalt Securities offerings during the class period for \$146,850,000 in cash (the "**Sponsor/GS&Co. Settlement**");
- (B) The other underwriters of Cobalt Securities offerings during the class period for \$22,750,000 in cash (the "**Underwriter Settlement**"); and
- (C) Cobalt and certain of its former officers and directors for \$220,000,000, that is payable exclusively from the proceeds of litigation to recover on liability insurance policies preserved through Cobalt's plan in bankruptcy (the "**Cobalt Settlement**"). The projected recovery in the Cobalt Settlement is between \$4,200,000 and \$165,700,000.

The total recoveries from the Sponsor/GS&Co., Underwriter and Cobalt Settlements (the "Settlements") should total between \$173,800,000 and \$335,300,000 (the "Settlement Fund").

A hearing will be held on February 13, 2019 at 10:00 a.m., before the Honorable Nancy F. Atlas at the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Avenue, Houston, TX 77002, to determine (i) whether the proposed Settlements should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against the Settling Defendants, and the Releases specified and described in the respective Stipulation and Agreement of Settlement governing each Settlement (and in the Notice) should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses should be approved. Each of the three proposed Settlements stands alone and none is contingent on the Court's approval of the other Settlements.

**If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlements, and you may be entitled to share in the Settlement Fund.** If you have not yet received the Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at *In re Cobalt International Energy, Inc. Securities Litigation*, c/o Epiq, P.O. Box 4109, Portland, OR 97208-4109, 1-877-440-0638. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com).

If you are a member of the Settlement Class, in order to be eligible to receive a payment under the proposed Settlements, you must submit a Claim Form *postmarked* no later than April 4, 2019. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlements but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Settlement Class and wish to exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is *received* no later than January 23, 2019, in accordance with the instructions set forth in the Notice. 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 with respect to the Settling Defendants and you will not be eligible to share in the proceeds of the Settlements.

Any objections to the proposed Settlements, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are *received* no later than January 23, 2019, in accordance with the instructions set forth in the

**Please do not contact the Court, the Clerk's office, Cobalt, the other Settling Defendants or their counsel regarding this notice. All questions about this notice, the proposed Settlements, or your eligibility to participate in the Settlements should be directed to Lead Counsel or the Claims Administrator.**

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

Andrew J. Entwistle, Esq.  
ENTWISTLE & CAPPUCCI LLP  
299 Park Avenue, 20th Floor  
New York, NY 10171  
(212) 894-7200  
aentwistle@entwistle-law.com

David R. Stickney, Esq.  
BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP  
12481 High Bluff Drive, Suite 300  
San Diego, CA 92130-3582  
1-800-380-8496  
settlements@blbglaw.com

Requests for the Notice and Claim Form should be made to:

*In re Cobalt International Energy, Inc. Securities Litigation*  
c/o Epiq  
P.O. Box 4109  
Portland, OR 97208-4109  
877-440-0638  
[www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com)

By Order of the Court

SOURCE United States District Court for the Southern District of Texas

Related Links

<http://www.CobaltSecuritiesLitigation.com>

# **EXHIBIT 3**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF MICHAEL L. HARTZMARK, PH.D.  
REGARDING PLAN OF ALLOCATION**

I, MICHAEL L. HARTZMARK, declare:

**I. BACKGROUND AND QUALIFICATIONS**

1. I am President of Hartzmark Economics Litigation Practice, LLC and prior to this I was a Principal and Director at Navigant Economics (formerly dba Chicago Partners, LLC, a subsidiary of Navigant Consulting, Inc.). Both firms specialize in the application of economics and finance to legal, commercial and regulatory issues.

2. I have served as a testifying and consulting expert in numerous securities class actions. In addition, I have published scholarly articles on a multitude of issues in financial economics including those associated with securities class actions. I have spent much of my time as an economic consultant evaluating issues related to securities class actions. My primary focus has been on securities such as corporate bonds, common stock, Treasury and energy futures, swaps, swaptions and options, and asset-backed securities. I have also co-authored three law review publications discussing the commonly used empirical tests applicable to securities class actions.

3. My qualifications, publications, and expert engagements are summarized in detailed in my curriculum vitae, which is attached as Exhibit A to this Declaration. Hartzmark Economics Litigation Practice, LLC is being compensated at a rate of \$550 per hour for my work in this matter.

## II. SCOPE OF ENGAGEMENT

4. I consulted with Lead Counsel previously in this litigation regarding issues of market efficiency, price impact and damages. I submitted reports in support of certification of the Class in November 2016 and May 2017 discussing the efficiency of the markets for the common stock of Cobalt International Energy, Inc. (“Cobalt”), Cobalt’s 2.625% Convertible Senior Notes due 2019 (the “2019 Notes”), and Cobalt’s 3.125% Convertible Senior Notes due 2024 (the “2024 Notes”) (collectively, the “Cobalt Securities”) and the ability to calculate damages on a Class-wide basis. *See* ECF No. 165-1 and ECF No. 239-9. I also gave sworn testimony in December 2016. I opined that, throughout the period from March 1, 2011 through November 3, 2014, inclusive (the “Class Period”), the Cobalt Securities traded in efficient markets. I also opined that the calculation of damages on a Class-wide basis for violations of Section 10(b) of the Securities Exchange Act of 1934, and Sections 11 and 12(a)(2) of the Securities Act of 1933 are subject to common methodologies.

5. After Plaintiffs reached agreements in principle to settle with certain defendants in the Action, I was asked by Lead Counsel to assist in developing a fair and equitable plan to allocate the settlement proceeds among Settlement Class Members who purchased or otherwise acquired Cobalt Securities during the Class Period, including

Cobalt Securities purchased on the open market or pursuant to or traceable to one of the registered public offerings of the Cobalt Securities during the Class Period.

6. Based on my analysis of the economic evidence, in combination with my consultations with Lead Counsel regarding the factual evidence and their legal theories of the alleged securities laws violations, I developed the proposed Plan of Allocation included in the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses at pages 16 to 25 (the "Plan of Allocation" or the "Plan").

7. In my opinion, the Plan of Allocation provides a fair and reasonable methodology to distribute the net settlement amount to Settlement Class Members who submit Claim Forms to participate in the three Settlements referred to below in paragraph 9.

### **III. PROPOSED PLAN OF ALLOCATION**

8. The objective of the Plan of Allocation is to equitably distribute the net settlement proceeds to those Settlement Class Members based on the misconduct alleged in the Action, the different legal claims asserted, and the economic damages suffered by Settlement Class Members. For the purposes of my analysis, I have assumed that Plaintiffs' factual allegations are true.

9. The Plan of Allocation divides the settlement funds obtained in the Sponsor/GS&Co. Settlement, Cobalt Settlement and Underwriter Settlement into the following three separate pools based on the nature of claims asserted. Notice ¶¶ 76-78.



These allocations were determined by Lead Counsel based on the types of claims asserted against the different sets of Settling Defendants.

a. The Group 1 Fund is intended to compensate Settlement Class Members who purchased Cobalt Securities during the Class Period at prices that Plaintiffs allege were artificially inflated as a result of material misstatements or omissions in violation of Section 10(b) of the Exchange Act, and who incurred losses when the alleged misstatements or omissions were revealed and the price of the Cobalt Securities declined. The Settlement Funds for Group 1 total at least \$14,200,000 and consist of: (i) 100% of the Cobalt Settlement Fund, including the \$4,200,000 in the Cobalt Settlement Existing Proceeds and any additional recoveries in the insurance coverage litigation; plus (ii) \$10 million from the Sponsor/GS&Co. Settlement Amount.

b. The Group 2 Fund is intended to compensate Settlement Class Members who purchased Cobalt common stock contemporaneously with sales in Cobalt common stock by the Sponsor Defendants, who were alleged to have sold the stock while in possession of material, adverse, non-public information about Cobalt's business in violation of Section 20A of the Exchange Act. The Settlement Funds for Group 2 total \$125 million and consist of funds from the Sponsor/GS&Co. Settlement.

c. The Group 3 Fund is intended to compensate Settlement Class Members who purchased Cobalt Securities in or traceable to a public offering of one of those securities during the Class Period as to which claims under Sections 11, 12(a)(2), and 15 of the Securities Act had been asserted. The Settlement Funds for Group 3 total \$34.6

million and consist of: (i) \$11.85 million of the Sponsor/GS&Co. Settlement Amount; and (ii) \$22.75 million of the Underwriter Settlement Amount.<sup>1</sup>

10. Each of these Funds will be distributed on a *pro rata* basis to eligible Settlement Class members based on their Recognized Loss Amount relative to all other eligible claimants in that Fund. For the ease of Class Members consulting the Plan of Allocation, the calculations of Recognized Loss Amounts are organized in the Notice by the type of Cobalt Security and the dates that the Class Member transacted in the Cobalt Security. See Notice ¶¶ 81-89 (common stock), Notice ¶ 90 (2019 Notes), Notice ¶ 91 (2024 Notes). However, each purchase or acquisition of a Cobalt Security may be eligible for a Recognized Loss Amount in more than one of the Funds, depending on the legal claims that could be asserted by the purchaser of that security. For example, a purchase of Cobalt common stock that was purchased in or traceable to an offering and was made contemporaneous with the Sponsor Defendants' alleged sales of Cobalt common stock might be eligible for a Group 1, Group 2, and Group 3 Recognized Loss Amount. Another example is that the purchase or acquisition of one of the Cobalt notes might be eligible for a Group 1 and Group 3 Recognized Loss Amount. A purchase or acquisition of Cobalt common stock that was not purchased in or traceable to an offering or within seven days after one of the offerings would only be eligible for a Group 1 Recognized Loss Amount.

11. If the same purchase or acquisition of a Cobalt Security results in a Recognize Loss Amount with respect to more than one Fund, the Claimant will be able to

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<sup>1</sup> Court-approved attorneys' fees, Litigation Expenses, Notice and Administration Costs, and Taxes will be deducted from the three funds proportionally with the size of each of the funds.

get the benefit of each of those Recognized Loss Amounts – that is, he, she or it would be entitled to a *pro rata* share of each of the separate Funds for which a Recognized Loss Amount is calculated.

12. The following three sections describe the economic basis for the calculation of Recognized Loss Amounts applicable for each Fund.

**A. Group 1 Recognized Loss Amounts**

13. Plaintiffs allege that Cobalt and the Executive Defendants made material misrepresentations and/or omissions about the ownership of Cobalt's Angolan partners, Nazaki and Alper, and about the oil content and commercial prospects of its Lontra and Loenga wells in Angola. For purchasers of Cobalt Securities with Section 10(b) claims, the relevant loss occurred when the alleged truth concealed by the alleged misrepresentations and/or omissions was disclosed and the price of the security declined as a result. In other words, the alleged misrepresentations and/or omissions inflated the price of the Cobalt Security causing it to trade at artificially inflated prices until this price inflation was corrected by the disclosure of the relevant truth previously concealed by the alleged fraud. Class members' losses associated with this fraud-related price inflation, therefore, equals the portion of price decline in the Cobalt Security attributable to the disclosure of the alleged truth. Class members who sold prior to any disclosure of the alleged truth have no losses attributable to the disclosure of the alleged truth, and consequently were not damaged by the alleged fraud.

14. Here, Plaintiffs allege that disclosures revealing a portion of the alleged truth and thus adjusting the levels of inflation in the Cobalt Securities caused by the alleged

misrepresentations and omissions occurred: (a) after the close of trading on April 15, 2012, when the *Financial Times* published articles about the ownership of Nazaki; (b) on Sunday December 1, 2013, when Cobalt issued a press release reporting that it was temporarily abandoning the Lontra well because it contained less oil than pre-drilling estimates; (c) on August 5, 2014, when Cobalt disclosed that the SEC was conducting an investigation of Cobalt's operations in Angola and the ownership of Nazaki by Angolan government officials; and (d) at the beginning of the trading day on November 4, 2014, when Cobalt announced the Loengo well was a "dry hole" with no oil. Plaintiffs further allege that these disclosures affected the prices and levels of inflation of Cobalt Securities on (a) April 16, 2012, (b) December 2, 2013 and December 3, 2013; (c) August 5, 2014; and (d) November 4, 2014.

15. To quantify the price impact of the alleged fraud, I used an event study to determine the abnormal price decline in the Cobalt Securities (after controlling for market and industry factors) for each of the alleged corrective disclosures discussed above. I had previously conducted an event study in connection with preparing my November 2016 Report on market efficiency. *See* ECF No. 165-1, at ¶¶ 88-99, 190-200. An event study is a widely accepted methodology used to: (a) isolate the company-specific portion of a price decline after controlling for market and industry factors, and (b) to determine whether the decline is statistically significant, *i.e.*, unlikely to have occurred simply by chance. Using the event study methodology, the Company-specific portion of the price decline in each Cobalt Security following each of the alleged corrective disclosures above was quantified. Furthermore, each decline was found to be statistically significant at the 5% level or lower

(four of the five common stock declines and all of the declines in Cobalt notes were statistically significant at the 1% level) and was used for the calculation of inflation. *See* ECF No. 165-1, at ¶¶ 98, 199, 200 and Exhibits XIV, XXVII.

16. Specifically, I found that Cobalt common stock had (a) an abnormal price decline (net of market and industry effects) of \$1.62 per share on April 16, 2012; (b) an abnormal price decline of \$3.68 on December 2, 2013; (c) an abnormal price decline of \$0.98 on December 3, 2013; (d) an abnormal price decline of \$1.43 on August 5, 2014; and (e) an abnormal price decline of \$0.90 on November 4, 2014. *See* ECF No. 165-1, Appendix C & Exhibit XIV. Accordingly, I calculated the amount of alleged artificial inflation in Cobalt common stock as: (a) \$8.61 per share from March 1, 2011 (when Plaintiffs allege that the misrepresentations began) through April 15, 2012; (b) \$6.99 per share from April 16, 2012 through December 1, 2013; (c) \$3.31 per share on December 2, 2013; (d) \$2.33 per share from December 3, 2013 through August 4, 2014; (e) \$0.90 per share from August 5, 2014 through November 3, 2014; and (f) \$0.00 on November 4, 2014 and thereafter. *See* Notice Table A on page 24. I performed similar calculations to determine the abnormal price declines (controlling for market, industry, credit-risk, and time-to-maturity factors) on the 2019 Notes and 2024 Notes for the same corrective disclosure dates and the results are also set forth in Table A of the Notice.

17. Under the Plan, the Group 1 Recognized Loss Amount on Cobalt Securities purchased or acquired during the Class Period and retained through the end of the Class Period will, generally speaking, be calculated as the estimated amount of artificial inflation on the date of purchase. *See* Notice ¶¶ 82(c)(i), 82(d)(i), 90(c)(1)(i), 90(d)(1)(i),

90(e)(1)(i), 90(f)(1)(i), 91(c)(1)(i), 91(d)(1)(i), 91(e)(1)(i), 90(f)(1)(i). For Cobalt Securities purchased or acquired during the Class Period and sold during the Class Period, the Group 1 Recognized Loss Amount is generally the price inflation on the date of purchase minus the price inflation remaining on the date of sale. *See* Notice ¶¶ 82(b)(i), 90(b)(1)(i), 91(b)(1)(i). Under the Plan, there are no Group 1 Recognized Loss Amounts for Cobalt Securities sold before the first corrective disclosure date, *see* Notice ¶¶ 82(a), 90(a)(1), 91(a)(1), or purchased and sold between two consecutive corrective disclosure dates, because any losses on sales of these securities did not result from disclosure of the alleged fraud.

18. Calculations for Section 10(b) claims under the Plan are not simply based on artificial inflation amounts. The Plan also limits a Claimant’s Group 1 Recognized Loss Amount to the difference between the actual purchase price and sales price of the Cobalt Security. *See* Notice ¶¶ 82(b)(ii), 82(c)(iii), 90(b)(1)(ii), 90(c)(1)(iii), 90(d)(1)(iii), 91(b)(1)(ii), 91(c)(1)(iii), 91(d)(1)(iii). Furthermore, Group 1 Recognized Loss Amounts are limited, where applicable, by the “90-Day Bounce Back Rule” of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(e).<sup>2</sup>

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<sup>2</sup> Under the 90-Day Bounce Back Rule, if a Claimant sold securities during the 90-day period following the Class Period (from November 4, 2014 through January 30, 2015), damages are limited to the difference between the purchase price minus the average closing price from the first date of the 90-day period through the date of sale. *See* Notice ¶¶ 82(c)(ii), 90(c)(1)(ii), 90(d)(1)(ii), 91(c)(1)(ii), 91(d)(1)(ii). If the Claimant still owned the shares at the end of the 90-day period, damages are limited to the difference between the purchase price and the average closing price for the entire 90-day period. *See* Notice ¶¶ 82(d)(ii), 90(e)(1)(ii), 90(f)(1)(ii), 91(e)(1)(ii), 91(f)(1)(ii).

**B. Group 2 Recognized Loss Amounts**

19. Group 2 Recognized Loss Amounts are intended to compensate Settlement Class Members who purchased Cobalt common stock contemporaneously with sales in Cobalt common stock by the Sponsor Defendants, who were alleged to have sold the stock while in possession of material, adverse, non-public information about Cobalt's business in violation of Section 20A of the Exchange Act.

20. Group 2 Recognized Loss Amounts are calculated based on the difference in artificial inflation on the date of purchase and the artificial inflation on the date of sale. For example, a share purchased in the February 23, 2012 offering (when inflation was \$8.61 per share) and sold on December 2, 2013 (when inflation was \$3.31 per share) will have a Group 2 Recognized Loss Amount of \$5.30 per share. *See* Notice ¶ 83(c); *see generally* Notice ¶¶ 83, 84, 85.

21. Only claimants who purchased common stock in one of the Class Period offerings in which one of the Sponsor Defendants were alleged to have sold common stock or in the seven-day period following one of those offerings will have a Group 2 Recognized Loss Amount. *See* Notice ¶¶ 83, 84, 85. The seven-day period was selected, after consultation with Lead Counsel, to reflect the legal requirement for the Section 20A claims that the purchases have occurred "contemporaneously" with defendants' sales. Purchasers of 2019 Notes and 2024 Notes have no Group 2 Recognized Loss Amounts because only purchasers of common stock could assert the Section 20A claims.

**C. Group 3 Recognized Loss Amounts**

22. Group 3 Recognized Loss Amounts for Cobalt Securities purchased in or traceable to a public offering during the Class Period will be calculated based on the statutory damage formula applicable to claims under Section 11 of the Securities Act, 15 U.S.C. § 77k. That formula calculates damages as the difference between (a) the purchase price for the security (or the price at which the securities were initially offered if such price is lower than the purchase price), and (b) either (i) the sale price of the security, if sold before the lawsuit was filed, (ii) the greater of the sale price or the value of the security at the time the lawsuit was filed, if the security is sold after the lawsuit was filed and before judgment, or (iii) the value of the security at the time the lawsuit was brought, if the security is held until the date of judgment. *See* 15 U.S.C. § 77k(e).

23. The calculation of Group 3 Recognized Loss Amounts tracks this statutory formula. *See* Notice ¶¶ 86-88, 90(a)(2), 90(b)(2), 90(c)(2), 90(d)(2), 90(e)(2), 90(f)(2), 91(a)(2), 91(b)(2), 91(c)(2), 91(d)(2), 91(e)(2), 91(f)(2). For purposes of the Section 11 formula under the Plan, the price of the Cobalt Securities on Friday, November 28, 2014 is used as the value of the security on the date the suit was filed because the initial complaint in this Action was filed on Sunday, November 30, 2014. On November 28, 2014, the closing price of common stock was \$9.00, the price per \$100 face value of 2019 Notes was \$69.67, and the price per \$100 face value of 2024 Notes was \$74.66, and, accordingly, those amounts are used throughout the calculation of Group 3 Recognized Loss Amounts. Under the Plan, October 11, 2018, the day before the filing of motions for preliminary approval of the Sponsor/GS&Co. Settlement and Cobalt Settlement (and while the



Underwriter Settlement was being finalized), is used to represent the date of “judgment” under the Section 11 formula.

**D. Calculation of Distribution Amounts**

24. Eligible Claimants will receive a Distribution Amount which will be the sum of their *pro rata* share of each of the three Funds (*i.e.*, their *pro rata* share of the Group 1 Fund based on their Group 1 Recognized Loss Amount compared to the Group 1 Recognized Loss Amounts of all eligible Claimants, *plus* their *pro rata* share of the Group 2 Fund based on their Group 2 Recognized Loss Amount compared to the Group 2 Recognized Loss Amounts of all eligible Claimants, *plus* their *pro rata* share of the Group 3 Fund based on their Group 3 Recognized Loss Amount compared to the Group 3 Recognized Loss Amounts of all eligible Claimants). *See* Notice ¶ 96.

25. In addition, Distribution Amounts will be capped by the Claimant’s market loss on all of their purchases or acquisitions of Cobalt Securities during the Class Period. Thus, if the Claimant had a market gain with respect to those transactions, the Claimant is not eligible for payment. Notice ¶ 97. Likewise, if a Claimant suffered an overall market loss with respect to their purchases or acquisitions of Cobalt Securities during the Class Period, but that market loss was less than the Distribution Amount calculated, their Distribution Amount is limited to the amount of the actual market loss. *Id.*

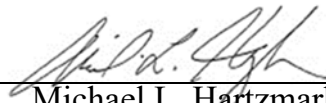
**IV. SUMMARY**

26. The calculations used to determine the Recognized Loss Amounts for each of the funds are consistent with the reports I previously submitted (ECF No. 165-1 and 239-9) and the deposition testimony I proffered. They would also serve as the foundation

for the economic calculations that would be used at trial to determine damages for the respective types of claims if Plaintiffs succeeded in establishing liability against the various sets of Defendants. In my opinion, the Plan of Allocation provides a fair, reasonable, and equitable method to distribute the Net Settlement Fund to Settlement Class Members who submit Claim Forms to participate in the Settlements.

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

Executed on January 8, 2019.



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Michael L. Hartzmark, Ph.D.

## **APPENDIX A**

**MICHAEL L. HARTZMARK, PH.D.**

4950 S. Chicago Beach Drive, Suite 6A  
Chicago, IL 60615  
(312) 718-9699  
mhartzmark@HELP-Econ.com

**PRESENT POSITIONS**

HARTZMARK ECONOMICS LITIGATION PRACTICE, LLC

President (2013 - present)

Specializing in the application of economic, financial and accounting principles to securities, complex commercial, investment, intellectual property, antitrust and automotive litigation and regulatory matters

OFFICE OF THE ATTORNEY GENERAL – STATE OF NEW YORK

Independent Contractor (2013 - present)

OFFICE OF THE ATTORNEY GENERAL – STATE OF NEW JERSEY

Independent Contractor (2015 - present)

MDA FINANCIAL, INC.

President (1981 - present)

FINRA (fka NATIONAL ASSOCIATION OF SECURITY DEALERS) Dispute Resolution

Member Arbitrator (2005 - present)

**EDUCATION**

- Ph.D. Department of Economics, the University of Chicago, 1984  
(Doctoral Exams in Industrial Organization and Regulation; Public Finance)
- M.A. Department of Economics, the University of Chicago, 1982
- B.A. The University of Michigan (Economics, High Honors and Phi Beta Kappa), 1978

**ACADEMIC HONORS AND FELLOWSHIPS**

- John M. Olin Faculty Fellowship*, (George Stigler, Director) (1986 - 1987)
- PEW Teaching Fellow*, the University of Chicago (1980 - 1981)
- Phi Beta Kappa*, the University of Michigan (1978)
- Parker Prize*, in Labor Economics, University of Michigan (1978) -- Given for the best graduate or undergraduate paper in Labor Economics

**GRANTS**

Grant from the University of Chicago (1984). Center for the Study of Futures Prices: grant to analyze margin regulation for the Chicago Board of Trade Studies.

## PROFESSIONAL EXPERIENCE

CRA INTERNATIONAL, INC.  
Independent Contractor (2015)

NAVIGANT ECONOMICS (FORMERLY CHICAGO PARTNERS, LLC)  
Academic Affiliate (2012 - 2013)  
Principal/Director (2008 - 2012)  
Vice President (2004 - 2007)

DARMA, LLC  
President (2005 - 2008)

PACIFIC BIOMETRICS, INC.  
Interim Chief Financial Officer (2004 - 2006)

CRAGAR INDUSTRIES, INC.  
Chairman, CEO, President and Treasurer (1993 - 2004)

MDA FINANCIAL, INC.  
President (1981 - present)

FAHNESTOCK & Co., Inc. (now Oppenheimer & Co., Inc.)  
Financial Consultant (Series 7 and Series 63) (2001 - 2003)

ECONOHIO CORPORATION  
President (1989 - 1992)

LEXECON INC.  
Senior Economist (1987 - 1989)

UNIVERSITY OF CHICAGO, Center for the Study of the Economy and the State, and the Graduate School of Business (now the Chicago Booth School of Business)  
John M. Olin Visiting Scholar (1986 - 1987)

UNIVERSITY OF MICHIGAN, Joint with Michigan Business School (now the Stephen M. Ross School of Business) and Department of Economics  
Assistant Professor (1984 - 1988)  
Lecturer (1984)

COMMODITY FUTURES TRADING COMMISSION, Division of Economics and Education, Washington, D.C.  
Financial Economist (1982 -1983)

UNIVERSITY OF CHICAGO, Department of Economics  
Instructor for Economic Analysis (1981)  
Research Assistant for A. C. Harberger (1982)  
Research Assistant for Sam Peltzman (1981 - 1982)

U. S. DEPARTMENT OF THE TREASURY, Office of Tax Analysis, Washington, D.C.  
Research Assistant (1981)

## PUBLICATIONS

- “Understanding the Efficiency of the Market for Preferred Stock,” (with H. Nejat Seyhun), Virginia Law & Business Review, Volume 8, Number 2, Spring 2014.
- “An Economist's View of Amgen,” Law360, May 2, 2013.  
<http://www.law360.com/articles/438303/an-economist-s-view-of-amgen>.
- “The Curious Incident of the Dog that Didn’t Bark and Establishing Cause-and-Effect in Class Action Securities Litigation,” (with H. Nejat Seyhun), Virginia Law & Business Review, Volume 6, Number 3, 2012.
- “Fraud on the Market: Analysis of the Efficiency of the Corporate Bond Market,” (with Cindy A. Schipani and H. Nejat Seyhun), Columbia Business Law Review, Number 3, Volume 2011.
- “Luck Versus Forecast Ability: Determinants of Trader Performance in Futures Markets,” Journal of Business, January 1991. Also reprinted in Classic Futures: Lessons from the Past for the Electronic Age, by Lester Telser, Risk Books, March 2000.
- “Business Valuations for the Personal Lawyer,” Law and Fact, September 1991.
- “Is Risk Aversion a Theoretical Diversion?” The Review of Futures Markets, Volume 7, Number 1, 1988.
- “Returns to Individual Traders of Futures: Aggregate Results,” Journal of Political Economy, December 1987.
- “Regulating Futures Margin Requirements,” Review of Research on Futures Markets, Volume 5, Number 3, 1986.
- “The Effects of Changing Margin Levels on Futures Market Activity, the Composition of Traders in the Market, and Price Performance,” Journal of Business, April 1986.
- “Individual Income Taxation, 1947-1979,” (with Eugene Steuerle), National Tax Journal, June 1981.

## BOARDS

- POWHATAN BUILDING CORPORATION, Director, Treasurer, (2010 - 2016)
- MIDTOWN EDUCATIONAL FOUNDATION, Auxiliary Board Member, (2009 - 2013)
- GLOBAL ENTERTAINMENT CORPORATION (Formerly AMEX: GEE, currently not listed); Director, Audit Committee Member (2004 - 2008);
- THE BOARD INSTITUTE (private software company), Financial Advisory Board (2004 - 2006)
- SHAKER INVESTMENTS, Financial Advisory Board (1992 - 2005)
- PACIFIC BIOMETRICS, INC. (OTC BB: PBMC currently not listed and renamed as Pacific Biomarkers), Director and Chairman of Audit Committee (2002 - 2004)
- CRAGAR INDUSTRIES, INC. (Formerly OTC BB: CRGR, company sold); Director and Chairman of the Board (1993 - 2004)

## **EXPERT REPORTS, DECLARATIONS AND DISCLOSURES PAST FOUR YEARS**

- William D. Wallace, et al. v. IntraLinks Holdings, Inc., et al. U.S. District Court for the Southern District of New York; Report (2/18/2014); Rebuttal Report (7/18/2014).
- New Jersey Carpenters Health Fund, et al v. Residential Capital, LLC. U.S. District Court for the Southern District of New York; Report (3/17/2014); Deposition (4/24/2014); Declaration (6/18/2015).
- New Jersey Carpenters Health Fund, et al v. DLJ Mortgage Capital, Inc., Credit Suisse Management, et al. U.S. District Court for the Southern District of New York; Report (6/13/2014); Deposition (11/11/2014); First Declaration (6/29/2015); Second Declaration (7/29/2015); POA Declaration (12/15/2017).
- Oklahoma Police Pension & Retirement System v. U.S. Bank National Association. U.S. District Court for the Southern District of New York; Report (8/1/2014).
- Northstar Lottery Group, LLC and Illinois Department of the Lottery. Third-Party Dispute Resolution; Report (8/13/2014).
- In Re MF Global Holdings Limited Securities Litigation. U.S. District Court for the Southern District of New York; Report (9/15/2014); Damages Report (8/21/2015); Reply Report (9/21/2015); Deposition (11/23/2015).
- New Jersey Carpenters Vacation Fund, et al. v. The Royal Bank of Scotland Group, plc. U.S. District Court for the Southern District of New York; Declaration (9/29/2014).
- In Re ITT Educational Services, Inc. Securities Litigation. U.S. District Court for the Southern District of New York; Report (3/27/2015); Deposition (5/29/2015).
- Darren and Kim Kasparian v. Draper and Kramer, Inc. Wheaton Center LLC., Wiss, Janney, Elstner Associates, Inc. and Thyssenkrupp Safeway, Inc. Circuit Court of Cook County; Report (4/3/2015); Deposition (7/21/2015).
- Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A., and Northern Trust Company. U.S. District Court for the Northern District of Illinois; Report (6/8/2015); Deposition (7/14/2015); Rebuttal Report (12/7/2015).
- New Jersey Carpenters Health Fund, et al v. Novastar Mortgage, Inc., et al. U.S. District Court for the Southern District of New York; Report (6/13/2015); Deposition (9/11/2015); Rebuttal Report (12/2/2015).
- In Re DFC Global Corp. Securities Litigation. U.S. District Court for the Eastern District of Pennsylvania; Report (10/2/2015); Deposition (12/14/2015).
- David M. Loritz, et al. v. Exide Technologies, et al. U.S. District Court for the Central District of California; Report (10/5/2012); Deposition (10/26/2015); Response Report (11/9/2015); Report (11/30/2015).
- Public School Teachers' Pension and Retirement Fund of Chicago v. Gary S. Guthart, et al. Superior Court of the State of California, In and For the County of San Mateo. Deposition (4/6/2016).
- In re Altisource Portfolio Solutions, S.A. Securities Litigation. U.S. District Court for the Southern District of Florida; Report (8/12/2016); Deposition (11/9/2016); Damages Report (12/30/2016); Rebuttal Report (1/2/2017).
- Barry R. Lloyd, et al. v. CVB Financial Corp., et al. U.S. District Court for the Central District of California; Report (9/9/2016); Declaration (1/23/2017).
- Fixed Income Shares: Series M, et al. v. Citibank N.A. U.S. District Court for the Southern District of New York; Report (9/16/2016); Rebuttal Report (11/14/2016); Damages Report (11/28/2016); Deposition (12/22/2016).

BlackRock Core Bond Portfolio, et al. v. U.S. Bank National Association. U.S. District Court for the Southern District of New York; Report (11/1/2016); Rebuttal Report (3/3/2017); Amended Report (6/21/2017); Supplemental Report (8/18/2017).

In Re Cobalt International Energy, Inc. Securities Litigation. U.S. District Court for the Southern District of Texas; Report (11/2/2016); Deposition (12/20/2016); Rebuttal Report (5/26/2017).

BlackRock Balanced Capital Portfolio (FI), et al. v. HSBC Bank USA, National Association. U.S. District Court for the Southern District of New York; Report (1/20/2017); Amended Report (5/4/2017); Amended Rebuttal Report (6/2/2017); Deposition (7/14/2017).

In Re CommVault Systems, Inc. Securities Litigation. U.S. District Court for the District of New Jersey; Report (5/12/2017).

In Re Finisar Corporation, Inc. Securities Litigation. U.S. District Court for the Northern District of California; Report (8/14/2017); Deposition (9/14/2017); Rebuttal Report (11/2/2017); Deposition (11/7/2018).

Robert Burke and Rachel Burke v. R.O. Reichel & Sons Trucking & Excavating, Inc., et al. Circuit Court of Cook County; Report (9/15/2017).

BlackRock Allocation Target Shares: Series S Portfolio, et al. v. Wells Fargo Bank, N.A. U.S. District Court for the Southern District of New York; Report (10/30/2017); Deposition (11/16/2017); Rebuttal Report (1/26/2018).

Christopher S. Porrino, Attorney General of New Jersey on behalf of Amy G. Kopleton, Deputy Chief of the New Jersey Bureau of Securities v. Credit Suisse Securities (USA) LLC, et al. Superior Court of New Jersey, Chancery Division Mercer County; Report (12/1/2017); Opposition Report (5/14/2018); Reply Report (7/16/2018).

BlackRock Balanced Capital Portfolio (FI), et al.v. Deutsche Bank National Trust Company, and Deutsche Bank Trust Company Americas. Superior Court of California in and for the County of Orange; Report (1/17/2018); Deposition (3/13/2018); Rebuttal Report (4/30/2018).

BlackRock Balanced Capital Portfolio (FI), et al.v. Deutsche Bank National Trust Company, and Deutsche Bank Trust Company Americas. U.S. District Court for the Southern District of New York; Report (1/26/2018); Deposition (3/13/2018); Rebuttal Report (4/16/2018).

Brian J. O'Donoghue, as authorized representative vs. Inland Bank and Trust, et al., U.S. District Court for the Northern District of Illinois Eastern Division; Report (4/1/2008).

In Re TerraForm Global, Inc. Securities Litigation, U.S. District Court for the Southern District of New York; Report (7/30/2018); Updated Report (8/17/2018); Reply Report (11/1/2018).

In Re Illumina, Inc. Securities Litigation, U.S. District Court Southern District of California; Report (9/14/2018).

John Cumming, derivatively on behalf of New Senior Investment Group, Inc., v. Wesley R. Edens, et al., Court of Chancery of the State of Delaware; Report (11/9/2018).

The Arbitrage Fund, on behalf of itself and all other similarly situated shareholders of Exactech, Inc. v. William Petty, et al., Circuit Court of Florida, Eleventh Judicial Circuit, Miami-Dade County; Report (12/6/2018).

Oklahoma Law Enforcement Retirement System vs. Adeptus Health Inc. U.S. Eastern District of Texas, Sherman Division; Report (12/7/2018).



# **EXHIBIT 4**

**EXHIBIT 4**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**SUMMARY OF PLAINTIFFS' COUNSEL'S  
LODESTAR AND EXPENSES**

<b>Exh.</b>	<b>FIRM</b>	<b>HOURS</b>	<b>LODESTAR</b>	<b>EXPENSES</b>
4A	Entwistle & Cappucci LLP	30,783.57	\$20,841,767.00	\$1,085,314.65
4B	Bernstein Litowitz Berger & Grossmann LLP	25,347.50	\$12,829,641.25	\$597,281.09
4C	Kessler Topaz Meltzer & Check, LLP	1,942.33	\$1,188,116.25	\$248,371.78
4D	Motley Rice LLC	429.95	\$238,001.25	\$18,663.03
4E	Klausner, Kaufman, Jensen & Levinson	94.30	\$64,910.00	\$26.04
4F	Martin & Drought, P.C.	271.85	\$132,109.00	\$409.95
4G	Lowenstein Sandler LLP	440.50	\$401,444.50	\$16,309.17
4H	Ajamie LLP	521.10	\$365,904.00	\$5,981.30
	<b>TOTAL:</b>	<b>59,831.10</b>	<b>\$36,061,893.25</b>	<b>\$1,972,357.01</b>

# EXHIBIT 4A

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF ANDREW J. ENTWISTLE  
IN SUPPORT OF LEAD COUNSEL’S MOTION FOR AN AWARD  
OF ATTORNEYS’ FEES AND REIMBURSEMENT OF LITIGATION  
EXPENSES, FILED ON BEHALF OF ENTWISTLE & CAPPUCCI LLP**

I, Andrew J. Entwistle, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the founding partner of the law firm of Entwistle & Cappucci LLP (“Entwistle & Cappucci”). I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees for services rendered on behalf of the class of investors in the above-captioned class action (the “Action”), as well as for reimbursement of expenses incurred by my firm in litigating the Action. I have personal knowledge of the matters set forth herein.

2. My firm, which served as co-Lead Counsel and counsel for Lead Plaintiffs GAMCO Global Gold, Natural Resources & Income Trust, and GAMCO Natural Resources, Gold & Income Trust (the “GAMCO Funds”), was involved in all aspects of the prosecution and settlement of this Action, as set forth in the Joint Declaration of Andrew J. Entwistle and David R. Stickney in Support of: (I) Lead Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses.

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in the litigation, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report, and time for timekeepers who had worked only a *de minimus* amount of total time on this Action (*e.g.*, less than 10 hours) was also removed from the time report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable and was necessary for the effective and efficient prosecution and resolution of the Action. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 30,783.57. The total resulting lodestar for my firm is \$20,841,767.00. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation is based on my firm's present hourly billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications nationwide. *See, e.g., In re Allergan, Inc. Proxy Violation*

*Derivatives Litig.*, No. 14-cv-04776 DOC (KESx) (C.D. Cal.) (ECF No. 110); *San Antonio Fire and Police Pension Fund, et al. v. Dole Food Company, Inc.*, No. 15-cv-01140-LPS (D. Del.) (ECF No. 94-1); *In re Facebook, Inc. IPO Securities and Derivative Litigation*, MDL No. 12-2389 (RWS) (S.D.N.Y.) (ECF No. 314-6); *see also Marcus v. J.C. Penny Co., Inc.*, No. 6:13-cv-00736-RWS-KNM (E.D. Tex.) (ECF No. 166-2).

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this Action is set forth below:

**Andrew J. Entwistle** (5,069 hours): Mr. Entwistle, one of the Firm's founding partners, was involved in the Action from the outset, making key strategy decisions throughout the case. Mr. Entwistle was a central voice on behalf of Lead Plaintiffs during the litigation, and argued or participated in all critical court hearings in the Action, including multiple hearings on discovery disputes. He was also a key participant in the October 2017 mediation and argued on behalf of Lead Plaintiffs in the Fifth Circuit. Mr. Entwistle had primary responsibility for negotiating and structuring the settlements with the Sponsor Defendants, Underwriter Defendants, and Cobalt following the Company's bankruptcy petition. Each of these settlements was the result of many negotiation sessions following the October 2017 mediation, including conversations with Defendants' counsel, the mediator and Plaintiffs' damages expert.

**Vincent R. Cappucci** (335.50 hours): Mr. Cappucci, one of the Firm's founding partners, was primarily responsible for analyzing Lead Plaintiffs' claims, conducting the initial investigation, and advising on case analysis and strategy throughout the litigation. Among other tasks, he was involved in developing strategies for prosecuting the Action and for settlement negotiations. Mr. Cappucci was the main attorney who communicated with Lead Plaintiffs the GAMCO Funds.

**Arthur V. Nealon** (598.90 hours): Mr. Nealon, one of the Firm's partners, was primarily involved in detailed review and analysis of privilege issues affecting the Action and drafting various letters to Defendants regarding these issues. Mr. Nealon also assisted in drafting and editing pleadings in this Court and appellate filings in the Fifth Circuit.

**Jonathan H. Beemer** (6,518.30 hours): Mr. Beemer, one of the Firm's partners, was a central member of the litigation team for the entire life of the Action, playing a significant role in all aspects of motion practice, discovery and pretrial work in

addition to supervising the day-to-day tasks of the litigation. Mr. Beemer was a key drafter of the Consolidated Amended Class Action Complaint and other pleadings, the briefing on Defendants' motions to dismiss, Defendants' motions for interlocutory appeal, Lead Plaintiffs' class certification motion, Defendants' motion for reconsideration, Defendants' motions to stay the proceedings, the Rule 23(f) petition and the appellate briefing in the Fifth Circuit. Mr. Beemer also oversaw affirmative discovery of Defendants and third parties. He led or participated in numerous meet-and-confer sessions with Defendants' counsel and counsel for third parties trying to resolve discovery and related disputes. Mr. Beemer supervised all document review at the firm and was essential in developing the factual record. He also prepared for and took several key depositions of fact witness. Mr. Beemer was extensively involved in the retention of, and consultation with, experts for Plaintiffs' class certification motion and in connection with expert discovery. Mr. Beemer was also a key member of the team working with Lead Plaintiffs to respond to discovery served on them, including through oversight of their document productions and preparing Lead Plaintiffs' representatives for their depositions. Mr. Beemer also participated in preparing Lead Plaintiffs' mediation submissions, actively participated in the mediation, and assisted in drafting the terms of the settlement stipulations.

**Robert N. Cappucci** (135.50 hours): Mr. Cappucci, one of the Firm's partners, had responsibility for coordinating the settlement documentation, including the stipulations of settlement, all exhibits, and Lead Plaintiffs' motion for preliminary approval. Mr. Cappucci communicated with co-counsel and defense counsel regarding the settlement documentation and settlement process, was involved in the retention of the claims administrator and supervised the claims administration process.

**Joshua K. Porter** (3,137.80 hours): Mr. Porter, one of the Firm's partners, was a core member of the litigation team since the Action's inception, playing a significant role in all motion practice. He was a key drafter of Lead Plaintiffs' opposition to the Sponsor Defendants' initial motion to dismiss, Defendants' motions to stay the proceedings, Defendants' motion for reconsideration and the Rule 23(f) petition. Mr. Porter was also primarily responsible for development of the insider trading claim against the Sponsor Defendants, including drafting the Second Consolidated Amended Class Action Complaint to add the insider trading claim, opposing the Sponsor Defendants' motion to dismiss that claim, and deposing the Sponsor-appointed board members. After Cobalt's bankruptcy petition in December 2017, Mr. Porter helped draft related bankruptcy filings, and participated in negotiating the settlement with the bankruptcy trustee to resolve claims against Cobalt and certain non-debtor defendants. He also participated in settlement negotiations with the Sponsor and Underwriter Defendants and assisted in drafting those settlement papers.

**Brendan J. Brodeur** (14.10 hours): Mr. Brodeur assisted with mediation preparation and related legal research.

**Jordan A. Cortez** (314.40 hours): Mr. Cortez participated in drafting Lead Plaintiffs' opposition to Defendants' motions for interlocutory appeal, drafted the initial requests for production served on Defendants and developed the factual record.

**Rebecca H. Arnall** (334.40 hours): Ms. Arnall was primarily involved in discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. She also analyzed testimony from relevant witnesses and participated in periodic litigation strategy meetings with other attorneys. Ms. Arnall also assisted in preparing deposition materials for important fact witnesses.

**Sean M. Riegert** (4,081.10 hours): Mr. Riegert was involved in all aspects of discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. He also assisted in the briefing on Lead Plaintiffs' class certification motion, motion for leave to amend the complaint, the Sponsor Defendants' motion to dismiss the insider trading claim, Defendants' motion for reconsideration, and briefing on Defendants' Rule 23(f) petition. Mr. Riegert conducted extensive legal research on issues presented in this Court and on appeal, and assisted in preparing for oral argument before the Fifth Circuit. He also prepared deposition materials for key fact witnesses, drafted third party subpoenas and assisted with Lead Plaintiffs' mediation statement.

**Heather M. Sertial** (146.90 hours): Ms. Sertial conducted discrete legal research regarding the Securities Act claims against the Underwriter Defendants and assisted in developing the factual record through the analysis of documents produced by Defendants and third parties.

**Adam W. Sgro** (136.60 hours): Mr. Sgro conducted discrete legal research and drafted arguments relating to loss causation.

**Andrew N. Sher** (2,358.90 hours): Mr. Sher was involved in all aspects of discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. Mr. Sher also assisted with drafting letters and motions regarding discovery issues, as well as prepared materials for depositions. Mr. Sher was also extensively involved in legal research and drafting for Plaintiffs' Second Consolidated Amended Class Action Complaint, Plaintiffs' class certification briefing (including briefing related to



Defendants' Rule 23(f) petition), Plaintiffs' opposition to Defendants' motions to stay, and Lead Plaintiffs' mediation statement.

**Ashley L. Babrisky** (916.80 hours): Ms. Babrisky was primarily involved in discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. She also analyzed testimony from relevant witnesses and participated in periodic litigation strategy meetings with other attorneys. Ms. Babrisky also assisted in preparing deposition materials for several key fact witnesses.

**Alison L. Park** (15.30 hours): Ms. Park was responsible for various discrete legal research tasks concerning the claims and defenses at issue in this Action.

**Abigail L. James** (621.70 hours): Ms. James was primarily involved in discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. She also analyzed testimony from relevant witnesses and participated in periodic litigation strategy meetings with other attorneys. Ms. James also assisted in preparing deposition materials for several key fact witnesses.

**Edward A. Panchernikov** (155.60 hours): Mr. Panchernikov was primarily involved in discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. He also analyzed testimony from relevant witnesses and participated in periodic litigation strategy meetings with other attorneys. Mr. Panchernikov also assisted in preparing deposition materials for important fact witnesses.

**Alexander F. Schlow** (286.60 hours): Mr. Schlow conducted discrete legal research for the Consolidated Amended Class Action Complaint and participated in drafting opposition briefs on the Sponsor Defendants' and Cobalt Defendants' motions to dismiss.

**Jarett N. Sena** (186.30 hours): Mr. Sena was primarily involved in discovery, including the analysis of documents produced by Defendants and the preparation of memoranda and reports related to such evidence. He also analyzed testimony from relevant witnesses and participated in periodic litigation strategy meetings with other attorneys. Mr. Sena also assisted in preparing deposition materials for important fact witnesses.

7. My firm has incurred a total of \$1,085,314.65 in unreimbursed expenses in prosecution of the Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by “caps” based on the application of the following criteria:

- a. Out-of-town travel – airfare is capped at coach rates, hotel rates capped at \$250 for small cities and \$350 for large cities (the relevant cities and how they are categorized are reflected on Exhibit 3); meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
  - b. Internal Copying – Capped at \$0.10 per page.
  - c. On-Line Research – Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor.
- There are no administrative charges included in these figures.


9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. To facilitate the sharing of expenses, Entwistle & Cappucci and Co-Lead Counsel Bernstein Litowitz Berger & Grossmann LLP, as well as the firm of Kessler Topaz Meltzer & Check, LLP established and jointly contributed to a litigation fund, which my firm was responsible for managing. Attached as Exhibit 4 is a chart reflecting the contributions to and disbursements from the litigation fund. The litigation fund incurred a total of \$352,837.05 in unreimbursed expenses in excess of contributions.

11. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on January 9, 2019

  
\_\_\_\_\_  
Andrew J. Entwistle

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**FIRM BIOGRAPHY**

**ENTWISTLE & CAPPUCCI LLP** is a national law firm providing exceptional legal representation to clients globally in the most complex and challenging legal matters. Our practice encompasses many areas of complex litigation including securities, antitrust, corporate transactions, creditor's rights and bankruptcy, shareholder rights and fiduciary duty, as well as general areas of practice including government affairs, insurance and investigations, and white collar defense. Our reputation as highly skilled and accomplished litigators among clients, adversaries and the judiciary has been earned over the Firm's long history of practice which includes all too numerous high-profile litigation matters and our achievement of extraordinary results. Our proven ability and depth of experience has earned us special recognition and distinction in our core practice areas by publications including *U.S. News, Best Lawyers in America, Super Lawyers, Law 360, the National Law Journal* and *The American Lawyer*.

Our success has resulted in particular national recognition and distinction as one of the nation's preeminent firms specializing in securities and corporate transactional-related litigation. In this regard, E&C has served as lead plaintiffs' counsel, co-lead counsel or institutional plaintiffs' counsel in class and direct securities actions against corporate defendants including *Alere, Bank of America, Bear Stearns, Cendant, Citigroup, CMS Energy, Cobalt International Energy, Countrywide, Daimler-Chrysler, Dole Food Company, Enron, Goldman Sachs, Global Crossing, HSBC, JPMorgan, Merrill Lynch, National City, Royal Ahold, Sunbeam, UBS, Valeant Pharmaceuticals, Vivendi* and *Waste Management*. Our clients in these and other actions have included many of the largest and most influential U.S. public pension funds, including the New York State Common Retirement Fund, the New York State Teachers' Retirement System, the Public Employees' Retirement Association of Colorado, the Florida State Board of

Administration, the Teacher Retirement System of Texas, the Illinois State Board of Investment, the State Universities Retirement System of Illinois, the Ohio Public Employees Retirement System, the Alaska Permanent Fund Corporation and the Tennessee Consolidated Retirement System, as well as leading private institutional investors, mutual funds, hedge funds and asset managers.

For these and other clients, the Firm has secured significant financial recoveries and successful legal outcomes. For example, the Firm achieved a landmark *\$1.6 billion* settlement in the *MF Global Holdings Limited Investment Litigation*, which represented a 100% recovery of the MF Global customers' missing deposits. E&C also reached a comprehensive resolution of the *Tremont Securities Law, State Law and Insurance Litigation* arising out of the Bernard L. Madoff Ponzi scheme, which will result in ultimate recoveries exceeding *\$2 billion* for Madoff customers and creditors. In addition, the Firm reached settlements totaling *\$2.24 billion* as co-lead counsel in an action on behalf of all investors in Bernard L. Madoff Investment Securities against JPMorgan Chase & Co. In terms of cutting-edge legal accomplishments, the Firm's recent *\$26.5 million* settlement of claims against the NASDAQ Exchange in *In re Facebook, Inc. IPO Securities & Derivative Litigation* was the first time in U.S. history that a national securities exchange, which typically has immunity as a self-regulatory organization, settled class claims for alleged wrongdoing stemming from trading disruptions on the opening day of Facebook's initial public offering. Similarly, in the *Dole Food Securities Litigation*, we recently reached a *\$74 million* settlement in one of the first securities class actions to successfully prosecute artificial *deflation* of a company's stock price. Likewise, earlier this year the Firm achieved a *\$40 million* settlement against pharmaceutical company Valeant Pharmaceuticals International, Inc. in one of the first

cases to involve an investor class consisting solely of derivative traders.

In addition to representing its institutional investor clients in securities litigation, the Firm has a prominent antitrust practice targeting improper trade practices and anticompetitive activity involving financial instruments. In this practice area, the Firm represented named institutional plaintiffs in two of the most high-profile and successful antitrust class actions involving *Forex* and *CDS* instruments which resulted in settlements exceeding *\$4 billion*. These matters required creative strategies and novel approaches, close work with industry experts, collaboration with leading economic and damage consultants, and the willingness to confront well-financed, globally based corporations and enterprises engaged in complex wrongdoing.

We also have extensive experience in complex litigation arising from corporate bankruptcy proceedings, including representation of equity and debt investors in both reorganizations and liquidations, working with debtors, creditor committees and trustee representatives to negotiate and structure Chapter 7 and 11 plans, and all ancillary proceedings such as prosecuting and defending adversary actions. For example, the Firm represents the State Universities Retirement System of Illinois and the Illinois State Board of Investment in the *Tribune* bankruptcy clawback litigation, as well as certain public funds and prominent mutual and investment funds in the *Lyondell* bankruptcy litigation. Recently, in an ongoing securities litigation against the now insolvent *Cobalt International Energy*, the Firm anticipated and defeated defendants' attempts in bankruptcy court to indefinitely stay the class action in the federal district court, which would have imperiled defrauded investors' prospects for recovery. Similarly, in the *MF Global* litigation involving customers' missing deposits, our Firm worked closely with the trustee appointed under the Securities Investor Protect Act to preserve estate assets and ensure that customers recovered

their missing funds before all other creditors. Securities law claimants must often obtain further protection of their financial interests and/or advance their corporate governance objectives by litigating in parallel bankruptcy court proceedings. As a result, the Firm routinely identifies those matters that require expertise in corporate and bankruptcy law, and assigns its lawyers accordingly.

We invite you to visit our website at [www.entwistle-law.com](http://www.entwistle-law.com) to learn more about our practice, distinguished record of success and our legal professionals.



### *Practice Groups*

We organize the firm's legal professionals into a number of highly specialized practice groups capable of responding effectively, efficiently and expeditiously to our clients' increasingly diverse needs. Our practice groups, however, do not operate in isolation; teams of lawyers from any number of these specialized groups often work together to provide a seamless interdisciplinary approach that we find critical to effective problem solving.

In the following pages, we provide summaries of our approach to the law in the principal areas of our practice:

- Securities Litigation;
- Corporate Transactional Litigation;
- Antitrust and Competition;
- Creditors' Rights and Bankruptcy;
- General Corporate and Commercial Litigation;
- Investigations and White Collar Defense;
- Mergers, Acquisitions, Capital and Exit Strategies;
- Corporate;
- Insurance Litigation;
- Employment Litigation and Counseling; and
- Governmental Affairs.

*Securities Litigation*

Entwistle & Cappucci has litigated some of the most high-profile and largest securities litigation matters in recent U.S. history, and has assembled one of the most qualified and experienced team of litigators in this area of specialty. Our experience and achievements have won the Firm national recognition and distinction as one of the nation's preeminent firms qualified to undertake the most complex and challenging securities-related matters. The Firm has served as lead plaintiffs' counsel, or as counsel to institutional plaintiffs pursuing direct litigation, in securities fraud actions against publicly traded corporations including *Alere, Bank of America, Bear Stearns, Cendant, Citigroup, CMS Energy, Cobalt International Energy, Countrywide, Daimler-Chrysler, Dole Food Company, Enron, Goldman Sachs, Global Crossing, HSBC, JPMorgan, Merrill Lynch, National City, Royal Ahold, Sunbeam, UBS, Valeant Pharmaceuticals, Vivendi* and *Waste Management*, among others. These matters, which are often headline *bet-the-company* litigations, routinely draw the nation's top tier defense counsel and are the most aggressively litigated actions. We have the proven ability to match deeply funded adversary resources with our capabilities to effectively advance class and direct securities actions in all U.S. courts. We are prepared to fund prosecutions knowing that appellate review of substantive rulings often results in very lengthy and protracted court proceedings. This work requires a highly developed understanding of financial markets, securities regulation, SEC and Blue Sky reporting requirements, as well as sophisticated financial, accounting, tax and economic concepts, which our legal professionals have mastered over decades of experience in this practice area.

The Firm has invaluable knowledge and experience working with the Department of Justice, the SEC, the Commodity Futures Trading Commission, the Financial Industry Regulatory

Authority and other regulatory authorities, which we view as a critical element of the Firm's capabilities. We also draw from attorneys at the Firm having a full range of disciplines and specialties which enables us to navigate a very broad range of industries. Over the years, the Firm has represented an impressive roster of clients in this practice area, which has included the nation's largest public pension systems, publicly traded corporations, mutual funds, private equity firms, hedge funds, high-net-worth investors and charitable organizations.

We invite you to read more about select prominent litigations where the Firm has represented principal parties in our *Prominent Cases* section, below.

### **Corporate Transactional Litigation**

The Corporate Transactional Litigation practice at our Firm advises public and private companies, boards of directors and board committees as well as institutional and activist investors, hedge funds and public and private pension funds on a full range of matters involving corporate transactions, fiduciary duties and disclosure requirements, across diverse industries and global businesses with an emphasis on prosecuting institutional investors claims. A core focus of this practice is to advise clients on wide ranging board-level transactional issues and matters involving transactional pricing and process, management controlled or interested transactions, board structure and composition, appraisal rights, dividend declarations, restructurings and recapitalizations, spinoffs, and corporate charter and bylaw amendments.

We are highly experienced in litigating corporate transactional fairness issues, particularly in the Delaware Court of Chancery (as well as state and federal venues across the country). Over the years, the Firm has represented parties in many high-profile merger and acquisition related litigations which have served to shape the law governing process, procedural and structural

fairness, officer and director responsibility, and shareholder rights. Our lawyers are on the forefront of trends in governance best practices and proposals put forth by Congress, the Securities and Exchange Commission, the stock exchanges and independent policy and advisor groups. We strive to bring both practical and creative approaches to the issues our clients are facing to serve their needs in the most efficient and effective manner. We are well equipped to provide in-depth analyses of governance practices and promote governance issues that best serve both short and long-term objectives.

**Antitrust and Competition**

Modern international markets have in recent years proved more susceptible to price-fixing, monopolization, bid-rigging and other anti-competitive practices. Our team of complex litigation professionals has proved particularly skilled in its ability to investigate and prosecute the most sophisticated competition matters on behalf of a diverse universe of businesses and institutions. Our firm draws on resources and expertise in various business sectors developed over the years to provide a superior understanding and sensitivity to competition and pricing practices which form the basis of potential anticompetitive claims.

Throughout its history, the Firm has represented lead parties in an impressive roster of antitrust class actions where it has worked in conjunction with law enforcement and regulatory authorities both domestically and overseas. The complexities of these matters require an ability to develop strategies and continually novel approaches while working in conjunction with industry experts and economic and damage consultants to insure the successful prosecution of claims against the most well financed, globally based corporations and enterprises.

In recent years, our Firm has shown particular expertise in investigating and prosecuting

anticompetitive practices in global financial markets. The following are provided as examples of our more recent representative litigations in this practice area:

- *In re Libor-Based Financial Instruments Antitrust Litigation*, 11 MDL 2262 (S.D.N.Y.)
- *In re Credit Default Swaps Antitrust Litigation*, MDL No. 2476 (S.D.N.Y.)
- *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-07789 (S.D.N.Y.)

### **Creditors' Rights and Bankruptcy**

The Firm has extensive experience in complex litigation arising from corporate bankruptcy proceedings, including representation of equity and debt investors in both reorganizations and liquidations, working with debtors, creditor committees and trustee representatives to negotiate and structure Chapter 7 and 11 plans, and all ancillary proceedings such as prosecuting and defending adversary actions. The Firm currently serves on the Defense Committee in the *Tribune Fraudulent Conveyance* actions arising out of the Tribune Company's 2008 leveraged buy-out transaction, which named as defendants thousands of disinterested former shareholders who tendered shares in the transaction. The Firm has had important roles in bankruptcy proceedings involving companies such as *American Banknote*, *Enron*, *Global Crossing*, *MF Global*, *Outboard Marine Corporation*, *Refco* and *Tremont Group Holdings*. Our recent retentions include representing hedge funds and other sophisticated investors seeking to purchase equity estate claims and special assets in bankrupt companies. Our experience and proven ability to provide innovative and practical solutions to clients involved in a diversity of distressed situations across a variety of industries draws on our capabilities and professional talents in other departments within the Firm, including securities, corporate, M&A and litigation.

**General Corporate and Commercial Litigation**

Our commercial litigators are devoted to the creative resolution of complex business disputes on behalf of both corporate entities and individuals. We represent a diverse client base in a correspondingly broad array of matters. Although the nature of these disputes may vary greatly, our approach to resolving them is consistent. From the outset, we painstakingly marshal the relevant facts, objectively analyze the controlling law, assess the underlying commercial realities and develop a strategy to achieve the client's business objectives as efficiently and expeditiously as possible.

Each of our commercial litigators understands this strategy, which is applied to every business dispute we encounter. Our team approach guarantees that each lawyer knows who is doing what and why they are doing it. This allows us to staff our cases effectively from a deep bench of experienced litigators whose overriding priority is to materially advance the client's objectives.

"Litigation for litigation's sake" has no place in our pragmatic and business-oriented approach. We understand firsthand that litigating complex business issues is enormously expensive and disruptive. For this reason, we vigilantly explore all available means short of a bet-the-company litigation to effect expeditious and favorable resolutions to disputes, whether through direct negotiation with our adversaries or some means of alternative dispute resolution, such as mediation or arbitration.

**Investigations and White Collar Defense**

Our investigations and white collar defense practice group draws on decades of success defending public and private corporations, financial firms, investment entities and individuals in highly sensitive, federal and state criminal, civil and regulatory investigations and proceedings. Led by former prosecutors, this practice group represents clients in all stages of government investigations (including U.S. Congressional, DOJ, SEC, FINRA, state attorneys general and other agencies) from the inception of an investigation and/or service of subpoenas, through grand jury, indictment, trial, post-trial and any appellate process. Some of the group's most important and sophisticated work takes place before criminal charges even materialize, and through a credibility and reputation developed over years in working with the governmental authorities, our lawyers have had considerable success in persuading prosecutors not to pursue criminal charges.

As former prosecutors and long-time defense lawyers, members of our white collar defense practice group are also uniquely qualified to conduct internal corporate investigations into suspected wrongdoing or improprieties. We have led internal investigations on behalf of major corporations involving a broad cast of wrongful conduct including accounting and financial fraud, illegal financial market activities, regulatory fraud, insider trading, unauthorized trading, accounting fraud and financial malfeasance, market timing, market manipulation and obstruction of justice, among others. We have conducted such investigations as a result of our clients' independent decisions to look into suspected wrongdoing, as well as parallel to ongoing government investigations. Our focus in such matters rests with limiting our clients' exposure and providing remedial action and disclosures as necessitated by circumstances. We also assist companies in adopting procedures to promote and monitor anti-fraud and other legal compliance

measures by designing and implementing legal, financial, technical, audit and other corporate programs and related systems. Working with accountants, computer forensic and other consultants as needed, our lawyers assist clients in taking a proactive role in uncovering improper conduct by their employees, vendors, officers, directors and others.

**Mergers, Acquisitions, Capital and Exit Strategies**

We help companies, boards of directors and shareholder/owner manage their interests in mergers, acquisitions, dispositions and leveraged buy-outs. Unique issues confront entrepreneurs and capital providers who engage the Firm for its experience in venture capital deals. These include start-up companies, emerging growth companies and mature businesses in a wide variety of industries -- from conventional to technology-based industries. We can represent either portfolio companies or capital providers engaged in equity, mezzanine and/or senior debt financings.

Just as important as helping clients close a deal is helping clients choose the proper exit from a deal which can include sales, public offerings, refinancings, recapitalizations, restructuring or the spinning-off of businesses.

**Corporate**

We advise clients with respect to general legal matters relating to their business operations, including the proper choice of entity and the formation of corporations, limited liability companies and partnerships; negotiation and documentation of shareholder agreements, limited liability company agreements, partnership agreements, employment and severance agreements; and partnership dissolutions and other business separations.



The Firm also negotiates, structures and documents a wide variety of transactions including consulting agreements and many other commercial agreements and contracts that are dictated by the business needs of our clients. For matters involving intellectual property and information technology, we negotiate and document licenses, franchise and distributorship arrangements, consulting agreements and related contracts.

A portion of our client base is comprised of foreign investors who buy and sell U.S.-based assets and businesses. We understand the various challenges facing those making cross-border investments in this country and can structure deals that maximize their opportunities and minimize their exposure, just as we assist domestic businesses to explore, develop and engage in business transactions in foreign countries.

Finally, many of our clients have accumulated substantial assets and want to develop comprehensive estate plans that reflect their priorities. We work with individuals and families to integrate personal, business and philanthropic needs into estate planning.

#### **Insurance Litigation**

We have a long history of representing insurance carriers in the negotiation and litigation of complex coverage matters. In addition, carriers routinely look to our litigators to handle the most challenging claims asserted against their insureds.

We also have served as counsel to the New York State Superintendent of Insurance in his capacity as rehabilitator of troubled insurers. In that capacity, we have been called upon to determine why those insurers failed or faltered, and prosecute actions to recover wasted or misappropriated assets. We also have pursued actions against third parties, including accountants and brokers, for their role in precipitating the failure of these insurers.

**Employment Litigation and Counseling**

Our employment law group assists employers as they navigate the evolving and expanding universe of laws affecting the workplace. One of this group's most important services is counseling clients on designing and implementing policies and practices to avoid costly and disruptive litigation commenced by current and former employees. It is an unfortunate business reality that employers, regardless of size, will at some point become embroiled in disputes with employees alleging discrimination, harassment, retaliation, wrongful discharge, wage and hour law violations, or any number of other employment-related claims. Our employment litigators are experienced in investigating and assessing the workplace claims brought against our clients and implementing a comprehensive strategy to dispose of those claims in the least disruptive manner.

In addition to defending workplace claims, we have deep experience in aggressively protecting our clients' confidential and proprietary business information. The Firm's litigators move quickly and decisively to pursue former employees and competitors in matters involving breaches of restrictive covenants, misappropriation of confidential information and trade secrets, breaches of fiduciary duty, breaches of the duty of loyalty and similar wrongdoing. We also have extensive experience managing investigations into our clients' employment practices commenced by regulators.

Our lawyers routinely draft employment contracts, employee handbooks, restrictive covenants, and other documents used to memorialize the terms of the employer-employee relationship, that optimally position the employer should that relationship terminate or turn hostile. Similarly, we help clients -- individuals and employers alike -- structure severance packages for

departing executives. We also have extensive experience advising employers as they devise and implement plans for reductions in force.

**Governmental Affairs**

Our governmental affairs practice is national in scope. We represent clients requiring expertise in the development, management and resolution of public policy issues before the governmental community. We work to ensure that our clients have the necessary access to, and level of advocacy before, decision-makers in government.

**Prominent Cases**

Our Firm has litigated some of the most high profile and complex cases across a broad spectrum of substantive areas, representing public and private corporations, public pension funds major financial institutions, mutual funds, and other leading institutional investors.

We invite you to read further for a brief selection of high profile litigation where the Firm has provided exceptional legal representation.

***In re Royal Ahold N.V. Securities ERISA Litigation,*  
**MDL No. 03-1539 (CCB) (U.S. Dist. Ct., D. Md.) (D. Md.)****

Increasingly, securities litigation involves claims arising out of fraud and other misconduct that is international in scope. Following massive revenue and earnings restatements which ultimately exceeded *\$24 billion*, the Firm instituted class action litigation against Dutch retailing conglomerate Royal Ahold N.V. on behalf of a global class of equity investors alleging federal securities law claims. Ahold had engaged in a worldwide acquisition program that focused upon the United States market, but also included joint ventures and smaller acquisitions in Europe and South Africa.

Ahold publicly touted the fact that it would become the dominant food service provider and grocer in the United States, and Ahold's Maryland based U.S. Food service division ("USF") was an integral and material element of Ahold's dramatic growth. In a shocking announcement on February 24, 2003, Ahold stated that it would be required to restate revenues primarily related to its USF operations by *\$500 million*, which prompted immediate civil and criminal investigations

in the United States and abroad and, causing devastating losses to investors as the price of Ahold common stock trading on foreign and domestic securities exchanges plummeted.

After three years of intense litigation which included proceedings in the Netherlands, we, as sole lead class counsel, secured a *\$1.1 billion* settlement – at the time the largest class action recovery ever secured from a European issuer. Hundreds of thousands of shareholders from more than 100 countries participated in this recovery.

***In re Citigroup Inc. Securities Litigation,***  
**No. 07-cv-09901 (SHS) (U.S. Dis. Ct., S.D.N.Y.)**

In a high profile matter tied to the subprime mortgage crisis, the Firm represented the Public Employees Retirement Association of Colorado and the Tennessee Consolidated Retirement System, as representative parties in a class action alleging federal securities law violations against Citigroup Inc. and certain officers and directors for failure to report and/or disclose exposure to tens of billions of dollars in collateralized debt obligations and other subprime mortgage-backed derivative instruments. As discovery efforts would ultimately prove, the values of these assets were seriously overstated due to mortgage defaults and other impairments, and rendered untrue Citigroup's representation that it had "limited continuing involvement" with such CDO instruments. Through direct ownership of tens of billions of CDO's and undisclosed liquidity puts, Citigroup had also agreed to repurchase much of these positions. Such exposure required timely write downs so as not to inflate Citigroup's reported assets, revenues and earnings during the relevant period. This litigation involved the most complex financial instruments and mortgage secularization products, and implicated difficult valuation and accounting issues respecting one of the largest institutions in our global financial markets. After a lengthy period of fact and expert

discovery and lengthy mediation proceedings led by our institutional clients, Citigroup agreed to settle the class action claims for *\$590 million* in 2012. This settlement is one of the largest civil action recoveries arising out of the subprime mortgage-related financial crisis.

***San Antonio Fire & Police Pension Fund, et al. v. Dole Food Company, Inc.,***  
**No. 15-cv-1140 (U.S. Dist. Ct., D. Del.)**

The Firm served as Co-Lead Counsel in this federal securities class action brought on behalf of former investors in Dole Food Company, Inc. (“Dole”). The action alleged a fraudulent scheme to depress artificially the price of Dole’s common stock orchestrated by the company’s controlling shareholder and CEO, David H. Murdock, and Dole’s President, COO and General Counsel, C. Michael Carter. The scheme was allegedly intended to allow Murdock to take the company private at a significantly discounted price.

The Firm filed an amended consolidated class action complaint on June 23, 2016. The complaint alleged violations of Sections 10(b) and 20(a) of the Exchange Act against Dole, Murdock and Carter, and sought to recover damages on behalf of a class of investors who sold their Dole shares at artificially deflated prices. During the class period, the defendants made materially false and misleading statements in order to deflate Dole’s stock price. For example, following a strategic transaction with the ITOCHU Corporation of Japan, the defendants falsely told investors that the transaction would produce *\$20 million* in annual cost savings. In fact, internal projections showed that Dole could easily achieve annual cost savings of at least \$50 million. The defendants also undervalued Dole’s real estate assets in order to further depress its stock price. Moreover, the defendants misled the committee of independent Dole directors tasked

with evaluating the merger (the “Special Committee”). Among other things, the defendants allegedly provided the Special Committee with inaccurate financial information in order to interfere with its independent evaluation of Murdock’s lowball take-private offer.

This litigation was actively prosecuted and involved extensive factual discovery after the defendants answered the complaint, as well as ongoing work with financial and industry experts. Damages were a significant issue in the litigation, as this case was one of the first securities class actions to allege artificial suppression of publicly reported stock pricing in advance of a going private transaction. Our efforts proved ultimately successful as we achieved a settlement of claims for a seller class in the amount of *\$74 million* – a record recovery for claims predicated upon artificial deflation.

***In re Daimler Chrysler Securities Litigation,***  
**No. 1:00-cv-00993 (D. Del.)**

The Firm served as co-lead counsel in this federal securities class action arising from the 1998 merger of Daimler Benz-AG and Chrysler Corporation. Although the transaction was announced as a “merger of equals,” Daimler-Benz AG’s Chief Executive Officer admitted almost two years later that he had always intended the transaction to be an acquisition and had knowingly misrepresented the transaction structure so that U.S. investors would approve the acquisition. In this Action we represented the Florida State Board of Administration as a lead plaintiff on behalf of former Chrysler shareholders seeking, among other things, to obtain the control premium they should have received in this takeover disguised as a merger. Based upon full merits and expert discovery taken in the United States, Germany and England, we defeated the defendants’ motion

for summary judgment. On the eve of trial, our Firm successfully negotiated a settlement of all claims for \$300 million representing a record recovery by an investor class for a corporate buyers' fraud based transaction structure.

**In re Facebook, Inc., IPO Securities and Derivative Litigation,**  
**No. 12-md-02389 (U.S. Distr. Ct., S.D.N.Y.)**

Based on the initial public offering ("IPO") of Facebook, Inc. ("Facebook"), E&C filed this federal securities class action on behalf of all investors that entered pre-market and secondary market orders to trade Facebook common stock on May 18, 2012. These investors suffered monetary losses as a result of the failure of NASDAQ OMX Group Inc. ("NASDAQ") to properly execute trades on the day of the IPO. On December 12, 2012, Our Firm was appointed sole Lead Counsel for the consolidated securities actions against NASDAQ and its affiliate, NASDAQ Stock Market LLC. The class complaint alleged claims under Sections 10(b) and 20(a) of the Exchange Act predicated upon NASDAQ's failure to disclose that it had discovered serious problematic system issues prior to the IPO, which rendered NASDAQ incapable of executing the highly anticipated Facebook offering and ultimately caused widespread trading disruption on the opening day of the IPO.

The defendants moved to dismiss the complaint, raising challenges to the substantive elements of lead plaintiffs' Exchange Act claims, as well as asserting that NASDAQ was entitled to full immunity as a self-regulatory organization ("SRO"). Following extensive briefing, on December 12, 2013 the District Court denied in part the defendants' motion to dismiss, finding that lead plaintiffs adequately pled their Exchange Act claims and that NASDAQ was not entitled



to SRO immunity, as the claims we plead targeted commercial conduct by the Exchange which was non-regulatory (which included statements by exchange officers at investor events which touted the Exchange's listing capabilities and technology). Notably, the ruling was the first time any court within the Second Circuit determined that a national securities exchange was not entitled to SRO immunity due to expanded commercial activities.

On February 14, 2014, the defendants filed a notice of appeal with the Second Circuit Court of Appeals. Days before oral argument before the Circuit Court, the parties negotiated a settlement of the securities class action claims against the defendants for \$26.5 million. The settlement was approved by the Court on November 9, 2015.

***In re Foreign Exchange Benchmark Rates Antitrust Litigation,***  
**No. 1:13-cv-07789-LGS (S.D.N.Y.)**

The Firm represents named plaintiffs in this putative antitrust class action alleging a massive global conspiracy by some of the largest financial institutions who are alleged to have manipulated the WM/Reuters Closing Spot Rates for foreign currency transactions in the foreign exchange ("FX") market. Defendants are the dominant dealers in the FX market (where daily trading averages exceed \$5.3 trillion) and are alleged to have exchanged confidential customer order information and trading positions, and to have agreed on concerted strategies for trading in and around the setting of the Spot Rates. The alleged collusive tactics included front running/trading ahead and other prohibited acts, and have resulted in investigations by law enforcement and regulatory authorities in the United States, Europe, Asia, Australia and New

Zealand. A number of domestic and foreign regulatory agencies enforced monetary penalties against the defendant dealers, totaling approximately *\$8.876 billion*.

Plaintiffs filed a consolidated amended complaint on March 31, 2014, and the court denied the defendants' motions to dismiss in their entirety (as to the domestic FX transactions) on January 28, 2015. After extensive settlement discussions and mediation among the parties, 15 of the 16 defendant banks agreed to settle the claims for a total amount of *\$2.31 billion*. The court preliminarily approved the partial settlement on December 15, 2015 and we continue to litigate claims against the non-settling defendant.

***In re Bank of America Corp. Securities Derivative, and Employee Retirement Income Security Act (ERISA) Litigation, No. 09-MDL-2058 (U.S. Dis. Ct., S.D.N.Y.)***

The Firm represented institutional plaintiffs Thomas DiNapoli, NYS Comptroller as Trustee of the NYS Common Retirement Fund, the New York State Teachers Retirement System and the Public Employee Retirement Association of Colorado in a landmarked action against Bank of America Corporation ("Bank of America") in connection with the 2009 merger between Bank of America and Merrill Lynch & Co. in the midst of the global financial crisis. This action, which sought the recovery of hundreds of millions of dollars in direct investment losses, alleged that proxy materials soliciting shareholder approval of the merger failed to disclose over *\$15 billion* in unreported losses at Merrill for the 2008 fourth fiscal quarter and an undisclosed agreement to pay *\$5.8 billion* in bonus compensation to Merrill executives. These and other facts by their omission, we alleged, served to manipulate the merger exchange ratio. The litigation proceeded through extensive fact and expert discovery, summary judgment briefing and resolved on the eve of trial resulting in significant monetary recoveries for our clients. The result achieved by the Firm's prosecutorial efforts was also well in excess of any potential recovery had our clients not proceeded

directly and remained absent parties in related class action litigation. We regard this representation as a compelling demonstration of the Firm's ability to present strategic litigation alternatives to the most sophisticated institutions in the most complex and hotly contested litigation matters.

***In re Allergan, Inc Securities Litigation,***  
**No. CV 17-04776-DOC (KESx) (U.S. Dist. Ct., C.D. Cal.)**

The Firm serves as Co-Lead Counsel in this federal securities class action brought on behalf of former investors in Allergan, Inc. ("Allergan") derivative securities. The action alleged an illicit insider trading and front running scheme that began in 2014 when William Ackman, hedge fund manager of Pershing Square Holdings, Ltd. ("Pershing Square"), and Michael Pearson, CEO of Valeant Pharmaceuticals International, Inc. ("Valeant"), struck a simple but unlawful bargain: in exchange for inside information regarding Valeant's plans to launch a hostile takeover and tender offer for Allergan, Pershing Square agreed to secretly acquire nearly 10% of Allergan's common stock and commit those shares to support Valeant's bid to acquire Allergan.

On June 28, 2017, we, on behalf of a leading institutional trading firm, filed a complaint alleging violations of Sections 14(e), Rule 14e-3 promulgated thereunder and 20A of the Securities Exchange Act of 1934 ("Exchange Act") against Ackman, Pershing Square (and several of its subsidiaries), Pearson and Valeant (and several of its subsidiaries). The claims sought to recover damages on behalf of a class of investors in price-interdependent derivative securities of Allergan. During the class period, defendants purchased over 14 million Allergan common shares and OTC call options and equity forward contracts referencing Allergan common shares, while in possession of inside information concerning Valeant's forthcoming tender offer. When the tender offer was announced, the price of Allergan shares – and therefore the value of Pershing Square's 'investment' – jumped. Pershing Square subsequently converted its call options and equity

forward contracts into Allergan common stock, reaping enormous illicit profits at the expense of class members.

Subsequent to our institution of litigation, this action proceeded on an expedited basis to extensive discovery and coordination with parties in a related stockholder class action. Damages were a significant and complex issue, as the case was one of only a few class actions evaluating market transactions in derivative instruments. We, in consultation with derivative industry, damages, and other experts, advanced to participate in summary judgment proceedings in the related equity action which had collateral impact on claims belonging to the derivative class. Following lengthy arguments on dispositive motions, protracted negotiations were conducted to resolve both cases prior to a final ruling on the parties' respective summary judgment motions and, in December 2017 we achieved a *\$40 million* settlement exclusively for the derivative class, together with settlements on behalf of the related common stock class which brought total recoveries to *\$290 million*.

***In re Tremont Securities Law, State Law and Insurance Litigation,***  
**No. 08-cv-11117 (TPG) (U.S. Dist. Ct., S.D.N.Y.)**

Arising out of the Bernard L. Madoff Ponzi scheme, the Firm brought this securities class action on behalf of all investors in the group of feeder funds ("Tremont Funds") managed by defendant Tremont Group Holdings, Inc. ("Tremont"). On March 26, 2009, E&C was appointed as co-lead counsel for the consolidated actions asserting state law claims against Tremont and related defendants (the "State Law Actions"). Plaintiffs in the State Law Actions asserted claims for breach of fiduciary duty, unjust enrichment, negligence and breach of contract based on defendants' investment of billions of dollars with Madoff and his firm Bernard L. Madoff Investment Securities ("BLMIS"). The complaint alleged that defendants ignored questions about the legitimacy of Madoff's investment

operations despite knowledge of “red flags” and the increased suspicion of Madoff’s activities. Class-wide damages were estimated to be approximately \$2.27 billion.

After plaintiffs filed their consolidated amended complaint, and while defendants’ motions to dismiss were pending, the parties engaged in a highly complex mediation proceeding which resulted in a memorandum of understanding to settle the claims in the State Law Actions and the other consolidated cases. The settlement created two separate funds providing recovery for eligible investors in the Tremont Funds. The first settlement fund consists of \$100 million (plus assigned interests in various claims, including a 50 percent interest in the defendants’ \$100 million fidelity bond) (the “Net Settlement Fund” or “NSF”). In addition, the settlement resulted in the creation of a second fund to receive all of the assets remaining in the Tremont Funds including the Funds’ almost \$3 billion in Madoff bankruptcy claims (the “Fund Distribution Account” or “FDA”). The Firm worked with defendants and the SIPA Trustee for the Madoff estate to resolve the related multi-billion dollar litigation involving the Funds’ bankruptcy claims, resulting in their preservation for the benefit of Tremont investors.

On August 19, 2011, the Court approved the terms of the settlement, which was upheld on appeal by the Second Circuit. We led a subsequent mediation process among investors in the various Tremont Funds regarding the plans of allocation for the settlement funds in an attempt to adequately address the positions of all parties involved and reach a consensus among investors. As a result of this process, on December 15, 2014, we moved for approval of the plan of allocation for the NSF. The court approved the plan of allocation for the NSF on December 22, 2014. The Firm made an initial distribution from the NSF in the second half of 2015.

On July 10, 2015, we also moved for approval of the FDA plan of allocation and for distribution of the FDA to investors in the Funds. The District Court granted the motion, and the Court of Appeals

affirmed. To date, recoveries for investors have substantially exceeded \$1 billion.

**Shapiro v. JPMorgan Chase, et al.,**  
**No. 11-cv-8331 (U.S. Dist. Ct., S.D.N.Y.)**

The Firm, on behalf of persons who had capital directly invested with Bernard L. Madoff Investment Securities (“BLMIS”) as of December 11, 2008, filed this action against JPMorgan Chase & Co. (“JPMorgan”) for failure to disclose or otherwise report facts to investors and regulators which the bank had in its possession related to the Bernard L. Madoff (“Madoff”) Ponzi scheme.

As part of its litigation efforts in this case, we conducted an exhaustive investigation into the relationship between BLMIS and JPMorgan. This investigation included the Firm’s review and analysis of more than a million pages of documents produced by JPMorgan and the BLMIS trustee in response to document requests propounded. The Firm also reviewed and analyzed voluminous testimony from the examination of relevant witnesses in the BLMIS bankruptcy proceedings, as well as the criminal trial of senior Madoff associates. We also developed expert testimony in support of the plaintiffs’ claims, and conducted interviews of numerous JPMorgan senior executives.

The Firm’s investigation revealed that JPMorgan oversaw a principal Madoff customer depository account that was used to facilitate numerous round-trip transactions with close associates which had no apparent business purpose. Moreover, none of the tens of billions of dollars that flowed through this account was used to purchase a single security, notwithstanding representations to the contrary by Madoff and BLMIS. Our investigation also uncovered additional facts which evidenced knowledge of the Madoff Ponzi scheme through JPMorgan’s due

diligence, and other activities concerning the bank's efforts to structure and issue feeder fund-related products.

Following a complex and extensive process of negotiations with JPMorgan, the liquidation trustee for BLMIS, and the United States Attorney's Office, contemporaneous and related settlements were achieved totaling *\$2.243 billion*. This settlement, which included recovery for investors in the Shapiro action, was approved by the District Court in early 2014.

**In re MF Global Holdings Inc. Investment Litigation,**  
**No. 11-cv-7866 (U.S. Dist. Ct., S.D.N.Y.)**

This class action was led by the Firm on behalf of a class of customers of commodities broker MF Global Inc. ("MFGI") who were not repaid more than *\$1.6 billion* that MFGI was required to hold in segregated accounts when it and its parent MF Global Holdings Ltd. collapsed in 2011. The missing funds were due to the unlawful conduct of the MF Global director and officer defendants ("D&O Defendants") in using the customers' deposits to pay the companies' obligations in the days prior to their collapse.

On August 20, 2012, the plaintiffs filed a consolidated amended class action complaint alleging claims on behalf of MFGI's commodities customers, as well as the MFGI estate, its securities customers and its general creditors as assignees of the company's liquidation trustee. The claims against MFGI, the D&O Defendants (including MFGI President, Jon Corzine) and certain underwriter banks included federal claims for violations of the Commodity Exchange Act, as well as state law claims for breach of fiduciary duty, conversion and tortious interference with contract. The defendants were alleged to have caused MFGI to engage in billions of dollars worth of proprietary trading in foreign sovereign debt when they knew that MFGI could not fund such

trades without daily invasion of customer funds. We also alleged class claims against the Chicago Mercantile Exchange for its failure to fulfill its duties as the Designated Self-Regulatory Organization of MFGI's commodity/futures business.

The Firm's work as Co-Lead Counsel included: (i) investigating and filing a 200+ page amended complaint; (ii) successfully opposing more than 140 pages of briefing on the defendants' motions to dismiss (which were denied on January 17, 2014); (iii) defeating a motion to compel unneeded and wasteful discovery; (iv) reviewing millions of pages of internal company documents; (v) defending depositions in connection with class certification briefing; (vi) fully briefing the motion for class certification; and (vii) participating in more than 30 merits depositions. At the same time, E&C urged the D&O Defendants to reduce the amount of discovery propounded in the case, and to engage in mediation in an attempt to preserve assets and insurance proceeds for the MFGI commodities customers and creditors.

Significantly, because of the collapse of both MFGI and its parent company, there were countless creditor constituencies pursuing recovery against a limited pool of estate assets and limited insurance coverage. Accordingly, in order to preserve estate assets and ensure defrauded customers would receive payment priority, the Firm and the SIPA Trustee for MFGI worked out a creative solution whereby the Trustee assigned the estate's claims to the lead plaintiffs that pursued both the estate and customer claims in an omnibus action.

E&C's efforts, in conjunction with those of the MFGI Trustee, ultimately resulted in a 100% recovery of MFGI customer funds in 2014, in the amount of *\$1.6 billion*. This recovery was obtained after E&C defeated the D&O Defendants' motions to dismiss and prior to the commencement of fact discovery. Facing summary judgment after the completion of discovery,



the D&O Defendants agreed to settle the matter in July 2016 for *\$184 million*, the full amount remaining on the applicable insurance coverage. Included in the settlement was a partial interest payment for the customers' lost use of funds even though they had already received 100% of their losses in the 2014 settlement. The court approved final settlements in September 2016.

**In re Tribune Company Fraudulent Conveyance Litigation,**  
**No. 12-md-02296 (RJH) (S.D.N.Y.)**

Entwistle & Cappucci serves as court-appointed co-liaison counsel and member of the Defense Committee for a class consisting of approximately 5,500 former shareholders of Tribune Company named as defendants in a series of cases countrywide (since consolidated into an MDL in S.D.N.Y.) brought by noteholders of the Tribune Company who financed the company's 2007 LBO (the "Noteholders") and by a Trustee representing the former unsecured creditors committee (the "Trustee") seeking to avoid approximately *\$8 billion* in transfers to the Tribune Company's public shareholders who tendered shares in the LBO. The advancement of fraudulent conveyance claims against a defendant class of disinterested public minority shareholders who neither negotiated nor structured a going private transaction presents issues of first impression in our District and Circuit Courts and is being watched carefully by industry professionals.

Entwistle & Cappucci, together with members of the Defense Committee, filed initial Phase One Motions to Dismiss certain of the claims and on September 23, 2013, presiding Judge Richard Sullivan issued an order dismissing the Noteholders' state law constructive fraudulent conveyance claims on grounds that Section 362(a)(1) of the Bankruptcy Code stays fraudulent conveyance claims by creditors for as long as the trustee is exercising its avoidance powers.

On March 29, 2016, the Second Circuit Court of Appeals issued an opinion on (i) the Noteholders' appeal of Judge Sullivan's dismissal of the state law constructive fraudulent conveyance claims in the Noteholder Action for lack of standing, and (ii) the Defense Committee's cross-appeal of Judge Sullivan's ruling that the safe-harbor in Section 546(e) of the Bankruptcy Code is inapplicable to the claims. The Second Circuit affirmed dismissal of the state law constructive fraudulent conveyance claims, holding that such claims are preempted by the safe harbor in Section 546(e) of the Bankruptcy Code.

Remaining claims continue to be actively litigated in the District and Appellate Courts.

**In re Credit Default Swaps Antitrust Litigation,**  
**No. 13-cv-04928 (U.S. Dist. Ct., S.D.N.Y.)**

The Firm represented Named Institutional Plaintiffs in this consolidated antitrust class action, brought on behalf of a class of all entities that purchased or sold credit default swaps ("CDS") directly from or to the bank defendants. The banks named as defendants in the action were the dominant CDS dealers in the United States, collectively controlling over 99 percent of American CDS trading as of early 2013. Plaintiffs alleged the bank defendants conspired to artificially inflate and maintain the spreads paid by participants in CDS trading by, among other things: (i) establishing and controlling the largest CDS-dedicated central clearinghouse that processes the vast majority of CDS trades in the United States; (ii) obstructing the ability of sufficiently capitalized CDS dealer competitors from becoming members of that clearinghouse; (iii) limiting the availability of CDS trading data by excluding market participants, including investors and other actual or potential CDS dealers, from

accessing CDS trading data; and (iv) excluding potential entrants from establishing competing platforms for CDS trading.

On September 4, 2014, the court denied in part and granted in part the defendants' motions to dismiss the complaint. The litigation proceeded with extensive documentary and deposition discovery, continued investigatory and analytical processes and work with consulting experts on highly technical CDS trading issues. Following mediation, the parties ultimately agreed to a historic settlement of all claims for *\$1.865 billion* which received final court approval in early 2016.

***In re Primary Global Research / United States v. Newman (S.D.N.Y.)***

The Firm's White Collar Practice Group represented a prominent west coast trust company in connection with high profile SEC and Department of Justice investigations concerning a criminal insider trading conspiracy referred to as the "Circle of Friends." The Government investigations were initially focused on the use of "expert networking firms" which connect analysts and traders with public-company employees and other consultants seeking payments for information. In what developed into an unprecedented level of insider-trading prosecutions, the Government alleged that fund managers and analysts at a number of prominent hedge funds and financial institutions obtained material, nonpublic information through sources at various technology companies and executed unlawful securities transactions in a nationwide conspiracy to commit securities fraud. After a complex coordination of strategy in parallel proceedings, the Firm successfully negotiated a highly favorable resolution of civil claims asserted against our client by the SEC and a complete avoidance of any criminal charges being filed by the DOJ.

**Global Crossing Estate Representative v. Winnick,**  
**No. 04-cv-2558 (U.S. Dis. Ct., S.D.N.Y.)**

Our firm regularly litigates disputes arising out of complex bankruptcy proceedings. Following the collapse of Global Crossing, Ltd. and its subsequent bankruptcy filings, E&C was appointed as Special Litigation Counsel to prosecute claims on behalf of the bankrupt estate. In this case, the Firm represented the Global Crossing Estate Representative for itself and as Liquidating Trustee of the Global Crossing Liquidating Trust. Here, we investigated and pursued claims for the avoidance and return of preferential payments, fraudulent transfers, and breaches of fiduciary duty against Global Crossing's former officers and directors, its outside auditors, and certain investment banks who participated in financings for the company during the relevant period. These parties were alleged to bear substantial responsibility for the dramatic collapse of one of the largest telecom corporations in the United States. We ultimately achieved favorable confidential settlements from all of the defendants after successful motion to dismiss briefing and extensive factual discovery conducted by the Firm.

**RELEVANT ATTORNEY RESUMES**

Securities Litigation Practice Group

*Partners*

**Andrew J. Entwistle**

Andrew J. Entwistle is a co-founding partner of the Firm and serves as its Head of Litigation and Managing Partner. Mr. Entwistle's practice principally involves the representation of public and private institutional investors and public and private corporations in complex litigation (including both the prosecution and defense of securities and antitrust cases), corporate finance and transactional matters and internal investigations.

Mr. Entwistle's litigation successes include: representation of the Colorado Public Employees' Retirement Association in *In re Royal Ahold N.V. Securities and ERISA Litigation* resulting in recovery of more than \$1.1B for his clients; acting as co-lead counsel in the MF Global litigation arising out of the loss of \$1.6B in customer funds, where Mr. Entwistle successfully worked with the SIPA Trustee and regulators to negotiate the 100 percent recovery by customers of all net equity losses (including separate recoveries totaling more than \$100m against JPMorgan and the CME); successfully co-leading the JPMorgan settlement that resulted in contemporaneously negotiated resolutions of class, claw back and regulatory claims recovering a total of \$2.243B for Madoff victims with net losses; and co-leading the ongoing Tremont litigation that resolved claw back litigation through an agreement that resulted in a \$2.9B allowed SIPA claim for Tremont customers (and the recovery of more than \$100m in additional settlements). On the defense side, Mr. Entwistle was recently appointed by Judge William Pauley as co-liaison counsel in the multi-billion dollar Tribune litigation, which successfully resulted in dismissal of the Note Holder litigation.

Mr. Entwistle and his team also regularly represent corporate boards, audit and special committees in connection with internal investigations involving potential regulatory and/or criminal issues--often in "bet the company" situations where it is particularly important for regulators to understand that the investigation is being led by a team equally familiar with prevailing in billion dollar matters from both sides of the "v".

Appointed by the late Judge Burton Lifland of the United States Bankruptcy Court for the Southern District of New York to serve on the Court's Special Mediation Panel, Mr. Entwistle has both mediated and actively litigated a number of complex bankruptcy matters including representing the Retired Employees Committee in the Outboard Marine Corp. Bankruptcy, equity holders in the American Bank Note Bankruptcy, the State of Florida in connection with the Enron Bankruptcy, acting as special litigation counsel in connection with the Global Crossing Bankruptcy, and representing investors in connection with the MF Global, Refco, Lehman, and Bernard Madoff Investment bankruptcies.

Mr. Entwistle is proud to have received the 2013 Learned Hand Award from the American Jewish Committee, the Knute Rockne Award from Hannah & Friends where he continues to serve on the board of directors, the 2016 Vision Of Hope Award from Boys Hope Girls Hope where he also

serves on the board, and the 2003 Man of the Year Award from the Catholic Big Brothers for Boys and Girls after more than a decade of service on the Board of that organization--including founding Sports Buddies New York, a partnership between the youth of New York City and athletes from the New York region's professional sports teams. Mr. Entwistle has also received special commendations from the President of the United States, the Governors of the States of Georgia and Hawaii, and the New York State Assembly. In addition to the above, Mr. Entwistle is now or has previously acted as a director on several corporate, advisory and charitable boards including acting as one of the founding board members for the Giuliani Center for Urban Leadership. In addition to membership in the Federal Bar Council and various city, county, state and national bar associations, Mr. Entwistle is a member of the National Association of Public Pension Attorneys and is an Educational Sustainer of the Council of Institutional Investors.

Mr. Entwistle has been named to the Martindale-Hubbell *Bar Register of Preeminent Lawyers*, the Order of International Fellowship, Who's Who In The World, Who's Who In America, Who's Who In The East, Who's Who In American Law, Who's Who In Practicing Attorneys, Who's Who In Emerging Leaders In America and Who's Who In Finance and Industry, and as a New York "Super Lawyer". The International Biographical Centre of Cambridge, England named Mr. Entwistle as its International Legal Professional of the Year for 2004 and inducted him into the Centre's International Order of Merit.

Mr. Entwistle acts as Northeast Regional Editor for the Defense Research Institute publication *The Business Suit* (from 1998-present), is a member of various bar and business associations and he has lectured extensively on a variety of general business law, litigation, securities, antitrust, bankruptcy and trial issues including, by way of example only: acting as a panelist on the Sarbanes-Oxley Panel at the Federal Bar Council's 2003 Annual Winter Bench and Bar Conference; as a panelist on both the Class Action Litigation and Cross Border Issues Panels at the Federal Bar Council's 2005 Conference; acting as a panelist on the Supreme Court Review Panel at the Federal Bar Council's 2008 Conference; acting as a panelist for the American Bar Association's conference entitled "Implied Repeals of the Antitrust Laws: How Far Are the Courts Willing to Go?"; and co-chairing a New York State Bar Association Panel on Alternative Dispute Resolution for the Trial Practice Committee of the State Bar's Commercial and Federal Litigation Section. Mr. Entwistle is frequently interviewed by journalists, including interviews on CNN and CNBC on developing legal and business issues of the day; by the Wall Street Journal and New York Times; and by the Insider Exclusive about topics including the Bernard Madoff scandal, Wall Street's Meltdown, the American Financial System, and the Fight to Save Tator's Dodge. In 2005 the Texas State Bar Association asked Mr. Entwistle to videotape a talk on disaster-related issues to assist lawyers and other professionals in the wake of Hurricane Katrina. The videotape also received broad distribution by the State of Mississippi and State of Texas Governors' offices.

Mr. Entwistle is also the author of numerous articles and publications on various legal and business topics, including:

*"American Pipe's Rule Tolling the Statute of Limitations Does Not Apply to the Three-Year Statute of Repose in the Securities Act"*; *"Non-Party Class Members Are Not Permitted To Intervene and Use the 'Relation-Back' Doctrine of Rule 15(c) To Revive Claims Already Extinguished by*

Expiration of the Statute of Repose”; and “Bankruptcy Code § 546(e) Exempts from Avoidance Transfers Made to or for the Benefit of a Financial Institution in Connection with a Securities Contract, Even if the Transferee Is an Intermediary Conduit,” The Business Suit, DRI, August 2013;

“Piercing the Corporate Veil and Indemnification Claims Are Not Mutually Exclusive”; and “Allegation That a Party Entered into an Agreement with No Intent to Fulfill Its Contractual Obligations Does Not Negate The Agreement’s Arbitration Clause,” The Business Suit, DRI, April 2013;

“Second Circuit Vacates Judgment of the United States District Court for the District of Connecticut Dismissing a Breach of Contract Action for Improper Venue Based upon a Forum Selection Clause”; and “Second Circuit Construes the Meaning Of ‘Customers’ Under FINRA Arbitration Code,” The Business Suit, DRI, March 2012;

“Revisiting Discovery ‘Best Practices’ and Penalties,” For The Defense, DRI, August 2010;

“Unconscionable Terms Can Be Waived in Arbitration Agreement,” The Business Suit, DRI, June 2010;

“Computer Hacker Can Be Sued for Securities Fraud, Second Circuit Rules”; and “New York Appellate Court Reinstates Complaint Based on Adverse Interest Exception to *In Pari Delicto* Doctrine,” The Business Suit, DRI, January 4, 2010;

“Broad Arbitration Agreement Authorizes Arbitrator to Sanction A Party’s Bad Faith Conduct; “Absent Class Members Not Entitled Full Access to Attorney’s Files”; and “Intentional Spoliation of Evidence May Form Basis for Fraud Claims,” The Business Suit, DRI, August 25, 2009;

“Affiant’s ‘To My Knowledge’ Statement Sufficient to Defeat Summary Judgment”; and “Class Action Waiver Clause in Arbitration Agreement is Unenforceable,” The Business Suit, DRI, April 13, 2009;

“*Staehr*” Hikes Burden of Proof to Place Investor on Inquiry Notice,” New York Law Journal, December 15, 2008;

“Potential Securities Fraud: ‘Storm Warnings’ Clarified,” New York Law Journal, October 23, 2008;

“*Wagoner*’ In Pari Delicto Defenses Aid Outside Auditors,” New York Law Journal, August 29, 2008;

“Second Circuit Clarifies Pleading Requirements for Scienter in Securities Fraud Class Actions”; and “No Forum Shopping in Insurance Dispute, Second Circuit Says; New York Sets Aside Verdict Imposing Alter Ego Liability,” The Business Suit, DRI, August 11, 2008;

“Long-Arm Statute Does Not Confer Jurisdiction on Foreign Libel Litigant”; and “Crime-Fraud Exception Pierces Attorney-Client Privilege; New York May Seek Own Separate Arbitration,” The Business Suit, DRI, May 16, 2008;

“Approaches to Asset Recovery For Pension Fund Subprime Exposure,” The NAPPA Report, February 2008;

“Injunction Against NHL’s Transfer of Website Denied”; and “Republic of Congo’s Oil Company Immune from RICO Charges; Discovery of Anonymous Bloggers Denied,” The Business Suit, DRI, December 20, 2007;

“Ex Parte Communications with Former Employee May Not Merit Disqualification”; and “Accounting Firm Not Subject to Federal Jurisdiction; Statements Made by Employer Privileged,” The Business Suit, DRI, September 6, 2007;

“Accounting Firm Has Affirmative Duty; New York’s Highest Court Rejects Insured’s Single-Occurrence Theory,” The Business Suit, DRI, May 2, 2007;

“Imputation Doctrine No Longer Protects Auditors,” The Business Suit, DRI, August 2006;

“Merchant Lacks Standing to Assert Antitrust Claims Against Credit Card Companies for Chargeback Fees,” The Business Suit, DRI, December 22, 2006;

“Thompson Memorandum’s Attorneys’ Fees Provision Held Unconstitutional,” The Business Suit, DRI, August 2006;

“Beer Supplier and Distributor Must Arbitrate Dispute Despite New York Law to the Contrary,” The Business Suit, DRI, January 5, 2006;

“Corporate Exposure and Employment Practices Liability,” Mealey’s Reinsurance Conference, November 2000;

“Distinguishing Valid Fraud Claims From Trumped Up Breach of Contract Actions,” The Business Suit, DRI, Winter 2000;

“New York Clarifies Its ‘Borrowing Statute’, New Jersey’s ‘New Business’ Rule Declared Alive and Well, Second Circuit Finds Former Corporate Executives Entitled to Fifth Amendment Privilege,” The Business Suit, DRI, January 2000;

“The Fine Line Between An Auditor’s Recklessness and Intent to Deceive,” The Business Suit, DRI, Summer 1999;

“What a Web We Weave . . . Jurisdiction in Web-Related Litigation,” The Business Suit, DRI, Winter 1998;

“Red Light, Green Light, 1-2-3: Stop and Go Traffic on the Information Superhighway,” The Business Suit, DRI, Winter 1998;

“Due Deference -- The Supreme Court Confirms the Post-Daubert Discretion of the Trial Judge as the ‘Gatekeeper,’” The Business Suit, DRI, Winter 1998;



“The Inevitable Disclosure Doctrine and the Economic Espionage Act: Emerging Weapons In the Battle to Protect Trade Secrets from Theft and Misappropriation,” The Business Suit, DRI, Spring 1998;

“Covenants Not to Compete and the Duty of Loyalty,” (DRI Spring 1997 Conference Chicago);

“New York Business Law Update 1997,” (New York State Society of CPA’s);

“New York Business Law Update 1998,” (New York State Society of CPA’s);

“Excess Insurers Late Notice and Prejudice, American Home Puts The Issue to Rest,” New York Law Journal, July 1993; and

“Managing the Risks of Accounting Liability, A Legal Perspective,” New York Society of CPA’s, 1993, 1995, 1997 and 1998.

Mr. Entwistle is a graduate of Notre Dame University and the University of Syracuse College of Law.

**State Bar Admissions**

New York, New Jersey, Illinois, Texas, Colorado, District of Columbia, Pennsylvania

**Court Admissions**

U.S. Supreme Court; U.S. Court of Appeals for the Second, Third, Fourth, Fifth, Seventh and Eighth Circuits; U.S. District Court for the Eastern, Northern and Southern Districts of New York; U.S. District Court for the District of New Jersey; U.S. District Court for the Northern District of Illinois; U.S. District Court for the District of Colorado; U.S. District Court for the Eastern District of Michigan; U.S. District Court for the Western and Southern District of Texas; and all courts in the states of New York, New Jersey, Illinois, Texas, Colorado, and Pennsylvania and the District of Columbia

**Professional Associations**

Board of Directors of Hannah & Friends  
Board of Directors of the Giuliani Center for Urban Leadership  
Federal Bar Council  
National Association of Public Pension Attorneys  
Educational Sustainer of the Council of Institutional Investors  
Northeast Regional Editor for the Defense Research Institute - The Business Suit

**Martindale-Hubbell Rating**

AV Preeminent 5.0 out of 5

## Vincent R. Cappucci

Vincent R. Cappucci is a co-founding partner of the Firm and is head of its Securities Litigation and Corporate Transactional Litigation Practice. Throughout the years, Mr. Cappucci has served as lead counsel in many high-profile securities class actions, corporate transaction-related litigation, derivative litigations as well as individual actions representing the nation's largest public pension systems, investment advisory firms, major hedge funds and proprietary trading firms. He has a distinguished record of success in securities litigation, having prosecuted cases in his career which have resulted in recoveries in the billions of dollars. His experience includes a multitude of complex trials, arguments in numerous state and federal appellate courts, appeals to the U.S. Supreme Court, and mediation and alternative dispute resolution.

Mr. Cappucci has been named to the Martindale-Hubbell *Bar Register of Preeminent Lawyers*, for his expertise in securities litigation. In October 2010, Mr. Cappucci appeared in *Avenue Magazine's* "Legal Elite" list of top litigation attorneys in New York City. Mr. Cappucci is also a Fellow of the *Litigation Counsel of America*, a highly selective honorary society for members of the American Bar who have demonstrated excellence and accomplishment in trial and appellate advocacy. Mr. Cappucci has for many consecutive years been named in *Best Lawyers*, *The Best Lawyers in America*, *New York Magazine's New York's Top Attorneys* and *Super Lawyers*. He was recently listed in *The New York Times Top Lawyers 2016*.

Mr. Cappucci has served as a faculty member for the National Conference on Corporate Governance and Equity Offerings sponsored by the UCLA Anderson School of Management and University of California Rady School of Management. He has also addressed legal practitioners and financial professionals before the National Association of Public Pension Attorneys, Council of Institutional Investors and The American Conference Institute (Trying and Defending Securities Class Actions), and before International Institutional Investors on Corporate Governance and Shareholder litigation matters at annual conferences of the International Corporate Governance Network ("ICGN"), where he also served on the Committee on Executive Remuneration.

Mr. Cappucci has lectured before associations of the bar and various professional organizations, providing expert commentary on a wide range of securities markets and corporate governance issues. Mr. Cappucci addressed law professors from across the country in a discussion on The Future of Securities Fraud Litigation sponsored by the RAND Institute for Civil Justice and recently moderated a distinguished roundtable discussion with law faculty and a Vice Chancellor of the Delaware Chancery Court concerning recent decisional authority involving corporate transactional fairness and process.

In addition to membership in various State and National Bar Associations, Mr. Cappucci currently sits on the *Second Circuit Courts Committee* of the Federal Bar Council and is a member of the New York State Bar Association, the American Bar Association and the Association of Trial Lawyers of America. He is also a member of the American Bar Association *Section of Antitrust Law*.

Mr. Cappucci received his undergraduate degree from Fordham University with a B.S. in Accounting and his law degree from Fordham University School of Law. In 2007, he was named a

Fordham Law School Centennial Founder, served as past Chair of the Law Advisory Committee, and currently is a member of the Dean's Planning Council. In 2013, Mr. Cappucci became a member of the Board of Trustees of Fordham University.

In November, 2011 Mr. Cappucci was elected to the Board of Governors of the Columbus Citizens Foundation, which through its charitable works has disbursed millions of dollars in scholarships and grants supporting the educational goals of deserving young students nationally.

Mr. Cappucci is the author of numerous articles appearing in a host of publications, including:

"Revlon's Shareholder Protections May Be Purely Cosmetic," Law360, February 2015;

"Seeking Subprime Solutions: Fed Action, Legislation and Litigation Address the Subprime Mess," The 2007 Global Securitization Guide, May 2008;

"Legislative and Regulatory Developments in U.S. Securitizations," The 2007 Global Securitization Guide, (May 2007);

"Pay, Performance and Proxies: The Latest in Executive Compensation," Institutional Investor Fund Management Legal & Regulatory Report, March 2007;

"Shareholder Activism and the Use of Litigation to Accomplish Investment Goals," Institutional Investor Fund Management Legal & Regulatory Report, April 2006;

"Corporate Governance: 2005 in Review," Institutional Investor, 2005 Compliance Report;

"Securities Class Actions: Settlements," The Review of Securities & Commodities Regulation, October 2003;

"Hot Topics in Advertising Law: Investor Fraud," The Association of the Bar of the City of New York, October 22, 2003;

"Did I Really Say That? The Truth Behind the DaimlerChrysler Merger," NAPPA Report, November 2003;

"Beyond the Sarbanes-Oxley Bill: Additional Measures to Increase Corporate Accountability and Transparency," NAPPA Report, September 2002;

"Casino Law Is Consistent With Equal Protection," New York Law Journal, March 20, 2002;

"Misreading '*Gustafson*' Could Eliminate Liability Under Section 11," New York Law Journal, September 22, 1997;

"Liability for Excessive Executive Compensation," The Corporate Governance Advisor, March/April 1997;

“Must Reliance Be Proven To Certify A Class?,” New York Law Journal, August 30, 1996;

“Class Action Lawsuits and Securities Fraud: A Plaintiff Lawyer’s View of the Litigation Reform Act,” Securities Industry News, October 7, 1996; and

“Conflicts Between Rule 23 And Securities Reform Act,” New York Law Journal, April 2, 1996.

**State Bar Admissions**

New York

**Court Admissions**

U.S. Supreme Court; U.S. Court of Appeals for the Second, Third, Fifth, Seventh, Eighth and Ninth Circuits; U.S. District Court for the Eastern, Northern and Southern Districts of New York; U.S. District Court of the Central District of Illinois; U.S. District Court for the Eastern District of Michigan; and all courts of the State of New York

**Professional Associations**

Federal Bar Council

New York State Bar Association

National Association of Securities Class Action Attorneys

Association of the Bar of the City of New York

American Bar Association

Association of Trial Lawyers of America

Fordham University School of Law: Dean’s Law Advisory Committee and Law School Planning Committee

Litigation Counsel of America

**Martindale-Hubbell Rating**

AV Preeminent 5.0 out of 5

## **Arthur V. Nealon**

Arthur V. Nealon has been a partner in the Firm since 2004. He concentrates his practice on highly complex commercial, securities, employment and white-collar criminal matters. He has represented corporations, partnerships and individuals at trials and in appeals in federal and state courts and in arbitration proceedings at the AAA, NYSE and NASD. A graduate of Columbia College and Columbia Law School, Mr. Nealon previously served as an Assistant to the United States Special Prosecutor and an Assistant District Attorney for New York County.

Mr. Nealon has represented plaintiffs and defendants in securities, accounting and employment litigation, arbitration and mediation. He has also defended professional malpractice claims against attorneys, physicians and accountants and defended individuals accused of securities and financial crimes in federal and state court. From 2004 to 2009, he co-led a team that successfully prosecuted and settled hundred-million dollar claims arising out of the bankruptcy of Global Crossing, Ltd. In 2008 to 2011, he co-led a team that successfully settled derivative claims on behalf of a liquidated Bear Stearns investment fund. He is currently involved in resolving derivative and class claims on behalf of investors injured in connection with the fraudulent investment schemes of Bernard L. Madoff and others, with recoveries to date exceeding \$1 billion.

From 2010 to 2013 and 2015 to 2018, he has served on the New York City Bar Association's "Committee on the Judiciary." The Committee on the Judiciary evaluates candidates for election and appointment to judicial office in the Federal and State Courts in New York City. The Committee has been in existence for over 140 years. It seeks to ensure that judicial candidates meet high standards of professional competence and integrity, and are selected based on a merit standard.

### **State Bar Admissions**

New York

### **Court Admissions**

U.S. Supreme Court; U.S. Courts of Appeal for the Second, Fifth, Seventh and District of Columbia Circuits; U.S. District Courts for the Eastern, Northern and Southern Districts of New York and the Central District of Illinois; and all courts of the State of New York

### **Professional Associations**

American Bar Association

Association of the Bar of the City of New York (Committees: Judiciary, 2010 – 2013; 2015-2018; State Courts of Superior Jurisdiction, 1990-93; Military Justice and Military Affairs, 1985-88)

D.C. Bar Association

Federal Bar Council

### **Martindale-Hubbell Rating**

AV Preeminent 5.0 out of 5

**Robert N. Cappucci**

Robert N. Cappucci, a partner of the Firm, received his undergraduate degree from Fordham University, graduating *cum laude* and *in cursu honorum*. He received his law degree from Fordham University School of Law, where he was Articles Editor of the Fordham International Law Journal. Mr. Cappucci is also the author of *Amending the Treatment of Defense Production Enterprises Under the U.S. Exon-Florio Provision: A Move Toward Protectionism or Globalism?*, 16 Fordham Int'l L.J. 652 (1993), which addresses international mergers and acquisitions, discusses the United States Treasury's Committee on Foreign Investment in the U.S. (CFIUS) and has been cited by the Federal Communications Law Journal in *Too Much Power, Too Little Restraint: How the F.C.C. Expands Its Reach Through Unenforceable and Unwieldy "Voluntary" Agreements*, 53 Fed. Comm. L.J. 49, 51 (2000). Mr. Cappucci concentrates his practice in the area of securities litigation and supervises the Firm's client reporting program. He has particular expertise in issues impacting the Firm's hedge fund and institutional trading firm client base.

Mr. Cappucci's recent litigation successes include: serving as a member of Co-Lead Counsel in *In re Tremont Securities Law, State Law and Insurance Litigation*, Case No. 1:08-cv-11117 (S.D.N.Y.) (resulting in the distribution of proceeds based upon a \$2.9 billion claim in the Bernard L. Madoff Investment Securities ("BLMIS") bankruptcy and recovery of more than \$100 million in additional settlements); and acting as a member of Co-Lead Counsel in *Paul Shapiro v. J.P. Morgan Chase & Co.*, Case Nos. 11 Civ. 8331 (CM)(MHD) and 11 Civ. 7961 (CM) (S.D.N.Y.) (resulting in the settlement of class, clawback and regulatory claims worth \$2.243 billion). Mr. Cappucci was also one of a handful of attorneys granted access to Bernard Madoff post-sentencing, at which time Mr. Cappucci personally interviewed Madoff in order to obtain further admissions regarding the BLMIS Ponzi scheme. Most recently, in *In re Allergen, Inc. Proxy Violation Securities Litigation*, Case No. 8:14-cv-02004-DOC-KES (C.D. Cal.), Mr. Cappucci was instrumental in securing a \$40 million settlement from Valeant Pharmaceuticals International, Inc., Pershing Square Capital Management, L.P. and related defendants on behalf of investors in Allergen derivative instruments that were damaged by the defendants' alleged insider trading scheme.

Mr. Cappucci is a member of the Commercial and Federal Litigation Sections of the New York State Bar Association and a member of the American Bar Association, Federal Bar Council, Association of the Bar of the City of New York and Association of Trial Lawyers of America.

Before entering private practice, Mr. Cappucci interned with the Honorable John E. Sprizzo, United States District Court, Southern District of New York.

**State Bar Admissions**

New Jersey and New York

**Court Admissions**

U.S. Supreme Court; U.S. Court of Appeals for the Third and Eighth Circuits; U.S. District Court for the District of New Jersey; U.S. District Court for the Eastern and Southern Districts of New York; U.S. District Court for the Eastern District of Michigan; and all state courts of New York and New Jersey

**Professional Associations**

Commercial and Federal Litigation Sections of the New York State Bar Association  
Litigation Section - American Bar Association  
Federal Bar Council  
Association of the Bar of the City of New York  
Association of Trial Lawyers of America

**Martindale-Hubbell Rating**

AV Preeminent 5.0 out of 5

## **Jonathan H. Beemer**

Jonathan H. Beemer concentrates his practice on securities litigation and complex commercial disputes. Mr. Beemer has represented both underwriters and institutional investors in direct and class actions in federal and state courts. He has also represented parties in bankruptcy-related litigation, and litigation involving antitrust, False Claims Act and civil RICO claims.

Mr. Beemer graduated from Oberlin College with a B.A. in History. He received his J.D. from Brooklyn Law School, where he was the managing editor of the Brooklyn Law Review. Mr. Beemer served as a law clerk to the Honorable Marilyn Dolan Go, United States Magistrate Judge for the Eastern District of New York.

Mr. Beemer has co-authored the following articles:

“Post *Morrison*: The Global Journey Towards Asset Recovery,” NAPPA White Paper (certain sections), June 2016;

“‘Wagoner’ In Pari Delicto Defenses Aid Outside Auditors,” New York Law Journal, August 29, 2008;

“Approaches to Asset Recovery For Pension Fund Subprime Exposure,” The NAPPA Report, February 2008.

### **State Bar Admissions**

New York

### **Court Admissions**

U.S. Court of Appeals for the Second, Third, Fifth and Sixth Circuits; U.S. District Court for the Southern and Eastern Districts of New York; and all courts of the State of New York



**Joshua K. Porter**

Joshua K. Porter has represented financial institutions, broker-dealers, underwriters, investors and individuals in civil and white-collar matters in federal and state courts. He has also represented parties in bankruptcy litigations and proceedings before self-regulating organizations, and in litigation involving ERISA, the Foreign Corrupt Practices Act and the Commodities Exchange Act. Mr. Porter graduated from Boston College with a B.A. in English and received his J.D. from the University of Denver Sturm College of Law.

**State Bar Admissions**

New York

**Court Admissions**

U.S. District Court for the Southern and Eastern Districts of New York; and all courts of the State of New York

## **Brendan J. Brodeur**

Brendan J. Brodeur's practice includes a range of securities and complex commercial litigation matters involving allegations of fraud, deceptive business practices, and breach of contract. In addition to prosecuting claims on behalf of institutional investors, he advises and defends financial services and biotechnology firms in response to governmental investigations of suspected violations of securities laws.

After earning a B.A. in Biology from Tufts University College of Arts and Sciences, Mr. Brodeur spent two years developing vaccines at a not-for-profit biomedical research institute. He then earned a J.D. *cum laude* from Northwestern University School of Law, where he was a Senior Articles Editor for the Journal of Criminal Law and Criminology. Prior to joining E&C, Mr. Brodeur worked for five years as a litigation associate at Skadden, Arps, Slate, Meagher & Flom LLP.

### **State Bar Admissions**

New York and Massachusetts

### **Court Admissions**

All state courts of the Commonwealth of Massachusetts and the State of New York, U.S. District Court for the District of Massachusetts, U.S. District Courts for the Southern and Eastern Districts of New York, and the U.S Court of Appeals for the First Circuit.

*Associates*

**Andrew Sher**

Andrew Sher concentrates his practice on securities litigation and complex commercial disputes on behalf of institutional and individual investors in federal court. Mr. Sher's work involves legal research and drafting complaints, letters and motions primarily regarding securities fraud cases. In addition, he has extensive experience reviewing documents and preparing for the depositions of senior management at large public companies. During his time at E&C, Mr. Sher has been an active participant in the *Cobalt International Energy, Inc. Securities Litigation* and the *Foreign Exchange Benchmark Rates Antitrust Litigation*.

Mr. Sher graduated from the University of Missouri with a B.S. in finance, *magna cum laude*, and received his J.D. from the Benjamin N. Cardozo School of Law, *cum laude*. During law school, Mr. Sher served as an Articles Editor for the *Cardozo Journal of Conflict Resolution*. While obtaining his law degree, Mr. Sher interned for the litigation counsel of a Fortune 500 company, as well as both federal and state administrative agencies. Prior to joining E&C, Mr. Sher worked as a consultant assisting a global financial institution comply with regulatory requirements.

Mr. Sher has authored the following article:

“FRCP 26 vs. FRE 408: Why Settlement Negotiations Should Be Privileged Against Third-Party Discovery,” 16 *Cardozo J. Conflict Resol.* 295 (2014).

**State Bar Admissions**

New York

**Court Admissions**

All state courts of the State of New York; U.S. District Court for the Southern District of New York

## **Sean Riegert**

Mr. Riegert focuses on securities litigation on behalf of institutional clients in federal court. More specifically, Mr. Riegert is involved in preliminary legal research, drafting complaints, and all aspects of the discovery process. During his time at the Firm, Mr. Riegert has been involved in *Cobalt International Energy, Inc. Securities Litigation* and *San Antonio Fire & Police Pension Fund et al. v. Dole Food Company, Inc. et al.*

Mr. Riegert graduated from Texas Tech University with dual degrees in Political Science and History, *with Honors*, and received his J.D. from the Benjamin N. Cardozo School of Law. During law school, Mr. Riegert served as an Articles Editor for the *Cardozo Public Law, Policy and Ethics Journal*. Prior to joining the firm, Mr. Riegert worked at a global intelligence firm specializing in complex international asset recovery and judgment enforcement matters in Asia-Pacific region.

Mr. Riegert has authored the following article:

“Adopting Upward Pricing Pressure Indices in FTC Merger Simulation Analysis: Tales from the US Airline Industry,” 15 *Cardozo Pub. L. Pol’y & Ethics J.* 853 (2015).

### **State Bar Admissions**

New Jersey

### **Court Admissions**

All state courts of the State of New Jersey

**Rebecca Arnall**

Rebecca Arnall concentrates her practice on securities litigation and complex commercial disputes on behalf of institutional and individual investors. Ms. Arnall received a J.D. from Notre Dame Law School in 2016, where she was the Executive Production Editor of the Journal of International and Comparative Law and participated in Notre Dame's Concannon Program in International Law in London. She received a B.A. in English from the University of Georgia in 2013. Prior to joining E&C, Ms. Arnall clerked for the Honorable Terrence J. McGann in the Circuit Court of Montgomery County, Maryland in 2016.

**State Bar Admissions**

New York

**Court Admissions**

All state courts of the State of New York

**Jessica Margulis**

Jessica Margulis represents institutional and individual investors in connection with appraisal proceedings, securities litigation, and complex commercial disputes. She graduated from Washington University in St. Louis with a B.A. in English Literature and received her J.D. from Fordham University School of Law. During law school, Ms. Margulis served as a Notes and Articles Editor for Fordham's Intellectual Property, Media, and Entertainment Law Journal.

**State Bar Admissions**

New Jersey and New York

**Court Admissions**

All state courts of the State of New Jersey and New York

**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**ENTWISTLE & CAPPUCCI LLP**  
**TIME REPORT**  
**From Inception Through Dec. 31, 2018**

<b>Name</b>	<b>Rate</b>	<b>Hours</b>	<b>Lodestar</b>
<b><i>Partners</i></b>			
Entwistle, Andrew J.	\$ 1,150.00	5,069	\$ 5,829,350.00
Cappucci, Vincent R.	\$ 1,150.00	335.50	\$ 385,825.00
Nealon, Arthur V.	\$ 950.00	598.90	\$ 568,955.00
Beemer, Jonathan H.	\$ 875.00	6,518.30	\$ 5,703,512.50
Cappucci, Robert N.	\$ 875.00	135.50	\$ 118,562.50
Porter, Joshua K.	\$ 875.00	3,137.80	\$ 2,745,575.00
Brodeur, Brendan J.	\$ 700.00	14.10	\$ 9,870.00
<b><i>Senior Counsel and Associates</i></b>			
Cortez, Jordan A.	\$ 750.00	314.40	\$ 235,800.00
Sertial, Heather M.	\$ 475.00	146.90	\$ 69,777.50
Sgro, Adam W.	\$ 475.00	136.60	\$ 64,885.00
Sher, Andrew M.	\$ 475.00	2,358.90	\$ 1,120,477.50
Riegert, Sean R.	\$ 450.00	4,081.10	\$ 1,836,495.00
Arnall, Rebecca H.	\$ 450.00	334.40	\$ 150,480.00
Babrisky, Ashley S.	\$ 375.00	916.80	\$ 343,800.00
Park, Alison L.	\$ 375.00	15.30	\$ 5,737.50
James, Abigail L.	\$ 325.00	621.70	\$ 202,052.50
Panchernikov, Edward A.	\$ 325.00	155.60	\$ 50,570.00
Schlow, Alexander F.	\$ 325.00	286.60	\$ 93,145.00
Sena, Jarett N.	\$ 325.00	186.30	\$ 60,547.50
<b><i>Case Managers and Paralegals</i></b>			
Gayle, Madeline B.	\$ 275.00	2,122.30	\$ 583,632.50
Dixon, Racquel C.	\$ 275.00	19.70	\$ 5,417.50
Casey, Neave R.	\$ 250.00	1,311.80	\$ 327,950.00
Wells, Raven S.	\$ 250.00	35.20	\$ 8,800.00
Childress, Nicholas J.	\$ 250.00	23.90	\$ 5,975.00
Cappucci, Jr., Vincent R.	\$ 225.00	57.20	\$ 12,870.00

<b>Name</b>	<b>Rate</b>	<b>Hours</b>	<b>Lodestar</b>
<b><i>Case Managers and Paralegals (cont'd)</i></b>			
Ahern, Danielle S.	\$ 190.00	209.40	\$ 39,786.00
Williams, Katherine L.	\$ 190.00	136.40	\$ 25,916.00
Wells, Valoris D.	\$ 190.00	79.60	\$ 15,124.00
Cappucci, Andrew J.	\$ 190.00	77.30	\$ 14,687.00
Fleming, Faith E.	\$ 190.00	32.40	\$ 6,156.00
<b><i>Litigation Support</i></b>			
Ivanova, Stella Y.	\$ 275.00	39.10	\$ 10,752.50
Davis, Kaitlin S.	\$ 150.00	434.50	\$ 65,175.00
Martinez, Pamela A.	\$ 150.00	325.00	\$ 48,750.00
Hernandez, Eduardo	\$ 150.00	433.97	\$ 65,095.50
Cappucci, Roger S.	\$ 125.00	82.10	\$ 10,262.50
<b>Total</b>		<b>30,783.57</b>	<b>\$ 20,841,767.00</b>



**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**ENTWISTLE & CAPPUCCI LLP**  
**EXPENSE REPORT**  
**From Inception Through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT</b>
Conference Call Hosting	\$468.54
Court Fees	\$1,163.60
Deposition & Meeting Hosting	\$2,780.38
Experts & Consultants	\$8,600.00
Internal Copying & Printing	\$8,355.10
Local Transportation	\$14,984.86
On-Line Legal Research*	\$230,080.75
Out-of-Town Travel**	\$59,591.99
Outside Litigation Support	\$8,646.75
Postage & Express Mail	\$5,214.22
<i>Business Wire</i> Notice Costs	\$905.00
Service of Process	\$1,686.41
Contributions to Litigation Fund	\$390,000.00
Litigation Fund Unreimbursed Expenses in Excess of Contributions	\$352,837.05
<b>TOTAL EXPENSES:</b>	<b>\$1,085,314.65</b>

\* The charges reflected for on-line research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

\*\* Travel includes hotels in the following high-cost cities capped at \$350 per night: New York, NY, Washington DC, Atlanta, GA; and the following lower-cost cities capped at \$250 per night: Houston, TX.

**EXHIBIT 4**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**CONTRIBUTIONS TO AND  
EXPENDITURES FROM THE LITIGATION FUND  
For Expenses Incurred from Inception Through December 31, 2018**

**CONTRIBUTIONS TO THE LITIGATION FUND:**

<b>Firm</b>	<b>Amount</b>
Bernstein Litowitz Berger & Grossmann LLP	\$ 390,000.00
Entwistle & Cappucci LLP	\$ 390,000.00
Kessler Topaz Meltzer & Check, LLP	\$ 220,000.00
<b>TOTAL:</b>	<b>\$ 1,000,000.00</b>

**EXPENSES INCURRED BY THE LITIGATION FUND:**

<b>Category of Expense</b>	<b>Amount Expended</b>
Court Reporters and Transcripts	\$ 46,440.55
Mediation Fees	\$ 88,123.50
Experts & Consultants	\$ 655,379.66
Special Counsel	\$ 91,280.52
Outside Copying	\$ 600.64
<b>Total Expenses Paid from the Litigation Fund:</b>	<b>\$ 881,824.87</b>
<b>Deferred / Outstanding Costs</b>	
Court Reporters & Transcripts	\$ 44,474.18
Electronic Document Management	\$ 150,523.50
Experts & Consultants	\$ 276,014.50
<b>Total Deferred / Outstanding Costs:</b>	<b>\$ 471,012.18</b>
<b>Litigation Fund Unreimbursed Expenses in Excess of Contributions</b>	<b>\$ 352,837.05</b>

# EXHIBIT 4B

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF DAVID R. STICKNEY IN SUPPORT OF LEAD  
COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION EXPENSES, FILED ON BEHALF  
OF BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**

I, DAVID R. STICKNEY, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm of Bernstein Litowitz Berger & Grossmann LLP. I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the above-captioned class action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm, as co-Lead Counsel and counsel for Plaintiffs St. Lucie County Fire District Firefighters' Pension Trust Fund and Fire and Police Retiree Health Care Fund, San Antonio, was involved in all aspects of prosecution and resolution of the Action, as set forth in the Joint Declaration of Andrew J. Entwistle and David R. Stickney in Support of: (I) Lead Plaintiffs' Motion for Final Approval of Class Action Settlements and Plan of Allocation, and (II) Lead Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Litigation Expenses.

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in the litigation, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report, and time for timekeepers who had worked only a *de minimus* amount of total time on this case (*e.g.*, less than 10 hours) was also removed from the time report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 25,347.50. The total resulting lodestar for my firm is \$12,829,641.25. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's present hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications nationwide. *See, e.g., Hefler v. Wells Fargo & Co.*, No. 16-cv-

05479 JST (N.D. Cal. Nov. 13, 2018), ECF No. 240-5; *In re Wilmington Trust Sec. Litig.*, No. 10-cv-00990-ER (D. Del. Sept. 17, 2018), ECF No. 836-4; *In re Allergan, Inc. Proxy Violation Sec. Litig.*, No. 14-cv-02004 DOC-KESx (C.D. Cal. Apr. 26, 2018), ECF No. 619-4; *In re CTI Biopharma Corp. Sec. Litig.*, No. 16-cv-002116-RSL (W.D. Wash. Dec. 28, 2017), ECF No. 110-5.

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this case is set forth below:

**Max Berger** (136 hours): Mr. Berger, one of the Firm's founding partners, was actively involved in case strategy and oversight of the prosecution of the claims. Among other aspects, he participated in the settlement process and strategies in advance of the mediation and in the continued negotiations.

**David Stickney** (1,859.75 hours): Mr. Stickney, one of the Firm's partners, was primarily responsible throughout the Action for supervising the day-to-day handling and strategy of the litigation and oversaw all aspects of case management and prosecution. Mr. Stickney was involved in drafting and reviewing the Consolidated Amended Class Action Complaint and the Second Consolidated Amended Class Action Complaint, all pleadings, all briefing related to Defendants' motions to dismiss, and all appellate briefs. Mr. Stickney also oversaw both affirmative discovery of Defendants and third parties. He was responsible for strategy relating to case management issues. Mr. Stickney participated in preparing Plaintiffs' mediation submissions and attended and actively participated in the mediation and continued negotiations. He also was involved in all aspects of the class certification process and appeals. He was also one of the attorneys who regularly communicated with Plaintiffs St. Lucie County Fire District Firefighters' Pension Trust Fund ("St. Lucie") and Fire and Police Retiree Health Care Fund, San Antonio ("San Antonio"), and prepared for and defended the deposition of Plaintiffs' Expert, Michael Hartzmark. Mr. Stickney also prepared for and took numerous key depositions, including of Lucy Allen (Cobalt's expert), Joseph Bryant (a Defendant and Cobalt's Chief Executive Officer), Jay Perlman (Director of Global Investigations and Compliance for Navigant Consulting), and Amy Riella (Attorney at Vinson & Elkins). Mr. Stickney also oversees the notice and claims process.

**Gerald Silk** (314.5 hours): Mr. Silk, one of the Firm's partners, was primarily responsible for analyzing plaintiffs' claims, conducting the initial investigation, and preparing the initial complaint. He also worked with Mr. Stickney in advising on case

analysis and strategy throughout the litigation. Among other aspects, he was involved in developing strategies for prosecuting the case and also was actively involved in the settlement negotiations.

**Avi Josefson** (66.75 hours): Mr. Josefson, one of the Firm's partners, was primarily responsible for the investigation and initial analysis of the claims and preparing and revising the initial complaint. Mr. Josefson was also actively involved in advising San Antonio and St. Lucie about the Action and the strengths and weaknesses of the potential claims.

**Jonathan Uslaner** (2,803.5 hours): Mr. Uslaner, one of the Firm's partners, was responsible throughout the Action for supervising the day-to-day handling of the litigation. Mr. Uslaner was involved in drafting and reviewing the Consolidated Amended Class Action Complaint and the Second Consolidated Amended Class Action Complaint, all pleadings, all briefing related to Defendants' motions to dismiss, and various meet and confer correspondence. He worked closely with investigators and experts throughout the litigation and oversaw both affirmative discovery of Defendants and third parties, including arguing discovery disputes on behalf of the Plaintiffs. Mr. Uslaner participated in preparing Lead Plaintiffs' mediation submission and attended and actively participated in the mediation. Mr. Uslaner also prepared for and took numerous key depositions, including: Van Whitfield (Cobalt's Chief Executive Officer/former Chief Operating Officer); John Wilkirson (a Defendant and Cobalt's Chief Financial Officer); Chris Rowley (Risk Advisory Group); Alison Taylor (Control Risks Group); Jeremy Maltby (Attorney at O'Melveny & Myers); Samuel Gillespie (former Cobalt owner and consultant); and Edward Wesneski (RBC Capital representative). Mr. Uslaner also defended the depositions of James Bounds (Executive Director of Plaintiff San Antonio) and Ignatius Spera (District Chief for Plaintiff St. Lucie), and multiple investment advisors, including David M. Hulme (Managing Director of Advent Capital Management/for St. Lucie), Louis Farrell Crane (President of Energy Opportunities Capital Management/for San Antonio), and Michael Opre (Portfolio Manager for SSI Investment Manager/for St. Lucie). Mr. Uslaner also oversees the notice and claims process.

**Adam Wierzbowski** (337.25 hours): Mr. Wierzbowski, one of the Firm's partners, was principally responsible for the initial analysis and investigation into the underlying allegations, including communications with the Firm's investigators and clients.

**Brandon Marsh** (2,394.75 hours): Mr. Marsh was involved in all aspects of the case following consolidation, including preparing the Consolidated Amended Class Action Complaint and the Second Consolidated Amended Class Action Complaint, opposing the motions to dismiss, drafting initial disclosures and fact discovery requests, and various meet and confer correspondence. Mr. Marsh assisted in drafting, reviewing, and editing all or nearly all documents that were filed with the Court before and during

discovery. Mr. Marsh was also heavily involved in the briefing of the motion for class certification, opposing the motion to reconsider the Court's class certification order, and opposing the appeal of the Court's class certification order to the United States Court of Appeals for the Fifth Circuit. He was further involved in deposition discovery and participated in depositions of both Plaintiffs and Defendants. He helped supervise the review and analysis of the documents produced by Defendants and various third parties. Mr. Marsh worked closely with investigators and experts throughout the litigation.

**Jenny Barbosa** (1,554.25 hours): Ms. Barbosa had extensive involvement in written and deposition discovery in the case, including preparing affirmative written discovery, drafting responses to written discovery requests, and assisting with deposition preparations. She drafted document subpoenas and deposition subpoenas, helped supervise the review and analysis of documents produced by Defendants and third parties, and reviewed and analyzed produced documents. Ms. Barbosa also assisted with drafting discovery motions filed with the Court, summarizing the evidentiary record and researching pertinent case law. She assisted in drafting numerous filings, including the motion for class certification and the motion to amend the Consolidated Amended Class Action Complaint. Ms. Barbosa was also involved in the preparations for several depositions of Defendants and related witnesses.

**David L. Duncan** (172.75 hours): Mr. Duncan, whose primary role at the firm is to manage and implement class action settlements, had responsibility for drafting, editing, and coordinating settlement documentation for each of the settlements with Defendants. He drafted, reviewed, and edited various filings regarding the settlements, including stipulations and Lead Plaintiffs' motion for final approval. Mr. Duncan communicated with co-counsel and defense counsel regarding the settlement documents and settlement process. He was also responsible for coordinating with the claims administrator.

**Scott Foglietta** (79.5 hours): Mr. Foglietta assisted in conducting the initial investigation, analyzing Plaintiffs' claims, and drafting client communications.

**Julia Johnson** (162.25 hours): Ms. Johnson was primarily involved in discovery. She was responsible for reviewing and analyzing testimony of various witnesses for purposes of deposition preparation and preparing responses to Defendants' discovery requests, including interrogatories.

**Matthew Jubenville** (86.25 hours): Mr. Jubenville was involved in researching and drafting the Consolidated Amended Class Action Complaint. As part of drafting the complaint, he worked closely with investigators and analyzed Cobalt's public filings and related source material. Mr. Jubenville also contributed to drafting the briefs opposing the motions to dismiss.



**Catherine McCaw** (20.75 hours): Ms. McCaw assisted in investigation of the claims and preparation of the initial complaint and drafting client communications.

**Ross Shikowitz** (116.5 hours): Mr. Shikowitz was responsible for drafting various filings, including motions to transfer. Mr. Shikowitz also was responsible for client communications and reviewing and analyzing trading data.

**Jacob Spaid** (398.5 hours): Mr. Spaid was involved in drafting Plaintiffs' opposition to the motion for reconsideration of the Court's class certification decision, and in drafting the appellate briefing before the United States Court of Appeals for the Fifth Circuit, including the opposition to Defendants' Rule 23(f) petition, and the briefing opposing the appeal. Mr. Spaid was involved in the discovery process, including drafting Plaintiffs' responses to written discovery requests. Mr. Spaid also assisted in researching issues on various matters, including when raised during settlement negotiations.

**Catherine Van Kampen** (36 hours): Ms. Van Kampen had responsibility for coordinating settlement documentation and administrative matters, including responsibility for banking issues and administration of the escrow account.

**Reza Wrathall** (323.25 hours): Mr. Wrathall was involved in several aspects of researching and drafting the Consolidated Amended Class Action Complaint. As part of drafting the complaint, he worked closely with investigators, analyzed Cobalt's public filings and related source material, extensively researched the public domain for pertinent information, and communicated with consultants. Mr. Wrathall also contributed to drafting the brief opposing Defendants' motions to dismiss.

**Zelekha Amirzada** (1,896.5 hours): Ms. Amirzada was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to such evidence. In addition, she was involved in the analysis of documents produced by Plaintiffs in response to discovery requests by Defendants. Ms. Amirzada reviewed documents and prepared reports outlining the chronology of the case regarding Alper and a timeframe for Cobalt's due diligence on Nazaki. She also analyzed the movements in Cobalt's stock prices in and around the time of the release of Lontra's results. Ms. Amirzada also reviewed and analyzed entries of Defendants' privilege logs. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy.

**Alicia Belock** (1,929.25 hours): Ms. Belock was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to

such evidence. In addition, she was involved in the analysis of documents produced by the Plaintiffs in response to discovery requests by Defendants. She conducted research, analyzed documents and created internal reports and memoranda regarding various matters dealing with Cobalt's Angola wells, including its resource estimates and chances of success estimates for Lontra. Ms. Belock also reviewed and analyzed entries of Defendants' privilege logs. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy.

**Lindsey Bond** (1,541.5 hours): Ms. Bond was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to such evidence. In addition, she was involved in the analysis of documents produced by the Plaintiffs in response to discovery requests by Defendants. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy. She conducted research, analyzed documents and created internal reports and memoranda regarding various matters dealing with Cobalt's Angolan wells. Ms. Bond assisted in the drafting of Plaintiffs' responses to Defendants' discovery requests, including their interrogatories. Ms. Bond also reviewed documents and assisted in the preparation of materials for Plaintiffs' experts' analysis and reports. Ms. Bond also assisted in the preparation of deposition materials for important fact witnesses, including Amy Riella, Partner at Vinson & Elkins LLP; Jeremy Maltby, Partner at O'Melveny & Meyers LLP; Sam Gillespie, Cobalt's former Executive Vice President and General Counsel; John Wilkirson, Cobalt's former VP of Planning and CFO; Van Whitfield, Cobalt's former COO; Richard Smith, Cobalt's Senior Vice President, Strategy and Business Development; and Jeffrey Starzec, Cobalt's Executive Vice President and General Counsel.

**Michele Bongiovanni** (783.25 hours): Ms. Bongiovanni conducted research, analyzed documents and created internal reports and memoranda regarding various matters dealing with funds owed to Cobalt by Nazaki. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy. Ms. Bongiovanni also assisted in the preparation of deposition materials for important fact witnesses, including Jeremy Maltby, Partner at O'Melveny & Meyers LLP; Sam Gillespie, Cobalt's former Executive Vice President and General Counsel; John Wilkirson, Cobalt's former VP of Planning and CFO; Van Whitfield, Cobalt's former COO; Richard Smith, Cobalt's Senior Vice President, Strategy and Business Development; Imelda Jimenez, Executive Administrative Assistant at Cobalt; the 30(b)(6) representative from Goldman Sachs; and Jeffrey Starzec, Cobalt's Executive Vice President and General Counsel.

**Clarissa Cardes** (636 hours): Ms. Cardes was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties supporting the claims and defenses in the case and preparation of memoranda and reports related to such evidence. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy. Ms. Cardes also assisted in the preparation of deposition materials for important fact witnesses, including Alison Taylor at Control Risks Group, Chris Rowley at Risk Advisory Group, Jay Perlman at Navigant, and Amy Riella of Vinson & Elkins.

**Shalah Fisher** (101.75 hours): Ms. Fisher was primarily involved in discovery, including the analysis of documents produced by the Plaintiffs in response to discovery requests by Defendants. She also participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy.

**Shana Metzger** (994.25 hours): Ms. Metzger was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to such evidence. In addition, she was involved in the analysis of documents produced by the Plaintiffs in response to discovery requests by Defendants. She also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy. She conducted research, analyzed documents and created internal reports and memoranda regarding various matters dealing with Cobalt's scholarship program. She also reviewed documents and assisted in the preparation of materials for Plaintiffs' expert reports. Ms. Metzger also assisted in the preparation of deposition materials for important fact witnesses, including Amy Riella, Partner at Vinson & Elkins LLP; Joseph Bryant, Cobalt's former CEO and Chairman of the Board of Directors; Jeremy Maltby, Partner at O'Melveny & Meyers LLP; Sam Gillespie, Cobalt's former Executive Vice President and General Counsel; John Wilkirson, Cobalt's former VP of Planning and CFO; Van Whitfield, Cobalt's former COO; Richard Smith, Cobalt's Senior Vice President, Strategy and Business Development; and Jeffrey Starzec, Cobalt's Executive Vice President and General Counsel.

**Michelle Pacis** (473 hours): Ms. Pacis was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to such evidence. Ms. Pacis reviewed documents and prepared memoranda regarding potential waivers of privilege, specifically regarding communications concerning Alper and John Kennedy. She also reviewed documents to create a timeline of oral reports given by Control Risks Group to Cobalt's outside counsel, as well as reviewed Cobalt's insurance policies. Ms. Pacis also analyzed testimony from relevant witnesses and

participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy.

**Kristina Pedroso** (1,930.75 hours): Ms. Pedroso was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses in the case and preparation of memoranda and reports related to such evidence. In addition, she was involved in the analysis of documents produced by the Plaintiffs in response to discovery requests by Defendants. Ms. Pedroso also reviewed and analyzed entries of Defendants' privilege logs. She created internal reports and memoranda regarding various Board of Director matters and analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy.

**Carolina de Miranda Pinheiro** (49.25 hours): Ms. Pinheiro was primarily involved in the investigation phase of the case. She researched and analyzed documents relating to Nazaki and Alper. Ms. Pinheiro also conducted research and spoke with potential witnesses during the investigation phase and prepared memoranda and reports relating to such research and calls.

**John Weber** (688.75 hours): Mr. Weber was primarily involved in discovery, including the analysis of documents produced by Defendants and third parties for claims and defenses and the drafting of Plaintiffs' discovery requests. Mr. Weber also analyzed testimony from relevant witnesses and participated in regular and periodic meetings with other attorneys to discuss the evidence and case strategy. Mr. Weber also assisted in the preparation of deposition materials for important fact witnesses, including Van Whitfield, Cobalt's former COO; Jeffrey Starzec, Cobalt's Executive Vice President and General Counsel; Brenda McPherson, Cobalt's Sr. Administrative Assistant-HR; the 30(b)(6) representative from Morgan Stanley; the 30(b)(6) representative from RBC; and the 30(b)(6) representative from Citigroup.

7. My firm has incurred a total of \$597,281.09 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by "caps" based on the application of the following criteria:

- a. Out-of-town travel – airfare is capped at coach rates, hotel rates capped at \$250 for low-cost cities and \$350 for higher-cost cities (the relevant cities and how

they are categorized are reflected on Exhibit 3); meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

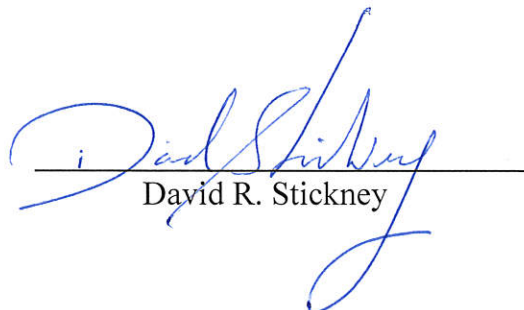
- b. Internal Copying - Capped at \$0.10 per page.
- c. On-Line Research - Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

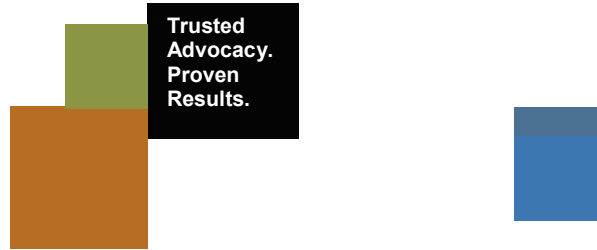
Executed on: January 9, 2019

  
\_\_\_\_\_  
David R. Stickney

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**  
**FIRM BIOGRAPHY**



Bernstein Litowitz Berger & Grossmann LLP

Attorneys at Law

# Firm Resume

## **New York**

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## **California**

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Since our founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has obtained many of the largest monetary recoveries in history – over \$32 billion on behalf of investors. Unique among our peers, the firm has obtained the largest settlements ever agreed to by public companies related to securities fraud, including four of the ten largest in history. Working with our clients, we have also used the litigation process to achieve precedent-setting reforms which have increased market transparency, held wrongdoers accountable and improved corporate business practices in groundbreaking ways.

## FIRM OVERVIEW

Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”), a national law firm with offices located in New York, California, Louisiana and Illinois, prosecutes class and private actions on behalf of individual and institutional clients. The firm’s litigation practice areas include securities class and direct actions in federal and state courts; corporate governance and shareholder rights litigation, including claims for breach of fiduciary duty and proxy violations; mergers and acquisitions and transactional litigation; alternative dispute resolution; distressed debt and bankruptcy; civil rights and employment discrimination; consumer class actions and antitrust. We also handle, on behalf of major institutional clients and lenders, more general complex commercial litigation involving allegations of breach of contract, accountants’ liability, breach of fiduciary duty, fraud, and negligence.

We are the nation’s leading firm in representing institutional investors in securities fraud class action litigation. The firm’s institutional client base includes the New York State Common Retirement Fund; the California Public Employees’ Retirement System (CalPERS); the Ontario Teachers’ Pension Plan Board (the largest public pension funds in North America); the Los Angeles County Employees Retirement Association (LACERA); the Chicago Municipal, Police and Labor Retirement Systems; the Teacher Retirement System of Texas; the Arkansas Teacher Retirement System; Forsta AP-fonden (“AP1”); Fjarde AP-fonden (“AP4”); the Florida State Board of Administration; the Public Employees’ Retirement System of Mississippi; the New York State Teachers’ Retirement System; the Ohio Public Employees Retirement System; the State Teachers Retirement System of Ohio; the Oregon Public Employees Retirement System; the Virginia Retirement System; the Louisiana School, State, Teachers and Municipal Police Retirement Systems; the Public School Teachers’ Pension and Retirement Fund of Chicago; the New Jersey Division of Investment of the Department of the Treasury; TIAA-CREF and other private institutions; as well as numerous other public and Taft-Hartley pension entities.

## MORE TOP SECURITIES RECOVERIES

Since its founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has litigated some of the most complex cases in history and has obtained over \$32 billion on behalf of investors. Unique among its peers, the firm has negotiated the largest settlements ever agreed to by public companies related to securities fraud, and obtained many of the largest securities recoveries in history (including 6 of the top 12):



- *In re WorldCom, Inc. Securities Litigation* – \$6.19 billion recovery
- *In re Cendant Corporation Securities Litigation* – \$3.3 billion recovery
- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation* – \$2.43 billion recovery
- *In re Nortel Networks Corporation Securities Litigation* (“Nortel II”) – \$1.07 billion recovery
- *In re Merck & Co., Inc. Securities Litigation* – \$1.06 billion recovery
- *In re McKesson HBOC, Inc. Securities Litigation* – \$1.05 billion recovery\*

\*Source: ISS Securities Class Action Services

For over a decade, ISS Securities Class Action Services has compiled and published data on securities litigation recoveries and the law firms prosecuting the cases. BLB&G has been at or near the top of their rankings every year – often with the highest total recoveries, the highest settlement average, or both.

BLB&G also eclipses all competitors on ISS SCAS’s “Top 100 Settlements of All Time” report, having recovered nearly 40% of all the settlement dollars represented in the report (nearly \$25 billion), and having prosecuted nearly a third of all the cases on the list (33 of 100).

## GIVING SHAREHOLDERS A VOICE AND CHANGING BUSINESS PRACTICES FOR THE BETTER

BLB&G was among the first law firms ever to obtain meaningful corporate governance reforms through litigation. In courts throughout the country, we prosecute shareholder class and derivative actions, asserting claims for breach of fiduciary duty and proxy violations wherever the conduct of corporate officers and/or directors, as well as M&A transactions, seek to deprive shareholders of fair value, undermine shareholder voting rights, or allow management to profit at the expense of shareholders.

We have prosecuted seminal cases establishing precedents which have increased market transparency, held wrongdoers accountable, addressed issues in the boardroom and executive suite, challenged unfair deals, and improved corporate business practices in groundbreaking ways.

From setting new standards of director independence, to restructuring board practices in the wake of persistent illegal conduct; from challenging the improper use of defensive measures and deal protections for management’s benefit, to confronting stock options backdating abuses and other self-dealing by executives; we have confronted a variety of questionable, unethical and proliferating corporate practices. Seeking to reform faulty management structures and address breaches of fiduciary duty by corporate officers and directors, we have obtained unprecedented victories on behalf of shareholders seeking to improve governance and protect the shareholder franchise.

## ADVOCACY FOR VICTIMS OF CORPORATE WRONGDOING

While BLB&G is widely recognized as one of the leading law firms worldwide advising institutional investors on issues related to corporate governance, shareholder rights, and securities litigation, we have also prosecuted some of the most significant employment discrimination, civil rights and consumer protection cases on record. Equally important, the firm has advanced novel and socially beneficial principles by developing important new law in the areas in which we litigate.



The firm served as co-lead counsel on behalf of Texaco's African-American employees in *Roberts v. Texaco Inc.*, which resulted in a recovery of \$176 million, the largest settlement ever in a race discrimination case. The creation of a Task Force to oversee Texaco's human resources activities for five years was unprecedented and served as a model for public companies going forward.

In the consumer field, the firm has gained a nationwide reputation for vigorously protecting the rights of individuals and for achieving exceptional settlements. In several instances, the firm has obtained recoveries for consumer classes that represented the entirety of the class's losses – an extraordinary result in consumer class cases.

## PRACTICE AREAS

### SECURITIES FRAUD LITIGATION

Securities fraud litigation is the cornerstone of the firm's litigation practice. Since its founding, the firm has had the distinction of having tried and prosecuted many of the most high-profile securities fraud class actions in history, recovering billions of dollars and obtaining unprecedented corporate governance reforms on behalf of our clients. BLB&G continues to play a leading role in major securities litigation pending in federal and state courts, and the firm remains one of the nation's leaders in representing institutional investors in securities fraud class and derivative litigation.

The firm also pursues direct actions in securities fraud cases when appropriate. By selectively opting out of certain securities class actions, we seek to resolve our clients' claims efficiently and for substantial multiples of what they might otherwise recover from related class action settlements.

The attorneys in the securities fraud litigation practice group have extensive experience in the laws that regulate the securities markets and in the disclosure requirements of corporations that issue publicly traded securities. Many of the attorneys in this practice group also have accounting backgrounds. The group has access to state-of-the-art, online financial wire services and databases, which enable it to instantaneously investigate any potential securities fraud action involving a public company's debt and equity securities.

### CORPORATE GOVERNANCE AND SHAREHOLDERS' RIGHTS

The Corporate Governance and Shareholders' Rights Practice Group prosecutes derivative actions, claims for breach of fiduciary duty, and proxy violations on behalf of individual and institutional investors in state and federal courts throughout the country. The group has obtained unprecedented victories on behalf of shareholders seeking to improve corporate governance and protect the shareholder franchise, prosecuting actions challenging numerous highly publicized corporate transactions which violated fair process and fair price, and the applicability of the business judgment rule. We have also addressed issues of corporate waste, shareholder voting rights claims, workplace harassment, and executive compensation. As a result of the firm's high-profile and widely recognized capabilities, the corporate governance practice group is increasingly in demand by institutional investors who are exercising a more assertive voice with corporate boards regarding corporate governance issues and the board's accountability to shareholders.

The firm is actively involved in litigating numerous cases in this area of law, an area that has become increasingly important in light of efforts by various market participants to buy companies from their public shareholders "on the cheap."

### EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

The Employment Discrimination and Civil Rights Practice Group prosecutes class and multi-plaintiff actions, and other high-impact litigation against employers and other societal institutions that violate federal or state employment, anti-discrimination, and civil rights laws. The practice group represents diverse clients on a wide range of issues including Title VII actions: race, gender, sexual orientation and age discrimination suits; sexual harassment, and "glass ceiling" cases in which otherwise qualified employees are passed over for promotions to managerial or executive positions.

Bernstein Litowitz Berger & Grossmann LLP is committed to effecting positive social change in the workplace and in society. The practice group has the necessary financial and human resources to ensure that the class action approach to discrimination and civil rights issues is successful. This

litigation method serves to empower employees and other civil rights victims, who are usually discouraged from pursuing litigation because of personal financial limitations, and offers the potential for effecting the greatest positive change for the greatest number of people affected by discriminatory practice in the workplace.

## GENERAL COMMERCIAL LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

The General Commercial Litigation practice group provides contingency fee representation in complex business litigation and has obtained substantial recoveries on behalf of investors, corporations, bankruptcy trustees, creditor committees and other business entities. We have faced down powerful and well-funded law firms and defendants – and consistently prevailed. However, not every dispute is best resolved through the courts. In such cases, BLB&G Alternative Dispute practitioners offer clients an accomplished team and a creative venue in which to resolve conflicts outside of the litigation process. BLB&G has extensive experience – and a marked record of successes – in ADR practice. For example, in the wake of the credit crisis, we successfully represented numerous former executives of a major financial institution in arbitrations relating to claims for compensation. Our attorneys have led complex business-to-business arbitrations and mediations domestically and abroad representing clients before all the major arbitration tribunals, including the American Arbitration Association (AAA), FINRA, JAMS, International Chamber of Commerce (ICC) and the London Court of International Arbitration.

## DISTRESSED DEBT AND BANKRUPTCY CREDITOR NEGOTIATION

The BLB&G Distressed Debt and Bankruptcy Creditor Negotiation Group has obtained billions of dollars through litigation on behalf of bondholders and creditors of distressed and bankrupt companies, as well as through third-party litigation brought by bankruptcy trustees and creditors' committees against auditors, appraisers, lawyers, officers and directors, and other defendants who may have contributed to client losses. As counsel, we advise institutions and individuals nationwide in developing strategies and tactics to recover assets presumed lost as a result of bankruptcy. Our record in this practice area is characterized by extensive trial experience in addition to completion of successful settlements.

## CONSUMER ADVOCACY

The Consumer Advocacy Practice Group at Bernstein Litowitz Berger & Grossmann LLP prosecutes cases across the entire spectrum of consumer rights, consumer fraud, and consumer protection issues. The firm represents victimized consumers in state and federal courts nationwide in individual and class action lawsuits that seek to provide consumers and purchasers of defective products with a means to recover their damages. The attorneys in this group are well versed in the vast array of laws and regulations that govern consumer interests and are aggressive, effective, court-tested litigators. The Consumer Practice Advocacy Group has recovered hundreds of millions of dollars for millions of consumers throughout the country. Most notably, in a number of cases, the firm has obtained recoveries for the class that were the entirety of the potential damages suffered by the consumer. For example, in actions against MCI and Empire Blue Cross, the firm recovered all of the damages suffered by the class. The group achieved its successes by advancing innovative claims and theories of liabilities, such as obtaining decisions in Pennsylvania and Illinois appellate courts that adopted a new theory of consumer damages in mass marketing cases. Bernstein Litowitz Berger & Grossmann LLP is, thus, able to lead the way in protecting the rights of consumers.

## THE COURTS SPEAK

Throughout the firm’s history, many courts have recognized the professional excellence and diligence of the firm and its members. A few examples are set forth below.

### ***IN RE WORLD COM, INC. SECURITIES LITIGATION***

**THE HONORABLE DENISE COTE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

*“I have the utmost confidence in plaintiffs’ counsel...they have been doing a superb job.... The Class is extraordinarily well represented in this litigation.”*

*“The magnitude of this settlement is attributable in significant part to Lead Counsel’s advocacy and energy.... The quality of the representation given by Lead Counsel...has been superb...and is unsurpassed in this Court’s experience with plaintiffs’ counsel in securities litigation.”*

*“Lead Counsel has been energetic and creative. . . . Its negotiations with the Citigroup Defendants have resulted in a settlement of historic proportions.”*

### ***IN RE CLARENT CORPORATION SECURITIES LITIGATION***

**THE HONORABLE CHARLES R. BREYER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA**

*“It was the best tried case I’ve witnessed in my years on the bench . . .”*

*“[A]n extraordinarily civilized way of presenting the issues to you [the jury]. . . . We’ve all been treated to great civility and the highest professional ethics in the presentation of the case....”*

*“These trial lawyers are some of the best I’ve ever seen.”*

### ***LANDRY’S RESTAURANTS, INC. SHAREHOLDER LITIGATION***

**VICE CHANCELLOR J. TRAVIS LASTER OF THE DELAWARE COURT OF CHANCERY**

*“I do want to make a comment again about the excellent efforts . . . put into this case. . . . This case, I think, shows precisely the type of benefits that you can achieve for stockholders and how representative litigation can be a very important part of our corporate governance system . . . you hold up this case as an example of what to do.”*

### ***MCCALL V. SCOTT (COLUMBIA/HCA DERIVATIVE LITIGATION)***

**THE HONORABLE THOMAS A. HIGGINS OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE**

*“Counsel’s excellent qualifications and reputations are well documented in the record, and they have litigated this complex case adeptly and tenaciously throughout the six years it has been pending. They assumed an enormous risk and have shown great patience by taking this case on a contingent basis, and despite an early setback they have persevered and brought about not only a large cash settlement but sweeping corporate reforms that may be invaluable to the beneficiaries.”*

## RECENT ACTIONS & SIGNIFICANT RECOVERIES

Bernstein Litowitz Berger & Grossmann LLP is counsel in many diverse nationwide class and individual actions and has obtained many of the largest and most significant recoveries in history. Some examples from our practice groups include:

### SECURITIES CLASS ACTIONS

**CASE:** *IN RE WORLDCom, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$6.19 billion securities fraud class action recovery – the second largest in history; unprecedented recoveries from Director Defendants.

**CASE SUMMARY:** Investors suffered massive losses in the wake of the financial fraud and subsequent bankruptcy of former telecom giant WorldCom, Inc. This litigation alleged that WorldCom and others disseminated false and misleading statements to the investing public regarding its earnings and financial condition in violation of the federal securities and other laws. It further alleged a nefarious relationship between Citigroup subsidiary Salomon Smith Barney and WorldCom, carried out primarily by Salomon employees involved in providing investment banking services to WorldCom, and by WorldCom’s former CEO and CFO. As Court-appointed Co-Lead Counsel representing Lead Plaintiff the **New York State Common Retirement Fund**, we obtained unprecedented settlements totaling more than \$6 billion from the Investment Bank Defendants who underwrote WorldCom bonds, including a \$2.575 billion cash settlement to settle all claims against the Citigroup Defendants. On the eve of trial, the 13 remaining “Underwriter Defendants,” including J.P. Morgan Chase, Deutsche Bank and Bank of America, agreed to pay settlements totaling nearly \$3.5 billion to resolve all claims against them. Additionally, the day before trial was scheduled to begin, all of the former WorldCom Director Defendants had agreed to pay over \$60 million to settle the claims against them. An unprecedented first for outside directors, \$24.75 million of that amount came out of the pockets of the individuals – 20% of their collective net worth. *The Wall Street Journal*, in its coverage, profiled the settlement as literally having “shaken Wall Street, the audit profession and corporate boardrooms.” After four weeks of trial, Arthur Andersen, WorldCom’s former auditor, settled for \$65 million. Subsequent settlements were reached with the former executives of WorldCom, and then with Andersen, bringing the total obtained for the Class to over \$6.19 billion.

**CASE:** *IN RE CENDANT CORPORATION SECURITIES LITIGATION*

**COURT:** United States District Court for the District of New Jersey

**HIGHLIGHTS:** \$3.3 billion securities fraud class action recovery – the third largest in history; significant corporate governance reforms obtained.

**CASE SUMMARY:** The firm was Co-Lead Counsel in this class action against Cendant Corporation, its officers and directors and Ernst & Young (E&Y), its auditors, for their role in disseminating materially false and misleading financial statements concerning the company’s revenues, earnings and expenses for its 1997 fiscal year. As a result of company-wide accounting irregularities, Cendant restated its financial results for its 1995, 1996 and 1997 fiscal years and all fiscal quarters therein. Cendant agreed to settle the action for \$2.8 billion to adopt some of the most extensive corporate governance changes in history. E&Y settled for \$335 million. These settlements remain the largest sums ever recovered from a public company and a public accounting firm through securities class action litigation. BLB&G represented Lead Plaintiffs **CalPERS – the California Public Employees’ Retirement System**, the **New York State Common Retirement Fund** and the **New York City Pension Funds**, the three largest public pension funds in America, in this action.



**CASE:** *IN RE BANK OF AMERICA CORP. SECURITIES, DERIVATIVE, AND EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) LITIGATION*

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** \$2.425 billion in cash; significant corporate governance reforms to resolve all claims. This recovery is by far the largest shareholder recovery related to the subprime meltdown and credit crisis; the single largest securities class action settlement ever resolving a Section 14(a) claim – the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation; the largest ever funded by a single corporate defendant for violations of the federal securities laws; the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; and one of the 10 largest securities class action recoveries in history.

**DESCRIPTION:** The firm represented Co-Lead Plaintiffs the **State Teachers Retirement System of Ohio**, the **Ohio Public Employees Retirement System**, and the **Teacher Retirement System of Texas** in this securities class action filed on behalf of shareholders of Bank of America Corporation (“BAC”) arising from BAC’s 2009 acquisition of Merrill Lynch & Co., Inc. The action alleges that BAC, Merrill Lynch, and certain of the companies’ current and former officers and directors violated the federal securities laws by making a series of materially false statements and omissions in connection with the acquisition. These violations included the alleged failure to disclose information regarding billions of dollars of losses which Merrill had suffered before the BAC shareholder vote on the proposed acquisition, as well as an undisclosed agreement allowing Merrill to pay billions in bonuses before the acquisition closed despite these losses. Not privy to these material facts, BAC shareholders voted to approve the acquisition.

**CASE:** *IN RE NORTEL NETWORKS CORPORATION SECURITIES LITIGATION (“NORTEL II”)*

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** Over \$1.07 billion in cash and common stock recovered for the class.

**DESCRIPTION:** This securities fraud class action charged Nortel Networks Corporation and certain of its officers and directors with violations of the Securities Exchange Act of 1934, alleging that the Defendants knowingly or recklessly made false and misleading statements with respect to Nortel’s financial results during the relevant period. BLB&G clients the **Ontario Teachers’ Pension Plan Board** and the **Treasury of the State of New Jersey and its Division of Investment** were appointed as Co-Lead Plaintiffs for the Class in one of two related actions (Nortel II), and BLB&G was appointed Lead Counsel for the Class. In a historic settlement, Nortel agreed to pay \$2.4 billion in cash and Nortel common stock (all figures in US dollars) to resolve both matters. Nortel later announced that its insurers had agreed to pay \$228.5 million toward the settlement, bringing the total amount of the global settlement to approximately \$2.7 billion, and the total amount of the Nortel II settlement to over \$1.07 billion.

**CASE:** *IN RE MERCK & CO., INC. SECURITIES LITIGATION*

**COURT:** **United States District Court, District of New Jersey**

**HIGHLIGHTS:** \$1.06 billion recovery for the class.

**DESCRIPTION:** This case arises out of misrepresentations and omissions concerning life-threatening risks posed by the “blockbuster” Cox-2 painkiller Vioxx, which Merck withdrew from the market in 2004. In January 2016, BLB&G achieved a \$1.062 billion settlement on the eve of trial after more than 12 years of hard-fought litigation that included a successful decision at the United States Supreme Court. This settlement is the second largest recovery ever obtained in the Third Circuit, one of the top 11 securities recoveries of all time, and the largest securities recovery ever achieved against a pharmaceutical company. BLB&G represented Lead Plaintiff the **Public Employees’ Retirement System of Mississippi**.

**CASE:** *IN RE MCKESSON HBOC, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the Northern District of California

**HIGHLIGHTS:** \$1.05 billion recovery for the class.

**DESCRIPTION:** This securities fraud litigation was filed on behalf of purchasers of HBOC, McKesson and McKesson HBOC securities, alleging that Defendants misled the investing public concerning HBOC's and McKesson HBOC's financial results. On behalf of Lead Plaintiff the **New York State Common Retirement Fund**, BLB&G obtained a \$960 million settlement from the company; \$72.5 million in cash from Arthur Andersen; and, on the eve of trial, a \$10 million settlement from Bear Stearns & Co. Inc., with total recoveries reaching more than \$1 billion.

**CASE:** *IN RE LEHMAN BROTHERS EQUITY/DEBT SECURITIES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$735 million in total recoveries.

**DESCRIPTION:** Representing the **Government of Guam Retirement Fund**, BLB&G successfully prosecuted this securities class action arising from Lehman Brothers Holdings Inc.'s issuance of billions of dollars in offerings of debt and equity securities that were sold using offering materials that contained untrue statements and missing material information.

After four years of intense litigation, Lead Plaintiffs achieved a total of \$735 million in recoveries consisting of: a \$426 million settlement with underwriters of Lehman securities offerings; a \$90 million settlement with former Lehman directors and officers; a \$99 million settlement that resolves claims against Ernst & Young, Lehman's former auditor (considered one of the top 10 auditor settlements ever achieved); and a \$120 million settlement that resolves claims against UBS Financial Services, Inc. This recovery is truly remarkable not only because of the difficulty in recovering assets when the issuer defendant is bankrupt, but also because no financial results were restated, and that the auditors never disavowed the statements.

**CASE:** *HEALTHSOUTH CORPORATION BONDHOLDER LITIGATION*

**COURT:** United States District Court for the Northern District of Alabama

**HIGHLIGHTS:** \$804.5 million in total recoveries.

**DESCRIPTION:** In this litigation, BLB&G was the appointed Co-Lead Counsel for the bond holder class, representing Lead Plaintiff the **Retirement Systems of Alabama**. This action arose from allegations that Birmingham, Alabama based HealthSouth Corporation overstated its earnings at the direction of its founder and former CEO Richard Scrushy. Subsequent revelations disclosed that the overstatement actually exceeded over \$2.4 billion, virtually wiping out all of HealthSouth's reported profits for the prior five years. A total recovery of \$804.5 million was obtained in this litigation through a series of settlements, including an approximately \$445 million settlement for shareholders and bondholders, a \$100 million in cash settlement from UBS AG, UBS Warburg LLC, and individual UBS Defendants (collectively, "UBS"), and \$33.5 million in cash from the company's auditor. The total settlement for injured HealthSouth bond purchasers exceeded \$230 million, recouping over a third of bond purchaser damages.

**CASE:** *IN RE CITIGROUP, INC. BOND ACTION LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$730 million cash recovery; second largest recovery in a litigation arising from the financial crisis.

**DESCRIPTION:** In the years prior to the collapse of the subprime mortgage market, Citigroup issued 48 offerings of preferred stock and bonds. This securities fraud class action was filed on behalf of purchasers of Citigroup bonds and preferred stock alleging that these offerings contained material misrepresentations and omissions regarding Citigroup's exposure to billions of dollars in mortgage-related assets, the loss reserves for its portfolio of high-risk residential mortgage loans, and the credit quality of the risky assets it held in off-balance sheet entities known as "structured investment vehicles." After protracted litigation lasting four years, we obtained a \$730 million cash recovery – the second largest securities class action recovery in a litigation arising from the financial crisis, and the second largest recovery ever in a securities class action brought on behalf of purchasers of debt securities. As Lead Bond Counsel for the Class, BLB&G represented Lead Bond Plaintiffs Minneapolis Firefighters' Relief Association, Louisiana Municipal Police Employees' Retirement System, and Louisiana Sheriffs' Pension and Relief Fund.

**CASE:** *IN RE WASHINGTON PUBLIC POWER SUPPLY SYSTEM LITIGATION*

**COURT:** United States District Court for the District of Arizona

**HIGHLIGHTS:** Over \$750 million – the largest securities fraud settlement ever achieved at the time.

**DESCRIPTION:** BLB&G was appointed Chair of the Executive Committee responsible for litigating the action on behalf of the class in this action. The case was litigated for over seven years, and involved an estimated 200 million pages of documents produced in discovery; the depositions of 285 fact witnesses and 34 expert witnesses; more than 25,000 introduced exhibits; six published district court opinions; seven appeals or attempted appeals to the Ninth Circuit; and a three-month jury trial, which resulted in a settlement of over \$750 million – then the largest securities fraud settlement ever achieved.

**CASE:** *IN RE SCHERING-PLOUGH CORPORATION/ENHANCE SECURITIES LITIGATION; IN RE MERCK & CO., INC. VYTORIN/ZETIA SECURITIES LITIGATION*

**COURT:** United States District Court for the District of New Jersey

**HIGHLIGHTS:** \$688 million in combined settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) in this coordinated securities fraud litigations filed on behalf of investors in Merck and Schering-Plough.

**DESCRIPTION:** After nearly five years of intense litigation, just days before trial, BLB&G resolved the two actions against Merck and Schering-Plough, which stemmed from claims that Merck and Schering artificially inflated their market value by concealing material information and making false and misleading statements regarding their blockbuster anti-cholesterol drugs Zetia and Vytarin. Specifically, we alleged that the companies knew that their "ENHANCE" clinical trial of Vytarin (a combination of Zetia and a generic) demonstrated that Vytarin was no more effective than the cheaper generic at reducing artery thickness. The companies nonetheless championed the "benefits" of their drugs, attracting billions of dollars of capital. When public pressure to release the results of the ENHANCE trial became too great, the companies reluctantly announced these negative results, which we alleged led to sharp declines in the value of the companies' securities, resulting in significant losses to investors. The combined \$688 million in settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) is the second largest securities recovery ever in the Third Circuit, among the top 25 settlements of all time, and among the ten largest recoveries ever in a case where there was no financial restatement. BLB&G represented Lead Plaintiffs Arkansas Teacher Retirement System, the Public Employees' Retirement System of Mississippi, and the Louisiana Municipal Police Employees' Retirement System.

**CASE:** *IN RE LUCENT TECHNOLOGIES, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the District of New Jersey

**HIGHLIGHTS:** \$667 million in total recoveries; the appointment of BLB&G as Co-Lead Counsel is especially noteworthy as it marked the first time since the 1995 passage of the Private Securities Litigation Reform Act that a court reopened the lead plaintiff or lead counsel selection process to account for changed circumstances, new issues and possible conflicts between new and old allegations.

**DESCRIPTION:** BLB&G served as Co-Lead Counsel in this securities class action, representing Lead Plaintiffs the **Parnassus Fund, Teamsters Locals 175 & 505 D&P Pension Trust, Anchorage Police and Fire Retirement System** and the **Louisiana School Employees' Retirement System**. The complaint accused Lucent of making false and misleading statements to the investing public concerning its publicly reported financial results and failing to disclose the serious problems in its optical networking business. When the truth was disclosed, Lucent admitted that it had improperly recognized revenue of nearly \$679 million in fiscal 2000. The settlement obtained in this case is valued at approximately \$667 million, and is composed of cash, stock and warrants.

**CASE:** *IN RE WACHOVIA PREFERRED SECURITIES AND BOND/NOTES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$627 million recovery – among the 20 largest securities class action recoveries in history; third largest recovery obtained in an action arising from the subprime mortgage crisis.

**DESCRIPTION:** This securities class action was filed on behalf of investors in certain Wachovia bonds and preferred securities against Wachovia Corp., certain former officers and directors, various underwriters, and its auditor, KPMG LLP. The case alleges that Wachovia provided offering materials that misrepresented and omitted material facts concerning the nature and quality of Wachovia's multi-billion dollar option-ARM (adjustable rate mortgage) "Pick-A-Pay" mortgage loan portfolio, and that Wachovia's loan loss reserves were materially inadequate. According to the Complaint, these undisclosed problems threatened the viability of the financial institution, requiring it to be "bailed out" during the financial crisis before it was acquired by Wells Fargo. The combined \$627 million recovery obtained in the action is among the 20 largest securities class action recoveries in history, the largest settlement ever in a class action case asserting only claims under the Securities Act of 1933, and one of a handful of securities class action recoveries obtained where there were no parallel civil or criminal actions brought by government authorities. The firm represented Co-Lead Plaintiffs **Orange County Employees Retirement System** and **Louisiana Sheriffs' Pension and Relief Fund** in this action.

**CASE:** *OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM V. FREDDIE MAC*

**COURT:** United States District Court for the Southern District of Ohio

**HIGHLIGHTS:** \$410 million settlement.

**DESCRIPTION:** This securities fraud class action was filed on behalf of the **Ohio Public Employees Retirement System** and the **State Teachers Retirement System of Ohio** alleging that Federal Home Loan Mortgage Corporation ("Freddie Mac") and certain of its current and former officers issued false and misleading statements in connection with the company's previously reported financial results. Specifically, the Complaint alleged that the Defendants misrepresented the company's operations and financial results by having engaged in numerous improper transactions and accounting machinations that violated fundamental GAAP precepts in order to artificially smooth the company's earnings and to hide earnings volatility. In connection with these improprieties, Freddie Mac restated more than \$5 billion in earnings. A settlement of \$410 million was reached in the case just as deposition discovery had begun and document review was complete.

**CASE:** *IN RE REFCO, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** Over \$407 million in total recoveries.

**DESCRIPTION:** The lawsuit arises from the revelation that Refco, a once prominent brokerage, had for years secreted hundreds of millions of dollars of uncollectible receivables with a related entity controlled by Phillip Bennett, the company's Chairman and Chief Executive Officer. This revelation caused the stunning collapse of the company a mere two months after its initial public offering of common stock. As a result, Refco filed one of the largest bankruptcies in U.S. history. Settlements have been obtained from multiple company and individual defendants, resulting in a total recovery for the class of over \$407 million. BLB&G represented Co-Lead Plaintiff **RH Capital Associates LLC**.

## CORPORATE GOVERNANCE AND SHAREHOLDERS' RIGHTS

**CASE:** *CITY OF MONROE EMPLOYEES' RETIREMENT SYSTEM, DERIVATIVELY ON BEHALF OF TWENTY-FIRST CENTURY FOX, INC. V. RUPERT MURDOCH, ET AL.*

**COURT:** Delaware Court of Chancery

**HIGHLIGHTS:** Landmark derivative litigation establishes unprecedented, independent Board-level council to ensure employees are protected from workplace harassment while recouping \$90 million for the company's coffers.

**DESCRIPTION:** Before the birth of the #metoo movement, BLB&G led the prosecution of an unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveil a landmark settlement with two key components: 1) the first ever Board-level watchdog of its kind – the "Fox News Workplace Professionalism and Inclusion Council" of experts (WPIC) – majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries – \$90 million – ever obtained in a pure corporate board oversight dispute. The WPIC is expected to serve as a model for public companies in all industries. The firm represented 21<sup>st</sup> Century Fox shareholder the **City of Monroe (Michigan) Employees' Retirement System**.

**CASE:** *IN RE ALLERGAN, INC. PROXY VIOLATION SECURITIES LITIGATION*

**COURT:** United States District Court for the Central District of California

**HIGHLIGHTS:** Litigation recovered over \$250 million for investors in challenging unprecedented insider trading scheme by billionaire hedge fund manager Bill Ackman.

**DESCRIPTION:** As alleged in groundbreaking litigation, billionaire hedge fund manager Bill Ackman and his Pershing Square Capital Management fund secretly acquire a near 10% stake in pharmaceutical concern Allergan, Inc. as part of an unprecedented insider trading scheme by Ackman and Valeant Pharmaceuticals International, Inc. What Ackman knew – but investors did not – was that in the ensuing weeks, Valeant would be launching a hostile bid to acquire Allergan shares at a far higher price. Ackman enjoys a massive instantaneous profit upon public news of the proposed acquisition, and the scheme works for both parties as he kicks back hundreds of millions of his insider-trading proceeds to Valeant after Allergan agreed to be bought by a rival bidder. After a ferocious three-year legal battle over this attempt to circumvent the spirit of the U.S. securities laws, BLB&G obtains a \$250 million settlement for Allergan investors, and creates precedent to prevent similar such schemes in the future. The Plaintiffs in this action were the **State Teachers Retirement System of Ohio, the Iowa Public Employees Retirement System, and Patrick T. Johnson**.



**CASE:** **UNITEDHEALTH GROUP, INC. SHAREHOLDER DERIVATIVE LITIGATION**

**COURT:** **United States District Court for the District of Minnesota**

**HIGHLIGHTS:** Litigation recovered over \$920 million in ill-gotten compensation directly from former officers for their roles in illegally backdating stock options, while the company agreed to far-reaching reforms aimed at curbing future executive compensation abuses.

**DESCRIPTION:** This shareholder derivative action filed against certain current and former executive officers and members of the Board of Directors of UnitedHealth Group, Inc. alleged that the Defendants obtained, approved and/or acquiesced in the issuance of stock options to senior executives that were unlawfully backdated to provide the recipients with windfall compensation at the direct expense of UnitedHealth and its shareholders. The firm recovered over \$920 million in ill-gotten compensation directly from the former officer Defendants – the largest derivative recovery in history. As feature coverage in *The New York Times* indicated, “investors everywhere should applaud [the UnitedHealth settlement].... [T]he recovery sets a standard of behavior for other companies and boards when performance pay is later shown to have been based on ephemeral earnings.” The Plaintiffs in this action were the **St. Paul Teachers’ Retirement Fund Association**, the **Public Employees’ Retirement System of Mississippi**, the **Jacksonville Police & Fire Pension Fund**, the **Louisiana Sheriffs’ Pension & Relief Fund**, the **Louisiana Municipal Police Employees’ Retirement System** and **Fire & Police Pension Association of Colorado**.

**CASE:** **CAREMARK MERGER LITIGATION**

**COURT:** **Delaware Court of Chancery – New Castle County**

**HIGHLIGHTS:** Landmark Court ruling orders Caremark’s board to disclose previously withheld information, enjoins shareholder vote on CVS merger offer, and grants statutory appraisal rights to Caremark shareholders. The litigation ultimately forced CVS to raise offer by \$7.50 per share, equal to more than \$3.3 billion in additional consideration to Caremark shareholders.

**DESCRIPTION:** Commenced on behalf of the **Louisiana Municipal Police Employees’ Retirement System** and other shareholders of Caremark RX, Inc. (“Caremark”), this shareholder class action accused the company’s directors of violating their fiduciary duties by approving and endorsing a proposed merger with CVS Corporation (“CVS”), all the while refusing to fairly consider an alternative transaction proposed by another bidder. In a landmark decision, the Court ordered the Defendants to disclose material information that had previously been withheld, enjoined the shareholder vote on the CVS transaction until the additional disclosures occurred, and granted statutory appraisal rights to Caremark’s shareholders—forcing CVS to increase the consideration offered to shareholders by \$7.50 per share in cash (over \$3 billion in total).

**CASE:** **IN RE PFIZER INC. SHAREHOLDER DERIVATIVE LITIGATION**

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** Landmark settlement in which Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board that will be supported by a dedicated \$75 million fund.

**DESCRIPTION:** In the wake of Pfizer’s agreement to pay \$2.3 billion as part of a settlement with the U.S. Department of Justice to resolve civil and criminal charges relating to the illegal marketing of at least 13 of the company’s most important drugs (the largest such fine ever imposed), this shareholder derivative action was filed against Pfizer’s senior management and Board alleging they breached their fiduciary duties to Pfizer by, among other things, allowing unlawful promotion of drugs to continue after receiving numerous “red flags” that Pfizer’s improper drug marketing was systemic and widespread. The suit was brought by Court-appointed Lead Plaintiffs **Louisiana Sheriffs’ Pension and Relief Fund** and **Skandia Life Insurance Company, Ltd.** In an unprecedented settlement reached by the parties, the Defendants agreed to create a new Regulatory

and Compliance Committee of the Pfizer Board of Directors (the “Regulatory Committee”) to oversee and monitor Pfizer’s compliance and drug marketing practices and to review the compensation policies for Pfizer’s drug sales related employees.

**CASE:** *MILLER ET AL. V. IAC/INTERACTIVECORP ET AL.*

**COURT:** Delaware Court of Chancery

**HIGHLIGHTS:** Litigation shuts down efforts by controlling shareholders to obtain “dynastic control” of the company through improper stock class issuances, setting valuable precedent and sending strong message to boards and management in all sectors that such moves will not go unchallenged.

**DESCRIPTION:** BLB&G obtained this landmark victory for shareholder rights against IAC/InterActiveCorp and its controlling shareholder and chairman, Barry Diller. For decades, activist corporate founders and controllers seek ways to entrench their position atop the corporate hierarchy by granting themselves and other insiders “supervoting rights.” Diller lays out a proposal to introduce a new class of non-voting stock to entrench “dynastic control” of IAC within the Diller family. BLB&G litigation on behalf of IAC shareholders ends in capitulation with the Defendants effectively conceding the case by abandoning the proposal. This becomes critical corporate governance precedent, given trend of public companies to introduce “low” and “no-vote” share classes, which diminish shareholder rights, insulate management from accountability, and can distort managerial incentives by providing controllers voting power out of line with their actual economic interests in public companies.

**CASE:** *IN RE DELPHI FINANCIAL GROUP SHAREHOLDER LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Dominant shareholder is blocked from collecting a payoff at the expense of minority investors.

**DESCRIPTION:** As the Delphi Financial Group prepared to be acquired by Tokio Marine Holdings Inc., the conduct of Delphi’s founder and controlling shareholder drew the scrutiny of BLB&G and its institutional investor clients for improperly using the transaction to expropriate at least \$55 million at the expense of the public shareholders. BLB&G aggressively litigated this action and obtained a settlement of \$49 million for Delphi’s public shareholders. The settlement fund is equal to about 90% of recoverable Class damages – a virtually unprecedented recovery.

**CASE:** *QUALCOMM BOOKS & RECORDS LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Novel use of “books and records” litigation enhances disclosure of political spending and transparency.

**DESCRIPTION:** The U.S. Supreme Court’s controversial 2010 opinion in *Citizens United v. FEC* made it easier for corporate directors and executives to secretly use company funds – shareholder assets – to support personally favored political candidates or causes. BLB&G prosecuted the first-ever “books and records” litigation to obtain disclosure of corporate political spending at our client’s portfolio company – technology giant Qualcomm Inc. – in response to Qualcomm’s refusal to share the information. As a result of the lawsuit, Qualcomm adopted a policy that provides its shareholders with comprehensive disclosures regarding the company’s political activities and places Qualcomm as a standard-bearer for other companies.

**CASE:** *IN RE NEWS CORP. SHAREHOLDER DERIVATIVE LITIGATION*

**COURT:** Delaware Court of Chancery – Kent County

**HIGHLIGHTS:** An unprecedented settlement in which News Corp. recoups \$139 million and enacts significant corporate governance reforms that combat self-dealing in the boardroom.

**DESCRIPTION:** Following News Corp.’s 2011 acquisition of a company owned by News Corp. Chairman and CEO Rupert Murdoch’s daughter, and the phone-hacking scandal within its British newspaper division, we filed a derivative litigation on behalf of the company because of institutional shareholder concern with the conduct of News Corp.’s management. We ultimately obtained an unprecedented settlement in which News Corp. recouped \$139 million for the company coffers, and agreed to enact corporate governance enhancements to strengthen its compliance structure, the independence and functioning of its board, and the compensation and clawback policies for management.

**CASE:** *IN RE ACS SHAREHOLDER LITIGATION (XEROX)*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** BLB&G challenged an attempt by ACS CEO to extract a premium on his stock not shared with the company’s public shareholders in a sale of ACS to Xerox. On the eve of trial, BLB&G obtained a \$69 million recovery, with a substantial portion of the settlement personally funded by the CEO.

**DESCRIPTION:** Filed on behalf of the **New Orleans Employees’ Retirement System** and similarly situated shareholders of Affiliated Computer Service, Inc., this action alleged that members of the Board of Directors of ACS breached their fiduciary duties by approving a merger with Xerox Corporation which would allow Darwin Deason, ACS’s founder and Chairman and largest stockholder, to extract hundreds of millions of dollars of value that rightfully belongs to ACS’s public shareholders for himself. Per the agreement, Deason’s consideration amounted to over a 50% premium when compared to the consideration paid to ACS’s public stockholders. The ACS Board further breached its fiduciary duties by agreeing to certain deal protections in the merger agreement that essentially locked up the transaction between ACS and Xerox. After seeking a preliminary injunction to enjoin the deal and engaging in intense discovery and litigation in preparation for a looming trial date, Plaintiffs reached a global settlement with Defendants for \$69 million. In the settlement, Deason agreed to pay \$12.8 million, while ACS agreed to pay the remaining \$56.1 million.

**CASE:** *IN RE DOLLAR GENERAL CORPORATION SHAREHOLDER LITIGATION*

**COURT:** Sixth Circuit Court for Davidson County, Tennessee; Twentieth Judicial District, Nashville

**HIGHLIGHTS:** Holding Board accountable for accepting below-value “going private” offer.

**DESCRIPTION:** A Nashville, Tennessee corporation that operates retail stores selling discounted household goods, in early March 2007, Dollar General announced that its Board of Directors had approved the acquisition of the company by the private equity firm Kohlberg Kravis Roberts & Co. (“KKR”). BLB&G, as Co-Lead Counsel for the **City of Miami General Employees’ & Sanitation Employees’ Retirement Trust**, filed a class action complaint alleging that the “going private” offer was approved as a result of breaches of fiduciary duty by the board and that the price offered by KKR did not reflect the fair value of Dollar General’s publicly-held shares. On the eve of the summary judgment hearing, KKR agreed to pay a \$40 million settlement in favor of the shareholders, with a potential for \$17 million more for the Class.



**CASE:** *LANDRY'S RESTAURANTS, INC. SHAREHOLDER LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Protecting shareholders from predatory CEO's multiple attempts to take control of Landry's Restaurants through improper means. Our litigation forced the CEO to increase his buyout offer by four times the price offered and obtained an additional \$14.5 million cash payment for the class.

**DESCRIPTION:** In this derivative and shareholder class action, shareholders alleged that Tilman J. Fertitta – chairman, CEO and largest shareholder of Landry's Restaurants, Inc. – and its Board of Directors stripped public shareholders of their controlling interest in the company for no premium and severely devalued remaining public shares in breach of their fiduciary duties. BLB&G's prosecution of the action on behalf of Plaintiff **Louisiana Municipal Police Employees' Retirement System** resulted in recoveries that included the creation of a settlement fund composed of \$14.5 million in cash, as well as significant corporate governance reforms and an increase in consideration to shareholders of the purchase price valued at \$65 million.

## EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

**CASE:** *ROBERTS V. TEXACO, INC.*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** BLB&G recovered \$170 million on behalf of Texaco's African-American employees and engineered the creation of an independent "Equality and Tolerance Task Force" at the company.

**DESCRIPTION:** Six highly qualified African-American employees filed a class action complaint against Texaco Inc. alleging that the company failed to promote African-American employees to upper level jobs and failed to compensate them fairly in relation to Caucasian employees in similar positions. BLB&G's prosecution of the action revealed that African-Americans were significantly under-represented in high level management jobs and that Caucasian employees were promoted more frequently and at far higher rates for comparable positions within the company. The case settled for over \$170 million, and Texaco agreed to a Task Force to monitor its diversity programs for five years – a settlement described as the most significant race discrimination settlement in history.

**CASE:** *ECOA - GMAC/NMAC/FORD/TOYOTA/CHRYSLER - CONSUMER FINANCE DISCRIMINATION LITIGATION*

**COURT:** Multiple jurisdictions

**HIGHLIGHTS:** Landmark litigation in which financing arms of major auto manufacturers are compelled to cease discriminatory "kick-back" arrangements with dealers, leading to historic changes to auto financing practices nationwide.

**DESCRIPTION:** The cases involve allegations that the lending practices of General Motors Acceptance Corporation, Nissan Motor Acceptance Corporation, Ford Motor Credit, Toyota Motor Credit and DaimlerChrysler Financial cause African-American and Hispanic car buyers to pay millions of dollars more for car loans than similarly situated white buyers. At issue is a discriminatory kickback system under which minorities typically pay about 50% more in dealer mark-up which is shared by auto dealers with the Defendants.

**NMAC:** The United States District Court for the Middle District of Tennessee granted final approval of the settlement of the class action against Nissan Motor Acceptance Corporation ("NMAC") in which NMAC agreed to offer pre-approved loans to hundreds of thousands of current and potential African-American and Hispanic NMAC customers, and limit how much it raises the interest charged to car buyers above the company's minimum acceptable rate.

**GMAC:** The United States District Court for the Middle District of Tennessee granted final approval of a settlement of the litigation against General Motors Acceptance Corporation (“GMAC”) in which GMAC agreed to take the historic step of imposing a 2.5% markup cap on loans with terms up to 60 months, and a cap of 2% on extended term loans. GMAC also agreed to institute a substantial credit pre-approval program designed to provide special financing rates to minority car buyers with special rate financing.

**DAIMLERCHRYSLER:** The United States District Court for the District of New Jersey granted final approval of the settlement in which DaimlerChrysler agreed to implement substantial changes to the company’s practices, including limiting the maximum amount of mark-up dealers may charge customers to between 1.25% and 2.5% depending upon the length of the customer’s loan. In addition, the company agreed to send out pre-approved credit offers of no-markup loans to African-American and Hispanic consumers, and contribute \$1.8 million to provide consumer education and assistance programs on credit financing.

**FORD MOTOR CREDIT:** The United States District Court for the Southern District of New York granted final approval of a settlement in which Ford Credit agreed to make contract disclosures informing consumers that the customer’s Annual Percentage Rate (“APR”) may be negotiated and that sellers may assign their contracts and retain rights to receive a portion of the finance charge.

## CLIENTS AND FEES

We are firm believers in the contingency fee as a socially useful, productive and satisfying basis of compensation for legal services, particularly in litigation. Wherever appropriate, even with our corporate clients, we will encourage retention where our fee is contingent on the outcome of the litigation. This way, it is not the number of hours worked that will determine our fee, but rather the result achieved for our client.

Our clients include many large and well known financial and lending institutions and pension funds, as well as privately-held companies that are attracted to our firm because of our reputation, expertise and fee structure. Most of the firm’s clients are referred by other clients, law firms and lawyers, bankers, investors and accountants. A considerable number of clients have been referred to the firm by former adversaries. We have always maintained a high level of independence and discretion in the cases we decide to prosecute. As a result, the level of personal satisfaction and commitment to our work is high.

## IN THE PUBLIC INTEREST

Bernstein Litowitz Berger & Grossmann LLP is guided by two principles: excellence in legal work and a belief that the law should serve a socially useful and dynamic purpose. Attorneys at the firm are active in academic, community and *pro bono* activities, as well as participating as speakers and contributors to professional organizations. In addition, the firm endows a public interest law fellowship and sponsors an academic scholarship at Columbia Law School.

**BERNSTEIN LITOWITZ BERGER & GROSSMANN PUBLIC INTEREST LAW FELLOWS COLUMBIA LAW SCHOOL** – BLB&G is committed to fighting discrimination and effecting positive social change. In support of this commitment, the firm donated funds to Columbia Law School to create the Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship. This newly endowed fund at Columbia Law School will provide Fellows with 100% of the funding needed to make payments on their law school tuition loans so long as such graduates remain in the public interest law field. The BLB&G Fellows are able to begin their careers free of any school debt if they make a long-term commitment to public interest law.

### FIRM SPONSORSHIP OF HER JUSTICE

**NEW YORK, NY** – BLB&G is a sponsor of Her Justice, a non-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally battered women, in connection with the myriad legal problems they face. The organization trains and supports the efforts of New York lawyers who provide *pro bono* counsel to these women. Several members and associates of the firm volunteer their time to help women who need divorces from abusive spouses, or representation on issues such as child support, custody and visitation. To read more about Her Justice, visit the organization's website at [www.herjustice.org](http://www.herjustice.org).

### THE PAUL M. BERNSTEIN MEMORIAL SCHOLARSHIP

**COLUMBIA LAW SCHOOL** – Paul M. Bernstein was the founding senior partner of the firm. Mr. Bernstein led a distinguished career as a lawyer and teacher and was deeply committed to the professional and personal development of young lawyers. The Paul M. Bernstein Memorial Scholarship Fund is a gift of the firm and the family and friends of Paul M. Bernstein, and is awarded annually to one or more second-year students selected for their academic excellence in their first year, professional responsibility, financial need and contributions to the community.

### FIRM SPONSORSHIP OF CITY YEAR NEW YORK

**NEW YORK, NY** – BLB&G is also an active supporter of City Year New York, a division of AmeriCorps. The program was founded in 1988 as a means of encouraging young people to devote time to public service and unites a diverse group of volunteers for a demanding year of full-time community service, leadership development and civic engagement. Through their service, corps members experience a rite of passage that can inspire a lifetime of citizenship and build a stronger democracy.

### MAX W. BERGER PRE-LAW PROGRAM

**BARUCH COLLEGE** – In order to encourage outstanding minority undergraduates to pursue a meaningful career in the legal profession, the Max W. Berger Pre-Law Program was established at Baruch College. Providing workshops, seminars, counseling and mentoring to Baruch students, the program facilitates and guides them through the law school research and application process, as well as placing them in appropriate internships and other pre-law working environments.

### NEW YORK SAYS THANK YOU FOUNDATION

**NEW YORK, NY** – Founded in response to the outpouring of love shown to New York City by volunteers from all over the country in the wake of the 9/11 attacks, The New York Says Thank You Foundation sends volunteers from New York City to help rebuild communities around the country affected by disasters. BLB&G is a corporate sponsor of NYSTY and its goals are a heartfelt reflection of the firm's focus on community and activism.

## OUR ATTORNEYS

### MEMBERS

**MAX W. BERGER**, the firm's senior founding partner, supervises BLB&G's litigation practice and prosecutes class and individual actions on behalf of the firm's clients.

He has litigated many of the firm's most high-profile and significant cases, and has negotiated seven of the largest securities fraud settlements in history, each in excess of a billion dollars: *Cendant* (\$3.3 billion); *Citigroup–WorldCom* (\$2.575 billion); *Bank of America/Merrill Lynch* (\$2.4 billion); *JPMorgan Chase–WorldCom* (\$2 billion); *Nortel* (\$1.07 billion); *Merck* (\$1.06 billion); and *McKesson* (\$1.05 billion).

Most recently, before the #metoo movement came alive, on behalf of an institutional investor client, he handled the prosecution of the unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveiled a landmark settlement with two key components: 1) the first ever Board-level watchdog of its kind – the “Fox News Workplace Professionalism and Inclusion Council” of experts (WPIC) – majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries – \$90 million – ever obtained in a pure corporate board oversight dispute. The WPIC is expected to serve as a model for public companies in all industries.

Mr. Berger's work has garnered him extensive media attention, and he has been the subject of feature articles in a variety of major media publications. Unique among his peers, *The New York Times* highlighted his remarkable track record in an October 2012 profile entitled “Investors' Billion-Dollar Fraud Fighter,” which also discussed his role in the *Bank of America/Merrill Lynch Merger* litigation. In 2011, Mr. Berger was twice profiled by *The American Lawyer* for his role in negotiating a \$627 million recovery on behalf of investors in the *In re Wachovia Corp. Securities Litigation*, and a \$516 million recovery in *In re Lehman Brothers Equity/Debt Securities Litigation*. Previously, Mr. Berger's role in the *WorldCom* case generated extensive media coverage including feature articles in *BusinessWeek* and *The American Lawyer*. For his outstanding efforts on behalf of WorldCom investors, *The National Law Journal* profiled Mr. Berger (one of only eleven attorneys selected nationwide) in its annual 2005 “Winning Attorneys” section. He was subsequently featured in a 2006 *New York Times* article, “A Class-Action Shuffle,” which assessed the evolving landscape of the securities litigation arena.

#### One of the “100 Most Influential Lawyers in America”

Widely recognized for his professional excellence and achievements, Mr. Berger was named one of the “100 Most Influential Lawyers in America” by *The National Law Journal* for being “front and center” in holding Wall Street banks accountable and obtaining over \$5 billion in cases arising from the subprime meltdown, and for his work as a “master negotiator” in obtaining numerous multi-billion dollar recoveries for investors.

Described as a “standard-bearer” for the profession in a career spanning over 40 years, he is the 2014 recipient of *Chambers USA*'s award for Outstanding Contribution to the Legal Profession. In presenting this prestigious honor, *Chambers* recognized Mr. Berger's “numerous headline-grabbing successes,” as well as his unique stature among colleagues – “warmly lauded by his peers, who are nevertheless loath to find him on the other side of the table.”

*Law360* published a special feature discussing his life and career as a “Titan of the Plaintiffs Bar,” and also named him one of only six litigators selected nationally as a “Legal MVP” for his work in securities litigation.

For the past ten years in a row, Mr. Berger has received the top attorney ranking in plaintiff securities litigation by *Chambers* and is consistently recognized as one of New York’s “local litigation stars” by *Benchmark Litigation* (published by *Institutional Investor* and *Euromoney*).

Since their various inception, he has also been named a “leading lawyer” by the *Legal 500 US* Guide, one of “10 Legal Superstars” by *Securities Law360*, and one of the “500 Leading Lawyers in America” and “100 Securities Litigators You Need to Know” by *Lawdragon* magazine. Further, *The Best Lawyers in America* guide has named Mr. Berger a leading lawyer in his field.

Considered the “Dean” of the U.S. plaintiff securities bar, Mr. Berger has lectured extensively for many professional organizations, and is the author and co-author of numerous articles on developments in the securities laws and their implications for public policy. He was chosen, along with several of his BLB&G partners, to author the first chapter – “Plaintiffs’ Perspective” – of Lexis/Nexis’s seminal industry guide *Litigating Securities Class Actions*. An esteemed voice on all sides of the legal and financial markets, in 2008 the SEC and Treasury called on Mr. Berger to provide guidance on regulatory changes being considered as the accounting profession was experiencing tectonic shifts shortly before the financial crisis.

Mr. Berger also serves the academic community in numerous capacities. A long-time member of the Board of Trustees of Baruch College, he is now the President of the Baruch College Fund. A member of the Dean’s Council to Columbia Law School, he has taught Profession of Law, an ethics course at Columbia Law School, and serves on the Advisory Board of Columbia Law School’s Center on Corporate Governance. In May 2006, he was presented with the Distinguished Alumnus Award for his contributions to Baruch College, and in February 2011, Mr. Berger received Columbia Law School’s most prestigious and highest honor, “The Medal for Excellence.” This award is presented annually to Columbia Law School alumni who exemplify the qualities of character, intellect, and social and professional responsibility that the Law School seeks to instill in its students. As a recipient of this award, Mr. Berger was profiled in the Fall 2011 issue of *Columbia Law School Magazine*.

Mr. Berger is currently a member of the New York State, New York City and American Bar Associations, and is a member of the Federal Bar Council. He is also a member of the American Law Institute and an Advisor to its Restatement Third: Economic Torts project. In addition, Mr. Berger is a member of the Board of Trustees of The Supreme Court Historical Society.

Mr. Berger lectures extensively for many professional organizations. In 1997, Mr. Berger was honored for his outstanding contribution to the public interest by Trial Lawyers for Public Justice, where he was a “Trial Lawyer of the Year” Finalist for his work in *Roberts, et al. v. Texaco*, the celebrated race discrimination case, on behalf of Texaco’s African-American employees.

Among numerous charitable and volunteer works, Mr. Berger is an active supporter of City Year New York, a division of AmeriCorps, dedicated to encouraging young people to devote time to public service. In July 2005, he was named City Year New York’s “Idealist of the Year,” for his long-time service and work in the community. He and his wife, Dale, have also established The Dale and Max Berger Public Interest Law Fellowship at Columbia Law School and the Max Berger Pre-Law Program at Baruch College.

EDUCATION: Baruch College-City University of New York, B.B.A., Accounting, 1968; President of the student body and recipient of numerous awards. Columbia Law School, J.D., 1971, Editor of the *Columbia Survey of Human Rights Law*.

BAR ADMISSIONS: New York; U.S. District Courts for the Eastern and Southern Districts of New York; U.S. Court of Appeals for the Second Circuit; U.S. Supreme Court.

**GERALD H. SILK**'s practice focuses on representing institutional investors on matters involving federal and state securities laws, accountants' liability, and the fiduciary duties of corporate officials, as well as general commercial and corporate litigation. He also advises creditors on their rights with respect to pursuing affirmative claims against officers and directors, as well as professionals both inside and outside the bankruptcy context.

Mr. Silk is a member of the firm's Management Committee. He also oversees the firm's New Matter department in which he, along with a group of attorneys, financial analysts and investigators, counsels institutional clients on potential legal claims. In December 2014, Mr. Silk was recognized by *The National Law Journal* in its inaugural list of "Litigation Trailblazers & Pioneers" — one of 50 lawyers in the country who have changed the practice of litigation through the use of innovative legal strategies — in no small part for the critical role he has played in helping the firm's investor clients recover billions of dollars in litigation arising from the financial crisis, among other matters.

In addition, *Lawdragon* magazine, which has named Mr. Silk one of the "100 Securities Litigators You Need to Know," one of the "500 Leading Lawyers in America" and one of America's top 500 "rising stars" in the legal profession, also recently profiled him as part of its "Lawyer Limelight" special series, discussing subprime litigation, his passion for plaintiffs' work and the trends he expects to see in the market. Recognized as one of an elite group of notable practitioners by *Chambers USA*, he is also named as a "Litigation Star" by *Benchmark*, is recommended by the *Legal 500 USA* guide in the field of plaintiffs' securities litigation, and has been selected as a New York *Super Lawyer* every year since 2006.

In the wake of the financial crisis, he advised the firm's institutional investor clients on their rights with respect to claims involving transactions in residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs). His work representing Cambridge Place Investment Management Inc. on claims under Massachusetts state law against numerous investment banks arising from the purchase of billions of dollars of RMBS was featured in a 2010 *New York Times* article by Gretchen Morgenson titled, "Mortgage Investors Turn to State Courts for Relief."

Mr. Silk also represented the New York State Teachers' Retirement System in a securities litigation against the General Motors Company arising from a series of misrepresentations concerning the quality, safety, and reliability of the Company's cars which resulted in a \$300 million settlement. He was also a member of the litigation team responsible for the successful prosecution of *In re Cendant Corporation Securities Litigation* in the District of New Jersey, which was resolved for \$3.2 billion. In addition, he is actively involved in the firm's prosecution of highly successful M&A litigation, representing shareholders in widely publicized lawsuits, including the litigation arising from the proposed acquisition of Caremark Rx, Inc. by CVS Corporation — which led to an increase of approximately \$3.5 billion in the consideration offered to shareholders.

A graduate of the Wharton School of Business, University of Pennsylvania and Brooklyn Law School, in 1995-96, Mr. Silk served as a law clerk to the Hon. Steven M. Gold, U.S.M.J., in the United States District Court for the Eastern District of New York.

Mr. Silk lectures to institutional investors at conferences throughout the country, and has written or substantially contributed to several articles on developments in securities and corporate law, including "Improving Multi-Jurisdictional, Merger-Related Litigation," American Bar Association (February 2011); "The Compensation Game," *Lawdragon*, Fall 2006; "Institutional Investors as Lead Plaintiffs: Is There A New And Changing Landscape?," *75 St. John's Law Review* 31 (Winter 2001); "The Duty To Supervise, Poser, Broker-Dealer Law and Regulation," 3rd Ed. 2000, Chapter 15; "Derivative Litigation In New York after Marx v. Akers," *New York Business Law Journal*, Vol. 1, No. 1 (Fall 1997).

He has also been a commentator for the business media on television and in print. Among other outlets, he has appeared on NBC's *Today*, and CNBC's *Power Lunch*, *Morning Call*, and



*Squawkbox* programs, as well as being featured in *The New York Times*, *Financial Times*, *Bloomberg*, *The National Law Journal*, and the *New York Law Journal*.

EDUCATION: Wharton School of the University of Pennsylvania, B.S., Economics, 1991.  
 Brooklyn Law School, J.D., *cum laude*, 1995.

BAR ADMISSIONS: New York; U.S. District Courts for the Southern and Eastern Districts of New York.

**DAVID R. STICKNEY** practices in the firm's California office, where he focuses on complex litigation in state and federal courts nationwide at both the trial court and appellate levels. He has represented institutions and individuals in high-profile and historic cases, litigating virtually every type of securities matter, including claims under the Securities and Exchange Acts of 1933 and 1934, fraud and non-disclosure cases under state blue-sky laws and myriad additional actions addressing securities-related misconduct.

Mr. Stickney has prosecuted and, together with his partners, successfully resolved a number of the firm's significant cases, obtaining billions of dollars in recoveries for investors. Among such cases are *In re McKesson Sec. Litig.*, recovering \$1.023 billion, the largest settlement in history for any securities class action within the Ninth Circuit; *In re Lehman Brothers Debt/Equity Sec. Litig.*, which settled for \$615 million; *In re Bear Stearns Mortgage Pass-Through Certificate Litigation*, recovering \$500 million; *Plaintiff vs. Wall Street Banks*, recovering \$382 million; *Public Employees Ret. Sys. of Miss. vs. Merrill Lynch & Co.*, recovering \$325 million; *Wyatt v. El Paso Corp.*, which settled for \$285 million; *Public Employees Ret. Sys. of Miss. vs. JP Morgan*, which settled for \$280 million; *In re Genworth Fin. Inc., Sec. Litig.*, settlement pending for \$219 million; *BFA Liquidation Trust v. Arthur Andersen LLP*, which settled during trial for \$217 million; *In re Wells Fargo Mortgage Pass-Through Certificate Litig.*, which settled for \$125 million; *Public Employees Ret. Sys. of Miss. vs. Morgan Stanley*, which settled for \$95 million; *In re Lumber Liquidators Sec. Litig.*; *In re CTI Biopharmaceuticals Sec. Litig.*; *In re Rayonier Sec. Litig.*; *In re SunPower Corp.*; *Atlas v. Accredited Home Lenders Holding Company*; *In re Connetics Inc.*; *In re Stone Energy Corp.*; *In re WSB Financial Group Sec. Litig.*; *In re Dura Pharmaceuticals Inc. Sec. Litig.*; *In re EMAC Sec. Litig.*, and additional cases.

Mr. Stickney has prosecuted claims arising from a wide variety of industries, including finance and banking, accounting services, retail, automotive, software and technology, telecommunications, education, healthcare, pharmaceutical, energy oil and gas, transportation and shipping, real estate, forestry, insurance and others. He is currently responsible for a number of the firm's prominent cases, including litigation involving *Qualcomm*, *RH Inc.*, *Intel*, *Cobalt*, *Apollo Education Group* and others.

He has been widely recognized for his professional achievements as one of the top litigators in the country by the legal media and industry observers. In March 2016, *The Recorder* selected Mr. Stickney as a "Litigation Groundbreaker" for his work recovering billions of dollars from sellers of toxic mortgage securities. The *Daily Journal* named Mr. Stickney one of the top 30 plaintiff lawyers in California for 2016. In November 2014, *Law360* profiled him as one of the "Titans of the Plaintiffs Bar," as well twice naming him a "Class Action MVP," one of only a handful of litigators selected nationally. Since 2014, *Lawdragon* magazine has selected him to its exclusive list of the "500 Leading Lawyers in America," and since 2008 has been named a "Rising Star" and a "Litigation Star" by *Benchmark (The Definitive Guide to America's Leading Litigation Firms & Attorneys)*. Thomson recognizes Mr. Stickney as a San Diego *Super Lawyer* and featured in the *Corporate Counsel* edition of *Super Lawyers*.

Mr. Stickney lectures on securities litigation and shareholder matters for seminars and programs sponsored by professional organizations. He has also authored and co-authored several articles concerning securities litigation and class actions.

During 1996-1997, Mr. Stickney served as law clerk to the Honorable Bailey Brown of the United States Court of Appeals for the Sixth Circuit.

EDUCATION: University of California, Davis, B.A., 1993. University of Cincinnati College of Law, J.D., 1996; Jacob B. Cox Scholar; Lead Articles Editor of the *University of Cincinnati Law Review*.

BAR ADMISSIONS: California; U.S. District Courts for the Northern, Southern and Central Districts of California; U.S. Courts of Appeals for the Second, Fifth, Sixth, Eighth and Ninth Circuits; U.S. District Court for the District of Colorado.

**AVI JOSEFSON** prosecutes securities fraud litigation for the firm's institutional investor clients, and has participated in many of the firm's significant representations, including *In re SCOR Holding (Switzerland) AG Securities Litigation*, which resulted in a recovery worth in excess of \$143 million for investors. He was also a member of the team that litigated the *In re OM Group, Inc. Securities Litigation*, which resulted in a settlement of \$92.4 million.

As a member of the firm's New Matter department, Mr. Josefson counsels institutional clients on potential legal claims. He has presented argument in several federal and state courts, including an appeal he argued before the Delaware Supreme Court.

Mr. Josefson is also actively involved in the M&A litigation practice, and represented shareholders in the litigation arising from the proposed acquisitions of Ceridian Corporation and Anheuser-Busch. A member of the firm's subprime litigation team, he has participated in securities fraud actions arising from the collapse of subprime mortgage lender American Home Mortgage and the actions against Lehman Brothers, Citigroup and Merrill Lynch, arising from those banks' multi-billion-dollar loss from mortgage-backed investments. Mr. Josefson has prosecuted actions against Deutsche Bank and Morgan Stanley arising from their sale of mortgage-backed securities, and is advising U.S. and foreign institutions concerning similar claims arising from investments in mortgage-backed securities.

Mr. Josefson practices in the firm's Chicago and New York Offices.

EDUCATION: Brandeis University, B.A., *cum laude*, 1997. Northwestern University, J.D., 2000; *Dean's List*; Justice Stevens Public Interest Fellowship (1999); Public Interest Law Initiative Fellowship (2000).

BAR ADMISSIONS: Illinois, New York; U.S. District Courts for the Southern District of New York and the Northern District of Illinois.

**JONATHAN D. USLANER** prosecutes class and direct actions on behalf of the firm's institutional investor clients.

Mr. Uslander has litigated many of the firm's most high-profile litigations. These include, among others, *In re Bank of America Securities Litigation*, which resulted in a historic settlement shortly before trial of \$2.43 billion, one of the largest shareholder recoveries ever obtained; *In re Genworth Financial, Inc. Securities Litigation*, which settled for \$219 million, the largest recovery ever obtained in a securities class action in Virginia; *In re JPMorgan Chase & Co. Securities Litigation*, which settled for \$150 million; *In re Wells Fargo Mortgage-Backed Certificates Litigation*, which settled for \$125 million; and *In re Rayonier Securities Litigation*, which settled for \$73 million.

Mr. Uslander is also actively involved in the firm's direct action opt-out practice. He currently represents the Firm's clients in direct actions brought against American Realty Capital Properties and Valeant Pharmaceuticals International Inc.



Mr. Uslaner has been a member of the Board of Governors of the Association of Business Trial Lawyers (ABTL). He is also a member of the Federal Bar Association (FBA) and the San Diego County Bar Association (SDCBA).

Mr. Uslaner is an editor of the American Bar Association's Class Actions and Derivative Suits Committee's Newsletter. He has authored multiple articles relating to class actions and the federal securities laws, including "Much More Than 'Housekeeping': Rule 23(c)(4) in Action," "Keeping Plaintiffs in the Driver's Seat: The Supreme Court Rejects 'Pick-off' Settlement Offers," and "Combating Objectionable Objections."

For his achievements, Mr. Uslaner was featured by Law360 as a national "Rising Star" and has been named among the "Top 40 Under 40" legal professionals in California by the *Daily Journal*. He was also featured by Benchmark Litigation in its "Under 40 Hot List," which honors the nation's most accomplished legal partners under the age of 40.

Mr. Uslaner is also a board member of Home of Guiding Hands, a non-profit organization that serves individuals with developmental disabilities and their families in the San Diego community. For his work and contributions to the organization, he was named "Volunteer of the Year."

Prior to joining BLB&G, Mr. Uslaner was a senior litigation associate at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, where he successfully prosecuted and defended claims from the discovery stage through trial. He also gained significant trial experience as a volunteer prosecutor for the City of Inglewood, California, as well as a judicial extern for Justice Steven Wayne Smith of the Supreme Court of Texas.

EDUCATION: Duke University, B.A., *magna cum laude*, 2001, William J. Griffith Award for Leadership; Chairperson, Duke University Undergraduate Publications Board. The University of Texas School of Law, J.D., 2005; University of Texas Presidential Academic Merit Fellowship; Articles Editor, *Texas Journal of Business Law*.

BAR ADMISSIONS: California; New York; U.S. District Courts for the Central and Northern Districts of California; U.S. District Court for the Southern District of New York.

**ADAM H. WIERZBOWSKI** was a senior member of the team that recovered over \$1.06 billion on behalf of investors in *In re Merck Vioxx Securities Litigation*, which arose out of the Defendants' alleged misrepresentations about the cardiovascular safety of Merck's painkiller Vioxx. The case was settled just months before trial and after more than 10 years of litigation, during which time plaintiffs achieved a unanimous and groundbreaking victory for investors at the U.S. Supreme Court. The settlement is the second largest recovery ever obtained in the Third Circuit, among the 15 largest recoveries of all time, and the largest securities recovery ever achieved against a pharmaceutical company.

Mr. Wierzbowski was also a senior member of the team that achieved a total settlement of \$688 million on behalf of investors in *In re Schering-Plough Corp./ENHANCE Securities Litigation* and *In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*, which related to Schering and Merck's alleged misrepresentations about the multi-billion dollar blockbuster drugs Vytorin and Zetia. The combined \$688 million in settlements is the third largest securities class action settlement in the Third Circuit and among the top 25 securities class action settlements of all time. The cases settled after nearly five years of litigation and less than a month before trial.

Most recently, Mr. Wierzbowski was a senior member of the team that obtained \$480 million for investors in the securities class action against Wells Fargo & Co. related to its fake accounts scandal. The settlement, if approved by the Court, would be the fourth largest settlement in the Ninth Circuit.

In the *UnitedHealth Derivative Litigation*, which involved executives' illegal backdating of UnitedHealth stock options, Mr. Wierzbowski helped recover in excess of \$920 million from the individual Defendants. He also represented investors in the securities litigation against General Motors and certain of its senior executives stemming from that company's delayed recall of vehicles with defective ignition switches, where the parties recovered \$300 million for investors, in the second largest securities class action recovery in the Sixth Circuit.

Mr. Wierzbowski also helped obtain significant recoveries on behalf of investors in *Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al.* (\$85 million recovery); *Bach v. Amedisys, et al.* (\$43.75 million recovery); *In re Facebook, Inc., IPO Securities and Derivative Litigation* (\$35 million recovery); *In re Altisource Portfolio Solutions, S.A. Securities Litigation* (\$32 million recovery), and the *Monster Worldwide Derivative Litigation* (recovery valued at \$32 million). He is currently a member of the teams prosecuting *Town of Davie Police Pension Plan v. Pier 1 Imports, Inc. Securities Litigation* and *In re Stericycle, Inc. Securities Litigation*.

In 2016, Mr. Wierzbowski was named to *Benchmark Litigation's* "Under 40 Hot List," in recognition of his achievements as one of the nation's most accomplished legal partners under the age of 40. He is also regularly named as one of *Super Lawyers'* New York "Rising Stars." No more than 2.5% of the lawyers in New York are selected to receive this honor each year.

EDUCATION: Dartmouth College, B.A., *magna cum laude*, 2000. The George Washington University Law School, J.D., *with honors*, 2003; Notes Editor for *The George Washington International Law Review*; Member of the Moot Court Board.

BAR ADMISSIONS: New York; U.S. Supreme Court; U.S. District Courts for the Eastern and Southern Districts of New York; U.S. District Court for the Eastern District of Michigan; U.S. Courts of Appeals for the Third, Fifth and Sixth Circuits.

## SENIOR COUNSEL

**BRANDON MARSH**'s practice is focused on complex litigation, including matters involving securities fraud, corporate governance and shareholder rights litigation on behalf of the firm's institutional investor clients. As a member of the firm's new matter and foreign securities litigation departments, Mr. Marsh, along with a team of attorneys, financial analysts, forensic accountants, and investigators, also counsels the firm's institutional clients on their legal claims and options with respect to shareholder litigation worldwide.

Mr. Marsh currently represents the firm's institutional investor clients as counsel in a number of significant actions, including the securities class action against Cobalt International Energy. He also represents the firm's clients in securities class actions against Quality Systems, Inc. and RH, Inc. relating to their misrepresentations to investors. Since joining the firm, Mr. Marsh has been an integral part of the teams that prosecuted securities class actions against Genworth Financial, Inc., Rayonier Inc., and EZCORP, Inc. – which together recovered over \$300 million for investors.

Before joining the firm, Mr. Marsh clerked for the Honorable Jerome Farris of the United States Court of Appeals for the Ninth Circuit and was a senior associate at Irell & Manella. While at Irell & Manella, he represented both plaintiffs and defendants in a broad range of matters, including representing one of the world's largest gaming companies in a major securities class action.

Mr. Marsh has authored articles relating to class actions, arbitration, and the federal securities laws, including "Trump Administration Could Block Access To Courts" and "The Rising Tide of Dual-Class Shares: Recipe For Executive Entrenchment, Underperformance and Erosion of Shareholder Rights," published in *Pensions & Investments* and *The NAPPA Report*, respectively. His further articles in publications such as *Law360* and the ABA newsletter include "Keeping Plaintiffs in the Driver's Seat: The Supreme Court Rejects 'Pick-off' Settlement Offers," "Combating Objectionable Objections: Rule 23 Rules Committee Takes Aim At Frivolous Objections To Class Settlements," "More Than One Way To Pick A Pocket: SEC Scrutiny Of

Private Equity Firms Reveals Widespread Abuses," and "All Eyes On The UK: Institutional Investors Monitor High-Profile Cases In The London High Court." Mr. Marsh also occasionally hosts BLB&G's Real-Time Speaker Series, a periodic firm presentation regarding issues of current interest to the institutional investor community.

Mr. Marsh earned his law degree from Stanford Law School, graduating with honors ("with Distinction"). While in law school, he served as an editor of the *Stanford Law Review* and authored "Preventing the Inevitable: The Benefits of Contractual Risk Engineering in Light of Venezuela's Recent Oil Field Nationalization," 13 *Stan. J. L. Bus. & Fin.* 453 (2008).

The *Southern California Super Lawyers* magazine named Mr. Marsh a "Rising Star" for the years 2014, 2016, 2017, 2018 and 2019.

EDUCATION: University of California, Berkeley, B.A., with *Highest Distinction*, History and German, 2000. Stanford Law School, J.D., with *Distinction*, 2009.

BAR ADMISSIONS: California; U.S. District Courts for the Central and Northern Districts of California; U.S. Court of Appeals for the Ninth Circuit.

## ASSOCIATES

**JENNY BARBOSA**, a former associate of the firm, practiced out of the firm's San Diego office, where she prosecuted securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients. She was a member of the teams that prosecuted securities fraud class actions against Rayonier Inc., Cobalt International Energy, Inc. and Vale SA.

Prior to joining BLB&G, Ms. Barbosa worked at the United States District Court for the Southern District of California, where she clerked for the Honorable Jill L. Burkhardt and served as a judicial extern for both the Honorable Anthony J. Battaglia and the Honorable Mitchell D. Dembin. While in law school, Ms. Barbosa was a Comments Editor for the *San Diego Law Review*.

EDUCATION: University of San Diego, B.A., Business Administration, *magna cum laude*, 2006. University of San Diego School of Law, J.D., *cum laude*, 2013; Order of the Coif; Comments Editor, *San Diego Law Review*.

BAR ADMISSION: California.

**DAVID L. DUNCAN**'s practice concentrates on the settlement of class actions and other complex litigation and the administration of class action settlements.

Prior to joining BLB&G, Mr. Duncan worked as a litigation associate at Debevoise & Plimpton, where he represented clients in a wide variety of commercial litigation, including contract disputes, antitrust and products liability litigation, and in international arbitration. In addition, he has represented criminal defendants on appeal in New York State courts and has successfully litigated on behalf of victims of torture and political persecution from Sudan, Côte d'Ivoire and Serbia in seeking asylum in the United States.

While in law school, Mr. Duncan served as an editor of the *Harvard Law Review*. After law school, he clerked for Judge Amalya L. Kearsse of the U.S. Court of Appeals for the Second Circuit.

EDUCATION: Harvard College, A.B., Social Studies, *magna cum laude*, 1993. Harvard Law School, J.D., *magna cum laude*, 1997.

BAR ADMISSIONS: New York; Connecticut; U.S. District Court for the Southern District of New York.

**SCOTT R. FOGLIETTA** focuses his practice on securities litigation and is a member of the firm's New Matter group, in which he, as part of a team of attorneys, financial analysts, and investigators, counsels institutional investors on potential legal claims.

Mr. Foglietta also serves as a member of the litigation team responsible for prosecuting *In re Lumber Liquidators Holdings, Inc. Securities Litigation*. For his accomplishments, Mr. Foglietta was recently named a New York "Rising Star" in the area of securities litigation.

Before joining the firm, Mr. Foglietta represented institutional and individual clients in a wide variety of complex litigation matters, including securities class actions, commercial litigation, and ERISA litigation. While in law school, Mr. Foglietta served as a legal intern in the Financial Industry Regulatory Authority's (FINRA) Enforcement Division, and in the general counsel's office of NYSE Euronext. Prior to law school, Mr. Foglietta earned his M.B.A. in finance from Clark University and worked as a capital markets analyst for a boutique investment banking firm.



EDUCATION: Clark University, B.A., Management, *cum laude*, 2006. Clark University, Graduate School of Management, M.B.A., Finance, 2007. Brooklyn Law School, J.D., 2010.

BAR ADMISSIONS: New York; New Jersey.

**JULIA E. JOHNSON**, a former associate of the firm, practiced out of the firm’s San Diego office, where she focused on securities fraud, corporate governance and shareholder rights litigation.

Prior to joining the firm, Ms. Johnson was a legal fellow at the World Bank’s Integrity Vice Presidency, Special Litigation Unit, and the Office of the U.S. Trade Representative.

EDUCATION: Wake Forest University, B.A., 2010, Economics; Minor in English. Duke University School of Law, J.D., 2014; Articles Editor, *Alaska Law Review*; Executive Editor, *Duke Environmental Law & Policy Forum*.

BAR ADMISSIONS: California; New York; Georgia; District of Columbia; U.S Court of International Trade.

**MATTHEW JUBENVILLE**, a former associate of the firm, practiced out of the San Diego office, where he represented individual and institutional investors asserting claims under federal and state securities laws.

EDUCATION: University of Colorado, B.A., *with distinction*, Molecular, Cellular and Developmental Biology, 2000; Phi Beta Kappa. University of San Diego School of Law, J.D., 2003; *San Diego Law Review*.

BAR ADMISSIONS: California, U.S. District Courts for the Northern, Central and Southern Districts of California.

**CATHERINE MCCAW**, a former associate of the firm, practiced out of the New York office, where she focused on securities fraud and corporate governance and shareholder rights litigation.

Prior to joining the firm, Ms. McCaw clerked for the Honorable Chester J. Straub of the United States Court of Appeals for the Second Circuit and the Honorable Richard J. Holwell of the United States District Court for the Southern District of New York. She also served as a Presidential Management Fellow at the General Counsel’s Office for the Federal Bureau of Investigation (FBI).

EDUCATION: Harvard College, A.B., *magna cum laude*, History, 2003. Harvard Law School, J.D., 2009; Articles Editor, *Harvard Civil Rights-Civil Liberties Law Review*.

BAR ADMISSION: Massachusetts.

**ROSS SHIKOWITZ** focuses his practice on securities litigation and is a member of the firm’s New Matter group, in which he, as part of a team attorneys, financial analysts, and investigators, counsels institutional clients on potential legal claims.

Mr. Shikowitz has also served as a member of the litigation teams responsible for successfully prosecuting a number of the firm’s significant cases involving wrongdoing related to the securitization and sale of residential mortgage-backed securities (“RMBS”), and has recovered hundreds of millions of dollars on behalf of injured investors. He successfully represented

Allstate Insurance Co., Metropolitan Life Insurance Company, Teachers Insurance and Annuity Association of America, Bayerische Landesbank, Dexia SA/NV, Sealink Funding Limited, and Landesbank Baden-Württemberg against various issuers of RMBS in both state and federal courts.

Currently, Mr. Shikowitz serves as a member of the litigation team prosecuting the securities fraud class action against Volkswagen AG, which recently resulted in a \$48 million recovery for Volkswagen investors and arose out of Volkswagen's illegal use of defeat devices in millions of purportedly clean diesel cars to cheat emissions standards worldwide. He also serves as a member of the team litigating the securities class action concerning GT Advanced Technologies Inc., which alleges that defendants knew that the company's \$578 million deal to supply Apple, Inc. with product was an onerous and massively one-sided agreement that allowed GT executives to sell millions worth of stock. The case concerning GT has resulted in \$36.7 million in recoveries to date.

For his accomplishments, Mr. Shikowitz has consistently been named by *Super Lawyers* as a New York "Rising Star" in the area of securities litigation.

While in law school, Mr. Shikowitz was a research assistant to Brooklyn Law School Professor of Law Emeritus Norman Poser, a widely respected expert in international and domestic securities regulation. He also served as a judicial intern to the Honorable Brian M. Cogan of the Eastern District of New York, and as a legal intern for the Major Narcotics Investigations Bureau of the Kings County District Attorney's Office.

EDUCATION: Skidmore College, B.A., Music, *cum laude*, 2003. Indiana University-Bloomington, M.M., Music, 2005. Brooklyn Law School, J.D., *magna cum laude*, 2010; Notes/Comments Editor, *Brooklyn Law Review*; Moot Court Honor Society; Order of Barristers Certificate; CALI Excellence for the Future Award in Products Liability, Professional Responsibility.

BAR ADMISSIONS: New York; U.S. District Courts for the Eastern and Southern Districts of New York.

**JACOB SPAID** practices out of the firm's San Diego office, where he prosecutes securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients.

He is currently a member of the team representing prominent institutional investors, including BlackRock and PIMCO, against six financial crisis-era RMBS trustee banks in ten cases pending in the U.S. District Court for the Southern District of New York, New York Supreme Court, and California Superior Court. The suits allege that the RMBS trustee banks breached contractual, statutory and common law duties owed to the trusts and certificate holders.

Mr. Spaid is also involved in litigation against Qualcomm, Inc., and Cobalt International Energy, Inc., and in the Firm's direct action opt-out practice, including in direct actions brought against American Realty Capital Properties.

Prior to joining the firm, Mr. Spaid represented national and international insurance companies and businesses in a broad range of litigation. While in law school, Mr. Spaid was a Judicial Extern for the Honorable Ruben Brooks in the Southern District of California and the Honorable Steven R. Denton in the San Diego Superior Court.

*Super Lawyers* has named Mr. Spaid a "Rising Star" for the years 2017, 2018 and 2019.

EDUCATION: San Diego State University, B.S., Business Administration, *magna cum laude*, 2006. San Diego State University, MBA, 2014. California Western School of Law, J.D., *magna*





*cum laude*, 2009; Associate Writer, Editor and Senior Editor, *California Western Law Review*; Associate Writer and Editor, *California Western International Law Journal*.

BAR ADMISSIONS: California; U.S. District Courts for the Central, Eastern, Northern, and Southern Districts of California; U.S. Court of Appeals for the Ninth Circuit.

**CATHERINE E. VAN KAMPEN**'s practice concentrates on class action settlement administration. She has extensive experience in complex litigation and litigation management, having overseen attorney teams in many of the firm's most high-profile cases. Fluent in Dutch, she has served as lead investigator and led discovery efforts in several actions involving international corporations and financial institutions headquartered in Belgium and the Netherlands.

Prior to joining BLB&G, Ms. van Kampen focused on complex litigation initiated by institutional investors and the Federal Government. She has worked on litigation and investigations related to regulatory enforcement actions, corporate governance and compliance matters as well as conducted extensive discovery in English and Dutch in cross-border litigation.

A committed humanitarian, Ms. van Kampen was honored as the 2018 Ambassador Medalist at the New Jersey Governor's Jefferson Awards for Outstanding Public Service for her international humanitarian and *pro bono* work with refugees. The Jefferson Awards, issued by the Jefferson Awards Foundation that was founded by Jacqueline Kennedy Onassis, are awarded by state governors and are considered America's highest honor for public service bestowed by the United States Senate. Ms. van Kampen was also honored in Princeton, New Jersey by her high school alma mater, Stuart Country Day School, in its 2018 Distinguished Alumnae Gallery for her humanitarian and *pro bono* efforts on behalf of women and children afflicted by war in Iraq and Syria.

Ms. van Kampen clerked for the Honorable Mary M. McVeigh in the Superior Court of New Jersey, where she was also trained as a court-certified mediator. While in law school, she was a legal intern at the Center for Social Justice's Immigration Law Clinic at Seton Hall University School of Law.

EDUCATION: Indiana University, B.A., Political Science, 1988. Seton Hall University School of Law, J.D., 1998.

BAR ADMISSION: New Jersey

LANGUAGES: Dutch, German

**L. REZA WRATHALL**, a former associate of the firm, practiced out of the San Diego office, where he prosecuted securities fraud, corporate governance and shareholder rights litigation for the firm's institutional investor clients.

EDUCATION: University of Virginia, B.S., Commerce, 1997. University of San Diego School of Business, M.S., Global Leadership, 2005. University of San Diego School of Law, LL.M., *cum laude*, 2011; J.D., 2010; Bernard H. Siegan Scholarship Recipient.

BAR ADMISSIONS: California; U.S. District Court for the Southern District of California.



## STAFF ATTORNEYS

**ZELEKHA AMIRZADA** (former staff attorney) focused on discovery matters, from the initial stages of electronic discovery through depositions and worked on *In re Cobalt International Energy, Inc. Securities Litigation* while at BLB&G.

Prior to joining the firm in 2014, Ms. Amirzada was an associate with Eppsteiner & Fiorica Attorneys, LLP as well as Caufield & James, LLP.

EDUCATION: University of California, B.A., 2003. University of San Diego, School of Law, J.D., 2006.

BAR ADMISSIONS: California.

**ALICIA BELOCK** (former staff attorney) worked on numerous matters at BLB&G, including *In re Lumber Liquidators Securities Litigation* and *In re Cobalt International Energy, Inc. Securities Litigation*.

Prior to joining the firm, Ms. Belock was a legal fellow with the Privacy Rights Clearinghouse in San Diego, CA.

EDUCATION: University of California, Davis, B.A., 2012. University of San Diego, School of Law, J.D., 2015.

BAR ADMISSIONS: California.

**LINDSEY BOND** has worked on numerous matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*.

Prior to joining the firm, Ms. Bond was a law clerk with the Palomar Law Group in Escondido, CA.

EDUCATION: University of California, Irvine, B.A., 2012. University of San Diego, School of Law, J.D., 2015.

BAR ADMISSIONS: California.

**MICHELE BONGIOVANNI** (former staff attorney) worked on numerous matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*.

Prior to joining the firm, Ms. Bongiovanni worked on behalf of a foster child through the San Diego Volunteer Lawyer Program.

EDUCATION: University of California, Santa Barbara, B.A. University of San Diego, School of Law, J.D., 2015.

BAR ADMISSIONS: California.

**JIM BRIGGS** has worked on numerous matters at BLB&G, including *Fresno County Employees' Retirement Association, et al. v. comScore, Inc., et al., Medina, et al. v. Clovis Oncology, Inc., et al., In re Cobalt International Energy, Inc. Securities Litigation, In re Salix Pharmaceuticals, Ltd., In re JPMorgan Chase & Co. Securities Litigation* and *In re Merck & Co., Inc. Securities Litigation (VIOXX-related)*.





Prior to joining the firm in 2013, Mr. Briggs was a contract attorney at Paul, Weiss, Rifkind, Wharton & Garrison LLP and Stull, Stull & Brody.

EDUCATION: Cornell University, College of Agriculture and Life Sciences, B.S. in Biological Science, *cum laude*, May 2007. Fordham University School of Law, J.D., 2010.

BAR ADMISSIONS: New York.

**CLARISSA CARDES** focuses on discovery matters, from the initial stages of electronic discovery through depositions. Among other cases, Ms. Cardes has worked on *Cambridge Place Investment Management Inc. v. Morgan Stanley & Co., Inc., et al.*, *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Toyota Motor Corporation Securities Litigation*.

Prior to joining the firm in 2012, Ms. Cardes was a legal research attorney in the San Francisco Superior Court's civil division.

EDUCATION: University of California, Berkeley, B.A., 2005; Pi Sigma Alpha. University of California, Davis, School of Law, J.D., 2008.

BAR ADMISSIONS: California.

**SHALAH FISHER** (former staff attorney) worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Rayonier Inc. Securities Litigation*.

Prior to joining the firm in 2016, Ms. Fisher was a law clerk at IP Legal Advisors, P.C. and a judicial extern for Judge Maurice Merten, Lance County Circuit Court. Prior to attending law school, Ms. Fisher was a brand protection analyst at Qualcomm, Inc. and a clerk at the U.S. Department of Homeland Security.

EDUCATION: San Diego State University, B.S. in Criminal Justice Administration/Psychology, *magna cum laude*, 2010. University of Oregon School of Law, J.D., 2015.

BAR ADMISSIONS: California.

**SHANA J. METZGER** focuses on discovery matters, from the initial stages of electronic discovery through depositions. Ms. Metzger has worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*.

Prior to joining the firm in 2014, Ms. Metzger worked as a sole practitioner and a volunteer attorney for the San Diego Volunteer Lawyer Program – HIV/AIDS Legal Services Project.

EDUCATION: University of Arizona, B.A., 2004; California Western School of Law, J.D., 2013.

BAR ADMISSIONS: California.

**MICHELLE PACIS** (former staff attorney) worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Lumber Liquidators Securities Litigation*.

Prior to joining the firm, Ms. Pacis worked as a law clerk with Gruenberg Law in San Diego, CA.



EDUCATION: San Diego State University, B.A., 2011; California Western School of Law, J.D., 2015.

BAR ADMISSIONS: California.

**KRISTINA M. PEDROSO** (former staff attorney) worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Genworth Financial, Inc. Securities Litigation*.

Prior to joining the firm in 2014, Ms. Pedroso worked as a sole practitioner and In House Counsel for USA Credit Solutions.

EDUCATION: University of California, Los Angeles, B.A., 2001; University of San Diego School of Law, J.D., 2006.

BAR ADMISSIONS: California.

**CAROLINA DE MIRANDA** has worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*, *In re Vale S.A. Securities Litigation* and *In re Lehman Brothers Debt/Equity Securities Litigation*

Prior to joining the firm, Ms. Miranda worked as an associate attorney with The Torres Law Firm.

EDUCATION: Universidade Federal Fluminense, Rio de Janeiro, Brazil, J.D., 2002; University of San Diego School of Law, Master of Laws in Comparative Law, 2006;

BAR ADMISSIONS: California; Rio de Janeiro, Brazil

**LISA SCARPA** (former staff attorney) worked on various matters at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Rayonier Inc. Securities Litigation*.

Prior to joining the firm in 2016, Ms. Scarpa was a judicial extern for the Honorable Katherine A. Bacal, Superior Court of California, County of San Diego.

EDUCATION: American University, B.A. in Law and Society, *magna cum laude*, 2008. Thomas Jefferson School of Law, J.D., 2014.

BAR ADMISSIONS: California.

**JOHN WEBER** has worked on numerous matters at BLB&G, including the *In re Cobalt International Energy, Inc. Securities Litigation* and *In re Quality Systems, Inc. Securities Litigation*.

Prior to joining the firm in 2017, Mr. Weber was a trial attorney at The Bickel Law Firm, Inc.

EDUCATION: UC Berkeley, B.A., Political Science, 2013. University of San Diego School of Law, J.D., 2016.

BAR ADMISSIONS: California.

**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**  
**TIME REPORT**

**From Inception Through Dec. 31, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Max Berger	136.00	\$1,250.00	\$170,000.00
Avi Josefson	66.75	\$850.00	\$56,737.50
Gerald Silk	314.50	\$995.00	\$312,927.50
David Stickney	1,859.75	\$945.00	\$1,757,463.75
Jonathan Uslaner	2,803.50	\$750.00	\$2,102,625.00
Adam Wierzbowski	337.25	\$750.00	\$252,937.50
<b>Senior Counsel</b>			
Brandon Marsh	2,394.75	\$725.00	\$1,736,193.75
<b>Associates</b>			
Jenny Barbosa	1,554.25	\$475.00	\$738,268.75
David L. Duncan	172.75	\$650.00	\$112,287.50
Scott Foglietta	79.50	\$550.00	\$43,725.00
Julia Johnson	162.25	\$475.00	\$77,068.75
Matthew Jubenville	86.25	\$525.00	\$45,281.25
Catherine McCaw	20.75	\$450.00	\$9,337.50
Ross Shikowitz	116.50	\$550.00	\$64,075.00
Jacob Spaid	398.50	\$475.00	\$189,287.50
Catherine Van Kampen	36.00	\$650.00	\$23,400.00
Reza Wrathall	323.25	\$450.00	\$145,462.50

<b>Staff Attorneys</b>			
Zelekha Amirzada	1,896.50	\$375.00	\$711,187.50
Alicia Belock	1,929.25	\$340.00	\$655,945.00
Lindsey Bond	1,541.50	\$340.00	\$524,110.00
Michele Bongiovanni	783.25	\$340.00	\$266,305.00
Jim Briggs	11.25	\$340.00	\$3,825.00
Clarissa Cardes	636.00	\$340.00	\$216,240.00
Shalah Fisher	101.75	\$340.00	\$34,595.00
Shana Metzger	994.25	\$340.00	\$338,045.00
Michelle Pacis	473.00	\$340.00	\$160,820.00
Kristina Pedroso	1,930.75	\$340.00	\$656,455.00
Carolina de Miranda Pinheiro	49.25	\$395.00	\$19,453.75
Lisa Scarpa	13.50	\$340.00	\$4,590.00
John Weber	688.75	\$340.00	\$234,175.00
<b>Paralegals</b>			
Martin Braxton	11.50	\$245.00	\$2,817.50
Ellen Jordan	18.50	\$245.00	\$4,532.50
Ashley Lee	410.25	\$295.00	\$121,023.75
Matthew Mahady	34.00	\$335.00	\$11,390.00
Kaye A. Martin	1,371.50	\$335.00	\$459,452.50
Lisa Napoleon	91.75	\$295.00	\$27,066.25
Norbert Sygdiak	17.00	\$335.00	\$5,695.00
Gary Weston	43.00	\$350.00	\$15,050.00
<b>Investigators</b>			
Chris Altieri	113.00	\$255.00	\$28,815.00
Amy Bitkower	300.00	\$520.00	\$156,000.00
Jenna Goldin	53.75	\$275.00	\$14,781.25
Joelle (Sfeir) Landino	199.25	\$300.00	\$59,775.00
<b>Financial Analysts</b>			
Nick DeFilippis	35.00	\$550.00	\$19,250.00
Matthew McGlade	25.00	\$335.00	\$8,375.00
Michelle Miklus	38.50	\$325.00	\$12,512.50
Sharon Safran	41.75	\$335.00	\$13,986.25
Tanjila Sultana	89.25	\$335.00	\$29,898.75
Adam Weinschel	93.25	\$465.00	\$43,361.25
<b>Litigation Support</b>			
Andy Alcindor	126.00	\$305.00	\$38,430.00
Babatunde Pedro	38.00	\$295.00	\$11,210.00
Jessica M. Wilson	13.75	\$295.00	\$4,056.25

<b>Managing Clerk</b>			
Errol Hall	35.25	\$310.00	\$10,927.50
<b>Case Analyst</b>			
Sam Jones	156.00	\$335.00	\$52,260.00
<b>Document Clerk</b>			
Kevin Kazules	80.75	\$200.00	\$16,150.00
<b>TOTAL LODESTAR</b>	<b>25,347.50</b>		<b>\$12,829,641.25</b>

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**  
**EXPENSE REPORT**  
**From Inception Through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Court Fees	\$ 949.25
Service of Process	1,606.73
On-Line Legal Research*	20,109.90
On-Line Factual Research*	11,871.88
Telephone/Faxes	1,557.43
Postage & Express Mail	7,230.41
Hand Delivery Charges	72.00
Internal Copying & Printing	22,734.10
Outside Copying & Printing	110.67
Out-of-Town Travel**	122,873.64
Local Transportation	1,537.43
Deposition & Meeting Hosting	400.00
Court Reporters and Transcripts	727.65
Experts & Consultants	15,500.00
Contribution to Litigation Fund	390,000.00
<b>TOTAL EXPENSES:</b>	<b>\$597,281.09</b>

\* The charges reflected for on-line research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

\*\* This includes only coach fares and includes hotels in the following high-cost cities capped at \$350 per night: Palm Beach, FL, New York, NY, Newport Beach, CA, and Washington, DC; and the following lower-cost cities capped at \$250 per night: Atlanta, GA, Austin, TX, Houston, TX, New Orleans, LA, and San Antonio, TX.

# EXHIBIT 4C

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF JOHNSTON DE F. WHITMAN, JR.  
IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF LITIGATION EXPENSES, FILED ON BEHALF  
OF KESSLER TOPAZ MELTZER & CHECK, LLP**

I, Johnston de F. Whitman, Jr., declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm of Kessler Topaz Meltzer & Check, LLP ("KTMC").

I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the above-captioned class action (the "Action"), as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the matters set forth herein.

2. KTMC was one of the Plaintiffs' Counsel in this Action, and served as counsel of record for Plaintiff Sjunde AP-Fonden ("AP7"), which the Court appointed as a class representative in its June 15, 2017 Order. The tasks undertaken by my firm in the Action included: (i) investigating and researching Plaintiffs' claims; (ii) assisting Lead Counsel in researching, drafting, and revising the complaints filed in this Action; (iii) assisting Lead Counsel in researching and drafting Plaintiffs' opposition to the motions to dismiss the complaints filed in this Action; (iv) assisting Lead Counsel in researching and preparing Plaintiffs' motion for class certification (and related appellate submissions); (v) participating in discovery efforts, including documents that Plaintiffs sought from certain non-parties; (vi) reviewing documents produced by Cobalt and



by the Underwriter Defendants; (vii) deposing the corporate representative of Citigroup Global Markets, Inc.; (viii) overseeing discovery pertaining to AP7 (including production of documents and interrogatory responses) and preparing for and defending Defendants' January 18, 2017 deposition of AP7; (ix) preparing for and attending the October 2017 mediation with Judge Phillips; (x) reviewing and commenting on all settlement stipulations and supporting documentation; and (xi) providing regular updates and advice to AP7 regarding case developments, court filings and decisions, litigation strategy, and case resolution.

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in the litigation, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report, and time for timekeepers who billed fewer than 10 hours in connection with prosecuting the Action was also removed from the time report.

4. I believe that the time reflected in my firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 1,942.33. The total resulting lodestar for my firm is \$1,188,116.25. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's present hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other recent securities class action litigation fee applications nationwide. *See, e.g., LAMPERS et al. v. Green Mountain Coffee Roasters, Inc. et al.*, Civil Action No. 2:11-CV-00289-WKS (D. Vt.), ECF No. 344-8 (filed Sept. 17, 2018); *Fresno County Employees' Retirement Association, et al. v. comScore, Inc., et al.*, Case No. 1:16-cv-01820-JGK (S.D.N.Y.), ECF No. 268-7 (filed May 3, 2018); *In re Allergan, Inc. Proxy Violation Securities Litigation*, Case No. 8:14-cv-2004-DOC-KESx (C.D. Cal.), ECF No. 619-5 (filed Apr. 26, 2018); *In re Ocwen Financial Corporation Securities Litigation*, Case No. 14-CIV-81057-WPD (S.D. Fla.), ECF No. 333-6 (filed Nov. 17, 2017).

6. A task breakdown describing the principal tasks in which each attorney in my firm was involved in the Action is set forth below:

**Naumon Amjed** (30.50 hours): Mr. Amjed, a partner at KTMC, concentrates his practice on new matter development and oversees the firm's lead plaintiff practice group. Mr. Amjed assisted in analyzing Plaintiffs' claims at the outset of the Action and was involved in certain matters relating to AP7's application to serve as a lead plaintiff in this Action.

**Stuart L. Berman** (76.50 hours): Mr. Berman, one of the firm's partners, was primarily responsible for client matters and was one of the attorneys who regularly communicated with, and provided litigation updates to, Plaintiff AP7. Mr. Berman assisted in discovery matters and, in particular, oversaw discovery efforts with respect to AP7. Mr. Berman also prepared for and defended Defendants' deposition of AP7.

**Ryan Degnan** (29.60 hours): Mr. Degnan, a partner at KTMC, focuses on new matter development and was involved in analyzing Plaintiffs' claims at the outset of the Action and drafting client communications in connection with AP7's application to serve as a lead plaintiff in this Action.

**David Kessler** (44.60 hours): Mr. Kessler, one of the firm's partners, was involved in case strategy and provided guidance to KTMC's litigation team throughout the case. Mr. Kessler was actively involved in preparing for the October 2017 mediation with Judge Phillips, which he also attended. Mr. Kessler also reviewed and commented upon the settlement stipulations and supporting documentation.

**Marc A. Topaz** (25.90 hours): Marc Topaz is a partner at KTMC overseeing case initiation and development in securities fraud actions. Mr. Topaz conducted research and analysis

of case issues prior to AP7's application to serve as a lead plaintiff in this Action and was involved in case strategy.

**Johnston de F. Whitman, Jr.** (873.60 hours): I, Johnston de F. Whitman, Jr., am a partner at KTMC and was responsible for supervising and managing my firm's participation in this Action. I participated in all material aspects of this Action and was in regular contact with Lead Counsel. Among other things, I assisted in drafting certain sections of the complaints, assisted in opposing Defendants' motions to dismiss the complaints, assisted in seeking discovery from certain non-parties, actively participated in discovery efforts (including depositions of KTMC's client AP7 and certain Underwriter Defendants), assisted in responding to discovery requests, assisted in class certification briefing (including appellate submissions); assisted in preparation for the October 2017 mediation and related strategy and reviewed and commented on the papers documenting the settlements.

**Andrew Dodemaide** (18.20 hours): Mr. Dodemaide was involved in the preparation of AP7's lead plaintiff application at the outset of the Action.

**Jennifer Enck** (26.55 hours): Ms. Enck, counsel at KTMC, concentrates her practice in the area of settlements. Ms. Enck reviewed and commented on drafts of the settlement agreements and the related documents in support of the settlements.

**Nathan Hasiuk** (101.90 hours): Mr. Hasiuk was primarily involved in discovery matters, including assisting in the research and drafting of 30(b)(6) objections, preparing for AP7's deposition, and assisting in researching and preparing for certain Underwriter Defendant depositions. Mr. Hasiuk also reviewed and commented on various Court submissions as well as the mediation statement for the October 2017 mediation.

**Josh Materese** (233.10 hours): Mr. Materese actively participated in the research and drafting of the complaints. In addition, Mr. Materese conducted legal research and drafted arguments pertaining to certain issues raised in Defendants' motions to dismiss the complaints. Mr. Materese was also involved in discovery efforts, including seeking documents from certain non-parties, and litigation strategy.

**Michelle Newcomer** (37.80 hours): Ms. Newcomer, counsel at KTMC, assisted in discovery efforts related to certain Underwriter Defendants.

**Kimberly Gamble** (177.30 hours): Ms. Gamble assisted the litigation team in discovery efforts, and in particular, researched and performed analyses of documents produced in the Action in preparation for the depositions of certain Underwriter Defendants.

**Sufei Hu** (100.50 hours): Ms. Hu assisted the litigation team in discovery efforts, and in particular, researched and performed analyses of documents produced in the Action in preparation for the depositions of certain Underwriter Defendants.

7. My firm has incurred a total of \$248,371.78 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by “caps” based on the application of the following criteria:

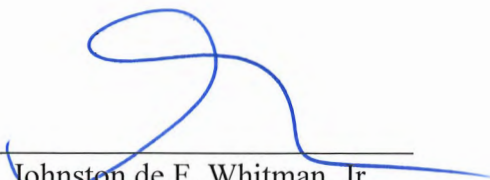
- a. Out-of-Town Travel – Airfare is capped at coach rates, hotel rates are capped at \$250 for small cities and \$350 for large cities (the relevant cities and how they are categorized are reflected on Exhibit 3); meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- b. Internal Copying - Capped at \$0.10 per page.
- c. On-Line Research - Charges reflected are for out-of-pocket payments to vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at charges set by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: January 8, 2019

  
\_\_\_\_\_  
Johnston de F. Whitman, Jr.

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**KESSLER TOPAZ MELTZER & CHECK, LLP**  
**FIRM BIOGRAPHY**





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## FIRM PROFILE

Since 1987, Kessler Topaz Meltzer & Check, LLP has specialized in the prosecution of securities class actions and has grown into one of the largest and most successful shareholder litigation firms in the field. With offices in Radnor, Pennsylvania and San Francisco, California, the Firm is comprised of 94 attorneys as well as an experienced support staff consisting of over 80 paralegals, in-house investigators, legal clerks and other personnel. With a large and sophisticated client base (numbering over 180 institutional investors from around the world -- including public and Taft-Hartley pension funds, mutual fund managers, investment advisors, insurance companies, hedge funds and other large investors), Kessler Topaz has developed an international reputation for excellence and has extensive experience prosecuting securities fraud actions. For the past several years, the National Law Journal has recognized Kessler Topaz as one of the top securities class action law firms in the country. In addition, the Legal Intelligencer recently awarded Kessler Topaz with its Class Action Litigation Firm of The Year award. Lastly, Kessler Topaz and several of its attorneys are regularly recognized by Legal500 and Benchmark: Plaintiffs as leaders in our field.

Kessler Topaz is serving or has served as lead or co-lead counsel in many of the largest and most significant securities class actions pending in the United States, including actions against: Bank of America, Duke Energy, Lehman Brothers, Hewlett Packard, Johnson & Johnson, JPMorgan Chase, Morgan Stanley and MGM Mirage, among others. As demonstrated by the magnitude of these high-profile cases, we take seriously our role in advising clients to seek lead plaintiff appointment in cases, paying special attention to the factual elements of the fraud, the size of losses and damages, and whether there are viable sources of recovery.

Kessler Topaz has recovered billions of dollars in the course of representing defrauded shareholders from around the world and takes pride in the reputation we have earned for our dedication to our clients. Kessler Topaz devotes significant time to developing relationships with its clients in a manner that enables the Firm to understand the types of cases they will be interested in pursuing and their expectations. Further, the Firm is committed to pursuing meaningful corporate governance reforms in cases where we suspect that systemic problems within a company could lead to recurring litigation and where such changes also have the possibility to increase the value of the underlying company. The Firm is poised to continue protecting rights worldwide.

## **NOTEWORTHY ACHIEVEMENTS**

*During the Firm's successful history, Kessler Topaz has recovered billions of dollars for defrauded stockholders and consumers. The following are among the Firm's notable achievements:*

### **Securities Fraud Litigation**

#### ***In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation, Master File No. 09 MDL 2058:***

Kessler Topaz, as Co-Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Bank of America Corp. ("BoA") and certain of BoA's officers and board members relating to BoA's merger with Merrill Lynch & Co. ("Merrill") and its failure to inform its shareholders of billions of dollars of losses which Merrill had suffered before the pivotal shareholder vote, as well as an undisclosed agreement allowing Merrill to pay up to \$5.8 billion in bonuses before the acquisition closed, despite these losses. On September 28, 2012, the Parties announced a \$2.425 billion case settlement with BoA to settle all claims asserted against all defendants in the action which has since received final approval from the Court. BoA also agreed to implement significant corporate governance improvements. The settlement, reached after almost four years of litigation with a trial set to begin on October 22, 2012, amounts to 1) the sixth largest securities class action lawsuit settlement ever; 2) the fourth largest securities class action settlement ever funded by a single corporate defendant; 3) the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; 4) the single largest securities class action settlement ever resolving a Section 14(a) claim (the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation); and 5) by far the largest securities class action settlement to come out of the subprime meltdown and credit crisis to date.

#### ***In re Tyco International, Ltd. Sec. Litig., No. 02-1335-B (D.N.H. 2002):***

Kessler Topaz, which served as Co-Lead Counsel in this highly publicized securities fraud class action on behalf of a group of institutional investors, achieved a record \$3.2 billion settlement with Tyco International, Ltd. ("Tyco") and their auditor PricewaterhouseCoopers ("PwC"). The \$2.975 billion settlement with Tyco represents the single-largest securities class action recovery from a single corporate defendant in history. In addition, the \$225 million settlement with PwC represents the largest payment PwC has ever paid to resolve a securities class action and is the second-largest auditor settlement in securities class action history.

The action asserted federal securities claims on behalf of all purchasers of Tyco securities between December 13, 1999 and June 7, 2002 ("Class Period") against Tyco, certain former officers and directors of Tyco and PwC. Tyco is alleged to have overstated its income during the Class Period by \$5.8 billion through a multitude of accounting manipulations and shenanigans. The case also involved allegations of looting and self-dealing by the officers and directors of the Company. In that regard, Defendants L. Dennis Kozlowski, the former CEO and Mark H. Swartz, the former CFO have been sentenced to up to 25 years in prison after being convicted of grand larceny, falsification of business records and conspiracy for their roles in the alleged scheme to defraud investors.

As presiding Judge Paul Barbadoro aptly stated in his Order approving the final settlement, "[i]t is difficult to overstate the complexity of [the litigation]." Judge Barbadoro noted the extraordinary effort required to pursue the litigation towards its successful conclusion, which included the review of more than 82.5 million pages of documents, more than 220 depositions and over 700 hundred discovery requests and responses. In addition to the complexity of the litigation, Judge Barbadoro also highlighted the great risk undertaken by



Co-Lead Counsel in pursuit of the litigation, which he indicated was greater than in other multi-billion dollar securities cases and “put [Plaintiffs] at the cutting edge of a rapidly changing area of law.”

In sum, the Tyco settlement is of historic proportions for the investors who suffered significant financial losses and it has sent a strong message to those who would try to engage in this type of misconduct in the future.

***In re Tenet Healthcare Corp. Sec. Litig., No. CV-02-8462-RSWL (Rx) (C.D. Cal. 2002):***

Kessler Topaz served as Co-Lead Counsel in this action. A partial settlement, approved on May 26, 2006, was comprised of three distinct elements: (i) a substantial monetary commitment of \$215 million by the company; (ii) personal contributions totaling \$1.5 million by two of the individual defendants; and (iii) the enactment and/or continuation of numerous changes to the company’s corporate governance practices, which have led various institutional rating entities to rank Tenet among the best in the U.S. in regards to corporate governance. The significance of the partial settlement was heightened by Tenet’s precarious financial condition. Faced with many financial pressures — including several pending civil actions and federal investigations, with total contingent liabilities in the hundreds of millions of dollars — there was real concern that Tenet would be unable to fund a settlement or satisfy a judgment of any greater amount in the near future. By reaching the partial settlement, we were able to avoid the risks associated with a long and costly litigation battle and provide a significant and immediate benefit to the class. Notably, this resolution represented a unique result in securities class action litigation — personal financial contributions from individual defendants. After taking the case through the summary judgment stage, we were able to secure an additional \$65 million recovery from KPMG – Tenet’s outside auditor during the relevant period – for the class, bringing the total recovery to \$281.5 million.

***In re Wachovia Preferred Securities and Bond/Notes Litigation, Master File No. 09 Civ. 6351 (RJS) (S.D.N.Y.):***

Kessler Topaz, as court-appointed Co-Lead Counsel, asserted class action claims for violations of the Securities Act of 1933 on behalf of all persons who purchased Wachovia Corporation (“Wachovia”) preferred securities issued in thirty separate offerings (the “Offerings”) between July 31, 2006 and May 29, 2008 (the “Offering Period”). Defendants in the action included Wachovia, various Wachovia related trusts, Wells Fargo as successor-in-interest to Wachovia, certain of Wachovia’s officer and board members, numerous underwriters that underwrote the Offerings, and KPMG LLP (“KPMG”), Wachovia’s former outside auditor. Plaintiffs alleged that the registration statements and prospectuses and prospectus supplements used to market the Offerings to Plaintiffs and other members of the class during the Offerings Period contained materially false and misleading statements and omitted material information. Specifically, the Complaint alleged that in connection with the Offerings, Wachovia: (i) failed to reveal the full extent to which its mortgage portfolio was increasingly impaired due to dangerously lax underwriting practices; (ii) materially misstated the true value of its mortgage-related assets; (iii) failed to disclose that its loan loss reserves were grossly inadequate; and (iv) failed to record write-downs and impairments to those assets as required by Generally Accepted Accounting Principles (“GAAP”). Even as Wachovia faced insolvency, the Offering Materials assured investors that Wachovia’s capital and liquidity positions were “strong,” and that it was so “well capitalized” that it was actually a “provider of liquidity” to the market. On August 5, 2011, the Parties announced a \$590 million cash settlement with Wells Fargo (as successor-in-interest to Wachovia) and a \$37 million cash settlement with KPMG, to settle all claims asserted against all defendants in the action. This settlement was approved by the Hon. Judge Richard J. Sullivan by order issued on January 3, 2012.

***In re Initial Public Offering Sec. Litig., Master File No. 21 MC 92(SAS):***

This action settled for \$586 million on January 1, 2010, after years of litigation overseen by U.S. District Judge Shira Scheindlin. Kessler Topaz served on the plaintiffs’ executive committee for the case, which was based upon the artificial inflation of stock prices during the dot-com boom of the late 1990s that led to



the collapse of the technology stock market in 2000 that was related to allegations of laddering and excess commissions being paid for IPO allocations.

***In re Longtop Financial Technologies Ltd. Securities Litigation, No. 11-cv-3658 (S.D.N.Y.):***

Kessler Topaz, as Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Longtop Financial Technologies Ltd. (“Longtop”), its Chief Executive Officer, Weizhou Lian, and its Chief Financial Officer, Derek Palaschuk. The claims against Longtop and these two individuals were based on a massive fraud that occurred at the company. As the CEO later confessed, the company had been a fraud since 2004. Specifically, Weizhou Lian confessed that the company’s cash balances and revenues were overstated by hundreds of millions of dollars and it had millions of dollars in unrecorded bank loans. The CEO further admitted that, in 2011 alone, Longtop’s revenues were overstated by about 40 percent. On November 14, 2013, after Weizhou Lian and Longtop failed to appear and defend the action, Judge Shira Scheindlin entered default judgment against these two defendants in the amount of \$882.3 million plus 9 percent interest running from February 21, 2008 to the date of payment. The case then proceeded to trial against Longtop’s CFO who claimed he did not know about the fraud - and was not reckless in not knowing – when he made false statements to investors about Longtop’s financial results. On November 21, 2014, the jury returned a verdict on liability in favor of plaintiffs. Specifically, the jury found that the CFO was liable to the plaintiffs and the class for each of the eight challenged misstatements. Then, on November 24, 2014, the jury returned its damages verdict, ascribing a certain amount of inflation to each day of the class period and apportioning liability for those damages amongst the three named defendants. The Longtop trial was only the 14th securities class action to be tried to a verdict since the passage of the Private Securities Litigation Reform Act in 1995 and represents a historic victory for investors.

***Operative Plasterers and Cement Masons International Association Local 262 Annuity Fund v. Lehman Brothers Holdings, Inc., No. 1:08-cv-05523-LAK (S.D.N.Y.):***

Kessler Topaz, on behalf of lead plaintiffs, asserted claims against certain individual defendants and underwriters of Lehman securities arising from misstatements and omissions regarding Lehman’s financial condition, and its exposure to the residential and commercial real estate markets in the period leading to Lehman’s unprecedented bankruptcy filing on September 14, 2008. In July 2011, the Court sustained the majority of the amended Complaint finding that Lehman’s use of Repo 105, while technically complying with GAAP, still rendered numerous statements relating to Lehman’s purported Net Leverage Ratio materially false and misleading. The Court also found that Defendants’ statements related to Lehman’s risk management policies were sufficient to state a claim. With respect to loss causation, the Court also failed to accept Defendants’ contention that the financial condition of the economy led to the losses suffered by the Class. As the case was being prepared for trial, a \$517 million settlement was reached on behalf of shareholders --- \$426 million of which came from various underwriters of the Offerings, representing a significant recovery for investors in this now bankrupt entity. In addition, \$90 million came from Lehman’s former directors and officers, which is significant considering the diminishing assets available to pay any future judgment. Following these settlements, the litigation continued against Lehman’s auditor, Ernst & Young LLP. A settlement for \$99 million was subsequently reached with Ernst & Young LLP and was approved by the Court.

***Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al. Case No. 0:08-cv-06324-PAM-AJB (D. Minn.):***

Kessler Topaz brought an action on behalf of lead plaintiffs that alleged that the company failed to disclose its reliance on illegal “off-label” marketing techniques to drive the sales of its INFUSE Bone Graft (“INFUSE”) medical device. While physicians are allowed to prescribe a drug or medical device for any use they see fit, federal law prohibits medical device manufacturers from marketing devices for any uses not specifically approved by the United States Food and Drug Administration. The company’s off-label marketing practices have resulted in the company becoming the target of a probe by the federal government

which was revealed on November 18, 2008, when the company's CEO reported that Medtronic received a subpoena from the United States Department of Justice which is "looking into off-label use of INFUSE." After hearing oral argument on Defendants' Motions to Dismiss, on February 3, 2010, the Court issued an order granting in part and denying in part Defendants' motions, allowing a large portion of the action to move forward. The Court held that Plaintiff successfully stated a claim against each Defendant for a majority of the misstatements alleged in the Complaint and that each of the Defendants knew or recklessly disregarded the falsity of these statements and that Defendants' fraud caused the losses experienced by members of the Class when the market learned the truth behind Defendants' INFUSE marketing efforts. While the case was in discovery, on April 2, 2012, Medtronic agreed to pay shareholders an \$85 million settlement. The settlement was approved by the Court by order issued on November 8, 2012.

***In re Brocade Sec. Litig., Case No. 3:05-CV-02042 (N.D. Cal. 2005) (CRB):***

The complaint in this action alleges that Defendants engaged in repeated violations of federal securities laws by backdating options grants to top executives and falsified the date of stock option grants and other information regarding options grants to numerous employees from 2000 through 2004, which ultimately caused Brocade to restate all of its financial statements from 2000 through 2005. In addition, concurrent SEC civil and Department of Justice criminal actions against certain individual defendants were commenced. In August, 2007 the Court denied Defendant's motions to dismiss and in October, 2007 certified a class of Brocade investors who were damaged by the alleged fraud. Discovery is currently proceeding and the case is being prepared for trial. Furthermore, while litigating the securities class action Kessler Topaz and its co-counsel objected to a proposed settlement in the Brocade derivative action. On March 21, 2007, the parties in *In re Brocade Communications Systems, Inc. Derivative Litigation*, No. C05-02233 (N.D. Cal. 2005) (CRB) gave notice that they had obtained preliminary approval of their settlement. According to the notice, which was buried on the back pages of the Wall Street Journal, Brocade shareholders were given less than three weeks to evaluate the settlement and file any objection with the Court. Kessler Topaz client Puerto Rico Government Employees' Retirement System ("PRGERS") had a large investment in Brocade and, because the settlement was woefully inadequate, filed an objection. PRGERS, joined by fellow institutional investor Arkansas Public Employees Retirement System, challenged the settlement on two fundamental grounds. First, PRGERS criticized the derivative plaintiffs for failing to conduct any discovery before settling their claims. PRGERS also argued that derivative plaintiff's abject failure to investigate its own claims before providing the defendants with broad releases from liability made it impossible to weigh the merits of the settlement. The Court agreed, and strongly admonished derivative plaintiffs for their failure to perform this most basic act of service to their fellow Brocade shareholders. The settlement was rejected and later withdrawn. Second, and more significantly, PRGERS claimed that the presence of the well-respected law firm Wilson, Sonsini Goodrich and Rosati, in this case, created an incurable conflict of interest that corrupted the entire settlement process. The conflict stemmed from WSGR's dual role as counsel to Brocade and the Individual Settling Defendants, including WSGR Chairman and former Brocade Board Member Larry Sonsini. On this point, the Court also agreed and advised WSGR to remove itself from the case entirely. On May 25, 2007, WSGR complied and withdrew as counsel to Brocade. The case settled for \$160 million and was approved by the Court.

***In re Satyam Computer Services, Ltd. Sec. Litig., No. 09 MD 02027 (BSJ) (S.D.N.Y.):***

Kessler Topaz served as Co-Lead Counsel in this securities fraud class action in the Southern District of New York. The action asserts claims by lead plaintiffs for violations of the federal securities laws against Satyam Computer Services Limited ("Satyam" or the "Company") and certain of Satyam's former officers and directors and its former auditor PricewaterhouseCoopers International Ltd. ("PwC") relating to the Company's January 7, 2009, disclosure admitting that B. Ramalinga Raju ("B. Raju"), the Company's former chairman, falsified Satyam's financial reports by, among other things, inflating its reported cash balances by more than \$1 billion. The news caused the price of Satyam's common stock (traded on the National Stock Exchange of India and the Bombay Stock Exchange) and American Depository Shares ("ADSs") (traded on the New York Stock Exchange ("NYSE")) to collapse. From a closing price of \$3.67



per share on January 6, 2009, Satyam's common stock closed at \$0.82 per share on January 7, 2009. With respect to the ADSs, the news of B. Raju's letter was revealed overnight in the United States and, as a result, trading in Satyam ADSs was halted on the NYSE before the markets opened on January 7, 2009. When trading in Satyam ADSs resumed on January 12, 2009, Satyam ADSs opened at \$1.14 per ADS, down steeply from a closing price of \$9.35 on January 6, 2009. Lead Plaintiffs filed a consolidated complaint on July 17, 2009, on behalf of all persons or entities, who (a) purchased or otherwise acquired Satyam's ADSs in the United States; and (b) residents of the United States who purchased or otherwise acquired Satyam shares on the National Stock Exchange of India or the Bombay Stock Exchange between January 6, 2004 and January 6, 2009. Co-Lead Counsel secured a settlement for \$125 million from Satyam on February 16, 2011. Additionally, Co-Lead Counsel was able to secure a \$25.5 million settlement from PwC on April 29, 2011, who was alleged to have signed off on the misleading audit reports.

***In re BankAtlantic Bancorp, Inc. Sec. Litig., Case No. 07-CV-61542 (S.D. Fla. 2007):***

On November 18, 2010, a panel of nine Miami, Florida jurors returned the first securities fraud verdict to arise out of the financial crisis against BankAtlantic Bancorp. Inc., its chief executive officer and chief financial officer. This case was only the tenth securities class action to be tried to a verdict following the passage of the Private Securities Litigation Reform Act of 1995, which governs such suits. Following extensive post-trial motion practice, the District Court upheld all of the Jury's findings of fraud but vacated the damages award on a narrow legal issue and granted Defendant's motion for a judgment as a matter of law. Plaintiffs appealed to the U.S. Court of Appeals for the Eleventh Circuit. On July 23, 2012, a three-judge panel for the Appeals Court found the District Court erred in granting the Defendant's motion for a judgment as a matter of law based in part on the Jury's findings (perceived inconsistency of two of the Jury's answers to the special interrogatories) instead of focusing solely on the sufficiency of the evidence. However, upon its review of the record, the Appeals Court affirmed the District Court's decision as it determined the Plaintiffs did not introduce evidence sufficient to support a finding in its favor on the element of loss causation. The Appeals Court's decision in this case does not diminish the five years of hard work which Kessler Topaz expended to bring the matter to trial and secure an initial jury verdict in the Plaintiffs' favor. This case is an excellent example of the Firm's dedication to our clients and the lengths it will go to try to achieve the best possible results for institutional investors in shareholder litigation.

***In re AremisSoft Corp. Sec. Litig., C.A. No. 01-CV-2486 (D.N.J. 2002):***

Kessler Topaz is particularly proud of the results achieved in this case before the Honorable Joel A. Pisano. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, one of whom remains a fugitive. In settling the action, Kessler Topaz, as sole Lead Counsel, assisted in reorganizing AremisSoft as a new company to allow for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The approved Settlement enabled the class to receive the majority of the equity in the new Company, as well as their pro rata share of any amounts recovered by the litigation trust. During this litigation, actions have been initiated in the Isle of Man, Cyprus, as well as in the United States as we continue our efforts to recover assets stolen by corporate insiders and related entities.

***In re CVS Corporation Sec. Litig., C.A. No. 01-11464 JLT (D.Mass. 2001):***

Kessler Topaz, serving as Co-Lead Counsel on behalf of a group of institutional investors, secured a cash recovery of \$110 million for the class, a figure which represents the third-largest payout for a securities action in Boston federal court. Kessler Topaz successfully litigated the case through summary judgment before ultimately achieving this outstanding result for the class following several mediation sessions, and just prior to the commencement of trial.

***In re Marvell Technology, Group, Ltd. Sec. Lit., Master File No. 06-06286 RWM:***

Kessler Topaz served as Co-Lead Counsel in this securities class action brought against Marvell Technology Group Ltd. (“Marvell”) and three of Marvell’s executive officers. This case centered around an alleged options backdating scheme carried out by Defendants from June 2000 through June 2006, which enabled Marvell’s executives and employees to receive options with favorable option exercise prices chosen with the benefit of hindsight, in direct violation of Marvell’s stock option plan, as well as to avoid recording hundreds of millions of dollars in compensation expenses on the Marvell’s books. In total, the restatement conceded that Marvell had understated the cumulative effect of its compensation expense by \$327.3 million, and overstated net income by \$309.4 million, for the period covered by the restatement. Following nearly three years of investigation and prosecution of the Class’ claims as well as a protracted and contentious mediation process, Co-Lead Counsel secured a settlement for \$72 million from defendants on June 9, 2009. This Settlement represents a substantial portion of the Class’ maximum provable damages, and is among the largest settlements, in total dollar amount, reached in an option backdating securities class action.

***In re Delphi Corp. Sec. Litig., Master File No. 1:05-MD-1725 (E.D. Mich. 2005):***

In early 2005, various securities class actions were filed against auto parts manufacturer Delphi Corporation in the Southern District of New York. Kessler Topaz its client, Austria-based mutual fund manager Raiffeisen Kapitalanlage-Gesellschaft m.b.H. (“Raiffeisen”), were appointed as Co-Lead Counsel and Co-Lead Plaintiff, respectively. The Lead Plaintiffs alleged that (i) Delphi improperly treated financing transactions involving inventory as sales and disposition of inventory; (ii) improperly treated financing transactions involving “indirect materials” as sales of these materials; and (iii) improperly accounted for payments made to and credits received from General Motors as warranty settlements and obligations. As a result, Delphi’s reported revenue, net income and financial results were materially overstated, prompting Delphi to restate its earnings for the five previous years. Complex litigation involving difficult bankruptcy issues has potentially resulted in an excellent recovery for the class. In addition, Co-Lead Plaintiffs also reached a settlement of claims against Delphi’s outside auditor, Deloitte & Touche, LLP, for \$38.25 million on behalf of Delphi investors.

***In re Royal Dutch Shell European Shareholder Litigation, No. 106.010.887, Gerechtshof Te Amsterdam (Amsterdam Court of Appeal):***

Kessler Topaz was instrumental in achieving a landmark \$352 million settlement on behalf non-US investors with Royal Dutch Shell plc relating to Shell’s 2004 restatement of oil reserves. This settlement of securities fraud claims on a class-wide basis under Dutch law was the first of its kind, and sought to resolve claims exclusively on behalf of European and other non-United States investors. Uncertainty over whether jurisdiction for non-United States investors existed in a 2004 class action filed in federal court in New Jersey prompted a significant number of prominent European institutional investors from nine countries, representing more than one billion shares of Shell, to actively pursue a potential resolution of their claims outside the United States. Among the European investors which actively sought and supported this settlement were Alecta pensionsförsäkring, ömsesidigt, PKA Pension Funds Administration Ltd., Swedbank Robur Fonder AB, AP7 and AFA Insurance, all of which were represented by Kessler Topaz.

***In re Computer Associates Sec. Litig., No. 02-CV-1226 (E.D.N.Y. 2002):***

Kessler Topaz served as Co-Lead Counsel on behalf of plaintiffs, alleging that Computer Associates and certain of its officers misrepresented the health of the company’s business, materially overstated the company’s revenues, and engaged in illegal insider selling. After nearly two years of litigation, Kessler Topaz helped obtain a settlement of \$150 million in cash and stock from the company.

***In re The Interpublic Group of Companies Sec. Litig., No. 02 Civ. 6527 (S.D.N.Y. 2002):***

Kessler Topaz served as sole Lead Counsel in this action on behalf of an institutional investor and received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock. As of the final hearing in the case, the stock had an approximate value of \$87 million, resulting in a total



settlement value of approximately \$107 million. In granting its approval, the Court praised Kessler Topaz for acting responsibly and noted the Firm's professionalism, competence and contribution to achieving such a favorable result.

***In re Digital Lightwave, Inc. Sec. Litig., Consolidated Case No. 98-152-CIV-T-24E (M.D. Fla. 1999):***

The firm served as Co-Lead Counsel in one of the nation's most successful securities class actions in history measured by the percentage of damages recovered. After extensive litigation and negotiations, a settlement consisting primarily of stock was worth over \$170 million at the time when it was distributed to the Class. Kessler Topaz took on the primary role in negotiating the terms of the equity component, insisting that the class have the right to share in any upward appreciation in the value of the stock after the settlement was reached. This recovery represented an astounding approximately two hundred percent (200%) of class members' losses.

***In re Transkaryotic Therapies, Inc. Sec. Litig., Civil Action No.: 03-10165-RWZ (D. Mass. 2003):***

After five years of hard-fought, contentious litigation, Kessler Topaz as Lead Counsel on behalf of the Class, entered into one of largest settlements ever against a biotech company with regard to non-approval of one of its drugs by the U.S. Food and Drug Administration ("FDA"). Specifically, the Plaintiffs alleged that Transkaryotic Therapies, Inc. ("TKT") and its CEO, Richard Selden, engaged in a fraudulent scheme to artificially inflate the price of TKT common stock and to deceive Class Members by making misrepresentations and nondisclosures of material facts concerning TKT's prospects for FDA approval of Replagal, TKT's experimental enzyme replacement therapy for Fabry disease. With the assistance of the Honorable Daniel Weinstein, a retired state court judge from California, Kessler Topaz secured a \$50 million settlement from the Defendants during a complex and arduous mediation.

***In re PNC Financial Services Group, Inc. Sec. Litig., Case No. 02-CV-271 (W.D. Pa. 2002):***

Kessler Topaz served as Co-Lead Counsel in a securities class action case brought against PNC bank, certain of its officers and directors, and its outside auditor, Ernst & Young, LLP ("E&Y"), relating to the conduct of Defendants in establishing, accounting for and making disclosures concerning three special purpose entities ("SPEs") in the second, third and fourth quarters of PNC's 2001 fiscal year. Plaintiffs alleged that these entities were created by Defendants for the sole purpose of allowing PNC to secretly transfer hundreds of millions of dollars worth of non-performing assets from its own books to the books of the SPEs without disclosing the transfers or consolidating the results and then making positive announcements to the public concerning the bank's performance with respect to its non-performing assets. Complex issues were presented with respect to all defendants, but particularly E&Y. Throughout the litigation E&Y contended that because it did not make any false and misleading statements itself, the Supreme Court's opinion in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164 (1993) foreclosed securities liability for "aiding or abetting" securities fraud for purposes of Section 10(b) liability. Plaintiffs, in addition to contending that E&Y did make false statements, argued that Rule 10b-5's deceptive conduct prong stood on its own as an independent means of committing fraud and that so long as E&Y itself committed a deceptive act, it could be found liable under the securities laws for fraud. After several years of litigation and negotiations, PNC paid \$30 million to settle the action, while also assigning any claims it may have had against E&Y and certain other entities that were involved in establishing and/or reporting on the SPEs. Armed with these claims, class counsel was able to secure an additional \$6.6 million in settlement funds for the class from two law firms and a third party insurance company and \$9.075 million from E&Y. Class counsel was also able to negotiate with the U.S. government, which had previously obtained a disgorgement fund of \$90 million from PNC and \$46 million from the third party insurance carrier, to combine all funds into a single settlement fund that exceeded \$180 million and is currently in the process of being distributed to the entire class, with PNC paying all costs of notifying the Class of the settlement.

***In re SemGroup Energy Partners, L.P., Sec. Litig., No. 08-md-1989 (DC) (N.D. Okla.):***

Kessler Topaz, which was appointed by the Court as sole Lead Counsel, litigated this matter, which ultimately settled for \$28 million. The defense was led by 17 of the largest and best capitalized defense law firms in the world. On April 20, 2010, in a fifty-page published opinion, the United States District Court for the Northern District of Oklahoma largely denied defendants' ten separate motions to dismiss Lead Plaintiff's Consolidated Amended Complaint. The Complaint alleged that: (i) defendants concealed SemGroup's risky trading operations that eventually caused SemGroup to declare bankruptcy; and (ii) defendants made numerous false statements concerning SemGroup's ability to provide its publicly-traded Master Limited Partnership stable cash-flows. The case was aggressively litigated out of the Firm's San Francisco and Radnor offices and the significant recovery was obtained, not only from the Company's principals, but also from its underwriters and outside directors.

***In re Liberate Technologies Sec. Litig., No. C-02-5017 (MJJ) (N.D. Cal. 2005):***

Kessler Topaz represented plaintiffs which alleged that Liberate engaged in fraudulent revenue recognition practices to artificially inflate the price of its stock, ultimately forcing it to restate its earnings. As sole Lead Counsel, Kessler Topaz successfully negotiated a \$13.8 million settlement, which represents almost 40% of the damages suffered by the class. In approving the settlement, the district court complimented Lead Counsel for its "extremely credible and competent job."

***In re Riverstone Networks, Inc. Sec. Litig., Case No. CV-02-3581 (N.D. Cal. 2002):***

Kessler Topaz served as Lead Counsel on behalf of plaintiffs alleging that Riverstone and certain of its officers and directors sought to create the impression that the Company, despite the industry-wide downturn in the telecom sector, had the ability to prosper and succeed and was actually prospering. In that regard, plaintiffs alleged that defendants issued a series of false and misleading statements concerning the Company's financial condition, sales and prospects, and used inside information to personally profit. After extensive litigation, the parties entered into formal mediation with the Honorable Charles Legge (Ret.). Following five months of extensive mediation, the parties reached a settlement of \$18.5 million.

## **Shareholder Derivative Actions**

***In re Facebook, Inc. Class C Reclassification Litig., C.A. No. 12286-VCL (Del. Ch. Sept. 25, 2017):***

Kessler Topaz served as co-lead counsel in this stockholder class action that challenged a proposed reclassification of Facebook's capital structure to accommodate the charitable giving goals of its founder and controlling stockholder Mark Zuckerberg. The Reclassification involved the creation of a new class of nonvoting Class C stock, which would be issued as a dividend to all Facebook Class A and Class B stockholders (including Zuckerberg) on a 2-for-1 basis. The purpose and effect of the Reclassification was that it would allow Zuckerberg to sell billions of dollars worth of nonvoting Class C shares without losing his voting control of Facebook. The litigation alleged that Zuckerberg and Facebook's board of directors breached their fiduciary duties in approving the Reclassification at the behest of Zuckerberg and for his personal benefit. At trial Kessler Topaz was seeking a permanent injunction to prevent the consummation of the Reclassification. The litigation was carefully followed in the business and corporate governance communities, due to the high-profile nature of Facebook, Zuckerberg, and the issues at stake. After almost a year and a half of hard fought litigation, just one business day before trial was set to commence, Facebook and Zuckerberg abandoned the Reclassification, granting Plaintiffs complete victory.

***In re CytRx Stockholder Derivative Litig., Consol. C.A. No. 9864-VCL (Del. Ch. Nov. 20, 2015):***

Kessler Topaz served as co-lead counsel in a shareholder derivative action challenging 2.745 million "spring-loaded" stock options. On the day before CytRx announced the most important news in the Company's history concerning the positive trial results for one of its significant pipeline drugs, the Compensation Committee of CytRx's Board of Directors granted the stock options to themselves, their



fellow directors and several Company officers which immediately came “into the money” when CytRx’s stock price shot up immediately following the announcement the next day. Kessler Topaz negotiated a settlement recovering 100% of the excess compensation received by the directors and approximately 76% of the damages potentially obtainable from the officers. In addition, as part of the settlement, Kessler Topaz obtained the appointment of a new independent director to the Board of Directors and the implementation of significant reforms to the Company’s stock option award processes. The Court complimented the settlement, explaining that it “serves what Delaware views as the overall positive function of stockholder litigation, which is not just recovery in the individual case but also deterrence and norm enforcement.”

***International Brotherhood of Electrical Workers Local 98 Pension Fund v. Black, et al., Case No. 37-2011-00097795-CU-SL-CTL (Sup. Ct. Cal., San Diego Feb. 5, 2016) (“Encore Capital Group, Inc.”):***

Kessler Topaz, as co-lead counsel, represented International Brotherhood of Electrical Workers Local 98 Pension Fund in a shareholder derivative action challenging breaches of fiduciary duties and other violations of law in connection with Encore’s debt collection practices, including robo-signing affidavits and improper use of the court system to collect alleged consumer debts. Kessler Topaz negotiated a settlement in which the Company implemented industry-leading reforms to its risk management and corporate governance practices, including creating Chief Risk Officer and Chief Compliance Officer positions, various compliance committees, and procedures for consumer complaint monitoring.

***In re Southern Peru Copper Corp. Derivative Litigation, Consol. CA No. 961-CS (Del. Ch. 2011):***

Kessler Topaz served as co-lead counsel in this landmark \$2 billion post trial decision, believed to be the largest verdict in Delaware corporate law history. In 2005, Southern Peru, a publicly-traded copper mining company, acquired Minera Mexico, a private mining company owned by Southern Peru’s majority stockholder Grupo Mexico. The acquisition required Southern Peru to pay Grupo Mexico more than \$3 billion in Southern Peru stock. We alleged that Grupo Mexico had caused Southern Peru to grossly overpay for the private company in deference to its majority shareholder’s interests. Discovery in the case spanned years and continents, with depositions in Peru and Mexico. The trial court agreed and ordered Grupo Mexico to pay more than \$2 billion in damages and interest. The Delaware Supreme Court affirmed on appeal.

***Quinn v. Knight, No. 3:16-cv-610 (E.D. Va. Mar. 16, 2017) (“Apple REIT Ten”):***

This shareholder derivative action challenged a conflicted “roll up” REIT transaction orchestrated by Glade M. Knight and his son Justin Knight. The proposed transaction paid the Knights millions of dollars while paying public stockholders less than they had invested in the company. The case was brought under Virginia law, and settled just ten days before trial, with stockholders receiving an additional \$32 million in merger consideration.

***Kastis v. Carter, C.A. No. 8657-CB (Del. Ch. Sept. 19, 2016) (“Hemispherx Biopharma, Inc.”):***

This derivative action challenged improper bonuses paid to two company executives of this small pharmaceutical company that had never turned a profit. In response to the complaint, Hemispherx’s board first adopted a “fee-shifting” bylaw that would have required stockholder plaintiffs to pay the company’s legal fees unless the plaintiffs achieved 100% of the relief they sought. This sort of bylaw, if adopted more broadly, could substantially curtail meritorious litigation by stockholders unwilling to risk losing millions of dollars if they bring an unsuccessful case. After Kessler Topaz presented its argument in court, Hemispherx withdrew the bylaw. Kessler Topaz ultimately negotiated a settlement requiring the two executives to forfeit several million dollars’ worth of accrued but unpaid bonuses, future bonuses and director fees. The company also recovered \$1.75 million from its insurance carriers, appointed a new independent director to the board, and revised its compensation program.

***Montgomery v. Erickson, Inc., et al., C.A. No. 8784-VCL (Del. Ch. Sept. 12, 2016):***

Kessler Topaz represented an individual stockholder who asserted in the Delaware Court of Chancery class action and derivative claims challenging merger and recapitalization transactions that benefitted the company's controlling stockholders at the expense of the company and its minority stockholders. Plaintiff alleged that the controlling stockholders of Erickson orchestrated a series of transactions with the intent and effect of using Erickson's money to bail themselves out of a failing investment. Defendants filed a motion to dismiss the complaint, which Kessler Topaz defeated, and the case proceeded through more than a year of fact discovery. Following an initially unsuccessful mediation and further litigation, Kessler Topaz ultimately achieved an \$18.5 million cash settlement, 80% of which was distributed to members of the stockholder class to resolve their direct claims and 20% of which was paid to the company to resolve the derivative claims. The settlement also instituted changes to the company's governing documents to prevent future self-dealing transactions like those that gave rise to the case.

***In re Helios Closed-End Funds Derivative Litig., No. 2:11-cv-02935-SHM-TMP (W.D. Tenn.):***

Kessler Topaz represented stockholders of four closed-end mutual funds in a derivative action against the funds' former investment advisor, Morgan Asset Management. Plaintiffs alleged that the defendants mismanaged the funds by investing in riskier securities than permitted by the funds' governing documents and, after the values of these securities began to precipitously decline beginning in early 2007, cover up their wrongdoing by assigning phony values to the funds' investments and failing to disclose the extent of the decrease in value of the funds' assets. In a rare occurrence in derivative litigation, the funds' Boards of Directors eventually hired Kessler Topaz to prosecute the claims against the defendants on behalf of the funds. Our litigation efforts led to a settlement that recovered \$6 million for the funds and ensured that the funds would not be responsible for making any payment to resolve claims asserted against them in a related multi-million dollar securities class action. The fund's Boards fully supported and endorsed the settlement, which was negotiated independently of the parallel securities class action.

***In re Viacom, Inc. Shareholder Derivative Litig., Index No. 602527/05 (New York County, NY 2005):***

Kessler Topaz represented the Public Employees' Retirement System of Mississippi and served as Lead Counsel in a derivative action alleging that the members of the Board of Directors of Viacom, Inc. paid excessive and unwarranted compensation to Viacom's Executive Chairman and CEO, Sumner M. Redstone, and co-COOs Thomas E. Freston and Leslie Moonves, in breach of their fiduciary duties. Specifically, we alleged that in fiscal year 2004, when Viacom reported a record net loss of \$17.46 billion, the board improperly approved compensation payments to Redstone, Freston, and Moonves of approximately \$56 million, \$52 million, and \$52 million, respectively. Judge Ramos of the New York Supreme Court denied Defendants' motion to dismiss the action as we overcame several complex arguments related to the failure to make a demand on Viacom's Board; Defendants then appealed that decision to the Appellate Division of the Supreme Court of New York. Prior to a decision by the appellate court, a settlement was reached in early 2007. Pursuant to the settlement, Sumner Redstone, the company's Executive Chairman and controlling shareholder, agreed to a new compensation package that, among other things, substantially reduces his annual salary and cash bonus, and ties the majority of his incentive compensation directly to shareholder returns.

***In re Family Dollar Stores, Inc. Derivative Litig., Master File No. 06-CVS-16796 (Mecklenburg County, NC 2006):***

Kessler Topaz served as Lead Counsel, derivatively on behalf of Family Dollar Stores, Inc., and against certain of Family Dollar's current and former officers and directors. The actions were pending in Mecklenburg County Superior Court, Charlotte, North Carolina, and alleged that certain of the company's officers and directors had improperly backdated stock options to achieve favorable exercise prices in violation of shareholder-approved stock option plans. As a result of these shareholder derivative actions, Kessler Topaz was able to achieve substantial relief for Family Dollar and its shareholders. Through Kessler Topaz's litigation of this action, Family Dollar agreed to cancel hundreds of thousands of stock options



granted to certain current and former officers, resulting in a seven-figure net financial benefit for the company. In addition, Family Dollar has agreed to, among other things: implement internal controls and granting procedures that are designed to ensure that all stock options are properly dated and accounted for; appoint two new independent directors to the board of directors; maintain a board composition of at least 75 percent independent directors; and adopt stringent officer stock-ownership policies to further align the interests of officers with those of Family Dollar shareholders. The settlement was approved by Order of the Court on August 13, 2007.

***Carbon County Employees Retirement System, et al., Derivatively on Behalf of Nominal Defendant Southwest Airlines Co. v. Gary C. Kelly, et al. Cause No. 08-08692 (District Court of Dallas County, Texas):***

As lead counsel in this derivative action, we negotiated a settlement with far-reaching implications for the safety and security of airline passengers.

Our clients were shareholders of Southwest Airlines Co. (Southwest) who alleged that certain officers and directors had breached their fiduciary duties in connection with Southwest's violations of Federal Aviation Administration safety and maintenance regulations. Plaintiffs alleged that from June 2006 to March 2007, Southwest flew 46 Boeing 737 airplanes on nearly 60,000 flights without complying with a 2004 FAA Airworthiness Directive requiring fuselage fatigue inspections. As a result, Southwest was forced to pay a record \$7.5 million fine. We negotiated numerous reforms to ensure that Southwest's Board is adequately apprised of safety and operations issues, and implementing significant measures to strengthen safety and maintenance processes and procedures.

***The South Financial Group, Inc. Shareholder Litigation, C.A. No. 2008-CP-23-8395 (S.C. C.C.P. 2009):***

Represented shareholders in derivative litigation challenging board's decision to accelerate "golden parachute" payments to South Financial Group's CEO as the company applied for emergency assistance in 2008 under the Troubled Asset Recovery Plan (TARP).

We sought injunctive relief to block the payments and protect the company's ability to receive the TARP funds. The litigation was settled with the CEO giving up part of his severance package and agreeing to leave the board, as well as the implementation of important corporate governance changes one commentator described as "unprecedented."

## **Options Backdating**

In 2006, the Wall Street Journal reported that three companies appeared to have "backdated" stock option grants to their senior executives, pretending that the options had been awarded when the stock price was at its lowest price of the quarter, or even year. An executive who exercised the option thus paid the company an artificially low price, which stole money from the corporate coffers. While stock options are designed to incentivize recipients to drive the company's stock price up, backdating options to artificially low prices undercut those incentives, overpaid executives, violated tax rules, and decreased shareholder value.

Kessler Topaz worked with a financial analyst to identify dozens of other companies that had engaged in similar practices, and filed more than 50 derivative suits challenging the practice. These suits sought to force the executives to disgorge their improper compensation and to revamp the companies' executive compensation policies. Ultimately, as lead counsel in these derivative actions, Kessler Topaz achieved significant monetary and non-monetary benefits at dozens of companies, including:

***Comverse Technology, Inc.:*** Settlement required Comverse’s founder and CEO Kobi Alexander, who fled to Namibia after the backdating was revealed, to disgorge more than \$62 million in excessive backdated option compensation. The settlement also overhauled the company’s corporate governance and internal controls, replacing a number of directors and corporate executives, splitting the Chairman and CEO positions, and instituting majority voting for directors.

***Monster Worldwide, Inc.:*** Settlement required recipients of backdated stock options to disgorge more than \$32 million in unlawful gains back to the company, plus agreeing to significant corporate governance measures. These measures included (a) requiring Monster’s founder Andrew McKelvey to reduce his voting control over Monster from 31% to 7%, by exchanging super-voting stock for common stock; and (b) implementing new equity granting practices that require greater accountability and transparency in the granting of stock options moving forward. In approving the settlement, the court noted “the good results, mainly the amount of money for the shareholders and also the change in governance of the company itself, and really the hard work that had to go into that to achieve the results....”

***Affiliated Computer Services, Inc.:*** Settlement required executives, including founder Darwin Deason, to give up \$20 million in improper backdated options. The litigation was also a catalyst for the company to replace its CEO and CFO and revamp its executive compensation policies.

## **Mergers & Acquisitions Litigation**

### ***City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al., C.A. No. 12481-VCL (Del. Ch.):***

On September 12, 2017, the Delaware Chancery Court approved one of the largest class action M&A settlements in the history of the Delaware Chancery Court, a \$86.5 million settlement relating to the acquisition of ExamWorks Group, Inc. by private equity firm Leonard Green & Partners, LP.

The settlement caused ExamWorks stockholders to receive a 6% improvement on the \$35.05 per share merger consideration negotiated by the defendants. This amount is unusual especially for litigation challenging a third-party merger. The settlement amount is also noteworthy because it includes a \$46.5 million contribution from ExamWorks’ outside legal counsel, Paul Hastings LLP.

### ***In re ArthroCare Corporation S’holder Litig., Consol. C.A. No. 9313-VCL (Del. Ch. Nov. 13, 2014):***

Kessler Topaz, as co-lead counsel, challenged the take-private of Arthrocare Corporation by private equity firm Smith & Nephew. This class action litigation alleged, among other things, that Arthrocare’s Board breached their fiduciary duties by failing to maximize stockholder value in the merger. Plaintiffs also alleged that the merger violated Section 203 of the Delaware General Corporation Law, which prohibits mergers with “interested stockholders,” because Smith & Nephew had contracted with JP Morgan to provide financial advice and financing in the merger, while a subsidiary of JP Morgan owned more than 15% of Arthrocare’s stock. Plaintiffs also alleged that the agreement between Smith & Nephew and the JP Morgan subsidiary violated a “standstill” agreement between the JP Morgan subsidiary and Arthrocare. The court set these novel legal claims for an expedited trial prior to the closing of the merger. The parties agreed to settle the action when Smith & Nephew agreed to increase the merger consideration paid to Arthrocare stockholders by \$12 million, less than a month before trial.

### ***In re Safeway Inc. Stockholders Litig., C.A. No. 9445-VCL (Del. Ch. Sept. 17, 2014):***

Kessler Topaz represented the Oklahoma Firefighters Pension and Retirement System in class action litigation challenging the acquisition of Safeway, Inc. by Albertson’s grocery chain for \$32.50 per share in cash and contingent value rights. Kessler Topaz argued that the value of CVRs was illusory, and Safeway’s shareholder rights plan had a prohibitive effect on potential bidders making superior offers to acquire



Safeway, which undermined the effectiveness of the post-signing “go shop.” Plaintiffs sought to enjoin the transaction, but before the scheduled preliminary injunction hearing took place, Kessler Topaz negotiated (i) modifications to the terms of the CVRs and (ii) defendants’ withdrawal of the shareholder rights plan. In approving the settlement, Vice Chancellor Laster of the Delaware Chancery Court stated that “the plaintiffs obtained significant changes to the transaction . . . that may well result in material increases in the compensation received by the class,” including substantial benefits potentially in excess of \$230 million.

***In re MPG Office Trust, Inc. Preferred Shareholder Litig., Cons. Case No. 24-C-13-004097 (Md. Cir. Oct. 20, 2015):***

Kessler Topaz challenged a coercive tender offer whereby MPG preferred stockholders received preferred stock in Brookfield Office Properties, Inc. without receiving any compensation for their accrued and unpaid dividends. Kessler Topaz negotiated a settlement where MPG preferred stockholders received a dividend of \$2.25 per share, worth approximately \$21 million, which was the only payment of accrued dividends Brookfield DTLA Preferred Stockholders had received as of the time of the settlement.

***In re Globe Specialty Metals, Inc. Stockholders Litig., C.A. 10865-VCG (Del. Ch. Feb. 15, 2016):***

Kessler Topaz served as co-lead counsel in class action litigation arising from Globe’s acquisition by Grupo Atlantica to form Ferroglobe. Plaintiffs alleged that Globe’s Board breached their fiduciary duties to Globe’s public stockholders by agreeing to sell Globe for an unfair price, negotiating personal benefits for themselves at the expense of the public stockholders, failing to adequately inform themselves of material issues with Grupo Atlantica, and issuing a number of materially deficient disclosures in an attempt to mask issues with the negotiations. At oral argument on Plaintiffs’ preliminary injunction motion, the Court held that Globe stockholders likely faced irreparable harm from the Board’s conduct, but reserved ruling on the other preliminary injunction factors. Prior to the Court’s final ruling, the parties agreed to settle the action for \$32.5 million and various corporate governance reforms to protect Globe stockholders’ rights in Ferroglobe.

***In re Dole Food Co., Inc. Stockholder Litig., Consol. C.A. No. 8703-VCL, 2015 WL 5052214 (Del. Ch. Aug. 27, 2015):***

On August 27, 2015, Vice Chancellor J. Travis Laster issued his much-anticipated post-trial verdict in litigation by former stockholders of Dole Food Company against Dole’s chairman and controlling stockholder David Murdock. In a 106-page ruling, Vice Chancellor Laster found that Murdock and his longtime lieutenant, Dole’s former president and general counsel C. Michael Carter, unfairly manipulated Dole’s financial projections and misled the market as part of Murdock’s efforts to take the company private in a deal that closed in November 2013. Among other things, the Court concluded that Murdock and Carter “primed the market for the freeze-out by driving down Dole’s stock price” and provided the company’s outside directors with “knowingly false” information and intended to “mislead the board for Mr. Murdock’s benefit.”

Vice Chancellor Laster found that the \$13.50 per share going-private deal underpaid stockholders, and awarded class damages of \$2.74 per share, totaling \$148 million. That award represents the largest post-trial class recovery in the merger context. The largest post-trial derivative recovery in a merger case remains Kessler Topaz’s landmark 2011 \$2 billion verdict in *In re Southern Peru*.

***In re Genentech, Inc. Shareholders Lit., Cons. Civ. Action No. 3991-VCS (Del. Ch. 2008):***

Kessler Topaz served as Co-Lead Counsel in this shareholder class action brought against the directors of Genentech and Genentech’s majority stockholder, Roche Holdings, Inc., in response to Roche’s July 21, 2008 attempt to acquire Genentech for \$89 per share. We sought to enforce provisions of an Affiliation Agreement between Roche and Genentech and to ensure that Roche fulfilled its fiduciary obligations to Genentech’s shareholders through any buyout effort by Roche. After moving to enjoin the tender offer, Kessler Topaz negotiated with Roche and Genentech to amend the Affiliation Agreement to allow a

negotiated transaction between Roche and Genentech, which enabled Roche to acquire Genentech for \$95 per share, approximately \$3.9 billion more than Roche offered in its hostile tender offer. In approving the settlement, then-Vice Chancellor Leo Strine complimented plaintiffs' counsel, noting that this benefit was only achieved through "real hard-fought litigation in a complicated setting."

***In re GSI Commerce, Inc. Shareholder Litig., Consol. C.A. No. 6346-VCN (Del. Ch. Nov. 15, 2011):***

On behalf of the Erie County Employees' Retirement System, we alleged that GSI's founder breached his fiduciary duties by negotiating a secret deal with eBay for him to buy several GSI subsidiaries at below market prices before selling the remainder of the company to eBay. These side deals significantly reduced the acquisition price paid to GSI stockholders. Days before an injunction hearing, we negotiated an improvement in the deal price of \$24 million.

***In re Amicas, Inc. Shareholder Litigation, 10-0174-BLS2 (Suffolk County, MA 2010):***

Kessler Topaz served as lead counsel in class action litigation challenging a proposed private equity buyout of Amicas that would have paid Amicas shareholders \$5.35 per share in cash while certain Amicas executives retained an equity stake in the surviving entity moving forward. Kessler Topaz prevailed in securing a preliminary injunction against the deal, which then allowed a superior bidder to purchase the Company for an additional \$0.70 per share (\$26 million). The court complimented Kessler Topaz attorneys for causing an "exceptionally favorable result for Amicas' shareholders" after "expend[ing] substantial resources."

***In re Harleysville Mutual, Nov. Term 2011, No. 02137 (C.C.P., Phila. Cnty.):***

Kessler Topaz served as co-lead counsel in expedited merger litigation challenging Harleysville's agreement to sell the company to Nationwide Insurance Company. Plaintiffs alleged that policyholders were entitled to receive cash in exchange for their ownership interests in the company, not just new Nationwide policies. Plaintiffs also alleged that the merger was "fundamentally unfair" under Pennsylvania law. The defendants contested the allegations and contended that the claims could not be prosecuted directly by policyholders (as opposed to derivatively on the company's behalf). Following a two-day preliminary injunction hearing, we settled the case in exchange for a \$26 million cash payment to policyholders.

## **Consumer Protection and Fiduciary Litigation**

***In re: J.P. Jeanneret Associates Inc., et al., No. 09-cv-3907 (S.D.N.Y.):***

Kessler Topaz served as lead counsel for one of the plaintiff groups in an action against J.P. Jeanneret and Ivy Asset Management relating to an alleged breach of fiduciary and statutory duty in connection with the investment of retirement plan assets in Bernard Madoff-related entities. By breaching their fiduciary duties, Defendants caused significant losses to the retirement plans. Following extensive hard-fought litigation, the case settled for a total of \$216.5 million.

***In re: National City Corp. Securities, Derivative and ERISA Litig, No. 08-nc-7000 (N.D. Ohio):***

Kessler Topaz served as a lead counsel in this complex action alleging that certain directors and officers of National City Corp. breached their fiduciary duties under the Employee Retirement Income Security Act of 1974. These breaches arose from an investment in National City stock during a time when defendants knew, or should have known, that the company stock was artificially inflated and an imprudent investment for the company's 401(k) plan. The case settled for \$43 million on behalf of the plan, plaintiffs and a settlement class of plan participants.

***Alston, et al. v. Countrywide Financial Corp. et al., No. 07-cv-03508 (E.D. Pa.):***

Kessler Topaz served as lead counsel in this novel and complex action which alleged that Defendants Countrywide Financial Corporation, Countrywide Home Loans, Inc. and Balboa Reinsurance Co. violated



the Real Estate Settlement Procedure Act (“RESPA”) and ultimately cost borrowers millions of dollars. Specifically, the action alleged that Defendants engaged in a scheme related to private mortgage insurance involving kickbacks, which are prohibited under RESPA. After three and a half years of hard-fought litigation, the action settled for \$34 million.

***Trustees of the Local 464A United Food and Commercial Workers Union Pension Fund, et al. v. Wachovia Bank, N.A., et al., No. 09-cv-00668 (DNJ):***

For more than 50 years, Wachovia and its predecessors acted as investment manager for the Local 464A UFCW Union Funds, exercising investment discretion consistent with certain investment guidelines and fiduciary obligations. Until mid-2007, Wachovia managed the fixed income assets of the funds safely and conservatively, and their returns closely tracked the Lehman Aggregate Bond Index (now known as the Barclay’s Capital Aggregate Bond Index) to which the funds were benchmarked. However, beginning in mid-2007 Wachovia significantly changed the investment strategy, causing the funds’ portfolio value to drop drastically below the benchmark. Specifically, Wachovia began to dramatically decrease the funds’ holdings in short-term, high-quality, low-risk debt instruments and materially increase their holdings in high-risk mortgage-backed securities and collateralized mortgage obligations. We represented the funds’ trustees in alleging that, among other things, Wachovia breached its fiduciary duty by: failing to invest the assets in accordance with the funds’ conservative investment guidelines; failing to adequately monitor the funds’ fixed income investments; and failing to provide complete and accurate information to plaintiffs concerning the change in investment strategy. The matter was resolved privately between the parties.

***In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig., No. 1:12-md-02335 (S.D.N.Y.):***

On behalf of the Southeastern Pennsylvania Transportation Authority Pension Fund and a class of similarly situated domestic custodial clients of BNY Mellon, we alleged that BNY Mellon secretly assigned a spread to the FX rates at which it transacted FX transactions on behalf of its clients who participated in the BNY Mellon’s automated “Standing Instruction” FX service. BNY Mellon determined this spread by executing its clients’ transactions at one rate and then, typically, at the end of the trading day, assigned a rate to its clients which approximated the worst possible rates of the trading day, pocketing the difference as riskless profit. This practice was despite BNY Mellon’s contractual promises to its clients that its Standing Instruction service was designed to provide “best execution,” was “free of charge” and provided the “best rates of the day.” The case asserted claims for breach of contract and breach of fiduciary duty on behalf of BNY Mellon’s custodial clients and sought to recover the unlawful profits that BNY Mellon earned from its unfair and unlawful FX practices. The case was litigated in collaboration with separate cases brought by state and federal agencies, with Kessler Topaz serving as lead counsel and a member of the executive committee overseeing the private litigation. After extensive discovery, including more than 100 depositions, over 25 million pages of fact discovery, and the submission of multiple expert reports, Plaintiffs reached a settlement with BNY Mellon of \$335 million. Additionally, the settlement is being administered by Kessler Topaz along with separate recoveries by state and federal agencies which bring the total recovery for BNY Mellon’s custodial customers to \$504 million. The settlement was finally approved on September 24, 2015. In approving the settlement, Judge Lewis Kaplan praised counsel for a “wonderful job,” recognizing that they were “fought tooth and nail at every step of the road.” In further recognition of the efforts of counsel, Judge Kaplan noted that “[t]his was an outrageous wrong by the Bank of New York Mellon, and plaintiffs’ counsel deserve a world of credit for taking it on, for running the risk, for financing it and doing a great job.”

***CompSource Oklahoma v. BNY Mellon Bank, N.A., No. CIV 08-469-KEW (E.D. Okla. October 25, 2012):***

Kessler Topaz served as Interim Class Counsel in this matter alleging that BNY Mellon Bank, N.A. and the Bank of New York Mellon (collectively, “BNYM”) breached their statutory, common law and contractual duties in connection with the administration of their securities lending program. The Second Amended

Complaint alleged, among other things, that BNYM imprudently invested cash collateral obtained under its securities lending program in medium term notes issued by Sigma Finance, Inc. -- a foreign structured investment vehicle ("SIV") that is now in receivership -- and that such conduct constituted a breach of BNYM's fiduciary obligations under the Employee Retirement Income Security Act of 1974, a breach of its fiduciary duties under common law, and a breach of its contractual obligations under the securities lending agreements. The Complaint also asserted claims for negligence, gross negligence and willful misconduct. The case recently settled for \$280 million.

***Transatlantic Holdings, Inc., et al. v. American International Group, Inc., et al., American Arbitration Association Case No. 50 148 T 00376 10:***

Kessler Topaz served as counsel for Transatlantic Holdings, Inc., and its subsidiaries ("TRH"), alleging that American International Group, Inc. and its subsidiaries ("AIG") breached their fiduciary duties, contractual duties, and committed fraud in connection with the administration of its securities lending program. Until June 2009, AIG was TRH's majority shareholder and, at the same time, administered TRH's securities lending program. TRH's Statement of Claim alleged that, among other things, AIG breached its fiduciary obligations as investment advisor and majority shareholder by imprudently investing the majority of the cash collateral obtained under its securities lending program in mortgage backed securities, including Alt-A and subprime investments. The Statement of Claim further alleged that AIG concealed the extent of TRH's subprime exposure and that when the collateral pools began experiencing liquidity problems in 2007, AIG unilaterally carved TRH out of the pools so that it could provide funding to its wholly owned subsidiaries to the exclusion of TRH. The matter was litigated through a binding arbitration and TRH was awarded \$75 million.

***Board of Trustees of the AFTRA Retirement Fund v. JPMorgan Chase Bank, N.A. – Consolidated Action No. 09-cv-00686 (SAS) (S.D.N.Y.):***

On January 23, 2009, the firm filed a class action complaint on behalf of all entities that were participants in JPMorgan's securities lending program and that incurred losses on investments that JPMorgan, acting in its capacity as a discretionary investment manager, made in medium-term notes issue by Sigma Finance, Inc. – a now defunct structured investment vehicle. The losses of the Class exceeded \$500 million. The complaint asserted claims for breach of fiduciary duty under the Employee Retirement Income Security Act (ERISA), as well as common law breach of fiduciary duty, breach of contract and negligence. Over the course of discovery, the parties produced and reviewed over 500,000 pages of documents, took 40 depositions (domestic and foreign) and exchanged 21 expert reports. The case settled for \$150 million. Trial was scheduled to commence on February 6, 2012.

***In re Global Crossing, Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D.N.Y. 2004):***

Kessler Topaz served as Co-Lead Counsel in this novel, complex and high-profile action which alleged that certain directors and officers of Global Crossing, a former high-flier of the late 1990's tech stock boom, breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") to certain company-provided 401(k) plans and their participants. These breaches arose from the plans' alleged imprudent investment in Global Crossing stock during a time when defendants knew, or should have known, that the company was facing imminent bankruptcy. A settlement of plaintiffs' claims restoring \$79 million to the plans and their participants was approved in November 2004. At the time, this represented the largest recovery received in a company stock ERISA class action.

***In re AOL Time Warner ERISA Litigation, No. 02-CV-8853 (S.D.N.Y. 2006):***

Kessler Topaz, which served as Co-Lead Counsel in this highly-publicized ERISA fiduciary breach class action brought on behalf of the Company's 401(k) plans and their participants, achieved a record \$100 million settlement with defendants. The \$100 million restorative cash payment to the plans (and, concomitantly, their participants) represents the largest recovery from a single defendant in a breach of fiduciary action relating to mismanagement of plan assets held in the form of employer securities. The



action asserted claims for breach of fiduciary duties pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”) on behalf of the participants in the AOL Time Warner Savings Plan, the AOL Time Warner Thrift Plan, and the Time Warner Cable Savings Plan (collectively, the “Plans”) whose accounts purchased and/or held interests in the AOLTW Stock Fund at any time between January 27, 1999 and July 3, 2003. Named as defendants in the case were Time Warner (and its corporate predecessor, AOL Time Warner), several of the Plans’ committees, as well as certain current and former officers and directors of the company. In March 2005, the Court largely denied defendants’ motion to dismiss and the parties began the discovery phase of the case. In January 2006, Plaintiffs filed a motion for class certification, while at the same time defendants moved for partial summary judgment. These motions were pending before the Court when the settlement in principle was reached. Notably, an Independent Fiduciary retained by the Plans to review the settlement in accordance with Department of Labor regulations approved the settlement and filed a report with Court noting that the settlement, in addition to being “more than a reasonable recovery” for the Plans, is “one of the largest ERISA employer stock action settlements in history.”

***In re Honeywell International ERISA Litigation, No. 03-1214 (DRD) (D.N.J. 2004):***

Kessler Topaz served as Lead Counsel in a breach of fiduciary duty case under ERISA against Honeywell International, Inc. and certain fiduciaries of Honeywell defined contribution pension plans. The suit alleged that Honeywell and the individual fiduciary defendants, allowed Honeywell’s 401(k) plans and their participants to imprudently invest significant assets in company stock, despite that defendants knew, or should have known, that Honeywell’s stock was an imprudent investment due to undisclosed, wide-ranging problems stemming from a consummated merger with Allied Signal and a failed merger with General Electric. The settlement of plaintiffs’ claims included a \$14 million payment to the plans and their affected participants, and significant structural relief affording participants much greater leeway in diversifying their retirement savings portfolios.

***Henry v. Sears, et. al., Case No. 98 C 4110 (N.D. Ill. 1999):***

The Firm served as Co-Lead Counsel for one of the largest consumer class actions in history, consisting of approximately 11 million Sears credit card holders whose interest rates were improperly increased in connection with the transfer of the credit card accounts to a national bank. Kessler Topaz successfully negotiated a settlement representing approximately 66% of all class members’ damages, thereby providing a total benefit exceeding \$156 million. All \$156 million was distributed automatically to the Class members, without the filing of a single proof of claim form. In approving the settlement, the District Court stated: “. . . I am pleased to approve the settlement. I think it does the best that could be done under the circumstances on behalf of the class. . . . The litigation was complex in both liability and damages and required both professional skill and standing which class counsel demonstrated in abundance.”

## **Antitrust Litigation**

***In re: Flonase Antitrust Litigation, No. 08-cv-3149 (E.D. Pa.):***

Kessler Topaz served as a lead counsel on behalf of a class of direct purchaser plaintiffs in an antitrust action brought pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15, alleging, among other things, that defendant GlaxoSmithKline (GSK) violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by engaging in “sham” petitioning of a government agency. Specifically, the Direct Purchasers alleged that GSK unlawfully abused the citizen petition process contained in Section 505(j) of the Federal Food, Drug, and Cosmetic Act and thus delayed the introduction of less expensive generic versions of Flonase, a highly popular allergy drug, causing injury to the Direct Purchaser Class. Throughout the course of the four year litigation, Plaintiffs defeated two motions for summary judgment, succeeded in having a class certified and conducted extensive discovery. After lengthy negotiations and shortly before trial, the action settled for \$150 million.



***In re: Wellbutrin SR Antitrust Litigation, No. 04-cv-5898 (E.D. Pa.):***

Kessler Topaz was a lead counsel in an action which alleged, among other things, that defendant GlaxoSmithKline (GSK) violated the antitrust, consumer fraud, and consumer protection laws of various states. Specifically, Plaintiffs and the class of Third-Party Payors alleged that GSK manipulated patent filings and commenced baseless infringement lawsuits in connection wrongfully delaying generic versions of Wellbutrin SR and Zyban from entering the market, and that Plaintiffs and the Class of Third-Party Payors suffered antitrust injury and calculable damages as a result. After more than eight years of litigation, the action settled for \$21.5 million.

***In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-cv-71 (D. Del.):***

Kessler Topaz was co-lead counsel in a lawsuit which alleged that defendant AstraZeneca prevented generic versions of Toprol-XL from entering the market by, among other things, improperly manipulating patent filings and filing baseless patent infringement lawsuits. As a result, AstraZeneca unlawfully monopolized the domestic market for Toprol-XL and its generic bio-equivalents. After seven years of litigation, extensive discovery and motion practice, the case settled for \$11 million.

***In re Remeron Antitrust Litigation, No. 02-CV-2007 (D.N.J. 2004):***

Kessler Topaz was Co-Lead Counsel in an action which challenged Organon, Inc.'s filing of certain patents and patent infringement lawsuits as an abuse of the Hatch-Waxman Act, and an effort to unlawfully extend their monopoly in the market for Remeron. Specifically, the lawsuit alleged that defendants violated state and federal antitrust laws in their efforts to keep competing products from entering the market, and sought damages sustained by consumers and third-party payors. After lengthy litigation, including numerous motions and over 50 depositions, the matter settled for \$36 million.

## **OUR PROFESSIONALS**

### **PARTNERS**

**JULES D. ALBERT**, a partner of the Firm, concentrates his practice in mergers and acquisition litigation and stockholder derivative litigation. Mr. Albert received his law degree from the University of Pennsylvania Law School, where he was a Senior Editor of the *University of Pennsylvania Journal of Labor and Employment Law* and recipient of the James Wilson Fellowship. Mr. Albert also received a Certificate of Study in Business and Public Policy from The Wharton School at the University of Pennsylvania. Mr. Albert graduated *magna cum laude* with a Bachelor of Arts in Political Science from Emory University. Mr. Albert is licensed to practice law in Pennsylvania, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Mr. Albert has litigated in state and federal courts across the country, and has represented stockholders in numerous actions that have resulted in significant monetary recoveries and corporate governance improvements, including: *In re Sunrise Senior Living, Inc. Deriv. Litig.*, No. 07-00143 (D.D.C.); *Mercier v. Whittle, et al.*, No. 2008-CP-23-8395 (S.C. Ct. Com. Pl., 13th Jud. Cir.); *In re K-V Pharmaceutical Co. Deriv. Litig.*, No. 06-00384 (E.D. Mo.); *In re Progress Software Corp. Deriv. Litig.*, No. SUCV2007-01937-BLS2 (Mass. Super. Ct., Suffolk Cty.); *In re Quest Software, Inc. Deriv. Litig.* No 06CC00115 (Cal. Super. Ct., Orange Cty.); and *Quaco v. Balakrishnan, et al.*, No. 06-2811 (N.D. Cal.).

**NAUMON A. AMJED**, a partner of the Firm, concentrates his practice on new matter development with a focus on analyzing securities class action lawsuits, direct (or opt-out) actions, non-U.S. securities and shareholder litigation, SEC whistleblower actions, breach of fiduciary duty cases, antitrust matters, data

breach actions and oil and gas litigation. Mr. Amjed is a graduate of the Villanova University School of Law, *cum laude*, and holds an undergraduate degree in business administration from Temple University, *cum laude*. Mr. Amjed is a member of the Delaware State Bar, the Bar of the Commonwealth of Pennsylvania, the New York State Bar, and is admitted to practice before the United States Courts for the District of Delaware, the Eastern District of Pennsylvania and the Southern District of New York.

As a member of the Firm's lead plaintiff practice group, Mr. Amjed has represented clients serving as lead plaintiffs in several notable securities class action lawsuits including: *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litig.*, No. 09-MDL-2058 (PKC) (S.D.N.Y.) (\$2.425 billion recovery); *In re Wachovia Preferred Securities and Bond/Notes Litigation*, No. 09-cv-6351 (RJS) (S.D.N.Y.) (\$627 million recovery); *In re Lehman Bros. Equity/Debt Securities Litigation*, No. 08-cv-5523 (LAK) (S.D.N.Y.) (\$615 million recovery) and *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery). Additionally, Mr. Amjed served on the national Executive Committee representing financial institutions suffering losses from Target Corporation's 2013 data breach – one of the largest data breaches in history. The Target litigation team was responsible for a landmark data breach opinion that substantially denied Target's motion to dismiss and was also responsible for obtaining certification of a class of financial institutions. *See In re Target Corp. Customer Data Sec. Breach Litig.*, 64 F. Supp. 3d 1304 (D. Minn. 2014); *In re Target Corp. Customer Data Sec. Breach Litig.*, No. MDL 14-2522 PAM/JJK, 2015 WL 5432115 (D. Minn. Sept. 15, 2015). At the time of its issuance, the class certification order in Target was the first of its kind in data breach litigation by financial institutions.

Mr. Amjed also has significant experience conducting complex litigation in state and federal courts including federal securities class actions, shareholder derivative actions, suits by third-party insurers and other actions concerning corporate and alternative business entity disputes. Mr. Amjed has litigated in numerous state and federal courts across the country, including the Delaware Court of Chancery, and has represented shareholders in several high profile lawsuits, including: *LAMPERS v. CBOT Holdings, Inc. et al.*, C.A. No. 2803-VCN (Del. Ch.); *In re Alstom SA Sec. Litig.*, 454 F. Supp. 2d 187 (S.D.N.Y. 2006); *In re Global Crossing Sec. Litig.*, 02—Civ. — 910 (S.D.N.Y.); *In re Enron Corp. Sec. Litig.*, 465 F. Supp. 2d 687 (S.D. Tex. 2006); and *In re Marsh McLennan Cos., Inc. Sec. Litig.* 501 F. Supp. 2d 452 (S.D.N.Y. 2006).

**STUART L. BERMAN**, a partner of the Firm, concentrates his practice on securities class action litigation in federal courts throughout the country, with a particular emphasis on representing institutional investors active in litigation. Mr. Berman received his law degree from George Washington University National Law Center, and is an honors graduate from Brandeis University. Mr. Berman is licensed to practice in Pennsylvania and New Jersey.

Mr. Berman regularly counsels and educates institutional investors located around the world on emerging legal trends, new case ideas and the rights and obligations of institutional investors as they relate to securities fraud class actions and individual actions. In this respect, Mr. Berman has been instrumental in courts appointing the Firm's institutional clients as lead plaintiffs in class actions as well as in representing institutions individually in direct actions. Mr. Berman is currently representing institutional investors in direct actions against Vivendi and Merck, and took a very active role in the precedent setting Shell settlement on behalf of many of the Firm's European institutional clients.

Mr. Berman is a frequent speaker on securities issues, especially as they relate to institutional investors, at events such as The European Pension Symposium in Florence, Italy; the Public Funds Symposium in Washington, D.C.; the Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, Pennsylvania; the New England Pension Summit in Newport, Rhode Island; the Rights and Responsibilities



for Institutional Investors in Amsterdam, Netherlands; and the European Investment Roundtable in Barcelona, Spain.

**DAVID A. BOCIAN**, a partner of the Firm, focuses his practice on whistleblower representation and False Claims Act litigation. Mr. Bocian received his law degree from the University of Virginia School of Law and graduated *cum laude* from Princeton University. He is licensed to practice law in the Commonwealth of Pennsylvania, New Jersey, New York and the District of Columbia.

Mr. Bocian began his legal career in Washington, D.C., as a litigation associate at Patton Boggs LLP, where his practice included internal corporate investigations, government contracts litigation and securities fraud matters. He spent more than ten years as a federal prosecutor in the U.S. Attorney's Office for the District of New Jersey, where he was appointed Senior Litigation Counsel and managed the Trenton U.S. Attorney's office. During his tenure, Mr. Bocian oversaw multifaceted investigations and prosecutions pertaining to government corruption and federal program fraud, commercial and public sector kickbacks, tax fraud, and other white collar and financial crimes. He tried numerous cases before federal juries, and was a recipient of the Justice Department's Director's Award for superior performance by an Assistant U.S. Attorney, as well as commendations from federal law enforcement agencies including the FBI and IRS.

Mr. Bocian has extensive experience in the health care field. As an adjunct professor of law, he has taught Healthcare Fraud and Abuse at Rutgers School of Law – Camden, and previously was employed in the health care industry, where he was responsible for implementing and overseeing a system-wide compliance program for a complex health system.

**GREGORY M. CASTALDO**, a partner of the Firm, concentrates his practice in the area of securities litigation. Mr. Castaldo received his law degree from Loyola Law School, where he received the American Jurisprudence award in legal writing. He received his undergraduate degree from the Wharton School of Business at the University of Pennsylvania. He is licensed to practice law in Pennsylvania and New Jersey.

Mr. Castaldo served as one of Kessler Topaz's lead litigation partners in *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MDL 2058, recovering \$2.425 billion settlement for the class. Mr. Castaldo also served as the lead litigation partner in *In re Tenet Healthcare Corp.*, No. 02-CV-8462 (C.D. Cal. 2002), securing an aggregate recovery of \$281.5 million for the class, including \$65 million from Tenet's auditor. Mr. Castaldo also played a primary litigation role in the following cases: *In re Liberate Technologies Sec. Litig.*, No. C-02-5017 (MJJ) (N.D. Cal. 2005) (settled — \$13.8 million); *In re Sodexo Marriott Shareholders Litig.*, Consol. C.A. No. 18640-NC (Del. Ch. 1999) (settled — \$166 million benefit); *In re Motive, Inc. Sec. Litig.*, 05-CV-923 (W.D. Tex. 2005) (settled — \$7 million cash, 2.5 million shares); and *In re Wireless Facilities, Inc., Sec. Litig.*, 04-CV-1589 (S.D. Cal. 2004) (settled — \$16.5 million). In addition, Mr. Castaldo served as one of the lead trial attorneys for shareholders in the historic *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) trial, which resulted in a verdict in favor of investors on liability and damages.

**DARREN J. CHECK**, a partner of the Firm, concentrates his practice in the area of shareholder litigation and client relations. Mr. Check manages the Firm's Portfolio Monitoring Department and works closely with the Firm's Case Evaluation Department. Mr. Check received his law degree from Temple University School of Law and is a graduate of Franklin & Marshall College. Mr. Check is admitted to practice in numerous state and federal courts across the United States.

Currently, Mr. Check consults with institutional investors from around the world with regard to their investment rights and responsibilities. He currently works with clients in the United States, Canada, the

Netherlands, Sweden, Denmark, Norway, Finland, United Kingdom, Italy, Germany, Austria, Switzerland, France, Australia and throughout Asia and the Middle East.

Mr. Check assists Firm clients in evaluating and analyzing opportunities to take an active role in shareholder litigation, arbitration, and other loss recovery methods. This includes U.S. based litigation and arbitration, as well as an increasing number of cases from jurisdictions around the globe. With an increasingly complex investment and legal landscape, Mr. Check has experience advising on traditional class actions, direct actions, non-U.S. opt-in actions, fiduciary actions, appraisal actions and arbitrations to name a few. Mr. Check is frequently called upon by his clients to help ensure they are taking an active role when their involvement can make a difference, and that they are not leaving money on the table.

Mr. Check regularly speaks on the subjects of shareholder litigation, corporate governance, investor activism, and recovery of investment losses at conferences around the world.

Mr. Check has also been actively involved in the precedent setting Shell and Fortis settlements in the Netherlands, the Olympus shareholder case in Japan, direct actions against Petrobras, BP, Vivendi, and Merck, and securities class actions against Bank of America, Lehman Brothers, Royal Bank of Scotland (U.K.), and Hewlett-Packard. Currently Mr. Check represents investors in numerous high profile actions in the United States, the Netherlands, Germany, Canada, France, Japan, and the United Kingdom.

**JOSHUA E. D'ANCONA**, a partner of the Firm, concentrates his practice in the securities litigation and lead plaintiff departments of the Firm. Mr. D'Ancona received his J.D., *magna cum laude*, from the Temple University Beasley School of Law in 2007, where he served on the Temple Law Review and as president of the Moot Court Honors Society, and graduated with honors from Wesleyan University. He is licensed to practice in Pennsylvania and New Jersey.

Before joining the Firm in 2009, he served as a law clerk to the Honorable Cynthia M. Rufe of the United States District Court for the Eastern District of Pennsylvania.

**JONATHAN R. DAVIDSON**, a partner of the Firm, concentrates his practice in the area of shareholder litigation. Mr. Davidson currently consults with institutional investors from around the world, including public pension funds at the state, county and municipal level, as well as Taft-Hartley funds across all trades, with regard to their investment rights and responsibilities. Mr. Davidson assists Firm clients in evaluating and analyzing opportunities to take an active role in shareholder litigation. With an increasingly complex shareholder litigation landscape that includes traditional securities class actions, shareholder derivative actions and takeover actions, non-U.S. opt-in actions, and fiduciary actions to name a few, Mr. Davidson is frequently called upon by his clients to help ensure they are taking an active role when their involvement can make a difference, and to ensure they are not leaving money on the table.

Mr. Davidson has been involved in the following successfully concluded shareholder litigation matters: *City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc.*, C.A. No. 12481-VCL (Del. Ch.) (\$86.5 million settlement, including \$46.5 million funded by outside legal advisor); *In re MGM Mirage Securities Litigation*, Case No. 2:09-cv-01558-GMN-VCF (D. Nev.) (\$75 million settlement); *In re Weatherford International Securities Litigation*, No. 11-1646 (S.D.N.Y.) (\$52.5 million settlement); *Beaver County Employees' Retirement Fund, et al. v. Tile Shop Holdings, Inc., et al.*, No. 0:14-CV-00786-ADM/TNL (D. Minn.) (\$9.5 million settlement); *Bucks County Employees Retirement Fund vs. Hillshire Brands Co.*, No. 24-C-14-003492 (Md. Cir. Ct.) (Alternative deal struck paying a 71% premium to stockholders); and *City of Sunrise Firefighters' Retirement Fund v. Schaeffer*, No. 8703 (Del. Ch. Ct.) (Invalid bylaws repealed; board disclosed that it unlawfully adopted the bylaws).



Mr. Davidson is a frequent lecturer on shareholder litigation, corporate governance, fiduciary issues facing institutional investors, investor activism and the recovery of investment losses -- speaking on these subjects at conferences around the world each year, including the National Conference on Public Employee Retirement Systems' Annual Conference & Exhibition, the International Foundation of Employee Benefit Plans Annual Conference, the California Association of Public Retirement Systems Administrators Roundtable, the Florida Public Pension Trustees Association Trustee Schools and Wall Street Program, the Pennsylvania Association of Public Employees Retirement Systems Spring Forum, the Fiduciary Investors Symposium, the U.S. Markets' Institutional Investor Forum, and The Evolving Fiduciary Obligations of Pension Plans. Mr. Davidson is also a member of numerous professional and educational organizations, including the National Association of Public Pension Attorneys.

Mr. Davidson is a graduate of The George Washington University where he received his Bachelor of Arts, *summa cum laude*, in Political Communication. Mr. Davidson received his Juris Doctor and Dispute Resolution Certificate from Pepperdine University School of Law and is licensed to practice law in Pennsylvania and California.

**RYAN T. DEGNAN**, a partner of the Firm, concentrates his practice on new matter development with a specific focus on analyzing securities class action lawsuits, antitrust actions, and complex consumer actions. Mr. Degnan received his law degree from Temple University Beasley School of Law, where he was a Notes and Comments Editor for the Temple Journal of Science, Technology & Environmental Law, and earned his undergraduate degree in Biology from The Johns Hopkins University. While a law student, Mr. Degnan served as a Judicial Intern to the Honorable Gene E.K. Pratter of the United States District Court for the Eastern District of Pennsylvania. Mr. Degnan is licensed to practice in Pennsylvania and New Jersey.

As a member of the Firm's lead plaintiff litigation practice group, Mr. Degnan has helped secure the Firm's clients' appointments as lead plaintiffs in: *In re HP Sec. Litig.*, No. 12-cv-5090, 2013 WL 792642 (N.D. Cal. Mar. 4, 2013); *In re JPMorgan Chase & Co. Sec. Litig.*, No. 12-cv-03852 (S.D.N.Y.); *Freedman v. St. Jude Medical, Inc., et al.*, No. 12-cv-3070 (D. Minn.); *United Union of Roofers, Waterproofers & Allied Workers Local Union No. 8 v. Ocwen Fin. Corp.*, No. 14 Civ. 81507 (WPD), 2014 WL 7236985 (S.D. Fla. Nov. 7, 2014); *Louisiana Municipal Police Employees' Ret. Sys. v. Green Mountain Coffee Roasters, Inc., et al.*, No. 11-cv-289, 2012 U.S. Dist. LEXIS 89192 (D. Vt. Apr. 27, 2012); and *In re Longtop Fin. Techs. Ltd. Sec. Litig.*, No. 11-cv-3658, 2011 U.S. Dist. LEXIS 112970 (S.D.N.Y. Oct. 4, 2011). Additional representative matters include: *In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig.*, No. 12-md-02335 (S.D.N.Y.) (\$335 million settlement); and *Policemen's Annuity and Benefit Fund of the City of Chicago, et al. v. Bank of America, NA, et al.*, No. 12-cv-02865 (S.D.N.Y.) (\$69 million settlement).

**ELI R. GREENSTEIN** is managing partner of the Firm's San Francisco office and a member of the Firm's federal securities litigation practice group. Mr. Greenstein concentrates his practice on federal securities law violations and white collar fraud, including violations of the Securities Act of 1933 and the Securities Exchange Act of 1934. Mr. Greenstein received his J.D. from Santa Clara University School of Law in 2001, and his M.B.A. from Santa Clara's Leavey School of Business in 2002. Mr. Greenstein received his B.A. in Business Administration from the University of San Diego in 1997 where he was awarded the Presidential Scholarship. He is licensed to practice in California.

Mr. Greenstein also was a judicial extern for the Honorable James Ware (Ret.), Chief Judge of the United States District Court for the Northern District of California. Prior to joining the Firm, Mr. Greenstein was a partner at Robbins Geller Rudman & Dowd LLP in its federal securities litigation practice group. His relevant background also includes consulting for PricewaterhouseCoopers LLP's International Tax and Legal Services division, and work on the trading floor of the Chicago Mercantile Exchange, S&P 500 futures and options division.

Mr. Greenstein has been involved in dozens of high-profile securities fraud actions resulting in more than \$1 billion in recoveries for clients and investors, including: *Nieman v. Duke Energy Corp.*, 2013 U.S. Dist. LEXIS 110693 (W.D.N.C.) (\$146 million recovery); *In re HP Secs. Litig.*, 2013 U.S. Dist. LEXIS 168292 (N.D. Cal.) (\$100 million recovery); *In re VeriFone Holdings, Inc. Sec. Litig.*, 704 F.3d 694 (N.D. Cal.) (\$95 million recovery); *In re AOL Time Warner Sec. Litig. State Opt-Out Actions (Regents of the Univ. of Cal. v. Parsons)* (Cal. Super. Ct.), *Ohio Pub. Emps. Ret. Sys. v. Parsons* (Franklin County Ct. of Common Pleas) (\$618 million in total recoveries); *Minneapolis Firefighters Relief Ass'n v. Medtronic, Inc.*, 278 F.R.D. 454 (D. Minn.) (\$85 million recovery); *In re MGM Mirage Secs. Litig.*, 2014 U.S. Dist. LEXIS 165486 (D. Nev.) (\$75 million recovery); *Dobina v. Weatherford Int'l*, 909 F. Supp. 2d 228 (S.D.N.Y.) (\$52.5 million recovery); *In re Sunpower Secs. Litig.*, 2011 U.S. Dist. LEXIS 152920 (N.D. Cal.) (\$19.7 million recovery); *In re Am. Serv. Group, Inc.*, 2009 U.S. Dist. LEXIS 28237 (M.D. Tenn.) (\$15.1 million recovery); *In re Terayon Communs. Sys. Sec. Litig.*, 2002 U.S. Dist. LEXIS 5502 (N.D. Cal.) (\$15 million recovery); *In re Nuvelo, Inc. Sec. Litig.*, 668 F. Supp. 2d 1217 (N.D. Cal.) (\$8.9 million recovery); *In re Endocare, Inc. Sec. Litig.*, No. CV02-8429 DT (CTX) (C.D. Cal.) (\$8.95 million recovery); *Greater Pa. Carpenters Pension Fund v. Whitehall Jewellers, Inc.*, 2005 U.S. Dist. LEXIS 12971 (N.D. Ill.) (\$7.5 million recovery); *In re Am. Apparel, Inc. S'holder Litig.*, 2013 U.S. Dist. LEXIS 6977 (C.D. Cal.) (\$4.8 million recovery); *In re Purus Sec. Litig.* No. C-98-20449-JF(RS) (N.D. Cal.) (\$9.95 million recovery).

**SEAN M. HANDLER**, a partner of the Firm and member of Kessler Topaz's Management Committee, currently concentrates his practice on all aspects of new matter development for the Firm including securities, consumer and intellectual property. Mr. Handler earned his Juris Doctor, *cum laude*, from Temple University School of Law, and received his Bachelor of Arts degree from Colby College, graduating *with distinction* in American Studies. Mr. Handler is licensed to practice in Pennsylvania, New Jersey and New York.

As part of his responsibilities, Mr. Handler also oversees the lead plaintiff appointment process in securities class actions for the Firm's clients. In this role, Mr. Handler has achieved numerous noteworthy appointments for clients in reported decisions including *Foley v. Transocean*, 272 F.R.D. 126 (S.D.N.Y. 2011); *In re Bank of America Corp. Sec., Derivative & Employment Ret. Income Sec. Act (ERISA) Litig.*, 258 F.R.D. 260 (S.D.N.Y. 2009) and *Tanne v. Autobytel, Inc.*, 226 F.R.D. 659 (C.D. Cal. 2005) and has argued before federal courts throughout the country.

Mr. Handler was also one of the principal attorneys in *In re Brocade Securities Litigation* (N.D. Cal. 2008), where the team achieved a \$160 million settlement on behalf of the class and two public pension fund class representatives. This settlement is believed to be one of the largest settlements in a securities fraud case in terms of the ratio of settlement amount to actual investor damages.

Mr. Handler also lectures and serves on discussion panels concerning securities litigation matters, most recently appearing at American Conference Institute's National Summit on the Future of Fiduciary Responsibility and Institutional Investor's The Rights & Responsibilities of Institutional Investors.

**GEOFFREY C. JARVIS**, a partner of the Firm, focuses on securities litigation for institutional investors. Mr. Jarvis graduated from Harvard Law School in 1984, and received his undergraduate degree from Cornell University in 1980. He is licensed to practice in Pennsylvania, Delaware, New York and Washington, D.C.

Following law school, Mr. Jarvis served as a staff attorney with the Federal Communications Commission, participating in the development of new regulatory policies for the telecommunications industry.



Mr. Jarvis had a major role in *Oxford Health Plans Securities Litigation*, *DaimlerChrysler Securities Litigation*, and *Tyco Securities Litigation* all of which were among the top ten securities settlements in U.S. history at the time they were resolved, as well as a large number of other securities cases over the past 16 years. He has also been involved in a number of actions before the Delaware Chancery Court, including a Delaware appraisal case that resulted in a favorable decision for the firm's client after trial, and a Delaware appraisal case that was tried in October, argued in 2016, which is still awaiting a final decision.

Mr. Jarvis then became an associate in the Washington office of Rogers & Wells (subsequently merged into Clifford Chance), principally devoted to complex commercial litigation in the fields of antitrust and trade regulations, insurance, intellectual property, contracts and defamation issues, as well as counseling corporate clients in diverse industries on general legal and regulatory compliance matters. He was previously associated with a prominent Philadelphia litigation boutique and had first-chair assignments in cases commenced under the Pennsylvania Whistleblower Act and in major antitrust, First Amendment, civil rights, and complex commercial litigation, including several successful arguments before the U.S. Court of Appeals for the Third Circuit. From 2000 until early 2016, Mr. Jarvis was a Director (Senior Counsel through 2001) at Grant & Eisenhofer, P.A., where he engaged in a number of federal securities, and state fiduciary cases (primarily in Delaware), including several of the largest settlements of the past 15 years. He also was lead trial counsel and/or associate counsel in a number of cases that were tried to a verdict (or are pending final decision).

**JENNIFER L. JOOST**, a partner in the Firm's San Francisco office, focuses her practice on securities litigation. Ms. Joost received her law degree, *cum laude*, from Temple University Beasley School of Law, where she was the Special Projects Editor for the *Temple International and Comparative Law Journal*. Ms. Joost earned her undergraduate degree with honors from Washington University in St. Louis. She is licensed to practice in Pennsylvania and California and is admitted to practice before the United States Courts of Appeals for the Second, Fourth, Ninth, and Eleventh Circuits, and the United States District Courts for the Eastern District of Pennsylvania, the Northern District of California and the Southern District of California.

Ms. Joost has represented institutional investors in numerous securities fraud class actions including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Citigroup, Inc. Bond Litig.*, No. 08 Civ. 9522 (SHS) (S.D.N.Y.) (settled -- \$730 million); *Luther, et al. v. Countrywide Financial Corp.*, No. BC 380698 (settled -- \$500 million); *In re JPMorgan & Co. Securities Litigation*, No. 12-cv-03852 (S.D.N.Y.) (settled -- \$150 million); *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$85 million); *In re MGM Mirage Securities Litigation*, No. 09-cv-01558-GMN-VCF (D. Nev.) (settled -- \$75 million); and *In re Weatherford Int'l Securities Litigation*, No. 11-cv-01646-LAK-JCF (S.D.N.Y.) (settled -- \$52.5 million).

**KIMBERLY A. JUSTICE**, a partner of the Firm and co-chair of its antitrust practice group, concentrates her practice in the areas of securities and antitrust litigation, principally representing the interests of plaintiffs in class action and complex commercial litigation. Ms. Justice graduated *magna cum laude* from Temple University School of Law, where she was Articles/Symposium Editor of the *Temple Law Review* and received the Jacob Kossman Award in Criminal Law. Ms. Justice earned her undergraduate degree, *cum laude* and Phi Beta Kappa, from Kalamazoo College. Ms. Justice is licensed to practice law in Pennsylvania and admitted to practice before the United States Court of Appeals for the Second, Eighth, Ninth and Eleventh Circuits and the United States District Court for the Eastern District of Pennsylvania.

Upon graduating from law school, Ms. Justice served as a judicial clerk to the Honorable William H. Yohn, Jr. of the United States District Court for the Eastern District of Pennsylvania.



Since joining Kessler Topaz, Ms. Justice has played a significant role in several securities fraud and antitrust matters in which the Firm has served as Lead or Co-Lead Counsel. In addition, Ms. Justice recently was appointed as Co-Lead Counsel in *In re: Chicago Board of Options Exchange Volatility Index Manipulation Antitrust Litigation*. Ms. Justice also serves by appointment on the Plaintiff Steering Committees in *In re: Liquid Aluminum Sulfate Antitrust Litigation* and *In re: German Automotive Manufacturers Antitrust Litigation*. Ms. Justice's notable federal securities actions and recoveries include: *In re: Lehman Brothers Securities and ERISA Litigation*, Master File No. 09 MD 2017 (LAK) (S.D.N.Y.) (\$516,218,000 recovery for purchasers of Lehman securities); *Luther, et al. v. Countrywide Financial Cor., et al.*, No. 2:12-cv-05125-MRP(MANx) (\$500 million recovery for the class in connection with Countrywide's issuance of mortgage-backed securities); *Dobina v. Weatherford Int'l*, No. 1:11-cv-01646 (LAK) (S.D.N.Y.) (\$52.5 million recovery for the class in connection with Weatherford's financial accounting scheme); *Monk v. Johnson & Johnson*, No. 3:10-cv-04841 (D.N.J.) (\$23 million recovery for investors). Ms. Justice also served as lead trial attorney for shareholders in the *Longtop Financial Technologies* securities class action that resulted in a jury verdict on liability and damages in favor of investors.

Ms. Justice frequently lectures and serves on discussion panels concerning antitrust and securities litigation matters and currently serves as a member of the Advisory Board of the American Antitrust Institute and as an Advisory Council Member for The Duke Conferences: Bench-Bar-Academy Distinguished Lawyers' Series.

Ms. Justice joined the Firm after nearly a decade of serving as a trial attorney and prosecutor in the Antitrust Division of the U.S. Department of Justice where she led teams of trial attorneys and law enforcement agents who investigated and prosecuted domestic and international cartel conduct, including in the following industries: graphite electrodes, carbon products, ocean shipping and benchmark interest rates (LIBOR), and where her success at trial was recognized with the *Antitrust Division Assistant Attorney General Award of Distinction* for outstanding contribution to the protection of American consumers and competition.

Ms. Justice began her practice as an associate at Dechert LLP where she defended a broad range of complex commercial cases, including antitrust and product liability class actions, and where she advised clients concerning mergers and acquisitions and general corporate matters.

**STACEY KAPLAN**, a partner in the Firm's San Francisco office, concentrates her practice on prosecuting securities class actions. Ms. Kaplan received her J.D. from the University of California at Los Angeles School of Law in 2005, and received her Bachelor of Business Administration from the University of Notre Dame in 2002, with majors in Finance and Philosophy. Ms. Kaplan is admitted to the California Bar and is licensed to practice in all California state courts, as well as the United States District Courts for the Northern and Central Districts of California.

During law school, Ms. Kaplan served as a Judicial Extern to the Honorable Terry J. Hatter, Jr., United States District Court, Central District of California. Prior to joining the Firm, Ms. Kaplan was an associate with Robbins Geller Rudman & Dowd LLP in San Diego, California.

**DAVID KESSLER**, a partner of the Firm, manages the Firm's internationally recognized securities department. Mr. Kessler graduated with distinction from the Emory School of Law, after receiving his undergraduate B.S.B.A. degree from American University. Mr. Kessler is licensed to practice law in Pennsylvania, New Jersey and New York, and has been admitted to practice before numerous United States District Courts. Prior to practicing law, Mr. Kessler was a Certified Public Accountant in Pennsylvania.

Mr. Kessler has achieved or assisted in obtaining Court approval for the following outstanding results in federal securities class action cases: *In re Bank of America Corp. Securities, Derivative, and Employee*

*Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MDL 2058 (\$2.425 billion settlement); *In re Tyco International, Ltd. Sec. Lit.*, No. 02-1335-B (D.N.H. 2002) (\$3.2 billion settlement); *In re Wachovia Preferred Securities and Bond/Notes Litigation*, Master File No. 09 Civ. 6351 (RJS) (\$627 million settlement); *In re: Lehman Brothers Securities and ERISA Litigation*, Master File No. 09 MD 2017 (LAK) (\$516,218,000 settlement); *In re Satyam Computer Services Ltd. Sec. Litig.*, Master File No. 09 MD 02027 (BSJ) (\$150.5 million settlement); *In re Tenet Healthcare Corp. Sec. Litig.*, No. CV-02-8462-RSWL (Rx) (C.D. Cal. 2002) (\$280 million settlement); *In re Initial Public Offering Sec. Litig.*, Master File No. 21 MC 92(SAS) (\$586 million settlement).

Mr. Kessler is also currently serving as one of the Firm's primary litigation partners in the Citigroup, JPMorgan, Hewlett Packard, Pfizer and Morgan Stanley securities litigation matters.

In addition, Mr. Kessler often lectures and writes on securities litigation related topics and has been recognized as "Litigator of the Week" by the American Lawyer magazine for his work in connection with the Lehman Brothers securities litigation matter in December of 2011 and was honored by Benchmark as one of the preeminent plaintiffs practitioners in securities litigation throughout the country. Most recently Mr. Kessler co-authored *The FindWhat.com Case: Acknowledging Policy Considerations When Deciding Issues of Causation in Securities Class Actions* published in Securities Litigation Report.

**JAMES A. MARO, JR.**, a partner of the Firm, concentrates his practice in the Firm's case development department. He also has experience in the areas of consumer protection, ERISA, mergers and acquisitions, and shareholder derivative actions. Mr. Maro received his law degree from the Villanova University School of Law, and received a B.A. in Political Science from the Johns Hopkins University. Mr. Maro is licensed to practice law in Commonwealth of Pennsylvania and New Jersey. He is admitted to practice in the United States Court of Appeals for the Third Circuit and the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

**JOSEPH H. MELTZER**, a partner of the Firm, concentrates his practice in the areas of ERISA, fiduciary and antitrust complex litigation. Mr. Meltzer received his law degree with honors from Temple University School of Law and is an honors graduate of the University of Maryland. Honors include being named a Pennsylvania Super Lawyer. Mr. Meltzer is licensed to practice in Pennsylvania, New Jersey, New York, the Supreme Court of the United States, and the U.S. Court of Federal Claims.

Mr. Meltzer leads the Firm's Fiduciary Litigation Group which has excelled in the highly specialized area of prosecuting cases involving breach of fiduciary duty claims. Mr. Meltzer has served as lead or co-lead counsel in numerous nationwide class actions brought under ERISA. Since founding the Fiduciary Litigation Group, Mr. Meltzer has helped recover hundreds of millions of dollars for clients and class members including some of the largest settlements in ERISA fiduciary breach actions. Mr. Meltzer represented the Board of Trustees of the Buffalo Laborers Security Fund in its action against J.P. Jeanneret Associates which involved a massive, fraudulent scheme orchestrated by Bernard L. Madoff, No. 09-3907 (S.D.N.Y.). Mr. Meltzer also represented an institutional client in a fiduciary breach action against Wells Fargo for large losses sustained while Wachovia Bank and its subsidiaries, including Evergreen Investments, were managing the client's investment portfolio.

As part of his fiduciary litigation practice, Mr. Meltzer was actively involved in actions related to losses sustained in securities lending programs, including *Bd. of Trustees of the AFTRA Ret. Fund v. JPMorgan Chase Bank*, No. 09-00686 (S.D.N.Y.) (\$150 million settlement) and *CompSource Okla. v. BNY Mellon*, No. 08-469 (E.D. OK) (\$280 million settlement). In addition, Mr. Meltzer represented a publicly traded company in a large arbitration against AIG, Inc. related to securities lending losses, *Transatlantic Holdings, Inc. v. AIG*, No. 50-148T0037610 (AAA) (\$75million settlement).



A frequent lecturer on ERISA litigation, Mr. Meltzer is a member of the ABA and has been recognized by numerous courts for his ability and expertise in this complex area of the law. Mr. Meltzer is also a patron member of Public Justice and a member of the Class Action Preservation Committee.

Mr. Meltzer also manages the Firm's Antitrust and Pharmaceutical Pricing Groups. Here, Mr. Meltzer focuses on helping clients that have been injured by anticompetitive and unlawful business practices, including with respect to overcharges related to prescription drug and other health care expenditures. Mr. Meltzer served as co-lead counsel for direct purchasers in the *Flonase Antitrust Litigation*, No.08-3149 (E.D. PA) (\$150 million settlement) and has served as lead or co-lead counsel in numerous nationwide actions. Mr. Meltzer also serves as a special assistant attorney general for the states of Montana, Utah and Alaska. Mr. Meltzer also lectures on issues related to antitrust litigation.

**PETER A. MUHIC**, a partner of the Firm, focuses his practice on ERISA, Fiduciary and complex Consumer Litigation. Mr. Muhic is an honors graduate of the Temple University School of Law where he was Managing Editor of the Temple Law Review and a member of the Moot Court Board. He received his undergraduate degree in finance from Syracuse University. He is licensed to practice law in Pennsylvania and New Jersey.

Mr. Muhic has represented investors, consumers and other clients in obtaining substantial recoveries, including: *In Re Beacon Associates Litigation*, No. 09-cv-0777 (S.D.N.Y. 2009) (settled -- \$219 million); *Lee v. Ocwen Loan Servicing, LLC*, No. 14-cv-60649 (S.D. Fla. 2014) (settled -- \$140 million available relief); *Transatlantic Holdings, Inc. v. American International Group, Inc.*, No. 50 148 T 00376 10 (\$75 million arbitration award); *In Re Staples Inc. Wage and Hour Employment Practices Litigation*, No. 08-5746 (MDL 2025) (D. N.J. 2008) (settled -- \$41 million).

**MATTHEW L. MUSTOKOFF**, a partner of the Firm, is an experienced securities and corporate governance litigator. He has represented clients at the trial and appellate level in numerous high-profile shareholder class actions and other litigations involving a wide array of matters, including financial fraud, market manipulation, mergers and acquisitions, fiduciary mismanagement of investment portfolios, and patent infringement. Mr. Mustokoff received his law degree from the Temple University School of Law, and is a Phi Beta Kappa honors graduate of Wesleyan University. At law school, Mr. Mustokoff was the articles and commentary editor of the *Temple Political and Civil Rights Law Review* and the recipient of the Raynes, McCarty, Binder, Ross and Mundy Graduation Prize for scholarly achievement in the law. He is admitted to practice before the state courts of New York and Pennsylvania, the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Pennsylvania and the District of Colorado, and the United States Courts of Appeals for the Eleventh and Federal Circuits.

Mr. Mustokoff is currently prosecuting several nationwide securities cases on behalf of U.S. and overseas institutional investors, including *In re JPMorgan Chase Securities Litigation* (S.D.N.Y.), arising out of the "London Whale" derivatives trading scandal which led to over \$6 billion in losses in the bank's proprietary trading portfolio. He serves as lead counsel for six public pension funds in the multi-district securities litigation against BP in Texas federal court stemming from the 2010 Deepwater Horizon disaster in the Gulf of Mexico. He successfully argued the opposition to BP's motion to dismiss, resulting in a landmark decision sustaining fraud claims under English law for purchasers of BP shares on the London Stock Exchange.

Mr. Mustokoff also played a major role in prosecuting *In re Citigroup Bond Litigation* (S.D.N.Y.), involving allegations that Citigroup concealed its exposure to subprime mortgage debt on the eve of the 2008 financial crisis. The \$730 million settlement marks the second largest recovery under Section 11 of the Securities Act in the history of the statute. Mr. Mustokoff's significant courtroom experience includes serving as one of the lead trial lawyers for shareholders in the only securities fraud class action arising out

of the financial crisis to be tried to jury verdict. In addition to his trial practice in federal courts, he has successfully tried cases before the Financial Industry Regulatory Authority (FINRA).

Prior to joining the Firm, Mr. Mustokoff practiced at Weil, Gotshal & Manges LLP in New York, where he represented public companies and financial institutions in SEC enforcement and white collar criminal matters, shareholder litigation and contested bankruptcy proceedings.

**SHARAN NIRMUL**, a partner of the Firm, concentrates his practice in the area of securities, consumer and fiduciary class litigation, principally representing the interests of plaintiffs in class action and complex commercial litigation. Mr. Nirmul has represented clients in federal and state courts and in alternative dispute resolution forums. Mr. Nirmul received his law degree from The George Washington University Law School (J.D. 2001) where he served as an articles editor for the *Environmental Lawyer Journal* and was a member of the Moot Court Board. He was awarded the school's Lewis Memorial Award for excellence in clinical practice. He received his undergraduate degree from Cornell University (B.S. 1996). Mr. Nirmul is admitted to practice law in the state courts of New York, New Jersey, Pennsylvania and Delaware, and in the U.S. District Courts for the Southern District of New York, District of New Jersey, and District of Delaware.

Mr. Nirmul has represented institutional investors in a number of notable securities class action cases. These include *In re Bank of America Securities Litigation*, a case which represents the sixth largest recovery for shareholders under the federal securities laws (\$2.43 billion settlement) and which included significant corporate governance enhancements at Bank of America; *In re Global Crossing Securities Litigation* (recovery of over \$450 million); *In re Delphi Securities Litigation* (\$284 million settlement with Delphi, its former officers and directors and underwriters, and a separate \$38.25 million settlement with the auditors); and *Satyam Computer Services Securities Litigation*, (\$150.5 million settlement).

Mr. Nirmul has also been at the forefront of litigation on behalf of investors who suffered losses through fraud, breach of fiduciary and breach of contract by their custodians and investment fiduciaries. In a matter before the American Arbitration Association, Mr. Nirmul represented a publicly traded reinsurance company in a breach of contract and breach of fiduciary suit against its former controlling shareholder and fiduciary investment manager, arising out of its participation and losses through a securities lending program and securing a \$70 million recovery. Mr. Nirmul is also presently litigating breach of contract and Trust Indenture Act claims against the trustees of mortgage backed securities issued by Washington Mutual (Washington State Investments Board et al v. Bank of America National Association et al) on behalf of several state public pension funds. In connection with a scheme to manipulate foreign exchange rates assigned to its custodial clients, Mr. Nirmul is a member of the team litigating a consumer class action asserting contractual and fiduciary duty claims against BNY Mellon in the Southern District of New York (In re BNY Mellon Forex Litigation).

Mr. Nirmul regularly speaks on matters affecting institutional investors at conferences and symposiums. He has been a speaker and/or panelist at the annual Rights and Responsibilities of Institutional Investors in Amsterdam, The Netherlands and annual Evolving Fiduciary Obligations of Pension Plans in Washington, D.C.

**JUSTIN O. RELIFORD**, a partner of the Firm, concentrates his practice on mergers and acquisition litigation and shareholder derivative litigation. Mr. Reliford graduated from the University of Pennsylvania Law School in 2007 and received his B.A. from Williams College in 2003, majoring in Psychology with a concentration in Leadership Studies. Mr. Reliford is a member of the Pennsylvania and New Jersey bars, and he is admitted to practice in the Third Circuit Court of Appeals, the Eastern District of Pennsylvania, and the District of New Jersey.



Mr. Reliford has extensive experience representing clients in connection with nationwide class and collective actions. Most notably, Mr. Reliford, was part of the trial team *In re Dole Food Co., Inc. Stockholder Litig.*, C.A. No. 8703-VCL, that won a trial verdict in favor of Dole stockholders for \$148 million. He also litigated *In re GFI Group, Inc. Stockholder Litig.* Consol. C.A. No. 10136-VCL (Del. Ch.) (\$10.75 million cash settlement); *In re Globe Specialty Metals, Inc. Stockholders Litig.*, Consol. C.A. No. 10865-VCG (Del. Ch.) (\$32.5 million settlement); and *In re Harleysville Mutual* (CCP, Phila. Cnty. 2012) (an expedited merger litigation case challenging Harleysville's agreement to sell the company to Nationwide Insurance Company, which led to a \$26 million cash payment to policyholders). Prior to joining the Firm, Mr. Reliford was an associate in the labor and employment practice group of Morgan Lewis & Bockius, LLP. There, Mr. Reliford concentrated his practice on employee benefits, fiduciary, and workplace discrimination litigation.

**LEE D. RUDY**, a partner of the Firm, manages the Firm's mergers and acquisition and shareholder derivative litigation. Mr. Rudy received his law degree from Fordham University, and his undergraduate degree, *cum laude*, from the University of Pennsylvania. Mr. Rudy is licensed to practice in Pennsylvania and New York.

Representing both institutional and individual shareholders in these actions, he has helped cause significant monetary and corporate governance improvements for those companies and their shareholders. Lee also co-chairs the Firm's qui tam and whistleblower practices, where he represents whistleblowers before administrative agencies and in court. Mr. Rudy regularly practices in the Delaware Court of Chancery, where he served as co-lead trial counsel in the landmark case of *In re S. Peru Copper Corp. S'holder Derivative Litig.*, C.A. No. 961-CS, a \$2 billion trial verdict against Southern Peru's majority shareholder. He previously served as lead counsel in dozens of high profile derivative actions relating to the "backdating" of stock options. Prior to civil practice, Mr. Rudy served for several years as an Assistant District Attorney in the Manhattan (NY) District Attorney's Office, and as an Assistant United States Attorney in the US Attorney's Office (DNJ).

**RICHARD A. RUSSO, JR.**, a partner of the Firm, focuses his practice on securities litigation. Mr. Russo received his law degree from the Temple University Beasley School of Law, where he graduated *cum laude* and was a member of the Temple Law Review, and graduated *cum laude* from Villanova University, where he received a Bachelor of Science degree in Business Administration. Mr. Russo is licensed to practice in Pennsylvania and New Jersey.

Mr. Russo has represented individual and institutional investors in obtaining significant recoveries in numerous class actions arising under the federal securities laws, including *In re Bank of American Securities Litigation*, No. 1:09-md-02058-PKC (S.D.N.Y.) (\$2.43 billion recovery), *In re Citigroup Bond Litigation*, No. 08-cv-09522-SHS (S.D.N.Y.) (\$730 million recovery), *In re Lehman Brothers Securities Litigation*, No. 1:09-md-02017-LAK (S.D.N.Y.) (\$616 million recovery).

**MARC A. TOPAZ**, a partner of the Firm, oversees the Firm's derivative, transactional and case development departments. Mr. Topaz received his law degree from Temple University School of Law, where he was an editor of the *Temple Law Review* and a member of the Moot Court Honor Society. He also received his Master of Law (L.L.M.) in taxation from the New York University School of Law, where he served as an editor of the *New York University Tax Law Review*. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Mr. Topaz has been heavily involved in all of the Firm's cases related to the subprime mortgage crisis, including cases seeking recovery on behalf of shareholders in companies affected by the subprime crisis, as well as cases seeking recovery for 401K plan participants that have suffered losses in their retirement

plans. Mr. Topaz has also played an instrumental role in the Firm's option backdating litigation. These cases, which are pled mainly as derivative claims or as securities law violations, have served as an important vehicle both for re-pricing erroneously issued options and providing for meaningful corporate governance changes. In his capacity as the Firm's department leader of case initiation and development, Mr. Topaz has been involved in many of the Firm's most prominent cases, including *In re Initial Public Offering Sec. Litig.*, Master File No. 21 MC 92(SAS) (S.D.N.Y. Dec. 12, 2002); *Wanstrath v. Doctor R. Crants, et al.*, No. 99-1719-111 (Tenn. Chan. Ct., 20th Judicial District, 1999); *In re Tyco International, Ltd. Sec. Lit.*, No. 02-1335-B (D.N.H. 2002) (settled — \$3.2 billion); and virtually all of the 80 options backdating cases in which the Firm is serving as Lead or Co-Lead Counsel. Mr. Topaz has played an important role in the Firm's focus on remedying breaches of fiduciary duties by corporate officers and directors and improving corporate governance practices of corporate defendants.

**MELISSA L. TROUTNER**, a partner of the Firm, concentrates her practice on new matter development with a specific focus on analyzing securities class action lawsuits, antitrust actions, and complex consumer actions. Ms. Troutner is also a member of the Firm's lead plaintiff litigation practice group. Ms. Troutner received her law degree, Order of the Coif, *cum laude*, from the University of Pennsylvania Law School in 2002 and her Bachelor of Arts, Phi Beta Kappa, *magna cum laude*, from Syracuse University in 1999. Ms. Troutner is licensed to practice law in Pennsylvania, New York and Delaware.

Prior to joining Kessler Topaz, Ms. Troutner practiced as a litigator with several large defense firms, focusing on complex commercial, products liability and patent litigation, and clerked for the Honorable Stanley S. Brotman, United States District Judge for the District of New Jersey.

**MICHAEL C. WAGNER**, a partner of the Firm, handles class-action merger litigation and shareholder derivative litigation for the Firm's individual and institutional clients. A graduate of the University of Pittsburgh School of Law and Franklin and Marshall College, Mr. Wagner has clerked for two appellate court judges and began his career at a Philadelphia-based commercial litigation firm, representing clients in business and corporate disputes across the United States. Mr. Wagner is admitted to practice in the courts of Pennsylvania, the United States Court of Appeals for the Third Circuit, and the United States District Courts for the Eastern and Western Districts of Pennsylvania, the Eastern District of Michigan, and the District of Colorado.

Frequently appearing in the Delaware Court of Chancery, Mr. Wagner has helped to achieve substantial monetary recoveries for stockholders of public companies in cases arising from corporate mergers and acquisitions. Mr. Wagner served as co-lead trial counsel in *In re Dole Food Co., Inc. Stockholder Litig.*, C.A. No. 8703-VCL, which won a trial verdict in favor of Dole stockholders for (\$148 million settlement). He has also achieved significant monetary results in similar cases such as: *In re Genentech, Inc. S'holders Litig.*, Consol. C.A. No. 3911-VCS (Del. Ch.) (litigation caused Genentech's stockholders to receive \$3.9 billion in additional merger consideration from Roche); *In re Anheuser Busch Companies, Inc. S'holders Litig.*, C.A. No. 3851-VCP (Del. Ch.) (settlement required enhanced disclosures to stockholders and resulted in a \$5 per share increase in the price paid by InBev in its acquisition of Anheuser-Busch); *In re GSI Commerce, Inc. S'holders Litig.*, C.A. No. 6346-VCN (Del. Ch.) (settlement required additional \$23.9 million to be paid to public stockholders as a part of the company's merger with eBay, Inc.); *In re GFI Group, Inc. Stockholder Litig.* Consol. C.A. No. 10136-VCL (Del. Ch.) (\$10.75 million); *In re Globe Specialty Metals, Inc. Stockholders Litig.*, Consol. C.A. No. 10865-VCG (Del. Ch.) (\$32.5 million settlement). Mr. Wagner was also a part of the team that prosecuted *In re S. Peru Copper Corp. S'holder Derivative Litig.*, C.A. No. 961-CS, which resulted in a \$2 billion post-trial judgment.

**JOHNSTON de F. WHITMAN, JR.**, a partner of the Firm, focuses his practice on securities litigation, primarily in federal court. Mr. Whitman received his law degree from Fordham University School of Law, where he was a member of the Fordham International Law Journal, and graduated *cum laude* from Colgate



University. He is licensed to practice in Pennsylvania and New York., and is admitted to practice in courts around the country, including the United States Courts of Appeal for the Second, Third, and Fourth Circuits.

Mr. Whitman has represented institutional investors in obtaining substantial recoveries in numerous securities fraud class actions, including: (i) *In re Bank of America Securities Litigation*, a case which represents the sixth largest recovery for shareholders under the federal securities laws (settled --\$2.425 billion); (ii) *In re Royal Ahold Sec. Litig.*, No. 03-md-01539 (D. Md. 2003) (\$1.1 billion settlement); (iii) *In re DaimlerChrysler AG Sec. Litig.*, No. 00-0993 (D. Del. 2000) (\$300 million settlement); (iv) *In re Dollar General, Inc. Sec. Litig.*, No. 01-cv-0388 (M.D. Tenn. 2001) ( \$162 million settlement); and (v) *In re JPMorgan & Co. Securities Litigation*, No. 12-cv-03852 (S.D.N.Y.) (\$150 million settlement). Mr. Whitman has also obtained favorable recoveries for institutional investors pursuing direct securities fraud claims, including cases against Merck & Co., Inc., Qwest Communications International, Inc. and Merrill Lynch & Co., Inc. In addition, Mr. Whitman represented a publicly traded company in a large arbitration against AIG, Inc. related to securities lending losses, *Transatlantic Holdings, Inc. v. AIG*, No. 50-148T0037610 (AAA) (\$75million settlement).

**ROBIN WINCHESTER**, a partner of the Firm, concentrated her practice in the areas of securities litigation and lead plaintiff litigation, when she joined the Firm. Presently, Ms. Winchester concentrates her practice in the area of shareholder derivative actions. Ms. Winchester earned her Juris Doctor degree from Villanova University School of Law, and received her Bachelor of Science degree in Finance from St. Joseph's University. Ms. Winchester is licensed to practice law in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Ms. Winchester served as a law clerk to the Honorable Robert F. Kelly in the United States District Court for the Eastern District of Pennsylvania.

Ms. Winchester has served as lead counsel in numerous high-profile derivative actions relating to the backdating of stock options, including *In re Eclipsys Corp. Derivative Litigation*, Case No. 07-80611-Civ-MIDDLEBROOKS (S.D. Fla.); *In re Juniper Derivative Actions*, Case No. 5:06-cv-3396-JW (N.D. Cal.); *In re McAfee Derivative Litigation*, Master File No. 5:06-cv-03484-JF (N.D. Cal.); *In re Quest Software, Inc. Derivative Litigation*, Consolidated Case No. 06CC00115 (Cal. Super. Ct., Orange County); and *In re Sigma Designs, Inc. Derivative Litigation*, Master File No. C-06-4460-RMW (N.D. Cal.). Settlements of these, and similar, actions have resulted in significant monetary returns and corporate governance improvements for those companies, which, in turn, greatly benefits their public shareholders.

**ERIC L. ZAGAR**, a partner of the Firm, concentrates his practice in the area of shareholder derivative litigation. Mr. Zagar received his law degree from the University of Michigan Law School, *cum laude*, where he was an Associate Editor of the *Michigan Law Review*, and his undergraduate degree from Washington University in St. Louis. He is admitted to practice in Pennsylvania, California and New York. Mr. Zagar previously served as a law clerk to Justice Sandra Schultz Newman of the Pennsylvania Supreme Court.

Mr. Zagar has served as Lead or Co-Lead counsel in numerous derivative actions in courts throughout the nation, including *David v. Wolfen*, Case No. 01-CC-03930 (Orange County, CA 2001) (Broadcom Corp. Derivative Action); and *In re Viacom, Inc. Shareholder Derivative Litig.*, Index No. 602527/05 (New York County, NY 2005). He was a member of the trial team in the landmark case of *In re S. Peru Copper Corp. S'holder Derivative Litig.*, C.A. No. 961-CS, a \$2 billion trial verdict against Southern Peru's majority shareholder. Mr. Zagar has successfully achieved significant monetary and corporate governance relief for the benefit of shareholders, and has extensive experience litigating matters involving Special Litigation Committees.

**TERENCE S. ZIEGLER**, a partner of the Firm, concentrates a significant percentage of his practice to the investigation and prosecution of pharmaceutical antitrust actions, medical device litigation, and related anticompetitive and unfair business practice claims. Mr. Ziegler received his law degree from the Tulane University School of Law and received his undergraduate degree from Loyola University. Mr. Ziegler is licensed to practice law in Pennsylvania and the State of Louisiana, and has been admitted to practice before several courts including the United States Court of Appeals for the Third Circuit.

Mr. Ziegler has represented investors, consumers and other clients in obtaining substantial recoveries, including: *In re Flonase Antitrust Litigation*; *In re Wellbutrin SR Antitrust Litigation*; *In re Modafinil Antitrust Litigation*; *In re Guidant Corp. Implantable Defibrillators Products Liability Litigation* (against manufacturers of defective medical devices — pacemakers/implantable defibrillators — seeking costs of removal and replacement); and *In re Actiq Sales and Marketing Practices Litigation* (regarding drug manufacturer's unlawful marketing, sales and promotional activities for non-indicated and unapproved uses).

**ANDREW L. ZIVITZ**, a partner of the Firm, received his law degree from Duke University School of Law, and received a Bachelor of Arts degree, with distinction, from the University of Michigan, Ann Arbor. Mr. Zivitz is licensed to practice in Pennsylvania and New Jersey.

Drawing on two decades of litigation experience, Mr. Zivitz concentrates his practice in the area of securities litigation and is currently litigating several of the largest federal securities fraud class actions in the U.S. Andy is skilled in all aspects of complex litigation, from developing and implementing strategies, to conducting merits and expert discovery, to negotiating resolutions. He has represented dozens of major institutional investors in securities class actions and has helped the firm recover more than \$1 billion for damaged clients and class members in numerous securities fraud matters in which Kessler Topaz was Lead or Co-Lead Counsel, including *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D.Cal. 2012) (settled -- \$500 million); *In re Pfizer Sec. Litig.*, 1:04-cv-09866 (S.D.N.Y. 2004) (settled -- \$486 million); *In re Tenet Healthcare Corp.*, 02-CV-8462 (C.D. Cal. 2002) (settled — \$281.5 million); *In re JPMorgan Sec. Litig.*, 1:12-cv-03852 (S.D.N.Y. 2012) (settled -- \$150 million); *In re Computer Associates Sec. Litig.*, No. 02-CV-122 6 (E.D.N.Y. 2002) (settled — \$150 million); *In re Hewlett-Packard Sec. Litig.*, 12-cv-05980 (N.D.Cal. 2012) (settled -- \$100 million); and *In re Medtronic Inc. Sec. Litig.*, 08-cv-0624 (D. Minn. 2008) (settled -- \$ 85 million).

Andy's extensive courtroom experience serves his clients well in trial situations, as well as pre-trial proceedings and settlement negotiations. He served as one of the lead plaintiffs' attorneys in the only securities fraud class action arising out of the financial crisis to be tried to a jury verdict, has handled a Daubert trial in the U.S. District Court for the Southern District of New York, and successfully argued back-to-back appeals before the Ninth Circuit Court of Appeals. Before joining Kessler Topaz, Andy worked at the international law firm Drinker Biddle and Reath, primarily representing defendants in large, complex litigation. His experience on the defense side of the bar provides a unique perspective in prosecuting complex plaintiffs' litigation.

## **COUNSEL**

**JENNIFER L. ENCK**, Counsel to the Firm, concentrates her practice in the area of securities litigation and settlement matters. Ms. Enck received her law degree, *cum laude*, from Syracuse University College of Law, where she was a member of the Syracuse Journal of International Law and Commerce, and her undergraduate degree in International Politics/International Studies from The Pennsylvania State University. Ms. Enck also received a Masters degree in International Relations from Syracuse University's

Maxwell School of Citizenship and Public Affairs. She is licensed to practice in Pennsylvania and has been admitted to practice before the United States Court of Appeals for the Third and Eleventh Circuits and the United States District Court for the Eastern District of Pennsylvania.

Ms. Enck has been involved in documenting and obtaining the required court approval for many of the firm's largest and most complex securities class action settlements, including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MDL 2058 (S.D.N.Y.) (settled -\$2.425 billion); *Luther v. Countrywide Financial Corp., et al.*, No. 2:12-cv-05125-MRP(MANx) (C.D. Cal.) (settled - \$500 million); *In re: Lehman Brothers Securities and ERISA Litigation*, Master File No. 09 MD 2017 (LAK) (S.D.N.Y.) (settled - \$516,218,000); and *In re Satyam Computer Services, Ltd. Securities Litigation*, No. 09 MD 02027 (BSJ) (S.D.N.Y.) (settled - \$150.5 million).

**MARK K. GYANDOH**, Counsel to the Firm, concentrates his practice in the area of ERISA and consumer protection litigation. Mr. Gyandoh received his J.D. (2001) and LLM in trial advocacy (2011) from Temple University School of Law, where, during law school, Mr. Gyandoh served as the research editor for the Temple International and Comparative Law Journal. Mr. Gyandoh received his undergraduate degree from Haverford College (B.A. 1996). He is licensed to practice in New Jersey and Pennsylvania.

Mr. Gyandoh, has helped obtain substantial recoveries in numerous ERISA breach of fiduciary duty class actions, including: *In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation*, \$49.5 million; *In re Colgate-Palmolive Co. ERISA Litigation*, \$45.9 million; and *In re National City ERISA Litigation*, \$43 million.

**REBECCA M. KATZ**, Of Counsel to the Firm, investigates and prosecutes securities fraud on behalf of whistleblowers and represents clients in complex securities actions. Rebecca received her law degree from Hofstra University School of Law and her undergraduate degree from Hofstra University. Rebecca is licensed to practice in the State of New York.

Rebecca was a former senior counsel for the Securities and Exchange Commission (SEC) Enforcement Division for nearly a decade. She takes pride in protecting and advocating for whistleblowers who have information about possible violations of federal securities laws or the False Claims Act. For over two decades, she has provided objective legal counsel to those who need support and confidence in the complex and ever-changing whistleblower and qui tam legal arena. Since its inception, she has assisted numerous clients through the complexities of the SEC Whistleblower Program.

As a former partner at two large New York plaintiffs' litigation firms, Rebecca gained over 15 years of complex securities litigation experience, with a focus on representing public pension funds, Taft-Hartley funds and other institutional investors in federal and state courts across the country. She has served as lead or co-lead attorney in several actions that resulted in successful recoveries for injured class members. She has also handled all aspects of case management from case start up through trial, appeals and claims administration.

During her tenure with the SEC, Rebecca investigated and litigated a variety of enforcement matters involving many high-profile, complex matters such as those involving insider trading, market manipulation and accounting fraud.

**DONNA SIEGEL MOFFA**, Counsel to the Firm, concentrates her practice in the area of consumer protection litigation. Ms. Siegel Moffa received her law degree, with honors, from Georgetown University Law Center in May 1982 and a masters degree in Public Administration from Rutgers, the State University



of New Jersey, Graduate School-Camden in January 2017. She received her undergraduate degree, *cum laude*, from Mount Holyoke College in Massachusetts. Ms. Siegel Moffa is admitted to practice before the Third Circuit Court of Appeals, the United States Courts for the District of New Jersey and the District of Columbia, as well as the Supreme Court of New Jersey and the District of Columbia Court of Appeals.

Prior to joining the Firm, Ms. Siegel Moffa was a member of the law firm of Trujillo, Rodriguez & Richards, LLC, where she litigated, and served as co-lead counsel, in complex class actions arising under federal and state consumer protection statutes, lending laws and laws governing contracts and employee compensation. Prior to entering private practice, Ms. Siegel Moffa worked at both the Federal Energy Regulatory Commission (FERC) and the Federal Trade Commission (FTC). At the FTC, she prosecuted cases involving allegations of deceptive and unsubstantiated advertising. In addition, both at FERC and the FTC, Ms. Siegel Moffa was involved in a wide range of administrative and regulatory issues including labeling and marketing claims, compliance, FOIA and disclosure obligations, employment matters, licensing and rulemaking proceedings.

Ms. Siegel Moffa served as co-lead counsel for the class in *Robinson v. Thorn Americas, Inc.*, L-03697-94 (Law Div. 1995), a case that resulted in a significant monetary recovery for consumers and changes to rent-to-own contracts in New Jersey. Ms. Siegel Moffa was also counsel in *Muhammad v. County Bank of Rehoboth Beach, Delaware*, 189 N.J. 1 (2006), U.S. Sup. Ct. cert. denied, 127 S. Ct. 2032(2007), in which the New Jersey Supreme Court struck a class action ban in a consumer arbitration contract. She has served as class counsel representing consumers pressing TILA claims, e.g. *Cannon v. Cherry Hill Toyota, Inc.*, 184 F.R.D. 540 (D.N.J. 1999), and *Dal Ponte v. Am. Mortg. Express Corp.*, CV- 04-2152 (D.N.J. 2006), and has pursued a wide variety of claims that impact consumers and individuals including those involving predatory and sub-prime lending, mandatory arbitration clauses, price fixing, improper medical billing practices, the marketing of light cigarettes and employee compensation. Ms. Siegel Moffa's practice has involved significant appellate work representing individuals, classes, and non-profit organizations participating as amicus curiae, such as the National Consumer Law Center and the AARP. In addition, Ms. Siegel Moffa has regularly addressed consumer protection and litigation issues in presentations to organizations and professional associations.

**MICHELLE M. NEWCOMER**, Counsel to the Firm, concentrates her practice in the area of securities litigation. Ms. Newcomer earned her law degree from Villanova University School of Law in 2005, and earned her B.B.A. in Finance and Art History from Loyola University Maryland in 2002. Ms. Newcomer is licensed to practice law in the Commonwealth of Pennsylvania and the State of New Jersey and has been admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Second, Ninth and Tenth Circuits, and the United States District Court for the Districts of New Jersey and Colorado.

Ms. Newcomer has represented shareholders in numerous securities class actions in which the Firm has served as Lead or Co-Lead Counsel, through all aspects of pre-trial proceedings, including complaint drafting, litigating motions to dismiss and for summary judgment, conducting document, deposition and expert discovery, and appeal. Ms. Newcomer also has been involved in the Firm's securities class action trials, including most recently serving as part of the trial team in the Longtop Financial Technologies securities class action trial that resulted in a jury verdict on liability and damages in favor of investors. Ms. Newcomer began her legal career with the Firm in 2005. Prior to joining the Firm, she was a summer law clerk for the Hon. John T.J. Kelly, Jr. of the Pennsylvania Superior Court.

Ms. Newcomer's representative cases include: *In re Longtop Financial Technologies Ltd. Sec. Litig.* No. 11-cv-3658 (SAS) (S.D.N.Y.) – obtained on behalf of investors a jury verdict on liability and damages against the company's former CFO; *In re Lehman Brothers Sec. & ERISA Litig.*, No. 09 MD 2017 (LAK) (S.D.N.Y.) (\$616 million settlement); *In re Pfizer, Inc. Sec. Litig.*, No. 04-9866-LTS (S.D.N.Y.) –

represents three of the court-appointed class representatives, and serves as additional counsel for the class in securities fraud class action based on alleged misrepresentations and omissions concerning cardiovascular risks associated with Celebrex® and Bextra®, which survived Defendants' motion for summary judgment; *Connecticut Retirement Plans & Trust Funds et al. v. BP p.l.c. et al.* (S.D. Tex.) – represents several public pension funds in direct action asserting claims under Section 10(b) and Rule 10b-5, for purchases of BP ADRs on the NYSE, and under English law for purchasers of BP ordinary shares on the London Stock Exchange, which recently survived Defendants' motion to dismiss; litigation is ongoing.

**RICHARD B. YATES**, Of Counsel to the Firm, focuses his practice on securities fraud litigation and portfolio monitoring. He received his law degree from Brooklyn Law School, cum laude, where he was the Business Editor of the Brooklyn Journal of International Law and did his undergraduate work at the University of Rochester. He is licensed to practice in the state of New York.

## ASSOCIATES & STAFF ATTORNEYS

**ASHER S. ALAVI**, an associate of the Firm, concentrates his practice in the area of qui tam litigation. Mr. Alavi received his law degree, cum laude, from Boston College Law School in 2011 where he served as Note Editor for the Boston College Journal of Law & Social Justice. He received his undergraduate degree in Communication Studies and Political Science Northwestern University in 2007. Mr. Alavi is licensed to practice law in Pennsylvania and Maryland. Prior to joining Kessler Topaz, Mr. Alavi was an associate with Pietragallo Gordon Alfano Bosick & Raspanti LLP in Philadelphia, where he worked on a variety of whistleblower and healthcare matters.

**LaMARLON R. BARKSDALE**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Barksdale received his law degree from Temple University, James E. Beasley School of Law in 2005 and his undergraduate degree, cum laude, from the University of Delaware in 2001. He is licensed to practice law in Pennsylvania and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Prior to joining Kessler Topaz, Mr. Barksdale worked in complex pharmaceutical litigation, commercial litigation, criminal law and bankruptcy law.

**ETHAN J. BARLIEB**, an associate of the Firm, concentrates his practice in the areas of ERISA, consumer protection and antitrust litigation. Mr. Barlieb received his law degree, *magna cum laude*, from the University of Miami School of Law in 2007 and his undergraduate degree from Cornell University in 2003. Mr. Barlieb is licensed to practice in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Mr. Barlieb was an associate with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, where he worked on various commercial, securities and employment matters. Before that, Mr. Barlieb served as a law clerk for the Honorable Mitchell S. Goldberg in the U.S. District Court for the Eastern District of Pennsylvania.

**ADRIENNE BELL**, an associate of the Firm, focuses her practice on case development and client relations. Ms. Bell received her law degree from Brooklyn Law School and her undergraduate degree in Music Theory and Composition from New York University, where she graduated *magna cum laude*. Ms. Bell is licensed to practice in Pennsylvania. Prior to joining the Firm, Ms. Bell practiced in the areas of entertainment law and commercial litigation.

**MATTHEW BENEDICT**, an associate of the Firm, concentrates his practice in the area of mergers and acquisitions litigation and shareholder derivative litigation. Mr. Benedict earned his law degree from Villanova University School of Law and his undergraduate degree from Haverford College. He is licensed to practice law in Pennsylvania and New Jersey. Prior to joining the firm, he worked as a staff attorney in the White Collar / Securities Litigation department at Dechert LLP.

**STACEY BERGER**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Widener University School of Law, and her undergraduate degree in Business Administration from George Washington University. Ms. Berger is licensed to practice in Pennsylvania.

While in law school, Ms. Berger was a law clerk for a general practice firm in Bucks County. Prior to joining Kessler Topaz, she worked as an associate for a Bucks County law firm.

**ELIZABETH WATSON CALHOUN**, a staff attorney of the Firm, focuses on securities litigation. She has represented investors in major securities fraud and has also represented shareholders in derivative and direct shareholder litigation. Ms. Calhoun received her law degree from Georgetown University Law Center (*cum laude*), where she served as Executive Editor of the Georgetown Journal of Gender and the Law. She received her undergraduate degree in Political Science from the University of Maine, Orono (*with high distinction*). Ms. Calhoun is admitted to practice before the state court of Pennsylvania and the U.S. District Court for the Eastern District of Pennsylvania. Prior to joining the Firm, Ms. Calhoun was employed with the Wilmington, Delaware law firm of Grant & Eisenhofer, P.A.

**QUIANA CHAPMAN-SMITH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Temple University Beasley School of Law in Pennsylvania and her Bachelor of Science in Management and Organizations from The Pennsylvania State University. Ms. Chapman-Smith is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, she worked in pharmaceutical litigation.

**EMILY N. CHRISTIANSEN**, an associate of the Firm, focuses her practice in securities litigation and international actions, in particular. Ms. Christiansen received her Juris Doctor and Global Law certificate, *cum laude*, from Lewis and Clark Law School in 2012. Ms. Christiansen is a graduate of the University of Portland, where she received her Bachelor of Arts, *cum laude*, in Political Science and German Studies. Ms. Christiansen is currently licensed to practice law in New York and Pennsylvania.

While in law school, Ms. Christiansen worked as an intern in Trial Chambers III at the International Criminal Tribunal for the Former Yugoslavia. Ms. Christiansen also spent two months in India as foreign legal trainee with the corporate law firm of Fox Mandal. Ms. Christiansen is a 2007 recipient of a Fulbright Fellowship and is fluent in German.

Ms. Christiansen devotes her time to advising clients on the challenges and benefits of pursuing particular litigation opportunities in jurisdictions outside the U.S. In those non-US actions where Kessler Topaz is actively involved, Emily liaises with local counsel, helps develop case strategy, reviews pleadings, and helps clients understand and successfully navigate the legal process. Her experience includes non-US opt-in actions, international law, and portfolio monitoring and claims administration. In her role, Ms. Christiansen has helped secure recoveries for institutional investors in the litigation in Japan against *Olympus Corporation* (settled - ¥11 billion) and in the Netherlands against *Fortis Bank N.V.* (settled - €1.2 billion).

**SARA A. CLOSIC**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Mrs. Closic earned her Juris Doctor degree from Widener University School of Law in Wilmington,



Delaware, and her undergraduate degree from Pennsylvania State University. Mrs. Closic is admitted to practice in Pennsylvania and New Jersey.

During law school, Mrs. Closic interned at the U.S. Food and Drug Administration and the Delaware Department of Justice in the Consumer Protection & Fraud Division where she was heavily involved in protecting consumers within a wide variety of subject areas. Prior to joining the Firm, Mrs. Closic practiced in the areas of pharmaceutical & health law litigation, and was an Associate at a general practice firm in Bensalem, Pennsylvania.

**THERESA M. DEANGELIS**, an associate of the Firm, concentrates her practice in Whistleblower Litigation. Ms. DeAngelis received her law degree from Penn State Law in 2018 and her undergraduate degree from Penn State University in 2014. Ms. DeAngelis is licensed to practice in Pennsylvania.

**STEPHEN J. DUSKIN**, a staff attorney of the Firm, concentrates his practice in the area of antitrust litigation. Mr. Duskin received his law degree from Rutgers School of Law at Camden in 1985, and his undergraduate degree in Mathematics from the University of Rochester in 1976. Mr. Duskin is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Duskin practiced corporate and securities law in private practice and in corporate legal departments, and also worked for the U.S. Securities and Exchange Commission and the Resolution Trust Corporation.

**DONNA EAGLESON**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation discovery matters. She received her law degree from the University of Dayton School of Law in Dayton, Ohio. Ms. Eagleson is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Eagleson worked as an attorney in the law enforcement field, and practiced insurance defense law with the Philadelphia firm Margolis Edelstein.

**PATRICK J. EDDIS**, a staff attorney of the Firm, concentrates his practice in the area of corporate governance litigation. Mr. Eddis received his law degree from Temple University School of Law in 2002 and his undergraduate degree from the University of Vermont in 1995. Mr. Eddis is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Eddis was a Deputy Public Defender with the Bucks County Office of the Public Defender. Before that, Mr. Eddis was an attorney with Pepper Hamilton LLP, where he worked on various pharmaceutical and commercial matters.

**SAMUEL C. FELDMAN**, an associate of the Firm, concentrates his practice in securities litigation. Mr. Feldman received his law degree, with honors, from the Emory University School of Law in 2018 and his undergraduate degree, with honors, from the University of Florida in 2015. Mr. Feldman is licensed to practice in Pennsylvania.

While in law school, Sam worked as an extern at The Coca-Cola Company, taught two lab sections of Advanced Legal Writing & Editing under Professor Timothy Terrell, and served as President of the Student Bar Association.

**MARK FRANEK**, an associate of the Firm, concentrates his practice on securities fraud, antitrust, and unfair business practices litigation. Mr. Franek received his law degree from Temple University Beasley School of Law, and graduated *with honors* from Duke University. He is licensed to practice in Pennsylvania and New Jersey.

Before joining the Firm, Mr. Franek was a Judicial Officer to the Honorable Annette M. Rizzo, Philadelphia Court of Common Pleas, and a Judicial Intern to the Honorable Gene E.K. Pratter, U.S. District Court for the Eastern District of Pennsylvania. In law school, Mr. Franek served on Temple's Law Review and was a member of Temple's Moot Court Honor Society.

Prior to law school, Mr. Franek worked for over 15 years in a variety of educational settings, including K-12 and higher education environments. Mr. Franek was the Dean of Students at the William Penn Charter School, a Quaker K-12 independent school in Philadelphia, and also taught at the University of Pennsylvania, in its Masters in School Leadership Program, and at Cabrini College and Philadelphia University, in their English departments.

**KIMBERLY V. GAMBLE**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Widener University, School of Law in Wilmington, DE. While in law school, she was a CASA/Youth Advocates volunteer and had internships with the Delaware County Public Defender's Office as well as The Honorable Judge Ann Osborne in Media, Pennsylvania. She received her Bachelor of Arts degree in Sociology from The Pennsylvania State University. Ms. Gamble is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, she worked in pharmaceutical litigation.

**ABIGAIL J. GERTNER**, a staff attorney of the Firm, concentrates her practice in consumer and ERISA litigation. Ms. Gertner earned her Juris Doctor degree from Santa Clara University School of Law, and her Bachelor of Arts degree in Classical Studies and her Bachelor of Sciences degree in Psychology from Tulane University, *cum laude*. Ms. Gertner is licensed to practice in Pennsylvania and New Jersey. She is also admitted to practice before the Eastern District of Pennsylvania.

Ms. Gertner has experience in a wide range of litigation including securities, consumer, pharmaceutical, and toxic tort matters. Prior to joining the Firm, Ms. Gertner was an associate with the Wilmington, Delaware law firm of Maron, Marvel, Bradley & Anderson. Before that, she was employed by the Wilmington office of Grant & Eisenhofer, P.A.

**GRANT D. GOODHART**, an associate of the Firm, concentrates his practice in the areas of mergers and acquisitions litigation and stockholder derivative actions. Mr. Goodhart received his law degree, *cum laude*, from Temple University Beasley School of Law and his undergraduate degree, *magna cum laude*, from the University of Pittsburgh. He is licensed to practice law in Pennsylvania and New Jersey.

**TYLER S. GRADEN**, an associate of the Firm, focuses his practice on consumer protection and whistleblower litigation. Mr. Graden received his Juris Doctor degree from Temple Law School and his undergraduate degrees in Economics and International Relations from American University. Mr. Graden is licensed to practice law in Pennsylvania and New Jersey and has been admitted to practice before numerous United States District Courts.

Prior to joining Kessler Topaz, Mr. Graden practiced with a Philadelphia law firm where he litigated various complex commercial matters, and also served as an investigator with the Chicago District Office of the Equal Employment Opportunity Commission.

Mr. Graden has represented individuals and institutional investors in obtaining substantial recoveries in numerous class actions, including *Board of Trustees of the Buffalo Laborers Security Fund v. J.P. Jeanneret Associates, Inc.*, Case No. 09 Civ. 8362 (S.D.N.Y.) (settled - \$219 million); *Board of Trustees of the AFTRA Retirement Fund v. JPMorgan Chase Bank, NA.*, Case No. 09 Civ. 0686 (S.D.N.Y.) (settled - \$150 million); *In re Merck & Co., Inc. Vytarin ERISA Litig.*, Case No. 09 Civ. 1974 (D.N.J.) (settled - \$10.4 million); and

*In re 2008 Fannie Mae ERISA Litigation*, Case No. 09-cv-1350 (S.D.N.Y.) (settled - \$9 million). Mr. Graden has also obtained favorable recoveries on behalf of multiple, nationwide classes of borrowers whose insurance was force-placed by their mortgage servicers.

**STACEY A. GREENSPAN**, an associate of the Firm, concentrates her practice in the areas of merger and acquisition litigation and shareholder derivative actions. Ms. Greenspan received her law degree from Temple University in 2007 and her undergraduate degree from the University of Michigan in 2001, with honors. Ms. Greenspan is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Greenspan served as an Assistant Public Defender in Philadelphia for almost a decade, litigating hundreds of trials to verdict. Ms. Greenspan also worked at the Trial and Capital Habeas Units of the Federal Community Defender Office of the Eastern District of Pennsylvania throughout law school.

**KEITH S. GREENWALD**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Greenwald received his law degree from Temple University, Beasley School of Law in 2013 and his undergraduate degree in History, *summa cum laude*, from Temple University in 2004. Mr. Greenwald is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Greenwald was a contract attorney on various projects in Philadelphia and was at the International Criminal Tribunal for the Former Yugoslavia, at The Hague in The Netherlands, working in international criminal law.

**STEPHANIE M. GREY**, an associate of the Firm, concentrates her practice in the area of securities fraud litigation. Ms. Grey received her law degree, *cum laude*, from Temple University Beasley School of Law in 2017 and her undergraduate degree from University of Maryland in 2014. Ms. Grey is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Grey served as a law clerk for the Honorable Deborah Silverman Katz, A.J.S.C. in the New Jersey Superior Court.

**JOHN J. GROSSI**, a staff attorney at the Firm, focuses his practice on securities litigation. Mr. Grossi received his law degree from Widener University Delaware School of Law and graduated *cum laude* from Curry College. He is licensed to practice law in Pennsylvania. Prior to joining the Firm as a Staff Attorney, Mr. Grossi was employed in the Firm's internship program as a Summer Law Clerk, where he was also a member of the securities fraud department.

During his time as a Summer Law Clerk, Mr. Grossi conducted legal research for several securities fraud class actions on behalf of shareholders, including Bank of America related to its acquisition of Merrill Lynch, Lehman Brothers, St. Jude Medical and NII Holdings.

**NATHAN A. HASIUK**, an associate of the Firm, concentrates his practice on securities litigation. Mr. Hasiuk received his law degree from Temple University Beasley School of Law, and graduated *summa cum laude* from Temple University. He is licensed to practice in Pennsylvania and New Jersey and has been admitted to practice before the United States District Court for the District of New Jersey. Prior to joining the Firm, Mr. Hasiuk was an Assistant Public Defender in Philadelphia.

**BRANDON R. HERLING**, an associate of the Firm, concentrates his practice in the areas of securities litigation and lead plaintiff litigation. Mr. Herling received his law degree, *magna cum laude*, from Temple



University Beasley School of Law, and received his undergraduate degree from Franklin & Marshall College. Mr. Herling is licensed to practice in Pennsylvania.

**EVAN R. HOEY**, an associate of the Firm, focuses his practice on securities litigation. Mr. Hoey received his law degree from Temple University Beasley School of Law, where he graduated *cum laude*, and graduated *summa cum laude* from Arizona State University. He is licensed to practice in Pennsylvania and is admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

**SUFEI HU**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her J.D. from Villanova University School of Law, where she was a member of the Moot Court Board. Ms. Hu received her undergraduate degree from Haverford College in Political Science, with honors. She is licensed to practice law in Pennsylvania and New Jersey, and is admitted to the United States District Court of the Eastern District of Pennsylvania. Prior to joining the Firm, Ms. Hu worked in pharmaceutical, anti-trust, and securities law.

**NATALIE LESSER**, an associate of the Firm, concentrates her practice in the area of consumer protection. Ms. Lesser received her law degree from the University of Pittsburgh School of Law in 2010 and her undergraduate degree in English from the State University of New York at Albany in 2007. While attending Pitt Law, Ms. Lesser served as Editor in Chief of the University of Pittsburgh Law Review. Ms. Lesser is licensed to practice law in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Ms. Lesser was an associate with Akin Gump Strauss Hauer & Feld LLP, where she worked on a number of complex commercial litigation cases, including defending allegations of securities fraud and violations of ERISA for improper calculation and processing of insurance benefits.

**JOSHUA A. LEVIN**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Levin received his law degree from Widener University School of Law, and earned his undergraduate degree from The Pennsylvania State University. Mr. Levin is licensed to practice in Pennsylvania and New Jersey. Prior to joining Kessler Topaz, he worked in pharmaceutical litigation.

**JOSHUA A. MATERESE**, an associate of the Firm, concentrates his practice at Kessler Topaz in the areas of securities and consumer protection litigation. Mr. Materese received his Juris Doctor from Temple University Beasley School of Law in 2012, graduating with honors. He received his undergraduate degree from the Syracuse University Newhouse School of Communications. Mr. Materese is licensed to practice in Pennsylvania and admitted to practice before the United States Courts of Appeals for the Second and Third Circuits, and the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey and the District of Colorado.

**MARGARET E. MAZZEO**, an associate of the Firm, focuses her practice on securities litigation. Ms. Mazzeo received her law degree, *cum laude*, from Temple University Beasley School of Law, where she was a Beasley Scholar and a staff editor for the Temple Journal of Science, Technology, and Environmental Law. Ms. Mazzeo graduated with honors from Franklin and Marshall College. She is licensed to practice in Pennsylvania and New Jersey.

Ms. Mazzeo has been involved in several nationwide securities cases on behalf of investors, including *In re Lehman Brothers Sec. & ERISA Litig.*, No. 09 MD 2017 (S.D.N.Y.) (settled - \$616 million, combined); and *Luther, et al. v. Countrywide Fin. Corp.*, No. 2:12-cv-05125 (C.D. Cal.) (settled - \$500 million, combined). Ms. Mazzeo also was a member of the trial team who won a jury verdict in favor of investors in the *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) action.

**JOHN J. McCULLOUGH**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. In 2012, Mr. McCullough passed the CPA Exam. Mr. McCullough earned his Juris Doctor degree from Temple University School of Law, and his undergraduate degree from Temple University. Mr. McCullough is licensed to practice in Pennsylvania.

**STEVEN D. McLAIN**, a Staff Attorney of the Firm, concentrates his practice in megers and acquisition litigation and stockholder derivative litigation. He received his law degree from George Mason University School of Law, and his undergraduate degree from the University of Virginia. Mr. McLain is licensed to practice in Virginia. Prior to joining Kessler, Topaz, he practiced with an insurance defense firm in Virginia.

**STEFANIE J. MENZANO**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Menzano received her law degree from Drexel University School of Law in 2012 and her undergraduate degree in Political Science from Loyola University Maryland. Ms. Menzano is licensed to practice law in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Ms. Menzano was a fact witness for the Institute for Justice. During law school, Ms. Menzano served as a case worker for the Pennsylvania Innocence Project and as a judicial intern under the Honorable Judge Mark Sandson in the Superior Court of New Jersey, Atlantic County.

**JONATHAN F. NEUMANN**, an associate of the Firm, concentrates his practice in the area of securities litigation and fiduciary matters. Mr. Neumann earned his Juris Doctor degree from Temple University Beasley School of Law, where he was an editor for the Temple International and Comparative Law Journal and a member of the Moot Court Honor Society. Mr. Neumann earned his undergraduate degree from the University of Delaware. Mr. Neumann is licensed to practice in Pennsylvania and New York. Prior to joining the Firm, Mr. Neumann served as a law clerk to the Honorable Douglas E. Arpert of the United States District Court for the District of New Jersey.

Mr. Neumann has represented institutional investors in obtaining substantial recoveries in numerous cases, including *In re Bank of New York Mellon Corp. Forex Transactions Litig.*, No. 12-md-2334 (S.D.N.Y.) (settled \$335 million); *Policemen's Annuity and Benefit Fund of the City of Chicago v. Bank of America, et al.*, No. 12-cv-2865 (S.D.N.Y.) (settled \$69 million); *In re NII Holdings Sec. Litig.*, No. 14-cv-227 (E.D. Va.) (settled \$41.5 million).

**ELAINE M. OLDENETTEL**, a staff attorney of the Firm, concentrates her practice in consumer and ERISA litigation. She received her law degree from the University of Maryland School of Law and her undergraduate degree in International Studies from the University of Oregon. While attending law school, Ms. Oldenettel served as a law clerk for the Honorable Robert H. Hodges of the United States Court of Federal Claims and the Honorable Marcus Z. Shar of the Baltimore City Circuit Court. Ms. Oldenettel is licensed to practice in Pennsylvania and Virginia.

**JENNY L. PAQUETTE**, an associate of the firm, concentrates her practice in securities litigation. Ms. Paquette received her law degree, *cum laude*, from Temple University's Beasley School of Law in 2017 and her undergraduate degree from Rutgers University, Camden, *cum laude*, in 2007. Ms. Paquette is licensed to practice in California.

**ALLYSON M. ROSSEEL**, a staff attorney of the Firm, concentrates her practice at Kessler Topaz in the area of securities litigation. She received her law degree from Widener University School of Law, and earned her B.A. in Political Science from Widener University. Ms. Rosseel is licensed to practice law in Pennsylvania and New Jersey. Prior to joining the Firm, Ms. Rosseel was employed as general counsel for a boutique insurance consultancy/brokerage focused on life insurance sales, premium finance and structured settlements.

**MICHAEL J. RULLO**, an associate of the Firm, focuses his practice on merger and acquisition litigation and shareholder derivative actions. Mr. Rullo received his law degree from Temple University Beasley School of Law in 2016, where he was a Staff Editor on the Temple Law Review. He obtained his B.A. from Temple University in 2013, graduating *summa cum laude*. Prior to joining the Firm, Mr. Rullo was a law clerk to the Honorable Francisco Dominguez, J.S.C., Camden Vicinage.

**MICHAEL J. SECHRIST**, a staff attorney at the Firm, concentrates his practice in the area of securities litigation. Mr. Sechrist received his law degree from Widener University School of Law in 2005 and his undergraduate degree in Biology from Lycoming College in 1998. Mr. Sechrist is licensed to practice law in Pennsylvania. Prior to joining Kessler Topaz, Mr. Sechrist worked in pharmaceutical litigation.

**IGOR SIKAVICA**, a staff attorney of the Firm, practices in the area of corporate governance litigation, with a focus on transactional and derivative cases. Mr. Sikavica received his J.D. from the Loyola University Chicago School of Law and his LL.B. from the University of Belgrade Faculty Of Law. Mr. Sikavica is licensed to practice in Pennsylvania. Mr. Sikavica's licenses to practice law in Illinois and the former Yugoslavia are no longer active.

Prior to joining Kessler Topaz, Mr. Sikavica has represented clients in complex commercial, civil and criminal matters before trial and appellate courts in the United States and the former Yugoslavia. Also, Mr. Sikavica has represented clients before international courts and tribunals, including – the International Criminal Tribunal for the Former Yugoslavia (ICTY), European Court of Human Rights and the UN Committee Against Torture.

**MELISSA J. STARKS**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Starks earned her Juris Doctor degree from Temple University--Beasley School of Law, her LLM from Temple University--Beasley School of Law, and her undergraduate degree from Lincoln University. Ms. Starks is licensed to practice in Pennsylvania.

**MICHAEL P. STEINBRECHER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Steinbrecher earned his Juris Doctor from Temple University James E. Beasley School of Law, and received his Bachelors of Arts in Marketing from Temple University. Mr. Steinbrecher is licensed to practice in Pennsylvania and New Jersey. Prior to joining Kessler Topaz, he worked in pharmaceutical litigation.

**JULIE SWERDLOFF**, a staff attorney of the Firm, concentrates her practice in the areas of consumer protection, antitrust, and whistleblower litigation. She received her law degree from Widener University School of Law, and her undergraduate degree in Real Estate and Business Law from The Pennsylvania State University. She is licensed to practice law in Pennsylvania and New Jersey and has been admitted to practice before the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

While attending law school, Ms. Swerdloff interned as a judicial clerk for the Honorable James R. Melinson of the United States District Court for the Eastern District of Pennsylvania. Prior to joining Kessler Topaz, Ms. Swerdloff managed major environmental claims litigation for a Philadelphia-based insurance company, and was an associate at a general practice firm in Montgomery County, PA. At Kessler Topaz, she has assisted the Firm in obtaining meaningful recoveries on behalf of clients in securities fraud litigation, including the historic Tyco case (*In re Tyco International, Ltd. Sec. Litig.*, No. 02-1335-B (D.N.H. 2002) (settled -- \$3.2 billion)), federal and state wage and hour litigation (*In re FootLocker Inc. Fair Labor Standards Act (FLSA) and Wage and Hour Litig.*, No. 11-mdl-02235 (E.D. Pa. 2007) (settled – \$7.15 million)), and numerous shareholder derivative actions relating to the backdating of stock options.



**BRIAN W. THOMER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Thomer received his Juris Doctor degree from Temple University Beasley School of Law, and his undergraduate degree from Widener University. Mr. Thomer is licensed to practice in Pennsylvania.

**ALEXANDRA H. TOMICH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Temple Law School and her undergraduate degree, from Columbia University, with a B.A. in English. She is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, she worked as an associate at Trujillo, Rodriguez, and Richards, LLC in Philadelphia. Ms. Tomich volunteers as an advocate for children through the Support Center for Child Advocates in Philadelphia and at Philadelphia VIP.

**JACQUELINE A. TRIEBL**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Triebel received her law degree, cum laude, from Widener University School of Law in 2007 and her undergraduate degree in English from The Pennsylvania State University in 1990. Ms. Triebel is licensed to practice law in Pennsylvania and New Jersey.

**KURT WEILER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. He received his law degree from Duquesne University School of Law, where he was a member of the Moot Court Board and McArdle Wall Honoree, and received his undergraduate degree from the University of Pennsylvania. Mr. Weiler is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Weiler was associate corporate counsel for a Philadelphia-based mortgage company, where he specialized in the area of foreclosures and bankruptcy.

**JAMES A. WELLS**, an associate of the Firm, represents whistleblowers in the *Qui Tam* Department of the Firm. Mr. Wells received his J.D. from Temple University Beasley School of Law in 1998 where he was published in the Temple Journal of International and Comparative Law, and received his undergraduate degree from Fordham University. He is licensed to practice in Pennsylvania.

Following graduation, Mr. Wells was an Assistant Defender at the Defender Association of Philadelphia for six years. Prior to joining the Firm in 2015, he worked at two prominent Philadelphia law firms practicing class action employment and whistleblower law.

**CHRISTOPHER M. WINDOVER**, an associate of the Firm, concentrates his practice in the areas of shareholder derivative actions and mergers and acquisitions litigation. Mr. Windover received his law degree from Rutgers University School of Law, *cum laude*, and received his undergraduate degree from Villanova University. He is licensed to practice in the Commonwealth of Pennsylvania and New Jersey. Prior to joining the Firm, Mr. Windover practiced litigation at a mid-sized law firm in Philadelphia.

**ZACKORY K. WOOD**, an associate of the Firm, concentrates his practice on new matter development with a specific focus on analyzing securities, antitrust, investor, and consumer class action lawsuits. Zack is a member of the Firm's Lead Plaintiff Litigation Practice Group which has secured lead plaintiff appointments for the Firm's clients in a number of high profile cases. He is licensed to practice law in Pennsylvania and Louisiana.

Zack graduated *cum laude* from Tulane University Law School in 2017. While at Tulane, he was a Senior Board Member and Managing Editor for the Tulane Maritime Law Journal and served as the judicial intern for The Honorable Judge Brian Jackson, the United States District Judge for the Middle District of

Louisiana. After law school, Zack served as the Law Clerk for Judge Ramy I. Djerassi of the First Judicial District of Pennsylvania, Commerce Program.

**ANNE M. ZANESKI\***, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Zaneski received her J.D. from Brooklyn Law School where she was a recipient of the CALI Award of Excellence, and her B.A. from Wellesley College. She is licensed to practice law in New York and Pennsylvania.

Prior to joining the Firm, she was an associate with a boutique securities litigation law firm in New York City and served as a legal counsel with the New York City Economic Development Corporation in the areas of bond financing and complex litigation.

\* Admitted as Anne M. Zaniewski in Pennsylvania.

## **PROFESSIONALS**

**WILLIAM MONKS**, CPA, CFF, CVA, Director of Investigative Services at Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz”), brings nearly 30 years of white collar investigative experience as a Special Agent of the Federal Bureau of Investigation (FBI) and “Big Four” Forensic Accountant. As the Director, he leads the Firm’s Investigative Services Department, a group of highly trained professionals dedicated to investigating fraud, misrepresentation and other acts of malfeasance resulting in harm to institutional and individual investors, as well as other stakeholders.

William’s recent experience includes being the corporate investigations practice leader for a global forensic accounting firm, which involved widespread investigations into procurement fraud, asset misappropriation, financial statement misrepresentation, and violations of the Foreign Corrupt Practices Act (FCPA).

While at the FBI, William worked sophisticated white collar forensic matters involving securities and other frauds, bribery, and corruption. He also initiated and managed fraud investigations of entities in the manufacturing, transportation, energy, and sanitation industries. During his 25 year FBI career, William also conducted dozens of construction company procurement fraud and commercial bribery investigations, which were recognized as a “Best Practice” to be modeled by FBI offices nationwide.

William also served as an Undercover Agent for the FBI on long term successful operations targeting organizations and individuals such as the KGB, Russian Organized Crime, Italian Organized Crime, and numerous federal, state and local politicians. Each matter ended successfully and resulted in commendations from the FBI and related agencies.

William has also been recognized by the FBI, DOJ, and IRS on numerous occasions for leading multi-agency teams charged with investigating high level fraud, bribery, and corruption investigations. His considerable experience includes the performance of over 10,000 interviews incident to white collar criminal and civil matters. His skills in interviewing and detecting deception in sensitive financial investigations have been a featured part of training for numerous law enforcement agencies (including the FBI), private sector companies, law firms and accounting firms.

Among the numerous government awards William has received over his distinguished career is a personal commendation from FBI Director Louis Freeh for outstanding work in the prosecution of the West New York Police Department, the largest police corruption investigation in New Jersey history.

William regards his work at Kessler Topaz as an opportunity to continue the public service that has been the focus of his professional life. Experience has shown and William believes, one person with conviction can make all the difference. William looks forward to providing assistance to any aggrieved party, investor, consumer, whistleblower, or other witness with information relative to a securities fraud, consumer protection, corporate governance, qui-tam, anti-trust, shareholder derivative, merger & acquisition or other matter.

#### Education

Pace University: Bachelor of Business Administration (cum laude)

Florida Atlantic University: Masters in Forensic Accounting (cum laude)

**BRAM HENDRIKS**, European Client Relations Manager at Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz”), guides European institutional investors through the intricacies of U.S. class action litigation as well as securities litigation in Europe and Asia. His experience with securities litigation allows him to translate complex document and discovery requirements into straightforward, practical action. For shareholders who want to effect change without litigation, Bram advises on corporate governance issues and strategies for active investment.

Bram has been involved in some of the highest-profile U.S. securities class actions of the last 20 years. Before joining Kessler Topaz, he handled securities litigation and policy development for NN Group N.V., a publicly-traded financial services company with approximately EUR 197 billion in assets under management. He previously oversaw corporate governance activities for a leading Amsterdam pension fund manager with a portfolio of more than 4,000 corporate holdings.

A globally-respected investor advocate, Bram has co-chaired the International Corporate Governance Network Shareholder Rights Committee since 2009. In that capacity, he works with investors from more than 50 countries to advance public policies that give institutional investors a voice in decision-making. He is a sought-after speaker, panelist and author on corporate governance and responsible investment policies. Based in the Netherlands, Bram is available to meet with clients personally and provide hands-on-assistance when needed.

#### Education

University of Amsterdam, MSc International Finance, specialization Law & Finance, 2010

Maastricht Graduate School of Governance, MSc in Public Policy and Human Development, specialization WTO law, 2006

Tilburg University, Public Administration and administrative law B.A., 2004

**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**KESSLER TOPAZ MELTZER & CHECK, LLP**

**TIME REPORT**  
**From Inception through Dec. 31, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Amjed, Naumon	30.50	\$800	\$24,400.00
Berman, Stuart L.	76.50	\$850	\$65,025.00
Degnan, Ryan	29.60	\$725	\$21,460.00
Kessler, David	44.60	\$850	\$37,910.00
Topaz, Marc A.	25.90	\$850	\$22,015.00
Whitman, Jr., Johnston de F.	873.60	\$775	\$677,040.00
<b>Counsel and Associates</b>			
Dodemaide, Andrew	18.20	\$400	\$7,280.00
Enck, Jennifer	26.55	\$675	\$17,921.25
Hasiuk, Nathan	101.90	\$450	\$45,855.00
Materese, Josh	233.10	\$450	\$104,895.00
Newcomer, Michelle	37.80	\$675	\$25,515.00
<b>Staff Attorneys</b>			
Gamble, Kimberly V.	177.30	\$350	\$62,055.00
Hu, Sufei	100.50	\$350	\$35,175.00
<b>Paralegals</b>			
Potts, Denise	166.28	\$250	\$41,570.00
<b>TOTAL LODESTAR</b>	<b>1,942.33</b>		<b>\$1,188,116.25</b>



**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**KESSLER TOPAZ MELTZER & CHECK, LLP****EXPENSE REPORT**

**From Inception through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Court Fees	\$25.00
On-Line Legal Research*	\$1,747.90
On-Line Factual Research*	\$393.25
Postage & Express Mail	\$854.94
Internal Copying & Printing	\$4,896.30
Outside Copying & Printing	\$1,063.21
Out-of-Town Travel**	\$18,468.36
Local Transportation	\$14.82
Court Reporters and Transcripts	\$908.00
Contributions to Litigation Fund	\$220,000.00
<b>TOTAL EXPENSES:</b>	<b>\$248,371.78</b>

\* The charges reflected for on-line research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at charges set by the vendor. There are no administrative charges included in these figures.

\*\* This includes only coach airfares and includes hotels in the following high-cost cities capped at \$350 per night: New York, NY; and the following lower-cost cities capped at \$250 per night: Houston, TX.

# EXHIBIT 4D



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF CHRISTOPHER F. MORIARTY  
IN SUPPORT OF LEAD COUNSEL’S MOTION FOR AN AWARD OF  
ATTORNEYS’ FEES AND REIMBURSEMENT OF LITIGATION EXPENSES,  
FILED ON BEHALF OF MOTLEY RICE LLC**

I, Christopher F. Moriarty, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney employed by the law firm of Motley Rice LLC (“Motley Rice”).

I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the above-captioned class action (the “Action”), as well as for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm was one of the Plaintiffs’ Counsel in this Action. Motley Rice served as counsel to Class Representative Universal Investment Gesellschaft mbH (“Universal”). In this role, Motley Rice had primary responsibility for matters as they pertained to Universal. This included, among other things, assisting with the drafting of pleadings, handling discovery directed to Universal, preparing for and defending the deposition of a corporate representative of Universal, and communicating with Universal regarding case developments.

3. The information in this declaration regarding my firm’s time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the lawyer who oversaw and

conducted the day-to-day activities in the litigation, and I, together with another employee of the firm working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report, and time for timekeepers who had worked only a *de minimus* amount of total time on this case (e.g., less than 10 hours) was also removed from the time report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 429.95. The total resulting lodestar for my firm is \$238,001.25. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's 2018 billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications within this Circuit and nationwide. *See, e.g., In re Conn's, Inc. Sec. Litig.*, No. 4:14-cv-00548 (KPE) (S.D. Tex.), ECF No. 186-6; *In re Medtronic, Inc. Sec. Litig.*, No. 0:13-cv-01686-MJD-KMM (D. Minn.), ECF No. 538-1.

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this case is set forth below:

**Christopher Moriarty** (216.70 hours): Mr. Moriarty was responsible throughout the Action for supervising the day-to-day handling of the litigation as it related specifically to Universal. He worked directly with Universal in responding to discovery requests and prepared for and defended the Rule 30(b)(6) deposition of a corporate representative of

Universal. Mr. Moriarty also assisted with the drafting of pleadings, motions, and responses to discovery.

**David Abel** (33.75 hours): Mr. Abel was primarily responsible for analyzing Universal's claims and drafting the lead plaintiff motion and other related documents.

**Deborah Sturman** (co-counsel) (24.50 hours): Ms. Sturman had responsibility for day-to-day communications with Universal. Ms. Sturman also assisted in responding to discovery requests directed to Universal and prepared for and attended the Rule 30(b)(6) deposition of a corporate representative of Universal.

**Ann Ritter** (18.00 hours): Ms. Ritter was responsible for the strategy and oversight of the litigation as it pertained to Universal, primarily with respect to the commencement of the Action. Ms. Ritter also assisted with the lead plaintiff motion and other related documents.

7. My firm has incurred a total of \$18,663.03 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by "caps" based on the application of the following criteria:

- a. Out-of-town travel – airfare is capped at coach rates, hotel rates capped at \$250 for small cities and \$350 for large cities (the relevant cities and how they are categorized are reflected on Exhibit 3); meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- b. Online Research – Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: January 9, 2019

  
\_\_\_\_\_  
CHRISTOPHER F. MORIARTY

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**MOTLEY RICE LLC  
FIRM BIOGRAPHY**

# SHAREHOLDER AND SECURITIES FRAUD RESUME





## INTRODUCTION

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Founded as a trial lawyers' firm with a complex litigation focus by Ron Motley, Joe Rice and nearly 50 other lawyers, Motley Rice LLC has become one of the nation's largest plaintiffs' law firms.

Motley Rice LLC ("Motley Rice") is led by lawyers who received their training and trial experience in complex litigation involving in-depth investigations, discovery battles and multi-week trials.

From asbestos and tobacco to counter-terrorism and human rights cases, Motley Rice attorneys have shaped developments in U.S. jurisprudence over several decades. Shareholder litigation has earned an increasing portion of our firm's focus in recent years as threats to global retirement security have increased. Motley Rice seeks to create a better, more secure future for pensioners, unions, government entities and institutional investors through improved corporate governance and accountability.

### APPROACH TO SECURITIES LITIGATION

As concerns about our global financial system have intensified, so has our focus on securities litigation as a practice area. As one presenter at the 2009 International Foundation of Employee Benefit Plans annual conference noted, "2008 likely will go down in history as one of the worst years for retirement security in the United States."

Our securities litigation philosophy is straightforward – obtain the best possible results for our clients and any class of investors we represent. Unlike some other firms, we are extremely selective about the cases that we recommend our clients pursue, recognizing that many securities fraud class action cases filed each year are unworthy of an institutional investor's involvement for a variety of reasons.

Our attorneys have substantial experience analyzing securities cases and advising institutional investor clients, whether to seek lead-plaintiff appointment (alone or with a similarly-minded group), remain an absent class member, or consider an opt-out case based on the particular factual and legal circumstances of the case.

When analyzing new filings, our attorneys draw upon their securities, business, and litigation experience, which is supplemented by our in-house team of paralegals and business analysts. In addition, the firm has developed close working relationships with widely-respected forensic accountants and expert witnesses, whose involvement at the earliest stages of complex cases can be critical to determining the best course of action. If Motley Rice believes that a case deserves an institutional investor's involvement, we provide our clients with a detailed written analysis of potential claims and loss-recoupment strategies.

Motley Rice attorneys have secured important corporate governance reforms and returned money to shareholders in shareholder derivative cases, served as lead or co-lead counsel in several significant, multi-million dollar securities fraud class actions, and taken leadership roles in cases involving fiduciaries who failed to maximize shareholder value and fulfill disclosure obligations in a variety of merger and acquisition cases.



## OUR BACKGROUND IN COMPLEX LITIGATION

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Motley Rice attorneys have been at the forefront of some of the most significant and monumental civil actions over the last 30 years. Our experience in complex trial litigation includes class actions and individual cases involving securities and consumer fraud, occupational disease and toxic tort, medical drugs and devices, environmental damage, terrorist attacks and human rights abuses.

### **Tobacco Master Settlement Agreement**

In the 1990s, Motley Rice attorneys and more than half of the states' attorneys general took on the tobacco industry. Armed with evidence acquired from whistleblowers, individual smokers' cases and tobacco liability class actions, the attorneys led the campaign in the courtroom and at the negotiation table to recoup state healthcare funds and exact marketing restrictions from cigarette manufacturers. The effort resulted in significant restrictions on cigarette marketing to children and culminated in the \$246 billion Master Settlement Agreement, the largest civil settlement in U.S. history.

### **Asbestos Litigation**

From the beginning, our lawyers were integral to the story of how "a few trial lawyers and their asbestos-afflicted clients came out . . . to challenge giant asbestos corporations and uncover the greatest and longest business cover-up of an epidemic disease, caused by a product, in American history."<sup>1</sup> In addition to representing thousands of workers and family members impacted by asbestos, Motley Rice has represented numerous public entities, and litigated claims alleging various insurers of asbestos defendants engaged in unfair settlement practices in connection with the resolution of underlying asbestos personal injury claims. This litigation resulted in, among other things, an eleven-state settlement with Travelers Insurance Company.

### **Anti-Terrorism and Human Rights**

In *In re Terrorist Attacks on September 11, 2001*, Motley Rice attorneys brought a landmark lawsuit against the alleged private and state sponsors of al Qaeda and Osama bin Laden in an action filed on behalf of more than 6,500 family members, survivors, and those killed on 9/11—including the representation of more than 900 firefighters and their families. In prosecuting this action, Motley Rice has undertaken a global investigation into terrorism financing.

Our attorneys also initiated the *In re September 11 Litigation* and negotiated settlements for 56 families that opted out of the Victim Compensation Fund that far exceeded existing precedents at the time for wrongful death cases against the airline industry.

<sup>1</sup> Ralph Nader, commenting on the story told by the book *Outrageous Misconduct*.

### **BP PLC Oil Spill Litigation**

In April 2010, the Deepwater Horizon disaster spilled approximately 4.9 million gallons of oil into the water, killed 11 oil rig workers, devastated the Gulf's natural resources and profoundly harmed the economic and emotional well-being of hundreds of thousands of people. The Deepwater Horizon Economic and Property Damages Settlement is the largest civil class action settlement in U.S. history. Motley Rice co-founder Joseph Rice is a Plaintiffs' Steering Committee member and served as one of the primary negotiators of that Settlement and the Medical Benefits Settlement. In addition, Rice led negotiations in the \$1.028 billion settlement between the PSC and Halliburton Energy Services for its alleged role in the oil spill. Motley Rice attorneys continue to hold leadership roles in the litigation and are currently working to ensure that all qualifying oil spill victims are fairly compensated.

### **Volkswagen 'Clean Diesel' Litigation**

In 2015, Volkswagen Group's admission that it had programmed more than 11 million vehicles to cheat emissions tests and bypass standards sparked worldwide outrage. Motley Rice co-founder Joe Rice served as one of the lead negotiators in the nearly \$15 billion settlement deal reached in 2016 for U.S. owners and lessees of 2.0-liter TDI vehicles, the largest auto-related consumer class action settlement in U.S. history. Rice and other Motley Rice attorneys also helped recover up to \$4.4 billion with regards to affected 3.0-liter vehicles.

### **Transvaginal Mesh Litigation**

Motley Rice attorneys represent thousands of women and have played a leading role in litigation alleging debilitating and life-altering complications caused by defective transvaginal mesh devices. In 2014, Joe Rice, with co-counsel, negotiated the original settlement deal reached in *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* that numerous subsequent settlements with the manufacturer were modeled after.

### **Opioid Litigation**

At the forefront of litigation targeting the alleged overprescribing and deceptive marketing of addictive opioid painkillers, Motley Rice, led by attorney Linda Singer, the former Attorney General for the District of Columbia, serves as lead counsel for the first jurisdictions to file complaints in the most recent wave of litigation against pharmaceutical companies regarding the opioid crisis—the City of Chicago and Santa Clara County. In addition, the firm's co-founder Joe Rice serves as co-lead counsel in the *National Prescription Opiate Litigation* coordinated in the Northern District of Ohio. The firm represents 40 jurisdictions.

### Securities Fraud Class Actions

***In re Citigroup Inc. Securities Litigation***, No. 07 Civ. 9901 (SHS) (DCF) (S.D.N.Y.). Motley Rice served as co-counsel in this securities fraud action alleging that Citigroup responded to the widely-known financial crisis by concealing both the extent of its ownership of toxic assets—most prominently, collateralized debt obligations (CDO) backed by nonprime mortgages—and the risks associated with them. By alleged misrepresentations and omissions of what amounted to more than two years of income and an entire significant line of business, Citigroup allegedly artificially manipulated and inflated its stock prices throughout the class period. Citigroup’s alleged actions caused its stock price to trade in a range of \$42.56 to \$56.41 per share for most of the class period. These disclosures helped place Citigroup in serious danger of insolvency, a danger that was averted only through a \$300 billion dollar emergency government bailout. On August 1, 2013, the Court approved the settlement resolving all claims in the Citigroup action in exchange for payment of \$590 million for the benefit of the class.

***Alaska Electrical Pension Fund v. Pharmacia Corp.***, No. 03-1519 (D.N.J.). Motley Rice served as co-class counsel in federal securities fraud litigation alleging that the defendants misrepresented clinical trial results of Celebrex® to make its safety profile appear better than rival drugs. In January 2013, the lawsuit settled in mediation for \$164 million.

***In re Barrick Gold Securities Litigation***, No. 1:13-cv-03851-RMB (S.D.N.Y.). As sole lead counsel, Motley Rice represented Co-Lead Plaintiffs Union Asset Management Holding AG and LRI Invest S.A. in a class action on behalf of investors who purchased shares of Barrick Gold Corporation, the world’s largest gold mining company. The suit alleged that Barrick Gold had fraudulently underreported the cost and the time to develop its Pascua-Lama gold mine on the border between Argentina and Chile, and misrepresented its compliance with applicable environmental regulations and the sufficiency of its internal controls. Barrick Gold eventually abandoned its development of the Pascua-Lama mine after an injunction was issued by a Chilean court following the company’s failure to comply with environmental regulations, and causing Barrick Gold to take an impairment charge of over \$5 billion. A \$140 million settlement was reached, and received final approval in December 2016.

***Bennett v. Sprint Nextel Corporation***, No. 2:09-cv-02122-EFM-KMH (D. Kan.). As co-lead counsel, Motley Rice represented the PACE Industry Union-Management Pension Fund (PIUMPF) and two other institutional investors who purchased Sprint Nextel common stock between October 26, 2006 and February 27, 2008. The class action complaint alleged that the defendants made materially false and misleading statements regarding Sprint’s business and financial results. As a result, the complaint alleged that Sprint stock traded at artificially inflated prices during the class period and that, when the market learned the truth, the value of Sprint’s shares plummeted. In August 2015, the court granted final approval to a \$131 million settlement.

***Minneapolis Firefighters’ Relief Association v. Medtronic, Inc.***, No. 08-6324 (PAM/AJB) (D. Minn.). Motley Rice is co-lead counsel for a class of investors who purchased Medtronic common stock in this case that survived the defendants’ motion to dismiss. The suit alleges that Medtronic engaged in a pervasive campaign of illegal off-label marketing in which the company advised doctors to use Medtronic’s Infuse Bone Graft in ways not FDA-approved, leading to severe complications in patients. Medtronic’s stock price dropped significantly after investors learned that the FDA and Department of Justice were investigating Medtronic’s off-label marketing. The \$85 million settlement was approved on Nov. 8, 2012.

***Cornwell v. Credit Suisse Group***, No. 08 Civ. 3758 (VM) (S.D.N.Y.). Motley Rice served as co-counsel in an action against Credit Suisse Group alleging the defendants issued materially false and misleading statements regarding the company’s business and financial results and failed to write down impaired securities containing mortgage-related debt. Subsequently, Credit Suisse’s stock price relative to other market events declined 2.83 percent when impaired securities came to light. A \$70 million settlement was approved in July 2011.

***In re Forest Laboratories, Inc. Securities Litigation***, No. 05 Civ. 2827 (RMB) (S.D.N.Y.). Motley Rice represented PIUMPF in a securities fraud class action alleging that the company and its officers misrepresented the safety, efficacy, and side effects of several drugs. Motley Rice, in cooperation with other class counsel, helped the parties reach a \$65 million settlement that was approved on May 15, 2009.

***City of Brockton Retirement System v. Avon Products, Inc.***, No. 11 Civ. 4665 (PGG) (S.D.N.Y.). Motley Rice serves as sole lead counsel representing lead plaintiffs in a class action on behalf of all persons who acquired Avon common stock between July 31, 2006 and Oct. 26, 2011. The action alleges that the defendants falsely assured investors they had effective internal controls and accounting systems, as required under the Foreign Corrupt Practices Act (FCPA). In October 2008, Avon disclosed that it had begun an investigation into possible FCPA violations in China in June 2008. The action alleges that, unbeknownst to investors, Avon had an illegal practice of paying bribes in violation of the FCPA extending as far back as 2004 and which continued even after its October 2008 disclosure. Despite its certifications of the effectiveness of its internal controls, Avon’s internal controls were allegedly severely deficient, allowing the company to engage in millions of dollars of improper payments in more than a dozen countries. On August 24, 2016, the court approved a final settlement of \$62 million.

## CASES

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***City of Sterling Heights General Employees' Retirement System v. Hospira, Inc.***, No. 11 C 8332 (N.D. Ill.). Motley Rice serves as co-lead counsel representing investors in this lawsuit against Hospira, the world's largest manufacturer of generic injectable pharmaceuticals, including generic acute-care and oncology injectables and integrated infusion therapy and medication management systems. The lawsuit alleges that Hospira and certain executive officers engaged in a fraudulent scheme to artificially inflate the company's stock price by concealing significant deteriorating conditions, manufacturing and quality control deficiencies at its largest manufacturing facility located in Rocky Mount, N.C., and the costly effects of these deficiencies on production capacity. These deteriorating conditions culminated in a series of regulatory actions by the FDA which the defendants allegedly misrepresented to their investors. The case settled for \$60 million in 2014.

***Hill v. State Street Corporation***, No. 09-cv-12146-NG (D. Mass.). Motley Rice represented institutional investors as co-lead counsel against State Street. The action alleged that State Street defrauded institutional investors – including the state of California's two largest pension funds, California Public Employees' Retirement System (CalPERS) and California State Teachers' Retirement System (CalSTRS) – by misrepresenting its exposure to toxic assets and overcharging them for foreign exchange trades. On January 8, 2015, the court approved a \$60 million settlement.

***In re Hewlett-Packard Co. Securities Litigation***, No. SACV 11-1404 AG (RNBx) (C.D. Cal.). Motley Rice served as co-lead counsel representing investors who purchased Hewlett-Packard common stock between November 22, 2010 and August 18, 2011. The lawsuit alleged that Hewlett-Packard misled investors about its ability to release over a hundred million webOS-enabled devices by the end of 2011. After Hewlett-Packard abandoned webOS development in August 2011, the company's stock price declined significantly. The court granted final approval to a \$57 million settlement on September 15, 2014.

***South Ferry LP #2 v. Killinger***, No. C04-1599C-(W.D. Wash.) (regarding Washington Mutual). Motley Rice served as co-lead counsel on behalf of a class of investors who purchased WaMu common stock between April 15, 2003, and June 28, 2004. The suit alleged that WaMu misrepresented its ability to hedge risk and withstand changes in interest rates, as well as its integration of differing technologies resulting from various acquisitions. The Court granted class certification in January 2011 and approved the \$41.5 million settlement on June 5, 2012.

***In re Dell, Inc. Securities Litigation***, No. A-06-CA-726-SS (W.D. Tex.). Motley Rice was appointed lead counsel for the lead plaintiff, Union Asset Management Holding AG, which sued on behalf of a class of purchasers of Dell common stock. The suit alleged that Dell and certain senior executives lied to investors and manipulated financial announcements to meet performance objectives that were tied to executive compensation. The defendants' alleged fraud ultimately caused the price of Dell's stock to decline by over 40 percent. After the case was dismissed by the district court, Motley Rice attorneys launched an appeal to the Fifth Circuit Court of Appeals. After fully briefing the case and oral arguments, the parties settled the case for \$40 million.

***Freedman v. St. Jude Medical, Inc.***, No. 12-3070 (RHK/JJG) (D. Minn.). Motley Rice served as co-lead counsel representing co-lead plaintiff Första AP-fonden, a Swedish pension fund, in this securities fraud class action against St. Jude Medical, Inc., a manufacturer of medical devices for cardiac rhythm management and the treatment of atrial fibrillation. This action alleged that defendants made false and misleading statements and concealed material information relating to the safety, durability, and manufacturing processes of the company's new generation of cardiac rhythm management devices marketed under the name "Durata." A \$39.5 million settlement was approved in November 2016.

***Hatamian v. Advanced Micro Devices, Inc.***, No. 4:14-cv-00226-YGR (N.D. Cal.). Motley Rice served as co-lead counsel representing Lead Plaintiffs KBC Asset Management NV and Arkansas Teacher Retirement System in this securities fraud class action on behalf of investors that purchased AMD common stock between April 4, 2011, and October 18, 2012. AMD, a multinational semiconductor manufacturer, allegedly misrepresented and concealed problems affecting the production, launch, demand, and sales of its new "Llano" microprocessor. These problems allegedly led AMD to miss the critical sales period for Llano-based computers and ultimately take a \$100 million write-down of by-then obsolete Llano inventory, causing AMD's stock price to fall, and damaging the company's investors. The court granted class certification on March 16, 2016. For the next two years, Class Counsel obtained and reviewed approximately 2.5 million pages of documents; participated in 34 depositions of fact, expert, and confidential witnesses; retained industry and financial experts; briefed competing motions for summary judgment; and engaged in multiple mediations with defendants. On March 6, 2018, the court approved a \$29.5 million settlement.



**Ross v. Career Education Corp.**, No. 1:12-cv-00276 (N.D. Ill.).

On April 16, 2014, the U.S. District Court for the Northern District of Illinois issued an order granting final judgment and dismissing with prejudice *Ross v. Career Education Corp.* Motley Rice served as co-lead counsel in the lawsuit, which alleged that Career Education and certain of its executive officers violated the federal securities laws by misleading the company's investors about its placement practices and reporting. The court approved a final settlement of \$27.5 million.

**In re MBNA Corporation Securities Litigation**, No. 05-CV-00272-GMS (D. Del.).

Motley Rice served as co-lead counsel on behalf of investors who purchased MBNA common stock. The suit alleged that MBNA manipulated its financial statements in violation of GAAP, and MBNA executives sold over one million shares of stock based on inside information for net proceeds of more than \$50 million, knowing these shares would drop in value once MBNA's true condition was revealed to the market. The case was settled with many motions pending. The \$25 million settlement was approved on October 6, 2009.

**Bodner v. Aegerion Pharmaceuticals, Inc., et al.**, 14-cv-10105 (D.Mass.)

Motley Rice served as co-lead counsel on behalf of investors who purchased Aegerion common stock. The suit alleged that Aegerion issued false and misleading statements and failed to disclose, among other things, that (i) the Company illegally marketed the drug JUXTAPID beyond its FDA-approved label, and (ii) the Company was experiencing a higher than expected drop-out rate of patients taking JUXTAPID. A \$22.25 million settlement was approved on November 30, 2017.

**Welmon v. Chicago Bridge & Iron Co., N.V.**, No. 06-CV-01283 (JES) (S.D.N.Y.).

Motley Rice represented the co-lead plaintiff in this case that alleged that the defendants issued numerous materially false and misleading statements which caused CB&I's securities to trade at artificially inflated prices. The litigation resulted in a \$10.5 million settlement that was approved on June 3, 2008.

**In re NPS Pharmaceuticals, Inc. Securities Litigation**, No. 2:06-cv-00570-PGC-PMW (D. Utah).

Motley Rice represented the lead plaintiff as sole lead counsel in a class action brought on behalf of stockholders of NPS Pharmaceuticals, Inc., concerning the drug PREOS. NPS claimed that PREOS would be a "billion dollar drug" that could effectively treat "millions of women around the world who have osteoporosis." The complaint alleged fraudulent misrepresentations regarding PREOS's efficacy, market potential, prospects for FDA approval and dangers of hypercalcemic toxicity. The case settled after the lead plaintiff moved for class certification and the parties engaged in document production and protracted settlement negotiations. The \$15 million settlement was approved on June 18, 2009.

**In re Synovus Financial Corp.**, No. 1:09-cv-01811 (N.D. Ga.).

Motley Rice and our client, Sheet Metal Workers' National Pension Fund, serve as court-appointed co-lead counsel and co-lead plaintiff for investors in Synovus Financial Corp. The lawsuit alleges that the bank artificially inflated its stock price by concealing its troubled lending relationship with the Sea Island Company, a resort real estate and hospitality company to whom Synovus allegedly made hundreds of millions of dollars of "insider loans" with "little more than a handshake" facilitated by personal relationships among certain senior executives and board members. In 2014, the court approved a final settlement of \$11.75 million.

**In re Molson Coors Brewing Co. Securities Litigation**, No. 1:05-cv-00294 (D. Del.).

Motley Rice served as co-lead counsel for co-lead plaintiffs Drywall Acoustic Lathing and Insulation Local 675 Pension Fund and Metzler Investment GmbH in litigation against Molson Coors Brewing Co. and several of its officers and directors. The lawsuit alleged that, following the February 9, 2005, merger of Molson, Inc. and the Adolph Coors Company, the defendants fraudulently misrepresented the financial and operational performance of the combined company prior to reporting a net loss for the first quarter of 2005. Following protracted negotiations, the parties reached a \$6 million settlement in May 2009.

**Marsden v. Select Medical Corporation**, No. 04-cv-4020 (E.D. Pa.).

Motley Rice served as co-lead counsel on behalf of stockholders of Select Medical, a healthcare provider specializing in long-term care hospital facilities. The suit alleged that Select Medical exploited its business structure to improperly maximize Medicare reimbursements, misled investors and that the company's executives engaged in massive insider trading for proceeds of over \$100 million. A \$5 million settlement was reached and approved on April 15, 2009.

**Shareholder Derivative Litigation****Walgreens / Controlled Substances Violations: In re Walgreen Co. Derivative Litigation.**

On October 4, 2013, Motley Rice filed a consolidated complaint for a group of institutional investors against the board of directors of Walgreen Co. The complaint alleges that Walgreen's board engaged in a scheme to maximize revenues by encouraging the company's pharmacists to fill improper or suspicious prescriptions for Schedule-II drugs, particularly oxycodone, in Florida. The complaint followed the June 2013 announcement of an \$80 million settlement between Walgreens and the Drug Enforcement Administration relating to the misconduct. A settlement was approved in December 2014, in which Walgreens agreed to, among other things, extended compliance-related commitments, including maintaining a Department of Pharmaceutical Integrity.

## CASES

***Manville Personal Injury Settlement Trust v. Gemunder***, No. 10-CI-01212 (Ky. Cir. Ct.) (regarding Omnicare, Inc.). On April 14, 2010, Motley Rice, sole lead counsel in this action, filed a shareholder derivative complaint on behalf of plaintiff Manville Personal Injury Settlement Trust. Plaintiff's claims stem from a November 3, 2009, announcement by the U.S. Department of Justice that Omnicare, Inc. had agreed to pay \$98 million to settle state and federal investigations into three kickback schemes through which the company paid or solicited payments in violation of state and federal anti-kickback laws. The court denied the defendants' motions to dismiss in their entirety on April 27, 2011. The defendants sought an interlocutory appeal, which was denied on October 6, 2011. Following significant discovery, which included plaintiff's counsel's review and analysis of approximately 1.4 million pages of documents, the parties reached agreement on a settlement, which received final approval from the court on October 28, 2013. Under the settlement, a \$16.7 million fund (less court awarded fees and costs) will be created to be used over a four year period by Omnicare to fund certain corporate governance measures and provide funding for the company's compliance committee in connection with the performance of its duties. Additionally, the settlement calls for Omnicare to adopt and/or maintain corporate governance measures relating to, among other things, employee training and ensuring the appropriate flow of information to the compliance committee.

***Service Employees International Union v. Hills***, No. A0711383 (Ohio Ct. Com. Pl.) (regarding Chiquita Brands International, Inc.). In this shareholder derivative litigation, SEIU retained Motley Rice to bring an action on behalf of Chiquita Brands International. The plaintiff alleged that the defendants breached their fiduciary duties by paying bribes to terrorist organizations in violation of U.S. and Columbian law. In October 2010, the plaintiffs resolved their state court action as part of a separate federal derivative claim.

***Mercier v. Whittle***, No. 2008-CP-23-8395 (S.C. Ct. Com. Pl.) (regarding the South Financial Group). This shareholder derivative action was brought on behalf of South Financial Group, Inc., following the company's decision to apply for federal bailout money from the Troubled Asset Relief Program (TARP) while allegedly accelerating the retirement of its former chairman and CEO to protect his multi-million dollar golden parachute, which would be prohibited under TARP. The litigation was settled prior to trial and achieved, among other benefits, payment back to the company from chairman Whittle, increased board independence and enhanced shareholder rights.

***Manville Personal Injury Settlement Trust v. Farmer***, No. A 0806822 (Ohio Ct. Com. Pl.) (regarding Cintas Corporation). In this shareholder derivative action brought on behalf of Cintas Corporation, the plaintiff alleged that the defendants breached their fiduciary duties by, among other things, failing to cause the company to comply with applicable worker safety laws and regulations. In November 2009, the court approved a settlement agreement that provided for the implementation of corporate governance measures designed to increase the flow of employee safety information to the company's board; ensure the company's compliance with a prior agreement between itself and OSHA relating to workplace safety violations; and secure the attendance of the company's chief health and safety officer at shareholder meetings.

### ***Corporate Takeover Litigation***

***In re The Shaw Group, Inc., Shareholders Litigation***, No. 614399 (19th Jud. Dist. La.). Motley Rice attorneys served as co-lead counsel in the class action brought by our client, a European asset management company, on behalf of the public shareholders of The Shaw Group, Inc. The lawsuit challenged Shaw's proposed sale to Chicago Bridge & Iron Company N.V. in a transaction valued at approximately \$3.04 billion. The plaintiffs alleged that the defendants breached their fiduciary duties to Shaw's shareholders by agreeing to a transaction that was financially unfair and the result of an improper sales process, which the defendants pursued at a time when Shaw's stock was poised for significant growth. The plaintiffs also alleged that the transaction offered substantial benefits to Shaw insiders not shared with the company's public shareholders. In December 2012, the parties reached a settlement with two components. Shaw agreed to make certain additional disclosures to shareholders of financial analyses indicating a potential share price impact of certain alternative transactions of as much as \$19.00 per share versus the status quo. To provide a remedy for Shaw shareholders who believed the company was worth more than CB&I was paying for it, the settlement contained a second component – universal appraisal rights for all Shaw shareholders who properly dissented from the proposed merger, and the opportunity for Shaw dissenters to pursue that remedy on a class-wide basis. The court granted final approval of the settlement on June 28, 2013.

***In re Coventry Health Care, Inc. Securities Litigation***, No. 7905-CS (Del. Ch. ). Motley Rice represented three public pension funds as court-appointed sole lead counsel in a shareholder class action challenging the \$7.2 billion acquisition of Coventry Health Care, Inc., by Aetna, Inc. The plaintiffs alleged that the defendants breached their fiduciary duties to Coventry's shareholders through a flawed sales process involving a severely conflicted financial advisor and at a time when the company was poised for remarkable growth as a result of recent government healthcare reforms. The case settled for improvements to the deal's terms and enhanced disclosures.



***In re Allion Healthcare, Inc. Shareholders Litigation***, No. 5022-cc (Del. Ch.). Motley Rice attorneys served as co-lead counsel representing a group of institutional shareholders in their challenge to the going-private buy-out of Allion Healthcare, Inc., by private equity firm H.I.G. Capital, LLC, and a group of insider stockholders led by the company's CEO, who controlled about 41 percent the company's shares. The shareholders alleged that the CEO used his stock holdings and influence over board members to accomplish the buyout at the expense of Allion's public shareholders. After a lengthy mediation, the shareholders succeeded in negotiating a settlement resulting in a \$4 million increase in the merger consideration available to shareholders. In January 2011, the Delaware Court of Chancery approved the settlement.

***In re RehabCare Group, Inc. Shareholders Litigation***, No. 6197-VCL (Del. Ch.). Motley Rice represented institutional shareholders in their challenge to the acquisition of healthcare provider RehabCare Group, Inc., by Kindred Healthcare, Inc. As co-lead counsel, Motley Rice uncovered important additional facts about the relationship between RehabCare, Kindred, and the exclusive financial advisor for the transaction, as well as how those relationships affected the process RehabCare's board of directors undertook to sell the company. After extensive discovery, the parties reached a settlement in which RehabCare agreed to make a \$2.5 million payment for the benefit of RehabCare shareholders. In addition, RehabCare and Kindred agreed to waive certain standstill agreements with potential higher bidders for the company; lower the merger agreement's termination fee from \$26 million to \$13 million to encourage any potential higher bidders; eliminate the requirement that Kindred have a three-business day period during which it has the right to match any superior proposal; and make certain additional public disclosures about the proposed merger. The Delaware Court of Chancery granted final approval of the settlement on Sept. 8, 2011.

***In re Atheros Communications Inc. Shareholder Litigation***, No. 6124-VCN (Del. Ch.). In this action involving Qualcomm Incorporated's proposed acquisition of Atheros Communications, Inc., for approximately \$3.1 billion, Motley Rice served as co-lead counsel representing investors alleging that, among other things, Atheros' preliminary proxy statement was materially misleading to the company's shareholders, who were responsible for voting on the proposed acquisition. In March 2011, the Court issued a preliminary injunction delaying the shareholder vote, ruling that Atheros' proxy statement was materially misleading because, even though the proxy stated that the company's CEO "had not had any discussions with Qualcomm regarding the terms of his potential employment," it failed to disclose that he in fact "had overwhelming reason to believe he would be employed by Qualcomm after the transaction closed." The proxy also failed to inform shareholders of an almost entirely contingent \$24 million fee to the company's financial adviser, Qatalyst Partners, LLP.

***In re Winn-Dixie Stores, Inc. Shareholder Litigation***, No. 16-2011-CA-010616 (Fla. 4th Cir. Ct.). Motley Rice served as co-lead counsel in litigation challenging the \$560 million buyout of Winn-Dixie Stores, Inc. by BI-LO, LLC, achieving a settlement that allows for shareholders to participate in a \$9 million common fund or \$2.5 million opt-in appraisal proceeding.

***Maric Capital Master Fund, Ltd. v. PLATO Learning, Inc.***, No. 5402-VCS (Del. Ch.). The firm's institutional investor client won a partial preliminary injunction against the proposed acquisition of PLATO Learning, Inc., by a private equity company. In its ruling, the Delaware Court of Chancery found that the target company's proxy statement was misleading to its shareholders and omitted material information. The court's opinion has since been published and has been cited by courts and the legal media.

***In re Lear Corporation Shareholder Litigation***, No. 2728-N (Del. Ch.). In this deal case, Motley Rice helped thwart a merger out of line with shareholder interests. Motley Rice represented an institutional investor in this case and, along with Delaware co-counsel, was appointed co-chair of the Plaintiffs' Executive Committee. Motley Rice and its co-counsel conducted expedited discovery and the briefing. The court ultimately granted in part and denied in part the plaintiffs' motion for a preliminary injunction. In granting the injunction, the court found a reasonable probability of success in the plaintiffs' disclosure claim concerning the Lear CEO's conflict of interest in securing his retirement through the proposed takeover. Lear shareholders overwhelmingly rejected the merger.

***Helaba Invest Kapitalanlagegesellschaft mbH v. Fialkow***, No. 2683-VCL (Del. Ch.) (regarding National Home Health Care Corp.). This action was brought on behalf of the shareholders of National Home Health Care Corporation in response to the company's November 2006 announcement that it had entered into a merger agreement with affiliates of Angelo Gordon. The matter settled prior to trial and was approved on April 18, 2008. The defendants agreed to additional consideration and proxy disclosures for the class.

***Schultze Asset Management, LLC v. Washington Group International, Inc.***, No. 3261-VCN (Del. Ch.). This action followed Washington Group's announcement that it had agreed to be acquired by URS Corporation. The action alleged that Washington Group and its board of directors breached their fiduciary duties by failing to maximize shareholder value, choosing financial projections that unfairly undervalued the company and pursuing a flawed decision-making process. Motley Rice represented the parties, which ultimately settled the lawsuit with Washington Group. Washington Group agreed to make further disclosures to its shareholders regarding the proposed alternative transactions it had rejected prior to its accepting URS's proposal and agreed to make disclosures regarding how the company was valued in the proposed transaction with URS. These additional disclosures prompted shareholders to further question the fairness of the URS proposal. Ultimately, URS increased its offer for Washington Group to the benefit of minority stockholders.

## CASES

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*In re The DirecTV Group, Inc. Shareholder Litigation*, No. 4581-VCP (Del. Ch. ). As court-appointed co-lead counsel, Motley Rice attorneys represented a group of institutional investors on behalf of the minority shareholders of DirecTV Group. A settlement was reached and approved by the court on Nov. 30, 2009. It provided for material changes to the merger agreement and the governing documents of the post-merger DirectTV.

### **State Law Securities Cases**

*In re Tremont Group Holdings, Inc. Securities Litigation*, No. 09 Civ. 03137 (S.D.N.Y.). Motley Rice represents an individual investor in consolidated litigation regarding investments made in Bernard L. Madoff Investment Securities, LLC, through a variable universal life insurance policy.

*Brown v. Charles Schwab & Co.*, No. 2:07-cv-03852-DCN (D.S.C.). Motley Rice attorneys served as class counsel in this case, one of the first to interpret the civil liabilities provision of the Uniform Securities Act of 2002. The U.S. District Court for the District of South Carolina certified a class of investors with claims against broker-dealer Charles Schwab & Co., Inc., for its role in allegedly aiding the illegal sale of securities as part of a \$66 million Ponzi scheme. A subclass of 38 plaintiffs in this case reached a settlement agreement with Schwab under which they receive approximately \$5.7 million, an amount representing their total unrecovered investment losses plus attorneys' fees.

### **Opt-Out/Individual Actions**

*In re Vivendi Universal, S.A. Securities Litigation*, No. 02 Civ. 5571 (S.D.N.Y.). In this action, Motley Rice represents more than 20 foreign institutional investors who were excluded from the class. The firm's clients include the Swedish public pension fund Första AP-fonden (AP1), one of five buffer funds in the Swedish pay-as-you-go pension system. In light of a recent Supreme Court ruling preventing foreign clients from gaining relief, Motley Rice has worked with institutional investor plaintiffs to file suit in France. ***The French action is pending. In re Merck & Co., Inc., Securities Derivative & "ERISA" Litigation***, MDL No. 1658 (SRC) (D.N.J.). Motley Rice and co-counsel represented several foreign institutional investors who opted out of the federal securities fraud class action against Merck & Co., Inc., related to misrepresentations and omissions about the company's blockbuster drug, Vioxx. Private settlements were reached in these cases in 2016.

## ACCOLADES FOR THE FIRM

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### **Securities Class Action Services Top 50**

*International Securities Services*

2009 • 2010 • 2011 • 2014 • 2015 • 2016 • 2017

### **“Best Law Firm”**

*U.S. News – Best Lawyers®*

*mass tort litigation/class actions-plaintiffs*

2010 • 2011 • 2012 • 2013 • 2014 • 2015 • 2016 • 2017 • 2018

### **The Legal 500 United States** *Litigation editions*

*mass tort and class action: plaintiff representation–toxic tort*

2007 • 2009 • 2011 • 2012 • 2013 • 2014 • 2015 • 2016 • 2017 • 2018

### **The Plaintiffs’ Hot List**

*The National Law Journal*

2006 • 2012 • 2013 • 2014 • 2015 • 2016

### **“Elite Trial Lawyers”**

*The National Law Journal*

2014 • 2015

### **“Most Feared Plaintiffs Firm”**

*Law360*

2013 • 2015

**Ronald L. Motley (1944–2013)****EDUCATION:**

J.D., University of South Carolina School of Law, 1971

B.A., University of South Carolina, 1966

Ron Motley fought for greater justice, accountability and recourse, and has been widely recognized as one of the most accomplished and skilled trial lawyers in the U.S. During a career that spanned more than four decades, his persuasiveness before a jury and ability to break new legal and evidentiary ground brought to justice two once-invincible giant industries whose malfeasance took the lives of millions of Americans— asbestos and tobacco. Armed with a combination of legal and trial skills, personal charisma, nose-to-the-grindstone hard work and record of success, Ron built Motley Rice into one of the nation's largest plaintiffs' law firms.

Noted for his role in spearheading the historic litigation against the tobacco industry, Ron served as lead trial counsel for 26 State Attorneys General in the lawsuits. His efforts to uncover corporate and scientific wrongdoing resulted in the Master Settlement Agreement, the largest civil settlement in U.S. history and in which the tobacco industry agreed to reimburse states for smoking-related health care costs.

Through his pioneering discovery and collaboration, Ron revealed asbestos manufacturers and the harmful and disabling effects of occupational, environmental and household asbestos exposure. He represented thousands of asbestos victims and achieved numerous trial breakthroughs, including the class actions and mass consolidations of *Cimino, et al. v. Raymark, et al.* (U.S.D.C. TX); *Abate, et al. v. ACandS, et al.* (Baltimore); and *In re Asbestos Personal Injury Cases* (Mississippi).

In 2002, Ron once again advanced cutting-edge litigation as lead counsel for the 9/11 Families United to Bankrupt Terrorism with a lawsuit filed by more than 6,500 family members, survivors and those who lost their lives in the Sept. 11, 2001, terrorist attacks. The suit seeks justice and ultimately bankruptcy for al Qaeda's financiers, including many individuals, banks, corporations and charities that provided resources and monetary aid. He also served as lead counsel in numerous individual aviation security liability and damages cases under the *In re September 11 Litigation* filed against the aviation and aviation security industries by victims' families devastated by the security failures of 9/11.

Ron brought the landmark case of *Oran Almog v. Arab Bank* against the alleged financial sponsors of Hamas and other terrorist organizations in Israel and was a firm leader in the BP Deepwater Horizon litigation and claims efforts involving people and businesses in Gulf Coast communities suffering as a result of the oil spill. Two settlements were reached with BP, one of which is the largest civil class action settlement in U.S. history.

Recognized as an AV<sup>®</sup>-rated attorney by Martindale-Hubbell<sup>®</sup>, Ron served on the AAJ Board of Governors from 1977 to 2012 and was chair of its Asbestos Litigation Group from 1978 to 2012. In 2002, Ron founded the Mark Elliott Motley Foundation, Inc., in loving memory of his son to help meet the health, education and welfare needs of children and young adults in the Charleston, S.C. community.

**PUBLICATIONS:**

- Ron authored or co-authored more than two dozen publications, including:
- "Decades of Deception: Secrets of Lead, Asbestos and Tobacco" (*Trial Magazine*, October 1999)
- "Asbestos Disease Among Railroad Workers: 'Legacy of the Laggin' Wagon'" (*Trial Magazine*, December 1981)
- "Asbestos and Lung Cancer" (*New York State Journal of Medicine*, June 1980; Volume 80: No.7, New York State Medical Association, New York)
- "Occupational Disease and Products Liability Claims" (*South Carolina Trial Lawyers Bulletin*, September and October 1976)

**FEATURED IN:**

- Shackelford, Susan. "Major Leaguer" (*South Carolina Super Lawyers*, April 2008)
- Senior, Jennifer. "A Nation Unto Himself" (*The New York Times*, March 2004)
- Freedman, Michael. "Turning Lead into Gold," (*Forbes*, May 2001)
- Zegart, Dan. *Civil Warriors: The Legal Siege on the Tobacco Industry* (Delacorte Press, 2000)
- Ansen, David. "Smoke Gets in Your Eyes" (*Newsweek*, 1999)
- Mann, Michael & Roth, Eric. "The Insider" (Blue Lion Entertainment, November 5, 1999)
- Brenner, Marie. "The Man Who Knew Too Much" (*Vanity Fair*, May 1996)
- Reisig, Robin. "The Man Who Took on Manville" (*The American Lawyer*, January 1983)

**AWARDS AND ACCOLADES:**

Ron won widespread honors for his ability to win justice for his clients and for his seminal impact on the course of civil litigation. For his trial achievements, *BusinessWeek* characterized Ron's courtroom skills as "dazzling" and *The National Law Journal* ranked him, "One of the most influential lawyers in America."

**South Carolina Association for Justice****2013** Founders' Award**American Association for Justice****2010** Lifetime Achievement Award**2007** David S. Shrager President's Award**1998** Harry M. Philo Trial Lawyer of the Year**The Trial Lawyer Magazine****2012** inducted into Trial Lawyer Hall of Fame**2011** *The Roundtable: America's 100 Most Influential Trial Lawyers***The Best Lawyers in America<sup>®</sup>****1993–2013** mass tort litigation/class actions – plaintiffs, personal injury litigation – plaintiffs product liability litigation – plaintiffs**Best Lawyers<sup>®</sup>****2012** Charleston, SC "Lawyer of the Year" mass tort litigation/class actions – plaintiffs**2010** Charleston, SC "Lawyer of the Year" personal injury

**Benchmark Plaintiff**

**2012–2013** National “Litigation Star”: civil rights/human rights, mass tort/product liability, securities

**2012–2013** South Carolina “Litigation Star”: human rights, product liability, securities, toxic tort

**SC Lawyers Weekly**

**2011** Leadership in Law Award

**The Legal 500 United States**

**2011–2013** Mass tort and class action: plaintiff representation – toxic tort

**Chambers USA**

**2007, 2010–2012** Product liability and mass torts: plaintiffs. “...An accomplished trial lawyer and a formidable opponent.”

**2008–2013** *South Carolina Super Lawyers*® list

**2008** *Top 10 South Carolina Super Lawyers* list

**2008, 2009, 2011, 2012** *Top 25 South Carolina Super Lawyers* list

**The Lawdragon™ 500**

**2005–2012** *Leading Lawyers in America* list – plaintiffs’

**National Association of Attorneys General**

**1998** President’s Award—for his “courage, legal skills and dedication to our children and the public health of our nation.”

**The Campaign for Tobacco-Free Kids**

**1999** Youth Advocates of the Year Award

**ASSOCIATIONS:**

**American Association for Justice**

**South Carolina Association for Justice**

**American Bar Association**

**South Carolina Bar Association**

**Civil Justice Foundation**

**Inner Circle of Advocates**

**International Academy of Trial Lawyers**

\*Although it endorses this lawyer, The Legal 500 United States is not a Motley Rice client.

## THE FIRM’S MEMBERS

### Joseph F. Rice

LICENSED IN: DC, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court

U.S. Court of Appeals for the Second, Third, Fourth and Fifth Circuits

U.S. District Court for the District of Nebraska and the District of South Carolina

EDUCATION:

J.D., University of South Carolina School of Law, 1979

B.S., University of South Carolina, 1976

Motley Rice co-founder Joe Rice is recognized as a skillful and innovative negotiator of complex litigation settlements, having served as the lead negotiator in some of the largest civil actions our courts have seen in the last 20 years. *Corporate Legal Times* reported that national defense counsel and legal scholars described Joe as one of the nation’s “five most feared and respected plaintiffs’ lawyers in corporate America.” As the article notes, “For all his talents as a shrewd negotiator ... Rice has earned most of his respect from playing fair and remaining humble.”

Joe was recognized by some of the nation’s best-regarded defense lawyers as being “the smartest dealmaker they ever sat across the table from,” *Thomson Reuters* has reported. Professor Samuel Issacharoff of the New York University School of Law, a well-known professor and expert in class actions and complex litigation, has commented that he is “the best strategic thinker on the end stages of litigation that I’ve ever seen.”

Since beginning to practice law in 1979, Joe has continued to reinforce his reputation as a skillful negotiator, including through his involvement structuring some of the most significant resolutions of asbestos liabilities on behalf of those injured by asbestos-related products. He negotiates for the firm’s clients at all levels, including securities and consumer fraud, anti-terrorism, human rights, environmental, medical drugs and devices, as well as catastrophic injury and wrongful death cases.

Most recently, Joe was appointed co-lead counsel in the National Prescription Opiate Litigation MDL aimed at combatting the alleged overselling and deceptive marketing of prescription painkillers. Motley Rice represents roughly 40 state Attorneys General and municipalities, including the first jurisdictions to file cases in the current wave of litigation. In addition, Joe was appointed to the Plaintiffs’ Steering Committee for *In re Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Products Liability Litigation*. Previously, Joe served as one of the lead negotiators in the \$15 billion Volkswagen Diesel Emissions Fraud class action settlement for 2.0-liter vehicles, the largest auto-related consumer class action settlement in U.S. history, as well as the 3.0-liter settlement. He also has led negotiations on behalf of thousands of women in the transvaginal mesh litigation that has five MDLs pending in the state of West Virginia. Joe is a member of the Plaintiffs’ Steering Committee for the Lipitor® multidistrict litigation and the Plaintiffs’ Executive Committee for *In re General Motors LLC Ignition Switch Litigation*.



## TEAM BIOS:

Other notable litigation and cases that have benefited from Joe's involvement include:

### **BP Oil Spill:**

Joe served as a co-lead negotiator for the Plaintiffs' Steering Committee in reaching the two settlements with BP, one of which is the largest civil class action settlement in U.S. history. The Economic and Property Damages Rule 23 Class Action Settlement is estimated to make payments totaling between \$7.8 billion and \$18 billion to class members. Joe was also one of the lead negotiators of the \$1.028 billion settlement reached between the Plaintiffs' Steering Committee and Halliburton Energy Services, Inc., for Halliburton's role in the disaster.

### **9/11:**

Joe held a crucial role in executing strategic mediations and/or resolutions on behalf of 56 families of 9/11 victims who opted out of the government-created September 11 Victim Compensation Fund. In addition to providing answers, accountability and recourse to victims' families, the resulting settlements with multiple defendants shattered a settlement matrix developed and utilized for decades. The litigation also helped provide public access to evidence uncovered for the trial.

### **Tobacco:**

As lead private counsel for 26 jurisdictions, including numerous State Attorneys General, Joe was integral to the crafting and negotiating of the landmark Master Settlement Agreement, in which the tobacco industry agreed to reimburse states for smoking-related health costs. This remains the largest civil settlement in U.S. history.

### **Asbestos:**

Joe held leadership and negotiating roles involving the bankruptcies of several large organizations, including AWI, Federal Mogul, Johns Manville, Celotex, Garlock, W.R. Grace, Babcock & Wilcox, U.S. Gypsum, Owens Corning and Pittsburgh Corning. He has also worked on numerous Trust Advisory Committees. Today, he maintains a critical role in settlements involving asbestos manufacturers emerging from bankruptcy and has been recognized for his work in structuring significant resolutions in complex personal injury litigation for asbestos liabilities on behalf of victims injured by asbestos-related products. Joe has served as co-chair of Perrin Conferences' Asbestos Litigation Conference, the largest national asbestos-focused conference.

Joe is often sought by investment funds for guidance on litigation strategies to increase shareholder value, enhance corporate governance reforms and recover assets. He was an integral part of the shareholder derivative action against Omnicare, Inc., *Manville Personal Injury Settlement Trust v. Gemunder*, which resulted in a significant settlement for shareholders as well as new corporate governance policies for the corporation.

Joe serves on the Board of Advisors for Emory University's Institute for Complex Litigation and Mass Claims, which facilitates bipartisan discussion of ways to improve the civil justice system through the hosting of judicial seminars, bar conferences, academic programs, and research. In 1999 and 2000, he served on the faculty at Duke University School of Law as a Senior Lecturing Fellow, and taught classes on the art of

negotiating at the University of South Carolina School of Law, Duke University School of Law and Charleston School of Law.

In 2013, he and the firm created the Ronald L. Motley Scholarship Fund at The University of South Carolina School of Law in memory and honor of co-founding member and friend, Ron Motley.

### **AWARDS AND ACCOLADES:**

#### **South Carolina Association for Justice**

**2018** Founders' Award

#### **The Best Lawyers in America®**

**2013** "Lawyer of the Year" Charleston, SC: mass tort litigation/class actions – plaintiffs

**2007–2019** Mass tort litigation/class actions plaintiffs

#### **South Carolina Super Lawyers® list**

**2008–2018** Class action/mass torts; Securities litigation; General litigation

#### **The Lawdragon™**

**2016, 2018** *500 Leading Lawyers in America*: Plaintiffs' litigation

#### **Chambers USA**

**2016** Product Liability: Plaintiffs – Nationwide, Band 2

#### **Law360**

**2015** "Product Liability MVP"

#### **Benchmark Litigation**

**2012–2013** National "Litigation Star": mass tort/product liability

**2012–2016** South Carolina "Litigation Star": environmental, mass tort/product liability

#### **The Legal 500 United States, Litigation edition**

**2011–2012, 2014–2018** Dispute resolution – product liability, mass tort and class action – toxic tort – plaintiff

#### **The National Trial Lawyers**

**2010** Top 100 Trial Lawyers™ – South Carolina

#### **SC Lawyers Weekly**

**2018** Hall of Fame honoree

**2012** Leadership in Law Award

#### **National Association of Attorneys General**

**1998** President's Award

#### **University of South Carolina School of Law Alumni Association**

**2011** Platinum Compleat Lawyer Award

#### **MUSIC Children's Hospital**

**2010** Johnnie Dodds Award: in honor of his longtime support of the annual Bulls Bay Golf Challenge Fundraiser and continued work on behalf of our community's children

#### **University of South Carolina**

**2011** Garnet Award: in recognition of Joe and his family for their passion for and devotion to Gamecock athletics

#### **SC Junior Golf Association Programs**

**2011** Tom Fazio Service to Golf Award: in recognition of promotional efforts

### **COMMUNITY INVOLVEMENT:**

**Dee Norton Lowcountry Children's Center**, Co-chair for inaugural Campaign for the Next Child



**First Tee of Greater Charleston**, Board of Advisors

#### ASSOCIATIONS:

**American Association for Justice**

**American Bar Association**

**American Inns of Court**

**American Constitution Society for Law and Policy**

**South Carolina Association for Justice**

\* Although they endorse this lawyer, neither *The Legal 500 United States* nor Professor Samuel Issacharoff are Motley Rice clients. Any result this endorsed lawyer may achieve on behalf of one client in one matter does not necessarily indicate similar results can be obtained for other clients.

#### **John A. Baden IV**

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Second and Fifth Circuits, U.S. Bankruptcy Court for the Southern District of New York and Western District of North Carolina

EDUCATION:

J.D., University of South Carolina School of Law, 2002

B.A., College of Charleston, 1996

John Baden represents clients harmed by asbestos exposure in individual and mass tort forums, as well as in complex asbestos bankruptcies, handling complete case management and settlement negotiations for individuals and families suffering from mesothelioma and other asbestos-related diseases.

Most recently, John advocated for consumers throughout Takata Corp.'s Chapter 11 bankruptcy process and helped negotiate the structure of the resulting bankruptcy agreement for personal injury claimants. John also handles the negotiation and complex case resolution of asbestos bankruptcies, including development of structured settlements with viable asbestos manufacturers and those emerging from bankruptcy. His work with the bankruptcy courts and settlement trusts aims to hold asbestos companies accountable and provide due compensation to asbestos victims. John has lectured on asbestos bankruptcy issues at a number of legal seminars.

John is involved in the settlement negotiations of medical drug and device MDLs, including the transvaginal mesh litigation *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2325. He continues to be involved in negotiations related to additional TVM manufacturers. John also played a role in settlement negotiations for *In re Avandia Marketing, Sales Practices and Products Liability Litigation*, MDL 1871.

John has additionally been actively involved with the firm's representation of people and businesses in Gulf Coast communities suffering as a result of the BP Deepwater Horizon oil spill. He held a central role in the negotiation process involving the two settlements reached with BP, one of which is the largest civil class action settlement in U.S. history.

John began his legal career as a litigation trial paralegal for Ron Motley in 1997, working with the State Attorneys General on the landmark tobacco litigation primarily in Florida, Mississippi and Texas. He also supported occupational litigation in several states, including the exigent trial dockets of Georgia and West Virginia.

John served as a judicial intern for Judge Sol Blatt, Jr., of the U.S. District Court of South Carolina and Judge Jasper M. Cureton of the South Carolina Court of Appeals.

#### ASSOCIATIONS:

**American Association for Justice**

**South Carolina Association for Justice**

#### **Kimberly Barone Baden**

LICENSED IN: CA, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Third Circuit

U.S. District Court for the Central, Northern and Southern Districts of California and District of South Carolina

EDUCATION:

J.D., California Western School of Law, 1999

B.A. *cum laude*, Clemson University, 1996

As a strong advocate for the most defenseless members of society, Kimberly Barone Baden seeks accountability and compensation for victims of corporate misconduct, medical negligence and harmful medical drugs. She manages mass tort pharmaceutical litigation through complex personal injury and economic damages cases.

Kimberly represents children with birth defects allegedly caused by antidepressants, including Zoloft®, Effexor® and Wellbutrin®; as well as Zofran® which is used to prevent pregnancy-related nausea and vomiting. She previously litigated against GlaxoSmithKline in the Paxil® birth defect litigation. She serves as co-lead counsel for *In re Zofran (Ondansetron) Products Liability Litigation* MDL 2657 and is on the Plaintiffs' Executive Committee for *In re Viagra (Sildenafil Citrate) Products Liability Litigation* MDL 2691 and on the Plaintiffs' Steering Committee *In re Zoloft (sertraline hydrochloride) Products Liability Litigation* MDL 2342. She also manages the firm's pharmaceutical litigation regarding Crestor®, Lipitor®, Actos®, Risperdal®, incretin mimetics, and dialysis products GranuFlo® Powder and NaturaLyte® Liquid acid concentrates.

Kimberly also represents elderly victims of abuse and neglect, litigating cases for nursing home and assisted living facility residents.

Kimberly has spoken at numerous seminars, legal gatherings, CLEs and conferences across the U.S., including the American Association for Justice, Mass Torts Made Perfect and the National Business Institute. She has addressed a broad range of topics related to pharmaceutical drugs and elder law litigation, focusing on MDL procedures, birth defects, nursing home litigation, discovery, trial strategy and mediation. Kimberly is currently the Treasurer of the American Association for Justice's Section on Toxic, Environmental and Pharmaceutical Torts.

Prior to joining Motley Rice, Kimberly worked on the Fen-Phen diet drug litigation and served as an attorney with the California District Attorney's Office in San Diego. Kimberly is recognized as an AV® rated attorney by Martindale-Hubbell®.

#### AWARDS AND ACCOLADES:

**South Carolina Super Lawyers® Rising Stars** list

**2013-2014** Personal injury plaintiff: products; elder law

## TEAM BIOS:

### ASSOCIATIONS:

**American Association for Justice**, Treasurer – Section on Toxic, Environmental and Pharmaceutical torts

**American Bar Association**

**South Carolina Association for Justice**

### **Frederick C. Baker**

LICENSED IN: NY, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the First, Second, Third, Fourth, Fifth, Tenth and Eleventh Circuits

U.S. District Court for the Southern District of New York and the District of South Carolina

EDUCATION:

J.D. / LL.M., Duke University School of Law, 1993

B.A., University of North Carolina at Chapel Hill, 1985

A veteran litigator with strong roots in complex litigation, Fred Baker works on a broad range of environmental, medical costs recovery, consumer and products liability cases and holds numerous leadership roles within the firm. He represents individuals, institutional investors, and governmental entities in a wide variety of cases.

Fred leads the firm's tobacco litigation, and was a member of the legal team that litigated the groundbreaking tobacco litigation on behalf of several State Attorneys General. Fred has also participated in the litigation of individual tobacco cases, entity tobacco cases and a tobacco class action.

In addition to his tobacco casework, Fred is part of the opioid litigation team which represents dozens of states, cities, towns, counties and townships in litigation targeting the alleged misrepresentation of harmful and addictive prescription painkillers by opioid manufacturers and distributors.

Fred was also a key member of the firm's representation of people and businesses in Gulf Coast communities suffering as a result of the BP Deepwater Horizon oil spill. He held a central role in the negotiation process involving the two settlements reached with BP, one of which is the largest civil class action settlement in U.S. history. In addition, his environmental experience also includes representing a state government in a case against poultry integrators that alleged poultry waste polluted natural resources.

Fred has served as counsel in a number of class actions, including the two class action settlements arising out of the 2005 Graniteville train derailment chlorine spill. He was also closely involved in the litigation surrounding the statutory direct action settlement reached in the Manville bankruptcy court and a related West Virginia unfair trade practices insurance class action.

Fred began practicing with Motley Rice attorneys in 1994 and chairs the firm's attorney hiring committee.

### AWARDS AND ACCOLADES:

**South Carolina Lawyers Weekly**

**2016** Leadership in Law Award

### **Michael M. Buchman**

LICENSED IN: CT, NY

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court

U.S. Court of Appeals for the Second Circuit

U.S. District Court for the Districts of Connecticut and Southern and Eastern Districts of New York

U.S. Court of International Trade

EDUCATION:

LL.M., International Antitrust and Trade Law, Fordham University School of Law, 1993

J.D., The John Marshall Law School, 1992

B.A. *cum laude*, Alfred University, 1988

Michael Buchman has more than 20 years of experience, primarily litigating antitrust, consumer protection and privacy class actions in trial and appellate courts. Michael has a diverse antitrust background, having represented as lead or co-lead counsel a variety of plaintiff clients, from Fortune 500 companies to individual consumers, in complex cases covering matters such as restraint of trade, price-fixing, generic drug antitrust issues and anticompetitive "reverse payment" agreements between brand name pharmaceutical companies and generic companies. Michael leads Motley Rice's antitrust team.

Michael represents the largest retailer class representative in the \$7.2 billion case *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720.\* He also has more than 18 years of experience representing consumers, union health and welfare plans, and health insurers in "generic drug" litigation, including serving as interim co-lead counsel for end-payor multidistrict litigation *In re Zetia Antitrust Litigation*. He represents clients in additional generic drug litigation, including: *In re Augmentin Antitrust Litigation*, *In re Buspirone Antitrust Litigation*, *In re Ciprofloxacin Antitrust Litigation*, *In re Flonase Antitrust Litigation*, *In re K-Dur Antitrust Litigation*, *In re Relafen Antitrust Litigation*, *In re Tamoxifen Antitrust Litigation*, *In re Toprol XL Antitrust Litigation* and *In re Wellbutrin SR Antitrust Litigation*. He also has experience litigating a large aviation antitrust matter, as well as aviation crash, emergency evacuation and other aviation cases in federal and state court.

Prior to joining Motley Rice, Michael served as an Assistant Attorney General in the New York State Attorney General's Office, Antitrust Bureau. He was also a managing partner of the antitrust department at a New York-based class action law firm. He played an active role in resolving two of the largest U.S. multi-billion dollar antitrust settlements since the Sherman Act was enacted, *In re NASDAQ Market-Makers Antitrust Litigation* and *In re Visa Check/Mastermoney Antitrust Litigation*, as well as litigated numerous multi-million dollar antitrust cases. Michael completed the intensive two-week National Institute for Trial Advocacy National Trial Training program in Boulder, Colo., in 2002. An avid writer, he has authored and co-authored articles on procedure and competition law, including a *Task Force on Dealer Terminations* for The Association of the Bar of the City of New York, Committee on Antitrust and Trade Regulation, entitled *Dealer Termination in New York dated June 1, 1998* and *What's in a Name - the Diversity Death-Knell for Underwriters of Lloyd's of London and their Names; Humm v. Lombard World Trade, Inc.*, Vol. 4, Issue 10 *International Insurance Law Review* 314 (1996).

Michael is active in his community, serving as a member of the Flood and Erosion Committee for the Town of Westport, Ct., and as *pro bono* counsel in actions involving the misappropriation of perpetual care monies. He has also coached youth ice hockey teams at Chelsea Piers in New York City.

#### **AWARDS AND ACCOLADES:**

**New York Metro Super Lawyers®** list

**2014–2018** Antitrust litigation

**The Best Lawyers in America®**

**2017–2019** Mass tort litigation/class actions – plaintiffs

#### **Samuel B. Cothran Jr. General Counsel**

LICENSED IN: NC, SC

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the Western District of North Carolina and District of South Carolina

EDUCATION:

J.D., *cum laude*, University of South Carolina School of Law, 1998

M.B.A., Duke University, 1994

B.S., *summa cum laude*, University of South Carolina, 1981

Sam Cothran creatively addresses the many challenges and opportunities inherent in the cutting-edge practice of a dynamic, multi-jurisdictional law firm. As leader of Motley Rice's legal department, Sam directs and advises the firm's management on diverse in-house legal matters regarding governmental compliance, contracts and legal defense, as well as labor and employment, marketing, financial and operational issues.

After working for an international accounting firm as a certified public accountant and for several Fortune 1,000 companies as a financial manager, Sam attended law school to complement his background in business management and finance and joined Motley Rice attorneys shortly after graduation.

Recognized as a BV® rated attorney by Martindale-Hubbell®, Sam is the author of *Dischargeability of Consumer Credit Card Debt in Bankruptcy After Anastas v. American Savings Bank*, 48 S.C.L. Rev. 915 (1997). As a law student, Sam served as Managing Editor of the *South Carolina Law Review*. He was named a Carolina Legal Scholar and awarded both the Order of the Coif and Order of the Wig and Robe.

Sam is active in his community, serving on the board of Directors for the Dee Norton Lowcountry Children's Center.

#### **ASSOCIATIONS:**

**American Bar Association**

**Association of Professional Responsibility Lawyers**

**American Institute of Certified Public Accountants**

**South Carolina Association of Certified Public Accountants**

#### **Kevin R. Dean**

LICENSED IN: GA, MS, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Third, Fourth, Fifth and Eleventh Circuits, U.S. District Court for the Middle, Northern and Southern Districts of Georgia, Central District of Illinois, Northern and Southern Districts of Mississippi and District of South Carolina

EDUCATION:

J.D., Samford University Cumberland School of Law, 1991

B.A., Valdosta State University, 1989

Focusing his litigation efforts on catastrophic injury, products liability, and wrongful death cases, Kevin Dean represents victims and families affected by hazardous consumer products, occupational and industrial accidents, fires, premise injuries and other incidents of negligence.

Kevin currently represents people allegedly harmed by defective Takata airbags, Volkswagen's diesel emissions fraud, and GM's misconduct regarding its defective vehicles in *In re General Motors LLC Ignition Switch Litigation*. He has litigated numerous vehicle defect cases, including against "the Big Three" automotive manufacturers in cases involving defective brakes, door locks, door latches, seat belts and roll overs. He served as trial co-counsel in *Guzman v. Ford* (2001), the first case brought to trial regarding a defective outside door latch handle, as well as in the vehicle rollover case *Hayward v. Ford* (2005). He was also a member of the plaintiffs' litigation team in the defective seat belt case, *Malone v. General Motors Corporation* (1998) prior to joining Motley Rice.

Committed to occupational safety, Kevin recently secured a jury verdict against SAR Automation, L.P. for \$8.8 million in the wrongful death of a worker who fell at a Boeing facility leaving behind a widow and two small children.\*

Kevin also served as lead plaintiffs' counsel in *In re Charleston Firefighter Litigation*, a wrongful death and negligence case against Sofa Super Store, contractors and multiple furniture manufacturers on behalf of the families of the nine firefighters lost in the June 2007 warehouse fire in Charleston, S.C.

Since the 2010 explosion of the Deepwater Horizon, Kevin has been helping people and businesses pursuing litigation, as well as those needing help filing and negotiating their claims. He served as a member of the oil spill MDL's GCCF Jurisdiction & Court Oversight Workgroup and works with victims on claims through the programs established by the two settlements reached with BP.

Kevin's experience also includes the health insurance fraud and post-claims underwriting case *Clark v. Security Life Insurance Company*, the largest civil RICO case in Georgia history, and *Wiggins v. Parsons Nursery*, one of the largest environmental and health contamination cases in South Carolina. Kevin also served as a County Commissioner on the Early County Georgia Board of Commissioners and still holds the honor of having been the youngest elected commissioner in county history.

Kevin frequently appears in local and national broadcast and print media discussing legal matters of workplace safety, fire

## TEAM BIOS:

prevention and other products liability, as well as specific casework and efforts for changes and improvements in various industries. Recognized as an AV® rated attorney Martindale-Hubbell®, Kevin co-authored “Dangerous Doors and Loose Latches,” published in *Trial Magazine* (2004) for the American Association for Justice, and authored “The Right to Jury Trial in ERISA Civil Enforcement Actions” published in *The American Journal of Trial Advocacy* (1989).

### AWARDS AND ACCOLADES:

#### **The Best Lawyers in America®**

**2017–2019** Charleston, S.C. Personal injury litigation – plaintiffs; Product Liability Litigation – plaintiffs

#### **South Carolina Super Lawyers® list**

**2015–2018** Personal injury–general: plaintiff; Personal injury–products: plaintiff; Personal injury–medical malpractice: plaintiff

#### **Benchmark Plaintiff**

**2012–2013** National “Litigation Star”: mass torts/product liability

**2012–2013** South Carolina “Litigation Star”: product liability

### ASSOCIATIONS:

**American Association for Justice**

**Georgia Trial Lawyers Association**

**South Carolina Association for Justice**, Board of Governors–Circuit 9; Tort & Negligence Chair

**Southern Trial Lawyers Association**

**Attorneys Information Exchange Group**, Board of Directors

### **Michael E. Elsner**

LICENSED IN: NY, SC, VA

ADMITTED TO PRACTICE BEFORE:

U.S District Court for the Eastern and Southern Districts of New York

EDUCATION:

J.D., University of Memphis Cecil C. Humphreys School of Law, 1997

B.A., John Carroll University, 1993

Michael Elsner uses the U.S. civil justice system to seek social change and improved protection of Americans at home and abroad. He litigates complex civil matters on behalf of people and businesses victimized by commercial malfeasance, violations of human rights, inadequate security measures and state-sponsored terrorism, managing cross-border litigation and intricate investigations of infringement and abuse of human rights, multi-layered financial transactions and due diligence.

Michael’s understanding of the complex legal challenges of international matters is critical to litigating cases involving human rights and financial dealings. He uses legal mechanisms to track illicit finances, and his investigations through the maze of international banking and financial regulations continue to uncover violations that have allowed money laundering and terrorist financing. He is building upon legal theories and case precedents to represent plaintiffs harmed by financial crimes and actions and hold the global institutions and organizations accountable.

Michael is a lead plaintiffs’ counsel in *Linde et al. v. Arab Bank*, a suit brought on behalf of victims of terrorist attacks in Israel. In September 2014, a jury found Jordan-based Arab Bank plc liable for financing terrorist activity, including funneling financial support to top Hamas leaders and to the families of suicide bombers. This verdict marked the first time a financial institution has been held liable for financing terrorism. Michael is co-lead counsel in a parallel suit for non-U.S. citizens, *Jesner v. Arab Bank*, which is currently pending before the U.S. Supreme Court. The Court will decide whether a corporation is immune from suits under the Alien Tort Statute for violations of customary international law. As one of the leading members of the firm’s antiterrorism and human rights practice, Michael also leads the worldwide investigation for liability evidence in the 9/11 Families United to Bankrupt Terrorism civil action against al Qaeda’s alleged financiers and supporters. In this capacity, Michael meets with U.S. and foreign intelligence officers, witnesses, and informants, who have already helped him gather more than two million pages of documents in numerous languages identifying the activities of al Qaeda and its financiers. He is a member of the Plaintiffs’ Steering Committee for this multidistrict litigation filed on behalf of more than 6,500 families and survivors of the 9/11 attacks. He also served as a member of the Plaintiffs’ Committee in *In re September 11th Litigation*, a suit brought against the airline industry alleging that it failed to detect and prevent the attacks.

Michael’s work with financial transaction litigation includes commercial, securities fraud and shareholder derivative cases such as his extensive work on behalf of domestic and foreign investors in *In re Vivendi Universal, S.A. Securities Litigation*.

Working with South African human rights lawyer Richard Spoor, Michael is also leading the firm in its role as consultants in an effort to take on leading global gold producers and seek justice for tens of thousands of exploited gold mine workers who are suffering from silicosis. Few class actions have been brought in South Africa, and none have been filed for sick workers. If approved as a class, the suit would generate an unprecedented means of recovery for the country and ensure meaningful access to justice for the indigent and rural workers who are dying from this entirely preventable yet incurable disease.

Michael began his career with the Manville Personal Injury Trust and then practiced complex civil litigation in New York in the areas of toxic torts, security, personal injury, bankruptcy, and whistleblower protections prior to joining Motley Rice attorneys in 2002.

Sharing his experience and insight as a lecturer and consultant, Michael has discussed anti-terrorism and human rights litigation on several national and international news outlets, including CNN, MSNBC, NPR and the BBC, as well as international anti-money laundering and anti-terrorism industry conferences.

### AWARDS AND ACCOLADES:

#### **Public Justice Foundation**

**2016** Trial Lawyers of the Year

#### **Benchmark Litigation**

**2016–2017** South Carolina “Litigation Star”: personal Injury, product Liability, general commercial, professional liability



**South Carolina Lawyers Weekly**

2014 Leadership in Law Award

**The Lawdragon**

2014–2015 Lawdragon 500 Leading Lawyers in America

2010 Lawdragon™ 3,000

**ASSOCIATIONS:****American Association for Justice****American Bar Association****New York Bar Association****South Carolina Bar Association**, International Law Committee**Virginia Bar Association****National Crime Victims Bar Association****Public Justice Foundation****Nathan D. Finch**

LICENSED IN: DC, VA

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Third, Fourth, Fifth, Sixth, Tenth and Eleventh Circuits, U.S. District Court for the District of Columbia, the Eastern District of Virginia, and the Western District of Wisconsin

EDUCATION:

J.D., University of Virginia School of Law, 1992

B.A., University of Virginia, 1989

With a diverse background in complex civil litigation, Nate Finch brings almost twenty years of trial experience and strong negotiation skills to Motley Rice. He represents clients in various asbestos, toxic tort, commercial, securities fraud and other complex cases.

Nate has served as the lead trial attorney for his clients in many federal and state courts and is sought after by co-counsel for advice on challenging cases and complex legal matters. His thorough knowledge of asbestos and medical issues is an asset to the firm's occupational disease and toxic tort clients. He has obtained plaintiffs' verdicts in cases against asbestos product manufacturer defendants and cigarette makers. He has extensive experience trying cases involving a wide variety of asbestos-containing products, including gaskets, automotive brakes, floor tiles, joint compounds, and various forms of insulation. He also has years of experience representing individuals, companies and creditors' committees in personal injury litigation, mass torts products liability litigation, securities and financial fraud litigation and an array of other complex litigation cases ranging from single plaintiffs' products liability cases to high-stakes business disputes.

Prior to joining Motley Rice, Nate was a partner for more than ten years in a Washington, D.C.-based law firm and frequently collaborated with Motley Rice attorneys in trials and negotiations to resolve large asbestos product manufacturers' bankruptcies. He tried numerous cases in federal district courts focusing on the medical and scientific factors associated with asbestos-related diseases and asbestos exposure. During this time, he also tried and helped to resolve in favor of his clients five asbestos bankruptcy cases, each having more than \$1 billion at stake. In addition, Nate worked closely with Motley Rice attorneys on behalf of investors in *In re MBNA Securities Litigation* and *In re Vivendi Universal, S.A. Securities Litigation*.

Nate's understanding of the factual and legal challenges inherent in complex cases, combined with his trial experience, has positioned him as a considerable resource within many practice areas. A frequently invited speaker regarding a variety of legal matters, he has spoken at many asbestos litigation and bankruptcy conferences and has been a guest lecturer at the Georgetown University, George Washington University, George Mason University and the University of Baltimore law schools on topics relating to civil procedure, mass tort litigation and the differences between litigating in Article III and Article I courts. He has been an invited speaker at several judicial conferences on the topic of asbestos litigation.

Recognized as a Martindale Hubbell® AV® rated attorney, Nate has served his community for many years through volunteer activities coordinated by Greater D.C. Cares, an organization committed to connecting volunteers with community service groups. Nate was a member of the *Virginia Law Review* and the Order of the Coif, and is a former scholarship track and cross country athlete at UVA.

**AWARDS AND ACCOLADES:****American Association for Justice**

2013 Wiedemann &amp; Wysocki Award

**Benchmark Litigation**

2013–2017 Washington, D.C. "Litigation Star": bankruptcy, general commercial, product liability, securities, white collar crime

**Washington, D.C., Super Lawyers® list**

2012–2017 Personal injury – products: plaintiff; Personal injury – general: plaintiff; Securities litigation

**Chambers USA**

2009–2010 "Top Lawyer": bankruptcy and restructuring

**ASSOCIATIONS:****American Association for Justice****The Barristers****Fidelma L. Fitzpatrick**

LICENSED IN: DC, MA, NY, RI

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court; U.S. Court of Appeals for the First, Seventh and Eleventh Circuits; U.S. District Court for the District of Columbia, District of Massachusetts, District of Rhode Island and Eastern District of Wisconsin

EDUCATION:

J.D., *cum laude*, American University, 1994

B.A., Canisius College, 1991

Fidelma Fitzpatrick represents people and communities in toxic tort and environmental matters, including property damage and personal injury claims. Her experience with complex civil litigation has led her to represent other victims of corporate malfeasance, including hundreds of women allegedly injured by medical devices such as Essure® and pelvic mesh/sling products.

In 2017, Fidelma was appointed Lead Counsel of the Plaintiffs' Executive Committee for the coordinated Essure® litigation in California against Bayer Corp. She also represents hundreds of women allegedly harmed by pelvic mesh/sling products in filed

## TEAM BIOS:

cases against defendants that include American Medical Systems, Boston Scientific, C.R. Bard, Inc., and Ethicon. In 2012, Fidelma was appointed co-lead counsel of the pelvic mesh MDL *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* pending in the Southern District of West Virginia. She also holds leadership roles in pelvic mesh state court litigations, including serving as liaison counsel in the American Medical Systems cases consolidated in Delaware and the Boston Scientific cases consolidated in Massachusetts.

Fidelma was co-lead trial counsel in the billion dollar lead paint pigment case, *The People of California v. Atlantic Richfield Company et al.*, in which Motley Rice represented cities and counties, including San Francisco, Santa Clara, Los Angeles and San Diego, in litigation against national lead paint pigment manufacturers. In January 2014, the court ruled that three lead paint pigment companies had created a public nuisance by concealing the dangers of lead when they campaigned against its regulation and actively promoted lead for use in homes despite knowing that it was highly toxic. The California Court of Appeals, 6th appellate District, later affirmed the majority of the ruling, and remanded the case to the Santa Clara Superior Court to decide how much defendants should pay to establish an abatement fund that will be used to clear toxic lead paint from homes in plaintiffs' jurisdictions that were constructed prior to 1951. This will help protect the health and safety of thousands of children.

Fidelma held a central role in the state of Rhode Island's trial against former corporate manufacturers of lead paint pigment. She continues to manage cases seeking to hold the lead paint pigment industry accountable for the childhood lead poisoning crisis and provide restitution and compensation to affected children and families. As a result of her work for lead poisoning victims, the Wisconsin State Supreme Court became the first to recognize the legal rights of poisoned children to sue lead paint pigment manufacturers.

She also played a lead role in representing the community of Tallevast, Florida, in a lawsuit against Lockheed Martin Corporation involving the pollution of the community's groundwater with PCE and TCE. Fidelma is litigating nuclear contamination cases on behalf of Pennsylvania residents who allege that local nuclear facilities exposed them to hazardous levels of toxic or radioactive material in the surrounding air, soil and water. Those cases, involving both personal injuries and property damage, are pending in federal court.

Fidelma began working with Motley Rice attorneys in 1997 on the Massachusetts, New York and Rhode Island lawsuits against the tobacco industry. She serves on the Board of Regents at Canisius College and frequently speaks on environmental and mass tort topics at conferences for federal and state court judges, attorneys, academic professionals and law students.

### PUBLISHED WORKS:

"Painting Over Long-Standing Precedent: How the Rhode Island Supreme Court Misapplied Public Nuisance Law in *State v. Lead Industries Association*" *Roger Williams University Law Review* (Summer 2010)

"Access to Justice: The Use of Contingent Fee Arrangements by Public Officials to Vindicate Public Rights" *Cardozo J.L. & Gender* (Spring 2008)

"Negligence in the Paint: The Case for Applying the Risk Contribution Doctrine to Lead Litigation" in *Pace Environmental Law Review* (Fall 2008)

### AWARDS AND ACCOLADES:

#### National Law Journal

2018 Plaintiffs' Lawyers Trailblazers

2015 Outstanding Women Lawyers

#### The Lawdragon

2014–2018 Lawdragon 500 Leading Lawyers in America

#### The Legal 500 United States

2013, 2014, 2018 Dispute resolution – product liability, mass tort and class action – toxic tort – plaintiff

#### The National Trial Lawyers

2010–2013 Top 100 Trial Lawyers™ – Rhode Island

#### Rhode Island Super Lawyers® list

2008, 2010–2018 Environmental litigation; Personal injury – products: plaintiff; Class action/mass torts

#### The Best Lawyers in America®

2008–2019 Mass tort litigation/class actions – plaintiffs

#### Rhode Island Lawyers Weekly

2006 Rhode Island Lawyer of the Year

#### Public Justice Foundation

2014 Trial Lawyers of the Year

2006 Finalist: Trial Lawyers of the Year award

### ASSOCIATIONS:

#### American Association for Justice

#### American Bar Association

#### American Civil Liberties Union, Volunteer attorney

#### Public Justice Foundation, Rhode Island State Coordinator

#### Rhode Island Association for Justice

#### Rhode Island Women's Bar Association

\* Please remember that every case is different. Although it endorses this lawyer, *The Legal 500 United States* is not a Motley Rice client. Any result we achieve for one client in one matter does not necessarily indicate similar results can be obtained for other clients.

### Jodi Westbrook Flowers

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court; U.S. Court of Appeals for the Second, Fourth, and District of Columbia Circuits; U.S. District Court for the District of South Carolina

EDUCATION:

J.D., University of South Carolina School of Law, Carolina Legal Scholar, 1993

B.A. *magna cum laude*, College of Charleston, 1989

A veteran of the courtroom, Jodi Westbrook Flowers seeks to protect the health, safety and rights of consumers, families, investors, workers, and victims of crime and terrorism. Jodi has litigated a wide range of cases involving tobacco, asbestos, lead pigment, aviation disasters, consumer fraud, cybersecurity and product defects, as well as terrorist financing and human rights violations. She also represents public entities seeking



to hold opioid manufacturers and distributors accountable for allegedly deceptive marketing and distribution practices that contributed to the nation's opioid crisis.

In the vehicle defect multidistrict litigation, *In re General Motors LLC Ignition Switch Litigation*, Jodi works on cases related to economic loss due to faulty ignition switches installed in more than 14 million recalled GM vehicles. Previously, she worked to demonstrate the necessary minimum contacts within the U.S. for the exercise of personal jurisdiction over Bridgestone Corporation in the class action for damages allegedly caused by vehicle and tire defects, *In re Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tire Products Liability Litigation*, Case No. 00-MDL-1373-SEB (S.D.Ind.). She also led a team at Motley Rice in the Volkswagen Diesel Emissions Fraud class action litigation, working on behalf of defrauded consumers in the \$15 billion settlement deal for 2.0-liter vehicles. The settlement was the largest auto-related consumer class action in U.S. history, and among the fastest reached of its kind. Jodi represents clients who have raised similar allegations against Fiat Chrysler Automobiles, claiming the automaker installed emissions cheating software in thousands of 3.0-liter diesel vehicles, in *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practice and Products Liability Litigation*.

Jodi serves as co-liaison counsel and represents victims in the 21st Century Oncology data breach multidistrict litigation. She also represents consumers and businesses impacted by security flaws believed to affect virtually all Intel Corp., computer processors.

Jodi handles a variety of cases regarding the state-sponsorship of international terrorism, as well as human rights litigation involving violations of international law and human rights abuses. Jodi now leads the legal team founded by Ron Motley that brought the groundbreaking litigation against the financiers and material supporters of al Qaeda. Representing thousands of family members and survivors of Sept. 11, 2001, in a pioneering civil action to hold al Qaeda's sponsors accountable and cut off the terror support pipeline, she serves on the Plaintiffs' Executive Committee for the *In re Terrorist Attacks on September 11, 2001* litigation consolidated by the Multidistrict Litigation Panel. She aided 9/11 victims and families in their years-long push to pass the Justice Against Sponsors of Terrorism Act, which became law in 2016.

Jodi is currently involved in processing claims for the new Victims' Compensation Fund for first responders, area residents, and anyone whose health may have been affected by exposure to environmental toxins released in the terrorist attacks. She was also an integral member of the Motley Rice aviation security litigation team seeking accountability and change in aviation security following the 9/11 attacks. In addition, Jodi also represents international terror victims who have filed claims through the U.S. Victims of State Sponsored Terrorism Fund.

Jodi also played a key role in *Linde et al. v. Arab Bank PLC*, filed by victims of terrorist bombings in Israel against Arab Bank for allegedly financing Hamas and other Israeli terrorist

organizations. This case marked the first time that a financial institution has been brought to trial under the Anti-Terrorism Act. Jodi also helped lead a parallel suit for thousands of non-U.S. citizens, *Jesner v. Arab Bank*, which was heard by the U.S. Supreme Court regarding violations of customary international law by foreign corporations under the Alien Tort Statute.

She served as the lead negotiator in the last hold-out of the individual cases against Libya for the Lockerbie bombing of Pan Am Flight 103, and continues to seek justice for victims of Libyan sponsored terrorism during Qadhafi's reign. Jodi also authored an *amicus* brief, supporting section 1502 of the Dodd-Frank Act, regarding the trade regulation of conflict minerals in the Democratic Republic of the Congo. She was also an integral member of a team that sought recourse for young victims of human trafficking and child enslavement for use as camel jockeys, and filed a federal civil complaint against several leaders in the United Arab Emirates for their alleged role.

Jodi has worked on environmental contamination cases in the Virgin Islands involving leaking gas tanks, and she represented clients in advancing their Deepwater Horizon oil spill claims through the programs established by the two settlements reached with BP. Jodi has served on numerous MDL Executive Committees and subcommittees, and holds several leadership positions within the firm.

Jodi began her career applying restitution and fraud theories to the litigation against the tobacco industry which resulted in the historic Master Settlement Agreement between the state attorneys general and the tobacco industry. She developed expert and whistleblower testimony and synthesized millions of pages of documents for trial. She prepared the false-marketing and child targeting case against the tobacco industry which resulted in restrictions on cartoon ads and the retirement of Joe Camel.

Jodi has been interviewed by various media outlets, including U.S. and foreign television, radio and print media. She provides pro bono work on a variety of global, national and community issues and helped establish the firm's Charitable Contributions Committee. She also served as a member of the American Bar Association's Center for Human Rights Advisory Council from 2014 to 2016.

#### **PUBLISHED WORKS:**

"Remarks on the GJIL Symposium on Corporate Responsibility and the Alien Tort Statute," *Georgetown Journal of International Law*, Volume 43-Issue 4, Summer 2012. (43 Geo. J. Int'l. L. 1601)

#### **AWARDS AND ACCOLADES:**

##### **National Law Journal**

**2018** Plaintiffs' Lawyers Trailblazers

##### **The Best Lawyers in America®**

**2015–2019** Mass tort litigation/class actions – plaintiff

##### **The Lawdragon™**

**2010–2018** 500 Leading Lawyers in America: Plaintiffs' litigation

##### **Public Justice Foundation**

**2016** Trial Lawyers of the Year

## TEAM BIOS:

**The Legal 500 United States**, Litigation edition

**2016–2018** Dispute resolution – product liability, mass tort and class action – toxic tort – plaintiff

**Benchmark Plaintiff**

**2014** Top 150 Plaintiff Women in Litigation: South Carolina

**2012–2013** National “Litigation Star”: civil rights/human rights and mass tort/product liability

**2012–2014** South Carolina “Litigation Star”: environmental, human rights, mass tort and securities

**ASSOCIATIONS:**

**American Association for Justice**

**South Carolina Association for Justice**

**American Bar Association**, SIL–International Human Rights Committee

**South Carolina Bar Association**, SC Women Lawyers

**Charleston Bar Association**

**Daughters of the American Revolution**

**The Fellows of the American Bar Foundation**

### Vincent L. Greene IV

LICENSED IN: RI

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of Rhode Island

EDUCATION:

J.D., George Washington University Law School, 1998

B.A., College of the Holy Cross, 1995

Vin Greene works on behalf of victims of lead poisoning, asbestos-related diseases and defective medical products. He represents children and families poisoned by exposure to lead paint and pigments in trials, negotiations and settlements, including achieving a rare jury verdict and compensatory damages in 2015 for a Rhode Island woman who suffered cognitive defects due to lead exposure as a child. Vin’s legal efforts led to his critical role in defeating tort reform legislation in Rhode Island, utilizing testimony, analysis and grassroots outreach to push passage of a bill that helped prevent childhood lead poisoning without infringing on victims’ rights. For his numerous efforts and accomplishments, the Childhood Lead Action Project honored him with its Beyond the Call of Duty Award in 2001.

Currently, Vin represents workers and families suffering from mesothelioma and other asbestos-related diseases as a result of occupational, environmental or household exposure to asbestos. He has managed asbestos cases and negotiations on behalf of hundreds of individuals, including arguing before the Supreme Courts of Ohio and Rhode Island, as well as Ohio Appellate Courts.

In addition to his toxic exposure casework, Vin litigates on behalf of patients who suffered severe health complications caused by allegedly defective mesh products, including Composix® Kugel® Mesh patches and other hernia mesh products, as well as transvaginal mesh.

Active in the legal community, Vin served in 2015 as President of the Rhode Island Association for Justice. He is the current Treasurer for the Rhode Island Center for Justice, a non-profit law center advocating for workers’ rights and other public interest issues. Vin began working with Motley Rice attorneys in

1997 on the landmark litigation against the tobacco industry and medical malpractice cases. Named a Motley Rice member in 2008, Vin is recognized as an AV® rated attorney by Martindale-Hubbell®.

**AWARDS AND ACCOLADES:**

**The Best Lawyers in America®**

**2017–2019** Product liability litigation – plaintiffs

**Rhode Island Super Lawyers® lists**

**2014–2018** Personal injury – products: plaintiff; Class action/mass torts; Environmental litigation

**Benchmark Plaintiff**

**2012–2014** Rhode Island “Litigation Star”: environmental, medical malpractice, toxic tort

**The Legal 500 United States**, Litigation edition

**2010** Mass tort and class action: plaintiff representation – toxic tort

**ASSOCIATIONS:**

**American Association for Justice**

**American Civil Liberties Union**

**Rhode Island Association for Justice**, Past President

**Rhode Island Center for Justice**, Treasurer

### John E. Herrick

LICENSED IN: MD, SC

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the Central District of Illinois, District of Maryland, District of South Carolina, Eastern and Western Districts of Wisconsin

EDUCATION:

J.D., University of South Carolina School of Law, 1988

B.A., University of South Carolina, 1983

John Herrick has spent more than 30 years representing victims of asbestos exposure suffering from mesothelioma and other asbestos-related diseases. As a leader of the firm’s occupational disease practice, John continues to fight for the rights of those harmed by asbestos and other occupational diseases and assists in managing the firm’s asbestos litigation teams. A senior trial lawyer with years of courtroom experience, John represents individuals and families against defendants which manufactured and sold defective and unreasonably dangerous asbestos-containing products and equipment, as well as premise owners and contractors who specified and installed those products.

John has litigated asbestos cases resulting from occupational, environmental and household exposure, receiving verdicts in hundreds of matters. He also represents maritime workers who suffered asbestos exposure caused by manufacturers and suppliers, ship owners, shipbuilders and vessel designers.

In addition, John was lead trial counsel in a welding fume verdict for the plaintiff on behalf of a welder who developed manganism from exposure to welding fumes. He won the first affirmed jury verdict in the United States for a domestic, asbestos- exposed mesothelioma victim in the Marie Granski case and achieved the first verdict in the United States against

SCAPA US, the former manufacturer of asbestos-containing dryer felts. John also worked as lead trial counsel in the Harlow trial group, cited as a top 100 case of the year by *The National Law Journal*, and litigated a personal injury case against a tobacco company for a plaintiff harmed by the use of asbestos in cigarette filters.

John is recognized as an AV® rated attorney by Martindale-Hubbell® and frequently serves as a guest speaker at asbestos litigation-related seminars.

#### AWARDS AND ACCOLADES:

##### The Best Lawyers in America®

2018 "Lawyer of the Year" Charleston, SC: Product liability litigation – plaintiffs

2015–2019 Product liability litigation – plaintiffs

##### The Legal 500 United States

2007, 2009–2012, 2015, 2018 Dispute resolution – product liability, mass tort and class action – toxic tort – plaintiff

#### ASSOCIATIONS:

American Association for Justice

American Bar Association

American Board of Trial Advocates

South Carolina Association for Justice

#### James M. Hughes, Ph.D.

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court, U.S. Court of Appeals for the First, Fourth, Fifth, Eighth, and Eleventh Circuits, U.S. District Court for the District of South Carolina

EDUCATION:

J.D., University of South Carolina School of Law, 1993

Ph.D., University of Illinois, Chicago, 1983

M.A., University of Illinois, Chicago, 1976

B.A., University of Minnesota, 1975

Jim Hughes develops strategic legal arguments, drafts and argues motions, and litigates cases involving securities fraud.

Jim has also represented industrial workers exposed to silica and asbestos in the workplace, arguing before appellate courts in Illinois and Minnesota on behalf of occupational disease victims. He has shared his experience with silica litigation and product identification at several national conferences, addressing the plaintiff's perspective and other pertinent issues.

A published author on several legal and academic themes, Jim's law review article, "Informing South Carolina Capital Juries About Parole" (44 S.C. Law Review 383, 1993) was cited in 2000 by U.S. Supreme Court Justice John Paul Stevens in his dissenting opinion in *Ramdass v. Angelone*. His reported opinions include *Ison v. E.I. DuPont de Nemours & Co.* (Del. 1999), *In re Minnesota Asbestos Litigation* (Minn., 1996), *W.R. Grace & Co. v. CSR Ltd.*, (Ill. App. Ct. 1996) and *In re Tutu Wells Contamination Litigation* (D.V.I. 1995).

A former professor of philosophy, Jim began his legal career with the plaintiffs' bar after clerkships with the South Carolina

Office of Appellate Defense and a business, employment and intellectual property defense firm. He is recognized as an AV® rated attorney by Martindale-Hubbell®.

#### ASSOCIATIONS:

American Association for Justice

South Carolina Association for Justice

#### Mathew P. Jasinski

LICENSED IN: CT, NY

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court; U.S. Court of Appeals for the First, Second, and Third Circuits; U.S. District Court for the District of Connecticut and Southern District of New York

EDUCATION:

J.D. with high honors, University of Connecticut School of Law, 2006

B.A. *summa cum laude*, University of Connecticut, 2003

Mathew Jasinski represents consumers, businesses, and governmental entities in class action and complex cases involving consumer protection, unfair trade practices, commercial, environmental and securities litigation.

Mathew currently represents the plaintiffs in several putative and certified class actions involving such claims as breach of contract and unfair trade practices. He has experience in complex commercial cases regarding claims of fraud and breach of fiduciary duty and has represented an institutional investor in its efforts to satisfy a judgment obtained against the operator of a Ponzi scheme. Mathew recently obtained a seven-figure arbitration award in a case involving secondary liability for an investment advisor's conduct under the Uniform Securities Act. *Please remember that every case is different. Any result we achieve for one client in one matter does not necessarily indicate similar results can be obtained for other clients.*

Mathew additionally serves the firm's appellate group. He has worked on numerous appeals before several state and federal appellate courts throughout the country.

Prior to joining Motley Rice in 2009, Mathew practiced complex commercial and business litigation at a large defense firm. He began his legal career as a law clerk for Justice David M. Borden (ret.) of the Connecticut Supreme Court. During law school, Mathew served as executive editor of the Connecticut Law Review and judging director of the Connecticut Moot Court Board. He placed first in various moot court and mock court competitions, including the Boston region mock trial competition of the American Association for Justice. As an undergraduate, Mathew served on the board of associate directors for the University of Connecticut's honors program and was recognized with the Donald L. McCullough Award for his student leadership.

Mathew continues to demonstrate civic leadership in the local Hartford community. He is a member of the board of directors for the Hartford Symphony Orchestra and is a commissioner of the Hartford Parking Authority. Previously, Mathew served on the city's Charter Revision Commission and its Young

## TEAM BIOS:

Professionals Task Force, an organization focused on engaging young professionals and positioning them for future business and community leadership.

### PUBLISHED WORKS:

“On the Causes and Consequences of and Remedies for Interstate Malapportionment of the U.S. House of Representatives” (Jasinski and Ladewig, *Perspectives on Politics*, Vol. 6, Issue 1, March 2008)

“Hybrid Class Actions: Bridging the Gap Between the Process Due and the Process that Functions” (Jasinski and Narwold), *The Brief*, Fall 2009

### AWARDS AND ACCOLADES:

**Connecticut Law Tribune**

2018 “New Leaders in Law”

**Connecticut Super Lawyers® Rising Stars** list

2013–2018 Business litigation; Class action/mass torts; Appellate

**Hartford Business Journal**

2009 “Forty Under 40”

### ASSOCIATIONS:

American Association for Justice

American Bar Association

Connecticut Bar Association

Oliver Ellsworth Inn of Court

Phi Beta Kappa

\* For full Super Lawyers selection methodology visit: [www.superlawyers.com/about/selection\\_process.html](http://www.superlawyers.com/about/selection_process.html)  
For current year CT data visit: [www.superlawyers.com/connecticut/selection\\_details.html](http://www.superlawyers.com/connecticut/selection_details.html)

### Anne McGinness Kearse

LICENSED IN: DC, SC, WV

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the Eastern District of New York, Eastern and Western Districts of Pennsylvania, District of South Carolina and the Southern District of West Virginia  
EDUCATION:

J.D. *cum laude*, University of South Carolina School of Law, 1998

B.S., Syracuse University, 1983

With a passion for justice, Anne McGinness Kearse seeks to hold accountable numerous corporations that put profits before safety. Through litigation, Anne pursues the implementation of better safety practices and corporate governance measures for those corporations, as well as just compensation for victims of toxic exposure, extreme and life-altering injuries, workplace injuries and diseases, severe burns, brain damage, loss of limb and paralysis, and wrongful death resulting from negligence and defective products. Devoted to occupational safety, Anne recently secured a jury verdict against SAR Automation, L.P. for \$8.8 million\* for the wrongful death of a worker who fell at a Boeing facility leaving behind a widow and two small children.

Anne works closely with victims and their families, often meeting with them in their homes for consultations. She strives to provide each client with personalized attention and individual justice, whether the case is part of a class action or stands alone. Anne believes in building relationships with co-counsel and often collaborates with other attorneys, including estate and probate counsel, in order to approach each case from a team perspective.

Anne represents workers diagnosed with the devastating disease mesothelioma caused by asbestos exposure in the chemical, electric power generation, steel or construction industries. She also represents victims of household exposure—children and spouses who developed mesothelioma or other asbestos-related diseases after being exposed to asbestos fibers that a family member unwittingly brought home from work on clothes or belongings. Anne has tried several noteworthy asbestos cases, including *Cox vs. A&I Company*, West Virginia’s first household asbestos exposure case, and the 2002 West Virginia Consolidated Asbestos Trial against Union Carbide in which unsafe working conditions were found at its plants throughout the state. In addition to maintaining an active trial schedule, Anne represents Canadian Workers’ Compensation Boards in U.S. courts to recoup benefits they paid Canadian asbestos victims.

In addition to asbestos, Anne represents and has secured settlements for flavoring workers who suffered respiratory ailments and other diseases caused by toxic chemical exposure.

While in law school, Anne supported the team representing the State Attorneys General in the historic lawsuit against Big Tobacco, which resulted in the largest civil settlement in U.S. history. After graduation, she was a member of the trial team that litigated *Falise v. American Tobacco Company*.

Well-versed in navigating complex litigation, Anne holds several leadership positions within the firm, managing legal teams associated with occupational disease, toxic exposure and severe personal injury. Anne has written several articles of interest to the plaintiffs’ bar and frequently speaks on asbestos litigation, general product liability, legal ethics and tort reform at seminars across the country. She has been published on major legal issues, including *forum non conveniens* and defective products abroad, corporate misconduct, medicolegal aspects of asbestos litigation and mass tort litigation. Anne co-authored the 12th chapter of the book, “Pathology of Asbestos-Associated Diseases” (*Medicolegal Aspects of Asbestos-Related Diseases: A Plaintiff’s Attorney’s Perspective*, 3rd ed., 2014). Edited by Victor L. Roggli, MD; Tim D. Oury, MD, PhD; and Thomas A. Sporn, MD, this publication is a comprehensive asbestos reference book used by both physicians and attorneys.

Anne served as the 2016-2017 President of the Public Justice Foundation, a charitable organization focused on protecting people and the environment and increasing access to justice. She is currently the Immediate Past President for Public Justice and has been on the Board of Directors since 2010. In 2011, Anne served on the Executive Board for a local chapter of Safe Kids USA, advocating for childhood injury prevention. Anne is recognized as a BV® rated attorney by Martindale-Hubbell®.



**AWARDS AND ACCOLADES:****The Best Lawyers in America®**

**2016** Charleston, S.C. "Lawyer of the Year": Mass tort litigation/class actions – plaintiffs

**2011–2019** Mass tort litigation/class actions – plaintiffs

**University of South Carolina School of Law Alumni Association**

**2018** Compleat Lawyer Award

**1998** Bronze Compleat Award

**The National Trial Lawyers**

**2010** Top 100 Trial Lawyers™: South Carolina

**The Legal 500 United States**

**2007, 2009–2012, 2016, 2018** Dispute resolution – product liability, mass tort and class action – toxic tort – plaintiff

**South Carolina Super Lawyers® list**

**2013–2018** Class action/mass torts; Personal injury – products: plaintiff; Personal injury – general: plaintiff

**Benchmark Plaintiff**

**2013** National "Litigation Star": mass tort/product liability – plaintiffs

**2012–2014** South Carolina "Litigation Star": mass tort/product liability – plaintiffs

**2014** Top 150 Women in Litigation list: South Carolina: mass tort/product liability – plaintiffs

**ASSOCIATIONS:**

**Public Justice Foundation**, Immediate Past President – Board of Directors

**American Association for Justice**, Chair – Committee on Asbestos Education

**American Bar Association**

**South Carolina Association for Justice**, Board of Governors; Chair – Women's Caucus

**Litigation Counsel of America Trial Lawyer Honorary Society****Order of the Coif****Order of the Wig and Robe****John Belton O'Neal Inn of Court****American Inns of Court, James L. Petigru Chapter****Marlon E. Kimpson**

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of South Carolina, Eastern District of Michigan

EDUCATION:

J.D., University of South Carolina School of Law, 1999

B.A., Morehouse College, 1991

Marlon Kimpson represents victims of corporate malfeasance, from investors in securities fraud cases to people injured or killed in catastrophic incidents. Building upon the firm's relationships with unions and governmental entities, Marlon represents individuals, state and municipality pension funds, multi-employer plans, unions and other institutional investors in securities fraud class actions and mergers and acquisition cases to help recover assets and improve corporate governance.

Marlon has worked on shareholder derivative litigation and on mergers and acquisitions cases that include: *In re Atheros Communications, Inc., Shareholder Litigation*; *In re Celera Corporation Shareholder Litigation*; *In re RehabCare Group, Inc. Shareholders Litigation*; *In re Coventry Healthcare, Inc., Shareholder Litigation*; and *In re Big Lots, Inc., Shareholder Litigation*. He also represents World Acceptance shareholders and in 2017 helped secure a proposed settlement to resolve claims that the corporation misled investors about its lending practices and its compliance with federal law in *Epstein v. World Acceptance Corp. et al.*, Civil Action No. 6:14-cv-01606-MGL. More recently, Marlon has taken an active role as local counsel for institutional investors in *In re SCANA Corporation Securities Litigation*, 3:17-cv-02616-MBS, a complex securities fraud matter related to alleged misrepresentations and omissions concerning the design, construction, and abandonment of SCANA's nuclear construction project in South Carolina.

In addition to securities fraud litigation, Marlon is part of the opioid crisis team working with dozens of jurisdictions in litigation alleging deceptive marketing of highly addictive opioid prescription painkillers by drug manufacturers. The firm's representation includes the City of Chicago and Santa Clara County, two of the first jurisdictions to file in the current wave of opioid litigation. He has also represented victims of catastrophic personal injury, asbestos exposure, and aviation disasters. He has litigated commercial and charter aviation cases with clients, defendants and accidents involving multiple countries. He has also represented people and businesses that need help filing their claims under the new claims programs established by the two Deepwater Horizon BP oil spill settlements.

Marlon currently serves as South Carolina State Senator of District 42, representing citizens of Charleston and Dorchester Counties. A frequent speaker, Marlon has presented at seminars and conferences across the country, including the Public Funds Summit, the National Association of State Treasurers, the South Carolina Black Lawyers' Association, the National Conference on Public Employee Retirement Systems (NCPERS) and the National Association of Securities Professionals (NASP).

After five years in commercial banking, Marlon entered the field of law and served as a law clerk to Judge Matthew J. Perry of the U.S. District Court of South Carolina. His legal work and volunteer service also earned him the University of South Carolina School of Law bronze Compleat Award. Martindale-Hubbell® recognizes Marlon as a BV® rated attorney.

Marlon is active in his community and formerly served on the Board of Directors for the Peggy Browning Fund. He has also held leadership roles with the University of South Carolina Board of Visitors, the Charleston Black Lawyers Association and the South Carolina Election Commission. In 2017, the American Association of Justice Minority Caucus awarded Marlon with its Johnnie L. Cochran, Jr. Soaring Eagle Award reserved for lawyers of color who have made outstanding contributions to the legal profession and paved the way for others. In 2018, Marlon was chosen as a Leadership in Law Honoree by *South Carolina Lawyers Weekly*. He is a lifetime member of the NAACP and a member of Sigma Pi Phi Boulé and Omega Psi Phi fraternity.

## TEAM BIOS:

### AWARDS AND ACCOLADES:

#### American Association of Justice

2017 Johnnie L. Cochran, Jr. Soaring Eagle Award

#### The Best Lawyers in America®

2015–2019 Mass tort litigation/class actions – plaintiffs

#### Benchmark Plaintiff

2012 National “Litigation Star”: mass tort/product liability

2012–2014 South Carolina “Litigation Star”: environmental, mass tort, securities

#### Coastal Conservation League

2016 Coastal Stewardship Award

#### United Food and Commercial Workers

2016 Legislative Activist of the Year

### ASSOCIATIONS:

#### American Association for Justice

#### South Carolina Association for Justice

#### National Association of Public Pension Attorneys

#### American Bar Association

#### National Bar Association

### Gregg S. Levin

LICENSED IN: DC, MA, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the First, Second, Third, Fifth, Ninth and Eleventh Circuits

U.S. District Court for the District of Colorado, District of Massachusetts, and the Eastern District of Michigan

EDUCATION:

J.D., Vanderbilt University School of Law, 1987

B.A. *magna cum laude*, University of Rochester, 1984

With more than two decades of legal experience, Gregg Levin represents domestic and foreign institutional investors and union pension funds in corporate governance, directorial misconduct and securities fraud matters. His investigative, research and writing skills have supported Motley Rice as lead or co-lead counsel in numerous securities and shareholder derivative cases against Dell, Inc., UBS AG and Cintas Corporation. Gregg manages complaint and brief writing for class action deal cases, shareholder derivative suits and securities fraud class actions.

Prior to joining Motley Rice, Gregg was an associate with Grant & Eisenhofer in Delaware, where he represented institutional investors in securities fraud actions and shareholder derivative actions in federal and state courts across the country, including the WorldCom, Telxon and Global Crossing cases. He also served as corporate counsel to a Delaware Valley-based retail corporation from 1996-2003, where he handled corporate compliance matters and internal investigations.

Appearing in the media to discuss a variety of securities matters, Gregg has also presented in educational forums, including at the Ethics and Transparency in Corporate America Webinar held by the National Association of State Treasurers.

### PUBLISHED WORKS:

Gregg is a published author on corporate governance and accountability issues, having written significant portions of the treatise *Shareholder Activism Handbook* (Aspen Publishers, November 2005), as well as several other articles of interest to institutional investors, including:

- “*In re Cox Communications: A Suggested Step in the Wrong Direction*” (*Bank and Corporate Governance Law Reporter*, September 2005)
- “Does Corporate Governance Matter to Investment Returns?” (*Corporate Accountability Report*, September 23, 2005)
- “*In re Walt Disney Co. Deriv. Litig. and the Duty of Good Faith under Delaware Corporate Law*” (*Bank and Corporate Governance Law Reporter*, September 2006)
- “Proxy Access Takes Center Stage: The Second Circuit’s Decision in American Federation of State County and Municipal Employees, Employees Pension Plan v. American International Group, Inc.” (*Bloomberg Law Reports*, February 5, 2007)
- “Investor Litigation in the U.S. -- The System is Working” (*Securities Reform Act Litigation Reporter*, February 2007)

### Joshua Littlejohn

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Third Circuit; U.S. District Court for the District of Colorado, District of South Carolina

EDUCATION:

J.D., Charleston School of Law, 2007

B.A., University of North Carolina at Asheville, 1999

With a broad base of experience in complex litigation—including securities fraud, corporate governance, SEC whistleblower, medical malpractice, and catastrophic injury—Josh Littlejohn plays a key role on the Motley Rice securities litigation team, particularly cases involving healthcare.

Josh represents public pension funds, unions and institutional investors in both federal and state courts. He also represents people with catastrophic injuries, victims of medical malpractice and corporate whistleblowers. Josh works directly with clients and has been involved in all aspects of the litigation process, including case evaluation, fact and expert discovery, resolution and trial.

Among other complex securities matters, Josh has been involved in litigation against Wells Fargo; 3D Systems Corporation; St. Jude Medical, Inc.; Pharmacia Corporation and NPS Pharmaceuticals. Josh has also been involved in the groundbreaking securities fraud litigation against NASDAQ and the New York Stock Exchange, among other defendants, related to high frequency trading or “HFT.” Along with other Motley Rice lawyers, Josh is currently South Carolina liaison counsel in a securities fraud class action on behalf of investors against SCANA Corporation related to its failed nuclear reactor project.

More recently, in addition to securities matters Josh was a member of the Motley Rice negotiating team that helped secure a resolution with a major U.S. auto manufacturer on behalf of Takata victims.



Early in his career at Motley Rice, Josh worked on discovery in mass tort litigation against drug manufacturers, including Merck & Co., Inc. related to the drug Vioxx.

#### **AWARDS AND ACCOLADES:**

**South Carolina Super Lawyers® Rising Stars** list

**2013–2017** Securities litigation; Class action/mass torts; General litigation

#### **ASSOCIATIONS:**

**American Bar Association**

**South Carolina Association for Justice**

### **Robert J. McConnell**

LICENSED IN: MA, RI

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of Massachusetts, District of Rhode Island

EDUCATION:

J.D., Suffolk University School of Law, 1987

A.B., Brown University, 1979

Bob McConnell's practice concentrates on lead pigment litigation, childhood lead poisoning cases, groundwater and soil contamination cases and other toxic environmental litigation. He represents victims seeking corporate accountability as a result of personal injury, property damage and economic loss as a result of negligent environmental practices.

Bob was a member of the trial team in the landmark trial on behalf of the state of Rhode Island against corporate defendants from the lead paint industry. He secured the largest lead paint poisoning settlement in Rhode Island on behalf of a child and continues to represent children injured by lead poisoning against property owners, governmental agencies and lead pigment companies. He also played a leading role in a statewide lobbying effort to defeat legislation that would have denied lead-poisoned children and their families the right to seek justice. Through testimony, analysis and grassroots outreach, he helped the Rhode Island legislature pass a bill helping to prevent childhood lead poisoning without infringing on victims' rights.

In 2005, he successfully argued the precedent-setting case *Thomas v. Mallett* 285 Wis 2d 236 as part of the Motley Rice trial team applying risk contribution theory to the lead paint industry before the Wisconsin Supreme Court. More recently, Bob represented more than 100 residents of Tiverton, R.I., in an environmental contamination lawsuit against a major New England utility company.

With more than two decades of experience in asbestos litigation, Bob also represents victims of asbestos exposure suffering from mesothelioma and other asbestos-related diseases. He has managed large consolidation trials in several states including Maryland, Mississippi and West Virginia.

After beginning his career as a teacher, Bob earned a law degree and clerked for the Honorable Donald F. Shea of the Rhode Island Supreme Court. He joined Motley Rice attorneys on the tobacco litigation team representing multiple state attorneys general, which resulted in the historic Master Settlement Agreement between the states and the tobacco industry.

Highly active in the Rhode Island community, Bob serves as board vice chairman of The Institute for the Study and Practice of Nonviolence, an organization that seeks to promote nonviolence among young people in Rhode Island's inner cities. He is also a board member for the George Wiley Center, which advocates for the rights of low income Rhode Island citizens, and the Fund for Community Progress, an organization that supports 26 grassroots organizations working for long-term community change.

Bob frequently speaks about lead paint litigation to local and regional groups such as the Rhode Island Bar Association and the Northeast Conference of Attorneys General. He is recognized as an AV® rated attorney by Martindale-Hubbell®.

#### **AWARDS AND ACCOLADES:**

**The Best Lawyers in America®**

**2009–2019** Mass tort litigation/class actions – plaintiffs

**Rhode Island Super Lawyers®** lists

**2008–2018** Plaintiff: Class action/mass torts; Environmental litigation; Personal injury: general

**Benchmark Plaintiff**

**2012–2014** Rhode Island "Litigation Star": environmental and toxic tort

**The Legal 500 United States**

**2015** Mass tort and class action: plaintiff representation – toxic tort

#### **ASSOCIATIONS:**

**American Association for Justice**

**American Bar Association**

### **Donald A. Migliori**

LICENSED IN: MA, MN, NY, RI, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the First and Fourth Circuits, U.S.

District Court for the District of Rhode Island, District of Massachusetts and Northern, Southern and Eastern Districts of New York

EDUCATION:

M.A./J.D., Syracuse University, 1993

A.B., Brown University, 1988

Building upon his experience in complex asbestos cases, the historic tobacco lawsuits and 9/11 litigation, Don Migliori is a multifaceted litigator who can navigate both the courtroom and the negotiating table. He represents victims of defective medical devices and drugs, occupational diseases, terrorism, aviation disasters, antitrust, and securities and consumer fraud in mass torts and other cutting-edge litigation that spans the country.

Don serves in leadership roles for a number of multi-district litigations, including playing a key role in negotiations on behalf of tens of thousands of women allegedly harmed by pelvic mesh/sling products and serving as co-liaison counsel in the N.J. Bard pelvic mesh litigation in Atlantic County. Hundreds of cases have been filed in federal and states courts against multiple defendants.

## TEAM BIOS:

He is also co-lead counsel for *In re Ethicon Physiomesher Flexible Composite Hernia Mesh Products Liability Litigation*, a member of the Plaintiffs' Steering Committee for *In re Bard IVC Filters Products Liability Litigation*, as well as the Depuy® Orthopaedics, Inc. ASR™ and Pinnacle® Hip Implant MDLs. Don has litigated against both Ethicon, a Johnson & Johnson subsidiary, and C.R. Bard previously in pelvic mesh litigation and also against C.R. Bard in the Composix® Kugel® hernia mesh multidistrict litigation, *In re Kugel Mesh Hernia Patch Products Liability Litigation*, the first MDL before the federal court of Rhode Island. Don also serves as co-lead plaintiffs' counsel and liaison counsel in the federal MDL, and as liaison counsel for the Composix® Kugel® Mesh lawsuits consolidated in Rhode Island state court on behalf of thousands of individuals alleging injury by the hernia repair patch.

Don played a central role in the extensive discovery, mediations and settlements of more than 50 cases of 9/11 aviation liability and damages against numerous defendants. He represented families of the victims of the September 11, 2001, attacks who opted out of the Victim Compensation Fund to seek greater answers, accountability and recourse, and served as liaison counsel for all wrongful death and personal injury cases in the 9/11 aviation security litigation. Additionally, he manages anti-terrorism litigation associated with the 9/11 terrorist attacks as a lead attorney of the 9/11 Families United to Bankrupt Terrorism, a groundbreaking case designed to bankrupt the financiers of al Qaeda.

Don contributed his experience in connection with the commencement of and strategy for shareholder derivative litigation brought on behalf Chiquita Brands International, Inc., alleging the defendants breached their fiduciary duties by paying bribes to terrorist organizations in violation of U.S. and Columbian law. He also served as trial counsel for PACE Industry Union-Management Pension Fund in a securities case against Forest Laboratories, Inc., and was involved in the initial liability discovery and trial strategy in an ongoing securities fraud class action involving Household International, Inc.

Don began working with Motley Rice attorneys in 1997 on behalf of the State Attorneys General in the historic lawsuit against Big Tobacco, resulting in the largest civil settlement in U.S. history. He tried several noteworthy asbestos cases on behalf of mesothelioma victims, including the state of Indiana's first contractor liability verdict and first premises liability verdict for wrongful exposure to asbestos. He continues to manage asbestos cases and actively litigates mesothelioma lawsuits and individual tobacco cases in the courtroom.

Don is a frequent speaker at legal seminars across the country and has appeared on numerous television and radio programs, as well as in print media to address legal issues related to terrorist financing, aviation security, class action litigation, premises liability and defective medical devices. A "Distinguished Practitioner in Residence" at Roger Williams University School of Law for the 2010-2011 academic year, Don taught mass torts as an adjunct professor for more than 10 years. Don is an AV® rated attorney by Martindale-Hubbell®.

### AWARDS AND ACCOLADES:

#### **The Best Lawyers in America®**

**2011-2019** Mass tort litigation/class actions – plaintiffs

#### **Super Lawyers®** lists

**2018** *South Carolina Super Lawyers*: Class action/mass torts; Personal Injury – products: plaintiff; Aviation and aerospace

**2009-2017** *Rhode Island Super Lawyers*

**2012-2013** *Top 10 Rhode Island Super Lawyers* lists

#### **The National Trial Lawyers**

**2010-present** Top 100 Trial Lawyers™: Rhode Island

#### **Rhode Island Lawyers Weekly**

**2011** Lawyers of the Year

#### **Massachusetts Lawyers Weekly**

**2011** Lawyers of the Year

#### **Benchmark Plaintiff**

**2012-2014** Rhode Island "Litigation Star": human rights and product liability

**2010** *Lawdragon 3,000*

**2018** *Lawdragon 500*

#### **Providence Business News**

**2005** Forty Under 40

### ASSOCIATIONS:

**American Association for Justice**, Board of Governors; former Executive Committee member

**American Bar Association**

**Rhode Island Association for Justice**, former President

**The Fellows of the American Bar Foundation**

### **William H. Narwold**

LICENSED IN: CT, DC, NY, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court, U.S. Court of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, D.C., and Federal Circuits, U.S. District Court for the District of Colorado, District of Connecticut, Eastern District of Michigan, Eastern and Southern Districts of New York, District of South Carolina

EDUCATION:

J.D. cum laude, University of Connecticut School of Law, 1979

B.A., Colby College, 1974

Bill Narwold has advocated for corporate accountability and fiduciary responsibility for nearly 40 years, representing consumers, governmental entities, unions and institutional investors. He litigates complex securities fraud, shareholder rights and consumer fraud lawsuits, as well as matters involving unfair trade practices, antitrust violations and whistleblower/qui tam claims.

Bill leads Motley Rice's securities and consumer fraud litigation teams and False Claim Act practice. He is also active in the firm's appellate practice. His experience includes being involved in more than 200 appeals before the U.S. Supreme Court, U.S. Courts of Appeal and multiple state courts.

Prior to joining Motley Rice in 2004, Bill directed corporate, securities, financial, and other complex litigation on behalf of private and commercial clients for 25 years at Cummings & Lockwood in Hartford, Connecticut, including 10 years as managing partner. Prior to his work in private practice, he served as a law clerk for the Honorable Warren W. Eginton of the U.S. District Court, District of Connecticut from 1979-1981.

Bill often acts as an arbitrator and mediator both privately and through the American Arbitration Association. He is a frequent speaker on legal matters, including class actions. Named one of 11 lawyers “who made a difference” by *The Connecticut Law Tribune*, Bill is recognized as an AV® rated attorney by Martindale-Hubbell®.

Bill has served the Hartford community with past involvements including the Greater Hartford Legal Assistance Foundation, Lawyers for Children America, and as President of the Connecticut Bar Foundation. For more than twenty years, Bill served as a Director and Chairman of Protein Sciences Corporation, a biopharmaceutical company in Meriden, Connecticut.

#### AWARDS AND ACCOLADES:

##### **The Best Lawyers in America®**

**2013, 2015, 2017, 2019** Hartford, Conn. “Lawyer of the Year”:  
Litigation–Banking and Finance

**2005–2019** Litigation–Banking and finance, mergers and acquisitions, securities

##### **Connecticut Super Lawyers®** and **New England Super Lawyers®** lists

**2009–2018** Securities litigation; Class action/mass torts

**2008** *The Best of the U.S.* list

##### **Connecticut Bar Foundation**

**2008** Legal Services Leadership Award

#### ASSOCIATIONS:

##### **American Bar Association**

**Connecticut Bar Foundation**, Past President

##### **Taxpayers Against Fraud**

**University of Connecticut Law School Foundation**, past Board of Trustees member

#### **William S. Norton**

LICENSED IN: MA, NY, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court; U.S. Court of Appeals for the First, Second, Third and Fourth Circuits; U.S. District Court for the District of Colorado, Northern District of Illinois, District of Massachusetts, Eastern and Southern Districts of New York, and District of South Carolina

EDUCATION:

J.D., Boston University School of Law, 2004

B.A./B.S. *magna cum laude*, University of South Carolina, 2001

Bill Norton litigates securities fraud, corporate governance, and other complex class-action and commercial litigation. Bill has represented public retirement systems, union pension funds, investment companies, banks, and other institutional and individual investors before federal, state, and appellate courts

throughout the country. He also has experience representing whistleblowers who report violations of the law to the U.S. Securities and Exchange Commission under the Dodd-Frank Whistleblower Program, as well as in *qui tam* litigation brought under the False Claims Act.

#### Federal Securities Fraud Litigation

Bill is a member of the litigation teams representing institutional investors as lead counsel in litigation involving Investment Technology Group, Inc.; GNC Holdings, Inc.; and Medtronic, Inc. He also played a key role in the following cases:

- *Bennett v. Sprint Nextel Corp.* (\$131 million recovery\*)
- *City of Brockton Retirement System v. Avon Products, Inc.* (\$62 million recovery\*)
- *Hill v. State Street Corporation* (\$60 million recovery\*)
- *City of Sterling Heights General Employees' Retirement System v. Hospira, Inc.* (\$60 million recovery\*)
- *In re Hewlett-Packard Company Securities Litigation* (\$57 million recovery\*)
- *Hatamian v. Advanced Micro Devices, Inc.* (\$29.5 million recovery\*)
- *Ross v. Career Education Corporation* (\$27.5 million recovery\*)

#### Shareholder Derivative Litigation

Bill was a member of the teams that litigated the following cases:

- *Manville Personal Injury Settlement Trust v. Gemunder* (\$16.7 million payment to the company and significant corporate governance reforms\*)
- *In re Walgreen Co. Derivative Litigation* (corporate governance reforms ensuring compliance with Controlled Substances Act\*)

#### Merger and Acquisition Litigation

Bill has represented institutional shareholders in litigation concerning corporate mergers and acquisitions, including the following cases:

- *In re Allion Healthcare, Inc. Shareholders Litigation* (\$4 million payment to shareholders\*)
- *In re RehabCare Group, Inc., Shareholders Litigation* (\$2.5 million payment, modification of merger agreement, and additional disclosures to shareholders\*)
- *In re Atheros Communications Shareholder Litigation* (preliminary injunction delaying shareholder vote and requiring additional disclosures to shareholders in \$3.1 billion merger\*)
- *Maric Capital Master Fund, Ltd. v. PLATO Learning, Inc.* (preliminary injunction requiring additional disclosures to shareholders in \$143 million private-equity buyout\*)
- *In re The Shaw Group Shareholders Litigation* (class-wide, opt-in appraisal right and additional disclosures to shareholders in \$3 billion merger\*)

#### Other Securities, Consumer Fraud, and Commercial Litigation

Bill has also represented clients in a wide variety of securities, consumer fraud, and commercial litigation, including the following cases:

- Class action on behalf of satellite retailers against EchoStar Corporation, resulting in settlement valued at approximately \$83 million\*

## TEAM BIOS:

- Class action on behalf of bondholders concerning alleged Ponzi scheme, resulting in \$7.8 million recovery\*
- Class action against DirecTV regarding early cancellation fees
- Litigation on behalf of a German bank concerning investments in mortgage-backed collateralized debt obligations
- Federal and state lawsuits regarding variable life insurance investments funneled to the Madoff Ponzi scheme
- Litigation on behalf of real-estate investors regarding luxury real estate development

Prior to joining Motley Rice, Bill practiced securities and commercial litigation in the New York office of an international law firm. While attending law school, Bill served as an Editor of the *Boston University Law Review* and was a G. Joseph Tauro Distinguished Scholar. He served as a law clerk in the United States Attorney's Office for the District of Massachusetts, represented asylum seekers at Greater Boston Legal Services, and studied law at the University of Oxford. Prior to law school, Bill worked for the United States Attorney's Office for the District of South Carolina and with the Neighborhood Legal Assistance Program of Charleston through a grant program. Bill graduated Phi Beta Kappa from the University of South Carolina Honors College. Bill is recognized as an AV®-rated attorney by Martindale-Hubbell®.

### AWARDS AND ACCOLADES:

**South Carolina Super Lawyers® Rising Stars** list  
**2013–2018** Securities litigation; Class action/mass torts;  
 General litigation

### ASSOCIATIONS:

**Federal Bar Association**  
**American Bar Association**  
**American Association for Justice**  
**New York State Bar Association**  
**South Carolina Bar Association**  
**Charleston County Bar Association**

### Lance Oliver

LICENSED IN: AL, DC, FL, SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the District of Columbia, Fifth and the Eleventh Circuits; U.S. District Court for the District of Columbia, and the Middle and Southern Districts of Florida

EDUCATION:

J.D., Duke University School of Law, 2004

B.A., Samford University, 2001

Lance Oliver is a trial lawyer who litigates class actions, mass torts, and other complex matters. He has experience with all phases of litigation from filing the complaint, trying the case, and pursuing appeals. His practice focuses on securities and consumer fraud class actions, tobacco litigation, and other defective products.

Lance has recently acted as lead trial counsel in a number of *Engle* progeny cases in Florida, representing smokers and their families against tobacco manufacturers. He argued a successful appeal to the Fourth District Court of Appeals in Florida, securing a verdict for a smoker's widow in a wrongful death suit against tobacco giants Philip Morris and R.J. Reynolds in *Philip*

*Morris USA Inc. et al. v. Marchese*. He also served as counsel in *Berger v. Philip Morris USA Inc.*, which resulted in a verdict for a client who fell victim at a young age to the manufacturer's marketing campaigns targeting children.

Lance has also devoted a substantial amount of time to litigating securities fraud class actions, and has served as co-lead counsel for the class in many securities fraud cases including *Alaska Electrical Pension Fund, et al. v. Pharmacia Corp., et al.*, a securities fraud class action that resulted in a settlement for plaintiffs. More recently, Lance selected the jury as co-trial counsel for the end-payor class in *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, a pay-for-delay antitrust litigation.

Prior to joining Motley Rice in 2007, Lance served as an associate in the Washington, D.C., office of a national law firm, where he worked on complex products liability litigation at both the trial and appellate levels.

Lance is a member of the National Conference on Public Employee Retirement Systems (NCPERS) and the International Foundation of Employee Benefit Plans (IFEBP). After graduating from Duke Law School, he served as a law clerk to the Honorable James Hughes Hancock of the U.S. District Court, Northern District of Alabama. He is recognized as an AV® rated attorney by Martindale-Hubbell®. He serves on the Board of Directors for the Charleston chapter of the American Lung Association, as well as the Dee Norton Child Advocacy Center.

### AWARDS AND ACCOLADES:

**South Carolina Super Lawyers® Rising Stars** list  
**2013–2018** Securities litigation; Class action/mass torts

**The National Trial Lawyers**

**2016** Top 100 Trial Lawyers™ South Carolina

### ASSOCIATIONS:

**American Bar Association**

### Michael J. Pendell

LICENSED IN: CT, NY

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of Connecticut, Southern and Eastern Districts of New York

EDUCATION:

J.D., *summa cum laude*, Albany Law School, 2007

B.A., *cum laude*, Emerson College, 2000

Michael Pendell focuses his practice on representing people affected by corporate wrongdoing, including whistleblowers, and people harmed by tobacco and dangerous pelvic mesh devices. He also represents pension fund trustees and other institutional investors in securities, consumer fraud, and other complex class actions.

Michael has been involved in the firm's representation of personal injury clients, including representing people allegedly harmed by tobacco products and thousands alleging harm by dangerous medical devices. He serves as trial counsel in the *Engle*-progeny litigation pending in Florida for smokers and families of deceased smokers against tobacco manufacturers.



In transvaginal mesh litigation, he represents women implanted with Ethicon Gynecare Prolift transvaginal mesh devices and who claim serious injuries and complications from the devices.

Michael also has experience representing institutional and individual investors in claims involving common law fraud pursuant to state securities laws. He played a central role on the litigation team that obtained a seven-figure arbitration award in a case involving secondary liability for an investment advisor's conduct under the Uniform Securities Act. Michael also represents clients in complex commercial cases regarding claims of fraud, breach of contract, and tortious interference, as well as representing whistleblowers in multiple cases involving the False Claims Act, including litigation filed against Afognak Native Corp., alleging regulatory violations related to the Small Business Administration.

Michael, along with other Motley Rice attorneys, represented a union pension fund as co-lead counsel in a securities fraud class action to recoup losses against a telecom provider that allegedly provided false information regarding its financial results, causing artificially inflated stock prices that subsequently plummeted when the truth was made known. The settlement is pending court approval.

Prior to joining Motley Rice, Michael served as an associate with a Connecticut-based law firm, where he first gained experience in both federal and state courts in such areas as commercial and construction litigation, media and administrative law, personal injury defense and labor and employment matters. He previously taught business law to BA and MBA candidates as an adjunct professor at Albertus Magnus College.

Michael served as a legal intern for the Honorable Randolph F. Treece of the U.S. District Court for the Northern District of New York and as a law clerk for the Major Felony Unit of the Albany County District Attorney's Office. He served as the executive editor for the *New York State Bar Association Government Law & Policy Journal* and senior editor for the *Albany Law Review*, which published his 2008 article entitled, "How Far is Too Far? The Spending Clause, the Tenth Amendment, and the Education State's Battle Against Unfunded Mandates."

#### **AWARDS AND ACCOLADES:**

##### **Connecticut Super Lawyers® Rising Stars list**

**2013–2018** Securities litigation; Business litigation; Personal injury – products: plaintiff

#### **ASSOCIATIONS:**

**American Association for Justice**  
**Connecticut Bar Association**  
**New York State Bar Association**

\* Prior results do not guarantee a similar outcome. For full *Super Lawyers* selection methodology visit: [www.superlawyers.com/about/selection\\_process.html](http://www.superlawyers.com/about/selection_process.html)  
 For CT-specific methodology visit: [www.superlawyers.com/connecticut/selection\\_details.html](http://www.superlawyers.com/connecticut/selection_details.html)

#### **Mary F. Schiavo**

LICENSED IN: DC, FL, MD, MO, SC  
 ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court

EDUCATION:

J.D., New York University School of Law, 1980 (Root-Tilden Scholar)

M.A., The Ohio State University, 1977 (University Fellow)

B.A. *cum laude*, Harvard University, 1976

A CNN Analyst and former U.S. Department of Transportation Inspector General, Mary Schiavo seeks accountability and industry change from corporations, institutions and the government so that they may meet their obligation to protect the safety and security of the traveling public. With years of experience in transportation litigation, Mary represents victims and their families suffering from negligence of airline, automotive, commercial trucking, motorcoach and rail companies.

A leader of the firm's aviation team, Mary has represented passengers and crew of most major U.S. air crashes, as well as pilots and passengers on private or charter planes. She represents passengers, pilots, flight attendants and select owners and operators. Her experience with major, complex aviation litigation includes more than 50 cases on behalf of the family members of the passengers and crew of all the planes hijacked on Sept. 11, 2001.

Mary has held numerous government appointments under three U.S. Presidents, including that of Inspector General of the U.S. Department of Transportation from 1990 to 1996. Under Mary's direction, the agency investigated air safety, crimes and disasters; secured more than 1,000 criminal convictions; and exposed billions of dollars of fraud, waste and abuse of taxpayer money. She testified before Congress multiple times on transportation safety, security, budgeting and infrastructure. In recognition of her work combating the use of bogus aircraft parts worldwide, Mary was honored by *Aviation Week* with its Aviation Laurel Award in 1992 and 1995 and was inducted into the Aviation Laurel Hall of Fame in 1997.

As an Assistant U.S. Attorney early in her career, Mary litigated civil cases and prosecuted federal white-collar crimes, bank and securities fraud, mail and wire fraud, drug trafficking and counterfeiting. During her appointment, she also served on the U.S. Department of Justice's Organized Crime and Racketeering Strike Force, prosecuting high-profile criminal cases of bank and securities fraud and related mail and wire fraud, including a large investigation of a bank and securities fraud scheme that resulted in the federal takeover of banks, savings and loans throughout the Midwest.

In 1987, Mary was selected as a White House Fellow and assigned to the U.S. Attorney General, where she worked as the Special Assistant for Criminal Affairs. In this role, she reviewed high security prosecutions, prepared Foreign Intelligence Surveillance Act Requests, attended foreign legal summits with the Attorney General and worked on international prisoner and evidence exchanges. During this time, she also taught trial technique at the U.S. Attorney General's Advocacy Institute

## TEAM BIOS:

and the Federal Bureau of Investigation Academy. Her work earned her an appointment as the Assistant U.S. Secretary of Labor in 1989, where she led the Office of Labor Management Standards, supervising union elections and investigations on election and financial irregularities.

A frequent on-air contributor or consultant for several networks, Mary has appeared on CNN, ABC, CBS, Fox News, NBC, BBC, the History Channel and Discovery Channel. Named by *Glamour* magazine as a 1997 Woman of the Year, 1987 Working Woman of the Year and a Top Ten College Student in 1975, she has spoken about aviation safety on *20/20*, *60 Minutes*, *Good Morning America*, *Larry King Live*, *Nancy Grace*, *Nightline*, *Oprah*, *The O'Reilly Factor*, *Today*, and *Your World with Neil Cavuto*, among others. Mary is the author of *Flying Blind*, *Flying Safe*, a *New York Times* bestseller, and was featured in *Time* magazine for exposing the poor safety and security practices of the airlines and the failures of the federal government to properly regulate the aviation industry. She contributed to *Aviation Security Management* (Volume One, 2008) and *Supply Chain Security* (Volumes One and Two, 2010).

Mary received her pilot's license soon after her driver's license, and later completed private and commercial flight training at The Ohio State University. She returned to The Ohio State University as the McConnell Aviation Chair and professor from 1998-2002 and as the Enarson Professor of Public Policy from 1997-1998. She has also served as a practitioner in residence at the New York University School of Law, and is currently a member of the Board of Directors for the Lowcountry SC chapter of the American Red Cross.

### AWARDS AND ACCOLADES:

#### **The Best Lawyers in America®**

**2017** Charleston, S.C. "Lawyer of the Year": Mass tort litigation/class actions – plaintiffs

**2010–2019** Mass tort litigation/class actions – plaintiffs

#### **National Law Journal**

**2015** Outstanding Women Lawyers

#### **Aviation Week**

**1997** Inducted to the Aviation Laureates Hall of Fame

**1992, 1995** Aviation Laurel Award in recognition of her work combating the use of bogus aircraft parts

#### **Benchmark Plaintiff**

**2014** *Top 150 Women in Litigation* list: South Carolina – mass tort, securities, aviation

**2012–2014** South Carolina "Litigation Star": mass tort, securities, aviation

**2012–2013** National "Litigation Star": mass tort/product liability

### ASSOCIATIONS:

#### **American Association for Justice**

**American Bar Association**, First Female Assembly Delegate, House of Delegates 1986–1989

**International Society of Air Safety Investigators**, affiliate member

#### **International Air and Transportation Safety Bar**

**Association of Plaintiff Interstate Trucking Lawyers of America**, Chair of Legislation

### **Carmen S. Scott**

LICENSED IN: SC

EDUCATION:

J.D., University of South Carolina School of Law, 1999

B.A., College of Charleston, 1996

With a focus on women's products, Carmen Scott represents victims of harmful medical drugs and devices, medical negligence, and corporate misconduct.

Carmen helps lead Motley Rice's mass tort pharmaceutical litigation by managing complex personal injury and economic recovery damages cases. She has been on the forefront of national contraceptive litigation involving products such as Xarelto® and Essure®, and previously litigated Nuvaring®, Yaz® and Yasmin®. She served on the Plaintiffs' Steering Committee in *In re NuvaRing Products Liability Litigation*, serves as co-lead counsel in *In re Mirena Product Liability* state court consolidation in New Jersey, and is co-chair of the AAJ Mirena® IUD Litigation Group. She was also appointed to the Plaintiffs' Steering Committee for the multidistrict litigation *In re Power Morcellator Products Liability Litigation* and *In re Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation*. Carmen currently represents clients in a variety of drug product matters in state and federal courts, including talcum powder.

Prior to joining Motley Rice in 2005 and concentrating her efforts on the medical practice area, Carmen represented numerous clients in jury trials, working on products liability, personal injury and business cases for both plaintiffs and defendants.

Carmen is a frequent speaker on medical litigation and topics involving women's products, regularly lecturing at both legal seminars and public advocacy events on such issues as plaintiffs' rights in medical negligence and dangerous drug cases. She has been quoted in numerous national media outlets and publications, including The Associated Press, NBC News New York, *Marie Claire* and *MotherJones*.

A South Carolina native and active in the community, Carmen is currently a College of Charleston alumni board member. She also proudly served on the Board of the South Carolina chapter of Make-A-Wish for many years, fundraising and promoting the organization's mission, as well as serving as a "wish-granter" for selected families and has served as a board member for the nonprofit organization Charleston County Friends of the Library.

### AWARDS AND ACCOLADES:

#### **The Best Lawyers in America®**

**2018–2019** Charleston, S.C. Personal injury litigation–plaintiffs; Product liability litigation–plaintiffs

#### **South Carolina Super Lawyers®** list

**2015–2018** Personal injury plaintiff: products; Class action/mass torts

#### **South Carolina Super Lawyers® Rising Stars** list

**2013–2014** Personal injury plaintiff: products; Class action/mass torts

#### **Charleston Regional Business Journal**

**2013** Forty Under 40



**ASSOCIATIONS:**

**American Association for Justice**, Exchange Advisory Committee

**American Bar Association**

**South Carolina Association for Justice**

**South Carolina Women Lawyers Association**

**Fred Thompson III**

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Supreme Court, U.S. Court of Appeals for the Fourth Circuit, U.S. District Court for the District of South Carolina

EDUCATION:

J.D. *with distinction*, Duke University School of Law, 1979

B.A. *cum laude*, Yale University, 1973

With decades of diverse experience in personal injury, commercial and toxic tort law, Fred Thompson represents people harmed by negligence, product defects or misconduct. As a leader of the medical litigation team, Fred manages cases related to defective medical devices, harmful pharmaceutical drugs, medical malpractice, and nursing home abuse.

His work has led to his appointment to numerous leadership positions, including:

- Co-lead coordinating counsel for the pelvic mesh lawsuits consolidated in the U.S. District Court for the Southern District of West Virginia
- Plaintiffs' co-lead counsel for the Mirena® IUD multidistrict litigation in the U.S. District Court for the Southern District of New York
- Plaintiffs' co-lead counsel for the federal Digitek® consolidation
- Plaintiffs' Steering Committee member for the Medtronic Sprint Fidelis® defibrillator lead
- Plaintiffs' Steering Committee member for the Avandia® federal multidistrict litigation
- Plaintiffs' Steering Committee member for the Trasylol® federal multidistrict litigation
- Chairman of the American Association for Justice's Digitek® Litigation Group
- Co-chairman of the AAJ Kugel® Mesh Litigation Group

Fred is also active with the firm's consumer fraud, commercial and economic damage litigation. He has represented clients in litigation involving bond issues and securities fraud in federal, state and bankruptcy forums as well as through alternative dispute resolution. Additionally, Fred has practiced commercial transaction work, including contracting, corporate, partnership and limited liability company formation, and capital acquisitions.

Recognized as an AV® rated attorney by Martindale-Hubbell®, Fred frequently speaks on medical litigation topics at legal seminars throughout the country. He co-authored "Composix® Kugel® Mesh: A Primer" for the Spring 2008 AAJ Section on Toxic, Environmental & Pharmaceutical Torts newsletter. Fred serves his local community as a Board Member for the East Cooper Community Outreach organization.

**AWARDS AND ACCOLADES:**

**The Best Lawyers in America®**

**2018-2019** Charleston, S.C. Mass tort litigation: class actions-plaintiffs

**ASSOCIATIONS:**

**American Association for Justice**

**ADDITIONAL SECURITIES LITIGATORS****Andrew P. Arnold**

LICENSED IN: NY, SC

EDUCATION:

J.D., with honors, University of North Carolina School of Law, 2013

B.A., with highest honors, University of North Carolina at Chapel Hill, 2002

Andrew Arnold represents institutional investors and individuals in complex securities, corporate governance and shareholder litigation.

He concentrates his practice on investigating and developing securities fraud class actions, shareholder derivative lawsuits, merger and acquisition litigation, and consumer fraud. He joined Motley Rice co-founder Joe Rice in negotiations in the Volkswagen Diesel Emissions Fraud class action for consumers whose vehicles were allegedly designed to bypass regulations. The \$15 billion settlement for 2.0-liter vehicles is the largest consumer auto-related consumer class action in U.S. history, and among the fastest reached of its kind.

Prior to joining Motley Rice, Andrew practiced commercial litigation and investor-state dispute settlement in the Washington, D.C. office of a large international law firm. He was recognized on the 2014 Capital *Pro Bono* High Honor Roll for serving 100 *pro bono* hours in the D.C. area. While attending the University of North Carolina School of Law, Andrew was a member of the *North Carolina Law Review* and served as a judicial intern for the North Carolina Court of Appeals and as a research assistant for Professor Thomas Lee Hazen, a prominent securities regulation scholar.

Andrew also has an extensive background in software development, primarily in the healthcare industry, where he designed and developed software to ensure compliance with government regulations.

**Elizabeth A. Camputaro**

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

**U.S. Court of Appeals for the Federal and Fourth Circuits; U.S. Court of Appeals for Veterans Claims; U.S. District Court for the District of South Carolina**

EDUCATION:

J.D. *magna cum laude*, Charleston School of Law, 2008

B.A., Columbia College, 2004

Elizabeth Camputaro is part of the team representing county and municipal governments in litigation targeting the alleged aggressive and fraudulent marketing of prescription opioid painkillers by pharmaceutical companies and distributors.

## TEAM BIOS:

In addition, Elizabeth has several years of experience representing institutional investors in complex securities fraud and shareholder derivative matters, including serving on litigation teams in class action suits filed against Medtronic, Inc, State Street Corp., Sprint Nextel Corp., and Advanced Micro Devices.

Prior to joining Motley Rice, Elizabeth served as a judicial law clerk for the Honorable Deadra L. Jefferson, Ninth Judicial Circuit. While in law school, Elizabeth was a member of the Federal Courts Law Review, contributed more than 100 hours of pro bono service, and served as a judicial extern for the Honorable Thomas L. Hughston, Ninth Judicial Circuit.

Active in her community, Elizabeth currently serves on the South Carolina Bar Diversity Committee and has previously served as an Election Commissioner for Beaufort and Summerville municipalities, Beaufort County Council Library Board Trustee, and international missionary with Project Medishare and One World Health.

### ASSOCIATIONS:

**American Bar Association**  
**South Carolina Bar Association**  
**Charleston Bar Association**

### Jessica C. Colombo

#### LICENSED IN: CT

#### EDUCATION:

J.D. with *high honors*, University of Connecticut School of Law, 2017

B.A. *cum laude*, State University of New York at New Paltz, 2014

Jessica Colombo labors to deter misconduct and fraud by representing individuals and institutional investors in complex securities and consumer protection class actions. In addition, Jessica's practice includes representing whistleblowers in cases involving the False Claims Act. She also contributes to the firm's appellate practice.

Prior to joining Motley Rice, Jessica served as a law clerk to the Honorable Bethany J. Alvord of the Connecticut Appellate Court. She gained additional experience in complex consumer fraud and product liability litigation while serving as a Motley Rice law clerk in 2016. She also interned with the U.S. Attorney's Office for the District of Connecticut.

While completing her legal studies, Jessica served as Executive Editor of the *Connecticut Law Review*, a member of the Public Interest Law Group, and a volunteer with the International Refugee Assistance Project. She also represented criminal defendants in the University of Connecticut School of Law Criminal Trial Clinic. She received multiple CALI awards in Lawyering Process, Torts, Estate Plan/Tax Practice, and Trademark Law.

Jessica previously worked as a toll collector for the New York State Thruway Authority, where she was a member of the International Brotherhood of Teamsters, Local 72.

### ASSOCIATIONS:

**American Bar Association**  
**Connecticut Bar Association**

### Sara O. Couch

#### LICENSED IN: FL, SC

#### EDUCATION:

J.D., University of North Carolina School of Law, 2013

A.B., Duke University, 2009

Sara Couch represents institutional investors, government entities and consumers in securities and consumer fraud litigation. Sara also assists in the litigation of individual tobacco cases.

Prior to joining Motley Rice, Sara served as a law clerk with the North Carolina Department of Justice, where she researched and drafted briefs and memoranda regarding the False Claims Act and Stark Law for the North Carolina Medicaid Civil Enforcement Division. She also investigated allegations of healthcare fraud and presented findings to the division.

During law school Sara was a certified student practitioner with the University of North Carolina Civil Litigation Clinic. As a student practitioner, Sara represented clients in administrative hearings, obtaining successful outcomes and needed relief. She also represented several inmates in an action against the North Carolina prison system, conducting depositions and assisting in obtaining a preliminary injunction against the prison.

While attending the University of North Carolina School of Law, Sara competed in the Kilpatrick Townsend 1L Mock Trial Competition and was awarded best oral advocate during the preliminary round. She was a staff member of the *First Amendment Law Review* and was a member of the Carolina Law Ambassadors.

Sara also volunteered with Legal Aid of North Carolina, assisting advocates for Children's Services with a school-to-prison pipeline project by researching education policy issues, North Carolina case law and education data to be used in education litigation. Sara completed a total of 50 hours of pro bono service while a student at UNC School of Law.

An avid rower, Sara was a varsity member of the NCCA Division-I Duke University's rowing team and is a classically-trained pianist.

### Max N. Gruetzmacher

#### LICENSED IN: SC

#### ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of South Carolina

#### EDUCATION:

J.D., Marquette University Law School, 2008

B.A., University of Wisconsin-Madison, 2004

Max Gruetzmacher focuses his practice on securities and consumer fraud, representing large public pension funds, unions and other institutional investors in securities and consumer fraud class actions and shareholder derivative suits.

Max has represented numerous clients in a variety of complex civil litigation matters. He has substantial experience managing litigation discovery efforts and shaping e-discovery strategy, including drafting and negotiating sophisticated e-discovery protocols. Max is proficient in the use of predictive coding and other advanced analytic technologies and workflows.

Previously, he served as a legal intern during law school for the Wisconsin State Public Defender, Appellate Division, where he aided in appellate criminal defense and handled legal research and appellate brief writing projects.

#### ASSOCIATIONS:

**South Carolina Bar Association**  
**Charleston County Bar Association**

### Rebecca E. Jacobs

LICENSED IN: SC

EDUCATION:

J.D. with honors, Charleston School of Law, 2014

B.A., Furman University, 2010

Rebecca Jacobs focuses her practice on securities and consumer fraud litigation. Rebecca has been working with Motley Rice since 2015, managing teams that help further complex securities litigation through discovery and research. Rebecca was a member of the team that represented institutional investors as lead counsel in *In re Barrick Gold Securities Litigation*, which reached a \$140 million settlement for shareholders\*. She has also contributed to discovery in securities fraud litigation against St. Jude Medical, Inc., and is currently a member of the team representing investors in *In re Conn's, Inc. Securities Litigation*.

Rebecca worked as a legal assistant and paralegal in Charleston while pursuing a law degree. She has also completed numerous *pro bono* hours with programs including Volunteer Income Tax Assistance as well as Adult Guardianship Assistance and Monitoring.

#### ASSOCIATIONS:

**South Carolina Women Lawyers Association**  
**South Carolina Bar Association**  
**Charleston County Bar Association**

### Annie E. Kouba

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of South Carolina

EDUCATION:

J.D., University of North Carolina School of Law, 2016

M.S.W., University of North Carolina School of Social Work, 2016

B.A., *magna cum laude*, Lenoir-Rhyne University, 2012

Annie Kouba represents institutional investors in securities fraud and shareholder litigation as well as public clients and government entities.

Annie's work includes helping Biogen shareholders in their fight to recover losses associated with the pharmaceutical company's allegedly dangerous drug Tecfidera.

She also assists in litigation filed by the Cherokee Nation against the U.S. Department of Health and Human Services and other federal agencies related to the False Claims Act. She has additional experience in *qui tam* whistleblower litigation.

Prior to joining Motley Rice, Annie interned with the North Carolina Department of Justice in the Health and Human Services Division where she drafted criminal briefs for the

N.C. Court of Appeals and N.C. Supreme Court, and assisted the president of the American Association of Public Welfare Attorneys. She also interned with the EMILY's List Political Opportunity Program and has worked as a *voir dire* consultant.

Annie concentrated in Community, Management, and Policy Practice at the University of North Carolina's School of Social Work Master's program where she specialized in the intersection of public policy and the law. Through a practicum with the program, Annie interned with the Compass Center for Women and Families in the Financial Literacy Education Program, where she served as a certified counselor with The Benefit Bank.

While pursuing her studies at the University of North Carolina School of Law, Annie served as a published staff member on the *First Amendment Law Review* and as vice president of the Carolina Public Interest Law Organization. She also participated in the Pro Bono Program there, through which she prepared tax returns for low-income citizens and researched and provided social work policy and legal perspective related to minors' rights after sexual assault for a guidebook from the NC Coalition Against Sexual Assault.

#### ASSOCIATIONS:

**American Association for Justice**, Political Action Committee Task Force

**South Carolina Association for Justice**

### Christopher F. Moriarty

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the First, Third, and Fifth Circuits; U.S. District Court for the District of Colorado, the Northern District of Illinois, the Eastern District of Michigan, and the District of South Carolina

EDUCATION:

J.D., Duke University School of Law, 2011

M.A., Trinity College, University of Cambridge, 2007

B.A., Trinity College, University of Cambridge, 2003

Christopher Moriarty litigates securities fraud, corporate governance, and other complex class action litigation in the U.S. and counsels institutional investors on opportunities to seek recovery in securities-related actions in both the U.S. and internationally. His practice encompasses every aspect of litigation, from case-starting to settlement.

Notable securities fraud class actions include:

- *In re Barrick Gold Securities Litigation*, No. 13-cv-03851 (S.D.N.Y.) (\$140 million recovery\*) (sole lead counsel);
- *City of Brockton Retirement System v. Avon Products, Inc.*, 11 Civ. 4655 (PGG) (S.D.N.Y.) (\$62 million recovery\*) (sole lead counsel);
- *Hill v. State Street Corp.*, No. 09-cv-12136-GAO (D. Mass.) (\$60 million recovery\*) (co-lead counsel);
- *In re Hewlett-Packard Co. Securities Litigation*, No. 11-cv-1404 (RNBx) (C.D. Cal.) (\$57 million recovery\*) (co-lead counsel);
- *KBC Asset Mgmt. v. 3D Sys. Corp.*, No. 15-cv-02393-MGL (D.S.C.) (\$50 million recovery\*) (co-lead counsel);

## TEAM BIOS:

- *Första AP-Fonden and Danske Invest Management A/S v. St. Jude Medical, Inc.*, No. Civil No. 12-3070 (JNE/HB) (D. Minn.) (\$39.25 million recovery\*) (co-lead counsel);
- *Ross v. Career Education Corp.*, No. 12-cv-00276 (N.D. Ill.) (\$27.5 million recovery\*) (co-lead counsel);
- *KBC Asset Mgmt. NV v. Aegerion Pharms., Inc.*, No. 14-cv-10105-MLW (D. Mass.) (\$22.25 million recovery\*) (co-lead counsel).

Christopher represents investors in shareholder derivative litigation, including in *In re Walgreen Co. Derivative Litigation*, No. 13-cv-05471 (N.D. Ill.) (securing corporate governance reforms to ensure compliance with the Controlled Substances Act\*); antitrust class actions, including *In re Libor-Based Financial Instruments Antitrust Litigation*, No. 11-md-02262-NRB (S.D.N.Y.) (pending); and whistleblowers in proceedings before the U.S. Securities and Exchange Commission. His practice extends to securities-related litigation in several foreign jurisdictions, including England, France, and the Netherlands.

While in law school, Christopher was a member of the Moot Court Board, served as an Executive Editor of the *Duke Journal of Constitutional Law and Public Policy*, and taught a course on constitutional law to LL.M. students. Christopher has also drafted *amicus curiae* briefs in numerous constitutional law cases before the U.S. Supreme Court (which has cited his work) and the federal courts of appeal.

Christopher was called to the Bar in England and Wales by the Honourable Society of the Middle Temple.

### AWARDS AND ACCOLADES:

**South Carolina Super Lawyers® Rising Stars** list  
2016–2018 Securities litigation

### ASSOCIATIONS:

**South Carolina Association for Justice**  
**American Bar Association**  
**South Carolina Bar Association**  
**Charleston County Bar Association**

### Meghan S. B. Oliver

LICENSED IN: DC, SC, VA

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the District of South Carolina

EDUCATION:

J.D., University of Virginia School of Law, 2004

B.A. with distinction, University of Virginia, 2000

Meghan Oliver's practice includes work on securities fraud cases, antitrust litigation, general commercial litigation, and consumer fraud litigation.

She is actively involved in two class actions against the U.S. pending in federal district court in D.C., one alleging that the IRS charged unauthorized user fees for the issuance and renewal of preparer tax identification numbers (*Steele v. United States*, Case No. 1:14-cv-1523-RCL), and one alleging that the Administrative Office of the U.S. Courts charges more for PACER services than is authorized by statute (*Nat'l Veterans Legal Services Program v. United States*, Case No. 16-745-ESH).

Meghan also spends her time on securities fraud class actions, including currently *In re Technology Group, Inc. Securities Litigation*, No. 15 Civ. 6369 (JFK), and in the past, cases involving Medtronic, Inc., Hospira, Inc. and several others.

She has also worked on several antitrust matters, including *In re North Sea Brent Crude Oil Futures Litigation*, *In re Libor-Based Financial Instruments Antitrust Litigation*, and generic drug cases involving "reverse payment" agreements.

Prior to joining Motley Rice, Meghan worked as a business litigation and antitrust associate in Washington, D.C. There, she assisted in the trial of a multidistrict litigation antitrust case and assisted in multiple corporate internal investigations. She is a member of Phi Beta Kappa.

### ASSOCIATIONS:

**American Bar Association**

### Kelly A. Quillin

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE: U.S. District Court for the District of South Carolina

EDUCATION:

J.D., The John Marshall Law School, 2014

B.S., Indiana University, 2010

Kelly Quillin seeks to hold businesses accountable and recover losses for individuals and institutional investors caused by corporate wrongdoing and misconduct.

Kelly is a member of the litigation teams representing investors as lead counsel in securities fraud class actions filed against Twitter, Inc. and Investment Technology Group, Inc. She has also assisted in the litigations filed against St. Jude Medical, Inc., LIBOR, and American Realty Capital.

Kelly oversees teams that conduct discovery and research in order to further complex securities litigation. Prior to joining the firm, she clerked for the Cook County State's Attorney's Office in Chicago, assisting with legal filings, court appearances and research in the Felony Trial Division.

In 2012, while completing her legal studies in Chicago, Kelly served as a judicial extern for U.S. District Judge Jon E. DeGuilio for the Northern District of Indiana, where she drafted proposed opinions, orders and memoranda. While completing her undergraduate studies, she interned for the Southern District of Indiana Clerk's Office.

Kelly applies her legal knowledge to benefit the less fortunate by providing assistance and access to judicial services through the Charleston Pro Bono organization.

### ASSOCIATIONS:

**American Bar Association**  
**South Carolina Bar Association**  
**Charleston County Bar Association**  
**American Association for Justice**



**Ann K. Ritter**  
**Senior Counsel and Securities Case**  
**Coordination Manager**

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Third and Eleventh Circuits

EDUCATION:

J.D., University of Tennessee, 1982

B.S., Florida State University, 1980

As Senior Counsel for Motley Rice, Ann Ritter plays a key role on Motley Rice's securities team, which represents domestic and foreign institutional investors in complex cases involving shareholder rights, corporate governance, securities and consumer fraud. She possesses more than 25 years of experience in complex litigation involving matters as varied as securities, products liability and consumer protection.

Ann serves as a frequent speaker on legal topics such as worker safety, shareholder rights and corporate governance. In 2007, she addressed leading German institutional investors as a keynote speaker on the impact of U.S. class actions at the Deutsche Schutzvereinigung für Wertpapierbesitz e. V. Practical Workshop for institutional investors in Frankfurt, Germany.

After earning a Bachelor of Science degree from Florida State University, Ann pursued a law degree from the University of Tennessee. She is the co-author of *Asbestos in Schools*, published by the National School Boards Association. Ann previously served on the Advisory Committee for the Tobacco Deposition and Trial Testimony Archives (DATTA) Project and currently serves on the Executive Committee of the Board of the South Carolina Special Olympics, the Advisory Board of the Medical University of South Carolina Hollings Cancer Center and the Advisory Board of The University of Mississippi School of Law. She is recognized as a BV<sup>®</sup> rated attorney by Martindale-Hubbell<sup>®</sup>.

**ASSOCIATIONS:**

**South Carolina Association for Justice**

**Lisa M. Saltzburg**

LICENSED IN: SC, CO

ADMITTED TO PRACTICE BEFORE:

U.S. Court of Appeals for the Fourth, Fifth and Eleventh Circuits

U.S. District Court for the District of South Carolina

EDUCATION:

J.D., Stanford Law School, 2006

B.A. with high distinction, University of California, Berkeley, 2003

Lisa Saltzburg represents individuals, government entities and institutional clients in complex securities and consumer fraud actions, public client litigation, and a variety of other consumer and commercial matters. Lisa is an integral part of Motley Rice's team of attorneys that represents dozens of states, cities, towns, counties and townships in the National Prescription Opiate Multidistrict Litigation against opioid manufacturers and distributors for alleged deceptive marketing and other business practices that contributed to the opioid crisis.

She is part of the BP Oil Spill litigation team, and helped people and businesses in Gulf Coast communities file claims through the new claims programs established by the two settlements reached with BP. Lisa also serves on the trial team for the Florida *Engle* tobacco litigation.

Prior to joining Motley Rice, Lisa was an associate attorney for a nonprofit advocacy organization, where she worked through law and policy to protect the environmental interests of the Southeast. She drafted briefs and other filings in South Carolina's federal and state courts and worked with administrative agencies to prepare for hearings and mediation sessions. Lisa also served for two years as a judicial clerk for the Honorable Karen J. Williams of the U.S. Court of Appeals for the Fourth Circuit, where she developed valuable legal research and writing skills and gained experience involving a wide range of issues arising in civil and criminal cases.

Lisa held multiple positions in environmental organizations during law school, handling a broad array of constitutional, jurisdictional and environmental issues. She also served as an editor of the *Stanford Law Review* and as an executive editor of the *Stanford Environmental Law Journal*. A member of numerous organizations and societies, including the Stanford Environmental Law Society, Lisa attended the National Institute for Trial Advocacy's week-long Trial Advocacy College at the University of Virginia.

**AWARDS AND ACCOLADES:**

**South Carolina Super Lawyers<sup>®</sup> Rising Stars** list

**2016** Securities litigation, Class action/mass torts, Personal injury-products: plaintiff

**Meredith B. Weatherby**

LICENSED IN: SC, TX

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the Northern, Southern, Eastern and Western Districts of Texas

EDUCATION:

J.D., University of Texas School of Law, 2011

B.A., with distinction, University of North Carolina, Chapel Hill, 2008

Meredith Weatherby develops and litigates securities fraud class actions and shareholder derivative suits on behalf of institutional investors.

Meredith represents unions, public pensions and institutional investors in federal courts throughout the country. Her casework includes representing clients in a number of cases related to high frequency trading (HFT), including the groundbreaking securities fraud litigation against NASDAQ and the New York Stock Exchange that was recently revived upon appeal to the U.S. Court of Appeals for the Second Circuit. She is also involved in the securities class action against Twitter Inc. Previously, Meredith was a member of the teams representing investors in securities fraud class actions filed against Advanced Micro Devices, Barrick Gold and SAC Capital, among others.

Meredith also has experience litigating medical malpractice and negligence suits in state court.

## TEAM BIOS:

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Prior to joining Motley Rice, Meredith gained trial and settlement experience as an associate at a Dallas, Texas, law firm working in business and construction litigation. While attending the University of Texas School of Law, she clerked for an Austin firm, represented victims in court as a student attorney in the UT Law Domestic Violence Clinic and was a Staff Editor of the *Review of Litigation* journal. During her undergraduate and law school career, Meredith studied abroad in Paris, France, Geneva, Switzerland and Puebla, Mexico.

### **ASSOCIATIONS:**

**Charleston County Bar Association**

### ***Erin Casey Williams***

LICENSED IN: SC

ADMITTED TO PRACTICE BEFORE:

U.S. District Court for the Eastern District of Michigan, and District of South Carolina

EDUCATION:

J.D., University of Illinois College of Law, 2014

B.S. with honors, University of Illinois at Urbana-Champaign, 2011

Erin Casey Williams protects the interests of institutional investors and consumers through complex securities litigation.

Erin is a member of Motley Rice's litigation teams representing investors in securities fraud class action cases. She supports the firm's efforts in matters involving Qualcomm Incorporated and Investment Technology Group, Inc.

Erin assisted in the development of deposition strategies and completed discovery with the Motley Rice securities team before joining the firm in 2017. Her previous experience includes litigating claims involving medical malpractice, wrongful death, personal injury and complex family law matters at a Charleston, S.C., law firm. She also researched and drafted memoranda regarding construction defects, insurance defense, and tort liability for a national litigation support agency.

While pursuing her law degree, Erin interned for the Federal Defender Program in Chicago in addition to working as a judicial extern for the Honorable Michael T. Mason of the U.S. District Court for the Northern District of Illinois. She served as an associate editor of the *University of Illinois Law Review* and the Community Service Chair of the Women's Law Society.

### **ASSOCIATIONS:**

**American Bar Association**

**South Carolina Bar Association**

**South Carolina Association for Justice**

**South Carolina Women Lawyers Association**

**Charleston County Bar Association**



## SECURITIES LITIGATION PROFESSIONAL STAFF

### **Ellie Kimmel**

#### EDUCATION:

B.A., University of South Florida, 1993

Business Analyst Ellie Kimmel began working with Motley Rice attorneys in 2000. Prior to her work with the securities litigation team, she was a founding member of the firm's Central Research Unit and also supervised the firm's file management. She currently completes securities research and client portfolio analysis for the firm's securities cases.

Ellie has a diverse background that includes experience in education as well as the banking industry. She began her career in banking operations, where she served as an operations manager and business analyst in corporate banking support for 14 years. She then spent seven years teaching high school economics, Latin and history before joining Motley Rice.

### **Evelyn Richards**

#### EDUCATION:

A.S. *cum laude*, Computer Technology, Trident Technical College, 1995

J.D., University of South Carolina School of Law, 1989

B.A., English Literature and Religion, University of Virginia, 1986

Evelyn Richards joined Motley Rice in 2007. As a law clerk for the Securities and Consumer Fraud practice group, she plays a key role in supporting the securities litigation team through editing, cite-checking and Shepardizing complaints, briefs, and other legal documents. She also trains support staff on how to use The Bluebook.

Evelyn has over 25 years of experience in the legal field. As an Assistant Solicitor for the Ninth Circuit Solicitor's Office, she prosecuted child abuse and neglect and criminal cases. She also worked as a programmer/analyst for a few years. Prior to joining Motley Rice, Evelyn worked as an administrator for a large telecom, corporate and litigation firm, supervising all office operations, including human resources and accounting procedures. She also served as office manager for a small worker's compensation law office, where she managed trust and operating accounts and provided information technology support.

Evelyn's diverse background in information technology, management, programming and analysis adds great depth to the resources provided to Motley Rice clients.

### **Tanner Riley**

#### EDUCATION:

B.A., Marshall University, 2015

Tanner Riley furthers securities claims by conducting research and analyzing client portfolios. Prior to joining Motley Rice in 2018, Tanner worked for several years as an investor reporter for a bank where he managed thousands of customer escrow, mortgage and custodial accounts. He holds a Bachelor's degree in Business Administration.

### **Joshua Welch**

#### EDUCATION:

M.B.A., The Citadel, 2017

B.S. with honors, The College of Charleston, 2015

As a Financial Analyst with the securities litigation team, Joshua Welch is responsible for monitoring client portfolios, analyzing investor losses, and conducting research on companies facing allegations of securities fraud. He also assists in submitting claims for securities class action settlements.

Joshua holds a Master of Business Administration degree from The Citadel, where he worked as a graduate assistant. As an undergraduate, he double-majored in Accounting and Business Administration.

### **Bruno Rosenbaum**

#### EDUCATION:

M.B.A., Assas Paris II, 2014

Master II, Assas Paris II, 2014

Master I, Sorbonne Paris I, 2010

Bruno Rosenbaum consults on complex securities fraud class actions, merger and acquisition cases and shareholder derivative suits on behalf of domestic and foreign institutional investors.

As Director of European Investor Relations for Motley Rice, Bruno assists the firm, clients and co-counsel in matters relating to international financial regulations and securities law to enhance corporate governance and protect shareholders against misconduct and fraud.

Prior to joining Motley Rice, Bruno was associated with international law firms in Paris and Luxembourg, where he practiced in the areas of mergers and acquisitions and private equity.

Bruno is licensed in New York as a Legal Consultant, admitted to the practice of law in Paris as Avocat à la Cour, and in Luxembourg as Avocat au Barreau (*Liste IV*). His post-graduate studies concentrated in business and corporate law.

Bruno is fluent in English, French and Portuguese and conversant in German/Luxembourgish, Spanish and Italian.



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

1 800.768.4026

28 BRIDGESIDE BLVD.  
MT. PLEASANT, SC 29464

**SC | RI | CT | NY | WV | DC | LA | MO**

William H. Narwold (CT, DC, NY, SC) is the attorney responsible for this communication. Prior results do not guarantee a similar outcome. PD: 11.12.2018



[www.motleyrice.com](http://www.motleyrice.com)  
1 800.768.4026

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**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**MOTLEY RICE LLC**  
**TIME REPORT**  
**From Inception Through December 31, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Senior Counsel and Associates</b>			
Ritter, Ann	18.00	\$950.00	\$17,100.00
Abel, David	33.75	\$525.00	\$17,718.75
Moriarty, Christopher	216.70	\$600.00	\$130,020.00
<b>Co-Counsel</b>			
Sturman, Deborah	24.50	\$950.00	\$23,275.00
<b>Director, European Investor Relations</b>			
Rosenbaum, Bruno	24.25	\$500.00	\$12,125.00
<b>Paralegals</b>			
Ashby, Lisa	10.00	\$270.00	\$2,700.00
Blackiston, Victoria	24.75	\$350.00	\$8,662.50
McLaughlin, Lora	14.25	\$375.00	\$5,343.75
Weil, Katherine	47.00	\$350.00	\$16,450.00
Wilson, Arden	16.75	\$275.00	\$4,606.25
<b>TOTALS</b>	<b>429.95</b>		<b>\$238,001.25</b>

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**MOTLEY RICE LLC**  
**EXPENSE REPORT**  
**From Inception Through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Court Fees	\$128.00
Online Legal Research*	\$151.10
Online Factual Research*	\$67.53
Telephone/Faxes	\$11.47
Postage & Express Mail	\$10.13
Out-of-Town Travel**	\$11,862.88
Local Transportation	\$48.94
Court Reporters and Transcripts	\$5,122.98
Experts & Consultants	\$1,260.00
<b>TOTAL EXPENSES:</b>	<b>\$18,663.03</b>

\* The charges reflected for online research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

\*\* This includes only coach fares and includes hotels in the following high-cost cities capped at \$350 per night: New York, NY; Boston, MA; and Frankfurt, Germany.

# EXHIBIT 4E



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF ROBERT D. KLAUSNER  
IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF LITIGATION EXPENSES, FILED ON BEHALF  
OF KLAUSNER, KAUFMAN, JENSEN & LEVINSON**

I, Robert D. Klausner, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm of Klausner, Kaufman, Jensen & Levinson. I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the above-captioned class action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm was counsel for Plaintiff and Class Representative St. Lucie County Fire District Firefighters' Pension Fund in this Action. We worked closely with Bernstein Litowitz Berger & Grossmann LLP ("Bernstein Litowitz") in providing client communications, reviewing and editing pleadings, and coordinating with the client throughout the discovery process.

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in the litigation, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in

preparing the application for fees and expenses has not been included in this report, and time for timekeepers who had worked only a *de minimus* amount of total time on this case (*e.g.*, less than 10 hours) was also removed from the time report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 94.30 hours. The total resulting lodestar for my firm is \$64,910.00. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's present billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications nationwide. For example, see *Lloyd v. CVB Financial*, 10-cv-06256-CAS (C.D. Cal); *In re Rayonier Securities litigation*, Case No. 3:14-cv-1395-TJC-JBT (M.D. Fla); *In re NII Holdings, Inc. Securities Litigation*, 1:14-cv-227-LMB-JFA (E.D. Va.).

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this case is set forth below:

**Robert D. Klausner** (31.70 hours): Mr. Klausner, the Firm's founding partner, was actively involved with Bernstein Litowitz in strategy, document review, and document editing. He also participated in decisions on case management. He developed negotiation strategies in advance of the mediation and settlement process.

**Bonni S. Jensen** (30.40 hours): Ms. Jensen, one of the Firm's partners, was primarily responsible throughout the Action for communication with the Plaintiff St. Lucie County Fire District Firefighters' Pension Fund, coordination with the staff of the Pension Fund as

well as their investment managers. She reviewed the main pleadings, followed the course of the discovery on behalf of the Pension Fund, including coordinating the Fund's participation in discovery

**Stuart A. Kaufman** (26.70 hours): Mr. Kaufman, one of the Firm's partners, was primarily responsible for preparing and attending the Fund's representative for deposition.

**Paul Daragjati** (5.5 hours): Mr. Daragjati, one of the Firm's associates at the time of this case, was responsible for preparing and attending the Fund representative's deposition.

7. My firm has incurred a total of \$26.44 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: December 21, 2018.

  
**ROBERT D. KLAUSNER**



## EXHIBIT 1

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

### **KLAUSNER, KAUFMAN, JENSEN & LEVINSON FIRM BIOGRAPHY**

The law firm of **Klausner, Kaufman, Jensen & Levinson** specializes exclusively in the representation of retirement and benefit systems and related labor and employment relations matters. The firm is composed of 7 lawyers in South Florida and Robert E. Tarzca, Of Counsel (New Orleans). In addition we have four clerical/paraprofessional employees, an administrator, and a deputy administrator/conference director.

As a result of our substantial involvement on a national level in public employee retirement matters, we have developed a unique level of knowledge and experience. By concentrating our practice in the area of public employee retirement and related employment issues, we are able to keep a focus on changing trends in the law that more general practitioners would consider a luxury.

The law firm of Klausner, Kaufman, Jensen & Levinson, among the most highly regarded in the country in the area of pension issues, is frequently called upon as an educational and fiduciary consultant by state and local governments throughout the United States on some of the newest and most sophisticated issues involving public retirement systems. The examples of those areas are:

#### **Plan Design**

The firm provides services to dozens of public employee pension plans throughout the United States in the area of plan review, design, and legislative drafting. On both the state and local levels, statutes and ordinances are reviewed for the purposes of maintaining compliance with current and pending Internal Revenue Code Regulations affecting public plans, as well as compliance with provisions of the Americans With Disabilities Act, the Older Workers Protections Act, Veterans' re-employment laws, and the Pension Protection Act. When benefit changes occur, we prepare all necessary legislative drafts and appear before the appropriate legislative body to answer questions concerning those drafts. We also offer creative solutions to plan design issues brought about by unexpected economic pressures and balancing those solutions against constitutional or statutory benefit guarantees.

#### **Fiduciary Education**

The primary duty of a pension fund lawyer is to ensure that the trustees do the right thing. It is our practice to design and present a variety of educational materials and programs which explain the general principles of fiduciary responsibility, as well as more specific principles regarding voting conflicts, compliance with open meeting laws, conflict of interest laws, etc. We regularly

apprise the boards of trustees and administrators through newsletters, memoranda and updates on our website of changes in the law, both legislatively and judicially, which impact upon their duties. We also conduct training workshops to improve the trustees' skills in conducting disability and other benefit hearings. As a result of our regular participation and educational programs on a monthly basis, all of the materials prepared as speaker materials for those programs are distributed without additional charge to our clients. Our firm provides its clients, as part of the fees charged for legal and consulting services, an annual pension conference in South Florida. This national event draws internationally-known legal and financial experts and has been attended by more than 3500 trustees and administrators from throughout the United States. Only clients of the firm are permitted to attend and fees paid include attendance at the conference.

### **Plan Policies, Rules, and Procedures**

It has been our experience that boards of trustees find themselves in costly and unnecessary litigation because of inconsistency in the administration of the fund. Accordingly, we have worked with our trustee clients in developing policies, rules, and procedures for the administration of the trust fund. The development of these rules ensures uniformity of plan practices and guarantees the due process rights of persons appearing before the board. They also serve to help organize and highlight those situations in which the legislation creating the fund may be in need of revision. By utilizing rule making powers, the board of trustees can help give definition and more practical application to sometimes vague legislative language.

### **Legal Counseling**

In the course of its duties, the board of trustees and administrators will be called upon from time to time to interpret various provisions of the ordinance or statute which governs its conduct. The plan will also be presented with various factual situations which do not lend themselves to easy interpretation. As a result, counsel to the plan is responsible for issuing legal opinions to assist the trustees and staff in performing their function in managing the trust. It is our practice to maintain an orderly system of the issuance of legal opinions so that they can form part of the overall body of law that guides the retirement plan. As changes in the law occur, it is our practice to update those legal opinions to ensure that the subjects which they cover are in conformance with the current state of the law.

### **Summary Plan Descriptions**

Many state laws require that pension plans provide their members with a plain language explanation of their benefits and rights under the plan. Given the complexity of most pension laws, it is also good benefits administration practice. Part of the responsibilities of a fiduciary is to ensure that plan members understand their rights and the benefits which they have earned. We frequently draft plain language summary plan descriptions using a format which is easily updatable as plan provisions change. We are also advising plans on liability issues associated with electronic communication between funds and members as part of our continuing effort at efficient risk management.



## Litigation

Despite the best efforts and intentions of the trustees and staff, there will be times when the plan finds itself as either a plaintiff or defendant in a legal action. We have successfully defended retirement plans in claims for benefits, actions regarding under-funding, constitutional questions, discrimination in plan design, and failure of plan fiduciaries to fulfill their responsibilities to the trust. The firm has substantial state and federal court trial experience, including the successful defense of a state retirement system in the Supreme Court of the United States. The firm also has a substantial role in monitoring securities litigation and regularly argues complex appellate matters on both the state and federal levels. We pride ourselves on the vigorous representation of our clients while maintaining close watch on the substantial costs that are often associated with litigation. We are often called upon to provide support in a variety of cases brought by others as expert witnesses or through appearance as an *amicus curiae* (Friend of the Court).

### **ROBERT D. KLAUSNER:**

Born Jacksonville, Florida, December 20, 1952; admitted to Bar 1977, Florida, 1977; U.S. District Court, Southern District of Florida, 1978; U.S. Court of Appeals, Fifth Circuit, 1981; U.S. Court of Appeals, Eleventh Circuit, 1997; U.S. Court of Claims, 1998; U.S. Court of Appeals, Eighth Circuit, 2000; U.S. Supreme Court, 2000; U.S. Court of Appeals, Sixth Circuit, 2004; U.S. District Court, Middle District of Florida, 2005; U.S. Court of Appeals, Second Circuit, 2011; U.S. District Court, Northern District of Texas, 2011; U.S. Court of Appeals, Fourth Circuit, 2013.

Education: University of Florida (B.A. with honors, 1974); University of Florida College of Law (J.D., 1977). Adjunct professor, Nova University Law School (1987 - 2005); adjunct professor, New York Institute of Technology, School of Labor Relations (1999-2003); instructor, Florida State University Center for Professional Development and Public Service (1980 - present); instructor, International Foundation of Employee Benefit Plans (1986 - present); instructor, National Conference on Public Employee Retirement Systems (1987 - present); instructor, Public Safety Officers Benefits Conference (1988 - present); instructor, Labor Relations Information Systems (1990 - present); instructor, National Education Association Benefit Conferences (1989 - present); instructor, Florida Division of Retirement Pension Trustees School (1980 - present);

Member: The Florida Bar; American Bar Association; Phi Beta Kappa; Phi Kappa Phi.

Publication: Co-Author, State and Local Government Employment Liability, West Publishing Co.

Author, State and Local Government Retirement Law: A Guide for Lawyers, Trustees, and Plan Administrators, West Publishing Co.



**STUART A. KAUFMAN:**

Born Queens, New York, March 21, 1965; admitted to Bar 1990; The New York Bar 1990; The Florida Bar 1993; United States District Court, Southern District of Florida 1993; United States Court of Appeals, Eleventh Circuit, 1998.

Education: State University of New York at Binghamton (B.A. 1986); University of Miami School of Law (J.D. 1989).

Member: The Association of the Bar of the City of New York; The Association of the Bar of the State of New York; The Florida Bar; American Bar Association.

**BONNI SPATARA JENSEN:**

Born Sewickley, Pennsylvania, March 16, 1962; admitted to the Florida Bar in 1990; United States District Court, Southern District of Florida 1991; United States Court of Appeals, Eleventh Circuit, 1995; United States Supreme Court, 1997.

Education: Stetson University (B.A. 1984); Nova University, School of Law (J.D. 1990 with high honors); Nova University Law Review.

Member: The Florida Bar; American Bar Association; Associate Member, Florida Public Pension Trustees Association; Member, National Association of Public Pension Attorneys.

Personal: Named in the 2005, 2006, 2007, 2008, 2009 and 2010 issues of the South Florida Legal Guide as Top Pension Attorney.

**PAUL A. DARAGJATI:**

Born Staten Island, NY, April 12, 1971; Admitted to the Florida Bar in 2004; United States District Court, Middle District of Florida, 2007; United States District Court, Southern District of Florida, 2012; United States Court of Appeals for the Eleventh Circuit, 2008; United States Supreme Court, 2009.

Education: University of North Florida (B.A. 1993); Florida State University School of Law (J.D. 2003).

Member: Professional: The Florida Bar, The Jacksonville Bar Association, Florida Bar's Fourth Circuit Grievance Committee "A" (Member: 2009 – 2013; Chairman: 2012 – 2013).

Personal: Board member, Jacksonville Youth Sanctuary, member, Knights of Columbus, National Rifle Association; Fraternal Order of Police, Jacksonville Consolidated Lodge 5-30.

**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**KLAUSNER, KAUFMAN, JENSEN & LEVINSON**  
**TIME REPORT**  
**From Inception Through December 31, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Robert D. Klausner	31.7	\$700.00	\$22,190.00
Stuart A. Kaufman	26.7	\$700.00	\$18,690.00
Bonni S. Jensen	30.40	\$700.00	\$21,280.00
<b>Associate</b>			
Paul Daragjati	5.5	\$500.00	\$2,750.00
<b>TOTAL LODESTAR</b>	<b>94.3</b>		<b>\$64,910.00</b>

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**KLAUSNER, KAUFMAN, JENSEN & LEVINSON**  
**EXPENSE REPORT**  
**From Inception Through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Postage & Express Mail	\$26.04
<b>TOTAL EXPENSES:</b>	<b>\$26.04</b>

# EXHIBIT 4F

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF FRANK B. BURNEY  
IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF LITIGATION EXPENSES, FILED ON BEHALF  
OF MARTIN & DROUGHT, P.C.**

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

1. I am a partner of the law firm of Martin & Drought, P.C. I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the above-captioned class action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm was one of the Plaintiffs' Counsel in this Action. Martin & Drought, P.C. represents Fire and Police Health Care Fund, San Antonio as local counsel ("Fund").

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in the litigation, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report, and time for

timekeepers who had worked only a *de minimus* amount of total time on this case (*e.g.*, less than 10 hours) was also removed from the time report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 271.85. The total resulting lodestar for my firm is \$132,109.00. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's present billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications within this Circuit and nationwide.

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this case is set forth below:

**Frank B. Burney** (167.10 hours): Mr. Burney, one of the Firm's partners, was actively involved in filing, strategy and oversight of litigation. He also participated in decisions on case management. He developed negotiation strategies in advance of the mediation, and actively participated in the mediations and settlement process. He participated in all discovery and depositions of the Fund.

**Gerald T. Drought** (94.40 hours): Mr. Drought, one of the Firm's partners, was primarily responsible throughout the Action for supervising the day-to-day handling and strategy of the litigation and oversaw all aspects of case management and prosecution as local counsel. Mr. Drought was involved in reviewing the Consolidated Class Action Complaint and the Amended Consolidated Class Action Complaint, all pleadings, and all briefing related to Defendants' motions to dismiss. Mr. Drought also oversaw both affirmative discovery of Defendants and third parties.



**Matt B. Bishop** (1.25 hours): Mr. Bishop, one of the Firm's partners, was primarily responsible for case analysis, strategy throughout the litigation and drafting pleadings. Among other aspects, he was involved in developing strategies for prosecuting the case and also for settlement negotiations.

**Rebecca Majors** (9.10 hours): Ms. Majors, one of the Firm's paralegals, was responsible for legal research of the Consolidated Class Action Complaint.

7. My firm has incurred a total of \$409.95 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by "caps" based on the application of the following criteria:

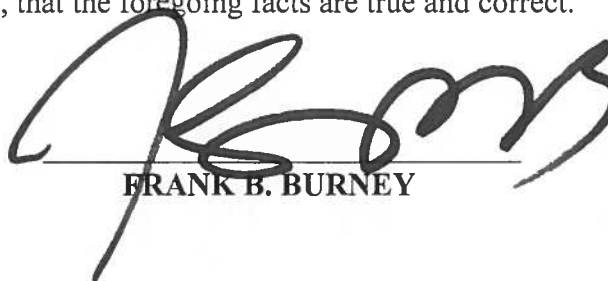
- a. On-Line Research - Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: January 8<sup>th</sup>, 2019

  
FRANK B. BURNEY

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**MARTIN & DROUGHT, P.C.**  
**FIRM BIOGRAPHY**

# MARTIN & DROUGHT, P.C.

ATTORNEYS AT LAW

*with offices in*

SAN ANTONIO, TEXAS

AND

MCALLEN, TEXAS

*and Independent Affiliates in*  
MEXICO, D.F. AND MONTERREY, MEXICO

2019

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(210) 227-7924 FAX

Martin & Drought, P.C.'s lawyers have been providing high-quality legal services to individuals and businesses for more than forty years. Our clients are served through offices in Texas, located in San Antonio and McAllen, and in the Republic of Mexico, through the firm's presence in Mexico City, Monterrey, and Reynosa, Mexico. Unlike many firms, which have corresponding foreign law firms, Martin & Drought, P.C. employs attorneys licensed in Mexico who are residents in its Texas offices.

This strategic geographic placement of the firm's resources allows the firm's practice to encompass the full range of commercial and legal issues facing individuals and business organizations in today's global economy. Although the firm is not rigidly departmentalized, many of the firm's lawyers have earned reputations for quality representation in specific areas of the law, including the following: international commercial litigation, commercial litigation; products liability litigation; personal injury litigation; general civil litigation; oil and gas litigation; life insurance product class action litigation; international trade finance and banking; maquiladora plant formation and Mexico business representation; labor matters in the United States and Mexico; real estate; land planning; pension funds; governmental affairs, and bankruptcy.

The firm enjoys preeminent status at the frontier of current international commercial, legal and political issues. Indeed, the firm's lawyers are frequently called upon by state, federal and foreign governmental officials seeking advice and counsel in the process of globalizing our hemispheric economy.

Martin & Drought, P.C. prides itself on responding to its clients' needs and on its ability to conceptualize and execute creative solutions to the issues facing its clients. Our clients include

many national and international corporations, financial institutions and real estate companies, consumer groups, charitable organizations and individuals throughout this hemisphere.

### INTERNATIONAL SECTION

Comprised of highly skilled and dedicated, bilingual and bicultural international attorneys from both Mexico and the United States who understand and appreciate the intricacies of doing business in both countries, the firm's international section is uniquely qualified to represent companies with operations in both the United States and Mexico. The international section of Martin & Drought, P.C. is well known for specializing and being pioneers in the establishment of production ("maquiladora") operations in Mexico, and our attorneys have decades of experience in this unique area of practice. The firm represents, has established production operations and has structured transactions in Mexico for such entities and multinational corporations as AT&T, Ametek, Bissell, General Electric, Matsushita (Panasonic), Emerson Electric, Bombardier, Fujitsu, Olson Metal Products, PaTx, Staktek, Hoffman, Johnson Controls, Pentair, R.R. Donnelley & Sons, Siemens, TI Group, LG Electronics, Invensys and many others. More recently, the firm has expanded its real estate practice in Mexico representing industrial and commercial developers, including U.S. REIT's with operations in Mexico, as well as developers in tourist destinations from Cabo San Lucas to the Mayan Riviera.

Moreover, our attorneys are versed in all manners of international business and corporate transactions, including the structuring of foreign investments, corporate formation and governance, mergers and acquisitions, joint ventures, international banking transactions, foreign real estate transactions, international trade and customs matters, environmental, regulatory and administrative issues, taxation and intellectual property matters.

Martin & Drought, P.C. maintains an excellent reputation for providing legal services to Mexican, Latin American, European and Asian clients with business interests in the United States. The firm represents such clients in joint ventures with United States companies, in international



trade matters, corporate formation and governance, real estate transactions, estate planning, regulatory and administrative affairs, and immigration, and has over the years developed a solid reputation for representing foreign individuals and companies in litigation in United States courts.

Martin & Drought, P.C. maintains permanent offices in San Antonio, McAllen and has an affiliated office in Mexico City, and has affiliated Mexican offices in Reynosa and Monterrey, and relies on a vital network of professional and governmental contacts in such diverse areas of Mexico as Guadalajara, Queretaro, Matamoros, Ciudad Juarez, Torreon, Hermosillo, Ciudad Victoria, Merida and Saltillo. Martin & Drought, P.C. has positioned itself to provide the full services of a Mexican law firm while affording its clients the comfort and security of working with a United States law firm. The result has been a reputation for skill and professionalism that recognizes no border.

## LITIGATION SECTION

The litigation section of Martin & Drought, P.C. provides a full range of litigation services in United States courts, as well as in Mexico. Martin & Drought, P.C.' litigation attorneys represent a wide variety of businesses and individuals in these areas, including domestic and international commercial litigation, consumer class action litigation, oil and gas litigation, employment litigation, and products liability and personal injury litigation. Furthermore, the firm directly provides labor litigation representation in the courts and labor tribunals of Mexico, and is able to assist its clients with other types of litigation in Mexico through its various affiliations with Mexican counsel.

In terms of litigation in the United States, the firm's attorneys are experienced in a wide variety of areas of litigation and other forms of dispute resolution, including mediation and arbitration. Business clients are served by the firm in most areas of commercial litigation, including disputes involving contracts, partnerships, investments, trade secrets, employment, oil and gas, real estate, debtor/creditor, personal injury defense and deceptive trade litigation. In the area of bankruptcy law, Martin & Drought, P.C. has for many years had an established practice in representation of entities of all types, including creditors, debtors, trustees and creditor committees. The firm represents a wide variety of United States and Mexican citizens in both their personal and business litigation needs, including class action litigation involving insurance products, personal injury, legal and medical malpractice, contract, real estate, probate, and foreign investment litigation and arbitration.

The firm has one of the most sophisticated insurance product litigation practices in the United States. Representing both individuals and classes from the United States, Mexico and other countries, Martin & Drought, P.C. has been at the forefront of representing defrauded investors

who purchased all types of insurance products, including life insurance, annuities and other types of insurance. The firm has been especially active in representing educators who are victims to the numerous investment frauds in the 403(b) market.

In the area of international litigation, the firm has developed a solid reputation for representing businesses and individuals from various parts of the world in litigation in United States and Mexico. The firm has experience in representing U.S. and Mexican importers and exporters in litigation against multinational corporations; representing U.S. and Mexican importers in international letter of credit litigation against foreign exporters and banks; representing foreign investors in international securities fraud litigation against foreign banks, Big 5 accounting firms and other aiders and abettors; and representing Mexico-based maquiladoras in litigation in United States courts. Furthermore, Martin & Drought, P.C. provides litigation services to its clients involved in labor disputes in Mexico, and is also able to provide general litigation services in Mexico through its network of affiliated attorneys in Mexico. The firm is thus uniquely positioned to provide international litigation services to resolve disputes on both sides of the U.S.-Mexico border.

## TRANSACTIONAL SECTION

The Transactional Section of the firm represents small, medium and large businesses, as well as individuals and quasi-governmental entities, on a wide variety of matters which may be best described as contractual or transactional in nature. The partners in this section have over 80 years of combined experience in handling a diverse array of complex commercial matters involving, for example, asset acquisition and disposition, real estate development and construction, real estate mortgage loan transactions, asset-based commercial loans, formation and operation of business entities (such as corporations, partnerships and limited liability companies), real estate acquisitions, leases for shopping centers, office building and industrial properties, and product manufacturing, distribution and sales. In addition, our business attorneys deal on a regular basis with pension funds and a broad spectrum of regulatory issues such as environmental compliance, land use and zoning, and governmental permitting. Our clientele can confidently rely on the attorneys in our Transactional Section to assist them promptly and professionally with virtually any situation in which legal services in the nature of contract preparation and negotiation are required.

## PARTNERS:

**Gerald T. Drought**, admitted to Bar, 1972, Texas; also admitted to practice before the U.S. District Court for the Southern, Western and Northern Districts of Texas; U.S. Court of Appeals, Fifth Circuit; U.S. Supreme Court. Preparatory Education: University of Texas at Austin (B.B.A. in Finance, with honors, 1970). Legal Education: University of Houston (J.D., with honors, 1972; Order of the Barons/Delta Theta Phi). Member: San Antonio Bar Association, State Bar of Texas (Special Counsel, Commission for Lawyer Discipline, 1994), San Antonio Trial Lawyers Association, Texas Association of Bank Counsel, Association of Attorney – Mediators, San Antonio Chapter, San Antonio Bar Association Fee Dispute Committee, Alamo Kiwanis Club (Director 1997-98), Million Dollar Advocates Forum. Fellow: San Antonio and Texas Bar Foundations, Aircraft Owners & Pilots Association (AOPA). President and Chairman of the Firm (Head of Firm's Litigation Section). Languages: Spanish Competent and English. Mediator: ADR Training - Attorney Mediators Institute, March 1996. Recognitions: Selected by peers as a Texas Super Lawyer "Best Attorneys in Texas" – Texas Monthly issues 2003 & 2004; Selected by peers as one of the best attorneys in San Antonio – 2004 issue of Scene In SA Magazine "San Antonio Best Attorneys." Practice Areas: Business and General Litigation. Board Certified, Civil Trial Law, Texas Board of Legal Specialization. **E-Mail:** [gdrought@mdtlaw.com](mailto:gdrought@mdtlaw.com)

**S. Carl Friedsam**, admitted to Bar, 1979, Texas. Preparatory Education: North Texas State University (B.B.A., magna cum laude, 1976). Legal Education: Texas Tech University (J.D., with honors, 1979). Member: Texas Association of Bank Counsel, San Antonio Bar Association, State Bar of Texas and American Judicature Society. Boards and Activities: Goodwill Industries of San Antonio (Legal Advisor); Family Services (Chairman of the Board, 2005-2006, Board Member) and San Antonio Art Institute (Board Member). Practice Areas: Real Estate; Business Law; Commercial Law. **E-Mail:** [scfriedsam@mdtlaw.com](mailto:scfriedsam@mdtlaw.com)

**Frank B. Burney**, admitted to Bar, 1979, Texas; also admitted to practice before the U.S. Court of Appeals, Fifth Circuit; U.S. District Court for the Southern and Western Districts of Texas. Preparatory Education: Duke University (B.A., 1976). Legal Education: St. Mary's University of San Antonio (J.D., 1979). Briefing Attorney to Judge Horace S. Young for 13th Court of Civil Appeals (1979-80); Clerk, 13th Court of Civil Appeals (1981). Member: National Association of Public Pension Attorneys, San Antonio Bar Association (Director, 1987-88), State Bar of Texas, Texas Young Lawyers Association (Director, 1987-89), San Antonio Young Lawyers Association (Outstanding Young Lawyer, 1988; President, 1986-87); San Antonio Bar Foundation (Chair, 1997-98), Texas Association of Bank Counsel (Director, 1989-92), 100 Club (President, 2005). Frequent speaker on Financial Institutions and International Law issues. Boards and Activities: San Antonio Library Foundation (Trustee, 1997-2004), Rotary Club of San Antonio (President, 2002-03) Texas Lyceum (Chair, 1994), San Antonio Zoning Commission (Chair, 1991-93), Leadership San Antonio, South Texas Chamber of Commerce (Director), Hispanic Chamber of Commerce, Free Trade Alliance San Antonio (Chair of Mexico Group, 1993; Director, 1994-2000), Jalisco-Texas Bilateral Commission (Chair, 1991-93), Nature Conservatory (Chair, Advisory Board), Southwest School of Art and Craft (Chair, 1993-97), University of Texas Marine Science Institute (Director), University of Incarnate Word Development Board. Practice Areas: Financial Institutions; Land Planning; International Trade; Government Affairs; Real Estate; Pension Funds; General Corporate and Transactional Practice. Languages: Spanish and English. **E-Mail:** [fburney@mdtlaw.com](mailto:fburney@mdtlaw.com)

**Michael G. Colvard**, admitted to Bar, 1979, Texas; also admitted to practice before the Supreme Court of the United States, U.S. Court of Appeals, Fifth Circuit; U.S. District Court for the Southern, Northern and Western Districts of Texas; Texas Supreme Court. Preparatory Education: Southwest Texas State University (B.A., highest honors, 1976). Legal Education: St. Mary's University of San Antonio (J.D., 1979; Phi Alpha Delta). Law Clerk for Hon. Bert W. Thompson, Bankruptcy Court, Western District of Texas (1979-81). Member: San Antonio Bar Association, State Bar of Texas, San Antonio Bankruptcy Bar Association, American Bankruptcy Institute. U.S. Army, 1970-72. Practice areas: Collection/Bankruptcy Law; Creditor's Rights and Commercial Litigation; Business Law. Board Certified/Business Bankruptcy - American Board of Certification; Board Certified/Business and Consumer Bankruptcy - Texas Board of Legal Specialization. **E-Mail:** [mcolvard@mdtlaw.com](mailto:mcolvard@mdtlaw.com)

**Jon D. Lowe**, admitted to Bar, 1982, Texas. Preparatory and Legal Education: University of Texas (B.A., with honors, 1977; J.D., 1982; Phi Beta Kappa). Member: State Bar of Texas (Real Estate, Probate and Trust Law Section), San Antonio Bar Association (Real Estate, Environmental and International Law Sections), Texas Association of Bank Counsel, University of Texas Law School Alumni Association. Fellow, San Antonio Bar Foundation. Practice Areas: Real Estate and Construction Law; Banking Law; Corporate and General Business Law; Commercial Transactions; Public Pension Plans. Board Certified/Commercial Real Estate Law, Texas Board of Legal Specialization. **E-Mail:** [jlowe@mdtlaw.com](mailto:jlowe@mdtlaw.com)

**Hector Coronado De Anda**, admitted in 1972, Mexico (not admitted in United States). Preparatory Education: Nuevo Leon State University (B.A., 1965); Education: Nuevo Leon State University, School of Law (J.D. 1972); New York University School of Law (Masters in Comparative Jurisprudence, 1973). Mr. Coronado is a bilingual Mexican attorney who, prior to joining Martin & Drought, P.C., headed the international legal section of Monterrey-based conglomerate, CEMEX. He has been in-house counsel to several Mexican industrial groups, including Saltillo Industrial Group (GIS), Protexa, Proeza, Conductores Monterrey Group (Industrias AXA), and Alfa Industrial Group. Practice areas: Foreign Investments; Corporate, Mergers, Acquisitions and Joint Ventures, Commercial, Banking and Finance, Administrative, Civil and Intellectual Property law. Language: Spanish and English; Resident: McAllen office. Practice Areas: Foreign Investment; Corporate Law; Commercial Law; Joint Ventures; Finance; Real Estate. **E-Mail:** [hcoronado@mdtlaw.com](mailto:hcoronado@mdtlaw.com)

**Jorge A. Garcia-Adame**, admitted in 1992, Mexico. Education: Instituto Tecnológico y de Estudios Superiores de Monterrey (J.D., with honors, 1991); Graduate studies include Mexican Legislation applied to Foreign Trade, The University of Texas School of Law (Master of Comparative Jurisprudence, 1993); Member: American Bar Association (International Section), San Antonio Bar Association (International Section), Texas-Mexico Bar Association. Fraternity: Phi Delta Phi, International Chapter. Speaker: Seminars on Mexican Business, Transactional Issues and NAFTA. Author of a number of articles on Mexican Law issues affecting International transactions, including the maquiladora industry. Frequent speaker at seminars and trade meetings about Mexican business and maquiladoras. Worked with clients setting up and restructuring over 30 maquiladoras throughout Mexico. Practice Areas: Corporate Law; International Business Transactions; Foreign Investments; Real Estate; Joint Ventures; Maquiladoras; NAFTA. Licensed only in Mexico. Languages: Spanish and English. **E-Mail:** [jgarcia@mdtlaw.com](mailto:jgarcia@mdtlaw.com)



**Vincent A. Notzon**, admitted to Bar, 1993, Texas; also admitted to practice before the U.S. Court of Appeals, Fifth Circuit; U.S. District Courts for the Northern, Southern and Western Districts of Texas. Preparatory Education: University of Texas at Austin (BBA/Finance 1989). Legal Education: The University of Texas School of Law (J.D., 1993). Member: State Bar of Texas, American Bar Association (Litigation Section), San Antonio Bar Association, Texas Young Lawyers Association, San Antonio Young Lawyers Association. Boards and Activities: Spyglass Hill Homeowners Association (Board of Directors 1994-present). Practice Areas: Civil Litigation; Insurance Products Litigation; Products Liability; Lender Liability; Complex Class Action Litigation. Languages: Spanish and English. **E-Mail:** [vnotzon@mdtlaw.com](mailto:vnotzon@mdtlaw.com)

**Matthew Carson Cottingham Miles**, admitted to Bar, 1997, Texas; also admitted to practice before the United States District Court, Northern District of Texas, 1999. Education: Texas Tech University School of Law (J.D., 1997); Washington and Lee University (B.A., 1994). Board Certified in Oil, Gas and Mineral Law, Texas Board of Legal Specialization, 2003. Commercial Real Estate Law, Texas Board of Legal Specialization, 2005. Member: State Bar of Texas, San Antonio Bar Association Natural Resources Section (Past-Chairman), San Antonio Young Lawyers Association, San Antonio Bar Foundation. Texas Monthly – Texas Rising Star, 2006. Author: *The Edwards Aquifer Water Crisis* 6 S.C. Env'tl L.J. 213 (1997); *A Statutory Lien with An Attitude*, Texas Real Estate, Probate and Trust Law Reporter (October 2004), Author/Speaker: *Vacancies*, Fall Advanced Oil, Gas & Energy Resources Law Course (2004). Co-Author, *So Your Client Thinks He Wants to Buy Only the Surface*. . . State Bar of Texas Oil, Gas and Energy Resources Law Section Report (December 2006). Practice Areas: Real Estate (including Land Use Planning and Natural Resources) and Corporate Law. **E-Mail:** [mcmiles@mdtlaw.com](mailto:mcmiles@mdtlaw.com)

**Mathis B. Bishop**, admitted to Bar 2004, Texas; also admitted to practice before the United States District Courts for the Eastern, Southern, and Western Districts of Texas; also admitted to practice in Federal Court, Eastern District of Wisconsin. College Education: University of Texas (B.A., 2000); Legal Education: University of Texas School of Law (J.D., 2004). Member: State Bar of Texas; San Antonio Bar Association (Member, Litigation Section); San Antonio Young Lawyers Association; Texas Young Lawyers Association. Practice Area: Litigation. **E-Mail:** [mbishop@mdtlaw.com](mailto:mbishop@mdtlaw.com)

#### **RETIRED SHAREHOLDER**

**James N. Martin**, admitted to Bar, 1963, Texas; also admitted to practice before the U.S. Supreme Court and U.S. Court of Military Appeals. Preparatory Education: Texas A & M University (B.A., 1954). Legal Education: The University of Texas School of Law (J.D., 1963). Member: San Antonio Bar Association (President, 1981-82), State Bar of Texas, Texas Bar Foundation (Life Fellow), San Antonio Bar Foundation, Present Director of San Antonio Warm Springs Rehabilitation Hospital. Warm Springs Foundation, Former Director of Harry Jersig Center for Learning Disabilities, San Antonio Easter Seals Foundation, Texas Advisory Commission on Intergovernmental Relations, University of Texas Law, Dean's Round Table. Cmdr., U.S. Navy, 1954-59 and 1961-62. Practice Areas: Real Estate; Business Law.

**ASSOCIATES**  
**(In Alphabetical Order):**

**Paul J. Benavides**, admitted to Bar 2014, Texas. Preparatory Education: McCoy College of Business, Texas State University (BBA, Finance 2011). Legal Education: St. Mary's University School of Law (J.D., 2014). While in law school, Mr. Benavides served as a judicial intern for the Honorable Chief Justice Nathan L. Hecht of the Supreme Court of Texas and for Honorable Rebecca Simmons of the Fourth Court of Appeals. Mr. Benavides advises clients on matters related to oil and gas, including leasing, acquisition, pipeline easements, seismic operations, and surface use, along with commercial real estate matters involving leasing, acquisition, and financing. Professional Achievements: Co-Author with M.C. Cottie Miles, Contracting for Clarity: Practical Solutions for Drafting Around the Current State of the Law Affecting Overriding Royalty Interest, 46 Tex. Tech. L. Rev. 1043 (2014). Practice Areas: Oil and Gas/Energy, Commercial Real Estate. Languages: English and Spanish. **E-Mail:** [pbenavides@mdtlaw.com](mailto:pbenavides@mdtlaw.com)

**Roxana De Leon Fuentes**, admitted in 1997, Mexico (not admitted in United States); Mrs. De Leon Fuentes represents and assists clients in all matters related to their operations and transactions in Mexico and Latin America. Her practice concentrates on representing foreign investors in Mexico. She has participated in the development and expansion of operations of US companies into Mexico through the Maquila Industry Program (IMMEX). Legal Education: Centro de Estudios Tecnologicos Industrial y de Servicios No. 52, Mexico City (Bachelors Degree in Accounting, 1990); Universidad Nacional Autonoma de Mexico (J.D. 1997); Member: Free Trade Alliance. Practice Areas: Corporate, Real Estate and Immigration in Mexico. Languages: Spanish and English **E-Mail:** [rfuentes@mdtlaw.com](mailto:rfuentes@mdtlaw.com)

**W. David White**, admitted to Bar 2014, Texas; Preparatory Education: Texas A&M University (B.S., 1994), Texas A&M University (M.S., 1998), Legal Education: St. Mary's University School of Law (J.D., 2014); Transactions in Commercial Real Estate, and Oil & Gas; Member of the State Bar of Texas; Real Estate, Probate & Trust Law Section; Oil, Gas & Energy Resources Law Section; San Antonio Bar Association. Languages: English **E-Mail:** [dwhite@mdtlaw.com](mailto:dwhite@mdtlaw.com)

## OF COUNSEL—MEXICAN ATTORNEYS

**Of Counsel Arturo Gonzalez Salazar**, Law Degree from the Universidad Regiomontana in Monterrey, Nuevo León, 1990. Diplomate in Labor Law, the Postgraduate Institute of the Centro de Estudios Universitarios. Continuing Education for Labor Officials offered by the State of Nuevo Leon, through the Local State Conciliation and Arbitration Boards. Participated in the XXVII Round Table on Labor Law given by COPARMEX (Management Confederation of Mexico). Represented Governor Socrates Rizzo of Nuevo Leon at the Worker Convention in order to designate Worker, Owner and Substitute Representatives for the Local State Conciliation and Arbitration Board. President of the Labor Law College of Attorneys 2003-2004. (1987) Worked in the First Civil Court of the First Judicial District in the State. (1988) Initiate term in the Local State Conciliation and Arbitration Board in Monterrey, N.L. in the position of Clerk and finally as Clerk Inspector and Executor. (1990) Appointed Secretary of the Office of Collective Affairs within the same Labor Court. (1991) Appointed Auxiliary to Conciliation and Arbitration Board No. 4. (1992) President of Local State Conciliation and Arbitration Board No. 1. (1992) President of Conciliation and Arbitration Board NO. 7. (1993-1995) Titular President of Conciliation and Arbitration Board No.5. From 1990 to 1994 professor of Law at the Centro de Estudios Universitarios in Monterrey, N.L. holding classes in Labor Law, History of Law and Civil Law. January 1996 to December 1997, professor at the Universidad del Atlántico, teaching Civil Law and General Procedural Theory. November 1995 to the Present, Partner in the law firm of González Salazar y Asociados, Abogados. From September 1999 to May 2001, Legal Director for the City of Reynosa, Tamaulipas. November 2010 to January 2013, Adjunct to the President of the Labor Conciliation and Arbitration Board in the State of Nuevo Leon. Licensed in Mexico Only.

**Of Counsel, Nelson U. Monzalvo Laguna**, Law Degree from National Autonomous University of Mexico, School of Law, 1979, with Honorific Mention. Mr. Monzalvo worked as in-house counsel for Banco Somex, 1979-89, Grupo Alfa 1980-83 and Industrias AXA, 1986-89. Chief of the Litigation Office of INFONAVIT, Chief Legal Counsel and Chief of Legislative Studies for INFONAVIT from 1984-86. General Legal Administrator of FONATUR 1989-90. Legal Director of the Corporate and Litigation sections for the Department of Tourism 1990-96. Vice President of legal affairs for Grupo Industrial Minera México, 1996. Co-author of the Federal Tourism Law and the Law Project on Casinos. Former academic adviser in the Law School of La Salle University. Member of the Mexican Bar Association. Assistant Professor of Mercantile Law II at the UNAM Law School, 1979. Professor of "Legal Regimen of Public Companies", at the Law School of the Universidad Panamericana 1985-86. Professor of Mercantile Law, Law School at the Universidad Panamericana, 1986 to the present. Postgraduate studies Professor in the areas of Economic and Corporate Law and Mercantile Law. Universidad Panamericana 1990 to the present. Practice Areas: Contracts; Bonding and Mercantile Law; Tourism Law and Investment; the Contractual System for Time Shares. Licensed in Mexico only. Resident: Mexico City Office.

**E-Mail:** [estraiure@infosel.net.mx](mailto:estraiure@infosel.net.mx)

**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**MARTIN & DROUGHT, P.C.**  
**TIME REPORT**  
**From Inception Through Dec. 31, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Gerald T. Drought	94.40	500.00	\$47,200.00
Frank B. Burney	167.10	500.00	83,550.00
Matt Bishop	1.25	250.00	312.50
<b>Case Managers and Paralegals</b>			
Rebecca Majors	9.10	115.00	1,046.50
<b>TOTAL LODESTAR</b>	<b>271.85</b>		<b>132,109.00</b>

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
No. 4:14-cv-3428 (NFA)

**MARTIN & DROUGHT, P.C.**  
**EXPENSE REPORT**  
**From Inception Through December 31, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Court Fees	\$400.00
On-Line Legal Research*	4.44
Telephone/Faxes	5.51
<b>TOTAL EXPENSES:</b>	<b>\$409.95</b>

# EXHIBIT 4G



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION**

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF MICHAEL S. ETKIN  
IN SUPPORT OF LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF LITIGATION EXPENSES, FILED ON BEHALF  
OF LOWENSTEIN SANDLER LLC**

I, Michael S. Etkin, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm of Lowenstein Sandler LLC ("Lowenstein"). I submit this declaration in support of Lead Counsel's application for an award of attorneys' fees in connection with services rendered with respect to the above-captioned class action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm served as bankruptcy counsel to the lead and named plaintiffs and the certified class in the pending securities class action in connection with the Chapter 11 proceeding of Cobalt International Energy, Inc. (the "Cobalt Chapter 11"). Lowenstein was involved in all aspects of the Cobalt Chapter 11 and its potential impact on the Action on behalf of the lead and named plaintiffs with primary emphasis on the following: Cobalt's attempt to enjoin the prosecution of the Action against all non-debtor defendants including the litigation and hearings that ensued; the negotiation of a resolution of that adversary proceeding; review and extensive negotiation of elements of Cobalt's disclosure statement and plan of reorganization with respect to the significant issues confronting the class; preparation and filing of necessary pleadings and

objections to the disclosure statement and plan; negotiations of term sheets with respect to potential settlements through the Cobalt Chapter 11; attendance at multiple Bankruptcy Court hearings in Houston involving the adversary proceeding and contested disclosure statement and plan confirmation hearings; and extensive communications with lead counsel, counsel for the creditors committee and counsel for the Debtors regarding the foregoing.

3. The information in this declaration regarding my firm's time, including in the schedule attached hereto as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am the partner who oversaw and conducted the day-to-day activities in connection with the Cobalt Chapter 11 and the Action, and I, together with attorneys working under my direction, reviewed my firm's daily time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient representation of the Class in, and resolution of the significant issues occasioned by, the Cobalt Chapter 11. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 440.50. The total resulting lodestar for my firm is \$401,444.50. The schedule attached hereto as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's present billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates of such personnel in his or her final year of employment by my firm.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other securities class action litigation fee applications where my firm served as bankruptcy counsel to lead plaintiff(s).

6. A Task Breakdown describing the principal tasks in which each attorney in my firm was involved in this case is set forth below:

**Michael S. Etkin (252.30 hours):** Mr. Etkin, one of the Firm's senior bankruptcy partners, was actively involved in strategy and oversight of the matters described in paragraph 2 above. He also participated in decisions on case management. He helped develop negotiation strategies and resolutions in connection with the issues raised by the Cobalt Chapter 11 and actively participated in the litigation and proceedings before the Bankruptcy Court.

**Lynda A. Bennett (2.20 hours):** Ms. Bennett, one of the Firm's partners and chair of the Lowenstein's Insurance Recovery Group, was involved in providing advice regarding D&O insurance related issues.

**Andrew Behlmann (160.70 hours):** Mr. Behlmann, one of the Firm's counsel in the Bankruptcy Department, was involved in most of the matters described in paragraph 2 above including drafting numerous pleadings.

**Eric Jesse (14.60 hours):** Mr. Jesse, one of the Firm's counsel in the Insurance Recovery Group, was responsible for providing advice with respect to D&O insurance related issues.

**Michael A. Barrese (3.60 hours):** Mr. Barrese, one of the Firm's litigation associates, was involved in certain litigation issues relating to the adversary proceeding discussed in paragraph 2 above.

**Nicole Fulfree (4.60 hours):** Ms. Fulfree, one of the Firm's bankruptcy associates, was responsible for drafting certain pleadings and research regarding issues in the Cobalt Chapter 11.

**Gabriel L. Olivera (2.50 hours):** Mr. Olivera, one of the Firm's bankruptcy associates, was responsible for certain legal research regarding issues in the Cobalt Chapter 11.

7. My firm has incurred a total of \$16,309.17 in unreimbursed expenses in connection with the prosecution of this Action, which are detailed in Exhibit 3.

8. The expenses reflected in Exhibit 3 are the expenses incurred by my firm, which are further limited by "caps" based on the application of the following criteria:

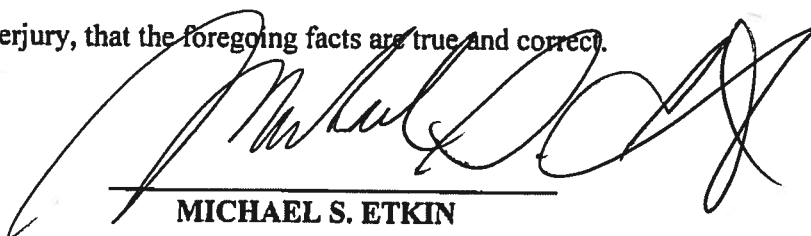
- a. Out-of-town travel – airfare is capped at coach rates, hotel rates capped at \$250 for small cities and \$350 for large cities.
- b. Internal Copying - Capped at \$0.10 per page.
- c. On-Line Research - Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as Exhibit 1 is a description of my firm's bankruptcy department and my own biography as lead partner on this engagement.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: January 8, 2019



MICHAEL S. ETKIN



**EXHIBIT 1**

## Bankruptcy, Financial Reorganization & Creditors' Rights

Lowenstein Sandler's Bankruptcy, Financial Reorganization & Creditors' Rights Department is led by several of this country's top reorganization attorneys, who advise clients in many of the nation's largest Chapter 11 Cases, out-of-court workouts and financial restructurings. We have developed a national profile through our representation of unsecured creditors' committees as well as individual secured and unsecured creditors in Chapter 11 Cases filed throughout the country. The practice is top-ranked in the 2015 edition of the *Chambers USA* guide and is consistently ranked among the most active bankruptcy departments in the nation by *The Deal*.

Our practice cuts across various industries, including agriculture/food, chemical, floor covering, furniture, paper, publishing, textile, energy and telecom. The creditors' committees we represent generally include a diverse group of bondholders, financial institutions, trade vendors and unions. We have significant experience and success in bringing about consensus among constituencies with respect to financial restructuring. We also represent debtors in Chapter 11 Cases; investors in or purchasers of assets, securities or obligations of companies in Chapter 11; and indenture trustees, public debt holders, and others in the restructuring of publicly held debt and equity securities.

We have strong working relationships with the major investment banking and financial advisory firms that concentrate in the bankruptcy, reorganization and distressed-debt market. We have taken aggressive positions in the face of significant opposition in order to ensure that our clients received fair value and equitable treatment. We also have a demonstrated ability to litigate, when necessary, in the largest and most complex cases.

We serve as national bankruptcy counsel and render advice regarding creditors' rights to numerous Fortune 500 companies. Our services include auditing clients' accounts receivable procedures to minimize exposure to bad debts and preference liability; enforcing clients' rights to stop delivery of and reclaim goods that were shipped at or around the time of a bankruptcy filing; and defending preference actions, fraudulent conveyance setoffs and administrative actions nationwide. We have extensive knowledge of the law in each state as it pertains to preference and fraudulent conveyance litigation and all available defenses. We have also assisted our clients' credit departments in negotiating and preparing letters of credit; security, tolling, consignment and bailment agreements; offset agreements; sales of claims and put agreements; and other arrangements that increase the likelihood or extent of recovery on their claims. As part of these services, we have reviewed and advised our clients about the trade lien programs that are frequently being implemented in large retail bankruptcy cases.

Our attorneys have written and lectured extensively throughout the country on bankruptcy and creditors' rights issues. For example, one of our partners authored the American Bankruptcy Institute's *Trade Creditor Remedies Manual: Trade Creditors' Rights under the UCC and the U.S. Bankruptcy Code* and the National Association of Credit Management's *Manual of Credit and Commercial Laws*. Our lawyers are leaders in industry organizations such as the Commercial Finance Association, the National Association of Credit Management, the Turnaround Management Association and the American Bankruptcy Institute and are regular contributors to industry publications, including the *American Bankruptcy Institute Journal* and *Business Credit*.

Lowenstein advises clients in many of the nation's largest Chapter 11 cases, out-of-court workouts and financial restructurings. Our experience encompasses:

**CHAPTER 11 REORGANIZATIONS**

- Debtors
- Creditors' committees
- Purchasers of assets
- Ad hoc groups of creditors
- Unions
- Class action plaintiffs
- Landlords
- Individual creditors
- Out-of-court workouts
- Prepackaged plans
- Institutional investors

**WORKOUTS**

- Construction loans
- Mortgages
- Leveraged buyouts
- ESOPs
- Commercial finance loans
- Asset-based loans

**LITIGATION**

- Fraudulent transfer
- Preference
- Claims litigation
- Lien avoidance actions
- Investor fraud

We continue to represent clients in significant cases in New York and throughout the country. Our practice includes industries such as retail, energy, agriculture/food, chemical, paper, publishing, furniture, textile and telecommunications.

- Represent debtors and creditors' committees in all aspects of Chapter 11 cases
- Audit clients' accounts receivable procedures to minimize exposure to bad debts and preference liability
- Enforce clients' rights to stop delivery of and reclaim goods that were shipped around the time of a bankruptcy filing
- Defend or prosecute preference actions and other litigation matters, fraudulent conveyance and other matters
- Assist clients in negotiating and preparing letters of credit Security, tolling, consignment and bailment agreements
- Offset agreements
- Sales of claims and put agreements
- Prosecute and defend all types of litigation related to bankruptcy proceedings
- Represent the interests of institutional and individual investors in connection with claims against corporate defendants who have filed for bankruptcy protection





## Michael S. Etkin

Partner

New Jersey  
 T: +1 973 597 2312 | F: +1 973 597 2313  
 metkin@lowenstein.com

A senior bankruptcy practitioner and commercial litigator, Mickey brings significant experience to his practice, which focuses on complex business reorganizations, investor litigation in a bankruptcy context, and high-stakes Chapter 11 issues. Mickey is consistently recognized by *Chambers USA* as "a strong lawyer," "fantastic," "very plugged in," and "instrumental in providing tactical advice," noting his skill in "anticipating all the key issues that are likely to arise." Clients have commended his "technical knowledge, attention to detail, and honest and straightforward legal advice."

A key member of the firm's successful bankruptcy and complex business litigation practices, Mickey has represented debtors, trustees, creditors, and investors in a variety of noteworthy bankruptcies and bankruptcy-related litigation. He currently represents a number of institutional shareholder and investor interests in several large and complex Chapter 11 proceedings, including cross-border insolvencies, such as Performance Sports Group, Adeptus Health, Novation/NovaStar, SandRidge Energy, Lehman Brothers, Nortel, and SFX Entertainment, among others. He also represents debtors and purchasers in acquisitions of assets of Chapter 11 and Chapter 7 bankruptcy estates.

In addition, Mickey represents major energy companies in connection with bankruptcy proceedings involving their customers and counterparties. He has been invited to speak before financial institutions, bar association groups, and credit associations regarding the rights of counterparties to derivatives and other energy-related contracts in a bankruptcy context, including cutting-edge issues emerging from the Lehman Brothers Chapter 11 and SIPC proceedings. Mickey also is routinely asked to speak at programs discussing the rights of securities fraud claimants and class action plaintiffs in a Chapter 11 context and on the interplay between bankruptcy law and product liability litigation.

## NEWS & INSIGHTS

### Publications

> May 8, 2017

"Fisker Decision Further Demonstrates that Section 510(b) Subordination of Investor Claims Is Not Absolute," *Bankruptcy, Financial Reorganization & Creditors' Rights Client Alert*

Michael S. Etkin, Nicole Fulfree

> 2015

"Third-Party Releases? – Not So Fast! Changing Trends and Heightened Scrutiny," *AIRA Journal*, Vol. 29 No. 3

Michael S. Etkin, Nicole Fulfree

### Press Mentions

> December 5, 2018

Michael S. Etkin was interviewed by *Law360* regarding Cambridge Analytica and Julian Wheatland's motion to vacate an order naming him the "person responsible" for Cambridge in the consulting firm's Chapter 7 case. Wheatland sought to vacate the order designating him as the responsible person, claiming that he was served at a temporary address. As bankruptcy counsel for the consumer privacy plaintiffs in the Facebook consumer privacy multidistrict litigation, Etkin explained that there was "no basis" for vacating the order. In a written decision issued by the Court on January 7, 2019, Wheatland's motion to vacate the designation order was denied.

> August 22, 2018

Michael S. Etkin is quoted in *WSJ Pro Bankruptcy* regarding the impending decision as to whether the over 1 million consumer borrowers with stated claims against Think Finance, which is accused of predatory payday lending, will be allowed to pursue those claims on a class-wide basis in the company's bankruptcy case. Among the various problems with the bankruptcy notice program is that many borrowers had never heard of Think Finance, as the company used Native American tribes as the face of the lending operation. As the bankruptcy lawyer for a putative nationwide class of consumer borrowers, Etkin informed the judge that for the vast majority of these consumer borrowers, it was either class representation or nothing with respect to these bankruptcy claims. (*subscription required to access article*)

> August 21, 2018

Michael S. Etkin is quoted in *Bloomberg*, *Chicago Tribune*, and *Law360* regarding the successful developments for the consumer privacy litigation plaintiffs in the Chapter 7 case involving Cambridge Analytica. The plaintiffs, Facebook users whose personal data was misused during the 2016 presidential campaign, commenced multidistrict class action litigation against both the defunct political consulting firm as well as Facebook and others. Working directly with the court-appointed lead counsel to the putative class, which

retention was approved by the district court overseeing the multidistrict litigation, Etkin convinced the court to grant relief from the automatic stay resulting from the Chapter 7 filing in New York and order Cambridge Analytica and its affiliate to preserve documents relevant to the consumer privacy litigation. The request to conduct an examination of Cambridge Analytica and its affiliate and for the debtors to produce documents related to their financial condition and pre-petition transactions was adjourned by the Court in view of an agreement by the Chapter 7 Trustee to initially produce some documents to the class plaintiffs (*subscription required to access certain content*)

> May 31, 2018

**Michael S. Etkin** is quoted in *Bloomberg* regarding the appearance of Lowenstein Sandler on behalf of several putative class plaintiffs in the Facebook/Cambridge Analytica data breach litigation in the Chapter 7 bankruptcy proceedings of Cambridge Analytica and its affiliate. The U.K. political consulting firm filed for Chapter 7 liquidation in May following the scandal concerning the release of personal data in connection with the 2016 U.S. presidential elections. Representing these representative data breach plaintiffs, Etkin contended that all options were being considered in the Chapter 7 cases to protect the interests of the victims of the data breach and release of personal information

> February 14, 2018

**Michael S. Etkin** is quoted in *Law360* from his argument in the pending bankruptcy case of Millennium Lab Holdings II LLC where our client, Voya Investment Management and other opt-out lenders, objected to the closing of the Chapter 11 case because of the pendency of Voya's appeal of the confirmation order

> November 7, 2017

**Michael S. Etkin** is quoted in *Law360* regarding his representation as bankruptcy counsel of a putative class of 2.2 million patients in connection with the 2015 data breach involving bankrupt cancer treatment center operator 21st Century Oncology that exposed their personal health information. Etkin represents the putative class of patients, which argued, among other things, that the automatic bankruptcy stay be lifted in order allow the data breach litigation pending in Florida to go forward with any recovery limited to available insurance coverage or, in the alternative, that the class proof of claim filed on behalf of the putative class be allowed to proceed in bankruptcy court.

> September 26-28, 2017

As bankruptcy counsel to lead plaintiffs in the securities litigation and the bankruptcy proceedings involving Adeptus Health Inc., **Michael S. Etkin** is quoted from the trial and oral arguments in *Reorg Research* regarding the Adeptus Health confirmation hearing. The primary confirmation issues were the standards for substantive consolidation and the impact of the U.S. Supreme Court's 2017 *Jevic* decision and other relevant case law on a settlement with the equity committee contained in the plan of reorganization.

> August 25, 2017

**Michael S. Etkin** is highlighted in *Reorg Research*, speaking on behalf of the proposed lead plaintiffs in the securities litigation proceedings involving Adeptus Health Inc. Etkin spoke at a status conference about his concerns regarding the announcement of an agreement between the equity committee, the unsecured creditors' committee, prepetition lender Deerfield, and the debtors.

> March 30, 2017

**Michael S. Etkin** is quoted in *The Street* about the implications of the Chapter 11 filing of Westinghouse Electric Co., including the impact on its parent company, Toshiba.

> January 11, 2017

**Michael S. Etkin** is quoted in *Law360* regarding the decision by the bankruptcy court in the *Fisker Automotive* Chapter 11 case in favor of our clients overruling the objections to claims based upon the mandatory subordination provisions of the Bankruptcy Code. Our clients purchased membership units of a non-debtor special purpose vehicle which itself invested in the preferred stock of Fisker Automotive. Etkin, representing these membership unit purchasers in the bankruptcy proceedings of the electric car maker, argued that the claims of these creditors against Fisker should not be subordinated and junior to all other unsecured creditor claims. In a 21-page opinion, the court agreed.

> January 4, 2017

**Michael S. Etkin** comments in *Law360* about the U.S. Trustee's objection to confirmation of the plan of reorganization in the Caesars' Chapter 11 case, which focuses on the U.S. Trustee's role as independent watchdog and the propriety of the third-party releases under the plan.

> September 29, 2016

**Michael S. Etkin** is mentioned in *Reorg Research* regarding the approval of the SFX Entertainment debtors' disclosure statement. It was noted that Etkin, representing the securities plaintiffs, confirmed that while various disclosure statement objections were resolved by changes to the disclosure statement and plan of reorganization, he reserved all rights with respect to confirmation of the plan of reorganization and the confirmation hearing, scheduled for November 9, 2016.

> March 16, 2016

**Michael S. Etkin** is quoted in *Law360* from oral argument during the Chapter 11 bankruptcy proceedings of Molycorp. On behalf of defrauded shareholders, Etkin expressed concern that certain notice provisions in connection with the plan of reorganization failed to make purchasers of Molycorp stock aware of the debtor's attempt to release their claims against non-debtor defendants in pending securities litigation.

> March 8, 2016

**Michael S. Etkin** is quoted in *Law360* regarding certain disclosure issues and the Chapter 11 plan in rare earth miner Molycorp's bankruptcy proceedings. Etkin is bankruptcy counsel to the court-appointed lead plaintiffs in the case.

> June 2015

**Michael S. Etkin** comments on the bankruptcy court's recent decision regarding the enforceability of the GM Chapter 11 sale order to enjoin certain claims associated with the well-publicized ignition switch defect in General Motors products. In the June issue of the *Turnarounds & Workouts* newsletter, Etkin doubts that the decision will have a broad effect on Chapter 11 cases in general given the uniqueness of the GM case.

> March 2015

**Michael S. Etkin** discusses the status of the restructuring landscape and factors affecting change in the year ahead in the March issue of the *Turnarounds & Workouts* newsletter.

> January 2, 2015

**Michael S. Etkin** comments in *Debtwire* regarding a recap of restructuring in 2014 and anticipated trends and issues to look for in 2015.

> November 2014

Michael S. Etkin is featured and recognized in **IECA Insights**, the newsletter of the International Energy Credit Association. Etkin's longtime involvement to the IECA spans over eight years, as, among other contributions, a speaker and a member of the Contracts and Legal Education Group Committee.

> July 14, 2014

Michael S. Etkin is quoted in **Law360** from his oral argument before the Delaware Bankruptcy Court in connection with the objection of defrauded purchasers, who are plaintiffs in a federal securities class action suit, to the scope of the injunction sought by Furniture Brands International Inc. in its Chapter 11 liquidating plan. The Bankruptcy Court sustained that part of the objection. Etkin represents the lead plaintiff.

> May 15, 2014

Michael S. Etkin is quoted in **The National Law Journal** as objecting to the proposed scheduling order in the General Motors bankruptcy case relating to the ignition switch litigation and claims. Etkin, co-counsel of plaintiffs, requested more information about a proposal to stay the litigation, as well as adequate communication amongst lawyers with cases against GM.

## **SPEAKING ENGAGEMENTS**

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> International Energy Credit Association (IECA), Palm Desert, CA, March 21, 2017

> International Energy Credit Association (IECA), New York, NY, April 10, 2016

## **EDUCATION**

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> St. John's University School of Law (J.D. 1978), with honors

> Boston University (B.S. 1975), cum laude

## **ADMISSIONS**

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> New York

> New Jersey

**EXHIBIT 2**

**LOWENSTEIN SANDLER LLP**  
*In re Cobalt International Energy, Inc. Sec. Litig.*,  
 No. 4:14-cv-3428 (NFA)

**PERIODIC TIME REPORT**  
**DECEMBER 14, 2017 – DECEMBER 14, 2018**

<b>NAME</b>	<b>LEGEND</b>	<b>TIME</b>	<b>BILLING RATE</b>	<b>TOTAL</b>
Michael S. Etkin, Esq.	P	252.30	\$1,045.00	\$263,653.50
Lynda A. Bennett	P	2.20	880.00	1,936.00
Andrew Behlmann	C	160.70	750.00	120,525.00
Eric Jesse	C	14.60	660.00	9,636.00
Michael A. Barrese	A	3.60	465.00	1,674.00
Nicole Fulfree	A	4.60	575.00	2,645.00
Gabriel L. Olivera	A	2.50	550.00	1,375.00
<b>SUBTOTAL</b>		440.50		<b><u>\$401,444.50</u></b>

**Legend:**

P = PARTNER  
 C = COUNSEL  
 A = ASSOCIATE  
 P = PARALEGAL

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
 No. 4:14-cv-3428 (NFA)

**EXPENSE REPORT**

**DECEMBER 14, 2017 – DECEMBER 14, 2018**

<b>EXPENSE CATEGORY</b>	<b>AMOUNT</b>
Messenger and delivery charges	\$ 33.61
Computerized legal research	1,532.38
Transcript charges	101.70
Travel	<u>10,294.34</u>
<b>TOTAL BILLED DISBURSEMENTS</b>	<b><u>\$11,962.03</u></b>
Travel	4,347.14
<b>TOTAL UNBILLED DISBURSEMENTS</b>	<b><u>\$ 4,347.14</u></b>
<b>TOTAL BILLED AND UNBILLED DISBURSEMENTS</b>	<b><u>\$16,309.17</u></b>

# EXHIBIT 4H



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL  
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**DECLARATION OF THOMAS R. AJAMIE  
IN SUPPORT OF LEAD COUNSEL’S MOTION FOR AN AWARD OF  
ATTORNEYS’ FEES AND REIMBURSEMENT OF LITIGATION EXPENSES,  
FILED ON BEHALF OF AJAMIE LLP**

I, Thomas R. Ajamie, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Managing Partner of the law firm Ajamie LLP. I submit this declaration in support of Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the above-captioned class action (the “Action”) and for reimbursement of expenses incurred by my firm in connection with the Action. I have personal knowledge of the matters set forth herein.

2. My firm was Liaison Counsel for Plaintiffs in this Action. As Liaison Counsel, we performed tasks at the direction of Lead Counsel, participated in preparation of motions and other papers filed with the Court, provided input on local procedures and practices, and performed additional work on the Action as described herein.

3. The information in this declaration regarding my firm’s time, including in the schedule attached as Exhibit 2, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I am one of the partners

who oversaw and conducted activities in the litigation. I, together with attorneys working under my direction, reviewed my firm's time records to confirm their accuracy. Time expended in preparing the application for fees and expenses has not been included in this report.

4. I believe that the time reflected in the firm's lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation. The total number of hours expended on this Action by my firm's attorneys and professional support staff employees was 521.10. The total resulting lodestar for my firm is \$365,904.00. The schedule attached as Exhibit 2 is a detailed summary reflecting the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action. The lodestar calculation is based on my firm's present billing rates. For personnel who no longer are employed by the firm, the calculation is based upon billing rates in effect at the time of their employment.

5. The hourly rates are the same as, or comparable to, the rates submitted by my firm and accepted by Courts for lodestar cross-checks in other securities class action litigation fee applications within this Circuit. *See, e.g., In re Conn's, Inc. Sec. Litig.*, No. 4:14-cv-00548, In the United States District Court for the Southern District of Texas; *In re KBR, Inc. Sec. Litig.*, No. 4:14-cv-01287, In the United States District Court for the Southern District of Texas.

6. As Liaison Counsel, Ajamie LLP worked at the direction of Lead Counsel for the Class and completed tasks assigned by Lead Counsel. Those tasks included

assisting with preparation of the discovery and case management plan, the Amended Complaints, the motion for leave to amend, responses to the Defendants' motions to dismiss, responses to the Defendants' motions to stay litigation, letters on discovery disputes and other notices to the Court and counsel, requests for international judicial assistance, and witness subpoenas. We also worked with Lead Counsel to research and select expert witnesses, prepare for hearings, prepare the Plaintiffs' response to the Defendants' petitions for interlocutory appeal, prepare briefing to the Fifth Circuit Court of Appeals, and coordinate notices to Courts regarding settlements. We provided input on local practices and procedures, and our staff ensured that motion papers and hearing materials were delivered to Courts in compliance with local rules. We endeavored to work with Lead Counsel efficiently, providing cost-effective support and assistance without duplicating effort.

7. A task breakdown describing the principal tasks in which each attorney in my firm was involved in this Action is set forth below:

Thomas R. Ajamie (7.7 hours): Mr. Ajamie was primarily involved in working with Lead Counsel on initial case strategy. He worked with Lead Counsel and the firm's lawyers to prepare and review court papers and prepare for hearings. He participated in strategy conferences, case planning, and preparation of court filings for which reimbursement is not requested.

Dona Szak (268.8 hours): Ms. Szak worked with Lead Counsel to prepare Amended Complaints; perform background research on allegations in the parties' pleadings; prepare motions, responses, and notices to the Court (including opposition to Defendants' motions to dismiss, responses to Defendants' petitions for interlocutory appeal, case scheduling orders, letters on discovery disputes, and requests for international judicial assistance). She interviewed expert witness candidates and provided input on selection of expert witnesses. She assisted Lead Counsel in preparing for court hearings and provided guidance on district practices.

David Siegel (10.4 hours): Mr. Siegel worked with Lead Counsel to prepare for court hearings.

John S. Edwards, Jr. (100 hours): Mr. Edwards assisted Lead Counsel with preparation of motions and responses in the District Court as well as briefing to the Fifth Circuit Court of Appeals in response to the Defendants' appeal of the class certification order. He participated with Lead Counsel and bankruptcy counsel on strategy and court papers concerning Defendant Cobalt International Energy Inc.'s bankruptcy. He worked with Lead Counsel to prepare notices to Courts on settlements.

Courtney Scobie (76.9 hours): Ms. Scobie assisted in preparation of the Amended Complaint. She performed legal research and worked on preparation of motions and responses. She researched expert witness candidates and interviewed and provided input on selection of expert witnesses.

Justin Pfeiffer (30.5 hours): Mr. Pfeiffer performed legal research, particularly on procedure and Fifth Circuit decisions.

8. My firm has incurred a total of \$5,981.30 in unreimbursed expenses in connection with the prosecution of this Action. These expenses are detailed in Exhibit 3.

9. The expenses reflected in Exhibit 3 were incurred by my firm and were limited by "caps" based on the following criteria:

- a. The firm did not incur expenses for out-of-office travel or meals.
- b. Internal Copying - Capped at \$0.10 per page.
- c. On-Line Research - Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor.

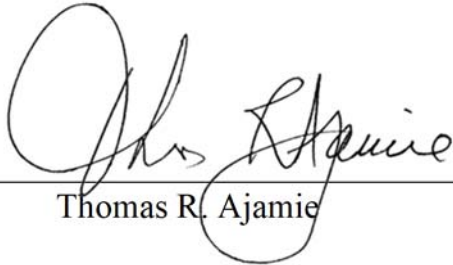
There are no administrative charges included in these figures.

10. The expenses in Exhibit 3 are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records and other source materials, and are an accurate record of the expenses incurred.

11. With respect to the standing of my firm, attached as Exhibit 1 is a brief biography of my firm and its current attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on: January 8, 2019.



Thomas R. Ajamie

**EXHIBIT 1**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**AJAMIE LLP**  
**FIRM BIOGRAPHY**



HOUSTON  
Pennzoil Place – South Tower  
711 Louisiana, Suite 2150  
Houston, Texas 77002

NEW YORK  
460 Park Avenue - 21st Floor  
New York, New York 10022

713 860 1600 telephone  
713 860 1699 facsimile  
www.ajamie.com

### **About Ajamie LLP**

Our firm handles domestic and transnational litigation, including securities class actions, business litigation, antitrust and competition disputes, ERISA and employment litigation. We are lean and efficient, with the expertise and resources to represent clients worldwide. We have secured landmark awards and settlements and have a record of positive outcomes – winning critical victories and over \$780 million in settlements and awards.

The firm has successfully handled a number of high-profile cases, including representing companies, pension funds and shareholders seeking to recover losses in stock fraud cases, and corporations and officers and directors being sued in securities matters. Thomas Ajamie, Managing Partner, holds the distinction of winning some of the largest securities arbitration awards in United States history.

### **Representative Matters: Securities / Finance / Business**

- Liaison counsel in securities litigation in the Southern District of Texas, including cases against Anadarko Petroleum Co., KBR, Conn's, and Cobalt.
- Co-lead counsel in an ERISA class action against Wells Fargo, alleging that Wells Fargo improperly forfeited ERISA protected retirement funds belonging to former Wells Fargo financial advisors, in violation of ERISA, when the advisors left Wells Fargo to work elsewhere. The case has been certified as a class action.
- Winning dismissal for our client, a director of the defendant company, of a securities fraud class action, and settled the action on behalf of a second director without liability for the director.
- Winning the dismissal for lack of personal jurisdiction of patent-infringement claims brought against a Finnish company in Texas federal court.
- Co-counsel in BP ERISA Litigation, alleging that company stock was an imprudent investment for employee retirement plan.

- Co-counsel in an ERISA class action alleging that plan fiduciaries breached their duties of loyalty and prudence by selecting and maintaining inappropriate Putnum mutual funds for the defendant company's 401(k) plan.
- Part of the legal team that recovered a \$70 million settlement from Securities America, Inc., the broker-dealer subsidiary of Ameriprise Financial, Inc., for investors who lost money in the Medical Capital Ponzi scheme.
- Winning a \$14.5 million arbitration award on behalf of a New York family against Prudential Equity Group over the course of 84 hearing sessions occurring at the New York Stock Exchange. According to The Wall Street Journal, the award was the third largest award at the time to be handed out by an arbitration panel at the NYSE.
- Settling a lawsuit against two insurance agents, six insurance companies and a law firm for \$7.29 million after four days of trial in Galveston state court. The lawsuit alleged that the defendants negligently advised a 90-year-old widow and her 65-year-old son to sell their Berkshire Hathaway, Inc. stock and use the proceeds to purchase life insurance and annuities as part of an "estate tax plan."
- Negotiating a seven-figure settlement against a national stock brokerage firm for a married couple in Philadelphia whose life savings was lost when a broker churned their account and used their savings to buy speculative technology and internet stocks. We also made claims against the brokerage firm for failing to properly supervise its brokers and failing to notify the customers about the inappropriate handling of their account.
- Winning a \$429.5 million arbitration award, the largest in history, against a former PaineWebber broker. The Wall Street Journal noted at the time that the size of the award was "roughly 10 times that of the next largest award." The United States Attorney's office criminally prosecuted one of the PaineWebber brokers involved in the fraud. That broker had worked in PaineWebber's New York headquarters office. The broker was sentenced to six and a half years in federal prison.
- Winning the dismissal of 21 consolidated class action lawsuits filed in federal court against former officers of a NYSE-listed client alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder.
- Winning an eight-figure settlement on behalf of several investors defrauded of over \$100 million by one of the United States' largest national brokerage firms.
- Successfully representing a pension fund in a lawsuit against a New York hedge fund after the hedge fund lost 30% of the funds with which it was entrusted.
- In the Enron litigation, representing one of the insurance companies that provided directors and officers insurance coverage.

- Winning a \$12.2 million judgment, including full damages and all attorneys' fees, on behalf of a multinational computer technology company against its former employees who conspired to engage in a false-invoice and bid-rigging scheme to defraud the company.
- Winning a record \$112 million jury award on a civil RICO Act claim on behalf of our Fortune 100 client against defendants who conspired to extort money from our client and tamper with trial witnesses. The jury's verdict was the largest RICO verdict in Texas history, and the third largest in the history of the United States.
- Successfully litigating and settling for seven figures an unliquidated and unsecured general creditor litigation claim in the New York Lehman Brothers bankruptcy proceeding.
- Winning the dismissal of a complaint filed in New Jersey by Prime Healthcare, Inc. against our client who operates hospitals in New Jersey. The complaint asserted antitrust and common law claims and alleged that our client had conspired with others to prevent the plaintiff from competing in New Jersey.
- Negotiating and drafting a structured multimillion-dollar Mexico/USA cross-border settlement resolving over 40 civil actions including federal and state court proceedings in the United States, federal and state court proceedings in Mexico, and civil arbitration proceedings in Mexico.
- Recovering a multi-million dollar "clawback" for a Fortune 100 client in a case where the client's executive employees were hired away by a competitor. The departing executives had signed agreements in which they promised to pay back restricted stock and stock option awards that they received if they went to work for a competitor.
- Successfully defending our client, a major automobile parts manufacturer, in a consumer class action seeking hundreds of millions of dollars for costs of defective parts used in Ford vehicles.
- Representing an Illinois-based utility company in litigation against distressed bondholders seeking recovery following an \$80 million bond default for an electric power facility located outside of Chicago. This was the "eighth largest municipal bond default in the history of the municipal market," according to the Bond Investors Association.
- Winning a dismissal of all claims against a major utility company in an antitrust lawsuit alleging conspiracy to monopolize, tying, and a group boycott involving an interstate gas pipeline system.
- Litigating the existence of an agreement to affiliate our client's television stations with the WB Television Network. We secured a favorable settlement in the context of the sale

of our client's Houston station for \$95 million, an "incredibly high" price according to Variety, including payment of all our attorneys' fees.

- Defending a major pharmaceutical company in a \$68 million lawsuit claiming breach of contract, fraud, tortious interference, misappropriation of confidential information, and conspiracy to convert patent rights in connection with the company's alleged failure to invest in an agricultural equipment enterprise.

## Our Lawyers

### **Thomas R. Ajamie** **Managing Partner**

Tom Ajamie is an internationally-recognized trial lawyer who has successfully represented clients in complex commercial litigation and arbitration. Chambers USA has described Mr. Ajamie as “a stupendous litigator with a winning attitude and work ethic.” He has handled a number of high-profile cases, including securities and financial cases, cross-border litigation, business contract disputes and employment issues. Mr. Ajamie has won two of the largest awards ever handed down by an arbitration panel for investors, including a \$429.5 million award. He has also won a record \$112 million civil RICO jury verdict. Mr. Ajamie has been recognized by numerous legal publications and directories, including Chambers USA, Best Lawyers in America, Euromoney’s Benchmark Litigation, and Super Lawyers, and is rated AV-Preeminent by Martindale-Hubbell. The National Law Journal has named Mr. Ajamie one of its 50 Litigation Trailblazers. He was also honored as one of the nation’s 500 Leading Lawyers by Lawdragon, as well as that publication’s “100 Lawyers You Need to Know in Securities Litigation.” Mr. Ajamie is regularly invited to give legal analysis by news media outlets including ABC, CNN, CNBC, NPR and BBC, and his work has been featured in publications such as The Wall Street Journal, The New York Times and The American Lawyer. He is the co-author of the book *Financial Serial Killers: Inside the World of Wall Street Money Hustlers, Swindlers, and Con Men*. Mr. Ajamie received his law degree from the University of Notre Dame Law School. He is licensed to practice law in Texas and New York, and is admitted to the United States District Courts for the Northern, Southern, Eastern and Western Districts of Texas, the District of Colorado, the United States Bankruptcy Court for the Southern District of New York, and the Fifth Circuit of the U.S. Court of Appeals.

### **Dona Szak** **Partner**

Ms. Szak handles business litigation for foreign and domestic clients. She litigates in federal and state courts and has taken cases through all stages of proceedings: pre-lawsuit investigation, trial, appeal, and judgment collection. She has represented plaintiffs and defendants in contract, securities, antitrust, civil RICO, and business tort matters. By conducting preventive counseling, she has helped her clients achieve favorable resolutions to their business controversies, often without the necessity of filing or defending lawsuits. Ms. Szak has also been honored as one of the nation’s 500 Leading Lawyers by Lawdragon, and is rated AV-Preeminent by Martindale-Hubbell. Ms. Szak received her undergraduate degree from the University of Illinois and her J.D. *cum laude* from Washington & Lee University. She is licensed to practice law in Texas and is admitted to the Southern and Eastern Districts of Texas, and the Federal Circuit of the U.S. Court of Appeals.

**David S. Siegel**  
**Partner**

Mr. Siegel has helped thousands of people obtain redress through our court system. He has over 25 years of experience advising businesses and individuals in commercial litigation, fiduciary duty and partnership litigation, liability suits, mass tort actions, consumer class actions, securities litigation, and bankruptcy litigation. Mr. Siegel's cross-border work includes arguing on behalf of clients located in the Philippines and Latin America, among other regions. His successes include litigating and settling for seven figures an unliquidated and unsecured general creditor litigation claim in the New York Lehman Brothers bankruptcy proceeding and serving as a member of the legal team that recovered a \$70 million settlement from Securities America, Inc., the broker-dealer subsidiary of Ameriprise Financial, Inc., for investors who lost money in the Medical Capital Ponzi scheme. Mr. Siegel has been rated AV-Preeminent by Martindale-Hubbell. He received his law degree from the University of Houston Law Center and is licensed to practice in Texas. He is admitted to the Southern District of Texas, and the Fifth Circuit of the U.S. Court of Appeals.

**John S. "Jack" Edwards**  
**Senior Counsel**

Mr. Edwards offers his clients a broad-based trial and appellate practice, handling a wide variety of civil and criminal matters in state and federal courts throughout the country. He has represented clients in antitrust, contracts, copyright, First Amendment, fraud, insurance coverage, landlord-tenant, preemption, product liability, trade secrets, toxic tort, and wrongful death cases. His criminal experience includes the representation of companies in response to state and federal grand jury subpoenas involving fraud and copyright violations. His appellate experience includes the representation of a civil rights group in seeking certiorari from the U.S. Supreme Court on a First Amendment issue. Mr. Edwards was named a Texas Rising Star by Super Lawyers, and is rated AV-Preeminent by Martindale-Hubbell. He received his law degree from the University of Virginia School of Law. He is admitted to the Northern, Southern, Eastern and Western Districts of Texas, and the Fourth and Fifth Circuits of the U.S. Court of Appeals.

**Courtney Scobie**  
**Senior Counsel**

Courtney Scobie's practice focuses on complex commercial litigation in state and federal courts and federal government investigations. Her experience includes a fraud and theft case on behalf of a large technology company, a breach of fiduciary duty and legal malpractice case on behalf of a real estate investment trust, copyright infringement and trade secret misappropriation cases against a leading enterprise software company, an SEC investigation and a securities class action involving alleged accounting improprieties, several CFTC investigations involving the crude oil and natural gas liquids markets, contract and insurance disputes in the energy and petrochemical industries, product liability and toxic tort litigation, and Fair Credit Reporting Act disputes. She is a Phi Beta Kappa graduate of the University of Texas, and she earned her law degree from Georgetown University in 2004.



**EXHIBIT 2**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**AJAMIE LLP  
TIME REPORT  
From Inception Through November 30, 2018**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Thomas R. Ajamie	7.7	\$950	\$7,315.00
Dona Szak	268.8	825	221,760.00
David Siegel	10.4	780	8,112.00
<b>Senior Counsel and Associates</b>			
John S. ("Jack") Edwards, Jr.	100	675	67,500.00
Courtney Scobie	76.9	520	39,988.00
Justin Pfeiffer	30.5	450	13,725.00
<b>Paralegals</b>			
Sam Campbell	8.7	280	2,436.00
Thomas Neumayr	7.7	280	2,156.00
Whitney Harrelson	10.4	280	2,912.00
<b>TOTAL LODESTAR</b>	<b>521.10</b>		<b>\$365,904.00</b>

**EXHIBIT 3**

*In re Cobalt International Energy, Inc. Sec. Litig.*,  
No. 4:14-cv-3428 (NFA)

**AJAMIE LLP**  
**EXPENSE REPORT**  
**From Inception Through November 30, 2018**

<b>CATEGORY</b>	<b>AMOUNT (\$)</b>
Court Fees	
Service of Process	
PSLRA Notice Costs	
On-Line Legal Research*	795.94
On-Line Factual Research*	
Telephone/Faxes	21.72
Postage & Express Mail	161.22
Hand Delivery Charges	4.91
Internal Copying & Printing	155.10
Outside Copying & Printing	2,561.66
Out-of-Town Travel**	
Local Transportation	
Deposition & Meeting Hosting	2,280.75
Court Reporters and Transcripts	
Mediation Fees	
Experts & Consultants	
Special Counsel	
Contribution to Litigation Fund	
<b>TOTAL EXPENSES:</b>	<b>\$5,981.30</b>

\* The charges reflected for on-line research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

\*\* The firm did not incur expenses for out-of-town travel.

# **EXHIBIT 5**

**EXHIBIT 5**

*In re Cobalt International Energy, Inc. Sec. Litig.,*  
 No. 4:14-cv-3428 (NFA)

**BREAKDOWN BY CATEGORY OF ALL EXPENSES OF  
 PLAINTIFFS' COUNSEL AND FROM THE LITIGATION FUND**

<b>CATEGORY</b>	<b>AMOUNT</b>
Court Fees	\$ 2,665.85
Service of Process	3,293.14
<i>Business Wire</i> Notice Costs	905.00
On-Line Legal Research	254,422.41
On-Line Factual Research	12,332.66
Document Management/Litigation Support	159,170.25
Telephone/Faxes/Conference Calls Costs	2,064.67
Postage & Express Mail	13,496.96
Hand Delivery	110.52
Local Transportation	16,586.05
Internal Copying and Printing	36,140.60
Outside Copying and Printing	4,336.18
Out-of-Town Travel	227,438.35
Court Reporting and Transcripts	97,775.06
Meetings / Deposition Hosting	5,461.13
Experts & Consultants	956,754.16
Special Counsel	91,280.52
Mediation Fees	88,123.50
<b>TOTAL EXPENSES:</b>	<b>\$1,972,357.01</b>